

UPCOMING SEMINARS

- **Landlord-Tenant Law: Leases, Evictions, Litigation & Settlements**
Memphis, TN — December 7, 2011
- **Landlord-Tenant Law**
Chattanooga, TN — December 13, 2011
- **Advanced Workers' Compensation**
Nashville, TN — December 13, 2011

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Seminar Manual

The faculty has prepared a substantial reference work to accompany their presentation. This manual will serve as a valuable tool for future reference. You will receive the manual upon checking in at the seminar site. Its price is included in the registration fee.

Audio Recording

This seminar will be recorded, so if you cannot attend, or if you want to apply for home study credit (where available), you can order the audio recording and/or a reference manual from this program. Please use the registration form to order.

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EMPLOYMENT LAW: BEYOND THE BASICS:

FLSA/Wage & Hour Crackdown; Advanced FMLA and ADA Issues; Privacy, Social Media, and Employment Law in the Workplace; Sexual, Racial, and other Harassment in the Workplace; Termination Best Practices; and Health Care Reform Legislation

PRESENTERS: David T. Lewis and Hillary L. Klein with Husch Blackwell Sanders LLP; John R. LaBar with Henry, McCord, Bean, Miller, Gabriel & LaBar, P.L.L.C.; and Bob E. Lype with Law Office of Bob E. Lype & Associates

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WORKERS' COMPENSATION LAW & PRACTICE:

Legislative and Case Law Update; Practice Tips: Basic Definitions and Concepts; Workers' Compensation Issues; Settlements; Request for Assistance (RFA); Return to Work Issues; and Ethics: Ethical and Professional Behavior

PRESENTERS: Lisa Ramsay Cole with Lewis, King, Krieg & Waldrop, P.C.; Sarah Hardison Reisner with Manier & Herod; Jason A. Lee with Brewer, Krause, Brooks, Chastain & Burrow, PLLC; and Nick Harris with The Law Offices of Nick Harris, PLLC

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Update and Case Law; 30 Nuggets in 30 Minutes; Utilization Review: Utterly Ridiculous; Benefit Review Process: The "Race to the Courthouse" After an Impasse Is Declared; Occupational Disease and the Standard of Causation; Course and Scope: Overview & Update; Third Party Issues; Request for Assistance Process and Administrative Appeal Procedure

PRESENTERS: Larry R. (Rocky) McElhaney II with Rocky McElhaney Law Firm, PC; Kent W. Cochran with Nashville Electric Service; Julie-Karel Elkin with Elkin Law Office; and Sarah Hardison Reisner with Manier & Herod

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10th Annual

Fundamentals of Employment Law

With an overview of the health care reform bill

Chattanooga – December 6, 2011

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With an overview of the
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10th Annual Fundamentals of Employment Law



December 6, 2011
Chattanooga, TN

Presented by:

John R. LaBar

- Henry, McCord, Bean, Miller,
Gabriel & LaBar, P.L.L.C.

Kathleen Pohlid

- Drescher Heller Pieper Martin, PC

Bryan E. Pieper

- Drescher Heller Pieper Martin, PC

J. Gregory Grisham

- Leitner, Williams, Dooley &
Napolitan, PLLC

William R. Wayland, Jr.

- McKoon & Williams

(See complete biographies inside)



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MEET THE FACULTY

JOHN R. LaBAR, a member of Henry, McCord, Bean, Miller, Gabriel & LaBar, P.L.L.C. in Tullahoma, practices in employment, corporate, and business law, and commercial and business transactions. Mr. LaBar advises clients on employment and HR matters, including I-9, FMLA, ADA, ADEA and FLSA compliance. He defends employers in state and federal employment law investigations, including wage and hour, Tennessee Human Rights Commission, U.S. EEOC hearings and mediations, and NLRB proceedings. Mr. LaBar is a frequent speaker and author on employment law topics. He has served as an Adjunct Professor of Law at the University of Tennessee College of Law. Mr. LaBar is a member of the American and Tennessee Bar Associations as well as the Tennessee Municipal Attorney's Association. Since 2004, Mr. LaBar has served as a member of the Tennessee Bar Association House of Delegates and as the town attorney for the Town of Morrison. Mr. LaBar has been named a 2010 Mid-South Rising Star® by *Super Lawyers*®. He is admitted to practice in U.S. District and appellate courts including the Eastern and Middle Districts of Tennessee, the Sixth and Eleventh Circuits, and the U.S. Supreme Court. Mr. LaBar received his B.A. from the University of Tennessee at Chattanooga, and his J.D. from the University of Tennessee College of Law at Knoxville.

