

May 20 & 21, 2013
St. Paul RiverCentre

Celebrating 30 Years

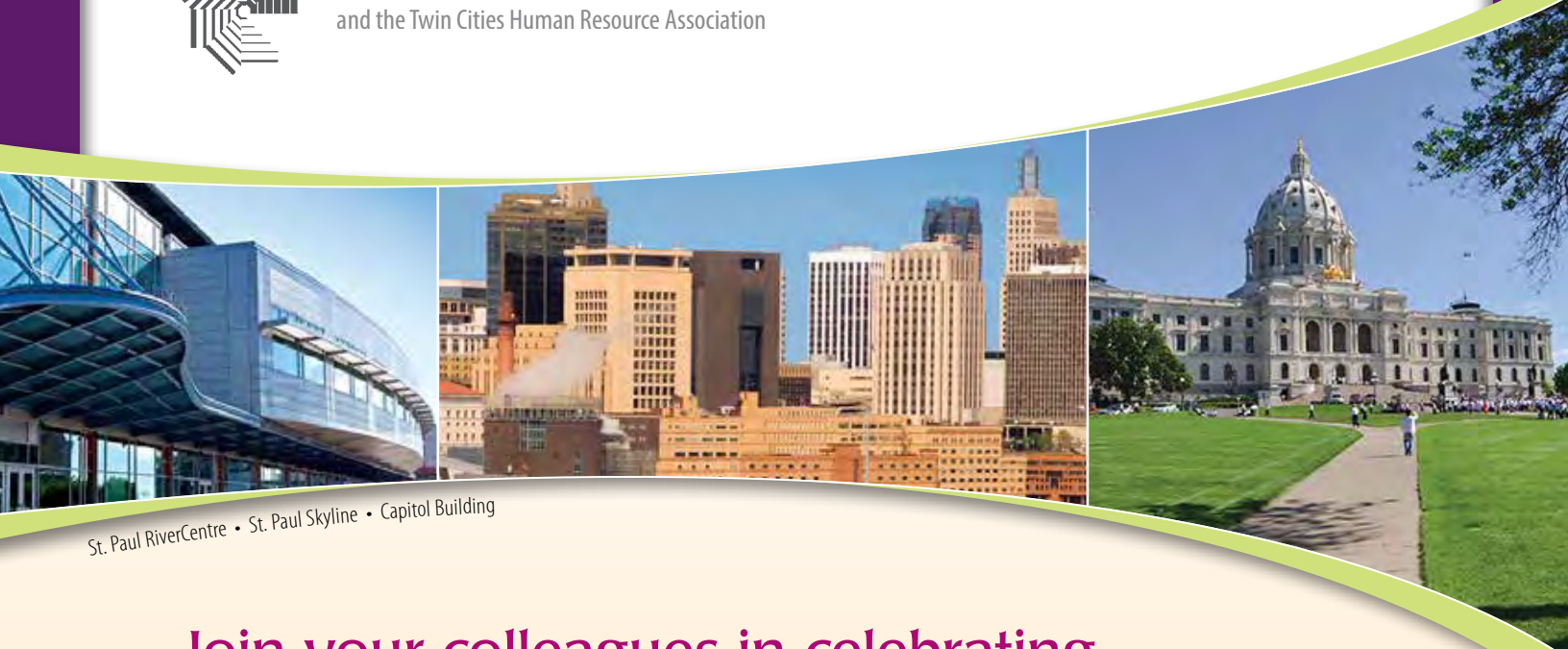
of the

Upper Midwest

Employment Law Institute



co-sponsored by Minnesota CLE, the MSBA Labor and Employment Law Section
and the Twin Cities Human Resource Association



St. Paul RiverCentre • St. Paul Skyline • Capitol Building

Join your colleagues in celebrating
30 years of the nation's biggest & best
employment law conference!

Celebrating 30 Years of Great Ed With Colleagues and Friends From the Midwest



The Best Employment Law Conference in the Nation Celebrates 30 Great Years!

The Upper Midwest Employment Law Institute has become a “go-to” educational and networking event for employment attorneys and human resource professionals year after year.

There is no other conference that offers so many great topic choices, outstanding faculty, useful resource materials, and such an opportunity to learn. Take these two days to invest in your professional development – two days of great learning in both the classroom and the hallways – and an unparalleled networking opportunity.

Whether listening to an excellent lecture or an engaging panel discussion, reviewing one of our Legal QuickSheets™, visiting with colleagues in the hallway, checking out the new *ADA Handbook*, or spending time at our “Ask the Faculty” booth – there is no other conference that provides as much value.

Customize Your Learning – Select from More than 100 Diverse, On-Point and Well-Designed Session Topics.

Everyone comes with differing education needs. That’s why we’ve created a conference that lets you choose the sessions most relevant and important to you. Nearly every aspect of employment law is covered, so from start to finish, your custom-tailored institute schedule promises to be jam-packed with topics you care about. We help guide you to the right sessions by labeling tracks such as “Advisors and In-House Counsel,” “Litigation” and other designations.

The Simple and Effective Way to Keep Up on All the Important New Developments.

One of the main purposes of this Institute is to provide thorough updates (in both oral and written form) on all new law developments impacting those involved with employment law. The conference features sessions updating attendees on U.S. Supreme Court cases, Title VII, wage and hour, the EEOC, Eighth Circuit cases, the FMLA, and much more. And on top of first-rate presentations, you’ll return to the office with extensive new written materials that will be a reference resource for you all year long.

Materials Will Be Posted Online Before the Institute!

Written materials for the Institute will be posted on the Minnesota CLE website before the Institute, accessible to all persons registered for the conference. Review the materials to help make the best possible breakout session selections, download the materials to your iPad or laptop and bring them to the conference, or begin your study early. And, of course, materials will be provided at the Institute.

A Special Bonus – The New ADA Handbook – Prepared for Rollout at the Institute!

In addition to the *2013 Employment Law Handbook*, we are publishing the all-new *ADA Handbook* prepared especially for rollout at the 2013 Institute. This new handbook provides answers, analysis and practice tips dealing with the often complex issues surrounding the ADA. We have gathered a team of experienced attorneys to create this guide, and they bring diverse perspectives – advisors and litigators, plaintiff counsel and employer-side. Every Institute attendee will receive a copy at no extra charge.



Register today! www.minncle.org • 651-227-8266 • 800-759

Education Throughout



Free Post-Institute Webcasts

To make the Institute even more valuable, Minnesota CLE is creating 6 webcasts for Institute attendees – you choose 2 of these webcasts to view at no charge. Check out the descriptions of these webcasts on page 5 of this brochure and mark them on your calendar. Instructions on how to register for free will be distributed at the Institute.

1850 Pages of New Materials in the 2013 Employment Law Handbook – Easily Searchable, High-Quality.

Every Institute attendee receives the *Employment Law Handbook*, which contains the written materials that accompany the sessions at the conference. These materials are prepared in full-text outline form for easy and organized referencing. This course book is provided on a searchable CD-ROM. (Note that we also provide materials in hard copy for every session you attend.) These materials will be a valuable reference tool both at – and long after – the program.

**Don't miss out – Register today
and plan to enjoy two great days of
learning and fun in May.**

Institute Benefits and Bonuses

1. The Brand-New ADA Handbook

A comprehensive, “how-to” guide that helps you navigate through all the tough issues surrounding the ADA.

2. Networking Galore!

Your chance to spend two days with faculty, friends and more than 1400 colleagues in the employment law field.

3. New Legal QuickSheets™

Helpful “cheat sheets” that provide ready answers to your questions. This year’s new Legal QuickSheets™ address workplace violence and wage and hour issues.

4. Dozens of New Sessions on Important Topics

Dozens of valuable new topics are integrated into helpful tracks for advisors, in-house counsel and litigators.

5. Newly Updated Summary Guides™ on Record Retention and Age Discrimination

Our Summary Guides™ are popular for a reason – distilled information in a well-organized format.

6. 1850 Pages of High-Quality, New Materials

A wealth of helpful reference materials in the *Employment Law Handbook*.

7. 2 Free Post-Course Webcasts

Select from 6 excellent choices.

8. 100 Session Choices

With the numerous and diverse offerings, you can customize the agenda that best suits you.

9. Materials Posted Online Before the Conference

10. A Special “Ask the Faculty” Booth

A chance for you to ask our faculty your toughest questions.

11. Rapid-Fire Plenary Updates

Making sure you're completely up to date when you leave the Institute.

12. Ethics and Elimination of Bias Sessions

An opportunity to fulfill your special credit requirements through the Institute and webcast offerings.

13. Reception, Lunches, Prize Drawings and Other Amenities

Two days of great education in a fun conference atmosphere.

Here are just some of the many subjects covered at this year's conference:

ADA

- AP1 Leave Law Case Studies
- 002 The ADA: Who's Covered?
- 009 When the Interactive Process Fails: The Fight Over ADA Reasonable Accommodation
- 102 ADA Reasonable Accommodation: 10 Keys to an Effective, Compliant Interactive Process
- 202 Leave and Reassignment Under the ADA
- 210 ADA Litigation Issues
- 302 4 ADA Workplace Case Studies
- 502 The ADA and the EEOC
- 602 Practical Guidance on the Intersection of the ADA With Other Laws and Company Policies
- 702 Seeking Medical Information Under the ADA: Unraveling the Tangled Web
- 802 Mentally Ill and Chemically Dependent Employees: Answers to Pressing Questions
- 809 Representing "Disabled" Employees – Seeking Long Term Disability Benefits or ADA Accommodation...or Both?
 - W Post Institute Webcast (July 17) Winning ADA Litigation Strategies

Discipline and Discharge

- 104 The Dirty Dozen: Dreadful Discipline and Discharge Decisions by Employers
- 305 Essential Pre-Termination Practices – Performance Improvement Plans, Disciplinary Warnings and More!
- 401 The Basics of Discipline and Discharge With Practical Ways to Avoid Being Sued By Your Employees
- AP2 The 4 Rules of Disciplinary Documentation – In-Depth
- 705 Difficult Discipline and Discharge Situations – Multiple Case Studies
- 903 (Repeat of 305)

