The 33rd Annual National Institute on

ERISA Basics

June 5-7, 2019

Jones Day
300 New Jersey Avenue, NW
Washington, DC 20001

Early Bird Registration Deadline: May 3rd
Hotel Reservations Deadline: May 21st

Register On-line www.americanbar.org/jceb
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15.00 CLE Credit Hours have been requested from 60-minute states
18.00 CLE Credit Hours have been requested from 50-minute states
Including 1.00 CLE Credit Hour of Ethics
ERISA BASICS NATIONAL INSTITUTE
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Robert Gower, *Trucker Huss, APC*, San Francisco, CA

Jeffrey Hahn, *U.S. Department of Labor*, Washington, DC

Megan Hansen, *U.S. Department of Labor*, Washington, DC

Timothy Hauser, *Deputy Assistant Secretary for Program Operations, U.S. Department of Labor*, Washington, DC *(invited)*

Russell L. Hirschhorn, *Program Co-Chair*, *Proskauer Rose LLP*, New York, NY

Al Holifield, *Holifield Janich & Ferrera, PLLC*, Knoxville, TN

Meghan Horn, *Segal Group*, Washington, DC
Yolanda Montgomery, SEIU Funds, Washington, DC

Celeste Moran, U.S. Department of Labor, Boston, MA

Mayoung Nham, Slevin & Hart, PC, Washington, DC

Elizabeth Oppenheimer, Bredhoff & Kaiser, Washington, DC

Jeffrey I. Pasek, Cozen O’Connor, Philadelphia, PA

Robert Rachal, Jackson Lewis PC, New Orleans, LA

Aliya Robinson, The ERISA Industry Committee (ERIC), Washington, DC

Joanne Roskey, Program Co-Chair, Government Attorney, Washington, DC

Michael Schloss, U.S. Department of Labor, Philadelphia, PA

George Sepsakos, Groom Law Group, Washington, DC

Simon Torres, Pension Benefit Guaranty Corporation, Washington, DC

Carolyn Trenda, McGuireWoods LLP, Chicago, IL

Thomas Tso, Pension Benefits Security Division, U.S. Department of Labor, Washington, DC
ERISA BASICS NATIONAL INSTITUTE AGENDA

WEDNESDAY, June 5, 2019

8:00-8:30 Registration and Networking Continental Breakfast (Non-CLE)

8:30-8:45 WELCOMING REMARKS AND OVERVIEW OF PROGRAM (Non-CLE)
Program Co-Chairs:
Denise M. Clark, Clark Law Group, PLLC
Benjamin Eisner, Spear Wilderman, PC
Russell L. Hirschhorn, Proskauer Rose LLP
Joanne Roskey, Government Attorney

8:45-9:35 ERISA BASICS CONCEPTS – STATUTORY OVERVIEW
This session will provide a high-level overview of ERISA, including what is a plan, what is a plan
fiduciary, what is a plan sponsor, and who is an employee. It also will discuss the differences between the
types of pension plans and types of welfare benefit plans.
Denise M. Clark, Clark Law Group, PLLC
Benjamin Eisner, Spear Wilderman, PC
Russell L. Hirschhorn, Proskauer Rose LLP
Joanne Roskey, Government Attorney

9:35-10:25 FIDUCIARY STANDARDS – PART I
This session will address ERISA’s complex definition of fiduciary and discuss ERISA’s fiduciary duties.
It also will discuss the responsibilities entailed in investing plan assets, and the difference between a plan
sponsor and plan fiduciary.
R. Joseph Barton, Block & Leviton LLP
Mayoung Nham, Slevin & Hart
George Sepsakos, Groom Law Group
Thomas Tso, U.S. Department of Labor

10:25-10:40 Morning Break (Non-CLE)

10:40-11:40 FIDUCIARY STANDARDS – PART II
Continuing from session one, this session will provide a high-level overview of prohibited transactions, a
technical ERISA concept, as well as an overview of remedies for fiduciary breaches. This session also
will provide pointers for compliance with the ERISA’s mandates and an overview of hot topics in ERISA
fiduciary and class action litigation.
R. Joseph Barton, Block & Leviton LLP
Mayoung Nham, Slevin & Hart
George Sepsakos, Groom Law Group
Thomas Tso, U.S. Department of Labor
11:40-12:40  MINIMUM STANDARDS FOR TAX-QUALIFIED RETIREMENT PLANS – PART I
The Internal Revenue Code requires that a retirement plan meet minimum standards to be qualified in order for employers and employees to receive tax benefits related to participation in employee benefit plans. This session will address those standards and will outline the complicated rules with which employers must comply to establish a tax qualified plan. It also will provide an opportunity to delve deeper into the qualification standards for retirement plans and to discuss with experienced practitioners any issues related to compliance with these standards.

