



The State Bar of California
Labor and Employment Law Section

Earn up to
13 Hours of MCLE Credit
(Including 1.25 Hours
Legal Ethics and 1.25 Hours
Elimination of Bias Credit)

33rd Labor & Employment Law Annual Meeting and 22nd Annual Public Sector Conference

A Showcase of Topics for Both Private and Public Sector Attorneys



April 21 and 22, 2016
Claremont Club & Spa, A Fairmont Hotel
1 Tunnel Road, Berkeley, CA

Gathering nearly 500 employment and labor practitioners and human resource professionals for a premier educational and networking opportunity.

Sign up by April 14 for Conference Fees as Low as \$295 a Single Day or \$495 for Two Days at <http://laborlaw.calbar.ca.gov>.

CONFERENCE REGISTRATION

Pre-registration deadline is April 14.

The conference registration fee includes your choice of attendance at the MCLE courses, course materials, continental breakfast, and networking reception. A nominal fee will be charged to attend the luncheon program(s). Sign-up today using the registration form and course selector inside this brochure.

Deadlines/Registration Fees

Section Member Rates Received by April 14. Fees increase by \$50 after April 14.

\$295 1-Day Conference (choose to attend either the Labor & Employment Annual Meeting or the Public Sector Conference)

\$495 2-Day Conference

Non-Section Member Rates Received by April 14. Rate includes a \$95 enrollment in the Labor & Employment Law Section for 2016. Fees increase by \$50 after April 14.

\$390 1-Day Conference (choose to attend either the Labor & Employment Annual Meeting or the Public Sector Conference)

\$590 2-Day Conference

Registration Process/Forms

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

Mail registration form to:

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

Fax registration form to:

Program Registrations at 415-538-2368. Credit Card payment is required for all faxed registrations.

Onsite Registration is limited and subject to availability.

Onsite registration will open on Thursday, April 21 at 7:45 AM.

Registration Cancellations and Refunds/Substitutions

All cancellation requests must be made in writing and received no later than April 14. All refunds are subject to a non-refundable fee of \$50. Substitute registrants are permitted but must register in their own name at the Conference to receive the MCLE credit.

Questions/Special Assistance

For registration questions call 415-538-2508. For Special Assistance please call 415-538-2590.

MCLE

The State Bar of California and the Labor and Employment Law Section are approved State Bar of California MCLE providers.

CONFERENCE PROGRAM MATERIALS

Conference materials will be available online before the Conference and provided on a USB drive at the Conference. Wi-Fi is not available in the conference rooms. No printed materials will be provided at the Conference. We recommend that you preview the materials when they are posted online, and copy conference materials that you wish to reference during the program to your electronic device beforehand.

HOTEL

Hotel reservation deadline is March 28.

All programs and events will be held at the Claremont Club & Spa, A Fairmont Hotel (previously named the Claremont Resort & Spa), 41 Tunnel Road, Berkeley, CA 94705. A limited number of rooms have been blocked at the Claremont Resort & Spa at the special Conference rate of \$249 (single/double occupancy). **The deadline to reserve a hotel room is March 28.** Telephone reservations only. Call 1-800-551-7266. Identify yourself with the Labor & Employment Law Conference. The Hotel has agreed to waive the daily Facilities Charge per room and will charge \$20 per day for parking.

Visit <http://www.fairmont.com/claremont-berkeley/> for maps and directions to the hotel and information on hotel amenities and services.

2016 PLANNING COMMITTEES

33rd Labor and Employment Law Annual Meeting

Chairs

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Ramit Mizrahi

Vice-Chair

Kristianne Seargeant

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22nd Annual Public Sector Conference

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Monica Guizar
Adam Fiss
Carol Koenig

Latika Malkani
Stephen Mesi
Arlene Prater
Erich Shiners



33RD LABOR AND EMPLOYMENT LAW SECTION ANNUAL MEETING

Thursday, April 21, 2016

7:45 AM – 8:45 AM CONTINENTAL BREAKFAST

7:45 AM – 4:00 PM REGISTRATION AND MCLE SIGN-IN

8:45 AM – 10:15 AM PLENARY SESSION (1.5 Hours MCLE Credit)

[1] **The Good, The Bad & The Ugly—A Review of Recent Employment Law Cases**

In this fast-paced discussion, Anthony J. Oncidi of Proskauer Rose LLP and Andrew H. Friedman of Helmer Friedman LLP will reprise their annual review of recent employment law cases with an emphasis on those cases of most utility to the employment practitioner whether plaintiff, defense, or neutral.