Discrimination

- MP1 New Title VII Developments
- 001 How to Respond When the Government Serves a Charge of Discrimination
- 007 Title VII: An In-Depth Update
- 010 Recent Trends in the Courts in Age Discrimination Cases – Federal and State
- 403 Religious Beliefs, Conflict and Accommodation
- MP2 U.S. Supreme Court Update
- 710 Merely Pretext? Proof and Defense of a Discrimination Claim
- 804 The Psychology Behind a Discrimination Complaint
- 807 Cutting-Edge Issues in Discrimination – Caregiver, Marital Status and Appearance

EEOC / MDHR

- 001 How to Respond When the Government Serves a Charge of Discrimination
- MP2 An EEOC Update
- 502 The ADA and the EEOC
- 603 Minnesota Department of Human Rights: Process and Priorities

FMLA

- AP1 Leave Law Case Studies
- 207 An FMLA Update – The Newest Cases and Other Developments

- 301 The FMLA – Basic Law and Practice
- 503 Top FMLA Abuse Problems and Solutions
- 609 Perspectives on FMLA Litigation Developments From Both Sides: Pitfalls to Avoid and Opportunities to Seize
- 901 (Repeat of 503)

International

- 505 Global Employment Law Update – Surprising and Difficult Legal Developments in the Countries in Which Your Company Does Business
- 606 Restrictive Covenants in the Global Workplace

Litigation Tactics

- 108 The Lessons of Mock Trials
- 210 ADA Litigation Issues
- 306 Surf, Sun and California Litigation: Emerging Litigation Trends and New Updates in California Employment Law
- 407 10 Deposition Tips for Employment Law Litigators
- 509 The Retaliation Case – The Keys to Successful Prosecution or Defense
- 609 Perspectives on FMLA Litigation Developments From Both Sides: Pitfalls to Avoid and Opportunities to Seize
- 710 Merely Pretext? Proof and Defense of a Discrimination Claim
- 808 Trying the FLSA Case
 - W Post Institute Webcast (July 17) Winning ADA Litigation Strategies

NLRB

- MP1 NLRB Update for the Employment Practitioner
- 006 In-Depth NLRB Update With Acting General Counsel Lafe Solomon
- 208 Should Your Company Change Any Policies After the Numerous NLRB Rulings?
- 707 NLRB Case Update

Retaliation

- 309 The 12 Most Important Retaliation Cases That Every Employment Lawyer Must Know
- 509 The Retaliation Case – The Keys to Successful Prosecution or Defense
- 711 Public Sector Retaliation and Whistleblowing: Practical Advice for the Employment Attorney
 - W Post Institute Webcast (July 16) Maximizing the Potential in Employee Retaliation Claims

Screening and Hiring

- 004 Arrests, Convictions and Background Checks
- 408 Fraudulent Hiring – Current Cases Based on a Statute You May Have Never Read
- 504 You Are What You Tweet: The Risks and Rewards of Using Social Media (and the Internet) to Screen Job Applicants
- 601 The Basics of Screening and Hiring
- 902 (Repeat of 504)

Social Media

- MP1 NLRB Update for the Employment Practitioner
- 006 In-Depth NLRB Update With Acting General Counsel Lafe Solomon
- 208 Should Your Company Change Any Policies After the Numerous NLRB Rulings?
- 504 You Are What You Tweet: The Risks and Rewards of Using Social Media (and the Internet) to Screen Job Applicants
- 704 The Social Media Revolution 2013: What's New?
- 707 NLRB Case Update
- 902 (Repeat of 504)
 - W Post Institute Webcast (July 16) Social Media and Other Potential Technology Problems in the Workplace

Updates

- MP1 New Title VII Developments
- MP1 NLRB Update for the Employment Practitioner
- MP1 Government Regulatory and Enforcement Agenda
- 006 In-Depth NLRB Update With Acting General Counsel Lafe Solomon
- 007 Title VII: An In-Depth Update
- 106 The View From D.C. – A More In-Depth Look at the Regulatory, Enforcement and Policy Changes
- 109 8th Circuit and Federal District Court Update
- 206 Iowa Employment Law Update
- 207 An FMLA Update – The Newest Cases and Other Developments
- 211 The Public Sector Practitioner's Essential Case Law Update
- 306 Surf, Sun and California Litigation: Emerging Litigation Trends and New Update in California Employment Law
- MP2 The Minnesota Update
- MP2 An EEOC Update
- MP2 U.S. Supreme Court Update
- 505 Global Employment Law Update – Surprising and Difficult Legal Developments in the Countries in Which Your Company Does Business
- 508 2013 FLSA Case Update
- 610 7th Circuit Case Update
- 707 NLRB Case Update
- 905 New State Court Rules of Civil Procedure – Significant Changes Effective July 1
 - W Post Institute Webcast (July 10) An OFCCP Update – The Latest Guidance and Regulations

Wage and Hour / FLSA

- 003 Classifying Employees Correctly – A Critical Wage and Hour Decision
- 103 7 Wage and Hour Mistakes That Will Cost You Plenty
- 201 A Checklist Approach to Complying With Wage and Hour Laws
- 307 The Misclassification Mess – What Do You Do If You Have Misclassified Workers as Exempt?
- 311 Part-Time, On-Call: The Wage-Hour Implications
- 508 2013 FLSA Case Update
- 709 FLSA – Conditional Certification and Judicial Notice
- 801 (Repeat of 201)
- 808 Trying the FLSA Case

Thanks to our co-sponsors – The MSBA Labor & Employment Law Section and the Twin Cities Human Resource Association.

We also thank these contributors:



Monday breakfast sponsor

Popcorn break sponsor

Ice cream break sponsor

Attend 2 Post-Institute Webcasts FREE!

As another special bonus for attending the Institute, you may view 2 of the 6 webcasts listed below for free! A coupon code, along with instructions on how to register for free at www.minncle.org, will be distributed at the Institute. We are confident you'll enjoy your bonus webcast experience.

1 Wednesday, July 10
9:00 – 10:00 a.m.

Religious Accommodation in the Workplace

1.0 standard CLE credit applied for

Lawsuits involving religious accommodation continue despite progress being made in managing diverse workplaces. The definitions of "sincerely held" religious beliefs and "undue hardship" are constantly being questioned, by management and by employees. In addition, some employees are seeking to opt out of signing diversity pledges based on their religious beliefs. This seminar will update attendees on the state of religious accommodation law and provide practical solutions to these difficult issues.

David M. Wilk & David P. McKinney

2 Wednesday, July 10
12:00 – 1:00 p.m.

An OFCCP Update – The Latest Guidance and Regulations

1.0 standard CLE credit applied for

Learn about the latest changes coming from the Department of Labor impacting companies with government contracts. What is new and how does it affect OFCCP practices?

David J. Goldstein

3 Tuesday, July 16
9:00 – 10:00 a.m.

Pratfalls, Cat's Paws and Fact Questions: Maximizing the Potential in Employee Retaliation Claims

1.0 standard CLE credit applied for

Employees can experience retaliation in many ways – as a result of reporting statutory violations, filing for workers' compensation, and making charges of discrimination. This webcast will focus on the laws that protect these employees, recent cases that practitioners should know about, and strategies for maximizing the potential in retaliation cases. This includes expanding the field of potential claims, avoiding *McDonnell Douglas* pratfalls, finding and using a "Cat's Paw," and making the most of causal connection and circumstantial evidence.

Susan M. Coler & Brian T. Rochel

4 Tuesday, July 16
12:00 – 1:00 p.m.

Social Media and Other Potential Technology Problems in the Workplace

1.0 standard CLE credit applied for

This session deals with some of the most current issues facing employers in this new world of technology. How do you control social media usage? What about the use of mobile devices? Is your confidential data safe? Learn practical tips for dealing with some of these perplexing employment issues.

Teresa M. Thompson

5 Wednesday, July 17
9:00 – 10:00 a.m.

Ethics: A Roadmap to Effective, Ethical Client Service

1.0 ethics credit applied for

Providing exceptional client service is a must for all attorneys. In this webcast, popular CLE presenter Roy Ginsburg reviews the service-related ethics rules and discusses their application to: best practices that satisfy and exceed client expectations; dealing effectively with all types of client complaints; handling angry clients; and more.

Roy S. Ginsburg

6 Wednesday, July 17
12:00 – 1:00 p.m.

Winning ADA Litigation Strategies

1.0 standard CLE credit applied for

Plaintiff and defense counsel, plus a senior EEOC trial attorney, talk strategy. Practical insight and tips from the pre-charge/pre-litigation phase, through the charge process, and into litigation.

Adrianna H. Shannon, Sara G. Sidwell & Laurie A. Vasichek
Joel O'Malley (moderator)

A One-of-a-Kind Bonus Benefit – The New ADA Handbook FREE to Every Attendee!

The ADA Handbook: Employment Practices Under the Americans with Disabilities Act

(May 2013)

Editors:

Carl Crosby Lehmann

Karen G. Schanfield

Steven Andrew Smith



TABLE OF CONTENTS

1. Overview
2. ADA Coverage Issues
3. Anti-Discrimination, Anti-Retaliation, and Anti-Harassment Provisions Under Disability Law
4. Reasonable Accommodation: An Overview of the ADA Requirements and the Interactive Process
5. Leave and Reassignment as Reasonable Accommodations
6. Disability-Related Inquiries and Medical Examinations
7. Mental Health Conditions and Chemical Dependency
8. Interplay with Other Laws and with Company Policies
9. Enforcement
10. Plaintiff Side – Tips and Strategies for Litigation
11. Defense Side – Tips and Strategies for Litigation

PLENARY SESSIONS

7:00 – 8:00 a.m.
CHECK-IN & CONTINENTAL BREAKFAST

8:00 – 8:10 a.m.
WELCOME & INTRODUCTION

8:10 – 9:50 a.m. MAIN PLENARY

1. New Title VII Developments

The important recent cases and what they mean to your practice.

Katherine L. Butler & Harris
Houston, Texas

2. NLRB Update for the Employment Practitioner

New developments, enforcement and guidance that affect employees regardless of whether they are in a union or non-union workplace. Topics include NLRB positions on employer policy and practice with respect to employee social media use, confidentiality clauses, and mandatory arbitration agreements – plus the D.C. Circuit's January 2013 decision, *Noel Canning v. NLRB*, declaring President Obama's recess appointments of three NLRB members unconstitutional.

