



APRIL 20–21, 2017 | PLYMOUTH

42ND ANNUAL

# Labor & Employment Law *institute*

## Tackle Today's Hot Topics in Labor and Employment Law

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The Pros and Cons of Mandatory  
Arbitration Agreements

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# Tackle Today's Hot Topics in Labor and Employment Law

Hear up-to-date, expert analyses on timely topics—from joint employer issues to the latest in noncompetes, trade secrets, and TROs. Avoid land mines when implementing new overtime rules and understand the rights of employees regarding mental or emotional disabilities. New this year: expanded update segments on ADA, EEOC, FMLA, and FLSA include both plaintiff and defense perspectives.

## Hear from Both Sides

In addition to the update segments, a number of other sessions include both plaintiff and defense perspectives. Rest assured you are getting expert advice tailored to your practice.

## Enjoy Interactive Segments

Using hands-on demonstrations and real-life scenarios, experts help you develop winning strategies. Participate in a mock arbitration, watch demos of settlement negotiations, and determine a case's value (which to take, which to decline).

## Explore All-New Tracks

New this year: Hot Topics and Real Practice tracks. Experts tackle issues such as social media discovery, trade secrets and noncompetes, and more. And we still provide the Labor, Employment, and Human Resources tracks you've come to rely on.

## Learn from the Best

Get advice from those who've been there, including judges, government officials, HR professionals, and more. Plus, don't miss Adam S. Forman's annual e-workplace update, covering the latest in technology and innovation.

## Establish Lasting Connections

With nearly 300 attendees, you'll have plenty of opportunity to rub elbows with peers and leaders from major agencies and courts. Find a new client, resolve a problem, and expand your professional network.

## Get Your HR Questions Answered

From credibility determinations to background checks, our Human Resources Track will help you stay ahead of important trends. Participate in audience voting and case study Q&A sessions—all while earning 7.5 hours of HRCI and SHRM credit.

## Featured Speakers



**Jeffrey S. Donahue**  
White Schneider PC, *Okemos*

With a master's degree in labor and industrial relations in addition to his law degree, Jeffrey S. Donahue practices in the areas of labor, employment, and education law; negotiating collective bargaining agreements; and grievance arbitration. He is an approved mediator for the Ingham County Circuit Court and other circuit courts in the state.



**Hon. Robert J. Jonker**  
United States District Court—Western District of Michigan,  
*Grand Rapids*

Hon. Robert J. Jonker was appointed by President George W. Bush in July 2007 and was elevated to chief judge on July 18, 2015. Before taking the bench, he practiced commercial and environmental litigation for 20 years with Warner Norcross & Judd LLP.



**Jennifer L. Lord**  
Pitt McGehee Palmer & Rivers PC, *Royal Oak*

Jennifer L. Lord is a partner at the firm. Her practice specializes in race, sex, gender, disability, age, whistleblower, breach of contract, class action, and Family and Medical Leave Act claims. She also has extensive experience in severance negotiations, including C-level negotiations.



**Ronda Tate Truvillion**  
Lewis & Munday PC, *Detroit*

Ronda Tate Truvillion practices in the areas of labor and employment defense, commercial litigation, insurance defense, and education law. She represents entities ranging from a Fortune 10 corporation to state universities during all phases of litigation through appeal, as well as arbitration and administrative proceedings.

## Details

April 20–21, 2017

**Plymouth, Michigan**  
The Inn at St. John's

**Level:** Basic/  
Intermediate/Advanced  
**CLE:** 7.5  
**HRCI:** 7.5  
**SHRM:** 7.5

Discounted rooms available  
at The Inn at St. John's  
*See page 4*

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Updated for 2017, every attendee receives a free **Legal Resource Guide**. Use it for quick and easy reference throughout the year.

**Contributed by:** Lori Keen Adamcheski, Blue Cross Blue Shield of Michigan, *Detroit*, Stuart M. Israel, Legghio & Israel PC, *Royal Oak*, Ronda Tate Truvillion, Lewis & Munday PC, *Detroit*

## Agenda

8:00am Continental Breakfast and Registration (Both Days)

### THURSDAY, APRIL 20, 2017

- 9:00am Welcome and Section Activity Update
- 9:20am Americans with Disabilities Act Update
- 10:05am Networking Break
- 10:20am Equal Employment Opportunity Update
- 11:05am Family and Medical Leave Act Update
- 11:55am Networking Lunch On-Site
- 11:55am Special Roundtable Lunch: Networking and Marketing (Pre-Registration Required—Limit 75)
- 1:10pm Fair Labor Standards Act Update

