



Littler

ENVISION WORK



MIDWEST REGIONAL EMPLOYER | MINNEAPOLIS, MN | NOVEMBER 14, 2024

7:30 a.m. – 8:30 a.m.

Registration and Breakfast

8:30 a.m. – 9:45 a.m.

General Session

The Littler Report

The world of work races toward the future, redefining and remaking that future as it goes. How do employers build the foundations of compliant and thriving workplaces when the ground, the rules, and the goals are all in continuous motion? It takes vision – insight into now and the informed imagination to envision what’s next. In this year’s Littler Report, we will embrace that enterprise of vision. Let us envision inclusive and diverse workplaces, even as we navigate the risks and challenges that arise in the foreground. Let us envision how generative AI will reconfigure work into something more dynamic and efficient, while we also lean into the anxiety that paradigm shakeups always bring. Let us envision engaged and aligned workforces by understanding and operating strategically in a charged labor landscape. Here at Littler, we want to help employers step on and stay aboard this new light rail of work – to move toward, yes, but also to create their future. Join us as we take this journey together, with expansive, informed vision and a charted path forward.

Speakers:

[Marko J. Mrkonich](#), [Kate Mrkonich Wilson](#), [David J. Goldstein](#), [Michael G. Congiu](#)

9:45 a.m. – 10:00 a.m.

Break

10:00 a.m. – 11:00 a.m.

Breakout 2A

2024 Minnesota Update – Here We Go Again! What’s New and What’s Coming? (Pay Transparency, Paid Family Leave Expansion, Pregnancy and Parental Leave Enhancements, MHRA Amendments and More)

For the second year in a row, Minnesota has made major changes to laws impacting all employers in the state. Please join us for an informative discussion of these developments and what it all means for your employment practices and operations.

Presenters will review the laws passed in 2024 regarding:

- Pay transparency obligations
- Earned Safe and Sick Time (ESST) – expanded coverage, calculating the proper rate for ESST and other provisions you need to know
- Paid Family Medical Leave – the latest legislative changes that will impact employers
- Independent contractors – increased penalties for misclassification, greater enforcement authority and a new independent contractor test for construction contractors
- Drug and alcohol testing – revised regulations on testing procedures and policies
- Medical marijuana protections – enhanced workplace protections for registered patients and other developments
- Minnesota Human Rights Act amendments – impact of significant changes to available remedies

Speakers:

[Susan K. Fitzke](#), [Emily A. McNee](#), [Lauren E. Clements](#)

Breakout 2B

Protecting your Goodwill and Trade Secrets in a Post-Non-Compete World

Employers' reliance on non-compete agreements continues to face new challenges from federal agencies, state legislative action, and the judiciary. This session will provide an overview of new developments relating to limitations on the enforceability of non-complete agreements at the state and federal level and explore new strategies employers may consider to protect their business relationships, trade secrets, and other intellectual property in preparing for a world in which reliance on non-compete agreements may no longer be the sound approach.

Speakers:

[Kerry L. Middleton](#), [Jeremy Sosna](#)

11:00 a.m. – 11:15 a.m.

Break

11:15 a.m. – 12:15 p.m.

Breakout 3A

Get with the Times: Outdated Misconceptions of Wage-Hour Law

Do you get the uncomfortable feeling that the bedrock principles on which your company built its pay and timekeeping practices aren't quite as foundational as you thought they were? Does it seem like courts are regularly overturning themselves and reaching new conclusions about longstanding wage and hour laws and regulations? Are you curious about how the U.S. Supreme Court's *Loper* decision might affect the Department of Labor's Fair Labor Standards Act regulations? You're not alone. In the world of wage and hour compliance and litigation, especially, the times they are a-changing! The FLSA and its implementing regulations reach all the way back to the 1940s – but wage and hour law is constantly evolving; now, more than ever. This presentation will help you keep up with the times! Please join us for a discussion regarding recent developments in wage and hour law. We hope that some surprise you!

Speakers:

[Claire B. Deason](#), [John H. Lassetter](#), [Grant Goerke](#)

Breakout 3B

A Trap for the Unwary: How Your Company Could Go Union Without an Election and Other Landmark Pro-Union NLRB Rulings

While the pendulum has always swung back and forth at the NLRB, the Board (regardless of political composition) generally was aligned in regarding the secret ballot election as the gold standard for determining majority union support. However, the Biden NLRB changed that in August 2023 when, through caselaw (rather than rulemaking), it announced a new “framework” ruling. The ruling said that, in lieu of filing an election petition, unions that believe they have majority support can demand recognition, which leaves the employer with two choices: either recognize the union without a secret ballot election or promptly file their own election petition. While not quite a return to the “Joy Silk” era, the General Counsel has dubbed this decision “Joy Satin,” as it has many similarities to the caselaw to which she had sought to return. Packing much into one case, in the same decision, the NLRB announced a new standard for when it will issue bargaining orders as the remedy for unfair labor practices by the employer during the campaign, significantly lowering the bar. Indeed, the NLRB noted that even a single violation could result in a bargaining order, once again bypassing reliance on the gold standard secret ballot for determining majority support. Compounding the traps set in the NLRB’s decision, the Board promulgated new election rules effective December 26, 2023, that shorten the election timeline. Employers must ensure they are aware of all relevant election timelines well in advance of any potential organizing activity.

