PROGRAM AGENDA

TUESDAY MARCH 14

6:30 – 8:00 p.m.  Welcome Reception Honoring Special Guests, Government Representatives, and Speakers (Terraza Pintores)

ALL Meeting Registrants are Invited to Join Section Chair Charles A. Werner and Chair-Elect Patricia Costello Slovak, along with our Council Liaisons, Allen J. Gross, Christopher T. Hexter and Wayne N. Outten, in Welcoming our Honorees!

Special Guests Include:

The Honorable Stuart J. Ishimaru
Commissioner, U.S. Equal Employment Opportunity Commission
Washington, D.C.

The Honorable Howard M. Radzely
Solicitor of Labor, U.S. Department of Labor
Washington, D.C.

The Honorable Denise Page Hood
Judge, U.S. District Court for the Eastern District of Michigan
Detroit, Michigan

The Honorable Andrew J. Peck
Magistrate Judge, U.S. District Court for the Southern District of New York
New York, New York

Andrew L. Stern
President, Service Employees International Union (SEIU), CLC
Washington, D.C.

Frank H. Wu
Dean and Professor, Wayne State University Law School
Detroit, MI
WEDNESDAY MARCH 15

7:30 – 8:30 a.m.  Vamos a Comer - Let’s Eat: Continental Breakfast and Registration  
(Orozco Foyer)

8:30 – 9:30 a.m.  Pass the Churros: ERR Subcommittee Co-Chair Meeting (Juarez)

8:30 – 10:00 a.m.  It’s Elementary . . . Actually, It’s Basic:  
Basic Employment Rights & Responsibilities (Orozco/Rivera)  
This program provides an introduction to the major legal issues of interest to the  
ERR Committee, including employment agreements, workplace privacy, employer  
investigations, wrongful discharge and employment torts. This panel will also offer  
tips for dealing with clients, adversaries and judges in employment matters.  
Samantha C. Grant, Mitchell Silberberg & Knupp LLP, Los Angeles, CA  
Ty Hyderally, Law Offices of Ty Hyderally, PC, Montclair, NJ  
Louis Lopez, Federal Bureau of Investigation, Washington, DC  
Denise M. Mercherson, Law Offices of Denise M. Mercherson, Chicago, IL  
Jennifer F. Swain, Johnston Barton Proctor & Powell LLP, Birmingham, AL

10:00 – 10:15 a.m.  Descanso – Break (Orozco Foyer)

10:15 – 12:15 p.m.  The Basics: Covenants Not-To-Compete and Trade Secrets (Orozco/Rivera)  
This program will provide an overview of covenants not-to-compete, contracts and  
laws protecting trade secrets, the employee’s duty of loyalty and litigation  
regarding these matters, including strategies and tactics.  
(Presented by Covenants not to Compete, Trade Secrets, Loyalty and Conflicts of Interest Subcommittee)

Moderators:  
Charles M. Poplstein, Thompson Coburn, St. Louis, MO  
Arnold H. Pedowitz, New York, NY

Speakers:  
Melinda Caterine, Moon Moss McGill & Shapiro, Portland, ME  
David L. Johnson, Miller & Martin PLLC, Nashville, TN  
Thomas J. Sawyer, Womble Carlyle Sandridge & Rice,  
Tysons Corner, VA  
Robert J. Wood, Jr., Hughes & Luce LLP, Dallas, TX

12:15 – 1:00 p.m.  Almuerzo para miembros nuevos – New Kids on the Block:  
First Timer Luncheon / Orientation (Terraza Pintores)  
First-Time Attendees are invited to enjoy an informal lunch with Section and  
Committee leaders who will discuss what ERR does and how to get involved.

1:15 – 1:30 p.m.  Buenos Dias - Introduction and Welcome (Orozco/Rivera)  
Charles A. Werner, Section Chair, Schuchat Cook & Werner, St. Louis, MO  
Patricia Costello Slovak, Section Chair-Elect, Schiff Hardin LLP, Chicago, IL

ERR Committee Co-Chairs:  
Maureen S. Binetti, Employee, Wilentz Goldman & Spitzer PA, Woodbridge, NJ  
Marvin A. Gittler, Union & Employee, Asher, Gittler, Greenfield & D’Alba,  
Chicago, IL  
Gail Golman Holtzman, Employer, Constangy Brooks & Smith, LLC, Tampa, FL

