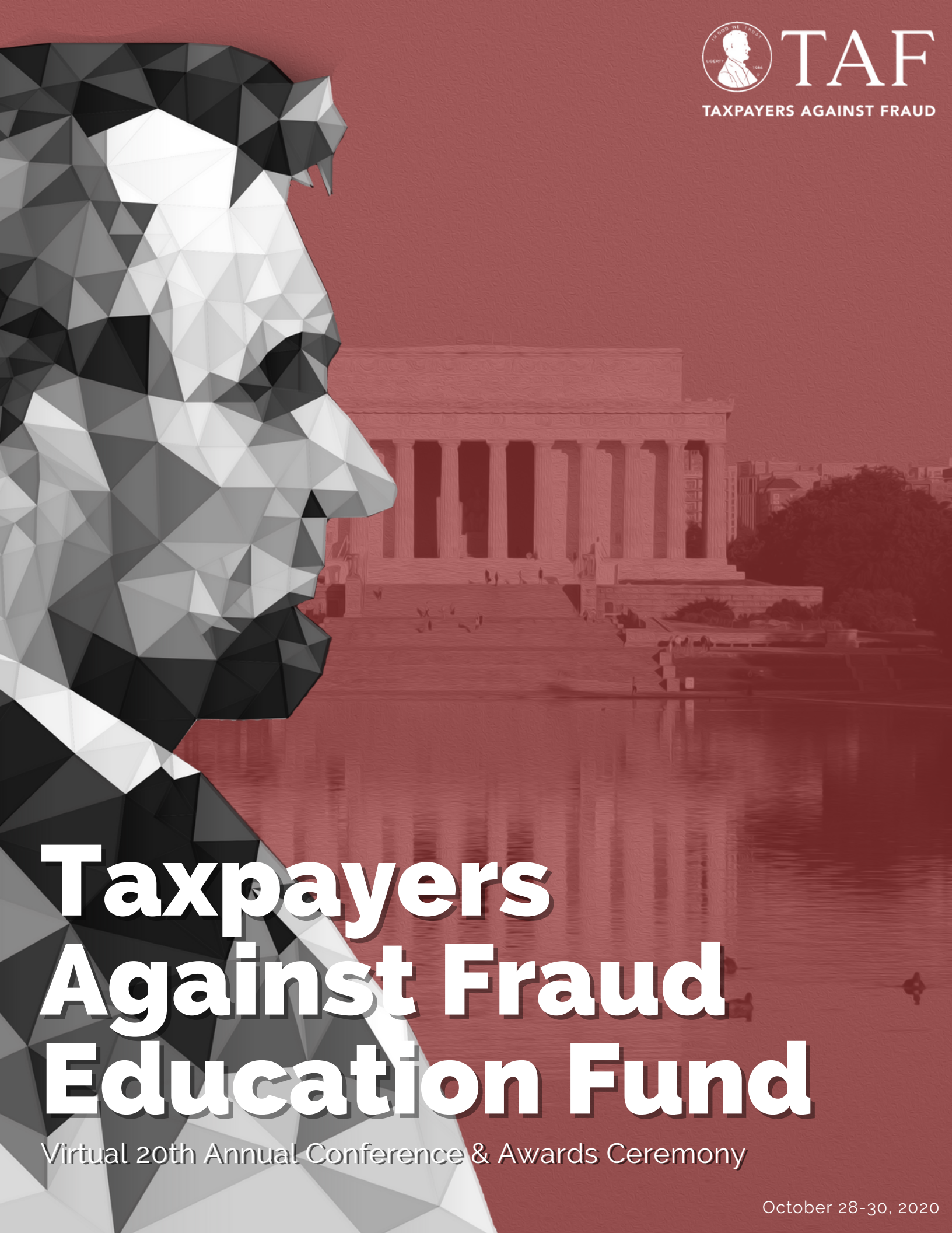





TAF

TAXPAYERS AGAINST FRAUD



Taxpayers Against Fraud Education Fund

Virtual 20th Annual Conference & Awards Ceremony

October 28-30, 2020

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TAFEF Conference Committee

Jacklyn DeMar, Director of Legal Education, TAFEF

Julie Grohovsky and Claire Sylvia, co-chairs

Jonathan Willens

Julie Bracker

Margaret Finerty

Sarah Frazier

Michael Sullivan

Louis Cohen

Jillian Estes

Jonathan Tycko

Justin Berger



Event Sponsors

Special thanks to our generous sponsors who have made this conference possible!

