

American Conference Institute's 7th National Forum on

RESIDENTIAL MORTGAGE LITIGATION & REGULATORY ENFORCEMENT

Preparing for the New Generation of Claims, Regulations & Legislative Developments

Featuring in-house insights from:

Michael C. Flynn
PNC Bank

Greg Walker
UBS

Chante Bowser
Freddie Mac

Patricia L. Hobbib
Ally Financial

Eric J. Spett
American Home Mortgage Servicing

Rick Bellows
National Creditors Connection, Inc.

Karyn Caldwell
Flagstar Bank

Nathan Boucher
American Home Mortgage Servicing

Anne Sutherland
Nationstar Mortgage

Robert R. Lawrence
Freddie Mac

Sarah Jahner Mahloch
Planet Financial Group

And the View from the Bench:

Hon. Alan J. Baverman
U.S. Dist. Ct., N.D. Ga.



Hon. Elizabeth W. Magner
U.S. Bankr. Ct., E.D. La.



Hon. Alan S. Trust
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Hon. Susan D. Wigenton
U.S. Dist. Ct., D.N.J.

September 20 – 21, 2011 | The Adolphus | Dallas, TX

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Gain knowledge from key government leaders and regulators:



Attorney General Greg Zoeller
State of Indiana

Kevin L. McBride
Office of the Inspector General, HUD

Thomas P. James
Office of the Illinois Attorney General

John H. Corston
Associate Director, FDIC

John Prendergrast
Conference of State Bank Supervisors



Attorney General Gary King
State of New Mexico

Deanya T. Kueckelhan
Southwest Regional Director, FTC

John A. Davidovich
FDIC, Office of the Inspector General

Chuck Cross
Conference of State Bank Supervisors

Benefit from expert advice for:

- Managing the tidal wave of residential mortgage litigation resulting from foreclosure documentation errors and “robo-signing” practices
- Complying with the multi-state mortgage examination process, determining best steps for compliance and understanding the analysis that takes place
- Preparing for and responding to the uptick in state and federal enforcement actions
- Examining the new powers of the CFPB, their interaction with state regulators and ensuring compliance with new regulations
- Responding to residential mortgage claims in the capital markets: what are the latest investor claims and regulatory initiatives?
- Effectively defending against HAMP and MERS related defenses in the foreclosure process
- Mitigating losses in loan servicing and responding to allegations of HAMP violations
- Defeating claims related to predatory/discriminatory lending practices including claims arising under TILA and the SCRA

Be sure to join your colleagues at the Pre- and Post-Conference Advanced Sessions:

A The Consumer Financial Protection Bureau (CFPB): The New World Order

B Getting Arbitration Agreements and Related Class Action Waivers Enforced after *AT&T v. Concepcion*

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As the litigation surrounding residential mortgage litigation heats up, join top defense litigators, leading in-house counsel and key federal and state regulators at the only industry event geared solely towards the defense of claims.

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 implementation 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 enforcement initiatives at both the state and federal level.

In response, **American Conference Institute** is pleased to announce its **7th 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 claims and adapt to the evolving regulatory landscape. Our unparalleled faculty of 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

No other conference in the industry allows you to benchmark your litigation strategies and compliance policies with the best and the brightest in the industry while obtaining unparalleled advice for dealing with the emergence of high-stakes claims in this area.

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.

WORKSHOP A

TUESDAY, SEPTEMBER 20, 2011

8:00 – 10:30 am

(Registration opens at 7:30 am)

The Consumer Financial Protection Bureau (CFPB): The New World Order

Part One: 8:00 – 9:30 am

Navigating the Concurrent Jurisdiction, Shared Responsibilities and Joint Regulatory, Supervisory and Enforcement Authority Between the Consumer Financial Protection Bureau and the Federal Trade Commission



David N. Anthony

Partner

Troutman Sanders LLP (Richmond, VA)

CFPB and FTC speakers to be confirmed

check back at

www.AmericanConference.com/ResidentialMortgage for updates

Dodd-Frank establishes the newly created Consumer Financial Protection Bureau and the Federal Trade Commission as having parallel or overlapping authority in a variety of areas. Part One of the workshop will focus on the new CFPB/FTC rulemaking, enforcement and supervision paradigm, how the CFPB and FTC intend to work together from a practical standpoint and how you can navigate their concurrent jurisdiction, shared responsibilities and joint authority.

