

 14th Annual

2009 Advanced Employment Issues Symposium

America's leading employment law conference



2009 Sessions Deliver Essential Guidance for Managing in a Radically Different Environment

- ▶ Preparing for Lilly Ledbetter and Paycheck Fairness Acts, laws that will expose employers to more costly pay discrimination claims
- ▶ Use blogs, microblogs and social networking sites without ending up in court
- ▶ When an employee sues your company: Step-by-step advice for managing the entire litigation process
- ▶ The very latest on the status of the Employee Free Choice Act, and what you can do to counter Labor's aggressive organizing agenda
- ▶ Current and proposed laws on genetic and sexual orientation discrimination
- ▶ The new progressive discipline that turns around problem performers
- ▶ Stretch your recruiting budget during tough economic times
- ▶ Non-compete agreements that keep trade secrets from walking out the door
- ▶ Attracting and retaining top talent with an eco-friendly workplace
- ▶ Health & welfare reform and legal hot spots surrounding wellness programs
- ▶ Online employee handbooks: How to stay clear of the legal mishaps
- ▶ New E-Verify rules and the latest I-9 changes
- ▶ Dazzle the C-suite when you quantify the business impact of talent management and employee engagement programs

+ Bonus: Tailor your symposium experience with up-to-the-minute tracks on union avoidance, wage & hour law compliance, and FMLA leave management.

“Overall, this was the best 2 day seminar I have ever been to. The speakers spoke clearly and with confidence. Very knowledgeable, very personable. I would recommend this to any HR professional.”

Lahela Kahau
Eldorado Resorts Corporation

Nashville, Hilton Downtown
September 17-18, 2009

Las Vegas, Caesars Palace
October 29-30, 2009

Special room rates!



This program has been approved for 10.75 recertification credit hours through the HR Certification Institute. For more information about certification and recertification, please visit the HR Certificate Institute website at www.hrci.org.

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



PROGRAM DATES/ LOCATIONS

September 17-18 Hilton Nashville Downtown

121 Fourth Avenue South
Nashville, Tennessee 37201
(800) 445-8667

October 29-30 Caesars Palace

3570 Las Vegas Blvd., South
Las Vegas, NV 89109
(866) 227-5944

CONFERENCE FEES

Only \$849 per person
\$799 for previous attendees
\$749 before May 31
\$549 for additional attendees from your organization

HOTEL RESERVATIONS

Hotel reservations are the responsibility of participants and can be made by calling:

Nashville

Hilton Nashville Downtown special reservations line at (800) 445-8667 for a reduced rate of \$169 per night. Please mention the Advanced Employment Issues Symposium room block. Room block expires Monday, August 17.

Las Vegas

Caesars Palace at (866) 227-5944 for a maximum discounted room rate of just \$160 per night when reservations made by June 30. After June 30, different discounts available until Advanced Employment Issues Symposium room block expires Friday September 25. Supplies of discounted rooms limited. Mention the Advanced Employment Issues Symposium room block when making reservation to take advantage of available discounts.

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From the desk of John B. Phillips, Jr., Symposium Moderator

Unlike any other conference dealing with labor and employment law, AEIS features attorneys who've been delivering state-specific employment law information to managers and employers for as long as 20 years. They've been cutting through the legalese to provide understandable, practical, creative guidance and advice. And that's exactly how they make their presentations at AEIS.

And it's different because it includes some of the nation's most respected HR consultants, people who've been in your shoes and dealt with your problems and challenges.

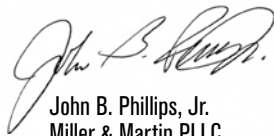
Each year, I look forward to moderating AEIS. It's invigorating to mix with such a talented group of presenters and such an engaged and informed group of attendees. I learn more at AEIS year-in and year-out because of the caliber of the program and because of you—your questions, our conversations, and the family our speakers and attendees have become.

I guarantee that you'll get:

- Cutting-edge updates, insights and compliance strategies, exactly what you need to keep yourself a crucial part of your organization's decision-making process.
- Sessions where you can share ideas, techniques, and war stories with colleagues, building relationships and professional strengths.
- Three new program tracks, focusing on union avoidance, wage & hour law challenges, and avoiding problems with the Family and Medical Leave Act.
- Breakfasts, lunches, breaks, door prizes, a big drawing at the end of the show, and as always, special gifts from me.

Big changes are brewing in employment law as a new Congress and White House administration get ready to dramatically alter the employment law landscape. Are you ready? You will be, after the 14th annual AEIS.

Join hundreds of HR, legal, and business professionals this year to stay up-to-date on key issues. Get the most practical guidance you'll find anywhere about current and emerging trends. Register now.



John B. Phillips, Jr.
Miller & Martin PLLC

Agenda

DAY ONE - THURSDAY

7:00 A.M.-8:00 A.M.
REGISTRATION AND BREAKFAST

8:00 A.M.-8:15 A.M.
WELCOME AND ANNOUNCEMENTS

OPENING KEYNOTE
8:15 A.M.-9:15 A.M.
**A YEAR OF EMPLOYMENT LAW
CHANGE FOR HR, AND WHAT COULD
HAPPEN NEXT**

It has been a tumultuous year of change for HR professionals and employers. Major adjustments to both FMLA and the ADA were followed by the Lilly Ledbetter Act, a new COBRA subsidy, a new I-9 form, new rules requiring federal contractors to use E-Verify, expanded retaliation protections, and a protracted struggle over the Employee Free Choice Act. Set those developments against the backdrop of one of the most challenging economic downturns in years, and it's safe to say that HR pros, in-house counsel, and employers have never

been more challenged to stay on top of all of their legal and professional duties.

