

43rd Annual Ray Garrett Jr.

Corporate & Securities Law Institute

October 5–6, 2023 / Chicago

All times listed in Central Time

Thursday, October 5, 2023

7:30–8:30 a.m. | **Registration and Continental Breakfast**8:30–8:45 a.m. | **Welcome and Overview**

SPEAKERS

Hari Osofsky, Dean and Myra and James Bradwell Professor of Law, Northwestern Pritzker School of Law, Chicago**Amy Seidel**, Institute Chair, Faegre Drinker Biddle & Reath LLP, Minneapolis

The first four sessions will leverage the same fact pattern about an environmental hazard and provide a discussion around ESG issues, present a mock argument, and examine fiduciary duties.

8:45–9:45 a.m. | **ESG: Is Sustainability Sustainable? ***

- Board oversight
- Best practices in disclosures and the SEC view
- Counter-reaction
- Managing the range of investor views

SESSION CHAIR

Jodi Simala, Mayer Brown LLP, Chicago

PANELISTS

Lisa Boyd, Managing Director, Joele Frank, Wilkinson Brimmer Katcher, New York City**Brooke Clarkson**, Foley & Lardner LLP, Washington, DC**Melissa Campbell Duru**, Deputy Director, Legal and Regulatory Policy, Division of Corporation Finance, U.S. Securities and Exchange Commission, Washington, DC**Michael Rispin**, Director and Associate General Counsel, Sprout Social, Inc., Chicago9:45–9:55 a.m. | **Break**9:55–10:40 a.m. | **Mock Argument: Board Oversight of ESG ***

PRESIDING

Vice Chancellor Lori W. Will, Delaware Court of Chancery, Wilmington, DE

COMMENTATOR

Lisa Stark, K&L Gates LLP, Wilmington, DE

LITIGATORS:

Kimberly Evans, Block & Leviton LLP, Wilmington, DE**Shannon German**, Wilson Sonsini Goodrich & Rosati, Wilmington, DE10:40–11:10 a.m. | **A Conversation with the Honorable Vice Chancellor Will**

MODERATOR

Lisa Stark11:10–11:25 a.m. | **Break**11:25 a.m.–12:25 p.m. | **Fiduciary Duties: What's Old is New Again ***

- Analyzing duties of officers
- Officer exculpation
- Board oversight of risk, including Delaware case law

SESSION CHAIR

Cynthia Fernandez Lumermann, Wachtell, Lipton, Rosen & Katz, New York City

PANELISTS

Eric Klinger-Wilensky, Morris, Nichols, Arsht & Tunnell LLP, Wilmington, DE**Wendy Mahling**, Senior Vice President, Corporate Secretary & Securities and Corporate Law, Ameriprise Financial, Inc., Minneapolis**Alexander May**, Jenner & Block LLP, Chicago12:25–1:40 p.m. | **Lunch (provided)**

* Session will be available on demand for 30 days following the live Institute

1:40–2:40 p.m. | **New Rules: A Conversation with the SEC**

- Recent SEC rulemaking and guidance
- 10b5-1, insider trading, and stock option grant reporting
- Share repurchase rules
- Pay versus performance and other 2022 proxy season developments

SPEAKERS

Melissa Campbell Duru

Erik Gerding, Director, Division of Corporation Finance, U.S. Securities and Exchange Commission, Washington, DC

Cicely LaMothe, Deputy Director, Disclosure Program, Division of Corporation Finance, U.S. Securities and Exchange Commission, Washington, DC

SESSION MODERATORS

Emily Epstein, General Counsel, Vivid Seats LLC, New York City

Robert Hayward, Kirkland & Ellis LLP, Chicago

2:40–2:50 p.m. | Break

2:50–3:50 p.m. | **Board Duties in an Evolving ESG Landscape: Reconciling Maximizing Stockholder Value with ESG Values**

PRESENTATION BY

Guhan Subramanian, Joseph Flom Professor of Law and Business at the Harvard Law School and the Douglas Weaver Professor of Business Law at the Harvard Business School, Cambridge, MA

PANEL DISCUSSION TO FOLLOW.

