

# MANAGING A WORKFORCE IN 2024



presented by  
**OGLETREE DEAKINS'  
ST. LOUIS  
OFFICE**

*You're Invited*  
**October 13, 2023**

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



## DATE AND TIME

Friday, October 13, 2023

9:00 a.m. – 4:00 p.m. Program

4:00 p.m. – 5:30 p.m. Cocktail reception

(Registration and breakfast will begin at 8:00 a.m.)



## LOCATION

Hilton St. Louis Frontenac

1335 South Lindbergh Boulevard

St. Louis, MO 63131

(314) 993-1100



## COST

Complimentary

(Breakfast, lunch, cocktail reception, and program materials  
are included.)



## REGISTRATION

Register online at [www.ogletree.com](http://www.ogletree.com) or contact  
Portia Bryant at (314) 802-3958 or  
[STLEvents@ogletree.com](mailto:STLEvents@ogletree.com).

We have submitted this program to the HR Certification  
Institute and SHRM for review. We are also applying for  
Missouri and Illinois CLE credit.



# AGENDA

8:00 – 9:00 a.m.	<b>REGISTRATION AND BREAKFAST</b>
9:00 – 9:05 a.m.	<b>WELCOME AND INTRODUCTIONS</b>
9:05 – 9:45 a.m.	<b>IS THE FMLA ON LEAVE? LEAVE ACCOMMODATIONS OUTSIDE OF THE FMLA</b> The federal Pregnant Workers Fairness Act requires accommodations for normal pregnancies and became effective June 27, 2023. In combination with the Americans with Disabilities Act Amendments Act (ADAAA) (which makes it easier to prove disabilities, even for temporary conditions), these developments arguably have extended Family and Medical Leave Act (FMLA) protections to employees immediately upon the onset of employment, without any length or service requirement and potentially without a 12-week limitation on leave. Join this session for a discussion of leaves as an accommodation even without meeting FMLA eligibility requirements. <i>Presenters:</i> Gregg M. Lemley, R. Lance Witcher, and Samantha M. Adams
9:45 – 10:45 a.m.	<b>RIGHT TO WEED</b> The legalization of recreational and medical marijuana across the country has many employers scrambling to address impairment in the workplace. Less than one year ago, Missouri officially became a full-blown “right-to-weed,” or recreational marijuana, state. This is in addition to the medical marijuana law that was approved by voters in 2018. So, what does this mean for Missouri employers? In this session, the speakers will provide some basic training on the different signs of marijuana, drug, and alcohol impairment. This session promises to be fun and educational. <i>Presenters:</i> Burton D. Garland, Jr., Phil Brandt, <i>President and CEO, AAIM Employers' Association</i> , and Master Sergeant Tyler Jenkins, <i>Certified Drug Recognition Expert and Instructor, Missouri State Highway Patrol</i>
10:45 – 11:00 a.m.	<b>BREAK AND ROOM CHANGE</b>
11:00 – 11:45 a.m.	<b>BREAKOUT SESSION SERIES ONE—CHOOSE BETWEEN THE FOLLOWING:</b> <b>FROM DISPARITY TO PARITY: THE JOURNEY TO EQUAL PAY</b> Pay equity issues continue to make headlines, and an increasing number of jurisdictions are passing pay equity, transparency, or reporting laws. This session will focus on the latest pay equity issues and best practices for U.S. employers, including proactive pay audits, privilege strategies, state transparency and reporting obligations, and other compensation trends. Employers will also discover hidden risk areas, including performance reviews, artificial intelligence and other tools, and how they interact with pay equity. <i>Presenter:</i> Lauren B. Hicks  <b>A CHECK-UP FOR YOUR HEALTH AND WELFARE PLANS: SOLUTIONS TO COMPLIANCE PROBLEMS</b> This session will cover practical prescriptions for common compliance issues that plague health and welfare benefit plans. The discussion will include how to deal with enrollment errors, eligibility mistakes, late COBRA notices, and more. <i>Presenter:</i> Jeremy W. Hays

## **THE SUPREME COURT'S ENLIGHTENMENT: KEY TAKEAWAYS FROM GROFF AND ITS IMPACT ON RELIGIOUS ACCOMMODATIONS**

In *Groff v. DeJoy*, the Supreme Court of the United States clarified the burden employers must show under Title VII of the Civil Rights Act of 1964 before they are relieved of the obligation to accommodate employees' religious accommodation requests. This ruling significantly alters the "de minimis" standard for evaluating whether an accommodation would constitute an undue hardship. And, more and more, accommodation requests involve employees who seek exemption from workplace policies in the name of religion. The speakers will provide key takeaways for employers and tips for analyzing religious accommodation requests going forward.