Welcome and Introductions: Ramit Mizrahi, Mizrahi Law, APC

Speakers: Andrew Friedman, Helmer Friedman LLP; and Anthony Oncidi, Proskauer Rose LLP

10:30 AM – 11:30 AM PLENARY SESSION (1 Hour MCLE Credit)

[2] **Happy Lawyering: A Discussion with Professor Deborah Rhode**

In *The Trouble with Lawyers*, Stanford Law Professor Deborah Rhode chronicles problems endemic in the legal profession. Numerous empirical studies show that lawyers tend to be among the least-satisfied and most unhappy professionals, and that the commitments to diversity, pro bono activity, and other worthy aims often fall by the wayside, with the push for profits in a highly-competitive and contentious system. But, Prof. Rhode, one of the nation's leading scholars of the legal profession, shows that it does not have to be this way. In this Happy Lawyering question-and-answer discussion, Prof. Rhode will not only illustrate some of the problems with our profession, but how we can solve them. If we listen—and ask the right questions—we can learn how to have a happier and more fulfilling practice.

Moderator: Bryan J. Schwartz, Bryan Schwartz Law

Speaker: Professor Deborah Rhode, Stanford Law School

11:30 AM – 12:45 PM [22] LUNCHEON AND KEYNOTE ADDRESS BY THE HON. BRAD SELIGMAN, SUPERIOR COURT OF ALAMEDA COUNTY

(.50 Hour MCLE Credit) Ticketed Event \$30 per person. Advance RSVP requested. Purchase your lunch ticket on the Registration Form.

12:45 PM – 2:00 PM CONCURRENT SESSIONS (1.25 Hours MCLE Credit). Choose from 3 courses:

[3] **ADA/FEHA: Accommodating Mental Disabilities in the Workplace**

This panel will discuss the best practices with respect to identifying and accommodating mental disabilities in the workplace. The panel also will discuss when accommodations are not appropriate and the interplay of the ADA/FEHA with employee discipline when there are mental health issues in the mix.

Moderator: Kristianne T. Seargeant, Kronick Moskowitz Tiedemann & Girard

Speakers: Noah D. Lebowitz, Duckworth Peters Lebowitz Olivier LLP; and Tracy Scott Todd, Genentech

Thursday, April 21, 2016

[4] **Newest Developments In Wage and Hour Law: Hot Topics**

California continues to provide new developments in wage and hour law through recently enacted statutes and important appellate and Supreme Court case law. Join our panel of distinguished labor and employment practitioners as they discuss and explore the ever-changing wage and hour landscape. Topics will include California's Fair Pay Act, sharing economy apps and independent contractors/employees, the vast array of local minimum wage law increases, and additional statutory and case law updates.

Moderator: Charles O. Thompson, Polsinelli LLP

Speakers: Douglas J. Farmer, Ogletree Deakins; Jennifer Reisch, Equal Rights Advocates; Beth Ross, and Leonard Carder LLP

[5] **The Evolving Role of NLRB in Today's Workplace: An Update on Rules, Rulings, and Trends**

The role of federal labor law remains significant in determining issues of workplace rights and employee representation by labor unions. The National Labor Relations Board has, through recent decisions and regulations, developed new legal standards and processes touching upon areas thought by many employers to be regulated by employment law and the HR department. Attorneys representing employees, employers, and labor unions need to be aware of these developments to best represent their clients. This panel consists of attorneys representing employers, employees, and the National Labor Relations Board, bringing experience and perspective to issues including: protections for employee use of social media; limits on employer handbook policies; new election rules; and how to best represent your client at the NLRB.

