

25th Annual Labor and Employment Law Conference
May 10-11, 2018 • AT&T Conference Center • Austin, TX
May 10-11, 2018 • Live Webcast

Thursday Morning, May 10, 2018

Presiding Officer:

James H. Kizziar Jr., Bracewell - San Antonio, TX and Washington, DC

7:30 am In Austin Only	Registration Opens Includes continental breakfast.
8:20 am	Welcoming Remarks
8:30 am 0.75 hr	State Employment Law Update: Texas and Beyond Review employment-related developments under Texas state law with a discussion of significant new Texas cases and important trends in other states. Clara "C. B." Burns, Kemp Smith LLP - El Paso, TX
9:15 am 0.75 hr 0.25 hr ethics	Federal Employment Law Developments in 2017-2018 Look back at significant developments in the legislative and executive branches, federal agencies, the Supreme Court and lower federal courts, and explore what the future may hold. Linda Ottinger Headley, Littler Mendelson P.C. - Houston, TX
10:00 am	Break
10:15 am 0.50 hr	Data Analytics Learn how to easily kick-start your firm's innovation efforts, close the gender pay gap (for you and your clients), and use data to reduce bias, improve inclusion as part of a diversity and inclusion initiative, and simultaneously use proven scientific methods to improve bottom-line profitability! This session was originally scheduled on Friday, May 11 at 2:45 p.m. Zev J. Eigen, Syndio - Los Angeles, CA
10:45 am 0.75 hr	Flip-Flop at the Board: What's Gone, What's New, What's Coming Under the NLRA A union lawyer and management lawyer discuss and debate the turn of events and precedent at the NLRB, and how that is impacting employment policies and practices for non-union and unionized employers. This session was originally scheduled on Thursday, May 10 at 10:15 a.m. John V. Jansonius, Jackson Walker LLP - Dallas, TX Rod Tanner, Tanner and Associates, PC - Fort Worth, TX

11:30 am 0.50 hr	Texas Unemployment and Payday Law Update Get updated on how the Texas Workforce Commission has been ruling on unemployment, wage, and discrimination claims. Follow an outline of the most important compliance issues, and hear highlights of the best practices to follow when assisting clients with unemployment and wage claims. William T. (Tommy) Simmons, Texas Workforce Commission - Austin, TX
12:00 pm In Austin Only	Pick Up Lunch (in Austin) Included in registration.

Thursday Afternoon, May 10, 2018

Presiding Officer:

Rod Tanner, Tanner and Associates, PC - Fort Worth, TX

LUNCHEON PRESENTATION

12:20 pm 0.75 hr	Rights on Trial: How Workplace Discrimination Law Perpetuates Inequality Understand the fundamental tensions in anti-discrimination law, how it impacts plaintiffs and defendants in the litigation system, and hear practical recommendations for how to better respond to persistent patterns of discrimination. Laura Beth Nielsen, Northwestern University and American Bar Foundation - Chicago, IL
1:05 pm	Break
1:20 pm 0.75 hr	Leaves of Absence Under the FMLA and ADA Hear a real time update on current activity from the federal agencies, the courts, and the plaintiffs' bar relating to employee leaves of absence from work for medical reasons. Explore, among other things, navigating complex FMLA issues, changes to the FMLA landscape in recent years, the blending of FMLA leaves into leaves as an accommodation under the ADA, when enough is enough in terms of extended leaves of absence, and tactics to push back on suspected leave abuse. Alexis C. Knapp, Littler Mendelson P.C. - Houston, TX
2:05 pm 0.50 hr 0.25 hr ethics	Reputational Risk: Managing Perceptions with Image Repair When the reputation of the client is uncertain and "no comment" is not an option, hear from a public relations veteran and an employment attorney on strategies for communicating with the public and employees. Discussion includes the advanced Image Repair Theory crisis communication guide, coordinating the legal and communications team, and the professional ethical rules that govern lawyers when speaking about ongoing conflict. Jeff Hahn, Hahn Public Communications - Austin, TX Tom Nesbitt, DeShazo & Nesbitt LLP - Austin, TX
2:35 pm In Austin Only	Break (in Austin)

Track A: Workforce Solutions**Presiding Officer:****Shannon B. Schmoyer**, Schmoyer Reinhard LLP - San Antonio, TX

