

**Bureau of Labor and Industries’
32nd Annual Employment Law Conference
Session Descriptions and Presenter Bios**

DAY 1: TUESDAY; NOVEMBER 15, 2016

8:30 to 11:45 am

Session: Caselaw Update

Presenters: Richard Liebman / Anthony Kuchulis

Firm: Barran Liebman

Description:

This session will cover the latest developments in statutes and regulations, recent case decisions, and other hot topics of labor and employment law. **(180 minutes)**

8:30 to 11:45 am

Session: Rightful Discharge

Presenter: Richard Meneghello

Firm: Fisher Phillips

Description:

Does it seem to get harder and harder to terminate your employees without being afraid of stepping on a legal landmine? Fear no more! This session will teach you lawful and effective techniques for ridding your workforce of employees who deserve to be fired and for documenting those employees who deserve discipline. By the end of this session you’ll have a step-by-step blueprint for the “perfect termination,” and learn valuable practical lessons that you can put into practice right away. This could be the most worthwhile HR presentation you’ll ever attend! **(180 minutes)**

8:30 to 10:00 am

Session: **Classifying Exempt Employees**

Presenters: **Kara Govro / Kerry Lear**
Firm: **Mammoth HR**

Description:

With the changes to the FLSA overtime rules in the news, increased attention is being focused on classification of employees. This presentation will cover which employees may be properly classified as exempt under both federal and Oregon law. Kerry and Kara will discuss the white collar exemptions affected by the new rules, as well as exemptions commonly used for sales, seasonal, and agricultural employees. **(90 minutes)**

8:30 to 11:45 am

Session: **Employee Discipline: Top Mistakes Employers Make in Dealing with Difficult Situations**

Presenters: **Elizabeth Falcone / Amanda VanWieren**
Firm: **Ogletree Deakins**

Description:

This will session will focus on the most common mistakes made in dealing with difficult disciplinary situations, including holes in investigation, documentation issues, and how to respond to a resistant employee. **(180 minutes)**

10:15 to 11:45 am

Session: **Whistleblowing & Employee Complaints: What Every Oregon Employer Should Know (and Do)**

Presenter: **Jeff Duncan Brecht**
Firm: **Lane Powell PC**

Description:

Oregon employees have the right to make good faith reports when they believe a state or federal law, rule or regulation has been violated. In fact, it is unlawful for employers to discriminate or retaliate against employees for the reason that employees have exercised that right. This session will bring employer attendees up to speed on whistleblower protection law and provide guidance on developing and implementing policies and practices to foster a culture of team player employees that avoids whistleblower-type violations and increases employee morale? **(90 minutes)**

12:45 to 2:15 pm

Session: **Avoiding Employers' Number One Risk: Retaliation Claims**

Presenter: **Caroline Guest**

Firm: **Ogletree Deakins**

Description:

Legal protections for employees who report alleged employer misconduct have increased significantly over the past several years. In addition to providing a legal update on retaliation laws, this session focuses on proactive steps employers can take to help prevent and respond to retaliation claims. **(90 minutes)**

12:45 to 4:00 pm

Session: **I-9**

Presenter: **Ron Guerra**

Firm: **Innova Legal Advisors**

Description:

A new and revised Form I-9 will be released in November 2016, as well as new guidance on immigration compliance by administrative agencies and important new decisions by the courts. This seminar will provide you with tools to weather the storm and resources to administer the form I-9 responsibilities with confidence, to understand the civil and criminal risks for non-compliance and what to do when federal agencies conduct a worksite enforcement action. **(180 minutes)**

12:45 to 2:15 pm

Session: **Internal Investigations**

Presenter: **Mitch Cogen**

Firm: **Bullard Law**

Description:

In this session, we will focus on the practical and legal considerations into when and how to conduct an investigation into workplace complaints. We will cover how to plan, structure and conduct an effective, credible and defensible investigation, including answers to questions like "When should an investigation occur?", "Who should conduct the investigation?", "Who should I interview first?", "What evidence needs to be collected?", and "How do I determine witness credibility?" We will also address issues related to confidentiality of investigations and attorney-client privilege as well as best practices with respect to writing an investigation report and reporting findings to upper management. **(90 minutes)**