Lafe E. Solomon
Acting General Counsel
National Labor Relations Board
Washington DC

3. The View From D.C. – The Government Regulatory and Enforcement Agenda

An important look into the changes coming out of the D.C. agencies – including new Department of Labor directives, New OFCCP regulations, DOL positions on independent contractors, amicus brief positions, immigration issues and more.

David S. Fortney
Fortney & Scott, LLC
Washington DC

8:10 – 9:50 a.m. ALTERNATE PLENARY

Leave Law Case Studies – Including Chronic Absenteeism, Intermittent Leave and More!

Using case studies, this session will examine the best practices when employees need leave for family and medical reasons. How does an employer handle issues of chronic absenteeism, random absenteeism, and other difficult circumstances while complying with the ADA and FMLA? What are the employer's legal rights, what are the employee's legal rights and how do various difficult situations play out? An experienced panel of in-house counsel provide practical guidance on how best to navigate the sometimes murky waters of the ADA and FMLA.

Heather C. Fokken, Ilyse S. Goldsmith & Katherine A. Lawler

10:20 – 11:15 a.m. BREAKOUT SESSION A

BASICS

001 *Back by Popular Demand*
How to Respond When the Government Serves a Charge of Discrimination
Tarkow



11:25 a.m. – 12:20 p.m. BREAKOUT SESSION B

101
The Basics of Drafting Separation Agreements
Wilk

ADA

002
The ADA: Who's Covered?
Lehmann

102
ADA Reasonable Accommodation: 10 Keys to an Effective, Compliant Interactive Process
Radolinski

ADVISORS AND IN-HOUSE COUNSEL

003
Classifying Employees Correctly – A Critical Wage and Hour Decision
Phillips

103
7 Wage and Hour Mistakes That Will Cost You Plenty
Krakow

004
Arrests, Convictions and Background Checks
Donesky

104
The Dirty Dozen: Dreadful Discipline and Discharge Decisions by Employers
Engelmeier, Marshall

005 *Repeated at #904*
BYOD or COPE? The Dangers of Employees Using Smart Phones (and Other Mobile Devices) for Work Purposes
McGuire



105
10 Mistakes Employers Make Dealing With Executives and Other Key Employees
Oberman

006
In-Depth NLRB Update With Acting General Counsel Lafe Solomon
Cummins, Solomon, Zech

106
The View From D.C. – A More In-Depth Look at the Regulatory, Enforcement and Policy Changes
Fortney

IN-HOUSE COUNSEL

008
Should Your Company Use Arbitration Agreements? How Should They Read?
Nordstrom, Rawitz, Riley
D'Aquila (moderator)

107
Hot Spots for In-House Counsel
Nordstrom, Rawitz, Riley
D'Aquila (moderator)

LITIGATION

009
When the Interactive Process Fails: The Fight Over ADA Reasonable Accommodation
Papacek-Kovach, Smith

108
The Lessons of Mock Trials
Kaster, Morgan

010
Recent Trends in the Courts in Age Discrimination Cases – Federal and State
Brandt, Snyder

109
8th Circuit and Federal District Court Update
Cummins, Thompson

PUBLIC SECTOR

110
Procedural Objections in Public Sector Employment Arbitrations – How Much Do They Really Matter?
Jacobs, Krisnik, Madden

Join us at
5:00 p.m. for the
Annual Reception!



REPEATED SESSION



BACK BY POPULAR DEMAND



ETHICS OR ELIMINATION OF BIAS CREDIT

1:30 – 2:30 p.m.

BREAKOUT SESSION C

201 *Repeated at #801*
A Checklist Approach to Complying With Wage and Hour Laws

Thomas



2:45 – 3:45 p.m.

BREAKOUT SESSION D

301
The FMLA – Basic Law and Practice

Krakow

4:00 – 5:00 p.m.

BREAKOUT SESSION E

401
The Basics of Discipline and Discharge With Practical Ways to Avoid Being Sued By Your Employees

Benkstein

202
Leave and Reassignment Under the ADA

Berger Parker, Sampson

302 *2-hour session*
4 ADA Workplace Case Studies

Boisvert, Lawler, Phillips

203
Conducting Defensible Investigations – An Advanced Session

Sepler

303
7 Key Considerations When Returning the Veteran to Work

Wood, Olson

402
Dealing With Workplace Bullying

Sepler

204 *Repeated at #404*
Employees Gone Wild – The Sequel

Eskilsen, Omodt, Shaheen
Ginsburg (moderator)

304
Every Employer Is Vulnerable – A Guide to Preventing Workplace Violence

Pfeiffer, Bettison, Kienlen

403 *Back by Popular Demand*
Religious Beliefs, Conflict and Accommodation: Keeping the Peace

Schanfield



205 *Back by Popular Demand*
Employment Law as Applied to Churches, Educational Institutions and Religious Organizations

Melton-Meaux



305 *Repeated at #903*
Essential Pre-Termination Practices – Performance Improvement Plans, Disciplinary Warnings and More!

Sherman



404 *Repeat of #204*
Employees Gone Wild – The Sequel

Eskilsen, Omodt, Shaheen
Ginsburg (moderator)

206
Iowa Employment Law Update

Foley, Hartly

306
Surf, Sun and California Litigation: Emerging Litigation Trends and New Updates in California Employment Law

Blake, Massoumi

405
The Fight Over Independent Contractors – Are They Really Employees or Not?

Foley, Hartly

207
An FMLA Update – The Newest Cases and Other Developments

Harris

307
The Misclassification Mess – What Do You Do If You Have Misclassified Workers as Exempt?

Donesky, Drake, Mick
Reinhart (moderator)

208
Should Your Company Change Any Policies After the Numerous NLRB Rulings?

Dellmuth, Lawler, Rowader
Zech (moderator)

308 *1.0 ethics credit applied for*
Hot Topics in Attorney-Client Privilege for In-House Counsel

Gassman-Pines, Greene



406
Labor and Employment Law Issues in Merger and Acquisition Transactions

Christensen

209
2013 Federal Judges Panel

Davis, Ericksen, Leung
Rosenbaum (moderator)

309
The 12 Most Important Retaliation Cases That Every Employment Lawyer Must Know

Egan, Vasichek

407
10 Deposition Tips for Employment Law Litigators

Cecere, Fabian

210
ADA Litigation Issues

Halunen, Mrkonich Wilson, Schaefer
Schmitt (moderator)

310
Sticker Shock: Averting or At Least Managing Unemployment Benefit Overpayment

Engdahl, Nelson

408
Fraudulent Hiring – Current Cases Based on a Statute You May Have Never Read

Brandt, Snyder

211
The Public Sector Practitioner's Essential Case Law Update

Befort, Edwards, Luger-Nikolai

311
Part-Time, On-Call: The Wage-Hour Implications

Walther, Fleming-Wolfe

PLENARY SESSIONS

7:00 – 8:00 a.m.
CONTINENTAL BREAKFAST

8:00 – 8:10 a.m.
WELCOME & INTRODUCTION

8:10 – 9:50 a.m. MAIN PLENARY

1. The Minnesota Update

New Minnesota legislation, regulations and cases.

Judith Bevis Langevin

2. An EEOC Update

New developments, directions, and enforcement initiatives.

*Peggy R. Mastroianni
Legal Counsel
Equal Employment Opportunity Commission
Washington DC*

3. U.S. Supreme Court Update

A review of key labor and employment law cases from the last two Supreme Court terms.

*Honorable Mark W. Bennett
U.S. District Court
Sioux City, Iowa*

8:10 – 9:50 a.m. ALTERNATE PLENARY

The 4 Rules of Disciplinary Documentation – In-Depth

A legal “how-to” guide for documenting employee problems and failures. A fast-paced session filled with examples of good and bad documentation plus instruction on how to successfully document to improve performance or prepare for litigation.

Robert C. Boisvert, Jr.

10:20 – 11:15 a.m. BREAKOUT SESSION F

BASICS

501
Workplace Harassment Basics – Sex, Racial, Bullying and More
Segal

ADA

502
The ADA and the EEOC
Mastroianni

ADVISORS AND IN-HOUSE COUNSEL

503 *Repeated at #901*
Top FMLA Abuse Problems and Solutions
Phillips

504 *Repeated at #902*
You Are What You Tweet: The Risks and Rewards of Using Social Media (and the Internet) to Screen Job Applicants
Bolter, Bremer

505
Global Employment Law Update – Surprising and Difficult Legal Developments in the Countries in Which Your Company Does Business
Sarchet, Forman, Varela

IN-HOUSE COUNSEL

506
Dealing With the Problem Executive
*Lewis, Noecker, Outten
Miller (moderator)*

MEDIATION

507
Managing Emotions in the Mediation Process
Omdahl

LITIGATION

508
2013 FLSA Case Update
Lukas, Parlo

509
The Retaliation Case – The Keys to Successful Prosecution or Defense
*Bennett, Fox, Raphan
Kaster (moderator)*

PUBLIC SECTOR

510
The Affordable Care Act – Developments and Implications for Public Sector Employers and Employees
Kinney

11:25 a.m. – 12:20 p.m. BREAKOUT SESSION G

601
The Basics of Screening and Hiring
Ballard

602
Practical Guidance on the Intersection of the ADA With Other Laws and Company Policies
Phillips

603
Minnesota Department of Human Rights: Process and Priorities
Langevin, Lindsey

604
20 More Bothersome Employment Law Questions – From New Law to Tough Everyday Issues
Mrkonich

605
Employees With Personality Disorders: Management and Litigation Risks
Stenmoe, Wittenberg

606
Restrictive Covenants in the Global Workplace
Knapp, Rolfs

607
What Do Employers Small and Large Need to Know About the Affordable Care Act?
*Brunn, McCann, Zippel
Ellingstad (moderator)*

608
Employment Law Mediation From All Sides
Raphan, Reinhart, Smith

609
Perspectives on FMLA Litigation Developments From Both Sides: Pitfalls to Avoid and Opportunities to Seize
*McGrane, Schaefer, Jozwiak
Bremer (moderator)*

610
7th Circuit Case Update
Mollica

611
Working Together to Save Money and Jobs
Beety, Corwin



REPEATED SESSION



BACK BY POPULAR DEMAND



ETHICS OR ELIMINATION OF BIAS CREDIT

1:30 – 2:30 p.m.

