

**New York State Bar Association
2021 Fall Meeting
Saratoga Hilton | Broadway | Saratoga Springs**

Labor and Employment Law Section

Fall Meeting – Day 1

Friday, October 15, 2021

12:15 p.m. – 4:20 p.m.

4.0 MCLE Credits

1.5 Areas of Professional Practice; 1.5 Diversity, Inclusion & Elimination of Bias
plus 1.0 in Professional Practice or 1.0 Diversity, Inclusion & Elimination of Bias
depending on Breakout Sessions Attended

*This program is transitional and is suitable for all attorneys including those
newly admitted.*

October 15, 2021

Agenda

- 11:00 a.m. – 12:15 p.m. **Registration and Boxed Lunch pick up for Attorneys –**
Saratoga Ballroom Foyer
***Boxed lunches are provided for registered attorneys
only as part of their meeting fees.***
- 12:15 p.m. – 3:15 p.m. **GENERAL PLENARY SESSIONS –** Saratoga Ballroom
- 12:15 p.m. – 12:30 p.m. **Section Welcome**
Timothy Taylor, Esq.
Chair
- Program Introduction**
Abigail Levy, Esq.
CLE Committee Program Co-Chair
- 12:30 p.m. – 1:45 p.m. **Plenary One – The Future of Remote Work**
As the pandemic finally dissipates during the coming months, many employers are being called on to decide whether and to what extent to bring the part of their workforce that has been working remotely back to the office. This panel will look at both the plusses and drawbacks of an employment world

where a sizable percentage of employees rarely if ever actually see (other than on Zoom) their co-workers and superiors and what broader implications of such a new reality are for labor and employment attorneys.

Moderator:

Tracy Richelle High, Esq.
Sullivan & Cromwell LLP
New York, NY

Panelists:

Peter J. Rutigliano, Ph.D.
Marsh McLennan
New York, NY

Timothy D. Golden, Ph.D.
Rensselaer Polytechnic Institute - Lally School of
Management
Troy, NY

Devjani H. Mishra, Esq.
Littler Mendelsohn P.C.
New York, NY

(1.5 Credits in Areas of Professional Practice)

1:45 p.m. – 2:00 p.m.

Coffee break

2:00 p.m. – 3:15 p.m.

**Plenary Two – A Review of Legal Dos and Don'ts:
Diversity, Equity and Inclusion Plans**

Diversity, Equity and Inclusion plans are now “must haves” for employers and other organizations. In crafting a DEI plan, there are a number of legal “dos and don'ts.” This plenary will examine those legal issues and use the Section's own DEI plan as a case study to review how the Section navigated this landscape to develop the plan.

Moderator:

Christopher D'Angelo, Esq., Associate General Counsel
Consolidated Edison Company of New York, Inc.
New York, NY

Panelists:

Gwynne Wilcox, Esq., Member *(INVITED)*
National Labor Relations Board
Washington, DC

Jay M. Siegel, Esq.
Mediator & Arbitrator
Cold Spring, NY

Jill L. Rosenberg, Esq.
Orrick Herington & Sutcliffe LLP
New York, NY

(1.5 Credits in Diversity, Inclusion & Elimination of Bias)

3:15 p.m. – 3:30 p.m.

Coffee Break

CONCURRENT WORKSHOPS – Saratoga and Broadway
Ballrooms

3:30 p.m. – 4:20 p.m.

Workshop A

**Labor and Employment Issues Facing Health Care
Employers, Unions, and Employees Related To The
COVID-19 Pandemic and Beyond**

This session will address topics related to the COVID-19 pandemic which directly affect health care employers, unions, and employees. These topics include mandatory vaccination policies, reasonable accommodations to vaccine mandates, bargaining issues under the National Labor Relations Act, OSHA's Healthcare Emergency Temporary Standard, the NYS HERO Act, and other issues related to PPE management and hospital staffing. We will also discuss strategies for maintaining productive collective bargaining relationships during the pandemic and beyond.

Moderator:

Karen Fernbach, Esq., Visiting Assistant Professor
Hofstra Law School
Hempstead, NY

Panelists:

Bernard E. Mason, Esq.
New York State Nurses Association
New York, NY

Mark A. Gloade, Esq.

Northwell Health
New Hyde Park, NY

(1.0 Credit in Areas of Professional Practice)

3:30 p.m. – 4:20 p.m.

Workshop B

Racial Justice In The Workplace: Where Are We Now?

A year after the social unrest and resulting corporate/institutional investments around racial justice, where are we now? Lawyers are uniquely positioned to meet this moment. This session will explore how to achieve a collective language regarding racial equity, and the process of operationalizing it. From reflecting on organizational and individual power, foundational learning in examining socialization and capacity for action and disruption, and building collective capacity for navigating uncomfortable conversations, the panel will discuss a data-driven decision-making process to improve the conditions of and interactions with the people we serve.

Panelists:

Timothy S. Taylor, Esq.
Arbitrator & Mediator
Pittsfield, MA

Michael I. Bernstein, Esq.
Bond, Schoeneck & King, PLLC
New York, NY

Angel S. Cox, Esq.
New York City Department of Education
New York, NY

Douglas E. Gerhardt, Esq.
Harris Beach LLC
Albany, NY

(1.0 Credit in Diversity, Inclusion & Elimination of Bias)

3:30 p.m. – 4:20 p.m.

