

National Academy of Arbitrators

2017 Annual Meeting

May 24 - 27, 2017

Chicago, IL

THE NEW WORLD OF WORK



Fairmont Chicago, Millennium Park

200 North Columbus Drive

Chicago, IL

Program as of April 7, 2017

THE HOTEL

The Fairmont Chicago, Millennium Park is located at 200 North Columbus Drive, Chicago, IL 60601. **The Academy's block of guest rooms at a special conference rate of \$199 (U.S.) for a standard single/double room is limited; rooms in our block will be available until April 10, 2017 or until our block is sold out, whichever occurs first. Attendees will be eligible for the conference rate of \$199 (U.S.) for a standard single/double room only as long as rooms in the Academy's room block remain available.** Room reservations may be made by calling the Fairmont Chicago, Millennium Park at 312-565-8000. **Please make certain that your reservation is assigned to the National Academy of Arbitrators' room block.** Contact the hotel directly for information on suites. Each room reservation must be guaranteed by a first night's deposit either by check or a credit card acceptable to the Fairmont Chicago, Millennium Park.

MEETING REGISTRATION

Each registration includes one non-transferable registrant ticket for the following events: Wednesday Wine and Cheese Reception, Thursday Luncheon, Friday Luncheon, and Friday Dinner. Tickets are available at an additional cost for spouse/companions/partners to attend all ticketed events. Spouse/Companions/Partners tickets are transferable. Tickets will be collected for all meal events.

Please return the enclosed registration form or register on the NAA Website, www.naarb.org at your earliest convenience.

REGISTRATION FEE SCHEDULE:

Registration Fees Paid and Postmarked March 6 – May 1, 2017:

Advocacy Training Program Only	\$270
Annual Meeting Only	\$675
Advocacy Training & Annual Meeting Combo	\$889

Registration Fees Paid or Postmarked after May 1, 2017:

Advocacy Training Program Only	\$285
Annual Meeting Only	\$750
Advocacy Training & Annual Meeting Combo	\$989

Payment must accompany registration. Only those registrants whose full registration fees have been received at the NAA Operations Center on or before May 1, 2017 will appear on the Participant List. No supplemental lists will be prepared.

Only cancellations received on or before May 1, 2017 will be guaranteed a refund of the meeting fees and/or an abatement of unpaid costs, minus a \$100 processing fee. Registrants who fail to attend will receive post-meeting invoices for their outstanding balances. Please Note: All fees are payable in U.S. Funds.

Tuesday, May 23, 2017

1:00 p.m. – 5:00 p.m. NAA Registration Desk

1:30 p.m. – 5:00 p.m. Board of Governors

1:30 p.m. – 5:00 p.m. Membership Committee

1:30 p.m. – 5:00 p.m. CPRG

Wednesday, May 24, 2017

8:00 a.m. – 5:00 p.m. NAA Registration Desk

7:30 a.m. – 12:00 p.m. New Member Orientation

8:30 a.m. – 5:00 p.m. Advocacy Training Program

8:30 a.m. – 5:00 p.m. Board of Governors

8:30 a.m. – 5:00 p.m. Membership Committee

8:30 a.m. – 5:00 p.m. CPRG

12:00 p.m. – 1:30 p.m. New Member Luncheon
(Invitation Only)

6:00 p.m. – 7:00 p.m. Wine & Cheese Reception

Thursday, May 25, 2017

8:00 a.m. – 5:00 p.m. **NAA Registration Desk**

8:30 a.m. – 9:00 a.m...... **Welcome and Introductory Remarks**

Margaret R. Brogan, NAA President <i>Philadelphia, PA</i>	Elizabeth Neumeier, NAA Chair Program Committee <i>Gloucester, MA</i>	Margo R. Newman, NAA Chair Host Committee <i>Toronto, ON</i>
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9:00 a.m. – 10:15 a.m. **Plenary 1**

THE EMERGING GIG ECONOMY: WHAT ARE THE RULES?

