

NAVIGATING CALIFORNIA EMPLOYMENT LAW

A Strategic Program for Multistate Employers



Seventh Annual

PROGRAM AGENDA

FEBRUARY 27–MARCH 2, 2019

LOCATION

Silverado Resort and Spa
1600 Atlas Peak Road
Napa, CA 94558
(707) 257-0200

COST

\$895 per person (clients)
\$1,395 per person (non-clients)

California
EMPLOYMENT LAW &
CABERNET

REGISTRATION

ONLINE
www.ogletree.com

EMAIL
ODEvents@ogletree.com

HRCI, SHRM, and CLE credit is anticipated for this program. To confirm whether CLE is available in your state, please email cle@ogletree.com in advance.



WEDNESDAY, FEBRUARY 27, 2019

2:00 – 6:00 p.m. **Early Registration**

3:00 – 6:00 p.m. **"It's Crazy Out Here!" What Employers Need to Know to Survive in the California Employment Law Jungle**

Navigating the twists and turns of California employment law can be treacherous for even the most experienced in-house counsel and HR professionals. From thousands of Labor Code provisions that regulate almost every aspect of the employment relationship to the decisions handed down by the California courts, there are plenty of land mines for employers. If your company has employees in California or is thinking about having employees in the Golden State, you must be prepared to deal with the complexities of California law. This primer on California employment law will focus on the legal issues that create the most headaches for in-house counsel and HR professionals.

Speakers: Becki Graham, *Employment Counsel – Americas*, Agilent Technologies, Inc.
Betsy Johnson (Los Angeles) • Christopher W. Olmsted (San Diego)

6:00 – 7:30 p.m. **Welcome Reception**

THURSDAY, FEBRUARY 28, 2019 (DAY 1 AGENDA)

8:00 – 8:45 a.m. **Registration and Breakfast**

8:45 – 9:00 a.m. **Welcome and Opening Remarks**

Joseph L. Beachboard, *Managing Director*, Ogletree Deakins
C. Matthew Keen, *Managing Shareholder*, Ogletree Deakins

9:00 – 10:00 a.m. **What's New in California Employment Law**

Each new year brings new challenges for organizations doing business in the Golden State. And not all of them make employment law headlines. This session will highlight the latest developments, with a special focus on the practical ramifications for your organization. This session will address key legislative developments, the most significant case rulings, marijuana and the workplace, new regulations from Cal/OSHA, union activity in California, and much more.

Speakers: Maria Anastas (Los Angeles) • Kevin D. Bland (Orange County) • Christopher W. Olmsted (San Diego)
Michael J. Sexton (Orange County) • Special Guests

10:00 – 10:45 a.m. **Arbitration Agreements in California Post-Epic Systems: Pros and Cons, Drafting Tips, and Logistics**

Last May, the Supreme Court of the United States made clear that class action waivers in employment arbitration agreements are enforceable. However, in California there are continuing hurdles to resolving disputes through arbitration rather than litigation. California employers must carefully draft such agreements so they don't run afoul of state law requirements. This session will discuss the latest developments, help employers determine whether arbitration is right for them, share tips for examining existing programs, and provide practical tips to minimize legal attacks.

Speakers: Shoshana Y. Chazan, *Assistant General Counsel*, Sodexo USA • Thomas M. McInerney (San Francisco)
Jennifer L. Santa Maria (San Diego)

10:45 – 11:15 a.m. **Break**

11:15 a.m. – **California Wage and Hour Developments: The Latest (and Not So Greatest) Changes Impacting Employers**

12:15 p.m. Over the past year, the courts and state legislature have been hard at work redefining the basic requirements for how employees must be paid in California. Our wage and hour attorneys will cover the new rules for classifying independent contractors, California's new de minimis test and what is now considered "hours worked," recent attacks on "unlimited vacation" plans, developing risks in reporting time pay, business expenses that must now be reimbursed, payments that must now be included in the regular rate of pay, Private Attorneys General Act (PAGA) developments, and more!

Speakers: Patricia A. Matias (Orange County) • Evan R. Moses (Los Angeles)
Sean N. Pon, *Assistant General Counsel*, Aderans America Holdings, Inc. | Bosley, Inc.
Robert R. Roginson (Los Angeles)

12:15 – 2:00 p.m. **LUNCH AND KEYNOTE PRESENTATION: California's Blue Tsunami—What It Means for Employers**



California was hit with a political blue tsunami on November 6, 2018. In 2019, Democrats will hold six times the number of congressional seats as Republicans, all statewide constitutional offices (including new Governor Gavin Newsom), and veto-proof supermajorities in both houses of the legislature. This will have a significant impact on all California employers. As the home of former Republican presidents Richard Nixon and Ronald Reagan, how did we get here and what does it mean for the future of the Golden State? Join author and columnist Dan Walters for what is sure to be an insightful presentation.