Workshop C

The Legalization of Recreational Marijuana

On March 31, 2021, New York became the 15th state to legalize adult use and possession of recreational marijuana. Beyond establishing a regulatory apparatus – the

Office of Cannabis Management and the Cannabis Control Board – the Marijuana Regulation and Taxation Act (“MRTA”) created sweeping anti-discrimination protections for recreational users as job applicants and employees. This workshop will examine the scope of those protections, but also the scope of the statutory exemptions contained within Labor Law § 201-d. The panel will also explore the interplay between the MRTA and collective bargaining, including the MRTA’s impact on previously negotiated drug policies.

Panelists:

Benjamin E. Mudrick, Esq.
Harter Secrest & Emery LLP
Rochester, NY

Ian H. Hayes, Esq.
Creighton Johnsen & Giroux
Buffalo, NY

Kinsey O’Brien, Esq.
Hodgson Russ LLP
Buffalo, NY

Nolan J. Lafler, Esq.
Blitman & King LLP
Rochester, NY

(1.0 Credit in Areas of Professional Practice)

6:30 p.m. – 9:30 p.m.

Reception and Dinner – Saratoga Ballroom

Keynote Dinner Speaker:

LETITIA JAMES, ESQ., New York State Attorney General

Fall Meeting – Day 2

Saturday, October 16, 2021

9:00 a.m. – 11:20 a.m.

3.0 MCLE Credits

1.5 Areas of Professional Practice, 1.5 Ethics

This program is transitional and is suitable for all attorneys including those newly admitted.

October 16, 2021

Agenda

- 8:00 a.m. – 8:55 a.m. **Committee Breakfast Meetings** – Travers Room
- 8:00 a.m. – 9:00 a.m. **Continental Breakfast for Attorneys Only** – Lower Lobby
- 8:00 a.m. – 12:00 p.m. **Registration** – Main Lobby
- 9:00 a.m. – 12:00 p.m. **GENERAL PLENARY SESSIONS** – Broadway Ballroom
- 9:00 a.m. – 9:10 a.m. **Program Introduction**
Karen Fernbach, Esq.
CLE Committee Program Co-Chair
- 9:10 a.m. – 10:25 a.m. **Plenary Three: Using Alternative Dispute Resolution to Address Intellectual Property Rights in the Employment Context**
Inventions, creative works, confidential and proprietary information, trade secrets, licenses, restrictive covenants. The employment context provides any number of opportunities for employees and employers to consider protecting their respective intellectual property rights, including through provisions in employee handbooks and separately executed employment agreements. This plenary program will address how disputes over intellectual property rights can be efficiently and cost-effectively managed, by both employees and management, using various alternative dispute resolution processes, such as mediation and arbitration.
- Panelists:**
Theodore K. Cheng, Esq.
ADR Office of Theo Cheng LLC
Princeton Junction, NJ
- Richard B. Friedman, Esq.
Richard Friedman PLLC
New York NY
- (1.5 Credit in Areas of Professional Practice)*
- 10:25 a.m. – 10:40 a.m. **Coffee Break**

10:40 a.m. – 11:55 a.m.

Plenary Four: The Ethical implications and Best Practices of Regulating Discrimination in the Legal Profession

Lawyers in private companies and partnerships are nonetheless subject to regulation by the courts and the organized bar and are not immune to allegations of all forms of discrimination. The New York State bar recently amended its misconduct rule for the second time to address this issue, but only after an active debate. This panel will address the ethical, moral and legal concerns of its supporters and detractors led by the key drafter of the ABA Model rule 8.4(g).

Moderator:

Alyson Mathews, Esq.
Lamb & Barnosky LLP
Melville, NY

Panelists:

Myles Lynk, Esq., Senior Asst. Disciplinary Counsel
Washington DC Bar, Appellate Group
Former Commissioner, ABA Commission on Women
Washington, DC

Wendi Lazar, Esq.
Outten & Golden LLP
New York, NY

(1.5 Credits in Ethics)

1:00 p.m.

Optional Event: **Golf at Saratoga National Golf Course**
458 Union Avenue, Saratoga Springs
Fees include golf, carts and box lunches. Preregistration required: \$135 per person. Please arrive at club by 12:45 p.m.

7:00 p.m. – 8:00 p.m.

Reception – High Rock Room, Saratoga Hilton

Fall Meeting – Day 3

Sunday, October 17, 2021
8:30 a.m. – 10:30 a.m.

October 17, 2021

Agenda

8:30 a.m. – 10:30 a.m. **Executive Committee Breakfast Meeting –**
Travers/Alabama Room

11:00 a.m. **Hotel Check-out**

Labor and Employment Law Section Chair:

Timothy Taylor, Esq., Mediator & Arbitrator, Pittsfield, NY

CLE Program Co-Chairs:

Karen Fernbach, Esq., Hofstra Law School, Hempstead, NY

Abigail Levy, Esq., NYC Office of Collective Bargaining, New York, NY

Angel S. Cox, Esq., New York City Department of Education, New York, NY

Nolan J. Lafler, Esq., Blitman & King LLP, Rochester, NY