



NATIONAL EMPLOYMENT LAW INSTITUTE

43rd Annual

EMPLOYMENT LAW UPDATE

San Diego, CA • July 11-12, 2019 • Catamaran Resort Hotel

Seattle, WA • July 18-19, 2019 • The Arctic Club, A Doubletree by Hilton

Washington, DC • July 25-26, 2019 • W Washington DC

FACULTY

GEORGE W. ABELE, Esq.
*Paul Hastings
Los Angeles, California*

SARAH G. BESNOFF, Esq.
*Paul Hastings
Washington, DC*

TRACY M. BILLOWS, Esq.
*Seyfarth Shaw
Chicago, Illinois*

ELLEN E. BOSHKOFF, Esq.
*Faegre Baker Daniels
Indianapolis, Indiana*

AARON A. BUCKLEY, Esq.
*Paul Plevin
San Diego, California*

JOCELYN R. CUTTINO, Esq.
*Morgan Lewis
Washington, DC*

FELICIA A. DAVIS, Esq.
*Paul Hastings
Los Angeles, California*

RYAN D. DERRY, Esq.
*Paul Hastings
Los Angeles, California*

DENNIS P. DUFFY, Esq.
*Baker Hostetler
Houston, Texas*

DAVID K. FRAM, Esq.
*NELI
Golden, Colorado*

JASON A. GELLER, Esq.
*Fisher & Phillips
San Francisco, California*

ALEXIS C. KNAPP, Esq.
*Little Mendelson
Houston, Texas*

ANDREW R. LIVINGSTON, Esq.
*Orrick
San Francisco, California*

JULIE S. LUCHT, Esq.
*Perkins Coie
Seattle, Washington*

ANDREW MORIARTY, Esq.
*Perkins Coie
Seattle, Washington*

ALEXANDER J. PASSANTINO, Esq.
*Seyfarth Shaw
Washington, DC*

JILL L. ROSENBERG, Esq.
*Orrick
New York, New York*

SABRINA L. SHADI, Esq.
*Baker Hostetler
Los Angeles, California*

KENNETH M. WILLNER, Esq.
*Paul Hastings
Washington, DC*

WED, JULY 10 • OPTIONAL ONE DAY CALIFORNIA EMPLOYMENT LAW UPDATE

8:15 Program Check-In and Continental Breakfast

9:00 Developments in California Employment Law

A review of current developments in California employment law on a variety of topics not otherwise covered in this course, including arbitration, independent contractors, background checks, whistleblowing, release agreements, and privacy, as well as an update on new and potential legislation.

Andrew Livingston

10:30 Refreshment Break

10:45 California Fair Employment & Housing Act (FEHA)

Discussion of the disability provisions of the California Fair Employment and Housing Act, including the latest court cases concerning the definitions of “disability,” “qualified,” and “reasonable accommodation” under FEHA, arguments employers can make in challenging whether an employee has a disability and whether an accommodation sought by the employee is reasonable, the interplay between the ADA and FEHA, and practical considerations for human resources personnel and counsel when facing ADA and FEHA issues.

Sabrina Shadi

12:15 Lunch (Hosted by NELI)

1:15 California Family Rights Act (CFRA)

Analyzing current significant updates to the CFRA, including modified notice requirements, changes to reinstatement rights, and limitations on recertification requests, analyzing overlap with and key differences from the FMLA, and also providing practical guidance on navigating the interplay between the CFRA, FMLA, PDLL, and other California leave laws.

Ryan Derry

2:45 Break

3:00 California Wage and Hour Issues

Explaining recent developments in California-specific wage and hour law including Private Attorneys’ General Act (PAGA) litigation, arbitration, compensable hours worked, meal periods, rest breaks, regular rate of pay, time rounding, the *de minimis* rule, and reporting time pay, plus a summary of local minimum wage and paid sick leave requirements, pending legislation, and cases to watch.

Aaron Buckley

4:30 Adjourn

REGISTRATION AND ORDER FORM

Please accept my registration for the:

2019 EMPLOYMENT LAW UPDATE

- San Diego, CA, July 11-12 • Catamaran Resort Hotel
 Seattle, WA, July 18-19 • The Arctic Club, A Doubletree by Hilton
 Washington, DC, July 25-26 • W Washington DC

Registration Fee:\$995.00

Early Registration Fee:\$945.00

(Paid Registration received by June 19, June 26 and July 3, respectively.)

2019 CALIFORNIA EMPLOYMENT LAW UPDATE

- San Diego, CA, July 10 • Catamaran Resort Hotel

Registration Fee:\$595.00

Discounted Fee if attending July 11-12 also:\$545.00

- I am unable to attend. Please send me:

2019 Employment Law Update Manual

- PDF \$169.00 Print \$189.00 or Both \$229.00 _____

2019 California Employment Law Update Manual

- PDF \$99.00 Print \$119.00 or Both \$159.00 _____

Shipping and Handling (\$13.00 for print copy) _____

Colorado residents add 7.4% sales tax (publications only) _____

TOTAL = _____

Do you require any accommodation, due to a disability, to attend this program? No Yes

(Describe) _____

Please print or type the following information:

NOTE: Name & street address required for UPS delivery of publications.

