



*Reopening the Workplace:*

**How to Handle Employees Who  
Refuse To Return To Work**

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**Presenters:**

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# Scope and Usage of the Information

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# Reopening the Workplace COVID-19 Special Series

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The Institute is excited to announce a new webinar series to help employers navigate the unprecedented issues in the workplace arising from the Coronavirus pandemic.

This series focuses on reopening the workplace. Our Institute leaders, our nationally renowned faculty, and special guests will join together to discuss legal considerations, reassessing jobs in a changed environment, and challenges of managing remote workers.

# Key Focus Areas

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## ■ Legal Considerations

- ADA – Refusal to work, or disability that needs accommodating?
- OSHA – Reasonable basis to believe work place is unsafe?
- NLRB – Reasonable basis to believe working conditions unsafe?
- State and local stay at home / return to work orders

## ■ Practical Considerations

- Importance of the interactive process
- Compliance with guidelines and requirements of OSHA, CDC, and state and local health authorities
- Setting precedent

# Best Practices

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- Develop protocol for addressing refusals to return to work consistently and in compliance with relevant legal authority.
- Develop manager FAQs for addressing refusals to return to work.
- Provide training on how to address refusals to return to work.
- Stay up to date on guidelines and requirements for safe workplaces from OSHA, CDC and state and local health authorities.
- Keep good records/documentation of actions taken.

# Upcoming Sessions

Issues with taking temperatures or otherwise checking employees for COVID-19 symptoms

Key Considerations for WARN Notices

Pandemic return to work: What rights do employees have?

What are employer's legal obligations to restructure the workplace to comply with  
CDC/OSHA Guidance

Reduction in Force (RIF) Tools and Methodologies

Assessing potential skill gaps and competency needs in your current Workplace

Leveraging job analysis and competency modeling to better understand how to successfully “go  
virtual” with jobs

# Erin M. Connell

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- Erin is an employment partner and Co-Chair of Orrick's EEO & OFCCP Compliance Group and Pay Equity Task Force. Erin's practice covers all aspects of employment law. Erin has successfully defended numerous class actions, EEOC systemic discrimination investigations, and complex individual cases involving claims of discrimination, harassment, retaliation, wrongful termination, and wage-and-hour claims. Erin has particular expertise in the area of pay equity, compensation analyses, and diversity initiatives; and regularly advises clients with respect to OFCCP and other EEO audits.
- Erin also is an accomplished trial lawyer. She has tried several cases before juries and in arbitration, and has successfully obtained numerous defense summary judgment rulings and other favorable resolutions in state and federal court.
- Erin is currently the management chair of the ABA Equal Employment Opportunity Committee, and frequently speaks on California and national employment law issues. She has published numerous articles on employment law in publications around the country, including the ABA Journal of Labor & Employment Law. She also provides training on managing within the law and preventing sexual harassment, and conducts internal investigations on employment-related matters.

# Laura Mitchell

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*Laura A. Mitchell* is a Principal in the Denver, Colorado, office of Jackson Lewis P.C. She is a member of the firm's Affirmative Action and OFCCP Defense practice group as well as the firm's Pay Equity Resource Group. She is also on the leadership team for the firm's Government Contractor Industry Group. Her practice is focused on representing government and non-government contractors in OFCCP matters, preparing for and defending OFCCP audits, and counseling employers on issues stemming from OFCCP regulations. Ms. Mitchell personally oversees the development of hundreds of AAPs each year and is intimately involved in the defense of numerous OFCCP audits. She also spends significant time counseling companies in connection with conducting pay equity analyses as well as government contractor employment obligations. Ms. Mitchell is the editor and a principal contributor of The Affirmative Action Law Advisor blog and frequently presents on pay equity, affirmative action compliance, OFCCP enforcement trends, and government contractor obligations.