

15TH ANNUAL
LABOR & EMPLOYMENT LAW SEMINAR
URGENT ISSUES
FOR MODERN EMPLOYERS

MEADOWVIEW MARRIOTT
CONFERENCE RESORT & CONVENTION CENTER
KINGSPORT, TENNESSEE

THURSDAY, FEBRUARY 24, 2011
8:00 A.M. — 4:30 P.M.



BAKER DONELSON
BEARMAN, CALDWELL & BERKOWITZ, PC

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THE SCHEDULE

8:00 a.m. - 8:25 a.m. Registration
8:25 a.m. - 8:30 a.m. Welcome & Introduction

8:30 a.m. - 9:15 a.m.

Hiring and Firing:

Key Steps to Avoiding Litigation

This session will discuss employer best practices when it comes to hiring and firing. It will focus on tips to avoid litigation during the hiring and firing process. In addition, this session will emphasize steps you can take to position your company for a successful defense when litigation is unavoidable.

Speaker: Steven H. Trent

9:15 a.m. - 10:00 a.m.

The Impact of Health Care Reform on Employers

This session will focus on the impact of health care reform on employers and plan sponsors of group health plans. Also, it will provide a broad overview of the new law, as well as a more detailed discussion of those provisions that will have a more significant or immediate effect on employers.

Speaker: Andrea L. Bailey

10:00 a.m. - 10:10 a.m. BREAK

10:10 a.m. - 10:55 a.m. BREAKOUT SESSIONS

Workers' Compensation in Virginia in 2010:

What You Need to Know

Examines hot topics in Virginia Workers' Compensation Law that have been raised and/or addressed by the Virginia Workers' Compensation Commission and the Virginia State Courts during the last six months.

Speaker: Gary L. Edwards

Tennessee Workers' Compensation: The Year in Review

Provides an overview of the important cases and issues that significantly shaped Tennessee Workers' Compensation in 2010. This session also examines practical ways employers can navigate through these recent changes and what employers can expect in 2011.

(This session is also available at 1:05 p.m.)

Speaker: Christie M. Hayes

The FMLA Today: How Have the 2009 Regulations Evolved?

This breakout session will cover the revised FMLA regulations that have been effective since January 16, 2009. After a brief review of the revised regulations, we will look at how the case law has developed in their wake. Applicable topics will include Military Caregiver, Qualifying Exigency, and Intermittent Leave; Notice and Certification Requirements; and the various definitional clarifications included in the revised regulations.

(This session is also available at 2:00 p.m.)

Speaker: Brent B. Young

10:55 a.m. - 11:10 a.m. BREAK

11:10 a.m. - 11:55 a.m.

Pitfalls and Quicksand: How to Avoid the Top 10 Mistakes Employers Make

This topic will address the top 10 problems, as identified by our employment law experts and DOL representatives, faced by employers over the last year. Some of the issues discussed may be familiar beasts yet to be tamed, while others may present as new and unexpected challenges. In either event, we will strive in this session to provide not only a description of common employer mistakes, but solutions to these problems, which range from issues related to FMLA, GINA, ADAAA and other employment laws.

Speaker: Matthew D. Davison

11:55 a.m. - 1:05 p.m. LUNCH (provided)

1:05 p.m. - 1:50 p.m. BREAKOUT SESSIONS

The Year in Review:

A Review of Labor & Employment Law's 2010 Highlights

Discusses the important legislative changes and decisions in federal and Tennessee employment law in 2010, including recent developments with the ADAAA and NLRB.

Speaker: Brent B. Young & Chad E. Wallace

FLSA & Collective Actions: They are not Going Away Anytime Soon

The FLSA provides a unique structure for multi-plaintiff wage and hour lawsuits. This session is designed to explain the nature of Collective/Class action wage and hour lawsuits and why they can be so dangerous, and also to provide practical tips employers can implement to reduce the likelihood of being the target of such a lawsuit.

Speakers: Steven H. Trent & David Harvey

Tennessee Workers' Compensation: The Year in Review

(This session is also available at 10:10 a.m.)

See previous session description.)

Speaker: Christie M. Hayes

1:50 p.m. - 2:00 p.m. BREAK

2:00 p.m. - 2:45 p.m. BREAKOUT SESSIONS

The FMLA Today: How Have the 2009 Regulations Evolved?

(This session is also available at 10:10 a.m. See previous session description.)

Speaker: Brent B. Young

Downsizing: Don't Let it Get You Down in the Dumps

This topic will focus on issues an employer should consider when faced with the need to implement a Reduction-In-Force, including advance planning and WARN issues, adverse impact analysis and severance/separation agreements.

