



# CORPORATE LABOR AND EMPLOYMENT COUNSEL EXCLUSIVE

Join us for an intensive and interactive seminar focused on labor and employment law issues facing today's in-house counsel.

THE BROADMOOR

1 Lake Avenue  
Colorado Springs, CO 80906

SEPTEMBER 21–24, 2022

#### COST

\$995 per person for clients  
\$1,495 per person for non-clients

#### REGISTRATION

See page 11

Ogletree  
Deakins

CORPORATE  
LABOR AND EMPLOYMENT  
COUNSEL  
EXCLUSIVE®

PROGRAM AGENDA

Featuring more than 30 topics designed for in-house counsel



*Ogletree Deakins Welcomes You to Our 10TH Annual*  
CORPORATE LABOR AND EMPLOYMENT COUNSEL EXCLUSIVE SEMINAR

**WELCOME TO THE ROCKIES!**  
**OPENING RECEPTION AND DINNER**

Reconnect with colleagues and friends while breathing fresh alpine air and taking in the stunning views of the Cheyenne Mountains. Our reception will take place on the beautiful Lakeside Terrace, followed by dinner in the elegant Crystal Dining Room.



**WEDNESDAY**  
**SEPTEMBER 21, 2022**

**6:30 – 9:00 p.m.**



**Ogletree  
Deakins**

**CORPORATE**  
LABOR AND EMPLOYMENT  
**COUNSEL**  
EXCLUSIVE

7:30 – 8:45 a.m.

8:45 – 9:00 a.m.

## REGISTRATION AND BREAKFAST

### Opening and Welcome

C. Matthew Keen (Raleigh) • James M. McGrew (New Orleans)

THURSDAY  
SEPTEMBER 22, 2022

9:00 – 9:15 a.m.



### Building an Uncertainty Advantage in Today's Challenging Times

We all operate today in a world with more uncertainty and volatility than ever before. A parade of intertwined challenges affect the world of business, from geopolitics to remote work, from speaking up on political issues to inflation, from cyberattacks to sustainability, and so many more. Our opening keynote will feature Alan Iny, BCG's global lead for creativity and acclaimed author of *Thinking in New Boxes: A New Paradigm for Business Creativity* (Random House, 2013). He will highlight some of the key trends and uncertainties facing business leaders today, and challenge us to think about them through fresh lenses.

**Speaker:** Alan Iny, Partner & Director, Global Lead for Creativity and Scenarios, Boston Consulting Group

9:15 – 9:45 a.m.

### Preparing for 2023: Data, Trends, and Strategies

Following the opening keynote address, our panel will build on the theme of change with a high-level look at the workplace of the future. Will the recent unprecedented changes in the workplace continue in 2023 and beyond? Our April 2022 benchmarking survey indicates hiring and retention are top challenges, yet economic indicators suggest that a recession may be on the horizon. And the trend—and preference for most employees—toward permanent remote work cannot be ignored. The panel will identify and discuss key data and anticipated trends to help in-house counsel navigate the current environment and prepare for 2023.

**Moderator:** Margaret Carroll Alli (Detroit (Metro))

**Speakers:** Shafeeqa W. Giarratani (Austin) • Alan Iny, Partner & Director, Global Lead for Creativity and Scenarios, Boston Consulting Group • C. Matthew Keen (Raleigh)

9:45 – 10:30 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. Join this session for a discussion of 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 shield to best defend against legal exposure.

**Moderator:** Eva W. Turner (Dallas)

**Speakers:** Michael H. Cramer (Chicago) • Monique Gougisha Doucette (New Orleans)  
Tawny R. Eley, Senior Attorney, Deere & Company

10:30 – 10:45 a.m.

BREAK

10:45 – 11:45 a.m.