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Stone Law Firm, LLP

Tycko & Zavareei LLP

Whistleblower Law Collaborative LLC

Schedule Overview

Wednesday, Day 1 October 28, 2020

12:00 - 12:15 PM

Welcome

12:15 - 1:15 PM

Developments in FCA Liability

1:15 - 1:30 PM

Break

1:25 - 1:30 PM

Zach Terwilliger, U.S. Attorney
Eastern District of Virginia

1:30 - 2:15 PM

Option 1: FCA 101

Option 2: DOD Procurement Fraud

Option 3: SEC/CFTC Developments

2:15 - 2:30 PM

Break

2:30 - 3:15 PM

Option 1: Medical Judgment Cases

Option 2: IRS Developments

Option 3: Public Disclosure Bar

3:15 - 3:30 PM

Break

3:30 - 4:00 PM

Keynote: Elin Kunz

4:00 - 5:00 PM

Materiality

5:00 - 5:15 PM

Break

5:15 - 6:30 PM

Happy Hour

Sponsor: Tycko & Zavareei LLP

6:30 - 7:30 PM

12th Annual Women's Cocktail

Reception

Thursday, Day 2 October 29, 2020

12:00 - 12:15 PM

Welcome

12:15 - 1:15 PM

COVID-19 Fraud

1:15 - 1:30 PM

Break

1:25 - 1:30 PM

Dee Dee Stone

1:30 - 2:15 PM

Option 1: Multi-Relator Panel

Option 2: Running an FCA Firm

Option 3: Retaliation Protections

2:15 - 2:30 PM

Break

2:30 - 3:15 PM

Option 1: Ethics/Evidence

Option 2: Govt. Attorney Advice

Option 3: Ability to Pay Issues

3:15 - 3:45 PM

Keynote: Jim Holzrichter

3:45 - 4:30 PM

Break

4:00 - 5:00 PM

Diversity & Inclusion

5:00 - 5:15 PM

Break

5:15 - 6:00 PM

Awards Program

Sponsor: Breen Law Firm

6:00 - 7:00 PM

Young Lawyers Division Happy Hour

*Sponsor: The Law Offices of
Patrick J. O'Connell PLLC*

Friday, Day 3 October 30, 2020

12:00 - 12:15 PM

State of TAFEF

12:15 - 1:15 PM

Developments in AKS & Stark

1:15 - 1:30 PM

Break

1:25 - 1:30 PM

Jason Marcus

1:30 - 2:15 PM

Option 1: Bankruptcy

Option 2: Relator's Share

Option 3: Expecting the
Unexpected

2:15 - 2:30 PM

Break

2:30 - 3:15 PM

Option 1: Damages

Option 2: Attorneys' Fees

3:15 - 3:30 PM

Break

3:30 - 4:00 PM

Keynote: Cheryl Meads

4:00 - 4:15 PM

Closing Remarks

Schedule Details: Day 1

Sponsored by: **Getnick & Getnick LLP, Stone Law Firm, LLP, Menz Bonner Komar & Koenigsberg LLP, and Jay Holland & Veronica Nannis of Joseph Greenwald & Laake,**

12:00 - 12:15 PM - Welcome

Neil Getnick, Getnick & Getnick LLP, New York, NY, Chairman of the Board, TAF & TAFEF

12:15 - 1:15 PM - Hot Topics and Trends of 2020

This panel will discuss recent developments in False Claims Act litigation, including emerging fraud schemes involving COVID-19 relief funds, materiality, and government motions to dismiss. It will also cover litigation financing, potential FCA amendments, and other hot topics in False Claims Act practice.

