

23RD ANNUAL
**LABOR AND EMPLOYMENT
LAW CONFERENCE**



May 3–4, 2016
AT&T Conference Center ■ Austin, TX

 **Live Webcast on May 3–4**

Earn up to 14.00 Hours of Credit Including 2.00 Hours of Ethics Credit

TX Legal Specialization Credit Approved for Civil Appellate Law, Civil Trial Law and Labor and Employment Law

PHR, SPHR and GPHR Recertification Credit Expected

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TUESDAY MORNING, MAY 3, 2016

Presiding Officer:

Laura M. Merritt, Boulette Golden & Marin L.L.P., Austin, TX

7:30 a.m. Registration Opens

Includes continental breakfast.

8:20 a.m. Welcoming Remarks

8:30 a.m. .75 hr

**State Employment Law Update:
Texas and Beyond**

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 a.m. .75 hr

Federal Law Developments

An analysis of recent Supreme Court decisions and significant federal cases, legislative developments and regulatory changes.

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

10:00 a.m. .50 hr

Wage and Hour Update

In recent years, wage and hour lawsuits have proliferated. This presentation examines the intricacies of the FLSA and continuing trends, including pending Supreme Court cases involving wage and hour issues.

Robert E. Sheeder, Bracewell, Dallas, TX

10:30 a.m. Break

10:45 a.m. .75 hr

The Future of Employment

Explore the effects of the sharing economy on the traditional employment model as companies use technology to connect providers and end-users in novel ways and employees increasingly view themselves as individual entrepreneurs with their own business aspirations. Specific topics include the scope of an the limitations of the employee vs. contractor classification system, the use of arbitration agreements as a response to judicial second-guessing, the scope of an employee's fiduciary duty, the ownership of employee inventions, and some of the potential consequences associated with replacing the traditional employment model with individually-defined, market-driven, peer-to-peer business relationships.

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

11:30 a.m. .75 hr

Recent Developments Under the National Labor Relations Act

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 arbitration and e-mail policies to expansion of the joint employer doctrine.

Jay K. Rutherford, Jackson Walker LLP, Fort Worth, TX
Rod Tanner, Tanner and Associates, PC, Fort Worth, TX

12:15 p.m. Pick Up Lunch

Included in registration.

TUESDAY AFTERNOON

Presiding Officer:

Kenneth D. Hughes, Hughes Roch LLP, Houston, TX

LUNCHEON PRESENTATION

12:35 p.m. .75 hr

Judicial Insights

Hear federal and state judges discuss trends in employment law and get practical tips working effectively with the judiciary.

Moderator:

John V. Jansonius, Jackson Walker LLP, Dallas, TX

Panelists:

Hon. Alfred H. Bennett, U.S. District Court, Southern District of Texas, Houston, TX

Hon. Robert L. Pitman, U.S. District Court, Western District of Texas, San Antonio and Austin, TX

Hon. Melody M. Wilkinson, 17th District Court, Fort Worth, TX

1:20 p.m. Break

1:35 p.m. .75 hr

Public Sector Update

Developments in substantive and procedural due process protections, as well as underlying principles governing public sector employment law.

Ricardo J. Navarro, Denton, Navarro, Rocha, Bernal, Hyde & Zech, P.C., Harlingen, TX

2:20 p.m. .50 hr

Federal Contracting Update

Who is now considered a federal contractor (you may be surprised!), updates on obligations and recent Office of Federal Contract Compliance Programs regulations and executive orders.

Shafeeqa W. Giarratani, Norton Rose Fulbright, Austin, TX

2:50 p.m. Break

Timely topics, wide variety of content and quality speakers.

The conference presentations are all relevant and superbly presented.

Great diversity of topics!

A fun conference and great learning experience.

Consistently high-quality speakers who keep up with trends and changes in the law.

