

# LABOR & EMPLOYMENT LAW CONFERENCE

MONDAY, MAY 2, 2016 | SUBURBAN COLLECTION SHOWPLACE

## AGENDA

7:00 AM - 8:00 AM	Registration   Continental Breakfast
8:00 AM - 9:30 AM	The Year in Review
9:30 AM - 9:35 AM	Break
9:35 AM - 10:35 AM	Breakout Session I
10:35 AM - 10:40 AM	Break
10:40 AM - 11:40 AM	Breakout Session II
11:40 AM - 1:15 PM	Lunch   Keynote Speaker, John U. Bacon
1:15 PM - 2:45 PM	Breakout Session III (a)*
2:45 PM - 3:00 PM	Break
3:00 PM - 4:30 PM	Breakout Session III (b)*

\*Attendees will be divided into two groups for Breakout Session III. Each group will attend both hour and a half long case studies.

## HRCI Credit Pending

This program has been submitted for 6.0 (General) recertification credit hours toward PHR, SPHR and GPHR recertification through the HR Certification Institute. For more information about certification or recertification, please visit the HR Certification Institute website at [www.hrci.org](http://www.hrci.org).

## Keynote Speaker: John U. Bacon



### How to Make It Special, Sell the Challenge and Become the Best

John U. Bacon is the author of seven books on sports and business, including *Bo's Lasting Lessons: The Legendary Coach Teaches the Timeless Fundamentals of Leadership*, *Three and Out: Rich Rodriguez and the Michigan Wolverines in the Crucible of College Football*, and *Fourth and Long: The Fight for the Soul of College Football* -- all national best sellers.

His most recent book, *Endzone: The Rise, Fall, and Return of Michigan Football*, was released September 1, 2015 and debuted at number six on the *New York Times* Best Sellers list.

He freelances for *The Wall Street Journal*, Yahoo and others, appears often on TV, including HBO, ESPN, Fox Business, MSNBC, Al Jazeera and the Big Ten Network, and delivers weekly essays for Michigan Radio and occasionally NPR, which awarded him the PRNDI prize for nation's best commentary in 2014. He is a popular public speaker, who teaches at Northwestern University and the University of Michigan, where the students awarded him the Golden Apple in 2009.

John is also a decent Spanish speaker, an average hockey player, and a poor piano player, but he still enjoys all three!

## Opening Session

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### **Secure Your Own Mask Before Assisting Others: Flying Through a Year of Regulatory and Litigation-Based Threats to Employers (a/k/a The Year in Review)**

**Presenters:** Paul A. Wilhelm & Anne-Marie Vercruyssen Welch

The last 12 months have seen myriad threats to employers – some already realized; some, on the horizon. Whether the biggest assault on your organization is from the DOL, the NLRB, the EEOC or the courts, this interactive session will help you find ways to avoid dizziness, keep breathing, then help others.

## Breakout Session I

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### **2016 Employee Benefits Update: What Employers Need to Know to Stay Compliant**

**Presenters:** Edward C. Hammond & Nancy L. Farnam

This session will provide an overview of some key employee benefit compliance issues for 2016, including healthcare reform updates, wellness programs, same-sex benefits, fiduciary responsibility and more.

### **Employee Handbooks and NLRB Requirements: Can Your Policies Withstand Increased Government Scrutiny?**

**Presenters:** William A. Moore & Carly E. Osadetz

Employee handbooks are an essential means to avoiding litigation and creating a harmonious employment relationship. However, for the past few years, the NLRB has been scrutinizing common employee handbook provisions – in both union and nonunion settings – that the NLRB believes can interfere with an employee's rights under Section 7 of the NLRA. This session will cover the policies the NLRB has targeted most, and will provide practical advice for updating your policies to avoid running afoul of these new guidelines.

### **Knowing and Understanding Whistleblower Protections**

**Presenters:** Reginald M. Turner & Brian D. Shekell

Many new whistleblower protections are making their way into federal and state laws. Now, employers can be at even higher risk for expensive retaliation lawsuits, government investigations and resultant sanctions, as well as reputational risk from negative publicity. Whistleblower statutes and administrative regulations also include many new reporting and qualification requirements for whistleblowers, which many employers may not know. This presentation will discuss the various federal and state laws that contain whistleblower protections which may be applicable to your organization. Our speakers will also provide best-practices advice for building and implementing a framework for compliance and risk management.

### **Who Are You Calling, "Manager"? An Update on the Proposed White-Collar Exemption Overtime Regulations**

**Presenters:** Paul W. Coughenour & Anne-Marie Vercruyssen Welch

Find out what the DOL's new proposed rules mean for your workforce. This session will explore the proposed federal overtime regulations and "white-collar exemption" requirements; discuss how to pay employees who may no longer meet the salary basis test of the "white-collar" exemption; and provide other tips and tools to help you prepare yourselves and your organizations for the various outcomes expected this summer.

