



LITTLER MENDELSON  
THE EXECUTIVE EMPLOYER® CONFERENCE

# Emerging Trends. Employment Law Solutions.

May 8-10, 2013 ■ Scottsdale, Arizona

Littler™





This year, Littler Mendelson celebrates the 30<sup>th</sup> anniversary of the Executive Employer Conference. What began in 1983 as a small gathering of attorneys and clients in Napa Valley has now become the premiere, must-attend event for in-house counsel and HR professionals from leading organizations across the globe.

Legal and HR executives face continuing challenges as they strive to support and guide their business clients through an ever-changing legal landscape made all the more complicated by contentious political times that make uncertainty the new normal. Our clients have come to expect and rely upon Littler's insightful analysis of legal issues, in-depth understanding of our clients' businesses, and ability to develop effective, practical solutions when tension exists between legal compliance and operational efficiency.

The attorneys of Littler Mendelson are pleased to invite you to **The 2013 Executive Employer Conference**, a two-day conference focusing on the most significant emerging trends affecting today's workplace. This year's program is designed to provide you with the employment law solutions you need to keep your organization on the path of legal compliance, avoiding risk by implementing practical solutions to enhance your workplace and workforce.

This year's theme, **Emerging Trends: Employment Law Solutions**, is inspired by our commitment to not only staying abreast of the latest legal developments but also anticipating changes and providing practical solutions to emerging legal and business issues. Over the course of the conference, Littler attorneys will share their considerable subject matter experience in break-out sessions designed to illuminate the answers to critical problems. Our session panels will also include in-house counsel and HR peers from leading organizations discussing their experiences developing real-world, practical solutions.

We hope you will join us in Scottsdale for this very special event. **Please register early as space is limited and the conference sold out last year!**

**The Attorneys of Littler Mendelson**

# WEDNESDAY / MAY 8

11:00 am	Pre-Conference Registration		
12:00 pm – 1:00 pm	Lunch <i>Provided for all pre-conference attendees</i>		
1:00 pm – 5:00 pm	Conducting Lawful Investigations—Avoiding the 10 Biggest Pitfalls of HR Investigations	Littler’s International Practice Group Presents: Critical Issues for Global Employers	
6:00 pm	Conference Registration		
6:30 pm	Reception and Welcome Dinner		

# THURSDAY / MAY 9

7:00 am – 8:00 am	Breakfast		
8:00 am – 9:30 am	←—————  <b>General Session — The 2013 Littler Report</b>  —————→		
	<b>WORKPLACE POLICY INSTITUTE</b>	<b>WAGE AND HOUR ESSENTIALS – DAY 1</b>	
10:00 am – 11:15 am	The EEOC’s New Strategic Enforcement Plan — Critical Challenges Faced by Employers	Who’s Employee? Independent Contractors, Interns, Volunteers, and Intra-Corporate Transfers	
11:30 am – 12:30 pm	OFCCP’s New Regulations and Enforcement Trends	Who’s that Knocking on the Door? Preparing for and Responding to DOL Investigations	
12:30 pm – 1:45 pm	←—————  <b>Lunch / The 2013 Employment Law Update</b>  —————→		
2:00 pm – 3:15 pm	The Affordable Care Act—Critical Next Steps for Employers	How Not to Create Class Actions—Avoiding Payroll Practices that Will Get You in Trouble	
3:45 pm – 5:00 pm	Immigration Reform—Employer Perspectives	Time to Exhale? Wage and Hour Class Action Litigation Results in 2013	
5:15 pm – 6:00 pm	←—  <b>The Workplace Policy Institute Legislative and Regulatory Outlook</b>  —————→		
	←—————  <b>Labor Law Reform in Mexico</b>  —————→		
6:30 pm	Reception and Dinner		

# WEDNESDAY / MAY 8

Insiders and Outlaws—The High Stakes World of Whistleblowing

The Retail Industry Summit—A Gathering of Leading Retailers to Discuss Significant Trends and Developments in Employment and Labor Law