TRACK A: LITIGATION STRATEGIES

Presiding Officer:
Robert E. Sheeder, Bracewell,
Dallas, TX

3:00 p.m. .75 hr | .25 hr ethics

Trade Secret and Non-Compete Update

A discussion of recent cases involving trade secrets and non-competes, including an emphasis on practical courtroom advice.

Elizabeth Siberry Chestney, Cornell Smith Mierl & Brutocao, LLP, Austin, TX
Hon. Grant Dorfman, 334th District Court, Houston, TX
Kenneth D. Hughes, Hughes Roch LLP, Houston, TX

3:45 p.m. .50 hr | .25 hr ethics

Arbitration Strategies

A lawsuit was filed, but there is an arbitration agreement. Now what? From compelling arbitration to trying a case before an arbitrator, survey decision points from the beginning of a dispute to enforcing or appealing an arbitral award and ethical issues unique to the arbitration world.

Vanessa M. Griffith, Vinson & Elkins LLP, Dallas, TX
Christopher H. Hahn, Dell, Round Rock, TX

4:15 p.m. .50 hr

Hot Topics and Trends in FLSA Collective Actions

Attorneys from both sides of the bar will keep you up to date about the latest trends in conditional certification and the hottest topics facing lawyers litigating in this fast-growing area.

J. Derek Braziel, Lee & Braziel, LLP, Dallas, TX
Kevin J. White, Hunton & Williams LLP, Houston, TX

4:45 p.m. .50 hr

Using Experts in Employment Cases

Beyond damages, what insight or support can experts offer in employment cases?

Lauren E. Mutti, Jackson Walker LLP, Dallas, TX

5:15 p.m. Adjourn

ABOUT THE COVER

Dresden Plate Red, 36" x 36", collage of soda and candy packages, old law books and acrylic, is by Philip Durst. For more information, visit www.davisgalleryaustin.com/artist.durst.html or www.blueprintstore.com

TRACK B: WORKFORCE STRATEGIES

Presiding Officer:
Steven L. Mierl, Cornell Smith Mierl & Brutocao, LLP, Austin, TX

3:00 p.m. .75 hr | .25 hr ethics

Anticipating, Receiving and Resolving Workplace Conflicts

Lawyers for employers and employees present a candid discussion of best practices for addressing problems and working effectively to a mutually acceptable resolution.

Viane Lopez Braun, Shannon, Gracey, Ratliff & Miller, LLP, Fort Worth, TX
David T. Lopez, Attorney-Arbitrator-Mediator, Houston, TX

3:45 p.m. .50 hr | .25 hr ethics

Navigating Employee Data Privacy in the Digital Age

An overview of current hot topics in the area of employee data privacy, including issues regarding the authorized and unauthorized access of employees' personal information from current and former employers.

Jason M. Storck, Wilson Sonsini Goodrich & Rosati, P.C., Austin, TX

4:15 p.m. .50 hr

What's New with the Affordable Care Act?

As employers continue to adapt to the Affordable Care Act's requirements, many new practical challenges have arisen with health plan design, tax reporting, staffing and scheduling practices among others, and more are sure to follow in 2016 and beyond. Explore an up-to-the-minute survey of these and other ACA compliance concerns and obtain practical tips and insights for ensuring that you are prepared for the challenges to come.

Timothy G. Verrall, Ogletree, Deakins, Nash, Smoak & Stewart, P.C., Houston, TX

4:45 p.m. .50 hr

Employee Handbooks

Practical tips to update existing policies and adopt new ones in light of recent NLRB, EEOC and court activity.

Steven L. Mierl, Cornell Smith Mierl & Brutocao, LLP, Austin, TX

5:15 p.m. Adjourn

Presiding Officer:

John V. Jansonius, Jackson Walker LLP, Dallas, TX

7:30 a.m. Conference Room Opens
Includes continental breakfast.

8:30 a.m. .75 hr

Leaves of Absence Update

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.

Katrina Grider, Attorney at Law, Cypress, TX

9:15 a.m. .75 hr

Developments in Disability Discrimination Law: 2015 to 2016

A review of significant developments under the Americans with Disabilities Act and insights into emerging disability issues.