Name _____

Title _____

Organization _____

Street Address _____

City, State, Zip _____

Business Telephone () _____

Signature _____ Date _____

E-Mail _____

(Note: Confirmations and program announcements sent via e-mail.)

Method of Payment (Prepayment is required):

- Check Enclosed Visa MasterCard AMEX Discover

Card Number _____ Expiration Date _____

Name as it appears on card _____

CLE CREDIT, provide state and bar numbers.

REGISTRATION INFORMATION

Early registration is advised. Registrations will be confirmed by e-mail. On-site registrations are subject to space availability.

Registration Fee: \$995.00 • Early Discounted Fee: \$945.00
“Add On” California Update: \$545.00

Early Registration Cut-Off Dates

San Diego - June 19

Seattle - June 26 • Washington, DC - July 3

Payment in full is required prior to the program.

Group Rates, Discounts and Substitutions are available and permissible. Email neli@neli.org for more information.

Cancellation Policy: Cancellations must be confirmed in writing and addressed to the Registrar. Registrations cancelled more than ten business days prior to the program may elect to receive a full fee credit, or a refund, less a \$150.00 administrative fee. Those cancelled ten or fewer business days prior to the program will receive a fee credit, less a \$250.00 administrative fee. Transfers between cities must be pre-approved. Fee credits may be applied during the next 12 month period to any of the Institute's programs or publications. Paid no-shows will receive the program Manual upon request in full consideration of fees paid. Unpaid cancellations and unpaid no-shows are liable for the registration fee. Any refunds will be processed after the program series concludes.

CONTINUING EDUCATION

The **Employment Law Update** will provide between **12-14.5 CLE / PDC / CEU credits, depending upon the jurisdiction.**

Our **California Update** will provide between **6-7.2 credit hours.**

NELI applies for credit from all MCLE states. Contact us for approval status. To apply for CLE credit, please complete box on registration form. NELI will provide the necessary forms and proof of attendance. NELI is recognized by most professional associations as an approved CEU/CPE provider, and is an approved provider of HRCI and SHRM for recertification credit.

As always, **NELI will file in as many jurisdictions/states as you are licensed for no additional fee**, although registrants need to file for credit on their own behalf in jurisdictions that require it.

REGISTRATION PROCEDURE

MAIL: NELI, P. O. Box 1189, Golden, Colorado 80402

PHONE: (303) 861-5600

8:00 a.m. - 4:00 p.m. Monday - Thursday Mountain Time

8:00 a.m. - 12:00 p.m. Friday Mountain Time

FAX: (303) 861-5665

INTERNET: www.neli.org

EMAIL: registrar@neli.org

HOTEL ACCOMMODATIONS

For NELI's group rate, reservations must be made directly with the hotel (not through a travel agent). Room blocks are limited and group rates cannot be guaranteed after the listed cut-off dates, and may be fully booked before then. Reserve early and state that you are attending NELI's *Employment Law Update*. If you experience difficulty, please call NELI. After the cut-off date, reservations at the group rate are on a space available basis.

San Diego - Catamaran Resort Hotel & Spa

3999 Mission Boulevard, San Diego, CA 92109

(858) 488-1081

Deluxe Garden View - \$315.00 (plus tax)

Reservation cut-off date: June 12, 2019

Seattle - The Arctic Club, A Doubletree by Hilton

700 - 3rd Avenue, Seattle, WA 98104

(206) 340-0340

Run-of-House - \$279.00 (plus tax)

Reservation cut-off date: June 26, 2019

Washington, DC - W Washington DC

515 - 15th Street, NW, Washington, DC 20004

(202) 661-2400

“Spectacular” Room (exterior) - \$319.00 (plus tax)

“Wonderful” Room (interior) - \$299.00 (plus tax)

Reservation cut-off date: July 2, 2019

• Lower rates may be available on hotel websites •

2019 AGENDA

DAY ONE

7:45 Program Check-In & Continental Breakfast

8:30 Developments in EEO Law

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

San Diego - George Abele

Seattle - Felicia Davis

Washington, DC - Ken Willner & Sarah Besnoff

10:45 Refreshment Break

11:00 State and Local Employment Law Update

Exploring the increase in employee protection by the numerous states and municipalities that have enacted their own employment statutes, ordinances and regulations which often differ substantially from their federal counterparts, particularly with respect to protection not found in federal law based on sexual orientation, gender identity, marital or family status and political activities and speech. In addition, we'll examine new state and local laws related to employers' use of background checks, recreational marijuana and other lawful activities, pay equity, and state and local response to the #metoo movement.

San Diego & Seattle - Andrew Livingston

Washington, DC - Jill Rosenberg

12:30 Luncheon (Hosted by NELI)

1:30 Retaliation & Whistleblowing Claims

Determining "protected activity," understanding the expanded concept of "adverse action," how to negate an inference of "causation," third party retaliation, retaliatory harassment, in-house counsel or compliance officer as whistleblower, what constitutes "unreasonable opposition," the rise in "cyber security" whistleblowing and increased regulatory enforcement, plus the continued surge in whistleblower, Dodd Frank and Sarbanes-Oxley issues, including the expanded rights and remedies of the would-be whistleblower, expansion of Sarbanes-Oxley and best practices to help avoid and/or minimize liability.