## BREAKOUT SESSIONS—SERIES 1

### 1. The Kaleidoscope of State and Local Leave Laws

The proliferation of state and local paid—and unpaid—leave laws continues unabated. Keeping up with the numerous and differing requirements from state to state can feel like a full-time job, and pandemic-related leaves have added another layer of complexity over the past couple of years. This session will cover the latest laws and requirements, best practices for updating policies, current litigation trends, and how to stay abreast without going bonkers.

**Speakers:** Ashley Prickett Cuttino (Greenville) • Ruth Anne Collins Michels (Atlanta) • John G. Stretton (Stamford)

### 2. 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.

**Speakers:** Leah S. Freed (Phoenix) • Charles E. McDonald, III (Greenville)

### 3. #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), 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.

**Speakers:** Kelly M. Cardin (New York/Stamford) • Lucie Guimond (Montréal/Toronto)

### 4. Pay Transparency Laws on the Rise

The latest legal trend in pay equity and pay transparency initiatives in the United States is city and state laws requiring employers to proactively disclose pay scale information or file compensation information with the state. This session will cover the rapid evolution of pay disclosure legislation and address key obligations for employers. The speakers will highlight the challenges employers face when complying with these laws and offer strategies for in-house counsel to consider while navigating the laws' impacts on recruiting, hiring practices, and internal employee relations.

**Speakers:** Sarah J. Platt (Milwaukee) • Austin Smith, General Counsel, Litigation and Labor & Employment, Lockheed Martin Space • Roger G. Trim (Denver)

### 5. Hard Labor: New Rules and Tough Remedies From the NLRB

Organized labor no longer needs the Protecting the Right to Organize (PRO) Act to pass in order to get many of the benefits of the legislation—the National Labor Relations Board (NLRB), and in particular the general counsel, are attempting to put certain provisions in place administratively. At the same time, expanded remedies and penalties are raising the stakes for employers, and options for good resolutions are shrinking. Join this session to learn how to guide your organization through the hazards of the new rules in traditional labor.

**Speakers:** Anthony L. Martin (Las Vegas) • Thomas M. Stanek (Phoenix)  
Douglas M. Topolski, Principal, Employee Relations, Amazon Web Services



11:45 a.m. – 1:15 p.m.

NETWORKING LUNCH AND BREAK



1:15 – 2:15 p.m.

## BREAKOUT SESSIONS—SERIES 2

### 1. Top Issues for U.S. Employers With Permanent (or Hybrid) Remote Workers

Initially driven by the COVID-19 pandemic, remote work arrangements remain very prevalent across the United States—especially as a tight labor market makes hiring and retention increasingly difficult. Although remote work may be an attractive recruiting, retention, and cost-saving tool for many employers, it has numerous labor and employment compliance implications. This session will cover the significant legal issues that can arise from permanent remote or hybrid work policies, including wage-and-hour, payroll tax, and cybersecurity issues. The speakers will also discuss the key considerations for building a successful flexible work program while maintaining employee productivity and engagement.

**Speakers:** Jennifer L. Colvin (Chicago) • Michael K. Mahoney (Morristown)  
Kellen T. Myers, Counsel, Manufacturing and Human Resources, General Motors Company

### 2. ERGs and DEI Councils

Employee resource groups (ERGs) and diversity, equity, and inclusion (DEI) councils can be effective elements of an organization's inclusion and employee engagement strategy. Without a comprehensive understanding of the legal landscape, however, employers may risk internal complaints, legal liability, or other unanticipated consequences. In-house counsel can play an essential role in proactively recognizing and managing these risks while remaining supportive and trusted partners of the company. This session will explore best practices for creating and managing ERGs and DEI councils, including addressing issues such as whether and to what extent employers should disclose pay or other data to these groups; advising on groups' external or internal communications; providing compensation or other credit for group leaders; managing requests for groups; and effectively navigating workplace complaints related to these groups.