James H. Kizziar Jr., Bracewell, San Antonio, TX and Washington, DC

10:00 a.m. Break

10:15 a.m. .75 hr

Practical Accommodations

Practical tips and techniques on accommodating pregnancy, religion, gender identity, and disability, and lessons from recent Supreme Court and EEOC guidance on maintaining a productive and orderly work environment while steering clear of violating employee rights.

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

11:00 a.m. .75 hr ethics

The Impaired Employee or Client

How to identify and address suicidal risks and mental health crises in employee and clients.

Searcy L. Simpson Jr., Law Offices of Skip Simpson, Frisco, TX

11:45 a.m. Pick Up Lunch

Included in registration.



This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 14.00 hours, of which 2.00 credit hours will apply to legal ethics/professional responsibility credit. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944), and an Oklahoma Bar Association MCLE presumptively-approved provider (#169).

Presiding Officer:

**James H. Kizziar, Jr, Bracewell,
San Antonio, TX and Washington DC**

LUNCHEON PRESENTATION

12:05 p.m. .75 hr

Lawyers, Guns, and Money

The Texas Legislature has been on a steady march to broaden the places and manner in which firearms may be possessed. Learn how it affects employers and employees, and see the role lawyers have to play, as well.

Michael J. Golden, Boulette Golden & Marin L.L.P., Austin, TX

12:50 p.m. Break

1:05 p.m. .50 hr

Modern Hiring

An exploration of common mistakes employers should avoid in the hiring process, including the use of outdated applications, performing background checks which are unlawful under the FCRA and Title VII, relying on overly aggressive social media policies and using words which create red flags in job postings.

Victoria Martin Phipps, Littler Mendelson P.C., Houston, TX

1:35 p.m. .75 hr

Pretext

Pretext from the perspective of an experienced worker-side attorney—learn what employers are doing today that may get them in trouble tomorrow.

Amy Gibson, Gibson Wiley PLLC, Dallas, TX

2:20 p.m. .50 hr

**Guardians of the IP Law Galaxy:
What Employment Lawyers Need to Know**

Employment lawyers are often closest to the daily employment law issues that actually impact a client's intellectual property. Get practical tools to protect your clients in this quickly transforming information age.

Howard L. Steele Jr., Steele Law Group, PLLC, Houston, TX

2:50 p.m. .75 hr ethics

Ethics for Employment Lawyers

Annual update on cutting-edge ethics issues in employment litigation and counseling including, attorney-client privilege and waiver issues, ethical issues in internal investigations, ex parte communication issues, employee use of social media and employer computer equipment, in-house ethical issues, and ethics and disclosure issues in settlement and negotiations.

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

3:35 p.m. Adjourn

LAURA M. MERRITT*—CHAIR
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Austin, TX

HON. ALFRED H. BENNETT
U.S. District Court
Southern District of Texas
Houston, TX

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Bracewell
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Washington, DC

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Attorney-Arbitrator-Mediator
Houston, TX

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Western District of Texas
San Antonio and Austin, TX

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Hunton & Williams LLP
Houston, TX

HON. MELODY M. WILKINSON
17th District Court
Fort Worth, TX

*Planning Committee member

IN MEMORIAM

THOMAS MICHAEL MELO
1952–2015

Tom was a highly respected and much loved leader in Texas labor and employment law. A frequent author and speaker on employment matters and practitioner for nearly 30 years, Tom helped build and define the employment law practice. Although a diagnosis of younger-onset dementia in January of 2006 put an end to his practice, his impact will be felt for generations to come.

If you or anyone you know may be suffering from younger-onset dementia, please contact the Alzheimer's Association at 800.272.3900 for information and support.

