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11th Annual

Labor and Employment Law 2012

Huntsville, AL - February 29, 2012

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11th Annual

Labor and Employment Law 2012

Huntsville, AL
February 29, 2012

Presented by:

Kathleen Pohlid

- Drescher Heller Pieper Martin, PC

Daniel J. Burnick

- Sirote & Permutt, P.C.

Whitney R. Brown

- Lehr Middlebrooks & Vreeland, P.C.

David J. Canupp

- Lanier Ford Shaver & Payne P.C.

(See complete biographies inside)



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- See inside for details.

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WHO SHOULD ATTEND

- Human Resource Professionals
- Business Owners
- Managers
- Supervisors
- CIS Managers
- Payroll Professionals
- Attorneys:
 - Labor and Employment
 - Immigration
 - Employee Benefits
 - General Practice
 - New Attorneys

SEMINAR AGENDA

- I. **NLRB's Expanding Agenda: Reinventing itself Under the Obama Administration**
 - A. Overview and the NLRB's Standard Operating Procedure (SOP)
 - B. Jurisdiction issues
 - C. Election representation: proposed changes and decisions; union elections/decertification; what are the Rules?
 - D. Extension of the reach of the NLRA
 1. Impact on employers: both union and non union
 2. Impact on bargaining unit
 3. What is covered by the NLRB definition of "Section 7 Rights"?
 4. NLRB posting requirements and the impact on communications with employees
 - E. Policies that are *per se* violations of the NLRA
 - F. Recent NLRB activities and cases, e.g. Boeing, social media, Facebook postings, blogging
- II. **Other Employment Law Issues**
 - A. EEOC developments
 - B. Americans with Disabilities Act, as amended
 1. Case law interpretation of the broader definition of disability
 2. Examination and inquiry issues.
 - C. Retaliation claims under civil rights statutes
 - D. USERRA (Uniformed Services Employment and Reemployment Rights Act)
 - E. Employment litigation issues, e.g. attendant class actions
 - F. Responding to unprotected employee complaints
- III. **Immigration Law Compliance:**
 - E-Verify, I-9 Audits, and the impact of the new Alabama Immigration Bill
- IV. **FLSA/Wage and Hour Compliance**
 - A. Misclassification: employee vs. independent contractor
 1. Penalties: the push to collect taxes
 2. Voluntary Classification Settlement Program (VCSP)
 - a. Risks and benefits
 - b. Immunity
 - c. Non immune ramifications, e.g., ADA, FMLA
 - B. Compliance: staying out of trouble
 1. What to do before a wage and hour claim
 2. What to do after a wage and hour claim
 3. California law extensions to non-resident employees who work in California
 - C. Compensation issues surrounding Smartphone and remote access usage afterhours
- V. **Employment Law Issues in the Workplace**
 - A. Hiring and firing discrimination issues, e.g., social media, credit history/bankruptcy, applicant with prior FLSA complaints, unemployed, GINA, Family Responsibilities Discrimination (FRD)
 - B. Privacy issues and ramifications
 - C. Workplace handbooks and agreements, e.g., non-compete, trade secret, intellectual properties; How they work for you and against you
 - D. Case law discussions
- VI. **Social Media Networking Sites and Employment-Related Decisions**
 - A. The use of social networking sites in the employment context
 - B. Employer's risks with using social networking sites for employment decisions
 - C. Best practices and policies to minimize employer's risk
 - D. Case studies

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

WALK-IN & CANCELLATION POLICIES

WALK-INS: Walk-ins are welcome and payment is required at the door when registering. **Please call ahead to confirm the schedule.** Materials will be available for walk-ins on a first-come first-serve basis.

CANCELLATIONS: Substitutions or transfers to a future Sterling seminar are welcome anytime up to the day of the seminar. If you cancel at least three business days before the seminar you may 1) transfer your registration to another seminar, 2) receive a full refund minus a \$25.00 service charge, or 3) receive an audio and manual set of the seminar.

