

FOSTER PEPPER

Is Your Workplace Ready  
for Washington State's New  
Employment Laws?

PRESENTATION MATERIALS  
May 15, 2018

FOSTER PEPPER PLLC  
1111 Third Avenue, Suite 3000  
Seattle, Washington 98101  
[www.foster.com](http://www.foster.com)

# Table of Contents

- Presentation
- Speaker Bios
  - Steven R. Peltin, Foster Pepper PLLC
  - Kelly A. Mennemeier, Foster Pepper PLLC
  - Andrea L. Bradford, Foster Pepper PLLC
  - Kerry Robinson, Foster Pepper PLLC

Presented by:

**FOSTER PEPPER**

FOSTER PEPPER



# Presentation

# IS YOUR WORKPLACE READY FOR WASHINGTON STATE'S NEW EMPLOYMENT LAWS?

May 15, 2018  
Employment & Labor Group Webinar

## PRESENTERS



Steven R. Peltin  
206.447.6215  
[steve.peltin@foster.com](mailto:steve.peltin@foster.com)



Kerry Robinson  
206.447.8986  
[kerry.robinson@foster.com](mailto:kerry.robinson@foster.com)



Kelly A. Mennemeier  
206.447.4694  
[kelly.mennemeier@foster.com](mailto:kelly.mennemeier@foster.com)



Andrea L. Bradford  
206.447.5906  
[andrea.bradford@foster.com](mailto:andrea.bradford@foster.com)

## Today's Program

- Significant recent developments (Peltin)
- New Washington state laws (Bradford, Mennemeier)
- Latest on harassment and #MeToo (Robinson)

## Significant Recent Developments



[Steven R. Peltin](#)  
steve.peltin@foster.com

## Federal Wage and Hour Developments

- DOL opinion letters
  - 3 issued
  - 17 reissued
- [New test for unpaid internships](#)
- Supreme Court: broader view of FLSA exemptions



## Wellness Regulations on Hold

- Wellness program
- EEOC supposed to issue revised rule by August
- March 30: EEOC no plans to revise
- No clear guidance



## NLRB Joint Employer Liability Settlement

- What is joint employment?
- December 2017 change
- McDonald's settlement – uncertainty remains



## Tax Reform Affects HR

- Eliminates deductions for sexual harassment settlements if nondisclosure agreement
- Eliminates deductions for employee parking and transit



Department of the Treasury  
**Internal Revenue Service**

## Fiduciary Rule in Flux

- Obama-era regulations impose heightened duties on investment advisers to employee plans
- U.S. Court of Appeals 5<sup>th</sup> Circuit: invalidates all
- U.S. Court of Appeals 10<sup>th</sup> Circuit: upholds some
- What now?



## Washington's New Employment Laws Effective June 7, 2018



[Kelly A. Mennemeier](#)  
kelly.mennemeier@foster.com



[Andrea L. Bradford](#)  
andrea.bradford@foster.com

House Bill 1506  
House Bill 2661  
Senate Bill 6313  
Senate Bill 5996  
House Bill 1298  
Senate Bill 6471

Before the *Equal Pay Opportunity Act*

- WA Equal Pay Act (1943)
- Federal Equal Pay Act (1963)



## Continuing Concerns Regarding Pay Inequality

- Today, in Washington:
  - A white woman earns 76.5 cents per dollar earned by a male counterpart
  - An African-American woman earns 61.1 cents per dollar
  - A Native American woman earns 59.8 cents per dollar
  - A Latina woman earns 46.3 cents per dollar

Source: National Women's Law Center, <https://nwlc.org/resources/wage-gap-state-state/>

## HB 1506 - Equal Pay Opportunity Act

- Equal pay requirements; pay secrecy prohibition
  - Background – earlier iterations of Equal Pay Act
  - What the new law requires
  - Action items for employers

## What Does New *Equal Pay Opportunity Act* Require?

- When setting compensation, consider only bona fide job-related factors, such as:
  - Education, training, experience
  - Seniority system, merit system
  - System measuring earnings by quality/quantity of production
  - Regional differences in pay
- Ensure equal *advancement* opportunities
- Eliminate *pay secrecy policies*

## Compensation & Pay – Additional Considerations

- 9<sup>th</sup> Circuit Court of Appeals: use of salary history in hiring perpetuates gender pay inequality
  - Compensation should only be based on *job-related* factors:
    - Experience
    - Educational background
    - Ability
    - Prior job performance



## *Equal Pay Opportunity Act – Action Items*

- Review application forms
  - Remove questions about salary history
- Train HR, supervisors, staff making compensation decisions re: hiring, raises, bonuses
- Train HR & supervisors determining advancement opportunities
- Review policies, handbooks for compliance

## HB 2661 – Prohibition on Discrimination Against Survivors of Domestic Violence, Sexual Assault, Stalking

- What the new law requires
- Additional laws concerning survivors of domestic violence
- Action items for employers

## HB 2661 - Requirements

- Provide reasonable safety accommodations for survivors of domestic violence, sexual assault, stalking
  - E.g., transfer, modified schedule, installing locks, changing phone number and email address
- Prohibits discrimination or retaliation against survivors

## HB 2661 – Action Items

- Review employment policies for compliance
- Train HR and supervisors

## SB 6313 – Law Barring Mandatory Private Dispute Resolution

- What the new law requires
- Action items for employers

## SB 6313 Requirements

- Prohibits contract provisions that require an employee to waive rights to:
  - Publicly pursue a discrimination claim in state or federal court
  - File a discrimination complaint with a federal or state agency

## SB 6313 – Action Items

- Review agreements and policies for compliance



## [SB 5996](#) – Workplace Sexual Harassment & Assault – Nondisclosure Agreements

- SB 5996 – requirements
- Action items



## SB 5996 Requirements

- Prohibits requiring employee to sign NDA:
  - as a condition of employment . . .
  - if it prevents employee from disclosing sexual harassment or assault

