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37th Annual Labor and Employment Law Conference

INCLUDING

**A Mini-Workshop on
Effective Advocacy in Arbitration by
The National Academy of Arbitrators**

PRESENTED BY

**ORANGE COUNTY LABOR AND
EMPLOYMENT RELATIONS ASSOCIATION
(OC LERA)**



IN COOPERATION WITH



FMCS | FEDERAL MEDIATION &
CONCILIATION SERVICE



NATIONAL ACADEMY
OF ARBITRATORS

PROGRAMMING SUPPORT PROVIDED BY THE
**NATIONAL LABOR RELATIONS BOARD
REGION 21 and REGION 31,
LOS ANGELES**

WEDNESDAY, JULY 17, 2019

Sheraton Park Hotel

at the

Anaheim Resort

1855 South Harbor Blvd., Anaheim, CA

Taxpayer ID #95-312580



ABOUT THE CONFERENCE...

This year marks the 37th Annual Labor and Employment Law Conference presented by the Orange County Labor and Employment Relations Association (OC LERA) in cooperation with the Federal Mediation & Conciliation Service (FMCS) and the Southern California Region of the National Academy of Arbitrators. Programming support is provided by Region 21 and Region 31 of the National Labor Relations Board (NLRB).

The Conference addresses current issues in labor and employment law, including both recent developments and advocacy skills training. It is designed for labor and management representatives in both the private and public sectors, including attorneys, human resources professionals, in-house counsel, business agents, union representatives, mediators, arbitrators, and academics.

Our traditional Opening Plenary offers something new this year: ADVOCACY SKILLS TRAINING in the form of an interactive panel dealing with Substance Abuse in the Workplace presented by the Southern California Region of the National Academy of Arbitrators. This plenary presentation will be followed by a workshop featuring in-depth discussion of additional cases in small groups moderated by arbitrators. Other workshops include the ever-popular NLRB UPDATE with the Regional Directors of NLRB Regions 21 and 31, INDEPENDENT CONTRACTOR OR EMPLOYEE? and THE FUTURE AFTER JANUS.

Our special keynote luncheon speaker will be **Hon. Richard Giacalone, Director-Nominee, Federal Mediation & Conciliation Service, Washington D.C.**

And don't miss our distinguished closing plenary speaker **PROF. ERWIN CHEREMINSKY, Dean, UC Berkeley School of Law** and eminent expert on constitutional law who will present a SUPREME COURT UPDATE.

Early registration is encouraged, and payment must accompany your registration. **The registration fee is \$250 for current OC LERA members and Federal Government employees before June 28, 2019, and \$260 thereafter; \$285 for all others before June 28, 2019, and \$295 thereafter, which includes the luncheon, refreshments, parking, and conference materials on a flash drive. THERE WILL BE NO REFUNDS AFTER JULY 5, 2019.**

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CONFERENCE PLANNING COMMITTEE

Marlene K. Heyser, *Chair*

Sara Adler	Ruben Ingram	Carlos R. Perez
Bonnie Prouty Castrey	Patrick D. Kelly	Danielle Pierce
William B. Cowen	Thomas A. Lenz	Marianne Reinhold
Lisa Demidovich	Michael B. Mellema	Mori Rubin
Juan Carlos Gonzalez	Michaela O'Neill	Kristen Scott
Valerie Harragin	Joseph L. Paller, Jr.	Ami Silverman

Program

7:30 AM to 8:30 AM – Registration and Coffee

**8:30 AM to 8:45 AM – Welcome and
Opening Remarks**

Michaela O'Neill

O'Neill Investigations

President, OC LERA 2018

8:45 AM to 10:15 AM – Plenary Session

***Secrets of Effective Advocacy In Arbitration -
Presented By The Southern California Region of
The National Academy Of Arbitrators***

A panel of expert arbitrators will discuss recent cases addressing the use of marijuana and other controlled substances in the workplace that affect the work environment. The audience will participate in the "Red Light/Green Light" presentation where they, along with the panelists, can explain how they would rule on the cases and why. Afterwards, guest arbitrators who will be seated with attendees at each table will facilitate small group discussions of additional cases. Following on this opening plenary presentation, Workshop I will feature a mini-workshop in advocacy training entitled "How Not to Screw Up Your Case."