**Speakers:** Simone R.D. Francis (St. Thomas/New York) • David W. Johnson, Jr., Chief Compliance Officer and Interim Chief Diversity and Social Responsibility Officer, Associate General Counsel, CSG  
Nonnie L. Shivers (Phoenix)

### 3. Rocky Mountain High: Reevaluating Drug Testing Policies and Managing Compliance Today

The complexities of complying with myriad state marijuana legalization, lawful off-duty conduct, and drug and alcohol testing laws, combined with the challenges of recruiting and retaining employees, has caused many employers to reevaluate their drug and alcohol testing policies for today's workplace. In this session, the speakers will discuss updates employers can make to their drug and alcohol testing policies to minimize litigation risk while staying competitive and forward-thinking, and maintaining a safe workplace. This discussion will also address strategies for employers to leverage new drug testing technologies; comply with various state and federal laws, including laws that protect medical and recreational marijuana use or cardholder status; and assess the legality of off-duty employee conduct.

**Speakers:** Jacqueline R. Barrett (Philadelphia) • M. Tae Phillips (Birmingham)

### 4. The Extreme Challenge of Handling Multi-Agency Complaints and Investigations

Employers are sometimes confronted with simultaneous individual complaints from several government agencies (e.g., the NLRB, the U.S. Equal Employment Opportunity Commission (EEOC), the U.S. Department of Labor (DOL), and the DOL's Occupational Safety and Health Administration (OSHA)) with varying and sometimes competing priorities and practices. In this session, the speakers will discuss best practices for handling these multi-agency complaints and provide strategies that can help employers navigate these potentially fraught situations, minimize their financial exposure, and obtain a favorable outcome. The speakers will also examine the unique complexities involved when multi-agency complaints are brought by current employees.

**Speakers:** René L. Duckworth, Associate General Counsel, Anheuser-Busch Companies, Inc.  
Christopher J. Meister (Phoenix) • R. Lance Witcher (St. Louis)

### 5. Risk/Reward: Critical Issues in Pre-Employment Testing

One of the biggest challenges employers today face with respect to recruiting and hiring is properly selecting, implementing, and monitoring pre-employment selection tools. If personality assessments, cognitive tests, physical tests, or technical tests are found to have a disparate impact, employers may face steep consequences. Join this session for a discussion of the risk/reward analysis that is often necessary when evaluating pre-employment tests and defending them. Topics will include evaluating prospective testing vendors, the sufficiency of test validation under the Uniform Guidelines on Employee Selection Procedures, and the potential consequences of using an insufficiently validated test that has a disparate impact. The speakers will also address the methods for and cost of appropriately validating a test, interim approaches to assuming some risk, factors that might put an employer on regulators' radar screen, and the difficulties of defending tests in litigation.

**Speakers:** Elizabeth A. Falcone (Portland) • S. Rae Gross (Detroit (Metro)) • Sarah Smith Kuehnel (Tampa/St. Louis)

2:15 – 2:30 p.m.

BREAK

2:30 – 3:30 p.m.

## BREAKOUT SESSIONS—SERIES 3

### 1. Is This the End of Employment Arbitration as We Know It?

The Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021 made predispute arbitration agreements or joint-action waivers invalid and unenforceable with respect to certain sexual assault or sexual harassment cases. Efforts to ban these agreements and waivers have borne fruit at the state and federal levels. These developments spark questions as to the future of employers' arbitration programs, particularly with mass arbitration on the rise. This session will cover employers' obligations in response to the new law, including direction on what happens when some claims are subject to arbitration and some are not, and whether plaintiffs' attorneys are likely to continue filing large numbers of individual arbitration demands.

**Speakers:** Christopher C. Murray (Indianapolis) • Karen Rosenfield, *Assistant General Counsel*, Ernst & Young LLP  
Spencer C. Skeen (San Diego)

### 2. The Need-to-Know on ESG: Challenges, Tips, and Strategies

Environmental, social, and governance (ESG) standards are becoming an area of focus for more companies and their investors and stakeholders, especially as private equity firms are increasingly using ESG to select investments and evaluate the sustainability of existing investments. This panel will cover the key issues in-house counsel need to know about ESG, including tips for developing ESG criteria/strategy on topics such as DEI, sustainability, and executive pay; important safety-related considerations; how ESG relates to company performance, policies, and employees; and legal pitfalls to avoid.

