

**22<sup>nd</sup> Annual Labor and Employment Law Conference**  
**May 12-13, 2015 • AT&T Conference Center • Austin, TX**

**Tuesday Morning, May 12, 2015**

**Presiding Officer:**

**David T. Lopez**, Attorney at Law - Houston, TX

7:30 am	<b>Registration Opens</b>  Includes continental breakfast.
8:20 am	<b>Welcoming Remarks</b>
8:30 am 0.75 hr	<b>State Employment Law Update: Texas and Beyond</b>  A review of employment-related developments under Texas state law with a discussion of significant new Texas cases and important trends in other states.  Clara "C. B." Burns, Kemp Smith LLP - El Paso, TX
9:15 am 0.50 hr	<b>New Federal Case Law and Legislation</b>  Analyze recent Supreme Court decisions, significant federal case law and federal legislative developments.  Linda Ottinger Headley, Littler Mendelson P.C. - Houston, TX
9:45 am 0.50 hr	<b>Federal Regulatory Update</b>  A discussion of important new developments at federal agencies which regulate labor and employment matters.  Audrey E. Mross, Munck Wilson Mandala, LLP - Dallas, TX
10:15 am	<b>Break</b>
10:30 am 0.75 hr	<b>Public Sector Employment Law Update</b>  A focused discussion of recent statutory and case developments in public sector employment law, including free speech, due process, search and seizure, privacy and whistleblower law.  B. Lee Crawford Jr., City of Austin Law Department - Austin, TX Margaret A. Harris, Butler & Harris - Houston, TX

11:15 am 0.33 hr	<p><b>Affordable Care Act: Welcome to the Brave New World of 2015</b></p> <p>After almost five years, one of the last major parts of the ACA—the employer mandate—has now become effective for many employers. While employers can breathe a little easier knowing that this requirement has been clarified by a regular stream of guidance from Washington, many thorny practical problems remain to be solved during 2015 and beyond. Understand the key ACA and employee benefits issues you need to know about in 2015 and get practical tips for managing their impact.</p> <p>Timothy G. Verrall, Ogletree, Deakins, Nash, Smoak &amp; Stewart, P.C. - Houston, TX</p>
11:35 am 0.50 hr	<p><b>Recent Developments under the National Labor Relations Act</b></p> <p>In the past year, a revitalized National Labor Relations Board has addressed a number of significant issues affecting union and nonunion workplaces. Hear recent developments from regulation of employer e-mail policies to expansion of the joint employer doctrine.</p> <p>Danielle E. Needham, Jackson Walker L.L.P. - Fort Worth, TX Rod Tanner, Tanner and Associates, PC - Fort Worth, TX</p>
12:05 pm	<p><b>Pick Up Lunch</b></p> <p>Included in registration.</p>

## Tuesday Afternoon, May 12, 2015

### Presiding Officer:

**James H. Kizziar Jr.**, Bracewell & Giuliani LLP - San Antonio, TX and Washington, DC

### LUNCHEON PRESENTATION

12:25 pm 0.75 hr	<p><b>Social Media and Protected Concerted Activities</b></p> <p>What do I do when my employees talk about work on Facebook? On Twitter? Does the NLRA apply to me if I don't have a union? Oh yes, it does!</p> <p>Martha E. Kinard, Regional Director, National Labor Relations Board - Fort Worth, TX</p>
1:10 pm	<p><b>Break</b></p>
1:25 pm 0.75 hr	<p><b>Strategies for Employee Leaves of Absence</b></p> <p>Discover tips, tricks and strategies to deal with issues like intermittent leave, leave abuse, ADA accommodation, certification and return to work documentation, psychiatric health conditions and more.</p> <p>Katrina Grider, Attorney at Law - Cypress, TX</p>

