



**The Labor and Employment Law Section
of The State Bar of California**

Qualifies for up to
9.00 CLE Credits including
1.00 Substance Abuse Prevention
and 1.00 Legal Ethics

presents the 30th Annual Meeting



November 2 & 3, 2012

Balboa Bay Club & Resort, Newport Beach, CA

Hotel Deadline: October 11, 2012

Early Bird Registration: October 19, 2012



Featuring Keynote Address by
California Supreme Court Justice,
Goodwin Liu



Honoring Judge Marsha Berzon,
9th Circuit Court of Appeals

Early Registration: \$295 members;
\$395 non-members

The State of California Labor and Employment Law
Section is an approved MCLE provider.

Register Online at <http://laborlaw.calbar.ca.gov>



PROGRAM SCHEDULE

Friday, November 2, 2012

Breakfast | 7:00 a.m.-9:00 a.m.

Registration and Exhibits | 7:00 a.m. – 12:00 noon

Welcome and Opening Keynote Speaker | 8:00 a.m. – 9:00 a.m.

How the California Supreme Court’s Evolving Jurisprudence is Shaping Employment Law in California

(1.00 Hour of CLE Credit)

Associate Justice Goodwin Liu



Plenary Session | 9:15 a.m. – 10:45 a.m.

Tips From the Bench: Top 5 Do’s and Don’ts for Employment Lawyers

(1.50 Hours of CLE Credit)

Seasoned jurists discuss how employment lawyers can make themselves most effective as advocates for their clients. Always a program highlight – this panel will provide an edge to any attendee, from the newest to the veteran practitioner.

Moderator: **Michelle Reinglass**, Mediator/Arbitrator

Panelists: **Hon. Andrew Guilford**, U.S. District Court, Central District of California; **Hon. Eileen Moore**, 4th District Court of Appeal, 3d Division; and **Hon. Gail Andler**, Orange County Superior Court, Complex Civil Panel.

Concurrent Sessions | 11:00 a.m. – 12:30 p.m.

[1] *Live Demonstration: Taking and Defending the Plaintiff’s Deposition in a Harassment Case*

(1.50 Hours of CLE Credit)

Two experienced defense lawyers and one experienced plaintiffs’ lawyer will demonstrate taking and defending the plaintiff’s deposition in a model harassment case. Areas of questioning will include identifying all alleged incidents of harassment, asking about why the employee did not complain sooner, examining the employee’s job performance, and probing the employee’s emotional distress.

Panelists: **Linda Miller Savitt**, Ballard, Rosenberg, Golper & Savitt; **Anne Brafford**, Morgan, Lewis & Bockius LLP; and **Sima Fard**, Law Offices of Sima Fard

Annual Meeting Planning Committee

Bryan Schwartz , Chair

Robert Jon Hendricks, Co-Chair

Phil Horowitz

Carol Koenig

Lisa Lawson

Ami Silverman

Tony Skogen

Sharon Vinick





[2] Basics: Litigating a Fair Employment and Housing Act (FEHA) Case

(1.50 Hours of CLE Credit)

Experts on California’s anti-discrimination statute, FEHA, will walk participants through the life cycle of a discrimination case, from intake to conclusion, approaching typical problems from every angle – the plaintiffs’ side, the defense, the outside investigation firm, and the administrative enforcement agency. The panel will consider a model sexual harassment case, discussing how to spot the key issues in intake, how to assess the settlement value or trial value of a case from day one, how to evaluate statute of limitations and exhaustion issues, and proceeding through the administrative process. The panel will further address pleadings and typical issues in responding to FEHA suits. Moving through discovery, the panel will consider those issues where the proverbial rubber meets the road in a typical case, and how to obtain appropriate discovery to meet each party’s burdens. Finally, the panel will discuss how a plaintiff’s attorney knows a winner, and landmines to avoid for a defense attorney in a FEHA action.

