

2006 Labor and Employment Law Conference
May 18-19, 2006 • Hyatt Regency Austin • Austin, TX

Thursday Morning, May 18, 2006

Presiding Officer:

Robert E. Sheeder, Jenkins & Gilchrist, P.C. - Dallas, TX

9:00 am 0.75 hr	Federal Update A review of important cases and hot topics in federal employment and discrimination law. Melissa Essary, Baylor School Of Law - Waco, TX
9:45 am 0.75 hr	State Update A review of employment-related issues under state law with a discussion of significant new cases. Charles C. High Jr., Kemp Smith LLP - El Paso, TX
10:45 am 0.50 hr	National Labor Relations Board Update Recent decisions of the National Labor Relations Board, court interpretations of the NLRA, and a preview of issues likely to be addressed in the coming months. Yona Rozen, Gillespie Rozen Watsley Motley & Jones - Dallas, TX
11:15 am 0.75 hr	Disability Law Update This session will review administrative and judicial developments in disability discrimination law under the Americans with Disabilities Act and the Rehabilitation Act, including emerging issues and recommended strategies for legal counsel representing employers and persons with disabilities. James H. Kizziar Jr., Bracewell & Giuliani LLP - San Antonio, TX

Thursday Afternoon, May 18, 2006

Presiding Officer:

B. Lee Crawford Jr., Temple-Inland - Austin, TX

12:00 pm 0.50 hr	Leave of Absence Legal Update A focused discussion of recent developments in the principal laws affecting leaves of absence including USERRA, FMLA, accommodations under the ADA, and related topics. B. Lee Crawford Jr., Temple-Inland - Austin, TX
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12:45 pm 1.00 hr	<p>Luncheon Presentation: Builders, Boomers, Xers, and Ys at Law—Creating Intergenerational Workplaces of Choice</p> <p>The workplaces lawyers inhabit today are awash with the conflicting voices and views of the most age- and value-diverse workforce the profession has known. A discussion of generational personalities, core values, motivators, leadership styles, and management needs designed to offer insights and have immediate application in workplaces of all types and sizes.</p> <p>Paula A. Patton, The NALP Foundation - Overland Park, KS</p>
2:00 pm 0.75 hr	<p>Standards of Proof in Discrimination Cases</p> <p>Three years after Desert Palace, what is going on with mixed motives and McDonnell Douglas?</p> <p>Vianei Lopez Robinson, Robinson Law Firm - Abilene, TX</p>
2:00 pm 0.00 hr 0.25 hr ethics	<p>Documenting and Investigating Employee Complaints and Allegations</p> <p>In many employment lawsuits the employer's investigation and prompt response is a vital part of the company's defense. Be prepared to investigate complicated harassment complaints and similarly sensitive concerns, and know how to document the investigation process and preserve confidentiality.</p> <p>Connie L. Cornell, Cornell Smith & Mierl, LLP - Austin, TX</p>
2:45 pm 0.50 hr	<p>When Disaster Strikes: Employment Law Issues</p> <p>2005 was certainly a year of natural disasters, and much remains to be done before businesses and individuals along Texas and the Gulf Coast overcome the effects of Hurricanes Katrina and Rita. Employers need to be ready for every possible contingency such as office closures due to evacuation orders, reassignment and/or transfer of individuals and jobs, overtime, call-ins, absences, disaster assistance, layoffs, and even the destruction of facilities. This presentation will cover pertinent employment law issues related to disasters and planning for them.</p> <p>Mario A. Barrera, Bracewell & Giuliani, LLP - San Antonio, TX</p>
2:45 pm 0.50 hr	<p>Key Discovery and Evidence Issues in Employment Law Cases</p> <p>A discussion of the most common—and sometimes the most hotly contested—discovery and evidentiary issues arising in employment law cases.</p> <p>Francisco X. Dominguez, Dominguez & Coyle, P.L.L.C. - El Paso, TX</p>
3:15 pm 0.00 hr 0.25 hr ethics	<p>What's Happening with Employment Practices Liability Insurance (EPLI)?</p> <p>Recent court decisions that finally engage discussions of EPLI coverage. What is covered? Do the policies work? Are you getting what you pay for? When do you have bargaining power? What are the pitfalls? What are the ethical issues?</p> <p>Steven L. Mierl, Cornell Smith & Mierl - Austin, TX</p>
3:15 pm 0.00 hr 0.50 hr ethics	<p>Alternative Dispute Resolution in Employment Law Cases</p> <p>The presentation will address the merits of various alternative dispute resolution methods in resolving employment disputes including early neutral evaluation, mediation, mini-trial, and arbitration. The impact that jury waivers have on the use of alternative dispute resolution in employment cases will also be explored.</p> <p>Jeffrey C. Londa, Ogletree Deakins Et Al - Houston, TX</p>