	SPECIAL NOTICE: Live Webcast Includes <i>Workforce Solutions</i> Only <i>The live webcast includes the Workforce Solutions track but not the Litigation Strategies track.</i> The materials for both tracks are available in the course materials, and approximately 6-8 weeks after the conference the <i>Workforce Solutions</i> video and <i>Litigation Strategies</i> audio will both be available in "Your Briefcase."
2:45 pm 0.75 hr	The New Gender and Sexuality Legal update and practical workplace impact of social and cultural shifts with respect to the evolving terminology and variety of gender identity, gender expression, and sexual orientation. Laura M. Merritt, Boulette Golden & Marin L.L.P. - Austin, TX
3:30 pm 0.50 hr	Legal Issues in the Onboarding Process The onboarding process involves a variety of legal issues, including immigration law compliance (I-9 forms), dispute resolution (arbitration agreements or jury waivers), and the protection of company information (confidentiality, non-solicitation and/or non-competition agreements). Discuss onboarding strategies that protect the employer's interests without alienating new employees. Vianei Lopez Braun, Decker Jones, P.C. - Fort Worth, TX
4:00 pm 0.50 hr	Threat Matrix: Preventing and Responding to Workplace Violence Violence in the workplace is rarely random which means there are often clues and an opportunity to deter or minimize the harm and havoc. Identify and balance the legal issues and practical concerns, use the provided checklist to assess your threat matrix and prepare reasonable countermeasures. Audrey E. Mross, Munck Wilson Mandala, LLP - Dallas, TX
4:30 pm 0.50 hr	Disaster Planning and Response Recent events have underscored the need for employers to develop and maintain a disaster response plan. Explore the legal issues involved in this sort of planning, and how to make sure the interests of both employees and employers are addressed in your plan. Connie L. Cornell, Cornell Smith Mierl & Brutocao, LLP - Austin, TX
5:00 pm	Adjourn

Track B: Litigation Strategies**Presiding Officer:****Kenneth D. Hughes**, Hughes Roch LLP - Houston, TX

In Austin Only	SPECIAL NOTICE: Live Webcast Does Not Include <i>Litigation Strategies</i> <i>The live webcast includes the Workforce Solutions track but not the Litigation Strategies track.</i> The materials for both tracks are available in the course materials, and approximately 6-8 weeks after the conference the <i>Workforce Solutions</i> video and <i>Litigation Strategies</i> audio will both be available in "Your Briefcase."
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2:45 pm In Austin Only 0.75 hr	Anti-SLAPP for Employment Lawyers The Texas Citizens Participation Act created new challenges in pursuing, and new opportunities for defending, certain employment-related claims. Review recent case law interpretations and analyze Texas' anti-SLAPP statute, it's expanding reach, and the implications for employment lawyers. Sean M. Becker, Vinson & Elkins LLP - Houston, TX
3:30 pm In Austin Only 0.50 hr	Effective Use of Expert Witnesses Expert witnesses can make or break your case. Explore different ways to use them, and what you can and can't do with their testimony. Robert E. Sheeder, Bracewell - Dallas, TX
4:00 pm In Austin Only 0.50 hr	ADR Advantages, Disadvantages and Techniques: The Smoothest (Mostly) Road to Yes... or at Least to Closure From both sides of the docket, experienced employment litigators now serving as mediators and arbitrators address why, when, and how employment claims can be resolved quickly and efficiently through mediation or arbitration, dispelling certain misconceptions, and suggesting ways to avoid common errors in ADR. Richard R. Brann, Baker Botts - Houston, TX David T. Lopez, Attorney-Arbitrator-Mediator - Houston, TX
4:30 pm In Austin Only 0.50 hr	Damages in Trade Secret and Non-Compete Cases Damages are a crucial but often overlooked component of litigation arising from restrictive covenants. This presentation addresses key legal principles and recent developments in the area of damages in this type of litigation. Vanessa M. Griffith, Vinson & Elkins LLP - Dallas, TX
5:00 pm In Austin Only	Adjourn

Friday Morning, May 11, 2018

Presiding Officer:

Laura M. Merritt, Boulette Golden & Marin L.L.P. - Austin, TX

7:30 am In Austin Only	Conference Room Opens Includes continental breakfast.
8:30 am 0.75 hr	Public Sector Update Discuss recent developments of importance for representing government employees, including First Amendment, due process, privacy, political patronage, and state law developments in the public workplace. B. Craig Deats, Deats, Durst & Owen, P.L.L.C. - Austin, TX Natalie G. DeLuca, Metropolitan Transit Authority - Houston, TX

