The 28th Annual National Institute on

ERISA Litigation

October 18, 2019

American Bar Association
321 North Clark Street, Chicago, IL 60654

Early Bird Registration September 18th
Hotel Registration September 24th

Register On-line: www.americanbar.org/jceb
(202) 662-8676

3.33 CLE Credit Hours have been requested from 60-minute states
4.00 CLE Credit Hours have been requested from 50-minute states
FACULTY

Cassie Springer Ayeni, Program Co-Chair, Springer Ayeni PLC, Oakland, CA

Jeremy M. Barr, Dowd, Bloch, Bennett, Cervone, Auerbach & Yokich, Chicago, IL

James Bloom, Schneider Wallace Cottrell Konecky Watkyns LLP, Emeryville, CA

Stacey Cerrone, Proskauer Rose LLP, New Orleans, LA

Mark DeBofsky, DeBofsky Sherman Casciari Reynolds, P.C., Chicago, IL

Benjamin Eisner, Program Co-Chair, Spear Wilderman, PC, Philadelphia, PA

Robert M. Forni, Ropers Majeski, Kohn Bentley PC, San Francisco, CA

Michael T. Graham, Jenner & Block LLP, Chicago, IL

Margo Hasselman Greenough, Renaker Hasselman Scott LLP, San Francisco, CA

Michael E. Kenneally, Morgan, Lewis & Bockius, Washington, DC

Robert Lewis, Counsel for ERISA, Atlanta Regional Solicitor’s Office, U.S. Department of Labor, Atlanta, GA

Adrienne Publicover, JAMS, San Francisco, CA

Aliya Robinson, Program Co-Chair, The ERISA Industry Committee (ERIC), Washington, DC

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

Samuel Schwartz-Fenwick, Seyfarth Shaw, Chicago, IL

Thomas Tso, Pension Benefits Security Division, U.S. Department of Labor, Washington, DC
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
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 Caciari 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
WHO SHOULD ATTEND?
Approaching ERISA from a litigation perspective, this program emphasizes the practical, not the theoretical. This seminar is for litigators and benefits practitioners who wish to further their knowledge of the substantive and most recent case law.

TUITION
Attend the half-day program, lunch and network with other registrants and faculty. Registrations must be postmarked, e-mailed or faxed by September 18th to receive the discount.

Early Bird Registration - On or Before September 18th
- $595 General Public
- $545 ABA Member
- $495 Sponsoring Section Member

Full Tuition - After September 18th
- $645 General Public
- $595 ABA Member
- $545 Sponsoring Section Member

On-Site Tuition
- $695 General Public
- $645 ABA Member
- $595 Sponsoring Section Member

ADDITIONAL SAVINGS
- ERISA Basics attendee, receive $100 off your ERISA Litigation tuition
- 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.
UNABLE TO ATTEND?
A digital audio set (course material 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. *The content of this audio set does not meet requirements for continuing legal education (CLE) accreditation. You will not receive CLE credit for the ERISA Litigation Seminar Digital Audio Set."

Contact Mary.Karounos@americanbar.org for additional information.

MCLE
This course is expected to qualify for 3.33 CLE credit hours in 60-minute states, and 4.00 CLE credit 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 the program website https://www.americanbar.org/events-cle/mtg/inperson/377523189/, the MCLE website 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 4.00 CPE credits in Specialized Knowledge.

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 September 18th—100% Refund minus $50 administrative fee
- After September 18th—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 September 18th; 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 seminar 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: SEPTEMBER 24

Kinzie Hotel
Twenty West Kinzie Street, Chicago, IL 60654

We have a limited number of rooms blocked with the Kinzie Hotel at a special rate of $229 for single or double occupancy. All room rates are subject to city occupancy and sales tax. Unclaimed rooms will be released on September 24th 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 Kinzie Hotel please contact the hotel directly at 312.395.9000 and refer to the Joint Committee on Employee Benefits.

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.

Reservations with ABA Egencia can be made online or offline. For offline reservations, call (877) 833-6285. ABA Egencia is available online via ABA Travel Services at https://www.egencia.com/public/us/*
ABA airfare discounts on some carriers may also be obtained by purchasing your tickets under the ABA Discount Codes directly from the airline or through your travel agent.

**American Airlines**

**United Airlines**
*For ABA Meetings Only*
Via Phone: 800-426-1122
Agreement Code: 8880300 / Z Code: ZFX6
Discount available at [www.united.com](http://www.united.com)
Click All Search Options and enter Online Discount Code: ZFX68880300 in the Promotions and Certificates box.

