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**San Antonio Human Resource
Management Association's
16th Annual Employment Law Conference**

In-Person Conference / Virtual

Wednesday, August 10, 2022

AGENDA

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

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

Presenter: Letty P. Aguilar, Ogletree, Deakins, Nash, Smoak & Stewart, P.C.,
2022 Government Affairs Director

8:15 – 9:00 a.m. **UPDATE ON THE BIDEN NLRB AND UNION ORGANIZING TRENDS AS WORKERS SEIZE NEW POWER AFTER PANDEMIC WANES**

This session will provide an overview of the aggressive pro-labor initiatives from the Biden NLRB and its General Counsel, and the Biden endorsed PRO Act; discuss the latest union organizing trends – both nationally as well as within Texas - including the newfound forcefulness of unions, highlight key take aways from the continuing Starbucks and Amazon union representation elections, discuss the recent wave of positive press for unions in the post-pandemic economy, and discuss recent developments under the NLRA affecting unionized as well as non-unionized employers, including the status of the NLRB's legal standard for determining when employer work rules violate the NLRA.

Presenters: John Ferguson, Schmoyer Reinhard LLP, and Bob Kilgore, Gardner Law Firm

9:00 – 9:45 a.m. **MENTAL HEALTH, ALCOHOLISM AND SUBSTANCE ABUSE**

Issues Employers Cannot Ignore. According to one recent study, 40% of adults in the U.S. have reported symptoms of anxiety or depressive disorder during the pandemic, up from only 10% pre-pandemic. At the same time, reports of alcoholism and substance abuse are also increasing. With more individuals admitting to being under the influence of alcohol or drugs while working remotely, human resources professionals are on the front lines of managing this crisis. Learn to identify the red flags and develop strategies to guide your businesses through these complex issues through the application of real-world examples. Join this session to elevate your understanding of the drivers of this crisis and learn effective and practical solutions to guide your organizations through the often-challenging situations involving employee mental health, alcoholism and substance abuse.

Presenter: Lara de Leon, Constangy, Brooks, Smith, & Prophete LLP

9:45 – 9:55 a.m. **BREAK / NETWORKING**

9:55 – 10:30 a.m. **CHANGES IN TEXAS SEXUAL HARRASSMENT LAW AND TIPS FOR RESPONDING TO COMPLAINTS**

The Texas Legislature made significant changes to the law governing sexual harassment effective September 1, 2021. The law now covers small employers, expands the definition of sexual harassment, extends the statute of limitations and requires employers to respond immediately and appropriately to sexual harassment. Employers need to update their policies and procedures to comply with these new provisions and be prepared to respond immediately and appropriately.

Presenters: Raquel Perez and Lea Ream, Notzon Law and Davidson, Troilo,

Ream, & Garza, PC

10:30 – 11:15 a.m.

DEVELOPMENTS IN DISABILITY DISCRIMINATION LAW

Analysis of significant cases and legal developments under the Americans with Disabilities Act in 2021-2022.

Presenter: Amber Dodds, Bracewell LLP

11:15 – 12:00 p.m.

DEI DONE RIGHT

Will your efforts to support diversity, equity and inclusion withstand a legal challenge? With all of the attention of the last several years on the benefits of a diverse, equitable and inclusive workplace, many shareholders, executives, employees and HR professionals forget that employment-related decisions that are based on a protected classification for a well-intentioned reason, such as increasing the number of specified groups hired and/or promoted, are subject to the same legal challenges as decisions based on a protected classification for an improper reason, such as precluding or limiting the number of specified groups hired and/or promoted. Understanding the requirements of legally required affirmative action, as well as voluntary affirmative action, is the foundation upon which DEI efforts should be built, and those who undertake such efforts without a compliant plan and process risk both claims by those who were not selected and those (based upon the evidence that you created) in the groups that you intended to help. This presentation will discuss the legal issues related to DEI efforts and practical pointers for implementing and managing those efforts.

