

2012 HR LAW CONSULTANTS CONFERENCE

Presented by Jane Kow, Founder of HR Law Consultants &
Roberta Etcheverry, CEO, Diversified Management Group (DMG)

THURSDAY, SEPTEMBER 27, 2012

Bar Association of San Francisco Conference Center
Bently Reserve Building, 301 Battery Street - 3rd Floor, San Francisco, CA 94111



8:00 a.m. – 8:30 a.m.	Registration and continental breakfast
8:30 a.m. – 8:45a.m.	Welcome and Introduction
8:45 a.m. – 9:45 a.m.	<i>The Workplace of the Future: Forecasting Trends That Will Shape Human Resources</i>
9:45 a.m. – 10:00 a.m.	Q&A - Break
10:00 a.m. – 11:00 a.m.	<i>Wage & Hour Violations: No Small Change for Employers</i>
11:00 a.m. – 11:15 a.m.	Q&A - Break
11:15 a.m. – 12:15 p.m.	<i>Coaching as a Tool for Managing Employees</i>
12:15 p.m. – 1:30 p.m.	Catered Lunch
1:30 p.m. – 2:30 p.m.	<i>DFEH Game Show: "Civil Rights Challenge!"</i>
2:30 p.m. – 2:45 p.m.	Q&A - Break
2:45 p.m. – 3:45 p.m.	<i>Investigating Employee Disability Discrimination and Failure to Accommodate Complaints</i>
3:45 p.m. – 4:00 p.m.	Q&A - Break
4:00 p.m. – 5:00 p.m.	<i>Job Descriptions as a Tool for Determining Employees' Qualifications, Exempt Status and Workplace Accommodations</i>
5:00 p.m. – 5:15 p.m.	Conference Closing Remarks
5:30 p.m. – 7:30 p.m.	Networking Reception with Sponsors, Exhibitors, Speakers, Attendees, Guests and Raffle

WHO SHOULD ATTEND: Human resources professionals, EEO and labor relations managers, compensation analysts, organizational developers, workforce planning specialists, job developers, coaches, mediators, workplace investigators and employment lawyers

MCLE CREDIT FOR CA LAWYERS: Approved by the State Bar of California for a total of 3 hours of MCLE credit.

HRCI CREDIT FOR HR PROFESSIONALS: Approved by the HR Certification Institute for 6 hours of HRCI general credit.

*The use of this seal is not an endorsement by the HR Certification Institute of the quality of the program. It means that this program has met the HR Certification Institute's criteria to be pre-approved for recertification credit.

3 EASY WAYS TO REGISTER

- 1) Mail in registration to:
HR Law Consultants, 750 Van Ness Avenue - Suite 1204
San Francisco, CA 94102
- 2) Fax registration to: (415) 441-0366
- 3) Email registration to: info@HRLawConsultants.com

REGISTRATION DEADLINE & FEE

Early Bird Discount Rate – register by August 1, 2012:	\$300
Registration received August 2, 2012 and later:	\$350
Networking and cocktail reception ONLY:	\$25

Limited Seating – Register By August 1, 2012 To Save \$50

ON SITE REGISTRATION

On-site registration or walk-ins are subject to availability.

10% DISCOUNT

- For registration of 2 or more participants from one company.
- For attendees of past events sponsored by Jane Kow/Jane Kow & Associates or Roberta Etcheverry/DMG. Please indicate event attended: _____

CANCELLATION POLICY

- Full refund if written cancellation request is received **by 5:00 p.m. on Wednesday, August 1, 2012.**
- An alternate may attend in place of the original registrant, but must register in order to receive HRCI or MCLE credit.

CONTACT US

Program content, exhibitor & sponsorship opportunities
Jane Kow, Esq. | HR Law Consultants | Phone: (415) 567-0367
Email: JaneKow@HRLawConsultants.com; or
Roberta Etcheverry | DMG | Phone: (800) 746-4364 ext. 105
Email: RobertaE@DMG-at-work.com

Registration, directions & parking

Jennifer Perez Torre | Email: Jennifer@HRLawConsultants.com |
Phone: (415) 567-0367 | Fax: (415) 441-0366

REGISTER

Complete a separate form for each attendee and return along with registration fee. Confirmation will be sent upon receipt of payment. Bring copy of completed form as proof of registration.