Speaker: David Harvey

Social Media In the Workplace: The Next Steps

Discusses effects of social media on employer/employee relationship and provides practical suggestions in addressing these issues now and into the future.

(This session is also available at 2:55 p.m.)

Speaker: Chad E. Wallace

2:45 p.m. - 2:55 p.m. BREAK

2:55 p.m. - 3:40 p.m. BREAKOUT SESSIONS

The Employer's Pocket Guide to Preventing Discrimination

This session will provide an overview and discussion of practical tips and pointers to help HR Professionals take a pro-active stance in insulating their workplace from discriminatory situations before they occur. During this session, we will look at employment best practices and litigation avoidance tips.

Speaker: Philip R. Baker

Gossett v. Tractor Supply: What You Should Know and Do About the Case that Changes the Face of Employment Litigation

The 2010 Gossett opinion will likely spur changes in the way plaintiffs file and litigate employment law claims. Thus, it should change how employers analyze potential claims and prepare for and respond to lawsuits. This session will discuss the practical implications of the decision and business strategy options for dealing with those implications including documentation of employment decisions, arbitration agreements, EEOC and private mediation, and removal to Federal Court. This session is a must for anyone directly involved with litigation or with the decisions that can lead to it.

Speaker: Jennifer P. Keller

Social Media In the Workplace: The Next Steps

(This session is also available at 2:00 p.m.)

See previous session description.)

Speaker: Chad E. Wallace

3:40 p.m. - 3:50 p.m. BREAK

3:50 p.m. - 4:30 p.m.

The Employment Law Grab Bag: Be Prepared for the Issues that Can Sneak Up On You

In this session, we will discuss a number of less common but important employment law issues that you need to be ready to deal with. Among them will be mandatory meal periods in Tennessee, jury duty, voting leave, the meaning of "right to work" and "at-will," and employee access to personnel and medical records.

Speaker: Jennifer P. Keller

SPEAKERS



JENNIFER P. KELLER, chair of the Firm's Labor & Employment Department, concentrates her practice in the areas of employment and workers' compensation litigation. She

regularly practices in state and federal court and before various administrative agencies, including the DOL, EEOC, THRC and NLRB. A substantial part of her practice is performing training for employers in the areas of harassment and discrimination prevention, drug-free workplace, union avoidance and similar issues. Ms. Keller has been listed in *Best Lawyers in America** since 2008. She is a member of the Defense Research Institute and is licensed in Tennessee and North Carolina.



STEVEN H. TRENT chaired the Firm's Labor & Employment Department for eight years. He represents employers before the NLRB and other state and federal agencies and

advises employers on many topics, including union avoidance and FMLA administration. His multi-state practice includes defending claims under the Americans with Disabilities Act, Title VII, age discrimination, Equal Pay Act, FMLA and breach of contract claims and retaliation claims of virtually every kind. Mr. Trent has been listed annually since 2005 in *The Best Lawyers in America** and is licensed to practice in both Tennessee and Virginia.



GARY L. EDWARDS concentrates his practice in the areas of litigation, workers' compensation, labor and employment and general civil litigation in the state and federal courts and agencies

for the states of Tennessee, North Carolina and Virginia.



MATTHEW D. DAVISON concentrates his practice in labor and employment law. His experience includes Title VII, ADA, ADEA, FMLA, FLSA and workers' compensation litigation. He

also has first-hand experience with all aspects of employee and labor relations (including collective bargaining), employment issues involved with mergers and acquisitions, and affirmative action compliance. Mr. Davison is licensed to practice in Tennessee, Virginia and North Carolina.



BRENT B. YOUNG has experience in age discrimination defense, defense and enforcement of covenants not to compete, ERISA work, negotiation of severance and separation

agreements, and drafting of and consultation on employee handbooks, employment applications and other applicable documents. He also has been extensively involved in the development and implementation of alternative dispute resolution programs for several clients. Mr. Young is licensed to practice in Tennessee and South Carolina.



PHILIP R. BAKER concentrates his practice primarily on employment law, with substantial experience providing counsel, advice and litigation defense for employers in

workers' compensation, retaliatory discharge and discrimination issues. Mr. Baker has substantial experience in preparing and participating in mediations designed to help employers prevent litigation costs. Mr. Baker also has experience drafting employment agreements, including non-competes, employee loan-repayment agreements and independent contractor agreements. He is licensed to practice in Tennessee.



