



ABA Section of Labor and Employment Law
November 9-12, 2016

CHICAGO

Register
today and take
advantage of
substantial early
discounts!

10th Annual Labor and Employment Law Conference

Conference Highlights

- Informative and Thought-Provoking Plenary Sessions:
 - Closing the Gap: Do Women and Men Need to “Lean In” Together?
 - Maximizing the Millennial Workforce
 - Law Enforcement Labor Relations Post-Ferguson
 - Recent and Upcoming Supreme Court Labor and Employment Law Rulings, Featuring Tom Goldstein, Appellate Advocate and SCOTUSblog Co-Founder and Publisher
- 25 Years after the Civil Rights Act of 1991: Reflections on “Reform” Legislation
- Conversations with the NLRB General Counsel, Chairman, Members and Regional Directors
- Cutting-Edge Issues in Discrimination, Harassment and Retaliation
- In-Depth Explorations of Workplace Problems and Solutions
- Hot Topics in Litigation, Class Action, Wage and Hour and Whistleblowing



ABA Section of Labor and Employment Law

10th Annual Labor and Employment Law Conference

November 9-12, 2016 • Chicago, Illinois

We are excited to share with you an overview of featured activities planned for the 10th Annual Labor and Employment Law Conference. The Conference will be held from November 9-12, 2016 at the Sheraton Grand Hotel in downtown Chicago. Please make plans to attend the Conference and encourage your colleagues to join you.

Our 10th Annual Conference will include the many successful features of previous Annual Conferences, along with technological offerings to enhance your experience. At this year's Conference, you can expect:

- **Prominent speakers and exciting and balanced panels**
- **A full year's worth of CLE credit at a price that can't be beat**
- **A curriculum covering all aspects of the labor and employment law practice**
- **A multi-level program that will be of value regardless of your degree of experience**
- **Opportunities for you to meet with colleagues from all constituent groups**

The Section's 10th Annual Labor and Employment Conference will take place during an unusually interesting time, convening the day after the 2016 election. Our Conference presents a great opportunity to discuss potential government initiatives with agency representatives. Attendees also will have the chance to confer with top practitioners representing employees, employers, unions and government agencies, as well as neutrals, in-house counsel and academics.

We are so pleased to be hosting the Conference in Chicago, the ABA's hometown. Chicago is easily accessible to our members and is always one of the Section's favorite meeting locations. We look forward to showcasing the best of the City. Of particular note, the Diversity and Inclusion Networking Reception at the House of Blues on Thursday and the Section Reception at the Field Museum offer attendees great experiences for socializing with colleagues at unique Chicago venues.

You can review complete program details and registration information on the Section website at ambar.org/laborconference. We encourage you to register by September 21, 2016 to take advantage of substantial early registration discounts!

We look forward to seeing you in Chicago at the 10th Annual Labor and Employment Law Conference.



Wayne N. Outten
Chair
New York, New York



Gail Golman Holtzman
Chair-Elect,
Tampa, Florida

10th Annual Labor and Employment Law Conference Planning Committee

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Program information is available
on the Section website at
www.ambar.org/laborconference.

 Connect with other
attendees before, during
and after the Conference.

Link to the Conference webpage at
www.ambar.org/laborconference.



10th Annual Labor and Employment Law

• 9:30 am – 10:45 am

The NLRB Returns to *M.B. Sturgis*: Miller & Anderson Says Bargaining Units May Include More than One Employer

On the heels of the NLRB's *Browning-Ferris* decision (changing the joint employment standard), the NLRB recently overturned its *Oakwood Care Center* decision in *Miller & Anderson*. This panel will explore the implications of the Board's decision to return to the *M.B. Sturgis* bargaining unit standard, which allows a single bargaining unit to include employees of both a "user employer" and "supplier employer."

PANELISTS:

Stanley A. Gosch, *Rosenblatt & Gosch PLLC, Greenwood Village, CO*

Lindbergh Porter, *Littler Mendelson PC, San Francisco, CA*

Fredric Roberson, *National Labor Relations Board, Indianapolis, IN*

Litigation/Class Action

• 8:00 am – 9:15 am

How the December 2015 FRCP Revisions Have Impacted, Changed and Affected Discovery Practice, including E-Discovery

This program will discuss how the December 2015 changes to the FRCP have impacted and changed discovery and will provide guidance regarding litigation strategies for obtaining, limiting, and negotiating the scope of discovery in light of the new rules, with a special eye towards e-discovery requests in the ESI era.