Name _____
Title _____
Company _____
Address _____
City, State & Zip _____
Phone _____ Fax _____
Email _____

- Check # _____ enclosed payable to Jane Kow & Associates. Tax ID# 76-0721515.
- To pay by credit card, please provide an email address where a PayPal invoice can be sent.

8:00 a.m. REGISTRATION

8:30 a.m. – 8:45 a.m. WELCOME & INTRODUCTION

8:45 a.m. – 9:45 a.m. KEYNOTE: THE WORKPLACE OF THE FUTURE: FORECASTING TRENDS THAT WILL SHAPE HUMAN RESOURCES

Kevin Wheeler, an internationally renowned consultant and speaker on workplace issues, will identify future workplace trends that will challenge our view of the workplace and transform the role of human resources. These include: 1) **Social business trends** that will place more emphasis on trust, transparency and collaborative discussion and idea generation; 2) **Social leadership** in the workplace will be more concurrent, collaborative, compassionate and collective, and emphasize sharing of responsibility and decision making because of the increasing complexity of problems and the impossibility of one person understanding all the variables; 3) **Transparency, analytics, and privacy issues will emerge** as social structures and shared methods will redefine notions of employer confidentiality and employee privacy and the internet continues to collect, aggregate, maintain and open up information stored in the past and present; 4) **The concept of an “employee” will be redefined** in an era of open relationships and social business when contingent and part-time workers are rapidly approaching the majority of all workers; and 5) **Working smarter and weaving together knowledge from data, people, and life** will transform workplaces, which will become hubs of discourse and sharing and where people can accumulate experience, get information, and experiment collectively to redefine what we now call learning, training and development. Wheeler provides his vision of how each of these concepts will impact the workplace of tomorrow and the role of human resources in the future.



Kevin Wheeler, President & Founder of Global Learning Resources, Inc., is an internationally renowned workplace consultant and speaker on human resources topics, who hosts an exclusive, invitation-only forum called the Future of Talent (www.futureoftalent.org) for human capital practitioners that explores emerging technologies and practices for talent acquisition and development. He is the author of hundreds of articles on talent management, career development, recruiting, human capital, leadership and on corporate universities and learning strategies. He has contributed to several books including a chapter on leadership and recruiting in *On Staffing: Advice and Perspectives for HR Leaders*, published by Wiley in 2004. His latest book is entitled, *The Corporate University Workbook: Launching the 21st Century Learning Organization*, published by Pfeiffer, Inc. Mr. Wheeler has a Masters Degree in Human Resources and Organizational Development and was a research affiliate at SRI International and at the Institute for the Future in Menlo Park, CA. He founded two corporate universities and served as adjunct faculty at the University of San Francisco and on the business faculty at San Francisco State University. He has served on the National Board of Directors for the American Society of Training Development and other boards.

Mr. Wheeler works with organizations to establish learning strategies, corporate universities, succession plans, strategic staffing programs, and human capital architectures. He has an extensive national and international consulting practice with Yahoo, Eli Lilly, Corning, Inc., Starbucks Coffee Company, Edwards Lifesciences, Federated Department Stores, BP, and organizations in China, New Zealand, Australia and El Salvador. He was the Senior VP for Staffing and Workforce Development at the Charles Schwab Corporation, VP of HR for Alphatec Electronics, Inc. and spent 16 years at National Semiconductor Corporation in a variety of HR roles, including as the Director of National Semiconductor University.

9:45 a.m. – 10:00 a.m. Q & A - BREAK

10:00 a.m. – 11:00 a.m. WAGE & HOUR VIOLATIONS: NO SMALL CHANGE FOR EMPLOYERS

Spurred by record unemployment and high profile cases netting huge settlements and damage awards in recent years, the number of lawsuits brought by employees who are misclassified as exempt (or salaried) have sky rocketed. Mr. Locker will examine recent cases brought by employees who claimed they were misclassified and demanded unpaid wages for overtime, missed meal periods, missed rest periods, on-call time and reporting time, etc. Mr. Locker will provide a set of criteria to help employers determine which employees are exempt or non-exempt under federal and state wage and hour laws. He will provide practical guidance on employee time tracking for overtime pay, missed meal and rest periods, time spent “on-call,” reporting to work, making up work for personal reasons, training and travel, as well as employer recordkeeping, pay obligations and allowable paycheck deductions for sick and vacation time off. Mr. Locker will discuss how employers’ recordkeeping practices will be impacted by the California Supreme Court’s recent decision in *Brinker Restaurant Corp. v. Superior Court*, which held that employers are not liable if the employee chooses to perform work during meal periods, so long as they are relieved of all duty. He will also discuss requirements under the new Wage Theft Protection Act and misclassifying employees as independent contractors.