It may not get easier on either the legislative or the economic fronts just yet. With health care reform, taxes on employee benefits, and even talk of paid family leave looming as other possible challenges facing employers, you will definitely need to keep close tabs on Congress and government agencies in the year ahead. In this session, our speakers will examine:

- ▶ The top five employment law developments of 2009 and how they are affecting your HR practices
- ▶ Prospects for healthcare reform via taxes on employee benefits and other such proposals coming out of the Democratic-led Congress
- ▶ How changes in the makeup of the U.S. Supreme Court could make your job tougher
- ▶ At least four other things you'll need to start thinking about for 2010

Nashville
J. Robert Brame, McGuireWoods LLP
David Fortney, Fortney & Scott, LLC

Las Vegas
Moderator:
John Phillips, Miller & Martin PLLC

Panelists:
Jeanne Bender, Holland & Hart LLP
Stacie Caraway, Miller & Martin PLLC
Darryl Lee, Wood Crapo LLC

9:15 A.M.-10:30 A.M.
THREE SIMULTANEOUS SESSIONS

UNION AVOIDANCE TRACK – SESSION 1
EFCA, THE RESPECT ACT AND THE
RESURGENT LABOR MOVEMENT: WHAT
IT MEANS FOR EMPLOYERS

In the 2008 election, labor unions spent over \$400 million to get Barack Obama in the White House and expand the Democrats' control of Congress. Now they believe it's time for President Obama and the Congressional Democrats to deliver. A number of pro-union bills and legislative compromises could open the floodgates to union organizing. In this session, you'll learn:

- ▶ How EFCA would change union organizing and increase the frequency of corporate campaigns
- ▶ How EFCA would eliminate employees' right to secret ballot elections for joining a union
- ▶ How the compromise measures would likely expand penalties for NLRA violations to \$20,000 for each
- ▶ How the RESPECT Act will create divided loyalties among front-line supervisors
- ▶ How the Working Families Flexibility Act will give employees opportunity to modify their work hours, schedule, or work location, and provide administrative remedies for dissatisfied employees
- ▶ Analysis of EFCA's prospects to become law—and a look at some of the other alternatives

Kevin McCormick, Whiteford, Taylor & Preston, L.L.P.

Peyton Irby, Watkins Ludlam Winter & Stennis, P.A. (Las Vegas)

WAGE & HOUR TRACK – SESSION 1
DOL AUDITS AND WAGE & HOUR
LAWSUITS ARE HOTTER THAN EVER:
SPOT AND AVOID THE MOST COMMON
TRAPS

In many ways, 2009 is shaping up as a "perfect storm" for DOL audits and employee wage and hour claims. The economic downturn and its ensuing layoffs ignited a rash of employment lawsuits. Combined with a more employee-friendly U.S. Department of Labor (DOL), the parameters are set for a record-breaking year for audits and lawsuits. In this session, we will look at:

- ▶ Early enforcement trends in the first year of the Obama administration
- ▶ Seven key wage and hour problems that are most likely to lead to audits and lawsuits
- ▶ What to do when the DOL comes knocking at your door
- ▶ How to ensure that your pay system is compliant going forward

Jennifer L. Anderson, Jones Walker

Kara E. Shea, Miller & Martin PLLC

FMLA TRACK – SESSION 1
WHAT THE NEW FMLA REGS
AND FUTURE LEAVE LAWS MEAN
FOR EMPLOYERS

Big changes have hit FMLA recently, which means

bigger compliance headaches for HR. Here, you get a summary of the final regulations and learn about other leave laws that could turn your leave of absence policies upside down. You'll discover:

- ▶ How to interpret the new and previously released changes that apply to military families—including those that pertain to National Guard and reservists
- ▶ What exactly have the new regs changed regarding intermittent leave?
- ▶ What do the new rules say about getting information from health care providers?
- ▶ The new restrictions on your supervisors, which were designed to enhance employee privacy
- ▶ What the new changes mean for your perfect attendance programs
- ▶ The changes to the notice requirements—and why they're considered good news for employers
- ▶ Recent FMLA cases
- ▶ Other new leave laws in the works, including the Family Leave Insurance Act, the Crime Victims Employment Leave Act and legislation to expand FMLA
- ▶ How the Healthy Families Act could dramatically change your company's paid sick leave policies

Charlie Plumb, McAfee & Taft (Nashville)

Linda Walton, Perkins Coie LLP

Sam Fulkerson, McAfee & Taft (Las Vegas)

10:30 A.M.-10:45 A.M. MORNING BREAK

10:45 A.M.-11:45 A.M.
FOUR SIMULTANEOUS SESSIONS

UNION AVOIDANCE TRACK – SESSION 2
TRAIN SUPERVISORS TO SPOT WARNING
SIGNS OF AN EFCA-BASED ORGANIZING
CAMPAIGN

The critical element of the EFCA is that employers don't participate in the unions' process of soliciting employees to sign union authorization cards. In fact, union cards can be obtained before you are even aware of the union's signing campaign. In this session, you'll learn how to train your early warning system—your managers—to spot union organizing. Plus, you'll learn how to respond appropriately, without panic, drama, or overreaction, using the keys to early detection and response. You'll learn how to educate supervisors on:

- ▶ Economic and non-economic reasons why employees may turn to a union
- ▶ Responding appropriately if employees alert them to union activity, including what they can and cannot say
- ▶ Staying willing and available to discuss union issues and answer any employee questions
- ▶ The type of information to which you need to be alerted, before it's too late

Kevin McCormick, Whiteford, Taylor & Preston, L.L.P.

