

BANK COUNSEL CONFERENCE

The Westin New Orleans • December 14-15, 2023



Who Should Attend

The conference agenda focuses on topics of interest to both bankers and their legal counsel. This program is designed to benefit in-house bank counsel, private practitioners focusing on banking and commercial transaction and litigation, and bank officers. Compliance officers and other senior bank executives regularly attend this conference.

Registration Fees

Please note: This year's conference will include only in-person registration options. No virtual registration options. All conference materials are electronic only. No printed materials option. Materials will be delivered electronically to all registrants prior to the conference.

- **Conference Registration (Includes Ethics & Professionalism)** - \$600 member; \$950 non member (includes electronic materials only)
- **Ethics & Professionalism Only** - \$200 (includes electronic materials only)

Conference Hotel Information

The Westin New Orleans
100 Iberville Street
New Orleans, LA 70130

To ensure the LBA group rate of \$209 + tax/night, please call 1-888-627-8180 and identify that you are booking with the LBA Bank Counsel Conference Room Block. [Click here to book your reservation online.](#) Rooms are available in the block for Wednesday December 13, Thursday December 14, Friday December 15 and Saturday December 16.



The LBA has contracted for a set number of sleeping rooms based on the last few years' attendance. Sleeping room reservations must be made by November 20, 2023 at 5:00pm or until the block of rooms for LBA is filled, whichever is sooner. After November 20, 2023, reservations will be made based on availability and the hotel may not be able to honor the discounted rate.

2023 BANK COUNSEL CONFERENCE AGENDA

- For the sessions noted by **(T)** on the below agenda, LBA will apply for title credit with the Louisiana Department of Insurance (General Insurance Principles Credit). Sessions noted by **(T-CFP)** will be applied for Consumer Finance Protection Credit with the Louisiana Department of Insurance. For information on CLE Hours, see page 5.

WEDNESDAY DECEMBER 13, 2023

6:00pm-7:00pm **Welcome & Opening Reception sponsored by Baker Donelson**
(Tower Room, 11th Floor/Lobby Level)

THURSDAY DECEMBER 14, 2023

7:15am-8:00am **Continental Breakfast & Registration**
(Grand Ballroom Foyer, 12th floor)

7:50am **Welcome & Introductory Remarks** (Grand Ballroom, 12th Floor)
Hank Arnold, Baker Donelson, Chair of LBA Bank Counsel Committee

8:00am-9:00am **Federal Banking Law Update - Recent Legislative and Regulatory Changes** (Grand Ballroom, 12th Floor)
Kirsten Sutton, American Bankers Association (ABA) & Jenna Burke, Independent Community Bankers of America (ICBA)

9:15am-10:15am **Concurrent Sessions - Please Choose One:**

1. **Louisiana State Legislative Update (T)** (Grand Ballroom, 12th Floor)
David Boneno, Louisiana Bankers Association - Baton Rouge, LA

The Louisiana State Legislative Update presentation will provide review and analysis of important state legislation enacted into law by the Louisiana Legislature during the 2023 regular legislative session and veto override session that could impact banking and commercial activity. The presentation will cover LBA bill initiatives as well as changes in the law that are applicable to banks, savings banks, and savings and loan associations, and other activity regulated by the Louisiana Office of Financial Institutions. In addition, the presentation will discuss recent changes to lending laws and laws relative to mortgages, security interests, liens, privileges, and other collateral. Changes to laws pertaining to insurance, trusts and successions, ATM theft and financial crime, civil procedure, and new online judicial foreclosure sale procedures will also be covered.

2. **Alabama, Arkansas and Mississippi State Legislative Update** (Terrace Room, 12th Floor)
Eric Bennett, Mississippi Bankers Association - Jackson, MS
Justin Allen, Wright Lindsey Jennings - Little Rock, AR

The State Legislative and Legal Update will be a joint presentation by legal experts from Alabama, Arkansas, and Mississippi providing review and analysis of recent developments in the law occurring through recent legislation and through recent court decisions that affect the banking industry, lending and collateral, business entities, and other commercial activity. The presentation will also cover changes in the laws in these states regarding state marijuana programs and how they impact banking.