J. GREGORY GRISHAM, a partner with Leitner, Williams, Dooley & Napolitan, PLLC in Memphis, practices in labor and employment law, defending employers in discrimination, harassment and retaliation, wrongful discharge, ADR, whistleblower claims, wage and hour, unfair labor practices, and union representation before the NLRB. Mr. Grisham has been named to the Tennessee Advisory Board by the U.S. Commission on Civil Rights and as a Mid-South Super Lawyer® by *Law & Politics*®. He is a member of the Tennessee and the Memphis Bar Associations, The Federalist Society, The Defense Research Institute, and SHRM. Mr. Grisham earned his B.S. at The University of Tennessee, his M.B.A. at the University of Mississippi, and his J.D., with honors, at the University of Memphis Cecil C. Humphreys School of Law.

KATHLEEN POHLID, counsel with Drescher Heller Pieper Martin, PC in Nashville, practices in employment, litigation, governmental compliance, occupational safety and health, ADA, and health law issues, including Medicare audits. She is licensed to practice in Alabama and Tennessee and admitted before all Federal District Courts in Tennessee and Alabama as well as the Northern District of Texas and the U.S. Courts of Appeal for the Sixth and Eleventh Circuits. Ms. Pohlid is a member of the Nashville, the Tennessee, and the American Bar Associations, the Nashville Leadership Health Care Council, the American Society of Safety Engineers, the Health Care Compliance Association, the Medical Group Management Association, and the Associated General Contractors of America. She has over 20 years experience in employment law, in both federal government and private sector. She formerly represented the Secretary of Labor as a trial attorney for twelve years with the Office of the Solicitor, U.S. Department of Labor and, for over eight years, represented business clients in various industries. Ms. Pohlid is a contributing author on ADA and employment issues, serving on the *Nashville Bar Journal's* Editorial Board, a contributing editor on ADA and employment law matters to *Hotel Executive* online journal. She is a regular presenter on employment law and regulatory compliance matters. In 2010, she retired from the U.S. Marine Corps as a Colonel, having served two combat deployments. Her judge advocate assignments include duty in Djibouti, Africa and Iraq. Ms. Pohlid received her B.S. from the U.S. Naval Academy and her J.D. from Samford University's Cumberland School of Law.

WILLIAM R. WAYLAND, JR., with McKoon & Williams in Chattanooga, focuses his practice on health care businesses, health care law, and regulatory compliance. Mr. Wayland advises clients with respect to payor billing and reimbursement, privacy issues, professional employment, licensure, new and joint venture issues, leasing, real estate finance, and general corporate matters. He has spent a great portion of his thirty years in health care advising or serving as general corporate counsel to public teaching and not-for-profit hospitals, proprietary hospital management companies, and medical practice groups. Mr. Wayland is well versed in government contracting issues. He has served as a representative and advocate in numerous regulatory and administrative proceedings. Mr. Wayland is the author of "Legal Aspects of Disaster Preparedness," *Terrorism and Disaster Management*, Health Administration Press, 2004. Mr. Wayland earned his B.A. at the University of Tennessee, his M.S.H.H.A. at the University of Alabama-Birmingham, and his J.D. at Vanderbilt University Law School.

