



The UIA in Vail, Colorado

*Claims Management, Torts and Litigation of Claims
Current Developments and the International Context*

■ Daniele de BENEDETTI ■ Louis F. BURKE

The Third UIA Winter Seminar, organised with the support of the ABA Section of Litigation, International Litigation Committee, the ABA Section of International Law, International M&A Joint Venture Committee and the Colorado Bar Association, International Law Section, took place in Vail, Colorado (USA) from February 23 to March 1, 2008. About 35 participants from the US, Israel, France, Germany, Italy, Sweden and Switzerland attended.

After opening remarks during the opening reception from Wini Schmitz, Louis F. Burke and Enrica Senini, the meeting got off to an energetic start. The structure of the seminar followed a morning session of 2.5 hours and evening session of 2 hours.

■ Monday, February 25, 2008

How conflict of Laws Applies in Tort Cases (Morning Session)

Ryan REETZ, *Squire, Sanders & Dempsey LLP, Miami, USA*

Alberto PIERGROSSI, *Piergrossi Bianchini Eversheds, Milano, Italy*

Enrica SENINI, *Studio Legale Senini, Brescia, Italy*

Winfried SCHMITZ, *Buse Heberer Fromm, Düsseldorf, Germany*

Mario FERRARI, *Hammonds Rossotto, Torino, Italy*

The panel gave a detailed overview of how the conflict of laws affects tort cases. A lively discussion on enforcement issues took place followed by an analysis of how cases will be effected under the EU Regulation no.863/2007 (effective January 11, 2009), the so called "Rome II."

Liability and Damages in Torts (Evening Session)

Simona MATTA, *Asmar & Assayag, Paris, France*

Michael LYNN, *Lynn Tillotson and Pinker, LLP, Dallas, USA*

Bengt KÄRDE, *Advokatfirma Lindhs DLA Nordic KB, Stockholm, Sweden*

Paul SANDLER, *Shapiro, Sherguinot & Sandler, Baltimore, USA*

Christopher KENDE, *Cozen O'Connor, New York, USA*

This session covered several examples of how liability arises in a tort case and how monetary damages are calculated. There was an interesting comparison of experiences between European law systems and common law systems. Paul Sandler gave the group an example of how an opening statement is made in a US trial of a tort case.

■ Tuesday, February 26, 2008

General Prohibitions and Liabilities in International Securities Cases (Morning Session)

Ardavan AMIR-ASLANI, *CMC - Société d'Avocats, Paris, France*

Theodore EDELMAN, *Sullivan & Cromwell LLP, New York, USA*

This panel analysed examples of how specific problems arise under Sarbanes Oxley regulations and debated possible issues that could form the basis of liability in the Société Générale case in France.

International Securities Class Actions (Evening Session)

Ardavan AMIR-ASLANI, *CMC - Société d'Avocats, Paris, France*

Louis F. BURKE, *Louis F. Burke P.C., New York, USA*

Christopher GRAY, *Law Office of Christopher Gray, New York, USA*

US Class actions using foreign lead plaintiffs formed the basis of this session. In a number of situations US courts have permitted foreign shareholders to be class representatives while in other instances, courts have dismissed

cases. The use of class actions is growing rapidly and non US jurisdictions are using the vehicle more commonly.

■ Wednesday, February 27, 2008

Civil and Criminal Exposure in Securities Regulatory proceedings (Morning session)

Ron BREAU, *Haynes & Boone LLP, Dallas, USA*

James NESLAND, *Cooley Godward Kronish LLP, Broomfield, USA*

This panel focused on the dilemma of concurrent criminal and civil investigations and the delicate line lawyers must take in representing their clients. The position taken by the panel met with strong interaction between common law and civil law lawyers.

Practical Cases in Cross-Border Litigation (Evening session)

James BERGER, *Paul, Hastings, Janofsky & Walker LLP, New York, USA*

Intellectual Property Claims

Prof. Lucio COLANTUONI, *Colantuoni, Allegri & Coll. - Studio Legale Associato, Genova, Italy*

This session focused on several cases relating to the enforcement of foreign arbitration awards under the New York Convention. In addition, there was a presentation on the enforcement of intellectual property rights in sports law.

■ Thursday, February 28, 2008

Management of Litigation Claims Against Corporations (Morning session)

Tzvi Levinson, *The Levinson Environmental Law Firm, Haifa, Israel*

Mark C. HILGARD, *Mayer Brown LLP, Frankfurt, Germany*
Daniele DE BENEDETTI, *Studio Benessia Maccagno, Torino, Italy*
Barbara DAWSON, *Snell & Wilmer LLP, Phoenix, USA*

This session dealt with managing litigation on a preventative basis. Dealing with practical issues as well as newly enacted laws gives rise for concern in most areas of practice ut particularly environmental law. The philosophy of counselling the corporate client before an event takes place that will result in litigation was debated.

Litigation Versus Arbitrating Claims: Opportunities and Limitations (Evening Session)

Carlo PAVESIO, *Pavesio e Associati, Turin, Italy*
Ryan REETZ, *Squire, Sanders & Dempsey LLP, Miami, Florida, USA*
Mark C. HILGARD, *Mayer Brown LLP, Frankfurt, Germany*
John PINNEY, *Graydon Head & Ritchey LLP, Cincinnati, USA*
Carlos GONZALEZ, *Diaz, Reus, Rolff & Targ, LLP, Miami, USA*

This session dealt with the balance between litigation and arbitration focusing on the various pro's and con's of both systems from a cost, time, effect, enforceability and impact standpoint. Compliance with the International Conventions with a wide overview from both civil as well as common law lawyers was also discussed.

Friday February 29, 2008.

Ethical Responsibilities for Lawyers Negotiating and Setting Claims (Morning session)

Bruce GREEN, *Fordham University School of Law, New York, USA*
Martin WIEBECKE, *Anwaltsbüro Wiebecke, Küsnacht/Zürich, Switzerland*
Carlo PAVESIO, *Pavesio e Associati, Turin, Italy*
Michael STIEGEL, *Michael Best & Friedrich LLP, Chicago, USA*
Brad RICHARDS, *Haynes and Boone, LLP, Houston, USA*

This panel led a stimulating debate on ethical conduct rules with a comparison of the common and civil lawyers' approach. The panel, guided by Bruce Green, a professor of law, analysed a hypothetical case that drew a lively debate and many opinions.

Conclusion

Wini Schmitz, Louis F. Burke, Enrica Senini and Brad Richards, the members of the Organizing Committee, closed the seminar with final remarks embracing the contributions of all participants.

The virgin snow of Vail made the skiing the best of the season. The informal lunches and dinners gave everyone a chance to get to know each other better and appreciate in intimate atmosphere of the seminar.

A fourth Winter Seminar is being planned for February 2009 in a European venue. We look forward to seeing you there.

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