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September 26-27, 2017 | Park Lane Hotel | New York, NY

American Conference Institute's 9th Annual Forum on Defending and Managing

EMPLOYMENT DISCRIMINATION LITIGATION

Expert Strategies for Leading Litigators and In-House Counsel



Special Address by:



David Lopez
Outen & Golden
EEOC General Counsel
(2010 - 2016)

AGENCY INSIGHTS FROM

Jim Paretto
EEOC

Raymond L. Peeler
EEOC

Elizabeth Fox Solomon
EEOC

A. Chinyere Ezie
EEOC

Kathy Drew King
NLRB

NEW PERSPECTIVES FROM:

Coca-Cola Refreshments
Southwest Airlines Pilots' Assoc.
S&P Global

BMW of North America
Natixis North America LLC
Consolidated Restaurant Operations, Inc.

LEADING EMPLOYMENT LITIGATORS, IN-HOUSE COUNSEL, GOVERNMENT REPRESENTATIVES AND LEADING JURISTS WILL PROVIDE INSIGHTS ON:

- The Impact of the New Administration on Employment Discrimination Claims
- Updates on Established and Emerging Areas of Risk, Including:
 - Sexual Orientation and Gender Identity
 - Disability Discrimination, Leaves of Absence, Pregnancy
 - Company Recruitment and Hiring Practices
 - Pay, Salary, and Compensation
 - Age
 - Gender and Harassment
- How the Latest Immigration Law Changes Are Affecting Employers
- The Complex Challenges of Retaliation Claims
- Techniques for Trying a High Profile Gender Discrimination Case

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VIEW FROM THE BENCH

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Business Information in a Global Context

The premier employment discrimination litigation conference returns for its ninth year, with new in-house counsel presence, government agency insights from within the new Administration, and distinguished jurists who are actively involved in these cases.

Dear Colleague:

In light of the new Administration, heightened media focus on gender and racial equality, and increased policy targeting by the EEOC, it is obvious that employers and their counsel today cannot afford to be anything less than vigilant.

In response to these challenges American Conference Institute is proud to introduce its 9th National Forum on Employment Discrimination Litigation.

This conference will provide an unparalleled opportunity to convene with expert in-house counsel as well as a faculty of renowned federal judges who will help you develop strategies needed to stay current on the latest issues and developments in the employment discrimination area, including:

- ➔ Coca-Cola Refreshments
- ➔ S&P Global
- ➔ Southwest Airlines Pilots' Association
- ➔ BMW of North America
- ➔ Natixis North America LLC
- ➔ Consolidated Restaurant Operations, Inc.

And More...

In addition, do not miss the opportunity to gain essential tips and earn ethics credits by attending the **POST-CONFERENCE ETHICS WORKSHOP on How to Conduct a Proper and Lawful Internal Workplace Investigation.**

Register now

By calling 1-888-224-2480 or by faxing your registration form to 1-877-927-1563

You can also register online at www.AmericanConference.com/Discrimination

Sincerely,

Nicole L. Pitti, Esq.

Senior Legal Analyst & Program Director
American Conference Institute
n.pitti@americanconference.com

WHO YOU WILL MEET

IN-HOUSE COUNSEL, INCLUDING:

- General Counsel
- Chief Employment Counsel
- Labor and Employment Counsel
- Employment Litigation Counsel

OUTSIDE COUNSEL PRACTICING IN THE AREAS OF:

- Labor and Employment Law
- Employment Discrimination
- Class Actions



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ACI has a dedicated team which processes requests for state approval. Please note that event accreditation varies by state and **ACI** will make every effort to process your request.

DAY ONE

TUESDAY, SEPTEMBER 26, 2017

7:30
Registration and Continental Breakfast

8:10
Co-Chairs' Welcome

Julie K. Adams
FordHarrison LLP
William C. Martucci
Shook Hardy & Bacon LL

8:15
In-House Think Tanks on Employment Discrimination

PANEL 1

8:15 – 9:25

Lawrence Dietrich
Vice President & Operating
Unit Counsel
Coca-Cola Refreshments

Stella Dulanya
Attorney
Southwest Airlines
Pilots' Association

Courtney L. Anderson
Department Head,
Human Resources
BMW of North America

Cheryl M. Plambeck
Director,
Senior Counsel–Litigation
Natixis North America LLC

James Snell
Attorney / Vice President
Consolidated Restaurant
Operations, Inc.