3. **Florida, Tennessee and Virginia State Legislative Update** (Tower Room, 11th Floor/Lobby Level)
Kenneth Pratt and Anthony DiMarco, Florida Bankers Association - Tallahassee, FL
Amy Heaslet, Tennessee Bankers Association - Nashville, TN
DeMarion Johnston, Virginia Bankers Association - Richmond, VA

The State Legislative and Legal Update will be a joint presentation by legal experts from Florida, Tennessee and Virginia providing review and analysis of recent developments in the law occurring through recent legislation and through recent court decisions that affect the banking industry, lending and collateral, business entities, and other commercial activity. The presentation will also cover changes in the laws in these states regarding state marijuana programs and how they impact banking.

THURSDAY DECEMBER 14, 2023 (CONTINUED)

- 10:25am-11:25am **Ethics: Attorney Client Privilege, Statutory Privilege, Bank Examination Privilege & Work-Product Privilege** (*Grand Ballroom, 12th Floor*)
William "Billy" Newman, University of Southern Mississippi - Hattiesburg, MS
- 11:35am-12:35pm **Concurrent Sessions - Please Choose One:**
1. **Louisiana Secured Lending Update (T)** (*Grand Ballroom, 12th Floor*)
David Cromwell, Pettiette, Armand, et al. - Shreveport, LA

The Secured Lending Update presentation will discuss recent developments in Louisiana law relating to security devices, title matters and other issues of interest to banks. The presentation will review court cases opinions issued during this year relating to mortgages, including property description issues, reinscription, mortgage cancellations, mortgage authorizations, judicial mortgages, and ranking encumbrances. The presentation will also discuss recent case decisions related to UCC-9 security issues, Private Works Act claims and privileges, suretyship and guaranty disputes, foreclosure –both executory process and ordinary process, and lender liability.
 2. **National Survey of Recent Secured Lending Cases** (*Terrace Room, 12th Floor*)
Kevin O'Brien, King & Spaulding LLP - Atlanta, GA

This session will include an update of recent developments in multi-state secured lending and lender liability. It will focus on notable and interesting cases decided this year involving a variety of claims against commercial lenders. These include claims by borrowers, co-lenders, subordinate lenders, and other creditors arising from alleged loan agreement breaches, breaches of fiduciary duty, usury, and fraudulent transfers.
- 12:35pm-2:00pm **Lunch with Guest Speaker** (*Riverbend Ballroom, 11th Floor/Lobby Level*)
- 2:00pm-3:00pm **Payments Fraud: An Overview of the Law and Cases Interpreting UCC 3, 4 and 4A (T)** (*Grand Ballroom, 12th Floor*)
Paul Carrubba, Adams and Reese, LLP - Ridgeland, MS
Scott Jones, Adams and Reese, LLP - Ridgeland, MS

In the current market, the two most likely ways financial institutions suffer payments fraud is through Check and Funds Transfer (Wire Transfer and ACH) fraud. This session will look at (a) recent fraud data which quantifies the size of these type losses and (b) the laws, rules, regulations and guidance for Checks and Funds Transfers, including Articles 3, 4 and 4A of the Uniform Commercial Code, Regulation CC, and the recently updated FFIEC Guidance on Authentication and Access to Financial Institution Services and Systems. This Session will also look at recent litigation for which all financial institutions should be aware. Attendees will leave with a better understanding of the allocation of liability between various financial institutions and their customers.

3:10pm-4:10pm **Bankruptcy Issues for Bankers (T)** (*Grand Ballroom, 12th Floor*)
Robert Reynolds, Reynolds, Reynolds & Little, LLC - Tuscaloosa, AL

This session will address common loan documentation problems which lead to losses in bankruptcy proceedings; recommended key prebankruptcy forbearance and work-out provisions as well as a discussion of recent trends and issues in bankruptcy proceedings including the significant increase in bankruptcy filings in 2023.

4:20pm-5:20pm **Climate Change & ESG: Discussion of State Legislation and Federal Issues** (*Grand Ballroom, 12th Floor*)
Joe Gendron, Louisiana Bankers Association - Baton Rouge, LA
Eric Bennett, Mississippi Bankers Association - Jackson, MS
Justin Allen, Wright Lindsey Jennings - Little Rock, AR
Kenneth Pratt and Anthony DiMarco, Florida Bankers Association - Tallahassee, FL
Amy Heaslet, Tennessee Bankers Association - Nashville, TN
DeMarion Johnston, Virginia Bankers Association - Richmond, VA

The panel will review and discuss federal banking regulatory requirements for banks to manage their climate risk in light of extreme weather events and other changes that could impact the safety and soundness of banks. The panel will also review and analyze the federal Securities Exchange Commission's proposal to require publicly traded companies, including banks, to measure and report greenhouse gas emissions. The panel will also review and discuss new state laws restricting the use of Environmental, Social, and Governance (ESG) factors in making loan decisions or in providing other financial products and services. Additionally, it will include a review state anti-ESG legislation and laws that prohibit the boycotting of fossil fuel industries by financial institutions and prohibit the use of ESG factors when providing investments and financial services to state and local government and state pension funds.