## SB 5996 Requirements

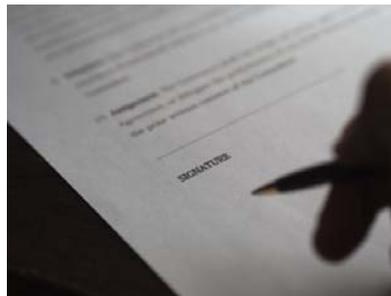
- Settlement agreements re: sexual harassment may still contain confidentiality provisions
- Does not apply to:
  - HR staff, supervisors, managers expected to maintain confidentiality
  - Individuals asked to maintain confidentiality during ongoing investigation into alleged sexual harassment

## SB 5996 Requirements

- Unfair employment practice to
  - discharge/retaliate
  - for employee's discussion/disclosure
  - of workplace sexual harassment/assault

## SB 5996 – Action Items

- Add these new requirements to training of workforce, supervisors
- Review agreements and policies



## [HB 1298](#) - Fair Chance Act

### Limitations on use of criminal record information

- Background – before the *Fair Chance Act*
- What the new law requires
- Action items for employers



## Before *Fair Chance Act*

- Seattle “Ban the Box” ordinance (2013)
- EEOC disparate impact guidance



## What Does the *Fair Chance Act* Require?

- *What can/can't employers consider?*
  - *Employers may not consider information about criminal convictions, juvenile cases, or arrests until after the employer determines the candidate is qualified*
  - *After determination that employee is qualified, may obtain criminal record information*



## *Fair Chance Act* - Exemptions

- Restrictions do not apply to:
  - Employers hiring persons who may have unsupervised access to children under the age of eighteen, vulnerable adults or persons
  - Employers expressly permitted or required under any federal or state law to inquire into criminal records
  - Law enforcement agencies
  - An employer seeking a nonemployee volunteer
  - Any entity required to comply with the SEC rules or regulations

## *Fair Chance Act - Enforcement*

- Attorney General enforces, no private right of action
- Authority to issue rules, pursue administrative actions, impose sanctions, attorneys' fees



## *Fair Chance Act – Action Items*

- Review job postings & application forms
  - No statements excluding all candidates with criminal records
  - Remove questions about arrests, convictions
- Train HR, supervisors, staff conducting interviews
- Review positions for exemptions
- Review policies, handbooks for consistency with FCA

## [SB 6471](#)

- Requires the Human Rights Commission to convene a work group to develop model policies and best practices
- Work group will consider:
  - How to create and protect anonymous reporting channels
  - How to ensure human resource departments HR is accountable for enforcing sexual harassment policies, aiding victims of sexual harassment, and encouraging victims to speak up
  - Protecting complainants and observers from retaliation
  - The use of exit surveys to identify the reason employees leave the workplace and to enhance working conditions to promote retention and an inclusive environment;
  - The use of employee engagement surveys that contain questions regarding sexual harassment prevention;
  - Emphasizing inclusion and sexual harassment prevention through employee orientations
  - Requiring training for all employees in a classroom environment.



## SB 6471 – Action Items

- For those interested, [join work group](#)
- Look for work group's model policies posted on agency website (2019)

# Latest on harassment and #MeToo



[Kerry Robinson](#)  
kerry.robinson@foster.com

## Workplace Sexual Harassment - Preventive Steps to Consider Right Now

- Sexual Harassment
  - In the news
  - In the polls
  - At the legislative level
  - In the workplace

## Recent Developments

- **Cascade of recent allegations** by high-profile execs/leaders – entertainment, government, media, technology, other industries
- **Social media movement** for victims to share their experiences
- **Quick reactions** – terminations, litigation
- **Non-Disclosure Agreements (NDAs) under fire**
- **State and federal legislative changes**

## Nearly Half of U.S. Working Women Say “Me Too”

- 48% of currently employed women in the U.S. say they have personally experienced an unwelcome sexual advance, or verbal or physical harassment at work
- 67% of Americans believe that sexual harassment happens in most or almost most workplaces
- 8 in 10 women say they are **now** more likely to speak out

Source: October 2017 *NBC News/Wall Street Journal Poll*

## Male Workers Weigh In

- 62% of men say that sexual harassment is widespread
- 41% of currently employed men say they have personally witnessed the mistreatment of women in the workplace
- 44% of men say recent stories about sexual harassment have changed their views about how women are treated

Source: October 2017 *NBC News/Wall Street Journal Poll*

## Private Suits and Demands on the Rise

- EEOC filings for sexual harassment have not increased recently
- But private lawsuits and demand letters are on the rise

Source: U.S. EEOC Acting Chair, Victoria Lipnic, SHRM  
Employment Law & Legislative Conference, 3/13/18

## *Me Too/Times Up* Movements Gain Traction

- *TIME'S UP* Legal Defense Fund
  - \$21 Million raised
    - In two months
    - By nearly 20,000 contributors
    - Donations escalating

## New Sexual Harassment Legislation on the Rise

- Federal: Ending Forced Arbitration of Sexual Harassment Act
  - Bipartisan U.S. bill proposes to invalidate mandatory employment arbitration for gender-based harassment and discrimination claims
- State Legislation Across the Country
  - Increasing state legislative movements – NY, CA, NJ, others
  - WA State – New sexual harassment-focused laws taking effect June 7, 2018

## Workplace Sexual Harassment Has Evolved

- Need not be intentional or directed at particular person
- Eye of the beholder – “reasonable person” standard
- Failure to complain is NOT consent
- Victims can be men or women; offenders can be women or men; there can be same-gender harassment
- Offenders need not be supervisors; co-workers and **non-employees** can harass