**Speakers:** Lisa S. Burton (Boston) • Carolyn A. Knox (San Francisco)  
Christian Na, *Chief Legal Officer & Corporate Secretary*, Emburse, Inc. • R. Lance Witcher (St. Louis)

### 3. The Latest Developments in California Employment Law

It's not easy to manage a workforce in California while balancing COVID-19-related obligations, Private Attorneys General Act (PAGA) litigation, and the Golden State's myriad leave and time off laws. During the pandemic, California employers faced ever-changing obligations, including county- and city-specific COVID-19 requirements and state benefits. In addition, California employers are facing the yearly increase in PAGA claims—and the pending decision of the Supreme Court of the United States in *Viking River Cruises, Inc. v. Moriana* will answer the important question of whether employers can use arbitration agreements to reduce—or even stop—PAGA suits. Finally, California employers need to stay abreast of dozens of state and local leave and time off laws.

**Speakers:** Anthony J. DeCristoforo (Sacramento) • Christian J. Keeney (Orange County) • Jennifer Yanni (Orange County)

### 4. 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.

**Speakers:** Gregory J. Hare (Atlanta) • John L. Hayes, *Assistant General Counsel*, Illinois Tool Works Inc.  
Tavis Marshall (Richmond)

### 5. The Art of Winning “Make-or-Break” 30(b)(6) Depositions

Corporate representative depositions under Federal Rule of Civil Procedure 30(b)(6) (or its state counterpart) are often a pivotal point for companies defending themselves against employment and trade secret/noncompete claims. In-house counsel often play a critical role in this process, and not finding, preparing, and presenting the right Rule 30(b)(6) corporate designees can have costly consequences, including possible sanctions, exclusion of evidence, or worse, losing the case. This panel of trial attorneys will partner with a nationally regarded trial consultant to discuss key witness selection considerations, strategies to avoid common pitfalls and traps, and tools for in-house counsel to arm their companies with the right witnesses for presenting key summary judgment arguments and trial themes.

**Speakers:** Jason Bloom, *President*, Bloom Strategic Consulting • Gary D. Eisenstat (Dallas) • Tiffany Cox Stacy (San Antonio)

## BREAK

### 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 panel 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.

**Moderator:** Brandon M. Shelton (Charlotte/Indianapolis)

**Speakers:** Sandi F. Dubin (New York) • David J.B. Froiland (Milwaukee) • Eric Mahler, *Vice President, Sr. Assistant General Counsel, Chief Compliance Officer and Director of Legal Operations*, Meritor, Inc.

## CLOSING REMARKS AND PRIZE DRAWING

3:30 – 3:45 p.m.

3:45 – 4:30 p.m.

4:30 p.m.

5:30 – 9:00 p.m.

## AN EVENING AT THE CHEYENNE LODGE

Nestled on the mountain just behind the resort sits the Cheyenne Lodge, a lovely mountainside venue with a rustic exterior of timbers and split logs and gorgeous views—and a talking moose! The Cheyenne Lodge captures the true essence of Colorado and our reception and dinner will be an experience not to be missed!



7:45 – 8:45 a.m.

**BREAKFAST**

8:45 – 9:00 a.m.

**OPENING REMARKS**

9:00 – 9:30 a.m.

**The Midterms Are Coming! What the Outcome May Mean for Employers**

The midterm elections take place on November 8, 2022, and once again, the balance of power in the U.S. Congress—and the success of the Biden administration's initiatives—hangs in the balance. Will Republicans take back control fully or partially, or will the status quo prevail? Join our "Washington insider" and author of the popular *Beltway Buzz*, Jim Plunkett, as he discusses the potential and likely outcomes and what they could mean for employers in 2023 and 2024.