Does existing labor and employment legislation fulfill its mandate in the new economy? Is contract work really replacing traditional employment? This panel will discuss the implications of the emerging gig economy for unions, “employees,” employers, legislators and arbitrators.

Moderator:

Susan L. Stewart, NAA
Toronto, ON

Panelists:

Bernard Fishbein Chair Ontario Labour Relations Board	Richard F. Griffin, Jr., Esq. General Counsel National Labor Relations Board
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10:30 a.m. – 11:45 a.m...... **Plenary 2**

DISCIPLINE IN SPORTS

In professional sports, the management signatory to a collective bargaining agreement is often not the employer. In amateur sports, including the Olympics, athletes may have appeal rights under different sets of rules and may have their claims heard in arbitration. The structure of both amateur and professional sports results in many interesting issues when discipline is imposed.

Moderator:

George Nicolau, NAA
New York, NY

Panelists:

Thomas DePaso, Esq. General Counsel, Legal NFL Players Association, AFL-CIO	Richard H. McLaren, NAA <i>London, ON</i>
Daniel Halem, Esq. Chief Legal Officer Major League Baseball	

Thursday, May 25, 2017 (Continued)

12:00 p.m. – 1:15 p.m. Distinguished Speaker Luncheon

Honorable David Weil, former Administrator of the Wage and Hour Division,
U.S. Department of Labor and currently Peter and Deborah Wexler Chair
of Management, Boston University Questrom School of Business

1:30 p.m. – 2:45 p.m. Concurrent Session 1A

INNOVATIONS IN REMEDIES

Back pay? Make whole? Are there other options? Under what circumstances and situations should non-traditional remedies be used? This workshop will examine emerging innovative remedies as seen in employment and international arbitration, and as exercised by the NLRB. In addition, a method of developing systematic remedies to address wide-scale discrimination and harassment in a large workplace will be discussed.

Moderators:

Chris Sullivan, NAA
Roberts Creek, BC

Maretta Comfort Toedt, NAA
Houston, TX

Panelists:

Christopher J. Albertyn, NAA
Toronto, ON

Arnold M. Zack, NAA
Boston, MA

Peter Sung Ohr, Esq.
Regional Director
NLRB
Chicago, IL

1:30 p.m. – 2:45 p.m. Concurrent Session 1B

**THE HOTTEST TOPIC: CIVILITY IN THE
WORKPLACE AND ARBITRATION**

Panelists:

TBA

Thursday, May 25, 2017 (Continued)

1:30 p.m. – 2:45 p.m. Concurrent Session 1C

POSTAL SERVICE CURRENT ISSUES

The panel will examine changes within the respective unions and their newly negotiated National Agreements, including any changes in grievance and arbitration procedures. The panel will also address the outlook of the Postal Service: new and technological changes; whether the decline in mail volume has stabilized; and whether the increase in packaging sales and deliveries has had a major impact on the Postal Service's revenue, as well as other topics of interest to the parties.

Moderator:

Ruben R. Armendariz, NAA
San Antonio, TX

Panelists:

Lew Drass
Vice President
NALC, AFL-CIO

Mike Mlakar
Manager, Field Labor Relations
USPS

Joey Johnson
NRLCA

Sharyn Stone
Central Regional Coordinator
APWU, AFL-CIO

3:00 p.m. – 4:15 p.m. Concurrent Session 2A

DISTINGUISHED PAPERS

Moderator:

Homer C. La Rue, NAA
Columbia, MD

Labor Law, Unions and the Gig Economy: Is Co-existence Possible?

William B. Gould, IV, NAA
Stanford, CA

“Med-Arb in Labor Relations”

Joshua M. Javits, NAA
Washington, DC

Thursday, May 25, 2017 (Continued)

3:00 p.m. – 4:15 p.m. Concurrent Session 2B

**DESIGNATING AGENCIES REPORT:
A LOOK BACK AND A LOOK AHEAD**

The heads of arbitration services at the 3 US designating Agencies (AAA, FMCS and NMB) that provide panels and direct appointments of arbitrators to the parties will discuss their agencies' relevant activities, changes, statistics and expectations.