WAGE & HOUR TRACK – SESSION 2
CRACKDOWN ON MISCLASSIFYING
EMPLOYEES AS INDEPENDENT
CONTRACTORS

Who is an independent contractor, and who is an

employee? Inquiring plaintiff's lawyers and cash-starved states want to know. Misclassifications contribute to unpaid taxes, which have spurred the government crackdown. Bills have passed in many states imposing even greater penalties for misclassifying employees as independent contractors. And tougher federal penalties have been in the works. In this session, we will explore:

- ▶ Basic rules for deciding whether a worker is an employee or an independent contractor
- ▶ What to do if you discover someone has been misclassified
- ▶ Processes you can implement to avoid future problems
- ▶ Brief roundup of state initiatives to crack down on misclassification
- ▶ How the federal Employee Misclassification Prevention Act will make life much tougher for employers

Kara E. Shea, Miller & Martin PLLC

THE EMPLOYEE HANDBOOK:
YOUR BEST DEFENSE AGAINST
LAWSUITS

An employee handbook can be your best protection against an employment lawsuit or union organizing campaigns. But unless it's updated regularly, your organization could be at risk. With new FMLA regulations, new ADA Amendments Act, Lilly Ledbetter Act (and perhaps more new laws) going into effect this year, it's even more of an imperative that you revisit the state of your company's employee handbook. In this session, find out what every employee handbook needs to shield the organization from outsiders' threats. Plus, discover the pros and cons of making the transition to an electronic handbook. You'll learn:

- ▶ What should NOT be included, such as detailed information that is important only to subgroups of employees or instructions to supervisors and HR managers
- ▶ Common policies found in many handbooks that are actually illegal
- ▶ When you should review your handbooks and the red flags requiring changes
- ▶ How to communicate your handbook changes to your employees
- ▶ How to keep old handbooks from resurfacing in a lawsuit
- ▶ The very latest trends in workplace policymaking, such as new anti-bullying policies
- ▶ The most common mistakes when writing workplace policies
- ▶ Session Bonus: Advantages and disadvantages of providing electronic handbooks
- ▶ Plus, what to ask before making the transition to an electronic handbook, including how to accommodate for employees with mental or visual impairments

Peter M. Panken, Epstein Becker & Green, P.C.

PREPARE FOR THE RISING TIDE OF JOB
BIAS CLAIMS AND NEW DISCRIMINATION
LAWS

Discrimination claims filed with the EEOC jumped 15 percent in 2008 to over 95,000. That's the highest level for discrimination claims since the agency opened in 1965! The costs for these claims are just

as stunning, adding up to \$118 million in class action settlements. With numbers like these, you can't afford to be caught off guard—and we haven't mentioned the new and pending discrimination laws that have hit in 2009. In this session, get a strategy for shielding your organization from damaging job bias claims, including how to stay compliant with the newest and pending discrimination laws: the Lilly Ledbetter Fair Pay Act and the Employment Non-Discrimination Act. Learn:

- ▶ How your organization can avoid a similar fate
- ▶ Specific types of clothes or dress styles that are subject to attack in the workplace, and how prohibiting certain clothes can invite a religious discrimination claim
- ▶ Examples of workplace conduct that could lead to a racial harassment complaint
- ▶ How to prevent age discrimination complaints
- ▶ Which specific pay practices are legally risky under the new Lilly Ledbetter Act
- ▶ Policies that will allow employees to raise complaints without fearing unlawful retaliation
- ▶ Recent sexual harassment cases and how to ensure your policies protect your organization
- ▶ Overview of the Employment Non-Discrimination Act, which adds sexual orientation as a protected class—and review some groundbreaking gender identity and expression cases

Susan Fahey Desmond, Watkins Ludlam Winter & Stennis, P.A. (Nashville)
Peter Lowe, Brann & Isaacson (Las Vegas)

11:45 A.M.-1:00 P.M. LUNCHEON PRESENTATION 1 VS. 100: THE HR EDITION

Have fun and boost your legal knowledge at the same time when you participate in "1 vs. 100: The HR Edition". You and your table will work as a team to solve an HR management challenge. Will your solution match that of the contestants? Understanding and applying employment law to your policies is your first line of defense and, in some cases, your only defense between your company and an employee lawsuit. Don't miss this fast-paced luncheon session that's guaranteed to entertain and educate you all at once!

