



NEW YORK STATE BAR ASSOCIATION  
LABOR AND EMPLOYMENT LAW SECTION

# Fall Meeting

# ITHACA

**September 20-22, 2019**

**Statler Hotel at Cornell University**

130 Statler Drive

Ithaca, New York

**[www.nysba.org/LABRFA19](http://www.nysba.org/LABRFA19)**





### Labor & Employment Law Section Chair

Alyson Mathews, Esq., Lamb & Barnosky LLP, Melville

### CLE Committee Program Co-Chairs

Robert L. Boreanaz, Esq., Lipsitz Green Scime Cambria LLP, Buffalo

Abigail Levy, Esq., New York City Office of Collective Bargaining, New York City

Christopher A. D'Angelo, Esq., Consolidated Edison Company of New York, Inc., New York City

**TOTAL CLE CREDITS:** Under New York's MCLE rule, this transitional program has been approved for a total of **7.0 MCLE credits** consisting of 5.5 credits in Professional Practice and 1.5 in Ethics for all attorneys including newly admitted.

## HOTEL INFORMATION/RESERVATIONS:

### Statler Hotel

130 Statler Drive, Cornell University, Ithaca, New York 14853

Book Your Lodging via the Hotel Reservation Link at: [www.nysba.org/LABRFA19](http://www.nysba.org/LABRFA19)

**Hotel Reservation Deadline: August 28. Room availability is not guaranteed – please book early, rooms sell out quickly at this venue.**

### Hotel Rate for Traditional Guestrooms:

\$245 Single/Double plus taxes/fees. Check in is 3:00 p.m.; check out: 12 noon.

**Hotel Parking: \$12 per night self-parking or valet. Parking for commuters is available for \$14 per day.**

The Hoy Parking garage is just down the street from the Statler. Parking passes may be purchased at the Parking Booth on Hoy Road or you may or contact the Office of Visitor Relations at 607-254-4636, Monday through Friday, for parking information.

## Getting to the Statler Hotel and Around Ithaca

Ithaca Tompkins Regional Airport (ITH) offers daily flights to and from Washington Dulles, Detroit and Philadelphia ([www.flyithaca.com](http://www.flyithaca.com)). The Statler Hotel offers a complimentary shuttle to and from the Ithaca Tompkins Regional Airport. The operational hours are from 7:00 a.m. until 12:00 Midnight. Please email [frontoffice@sha.cornell.edu](mailto:frontoffice@sha.cornell.edu) or call 607-254-2500 in advance to schedule your shuttle pick-up. Departure requests can be handled at the hotel front desk upon check in. The shuttle clearly marked with the hotel's logo will be parked outside of the baggage claim area at the airport. Exit the building and approach the shuttle when you arrive. If you are waiting for checked bags, please introduce yourself to the van driver. He/she will be happy to wait for you. The Statler tracks the flights into Ithaca and will plan scheduled trips accordingly. If you do not see the van outside of the airport after a reasonable amount of time, please call the hotel at 607-254-2500.

**Transportation within the City:** Uber and Lyft; Collegetown Cab: 607-588-8888; University Taxi: 607-277-7777; Cayuga Taxi: 607 277-TAXI (8294); Yellow Taxi: (607) 277-CABS (2227). Various Bus Routes also service the downtown area from the Cornell campus, visit: [www.tcatbus.com](http://www.tcatbus.com) for route information.

**Additional ground transportation information may be found at [www.flyithaca.com/ground](http://www.flyithaca.com/ground).**

### Finger Lakes Region Information:

[www.visitfingerlakes.com](http://www.visitfingerlakes.com)

[www.cayugawinetrail.com](http://www.cayugawinetrail.com)

### Information on Cornell University and/or the City of Ithaca May Be Found At:

[www.visitithaca.com](http://www.visitithaca.com)

[www.downtownithaca.com](http://www.downtownithaca.com)

[www.cornell.edu](http://www.cornell.edu)

