

8:15 a.m. - 9:15 a.m.

Looking Ahead In The Workplace – Corporate Counsel Roundtable

As in-house counsel look back over the past year and plan ahead, inside counsel will provide candid insights on key employment issues faced over the past year and discuss anticipated challenges over the coming year both in the U.S. and around the globe. The issues they identify, and approaches to managing them, will be a major focus of the presentations, workshops and small group discussions throughout the rest of the Conference.

Moderator:

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

General Electric Company
Fairfield, CT

Speakers:

Jocelyn J. Hunter
Vice President-Legal,
Employment & Labor

Home Depot, USA, Inc.
Atlanta, GA

Mary Riley
Associate General Counsel and Director-
Employment

Genentech, Inc.
San Francisco, CA

Christopher P. Reynolds
Vice President and General Counsel

Toyota Motor Sales
Torrance, CA

Randy L. Shapiro
Vice President and General Counsel

The Newsweek/Daily Beast
Company
New York, NY

9:15 a.m. - 10:15 a.m.

Subjectivity In The Workplace In A Post *Dukes* World

Employers have long known that subjectivity cannot be totally eliminated in making pay decisions, evaluating performance, and determining promotions, but establishing a legally compliant framework for subjective decision making continues to challenge employers today. This panel will begin by reviewing the legal framework for developing a defensible subjective process, then we will hear from two organizational psychologists about the types of programs frequently designed in settlement and the prevalence of their use among major employers. The results of a survey conducted by SHRM and APT will be shared.

Moderator:

Gary S. Siniscalco
Partner

Orrick Herrington & Sutcliffe
San Francisco, CA

Speakers:

Camille Olson
Partner

Seyfarth Shaw
Chicago, IL

Kathleen K. Lundquist, Ph.D.
President & CEO

APT, Inc.
Darien, CT

Mark Schmit
Director of Research

Society for Human Resource
Management
Alexandria, VA

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

10:30 a.m. - 11:30 p.m. **Developing Compliant Compensation Systems In The Wake Of
Renewed Challenges To Compensation Practices**

While the Paycheck Fairness Act was defeated in the Senate, pay equity continues to be front and center by the Obama administration. Following a review of recent developments highlighting the renewed focus on pay equity, attention will then shift to practical recommendations for developing effective and defensible pay practices.

Moderator:

Nancy Rafuse
Partner

Ashe, Rafuse & Hill
Atlanta, GA

Speakers:

Mark S. Dichter
Partner

Morgan Lewis & Bockius LLP
Philadelphia, PA and London, U.K.

Nita Beecher
Senior Leader,
Workplace Compliance and Employment Law

Mercer/ORC Networks
St. Louis, MO/Washington, D.C.

Elizabeth Finn Johnson
Senior Litigation & Employment
Counsel

The Coca-Cola Company
Atlanta, GA

11 :30 a.m.- 12:30 p.m. **Strengthening Cultures Of Compliance And Workforce
Challenges In The Wake Of Dodd-Frank**

The whistleblower provisions of the Dodd-Frank Act create unprecedented financial and other incentives for reporting alleged corporate wrongdoing to the government, as well as significantly expand anti-retaliation provisions of several statutes that apply to employee-whistleblowers. These changes warrant re-examination of internal corporate compliance programs, particularly with regard to self-policing efforts, and compound management challenges related to the employee-whistleblower. Knowledgeable inside and outside counsel will discuss approaches to adapting compliance programs, including internal reporting and related protocols, in response to Dodd-Frank, as well as review changes in the law relating to whistleblower protections and practical measures in light of the elevated risk of retaliation claims.

Moderator:

Allen Dinkoff
Counsel

Weil, Gotschal & Manges
New York, NY

Speakers:

W. Carl Jordan
Partner

Vinson & Elkins
Houston, TX

John R. Johnson
Chief Counsel, Employment

PNC Financial Services Group, Inc.
Pittsburgh, PA

Chekisha A. Mitchell
Senior Counsel

The Boeing Company
Chicago, IL

- 12:30 p.m. **Buffet Lunch** (continued in discussion groups)
- 1:00 p.m. - 3:00 p.m. **Corporate Counsel; Outside Counsel and Managing Partner/ Practice Group Lunches**
- 7:00 p.m. **Reception and dinner for all registrants**

Friday, October 21, 2011

- 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. - 9:30 a.m. **Class Certification Issues In A Post- *Dukes v Wal-Mart* Environment.**

The Supreme Court is expected to issue its ruling in *Dukes v. Wal-Mart* during the Summer of 2011. Will it set new ground rules for employment class action litigation? How will it impact on the requirements of Rule 23 and scope of discovery in employment discrimination class actions? This session will focus on discovery-related issues, use of experts and class certification in a post- *Dukes v. Wal-Mart* environment.