Moderator: **Bryan Schwartz**, Bryan Schwartz Law

Panelists: **Tim Muscat**, Chief of Enforcement, California Department of Fair Employment and Housing; **Patti Perez**, Puente Consulting; **Adam Fiss**, Littler Mendelson; and **Carol Gillam**, The Gillam Law Firm

[3] Update: What Every Employment Lawyer Needs to Know about the National Labor Relations Board

(1.50 Hours of CLE Credit)

The past year has seen many developments at the National Labor Relations Board, many of which affect both union and non-union workplaces. Our panelists, including an NLRB Regional Director and experienced management and labor-side counsel, will discuss and analyze the latest issues, including: the NLRB’s recent guidelines on the use of social media by employees to communicate workplace issues and employers’ responses; the proposed revised election rules and procedures; class-action waivers in employer-mandated arbitration agreements (*D.R. Horton, Inc.*); the impact of the recent recess appointments to the Board; and other important topics that impact most workplaces in the private sector.

Moderator: **Ami Silverman**, Senior Trial Specialist, National Labor Relations Board, Region 21 (Los Angeles)

Panelists: **Olivia Garcia**, Regional Director, National Labor Relations Board, Region 21 (Los Angeles); **Thomas Lenz**, Atkinson, Andelson, Loya, Ruud & Romo; and **Jeffrey Cutler**, Wohlner, Kaplon, Phillips, Young & Cutler

Free Time | 12:30 p.m. – 6:00 p.m.

Enjoy local activities, including pool or spa time, fitness center, Balboa Island Fun Zone, shopping at Fashion Island, whale watching, or just relaxing on Newport Beach’s renowned waterfront.

Cocktail Reception | 6:00 p.m.

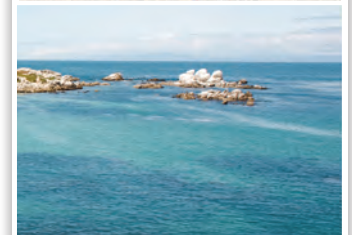
Dinner on the Beach | 7:00 p.m. – 10:00 p.m.

Celebrating 30 Years of the State Bar’s Labor & Employment Law Section

Distinguished Honoree:

One of Our Own – Reflections of a Former Section Leader Turned Jurist

Hon. Marsha S. Berzon,
U.S. Court of Appeals for the Ninth Circuit





**The Labor and Employment Law Section of The State Bar of California
presents the 30th Annual Meeting
November 2 & 3, 2012 — Newport Beach, California**

SATURDAY, NOVEMBER 3, 2012

Breakfast | 7:30 a.m. – 9:00 a.m.

Registration and Exhibits | 7:30 a.m. – 11:00 a.m.

Plenary Session | 8:00 a.m. – 9:30 a.m.

**Annual Update of Significant Employment Law Cases and Legislation
(1.50 Hours of CLE Credit)**

Featuring a comprehensive summary of the most important employment cases of 2012, emphasizing holdings of particular utility to practitioners, attendees will hear about, among other cases: *Brinker Restaurant Corp. v. Superior Court* (clarifying the standard for non-exempt employees’ meal and rest breaks); *Kirby v. Immoos Fire* (discussing availability of attorneys’ fees in meal and rest break cases); *Samper v. Providence St. Vincent Medical Center* (whether regular attendance can be an essential job function); *Rehmani v. Superior Court* (providing guidance on when summary judgment is appropriate in hostile work environment cases); *Joaquin v. City of Los Angeles* (dramatically raising the bar necessary for plaintiffs to clear in retaliation cases); *Duran v. U.S. Bank Nat’l Ass’n* (currently being reviewed by the Cal. S.Ct., holding that an employer was deprived of due process by the trial court’s erroneous use of representative sampling); and *Henry M. Lee Law Corp. v. Superior Court* (an important case for plaintiffs’ attorneys regarding ownership of attorneys’ fees). The panelists will also discuss the Ninth Circuit’s latest decision curtailing the ability of employers to use the federal Computer Fraud and Abuse Act against employees who they claim have misused the employer’s computer system (*U.S. v. Nosal*), the EEOC’s new guidance on criminal background checks, and the status of the NLRB’s requirement that all employers post an Employee Rights poster.

Panelists: **Andrew Friedman**, Helmer Friedman LLP, and **Anthony Oncidi**, Proskauer Rose LLP

Concurrent Sessions | 9:45 a.m. – 11:00 a.m.