## What Defenses Are Available to Employers?

- **None** – if manager or supervisor engages in Quid Pro Quo
- **Available depending on facts** – if the employer
  - Had in place adequate discrimination/harassment-prevention policies and complaint procedures; and
  - Conducted updated, company-wide trainings; and
  - Did not know, and could not have known, of the harassment; and
  - Took reasonable, prompt, adequate steps to prevent further harassment once the issue was raised

## Sexual Harassment Prevention – Top 8

1. Develop policies/procedures to prevent sexual and other forms of workplace harassment
2. Create a clear, accessible complaint mechanism
3. Communicate and enforce the policies, procedures
4. Train the workforce – top to bottom
5. Investigate complaints/concerns – promptly, impartially, thoroughly
6. Take prompt, effective remedial action; document
7. Protect against retaliation
8. Monitor the workplace

## Develop/Update Policies

- Clear prohibition against discrimination and harassment
- Specific attention to sexual harassment
- Reporting/complaint procedure
  - Employee duty to report (must, should, may?)
  - “Report To” Team (thoughtful range of report-to options)
  - Confidentiality – what it is and isn’t
- Non-reprisal commitment
- Consider
  - Limited personal/romantic relationships policy
  - Ensuring respectful workplace policy
  - Harassment-prevention language for vendor and other contracts

## The Value of Preventive Trainings

- Liability defense: appropriate training can mean the difference between a defensible claim versus strict liability for some conduct of a supervisor+
- Training is more affordable than litigation
- Healthy, informed workplace
- Insurance incentives: some insurance carriers provide incentives to train – in the form of discounts and training cost reimbursement

## Update Training Practices

- Train by groups – use care in grouping – **start at top**
- Customize training for “Report To” team
- Train the Board
- Document attendance – and retain records
- Evaluate “mandatory” designation – pros/cons
- Determine frequency cycle
- Ensure quality content – usually discoverable

## Ensure the Basics of a Good Investigation

- Impartial, trained investigator
- Issues of privilege/waiver considered at outset
- Prompt, thorough, unbiased
- Well-documented
- Establishes facts – not conclusions
- Confidentiality is protected – to extent possible
- Later, conclusions reached, results properly communicated
- Effective remedial action; protection from retaliation

## Take a Look Inward – Inventory the History

- Are there repeat situations? Analyze:
  - Off site events?
  - Company functions – meetings, parties, social events
  - What are the problem *common denominators*?
    - Alcohol at company functions? Worth the risk?
    - Repeat concerns in specific work groups? Certain people?
    - Repeat concerns under specific supervision/management?
    - Concerns re vendors, contractors, clients, others?
    - Social media considerations – what is the nexus?
  - What kind of policy/training/other steps would help?

## Key Preventive Steps to Take Now

- **Develop updated policies and procedures**
  - Be precise with policy action terms: must, should, may, can
  - Include a specific, detailed complaint mechanism - that works
  - Explain confidentiality goals and limits
  - Have a plan to communicate these policies/procedures
- **Train your workforce – top to bottom**
  - Update your training; group the trainings carefully; customize content; start at the top
  - Train the *Report-To* individuals
  - Set a training cycle; keep compliance documentation
  - Check potential insurance coverage/rebates for trainings

## Key Preventive Steps to Take Now

- **Investigate: promptly, impartially, thoroughly**
  - Apply care to **who** investigates – no amateurs – assess discoverability
  - Ensure: prompt, timely, impartial, unbiased, well-documented and thorough
- **Get ready for 6/7/18 WA legislative changes** re sexual harassment prevention
  - Evaluate your NDA and Arbitration Clause practices/policies
  - Evaluate any Arb provisions in your employment agreements/handbooks/other

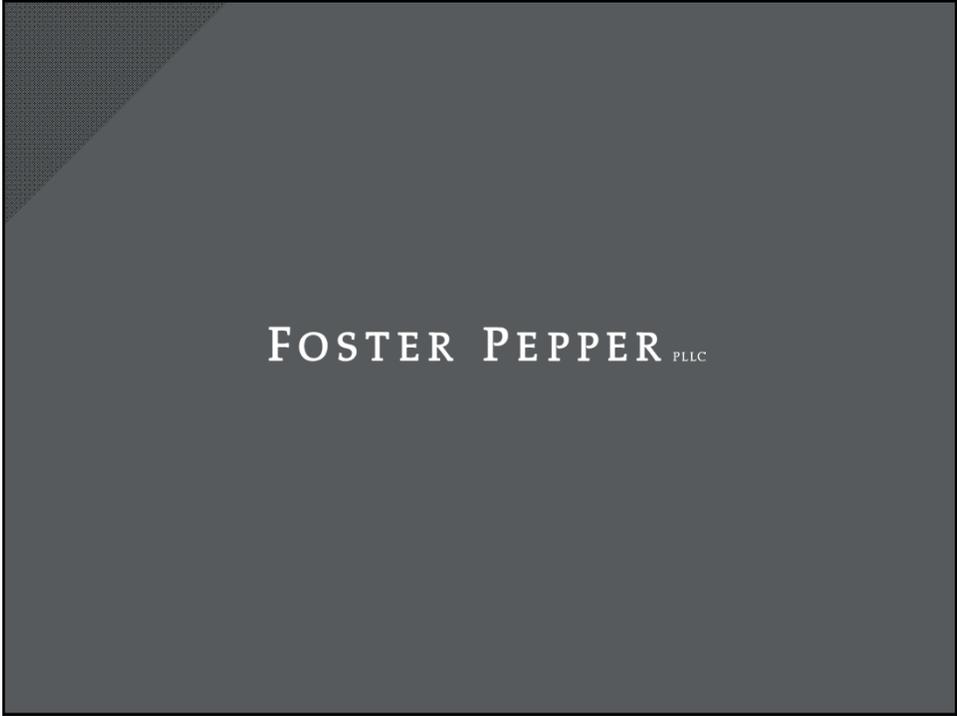
## Q&A Discussion

- Questions?



