

THE 2016 EXECUTIVE EMPLOYER® CONFERENCE



THE EVER-EVOLVING WORKPLACE:
Practical Strategies for Addressing Future
and Current Employment Law Challenges

May 4-6, 2016 | JW Marriott Desert Ridge Resort | Phoenix, AZ

Littler®

THE 2016 EXECUTIVE EMPLOYER® CONFERENCE



Employment counsel and HR professionals once thought they only needed to follow and track the legislative work of Congress. The Fair Labor Standards Act, the National Labor Relations Act, Title VII and the Americans with Disabilities Act — these were the sources of their employment law compliance obligations.

Now, however, critical employment law requirements derive from a myriad of sources — executive orders, state statutes and even local ordinances. Increasingly, the federal government is using executive orders – applicable to government contractors – to experiment with progressive employment policies; states are passing rules regarding background checks; and local governments are passing paid sick leave laws, minimum wage and living wage ordinances.

Moreover, the very nature of the workplace is changing. Increasingly, employers are relying upon data analytics to hire, evaluate and predict the success of their employees. Companies are expanding their use of freelancers and engaging in the so-called “gig economy.” And, employees are increasingly advocating for family-friendly workplaces, gender equality and health and wellness. Employers today must focus not only on the demands of the current workplace, but also keep an eye on what future challenges lie ahead.

A hallmark of Littler’s **Executive Employer Conference** is a consistent focus on understanding current challenges as well as assisting our clients in preparing for the issues they will face in the coming years.

The Attorneys of Littler invite you to join us for the **2016 Executive Employer Conference — The Ever-Evolving Workplace: Practical Strategies for Addressing Future and Current Employment Law Challenges**, our annual exploration of the most significant developments in labor and employment law, the emerging trends and the challenges of the future. This year’s program has been designed specifically for in-house counsel, human resources executives and employee relations professionals to help you enhance your organization’s legal compliance and maintain a vibrant and productive workplace.

On Wednesday afternoon, we will present **The Future Forum** – a unique pre-conference event open to all registered attendees. The Future Forum will provide attendees with an in-depth discussion of the issues employers will need to address in the not-so-distant future, including:

- The impact of data analytics on workforce management
- How freelancing will shape the future of work
- Employer responsibility for employee health and well-being
- The challenges of balancing quality of life initiatives and workplace gender equity

THE 2016 EXECUTIVE EMPLOYER® CONFERENCE (continued)

Thursday sessions will cover a broad range of substantive topics, including:

- How to navigate the complexity of accommodating constitutionally protected but opposing beliefs behind marriage rights and religious beliefs
- Where to draw the line between work time and free time
- How multinational companies can centralize their HR data and comply with international data protection laws

On Friday, the agenda will feature interactive sessions on complex topics – where attendees will be presented with realistic scenarios that will cover the hard questions they likely face on a daily basis – and a broad selection of industry-focused roundtables. The interactive gatherings will feature realistic scenarios, live actors and role playing on such topics as:

- Tactics for assessing employee truthfulness in HR investigations
- Strategies for handling difficult employees and supervisors
- Techniques for conducting effective investigations

This year's Executive Employer Conference will provide in-house counsel, human resources executives and employee relations professionals advice on minimizing and avoiding risk, implementing strategic solutions to increase workplace compliance and practical measures to enhance and benefit your workforce.

We hope you will join us in Phoenix!

The Attorneys of Littler Mendelson



WEDNESDAY | MAY 4: The Future Forum: An Insightful Examination of the Workplace of the Future

The Future Forum: An Insightful Examination of the Workplace of the Future

What does the future of the workplace look like? How will robotics and artificial intelligence impact the way we work? Will data analytics alone affect our decisions as to whom we hire, how we promote and how we assess talent? Will full-time employment be an anachronism and will we, instead, rely more on freelancers? Will we be more concerned about the health and welfare of our employees and cognizant of their family responsibilities?

Join us for a unique and insightful exploration of the issues that will drive our decision-making in the next five to ten years. The Future Forum will examine the future workplace and look at the critical technology and societal developments that could shape our roles as employment law and HR professionals.

11:00 am	Conference Registration					
12:00 pm – 1:30 pm	Lunch with Ed Walters, Founder and CEO, Fastcase (open for all attendees)					
PRE-CONFERENCE SESSIONS						
1:30 pm – 3:00 pm	Using Data Analytics in Onboarding and Employee Performance Measurement	Workplace Equity: Creating a Gender-Neutral Workplace	How Responsible Are Employers for Employees' Well Being?	The Future Has Arrived: Integrating Transformative Technologies in the Workplace	The Future of Union Organizing: Addressing Labor's New Strategies in the Streets and the Emergence of UFOs	Government Contracting: The Frontlines of Future Employment Policy (Part I)
3:30 pm – 5:00 pm	Using Data Analytics in Assessing Litigation Risks	How to Juggle While Balancing: What You Can Do to Create a More Lifestyle-Friendly Environment	"The Independent Worker" Proposal: Finding a Middle Ground Between Employee and Independent Contractor	The Impact of Technology on Workplace Privacy, Information Security and Your Company's IP Assets	Preparing for the Future: Strategic Planning for Legal and HR Departments	Government Contracting: The Frontlines of Future Employment Policy (Part II)
6:30 pm	Reception and Welcome Dinner					