PANELISTS:

Hon. Jay C. Gandhi, *U.S. District Court for the Central District of California, Los Angeles, CA*

Daniel L. Bonnett, *Martin & Bonnett PLLC, Phoenix, AZ*

Gary B. Eidelman, *Saul Ewing LLP, Baltimore, MD*

Richard T. Seymour, *Law Offices of Richard T. Seymour, Washington, DC*

• 9:30 am – 10:45 am

The Pursuit of Compromise: An Examination of Settlement Strategies and Techniques in Single-Plaintiff Litigation (F)

*Cosponsored by
ABA Young Lawyers Division*

Although most claims are resolved through settlement, attention to effectively and efficiently steering a case toward a negotiated resolution often takes a back burner to the press of litigation. This panel will explore

settlement strategies in individual litigation, including the proper use, valuation and timing of offers of compromise, strategy and timing for alternative dispute resolution, how much pre-settlement formal and informal discovery is sufficient, insurance considerations and general negotiation strategies.

PANELISTS:

Lisa J. Banks, *Katz, Marshall & Banks, LLP, Washington, DC*

Brian J. LaClair, *Blitman & King LLP, Syracuse, NY*

• 11:00 am – 12:15 pm

Investigating Class and Systemic Claims

The stakes are high in class and systemic cases and for both the company and putative class counsel, and determining whether class claims or liability exists is crucial to charting a course of action. This panel will discuss how to properly investigate class claims and determine whether a viable class or collective action exists. The panel also will provide pre-litigation strategies for vetting potential class actions and discuss best practices.

PANELISTS:

Joan Fife, *Winston & Strawn LLP, San Francisco, CA*

Douglas L. Steele, *Woodley & McGillivray LLP, Washington, DC*

Roberta L. Steele, *U.S. Equal Employment Opportunity Commission, San Francisco, CA*

Janio Turner, *Outten & Golden LLP, New York, NY*

Practice and Professionalism

• 11:00 am – 12:15 pm

Bias, Prejudice & Harassment in the Legal Profession: A Proposal for a New Rule (E)

*Cosponsored by ABA Center
for Professional Responsibility*

The Comment to ABA Model Rule of Professional Conduct Rule 8.4 states that an attorney who, in the course of representing a client, manifests bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, may be unethical. Some states have incorporated this language into their versions of the misconduct rule. At the other extreme, some critics state that the comment lacks sufficient breadth or clarity, and that it serves no purpose because any words or conduct that are prejudicial to the administration

of justice violate the misconduct rule. The ABA Standing Committee on Ethics and Professional Responsibility is currently considering an amendment that would substantially change this language in several ways. The proposed amendment would move the text from the Comment to the Rule, more clearly describe the prohibited conduct, expand the reach of the Rule, and remove the exception for conduct that is not prejudicial to the administration of justice. Join this panel as it discusses the pros and cons and what practical impact the change would have on an attorney's responsibilities.

PANELISTS:

James F. Allmendinger, *NEW Hampshire, Concord, NH*

Paula J. Frederick, *State Bar of Georgia, Atlanta, GA*

Wendi S. Lazar, *Outten & Golden LLP, New York, NY*

Myles V. Lynk, *Arizona State University College of Law, Phoenix, AZ*

Dayna E. Underhill, *Holland & Knight LLP, Portland, OR*

Public Sector

• 8:00 am – 9:15 am

Off-Duty Conduct of State and Local Government Employees

Public employees are under such constant scrutiny that regulation of off-duty conduct is expected. But does the discipline differ if the employee who was arrested for DUI is a teacher, a water clerk or a police officer? Does it change if the charge is domestic violence? Public intoxication? The public might "expect more" from all public employees, but are there instances where that expectation is not just (as in "just cause")?

PANELISTS:

Emily H. Martin, *Washington Public Employment Relations Commission, Seattle, WA*

Gary L. Bailey, *Illinois FOP Labor Council, Western Springs, IL*

Mark L. Olson, *Buelow Vetter Buikema Olson Vliet, LLC, Milwaukee, WI*

Wage and Hour

• 8:00 am – 9:15 am

Litigating/Arbitrating Collective and Class Action Wage and Hour Cases

Panelists will discuss the most recent developments related to litigation of wage and hour collective and class action cases, which may include the overtime exception under FLSA §7(1), trial by representative proof, use/need for experts, trial by formula,