

You're Invited

Ogletree Deakins

MANAGING A WORKFORCE IN 2025



October 24, 2024

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

presented by Ogletree Deakins'

ST. LOUIS
OFFICE



LOCATION

The Ritz-Carlton, St. Louis
100 Carondelet Plaza
St. Louis, MO 63105
(314) 863-6300



DATE AND TIME

Thursday, October 24, 2024
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.)



COST

\$99.00
(Breakfast, lunch, cocktail reception, and program materials are included.)



REGISTRATION

Register online at www.ogletree.com or contact Karen Koerkenmeier at (314) 802-3963 or karen.koerkenmeier@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.

REGISTRATION AND BREAKFAST

9:00 – 9:05 a.m.

WELCOME AND INTRODUCTIONS

Presenter: R. Lance Witcher

9:05 – 9:20 a.m.

PARDON THE INTERRUPTION—HEADLINE NEWS

Presenters: Heidi K. Durr, Kelly M. Hayes, Alex Hunstein, William M. Lawson, Melissa M. Pesce, Kyra H. Short, and Mallory Stumpf Zoia

9:20 – 9:45 a.m.

NAVIGATING POLITICAL EXPRESSION IN THE WORKPLACE: BALANCING RIGHTS AND CIVILITY

For the past several years, conversations about political and social issues have increasingly dominated newsfeeds and social media. It is no surprise that these conversations, which are often heated and divisive, have made their way into the workplace—especially during a huge election year. It has become more and more challenging for employers to balance their employees' rights of self-expression with the need to maintain a safe and civil workplace. In this session, the speakers will review the legal issues at play, including the limits of free speech, claims of protected concerted activity, and retaliation, as well as provide examples of compliant policies and how to put them into action.

Presenters: Eric A. Todd and R. Lance Witcher

9:45 – 10:45 a.m.

UNDERSTANDING THE PWFA AND EEOC'S FINAL REGULATIONS: KEY CHANGES AND COMPLIANCE TIPS

On April 15, 2024, the U.S. Equal Employment Opportunity Commission (EEOC) published its final regulations on the Pregnant Workers Fairness Act (PWFA). Join this session to learn the details of the final regulations—and how they are both in accordance with and significantly depart from interactive process and reasonable accommodation principles under the Americans with Disabilities Act (ADA). The speakers will review the final regulations' documentation requirements and extensive list of medical conditions related to pregnancy and childbirth, as well as examples of reasonable accommodations for pregnancy-related conditions.

Presenters: Gregg M. Lemley 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 ONE OF THE FOLLOWING:

EXTRA! EXTRA! HEAR ALL ABOUT IT: THE EEOC RELEASES UPDATED GUIDANCE ON HARASSMENT IN THE WORKPLACE

Despite everyone's best efforts, workplace harassment continues to be a persistent issue. The EEOC recently issued guidance updating employers on an expanded list of protected classes, including pregnancy and gender expression. Join us for an informative session where the speakers will review the EEOC's guidance and offer tips on how to prevent and address harassment claims in the evolving workplace environment.

Presenters: Kelly M. Hayes and Sean J. Oliveira

WHAT TO DO WHEN REMOTE WORK IS REQUESTED AS AN EMPLOYEE BENEFIT LIKE HEALTH INSURANCE AND PTO: ANALYZING THE PROS AND CONS OF FLEXIBLE WORK ARRANGEMENTS

The COVID-19 pandemic forced some form of remote work on much of America's workforce. Following the pandemic, many employers faced the daunting task of getting employees back into the office. However, for employees who had been working from home for an extended period, remote work offers flexibility and the opportunity to strike a better work-life balance. For employers, this flexibility may come at a cost with decreased productivity, diminished collaboration, and negative effects on employee performance. With the job candidate pool shrinking in numerous sectors, some employees are seeking higher salaries and greater benefits, including flexible work options. While flexible work arrangements can benefit both employers and employees, it is important to weigh the pros and cons before entering into such arrangements in order to alleviate surprises and establish a solid foundation for success. This session will delve into the considerations for flexible work arrangements and offer tips on how to structure these arrangements to ensure success for both employers and employees.

Presenters: Melissa M. Pesce and Melanie A. Renken

FLSA UPDATE: UNDERSTANDING THE DOL'S FINAL RULES IMPACTING INDEPENDENT CONTRACTOR STATUS AND OVERTIME EXEMPTION

The U.S. Department of Labor (DOL) issued two key final rules in 2024. One rule addressed the classification of workers as employees or independent contractors under the Fair Labor Standards Act (FLSA). This new rule creates a complex “totality of the circumstances” standard that could make it more difficult for workers to be classified as independent contractors under the FLSA. The second rule updated and revised the FLSA regulations implementing the exemption from minimum wage and overtime pay requirements for executive, administrative, and professional employees. The speakers will discuss the final rules and provide practical tips for employers reviewing their workers’ classifications in light of these new rules.