 **NAVIGATION TIP:** Click session titles in the agenda table to jump to the description page

THURSDAY | MAY 5: Current Employment Law Challenges

7:00 am - 8:00 am	Breakfast					
8:00 am - 9:15 am	2016 General Session: The Ever-Evolving Workplace					
SESSIONS						
9:45 am - 11:00 am	The Role of HR Professionals in Investigating Compliance and Whistleblower Claims	Making the Safe Bet: Why You Need to Pay More Attention to Your OSHA Obligations	Retirement Plans Under Attack by Plan Participants and Government Agencies: An Action Plan for Employers	Employer Challenges Based on the EEOC's Current Priorities: A Conversation with EEOC Commissioner Lipnic	Flanking Attacks and Other Maneuvers: How the Plaintiffs' Bar Defeats Arbitral Class Waiver Clauses	The Art of Global Restructuring and Global Workforce Integration
11:15 am - 12:30 pm	The NLRB's Ambush Election Rule: One Year Later	Workplace Violence Prevention in the Age of the "Active Shooter"	The Insider Threat: Enhancing Data Stewardship to Protect Your Information Assets	Same-Sex Marriage, Religion and the Workplace: Accommodating Constitutionally Protected (and Potentially Competing) Rights	The Limits of Work Time: What is Compensable Time?	Canadian v. U.S. Employment Law: Six Minutes at a Time

i **NAVIGATION TIP:** Click session titles in the agenda table to jump to the description page

THURSDAY | MAY 5: Current Employment Law Challenges

12:30 pm – 1:45 pm	Lunch The 2016 Employment Law Update					
2:00 pm – 3:15 pm	The NLRB’s Redefinition of Joint Employment: A Dangerous Twist in Many Common Business Relationships	“Ban the Box” and Other New Restrictions in Hiring	The Affordable Care Act: Imperatives for Employers in 2016 and Beyond	Creative Approaches for Handling ADA and FMLA Issues in the Workplace: Actions You May Not Know You Can Take	State-by-State Wage and Hour Headaches: What Every Multistate Employer Needs to Know	Not Your Traditional Secondment: Trends and Pitfalls in the Transfer of Employees Across National Borders
3:45 pm – 5:00 pm	Talent Management in a Freelance World: Case Studies from the Real World	Legalized Marijuana and the Future of the Drug-Free Workplace	Dancing on a Minefield: Executive Compensation’s New Rules	Paid Sick Time: Local Legislation Creates a Big Problem for Employers	Closing the Gender Pay Gap: The Role of State Fair Pay Laws	The Cross-Border Conundrum: How Can Multinationals Centralize Their HR Data to Comply with the Multitude of International Data Protection Laws?
5:15 pm – 6:00 pm	Special Session Sponsored by the Workplace Policy Institute Preparing for Change – Revisions to the FLSA Overtime Regulations					
6:30 pm	Special Dinner Event – The continuation of a great Littler tradition					

 **NAVIGATION TIP:** Click session titles in the agenda table to jump to the description page

FRIDAY | MAY 6: It's Your Turn - Interactive Workshops & Industry Roundtables

7:30 am - 8:30 am	Breakfast			
SESSIONS				
8:30 am - 10:00 am	Conducting Lawful Investigations: Facing New Challenges, Refining Your Techniques and Avoiding the Common Pitfalls	Become a Human Lie Detector: Tactics for Assessing Employee Truthfulness	The Employee from Hell: The Tables Are Turned! (Part I)	Industry Roundtables: <ul style="list-style-type: none"> • Food and Beverage • Government Contractors • Healthcare • Retail • Transportation/Courier
10:30 am - 12:00 pm			The Employee from Hell: The Tables Are Turned! (Part II)	
11:30 am	Boxed Lunches			
12:15 pm - 1:15 pm	Special Session Ethical Issues for In-House Counsel: "What Do You Mean It's Not Privileged?"			

i **NAVIGATION TIP:** Click session titles in the agenda table to jump to the description page



11:00 am	Conference Registration
12:00 pm - 1:30 pm	Lunch with Ed Walters, Founder and CEO, Fastcase (open for all attendees)
Choose One (continued on page 9)	
1:30 pm - 3:00 pm	<p>Using Data Analytics in Onboarding and Employee Performance Measurement</p> <p>Join us for a unique examination of the future impact of data analytics on workplace decision-making. What may seem to be futuristic is, in fact, coming to your workplace sooner than you may realize. For example, data can be used to predict which applicants are likely to become successful employees or to predict which employees are likely to voluntarily quit in the next six months. The data sources used to render these predictions come from public sources and information provided by applicants and employees, as well as from internal company records. While companies are investing heavily in artificial intelligence and data-science approaches to decision-making, employers continue to operate with little legal guidance that translates seamlessly into the world of Big Data.</p> <p>This session will address how employers can:</p> <ul style="list-style-type: none"> • Work to reduce the gap between the data being considered and the desired outcome of the selection process in hiring. • Resist the temptation to allow artificial intelligence to entirely replace intuition and business intelligence. A better approach is to incorporate analytics into decision-making to augment and inform processes. • Consider legal risks <i>before</i> they materialize and evaluate the legal issues associated with data analytics in an attorney-client privileged setting whenever possible.
1:30 pm - 3:00 pm	<p>Workplace Equity: Creating a Gender-Neutral Workplace</p> <p>The political climate and recent legislative changes have placed an increased emphasis on achieving gender equity across many areas of employment law. Is this even possible? How will recent state legislative efforts to pass equal pay laws affect multistate employers? How do disparities in recruiting and mentoring affect career advancement and the workforce? In this session, we will identify areas of particular concern to employers for handling these challenges in the future workplace.</p>
1:30 pm - 3:00 pm	<p>How Responsible Are Employers for Employees' Well Being?</p> <p>This session will look at the future of employer-sponsored wellness initiatives. Do these programs really deliver a meaningful return on investment or are they a passing fad? Do the final EEOC regulations increase employers' liability for such programs? Should helping your employees achieve a healthier lifestyle be filed under "let no good deed go unpunished"? Join our panelists to discuss the evolution of wellness programs, their legal status and the future of employer-sponsored wellness programs.</p>
1:30 pm - 3:00 pm	<p>The Future Has Arrived: Integrating Transformative Technologies in the Workplace</p> <p>Robotics, artificial intelligence and 21st century automation are rapidly changing and redefining where and how we work. Transformative technologies are becoming more integrated into the human workplace, not only completing tasks autonomously, but also enhancing human performance and safety. And while the use of robotics has continued to grow in manufacturing, the real surge has been in the medical, service and retail industries. As jobs continue being replaced by new technologies, employers will need to consider issues such as: safety standards, data privacy, disparate impact and the potential for displacement. Join the members of our panel as they discuss the employment law challenges and propose solutions to help you navigate the future workplace.</p>