Raphael Lee
Associate General
Counsel–Employment & Labor Law
S&P Global

PANEL 1 MODERATOR:

Jessica Golden Cortes
Davis & Gilbert LLP

In-house counsel provide key insights on:

- New and emerging areas of risk in the employment discrimination landscape
- How they manage their company's expectations with respect to discrimination suits
- Formulating and adapting your employment discrimination policies in the face of uncertainty caused by the new administration
- First-hand accounts of compliance strategies and pitfalls to avoid
- What in-house can do to make their clients less of a target
- Strategies for responding to enforcement initiatives and EEOC litigation
- Selecting and retaining outside counsel; examples of law firms succeeding and falling short
- Managing complex litigation

PANEL 2

9:25 – 10:35

Neil S. Rosolinsky
EVP & Deputy General Counsel,
Litigation & Employment
Citizens Financial Group, Inc.

John Forgach
Assistant General Counsel
W. R. Grace & Co.

E. Jewelle Johnson
Senior Counsel and Chief
Employment Counsel
Graphic Packaging
International, Inc.

J. Victor Wayne
Vice President and Associate
General Counsel–Legal
Sodexo Inc.

Yvette Politis
Associate General Counsel
RELX Group

PANEL 2 MODERATOR:

Ryan H. Vann
Baker & McKenzie LLP

10:35
Morning Coffee Break

10:45
Exploring the Current and Anticipated Impacts of
the New Presidential Administration on Employment
Discrimination Claims

Jim Paretti
Special Assistant to Acting
Chair Victoria A. Lipnic
EEOC

Kathy Drew King
Regional Director, Region 29
NLRB

Magdalen Blessey Bickford
McGlinchey Stafford PLLC

- How changes in leadership at federal agencies (DOL, EEOC, OFCCP, NLRB) are likely to affect workplace discrimination claims going forward
- What effects might new appointments and vacancies have on pending discrimination cases, or on regulations and guidelines previously issued under the Obama administration?
- What to expect from state-level regulation and enforcement under the new administration; examining predictions of increased state activity amidst federal scaling back
- What changes might we see in litigation with the government?

11:35
"Minding the Gap" – Reducing the Risk of Pay Discrimination
Claims: Pro-Active Measures and Best Practices

Jay F. Glunt
Ogletree, Deakins, Nash,
Smoak & Stewart, P.C.

Jeffrey Webb
Ropes & Gray LLP

Ali Saad, Ph.D.
Resolution Economics LLC

- Survey and detailed analysis of the state pay equity laws that are increasingly popping up across the country; different state nuances and pitfalls to avoid
- Counseling clients on proactive measures and best practices to prevent and defend pay discrimination claims
 - » Best practices for evaluating and drafting defensible compensation policies and procedures
 - » Performing statistical analyses by partnering with experienced labor economists and statisticians
 - » Advising on employment policies and practices that may impact pay (e.g. hiring practices, job descriptions, performance reviews, etc.)
- Addressing the recent trend of banning salary history inquiries during the hiring process – what implications is this having on employers and how to navigate this
- What role is the Trump administration's EEOC recently playing in this space? What trends are we seeing in private litigation of these claims?
- The latest pay transparency protections and how employers should best handle them
- The most effective ways to conduct and manage a pay equity preemptive audit / conducting a pay equity audit when operating under varying state regulations

12:30
Networking Lunch for Speakers and Delegates

1:30

The Latest Developments in Sexual Orientation and Gender Identity Discrimination Claims: Examining Recent Court Rulings, EEOC Activity, and Litigation Trends

A. Chinyere Ezie
Trial Attorney
EEOC

J. Randall Coffey
Fisher & Phillips LLP

Haven Claytor
Alston & Bird LLP

Christopher G. Gegwich
Nixon Peabody LLP

- Examining the latest court activity and key rulings involving claims of sexual orientation and gender identity/transgender/gender expression discrimination (e.g. cases involving hiring, firing, failure to promote, failure to provide bathroom access to corresponding gender identity, unequal pay, harassment, etc.)
- The latest case law surrounding an employer's denial of spousal benefits to an employee's same-sex spouse
- Where are the courts drawing the line between discrimination on the basis of gender stereotyping and discrimination on the basis of sexual orientation/sexual identity?
- The latest EEOC activity surrounding this issue – what is Trump's administration doing with this?
- Understanding the protections afforded to LGBT employees in your particular state, and navigating such discrimination claims amidst inconsistent and uncertain legal guidelines
- Practical guidance for employers on how to handle transgender employees within the workplace - navigating unknown territory with regard to:
 - » What policies should be established?
 - » What training should be provided to employees and supervisors?
 - » What complaint reporting procedures should be in place?
 - » What accommodations should be provided to transgender employees?

