

**5<sup>th</sup> ANNUAL CONFERENCE ON THE  
GLOBALIZATION OF CLASS ACTIONS AND MASS LITIGATION**

**Raad van State, the Hague, December 8-9, 2011**

Despite continuing controversy and strong opposition from some sectors, class action procedures and mass litigation continue to proliferate around the world. What challenges do class and mass actions present to judges, litigators, business enterprises, and civil society?

On December 8-9 2011 judges, practitioners and scholars will gather together at Raad van State in the Hague, Netherlands, to share information, experiences and recommendations on these issues. The conference is co-organized by Deborah Hensler (Stanford Law School), Christopher Hodges (Centre for Socio-Legal Studies, University of Oxford and Erasmus University) and Ianika Tzankova (University of Tilburg).

Conference Agenda

- **The Challenge of Mass Communications: Problem or Opportunity?**  
*When mass injuries or mass losses occur, the media are frequently the first to announce them. Media coverage may encourage litigation, connect potential claimants with civil society organizations and lawyers, and inform plaintiffs of the status of proceedings. Lawyers and parties may also use media -- including the Internet and social networking -- to shape public perspectives on on-going litigation, report litigation developments to their clients and notify potential class members of pending settlements. What problems and opportunities do mass media present for practitioners and parties?*

**Chair: Mr. Michael Seymour, International Director of Crisis & Issues Management, Edelman**

**Panelists: Mr. Arnold Croiset van Uchelen, AllenOvery LLP**

**Mr. Stephan Holzinger, Holzinger-Associates**

**Mr. Ben Knüppe, Dexia Bank/DSB Bank**

**Case Study Presentation: Prof. Ianika Tzankova (University of Tilburg)**

- Who's Paying? New Developments in Funding *In the US, contingency fee lawyers have amassed resources to invest in high-value but risky litigation, in anticipation of substantial fees. Elsewhere, mass litigation has been funded by legal aid, consumer contributions, legal insurance and third-party financiers, including hedge funds and public-traded litigation investment firms. What role does financing play in pursuing class and mass litigation? How does it affect outcomes? What ethical concerns does it present?*

**Chair: Prof. Christopher Hodges (Centre for Socio-Legal Studies, University of Oxford; Erasmus University)**

**Panelists: The Honorable Vaughn Walker, Chief Judge (ret.), US**

**Dr. Gerrit Meincke, Foris AG, Germany**

**Dr. Till Schreiber, Cartel Damage Claims, Germany**

**Mr. Wieger Wielinga, Omni Bridgeway, EU**

**Case Study Presentation: Prof. Camille Cameron, University of Melbourne**

- Managing the Mass: Judicial case management: *Dealing with masses of claims arising out of the same or similar factual and legal circumstances poses special challenges for judges, whether in common law or civil law regimes. Increasingly, judges become "case managers" and settlement facilitators in addition to adjudicators. In this panel, judges will share and debate different approaches for meeting the challenges of mass litigation.*

**Chair: Prof. Ianika Tzankova (University of Tilburg)**

**Panelists: The Honorable Lee Rosenthal, U.S. District Court, S.D. Texas**

**The Honorable Mr. Justice David Steel, High Court of Justice, England & Wales**

**The Honorable Mr. Ivan Verougstraete (former President of the Belgian Court of Cassation and Visiting Professor of Law Georgetown University)**

**Case Study Presentation: Prof. Axel Halfmeier (Frankfurt School of Finance and Management)**

- Giving Away Money and Finding Alternative Remedies. *Not all mass claimants are owed a remedy under law. But when courts decide defendants are liable or businesses and states decide that it would be useful to compensate claims, practitioners are challenged to devise methods of calculating damages, selecting remedies, and allocating compensation that are both fair and efficient. What has been learned from the experience of designing compensation programs in class actions and mass torts? What are the alternatives to monetary remedies and what are the circumstances under which they have been used effectively?*

**Chair: Prof. Francis McGovern (Duke University Law School)**

**Panelists:**

**Dr. Norbert Wuehler (Director of Reparations Programmes, International Organization for Migration)**

**Mr. Pieter van Regteren Altena, Van Doorne NV**

**The Honorable Frank Iacobucci, Chief Justice (ret.), Canada**

**Steven Fineman, Managing Partner, Lieff, Cabraser**

**Case Study Presentation: Prof. Jasminka Kalajdzic (University of Windsor, Canada)**

**KEYNOTE SPEECH Mr. Kenneth Feinberg (Administrator, Gulf Coast Claims Facility and Former Special Master 9/11 Victims' Compensation Fund)**

