

OTHER OPPORTUNITIES

- **Divorce After Fifty**
Nashville, TN – February 2, 2010
- **Fundamentals of Employment Law**
Knoxville, TN – February 16, 2010
Memphis, TN – March 3, 2010
- **Advanced Workers' Compensation**
Nashville, TN – March 10, 2010

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REFERENCE MATERIALS

Seminar Manual

The faculty has prepared a substantial reference work to accompany its 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.

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NEW REALITIES IN EMPLOYMENT LAW:

ADA Update; Sexual, Racial, and Other Workplace Harassment; FLSA/State Wage and Hour; FMLA Changes and New Proposed Regulations: What You Need to Know to Comply; Immigration Compliance in the Workplace; and Employment Arbitration and Mediation Agreements: "Mandatory vs. Voluntary?"

PRESENTERS: James H. Stock, Jr., Jeff Weintraub, and Robbin W. Hutton with Weintraub Stock, PC; Lisa Lichterman Leach and Elizabeth S. Rudnick with Kiesewetter Wise Kaplan Prather, PLC; James R. Becker Jr. with Law Offices of James Becker

Seminar #9TN04058 Manual only \$75

ADVANCED WORKERS' COMPENSATION:

Employer Pitfalls and Protections; WC Update and Case Law; The Benefit Review Process; Calculating Compensatory Benefits; Course and Scope; Overview & Update; Drug Free Workplace; A.M.A. Guides: Which Edition and How to Use It; and Medical Impairment Rating (MIR) Registry

PRESENTERS: Sarah Hardison Reisner with Manier & Herod; Richard House with Attorney At Law; Larry (Rocky) R. McElhaney II with Rocky McElhaney Law Firm, PC; Teresa Bullington with TN Department of Labor & Workforce Development; Jay Blaisdell with TN Department of Labor & Workforce Development; Lance Wheaton with TN Department of Labor and Workforce Development

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EMPLOYMENT LAW UPDATE:

Employment Law Developments; Stay out of Jail: Immigration Compliance Issues for Employers; Wage & Hour and the FLSA; Sexual, Racial, and Other Harassment in the Workplace; Privacy in the Workplace and Conducting an Internal Investigation; Protecting At-Will Employment; and Developments in FMLA Compliance and the Overlap of ADA, FMLA, and WC When Dealing with Absences of Ill, Injured, and Disabled Employees

PRESENTERS: Bob E. Lype, Attorney at Law; Harry W. Miller III, Attorney at Law; John R. LaBar with Henry, McCord, Bean, Miller, Gabriel, Carter & LaBar, P.L.L.C.; and Randall D. Larramore with Paty, Rymer, and Ulin P.C.

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Fundamentals of Employment Law

Chattanooga – January 28, 2010



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Fundamentals of Employment Law in Tennessee



Chattanooga
January 28, 2010

Presented by:

Marc H. Harwell

- Leitner, Williams, Dooley & Napolitan, PLLC

D. Scott Bennett

- Leitner, Williams, Dooley & Napolitan, PLLC

J. Gregory Grisham

- Leitner, Williams, Dooley & Napolitan, PLLC

Starlette J. Harris

- Miller & Martin PLLC

John R. LaBar

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

(See complete biographies inside)



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MEET THE FACULTY

MARC H. HARWELL, a member of Leitner, Williams, Dooley & Napolitan, PLLC in Chattanooga, practices in civil defense litigation concerning employment law issues, including Title VII, retaliatory discharge, ADA, FMLA, no-compete agreements; personal injury lawsuits, including trucking industry, railroad industry, automobile accidents, premises liability, products liability; and workers' compensation cases. He is a member of the Tennessee and the American Bar Associations, the Tennessee Defense Lawyers Association, the Defense Research Institute, The American Law Firm Association (ALFA), the National Association of Railroad Trial Counsel (NARTC), and the Federation of Defense and Corporate Counsel (FDCC). Mr. Harwell has served on the Board of Governors of the Chattanooga Bar Association Young Lawyers Division. He is an ALFA Steering Committee member for the Employment Law Section, 2003-present, and editor for the *Tennessee Employment Law Compendium*, 2004 to present. Mr. Harwell has served as co-editor of *The Sixth Circuit Compendium* and as a panelist at ALFA's Annual Employment Law Conference on wage and hour issues in a class action context. Mr. Harwell earned his B.A., with honors, and his J.D., at the University of Tennessee, where he was on staff of the *Tennessee Law Review* and authored "Constitutional Law—Eighth and Fourteenth Amendments—Capital Punishment," 55 *Tennessee Law Review* 391 (1988).

