

MANAGING A WORKFORCE IN 2023

presented by
**OGLETREE DEAKINS'
KANSAS CITY
OFFICE**

You're Invited

October 14, 2022

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



DATE AND TIME

Friday, October 14, 2022

8:30 a.m. – 4:00 p.m.

(Registration and breakfast will begin at 7:30 a.m.)



LOCATION

InterContinental Kansas City at the Plaza

401 Ward Parkway

Kansas City, MO 64112

(816) 756-1500



COST

Complimentary



REGISTRATION

Register online at www.ogletree.com or contact

Debbie Dixon at (816) 410-2239 or

debbie.dixon@ogletree.com.

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



AGENDA

7:30 – 8:30 a.m.

REGISTRATION AND BREAKFAST

8:30 – 9:15 a.m.

AT THE CROSSROADS OF RACE, POLITICS, AND SOCIAL MEDIA IN TODAY'S WORKPLACE

Political issues can be polarizing and create conflict in the workplace, especially in an election year. National protests and civil unrest following well-publicized incidents of racial injustice have led to emotional and mental turmoil for many. In this session, the speakers will offer examples of multifaceted approaches that in-house counsel can take to connect with employees and to foster a respectful workplace despite diversity of opinion. The speakers will also provide tips for dealing with difficult issues and avoiding legal liability.

Presenters: Shelley I. Ericsson and Andrew C. Birkinsha

9:15 – 10:15 a.m.

FMLA AND ADA/AA COMPLIANCE IN THE REAL WORLD

This interactive session will walk attendees through real-life workplace scenarios involving employees who need assistance or time off from work due to their own medical condition or a family member's medical condition. The session will provide practical tips on how to stay compliant with the Family and Medical Leave Act (FMLA), the Americans with Disabilities Act Amendments Act (ADAAA), and pregnancy discrimination laws at both the state and federal levels. The scenarios will highlight lessons learned from recent court decisions and U.S. Equal Employment Opportunity Commission regulatory guidance, as well as issues and decisions on the horizon.

Presenter: Kerri S. Reisdorff

10:15 – 10:30 a.m.

BREAK

10:30 – 11:15 a.m.

BENEFITS ISSUES IN A POST-DOBBS WORLD

In *Dobbs v. Jackson Women's Health Organization*, the Supreme Court of the United States expressly overruled a constitutional right to abortion and gave states the authority to regulate abortion. The *Dobbs* decision creates a host of considerations for employers with regard to employee benefits. This session will provide an overview of the issues and options for employers, including the new guidance issued under the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule setting protections for access to private medical information relating to abortion and other sexual and reproductive healthcare.

Presenter: Daniel T. Sulton

11:15 a.m. – Noon

INDEPENDENT CONTRACTORS AND MISCLASSIFICATION RISKS: LATEST DEVELOPMENTS AND BEST PRACTICES

This session will cover developments in the law related to the classification of workers as independent contractors versus employees, the risks associated with independent contractor (mis)classification, and best practices for companies that use independent contractors.

Presenters: Justin M. Dean and Jordan Kurdi

Noon – 12:15 p.m.

BREAK

12:15 – 1:45 p.m.

LUNCH AND SPECIAL PRESENTATION DIVERSITY, EQUITY, AND INCLUSION AND CRITICAL RACE THEORY: THE TREND TOWARD STATE LAWS LIMITING TRAINING

States across the country have either passed laws or have pending legislation making it illegal to discuss racism or concepts related to critical race theory (CRT) in educational settings and/or the workplace. This special lunch presentation will define CRT and examine the recent phenomenon. The presentation will also explore the diversity, equity, and inclusion (DE&I) training restrictions in states like Florida, Idaho, Iowa, Tennessee, and Texas, as well as provide tips for preparing DE&I trainings that are both effective and legally compliant in every state.

Presenter: Luther Wright, Jr.

1:45 – 2:30 p.m.

WHEN CUPID'S ARROW TARGETS THE WORKPLACE

Despite spending much of the past two years in a “virtual” world, workplace romances have increased during the COVID-19 pandemic. Many employers now recognize the likelihood of romantic relationships and have adopted policies expressly permitting such relationships (at least among peers) and encouraging transparency. But there is little, if any, incentive for those in a direct reporting relationship to disclose their romance to their employers, creating significant legal risks, particularly where there is likely to be a significant digital footprint left behind. This session will review the practical and legal implications associated with office romances, discuss recent legal developments, and provide guidance for minimizing legal exposure when those relationships fail.

Presenters: Stacy M. Bunck and Colin Finnegan

2:30 – 2:45 p.m.

BREAK

2:45 – 3:15 p.m.

WAGE AND HOUR REGULATORS AND PLAINTIFFS' LAWYERS DID NOT TAKE THE PANDEMIC OFF

Despite still not having a Senate-confirmed administrator, the Wage and Hour Division (WHD) of the U.S. Department of Labor has been extremely active during the past 12 months. In addition to pursuing a number of major regulatory initiatives, WHD has issued several Field Assistance Bulletins, is ramping up its enforcement activities, and is collaborating with other government entities to target employer retaliation and employee misclassification. Plaintiffs' lawyers have been similarly active, innovating new theories to challenge overtime exemptions and breathing new life into well-worn litigation theories.

Presenter: Chris R. Pace

3:15 – 4:00 p.m.

LEARNING FROM OTHERS' MISTAKES—A PRACTICAL PRIMER IN PREVENTING AND WINNING EMPLOYMENT CLAIMS

This session will cover practical, specific “life in the trenches” lessons on: (1) improving internal investigations, (2) avoiding common problems in disciplining and discharging employees, (3) firing without the fear of litigation, (4) retaliation considerations, and (5) “grab bag” topics.

Presenter: Michael L. Matula

4:00 p.m.

Q&A SESSION