

Reopening the Workplace Virtual Conference:



Navigating the New Reality of COVID-19



Program Guide



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The **Reopening the Workplace Virtual Conference** materials may be downloaded from the following site:

<http://events.scstage.net/event/reopening-the-workplace-virtual-conference-navigating-the-new-reality-of-covid-19/RWV052020/>

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Program Overview

Reopening the Workplace Virtual Conference: Navigating the New Reality of COVID-19

provides the information your organization needs now as it prepares to reopen. This includes not only determining the ‘who, when and how’ of bringing your workforce back, but planning how you will aim to keep them safe, whether by temperature and symptom checks or social distancing in the workplace. The event also covers human resources topics such as employee leave, wage & hour and benefits issues, and areas in which well-meaning employers could find themselves liable for violating employee rights, and other potential risks for employer liability. The time to prepare in order to ensure a smooth transition into this new workplace reality is before you reopen your doors.

This virtual conference delivers the answers you need now on:

- Social distancing practices in the workplace
- Health, privacy, and employer liability issues
- Leave issues (FFCRA, FMLA, PSL)
- Wage & hour and benefits issues
- Employee rights and protections

Learning Objectives

After attending this conference, participants will be able to:

- Ensure that your leave policies and practices are in compliance with the Families First Coronavirus Response Act (FFCRA), which includes emergency family leave and emergency paid sick leave.
- Identify social distancing practices that can be implemented in the workplace—and how distancing measures will impact your workplace policies.
- Balance the need of ensuring the health of your workforce with employee privacy requirements.
- Properly restart benefits and navigate applicable ACA rules.
- Understand the myriad wage & hour issues you may need to address as employees return to work.
- Guard against your organization’s vulnerabilities related to potential discrimination or retaliation claims.
- Watch for signs that your workplace is at risk for union activity in the wake of the COVID-19 pandemic.



Speakers



Brad Federman, M. Ed., is the founder and president of Performancepoint, a leading performance improvement company best known for its work turning strategy into execution, improving sales and service achievements, and driving stronger employee and customer commitment and engagement. He has 20 years of corporate experience in sales, marketing, operations, and performance improvement as a professional, leader, executive and coach. Federman’s background comprises extensive experience in sales, product development, operations and various aspects of human resources including compensation, talent acquisition, talent and change management, and instructional design.



Brian R. Garrison, J.D., partner at Faegre Drinker, helps companies solve challenges involving employees and labor unions. He advises on labor law issues, counsels on day-to-day human resource matters and defends against employment claims. Businesses nationwide rely on Brian for guidance on difficult employee and labor relations issues — including clients in the automotive, gaming, logistics, manufacturing, medical device and utility industries.



Lake Moore, J.D., associate at McAfee and Taft, is an ERISA and employee benefits attorney who actively advises companies (large and small, public and private), administrators, accountants, tribal governments, and other lawyers on the compliance, administration, correction, and innovative design of a multitude of employee benefit plans. Lake has gained a great deal of experience handling almost all matters related to employer-sponsored retirement plans, such as 401(k), 403(b) and 457 plans, as well as health and welfare plans, such as traditional major medical plans and many ancillary plans such as adoption assistance, tuition assistance, and dependent care benefits.



Matthew H. Parker, J.D., is partner at Whelan Corrente & Flanders LLP. His practice is focused on employment law, business litigation, and labor law. He counsels employers and human resources professionals on how to hire, fire, pay, manage, and negotiate with employees; he drafts employment contracts, employee handbooks, non-compete agreements, and non-disclosure agreements; he conducts workplace investigations and trainings; he represents companies and individuals in federal and state courts; and he is also an experienced practitioner before administrative agencies such as the R.I. Commission for Human Rights, the R.I. Department of Labor, the National Labor Relations Board, and the U.S. Equal Employment Opportunity Commission. In his “free” time, Matt is an editor of HR Hero’s *Rhode Island Employment Law Letter*.



Speakers



Kara E. Shea, J.D., a partner with Butler Snow LLP, provides practical advice on employment issues and compliance to national, regional, and local employers of all sizes, ranging from Fortune 500 companies to small businesses, and in a variety of industries. She also represents employers before administrative agencies such as the EEOC and in litigation, including discrimination, retaliatory discharge, whistleblower, and wage and hour cases, such as class actions. Shea has briefed cases presented to both the Tennessee Supreme Court and the U.S. Supreme Court. Shea regularly speaks on employment-related topics and provides supervisory training on topics such as FMLA and FLSA compliance, conducting workplace investigations, and implementing employee discipline. She has been a regular columnist for the *Nashville City Paper* and is the editor of the *Tennessee Employment Law Letter*. Shea also practices in the area of intellectual property, including trade secrets, trademarks, and copyright matters.



Teresa L. Shulda, J.D., vice-chair of Foulston's Employment and Labor Law Team, has been litigating employment disputes and advising on workplace law matters for more than a decade. Based in the firm's Wichita office, much of her practice is focused on employer-side issues. She is a powerful advocate for her clients – both in and out of the courtroom. She regularly defends employers against discrimination claims, including those involving age, race, religion, national origin, gender, or disability allegations. In addition, Shulda handles disputes related to wrongful termination, breach of contract, civil rights, and whistleblower retaliation claims. She serves as the co-editor of BLR's *Kansas Employment Law Letter* and frequently publishes articles and client alerts on timely topics and legal rulings.