J. GREGORY GRISHAM, of counsel, with Leitner, Williams, Dooley & Napolitan, PLLC in Memphis, practices in labor and employment law, including defending employers in discrimination, harassment and retaliation claims, wrongful discharge, and whistleblower claims. Mr. Grisham advises and defends employers in wage and hour matters and lawsuits, unfair labor practice, and union representation proceedings before the NLRB. He represents employers in the enforcement of post-employment restrictive covenants such as non-compete, non-solicitation and non-disclosure agreements, and in general civil litigation. Mr. Grisham is also experienced in alternative dispute resolution. He recently authored "Religion at Work: Balancing the Rights of Employees and Employers," *Tennessee Bar Journal*. He co-authored "The Unanticipated Consequences of Employment at Will: Proving Damages in Restrictive Covenant Enforcement Cases," "Engage," and "Testing the Waters of Sarbanes-Oxley Whistleblower Claims." Mr. Grisham has been recognized as a Mid-South Super Lawyer® by *Law & Politics*® in 2006 and 2007. He was recently named to the Tennessee Advisory Board by the U.S. Commission on Civil Rights. Mr. Grisham is a member of the Tennessee and the Memphis Bar Associations, The Federalist Society, The Defense Research Institute, the SHRM, and the Economic Club of Memphis. Mr. Grisham received his B.S. from The University of Tennessee at Chattanooga, his M.B.A. from The University of Mississippi, and his J.D., with honors, from the Cecil C. Humphreys' School of Law of the University of Memphis.

JOHN R. LaBAR, a member of Henry, McCord, Bean, Miller, Gabriel, & LaBar, P.L.L.C., practices in the areas of employment law, corporate law, commercial and business transactions, intellectual property, probate, and estate planning. Mr. LaBar is a frequent author in his area of expertise. He is a member of the Coffee County, the Tennessee State, and the American Bar Associations. Mr. LaBar is admitted to practice in the U.S. Tax Court, the District Court, Eastern, and Middle Districts of Tennessee, the U.S. Court of Appeals for the Federal Circuit and Sixth Circuit, and the United States 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. He also studied at the Franklin Pierce Law Center and the Cornell Law School – Universite de Paris, Pantheon-Sorbonne.

STARLETTE J. HARRIS, with Miller & Martin PLLC's Chattanooga office, practices in the area of labor and employment law. She is a member of the Chattanooga, the Tennessee, and the American Bar Associations, and the State Bar of Wisconsin. Ms. Harris earned her B.S., *cum laude*, at the University of Tennessee at Chattanooga and her J.D. at the University of Wisconsin Law School, where she received the Advanced Opportunities Fellowship and the American Bar Association Arbitration Competition. She is a member of the board of directors for the Chattanooga Room in the Inn.

