

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

## October 4-5, 2018 • The Ritz-Carlton • Dallas, TX

### Thursday Morning, Oct. 4, 2018

#### Presiding Officers:

**Frédéric Franckx**, Loyens & Loeff N.V. (Netherlands) - Rotterdam, Netherlands

**John Clifford**, McMillan LLP (Canada) - Toronto, Ontario

7:30 am	<b>Continental Breakfast and Registration Opens</b>
8:15 am	<b>Welcoming Remarks by Institute Co-Chairs</b>  Wilson Chu, McDermott Will & Emery LLP - Dallas, TX Larry E. Glasgow, Jackson Walker LLP - Dallas, TX
8:30 am 1.00 hr	<b>Deal Driver Differences Between Private Equity and Strategic Players</b>  Does private equity really do deals differently than strategic players? Explore “why” and “how” private equity behaves differently from strategics, and how those differences are manifested in their approach to deal making, particularly the deal points that they negotiate.  Moderator: Larry E. Glasgow, Jackson Walker LLP - Dallas, TX Panelists: David J. Colletti Jr., 7-Eleven, Inc. - Dallas, TX Scott B. Crofton, Sullivan & Cromwell LLP - New York, NY Kirsten J. Jensen, Simpson Thacher & Bartlett LLP - Palo Alto, CA and Houston, TX Stephen Yoost, Trive Capital - Dallas, TX
9:30 am 0.75 hr	<b>M&amp;A After Tax Reform: A Practical Survival Guide to New Opportunities and Challenges Facing Deal Lawyers</b>  The 2017 Tax Cuts and Jobs Act is incentivizing a new pattern of investment that will likely have profound implications for companies, particularly with respect to M&A. In plain English that deal lawyers will appreciate, gain practical tips on structuring and negotiating the deal to maximize (or not get blindsided by) the changing landscape brought on by Tax Reform.  Moderator: Samantha Hale Crispin, Baker Botts L.L.P. - Dallas, TX Panelists: Dave Klein, PricewaterhouseCoopers LLP - Dallas, TX Alejandro Ruiz, McDermott Will & Emery LLP - Menlo Park, CA J. Michael Threet, Haynes and Boone, LLP - Dallas, TX
10:15 am	<b>Break</b>  <b>Thank You to Our Exclusive Sponsor</b> Wells Fargo

10:30 am 1.00 hr	<p><b>How Representation and Warranty Insurance is Changing the Game</b></p> <p>The “Insured Deal” is here to stay. Go beyond the basics and drill-down into provisions that should be negotiated and practices that should evolve when an insured deal is in play.</p> <p>Moderator: David Rex, Prophet Equity - Southlake, TX</p> <p>Panelists: David I. Albin, Finn Dixon &amp; Herling LLP - Stamford, CT Mary Duffy, American International Group, Inc. - London, England, United Kingdom Richard Frye, Winston &amp; Strawn LLP - Dallas, TX Andrew Zimmerman, Willis Towers Watson - New York, NY</p>
11:30 am 1.00 hr	<p><b>Special Issues in Acquisitions of Venture-Backed Companies</b></p> <p>Why is a VC-backed target different, and how do those differences impact the process pursued and provisions negotiated? Examine critical and complicated issues that commonly arise in acquisitions of VC-backed companies, including complex waterfalls, blurring of management incentives with purchase price, disproportionate allocation of indemnity risk among stockholders/stakeholders, and fiduciary duties of VC-nominated directors.</p> <p>Moderator: Jessica C. Pearlman, K&amp;L Gates LLP - Seattle, WA</p> <p>Panelists: Rick Fink, Fortis Advisors - San Diego, CA Craig Menden, Cooley LLP - Palo Alto, CA Brian Wheeler, SoftBank Investment Advisers - San Francisco, CA</p>

## Thursday Afternoon, Oct. 4, 2018

### Presiding Officers:

**Fergus Bolster**, Matheson (Ireland) - Dublin, Ireland

**Warren Silversmith**, Montreal, Quebec, Canada

### LUNCHEON PRESENTATION

12:30 pm	<p><b>Signature Ritz Buffet Lunch and Texas State Fair Food</b></p> <p>Included in registration. Please proceed to luncheon presentation.</p> <p><b>Thank You to Our Exclusive Luncheon Sponsor</b> Citi Private Bank</p> <p><b>Thank You to Our Exclusive Texas State Fair Food Sponsor</b> Willis Towers Watson</p>
12:50 pm 0.75 hr ethics	<p><b>Ethical Issues in M&amp;A Transactions</b></p> <p>Discuss recurring thorny ethical issues that have value in M&amp;A transactions. Who is my client? How do I minimize the risk of losing the attorney-client privilege in the deal? Do I owe any ethical duties of candor to opposing counsel (i.e., the difference between lying and puffing)?</p> <p>Byron F. Egan, Jackson Walker LLP - Dallas, TX Bradley L. Whitlock, Scheef &amp; Stone, L.L.P. - Dallas, TX</p>