Labor Relations 2013—Employer Preparedness, Compliance, and Strategy

# THURSDAY / MAY 9

## General Session—The 2013 Littler Report

2013 HR CHALLENGES	COMPLIANCE	LITIGATION
Avoiding Retaliation—Creating a Speak-Up Culture	Labor Crisis—The NLRB Targets Nonunion and Union Employers, Significantly Expanding Its Reach During a Tumultuous Time	Litigating ERISA Fiduciary Breach Claims in the Aftermath of <i>Amara</i>
Strategies for Managing Employee Leaves and Medical Issues Amid Conflicting Concerns	Workplace Ethics—How to Keep an Investigation Confidential When Everyone Wants to Know What's Going On	Arbitration and Class Waivers—The Changing Landscape in 2013

## Lunch / The 2013 Employment Law Update

Ending Well—How to Navigate the Termination Waters	Recognizing Employee Individualism—Accommodating Religious Diversity, Disability Access Requirements and Transgender Employees	Maximizing Success in Trade Secret and Restrictive Covenant Litigation—Important Do's and Don'ts
Guns and the Workplace—Who Speaks for the Employer?	Critical Issues in Employee Benefits and Executive Compensation	How to Prepare for Trial (and Still Sleep at Night)

## The Workplace Policy Institute Legislative and Regulatory Outlook

## Labor Law Reform in Mexico

# FRIDAY / MAY 10

7:00 am – 8:00 am	Breakfast	
	SOCIAL MEDIA SUMMIT	WAGE AND HOUR ESSENTIALS – DAY 2
8:00 am – 9:15 am	Translating the Trends: Mobile Communications, the Consumerization of IT, Social Media, the Cloud and Big Data Meet the Workforce	Where Are You and What Are You Doing? Exemption and Work Time Issues in the Mobile Workforce of Sales, Techs and Travelers
9:30 am – 10:45 am	Social Hiring and Firing: The Digital Workplace Meets the Uniform Guidelines on Employee Selection Procedures and the NLRA	Why is Plaintiff’s Counsel Reading My Handbook So Carefully? The Role of Well-Written Policies in Limiting and Avoiding Wage and Hour Claims
11:00 am – 12:15 pm	Goodbye Is Forever or Isn’t It? Planning for Departure, Getting Clear Title to Your Social Media Assets and Otherwise Protecting Your Business Information	Littler Xmpt™—A New Approach to Protecting Your Organization from Wage and Hour Litigation

# FRIDAY / MAY 10

2013 HR INTERACTIVE WORKSHOP	EXPANDING YOUR FOOTPRINT – CRITICAL ISSUES IN CORPORATE RESTRUCTURING	EMPLOYEE BENEFITS SUMMIT 2013
New Challenges in the Hiring Process—An Employer’s Guide to Sorting Through this Legal Maze	Pre-Acquisition Issues	An Ounce of Prevention—The Art of Drafting Employee Benefits Documents to Avoid Legal Headaches
The Conflict Between Legal Compliance and Effective Business Operations—What HR Can Do to Further Both Goals	Employment and HR Issues	401(k) Plans—Sued, Audited and Subjected to New Obligations –The New Rules of the Road for Employers
The Ins and Outs of Handling EEOC Charges—Investigations, Information Requests, Class Issues, Subpoenas and Conciliations	Sales and Acquisitions Involving Organized Labor	From ERISA to ACA to 409A—Hidden Benefits and Compensation Issues that Cannot Be Overlooked in Structuring Employment Agreements, Severance Arrangements and Employment Relationships

## PRE-CONFERENCE SESSIONS

1:00 pm – 5:00 pm

### Conducting Lawful Investigations—Avoiding the 10 Biggest Pitfalls of HR Investigations

An interactive workshop providing an overview of the general phases of investigations, and highlighting how to avoid mistakes in the planning, interviewing and report-writing stages of investigations. *To enhance the interactive nature of this workshop, attendance will be limited.*

1:00 pm – 5:00 pm

### Littler’s International Practice Group Presents: Critical Issues for Global Employers

- Critical Global Data Protection Challenges: Implementing Global HRIS Systems, Conducting Cross-Border Investigations, and Managing International HR Issues
- Managing Performance and Terminating Foreign Employees for Unsatisfactory Performance: Surviving the Minefield of Legal Challenges
- Engaging Foreign Workers: Limits and Flexibility in Structuring Working Relationships (While Complying with Local Law)

1:00 pm – 5:00 pm

### Insiders and Outlaws—The High Stakes World of Whistleblowing

An informative and interactive discussion covering complex issues that arise when a whistleblower is also the company’s legal advisor or compliance professional. Can the whistleblower disclose the company’s confidential and privileged information? What recourse does the company have in terms of defending a claim and protecting its confidential information?