Part Two: 9:30 – 10:30 am

Enforcement by State Attorneys General and the Consumer Financial Protection Bureau



Ashley L. Taylor, Jr.

Partner

Troutman Sanders LLP (Richmond, VA)

Assistant State Attorneys General speakers to be confirmed

check back at

www.AmericanConference.com/ResidentialMortgage for updates

Dodd-Frank preserves the crucial role that the state Attorneys General have in protecting consumers from financial fraud and abuse. The authority and role of state Attorneys General will expand to enforce federal laws and regulations relating to the Consumer Financial Protection Bureau, while preserving the states' traditional role in enforcing more stringent state laws. Part Two of the workshop will focus on coordinated enforcement between federal and state agencies.

DAY ONE: Tuesday, September 20, 2011

8:00 – 10:30

Workshop A: The Consumer Financial Protection Bureau (CFPB): The New World Order

(separate registration required)

9:50 Main Conference Registration

10:40 Co-Chairs' Opening Remarks



Frank A. Hirsch

Partner
Alston & Bird LLP (Durham, NC)



Andrew K. Stutzman

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

10:45 In-House Roundtable on Preventing & Managing Residential Mortgage Litigation Related to Lending, Servicing & Foreclosure



Eric J. Spett

Senior Vice President & Associate General Counsel
American Home Mortgage Servicing, Inc. (Coppell, TX)



Rick Bellows

Vice President & General Counsel
National Creditors Connection, Inc. (Lake Forest, CA)

Greg Walker

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

Patricia L. Hobbib

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

Anne Sutherland

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

Sarah Jabner Mahloch

Senior Counsel
Planet Financial Group, LLC and Subsidiaries
(Algonquin, IL)

Moderator:



Stuart M. Richter

Partner
Katten Muchin Rosenman LLP (Los Angeles, CA)

- 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/defaults before borrowers or investors file suits

11:55 Coffee Break

12:05 Preparing for and Responding to New and Emerging Federal and State Enforcement Actions



Attorney General Greg Zoeller

State of Indiana (Indianapolis, IN)



Attorney General Gary King

State of New Mexico (Santa Fe, NM)

Kevin L. McBride

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

John A. Davidovich

Counsel to the Inspector General
Federal Deposit Insurance Corp. (Washington, D.C.)

Thomas P. James

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

Deanya T. Kueckelhan

Southwest Regional Director
Federal Trade Commission (Dallas, TX)

John H. Corston

Associate Director
Federal Deposit Insurance Corp. (Washington, D.C.)

Moderator:



Benjamin B. Klubes

Partner
Buckley Sandler, LLP (Washington, D.C.)

- 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
- Complying with the multi-state mortgage examination process and understanding the possible resulting regulatory actions
- 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
- The regulatory outlook on the RBMS front

1:45 **Networking Luncheon for Speakers & Delegates**

2:45 **Navigating the Foreclosure Process in an Era of Heightened Scrutiny: Establishing Standing, Dealing with MERS Related Issues and Responding to Borrower Counterclaims and Stalling Tactics**

Nathan J. Boucher

Vice President & Senior Counsel
American Home Mortgage Servicing, Inc. (Coppell, TX)

Karyn A. Caldwell

Vice President & Associate General Counsel
Flagstar Bank, FSB (Troy, MI)

Chante Bowser

Associate General Counsel
Freddie Mac (McLean, VA)



Michele Stocker

Shareholder
Greenberg Traurig LLP (Fort Lauderdale, FL)



Robert T. Mowrey

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

- 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
 - 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

3:50 **Afternoon Refreshment Break**

4:00 **Residential Mortgage Litigation & Regulation in the Capital Markets: A Look at the Latest Investor Claims & Emerging Regulatory Initiatives**



