

DRRT's 10th Annual Global Loss Recovery Conference

DRRT recently hosted its Annual Global Loss Recovery Conference for the 10th time in Frankfurt, Germany. The event took place at the Sofitel Opera on March 15 and 16, 2018 and brought together over 100 representatives from the largest sovereign wealth funds, asset managers, insurance and reinsurance companies, and law firms and litigation funders.

The conference started with an introduction by DRRT's Managing Partner, Alexander Reus, who discussed the latest trends in securities litigation around the world. Mr. Reus was followed by DRRT's Assistant Managing Partner, Joseph Gulino, who addressed the general trends and specific developments in the United States.

Mr. Gulino and DRRT's Director and Head of European Offices, Mr. Christian Wefers were then joined on stage by leading legal experts from Italy, the United Kingdom, the United States, the Netherlands, and Germany to discuss differences between evidence gathering in each of these jurisdictions. The panel first examined the legal system of Germany. The panel discussed the disadvantages that investor claimants face in Germany compared to other jurisdictions, in obtaining discovery to support their claims, noting that there is no formal discovery procedure in Germany and that legal proceedings in Germany are private, meaning investor claimants cannot access documents produced via the government's investigative powers in concurrent criminal and/or regulatory proceedings.



In contrast, the panel discussed several legal systems that provide investor claimants greater discovery access by allowing investor claimants to utilize the government's discovery efforts. Specifically, the panel highlighted Italy's legal system, which allows investors to assert claims in on-going criminal proceedings, allowing investor claimants access to documents produced by the defendant(s) to the government and the Netherlands which also allows investor claimants access the government's discovery efforts (without the need of having to assert a claim in the criminal proceeding).



Mr. Kevin LaCroix from RT ProExec, a division of R-T Specialty, LLC, Mr. Francis Kean and Mr. Jonathan Simon from Willis Tower Watson discussed the global economic outlook from the point of view of insurers. The panelists discussed the rise in Australian class action claims and the impact it will have on the D&O Insurance market. The panel also addressed the latest D&O trends including employment practice claims, cyber threats, and the future of After the Event insurance.

After the networking luncheon, Mr. Reus was joined by Mr. Olav Haazen from Grant & Eisenhofer and Mr. Andreas Tilp from TILP Litigation to discuss the latest trends in the settlements with Fortis and Royal Bank of Scotland in Europe and Petrobras in the United States. Mr. Haazen discussed the Dutch

collective settlement statute (WCAM – Wet Collectieve Afwikkeling van Massaschades) and the types of cases for which the WCAM provides a good mechanism for investors to recover losses for investors.

Mr. Tilp then presented on the German Capital Market Investors' Model Proceeding Act (Kapitalanleger-MusterverfahrensGesetz or KapMuG) and explained the process of a case in Germany using the litigation with Volkswagen AG. Mr. Tilp also addressed discovery in the U.S. in aid of foreign proceedings under 28 U.S.C. §1782 and the role this statute is playing in the Volkswagen case.



The highlighted speaker for this event was Mr. Gregory Coleman, Special Agent, FBI (retired)/Founder & CEO, Coleman Worldwide Advisors, who led the FBI investigation against Jordan Belfort, the “Wolf of Wall Street.” Mr. Coleman discussed both the case and the movie, providing a unique insight into the world of FBI investigations of white-collar crimes including securities fraud and money laundering.

Mr. Coleman remained on stage as Mr. Gulino, Mr. Marcelo Escobar from Escobar Advogados and Mr. Cláudio Finkelstein from Finkelstein Advogados joined a panel moderated by Mr. LaCroix on corruption and bribery. Mr. Gulino set the framework for the panel by discussing two specific securities cases with a background in bribery, Petróleo Brasileiro S.A. and Saipem SpA. While Mr. Gulino focused on the U.S. aspects of the Petróleo Brasileiro S.A. case, Mr. Escobar and Finkelstein discussed the company's bylaws, which require claims of shareholders in the Brazilian securities to be brought in the arbitration chamber of the B3 (formerly BM&FBOVESPA). The panelists also addressed the corruption at JBS S.A. and the potential Brazilian arbitration proceeding in that case.



Mr. Jonathan Cohen, of DRRT, then joined a panel with Mr. Martin Hyde of Claims Funding Europe to discuss investor litigation in Australia and Japan. Mr. Hyde provided an explanation of the legal process and litigation funding in Australia. While Australian lawyers are prohibited from charging a percentage fee, litigation funders can provide a solution for investors to participate in cases without adverse cost. Mr. Cohen then discussed litigation in Japan and mentioned cases against Toshiba Corporation, Mitsubishi Motors Corporation and Kobe Steel, LTD. as well as other relevant cases of interest.

The last panel of the day was conducted by Ms. Lorri Staal and Mr. Tom Moore from Garden City Group (GCG). The panelists discussed data security and the impact that the EU General Data Protection Regulation (GDPR) will have on data privacy as related to securities class action claims filing in the United States. This proved to be an interactive session with participants raising many questions on the safeguarding of transaction data sent to the claims administrator and the cross-border issues that may arise. The day concluded with a cocktail hour followed by a sightseeing tour and dinner in Frankfurt's city center.

The conference continued the next day with a conversation on data security as it relates to claims filing in securities class action litigation. Ms. Staal and Mr. Moore provided an insightful overview of the management of personally identifiable information in the claims filing process and the steps that will be taken as a result of the new GDPR guidelines in Europe.



The last panel of the conference was an in-depth discussion of the increasing number of cases that are litigated in multiple jurisdictions. Mr. Reus was accompanied by Mr. Marc Schiefer from TILP Litigation, Quirijn Bongaerts from the Dutch law firm Bynkershoek B.V. and Zain Lundell from the South African law firm LHL Attorneys. The four attorneys on this panel provided background on the allegations against the South African retail giant Steinhoff International Holdings and the available recourse in the respective jurisdictions. The conversation expounded on Steinhoff's corporate activities and its relationship with the German, South African, and Dutch markets, which has prompted a unique multi-jurisdictional approach to the case, whereby proceedings are possible and have started in the various jurisdictions.



Mr. Cohen gave an overview of other potential multi-jurisdictional securities fraud cases, including a case against Valeant Pharmaceuticals International in the U.S. and Canada. He also addressed the allegations of price fixing and failure to make timely disclosures by Teva Pharmaceutical, an Israeli multinational pharmaceutical company listed on both the NYSE and the Tel Aviv Stock Exchange.

After brief closing remarks by Mr. Reus, the institutional investors in attendance attended a private, investor-only luncheon to discuss their views on securities litigation and loss recovery. The other attendees had the opportunity to network during a separate luncheon, concluding what was an insightful and educational conference.

The next conference will take place on April 4 and 5, 2019 at the Sofitel Opera in Frankfurt, Germany.