

## 18th Annual Texas Labor and Employment Law Update

presented by  
**THE TEXAS OFFICES OF  
OGLETREE DEAKINS**

*You're Invited*

**November 11, 2022**

An informative and educational seminar to  
address the latest labor and employment  
law topics impacting employers



### **DATE AND TIME**

Friday, November 11, 2022

7:30 a.m. – 8:30 a.m. Pre-program—Benefits Immersion Session

9:00 a.m. – 5:00 p.m. Program

5:00 p.m. – 6:30 p.m. Cocktail reception

(Registration will begin at 7:00 a.m. followed by breakfast at 8:30 a.m.)



### **LOCATION**

AT&T Hotel and Conference Center  
(located on the campus of The University of Texas at Austin)  
1900 University Avenue  
Austin, TX 78705  
(512) 404-1900



### **COST**

\$99 per person

(A breakfast, lunch, and cocktail reception are included.)



### **REGISTRATION**

Register online at [www.ogletree.com](http://www.ogletree.com) or [TexasRSVP@ogletree.com](mailto:TexasRSVP@ogletree.com).  
Contact Dea McCart with any questions at (512) 344-4717.

We have submitted this program to the HR Certification Institute and SHRM for review. This program has been approved for Texas CLE credit.



# AGENDA

7:00 – 9:00 a.m.

## REGISTRATION

7:30 – 8:30 a.m.

### **BENEFITS IMMERSION SESSION: EMPLOYEE BENEFITS AND EXECUTIVE COMPENSATION BOOT CAMP—A GUIDE FOR HR**

This session will provide a survey of the key benefits issues facing employers and is intended for HR professionals who are new to the benefits field or who would like a high-level refresher. The discussion will cover the basics of health and welfare benefits, including ERISA coverage, funding approaches, and key compliance issues; retirement plans, including the tax and ERISA rules that apply to them and common administrative challenges; and executive compensation, including common executive pay practices and the major legal rules that impact their design and administration.

*Presenter:* Timothy G. Verrall (Houston) and Jeremy W. Hays (Dallas)

8:30 – 9:00 a.m.

## BREAKFAST

9:00 – 9:10 a.m.

## OPENING AND WELCOME

*Presenter:* Shafeeqa W. Giarratani (Austin)

9:10 – 9:50 a.m.

### **HEADLINE NEWS: THE LATEST LABOR AND EMPLOYMENT LAW DEVELOPMENTS**

This session will provide a fast-paced summary of the latest employment law developments impacting Texas employers and set the stage for more detailed discussions later in the program. From significant trends to key rulings to legislative and regulatory developments, this important session will quickly summarize the topics that stand to impact your workplace today and in the coming year.

*Presenters:* Stephen J. Quezada (Houston) and J. Paul Rinnan (Houston)

9:50 – 10:30 a.m.

### **#METOO IN 2022 (AND BEYOND)**

In 2017, a simple hashtag sparked a conversation about the prevalence of sexual harassment. The #MeToo movement ushered in a wave of state and federal laws aimed at combating workplace harassment and increasing transparency and corporate accountability. That momentum continues today, and certain aspects of these new laws could dramatically change the legal landscape for sexual harassment and discrimination claims. In this session, the speakers will discuss major trends in recent legislative reform (including with respect to the arbitration of claims and the significant change to Texas state law concerning sexual harassment claims), examine the effects of the movement on courts' definitions of sexual harassment and employer-related defenses, and explore new ways for companies to deliver effective harassment prevention training that moves beyond "check-the-box" compliance.

*Presenters:* Kristin Snyder Higgins (Dallas) and Lawrence D. Smith (San Antonio)

10:30 – 10:45 a.m.

## BREAK

10:45 – 11:25 a.m.

### **THE TOP WORKPLACE INVESTIGATION MISTAKES AND HOW TO AVOID THEM**

From expensive litigation to public relations nightmares, sloppy workplace investigations can result in huge consequences—particularly in today's contentious climate. The speakers will discuss the top investigation mistakes that expose employers to heightened legal risk, including those relating to investigator bias, the attorney-client and work product privileges, and documentation errors. The speakers will utilize scenarios and discuss best practices for conducting complex workplace investigations that you can use as both a sword and a shield to best defend against legal exposure.

*Presenters:* Adam T. Dougherty (Dallas) and Tiffany Cox Stacy (San Antonio)

11:25 a.m. – Noon

### **IT'S TIME FOR ME TO FLY! AVOIDING NASTY RESTRICTIVE COVENANT ENTANGLEMENTS**

The market is hot, people are on the move, and restrictive covenants are in play. What can employers do during the recruiting process to avoid the potential chaos associated with restrictive covenants, trade secrets, and related employment issues? Join this session for a discussion of strategies from both the plaintiff and defense sides, including planning and executing strategic attorney-client privileged communications, drafting critical at-hire agreements, preserving information, protecting the C-suite in potential litigation, shoring up practices and policies to ensure protection of confidential and trade secret information, preparing a coordinated exit process (especially for high-level departures), developing a communications/public relations plan, and managing litigation.