Steven W. Perlstein

Partner
Kobre & Kim LLP (New York, NY)



Jonathan C. Wishnia

Member of the Firm
Lowenstein Sandler PC (New York, NY)

- Defending against the new wave of claims arising from mortgage backed securities and derivative products
 - Suitability
 - Inadequate disclosure and misrepresentation
 - Breach of reps & warranties
- Assessing investor claims against servicers pertaining to loan modifications
- Analysis and strategies to address buyback and repurchase litigation
- Recent lawsuits and claims
- Review of major litigation involving credit rating agencies
- Trustees: what strategies are being used to bring actions?
- Establishing effective defenses to investor claims
- Effectiveness of cases brought under securities laws? Is there privity to sue third party beneficiaries?
- Claims arising from securitization process by investors defaults? Which group should bear the ultimate risk of defaults?
- A look at the regulatory response to RMBS cases
- Implementing policies and procedures to ensure compliance with new and emerging regulations

5:00 **The New Paradigm: Adapting to New Authority from the CFPB, the Repercussions of Dodd-Frank and the Evolving Regulatory Landscape**



Michael C. Flynn

General Counsel – Residential Mortgage
PNC Bank (Downers, IL)



Jed Mayk

Shareholder
Stevens & Lee P.C. (Philadelphia, PA)



David N. Anthony

Partner
Troutman Sanders LLP (Richmond, VA)

- 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 first 60 days of the CFPB and what’s likely to come

- How is the new bureau interacting with existing agencies and laws
- 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 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

6:00 **Conference Adjourns**

DAY TWO: Wednesday, September 21, 2011

7:30 **Continental Breakfast**

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

8:05 **The 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. Alan J. Baverman
U.S. Dist. Ct., N.D. Ga.



Hon. Elizabeth W. Magner
U.S. Bankr. Ct., E.D. La.



Hon. Alan S. Trust
U.S. Bankr. Ct., E.D.N.Y.



Hon. Susan D. Wigenton
U.S. Dist. Ct., D.N.J.

Moderator:



Bryan A. Fratkin
Partner
McGuireWoods LLP (Richmond, VA)

- 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)
- 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
- Claims under state consumer fraud statutes – can failure to modify a loan be conceived as “unfair conduct”
- Will courts sustain third party beneficiary claims?
- 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
- Judicial practices for bankruptcies when the borrower is in a multiple default situation
- Judicial pet peeves in creditor attorneys dealing with pro se defendants
- Common valuation issues of assets in bankruptcy

9:25 **Morning Coffee Break**

9:35 **The Multi-State Mortgage Examination Process: Understanding and Responding to Increased Requests for Information and Preparing for the Possibility of Resulting State Enforcement Actions**

Chuck Cross

Vice President of Mortgage Regulatory Policy
Conference of State Bank Supervisors (Washington, D.C.)

John Prendergast

Vice President of Non-Depository Supervision
Conference of State Bank Supervisors (Washington, D.C.)



John D. Socknat

Partner
Patton Boggs LLP (Washington, D.C.)

- An overview of the increase in state joint examinations and reports
- Understanding the selection and examination of targets
- What to do when an examination results in an enforcement action?
- Complying with data requests for the multi-state examination process
- Understanding the analysis process that takes place
- Complying with quarterly Call Reports

10:50 **Loan Servicing: Complying with the Multitude of Regulations, Minimizing Risk Through Proper Procedures and Mitigating Losses in Litigation**



E. Hutchinson Robbins, Jr.

Principal
Miles & Stockbridge, P.C. (Baltimore, MD)



Therese G. Franzen

Founding Partner
Franzen and Salzano, P.C. (Norcross, GA)



John R. Chiles

Partner
Burr & Forman LLP (Birmingham, AL)