Miles Locker, California’s leading expert on wage & hour law, former Chief Counsel to the CA Labor Commissioner and amicus curiae counsel in *Brinker Restaurant Corp. v. Superior Court*, is a founding partner at Locker Folberg LLP in San Francisco. His practice includes consultation, expert witness services, representation of individuals, and class action litigation. Since 2006, he has been designated as an expert witness in over sixty federal and state court cases on the Labor Commissioner’s enforcement policies, interpretation of the CA Labor Code and Industrial Welfare Commission (IWC) wage orders, employer compliance with wage and hour laws, and damages computations. Mr. Locker was formerly an attorney at the CA Division of Labor Standards Enforcement (DLSE) from 1990 - 2006 and Chief Counsel for the CA Labor Commissioner from 1998 - 2001. He advised the Labor Commissioner and the IWC on policy enforcement and played a key role in the development of agency policies. He has authored numerous DLSE opinion letters and sections of the DLSE’s Enforcement Manual. He also represented employees in wage claims and represented the Labor Commissioner against employers in civil actions and in appellate proceedings in state and federal courts.

Mr. Locker is a 1981 graduate of the University of California at Berkeley School of Law. He has been a guest lecturer at Berkeley on representing low wage workers, and has lectured at Hastings College of Law’s Civil Justice Clinic, training law students to represent employees in wage claim trials. His publications include: *California Workers’ Rights*, 4th edition (co-author), published in 2010 by the Center for Labor Research and Education, University of California at Berkeley; *“A Riddle Wrapped in A Mystery: State Wage and Hour Provisions,”* in the California Public Employee Relations Journal, December 2008 issue; and *“California Wage and Hour Law - A Twenty-Five Year Trajectory,”* September 2007 issue, CA Labor & Employment Law Review, published by the State Bar of CA Labor & Employment Law Section.

11:15 a.m. – 12:15 p.m. **COACHING AS A TOOL FOR MANAGING EMPLOYEES**

Maria Ramos-Chertok draws from over 20 years of experience with helping organizations improve employee performance, strengthen management skills and mediate workplace conflicts through effective communication and coaching. In this interactive session, Ms. Ramos-Chertok will provide an overview of the role of effective feedback and coaching as essential components of the foundation for a successful supervisorial relationship. Attendees will be given an opportunity to practice these two skills to encourage them to think about how feedback and a coaching paradigm can be incorporated into organizational practices to help promote a cultural shift.



Maria Ramos-Chertok is an attorney, organizational consultant and coach who conducts employee training and coaching, group facilitation, and conflict mediation. She received her Bachelor degree from the University of California, Berkeley in 1984 and her J.D. from the University of Pennsylvania, School of Law in 1987, where she received the Fordham Human Rights Award for the most outstanding contribution to the advancement of individual freedom and human dignity. Her areas of expertise include effective supervision, conflict resolution, sexual harassment prevention, change management, teambuilding and leadership development. She has extensive experience as a group facilitator that includes 20 years experience working with nonprofit organizations in crisis counseling, advocacy and teaching. Between 1996 - 2002, she worked with CompassPoint Nonprofit Services providing organizational development consulting and training on a wide variety of topics including, "Advanced Problem Solving for Supervisors," "Communication and Conflict Resolution," "Employee Retention," and "Communication Styles."

Ms. Ramos-Chertok was selected to participate in the National Hispana Leadership Institute (NHLI) Year 2001 Fellowship Program, which prepares selected Latina women who have demonstrated leadership for positions of national influence and public policy impact. As part of the fellowship, she completed a weeklong session at the Center for Creative Leadership in their Leadership Development Program and a week at the JFK School of Public Policy at Harvard University. In 2008, Maria joined the training team of Rockwood Leadership Institute, a national leadership development organization dedicated to training social justice activists in cutting edge, state of the art transformational leadership.