San Diego & Seattle - Jason Geller

Washington, DC - Jocelyn Cuttino

3:00 Refreshment Break

3:15 Critical Wage and Hour & Misclassification Issues

Overview of the latest court decisions on misclassification, joint employment, non-covered workers, and minimum wage; discussion of new developments regarding hours worked and rate calculation issues; summary of the latest Department of Labor announcements, interpretations, and planned actions; and discussion of best practices for minimizing risk.

San Diego - Ellen Boshkoff

Seattle - Andrew Moriarty

Washington, DC - Alex Passantino

5:00 Adjourn

DAY TWO

7:30 Continental Breakfast

8:00 ADA Update on "Reasonable Accommodation"

Discussion of the latest cases on practical reasonable accommodation issues, including important new cases on the meaning of "reasonable" and why these cases are so useful, what supervisors and HR personnel should be trained to say and document in response to employee requests, what technically triggers the duty to interact, when accommodations are not required, what type of medical information may be requested from the employee, and particular accommodation requests such as leave (including repeated leave extensions), schedule adjustments, change of supervisors, non-competitive reassignment, light duty, work-at-home, shift changes, and a perfume-free workplace.

All locations - David Fram

10:00 FMLA Compliance and Best Practices

What's new in terms of compliance, on-site audits and opinion letters from the Department of Labor, medical certification challenges, effective use of recertifications to combat intermittent leave abuse, the importance of clear and accurate communications, employee notice requirements, practical issues including adjusting performance standards while on leave, allowing an employee to work on leave, references to leave by a supervisor, how to conduct an investigation if fraudulent use of FMLA leave is suspected, and the seemingly never-ending burden of intermittent leave, and more.

San Diego - Tracy Billows

Seattle - Julie Lucht

Washington, DC - Alexis Knapp

10:30 Refreshment Break

10:45 FMLA Compliance and Best Practices (Continued)

11:45 Harassment & Investigations in the "Me Too" Era

Coverage of recent judicial and EEOC developments including what constitutes severe and pervasive conduct, same-sex harassment, when and how to establish an affirmative defense, and actions employers should implement to reduce exposure to liability in the "Me Too" era, including creative preventative strategy solutions (beyond basic harassment training and updating policies) to diagnose and proactively manage workplace culture issues, promote an environment that values respect, and foster open communication important to creating a culture of compliance and mutual respect. Also, the additional legal requirements in harassment investigations, including selecting the right investigator, defining the scope, distinguishing between fact finding and findings of policy and law, balancing confidentiality and the duty to investigate, ensuring prompt thorough investigations, establishing and preserving privilege, investigating misconduct with criminal implications, and/or in the absence of a cooperative complainant.

San Diego - Sabrina Shadi

Seattle & Washington, DC - Dennis Duffy

1:15 Adjourn

REGISTRATION FEE INCLUDES:

- 2019 Employment Law Update Manual (*in both downloadable PDF and print formats*)
- **12 - 14.5 CLE / PDC / CEU hours, depending upon the jurisdiction**, and CLE filing in all states where you are licensed for no additional charge
- Expanded Continental Breakfast both mornings
- Luncheon hosted by NELI, an opportunity to network with other participants and faculty

CALIFORNIA UPDATE REGISTRATION FEE INCLUDES:

- 2019 California Employment Law Update Manual (*in both downloadable PDF and print formats*)
- **6 - 7.2 CLE / PDC / CEU hours, depending upon the jurisdiction**, and appropriate CLE filing
- Expanded Continental Breakfast
- Luncheon hosted by NELI, an opportunity to network with other participants and faculty

NATIONAL EMPLOYMENT LAW INSTITUTE
P.O. Box 1189
Golden, CO 80402
(303) 861-5600
www.neli.org

NON-PROFIT ORG.
U.S. POSTAGE
PAID
SAN DIEGO, CA
PERMIT NO. 397



**IF UNDELIVERABLE TO ADDRESSEE, PLEASE ROUTE TO
EMPLOYMENT LAW DEPARTMENT / HUMAN RESOURCES**

Please send address changes to neli@neli.org



NATIONAL EMPLOYMENT LAW INSTITUTE

43rd Annual

EMPLOYMENT LAW UPDATE

*Focusing on the Most Recent and Complex Issues
Affecting Employment Law and Human Resource Practitioners*

San Diego, CA • July 11-12, 2019 • Catamaran Resort Hotel
Seattle, WA • July 18-19, 2019 • The Arctic Club, A Doubletree by Hilton
Washington, DC • July 25-26, 2019 • W Washington DC

Employment Law Update provides between 12 - 14.5 hours of CLE / PDC / CEU credit.

OPTIONAL ONE DAY

CALIFORNIA EMPLOYMENT LAW UPDATE
San Diego - July 10