HOW TO REGISTER

Online:
www.utcle.org/conferences/EL16

Mail:
The University of Texas
School of Law
Attn. CLE
PO Box 7759
Austin, TX 78713-7759

Fax:
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Call 512.475.6700 or email service@utcle.org*

REGISTRATION BENEFITS

Before the Conference: Access course materials—downloadable PDFs of papers and slides—and speaker and attendee roster in *Your Briefcase* 48 hours before the conference.

After the Conference: Unlimited access to final, complete course materials—downloadable PDFs of papers and slides—in *Your Briefcase*.

eConference: Complimentary 180-day access to the eConference—with papers, slides, and audio—for CLE credit (TX, CA and OK) you may have missed at the live conference. Available in *Your Briefcase* 6–8 weeks after the conference.

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Bring Labor and Employment Law in-house. Audio presentations and written materials for learning with your colleagues—for Texas MCLE credit. We manage the accreditation process from approval to reporting. Custom packages available.

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EL16

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REGISTRATION—Includes Course Materials and Tuesday and Wednesday Luncheon Presentations

Special group registration rates available. Call 512.475.6700.

1. Select Registration Type

- Individual registration by Friday, April 22 \$595
 Individual registration after Friday, April 22 \$645

2. Select Course Materials Format

- Electronic Course Binder Download (PDF) ONLY
 Printed Course Binder ONLY (available through April 22)

3. Tuesday Afternoon Concurrent Sessions—Select One

- Track A: Litigation Strategies
 Track B: Workforce Strategies

LIVE WEBCAST REGISTRATION—Includes Electronic Course Binder Download (PDF)

Please note ONLY Track B: Workforce Strategies will be available via webcast

- Individual registration \$545

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ConferenceComplete package includes Audio CD Set plus a Printed Binder and MCLE Reporting Form for each participant. Available for delivery 3–5 weeks after conference date. Shipping included.

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AUSTIN
 May 3–4, 2016

CONFERENCE LOCATION



AT&T Conference Center
 The University of Texas at Austin
 1900 University Avenue
 Austin, TX
 877.744.8822

Special Room Rate: \$185
 good through April 18
 (subject to availability)

Parking:
 Free daily self-parking at UT garages.
 Separate fees apply for valet and overnight parking.
 (subject to change)

KEY DATES

- April 22, 2016**
last day for early registration
 add \$50 for registrations
 received after this time
- April 27, 2016**
last day for cancellation (full refund)
- April 29, 2016**
last day for cancellation (partial refund)
 \$50 processing fee applied
- May 3, 2016, 8:20 a.m.**
Conference begins

REASONS TO ATTEND LABOR AND EMPLOYMENT LAW

The **23rd Annual Labor and Employment Law Conference** offers two days of timely updates and emerging trends in employment law from leading members of the employment law bench and bar along with HR and personnel experts. Highlights include:

- An exploration of the technology-fueled sharing economy on the relationship between companies, consumers and service providers with Jason Boulette of Boulette Golden & Marin L.L.P.
- Judicial insights into trends in employment litigation from sitting state and federal judges.
- Practical tips and techniques on accommodating pregnancy, religion and disability.
- Discussion of *The Impaired Employee or Client* with advice on how to identify and address suicidal tendencies and mental health crises in the course of your practice.
- Ethics and professionalism update for employment lawyers.
- Focused presentation series on litigation and workforce strategies.
- The latest on federal and state employment case law and legislative developments, including disability issues under the ADA, guidance under the NLRA and more

2015 ESSENTIAL EMPLOYMENT HANDBOOK

The Definitive Resource Guide for Employment Lawyers and HR Professionals

Unsure if there is ever an obligation to give a reference on a former employee? Can employee violence really be prevented? What is the difference between disparate treatment and disparate impact, and why does it matter? What is working time? How is overtime calculated?

The Essential Employment Law Handbook addresses these questions, and provides best practices on "employment-at-will," discrimination and harassment issues, wage and hour violations, retaliation, hiring, firing, documentation, performance reviews, FMLA and much more.

Available in print or for download. To purchase, select on the registration form or visit www.utcle.org/conferences/EE15.