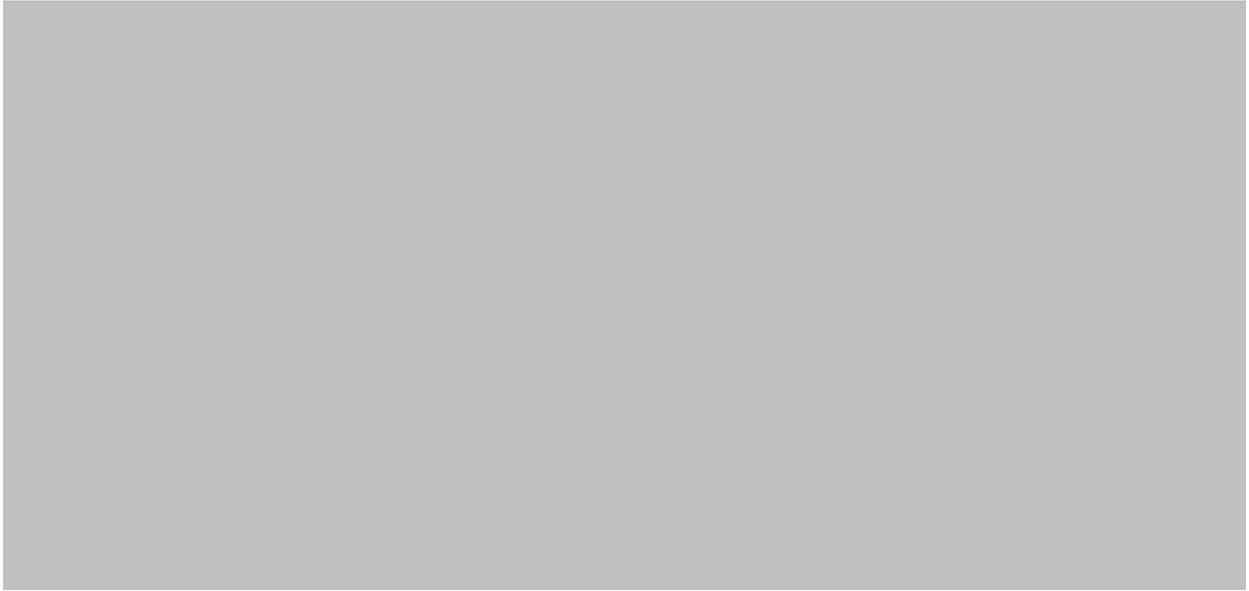
## Please Fill Out Evaluation Forms



The logo features a dark gray square with a thin black border. The top-left corner of the square is cut off by a diagonal line, creating a triangular area filled with a fine, light gray dot pattern. The text "FOSTER PEPPER" is centered in the square in a white, serif font, with "PLLC" in a smaller font size to the right.

FOSTER PEPPER<sup>PLLC</sup>

FOSTER PEPPER



# Speaker Bios

# Steven R. Peltin

**MEMBER**



## SEATTLE

T 206.447.6215

F 206.749.2094

[steve.peltin@foster.com](mailto:steve.peltin@foster.com)

## SERVICES

Business (Chair)

Employment & Labor  
(Chair)

Financial Institutions

Litigation & Dispute  
Resolution

Nonprofit & Tax-Exempt  
Organizations

## PRACTICE OVERVIEW

Steve chairs the firm's Business and Employment & Labor practices. His work covers the gamut of employment and labor law. His advice practice is dedicated to helping employers solve problems such as employee discipline and discharge, leaves of absence, discrimination and harassment claims, and threats of employee violence. Steve enhances employee handbooks and prepares and negotiates employment, confidentiality and non-compete agreements. He also counsels executives and professionals on employment and separation agreements, and assists with corporate transactions such as purchases and sales of businesses.

Steve has extensive litigation experience and represents public and private employers in lawsuits claiming discrimination, harassment, wrongful discharge and violations of wage and hour, employee benefits, trade secrets and non-compete obligations. He also appears before local, state and federal administrative agencies and arbitrators in employment and labor matters.

## REPRESENTATIVE WORK - Cases

- Won jury trial for an employer accused of age discrimination by laid-off union employee.
- Prevailed in hearing before the U.S. Department of Labor brought by a union business agent who claimed that the company conspired with the union to discharge him.
- Co-counsel in class action claiming pay for commuting in company vehicle; certification defeated and individual claim resolved promptly.
- Co-counsel for large employers in two U.S. Department of Labor collective actions claiming that employees worked off the clock; summary judgment obtained in one case, and the other settled favorably.
- Won summary judgment on discrimination / harassment claims for financial services companies.
- Obtained temporary restraining orders in two cases where employees refused to return computerized documents and information.
- Won summary judgment on sex bias claim by male employee of performing arts client.

Steven R. Peltin MEMBER

SEATTLE T 206.447.6215 F 206.749.2094 [steve.peltin@foster.com](mailto:steve.peltin@foster.com)

---

- Convinced OSHA that a safety whistleblower on a construction site was not subject to a hostile work environment.
- Obtained anti-harassment orders against former employees. Defended company in ERISA cases brought by former executive seeking payments under a Supplemental Executive Retirement Plan and by pension funds seeking payment of withdrawal liability.

## REPRESENTATIVE WORK – Transactions

- Employment and labor counsel in sales of business, including due diligence drafting of purchase agreement language, preparation of offer letters, executive employment agreements and employee communications.
- Assistance to client in reductions in force.
- Counseling of clients facing threat of workplace violence.
- Creation of documentation for background investigations, hiring, leaves of absence, requests for disability accommodation, last chance agreement and severance agreements.
- Preparation of policies such as travel pay, use of cell phones and social media.
- Management training on employment law topics, including avoiding harassment and discrimination, performance management and hiring.

