

# STEARNS WEAVER MILLER

## 28<sup>th</sup> ANNUAL LABOR & EMPLOYMENT LAW SEMINAR



**FRIDAY, APRIL 27, 2018**

8:00 am-4:00 pm

JW Marriott Marquis Miami  
255 Biscayne Blvd. Way, Miami, FL 33131

# SCHEDULE

8:00-9:00am

## CONTINENTAL BREAKFAST & REGISTRATION

9:00-10:00am

### **You Don't Know What You Don't Know About the ADA**

*Lisa K. Berg*

Twenty-eight years after its passage, the law on the Americans with Disabilities Act continues to evolve. In this session, we will discuss the latest developments in disability law and practical strategies for ensuring compliance in the workplace.

10:00-10:55am

### **15 Ways to Ensure You Have the Perfect Lousy Supervisor**

*Robert S. Turk*

Hiring a good supervisor is easy. Finding a grade-A lousy supervisor takes much more effort. Join us for this tongue-in-cheek presentation to discuss a number of tried and true ways to identify the traits of truly horrible managers and the consequences to your organization. This presentation will include best practices for hiring the right manager and parting ways with the wrong one.

10:55-11:10am

## BREAK

11:10am-12:00pm

### BREAKOUT SESSION A:

#### **Investigating Harassment Complaints Post Weinstein - Are You Prepared?**

*Janet Goldberg McEnery & Bayardo E. Alemán*

Sexual harassment is not limited to celebrities, politicians and media personalities. With the spotlight on sexual harassment in the workplace, the impact of the #MeToo movement and the recent changes to the tax code, employers more than ever must be ready to identify and manage these issues and plan for prevention. Join us for an interactive discussion on ways to avoid sexual and other harassment complaints, how best to investigate and manage complaints when they arise, and practical tips for protecting your business and brand.

### BREAKOUT SESSION B:

#### **Substance Over Forms: FMLA and I-9**

*Kara S. Nickel & Joanne M. Schiffer*

The FMLA and I-9 forms seem straightforward and user-friendly, so what could possibly go wrong? Quite a bit. The forms are a potential legal minefield with serious consequences if not properly maintained. We will provide guidance on how to avoid traps on the I-9 Employment Eligibility Verification form and the FMLA's Notice, Designation and Certification forms.

12:00-1:15pm

## LUNCH

1:15-2:05pm

### **All Rise! Decisions that are Changing the Way You Do Business**

*Ingrid H. Ponce & Giselle Gutierrez Madrigal*

Employment claims continue to dominate our legal landscape at all levels, and are changing the way you do business. Come learn what *NOT* to do as we discuss the latest court cases and legal developments affecting your workforce.

# SCHEDULE

2:05-2:20pm

## BREAK

2:20-3:10pm

### BREAKOUT SESSION A:

#### **LGBTQ: The Issues, the Law, the Reality, and the Decisions Florida Employers Must Make**

*Andrew L. Rodman & Eric S. Roth*

Anti-discrimination policies, bathroom access, leave rights and workplace dress code. LGBTQ rights are among the rapidly evolving issues that face employers and society as a whole. While the U.S. Supreme Court and Congress have not yet addressed LGBTQ rights under Title VII, many state and local governments have done so. We will discuss the current state of the law at the federal, state, and local levels, analyze issues facing Florida employers, and identify HR best practices.

### BREAKOUT SESSION B:

#### **Nose Out of Joint? What's the Law on Joint Employer Status?**

*Rene F. Ruiz & Laura Fariñas*

The NLRB recently overturned the Obama administration's much criticized broad definition of "joint employer." Courts are struggling to determine who is an employee in the gig economy. What is a joint employer and who is an independent contractor? Is there a tipping point? We will discuss the various laws that affect the joint employer relationship with staffing companies, independent contractors and franchisees.

