



Littler

# ENVISION WORK



CAROLINAS REGIONAL EMPLOYER | CHARLOTTE, NC | September 12, 2024

8:00 a.m. – 9:00 a.m.

## Registration and Breakfast

9:00 a.m. – 10:00 a.m.

## 2024 Employment Law Update

A perennial favorite at the Littler's Executive Employer Conference, now brought to the Carolinas Regional Employer, is a fast-paced, highly entertaining session that provides a unique opportunity to understand the latest court cases, legislative and regulatory activity and crucial developments that will affect your workplace and your responsibilities. As in the past, we have assembled a terrific team of Littler attorneys who will guide you through the maze of new developments and prepare you for the challenges ahead.

### Speakers:

[Kellie A. Tabor](#), [Jasmine R. Little](#)

10:00 a.m. – 10:15 a.m.

## Break

10:15 a.m. – 11:15 a.m.

## Strategies for Separating Employees: Tackling Agreements Restrictive Covenants and Trade Secret Protection in a Time of Legal Change

Companies expect finality if they pay for a release of all claims. But government agencies, state legislatures, and other rulemaking entities are increasingly imposing obligations on terms used in releases in order to accomplish their public policy goals. This session will update you on the developments in the past year, such as recent SEC activity imposing fines (one for \$10 million!) on companies for “chilling” employee efforts to cooperate with the government, state restrictions on confidentiality and nondisparagement clauses, and squaring the National Labor Relations Board’s McLaren Macomb decision and SEC enforcement efforts with conflicting state #Metoo laws. Would it hurt to throw a noncompete or nonsolicitation clause in a separation agreement when someone is walking out the door? We will address situations and the types of clauses that might hurt more than you think and provide strategies to avoid restrictive covenant pitfalls.

### Speakers:

[Stephen D. Dellinger](#), [Kevin M. Cleys](#), [Benjamin T. Hepner](#)

11:15 a.m. – 11:30 a.m.

## Break

11:30 a.m. – 12:30 p.m.

## Labor Law for Employment Lawyers: What Every Business Needs to Know

True or false?

1. “The National Labor Relations Act (NLRA) only applies to unionized employers.” FALSE!
2. “Only members of a union can file unfair labor practice charges with the NLRB.” FALSE!

Section 7 of the NLRA gives **all employees** the right to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from these activities. The Biden NLRB has recently issued several important decisions that impact both unionized and nonunionized employers. In addition, the NLRB General Counsel and the DOL, EEOC, SEC, and other governmental agencies have signed formal agreements to cooperate and share information. This means that every claim or charge with one agency could lead to additional claims and charges with the NLRB! Because of this, it is critical to be aware of potential claims under the NLRA, whether or not your company has workers who are represented by a union. In this session, Littler’s experienced modern labor attorneys will delve into recent labor law developments that every employment lawyer or HR professional needs to know.

Topics addressed include:

- What counts as “protected concerted activity”?
- Joint employer and independent contractor issues
- New rules for responding to union demands for recognition
- Tips for tightening up your employee handbook under the latest NLRA standards

### Speakers:

[Jerry H. Walters Jr.](#), [Emma Chase-Swartz](#)

12:30 p.m. – 12:45 p.m.

## Break

12:45 p.m. – 2:00 p.m.

## Lunch Hour Session | Face the (Cyber) Nation: Employee Benefits Edition

The latest targets for cyberattacks are employee benefit plans. In this panel discussion, we will discuss the practical steps employers can take to protect their benefit plans and employees. With advancements in technology, cybersecurity has become an increasing concern for businesses, including the protection of data and assets in benefit plans offered by employers. The Department of Labor has made it clear that it considers benefit plans prime cybertargets. Cybercriminals have succeeded in procuring sensitive information from plans, and employers have faced significant liability for not adequately protecting their plans. In 2021, the Department of Labor issued guidance for plan sponsors, plan fiduciaries, record keepers, and plan participants of ERISA-covered retirement plans on best practices and tips for ensuring security for their plans. An inquiry into cybersecurity is now a standard part of every DOL plan audit. Our panelists will answer questions that explore the current threat environment, the litigation risks of today and tomorrow, the treacherous environment for plan fiduciaries, and the steps plan sponsors can take to fend off these threats.

### Speakers:

[J. René Toadvine](#), [Steven J. Friedman](#)

2:00 p.m. – 2:15 p.m.

### Break

2:15 p.m. – 3:15 p.m.

### Flip the Script: Using Plaintiff's Data To Win Your Case

Faced with the 21st century data deluge, employers have a powerful weapon to level the discovery playing field in traditional asymmetrical litigation: a plethora of relevant – and sometimes case-ending – evidence, from cell tower pings and GPS data on mobile devices that may show where and how long a plaintiff was “working,” to social media accounts that may tip the scales in a case, to forensic inspections that may show the destruction or alteration of evidence. Using real-life examples, this interactive session will teach you how to find opportunities to win employment cases using plaintiff's data. Test your knowledge of the contemporary risks faced by employers as the lines blur between personal and employer data, including when personal devices are used for work-related activities.

#### Speakers:

[William H. Foster](#), [Stephen D. Dellinger](#)

3:15 p.m. – 3:30 p.m.

### Break

3:30 p.m. – 4:30 p.m.

### Top 10 FMLA Compliance Issues You Should Be Thinking About Right Now

The Family and Medical Leave Act (FMLA) can be a huge trap for unwary employers. Thorny issues include: recognizing an employee's notice of the need for FMLA leave, tricky medical certification issues, unplanned intermittent leave taken on a moment's notice, suspicions of FMLA misuse, and more. No wonder employment counsel and HR professionals everywhere regularly identify leaves of absence as the most difficult workplace benefit to administer and a constant compliance nightmare. But it need not be this complicated, and you do not have to fight through these issues alone. Through the use of case studies, polling, and perhaps even a little humor, we will engage attendees on the most difficult FMLA compliance issues while offering practical solutions so employers can minimize risk and maximize compliance with the law.

#### Speakers:

[Matthew S. Brown](#), [Jill A. Evert](#)

4:30 p.m.

### Cocktail Reception