2:25

Spotlight Address: Trying a High Profile Gender Discrimination & Harassment Case Before a Jury and Host of Reporters

Lynne C. Hermle
Orrick, Herrington & Sutcliffe LLP

- Proven strategies for litigating to a defense verdict in a high profile gender discrimination/harassment case: tactics related to discovery, voir dire, cross examination, and beyond
- Tips for dealing with the press generally
- Preparing your client for the onslaught
- Strategies for getting fair reporting
- Overcoming the challenges of how male and female attorneys are portrayed by the media

2:55

Afternoon Break

3:05

Immigration Law Update: Understanding the Impact on Employment Practices and Discrimination Theories

James P. Anelli
LeClair Ryan

Thomas R. Revnew
Seaton Peters & Revnew PA

- New I-9 Forms – what employers need to know, and counseling clients regarding I-9 audits
- New initiatives affecting employment-based immigrant and nonimmigrant visa programs, what are the practical effects on the application and hiring process?
- New compliance challenges faced by employers
- What employers should be on the lookout for and how to best proceed

3:40

Update on Disability Discrimination and Leaves of Absence: The Latest Trends in Non-Traditional Disabilities Claims

Elizabeth Fox Solomon
Trial Attorney
EEOC

Mitchell J. Rhein
Spilman, Thomas & Battle, PLLC

Maxine Neuhauser
Epstein Becker & Green, PC

- The latest trends in claims based on non-traditional disabilities (mental illness; pregnancy; age; weight) – key developments and takeaways
- Accommodating mental disabilities and other “tricky to identify and accommodate” disabilities
- Creating and implementing best practices for handling accommodation requests and engaging in interactive processes in order to minimize risk to clients
- Managing leaves of absence issues in the pregnancy context
- The latest accommodation claims relating to reasonable accommodation of employees with pregnancy-related medical conditions
- Counseling clients regarding payouts under leave (e.g. Do commissions get paid while on leave? When, how and under what circumstances?) – What does the latest case law say about this, and how to manage these considerations in the absence of a bright line rule?
- Mistakes to avoid when handling intermittent FMLA leave
- Trial techniques for defending against ADA and FMLA claims once they are brought:
 - » Communicating your client's position on the existence of a disability to the jury
 - » Leveraging new summary judgment strategies
 - » Navigating causation issues
- Overcoming the challenges of defending against claims of systemically discriminatory leave policies
- Managing and defending cases involving the intersection of the ADA, FMLA and other types of leave claims

4:30

Views From The Plaintiffs' Bar: Adapting Your Strategies to New and Innovative Techniques and Tactics

KICKOFF ADDRESS: (4:30 - 4:50)

David Lopez
Outen & Golden LLP
EEOC General Counsel (2010 - 2016)

- Plaintiff counsel insights from the recent longest standing general counsel of the EEOC on the latest developments in employment discrimination litigation and projected upcoming claims trends

PANEL: (4:50 - 5:40)

Bruce Atkins
Deutsch Atkins, P.C.
Christopher P. Lenzo
Lenzo & Reis, LLC

Beth Bertelson
Bertelson Law Offices PA
Steven G. Zieff
Rudy, Exelrod, Zieff & Lowe, L.L.P

- New and emerging theories and arguments that plaintiffs' counsel are capitalizing on in employment discrimination cases
- The latest trends in discrimination claims and class actions
- Perspectives on the latest EEOC initiatives and activity
- Plaintiff bar perspectives on how the new administration will affect litigation with the government
- Emerging hotbeds for claims
- Methods the plaintiffs' bar utilizes in efforts to find classes, and restrictions that the courts are imposing on those methods
- What makes a claim attractive or unattractive to the plaintiffs' bar?

5:40

Conference Adjourns



8:00

Registration and Continental Breakfast

8:30

Views From the Bench on Employment Discrimination Litigation

U.S. DISTRICT COURT



Hon. Anne Y. Shields, U.S.M.J.
E.D.N.Y.



Hon. Michael M. Baylson, U.S.D.J.
E.D. Pa



Hon. Algenon Marbley, U.S.D.J.
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W.D. Texas

U.S. BANKR. COURT



Hon. Alan S. Trust
E.D.N.Y.

Moderator
Mercedes Colwin
Gordon Rees Scully Mansukhani LLP

A panel of esteemed judges provides first hand insights on:

- What works and doesn't work in voire dire, jury instructions and opening/closing statements
- Why employers succeed and don't succeed in discrimination litigation
- Novel trial and case management strategies
- Examples of good vs. bad lawyering, and how to connect with a jury

9:55

Morning Coffee Break

10:10

Age Discrimination in the Workplace: Practical Solutions for Overcoming Common Employer Challenges and Strategies for Defeating Claims in Litigation

Raymond L. Peeler
Special Assistant to Chair
Jenny Yang, EEOC

William C. Martucci
Shook Hardy & Bacon, LLP

- Addressing the continuing rise in age discrimination claims as a record number of Americans are choosing to retire much later
- Practical solutions for employers in facing new and complex age discrimination challenges
- Essential steps for preparing for and defending the latest ADEA cases

- Methods for discovery – ensuring a favorable ruling
- Effective evidence building strategies to ensure a winning case
- Tips and best practices for showing an employer was in full compliance with the ADEA
- Responding effectively to anticipated arguments
- Tactics to avoid spoliation of evidence during discovery
- Techniques for exposing weakness in your opponent's arguments
- Expert witness selection strategies
- Mitigating damages in age discrimination claims
- The uses and misuses of statistical evidence in age discrimination claims
- Looking ahead – will ageism claims by millennials be on the horizon for employers?