Choose One (continued from page 8)

<p>1:30 pm – 3:00 pm</p>	<p>The Future of Union Organizing: Addressing Labor’s New Strategies in the Streets and the Emergence of UFOs</p> <p>Union Front Organizations (UFOs), also known as the Worker Center Movement, continue to grow rapidly, creating labor relations challenges for employers. UFOs attempt to present a “workers’ rights” case that may be more sympathetic and acceptable to the public than a traditional labor union. UFOs seek to avoid NLRA coverage and attendant National Labor Relations Board scrutiny and have become increasingly empowered by federal administrative and regulatory actions. As such, UFOs are an issue for non-union and unionized employers alike. Littler attorneys with extensive experience with this movement will discuss the latest developments and trends and provide practical advice to protect your company and its public image.</p>
<p>1:30 pm – 3:00 pm</p>	<p>Government Contracting: The Frontlines of Future Employment Policy (Special Two-Part Session)</p> <p>Unable to move its labor and employment agenda through a gridlocked Congress, the White House continues to rely heavily on Executive Orders (EOs) and Presidential Memoranda to implement its agenda of employment-related regulations, even if only applicable to government contractors and their employees. This aggressive agenda includes:</p> <ul style="list-style-type: none"> • “Fair Pay and Safe Workplaces” (the “Blacklisting” Rule) • “Non-Retaliation for Disclosure of Compensation Information” • The “Advancing Pay Equality Through Compensation Data Collection” Presidential Memorandum • Prohibiting discrimination based on sexual orientation and gender identity • Establishing a new minimum wage for contractors • Establishing paid sick leave for contractors <p>Critically, these federal initiatives have inspired state and local governments to impose their own sweeping workplace regulations. In these sessions, our panel will provide experienced guidance on the status and requirements of the various federal, state and local initiatives, analyze their impact on the government contracting community and provide insights to help reduce the risks faced by companies performing vital services for the government.</p>
<p>3:00 pm – 3:30 pm</p>	<p>Break</p>
<p>3:30 pm – 5:00 pm</p>	<p>Government Contracting: The Frontlines of Future Employment Policy (Special Two-Part Session)</p>



Choose One	
3:30 pm – 5:00 pm	<p>Using Data Analytics in Assessing Litigation Risks</p> <p>Is your company a likely target of class action litigation? If so, how likely is the case to be certified or dismissed on summary judgment? What do cases like this settle for? Businesses want to know the answer to these questions when evaluating their litigation strategy. This session will explain how publicly available data, such as Pacer and the docket sheets it maintains, may be harvested to assess litigation risk and look at the strategies most likely to succeed in reducing risk. The panel will be comprised of Littler attorneys and economists who will identify which data are the best predictor and how best to use this data to assess litigation risk.</p>
3:30 pm – 5:00 pm	<p>How to Juggle While Balancing: What You Can Do to Create a More Lifestyle-Friendly Environment</p> <p>Hardly a day goes by without a blog post or article discussing the challenges of lifestyle balance and the juggling act many of us perform every day. How do employers accommodate the needs of employees with family responsibilities? And, how do you respond to employees without families who may resent such accommodation efforts? This session will examine the employment law challenges employers face and discuss the strategies and benefits some employers are offering their employees in an attempt to keep them motivated, happy and less stressed. A panel of Littler attorneys and clients will examine the competing concerns that need to be balanced in implementing family-friendly lifestyle programs.</p>
3:30 pm – 5:00 pm	<p>“The Independent Worker” Proposal: Finding a Middle Ground Between Employee and Independent Contractor</p> <p>Rapid technological development and the changing nature of work are straining the capacity of traditional employment and independent contractual relationships. The rise of the “gig” or “on-demand” economy offers former “employees” the opportunity to decide for themselves how to structure their personal lives in relation to income-generating activity. As these workers leave traditional employment behind, however, courts and legislatures are being asked to resolve disputes over the loss of legally mandated protections and benefits associated with employee status. Recently, policy experts have proposed a “third way,” a new legal category called “the independent worker” for those who occupy this gray area between employees and independent contractors. These workers would qualify for many, but not all, of the benefits associated with employee status. Our panel will discuss the outlines and merits of this concept as a means to accommodate the future of relationships at work.</p>
3:30 pm – 5:00 pm	<p>The Impact of Technology on Workplace Privacy, Information Security and Your Company’s IP Assets</p> <p>To remain competitive and manage an increasingly tech-savvy and global workforce, employers are turning to new technologies, such as “Big Data” analytics, large-scale location tracking of employees, body sensors and advanced online monitoring techniques. At the same time, the “next-gen” workforce is injecting its own technological advances into the workplace, including preferred mobile devices, apps that make concealed recording easy and personal wearables. This flood of technology has escalated the risk that corporate information assets will be compromised while magnifying exposure to employees’ privacy-based claims. In this interactive session, our panel of subject matter experts will briefly introduce each cutting-edge topic, open the floor to audience questions and recommend practical steps to get ahead of rapidly evolving technological trends.</p>
3:30 pm – 5:00 pm	<p>Preparing for the Future: Strategic Planning for Legal and HR Departments</p> <p>Today’s law department leaders and HR executives are expected to establish strategic plans, ensure that they align with the broader corporate strategy and adjust course as the business continues to evolve and grow — just as every other business unit must do. In this interactive session, experienced law department strategists will highlight common challenges, potential efficiencies, and share other best practices that, when properly employed, will help you establish your unit as a true tactical asset to your organization.</p>
6:30 pm	<p>Reception and Welcome Dinner</p>