Moderator:

Jacalyn J. Zimmerman, NAA
Lake Bluff, IL

Panelists:

Christine L. Newhall
Senior Vice President
AAA

Roland Watkins
Director
Office of Arbitration Services
NMB

Arthur Pearlstein
Director of Arbitration
FMCS

3:00 p.m. – 4:15 p.m. Concurrent Session 2C

**CANADA - HUMAN RIGHTS CLAIMS - DIFFERENT FORUM,
DIFFERENT OUTCOMES?**

Professor Malin will present the final results of a joint project, conducted with Professor Jon Werner, Chair of the Management Department at the University of Wisconsin-Whitewater and Professor Sara Slinn from Osgoode Hall Law School, York University, Toronto with the support of the NAA Research and Education Foundation, on the outcomes in human rights matters when heard by an arbitrator versus the Ontario Human Rights Tribunal. What are the implications for grievors, the parties and arbitrators? Does the forum make a difference? Should it?

Moderator:

Randi Hammer Abramsky, NAA
Toronto, ON

Panelist:

Martin H. Malin, NAA
Chicago, IL

4:30 p.m. – 5:30 p.m. Committee Meetings TBA

Friday, May 26, 2017

8:00 a.m. – 5:00 p.m.NAA Registration Desk

9:00 a.m. – 10:15 a.m. Plenary 3

**LAW ENFORCEMENT LABOR RELATIONS AND ARBITRATION
AND 21ST CENTURY POLICING**

Arbitration of police discipline is much in the news. Difficult issues also arise about the role of interest arbitration, particularly with departments undergoing DOJ review or subject to DOJ consent decrees. Union and Management advocates employ traditional standards for evaluating law enforcement officer conduct and when arbitrating bargaining impasses. But do these standards align with the views and perceptions of the citizenry and should that matter? These and related issues will be explored by the panel.

Moderator:

Martin H. Malin, NAA
Chicago, IL

Panelists:

David A. Johnson, Esq.
Franczek Radelet, PC

Sean M. Smoot, Esq.
Chief Legal Counsel
IL Police Benevolent and
Protective Association

Tracey L. Meares
Walton Hale Hamilton Professor of Law
Yale Law School

Alan Symonette, NAA
Philadelphia, PA

Friday, May 26, 2017(Continued)

10:30 a.m. – 11:45 a.m.Plenary 4

**CAMERAS AROUND EVERY CORNER, COMPUTERS
EVERYWHERE: AMERICAN AND CANADIAN PERSPECTIVES ON
EMPLOYEE PRIVACY, AT WORK AND AT PLAY, IN 2017**

How much privacy should an employee reasonably expect, when surveillance and monitoring are so present in the workplace -- and outside of it? Are there limits on how employers may use cameras in the workplace? When can an employer monitor an employee's Facebook and other social media posts, cell phone records, or recorded conversations? Should limits and protections be placed on the use of this evidence in arbitration? American and Canadian advocates and arbitrators discuss these questions through timely scenarios about employee privacy.

Moderators:

Jules Bloch, NAA
Toronto, ON

Jeanne M. Vonhof, NAA
Chicago, IL

Panelists:

Michael J. McAuley, Esq.
National Counsel
National Treasury Employees Union

Sally J. Scott, Esq.
Franczek Radelet, PC

Tom Moutsatsos, Esq.
Hicks Morley, LLP

Michael Wright, Esq.
Cavalluzzo Shilton McIntyre
Cornish, LLP

12:00 p.m. – 1:15 p.m. Presidential Luncheon

Introduction:

Barry Winograd, NAA
Oakland, CA and Philadelphia, PA

Speaker:

