



Reserve Your Space at
**National False Claims Act and
Qui Tam Trial Institute**

June 5-7, 2013
The Liaison Capitol Hill
Washington, DC



National False Claims Act and *Qui Tam* Trial Institute

Program Description

As the number of False Claims Act cases filed, and settled, continues to rise, an increasing number of cases are litigated through discovery and trial. This one-of-a-kind institute will focus on the discovery, evidentiary, and trial challenges that must be successfully overcome to try a False Claims Act case. The capstone of the program will be a two-day mock FCA trial, from voir dire through jury deliberations.

Attendees of this program will improve their knowledge of the challenges involved in litigating a False Claims Act case, including:

- Developing trial themes and a litigation plan
- Obtaining discovery from the government
- Building or limiting damages
- Assessing and reducing the risk of exclusion

Who Should Attend?

- Experienced trial attorneys who want in-depth information concerning the unique discovery, evidentiary and trial challenges to be addressed to develop a triable *qui tam* case.
- Litigators who want to enhance their understanding of how the unique issues that arise in *qui tam* litigation resolve at trial and want to learn about the strategies and resources available to help them confidently guide their clients through *qui tam* litigation to trial.
- Lawyers who want to understand *qui tam* litigation and experience a *qui tam* trial.
- Corporate counsel who want to acquire greater familiarity with the strategic, tactical, and practical challenges presented by FCA/*qui tam* litigation to better partner with their outside counsel to achieve the maximum case outcome for their client.
- Lawyers, whether in-house counsel or private practitioners, who want to improve their ability to achieve successful outcomes for the clients in FCA/*qui tam* litigation, whether by trial or settlement.

ABA CLE National Institutes bring you face-to-face with nationally recognized experts on substantive topics — often while fulfilling most of your annual CLE requirements.

June 5-7, 2013
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Register Now and Save!

Save up to \$185 when you register before April 9, 2013

	Early Bird Rate	Advance Rates Effective April 10, 2013	Standard Rates Effective May 8, 2013
General Public	\$1,190	\$1,285	\$1,375
ABA Members	\$1,095	\$1,175	\$1,255
Criminal Justice Section Members	\$950	\$1,025	\$1,095
Health Law Section Members	\$950	\$1,025	\$1,095
Section of Public Contract Law Members	\$950	\$1,025	\$1,095
Government Lawyers / Employees	\$475	\$515	\$550

Fees do not include travel or lodging.

To register, visit
www.ambar.org/2013litigating

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Joel M. Androphy*

Program Co-Chair
Berg & Androphy
Houston, TX

Meredith S. Auten

Morgan, Lewis & Bockius LLP
Philadelphia, PA

James F. Barger, Jr.

Froshin & Barger, LLP
Birmingham, AL

Dan Barnowski

SNR Denton
Washington, DC

Max Bloom

Consultant
Trial Behavior Consulting
San Francisco, CA

Sam Boyd

Boyd & Associates
Dallas, TX

Stacy L. Brainin

Haynes and Boone LLP
Dallas, TX

Teresa N. Cavenagh

Duane Morris LLP
Philadelphia, PA

Michael E. Clark*

Duane Morris LLP
Houston, TX

Jonathan L. Diesenhaus

Hogan Lovells US LLP
Washington, DC

David L. Douglass*

Program Co-Chair
Sheppard Mullin
Washington, DC

Honorable Keith P. Ellison

U.S. District Judge
Southern District of Texas
Houston, TX

Jack E. Fernandez

Zuckerman Spaeder LLP
Tampa, FL

David T. Fischer*

Grant & Eisenhofer P.A.
Washington, DC

Sarah M. Frazier*

Berg & Androphy
Houston, TX

Eric M. Gaier, Ph.D.

Bates White Economic Consulting
Washington, DC

Nancy J. Geenen

Suann Ingle Communications
San Francisco, CA

David F. Geneson

Sheppard Mullin
Washington, D.C.

Roger S. Goldman

Latham & Watkins LLP
Washington, DC

David Graeven, Ph.D.

