

American Conference Institute's 8th National Forum on

RESIDENTIAL MORTGAGE LITIGATION & REGULATORY ENFORCEMENT

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

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Joseph Samarias
U.S. Department of the Treasury

John A. Davidovich Chuck Cross
FDIC CSBS

Reid Muoio John Prendergast
SEC CSBS

Chris Barry-Smith
Office of the MA Attorney General

Thomas P. James
Office of the IL Attorney General

Network With:

Gene R. Clark Alan J. Levith
Arch Bay Capital LOGS Network

Karyn A. Caldwell C. Vance Beck
Flagstar Bank, FSB Wells Fargo

Joseph J. Patry Leah S. Getlan
MERSCORP, Inc. Capital One

Stephanie Karfias Chante Bowser
SunTrust Banks, Inc. Freddie Mac

Christopher T. Shaheen Gary A. Deutsch
U.S. Bank PNC Bank, N.A.

Anthony Del Piano David Cherneck
HSBC North America Prospect Mortgage

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March 29 – 30, 2012 | The Hamilton Crowne Plaza | Washington, DC

In this litigious environment, it's more important than ever to get first-hand insights from District, Magistrate, and Bankruptcy judges. Hear from:



Hon. Helen Gillmor
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Hon. Jane J. Boyle
U.S. Dist. Ct., N.D. Tex.



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Hon. Elizabeth W. Magner
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Hon. Robert J. Johnston
U.S. Dist. Ct., D. Nev.



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



Hon. Michael G. Williamson
U.S. Bankr. Ct., M.D. Fla.

Featuring key insights and expert advice for:

- Preparing for and responding to the continued regulatory focus and expanding Federal and State enforcement actions
- Navigating the foreclosure litigation process including: Standing, borrower counterclaims, contested foreclosures, MERS issues, and foreclosure avoidance programs
- Examining the new powers of the CFPB, their interaction with state regulators and ensuring compliance with new regulations
- A look at the latest investor claims and regulatory initiatives in capital markets litigation
- Defending against claims of fair lending violations, including TILA and SCRA
- Mitigating loss in loan servicing and responding to HAMP & MERS allegations
- Prevailing against the latest bankruptcy litigation claims
- Defending against class actions and avoiding class treatment

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A Residential Mortgage Litigation Focus on the Hotbed of California

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FEATURING MORE IN-HOUSE COUNSEL, JUDGES & REGULATORS THAN EVER BEFORE!

Join top litigators, in-house counsel, key federal and state regulators, and renowned jurists to ensure you are fully prepared to defend against the continuing deluge of residential mortgage claims.

With a renewed regulatory focus stemming from the implementation of the CFPB, residential mortgage litigation is more prominent than ever. The authority of the state Attorneys General continues to expand to enforce the new regulations, and 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. Defending against fair lending claims under TILA and SCRA, mitigating loss in loan servicing and responding to allegations of HAMP and MERS violations, and attacking the latest bankruptcy claims are all key.

In response, **American Conference Institute** is pleased to announce its **8th National Forum on Residential Mortgage Litigation & Regulatory Enforcement**. Our unparalleled faculty of regulatory and enforcement officials, renowned jurists, expert in-house counsel, and leading outside counsel will provide you insights and strategies tailored to defend against new claims and adapt to the evolving regulatory landscape. Topics will include:

- Adapting to evolving state and federal regulatory initiatives in light of new regulations under the CFPB
- A look at the latest investor claims and regulatory initiatives in capital markets litigation
- Legal and compliance strategies for preventing and defending against TILA and SCRA claims
- Responding to allegations of HAMP and MERS violations and minimizing risk through proper procedures and loss mitigation strategies
- Navigating the foreclosure litigation process and foreclosure mediation programs, including standing and compliance issues, proof of MERS assignments, and refuting claims of loan documentation error
- Combating the use of bankruptcy as a borrower tool
- Prevailing against the latest bankruptcy litigation claims
- Managing and defending against residential mortgage class actions

Plus, register for the Pre-Conference In-Depth Focus Sessions

A | Residential Mortgage Litigation Focus on the Hotbed of California

B | Defending and Managing Claims/Class Actions in an Unrivaled Litigious Environment