D. SCOTT BENNETT, a partner with Leitner, Williams, Dooley & Napolitan, PLLC, defends public and private employers in state and federal courts throughout Tennessee. Mr. Bennett also defends school boards and other local governmental entities against allegations of civil rights violations. He has an active appellate practice before the Tennessee Court of Appeals, the Tennessee Supreme Court, and the Sixth Circuit Court of Appeals. In addition to litigation, Mr. Bennett lectures extensively on employment issues affecting public school systems and private employers alike. He conducts private seminars and consultations, and has lectured for the Tennessee School Board Association and the Tennessee Association of School Personnel Administrators. Mr. Bennett is a member of the Chattanooga, the Tennessee, and the Federal Bar Associations, the American Law Firm Association, the National Council of School Attorneys, the Tennessee Council of School Board Attorneys, and the Tennessee Defense Lawyers Association. Mr. Bennett serves as the school board attorney for Bledsoe County, Hamilton County, and Polk County, and he represents the International Brotherhood of Police Officers' Chattanooga Local in labor matters with the City of Chattanooga. Mr. Bennett earned his B.A., *magna cum laude*, at Wake Forest University, his M.B.A. at the Babcock School of Management, and his J.D. at Wake Forest University School of Law. Mr. Bennett served as law clerk to the Honorable Hershel P. Franks, of the Tennessee Court of Appeals.

FUNDAMENTALS OF EMPLOYMENT LAW

DATE: Thursday, January 28, 2010

REGISTRATION: 8:00 a.m.

PRESENTATIONS: 8:30 a.m. - 5:00 p.m.

LUNCH: (on your own) 12:30 - 1:30 p.m.

LOCATION:

Chattanooga Convention Center

1150 Carter Street

Chattanooga, TN 37402

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Fundamentals of Employment Law

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SEMINAR AGENDA

- I. **Hiring & Terminating Employees in the Current Economy**
 - A. Hiring qualified employees: job descriptions, qualifications, ads, interviews: eVerification, testing
 - B. Handling terminations and layoffs
 1. Legal considerations – WARN Act, OWBPA
 2. Structuring severance/separation packages; COBRA
 3. Employment-at-will status; firing vs. employee resignation
 4. Documentation, discipline, and discharge for cause
 5. Unemployment compensation: appealing an adverse decision, is it worth it?
 - C. Strategies to avoid discrimination and retaliation claims
- II. **Immigration Compliance Issues for Employers**
 - A. Recent developments in immigration law
 - B. I-9; SSN mismatch; eVerification
 - C. Department of Homeland Security (DHS)
- III. **Compensation Issues under FLSA/Wage and Hour**
 - A. Contrasting the FLSA and state wage and hour laws
 - B. Exempt versus nonexempt versus independent contractors
 - C. Varying rates, commissions and bonuses
 - D. Travel time and other "hours worked" issues
 - E. When are deductions from wages permissible?
 - F. Paying wages correctly upon separation of employment
 - G. Penalties: understanding the "down side"
- IV. **Sexual, Racial, and Other Harassment in the Workplace**
 - A. Recent legislation and court cases, including Ledbetter Fair Pay Act
 - B. Is it harassment or just obnoxious behavior?
 - C. What constitutes a "hostile workplace environment"?
 - D. Employer liability principles as they affect management of complaints
 - E. Avoiding harassment claims: the 4 P's (policy, protection, prompt, and punishment)
 - F. Liability for claims of harassment by third parties
- V. **Employee Privacy in the Workplace**
 - A. Evaluating performance
 - B. Privacy issues in formal complaint procedures
 - C. Conducting a lawful misconduct investigation
 - D. Employee off-duty misconduct
 - E. Information disclosure: confidentiality, verification, and references, defamation, privacy: staff discussion and 3rd party disclosures
 - F. Whose computer is it? Employer's right to monitor e-mail
- VI. **ADA Overview and Update**
 - A. ADA overview
 - B. EEOC issues: proposed issues interpreting the ADA
 1. Major life activities
 2. Substantial limits
 3. Mitigating measures
 4. Chronic, episodic, or in remission conditions
 5. The major life activity of working
 6. Disabled and regarded as disabled
 7. Tests, examinations, and standards
- VII. **FMLA Compliance Update**
 - A. Military leave
 - B. Tightening of notice requirements – on both sides
 - C. Easing of medical certification
 - D. Continuing treatment redefined
 - E. What should employers do?
- VIII. **Unionization and Union Avoidance**

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