**[4] Basics: Seek and Destroy: The Effective Use of the
Discovery Process in Employment Cases**

(1.25 Hours of CLE Credit)

Experienced employment litigators break down the discovery process from both the plaintiffs’ and defense perspective, emphasizing how to conduct intelligent, efficient, and strategic discovery. The panelists will discuss: establishing your discovery goals as part of your initial case plan, compliance with Fed. R. Civ. P. 26, e-discovery traps and opportunities, efficient use of written discovery, objecting and responding to written discovery, making the most of the meet-and-confer process, prioritizing and sequencing depositions, getting what you need from depositions efficiently, handling difficult witnesses and opposing lawyers, dealing with privilege issues, targeted use of motions to compel, and maximizing the trial value of your discovery. Panelists will discuss using discovery to leverage a settlement, prepare your summary judgment motion, and try your case.

Panelists: **John Mullan**, Rudy, Exelrod, Zieff & Lowe; **Troy Valdez**, Valdez, Noor, Todd & Doyle

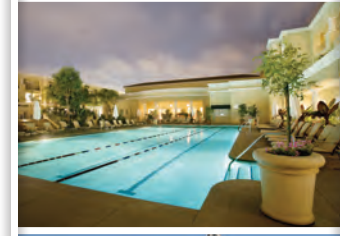
**[5] Tips: Winning Summary Judgment Motions: Cutting Edge Issues and Common
Battleground Areas - Practical Tips and Strategies for Your Practice**

(1.25 Hours of CLE Credit)

In employment cases, motions for summary judgment represent a significant battleground prior to trial. For many employees, defeating a motion summary judgment is a critical win. For employers, prevailing in whole or in part on a motion for summary judgment is equally significant. Veteran litigators on the panel debate the pros and cons of the new summary adjudication statute (Cal. Code of Civ. Proc. 437c(s)), significant cases that both employee- and employer-advocates should be aware of, as well as practical strategies and tips for drafting a winning motion and/or mounting a successful opposition.

Moderator: **Cara Ching-Senaha**, Jackson Lewis

Panelists: **María Díaz**, The Diaz Law Firm; **David Duchrow**, Law Office of David Duchrow; **Jonathan McNeil Wong**, Donahue Gallagher Woods LLP





[6] Ethics & Social Media: Getting in Trouble is Easier than You Think

(1.25 Hours of CLE Credit of Which 1.00 Hour Applies to Legal Ethics)

Social media allow us to: communicate with clients quickly and easily; find hidden evidence without issuing discovery requests; look behind closed doors; anonymously investigate witnesses and opposing parties – and, inadvertently, get ourselves in some serious ethics trouble. This interactive panel will cover some of the common (and not so common) pitfalls of using social media such as Facebook, Twitter, Linked In, etc. – as well as some of the perils of avoiding their use all together.

Panelists: **Jay Wang**, Fox, Wang & Morgan; **Carol Koenig**, Wylie, McBride, Platten & Renner

Concurrent Sessions | 11:15 a.m. – 12:30 p.m.

[7] Basics: Wage and Hour Litigation 101

(1.25 Hours of CLE Credit)

Veteran practitioners share what a plaintiffs’ or defense counselor new to wage/hour practice needs to know to prosecute or defend an individual, collective, or class action, in what is arguably the hottest area of employment law. The panelists will provide basic introductions to the parameters of the federal Fair Labor Standards Act and the California Labor Code and Wage Orders, highlighting key differences, and discussing some of the major and lesser-utilized causes of action, including overtime, meal/rest periods, unlawful deductions, seating requirements, reimbursement claims, and California penalties for waiting time and itemized wage statement violations. Sometimes complicated procedural mechanisms for filing state, federal, and administrative actions will be simplified, and the relationship with the Private Attorneys General Act (PAGA) will be highlighted. The panelists will conclude by discussing unique wage/hour settlement issues, and some of the cutting-edge issues new practitioners to the wage/hour field would be most likely to confront, including the fallout from *Brinker*, *Duran*, and *Kirby*.

