

DEUTSCH-AMERIKANISCHE
JURISTEN-VEREINIGUNG

DAJV

Jahreskonferenz
zum deutschen und amerikanischen Recht

Annual Conference on German and American Law 2012

in cooperation with

Columbia University School of Law and Fordham Law School



October 4–6, 2012
New York



If I can make it there, I'll make it anywhere is the key line in the theme song from Martin Scorsese's film *New York, New York* which has achieved worldwide renown and become a classic through Frank Sinatra's interpretation. Making it to New York, and in New York, often marks a significant milestone. Holding an annual conference in New York City is also a milestone for the German-American Lawyers' Association. On the occasion of the association's 38th anniversary, we are gathering for the first time in New York, viewed by many as the international capital for the practice of law.

In recent years, we have held two remarkable annual conferences in the United States: in Washington D.C. in 2007, co-hosted with Georgetown University Law Center, and in 2009 in Berkeley, California, a rather appropriate venue for what was then the first year of the Obama administration. We are delighted to invite you to this year's conference in which we are partnering with two of New York's premier law schools, Columbia and Fordham. The credit for the idea and original sponsorship of the conference goes to Columbia Professor Hans Smit, who initiated preparations with us in early 2010. After Hans' untimely death, Columbia Law School Professor George Bermann assumed the pivotal role of co-organizer at Columbia. At Fordham, our long-time supporter, member, and U.S. representative, Assistant Dean Toni Fine, has helped us tremendously. We are deeply indebted to George and Toni for their support.

The topics of the various conference panels are relevant to practitioners in numerous fields of law. The composition of the panels is truly on par with the best we have assembled for any of our annual conferences. Please read over our program's content to learn about and appreciate the steller quality of this year's exciting offerings and its promise for superior analysis and debate. I cordially invite you to attend the conference, enjoy the topical debates, and revel in the flavour of New York City.

Dr. Ludwig Leyendecker
President

Thursday, October 4

III Fordham Law School
Lincoln Center, 12th Floor Lowenstein
140 West 62 Street

9:00 a.m. **REGISTRATION AND COFFEE**



9:30 a.m. **WELCOME & INTRODUCTORY REMARKS**



Assistant Dean Toni M. Fine

Fordham Law School, DAJV Representative in New York

Professor Heribert Hirte

DAJV Vice President

PANEL SESSIONS

9:45 a.m. **The Exterritorial Application of U.S. Securities Laws after the Supreme Court's *Morrison* decision** (and in light of the pending cases against Porsche, Vivendi and other european companies)



Moderators:

Hon. Jed S. Rakoff

U.S. District Judge for the Southern District of New York

Professor Heribert Hirte

University of Hamburg, DAJV Vice President

9:45 a.m. **Investor Protection in Cross Border Settings**



Speakers:

George T. Conway III

Partner, Wachtell, Lipton, Rosen & Katz, New York

Professor Wulf A. Kaal

University of St. Thomas, Minneapolis

Daniel Schimmel,

Partner, Kelley Drye & Warren LLP, New York

Thursday, October 4

11:15 a.m. COFFEE BREAK



11:40 a.m. The Regulators' Approach



Speakers:

Professor Arthur B. Laby

Rutgers-Camden School of Law

Professor Roberta Karmel

Centennial Professor of Law, Brooklyn Law School

Thomas Schmitz-Lippert

Executive Director, International Policy/Affairs,
Federal Financial Supervisory Authority (BaFin), Bonn

→ Fordham Law School will provide three (3) New York State CLE non-transitional, professional practice credits.

1:00 p.m. LUNCHEON



„Law Made in Germany“ – Global, effective, cost-efficient

Speaker:

Susanne Gellert

Attorney at Law, German American Chamber
of Commerce, Inc., New York

2:00 p.m. CLASSROOM EXPERIENCE



Introduction to the U.S. Legal System

Assistant Dean Toni M. Fine

Fordham Law School, DAJV Representative in New York

Thursday, October 4

6:00 p.m.



Conflicts of Legal Ethics in Transnational Cases, Proceedings, Transactions, and Negotiations.

When multi-jurisdictional rules of ethics and professional conduct collide - coping with conflicting legal rules and privileges in a global business environment.

Tom Braegelmann, Esquire, Salans LLP, Berlin

Speakers:

Kelly D. Eckel, Partner, Duane Morris LLP, Philadelphia

Christof Siefarth, Partner, Görg, Cologne

Peter John Sacripanti,

Partner, McDermott Will & Emery LLP, New York

Lee P. Whidden, Esquire, Partner, Salans LLP, New York

Stephen P. Younger, Esquire,

Patterson Belknap Webb & Tyler LLP,

past president of the NYSBA

How do lawyers and clients comply with a multitude of conflicting or inconsistent national ethical requirements that might simultaneously apply to the same transnational context? Are legal privileges that are granted by one jurisdiction simply negated by disclosure requirements imposed by another? How do lawyers comply with multiple layers of ethical requirements when negotiating international transactions or conducting complex litigation or negotiations? What happens if it is simply impossible to comply simultaneously with all respective applicable national legal ethics? Lawyers and clients ignore these questions at their peril as many rules of legal ethics mandate affirmative conduct. Should you make organizational changes in your law firm or business to address these issues? Will this issue disrupt the growth of international law firms in situations where they cannot escape such conflict?

