

STEARNS WEAVER MILLER  
WEISSLER ALHADEFF & SITTERSON, P.A.

---

# 24th Annual Labor and Employment Law Seminar



Thursday, May 1, 2014

8:00 a.m. - 5:00 p.m.

Trump National Doral Miami  
Advertisement

# Agenda

8:00 – 9:00 a.m. **Continental Breakfast & Registration**

9:00 – 10:00 a.m. **The NLRB and EEOC Sand Traps: What's Happening in 2014?**

*Robert T. Kofman, Stearns Weaver Miller*

The NLRB is aggressively intruding into non-union workplaces, attacking policies on social media, confidential information, and treating co-workers with respect. The EEOC is flexing its muscles, suing employers over releases and applicant background checks. Employers need more than a GPS system to stay out of the sand.

10:00 – 11:00 a.m. **Whiners or Winners? Whistleblowers Who "Tee Off" on Employers.**

*Susan J. Toepfer, Stearns Weaver Miller*

*Andrew L. Rodman, Stearns Weaver Miller*

The filing of whistleblower retaliation claims has surged in recent years due to expanding statutory protections, court decisions favorable to plaintiffs, publicity received by some whistleblowers, and plaintiffs' desire to avoid the EEOC and file their claims in state court. In this session, we will discuss the status of the many federal and state whistleblower laws as well as how you can decrease your potential exposure to such claims.

11:00 – 11:15 a.m. **Break**

11:15 – 12:30 p.m. **Interactive "Employment Discrimination – Do Juries Carry A Full Set of Clubs?"**

*Robert S. Turk, Stearns Weaver Miller*

*Ingrid H. Ponce, Stearns Weaver Miller*

When sued, the first question is: "Will we win?" In employment discrimination cases that is usually up to the jury. We will take an inside look at the deliberations of a mock jury panel and watch how they made their decision. You get the chance to decide whether the jury got it right.

12:30 – 1:45 p.m. **Lunch — Keynote Speaker — The Secrets of Miami's Past**

*Dr. Paul S. George, PhD*

1:45 – 2:45 p.m. **Session A: The Top 10 HR "Need to Knows" About the Affordable Care Act As We Drive Into 2015.**

*Sharon Quinn Dixon, Stearns Weaver Miller*

The Supreme Court has ruled. Many features of the Affordable Care Act are already in place, but details of the most complex parts of the law for employers, including the "pay or play" rules and tax reporting, keep changing or being postponed. Attend this session to ensure that you are prepared to comply when the law fully applies to you.

## **Session B: Avoiding The Rough When Dealing with “Family Responsibility” Issues.**

*Kara S. Nickel, Stearns Weaver Miller*

In the past, an employee’s personal life was none of the employer’s business. That has all changed. A new claim is on the horizon: “Family Responsibilities Discrimination”. Whether it’s a disabled spouse, an aging parent, childcare, spousal abuse, or pregnancy, employees are seeking leave and other accommodations for a variety of family-related issues. Employers must recognize and understand how to manage these issues or face claims under a host of federal and state laws.

## **Session C: Employee Privacy, “BYOD”, the Cloud and Social Media: Par is No Longer Acceptable for the Course.**

*Tobi Beth Lebowitz, Stearns Weaver Miller*

*Eric K. Gabrielle, Stearns Weaver Miller*

In an era of social media, cloud computing and bring your own devices (“BYOD”) to work, employers are keenly aware of the hazards that can arise from their employees’ online activities and often try to keep them out of the rough. To come in under par, however, employers must clearly understand the laws that serve to protect employees’ privacy and the limits of employers’ abilities to monitor their employees’ online conduct.

2:45 – 3:00 p.m.

## **Break**

3:00 – 4:00 p.m.