Moderator: Thomas A. Lenz, Atkinson, Andelson, Loya, Ruud & Romo

Speakers: Jill Coffman, National Labor Relations Board Region 20; Valerie Hardy-Mahoney, National Labor Relations Board Region 32; and Scott Stillman, McGuinn, Hillsman & Palefsky

2:15 PM – 3:30 PM

CONCURRENT SESSIONS (1.25 Hours MCLE Credit. Specialty credit for course #6.) Choose from 3 courses:

[6] **Ethical Issues in Employment Litigation (1.25 Hours Legal Ethics)**

This program will provide insightful guidance designed to help you spot and navigate recurring ethical issues in employment litigation. Topics will include conflicts of interest, joint representation, evidence preservation and spoliation, privilege issues concerning workplace investigations conducted prior to litigation, communications with represented parties, candor with the court, and inadvertent discovery or disclosure of confidential information.

Moderator: Cara Ching-Senaha, Moscone Emblidge & Otis LLP

Speakers: Kathryn Burkett Dickson, Partner, Dickson Geesman LLP; and Hon. Kandis A. Westmore, United States District Court, Northern District of California

[7] **Retaliation Claims: What You Don't Know CAN Hurt You**

Panelists will discuss the latest developments in employment-related retaliation law, covering both the state and federal law. Our distinguished panelists will address some of the common issues that arise in prosecuting and defending retaliation claims, including perspectives from within enforcement agencies.

Moderator: James W. Michalski, Holland & Knight

Speakers: Hon. William Dorsey, U.S. Department of Labor; Danielle Ochs, Ogletree & Deakins; Cynthia Remmers, Remmers Global Mediation, Arbitration and Fact-Finding; and Roberta Steele, U.S. EEOC

Thursday, April 21, 2016

[8] Comparative Employment Law: A Worldly View of Workers' Rights

The U.S. is in the minority of industrialized countries where there is a statutory presumption of at-will employment and where there is a right to a jury trial for employment claims. Two prominent law professors with expertise in the legal framework of employer-employee relations throughout the world will discuss how workplace claims such as discrimination, harassment and wrongful termination are asserted in other countries, and their mechanisms for dispute resolution.

Moderator: William M. Crosby, William Crosby Law

Speakers: Professor Susan Bisom-Rapp, Thomas Jefferson School of Law; and Professor Katherine Stone, UCLA School of Law

3:45 PM – 5:00 PM Plenary Session (1.25 Hours MCLE Credit)

[9] Mock Trial Opening Statements – *Johnson v. Acme*

Members of the jury, you are about to hear opening statements in *Johnson v. Acme*, a wrongful termination and wrongful demotion case based on pregnancy and gender. You will hear first from counsel for Plaintiff Tina Johnson, and then from counsel for Defendant Acme, Inc. An interactive discussion will follow opening statements, with counsel being questioned by a moderator, the jury (i.e., the attendees), and each other about their opening statements, and tactics for opening statements generally.

Moderator: Samson R. Elsbernd, Wilke, Fleury, Hoffelt, Gould & Birney, LLP

Speakers: Lawrance A. Bohm, Bohm Law Group; and Melinda Reichert, Morgan Lewis

5:00 PM – 6:30 PM OPENING NIGHT RECEPTION

5:15 PM – 6:00 PM [10] Cooperative Law Subcommittee Roundtable (not for MCLE Credit).

You are invited to join the Labor & Employment Law Section Cooperative Law Subcommittee at a special innovative discussion group session. RSVP by selecting course #10 on the enclosed Course Selector, or if you are not attending the Annual Meeting but would like to participate in this roundtable discussion send your RSVP by email directly to Carol.Zlongst@calbar.ca.gov.