1:00 pm – 5:00 pm

### The Retail Industry Summit—A Gathering of Leading Retailers to Discuss Significant Trends and Developments in Employment and Labor Law

This annual summit, presented by Littler’s Retail Industry Practice Group, provides an opportunity for participants to learn about legislative and regulatory developments and discuss with their peers emerging trends and practical insights into how to respond to the ever-changing legal landscape.

1:00 pm – 5:00 pm

### Labor Relations 2013—Employer Preparedness, Compliance, and Strategy

- UFO Sightings: Union Front Organizations—What They Are and How They Impact Your Company
- Corporate Campaign Tactics and Effective Employer Responses
- Advanced Bargaining Strategies—Dealing with the Affordable Care Act, Regulatory Mandates, Economic Realities, and More

# THURSDAY / MAY 9

## SPECIAL SESSIONS

8:00 am – 9:30 am

GENERAL SESSION

THE 2013  
LITTLER REPORT

### The 2013 Littler Report—Emerging Trends: Employment Law Solutions

Today, employers confront new laws and regulations that create complex compliance challenges. The torrent of wage and hour class action litigation continues unabated, forcing employers to continually scrutinize their policies, procedures and payroll practices. Administrative agencies pursue aggressive enforcement strategies, regulators issue broader legal interpretations and plaintiffs' counsel imagine more novel theories of liability. Given these mounting challenges, how can HR professionals and in-house counsel stay informed and evaluate effective compliance strategies?

As they have for the past ten years, many experienced HR and legal professionals will find the answer in **The 2013 Littler Report – Emerging Trends: Employment Law Solutions**, the must-attend highlight of Littler's Executive Employer Conference. This general session provides focused analysis of critical trends and developments; lively discussions of the most pressing issues; and the insight of thought leaders and decisionmakers who are currently addressing the myriad challenges in the field of employment and labor law.

12:30 pm – 1:45 pm

### The 2013 Employment Law Update

A perennial favorite at the Executive Employer Conference, this session provides a unique opportunity to understand the latest court cases and other crucial developments that will affect your workplace and your responsibilities in the coming year and beyond. 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 in a fast-paced and—dare we say it—fun-filled session that will prepare you for the challenges that lie ahead.

5:15 pm – 6:00 pm

### The Workplace Policy Institute Legislative and Regulatory Outlook

Recent regulatory developments in labor, employment and employee benefits law have signaled significant changes to the workplace and employers' compliance obligations and business strategies. This distinguished panel of Washington, D.C. "insiders" will review the latest activity by the Department of Labor, the National Labor Relations Board, the Equal Employment Opportunity Commission and other administrative agencies and analyze what these changes could mean for employers. Our panel will offer strategic insight into what employers can expect in the coming years from Congress and a second Obama administration in the coming years.

5:15 pm – 6:00 pm

### Labor Law Reform in Mexico—What Employers Operating in Mexico Must Know About the Changed Legal Landscape

In December 2012, Mexico enacted significant labor law reform, overhauling the country's Federal Labor Law for the first time in over 40 years. Led by experienced attorneys from Littler's Mexico office, this session will address the new laws regulating hiring/firing, productivity, outsourcing, leaves of absence, payment of back wages, and union democracy, transparency and accountability. Our panel will also identify strategies to help companies protect and grow their investments and operations in Mexico.

