NATIONAL EMPLOYMENT LAW INSTITUTE

40th Annual

EMPLOYMENT LAW UPDATE

San Francisco, CA • July 14 - 15, 2016 • Westin St. Francis
Chicago, IL • July 21 - 22, 2016 • Four Seasons Hotel
Washington, DC • July 28 - 29, 2016 • W Washington DC

WED, JULY 13 • OPTIONAL ONE DAY
CALIFORNIA EMPLOYMENT LAW UPDATE

8:30 Program Check-In & Continental Breakfast

9:00 Developments in California Employment Law
A review of recent developments in California employment law on a variety of topics not otherwise covered in this course, including arbitration, trade secrets, background checks, whistleblowing, and privacy, as well as an update on new and potential legislation.

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

10:30 Refreshment Break

10:45 California Fair Employment & Housing Act (FEHA)
Covering recent amendments to FEHA’s anti-discrimination and anti-harassment protections, including the new mandate that employers maintain a detailed written harassment, discrimination, and retaliation prevention policy, modified sexual harassment training obligations, expanded definitions relating to sex discrimination, and updates and best practices regarding the interplay between obligations mandated by FEHA, CFRA, PDLL, and Workers’ Compensation.

AARON L. AGENBROAD, Esq.
Jones Day • San Francisco, California

12:15 Lunch (Hosted by NELI)

1:15 California Family Rights Act (CFRA)
Discussion of recent 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.

CATHERINE S. NASSER, Esq.
Jones Day • San Francisco, California

2:45 Refreshment Break

3:00 California Wage and Hour Issues
Coverage of this expansive and complicated topic will include compensable work time, proper calculation of the regular rate of pay, pay stub configuration, timekeeping, meal period and rest break requirements, commissions plans, wage deductions, business expense reimbursement, new developments regarding overtime exemptions, and many other California-specific wage and hour issues.

ZACH P. HUTTON, Esq.
Paul Hastings • San Francisco, California

4:30 Adjourn
REGISTRATION AND ORDER FORM

Please accept my registration for the:

**2016 EMPLOYMENT LAW UPDATE**
- San Francisco, CA, July 14-15 • Westin St. Francis
- Chicago, IL, July 21-22 • Four Seasons Hotel
- Washington, DC, July 28-29 • W Washington DC

Registration Fee: $945.00
Early Registration Fee: $895.00
(Paid Registration received by June 22, June 29 and July 6, respectively.)

**2016 CALIFORNIA EMPLOYMENT LAW UPDATE**
- San Francisco, CA, July 13 • Westin St. Francis
Registration Fee: $495.00
Discounted Fee if attending July 14-15 also: $445.00

☐ I am unable to attend. Please send me:
- 2016 Employment Law Update Manual
  - CD $149.00  □ Print $169.00 or □ Both $219.00
- 2016 California Employment Law Update Manual
  - CD $99.00  □ Print $119.00 or □ Both $169.00

Shipping and Handling ($9.00 for print copy, no charge for CD)

Colorado residents add 7.3% sales tax (publications only)

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

Early registration is advised. Registrations will be confirmed by email or another method if requested. On-site registrations are subject to space availability.

Registration Fee: $945.00  • Early Discounted Fee: $895.00

“Add On” California Update: $445.00

Early Registration Cut-Off Dates
San Francisco - June 22
Chicago - June 29 • Washington, DC - July 6

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 by email to our 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

This program will provide between 12-14.5 CLE / CEU credits, depending upon the jurisdiction. 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 a State Bar of California MCLE approved provider; is recognized by most professional associations as an approved CEU/CPE provider; SHRM preferred provider, and is an approved provider of HRCI 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.

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REGISTRATION PROCEDURE

MAILING ADDRESS:
NELI, P.O. Box 1189, Golden, Colorado 80402

PHONE: (303) 861-5600, 8:00 a.m. - 4:30 p.m. 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 even before then. Reserve early and state that you are attending NELI’s Employment Law Update to qualify. If you experience difficulty, please call NELI. After the cut-off date, reservations at the group rate are on a space available basis.

San Francisco - Westin St. Francis
335 Powell Street, San Francisco, CA 94102
(415) 397-7000
Traditional - $309.00; Deluxe - $349.00 (plus tax)
Reservation cut-off date: June 22, 2016

Chicago - Four Seasons Hotel
120 East Delaware Place, Chicago, IL 60611
(312) 280-8800
Deluxe King - $330.00 (plus tax)
Reservation cut-off date: June 29, 2016

Washington, DC - W Washington DC
515 - 15th Street, NW, Washington, DC 20004
(202) 661-2400 or (877) 946-8357
“Wonderful” Room - $279.00 (plus tax) • Upgrades Available
Reservation cut-off date: July 6, 2016