*Presenters:* Scott R. McLaughlin (Houston) and Sean C. Urich (Dallas)

Noon – 1:15 p.m.

### **LUNCH AND SPECIAL PRESENTATION: GETTING BEYOND NORMAL**

As the world enters the post-pandemic era, there is often talk of “getting back to normal.” However, we seem to have forgotten that the normal that we crave is also plagued with problems—we still have issues with staff retention and engagement. Now is an opportunity to learn from the experience that we have shared and lead ourselves into a brighter future by making the necessary adjustments to our organizations, teams, and ourselves. This will take courage and self-awareness. In this entertaining and engaging discussion, Senior Leadership Consultant Craig Woodall will lead us through the process of change, increasing our self-awareness and providing some tips to help us move ourselves and our teams into a new future.

*Presenter:* Craig Woodall, *Senior Consultant*, Grinnell Leadership

1:15 – 1:30 p.m.

### **BREAK**

1:30 – 2:10 p.m.

### **BACK TO THE FUTURE: WAGE AND HOUR UPDATES FOR TEXAS EMPLOYERS**

Wage and hour issues are consistently at the top of employment law litigation, and therefore top of mind for employers. This session will review what has happened in the wage and hour arena since the start of the pandemic, including the Biden administration’s resurrection of many wage and hour initiatives pursued by the Obama administration, and what is on the horizon.

*Presenters:* John B. Brown (Dallas) and Erika L. Leonard (Austin)

2:10 – 2:50 p.m.

### **REMOTE WORK AS AN ACCOMMODATION UNDER THE ADA AND HOW THE LANDSCAPE HAS CHANGED**

As the pandemic continues, many employees are seeking full-time remote work as an accommodation under the Americans with Disabilities Act (ADA). While telecommuting is not a new accommodation, many employers have altered their responses to these requests, given the proliferation of remote work during the pandemic. This session will provide insights on how to evaluate and manage remote work requests, and offer tips on how to balance these requests with employers’ legal risks and their desire to return employees to the workplace.

*Presenters:* Jana S. Baker (Dallas) and Marlene C. Williams (Houston)

2:50 – 3:05 p.m.

### **BREAK**

3:05 – 3:45 p.m.

### **THE FUTURE OF WORK: NAVIGATING GLOBAL MOBILITY, REMOTE WORK, AND IMMIGRATION COMPLIANCE**

COVID-19 forced employers to implement new ways of working—in most cases, including work-from-home models. And U.S. agencies implemented flexible policies designed to assist with this unprecedented challenge. In this session, the speakers will explore how employees can continue to remain compliant with U.S. immigration law, whether they choose to have employees “return to work,” remain remote, or formulate a framework encompassing both options.

*Presenters:* Leigh N. Ganchan (Houston), Jacquelyn P. Maroney (Austin), and Caroline Tang (Austin)

3:45 – 4:20 p.m.

### **TOP BENEFITS COMPLIANCE AND LITIGATION ISSUES FOR 2023**

With the number of laws and regulations governing employee benefits constantly on the rise and no respite from judicial scrutiny of benefit plans, HR professionals must run—not walk—to keep pace with all the new and changing requirements. This session will cover some key compliance and litigation issues facing the employee benefits world and offer some timely and practical insights into what Congress, the regulators, and the courts may have in store for your benefit plans in 2023 and beyond.

*Presenters:* Stephanie C. Ng (Houston) and Timothy G. Verrall (Houston)

4:20 – 5:00 p.m.

### **SPEAKING OUT: EMPLOYEE EXPRESSION AND ACTIVISM IN AND OUTSIDE THE WORKPLACE**

Perhaps more than ever, employees are expressing their views at work and elsewhere on important political and societal topics like racism and inequality, immigration, climate change, violence, political strife, and more—and often with the click of a button. With the midterms and 2024 elections coming up and the ongoing divisive political rhetoric, employers are likely to see even more polarized speech and activities. Striking the right balance between the legal protections afforded employee speech and respecting diversity of thought while staying true to corporate policies and values can be a challenge—and potential legal risks abound, from protected concerted activity to retaliation. In this session, the speakers will explore the complex legal issues that can arise, examine what businesses can learn from recent incidents and litigation, and share tips on best practices and innovative response strategies.

*Presenters:* Jamie B. Ashton (Dallas) and Gary D. Eisenstat (Dallas)

5:00 p.m.

### **CLOSING AND GRAND PRIZE DRAWING**

*Presenter:* Shafeeqa W. Giarratani (Austin)

5:00 – 6:30 p.m.

### **COCKTAIL RECEPTION**