5:30pm-7:00pm **Cocktail Reception Sponsored by Adams and Reese, LLP** (*Bistro at the Bend, 11th Floor/Lobby Level*)

FRIDAY, DECEMBER 15, 2023

- 7:15am-7:45am Continental Breakfast**
- 7:40am Day 2 Welcome and Remarks** (*Grand Ballroom, 12th Floor*)
- 7:45am-8:45am CFPB's Agenda: Junk Fees, UDAAP, Overdraft Fees & More (T-CFPB)** (*Grand Ballroom, 12th Floor*)
John R. Coleman, Orrick - Washington, D.C.
- Former CFPB Deputy General Counsel John Coleman provides an insider's view into the CFPB's enforcement and regulatory agenda, with a focus on efforts targeting depository institutions. This session will cover the CFPB's latest regulatory efforts, what we should expect over the next year, and how the pending Supreme Court decision and election year could impact those efforts. Mr. Coleman will also focus on the CFPB's use of its expansive UDAAP authority, particularly in supervision and enforcement, and how banks can respond
- 8:55am-9:55am Setting Your Compass in an AI World: Legal Standards & Risks** (*Grand Ballroom, 12th Floor*)
Ryan Miller, American Bankers Association (ABA) - Washington, D.C.
- While artificial intelligence (AI) is all the rage these days, banks have long been leaders in deploying it within a strong and mature risk management framework. Indeed, banks can serve as an exemplar for other industries on how to conduct risk assessments, implement internal controls, and engage in monitoring. This session will address the ways banks have historically handled AI, explore the impact of new iterations of the technology (for example, generative large language models such as ChatGPT), and survey policymakers' responses.
- 10:10am-11:10am Data Breaches & Cyber Insurance (T)** (*Grand Ballroom, 12th Floor*)
Delvan Irwin, FNBB Insurance Agency, Inc - Baton Rouge, LA
J.T. Malatesta, Maynard Nexsen - Birmingham, AL
- 2023 saw a dramatic increase in security incidents. This session will include a discussion of ransomware, regulatory requirements and recommendations on how to be better prepared. The session will also include a discussion of cyber insurance, including common misconceptions about what a cyber policy is, the intent of the coverage, important and often overlooked aspects, and how coverage relates to both a Directors' and Officers' Liability policy and a Financial Institution Bond policy. We will explore the three main aspects of the policy, which is the most important, and how banks and insurance agents often focus on areas that lead to a perception of coverage that does not exist.
- 11:20am-12:20pm Professionalism: Electronic Communications & Generational Differences** (*Grand Ballroom, 12th Floor*)
Dr. Melissa Thompson, Success Labs - Baton Rouge, LA
- 12:20pm-1:45pm Lunch with Guest Speaker** (*Riverbend Ballroom, 11th Floor/Lobby Level*)
- 1:45pm-2:45pm Regulatory Panel Discussion** (*Grand Ballroom, 12th Floor*)
Scott Jolly, Louisiana Office of Financial Institutions
Rhoshunda Kelly, Mississippi Banking Department
Russell Weigel, III, Florida Office of Financial Regulation
Joe Face, Virginia State Corporation Commission
Greg Gonzales, Tennessee Department of Financial Institutions
Katherine Bosken, North Carolina Commissioner of Banks
- The State Banking Commissioners are the primary regulators for state-chartered banks, savings banks, and savings banks, chartered in their states. The panel of state banking commissioners will review and discuss recent state banking regulatory activity and new state laws affecting banking and other financial services.
- 2:55pm-3:55pm CDFI Banks: Pending Rule Changes & Other Developments** (*Grand Ballroom, 12th Floor*)
Holly Logue, Logue Advisory Group - Madison, MS

Thursday total time: 420 minutes (7 hours)

Friday total time: 360 minutes (6 hours)

Conference time total: 780 minutes (13 hours)

Includes Ethics (1 hour session) and Professionalism (1 hour session)

CONTINUING LEGAL EDUCATION (CLE)

Below are the states in which LBA will apply for CLE credit for this conference. As CLE applications in each state are approved, we will post the approved hours.

