

8-Part Webinar Series

EMPLOYEE BENEFITS LAW UPDATE: A YEAR IN REVIEW March 16, 23, and 30

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EMPLOYEE BENEFITS LAW UPDATE: A YEAR IN REVIEW

8-PART WEBINAR SERIES CLE AGENDA



Joint Committee on
Employee Benefits

*Celebrating 40 Years of
CLE Excellence*

PROGRAM FACULTY

R. Joseph Barton, *Block & Leviton LLP*, Washington, DC

Tybe Ann Brett, *Feinstein Doyle Payne & Kravec LLC*, Pittsburgh, PA

Judith Broach, *Stulberg & Walsh LLP*, New York, NY

Nick Bullard, *Dorsey, Dorsey & Whitney LLP*, Minneapolis, MN

Marie Casciari, **Program Co-Chair**, *DeBofsky Sherman Casciari Reynolds PC*, Chicago, IL

Stacey Cerrone, **Program Co-Chair**, *Jackson Lewis PC*, New Orleans, LA

Tulio Chirinos, *Proskauer*, Boca Raton, FL

Lindsey Chopin, *Jackson Lewis PC*, New Orleans, LA

Denise M. Clark, *Clark Law Group PLLC*, Washington, DC

Joseph Creitz, *Creitz & Serebin LLP*, San Francisco, CA

Mark DeBofsky, *DeBofsky Sherman Casciari Reynolds PC*, Chicago, IL

Ada Dolph, *Seyfarth Shaw LLP*, Chicago, IL

Adam Garner, *The Garner Firm, Ltd.*, Philadelphia, PA

Nate Goldstein, *Segal, Roitman, LLP*, Boston, MA

Robert Gower, *Trucker Huss, APC*, San Francisco, CA

John Harney, **Program Co-Chair**, *O'Donoghue & O'Donoghue LLP*, Washington, DC

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

Kendra Issacson, *US Senate HELP Committee Staff*, Washington, DC

George Kraw, *Kraw Law Group, APC*, Mountain View, CA

Michael Kreps, *Groom Law Group*, Washington, DC **(invited)**

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PROGRAM FACULTY (continued...)

Deva Kyle, *Cohen, Weiss and Simon LLP*, New York, NY

Michael Ledbetter, *Ledbetter Parisi LLC*, Indianapolis, IN

Zachary Leeds, *Cohen, Weiss and Simon*, New York, NY

Diane McNally, *Segal Select Insurance Services, Inc.*, New York, NY

Zoe Moskowitz, *Schwartz Steinsapir Dohrmann & Sommers*, Los Angeles, CA (**invited**)

Greg Ossi, *Faegre Drinker Biddle & Reath LLP*, Washington, DC

Radha Pathak, *Stris & Maher LLP*, Los Angeles, CA

Bruce Perlin, **Program Co-Chair**, *Pension Benefit Guaranty Corporation*, Washington, DC

Robert Rachal, *Jackson Lewis LLP*, New Orleans, LA

Erin Riley, *Keller Rohrback LLP*, Seattle, WA

Michelle Roberts, *Roberts Disability Law*, Oakland, CA

Cecilia Scanlon, *Baum Sigman Auerbach & Neuman, Ltd.*, Chicago, IL

Kirsten Gibney Scott, *Renaker Hasselman Scott LLP*, San Francisco, CA

Lisa Serebin, *Creitz & Serebin LLP*, San Francisco, CA

Mary Ellen Signorille, Washington, DC

Louisa Soulard, *Pension Benefit Guaranty Corporation*, Washington, DC

Simon Torres, *Pension Benefit Guaranty Corporation*, Washington, DC

Mike Williams, *Phelps Dunbar, LLP*, New Orleans, LA

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WEDNESDAY, MARCH 16, 2022

1:00 PM-

2:30 PM ET

SECURE WITH NO SURPRISES: HOT TOPICS IN HEALTH AND PENSION LEGISLATION/REGULATION

Following up on the pandemic relief in the SECURE Act, Congress continues to work on retirement issues with a focus on generating more opportunities to create retirement security for working Americans. For ERISA welfare plans, the Consolidated Appropriations Act 2021 (“CAA”) and the Transparency Final Rule contain the most comprehensive and significant expansions to patient protections since the Affordable Care Act, requiring Health Plans, insurers, service providers, and health care providers to make significant changes to their operations and to the information they make available to participants and patients. This panel will explore recent legislation affecting retirement plans, IRS guidance on pension plan overpayments (EPCRS), and regulatory guidance on missing participants. Additionally, panelists will discuss recent agency guidance and current and emerging implementation issues for welfare plans, with an eye to providing practical solutions for compliance. Topics will include MHPAEA NQTL comparative analyses, advanced explanation of benefits (EOBs) and price comparison tools, the prohibition on gag clauses, provider directory and continuity of care requirements, and early experience with the final regulations on “surprise” billing.