**Speaker:** James J. Plunkett (Washington, D.C.)

9:30 – 10:15 a.m.

**The Crisis at Your Doorstep: Navigating Unfavorable Coverage When Your Company Is in the Spotlight**

Companies continue to be under the public microscope for alleged and real missteps and bad acts—and even accidents. And, the speed at which information travels can cause a frenzy of unfavorable social and traditional media coverage, which can impact customer support, employee morale, and even investor confidence. From developing communications strategies to utilizing PR firms and potentially protecting comments as attorney-client privileged, join this panel to learn how to best navigate the crisis and survive the storm—and reduce legal risk when faced with high-profile cases.

**Moderator:** Tobias E. Schlueter (Chicago)

**Speakers:** Tom Branigan, *Chief Executive Officer*, Branigan Inc. • John Gerak (Cleveland)  
Eboneé Lewis, *Associate General Counsel*, BD

10:15 – 10:30 a.m.

**BREAK**

10:30 – 11:30 a.m.

**BREAKOUT SESSIONS—SERIES 4**

**1. Recession Refresher: Preparing for an Economic Slowdown**

Some commentators believe a recession is near, and a number of employers already have been reacting to economic pressures by taking steps like reducing staff. Join this session for a refresher on planning and implementing a reduction-in-force, including discussion of timing and communications issues, voluntary versus involuntary plans, severance agreements, and notices under the Worker Adjustment and Retraining Notification Act. The speakers will also address how employers can anticipate and address the emotional needs of employees.

**Speakers:** Michael H. Bell (Denver/Dallas) • Thomas E. Deer (Chicago) • Timothy G. Verrall (Houston)

**2. Inside Outsourcing: A Guide for In-House Counsel**

Employers considering outsourcing compliance—benefits or leaves under the Family and Medical Leave Act, ADA, and various state laws—need in-house counsel who understand the pros and cons, and who can negotiate for maximum benefit and minimum hazard. Join this session for insights into the critical issues to consider and questions to ask, as well as strategies and tactics that in-house counsel can use to keep the relationship with third-party vendors on the right track. Finally, learn the legal underpinnings to negotiate better contracts on key topics— the Health Insurance Portability and Accountability Act, access to records, responsibility under relevant laws, and more.

**Speakers:** Tina M. Bengs (Chicago/Indianapolis) • David W. Johnson, Jr., *Chief Compliance Officer and Interim Chief Diversity and Social Responsibility Officer*, Associate General Counsel, CSG • Kerri S. Reisdorff (Kansas City)

**3. Strategies for Preventing and Defending Class, Collective, and Representative Actions**

Class, collective, and representative action litigation is on the rise. Settlement values are at an all-time high, and plaintiffs' attorneys are utilizing a variety of tricks and traps for the unwary employer. Hear from our panel about strategies to best prepare your company for class, collective, or representative action litigation and potential multi-million dollar judgments. The panel will discuss effective use of time and pay attestations, arbitration programs, audits, severance agreements, supplemental true-up payments, direct settlement programs, and more. The panel will also address key defense strategies to utilize once a company is ensnared in class, collective, or representative action litigation.

**Speakers:** Tracie L. Childs (San Diego) • Rick L. Etter (Pittsburgh) • Spencer C. Skeen (San Diego)



**4. Eye on AI: Utilizing Compliant Artificial Intelligence in Hiring**

The use of artificial intelligence (AI) and algorithmic decision-making processes in recruitment and hiring is becoming more common. While using AI to screen resumes, perform testing, and evaluate and interview candidates is time-saving and can enhance the decision-making process, there is also the potential for discriminatory impact on protected classes. The EEOC recently issued guidance that focuses on ensuring that applicants with disabilities are provided reasonable accommodations, and are not screened out from consideration or subjected to disability-related inquiries. Join this session for the latest best practices to keep your company in compliance with emerging federal and state anti-discrimination guidance and requirements. The speakers will also address issues that arise with the use of recruiters and other vendors.

