



2022 MIDWEST REGIONAL EMPLOYER CONFERENCE



The Accelerating Evolution of the Workplace...We Got This!

Thursday | November 3, 2022

7:30 a.m. — 8:30 a.m.

Registration & Breakfast

General Session | 8:30 a.m. — 9:45 a.m.

The Littler Report

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. The 2022 Littler Report will 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 our tradition of providing attendees with the tools to handle today's challenges and guidance on preparing for future changes in the laws and the very nature of our workplace.

Speaker:

Marko Mrkonich, Shareholder

Guest Panelists:

Karen Charlson, Shareholder

Michael Congiu, Shareholder

Niloy Ray, Shareholder

Stephanie Sarantopoulos, Program Director, Littler onDemand | Shareholder

9:45 a.m. — 10:00 a.m.

Break

Breakout 2 A & B | 10:00 a.m. — 11:00 a.m.

Session 2A

A Practical Primer on Inclusion, Equity, and Diversity Programs

IE&D is a business necessity for many employers because of its bearing on engagement and collaboration in the workplace, legal compliance, branding, business opportunities, recruitment, and retention. From local businesses to international conglomerates, employers are tackling difficult questions surrounding developing and implementing best-in-class IE&D programs. Cutting-edge initiatives include analyzing important diversity metrics and navigating the legal landscape and cultural issues that are inevitably associated with this topic.

In this session, Littler attorneys offer their extensive experience in creating, implementing, and managing legally compliant IE&D programs. We will share recommendations regarding program content and informed perspectives on legal and compliance issues regarding IE&D. We will also discuss how clients facing crisis situations in the IE&D space can navigate resolution without incurring reputational harm.

Speakers:

David Goldstein, Shareholder

Kate Mrkonich Wilson, Shareholder

Session 2B

Practically Navigating Complex, Real-Life Leave and Accommodation Scenarios

It's "Bring a Littler Lawyer to Work" Day! This program will feature vignettes involving HR professionals and, in some instances, a high-maintenance employee, posing complex leave and/or accommodation scenarios for discussion. Littler attorneys will then talk through the legal and practical issues as they work toward a resolution for each situation that will enable employers to build a compliant, but also workable, response. Topics will include complex return to work and work-from-home battles, performance issues commingled with protected leaves or accommodations, leave obligations beyond FMLA, organizational changes and the impact of the FMLA/ADA on those changes, and more.

Speakers:

Susan Fitzke, Office Managing Shareholder

Emily McNee, Shareholder

11:00 a.m. — 11:10 a.m.

Break

Breakout 3 A & B | 11:10 a.m. — 12:10 a.m.

Session 3A

Anatomy of Restrictive Covenants: How to Navigate Employee Mobility and Protect Your Business

Employers continue to face challenges to recruit and retain talent in a fluctuating job market while balancing the importance of protecting company assets. Restrictive covenants have come under increasing scrutiny from lawmakers and the courts in Minnesota (consistent with the trend nationally, as well as the Biden Administration's push for federal reform of noncompete law). This has resulted in a confusing patchwork of laws and underlying principles that leave employers grappling with how best to protect their legitimate business interests in guarding their confidential and proprietary information without alienating the highest-performing candidates. In this workshop, we will focus on practical considerations for exiting and onboarding employees in a way that will best protect a company's real confidential information and limit the risk of claims for interfering with any restrictive covenants. This discussion will address:

- An overview of noncompete, nonsolicitation, and no hire provisions
- What is "confidential information"
- Practical considerations for hiring employees from competitors with restrictive covenants
- Steps to take when a departing employee has restrictive covenants
- Benefits and drawbacks to consider in enforcing restrictive covenants

Speakers:

Kerry Middleton, Shareholder

Jeremy Sosna, Shareholder

Lauren Clements, Associate

Session 3B

Managing the Contingent Workforce – It's Not Getting Easier

Independent contractor and joint employment law impacts much of the U. S. workforce, and to some extent your workforce abroad. With aggressive penalties for employers who allegedly misclassify to save costs and avoid taxes or who fail to properly pay workers, the DOL, the NLRB, other federal and state agencies, and plaintiffs' lawyers are increasingly turning their attention to independent contractor relationships. Agencies and plaintiffs are likewise working to expand the definition of joint employer to include more and more companies with even less involvement in work done by not only their own employees, but also work performed by various types of contingent workers. In this seminar, we will discuss the dangers, new developments impacting these areas of the law, and how to navigate the complex and confusing legal landscape.

Speakers:

Jacqueline Kalk, Shareholder

Ben Sandahl, Shareholder

Michael Link, Associate

12:10 p.m. — 12:40 p.m.

Lunch and Networking

General Session | 12:40 p.m. — 1:50 p.m.

