



# 20th Annual Urgent Issues for Modern Employers Labor & Employment Law Seminar

MeadowView Marriott  
Conference Resort & Convention Center  
Kingsport, Tennessee

Thursday, March 10, 2016  
8:00 a.m. – 4:30 p.m.

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# The Schedule

8:00 – 8:25 a.m.      **Registration**

8:25 – 8:30 a.m.      **Welcome and Introduction**

8:30 – 9:15 a.m.

## **Significant Developments in Employment Law in 2015 and a Look Ahead**

This session will examine and consider the most significant developments in employment law over the last year and offer a practical view of how employers can limit risk going forward.  
*Speaker: Steven H. Trent*

9:15 – 10:00 a.m.

## **A Fresh Look at a Chronic Problem: Mastering the Reasonable Accommodation Process**

The ADA may be 25 years old, but whether, how and when to reasonably accommodate disabled employees continues to vex even the most skilled HR and legal professionals. This session offers a deep dive into a challenging topic and a thought-provoking discussion of how to master the reasonable accommodation analysis.  
*Speaker: Jennifer P. Keller*

10:00 – 10:10 a.m.      **Break**

10:10 – 10:55 a.m.      **Breakout Sessions**

## **Tennessee Workers' Compensation: The Year in Review**

This session will provide an overview of the important cases and issues that significantly shaped Tennessee workers' compensation in 2015. It will also examine practical ways employers can navigate through these recent developments and what you can expect going forward.  
*Speaker: Christie M. Hayes*

## **Understanding Employee Motivation**

Motivation drives employees in the workplace. Whether an employee is a top performer or a poor performer, dedicated to the job or intending to leave, behaving or misbehaving, a motivational force is driving them. In this session, employers will learn about the motivational forces at play in the workplace and develop a greater understanding of the things that make employees do what they do.  
*Speaker: Mark A. Fulks*

## **Best Your Competition with Restrictive Covenants: Using Noncompetes, Nonsolicitation Covenants and Confidentiality Agreements as Effective Weapons**

This presentation will help you and your company assess whether and under what circumstances you can lawfully hire talent away from your competitors, and it will provide the latest insight into how to use restrictive covenants like noncompetes, nonsolicitation clauses, and confidentiality agreements to protect your interests.  
*Speaker: Steven H. Trent*

10:55 – 11:10 a.m.      **Break**

11:10 – 11:55 a.m.

## **Using Patience and Other Virtues to Avoid Retaliation Claims**

This presentation will offer practical advice on how employers can insulate themselves from retaliation claims under federal and state employment laws. We'll discuss best strategies for consistent application of policies, procedures and discipline, as well as clear communication of the reasons for employment decisions to reduce the frequency and risk of such claims. We will also share examples from actual cases we have defended to illustrate how employer practices can make retaliation claims easier (or harder) to defend.  
*Speaker: Matthew D. Davison*

11:55 a.m. – 1:05 p.m.      **Lunch (provided)**

1:05 – 1:50 p.m.      **Breakout Sessions**

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*Speaker: Christie M. Hayes*

## **The DOL's Proposed Salary Regulations: How to Plan For and Live With Them**

We will review the proposed DOL regulations and describe the steps that businesses and policymakers can take now to oppose the DOL's costly regulatory agenda. We will then discuss steps that businesses can take now to plan for the inevitable changes that the DOL is determined to implement. Finally, we will review how best to assess and analyze litigation risks associated with the proposed regulations.  
*Speaker: Matthew D. Davison*



# The Schedule, *continued*

## **Top 10 Trends and Pitfalls in Workplace Drug Screening**

This session will focus on recent trends in employment drug screening, best practices for reducing risk and common mistakes to avoid in managing your company's drug and alcohol testing program. We will discuss changes to federal testing regulations, medical marijuana and workplace testing, alternate testing modalities, and dealing with new drugs of abuse.

*Speaker: Jennifer P. Keller*

**1:50 – 2:00 p.m. Break**

**2:00 – 2:45 p.m. Breakout Sessions**

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*Speaker: Matthew D. Davison*

## **Independent Contractor Misclassification: A Problem for Uber or a Problem for You-ber?**

The lawsuits challenging the status of Uber drivers have made national headlines. And last July, the DOL published new worker misclassification guidance and served "fair notice to scofflaws" who misclassify employees as independent contractors. Is your company at risk? In this seminar, we will discuss the DOL's recent announcement and strategies for how your company can stay out of the DOL's crosshairs.

*Speaker: Chad E. Wallace*

## **Updates on State-Specific Laws for the Multi-State Employer**

School is back in session and we've got your classes lined up for the semester. Join us for an update on recent developments in state-specific laws on guns in the workplace, the pitfalls of not responding to unemployment claims, marijuana legalization, the "Ban the Box" movement, state and city sick leave mandates, and sexual orientation and transgender protections.

*Speaker: Drew Hutchinson*

**2:45 – 2:55 p.m. Break**

**2:55 – 3:40 p.m. Breakout Sessions**

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*Speaker: David Harvey*

**3:40 – 3:50 p.m. Break**

**3:50 – 4:30 p.m.**

## **The Matrix Reloaded: Cybersecurity and Data Protection for Employers**

In this session, we'll explore how cybersecurity and data protection are creating new hurdles and obligations for employers and companies. Topics will include President Obama's recent proposals and executive orders, recent litigation, and best practices for companies, employers and the workplace.