In the Part I, the focus will be types of plans and plan formulas, definition of employee, calculating service, participation and coverage, minimum coverage testing, vesting, forfeitures, plan loans, IRS determination process, and defined contribution nondiscrimination testing rules.

Sharon M. Goodman, Slevin & Hart, PC
Al Holifield, Holifield, Janich & Ferrera, PLLC

12:40-2:00  LUNCHEON ADDRESS (Non-CLE)
Timothy Hauser, Deputy Assistant Secretary for Program Operations, U.S. Department of Labor (invited)

2:00-3:00  MINIMUM STANDARDS FOR TAX-QUALIFIED RETIREMENT PLANS – PART II
The Internal Revenue Code requires that a retirement plan meet minimum standards to be qualified in order for employers and employees to receive tax benefits related to participation in employee benefit plans. This session will address those standards and will outline the complicated rules with which employers must comply to establish a tax qualified plan. It also will provide an opportunity to delve deeper into the qualification standards for retirement plans and to discuss with experienced practitioners any issues related to compliance with these standards.

In the Part II, the focus will be benefit accrual rules, benefit limitations, defined benefit nondiscrimination testing rules, minimum funding rules, timing of benefit payments, forms of benefit payments and taxation of benefits.

Sharon M. Goodman, Slevin & Hart, PC
Al Holifield, Holifield, Janich & Ferrera, PLLC

3:00-3:50  GOVERNMENT ENFORCEMENT—Reporting and Disclosure
Hear from the Department of Labor and practitioners regarding the requirements of plan reporting and what must be included for compliance with ERISA’s regulatory scheme.

Moderator: Joanne Roskey, Government Attorney
Celeste Moran, U.S. Department of Labor
Scott Albert, U.S. Department of Labor

3:50-4:05  Afternoon Break (Non-CLE)

4:05-5:05  GOVERNMENT ENFORCEMENT—Agency Programs and Investigations
Hear from the Department of Labor regarding its enforcement program, including its structure, how it conducts investigations, and its enforcement priorities and initiatives.
Celeste Moran, U.S. Department of Labor
Michael Schloss, U.S. Department of Labor

5:05  Adjourn followed by a Networking Reception (Non-CLE)
THURSDAY, June 6, 2019

8:00-8:30  Registration and Networking Continental Breakfast (Non-CLE)

8:30-9:30  **ERISA PREEMPTION**
This session will introduce the fundamental principles of ERISA preemption and the impact it has on other legislation related to employee benefit plans and the exceptions the statute permits. It will detail how ERISA preemption has changed since the statute’s inception and discuss its current effect on state plan regulation.

*Marie Casciari*, DeBofsky, Sherman & Casciari PC  
*Aliya Robinson*, ERIC  
*Elisabeth Oppenheimer*, Bredhoff & Kaiser  
*Megan Hansen*, U.S. Department of Labor

9:30-10:30  **FEDERAL REGULATION OF HEALTH PLANS**
This session will address federal employee welfare benefit plan regulation, including the Affordable Care Act, COBRA, ADA, GINA and other statutes and regulations. This session also will focus on the reporting and disclosure requirements that generally apply to ERISA governed health plans, including ACA reporting issues.

*Ada Dolph*, Seyfarth Shaw  
*Meghan Horn*, Segal Group  
*Denise M. Clark*, Clark Law Group, PLLC  
*Kristi Gotcher*, U.S. Department of Labor

10:30-10:45  **Morning Break** (Non-CLE)

10:45-11:35  **BENEFIT CLAIMS – PART I: ADMINISTRATIVE PROCEDURES**
ERISA requires extensive procedures for the processing of claims and appeals, and a near-universal prerequisite to bringing suit when benefit claims are denied is the pre-suit appeal required by 29 U.S.C. § 1133. This program will cover the statutory basis for pre-suit appeals, when such appeals may be excused, and the rules and regulations governing pre-suit appeals.

*Cassie Springer Ayeni*, Springer Ayeni PLC  
*Yolanda Montgomery*, SEIU Funds  
*Robert Rachal*, Jackson Lewis PC

11:35-12:35  **BENEFIT CLAIMS – PART II: LITIGATION OVERVIEW**
Not all claims are resolved internally. This program will cover topics arising in the litigation of employee benefit claims, including basic civil procedure, the availability of juries, discovery, evidentiary considerations, and disposition of claims. This program will then address what occurs when suit is filed for benefits under an ERISA plan, including exhaustion, evidence the district court may consider, the judicial standards of review applied in benefit claims litigation, and the doctrine of conflict of interest. The panel will address procedural issues and strategies to be considered by both the claimant and the plan/plan sponsor in the review process and in litigation.

