

FRIDAY, OCTOBER 12, 2012

All general sessions will be held in the Plaza Ballroom.

- 7:30 a.m. – 8:30 a.m. **Registration & Continental Breakfast** **9th Level Terrace**
- 8:30 a.m. – 8:45 a.m. **Welcome & Opening Remarks**
Patricia A. Barasch, NELA President & Terisa E. Chaw, NELA Executive Director
- 8:45 a.m. – 10:15 a.m. **Understanding The Science Of Bias**
Moderator: J. Bryan Wood
Speakers: Professor Gary L. Blasi & Professor Tony Greenwald
There has been considerable evolution of the scientific understanding of bias over the past 50 years. Peer-reviewed scientific research has expanded our awareness that bias exists as a continuum spanning conscious explicit hostile animus, consciously held stereotypes, unconscious cognitive distortions, and implicit attitudes. This panel will explain the different ways in which scientists approach the topic of bias in all its many guises.
- 10:15 a.m. – 10:30 a.m. **Break** **9th Level Terrace**
- 10:30 a.m. – 12:00 p.m. **Cutting-Edge Issues In The Law Of Bias: Making The Causal Connection**
Speakers: Alice W. Ballard, Charlotte Fishman & David L. Lee
Proving a causal connection between your client's protected status and the action complained of is at the heart of every employment discrimination case. This panel will discuss the positive effects of the "new" social science on the traditional legal proof paradigm—for example, how it can be used to overcome "inference blindness" and to address problem doctrines such as "stray remarks," "same actor," and "honest belief." Our speakers will also examine some of the "disconnects," limitations, and difficulties in applying the science.
- 12:00 p.m. – 1:15 p.m. **Lunch (On Your Own)** Visit the Registration Desk for nearby restaurants.
- 1:30 p.m. – 3:00 p.m. **Engaging The Judiciary**
Moderator: Jocelyn D. Larkin
Speakers: The Honorable Bernice B. Donald, Dr. Jennifer Elek & The Honorable Morris Hoffman
This session will focus on how judges view the law and science of bias, provide an overview of recent educational programs for federal and state judges on the science of implicit bias, and highlight how practitioners can best explain and use the science in the context of summary judgment and trial.
- 3:00 p.m. – 3:15 p.m. **Break** **9th Level Terrace**
- 3:15 p.m. – 4:15 p.m. **Identifying & Addressing Fact-Finder Bias**
Speakers: Alicia K. Haynes, The Honorable Morris Hoffman & David J. Zehner
A judge, jury consultant, and a plaintiffs' employment lawyer will explore strategies for jury selection, presenting evidence of bias to the jury, the effect of stereotypes on jurors' perceptions of you and your client, as well as solutions for identifying and addressing bias at trial.
- 4:15 p.m. – 5:15 p.m. **So You Think You Need An Expert**
Moderator: Thomas A. Newkirk
Speakers: Noelle C. Brennan, James M. Finberg & Professor Tony Greenwald
So you want to present bias science evidence—are you the expert, or do you need one? If you need one, who's good? What's the cost? And how do you maximize the chance your expert will be able to testify? Our panelists will answer these and other questions while discussing the pros and cons of using an expert, the types of experts to consider, how to survive *Daubert* challenges, and what to expect from your opponent if you use an expert.
- 5:30 p.m. – 7:00 p.m. **Reception** **Vinings Room**
Co-sponsored by The Employee Rights Advocacy Institute For Law & Policy

SATURDAY, OCTOBER 13, 2012

All general sessions will be held in the Plaza Ballroom.

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| 7:30 a.m. – 9:00 a.m. | Registration & Continental Breakfast | 9th Level Terrace |
| 9:00 a.m. – 10:15 a.m. | Successful Techniques For Uncovering Bias Through Discovery
<i>Speakers:</i> Kathryn Burkett Dickson, Yona Rozen & William J. Smith
Developing evidence of bias commonly characterized as “unconscious,” “hidden,” or “implicit” poses unique challenges. Our speakers will discuss how to craft a discovery plan to obtain the necessary evidence to support your claims of bias and discrimination. They will share sample deposition questions, interrogatories, and requests for production of documents, explore using motions in limine as a sword and shield, and examine strategies to overcome discovery abuses by your opponent. | |
| 10:15 a.m. – 10:30 a.m. | Break | 9th Level Terrace |
| 10:30 a.m. – 11:45 a.m. | Bias On A Grand Scale: Using Social Science In Discrimination Class Actions
<i>Speakers:</i> Suzanne E. Bish, Barry Goldstein & Joseph M. Sellers
Social science has long played a central role in explaining and proving systemic class-based, employment discrimination. The Supreme Court’s decision in <i>Wal-Mart Stores, Inc. v. Dukes</i> , however, questioned the use of the plaintiffs’ social science expert to establish the requirements for class certification in a gender discrimination class action. This panel will assess the impact of <i>Dukes</i> and the future role of social science in employment discrimination class actions. | |
| 11:45 a.m. – 12:00 p.m. | Boxed Lunch Pick-Up | 9th Level Terrace |
| 12:00 p.m. – 1:30 p.m. | Faculty Roundtable Workshops Vinings Room
Faculty members and participants will have an opportunity to share their experiences and ideas for dealing with the issues that have been raised during the seminar. Faculty from each panel will lead a roundtable workshop on their topic. <i>In order to receive MCLE credit, participants must take part in a faculty roundtable workshop.</i> A list of topics has been provided in your registration packet. | |
| 1:45 p.m. – 2:45 p.m. | Crafting Remedies That Make A Difference
<i>Moderator:</i> Terisa E. Chaw
<i>Speakers:</i> Professor Frank Dobbin & Thomas A. Newkirk
Equitable remedies are a key component of Title VII and an often overlooked means of increasing the “value” of employment cases to employers and courts. This session will discuss using the underlying purpose of Title VII as a remedial statute to help win and settle cases by focusing on how to frame and incorporate policy changes, and integrating modern theories of bias into pleadings, settlement, and trial to help enhance the value of the case and make a difference. | |
| 2:45 p.m. – 3:00 p.m. | Break | 9th Level Terrace |
| 3:00 p.m. – 4:15 p.m. | Lessons Learned At Trial: Dos & Don’ts For Handling “Hidden Bias” In Employment Claims
<i>Speakers:</i> Alicia K. Haynes, Yona Rozen & J. Bryan Wood
Veteran litigators will share their best practice tips on handling “hidden bias” in employment discrimination cases. Topics to be addressed include preparing your client for trial, theme development, opening and closing statements, creating the record for an appeal, and more. | |

The National Employment Lawyers Association is pleased to have the support of the following co-sponsors for this seminar:

The Employee Rights Advocacy Institute For Law & Policy, San Francisco, CA
Equal Justice Society, San Francisco, CA
The Impact Fund, Oakland, CA
Legal Aid Society – Employment Law Center, San Francisco, CA
Pick Up the Pace, San Francisco, CA