

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

The Most Pressing/Challenging Issues Facing Companies In An Emboldened Obama Administration, Troubling Court Decisions And the Ever Challenging Legal Issues Around the Globe

The Obama administration has sent a strong message that we will be faced with more employee friendly legislation and a more emboldened EEOC and DOL. Following an update on legislative activity in Congress and at the Federal Agencies, 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:

Barbara J. D'Aquila

Fulbright & Jaworski LLP
Minneapolis, MN

Speakers:

Nancy Lee
Senior Counsel

Google Inc.
Mountain View, CA

Jocelyn Hunter
Vice President-Legal,
Employment & Labor

Home Depot, USA, Inc.
Atlanta, GA

John R. Johnson
Chief Counsel, Employment

PNC Financial Services Group, Inc.
Pittsburgh, PA

Randel K. Johnson
Senior Vice President

Labor, Immigration and Employee Benefits
U.S. Chamber of Commerce
Washington, D.C.

9:15 a.m. - 10:45 a.m.

The World of Employee Privacy - Managing Employee Privacy in a Global Work Environment.

Employers gather and have access to untold amounts of data regarding their employees. There are a growing number of restrictions in the U.S. and abroad involving limitations on access, collection, use, and cross border transfer of employee information and data. Recent case developments and best practices will be discussed involving a broad range of situations, including pre-employment and company investigations, particularly involving issues of technology and social media.

Moderator:

Ann Fromholz
Senior Counsel
Labor & Employment

ConocoPhillips
Houston, TX

Speakers:

Christine Lyon

Morrison Foerster
Palo Alto, CA

Apalla Chopra

O'Melveny & Myers, LLP
Los Angeles, CA

Mark Howitson
Deputy General Counsel

Facebook, Inc.
Palo Alto, CA

10:45 a.m. - 11:00 a.m. **Break**

11:00 a.m. - 12:30 p.m. **The World of Employer Privacy: Protecting and Enforcing Trade Secrets & Restrictive Covenants**

Ranging from protection and investigation advice, to court enforcement, how can employers protect their information crown jewels and fairly limit employees from going to the competition? For large and small companies, this can be especially complex when dealing with privacy and e-discovery obstacles in non-U.S. jurisdictions. The panel will address best practices, court attitudes on restraints, and strategies for discovery and enforcement in the U.S. and dealing with events that cross into foreign jurisdictions.

Moderator:

Nigel Telman

Proskauer Rose
Chicago, IL

Speakers:

Mike Delikat

Orrick, Herrington & Sutcliffe, LLP
New York, NY

Ron Wills
Senior Corporate Counsel
& Legal Risk Manager

McAfee, Inc.
Plano, TX

Gilbert R. Serota

Howard Rice Nemerovski Canady
Falk & Rabkin
San Francisco, CA

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**

6:00 p.m. - 7:00 p.m. **Welcome and Introduction for New Attendees (For New Attendees for this year and last year)**

7:00 p.m. **Reception and dinner for all registrants**

Friday, October 22, 2010

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. - 9:15 a.m. ***Dukes v Wal-Mart*: What are its implications in employment discrimination class actions?**

What is the impact of the *Dukes v. Wal-Mart* decision when litigating class actions? How far will the courts now go in performing a so-called “rigorous analysis” to ensure that the prerequisites of Rule 23 have been satisfied? How will it impact the scope of discovery in employment discrimination class actions? What does it mean in the potential trial of employment discrimination class actions? These are some of the questions that will be addressed as courts continue to wrestle with the scope and impact of *Dukes v Wal-Mart*.

Moderator:

Nancy Rafuse

Ashe, Rafuse & Hill
Atlanta, GA

Speakers:

Mark Perry

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

Michael Reiss

Davis Wright Tremaine LLP
Seattle, WA

Barbara Berish Brown

Paul Hastings Janofsky & Walker LLP
Washington, D.C.

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

Pay Discrimination: Lessons Learned from *Novartis* and Systemic Pay Issues in a Post-Ledbetter Fair Pay Act and *Ricci* Environment

This session will focus on recent legal, legislative and case developments involving pay discrimination and practical guidelines in dealing with this thorny issue. Lessons learned from the recent *Novartis* jury trial involving pay pattern or practice discrimination claims initially will be highlighted. Attention then will turn to recent court decisions involving the scope of the Ledbetter Fair Pay Act, taking into account the potential impact of the *Ricci* decision. Recent legislative activity involving pay discrimination also will be discussed.

Moderator:

Eric Reicin
Senior Vice President and
Deputy General Counsel

Sallie Mae, Inc.
Reston, VA

Speakers:

Nancy Rafuse

Ashe, Rafuse & Hill
Atlanta, GA

Juanita Crowley

WilmerHale
Washington, D.C.

Elizabeth Finn Johnson
Senior Litigation &
Employment Counsel

The Coca-Cola Company
Atlanta, GA

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

Break

10:30 a.m. - 11:30 a.m. **A New Management Weapon – Use of Social Scientists in Preventive Efforts and Offensively During Trial**

Can an employer use social science tools pro-actively as part of a company’s diversity efforts? Panel members initially will discuss this novel approach to achieving diversity in the workforce. Next turning to the use of social science in employment discrimination litigation, rather than mere rebuttal to plaintiffs’ experts, this panel will discuss how social science can be used pro-actively in litigation by the defense bar in discrimination cases.