# SCHEDULE OF EVENTS

## Friday, September 20

- 11:00 a.m. **Registration** – Carrier Ballroom Foyer, Second Floor
- 11:00 a.m. – 12:15 p.m. **Lunch** – Carrier Ballroom Foyer, Second Floor  
Boxed lunches are provided for registered attorneys only as part of their meeting fees.
- 12:15 – 3:00 p.m. **GENERAL SESSION** – Carrier Ballroom, Second Floor  
**Wifi Sponsored by Greenberg Burzichelli & Greenberg P.C.**
- 12:15 – 12:30 p.m. **Section Welcome** Alyson Mathews, Esq.  
Section Chair
- Program Welcome** Abigail Levy, Esq.  
CLE Committee Program Co-Chair
- 12:30 – 1:45 p.m. **Plenary One: Massive Disruption – How Artificial Intelligence & Automation Are Likely to Reshape Labor & Employment Law and the Workplace**  
Perhaps no issue has more long-term significance for employees, employers and the attorneys who represent them than the extent to which automation - also referred to as “robotization” - is altering the nature of employment in the U.S. Automation is splitting workers into two worlds (highly educated professionals making large salaries and many more employees holding futureless, low-paying jobs in the service and retail sectors), and has critical implications for the legal constructs that govern the employment relationship. How the work force will change during and what it will be like in the next ten years is something all labor and employment lawyers must comprehend.
- Panel Chair: **Kelly Trindel, PhD.**, Head of Industrial Organizational Science & Diversity Analytics, Pymetrics, New York City
- Panelists: **Dr. Gerlind Wisskirchen**, CMS Hasche Sigle, Cologne, Germany  
**Larry Cary, Esq.**, Cary Kane, New York City
- 1:45 – 2:00 p.m. Coffee Break – Carrier Ballroom Foyer, Second Floor  
**Sponsored by Sapir Schragin LLP**
- 2:00 – 3:15 p.m. **Plenary Two: Negotiating Statutory Procedures in the Public Sector**  
This panel, comprised of a management attorney, a union attorney and PERB neutrals, will address public sector bargaining issues under the Taylor Law with respect to the negotiation of statutory procedures, including Civil Service Law Sections 71-73, Civil Service Law Section 75 and General Municipal Law Section 207-a and 207-c.
- Moderator: **Paul J. Sweeney, Esq.**, Coughlin & Gerhart, LLP, Binghamton
- Panelists: **Richard K. Zuckerman, Esq.** (Management), Lamb & Barnosky LLP, Melville  
**Nolan J. Lafler, Esq.** (Union), Blitman & King LLP, Syracuse  
**Hon. Joseph O’Donnell** (Neutral), Public Employment Relations Board, Buffalo  
**Hon. Mary Thomas Scott** (Neutral), Public Employment Relations Board, Buffalo
- 3:15 – 3:30 p.m. Coffee Break – Carrier Ballroom Foyer, Second Floor
- CONCURRENT WORKSHOPS (PLEASE SELECT ONE)**
- 3:30 – 4:20 p.m. **Workshop A** – Amphitheater, Second Floor  
**Medical and Recreational Marijuana in the Workplace or as a Business**  
What employers should know regarding employee policy and procedures and regulating its foreign national staff. Federal Preemption has come to mean many things in the area of employment law and immigration. Marijuana has opened up a whole new debate. This seminar will strive to answer and address these questions through real life examples and consequences for both USA citizens and foreign nationals.



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Moderator: **Patricia L. Gannon, Esq.**, Greenspoon Marder, LLP, New York City

Panelists: **Marcela Bermudez, Esq.**, Greenspoon Marder LLP, New York City  
**Geoffrey A. Mort, Esq.**, Kraus & Zuchlewski LLP, New York City

3:30 – 4:20 p.m.

**Workshop B – Carrier Ballroom, Second Floor**  
**Current Developments in Wage and Hour Law**

A variety of emerging issues in the always changing world of wage and hour law will be discussed, including recent agency opinion letters, pending regulatory revisions, and case law developments in New York state and federal courts.

Panelists:

**Joseph A. Carello, Esq.**, Wegmans Food Markets, Inc., Rochester  
**Jessica Lukasiewicz, Esq.**, Thomas & Solomon LLP, Rochester  
**Laura G. Rodriguez, Esq.**, Pechman Law Group PLLC, New York City  
**Erin S. Torcello, Esq.**, Bond, Schoeneck & King, PLLC, Buffalo

3:30 – 4:20 p.m.