Mark I. Schickman, Freeland Cooper & Foreman LLP

1:00 P.M.-1:15 P.M. BREAK

1:15 P.M.-2:15 P.M. THREE SIMULTANEOUS SESSIONS

PROTECT YOUR TRADE SECRETS WITH STRONG EMPLOYMENT AGREEMENTS

Customer lists, products in development, and financial data. Are these and other crucial company assets protected from your revolving-door employee? In this session, you will explore why today's business environment requires you to protect your trade secrets and prevent employees from sharing those secrets with competitors. Plus, find out how to manage noncompetes for workforces scattered across multiple states. Come find out:

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- ▶ The business consequences of letting employees walk away with your company's trade secrets
- ▶ How does the law define a trade secret? What makes for a valid noncompete? How does the law view "employee loyalty" or fiduciary duties to a company?
- ▶ How to draft effective and legally sound noncompetition and nonsolicitation agreements
- ▶ How to handle applicants and new hires with pre-existing noncompete agreements
- ▶ Legal issues and steps for pursuing an injunction against an employee

John Browning, Gordon & Rees LLP
Michael Maslanka, Ford & Harrison LLP

FMLA TRACK – SESSION 2 NAVIGATING THE (NEW) ADA, FMLA AND WORKERS' COMPENSATION MAZE

With the ADA and the new FMLA regs now on the books, the Bermuda Triangle created by the ADA, the FMLA and state workers' comp laws has become even more complex to navigate. In this session, you will learn how to handle the new overlaps affecting employees who are protected by two or more of these laws. You'll discover:

- ▶ Practical steps to determine which of these laws apply in a given situation
- ▶ The scope of "the new ADA"
- ▶ Which law takes precedence over the others regarding employee leave requests
- ▶ The impact of the ADA and the new FMLA regs on managing return-to-work issues and making offers of light duty
- ▶ The overlap between the ADA and the new FMLA regs regarding the use of unplanned intermittent leave
- ▶ The effect of the ADA and the new FMLA regs on an employer's ability to obtain medical information to support employee leave requests
- ▶ How to avoid a "regarded as" ADA claim when managing an employee who is on FMLA leave
- ▶ How to impose disciplinary action on employees who are "in the Bermuda Triangle"

Susan Fentin, Skoler, Abbott & Presser, P.C. (Nashville)

Stacie Caraway, Miller & Martin PLLC (Las Vegas)

WAGE & HOUR TRACK – SESSION 3 EXEMPT VS. NONEXEMPT: THE MILLION-DOLLAR-PLUS QUESTION (IF A LAWSUIT ENSUES)

Misclassifying nonexempt workers as exempt from overtime pay can be very costly: back pay, liquidated damages, attorneys' fees, and litigation costs. Because the more common white-collar exemptions are quite nebulous, employers frequently misclassify employees. In this session, we'll explore the requirements of the administrative, professional, and executive exemptions so you can avoid this problem in your workplace. Using real-life examples, you will learn about:

- ▶ Basic elements of each exemption
- ▶ "Salary basis" test and how to apply it
- ▶ "Primary duty" test and the factors to determine if administrative employee's most important job is office or nonmanual work related to your management or business operations

- ▶ How the exempt/nonexempt situation can get muddy even for "bosses" doing hands-on manual labor under the executive exemption
- ▶ Potential damages and costs of misclassifying employees as exempt
- ▶ How to conduct an effective exemption audit

Jennifer L. Anderson, Jones Walker

2:15 P.M.-2:30 P.M. AFTERNOON BREAK

2:30 P.M.-3:30 P.M. THREE SIMULTANEOUS SESSIONS

UNION AVOIDANCE TRACK – SESSION 3 HOW TO AVOID EFCA: ACTIONS THAT MAKE UNIONS IRRELEVANT TO EMPLOYEES

The Employee Free Choice Act is an inappropriately named statute whose consequences will have far-reaching effects for most employers and it is designed to wreak havoc upon traditional employer/employee relations. Whether EFCA is passed, you can count on two things: (1) Unions are committed to growing their membership and (2) more union organizing campaigns will occur. With or without EFCA, there are steps that every employer can take to counter such activity. We'll discuss them, including how to:

- ▶ Conduct employee surveys to identify problem areas
- ▶ Communicate with employees regarding the benefits of a nonunion workplace
- ▶ Advise employees about issues involved in signing union authorization cards
- ▶ Maintain ongoing campaign against unionization at work sites
- ▶ Establish policies, practices and programs that instill positive manager-employee relations
- ▶ Make your employee handbook your greatest asset in staying union-free

Vance Miller, Armstrong Teasdale LLP

FMLA TRACK – SESSION 3 FMLA TOUGH QUESTIONS

Perplexed by an unusual FMLA leave request? Don't know how to respond to the problem employee who requests leave right before you were planning to fire him? Need expert guidance on reconciling FMLA with pregnancy leave? Exasperated by the prospect of learning new rules and regs and how you're going to stay compliant with the changes? In this session, you and your fellow attendees will control the session and the content. Our panel of experts will answer your FMLA questions and help you make even better decisions.

Charlie Plumb, McAfee & Taft (Nashville)

Linda Walton, Perkins Coie LLP

Stacie Caraway, Miller & Martin PLLC (Las Vegas)

Sam Fulkerson, McAfee & Taft (Las Vegas)

NEW PROGRESSIVE DISCIPLINE STRATEGIES: INSPIRING CORRECTIVE, NOT DISCIPLINARY, ACTION

Does the fear of confrontation—and possible missteps—keep you and your supervisors from properly disciplining employees? There is a way to deal with

these unpleasant issues without incurring the EEOC's wrath. It's the new progressive discipline, which approaches two types of disciplinary scenarios: the employee with performance issues vs. the employee with behavioral issues. In this session, learn how you can apply this cutting-edge approach to turn around problem performers and avoid profit-draining litigation. You'll learn:

- ▶ How to use performance-based discipline to help employees who struggle to fulfill core functions
- ▶ How a Performance Improvement Plan (PIP) can track an employee's progress
- ▶ How to make the performance appraisal an integral part of your progressive discipline
- ▶ Situations when behavioral-based discipline is warranted
- ▶ How to incorporate internal investigation tactics in your progressive discipline strategy
- ▶ When it's time to consider termination after both approaches have failed
- ▶ Hands-on tips for verbal counseling, documentation, and written warning guidelines
- ▶ When performance issues are serious enough to warrant going directly to severe discipline or termination

Candace M. Kollas, Workable Options

3:30 P.M.-4:30 P.M.

