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PLANNING COMMITTEE

A special thank you to the planning committee for their contributions of time and expertise:

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LABOR & EMPLOYMENT LAW INSTITUTE

**Wednesday,
December 16, 2020**

LIVE ONLINE ONLY

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FEATURING:

- **Helen M. Applewhaite**
Director, Division of FMLA and Section 14(c)
Office of Policy
Wage and Hour Division
USDOL
Washington, D.C.
- **Richard A. Bock**
Associate General Counsel
Division of Advice
NLRB
Washington D.C.
- **Andrew F. Maunz**
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The 2020

**LABOR &
EMPLOYMENT
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Wednesday, December 16, 2020
LIVE ONLINE ONLY

Advanced!

SCHEDULE

8:20 – 8:50 a.m.

JOIN ONLINE

8:50 – 9:00 a.m.

WELCOME & INTRODUCTION

5 Key Labor Law Topics Heading into 2021

9:00 – 9:40 a.m.

- 1. COVID and Working Conditions / Discussion of Merit Cases**
- 2. Protest Activity / Political Advocacy / Rats and Bannering**
- 3. Disciplining an Employee for Engaging in Abusive Conduct**

– *Richard A. Bock, Associate General Counsel, Division of Advice, NLRB, Washington D.C.*
– *Moderator: Nichole L. Burgess, Regional Attorney, NLRB, Minneapolis*

9:40 – 9:55 a.m.

4. Logistical Issues in Today's Remote Environment

- Elections (including manual versus mail ballot elections; ballot counting logistics)
 - Virtual hearings
 - Collecting evidence
- *Jennifer A. Hadsall, Regional Director, NLRB, Minneapolis*

9:55 – 10:10 a.m.

5. Post-Election Labor-Law Predictions

– *Paul J. Zech*

10:10 – 10:25 a.m.

BREAK

NEW for 2020!

Ability for Attendees to Watch Recordings of the Institute Presentations for 1 Year Following the Institute

NOTE: This "Watch Again" feature is reserved for attendees. Any viewing of sessions outside the listed Institute date and times is not eligible for credit; it is for educational purposes only. The maximum number of credits that may be reported for the Institute itself is 5.0.

Employment Law Update – New Developments, Analyzed

10:25 – 10:55 a.m.

Supreme Court Update – Employment Law

1. *Bostock v. Clayton County, Georgia* (U.S. 2020) (**LGBTQ coverage under Title VII**)
2. *Our Lady of Guadalupe School v. Morrissey-Berru* (U.S. 2020) (**First Amendment ministerial exception** as applied to employment discrimination law)
3. *Babb v. Wilkie* (U.S. 2020) (**role of but-for causation** in federal-sector age discrimination cases)
4. *Kenneh v. Homeward Bound, Inc.* (Minn. 2020) ("severe or pervasive" standard under **MHRA definition of sexual harassment**)
5. **U.S. Supreme Court composition** – predictions regarding impact on employment law cases
 - *Shalanda D. Ballard*
 - *Elizabeth G. Bentley*
 - *Kaarin Nelson Schaffer*

10:55 – 11:55 a.m.

Interaction Between COVID, ADA, and FMLA – The Most Important Agency Messages for the Experienced Workplace Lawyer

- *Carol R. Miaskoff, Associate Legal Counsel, EEOC, Washington D.C.*
- *Helen M. Applewhaite, Director, Division of FMLA and Section 14(c), Office of Policy, Wage and Hour Division, USDOL, Washington D.C.*
- *Moderator: Nicholas J. Pladson, General Counsel, Minnesota Department of Human Rights, Saint Paul*

11:55 a.m. – 12:15 p.m.

New Proposed EEOC Conciliation Rules – Substance and Status

- *Andrew F. Maunz, Legal Counsel, EEOC, Washington D.C.*

12:15 – 1:15 p.m.

LUNCH BREAK

1:15 – 2:15 p.m.

Concrete Steps to Achieving Racial Equity in the Workplace – How to Move Beyond Mere Declarations of Support

1.0 elimination of bias credit applied for

Employer policies and public statements embracing racial diversity and inclusion may be genuine and necessary, but those aren't adequately moving the dial to create racial equity in the workplace. This thought-provoking discussion talks about the system-wide changes in practices within an organization most likely to translate that desire for diversity and inclusion into a reality of racial equity in hiring, pay, promotions, and senior leadership positions.

- *Erin Feigal*
- *Donald M. Lewis*
- *Rebecca Lucero, Commissioner, Minnesota Department of Human Rights, Saint Paul*
- *Moderator: Tisidra Jones*

2:15 – 2:30 p.m.

BREAK

2:30 – 3:30 p.m.

Retaliation and Whistleblower Claims – Navigating 4 Crucial Moments

A teaching team composed of union, employer, employee, and NLRB counsel analyze legal, strategic and other considerations surrounding decisions at the following crucial points of retaliation and whistleblower matters:

1. Concretely speaking, how can an employer's attorney most effectively advise their clients about how to prevent reprisal?
2. What are the potential negative consequences for even a successful whistleblower, and how should their lawyers approach discussion of that topic with them?
3. When an employee refuses to perform a job duty based on it being allegedly in violation of an agency's guidance, not an agency rule – for example, COVID-related guidance – what are the risks if an employer wants to discipline the employee for failure to perform the duty?
4. With parallel causes of action available, based on what criteria should the selection of remedies be made?
 - *Justin D. Cummins*
 - *Cedrick R. Frazier*
 - *Gina K. Janeiro*
 - *Benjamin Mandelman, Milwaukee Officer-in-Charge, NLRB, Milwaukee*
 - *Moderator: Timothy Y. Wong*

INSTITUTE INFORMATION

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Minnesota CLE is applying to the Minnesota State Board of CLE for **5.0 CLE credits, including 1.0 elimination of bias credit**. The maximum number of total credits attendees may claim for this course is 5.0.

Minnesota CLE also is applying to the Minnesota State Bar Association for **5.0 labor and employment law specialist credits**.

CANCELLATION / NO-SHOW POLICY

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