David Chizewer, Goldberg Kohn, Ltd., Chicago, IL

Erica Hitchings, The Whistleblower Law Collaborative, Boston, MA

Jamie Yavelberg, Director of the U.S. Department of Justice Civil Division, Fraud Section, Washington, DC

1:15 - 1:23 PM - Break

1:23 - 1:30 PM - Zach Terwilliger, U.S. Attorney for the Eastern District of Virginia

1:30 - 2:15 PM - Breakouts, Part 1

Option #1: False Claims Act 101

A discussion of FCA basics and practical concerns, including how to evaluate a potential matter, common pitfalls to avoid, and best practices.

Brad Beskin, Nix Patterson, LLP, Austin, TX

Aimee Hall, Pope McGlamry, Atlanta GA

Alan Gale, Senior Trial Counsel, U.S. Department of Justice Civil Division, Fraud Section, Washington, DC

Option #2: Department of Defense Procurement Fraud

This panel will discuss fraud involving logistics and procurement contracts related to foreign wars and domestic construction, including Small Business Administration issues, Buy American Act, and Federal Acquisition Regulations. The panel will cover the role of various agencies within DOD; practical differences in this area, including its more agent-driven nature; and recent case law developments.

Sarah Frazier, Law Office of Sarah Frazier, PLLC, Houston, TX

Sarah "Poppy" Alexander, Constantine Cannon LLP, San Francisco, CA

Greg Shilling, Assistant Special Agent in Charge, Southwestern Field Office, Defense Criminal Investigative Service, Fort Worth/Arlington, TX

Patrick Klein, Senior Trial Counsel, U.S. Department of Justice Civil Division, Fraud Section, Washington, DC

Option #3: Developments at the SEC/CFTC

A discussion with the heads of the SEC and CFTC Whistleblower Offices to discuss developments in the law, effective submissions, and best practices in developing working relationships with their offices.

Sean McKessy - Phillips & Cohen LLP, Washington, DC

Jane Norberg - Chief of the Office of the Whistleblower, Division of Enforcement, U.S. Securities and Exchange Commission, Washington, DC

Christina K. McGlosson - Associate Director, Division of Enforcement, Commodity Futures Trading Commission, Washington, DC

2:15 - 2:30 PM - Break

Schedule Details: Day 1

Sponsored by: **Getnick & Getnick LLP, Stone Law Firm, LLP, Menz Bonner Komar & Koenigsberg LLP, and Jay Holland & Veronica Nannis of Joseph Greenwald & Laake,**

2:30 - 3:15 PM - Breakouts, Part 2

Option #1: Medical Judgment Cases

This panel will provide a straightforward update of the recent decisions and a summary of defense bar arguments, as well as discuss how the recent decisions are or are not impacting decisions to take on cases and/or litigate them, the impact on how the government reviews new claims, and what look for on the horizon.

Regina Poserina, Cohen Milstein Sellers & Toll PLLC, Philadelphia, PA

Lon Leavitt, Halunen Law, Phoenix, AZ

Alison Rousseau, Senior Trial Counsel for Health Care Fraud, U.S. Department of Justice Civil Division, Fraud Section, Washington, DC

Option #2: Developments at the IRS

This panel will discuss significant developments in the IRS Whistleblower Program, including major awards paid to whistleblowers and developments in Tax Court litigation, as well as helpful advice and guidance for attorneys pursuing these cases.

Margaret Finerty, Getnick & Getnick LLP, New York, NY

Emily Stabile, Phillips & Cohen LLP, San Francisco, CA

Bob Gardner, Gardner Consulting, West Seneca, NY

Robert Wearing, IRS Office of Chief Counsel, Deputy Associate Chief Counsel, Procedure & Administration, Washington, DC

Option #3: Public Disclosure Bar

The panel will review recent case law and examine circuit splits with respect to data-driven cases, industry-wide schemes, and the original source exception.

Roger Lewis, Goldberg Kohn, Ltd., Chicago, IL

Shauna Itri, Seeger Weiss LLP, Philadelphia, PA

Nimish Desai, Lief Cabraser Heimann & Berntein, San Francisco, CA

Linda Wawzenski, Deputy Chief, U.S. Attorney's Office for the Northern District of Illinois, Civil Division, Chicago, IL

3:15 - 3:30 PM - Break

3:30 - 4:00 PM - Keynote

Elin Kunz

The whistleblower in *U.S. ex rel. Baklid-Kunz v. Halifax Hospital Medical Center*, she exposed how the hospital compensated certain physicians to induce referrals to the hospital and perform, in many cases, unnecessary surgeries. Her bravery and dedication to the hospital's patients led her to file a whistleblower lawsuit that Halifax eventually settled for \$85 million on the eve of the trial. She is now a consultant and public speaker, educating the public about her story and how one person can make a difference.



