

# 10<sup>th</sup> Annual Mergers and Acquisitions Institute

## October 16-17, 2014 • Ritz-Carlton • Dallas, TX

### Thursday Morning, Oct. 16, 2014

**Presiding Officers:**

**Mark R. T. Adkins**, Blakes (Canada) - New York, NY

**Patrick Spicer**, Matheson (Ireland) - Dublin, Ireland

7:30 am	<p><b>Registration Opens</b></p> <p>Includes continental breakfast.</p>
8:15 am	<p><b>Welcoming Remarks by Institute Co-Chairs</b></p> <p>Wilson Chu, K&amp;L Gates LLP - Dallas, TX          Larry E. Glasgow, Gardere Wynne Sewell LLP - Dallas, TX</p>
8:30 am 1.00 hr	<p><b>Shale Revolution Survival Guide for Dealmakers</b></p> <p>Whether you are a generalist or an energy specialist, the legal practice of oil and gas M&amp;A transactions continues to be shaped by the U.S. shale revolution. Transactions in the oil patch, including the document provisions negotiated in them, often have unique aspects compared to more typical deal terms that most M&amp;A attorneys have come to know and rely upon. Learn first-hand from experienced oil and gas M&amp;A attorneys, investment bankers and leading industry dealmakers how transactions are being viewed and structured in our economy's hottest sector.</p> <p>Moderator:          J. Holt Foster III, Thompson &amp; Knight LLP - Dallas, TX</p> <p>Panelists:          John Goodgame, Akin Gump Strauss Hauer &amp; Feld LLP - Houston, TX          Christopher D. Ray, NGP Energy Capital Management, LLC - Irving, TX          Marc Rose, Vinson &amp; Elkins LLP - Dallas, TX          Ray Strong, Evercore Partners Inc. - Houston, TX</p>
9:30 am 1.25 hrs	<p><b><i>Eeny, Meeny, Miny, Moe: The Deal Lawyer's Essential Comparison of (Possibly) Outcome-Determinative Gap Fillers under Delaware, New York...and Texas Law</i></b></p> <p>Going-silent could be pro-buyer or pro-seller depending on the law you pick. Comparing key jurisdictions, separate fact from fiction on what happens when you go-silent or when you test the freedom-of-contract limits of common, yet potentially outcome-determinative deal points.</p> <p>Moderator:          Wilson Chu, K&amp;L Gates LLP - Dallas, TX</p> <p>Panelists:          Noelle M. Reed, Skadden, Arps, Slate, Meagher &amp; Flom LLP - Houston, TX          Myron T. Steele, Potter Anderson &amp; Corroon LLP - Wilmington, DE          Rhett A. Van Syoc, Kirkland &amp; Ellis LLP - Houston, TX          Glenn D. West, Weil, Gotshal &amp; Manges LLP - Dallas, TX</p>
10:45 am	<p><b>Break</b></p>

11:15 am  
1.00 hr

### **Update on Confidentiality, Letters of Intent and Other Preliminary Agreements**

Preliminary agreements set the table for a successful deal and significantly impact the parties' rights and remedies if the deal gets derailed. Gain insight on trends, current practices, legal developments and things to watch for when preparing and negotiating these agreements.

Moderator:

Robert R. Kibby, Munsch Hardt Kopf & Harr, P.C. - Dallas, TX

Panelists:

Igor Kirman, Wachtell, Lipton, Rosen & Katz - New York, NY

Robert B. Little, Gibson, Dunn & Crutcher LLP - Dallas, TX

Kevin Miller, Alston & Bird LLP - New York, NY

12:15 pm

### **Pick Up Lunch**

Included in registration.

## **Thursday Afternoon, Oct. 16, 2014**

### **Presiding Officers:**

**M. Jorge Yáñez V.**, Hogan Lovells BSTL (Mexico) - San Pedro Garza García, NL

**Bas Vletter**, Loyens & Loeff (Netherlands) - New York, NY

### **LUNCHEON PRESENTATION**

12:35 pm  
0.50 hr ethics

### **Ethics and Professionalism for the M&A Lawyer**

A focus on the pitfalls and liability concerns of attorneys counseling in the M&A setting as well as from the general perspective of the corporate attorney in the advisory context. With the increased exposure that law firms and attorneys face in malpractice and related actions, key areas of concern for both in-house and outside counsel are addressed. Although liability under federal law in private actions now is greatly diminished in view of the U.S. Supreme Court's decision in *Janus Capital*, investor lawsuits based on state law against attorneys comprise a significant feature of the litigation landscape.

Marc I. Steinberg, SMU Dedman School of Law - Dallas, TX

1:05 pm

### **Break**

1:15 pm  
1.00 hr

### **Maximizing Seller Leverage: An Update on Pivotal Processes, Practices and Provisions**

Despite the current M&A activity level and the large number of buyers in the market, not all sellers are created equal. Seller leverage, whether real or perceived, can make the difference between a buyer's view of the seller as an "absolute must have" or a "ho hum" asset. Learn about the trending tactics in processes, practices and provisions that sophisticated sellers are using to make themselves that "must have."