3:10-4:00pm

### BREAKOUT SESSION A:

#### **From a 1990 Wheelchair to the 2018 Website: The ADA & Technology-Related Accommodations**

*Glenn M. Rissman & Elitsa V. Yotkova*

More than 25 years after the implementation of the ADA, it is raining bots and dogs. The new crop of ADA accommodation claims may not be on your radar – the accessibility of your website/intranet for job applicants and current employees, information and job application kiosks relying solely on touch screens, dogs and other animals in the workplace, and office furniture. We will guide you through the new breed of ADA accommodations.

### BREAKOUT SESSION B:

#### **Another ERISA Fiduciary Duty? Protecting Your Benefit Plan's Confidential Information**

*Sharon Quinn Dixon, Carol L. Myers & Andrew W. McLaughlin*

Benefit plans often fall outside the scope of cybersecurity planning. They shouldn't. These plans maintain and share sensitive employee data and asset information across multiple unrelated vendors. This session will explore the duties of benefit plan fiduciaries to implement cybersecurity risk management measures and the importance of applying those measures to specific plans and their vendors. We will review vendor due diligence selection and monitoring criteria focusing on cybersecurity and vendor service agreement requirements.

# MEET OUR TEAM



**Robert S. Turk**  
Department Chair  
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Bob Turk has nearly 40 years of experience advising employers on all aspects of labor and employment law. He is Board Certified by The Florida Bar in labor and employment law, a Fellow in the College of Labor and Employment Lawyers, and is a past Chair of The Florida Bar's Labor and Employment Law Section. He is also a past President of the Academy of Florida Management Attorneys. Bob is consistently recognized by top legal publications including *Chambers USA*, *Florida Super Lawyers* and the *South Florida Legal Guide*, and was named *The Best Lawyers in America's* "Management Lawyer of the Year" for Miami Labor Law in 2018. Bob is the editor of Stearns Weaver Miller's Labor & Employment Law blog BeLabor The Point. Bob earned his J.D. from the University of North Carolina School of Law.



**Bayardo E. Alemán**  
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Bayardo Alemán represents employers and management in all areas of labor and employment law, including defending employment discrimination, retaliation, whistleblower, and sexual harassment lawsuits and arbitrations. Bayardo has extensive experience litigating non-solicitation and non-competition issues, as well as defending wage and hour lawsuits on behalf of employers in a wide range of industries. He also represents clients in ERISA litigation, including defending claims seeking recovery of health insurance benefits. Bayardo counsels employers on day-to-day human resources issues and frequently speaks and conducts trainings on labor and employment issues in English and Spanish. He was recognized by *Florida Super Lawyers* as a "Rising Star" in 2017 and was named a top "40 Under 40 Outstanding Lawyers of South Florida" by the Cystic Fibrosis Foundation in 2016. Bayardo earned his J.D., *cum laude*, from the University of Florida Levin College of Law.



**Lisa K. Berg**  
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Lisa Berg is passionate about helping businesses of all sizes try to avoid litigation through day-to-day counseling, on-site training, investigations, audits, contract drafting, and development of effective human resources policies and procedures. She also maintains a traditional labor practice in which she represents employers before the NLRB and handles collective bargaining, grievance arbitration, strike planning, and union avoidance. Lisa is a frequent lecturer on labor and employment law issues (including seminars sponsored by the EEOC, The Florida Bar, American Bar Association, and Business & Legal Reports), co-editor of the *Pocket Guide to Florida Employment Laws*, and regular contributor and co-editor of the *Florida Employment Law Letter*. Lisa is Board Certified by The Florida Bar in labor and employment law and AV-rated by Martindale-Hubbell. She earned her J.D. from Emory University and B.S. in Industrial Labor Relations from Cornell University.