**Speakers:** Jennifer G. Betts (Pittsburgh) • Danielle Ochs (San Francisco)

**5. Leaves in California: Staying Current and Compliant in a Bear of a State**

Keeping up with and complying with California's leave and time off laws can feel like a full-time job. The patchwork of state and local laws means there are plenty of potential legal pitfalls for in-house counsel. In this session, the speakers will present challenging real-life scenarios and solicit input from attendees to work through the different issues, options, and solutions. The speakers will focus on providing practical strategies and approaches to managing complicated employee leaves, time off, return to work, and reasonable accommodation requests.

**Speakers:** Lisa C. Hamasaki (San Francisco) • Betsy Johnson (Los Angeles) • Michael J. Sexton (Orange County)

**BREAK****BREAKOUT SESSIONS—SERIES 5****1. Blackmail, Slaps, and More? Lessons Learned From GCs (Allegedly) Behaving Badly**

*(One hour of CLE ethics credit may be available.)*

It is always better to learn from someone else's mistakes. In this session, the speakers will examine examples of in-house counsel allegedly (or admittedly) behaving badly—from alleged assaults and slurs to embezzlement—and what in-house counsel can learn from those situations. The speakers will also discuss examples of in-house counsel allegedly being punished for doing the right thing. The speakers will review applicable Model Rules of Professional Conduct, including Rules 1.13 and 8.4.

**Speakers:** Michael H. Bell (Denver/Dallas) • Joseph T. Clees (Phoenix)

**2. Union Organizing 2022—and 2023—Style**

Organizing has headed into new territory—and in-house counsel should expect the innovation to continue! Labor has invested in new forms of technology, including data mining, data analytics, and algorithms to hone how they choose targets and tactics. Changes are not limited to tech, however—organized labor has also made inroads in redefining the rules of engagement with today's workforce. Employee beliefs about unions are changing as well, even as the methods for campaigning also shift. Join this session for insights and strategies for this year and beyond.

**Speakers:** Rodolfo R. (Fito) Agraz (Dallas/Raleigh) • Ruthie L. Goodboe (Pittsburgh/Detroit (Metro))  
Stephen Shore (Toronto)

**3. The Nuts and Bolts of Global Remote Work Arrangements**

Remote work presents a number of challenges for international companies, and these challenges vary significantly depending on the countries in which these employers do business. Among the issues facing global employers that are implementing remote work arrangements are the components of teleworking arrangements; the costs of facilitating work from home, including expenses related to equipment and services; time-tracking and compensation for remote workforces; cybersecurity in the remote workplace; employers' workplace safety obligations with regard to employees who work from home; and employee morale issues that might result from teleworking arrangements. In this session, the speakers will cover the latest developments emerging from Canada, Mexico, Europe, South Africa, the United Arab Emirates, the Asia-Pacific region, and Latin American countries.

**Speakers:** Jean-Marc Albiol (Paris) • Ceridwen J. Koski (Denver) • Diana J. Nehro (New York)

**4. AAPs and Voluntary Affirmative Action/DEI Programs—Similar But Not the Same**

The affirmative action regulations dictate how federal contractors are to solicit, collect, and analyze human capital data as part of their affirmative action programs (AAPs). DEI programs are business-driven and employers have much more latitude on the information they collect, analyze, and use to drive change in their organizations. Because the two concepts sometimes use the same data for different purposes, there can be tension that leads to unintended risks for federal contractors. This session will discuss strategies and tips on how federal contractors that prepare AAPs can align their DEI efforts to complement their regulatory obligations, enhance DEI analytics driven by their data, and avoid legal risk.