22ND ANNUAL PUBLIC SECTOR CONFERENCE

Friday, April 22, 2016

- 7:45 AM – 8:45 AM** CONTINENTAL BREAKFAST
- 7:45 AM – 4:00 PM** REGISTRATION AND MCLE SIGN-IN
- 8:45 AM – 10:00 AM** CONCURRENT SESSIONS (1.25 Hours MCLE Credit. Specialty credit for Course #11). Choose from 3 courses:
- [11] **From Promise to Practice: Perspectives on Inclusiveness (1.25 Hours Elimination of Bias in the Legal Profession)**
In the legal business are we excelling and including all available talent? A leading neutral, scholar and law firm manager discuss bias and assess the legal profession's score card in hiring and retaining lawyers representative of California's diverse population. Panelists will discuss the role of implicit bias, bias interrupters, and practical measures to enhance progress.
Speakers: Ray Cardozo, Reed Smith; Jamie Dolkas, Center for WorkLife Law, UC Hastings; and Amy Oppenheimer, Law Offices of Amy Oppenheimer
- [12] **Successfully Navigating Discipline in Public Employment**
This session will address the unique substantive and procedural challenges facing representatives of public sector employers and employees regarding employee discipline. Learn about the various issues involving social media, public safety, and First Amendment issues. Panelists will provide essential tips to successfully defend against or ensure discipline is upheld in public sector forums.
Moderator: Monica T. Guizar, Weinberg, Roger & Rosenfeld
Speakers: Jason Jasmine, Messing, Adam & Jasmine; Najeeb Khoury, SEIU; and Vicki R. Nuetzel, BART
- [13] **The Nuts and Bolts of Bargaining in the Public Sector**
This session considers the lifecycle of the collective bargaining process, including preparing for negotiations, understanding mandatory subjects of bargaining, strategies for negotiating to agreement, the implications of impasse, and post-impasse resolution processes. Panelists will focus on areas and processes that are common to the various bargaining statutes in California.
Moderator: Adam J. Fiss, Littler Mendelson
Speakers: Gary M. Messing, Messing, Adam & Jasmine; and Richard Noack, Hopkins & Carley
- 10:00 AM – 10:10 AM** BREAK
- 10:10 AM – 11:40 AM** PLENARY SESSION (1.5 Hours MCLE Credit)
- [14] **In One Year and Out the Other**
This panel will review and discuss 2015-2016's most important court decisions, administrative rulings, and new and proposed legislation affecting the public sector.
Moderator: Maribel Hernandez, Klien DeNatale Goldner
Speakers: Dale L. Brodsky, Beeson, Tayer & Bodine; and David W. Tyra, Kronick, Moscovitz, Tiedemann & Girard

Friday, April 22, 2016

11:50 AM – 12:50 PM **LUNCHEON PROGRAM (.75 Hour MCLE Credit)**

Ticketed Event \$30 per person. Advance RSVP requested. Purchase your lunch ticket on the Registration Form.

[23] Wheel of Justice

It's the Labor and Employment law edition of "Wheel of Justice." Spin the wheel during this gameshow to unveil the fun facts of public sector labor and employment law, with a concentration on recent developments. You will be entertained by a puzzling series of new labor and employment statutory and common law, frequently used terms, and more. Join us at lunchtime and play your fortune with the Wheel of Justice!

Speakers: Samson R. Elsbernd, Wilke, Fleury, Hoffelt, Gould & Birney, LLP; Fernando Flores, DIR-Division of Labor Standards Enforcement; and Latika Malkani, Siegel LeWitter Malkani

1:00 PM – 2:00 PM **CONCURRENT SESSIONS (1 Hour MCLE Credit) Choose from 3 courses:**

[15] Doctor, Doctor, Give Me the News! Or Not? What Medical Information is Protected in the Workplace and in Litigation

Various laws and court decisions both confer, and take away, employees' medical privacy in the workplace. This panel will discuss the balance of the right to medical information between the employee and the employer in various workplace situations and how the balance changes based upon the workplace issue (such as hiring, disability accommodations, job performance) and in litigation. This panel will use a "case study" approach with hypotheticals that evolve through different employment and employment litigation scenarios.

Moderator: Anne M. Giese, SEIU Local 1000

Speakers: Sean Graham, Weinberg, Roger & Rosenfeld; and Arlene Prater, Best, Best & Krieger

[16] Do's and Don'ts of PERB Hearings and Appeals

Join our panelists – a PERB administrative law judge, PERB board counsel, a union attorney, and a management attorney – as they explore PERB's hearing and appeals processes, including issues that may arise with particular substantive claims. Gain insight into PERB's perspective on these processes, and learn successful techniques and strategies from experienced advocates.