PANELISTS

C. Stephen Bigler, Richards, Layton & Finger, P.A., Wilmington, DE

Lisa Boyd

3:50–4 p.m. | Break

4–5 p.m. | **Ethics & Technology: The Evolving Practice of Law and Your Ethical Responsibilities**

- Model Rules of Professional Conduct and other considerations (privilege, compliance, etc.) and their

impact on the use of technology tools

- How lawyers can best incorporate technology while avoiding ethical traps
- Supervisory obligations of lawyers in the use of new technologies

SESSION CHAIR

Wendy Muchman, Professor of Practice, Northwestern Pritzker School of Law, Chicago

PANELISTS

Bennett Borden, DLA Piper LLP (US), Washington, DC

Terri Garland, Vice President & Sr. Loss Prevention Counsel, ALAS, Chicago

Steven Puiszis, General Counsel, Hinshaw & Culbertson LLP, Chicago

Kyle Rettberg, Neal, Gerber & Eisenberg LLP, Chicago

Session will be submitted for Illinois Ethics Credit, and for similar credit in other states as applicable.

5–6 p.m. | Reception

Sponsored by: FGS Global

Friday, October 6, 2023

7:15–8:15 a.m. | **Sponsored Breakfast Roundtable (By invitation only)**

Session A:

What, How, When and Why: Successfully Leveraging Independent Investigations to Reduce Risk and Enhance Compliance

Sponsored by: Charles River Associates

Session B:

You've Received a Shareholder Proposal. Now What?

Sponsored by: H/Advisors Abernathy

7:45 a.m. | Continental Breakfast

8:30–9:30 a.m. | **Just a Little Healthy Competition – Regulatory Trends Affecting M&A ***

- Regulatory environment (antitrust and FDI)
- Front-end risk assessment
- Deal terms and regulatory risk allocation
- Restrictive covenants

SESSION CHAIR

Brian Fahrney, Sidley Austin LLP, Chicago

PANELISTS

Neely Agin, Winston & Strawn LLP, Washington, DC

Anne Lee, Covington & Burling LLP, Washington, DC

Grant McGee, Vice President, Deputy General Counsel and Corporate Secretary, American Airlines, Dallas

9:30–9:40 a.m. | Break

9:40–10:40 a.m. | **Do Unto Your Company as a Shareholder Activist Would Do? ***

- Recent activism case studies
- Universal proxy year one
- Activism defense – advance notice bylaws, etc.
- Enhancements in board composition and disclosure

SESSION CHAIR

Michele Anderson, Latham & Watkins LLP, Washington, DC

PANELISTS

Elizabeth Gonzalez-Sussman, Olshan Frome Wolosky LLP, New York City

Avinash Mehrotra, Co-Head of Mergers & Acquisitions in the Americas and Global Head of Activism, Shareholder Advisory & Takeover Defense, Goldman Sachs, New York City

Sidney Peryar, Executive Vice President, Chief Legal Officer and Secretary, IAA, Inc., Chicago

10:40–10:50 a.m. | Break

The final three sessions will use the same fact pattern about a financial reporting crisis to discuss disclosure details and requirements, examine SEC enforcement focus areas and best practices, and analyze the potential clawback of compensation under the new rules.

10:50–11:25 a.m. | **Disclosure Analysis of Hypothetical**

SESSION CHAIR

Amy Seidel

PANELISTS

Steve Barta, Partner, National Office, Deloitte & Touche LLP, San Francisco

Hannah Fregolle, Jones Day, Chicago

11:25 a.m.–12p.m. | **Box Lunch Break**

12–1 p.m. | **SEC Enforcement**

- Recent SEC initiatives and focus areas
- Ephemeral messaging – texting, social media, record retention
- Best practices for responding to the SEC and conducting investigations
- Gatekeeper liability

SESSION CHAIR

Jose Lopez, Perkins Coie LLP, Chicago

PANELISTS

Ellen Bradford, Senior Vice President and Corporate Secretary, Baxter International Inc., Chicago

Paul Helms, McDermott Will & Emery LLP, Chicago

1–1:15 p.m. | Break

1:15–2:15 p.m. | **Clawback Workshop**

- Newly adopted SEC and stock exchange clawback rules
- DOJ pilot program on compensation incentives and clawbacks
- Considerations for employment agreements
- Practical application of recent rules and guidance

SESSION CHAIR

Christina Roupas, Cooley LLP, Chicago

PANELISTS

Nicholas Eichenseer, Associate General Counsel, W.W. Grainger, Inc., Lake Forest, IL

Cicely LaMothe

Alyse Sagalchik, Katten Muchin Rosenman LLP, Chicago

2:15 p.m. | Institute Concludes

Agenda as of 10.5.2023

Contact Us

Contact us at professional-ed@law.northwestern.edu with any questions.

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