12:45 to 2:15 pm

Session: **Preparing for the Next Civil Rights Regulation: Transgender Rights in the Workplace**

Presenter: **Paula Barran / Andrea Zekis**
Firm: **Barran Liebman / Basic Rights Oregon**

Description:

Although the media has carefully followed developments in North Carolina about restroom access, a number of federal, state and regulatory changes have introduced significant protections for sexual expression and transgender rights. This program will discuss requirements for government contractors, OSHA bathroom access regulation, and best practices to help employers understand new and expected requirements. **(90 minutes)**

2:30 to 4:00 pm

Session: **The Bermuda Triangle of Leave Laws: FMLA/OFLA/WC/ADA**

Presenter: **Blerina Kotori**
Firm: **Tonkon Torp LLP**

Description:

When dealing with employee medical issues, an employer often wonders "have I forgotten something?" This presentation will address the interplay of ADA, FMLA/OFLA, Workers' Compensation, and Sick Leave to ensure that employers have a reliable check list of legal issues to consider when employees need time off for health reasons. **(90 minutes)**

2:30 to 4:00 pm

Session: **Onboarding**

Presenter: **Jeff Burgess**
Firm: **BOLI**

Description:

I know you're busy and that's why you are hiring new employees. But the "sink or swim" method is destined to lead to more turnover and then you're right back to hiring and training somebody new. Effective onboarding leads to higher job satisfaction, organizational commitment, lower turnover, better performance, career effectiveness and less stress for you and the new hire. We will discuss the all-important first day on the job, orientation, the why and how of job descriptions, setting goals and relaying expectations, making corrections, providing feedback and dealing with performance issues early. Please join us for this lively and interactive session. **(90 minutes)**

2:30 to 4:00 pm

Session: Worker Misclassification & Pay Issues

Presenter: Joseph Tam / Gregory McAllister
Firm: BOLI / Oregon Department of Revenue

Description:

For payroll purposes, the Oregon Legislature has amended the requirements for the itemized information that must be included on an employee's checkstub.

Many businesses will classify their worker's as independent contractors in order to simplify and reduce their payroll taxes, including withholding. If the Department of Revenue (DOR) finds that an employer has misclassified employees as independent contractors, they will use the best available information to contact the business owner and gather correct payroll tax returns. In cases of noncompliance, DOR may use the best available information to assess payroll taxes for the business. In cases where DOR must assess payroll tax for the employer, penalties are incurred as well. Depending on the number of quarters that have not been filed, DOR may assess up to 100% penalty on accounts where the employer has failed to file. DOR may also determine which individuals are personally responsible for income tax withholding and pursue those individuals for the full balance due.

In this session, Joseph Tam will discuss the new information that must be included on the employees' paystubs and Gregory McAllister will present the risks of misclassifying the workers as independent contractors. **(90 minutes)**

DAY 2: WEDNESDAY; NOVEMBER 16, 2016

8:30 to 11:45 am

Session: Legislative Update

Presenter: Dan Grinfas

Firm: Buchanan Angeli Altschul & Sullivan LLP

Description:

Oregon's busy 2015 and 2016 legislative sessions produced dozens of employment-related bills. Many of the new laws have already taken effect, and more take effect on January 1, 2017. This information-packed session covers a wide variety of new legislation of interest to Oregon private and public sector employers, including wage and hour laws (minimum wage, pay stub requirements, records retention, pay transparency, pay equity), civil rights laws (whistleblowing, "ban-the-box," expanded social media protections), leave laws (statewide Oregon protected sick time, OFLA benefit rights, military leave, domestic violence leave) and more! **(180 minutes)**

8:30 to 10:00 am

Session: What Happens in Vegas, Doesn't Stay in Vegas: Off-Duty Misconduct

Presenter: Todd Lyon

Firm: Fisher Phillips

Description:

This program examines the legal limits of what an employer can and cannot do when confronted with employee misconduct committed off-duty. It will also provide the latest analysis of those states that have "banned the box" on criminal convictions prior to employment. Attendees will learn about individual employee rights, labor law rights, and just cause considerations in imposing discipline for off-duty misconduct. Through hands-on exercises, employers will examine whether discipline is warranted and whether the discipline will be enforced. The session will conclude with recommendations for employers to ensure that any discipline issued is upheld. **(90 minutes)**