2:10 pm 0.50 hr	<p><b>Religious Discrimination: It's Even More Complicated than You Thought</b></p> <p>Employers are not only faced with traditional demands for accommodation, but experience new challenges from proselytizing employees, some of whom are now asserting their own religious beliefs. Courts are now facing a question they have long tried to avoid—what actually is a religion? The potential clash of these various interests pose fascinating challenges both for courts and for the lawyers who represent employers or employees.</p> <p>Michael W. Fox, Ogletree, Deakins, Nash, Smoak &amp; Stewart, P.C. - Austin, TX</p>
2:40 pm 0.50 hr	<p><b>Emerging LGBT Issues in the Workplace</b></p> <p>Recent legal developments have dramatically changed the landscape for same-sex marriage and the rights of LGBT employees in the workplace. Explore the related impact on employee benefit plans, leave entitlements, and anti-discrimination policies.</p> <p>Shannon B. Schmoyer, Schmoyer Reinhard LLP - San Antonio, TX</p>
3:10 pm	<p><b>Break</b></p>
3:20 pm 0.50 hr	<p><b>Dealing with Workplace Violence</b></p> <p>Address the three phases of crisis management by focusing on understanding and preventing workplace violence before there is an incident, steps to take during an incident to minimize injuries and damage, and steps to take following an incident of violence in the workplace.</p> <p>Dennis A. Davis, Ogletree, Deakins, Nash, Smoak &amp; Stewart, P.C. - Torrance, CA</p>
3:50 pm 0.75 hr 0.25 hr ethics	<p><b>The Limits of Fair Competition: The UTSA, Non-Competes, Clawbacks and More</b></p> <p>Significant recent non-compete decisions, an update on the Uniform Trade Secret Act, non-compete drafting tips, and discussion of considerations that arise at the outset of litigation, plus practical considerations when seeking or opposing applications for a TRO and temporary injunction.</p> <p>Tom Nesbitt, DeShazo &amp; Nesbitt LLP - Austin, TX Hon. R. K. Sandill, 127th District Court - Houston, TX Howard L. Steele Jr., Steele Law Group, PLLC - Houston, TX</p>
4:35 pm 0.50 hr 0.25 hr ethics	<p><b>Getting from Internet to Evidence</b></p> <p>Social media can be a goldmine in employment law cases, if you can discover it and get it into evidence. Learn ethical methods of eDiscovery related to social media, the nuts and bolts of admitting social media data into evidence, and strategies for using that evidence on both liability and damages claims.</p> <p>Michael J. Golden, Boulette Golden &amp; Marin L.L.P. - Austin, TX</p>
5:05 pm 0.50 hr ethics	<p><b>Ethical Settlement and Case Valuation</b></p> <p>Part science experiment and part game show, analyze the valuation of a few employment law situations, including how employee-side and employer-side lawyers' perspectives differ, and how that can assist in ethical settlement negotiations.</p> <p>Philip Durst, Deats, Durst, Owen &amp; Levy, P.L.L.C. - Austin, TX</p>
5:35 pm	<p><b>Adjourn</b></p>

## Wednesday Morning, May 13, 2015

### Presiding Officer:

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

7:30 am	<b>Conference Room Opens</b>  Includes continental breakfast.
8:30 am 0.75 hr	<b>Developments in Disability Discrimination Law</b>  A look at significant developments under the ADA and insight into emerging disability issues.  James H. Kizziar Jr., Bracewell & Giuliani LLP - San Antonio, TX and Washington, DC
9:15 am 0.50 hr	<b>Employment Cases: A View from the Bench</b>  A discussion of recent developments and hot topics in state court employment practice, including the impact of the new Rule 91a, the application of the anti-SLAPP statute and the Texas Uniform Trade Secrets Act.  Hon. Kenneth H. Molberg, 95th Judicial District Court - Dallas, TX Moderator: Sean M. Becker, Vinson & Elkins LLP - Houston, TX
9:45 am	<b>Break</b>

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### Track A: Litigation Strategies

#### Presiding Officer:

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

10:00 am 0.50 hr	<b>Dos and Don'ts for Federal Law Practice</b>  A roundtable discussion on federal practice tips from former federal law clerks.  Moderator: J. Allen Douglas, Littler Mendelson P.C. - Houston, TX J. Derek Braziel, Lee & Braziel, LLP - Dallas, TX Panelists: Elizabeth Siberry Chestney, Cornell Smith Mierl & Brutocao, LLP - Austin, TX Shreedhar R. Patel, Steele Law Group, PLLC - Houston, TX
10:30 am 0.50 hr	<b>Depositions</b>  We rely on deposition testimony to support or overcome motions for summary judgment, bolster negotiating positions, and impeach witnesses at trial. Hear tips and strategies for taking effective depositions and getting the evidence you need.  Moderator: Viane Lopez Braun, Buck Keenan LLP - Houston, TX Panelists: Malinda A. Gaul, Law Offices of Gaul and Dumont - San Antonio, TX Robert E. Sheeder, Bracewell & Giuliani LLP - Dallas, TX