## RECOGNITION

- *The Best Lawyers in America*®
  - + Labor Law – Management, 2012-2018
  - + Litigation – Labor & Employment, 2013-2018
- Best in the Business: Leading Lawyers in the Puget Sound Region, *Seattle Business* magazine
  - + Labor – Management, 2013
  - + Litigation – Labor & Employment, 2013

## ACTIVITIES

- Seattle Theatre Group
  - + Board of Directors
- University Preparatory Academy
  - + Board of Directors, 2011-2012
  - + Chair of Personnel Committee, 2011-2012

## QUOTED

- [“Overseeing the CEO: Part 5 in a Series,”](#) Quoted in CUToday.info, September 2017
- [“Court Overturns Loan Officer Overtime Ruling in ‘Win’ for MBA,”](#) Quoted in *Reverse Mortgage Daily*, July 2013
- [“‘In Person’ Feature - Best Practices for Employers to Comply with the City of Seattle’s Paid Sick and Safe Time Ordinance,”](#) Interviewed in *Puget Sound Business Journal* - November 2012
- [“It’s Not Just Paid Time Off – It’s the Law: Attorneys explain what Seattle’s new sick leave ordinance means for employers,”](#) Quoted in *Puget Sound Business Journal* - September 2011
- “Your Office Away from the Office,” Quoted in *Utah CEO Magazine*
- “Keeping violent employees out of the workplace,” Quoted in *Risk Management* magazine
- “10 Considerations in Developing Telecommuting Policies and Agreements,” Quoted in HR.COM

Steven R. Peltin MEMBER

SEATTLE T 206.447.6215 F 206.749.2094 [steve.peltin@foster.com](mailto:steve.peltin@foster.com)

---

## PUBLICATIONS

- [“U.S. Department of Labor Issues New Guidelines for For-Profit Corporate Internship Programs,”](#) Co-author, Foster Pepper News Alert, February 2018
- [“Family and Medical Leave Guide for Washington Employers,”](#) Author, July 2017
- [“Department of Labor Targets Use of Independent Contractors,”](#) Author, Foster Pepper News Alert, July 2015
- [“NLRB: Employers Cannot Ban Employees from Using Company’s Email System for Union-Related Communications,”](#) Co-Author, Foster Pepper News Alert, December 2014
- [“Paralegal Students Must Be Paid for Practical Job Experience at Law Firms,”](#) Author, Foster Pepper News Alert, December 2014
- [“Washington Supreme Court Recognizes Joint Employer Liability Under the Washington Minimum Wage Act,”](#) Author, Foster Pepper News Alert, August 2014
- [“Seattle Police Officer Claims Hostile Working Environment After Refusing to Hand Out Doritos at Marijuana Festival,”](#) Author, Foster Pepper News Alert, February 2014
- [“Are Payroll Debit Cards Right for Your Organization?”](#) Author, Foster Pepper News Alert, November 2013
- [“Is BYOD Right for Your Workplace?”](#) Author, Foster Pepper News Alert, September 2013
- [“Employers Should Confront Threats of Workplace Violence,”](#) Author, Foster Pepper News Alert, August 2013
- [“Many Employers Out of Compliance with Seattle Sick and Safe Leave Ordinance,”](#) Author, Foster Pepper News Alert, July 2013
- [“New Decision Continues Uncertainty Over Exempt Status of Mortgage Loan Officers,”](#) Author, Foster Pepper News Alert, July 2013
- [“The Seattle Office for Civil Rights Clarifies its Interpretation of ‘Occasional Employee,’”](#) Author, Foster Pepper News Alert, November 2012
- [“#1 Again: Washington State Raises Minimum Wage for 2013,”](#) Author, Foster Pepper News Alert, November 2012
- [“Employee or Independent Contractor? Washington Supreme Court Changes the Rules – Part Two,”](#) Author, Foster Pepper News Alert, July 2012
- [“Employee or Independent Contractor? Washington Supreme Court Changes the Rules,”](#) Author, Foster Pepper News Alert, July 2012
- “Effective Negotiation of Executive Employment Agreements,” Author, *Inside the Minds: Negotiating and Employment Agreements, Leading Lawyers on Constructing Effective Employment Contracts*, 2012 Edition
- “Employers: Beware of High School Diploma Requirements,” Author, *WIB HR & Training Digest*, February 2012
- [“Can’t I Require a Job Applicant to Have a High School Diploma?”](#) Author, Foster Pepper News Alert, January 2012
- [“Hidden Threats – There are steps you can take to prevent violence in the workplace,”](#) Co-author, *Washington CEO* magazine
- [“Interns & Volunteers: Do We Really Have to Pay Them?”](#) Author, Foster Pepper News Alert, July 2011
- [“Letting Someone Else Dig for the Dirt: Hiring Vendors to Assist in Social Media Searches,”](#) Author, Foster Pepper News Alert, July 2011
- [“Some Things Don’t Have to Be in Writing: Supreme Court Protects Employees Against Retaliation After Making Verbal Complaints of Wage and Hour Violations,”](#) Author, Foster Pepper News Alert, March 2011
- [“Unsafe at Any Speed: Unauthorized Passengers in Employer-Owned Vehicles May Sue Employer for Driver’s Negligence,”](#) Author, Foster Pepper News Alert, February 2011
- “Bad Acts: Smaller Employers Should Confront Threats of On-The-Job Physical Assaults,” Author, *Washington Journal*
- “Telecommuting: Legal and Management Risks For Employers,” Author, *Corporate Counsel Magazine*
- “Reducing Telecommuting Management Risks,” Author, *National Underwriter* magazine
- “How To Reduce Workplace Violence,” Author, *National Underwriter* magazine

