

55th Annual Spring Meeting Agenda
Wednesday, April 18, 2007
Updated 4/13/07

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8:45 – 11:45 am

Antitrust Fundamentals – Ballroom (NPC)

The Antitrust Fundamentals session is designed to provide an introduction to the principles of antitrust law to those new to the field, as well as a refresher course for more experienced practitioners. The Antitrust Fundamentals course book is not included in your registration fee; but the materials are available for purchase using the registration form.

Session Chair and Speaker:

Honorable William E. Kovacic, Commissioner
Federal Trade Commission, Washington, DC

Speakers:

Andrew I. Gavil, Howard University, Washington, DC

Erika Brown Lee, Counsel to Director, Bureau of Competition
Federal Trade Commission, Washington, DC

8:45 – 11:45 am

Antitrust Economics Fundamentals – Salon I

Presented by the Economics Committee

This session is a complement to the Antitrust Fundamentals program, and most useful to those who have attended the Antitrust Fundamentals program previously. Three distinguished economists will teach fundamental antitrust economics with a focus on material on market definition, market power, and the economics of competition.

Session Chair:

Joseph J. Simons, Paul Weiss Rifkind Wharton & Garrison LLP, Washington, DC

Moderator:

Katherine Funk, Sonnenschein Nath & Rosenthal LLP, Washington, DC

Speakers:

Richard Rapp, NERA Economic Consulting, New York, NY

Daniel Rubinfeld, University of California – Berkeley, Berkeley, CA

Michael E. Salinger, Director, Bureau of Economics
Federal Trade Commission, Washington, DC

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9:00 – 10:30 am

Breakfast with the Deputy Assistant Attorneys General - Salon D, E & F

Presented by the Federal Civil Enforcement Committee

Start your Spring Meeting with the Deputy Assistant Attorneys General of the U.S. Department of Justice Antitrust Division and learn about their latest enforcement initiatives.

Session Chair:

Sarah M. Mathias, Attorney Advisor to Commissioner William E. Kovacic
Federal Trade Commission, Washington, DC

Moderator:

Theodore Voorhees Jr., Covington & Burling LLP, Washington, DC

Speakers:

Dennis W. Carlton, Deputy Assistant Attorney General,
U.S. Department of Justice, Antitrust Division, Washington, DC

Scott D. Hammond, Deputy Assistant Attorney General
U.S. Department of Justice, Antitrust Division, Washington, DC

Gerald F. Masoudi, Deputy Assistant Attorney General
U.S. Department of Justice, Antitrust Division, Washington, DC

J. Bruce McDonald, Deputy Assistant Attorney General
U.S. Department of Justice, Antitrust Division, Washington, DC

David L. Meyer, Deputy Assistant Attorney General
U.S. Department of Justice, Antitrust Division, Washington, DC

9:00 – 10:30 am

**Deal Terms and Deal Breakers: Drafting, Negotiating, and Defending M&A
Antitrust Contract Clauses – Salon II**

Presented by the Mergers and Acquisitions Committee

It is increasingly common in M&A transactions between competitors to negotiate in the merger agreement antitrust risks and obligations. The range of issues include U.S. and international merger control filing obligations, the obligation to address any objections from authorities, the obligation to litigate, break-up fees, “ordinary courses of business” covenants (raising gun jumping issues), antitrust risk shifting (and sharing) where no

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HSR filing is required, and the use (and potential abuse) of Joint Defense Agreements and “side letters.” Our highly experienced panel will examine these and other issues in an interactive format.

Session Chair and Moderator:

Robert S. Schlossberg, Freshfields Bruckhaus Deringer, Washington, DC

Speakers:

Lauren S. Albert, Axinn Veltrop & Harkrider LLP, New York, NY

Lisl J. Dunlop, Shearman & Sterling LLP, New York, NY

Ronan P. Harty, Davis Polk & Wardwell LLP, New York, NY

Mark A. Siemens, Antitrust Counsel
Siemens Corporation, New York, NY

9:00 – 10:30 am

**Distribution Across Borders: Ensuring that Multi-Jurisdictional Product
Distribution Complies with Competition Laws in the United States, European
Union, and Canada – Salon IV**



Presented by the Franchising & Distribution Committee

Standardization of international distribution strategies is firmly entrenched in corporations active in global markets. Notwithstanding the practical attractions of uniform pricing and distribution programs, however, aspects of these programs can be treated differently in the United States, European Union, and Canada. Working from a hypothetical, a multi-jurisdictional panel of speakers will discuss the application of these sometimes conflicting rules relating to distribution activities in a real world setting.

