

American Conference Institute's 6th National Forum on

RESIDENTIAL MORTGAGE LITIGATION & REGULATORY ENFORCEMENT

Preparing for the Next Generation of Claims, Regulations, and Legislative Developments

Featuring:



Attorney General Richard Cordray
State of Ohio



Attorney General Rob McKenna
State of Washington

Faculty includes speakers from:

Ally Financial
Capital One
Center for Responsible Lending
Department of Housing and Urban Development
EquiFirst (a subsidiary of Barclays Capital)
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Federal Reserve Board
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LOGS Network
Mortgage Bankers Association
Nationstar Mortgage
Office of the Illinois Attorney General
Office of Thrift Supervision
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SunTrust Banks
UBS
U.S. Attorney's Office,
Northern District of Georgia
Wells Fargo

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Hon. Warren W. Eginton
U.S. Dist. Ct., D. Conn.



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Hon. Michael B. Kaplan
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Hon. Richard Kramer
San Francisco Super. Ct.

Hon. Richard W. Story
U.S. Dist. Ct., N.D. Ga.

April 7 – 8, 2011 | Washington Marriott | Washington, DC

Featuring key insights and expert advice for:

- Preparing for the impact of **Dodd-Frank and the CFPB** on the industry
- Managing the **tidal wave of residential mortgage litigation** arising from **loan modifications** and alleged foreclosure documentation errors and **'robo-signing'** practices
- Responding to **federal and state investigations** and inquiries into the residential mortgage industry, and foreclosure practices in particular
- Preparing for and defending against **new and innovative claims and class actions** being brought by the plaintiffs' bar
- **How the courts are responding** to residential mortgage cases, including claims alleging foreclosure documentation errors and 'robo-signing' practices
- Defending against the next generation of **suitability, TILA, UDAP, misrepresentation, and inadequate disclosure claims**
- Managing and defending against **investor claims** arising from loan modifications and alleged foreclosure documentation errors
- Developing and implementing new procedures for **selecting and monitoring law firms retained to process foreclosures**
- Best practices for litigating **claims involving MERS**
- Navigating the foreclosure process: **Establishing standing** and defending against borrower counterclaims in an era of heightened scrutiny
- Ensuring **proper foreclosure procedures** both internally and externally

Earn
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Plus, register for the Pre- and Post-Conference Workshops:

- A** Pre-Conference Workshop – Wednesday, April 6, 2011 | 2:00 p.m. – 5:00 p.m.
The Current MDL Practice Landscape: What Is and What Is Not Working for Defendants?
- B** Post-Conference Workshop – Friday, April 8, 2011 | 3:00 p.m. – 5:00 p.m.
RMBS Litigation and Regulatory Enforcement: Defending Against Emerging Investor and Shareholder Claims and Ensuring Compliance with a Changing Regulatory Scheme

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The only event that will fully prepare you to defend against the next generation of residential mortgage-related claims and adapt to heightened scrutiny and a wave of emerging regulations from state and federal agencies, led by expert in-house counsel, key regulatory and enforcement officials, top defense firms, and renowned jurists from across the nation.

With all eyes on the residential mortgage industry in the wake of recent alleged foreclosure documentation errors and so called “robo-signing” practices, it is critical that both in-house and outside counsel remain up-to-date on emerging borrower and investor claims as well as ongoing state and federal investigations. Further, the mortgage industry has only just begun to feel the full impact of Dodd-Frank. With the creation of the CFPB and a renewed regulatory focus on the residential mortgage industry, the coming year is going to bring a wave of new litigation and regulatory and enforcement initiatives at both the state and federal level.

In response, American Conference Institute is pleased to announce its 6th National Forum on Residential Mortgage Litigation & Regulatory Enforcement. This event has been tailored to provide attendees with the insights and strategies that are needed to defend against these new claims and adapt to the evolving regulatory landscape. Our unparalleled faculty of regulatory and enforcement officials, federal and state judges, expert in-house counsel, and leading outside counsel will provide you with the keys to:

- Defending against new and emerging borrower and investor claims, including those arising from loan modifications and alleged foreclosure documentation errors
- Adapting to evolving federal and state regulatory and enforcement initiatives
- Determining what measures lenders and servicers must take in order to mitigate future liability
- Assessing the likely impact of Dodd-Frank and the CFPB on the residential mortgage industry
- Navigating the foreclosure process in an era of heightened scrutiny
- Managing and defending against a new wave of residential mortgage class actions

Plus, add value to your attendance by also registering for the Pre- and Post-Conference Workshops:

**A Pre-Conference Workshop – Wednesday, April 6, 2011
2:00 p.m. – 5:00 p.m.**

The Current MDL Practice Landscape: What Is and What Is Not Working for Defendants?