## **Session A: New Mental Disorders Could Lead To Spike In ADA Claims.**

*Lisa K. Berg, Stearns Weaver Miller*

What do forgetfulness, menstrual cramps, and temper tantrums have in common? They are all symptoms of new mental health disorders recognized in the latest version of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5), a handbook widely used by health care professionals to assess and diagnose mental disorders. This session will discuss the challenges employers face with the obligation of assessing these new mental disorders and determining whether they constitute a mental disability under the ADA for the particular employee.

## **Section B: Avoiding Hazards On the Course, Understanding Immigration Options Before Extending An Offer of Employment.**

*Glenn M. Rissman, Stearns Weaver Miller*

Foreign-born talent may provide your company with the skill set it needs to thrive. Learn about various immigration options to employ workers lawfully in the United States and what it takes to sponsor employees for permanent residence.

## Session C: Executive Employment Contracts — There Are No Mulligans (Do-Overs).

*John J. Heber, Manatt, Phelps & Phillips, LLP*

Today, more than ever, there are a myriad of challenges that must be managed when negotiating and drafting executive employment contracts. There are tax laws and regulations that can result in significant penalties if the contract is not drafted correctly. This session will include strategic issues including market pay practices for various executive positions.

4:00 – 5:00 p.m.

## Session A: “The Art of the Deal”: Negotiation and Psychology In The Workplace.

*Rene F. Ruiz, Stearns Weaver Miller*

*Jorge Freddy Perera, Stearns Weaver Miller*

Life has been described as a series of negotiations. The same can be said of work. In our toolbox of workplace skills, negotiation is the most useful to not only resolve conflicts, but avoid them in the first place. Yet, few professionals take the time to examine and hone this critical life skill. This presentation will focus on how psychology impacts the wide array of workplace negotiations (both formal and informal) with an emphasis on channeling our inner psychologists to prevent and resolve workplace issues. How you view things such as supervision, employee performance management, discipline, and even collective bargaining will never be the same.

## Session B: Is The Grass Greener With Your Competition? Drafting And Enforcing Covenants Not To Compete.

*Eric S. Roth, Stearns Weaver Miller*

*Bayardo E. Alemán, Stearns Weaver Miller*

A well drafted non-compete agreement can be an effective tool for protecting your business. We will discuss the critical provisions to include in the non-compete agreement and practical issues to consider when seeking to enforce a non-compete agreement.



Would you have a golf course without a practice tee?



Would you send clients or litigators to court without a practice courtroom? Stearns Weaver Miller attorneys on their “practice tee”, a simulated, state-of-the-art courtroom in our Miami office.

# Speakers

**Robert T. Kofman** is a Shareholder in the Firm, Co-Chair of the Labor and Employment Department and serves on the Board of Directors. Mr. Kofman is Board Certified by The Florida Bar in labor and employment law and AV-rated by Martindale-Hubbell. In *Chambers USA: America's Leading Lawyers for Business* (ranked in Band One for Labor and Employment in Florida). He is included in the Employment and Labor Law Category of *The Best Lawyers in America*®, *Florida Super Lawyers Magazine*, and *South Florida Legal Guide* "Top Lawyers in South Florida." He earned his J.D., with distinction, from Duke University and his B.A. from Pennsylvania State University.

**Robert S. Turk** is a Shareholder in the Firm and Co-Chair of the Firm's Labor and Employment Department. Mr. Turk is Board Certified by The Florida Bar in labor and employment law and is the current Chair of The Florida Bar's Labor and Employment Law Section. He is a past President of the Academy of Florida Management Attorneys. Mr. Turk was selected for inclusion in *Chambers USA: America's Leading Lawyers for Business* (ranked in Band One in Labor and Employment in Florida). He was recognized in 2012 and 2014 by *The Best Lawyers in America*® as Miami Litigation, Labor & Employment Lawyer of the Year. He is also recognized by *Florida Super Lawyers Magazine* and *South Florida Legal Guide*'s "Top Lawyers in South Florida." He earned his J.D. and his B.A., Phi Beta Kappa, from the University of North Carolina, Chapel Hill.