Finding Beauty in Change: The Metamorphosis of Work

The news is full of stories about the “Great Resignation.” Many employers are weathering a particularly painful perfect storm of the labor shortage, the supply chain crush and, of course, the pandemic that never ends. As employees come and go, employers wonder: Where are they going, and how can we incentivize talented people to join us, stay with us and be productive? How can we predict what employees need and want, without overhauling the fundamentals of doing business in an ever-changing economy? How can we achieve our commitment to equity when it’s harder than ever to retain women? To add to these challenges, none of the old answers seem to crack the complex coded mystery of what is happening with the workforce.

Our speaker, Claire Deason, tackled these questions in this special session at the firm’s annual Executive Employer in May 2022. It was one of the most talked about and thought-provoking sessions at the event. Claire will join us live to share the recorded special session and lead a lunchtime discussion.

The Metamorphosis of Work examines the idea that the change we are living through in our workplaces – in the U.S. and around the world – is more than pandemic-related, more than a shift in generations, and more than a new way of looking at how and where we work. Instead, it is a sociocultural metamorphosis affecting the fundamental connection and expectations between employer and employee. And it’s not over.

Join us to explore what might grow from today’s chrysalis of challenges, and strategies for building and sustaining employment relationships that meet the needs of employees and employers alike: productive, diverse, satisfied and committed to the future, together.

This session is not eligible for CLE.

Speaker:

Claire Deason, Shareholder

1:50 p.m. — 2:05 p.m.

Break

Breakout 5 A & B | 2:05 p.m. — 3:05 p.m.

Session 5A

Where in the U.S.A. Is Erin Winnebago... Causing Your Next Wage and Hour Compliance Challenge?

Employers are struggling to keep up with the ever-changing wage and hour compliance landscape. It's no longer just all about California – states, counties and cities across the United States are rushing to pass new and complex wage and hour laws. Making matters worse, the increase in remote work means that employers now need to keep up with wage and hour laws in jurisdictions where their “wandering workers” are located.

In this engaging program, Erin Winnebago is working remotely from her motorhome, wandering the country looking for wage and hour compliance traps to snare her employer. Our gumshoe contestants from the ACME Detective Agency will try to keep Erin's employer in compliance by navigating the complex patchwork of constantly evolving wage and hour laws across the United States.

Speakers:

John Lassetter, Shareholder

Claire Deason, Shareholder

Session 5B

Unions Are Having a Moment: How to Cope with the Most Pro-Union NLRB and Active Labor Environment in Decades

We will provide practical advice and guidance to employers navigating the agenda of the Biden board and general counsel and an unprecedented spike in union organizing.

Areas of focus will include:

1. Union organizing trends
2. The labor-related challenges of employing a multigenerational workforce, including demands of younger workers for nontraditional benefits such as a voice in the boardroom or climate change commitment; and
3. Managing work-related activism by both unionized and nonunionized employees, such as sickouts, walkouts and social media postings

Additionally, hear how the Biden administration's policies combined with the pandemic, social justice issues and social media have created an environment for unions to attempt to reverse decades of decline. Today's workforce is looking for a cause, and unions are stepping in to try to fill the void. Employers, too, are empowering worker voice with some unintended consequences. Explore this complex and consequential state of labor relations with Littler's experienced labor relations attorneys.

Speakers:

Jeffrey Dilger, Shareholder

Noah Lipschultz, Shareholder

Alice Kirkland, Associate

3:05 p.m. — 3:15 p.m.

Break

Breakout 6 A & B | 3:15 p.m. — 4:15 p.m.

Session 6A

What A Long, Strange Trip It's Been: Ethical Implications of COVID's Continuing Impact on In-House Counsel

This will be a panel discussion dealing with several ethics-related topics and will include Littler attorneys exploring a variety of issues that in-house counsel should continue to consider. The anticipated topics of discussion include:

- Long-term remote work for in-house counsel – risks and opportunities
- Continuing to protect privileged communications
- When is in-house counsel acting as a businessperson, not a lawyer?
- Managing cases and matters remotely

This session may qualify for CLE ethics credits in MN.

Speakers:

Kurt Erickson, Shareholder

George Wood, Shareholder

Session 6B

Conducting Effective Investigations and Climate Assessments in the Evolving Workplace

Assessing when an investigation should be done, determining how to manage the communication and process of the investigation, and conducting an effective and meaningful investigation is critical to an employer's compliance obligations and instilling a healthy workplace. The recent full-tilt shift to virtual video conferencing provides an opportunity to expand an investigator's efficiency but also poses challenges regarding effective interviewing and information-gathering techniques in the virtual context.

This session will cover:

- The investigator's role, including where it begins and ends
- Practical complaint "intake" strategies, including how to recognize the need for an investigation
- Attorney-client considerations
- Witness interview and information-gathering techniques
- Ways to anticipate technology challenges proactively and minimize disruptions to the interview process
- Report and documentation strategies, including the proper scope

Speakers:

Jacqueline Mrachek, Shareholder

Stephanie Sarantopoulos, Program Director, Littler onDemand | Shareholder

4:15 p.m. — 5:15 p.m.

Cocktail Reception