→ Fordham Law School will provide one (1) New York State CLE ethics, professional responsibility credit.

→ Für diese Veranstaltungen am 4. Oktober 2012 wird auf Wunsch eine Bescheinigung „Fortbildungsveranstaltung für Fachanwälte für Handels- und Gesellschaftsrecht i.S.d. § 15 FAO“ ausgestellt.

Thursday, October 4

III Offices of Gibson, Dunn & Crutcher LLP
MetLife Building
46th Floor (incl. Outside Terrace)
200 Park Avenue
New York

8:00 p.m. **COCKTAIL RECEPTION**



10:00 end

Friday, October 5

III Columbia Law School
Building: Jerome Greene Annex
435 West 116th Street

9:30 a.m. WELCOME ADDRESSES



Professor George A. Bermann

Jean Monnet Professor of EU Law,
Walter Gellhorn Professor of Law, Columbia Law School

Ludwig Leyendecker

Partner, Freshfields Bruckhaus Deringer LLP, Cologne
DAJV President

Michael E. Burke

Chair ABA Section of International Law

10:00 a.m. Mediation in International Antitrust Cases



Presenter:

Professor Daniel Zimmer

University of Bonn, Member of the German Monopolies
Commission (*Monopolkommission*), Bonn

Professor Eric D. Green

Boston University; Principal, Resolutions, LLC

11:20 a.m. COFFEE BREAK



**11:40 a.m. Cooperation between Authorities
in International Antitrust Cases**



Presenter:

Professor Eleanor Fox

New York University

Andreas Mundt

President of the Federal Cartel Office
(*Bundeskartellamt*), Bonn

Friday, October 5

1:00 p.m.

LUNCHEON



2:30 p.m.

PANEL SESSION



5:00 end

**Collective Action in International Arbitration:
Problems and Prospects**

Moderators:

Professor George A. Bermann

Jean Monnet Professor of EU Law,

Walter Gellhorn Professor of Law, Columbia Law School

Stephan Wilske

Partner, Gleiss Lutz, Stuttgart

Speakers:

Jonathan Hamilton

Partner, White & Case, Washington, D.C. (invited)

Gerald Aksen

Independent Arbitrator, New York

Christian P. Alberti

International Centre for Dispute Resolution (ICDR),
New York

→ Columbia Law School will provide New York State CLE credits.

→ Für diese Veranstaltungen am 5. Oktober 2012 wird auf Wunsch eine Bescheinigung „Fortbildungsveranstaltung für Fachanwälte für Handels- und Gesellschaftsrecht i.S.d. § 15 FAO“ ausgestellt.

Friday, October 5

III The Joyce Theater
175 Eighth Avenue 19th Street

8:00 p.m. CULTURAL EVENT

PHILADANCO
Philadelphia Dance Company

Saturday, October 6

III Columbia Law School
Building: Jerome Greene Annex
435 West 116th Street

10:30 a.m. PANEL SESSION



**Too Big to Fail, Bailout and Moral Hazard:
Lessons to be Learned from the Sovereign Debt Crisis**

Moderators:

Carmen Amalia Corrales

Partner, Cleary Gottlieb Steen & Hamilton LLP, New York

Professor Thomas Pfeiffer

Heidelberg University,
Director of the Institute for Comparative Law,
The Conflict of Laws and International Business Law

Speakers:

Professor Dr. Dr. h.c. Werner F. Ebke

Heidelberg University

Professor Mitu Gulati

Duke University

Professor Helmut Siekmann

Institute for Monetary and Financial Stability (IMFS),
University of Frankfurt

Cathleen McLaughlin

Partner, Allen & Overy LLP, New York

→ Columbia Law School will provide New York State
CLE credits.

12:30 a.m. CAMPUS TOUR (OPTIONAL)



afternoon FREE TIME FOR PARTICIPANTS

Saturday, October 6

III The German House Restaurant

871 United Nations Plaza (1st Avenue at 49th Street)
23rd Floor

7:00 p.m.

DINNER

Dresscode: Business Suit

The German House Restaurant

**is made available through the courtesy of the
Consulate General of the Federal Republic of Germany**

The above program is subject to change without further notice. **For updates please visit www.dajv.org.** Changes to the program's topics and speakers may occur at the discretion of the conference organizers.

