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The background of the central text area is a blurred photograph of a large conference room. Numerous people are seated at long tables, facing forward, suggesting a professional gathering or seminar. The lighting is bright and even.

**San Antonio Human Resource  
Management Association's  
15th Annual Employment Law Conference**

**Hybrid Virtual/In-Person Conference  
Wednesday, August 18, 2021**

A close-up photograph of a wooden podium with a black gooseneck microphone attached. The podium is light-colored wood, and the microphone is positioned on the right side. The background is slightly blurred, showing what appears to be a conference setting.

**Ogletree  
Deakins**

# AGENDA

7:30 a.m. **REGISTRATION AND BREAKFAST BUFFET OPENS**

8:00 – 8:15 a.m. **WELCOME AND OPENING REMARKS**

*Presenter: Tiffany Cox Stacy, Esq., 2021 Government Affairs Director*

8:15 – 9:00 a.m.

**ONLINE HARASSMENT: EVEN WORKING VIRTUALLY, THE PROBLEM CONTINUES AND MAY INCREASE IN OCCURRENCES AND COMPLEXITIES**

Remote work has certainly become more prevalent over the last year. Zoom, Microsoft Teams, and other online platforms allow meetings to be conducted with attendees located around the world. This technology provides additional avenues for harassment, such as private chat discussions during online meetings, which can create “smoking gun” exhibits for plaintiffs’ attorneys. Due to the explosive growth of remote work and virtual meetings, employers may want to update their policies, procedures, and training to fit this new work environment. In this session, the speakers will provide a brief review of the applicable law, discuss recent cases and other developments, and address steps employers should consider when creating or revising their policies and training methods.

*Presenters: Ray Bissmeyer, Esq., and Dan Stern, Esq., Dykema Gossett PLLC*

9:00 – 9:45 a.m.

**DEVELOPMENTS IN DISABILITY DISCRIMINATION LAW**

Requests for accommodation surged during the COVID-19 pandemic, and disability discrimination claims were the most frequently filed charges of discrimination in 2020. As employees return to the workplace, employers may want to consider potential accommodation requests with a different lens given the remote work environment forced by state and local government-imposed shutdowns last year, which highlighted the effectiveness of this arrangement for many workers. This session will focus on the administrative developments under the Americans with Disabilities Act, including the most recent guidance from the U.S. Equal Employment Opportunity Commission (EEOC). The session will also address the most significant case decisions of the past year and provide practical tips for employers engaging in the interactive process.

*Presenter: Amber K. Dodds, Esq., Bracewell LLP*

9:45 – 10:00 a.m.

**BREAK/NETWORKING**

10:00 – 10:45 a.m.

**LGBTQ RIGHTS IN THE WORKPLACE**

The decision by the Supreme Court of the United States in *Bostock v. Clayton County, Georgia* was a landmark event in the history of employment law, holding that Title VII of the Civil Rights Act of 1964 protects gay and transgender employees from workplace discrimination. This session will address what the high court’s ruling means for employers’ general equal employment opportunity (EEO) policies, how companies should update their existing practices to avoid possible claims under *Bostock*, and what proactive steps employers can take to respond to LGBTQ employees’ concerns in the workplace.

*Presenter: Justin Barbour, Esq., Schmoey Reinhard LLP*

10:45 – 11:30 a.m.

**STAYING OUT OF THE CROSSHAIRS: HOW PLAINTIFFS’ ATTORNEYS DECIDE WHETHER THEY ARE GOING TO SUE YOUR COMPANY**

Following layoffs and other business reorganizations, employers may find that their remaining employees no longer meet the salary and/or duties tests for the various exemptions under the Fair Labor Standards Act (FLSA), thereby exposing themselves to potential liability for unpaid overtime. Beyond layoffs, employers may be faced with continued tough decisions related to salary reductions and/or reduced work hours, decisions which could also jeopardize employees’ classification as exempt or nonexempt. In this session, the speakers will review these common, potentially problematic scenarios arising out of the COVID-19 pandemic, as well as provide a general overview of key developments under the FLSA and with the U.S. Department of Labor (DOL) over the past year.

*Presenters: Lawrence D. Morales II, Esq., The Morales Firm, P.C.*

*Lawrence D. Smith, Esq., Ogletree, Deakins, Nash, Smoak & Stewart, P.C.*

11:30 a.m. – Noon

## **LUNCH/NETWORKING**

Noon – 12:45 p.m.

