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- Sexual Orientation, Gender Identity and Gender Expression Discrimination
- Pregnancy Discrimination and Pregnancy Accommodations
- Retaliation Claims
- Pay Equity and Compensation Discrimination
- Age Discrimination in the Workplace
- Disability and Leaves of Absence: “Non-Traditional” Disabilities, Reasonable Accommodations
- Discrimination in Company Recruitment and Hiring Practices
- Joint Employer Liability in Discrimination Cases, Including NLRB Nuances
- Economic Damages and Statistical Issues in Employment Discrimination Cases

Special Address by:



Constance S. Barker
Commissioner
U.S. EEOC

View from the Bench. Learn from:



Hon. Nora Barry Fischer
U.S. Dist. Ct., W.D. Pa.



Hon. Lance Africk
U.S. Dist. Ct., E.D. La.



Hon. Viktor V. Pohorelsky
U.S. Dist. Ct., E.D.N.Y.



Hon. F.A. Gossett
U.S. Dist. Ct., D. Neb.



Hon. Sean W. McPartland
Sixth Jud. Dist. of Iowa



Hon. Clifton Newman
South Carolina Jud. Dept

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The premier employment discrimination litigation conference returns for its eighth year, with more in-house counsel client presence and top federal and state jurists who are actively involved in these cases.

The volume of employment discrimination litigation remains on the rise in 2016 as the changes to employment legislation and employment rights & responsibilities continue to be both extensive and significant. In light of the presently growing compensation culture, the recent tendency for employees to be more aware of their rights than ever before, 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, **American Conference Institute** is proud to introduce its **8th National Forum on Employment Discrimination Litigation**. This conference will provide you with an unparalleled opportunity to convene with expert in-house counsel from: **Bank of America, Fannie Mae, Avon, American Capital, Ltd., Equifax, HMS Host, Masco Corporation, Marsh & McLennan Companies, Wake Forest University Baptist Medical Center, Boehringer Ingelheim Pharmaceuticals, The Chemours Company, Ryder System, Chubb, U.S. Bank, Western Union, Hyatt Hotels, Mayo Clinic, Tailored Brands, and more**, as well as a faculty of renowned federal and state judges, and leading outside counsel from around the nation, who will provide you with expert advice, insider strategies, and comprehensive updates on:

- Spotlight on Sexual Orientation, Gender Identity and Gender Expression Discrimination
- Recent Heightened Focus on Pregnancy Discrimination and Pregnancy Accommodations
- Litigating and Defending Retaliation Claims
- Pay Equity and Compensation Discrimination
- Age Discrimination in the Workplace
- Disability and Leaves of Absence: “Non-Traditional” Disabilities, Reasonable Accommodations and Defending Against ADA & FMLA Claims
- Avoiding Discrimination in Company Recruitment and Hiring Practices: Ban the Box, Background Checks and Social Media Tools in the Hiring Process
- Joint Employer Liability in the Employment Discrimination Context
- Economic Damages and Statistical Issues in Employment Discrimination Cases

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

Register now by calling **1-888-224-2480** or by faxing your registration form to **1-877-927-1563** or online at **www.AmericanConference.com/Discrimination**.



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employment matters. We are known for our innovative and creative approach to solving complex problems and our persuasive testimony in a class setting for both employment discrimination and wage and hours claims.



For more than 30 years, **Welch Consulting** has assisted clients in class action matters involving employment practices and complex business litigation. Rigorous analyses with the highest standards of accuracy, clarity and punctuality make Welch Consulting the top choice for the nation's preeminent law firms and corporations throughout the U.S.



Edgeworth Economics provides expert testimony and consulting services on labor and employment matters including allegations of discrimination in pay, hiring, promotions, and terminations, as well

as wage and hour disputes under federal and state laws. Our passion for rigorous analysis combined with deep awareness of each client's unique context, result in the critical insights and targeted recommendations on which clients depend.



ERS Group has provided expert testimony and consulting services for major employment discrimination matters involving compensation, promotion, hiring and termination allegations for over 30 years. ERS Group labor economists are industry leaders in presenting objective and insightful analyses that are easily understood by executives, juries, government agencies, and the Courts.



