

# 22ND ANNUAL LABOR & EMPLOYMENT SEMINAR



October 12, 2017  
Hilton Chicago-Northbrook  
Northbrook, IL

## Seminar Schedule

- 8:30 a.m. – 9:00 a.m.**    **Breakfast and Registration**  
*Location:* Pine/Garden Terrace
- 9:00 a.m. – 9:10 a.m.**    **Welcome Remarks**  
*Location:* Hickory/Oak  
*Speaker:* Aimee Delaney
- 9:10 a.m. – 10:30 a.m.**    **General Plenary Session 1 –  
The Labor & Employment Year in Review**  
*Location:* Hickory/Oak  
*Speakers:* Aimee Delaney and Jim Pirages
- 10:30 a.m. – 10:45 a.m.**    **Networking Break**  
*Location:* Hickory/Oak Foyer

**10:45 a.m. – 11:50 a.m. General Plenary Session 2 –**

**Behind the Curtain: A Panel Discussion with Plaintiffs’  
Employment Counsel**

*Location:* Hickory/Oak

*Moderator:* Tom Luetkemeyer

*Panelists:*

Noelle Brennan, Noelle Brennan & Associates

Lori Deem, Outten & Golden LLP

Megan O’Malley, O’Malley & Madden, P.C.

Douglas Werman, Werman Salas P.C.

**12:00 p.m. – 1:30 p.m. Lunch & Keynote Speaker**

*Location:* Pine

*Speaker:* U.S. Senator Dick Durbin (D-IL)

**1:40 p.m. – 2:30 p.m. Breakout Session 1**

**Track A: The Cross-Examination of an HR Director**

*Location:* Hickory/Oak

*Moderator:* Linda Horras

*“Plaintiff’s Counsel”:* Adam Saper

*“HR Director”:* Thaddeus Kosowski, Metropolitan Water  
Reclamation District of Greater Chicago

**Track B: Employee Benefits Law - Policy, Trends and Key Issues  
to Consider in the Trump Era**

*Location:* Willow

*Speaker:* Anthony Antognoli and James Harbert

**2:40 p.m. – 3:30 p.m. Breakout Session 2**

**Track A: The Computer Fraud and Abuse Act - Navigating the  
New Normal of Workplace Technology and Cybersecurity**

*Location:* Hickory/Oak

*Speakers:* Ambrose McCall

**Track B: The Gig Economy - Avoid Misclassifying Workers and  
Understand Your Risks**

*Location:* Willow

*Speakers:* Dan Krawiec and Thaddeus Harrell

**3:30 p.m. – 4:30 p.m. Advice on Tap**

*Location:* Garden Terrace

*Moderator:* Evan Bonnett



# Program Summaries

**8:30 a.m. – 9:00 a.m. Breakfast and Registration**

**9:00 a.m. – 9:10 a.m. Welcome Remarks**

*Speaker:* Aimee E. Delaney

**9:10 a.m. – 10:30 a.m. The Labor & Employment Year in Review**

Join two of our labor and employment partners as we address developments in the ever-changing landscape of employment law claims, including recent roll-backs from the new administration starting to take effect, significant court decisions from 2017, and other important trends and decisions of which every employer should be aware.

*Speakers:* Aimee Delaney and James Pirages

**10:30 a.m. – 10:45 a.m. Networking Break**

**10:45 a.m. – 11:50 a.m. Behind the Curtain: A Panel Discussion with Plaintiffs' Employment Counsel**

This panel discussion will allow human resources professionals and business executives, especially defense decision-makers, to understand how plaintiffs' counsel select, assess and evaluate cases for damage potential. The panel also will discuss common employer mistakes and reactions to defense strategies. The panel discussion will be moderated by a defense litigator, and each panelist represents one or more areas of expertise: wage and hour collective actions, systemic discrimination and public employers, discrimination, retaliation and other employment law claims. The goal of the presentation is to enable employers to better identify common defense mistakes, assess the value of particular cases, evaluate the use of alternative dispute resolution mechanisms, and understand plaintiff litigation and settlement strategies. The panel discussion will specifically address such topics as email and social media; record retention; and discipline, documentation and discharge issues.