• Lower rates may be available on hotel websites •

WASHINGTON, DC
- W Washington DC
515 - 15th Street, NW, Washington, DC 20004
(202) 661-2400 or (877) 946-8357
“Wonderful” Room - $279.00 (plus tax) • Upgrades Available
Reservation cut-off date: July 6, 2016

• Lower rates may be available on hotel websites •
2016 AGENDA

DAY ONE

7:45 Program Check-In & Continental Breakfast

8:30 Developments in EEO Law
Annual 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 Francisco - Jeff Wohl
Chicago - Ken Gage
Washington, DC - Ken Willner

10:30 Refreshment Break

10:45 State and Local Employment Law Update
Exploring the numerous states and municipalities that have enacted their own employment laws, many prohibiting discrimination based on sexual orientation, gender identity, and marital or family status, and how they differ from their federal counterparts on scope of coverage, burdens of proof, procedures, and remedies, and an examination of new state and local laws expanding employee workplace rights and benefits, restrictions on employers’ use of background checks and expanded paid sick leave and pay equity laws.
San Francisco - Andrew Livingston
Chicago & Washington, DC - Jill Rosenberg

12:00 Luncheon (Hosted by NELI)

1:00 Expansion of Retaliation & Whistleblowing Claims
Determining “protected activity,” what employer conduct negates an inference of “causation,” third party retaliation, retaliatory harassment, in-house counsel or compliance officer as whistleblower, what constitutes “unreasonable opposition,” and 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 Francisco - Jason Geller
Chicago - Joe Schmitt
Washington, DC - Mark Oberti

2:15 Tricky Independent Contractor Misclassification
Covering the contentious issue of “employee” vs. “independent contractor,” the DOL’s Misclassification Task Force and its controversial new “interpretation” addressing the “sirisued workplace” and expansively interpreting “joint employer,” and the continued surge in whistleblowing, 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 Francisco - John Fox
Chicago - Steve Sufias
Washington, DC - Denise Keyser

3:30 Refreshment Break

3:45 The eWorkplace: Restricting Employees’ Use of Technology, Social Media and The Cloud
Examining workers’ privacy and organizations’ information-security as employees decide how to restrict, monitor and scrutinize employees, applicants and litigants inside and outside the workplace’s physical and virtual walls, the ever-growing “Cloud,” employers’ rights to limit employees’ personal SNS postings, implications of BYOD, prohibitions on forced disclosure of personal logins/passwords, proactive steps to minimize risks of data theft/breaches, litigation discoverability of SNS posts, photos and messages, and compliant background checks.
San Francisco - Laura Maechtlen
Chicago - Adam Forman
Washington, DC - Doug Towns

5:00 Adjourn

DAY TWO

7:30 Continental Breakfast

8:00 Harassment & Investigations
Coverage of recent judicial and EEOC developments including what constitutes severe and pervasive conduct, same-sex harassment, when/how to establish an affirmative defense, and actions employers should implement to reduce exposure to liability. Also, conducting internal investigations and the additional legal requirements (and higher stakes) in harassment/discrimination investigations, including selecting the right investigator, defining the scope, distinguishing between fact finding and findings of policy/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 Francisco - Dennis Duffy & Sabrina Shadi
Chicago & Washington, DC - Dennis Duffy

9:30 ADA Update: Reasonable Accommodation
Discussion of new developments on reasonable accommodation, including cases on the definition of “reasonable” and whether “cost/benefit” or “futility” can be argued, what “triggers” the interactive process, and particular accommodation questions, such as whether/how much “leave” (including a repeated leave extension) is required and how this interplays with the FMLA, whether modified schedules, reduced workloads, non-competitive reassignment, an “irritant-free” environment, light duty, work-at-home, shift changes, or parking spaces are required, whether discipline must be rescinded as an accommodation, and undue hardship issues.
All Locations - David Fram

10:30 Refreshment Break

10:45 ADA Update • continued

11:15 FMLA Practice & Pitfalls
Analyzing FMLA notice issues with today’s technology, including what employers should do to confirm receipt of communications. For example: Is a text sufficient notice of an employee’s need for leave? To what extent can an employer enforce call-in procedures? In addition, how to handle untimely or unclear medical certifications, what is “diligent good faith,” developments regarding what constitutes “care” for a family member, and investigating fraudulent use of leave and the “honest belief” defense.
San Francisco - Julie Lucht
Chicago - Jeff Nowak
Washington, DC - Megan Norris

12:30 Case Study on Overlap of ADA, FMLA and Related Issues
Interactive session analyzing a factual scenario likely to arise in the workplace, including practical strategies for managing an employee on medical leave.
San Francisco - David Fram & Julie Lucht
Chicago - David Fram & Jeff Nowak
Washington, DC - David Fram & Megan Norris

1:15 Adjourn

REGISTRATION FEE INCLUDES:
• 2016 Employment Law Update Manual (in both searchable CD and print formats)
• 12 - 14.5 CLE / 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
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