Session Chair and Moderator:

Subrata Bhattacharjee, Heenan Blaikie LLP, Toronto, Canada

Speakers:

Kyriakos Fountoukakos, Herbert Smith LLP, London, England

Peter Franklyn, Osler Hoskin & Harcourt LLP, Toronto, Canada

Robert T. Joseph, Sonnenschein Nath & Rosenthal LLP, Chicago, IL

Richard M. Steuer, Mayer Brown Rowe & Maw LLP, New York, NY

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9:00 – 10:30 am

“Liar, Liar, Pants on Fire”: Deceptive Conduct by Dominant Firms: Implications for Antitrust and Consumer Protection – Salon III

Presented by the Consumer Protection and Sherman Act Section 2 Committees

This session will explore the interface between the antitrust and consumer protection laws through the analysis of deceptive conduct by dominant firms under both frameworks. It will examine the objectives that each set of laws seeks to advance, their commonalities, and their conflicts.

Session Chair and Moderator:

Ankur Kapoor, Constantine Cannon LLP, New York, NY

Speakers:

Robert M. Langer, Wiggin and Dana LLP, Hartford, CT

A. Douglas Melamed, WilmerHale, Washington, DC

Timothy J. Muris, O’Melveny & Myers LLP, Washington, DC

Lydia Parnes, Director, Bureau of Consumer Protection
Federal Trade Commission, Washington, DC

9:00 – 10:30 am

Telecommunications: What’s Next? Where Will We Be in Five Years? – Salon G

Presented by the Communications Industry, Computer Industry & Internet and International Committees

With recent consolidations and new technologies, what does the future hold for telecom? How will bundling, launch of Wi-MAX services, voice and data convergence, and cable-telco and wireline-wireless competition change the industry competition structure? How are product and geographic markets changing? How will increasing globalization effect competition law enforcement? Our panel will offer a range of perspectives on these emerging issues.

Session Chair:

Aryeh Friedman, Senior Regulatory Counsel
BT Americas Inc., Washington, DC

Moderator:

Blair Levin, Managing Director
Stifel Nicolaus, Washington, DC

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Speakers:

Rudy Brioche

Legal Advisor on Media Issues to Commissioner Jonathan S. Adelstein
Federal Communications Commission, Washington, DC

Matthew C. Hammond

U.S. Department of Justice, Antitrust Division, Washington, DC

Robin Sangston, Vice President and Assistant General Counsel

Cox Communications Inc., Atlanta, GA

Sheridan Scott, Commissioner of Competition

Competition Bureau Canada, Gatineau, Quebec, Canada

10:45 am – noon

Alternative Dispute Resolution in Complex Business Torts and Antitrust Cases: Is There Really a Class Arbitration? – Salon II

Presented by the Business Torts and Civil Rico Committee



This program will explore the special challenges and opportunities presented, both from a legal and practical business perspective, in attempting to resolve complex business torts and antitrust cases through mediation, arbitration, and other forms of dispute resolution and settlement – including the rare class arbitration. Panelists from the plaintiff and defense bars, in-house counsel, and an experienced neutral arbitrator will address resolution of a complaint brought on a hypothetical fact pattern involving timely issues, including a mock mediation.

Session Chair and Moderator:

Thomas J. Lang, Senior litigation Counsel, Bureau of Competition
Federal Trade Commission, Washington, DC

Speakers:

Charles DeLeon, Senior Vice President and General Counsel
GTSI Corporation, Chantilly, VA

Lew Goldfarb, Lew Goldfarb Associates, New York, NY

Michelle C. Jackson, Lieff Cabraser Heimann & Bernstein LLP, San Francisco, CA

Donald M. Remy, Latham & Watkins LLP, Washington, DC

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10:45 am - noon

Basics to Masters: Build Your Practice and Your Skills with the Section of Antitrust Law - Justice

Presented by the Membership & Equal Opportunity Committee

Get involved in the Section of Antitrust Law and develop your skills from basic to advanced. Our panel will discuss how the scale and scope of resources within the Section, as well as the range of practitioners who participate (e.g., government, private practice (smaller and larger firms), domestic and international), can deliver value to members at every stage of practice.