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7:20 **Registration and Continental Breakfast**

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



Andrew K. Stutzman
Chair, Mortgage and Lending Litigation Practice Group
Stradley Ronon Stevens & Young, LLP



Frank Hirsch
Partner
Alston & Bird LLP

8:05 **In-House Counsel Speak Out: What They Are Doing to Prevent and Manage Mortgage Litigation Involving Lending, Servicing & Foreclosure**

Panel 1 | 8:05 – 9:05

Gene R. Clark
General Counsel
Arch Bay Capital, LLC

C. Vance Beck
Associate General Counsel
Wells Fargo

Stephanie Karfias
First Vice President & Assistant General Counsel
SunTrust Banks, Inc.

Gary A. Deutsch
Senior Counsel
PNC Bank, N.A.

David K. Stein
Senior Vice President & General Counsel
Residential Finance Corporation

Janna Lewis
EVP and General Counsel
Fay Servicing

Panel 1 Moderator:

Gregory S. Korman
Partner
Katten Muchin Rosenman LLP

Panel 2 | 9:05 – 10:05

Anthony Del Piano
Vice President, Associate General Counsel & Corporate Secretary
HSBC North America

Alan J. Levith
Associate General Counsel
LOGS Network

David Chernek
Senior Vice President, Associate General Counsel
Prospect Mortgage

Eric Spett
SVP and Associate General Counsel
American Home Mortgage Servicing, Inc.

Chante Bowser
Associate General Counsel
Freddie Mac

Leah S. Getlan
Director and Assistant General Counsel
Capital One

Michael Schulte
Assistant General Counsel
Springleaf Financial Services

Panel 2 Moderator:

Thomas M. Hefferon
Partner
Goodwin Procter LLP

- Ensuring proper foreclosure procedures both internally and externally
- Managing the flood of residential mortgage litigation arising from alleged foreclosure documentation errors and “robo-signing” practices
- Avoiding claims of predatory lending or RESPA or TILA violations
 - Implementing training and compliance controls
 - Resolving disputes before borrowers or investors file suit
- Determining when to settle a claim and when to continue to defend against it
- Working with outside counsel
 - Achieving efficient and cost effective coordination of responsibilities
 - In-house pet peeves and concerns
- Dos and Don'ts when working with in-house counsel

10:05 **Morning Coffee Break**

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10:15 Complying with and Responding to New and Emerging Federal and State Enforcement Actions

Joseph Samarias
Senior Counsel
U.S. Department of the Treasury

Reid Muoio
Deputy Chief, Structured and New Products Unit
Securities and Exchange Commission

John A. Davidovich
Counsel to the Inspector General
Federal Deposit Insurance Corporation

Chris Barry-Smith
Chief, Public Protection and Advocacy Bureau
Office of the Mass. Attorney General Martha Coakley

Thomas P. James
Consumer Counsel
Consumer Fraud Bureau
Office of the Illinois Attorney General

Chuck Cross
Vice President of Mortgage Regulatory Policy
Conference of State Bank Supervisors

John Prendergast
Vice President of Non-Depository Supervision
Conference of State Bank Supervisors

Moderator:
Andrew Sandler
Partner
Buckley Sandler LLP

Legislative initiatives on a state and federal level

- DOJ initiatives
 - Preparing for an increase in DOJ and FTC enforcement
 - Investigations and enforcement for predatory lending
 - Focus on the TCPA and TILA and increase in consumer protection laws
 - DOJ's focus on discrimination claims
 - Adapting and defending under the DOJ's increased focus on investigation
- Complying with federal and state investigations and inquiries into foreclosure practices
 - What to expect and how to prepare
 - What are states and AGs doing to act parallel to the federal government on mortgage servicing and foreclosure look-back
- State/Federal discrepancies
 - Independent state consumer protection laws and lack of preemption
 - Debt collection

Emerging Federal Cases

- Case wrap up and important litigation over the past year
- Servicer foreclosure settlement: An in depth look at the current status of the Office of Comptroller of the Currency (OCC) Consent Order