BREAKOUT SESSION H

701
Employment and Non-Competition Agreement Basics
Prokott

702
**Seeking Medical Information Under the ADA:
 Unraveling the Tangled Web**
Beety, O'Leary Sullivan

703
Addressing Problematic Relationships in the Workplace
Omdahl

704
The Social Media Revolution 2013: What's New?
Martin, Sheih

705 *2-hour session*
Difficult Discipline and Discharge Situations – Multiple Case Studies
Raphan, Boisvert, O'Brien

ETHICS AND BIAS
 706 *1.0 ethics credit applied for*
**Sticky Professional Conduct Issues –
 A Session for the Well-Intentioned Attorney**
Burns

707
NLRB Case Update
Seaton, Jensen

708
**Helping Your Client “Win” the Mediation
 (Or, at least, not lose it)**
Outten

709
FLSA – Conditional Certification and Judicial Notice
*Hanson, Ivie, Parlo
 Lukas (moderator)*

710
**Merely Pretext? Proof and Defense of a
 Discrimination Claim**
*Fox, Ginsburg, Mollica
 Kaster (moderator)*

711
**Public Sector Retaliation and Whistleblowing:
 Practical Advice for the Employment Attorney**
Bazis, Micko

2:45 – 3:45 p.m.

BREAKOUT SESSION I

801 *Repeat of #201*
**A Checklist Approach to Complying With
 Wage and Hour Laws**
Thomas

802
**Mentally Ill and Chemically Dependent Employees:
 Answers to Pressing Questions**
Huntrods

803
**Midwest Madness – Surprising Employment Laws and
 Varying Enforcement Practices in the 5-State Region**
Ella, Kaitfors

804
The Psychology Behind a Discrimination Complaint
Sepler

805 *2-hour session | 2.0 elimination of bias credits applied for*
O Pioneers! A Conversation With Minnesota's First Women Employment Lawyers
*Chalmers, Graham, Langevin, Sampson
 Ginsburg (moderator)*

806
**Don't Delete THAT! Do Your Record Retention Practices
 Expose Your Company to Increased Risks?**
Thompson

807
**Cutting-Edge Issues in Discrimination –
 Caregiver, Marital Status and Appearance**
Baillon, Mrkonich Wilson, Thome

808
Trying the FLSA Case
Lukas, Hanson, Reinhart

809
**Representing “Disabled” Employees –
 Seeking Long Term Disability Benefits or ADA
 Accommodation...or Both?**
Bolter

4:00 – 5:00 p.m.

BREAKOUT SESSION J

901 *Repeat of #503*
Top FMLA Abuse Problems and Solutions
Phillips

902 *Repeat of #504*
**You Are What You Tweet: The Risks and Rewards
 of Using Social Media (and the Internet) to Screen
 Job Applicants**
Bolter, Bremer

903 *Repeat of #305*
**Essential Pre-Termination Practices –
 Performance Improvement Plans, Disciplinary Warnings
 and More!**
Sherman

904 *Repeat of #005*
**BYOD or COPE? The Dangers of Employees
 Using Smart Phones (and Other Mobile Devices) for
 Work Purposes**
McGuire

905
**New State Court Rules of Civil Procedure –
 Significant Changes Effective July 1**
Micko, Segal

7:00 – 8:00 a.m.
CHECK-IN & CONTINENTAL BREAKFAST

8:00 – 8:10 a.m.
WELCOME & INTRODUCTION

8:10 – 9:50 a.m. MAIN PLENARY

1. New Title VII Developments

The important recent cases and what they mean to your practice.

Katherine L. Butler
Butler & Harris
Houston, Texas

2. NLRB Update for the Employment Practitioner

New developments, enforcement and guidance that affect employees regardless of whether they are in a union or non-union workplace. Topics include NLRB positions on employer policy and practice with respect to employee social media use, confidentiality clauses, and mandatory arbitration agreements – plus the D.C. Circuit's January 2013 decision, *Noel Canning v. NLRB*, declaring President Obama's recess appointments of three NLRB members unconstitutional.

Lafe E. Solomon
Acting General Counsel
National Labor Relations Board
Washington DC

3. The View From D.C. – The Government Regulatory and Enforcement Agenda

An important look into the changes coming out of the D.C. agencies – including new Department of Labor directives, New OFCCP regulations, DOL positions on independent contractors, amicus brief positions, immigration issues and more.

David S. Fortney
Fortney & Scott, LLC
Washington DC

8:10 – 9:50 a.m. ALTERNATE PLENARY

Leave Law Case Studies – Including Chronic Absenteeism, Intermittent Leave and More!

Using case studies, this session will examine the best practices when employees need leave for family and medical reasons. How does an employer handle issues of chronic absenteeism, random absenteeism, and other difficult circumstances while complying with the ADA and FMLA? What are the employer's legal rights, what are the employee's legal rights and how do various difficult situations play out? An experienced panel of in-house counsel provide practical guidance on how best to navigate the sometimes murky waters of the ADA and FMLA.

Heather C. Fokken, Ilyse S. Goldsmith & Katherine A. Lawler

10:20 – 11:15 a.m. BREAKOUT SESSION A



001

How to Respond When the Government Serves a Charge of Discrimination

Back by Popular Demand

Enforcement agencies are busier than ever taking in charges of discrimination. Your organization must know how to respond effectively and correctly to charges and governmental demands for information. All employers regardless of their size must take these complaints very seriously. This session will provide employers with useful practice advice for understanding the administrative charge process, analyzing the allegations, crafting their responses, and asserting their defenses – often under tight deadlines.

Howard B. Tarkow

002

The ADA: Who's Covered?

This session tackles critical topics that lie at the foundation of any ADA analysis: What individuals qualify for ADA protections, and which entities are subject to its provisions? Through examples, checklists and practice pointers, your presenter will guide you through key coverage determinations including: how to do the math needed to figure out entity coverage; how to analyze whether the condition in question constitutes a "disability" under the amended statute; and how to pin down the "essential functions" of a job position.

Carl Crosby Lehmann

003

Classifying Employees Correctly – A Critical Wage and Hour Decision

Are you accurately classifying employees as exempt or nonexempt? Attend this session and learn the classification rules and how to apply them correctly.

Penelope J. Phillips

004

Arrests, Convictions and Background Checks

How to effectively screen before hiring without violating the EEOC's New Guidance on Use of Arrests and Convictions and without violating the rules governing the use of the Fair Credit Reporting Act.

Tracey H. Donesky



005

BYOD or COPE? The Dangers of Employees Using Smart Phones (and Other Mobile Devices) for Work Purposes

Repeated at #904

Technology usage by employees is a current issue of great concern for employers. Legal liabilities await unsuspecting employers including issues of privacy, data security, trade secret protection, wage and hour issues, record retention, e-discovery and more! Should employees BYOD (bring their own device) or should the company COPE (company owned but personally enabled)? And regardless of the plan, what precautions must be taken? Mike McGuire gives practical guidance on how to handle a thorny problem that nearly every employer faces.

Michael J. McGuire

006

In-Depth NLRB Update With Acting General Counsel Lafe Solomon

This session provides an opportunity for additional discussion of the topics addressed in Mr. Solomon's plenary update with respect to NLRA Section 7 rights that apply to both non-union and union workplaces. In addition, the session presenters will discuss recent NLRB activity that affects only union workplaces, including 10(j) injunctions, Weingarten rights, and discipline matters in newly unionized workforces pre-collective bargaining agreement.

Brendan D. Cummins, Lafe E. Solomon & Paul J. Zech

007

Title VII: An In-Depth Update

Two experienced litigators provide a detailed analysis of recent Title VII decisions and their likely impact upon Title VII litigation.

Katherine L. Butler & Joseph G. Schmitt

Register today!
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800-759-8840
www.minncle.org

008

Should Your Company Use Arbitration Agreements? How Should They Read?

A panel of top flight in-house counsel from across the nation discuss their use of arbitration agreements and their experiences – both the good and the bad. For any organization considering the arbitration alternative, this session is a must.

Mark Nordstrom, Brett Rawitz & Mary Riley

MODERATOR: *Barbara J. D'Aquila*

009

When the Interactive Process Fails: The Fight Over ADA Reasonable Accommodation

Experienced plaintiff and defense counsel help you navigate through the most frequently fought accommodation battles that can result from a break down in the interactive process, and provide practitioners with strategic tips.

Elizabeth A. Papacek-Kovach & Steven Andrew Smith

010

Recent Trends in the Courts in Age Discrimination Cases – Federal and State

How have courts handled age discrimination cases after the 2009 U.S Supreme Court decision in *Gross*? This session focuses on practical impacts of *Gross* on key topics such as choice of forum, summary judgment practice and jury instructions. Is arbitration becoming the preferred/mandatory forum for ADEA cases? Can off-shoring trigger age discrimination claims by displaced employees? Don't miss this important discussion of current trends in age discrimination law by two of Minnesota's most experienced age discrimination experts.

Craig A. Brandt & Stephen J. Snyder

11:25 a.m. – 12:20 p.m. BREAKOUT SESSION B

011

The Basics of Drafting Separation Agreements

This program focuses on the most important aspects of the separation agreement – provisions and wording that is key to the agreement. What can be included? What cannot? What does the employer want and what does the employee want? Sample provisions included in the materials.

David M. Wilk

012

ADA Reasonable Accommodation: 10 Keys to an Effective, Compliant Interactive Process

Using a 10-point list as the outline for discussion, this experienced legal advisor provides practical "do's and don'ts" designed to help make your interactive process both ADA compliant and effective. This practical session includes tips for interacting with the employee or applicant, healthcare providers, and other participants in the process; brainstorming possible accommodations; and preparing appropriate documentation.

Anne M. Radolinski

013

7 Wage and Hour Mistakes That Will Cost You Plenty

When is overtime pay required on bonuses and commissions? Why do some types of travel require pay and other types do not? How does payment for non-working on-call time affect the amount of overtime due? Learn the answers to these and other common wage and hour mistakes to avoid costly back wages and other monetary damages.

