

# MANAGING A WORKFORCE IN 2023

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

*You're Invited*

**October 28, 2022**

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



## **LOCATION**

Four Seasons Hotel St. Louis  
999 North 2nd Street  
St. Louis, MO 63102  
(314) 881-5800



## **DATE AND TIME**

Friday, October 28, 2022  
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 8:30 a.m.)



## **COST**

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



## **REGISTRATION**

Register online at [www.ogletree.com](http://www.ogletree.com) or contact  
Portia Bryant at (314) 802-3958 or Annette Blomes at  
(314) 827-3432, or email [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

8:30 – 9:00 a.m. **REGISTRATION AND BREAKFAST**

9:00 – 9:05 a.m. **WELCOME AND INTRODUCTIONS**

*Presenter:* Eric A. Todd

9:05 – 9:20 a.m. **HIGH COURT, HIGH DRAMA—U.S. SUPREME COURT UPDATE**

*Presenter:* David L. Schenberg

9:20 – 10:00 a.m. **EMPLOYMENT LAW UPDATE**

A number of significant changes to labor and employment law have taken place in recent years and 2022 has been no exception. These changes have affected employers' obligations in areas such as hiring, wages, discrimination, and termination. Employers can also expect the changes to continue well into 2023 and beyond. In this session, the speakers will: (1) review significant changes in recent years; (2) discuss the current state of the law and anticipated changes in several areas of employment law, including equal employment opportunity (EEO), leaves of absence, and the Americans with Disabilities Act (ADA); (3) provide examples and case studies; and (4) offer tips to ensure compliance with these and other anticipated changes.

*Presenters:* Burton D. Garland, Jr., William M. Lawson, and Phil Brandt,  
*President and CEO, AAIM Employers' Association*

10:00 – 10:45 a.m. **MAKING THINGS WORSE: SEVEN COMMON MISTAKES THAT WILL RUIN YOUR INVESTIGATION**

There is no question that workplace investigations are now more important than ever. But common missteps can expand rather than limit the potential risks. The speakers will discuss best practices, provide practical tips, and address common mistakes that can undermine an investigation.

*Presenters:* Melissa M. Pesce and Erin E. Williams

10:45 – 11:00 a.m. **BREAK AND ROOM CHANGE**

11:00 – 11:45 a.m. **BREAKOUT SESSION SERIES ONE—CHOOSE BETWEEN THE FOLLOWING:**

### **BENEFITS BOOT CAMP: BASIC TRAINING IN ERISA PLANS**

This session will cover the basics you need to know about employee benefit plans and the Employee Retirement Income Security Act (ERISA). Concentrating on general legal principles and compliance obligations for employee benefit plans, this session will review ERISA basics and then focus on health and welfare plans. This session is perfect if you are looking for an introduction to ERISA or if you need a refresher on benefit plan compliance obligations.

*Presenter:* Jessica E. Kuester

### **U.S. BUSINESS IMMIGRATION IN THE NEW LABOR MARKET—HOW EMPLOYERS CAN REMAIN COMPLIANT**

The whirlwind of the last two years had some measurable impact on U.S. business immigration from layoffs and remote employment arrangements, to green card surges and unusual I-9 verification rules. Join this session to learn insights and strategies for tackling immigration challenges arising from the current labor market, including remote work arrangements, green card approvals and processing times, changes to longstanding workforce verification practices, and more.

*Presenter:* Bernhard Mueller

**PERFORMANCE MANAGEMENT DOCUMENTATION: THE KEY TO LITIGATION AVOIDANCE**

Excellent performance management documentation practices for all employers is the goal of this session. Attendees will learn to recognize good—and not so good—approaches. The speakers will discuss how adopting strong documentation practices can be beneficial to employers in the event of litigation as well as share practical tips to limit potential liability.

*Presenters:* Heidi K. Durr and Mallory S. Zoia

11:45 a.m. – Noon

**BREAK AND ROOM CHANGE**

Noon – 1:00 p.m.