### **WASHINGTON OUTLOOK: WHAT'S NEXT FOR WORKPLACE PUBLIC POLICY SPECIAL GUEST: JAMES L. BANKS, JR., J.D., GENERAL COUNSEL FOR SHRM**

With each new administration in Washington, D.C., HR professionals can expect proposed changes to long-standing labor issues. However, a rapidly changing workplace has policymakers searching for innovative, modern approaches that will keep up with the needs of employers, employees, and an electorate laser-focused on accountability. During this presentation, Mr. Banks will discuss the unprecedented levels of electoral participation and outline how workplace public policy is evolving. He will also highlight legislative initiatives that are impacting employees and businesses across the country, and SHRM's policy priorities. As HR professionals continue to navigate a changing workplace, recognizing the impact of the election on workplace policy, and how it can affect employers, is critical. SHRM has a clear vision and will continue to be a thought leader and resource, as well as advocate for public policies that will enable businesses to have the flexibility they require to support and develop their workforce.

12:45 – 1:30 p.m.

### **NAVIGATING WAGE AND HOUR ISSUES IN THE NEW ADMINISTRATION AND IN VIRTUAL WORKPLACES**

This session will address emerging issues at conditional certification, including the new standard for conditional certification, provide an update on independent contractor status under the FLSA, discuss the status of key DOL rules, and review practical guidance for minimizing overtime claims by employees working virtually.

*Presenter: Laura O'Donnell, Esq., Haynes and Boone, LLP*

1:30 – 1:45 p.m.

## **BREAK/NETWORK**

1:45 – 2:30 p.m.

### **WHY THE PRO ACT (AND OTHER BIDEN NLRB INITIATIVES) ARE SIGNIFICANT CHALLENGES FOR SOUTH TEXAS EMPLOYERS**

In this session, the speakers will review the latest decisions by the National Labor Relations Board (NLRB) and projected trends toward a more pro-labor Board, which will affect both unionized and nonunionized employers. The speakers will also provide an overview of the key provisions of the Protecting the Right to Organize (PRO) Act of 2021, which would, if enacted, dramatically amend the National Labor Relations Act.

*Presenters: Robert D. Kilgore, Gardner Law  
John A. Ferguson, Jr., Schmoyer Reinhard LLP*

2:30 – 3:15 p.m.

### **PAY EQUITY: WHAT DOES IT REALLY MEAN, HOW DO I FIGURE OUT IF I HAVE A PROBLEM, AND HOW DO I PREPARE FOR FUTURE CLAIMS?**

"Equal pay for equal work"—that sounds simple enough, so why is this concept making HR headlines across the country? Workers of all types, including professional athletes, are challenging compensation systems that have been in place for many years, alleging that they are being paid less than others for doing the same type of work. Employers that haven't already received such a claim may likely see one in the next few years, given how widely this concept is being discussed in the news. This session will focus on the concept of pay equity, applicable (and proposed) laws, employer defenses, practical tips for evaluating pay systems, and possible solutions to any concerns identified.

*Presenter: Lara C. de Leon, Esq., Constangy, Brooks, Smith & Prophete LLP*

3:15 – 3:30 p.m.

## **BREAK/NETWORK**

3:30 – 4:15 p.m.

### **PRACTICAL TIPS AND STRATEGIES FOR MANAGING FAMILY AND MEDICAL LEAVE**

This session will provide practical tips for coordinating Family and Medical Leave Act (FMLA) policies with other leave policies, effectively managing intermittent leave, and recognizing and responding to suspicions of FMLA abuse. This session will also address common misunderstandings under the FMLA and tackle the answers for tough questions related to discipline and termination. Finally, this session will review the latest case law involving claims of FMLA interference and retaliation, and recent litigation trends.

*Presenter: Raquel G. Perez, Esq., Notzon Law*

4:15 – 5:00 p.m.

### **THE “MARVEL-OUS HR UNIVERSE”!**

This energetic and highly interactive presentation will test your HR knowledge and problem-solving skills by making you Captain America, HR Director for S.H.I.E.L.D., and confronting you with supervillain schemes to foil. Assemble your best HR Avengers to assist you in saving the universe!

*Presenters: Chris A. Scherer, Esq., Law Office of Chris A. Scherer  
John Heller, Esq., Holland & Holland, LLC*

5:00 p.m.

### **ADJOURNMENT**