Registration

FEES

DAJV member \$ 350 / € 250
for full conference

Spouse or accompanying person of a member \$ 200 / € 150
participating only in cultural event and gala dinner

Students, Graduate Students,
Referendare, Doktoranden \$ 200 / € 150
for full conference

Standard participant fee \$ 125
per day

Student attendance \$ 50
per day

PAYMENT

Prior payment is required to attend the conference. Please indicate on the registration form the preferred method of payment.

Deutsch-Amerikanische Juristen-Vereinigung e.V.

Bank Deutsche Bank AG Bonn

BLZ 380 700 24

Account No 0253930

BIC DEUTDEDB380

IBAN DE32 3807 0024 0025 3930 00

Please note that you may also pay by PayPal account or credit card.

Registration

CANCELLATIONS

Any cancellations must be received in writing before September 21, 2012 and sent to:

DAJV Deutsch-Amerikanische Juristen-Vereinigung e.V.
P.O. Box 20 04 42
53134 Bonn/Germany

A fee of Euro 50,00 will be charged if cancellation notice is received on or before September 21, 2012.

We regret that no refunds will be made for notices received after September 21, 2012.

Registrations are transferrable.

CLE Credits

NEW YORK STATE CONTINUING LEGAL EDUCATION CREDITS

CLE Credit Advisory

New York State Credit

Columbia Law School as well as Fordham Law School have been certified by the New York State Continuing Legal Education (CLE) Board as an Accredited Provider of CLE programs. Under New York State CLE regulations, attorneys successfully completing eligible sessions of this live program, which is suitable for both transitional and nontransitional attorneys, will be awarded credit hours in conjunction with them. (Credit award details to be posted presently.)

Eligibility

The CLE credit award will be based on full attendance, only, of credit-eligible sessions, as reflected in the conference registers, which attorneys seeking credit must sign both prior to and following their attending program sessions. Attorneys attending only part of an eligible session are not eligible for partial credit for it, although they are most welcome to attend it. On sign-out or otherwise on departure, attorneys should also submit their completed Evaluation Form, furnished at the Conference.

Certificates

Please note that the New York State Certificate of Attendance will be sent via E-mail (Fordham Law School) and via U.S. Postal Service (Columbia Law School) following the Conference. Attorneys seeking credit for jurisdictions other than New York should consult the relevant jurisdiction 's/s' guidelines for the reporting of such credit.

CLE Readings – Fordham Law School

For CLE programming scheduled 4th October 2012 at Fordham Law School: The Conference readings, which will be distributed at the Conference to attorneys seeking CLE credit, will be available to a password protected website at

<http://law.fordham.edu/DAJV>

A printed copy may be provided by request.

CLE Readings – Columbia Law School

For CLE programming scheduled 5th or 6th October 2012 at Columbia Law School: The Conference readings, which will be distributed at the Conference to attorneys seeking CLE credit, will be in electronic edition (USB drive). A printed copy may be provided by request.

CLE Credits

Scholarships

Attorneys who are seeking CLE and either serving in public interest organizations (including government, academic, and non- and not-for profit organizations) or experiencing financial hardship, may apply for a scholarship rate.

Scholarships – Fordham Law School

For detailed information on the CLE programming scheduled 4th October 2012 at Fordham Law School please visit <http://law.fordham.edu/DAJV>

Scholarships – Columbia Law School

For CLE programming scheduled 5th or 6th October 2012 at Columbia Law School, attorneys should contact the DAJV at <http://www.dajv.de/cle.html>

Registrations – Fordham Law School

For CLE programming scheduled 4th October 2012 at Fordham Law School: Attendees wishing to receive CLE credits must pre-register at <http://law.fordham.edu/DAJV>

A \$ 25 fee for CLE credits must be paid in advance.

The CLE payment option is available at <http://law.fordham.edu/DAJV>

Registrations – Columbia Law School

For CLE programming scheduled 5th or 6th October 2012 at Columbia Law School: Attendees wishing to receive CLE credits must pre-register at <http://www.dajv.de/cle.html>

Note:

Registration and scholarship requests should please detail in a couple of sentences

- the applicant's current or most recent position
- the scholarship being sought (i.e. public interest or hardship)
- the background of the interest in or affiliation with the Conference.

Accommodations in New York

We request that participants make their own hotel arrangements.
We recommend the following hotel accommodations.

The Empire Hotel

44 West 63rd Street
New York, NY 10023

www.empirehotelnyc.com

Tel + 001(212) 265-7400 / -7730

Fax + 001(212)373-4494

Booking Code: DAJV

Standard Queen

\$ 342.01 per night including taxes, without breakfast

Superior King

\$ 364.96 per night including taxes, without breakfast

The Beacon Hotel NYC

2130 Broadway
New York, NY 10023

www.beaconhotel.com

Tel + 001(212) 787 1100 ext 2.