Margaret R. Brogan, NAA President
Philadelphia, PA and Oakland, CA

Friday, May 26, 2017(Continued)

1:30 p.m. – 2:45 p.m..... Concurrent Session 3A

**THROW OUT THE DEVIL AND DEAL WITH THE DETAILS IN
COMPLEX AIRLINE ARBITRATIONS**

The airline industry has more than its share of complex arbitrations involving such issues as seniority list integration, pilot flow-through agreements, scheduling and pay, training, new aircraft pay rates, interest arbitration and subcontracting/outsourcing. These high stakes cases often involve multiple parties and intertwined contract, statutory and regulatory provisions as well as practical considerations. They present special concerns in terms of organization and analysis. A panel of experienced experts will discuss the problems these cases present for parties and neutrals and some suggested solutions.

Moderator:

William McKee, NAA
Denton, TX

Panelists:

James E. Conway, NAA
Great Falls, VA

Joshua Javits, NAA
Washington, DC

Betty Ginsburg, Esq.
Director of Representation
Air Line Pilots Association
Washington, DC

Robert Siegel, Esq.
O'Melveny and Myers, LLP
Los Angeles, CA

1:30 p.m. – 2:45 p.m..... Concurrent Session 3B

LIGHTS, BODYCAMS, ACTION!

How and why body cameras are becoming a part of many law enforcement workplaces, and the policy concerns behind body cameras. The negotiability of body camera policies, and the types of issues likely to arise in bargaining over the implementation of policies. The science behind video evidence, why videos may not provide a complete or accurate account of an incident, and how best to evaluate video evidence.

Moderator:

James C. Oakley, NAA
St. John's, NF

Panelist:

Will Aitchison, Esq.
Public Safety Labor Group
Portland, OR

Friday, May 26, 2017(Continued)

1:30 p.m. – 2:45 p.m. Concurrent Session 3C

**THE IMPACT OF OUTSIDE LAW AND OUTSIDE PARTIES ON
DISCHARGE ARBITRATIONS**

The Nuclear Regulatory Commission’s regulations can impact discharge cases at nuclear power plants. The owner of a property (intermodal facility or office building) may “ban” an employee of a contractor from the property. A school district may “ban” a school bus driver employed by the busing contractor. What considerations come into play when reinstatement is warranted under the collective bargaining agreement?

Moderator:

Robert Perkovich, NAA
Chicago, IL

Panelists:

Russ Eisenstein, Esq.
Senior Attorney
Internal Revenue Service
Chicago, IL

Donn Meindertma
Conner & Winters, LLP
Washington, DC

Christopher Grant, Esq.
Schuchat, Cook and Werner
St. Louis, MO

3:00 p.m. – 4:15 p.m. Concurrent Session 4A

**LERA PRESENTATION: NO-POACHING AND INDEPENDENT
CONTRACTOR V. EMPLOYEE STATUS DISPUTES;
DEFINITION, ANALYSIS AND RESOLUTION**

Moderator:

Fredric R. Dichter, NAA
Vero Beach, FL

Panelist:

David Lewin

Neil H. Jacoby Professor Emeritus of Management, Human Resources and
Organizational Behavior, UCLA Anderson School of Management, Managing
Director and Head of the Labor and Employment Practice, Berkeley Research Group,
Labor and Employment Relations Association (LERA)

Friday, May 26, 2017(Continued)

3:00 p.m. – 4:15 p.m..... Concurrent Session 4B

E-DISCOVERY IN ARBITRATION: EMERGING ISSUES AND RECENT CASE STUDIES

This program will offer a primer on electronic discovery in employment arbitration, focusing on such issues as timely collection and preservation of relevant information and data, scope, and managing costs. Issues faced by Academy colleagues will also be highlighted and examined as case studies.