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conferences

30 years
building a
network of
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expanding
across
the globe

It is time for a brand, logo and language in keeping with the dynamic strides we have made as a company. It is time for a brand that will take us forward for the next 30 years.

C5 Group, comprising American Conference Institute, The Canadian Institute and C5 in Europe, will unite under one central brand image, appropriately a globe. See how bringing together the power of people and the power of information can accelerate your growth and success.

Our new brand look and language will be fully revealed soon. Stay tuned for more exciting changes.

7:15 Registration and
Continental Breakfast

7:55
Chairs' Welcome

Sherril M. Colombo
Littler Mendelson P.C.

William C. Martucci
Shook Hardy & Bacon LLP

Mercedes Colwin
Gordon Rees Scully Mansukhani, LLP

8:00
**Keynote Address: EEOC Initiatives
for the Second Half of 2016
and Beyond**

Constance S. Barker
Commissioner
U.S. Equal Employment Opportunity Commission

The U.S. Equal Employment Opportunity Commission shows no signs of letting up on its aggressive agenda. Commissioner Barker will share her candid views on the EEOC's recent actions and its future direction. She will also discuss the top compliance issues she believes employers should be aware of for the Fall of 2016 and beyond.

8:30
**Views From the Bench on
Employment Discrimination
Litigation: What Works and Doesn't
Work in Jury Instructions, Voir Dire
and Opening/Closing Statements;
Examples of Poor Witness Selection,
Inability to Connect with a Jury,
Good vs. Bad Lawyering; and More**

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U.S. Dist. Ct., W.D. Pa.

Hon. Lance Africk
U.S. Dist. Ct., E.D. La.

Hon. Viktor V. Pohorelsky
U.S. Dist. Ct., E.D.N.Y.

Hon. Sean W. McPartland
Sixth Jud. Dist. of Iowa

Hon. F.A. Gossett
U.S. Dist. Ct., D. Neb.

Hon. Clifton Newman
South Carolina Judicial Department

Panel Moderator:

Joan Tucker Fife
Winston & Strawn LLP

9:45 Break

9:50
**Spotlight on Sexual Orientation,
Gender Identity and Gender
Expression Discrimination:
The Latest Trends in Litigation
and Practical Guidance for
Employers of LGBT Employees**

Jessica Golden Cortes
Davis & Gilbert LLP

Albert (Bert) B. Randall, Jr.
Franklin & Prokopik, P.C.

Salvador Simao
Ford & Harrison LLP

- Examining the latest court activity and trends involving claims of sexual orientation discrimination: approaches taken and lessons learned
- Spotlight on the very first cases filed by the EEOC alleging sexual orientation discrimination in the context of Title VII – (*EEOC v. Scott Medical Health Center*; *EEOC v. Pallet Companies*)
 - Tracking the course of these new historic lawsuits
- Where are the courts drawing the line between discrimination on the basis of gender stereotyping and discrimination on the basis of sexual orientation?
- Examining the latest EEOC efforts to push the boundaries of Title VII so that its protections extend to cover transgender employees
- Understanding the protections afforded to LGBT employees in your particular state, and navigating such claims amidst inconsistent and uncertain legal guidelines
- Practical guidance for employers on how to handle transgender employees within the workplace; providing accommodations and navigating unknown territory (i.e. addressing bathroom issues, HR issues, dressing and grooming policies, etc.)

“Record Settlements:
Seyfarth’s 12th Annual
Workplace Class Action
Litigation Report Reveals
Billions in Settlements”

Gerald L. Maatman, Jr., 1/12/16

10:35
**Pay Equity and Compensation
Discrimination: Staying Ahead
of the Curve on this Hot Button
Issue, Tips for Ensuring Equal
Pay Compliance and Strategies
for Defending Litigation**

Paul F. White, Ph.D.
Resolution Economics

Fred Plevin
Paul Plevin Sullivan & Connaughton LLP

Timothy J. Long
Orrick, Herrington & Sutcliffe LLP

Additional speaker to be announced
Check AmericanConference.com/Discrimination for this and other exciting speakers being added