# THURSDAY / MAY 9

## WORKPLACE POLICY INSTITUTE

10:00 am – 11:15 am

### **The EEOC's New Strategic Enforcement Plan—Critical Challenges Faced by Employers**

Join this lively session with EEOC Commissioner The Honorable Victoria A. Lipnic and Littler attorneys focusing on the EEOC's new strategic enforcement plan (SEP), current priorities and recent actions based on the EEOC's systemic initiative. We will also review recent settlements, litigation and court decisions involving the EEOC's systemic initiative based on Littler's comprehensive annual update on EEOC developments.

11:30 am – 12:30 pm

### **OFCCP's New Regulations and Enforcement Trends**

Recently proposed OFCCP regulations may result in the most sweeping changes in 40 years to federal contractor affirmative action obligations for covered veterans and individuals with disabilities. The new requirements could triple overall compliance costs for federal government contractors and subcontractors. This session will review the proposed regulations and offer proactive compliance suggestions about what government contractors and subcontractors should be doing now, given the inevitable publication of new rules.

2:00 pm – 3:15 pm

### **The Affordable Care Act—Critical Next Steps for Employers**

With the effective date of the employer mandate provision nearing in 2014, this session will offer practical strategies for helping employers become compliant with the new requirements, prepare for the impact of healthcare reform and evaluate the impending strategic changes to employee benefit offerings.

3:45 pm – 5:00 pm

### **Immigration Reform—Employer Perspectives**

Comprehensive immigration reform looms large as a major priority for President Obama's second term. In this session, experienced immigration and global mobility professionals and attorneys will discuss the critical issues implicated by immigration reform, including border security, guest worker and employee verification programs, the impact of global migration on the domestic workforce, and potential paths to citizenship for undocumented immigrants already living and working in the United States.

# THURSDAY / MAY 9

## WAGE AND HOUR ESSENTIALS – DAY 1

10:00 am – 11:15 am

### Who's Employee? Independent Contractors, Interns, Volunteers, and Intra-Corporate Transfers

Class action employment claims frequently spring from supposed non-employees, including independent contractors and interns. This session will help employers avoid such surprises by reviewing how to effectively create, manage, and monitor independent contractors and the internal controls necessary to avoid creating problem relationships. In addition, we will review two common non-employment relationships—volunteers and interns—along with the hidden but important consequences of intra-corporate transfers in defining who is the employer for wage and hour and other purposes.

11:30 am – 12:30 pm

### Who's that Knocking on the Door? Preparing for and Responding to DOL Investigations

The Department of Labor is continuing its increasingly aggressive enforcement of the Fair Labor Standards Act. This session will help you prepare for DOL investigations by documenting and auditing pay practices, and learning what an investigation entails and how to effectively respond to investigations when the DOL comes knocking on the door.

2:00 pm – 3:15 pm

### How Not to Create Class Actions—Avoiding Payroll Practices that Will Get You in Trouble

Class actions often result when employers fail to appreciate how their pay practices trigger litigation. This session will help employers identify legally non-compliant pay practices and develop compliant ones. Some of the policies and practices to consider include the provision and recording (without auto-deducting) of meal periods, neither under- (nor over-) promising rest periods, and rounding and truncating work time in timekeeping and payroll systems without underpaying employees. Another important issue that will be covered is how to determine the beginning and ending of the work day by reviewing issues surrounding commuting time, walking within the building, booting up and other, but not so, *de minimis* work at the beginning and end of the day.

3:45 pm – 5:00 pm

### Time to Exhale? Wage and Hour Class Action Litigation Results in 2013

Several class action developments in 2012 were employer friendly, but will 2013 see a continuation of that trend? This session will examine the pending challenge in the Fifth Circuit regarding the too-easy, two-stage FLSA class certification process, further developments on class certification standards, and the use of arbitration agreements to avoid class actions. Does the California Supreme Court decision in *Brinker* really bode well for employers, or does the California Supreme Court's subsequent decertification of employer-friendly opinions send another message?

## 2013 HR CHALLENGES

10:00 am – 11:15 am

### **Avoiding Retaliation—Creating a Speak-Up Culture**

When employees do not know how to report concerns about unethical conduct or are afraid to do so, companies can face serious risks that can harm their reputation or inflict worse damage. Incidents can spiral out of control, lead to whistleblowing and end up in claims of illegal retaliation. This session will provide guidance on managing and creating a robust complaint incident management program that will help reduce risk by encouraging a speak-up culture.