<p>7:00 am - 8:00 am</p>	<p>Breakfast</p>
<p>8:00 am - 9:15 am</p>	<p>2016 General Session: The Ever-Evolving Workplace</p> <p>Littler has always been ahead of the curve in recognizing trends, predicting results and providing practical, proactive advice in the world of labor and employment law. Whether it was the popularity of social media, the challenges presented by aggressive government agencies or how new technologies revolutionize the workplace, Littler has been there with you to navigate change and help you best position your company for long-term success. This year's Executive Employer General Session will once again explore the changes dramatically impacting our workplaces and influencing how HR and employment law professionals address their job responsibilities today and in the coming years. Join us as we continue the rich tradition started over 30 years ago of providing Employer Conference attendees with the tools to handle today's challenges and providing guidance on preparing for future changes in the laws and the very nature of our workplace.</p>
<p>Choose One (continued on page 12)</p>	
<p>9:45 am - 11:00 am</p>	<p>The Role of HR Professionals in Investigating Compliance and Whistleblower Claims</p> <p>In the post-financial crisis era, more and more industries find themselves subject to regulatory scrutiny and law enforcement actions from a variety of federal and state agencies. In addition to employment litigation, government prosecutions that could result in criminal penalties for companies and their officers have become a significant risk. The role of HR in this new era is more important than ever, but it has changed. HR professionals must work effectively with compliance and regulatory colleagues. Every aspect of employment, from the hiring process, to discipline and, of course, through termination, must also take account of laws that go beyond the anti-discrimination and other laws traditionally within the purview of HR professionals.</p> <p>This session will consider the role of HR in this new enforcement era and how HR professionals working with compliance can mitigate risk. It will include speakers from regulated industries and will examine how HR interacts with other departments, such as legal and compliance teams, and how HR can continue to maintain its important role at the table.</p>
<p>9:45 am - 11:00 am</p>	<p>Making the Safe Bet: Why You Need to Pay More Attention to Your OSHA Obligations</p> <p>Penalties under the U.S. Occupational Safety and Health Administration (OSHA) are increasing by 80% this year — up to \$12,600 for a single serious violation. Are you willing to bet that your company is in compliance? Do you know what to do to prepare for an OSHA inspection?</p> <p>In this session, Littler lawyers with extensive experience regarding health and safety compliance will discuss issues, including:</p> <ul style="list-style-type: none"> • The safety and health issues OSHA is focusing on this year • Strategies for reporting a hospitalization, amputation or loss of an eye and responding to OSHA's questions • Safety and health implications for employers who use temporary or leased employees • OSHA's proposed rulemaking for the final year of the Obama administration
<p>9:45 am - 11:00 am</p>	<p>Retirement Plans Under Attack by Plan Participants and Government Agencies: An Action Plan for Employers</p> <p>Recently, the courts have made it easier for retirement plan participants to sue plan fiduciaries on grounds ranging from inadequate plan investments and excessive plan fees or misstatements regarding plan benefits. Both the IRS and DOL have been aggressively auditing plans and holding employers' feet to the fire when perceived violations are found. Employers now, more than ever, must take seriously their role as the stewards of their 401(k) plans. In this session, we will discuss best practices for fiduciary governance and specific steps that can be taken to protect plan fiduciaries. We will also discuss areas of concern to employers in their role as plan administrators and the best way to protect plans from administrative miscues.</p>



Choose One (continued from page 11)

<p>9:45 am - 11:00 am</p>	<p>Employer Challenges Based on the EEOC's Current Priorities: A Conversation with EEOC Commissioner Lipnic</p> <p>During the past year, we have continued to witness the EEOC expand its investigations and initiate litigation involving its current priorities, including: (1) broad-based attacks on recruitment and hiring practices involving claims of both intentional discrimination and adverse impact; (2) emerging and developing issues, such as an expanded view of pregnancy discrimination and religious accommodation; (3) continued ADA challenges and recent coverage of LGBT workers; (4) increased focus on equal pay laws; (5) preserving access to the legal system, which has included challenges to releases and arbitration programs; and (6) ongoing efforts to attack harassment through systemic enforcement, targeted outreach and litigation by the EEOC. Join us for a one-on-one conversation with Commissioner Victoria Lipnic as we review the EEOC's expanded reach, highlight current litigation, review recent settlements and provide practical recommendations in dealing with the ever-expanding area of EEO law.</p>
<p>9:45 am - 11:00 am</p>	<p>Flanking Attacks and Other Maneuvers: How the Plaintiffs' Bar Defeats Arbitral Class Waiver Clauses</p> <p>This is war, and the plaintiffs' bar is being denied its spoils. During this session, we will discuss the most recent efforts by the plaintiffs' bar and sympathetic judges and lawmakers to undercut the enforceability of arbitration agreements and, particularly, class action waivers. In this session, our panel will provide reinforcements in the form of practical tips to audit current practices and beat back the assault against class action waivers from the plaintiffs' bar.</p>
<p>9:45 am - 11:00 am</p>	<p>The Art of Global Restructuring and Global Workforce Integration</p> <p>Corporate restructuring within the U.S. is a common but oft-times complicated endeavor. For the global employer, restructuring on a multinational basis can result in unexpected difficulties and costly delays. Restructures related to mergers or acquisitions often suffer from an under appreciation and lack of understanding around the "people issues," sometimes leading to disappointing results. Whether a company is restructuring to take advantage of efficiencies in other markets, to reduce costs or to combine entities, legal and HR executives must advocate for and carefully plan restructures that appropriately address the timing, cost and legal obligations that commonly arise. In this session, we will discuss the steps you need to take to undergo a successful and efficient global restructure and workforce integration, including pre-planning tips and general guidelines for aligning HR policies, programs and cultural considerations.</p>



