

11th Annual

CONFERENCE ON LABOR AND EMPLOYMENT LAW

Earn up to 13.25 Hours of Credit Including 0.50 Hour of Ethics Credit



May *5, 6-7, 2004

*optional Wednesday evening session

The Hyatt Regency on Town Lake
Austin, Texas

CONFERENCE ON LABOR AND EMPLOYMENT LAW

May *5, 6-7, 2004 • The Hyatt Regency on Town Lake • Austin, Texas

Earn up to 13.25 Hours of Credit Including 0.50 Hour of Ethics Credit

WEDNESDAY EVENING, MAY 5

*Optional Session-\$75 additional fee

See registration form

6:00 p.m. Registration Begins

6:30 p.m. (2.00 hours)

Public Employee and Higher Education Issues

A discussion of special considerations faced by public employees including due process, §1983, 1st amendment issues, immunity issues and torts. These issues will be discussed from both employer and employee sides. The session will close with a half hour presentation on special issues in the academic workplace including tenure disputes.

Leo L. Barnes, Austin
Philip Durst, Austin
Michael A. Olivas, Houston

8:30 p.m. Adjourn

THURSDAY MORNING, MAY 6

Presiding Officer:
B. Lee Crawford, Jr.
Austin

8:00 a.m. Registration Opens

Includes continental breakfast.

8:50 a.m. Welcoming Remarks

9:00 a.m. (0.50 hour)

Federal Update

This presentation will address hot topics under federal law, including the impact of *Desert Palace v. Costa* on employment discrimination litigation.

Melissa Essary, Waco

9:30 a.m. (0.75 hour)

State Law Update

A review of recent cases involving tort claims commonly seen in employment cases and cases under the Texas Commission on Human Rights Act.

Charles C. High, Jr., El Paso

10:15 a.m. Break

10:30 a.m. (0.50 hour)

Labor Update

The National Labor Relations Act and you. An update on labor law issues for labor and employment lawyers.

Curtis A. Wells, Fort Worth

11:00 a.m. (0.50 hour)

The New FLSA Regulations

The U.S. Senate has cleared the way for the Department of Labor's issuance of rules revising substantially several aspects of the FLSA's white-collar exemptions.

Christopher A. Knepp, Austin

11:30 a.m. (0.50 hour)

From Maternity To Military Leave: Avoiding the Legal Land Mines

Key information regarding a variety of leaves of absence facing every employer.

Shannon B. Schmoyer, Dallas

12:00 p.m. Luncheon Presentation

Practice in the Federal Courts: Musings by a New Federal Judge

Hon. Xavier Rodriguez, San Antonio
United States District Court
Western District of Texas

THURSDAY AFTERNOON

- CONCURRENT SESSIONS -

TRACK 1: HUMAN RESOURCES/ADVISORY

Presiding Officer:
Brian S. Greig
Austin

1:30 p.m. (0.50 hour)

Employee Dispute Resolution Programs

How employers are boosting morale and saving more money with internal programs that resolve conflicts on-the-job which otherwise can take up to one-half of a supervisor's time.

David T. Lopez, Houston

2:00 p.m. (0.50 hour)

Medical Issues

The impact of HIPAA privacy rules, and how to get the information you need regarding work-related medical restrictions.

Vianei Lopez Robinson, Abilene

2:30 p.m. (0.50 hour)

Defensive Drafting: The Handbook to Enhance Defenses

The handbook is the first document requested by plaintiff's counsel. Make sure it doesn't come back to bite you...The latest concepts in drafting handbook provisions that help in the workplace as well as in the courtroom.

Connie L. Cornell, J.D., P.H.R., Austin

3:00 p.m. Break

3:15 p.m. (0.50 hour)

Workplace Investigations

A review of the major legal issues arising from workplace investigations coupled with some practical "do's" and "don'ts" for conducting effective investigations.

Kevin M. Sadler, Austin

3:45 p.m. (0.50 hour)

Contingent Work Force

This presentation will address the potential joint employment risks of alternate staffing arrangements under various employment-related laws and will offer practical guidance on how to reduce and avoid these risks.

Candace L. Tidmore, Kingwood

4:15 p.m. (0.50 hour)

Texas Workforce Commission: Advanced Unemployment and Payday Law Claim and Appeal Strategies

A former agency counsel presents strategies for both claimants and employers when dealing with unemployment and payday law claims before the Texas Workforce Commission.

William T. (Tommy) Simmons, Round Rock

4:45 p.m. Adjourn

TRACK 2: LITIGATION

Presiding Officer:

Rod Tanner
Fort Worth

1:30 p.m. (0.50 hour)

Texas Tort Reform & Offers of Judgment

What should every employment lawyer know about the Texas Omnibus Civil Justice Reform Bill? While the focus of media attention on the new tort reform legislation has been its impact on medical malpractice claims, this topic considers those provisions of the new law that will impact employment lawyers and their clients.