	Labor Law Track	Employment Law Track	Human Resources Professional Track
2:05pm	Navigating Joint Employer Issues	Protecting Privacy in Employment Law Cases	The Year in Review for Human Resources Professionals—Part One
2:50pm	Networking Break	Networking Break	Networking Break
3:05pm	MERC/NLRB Update	The Pros and Cons of Mandatory Arbitration Agreements	The Year in Review for Human Resources Professionals—Part Two
4:00pm	Anatomy of a Mock Arbitration	Maintaining the Attorney-Client Privilege	Perceived Disability and Fitness for Duty

4:45pm Networking Reception

### FRIDAY, APRIL 21, 2017

	Hot Topics Track	Real Practice Track	Human Resources Professional Track
9:00am	Hot Topics in Social Media Discovery	Assessing the Value of Your Case	Making Credibility Determinations During Internal Investigations
9:55am	Hot Topics in Trade Secrets and Noncompetes	Settlement Negotiations: Demos and Debriefing	Intersection of Background Checks and Class Actions

- 10:50am Networking Break
- 11:05am The Evolving e-Workplace Update

## Accommodations

**The Inn at St. John's**  
 44045 Five Mile Road  
 Plymouth, MI 48170

A block of rooms has been reserved at The Inn at St. John's, Plymouth, under ICLE for April 19–20, 2017. The room rate is \$149/night. Please call 734-414-0600 to reserve a room.

Reservations must be made by April 5, 2017. Registrants are responsible for their own hotel expenses.



## Tracks

## Plenary Sessions

9:00am/Thursday

### Welcome and Section Activity Update

Susan Hartmus Hiser, Chair, Labor & Employment Law Section of the State Bar of Michigan, The Murray Law Group PC, *Bingham Farms*

9:20am/Thursday

### Americans with Disabilities Act Update

Megan P. Norris, Miller Canfield PLC, *Detroit*; John R. Runyan, Sachs Waldman PC, *Detroit*

10:20am/Thursday

### Equal Employment Opportunity Update

Maria Fracassa Dwyer, Clark Hill PLC, *Detroit*; Heidi T. Sharp, Burgess Sharp & Golden PLLC, *Clinton Township*

11:05am/Thursday

### Family and Medical Leave Act Update

Susan Hartmus Hiser, Chair, Labor & Employment Law Section of the State Bar of Michigan, The Murray Law Group PC, *Bingham Farms*; Brian E. Koncius, Bogas & Koncius PC, *Bingham Farms*

11:55am/Thursday

### Networking Lunch On-Site

11:55am/Thursday

### Special Roundtable Lunch: Networking and Marketing

Sit down with leaders in human resources, labor law, and employment law to learn how they rose to the top of their fields. Share your experiences, meet new contacts, and network with your colleagues. Get new ideas on how to maximize your career and market your practice.

(Pre-Registration Required—Limit 75)

1:10pm/Thursday

### Fair Labor Standards Act Update

Robert A. Boonin, Dykema, *Ann Arbor*; Jesse L. Young, Sommers Schwartz PC, *Southfield*

4:45pm/Thursday

### Networking Reception

11:05am/Friday

### The Evolving e-Workplace Update

Don't miss this year's roundup of the latest developments in technology and the workplace—everything from techniques for leveraging technology for overtime compliance to employee overtime to on-demand payment services. Look at innovations such as Snapchat's Spectacles and gain insight into the challenges faced by employer and employee alike. Learn how recent court and administrative agency decisions continue to shape the e-workplace.

Adam S. Forman, Epstein Becker & Green PC, *Southfield*

## Labor Law Track

2:05pm/Thursday

### Navigating Joint Employer Issues

It's the big question: "Who is the employer?" Examine trends in joint employer and successorship law and the impact of that doctrine on both labor agreements and employee relations. Understand how it can increase the risk of liability from employment-based lawsuits and the impact on union-management relations.

Fillipe S. Iorio, Kalniz Iorio & Feldstein CO LPA, *Grand Rapids*; Timothy J. Ryan, Jackson Lewis PC, *Grand Rapids*

3:05pm/Thursday

### MERC/NLRB Update

Explore the most significant decisions issued by the National Labor Relations Board, the courts, the Michigan Employment Relations Commission, and the Michigan Court of Appeals in reviewing MERC decisions.

D. Lynn Morison, Bureau of Employment Relations/Michigan Employment Relations Commission, *Detroit*; Dynn Nick, National Labor Relations Board, *Detroit*

4:00pm/Thursday

### Anatomy of a Mock Arbitration

Interactive session! Experts demonstrate the arbitration process, from opening and closing statements to direct and cross-examination. Effectively advocate issues confronting management and union representatives, and understand the arbitrator's view. Develop a winning strategy for your next arbitration.