Steven R. Peltin MEMBER

SEATTLE T 206.447.6215 F 206.749.2094 [steve.peltin@foster.com](mailto:steve.peltin@foster.com)

---

- “50-State Survey of Employment Libel and Privacy Law, Washington Chapter,” Author, Media Law & Resource Center
- “Hiring Employees: Disability Questions and Medical Exams,” Author, *Realty & Building*

## PRESENTATIONS

- [“Symposium on Current Issues in Credit Union Board Governance,”](#) Speaker, Foster Pepper Client Briefing, September 2017
- [“Seattle Ordinances Affecting Employers – Hear From the City,”](#) Co-Speaker, Foster Pepper Client Briefing, May 2017
- “Reasonably Accommodating Employees with Disabilities: Fulfilling Legal Duties and Addressing Management Challenges,” Speaker, International Association of Venue Managers Region Conference, May 2017
- [“Top 3 Employment Law Issues That Should Keep You Up at Night,”](#) Speaker, Northwest Credit Union Association, MAXX Annual Convention, October 2016
- [“Politics and the Workplace,”](#) Speaker, Foster Pepper Client Briefing, October 2016
- “Employment Law Considerations for New U.S. Employers,” Speaker, Chinese Chamber of Commerce of Washington State, October 2016
- [“Evaluating Potential Employee Violence: Protecting the Employer and Co-Workers,”](#) Speaker, Lorman Education Services, September 2016
- “Bullying and Violence in the Workplace: Legal and Practical Considerations,” Speaker, Washington Housing Authorities Accounting Professionals Conference, September 2016
- [“FMLA and Leave Law Update,”](#) Speaker, 19<sup>th</sup> Annual Labor & Employment Law Conference, The Seminar Group, August 2016
- [“Legalization of Marijuana: Impact on the Washington Workplace,”](#) Speaker, Foster Pepper Client Briefing, June 2016
- “Bullying and Violence in the Workplace: Legal and Practical Considerations,” Speaker, Association of Washington Housing Authorities, April 2016
- [“My Ex-Employee Did WHAT? – Preventing and Addressing Post-Employment Misconduct,”](#) Moderator and Speaker, Foster Pepper Client Briefing, October 2015
- [“Top Emerging Issues in Employment and Labor Law,”](#) Speaker, 2015 WHAAP Annual Conference, October 2015
- [“Employee Handbooks: 2015 and Beyond,”](#) Speaker, American Public Power Association, September 2015
- [“FMLA and Leave Law Update,”](#) Speaker, 18<sup>th</sup> Annual Labor & Employment Law, The Seminar Group, August 2015
- [“Top 3 Employment Law Issues for 2015 That Should Keep You Up at Night,”](#) Speaker, Foster Pepper’s 10<sup>th</sup> Annual Bankers Briefing, May 2015
- [“Thriving Through Legal Resilience,”](#) Speaker, Washington State Nonprofit Conference, May 2015
- [“Association of Washington Housing Authorities Spring Meeting,”](#) Speaker, April 2015
- [“Is Your Employee Handbook Ready for Prime Time?”](#) Speaker, Foster Pepper Client Briefing, April 2015
- [“Privacy in the Workplace: Managing Employees in the Digital Age,”](#) Moderator and Speaker, Foster Pepper Client Briefing, November 2014
- “The Alphabet Soup of Federal Employment Law,” Speaker, Tribal Employment Rights & Law: Sovereignty, Jurisdiction and Best Practices, July 2014
- [“Social Media and the Workplace - Protecting the Hospital in the Digital Age,”](#) Speaker, Washington State Hospital Association’s NW Council’s Hot Topics Meeting, June 2014
- “Filling the Empty Chairs: Legal and Effective Hiring,” Presenter, Northwest Marine Trade Association - Professional Development Series
- “What You Should Know About Executive Director Employment Agreements,” Speaker, Association of Washington Housing Authorities

Steven R. Peltin MEMBER

SEATTLE T 206.447.6215 F 206.749.2094 [steve.peltin@foster.com](mailto:steve.peltin@foster.com)