Presenters: Dan Stern and Ray Bissmeyer, Dykema Gossett PLLC

12:00 – 12:15 p.m.

LUNCH / BREAK

12:15 – 1:00 p.m.

KEYNOTE

MENTAL HEALTH IN OUR COMMUNITY

Ms. Jamison will highlight the current state of mental health in the local community and discuss the impact on adults, children, and the workplace post Pandemic. She will also introduce the Center for Health Care Services (“CHCS”), and provide its main objectives in Bexar County as the local mental health provider, and discuss the mental health services provided by CHCS to the community. In addition, Ms. Jamison will cover strategies which have been implemented by CHCS to help employees and families to find their mental balance, and provide “takeaways” for employers in order to provide mental health balance in the workplace.

Presenter: Jelynn LeBlanc Jamison, President and Chief Executive Officer of The Center for Health Care Services (CHCS)

1:00 – 1:45 p.m.

BUT EVERYONE ELSE IS DOING IT: THE DANGERS OF MISCLASSIFYING EMPLOYEES AS INDEPENDENT CONTRACTORS

Employment regulations—such as the requirements to pay minimum wage and to not discriminate—generally do not apply to independent contractors. Therefore, employers have an incentive to classify workers as independent contractors, instead of as employees. However, merely labeling a worker an independent contractor does not mean they are, and misclassification of employees as independent contractors can subject employers to significant liability and scrutiny from governmental agencies. This program will discuss the

law concerning whether workers are independent contractors versus employees, and strategies employers can use if they believe they have misclassified employees as independent contractors.

Presenter: Lawrence Morales, Morales Law Firm

1:45 – 1:55 p.m.

BREAK / NETWORKING

1:55 – 2:30 p.m.

OFCCP GOES ON THE OFFENSIVE: FEDERAL CONTRACTORS BEWARE!

The Office of Federal Contractor Compliance Programs (OFCCP) has begun ferreting out federal contractors and subcontractors who do not comply with affirmative action regulatory requirements. The agency has created a web-based AAP certification requirement for non-construction contractors and has an expansive regulatory agenda which includes clarifying the definition of “subcontractor.” OFCCP has become very aggressive in compliance audits – requesting pay equity analyses, pursuing hiring and compensation claims, and requiring evidence of a contractor’s overall compliance efforts and results under its regulations. This session will unpack the agency’s new focus and share best practices for contractor compliance.

Presenter: Leigh Nason, Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

2:30 – 3:15 p.m.

LGBTQ RIGHTS IN THE WORKPLACE

The U.S. Supreme Court’s decision in Bostock was a landmark event in the history of employment laws, holding that Title VII protects gay and transgender employees from workplace discrimination. We can discuss what this means for employers’ general EEO policies, how companies should update existing practices to avoid possible claims under Bostock, and take a look at how employers can proactively address LGBTQ employees’ concerns within the workplace.

Presenter: Thomas (Trey) N. Cammack III, Schmoyer Reinhard LLP

3:15 – 3:25 p.m.

BREAK / NETWORKING

3:25 – 4:10 p.m.

WHEN YOUR EMPLOYEE GOES ROGUE: THEFT OF TRADE SECRETS AND RESTRICTIVE COVENANT CONSIDERATIONS

This session will provide an overview of emerging trends in the trade secrets litigation as well as ongoing Federal Defend Trade Secrets Act litigation. In addition, attendees will learn steps to protect employers’ trade secrets and valuable information.

Presenter: Karen C. Denney, Haynes & Boone, LLP

4:10 – 4:50 p.m.

“WAIT WAIT... DO TELL ME!”

This energetic and highly interactive “game show style” presentation will test your HR knowledge and problem-solving skills by confronting you with common workplace scenarios and pitting you against your fellow HR professionals in a winner-take-all competition!

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

4:50 – 5:00 p.m.

CLOSING REMARKS AND DOOR PRIZES