## Breakout Session II

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### **Am I An Employer? Recent Developments Relating to Joint Employment Status and Independent Contractors**

**Presenters:** David M. Cessante & Mikyia S. Aaron

The Department of Labor (DOL) and National Labor Relations Board (NLRB) recently broadened their standards used to determine joint-employer status. This presentation will provide a thorough discussion of the new standards, as well as strategies employers can invoke to minimize their potential exposure as a joint employer. In addition to discussing joint employment, this presentation will analyze the DOL's recent guidance relating to independent contractors and clarify some common misperceptions relating to independent contractors.

## Breakout Session II (cont.)

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### **Avoiding and Dealing With Violence in the Workplace**

**Presenters:** Thomas P. Brady & Andrew Bartnowak

In the last year violence in the workplace has become a subject of concern for employers as well as employees. Whether it's a disgruntled employee, a disturbed student or a terrorist incident, employers and employees need to know how to identify and react to violent situations at work. Under the general clause of OSHA, employers are required to provide their employees with a safe workplace. This presentation will discuss types and sources of workplace violence; the behavioral characteristics of employees who may become violent; and the common events that trigger violent behavior. The presentation will also discuss how to manage violent employees and the most current doctrine from the Department of Homeland Security on what employees should do if there is an active shooter in their workplace.

### **Drop the Knife! Cutting-Edge Developments in ERISA Litigation**

**Presenters:** Paul A. Wilhelm & Brian D. Shekell

ERISA litigation has continued to pile up against employers (plan sponsors), as well as insurers and service providers. Recent Supreme Court decisions, lawsuits and other developments confirm employee benefit claims have grown in their sophistication and pace, and show no signs of slowing down any time soon. This session highlights the top five happenings of the last year, and how plan sponsors and others can be prepared – and what to do when the inevitable lawsuit comes along or must be filed.

### **Telecommuting in the Digital Age: The Benefits, Potential Pitfalls and Best Practices**

**Presenters:** Connie M. Cessante & Nitya S. Lohitsa

Today's technology has had a great effect on employees' real or perceived ability to work from home, or "telecommute." Telecommuting can be beneficial for businesses, such as allowing for increased workforce flexibility and improved employee morale. It can also have negative consequences for employers, such as unauthorized off-the-clock work, confidentiality concerns, lack of supervision and the effect of at-home, but allegedly work-related injuries. In addition, a growing question exists about whether telecommuting is a reasonable accommodation under the ADA for many of today's jobs. Must employers offer disabled employees the option of working from home? This session will cover these and similar issues to analyze when considering whether to offer employees a telecommuting job or assignment, and will cover best practices when offering telecommuting.

## Breakout Session III\*

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### **Gender Discrimination, Pregnancy Discrimination and Retaliation Claims in 2016**

**Presenters:** Gail Cober (Director, EEOC Detroit Field Office), Sarah S. Prescott (Salvatore Prescott, PLLC) & Robert M. Vercruyse

A panel of experienced lawyers comprised of Gail Cober, District Director of the EEOC, Sarah Prescott from Salvatore Prescott, and Bob Vercruyse from Clark Hill will analyze a fact pattern that presents potential gender discrimination, pregnancy discrimination and retaliation claims, to discuss best practices to avoid a costly loss.

### **"Wait.... What? I'm Being Deposed?" Anatomy of the Deposition of an HR Manager**

**Presenters:** Daniel J. Bretz & Maria Fracassa Dwyer

One of the key events in any employment case is when the plaintiff's attorney takes the HR manager's deposition. In this demonstrative session, we will conduct the cross-examination of an HR manager in a discharge case. You will learn what to do, what not to do, and how to put your best case forward.

*\*Attendees will be divided into two groups for Breakout Session III. Each group will attend both hour and a half long case studies.*

## Registration Form

Name	_____			Title	_____
Company	_____				
Address	_____	City	_____	State	_____
					Zip
Phone	_____	Fax	_____	Email	_____

Please check one workshop from each session you wish to attend:

### Breakout Session I

- 2016 Employee Benefits Update: What Employers Need to Know to Stay Compliant
- Employee Handbooks and NLRB Requirements: Can Your Policies Withstand Increased Government Scrutiny?
- Knowing and Understanding Whistleblower Protections
- Who Are You Calling, "Manager"? An Update on the Proposed White-Collar Exemption Overtime Regulations

### Breakout Session II

- Am I An Employer? Recent Developments Relating to Joint Employment Status and Independent Contractors
- Avoiding and Dealing With Violence in the Workplace
- Drop the Knife! Cutting-Edge Developments in ERISA Litigation
- Telecommuting in the Digital Age: The Benefits, Potential Pitfalls and Best Practices

**Conference Fee** \$150 per person, \$90 for each additional person from the same entity. Price includes conference materials, continental breakfast and full lunch.

**Payment** Please indicate method of payment.

- Check enclosed, payable to **Clark Hill PLC** Charge my:  Visa  MasterCard

Name on Card: \_\_\_\_\_

Credit Card Number: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Security Code: \_\_\_\_\_

**Registration** Please send payment with registration form.

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