In this session, Littler’s experienced labor attorneys will discuss the significance of this decision in the context of the fast-tracked election process, including the practical considerations for employers facing union-organizing activity, as this decision winds its way through appeals.

Speakers:

[Noah G. Lipschultz](#), [Jeffrey E. Dilger](#), [Alice D. Kirkland](#)

12:15 p.m. – 12:30 p.m.

Break

12:30 p.m. – 1:45 p.m.

Keynote Lunch

1:45 p.m. – 2:00 p.m.

Break

2:00 p.m. – 3:00 p.m.

Breakout 5A

Whistleblowers Run Amok: Avoiding Legal Landmines While Minimizing Disruptions When Whistleblowers Behave Badly

Using hypotheticals, including video vignettes, this panel will help you spot the legal landmines and identify strategies for addressing bad behavior by self-proclaimed whistleblowers. What can and should an employer do when an employee, claiming to be a whistleblower:

- Takes confidential documents from the employer
- Posts disparaging comments about co-workers online
- Engages in threatening behavior in the workplace

- Refuses to work or uses work time to advance “reports”
- Violates the protected rights of co-workers
- Records communications with co-workers without permission
- “Harasses” uninterested co-workers to join in their complaints

We will address what constitutes protected concerted activity under the National Labor Relations Act, the parameters of confidentiality, and how recent U.S. Supreme Court decisions regarding religion and diversity may affect an employer’s ability to stop potentially harmful employee behavior undertaken in the name of whistleblowing. We will also provide strategies for how best to handle and overcome these obstacles, and we will address new Supreme Court whistleblower decisions.

Speakers:

[Holly M. Robbins](#), [Jacqueline A. Mrachek](#), [Noah G. Lipschultz](#)

Breakout 5B

How Best to Leverage Staffing Firms, Contractors, and Platform Solutions to Meet Your Business Needs

Companies continue to leverage staffing firm, contractor, and platform solutions to meet their staffing and project needs. Employers must remain agile to navigate the headwinds of return to office, remote work, headcount, and hiring challenges, and these external workforce solutions can be a helpful tool. But they can also carry significant risk if proper guardrails are not in place. State and federal agencies are ramping up enforcement efforts with revamped joint employment and Independent Contractor classification rules, and new workers’ bill of rights laws. The considerations for engaging workers outside the United States also continue to evolve, from the rising demand for EOR services in the EU to critical new independent contractor misclassification decisions in countries such as Brazil. Is your company positioning itself to be both agile and compliant? Whether you have a well-established external workforce program or need to build one from scratch, this session will provide valuable insight.

Speakers:

[Jacqueline E. Kalk](#), [Ben Sandahl](#), [Carroll T. Wright](#)

3:00 p.m. – 3:15 p.m.

Break

3:15 p.m. – 4:15 p.m.

Breakout 6A

What to Do When OSHA Knocks on Your Door and Other Hot Topics in the OSHA World

OSHA is becoming more aggressive with unannounced site visits and demands to inspect your workplace. Not only do these unannounced visits disrupt your business operations, but also you will undoubtedly want to know what rights you have when responding to OSHA’s request for an inspection. Can you refuse the demand for an inspection? What are the consequences of refusing the inspection? If you allow the inspection, what can OSHA do and what can it not do? What happens once the inspection is done?

Little’s OSHA attorneys, Karen Charlson, Tom Revnew and Hahn Pham, are here to answer your questions and walk you through what you can, or should, do when responding to OSHA’s unannounced site visits.

As an extra bonus, Karen, Tom and Hahn will also discuss some hot topics they are seeing in the OSHA world, including: 1) OSHA's current interest in issuing workplace violence citations to employers; and 2) employees, or their lawyers, trying to creatively expand on anti-retaliation statutes related to reporting workplace safety issues.

Speakers:

[Karen M. Charlson](#), [Thomas R. Revnew](#), [Lehoan \(Hahn\) Pham](#)

Breakout 6B

A Potpourri of Ethics Issues for In-House Counsel

In-house counsel face diverse and complex issues daily. This session will be a panel discussion focusing on cutting-edge ethics-related topics, including:

- (1) May I Bypass Plaintiff's Counsel?: Communicating with represented employees under Rule 4.2
- (2) "Danger Will Robinson": Key AI considerations for in-house counsel
- (3) Taking License: Satisfying in-house counsel licensing requirements in a remote-work world.

This session may qualify for CLE ethics credits in certain jurisdictions.

Speakers:

[George R. Wood](#), [Kurt J. Erickson](#)

4:15 p.m.

Cocktail Reception