Choose One (continued on page 14)

<p>11:15 am - 12:30 pm</p>	<p>The NLRB's Ambush Election Rule: One Year Later</p> <p>In the year since the NLRB's "expedited election rule" went into effect, Littler attorneys have been handling elections across the country and confronting the challenges the new procedures present. These include dealing with newly defined obligations surrounding employee lists and grappling with the difficulties of presenting appropriate objections on a timely basis. In this session, we will discuss the key lessons we have learned and the valuable data we have gathered on what works and what does not. We will also consider whether the projected nightmares of the new rule have materialized and what employers need to be doing in advance to prepare for and respond to election petitions under the new rules.</p>
<p>11:15 am - 12:30 pm</p>	<p>Workplace Violence Prevention in the Age of the "Active Shooter"</p> <p>The recent tragic mass shootings in the U.S. and abroad have had global reverberations. They have also left employers grappling with questions as to what measures they should take - or are legally obligated to take - to keep employees safe from harm in the workplace. Under the federal Occupational Safety and Health Act (OSHA), all employers have a general duty to provide a safe workplace for employees. In this session, we will discuss steps that employers can take, including:</p> <ul style="list-style-type: none"> • Developing policies and practices to increase awareness, recognition and reporting of actual or potential incidents of workplace violence • Understanding some of the warning signs of workplace violence • Learning how to assess the on-scene risk and deploy measures that are proportionate • Evaluating whether to conduct "active shooter" response training
<p>11:15 am - 12:30 pm</p>	<p>The Insider Threat: Enhancing Data Stewardship to Protect Your Information Assets</p> <p>Study after study demonstrates that negligent and malicious insiders - employees, contractors, and other business partners - are the number one threat to an organization's information assets. This "insider threat" is as much an IT problem as it is a "people problem." HR professionals and in-house employment counsel, in partnership with information security personnel, are in an ideal position to address this threat by developing a culture of data stewardship within their organizations. Creating a culture of data stewardship touches every stage of the employment life cycle, including, for example, pre-employment screening, onboarding, policy implementation, employee training, online monitoring, employee discipline and exit interviews. In this session, we will provide practical recommendations for identifying, responding to and preventing potential insider threats through enhanced training, policies, process and technology.</p>



Choose One (continued from page 13)

<p>11:15 am – 12:30 pm</p>	<p>Same-Sex Marriage, Religion and the Workplace: Accommodating Constitutionally Protected (and Potentially Competing) Rights</p> <p>Last June, the U.S. Supreme Court ruled that same-sex couples have a constitutionally protected right to marry and, as a corollary, LGBT individuals are protected by the due process clause and the equal protection clause of the 14th Amendment. That same month, Caitlyn Jenner appeared on the cover of <i>Vanity Fair</i> magazine and announced to the world that she was transitioning her gender. Those two events in the span of a week changed the conversation across the country and, at the same time, placed employers in the crosshairs of two groups asserting their newly-protected rights: LGBT workers and workers who oppose LGBT rights based on their religious beliefs. The two groups may seem distinct or even opposed, but they actually are intertwined: extending new rights to LGBT employees may lead to religious freedom objections, and vice versa. This session will review the current legal protections surrounding sexual-orientation- and transgender-based discrimination, the religious exemptions to such protections and what employers need to know to accommodate these protected and competing rights.</p>
<p>11:15 am – 12:30 pm</p>	<p>The Limits of Work Time: What is Compensable Time?</p> <p>As plaintiffs' attorneys search for big class action claims, the issue of what activities constitute compensable work time has become an increasing target. Employers must constantly examine the realities of the workplace to determine if employees need to be compensated for such activities as completing new hire paperwork either online or in person, enrolling in benefits plans during the course of employment or attending health seminars. Are security screenings and bag checks compensable work time? Must employees be paid for donning safety gear or uniforms before beginning their work day and doffing at the end of the work day? Do employees need to be paid for travel time in company vehicles? What about time spent on overnight trips? When on an overnight trip or otherwise, is sleeping on the job a compensable activity? Can you pay a different rate for travel time? Should employees be paid for the small amount of time it takes to boot up their computers for checking email after hours? When is on-call time compensable? Must employees be paid for time spent in mandatory healthcare, such as required alcohol rehab programs and other wellness programs? These and other common workplace activities will be examined as we look at the limits of compensable work time and provide practical compliance guidance.</p>
<p>11:15 am – 12:30 pm</p>	<p>Canadian v. U.S. Employment Law: Six Minutes at a Time</p> <p>This session will provide an introduction to Canadian employment and labor law for U.S.-based employers. Join Littler's Toronto attorneys for an interactive look at Canadian employment law that will highlight the differences between U.S. and Canadian law. We will spend six minutes on each key area, followed by a discussion applying the laws to several different fact patterns — highlighting the differences and similarities between the application of the laws in the U.S. and Canada.</p>
<p>12:30 pm – 1:45 pm</p>	<p>Lunch – The 2016 Employment Law Update</p> <p>A perennial favorite at the Executive Employer Conference, this special lunchtime session provides a unique opportunity to understand the latest court cases, legislative and regulatory activity and crucial developments that will affect your workplace and your responsibilities this year and for the rest of this decade. As in the past, we have assembled a terrific panel of Littler attorneys from across the country and from multiple practice areas who will guide you through the maze of new developments and prepare you for the challenges ahead in a fast-paced and highly entertaining session.</p>