Moderator: Erich W. Shiners, Renne Sloan Holtman Sakai

Speakers: Alicia Clement, PERB; Jennifer Keating, Leonard Carder; Nate Kowalski, Atkinson, Andelson, Loya, Ruud & Romo; and Katharine Nyman, PERB

[17] The Evolving Law and Rules of Factfinding Under the MMBA

Even though factfinding under Government Code section 3507 has been around for three years now, the parties (PERB, factfinders, legal counsel, unions and public employers) are still navigating their way through the statute, the regulations, the practices, the practicalities (and the impracticalities) of how it all works. Learn about the step-by-step procedure that PERB uses to process requests for (and objections to) factfinding, including PERB's strict adherence to the statutory timelines, and other key issues.

Moderator: Carol L. Koenig, Wylie, McBride, Platten & Renner

Speakers: Shelline Bennett, Liebert Cassidy & Whitmore; Paul Roose, Arbitrator/Mediator/Factfinder; Robert Szykowny, Weinberg Roger & Rosenfeld; and Carol Vendrillo, Arbitrator/Factfinder

2:00 PM – 2:10 PM **BREAK**

Friday, April 22, 2016

2:10 PM – 3:10 PM

CONCURRENT SESSIONS (1 Hour MCLE Credit). Choose from 3 Sessions:

[18]

What You Should Know about POBAR & FOBAR

In addition to providing an overview of the Public Safety Officers Bill of Rights (POBOR) and the Firefighters Procedural Bill of Rights (FOBAR). The panelists will discuss recent case updates and how these two statutes affect citizen oversight and employee privacy.

Moderator: Stephen A. Mesi, California Department of Justice

Speakers: Anthony M. Santana, California Association of Highway Patrolmen; and Todd R. Simonson, Sacks, Ricketts & Case

[19]

How to Succeed in Mediation

Mediation is a time-honored method for resolving public sector labor and employment disputes. Mediation can save you and your client money and time, and avoid costly and exhausting litigation. But how does mediation work? What do mediators do, and how do they do it? How can you best prepare yourself and your client for mediation? How can you use mediation to establish a better working relationship with the other side in the future? Our experienced panel of mediators will answer these, and more questions, and share their individual approaches toward achieving success in your next mediation.

Moderator: Laura Z. Davis, PERB

Speakers: John LaRocco, Mediator/Arbitrator; Steve Pearl, ADR Services, Inc.; Loretta van der Pol, State Mediation and Conciliation Services; and Barry Winograd, Mediator/Arbitrator

[20]

Pension Wars: Will They Ever End?

Public employee pensions still remain under attack. New initiatives are being planned – while the court and legal battles over the old ones continue. Receive a first-hand up-to-the-moment update from the attorneys who are in trenches. What will the City of San Diego do with PERB's recently issued decision in San Diego Municipal Employees Association v. City of San Diego. The City of San Jose and its unions have agreed on terms for settlement in the Measure B case, but will the court approve it? What is in the Reed/DeMaio Initiative and how would it impact the battles that have already been decided? Find out the answers to these and other questions about California's ever-changing public pension scene.

Moderator: Carol L. Koenig, Wylie McBride Platten & Renner

Speakers: Jan Goldsmith, San Diego City Attorney; Christopher E. Platten, Wylie McBride Platten & Renner; Charles Sakai, Renne Sloan Holtzman & Sakai; and Ann M. Smith, Smith Steiner Vanderpool & Wax

3:10 PM – 3:20 PM

BREAK

3:20 PM – 4:30 PM

PLENARY SESSION (1 Hour MCLE Credit)

[21]

A Judge's View of Meaningful Cooperation During the Litigation Process

This year, the judges' panel will focus on cooperative law during litigation – that is how plaintiff and defense can employ templates, case management plans, and discovery protocols to reduce contention and costs in the litigation process. Seasoned judges will discuss the successful use of these measures in California federal and state court.

Moderator: Chaya M. Mandelbaum, Rudy, Exelrod, Zieff & Lowe

Speakers: Hon. Donna M. Ryu, United States District Court, Northern District of California; Hon. Brad Seilgman, Judge, Superior Court of Alameda County; and Hon. Brian C. Walsh, Judge, Superior Court of Santa Clara County

4:30 PM – 5:30 PM

NETWORKING RECEPTION

33RD LABOR & EMPLOYMENT LAW ANNUAL MEETING AND 22ND ANNUAL PUBLIC SECTOR CONFERENCE

April 21-22, 2016 • Berkeley, California

Register on or before April 14, 2016 for the best rates. Use one form per registrant. Choose MCLE session on the included Course Selector.