Session Chair:

Margaret Guerin-Calvert, COMPASS, Washington, DC

Moderator:

Jennifer Cihon, U.S. Department of Justice, Antitrust Division, Washington, DC

Speakers

Patricia A. Conners, Director, Antitrust
Florida Attorney General's Office, Tallahassee, FL

Albert Y. Kim, Bureau of Competition
Federal Trade Commission, Washington, DC

Leslie C. Overton, Jones Day, Washington, DC

10:45 am – noon

Ici On Ecoute Bien? Technological Tying Abroad – Salon IV

Presented by the Computer Industry & Internet Committee



Apple Computer achieved remarkable success with the iPod and their companion music download website iTunes.com. iTunes, however reportedly only allows downloads in Apple's proprietary standard. Several jurisdictions have raised issues about the only antitrust, competition law and consumer protection ramifications of this "bundle." Is it a problem? Should it be? We will examine the U.S. and E.U. perspectives.

Session Chair and Moderator:

David H. Evans, Arent Fox PLLC, Washington, DC

Speakers:

D. Bruce Hoffman, Hunton & Williams LLP, Washington, DC

Atilano Jorge Padilla, LECG, Brussels, Belgium

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Michael Rowe, Slaughter and May, Brussels, Belgium

Marc G. Schildkraut, Heller Ehrman LLP, Washington, DC

10:45 am – noon

**Privacy & Information Security Litigation: An Analysis of
Government Enforcement and Private Litigation in 2005-07, and Trends for the
Road Ahead – Salon III**

Presented by the Privacy and Information Security Committee

Since the FTC's June 2005 consent order with BJ's Wholesale Club, a number of government enforcement actions and private lawsuits concerning privacy and data security practices have developed the law further. This panel will identify and discuss the key cases, their nuances, and how they have transformed companies' risk assessment in – and practices related to – privacy and information security compliance.

Session Chair:

Elaine Kolish, Better Business Bureau, Washington, DC

Moderator:

Alysa Zeltzer, Kelley Drye Collier Shannon, Washington, DC

Speakers:

Cindy Cohn, Legal Director

Electronic Frontier Foundation, San Francisco, CA

Honorable Pamela Jones Harbour, Commissioner
Federal Trade Commission, Washington, DC

Benita Kahn, Vorys Sater Seymour Pease LLP, Columbus, OH

Shannon E. Smith, Senior Counsel, Consumer Protection Division
Washington State Attorney General Office, Seattle, WA

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Noon – 2:00 pm
The Luncheon – Capitol Ballroom

Join us for lunch and Professor Stephen Calkins' popular and entertaining review of antitrust developments over the past year. The luncheon, which is attended by many and enjoyed by all, is sure to be a delight.

Speaker:

Stephen Calkins, Wayne State University, Detroit, MI

2:00 – 3:30 pm
Behind the Mock Trial – The Rest of the Story – Handling the Parallel Foreign Investigations – Salon IV
Presented by the Trial Practice Committee  

This companion program to the Mock Trial will explore how counsel deals with simultaneous multijurisdictional investigations. The mock trial focuses on an alleged cartel affecting the United States, but counsel often must deal with investigations of the same and related conduct in other jurisdictions where the parties, products, and supposed cartel activities are similar but may not coincide.

Session Chair:

Thomas Campbell, Baker & McKenzie LLP, Chicago, IL

Moderator:

Phillip A. Proger, Jones Day, Washington, DC

Speakers:

Lynda Martin Alegi, Baker & McKenzie LLP, London, England

Tad Lipsky, Latham & Watkins LLP, Washington, DC

Michael J. Reynolds, Allen & Overy LLP, Brussels, Belgium

Daniel G. Swanson, Gibson Dunn & Crutcher LLP, Los Angeles, CA

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2:00 – 3:30 pm

Beyond *Trinko* and *Twombly*: The Role of Private Consumer Actions in Detecting and Providing Remedies for Antitrust Violations – Salon I



Presented by the Civil Practice and Procedure, Communication Industry, International, Sherman Act Section 1, and Sherman Act Section 2 Committees

When may consumers bring civil antitrust suits to challenge business decisions by large firms? Building on recent communications industry cases (*Trinko*/single firm conduct) and *Twombly*/allegedly concerted action) and the EC Green Paper on damages actions, this session contrasts private antitrust litigation in the United States and abroad.