11:00 am 0.50 hr 0.25 hr ethics	<b>Gaining an Edge: The Use of Jury Consultants</b>  The demand for and use of jury consultants has increased dramatically in the last few years. Trial lawyers, in-house counsel, and insurance counsel now frequently look to jury consultants for answers as to case assessment, trial strategy, and risk avoidance. Learn what tools a jury consultant can provide to help you succeed in your litigation practice.  Emily McDonald, Bloom Strategic Consulting, Inc. - Dallas, TX
11:30 am 0.33 hr	<b>What We Have Here... Is a Failure to Mitigate</b>  Analyze the legal standards and issues regarding mitigation, including burden of proof, evidentiary requirements, expert testimony, and recent developments. Plus, get trial tips and other practical advice for plaintiffs and defendants.  Kenneth D. Hughes, Hughes Roch LLP - Houston, TX
11:50 am 0.50 hr	<b>Proving or Defending against Mixed Motive Claims</b>  Tips and traps with this causation standard.  Katherine L. Butler, Butler & Harris - Houston, TX John V. Jansonius, Jackson Walker L.L.P. - Dallas, TX

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## Track B: Workforce Strategies

### Presiding Officer:

**Tom Nesbitt**, DeShazo & Nesbitt LLP - Austin, TX

10:00 am 0.50 hr	<b>Leveraging Human Resources</b>  Gain a new perspective on the HR function, including the challenges that face many HR professionals as they make their way to being recognized as a true business partner in their organization. How do you stop your business people from considering you an obstacle and instead an ally-before they ask you to fix their mess ups?  Daisy Olivera, vcfo - Austin, TX
10:30 am 0.33 hr	<b>HR in Times of Crisis</b>  How to navigate the legal issues presented during unexpected challenges such as weather events, pandemics, and other emergencies.  Laura M. Merritt, Boulette Golden & Marin L.L.P. - Austin, TX
10:50 am 0.50 hr	<b>The Dos and Don'ts of Background Checks</b>  Many employers find that background checks are an important tool to use when making hiring decisions. Learn how to avoid class action lawsuits, as well as violations of privacy rights and the Fair Credit Reporting Act when conducting background checks on applicants and employees.  Victoria Martin Phipps, Littler Mendelson P.C. - Houston, TX

11:20 am 0.50 hr 0.25 hr ethics	<b>FLSA Audits</b>  Pre-inspection preparation issues, including preserving evidence, individual liability, and maximizing defenses.  Charles C. High Jr., Kemp Smith LLP - El Paso, TX
11:50 am 0.50 hr	<b>Handbooks 2015</b>  Practical tips to update existing policies and adopt new ones in light of recent NLRB, EEOC, and court activity, as well as new state and local sick leave laws for multi-state employers.  Connie L. Cornell, Cornell Smith Mierl & Brutocao, LLP - Austin, TX
12:20 pm	<b>Pick Up Lunch</b>  Included in registration.

## Wednesday Afternoon, May 13, 2015

### Presiding Officer:

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

12:40 pm 0.75 hr 0.25 hr ethics	<b>In-House Insights: What Resonates with In-House Lawyers</b>  A discussion of what action—or inaction—influences selection and retention of defense counsel, as well as the steps a plaintiff’s lawyer can take to grab the attention of the company’s internal lawyers.  Moderator: Brian S. Greig, Norton Rose Fulbright - Austin, TX Panelists: Christopher H. Hahn, Dell - Round Rock, TX Nestor Ho, Silicon Labs - Austin, TX Ana Christina Ward, Asuragen, Inc. - Austin, TX
1:25 pm	<b>Break</b>
1:40 pm 0.75 hr	<b>Big Data: Analytics and the Hackable Employee</b>  Explore the growing use of data analytics in traditional employment decision-making, the potential for using big data to effect positive change, and the legal risks associated with unsophisticated big data decision-making. Discuss the new era of voluntarily-captured personal data and the creative use of the same by employee and employer advocates alike. Specific treatment will be given to big data and Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, the Stored Communications Act, the Texas Uniform Trade Secrets Act, and more.  Jason Boulette, Boulette Golden & Marin L.L.P. - Austin, TX
2:25 pm 0.50 hr 0.25 hr ethics	<b>Retaliation Red Flags</b>  What can help you or hurt you in preventing or proving a retaliation case?  Amy Gibson, Gibson Wiley PLLC - Dallas, TX

2:55 pm  
0.75 hr ethics

### **Ethics and Professionalism Update for Employment Lawyers**

An annual update on ethics and professionalism issues including conflicts of interests, representation of insured clients in employment practice liability insurance matters, inadvertent disclosure rules, attorney-client privilege and waiver issues, cellphone, computer and social media issues, and ethical issues relating to settlement discussions.

Dennis P. Duffy, Baker & Hostetler LLP - Houston, TX

3:40 pm

### **Adjourn**