ERR Committee Program Co-Chairs:  
John F. Beasley, Jr., Employee, Hill & Beasley LLP, Athens, GA  
Mark N. Mallery, Employer, McGlinchey Stafford, New Orleans, LA  
Adele Rapport, Public, Equal Employment Opportunity Commission, Detroit, MI

ERR Committee Administrative Co-Chairs:  
Paula G. Ardelean, Employer, Butler Snow, Jackson, MS  
Jonathan Ben-Asher, Employee, Beranbaum Menken Ben-Asher & Bierman LLP,  
New York, NY
1:30 – 2:30 p.m. Opening Presentation:
The Incredible Shrinking Union Percentage (Orozco/Rivera)
During the past fifty years in the U.S., union membership in the private sector has shrunk from more than 30% of the workforce to less than 10% today. Simultaneously, the number of individual employment rights, as set forth in statutes, regulations and the common law, and the volume of employment litigation have exploded. Does anyone outside the labor movement really care about this decline? Why should they? And to what extent have individual employment rights adequately filled the void?

Andrew L. Stern, President, Service Employees International Union (SEIU), Washington, DC

2:30 – 3:30 p.m. Workplace Fairness: Utopian Myth or New Reality? (Orozco/Rivera)
Wise Men (and Women) Say . . . Former ERR Committee Chairs (Management, Plaintiff, Union and Public) will discuss and debate the truth about “workplace fairness,” along with the cutting edge issues that may encourage and interfere with the workplace fairness movement.

Moderator: Richard G. Moon, Moon Moss McGill & Shapiro, Portland, ME
Speakers: Christine Godsil Cooper, Loyola University, Chicago, IL
Allen J. Gross, Mitchell, Silberberg & Knupp, Los Angeles, CA
Louis B. Kushner, Rothman Gordon, Pittsburgh, PA
Wayne N. Outten, Outten & Golden LLP, New York, NY

3:30 – 3:45 p.m. Descanso - Break (Orozco Foyer)

3:45 – 4:30 p.m. You Can Use ADR for That? (Orozco/Rivera)
This panel will discuss the extent to which internal corporate ADR programs can be used to help achieve workplace fairness when dealing with current employees, including the establishment and use of various ADR concepts, such as exploration of reasonable accommodations under the ADA; and resolution of employee relationship issues, such as nepotism, workplace romance, religious proselytizing, and political differences. (Presented by Alternatives to Litigation Subcommittee)

Moderator: Daniel B. Boatright, Spencer Fane Britt & Browne, LLP, Kansas City, MO
Speakers: James N. Adler, Arbitrator/Mediator, Los Angeles, CA
Geoffrey Drucker, Director of Federal Dispute Resolution, The McCammon Group, Richmond, VA
Oscar E. Romero, Senior Counsel, Bridgestone/Firestone Retail & Commercial Operations, LLC, Bloomingdale, IL

4:30 – 5:30 p.m. Perspectives on Workplace Fairness from the Solicitor of Labor (Orozco/Rivera)
The Honorable Howard M. Radzely, Solicitor of Labor, U.S. Department of Labor, Washington, DC

5:30 – 5:40 p.m. Extra, Extra! Editorial Board Report – Presented by Newsletter Editorial Board

6:30 – 7:00 p.m. First-Timer/New Member Meet-and-Greet Reception (Jardin Los Arcos)

7:00 – 8:30 p.m. Fiesta de Bienvenido: Welcome Reception (Patio Los Arcos)
THURSDAY, MARCH 16
THEME FOR THURSDAY:
RESTRICTIVE COVENANTS IN THE ERA OF E-DISCOVERY

7:30 – 8:45 a.m.  Desayuno Continental - Continental Breakfast (Orozco Foyer)

7:30 – 8:30 a.m.  Breakfast Roundtables (Terraza Pintores)
The Breakfast Roundtables on Thursday, Friday and Saturday are informal gatherings of interested lawyers, and they are designed to encourage group discussions about various topics that have been identified as issues of importance to ERR Committee members. These will not include any formal lecture or presentation, and no written materials will be distributed about the topic. Instead, the issues raised by the attendees and the facilitators will drive the group discussion. These breakfast discussions will last about an hour and, because of their informal nature, are not approved for CLE credit.

The Hiring and Firing of Multinational Executives
Facilitator: Wendi Lazar, Outten & Golden LLP, New York, NY

Perspectives from the EEOC
Facilitators: Christopher Kuczynski, Assistant Legal Counsel, ADA Policy Division, Washington, DC, and Dwight A. Lewis, Supervisory Attorney-Examiner, Dallas, TX

Perspectives from the Office of the Solicitor, U.S. Department of Labor
Facilitator: Connie Ackermann, Office of the Solicitor, Counsel for Civil Rights, Dallas, TX

Yesterday's News
Facilitator: Denise K. Drake, Spencer Fane Britt & Browne, LLP, Kansas City, MO
Speakers from Wednesday's program will gather together for breakfast and for a continued discussion of provocative issues from the day before.

