

**18<sup>th</sup> Annual Labor and Employment Law Conference**  
**May 12-13, 2011 • AT&T Conference Center • Austin, TX**

**Thursday Morning, May 12, 2011**

**Presiding Officer:**

**Vianei Lopez Robinson**, Buck Keenan LLP - Houston, TX

8:00 am	<b>Registration Opens</b>  Includes continental breakfast.
8:50 am	<b>Welcoming Remarks</b>
9:00 am 0.50 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
9:30 am 0.75 hr	<b>Federal Employment Law Update</b>  A review of important cases, legislative developments and the changing landscape in employment law.  Linda Ottinger Headley, Littler Mendelson, P.C. - Houston, TX
10:15 am	<b>Break</b>
10:30 am 0.75 hr	<b>Developments in Disability Discrimination Law</b>  A review of developments in disability discrimination law, 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 0.50 hr	<b>Public Sector Update</b>  A discussion of recent case law and statutory developments regarding the rights and obligations of governmental employers and employees. The presentation is split between an attorney who represents public employers and an attorney who represents public employees.  B. Lee Crawford Jr., City of Austin Law Department - Austin, TX Phil Durst, Deats, Durst, Owen & Levy, P.L.L.C. - Austin, TX
11:45 am 0.50 hr	<b>The National Labor Relations Act (NLRA) in the Age of Facebook</b>  This presentation analyzes current developments and cutting-edge issues under the NLRA affecting union and non-union workplaces, including NLRB rulemaking, employer regulation of social networks, and use of neutrality agreements in union organizing campaigns.  James Roddy Tanner, Tanner & Associates - Fort Worth, TX

12:15 pm

**Lunch on Your Own**

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## Thursday Afternoon, May 12, 2011

### Presiding Officer:

**Viane Lopez Robinson**, Buck Keenan LLP - Houston, TX

1:30 pm  
0.50 hr

### **FLSA Collective Actions**

A review of recent developments in wage and hour collection actions.

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

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2:00 pm  
0.50 hr ethics

### **Practical Issues in Employment Litigation by Immigrant Employees**

Immigrant employees, including undocumented workers, are increasingly using the legal system to pursue wage claims and other employment actions. This session examines several subtle litigation practice issues that these claims present for lawyers on both sides of the docket, including the risks for employer and employee, the scope of allowable discovery, and structuring and accounting for judgments and settlements.

Bill Beardall, Equal Justice Center and The University of Texas School of Law Transnational Worker Rights Clinic - Austin, TX

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2:30 pm  
0.50 hr  
0.25 hr ethics

### **Discovering the Facts without Discovery**

This presentation provides an overview of the resources that can be used, outside of the formal discovery process, to obtain information about parties, witnesses, experts and opposing counsel.

Kevin Marshall Sadler, Baker Botts L.L.P. - Austin, TX

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3:00 pm

### **Break**

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## **TRACK A: Human Resources**

### Presiding Officer:

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

3:15 pm  
0.50 hr

### **Improving Employee Wellness in Compliance with the ADA and GINA**

Employee wellness programs are dynamic benefits employers may use to manage costs, boost morale and attract qualified employees. This session focuses on the legality of these programs and how they can easily run afoul of the Americans with Disabilities Act (ADA), Genetic Information Nondiscrimination Act (GINA) and a variety of other statutes.

Shannon B. Schmoyer, Schmoyer Reinhard LLP - San Antonio, TX

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3:45 pm  
0.50 hr

### **Military Issues and USERRA**

USERRA is sometimes counterintuitive. This session highlights some of the tricks and traps for employers that can result in inadvertent noncompliance.

Christopher H. Hahn, Dell, Inc. - Round Rock, TX

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4:15 pm 0.75 hr	<b>Managing the Dispersed Workforce</b>  An HR professional discusses problems related to establishing and maintaining a workforce that is remote, multistate and multinational.  Kevin Porter, Lauren Engineers & Constructors, Inc. - Abilene, TX
5:00 pm 0.50 hr 0.25 hr ethics	<b>Handbook Helper</b>  Practical tips for writing and maintaining good employee handbooks.  Audrey E. Mross, Munck Carter, LLP - Dallas, TX
5:30 pm 0.00 hr ethics	<b>Track A Adjourn</b>

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## TRACK B: Litigation

### Presiding Officer:

**James Roddy Tanner**, Tanner & Associates - Fort Worth, TX

3:15 pm 0.50 hr	<b>How to Evaluate a Case</b>  A plaintiffs' attorney's perspective on evaluating a case and determining what the employee needs from the legal system.  Malinda A. Gaul, Gaul and Dumont - San Antonio, TX
3:45 pm 0.50 hr 0.25 hr ethics	<b>Resolving Cases "Early": Effective Negotiation and Mediation Strategies</b>  Closing cases is how lawyers make their money, no matter the side of the docket. An experienced litigator and dispute resolution expert discusses how to do it quickly and effectively, as well as those rare times you should not do so.  David T. Lopez, David T. Lopez & Assoc. - Houston, TX
4:15 pm 0.75 hr	<b>An Eye for an Eye: How to Prepare and Try a Retaliation Case</b>  A panel discussion featuring plaintiffs' counsel and defense counsel perspectives on issues and strategies involved in preparing and trying retaliation cases.  Moderator: Paul A. Schorn, Paul Schorn Attorney at Law - Lockhart, TX Panelists: Michael James Golden, Boulette & Golden L.L.P. - Austin, TX Panelists: Robert W. Schmidt, Crews Law Firm, P.C. - Austin, TX
5:00 pm 0.50 hr	<b>Summary Judgment Motions</b>  This session addresses the factors that increase the likelihood that summary judgment will be granted and influence the high failure rates for plaintiffs; distinguishes conclusory allegations from lay opinions; discusses effective use of circumstantial evidence; and identifies the many and varied meanings of showing pretext.  Margaret A. Harris, Butler & Harris - Houston, TX

5:30 pm  
0.00 hr ethics

**Track B Adjourn**

**Friday Morning, May 13, 2011**

**Presiding Officer:**

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

8:30 am  
0.33 hr

**What Employment Lawyers Need to Know about the Dodd-Frank Act**

The Dodd-Frank Wall Street Reform and Consumer Protection Act will have wide-reaching effects on all companies, not just those in the financial services industry. This session examines how the legislation and regulations impact employers, as well as some traps to avoid.