12:15 p.m. – 1:30 p.m. CATERED LUNCH

1:30 p.m. – 2:30 p.m. **DFEH GAME SHOW: "CIVIL RIGHTS CHALLENGE!"**

DFEH Director Phyllis Cheng will host and present this interactive and entertaining DFEH Game Show styled presentation on **"Civil Rights Challenge!"** that will test the audience on everything anyone ever wanted to know about the California Department of Fair Employment and Housing and everyone's favorite statute, the California Fair Employment & Housing Act (FEHA). Topics to be covered will include little known facts and historical tidbits about the Department and the FEHA, how cases are investigated and prosecuted by the agency, spell binding statistics and hot trends on workplace discrimination claims, significant CA discrimination cases, and the very latest and greatest developments that are on the horizon.



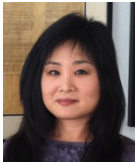
Phyllis Cheng was appointed and unanimously confirmed by the Senate as the Director of the California Department of Fair Employment and Housing (DFEH) in 2008. She heads the largest state civil rights agency in the nation, which receives, investigates, conciliates, mediates and prosecutes discrimination complaints against employers, housing providers and businesses, and enforces the Fair Employment and Housing Act, Unruh Civil Rights Act, Disabled Persons Act and Ralph Civil Rights Act. Under her direction, the DFEH has transformed into a proactive and innovative agency that re-established a special unit to investigate systemic discrimination claims; achieved a multi-million dollar class action settlement on family leave; launched a new attorney-staffed mediation division for out-of-court settlements; sponsored legislation and promulgated inaugural procedural regulations; conducted outreach to hundreds of communities statewide; introduced resources to educate the public on civil rights compliance; and developed partnerships with law schools, universities and colleges to train future civil rights lawyers and investigators. In recognition of her dedication and contribution to public service, Ms. Cheng will be named **"2012 Public Lawyer of the Year"** by the State Bar of California at its annual conference in Monterey this fall.

Ms. Cheng was formerly of counsel at Littler Mendelson, where she represented management clients and as an associate at Hadsell & Stormer, she represented plaintiffs in employment litigation. She was a senior appellate attorney to the Honorable Laurie D. Zelon, Associate Justice of the California Court of Appeal. She also served as deputy attorney general in the Civil Rights Enforcement Section of the CA Department of Justice. She was a two-term member of the Fair Employment and Housing Commission where she served as Vice Chair, and the Regulations Committee Chair, and ruled on nearly 80 administrative decisions. Her published appellate court decisions include: *Colmenares v. Braemar Country Club, Inc.* (2003) 29 Cal.4th 1019 (broader definition of "physical disability" under California's FEHA is broader than Americans with Disabilities Act); and *Fair Empl. & Hous. Com. v. Super. Court* (Las Brisas Apartment, Ltd. Partnership) (2004) 115 Cal.App.4th 629 (30-day statute of limitations under Government Code section 11523 applies to writ of administrative mandate actions challenging FEHC decisions). Ms. Cheng edited the California Labor & Employment Law Review and the Public Law Journal, is an editor of two chapters of Employment Litigation (The Rutter Group California Practice Guide, 2009-current editions) and a chapter contributor to an upcoming California Fair Housing and Public Accommodations Practice Guide (The Rutter Group, California Practice Guide), authors a regular column on cases pending before the CA Supreme Court, and a free case alert service on labor and employment law decisions read by thousands of practitioners. Ms. Cheng received her B.A. and M.Ed. from UCLA, Ph.D. from USC, where she was a James Irvine Fellow, and J.D. from Southwestern University School of Law.

2:30 p.m. – 2:45 p.m. Q & A - BREAK

2:45 p.m. – 3:45 p.m. INVESTIGATING EMPLOYEE DISABILITY DISCRIMINATION AND FAILURE TO ACCOMMODATE COMPLAINTS

Disability discrimination claims are the most prevalent of all EEO complaints filed with the EEOC, with a record breaking 75% spike in the past decade, so the stakes are high for employers who fail to address employees' requests for accommodations or to properly investigate complaints of disability discrimination. Jane Kow, a disability law expert, will draw from her wealth of experience as an employment advisor to companies and workplace investigator to provide guidance on how to address and investigate employee complaints of disability discrimination, which present unique challenges for the workplace investigator. Ms. Kow will provide a set of best practices on how to avoid common employer mistakes like failing to recognize a "request" for an accommodation, not engaging in an "interactive dialogue" with an employee with a disability, and treating the employee "just like everyone else" to avoid the appearance of favoritism. She will also show how to properly investigate complaints of denial of reasonable accommodations, without invading employee medical privacy rights, while obtaining critical information about the employee's work limitations and determine whether the employer engaged in an "interactive process" in good faith. Learn how to detangle employees' attendance, performance and misconduct issues from disability related limitations, and understand how to document these issues to withstand scrutiny by an investigator, and ultimately, a judge or jury at trial.