Moderator:

Hunter Hughes

Rogers & Hardin LLP
Atlanta, GA

Speakers:

Gregory Mitchell, J.D. & Ph.D.

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

Philip E. Tetlock, Ph.D.

Haas School of Business, University
of California, Berkeley & LASSC, LLC,
Berkeley, CA

Mary Baker, Ph.D.

ERS Group
Tallahassee, FL

11:30 a.m. - 12:30 p.m. **Advanced Wage and Hour Issues - Lessons Learned**

Employers have continued to be plagued by wage and hour collective actions from coast to coast. Successful efforts in challenging such litigation will be addressed as well as preventive measures engaged in by employers to minimize such risks.

Moderator:

Joe Tilson

Meckler, Bulger, Tilson, Marick & Pearson
LLP
Chicago, IL

Speakers:

Lynne Hermle

Orrick, Herrington & Sutcliffe, LLP
Menlo Park, CA

Lisa Schreter

Littler Mendelson
Atlanta, GA

Debbie Rice
Director, Employment Law

Apple, Inc.
Cupertino, CA

1:30 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.

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

Legal and Practical Implications Involving Independent Contractor and Joint Employer Status- Trying to Make Sense of it All. Employers continue to be hit on all fronts in dealing with independent contractor issues, whether it involves discrimination claims, union organizing challenges, tax or employee benefits issues, and risks continue to be spread based on “joint employer” theories. Employers with multinational operations also face such challenges abroad. This discussion group will focus on both the legal and practical issues in addressing this thorny issue, which will include comments by a tax lawyer who has handled independent contractor audits.

Moderator:

Carl Jordan

Vinson & Elkins LLP
Houston, TX

Speakers:

Eugene Scalia

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

Rick Rufolo
Vice President, Legal

UPS
Atlanta, GA

Michel Stein

Hochman, Salkin, Rettig, Toscher & Perez
Beverly Hills, CA

The ADA Amendments, GINA and Wellness Programs. Employers are now faced with new rules dealing with disabilities and requests for information about an employee’s or candidate’s health. In trying to contain health care costs, various employers also have designed and implemented wellness programs. This discussion group will focus on a legal analysis of recent developments as well as provide an opportunity for a discussion of best practices in developing wellness programs.

Moderator:

Charlie Warner

Porter, Wright, Morris & Arthur, LLP
Columbus, OH

Speakers:

Rosalind Gordon
Deputy General Counsel

Pitney Bowes
Stamford, CT

Donna Malin
Assistant General Counsel
VP Law, Worldwide Vision
Care Franchise

Johnson & Johnson
New Brunswick, NJ

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

Managing a Multinational Workforce - Aside from sharing cross-border lessons learned involving the topics from Thursday’s panels, this discussion group will focus on exploring best practices for drafting employee agreements, dealing with employee transfers and handling restrictive covenants by companies with a multinational workforce.

Moderator:
Danny Kaufer

Heenan Blaikie, PC
Montreal, Quebec

Speakers:
Clare Murray

CM Murray LLP
London

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

General Electric Company
Fairfield, CT

Dealing with “Compensable” Time - The concept of “compensable” time continues to pose challenges and risks for various employers. Logging in at work or at home, checking blackberries, entering or leaving the premises, and a wide variety of circumstances leave many employers in a quandry about the circumstances in which employer liability may arise. This discussion group will focus on recent case developments and best practices in this continued emerging area of the law.

Moderator:
Richard Alfred

Seyfarth Shaw LLP
Boston, MA

Speakers:
Nancy Lee
Senior Counsel

Google Inc.
Mountain View, CA

Jocelyn Hunter
Vice President-Legal,
Employment & Labor

Home Depot
Atlanta, GA

7:00 p.m. Reception for all attendees

7:00 p.m. Speakers’ Dinner

Saturday, October 23, 2010

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**

Annual update of significant EEO decisions in the past year.

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.

Dealing with an Emboldened 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 investigations, including subpoena litigation. Employers on the other hand, have challenged the scope of EEOC pattern or practice litigation, including the applicable limitations period and even application of the pattern or practice vehicle to certain suits by the EEOC. Increased vigilance and focus on systemic issues by OFCCP also is on the rise. 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:

David Fortney

Fortney & Scott, LLC

Washington, D.C.

Speakers:

Mark Dichter

Morgan, Lewis & Bockius LLP

Philadelphia, PA

David Copus

Ogletree Deakins

Morristown, NJ

Don Livingston

Akin Gump Strauss Hauer & Feld, LLP

Washington, D.C.

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

Break

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

Ethical Challenges - Attorney Client Privilege Issues in the Wake of Mohawk Industries and Other Dilemmas Involving Attorney Client Privilege

How far and to what extent should the attorney client privilege doctrine apply when confronted with incriminating information during the course of an internal investigation? How far can an attorney go in preparing a witness for trial when faced with fading recollection? What guideposts apply in dealing with the scope and breadth of the attorney client privilege?

Moderator:

Dan Turner

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

Atlanta, GA

Speakers:

Dennis Duffy

Baker Botts

Houston, TX

Craig Margolis

Vinson & Elkins LLP

Washington, D.C.

11:45 - Noon

Closing Remarks

6:00 p.m.

Reception by Program Chair