

**17<sup>th</sup> Annual Labor and Employment Law Conference**  
**May 20-21, 2010 • Hyatt Regency Austin • Austin, TX**

**Thursday Morning, May 20, 2010**

**Presiding Officer:**

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

8:00 am	<b>Registration Opens</b>  Includes continental breakfast.
8:50 am	<b>Welcoming Remarks</b>
9:00 am 0.75 hr	<b>Texas State Employment Law Update</b>  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
9:45 am 0.75 hr	<b>Federal Employment Law Update</b>  A look back at the first year of the new administration and a review of important cases, legislative developments, and the changing landscape in employment law.  Linda Ottinger Headley, Littler Mendelson, P.C. - Houston, TX
10:30 am	<b>Break</b>
10:45 am 0.50 hr	<b>Developments in Disability Discrimination Law</b>  This session reviews developments in disability discrimination law, including significant changes from the Americans with Disabilities Act amendments and court decisions on disability issues.  James H. Kizziar Jr., Bracewell & Giuliani LLP - San Antonio, TX
11:15 am 0.75 hr	<b>Trends and Developments in Labor Law</b>  An overview of recent labor law precedent and proposed legislation and a preview of what to expect in the coming year. This session explores the ramifications of emerging labor law trends for both the unionized and non-unionized employer.  Sean M. Becker, Vinson & Elkins LLP - Houston, TX

**Thursday Afternoon, May 20, 2010**

**Presiding Officer:**

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

	<b>Luncheon Presentation</b>
12:00 pm	<b>Pick up Box Lunch</b>  Included in conference registration fee.
12:15 pm 0.75 hr	<b>Federal Health Care Reform: Where Are We Now and What's Ahead for Employers?</b>  An analysis and discussion of federal health care reform efforts, with particular attention to expected changes for employers and employees under the most likely legislative scenarios, including cost-reduction efforts.  Glen A. Reed, King & Spalding LLP - Atlanta, GA
1:00 pm	<b>Break</b>
1:15 pm 0.50 hr	<b><i>Ricci v. DeStefano</i>: The Intersection Between Disparate-Treatment Liability and Disparate-Impact Liability</b>  Counsel for the firefighters discusses their successful appeal to the Supreme Court challenging the City of New Haven's decision to reject the results of a civil-service selection process on the basis of the racial distribution of the results. The discussion focuses on the Justices' attempt to reconcile Title VII's articulation of the two theories of liability and the opinion's ramifications for Title VII.  Dori Kornfeld Goldman, Yetter, Warden & Coleman, LLP - Houston, TX
1:45 pm 0.75 hr ethics	<b>Managing Social Media: From Baby Boomers to Gen-Y</b>  This session provides an overview of the use of social media by employees, employers, labor unions and lawyers, and the emerging legal issues associated with same. Also discussed, the issues associated with regulating the use of social media both inside and outside of the workplace, and an examination of sample social media policies.  Jason Boulette, Boulette & Golden L.L.P. - Austin, TX
2:30 pm	<b>Break</b>

## Track A: HUMAN RESOURCES

### Presiding Officer:

**Thomas A. Nesbitt**, DeShazo & Nesbitt LLP - Austin, TX

2:45 pm 0.50 hr	<b>Managing the Manager</b>  How do human resource professionals work with and "manage" the company's managers when it comes to personnel issues? Who gets to have the final say? Can HR trump management? How does HR do its job if managers know they do not have to follow its advice? Are compliance with HR policies and working well with HR factors that managers are evaluated on? Should they be? What motivates managers to good citizenship on employment matters? This presentation addresses the "tough issues" and provides practical guidance on how to successfully "manage the manager."  Teri L. Danish, Colvin, Chaney, Saenz & Rodriguez, LLP - Brownsville, TX
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3:15 pm 0.75 hr	<p><b>Managing Employee Leaves of Absence: The Top Ten Legal Pitfalls</b></p> <p>When employees are on leave it's up to HR to communicate, document, strategize and avoid legal snafus. Here are the top ten traps for the unwary.</p> <p>Viane Lopez Robinson, Buck Keenan, LLP - Houston, TX</p>
4:00 pm 0.50 hr	<p><b>Immigration Issues for Employers: Current Developments with E-Verify</b></p> <p>The latest information on E-Verify and its implications for employers.</p> <p>Clara "C. B." Burns, Kemp Smith LLP - El Paso, TX</p>
4:30 pm 0.75 hr	<p><b>Announcing "The Fix": Challenges and Strategies for Communicating New Policies and the Resolution of Employment Disputes</b></p> <p>Communicating about the outcome of an employment dispute, or a change in policy driven by liability considerations, poses real challenges both within and outside the organization. This session focuses on strategies and tips for deciding who, what, when and how to handle these communications effectively to minimize potential risk and maximize potential benefits to the organization.</p> <p>B. Lee Crawford Jr., City of Austin Law Department - Austin, TX  Jeff Hahn, Hahn, Texas - Austin, TX  Thomas A. Nesbitt, DeShazo &amp; Nesbitt LLP - Austin, TX</p>