**Speakers:** T. Scott Kelly (Birmingham) • Leigh M. Nason (Columbia)

**5. Websites, Kiosks, and Touchscreens: ADA Title III Litigation Risks in a Digital World**

Businesses are continuing to see an increase in customer litigation brought under Title III of the ADA, and in today's digital world, much of that litigation stems from the accessibility of the business' websites and other technology. The U.S. Department of Justice's (DOJ) long-awaited, March 2022 website accessibility guidance left unanswered key questions asked by the business community about which websites are covered and what it means to be accessible. Yet, the guidance does provide some hints of the DOJ's views on these and other important questions and is worthy of a deeper analysis. Join this session for a rundown of the latest on website and other technology issues in-house counsel need to know, what litigation risks can ensue, and how to prepare for these challenges.

**Speakers:** Shannon H. Alexander, Senior Vice President, Litigation, NBCUniversal Media, LLC  
David Raizman (Los Angeles)

11:30 – 11:45 a.m.

11:45 a.m. – 12:45 p.m.

12:45 – 2:15 p.m.

NETWORKING LUNCH AND BREAK



2:15 – 3:15 p.m.

## BREAKOUT SESSIONS—SERIES 6 (The Repeat Sessions)

*During Breakout Series 6, we will repeat the following sessions from Breakout Series 1–5:*

### 1. The Kaleidoscope of State and Local Leave Laws

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**Speakers:** Ashley Prickett Cuttino (Greenville) • Ruth Anne Collins Michels (Atlanta)  
Christopher E. Moore (New Orleans/Houston)

### 2. #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), 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.

**Speakers:** Kelly M. Cardin (New York/Stamford) • Lucie Guimond (Montréal/Toronto)

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The complexities of complying with myriad state marijuana legalization, lawful off-duty conduct, and drug and alcohol testing laws, combined with the challenges of recruiting and retaining employees, has caused many employers to reevaluate their drug and alcohol testing policies for today's workplace. In this session, the speakers will discuss updates employers can make to their drug and alcohol testing policies to minimize litigation risk while staying competitive and forward-thinking, and maintaining a safe workplace. This discussion will also address strategies for employers to leverage new drug testing technologies; comply with various state and federal laws, including laws that protect medical and recreational marijuana use or cardholder status; and assess the legality of off-duty employee conduct.

**Speakers:** Jacqueline R. Barrett (Philadelphia) • M. Tae Phillips (Birmingham)

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**Speakers:** Leah S. Freed (Phoenix) • Charles E. McDonald, III (Greenville)

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**Speakers:** Michael H. Bell (Denver/Dallas) • Joseph T. Clees (Phoenix)



**3:15 – 3:30 p.m.****BREAK****3:30 – 4:15 p.m.****The ADA Today and Tomorrow: Trends, Solutions, and Staying Ahead of the Curve**

Navigating the intricacies of the ADA has long been a challenge for in-house lawyers, but throw in a couple of years of a global pandemic, and things really start to get complicated and quickly change. Meanwhile, disability discrimination remained the second most frequently filed EEOC charge in 2021. Join this session for a high-level update on the most pressing ADA issues facing in-house counsel today, including the new and expanded scope of covered disabilities such as mental health conditions and long-haul COVID-19, the proliferation of remote work and associated accommodation issues, workplace injuries that trigger ADA risks, related leaves of absence, the biggest litigation risks, and how to best plan for the future and train employees appropriately.

**Moderator:** Patrick R. Martin (Minneapolis)

**Speakers:** Jana S. Baker (Dallas) • Kurt A. Level, *Deputy General Counsel*, Koch Companies Public Sector, LLC  
James M. Paul (St. Louis)

**4:15 – 4:30 p.m.****SPECIAL PRIZE DRAWING AND CLOSING REMARKS****PRIZE  
DRAWING!****5:00 – 7:00 p.m.****CLOSING RECEPTION AT THE MOUNTAIN VIEW TERRACE**

After two days of captivating sessions and dialogue, stimulate your senses with sunshine and marvelous mountain views while enjoying refreshing beverages on the Mountain View Terrace.



