

26th Annual Labor and Employment Law Conference
May 9-10, 2019 • AT&T Conference Center • Austin, TX
May 9-10, 2019 • Live Webcast

Thursday Morning, May 9, 2019

Presiding Officer:

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

7:30 am In Austin Only	Registration Opens Includes continental breakfast.
8:20 am	Welcoming Remarks
8:30 am 0.75 hr	State Employment Law Update: Texas and Beyond Examine employment-related developments under Texas state law, including a discussion of significant new Texas cases. Also explore important trends developing in other states, and what they might mean for Texas. Christopher Benoit, The Law Office of Lynn Coyle, PLLC - El Paso, TX Clara "C. B." Burns, Kemp Smith LLP - El Paso, TX
9:15 am 0.75 hr	Federal Employment Law Update Analyze recent U.S. Supreme Court decisions, significant federal case law, and federal legislative developments. Danielle K. Herring, Littler Mendelson P.C. - Houston, TX
10:00 am 0.50 hr	Emerging Local Regulations and the Multistate Employer Businesses with employees in more than one state are facing the challenges of an increasingly disparate patchwork of laws. Hear about some of the most recent and significant labor and employment developments at the state and local level that could impact your multistate clients. Sarah Mitchell Montgomery, Jackson Walker LLP - Dallas, TX
10:30 am	Break
10:45 am 0.75 hr 0.25 hr ethics	Navigating the EEOC Get practical tips to ethically navigate through the EEOC administrative process from the perspective of the employee, employer, and EEOC. Hear guidance on how litigation with the EEOC differs from litigation between employers and employees. Malinda A. Gaul, Gaul and Dumont - San Antonio, TX Philip J. Moss, U.S. Equal Employment Opportunity Commission - San Antonio, TX Jennifer M. Trulock, Baker Botts - Dallas, TX

11:30 am 0.50 hr	<p>Negligence is Alive and Well in the Harassment Arena</p> <p>What can negligence tell us about employment claims, and what negligence claims can survive <i>Waffle House</i>? Applying negligence concepts to harassment and other claims from the perspective of an employee-side attorney—learn what employees and employers are doing that may be damaging their claims and defenses.</p> <p>Austin Kaplan, Kaplan Law Firm - Austin , TX</p>
12:00 pm 0.50 hr 0.25 hr ethics	<p>Antitrust Insights for HR Practices</p> <p>Discuss the Antitrust Guidance for Human Resources Professionals (issued by the Department of Justice and Federal Trade Commission in October 2016) and its enforcement under the current Administration.</p> <p>Christine E. Reinhard, Schmoyer Reinhard LLP - San Antonio, TX</p>
12:30 pm In Austin Only	<p>Pick Up Lunch (in Austin)</p> <p>Included in registration.</p>

Thursday Afternoon, May 9, 2019

Presiding Officer:

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

LUNCHEON PRESENTATION

12:50 pm 0.50 hr	<p>Age Discrimination: A New Kind of Generation Gap</p> <p>The Age Discrimination in Employment Act (ADEA) just celebrated the 50th anniversary of its enactment. With an aging baby boomer population, employees working past traditional retirement age, and millennials moving into management positions—these issues are more important than ever. Discuss strategies for managing multi-generational workforces and preventing age discrimination claims.</p> <p>Katrina Grider, Ogletree, Deakins, Nash, Smoak & Stewart, P.C. - Houston, TX</p>
1:20 pm	<p>Break</p>
1:35 pm 0.75 hr	<p>Wage and Hour Update</p> <p>Review developments in wage and hour enforcement and law over the past year.</p> <p>Aaron Johnson, Equal Justice Center - Austin, TX Daniel A. Verrett, Moreland Verrett, P.C. - Austin, TX</p>
2:20 pm 0.75 hr	<p>As the Board Turns: Recent Developments Under the National Labor Relations Act</p> <p>A union lawyer and management lawyer discuss the continuing evolution of the Board and how recent developments are impacting employment policies for non-union and unionized employers.</p> <p>Jennifer Bley Sweeny, Blumenfeld & Sweeny, LLP - Fort Worth, TX Rod Tanner, Tanner and Associates, PC - Fort Worth, TX</p>

3:05 pm
In Austin Only

Break (in Austin)

Track A: Workforce Solutions

Presiding Officer:

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

SPECIAL NOTICE: Live Webcast Includes *Workforce Solutions* Only

The live webcast includes the *Workforce Solutions* track but not the *Litigation Strategies* track. The materials for both tracks are available in the course materials, and approximately 6-8 weeks after the conference the *Workforce Solutions* video and *Litigation Strategies* audio will both be available in "Your Briefcase."

