



EMPLOYMENT LAW CONFERENCE

The Gwen Hotel, Chicago, IL

November 2-3, 2023

*AGENDA SUBJECT TO CHANGE

Thursday, November 2

8:30am Conference Check-In and Continental Breakfast

9:00-10:45am Developments in EEO Law

Speaker: [Felicia Davis](#) and [Jennifer Milazzo](#) - Paul Hastings

Update of Supreme Court cases, and the most significant appellate court cases and their application and implications for employment practices in key substantive and procedural areas, including race, sex, color, religion, national origin, gender and pregnancy discrimination, the ADEA, damages, and injunctive relief.

10:45-11:00am Break

11:00-12:30pm FMLA Compliance and Best Practices

Speaker: [Tracy Billows](#) - Seyfarth

What's going on at the DOL, how the FMLA intersects with the Pregnant Workers Fairness Act, thorny issues when leave is to care for a family member, effectively managing the medical certification process, how FMLA leave affects the measurement of performance goals and other practical issues, training supervisors on what not to say and how to recognize notice of need for FMLA leave, the importance of how to use notice requirements and re-certifications to combat intermittent leave abuse, what to do when you suspect fraudulent use of leave.

12:30-1:30 Lunch

1:30-3:00pm Retaliation and Whistleblowing Claims

Speaker: [Fran DeLuca](#) – Epstein Becker & Green

Coverage of the continued surge in these claims, including “protected activity,” expanded concept of “adverse action,” negating the inference of “causation,” third party retaliation, retaliatory harassment, and “unreasonable opposition.” We will also discuss whistleblower claims, including expanded rights and remedies of the would-be whistleblower, and best practices to help avoid and/or minimize liability, especially now.

3:00-3:15pm Break

3:15-5:00pm NLRA Update

Speaker: [Derek Barella](#) – ArentFox Schiff

Substantial changes at the National Labor Relations Board already are well underway. Biden appointees now control the Board. The agency's new General Counsel has announced an extraordinarily aggressive agenda for change, and those cases are now being decided by the Board. With new rules and the *Cemex* opinion, the Board has reshaped the substantive law governing organizing campaigns. A wholesale return to – and expansion of – the opinions and policies of the Obama Board is underway and will affect both union and non-union workplaces.

Friday, November 3

8:30am Continental Breakfast

9:00-10:00am Ethics in Labor and Employment Law

Speaker: [Dennis Duffy](#) – Kane Russell Coleman Logan

Annual update on cutting edge ethics issues, including conflicts of interest, attorney-client privilege and waiver, ex parte access to current and former managers and employees, pretrial investigations, employee confidential communications using employer-provided computers and email, in-house counsel ethical issues, improper acquisition and inadvertent disclosure of information and documents, access to social media information, use of artificial intelligence and other cutting edge technologies, settlement and negotiations, and court enforcement of professionalism and civility codes.

10:00-10:15am Break

10:15-11:45am ADA Update: “Reasonable Accommodation”

Speaker: [David Fram](#) – NELI

Latest developments from the EEOC and federal courts on fast-breaking reasonable accommodation issues and the importance of training first-line supervisors on what to listen for as possible triggers to the interactive process, what supervisors and HR personnel should be trained to say and document in response to employee requests, practical developments on the meaning of the term “reasonable,” particular accommodation questions, such as work-at-home, whether/how much “leave” (including a repeated leave extension) is required, how this interplays with the FMLA, whether reduced workloads, non-competitive reassignment, an “irritant-free” environment, shift changes, supervisor changes, or reserved parking spaces are required, whether discipline must be rescinded as an accommodation, and where the funds for accommodations should come from.

11:45-12:00pm Break

12:00-1:30pm Wage and Hour & Misclassification Issues

Speaker: [Shannon Farmer](#) – Ballard Spahr

Status of DOL independent contractor test under the Biden administration and new developments involving independent contractors and other contingent and uncovered workers, the DOL's new proposed modifications to the salary basis threshold, new exemption and misclassification decisions, remote work and compensable time challenges in our increasingly technology-centered workplace, especially post COVID-19. Expanding joint employer theories and cases, actual or constructive knowledge of time worked, and the explosion of new state law rules and causes of action will also be covered.