- Discussion of the recent equal pay movement and an overview of the latest key legislative and regulatory developments that employers should familiarize themselves with to stay ahead of the curve
- Examining the recently ramped up pay equity laws enacted in New York and California — what are the implications? What ambiguities exist in the statutes? What are the pitfalls to look out for?
- Which other states currently have new, more demanding pay equity bills pending and what do these bills propose? (e.g. Massachusetts, Florida, Hawaii, Michigan, New Jersey)
- New pay equity rules issued for federal contractors
- What industries are being spotlighted for demonstrating the most dramatic wage gaps between men and women?
- Evaluating exposure to claims of compensation discrimination and tips for equal pay compliance
- The latest litigation arising from pay discrimination or “glass ceiling” failure to promote cases
- Under what circumstances are courts finding that employers can avoid liability for pay discrepancies? How are new state laws changing the standards to make it easier for employees to succeed on pay discrimination claims?
- Strategies for defending claims of compensation discrimination
- Status of the proposed EEOC Reporting Requirements on pay differences

11:35 **Networking Lunch for
Speakers & Delegates**

12:30

Recent Heightened Focus on Pregnancy Discrimination and Pregnancy Accommodations, and Avoiding & Defending Claims of Family Responsibilities Discrimination

Donald Deere, Ph.D.

Welch Consulting

Sheila Engelmeier

Engelmeier & Umanah, P.A.

Jenny Gassman-Pines

Greene Espel PLLP

- Examining the latest EEOC strides towards effecting tougher rules protecting pregnant workers
- Taking a look at the developments following *Young v. UPS* and the aftermath of the EEOC's latest pregnancy discrimination guidance
- Scrutiny of leave policies for pregnant workers
- Managing leaves of absence issues in the pregnancy context
- The latest accommodation claims relating to reasonable accommodation of employees with pregnancy-related medical conditions
- Efforts to extend the reach of the ADA's reasonable accommodation provisions to cover pregnant employees who are experiencing normal/healthy pregnancies — where are the courts coming out on this?
- Best practices for avoiding and defending against claims of pregnancy discrimination in the face of heightened scrutiny
- Proving that pregnancy wasn't the reason for the adverse decision
- What states are following EEOC suit and passing laws regarding pregnancy accommodations? What are the trends being seen?
- Family Responsibilities Discrimination claims under Title VII, the FMLA, the ADA and beyond; strategies for defending these claims and pitfalls to avoid

1:30

Age Discrimination in the Workplace: Practical Solutions for Overcoming the Most Common Challenges and Strategies for Managing & Defending Against the Latest Claims

Joshua Gotkin, Ph.D.

ERS Group

Cathy Ventrell-Monsees

Senior Counsel

U.S. EEOC

Mark J. Girouard

Nilan Johnson Lewis PA

- Addressing the continuing rise in age discrimination claims as baby boomers continue to reach and pass retirement age
- Effective evidence building strategies to ensure a winning case
- Essential steps for preparing for and defending ADEA cases
- Methods for discovery — ensuring a favorable ruling
- 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

2:30 Break

2:35

Economic Damages and Statistical Issues in Employment Discrimination Cases

Stephen G. Bronars, Ph.D.

Edgeworth Economics

Sherril Colombo

Littler Mendelson P.C.

William C. Martucci

Shook Hardy & Bacon LLP

- Making sense of the latest issues in economic damages in discrimination cases: a comprehensive update on a rapidly changing area
- Statistical evidence: how it's different in discrimination cases, and different in every type of discrimination case (age, race, gender, etc.)
- The Dos and Don'ts of effectively using economists and statistician experts
- Making the determination which expert witness and testimony will work better in front of the jury

3:35

Avoiding Discrimination in Company Recruitment and Hiring Practices: The Latest on "Ban the Box," Employee Background Checks, Online Job Applications and Pitfalls to Avoid When Using Social Media Tools in Your Hiring Process

Ali Saad, Ph.D.

Resolution Economics

Paul C. Evans

Morgan, Lewis & Bockius LLP

Daniel J. Burnick

Sirote & Permutt, PC

Eric S. Dreiband

Jones Day

- What kinds of evidence does the EEOC consider in determining that there is a disparate impact caused by a company's pre-employment background/criminal/credit check policy; tips and best practices for defeating such claims
- 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
- Limitations of the "ban the box" movement
- Agency efforts to systemically reform the way employers consider criminal history information
- 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 credit checks
- Defending against disparate impact claims based on employer use of online job applications
 - Claims of disparate impact on minorities and the disabled
- 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

4:35

Views from the Plaintiffs' Bar: Adapting Your Strategies to New and Innovative Techniques and Tactics

Beth Bertelson

Bertelson Law Offices, P.A.