Presenters: Heidi K. Durr and James M. Paul

11:45 a.m. – 1:00 p.m.

NETWORKING LUNCH

1:00 – 1:15 p.m.

ROOM CHANGE

1:15 – 2:00 p.m.

BREAKOUT SESSION SERIES TWO—CHOOSE ONE OF THE FOLLOWING:

VIOLENCE IN THE WORKPLACE: PREVENTIVE MEASURES FOR EMPLOYERS IN TRAGIC TIMES

Incidents of workplace violence, including harassment, threats, cyberbullying, and even active shooter situations, have become commonplace. Creating a violence-free workplace is every organization’s goal, but how do employers foster a safe environment? Join our speakers as they share their insights for identifying the early warning signs of violent behavior and implementing an action plan to prevent (or minimize the impact of) incidents of violence. The speakers will also provide an overview of federal and state laws requiring workplace violence prevention plans.

Presenters: R. Lance Witcher and Mallory Stumpf Zoia

FROM ARTIFICIAL INTELLIGENCE TO EMOTIONAL SUPPORT ANIMALS . . . THERE’S A SCARY NEW WORLD OF ADA ACCOMMODATIONS

Since the 1990s, the ADA has required businesses to make reasonable accommodations and modifications to ensure accessibility for customers and employees with disabilities. However, with the evolution of the internet, technological aids and devices, remote work, artificial intelligence, and changing work standards, businesses have extra work to do to ensure compliance with the ADA. This fun (if not a bit scary) session will dive into the quickly-changing world of ADA accommodation obligations so that you can better avoid being haunted by claims of violations.

Presenters: James M. Paul and Kyra H. Short

ARE RESTRICTIVE COVENANTS LEGAL ANYMORE? ANALYSIS OF THE FTC’S NON-COMPETE RULE, CURRENT LITIGATION TO STOP IT, AND THE TRENDING LAW

This session will examine the Federal Trade Commission’s (FTC) recent rule attempting to ban certain non-compete and non-solicitation agreements nationwide, and the current litigation seeking to stop the rule from going into effect. The speakers will review the rule, discuss the legal landscape on restrictive covenants in Missouri, Illinois, and other states, and provide insights into what to expect in the months and years to come.

Presenters: William M. Lawson and Eric A. Todd

2:00 – 2:15 p.m.

BREAK AND ROOM CHANGE

2:15 – 3:00 p.m.

WILL THE PENDULUM SWING? A LOOK BACK AT THE CURRENT NLRB AND A PEAK INTO THE CRYSTAL BALL TO SEE WHAT A POST-ELECTION NLRB MIGHT LOOK LIKE

The National Labor Relations Act applies to almost all employers in the United States—union and non-union employers alike. Under the Biden administration, the National Labor Relations Board (NLRB) has been the most active in its 89-year history, reshaping the traditional labor law landscape by turning back decades of NLRB precedent. The NLRB has waded into new areas such as non-competition agreements, altered election rules that limit an employer’s freedom of speech, and allowed unions to represent employees without a secret ballot election. The speakers will look back at the current NLRB’s changes and peek into the crystal ball to suggest how the 2024 elections might impact the future of the NLRB.

Presenters: Burton D. Garland, Jr., Timothy A. Garnett, and Alex Hunstein

3:00 – 4:00 p.m.

WORKPLACE INVESTIGATIONS: EVOLVING FROM INSPECTOR CLOUSEAU TO SHERLOCK HOLMES WITH A FEW KEY STRATEGIES

Most workplace investigations are not conducive to a one-size-fits-all approach. Misconduct in the workplace comes in all shapes and forms, so investigations should be tailored to the specific facts and circumstances related to each individual complaint. In this session, the speakers will discuss best practices for organizing and conducting thorough yet efficient investigations. The speakers will explore approaches for conducting specific types of investigations and how to avoid common pitfalls in the process. Finally, the speakers will discuss how to incorporate the possibility of potential litigation into the investigative process and the role investigations can play in lawsuits down the road.

Presenters: Melissa M. Pesce and Melanie A. Renken

4:00 p.m.

CLOSING REMARKS

Presenter: R. Lance Witcher

4:00 – 5:30 p.m.

COCKTAIL RECEPTION