**B Post-Conference Workshop – Friday, April 8, 2011
3:00 p.m. – 5:00 p.m.**

RMBS Litigation and Regulatory Enforcement: Defending Against Emerging Investor and Shareholder Claims and Ensuring Compliance with a Changing Regulatory Scheme

Register now by calling 888-224-2480 or faxing your registration form to 877-927-1563. You can also register online at www.AmericanConference.com/ResidentialMortgage

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7:00 **Registration and Continental Breakfast**

8:00 **Co-Chairs' Opening Remarks**



Frank A. Hirsch, Jr.

Partner
Alston & Bird LLP (Durham, NC)



Andrew K. Stutzman

Chair, Mortgage and Lending Litigation Practice Group
Stradley Ronon Stevens & Young, LLP
(Philadelphia, PA)

8:15 **In-House Roundtable: Preventing and Managing Residential Mortgage and Lending Litigation**

Chante Bowser

Associate General Counsel, Litigation
Freddie Mac (McLean, VA)

Gary A. Deutsch

Senior Counsel
PNC Legal Department (Philadelphia, PA)

Debra Lee Hovatter

Director - Assistant General Counsel - Litigation
Capital One Services, LLC (Richmond, VA)

Stephanie Karfias

First Vice President & Assistant General Counsel
SunTrust Banks, Inc. (Richmond, VA)

Anne Sutherland

Executive Vice President and General Counsel
Nationstar Mortgage LLC (Lewisville, TX)

William R. Thompson

Legal Counsel
Ally Financial Inc. (Fort Washington, PA)

Christopher J. Tucci

Senior Vice President & Chief Legal Counsel
EquiFirst Corporation (a subsidiary of Barclays Capital) (Charlotte, NC)

Greg Walker

Managing Director and Corporate Counsel
UBS Investment Bank (New York, NY)

Moderator:



Kerry P. McInerney

Co-Chair, Mortgage Litigation Group
Sirote & Permutt, P.C. (Birmingham, AL)

- Managing the tidal wave of residential mortgage litigation arising from alleged foreclosure documentation errors and 'robo-signing' practices
- Ensuring proper foreclosure procedures both internally and externally
- In-house perspectives on loan modifications
- Working with outside counsel to achieve efficient and cost-effective coordination of responsibilities
- Determining whether to settle a claim early or continue defending against it

- Avoiding pitfalls that could lead to predatory lending claims or RESPA or TILA violations
- Countering claims against banks for aiding original lender fraud
- Conducting an internal compliance assessment
 - Implementing training programs and compliance controls
- Resolving disputes before borrowers or investors file suits

10:00 **Morning Coffee Break**

10:15 **Preparing for and Responding to New and Emerging Federal and State Enforcement Actions**



Attorney General Richard Cordray

State of Ohio (Columbus, OH)



Attorney General Rob McKenna

State of Washington (Olympia, WA)

Kevin L. McBride

Assistant Special Agent-in-Charge
Office of Inspector General
U.S. Department of Housing and Urban Development
(Washington, DC)

Susan Ellis

Assistant Bureau Chief, Consumer Fraud
Office of the Illinois Attorney General (Springfield, IL)

Anna-Marie Tabor

Senior Attorney, Fair Lending Enforcement Section
Division of Consumer and Community Affairs
Federal Reserve Board (Washington, DC)

Allison I. Brown

Acting Assistant Director
Division of Financial Practices
Federal Trade Commission (Washington, DC)

Gale McKenzie

Assistant United States Attorney
U.S. Attorney's Office, Northern District of Georgia
(Atlanta, GA)

Thomas P. James

Consumer Counsel
Consumer Fraud Bureau
Office of the Illinois Attorney General (Chicago, IL)

Moderator:



Anand S. Raman

Partner
Skadden, Arps, Slate, Meagher & Flom LLP
(Washington, DC)

- Fallout from the Attorneys General investigation
- Complying with federal and state investigations and inquiries into foreclosure practices
 - What to expect and how to prepare
- Assessing the status and effectiveness of foreclosure moratoriums
- Preparing for an increase in DOJ and FTC enforcement actions
 - Investigations and enforcement actions relating to predatory lending
 - Implementing lessons learned from past enforcement actions