Karen Griffin, Dallas

2:00 p.m. (0.50 hour ethics/PR credit)

Ethical Traps in Employment Litigation

Ethical issues that frequently arise in employment litigation will be discussed, including representation agreements, confidentiality, document retention, in-house attorney claims and investigations.

Kenneth D. Hughes, Houston

2:30 p.m. (0.50 hour)

Rule 23 Update

Review of recent and proposed amendments to federal class action rules and recent class action cases.

Patrick J. Maher, Fort Worth

3:00 p.m. Break

3:15 p.m. (0.50 hour)

Constructive Discharge

This presentation will review the law of constructive discharge with an emphasis on whether a constructive discharge constitutes an adverse action under federal and state employment discrimination statutes.

Rod Tanner, Fort Worth

3:45 p.m. (0.50 hour)

Analysis of the Jury Charge in Employment Cases

This article will analyze the court's charge and the importance it plays in employment trials, summarize the state of the law in Texas and the Fifth Circuit, and offer suggestions for crafting jury charges in employment cases.

Hon. Jeff Kaplan, Dallas

4:15 p.m. (0.50 hour)

Technology in the Courtroom

This presentation will cover the latest use of technology in trial including a demonstration showing the use of software to present evidence.

Kimothy Taylor, Phoenix, AZ

4:45 p.m. Adjourn

FRIDAY MORNING, MAY 7

Presiding Officer:

Linda Ottinger Headley
Houston

8:30 a.m. (0.50 hour)

Whistleblowers and Retaliation

A logical pairing, which is why retaliation actions continue to not only grow, but to be one of the most successful of all employment related claims. An update on the ever-expanding cause of action.

Michael W. Fox, Austin

9:00 a.m. (0.75 hour)

Mediator War Stories

Examples of mediation tactics that do and do not work to achieve effective results. Question and answer interaction.

Tom Collins, Austin
Walter E. (Rip) Parker, Jr., Dallas
Hon. Susan S. Soussan, Houston

9:45 a.m. (0.75 hour)

Disability Discrimination Update

This session will analyze administrative and judicial developments in disability discrimination law under the Americans With Disabilities Act and the Rehabilitation Act, and will also review emerging issues of interest to legal counsel and human resources representatives.

James H. Kizzlar, Jr., San Antonio

10:30 a.m. Break

10:45 a.m. (0.75 hour)

Workplace Harassment Update

Update on harassment cases and analysis of the trends and issues in workplace harassment.

Linda Ottinger Headley, Houston

11:30 a.m. (0.50 hour)

ERISA Litigation

Recent developments in Employee Retirement Income Security Act (ERISA) litigation and preventive strategies.

Douglas E. Hamel, Houston

12:00 p.m. Lunch on your own

FRIDAY AFTERNOON

Presiding Officer:

Rod Tanner
Fort Worth

1:15 p.m. (0.75 hour)

Blowing the Whistle on Corporate Employers The Sarbanes-Oxley Act of 2002

In-depth look at the Sarbanes-Oxley Act of 2002 and its impact on Texas employers and employees.

Robert E. Sheeder, Dallas

2:00 p.m. (0.50 hour)

How to Conduct a Meaningful and Effective Voir Dire

The one aspect of a jury trial that is the most difficult for most trial lawyers is jury selection. This speech will eliminate the fear associated with voir dire.

Robert B. Hirschhorn, Lewisville

2:30 p.m. (0.50 hour)

Evaluating Employment Cases from the Plaintiff's Perspective

How to decide if you should accept a case and how to evaluate it once you decide to take it.

Julius Glickman, Houston

3:00 p.m. (0.50 hour)

Covenants Not to Compete

An overview of the law on covenants not to compete.

Thomas A. Nesbitt, Austin

3:30 p.m. Adjourn



Handbook of Essential Employment Law

This book is designed for new entrants to the employment law field and HR professionals. Chapters include: At-Will Employment in Texas; Exceptions to At-Will Employment; Romance in the Workplace and Workplace Harassment; Common Lawsuits Against Employers: How to Avoid Being a Target; How Not to Get Sued by Your Employees; Planning and Implementing Reductions in Force; Reducing Costs of Employment Law Claims; Overview of the Dispute Resolution Process in Employment Matters.

\$100 - see order form.

How to Register

The University of Texas
School of Law
Attn: CLE - EL04
P.O. Box 7759
Austin, TX 78713-7759

WEB: www.utcle.org

FAX: 512-475-6876

PHONE: 512-475-6700

Can't attend? You've got options!

Materials, Audio, In-House CLE

➤ Printed Materials

Leading authors and practitioners provide the definitive set of employment law updates and practice guides, including information for both litigators and HR professionals.

