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Announcing Conn Maciel Carey LLP's 2023 Labor and Employment Webinar Series



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The legal landscape facing employers seems as difficult to navigate as it has ever been. Keeping track of the ever-changing patchwork of federal, state and local laws governing the workplace may often seem like a full-time job whether you are a human resources professional, in-house attorney or business owner. Change appears to be the one constant. As we enter Year 3 of President Biden's Administration, employers will continue to closely track the changes taking place at the NLRB, the DOL and the EEOC. At the same time, a number of states will continue introducing new laws and regulations governing workplaces across the country, making it more important than ever for employers to pay attention to the bills pending in the legislatures of the states where they operate.

Conn Maciel Carey's complimentary [2023 Labor and Employment Webinar Series](#), which includes monthly programs (sometimes more often, if events warrant) put on by attorneys in the firm's [national Labor and Employment Practice](#), will focus on a host of the most challenging and timely issues facing employers, examine past trends and look ahead at the issues most likely to arise.



To register for an individual webinar in the series, click on the link in the program description below. To register for the entire 2023 series, click [here](#) to send us an email request, and we will register you. If you missed any of our programs from the past eight years of our annual Labor and Employment Webinar Series, [here is a link to an archive of recordings](#) of those webinars.

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See below for the full schedule with program descriptions, dates, times and links to register for each webinar event.

California Employment Law Update

Thursday, January 19, 2023 at 1 PM EST / 10 AM PST

Presented by [Andrew J. Sommer](#), [Megan S. Shaked](#), and [Samuel S. Rose](#)

2023 brings changes for California employers to a range of topics touching on pay equity and marijuana use, as well as wage and hour compliance. This webinar will review compliance obligations for companies doing business in California, as well as discuss the practical impact of these new laws and best practices for avoiding potential employment-related claims.

Participants in this webinar will learn:

- New pay equity law requiring disclosure of employee pay scales
- Job protections for cannabis use
- Expanded leave entitlements including under the California Family Rights Act
- Changes to the Cal/WARN Act applicable to mass layoffs, relocations, and terminations

- Rulemaking mandate on Heat Illness and Wildfire Smoke Standards
- Fast Food Council to set minimum workplace standards
- Industry-specific mandates on sexual violence and human trafficking
- Notice requirements for using electronic monitoring devices in employee vehicles
- Changes to farmworker labor relations
- Other wage and hour legal developments

[Click here to register](#) for this webinar.

This program is valid for 1.00 PDCs for the SHRM-CPSM or SHRM-SCPSM.

Navigating the New Normal: Remote Work Challenges **Wednesday, February 22, 2023 at 1 PM EST / 10 AM PST**

Presented by [Lindsay A. DiSalvo](#) and [Darius Rohani-Shukla](#)

There is no doubt that the COVID-19 pandemic triggered a significant surge in remote work nationwide, allowing more and more employees to work from their homes or some other location locally or in a completely different state from the employer's brick and mortar location. This has created significant employment hurdles for employers because remote employees are generally subject to the laws of the city and state where they are physically located and perform work. Depending on state law and conflict of law principles, there may be exceptions for employees who are temporarily located in a state or not considered "based" within a state. But certainly for those who intend to continue to work from a different state on a more long-term basis, it's likely that a particular state's laws could apply, requiring the employer to comply with state laws about which it would otherwise have no awareness and potentially legal requirements not incorporated in its policies and procedures to date.

And the challenges created by remote work are ones that are unlikely to disappear any time soon. Statistical projections show that by the end of 2022 remote work will make up about 25% of all jobs in North America. Notably, in 2021, about 67% of white-collar workers worked either partially or exclusively from home and almost 98% of remote workers surveyed said they would like to work remotely at least some of the time for the rest of their careers. This desire to work remotely combined with the challenges in hiring and retaining workers that many employers are experiencing, makes it likely that employers will have to continue to grapple with if and how to incorporate remote work into their current structure, including how to effectively monitor employee performance and the employment laws that may be triggered related to this unique work environment.