Session Chair and Moderator:

William M. Schur, General Attorney-Litigation
AT&T Services, Inc., San Antonio, TX

Speakers:

David I. Gelfand, Cleary Gottlieb Steen & Hamilton LLP, Washington, DC

Honorable Thomas F. Hogan, Chief Judge
U.S. District Court, District of Columbia, Washington, DC

Stephen Kinsella, Sidley Austin LLP, Brussels, Belgium

Jeffrey I. Shinder, Constantine Cannon LLP, New York, NY

2:00 – 3:30 pm

Class Certification: Is there a Trend Toward More Rigorous Analysis?

Presented by the Civil Practice and Procedure Committee – Salon II



Is it getting tougher for plaintiffs to certify classes in various types of antitrust cases? Hear from practicing lawyers as well as an economist and a law professor as they review the recent case law.

Session Chair:

Paul H. Friedman, Dechert LLP, Washington, DC

Moderator:

William H. Page, University of Florida, Gainesville, FL

Speakers:

Roger D. Blair, University of Florida, Gainesville, FL

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Robert H. Klonoff, UMKC School of Law, Kansas City, MO

Ellen Meriwether, Miller Faucher & Cafferty LLP, Philadelphia, PA

Ian Simmons, O'Melveny & Meyers LLP, Washington, DC

2:00 – 3:30 pm

Exclusive Dealing, Loyalty Programs, and Bundling: Are *Dentsply*, *LePage's*, and *Conwood* the Law of the Land – and Should They Be? – Holeman (NPC)
Presented by the Distribution and Franchising Committee

This program will examine whether other courts are following *Dentsply*, *LePage's*, and *Conwood*, which held various allegedly exclusionary distribution programs unlawful. Learn about how this line of cases affects both litigation and counseling decisions. The speakers will discuss the arguments for and against these decisions and how these issues are being addressed in subsequent cases.

Session Chair and Moderator:

Gary W. Kubek, Debevoise & Plimpton LLP, New York, NY

Speakers:

Joseph Grinstein, Susman Godfrey LLP, Houston, TX

Richard A. Ripley, Bingham McCutchen LLP, Washington, DC

Alison L. Smith, Haynes and Boone LLP, Houston, TX

Gary P. Zanfagna, Chief Antitrust Counsel
Honeywell International Inc., Morristown, NJ

2:00 – 3:30 pm

In Need of a Remix? Are Record Companies Discriminating in Providing Promotional Allowances and Services to Music Retailers? – Ballroom (NPC)
Presented by the Distribution and Franchising and Price Discrimination Committees

With the rise of big box retailers and consolidation in the retail segment, manufacturers are tailoring their promotional programs to maximize sales through new super stores. The music industry provides an excellent example of this trend, as music companies redirect their marketing efforts to Wal-Mart and Best Buy while more traditional music retailers struggle to survive. To what extent are these marketing strategies limited by Sections 2(d) and (e) of the Robinson-Patman Act? What is the interplay between

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Sections 2(d) and (e) and the prohibition against price discrimination in Section 2(a) of the Act? By exploring these issues in the context of the music industry, this program will provide helpful guidance to counsel advising clients in numerous industries facing a challenging retail environment.

Session Chair and Moderator:

Scott P. Perlman, Mayer Brown Rowe & Maw LLP, Washington, DC

Speakers:

Grace Bergen, Greenburg Traurig LLP, Sacramento, CA

Paula C. Martucci, Wal-Mart Stores, Inc., Bentonville, AR

Dean Ringel, Cahill Gordon & Reindel LLP, New York, NY

2:00 – 3:30 pm

Intellectual Property and the Antitrust Review of Mergers and Acquisitions – Salon III

Presented by the Intellectual Property and Mergers & Acquisitions Committees

This session will explore the significance of intellectual property to the antitrust review of M&A transactions—including a discussion of potential competition and “innovation markets,” IP and barriers to entry, IP litigation between merging parties, and the role of licensing and divestiture of IP in merger remedies.

