

LABOR & EMPLOYMENT



21ST ANNUAL URGENT ISSUES FOR MODERN EMPLOYERS

LABOR & EMPLOYMENT LAW SEMINAR

MEADOWVIEW MARRIOTT
CONFERENCE RESORT & CONVENTION CENTER
KINGSPORT, TENNESSEE

THURSDAY, MARCH 23, 2017
8:00 A.M. – 4:30 P.M.

BAKER DONELSON

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 2016 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.

The Latest Trends, Tips and Tactics for Accommodating the "Disabled"

A wrong or incomplete understanding of "disabled" can result in a host of inadvertent employer mistakes. Learn the latest in litigation trends across the country and walk away with tips and tactics for successfully accommodating any disabled employee.

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 2016. It will also examine practical ways employers can navigate through these recent developments and what you can expect going forward.

Speaker: Christie M. Hayes

The "Sweet 16" Ways Not to Get Sued by Your Employees

It's 2017 – a new year and a fresh start. While everyone is busy making resolutions, it is also a great time for companies to take a fresh approach and implement any needed changes in policies, practices and procedures. This session will provide employers with a "Top 16" list of action items to consider and implement this year. We will also provide many tips to avoid or limit employment law claims.

Topics that will be addressed include:

- Preparation for the overtime regulation changes
- Pay classification issues
- Handbook reviews in light of the NLRA guidance
- Updated forms employers should be utilizing
- LGBT rights in the workplace
- Disability accommodations

Speaker: Jennifer P. Keller

Workplace Privacy Issues: The ABCs of Keeping Tabs on Your Employees

Employers now have a multitude of different options at their disposal to monitor employee conduct both inside and outside of the workplace. Social media, email and telephone calls are just a few examples of the ways an employer can keep tabs on its workforce. Simply because an employer has the capability to monitor their employees' every moves does not, however, mean an employer should do so. During this session, we will discuss the legal ramifications and practical implications for monitoring employees on and off company property.

Speaker: Steven H. Trent

10:55 – 11:10 a.m. **Break**

11:10 – 11:55 a.m.

Open Mouth Insert Foot: Court Decisions Show Supervisors' Comments Increase FMLA Legal Risks

Almost daily we hear a stomach-churning story about a supervisor or manager saying something truly horrific. And most of the time, they don't even know what they've done wrong. No surprise, then, that courts aren't siding with employers in the latest FMLA decisions.

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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THE SCHEDULE, CONTINUED

Employee Investigation Scenarios and Solutions

What does an employer do when an employee complains of low wages, harassment or having to share a hotel with another employee? How front line managers, supervisors and HR professionals react can make an unpleasant situation even worse. Join us for a deep dive into a real world complaint and see how the employer's workplace investigation affected the final outcome. Then we'll outline recommendations and best practices for optimizing workplace investigations and minimizing your company's risk to achieve favorable results.

Speaker: Matthew D. Davison

Careless Whispers Etched in Stone: Best Practices for Ensuring that Your Email Paper Trail is Free of Stumbling Blocks

As school children, we were horrified when our teachers would threaten to put something in our "permanent record." Now, as adults, we put things in our permanent records without giving it a second thought. We use email, social media and other forms of electronic communication to document the most sensitive issues in our personal and professional lives. Yet we rarely stop to think about the consequences. In this session, we will discuss the best practices for email usage in the workplace from the perspective of litigation.

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

New Developments in Internship Programs

It's March, which means it's time to look for those summer interns. Easy, right? Not so fast. There are a lot of things to think about when you set out to hire an intern, and the latest developments haven't exactly made it any easier. This session will discuss the latest.

Speaker: Chad E. Wallace

Weed in the Workplace: If Smoke, Do You Fire?

In this session, we'll discuss the latest in marijuana laws and ordinances. We'll then talk about how efforts to decriminalize marijuana impact the workplace and what steps employers and companies can take to stay ahead of the curve.

Speaker: Drew Hutchinson

2:45 – 2:55 p.m. **Break**

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

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Speaker: Mark A. Fults



THE SCHEDULE, CONTINUED

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3:40 – 3:50 p.m.

Break



"The use of this seal is not an endorsement by the HR Certification Institute of the quality of the program. It means that this program has met the HR Certification Institute's criteria to be pre-approved for recertification credit."

3:50 – 4:30 p.m.

The Top 5 Labor Developments Affecting Non-Union Employers

The NLRB and DOL continue to expand their reach into the non-union workplace. In this session, we will address (1) the NLRB's continued focus on social media and employer handbooks; (2) the NLRB's rules regarding employees' use of company email for protected concerted activity; (3) the NLRB's emphasis on joint employer status and its potential effect on franchise relationships; (4) the DOL's unconstitutional persuader rule requiring employers to disclose how much they are paying their labor lawyers; and (5) the NLRB's continued fight against class arbitration waivers despite court opinions to the contrary.

Speaker: Brent B. Young

THE SPEAKERS



Steven H. Trent

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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

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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.



Matthew D. Davison

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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. He 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.



THE SPEAKERS, CONTINUED



Brent B. Young

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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 E. Wallace

cwallace@bakerdonelson.com

Mr. 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

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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 M. Hayes

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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. She 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.



Mark A. Fulks

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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.

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