

Agenda

The American Employment Law Council

Seventeenth Annual Conference – Ritz-Carlton Laguna Niguel, Dana Point, California
October 21-24, 2009

Employment Challenges in a New Administration and Global Economic Crisis

The Obama Administration has set the stage for a heightened level of activity on the labor and employment front – with significant legislation signed and pending, and with new appointments invigorating the regulatory agencies. At the same time, the global economic crisis has created additional challenges for employers seeking to manage their workforce. This year's Conference, more than any in the recent past, will focus on the most pressing, important and challenging issues facing employers today – including companies doing business in the US and abroad. The presentations, panels, workshops and discussion groups have been designed to bring together experienced inside and outside counsel who can offer their most helpful insights on dealing with these challenges.

Wednesday, October 21, 2009

5:00 p.m. **Early Registration Open**

6:00 p.m. **Reception**

Thursday, October 22, 2009

7:15 a.m.-8:00 a.m. **Continental Breakfast**

7:30 a.m.-2:00 p.m. **Registration Open**

8:00 a.m.-8:15 a.m. **Welcome and Greetings**

Hope Eastman
Chairperson,
AELC Board of Directors

Paley, Rothman, Goldstein, Rosenberg, Eig & Cooper, Chtd
Bethesda, MD

Michael Reiss
2008-09 Program Chair

Davis Wright Tremaine LLP
Seattle, WA

8:15 a.m.-9:15 a.m. **Panel: The Most Pressing/Challenging Issues Facing Companies Today**

This panel of inside counsel from a diverse group of companies will discuss the most important, difficult and pressing employment issues that they face in these challenging times. The issues that they identify, and ideas for handling them, will be a major focus of the presentations, workshops and small group discussions throughout the rest of the Conference.

Moderator:

Barry Hartstein Morgan, Lewis & Bockius LLP
Chicago, IL

Michele Gammer Microsoft
Associate General Counsel Redmond, WA

Jane Howard-Martin Toyota Motor Sales, USA
Assistant General Counsel Torrance, CA
Labor & Employment

Jocelyn Hunter Home Depot, USA, Inc.
Vice President-Legal, Atlanta, GA
Employment & Labor

John R. Johnson PNC Financial Services Group, Inc.
Chief Counsel, Employment Pittsburgh, PA

9:15 a.m.-10:15 a.m. **The View from D.C.; What the Regulatory Agencies, Congress and the Administration Are Up To**

What employers need to know, what they can expect, and what they can do about the new legislation and regulations coming out of the new lineups at the EEOC, OFCCP, NLRB, Congress and the Obama Administration.

Moderator:

David S. Fortney Fortney & Scott, LLC
Washington, DC

Ronald S. Cooper Steptoe & Johnson LLP
(former EEOC General Counsel) Washington, DC

Randel K. Johnson Labor, Immigration and Employee Benefits
Senior Vice President U.S. Chamber of Commerce
Washington, DC

Howard M. Radzely Morgan, Lewis & Bockius LLP
(former Deputy Sec'y of Labor) Washington, DC

10:15 a.m.-10:30 a.m. **Break**

10:30 a.m.-11:30 a.m. **Lessons on EFCA; Learning from Wal-Mart's Canadian Experience**

While some aspects of EFCA appear to have been derailed for the time being, organized labor will continue to push the Administration for whatever it can get. This panel will provide an up-to-the-minute analysis of the legislation and its implications for employers and will offer lessons learned from the riveting story behind Wal-Mart's battle with the forces of unionization in Canada – from the initial campaign through first contract arbitration.

Moderator:

Barry Hartstein

Morgan, Lewis & Bockius LLP
Chicago, IL

Danny J. Kaufer

Heenan Blaikie LLP
Montreal, Quebec, Canada

Robert M. Vercruysse

Vercruysse Murray & Calzone, P.C.
Bingham Farms, MI

11:30 a.m.-12:45 p.m. **Key European and Asian Challenges for the US Multinational Employer**

This panel will discuss the most significant changes in legislation and case law in Europe and Asia affecting multinational employers – including the new European Works Council Directive, issues involving discrimination, temporary agency workers, right to strike and other recent labor and employment developments, as well as similar topics coming from Asia.