Participants in this webinar will learn:

- The pros and cons of a fully remote or hybrid work environment
- Challenges with monitoring and reviewing employee performance
- Legal implications for employees who work remotely in other states
- Unique legal issues related to remote workers

[Click here to register](#) for this webinar.

This program is valid for 1.00 PDCs for the SHRM-CPSM or SHRM-SCPSM.

Strategies for Responding to Whistleblower/Retaliation Complaints

Tuesday, March 21, 2023 at 1 PM EST / 10 AM PST

Presented by [Jordan B. Schwartz](#), [Lindsay A. DiSalvo](#), and [Victoria Voight](#)

Over the past several years, employers have seen a significant uptick in retaliation claims filed by employees and investigated by federal agencies. For example, in 2010, only approx. 30% of all charges filed with the EEOC included a retaliation claim, but that number shot up to almost 60% in FY 2021. Similarly, the vast majority of whistleblower complaints filed with OSHA in FY 2021 – about 75% – were filed under Sec. 11(c) of the OSH Act (retaliation based on protected safety acts).

When a general retaliation or whistleblower complaint is received, employers have a chance to explain why the complaint should be dismissed. The response is an opportunity for the employer to provide information so the agency investigating the complaint can close its file; whether that means OSHA decides an onsite inspection is unnecessary or the EEOC dismisses the discrimination charge. The responses can, however, create a written record of admissions that OSHA or the EEOC could use against the employer. Employers should thus be strategic about the information shared at that early stage and should ensure there is a procedure in place for managing and developing these responses.

Participants in this webinar will learn:

- Applicable federal whistleblower and anti-retaliation laws
- How the EEOC and OSHA evaluate whistleblower and retaliation claims
- Strategies employers can use to effectively respond to retaliation complaints
- Proactive measures employers can take to avoid employee complaints

[Click here to register](#) for this webinar.

This program is valid for 1.00 PDCs for the SHRM-CPSM or SHRM-SCPSM.

Pay Transparency Laws and New State Laws Regarding Non-Compete Agreements

Wednesday, April 20, 2023 at 1 PM EST / 10 AM PST

Presented by [Daniel C. Deacon](#) and [Samuel S. Rose](#)

Pay transparency laws have taken the country by storm. In December 2021, New York City Council passed a pay transparency measure that went into effect in November 2022. California passed a similar law that will go into effect in January 2023. The trend will likely spread to other states across the country. This webinar will explain

the laws, the hurdles employers face in complying with the laws, and some tips to make compliance easier. It will also cover a general overview of new state laws regarding non-compete agreements, including the District of Columbia's Ban on Non-Compete Agreements Amendment Act, which went into effect in October 2022 after being enacted over two years ago.

Participants in this webinar will learn:

- Employer obligations under various pay transparency laws enacted or being considered across the country
- Common issues with the rollout of pay transparency laws
- Tips for compliance with pay transparency laws
- Employer obligations under various new state laws pertaining to non-competition agreements, including DC's Ban on Non-Compete Agreements Amendment Act, and tips for compliance

[Click here to register](#) for this webinar.

This program is valid for 1.00 PDCs for the SHRM-CPSM or SHRM-SCPSM.

Managing Internal Investigations

Thursday, May 11, 2023 at 1 PM EST / 10 AM PST

Presented by [Aaron R. Gelb](#) and [Ashley D. Mitchell](#)

Gathering reliable information about employees and workplace incidents in order to make reasonable and informed employment decisions can be a challenge for employers. The scope and complexity of workplace investigations can vary depending on the issues and the number of people involved. While internal investigations often involve claims of discrimination, harassment, retaliation, theft, and/or misconduct, employers need to be prepared to address a range of novel issues that can include whistleblowing, fraud, and misappropriation of trade secrets. An ill-considered response to any of these issues will create a variety of problems for employers.

This webinar will provide best practice on preparing for and conducting internal investigations for a variety of workplace issues. We will also discuss appropriate investigation policies and procedures, pre-investigation planning, attorney-client privilege considerations, investigation tips and witness interviews, and post-investigation disciplinary measures.

[Click here to register](#) for this webinar.