Fax +001(212) 787 8119

Booking Code: DAJV

Standard room

\$ 303.86 per night including all taxes, without breakfast

(two double beds or one king bed and a fully equipped kitchenette)

One-bedroom suite

\$ 346.01 per night including all taxes, without breakfast

(2 double beds or 1 king bed, a separate living room with a pull-out sofa bed, a fully-equipped kitchen; Max. occupancy is 4 people in a suite)

Additional options:

Le Lucerne Hotel *

www.thelucernehotel.com

The Hotel Belleclaire *

www.hotelbelleclaire.com

Hotel Hudson New York *

www.hudsonhotel.com

On the AVE New York *

www.ontheave-nyc.com

Hotel East 17

www.hotel17ny.com

YMCA West Side

www.ymcanyc.org

* Special rates through Columbia Law School



The DAJV would like to thank the following law firms and corporate and individual members for their generous donations to this Conference. The assistance of our sponsors has enabled us to support the participation of a number of students.

These scholarships have been funded with the support of

Cleary Gottlieb Steen & Hamilton LLP

Clifford Chance

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Gibson, Dunn & Crutcher LLP

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COLUMBIA LAW SCHOOL

Fordham Law

Lincoln Center | New York City



Generalkonsulat
der Bundesrepublik Deutschland
New York

DAJV Deutsch-Amerikanische Juristen-Vereinigung e.V.

P.O. Box 20 04 42 · 53134 Bonn/Germany

Phone +49-228-361376 · Fax +49-228-357972

mail@dajv.org · www.dajv.org

Registration: September 21, 2012

»» Registration

ANNUAL CONFERENCE

ON GERMAN AND AMERICAN LAW 2012

October 04-06, 2012 New York

DAJV

Deutsch-Amerikanische Juristen-Vereinigung e.V.

P.O.Box 200442

53134 Bonn/Germany

Fax +49-228-357972 mail@dajv.org

My personal data

First name _____
Surname _____
Current position _____
Law firm/corporation _____
 Work address corresponds mailing address
Street _____
Postal code, Town _____
eMail _____
Tel. No. _____
Fax. No. _____

Spouse or accompanying person

First name _____
Surname _____

Fees

DAJV member \$ 350 / € 250
for full conference
Spouse or accompanying person of a member \$ 200 / € 150
participating only in cultural event and gala dinner
Students, Graduate Studentes,
Referendare, Doktoranden \$ 200 / € 150
for full conference
Standard participant fee \$ 125
per day
Student attendance \$ 50
per day

Payment

Prior payment is a condition for participation. Once you are registered, you agree to pay the full fee for the whole conference, regardless of whether you actually attend, subject to cancellation within the period specified.

A fee of Euro 50,00 will be charged if cancellation notice is received on or before September 21, 2012. We regret that no refunds will be made for notices received after September 21, 2012.

Please indicate method of payment you have chosen:

Bank Transfer

The participant or their administration will transfer the fee of Euro to the banking account of the Deutsch-Amerikanische Juristen-Vereinigung e.V.

Bank: Deutsche Bank AG Bonn

BLZ: 380 700 24 Account No.: 0253930

BIC: DEUTDEDB380 IBAN: DE32 3807 0024 0025 3930 00

PayPal account or credit card

The payment option is available at www.dajv.de

Receipt/confirmation

I would like to receive a receipt after the payment of the registration fee has been transferred to the DAJV.

Invoice address (if different from the address mentioned above):

Place, Date _____

Signature _____

»» Registration

I WILL ATTEND

THE FOLLOWING CONFERENCE PROGRAM

»» Thursday, October 4 – at Fordham Law School

- 9:00 a.m. Panel Sessions: Exterritorial Application of US Securities Laws
Investor Protection in Cross Border Settings
The Regulator's Approach
 I plan to seek NYS CLE credit.
- 1:00 p.m. Luncheon
- 2:00 p.m. Possibility to attend classes
- 6:00 p.m. Legal Ethics Panel
 I plan to seek NYS CLE credit.
- 7:45 p.m. Reception
 with spouse or accompanying person

»» Friday, October 5 – at Columbia Law School

- 9:30 a.m. Panel Sessions: Mediation in International Antitrust Cases
Cooperation between Authorities in International Antitrust Cases
- 1:00 p.m. Luncheon
- 2:30 p.m. Panel Session: Collective Action in International Arbitration
 I plan to seek NYS CLE credit.
- 7:45 p.m. Cultural Event: Philadelphia Dance Company
 with spouse or accompanying person

»» Saturday, October 6 – at Columbia Law School

- 10:30 a.m. Panel Session: Lessons to be learned from the Sovereign Debt Crisis
 I plan to seek NYS CLE credit.
- 12:30 p.m. Campus Tour
- 7:00 p.m. Dinner
 with spouse or accompanying person

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