**Paul Crucet**  
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Paul Crucet practices in the Labor & Employment Department. Before joining the firm, he practiced in-house at a gaming and entertainment establishment in Miami. As chief in-house counsel, Paul administered union grievances and arbitrations, defended unfair labor charges brought before the National Labor Relations Board, and engaged in labor negotiations over a new collective bargaining agreement. Since joining the firm, Paul has continued to counsel clients on labor issues, and has defended employers against Title VII claims. He earned his J.D. from Vanderbilt University Law School and his B.A., *cum laude* from the University of Florida.



**Sharon Quinn Dixon**  
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Sharon Quinn Dixon is Board Certified by The Florida Bar in tax law. She also is a Fellow of the American College of Employee Benefits Counsel and active in the Employee Benefits Committee of the American Bar Association Tax Section. Sharon counsels employers about design and compliance of their 401(k) and other retirement plans, group insurance plans and executive compensation programs. She was ranked Band One in Tax: Employee Benefits in Florida in *Chambers USA* from 2005-2017. She also was recognized by *Florida Super Lawyers*, from 2006-2017, *The Best Lawyers in America*, from 1993-2018, and *South Florida Legal Guide* "Top Lawyers in South Florida," from 2008-2018. Sharon earned her LL.M. in Taxation and her J.D., *cum laude*, from the University of Miami.

# MEET OUR TEAM



Laura Fariñas

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Laura Fariñas assists employers in navigating federal and state employment laws and regulations. Laura also handles traditional labor matters such as grievances, arbitrations, and labor negotiations. While in law school, Laura served as a Judicial Intern for the Honorable Judge Jose Rodriguez of the 11th Judicial Circuit Court for the State of Florida. She earned her J.D., *cum laude*, from the University of Miami School of Law.



Eric K. Gabrielle

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Eric Gabrielle is a Shareholder in the Labor & Employment Department and a Director of the Firm. Eric is Board Certified by the Florida Bar in labor and employment law and served for six years as a member of the Bar's Labor and Employment Certification Committee. He specializes in litigation of labor and employment law issues in Florida federal and state courts and counseling employers regarding compliance with all federal, state and local laws and regulations governing employment relationships. Eric is a contributing author to Labor and Employment: Litigation Strategies (© 2007), listed in *The Best Lawyers in America*, *Florida Super Lawyers*, *Florida Trend Legal Elite*, *South Florida Legal Guide* "Top Lawyers in South Florida" and has received an AV (highest) rating for legal ability and ethical standards from *Martindale-Hubbell*. Eric serves on the Board of Directors of the Broward Performing Arts Foundation, and is a former President of the Federal Bar Association – Broward Chapter and the Broward County Bar Association Employment Law section. He is an honors graduate of the University of Florida College of Law and the University of Florida.



Giselle Gutierrez Madrigal

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Giselle Gutierrez Madrigal represents clients before administrative agencies (such as the EEOC and the NLRB) and federal and state courts in cases involving employment discrimination, retaliation, unpaid wages, defamation and claims under the FMLA, ADA, ADEA, Title VII, and more. Giselle also handles non-compete and employment contract litigation. Giselle clerked for The Honorable Paul C. Huck, United States District Judge for the Southern District of Florida. She is the Treasurer of the Cuban American Bar Association (CABA). Giselle earned her J.D., *magna cum laude*, from the University of Florida Levin College of Law.



Janet Goldberg McEnergy

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Janet Goldberg McEnergy is Board Certified by the Florida Bar in labor and employment law and licensed in Missouri, Illinois and Florida. She represents private, public and non-profit employers in labor, employment discrimination, minimum wage/overtime, employment contract, and whistleblower claims. For over 25 years, Janet has represented businesses, hospitals, medical practices, restaurants, hotels, wagering facilities, manufacturers, financial institutions, government contractors, municipalities, landscape contractors, insurance companies, independent insurance agencies, and educational institutions in the defense of employment and labor relations matters. Janet is a frequent lecturer and author on a wide variety of topics related to labor and employment law. She also provides interactive training for firm clients on such topics as preventing harassment and discrimination claims and complying with wage and hour laws. Janet earned her J.D. from the University of Illinois College of Law.