- **Louisiana** - LBA will apply for CLE in Louisiana for 13 hours, including 1 hour of ethics and 1 hour of professionalism.
- **Alabama** - LBA will apply for CLE in Alabama for 13 hours, including 1 hour of ethics and 1 hour of professionalism.
- **Arkansas** - LBA will apply for CLE in Arkansas for 13 hours, including 1 hour of ethics and 1 hour of professionalism.
- **Mississippi** - LBA will apply for CLE in Mississippi for 13 hours, including 1 hour of ethics and 1 hour of professionalism.
- **Texas** - LBA will apply for CLE in Texas for 13 hours, including 1 hour of ethics and 1 hour of professionalism.
- **Tennessee** - LBA will apply for CLE in Tennessee for 13 hours, including 1 hour of ethics and 1 hour of professionalism.
- **North Carolina** - LBA will apply for CLE in North Carolina for 13 hours, including 1 hour of ethics and 1 hour of professionalism.
- **Florida** - LBA will apply for CLE in Florida for 13 hours, including 1 hour of ethics and 1 hour of professionalism.
- **Virginia** - LBA will apply for CLE in Virginia for 13 hours, including 1 hour of ethics and 1 hour of professionalism. Because of the requirements from the CLE office to include actual conference materials, it is likely Virginia CLE will not be approved until after the conference.

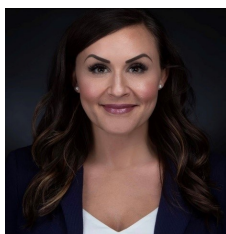
LOUISIANA TITLE AGENTS CONTINUING EDUCATION

We will apply for Louisiana Title Agents Continuing Education Credit with the Louisiana Department of Insurance for the sessions noted by (T) and (T-CFP) on the conference agenda (6 hours total). The session denoted by (T-CFP) will be applied for Consumer Finance Protection Credit (1 hour). The sessions denoted by (T) will be applied for General Insurance Principles Credit (5 hours).

AMERICAN BANKERS ASSOCIATION (ABA) PROFESSIONAL CERTIFICATION CONTINUING EDUCATION CREDIT

We will apply for CRCM (Certified Regulatory Compliance Manager) credit with ABA (American Bankers Association) Professional Certifications.

FEATURED SPEAKERS



Kirsten Sutton is Executive Vice President of Congressional Relations and Legislative Affairs at the American Bankers Association (ABA), the voice of the nation's \$23.7 trillion banking industry and its more than two million employees. Named by Association Trends as a leading association lobbyist, Sutton oversees the association's bipartisan team responsible for engaging lawmakers and their staff on policy and legislative issues affecting America's banks and the communities they serve. Sutton joined ABA in 2020 as Senior Vice President and Executive Director of ABA's Card Policy Council (CPC), where she developed policy priorities and advocacy strategy in collaboration with the nation's largest card-issuing banks and payment networks. Before joining ABA, Sutton served as Chief of Staff of the Consumer Financial Protection Bureau (CFPB) from 2018 to 2020. In addition to advising the CFPB Director on policy and personnel matters, Sutton managed the agency's public affairs, communications, stakeholder engagement, and legislative affairs office. Prior to her tenure at the CFPB, Sutton was staff director of the House Financial Services Committee (HFSC) where she served as primary staff liaison to the Administration and House and Senate leadership, developed the Committee's legislative priorities, and was responsible for ensuring those priorities had the support needed to pass out of the Committee and on the House floor. Her career on Capitol Hill spans more than a decade, including the financial crisis and the passage of the Dodd-Frank Act.



Jenna Burke is senior vice president and senior regulatory counsel for the Independent Community Bankers of America® (ICBA). She focuses on a broad portfolio of issues including safety and soundness, corporate governance, deposit insurance, regulatory structure, accounting and taxes, and capital requirements. Burke also serves as ICBA's co-staff liaison to the ICBA Safety and Soundness Subcommittee. Before joining ICBA, Burke was a senior associate for Mitchell Sandler, which where she supported the law firm's fintech, bank regulatory, and litigation practices. She previously served as vice president and associate general counsel for the Consumer Bankers Association. She also previously worked as counsel for the FDIC's Consumer Enforcement Unit. Burke received a BA with honors in economics and political science from Loyola University Chicago, and a JD from the Chicago-Kent College of Law. Burke is a certified anti-money laundering specialist and is a director for Women in Housing and Finance.