Special Guest: Dan Walters, *Author and Columnist*

2:00 – 2:15 p.m. **Break**

2:15 – 3:15 p.m. **Be Right Back . . . or Not: Managing California Employee Protected Leaves**

California is renowned for its many varieties of protected leaves—and the challenges they create for companies with employees in the state. In this session, our panel will decanter recent additions and amendments to parental leave, paid family leave, and other state and local leave laws. The panelists will pry open a few cases focusing on employee leave rights—and employer interference with such rights. Finally, attendees will sample a flight of recent employer benefit initiatives, including paid parental leave and unlimited paid time off.

Speakers: Katie Acevedo, *Associate General Counsel*, Sephora USA, Inc. • Gregory C. Cheng (San Francisco)
Candace Gomez Harrison (Orange County) • Charles L. Thompson IV (San Francisco)

THURSDAY, FEBRUARY 28, 2019 (continued)

3:15 – 3:45 p.m.

The Most Bizarre Employment Cases of 2018—California Style

California is famous for crazy employment law news, and 2018 was a banner year. While the entertainment value is high (we hope), there is a learning (and therapeutic) component to examining the mistakes of others and the truly weird world of California employment law. This session is a great way to end our first day!

Speaker: Joseph T. Clees (Phoenix)

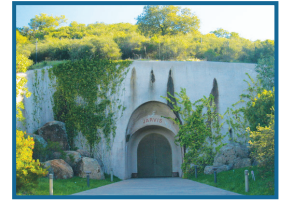
3:45 – 4:00 p.m.

Closing Remarks

5:00 – 8:00 p.m.

Wine Tasting Reception and Dinner

You won't want to miss our hosted wine tasting and dinner at Jarvis Estate Winery and Cave. The Jarvis Estate winemaking facility is entirely contained within 45,000 square feet of cave tunneled into the scenic Vaca Mountains, four miles east of downtown Napa. It is not only a visual masterpiece, but a technical masterpiece that everyone will be sure to enjoy.



FRIDAY, MARCH 1, 2019 (DAY 2 AGENDA)

8:00 – 8:45 a.m.

Breakfast

8:45 – 9:00 a.m.

Welcome and Day Two Conference Kickoff

9:00 – 10:00 a.m.

Discrimination and Harassment in the #MeToo Era: Complying With California's Web of Prevention Requirements

California has long been at the forefront of discrimination and harassment law. In this overview of legal requirements and best practices, our experienced panel will cover new legislation that dramatically limits the chances of employers prevailing in harassment cases in California. The panel will discuss legally required content for your harassment and discrimination prevention policies, recent changes in training requirements, required distributions, and new rules governing settlement agreements. In addition, they will review new California Fair Pay Act legislation for responding to applicant salary range requests, as well as rules on employer policies restricting disclosure of pay.

Speakers: Dennis A. Davis, Ph.D. (Torrance) • Douglas J. Farmer (San Francisco)
Erika Frank, *Executive Vice President, Legal Affairs, and General Counsel*,
California Chamber of Commerce • Danielle Ochs (San Francisco)

10:00 – 10:40 a.m.

Jurors' Views on Workplace Harassment: New Study Shows Risks for Employers

The #MeToo movement has altered how employers evaluate harassment claims, specifically with respect to trials involving these claims. The panel will analyze a new study of juror attitudes that provides insights on issues such as the perceived extent of harassment in the workplace, the expectations of Corporate America, what constitutes "notice," and determining appropriate punishment for inappropriate behavior. The panelists will also examine where there are gender differences in attitudes—and where there are not. Finally, this session will address the implications for employers.

Speakers: Dan R. Gallipeau, Ph.D., *President*, Dispute Dynamics, Inc. • Vince M. Verde (Orange County)

10:40 – 11:00 a.m.

Break

11:00 a.m. – Noon

Be Reasonable! Analyzing California's Religious, Disability, and Pregnancy Accommodation Requirements

California law imposes unique requirements on employers to accommodate employees when religion, disability, and/or pregnancy limit their ability to perform certain job duties. Our panel will explain these requirements (and how they differ from federal standards) and what's considered to be "reasonable." The session will also examine who decides what's reasonable, as well as what lies ahead in this area of increasing risk (and litigation) for employers with workers in California. The panel will conclude with specific strategies for meeting these expectations while still running your business.

Speakers: Shannon Alexander, *Litigation Counsel*, NBCUniversal • Tracie L. Childs (San Diego)
Anthony J. DeCristoforo (Sacramento) • David Raizman (Los Angeles)

Noon – 1:00 p.m.

