



# Employment Law Conference Webinar

November 14-16, 2023

11:30am – 3:15pm Eastern Time

\*AGENDA SUBJECT TO CHANGE

## Tuesday, November 14

11:30am – 1:15pm “Reasonable Accommodation” Under the ADA & Rehabilitation Act

[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environment, shift changes, supervisor changes, or reserved parking spaces are required, whether discipline must be rescinded as an accommodation, and where the funds for accommodations should come from.

1:15pm – 1:30pm *Break*

1:30pm – 3:15pm NLRB Update

[Daniel Johns](#) – Cozen O'Connor

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.

## Wednesday, November 15

11:30am – 1:15pm 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 whistleblower claims, including expanded rights and remedies of the would-be whistleblower, and best practices to help avoid and/or minimize liability, especially now.

1:15pm – 1:30pm *Break*

1:30pm – 3:15pm Wage and Hour & Misclassification Issues

[Samantha Rollins](#) and [Andrew Murphy](#) – Faegre Drinker

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.

## Thursday, November 16

11:30am – 1:15pm FMLA Compliance and Best Practices

[Sara Fowler](#) - 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.

1:15pm – 1:30pm *Break*

1:30pm – 3:15pm Developments in EEO Law

[Cameron Fox](#) and [Chris Jalian](#) - 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.

## Don't Forget... Wednesday, December 6

1:00pm – 3:00pm 2 Hours – Ethics in Labor and Employment Law Webinar

[Jennifer S. Cluverius](#) – MaynardNexsen and [Carolina Bravo-Karimi](#) – Wilson Turner Kosmo

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.