Brad Williams, J.D., of Holland and Hart, litigates labor and employment disputes on behalf of employers before administrative agencies and state and federal courts. Clients trust Williams to protect their immediate and long-term business interests through compelling advocacy and strategic negotiation. In addition to his employment-related work, Williams arbitrates labor grievances, defends unfair labor practice charges, and counsels employers on traditional labor law matters.

Note: Speakers subject to change.



Agenda

Day 1: Wednesday, May 20, 2020

1:00–2:00 p.m. ET
10:00–11:00 a.m. PT

Impact of Distancing on Return to Work Planning, Practices and Policies

Speaker: *Brad Federman, Performancepoint*

It will be imperative for employers to plan in advance which measures it should take to promote or facilitate social distancing practices in the workplace to keep their workers safe. This session will discuss your options and what these changes may require in terms of physical changes in the workplace and workspaces.

This session will also discuss the process of strategically reintroducing your employees back into the workplace—planning the who, when and how of allowing your employees back into your offices or facilities and for considerations limiting the amount of employees in a building at any one time in the early stages of reopening. It will also look at how distancing in the workplace could impact your organization's policies and practices, including hiring/interviewing practices, travel policies and others. The session will also address telecommuting which is certain to play a much larger role in this new workplace reality. Many employers will have employees with work from home arrangements for the first time—or have a much larger number of telecommuters than it did before—and will need to create or adjust policies and be aware of all policy considerations.

2:15–3:15 p.m. ET
11:15–12:15 p.m. PT

Health, Privacy and Employer Liability Issues

Presented by: *Kara E. Shea, Butler Snow LLP*

This session includes employer best practices to slow/eliminate spread of viruses in the workplace such as temperature checks, screening for symptoms, and or/testing for COVID-19. It will discuss weighing the health of your workers against ADA and health privacy concerns (HIPAA). For example, is it permissible for you to identify individuals who show symptoms or test positive for COVID-19 to those with whom they work closely with or have come into contact with? How should supervisors be trained? Should they ask employees who call sick if they are experiencing symptoms? Should they immediately send an employee home if they witness him/her coughing? This session will discuss these types of sensitive and complex scenarios.

The session will also address an employer's duty to keep its workers safe and address question such as:

- Does workers' compensation apply when an employee contracts COVID-19 from a coworker?
- Under what circumstances could an employer be at risk for potential negligence or wrongful death claims (of an employee or their family member)?
- What are the proper steps to show you are doing your due diligence?

3:30–4:30 p.m. ET
12:30–1:30 p.m. PT

Employee Rights and Protections

Presented by: *Brian Garrison, Faegre Drinker; and Matthew Parker, Whelan Corrente & Flanders LLP*

Aside from taking measures to keep their employees healthy and safe, the primary focus for most employers will be on getting operations up and running again. However, they must also remain vigilant that all employees are being treated fairly. This session will address scenarios which—if not handled properly—could violate employee rights and protections. Topics in this session will include:

- Antidiscrimination and antiretaliation concerns, including a review of any new anti-discrimination laws relevant to the COVID-19 pandemic
- Handling employees who refuse to return to work citing fear of COVID-19
- WARN issues (e.g., what if you have to close your facility again because someone test positive?)
- Disparate treatment based on protected characteristics as to who will be screened and excluded
- Employees claims of religious exemption to health testing

4:30 p.m. ET
1:30 p.m. PT

Day 1 Adjourns



Agenda

Day 2: Thursday, May 21, 2020

1:00–2:00 p.m. ET
10:00–11:00 a.m. PT

Leave Issues: Families First Coronavirus Response Act: (EFMLA & EPSL), FMLA, PSL

Presented by: Teresa Shulda, Foulston Siefkin LLP

The Families First Coronavirus Response Act (FFCRA) includes emergency paid family and medical (EMFLA) and sick leave provisions (EMPSL) that will remain in effect through December 31, 2020. This session will address myriad leave issues employers will face in the coming months, such as:

- How to deal with the EMFLA and ESPL in regard to state sick and family leave laws and existing company policy
- Administering leave, including the paperwork, when you often won't be in the same place as the employee
- How to either re-write an existing policy or implement a temporary policy so that the company is in compliance with the EFMLA and EPSL
- Accurately tracking time/counting days
- Making sure supervisors are trained to correctly handle requests from employees that relate to these laws

2:15–3:15 p.m. ET
11:15–12:15 p.m. PT

Wage & Hour and Benefits Issues

Presented by: Lake Moore, McAfee & Taft; and Brad Williams, Holland & Hart

The COVID-19 pandemic has wreaked havoc on employers in several ways, not the least of which are measures many have had to take such as implementing employee furloughs, pay reductions, and reductions in hours worked. As the workplace reopens, employers may find themselves dealing with myriad wage & hour considerations and challenges, beginning with determining whether they can return their workers to their pre-pandemic schedules and pay. Employers may also find themselves dealing with an increase in loan requests, deductions from pay considerations in the wake of an increase in telecommuters, and even pay considerations for health screening time for nonexempt employees.

Moreover, in the wake of workplace shutdowns and furloughs, employers will have benefits issues to address, which we will also cover in this session. These issues include:

- Restarting benefits, such as health plans, 401(k)s and dependent care accounts
- Restoring any salary deferral arrangements in payroll systems
- Processing election changes, especially if circumstances have changed (for example, an employee comes back at less than full-time)
- Navigating Affordable Care Act rules on “breaks in service,” waiting periods, and stability periods
- Coordinating with insurers and service providers to ensure that plan documents and related contracts are followed, or amended correctly

3:15 p.m. ET
12:15 p.m. PT

Virtual Conference Adjourns

Agenda and speakers subject to change.



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