



**Section Chair**

**Seth Greenberg, Esq.**

Greenberg Burzichelli Greenberg PC  
Lake Success

**Program Co-Chairs**

**Alyson Mathews, Esq.**

Lamb & Barnosky, LLP  
Melville

**Robert L. Boreanaz, Esq.**

Lipsitz Green Scime Cambria LLP  
Buffalo

**Abigail Levy, Esq.**

NYC Office of Collective Bargaining  
New York City

# NYSBA

## Labor & Employment Law Section

### Fall Meeting

The Sagamore Resort

Bolton Landing, NY

October 20–22, 2017

Attendance at this meeting offers up to 7.5  
NY MCLE credit hours: 6.0 in Professional  
Practice and 1.5 in Ethics for experienced  
attorneys.



This program is co-sponsored by The New York Bar Foundation



# SCHEDULE OF EVENTS

**Under New York's MCLE rule**, this program has been approved for a total of **up to 7.5 credit hours; 6.0** in professional practice and 1.5 in ethics for experienced attorneys only. **This is not a transitional program and is NOT suitable for MCLE credit for newly-admitted attorneys because it is not a basic practical skills program.**

## **MCLE Credit Breakdown by Session:**

**Plenary I:** 1.5 in Professional Practice

**Plenary II:** 1.5 in Professional Practice

**Workshop A:** 1.5 in Professional Practice

**Workshop B:** 1.5 in Professional Practice

**Workshop C:** 1.5 in Professional Practice

**Workshop D:** 1.5 in Professional Practice

**Plenary III:** 1.5 in Professional Practice

**Plenary IV:** 1.5 in Ethics

**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 requires financial aid may apply in writing, **not later than seven working days prior to the program**, explaining the basis of his/her hardship, and if approved, may receive a discount or scholarship.

Scholarships apply to the educational portion of the program only. For more details, please contact: [cteeter@nysba.org](mailto:cteeter@nysba.org); 518-487-5573 or Catheryn Teeter, New York State Bar Association, One Elk Street, Albany, New York 12207.

## **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 New York State Bar Association, One Elk Street, Albany, New York 12207; [cteeter@nysba.org](mailto:cteeter@nysba.org) or 518-487-5573 **at least 10 business days prior to the start of the meeting.**

---

## **Hotel Information:**

**The Sagamore Resort**  
**110 Sagamore Road**  
**Bolton Landing, NY**

**Go to: [www.nysba.org/LaborFall17](http://www.nysba.org/LaborFall17) to be directed to the Hotel webpage to book your accommodations online by September 18th.**