8:15 – 9:00 a.m.

#### SATURDAY MORNING SMOOTHIES AND SPECIALTY CREDITS

Start your Saturday morning with tropical smoothies and juices (plus coffee and a full breakfast, of course)—and earn specialty CLE credits by attending two engaging sessions.



#### BREAKFAST

9:00 – 10:00 a.m.



#### 2022 “Ethys” Awards: The Best of the Worst in Legal Ethics

*(One hour of CLE ethics credit may be available.)*

Join our special guest speaker, “Humorist at Law” and former in-house lawyer Sean Carter, for this informative—and entertaining—session on some of the worst ethics violations in the legal profession. Award categories will include: Worst Original Excuse, Best Courtroom Outburst, Most Creative Billing, Least Competent, and much more. In the process of recapping some of the most egregious instances of unethical behavior, our speaker will provide best practices for how in-house counsel can avoid common ethical violations. This session will cover several of the American Bar Association’s Model Rules of Professional Conduct, including Rules 1.13, 1.15, 1.4, 1.5, 1.6, 8.1, and 8.4.

**Speaker:** Sean Carter, *Chief Humor Officer*, Mesa CLE

10:00 – 11:00 a.m.

#### How to Practice Law and Maintain Your Sanity: Work-Life Balance Tips For In-House Counsel

*(One hour of CLE professionalism or mental illness awareness credit may be available.)*

This session will provide the latest information and statistics on the mental and physical toll of stress, substance abuse, and other mental health issues in the legal profession, especially as we emerge from the unprecedented and—at times—chaotic pandemic years. The panel will discuss steps you can take in your daily life to recognize when your balance is off, and provide practical tips for focusing on wellness, regaining balance, and managing stress while continuing to succeed in what can be a demanding profession.

**Speakers:** Stacy M. Bunck (Kansas City) • Janet Mark, *Associate General Counsel*, Hallmark Cards, Inc.  
Christine Bestor Townsend (Milwaukee/Chicago)





# REGISTRATION INFORMATION

## REGISTRATION

@ Online: [www.ogletree.com/seminars/](http://www.ogletree.com/seminars/)

✉ Email: [ODEvents@ogletree.com](mailto:ODEvents@ogletree.com)

## COST

\$ Clients: \$995 per person  
Non-clients: \$1,495 per person

## HOTEL RESERVATIONS

Hotel reservations at The Broadmoor can be made by calling (719) 577-5775. To receive the Ogletree Deakins rate of \$299 per night, please make your hotel reservations by Wednesday, August 31, 2022.

Note: Your credit card will be charged a minimum deposit of one night's room and tax at the time of reservation. Room cancellations must be confirmed no later than seven (7) days prior to your arrival date for a deposit refund.

## THE BROADMOOR

1 Lake Avenue  
Colorado Springs, CO 80906  
(844) 602-3343

## CLE

We are requesting up to 14.00 credit hours (including 2.40 hours of ethics and 1.20 hours of professionalism or mental illness awareness, depending on jurisdiction) for 50-minute jurisdictions, and 11.75 credit hours (including 2.00 hours of ethics and 1.00 hour of professionalism or mental illness awareness, depending on jurisdiction) for 60-minute jurisdictions. Please note Alabama CLE credit is not available for this program. Please email any CLE-related questions to [cle@ogletree.com](mailto:cle@ogletree.com).

This program qualifies for both experienced and newly admitted attorneys. New York attorneys who need financial aid to attend may view the policy [here](#).



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A large, stylized white swan graphic is positioned in the lower-left foreground, appearing to swim in the water. The background of this section is a scenic view of a lake with a bridge and people in the distance.

**WE LOOK FORWARD TO SEEING YOU!**

Ogletree Deakins is one of the largest labor and  
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