- Ensuring compliance with UDAP laws in light of increased FTC and DOJ enforcement
- Impact of the CFPB on state enforcement initiatives

12:00 Networking Luncheon for Speakers and Delegates

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1:00 The New Paradigm: Adapting to the Repercussions of Dodd-Frank, the CFPB, and the Evolving Regulatory Landscape

Grovetta N. Gardineer

Managing Director
Corporate & International Activities
Office of Thrift Supervision (Washington, DC)

Ken Markison

Associate Vice President & Regulatory Counsel
Mortgage Bankers Association (Washington, DC)



Joseph T. Lynyak, III

Partner
Venable LLP (Los Angeles, CA)



Andrew K. Stutzman

Chair, Mortgage and Lending Litigation Practice Group
Stradley Ronon Stevens & Young, LLP
(Philadelphia, PA)

- Impact of Dodd-Frank on residential mortgage litigation to date and what to expect going forward
- Evaluating preemption in the wake of Dodd-Frank
- Assessing the CFPB and its anticipated impact on the industry
 - How the new bureau will interact with existing agencies and laws
 - Likelihood of new regulations that will preempt the existing regulatory framework
- New claims and defenses
- Dodd-Frank and mortgage origination compliance
 - Ensuring compliance under the new regime
 - Assessing the consequences of non-compliance
- Implementing revised compensation provisions in light of Dodd-Frank
 - Fair lending considerations
- Steering provisions
- Ensuring compliance with new standards regarding suitability and abusive lending
- Impact of the new RESPA rules on originators
 - How HUD is implementing the new rules
- Responding to the new TILA provisions and their effect on the mortgage industry
- Preparing for the new HMDA regulations and the effect that expanded data reporting provisions will have on residential mortgage litigation

2:30 Afternoon Refreshment Break

2:45 Navigating the Foreclosure Process in an Era of Heightened Scrutiny: Establishing Standing and Defending Against Borrower Counterclaims and Stalling Tactics

Janna Lewis

VP and General Counsel
Fay Financial / Fay Servicing (Chicago, IL)

Daniel L. Montenaro

Counsel
Ulmer & Berne LLP (Chicago, IL)



Bryan A. Fratkin

Partner
McGuireWoods LLP (Richmond, VA)



Susan E. Reid

General Counsel
McCalla Raymer, LLC (Atlanta, GA)



Gerald B. Alt

President
LOGS Network (Bannockburn, IL)



Michele Stocker

Shareholder
Greenberg Traurig, P.A. (Fort Lauderdale, FL)

- Establishing standing in foreclosure actions
 - Refuting the claim that alleged process failures and documentation errors led to a lack of standing
- Challenges to ownership of the loan – conclusively establishing who owns the loan
- Managing counterclaims and mitigating the delay of foreclosure proceedings
 - Procedural deficiencies during foreclosure
 - Counterclaims arising from TILA, RESPA, and UDAP statutes
 - Preventing bankruptcy from becoming a tool used by borrowers to stall foreclosures
- Best practices and lessons learned from foreclosure documentation issues
 - Implementing and monitoring new document procedures and custodian and affidavit procedures
- Responding to pressure to offer loan modifications
- Status of the so-called ‘foreclosure mill’ firms
 - Use of larger (and more expensive) firms in place of these firms
- Assessing the long-term impact on servicers and title insurance companies
- Using loss mitigation and state mandated mediation to reduce litigation
- Assessing the current status and long-term viability of MERS
 - What, if anything, might replace MERS and what issues would be raised by a new system?
- Defending against claims relating to MERS

4:15 Residential Mortgages and the Capital Markets: Bringing and Defending Against Investor Claims Arising From Loan Modifications and Alleged Foreclosure Documentation Errors

Denise P. Brennan

Managing Counsel
Wells Fargo Home Mortgage (Des Moines, IA)



Andrew L. Sandler

Partner
BuckleySandler LLP (Washington, DC)



Talcott J. Franklin

Attorney
Talcott Franklin P.C. (Dallas, TX)

- How trustees and servicers are responding to investor buyback demands
- Assessing the representations and warranties made to investors in RMBS
- Evaluating the array of repurchase demands
 - First/early payment default
 - Material guideline deviations
 - Fraud and misrepresentation
- Best practices for contesting improper claims
- Repurchase litigation
 - Assessing when investors have the right to demand a repurchase
 - When is it too late to pursue a claim?
 - Bringing and defending against a repurchase claim arising from alleged documentation errors
 - Standard industry practices
 - Bringing and defending against investor claims relating to loan modifications
- Defending against institutional investor plaintiffs
- Strategies for mitigating damages
- Effect of foreclosure on damages