How external factors are shaping the residential mortgage market

- Political influences on the regulatory movement
 - Most recent issues and developments
 - Changes in the economy, elections, corporate downsizing
- Looking to the future
 - Possible effects on the industry when interest rates are no longer suppressed
 - What will the market be able to bear
 - How will uncertainty affect pricing in the residential mortgage market

Multi-State Mortgage Examination Process

- Overview of increase in joint state examinations
 - Complying with data requests for the multi-state examination process
- Understanding and responding to increased requests for information
- Preparing for the possibility of resulting state enforcement actions

11:45 The Evolving Regulatory Landscape: Repercussions of Dodd-Frank and Adapting to the New Authority from the CFPB

Kenneth W. Edwards *Glenn S. Arden*
Policy Counsel Partner
Center for Responsible Lending Jones Day

Anand S. Raman
Partner
Skadden, Arps, Slate, Meagher & Flom LLP

Andrew K. Stutzman
Chair, Mortgage and Lending Litigation Practice Group
Stradley Ronon Stevens & Young, LLP

Moderator

Anthony Rollo
Member
McGlinchey Stafford PLLC

- Continued impact of Dodd-Frank on residential mortgage litigation
 - What to expect moving forward
 - Preparing and responding to enforcement efforts
- Assessing the CFPB and its impact on the industry
 - Overlap and concurrent jurisdiction and power with the FHA
 - Impact of the CFPB on state enforcement initiatives
 - Overview of what to expect in the coming months from the CFPB

1:00 Networking Luncheon for Speakers and Delegates

2:15 Loan Servicing: Complying with the Multitude of Regulations and Minimizing Risk through Proper Procedures and Loss Mitigation Strategies in Litigation

Leah S. Getlan
Director and Assistant General Counsel
Capital One

E. Hutchinson Robbins, Jr. *Sanjay P. Ibrahim*
Principal Partner
Miles & Stockbridge, P.C. Parker Ibrahim & Berg LLC

Richard J. Andreano, Jr. *Robert T. Mowrey*
Partner Partner
Patton Boggs LLP Lock Lord LLP

- Regulatory compliance in a new era of CFPB
 - Specific servicing rulemaking process commenced by FTC and transferred to CFPB
 - General Dodd-Frank prohibition against unfair, deceptive or abusive acts or practices, and substantial assistance prohibition
 - Unfair, deceptive or abusive acts or practices authority of the CFPB
- Avoiding and defending against claims of TILA and RESPA violations
 - QWR procedures
 - Payment processing, escrow, and ARM adjustments
 - Fee practices
- Servicer liability for lack of disclosure
 - Viability of good faith defense
 - Evidence required to show adequate disclosure

- Conducting due diligence of servicing compliance
- Loss mitigation and state mandated mediation to reduce litigation
 - Loss mitigation during the foreclosure process
- Remediation plans
- Loan modification: Issues and defenses
 - Breach of contract theories relating to loan modifications
 - Defending against causes of action arising under HAMP
 - Defending against claims that borrowers were given modifications against their will
- Managing and defending against claims involving “robo-signing” practices and documentation errors
- Claims relating to MERS
 - Assessing the current and future viability of MERS
 - Long term impact on servicers and title companies

- Trustee put-back claims
- Recent investor lawsuits and claims
 - Assessing investor claims regarding loan modifications
 - Establishing effective defenses to investor claims

6:00 Conference Adjourns

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

Day Two – Friday, March 30, 2012

7:30 Continental Breakfast

8:00 View From the Bench: Judicial Perspectives on Foreclosure Documentation Errors, Loan Modification Litigation, Affidavit and Pleading Requirements, Third Party Beneficiary Claims, Discretionary Awards of Fees and Sanctions, and Navigating through Bankruptcy Court

The Honorable Jane J. Boyle
District Court Judge
United States District Court, Northern District of Texas

The Honorable Helen Gillmor
District Court Judge
United States District Court, District of Hawaii

The Honorable Robert J. Johnston
Magistrate Judge
United States District Court, District of Nevada

The Honorable Paul M. Warner
Magistrate Judge
United States District Court, District of Utah