**Bayardo E. Alemán** is a Shareholder in the Labor and Employment Department. He represents employers and management in all areas of labor and employment law, including defending employment discrimination lawsuits, retaliation claims, whistleblower litigation, and wage and hour compliance. Mr. Alemán also counsels employers on day-to-day human resources issues. Mr. Alemán earned his J.D., *cum laude*, from the University of Florida Levin College of Law.

**Lisa K. Berg** is a Shareholder in the Labor and Employment Department. Ms. Berg helps clients 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. Ms. Berg is Co-Editor of the Florida Employment Law Letter and the Pocket Guide to Florida Employment Laws. A frequent presenter on a variety of labor and employment law issues, Ms. Berg has spoken at seminars sponsored by the ABA, EEOC, BLR, and various other organizations. She is Board Certified by The Florida Bar in labor and employment law and AV-rated by Martindale-Hubbell. Ms. Berg earned her J.D. from Emory University and her B.S. from Cornell University.

**Sharon Quinn Dixon** is a Shareholder in both the Tax Department and Labor and Employment Department and is Board Certified by the Florida Bar in tax law. She is also a Fellow of the American College of Employee Benefits Counsel. Ms. Dixon counsels employers about compliance of their employee retirement and welfare benefit plans. She was selected for inclusion in *Chambers USA: America's Leading Lawyers for Business* (ranked in Band One in Tax: Employee Benefits in Florida). She was recognized by *Florida Super Lawyers Magazine*, 2006-2010, *The Best Lawyers in America*®, 1993-2010 and *South Florida Legal Guide* "Top Lawyers in South Florida," 2008-2011. She earned her LL.M. in Taxation from the University of Miami, her J.D., *cum laude*, from the University of Miami and her B.S., *summa cum laude*, from Bradley University.

**Eric K. Gabrielle** is a Shareholder in the Labor and Employment Department. Mr. Gabrielle is Board Certified by the Florida Bar in labor and employment law. He focuses his practice on litigation of employment law issues in Florida federal and state courts and advises employers regarding compliance with all federal, state and local laws and regulations governing employment relationships. He earned his J.D., with honors, and his B.A. from the University of Florida College of Law.

**John J. Heber** is a Partner in the San Francisco office of the law firm of Manatt, Phelps & Phillips, LLP. He has extensive experience in executive compensation and employee benefits, and has been involved in the drafting and negotiation of executive contracts for public and private companies ranging from start-up to Fortune 50. Mr. Heber regularly advises on executive and board of director pay levels, and on trends in compensation practices and tax efficient pay strategies. He earned his LL.M. in taxation (Employee Benefits emphasis) from Golden Gate University, J.D. from Chicago Kent College of Law, and B.S. from California State University, San Diego. Mr. Heber is not a member of The Florida Bar.

**Tobi Beth Lebowitz** is a Shareholder in the Labor and Employment Department. Ms. Lebowitz handles a wide variety of employment law matters across a range of industries. She is a frequent speaker on employment issues and is a regular contributor to *Belabor the Point* a blog dedicated to the latest developments in labor and employment law. Prior to joining the Firm, she served as a law clerk for the Honorable Gary R. Jones of the United States District Court for the Middle District of Florida (now of the United States District Court for the Northern District of Florida). Previously, she was a litigation associate in the Jacksonville office of an international law firm.

**Kara S. Nickel** is a Shareholder in the Labor and Employment Department. She represents employers in employment litigation and administrative charges, and regularly counsels employers on the full range of employment issues, such as FMLA leave, performance management, terminations, reasonable accommodations and wage and hour compliance. She has experience in a variety of industries, including banking and financial institutions, healthcare, hospitality, retail, and technology. Ms. Nickel earned her J.D., *summa cum laude*, from the University of Miami School of Law and her B.A., *cum laude*, from the University of Miami.