Mail

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

Fax (credit card required)

Program Registrations 415-538-2368

Registration Form

State Bar CA Bar #: _____

Name: _____

Firm: _____

Address: _____

City, State, Zip: _____

Phone: _____

E-mail: _____

(Required for registration confirmation)

- Check here, if you do not want your contact information released to other attendees/sponsors/exhibitors.

Payment

Register online at <http://laborlaw.calbar.ca.gov> or submit this form and your course selector as follows:

- Enclosed is my check made payable to The State Bar of California.
 I authorize The State Bar to charge my fees to my credit card (VISA or MasterCard ONLY).

Account Number: _____

Expiration Date: _____

Cardholder's Name: _____

Cardholder's Signature: _____

Registration Fees (Choose one fee plan)

*Non-Section Member Rate Includes \$95 enrollment in the Labor & Employment Law Section for 2016.

A. Two-Day Conference Package Rates: Labor & Employment Annual Meeting & Public Sector Conference on Thursday, April 21 and Friday, April 22

	By April 14	After April 14	TOTAL COST
<input type="checkbox"/> Section Member	\$495	\$545	\$ _____
<input type="checkbox"/> Non-Section Member*	\$590	\$640	\$ _____

OR

B. One-Day Conference Rate: 33rd Labor & Employment Annual Meeting on April 21

<input type="checkbox"/> Section Member	\$295	\$345	\$ _____
<input type="checkbox"/> Non-Section Member*	\$390	\$440	\$ _____

OR

C. One-Day Conference Rate: 22nd Annual Public Sector Conference on April 22

<input type="checkbox"/> Section Member	\$295	\$345	\$ _____
<input type="checkbox"/> Non-Section Member*	\$390	\$440	\$ _____

Ticketed Events Fees – Choose all that apply.

- [22] Thursday Lunch Keynote by Hon. Brad Seligman ____ x \$30 = \$ _____
 [23] Friday Luncheon Program "Wheel of Justice" ____ x \$30 = \$ _____

Total Registration and Ticket Fees Enclosed/To Be Charged: \$ _____

33rd Labor & Employment Law Annual Meeting

Thursday, April 21, 2016

8:45 AM – 10:15 AM (Plenary Session)

- [1] The Good, The Bad & The Ugly—A Review of Recent Employment Law Cases

10:30 AM – 11:30 AM (Plenary Session)

- [2] Happy Lawyering: A Discussion with Professor Deborah Rhode

12:45 PM – 2:00 PM (Select one)

- [3] ADA/FEHA: Accommodating Mental Disabilities in the Workplace
- [4] Newest Developments In Wage and Hour Law: Hot Topics
- [5] The Evolving Role of NLRB in Today's Workplace: An Update on Rules, Rulings, and Trends

2:15 PM – 3:30 PM (Select one)

- [6] Ethical Issues in Employment Litigation
- [7] Retaliation Claims: What You Don't Know CAN Hurt You
- [8] Comparative Employment Law: A Worldly View of Workers' Rights

3:45 PM – 5:00 PM (Plenary Session)

- [9] Mock Trial Opening Statements – *Johnson v. Acme*

5:15 PM – 6:00 PM

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22nd Annual Public Sector Conference

Friday, April 22, 2016

8:45 AM – 10:00 AM (Select one)

- [11] From Promise to Practice: Perspectives on Inclusiveness
- [12] Successfully Navigating Discipline in Public Employment
- [13] The Nuts and Bolts of Bargaining in the Public Sector

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- [17] The Evolving Law and Rules of Factfinding under the MMBA

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- [18] What You Should Know About POBAR & FOBAR
- [19] How to Succeed in Mediation
- [20] Pension Wars: Will They Ever End?

3:20 PM – 4:30 PM (Plenary Session)

- [21] A Judge's View of Meaningful Cooperation During the Litigation Process

Submit the Course Selector with your Conference Registration Form by April 14.



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April 21 and 22, 2016
Claremont Club & Spa, A Fairmont Hotel, Berkeley, CA

April 14 PRE-REGISTRATION DEADLINE
March 28 HOTEL RESERVATION DEADLINE

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