11:30 am – 12:30 pm

### **Strategies for Managing Employee Leaves and Medical Issues Amid Conflicting Concerns**

In this highly interactive session, our panel will discuss the intersection of medical leaves of absence, disability accommodation and “light duty” issues, and provide practical solutions for navigating the interplay of the ADA, FMLA, workers’ compensation and other vexing legal requirements.

2:00 pm – 3:15 pm

### **Ending Well—How to Navigate the Termination Waters**

This session will feature a lively discussion on how to obtain effective release forms, complete a successful RIF, and resolve a lawsuit through advocacy at mediation, ending with an effective settlement agreement. Learn from experienced attorneys who have spent time in the trenches helping clients “succeed” at the end of the employment relationship or in the resulting employment termination lawsuit.

3:45 pm – 5:00 pm

### **Guns and the Workplace—Who Speaks for the Employer?**

The right, in many states, of an employee to lawfully carry a weapon for protection and to safely store that weapon in a private vehicle while at work is a controversial, emotional and polarizing issue. Employers must comply with the law in these states, while also recognizing their responsibility to provide a safe and healthy workplace. With vocal advocates on both sides of this issue, who speaks for the employer that may feel caught in the middle? In this session, we will discuss the maze of conflicting interests employers must navigate in this highly topical and emotionally charged debate.

## COMPLIANCE

10:00 am – 11:15 am

### **Labor Crisis—The NLRB Targets Nonunion and Union Employers, Significantly Expanding Its Reach During a Tumultuous Time**

The NLRB continues to expand its jurisdiction by targeting the handbooks, policies and procedures of nonunion employers, expanding the scope of NLRA-protected activity, and facilitating labor organizing, through micro-units and rule changes, all while it fights on a different front—in the federal courts—to defend Board members’ authority and recent game-changing decisions. Targeted employer policies include social media, employment at will, confidentiality, and investigations, among others. All employers, including, critically, nonunion employers unaccustomed to NLRB oversight, need to be aware of the Board’s scrutiny of handbooks and policies, how to review and draft policies with the best chance of garnering Board approval, and the implications of Board scrutiny during union organizing activities.

11:30 am – 12:30 pm

### **Workplace Ethics—How to Keep an Investigation Confidential When Everyone Wants to Know What’s Going On**

Conducting a confidential investigation can be a challenge. The NLRB contends that instructing an employee not to discuss an investigation is, in some circumstances, an unfair labor practice. Prosecutors and regulators often push employers to disclose investigation findings as a way to avoid prosecution or diminish potential penalties and sanctions. This session will outline tactics employers can use to make investigations as confidential as possible in today’s changing legal environment.

2:00 pm – 3:15 pm

### **Recognizing Employee Individualism—Accommodating Religious Diversity, Disability Access Requirements and Transgender Employees**

With the myriad of state, federal, and local laws protecting employee rights, employers often are presented with sometimes conflicting and confusing obligations. The scope of what is considered a reasonable accommodation continues to expand for religious observances, disability conditions, and transgender employees. This program will provide insight and practical guidance for handling complex accommodation scenarios, such as accommodating mental health conditions, addressing direct threat issues, and responding when an employee announces his/her intent to undergo a gender transition. Our panel will pay special attention to those circumstances when conflicting obligations arise, such as when the accommodation of one employee significantly impacts the job duties of another employee or creates a need to accommodate another employee. Our panel of experienced attorneys will provide practical guidance on how to recognize employee individualism while maintaining business operations.

3:45 pm – 5:00 pm

### **Critical Issues in Employee Benefits and Executive Compensation**

New legislation, government regulations, assertive and empowered regulatory agencies and successful participant lawsuits have created new threats to employers sponsoring retirement plans, health and welfare arrangements and executive compensation programs. In this session, we will focus on the compliance protocols and best practices that employers can develop to defend against these dangers.