Mary M. Krakow

014

The Dirty Dozen: Dreadful Discipline and Discharge Decisions by Employers

Why do these mistakes occur? What are the costs? How do employers mitigate their risk? Two experienced employment law practitioners will help you identify and avoid frequent and expensive errors made by employers trying to manage or dismiss the problem employee. Learn practical tips to ensure your next discipline or discharge is "clean."

Sheila A. Engelmeier & Thomas E. Marshall

105

10 Mistakes Employers Make Dealing With Executives and Other Key Employees

Jeff Oberman will address common mistakes made by employers and their attorneys when dealing with executives and other key employees – including attitudes, actions and inactions that often lead to adversarial relationships and/or litigation. He will help employers avoid acrimonious contract negotiations and disputes; share traps relating to executive agreements, non-compete agreements and bonus/commission agreements; discuss employment-related challenges in mergers and acquisitions; and provide drafting suggestions and strategies to help employers maintain good and cooperative relationships with their key employees – both during and after the employment relationship.

Jeffrey B. Oberman

106

The View From D.C. – A More In-Depth Look at the Regulatory, Enforcement and Policy Changes

With special attention to the Department of Labor initiatives, David Fortney will take you inside the agencies and describe the most important developments including those impacting wage and hour issues, independent contractor status, the newest regulations, enforcement initiatives, important policy positions found in amicus briefs and much more.

David S. Fortney

107

Hot Spots for In-House Counsel

Learn what our experienced panel of in-house counsel is most concerned about today. Topics to be discussed include self-auditing their company's employment practices, guarding against potential class actions, serious investigation issues, the social media dilemma and more. Don't miss this chance to compare notes with some of the best in-house counsel around.

Mark Nordstrom, Brett Rawitz & Mary Riley

MODERATOR: *Barbara J. D'Aquila*

108

The Lessons of Mock Trials

Two experienced plaintiff's lawyers show you the mock trials that they did in actual cases that they tried, and how they used those lessons to successfully try their cases. Watch the jurors deliberate, and learn how you can set up a mock trial for your own cases without breaking the bank.

James H. Kaster & Matthew H. Morgan

109

8th Circuit and Federal District Court Update

Learn all of the important new cases in the Eighth Circuit and from Minnesota federal district court and their practice implications.

Justin D. Cummins & John D. Thompson

110

Procedural Objections in Public Sector Employment Arbitrations – How Much Do They Really Matter?

While the arbitration process is meant to be relatively free from technical and legalistic procedural requirements, certain procedures must be followed. More importantly, there are procedures that the parties have imposed on themselves and that they look to the arbitrator to enforce. The panelists – an arbitrator, employer counsel and employee counsel – discuss some of the more frequent procedural and evidentiary issues that arise including procedural arbitrability, after-acquired evidence and collateral proceedings.

Jeffrey W. Jacobs, Anne F. Krisnik & Frank J. Madden

1:30 – 2:30 p.m. BREAKOUT SESSION C

 201

A Checklist Approach to Complying With Wage and Hour Laws

Repeated at #801

Using a handy checklist covering the essentials of wage and hour law, Mary Thomas will guide you through the do's and don'ts for making sure you've properly handled federal and Minnesota wage and hour laws, including: are your policies compliant, are workers properly classified, are breaks compliant, is all compensable time being paid, are wages properly calculated? Few areas of employment law can lead to such disastrous results as wage and hour miscues. Don't miss this invaluable session and the helpful checklist that accompanies the session.

Mary B. Thomas

Leave and Reassignment Under the ADA

What are an employer's rights and obligations when an employee requests disability leave or reassignment under the ADA's reasonable accommodations provision? Analysis of how much leave is reasonable, managing leave extensions or intermittent leave, when leave poses an undue hardship and practical tips and pitfalls for leave administration, including comparisons with the FMLA. Reassignment topics will include what positions are available for reassignment, what makes a position equivalent, and whether an employee can ever be required to accept reassignment.

Kristin Berger Parker & Ellen G. Sampson

Conducting Defensible Investigations – An Advanced Session

When conducting investigations, using best practices will assure that your work will shine under close scrutiny. This session will focus on areas where investigations are susceptible to criticism and provide guidance on the practices and strategies that will "bulletproof" your investigation.

Fran A. Sepler



Employees Gone Wild – The Sequel

Repeated at #404

Employees, from the most junior to the CEO, occasionally act unpredictably, imprudently and bizarrely. This session examines 8 real-life situations where employee's actions have created serious employment, criminal and public relations problems. Our panel of experts provides an extremely helpful examination of the actions you should and should not take when the crisis arises. You'll learn how companies handled the situations in real life and how you can be prepared to handle these crisis situations even better. Learn from the mistakes of others before you make the same ones!

Christine N. Esckelsen, Paul Ormodt & Christopher T. Shaheen

MODERATOR: *Roy A. Ginsburg*



Employment Law as Applied to Churches, Educational Institutions and Religious Organizations

Back by Popular Demand

Employment law permeates to every workplace. However, customary worker protections do not always apply to churches, religiously affiliated schools and religious organizations. The law defers to certain workplace decisions made by these entities in an effort to balance workers' rights with the First Amendment's separation of church and state. It is incumbent for counsel to be aware of these complex issues when litigating or providing advice to clients in this unique area of employment law.

Antone M. Melton-Meaux

Iowa Employment Law Update

Important legislative, regulatory and case law developments in the "Hawkeye" state.

Thomas W. Foley & Frank B. Harty

An FMLA Update – The Newest Cases and Other Developments

This session brings you up to date on the latest FMLA developments including the most recent cases and their impact. Make sure you are current with any law changes that may affect how FMLA is administered or any mistakes that lead to legal liabilities.

Pamela M. Harris

Should Your Company Change Any Policies After the Numerous NLRB Rulings?

Our in-house counsel panel discusses how they see the NLRB decisions, and how their companies are reacting to them. Should policies be changed? Should employment practices be updated? Compare your actions with those of our panel in this important session.

Jennifer A. Dellmuth, Katherine A. Lawler & James R. Rowader

MODERATOR: *Paul J. Zech*

2013 Federal Judges Panel

Former Chief Judge Rosenbaum questions current Chief Judge Davis, Judge Ericksen and Judge Leung on the most important issues in employment law litigation.

Honorable Michael J. Davis, Honorable Joan N. Ericksen & Honorable Tony N. Leung

MODERATOR: *Honorable James M. Rosenbaum (ret.)*

ADA Litigation Issues

Employers and employees are still coming to grips with the practical effect of the ADA amendments. Four experienced plaintiff and defense lawyers debate critical open litigation issues under the ADA.

Clayton D. Halunen, Kathryn A. Mrkonich Wilson & Lawrence P. Schaefer

MODERATOR: *Joseph G. Schmitt*

The Public Sector Practitioner's Essential Case Law Update

Join us for a discussion of the significant new Minnesota and federal employment cases – the facts, the holdings, and the practical implications. You'll learn more about recent U.S. Supreme Court cases affecting your public sector clients; the social media case *Sutton v. Bailey* (8th Cir. 12/3/12); the Duluth PERA case (8/6/12) and the Lyon County retirement benefits case (5/7/12); and more.

Stephen F. Befort, Anthony G. Edwards & Margaret Luger-Nikolai

2:45 – 3:45 p.m.

BREAKOUT SESSION D

The FMLA – Basic Law and Practice

After 20 years, compliance with the FMLA still puzzles many. If you are new to the FMLA or just need a refresher on the FMLA's eligibility, coverage, and leave requirements for parenting, serious illness and certain military-related absences, this session is for you.

Mary M. Krakow

4 ADA Workplace Case Studies

2-hour session

A panel of experienced management attorneys discuss practical approaches for dealing with challenging real-life workplace disability cases, including physical and mental disabilities. Topics will include assessing whether an impairment is a "disability," conducting the interactive process, and exploring reasonable accommodations.

Robert C. Boisvert, Jr., Katherine A. Lawler & Penelope J. Phillips

7 Key Considerations When Returning the Veteran to Work

Returning veterans to work is a process that can be complicated by factors such as the length of leave involved, changes to the employer's operations during the leave, the "escalator rule" applied when reinstating veterans, the possibility of a veteran returning with a service-related disability, the impact of the leave on the veteran's wages and benefits upon return to work, union involvement and the returning veteran's discharge rights after reinstatement. Understanding these issues will better equip employers with the tools needed to consider requests for reinstatement from returning veterans.

George R. Wood & Major Lyndsey M.D. Olson

Every Employer Is Vulnerable – A Guide to Preventing Workplace Violence

While some workplaces are more prone to workplace violence than others, every organization is vulnerable. Employers are well-advised to actively assess risk, understand legal obligations and take immediate preventative measures to guard against workplace violence. You will learn the elements of a strong violence prevention policy, how to develop multidisciplinary threat management teams, how to build greater employee awareness, strategies for creating a culture of trust, communications in difficult situations, such as layoffs and terminations, and more.

Laura A. Pfeiffer, Stacy L. Bettison & Dr. Kristine Kienlen



Essential Pre-Termination Practices – Performance Improvement Plans, Disciplinary Warnings and More!

Repeated at #903

This presentation is a practical "how to" guide for anyone who may be involved in workplace terminations; from supervisors, to managers, to those who train others or counsel employers. Learn when and how to lawfully document performance improvement plans (PIPs), firm but fair communications, disciplinary warnings and, ultimately, "truthful reasons" for termination. See practical examples of documentation that works in common yet troublesome workplace scenarios.

James B. Sherman

Surf, Sun and California Litigation: Emerging Litigation Trends and New Updates in California Employment Law

This session is intended for companies operating in California or those interested in understanding the litigation trends in the state that can impact employment litigation nationwide. The session will cover updates in California employment law, including those related to leave management, discrimination, harassment and retaliation claims, and wage and hour litigation. It will also discuss some emerging litigation trends, areas of risk and practical solutions for mitigating those risks.

Dionne W. Blake & Mandana Massoumi

307

The Misclassification Mess – What Do You Do If You Have Misclassified Workers as Exempt?

Non-exempt workers' wages must be properly calculated, must be paid overtime, given breaks, etc. What do you do if you discover that you have classified workers incorrectly? Do you re-classify? Do you notify? Do you pay back pay? How do you untangle the issues and potential liabilities that await? Our panel suggests methods and ideas for getting things right while avoiding as much liability as possible.