*Cassie Springer Ayeni*, Springer Ayeni PLC  
*Yolanda Montgomery*, SEIU Funds  
*Robert Rachal*, Jackson Lewis PC
12:35- 
2:05  Lunch (On Your Own) (Non-CLE)

2:05-  
3:05  DISCRIMINATION IN AND INTERFERENCE WITH EMPLOYEE BENEFITS  
The breadth of protections under ERISA, the Affordable Care Act, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, as amended, and the Age Discrimination in Employment Act have been enlarged by recent regulatory actions of the EEOC, HHS, and DOL. This session will review potential claims in litigation including interference with an employee’s employment relationship with the specific intent of interfering with her attainment of benefits or future rights under a plan and retaliation against an employee for utilizing her benefit rights or for complaining about violations of ERISA. Discrimination in the provision of benefits in the design or access to health care, with a particular focus on denial of access on the basis of disability, sex, and sexual orientation also will be discussed. Additionally, the session will review how ERISA overlaps with other federal employment statutes when employees assert that employers have misclassified them under the Fair Labor Standards Act or have altered their terms and conditions of employment in order to avoid mandated benefits or statutory penalties under the Affordable Care Act.  
Jennie Arnold, Ledbetter, Parisi LLC  
Denise M. Clark, Clark Law Group, PLLC  
Stacey Cerrone, Proskauer Rose LLP

3:05-  
4:05  REMEDIES  
ERISA remedies have been a vigorously contested battle ground, especially in the wake of Cigna Corp. v. Amara, which reinvigorated the debate over the scope of “appropriate equitable relief” under ERISA § 502(a)(3), 29 U.S.C. § 1132(a)(3). This panel will provide a brief overview of the types of remedies available under ERISA’s major enforcement provisions and then focus on remedies in the post-Amara world. Topics will include recent and pending cases on the scope of monetary relief under § 502(a)(3) as well as plan terms limiting the availability of equitable remedies.  
R. Joseph Barton, Block & Leviton LLP  
Stacey Cerrone, Proskauer Rose LLP  
Jeffrey Hahn, U.S. Department of Labor  
Jennie Arnold, Ledbetter Parisi, LLC

4:05-  
4:20  Afternoon Break (Non-CLE)

4:20-  
5:20  ERISA ETHICAL ISSUES AND CONCERNS (Ethics Session)  
This session will focus on key ethical rules and principles that should be considered by ERISA practitioners, including the scope of ethical duties to clients and non-clients, the creation and consequences of multiple representations and conflicts of interest, a lawyer’s duty to report wrongdoing of constituents in an organization, special ethical standards applicable to preparing tax opinions, rules applicable to multi-jurisdictional practice, the attorney-client privilege (and related fiduciary exception) and the attorney work product immunity.  
Marie Casciari, DeBofsky, Sherman & Casciari PC  
Miguel Eaton, Jones Day  
Robert Gower, Trucker Huss, APC  
Simon Torres, Pension Benefit Guaranty Corporation

5:20  Adjourn
ERISA BASICS NATIONAL INSTITUTE AGENDA

FRIDAY, June 7, 2019

8:30-
9:00  Registration and Networking Continental Breakfast** (Non-CLE)

9:00-
9:50  MULTIEMPLOYER & OTHER COLLECTIVELY BARGAINED PLANS
A general overview of the special rules and regulations governing multiemployer employee pension and
welfare benefit plans under ERISA, including the Multiemployer Pension Plan Amendments Act of 1980,
which created ERISA Section 515 for the collection of employer contributions, and which provided for
the creation and enforcement of Withdrawal Liability. This panel will also cover the developing law and
regulations affecting collectively bargained plans since the Pension Protection Act of 2006.
John Harney, O’Donoghue & O’Donoghue LLP
Jeffrey I. Pasek, Cozen O’Connor

10:00-
10:50  SECTION 401(k) PLANS
This session covers the basics of the who, what, where, when and how of Section 401(k) plans. This
session outlines all of the fundamental tax code and ERISA rules that govern the daily operation of a
Section 401(k) plan.
Carolyn Trenda, McGuireWoods LLP
Jay Dorsch, Cozen O’Connor

10:50-
11:05  Morning Break (Non-CLE)