Moderator:

Ming Henderson-Vu Thi
Senior Employment Counsel
Europe Middle East Africa

Oracle Corporation
Reading, England

Bryan Dunne

Matheson Ormsby Prentice
Dublin, Ireland

K. Lesli Ligorner

Paul Hastings Janofsky & Walker LLP
Shanghai, China

Dr. Gerlind Wisskirchen

CMS Hasche Sigle
Cologne, Germany

1:00 p.m.-3:00 p.m. **Corporate Counsel; Outside Counsel and Managing Partner/Practice Group Chair Lunches/Discussion Groups**

Back by popular request, these three small-group sessions are designed to provide private, informal settings for corporate counsel, outside counsel, and attendees who are managing partners or practice group leaders to meet with their counterparts and discuss in greater detail some of the issues raised in the morning sessions and also the special issues that their respective roles involve.

6:15 p.m.-7:00 p.m. **Welcome and Introduction for New Attendees**

This is an opportunity for new, first- or second-year attendees to meet with the AELC's Board of Directors and Advisory Board Members and to learn more about the AELC.

7:00 p.m. **Wine-Tasting/Dinner (heavy hors d'oeuvres)**

Friday, October 23, 2009

7:15 a.m.-2:00 p.m. **Registration Open**

7:15 a.m.-8:00 a.m. **Continental Breakfast**

8:00 a.m.-8:15 a.m. **Welcome and Announcements**

8:15 a.m.-10:15 a.m. **Implications of the Ledbetter Fair Pay Act, the Ricci Decision and the Challenges in Assessing Employee Performance**

This experienced panel will address post EPA cases and the range of legal and practical issues associated with "other practices" related to the discriminatory pay decision, including performance, promotion, and assignment. They will address document development; record-keeping; discovery and evidentiary issues in litigation of pay claims. The panel will also address important aspects of objective and subjective performance assessments, best practices and pitfalls in use of past performance reviews, taking corrective actions and assessing "strong evidence" post-*Ricci*.

Moderator:

Gary R. Siniscalco

Orrick, Herrington & Sutcliffe LLP
San Francisco, CA

Mark S. Dichter

Morgan, Lewis & Bockius LLP
Philadelphia, PA

Eric D. Reicin
Senior Vice President and
Deputy General Counsel

Sallie Mae
Reston, VA

Nancy E. Rafuse

Ashe Rafuse & Hill LLP
Atlanta, GA

Kathleen Lundquist
President

APT, Inc.
Darien, CT

Richard M. Rufolo
Vice President – Legal

UPS, Inc.
Atlanta, GA

10:15 a.m.-10:30 a.m. **Break**

10:30 a.m.-11:30 a.m. **Legal and Practical Issues of Compensation and Pay Equity**

This high-level presentation will examine the emerging legal issues involving compensation decisions, including the problems of broad banding and challenges involving pay equity and statistical analyses.

Gary R. Siniscalco
Moderator

Orrick, Herrington & Sutcliffe LLP
San Francisco, CA

Nancy Abell

Paul, Hastings, Janofsky & Walker, LLP
Los Angeles, CA

Michael P. Ward, Ph.D.
Senior Vice President

Welch Consulting, Inc.
Santa Monica, CA

11:30 a.m.-12:45 p.m. **Managing Downsizing Pressures; Restructuring the Workforce; and Alternatives to Layoffs**

As companies struggle with economic pressures, many have explored alternatives to layoffs. This panel will discuss the legal and practical issues, pitfalls, lessons learned and best practices regarding furloughs, reduced work hours, pay freezes, salary caps, reductions in pay, and the like. A segment will address the special transnational considerations of American companies that also do business abroad.