Tracey H. Donesky, E. Michelle Drake & Ryan E. Mick
MODERATOR: Robert R. Reinhart, Jr.

308

Hot Topics in Attorney-Client Privilege for In-House Counsel

1.0 ethics credit applied for

Attorneys have an ethical duty to protect privileged communications with clients. This session will provide guidance on how to distinguish discoverable business communications from privileged legal communications, providing practical tips on how to maximize the likelihood that the privilege will be recognized by a reviewing court years hence. It will also explore privilege implications when employees leave the company; how to prevent inadvertent disclosure of privileged documents; the calculated decision to waive the privilege and the implications of that waiver; and the prospect of sanctions under the "crime-fraud" exception if non-privileged attorney-client communications are improperly withheld during discovery.

Jenny Gassman-Pines & Clifford M. Greene

309

The 12 Most Important Retaliation Cases That Every Employment Lawyer Must Know

One of the most common litigation claims is that of "retaliation" – whether a reprisal or a whistleblower cause of action. This extremely useful session focuses on the most important federal and state cases that govern these claims and the key points of law that they represent. Learn both the plaintiff and defense perspective on these important cases and how they impact your pleadings, discovery, motion practice and trials.

William J. Egan & Laurie A. Vasichek

310

Sticker Shock: Averting or At Least Managing Unemployment Benefit Overpayment

With pending amendments to the Minnesota Unemployment Insurance Law, the landscape may change for advocates navigating the treacherous terrain of back pay awards, and pre- and post-termination settlement agreements as they relate to unemployment benefits. This panel will provide an up-to-date road map for crafting settlements to avoid benefit overpayment, as well as step-by-step directions for effectively reimbursing overpaid benefits. The panel also will highlight any changes in the law as to permissible terms for separation and settlement agreements.

Kathryn M. Engdahl & Lee B. Nelson

311

Part-Time, On-Call: The Wage-Hour Implications

Certain public sector jobs seem to be trending toward part-time positions. This session analyzes the resulting wage-hour issues.

Ann E. Walther & Julie A. Fleming-Wolfe

4:00 – 5:00 p.m.

BREAKOUT SESSION E

4 ADA Workplace Case Studies (continued)

401

The Basics of Discipline and Discharge With Practical Ways to Avoid Being Sued By Your Employees

This session will focus on "best practices" surrounding the discipline and discharge process – including the effective documentation of employee performance. Learn how to proceed deliberately and fairly through the process and how to minimize an employer's legal exposure at the same time.

Brian T. Benkstein

402

Dealing With Workplace Bullying

Workplace bullying is a disruptive and costly problem that, according to recent research, does more psychological damage than protected class harassment, yet few employers have policies or programs which define and prohibit workplace bullying. Participants will learn the definitions, causes and effects of workplace bullying, and become familiar with best practices for the eradication of bullying in the workplace.

Fran A. Sepler

403

Religious Beliefs, Conflict and Accommodation: Keeping the Peace

Back by Popular Demand

Claims of religious discrimination increased more than any other claims filed with the EEOC in 2011. Successfully navigating this difficult and often contentious area can be one of the greatest challenges faced by employers, particularly as workplace diversity increases and public debate focuses on issues with religious overtones. This session will explore the rights and responsibilities of employees and employers with an emphasis on practical tips for minimizing disputes and resolving conflicts.

Karen G. Schanfield

404

Employees Gone Wild – The Sequel

Repeat of #204

Employees, from the most junior to the CEO, occasionally act unpredictably, imprudently and bizarrely. This session examines 8 real-life situations where employee's actions have created serious employment, criminal and public relations problems. Our panel of experts provides an extremely helpful examination of the actions you should and should not take when the crisis arises. You'll learn how companies handled the situations in real life and how you can be prepared to handle these crisis situations even better. Learn from the mistakes of others before you make the same ones!

Christine N. Esckilsen, Paul Omodt & Christopher T. Shaheen

MODERATOR: Roy A. Ginsburg

405

The Fight Over Independent Contractors – Are They Really Employees or Not?

Plaintiff and defense counsel argue over 5 case studies – what determines whether the worker is an employee or an independent contractor? What are the penalties for classifying incorrectly? Does a written contract provide any protection? How do you make sure you don't misclassify?

Thomas W. Foley & Frank B. Harty

406

Labor and Employment Law Issues in Merger and Acquisition Transactions

A complete review of critical labor and employment law issues in all types of mergers and acquisitions, from due diligence to covenants, to negotiations, to retaining key employees, and more.

Douglas R. Christensen

407

10 Deposition Tips for Employment Law Litigators

Experienced plaintiff-focused and defense-focused attorneys will share their recommendations for conducting effective depositions in labor and employment litigation. The session will include tips on deposition preparation, strategic questioning, managing unexpected developments, and handling objections from opposing counsel.

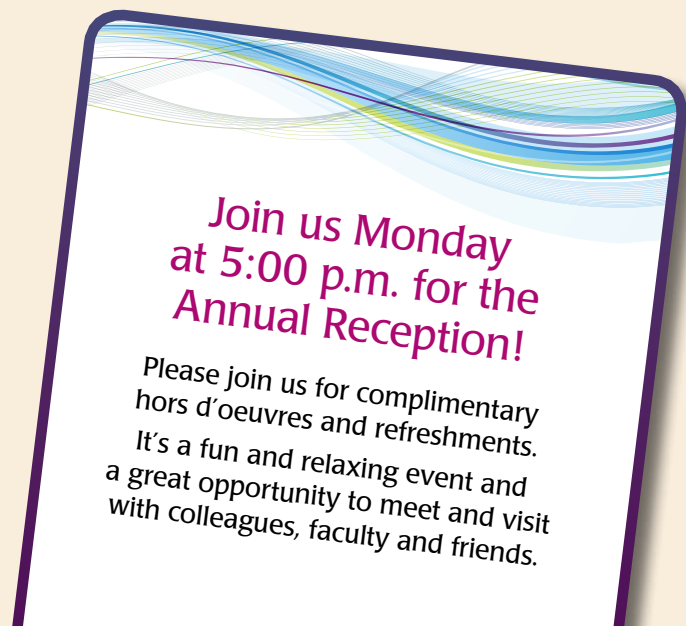
Dominic J. Cecere & John A. Fabian

408

Fraudulent Hiring – Current Cases Based on a Statute You May Have Never Read

When can recruiting efforts run afoul of a 1913 Minnesota statute? Will wrongful hiring become the new employment theory in the courts? What really happened in that Jimmy Williams/Tubby Smith case? Hear from two of the few Minnesota lawyers who have litigated cases in this developing area of the law.

Craig A. Brandt & Brent C. Snyder



7:00 – 8:00 a.m.
CONTINENTAL BREAKFAST

8:00 – 8:10 a.m.
WELCOME & INTRODUCTION

8:10 – 9:50 a.m. MAIN PLENARY

1. The Minnesota Update

New Minnesota legislation, regulations and cases.
Judith Bevis Langevin

2. An EEOC Update

New developments, directions, and enforcement initiatives.
Peggy R. Mastroianni
Legal Counsel
Equal Employment Opportunity Commission
Washington DC

3. U.S. Supreme Court Update

A review of key labor and employment law cases from the last two Supreme Court terms.
Honorable Mark W. Bennett
U.S. District Court
Sioux City, Iowa

8:10 – 9:50 a.m. ALTERNATE PLENARY

The 4 Rules of Disciplinary Documentation – In-Depth

A legal “how-to” guide for documenting employee problems and failures. A fast-paced session filled with examples of good and bad documentation plus instruction on how to successfully document to improve performance or prepare for litigation.
Robert C. Boisvert, Jr.

10:20 – 11:15 a.m. BREAKOUT SESSION F

501

Workplace Harassment Basics – Sex, Racial, Bullying and More

In this session, you will learn what is and is not unlawful harassment, steps you can and must take to prevent harassment and how to respond should it occur. Is bullying unlawful harassment? What training is enough? Positive steps to take to make your workplace harassment free.

Leonard B. Segal

502

The ADA and the EEOC

An in-depth session with Peggy Mastroianni including perspective on recent ADA law changes, ADA cases and more.

Peggy R. Mastroianni

503

Top FMLA Abuse Problems and Solutions

Repeated at #901

Do you have employees who you believe are abusing the FMLA? Intermittent leave, multiple certifications, chronic medical problems, absence just before or after a holiday or the weekend, moonlighting? This session will address common FMLA abuse problems and address ways employers can combat abuse.

Penelope J. Phillips

504

You Are What You Tweet: The Risks and Rewards of Using Social Media (and the Internet) to Screen Job Applicants

Repeated at #902

Use of technology continues to expand exponentially creating new avenues for employers and potential employees to provide and obtain information. Seasoned defense and plaintiff’s counsel will discuss the proper policies and procedures for using the internet and social media to vet job applicants, as well as identify potential pitfalls and liability from improper actions.

Howard L. Bolter & Cynthia A. Bremer

505

Global Employment Law Update – An Entertaining Look at the Unusual, Surprising and Difficult Legal Developments in the Countries in Which Your Company Does Business

A panel of private practice and in-house attorneys will identify in rapid-fire fashion the most quirky, unusual and sometimes unbelievable employment and labor law developments in the past year from around the world. Practical suggestions for applying the lessons learned from these decisions will also be provided.

Bruce J. Sarchet, Adam P. Forman & Juan Carlos Varela

506

Dealing With the Problem Executive

This in-house counsel session deals with the very difficult issues that arise when the executive has challenging behavior or performance issues. How do you approach the situation? How do you investigate? How do you make sure? What actions can you take? What actions should you take? What should be in a separation agreement? Do you ever terminate? Attend this session to help prepare you should you be faced with this difficult scenario and with so many difficult decisions.

Lisa M. Lewis, Kathlyn E. Noecker & Wayne N. Outten

MODERATOR: *Michelle A. Miller*

507

Managing Emotions in the Mediation Process

Whether a mediation session involves outbursts, unresponsiveness, or the inability to process, emotions are likely to be at play. Across a wide range of types of mediation, emotions are prevalent and have the capacity to derail momentum toward effective terms of resolution. This session explores hidden as well as expressed emotions, how and when to communicate with parties about emotion, and proven ways to manage emotion constructively throughout the mediation process.