LUNCH AND SMALL GROUP DISCUSSIONS (Led by Speakers From Each Presentation)

This popular session will provide an opportunity to discuss the topics of the prior two days with various speakers from the program. One or more speakers will be assigned to each table of guests. In addition, the attendees will help develop talking points for the panel discussion that will follow later in the afternoon.

1:00 – 1:15 p.m.

Break

1:15 – 2:00 p.m.

"Don't Let Me Hear You Say That Again!" Managing a Multilingual Workforce in California (Without Getting Sued)

Census data indicates that 57 percent of Silicon Valley tech workers were born outside of the United States and 27 percent of all California residents are foreign-born. As the workplace continues to become more diverse, employers are striving to foster an inclusive work environment. This can be difficult when employees speak to each other, customers, clients, and vendors in different languages. Some employers try to solve this problem by implementing language restrictions; however, requiring English only at work can run afoul of California laws and new regulations on national origin discrimination. This session will discuss the steps employers can take to create a workplace that is safe, productive, and inclusive within the parameters established by California laws and regulations, including how to craft a compliant workplace language policy.

Speakers: Lisa C. Hamasaki (San Francisco) • Betsy Johnson (Los Angeles)
Ellen M. Papadakis, *Assistant General Counsel*, Astellas US LLC

(Agenda continued on back)

FRIDAY, MARCH 1, 2019 (continued)

2:00 – 2:45 p.m. **The Inside Perspective on Managing a California Workforce**

The Golden State is among the most employee-friendly jurisdictions in the world. Seven-figure jury verdicts and employment class action lawsuits abound. California's employment laws are unique, frequently changing, and rarely make things easier for employers. Being an employment attorney or HR practitioner in the Golden State can feel like working in a different country altogether. Our panel will provide an insider's perspective on the special challenges they face when navigating California's unique legal landscape. They will share lessons and helpful strategies learned from decades of experience. The panel includes a general counsel at a publicly traded company and a vice president of HR from a large national employer.

Speakers: Robert N. Sacks, *EVP and General Counsel*, SP Plus Corporation • Spencer C. Skeen (San Diego)
Timothy R. Taylor, *Vice President—Human Resources*, Hendrick Automotive Group

2:45 – 3:00 p.m. **Break**

3:00 – 4:00 p.m. **Successfully Navigating California's Challenges—A Group Endeavor**

In this session, presenters will provide key takeaways from each of the sessions from the prior two days. The topics to be addressed will include those raised by each table during lunch.

Moderator: Jack S. Sholkoff (Los Angeles)

4:00 – 4:15 p.m. **Day Two Closing and Grand Prize Drawing**

5:30 – 6:30 p.m. **Wine Tasting Reception**

6:30 p.m. **Dinner and Exploring Downtown Napa (On Your Own)**



SATURDAY, MARCH 2, 2019 (DAY 3 AGENDA)

8:00 – 9:00 a.m. **Breakfast, Networking, and Best Practices Discussions**

9:00 – 11:00 a.m. **Preparing to Be an Effective Deposition Witness in California—An Interactive Experience**

Being deposed as a witness in the Golden State can be daunting. Depositions may lead to successful summary judgment motions and settlements. However, a lack of deposition preparation can sound the death knell for a case. Given the many different employment law claims being brought in California and the tactics used by plaintiffs' counsel, proper deposition preparation is critical. During this session, seasoned Ogletree Deakins litigators will provide you with their insights on how to best be prepared for deposition. The session will include examples from a variety of California claims, live demonstrations, and audience participation. At the end of this two-hour interactive experience, you will be more than ready should you receive a deposition notice.

Speakers: Marrian S. Chang (Los Angeles) • Katessa Charles Davis (Los Angeles)
Pablo I. Fabian, *Associate General Counsel*, National University System
Michael J. Nader (Sacramento) • Frank L. Tobin (San Diego)

1:00 – 5:30 p.m. **Wine Tasting Tour (an additional fee of \$95 per person covers luxury coach transportation and two wine tastings)**

Registration Information

CALIFORNIA
Ogletree Deakins 125
LAWYERS

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REGISTRATION

Online: www.ogletree.com

Email: ODEvents@ogletree.com

HOTEL RESERVATIONS

Hotel reservations are the responsibility of participants and can be made by calling Silverado Resort and Spa directly at (800) 532-0500 and requesting the Ogletree Deakins rate of \$209 per night. A limited number of rooms is available, so please make your reservations as early as possible. Reservations must be made by February 5, 2019, to receive this group rate.

Please let us know if you require any special services or accommodations.

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