3:20 pm
0.50 hr

Click for More: The Pitfalls of Modern Recruiting

How much is too much information? Between background checks, social media, and visas, review best practices to avoid being sued before your employee's first day.

Corey E. Tanner, Ogletree, Deakins, Nash, Smoak & Stewart, P.C. - Austin, TX

3:50 pm
0.50 hr

Drugs in the Workplace

Survey federal and state laws governing workplace testing for prescription and illegal drugs, including federal regulations, the Americans with Disabilities Act, and medical and recreational marijuana laws. Discuss best practices for drafting workplace drug testing policies in light of recent Texas case law.

Dylan A. Farmer, Schmoyer Reinhard LLP - San Antonio, TX

4:20 pm
0.50 hr

Employee Mental Health Accommodations: Tips for Success in Managing Stigma and Stress

Does the topic alone kill your confidence or increase your own stress level? Hear practical tips and strengthen your skills in spotting and responding to such issues in compliance with the ADA and FMLA.

Susan Motley, Wood Weatherly Trial Law - Denton, TX

4:50 pm
0.50 hr

Combatting Hostile Environments: Risks of "Workplace Civility" Policies

Anti-harassment policies that prohibit only conduct that is strictly unlawful do not go far enough to guarantee a respectful workplace for employees. But broadly-drafted policies that require civility in workplace interactions can have unintended consequences. Examine the pros and cons of policies that go beyond unlawful behavior, and what they can mean for you and your clients.

Christopher H. Hahn, Dell - Round Rock, TX

5:20 pm

Adjourn

Track B: Litigation Strategies

Presiding Officer:

Tom Nesbitt, DeShazo & Nesbitt LLP - Austin, TX

In Austin Only

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3:20 pm In Austin Only 0.50 hr	Covenants Not to Compete: Recent Trends and Developments Explore recent cases and strategies involving the enforcement or relaxation of restraints on competition. Philip Durst, Deats, Durst & Owen, P.L.L.C. - Austin, TX
3:50 pm In Austin Only 0.50 hr	Corroborating Evidence: It's Not Just a Swearing Match Workplace disputes dismissed as "he-said, she-said" very often are in reality "he-said, she-said" plus some other evidence says. What is corroborating evidence to courts and juries in workplace discrimination and harassment cases? Jim Sanford, Gillespie Sanford LLP - Dallas, TX
4:20 pm In Austin Only 0.50 hr	Anti-SLAPP for Everyone! More and more states are adopting Anti-SLAPP legislation, and the broad approach taken by Texas under the TCPA suggests that even a tangential relationship between the communication and a matter of public concern is sufficient. So what is an attorney to do? Review the elements and limits of Anti-SLAPP litigation, and make sure you are prepared the next time a slap is on the horizon. Robert E. Sheeder, Bracewell - Dallas, TX
4:50 pm In Austin Only 0.50 hr	Class Action Employment Litigation: What's Left and What's New <i>Dukes, Epic Systems</i> , and many other cases in the past decade have made class litigation extremely difficult in employment cases. Nonetheless, government agencies and private litigants are still filing a variety of class action discrimination cases and the prevalence of wage-hour collective actions remain strong. Discuss the status of class and collective action employment litigation with a focus on recent developments impacting both the plaintiffs' and defense bars. John V. Jansonius, Jackson Walker LLP - Dallas, TX
5:20 pm In Austin Only	Adjourn
In Austin Only	Networking Reception (in Austin from 5:20 p.m. - 6:20 p.m.) Join us for drinks and hors d'oeuvres with program faculty and attendees. Thank You to Our Sponsors!

