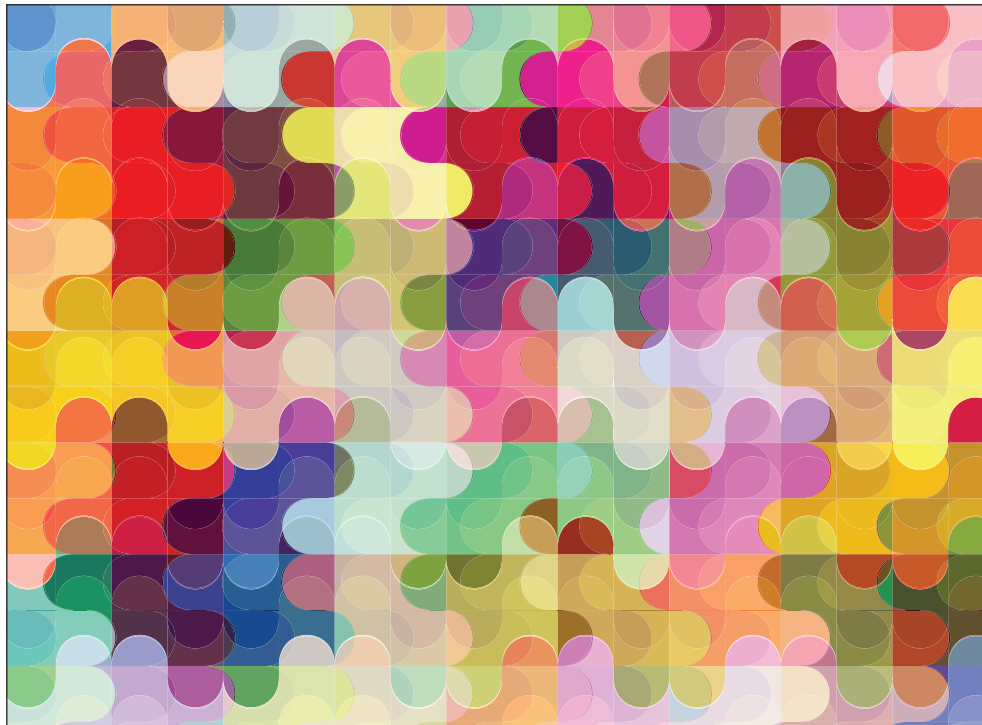


25<sup>TH</sup> ANNUAL  
**LABOR AND EMPLOYMENT LAW  
CONFERENCE**



May 10–11, 2018  
AT&T Conference Center ■ Austin, Texas

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 **Live Webcast May 10–11**

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Earn up to 14.00 Hours of Credit Including 2.00 Hours of Ethics Credit  
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Texas Legal Specialization Credit Approved for: Civil Appellate Law, Civil Trial Law, and Labor & Employment Law  
Professional Accreditation Expected: PHR, SPHR, GPHR, and SHRM-CPSM/SHRM-SCPSM Recertification Credit  
TX Accounting CPE Credit Available

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TX Accounting CPE Credit Available

**THURSDAY MORNING, MAY 10, 2018**

**Presiding Officer:**

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

**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**

Review 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 | .25 hr ethics**

**Federal Employment Law Developments in 2017-2018**

Look back at significant developments in the legislative and executive branches, federal agencies, the Supreme Court and lower federal courts, and explore what the future may hold.

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

**10:00 a.m. Break**

**10:15 a.m. .75 hr**

**Flip-Flop at the Board: What's Gone, What's New, What's Coming Under the NLRA**

A union lawyer and management lawyer discuss and debate the turn of events and precedent at the NLRB, and how that is impacting employment policies and practices for non-union and unionized employers.

John V. Jansonius, Jackson Walker LLP, Dallas, TX  
 Rod Tanner, Tanner and Associates, PC, Fort Worth, TX

**11:00 a.m. .50 hr**

**Wage and Hour Update**

Wage and hour lawsuits continue to proliferate, and rules continue to evolve. Examine intricacies of the FLSA and developing trends in regulation and case law.

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

**11:30 a.m. .50 hr**

**Texas Unemployment and Payday Law Update**

Get updated on how the Texas Workforce Commission has been ruling on unemployment, wage, and discrimination claims. Follow an outline of the most important compliance issues, and hear highlights of the best practices to follow when assisting clients with unemployment and wage claims.

William T. (Tommy) Simmons, Texas Workforce Commission, Austin, TX

**12:00 p.m. Pick Up Lunch**

Included in registration.