The Honorable Alan S. Trust
Bankruptcy Judge
United States Bankruptcy Court, Eastern District of New York

The Honorable Michael McManus
Bankruptcy Judge
United States Bankruptcy Court, Eastern District of California

The Honorable Michael G. Williamson
Bankruptcy Judge
United States Bankruptcy Court, Middle District of Florida

Moderator:

Hunter Eley
Partner
Doll Amir & Eley LLP

- Judicial Perspectives on foreclosure documentation errors and “robo-signing” practices
- Impact of court implemented rules
 - Attorney affidavits
 - File reviews
 - Enhanced pleading requirements
- Insights into discretionary awards of attorneys’ fees and sanctions
- A look at the mediation process and its merits for residential foreclosure cases
- Judicial tips on pleading and proving damages
 - Proper documentation
 - How much detail is needed in a complaint
- Navigating bankruptcy court
 - Common valuation issues of assets in bankruptcy
 - What lenders and servicers need to know

3:30 Afternoon Coffee Break

3:45 Defeating Discriminatory/Predatory Lending Claims, Including TILA, SCRA and HAMP: Best Defenses and Settlement Techniques

Sharon Kelly
Managing Director
ERS Group

David M. Bizar
Partner
Seyfarth Shaw LLP

Eric Jon Taylor
Partner
Parker, Hudson, Rainer
& Dobbs LLP

Michael J. Agolia
Partner
Morrison & Foerester LLP

- Defending against the most recent claims alleging fair lending violations, including:
 - TILA
 - SCRA
- What constitutes proper disclosure notices and enforceable modification contract under HAMP
- The effect of recent regulatory and litigation developments on the defense of predatory lending claims
 - Lessons learned from recent SCRA cases and enforcement actions
- Determining when to settle a claim and when to defend against it
- Avoiding predatory lending claims: proactive steps to prevent future claims
 - Conducting internal compliance assessment and training
 - Resolving disputes before borrowers file suit

5:00 Capital Markets Litigation: The Latest Claims & Emerging Regulatory Initiatives Involving Trustees, Investors, Insurers and Repurchasers

Richik Sarkar
Partner
Ulmer & Berne LLP

Talcott J. Franklin
Attorney
Talcott Franklin P.C.

- Implementing policies and procedures to ensure compliance with new and emerging regulations
 - Regulatory response to RMBS cases
 - Regulatory oversight and involvement in consent orders
- Defending against claims arising from mortgage backed securities and derivative products
 - Inadequate disclosure
 - Misrepresentation
 - Breach of representations and warranties/faulty origination and underwriting
 - Loan servicer misconduct
- Trustees’ suits to “audit” loan files to determine if RMBS contracts have been breached
- Analysis and strategies to address buyback and repurchase litigation
 - Investor put-back claims

9:35 Morning Coffee Break

9:45 **Judicial Foreclosure Intervention: How to Effectively Navigate Foreclosure Mediation Programs**

The Honorable C. Darnell Jones
District Court Judge
United States District Court, Eastern District of Pennsylvania

The Honorable Kevin S.C. Chang
Magistrate Judge
United State District Court, District of Hawaii

Moderator:

Richard E. Gottlieb
Member and Director, Financial Industry Group
Dykema Gossett PLLC

- Preventative means to address overburdened courts
 - Mediation programs
 - Programs requiring good faith efforts by the lender to look at all options to avoid foreclosure
- Foreclosure prevention programs across the country
 - Nevada, California, Hawaii, and Philadelphia programs
- Mediation programs
 - Enforceability of mandatory arbitration clauses
 - Recent developments regarding mandatory mediation programs
- Federal and state court opinions on foreclosure prevention
 - 2010 CA Superior Court *Mabry v. Superior Court* decision

FORECLOSURE LITIGATION

10:30 **Establishing Standing and Ensuring Compliance with New Document and Affidavit Procedures**

Nina F. Simon
Director of Litigation
Center for Responsible Lending

Therese G. Franzen
Partner
Franzen & Salzano, P.C.