5:30 **Conference Adjourns**

Cocktail Reception Hosted by: **ALSTON + BIRD LLP**

DAY TWO: Friday, April 8, 2011

7:45 **Continental Breakfast**

8:15 **Co-Chairs' Remarks**

8:20 **A View From the Bench: Judicial Perspectives on Foreclosure Documentation Errors and 'Robo-Signing' Practices, Heightened Scrutiny of Lenders and Servicers, Loan Modification Litigation, Bankruptcy Issues, and Foreclosure Injunctions**



Hon. Warren W. Eginton
U.S. Dist. Ct., D. Conn.



Hon. Roslyn O. Silver
U.S. Dist. Ct., D. Ariz.



Hon. Michael B. Kaplan
U.S. Bankr. Ct., D.N.J.



Hon. Richard Kramer
San Francisco Super. Ct.

Hon. Richard W. Story
U.S. Dist. Ct., N.D. Ga.

Moderator:



Richard E. Gottlieb
Member and Director, Financial Industry Group
Dykema Gossett PLLC (Chicago, IL)

- How judges are ensuring that the residential mortgage industry is treated fairly in the current environment

- Judicial perspectives on foreclosure documentation errors and 'robo-signing' practices
 - Impact of court-implemented rules (attorney affidavits, file reviews and enhanced pleading requirements)
- Insights on new measures lenders and servicers must implement to mitigate future liability
- Federal vs. state court – what are the advantages and disadvantages?
- Navigating through bankruptcy court – what lenders and servicers need to know
- Perspectives on foreclosure injunctions and moratoriums
- How much detail is needed in a complaint?
- Difficulties in pleading and proving damages
- Common claims and defenses
- Views on discretionary awards of attorneys' fees
- Determining when sanctions are appropriate
- Judicial insights into the mediation process and its merits for residential mortgage cases

9:50 **Morning Coffee Break**

10:00 **Servicing Litigation: Loss Mitigation Strategies and Best Practices for Defending Against Borrower Claims, Including Those Arising From Loan Modifications and Alleged Foreclosure Documentation Errors**

Natasha I. Campbell, Esq.

Legal Counsel
Ally Financial Inc. (Fort Washington, PA)

Leah S. Getlan

Director • Assistant General Counsel • Litigation
Capital One Services, LLC (McLean, VA)

Alex M. Lockhart

Assistant Vice President & Counsel
Fifth Third Bank (Cincinnati, OH)



John R. Chiles

Partner
Burr & Forman LLP (Birmingham, AL and Orlando, FL)



Therese G. Franzén

Partner
Franzén and Salzano, P.C. (Norcross, GA)



Robert T. Mowrey

Partner
Locke Lord Bissell & Liddell LLP (Dallas, TX)



Alan M. Warfield

Partner
Jones Walker (Birmingham, AL)

- Managing and defending against claims that are unique to servicing litigation
 - Debt collection practices claims
 - Managing the tidal wave of litigation arising from such claims
 - Credit reporting claims
 - Escrow issues
 - RESPA issues
- Managing and defending against claims against servicers arising from alleged 'robo-signing' practices and documentation errors

- Properly responding to customers and implementing appropriate controls
- Defending against plaintiffs' causes of action arising from the Home Affordable Modification Program (HAMP)
- Defending against claims that borrowers were given loan modifications against their will
- Breach of contract theories relating to loan modifications
- Addressing homeowner confusion regarding how trial modifications relate to permanent modifications
- How to properly structure a mortgage modification within regulatory guidelines
- Latest cases arising out of principal forgiveness and reduction programs
- Foreclosure avoidance and workouts in the context of loan modification
- Defending against the latest claims alleging fair lending violations
- Servicer liability for lack of disclosure
 - Viability of good faith defense
 - Sufficient evidence to show adequate disclosure
 - Conducting due diligence of servicing compliance

11:45 **Networking Luncheon for Speakers and Delegates**

12:45 **The Borrower's Perspective: Insights From the Plaintiffs' Bar and Consumer Advocates**

Nina F. Simon

Director of Litigation
Center for Responsible Lending (Washington, DC)



Christopher L. Peterson

Professor of Law, Assoc. Dean for Academic Affairs
University of Utah, S.J. Quinney College of Law
(Salt Lake City, UT)