Moderator: **Bryan Schwartz**, Bryan Schwartz Law

Panelists: **Joan Tucker Fife**, Winston & Strawn; **Matthew Helland**, Nichols Kaster; **Leonid Zilberman**, Wilson Turner Kosmo; **Wilmer Harris**, Schonbrun, DeSimone, Seplow, Harris, Hoffman & Harrison LLP

[8] Live Demonstration: Taking and Defending the Decision – Maker’s Deposition in a Harassment Case

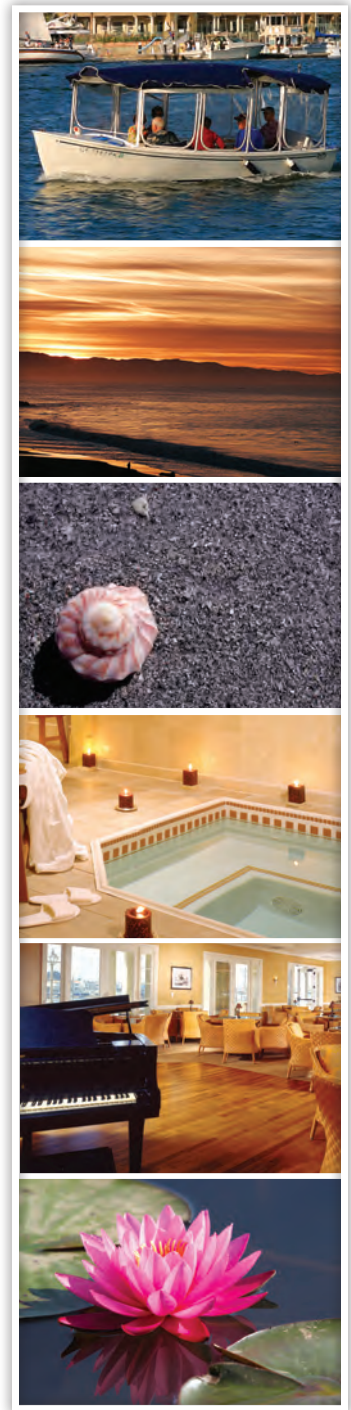
(1.25 Hours of CLE Credit)

Experienced plaintiffs’ and defense lawyers will demonstrate taking and defending the decision-maker’s deposition in a harassment case. Areas of questioning will include pinning down the articulated reason for termination, questioning about investigation of an earlier harassment complaint, examining how other employees were treated, and asking about alleged comments by the decision-maker.

Panelists: **Lisa Maki**, Law Offices of Lisa L. Maki; **J. Bernard Alexander III**, Alexander, Krakow & Glick LLP; **Aaron Lubeley**, Seyfarth Shaw LLP

Adjournment | 12:30 p.m.

1.00 Hour of Substance Abuse Prevention will be available through self-study program, available at the Labor Annual Meeting





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REGISTRATION FORM

The Labor and Employment Law Section 30th Annual Meeting— November 2 & 3, 2012

Bar # : _____

First Name: _____ Last Name: _____
(Please print or type name as it should appear on your name badge.)

Firm/Organization: _____

Address: _____

City, State: _____ Zip: _____

Telephone: _____ Fax: _____

E-mail Address: _____
(required for email confirmation)

Identify Your Practice: _____
(Public, private, plaintiff, defense, union, management, in-house, neutral, other)

Your name and address may be disclosed to other 2012 Annual Meeting attendees and exhibitors/vendors. Check here, if you don't want your information disclosed.

Annual Meeting Registration Fees

(includes: Conference registration, program materials, Friday and Saturday breakfasts and Friday reception)

REGISTRATION FEE REDUCED \$100	<i>EARLY BIRD</i>	<i>AFTER 10/19</i>
	<i>10/19</i>	<i>AND ON-SITE</i>
("LEL") SECTION MEMBERS	\$395 \$295	\$450 \$350
NON-SECTION MEMBERS (INCLUDES ENROLLMENT IN THE LEL SECTION)	\$495 \$395	\$570 \$470
NEW LAWYER (ADMITTED AFTER 2/01/2007) (INCLUDES ENROLLMENT IN THE LEL SECTION)	\$195 \$100	\$225 \$125
FULL-TIME LAW STUDENT	\$50	

To promote environmentally sustainable practices we only are offering written materials on a USB Drive. If you need a paper version of the program materials, you may download and print your own copies at <http://laborlaw.calbar.ca.gov>. The program materials will be available online one week before the Annual Meeting.

Account Number _____ VISA MasterCard Expiration Date _____

Cardholder's Name _____ Cardholder's Signature _____

Ticketed Events Please indicate which events you will attend:

Friday, November 2, 2012

Reception I will attend I will not attend
 Dinner Honoring Judge Berzon ___ # of tickets ___ X \$55 _____
 Subtotal from dinner ticket fees _____
 Subtotal from Registration fees _____
Total amount enclosed or to be charged: _____
 Registration Information: 415.538.2508

PAYMENT You may pay by check (make checks payable to The State Bar of California), VISA, or MasterCard. Registrations will be accepted by fax only when accompanied by credit card information.