**THURSDAY AFTERNOON**

**Presiding Officer:**

**Rod Tanner, Tanner and Associates, PC, Fort Worth, TX**

**LUNCHEON PRESENTATION**

**12:20 p.m. .75 hr**

**Rights on Trial: How Workplace Discrimination Law Perpetuates Inequality**

Understand the fundamental tensions in anti-discrimination law, how it impacts plaintiffs and defendants in the litigation system, and hear practical recommendations for how to better respond to persistent patterns of discrimination.

Laura Beth Nielsen, Northwestern University and American Bar Foundation, Chicago, IL

**1:05 p.m. Break**

**1:20 p.m. .75 hr**

**Leaves of Absence Under the FMLA and ADA**

Hear a real time update on current activity from the federal agencies, the courts, and the plaintiffs' bar relating to employee leaves of absence from work for medical reasons. Explore, among other things, navigating complex FMLA issues, changes to the FMLA landscape in recent years, the blending of FMLA leaves into leaves as an accommodation under the ADA, when enough is enough in terms of extended leaves of absence, and tactics to push back on suspected leave abuse.

Alexis C. Knapp, Littler Mendelson P.C., Houston, TX

**2:05 p.m. .50 hr | .25 hr ethics**

**Reputational Risk: Managing Perceptions with Image Repair**

When the reputation of the client is uncertain and "no comment" is not an option, hear from a public relations veteran and an employment attorney on strategies for communicating with the public and employees. Discussion includes the advanced Image Repair Theory crisis communication guide, coordinating the legal and communications team, and the professional ethical rules that govern lawyers when speaking about ongoing conflict.

Jeff Hahn, Hahn Public Communications, Austin, TX  
 Tom Nesbitt, DeShazo & Nesbitt LLP, Austin, TX

**2:35 p.m. Break**

**ACCREDITATION**

**CLE CREDIT**

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 (#179).

**LEGAL SPECIALIZATION**

Civil Appellate Law  
 Civil Trial Law  
 Labor and Employment Law

**PROFESSIONAL ACCREDITATION**

PHR, SPHR, and GPHR Recertification Credit Expected

SHRM-CPSM/SHRM-SCPSM Recertification Credit Expected

Earn up to 17.00 credits in TX Accounting #250

**TRACK A: WORKFORCE SOLUTIONS**

**Presiding Officer:**  
Shannon B. Schmoyer, Schmoyer Reinhard LLP, San Antonio, TX

**2:45 p.m.** .75 hr

**The New Gender and Sexuality**

Legal update and practical workplace impact of social and cultural shifts with respect to the evolving terminology and variety of gender identity, gender expression, and sexual orientation.

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

**3:30 p.m.** .50 hr

**Legal Issues in the Onboarding Process**

The onboarding process involves a variety of legal issues, including immigration law compliance (I-9 forms), dispute resolution (arbitration agreements or jury waivers), and the protection of company information (confidentiality, non-solicitation and/or non-competition agreements). Discuss onboarding strategies that protect the employer's interests without alienating new employees.

Viane Lopez Braun, Decker Jones, P.C., Fort Worth, TX

**4:00 p.m.** .50 hr

**Threat Matrix: Preventing and Responding to Workplace Violence**

Violence in the workplace is rarely random which means there are often clues and an opportunity to deter or minimize the harm and havoc. Identify and balance the legal issues and practical concerns, use the provided checklist to assess your threat matrix and prepare reasonable countermeasures.

Audrey E. Mross, Munck Wilson Mandala, LLP, Dallas, TX

**4:30 p.m.** .50 hr

**Disaster Planning and Response**

Recent events have underscored the need for employers to develop and maintain a disaster response plan. Explore the legal issues involved in this sort of planning, and how to make sure the interests of both employees and employers are addressed in your plan.

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

**5:00 p.m. Adjourn**

**TRACK B: LITIGATION STRATEGIES**

**Presiding Officer:**  
Kenneth D. Hughes, Hughes Roch LLP, Houston, TX

**2:45 p.m.** .75 hr

**Anti-SLAPP for Employment Lawyers**

The Texas Citizens Participation Act created new challenges in pursuing, and new opportunities for defending, certain employment-related claims. Review recent case law interpretations and analyze Texas' anti-SLAPP statute, it's expanding reach, and the implications for employment lawyers.

Sean M. Becker, Vinson & Elkins LLP, Houston, TX

**3:30 p.m.** .50 hr

**Effective Use of Expert Witnesses**

Expert witnesses can make or break your case. Explore different ways to use them, and what you can and can't do with their testimony.