Choose One (continued on page 16)

<p>2:00 pm – 3:15 pm</p>	<p>The NLRB’s Redefinition of Joint Employment: A Dangerous Twist in Many Common Business Relationships</p> <p>The NLRB’s 2015 decision in <i>Browning-Ferris</i> was a game-changer for U.S. businesses. The new standard requires the NLRB, on a case-by-case basis across virtually all industries, to inject itself into complex business relationships, the structures of which often are primarily unrelated to labor relations. Littler attorneys have been confronting the new standard from the front lines and gathering recommended practices to minimize employers’ risk of being found a joint employer under the NLRA. This session will delve into the nuanced details of the new standard and explore various business relationships to determine and discuss the level of risk and potential liability.</p>
<p>2:00 pm – 3:15 pm</p>	<p>“Ban the Box” and Other New Restrictions in Hiring</p> <p>In the past few years, several states and municipalities have enacted laws significantly restricting certain inquiries in the hiring process. “Ban the box” laws prohibiting or restricting if and when an employer can request or consider an applicant’s (or a current employee’s) criminal history during the hiring and interview process have been enacted in several jurisdictions. Other jurisdictions have enacted laws prohibiting inquiries regarding an applicant’s credit history or debt, including consideration of bankruptcy or adverse judgments affecting the applicant’s economic condition. Littler attorneys with extensive experience regarding these restrictions will discuss the limitations imposed on employers and what employers can do to comply with these myriad new requirements.</p>
<p>2:00 pm – 3:15 pm</p>	<p>The Affordable Care Act: Imperatives for Employers in 2016 and Beyond</p> <p>Now that we are in the era of the pay-or-play mandate, employers are formulating strategies to best deal with healthcare reform. Employers are beset with threats of lawsuits, new governmental filings and penalty taxes as they navigate the perilous waters of healthcare reform. Special concerns exist for employers who are going through workforce restructurings, as well as those who deal with staffing companies, short-term employees and employees covered by collective bargaining agreements. In this session, we will discuss how employers can best meet these challenges.</p>
<p>2:00 pm – 3:15 pm</p>	<p>Creative Approaches for Handling ADA and FMLA Issues in the Workplace: Actions You May Not Know You Can Take</p> <p>Companies have come to believe that the answer is always “no” whenever the ADA or FMLA is involved. Employers are told so often what they cannot do, that it is easy to lose sight of everything that they can do. Our panel will identify actions that employers can take under the ADA and FMLA in a variety of situations. Many of these actions are “reverse engineered” from existing, but little-known, case law. These actions run the gamut and include: determining when the FMLA/ADA are not applicable; pushing back on certification problems; when medical exams or testing are appropriate and lawful; ways to not “give up the store” in dealing with requests for reasonable accommodation; and when you can terminate even though the FMLA/ADA are “in the picture.” This session is a great opportunity to increase your knowledge of options on a topic that likely occurs on a daily basis in your workplace.</p>

Choose One (continued from page 15)

2:00 pm -
3:15 pm

State-by-State Wage and Hour Headaches: What Every Multistate Employer Needs to Know

Employers who often complain about the complexities of complying with California's wage and hour laws have even more to complain about with the recently enacted statute governing the calculation of piece-rate pay. This statute will have significant impact on non-exempt employees in California who are paid commissions. However, many multistate employers are unaware of similar complexities that exist in other state laws, including New York, Washington (meal and rest periods) and Massachusetts (independent contractors). This session will highlight the particular trouble spots from across the country.

2:00 pm -
3:15 pm

Not Your Traditional Secondment: Trends and Pitfalls in the Transfer of Employees Across National Borders

In today's global economy, the exchange and transfer of employees across national borders is an important part of companies' employee development and training programs as well as business expansion and restructuring strategies. However, a growing number of jurisdictions are making it more difficult for companies to use traditional secondment structures, including economies as important as Australia, China, Indonesia, Malaysia and Mexico, among others. In this session, our panel will address the hallmarks of the traditional secondment strategy for cross-border transfers and contrast it to alternative structures that may need to be used in a growing number of jurisdictions, such as dual employment, rotational staffing and immediate localization. Panelists will also discuss the impact of tax and immigration laws on the structure selected.