Dona Szak, Ajamie LLP - Houston, TX

8:50 am  
0.50 hr

**Retaliation: Just When You Thought You Knew It All**

This session examines new statutory protection against retaliation and more about retaliation cases making their way to the United States Supreme Court.

Amy Gibson, Gibson Wiley PLLC - Dallas, TX

9:20 am  
0.50 hr

**Employee Mobility and Covenants Not to Compete**

A practical analysis of best practices, tips and pitfalls in managing employee mobility and covenants not to compete in light of recent case law developments and common law causes of action.

Commentator:

Hon. Ravi K. Sandill, 127th District Court - Houston, TX

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

9:50 am  
0.50 hr

**Settlement Agreements**

You've done the work, now paper the deal! Discussion of what a "Standard Texas Settlement Agreement" should be for employment cases. Consideration, releases, taxes, you name it!

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

10:20 am

**Break**

10:35 am  
0.67 hr  
0.50 hr ethics

**Privacy Wars: Managing Privacy Issues Associated with Emerging Technology and Media**

This session explores the evolving use of social media by employers, employees and unions, and provides a detailed discussion of emerging legal theories for establishing individual privacy rights with respect to online activity by employees. The topic specifically addresses the limits of employee consent and traditional property rights, and provides practical suggestions for managing privacy concerns in an online work environment.

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

11:15 am 0.50 hr	<p><b>Legal Issues involving a Dispersed Workforce</b></p> <p>This topic covers a myriad of legal issues implicated by today's nontraditionally-sited workforce. Discussed are concerns regarding remote workers in diverse locales, inherently mobile workers, and virtual and home offices, including property rights, wage and hour and privacy issues.</p> <p>Laura M. Merritt, Wilson Sonsini Goodrich &amp; Rosati - West Lake Hills, TX</p>
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## Friday Afternoon, May 13, 2011

### Presiding Officer:

**Vianei Lopez Robinson**, Buck Keenan LLP - Houston, TX

11:45 am	<p><b>Break to Pick Up Lunch</b></p> <p>Included in conference registration fee.</p>
	<b>Luncheon Presentation</b>
12:00 pm 0.75 hr 0.25 hr ethics	<p><b>Judges Panel: How to Try a Labor and Employment Case</b></p> <p>Members of the judiciary discuss their experiences and views on how labor and employment law cases should be handled and tried by each side of the bar. The panel includes esteemed judges who practiced in this area of the law and are uniquely positioned to provide practical and interesting information.</p> <p>Moderator: Phil Durst, Deats, Durst, Owen &amp; Levy, P.L.L.C. - Austin, TX</p> <p>Panelists: Hon. Kenneth H. Molberg, 95th Judicial District Court - Dallas, TX</p> <p>Panelists: Xavier Rodriguez, US District Court, Western District of Texas - San Antonio, TX</p> <p>Panelists: Hon. Ravi K. Sandill, 127th District Court - Houston, TX</p>
12:45 pm	<b>Break</b>
1:00 pm 0.75 hr	<p><b>Back to the Future: Proceeding before and Litigating with the EEOC</b></p> <p>Plaintiff, defense and government perspectives on EEOC administrative investigations and litigation. The panelists also discuss recent trends and initiatives at the EEOC and the recent resurgence of Title VII issues involving more overt forms of discrimination in the workplace.</p> <p>Panelists: Suzanne Michel Anderson, Equal Employment Opportunity Commission - Dallas, TX</p> <p>Panelists: John V. Jansonius, Akin Gump Strauss Hauer &amp; Feld LLP - Dallas, TX</p> <p>Panelists: Ian Scharfman, The Scharfman Law Firm, PLLC - Houston, TX</p>

1:45 pm 0.50 hr	<p><b>Emerging Issues Involving Independent Contractors</b></p> <p>The misclassification of employees has been a growing focus of attorneys, the Department of Labor and the IRS. This discussion examines the analyses that courts and agencies have recently applied, traps for the unwary, and enforcement trends.</p> <p>Sean M. Becker, Vinson &amp; Elkins LLP - Houston, TX</p>
2:15 pm 0.50 hr	<p><b>All About Leave: Hot Topics in the FMLA</b></p> <p>A discussion of the latest developments under the FMLA, ADAAA, USERRA and Workers' Compensation. A review of best practices in administering leaves of absences, requests for reasonable accommodation, and return-to-work situations.</p> <p>Katrina Grider, Attorney at Law - Cypress, TX</p>
2:45 pm 0.75 hr ethics	<p><b>Ethical Issues in Employment Litigation</b></p> <p>Hear from experienced plaintiff and defense attorneys regarding thorny ethical issues, including discovery dilemmas, joint representation and more.</p> <p>Moderator: Vianei Lopez Robinson, Buck Keenan LLP - Houston, TX</p> <p>Panelists: Joseph Y. Ahmad, Ahmad, Zavitsanos &amp; Anaipakos, P.C. - Houston, TX</p> <p>Panelists: Karan Cummings Ciotti, Ogden Gibson Broocks Longoria &amp; Hall, LLP - Houston, TX</p>
3:30 pm	<p><b>Adjourn</b></p>