Schedule Details: Day 1

Sponsored by: **Getnick & Getnick LLP, Stone Law Firm, LLP, Menz Bonner Komar & Koenigsberg LLP, and Jay Holland & Veronica Nannis of Joseph Greenwald & Laake,**

4:00 - 5:00 PM - Materiality

The panel will review recent case law involving objective versus subjective standards for determining materiality.

Claire Sylvia, Phillips & Cohen, San Francisco, CA

Nathaniel Smith, Halunen Law, Minneapolis, MN

Tejinder Singh, Goldstein & Russell, PC, Bethesda, MD

Ben Wei, Senior Trial Counsel, U.S. Department of Justice Civil Division, Fraud Section, Washington, DC

5:00 - 5:15 PM - Break

5:15 - 6:30 PM - Happy Hour

Sponsored by: **Tycko & Zavareei LLP**

6:30 - 7:30 PM - 12th Annual Women's Cocktail Reception

Schedule Details: Day 2

Sponsored by: **Getnick & Getnick LLP, Constantine Cannon LLP, and Whistleblower Law Collaborative LLC**

12:00 - 12:15 PM - Welcome

Jacklyn DeMar, Director of Legal Education, TAFEF, Washington, DC

12:15 - 1:15 PM - COVID-19 Fraud

An overview of fraud schemes and civil enforcement actions involving COVID-19 relief funds including in the financial sector, long-term care, the pharmaceutical industry, customs, hospitals, transportation, education, and homeland security.

Kate Scanlan – Keller Grover, LLP, San Francisco, CA

Vince McKnight – Sanford Heisler Sharp, LLP, Washington, DC

Colin Huntley - Deputy Director of the U.S. Department of Justice Civil Division Fraud Section, Washington, DC

Amy Crafts - Chief, False Claims Division, Massachusetts Attorney General's Office, Boston, MA

1:15 - 1:23 PM - Break

1:23 - 1:30 PM - Dee Dee Stone, SEC Whistleblower

1:30 - 2:15 PM - Breakouts, Part 1

Option #1: Multi-Relator Panel

This panel will include a discussion about how to deal with cases involving multiple relators during the various steps in the litigation and settlement process.

Julie Bracker, Bracker & Marcus LLC, Marietta, GA

Lee Wallace, The Wallace Law Firm, Atlanta, GA

Schedule Details: Day 2

Sponsored by: **Getnick & Getnick LLP, Constantine Cannon LLP, and Whistleblower Law Collaborative LLC**

1:30 - 2:15 PM - Breakouts, Part 1

Option #2: The Business of Running a False Claims Act Firm

The panel would cover what to consider when thinking about opening a FCA firm, including business plan development, modeling contingency revenues, financing options, and blending hourly and contingent work.

Michael Behn, Behn & Wyetzner, Chicago, IL

Nicomedes "Nico" Sy Herrera, Herrera Purdy LLP, Oakland, CA

Option #3: Retaliation Protections in Whistleblower Laws

The panel will review developments in the law relating to claims involving the anti-retaliation provisions of the False Claims Act, as well as the IRS, SEC, and CFTC whistleblower programs.

Tammy Marzigliano, Outten & Golden, New York, NY

Jason Zuckerman, Zuckerman Law, Washington, DC

2:15 - 2:30 PM - Break

2:30 - 3:15 PM - Breakouts, Part 2

Option #1: The Good, the Bad & the Ugly: Ethics and Evidence Gathering in *Qui Tam* Cases

This panel will explore the ethical guardrails that guide relator's counsel and government attorneys when conducting investigations into violations of the False Claims Act. Using the recent opinion in *U.S. ex rel. Fesenmaier v. Cameron-Ehlen Group, Inc.*, the panel will offer a discussion of how courts address the interplay between restrictions on contact with represented parties/persons and the need to investigate and prevent fraud targeting taxpayer funded programs.