# SCHEDULE OF EVENTS

## Friday, October 20

- 11:00 am**      **Registration** – Conference Center Foyer
- 11:00 am – 12:00 pm**      **Lunch** – Box lunches are **provided for registered attorneys only** as part of their meeting fees. Additional box lunches may be purchased for guests/spouses/children on the registration form.  
**Lunch Sponsored by PROSKAUER ROSE LLP**
- 12:00 pm**      **GENERAL SESSION** – Nirvana, Conference Center  
**Wifi Sponsored by SAPIR SCHRAGIN LLP**
- Welcome Remarks**      **NYSBA Welcome**  
**Seth Greenberg, Esq., Section Chair**      **Michael Miller, Esq., President-Elect**
- Introduction to the Program/Announcements**  
**Alyson Mathews, Esq. and Robert L. Boreanaz, Esq., Program Co-Chairs**
- 12:15 – 1:30 pm**      **Plenary One: Independent Contractors and the “Gig Economy” – A Developing Story**  
The emergence and rapid evolution of the “gig economy” continues to raise many legal and policy issues that this panel will grapple with. These questions go to the heart of the relationship between employers and workers. Are gig economy service providers truly independent contractors or employees? What strategies have lawyers representing management and workers used in disputes about this critical question? These are just some of the many issues – some of which are now being deliberated by the Second Circuit – with which attorneys for gig economy stakeholders have to deal.
- Panel Chair:**      **Tracy R. High, Esq.,** Sullivan & Cromwell LLP, New York City  
**Panelists:**      **Allan Bloom, Esq.,** Proskauer Rose, LLP, New York City  
                         **Terri Gerstein, Esq.,** Open Society Foundations Leadership in Government Fellow (former Labor Bureau Chief in the New York State Attorney General’s Office), New York City  
                         **Catherine Ruckelshaus, Esq.,** Program Director & GC of National Employment Law Project, New York City
- 1:30 – 1:45 pm**      **Coffee/Networking Break**
- 1:45 – 3:00 pm**      **Plenary Two: Backlash Discrimination**  
**National Origin and Religious Discrimination in the Age of ISIS**  
Events in the US and abroad have put a focus on those of the Muslim faith, persons of Arab, Middle Eastern or South Asian descent, and the Hispanic or Latina population. Immigration rights have been impacted, and incidents of workplace discrimination and harassment seem to be on the rise. In its most recent Strategic Enforcement Plan, the EEOC identified “backlash” discrimination against these groups as an “emerging and developing priority.” This panel will address the legal and practical issues involved.
- Panel Chair:**      **Christopher A. D’Angelo, Esq.,** Michelman & Robinson, LLP, New York City  
**Panelists:**      **Raechel Adams, Esq.,** Supervisory Trial Attorney, EEOC, New York City  
                         **Michael Kohler, Esq.,** Law Offices of Michael Kohler, PLLC, Melville  
                         **Ryan M. Finn, Esq.,** Jones Hacker Murphy LLP, Troy  
                         **Amman Sehra,** Sikh American Legal Defense & Education Fund (SALDEF), Washington, DC
- 3:00 – 3:15 pm**      **Coffee/Networking Break – Sponsored by IANNIELLO ANDERSON, P.C.**
- 3:15 – 4:30 pm**      **CONCURRENT WORKSHOPS (CHOOSE ONE)**  
**Workshop A: The EEOC’s New Guidance on Retaliation**  
**What’s New, What’s Different, and What’s an Employer To Do?**  
Retaliation filings have been on the rise for years, and often gain traction, even when the underlying discrimination claim is weak or without merit. In August 2016, the EEOC issued its Final Enforcement Guidance on Retaliation and Related Issues. The Panel will (1) review and examine the guidance, and what changes or nuances exist as compared to its earlier guidance on the same issue, (2) discuss the EEOC’s investigative approach to retaliation charges, (3) present practical advice for handling retaliation-related investigations and cases before the EEOC, (4) identify best practices for employers.
- Panelists:**      **Alyssa Zuckerman, Esq.,** Lamb & Barnosky, LLP, Melville  
                         **Sarah J. Burger, Esq.,** Ianniello Anderson, P.C., Saratoga Springs  
                         **Feng [Kenneth] An, J.D.,** Director, Boston Area Office, EEOC, Boston, MA

# SCHEDULE OF EVENTS

## Friday, October 20 *Continued*

### 3:15 – 4:30 pm **Workshop B: Employment Arbitration**

#### **Three Providers, Three Sets of Rules: An Examination of Similarities and Differences**

With the explosion of arbitration as a replacement for court proceedings, attorneys must consider what processes and rules they and their clients should select. A panel of officials from major arbitration providers (AAA, JAMS, NAM) will discuss the mechanics of their agency's administrative procedures from a comparison of commercial versus employment rules, expedited versus complex proceedings, individual agreement versus employer plan, due process protocols, initiating a case, filing fees and available waivers, selection of the arbitrator, pleadings and counterclaims, additional parties, motion practice, party and third party discovery, hearing protocols, issuance of an award and privacy issues.

Panelists: **Ann Lesser, Esq.**, Vice President, AAA, Labor, Employment and Elections Division, New York City  
**Jacqueline I. Silvey, Esq.**, General Counsel, NAM, Garden City  
**Matt York**, General Manager, JAMS, New York City

### 3:15 – 4:30 pm **Workshop C: Immigration and Employment in the New Administration**

The Trump Administration has already taken unprecedented steps to severely curtail certain categories of immigration, to ban nationals of certain countries, and to initiate an extensive review of employment based immigration classifications/visas. These changes will affect employers and businesses throughout the country. The panel will address the impact of these changes, best practices in the immigration and employment arena, compliance through work site visits, changes to the H-1B visa allocation and cap selection process, and the restrictions on the use of H-1B, L-1 and B-1 visas because of alleged impact on US jobs and wages.

Panelists: **Patricia Gannon, Esq.**, Wormser, Kiely, Galef & Jacobs LLP, New York City  
**Elizabeth I. Hook, Esq.**, Braxton Hook PLLC, Melville

### 3:15 – 4:30 pm **Workshop D: Understanding Arbitrability**

There appears to be tremendous inconsistency on why and when a court will stay/compel arbitration of public sector contract grievances and what issues are reserved "for the arbitrator." The panel will cover cases of interest on motions to stay/compel arbitration, including satisfaction of "conditions precedent" (grievance procedure time limitations, steps); waiver by participation; and the application of the *Watertown-Liverpool* analysis.