This program is valid for 1.00 PDCs for the SHRM-CPSM or SHRM-SCPSM.

Hot Topics in Wage and Hour Law

Tuesday, June 20, 2023 at 1 PM EST / 10 AM PST

Presented by [Kara M. Maciel](#) and [Megan S. Shaked](#)

Wage and hour issues continue to be hotly litigated under the numerous federal and state laws governing employee wages, hours worked, meal and rest breaks and more. The availability of class actions and representative actions raise the stakes even higher for employers.

Participants in this webinar will learn:

- An overview of key issues regarding compensatory time
- Issues arising over properly classifying workers as exempt v. non-exempt employees and independent contractors
- Recent updates regarding wage and hour considerations
- Trends in litigation, including class action and collective action cases
- Best practices and common pitfalls to avoid and mitigate the risk of future wage and hour litigation

[Click here to register](#) for this webinar.

This program is valid for 1.00 PDCs for the SHRM-CPSM or SHRM-SCPSM.

The State of the Law Regarding Marijuana and Drug Testing

Tuesday, July 18, 2023 at 1 PM EST / 10 AM PST

Presented by [Daniel C. Deacon](#) and [Ashley D. Mitchell](#)

Recreational and medicinal marijuana are here to stay. Each year, it seems that several new jurisdictions legalize marijuana use in some form and momentum continues to build for change on the federal level. As such, it appears to be only a matter of time before marijuana is legalized in some form throughout the entire country. However, with these changes comes the potential for more employees to be under the influence of both legal and illegal drugs at the workplace. So, what can employers do to maintain a safe workplace? What restrictions are there for testing employees for drug use? Can employer really impose a drug-free workplace policy considering these seemingly pro-marijuana laws?

This webinar will explore the changing legal landscape concerning marijuana, analyze potential issues related to zero-tolerance policies and review tips for developing effective drug testing policies that will comply with fair employment laws as well as OSHA regulations.

Participants in this webinar will learn:

- The changing legal landscape regarding medical and recreational marijuana in states around the country
- How state marijuana laws affect your federal compliance obligations under the DOT and other agencies
- Which state laws provide explicitly for employee non-discrimination protections • Whether medical marijuana use may qualify as a reasonable accommodation under the Americans with Disabilities Act or state disability

discrimination laws

- How to address off-duty use of marijuana in states where it is legal
- Whether OSHA will be changing its approach to drug testing under the Biden Administration

[Click here to register](#) for this webinar.

This program is valid for 1.00 PDCs for the SHRM-CPSM or SHRM-SCPSM.

Managing Employee Privacy Rights: Everything You Need to Know

Wednesday, September 20, 2023 at 1 PM EST / 10 AM PST

Presented by [Kara M. Maciel](#) and [Darius Rohani-Shukla](#)

In the modern workplace, employers must be careful when setting expectations and policies relating to workplace policy, and at the same time be mindful of employee privacy rights. While company policy can dictate many of an employee's privacy rights, private employers must adhere to certain legal obligations.

Invasion of privacy in the workplace can lead to a plethora of negative consequences, including a hostile, unproductive work environment or even a big lawsuit. Privacy claims must be evaluated carefully on a case-by-case basis within the workplace.

Participants in this webinar will learn:

- What is the "right of privacy" in the workplace
- Key workplace privacy issues to consider when handling medical records and personnel files, accessing social media information, monitoring employee internet usage and emails, conducting background checks, storing biometric data, and implementing drug-testing procedures.
- Types of employer electronic monitoring
- Sources of privacy protections and legal restrictions on workplace monitoring
- Updates on state privacy laws coming into effect in 2023 that might affect employers

[Click here to register](#) for this webinar.

This program is valid for 1.00 PDCs for the SHRM-CPSM or SHRM-SCPSM.

ADA Reasonable Accommodations and Managing the Interactive Process

Wednesday, October 18, 2023 at 1 PM EST / 10 AM PST

Presented by [Aaron R. Gelb](#) and [Andrew J. Sommer](#)

Understanding the employer's obligations when responding to an employee's request for a reasonable accommodation under the Americans with Disabilities Act, including when and how best to engage in the

"interactive process" can be particularly challenging as there is rarely an obvious or easy answer. The law does not require an employee to make any reference to the ADA or use specific words, such as 'disability' or 'reasonable accommodation,' when requesting an accommodation, so employers must recognize the variety of ways in which a request for an accommodation may be articulated.