Moderator: Mary Ellen Signorille, Washington, DC

Panelists: Denise M. Clark, *Clark Law Group PLLC*, Washington, DC
Al Holifield, *Holifield & Janich, PLLC*, Knoxville, TN
Zoe Moskowitz, *Schwartz Steinsapir Dohrmann & Sommers*,
Los Angeles, CA (*invited*)
Deva Kyle, *Cohen, Weiss and Simon LLP*, New York, NY
Kendra Issacson, *US Senate HELP Committee Staff*,
Washington, DC

EMPLOYEE BENEFITS LAW UPDATE: A YEAR IN REVIEW

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WEDNESDAY, MARCH 16, 2022 (continued...)

3:00 PM-

4:30 PM ET

ERISA CIVIL PROCEDURE UPDATE

The panel will discuss the complex and evolving civil procedure issues being raised in the ERISA context. The panel will examine how courts are grappling with the issue of standing in the two years since the Supreme Court decided *Thole*. The panel will pay particular attention to the applicability of *Thole* in the context of non-defined benefit and healthcare claims. The panel also will address other significant civil procedure-related topics such as arbitration of ERISA claims, forum selection clauses, and standard of review considerations for benefit claims denials.

Moderator: Radha Pathak, *Stris & Maher LLP*, Los Angeles, CA

Panelists: R. Joseph Barton, *Block & Leviton LLP*, Washington, DC
Robert Rachal, *Jackson Lewis LLP*, New Orleans, LA
Other Panelists TBD

WEDNESDAY, MARCH 23, 2022

1:00 PM-

2:00 PM ET

CURRENT DEVELOPMENTS IN DEFINED CONTRIBUTION INVESTMENT LITIGATION

What happens to defined contribution investment cases now that the U.S. Supreme Court has ruled in *Hughes v. Northwestern University*? Will these cases concerning investments and fees in 401(k), 401(a), and 403(b) plans continue to be filed at a fast clip, and how will district and appellate courts interpret the Supreme Court's ruling? Join us for an in-depth discussion of *Hughes* and new issues and key trends from the past year, including class certification issues under review in *Boley v. Universal Health Services, Inc.*, and an analysis of where this litigation is headed.

Moderator: Joseph Creitz, *Creitz & Serebin LLP*, San Francisco, CA

Panelists: Erin Riley, *Keller Rohrback LLP*, Seattle, WA
Lindsey Chopin, *Jackson Lewis PC*, New Orleans, LA
Tulio Chirinos, *Proskauer*, Boca Raton, FL

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WEDNESDAY, MARCH 23, 2022 (continued...)

2:30 PM-

3:30 PM ET

FROM LONG-COVID TO COMPLIANCE WITH REGULATIONS:

TRENDS IN HEALTH AND WELFARE ADMINISTRATION AND DISABILITY LITIGATION

This panel will discuss emerging trends in health and welfare administration and litigation, including EBSA's recent Opinion Letter mandating disclosure of recordings generated in the administrative claims process, regardless of whether they were relied on in decision-making; administrative appeals and litigation of long-COVID claims; offsets and recovery of offsets; "self-reported condition" cases; and risk of relapse cases.

Moderator: Adam Garner, *The Garner Firm, Ltd.*, Philadelphia, PA

Panelists: Michelle Roberts, *Roberts Disability Law*, Oakland, CA
Ada Dolph, *Seyfarth Shaw LLP*, Chicago, IL
Cecilia Scanlon, *Baum Sigman Auerbach & Neuman, Ltd.*,
Chicago, IL

4:00 PM-

5:00 PM ET

MAKING HEADLINES: ENVIRONMENTAL, SOCIAL AND GOVERNANCE

This panel will address developments in ESG investing, including with respect to investment options in defined contribution plans, investment selection for defined benefit plans, and use of ESG as a metric for executive compensation.