Robert E. Sheeder, Bracewell, Dallas, TX

**4:00 p.m.** .50 hr

**ADR Advantages, Disadvantages and Techniques: The Smoothest (Mostly) Road to Yes... or at Least to Closure**

From both sides of the docket, experienced employment litigators now serving as mediators and arbitrators address why, when, and how employment claims can be resolved quickly and efficiently through mediation or arbitration, dispelling certain misconceptions, and suggesting ways to avoid common errors in ADR.

Richard R. Brann, Baker Botts, Houston, TX  
David T. Lopez, Attorney-Arbitrator-Mediator, Houston, TX

**4:30 p.m.** .50 hr

**Damages in Trade Secret and Non-Compete Cases**

Damages are a crucial but often overlooked component of litigation arising from restrictive covenants. This presentation addresses key legal principles and recent developments in the area of damages in this type of litigation.

Vanessa M. Griffith, Vinson & Elkins LLP, Dallas, TX

**5:00 p.m. Adjourn**

**Presiding Officer:**

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

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

**8:30 a.m.** .75 hr

**Public Sector Update**

Discuss recent developments of importance for representing government employees, including First Amendment, due process, privacy, political patronage, and state law developments in the public workplace.

B. Craig Deats, Deats, Durst & Owen, P.L.L.C., Austin, TX  
Natalie G. DeLuca, City of Houston, Houston, TX

**9:15 a.m.** .75 hr

**Developments in Disability Discrimination Law**

Review significant regulatory and court developments under the Americans with Disabilities Act and gain 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.** .50 hr | .25 hr ethics

**Misbehavior in the C-Suite**

Misconduct by senior executives implicates unique issues and challenges for employers and lawyers alike. Using real-world examples, explore strategies for handling allegations of misconduct in the C-Suite and how to proceed when those allegations are substantiated. Examine the unique ethical issues presented when a client representative refuses to follow the advice of counsel for dealing with executive misconduct.

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

**EARN YOUR FULL TEXAS MCLE REQUIREMENTS**

UT Law CLE is committed to helping attorneys meet their annual MCLE requirements. Attendees of this conference will receive a promotional code for a free bonus eCourse following the event that will bring their total available hours to 15.00, including 3.00 hours of ethics.

**Are you a 1<sup>st</sup> or 2<sup>nd</sup> year attorney?**

**Attend most UT Law CLE conferences for just \$150!**

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10:45 a.m. .75 hr

**The Boundaries of Employee Free Speech**

As social media continues to evolve, employees are increasingly able to express their personal opinions on current events to wider audiences. Examine the rights of employees to express their views both inside and outside the workplace, and the competing rights of public and private employers to respond to those views when they conflict with their own values or those of their customers or employees. Explore when an employer may actually be obligated to take action against an employee for views expressed outside the workplace, including discussion of real-world situations like the events of Charlottesville, VA, the viral misogynistic "manifesto" written by an engineer employed by a giant in the technology industry, and an NFL player's decision to take a stand by taking a knee.

Jason Boulette, Boulette Golden & Marin L.L.P., Austin, TX  
B. Lee Crawford Jr., City of Austin Law Department, Austin, TX  
Malinda A. Gaul, Gaul and Dumont, San Antonio, TX

11:30 a.m. .50 hr

**The #MeToo Movement: Harassment in the Workplace**

In 2017, we saw a new surge in harassment claims. Learn about appropriate workplace training and hear viewpoints from both the employee and the management-side experts.

Amy Gibson, Gibson Wiley PLLC, Dallas, TX  
Shannon B. Schmoyer, Schmoyer Reinhard LLP, San Antonio, TX

12:00 p.m. **Pick Up Lunch**

Included in registration.

**FRIDAY AFTERNOON**

**Presiding Officer:**

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

**LUNCHEON PRESENTATION**

12:20 p.m. .75 hr | .25 hr ethics

**Emerging from the Shadows: Unconscious Bias in the Workplace**

While the existence of unconscious bias is inevitable, the way we deal with hidden biases in the workplace is enormously important. Examine how unconscious bias may influence workplace decisions and interactions, and discuss the latest approaches and legal implications for addressing it.

Katrina Grider, Ogletree, Deakins, Nash, Smoak & Stewart, P.C., Houston, TX

1:05 p.m. **Break**

1:20 p.m. .75 hr | .25 hr ethics

**Investigations in Today's Woke Workplace**

A veteran workplace investigator shares critical tips for ensuring that every complaint investigation is thorough, in good faith, and reliable in the midst of the #MeToo movement, instant social media postings, and polarizing employee relations issues.

DeDe Church, DeDe Church & Associates, LLC, Austin, TX

2:05 p.m. .50 hr

**What Is It Worth?**

How do lawyers on each side of the docket value the settlement of cases, and how do you compare in terms of valuation for standard employment law situations?