Jane Kow, founder of HR Law Consultants, leading California disability law expert and workplace investigator, is an employment lawyer who specializes in providing employers with advice, consulting and training on all aspects of employee relations. She focuses on helping employers develop and implement sound personnel policies and practices to effectively reduce the risk of litigation. She provides customized training for clients on a variety of topics, including sexual harassment prevention, managing employee medical leaves and disability accommodations requests, and compliance with wage and hour laws. She has extensive experience conducting workplace investigations and provides customized training on how to conduct effective workplace investigations. Jane Kow has been retained as a management practices expert in disability discrimination cases to opine on employers' obligations to provide reasonable workplace accommodations and best practices to prevent disability discrimination in the workplace.

Jane Kow graduated from Cornell University in 1984 and New York University School of Law in 1993. Before starting her firm, Ms. Kow practiced employment law and litigation at leading California and national law firms, and served as the sole employment lawyer and Senior Counsel at a company with 75 locations worldwide. She has advised and represented companies of all sizes and across industries in employment litigation. She was an early contributor to the California Practice Guide on Employment Litigation, published by the Rutter Group, used by judges and lawyers throughout California. Jane Kow has taught "Employment Law" at the University of California at Berkeley and "Legal Issues of Supervision" at San Jose State University. She regularly speaks at the Disability Management Employers Coalition chapter meetings in Northern California, California Judicial Council/Administrative Office of the Courts ADA/Access Coordinators Conference, the EEOC Annual Conference, and the HR West Annual Conference on both providing reasonable accommodations for employees with disabilities and conducting effective workplace investigations.

3:45 p.m. – 4:00 p.m. Q & A - BREAK

4:00 p.m. – 5:00 p.m. JOB DESCRIPTIONS AS A TOOL FOR DETERMINING EMPLOYEES' QUALIFICATIONS, EXEMPT STATUS & WORKPLACE ACCOMMODATIONS

Roberta Etcheverry will draw from over 20 years of experience as a workplace consultant to provide a step-by-step approach to developing accurate and detailed job descriptions that can be used to: 1) effectively recruit, hire and evaluate employees; 2) determine essential job functions as part of the reasonable accommodations process for employees with disabilities and medical conditions; and 3) determine whether an employee should be classified as exempt or non-exempt from overtime and other pay obligations. Ms. Etcheverry will provide guidance on how to succinctly describe employees' essential job functions and the degree of independent judgment and discretion exercised in order to determine proper classification of workers. She will present examples of which job duties would and would not qualify under each exempt category, which will enable legal counsel to make critical decisions about employees' exempt status and avoid common misclassification mistakes. A well crafted job description containing clearly written essential job functions will also help an employer determine whether an employee with a disability can be provided with a reasonable accommodation once they can no longer perform their job functions.



Roberta Etcheverry, a renowned workplace consultant and expert on how to prepare effective job descriptions is CEO of Diversified Management Group (DMG), a statewide network of consultants who train and assist employers on workplace ergonomics, job descriptions, essential job functions, and job accommodations for employees with injuries and disabilities. Ms. Etcheverry has over 20 years experience providing employers with detailed job descriptions that include an analysis of essential job functions and job qualifications for both wage and hour audits and disability accommodations. She trains employers on how to use federal and state guidelines to determine essential job functions, and has been a trainer at the EEOC Annual Conference. She provides guidance to employers on how to craft job descriptions to be used in phases of employment, including hiring, performance management, job accommodations, and classification of exempt and non-exempt employees. She has analyzed job positions for Kaiser Permanente, Whole Foods Market, Ghirardelli Chocolates, American Airlines, Pacific Gas & Electric, and numerous other public and private organizations.