Not for Leisure Travel

**Delta Airlines**
Via Phone: 800-328-1111
ABA File Global Meeting Code: NMS9P
Discount available at [www.delta.com](http://www.delta.com)
Click Advance Search and enter Online Meeting Event Code: NMS9P in the Meeting Event Code.

**Southwest Airlines**
Southwest tickets can be booked on ABA Egencia. If not booking via ABA Egencia you can book via [www.swabiz.com](http://www.swabiz.com) and use ABA SWABIZ Company ID 99422890.

**Travel Profile is Required**
*A Travel Profile is required when booking airline reservations with ABA Egencia. [For more information click here.](https://www.americanbar.org/travel.*

For additional ABA travel discounts visit [www.americanbar.org/travel](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

MARK YOUR CALENDAR AND CHECK OUR WEBSITE FOR UPCOMING PROGRAMS
www.americanbar.org/jceb

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

November 7-8
National Institute on
EXECUTIVE COMPENSATION
Washington, DC

Spring 2020
National Institute on
ERISA BASICS
Washington, DC

Spring 2020
ERISA FIDUCIARY INSTITUTE
Washington, DC

Spring 2020
EMPLOYEE BENEFITS SPRING UPDATE
Washington, DC
## REGISTRATION AND ORDER FORM

### ERISA LITIGATION • October 18, 2019

202.662.8676 • www.americanbar.org/jceb

#### EARLY BIRD REGISTRATION on or before September 18
- $595 General Public
- $545 ABA Member
  - ($50 Savings - join a Section, and save even more!)
  ABA #
- $495 Sponsoring Section Member ($100 Savings)
  ABA #

#### FULL TUITION after September 18
- $645 General Public
- $595 ABA Member
  - ($50 Savings - join a Section, and save even more!)
  ABA #
- $545 Sponsoring Section Member ($100 Savings)
  ABA #

#### ON-SITE TUITION
- $695 General Public
- $645 ABA Member
  - ($50 Savings - join a Section, and save even more!)
  ABA #
- $595 Sponsoring Section Member ($100 Savings)
  ABA #

Please check here if you need CPE Credit:  ○ CPE

Name ___________________________ Organization ___________________________
Address ___________________________ ___________________________
City ___________________ State ______ Zip __________
E-mail ___________________________
Phone __________________ Fax ______
Billing Address ___________________________
(if different than above)
Credit Card No. ___________________________ Expiration Date ___________________________
Cardholder Signature (Required) ___________________________ Security Code ___________________________

*Tax: DC Residents add 6%, Illinois residents add 10.25% before including domestic postage and handling charges. Prices subject to change after 10/18/2019.

### CANCELLATION POLICY

Cancellations will be honored on the following basis:
- On or before September 18th — 100% Refund minus $50 administrative fee
- After September 18th — No Refund**

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

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

**No refunds will be made for cancellation requests received after September 18th; written confirmation of refund requests must be received within 14 days following the program.

### ABA SPONSORING SECTIONS

Join one of these dynamic Sections, and become active in one of their employee benefit committees. Join the ABA and one or more of the Sections when registering for this program and save up to $200 on this program tuition.

- I am interested in becoming a member of the American Bar Association. Please send me information and membership forms.
- I am an ABA member but want a further reduction on my tuition for this program. Please enroll me into the Section listed below. I’ve enclosed a separate check made payable to the ABA.
  - ○ Section of Business Law, $65
  - ○ Section of Labor and Employment Law, $75
  - ○ Section of Taxation, $75
  - ○ Section of Health Law, $50
  - ○ Section of Real Property, Trust and Estate Law, $75
  - ○ Section of Tort Trial and Insurance Practice, $50

American Bar Association
321 North Clark Street, Chicago, Illinois

○ Two or more people have registered with me; please apply the $50 tuition reduction to the tuition rate indicated.
○ Purchase the ERISA Litigation Podcast Download (Podcast and course materials via download) at the special price of $320. Product Code: EB101819ELAUD
○ Employee Benefits Passport Holder, apply the 25% tuition reduction to the tuition rate indicated.
○ ERISA Basics Attendee, please apply the $100 tuition reduction to the tuition rate indicated.
○ Send me the JCEB calendar for upcoming Employee Benefits Programs.

TO REGISTER:
Online: www.americanbar.org/jceb (with a credit card)
Mail: American Bar Association
Attn: Service Center-Meeting/Event Registrations Department
Meeting Code: EB101819EL
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)