Bruce Judge, The Whistleblower Law Collaborative, Boston, MA

Ian Doig, Morgan Verkamp LLC, Cincinnati, OH

David Wiseman, Assistant Director, U.S. Department of Justice Civil Division, Fraud Section, Washington, DC

Option #2: What We Wish We Knew: Advice From Former Government Attorneys

Panelists will share their perspectives on what they have learned and been surprised by as newly minted relator's counsel and offer insights into how government investigations work.

Renée Brooker, Finch McCranie, LLP, Washington, DC

Liz White, Pope McGlamry, Atlanta GA

Josh Russ, Reese Marketos LLP, Dallas, TX

Option #3: When Defendant Claims Financial Hardship: Ability-To-Pay and Payment-Over-Time Settlements

The panel will discuss how to deal with potential settlements involving defendants that claim they can't pay in full, including how DOJ's ability-to-pay analysis works and what relator's counsel can do to impact or understand that process. The panel will also discuss how to incentivize defendants to keep making payments over time and protect the government and the relator if the defendant defaults on its payment obligations.

Jonathan Tycko, Tycko & Zavareei LLP, Washington, DC

James Conversano, Financial Analyst, U.S. Department of Justice Civil Division, Washington, DC

Kayla Stahman, Affirmative Enforcement Coordinator, U.S. Attorney's Office for the Western District of Washington, Seattle, WA

Schedule Details: Day 2

Sponsored by: **Getnick & Getnick LLP**, **Constantine Cannon LLP**, and **Whistleblower Law Collaborative LLC**

3:15 - 3:45 PM - Keynote

Jim Holzrichter

One of the whistleblowers in *U.S. ex rel. Robinson v. Northrop Grumman Corp.*, he and his co-relator Rex Robinson discovered the company was falsely inflating its materials costs to increase its reimbursement from the government. His brave actions and dedication to the truth eventually lead to Northrop settling for \$134 million. Since then, Jim has spearheaded TAFEF's whistleblower mentoring program and told his story in his biography, *A Just Cause*.



3:45 - 4:00 PM - Break

4:00 - 5:00 PM - Engaging in Diversity & Inclusion: Getting Ready for the Work

In the wake of the global pandemic and ongoing racism and injustice around our country, many organizations are examining their practices related to diversity and inclusion at the organizational level. However, skepticism about change and the action that follows remains. Join Dr. Liza Talusan, a leading expert on issues of diversity, inclusion, and organizational culture as we get ready for the real work of shaping and sustaining culturally relevant spaces and building skills for engaging in difficult conversations.

Sonya Rao, Morgan Verkamp LLP, Boston, MA

Cleveland Lawrence III, Mehri & Skalet, PLLC, Washington, DC

Liza Talusan, LT Coaching and Consulting, LLC, Brockton, MA

5:00 - 5:15 PM - Break

5:15 - 6:00 PM - Awards Dinner

Sponsored by: **Breen Law Firm**

6:00 - 7:00 PM - Young Lawyers Division Happy Hour

Sponsored by: **The Law Offices of Patrick J. O'Connell, PLLC**

Schedule Details: Day 3

Sponsored by: **Getnick & Getnick LLP**, **Goldberg Kohn, Ltd.**, and **Breen Law Firm**

12:00 - 12:15 PM - State of TAFEF

Jeb White, President & CEO, TAFEF, Washington, DC

12:15 - 1:15 PM - Anti-Kickback Enforcement Against Big Pharma

This panel will discuss Anti-Kickback Statute enforcement against pharmaceutical companies, including the recent settlement against Novartis which provides a valuable window into these complex schemes. The panel will use Novartis and other recent FCA cases to identify key steps in the long road from complaint to settlement, explaining the public databases that relators can use to support their claims, and addressing the government's use of Corporate Integrity Agreements against repeat offenders.