4:00 pm 0.75 hr	<p>Pursuing and Defending FLSA Collective Actions</p> <p>Plaintiff's counsel and defense counsel discuss developments and administration of collective actions under the Fair Labor Standards Act and trends in class and collective action employment litigation.</p> <p>Richard J. (Rex) Burch, Bruckner Burch PLLC - Houston, TX John V. Jansonius, Akin, Gump, Strauss, Hauer & Feld, L.L.P - Dallas, TX</p>
4:00 pm 0.50 hr	<p>Developments in Deferred Compensation</p> <p>Discussion on new Code Section 409A.</p> <p>Joseph B. Friedman Jr., Fulbright & Jaworski - San Antonio, TX</p>
4:30 pm 1.00 hr	<p>Union Organizing Activities in Texas: 2005 and 2006 Developments</p> <p>The recent schism in the AFL-CIO has resulted in a renewed emphasis on organizing by labor unions. This presentation will examine major organizing campaigns in Texas in 2005-2006. A panel of experts will address voluntary recognition agreements, "card check" procedures, and cutting-edge strategies employed by unions and employers in contested campaigns.</p> <p>Orell Fitzsimmons, Service Employees International Union (S - Houston, TX G. Mark Jodon, Littler Mendelson PC - Houston, TX James Roddy Tanner, Tanner & Troutt, P.C. - Fort Worth, TX</p>
4:45 pm 0.75 hr	<p>10 Tips for Conducting an Effective Voir Dire</p> <p>Tips and suggestions that will allow you to get more jurors excused for cause and to intelligently exercise your preemptory strikes.</p> <p>Robert B. Hirschhorn, Cathy E. Bennett & Associates, Inc. - Lewisville, TX</p>

Friday Morning, May 19, 2006

Presiding Officer:

John V. Jansonius, Akin, Gump, Strauss, Hauer & Feld, L.L.P - Dallas, TX

8:00 am 0.50 hr	<p>How Fiduciaries Get Sued: Red Flags for Fiduciaries under ERISA</p> <p>A practical discussion of how to minimize risk of litigation in fiduciary decisions and avoid mistakes that complicate the fiduciary's defense.</p> <p>Douglas E. Hamel, Vinson & Elkins L.L.P. - Houston, TX</p>
8:30 am 0.75 hr	<p>Retaliation and Whistleblowing (Including Sarbanes-Oxley)</p> <p>As employees blow the whistle more frequently, the law of retaliation and whistleblowing continues to grow in scope and sophistication. This session updates developments in the last year including the first wave of decisions under Sarbanes-Oxley and the Supreme Court's review of what is an adverse employment action.</p> <p>Michael W. Fox, Ogletree, Deakins, Nash, Smoak & Stewart - Austin, TX</p>

9:15 am 0.75 hr	<p>Update on Workplace Harassment Law: 2006 and Beyond</p> <p>A look at harassment law for 2006—what is new, old, and unusual. Have we heard it all or are there new issues to consider and develop? What are the trends facing the workplace today and in the future?</p> <p>Linda Ottinger Headley, Littler Mendelson, P.C. - Houston, TX</p>
10:15 am 0.00 hr 0.25 hr ethics	<p>Blogs and the Workplace: Professional Responsibility—Doocing and Beyond</p> <p>A discussion of the emerging employment law issues associated with blogs, covering topics such as blog-based terminations, defamation risks, privacy concerns, workplace harassment implications, concerted and other protected activity by bloggers, trade secret protection, the ethical use of blogs for electronic discovery, and blog policies for employers. <i>*Doocing is the slang term for terminating someone for blog content.</i></p> <p>Jason Boulette, Boulette & Golden L.L.P. - Austin, TX</p>
10:45 am 0.00 hr 0.75 hr ethics	<p>Ethical and Professional Responsibility Issues in Employment Cases</p> <p>An overview of general ethical issues with a specific emphasis on issues that often arise in employment cases.</p> <p>Kenneth David Hughes, Glickman & Hughes, L.L.P. - Houston, TX</p>
11:30 am 0.50 hr	<p>How to Minimize (or Maximize) Compensatory Damages</p> <p>This presentation will analyze the recent case law on compensatory damages and the lessons they present.</p> <p>Philip Durst, Deats, Durst, Owen & Levy, P.L.L.C. - Austin, TX</p>

Friday Afternoon, May 19, 2006

Presiding Officer:

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

1:00 pm 0.50 hr	<p>Trade Secrets and Non-Compete Disputes</p> <p>An update on the enforceability of non-compete agreements under Texas law, with reference to common law causes of action that typically accompany non-compete disputes.</p> <p>Christopher Gregory Jacobs, AMD - Austin, TX</p>
1:30 pm 0.50 hr	<p>The Contingent Workforce</p> <p>Temps, contractors, and leased employees—employer liability issues from co-employment to misclassification class actions.</p> <p>Christopher H. Hahn, Dell, Inc. - Round Rock, TX</p>

2:00 pm
0.50 hr

Religion and the First Amendment in the Workplace

Resolving issues that arise when faith and work collide may require the wisdom of Solomon. Lacking that, a familiarity with recent cases addressing religious discrimination in the workplace, including First Amendment principles, is essential to managing this workplace dynamic.

Teresa S. Valderrama, Jackson Lewis LLP - Houston, TX

2:30 pm
0.75 hr

How Employment Issues Differ for Government Employees

Potentials and pitfalls in suing and defending city, county, state, and federal employees, including dispute resolution, special claims, immunities, exhaustion of administrative remedies, procedural problems, collecting on damages, and recovering fees.

David T. Lopez, David T. Lopez & Assoc. - Houston, TX