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## Track B: LITIGATION

### Presiding Officer:

**Rod Tanner**, Tanner & Associates, P.C. - Fort Worth, TX

2:45 pm 0.50 hr	<p><b>Effective Use of Evidence in Pursuing and Defending Employment Claims</b></p> <p>"If I can get that evidence before the jury, we're looking good. How do I get it admitted?" "If the judge lets that into evidence, we might as well go home now. How do I keep it out?" A perspective from each side on recurring evidentiary issues such as alleged discrimination against other employees; proof that shows motive, or mixed motives; a party's conduct/speech before the limitations period, or after the event in question; after-acquired evidence; expert testimony and Daubert challenges; and lay opinion testimony.</p> <p>Dennis P. Duffy, Baker Botts L.L.P. - Houston, TX  Margaret A. Harris, Butler &amp; Harris - Houston, TX</p>
3:15 pm 0.50 hr	<p><b>Effective Pleading and Discovery in Employment Cases</b></p> <p>Beyond <i>Twombly</i> and <i>Iqbal</i>: Effective pleading and discovery techniques in employment cases from counsel on both sides of the pleadings.</p> <p>Amy Gibson, Gibson Wiley PLLC - Dallas, TX  Christina A. Jump, Akin Gump Strauss Hauer &amp; Feld LLP - Dallas, TX</p>
3:45 pm 0.50 hr	<p><b>E-Discovery: Avoiding Excessive Costs and Burdens in Smaller Cases</b></p> <p>This session explores strategies to limit the potentially excessive costs and burdens associated with discovery of electronically-stored information in single-plaintiff and other smaller employment cases. The session also offers practical suggestions to streamline e-discovery where its cost is disproportionate to the amount in controversy.</p> <p>Christopher H. Hahn, Dell, Inc. - Round Rock, TX</p>

4:15 pm 0.50 hr	<p><b>Pleading, Proving and Collecting Damages in Employment Cases</b></p> <p>Two experienced plaintiff attorneys present a comprehensive approach to analyzing, pleading and proving all elements of damages in employment cases, with suggestions on how preparation of appropriate damage models can maximize results and assist the parties in attempting a resolution.</p> <p>David T. Lopez, David T. Lopez &amp; Assoc. - Houston, TX Rod Tanner, Tanner &amp; Associates, P.C. - Fort Worth, TX</p>
4:45 pm 0.50 hr	<p><b>Recent Cases and Trends on the Issue of Attorney's Fees</b></p> <p>Whether you are seeking to maximize, minimize or eliminate fee recovery, this session discusses recent cases and issues on the questions of attorney's fee recovery (and expenses) and the issues and trends in how the appellate courts are dealing with this issue.</p> <p>Philip Durst, Deats, Durst, Owen &amp; Levy, P.L.L.C. - Austin, TX</p>
5:15 pm	<b>Adjourn</b>