9:15 am 0.75 hr	<p>Developments in Disability Discrimination Law</p> <p>Review significant regulatory and court developments under the Americans with Disabilities Act and gain insights into emerging disability issues.</p> <p>James H. Kizziar Jr., Bracewell - San Antonio, TX and Washington, DC</p>
10:00 am	<p>Break</p>
10:15 am 0.50 hr 0.25 hr ethics	<p>Misbehavior in the C-Suite</p> <p>Misconduct by senior executives implicates unique issues and challenges for employers and lawyers alike. Using real-world examples, explore strategies for handling allegations of misconduct in the C-Suite and how to proceed when those allegations are substantiated. Examine the unique ethical issues presented when a client representative refuses to follow the advice of counsel for dealing with executive misconduct.</p> <p>Jason Boulette, Boulette Golden & Marin L.L.P. - Austin, TX</p>
10:45 am 0.75 hr	<p>The Boundaries of Employee Free Speech</p> <p>As social media continues to evolve, employees are increasingly able to express their personal opinions on current events to wider audiences. Examine the rights of employees to express their views both inside and outside the workplace, and the competing rights of public and private employers to respond to those views when they conflict with their own values or those of their customers or employees. Explore when an employer may actually be obligated to take action against an employee for views expressed outside the workplace, including discussion of real-world situations like the events of Charlottesville, VA, the viral misogynistic "manifesto" written by an engineer employed by a giant in the technology industry, and an NFL player's decision to take a stand by taking a knee.</p> <p>Jason Boulette, Boulette Golden & Marin L.L.P. - Austin, TX B. Lee Crawford Jr., City of Austin Law Department - Austin, TX Malinda A. Gaul, Gaul and Dumont - San Antonio, TX</p>
11:30 am 0.50 hr	<p>The #MeToo Movement: Harassment in the Workplace</p> <p>In 2017, we saw a new surge in harassment claims. Learn about appropriate workplace training and hear viewpoints from both the employee and the management-side experts.</p> <p>Amy Gibson, Gibson Wiley PLLC - Dallas, TX Shannon B. Schmoyer, Schmoyer Reinhard LLP - San Antonio, TX</p>
12:00 pm In Austin Only	<p>Pick Up Lunch (in Austin)</p> <p>Included in registration.</p>

Friday Afternoon, May 11, 2018

Presiding Officer:

Linda Ottinger Headley, Littler Mendelson P.C. - Houston, TX

LUNCHEON PRESENTATION

12:20 pm 0.75 hr 0.25 hr ethics	Emerging from the Shadows: Unconscious Bias in the Workplace While the existence of unconscious bias is inevitable, the way we deal with hidden biases in the workplace is enormously important. Examine how unconscious bias may influence workplace decisions and interactions, and discuss the latest approaches and legal implications for addressing it. Katrina Grider, Ogletree, Deakins, Nash, Smoak & Stewart, P.C. - Houston, TX
1:05 pm	Break
1:20 pm 0.75 hr 0.25 hr ethics	Investigations in Today's Woke Workplace A veteran workplace investigator shares critical tips for ensuring that every complaint investigation is thorough, in good faith, and reliable in the midst of the #MeToo movement, instant social media postings, and polarizing employee relations issues. DeDe Church, DeDe Church & Associates, LLC - Austin, TX
2:05 pm 0.50 hr	What Is It Worth? How do lawyers on each side of the docket value the settlement of cases, and how do you compare in terms of valuation for standard employment law situations? Philip Durst, Deats, Durst & Owen, P.L.L.C. - Austin, TX
2:35 pm	Break
2:45 pm 0.50 hr	Wage and Hour Update Wage and hour lawsuits continue to proliferate, and rules continue to evolve. Examine intricacies of the FLSA and developing trends in regulation and case law. This session was originally scheduled on Thursday, May 10 at 11:00 a.m. Jason M. Storck, Wilson Sonsini Goodrich & Rosati, P.C. - Austin, TX
3:15 pm 0.75 hr ethics	Ethics for Employment Attorneys Get updated on cutting-edge ethics issues, including attorney-client privilege and waiver issues, ex parte communications, access to social media and computer information, inadvertent disclosure and improper acquisition of confidential information, litigation holds and spoliation issues, and settlement negotiations. Dennis P. Duffy, Baker & Hostetler LLP - Houston, TX
4:00 pm	Adjourn