8:45 – 9:30 a.m.  Don’t Touch That File: Electronic Discovery After Zubulake (Orozco/Rivera)
A pair of major decisions involving UBS Warburg (the Zubulake case) and Morgan Stanley have changed the landscape for civil litigation in the electronic era. In both cases, courts imposed drastic sanctions against corporate defendants accused of failing to collect and preserve electronic documents. Spoliation and document retention are now front and center. This panel will address best practices for both management and employee litigators, including the counseling of employers on records retention issues. It will also consider remedies that are available when electronic evidence has not been retained. The panel will also discuss a series of real world problems in which plaintiffs make discovery demands, employer lawyers counsel their clients, and the parties argue before the court. (Presented by Technology Subcommittee)

Moderator: James S. Barber, Clausen & Miller, Chicago, IL
Speakers: Sean R. Gallagher, Hogan & Hartson, Denver, CO
The Honorable Andrew J. Peck, Magistrate Judge, U.S. District Court, Southern District of New York, New York, NY
Mark Risk, Mark Risk, PC, New York, NY
9:30 – 11:30 a.m.  E-Discovery and the New Wave of Sanctions Litigation: A Judicial Perspective (Orozco/Rivera)

This panel will present two oral arguments in a hypothetical non-compete/trade secrets case, followed by a panel discussion. One argument will be a motion to compel production of electronic data. The other will seek an order precluding evidence as a sanction for failing to produce required information. After the arguments, a panel including our Federal Judges and experienced litigators representing plaintiffs, the government and defendants will discuss the new wave of sanctions and practical guidance. (Presented by Trial Advocacy Subcommittee)

Moderator: Robert M. Goldich, Wolf, Block, Schorr and Solis-Cohen, Philadelphia, PA

Speakers: Stacey A. Campbell, Baker & Hostetler LLP, Denver, CO
          Lloyd B. Chinn, Proskauer Rose, New York, NY
          The Honorable Denise Page Hood, U.S. District Court, Eastern District of Michigan, Detroit, MI
          Ty Hyderally, Law Offices of Ty Hyderally, Montclair, NJ
          The Honorable Andrew J. Peck, Magistrate Judge, U.S. District Court, Southern District of New York, New York, NY
          Adele Rapport, Equal Employment Opportunity Commission, Detroit, MI
          Laurie Vasichek, Equal Employment Opportunity Commission, Minneapolis, MN

11:30 – 11:45 p.m.  Descanso - Break (Orozco Foyer)

11:45 – 12:30 p.m.  Don't Fence Me In (Orozco/Rivera)

This panel will follow the Trial Advocacy presentation and will discuss the fact pattern and the corresponding substantive legal issues that arise under the law of trade secrets and covenants-not-to-compete. The presenters will also identify and debate the lessons learned from the mock arguments and how to draft agreements that minimize the risk of future lawsuits and claims of this nature. (Presented by Covenants not to Compete, Trade Secrets, Loyalty and Conflicts of Interest Subcommittee)

Moderator: Robert A. Blackstone, Davis Wright Tremaine LLP, Seattle, WA
Speakers: Daryl L. Parker, Herzfeld & Rubin, P.C., New York, NY
          Arnold H. Pedowitz, Law Office of Arnold H. Pedowitz, New York, NY
          Connie Reeve, Blake, Cassels & Graydon LLP, Toronto, ON

12:30 – 1:30 p.m.  Almuerzo – Lunch and Subcommittee Meetings (Terraza Pintores)

2:00 p.m.  Volibol en la playa – Beach Volleyball (Arrangements by Membership Subcommittee)

5:00 – 7:00 p.m.  Coctel – Come-As-You-Are Cocktail Reception (TBD)

7:30 – 11:00 p.m.  Por Donde Quiera – Dine Around (Sign-up at Registration Desk by 11:45 a.m.)
FRIDAY, MARCH 17

7:30 – 8:30 a.m.  Desayuno Continental – Continental Breakfast (Orozco Foyer)

7:30 – 8:00 a.m.  Breakfast Roundtables (Terraza Pintores)
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Disaster Relief – Representation of Employees and Employers in the Wake of Hurricane Katrina (Presented by Worker Dislocation Subcommittee)
Facilitator: Glenn A. Duhl, Siegel O’Connor Zangari O’Donnell & Beck, Hartford, CT

Former Co-Chairs Roundtable – Advice and Strategy for New Lawyers
Facilitators: Former ERR Committee Co-Chairs Stewart Manela, Arent Fox, Washington, DC, and James A. Reiter, Charfoos Reiter Peterson Jones Dorland & Hebert, PC, Farmington Hills, MI

Yesterday's News
Speakers from Thursday's program will gather together for breakfast and for a continued discussion of provocative issues from the day before.