Moderator:

Carl R. Sanchez, Paul Hastings LLP - San Diego, CA

Panelists:

Gemma L. Descoteaux, Polsinelli PC - Dallas, TX

Jeff Jones, Blackhill Partners, LLC - Dallas, TX

Mark S. Solomon, Andrews Kurth LLP - Dallas, TX

<p>2:15 pm 1.00 hr</p>	<p><b>It's Good to Be King: Key Issues for Serial Buyers</b></p> <p>Does practice make perfect? This panel explores key issues that face serial buyers, strategic as well as financial, when planning and executing transactions. Hear practical insights relating to pre- and post-closing strategies designed to give serial buyers the strategic edge, including approaches to critical deal terms, best practices in deal execution, and successful development and execution of the all-important integration plan.</p> <p>Moderator: Tasha Hailey Hutchins, Practical Law (a Thomson Reuters solution) - Washington, DC</p> <p>Panelists: Sal Fira, Grant Thornton LLP - Dallas, TX Michael J. Tierney, Thomson Reuters - Eagan, MN Krishna Veeraraghavan, Sullivan &amp; Cromwell LLP - New York, NY</p>
<p>3:15 pm 1.00 hr</p>	<p><b>Joint Venture Critical Issues: Formation, Governance, Competition and Exits</b></p> <p>Structuring, negotiating and executing a successful joint venture is no easy feat. A discussion of some of the most critical and complex issues that arise in virtually all JVs: formation, governance, competition and exits. Critical provisions of preliminary and definitive documents for joint ventures are provided. Understanding the twists and turns of these legal and practical nuances could make the difference between your next JV being a home run or a whiff.</p> <p>Moderator: Byron F. Egan, Jackson Walker L.L.P. - Dallas, TX</p> <p>Panelists: Michael P. Lynn, Lynn Tillotson Pinker &amp; Cox, LLP - Dallas, TX Srinivas M. Raju, Richards, Layton &amp; Finger, P.A. - Wilmington, DE Paul J. Shim, Cleary Gottlieb Steen &amp; Hamilton LLP - New York, NY</p>
<p>4:15 pm</p>	<p><b>Break</b></p>
	<p><b>4th Annual Byron Egan Whiskey Tasting and Coffee Break</b></p>
	<p><b>Thank You to Our Sponsor</b></p> <p>Sullivan &amp; Cromwell LLP</p>
<p>4:45 pm 1.00 hr</p>	<p><b>Negotiating Deals in the Technology Sector</b></p> <p>A mock negotiation highlighting essential issues involved in buying or selling a technology-focused business.</p> <p>Richard E. Climan, Weil, Gotshal &amp; Manges LLP - Silicon Valley, CA Joel I. Greenberg, Kaye Scholer LLP - New York, NY</p>
<p>5:45 pm</p>	<p><b>Adjourn to Cocktail Reception</b></p> <p>Join us for drinks and hors d'oeuvres with program faculty and attendees.</p>

## Friday Morning, Oct. 17, 2014

### Presiding Officers:

**Rubén Ferrer**, Gómez-Acebo & Pombo LLP (Spain) - New York, NY

**Eva Das**, Stibbe (Netherlands) - New York, NY

7:30 am	<p><b>Conference Room Opens</b></p> <p>Includes continental breakfast.</p>
8:30 am 1.00 hr	<p><b>Trending Issues in Negotiation of Indemnification Provisions</b></p> <p>Risk allocation continues to be one of the most important and nuanced subjects in structuring private target M&amp;A transactions. Review recent trends and developments in the indemnification arena and learn what practitioners need to know today and tomorrow.</p> <p>Moderator: Larry E. Glasgow, Gardere Wynne Sewell LLP - Dallas, TX</p> <p>Panelists: Richard D. Anigian, Haynes and Boone, LLP - Dallas, TX Rick Fink, Fortis Advisors - La Jolla, CA Timothy P. FitzSimons, Latham &amp; Watkins LLP - Chicago, IL Eric L. Schiele, Cravath, Swaine &amp; Moore LLP - New York, NY</p>
9:30 am 1.00 hr	<p><b>Developments in Acquisition Finance</b></p> <p>2007 called. It wants its PIK toggles and dividend recaps back. As M&amp;A activity continues to heat up, how far will the acquisition finance pendulum swing from borrower-friendly towards borrow-giddy? From the unitranchees to enhanced borrower optionality, learn the hot topics and loan provisions that are fueling today's increasingly frothy dealmaking.</p> <p>Julia B. Buthman, Prudential Capital Group - Dallas, TX Kelly M. Dybala, Sidley Austin LLP - Dallas, TX Robert J.B. Lenhardt, ORIX Corporate Capital - Dallas, TX Jason Kyrwood, Davis Polk &amp; Wardwell LLP - New York, NY</p>
10:30 am	<p><b>Break</b></p>
11:00 am 1.00 hr	<p><b>Representation and Warranty Insurance Policies: They're Real and They're <i>Spectacular!</i></b></p> <p>Insurance covering representations and warranties in purchase agreements has evolved significantly in recent years and is increasingly being utilized in today's growing M&amp;A market. Buyers are seeking to enhance their bids by incorporating the insurance into their bid draft while sellers are utilizing the product to backstop their indemnification obligation to allow distribution of sale proceeds, or to minimize escrow and indemnification obligations by proposing a buyer-side policy in an auction process to facilitate a clean exit. An overview of the current trends in the representations and warranties insurance market, including the terms and conditions of the policies and the strategic use of the product, and how transaction agreements should be drafted to address the insurance.</p> <p>Moderator: Daniel L. Mark, Norton Rose Fulbright - Houston, TX</p> <p>Panelists: Hani Farid, JP Morgan Chase Bank, N.A. - Houston, TX Kim Gladney, Ambridge Partners LLC - New York, NY Christopher R. May, Simpson Thacher &amp; Bartlett LLP - Houston, TX William M. Monat, Willis North America Inc. - Chicago, IL</p>
12:00 pm	<p><b>Adjourn</b></p>