Andrew W. McLaughlin

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Andrew W. McLaughlin assists clients in labor and employment matters with a focus on employee benefits, particularly the impact of the Affordable Care Act and EBSA audits. He also represents clients in ERISA litigation. Andrew represents property owners including shopping centers, restaurants, office buildings, hotels and other places of public accommodation in ADA accessibility lawsuits and defends credit unions and financial institutions against fair housing complaints. Andrew earned his L.L.M. in Taxation and a Certificate in Employee Benefits from Georgetown University Law Center and his J.D., *cum laude*, from Stetson University College of Law.

# MEET OUR TEAM



Carol L. Myers

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Carol Myers is a leading attorney in her field with more than 38 years of experience specializing in employee benefit law and four years of retirement plan administration and actuarial work before law school. She provides knowledgeable and creative solutions for challenging compliance, correction and design issues for large and medium-sized companies. Carol speaks frequently on all aspects of employee benefits matters. She is consistently recognized by *Florida Super Lawyers* and *The Best Lawyers in America* and is a Fellow in the American College of Employee Benefit Counsel. Carol earned her LL.M. in Taxation, her J.D., and her B.S., all with *high honors*, from the University of Florida.



Kara S. Nickel

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Kara S. Nickel represents private and public sector employers in employment litigation and administrative charges and complaints, and regularly partners with employers to provide practical, business-focused guidance on the full range of legal issues involving employees and the employment relationship, such as the ADA, FMLA, performance management and employment policies. Kara assists employers who are federal contractors with the development of affirmative action programs and with responding to audits by the Office of Federal Contract Compliance Programs (OFCCP). Kara also counsels public and private sector clients on accessibility requirements for individuals with disabilities under federal and state law, including websites and service animals. She earned her J.D., *summa cum laude*, from the University of Miami School of Law.



Ingrid H. Ponce

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Ingrid Ponce focuses her practice on employment litigation and counseling, including wage and hour issues, collective and class actions, sexual harassment, discrimination, retaliation and whistleblower claims. Ingrid is a frequent speaker on issues such as conducting internal investigations, workplace violence, litigation prevention and employment related claims. She is recognized by the *South Florida Legal Guide* as a "Top Lawyer" in labor and employment and is AV-rated by *Martindale-Hubbell*. Ingrid earned her J.D., *with honors*, from the University of Florida College of Law.



Glenn M. Rissman

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Glenn Rissman's practice focuses on employment law, immigration, and accessibility. In his accessibility practice, Glenn defends and advises institutions relating to public accessibility for persons with disabilities, including architectural barriers to access, service animals, accommodating employees, and most recently, accessibility of websites for persons with disabilities. He earned his J.D., *with honors*, from the University of Florida Levin College of Law and his B.S., *magna cum laude*, from Duke University.



Andrew L. Rodman

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Andrew Rodman's practice encompasses both counseling and litigation, and he represents and advises clients on a broad range of labor and employment related matters under state, federal, and local law. Andrew also has served as Legislative Director on the Board of Directors for GMSHRM, and as Chairman of the Ethics Committee of The Florida Bar. He is a co-editor of the Florida Employment Law Letter. Andrew earned his J.D., *cum laude*, from the Boston University School of Law.

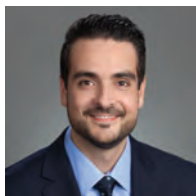


Eric S. Roth

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Eric Roth counsels clients on discrimination and retaliation claims under both state and federal laws, enforcement of non-competition, non-solicitation and confidentiality agreements, and compliance with corporate progressive discipline policies. He regularly appears before the EEOC and state and local EEO agencies to advocate for clients in response to charges of discrimination. He earned his J.D., *cum laude*, from the Georgetown University Law Center.