*Speaker: Brent B. Young*



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# The Speakers



**Steven H. Trent**

[strent@bakerdonelson.com](mailto:strent@bakerdonelson.com)

Mr. Trent represents employers before the NLRB and other state and federal agencies. He advises employers on many topics including union avoidance, FMLA administration, reductions in force, wage and hour issues, employee handbooks, drug testing and employment contracts. He also represents the interests of management during the collective bargaining process. His multi-state practice includes defending claims under the Americans With Disabilities Act, Title VII, age discrimination claims, FLSA, Equal Pay Act, FMLA, breach of contract and retaliation claims of virtually every kind. Mr. Trent is licensed in Virginia and Tennessee.



**Jennifer P. Keller**

[jkeller@bakerdonelson.com](mailto:jkeller@bakerdonelson.com)

Ms. Keller is president and chief operating officer of the Firm. She is a former member of the Firm's board of directors and former chair of the Firm's nationally-recognized Labor & Employment Department. Ms. Keller advises clients on a wide variety of issues, including discipline and terminations, benefits issues, leave, disability accommodation, policy formulation and enforcement and similar matters. A substantial part of her practice is providing training for employers in the areas of harassment and discrimination prevention, drug-free workplace, union avoidance and other employment law issues. Licensed in Tennessee and North Carolina, Ms. Keller regularly practices in both state and federal courts in those states.



**Matthew D. Davison**

[mdavison@bakerdonelson.com](mailto:mdavison@bakerdonelson.com)

Mr. Davison has first-hand experience with all aspects of employment law and labor relations, having served as in-house counsel for human resources at an NYSE-traded company. His experience includes employment issues related to mergers, acquisitions and reductions in force, as well as EEO and affirmative action compliance. Mr. Davison proactively advises clients on issues and disputes arising under both federal and state employment laws such as Title VII of the Civil Rights Act, the Americans with Disabilities Act, the Age Discrimination in Employment Act and the Family and Medical Leave Act. He also represents employers before the EEOC and in federal and state courts when litigation ensues. Mr. Davison is licensed to practice in Tennessee, North Carolina and Virginia.



**Brent Young**

[byoung@bakerdonelson.com](mailto:byoung@bakerdonelson.com)

Mr. Young has defended dozens of employers against claims of discrimination and other litigation matters. He has likewise counseled dozens of companies of all sizes on the enforcement of covenants not to compete, ERISA work, negotiated severance and separation agreements, and helped draft employee handbooks and employment applications. He is a frequent presenter at seminars on most employment topics and professional ethics issues and is bilingual (English and Spanish), conducting training and investigations in both languages. Mr. Young is licensed to practice in Tennessee and South Carolina.



**Chad Wallace**

[cwallace@bakerdonelson.com](mailto:cwallace@bakerdonelson.com)

Chad E. Wallace advises employers on employment-related and general business topics, including FMLA, disability and leave, Title VII and termination issues. He represents clients before administrative agencies, and defends them in state and federal courts on age discrimination claims, gender discrimination and harassment claims, retaliation claims, and enforces noncompetition covenants. Mr. Wallace is licensed to practice in Tennessee and Kentucky.



**Drew Hutchinson**

[dhutchinson@bakerdonelson.com](mailto:dhutchinson@bakerdonelson.com)

Mr. Hutchinson advises employers on a wide range of employment-related and general business topics and has experience in mediating, arbitrating and litigating claims based on the Civil Rights Acts, FMLA, ADA, ERISA, state workers' compensation laws and state-specific employment laws. Mr. Hutchinson is licensed to practice in North Carolina, Tennessee and Washington, D.C.



**Christie Hayes**

[chayes@bakerdonelson.com](mailto:chayes@bakerdonelson.com)

Ms. Hayes has extensive experience in the area of workers' compensation issues, as well as experience counseling clients on a multitude of federal and state employment laws, including the ADA and FMLA. Ms. Hayes defends employers against employment discrimination claims before the EEOC and THRC and performs training for employers in the areas of discrimination and harassment prevention, drug-free workplace, union avoidance and similar issues. Ms. Hayes advises clients on a wide variety of issues, including leave, disability accommodation, policy formulation and enforcement, and similar matters. Ms. Hayes is licensed to practice in Tennessee and North Carolina.



# The Speakers, *continued*



**Mark A. Fulks**

[mfulks@bakerdonelson.com](mailto:mfulks@bakerdonelson.com)

Mr. Fulks concentrates his practice in employment law and commercial litigation. He has successfully defended employers against whistleblower claims and advises clients on a wide variety of employment and management issues, including strategic management, social media, performance evaluations and employee motivation. Mr. Fulks, a former prosecutor, donates his time to pro bono representation of indigent criminal defendants and accepts appointment to prosecute cases as a District Attorney General Pro Tem. He is licensed in Tennessee and Virginia.



**David Harvey**

[dharvey@bakerdonelson.com](mailto:dharvey@bakerdonelson.com)

David Harvey's labor and employment practice includes drafting affirmative action plans under Executive Order 11246, performing compensation analyses and assisting clients in all aspects of Office of Federal Contract Compliance Programs issues. Mr. Harvey also counsels clients on wage and hour issues under the FLSA and state law. He regularly represents employers in actions brought under Title VII, the Americans with Disabilities Act, the Equal Pay Act, state law employment claims and the Age Discrimination in Employment Act. In addition to his regular practice, Mr. Harvey regularly donates his time to pro bono work. Mr. Harvey is licensed to practice in Tennessee, North Carolina and Pennsylvania.

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