Friday Morning, May 10, 2019

Presiding Officer:

Austin Kaplan, Kaplan Law Firm - Austin , TX

7:30 am In Austin Only	Conference Room Opens Includes continental breakfast.
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8:30 am 0.75 hr	<p>Public Sector Update</p> <p>Get the latest on representing government employees, including developments in the First Amendment, due process, privacy, political patronage, and state law protections in the public workplace.</p> <p>B. Craig Deats, Deats, Durst & Owen, P.L.L.C. - Austin, TX Natalie G. DeLuca, Metropolitan Transit Authority - Houston, TX</p>
9:15 am 0.50 hr	<p>Religious Freedom in the Workplace</p> <p>Combined federal and state initiatives create a complex legal tableau for both employers and employees concerning religious beliefs and practices in the workplace. Trace the sources of the core rights and duties, and highlight significant legislative, executive, and judicial developments.</p> <p>B. Lee Crawford Jr., City of Austin Law Department - Austin, TX</p>
9:45 am 0.75 hr	<p>Developments in Disability Law</p> <p>Review significant regulatory and court developments under the Americans with Disabilities Act and gain insights into emerging disability issues.</p> <p>James H. Kizziar Jr., Bracewell LLP - San Antonio, TX and Washington, DC</p>
10:30 am	<p>Break</p>
10:45 am 0.50 hr	<p>Contingent Workers and Joint Employment</p> <p>Claims brought by contingent workers often involve disputes about whether or not a worker is an "employee" and who is that worker's "employer." Survey the different standards for determining employment status under various labor and employment laws with a focus on nonstandard work arrangements, including contract, temporary, and "gig" work.</p> <p>Kathryn Youker, Texas RioGrande Legal Aid - Brownsville, TX</p>
11:15 am 0.75 hr	<p>The Gig Economy: Don't Call It a Comeback</p> <p>Revisit the rapidly evolving gig economy and take a tour through the myriad approaches courts and agencies have adopted, tested, and abandoned in their collective attempt to understand and classify the growing number of digital platform providers that now enable service providers to connect directly with end-users. Examine the limitations of the binary employee/contractor classification system, the promises and pitfalls of a proposed hybrid "gig" worker classification, and the competing federal, state, and local efforts to find the right balance between entrepreneurial enablement and service provider protection.</p> <p>Michael J. Golden, Boulette Golden & Marin L.L.P. - Austin, TX</p>
12:00 pm 0.50 hr	<p>Federal Contractor Update</p> <p>It has been a record-breaking year of new initiatives from the OFCCP! Hear updates on federal contractor compliance obligations and review recent developments at Office of Federal Contract Compliance Programs.</p> <p>Shafeeqa W. Giarratani, Ogletree, Deakins, Nash, Smoak & Stewart, P.C. - Austin, TX</p>
12:30 pm In Austin Only	<p>Pick Up Lunch (in Austin)</p> <p>Included in registration.</p>

Friday Afternoon, May 10, 2019

Presiding Officer:

Richard R. Brann, Baker Botts - Houston, TX

LUNCHEON PRESENTATION

12:50 pm 0.50 hr	HR Systems: Things to Consider The way human resources systems are structured and implemented can have impacts far beyond any individual case. Examine why and how these systems and the changes they bring can be so critical. David L. Wiley, Gibson Wiley PLLC - Dallas, TX
1:20 pm	Break
1:35 pm 0.75 hr	Texas Unemployment and Payday Law Update Survey the significant Texas Workforce Commission-related legislation under consideration in 2019, and hear an update on how the TWC has been ruling on unemployment and wage claims. Outline important compliance issues for wage payments and unemployment taxes in Texas, and a highlight of the best practices for employers to follow in order to minimize the risk of unemployment and wage claims. William T. (Tommy) Simmons, Texas Workforce Commission - Austin, TX
2:20 pm 0.75 hr	Settlement Documents: Lessons to Learn Optimizing separation agreement and settlement language to protect client assets, compliance with restrictions on confidentiality provisions, and avoiding hidden “gotcha” mistakes. Laura M. Merritt, Boulette Golden & Marin L.L.P. - Austin, TX
3:05 pm 0.75 hr ethics	Ethics for Employment Lawyers: 2019 Get updated on on cutting-edge ethics issues, including attorney-client privilege and waiver issues, <i>ex parte</i> 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
3:50 pm	Adjourn