Panelists: **Richard S. Corenthal, Esq.**, Meyer, Suozzi, English & Klein, P.C., New York City  
**Paul J. Sweeney, Esq.**, Coughlin & Gerhart, LLP, Binghamton

### 6:00 – 9:30 pm **Cocktail Reception and Dinner – Bellvue, Conference Center** **Reception Sponsored by NAM**

**Dinner Wine Sponsored by OUTTEN & GOLDEN LLP**

Dinner Speaker: **HONORABLE PAUL FEINMAN, NYS Court of Appeals, Albany**

## Saturday, October 21

8:00 am **Registration and Continental Breakfast – Conference Center Foyer**  
**Continental Breakfast Sponsored by GREENBERG BURZICHELLI GREENBERG PC**

8:00 – 8:55 am **Committees' Breakfast Meetings – Abenia A & B, Conference Center**

9:00 am **GENERAL SESSION – Nirvana, Conference Center**  
**Wifi Sponsored by LAMB & BARNOSKY, LLP**

#### **Remarks & Program Announcements**

**Seth Greenberg, Esq., Section Chair    Abigail Levy, Esq., Program Co-Chair**

# SCHEDULE OF EVENTS

## Saturday, October 21 *Continued*

### 9:15 – 10:30 am **Plenary III: You're Fired? The Current and Future Status of Labor & Employment Law at the Federal, State and Local Levels In the Trump Era**

The Trump Administration is set to change the landscape of labor and employment law. This panel explores the ways in which the Administration will impact employees and employers alike and how New York State and Municipalities will react to such changes. This will include, for example, discussions of the NLRB's expansion of the joint-employer liability standard under *Browning-Ferris* and expected rollbacks of labor policies under the Obama administration, the emerging employment and labor issues which management lawyers need to make their clients aware of as employers, and the utilization of legislative and legal strategies at the federal and local levels to advocate for employee rights.

Moderator:

**Najah Farley, Esq.**, New York State Office of the Attorney General, Labor Bureau, New York City

Panelists:

**Julie Rivchin Ulmet**, Deputy Bureau Chief, NYS Office of the Attorney General, Labor Bureau, New York City

**Karen Fernbach, Esq.**, Former Region 2 Director at National Labor Relations Board, Visiting Assistant Professor, Hofstra Law School, Hempstead

**Loren Gesinsky, Esq.**, Seyfath Shaw LLP, New York City

### 10:30 – 10:40 am **Coffee/Networking Break – Sponsored by SEYFARTH SHAW LLP**

### 10:40 – 11:55 am **Plenary IV: Ethically Dealing with Difficult Clients**

Sometimes the biggest challenge for a labor and employment law attorney is dealing with your own clients. What do the Rules of Professional Conduct require and permit when dealing with unresponsive, dishonest, or unreasonably demanding clients? Are the rules different for mentally ill or incapacitated clients? This panel will explore the pertinent ethics rules for handling difficult clients and will discuss best practices for protecting your clients and yourself.

Panelists:

**Cara E. Greene, Esq.**, Outten & Golden LLP, New York City

**Kristen E. Smith, Esq.**, Bond, Schoeneck & King, PLLC, Syracuse

**Jae W. Chun, Esq.**, Friedman & Anspach, New York City

### 1:00 pm **OPTIONAL ACTIVITY: GOLF at the Sagamore Golf Course, 55 Frank Cameron Road**

Join your fellow attorneys on the links for a round of golf at the resort's award-winning course designed and built under Donald Ross's personal supervision in 1928. Free shuttle service is provided to/from resort. Golf Digest rated course as the "5th Best Public Course in NY State." Fee of **\$150.00** covers greens fees, cart and box lunch. Advance registration required.

1:30 pm



**OPTIONAL ACTIVITY:  
LAKE GEORGE CRUISE ON THE MORGAN**  
(also Sunday at 11:00 am and 1:30 pm)  
Open to all Hotel Guests. **Group advance reserved tickets are sold out. Admission to those without tickets on first-come, first-served basis** for this cruise and Sunday cruises.