THREE SIMULTANEOUS SESSIONS

DEMONSTRATE REAL HR VALUE: MANAGE AN EMPLOYEE LAWSUIT, THE LAWYERS, THE LITIGATION PROCESS AND THE LEGAL BILLS

Could you manage an employee lawsuit? Tailored for HR professionals, this session will give you the insider's knowledge about the litigation process, so you can make informed decisions when dealing with employment attorneys. You'll learn:

- ▶ What is the billable hour? How did it come about? Is the billable hour the only way to bill clients?
- ▶ The pros and cons of early resolution. Does it embolden the plaintiff? Or is it a smart idea?
- ▶ What do lawyer engagement letters mean? Should you just sign blindly?
- ▶ What it means to be a client and the duties a lawyer owes to you
- ▶ How HR can be a strategic partner during the litigation process by knowing when the case should be removed
- ▶ How much discovery is enough discovery? Find out how to make the right call
- ▶ Whether summary judgments should always be filed
- ▶ Whether a case needs one lawyer or two lawyers
- ▶ How to review a legal bill and recognize when it's being padded with unnecessary charges

Michael Maslanka, Ford & Harrison LLP
Jonathan R. Mook, DiMuroGinsberg, PC
Darryl Lee, Wood Crapo LLC (Las Vegas)

WAGE & HOUR TRACK – SESSION 4 YOUR ROTTENEST WAGE AND HOUR QUESTIONS

Bring on your questions! Top employment law attorneys from the Employers Counsel Network will drill down to the answers.

To register, visit www.HRhero.com/aeis

Jennifer L. Anderson, Jones Walker
Kara E. Shea, Miller & Martin PLLC
Cathleen Yonahara, Freeland Cooper
& Foreman LLP (Las Vegas)

UNION AVOIDANCE TRACK – SESSION 4 GET YOUR TOUGH EFCA AND UNION ORGANIZING QUESTIONS ANSWERED

No doubt that EFCA brings more questions than answers to your union avoidance strategy, including: How closely will the NLRB monitor card abuses? What's the process for decertifying a campaign? Will employees have the right to strike during interest arbitration proceedings? That's why this session puts you in control of the content, allowing you to pose your EFCA questions to our expert panel.

Kevin McCormick, Whiteford, Taylor
& Preston, L.L.P.
Vance Miller, Armstrong Teasdale LLP
Peyton Irby, Watkins Ludlam Winter & Stennis, P.A.
(Las Vegas)

Agenda DAY TWO - FRIDAY

7:00 A.M.-8:15 A.M.
BREAKFAST

8:15 A.M.-9:30 A.M.
THREE SIMULTANEOUS SESSIONS

RECRUITING ON A SHOESTRING: ADAPTING YOUR HIRING PROCESS TO A SMALLER BUDGET

There are many ways to approach recruiting without breaking the bank. The least effective thing you can do is "hunker down" and "weather the storm" without a fight. Join Carol Hacker for a look at what can be done to hang on through the wild economic ride and still put the "best of the best" on your payroll. In this interactive session, you'll learn how to:

- ▶ Be proactive in making a strong business case for NOT cutting your hiring budget
- ▶ Leverage the resources of others to attract top talent
- ▶ Develop an action plan to address hiring needs as they arise
- ▶ Use employment agencies and search firms to quickly identify suitable applicants
- ▶ Use job boards and on-line recruiting
- ▶ Implement low-cost/no-cost approaches with student interns, boomerang hires and on-line searches
- ▶ Build attractive job opportunities to fill your most pressing job vacancy needs
- ▶ Create new temporary hire options through an in-house employment agency

Carol A. Hacker, Hacker & Associates

HOW TO HANDLE UNIQUE CASES UNDER THE NEW ADA

In a recent case, an employee suffering from bipolar disorder files an ADA discrimination lawsuit, alleging disability discrimination—and won a jury award of over \$500,000. This is just one of several unique issues that have intersected with the ADA. In this interactive session, your instructors will use workplace scenarios to demonstrate how employers must respond to unique ADA leave requests. Scenarios include:

- ▶ How to accommodate an employee's mental disability
- ▶ What the ADA says about substance and alcohol abuse
- ▶ How to interact with employees and job applicants who have families and/or friends that are disabled
- ▶ How FMLA may impact ADA decisions on unique disability issues
- ▶ Dealing with the ADA and leaves of absence relating to migraine headaches and depression
- ▶ How far does the ADA go in applying to chronic illnesses?
- ▶ Whether the ADA applies to morbid obesity
- ▶ Landmines to avoid when asking employees to undergo fitness for duty examinations

Audra K. Hamilton, Attorney

USING SOCIAL MEDIA TO RECRUIT AND RETAIN TALENT WITHOUT GETTING INTO LEGAL TROUBLE

Facebook, Twitter, employee blogs. They all sound very cool but smart HR managers proceed with extreme caution when using the latest social media gadgets to attract and retain talent. Learn how to reap benefits of this technology AND minimize your legal risks. You'll discover:

- ▶ Information found on social networking sites that can't be used in the hiring process
- ▶ What to do if an applicant claims that your Internet background check constitutes an invasion of privacy
- ▶ Liability issues that arise when employees post content on a company-run blog or social networking site
- ▶ What companies can do to protect themselves from lawsuits that arise from employee use of social media
- ▶ How far can you go in keeping tabs on an employee's blogs, instant messages and social networking?