Dustin A. Zacks

Attorney
Ice Legal, P.A. (Royal Palm Beach, FL)

In this session, you will hear from leading plaintiffs' attorneys and consumer advocates on claims trends, foreclosure litigation, where cases are headed in the coming months, and how lenders and servicers can work with borrowers to minimize the need for litigation. You will obtain key insights into the types of actions plaintiffs' counsel are focusing on and how to prepare for and respond to new and innovative claims, as well as how consumer advocates view the current residential mortgage landscape. Highlights of this session will include:

- How borrowers' counsel are approaching litigation arising from alleged foreclosure documentation errors
- Emerging theories of liability
- How the plaintiffs' bar is continuing to adapt to CAFA
- Consumer advocate perspectives on MERS
 - Long term viability of MERS
- How the industry can best work with borrowers to pursue loan modifications and avoid foreclosures and litigation

1:40 **A Focus on Class Actions: Emerging Strategies and Best Practices for Prevailing Against the Latest Plaintiffs' Claims**

Patricia L. Hobbib

Legal Counsel
Ally Financial Inc. (Fort Washington, PA)



Robert R. Ambler, Jr.

Member
Womble Carlyle Sandridge & Rice, PLLC
(Atlanta, GA)



Robert E. Boone III

Partner
Bryan Cave LLP (Santa Monica, CA)



Frank A. Hirsch, Jr.

Partner
Alston & Bird LLP (Durham, NC)



Anthony Rollo

Member
McGlinchey Stafford PLLC (Baton Rouge, LA)

- Achieving an early and cost-effective resolution of class action claims
- Examining recent class action decisions
 - Impact of recent circuit clarifications on Rule 23 standards
 - Which recent rulings on class issues are most helpful?
 - CAFA update
- Recent issues in class notice and settlement structures
- Defending against a claim of fraud in a class action
- Removal to federal court under CAFA
- Compelling arbitration in a class action
- The status of class action waiver clauses in arbitration agreements
- Class action trends involving residential mortgage litigation and what to expect going forward
- Defending against class actions arising from alleged foreclosure documentation errors
 - Procedural issues that are unique to such cases
- Defending against class actions arising from loan modifications and HAMP
 - Providing evidence that loans were modified appropriately

2:55 **Conference Ends**



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PRE-CONFERENCE WORKSHOP

WORKSHOP **A** Wednesday, April 6, 2011 | 2:00 p.m. – 5:00 p.m.

The Current MDL Practice Landscape: What Is and What Is Not Working for Defendants?



Eric Jon Taylor
Partner
Parker, Hudson, Rainer & Dobbs LLP (Atlanta, GA)

- New state MDL panels
- Current issues in transferring and administering MDL cases
- Divide and conquer or assemble and conquer: Knowing if and when to seek or oppose MDL
- Forum shopping: Selecting the district court in which such coordinated proceedings should occur and countering plaintiffs' arguments for a particular jurisdiction
- What to file and when: Procedures for obtaining MDL coordination
- Overview of cases being consolidated with MDL



Barry R. Davidson
Partner
Hunton & Williams LLP (Miami, FL)

An invaluable 2-hour MDL drill down into:

- The latest on MDL replacing class actions as the favored procedure for resolving multiple multistate cases
- Attorney strategies in the emerging form of MDL litigation and what we can expect in the future
- Solving overlapping and competing cases

POST-CONFERENCE WORKSHOP

WORKSHOP **B** Friday, April 8, 2011 | 3:00 p.m. – 5:00 p.m.

RMBS Litigation and Regulatory Enforcement: Defending Against Emerging Investor and Shareholder Claims and Ensuring Compliance with a Changing Regulatory Scheme



Glenn S. Arden
Partner
Jones Day (New York, NY)

- Types of shareholder derivative actions
 - Best practices and emerging strategies for defending against shareholder suits
- Types of investor claims
 - Best practices and emerging strategies for defending against investor suits
- Settlement considerations
- How RMBS litigation has played out in the courts
- Regulatory outlook for RMBS
- Implementing policies and procedures to ensure compliance with new and emerging regulations



Jonathan C. Wishnia
Member of the Firm
Lowenstein Sandler PC (New York, NY)

- Understanding the RMBS market
- Assessing the parties involved and their roles in RMBS
- Financial products:
 - CDOs
 - CDS
 - Others

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Preparing for the Next Generation of Claims, Regulations, and Legislative Developments

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Wells Fargo

Judicial insights from:

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Hon. Richard Kramer San Francisco Super. Ct.
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