ERISA FIDUCIARY INSTITUTE:
Know Your Responsibilities

April 2, 2020

Steptoe & Johnson LLP

1330 Connecticut Avenue, NW, Washington, DC

Early Bird Registration Deadline: March 5, 2020
Hotel Registration Deadline: March 11, 2020

To Register On-line or For More Information: www.americanbar.org/jceb/ (202) 662-8641

6.50 CLE Credit Hours have been requested from 60-minute states and
7.80 CLE Credit Hours have been requested from 50-minute
2020 ERISA FIDUCIARY INSTITUTE

AGENDA
(As of February 24, 2020)

THURSDAY • APRIL 2, 2020

8:00-8:30  REGISTRATION AND NETWORKING CONTINENTAL BREAKFAST (Non-CLE)

8:30-8:40  WELCOMING REMARKS (Non-CLE)
Co-Chairs: Joni L. Andrioff, RSM US LLP
          Peter M. Kelly, Retired Deputy General Counsel & Chief Employee Benefits Counsel of
          Blue Cross and Blue Shield Association

8:40-9:10  INTRODUCTION TO FIDuciARY GOVERNANCE
This session will set the table for the day’s discussions with an exploration of the role of Good
Governance practices in assuring a committee or other ultimate fiduciary can meet the
challenges of fiduciary litigation.
Speaker:  Peter M. Kelly, Retired Deputy General Counsel & Chief Employee Benefits Counsel of
          Blue Cross and Blue Shield Association

9:10-10:00  BENEFIT CLAIMS
The session will review the ERISA benefits claim and appeal process and explore recent case law
and regulatory developments that demand more rigorous adherence to fiduciary’s “full and fair
review” obligations.
Moderator:  Peter M. Kelly, Retired Deputy General Counsel & Chief Employee Benefits Counsel of
            Blue Cross and Blue Shield Association
Speakers:  Susan E. Rees, The Wagner Law Group
           Martina Sherman, DeBofsky Sherman Casciari Reynolds PC

10:00-10:20  BREAK (Non-CLE)

10:20-11:10  UPDATE AND TRENDS IN FIDUCIARY CASES
This panel will discuss recent developments and trends in ERISA fiduciary cases, including
important ERISA cases now before the Supreme Court. Join us for a lively discussion with
experienced litigators from both the plaintiffs' and defendants' perspective.
Moderator:  Robert W. Rachal, Jackson Lewis PC
Speakers:  Mark G. Boyko, Bailey & Glasser LLP
           Sara R. Pikofsky, Steptoe & Johnson LLP

11:10-12:00  401(k) PLAN INVESTMENT ISSUES
This session will take a deep dive into fiduciary issues to monitor and evaluate Target Date Funds
due to their importance as the Qualified Default Investment Alternative (“QDIA”) in most 401(k)
Plans, and since participants are being “encouraged” to use Target Date Funds as their best one-
stop investment alternative. Issues to consider will include:
• Litigation involving Target Date Funds
• Glide paths “to” and “through” retirement
• 5-year groupings vs. 10-year spreads
• Differences in Target Date Funds between Vendors
• Participant Investment and Distribution Issues

Moderator: Frank Palmieri, Palmieri & Eisenberg
Speakers: Matthew J. Eickman, Qualified Plan Advisors
          Marie Swartzwelder, The Newport Group

12:00-1:10  LUNCHEON ADDRESS (Non-CLE)

1:10-2:10  RISK MITIGATION IN THE SECURITY AND USE OF PLAN DATA
Retirement plan cybersecurity and participant data privacy are growing concerns for the plan sponsor, service provider, and insurance communities. Focus on these areas will continue to build in light of the growing oversight by federal, state and international regulators. Join our speakers to discuss hot button issues involving plan data, including:
• Data breaches, their consequences, and how to prevent them
• The current state of the law concerning the status of individual participant data as a “plan asset” and related prohibited transaction issues
• An overview of recent legislative and regulatory initiatives in these areas
• Evolving regulatory enforcement and litigation risks relating to plan data
• Steps plan sponsors can take to manage cybersecurity risks
• Real world examples of plan sponsor experiences and affirmative defensive steps.