Trial Behavior Consulting
San Francisco, CA

Robert A. Griffith

Garqiulo/Rudnick, LLP
Boston, MA

Colin Huntley

Commercial Litigation Branch
U.S. Department of Justice
Washington, DC

Gabriel L. Imperato*

Broad and Cassel
Fort Lauderdale, FL

Suann Ingle

Suann Ingle Communications
New York, NY

Gary Keilty

Managing Director
Huron Consulting Group
Washington, D.C.

Michael Little

Deloitte
New York, NY

Andy Liu

Crowell & Moring, LLP
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Philadelphia, PA

Jennifer Short

Assistant U.S. Attorney
District of Columbia
Washington, DC

Jan Soifer

O'Connell & Soifer LLP
Austin, TX

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Washington, DC

David Williams

Deloitte
New York, NY

Sara Winslow

Assistant U.S. Attorney
Northern District of California
San Francisco, CA

Honorable William G. Young

U.S. District Court of
Massachusetts
Boston, MA

Michelle Zingaro

Assistant U.S. Attorney
Southern District of Texas
Houston, TX

Agenda

Day 1 • Wednesday, June 5, 2013 • Pre-Institute Workshops/Fundamentals

11:30 a.m. **Registration**

1:00 p.m. – 1:15 p.m. **Co-Chairs' Opening Remarks**

David L. Douglass and Joel M. Androphy

1:15 p.m. – 2:30 p.m. **Developing a Closing Argument Driven Discovery Plan**

A thorough, thoughtful, and diligently executed litigation plan is key to successfully litigating a case through trial. Using the facts of a hypothetical the panelists will discuss strategic and practical elements of a sound trial plan, including an overview of the critical tasks and issues counsel must anticipate and plan for when planning to litigate a *qui tam* case to trial.

Panelists: Brien T. O'Connor, Jan Soifer, William C. McMurrey, Sara Winslow

2:30 p.m. – 3:45 p.m. **Breakout Session I**

A. Obtaining and Using Discovery from the Government

Experienced *qui tam* litigators know that the government often possesses the most important documents and data in False Claims Act cases. Obtaining admissible evidence from government agencies and agents, however, presents unique challenges for both relators and defendants. This panel will explore the best ways to obtain the necessary discovery and then how to use it to advance your case.

Panelists: David L. Douglass, Colin Huntley, Sarah M. Frazier, Gary Kelty

B. *Daubert* Motions, Motions in Limine, and Other Pre-Trial Motions

Daubert motions and motions in limine can determine the course of litigation and even the outcome at trial. This panel will examine potential motions that arise in *qui tam* cases generally and as they relate to the Institute's fact pattern. To demonstrate how some of these issues can manifest in the courtroom, the panel discussion will be followed by a mock motions argument.

Panelists: Meredith S. Auten, Dan Barnowski, Roger S. Goldman, Pat O'Connell

3:45 p.m. – 4:00 p.m. **Break**

4:00 p.m. – 5:15 p.m. **Breakout Session II**

A. Evidence Management and Trial Presentation Challenges

The volume of documents in litigation can overwhelm even the most robust trial teams. This panel will address the best ways to identify the documents and data needed for trial, manage the flood of documents during discovery, ensure that your evidence is admitted persuasively at trial, and how to use and present the documents and data at trial. As a demonstration, the panel discussion will include a mock presentation of documents and data taken from the Institute's fact pattern.

Panelists: James F. Barger, Jr., Nancy J. Geenen, Michael K. Loucks, Bill Morrison, Jeremy Perisho

B. Expert Liability Reports & Depositions: Setting the Stage for Trial Testimony

FCA cases frequently involve a battle of the experts. This panel will explore how each side can prepare and attack expert testimony, including a mock expert deposition.

Panelists: Teresa N. Cavenagh, Eric M. Gaier, Andy Liu

Agenda (Cont'd.)

Day 2 • Thursday, June 6, 2013 • Pre-Trial through Summary Judgment

7:30 a.m. Registration

8:30 a.m. – 9:45 a.m. Can You Really Go to Trial? Should You?