**LUNCH AND KEYNOTE ADDRESS**

**ELECTIONS MATTER: HOW THE NOVEMBER 8 ELECTIONS WILL IMPACT FEDERAL LABOR AND EMPLOYMENT POLICY**

*Presenter:* James J. Plunkett

1:00 – 1:15 p.m.

**BREAK AND ROOM CHANGE**

1:15 – 2:00 p.m.

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

**NLRB/TRADITIONAL LABOR LAW UPDATE**

This session will discuss recent and ongoing labor relations developments affecting all employers (unionized and non-union), as well as expectations for what comes next. Topics will include the National Labor Relations Board's (NLRB) efforts to find more work and handbook rules unlawful, expand the types of employee complaints considered to be protected against retaliation, and curb union avoidance efforts. Learn how probable incoming changes will affect unionized and non-union employers alike, as well as best practices for navigating this shifting environment.

*Presenters:* Burton D. Garland, Jr. and Robert W. Stewart

**A RETURN TO "NORMAL" OSHA ENFORCEMENT POST-COVID-19: WHAT EXACTLY MIGHT THAT LOOK LIKE**

COVID-19 knocked the whole world, including the Occupational Safety and Health Administration (OSHA), off its pins. The pandemic distracted OSHA from its usual rulemaking and enforcement activity. Now that COVID-19 seems to be transitioning from pandemic to endemic, OSHA is trying to return to normal. But what does normal look like when it comes to rulemaking and enforcement? This session will bring attendees up to date on the latest developments and do some crystal ball gazing into the future.

*Presenters:* Thomas R. Chibnall and R. Lance Witcher

**PULSE ON PAY EQUITY: TOP ISSUES FOR U.S. AND GLOBAL EMPLOYERS**

Pay equity remains top of mind for many employers, and for good reason. These issues continue to make news headlines and an increasing number of jurisdictions are passing pay equity-related laws. For global employers, reporting requirements around the world create even more challenges. This session will focus on the latest pay equity issues and best practices for U.S. and global employers, including pay disclosure and salary history ban laws, proactive pay audits, global compliance obligations, attorney-client privilege, and other trends in pay transparency initiatives.

*Presenters:* Melissa M. Pesce and Sean J. Oliveira

2:00 – 2:15 p.m.

**BREAK AND ROOM CHANGE**

2:15 – 3:00 p.m.

**HOW A TRICKY LITTLE VIRUS CHANGED OUR POLITICS, RELIGION, AND DEFINITION OF DISABILITY FOREVER**

Two and a half years into the COVID-19 pandemic, and employers are still struggling to find the right balance for health and safety in the workplace, adjusting to the new normal, and accommodating employees' needs for time off, remote work, and exemptions from workplace policies and procedures. Employers also have seen a rise in political speech in the workplace and on social media and can expect increased activity leading up to and as a result of the midterm elections. The speakers will discuss the rise in religious and disability-related accommodation requests that started in the early days of the pandemic but still continue to spread into other aspects of employer policies and operations. Join this interactive session to get up to date on the COVID-19–related litigation developments that will continue to infect other employment law issues.

*Presenters:* James M. Paul and Kyra H. Short

3:00 – 3:50 p.m.

**EVERYONE'S FAVORITE NEW ACCOMMODATION: WORKING FROM HOME**

Since the ADA was enacted, employees have asked to telecommute as an accommodation. Such requests were typically denied for a number of reasons (e.g., no reliable way to manage performance and the nature of the job requires in-person interaction). For the last two-plus years, employees have worked from home—and performed well—despite these concerns. As a result, employees who are asked to return to the office may seek to continue working remotely as a reasonable accommodation under the ADA and state laws. This session will provide insight on how to manage and evaluate such requests, and offer tips on how to balance these requests with employers' desire to return employees to the workplace.

*Presenters:* Burton D. Garland, Jr. and Gregg M. Lemley

3:50 – 4:00 p.m.

**CLOSING REMARKS**

*Presenter:* Eric A. Todd

4:00 – 5:30 p.m.

**COCKTAIL RECEPTION**