ABA Committee on Practice and Procedure
Under the National Labor Relations Act
Midwinter Meeting
February 26 – March 1, 2019
Santa Monica, California

PROGRAM AGENDA

Tuesday, February 26

6:00 – 8:00pm Welcome Reception at Fairmont Miramar (Miramar Garden)

Wednesday, February 27

7:30 – 8:30am Newcomers’ Breakfast (Wilshire 2)

7:30 – 8:30am Breakfast Buffet (Deck/Study)

8:30 – 9:00am Welcome, Introductions and Section Council Report (Wedgewood Ballroom)

9:00 – 10:00am The National Labor Relations Board: A Year in Review
This panel will provide an overview of the most significant R and C Cases, with an emphasis on procedural issues.

Speakers: Amanda Jarrett, Staff Attorney, National Labor Relations Board, Washington, DC
Terence Schoone-Jongen, Assistant Chief Counsel – Office of Representation Appeals, National Labor Relations Board, Washington, DC
Jayme L. Sophir, Associate General Counsel – Division of Advice, National Labor Relations Board, Washington, DC

10:00 – 11:00am Joint Employer Determinations
This panel will discuss the Board’s Notice of Proposed Rulemaking regarding joint employer determinations and the implications of the proposed rules for employers and unions.

Speakers: Peter Finch, Davis Wright Tremaine LLP, Seattle, WA
Richard F. Griffin, Jr., Bredhoff & Kaiser, Washington, DC

11:00 – 11:15am Break (Starlight Ballroom Foyer)

11:15 – 12:15pm The Practitioner’s View of GC 19-02 and the Board’s FY 2019-2022 Strategic Plan
Two practitioners will discuss the implications of General Counsel Memo 19-02 and the Board’s Fiscal Year 2019-2022 Strategic Plan for their respective constituencies.

Speakers: Johnda Bentley, Service Employees International Union, Washington, D.C.
Ashley Laken, Seyfarth Shaw LLP, Chicago, IL
12:15 – 1:15pm  The Duty of Fair Representation after GC Memo 19-01
The General Counsel recently offered guidance to the regions on the processing of duty of fair representation cases where a union asserts a “mere negligence” defense. This panel will explore the implications of GC Memo 19-01 on unions, employers and employees.

Speakers:  Jennifer Abruzzo, Communications Workers of America, Washington, DC
Lori Armstrong Halber, Fisher & Phillips, Philadelphia, PA

1:15 – 2:30pm  Women’s Lunch (Jones Library)

Thursday, February 28

7:30 – 8:30am  How to Take a Case Editors’ Breakfast (Jones Library)

7:30 – 8:30am  Breakfast Buffet (Deck/Study)

8:30 – 9:30am  Persuasive Writing: Making Your Case to the Board (Wedgewood Ballroom)
Two former Board Members will share their views on how practitioners can best present arguments in briefs for the Board’s consideration in addition to tips for how to draft comments/responses to Notices of Proposed Rulemaking and Requests for Information that will catch the Board’s attention.

Speakers:  Harry I. Johnson III, Morgan, Lewis & Bockius LLP, Los Angeles, CA
Mark Gaston Pearce, Washington, DC

9:30 – 11:00am  Meet the National Labor Relations Board
Join us for an intimate discussion with the Chairman and Members of the National Labor Relations Board.

Speakers:  Hon. John Ring, Chairman, National Labor Relations Board, Washington, DC
Hon. Lauren McFerran, Member, National Labor Relations Board, Washington, DC
Hon. Marvin Kaplan, Member, National Labor Relations Board, Washington, DC
Hon. William Emanuel, Member, National Labor Relations Board, Washington, DC

11:00 – 11:15am  Break (Wedgewood Foyer)

11:15 – 12:45pm  Recent Developments from the Office of the NLRB General Counsel
Attendees will have the chance to hear from new General Counsel Peter Robb and learn more about his current and planned initiatives.

Speakers:  Hon. Peter B. Robb, General Counsel, National Labor Relations Board, Washington, DC
John W. Kyle, Deputy General Counsel, National Labor Relations Board, Washington, DC
Alice B. Stock, Associate General Counsel, National Labor Relations Board, Washington, DC

Moderators:  James Bucking, Foley Hoag LLP, Boston, MA
Susan Davis, Cohen, Weiss and Simon, LLP, New York, NY

7:00 – 10:00pm  Reception & Dinner (Wedgewood Ballroom)
Friday, March 1

7:30 – 8:30am Regional Co-Chair Breakfast *(Study)*

7:30 – 8:30am Continental Breakfast *(Deck)*

8:30 – 9:30am Inside the NLRB Executive Secretary’s Office *(Wedgewood Ballroom)*
Meet the Board’s new Executive Secretary, Roxanne Rothschild, who will give practitioners an overview of her role and responsibilities of the Office of the Executive Secretary.

**Speaker:** Roxanne Rothschild, *Executive Secretary, National Labor Relations Board, Washington, DC*

9:30 – 10:30am NLRB Regional Directors on the Exercise of Discretion
This panel of Regional Directors will discuss their exercise of discretion in enforcing the Act, in both the R Case and C Case contexts. The Regional Directors also will discuss how approaches to the exercise of discretion may vary between attorney and non-attorney Regional Directors.

**Speakers:** William B. Cowen, *Regional Director, National Labor Relations Board Region 21, Los Angeles, CA*
Mori Rubin, *Regional Director, National Labor Relations Board Region 31, Los Angeles, CA*

10:30 – 10:45am Break *(Wedgewood Foyer)*

10:45 – 11:45am Board Member Conflicts of Interest and Recusal Determinations
This panel will discuss the Board’s recusal process and standards and explain to practitioners how such standards dovetail with ABA Model Code of Judicial Conduct Rule 2.11: Disqualification.

**Speakers:** Philip Miscimarra, *Morgan, Lewis & Bockius LLP, Washington, DC*
Nancy J. Schiffer, *Washington, DC*

11:45am – 12:45pm Rulemaking Versus Adjudication
Is rulemaking the superior vehicle for changing Board law? Two practitioners will weigh in and ask the audience to join the debate.

**Speakers:** Julie Gutman Dickinson, *Bush Gottlieb, Glendale, CA*
Bryan O’Keefe, *Seyfarth Shaw, LLP, Washington, DC*

12:45 – 1:15pm P&P Town Hall *(Wedgewood Ballroom)*

1. Review of program – feedback and suggestions for next year
3. Annual Section Conference – P&P participation
4. Fall Regional Meetings – suggestions for improvement
5. “Letter-Writing” meeting and follow up with NLRB
6. Diversity issues related to membership, participation and attendance
7. Other Committee activities and possibilities:
   a. Liaison reports
   b. Other interactions with NLRB
   c. Recruiting new members
   d. Hot topics
   e. Newsletter
   f. Other matters

We thank our sponsors for their generous contributions:

**Platinum Level**
Foley Hoag LLP
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
Littler Mendelson PC

**Gold Level**
Bush Gottlieb
Cohen, Weiss and Simon LLP
Dilworth Paxson LLP
Jackson Lewis PC
Polsinelli PC
Seyfarth Shaw LLP
Sheppard, Mullin, Richter & Hampton LLP
Varnum LLP

**Silver Level**
Davis Wright Tremaine LLP
Rosenblatt & Gosch PLLC

Meeting papers and presentations are posted online at:
www.ambar.org/PPpapers