*Moderator:* Tom Luetkemeyer

*Panelists:*

Noelle Brennan, Noelle Brennan & Associates

Lori Deem, Outten & Golden LLP

Megan O'Malley, O'Malley & Madden, P.C.

Douglas Werman, Werman Salas P.C.

**12:00 p.m. – 1:30 p.m. Lunch & Keynote Speaker**

Senator Durbin is not only Illinois' senior senator, but he also serves as the Democratic Whip, the second highest ranking position among the Senate Democrats. In addition to these distinctions, Senator Durbin sits on the Senate Judiciary, Appropriations, and Rules Committees. His tenure along with his positions of authority make his comments and insight important and vital on justice, civil rights, jobs and the economy – and minimum wage, pay equity, health benefits and labor reform in particular.

*Speaker:* U.S. Senator Dick Durbin (D-IL)

**1:40 p.m. – 2:30 p.m. Breakout Session 1**

**Track A: The Cross-Examination of an HR Director**

In this dynamic session, the facts of a potential hostile environment and resulting internal complaint will be used as the background for a mock cross-examination of a human resources professional by plaintiff's counsel. A number of issues are raised by virtue of the scenario, including race and age discrimination; hostile environment; the quality of an internal investigation following a complaint of harassment; and the legitimacy of the conclusions reached by human resources and the company following the complaint. The fact scenario also raises issues of retaliation after the conclusion of the investigation. The moderator will introduce the topic and the mock cross-examination will follow immediately. Both counsel will comment on the performance of the human resources professional, and questions from the audience will be encouraged.

*Moderator:* Linda Horras

*"Plaintiff's Counsel":* Adam Saper

*"HR Director":* Thaddeus Kosowski, Metropolitan Water Reclamation District of Greater Chicago

**Breakout Session 1**

**Track B: Employee Benefits Law - Policy, Trends & Key Issues to Consider in the Trump Era**

As the policies and programs of the Trump Administration begin to take effect, employers and plan sponsors need to know what changes may be coming, at both the legislative and regulatory level. In this session, we will review how the new presidential administration is impacting employer health plans under the Affordable Care Act and how the potential for comprehensive tax reform may create new opportunities for employee benefits offerings. As we prepare for these changes, however, employers must also be sure to keep their eye on compliance issues for their benefit programs. We will analyze the actions that plan sponsors need to take to

keep in compliance and review plan changes that are required by year-end. Finally, we will discuss cutting edge techniques in employee incentives, including incentive compensation programs and new initiatives from employers to offer student loan repayment programs to younger employees.

*Speaker:* Anthony Antognoli and James Harbert

**2:40 p.m. – 3:30 p.m.**

## **Breakout Session 2**

### **Track A: The Computer Fraud and Abuse Act - Navigating the New Normal of Workplace Technology and Cybersecurity**

The U.S. Circuit Court of Appeals has issued some conflicting interpretations of what qualifies as unauthorized access or exceeding authorized access to an employer's computers so as to violate the Computer Fraud and Abuse Act. While this issue is pending in petitions filed with the U.S. Supreme Court, you can learn how to approach this area with an understanding of certain statutory policies to address when formulating a strategy customized for your specific workplace circumstances. We will also cover scenarios where the Courts found it appropriate to award or deny employers relief under the Computer Fraud and Abuse Act. The discussion concludes with noting alternative legal strategies under state law to address situations where current or former employees inflict injury on an employer's digital assets to an extent that produces recoverable damages.

*Speakers:* Ambrose McCall

## **Breakout Session 2**

### **Track B: The Gig Economy - Avoid Misclassifying Workers and Understand Your Risks**

Far too often, employers mistakenly classify individuals as independent contractors when they are in fact employees. The consequences for misclassification are serious, and an employer's honest mistake is rarely a defense to often serious penalties. In this session, we will discuss the factors to consider when determining the proper classification of workers as either independent contractors or employees, as well as potential penalties for misclassification. We will also discuss joint employer liability and its applicability to certain common situations.

*Speakers:* Dan Krawiec and Thaddeus Harrell

**3:30 p.m. – 4:30 p.m.**

**Advice on Tap**

In this informal “open mic” session, attendees will be able to pose questions directly to Hinshaw attorneys while enjoying refreshments and a candid atmosphere.

*Moderator:* Evan Bonnett