Sessions starting Thursday morning through Friday at 1:30pm



EMPLOYMENT LAW CONFERENCE

The Ritz-Carlton, New Orleans, LA

November 30 – December 1, 2023

*AGENDA SUBJECT TO CHANGE

Thursday, November 30

- 8:30-9:00am** **Conference Check-In and Continental Breakfast**
- 9:00-10:45am** **Developments in EEO Law** **Speaker: [Emily Pidot](#) – Paul Hastings**
Update of Supreme Court cases, and the most significant appellate court cases and their application and implications for employment practices in key substantive and procedural areas, including race, sex, color, religion, national origin, gender and pregnancy discrimination, the ADEA, damages, and injunctive relief.
- 10:45-11:00am** **Break**
- 11:00-12:30pm** **Wage and Hour & Misclassification Issues** **Speaker: [Chris Parlo](#) – Morgan Lewis**
Status of DOL independent contractor test under the Biden administration and new developments involving independent contractors and other contingent and uncovered workers, the DOL's new proposed modifications to the salary basis threshold, new exemption and misclassification decisions, remote work and compensable time challenges in our increasingly technology-centered workplace, especially post COVID-19. Expanding joint employer theories and cases, actual or constructive knowledge of time worked, and the explosion of new state law rules and causes of action will also be covered.
- 12:30-1:30** **Lunch**
- 1:30-3:00pm** **Retaliation and Whistleblowing Claims** **Speaker: [Greg Keating](#) – Epstein Becker Green**
Coverage of the continued surge in these claims, including "protected activity," expanded concept of "adverse action," negating the inference of "causation," third party retaliation, retaliatory harassment, and "unreasonable opposition." We will also discuss whistleblower claims, including expanded rights and remedies of the would-be whistleblower, and best practices to help avoid and/or minimize liability, especially now.
- 3:00-3:15pm** **Break**
- 3:15-5:00pm** **NLRA Update** **Speaker: [Steve Suflas](#) – Holland & Hart**
Substantial changes at the National Labor Relations Board already are well underway. Biden appointees now control the Board. The agency's new General Counsel has announced an extraordinarily aggressive agenda for change, and those cases are now being decided by the Board. With new rules and the *Cemex* opinion, the Board has reshaped the substantive law governing organizing campaigns. A wholesale return to – and expansion of – the opinions and policies of the Obama Board is underway and will affect both union and non-union workplaces.

Friday, December 1

- 8:30-9:00am** **Continental Breakfast**
- 9:00-10:00am** **Ethics in Labor and Employment Law** **Speaker: [Dennis Duffy](#) – Kane Russell Coleman Logan**
Annual update on cutting edge ethics issues, including conflicts of interest, attorney-client privilege and waiver, ex parte access to current and former managers and employees, pretrial investigations, employee confidential communications using employer-provided computers and email, in-house counsel ethical issues, improper acquisition and inadvertent disclosure of information and documents, access to social media information, use of artificial intelligence and other cutting edge technologies, settlement and negotiations, and court enforcement of professionalism and civility codes.
- 10:00-10:15am** **Break**
- 10:15-11:45am** **ADA Update: "Reasonable Accommodation"** **Speaker: [David Fram](#) – NELI**
Latest developments from the EEOC and federal courts on fast-breaking reasonable accommodation issues and the importance of training first-line supervisors on what to listen for as possible triggers to the interactive process, what supervisors and HR personnel should be trained to say and document in response to employee requests, practical developments on the meaning of the term "reasonable," particular accommodation questions, such as work-at-home, whether/how much "leave" (including a repeated leave extension) is required, how this interplays with the FMLA, whether reduced workloads, non-competitive reassignment, an "irritant-free" environment, shift changes, supervisor changes, or reserved parking spaces are required, whether discipline must be rescinded as an accommodation, and where the funds for accommodations should come from.
- 11:45-12:00pm** **Break**
- 12:00-1:30pm** **FMLA Compliance and Best Practices** **Speaker: [Ellen McLaughlin](#) – Seyfarth**
What's going on at the DOL, how the FMLA intersects with the Pregnant Workers Fairness Act, thorny issues when leave is to care for a family member, effectively managing the medical certification process, how FMLA leave affects the measurement of performance goals and other practical issues, training supervisors on what not to say and how to recognize notice of need for FMLA leave, the importance of how to use notice requirements and re-certifications to combat intermittent leave abuse, what to do when you suspect fraudulent use of leave.

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