11:05-
11:55  ERISA POTPOURRI
The session will discuss a number of frequently encountered issues by pension and health/welfare plans.
For pension plans, this session will address the basics of QDRO’s, QMSCOs, and other spousal rights.
For health and welfare plans, this session will discuss the developing law of subrogation and plan
reimbursement, including plan self-help remedies and plaintiff responses to collection efforts.
Meredith Gage, Alston & Bird LLP
Kim Bradley, Abato, Rubenstein and Abato, PA

12:05-
12:55  EXECUTIVE COMPENSATION
This session will be an overview of the fundamentals of deferred compensation (including Code Section
409A), equity compensation, SERPs, excess plans, and golden parachutes.
Jay Dorsch, Cozen O’Connor

12:55  Adjourn
ERISA BASICS NATIONAL INSTITUTE

PROGRAM INFORMATION

WHO SHOULD ATTEND?
For practitioners who address issues related to employee benefit plans, this 2 1/2-day National Institute will provide an opportunity to hear from the ERISA experts. Designed for in-house and union counsel, benefits specialists, private practitioners, litigators, and consultants, the focus is on comprehensive ERISA topics.

UNABLE TO ATTEND?
A digital audio set (course book and digital audio recordings via download) will be available for purchase approximately 4-6 weeks after the program. To pre-order your digital copy, refer to the order form at the end of this brochure. Contact Mary.Karounos@americanbar.org for additional information.

TUITION
Attend the entire two and half-day program, each breakfast, and the reception, and network with other registrants and faculty. Registrations must be postmarked, e-mailed or faxed by September 12th to receive the discount.

Early Bird Registration - On or Before May 3rd
- $1020 General Public
- $970 ABA Member
- $920 Sponsoring Section Member

Full Tuition - After May 3rd
- $1070 General Public
- $1020 ABA Member
- $970 Sponsoring Section Member

On-Site Tuition
- $1120 General Public
- $1070 ABA Member
- $1020 Sponsoring Section Member

ADDITIONAL SAVINGS
- Register 2 or more people from the same organization and receive $50 reduction to the tuition rate indicated.
- Purchase the Employee Benefits Passport or are a current Employee Benefits Passport holder, receive 25% reduction to the tuition rate indicated.

For details or to receive the discounts, contact Mary.Karounos@americanbar.org.
SCHOLARSHIPS
A limited number of scholarships to defray tuition expenses are available for this program on case-by-case basis. Qualifying attorneys will receive at least a 50% reduction in the course fee(s). Preference will be given to full-time LL.B. candidates. Scholarship applications must be received in the ABA offices no later than thirty days prior to the program presentation. You will be notified prior to the program if your application is approved. To request an application or receive additional information, contact Mary Karounos at 202.662.8676 or Mary.Karounos@americanbar.org.

MCLE
This course is expected to qualify for 15.00 CLE credit hours (including 1.00 ethics hours) in 60-minute states, and 18.00 CLE credit hours (including 1.20 ethics hours) in 50-minute states. This transitional program is approved for both newly admitted and experienced attorneys in NY. Attorneys may be eligible to receive CLE credit through reciprocity or attorney self-submission in other states. View MCLE details https://www.americanbar.org/events-cle/mcle/inpersonevents/

For more information about CLE accreditation in your state, visit http://www.americanbar.org/cle/mandatory_cle.html or contact Mary Karounos at 202.662.8676, via email at mary.karounos@americanbar.org.

CPE INFORMATION
The American Bar Association is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be submitted to the National Registry of CPE Sponsors through its website: www.learningmarket.org.

Recommended CPE Credits and Fields of Study: Program attendees can earn up to 18.00 CPE credits in Specialized Knowledge and Behavioral Ethics fields of study.

Prerequisites: None; Advanced Preparation: None; Program Level: Intermediate; Delivery Method: Group-Live.

CANCELLATION POLICY
Cancellations will be honored on the following basis:
• On or before May 3rd—100% Refund minus $50 administrative fee
• After May 3rd—No Refund**
Substitute registrants are welcome. Please contact customer care via email meetingcancellations@americanbar.org.

*“Day of Cancellation” is the day the cancellation is received, by telephone or in writing, by the ABA.
**No refunds will be made for cancellation requests received after May 3rd; written confirmation of refund requests must be received within 14 days following the National Institute presentation.
QUESTIONS?
If you have a specific question that you want answered, you can email it up to the day before the program to Mary.Karounos@americanbar.org, or ask the speakers directly during the program presentation.

SERVICES FOR PERSONS WITH DISABILITIES
If special arrangements are required, please contact Mary Karounos at 202.662.8676 or Mary.Karounos@americanbar.org. Reasonable advance notice is requested.

COMPLAINT RESOLUTIONS
Please contact Mary Karounos at 202.662.8676.