Moderator: Michael Kreps, *Groom Law Group*, Washington, DC (*invited*)

Panelists: Mike Williams, *Phelps Dunbar, LLP*, New Orleans, LA
Nate Goldstein, *Segal, Roitman, LLP*, Boston, MA

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WEDNESDAY, MARCH 30, 2022

1:00 PM-

2:00 PM ET

MULTIEMPLOYER PLAN ISSUES

This panel will discuss the controversial withdrawal liability decisions of Sofco Erectors by the Sixth Circuit, ruling for the first time against the Segal Blend assumption for withdrawal liability calculations, and Metz Culinary Management by the Second Circuit disallowing a so-called retroactive adjustment of the actuarial assumptions, both of which potentially upend plans' withdrawal liability calculations across the country. Panelists also will review developments in the implementation of ARPA special financial assistance. In addition, the panel will cover Taft-Hartley deadlock arbitrations, including who pays for them, representation of the two groups of Trustees, and issues subject to arbitration.

Moderator: **Mark DeBofsky**, *DeBofsky Sherman Casciari Reynolds PC*,
Chicago, IL

Panelists: **Judith Broach**, *Stulberg & Walsh LLP*, New York, NY
Greg Ossi, *Faegre Drinker Biddle & Reath LLP*, Washington, DC
Zachary Leeds, *Cohen, Weiss and Simon*, New York, NY
Louisa Soulard, *Pension Benefit Guaranty Corporation*,
Washington, DC

2:30 PM-

3:30 PM ET

CYBERSECURITY: PROTECTIONS, BEST PRACTICES, GUIDANCE, INVESTIGATIONS, BREACHES, RANSOMS AND LITIGATION

What's here, and what's to come? Panelists will discuss new guidance and how plans, plan sponsors, and service providers can enact best practices to protect plan participants. DOL inquiries into plan practices have begun. Cyber-liability policy prices are skyrocketing, and insurers are leaving the market. Learn what written policies your clients need and where to turn first when protections fail. Few opinions have been issued thus far on cyber-breaches, so the panel will consider cases handling cyber theft of plan assets and related claims of fiduciary breach. As we move forward, what plan assets are at issue in breaches, i.e., is participant data itself an asset?

Moderator: **Diane McNally**, *Segal Select Insurance Services, Inc.*,
New York, NY

Panelists: **Kirsten Gibney Scott**, *Renaker Hasselman Scott LLP*,
San Francisco, CA
Robert Gower, *Trucker Huss, APC*, San Francisco, CA
Michael Ledbetter, *Ledbetter Parisi LLC*, Indianapolis, IN

EMPLOYEE BENEFITS LAW UPDATE: A YEAR IN REVIEW

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WEDNESDAY, MARCH 30, 2022 (continued...)

4:00 PM-

5:00 PM ET

ETHICS UPDATE

The panel will discuss recent developments in representation of ERISA plan stakeholders, what employee benefits practitioners still need to know about the attorney client privilege and work product doctrine and their representation, and the continuing and evolving ethical rules and considerations for attorneys who work remotely. The panel will also focus on the impact of technology (including cyber-ransom threats to your practice and data, privacy concerns, the use of social media) on the legal profession and discuss ideas for best practices to embrace technology while being an effective and efficient advocate (such as virtual hearings, meetings, and ADR).

Moderator: **Tybe Ann Brett**, *Feinstein Doyle Payne & Kravec LLC*, Pittsburgh, PA

Panelists: **Lisa Serebin**, *Creitz & Serebin LLP*, San Francisco, CA
Nick Bullard, *Dorsey, Dorsey & Whitney LLP*, Minneapolis, MN
George Kraw, *Kraw Law Group, APC*, Mountain View, CA
Simon Torres, *Pension Benefit Guaranty Corporation*,
Washington, DC

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WHY ATTEND?

While it may feel as if time stood still during the pandemic, the ever-evolving area of employee benefits law has not! Join us from the convenience of your home, office, or home away from home for a series of webinars focusing on the hottest developments in employee benefits law. This program will focus on such critical issues as the recent Supreme Court decision on fee litigation in defined contribution plans, long COVID and its impact on disability benefit claims, ESG and cybersecurity guidance, an update on health and pension plan regulations, and much more! Register today to earn CLE credit and learn from our leading government and private sector experts on the latest developments impacting ERISA and employee benefit plans today!