Moderator: David N. Levine, Groom Law Group
Speakers: Mark G. Boyko, Bailey Glasser
          April A. Goff, Perkins Coie LLP

2:10-3:00  403(b) PLAN ANNUITIES
The panel will focus on fiduciary issues for Section 403(b) annuity and custodial plans including issues such as:
• How to Terminate Fiduciary Obligations when Terminating Annuity Plans
• Excessive Fees and Restrictive Fee Arrangements (e.g., Surrender Charges and Contingent Deferred Sales Charges (“CDSCs”) generally found in Group Annuity Contracts
• Limited Investment Alternatives
• Vendor Quality Issues
• Fiduciary Litigation - Case Review (e.g., Fee Cases)

Moderator: David N. Levine, Groom Law Group
Speakers: TBD

3:00-3:20  BREAK (Non-CLE)

3:20-4:10  UPDATE ON DOL ENFORCEMENT ACTIVITY
This panel will focus on the latest DOL enforcement actions, the DOL’s “hot button” issues in audits involving ERISA fiduciaries, and the parameters of a DOL audit.
4:10-5:00  **FIDUCIARY ISSUES WITH VENDORS**

This session will review the importance of reviewing service agreements before they are executed. Most vendors will protect their interests, which is expected in any service agreements. However, many vendors are beginning to limit the circumstances in which they serve as a fiduciary, where employers fail to use the lowest cost share possible and continue to use any revenue sharing. This session will focus on important issues to consider when reviewing service agreements and vendor issues.

**Moderator:** Frank Palmieri, *Palmieri & Eisenberg*

**Speakers:** Jason P. Lacey, *Foulston Siefkin LLP*
Allison Wielobob, *American Retirement Association*

5:00-6:00  **NETWORKING RECEPTION (Non-CLE)**

6:00  **ADJOURN**

FOR MORE INFORMATION OR FOR ASSISTANCE REGISTERING
Contact Karen Case at 202.662.8641 or karen.case@americanbar.org.

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### FACULTY

Joni L. Andrioff, Program Co-Chair, *RSM US LLP*, Washington, DC

Mark G. Boyko, *Bailey Glasser*, Clayton, MO

Matthew J. Eickman, *Qualified Plan Advisors*, Omaha, NE

April A. Goff, *Perkins Coie LLP*, Dallas, TX

Peter M. Kelly, Program Co-Chair, *Retired Deputy General Counsel & Chief Employee Benefits Counsel of Blue Cross and Blue Shield Association*, Chicago, IL

Jason P. Lacey, *Foulston Siefkin LLP*, Wichita, KS

David N. Levine, *Groom Law Group*, Washington, DC

Frank Palmieri, *Palmieri & Eisenberg*, Princeton, NJ

Sara R. Pikofsky, *Steptoe & Johnson LLP*, Washington, DC

Robert W. Rachal, *Jackson Lewis PC*, New Orleans, LA


ATTEND THE PROGRAM, AND LEARN WHAT YOU NEED TO KNOW ABOUT:

- An Introduction to Fiduciary Governance
- Benefit Claims
- Updates and Trends in Fiduciary Cases
- 401(k) Investment Issues
- Risk Mitigation in the Security and Use of Plan Data
- 403(b) Plan Annuities
- Update on DOL Enforcement Activity
- Fiduciary Issues with Vendors

TUITION

Attend the entire program and network with other registrants and faculty. Registrations must be postmarked, e-mailed or faxed by March 5, 2020, to receive the Early Bird discount.

**Early Bird Registration — On or Before March 5**
- $744 General Public
- $670 ABA Member — join a Section, and save even more!
- $595 Sponsoring Section Member

**Full Tuition — After March 5**
- $806 General Public
- $725 ABA Member — join a Section, and save even more!
- $645 Sponsoring Section Member

**On-Site Tuition**
- $869 General Public
- $782 ABA Member — join a Section, and save even more!
- $695 Sponsoring Section Member

**Government Tuition**
- $869 General Public
- $782 ABA Member — join a Section, and save even more!
- $695 Sponsoring Section Member

**Webstreaming / On Demand Tuition**
- $725 Full Day
- $150 – 8:30am – 10:00am EDT
- $185 – 10:20am – Noon EDT
- $205 – 1:10pm – 3:00pm EDT
- $185 – 3:20pm – 5:00pm EDT
**ADDITIONAL SAVINGS**

Receive a **25%** tuition discount if you are a **JCEB Employee Benefits Passport** holder.