## Friday Morning, May 21, 2010

### Presiding Officer:

**Robert E. Sheeder**, Bracewell & Giuliani LLP - Dallas, TX

8:00 am	<p><b>Conference Room Opens</b></p> <p>Includes continental breakfast.</p>
9:00 am 0.50 hr ethics	<p><b>Effective Mediation Strategies and Techniques for Employment Cases</b></p> <p>Most employment cases settle before trial. Most of those settlements occur at mediation. These strategies and techniques will assist you in cutting the best deal for your client.</p> <p><i>Session previously scheduled for 2:45 pm Friday, May 21, 2010</i></p> <p>Patrick Keel, Mediator-Arbitrator - Austin, TX</p>
9:30 am 0.50 hr	<p><b>Employment Contracts and Severance Agreements, including Section 409A</b></p> <p>Representing employees in negotiating and drafting employment contracts and separation agreements with an emphasis on executive-level issues.</p> <p>Darryl Carter, Glickman, Carter &amp; Bachynsky LLP - Houston, TX</p>
10:00 am 0.50 hr	<p><b>Emerging Gender Identity Issues</b></p> <p>Dealing with gender identity and sexual orientation issues in the workplace can be challenging. How are employers and the courts handling the individual and societal metamorphosis?</p> <p>Connie L. Cornell, Cornell Smith &amp; Mierl, LLP - Austin, TX</p>
10:30 am	<b>Break</b>

10:45 am 0.50 hr	<p><b>A Double Take on Unfair Competition: An Examination of TROs and TIs from both Sides of the Bench</b></p> <p>A discussion between judge and counsel on effective advocacy for and against temporary injunctive relief, i.e., TROs and TIs, involving unfair competition.</p> <p>Hon. Ravi K. Sandill, 127th District Court - Houston, TX Howard Lynn Steele Jr., Steele Sturm PLLC - Houston, TX</p>
11:15 am 0.50 hr	<p><b>A Compendium of Whistleblower Statutes and Provisions</b></p> <p>This session summarizes and outlines the many whistleblower provisions available to employment lawyers and includes a comprehensive list of these provisions as a resource for employment lawyers on both sides of the bar.</p> <p>Kenneth D. Hughes, The Hughes Law Firm - Houston, TX</p>
11:45 am 0.50 hr	<p><b>Retaliation</b></p> <p>An update and review of the law of retaliation, from the plaintiff and defendant perspectives.</p> <p>Sherrard L. (Butch) Hayes II, Fulbright &amp; Jaworski L.L.P. - Austin, TX Katrina S. Patrick, Law Offices of Katrina Patrick - Houston, TX</p>

## Friday Afternoon, May 21, 2010

### Presiding Officer:

**Richard R. Brann**, Baker Botts, L.L.P. - Houston, TX

12:15 pm	<b>Lunch on your Own</b>
1:30 pm 0.50 hr	<p><b>EEOC and DOL "Stimulus Package": Will They Come Knocking Soon?</b></p> <p>The EEOC and DOL, buoyed by increased funding and manpower, have significantly stepped up their enforcement efforts against employers of all sizes. Learn how these new efforts are affecting employers, what types of issues are being targeted, and what counsel can do to assist their clients through the process.</p> <p>Shannon B. Schmoyer, Schmoyer Reinhard LLP - San Antonio, TX</p>
2:00 pm 0.75 hr ethics	<p><b>Asserting and Defending Claims of Low-Wage Immigrant Workers: Cutting-Edge Practice, Ethics Issues, and Pro Bono Opportunities</b></p> <p>Low-wage workers are increasingly gaining access to the legal system to assert wage-hour and other employment claims, spurred by new initiatives from government, non-profit legal action organizations, private law firms, and pro bono counsel. A large proportion of these claims involve immigrant workers—both documented and undocumented. This session explores the evolving substantive, procedural, and practice issues applicable to such cases; the complex interplay between employment and immigration laws; the special ethical challenges that confront plaintiffs' and defense counsel; and new opportunities for private pro bono counsel to become active in this practice area.</p> <p>Bill Beardall, Equal Justice Center and The University of Texas School of Law Transnational Worker Rights Clinic - Austin, TX Additional Speaker TBA</p>

2:45 pm  
0.50 hr

### **Who's My Employer? Who's My Employee? It's Not That Easy**

This most fundamental question for employment law practitioners has many different facets that can vary based not only on the facts, but on the applicable law. This session covers topics from the distinction between employees and independent contractors to the mysteries of joint employers, and points in between.

Session previously scheduled for 9:00 am Friday, May 21, 2010

Michael W. Fox, Ogletree Deakins - Austin, TX

3:15 pm

**Adjourn**