PLEASE NOTE: If you do not attend and do not cancel as described above you are not entitled to a refund.

REFERENCE MATERIALS

Seminar Manual

The faculty has prepared a substantial reference work to accompany their presentation. This manual will serve as a valuable tool for future reference. You will receive the manual upon checking in at the seminar site; the price is included in the registration fee.

Audio Recording

This seminar will be recorded, so if you cannot attend, or if you want to apply for home study credit (where available), you can order the audio recording and/or a reference manual from this program. Please use the registration form to order.

UPCOMING SEMINARS

- **Residential Landlord-Tenant Law**
Birmingham, AL — January 31, 2012
- **Residential Landlord-Tenant Law**
Montgomery, AL— March 13, 2012
- **Advanced Workers' Compensation**
Birmingham, AL — April 24, 2012
- **Labor and Employment Law 2012**
Mobile, AL— April 18, 2012

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RECENT DEVELOPMENTS IN EMPLOYMENT LAW:

Employment Discrimination Law Issues; Compensation Under FLSA/Wage and Hour; ADA and FMLA Update; Employee Misconduct and Workplace Torts; Workplace Harassment and Retaliation Claims; Health Care Legislative Update

PRESENTERS: Kathleen Henderson Pohlid with Drescher Heller Pieper Martin, PC; Bricker S. Daughtry with Carr Allison; D. Edward Starnes III with Lanier Ford Shaver & Payne P.C.; Jamie Manasco Brabston with Practical Employment Solutions, Inc.; Andrew S. Herring with Maynard Cooper & Gale, P.C.

Seminar #11A10194 Audio & Manual Set \$155 Audio only \$95 Manual only \$75

WORKERS' COMPENSATION LAW AND PRACTICE:

Legislative and Case Law Update; Practice Tips: Basic Definitions and Concepts; Workers' Compensation Issues; Settlements; Return to Work Issues; Torts Arising Out of the Workers' Compensation Act; Ethical Considerations; and View from the Bench

PRESENTERS: The Honorable John H. England, Jr. with the Alabama Sixth Judicial Circuit Court; Davis L. Middlemas, Attorney-at-Law, L.L.C.; Taylor C. Powell, Thomas S. Creel, and Donald B. Kirkpatrick II with Carr Allison; Todd N. Hamilton with Smith, Spires & Peddy, P.C.; and Joshua G. Holden with Fish & Nelson LLC

Seminar#11AL02047 Audio & Manual Set \$155 Audio only \$95 Manual only \$75

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MEET THE FACULTY

DANIEL J. BURNICK, a shareholder with Sirote & Permutt, P.C. in Birmingham, represents businesses and business owners in labor and employment issues and insurance claims. Mr. Burnick defends clients in matters ranging from complex workforce issues to employee management, and he has successfully litigated trials in both state and federal courts, including workers' compensation cases and class actions. Mr. Burnick defends clients in trials involving the enforceability of non-competition agreements, retaliatory discharges, Family Medical Leave Act, violation of trademarks and service marks, and the misappropriation of trade secrets. Mr. Burnick is the publisher of the *alabamaemploymentlawblog.com*, and he is a frequent lecturer at professional education programs. He is a member of the Birmingham Bar Association, the Alabama State Bar, and the American Bar Association. Mr. Burnick received his B.A. from the College of William and Mary and his J.D. from Cumberland School of Law.

WHITNEY R. BROWN, in the Birmingham office of Lehr Middlebrooks & Vreeland, P.C., represents employers before employment agencies and in employment litigation, including harassment and discrimination cases and state law claims. Ms. Brown also counsels clients in an effort to avoid litigation. She is a contributing author on employment law topics for several organizations and publications. Ms. Brown is a member of the Alabama State Bar, the Birmingham Bar Association, and the American Bar Association. She is licensed to practice in all state and federal courts of Alabama and Mississippi as well as before the 5th Circuit and 11th Circuit Courts of appeal. Ms. Brown received her B.A., *cum laude*, from Birmingham-Southern College and her J.D. from Vanderbilt University.