BRYAN E. PIEPER, a partner in Drescher Heller Pieper Martin, PC in Nashville, represents both employers and employees in labor and employment law matters. Mr. Pieper counsels employers through internal labor and employment disputes and conducts in-house training and policy review in order to prevent disputes. He is also a Rule 31 listed civil mediator. For several years, Mr. Pieper served as an Administrative Law Judge, presiding over employment disputes between Nashville Electric Service and its employees, which provided him with the best possible perspective on the law — the view from the bench. He currently serves as an Outside Review Officer, presiding over employment disputes between the Metro Nashville Public School System and its employees. By representing plaintiffs and defendants and presiding over employment law disputes, Mr. Pieper has a 360 degree view of what really works and what doesn't. Mr. Pieper is a regular presenter at professional education programs as well as HRCI programs through the Middle Tennessee chapter of the Society for Human Resource Management. He is a member of the Nashville, Tennessee, and American Bar Associations. Mr. Pieper earned his B.A. and his J.D. from Vanderbilt University.

FUNDAMENTALS OF EMPLOYMENT LAW

DATE: Tuesday, December 6, 2011

REGISTRATION: 8:00 a.m.

PRESENTATIONS: 8:30 a.m. - 4:30 p.m.

LUNCH: (on your own) 12:00 - 1:00 p.m.

LOCATION:

Chattanooga Convention Center

1150 Carter Street

Chattanooga, TN 37401

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Please remember to bring your license number, ID or other necessary information to the seminar to ensure proper reporting of continuing education credit.

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Fundamentals of Employment Law

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Chattanooga - December 6, 2011

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SEMINAR AGENDA

I. Hiring and Terminating Employees in the Current Economy

A. Hiring qualified employees

1. Credit checks: compliance with the Fair Credit Reporting Act

2. Criminal background information: what are the rules?

B. Handling terminations and layoffs

1. Legal considerations, e.g., WARN Act, OWBPA, RIF

2. Structuring severance/separation packages; COBRA

3. Tips and traps: opposing unemployment compensation claims

4. Termination of the "difficult" employee: strategies for avoiding claims

II. Sexual, Racial, and Other Harassment in the Workplace

A. Recent legislation and court cases, including Ledbetter Fair Pay Act

B. Harassment vs. discrimination

C. Is it harassment or just obnoxious behavior?

D. What constitutes a hostile workplace environment?

E. Employer liability principles as they affect management of complaints

F. Avoiding harassment claims: the 4 P's policy, protection, prompt, and punishment

G. Liability for claims of harassment by third parties

III. FLSA/Wage and Hour Critical Issues

A. FLSA exempt

B. Independent contractor conundrum

C. Exempt vs. not exempt employees: administrative exemption, outside sales representative exemption, professional exemption, computer employee exemption, retail sales, executive exemption

D. Off the clock vs. compensable

1. Donning and doffing

2. Travel time

E. Permissible deductions

F. Safe Harbor & De Minimis exception

G. Thinking outside the box: fluctuating work week, comp time, bonuses and awards, interns

H. State law implications

I. FLSA and unpaid breaks for nursing

J. Anti-retaliation developments: *Kasten v. Saint-Gobain Performance Plastics Corp*

IV. Privacy and Social Media in the Workplace

A. Balancing an employer's right to know vs. employee privacy

B. Wireless devices and employee and employer privacy violations: monitoring and creating policies regarding electronic communications

C. Use of social networking sites in the employment context: risks, best practices and policies

D. Off the job behavior, e.g., blogging and dating

E. Privacy issues in formal complaint procedures

F. Conducting a lawful misconduct investigation

G. Information disclosure

H. Case law studies

V. ADA and FMLA Updates and Interplay

A. FMLA, ADA updates and EEOC guidelines

1. Expansion of what can be considered a "disability"

2. What constitutes accommodation — according to the EEOC

3. Shift in prohibited action cases

4. How new ADA rules impact HR and benefits

5. Effect on FMLA and other leave policies

B. The interplay between the ADA and the FMLA

VI. Immigration Law Update: I-9, E-Verify, SSN mismatch

VII. Health Care Reform Update

Planning for changes: 2012, 2013, 2014, and beyond

Sterling Education Services may alter the agenda due to circumstances beyond our control.