Choose One (continued on page 18)

<p>3:45 pm – 5:00 pm</p>	<p>Talent Management in a Freelance World: Case Studies from the Real World</p> <p>The meteoric rise of the on-demand economy has forced many businesses to rethink how they attract and manage non-traditional talent. With the number of freelancers expected to explode in the coming years, businesses will need access to new technologies that allow them to manage the complexities associated with non-traditional work. This immersive session will consist of an interactive discussion with the use of case studies and role-playing exercises designed to simulate the real-world challenges facing today’s top executives. The session will also explore different technologies being used to manage an extended workforce and educate the audience on strategies being employed by some of today’s most successful companies.</p>
<p>3:45 pm – 5:00 pm</p>	<p>Legalized Marijuana and the Future of the Drug-Free Workplace</p> <p>Efforts to legalize marijuana for medicinal and recreational use have spread in the U.S., Canada and Mexico, and a new form of “synthetic” marijuana poses unique challenges. The increased availability and reduced stigma of marijuana use is affecting employers, especially multistate employers grappling with various state law approaches while simultaneously attempting to maintain a drug-free workplace system-wide that matches their corporate culture. In this session, we will discuss the current status of legalized marijuana in the U.S., Canada and Mexico; distinctions between approved medical and recreational use; the legal/illegal synthetic marijuana conundrum and detection limitations; and legal rights and restrictions for employers.</p>
<p>3:45 pm – 5:00 pm</p>	<p>Dancing on a Minefield: Executive Compensation’s New Rules</p> <p>The Internal Revenue Service has issued new rules that affect employer-sponsored executive compensation plans and programs. This panel of experienced Littler attorneys will discuss how these rules will affect equity compensation programs, non-qualified SERPS, income deferral arrangements, incentive plans and plans sponsored by not-for-profit entities.</p>
<p>3:45 pm – 5:00 pm</p>	<p>Paid Sick Time: Local Legislation Creates a Big Problem for Employers</p> <p>Sometimes it seems like paid sick leave obligations are changing by the month, the week or even the day. Just when you come up with a proposal and an agreed-upon solution that works for one location, another law in a neighboring city gets passed. Surely there must be a compliance solution that works across the board? This panel discussion will devote part of the session to: (1) explaining the latest city, county and state paid sick leave laws; (2) providing an update on the paid sick leave Executive Order for federal contractors; (3) discussing various compliance options, including pros and cons of different paid time-off benefits and universal vs. locality-by-locality compliance solutions; and (4) offering a status update on paid sick leave laws and issues that are on the horizon. Attendees will be given the opportunity to ask questions and discuss practical applications of the law to corporate realities.</p>

Choose One (continued from page 17)

<p>3:45 pm – 5:00 pm</p>	<p>Closing the Gender Pay Gap: The Role of State Fair Pay Laws</p> <p>The California Fair Pay Act of 2015 discourages secrecy and increases transparency on employee pay. The amended law allows employees to discover and challenge any wage differential, to motivate employers to rectify any apparent wage gap based on gender. The New York State Fair Pay Act also was amended in 2015, and it includes the same affirmative defenses as the California law. The Massachusetts Equal Pay Act is even more sweeping and more limiting in terms of the employer’s defenses. This session will summarize each law’s provisions and report on the cases filed and any decisions since their effective date. Panelists will also discuss strategies for preventing and defending these claims and how they have fared in the courts.</p>
<p>3:45 pm – 5:00 pm</p>	<p>The Cross-Border Conundrum: How Can Multinationals Centralize Their HR Data to Comply with the Multitude of International Data Protection Laws?</p> <p>As new cloud-based services make it easier than ever to manage a global workforce, and global communications networks allow even small and mid-sized businesses to transform themselves into multinational corporations, businesses of every size must now confront the maze of restrictions on cross-border transfers of HR data. In stark contrast to the U.S., more than 50 countries in Asia, Europe, Latin America and other areas of the globe generally prohibit the transfer of HR data to the U.S. and other countries. The European Court of Justice substantially complicated this cross-border conundrum in October 2015 by invalidating the U.S.-EU Safe Harbor Framework on which thousands of U.S. businesses relied to lawfully transfer personal data from the 28 member states of the EU to the U.S. This panel of attorneys from around the globe will identify the key challenges in their region for transferring HR data to the U.S. and will explain recent legal developments in this rapidly evolving area of the law. We will provide practical recommendations for implementing global HR databases and cloud-based solutions for global workforce management.</p>
<p>5:15 pm – 6:00 pm</p>	<p>SPECIAL SESSION Sponsored by the Workplace Policy Institute</p> <p>Preparing for Change: Revisions to the FLSA Overtime Regulations</p> <p>The Department of Labor (DOL) is poised to issue a final set of regulations that will dramatically increase the number of employees eligible for overtime. Some reports estimate an additional five million employees will be eligible for overtime as a result of the rule. According to the DOL, these proposed changes to the Fair Labor Standards Act’s white-collar overtime exemption regulations will result in a \$1.1-\$1.2 billion per year transfer of income from employers to employees. So how will this work in practice? Who is no longer exempt under the FLSA? Will the final rule include a change to the “duties” test? Will entire sectors need to be reclassified? This special session will feature Littler attorney Tammy McCutchen, a former DOL Wage and Hour Administrator and current leading authority on federal and state wage and hour laws, who will provide clarity on the thorny issues thousands of employers will face in the coming months.</p>
<p>6:30 pm</p>	<p>Special Dinner Event – The continuation of a great Littler tradition</p>