---

- [“Bullying and Violence in the Workplace: Prevention and Intervention Strategies,”](#) Speaker, Foster Pepper Client Briefing, March 2014
- “Legalization of Marijuana - The Impact on Washington Employers”
  - + Speaker, South King County Human Resources Association December Meeting, 2013
  - + Speaker, Employee Assistance Professionals Association Pacific Northwest Chapter November Meeting, 2013
- [“Employment Discrimination Law – Hear From The Agencies,”](#) Speaker/Moderator, Foster Pepper Client Briefing
- [“Managing Employee Performance While Reducing Legal Risks,”](#) Speaker, Northwest Marine Trade Associations
- [“Wage & Hour Compliance – Beyond the Basics \(Part I\),”](#) Speaker/Moderator, Foster Pepper Client Briefing
- [“Wage & Hour Compliance – Beyond the Basics \(Part II\),”](#) Speaker/Moderator, Foster Pepper Client Briefing
- [“Filling the Empty Chairs: Legal and Effective Hiring,”](#) Speaker/Moderator, Foster Pepper Client Briefing
- “Out of Sight But Not Out of Mind: Untangling Leave of Absence Requirements,” Speaker, 14<sup>th</sup>, 15<sup>th</sup> and 16<sup>th</sup> Annual Labor & Employment Law Seminar, The Seminar Group
- “Understanding Seattle Paid Sick and Safe Time”
  - + Speaker, Washington Trucking Associations
  - + Speaker, Northwest Marine Trade Association
- [“Seattle Paid Sick and Safe Time: Practical Guidance Employers Need to Know,”](#) Speaker/Moderator, Foster Pepper Client Briefing
- “Legal Issues for Startups: Employment Law,” Speaker, SURF Incubator
- “Employment Law Challenges for Public Employers and Current Developments under the Public Employees Collective Bargaining Act,” Speaker, 2012 Association of Washington Housing Authorities (AWHA) Meeting
- [“Reasonably Accommodating Employees with Disabilities,”](#) Speaker/Moderator, Foster Pepper Client Briefing
- “High-Stakes Employment and IP Protections: Protect your Company from Increasing Employment Risks and Shield Your Valuable Intellectual Property,” Speaker, Foster Pepper and Washington State Chapter of ACC America
- [“Conducting Effective Workplace Investigations,”](#) Speaker/Moderator, Foster Pepper Client Briefing
- “Managing the Process of Labor Negotiations,” Speaker, Washington Fire Commissioners Association 63rd Annual Conference
- [“Out of Sight but Not Out of Mind: Untangling Employer Obligations under FMLA and Other Leave Statutes,”](#) Speaker/Moderator, Foster Pepper Client Briefing
- [“Social Media in the Workplace,”](#) Speaker/Moderator, Foster Pepper Client Briefing
- “Payroll Management,” Speaker, Lorman Educational Services
- “Time Off: State and Federal Laws on Employee Leave, Vacations and Holidays,” Speaker, Lorman Educational Services
- “Recent Developments under the Family and Medical Leave Act,” Speaker, National Council of State Housing Agencies
- “10 Scary Issues You Need to Know About Your Employees,” Speaker, ASTRA Women’s Business Alliance
- “New Developments in Employment Law,” Speaker, Seattle CFO Arts Roundtable
- “Best Practice in FMLA Administration,” Speaker, Council on Education in Management
- “Conducting Effective Investigations Into Employee Complaints,” Speaker, PUD and Municipal Attorneys Association
- “Cyberstalking: The Washington Employer’s Perspective,” Speaker, King County Bar Association
- “Workplace Investigations,” Speaker, Council on Education in Management

## EXPERIENCE

- Foster Pepper PLLC, Member, 2010-Present
- K&L Gates LLP (formerly Preston Gates & Ellis, LLP), Partner, 1998-2010

Steven R. Peltin MEMBER

SEATTLE T 206.447.6215 F 206.749.2094 [steve.peltin@foster.com](mailto:steve.peltin@foster.com)

---

- Georgia-Pacific Corporation, Senior Counsel, 1996-1998
- Altheimer & Gray (Chicago, IL), Associate and Partner, 1986-1996
- Isham Lincoln & Beale (Chicago, IL), Associate, 1983-1986
- U.S. District Court for the Western District of Wisconsin, Law clerk for the Hon. John C. Shabaz, 1982-1983

## BAR ADMISSIONS

- Washington, 1999
- Illinois, 1983 (Inactive)

## EDUCATION

- J.D., Cornell Law School (*cum laude*), 1983
- B.A., University of Wisconsin-Madison (with distinction), 1978
  - + Phi Beta Kappa



## SEATTLE

T 206.447.4694

F 206.749.1948

[kelly.mennemeier@foster.com](mailto:kelly.mennemeier@foster.com)

## SERVICES

Litigation & Dispute  
Resolution

## PRACTICE OVERVIEW

Kelly is a first year associate in the firm's Litigation & Dispute Resolution practice.

Prior to joining Foster Pepper, Kelly completed a judicial clerkship for the Honorable Peter J. Maassen of the Alaska Supreme Court.

## PUBLICATIONS

- [“U.S. Department of Labor Issues New Guidelines for For-Profit Corporate Internship Programs,”](#) Co-author, Foster Pepper News Alert, February 2018
- [“A Right to Know How You'll Die: A First Amendment Challenge to State Secrecy Statutes Regarding Lethal Injection Drugs,”](#) Author, Northwestern Law, *The Journal of Criminal Law and Criminology*, Vol. 107, Issue 3, 2017
- “Imagining a Role for Artificially Intelligent Juries,” Co-Author, Sacramento County Bar Association, July 2017
- [“Addressing the Gendered Dimensions of Harassment and Bullying: What domestic and sexual violence advocates need to know,”](#) Co-Author, Family Violence Prevention and Services Office of the U.S. Department of Health and Human Services, October 2011
- [“Shifting Boundaries: Lessons on Relationships for Students in Middle School,”](#) Co-Author, National Institute of Justice, October 2010

## EXPERIENCE

- Foster Pepper PLLC
  - + Associate, 2017-Present
  - + Summer Associate, 2015
- Alaska Supreme Court, the Hon. Peter J. Maassen, Judicial Clerk, 2016-2017
- Northwestern University School of Law
  - + Federal Appellate Clinic, 2015-2016
  - + Research Assistant, 2014
  - + Legal Research and Writing Teaching Assistant, 2014
- Lawndale Christian Legal Center, Legal Intern, 2016
- Office of the Federal Defender, Law Clerk, 2014

Kelly Mennemeier ASSOCIATE

SEATTLE T 206.447.4694 F 206.749.1948 [kelly.mennemeier@foster.com](mailto:kelly.mennemeier@foster.com)

---

- Jesuit Volunteer Corps Northwest, 2011-2013
- Wellesley Centers for Women, Research Fellow, 2008-2011

## BAR ADMISSIONS

- Washington, 2017

## EDUCATION

- J.D., Northwestern University School of Law (*magna cum laude*), 2016
  - + Order of the Coif
  - + Leigh B. Bienen Prize for Excellence in Writing and Research, 2016
  - + Arlyn Miner Book Award for Persuasive Writing, 2014
  - + National Trial Team, Captain
  - + *Journal of Criminal Law and Criminology*, Executive Articles and Comment Editor
- B.A., Wellesley College (*magna cum laude*), 2011
  - + Phi Beta Kappa

# Andrea L. Bradford

## ASSOCIATE



### SEATTLE

T 206.447.5906

F 206.749.2037

[andrea.bradford@foster.com](mailto:andrea.bradford@foster.com)

### SERVICES

Litigation & Dispute  
Resolution

Employment & Labor  
Municipal Government  
School Districts

### PRACTICE OVERVIEW

Andrea Bradford is a litigation associate at Foster Pepper PLLC. Andrea focuses her practice on the representation of local governments on issues including the Public Records Act, employment and labor matters, and public works. She also has experience advising public school districts on various school law matters. Andrea serves as a member of the WSAMA amicus committee as well as a board member of the Washington Council of School Attorneys. After graduating from the University of Washington School of Law with honors in 2012, Andrea clerked for two years for the Honorable Ann Schindler at the Washington Court of Appeals, Division One.