Unfortunately, far too many employers focus on the outcome—believing the need to find the perfect accommodation—when, in fact, the key to success is found in effectively engaging in the interactive process. When presented with a challenging request for accommodation, however, employers may give up too quickly or fail to appropriately consider and explore alternative options. Others mistakenly assume they have to provide the accommodation sought by their employee or something substantially similar to what was requested. Those employers that figure out the process tend not only to obtain better outcomes but can effectively protect themselves from costly judgments down the road.

Participants in this webinar will learn:

- Who requires a reasonable accommodation?
- An employer's obligation to engage in the interactive process
- Whether you can deny requests or rescind a reasonable accommodation
- Steps to ensure your workforce accommodation efforts promote an inclusive culture
- Tips for creating a comprehensive reasonable accommodation process
- How to stay compliant with reasonable accommodation rules

[Click here to register](#) for this webinar.

This program is valid for 1.00 PDCs for the SHRM-CPSM or SHRM-SCPSM.

The Impacts of Artificial Intelligence in the Workplace in 2023 and Beyond **Tuesday, November 21, 2023 at 1 PM EST / 10 AM PST**

Presented by [Jordan B. Schwartz](#) and [Darius Rohani-Shukla](#)

In May 2022, the Equal Employment Opportunity Commission "EEOC" issued a Technical Assistance ("TA") document entitled, "The Americans with Disabilities Act ("ADA") and the Use of Software, Algorithms, and Artificial Intelligence to Assess Job Applicants and Employees" focused on providing "clarity to the public regarding existing requirements" under the ADA and agency policy. This is the first guidance document the EEOC has issued regarding the use of Artificial Intelligence ("AI") in employment decision-making since announcing its AI Initiative in October 2021.

It is no secret that more employers have turned to AI to enhance their work processes over the years. An estimated 83% of employers have engaged AI or algorithmic tools to screen or assess applicants and workers, and some have even adopted a broad framework applicable to everything from resume scanners and "virtual assistants" or chatbots to video interviewing software and testing software that assess personality, aptitude, skills and perceived "cultural fit." However, if employers are not careful, these tools could result in disability

discrimination violating the ADA.

The content of this presentation includes potential issues with artificial intelligence in the hiring and screening process, background about the EEOC's initiative to manage fairness in the use of artificial intelligence and algorithmic tools, information about the Commission's first Technical Assistance Guide, and overlapping state and local regulatory efforts affecting employers trying to comply with the law.

Participants in this webinar will learn:

- The impacts of artificial intelligence and algorithmic tools in the workplace
- Potential risks facing employers implementing algorithmic processes
- Recommended EEOC practices to reduce the likelihood of disability discrimination; and
- Workplace trends and issues facing employers in 2023 and beyond.

[Click here to register](#) for this webinar.

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NLRB and Joint Employer Updates

Thursday, December 14, 2023 at 1 PM EST / 10 AM PST

Presented by [Kara M. Maciel](#) and [Mark M. Trapp](#)

As President Biden closes out his third year, we will review the state of labor law under the Biden Administration. We will discuss the status of the Board and its Members, its most important recent rulings, and any rulemaking, policymaking, and enforcement efforts. We will look ahead to expected rulings and initiatives and make predictions about what employers can expect from the Biden Administration's fourth year, touching on the upcoming election and the prospects for changes in labor law.

Participants in this webinar will learn:

- Recap of recent changes and other decisions that have reversed precedent
- The NLRB's enforcement efforts and areas of emphasis, and the status of the joint employer standards
- The impact of the NLRB's broadened scope of remedies and other initiatives
- Predictions for the Board in Year 4 of the Biden Administration and beyond

[Click here to register](#) for this webinar.

This program is valid for 1.00 PDCs for the SHRM-CPSM or SHRM-SCPSM.