6:30 – 7:30 pm **Cocktail Reception – Mountainview Terrace**

7:30 pm **Dinner on Your Own**

## Sunday, October 22

7:00 – 10:00 am **Breakfast – On Your Own**

8:30 – 10:30 am **Executive Committee Breakfast Meeting – Wapanak, Conference Center**

11:00 am **Departure/Check-Out**

# THINGS TO DO AT THE SAGAMORE

**LAKE GEORGE SPA** – Awaken your sense of health and well-being among the natural beauty of the Adirondacks. The recently renovated spa offering 14 treatment rooms is open Fri./Sat. 9 am - 8 pm. **IMPORTANT!!!!** We encourage you to set up appointments **prior** to your arrival. **All body treatments must be booked in advance.** To make an appointment, call 518-743-6081. If you are unable to make the scheduled time of your service, you must contact the spa at least 24 hours in advance. Any changes or cancellations within 24 hours will be charged in full. An 18% gratuity will be added to your service. Spa Guests have access to the steam room and sauna at no additional cost. Hotel guests without a spa appointment may access the spa hydrotherapy area for a \$15 per day fee.

**SWIMMING** – The Sagamore Resort features both indoor and outdoor pools with breathtaking views of Lake George. Spanning 10,000 square feet, our outdoor terraced pool deck boasts an impressive 95,000-gallon pool, 150 chaise lounges and a warming pool. Soak up the sun while gazing over the timeless beauty of the Adirondacks with some refreshments from Splash Pool Bar. The Pool Terrace West will be reserved as an adult-only area for guests over the age of 16. The resort also boasts a sheltered 40-foot pool with an open-air concept overlooking Lake George. Relax in the Jacuzzi or read a book in the lounge area regardless of the weather outside. Our heated indoor pool also features roll-down siding to extend the pool season. The outdoor pool and indoor pool and waterfront areas are for hotel guests only.

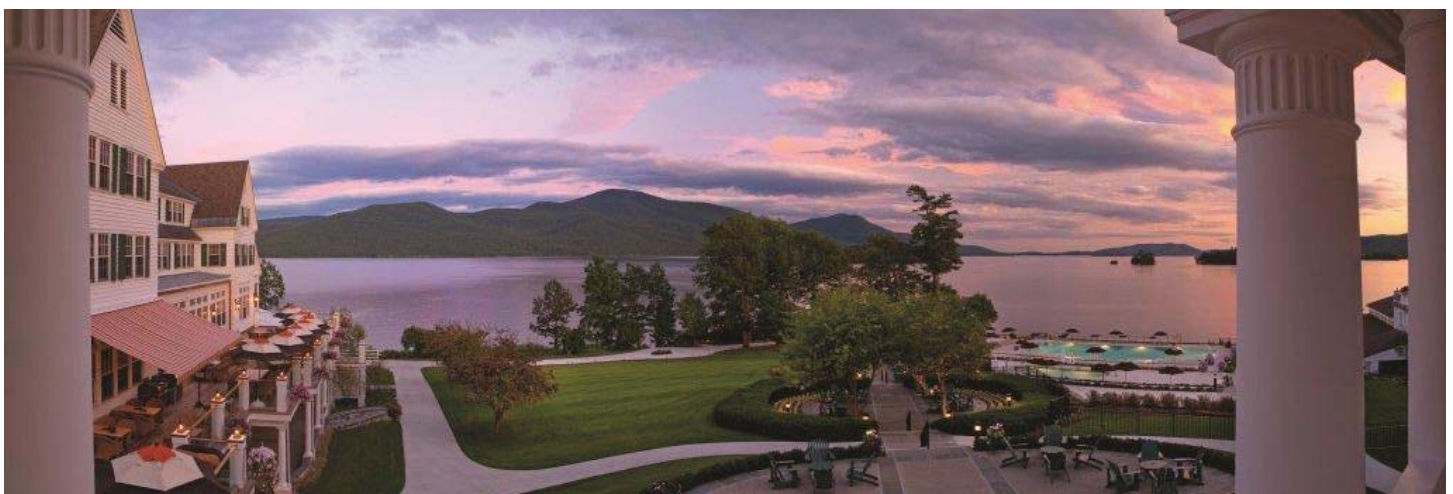
**GOLF** – 18-hole Sagamore Golf Course commands stunning views of Lake George and was designed and built under Donald Ross's personal supervision in 1928. Free Shuttle service is provided to and from the resort. Golf Digest rated Course as the "5th Best Public Course in New York State." Join us on Saturday for a round with your fellow Labor & Employment Law attorneys. Course is closed on Sunday due to a tournament.

## OTHER ACTIVITIES

**Boat Rentals:** Fees vary depending on type of boat and rental time. In addition to boat rentals our marina partner also offers a variety of Lake George activities including: Parasailing, Waterskiing, Wake Boarding, Wake Surfing, Barefooting, Tubing, Kayaking.