CHAD E. WALLACE concentrates his practice in the areas of labor and employment law and commercial litigation. He is the author of Tennessee's Employment-At-Will Doctrine

and "The Need for Change: Testifying At An Unemployment Compensation Hearing," *Tennessee Bar Journal*, April 2003. Mr. Wallace is licensed to practice in Tennessee.



ANDREA L. BAILEY of counsel in the Firm's Birmingham office, concentrates her practice in the area of employee benefits and executive compensation.

A graduate of the University of Virginia School Of Law, Ms. Bailey is experienced in all aspects of executive compensation and employee benefits matters, including the design and administration of qualified plans, health and welfare benefit plans, and non-qualified plans.



DAVID HARVEY concentrates his practice in labor and employment law. His representation includes drafting affirmative action

plans, performing salary grade comparisons, adverse impact calculations and other documents related to OFCCP compliance reviews. Mr. Harvey also counsels clients on issues such as the FLSA and the ADEA. He is licensed to practice in Tennessee, Pennsylvania and North Carolina.



CHRISTIE M. HAYES concentrates her practice in labor and employment issues. She has extensive experience in the areas of workers' compensation,

ADA and FMLA, and defends employers against discrimination claims before the EEOC and THRC. Ms. Hayes is licensed to practice in Tennessee and North Carolina.



When you have labor and employment needs, you want a firm that understands and services your entire business. We give you what boutique labor and employment firms can't: a set of attorneys who are not only dedicated to the practice of labor and employment issues, but who can also employ an integrated and experienced team of professionals to assist you in every other aspect of your legal business needs. We set ourselves apart by valuing your entire company – not only your employees but also your intellectual property, your shipping and logistics systems, your real estate and equipment assets, your corporate structure and everything that makes your company what it is. And when it comes to your company's most valuable asset, your employees, our attorneys are committed to counseling with and advocating for you every step of the way.

With litigation avoidance in mind, the Group has developed extensive training programs for client supervisors and managers. The training programs, along with on-point legal advice, help to ensure clients' compliance with employment and employment-related laws and regulations. Training programs are provided in-house for clients in the areas of union avoidance, workplace harassment prevention, OSHA compliance, Family Medical Leave Act and drug-free workplace, among others.

The Firm also customarily represents clients in developing a general union avoidance approach in advance of union election campaigns, in the clients' dealings with labor unions during the election phases of union campaigns and in the negotiation of any labor agreements. For those clients who have unions representing their workforces, the Firm pursues management's interests in all phases of the grievance and arbitration process. Clients are represented before all governmental bodies charged with the enforcement of employment statutes and policies.

In circumstances of unavoidable litigation, the Firm's labor and employment attorneys have extensive experience in state and federal courts throughout the country defending wrongful discharge claims, various employment-related tort actions, and state and federal claims of unlawful discrimination and harassment, in both individual plaintiff and class action suits. In addition, Baker Donelson labor and employment attorneys provide representation in the following areas:

- Workplace harassment and discrimination prevention and defense
- Drug-free workplace
- Reasonable accommodation
- Wage and hour laws
- Unfair labor practice allegations before the National Labor Relations Board
- Charges before the U.S. Department of Labor
- Workers' compensation
- OSHA compliance and litigation
- Employee benefits
- Family and medical leave
- Policies and handbooks/affirmative action plans
- Federal Immigration laws and regulations

Baker Donelson's labor and employment attorneys belong to numerous nationally recognized organizations, and they regularly organize and conduct industry-specific seminars and roundtables on relevant topics in the labor law arena. The Group also regularly publishes and distributes to clients and potential clients legal alerts and industry updates.

Baker Donelson has been ranked among the Top 10 Labor & Employment litigation firms in the country by *Employment Law 360*, the newswire for labor and employment law professionals. The Labor & Employment Group includes more than 90 experienced attorneys who work with clients on all issues relating to workplace law. The Firm's experience, reputation and proven cost-effective representation of clients' labor and employment matters for more than 30 years have resulted in the representation of a growing list of local, regional and national clients headquartered throughout the south central United States.

For more information, please visit www.bakerdonelson.com.

The Rules of Professional Conduct of the various states where our offices are located require the following language: Jennifer P. Keller, Chair of the Labor & Employment Department, is located in the Johnson City office of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, 100 Med Tech Parkway, Suite 200, Johnson City, Tennessee 37604. Phone: 423.928.0181. No representation is made that the quality of the legal services to be performed is greater than the quality of legal services performed by other lawyers. FREE BACKGROUND INFORMATION AVAILABLE UPON REQUEST.

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