

14th Annual Labor and Employment Law Conference
May 17-18, 2007 • Hyatt Regency Austin • Austin, TX

Thursday Morning, May 17, 2007

Presiding Officer:

Kenneth D. Hughes, The Hughes Law Firm - Houston, TX

8:00 am	Registration opens
8:50 am	Welcoming Remarks Welcoming Remarks
9:00 am 0.50 hr	Federal Law Update A review of important cases and hot topics in federal employment and discrimination law, including ERISA. Linda Ottinger Headley, Littler Mendelson, P.C. - Houston, TX
9:30 am 0.50 hr	State Law Update A review of employment-related issues under state law with a discussion of significant new cases. Richard R. Carlson, Houston, TX
10:00 am 0.25 hr	Break
10:15 am 0.75 hr	National Labor Relations Act Update A review of leading edge legislative, judicial, and NLRB developments focusing on the Employee Free Choice Act, neutrality agreements, expanded definition of supervisor, and employer e-mail and fraternization policies. Rod Tanner, Tanner & Associates, P.C. - Fort Worth, TX
11:00 am 0.75 hr	Developments in Disability Discrimination Law 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 17, 2007

<p>12:00 pm 0.50 hr 0.25 hr ethics</p>	<p>Employment Cases: View From the Bench</p> <p>A discussion from a judicial perspective of the trial of employment law cases in federal court, with a question and answer session.</p> <p>Hon. Andrew W. Austin, U.S. District Court for the Western District - Austin, TX</p>
<p>1:00 pm 0.50 hr</p>	<p>Employment Leave: Special Issues Involving Reduced Work Schedules and Intermittent Leave</p> <p>This session covers special issues involving reduced work schedules and intermittent leave, including in-depth analysis of the circumstances in which the leave may be taken, a recent case update of federal court interpretations of the applicable FMLA regulations, and best practices employers can implement now to avoid employee abuse of the reduced work schedules and intermittent leave.</p> <p>G. Mark Jodon, Littler Mendelson PC - Houston, TX</p>
<p>1:30 pm 0.75 hr ethics</p>	<p>Ethics and Professionalism Issues in Labor and Employment Law Cases</p> <p>This session will cover ethics and professionalism issues that arise in labor and employment law cases, including attorney-client privilege issues, ex parte access to current and former employees, pretrial investigations, inadvertent disclosure and improper acquisition of documents from opposing parties, and other issues.</p> <p>Dennis P. Duffy, Baker Botts LLP - Houston, TX</p>
<p>2:15 pm</p>	<p>15 min Break to Transition to Concurrent Sessions</p> <p>15 min Break to Transition to Concurrent Sessions</p>

Track A: Human Resources

<p>2:30 pm 0.50 hr</p>	<p>Creative Compensation: Navigating the Statutory and Case Law Limits on Incentive, Bonus, and Retention Programs</p> <p>With greater frequency, employers are developing creative ways to retain and compensate valued employees. Problems arise when employers do not anticipate the federal and state laws that require delayed or pro-rata payments and other restrictions on the form and manner of payment.</p> <p>James Alfred Southerland, Ogletree Deakins - Houston, TX</p>
<p>3:00 pm 0.50 hr</p>	<p>Extreme Makeovers: Employee Handbooks</p> <p>Good policies are your first line of defense in an employment dispute. Come hear strategies for making your employee handbook complete and effective.</p> <p>Vianei Lopez Robinson, Robinson Law Firm - Abilene, TX</p>
<p>3:30 pm 0.75 hr</p>	<p>Employee Privacy Rights</p> <p>With corporate scandals involving pretexting, controversies involving employment actions based on employees' off-duty internet postings, and reports of compromised security allowing access to private personal information of employees, courts and legislatures are making new rules for employers. This presentation will address limitations on an employer's ability to conduct background investigations, restrictions on an employer's ability to monitor employee activity, and legal obligations of employers regarding the protection of employee information.</p> <p>Christopher H. Hahn, Dell, Inc. - Round Rock, TX</p>

4:15 pm
1.00 hr

Working with the Enemy: Avoiding Retaliation

Practical approaches to dealing with incumbent employees after the harassment complaint, the EEOC charge, the workplace injury, or the blown whistle.

Connie L. Cornell, Cornell Smith & Mierl, LLP - Austin, TX

Track B: Legal

2:30 pm
0.50 hr

Arbitration and Jury Waivers

An update on the enforceability of jury trial waivers and mandatory arbitration provisions.

Darryl Kent Carter, Glickman, Carter & Bachynsky LLP - Houston, TX

3:00 pm
0.50 hr

Calculating, Proving and Mitigating Damages Involving Re-Employment

Proving or rebutting economic damage claims in employment cases where the plaintiff can, and most likely will, be re-employed requires the consideration of factors related to the plaintiff's employment with the defendant, as well as their future labor market prospects. This presentation will discuss how loss earnings analyses and plaintiff-specific labor market studies are used to address these factors in employment litigation.