## LITIGATION

10:00 am – 11:15 am

### **Litigating ERISA Fiduciary Breach Claims in the Aftermath of Amara**

Participant claims challenging benefits communications are on the rise in the wake of the U.S. Supreme Court's decision in *Cigna Corp. v. Amara* (2011). In this session, our panelists will discuss how to effectively navigate the minefield of such claims through preventive measures and tested litigation strategies.

11:30 am – 12:30 pm

### **Arbitration and Class Waivers—The Changing Landscape in 2013**

For the last several years, the battles over the enforcement of employer-initiated arbitration programs can fairly be described as red-hot, as the U.S. Supreme Court continues to enforce arbitration agreements despite the best efforts of the plaintiffs' bar and some lower state and federal courts (as well as the NLRB) to undo them. This session will address the ongoing development of arbitration law, including the enforceability of class action waivers and how best to position your company to take advantage of the latest legal developments.

2:00 pm – 3:15 pm

### **Maximizing Success in Trade Secret and Restrictive Covenant Litigation—Important Do's and Don'ts**

When employees leave, a company's valuable trade secrets and most important customer relationships are at their most vulnerable. With the proliferation of removable storage and mobile devices, companies need to be more vigilant than ever. This session will discuss how to best prepare for possible trade secret and restrictive covenant litigation in advance with effective, enforceable and litigation-friendly agreements, and how to best maximize the chance for successful outcomes.

3:45 pm – 5:00 pm

### **How to Prepare for Trial (and Still Sleep at Night)**

Preparing for trial is more potent than late-night espresso when it comes to keeping in-house counsel up at night. Most counsel question how will the trial proceed, what witnesses will say, and how the judge and jury will find? In-house counsel are also concerned with how will business operations continue in the absence of the company trial representative, and how the affected business unit will handle providing witnesses during trial, and other trial logistics. This session will provide concrete guidance on how to prepare not only the witnesses but also the business for trial (while still catching enough "zzzzzzzzzzzz").

# FRIDAY / MAY 10

## SOCIAL MEDIA SUMMIT

8:00 am – 9:15 am

### **Translating the Trends: Mobile Communications, the Consumerization of IT, Social Media, the Cloud and Big Data Meet the Workforce**

We live in a world with a 24/7 on-switch and mobile devices give us a high-speed connection to work anywhere, anytime. The same devices provide a continuous connection to friends, family, Facebook and a growing universe of content and applications (and security and privacy risks). In short, mobile technology and constant access to the social media world have transformed the way we work and the way we play. Businesses are embracing mobile and social media as part of their core operations. How does an employer reap the benefits, minimize the risks and understand its legal obligations?

9:30 am – 10:45 am

### **Social Hiring and Firing: The Digital Workplace Meets the Uniform Guidelines on Employee Selection Procedures and the NLRA**

With the proliferation of social media, employers are increasingly turning to social media sites to investigate applicants and employees. At the same time, lawmakers and regulators are raising new obstacles, such as social media password protection laws, and are relying on old statutes, such as the National Labor Relations Act and Title VII, to restrict employer's access to, and use of, social media content for employment decisions. How can employers regulate the "social enterprise" without opening themselves to old claims packaged in new wrapping? This session will provide insight on what employers can do to support their hiring needs and respond to employees' "social misconduct" without sacrificing legal compliance.

11:00 am – 12:15 pm

### **Goodbye Is Forever or Isn't It? Planning for Departure, Getting Clear Title to Your Social Media Assets and Otherwise Protecting Your Business Information**

Employees come and go, but it has never been so easy for them to leave with your competitive information or to share it with your competitors. What can employers do to protect their business information in a social media world? Many employers have non-disclosure and non-compete agreements that were executed before employers had to worry about LinkedIn connections and Facebook postings undermining the trade secret status of competitive information. Have you kept up? When do communications with "friends" or "connections" become solicitations of customers and employees? How do you prevent post-employment disputes over the ownership of social media assets and how can you protect them when one of your social media stars leaves you to work for a competitor. These and other questions will be addressed during this interactive panel discussion.