➤ E-materials on CD

Add electronic versions of conference materials for only \$50 to your registration or purchase of printed materials, audio CDs, or In-House CLE packages. E-materials are distributed 2-3 weeks after the conference and include searchable versions of printed materials in PDF format.

➤ Audio CD Set

Listen to Informative, topical, and entertaining presentations, recorded from UT Law's live CLE programs.

➤ In-House CLE

Integrate presentation resources into your own firm or group practice by combining written materials with audio tapes for full participatory MCLE credit in a group (two or more) study environment.

ABOUT THE COVER

The Handcart, oil on wood, Lionel Kalish (b. 1931, New York, NY). Mr. Kalish's work may be viewed at Gremillion & Co., 3500 Jefferson, Suite 120, Austin, Texas. For more information, call the gallery at (512) 419-9524 or visit their web site at www.gremillion.com.

2004 Labor and Employment Law

EL04

Mail this registration form or fax a copy to: (512) 475-6876

PLEASE PRINT CLEARLY

Bar Card# _____ ☐ TX ☐ Other State: _____ ☐ N/A

Name [Mr. / Ms.] _____

Firm _____

Address _____

City _____ State _____ Zip _____

E-mail Address _____

Telephone _____ Fax _____

REGISTRATION - Includes printed materials in course binder.

☐ Early Registration Fee due by Wed., April 28, 2004 \$395.00
Add E-materials on CD (PDF files of printed materials) for \$50. See below.*

☐ Registration Fee after Wed., April 28, 2004 \$445.00
Add E-materials on CD (PDF files of printed materials) for \$50. See below.*

☐ Optional Wednesday Session \$75.00

☐ Thursday Luncheon Presentation with Hon. Xavier Rodriguez \$25.00

ALSO AVAILABLE - Allow 2-3 weeks from conference date for delivery.

☐ Printed materials in course binder * \$200.00
Printed materials are **automatically included** with Registration.

☐ Audio CD Set * \$170.00

☐ In-House CLE for 2 - Includes audio CD + printed materials * ... \$750.00

_____ Add participants with printed materials at \$200 each \$ _____

_____ Add participants without printed materials at \$150 each \$ _____

☐ *Add E-materials CD (PDF files of printed materials) to any purchase \$50.00

☐ Handbook of Essential Employment Law
Connie L. Cornell & Michael W. Fox
October 2003 - 300 Pages \$100.00

METHOD OF PAYMENT

TOTAL ENCLOSED \$ _____

☐ Check (make checks payable to: The University of Texas at Austin)

☐ VISA or ☐ Mastercard (sorry, no AMEX or Discover)

Card # - - -

X _____ /
Authorized Signature Exp. Date (mm/yy)

Overview

The University of Texas School of Law's 2004 Conference on Labor and Employment Law brings together leading members of the employment bench and bar, along with HR and personnel experts, for two and one-half days of presentations and discussions.

You'll take away the latest cases, regulatory updates, practice aids, and strategic guidance for advisors and HR professionals - along with a superb set of course materials. Don't miss it!

Public Employee Issues

The conference opens with a special Wednesday evening session dealing with issues faced by public employees and higher education.

New FLSA Rules and Regulations

Learn the latest developments in the new FLSA regulations applicable to white collar workers.

Special Tracks for Litigators and HR Professionals

The conference includes core presentations of interest to everyone in the employment law area. On Thursday afternoon, litigators and HR professionals or advisors are offered special "break-out" tracks, specifically focused for each group.

Offers of Settlement in Employment Cases

How has HB4 and the new "Offer of Settlement" rules affected Employment cases? Come find out.

Great Printed Materials

This conference generally produces the definitive set of printed materials for the year: and includes a two-volume set of conference materials — considered by many to be the definitive resource guide of the year.