- Managing and defending against claims that are unique to servicing litigation
 - Debt collection practices 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 HAMP
 - Emerging claims under state consumer fraud statutes
 - Are courts upholding claims for “unfair conduct” in failing to provide loan modification?
 - Can plaintiffs sustain third-party beneficiary claims?
- 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
- What constitutes proper disclosure notices and an enforceable modification contract under HAMP?
- 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
- Servicer liability for lack of disclosure
 - Viability of good faith defense
 - Sufficient evidence to show adequate disclosure
 - Conducting due diligence of servicing compliance

12:00 **Networking Luncheon for Speakers & Delegates**

1:00 **Implementing Effective Defenses & Defeating Claims Related to Discriminatory/Predatory Lending**



Andrew K. Stutzman

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



Richard E. Gottlieb

Member & Director, Financial Services Group
Dykema Gossett PLLC (Chicago, IL)



Michael J. Agolia

Partner
Morrison & Foerster LLP (San Francisco, CA)



Eric Jon Taylor

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

- Defending against the latest claims alleging fair lending violations

- Recent regulatory and litigation developments related to discriminatory/predatory lending, TILA, HAMP & SCRA and how these developments affect the defense of claims
- Lessons from recent SCRA cases and enforcement actions
- Strategies for curing defaults after a temporary modification if a permanent modification is denied
- Identifying and defending cases with systemic versus individual risk
- HAMP Litigation: What constitutes proper disclosure notices and an enforceable modification contract under HAMP?
- Proactive steps lenders can take to prevent future discriminatory/predatory lending claims

2:25 **A Focus on Class Actions: Emerging Strategies and Best Practices for Prevailing Against the Latest Plaintiffs’ Claims**



Anthony Rollo

Member
McGlinchey Stafford PLLC (New Orleans, LA)



Frank A. Hirsch

Partner
Alston & Bird (Durham, NC)



Robert R. Ambler, Jr.

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

- 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
- The status of class action waiver clauses in arbitration agreements after *Concepcion*
- Class action trends involving residential mortgage litigation and what to expect going forward
- Defending against class actions arising from alleged foreclosure documentation errors
 - Procedural class-wide issues that are unique to such cases
- Defending against class actions arising from loan modifications and HAMP
 - Providing evidence that loans were modified appropriately

3:50 **Conference Ends
Registration for Workshop B**

4:00 – 6:00

Workshop B: Getting Arbitration Agreements and Related Class Action Waivers Enforced after *AT&T v. Concepcion*

(separate registration required)

WORKSHOP B

WEDNESDAY, SEPTEMBER 21, 2011

4:00 – 6:00 pm

Master Skills Session: Getting Arbitration Agreements and Related Class Action Waivers Enforced after *AT&T v. Concepcion*



John R. Chiles
Partner
Burr & Forman LLP (Birmingham, AL)

An invaluable 2-hour drill down into:

- Examining the latest decisions about enforceability of arbitration provisions that seek to preclude class treatment
 - Parsing the arguments that have won and lost
 - The range of results in different jurisdictions and situations
- Drafting an arbitration provision to be effective in avoiding class treatment, in arbitration and in court
- What issues remain for possible Supreme Court attention, after state court rulings on class arbitration issues?
- Responding to contentions that arbitration is unfair
- How to approach arbitration if it looks like there may be a class proceeding
- Factoring in the Arbitration Fairness Act and other legislative developments into the analysis

WHO YOU WILL MEET

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- Loan Purchasers & Securitizers
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ACI understands that gaining perspectives from – and building relationships with – your fellow delegates during the breaks can be just as valuable as the structured conference sessions. ACI strives to make both the formal and informal aspects of your conference as productive as possible.

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RESIDENTIAL MORTGAGE LITIGATION & REGULATORY ENFORCEMENT

Preparing for the New Generation of Claims, Regulations & Legislative Developments

September 20 – 21, 2011 | The Adolphus | Dallas, TX

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- Office of the State of Illinois Attorney General
- Office of the Inspector General, HUD
- Southwest Region, FTC
- Office of the Inspector General, FDIC
- Associate Director, FDIC
- Conference of State Bank Supervisors

Registration Fee

The fee includes the conference, all program materials, continental breakfasts, lunches and refreshments.

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