Moderator:
Barbara J. D'Aquila

Fulbright & Jaworski LLP
Minneapolis, MN

W. Carl Jordan

Vinson & Elkins
Houston, TX

Mark A. Nordstrom
Sr. Counsel – Labor and Employment Law

General Electric Company
Fairfield, CT

Matthew Swaya, Vice President,
Assistant General Counsel,
Labor and Employment, and

Starbucks
Seattle, WA

Global EEO Initiatives

12:30 p.m.-1:30 p.m. **Lunch**

1:30 p.m.-4:00 p.m. **Afternoon Workshops –**

These four small-group workshops led by experienced inside and outside counsel will give participants an opportunity to discuss in greater depth some of the areas of their greatest concern.

1:30 p.m.-2:45 p.m.

Managing Accommodation Requests –Best practices for managing requests for accommodation based on religion and disability.

Sarah Kelly

Cozen O’Connor
Philadelphia, PA

**Carolyn H. Ladd
Counsel**

Boeing
Seattle, WA

Fighting Class Actions – A discussion of techniques for dealing with motions for certification of collective and class actions.

Laura M. Franze

Hunton & Williams LLP
Dallas, TX

2:45 p.m.-4:00 p.m.

Dealing with Labor in the New Environment – Training supervisors and managing messaging to employees in the context of EFCA and increased labor activity.

Steven D. Wheelless

Steptoe & Johnson LLP
Phoenix, AZ

Complex Labor and Employment Issues in the Sale or Acquisition of a Business Unit – A hands-on, detailed session on how best to deal with the variety of labor and employment issues that arise in the sale or acquisition of a business unit.

**Gloria Cheatham
(former) Chief Counsel -
Labor, Employment & Employee Benefits**

Georgia-Pacific
Atlanta, GA

6:00 p.m.-8:00 p.m. **Reception**

Saturday, October 24, 2009

7:15 a.m.-8:00 a.m. **Continental Breakfast**

8:00 a.m.-8:15 a.m. **Welcome and Announcements**

8:15 a.m.-9:30 a.m. **EEO Update**

Paul Grossman's annual update of significant EEO decisions has become a regular and indispensable feature of the AELC Conference. This past year has been a banner year for significant cases, which Paul will analyze and discuss.

Paul Grossman

Paul, Hastings, Janofsky & Walker, LLP
Los Angeles, CA

9:30 a.m.-10:30 a.m. **The Latest on Leaves**

What corporate counsel and outside counsel need to know about the most significant new legislation, regulations and cases involving leaves under the FMLA and ADA – and practical advice for managing the more complicated issues that arise.

Lawton H. Humphrey

Davis Wright Tremaine LLP
Seattle, WA

Janice M. D'Amato
Senior Counsel and
Corporate Secretary

Paccar Inc
Bellevue, WA

10:30 a.m.-10:45 a.m. **Break**

10:45 a.m.-11:45 a.m. **Saving Clients From Themselves: Ethical Challenges for Counsel Advising Executives and Business Units: How Far Do You Go in Pressing Your Advice, and Where Do You Draw the Line?**

Both inside corporate counsel and outside counsel in law firms often struggle with what to do when business unit leaders react or ignore their most thoughtful advice and are about to embark on a potentially discriminatory or otherwise unlawful course of action. How far should counsel go in pressing their advice? Where might or must they draw the line against conduct that may be illegal as well as unwise? To what extent should or must counsel take action to avoid appearing to ratify (or facilitate) such conduct? A leading ethicist will moderate a panel of inside and outside counsel in exploring the important issues.

Moderator:
Dennis Duffy

Baker Botts LLP
Houston, TX

Panelists:

Lawrence Ashe

Ashe, Rafuse & Hill, LLP
Atlanta, GA

John R. Johnson
Chief Counsel –
Employment

PNC Financial Services Group, Inc.
Pittsburgh, PA

Jocelyn Hunter
Vice President-Legal,
Employment & Labor

Home Depot USA, Inc.
Atlanta, GA

11:45 a.m.-Noon	Closing Remarks
Noon	Adjourn
6:30 p.m.	Program Chair’s Reception