Moderator:

Mark L. Irvings, NAA
Brookline, MA

Panelist:

Ashish Prasad, Esq.
Vice President and General Counsel
eTERA Consulting
Chicago, IL

4:30 p.m. – 5:30 p.m..... Committee Meetings TBA

6:30 p.m. – 7:30 p.m..... Reception

7:30 p.m..... Dinner

Saturday, May 27, 2017

8:30 a.m. – 3:00 p.m..... NAA Registration Desk

9:00 a.m. – 10:15 a.m..... Concurrent Session 5A

DO THE RIGHT THING

We all want to do the right thing. What is "right" is sometimes a question of professional responsibility, sometimes a question of compliance with the Code, sometimes a matter of best practices, and/or sometimes just a matter of common sense. Three past Chairs of the Committee on Professional Responsibility examine the bright lines and gray areas of arbitral ethics.

Panelists:

George R. Fleischli, NAA
Madison, WI

Edward B. Krinsky, NAA
Madison, WI

Paula Knopf, NAA
Toronto, ON

Saturday, May 27, 2017 (Continued)

9:00 a.m. – 10:15 a.m. Concurrent Session 5B

**SOCIAL MEDIA - THE LATEST CONCERNS IN THE WORKPLACE
OF TODAY AND THE FUTURE**

This interactive session will highlight social media concerns in today's workplace as well as the future. The panel will analyze the latest arbitration cases related to social media. On duty and off duty concerns with social media will be examined in the context of the emerging workforce. The panel will also discuss the latest changes and updates in social media which will prove timely to arbitrators.

Moderator:

Michelle Miller-Kotula, NAA
Washington, PA

Panelists:

William W. Lowe, NAA
Red Lion, PA

Mary Ellen Shea, NAA
Amherst, MA

10:30 a.m. – 12:00 p.m. Fireside Chat

Interviewee:

John Kagel, NAA
Palo Alto, CA

Interviewer:

J.F.W. Weatherill, NAA
Ottawa, ON

12:00 p.m. – 1:30 p.m. Lunch on Your Own

1:30 p.m. – 2:00 p.m. Member Recognitions

**Honorary Life Members, New Members and
25 & 40 Year Members**

**2:00 p.m. – 3:00 p.m. NAA Annual Business Meeting
(Members Only)**

3:00 p.m. Board of Governors

3:30 p.m. – 4:30 p.m. Committee Meetings TBA

**2017 COMMITTEE ON PROGRAM
ANNUAL MEETING**

Elizabeth Neumeier, *Chair*

Randi Hammer Abramsky	Robert Perkovich
Jules Bloch	Susan L. Stewart
Homer C. La Rue	Chris Sullivan
Martin H. Malin	Maretta Comfort Toedt
Michelle Miller-Kotula	Jeanne M. Vonhof
Robert B. Moberly	Barry Winograd
James C. Oakley	Jeanne Charles Wood

Louis L.C. Chang, *Ex Officio*
Walt De Treux, *Ex Officio*
Margo R. Newman, *Ex Officio*

2017 HOST COMMITTEE

ANNUAL MEETING

Margo R. Newman, *Chair*

Steven M. Bierig

Amedeo Greco

Barry E. Simon

John L. Stout

Jacalyn J. Zimmerman

David A. Petersen, *Ex Officio*

**2017 ADVOCACY CONTINUING
EDUCATION SUB-COMMITTEE**

Louis L.C. Chang, *Chair*

Michelle Miller-Kotula, *Chair Designate*

James Dorsey

Sharon Gallagher

Marsha Cox Kelliher

Joyce M. Klein

Lisa Salkovitz Kohn

Homer C. La Rue

George T. Roumell, Jr.

Plan to Attend

2017 Fall Education Conference

September 15 - 17, 2017

Four Seasons Miami

Miami, FL

2018 Annual Meeting

May 23 - 26, 2018

The Fairmont Hotel Vancouver

Vancouver, BC

2018 Fall Education Conference

October 26 - 28, 2018

Sheraton Austin Hotel at the Capitol

Austin, TX