<p>7:30 am - 8:30 am</p>	<p>Breakfast</p>
<p>Choose One</p>	
<p>8:30 am - 10:00 am</p>	<p>Conducting Lawful Investigations: Facing New Challenges, Refining Your Techniques and Avoiding the Common Pitfalls</p> <p>Conducting effective internal investigations of workplace misconduct requires not only analytical expertise and knowledge of the law, but also the ability to gather facts in an efficient and fair manner and to articulate findings objectively. Through this hands-on, interactive workshop, you will learn the art of the investigation process and new techniques for conducting a lawful and effective investigation. We will discuss best practices that work and common practices that do not. We will explore a detailed list of common pitfalls as we focus on the challenges associated with the use of social media, personal devices in the workplace and other issues facing employers today. Participants will be actively engaged in using their newly acquired investigative techniques and will have the opportunity to practice them during this session.</p>
<p>8:30 am - 10:00 am</p>	<p>Become a Human Lie Detector: Tactics for Assessing Employee Truthfulness</p> <p>HR professionals frequently assess truthfulness in the workplace. Making accurate and timely credibility determinations is an essential skill, but how can HR professionals be certain someone is being truthful? The task can be daunting. However, there are techniques that can make the job easier: proven tips and tricks borrowed from another profession - the professional intelligence officer. Throughout history, countries have relied on spies and espionage to seek out the truth regarding their adversaries. While there are ethical, legal and practical considerations that prevent employers from developing their own spy networks in the workplace, there is no reason why they cannot borrow, and learn from, some of the other tools that spy handlers around the world have used to assess truthfulness. This presentation does just that - outlining tips and tactics that can help determine whether someone is lying or telling the truth in the employment context and beyond.</p>
<p>8:30 am - 10:00 am</p>	<p>The Employee from Hell: The Tables Are Turned! (Part I)</p> <p>We first met the "employee from hell" (and her less-than-perfect supervisor) at the 2011 Executive Employer Conference. We visit her five years later to discover that she has gone back to school and is now the Company's new HR manager.</p> <p>In this two-part program, we will take the "hot topics" you learned about in Thursday's break-out sessions and apply them to real life scenarios that arise in the workplace every day. Some of the issues facing our former nightmare employee in her new role include:</p> <ul style="list-style-type: none"> • Workers raising moral and religious objections to same-sex marriage and recognizing transgender employees in the workplace • Issues regarding pay equity between male and female employees • Joint employer problems when using staffing companies • Equity issues surrounding different "flavors" of leaves of absences • Employees using marijuana in states where it is legal to do so
<p>10:00 am - 10:30 am</p>	<p>Break</p>



<p>10:30 am – 12:00 pm</p>	<p>Conducting Lawful Investigations: Facing New Challenges, Refining Your Techniques and Avoiding the Common Pitfalls (session continued)</p>
<p>10:30 am – 12:00 pm</p>	<p>Become a Human Lie Detector: Tactics for Assessing Employee Truthfulness (session continued)</p>
<p>10:30 am – 12:00 pm</p>	<p>The Employee from Hell: The Tables Are Turned! (PART II)</p>
<p>11:30 am</p>	<p>Boxed Lunches</p>
<p>Industry Roundtables Industries across the country are facing new, unique challenges from many fronts, including active legislatures, regulators and the courts. On Friday morning, Littler will be hosting roundtables where you can interact with industry peers, ask questions of Littler attorneys with particular experience in your industry and share best practices. This year, these special sessions will focus on the following industries: Food and Beverage, Government Contractors, Healthcare, Retail and Transportation/Courier.</p>	
<p>8:30 am – 12:00 pm</p>	<p>Industry Roundtables</p> <ul style="list-style-type: none"> • Food and Beverage • Government Contractors • Healthcare • Retail • Transportation/Courier
<p>12:15 pm – 1:15 pm</p>	<p>Post-Conference Ethical Issues for In-House Counsel: "What Do You Mean It's Not Privileged?"</p> <p>Using a lively and entertaining interactive format, this program will examine the most challenging issues surrounding the application of the attorney-client and work-product privileges in the employment context. Examples will include:</p> <ul style="list-style-type: none"> • Wage-hour and other systemic audits • Benefit plan administration • Investigations of employee misconduct • Joint representation • Audit letter responses • Due diligence disclosures <p>Real-life, practical takeaways on these critical topics will be provided. <i>CLE Ethics credit is pending.</i></p>

REGISTRATION & HOTEL INFORMATION



Registration

To register for the conference, please visit www.ExecutiveEmployer.com/register or call Juanita Treadway at 541.301.6102.

Location and Hotel Accommodations

JW Marriott Phoenix Desert Ridge Resort
5350 East Marriott Drive • Phoenix, AZ 85054

Littler is pleased to offer a discounted room rate for conference attendees of \$279 plus tax, per night. **To receive this discounted rate, you must register for your room through the conference website or call Juanita Treadway at 541.301.6102. The discounted room rate is not available directly through the hotel. Please do not contact the hotel directly to make room reservations.**

Please Note

Space is limited. The main conference hotel often is sold out weeks prior to the conference, so please make your reservations early. We may have additional room blocks at nearby properties. Please contact Juanita Treadway for more information.



To register for the conference, please visit
www.ExecutiveEmployer.com/register
or call Juanita Treadway at 541.301.6102

MCLE/CLE Credits

This program will qualify for continuing legal education credit in most jurisdictions and could provide up to 16.75 hours of available credit, varying by state. Littler certifies that this activity conforms to the standards for approved education activities prescribed by the rules and regulations of the state bars governing continuing legal education. This program is pending approval for continuing education credit by the state bar in those states in which Littler has offices and where there are continuing legal education requirements.

PHR/SPHR/GPHR/SHRM/HRPA Certification Credits

This program provides up to 15.25 re-certification credit hours toward re-certification through the Human Resource Certification Institute (HRCI), the Society for Human Resource Management (SHRM) and the Human Resources Professionals Association. For more information about certification or re-certification, please visit the HRCI website at www.hrci.org, the SHRM website at www.shrm.org, and/or the HRPA website at www.hrpa.ca.

Tax Deduction of Expenses

An income tax deduction is allowed for expenses of education, including registration fees, travel, meals and lodging undertaken to maintain or improve professional skills (Treas. Reg. 1.1662-5; *Coughlin v. Commissioner*, 203 F.2d 307 [2d Cir. 1953]).