John Browning, Gordon & Rees LLP

9:30 A.M.-10:45 A.M.
FOUR SIMULTANEOUS SESSIONS

MEASURING THE BUSINESS VALUE OF EMPLOYEE ENGAGEMENT AND RETENTION PROGRAMS

Talent management professionals know that if their organization is to be productive and competitive, they must not only keep top performers, but also continually develop new ones. But, how do you really know if your employees care about their work, let alone the organization? How can you know for certain that your retention programs are having a bottom-line impact?

Get answers to these and other questions and gain practical tools to measure the effectiveness of your engagement and retention efforts. You'll learn:

- ▶ The top factors, outside of pay, that organizations use to retain their best performers
- ▶ How to measure engagement on an organizational, team, and individual employee level
- ▶ How to identify why people disengage and leave organizations
- ▶ How to draft a retention strategy that helps ensure that the best employees don't jump ship
- ▶ How to use exit-interview data, employee-engagement surveys and other creative talent-management solutions to maximize ROI and achieve your retention, engagement and business goals

Warren Rothman, Blue Prairie Group, L.L.C.

IMMIGRATION COMPLIANCE UPDATE

New I-9s and E-Verify were scheduled to go into effect when the deadline was pushed, and even more changes could be on the way. And HR must still worry about pending ICE raids and documentation audits. With this session, we'll sort out the latest changes, make sense of them and give you an update on what HR must do to ensure its non-native talent is legally documented. You'll find out:

- ▶ A rundown of the new changes made to the I-9 form
- ▶ Best practices for conducting an internal I-9 audit
- ▶ How to respond if you suspect an employee is presenting you with a fake document or refuses to provide you with documentation
- ▶ Steps for responding to a no-match letter without ending up in legal hot water
- ▶ What you can do to avoid ICE raids, audits and inspections
- ▶ Understanding the legal dangers of NOT questioning a worker's authorization
- ▶ Update on the legislative and regulatory developments that will impact immigration compliance
- ▶ How to sidestep civil and criminal penalties associated with immigration paperwork that's incorrect or incomplete
- ▶ An update on E-Verify's current status and possible changes
- ▶ Pros and cons of using the government's E-Verify system to verify your employees are legally employed

Chris Thomas, Holland & Hart LLP

HEALTH AND WELFARE BENEFITS PLANS UPDATE

2009 is shaping up to be a big year for health and welfare benefits plans. From complying with the most sweeping expansion of rights under COBRA to preparing for a major overhaul of the health care system, employers are working overtime to understand and manage the new benefits landscape. In this session, you'll receive an expert overview of these and many other changes, including:

- ▶ How the latest COBRA rules impact HR, including a look at the required notices you must provide to eligible individuals and documentation and administrative requirements that must be followed to comply with the new rules
- ▶ The mandatory changes that govern HIPAA's

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- ▶ privacy and security rules
- ▶ How the Obama administration and the 111th Congress may approach healthcare reform in 2009
- ▶ The new rules in the Mental Health Parity Act that take effect January 2010 and how this law will change group health plans
- ▶ How the 2008 TARP will have a long-term impact in how employers structure executive compensation packages
- ▶ Under what circumstances can employers provide wellness incentives without violating HIPAA's nondiscrimination rules?
- ▶ An overview of "Michelle's Law" and how the law amends ERISA to provide healthcare coverage for college students
- ▶ How the Genetic Information Discrimination Act (GINA) prohibits the use of genetic information to discriminate against participants in health care plans

Ashley Gillihan, Alston & Bird LLP (Nashville)
John Hickman, Alston & Bird LLP (Las Vegas)

GOING GREEN: ECO-FRIENDLY STRATEGIES TO RECRUIT AND RETAIN TALENT

A greener workplace can mean a lighter ecological footprint, a more productive place to work—and a great way to attract and retain today's top talent. In this session, learn why more companies are going green and how they're using eco-friendly work environments to become the employers of choice. You'll find out:

- ▶ How to build a credible "green brand" that attracts and retains talent, and why the green brand resonates with Millennial employees
- ▶ How to avoid the "greenwashing" trap and ensure your company's green employment brand is for real
- ▶ How to apply a sustainability strategy (conducting business without harming people or the environment) to on-boarding programs
- ▶ Why sustainability should be on every employer's radar and why it's not just a corporate buzzword
- ▶ Why more CEOs and senior managers are incorporating sustainability into their business strategies
- ▶ How "going green" can improve employee retention, workforce training, and leadership development programs
- ▶ How to win employee buy-in of your company's green initiatives
- ▶ How reward and recognition programs can encourage your employees to create green solutions for your workplace

Sarah McAdams, Contributing Editor, *HR Insight*

10:45 A.M.-11:00 A.M. MORNING BREAK

11:00 A.M.-NOON-REPEAT SESSIONS FOUR SIMULTANEOUS SESSIONS

- ▶ Train Supervisors to Spot Warning Signs of an EFOA-Based Organizing Campaign
- ▶ Wage and Hour Compliance Update: Crackdown on Misclassifying Employees As Independent Contractors
- ▶ The Employee Handbook: Your Best Defense

- ▶ Against Lawsuits
- ▶ Prepare for the Rising Tide of Job Bias Claims and New Discrimination Laws

NOON-1:30 P.M. LUNCH WITH THE NATION'S TOP EMPLOYMENT LAW ATTORNEYS

Don't walk away with any lingering questions. This wrap-up session with our expert panel of attorneys gives you a chance to pick their brains about how to handle any employment law matter. Even if you don't have a question, you're guaranteed to learn a lot from their insights, and enjoy a delicious lunch before you make the journey home.