**Jorge Freddy Perera** is an Associate in the Labor & Employment Department. Mr. Perera earned his J.D. from Nova Southeastern University Sheppard Broad Law Center where he graduated *summa cum laude* and as valedictorian in his graduating class. He represents private and public employers in all areas of labor and employment law, with an emphasis on traditional labor law. Mr. Perera has experience in a variety of other employment issues, such as claims of discrimination, retaliation and overtime.

**Ingrid H. Ponce** is a Shareholder in the Labor and Employment Department. Ms. Ponce focuses her practice on employment litigation and counseling, including sexual harassment, Title VII, ADA, ADEA, and Whistleblower claims. Ms. Ponce is a frequent speaker on issues such as investigating harassment/discrimination claims, religious discrimination and EEO Compliance.

**Glenn M. Rissman** is a Shareholder in the Labor and Employment Department. Mr. Rissman's practice focuses on employment law, immigration, and accessibility. Mr. Rissman regularly represents clients in a wide variety of matters arising under Title VII, Section 1981, ADA, ADEA, FMLA, WARN Act, FLSA, ERISA, and the Florida Civil Rights Act. He also advises employers regarding hiring, termination, and discipline of employees; compliance with federal, state, and local discrimination laws and wage and hour issues; sexual harassment matters; I-9 compliance and unauthorized employment; and mass layoffs and plant closings.

**Andrew L. Rodman** is a Shareholder in the Labor and Employment Department and serves on the Firm's Board of Directors. He represents and advises clients on a broad range of labor and employment related matters under state and federal law. Mr. Rodman also has served on the Board of Directors for GMSHRM as its Legislative Director. He is a co-editor of the Florida Employment Law Letter. Mr. Rodman earned his J.D., *cum laude*, from Boston University School of Law and his B.A., *magna cum laude*, from Brandeis University.

**Eric S. Roth** is a Shareholder in the Labor and Employment Department. Mr. Roth counsels clients on employment matters and compliance with corporate policies. He earned his J.D., *cum laude*, from the Georgetown University Law Center and his B.A., *cum laude*, from the University of Pennsylvania.

**Rene F. Ruiz** is a Shareholder in the Labor and Employment Law Department. Mr. Ruiz is experienced in defending companies in employee litigation, with an emphasis on harassment, discrimination, and the Fair Labor Standards Act. He regularly negotiates contracts for companies with unionized workforces and advises employers on contract administration. Mr. Ruiz earned his J.D., *cum laude*, from the University of Miami School of Law and his B.A., *magna cum laude*, from Florida International University.

**Susan J. Toepfer** is a Shareholder in the Labor and Employment Law Department. She represents employers in all legal issues relating to the employer-employee relationship. Ms. Toepfer's practice is focused on litigation of employment disputes in federal and state court, and counseling relating to affirmative action obligations of federal contractors and defense of OFCCP audits. Ms. Toepfer earned her J.D., *cum laude*, from the University of Michigan and her B.S., *magna cum laude*, from Vanderbilt University.

## Guest Speaker

**Dr. Paul S. George** is a Professor of History at Miami-Dade College, Wolfson Campus. He also serves as a Historian to HistoryMiami. A native Miamian, Dr. George is a graduate of Miami-Dade College and the University of Miami. He also earned his Masters and Ph.D. degrees in History from Florida State University. Dr. George has taught at numerous universities and colleges, including Florida State University, Florida A&M University, Florida Atlantic University, and the University of Miami.

Dr. George has authored fifteen books, nearly two hundred articles, book reviews, columns, and numerous unpublished manuscripts. He has also served as editor of three books. Two of his books have won awards. He is a past-president of the Florida Historical Society, vice-chairman of the City of Miami's Heritage Conservation Board, director of the Historic Broward County Preservation Board and sits as a member of Metro-Dade County's Preservation Board. He is also past-president of the Louis Wolfson II Florida Moving Image Archive. Mr. George is editor of both *Tequesta*, the scholarly journal of the Historical Association of Southern Florida, and the same organization's *HM* magazine.