Becky Omdahl

Register today!
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800-759-8840
www.minncle.org

508

2013 FLSA Case Update

Learn the latest cases and Department of Labor activity on important wage and hour issues from both plaintiff and defense perspectives.

Paul J. Lukas & Christopher A. Parlo

509

The Retaliation Case – The Keys to Successful Prosecution or Defense

Join Jim Kaster's all-star panel as they discuss the critical issues in pleading, proof, discovery and trial of a retaliation case. Compare notes with our panelists as they present what they believe are the keys to success in winning or defending what has become the most common of all employment law claims.

Honorable Mark W. Bennett, Michael R. Fox & Melissa Raphan

MODERATOR: *James H. Kaster*

510

The Affordable Care Act – Developments and Implications for Public Sector Employers and Employees

In a nutshell, what does the Act require of employers? How do the regulations define an "applicable large employer" that may be subject to penalties under the Act? What penalties may be assessed against employers for failing to provide "affordable" coverage that meets "minimum value"? What are the regulatory safe harbors for determining who is a "full time employee"? How might other provisions of the Act affect plan designs, employer contributions, reporting obligations, and cost? How will the exchanges work, and what subsidies will be available to employees who drop employer-sponsored coverage?

Mark J. Kinney

11:25 a.m. – 12:20 p.m.

BREAKOUT SESSION G

601

The Basics of Screening and Hiring

This session provides a helpful guide to the hiring process. How do you advertise for new positions? What can be on application forms? How can you screen applicants? What interview questions can you ask? How can you use testing? How should offers be made? You'll learn the important do's and don'ts at this extremely practical basic-level program.

Shalanda D. Ballard

602

Practical Guidance on the Intersection of the ADA With Other Laws and Company Policies

Analysis of the legal questions that arise when ADA intersects with other laws frequently implicated by employee leaves of absence such as the ADA and workers' compensation. In what situations are conflicts likely to arise? What do you advise your client when the laws are inconsistent? Your presenter will use short hypotheticals to apply legal principles to real-world scenarios involving eligibility for leave, length of leave, reinstatement after leave, medical exams, fitness for duty, and more. In addition, the effect the ADA has on many common company policies relating to attendance and leave are also considered.

Penelope J. Phillips

603

Minnesota Department of Human Rights: Process and Priorities

Join MDHR Commissioner Kevin Lindsey and Department staff to discuss legislative and enforcement priorities, effective practice before the agency, common mistakes and misunderstandings about MDHR process, and what your clients can expect when prosecuting or defending charges of employment discrimination.

Judith Bevis Langevin & Kevin M. Lindsey

604

20 More Bothersome Employment Law Questions – From New Law to Tough Everyday Issues

Some questions seem never to go away – and new law creates new issues. This is a chance to have an expert's analysis of how to deal with both recurrent and new questions and apply practical analysis to keep you in full legal compliance.

Marko J. Mrkonich

605

Employees With Personality Disorders: Management and Litigation Risks

This session will identify personality disorders commonly found within the workplace, discuss successful and (unsuccessful) management techniques and address how personality disorders can affect liability and damages. Practical tips will be provided on how to minimize the risks of litigation.

Gregory J. Stenmoe & Elizabeth L. Wittenberg

606

Restrictive Covenants in the Global Workplace

A fast-paced survey of restrictive covenant law in the Americas, Europe and Asia – A discussion of potential enforcement issues when dealing with a global workforce, and a presentation on practical and creative approaches for dealing with the sometimes mind-numbing concept of implementing restrictive covenants across multiple jurisdictions.

Charles F. Knapp & Jacqueline R. Rolfs

607

What Do Employers Small and Large Need to Know About the Affordable Care Act?

This seminar will provide critical information for employers as they prepare for the upcoming changes required under the health care law. Our panelists include attorneys practicing in the areas of employment law and employee benefits, as well as representatives from a major insurance company and employee benefit brokerage firm. They will answer your questions about: how to count your employees for determining what rules will apply; factors to determine whether to continue group health insurance coverage beyond 2013; required notices to employees; obtaining pertinent health related information from your employees; educating your employees regarding the benefits and network of providers available to them; and what rules apply if you do business in more than one state.

Stephen A. Brunn, Gayle McCann & Billie L. Zippel

MODERATOR: *Susan E. Ellingstad*

608

Employment Law Mediation From All Sides

Ever wanted to be a fly on the wall in the other room? Counsel for plaintiff and defense plus an employment mediator discuss all aspects of employment mediations including timing, preparation, the process, dealing with high expectations, impasse and more. This candid panel will share their differing perspectives, the mistakes to avoid and the tips you'll be able to use in your next mediation.

Melissa Raphan, Robert R. Reinhart, Jr. & Steven Andrew Smith

609

Perspectives on FMLA Litigation Developments From Both Sides: Pitfalls to Avoid and Opportunities to Seize

Hear from an esteemed panel of plaintiff and defense counsel on the unique challenges and opportunities in litigating a case under the Family and Medical Leave Act. Learn about retaliation claims, the interplay between FMLA issues and disability discrimination claims, and the important roles of experts, medical records, deposition testimony, jury themes, and summary judgment motions in this ever-changing area of law. Also hear about some of the latest and most important court opinions.

Sara G. McGrane, Lawrence P. Schaefer & Christopher D. Jozwiak

MODERATOR: *Cynthia A. Bremer*

610

7th Circuit Case Update

This helpful session will provide an update on the recent 7th Circuit Court of Appeals decisions affecting employment law – discrimination, wage and hour, FMLA and more. You'll learn about the Court's decisions and, more importantly, how they impact your future cases.

Paul W. Mollica

611

Working Together to Save Money and Jobs

State and local budgets continue to tighten. What are some practical steps unions and employers can take to minimize lay-offs and reduction in services.

Patricia Y. Beety & Gregg M. Corwin

701

Employment and Non-Competition Agreement Basics

Companies often use employment agreements to establish the key terms and conditions of employment, including compensation, benefits and severance. Non-compete agreements protect companies' business interests, both during and after employment. Thorough and clear drafting is critical to enforceability and limiting disputes. This session will provide practical tips for drafting these types of agreements, including a discussion of common errors and oversights.

Daniel G. Prokott

702

Seeking Medical Information Under the ADA: Unraveling the Tangled Web

ADA Handbook contributing authors Patricia Beety and Jana O'Leary Sullivan discuss their chapter, "Disability-Related Inquiries and Medical Examinations of Employees." They cover the current state of the law on obtaining, utilizing, and maintaining employee medical information; hot topics such as the new EEOC GINA regs; ADA compatibility with state laws; special concerns over data handling and procedures for those in the public sector; and best practices.

Patricia Y. Beety & Jana M. O'Leary Sullivan

703

Addressing Problematic Relationships in the Workplace

Virtually all people can point to problematic relationships within their organization. In some cases they are precipitated by behaviors like stealing credit, harassing, bullying, or micro-managing, but in other cases, differences and organizational culture play significant roles. Research reveals there are significant individual and organizational costs associated with problematic workplace relationships and behaviors. More and more organizations are asking what can be done to prevent problematic behaviors and build high quality working relationships. This session presents research on a range of problematic workplace behaviors and relationships, and explores preventative strategies and recommended responses that both individuals and organization can enact.

Becky Omdahl

704

The Social Media Revolution 2013: What's New?

WARNING! UNCENSORED! This cutting edge, interactive session features the exciting adventures of employee Sam Elliot with YouTube videos, discussion, and legal takeaways concerning the impact of recent social media trends on employment law. Although you fired Sam at last year's conference, he is up to new tricks in this engaging experience! For our faithful followers who can't wait, here is some "leaked" information on some of Sam's upcoming adventures: Username/Password Protection Laws Undermine HR Investigations!...NLRB Really "Likes" Facebook!...I'm Resigning and Taking My Twitter Followers!

Patrick R. Martin & Gene Sheih

705

Difficult Discipline and Discharge Situations – Multiple Case Studies

2-hour session

The more things change the more they stay the same. Discipline and discharge scenarios continue to be the issues that result in lawsuits. Our seasoned panel addresses some of the difficult employee situations you encounter daily in your workplace – when and how to discipline or discharge properly. What if the employee has a disability? What if the major issue is a "bad attitude"? What if the worker is a long time employee? These and other issues need to be addressed with fairness and clarity. Attend this session and arm yourself to make tough decisions and mitigate risk.

Melissa Raphan, Robert C. Boisvert, Jr. & M. William O'Brien



706

Sticky Professional Conduct Issues – A Session for the Well-Intentioned Attorney

1.0 ethics credit applied for

You don't steal money from your client, you don't shred smoking-gun evidence, you don't lie to opposing counsel. You're an ethical attorney. Here's a discussion about some of the important professional conduct issues that can trip up even the best-intentioned attorney, based on insights from a seasoned lawyer with the Minnesota Office of Lawyers Professional Responsibility.

Patrick R. Burns

707

NLRB Case Update

Analysis of all the current NLRB cases affecting union and non union workplaces. What is their impact on employment practices?

Douglas P. Seaton & Roger Jensen

708

Helping Your Client "Win" the Mediation (Or, at least, not lose it)

Wayne Outten teaches a session filled with practical tips for effective advocacy in the mediation process. Learn about selecting the mediator, pre-mediation preparation, handling your client before and during mediation, dealing with the mediator, negotiation strategies, and more from one of the nation's leading advocates for employees.

Wayne N. Outten

709

FLSA – Conditional Certification and Judicial Notice

Conditional certification is a critical point in a FLSA case that shapes the rest the litigation. This panel of FLSA and class notice experts will discuss the evolving standard for conditional certification, situations and circumstances for potential stipulations, and what language, terms and manner of notice are the most effective and worth fighting for or against.

George A. Hanson, Patrick J. Ivie & Christopher A. Parlo

MODERATOR: *Paul J. Lukas*

710

Merely Pretext? Proof and Defense of a Discrimination Claim

Is the defendant's explanation for the employment action real or is it a mere pretext for discrimination? Join our panel as they discuss the methods of proof and defense of the critical issue in almost every discrimination case. What are the methods of proof that have been successful? What doesn't work? What defense tactics have prevailed? Don't miss this helpful session as we delve into the key to winning and losing your case.