PROGRAM CONFIRMATION
Written confirmation of your registration will be e-mailed to you. Please bring it with you to the National Institute as proof of registration. If you do not receive the confirmation notice prior to the program, call the ABA at 202.662.8676 to confirm that your registration was received and the program is being held as scheduled.

HOTEL INFORMATION
DEADLINE FOR HOTEL RESERVATIONS: May 21st
We have a limited number of rooms blocked with the Hyatt Regency Washington on Capitol Hill, 400 New Jersey Avenue, NW, Washington, DC, at a special rate of $319 for single or double occupancy. All room rates are subject to city occupancy and sales tax. Unclaimed rooms will be released on May 21st after which the hotel will accept reservations on a space and rate available basis only. All reservations must be guaranteed with a major credit card.

If you are interested in booking a reservation at the Hyatt Regency Washington on Capitol Hill please contact the hotel directly at 1-877-803-7534 and refer to the American Bar Association Joint Committee on Employee Benefits ERISA Basics National Institute.

You may also reserve a room online at the following link

AIRLINE INFORMATION
ABA NEGOTIATED AIRFARE DISCOUNTS – AVAILABLE ONLINE!

With ABA Egencia*, you can automatically obtain ABA negotiated airfare discounts for travel to the ABA Meetings. ABA Egencia enables you to purchase the best airfare at the time of booking, by providing you with the ability to search for and compare fares from virtually every airline serving the destination.
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*A Travel Profile is required when booking airline reservations with ABA Egencia, http://www.americanbar.org/travel*
EMPLOYEE BENEFITS PASSPORT

The JCEB is proud to offer you the Employee Benefits Passport – an annual subscription service that will be your passport to access, for one low price, all the JCEB’s webinars and to attend any or all of the JCEB's renowned in-person National Institutes with a 25% discount. Whatever your level of experience is - a seasoned ERISA/employee benefits practitioner, someone new to the practice area or someone in between - the Employee Benefits Passport gives you a new way to access JCEB programs to help you stay up-to-date on the ever-changing employee benefits landscape and get tips from the experts on compliance best practices.

For more information call 202.662.8641 or see the JCEB’s website: http://www.americanbar.org/jceb

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www.americanbar.org/jceb

October 2019
National Institute on
ERISA BASICS
Chicago, IL

October 28-29
National Institute on
HEALTH AND WELFARE BENEFIT PLANS
Arlington, VA

November 7-8
National Institute on
EXECUTIVE COMPENSATION
Washington, DC
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REGISTRATION AND ORDER FORM

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EARLY BIRD REGISTRATION on or before May 3rd

○ $1020 General Public
○ $970 ABA Member
  ($50 Savings—join a Section, and save even more!) ABA #
○ $920 Sponsoring Section Member ($100 Savings)  
  ABA #

FULL TUITION after May 3rd

○ $1070 General Public
○ $1020 ABA Member
  ($50 Savings—join a Section, and save even more!) ABA #
○ $970 Sponsoring Section Member ($100 Savings)  
  ABA #

ON-SITE TUITION

○ $1120 General Public
○ $1070 ABA Member
  ($50 Savings—join a Section, and save even more!) ABA #
○ $1020 Sponsoring Section Member ($100 Savings)  
  ABA #

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CANCELLATION POLICY

Cancellations will be honored on the following basis:

• On or before May 3rd—100% Refund minus $50 administrative fee
• After May 3rd—No Refund **

Substitute registrants are welcome. Please email Meetingcancellations@americanbar.org and Mary.Karounos@americanbar.org

**“Day of Cancellation” is the day the cancellation is received, in writing, by the ABA.

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○ Section of Health Law, $50
○ Section of Real Property, Trust and Estate Law, $70
○ Section of Tort Trial and Insurance Practice, $50

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Online: http://www.americanbar.org/jceb (with credit card payment)
Mail: American Bar Association
Attn: Service Center-Meeting/Event Registrations Department
Meeting Code: EB060519EB
321 N. Clark Street, Floor 19
Chicago, IL 60654

Payment: Must include one of the following:

○ Check made payable to: American Bar Association – JCEB
○ Credit Card (MasterCard; VISA; American Express)

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300 New Jersey Avenue, NW, Washington, DC 20001

○ Two or more people have registered with me; please apply the $50 tuition reduction to the tuition rate indicated.

○ Purchase the ERISABasicsPodcastDownload (Podcast and course materials via download), at the special price of $320. Product Code: EB060519EBAUD

○ Employee Benefits Passport Holder, apply the 25% tuition reduction to the tuition rate indicated.

○ Send me the JCEB calendar for upcoming Employee Benefits Programs.