8:00 – 9:15 a.m.  Two For the Price of One: Two Committees & Two Topics (Orozco/Rivera)

(1)  More Clients, More Money, More Problems: Conflicts of Interest in Joint Representation
More clients may mean more money, but it can also mean more problems. When counsel represent other parties with similar interests in the same litigation, careful consideration must be given to a host of ethical problems. This panel will discuss the ABA’s recent ethics opinion on the waiver of future conflicts of interest (Formal Opinion 05-436), offering views from plaintiffs-side counsel, union-side counsel, defense counsel, and in-house corporate counsel.

(2)  Self-Help Discovery and the Path to Disqualification: How Informal Pre-filing Discovery Can Lead to Ethical Violations
As an additional topic, the panel will discuss the facts of EEOC v. Hora, Inc., a case which resulted in the disqualification of the plaintiff’s counsel for engaging in pre-filing discovery through the aid of a disgruntled current administrative assistant. The panel will also offer practical advice for pre-filing investigations that do not lend themselves to ethical transgressions. (Jointly Presented by the Ethics and Professional Responsibility Committee and the ERR Ethics in Litigation Subcommittee)

Moderator:  Steven W. Moore, Baker & Hostetler LLP, Denver, CO
Speakers:  Maureen S. Binetti, Wilentz, Goldman & Spitzer, P.C., Woodbridge, NJ
           Melinda Burrows, Deputy General Counsel, Progress Energy, Inc., Raleigh, NC
           Eric W. Iskra, Spilman Thomas & Battle, PLLC, Charleston, WV
           Michael P. Posner, Posner & Rosen, LLP, Los Angeles, CA
FRIDAY, MARCH 17

9:15 – 10:00 a.m.  An Ounce of Prevention May Be Worth A Pound of Aggravation
(Orozco/Rivera)
A panel of experienced counsel and industry experts will present a series of
vignettes that highlight some of the complications presented when employment
claims are covered by EPLI insurance. Examples include: coverage disputes
between carriers, bad-faith claims, conflicts that arise in settlement discussions.
(Presented by Insurance Subcommittee)

Moderator:  Joseph H. Yastrow, Laner Muchin, Chicago, IL
Speakers:  Elizabeth S. Bair, Wilentz Goldman & Spitzer, Woodbridge, NJ
           Eugene A. Boyle, Neal, Gerber & Eisenberg, Chicago, IL
           Kimberly Geisler, Huckaby, Scott & Dukes, Birmingham, AL
           David Keenan, Chubb & Son, Warren, NJ
           H. Rowan Leathers III, Manier & Herod, Nashville, TN
           David J. Walton, Cozen O'Connor, Philadelphia, PA

10:00 – 10:15 a.m.  Descanso – Break (Orozco Foyer)

10:15 – 11:00 a.m.  Enforcing House Rules:
Applying Corporate Codes of Conduct Internationally (Orozco/Rivera)
Recent court disputes in Germany and France have shown that the world-wide
implementation of standardized Codes of Conduct is more than problematic. This
panel will discuss the development, use and enforcement of corporate codes of
conduct in foreign workplaces. (Presented by International Law Subcommittee)

Moderator:  D. Jan Duffy, Management Practices Group, San Francisco, CA
           Christopher Jordan, CMS Hasche Sigle, Cologne, Germany
           Patrick Thiebart, Cabinet Franklin, Paris, France
           Andrea Zwack, Heenan Blaikie, Vancouver, BC, Canada

11:00 – 11:45 a.m.  The Doctor Is In: Your ADA/FMLA Claim (Orozco/Rivera)
Determining whether an employee is disabled, the need for and type of reasonable
accommodation required, whether s/he represents a direct threat, whether s/he has a
serious health condition, and the duration of any medical leave required, are some
of the many issues faced by attorneys representing employers and employees in
situations involving the ADA and FMLA. Frequently, it is imperative to consult
with a medical expert on these issues. The focus of this presentation will be on
how an attorney may use a health professional to help with these legal issues and
provide competent representation for your client. Attendees will gain insight into
when to seek the help of a medical expert, exchanging information with the expert,
the expert's participation in the employer's decision-making process, and the
expert's participation in litigation. (Presented by Health, Disability and Leave of
Absence Issues Subcommittee)