# About

STEARNS WEAVER MILLER  
WEISSLER ALHADEFF & SITTERSON, P.A.

## About Us

Stearns Weaver Miller is a full-service law firm with more than 110 attorneys serving clients throughout Florida and nationwide. With offices in Miami, Fort Lauderdale, Tampa and Tallahassee, we serve business clients and government agencies with a focus on litigation, real estate, labor and employment, business restructuring, corporate and securities and local government representation. **Visit us online at [stearnsweaver.com](http://stearnsweaver.com).**

### Not to belabor the point, but...

Check out *Belabor the Point*, our blog dedicated to the latest developments in labor and employment law.

**[stearnsweaver.com/blog](http://stearnsweaver.com/blog)**

## Our Clients

We are proud to represent many of the businesses that have contributed to Florida's growth over the last thirty years. Our clients range from small start-up ventures to some of the largest multinational corporations in the world, as well as some of the country's most successful individuals and entrepreneurs. We have the practical business sense to resolve complex legal problems and to understand the impact of the law and the regulatory environment on our clients' businesses. We believe that our clients' success is our business.

## Rankings

The firm is consistently recognized as among the best law firms in Florida by top legal publications. Our attorneys enjoy numerous accolades from client and peer review rankings such as *Chambers and Partners USA*, *The Best Lawyers in America* and *Super Lawyers*.

## Community Involvement

While we are proud of the legal victories achieved for our clients, we are equally proud of our commitment to our community. Our Firm provides financial and leadership support to a myriad of not-for-profit organizations impacting the arts, advocacy, children and families, community service, education, the environment, health and wellness and legal services in our community and beyond.

## State of the Art Facilities

Our team of trial lawyers is complemented by the full range of support staff and facilities required for trial preparation and training. This includes a state of the art simulated courtroom used to prepare witnesses for trial, as well as an in-house multimedia department dedicated to producing high-level presentation materials and audiovisual aids. We strive to offer the highest level of preparedness to our clients and attorneys to help them to acclimate to a courtroom setting before trial even begins.

### Miami

Museum Tower  
150 West Flagler Street  
Suite 2200  
Miami, FL 33130  
305.789.3200

### Fort Lauderdale

New River Center  
200 East Las Olas Boulevard  
21st Floor (Penthouse A)  
Fort Lauderdale, FL 33301  
954.462.9500

### Tampa

SunTrust Financial Centre  
401 East Jackson Street  
Suite 2200  
Tampa, FL 33602  
813.223.4800

### Tallahassee

Highpoint Center  
106 East College Avenue  
Suite 720  
Tallahassee, FL 32301  
850.580.7200



**REGISTER ONLINE AT:**  
<http://www.stearnsweaver.com/events>

For more information, please contact  
Kaylan Domond at 305.789.3218 or  
kdomond@stearnsweaver.com

**24<sup>TH</sup> ANNUAL LABOR AND EMPLOYMENT LAW SEMINAR**  
**TRUMP NATIONAL DORAL MIAMI**  
**4400 NW 87TH AVENUE, MIAMI, FL 33178**  
**THURSDAY, MAY 1, 2014 • 8:00 A.M. - 5:00 P.M.**

**REGISTRATION**

We understand that employers and human resources professionals need timely, practical business-oriented advice on labor and employment issues. We also understand that businesses large and small across a broad range of industries are impacted by continuing economic challenges and must make the most of every dollar spent on training. As an accommodation to our clients and friends, this year's registration fees have not increased.

**\$130**

Regular Registration Fee/First Attendee

**\$110**

Reduced rate for additional attendees from the same company.

Fees include a full day of programming, continental breakfast, lunch, program materials and parking.

**CONTINUING EDUCATION**

**HRCI Credits:**

Approved for 6.25 HR General recertification credit hours toward PHR, SPHR and GPHR recertification.

**The Florida Bar CLE and Certification Credits:**

Approved for 7.5 General CLE Credits  
Approved for 7.5 Labor and Employment Law Certification Credits