CREDIT CARD INFORMATION (VISA/MasterCard Only)
 I authorize The State Bar of California to charge my program registration to my VISA/MasterCard account. (No other credit cards accepted.)

COURSE SELECTOR

Please check the appropriate box for the programs and events you plan to attend:

Friday, November 2, 2012

11:00 a.m. – 12:30 p.m.

- [1] Live Demonstration: Taking and Defending the Plaintiff's Deposition in a Harassment Case
- [2] Basics: Litigating Fair Employment and Housing Act (FEHA) Case
- [3] Update: What Every Employment Lawyer Needs to Know about the National Labor Relations Board

Saturday, November 3, 2012

9:45 a.m. – 11:00 p.m.

- [4] Basics: Seek and Destroy: The Effective Use of the Discovery Process in Employment Cases
- [5] Tips: Winning Summary Judgment Motions: Cutting Edge Issues and Common Battleground Areas—Practical Tips and Strategies for Your Practice
- [6] Ethics & Social Media: Getting in Trouble is Easier than You Think

11:15 a.m. – 12:30 p.m.

- [7] Basics: Wage and Hour Litigation 101
- [8] Live Demonstration: Taking and Defending the Decision-Maker's Deposition



PROGRAM REGISTRATION INFORMATION

The State Bar of California 30th Labor & Employment Law Section Annual Meeting

Registration: Registration fees include admission to the CLE-accredited programs on Friday and Saturday, continental breakfasts, breaks, and as well as the program materials.

The Friday Dinner honoring Judge Berzon is a separate ticketed (\$55) event November 2, 2012.

Early registration fees are: \$295 for members of the Labor & Employment Law Section; \$395 for non-members; and \$100 New Lawyer registration fee (admitted after 2/01/2007).

Late Registration Fees: \$350 (section members); \$470 (non-section members); \$125 (new lawyers post-2/1/07); \$50 (law student)

THERE ARE THREE WAYS TO REGISTER:

REGISTER ONLINE at <http://laborlaw.calbar.ca.gov>. Registering is quick and easy. Go to <http://laborlaw.calbar.ca.gov> and click on the program name.

REGISTER BY MAIL. Please send your completed registration form and check or credit card payable to The State Bar of California, Program Registrations, The State Bar of California, 180 Howard Street, San Francisco, CA 94105-1639.

REGISTER BY FAX. Please fax your registration form with your credit card information to Program Registrations at (415) 538-2368 by October 26, 2012. Only faxes accompanied with the appropriate credit card information will be processed.

Registration will be available on site on a space-available basis.

Cancellations/Refunds A refund, less a cancellation fee of \$75, will be given for all registration cancellations received in writing by October 26, 2012. Substitute registrants are allowed but must register in their own name at the meeting to receive CLE credit.

Hotel Reservations A limited number of rooms have been reserved at the Balboa Bay Club & Resort, 1221 West Coast Highway, Newport Beach, CA 92663 for the 2012 Labor & Employment Law Section Annual Meeting attendees at a special rate of \$199 standard single/double/triple/quadruple plus tax per night.

For reservations, please contact the hotel directly at 949-645-5000. Reservations made after the October 11, 2012 cut-off will be taken on a space-and-rate-available basis. To obtain the group rate, be sure to mention that you are with The State Bar of California Labor and Employment Law Section's 30th Annual Meeting. Each registrant is responsible for his or her own reservations.

Registration Fees

Registration fees include admission, up to 9.00 hours of CLE instruction, program materials, continental breakfasts and the Friday night reception.

DINNER TICKET MUST BE PURCHASED SEPARATELY.

See registration form.

TICKETED EVENTS

Friday, November 2, 2012 – \$55 Dinner honoring Judge Berzon, celebrating 30 years of Labor & Employment Law Section.

Special Assistance and Questions:

For special assistance, please call (415) 538-2393.

For registration information, please call Program Registrations at (415) 538-2508. For program content information, please call Theresa Raglen, Meeting & Event Administrator at (415) 538-2393.



The State Bar of California
Labor and Employment Law Section
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San Francisco, CA 94105-1639

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