Anthony Bauman, Federal Mediation & Conciliation Service, *Iselin, NJ*; Jeffrey S. Donahue, White Schneider PC, *Okemos*; Gloria A. Hage, General Counsel, Eastern Michigan University, *Ypsilanti*; Ronda Tate Truvillion, Lewis & Munday PC, *Detroit*

## Employment Law Track

2:05pm/Thursday

### Protecting Privacy in Employment Law Cases

Tackle this increasingly controversial topic with confidence. Grasp the difference between the standard for a discovery protective order and for an order permitting filing under seal. Recognize "routine" protective order provisions that may not pass muster and examine recent caselaw demonstrating what's needed for filing under seal. Determine what confidential information needs protection and when a motion allowing a party to proceed as a "John Doe" is allowed. Review sample confidentiality language and non-disparagement provisions, too.

Hon. Robert J. Jonker, United States District Court—Western District of Michigan, *Grand Rapids*; Tiffany A. Buckley-Norwood, Jackson Lewis PC, *Southfield*; Jennifer B. Salvatore, Salvatore Prescott & Porter, *Northville*

3:05pm/Thursday

### The Pros and Cons of Mandatory Arbitration Agreements

Hear from all perspectives—in-house, defense, and plaintiff—and determine the right path for your situation. Are AAA/JAMS or custom-drafted arbitration rules best? Explore lessons learned involving common provisions (such as forum selection and choice of law) and identify trends in class-action waivers and cost splitting.

Jennifer L. Lord, Pitt McGehee Palmer & Rivers PC, *Royal Oak*; Antoinette S. Porter, The DTE Energy Company, *Detroit*; Christopher M. Trebilcock, Miller Canfield PLC, *Detroit*

4:00pm/Thursday

### Maintaining the Attorney-Client Privilege

Your client's privacy means the world to you. Understand the fundamental requirements of the attorney-client privilege—including who controls the privilege in complicated cases—and how the privilege applies to communications between employees, former employees, and corporations. Get clarity on your obligations regarding client data and data transmission; properly maintaining confidentiality; and preventing inadvertent disclosure.

Courtney L. Nichols, Plunkett Cooney PC, *Bloomfield Hills*

## Tracks

### Human Resources Professional Track

2:05pm/Thursday

#### The Year in Review for Human Resources Professionals—Part One

This annual update uses case studies and audience voting to show how the newest court decisions impact your human resources department. Get expert insight and analysis from top experts who advise HR professionals in their practice every day. Bring your questions and get them answered!

Robert A. Boonin, Dykema, *Ann Arbor*; Maria Fracassa Dwyer, Clark Hill PLC, *Detroit*; Susan Hartmus Hiser, Chair, Labor & Employment Law Section of the State Bar of Michigan, The Murray Law Group PC, *Bingham Farms*; John R. Runyan, Sachs Waldman PC, *Detroit*

3:05pm/Thursday

#### The Year in Review for Human Resources Professionals—Part Two

Part two of this annual update uses case studies and audience voting to show how the newest court decisions impact your human resources department. Get expert insight and analysis from top experts who advise HR professionals in their practice every day. Bring your questions and get them answered!

Robert A. Boonin, Dykema, *Ann Arbor*; Maria Fracassa Dwyer, Clark Hill PLC, *Detroit*; Susan Hartmus Hiser, Chair, Labor & Employment Law Section of the State Bar of Michigan, The Murray Law Group PC, *Bingham Farms*; John R. Runyan, Sachs Waldman PC, *Detroit*

4:00pm/Thursday

#### Perceived Disability and Fitness for Duty

The employer feels the employee needs to take a leave of absence. The employee disagrees. What next? Understand employer rights and responsibilities toward employees whose workplace activities make it appear the employee could benefit from leave. Recognize and avoid claims for “perceived disability” discrimination under the ADA. Properly address employee actions that create a safety risk to customers or colleagues.

James F. Hermon, Dykema, *Detroit*

9:00am/Friday

#### Making Credibility Determinations During Internal Investigations

When investigations involve a “he said-she said” scenario, making a well-reasoned conclusion can be difficult—until now. Using mock scenarios, get the tools you need to make those tough credibility determinations. From witness demeanor and corroboration to past acts and plausibility, we cover everything you need to approach your next investigation with confidence.

Terry W. Bonnette, Nemeth Law PC, *Detroit*

9:55am/Friday

#### Intersection of Background Checks and Class Actions

Are your current employment screening processes or standard “check the box” form putting your organization at risk for litigation? Get expert advice on whether your current forms and pre-employment protocols are in compliance with the latest federal and state laws. Learn how to review background check matrices and determine whether your company’s use of criminal history information needs an overhaul.