Ms. Etcheverry attended West Point and Stanford University and is certified as a Professional in Disability Management (CPDM). She was a key contributor to the State of California Return to Work Guide (2010) in collaboration with the Commission on Health, Safety and Workers' Compensation and served as a moderator for a panel presentation on Return-to-Work at the International Forum on Disability Management in September 2010. Ms. Etcheverry is an active member of the California Consortium Promoting Stay-at-Work/Return-to-Work (www.CASAWRTW.org), Northern California Human Resources Association, Society for Human Resource Managers, Public Agency Risk Management Association, and Small Business California.

5:00 p.m. – 5:15 p.m. CONFERENCE CLOSING REMARKS

5:30 p.m. – 7:30 p.m. NETWORKING RECEPTION WITH SPONSORS, EXHIBITORS AND ATTENDEES AND RAFFLE

2012 HR LAW CONSULTANTS CONFERENCE SPONSORS

HR LAW CONSULTANTS

HR LAW CONSULTANTS is an employment law and human resources consulting firm that specializes in providing legal advice, consulting, and training to companies throughout California on all aspects and phases of the employment relationship, from hiring, promotions, pay practices to termination of employees. Jane Kow, the founder, is a seasoned employment lawyer and workplace disability expert, who is routinely retained as an expert witness where the employer's practices and the adequacy of preventative and corrective measures have been at stake in the lawsuit. The firm's services include:

- Day-to-day legal advice and counseling to HR departments on all facets of personnel policies and practices, including reasonable accommodations for employees with disabilities
- Training on all facets of workplace laws, including sexual harassment prevention, reasonable accommodations for employees with disabilities, conducting workplace investigations, documentation practices for managers
- Guidance to companies on how to conduct internal audits of workplace policies and pay practices to determine whether employees have been properly classified as exempt or non-exempt
- Independent workplace investigations into employee complaints of discrimination, harassment and retaliation
- Representation of employers in administrative agency proceedings before the Equal Employment Opportunity Commission (EEOC), CA Department of Fair Employment & Housing (DFEH), Department of Labor (DOL), CA Labor Commissioner/Department of Labor Standards Enforcement (DLSE), and the CA Employment Development Department (EDD).

Contact: Jane Kow, Esq. | Email: JaneKow@HRLawConsultants.com | Telephone: (415) 567-0367 | www.HRLawConsultants.com.



DIVERSIFIED MANAGEMENT GROUP (DMG) provides on-site services to employers throughout California and nationally. Roberta Etcheverry, CEO brings a depth of knowledge and experience to her work, and over the last 20 years has worked with employers to assist them with regulatory compliance and best practices related to job analysis and job accommodations. DMG provides services for:

- **Job Analysis:** Accurate and up-to-date job descriptions provide employers with the information needed to make key employment decisions, forming the essential building blocks to enable the employer to effectively hire and communicate expectations to new employees, evaluate performance, comply with disability and workers' compensation laws, and properly classify positions as exempt or non-exempt.
- **Consulting:** DMG assists employers with navigating through a variety of complex employment issues including ergonomics, reasonable accommodation and interactive process facilitation and documentation; transitional work program development, and expert testimony and consulting on job accommodation policies and practices.
- **Customized Training:** DMG creates and delivers custom training programs to human resources, risk, and disability management professionals, distilling years of experience in a way that provides employers with a broader perspective and understanding of best practices.

Contact: Roberta Etcheverry | CEO | Email: RobertaE@DMG-At-Work.com | Telephone: (800) 746-4364 ext. 105 | <http://DMG-At-Work.com>.



ALLIANT CREDIT UNION, founded in 1935, is a member-owned financial cooperative that provides exclusive At Work financial wellness benefits to employees of select business affiliates. Benefits may also be extended to family members and domestic partners. As the nation's 6th largest credit union, we have over \$8 billion in assets and proudly serve more than 280,000 members nationwide. As a testament to our exceptional customer service, we are also a leader in member advocacy with an outstanding 96% satisfaction rating.

- No partnership fee
- No ongoing program costs
- Easy rollout & maintenance
- Dedicated Alliant Relationship Manager

Contact: Jeff Gonzales | National Account Executive | Email: JGonzales@AlliantCreditUnion.com | Telephone: (800) 328-1935 ext. 8616 | www.AlliantCreditUnion.org.