**Workshop C – Taylor Room, Second Floor**  
**Changes to Employee Benefits and Executive Compensation under the Tax Cuts and Jobs Act of 2017**

- Changes to the Limitation on Excessive Employee Remuneration (Code section 162(m))
- Excise Tax on Excess Tax-Exempt Organization Executive Compensation (Code section 4960)
- The new Qualified Equity Grants (Code section 83), and other changes to benefits and executive compensation under the Act

Panelists:

**Stanley Baum, Esq.**, Amityville  
**Ryan J. Barbur, Esq.**, Levy Ratner, P.C., New York City  
**Gretchen Harders, Esq.**, Epstein Becker & Green, P.C., New York City

7:00 – 10:00 p.m.

**COCKTAIL RECEPTION & DINNER – Carrier Ballroom, Second Floor**  
**Reception Sponsored by Lamb & Barnosky, LLP**  
**Dinner Wines Sponsored by Abrams Fensterman**

Dinner Speaker:

**DEAN ALEXANDER COLVIN, PH.D.**, Kenneth F. Kahn '69 Dean and the Martin F. Scheinman '75, MS '76 Professor of Conflict Resolution at the Industrial Labor Relations School, Cornell University

# SCHEDULE OF EVENTS

## Saturday, September 21

- 7:30 – 9:00 a.m. **Continental Breakfast** – Carrier Ballroom Foyer, Second Floor  
**Sponsored by Proskauer Rose LLP**
- 8:00 a.m. – 8:55 a.m. **Committees' Breakfast Meetings** – Taylor & Rowe Rooms
- 8:00 a.m. – 9:00 a.m. **Registration** – Carrier Ballroom Foyer, Second Floor
- 9:00 a.m. – 12:00 p.m. **GENERAL SESSION** – Carrier Ballroom, Second Floor  
**Wifi Sponsored by Outten & Golden LLP**
- 9:00 – 9:10 a.m. **Program Introduction**  
Robert L. Boreanaz, Esq.  
CLE Committee Program Co-Chair
- 9:10 – 10:25 a.m. **Plenary Three: Attorney Client Privilege – What it Really Covers and How to Protect It (ETHICS)**  
Lawyers (and clients) often use the term “attorney client privilege” claiming it applies to a particular communication. Often that characterization is misplaced. This program will explore what the privilege really covers and doesn’t cover, and how to protect it.
- Panelists: **Dean W. Bradley Wendel**, Associate Dean for Academic Affairs and Professor of Law, Cornell Law School, Ithaca  
**Hon. Therese Wiley Dancks**, U.S. Magistrate Judge, Northern District of New York, Syracuse  
**Erin McGee, Esq.**, Friedman & Anspach, New York City  
**Colin M. Leonard, Esq.**, Bond, Schoeneck & King, PLLC, Syracuse
- 10:25 – 10:40 a.m. Coffee Break – Carrier Ballroom Foyer, Second Floor
- 10:40 – 11:55 a.m. **Plenary Four: NLRB 2019 Update**  
Earlier this year the National Labor Relations Board announced an ambitious rulemaking agenda that will include, in addition to the joint employer standard, rulemaking on employee status of graduate students and access to employer private property, among other things. We will review the status and implications of these agency initiatives as well as recent rulings by the Board and the General Counsel’s Division of Advice on independent contractor status, use of the “rat” and other inflatables in labor disputes, and limits on union organizational activity.
- Panel Chair: **Peter D. Conrad, Esq.**, Proskauer Rose LLP, New York City
- Panelists: **Karen P. Fernbach, Esq.**, Arbitrator; Visiting Assistant Professor Law, Hofstra Law School; and Retired Regional Director of the National Labor Relations Board (Manhattan), Great Neck  
**Allyson L. Belovin, Esq.**, Levy Ratner, P.C., New York City
- 1:00 – 5:30 p.m. **Golf Tournament** – Country Club of Ithaca, 189 Pleasant Grove Road, Ithaca  
Meet at the Golf Pro Shop at 1:00 p.m. \$95 per person. Fee includes 18 holes of golf, golf cart and boxed lunch. Directions available at registration desk.