MODERATOR: Christopher David Ruiz Cameron*

*Member, National Academy of Arbitrators
Justice Marshall F. McComb Professor of Law,
Southwestern Law School, Los Angeles*

SPEAKERS: Sara Adler, Arbitrator*

Guy Prihar, Arbitrator

Sheri Ross, Arbitrator

GUEST

**ARBITRATORS: Isabelle Gunning, Stephen Hayford,*
Najeeb Khoury, Sylvia Marks-Barnett,
Jonathan Monat,* Ken Perea,* Bob Steinberg***

** Member, National Academy of Arbitrators*

10:15 AM to 10:30 AM – Coffee Break

**10:30 AM to 11:45 AM – Workshops I and II
(concurrent presentations)**

WORKSHOP I:

How Not to Screw Up Your Case - Presented by the Southern California Region of the National Academy of Arbitrators

Two panels of expert arbitrators will offer advice and tips on effective presentation of your case.

Part A: Anatomy of a Hearing – A Primer on Basic Dos and Don'ts

MODERATOR: Kathy Fragnoli, Arbitrator*

PANELISTS: Bob Bergeson, Arbitrator*
Juan-Carlos Gonzalez, Arbitrator
Jan Stiglitz, Arbitrator*

Part B: Fear and Loathing About Evidence: Your Top Five Evidentiary Objections and What We Think About Them

MODERATOR: Fred Horowitz, Arbitrator*

PANELISTS: Mark Burstein, Arbitrator*
Michael Prihar, Arbitrator*

WORKSHOP II:

NLRB Roundtable

Recently we have seen significant new case law from the National Labor Relations Board and important policy changes by the Board's General Counsel. The Regional Directors of Regions 21 and 31 of the NLRB will be joined by experienced practitioners who will share their thoughts on recent developments at the Board. This year's presentation will focus on the legal nuances and real-world practicalities of Board decisions covering such issues as independent contractor status; what it means to engage in protected, concerted activity in the workplace; the successorship doctrine; and more. The panel will also discuss the implications of the General Counsel's approach to allegations that a union has breached its duty of fair representation to employees with respect to grievance-handling, notification of employee rights under General Motors and Beck, and dues revocation.

Moderator - Steven Wyllie, Supervisory Field Attorney, Region 31, West Los Angeles, CA

NLRB - Mori Rubin, Regional Director, Region 31, West Los Angeles, CA

William B. Cowen, Regional Director, Region 21, Downtown Los Angeles

Management - Nancy Inesta, Partner, Baker Hostetler, Los Angeles, CA

Union - Kirill Penteshin, General Counsel, UNITE HERE Local 11, Los Angeles, CA

12 NOON to 1:45 PM – Luncheon

WELCOME AND INTRODUCTIONS:

Mori Rubin, Regional Director
NLRB Region 31, West Los Angeles, CA

Valerie Harragin, Principal,
Federal Mediation & Conciliation Service
Institute for Conflict Resolution

KEYNOTE

SPEAKER: Hon. Richard Giacolone, Director-Nominee
Federal Mediation & Conciliation Service
Washington D.C.

"FMCS and Its Evolving Role in Labor-Management Relations: It's Not Your Parents' FMCS!"