Session Chair and Moderator:

Arthur J. Burke, Davis Polk & Wardell, Menlo Park, CA

Speaker:

Dennis W. Carlton, Deputy Assistant Attorney General
U.S. Department of Justice, Antitrust Division, Washington, DC

Susan A. Creighton, Wilson Sonsini Goodrich & Rosati PC, Reston, VA

James W. Lowe, Wilmer Cutler Pickering and Dorr LLP, Washington, DC

Jeffery Schmidt, Director, Bureau of Competition
Federal Trade Commission, Washington, DC

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3:15 – 5:15 pm

Antitrust Litigation Ethics from Soup to Nuts – Salon D & E
Presented by the Compliance and Ethics Committee



Lawyers are obligated to represent their clients with zeal, within the bounds of the law and applicable ethics constraints. What ethical constraints are most relevant in antitrust and related litigation? The session will present a survey of ethical issues that can arise in the different stages of antitrust litigation, including pre-complaint and pleadings, fact finding and discovery, and trial. Commentary from the perspectives of experienced counsel, academia, and the judiciary will be presented in a format that will encourage audience participation. (Two hours of ethics credit applied for with the states.)

Session Chair:

Ray V. Hartwell III, Hunton & Williams LLP, Washington, DC

Moderator:

Robin P. Hartmann, Haynes and Boone LLP, Dallas, TX

Speakers:

Kathryn M. Fenton, Jones Day, Washington, DC

Honorable Walter D. Kelley Jr., United States District Court
Eastern District of Virginia, Norfolk, VA

Thomas D. Morgan, George Washington University, Washington, DC

Douglas R. Richmond, Senior Vice-President
AON Risk Services – Professional Services Group, Chicago, IL

3:45 – 5:15 pm

FTC/DOJ Second IP Report – Salon III

Presented by the Computer & Internet and Intellectual Property Committees

The long-awaited FTC and DOJ's long awaited Second Report on Intellectual Property and Competition is likely to have major implications for the IP and antitrust communities. A panel of significant contributors to the report, important witnesses from the federal agencies' underlying 2002 hearings, and commentators will explain what the report means for business and practitioners.

Session Chair and Speaker:

Gail F. Levine, Assistant General Counsel

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Verizon Communications Inc., Arlington, VA

Moderator:

M. Howard Morse, Drinker Biddle & Reath LLP, Washington, DC

Speakers:


Kenneth L. Glazer, Deputy Director, Bureau of Competition
Federal Trade Commission, Washington, DC

Frances Marshall, Special Counsel for Intellectual Property
U.S. Department of Justice, Antitrust Division, Washington, DC

Christopher Sprigman, University of Virginia, Charlottesville, VA

3:45 – 5:15 pm

Implied Repeals of the Antitrust Laws: When Should Competition Concerns Yield to Other Regulatory Priorities? – Salon I

Presented by the: Exemptions & Immunities and Financial Services Committees 

Over 30 years ago, in *Gordon v. New York Stock Exchange*, the Supreme Court held that the antitrust laws must give way when there is a “plain repugnancy” between those laws and conflicting federal regulations. However, a series of recent cases has raised new questions about how this deceptively simple standard should be applied. Perhaps the most important of these cases is *Billing v. Credit Suisse First Boston*, which raised issues of sufficient importance to enforcement of both the antitrust and securities laws that, in a rare breach of intra-governmental unity, the Antitrust Division and the SEC filed sharply conflicting *amicus* briefs before the Second Circuit. The Supreme Court has now granted certiorari and will hear the case this term. What now?

Session Chair and Speaker:

John Roberti, Mayer Brown Rowe & Maw LLP, Washington, DC

Moderator:

Cecile Kohrs Lindell, The Daily Deal, Washington, DC

Speakers:

John Delacourt, Kelley Drye Collier Shannon LLP, Washington, DC

Jay Fastow, Weil Gotshal & Manges LLP, New York, NY

Christopher Lovell, Lovell Stewart & Halebian LLP, New York, NY

Giovanni Prezioso, Cleary Gottlieb Steen & Hamilton LLP, Washington, DC

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3:45 – 5:15 pm

International Antitrust Policy and Enforcement at Home and Abroad – Salon II
Presented by the Federal Civil Enforcement and International Committees



International considerations have become an integral part of competition enforcement and policy in the United States and abroad. Officials from the international antitrust units of the FTC, DOJ, Canadian Competition Bureau, and European Commission will discuss their activities and priorities, including cooperation on cross-border cases, policy coordination, and the ICN and OECD.