Companies and individuals sometimes fear trial due to the risk of exclusion and other potential collateral consequences. But how real is the risk of exclusion? Can the risk be managed? What are the risks versus rewards to be considered in deciding whether to settle or go to trial. The panel will discuss strategies for analyzing and balancing the risks and benefits of settlement versus trial, and strategic, tactical, and practical considerations for achieving the optimal resolution for your client.

Panelists: Gabriel L. Imperato, Michael Little, Gregory Luce, Winifred M. Weitsen

9:45 a.m. – 11:00 a.m. Breakout Session III

A. Damages: How Big or Small is Your Case?

While there are numerous legal bases to both establishing and limiting damages, proving and rebutting damages at trial presents a host of legal, evidentiary, and practical challenges. Yet an effective damages strategy is the key to success for all parties. This panel will examine the evidentiary issues that the damages aspect of trial presents and how counsel, whether plaintiff side or defense side, can successfully address them.

Panelists: Jonathan L. Diesenhaus, David T. Fischer, David Williams

B. Try, Try, and Try Again: Mock Juries

Qui tam cases frequently involve issues about which potential jurors may have strong attitudes and biases. A mock jury exercise can provide invaluable insights that will help counsel shape their trial message, themes, and strategies. They can also help the parties assess the strengths and weaknesses of their case. Yet many counsel and clients believe the use of mock juries to be prohibitively expensive. This panel will discuss the options, considerations, and procedures for cost-effective use of mock juries.

Panelists: David F. Geneson, David Graeven, Suann Ingle, Michael M. Mustokoff

11:00 a.m. – 11:15 a.m. Break

11:15 a.m. – 12:15 p.m. Jurors and Jury Selection in an Internet Age: Can you Google your Jurors? Are They Googling You?



Jury selection and juror behavior has always been an ethical minefield and the rise of the internet social media has added new challenges. How does electronic information and social media affect jurors, jury selection and, ultimately, trial? This expert panel will discuss legal and ethical considerations and constraints concerning jury selection, with a special emphasis on the use of social media.

Panelists: Max Bloom, Stacy L. Brainin, Howard D. Scher

12:15 p.m. – 1:15 p.m. Luncheon

Keynote Speaker: Honorable William G. Young

1:30 p.m. – 2:45 p.m. U.S. ex rel. Camilla v. Argo Pharmaceuticals

Jury Selection – Presiding Judge for the Trial: Honorable Keith P. Ellison

The Institute's trial begins with voir dire and jury selection. After our mock jury is temporarily excused, the parties and their jury consultants explain the reasoning behind their decisions.

Relator's Counsel: Joel M. Androphy

Relator's Jury Consultant: David Graeven

Defendant's Counsel: Robert A. Griffith

Defendant's Trial Consultant: Max Bloom

2:45 p.m. – 3:45 p.m. Opening Statements

Relator's Counsel: Sarah M. Frazier

Government Counsel: Jennifer Short

Defendant's Counsel: Jack E. Fernandez

3:45 p.m. – 4:00 p.m. Break

4:00 p.m. – 5:15 p.m. Direct and Cross of Witness 1

Relator's Counsel: Teresa N. Cavenagh

Government Counsel: Jennifer Short

Defendant's Counsel: Jennifer Weaver

5:30 p.m. Reception Sponsored by: Crowell & Moring LLP and Venable LLP

Day 3 • Friday, June 7, 2013 • Trial

8:30 a.m. – 9:45 a.m. Direct and Cross of Witness 2

Relator's Counsel: Marc S. Raspanti

Government Counsel: Michelle Zingaro

Defendant's Counsel: Robert T. Rhoad

9:45 a.m. – 11:00 a.m. Direct and Cross of Expert Witness 3

Relator's Counsel: Marc S. Raspanti

Government Counsel: Michelle Zingaro

Defendant's Counsel: Michael E. Clark

11:00 a.m. – 11:15 a.m. Break

11:15 a.m. – 12:30 p.m. Direct and Cross of Witness 4

Relator's Counsel: Sam Boyd

Government Counsel: Michelle Zingaro

Defendant's Counsel: Barbara Van Gelder

12:30 p.m. – 1:45 p.m. Lunch (on your own)