OR

Receive a **$100** tuition discount if you are also registered for the **2020 ERISA Fiduciary Institute** scheduled for April 2\textsuperscript{nd} in Washington, DC.

OR

If two or more register from the same firm, one registrant will receive a **$50** reduction in program tuition! Registrants will have access to the program website to download materials prior to the conference and any additional materials handed out on-site. Each registrant will also be eligible for MCLE accreditation within those states that require continuing legal education.

To register with any of these discounts contact karen.case@americanbar.org.

**SCHOLARSHIPS**

Scholarships to defray the tuition expense for this program are available upon application, on a case-by-case basis. Preference will be given to full-time LL.B. candidates, public interest lawyers, government lawyers, full-time law professors, solo or small firm practitioners of limited means, and unemployed attorneys. To request an application or receive additional information, contact Karen Case at Karen.Case@americanbar.org or 202.662.8641. Scholarship applications must be received at least two weeks before the program start date. You will be notified prior to the program if your application is approved. A minimum fee may be charged on all approved scholarship applications to defray expenses. For programs with tuition costs over $500, qualifying attorneys will receive at least a 50% reduction in the course fees(s).

**CANCELLATIONS AND REFUND INFORMATION**

Cancellations will be honored on the following basis:
- Until March 5\textsuperscript{th} – 100% Refund minus $50 administrative fee*
- After March 5\textsuperscript{th} ** – No Refund

*Day of Cancellation is the day the cancellation is received by the ABA. It is calculated based on the number of ABA business days remaining before the National Institute.

**No refund will be made for cancellations received after March 5\textsuperscript{th}; written confirmation of refund requests must be received within 14 days following the National Institute presentation. Substitute registrants for the **ERISA Fiduciary Institute** are welcome. Please contact Karen Case at 202.662.8641.

**MCLE**

The ABA will seek **6.50** hours of CLE credit in 60-minute states and **7.80** hours of CLE credit for this program in 50-minute states. Credit hours are estimated and are subject to each state’s approval and credit rounding rules. Please visit www.americanbar.org/mcle for general information on CLE at the ABA or the program website at https://www.americanbar.org/events-cle/mtg/inperson/393291385/ for CLE program specific details.
CPE
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 7.8 CPE credits in Specialized Knowledge and Behavioral Ethics fields of study

Prerequisites: Previous experience in employee benefits law; Advanced Preparation: None; Program Level: Intermediate; Delivery Method: Group-Live

HOTEL INFORMATION
DEADLINE FOR HOTEL RESERVATIONS: Monday, March 11
A limited number of rooms have been set aside at the St. Gregory Hotel, 2033 M St NW, Washington, DC 20036, at the discounted rate of $299 for single or double occupancy plus a $20 facility Fee. The facility fee includes a daily wine and cheese reception from 5:30 pm to 6:30 pm, water bottles in each room, premium internet, coffee service daily in lobby, and Peloton bikes in the Fitness Center.

Make your reservation online at https://stgregoryhotelwdc.reztrip.com/classic/en/special_offer?action=show&controller=landings&locale=en&rate_code%5b%5d=ABA&rate_code%5b%5d=ABA&starting_page=special_offer&vr=3 or call the hotel directly at (202) 530-3600. Be sure to mention the ABA to receive the special discounted rate. All reservations must be guaranteed with a major credit card.

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 https://www.egencia.com/public/us/ or offline. For offline reservations, call (877) 833-6285. ABA Egencia is available online via ABA Travel Services*.

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
ABA Discount only available at ABA Egencia https://www.egencia.com/public/us/
United Airlines
For ABA Meetings Only
Via Phone: 800-426-1122
Agreement Code: **842742** / Z Code: **ZHPV**

Discount available at [www.united.com/meetingtravel](http://www.united.com/meetingtravel) and enter **ZHPV842742** in the Offer Code box.
Discount will be applied at ticketing. NOT for Leisure Travel

*Please note there is not a service fee for reservations booked and ticketed via the reservation 800 number.*

Delta Airlines
Via Phone: 800-328-1111
**Or** 800-328-2216* Delta Meeting Network® Monday–Friday, 7:00 a.m.– 8:30 p.m. (ET) and refer to Meeting Event Code **NMTQR**


