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THE STATE BAR OF CALIFORNIA
LABOR AND EMPLOYMENT LAW SECTION

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The State Bar of California's Third Annual Advanced Wage and Hour Conference

JULY 31, 2013

The State Bar of California
180 Howard Street
San Francisco, California 94105

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

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PROGRAM INFORMATION

The State Bar of California's Third Annual Advanced Wage and Hour Conference

Conference Chair: **Steven G. Pearl**, *ADR Services, Inc.*

Conference Committee: **John L. Barber**, *Lewis Brisbois Bisgaard & Smith*;

Eileen B. Goldsmith, *Altshuler Berzon, LLP*; **Theodora R. Lee**, *Littler Mendelson P.C.*;

Latika Malkani, *Siegel, LeWitter & Malkani*; **Maria C. Rodriguez**, *DLA Piper LLP*; **Peter Scott Rukin**, *Rukin Hyland Doria & Tindall LLP*; **Bryan Schwartz**, *Bryan Schwartz Law*

8:15 am Registration

PROGRAM ITINERARY AND SPEAKERS

9:00 am – 4:30 pm

This year's Conference includes many of California's top litigators and judges, presenting advanced-level panels on today's most important topics: recent developments, including *American Express v. Italian Colors Restaurant*, *Oxford Health Plans v. Sutter*, *Sonic-Calabasas v. Moreno* and other recent and pending decisions from the United States and California Supreme Courts; issues that arise in litigating and resolving cases with insolvent defendants; an overview of wage and hour practice from attorneys who have been involved since its beginnings; and a view from respected judges who have seen it all.

RECENT DEVELOPMENTS UPDATE, INCLUDING THE MOST RECENT CASES FROM THE UNITED STATES AND CALIFORNIA SUPREME COURTS

9:00 am – 10:30 am

Veteran plaintiffs and defense side employment lawyers as well as a mediator will highlight the biggest developments in wage and hour law from the past year and how litigators are adjusting to the new legal landscape emerging from recent blockbuster changes in the law. The panelists will discuss new frontiers in wage and hour law and the state of old frontiers; the changing (or not so changing) standards for class certification in state and federal court; the role of PAGA representative actions as a substitute for traditional class certification; the applicability of arbitration agreements to PAGA representative actions and class actions; seating claims, rounding claims, and what all this means as the California Supreme Court grapples with *Iskanian* and *Duran*. Expect a lively and provocative start to the seminar as the panelists set the stage for the rest of the program.

Speakers:

Theodora R. Lee, *Littler Mendelson PC (moderator)*

Michael J. Loeb, *JAMS, Inc.*

Laura L. Ho, *Goldstein, Borgen, Dardarian, & Ho*

Rishi N. Sharma, *Paul Hastings Janofsky & Walker LLP*

10:30 am – 10:45 am Break

WAGE CLAIMS AGAINST INSOLVENT DEFENDANTS: LITIGATING AND SETTLING ACTIONS WORTH MORE THAN THE DEFENDANTS

10:45 am – 12:15 pm

This panel will profile an issue affecting the practice of every plaintiffs' and defense-side wage and hour class action litigator during these economic times – how to cope with the threat of insolvency. The discussion will include Chapter 11 bankruptcy basics, including information about claim priorities, the absolute priority rule concerning general unsecured creditors, how to perfect class proofs of claims, and the dischargeability of debts. Plaintiffs'-creditors'-side advocates will discuss seeking relief from stay, obtaining a judgment and liquidated claim in bankruptcy, and how creditors can flex their muscles as potentially the largest group of unsecured creditors in a bankruptcy context. Defense-debtors'-side advocates will discuss how

to avoid bankruptcy in the first place, the limited role of EPLI and other insurance policies, and how to ensure that a class claim does not impede plan confirmation after a Chapter 11 filing. The evolving jurisprudence around joint employer doctrine in the wage and hour context following *Martinez v. Combs* will be discussed, including how plaintiffs seek to add a solvent parent company or individual owner-manager as a joint employer defendant, and how companies seek to avoid this. The panelists will also discuss alter ego doctrine and Chapter 13 filings in this context. Panelists will discuss, from the plaintiffs', defense, and mediators' perspectives, how to negotiate settlements in light of the uncertainties created by insolvency concerns.