Bryan A. Fratkin
Partner
McGuireWoods LLP

- Evolution of a borrower attacks on standing
 - New claims and standing attacks brought by borrowers
 - How to combat and defeat standing attacks
- Specific Documents defense attorneys need to prove a foreclosure case
 - When is the original loan documentation necessary
 - Issues involving possession, note, and assignment
- New challenges to proving the validity of an endorsement
- Best practices and lessons learned from foreclosure documentation errors
- Attorney's fees and related foreclosure filings; ensuring compliance with local fee caps
- Responding to challenges to foreclosures in non-judicial foreclosure states

11:15 **Responding to Borrower Counterclaims and Stall Tactics and Defending Against MERS Claims**

Joseph J. Patry
Counsel
MERSCORP, Inc.

Alan M. Warfield
Partner
Jones Walker, LLP

Roland P. Reynolds
Partner
Palmer, Lombardi & Donohue LLP

- Defenses to foreclosure actions
- Managing counterclaims arising from common law and statutes including:
 - TILA
 - RESPA
 - FDCPA
 - UDAP

- MERS
 - MERS interest as mortgagee or beneficiary
 - Transfer of notes via endorsement and delivery rather than assignment
- Assignment of mortgages
- Refuting Claims of documentation error
 - When is the original loan documentation necessary
- How to combat discovery claims and attacks on endorsement validity and prevent a fishing expedition
- Preventing bankruptcy claims from being used as a borrower tool

12:00 **Strategies to Overcome Claims and Objections in Contested Foreclosures**

Michelle A. Canter
Managing Partner, Atlanta
Lotstein Legal PLLC

Karyn A. Caldwell
First Vice President & Associate General Counsel
Flagstar Bank, FSB

Michele Stocker
Shareholder and Chair, Financial Services Litigation
Greenberg Traurig LLP

- Handling borrower counterclaims in contested foreclosures
- Overcoming commonly raised defenses including TILA, SCRA, and fraud and rescission claims
- Foreclosures while borrowers are dealing with HAMP modification
- Origination Claims

12:45 **Networking Luncheon for Speakers and Delegates**

1:45 **Mortgages in Bankruptcy: Prevailing Against the Latest Bankruptcy Litigation Claims**

The Honorable Elizabeth W. Magner
Bankruptcy Judge
United States Bankruptcy Court,
Eastern District of Louisiana

Katrina Christakis
Partner
Grady Pilgrim Christakis Bell LLP

John R. Chiles
Partner
Burr & Forman LLP

Debra Lee Hovatter
Member
Spilman Thomas & Battle, PLLC

Scott Borison
Partner
Legg Law Firm LLC

- Foreclosure litigation standards in bankruptcy court
- Navigating bankruptcy court
 - Defending against borrower claims in bankruptcy court
 - Common valuation issues of assets in bankruptcy
 - What lenders and servicers need to know
- Recent bankruptcy class certification decisions
- Latest cases regarding ownership of a debt/note
- Stay relief and avoiding stay violations
- Proof of Claim issues and litigation update

3:00 **A Focus on Class Actions: Avoiding Class Treatment and Prevailing Against the Latest Plaintiffs' Class Claims**

Christopher T. Shaheen
Vice President and Chief
Litigation Counsel, U.S. Bank

Jay Fastow
Partner
Dickstein Shapiro LLP

Frank A. Hirsch
Partner
Alston & Bird LLP

Robert E. Boone
Partner
Bryan Cave LLP

- Effectively defending against class claims arising in relation to:
 - Consumer Protection laws
 - Class claims under the TCPA
 - Loan Modification and HAMP
 - Providing evidence of proper modification
 - Foreclosure documentation errors
- Continued impact of Concepcion
 - The status of class action waiver clauses in arbitration agreements after Concepcion

- Drafting an arbitration provision to be effective in avoiding class treatment
- Removal under the Class Action Fairness Act
- Mass actions developments
- Recent issues in class notice and settlement structures
- Class action trends involving residential mortgage litigation, and what to expect going forward