Margaret Carroll Alli, Ogletree Deakins Nash Smoak & Stewart PLLC, *Birmingham*; Stephen R. Woods, Ogletree Deakins Nash Smoak & Stewart PC, *Birmingham*

### Hot Topics Track

9:00am/Friday

#### Hot Topics in Social Media Discovery

The social media landscape is ever-evolving. Navigate the rocky terrain with ease after this session. Learn how to ask for social media accounts without going on a fishing expedition and overcome objections to producing social media evidence. Walk away prepared for any challenges the digital world may throw your way.

Brian D. Wassom, Warner Norcross & Judd LLP, *Macomb County*

9:55am/Friday

#### Hot Topics in Trade Secrets and Noncompetes

Stay on top of the latest trends and developments. What do courts look for, and how can you increase your odds of the court granting your motion for a TRO? Our experts cover everything you need to know, including the new federal trade secrets statute (and the inevitable disclosure doctrine in Michigan), non-solicitation clauses, determining reasonableness, and customer lists (are they a trade secret?).

Hon. James M. Alexander, Oakland County Circuit Court—Civil/Criminal Division, *Pontiac*; Angela L. Jackson, Hooper Hathaway PC, *Ann Arbor*

### Real Practice Track

9:00am/Friday

#### Assessing the Value of Your Case

Which cases do you take? Which do you decline? How do you counsel the employer at the outset? Determine the value of your case from both a plaintiff and defendant perspective. Ensure you have obtained the correct documentation and information. Walk away with the best strategies to utilize when facing this critical assessment.

Kathleen L. Bogas, Bogas & Koncius PC, *Bingham Farms*; Timothy H. Howlett, Dickinson Wright PLLC, *Detroit*

9:55am/Friday

#### Settlement Negotiations: Demos and Debriefing

Get the facts from the trenches and the different perspectives you need to tackle any situation. Determine how and when to engage in pre-suit negotiation, identify and manage common tactics, prepare your client, understand when a facilitation will or will not aid your efforts, and negotiate effectively within the context of a judicial settlement conference.

Laura S. Amtsbuechler, Johnson Rosati Schultz & Joppich PC, *Farmington Hills*; David A. Kotzian, Gasiorek Morgan Greco McCauley & Kotzian PC, *Farmington Hills*; Sarah S. Prescott, Salvatore Prescott & Porter, *Northville*

Moderators

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**Labor Law Track**  
Robert S. Ditillo  
Federal Mediation & Conciliation Service,  
*Pittsburgh, PA*



**Employment Law Track**  
Susan Hartmus Hiser  
Chair, Labor & Employment Law Section of the State Bar of Michigan, The Murray Law Group PC, *Bingham Farms*



**Thursday Human Resources Professional Track**  
David N. Turner  
Eastern Michigan University, *Ypsilanti*



**Friday Human Resources Professional Track**  
Daniel J. Clinton  
Dan Clinton Consulting,  
*Farmington Hills*



**Hot Topics Track**  
Michael G. Nowakowski  
Federal Mediation & Conciliation Service, *Troy*



**Real Practice Track**  
Laura S. Amtsbuechler  
Johnson Rosati Schultz & Joppich PC,  
*Farmington Hills*

“ This is a splendid opportunity to view HR administration through the eyes of both plaintiff and defense lawyers as well as other HR subject matter experts.

Andrea Linn, SHRM-CP, PHR, Adecco Employment Services, *Ann Arbor*

“ An impressive list of experts presenting the material using their own experiences. A great experience.

Donald Karl, Central Michigan Labor Council, *Grand Rapids*

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The Inn at St. John's, Plymouth

Level: Basic/Intermediate/Advanced

CLE: 7.5 | HRCI: 7.5 | SHRM: 7.5



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Prices guaranteed until 04/21/17. <sup>1</sup>Please attach additional sheet listing lawyers attending. <sup>2</sup>Current sitting state court judges (limit 40) attend free and must complete order form or call ICLE to register. <sup>3</sup>Registrants will receive the print handbook and electronic materials if no format is specified. Select "electronic materials only" discount or enter SAVE25 online to save \$25 off registration fee. Materials will be posted online before the seminar. **Complete seminar policy:** [www.icle.org/info/seminarpolicies](http://www.icle.org/info/seminarpolicies). **Cancellation policy:** For a full refund, notify ICLE by 04/06/17. Registrants who cancel after that date will be charged a \$60 cancellation fee. No refunds will be issued after 04/13/17. **Persons with disabilities or dietary restrictions:** For special arrangements, please contact ICLE no later than seven days before the seminar.



This program has been approved for 7.5 general recertification credit hours toward PHR, SPHR and GPHR recertification through the Human Resource Certification Institute (HRCI). You will receive the program ID number on-site to include on your recertification application form. The use of this seal confirms that this activity has met HR Certification Institute's® (HRCI®) criteria for recertification credit pre-approval. For more information about certification or recertification, please visit [www.hrci.org](http://www.hrci.org).



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