**Tennis:** The Sagamore's four tennis courts, including two with Har-Tru surfaces and two hard court, are located adjacent to the Rec Center and are available daily from 8 am to 8 pm weather permitting. Reservations are recommended.

**The Rec:** An expansive indoor entertainment and sports facility with activities for guests of all ages. From ping pong and video games to wiffle ball and classic home run derby, you are sure to find your favorite games or discover some new ones. Challenge family members on the indoor basketball court, perfect your short game on the mini golf course or reconnect with your kids at The Rec's Nintendo Wii and X-Box stations. There is also an outdoor half-court basketball area, sand volleyball court, playground and horseshoe pit along with five outdoor tennis courts. The Rec is 10,000 square feet of fun for the entire family. Other activities include: Mini Golf Course, Board Games, Indoor Basketball. Just outside The Rec you'll discover even more recreational activities including: Outdoor Half-Court Basketball Area, Playground, Sand Volleyball Court, Horseshoe Pit.



# HOTEL INFORMATION

**AIRPORT/TRAIN STATION SHUTTLE SERVICE** – Contact the Sagamore Transportation Dept at 518-743-6015/6018 or call the general number, 518.644.9400 and ask for transportation for information and pricing on this service.

## **BABYSITTING SERVICES AT THE SAGAMORE**

The Sagamore is happy to arrange professional babysitting services for your little ones. A minimum of three hours is required and reservations must be made in advance. If you need to cancel your reservation for any reason, please note a 24-hour cancellation policy applies. Babysitting rates are \$15.00 per hour for one child and \$20.00 per hour for 2-3 children. There is a maximum of 3 children per babysitter.

**ONSITE DINING OUTLETS:** La Bella Vita, Club Grill and Caldwell's call for "Smart Casual" attire after 5:30 pm. Tailored crew and collared shirts, turtlenecks, or sweaters for gentlemen 12 years of age and older. Presentable "crisp" jeans, slacks and shorts are acceptable. For women 12 years of age or older slacks or dress shorts, crisp jeans, a skirt (long or short), a blouse, turtleneck or sweaters are acceptable. Tank tops, cutoffs and bathing suits are not permitted in dining rooms during the evening hours at our restaurants on Lake George.

**La Bella Vita:** Celebrate Italy's culinary passion with garden-fresh ingredients and centuries-old recipes. Serving Breakfast, Lunch and Dinner daily. Dress Code: Casual during the afternoon and Smart Casual during dinner.

Breakfast Service from 7 am to 11 am

Lunch Service from 12 pm to 4 pm

Dinner Service from 5:30 pm to 10 pm

Reservations strongly suggested. Call 518.644.9400 to reserve your dining time.

**Caldwell's Lobby Bar:** Adirondack Style Casual Dining. With its grand front porch and panoramic views of Lake George, Caldwell's invites you to slow down at our Lake George bar and experience the timeless beauty of the setting. A menu of light fare served throughout the day and evening including specialty sandwiches, fresh salads, antipasti and irresistible desserts. Open 12 pm to 11 pm. Caldwell's Espresso Bar is open seasonally from 7 am to 11 am for morning beverages and homemade pastries.

**Mr. Brown's Pub:** a Lake George retreat that reflects the cozy Adirondack camps of yesteryear. Unwind after a busy day on the lake with your favorite drink and delicious selections from the casual pub-style menu. Open for lunch and dinner daily depending on season.

**Club Grill Steakhouse:** Perched on a hill overlooking The Sagamore's legendary Donald Ross golf course, The Club Grill evokes the rustic elegance of a bygone era. Savor Lake George dining at its finest, including premium steaks, expertly-prepared fish and handcrafted cocktails among the club-style ambiance of the dining room, or overlooking the beautiful Adirondack Mountains from our covered patio. Shuttle service is available between the restaurant and the resort.

FALL MEETING PLATINUM SPONSORS

GREENBERG | BURZICHELLI | GREENBERG P.C.

*Representing Labor Unions and Employees with Dedication and Integrity*



COFFEE BREAK SPONSORS



WIFI SPONSORS



SAPIR | SCHRAGIN LLP  
An Employment Law Firm

GENERAL MEETING SPONSORS



LEVY RATNER, P.C.  
Advocating for Unions and Workers for More Than 40 Years

CURLEY, HURTGEN  
& JOHNSRUD LLP

FH FRUMKIN & HUNTER LLP