FRIDAY, OCTOBER 18, 2019

11:20 - 12:05  LUNCHEON (Non-CLE)  
SPONSORED BY CLARK LAW GROUP AND SPRINGER AYENI

12:05 - 12:20  WELCOMING REMARKS AND OVERVIEW OF PROGRAM  
Program Co-Chairs:  
Cassie Springer Ayeni, Springer Ayeni, APLC  
Benjamin Eisner, Spear Wilderman, PC  
Aliya Robinson, The ERISA Industry Committee  
Joanne Roskey, Government Attorney

12:20 - 1:10  ADVANCED MEDIATION TECHNIQUES IN ERISA BENEFITS CASES  
Topics include the effect on settlement of bringing concurrent (a)(3) and (a)(1)(B) claims; pros and cons of early mediation; relationship building for the win; and insights on when to exchange briefs and documents. Panelists will also discuss commonly occurring issues and procedural defenses impacting settlement that counsel need to tactfully negotiate (e.g., inconsistent claims for disability benefits and employment discrimination); best use of evidence outside the record to support/defeat claims; and ethical considerations in negotiating settlements and drafting agreements.  
Cassie Springer Ayeni, Springer Ayeni, APLC  
Robert M. Forni, Ropers Majeski, Kohn Bentley PC  
Adrienne Publicover, JAMS

1:10 - 2:00  DISCOVERY IN ERISA LITIGATION—FRCP 26-34, ESI, FOIA REQUESTS, AND LTD  
How do practitioners design and execute discovery plans that effectively provide sufficient information to prosecute or defend an ERISA action while balancing costs of discovery, new limitations in the federal rules on depositions and written discovery, spiraling ESI costs and availability, and the need for targeted information? Subjects will include discussion of non-ESI discovery in benefit claims (long-term disability – is it available?) and fiduciary breach cases. Panelists will further discuss issues unique to Electronically Stored Information, such as ESI discovery plans that incorporate search terms, agreements on costs of ESI, the emerging case law on ESI and privilege, the use of staged discovery, and the usefulness of involving IT and record keepers early in the process. The panel also will discuss how the most effectively use court oversight in the discovery process while balancing the need to work cooperatively with opposing counsel.  
Margo Hasselman Greenough, Renaker Hasselman Scott LLP  
Stacey CS Cerrone, Proskauer Rose LLP  
Jeremy M. Barr, Dowd, Bloch, Bennett, Cervone, Auerbach & Yokich  
Robert Lewis, Counsel for ERISA, Atlanta Regional Solicitor’s Office, U.S. Department of Labor
ERISA LITIGATION SEMINAR

2:00-
2:15  Afternoon Break (Non-CLE)

2:15-
3:05  ARBITRATION: WHAT’S DIFFERENT ABOUT ERISA?
This panel will discuss the impact of the Supreme Court’s decision in *Epic Systems v. Lewis* and the Ninth Circuit’s interpretation in *Munro v. USC*. The panel also will discuss issues left open after these decisions, including whether plans can block arbitration relief for the plan by agreeing only to individual arbitration, and the impact of binding arbitration clauses on ERISA plans. In addition, the panelists will explore the pros and cons of employers’ adopting mandatory arbitration clauses, thereby precluding judicial review of ERISA claims.
Samuel Schwartz-Fenwick, Seyfarth Shaw
James Bloom, Schneider Wallace Cottrell Konecky Wotkyns LLP

3:05-
3:55  HOW TO WRITE AND ARGUE IN COURT A SUCCESSFUL APPEAL: PRESENTING YOUR COMPLEX ERISA MATTER IN 15 MINUTES OR LESS
This panel of experienced ERISA appellate lawyers will discuss strategies for how to write and argue an ERISA appeal successfully. This session will be designed for both the experienced and less experienced ERISA litigator. As many judges lack familiarity with ERISA (may even loathe the prospect of an ERISA case) and may only have seen limited types of ERISA cases, the task of educating judges on appeal – particularly with 15 minutes or less of oral argument – of the particulars of an ERISA appeal is even more difficult than other areas of the law. This session is designed to provide even the experienced appellate lawyer with strategies of how to successfully present those issues on appeal.
Mark DeBofsky, DeBofsky Sherman Casciari Reynolds, P.C.
Michael E. Kenneally, Morgan, Lewis & Bockius
Michael T. Graham, Jenner & Block LLP
Thomas Tso, U.S. Department of Labor

3:55  Adjourn