Moderator:

Terence G. Connor
Partner

Hunton & Williams, LLP
Miami, FL

Speakers:

Nancy Abell
Partner

Paul Hastings Janofsky & Walker LLP
Los Angeles, CA

Mark A. Perry
Partner

Gibson, Dunn & Crutcher
Washington, D.C.

Michael Ward
Vice President

Welch Consulting
Santa Monica, CA

- 9:30 a.m. - 10:30 a.m. **New and Expanded Challenges In Dealing With The EEOC And OFCCP.**

Over the past year the EEOC has continued to focus on systemic issues and has taken a more aggressive and expansive approach in systemic investigations, including Commissioner charges and nationwide requests for data spanning a period of years, with the threat of subpoena litigation. OFCCP also has been more aggressive than ever with an expanded regulatory agenda and particular focus on pay equity issues. This panel will discuss recent developments by these two agencies focusing on systemic issues and provide practical guidance in dealing with these agencies on such issues.

Moderator:

Terrence H. Murphy
Shareholder

Little Mendelson, P.C.
Pittsburgh, PA

Speakers:

Eric S. Dreiband
Partner

Jones Day
Washington, D.C.

David S. Fortney
Partner

Fortney & Scott LLP
Washington, D.C.

Richard M. Rufolo
Vice President, Legal

UPS
Atlanta, GA

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

10:45 a.m. – 12:00 p.m. **Creative Solutions Dealing With Class And Collective Actions, Including Approaching Potential Class Arbitration Based On *ATT Mobility v. Concepcion***

Employers have continued to witness a flurry of class and collective actions, particularly in the wage and hour area. What have been the most effective strategies in limiting the scope and settling such actions? Are individual settlements with uncertified class members a viable option? Does *ATT Mobility v. Concepcion* mean that employers should adopt and/or modify arbitration provisions to limit class arbitration or are there traps for the unwary? These are just a few of the issues to be addressed in what will clearly will be a lively session.

Moderator:

Hunter Hughes
Partner

Rogers & Hardin LLP
Atlanta

Speakers:

Lynne C. Hermle
Partner

Orrick, Herrington & Sutcliffe, LLP
Palo Alto, CA

Richard Alfred
Partner

Seyfarth Shaw LLP
Boston, MA

Paul W. Cane, Jr.
Partner

Paul, Hastings, Janofsky & Walker
LLP
San Francisco, CA

Douglas W. Phillips
Assistant General Counsel

CVS Caremark Corporation
Woonsocket, RI

12:00p.m -1:00 p.m. **Lunch**

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

These four workshops, led by experienced inside and outside counsel, will give participants an opportunity to discuss topics in greater depth.

1:00 p.m. - 2:15 p.m.

Dealing with Concerted Activity In A Non-Union Environment - Over the past year, a reinvigorated NLRB has broadened its reach, including renewed interest in what it views as protected “concerted activity” by non-union employees. While the NLRB action involving *American Medical Response* based on the negative depiction of the Company on Facebook received significant attention, recent actions by the NLRB clearly indicate that employers need to more closely monitor this area of the law. This session will focus on the current state of the law, other recent actions by the NLRB and practical advice dealing with this evolving area of the law.

Moderator:

Nigel Telman
Partner

Proskauer Rose LLP
Chicago, IL

Speakers:

Lawrence C. DiNardo
Partner

Jones Day
Chicago, IL

Richard S. Cohen
Partner

Jackson Lewis LLP
Phoenix, AZ

Challenges for Employers With A Multinational Workforce – Employers with international operations are continuously challenged by complying with numerous and sometimes conflicting laws, unique labor relations issues and other cross border challenges. This panel will discuss some of these challenges, including dealing with internal investigations and conflicting laws of employee privacy, the right of employers in the EU and elsewhere to retire staff, and how employers should respond to campaigns by human rights organizations to comply with international standards.

Moderator:

Danny Kaufer
Partner

Heenan Blaikie, PC
Montreal, Quebec

Speakers:

Isabelle I.H.Wan
Partner

Trans Asia Lawyers
Beijing/Shanghai/Hong Kong,
China

Keith Corkan
Partner

Laytons Solicitors
London, U.K.

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

General Electric Company
Fairfield, CT

2:15 p.m. - 3:30 p.m.