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Sarah R. Schalman Bergen
Berger & Montague PC

David Sanford
Sanford Heisler, LLP

J. Nelson Thomas
Thomas & Solomon LLP

Joni M. Thome
Baillon Thome Jozwiak & Wanta LLP

Tanvir Rahman
Wigdor LLP

- New and emerging arguments that plaintiffs' counsel are using
- The latest trends in discrimination claims and class actions
- Emerging claims, hotbeds, states & industries
- Pleading standards
- How plaintiffs' counsel make use of jury research
- Common mistakes companies and counsel make
- What makes a claim attractive or unattractive?

5:40
Litigating and Defending Retaliation Claims: Overcoming the Complex Challenges of These Claims and Pitfalls to Avoid

Howard M. Miller
Bond Schoeneck & King, PLLC

Susan E. Ellingstad
Lockridge Grindal Nauen PLLP

Ivan D. Smith
Hinshaw & Culbertson LLP

- Addressing the unrelenting volume of retaliation claims filed based on employment discrimination; the latest trends; notable decisions; proven strategies; lessons learned
- Understanding why common law whistleblower cases are so dangerous and tricky to defend; overcoming the inherent difficulties in defending these cases
- Review of the latest case law developments impacting elements of retaliation claims — “protected activity,” “adverse action” and “causation”
- The latest treatment of standards of proof for retaliation claims — “but for causation” or “mixed motive?”
- Overcoming juror preconceptions that retaliation is human nature in these scenarios
- Pitfalls to avoid in preventing and defending retaliation claims

6:30 Conference Adjourns

DAY TWO Friday, July 29, 2016

7:20 Continental Breakfast

8:00

In-House Think Tank: Hear from In-House Counsel on New and Emerging Areas of Risk in the Employment Discrimination Landscape, How They Manage Their Company's Expectations with Respect to Discrimination Suits, Strategies for Responding to Enhanced Enforcement Initiatives and Ramped Up EEOC Litigation Efforts, How They Manage Executive Witnesses, Examples of Law Firms Succeeding and Falling Short, and Beyond

PANEL 1 (8:00 – 9:10)	PANEL 2 (9:10 – 10:20)
<p>Mary Ulmer-Jones Associate General Counsel Bank of America</p> <p>Syeda Raza Vice President & Associate General Counsel HMS Host</p> <p>Damien Stewart Associate General Counsel Fannie Mae</p> <p>Melissa L. Dulski Vice President and Associate General Counsel American Capital, Ltd.</p> <p>Keith James Corporate Employment Counsel Masco Corporation</p> <p>Laura H. Huggett Corporate Counsel The Chemours Company</p> <p>Charlie Bierman Attorney Mayo Clinic</p> <p>Michael Segall Vice President & Assistant General Counsel Hyatt Hotels Corporation</p>	<p>Suzy Alford Assistant General Counsel Equifax Inc.</p> <p>Jeff Rosier Senior Employment Counsel Marsh & McLennan Companies, Inc.</p> <p>Nicole A. Groves Director, Senior Counsel Avon</p> <p>Philip Weis Director, Senior Employment Counsel Boehringer Ingelheim Pharmaceuticals, Inc.</p> <p>Ilyse Goldsmith Vice President Assistant General Counsel U.S. Bank</p> <p>Catherine Spicer Vice President – Associate General Counsel Tailored Brands</p> <p>Nancy L. Reynolds Counsel – Global Employment, Benefits and Labor Law Group The Western Union Company</p>
<p>Moderator: Eric W. Iskra Spilman Thomas & Battle, PLLC</p>	<p>Moderator: Regina Silva Tyson & Mendes LLP</p>

Save the Dates

CLASS ACTIONS
April 11 – 12, 2016
New York

WAGE & HOUR
CLAIMS AND CLASS ACTIONS
June 2 – 3, 2016
New York

ERISA LITIGATION
June 27 – 28, 2016
San Francisco

10:20 Break

10:25

Insurance Roundtable: Views from the Insurance Brokers, Carriers, and Claims Professionals on Recent Trends Affecting EPLI Coverage in the Discrimination Context

Raymond Cashman

Director
Nationwide

David T. Vanalek

Claims Manager, Global Management Liability
Markel Corp.