*Please note there is not a service fee for reservations booked and ticketed via the reservation 800 number.*

Southwest
Southwest tickets can be booked on ABA Egencia. If not booking via ABA Egencia you can book via [http://www.swabiz.com](http://www.swabiz.com) and use ABA SWABIZ Company ID **9942890**

*A Travel Profile is required when booking airline reservations with ABA Egencia. Visit [http://www.americanbar.org/travel](http://www.americanbar.org/travel) for more information.*

**UNABLE TO ATTEND?**
The On Demand version of the Institute will be available after the program. To pre-order, visit the ABA web store, or complete and return the Registration and Order Form. Additional information is available by visiting the JCEB web site, [www.americanbar.org/jceb](http://www.americanbar.org/jceb) or calling 202.662.8641.

**SERVICES FOR PERSONS WITH DISABILITIES**
If special arrangements are required, please contact Karen Case at 202.662.8641. Reasonable advance notice is requested.

**COMPLAINT RESOLUTIONS**
Please call Karen Case at 202-662-8641.

**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.

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

April 1, 2020
EMPLOYEE BENEFITS SPRING UPDATE
Washington, DC

June 15-17, 2020
National Institute on
ERISA BASICS
Washington, DC

October 2020
National Institute on
ERISA BASICS, Chicago, IL

October 2020
National Institute on
HEALTH AND WELFARE BENEFIT PLANS, Arlington, VA

November 5-6, 2020
National Institute on
EXECUTIVE COMPENSATION, Washington, DC

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:
REGISTRATION AND ORDER FORM

ERISA FIDUCIARY INSTITUTE
(202) 662-8641 • www.americanbar.org/jceb/

EARLY BIRD REGISTRATION – On or Before March 5
❍ $744   General Public
❍ $670   ABA Member
❍ $595   Sponsoring Section Member

ABA# ______________________________

FULL TUITION – After March 6
❍ $806   General Public
❍ $725   ABA Member
❍ $645   Sponsoring Section Member

ABA# ______________________________

ON-SITE TUITION
❍ $869   General Public
❍ $782   ABA Member
❍ $695   Sponsoring Section Member

ABA# ______________________________

GOVERNMENT TUITION
❍ $298   Government Rate

WEBSTREAMING TUITION
❍ $725 – Full Day
❍ $150 – 8:30am-10:00am EDT
❍ $185 – 10:20am-Noon EDT
❍ $205 – 1:10pm-3:00pm EDT
❍ $185 – 3:20pm-5:00pm EDT

Please check here if you need CPE Credit:  ☑ CPE

Name_________________________________ Organization________________________

Address __________________________________________

City_________________________________ State_________ Zip______________

E-mail ___________________________ Phone ______________________

*Tax: DC residents add 6%. IL residents add 10.25% before including postage and handling charges. Price is subject to change after 04/03/2020.

CANCELLATION POLICY
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• After March 5th – No Refund **

Substitute registrants are welcome. Please email meetingcancellations@americanbar.org and karen.case@americanbar.org.

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

APRIL 2, 2020 – Steptoe & Johnson LLP, 1330 Connecticut Avenue, NW, Washington, DC 20036

❍ I have also registered for the 2020 Employee Benefits Spring Update. Please apply the $100 tuition reduction.
❍ Please apply the 25% discount for JCEB Employee Benefits Passport Holders.
❍ Two or more people have registered with me; please apply the $50 tuition reduction to the tuition rate indicated.

ON DEMAND TUITION
❍ $725 – On Demand CLE – Full Day
❍ $150 – On Demand CLE – 8:30am-10:00am
❍ $185 – On Demand CLE – 10:20am-Noon
❍ $205 – On Demand CLE – 1:10pm-3:00pm
❍ $185 – On Demand CLE – 3:20pm-5:00pm

TO REGISTER:
Online: http://www.americanbar.org/jceb/ with credit card payment
Mail: American Bar Association
Attn: Service Center—Meeting/Event Registrations Department Meeting Code: EB040220FI
321 N. Clark Street, Floor 19
Chicago, IL 60654

PAYMENT: Must include one of the following:
❍ Check made payable: American Bar Association - JCEB
❍ Credit Card: MasterCard, VISA or American Express