CONFERENCE FACULTY

LEO L. BARNES
Office of General Counsel
The University of Texas System
Austin

TOM COLLINS
Mediator-Arbitrator
Austin

CONNIE L. CORNELL, J.D., P.H.R.
Cornell Smith & Mierl, LLP
Austin

PHILIP DURST
Wiseman, Durst, Owen
& Colvin, P.C.
Austin

MELISSA ESSARY
Baylor University School of Law
Waco

MICHAEL W. FOX
Ogletree Deakins
Austin

JULIUS GLICKMAN
Glickman & Hughes, L.L.P.
Houston

KAREN GRIFFIN
Baker Botts L.L.P.
Dallas

DOUGLAS E. HAMEL
Vinson & Elkins L.L.P.
Houston

LINDA OTTINGER HEADLEY
Littler Mendelson, P.C.
Houston

CHARLES C. HIGH, JR.
Kemp Smith LLP
El Paso

ROBERT B. HIRSCHHORN
Cathy E. Bennett & Associates, Inc.
Lewisville

KENNETH D. HUGHES
Glickman & Hughes, L.L.P.
Houston

HON. JEFF KAPLAN
United States District Court
Northern District of Texas
Dallas

JAMES H. KIZZIAR, JR.
Bracewell & Patterson, L.L.P.
San Antonio

CHRISTOPHER A. KNEPP
Vinson & Elkins L.L.P.
Austin

DAVID T. LOPEZ
David T. Lopez & Associates
Houston

PATRICK J. MAHER
Shannon, Gracey, Ratliff
& Miller, L.L.P.
Fort Worth

THOMAS A. NESBITT
Fulbright & Jaworski L.L.P.
Austin

MICHAEL A. OLIVAS
University of Houston Law Center
Houston

WALTER E. (RIP) PARKER, JR.
Sullivan, Parker & Cook, L.L.C.
Dallas

VIANEI LOPEZ ROBINSON
Robinson Law Firm
Ablene

HON. XAVIER RODRIGUEZ
United States District Court
Western District of Texas
San Antonio

KEVIN M. SADLER
Baker Botts L.L.P.
Austin

SHANNON B. SCHMOYER
Akin Gump Strauss Hauer
& Feld LLP
Dallas

ROBERT E. SHEEDER
Jenkins & Gilchrist, P.C.
Dallas

WILLIAM T. (TOMMY) SIMMONS
Attorney at Law
Round Rock

HON. SUSAN S. SOUSSAN
Susan Soussan, P.C.
Houston

ROD TANNER
Rod Tanner & Associates, P.C.
Fort Worth

KIMOTHY TAYLOR
Lex Solutio, Inc.
Phoenix, AZ

CANDACE L. TIDMORE
Administaff, Inc.
Kingwood

CURTIS A. WELLS
National Labor Relations Board
(NLRB)
Fort Worth

PLANNING COMMITTEE

B. LEE CRAWFORD, JR. - CHAIR
Austin

RICHARD R. BRANN
Houston

CONNIE L. CORNELL, J.D., P.H.R.
Austin

MICHAEL W. FOX
Austin

BRIAN S. GREIG
Austin

DOUGLAS E. HAMEL
Houston

LINDA OTTINGER HEADLEY
Houston

CHARLES C. HIGH, JR.
El Paso

KENNETH D. HUGHES
Houston

JOHN V. JANSONIUS
Dallas

JAMES H. KIZZIAR, JR.
San Antonio

CHRISTOPHER A. KNEPP
Austin

DAVID T. LOPEZ
Houston

THOMAS M. MELO
Houston

ROBERT E. SHEEDER
Dallas

ROD TANNER
Fort Worth

MICHAEL ESPOSITO
Austin

About the Hotel



Hyatt Regency on Town Lake
208 Barton Springs
Austin, Texas 78704
(512) 477-1234

\$130 single or double special group rate good through **April 15, 2004**

Parking: Self-Parking \$5

Key dates:

Cancellations & last-minute registrations

April 28, 2004, 5 p.m.

- last day for early registration add \$50 for registrations received after this time

April 30, 2004, 5 p.m.

- last day for full refund

May 3, 2004, 5 p.m.

- (Monday before conference)
- last day for partial refunds (\$50 processing fee applied)

May 5, 2004, 6:30 p.m.

- optional session begins

May 6, 2004, 9 a.m.

- conference begins

**M
C
L
E**

This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 13.25 hours, of which 0.50 credit hours will apply to legal ethics/professional responsibility credit.

Stuck at the office? Short MCLE credit?

Earn full participatory MCLE credit from your office or home — visit www.utcle.org to listen to audio, download papers, and watch video from the best of UT Law's live CLE programs. Select from over 100 online courses, including 30 hours of ethics credit.

Popular Labor & Employment Law Topics

- At-Will Employment
- Romance in the Workplace
- Leaves and the USERRA
- FLSA, Document Destruction, Whistleblowing

Each online course includes audio and first-rate printed materials.

Visit us on the web at utcle.org

Over 100 Online Courses from UT Law Full MCLE Credit

UT Law School offers its best sessions from each conference as short courses on the web.

Visit www.utcle.org to view and register for online courses, and live conferences, or to purchase leading course books and CDs. 24/7 availability for you!



THE UNIVERSITY OF TEXAS AT AUSTIN
THE UNIVERSITY OF TEXAS SCHOOL OF LAW
P.O. Box 7759 • Austin, TX 78713-7759

This program is not printed or mailed at state expense.

11th Annual

CONFERENCE ON LABOR AND EMPLOYMENT LAW

May *5, 6-7, 2004 • The Hyatt Regency on Town Lake • Austin, Texas

NON-PROFIT-ORG

U.S. Postage Paid
The University of
Texas
School of Law

E-mail us at

utcle@mail.law.utexas.edu

or call us at

512-475-6700

for more information