- Who Has Jurisdiction in a Global Market? *The global economy creates the possibility that corporations will face multiple over-lapping or competing class actions arising out of the same facts. Increasingly,*

*plaintiff lawyers have a world of forums to select from and defendants are not certain of what court will claim jurisdiction over them. How will courts respond to requests to enforce class action judgments reached in other jurisdictions? Should public policy makers be considering a mechanism for coordinating multi-forum litigation?*

**Chair: Prof. Deborah Hensler, Stanford Law School**

**Panelists: Mrs. Femke van 't Groenewout, Senior Advisor Responsible  
Investment PGGM Investments**

**Mr. Daan Lusingh Scheurleer, NautaDutilh**

**Mr. Michael Mills, Freehills, Sydney, Australia**

**Mr. Peter Cashman, University of Sydney Law School**

**Case Study Presentation: Prof. Manuel Gomez, Florida International  
University School of Law**

- *Paths to (Mass) Justice. Are developed democracies converging on a single solution to mass injuries? Can domestic jurisdictions develop multi-pronged strategies that deploy a variety of public and private tools to ensure the safety of their citizens and compensate their losses for harms attributable to others' negligence or legal violations? How are the new mass and class litigation shaping the legal profession and vice versa? How are electronic communications and social networking shaping litigation processes and outcomes? Participants in this panel will propose the issues we will be debating when we gather for the 10<sup>th</sup> Annual Conference on the Globalization of Class Actions.*

**Chair: Dr. Sam Muller, Director, Hague Institute for the Internationalization  
of Law**

**Panelists: Prof. Christopher Hodges, (Centre for Socio-Legal Studies,  
University of Oxford; Erasmus University)**

**Prof. Deborah Hensler, Stanford Law School**

**Robert W. Hammesfahr, Managing Director Claims & Liabilities  
Swiss Reinsurance Company Ltd.**

Schedule

Wednesday, Dec. 7

17:00-19:00 Meet and greet reception for guest speakers and participants  
conference hosted by the Dutch Council for the Judiciary/the Hague

19:00-22:00 Dinner for guest speakers

Thursday, Dec. 8

9:00 – 9:30 Greetings and Introductory Remarks

9:30 – 11:00 The Challenge Mass Communications

11:00 – 11:15 Coffee Break

11:15 – 12:45 Who's Paying? New Developments in Funding

12:45 – 2:15 Lunch

2:15 – 3:45 Managing the Mass: Judicial Case Management

3:45 – 4:00 Coffee Break

4:00 – 5:30 Giving Away Money: Calculating Damages & Allocating Damages

6:30 – 9:00 Drinks, dinner, Keynote Speech

Friday, December 9

9:00 – 9:10 Welcome back

9:10 - 9:40 World-wide Jurisdiction?

9:45 – 11:15 Who Has Jurisdiction In A Global Market?

11:15 -11:30 Coffee Break

11:30 – 1:00 Paths to (Mass) Justice

*Informal lunch to follow*

### Background

The 2011 conference is the fifth in a series that began in Oxford, England in 2007. The Oxford conference, jointly organized by Deborah Hensler, Stanford Law School and Christopher Hodges, Centre for Socio-Legal Studies, University of Oxford and Erasmus University provided the first international opportunity to share information and experiences about the evolution of class actions and group litigation procedures. The conference attracted over 150 people from every continent, save Antarctica, and produced a volume of reports on developments in more than two dozen countries (THE GLOBALIZATION OF CLASS ACTIONS, published in 2009). Subsequent conferences highlighting regional developments were held in Oxford, England; Sydney, Australia and Miami, USA, the results of which were posted, along with other materials, on a new GLOBAL CLASS ACTION EXCHANGE website ([www.globalclassactions.stanford.edu](http://www.globalclassactions.stanford.edu)). Hensler, Hodges, and Ianika Tzankova (University of Tilburg) are now leading an international research project comparing cases litigated in class action and group proceedings. Preliminary results of this project will be available at the 2011 conference; final results will be published in a book in 2013.