# SCHEDULE OF EVENTS

6:30 – 8:30 p.m.

**COCKTAIL RECEPTION – COLTIVARE, 235 SOUTH CAYUGA STREET**  
at the corner of East Clinton, one block from “The Commons.”

Meaning “to cultivate” in Italian, Coltivare houses the culinary “Farm-to-Bistro” programs of the Tompkins Cortland Community College. It helps support the College’s Farm, sourcing produce grown there as part of the school’s Sustainable Farming and Food Systems program. Reservations may be booked for dinner following our reception at the onsite restaurant at 607-882-2333. Other dining options in The Commons can be found on pages 7 and 8. Free weekend parking nearby in the Cayuga Street garage.



8:30 p.m.

Dinner on Your Own

## Sunday, September 22

8:30 – 10:00 a.m.

**Executive Committee Breakfast Meeting** – Carrier  
Ballroom, Second Floor

Checkout



## HOTEL DINING

### **Taverna Banfi**

Tuscan cuisine featuring seasonal ingredients in a casual fine dining atmosphere. With a passion for food and fine wine and old world charm inspired by the Castello Banfi Wine Estate in Montalcino, Italy. Hours: Breakfast, Sun. - Fri., 7:00 - 10:00 a.m. and Sat. 7:00 - 11:30 a.m.; Lunch, Mon. - Fri., 11:30 a.m. - 2:00 p.m.; Dinner nightly, 5:30 - 9:30 p.m.; 607-254-2565.

### **Regent Lounge**

The Regent Lounge offers the perfect ambiance to unwind and relax. Stop by to enjoy fine wines, specialty cocktails, craft beers and pub-style food in the contemporary lounge atmosphere. Enjoy a casual dinner with friends or cap a successful business gathering with a few drinks at our inviting bar. Monday - Thursday: 4:00 p.m. - 12:00 a.m.; Friday - Sunday: 2:00 p.m. - 12:00 a.m. 607-254-2617.

## ITHACA RESTAURANTS

Downtown parking is free evenings and weekends in city-owned garages and lots!

**Agava:** 381 Pine Tree Rd., 607-319-4366. Mon. - Fri. 11:00 a.m. - 10:00 p.m. for Lunch and Dinner, Dinner Sat. 4:00 - 11:00 p.m. Southwest-Inspired restaurant featuring a wood-fired oven, farm-to-table cuisine and a seasonal menu. Located in the old East Ithaca Train Depot. [www.agavarestaurant.com](http://www.agavarestaurant.com)

**Coltivare:** 235 South Cayuga St., 607-882-2333. Dinner nightly Tues. - Sun. from 5 p.m. Sunday brunch. Modern, rustic farm-to-table cuisine. Free parking in Cayuga Street garage on weekends. [www.coltivareithaca.com/reservations](http://www.coltivareithaca.com/reservations)

**Cornell Dairy Bar:** Corner of Judd Falls and Tower Road, Ground Floor of Stocking Hall (look for the red awning), metered parking lot across the street. Mon. - Fri. 8:00 a.m. - 4:00 p.m., Sat. 11:00 a.m. - 4:00 p.m.. Ice Cream, shakes, floats and more including deli counter with breakfast 8:30 - 10:30 a.m. and lunch from 10:30 a.m. - 4:00 p.m. weekdays. All items served are now Kosher! <https://living.cornell.edu/dine/wheretoeat/cafescoffeehouses/cornelldairybar.cfm>

**Gola Osteria:** 115 South Quarry St.(in Quarry Arms Building), 607-273-0333. Dinner, 5:00 - 10:00 p.m., Thurs. - Sat. Homemade pasta, sauces and seasonal ingredients. Reservations recommended. Park in the "Resident (or) Permit Parking Only" spaces – not in the covered garage! [www.golaosteria.com](http://www.golaosteria.com)