Philip Durst, Deats, Durst & Owen, P.L.L.C., Austin, TX

2:35 p.m. **Break**

2:45 p.m. .50 hr

**Data Analytics**

Learn how to easily kick-start your firm's innovation efforts, close the gender pay gap (for you and your clients), and use data to reduce bias, improve inclusion as part of a diversity and inclusion initiative, and simultaneously use proven scientific methods to improve bottom-line profitability!

Zev J. Eigen, Syndio, Los Angeles, CA

3:15 p.m. .75 hr ethics

**Ethics for Employment Attorneys**

Get updated on cutting-edge ethics issues, including attorney-client privilege and waiver issues, ex parte communications, access to social media and computer information, inadvertent disclosure and improper acquisition of confidential information, litigation holds and spoliation issues, and settlement negotiations.

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

4:00 p.m. **Adjourn**

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\*Planning Committee member

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Questions? 512.475.6700

If you have dietary requirements or would like to request accommodations under the ADA, please contact Customer Service at 512.475.6700 or service@utcle.org at least 10 business days prior to the conference.

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**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 access to the eConference—with papers, slides, and video—for CLE credit (TX and CA) you may have missed at the live conference. Available in "Your Briefcase" 6–8 weeks after the conference.

**TX MCLE Credit Reporting:** UT Law CLE can report credit on your behalf directly to the State Bar of Texas. Track your Texas MCLE credit claimed and reported through UT Law CLE in "Your Account."

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### Comprehensive Course Binders

Containing papers and slides from the live conference, eBinders are available for download and printed binders can be ordered from our office for delivery 4–6 weeks after the conference date. Shipping included.

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Special group registration rates available. Call 512.475.6700.

#### Select Registration Type

- Individual registration by May 2 ..... \$645  
 Individual registration after May 2 ..... \$695

#### Thursday Afternoon Concurrent Sessions—Select One

- Track A: Workforce Solutions  
 Track B: Litigation Strategies

#### Printed course binder available for an additional fee through May 2

*Conference registration includes Electronic Course Binder Download (PDF) in "Your Briefcase" at www.utcle.org.*

- Printed Course Binder ..... \$37.99  
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 Printed Course Binder for tax exempt registrants ..... \$35  
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*Please note ONLY Track A: Workforce Solutions will be available via webcast*

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*Includes Electronic Course Binder Download (PDF) in "Your Briefcase" at www.utcle.org*

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- eBinder Download (PDF) ..... \$225  
 Printed Binder ..... \$275  
 2017 Essential Employment Law Handbook eBinder Download ..... \$125  
<sup>†</sup>Texas customers—add 8.25% sales tax or include an Exemption Certificate ..... \$ \_\_\_\_\_  
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**AUSTIN**  
 May 10–11, 2018

**CONFERENCE LOCATION**



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

**Special Room Rate: \$189**  
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 (subject to availability)

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 Free daily self-parking at UT garages.  
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 (subject to change)

**KEY DATES**

- May 2, 2018**  
*last day for early registration*  
 add \$50 for registrations  
 received after this time
- May 4, 2018**  
*last day for cancellation (full refund)*
- May 7, 2018**  
*last day for cancellation (partial refund)*  
 \$50 processing fee applied
- May 10, 2018, 8:20 a.m.**  
*conference begins*

**REASONS TO ATTEND LABOR AND EMPLOYMENT LAW**

After 25 years, UT Law's **Labor and Employment Law Conference** is more relevant than ever. With two days of timely updates and emerging trends in employment law from leading members of the bar and personnel experts, the conference has earned the reputation as the premier program on employment law practice in Texas. This year's highlights include:

- Exploration of the *The Boundaries of Employee Free Speech* with discussion of the rights of employees to express their views and the competing rights of public and private employers to respond.
- Insight into unconscious bias in the workplace, including how it may influence workplace decisions and interactions, and the latest approaches and legal implications for addressing it.
- Examination of current activity involving *Leaves of Absence Under the FMLA and ADA*, including tactics for pushing back on suspected leave abuse.
- *What Is It Worth?* An analysis of how lawyers on each side of the docket value the settlement of cases and how to compare in terms of valuation for standard employment law situations.
- Focused presentation series on litigation strategies (featuring discussion of expert witnesses and anti-SLAPP concerns) and workforce solutions (featuring discussion of the onboarding process and preventing workplace violence).
- The latest federal and state employment case law and legislative developments, including disability issues under the ADA, guidance under the NLRA, and more.

At the conclusion of the conference, attendees receive a bonus eCourse containing an additional hour of ethics to ensure attendees can earn their required 15.0/3.0 MCLE hours for the year.

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