



EMPLOYMENT LAW CONFERENCE

MID-YEAR WEBINAR

May 14-16, 2024

*AGENDA SUBJECT TO CHANGE

Tuesday, May 14

11:30am – 1:15pm (Eastern) Developments in EEO [Elizabeth Minoofar & Eric Distelburger](#) 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 Wage and Hour & Misclassification Issues [Shannon Farmer](#) Ballard Spahr

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. Joint employer theories and cases and actual or constructive knowledge of time worked required to prove a claim will also be covered.

Wednesday, May 15

11:30am – 1:15pm (Eastern) Retaliation and Whistleblowing Claims [Jill Rosenberg & 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 Harassment and Investigations [Mark Bakker & Jennifer Cluverius](#) Maynard Nexsen

Update on 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, including preventative strategies, beyond basic harassment training and updating policies, to diagnose and proactively manage workplace culture issues, promote an environment that values respect, and fosters 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, and the unique challenge of conducting “remote” investigations.

Thursday, May 16

11:30am – 1:15pm (Eastern) ADA Update: “Reasonable Accommodation” [David K. Fram](#) NELI

Latest developments on practical 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, 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 [Sara Fowler](#) Seyfarth Shaw

DOL’s focus in 2023, the continuing difficulties in dealing with medical certifications and best practices, leave to care for a family member, practical issues regarding the effect of leave on the measurement of performance goals, 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.

Ethics – June 5, 2024

**1:00pm – 3:00pm (Eastern) 2 Hours – Mid-Year Ethics in Labor and Employment Law Webinar – Live or Rebroadcast
Speaker: [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.