### REPRESENTATIVE WORK

– *Kanany v. City of Bonney Lake No. 46340-7-II*, Successfully argued appeal of denial of land use petition (2015)

### ACTIVITIES

- Washington State Association of Municipal Attorneys, Amicus Committee, Member
- Washington Council of School Attorneys, Board Member
- Seattle Girls' School, Mentor, 2015-Present

### PRESENTATIONS

- "The Insiders View of Washington's Appellate Courts," Panelist, Washington State Association of Municipal Attorneys 2017 Fall Conference, October 2017
- "[Pre-Employment Credit Checks](#)," Speaker, 36<sup>th</sup> Annual Civil Service Conference, September 2017

### EXPERIENCE

- Foster Pepper PLLC, Associate, 2017-Present
- Porter Foster Rorick LLP, Associate, 2014-2017
- Washington Court of Appeals, Division I, the Hon. Ann Schindler, Judicial Clerk, 2012-2014
- Federal Trade Commission, Bureau of Competition, Summer Law Clerk, 2011

Andrea L. Bradford ASSOCIATE

SEATTLE T 206.447.5906 F 206.749.2037 [andrea.bradford@foster.com](mailto:andrea.bradford@foster.com)

---

- U.S. District Court, Western District of Washington, the Hon. Thomas S. Zilly, Legal Extern, 2010
- Department of Justice, Antitrust Division, Paralegal Specialist, 2007-2009

**BAR ADMISSIONS**

- Washington, 2013

**EDUCATION**

- J.D., University of Washington School of Law (with honors), 2012
  - + Order of the Coif
  - + *Washington Law Review*, Managing Editor
  - + CALI Excellence for the Future Award
- B.A., Tufts University (*magna cum laude*), 2006
  - + National Merit Scholar
  - + *Tufts Daily Newspaper*, Assistant Features Editor

# Kerry Robinson

## OF COUNSEL



### SEATTLE

T 206.447.8986

F 206.749.1978

[kerry.robinson@fooster.com](mailto:kerry.robinson@fooster.com)

### SERVICES

Business

Employment & Labor

Litigation & Dispute  
Resolution

### PRACTICE OVERVIEW

Kerry has more than 25 years of experience in the corporate employment field, advising clients on both defense litigation and compliance and preventive-practice efforts for local, national and international employers. She has extensive experience in preventive employment practices and compliance and works with her clients to develop and deliver programs designed to help clients minimize litigation threats, improve personnel retention and ensure management knowledge of workplace laws and issues. Kerry presents on harassment and discrimination prevention and related preventive programs for employers across the country, working in a range of industries including banking, healthcare, fisheries, retail, communications, high tech, aerospace, trucking, warehousing, advertising, media/communications, entertainment and professional sports.

### REPRESENTATIVE WORK

- Represented employers in matters involving workplace discrimination, retaliation, harassment, wage/hour violations, workplace safety, privacy issues, labor disputes and other employment issues.
- Represented employers in litigation and dispute resolution, including:
  - + Class action race, national origin and age discrimination litigation on behalf of international fisheries employers
  - + Gender, race and age discrimination cases on behalf of national corporations in the food service, high tech, aerospace, warehousing, fisheries, banking, media and health care industries
  - + Wage/hour disputes before state and federal agencies
  - + Discrimination, harassment and retaliation cases on behalf of small, mid-side and large corporations
  - + Wrongful termination and tortious interference cases in state and federal courts
  - + Administrative charges before the National Labor Relations Board
- Proactive, prevention-focused efforts including employment training programs for management and employees on topics including discrimination/harassment-prevention; workplace safety; the beginning/middle/end of the employment relationship; cooperative labor relations; smart hiring practices; what every manager should know about compliance with state and federal employment laws.

Kerry Robinson OF COUNSEL  
SEATTLE T 206.447.8986 F 206.749.9700 [kerry.robinson@foster.com](mailto:kerry.robinson@foster.com)

---

## ACTIVITIES

- Pro Bono
  - + King County Bar Association
    - Housing Justice Project/Kent, Former Supervising Attorney; Volunteer
    - Eastside Neighborhood Legal Clinics, Former volunteer attorney
  - + Seattle Opera Association, Former pro bono employment counsel
- Community Involvement
  - + Bellevue School District, Trial Coach, National Mock Trial Organization
  - + Issaquah School District, Volunteer Fifth Grade Music History Teacher
  - + Eastside Baby Corner, Volunteer

## EXPERIENCE

- Foster Pepper PLLC
  - + Of Counsel
  - + Professional Development Counsel
- Microsoft, Law and Corporate Affairs, Office of the General Counsel/Compliance
- Davis Wright Tremaine
  - + Partner
  - + Associate
- Judicial Externship, 9th Circuit Court of Appeals

## BAR ADMISSIONS

- Washington, 1986

## EDUCATION

- J.D., University of Oregon School of Law, 1984
  - + *Oregon Law Review*, Associate Editor
  - + Research Assistant, Professor C. Forrell
- B.A., University of California at Los Angeles (*magna cum laude*), 1981
  - + Departmental Honors in Literature