

# AGENDA

## OCCUPATIONAL SAFETY AND HEALTH LAW BOOTCAMP

Co-sponsored by the OSH Law Project, AFL-CIO Lawyers Coordinating Committee, and the Center for Progressive Reform

True Reformer Building  
1200 U Street, NW  
Washington DC  
March 15-16, 2018

### Thursday, March 15

**8:30-9:00** Registration

**9-9:30** Welcome/Introductions

*Randy Rabinowitz, Esq., Executive Director, OSH Law Project, Washington DC*

*Lynn Rhinehart, Esq., General Counsel, AFL-CIO, Washington, D.C.*

*Sid Shapiro, Professor of Law, Wake Forest University and Vice Chair, Center for Progressive Reform, Winston-Salem, NC*

### **9:30-12:00** An Overview of and Legal Developments in Occupational Safety & Health Law

This panel will provide a comprehensive overview of the Occupational Safety & Health Act of 1970 (OSH Act). It will focus on legal decisions interpreting OSHA's duty to protect workers and employer's obligations to comply with the Act. Areas of overlap with other labor and employment laws, such as the NLRA, will also be discussed.

*Randy Rabinowitz, Esq. OSH Law Project, Washington, DC*

*Steve Yokich, Esq., Dowd, Bloch, Bennett, Cervone, Auerbach & Yokich, Chicago, IL*

**12-1:30** Lunch

### **1:30-2:45** How to Work with US Department of Labor, Solicitor's Office and Local Prosecutors

This panel will discuss effective legal strategies for lawyers to employ when trying to get OSHA to issue citations or remedy retaliation, when dealing with the

Solicitor's Office regarding pending litigation, or when approaching federal or local prosecutors urging criminal prosecution for health and safety violations.

***Patricia Smith, Esq., National Employment Law Project, New York, NY***

***Debbie Berkowitz, Senior Fellow, National Employment Law Project, Washington DC***

***Diana Florence, Esq. NY District Attorney's Office, New York, NY***

**2:45-3 Break**

### **3-4:30 How Does Preemption Law Affect the Ability of State and Local Governments to Regulate Worker Health and Safety?**

Increasingly, efforts to protect the health and safety of workers emphasize adoption of state and local laws. But, preemption principles and the OSH Act impose constraints on what states may regulate. This panel will discuss the legal limits on state and local health and safety legislation in both federal enforcement and state plan states.

***Vicki Bor, Esq., Sherman Dunn, Washington DC***

***Jora Trang, Esq., Legal Director, Worksafe, Oakland, CA***

### **5-7 Happy Hour at Local 16**

Relax and have a drink! At Local 16, 1602 U St NW

## Friday, March 16

### **9-10:30 Federal and State Laws Protecting Workers From Retaliation for Health and Safety Activity**

This panel will discuss the 22 federal laws, NLRA principles, and state common and statutory law remedies for discrimination against workers engaged in health and safety activities, reviewing the strengths and weaknesses of various legal options.

**Emily Spieler, Professor of Law, Northeastern University Law School**

**Ava Barbour, Esq. Associate General Counsel, International Union, UAW, Detroit, MI**

**Katie Tracy, Esq., Center for Progressive Reform, Washington DC**

### **10:30-10:45 Break**

### **10:45-12:00 Legal Issues Affecting the Health and Safety Rights of Immigrant Workers**

Immigrants work in some of the most hazardous jobs and suffer injuries at higher rates than other workers, yet their ability to enforce their rights is often precarious. This panel will discuss legal strategies designed to protect immigrant workers experiencing health and safety violations. It will focus on existing legal tools as well as more innovative legal strategies designed to protect immigrant workers on the job.

**Emily Tulli, Esq., OSH Law Project, Washington, DC**

**Matt Ginsburg, Esq. Associate General Counsel, AFL-CIO, Washington, DC**

### **12:00 – 1:30 Lunch:**

#### **The Movement to Protect Worker Safety & Health**

**David Michaels, Professor, George Washington University School of Public Health, Washington, D.C.**

**Peg Seminario, Director of Safety & Health, AFL-CIO, Washington, D.C.**

### **1:30- 2:30 Using Environmental and Tort Law to Protect Worker Health and Safety**

OSH Act remedies for health and safety violations are limited and weak. Often, common law or environmental law remedies offer a creative and possibly more

effective means of protecting workers from hazards. This panel will discuss common law and other environmental law strategies for protecting workers.

***David Muraskin, Esq., Public Justice, Washington DC***

***Joe Santarella, Esq., Santarella & Eckert, Littleton, Co***

### **2:30-3:30 Constitutional Law Challenges to Restrictions on Workers' Compensation**

Over the past several decades, states have been revising workers' compensation laws to impose an increasing array of restrictions limiting the compensation that workers may obtain when injured on the job. Recently several constitutional challenges to these laws have been successful. This panel will explore constitutional law challenges to restrictions that limit workers' recovery.

***Gail Evans, Esq. Legal Director, New Mexico Center on Law and Poverty  
Albuquerque, NM***

***Professor Robert Williams, Rutgers Law School, Camden, NJ***

### **3:30 – 4:30 Litigation and Advocacy to Protect Workers in these Challenging Times**

This panel will discuss next steps, at the federal, state, and local level, for protecting workers from health and safety hazards. It will focus on litigation strategies, legislative options, and advocacy opportunities.

***Sidney Shapiro, Professor of Law, Wake Forest University, Winston-Salem, NC***

***Lynn Rhinehart, Esq., General Counsel, AFL-CIO, Washington, D.C.***

***Randy Rabinowitz, Executive Director, OSH Law Project, Washington, D.C.***



*The OSH Law Project, an initiative of NEO Philanthropy, is a nonprofit law firm that works to ensure that workers are not killed, injured or made ill at work and if they are, to ensure they receive adequate compensation for the harm they have suffered. It accomplishes these goals by providing legal support and training to unions, other national, state, and local workers' rights advocates and their attorneys.*



*The AFL-CIO Lawyers Coordinating Committee (LCC) is a national membership organization of more than 2,200 union-side labor lawyers in 500+ firms and union legal*

*departments around the country. To assist LCC members in representing their union clients, the LCC offers legal education and technical assistance, facilitates the exchange of legal information and legal strategies, informs and mobilizes union-side labor lawyers about legislative and legal developments, and assists LCC firms and union legal departments in recruiting and retaining new lawyers and lawyers of color to the practice of union-side labor law.*



*The Center for Progressive Reform (CPR) is a nonprofit research and educational organization comprising a network of university-affiliated Member Scholars across the nation dedicated to protecting health, safety, and the environment through analysis and commentary. CPR believes sensible safeguards in these areas serve important shared values, including doing the best we can to prevent harm to people and the environment, distributing environmental harms and benefits fairly, and protecting the earth for future generations. Through rigorous analysis, strategic engagement in public interest campaigns, and a commitment to social welfare, CPR pursues a vision of legal and regulatory policies that prioritize health, safety, and environmental protection over private interests and corporate profit.*