1:35 pm	<b>Break</b>
1:45 pm 1.00 hr	<p><b>Peak, Trough or Somewhere in Between: Navigating the Uncertainties of an Ever Changing Energy Market</b></p> <p>The past few years have seen significant price fluctuations and investment cycles in the oil and gas industry. These uncertainties create their own set of legal issues for practitioners. Get an overview of the oil and gas M&amp;A market from leading energy industry professionals, with highlights of the key industry-specific deal terms that every practitioner should know.</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 Michele Jones, JP Morgan Chase Bank, N.A. - Dallas, TX Cliff W. Vrielink, Sidley Austin LLP - Houston, TX Jeffrey A. Zlotky, NGP Energy Capital Management, LLC - Irving, TX</p>
2:45 pm 1.00 hr	<p><b>More Cake: Advanced Issues in Carve-Outs and Divestitures</b></p> <p>An in-depth discussion of advanced issues in carveout transactions, including preparing your sell-side client for a divisional sale, advising your buy-side client on separation issues, navigating multi-jurisdictional carveouts and negotiating transition services, including data from the ABA Merger and Acquisitions Committee's Carveout Deal Points Study.</p> <p>Moderator: Rita-Anne O'Neill, Sullivan &amp; Cromwell LLP - Los Angeles, CA</p> <p>Panelists: Lance Gurley, Stephens Inc. - Dallas, TX Michael G. O'Bryan, Morrison &amp; Foerster LLP - San Francisco, CA Kimberly R. Spoerri, Cleary Gottlieb Steen &amp; Hamilton LLP - New York, NY</p>
3:45 pm	<p><b>8th Annual Byron Egan Whiskey Tasting &amp; Coffee Break</b></p> <p>Join us for a tasting of Byron Egan's favorite Irish and Scotch whiskeys</p> <p><b>Thank You to Our Exclusive Sponsor</b> Sullivan &amp; Cromwell LLP</p>
4:15 pm 1.25 hrs	<p><b>Mock Negotiation of the Tech Company Acquisition</b></p> <p>A mock negotiation highlighting key issues in acquisitions of privately-held technology companies.</p> <p>Richard E. Climan, Hogan Lovells US LLP - Menlo Park, CA Joel I. Greenberg, Arnold &amp; Porter Kaye Scholer LLP - New York, NY John P. Brockland, Hogan Lovells US LLP - San Francisco, CA</p>
5:30 pm	<b>Adjourn</b>
	<p><b>Cocktail Reception</b></p> <p>Join us for drinks and hors d'oeuvres with program faculty and attendees</p> <p><b>Thank You to Our Exclusive Sponsor</b> Bloomberg Law</p>

## Friday Morning, Oct. 5, 2018

### Presiding Officer:

**Jamie Koumanakos**, Blake, Cassels & Graydon LLP (Canada) - New York, New York

7:30 am	<p><b>Continental Breakfast and Registration Opens</b></p> <p><b>Thank You to Our Exclusive Breakfast Sponsor</b> King &amp; Spalding LLP</p> <p><b>Thank You to Our Exclusive Morning Beverage Bar Sponsor</b> Wilmington Trust, N.A.</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: Robert R. Kibby, Munsch Hardt Kopf &amp; Harr, P.C. - Dallas, TX</p> <p>Panelists: Cindy Y. Lin, King &amp; Spalding LLP - Houston, TX Michael A. Saslaw, Vinson &amp; Elkins LLP - Dallas, TX Mark S. Solomon, Katten Muchin Rosenman LLP - Dallas, TX</p>
9:30 am 1.00 hr	<p><b>Have Sea Squirts Invaded Your Contract? Avoiding the Mindless Use of So-Called “Market” Terms You May or May Not Understand</b></p> <p>It is said that transactional lawyers only learn to practice law after they graduate from law school, and it is true that there have traditionally been few offerings in the “how” of practicing transactional law in law school. But it is also true that many practicing transactional lawyers believe they no longer need to read cases to practice, and instead rely upon forms handed down to them by their mentors. Explore some of the “encrusted boilerplate” often contained in form agreements many transactional lawyers use, without any conception of what some of this encrusted boilerplate actually means, as interpreted by the courts in recent case law.</p> <p>Glenn D. West, Weil, Gotshal &amp; Manges LLP - Dallas, TX</p>
10:30 am 1.00 hr	<p><b>More Kicking and Screaming: Developments in Drag-Alongs and Other Minority Stockholder Squeeze-Out Techniques</b></p> <p>Hear a wide-ranging discussion, viewed from the standpoint of both the minority ownership and the majority ownership, on planning for, implementing and, as necessary, resolving disputes related to, situations involving minority ownership stakes. Review recent developments in this area as well as current best practices in dealing with issues that range from orderly process to confrontation.</p> <p>Melissa A. DiVincenzo, Morris, Nichols, Arsht &amp; Tunnell LLP - Wilmington, DE Robert B. Little, Gibson, Dunn &amp; Crutcher LLP - Dallas, TX</p>
11:30 am	<p><b>Adjourn</b></p>