Daniel Aronowitz

Managing Principal
Euclid Specialty Managers

Edward T. McNally, II

National EPL Practice Leader,
Commercial and Financial Institutions
CNA

Alyssa Nobile Pianelli

Group Claims – Specialty Lines
Beazley Group

Laurie J. Mandell

Claims Manager,
Employment Practices Liability Claims
Chubb

Jonathan Kurens

Senior Vice President and Executive Director
Aon Risk Solutions

Kenneth L. Latham

Vice President, North America Financial Lines
Chubb

Moderator:

Mercedes Colwin

Gordon Rees Scully Mansukhani, LLP

- EPLI coverage in the discrimination context: difficulties in dealing with coverage, new exposures, and claims trends
- What new coverage enhancements are being offered?
- New sources of claims
- Claims trends: types of claims; industries with the most claims; payouts and defense costs
- Carrier perspectives on working with insureds to better manage claims
- Dealing with situations where coverage appears to be insufficient
- And Beyond

12:00

Joint Employer Liability in the Employment Discrimination Context: Crucial Considerations for Franchisors/Franchisees Given the Expanding Scope of Joint Employment, and Defeating Joint Employment Allegations Early in an Employment Discrimination Claim

Peter Sung Ohr

Regional Director; NLRB, Chicago

Gerald L. Maatman, Jr.

Seyfarth Shaw LLP

Rebecca Bernhard

Dorsey & Whitney LLP

John Barber

Lewis Brisbois Bisgaard & Smith LLP

John D. Cole

Nexsen Pruet, PLLC

- Examining the fallout of the NLRB's redefinition of "joint employer" in *Browning-Ferris*, and the decision's implications on franchisor/franchisees, sub-contractors, and other businesses that use outsourcing or staffing agencies to supply their workers
- What far reaching impacts will this have on business practices, transactions and litigation? What impacts are already being seen?
- What industries are being targeted?
- Advising clients on reviewing their policies, procedures, business relationships and practices to limit their potential exposure to employment discrimination claims based on a joint employer theory
- Carefully examining contractual relationships with third-party employers to determine whether changes can be made to those agreements to reduce the risk of joint employer liability for discrimination
- Red flag issues that lead to joint employer liability
- Tips, strategies and best practices for avoiding and defending against these claims
- Defeating joint employment allegations early in employment litigation; attacking these claims at the pleading stage

1:00

Disability and Leaves of Absence: The Latest on Who Qualifies as Disabled, "Non-Traditional" Disabilities and Mental Health Claims, What Accommodations Qualify as Reasonable, and a Tactical Tool-Kit for Defending Against ADA & FMLA Claims

Ryan Vann

Baker & McKenzie LLP

Jessica Roe

Roe Law Group PLLC

Kara Shea

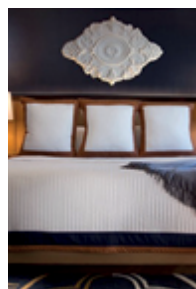
Butler Snow LLP

Thomas R. Revnew

Seaton Peters & Revnew PA

- Defending against FMLA and ADA claims (including mental health claims) and making sense of the crossover between them
- How are the courts most recently interpreting and qualifying "disability" under the latest ADA amendments?
- Managing ADA claims based on non-traditional disabilities (mental illness; pregnancy; age; weight)
- Accommodating mental disability & other "tricky to identify & accommodate" disability
- Handling accommodation requests and engaging in interactive processes in order to minimize risk to clients
- Job restructuring accommodations
- Trial techniques for managing & defending against ADA claims once they are brought:
 - Communicating your client's position on the existence of a disability (mental disorder) to the jury
 - Summary judgment strategies
 - Navigating causation issues
- Overcoming challenges with claims of systemically discriminatory leave policies
- Managing and defending cases involving the intersection of the ADA, FMLA and other types of leave claims

2:00 Conference Ends



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