**Ithaca Ale House:** 111 N. Aurora St., 607-256-7977. Mon. - Sun. 11:00 a.m. - 1:00 a.m., different menu after 10:30 p.m. Pub food. [www.ithacaalehouse.com](http://www.ithacaalehouse.com)

**John Thomas Steakhouse:** 1152 Danby Rd. (Rt. 96B 1 mi. past Ithaca College), 607-273-3464. Open Sun. - Thurs. 5:30 - 10:00 p.m., Fri. & Sat. 5:30 p.m. - 11:00 p.m.; prime dry-aged beef and fresh seafood. Reservations encouraged. [www.johnthomassteakhouse.net](http://www.johnthomassteakhouse.net)

**Just A Taste Wine & Tapas Bar:** 116 N. Aurora St. near east end Ithaca Commons, 607-277-9463. Fri. and Sat. Dinner, 5:30 - 11:00 p.m. Child friendly. Reservations highly recommended. Free parking evenings in Seneca Street parking garage. [www.just-a-taste.com](http://www.just-a-taste.com)

**Mahogany Grill:** 2114 N. Aurora St., 607-272-1438. Lunch Wed. - Sun. 11 a.m - 4 p.m: Dinner 4:00 - 10:00 p.m. Locally-sourced, sustainably harvested ingredients - steak and seafood. Casually elegant. [www.mahoganygrill.com](http://www.mahoganygrill.com)

**Mercato Bar & Kitchen:** 108 N. Aurora St. just off the Commons, 607-319-5171. Dinner nightly 5:30 - 10:00 p.m. No reservations accepted. Italian-inspired, seasonally conscious cuisine. [www.mercatobarandkitchen.com](http://www.mercatobarandkitchen.com)

**Maxie's Supper Club & Oyster Bar:** 635 West State St., 607-272-4136. Dinner nightly 4:00 - 10:00 p.m. Reservations recommended. Fresh fish, oysters, traditional New Orleans food - Cajun & Creole. [www.maxies.com](http://www.maxies.com)

## ITHACA RESTAURANTS

**Mia Tapas Bar and Restaurant:** 130 East State St., The Commons, 607-277-2000. Dinner 5:00 - 9:30 p.m. An eclectic menu using local produce, sustainably harvested seafood, and hormone & antibiotic free meats for Slow Food Pan - Asian cuisine and Tapas. [www.miaithaca.com](http://www.miaithaca.com)

**MIX Kitchen & Bar:** 205 Elmira Road, 607-319-4248. Daily 8:00 a.m. - 2:00 p.m.; dinner 4:00 - 9:00 p.m. An extensive, multi ethnic tapas plate menu offers guests a chance to experience multiple dishes and flavors throughout their meal creative cocktails and decadent desserts. Vegetarian and vegan friendly. [www.mixithaca.com](http://www.mixithaca.com)

**Moosewood Restaurant:** DeWitt Mall, corner of Cayuga and Seneca Sts., 607-273-9610. Nightly for dinner, lunch Mon. - Sat. Vegetarian gourmet and international cuisine. Homemade desserts, muffins, fresh juices and specialty coffees. Ethnic specialties on Sundays. [www.moosewoodrestaurant.com](http://www.moosewoodrestaurant.com)

**The Heights:** 907 Hanshaw Rd., 607-257-4144. Dinner nightly 5:00 - 9:00 p.m. Casual, contemporary atmosphere featuring Mediterranean-inspired American cuisine. Seasonal menus and locally sourced. Wine Spectator Award winner since 1999. [www.theheightsithaca.com](http://www.theheightsithaca.com)

**The Nines:** 311 College Ave., 607-272-1888. Mon. - Sat. 11:30 a.m. - 1:00 a.m., Sun. 3:30 p.m. - 1:00 a.m. Terrific deep dish pizza. Casual. [www.theninesithacany.com](http://www.theninesithacany.com)

**Saigon Kitchen:** 526 West State Street, 607-257-8881. Tues. - Sun. 11:30 a.m. - 9:30 p.m.; Fri. & Sat. to 10:00 p.m. Authentic Vietnamese cuisine. [www.saigonkitchenithaca.com](http://www.saigonkitchenithaca.com)