DAVID J. CANUPP, with Lanier Ford Shaver & Payne P.C., in Huntsville, focuses his practice primarily on the defense of employment and civil rights claims in federal court. Mr. Canupp has significant experience with federal and state laws governing employee-relations. Mr. Canupp has recently published an article and advised employers with respect to the implications of Alabama's Immigration Bill (HB-56). In addition to defending lawsuits, Mr. Canupp provides guidance to businesses in drafting employment policies and handbooks, dealing with internal employee issues, and responding to investigations by federal agencies. He is a member of the American Bar Association, the Alabama Bar Association, and the Huntsville-Madison County Bar Association. Mr. Canupp received his B.A., *cum laude*, from the University of Alabama at Tuscaloosa and his J.D., *summa cum laude*, from the Syracuse University College of Law in Syracuse, NY, where he was selected Order of the Coif and lead articles editor for the *Syracuse Law Review*.

KATHLEEN POHLID, counsel with Drescher Heller Pieper Martin, PC in Nashville, practices in employment, litigation, governmental compliance, occupational safety and health, ADA, and health law issues, including Medicare audits. She has over twenty years experience in employment law, in both the federal government and the private sector. She formerly represented the Secretary of Labor as a trial attorney for twelve years with the Office of the Solicitor, U.S. Department of Labor, and for over eight years, she represented business clients as an attorney and partner at King & Ballow. Ms. Pohlid is a contributing author on ADA and employment issues, currently serving on the *Nashville Bar Journal* Editorial Board, a contributing editor on ADA and employment law matters to *Hotel Executive* online journal, and a presenter at professional education programs on employment law and regulatory compliance matters. In 2010, she retired from the U.S. Marine Corps as a Colonel after serving two combat deployments. She is licensed to practice in Alabama and Tennessee, and she is admitted before all Federal District Courts in Tennessee and Alabama as well as the Northern District of Texas and the U.S. Courts of Appeal for the Sixth and Eleventh Circuits. Ms. Pohlid is a member of the Nashville, Tennessee, American Bar Associations, the Nashville Leadership Health Care Council, the American Society of Safety Engineers, the Health Care Compliance Association, the Medical Group Management Association, and the Associated General Contractors of America. Her judge advocate assignments include duty in Djibouti, Africa and Iraq. Ms. Pohlid received her B.S. from the U.S. Naval Academy and her J.D. from Samford University Cumberland School of Law.

LABOR AND EMPLOYMENT LAW 2012

DATE: Wednesday, February 29, 2012

REGISTRATION: 8:00 a.m.

PRESENTATIONS: 8:30 a.m. - 4:30 p.m.

LUNCH: (on your own) 11:30 a.m. - 12:30 p.m.

LOCATION:

Marriott Huntsville

5 Tranquility Base

Huntsville, AL 35805

CONTINUING EDUCATION CREDIT

Please bring your license number, ID or other necessary information to the seminar to ensure proper reporting of continuing education credit.

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TN CLE This seminar has been approved by the Tennessee Commission on CLE and Specialization for 6.67 general hours.

This seminar has been approved for 6.75 general recertification credit hours toward the PHR, SPHR, and GPHR recertification through the HR Certification Institute. For more information about certification or recertification, please visit www.hrci.org.

Maximum CPE Credit Hours: 8.0 (based on a 50 minute credit hour). Field of Study: **Business Law**. Level of Knowledge: **Basic**. Delivery Method: Group-Live. * Prerequisite: None. Advance Preparation: None. Sterling Education Services is registered with the **National Association of State Boards of Accountancy (NASBA)** as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN, 37219-2417. Web site: www.nasba.org. *No CPE credit will be granted for home study with the purchase of the seminar audio recording. SES is only approved for "Group/Live" programs.

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Registration Fee (includes manual):

- \$319 per person
- \$309 per person for 2 or more
- \$289 per person **if paid by January 18th**
- \$137 audio **in addition** to a registration*

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