1:45 p.m. – 2:45 p.m. Closing Arguments

Relator's Counsel: Joel M. Androphy

Government Counsel: Michelle Zingaro

Defendant's Counsel: Kerri L. Ruttenberg

2:45 p.m. – 3:00 p.m. Break

3:00 p.m. – 4:00 p.m. Jury Deliberations & Verdict

We will watch our mock jury deliberate via closed circuit television.

Technology provided by Suann Ingle Communications.

4:00 p.m. – 5:00 p.m. Trial Analysis and Discussion

Guided discussion with trial teams and mock jurors concerning trial strategies, tactics, considerations, issues and themes. What worked? What didn't? What lessons can attendees apply to future FCA/qui tam cases?

5:00 p.m. Closing Remarks and Adjournment

Liaison Capitol Hill Hotel in the Heart of DC



Discover the historic capital city at The Liaison Capitol Hill hotel conveniently located near many of the city's top attractions. Visitors from around the world stay at The Liaison Capitol Hill due to its central downtown location, within walking distance to the Smithsonian, the National Mall and Union Station. Hotel guests can enjoy easy access to DC monuments and museums, local universities, including George Washington University and Georgetown University, as well as sporting events, such as a Redskins or Nationals game.

Nearby attractions include:

- George Washington University
- Georgetown University
- National Mall
- Smithsonian Institution
- Washington Convention Center
- Union Station

There are over 50 free museums in Washington, DC. Listed below are just a few.

- Bureau of Engraving
- Capitol
- Dr. Martin Luther King, Jr. National Memorial
- Kennedy Center's Millennium Stage
- Lincoln Monument
- National Air & Space Museum
- National Museum of American History
- Smithsonian Museum
- Supreme Court
- Washington Monument

Step 1: Registration Rates

	Early Bird Rates	Advance Rates Effective April 10, 2013	Standard Rates Effective May 8, 2013
General Public	\$1,190	\$1,285	\$1,375
ABA Members	\$1,095	\$1,175	\$1,255
Criminal Justice Section Members	\$950	\$1,025	\$1,095
Health Law Section Members	\$950	\$1,025	\$1,095
Section of Public Contract Law Members	\$950	\$1,025	\$1,095
Government Lawyers / Employees	\$475	\$515	\$550

- I qualify for a \$50/person group discount. **Enter your \$50 discount on line 6B.**

To qualify for a group discount, **three or more people** must register together. Please call us to register your group or send all registrations in the same envelope. Not applicable to government rates.

Step 2: Reception and Workshops

Please check box if you plan to attend the reception.

- Thursday, June 6, 2013 ▪ Reception ▪ 5:30 p.m.

Please check one workshop for each day and time slot.

- Wednesday, June 5, 2013 ▪ Breakout Session I ▪ 2:30 p.m. – 3:45 p.m.
- A. Obtaining and Using Discovery from the Government
 - B. *Daubert* Motions, Motions in Limine, and Other Pre-Trial Motions
- Wednesday, June 5, 2013 ▪ Breakout Session II ▪ 4:00 p.m. – 5:15 p.m.
- A. Evidence Management and Trial Presentation Challenges
 - B. Expert Liability Reports & Depositions: Setting the Stage for Trial Testimony
- Thursday, June 6, 2013 ▪ Breakout Session III ▪ 9:45 a.m. – 11:00 a.m.
- A. Damages: How Big or Small is Your Case?
 - B. Try, Try, and Try Again: Mock Juries

Step 3: Section Membership

- Enroll me in the Criminal Justice Section - \$45. **Enter your \$45 fee on line 6C.**
- Enroll me in the Health Law Section - \$50. **Enter your \$50 fee on line 6D.**
- Enroll me in the Section of Public Contract Law - \$45. **Enter your \$45 fee on line 6E.**

Step 4: Course Materials *

Electronic course materials are provided on-site as part of your registration.