Speakers:

Bryan Schwartz, *Bryan Schwartz Law* (moderator)
Monique Olivier, *Duckworth Peters Lebowitz Olivier LLP*
Jeffrey S Ranen, *Lewis Brisbois Bisgaard & Smith LLP*
Daniel H. Reiss, *Levene Neale et al LLP*
Baldwin J. Lee, *Allen Matkins*

12:15 pm – 1:15 pm Networking Luncheon

THE VIEW FROM 30,000 FEET: WHERE WE'VE BEEN, WHERE WE'RE HEADED

1:15 pm – 2:45 pm

This distinguished panel will bring a 30,000 foot employee and employer counsel's and mediator's perspective on where we have been and where we are going in California wage and hour law. As the pendulum continues to swing, these panelists will address the evolution and status of: class and representative actions and procedures, arbitration of wage hour claims and class actions, meal and rest periods, and statutory requirements. These experts will discuss the impacts, opportunities, and challenges with respect to employee rights, employer policies and practices, and bringing, defending and resolving cases. They will look into their crystal ball and attempt to forecast the year ahead following class certification and PAGA developments, further interpretation of arbitration agreements and the risks of class arbitration, and how employers and employees continue to apply *Brinker* and its progeny, as well as other relevant developments.

Speakers:

Katharine Liao, *DLA Piper LLP* (moderator)
Steven G. Zieff, *Rudy Exelrod, Zieff & Lowe, LLP*
Kirby C. Wilcox, *Paul Hastings LLP*

2:45 pm – 3:00 pm Break

WAGE AND HOUR CLASS AND COLLECTIVE ACTIONS: A VIEW FROM THE BENCH

3:00 pm – 4:30 pm

Experienced trial judges from the federal and state bench will share their views on the impact in their courtrooms of the U.S. and California Supreme Courts' recent jurisprudence concerning class and collective actions. We will also ask the panel to address do's and don'ts for practitioners appearing before them in complex employment cases, and their preferred approaches to case management and class action settlements.

Speakers:

Eileen B. Goldsmith, *Atshuler Berzon LLP* (moderator)
Hon. Wynne Carvill, *Alameda County Superior Court, Complex Litigation Department*
Hon James P. Kleinberg, *Santa Clara County Superior Court, Complex Litigation Department*
Hon. Claudia Wilken, *Chief Judge, United States District Court for the Northern District of California*

4:30 pm – 5:30 pm Networking Reception

REGISTRATION INFORMATION

DEADLINE:

In order to pre-register, mail your form and check, payable to The State Bar of California, or credit card information. Must be received by Wednesday, July 24, 2013.

ONLINE REGISTRATION:

Now available at <http://laborlaw.calbar.ca.gov>.

MAIL TO:

Program Registrations, State Bar of California,
180 Howard Street,
San Francisco, CA 94105.

FAX TO:

Program Registrations at (415) 538-2368. In order to fax your registration, credit card information is MANDATORY.

CANCELLATIONS & REFUNDS:

Cancellations and requests for refunds must be received in writing by July 24, 2013. Substitute registrants are allowed but must register in their own name at the meeting to receive MCLE credit.

ON-SITE REGISTRATION:

On-site registrations are subject to availability. Call to confirm space availability. (415) 538-2590.

WEBCAST:

Each panel of this program will be available as a live webcast. Please visit the State Bar of California's website for more information:
<http://laborlaw.calbar.ca.gov/>

SPECIAL ASSISTANCE:

For special assistance please call (415) 538-2590; for TDD speech and hearing impaired, please call (415) 538-2231.

QUESTIONS:

For registration information please call (415) 538-2508. For information regarding the program please call (415) 538-2590.

REGISTRATION FORM

Note: One registrant per form. Photocopies may be used.

Name: _____ Bar #: _____

Firm: _____

Address: _____ City, State, Zip: _____

Phone: _____ Fax: _____

E-mail Address: _____
(required for confirmation)

Your name and address may be disclosed. Check here if you do not want your information released.

Pre-Registration Fees (must be received by July 24, 2013)

- Labor & Employment Law Section Member \$150
- Non-Section Member \$225
Includes enrollment in the Labor & Employment Law Section for 2013
- Non-attorney Labor-Relations Professional..... \$125
- Full-time Law Student (attach copy of school ID) \$75

Registration Fees After July 24, 2013 and On-Site (subject to availability) (July 25, 2013 through July 31, 2013)

- Labor & Employment Law Section Member\$195
- Non-Section Member\$270
Includes enrollment in the Labor & Employment Law Section for 2013
- Non-attorney Labor-Relations Professional.....\$170
- Full-time Law Student (attach copy of school ID)\$120

Amount Enclosed/To Be Charged\$ _____

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 card will be accepted.)

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Deadline: In order to pre-register, your form and check, payable to The State Bar of California, or credit card information, must be received by July 24, 2013.

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Mail To: Program Registrations, The State Bar of California, 180 Howard Street, San Francisco, CA 94105

Fax To: Program Registration at (415) 538-2368. In order to fax your registration, credit card information is MANDATORY. (Photocopies of checks will NOT be accepted.)