Moderator:  Glen D. Savits, Green & Savits, LLC, Morristown, NJ
Speakers:  Donald Barth, Assistant General Counsel, American Re-Insurance
           Company, Princeton, NJ
           Adele Rapport, Equal Employment Opportunity Commission,
           Detroit, MI
Corporate Diversity Programs – Doing the Right Thing or Risky Business? (Orozco/Rivera)
An expert panel will discuss today’s corporate diversity landscape and the potential for conflict between diversity offices and legal departments. The discussion will focus on diversity recruiting, development and retention initiatives, the risks associated with such programs and how best to manage those risks. (Presented by Corporate Counsel Caucus)

Moderator: J. Lindsay Johnston, PJM Interconnection, LLC, Norristown, PA
Speakers: Tamika Lynch, ClientLogic, Nashville, TN
Dean and Professor Frank H. Wu, Wayne State University Law School, Detroit, MI
Theos McKinney, AstraZeneca Pharmaceuticals LP, Wilmington, DE

DOIT Right – Hear the latest on the efforts and initiatives of our Diversity Outreach Initiative Taskforce (Presented by DOIT)

Torneo de Golf – Golf Tournament (Vista Vallarta Club de Golf)
Competencia de Tennis – Tennis Round Robin (Westin Tennis Courts)
Actividades opcionales - Optional Tours & Activities (Sign-up at Registration Desk)
Suggested Activities: Treetop Canopy Adventure, Deep Sea Fishing, Swim with the Dolphins, Horseback riding, Whale Watching Expedition, Snorkeling, City Tour, Parasailing

Motown Meringue: Friday Night Dinner and Dance Reception (Jardin Tenampa) (included in attendee and guest registration fees)

SATURDAY MARCH 18

Desayuno Continental - Continental Breakfast (Orozco Foyer)
Breakfast Roundtables (Terraza Pintores)
These Breakfast Roundtables on Saturday are informal gatherings of interested lawyers, and they are designed to encourage group discussions about various topics that have been identified as issues of importance to ERR Committee members. These will not include any formal lecture or presentation, and no written materials will be distributed about the topic. Instead, issues raised by the attendees and facilitators will drive the discussion. These breakfast discussions will last about an hour, and, because of their informal nature, are not approved for CLE credit.

Back by Popular Demand – Juice with the Judiciary
Facilitator: Steven Hymowitz, Former ERR Committee Chair, Kiesewetter Wise Kaplan Prather, PLC, Memphis, TN

Self-Critical Analysis: Should the Privilege be Extended to Employment Matters?
Facilitator: Jeffrey A. James, Sebris Busto James, Bellevue, WA

Yesterday's News
Speakers from Friday’s program will gather together for breakfast and for a continued discussion of provocative issues from the day before.
SATURDAY MARCH 18

8:30 – 9:15 a.m. The Definitive Word: The Latest Decisions from the U.S. Supreme Court on Employment and Labor issues (Orozco/Rivera)

This topic will feature a panel discussion on the latest developments from the United States Supreme Court on labor and employment issues. This panel will discuss the impact of the high court’s recent decisions and the latest developments from the lower courts on the most important decisions of the past few years, including the lasting impact of *Costa v. Desert Palace*. (Presented by the Young Lawyers Division: Labor & Employment Law Committee)

**Moderator:** Jeffrey D. Patton, Blanco Tackabery, Winston-Salem, NC  
**Speakers:** Rachel Esposito, Cranfill, Sumner & Hartzog, LLP, Raleigh, NC  
Piper Hoffman, Outten & Golden, New York, NY

9:15 – 10:00 a.m. Pay Attention, Class: Cutting Edge Issues in Employment Class Actions (Orozco/Rivera)

This session will be devoted to a panel discussion of noteworthy developments in class action employment discrimination litigation, including the continuing debate among the circuit courts over certification of class claims involving compensatory and punitive damages and the recent court decision(s) in *Dukes v. Wal-Mart*, which certified the largest employment discrimination class in history of over 1.5 million women. (Presented by Class Actions Subcommittee)