The ADAAA And GINA- A Compliance Update And Where Are Employers At Risk Today?

Where have the compliance challenges been greatest for employers under the ADA and GINA since issuance of the final regulations under the ADAAA and GINA? Where has the EEOC placed its focus of late? What is the EEOC's current view regarding the scope of "reasonable accommodation" and the burden being placed on employers to demonstrate "undue hardship?" What flexibility, if any, do employers have in dealing with leave of absence policies? What are today's litigation battles and where will they be heading over the coming year? These are just a few of the questions that will be addressed during this update on the ADA and GINA.

Moderator:

Dan Turner
Partner

Ogletree Deakins
Atlanta, GA

Speakers:

Eugene Scalia
Partner

Gibson, Dunn & Crutcher,
LLP
Washington, D.C.

Richard M. Rufolo
Vice President, Legal

UPS
Atlanta, GA

Effective Use Of Social Science Experts In Employment Litigation.

Regardless of the outcome of *Dukes v. Wal-Mart*, employment discrimination class actions will not disappear. Part of the tool-kit for plaintiffs' lawyers today is carting out their social science experts, whether it involves Bielby or a reasonable facsimile. This session not only will focus on recent developments regarding the use of social scientists in discrimination class actions, but also provide practical tools in preparing for deposing such experts and effective means in challenging such experts.

Moderator:

Jeffrey S. Klein

Weil Gotshal & Manges
New York, NY

Speakers:

Allan G. King
Shareholder

Littler Mendelson, P.C.
Dallas, Texas

Gregory Mitchell, J.D. & Ph.D.
Professor of Law

University of Virginia
School of Law & LASSC,
LLC
Charlottesville, VA

6:15 p.m. Reception for all attendees

7:00 p.m. Bus departure for Speakers' Dinner

Saturday, October 22, 2011

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**

All of us always look forward to the annual update of significant EEO decisions over the past year, as presented by Paul Grossman. The session will begin with a Q and A format on several key developments over the past year followed by Paul's annual update on EEO developments.

Moderator:

Michael Reiss

Davis Wright Tremaine LLP
Seattle, WA

Speakers:

Paul Grossman

Paul Hastings Janofsky &
Walker LLP
Los Angeles, CA

9:30 a.m. - 10:30 a.m. **The New Battleground - The Employee Selection Process**

Employers continue to grapple with a number of screening devices, including criminal and credit history and other screening/testing devices, including potential reliance on the internet in the pre-employment process. In some situations, such as dealing with criminal history records, employers appear to be on the horns of a dilemma in choosing between negligent hiring claims and being confronted with a discrimination charge and systemic investigation by the EEOC. This session will focus on recent legal developments in this emerging area of the law and provide practical guidelines for compliance.

Moderator:

Eric D. Reicin
Senior Vice President and
Deputy General Counsel

Sallie Mae, Inc.
Reston, VA

Speakers:

R. Lawrence Ashe, Jr.
Partner

Ashe, Rafuse & Hill
Atlanta, GA

Donald R. Livingston

Akin Gump Strauss Hauer &
Feld, LLP
Washington, D.C.

Kathleen K. Lundquist, Ph.D.
President & CEO

APT, Inc.
Darien, CT

Glenn A. Brown
Vice President and Lead Counsel
Screening and Health Care

LexisNexis
Alpharetta, GA

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

Break

10:45 a.m. - 11:45 a.m.

Ongoing Challenges With Internal Investigations, Including Ethical Considerations To Be Considered

Are there any ethics traps that need to be addressed when employment counsel take on compliance roles, including responsibility for internal investigations? When should outside counsel be involved in internal investigations? What limits should be placed on notifying others regarding the results of an internal investigation? How should anonymous complaints be handled? An attorney who focuses on ethics-related issues and in-house counsel responsible for compliance-related activities and internal investigations will provide some lessons learned in taking on compliance roles within their respective organizations.

Moderator:

Barbara J. D'Aquila
Partner

Fullbright & Jaworski LLP
Minneapolis, MN

Speakers:

Dennis P. Duffy

Baker Botts
Houston, TX

Matthew E. Swaya
Vice President and Assistant General
Counsel

Starbucks Coffee Company
Seattle, WA

Maryrose Maness
SVP & Chief Employment
and Corporate Infrastructure Counsel

Warner Music Company
New York, NY

Craig Margolis

Vinson & Elkins LLP
Washington, DC

11:45 – Noon

Closing Remarks

6:00 p.m.

Reception by Program Chair

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