# MEET OUR TEAM



Rene F. Ruiz

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Rene Ruiz partners with private and public sector employers to formulate winning strategies for achieving effective labor relations and other business goals. A skilled negotiator, Rene has helped his clients bargain collectively with unionized workforces, administrate union grievances, handle labor arbitrations, and defend unfair labor disputes before the NLRB and PERC. He also serves as the Chairman and President of SLAM Academy, a public charter school he co-founded to provide inner city children with an opportunity to prepare for careers in the sports industry. He earned his J.D., *cum laude*, from the University of Miami.



Joanne M. Schiffer

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Joanne Schiffer is an Associate in the Labor & Employment Department. Joanne represents clients in many areas of employment law, including wage and hour claims, discrimination claims, and whistleblower claims. She also assists employers in drafting their company policies, agreements, and applications. Joanne earned her J.D., *summa cum laude*, from the University of Miami School of Law. In addition to being a member of the Florida Bar, Joanne is also a member of the Bar in Ontario, Canada, having earned a J.D. from Osgoode Hall Law School, York University in Toronto.



Elitsa V. Yotkova

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Elitsa Yotkova provides management-side compliance counseling, and litigates employment matters, including defense of class and collective actions. She frequently litigates wage and hour suits involving minimum wage, overtime, tip credit, off the clock work, and misclassification issues, as well as discrimination and failure-to-accommodate cases. Elitsa counsels clients in the formation and dissolution of employment relationships, including negotiation and preparation of employment agreements, and separation agreements, non-competition, non-solicitation and non-disclosure agreements. She works closely with her clients to find practical and innovative solutions to issues arising in the workplace, as well as to curb or avoid litigation. Elitsa is admitted to practice in Florida and New York, and works with clients in both jurisdictions.

## OUR FIRM

Stearns Weaver Miller is a full-service law firm serving clients throughout Florida, nationwide and internationally. With offices in Miami, Fort Lauderdale, Tampa, Tallahassee and Coral Gables, we offer multidisciplinary solutions with a focus on:

- Affordable Housing
- Arts, Sports & Culture
- Banking & Financial Institutions
- Bankruptcy & Creditors' Rights
- Construction
- Corporate
- Cybersecurity
- Education Sector
- Election & Political Law
- Healthcare
- Hospitality & Leisure
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- Law Firm Ethics & Professional Responsibility
- Life Sciences
- Litigation & Dispute Resolution
- Mergers & Acquisitions
- Real Estate
- Securities
- Tax, Trusts & Estates
- Technology
- Transportation & Infrastructure

## STEARNS WEAVER MILLER

# STEARNS WEAVER MILLER

## Our commitment to our clients is simple:

- Provide practical, business-oriented counseling and candid legal advice
- Partner with clients to audit employment practices, comply with wage and hour laws, draft employment agreements, protect trade secrets, realign workforces, and comply with EEO and affirmative action requirements and plans
- Provide zealous and effective representation in administrative and litigation matters, including at mediation and in trial
- Educate and train managers and employees about the “do’s and don’ts” in a rapidly changing work environment
- Be responsive to our clients’ needs 24/7

## Our services include:

- Affirmative Action Programs & OFCCP Compliance
- Disability & Leave Management
- Employee & Management Training
- Employee Benefits & Compensation Planning
- Employee Privacy & Background Checks
- Employment Contracts & Independent Contractor Agreements
- Employment Counseling
- Employment Discrimination Litigation
- Executive Compensation
- Handbook Policy Development & Audits
- Immigration
- Labor Management Relations
- Private & Public Sector Representation/Collective Bargaining
- Restrictive Covenants (including non-competition litigation)
- Risk Management, Compliance & Investigations
- Wage & Hour Audits and Litigation Defense
- Whistleblower Litigation Defense
- Workforce Restructuring & Reductions in Force



“Stearns Weaver is a great firm to work with, because they **bring a level of expertise** you would expect to see at only a big firm, yet they combine it with the **responsiveness, client service and attention** to detail you would see at a small firm. Throughout our interactions with them, it is clear that they have their client’s interest above all else. ”



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