4:15 **Conference Ends**

Pre-Conference In-Depth Focus Sessions

A Wednesday, March 28, 2012 | 2:00-4:00

Residential Mortgage Litigation Focus on the Hotbed of California

Hunter Eley
Partner
Doll Amir & Eley LLP

Gregory S. Korman
Partner
Katten Muchin Rosenman LLP

Roland P. Reynolds
Partner
Palmer, Lombardi & Donohue LLP

In regard to residential mortgage litigation, California has been a unique and prominent player. The rise of borrower initiated litigation in California courts is unprecedented, and the systemic problems in the California court system create serious roadblocks for attorneys to effectively resolve cases. One size might not fit all as it relates to residential mortgage litigation strategies in California, and it is imperative that companies with a California presence and their counsel ensure that they know how to navigate residential mortgage litigation challenges specific to this state. In this workshop, participants will receive in-depth and California specific insights on:

- The rise of borrower initiated litigation in California
 - Evolving types of claims
- New cases under the False Claims Act
- Systemic problems: time delays and understaffing in the California court system
- Foreclosure avoidance programs
 - State mandated foreclosure avoidance programs
 - Requirements that good faith attempts be made by lenders to look at options to prevent foreclosure
 - Recent decisions involving foreclosure prevention, including *Mabry v. Superior Court*
- Judge initiated foreclosure prevention programs
 - Orange County foreclosure avoidance program
- New legislation and appellate court decisions
- California Attorney General Mortgage Fraud Strike Force

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B Wednesday, March 28, 2012 | 4:00-6:00

Defending and Managing Claims/Class Actions in an Unrivaled Litigious Environment: The Latest Filings, Litigation Strategies and Techniques That Are Working and Why, Utilizing Multiple Sources of Data in Your Defense, and Ensuring Your Case Stays Settled

E. Hutchinson Robbins, Jr.
Principal
Miles & Stockbridge, P.C.

Bryan A. Fratkin
Partner
McGuireWoods LLP

Eric Jon Taylor
Partner
Parker, Hudson, Rainer & Dobbs LLP

Jason Pinson
Principal
Ursas Law Group

Lawrence Buckley
Executive Vice President
National Bankruptcy Services

Brendan Keene
Senior Vice President
CoreLogic

To defend against the latest influx of claims, it is critical to have a clear and detailed understanding of where plaintiffs are filing, know litigation strategies and techniques that are working and why, utilize multiple sources of data to defend against any type of claim that may arise, and understand the best practices to ensure that cases stay settled. Get the latest insights and strategies to successfully manage and defend the new wave of claims and class actions, including:

Litigation Strategy

- Defending against the influx of cases brought by state AGs
 - why one attorney is successful where another isn't
- Where plaintiffs are filing and how to structure your case around this
- Dealing with successor liability
 - Bank failures, mergers, and acquisitions
 - Multiple owners or managers

Application of Data & Analytics in Mortgage Litigation

- Litigation strategies using data and analytics to make your case
 - The historical title database and recording documentation
- How to defend against plaintiffs' attorneys whether buying, selling, or making a loan
 - Securitization claims defense; Loan modification defense
- Navigating the new secondary residential mortgage market
 - Cultivating institutional trust
 - Consumer benefits
 - Restoring the RMBS market
- Ensuring technology is usable and reliable at trial

Settlement Negotiation

- Balancing efficiency and results with trying cases
- Ensuring client communication does not delay possible settlement options
- Strategies to help clients respond to duplicative claims in an era of litigious plaintiffs
- Sustainable verdict: how to settle cases so they stay settled
 - Creating a comprehensive settlement order
 - Litigating the release

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

March 29 – 30, 2012 | The Hamilton Crowne Plaza | Washington, DC

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You must notify us by email at least 48 hrs in advance if you wish to send a substitute participant. Delegates may not "share" a pass between multiple attendees without prior authorization. If you are unable to find a substitute, please notify **American Conference Institute (ACI)** in writing up to 10 days prior to the conference date and a credit voucher valid for 1 year will be issued to you for the full amount paid, redeemable against any other ACI conference. If you prefer, you may request a refund of fees paid less a 25% service charge. No credits or refunds will be given for cancellations received after 10 days prior to the conference date. ACI reserves the right to cancel any conference it deems necessary and will not be responsible for airfare, hotel or other costs incurred by registrants. No liability is assumed by ACI for changes in program date, content, speakers, or venue.

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