- Please provide printed course materials on-site for \$50. **Enter your \$50 fee on line 6F.**

* If you cannot attend, but would like to order the **Course Materials**, please visit us at www.ambar.org/2013litigating or call (800) 285-2221 for pricing and availability. Course materials will be shipped after the event.

Step 5: Your Information

Name			
Law Firm/Organization			
Address		Suite/Apt.	
City	State	Zip Code	
Telephone			
Email		ABA Member ID	

The ABA and many of its entities provide content through email. We do not share email addresses with anyone outside the ABA.

Step 6: Your Total Due Amount

Registration Rate (from Step 1)	6A	\$ _____
Three or More People Registering (from Step 1) <i>(\$50/person discount. Applicants must register together to receive discount. Not applicable to government rates.)</i>	6B	\$ - _____
ABA Criminal Justice Section Enrollment - \$45 (from Step 3)	6C	\$ + _____
ABA Health Law Section Enrollment - \$50 (from Step 3)	6D	\$ + _____
ABA Section of Public Contract Law Enrollment - \$45 (from Step 3)	6E	\$ + _____
Printed Course Materials - \$50 (from Step 4)	6F	\$ + _____
	Total	\$ _____

Step 7: Payment Information

- ABA Credit Card from Bank of America Visa*/MasterCard*
 American Express Check Payable to American Bar Association

Name as it appears on Card	
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Step 8: 4 Easy Ways to Register

-  Visit www.ambar.org/2013litigating
 -  Call **(800) 285-2221**
 -  Fax this form to **(312) 988-5850**
 -  Complete and mail this form:
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Scholarships

For more information on scholarships, visit www.americanbar.org/groups/cle/scholarship.

Attire

Business casual attire is appropriate for all activities.

Cancellations

Cancellations received five business days or more before the program will receive a full refund, less a \$50 cancellation fee. No refunds will be provided for cancellations after that date; however, substitute registrants are welcome at any time. To cancel your registration or substitute another individual, please call the ABA at **(800) 285-2221** or fax your request to **(312) 988-5850**. Registrants who do not cancel within the allotted time period and who do not attend the program will receive a copy of the course materials after program completion.

Program Location

The Liaison Capitol Hill
415 New Jersey Ave. NW
Washington, DC 20012
(202) 638-1616

Rate: \$259

Website Reservations: Make your reservation here

<https://gc.synxis.com/rez.aspx?Hotel=19828&Chain=5158&group=ABARA> or by calling **(866) 233-4642**.

If making your reservation by phone, reference American Bar Association or group code **ABARA** to receive the group discount.

Hotel Deadline: Monday, May 14, 2013. Please reserve early to be sure you get the group rate!

Services for Persons with Disabilities

If special arrangements are required, please contact Courtney Anderson at **(312) 988-6210** or courtney.anderson@americanbar.org. Reasonable advance notice is requested.

In-Person Registration

If you plan to register in person, please call the ABA at least 24 hours in advance to confirm that the program is being held as scheduled and that space is available. Cash payments will not be accepted.

Program Confirmation

Written confirmation of your registration will be sent to you upon receipt. If you do not receive the confirmation notice prior to the program, please call the ABA at **(800) 285-2221** at least 24 hours in advance to confirm that your registration was received and that the program is being held as scheduled.

Airline Information

Airline discount codes are available for ABA meetings as follows:

- **American Airlines:** Call **(800) 433-1790**; Discount Code: **A8913TT** Discount NOT available at www.aa.com
- **United Airlines:** Call **(800) 426-1122**; Agreement Code: **937323**, Z Code: **ZP65**
- **Virgin America Airlines:** Go to www.virginamerica.com; Discount Code: **VXABA312**

More details at www.americanbar.org/travel.

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Under the guidance of the Standing Committee on Continuing Legal Education, the Center for Professional Development administers and produces National Institutes, webinars, teleconferences, other technology-based products and written course materials to assist lawyers' professional development efforts.



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