Michael R. Fox, Roy A. Ginsburg & Paul W. Mollica

MODERATOR: *James H. Kaster*

711

Public Sector Retaliation and Whistleblowing: Practical Advice for the Employment Attorney

Public sector employees often have different rights and protections than those employed in the private sector. Likewise, public sector employers might have different considerations in making decisions to discipline, suspend, or terminate members of their workforce, and in defending lawsuits. These public versus private sector distinctions often crystallize in whistleblower and retaliation cases. In this presentation, experienced public sector employment litigators highlight the nuances of public sector work – from case intake through all stages of litigation.

Jeanette M. Bazis & Douglas L. Micko

Difficult Discipline and Discharge Situations – Multiple Case Studies (continued)

801

A Checklist Approach to Complying With Wage and Hour Laws

Repeat of #201

Using a handy checklist covering the essentials of wage and hour law, Mary Thomas will guide you through the do's and don'ts for making sure you've properly handled federal and Minnesota wage and hour laws, including: are your policies compliant, are workers properly classified, are breaks compliant, is all compensable time being paid, are wages properly calculated? Few areas of employment law can lead to such disastrous results as wage and hour miscues. Don't miss this invaluable session and the helpful checklist that accompanies the session.

Mary B. Thomas

802

Mentally Ill and Chemically Dependent Employees: Answers to Pressing Questions

With this discussion of the ADA and its application to real-world examples, you'll leave better able to answer the following questions when next they arise: Can an employee's behavior trigger an employer's need to engage in the ADA's interactive process? What accommodations are reasonable and most helpful for mentally ill and chemically dependent employees? Can employers discipline employees for poor behavior when that behavior stems from a mental disability or chemical dependency? How can an employer maintain workplace safety in light of the risks that some mentally ill and chemically dependent employees pose?

R. Ann Huntrods

803

Midwest Madness – Surprising Employment Laws and Varying Enforcement Practices in the 5-State Region

Learn the most important and unique aspects of employment laws in the 5-state region before it's too late. This session will discuss how state laws vary, what to watch out for, and the various enforcement agencies you'll encounter. Also includes a useful "take-away" comparison chart highlighting differences among some of the key employment laws and administrative processes in the states bordering Minnesota.

V. John Ella & Nora R. Kaitfors

The Psychology Behind a Discrimination Complaint

Is the evolution of a discrimination complaint a reflection of a complainant's psychological makeup or the organization's culture? After conducting hundreds of interviews with complainants and those responsible for addressing those complaints, Fran Sepler has some answers to this question. She will explain the reported differences in perspective between those who sue and those who don't, those who "just leave" and those who choose to stay and fight, as well as how organizational communication and behavior can escalate or deescalate a charge.

Fran A. Sepler

805

O Pioneers! A Conversation With Minnesota's First Women Employment Lawyers

2-hour session

2.0 elimination of bias credits applied for

The panel, comprised of some of the first women employment lawyers to practice in Minnesota, will reflect on their experiences with gender bias in the workplace, relationships with colleagues, family and child-care issues, experiences in the courtroom, and more. The panelists will discuss how these issues have changed (or not changed) for women lawyers since their early years of practice.

Carolyn Chalmers, Kathleen M. Graham, Judith Bevis Langevin & Ellen G. Sampson

MODERATOR: *Roy S. Ginsburg*

806

Don't Delete THAT! Do Your Record Retention Practices Expose Your Company to Increased Risks?

Most of you probably have a process in place for managing retention of personnel records. But does your record retention policy also address what to do with relevant employee data when placed on notice of a potential employment claim, or how long to retain data from an employee's computer or email after leaving the company? Are your supervisors or IT professionals trained on how to manage this data? This session will discuss practical solutions to legal issues raised by inadequate record retention practices, such as, sanctions and increased e-discovery costs, and privacy claims raised by accessing and retaining employee e-mails and other data.

Teresa M. Thompson

807

Cutting-Edge Issues in Discrimination – Caregiver, Marital Status and Appearance

A close look at both the law and practice in these newer areas of discrimination litigation. What is the claim, how is it proved and what are the defenses? Both plaintiff and defense counsel examine the cases, the outcomes and pointers for your own practice.

Frances E. Baillon, Kathryn A. Mrkonich Wilson & Joni M. Thome

808

Trying the FLSA Case

FLSA cases are being tried much more frequently all over the country. This panel of FLSA trial veterans will discuss the choice of court vs. jury trials, how issues of representative testimony, proving damages, willfulness, liquidated damages are addressed at trial, as well as other lessons learned from taking these cases to verdict.

Paul J. Lukas, George A. Hanson & Robert R. Reinhart, Jr.

809

Representing "Disabled" Employees – Seeking Long Term Disability Benefits or ADA Accommodation...or Both?

Learn how to navigate the tricky intersection of disability benefits claims and the ADA. Can an employee receive disability benefits but still be covered by the ADA? Find out the answers to these questions and more at this informative session.

Howard L. Bolter

4:00 – 5:00 p.m.

BREAKOUT SESSION J

O Pioneers! A Conversation With Minnesota's First Women

Employment Lawyers (continued)

901

Top FMLA Abuse Problems and Solutions

Repeat of #503

Do you have employees who you believe are abusing the FMLA? Intermittent leave, multiple certifications, chronic medical problems, absence just before or after a holiday or the weekend, moonlighting? This session will address common FMLA abuse problems and address ways employers can combat abuse.

Penelope J. Phillips

902

You Are What You Tweet: The Risks and Rewards of Using Social Media (and the Internet) to Screen Job Applicants

Repeat of #504

Use of technology continues to expand exponentially creating new avenues for employers and potential employees to provide and obtain information. Seasoned defense and plaintiff's counsel will discuss the proper policies and procedures for using the internet and social media to vet job applicants, as well as identify potential pitfalls and liability from improper actions.

Howard L. Bolter & Cynthia A. Bremer

903

Essential Pre-Termination Practices – Performance Improvement Plans, Disciplinary Warnings and More!

Repeat of #305

This presentation is a practical "how to" guide for anyone who may be involved in workplace terminations; from supervisors, to managers, to those who train others or counsel employers. Learn when and how to lawfully document performance improvement plans (PIPs), firm but fair communications, disciplinary warnings and, ultimately, "truthful reasons" for termination. See practical examples of documentation that works in common yet troublesome workplace scenarios.

James B. Sherman

904

BYOD or COPE? The Dangers of Employees Using Smart Phones (and Other Mobile Devices) for Work Purposes

Repeat of #005

Technology usage by employees is a current issue of great concern for employers. Legal liabilities await unsuspecting employers including issues of privacy, data security, trade secret protection, wage and hour issues, record retention, e-discovery and more! Should employees BYOD (bring their own device) or should the company COPE (company owned but personally enabled)? And regardless of the plan, what precautions must be taken? Mike McGuire gives practical guidance on how to handle a thorny problem that nearly every employer faces.

Michael J. McGuire

905

New State Court Rules of Civil Procedure – Significant Changes Effective July 1

In February 2013, the Minnesota Supreme Court adopted amendments to the Rules of Civil Procedure and the General Rules of Practice, effective July 1. These changes are significant and include an important new filing requirement/deadline; new required disclosures; new case management-related changes; new expedited motion process; and a new complex case process. If you litigate cases in Minnesota state court, this is a "must-attend" session that explores the new rules and their practical implications.

Douglas L. Micko & Leonard B. Segal



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Their efforts have helped shape an outstanding conference.

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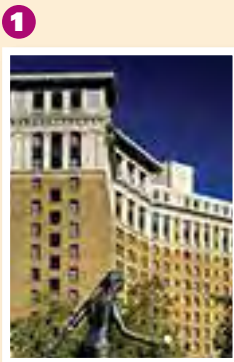


P Parking – Arrive Early!

The Institute begins at 8:00 a.m. each day. We encourage commuters to allow plenty of time for rush hour traffic and for parking. Please take special note of the map which indicates the RiverCentre location and adjacent parking lots.

Hotel Accommodations

Minnesota CLE has established special room rates for Institute attendees at the hotels listed below. Make your reservations early to ensure room/rate availability!



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651-292-9292



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\$121
St. Paul City Center
411 Minnesota Street
651-291-8800



Holiday Inn
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CREDITS

Minnesota CLE has applied to the Minnesota State Board of CLE for **13.0 hours standard CLE credit** for this year's Institute. Minnesota CLE is an accredited sponsor for Wisconsin and North Dakota. We anticipate this course also will qualify for **13.0 civil trial specialist credits, 13.0 labor and employment law specialist credits and 13.0 CJE credits for judges.**



In addition, we have applied to the Human Resource Certification Institute for **13.0 recertification credits.**

This course may also qualify for CEU credits. Check with the appropriate accreditation organization to ensure CEU accreditation.

We also anticipate that sessions #308 and #706 each will qualify for **1.0 ethics credit** and that session #805 will qualify for **2.0 elimination of bias credits.** If you attend any of these sessions and claim ethics or elimination of bias credit, you must deduct those special credits from the 13.0 hours of "standard" credit. For example, if you attend sessions #308 and #805, you would claim 1.0 ethics credit, 2.0 elimination of bias credits and 10.0 standard credits for a total of 13.0 credits.

In no case may you claim more than 13.0 total credits for the Upper Midwest Employment Law Institute.

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Paid registrants who cancel their registration at least 3 business days before the program will receive a full credit on their account; if fewer than 3 business days a \$25 administrative fee will be deducted. Paid registrants who fail to attend will receive the *2013 Employment Law Handbook*. Passholders may purchase the *2013 Employment Law Handbook* at 50% of the full retail price.

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In recognition of the challenges facing lawyers entering the profession, Minnesota Continuing Legal Education has established a scholarship program for unemployed and underemployed lawyers admitted fewer than three years. Those wishing to apply for such assistance should contact Grant at 651-254-2111 or [gdavies@minncle.org](mailto:g Davies@minncle.org) for details.

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If you have a disability and need an accommodation in order to attend this seminar, please contact us as soon as possible. Contact Minnesota CLE at 2550 University Avenue West, Suite 160-S, Saint Paul, MN 55114 or call 651-227-8266 or 800-759-8840.

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