Robert Reynolds is the senior partner in the Tuscaloosa office of Reynolds, Reynolds & Little, LLC. He focuses his practice on creditor rights in bankruptcy, foreclosure proceedings, and commercial litigation. Robert has served as a faculty member of the LSU Graduate School of Banking since 2000, as well as the Alabama Banking School for more than 28 years. His firm represents over 34 financial institutions. He has served as the President of the American Bankruptcy Institute and currently serves as Chairman of this 10,000 membership professional insolvency association. He has been named as one of the Top Attorneys in Bankruptcy by *Super Lawyers* since 2008 and has consistently maintained an "AV-Preeminent" rating from Martindale-Hubbell for many years. He is one of approximate 115 attorneys nationwide certified in both business and consumer bankruptcy law by the American Board of Certification. Robert is admitted to the U.S. Supreme Court, the Fifth and Eleventh Circuit Courts of Appeal, the Northern District of Florida, and all federal and state courts in Alabama. He received his undergraduate degree from Auburn and masters and law degrees from the University of Alabama.



John Coleman represents banks, nonbank financial institutions, corporations and individuals in supervisory and enforcement matters initiated by government regulators, as well as in private civil litigation and internal investigations. He also counsels clients on compliance with consumer protection laws and supervision preparedness. Prior to joining Orrick, John was a partner at Buckley LLP, which he joined after 15 years in federal government service as a litigator and advisor to senior policymakers, most recently as Deputy General Counsel for Litigation and Oversight at the Consumer Financial Protection Bureau. He joined the CFPB soon after its creation in 2010 and was one of a core group of attorneys tasked with interpreting the authorities granted to the agency by the Consumer Financial Protection Act of 2010 and establishing the procedures by which the agency exercises those authorities. He was the first person to appear in court on behalf of the CFPB and was involved in every significant litigation matter in the agency's history prior to his departure. As Deputy General Counsel, he managed the team of attorneys responsible for representing the Bureau in litigation, including appellate matters, and before congressional oversight bodies.

CONFERENCE SPONSORS

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Thursday 12/14 Cocktail
Reception Sponsor

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Thursday 12/14 Lunch Sponsor

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LouisianaBankers
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2023 BANK COUNSEL CONFERENCE REGISTRATION

DECEMBER 14-15, 2023, THE WESTIN NEW ORLEANS

Registration Information *(please make additional copies for multiple registrations)*

Email Required for Registration

Mr./Mrs./Ms. _____
Bank/Law Firm _____
Email Address _____
Street Address _____
City/State/Zip _____
Office Phone _____ Cell Phone _____

Registration Affiliation

Please first select your affiliate state then proceed below to complete your registration and payment options:

- Louisiana Bankers Association (LBA) Affiliate
- Mississippi Bankers Association Affiliate
- Alabama Bankers Association Affiliate
- Arkansas Bankers Association Affiliate
- Florida Bankers Association Affiliate
- North Carolina Bankers Association Affiliate
- Tennessee Bankers Association Affiliate
- Virginia Bankers Association Affiliate

Registration Options *(please check all that apply)*

Please note: This year's conference will include only in-person registration options. No virtual registration options. No printed materials option. Materials will be delivered electronically to all registrants prior to the conference.

You are considered a member if: you are an in-house attorney who is employed with a bank that is a member of a participating state association OR a member of a participating state association's attorney or affiliate membership group.

- Conference Registration Including Ethics & Professionalism *(Includes electronic materials)* _____
 - \$600.00 Member Fee
 - \$950.00 Non-Member Fee
- Ethics and Professionalism Registration Only - \$200.00 *(Includes electronic materials)* _____
- 2024 Louisiana Bankers Association Bank Counsel Membership Dues - \$250 _____

Total Fees \$ _____

Payment Options

- Check (Make Payable to Louisiana Bankers Association)
- VISA
- MasterCard
- American Express

Card Number _____
Expiration Date _____
Billing Address _____
Amount to be charged on card \$ _____ Name on Card (please print) _____
Signature _____

Cancellation Policy

A full refund of registration fees will only be made if cancellation notice is received by the LBA office by **December 7, 2023**. No refunds are available after **December 7, 2023**. Cancellations and substitutions are accepted by email at pitts@lba.org or phone - Janet H. Pitts at 225/214-4830. Please register online in the Education Section of the LBA website, www.lba.org. Registration can also be emailed, faxed or mailed.

Email: pitts@lba.org / **Fax:** 225/343-3159 / **Phone:** 225/387-3282
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