TUITION

Registrations must be postmarked or e-mailed by March 14th to receive the discount.

Full Series Tuition

- \$715 Non-Member
- \$665 ABA Member
- \$615 Sponsoring Section Member
- \$305 Government Rate

Single Session Tuition

- \$175 Non-Member
- \$150 ABA Member
- \$125 Sponsoring Section Member
- \$75 Government Rate

EMPLOYEE BENEFITS PASSPORT

- 25% discount for Employee Benefits Passport Subscribers
- ***Don't have a Passport?*** Purchase the Employee Benefits Passport and attend the entire series or sessions at the 25% discount. Contact mary.karounos@americanbar.org for details.

REGISTRATION POLICY

Any individual attending any part of the **Employee Benefits Law Update: A Year in Review** must register and pay the registration fee. Shared registrations are not permitted.

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SCHOLARSHIP INFORMATION

A limited number of scholarships to defray tuition expenses are available for this program on a 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, e-mail Mary.Karounos@americanbar.org.

CANCELLATION AND REFUND POLICY

All cancellations and requests for refunds of registration fees must be received in writing and postmarked or emailed by **March 14th**, to receive a refund. All refund requests will incur a \$50 cancellation fee. **Absolutely no refunds will be granted after the March 14th deadline.** To request a refund or substitution, please e-mail meetingcancellations@americanbar.org.

MCLE

The ABA will seek 9.00 hours of CLE credit in 60-minute states and 10.80 hours of CLE credit for this program in 50-minute states* (including 1.00 hours of CLE Ethics credit in 60-minute states and 1.20 hours of CLE Ethics credit in 50-minute states). Credit hours are estimated and are subject to each state's approval and credit rounding rules. Please visit the [program website](#) for program CLE details or visit www.americanbar.org/mcle for general information on CLE at the ABA.

****Florida Bar regulators have stated that attorneys will not receive Florida credit for this ABA program, even if they self-apply.***

QUESTIONS / COMPLAINT RESOLUTIONS

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 e-mail Mary.Karounos@americanbar.org. Reasonable advance notice is requested.

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PROGRAM CONFIRMATION

Written confirmation will be emailed as soon as your online registration is completed. In addition, details, and instructions on how to access the event site and materials will follow approximately a week before the program. If you do not receive the confirmation notice prior to the program, e-mail mary.karounos@americanbar.org to confirm that your registration was processed, and the program is being held as scheduled.

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WOULD LIKE TO ACKNOWLEDGE OUR SPONSOR FOR THEIR
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JCEB BRONZE LEVEL



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 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:

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www.americanbar.org/jceb

ERISA FIDUCIARY INSTITUTE

6-Part Webinar Series

April 7, 12, 14

MERGERS AND ACQUISITIONS NATIONAL INSTITUTE

Virtual Program

May 17, 19, 24, 26

EMPLOYEE BENEFITS SUMMER UPDATE

6-Part Webinar Series

June 1, 8, 15

REGISTRATION AND ORDER FORM

Employee Benefits Law Update: A Year in Review March 16, 23, and 30, 2022

American Bar Association
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UNABLE TO ATTEND

- On-Demand CLE will be available to purchase through the ABA's webstore approximately 2 weeks following the each session.
- Send me the JCEB calendar for upcoming Employee Benefits Programs.

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<https://www.americanbar.org/jceb>

Mail:

American Bar Association
Attn: Service Center-Meeting/Event Registrations Department
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Chicago, IL 60654

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**Tax: DC Residents add 6%, Illinois residents add 10.25% before including domestic postage and handling charges. Prices subject to change after 3/31/2022.*

*CANCELLATION POLICY *(Cancellations will be honored on the following basis:)*

- **On or before March 14**—100% refund less \$50 administrative fee
- **After March 14th**—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.
- ****No refunds will be made for cancellation requests after March 14th; written confirmation of refund requests must be received within 14 days following the National Institute presentation.**

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- 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, \$105
 - Section of Health Law, \$65
 - Section of Real Property, Trust and Estate Law, \$75
 - Section of Tort Trial and Insurance Practice, \$65