



Oregon Law Institute  
of Lewis & Clark Law School

# THE CHANGING FACE OF COMMERCIAL LITIGATION

**L**itigation has changed, with fewer trials, reams of documents, and alternative dispute resolution becoming the norm. Perhaps nowhere have these changes had more of an impact than in the world of commercial litigation. Experienced judges, mediators, trial lawyers, and in-house counsel will provide their insights on how to deal with this changing world.

**FRIDAY, SEPTEMBER 26, 2008**

Oregon Convention Center  
777 NE Martin Luther King, Jr. Blvd.  
Portland, Oregon

5.25 MCLE Credits

# SCHEDULE

8:00 a.m. LATE REGISTRATION AND DISTRIBUTION OF MATERIALS

8:25 WELCOME AND INTRODUCTION

8:30 - 9:30 **Avoiding the Pitfalls of ESI Spoliation**

- Obligation to preserve ESI, including metadata
- Types of spoliation
- Sanctions for spoliation
- How to prevent spoliation
- How to detect and prove spoliation
  - *Keith A. Ketterling*
  - *Angelene Carpenter Falconer*

9:30 - 10:30 **ADR—A Blessing or a Curse?**

- In the commercial setting, are the old assumptions about arbitration being superior to trials (faster, cheaper, better, etc.) true today? Pros and cons of court vs. arbitration
- Practical impacts of proceeding in court vs. arbitration
  - Case intake decisions by plaintiff's counsel
  - Choice of forum decisions by counsel
- Types of cases best suited for court vs. arbitration
- New developments
  - New summary jury trial and "fast track" trial alternatives being developed and considered locally
  - Construction defect litigation Reference Judge system in Multnomah County
  - Pending federal legislative proposals restricting mandatory arbitration
- Do's and Don'ts for effectively presenting the commercial case in mediation
  - Moderator: *John J. Dunbar*
  - *Robert S. Banks Jr.*
  - *John R. Barker*
  - *Hon. Jerome E. LaBarre*

10:30 - 10:45 BREAK

10:45 - 11:45 **Efficient Ways to Get Evidence for a Commercial Trial**

- Planning that makes the discovery process more efficient
- Negotiating to make discovery more efficient
- Moving past discovery disputes
- Discovery tools that make the process more efficient
  - *David A. Bledsoe*
  - *John J. Dunbar*
  - *Renee E. Rothauge*

11:45 - 1:00 LUNCH (on your own)

# SCHEDULE (continued)

1:00 - 2:00

## **Hitting the Bull's-Eye—Taking the Complexity Out of a “Complex Case”**

- What makes a case “complex”?
- How can you streamline your case preparation?
- How can you simplify your trial presentation?
  - *Michael R. Seidl*
  - *Richard J. Stone*

2:00 - 3:00

## **Client Perspectives**

- Adding value as an outside lawyer
- Using the client to your best advantage
- The court as client
  - *Hon. John V. Acosta*
  - *Robert B. Miller*
  - *Jeffrey F. Nudelman*

3:00

ADJOURN

# Program Faculty

## **Hon. John V. Acosta**

*United States District Court*

## **Robert S. Banks Jr.**

*Banks Law Office PC*

## **John R. Barker**

*Barker Arbitration & Mediation*

## **David A. Bledsoe**

*Perkins Coie LLP*

## **John J. Dunbar**

*Program Planner*

*Ball Janik LLP*

## **Angelene Carpenter Falconer**

*Paralegal, Stoll Berne*

## **Keith A. Ketterling**

*Stoll Berne*

## **Hon. Jerome E. LaBarre**

*Multnomah County Circuit Court*

## **Robert B. Miller**

*Bullivant Houser Bailey PC*

## **Jeffrey F. Nudelman**

*Harsch Investment Properties*

## **Renee E. Rothauge**

*Bullivant Houser Bailey PC*

## **Michael R. Seidl**

*Landye Bennett Blumstein LLP*

## **Richard J. Stone**

*Ball Janik LLP*

## **LIVE PRESENTATION**

**Portland – 9/26/08**

Oregon Convention Center  
777 NE MLK Jr. Blvd.

## **MCLE CREDIT**

*The Changing Face of Commercial  
Litigation* will receive **5.25** General  
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## **PROGRAM PRODUCTS**

Even if you cannot attend, you can still get the program on audiotape, videotape, CD or DVD. Use the order form in this brochure to order your set today! OLI Annual Passholders may purchase OLI program products at 50% off the full retail price.

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## **VIDEO REPLAYS**

Please register at least one week prior to the replay date.

**Bend – 10/10/08**

**Replay 8:30 a.m.**  
Bryant Lovlien & Jarvis  
591 Mill View Way

**Eugene – 10/3/08**

**Replay 8:30 a.m.**  
Harrang Long Gary & Rudnick, P.C.  
360 East 10th Avenue, Ste. 300

**Medford – 10/3/08**

**Replay 8:30 a.m.**  
Kellington, Krack, Richmond,  
Blackhurst & Glatte, LLP  
23 Newtown Street

**Portland – 10/15/08**

**Replay 9:00 a.m.**  
Oregon Law Institute  
Gus J. Solomon Courthouse,  
620 S.W. Main St., Suite 706

# THE CHANGING FACE OF COMMERCIAL LITIGATION

Friday, September 26, 2008

Name OSB No. or Profession

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Please "✓" appropriate box below:

 Live presentation Video replay. Location: \_\_\_\_\_ Date: \_\_\_\_\_

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## TUITION *(Prices apply to live and video replays.)*

 \$179 "Early Bird" tuition *(received by September 22, 2008).* \$139 "Early Bird" tuition for new attorneys (admitted 2007–2008),  
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Check out our website at [www.lclark.edu/org/oli](http://www.lclark.edu/org/oli)  
or email us at [oli@lclark.edu](mailto:oli@lclark.edu).**

**CONFIRMATION:** Confirmation will be sent via e-mail or fax one week before the program.**CANCELLATION POLICY:** Tuition minus a \$20 handling charge will be refunded if the cancellation request is *written and received* by Monday, September 22, 2008.**NEED ASSISTANCE:** If you are a person with a disability, please let OLI know in time to make any necessary accommodations for you.**TUITION ASSISTANCE:** A limited number of scholarships are available based on financial need. Contact OLI.