1:45 PM to 2:00 PM – Break

2:00 PM to 3:15 PM – Workshops III and IV
(concurrent presentations)

WORKSHOP III:

Independent Contractor or Employee? The California Supreme Court has Spoken, but Federal Agencies and Business Groups Aren't Buying It

New business models hope to replace traditional employment with independent-contractor relationships. Last year, however, the California Supreme Court issued a unanimous ruling in Dynamex that makes it harder for companies to classify workers as independent contractors. Business is fighting back in the legislature, while the NLRB has issued new rulings protecting independent contractor relationships from attacks by labor unions and employees. Our distinguished panel will provide insights on when workers are really employees, and whether they have legal protections when they organize or engage in group job actions. Our speakers will also explore legislative proposals for reworking or expanding the traditional employer-employee relationship to include workers in the gig economy.

MODERATOR: TBA

SPEAKERS:
Management - Karl Schmidt, Attorney,
Parker Milliken, Los Angeles CA

Union - Julie Gutman Dickinson,
Attorney, Bush Gottlieb, Glendale CA

Academic - Catherine Fisk,
Barbara Nachtrieb Armstrong Professor of Law,
UC Berkeley School of Law, Berkeley, CA

WORKSHOP IV:

The Future of Public Sector Labor Relations After Janus v. AFSCME

The right to work movement has attacked mandatory union fees and dues in the public sector. As a result of the Court's June 2018 ruling in Janus, public sector employees no longer can be required to pay fees and dues as a condition of employment. Since the Court's ruling, public sector unions have actively taken steps to protect themselves and their members. Also, California legislation, recent strike activity, and litigation since the Janus ruling have all impacted both employers and employees in the post-Janus public sector workplace. What is the impact of Janus? Are unions weakened? Are they more energized? How are public employers affected? Experienced practitioners will discuss these issues.

MODERATOR: Ruben Ingram, Executive Director,
School Employers Association of California,
Irvine, CA

SPEAKERS:

Union - Fern Steiner, Partner,
Smith, Steiner, Vanderpool & Wax APC
San Diego, CA

Employer - Irma Rodriguez Moisa,
Atkinson, Andelson, Loya, Ruud & Romo,
Cerritos, CA

3:15 PM to 3:30 PM – Break

3:30 PM to 5:00 PM – Plenary Session

SUPREME COURT UPDATE

ERWIN CHERMERINSKY, UC Berkeley Law School Dean and Jesse H. Choper Distinguished Professor of Law is a pre-eminent constitutional law and First Amendment scholar. Dean Chemerinsky will present an insightful analysis of labor and employment cases recently decided or pending before the U.S. Supreme Court and their potential impact, as well as a summary of where the Court has been this past year and a prediction of where it might be going. Don't miss this special presentation by the lawyer named by National Jurist Magazine as the most influential person in legal education in the United States!

5:00 PM – Adjournment

Registration Form

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Registration Fee: \$250 before June 28, 2019, for current OC LERA members and FEDERAL GOVERNMENT employees; \$260 thereafter.
\$285 for all others before June 28, 2019 (includes one-year OC LERA membership); \$295 thereafter.

Please use a separate registration form for each registrant. Remit your completed registration form and payment to:

OC LERA, c/o SEAC, 18022 Cowan, Suite 250, Irvine, CA 92614

For further information, call Olivia Mata at (949) 387-1869
NO REFUNDS AFTER JULY 5, 2019

Indicate Payment (check boxes that apply)

I am a current OC LERA Member or Federal Government employee. Enclosed is my check payable to OC LERA for \$250 before June 28, 2019; \$260 thereafter.

Enclosed is my check payable to OC LERA for \$285 before June 28, 2019; \$295 thereafter. This registration amount includes a one-year OC LERA membership.

Please charge my credit card: MasterCard Visa Amex

OC LERA Member or Federal Government Employee

Non-Member

Acct. No. _____

Exp. Date _____ Billing Zip Code _____

Signature _____

Conference materials on a flashdrive are included in the registration fee. Enclosed is an additional \$25 for a binder of conference materials.

Name _____

Title _____

CA State Bar # _____

Organization _____

Address _____

City, State, Zip _____

Telephone _____

E-mail _____

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