Session Chair:

Cynthia Lewis Lagdameo
U.S. Department of Justice, Antitrust Division, Washington, DC

Moderator:

Michael J. Fanelli, Covington & Burling LLP, Washington, DC

Speakers:

Maria Blanca Rodriguez-Galindo, Head, International Relations Unit
European Commission, DG Competition, Brussels, Belgium

Duane Schippers, Assistant Deputy Commissioner of Competition
Competition Bureau Canada, Gatineau, Quebec, Canada

Randolph W. Tritell, Assistant Director for International Antitrust
Federal Trade Commission, Washington, DC

Anne Purcell White, Assistant Chief, Foreign Commerce Section
U.S. Department of Justice, Antitrust Division, Washington, DC

3:45 - 5:15 pm

Revisiting the Past to Understand the Future – A Unique Retrospective Look at Trends in Antitrust Law and Policy – Ballroom (NPC)
Presented by the Antitrust Magazine and Antitrust Source

Antitrust Magazine and Antitrust Source authors look back at their views on emerging developments in antitrust law and policy to see whether reality follows predictions. Topics include the anticipated consequences of *Trinko* and *LePage's*, as well as trends in merger enforcement and economic analysis.

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Session Chair:

Gary P. Zanfagna, Chief Antitrust Counsel
Honeywell International Inc., Morristown, NJ

Moderator:

Mark Whitener, Senior Counsel, Competition Law & Policy
General Electric Co., Washington, DC

Speakers:

Deborah L. Feinstein, Arnold & Porter LLP, Washington, DC

David L. Meyer, Deputy Assistant Attorney General
U.S. Department of Justice, Antitrust Division, Washington, DC

Gary Roberts, CRA International, Washington, DC

Robert Skitol, Drinker Biddle & Reath LLP, Washington, DC

3:45 – 5:15 pm

Trial Preparation: Not Just for Outside Counsel – Salon IV

Presented by the Corporate Counseling Committee



Trial preparation starts far before the actual trial – and thinking about going to trial in an antitrust case can sometimes help a company avoid one altogether. Building on the facts of the price-fixing conspiracy allegations that will be the focus of the mock trial on Thursday afternoon, we'll show how an in-house counsel could have worked to prevent the problem, how a law-enforcement agency would have investigated the case, and how plaintiff and defense counsel develop their litigation strategies.

Session Chair:

Adam J. Biegel, Alston & Bird LLP, Atlanta, GA

Moderator:

Michael B. Miller, Morrison & Foerster LLP, New York, NY

Speakers:

Aimee Imundo, Antitrust Counsel
General Electric Group, Washington, DC

Michael W. Boomgarden, U.S. Department of Justice, Antitrust Division, Chicago, IL

Gerwin Van Gerven, Linklaters, Brussels, Belgium

K. Craig Wildfang, Robins Kaplan Miller & Ciresi LLP, Minneapolis, MN

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3:45 – 5:15 pm

We All Had the Same Idea: How A Jury Considers Claims Under the Monsanto Standard – Salons F & G

Presented by the Sherman Act Section One Committee 

Using a hypothetical case alleging conspiracy based on defendants' parallel conduct, a jury consultant will conduct a focus group with mock jurors to explore how jurors deal with the requirement that plaintiff present evidence that tends to exclude the possibility that the defendants acted independently.

Session Chair and Moderator:

George A. Nicoud III, Gibson Dunn & Crutcher LLP, San Francisco, CA

Speakers:

Carolyn H. Feeney, Dechert LLP, Philadelphia, PA

Linda Nussbaum, Cohen Milstein Hausfeld & Toll PLLC, New York, NY

Barbara Swain, Dispute Dynamics, Inc., Torrance, CA

5:15 – 6:15 pm

Welcome Reception – Ballroom Foyer

Meet up with your friends and colleagues at the conclusion of the Wednesday Sessions to mingle with Antitrust Section members and others at this yearly event. Cocktails and committee information will be available on the Ballroom Level of the JW Marriott Hotel.

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