*Presenters:* James M. Paul and Sean J. Oliveira

11:45 a.m. – Noon

### **BREAK AND ROOM CHANGE: MOVE TO LUNCH**

Noon – 1:00 p.m.

## **LUNCH AND KEYNOTE ADDRESS: "WE CAN WORK IT OUT"**

Hear from plaintiff's counsel, defense counsel, and a mediator on why parties should try to resolve their cases short of trial.

*Presenters:* Benjamin F. Westhoff, *Plaintiff's Counsel*, Sedey Harper Westhoff P.C.

Erin E. Williams, *Defense Counsel*, Ogletree Deakins

Kim L. Kirn, *Mediator*, United States Arbitration & Mediation

1:00 – 1:15 p.m.

### **BREAK AND ROOM CHANGE**

1:15 – 2:00 p.m.

### **BREAKOUT SESSION SERIES TWO—CHOOSE BETWEEN THE FOLLOWING:**

#### **THE SUPREME COURT'S AFFIRMATIVE ACTION ADMISSIONS RULING—RAMIFICATIONS FOR ALL EMPLOYERS**

The Supreme Court's ruling on the use of affirmative action in college admissions has major ramifications beyond the higher education setting and has already impacted employers with diversity, equity, and inclusion (DEI) programs, federal contractor obligations, and environmental, social, and governance (ESG) practices. This session will examine the case and provide guidance on actions employers can take to ensure their DEI practices are successful and compliant under federal and state laws. This session also will cover the backlash from the decision and examine increases in allegations that such programming is unlawful.

*Presenters:* Sean J. Oliveira and Kyra H. Short

#### **WAGE AND HOUR ISSUES TO AVOID UNLESS YOU LOVE GETTING HIT WITH CLASS OR COLLECTIVE ACTIONS**

It is a topic that is so ubiquitous that oftentimes it fades into the background of a business's operations, often at the business's peril: wage and hour compliance. But in light of recent seismic shifts in the labor market, the "great migration" of remote work, and many new and forthcoming laws requiring employers to pay close attention to how they pay employees and contractors, it is important for employers to keep abreast of current topics in wage and hour law to ensure they are not exposed to expensive class and collective actions. This session will outline hot topics in this area to ensure attendees have the most up-to-date strategies for avoiding wage and hour litigation.

*Presenters:* Heidi Kuns Durr and Bradley W. Tharpe

### **MULTISTATE NLRB PROOFING YOUR POLICIES AND HANDBOOKS**

States and the National Labor Relations Board (NLRB) continue to promulgate legislation, rules, and guidance that require employers to revise their policies and procedures. In this session, the speakers will address common language found in employee handbooks and offer suggestions on how to mitigate against potential scrutiny under state and federal laws, including the National Labor Relations Act.

*Presenters:* Melissa M. Pesce and Thomas R. Chibnall

2:00 – 2:15 p.m. **BREAK AND ROOM CHANGE**

### **EMPLOYEE DISCIPLINE AND DOCUMENTATION**

These days, it seems like most employee discipline situations involve new and challenging issues and legal risks. In this interactive session, the speakers will provide practical tips to help employers effectively manage their employees and, when necessary, take disciplinary action, while minimizing the risk of lawsuits and financial exposure.

*Presenters:* William M. Lawson and Eric A. Todd

3:00 – 4:00 p.m. **LEAVE ME BE! MANAGING EMPLOYEE REQUESTS FOR LEAVES, REMOTE WORK, AND ACCOMMODATIONS**

Keeping up with the voluminous employee requests for leaves of absence and remote work can be a daunting task for employers. With the proliferation and endless evolution of leave laws and the increase in requests for remote work, it can even feel like taking on an additional full-time job. In this session, the speakers will cover the latest developments in leave laws and provide tips for managing leaves and requests to work from home, including some recommended policies and procedures for employers to consider that can help alleviate some of the risks and liability exposure that often accompany these issues.

*Presenters:* Melissa M. Pesce and Samuel W. Newman

4:00 p.m. **CLOSING REMARKS**

*Presenter:* Eric A. Todd

4:00 – 5:30 p.m. **COCKTAIL RECEPTION**