1:30 P.M.-1:45 P.M. GRAND PRIZE DRAWING & CONFERENCE WRAP-UP

CHOOSE TO ATTEND PRE AND POST CONFERENCE WORKSHOPS TO MAXIMIZE YOUR SYMPOSIUM EXPERIENCE

PRE-CONFERENCE WORKSHOPS

WEDNESDAY 2:00 P.M.-5:00 P.M. NEW FMLA RULES COMPLIANCE BOOT CAMP

Employers have seen new regulations that have clarified intermittent leave, changed medical certification procedures, imposed new notice requirements for both employees and employers, and expanded FMLA to family members of those on active duty or are injured while in the military. As a result, there are new red flags and compliance headaches to consider. Don't get left behind! Attend this workshop and get up to speed on all of the new FMLA regs and how to incorporate them into your existing policies and practices:

- ▶ The new notice requirements for employees AND employers
- ▶ Foreseeable vs. unforeseeable leave
- ▶ Changes to medical certification procedures and how far you can go in obtaining additional medical information
- ▶ How new rules address intermittent leave issues and may help avoid workplace disruptions associated with FMLA leave requests
- ▶ How the new regs classify a "serious health condition"
- ▶ When a chronic condition is to be considered a serious health condition
- ▶ Notifying employees of new leave entitlements and revising your current FMLA policies and procedures
- ▶ Which service members are covered by the new FMLA leave rule
- ▶ FMLA military leave vs. USERRA leave
- ▶ Responding to a servicemember's FMLA leave request and documenting your decisions
- ▶ The red flags that trigger your new obligations, even when employees never mention "FMLA" directly

Sam Fulkerson, McAfee & Taft (Las Vegas)
Charles S. Plumb, McAfee & Taft (Nashville)

CONDUCT LAYOFFS AND TERMINATIONS, LEGALLY AND WITH CARE

When layoffs and terminations occur, employers are faced with a variety of challenges, including lost productivity, low morale...and an increase in the number of employee lawsuits. With this workshop, learn proven solutions that will help you terminate an employee with care and respect. Plus, you will discover how to minimize the odds that the termination will come back to haunt you and your organization in the form of an employee lawsuit. You will learn:

- ▶ Why you should pretend your state is NOT an “at will” state, even if it is
- ▶ Specific things in your employee handbook that leave you wide open for a lawsuit
- ▶ The best way to ensure a highly protective paper trail
- ▶ Preparing and using a termination checklist
- ▶ How to investigate ALL the facts surrounding the decision to fire
- ▶ The right and wrong words to use when terminating an employee
- ▶ How the wrong words can trigger a wrongful termination suit
- ▶ Best ways to deal with employee tears, anger, and/or threats
- ▶ What to do when a firing is legally challenged

Candace M. Kollas, Workable Options

NEW ADA COMPLIANCE WORKSHOP

With passage of the sweeping ADA Amendments Act, the law now covers millions of Americans who were not previously protected. HR management must take the lead in modifying policies and practices or run the risk of lawsuits and complaints. Plus, you must spearhead training efforts that educate managers and supervisors. In this in-depth workshop, you'll learn how to:

- ▶ Manage your increased burdens under the ADA Amendments Act
- ▶ Evaluate policies to make sure they comply with the new law
- ▶ Train supervisors and managers about the new ADA
- ▶ Legally handle accommodation requests under the new rules
- ▶ Assess physical and mental disabilities covered under the ADA
- ▶ Protect yourself from “regarded as” bias claims
- ▶ Manage a sharp increase in the number of individuals found to have a covered disability
- ▶ Apply the new restriction on consideration of mitigating measures
- ▶ Incorporate new EEOC definitions of “disability,” “major life activities,” and “substantially limits”
- ▶ Re-evaluate job qualification standards and job descriptions

Jonathan R. Mook, DiMuroGinsberg

CALIFORNIA EMPLOYMENT LAW UPDATE (LAS VEGAS ONLY)

“It’s like doing business in a different country” is the constant refrain from California employers. Get the most comprehensive and up-to-the-minute update on the new rules and different realities of the Golden State’s employment laws from the editors of the [California Employment Law Letter](#). You’ll get practical, real-world guidance for dealing with:

- ▶ New rules that require employers to offer sick leave to workers who care for family members
- ▶ A state Supreme Court ruling that extends the time limit for filing a discrimination complaint
- ▶ The major employment laws in California that are strikingly different from those in other states
- ▶ The state’s protected categories that are not covered by federal law
- ▶ How employers can navigate the state’s unique meal and rest break maze
- ▶ California-specific sexual harassment training requirements
- ▶ How state law defines the difference between harassment and discrimination
- ▶ The likelihood that all employers with California operations will be forced to provide employee benefits
- ▶ A potential new rule that would expand the liability for misclassifying employees
- ▶ Upcoming changes to state’s workers’ comp laws

Mark I. Schickman, Freeland Cooper & Foreman
Cathleen S. Yonahara, Freeland Cooper & Foreman