Jonathan Willens, Willens & Scarvalone LLP, New York, NY

Heidi Wendel, Law Office of Heidi A. Wendel PLLC, New York, NY

Jim Miller, Shepherd, Finkelman, Miller & Shah, LLP, Philadelphia, PA

Kerry Ascher, Assistant Attorney General, State of Texas, Austin, TX

Schedule Details: Day 3

Sponsored by: **Getnick & Getnick LLP, Goldberg Kohn, Ltd., and Breen Law Firm**

1:15 - 1:26 PM - Break

1:26 - 1:30 PM - Comments

Jason Marcus, Bracker & Marcus LLC

1:30 - 2:15 PM - Breakouts, Part 1

Option #1: Challenges Involving Bankruptcy in False Claims Act Cases

The panel will discuss what to consider as a relator filing for bankruptcy, including judicial estoppel, seal concerns, attorneys' fees and assignments, and lack of standing. The panel will also discuss what to consider if the defendant is filing for bankruptcy, including how to file a proof of claim, collectability, dealing with the government with a bankrupt defendant, and seal issues.

Jason Marcus, – Bracker & Marcus LLC, Marietta, GA

Mary Schmergel, Senior Trial Counsel, U.S. Department of Justice Civil Division, Corporate/Financial Section, Washington, DC

William Meyers, Goldberg Kohn Ltd., Chicago, IL

Option #2: Relator's Share

The panel will discuss how to maximize share, what relators need to show to increase share, how to work with the government, and when to push back or litigate.

Tim McInnis, McInnis Law, New York, NY

Hallie Noecker, Constantine Cannon, San Francisco, CA

Andy Caffrey, Assistant U.S. Attorney, Health Care Fraud Coordinator, U.S. Attorney's Office for the District of New Jersey, Newark, NJ

Option #3: Expecting the Unexpected: Handling Life Cycle Events in an FCA Context

As cases become more complex and last longer, it is increasingly likely that your client will experience one or more life cycle events - marriage, divorce, illness and death, among others. This panel will examine how to prepare for unexpected events from the start of a case and how to handle specific events while a case is under seal or later in litigation.

Jillian Estes, Morgan Verkamp LLP, Tampa, FL

Robert Magnanini, Stone & Magnanini LLP, Berkeley Heights, NJ

Patty Stamler, Hertz Schram, Detroit MI

Charles Harden, Assistant U.S. Attorney, U.S. Attorney's Office for the Middle District of Florida, Tampa, FL

2:15 - 2:30 PM - Break

2:30 - 3:15 PM - Breakouts, Part 2

Option #1: Damages

The discussion will include advice about calculating and proving damages, including whether damages are equal to the entire amount of the claim or contract or the net loss to the government, how to argue for maximum damages, and recent case law.

Lani Remick, Law Offices of Paul D. Scott, P.C., San Francisco, CA

Adam Katz, Assistant United States Attorney, Northern District of New York, Albany, NY

Sara Vann, Assistant Attorney General, State of Georgia Medicaid Fraud Control Unit, Atlanta, GA

Schedule Details: Day 3

Sponsored by: **Getnick & Getnick LLP, Goldberg Kohn, Ltd., and Breen Law Firm**

2:30 - 3:15 PM - Breakouts, Part 2

Option #2: Attorney's Fees

The panel will discuss the discovery involved in assessing the reasonableness of attorneys' fees, what to do at settlement, and how to negotiate with defendants.

Jeremy Friedman, Law Office of Jeremy L. Friedman, Oakland, CA

Anna Haac, Tycko & Zavareei LLP, Washington, DC

3:15 - 3:30 PM - Break

3:30 - 4:00 PM - Keynote

Cheryl Meads

The whistleblower in *U.S. ex rel. Eckard v. GlaxoSmithKline*, she exposed that adulterated medications were being distributed to the public and government health programs. Her actions led to the shutdown of the faulty manufacturing plant and a \$750 million settlement with GSK. Meads is now an advocate for whistleblowers and government transparency.




4:00 - 4:15 PM - Closing Remarks


Jeb White, President & CEO, TAFEF, Washington, DC



Keeping you in the know on the latest developments in False Claims Act cases and whistleblower programs, while recognizing those doing exceptional work in these legal practice areas.

CONTACT INFORMATION:

 1220 19th Street NW
Suite 501
Washington, DC 20036

 (202) 296-4826

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