## WAGE AND HOUR ESSENTIALS – DAY 2

8:00 am – 9:15 am

### **Where Are You and What Are You Doing? Exemption and Work Time Issues in the Mobile Workforce of Sales, Techs and Travelers**

Travel, telecommuting, and remote worksites all impact employee compensation. The internet and ubiquitous meetings-by-phone create new challenges to keeping outside sales employees outside and therefore exempt. Non-exempt sales, technical and other employees who commute to job sites, travel to meetings or customers or just work remotely, all present compliance issues that must be addressed. This session will address and provide guidance on these challenging issues.

9:30 am – 10:45 am

### **Why is Plaintiff's Counsel Reading My Handbook So Carefully? The Role of Well-Written Policies in Limiting and Avoiding Wage and Hour Claims**

An employer's handbook can be a springboard to a class action. This session will examine key policies employers should have in their handbook, including a salary pay policy that may protect employers from accidental failure to pay a salary, off-the-clock policies, punctuality policies that are compatible with rounding time, and excluding the value of one (but not more than one) meal from the regular rate of pay, and effective time card certifications.

11:00 am – 12:15 pm

### **Little Xmp<sup>TM</sup>—A New Approach to Protecting Your Organization from Wage and Hour Litigation**

With the continuing surge of wage and hour claims, exempt misclassifications have become one of the primary targets of federal and state regulators. From our many years of experience handling misclassification claims, Littler has developed a process that can help employers effectively prepare for and deal with such claims. This session will show how Little Xmp can equip management with an effective defense and create a strong evidentiary record to either defeat an exemption challenge or mitigate the risks.

# FRIDAY / MAY 10

## 2013 HR INTERACTIVE WORKSHOP

8:00 am – 9:15 am

### **New Challenges in the Hiring Process—An Employer’s Guide to Sorting Through this Legal Maze**

Employers have recently been confronted with a broad array of new restrictions on the hiring process at the federal, state and local level. In addition to restrictions on the use of social media, a new wave of litigation has focused on hiring practices, including multi-million dollar class actions based on alleged deficient practices in conducting various types of background checks and drug and alcohol tests. What other pre-employment tests may be subject to challenge? In this session, Littler attorneys who devote a substantial part of their practice to these new challenges will discuss practical solutions for employers seeking to avoid litigation over hiring practices.

9:30 am – 10:45 am

### **The Conflict Between Legal Compliance and Effective Business Operations—What HR Can Do to Further Both Goals**

As legal and governmental agency expectations become more complex and more demanding, HR professionals find themselves between a rock and a hard place. Are you asking managers to support your compliance efforts but getting push back due to the negative effect of compliance on the success of the business? This program explores how HR can push for compliance without derailing the business, using scenarios related to FMLA intermittent leave, the (over?) use of separation agreements, ADA accommodations that are reasonable to the business, and other compliance pressures.

11:00 am – 12:15 pm

### **The Ins and Outs of Handling EEOC Charges—Investigations, Information Requests, Class Issues, Subpoenas and Conciliations**

As indicated by the EEOC’s Strategic Enforcement Plan, employers should anticipate that the EEOC will be conducting more thorough investigations into allegations of employer misconduct. This session will discuss and provide strategic insights about key issues, including how to interpret an administrative agency charge, how to respond to requests for information (particularly what may be very broad requests), addressing class issues, and resolving charges through settlement.

# FRIDAY / MAY 10

## EXPANDING YOUR FOOTPRINT – CRITICAL ISSUES IN CORPORATE RESTRUCTURING

8:00 am – 9:15 am

### Pre-Acquisition Issues

This session will address the employment and labor law issues that should be considered prior to the closing of an acquisition or sale, including, for example, due diligence considerations, WARN Act obligations, asset purchase agreement drafting issues, transfer of employee accruals, employment records, and restrictive covenant agreements.

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9:30 am – 10:45 am

### Employment and HR Issues

This session will explore employment law and human resources issues that may be discovered in acquisition due diligence, but often emerge only after closing, such as employee misclassification, non-compliant payroll practices, inadequate recordkeeping, legacy harassment issues, and mismatched job descriptions. We will also explore employer successorship obligations and employee benefits issues attendant to a buy/sell transaction.