POST-CONFERENCE WORKSHOPS

ON-BOARDING TALENT WORKSHOP

Want to keep your new hires around for the long haul? It takes more than traditional orientation. Nearly 90% of employees make the decision to stay with a company within six months of joining. Keep the odds in your favor by learning specific steps to engage your new hires on day one and beyond by participating in this intensive and comprehensive workshop. Celebrated trainer Carol Hacker will guide you through getting new employees excited about your organization’s culture and keeping that momentum going for good. You’ll learn how to:

- ▶ Overcome on-boarding’s biggest challenges, including getting managers to own the process
- ▶ Create sustainable objectives for an on-boarding program that focuses on long-term retention
- ▶ Craft an on-boarding experience and schedule that responds to the three stages of the new employee
- ▶ Communicate a new hire’s arrival
- ▶ Structure a new hire’s first day on the job
- ▶ Enlist managers and senior leaders in the on-boarding experience
- ▶ Keep the momentum going with low cost rewards and incentives
- ▶ Begin the process of training the new hire in his or her core responsibilities
- ▶ Spot on-boarding failures and address them before they blow up in your face

And so much more—including how to make the new hire’s paperwork less painful for them, their managers and HR!

Carol A. Hacker, Hacker & Associates

PREVENTING WORKPLACE VIOLENCE: AN INTERACTIVE CRISIS WORKSHOP

Assaults and homicides are now the second leading cause of fatal occupational injuries (after transportation accidents)—and women make up 61 percent of the victims. With so many threats to contend with, it’s vital that you have a workplace violence prevention and response plan that will reduce your chances of falling prey. Learn how in this in-depth crisis workshop that will not only give you the tools to build an effective workplace violence crisis plan, but will use crisis

simulations to show you what it takes to respond to an incident that protects your workforce. Your expert speaker will provide:

- ▶ Overview of the duties, responsibilities and liabilities employers have when it comes to providing a safe workplace, with a discussion of OSHA’s General Duty Clause and statutory gun laws
- ▶ Analysis of domestic violence, harassment and violent incidents involving non-employees
- ▶ How to craft an employee screening process
- ▶ How to improve current workplace violence prevention strategies and determine effectiveness of weapons policies, search and monitoring policies
- ▶ How to conduct a work site analysis of whether your workplace is susceptible to a violent incident
- ▶ How to create a crisis team that can respond to a violent incident
- ▶ Simulated drills that will help participants understand how to respond to an incident within the first 36 hours
- ▶ **Bonus:** Each participant will receive sample violence prevention policies that they can incorporate into their existing employee handbooks

Michael T. Gebhart, Peel Brimley LLP

TALENT MANAGEMENT 2.0: HOW TO RECRUIT, LEAD AND COMMUNICATE WITH MILLENNIALS

A recent survey rated Gen Y employees as “poor performers,” while another study reported that 78 percent of employers have six months or fewer to retain their Millennial employees. In this tough economy, HR cannot afford poor performance issues or expensive turnover costs with its Gen Y workforce. Attend this workshop and find out what makes Gen Y tick, so you can create an effective talent management strategy that will resonate with this unique group. As a special bonus, you’ll get an interactive crash course in the social media tools, such as blogs and social networking sites, that Millennials use to communicate with each other—and learn how HR can effectively enlist these tools to engage their Gen Y employees. You’ll learn:

- ▶ What today’s Millennials look for when choosing their jobs
- ▶ How to tailor your organization’s culture to attract this coveted talent pool, with an overview of social and psychological factors
- ▶ How to use microblogs, such as Twitter, to find qualified Gen Y applicants who live on-line 24/7
- ▶ The specific types of communication Millennials expect from their managers
- ▶ How to carefully manage and address the unique roles that the “helicopter parents” of this generation play in the workplace
- ▶ How to keep different workplace habits from derailing workplace productivity
- ▶ Workplace characteristics that have Gen Y headed out the door, how to appeal to their values, their career goals (which aren’t rooted in work and money), and their learning styles
- ▶ How employee-driven blogs and wikis can invite innovation and boost project collaboration among your Gen Y employees
- ▶ HR’s role in dealing with the growing percentage of Gen Y employees who will require accommodation for their learning “differences”

Dr. Diane Gayeski, Ithaca College (Nashville only)
Sarah McAdams, Diversity Insight (Las Vegas only)

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- A \$50 processing fee applies to ALL conference cancellations.
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Yes! I want the advanced knowledge needed to safely and effectively manage our workforce in 2009 and beyond. Please reserve my spot at **2009 Advanced Employment Issues Symposium**. My registration includes the two-day conference, breakfast and lunch both days, a certificate of completion, and the 400+ page symposium manual. If I am dissatisfied I am entitled to a complete refund of my registration fee. **I understand that additional registrants from my company can attend for just \$549!**

- Hilton Nashville Downtown, September 17-18 Caesars Palace, Las Vegas, October 29-30

Please also register me for the following pre-conference and/or one of the following post-conference workshops, for an additional \$199 (\$179 each per person for additional attendees from an organization).

Pre-Conference (Wednesday afternoon before the main conference)

- New FMLA Rules Compliance Boot Camp
 Conduct Layoffs and Terminations—Legally and With Care
 New ADA Compliance Workshop
 California Employment Law Update (Las Vegas only)

Post-Conference (Friday afternoon)

- On-Boarding Talent Workshop
 Preventing Workplace Violence: An Interactive Crisis Workshop
 Talent Management 2.0: How to Recruit, Lead and Communicate With Millennials

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