**Moderator:** John M. Husband, Holland & Hart, Denver, CO  
**Speakers:** Roberta L. Steele, Goldstein, Demchak, Baller, Borgen & Dardarian, Oakland, CA  
Jerome A. Hoffman, Dechert, Philadelphia, PA  
Laurie Vasichek, Equal Employment Opportunity Commission, Minneapolis, MN

10:00 – 10:15 a.m. Descanso – Break (Terraza Pintores)

10:15 – 11:00 a.m. The Ghost in the Machine: The Impact of the Non-Traditional Work Force on Employer Promulgated Health Plans (Orozco/Rivera)

This panel will address the role the non-traditional work force plays in an employer’s attempts to control and reduce the cost of healthcare coverage, including: the background of benefits coverage for the non traditional workforce (“NTWF”) and the current uses of the NTWF; considerations in using the NTWF to reduce benefit costs and lessons derived from Vizcaino and other stock option cases; what employees should do when denied health care benefits; and possible causes of action available to employees, including ERISA Section 510 claims. (Jointly Presented by Contingent Work Force and ERISA and Employment Benefits Litigation Subcommittees)

**Moderator:** John Holmquist, Nemeth Burwell, Detroit, MI  
**Speakers:** Samantha C. Grant, Mitchell, Silberberg & Knupp, LLP, Los Angeles, CA  
James C. Zalewski, DeMars, Gordon, Olson & Zalewski, Lincoln, NE
SATURDAY MARCH 18

11:00 – 11:45 a.m. Ain't Nobody's Business But My Own *(Orozco/Rivera)*
This program will include a substantive discussion of the current state of the law pertaining to discipline administered as a result of an employee's off-duty conduct. Then, management, union and employee attorneys will debate the wisdom and practical effects of extending statutory, regulatory, constitutional and common law protections to employees for their off-duty actions and behavior. *(Jointly Presented by Employee Privacy and Statutory Rights Subcommittees)*

**Moderator:** Cary Schwimmer, Law Offices of Cary Schwimmer, Memphis, TN

**Speakers:**
- Margaret Angelucci, Asher, Gittler, Greenfield & D’Alba, Ltd., Chicago, IL
- Craig Cornish, Cornish & Dell’Olio, Colorado Springs, CO
- Nathan L. Kaitz, Morgan, Brown & Joy, Boston, MA

11:45 – 12:30 p.m. Singing the Blues: New Claims and Defenses in Employment Cases That Will Have You Rocking and Rolling
The program will have a musical bent, matching songs with new claims and defenses. It will be presented like Kasey Kasem's American Top Hits Countdown. *(Jointly Presented by Employment-At-Will – Collateral Torts and Legislative Developments Subcommittees)*

**Moderator:** Paul “Wolfman” Starkman, Arstein & Lehr, Chicago IL

**Track 1:** Adele Rapport (Equal Employment Opportunity Commission, Detroit, MI) will croon about the EEOC's actions to state disability discrimination claims based on personnel policies that terminate employees who are unable to return to work after exhausting available leaves of absence. Song: Bob Dylan's “Going, Going, Gone.”

**Track 2:** Frank Van Dusen (Miller Nash, Seattle, WA) will take a musical look at how anti-SLAPP (strategic lawsuits against public policy) statutes have become both a shield and a sword for employers and employees in recent years. Employees have apparently used them to defend themselves when employers sue disgruntled employees for defamatory e-mails web postings or blogging. Employers use them to defend themselves when employees sue after being discharged or disciplined in conjunction with the employer's reporting some misdeed to a governmental agency (e.g., a nurse is reported to a nurse licensing board). Song: Pat Benatar’s “Hit Me With Your Best Shot.”

**Track 3:** Donald L. Sapir (Sapir & Frumpkin, White Plains, NY) will discuss some recent cases out of the California Supreme Court, such as *Miller v. Department of Corrections*, 2005 Cal. LEXIS 7606 (July 18, 2005), which held a sexually hostile environment could arise out a boss’ sexual favoritism toward an office paramour, the pending case involving the writer on the “Friends” television show who claimed sexual harassment based on the sexual discussions in the writers' bullpen, and another case that allowed a retail sales supervisor to proceed with a retaliation claim based on her manager's instruction that she fire a sales associate and “get me someone hot,” even though she did not complain to anyone about the order and refused to comply with the order – all of which have management lawyers singing Buster Poindexter's “Feeling Hot, Hot, Hot.”

12:30 – 1:00 p.m. Hasta Luego – Time to Say Goodbye: Feedback and Wrap-up
A participatory forum to discuss your views of this year’s program and your ideas for 2007.