**ZaZa's Cucina:** 622 Cascadilla St., 607-273-9292 (aft. 12 noon). Open daily at 5:00 p.m. Authentic Northern Italian cuisine featuring fresh pastas. Casual dining in an elegant setting, specialty drinks. Reservations recommended. [www.zazascucina.com](http://www.zazascucina.com)

## THINGS TO DO ON CAMPUS

**Johnson Museum of Art:** 114 Central Ave., Open Daily 10:00 a.m. to 5:00 p.m. Closed Monday. Designed by I.M.Pei. Free admission. [www.museum.cornell.edu](http://www.museum.cornell.edu)

**Cornell Costume and Textile Collection Gallery:** College of Human Ecology, 37 Forest Home Drive, First Floor. 607-255-3151. Open weekdays only during normal business hours. Free. [www.human.cornell.edu/fsad/about/costume/home](http://www.human.cornell.edu/fsad/about/costume/home)

**Cornell Botanic Gardens:** 124 Comstock Knoll Drive (Nevin Welcome Center). Trail guides available at Welcome Center. Grounds open dawn to dusk daily. [www.cornellbotanicgardens.org](http://www.cornellbotanicgardens.org)

**Cornell Lab of Ornithology:** 159 Sapsucker Woods Rd. Open 10:00 a.m. - 5:00 p.m. daily. Behind the Scenes Tours Thurs. - Sun. 11:00 a.m. Guided tours offer visitors an overview of the history of the Lab. Admire the exhibits and world-class art in the Visitor Center; peek into the Cornell University Museum of Vertebrates; and explore the various departments and sciences studied at the Lab. Free beginner bird walks along the easy trails of Sapsucker Woods Sanctuary Sat./Sun. 8:30 a.m. Walks last about an hour and are guided by members of the Cayuga Bird Club. Dress for the weather, bring binoculars. <https://www.birds.cornell.edu/>

**Fuertes Observatory:** 209 Credit Farm Drive. 607-255-3557. Open Friday nights from 8:00 p.m. to midnight to the public for stargazing. Parking is available in the Appel Commons lot, across the street from the observatory. [www.cornellastrology.org](http://www.cornellastrology.org)







## IMPORTANT INFORMATION

### CLE INFORMATION

Under New York's MCLE rule, this transitional program has been approved for a total of **7.0 MCLE credits** consisting of 5.5 credits in Professional Practice and 1.5 in Ethics for all attorneys including newly admitted.

### NYSBA Discounts and Scholarships

New York State Bar Association members and non-members may receive financial aid to attend this program. Under this policy, anyone who required financial aid may apply in writing, not later than ten working days prior to the start of the program, explaining the basis of the hardship, and if approved, can receive a discount or scholarship, depending on the circumstances. For more details, please contact: Catheryn Teeter at [cteeter@nysba.org](mailto:cteeter@nysba.org)

### NEW: Section Registration Discount Policy

The Labor & Employment Law Section has established a program to encourage participation by Section members who may have difficulty participating in the Fall Destination Meeting due to economic limitations. Any Labor & Employment Law Section member who makes \$75,000 per year or less (and who will NOT be reimbursed for such registration fees by his or her employer) may register and receive a waiver of 50% off the registration fee for the meeting. The discount waiver will be available on a first-come, first-served basis until the amount allocated in the budget has been exhausted. Please note that the New York State Bar Association is a registered lobbyist. State, federal and municipal attorneys should consult with their respective entity's ethics officer to ensure that they can lawfully participate in this program.

### Accommodations for Persons with Disabilities

NYSBA welcomes participation by individuals with disabilities. NYSBA is committed to complying with all applicable laws that prohibit discrimination against individuals on the basis of disability in the full and equal enjoyment of its goods, services, programs, activities, facilities, privileges, advantages, or accommodations. To request auxiliary aids or services or if you have any questions regarding accessibility, please contact Catheryn Teeter at least 10 working days prior to the meeting start date at 518-487-5573 or [cteeter@nysba.org](mailto:cteeter@nysba.org)





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SECTION AND MEETING SERVICES DEPARTMENT**

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