10:55

Overcoming the Complex Challenges of Retaliation Claims: Managing Plaintiff Employees and Strategies for Defending Retaliation Suits

Donna M. Melby
Paul Hastings LLP

Cathy J. Beveridge
Buchanan Ingersoll & Rooney PC

Julie K. Adams
FordHarrison LLP

- Overcoming the inherent difficulties in defending against retaliation cases
- Best practices for managing employees who have sued the company for discrimination
 - » What level of contact should there be with that employee?
 - » Should a documentation trail be initiated? When and how?
 - » Under what circumstances can you fire an employee who has sued the company?
 - » How to proceed if the employee drops their EEOC charge?
- Evaluating the EEOC's position on these issues, as well as the latest court decisions
- Review of the latest case law developments impacting elements of retaliation claims – "protected activity," "adverse action" and "causation"
- Overcoming juror preconceptions that retaliation is human nature in these scenarios
- Pitfalls to avoid in preventing and defending retaliation claims
- Counseling clients on establishing a model policy to protect the organization

11:45

Avoiding Discrimination in Company Recruitment and Hiring Practices

Brian Arbetter
Norton Rose Fulbright US LLP

Tracy Richelle High
Sullivan & Cromwell LLP

- In litigation with the EEOC, as well as private litigation, what kinds of evidence is being most highly considered in determining that there is a disparate impact caused by a company's pre-employment background/criminal/credit check policies? Tips and best practices for defeating such claims
- Discrimination claims based on the channeling or steering of individuals into specific jobs due to their status in a particular group (racial, ethnic and religious groups, older workers, women, people with disabilities, etc.)
- Claims based on job segregation and/or restrictive application processes
- The latest court responses to disparate impact challenges to employers' criminal records policies
- The impact and current status of the "ban the box" movement on criminal records policies
- Navigating the distinctions between federal and state laws governing the running of criminal history and credit checks; exceptions and loopholes employers and their counsel should know about in defending against disparate impact claims based on criminal and credit checks
- Defending against disparate impact claims based on employer use of online job applications
- Tips, strategies and best practices for avoiding discrimination when using social media tools in your recruiting and/or hiring process; the key theories of liability in these claims and strategies for defending against them

12:30

Main Conference Ends - Lunch for Workshop Participants Begins

Post - Conference Ethics Workshop

TUESDAY - SEPTEMBER 27, 2017

1:30 – 3:30

(SEPARATE REGISTRATION REQUIRED)

EMPLOYMENT DISCRIMINATION INVESTIGATIONS MASTER CLASS

How to Conduct a Proper and Lawful Internal Workplace Investigation

Julie K. Adams
FordHarrison LLP

Maxine Neuhauser
Epstein Becker & Green, PC

Jeffrey Webb
Ropes & Gray LLP

- Best practices for conducting internal workplace investigations when faced with allegations of discrimination
- Ethical issues for employment defense lawyers conducting internal investigations
- How counsel should conduct themselves during the course of an investigation from start to finish so as to avoid exceeding the boundaries of their ethical obligations
- What are the privilege implications?
- Keeping an eye to what will be discoverable in a subsequent litigation
- Attorney-client privilege implications
- Under what circumstances will the attorney work-product privilege fail to protect material in the context of internal investigations?
- Special considerations for in-house counsel conducting internal investigations

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.ACI: Employment Law

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www.americanconference.com/Discrimination/venue

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Telephone:
1-800-221-4982

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Registration Information

Conference Code

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<input type="checkbox"/> Conference + Post-Conference Workshop	\$2395	\$2495	\$2695
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<input type="checkbox"/> Special In-House Rate for Conference + Workshop	\$1050	\$1150	\$1250
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Expert Strategies for Leading Litigators and In-House Counsel



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American Conference Institute
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Expert Strategies for Leading Litigators and In-House Counsel

HIGHLIGHTS

- Key insights from the EEOC and NLRB on directions of the new administration
- Networking opportunities with in-house counsel from dozens of top companies
- Litigation strategies from top defense counsel on how to tackle the nuances of the latest discrimination claims
- Tips from a panel of leading federal and state jurists involved in these cases

Special Address by:



Lynne C. Hermle
Orrick, Herrington & Sutcliffe LLP
*Trying a High Profile Gender
Discrimination Case*



David Lopez
Outten & Golden
EEOC General Counsel (2010-2016)
*Plaintiff Counsel Insights
on the Latest Employment
Discrimination Claims*