



Employment Law Conference Webinar

December 6-8, 2022

11:30am – 3:15pm Eastern Time

*AGENDA SUBJECT TO CHANGE

Tuesday, December 6

11:30am – 1:15pm **Developments in EEO Law**
[Felicia Davis](#) and [Elizabeth Minoofar](#) – 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.

1:15pm – 1:30pm **Break**

1:30pm – 3:15pm **Retaliation and Whistleblowing**
[Jill Rosenberg](#) and [Lisa Lupion](#) – Orrick

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 the impact of whistleblower, Dodd Frank and Sarbanes-Oxley issues including expanded rights and remedies of the would-be whistleblower and best practices to help avoid and/or minimize liability.

Wednesday, December 7

11:30am – 1:15pm **Wage and Hour & Misclassification Issues in the COVID-19 ERA**
[Ellen Boshkoff](#) – Elanco and [Andrew Murphy](#) - Faegre

Changing priorities and initiatives at the DOL under the Biden administration, new developments involving contingent workers and other non-covered workers, exemption and misclassification decisions, remote working, and compensable time in our increasingly technology-centered workplace, especially in the COVID-19 era. Joint employer theories and cases and actual or constructive knowledge of time worked required to prove a claim will also be covered.

1:15pm – 1:30pm **Break**

1:30pm – 3:15pm **The Transition of the NLRB**
[Steven Sufas](#) – Ballard Spahr

Substantial changes at the National Labor Relations Board already are well underway. Biden appointees now control the Board and the agency’s new General Counsel has announced an extraordinarily aggressive agenda for change. What will a Biden NLRB look like? How will a wholesale return to – or expansion of - the opinions and policies of the Obama Board affect both union and especially non-union workplaces? How will the COVID pandemic continue to affect labor relations? What can we learn from recent trends in union organizing and job actions? And what about the Protect the Right to Organize (“PRO”) Act and state and local forays into traditional labor law issues?

Thursday, December 8

11:30am – 1:15pm **“Reasonable Accommodation” Under the ADA & Rehabilitation Act**
[David Fram](#) - NELI

Latest developments on practical reasonable accommodation issues in the age of COVID 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, important changes on the definition of “reasonable,” particular accommodation questions, such as exemptions to mandatory vaccination, work-at-home because of COVID-19 concerns, 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 the best/worst undue hardship arguments.

1:15pm – 1:30pm **Break**

1:30pm – 3:15pm **FMLA Compliance and Best Practices**
[Jeff Nowak](#) – Littler Mendelson

New DOL opinion letters and OPM guidance, new developments concerning COVID-19, including the coordination of COVID paid sick leave statutes and FMLA leave, handling requests to work without medical clearance and requests to stay home without medical justification, issues when leave is to care for a family member, practical issues regarding the effect of leave on the measurement of performance goals, the relationship between working from home and approved leave, training supervisors on what not to say and how to recognize notice of need for FMLA leave, how to use notice requirements and re-certifications to combat intermittent leave abuse, how to handle an employee who states their “return to work” date is unknown, and what to do when you suspect fraudulent use of leave.

Don't Forget... Thursday, December 1

1:00pm – 3:00pm **2 Hours –Ethics in Labor and Employment Law Webinar**
[Dennis Duffy](#) with Kane Russell Coleman Logan PC

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, pre-trial 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, settlement and negotiations, and court enforcement of professionalism and civility codes.