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11:00 am – 12:15 pm

### Sales and Acquisitions Involving Organized Labor

This session will explore obligations and issues faced by corporate buyers and sellers when the acquisition involves a unionized workforce on either side of the transaction. Decisional and effects bargaining, withdrawal liability, unit accretion, successorship and neutrality agreements are among the subjects to be discussed.

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# FRIDAY / MAY 10

## EMPLOYEE BENEFITS SUMMIT 2013

8:00 am – 9:15 am

### **An Ounce of Prevention—The Art of Drafting Employee Benefits Documents to Avoid Legal Headaches**

Employee benefit plan sponsors may be able to avoid issues that arise in connection with the maintenance of their retirement and welfare plans and executive compensation arrangements by making sure that the language contained in the documents put them on the best legal footing. As employers face greater threats to their plans from their employees and the government, careful document drafting is more important than ever. In this session we will discuss a number of fairly simple provisions that can be implemented to reduce the risk of government action or litigation.

9:30 am – 10:45 am

### **401(k) Plans—Sued, Audited and Subjected to New Obligations —The New Rules of the Road for Employers**

401(k) plans have been subject to so many new threats in such a short amount of time. Last year we saw successful participant class action lawsuits aimed squarely at plan fiduciaries. 2012 was also the year of mandatory new disclosures that will put a spotlight on the actions of those who choose plan investments and decide on which of the costs will be passed along to plan participants. To top it off, IRS and DOL audits have been frequent and aggressive. In this session, we will discuss the best ways that employers can address these challenges, protect plan fiduciaries and run their plans in an efficient manner.

11:00 am – 12:15 pm

### **From ERISA to ACA to 409A—Hidden Benefits and Compensation Issues that Cannot Be Overlooked in Structuring Employment Agreements, Severance Arrangements and Employment Relationships**

Might an employer's severance policy be found to be an ERISA plan subject to a slew of unexpected rules? Might an employment agreement create large potential tax liabilities for employees? Could a release of claims be challenged based on the provisions of an employee benefits plan, that has seemingly little to do with an employer's termination of an employee? Employee benefit laws, tax laws and laws such as the Affordable Care Act can have profound legal influence on many employment-related agreements and other documents. In this session, we will explore the areas of concern and address how they are best addressed.

# CREDITS & CERTIFICATIONS

## MCLE/CLE Credits

This program will qualify for minimum continuing legal education credit in most jurisdictions. Littler is an approved MCLE provider in the states of California, Georgia, Illinois, Nevada, New York and Pennsylvania. This program provides up to 17.5 hours of available credit. Littler certifies that this activity conforms to the standards for approved education activities prescribed by the rules and regulations of the state bars governing mandatory legal education. This activity 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. If you require credit in a state other than those cited above, please indicate which state(s) in the appropriate place on the registration form.

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## PHR/SPHR/GPHR Certification Credits

This program provides up to 17.5 re-certification credit hours towards re-certification through the Human Resource Certification Institute (HRCI). For more information about certification or re-certification, please visit the HRCI website at [www.hrci.org](http://www.hrci.org).

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## 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 207 [2d Cir. 1953]).

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To register for the conference, please visit [ExecutiveEmployer.com/register](http://ExecutiveEmployer.com/register) ([www.reg4.com/littlerreg/ee13](http://www.reg4.com/littlerreg/ee13)) or call Juanita Treadway at 541.512.0223



## REGISTRATION & HOTEL INFORMATION

### Registration

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### Location and Hotel Accommodations

**The Westin Kierland Resort & Spa**  
6902 East Greenway Parkway  
Scottsdale, AZ 85254

Littler is pleased to offer a discounted room rate for conference attendees of \$249 plus tax, per night. To receive this discounted rate, you must register for your room through the conference website or call Juanita Treadway at 541.512.0223. The discounted room rate is not available directly through the hotel. **Please do not contact the hotel to make room reservations.**

### Please Note

Space is limited. In 2012, the main conference hotel sold out weeks prior to the conference, so please make your reservations early. We will have additional room blocks at nearby properties. Please contact Juanita Treadway for more information.

# LITTLER OFFICE LOCATIONS