Stephanie Botello, EmployStats - Austin, TX
Dwight Steward, EmployStats - Austin, TX

3:30 pm
0.50 hr

Jury Charge Practice in Mixed-Motive Cases

Life after *Desert Palace*: The Evolution of Jury Charges in Mixed-Motive Cases.

Howard Lynn Steele Jr., Steele Sturm PLLC - Houston, TX

4:00 pm
0.50 hr

The Effective Use of Statistics in Proving or Disproving a Pattern or Practice of Discrimination

This presentation will critically consider the role of statistical evidence in establishing a pattern or practice of discrimination and the criteria courts apply to assess the sufficiency of this evidence.

Allan G. King, Littler Mendelson PC - Dallas, TX

4:30 pm
0.75 hr

Trial Strategies

Trial strategies including jury selection, opening arguments, direct and cross-examination, jury charge, and closing arguments will be discussed with an emphasis on employment litigation.

Charles C. High Jr., Kemp Smith LLP - El Paso, TX
Kenneth D. Hughes, The Hughes Law Firm - Houston, TX

5:15 pm

Adjourn

Adjourn

Friday Morning, May 18, 2007

Presiding Officer:

Brian S. Greig, Fulbright & Jaworski L.L.P. - Austin, TX

9:00 am 0.50 hr	"Discriminating Tastes" at Work * Good or Bad? A brief discussion of the positive and negative implications of diversity, distinctions, and preferences underlying employment decisions and business strategies. When is it a plus or a minus? Robert Canino, EEOC - Dallas District Office - Dallas, TX
9:30 am 0.50 hr 0.25 hr ethics	Non-Competes An overview of the Texas law of covenants not to compete, complete with an analysis of the recent landmark <i>Sheshunoff</i> case. Thomas A. Nesbitt, DeShazo & Nesbitt LLP - Austin, TX
10:00 am 0.50 hr	Emerging Employment Law Causes of Action Finding creative ways to help employees deal with 21st century problems. Kathy Butler, Butler & Harris - Houston, TX
10:30 am	Break Break
10:45 am 0.50 hr	Retaliation For several years, retaliation claims by current and former employees have been on the rise. The United States Supreme Court's decision last year in <i>Burlington Northern and Santa Fe Railway Co. v. White</i> made retaliation claims easier to prove and made their prevention far more difficult. This session reviews the current state of the law and the implications for practitioners. Robert E. Sheeder, Bracewell & Giuliani LLP - Dallas, TX
11:15 am 0.75 hr	Pursuing and Defending FLSA Collective Actions 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. John V. Jansonius, Dallas, TX

Friday Afternoon, May 18, 2007

Presiding Officer:

Jason Boulette, Boulette & Golden L.L.P. - Austin, TX

1:00 pm 0.50 hr	Anatomy of a Million Dollar Verdict: How to Lose (or Win) One The legal blog Jottings by an Employer's Lawyer tracks million dollar verdicts in employment cases. In this session, the "tracker" of million dollar verdicts for this blog will share his insights and substantial practice experience on what employers do before and during trial that can lead to such verdicts. Michael W. Fox, Ogletree, Deakins, Nash, Smoak & Stewart, P.C. - Austin, TX
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<p>1:30 pm 0.50 hr</p>	<p>Illegal Employment-The New Age of ICE Enforcement</p> <p>The presentation will discuss the new attitude of employers, including the agency's new "managers in handcuffs" mantra. The presentation will provide a look behind the scenes of some of the recent ICE raids, discuss ICE's strategy for targeting contractors as a means of going after major employers, and offer a guide to what employers can do to ensure they are in compliance with federal immigration law. Practical steps for ensuring Form I-9 compliance will also be discussed.</p> <p>Jason Boulette, Boulette & Golden L.L.P. - Austin, TX</p>
<p>2:00 pm 0.50 hr</p>	<p>Going Global</p> <p>Regardless of size, representing employees or employers, all employment practitioners need to know these basic principles about global employment policies and codes of conduct, expatriate employment contracts and non-compete clauses, discrimination claims, multinational employees, and resolving international employment disputes.</p> <p>David T. Lopez, David T. Lopez & Assoc. - Houston, TX</p>
<p>2:30 pm 0.33 hr</p>	<p>Employment in China (PRC): Top Ten Issues</p> <p>China is fast becoming the hottest and fastest growing market in the world. With amazing potential, however, comes amazingly complex and intricate employment issues, which can quickly turn profits to red ink for the unwary business. This session focuses on the top ten issues facing the multinational employer in China (PRC).</p> <p>Jordan W. Cowman, Akin Gump Straus Hauer & Feld - Dallas, TX</p>
<p>2:50 pm 0.50 hr</p>	<p>Computer Forensics in Employment Cases</p> <p>Smoking Guns: How to use electronically stored information in employment cases, best practice, procedures, and the law surrounding computer forensics.</p> <p>Rand Sluder, PricewaterhouseCoopers - Houston, TX</p>
<p>3:20 pm</p>	<p>Adjourn</p> <p>Adjourn</p>