8:30 to 10:00 am

Session: FLSA Overtime Changes

Presenter: Kent Pearson

Firm: Bullard Law

Description:

The U.S. Department of Labor's new overtime regulations are scheduled to take effect December 1, 2016. Learn about the changes made by the new rules and strategies to effectively respond to the new rules in your workplace. **(90 minutes)**

8:30 to 10:00 am

Session: Accommodating Mental Illness at Work

Presenter: Kurt Barker

Firm: Karnopp Petersen LLP

Description:

Mental illness at work leads to more lost workdays than back pain, and can trigger a variety of overlapping laws. And yet many managers are reluctant or ill-prepared to address those situations, which are ripe for failure to accommodate, retaliation and other legal claims. This session will tackle the following:

- What are the primary laws that can apply to an employee with mental illness? (Think: ADA, OFLA/FMLA, Oregon Sick Leave and more!)
- How should employers react when an employee discloses, or the employer suspects, a mental illness?
- How does one work to make a "reasonable accommodation" for a mental illness, and how far do you have to go in offering time off or other accommodations? How do you minimize the risk of legal claims?

Join us for a lively session, including discussion scenarios, practical solutions and more. **(90 minutes)**

10:15 to 11:45 am

Session: **Drug Testing & New OSHA Rules**

Presenter: **Rebecca Watkins**

Firm: **Sather Byerly Holloway LLP**

Description:

In August, OSHA issued a final rule regarding recordkeeping for injuries. Meant to “nudge” employers to prevent injuries, the rule also included an “anti-retaliation” provision that identifies how certain workplace programs might be seen as discouraging the reporting of injuries. In this session, we will review the new rule and discuss how employers can maintain drug testing programs or safety incentive programs without violating this rule. **(90 minutes)**

10:15 to 11:45 am

Session: **Drafting Effective Employee Handbooks**

Presenter: **Elizabeth Semler**

Firm: **Sussman Shank LLP**

Description:

Employee handbooks are more than a collection of rules for employees and should be a staple for any business. A properly drafted, clear handbook can prevent liability and be the best defense to protect employers against claims for discrimination, wrongful termination, and retaliation (provided the employer actually follows the policies in the handbook).

During this 1.5 hour session, employment law attorney Elizabeth Semler will discuss the key provisions to include in an employee handbook, legal concepts implicated by specific handbook provisions, and logistics for introducing handbooks and handbook amendments. **(90 minutes)**

10:15 to 11:45 am

Session: **You're the One; Avoiding Legal Pitfalls in the Hiring Process**

Presenter: **Clarence Belnavis**

Firm: **Fisher Phillips**

Description:

This session will involve the right way to go about hiring employees, the most common pitfalls during the process, and how to avoid them. **(90 minutes)**

12:45 to 2:15 pm

Session: Terminations: Understanding the Legal Landscape and Strategies for Limiting Potential Liability

Presenter: Anne Denecke

Firm: Denecke Employment Law

Description:

This session will involve a robust discussion of the numerous laws and regulations impacting an employer's decision to terminate an employee, with an emphasis on providing decision-makers with practical strategies to limit potential liability. **(90 minutes)**

12:45 to 4:00 pm

Session: OFLA / FMLA

Presenters: Joseph Tam / Josephine Ko

Firm: BOLI / Vigilant

Description:

Joseph and Josephine will provide an overview and update on family and medical leave laws in Oregon and California. They will address recent changes to FMLA (federal Family and Medical Leave Act), OFLA (Oregon Family Leave Act), CFRA (California Family Rights Act), and other relevant leave laws. This seminar will be beneficial for employers in Oregon, as well as other businesses with employees in one or both states. Topics will include:

- Changes to FMLA regarding same-sex marriage
- Updates on FMLA forms
- Insurance continuation for a period of OFLA leave and harmonizing the insurance coverage while an eligible employee is on OFLA/FMLA leave
- How statewide sick leave will impact OFLA/FMLA
- How the U.S. Supreme Court decision in *Young v. UPS* may affect leave eligibility and the amount of leave for pregnant female employees
- How the 9th Circuit Court of Appeals decision in *Escriba v. Foster Poultry Farms, Inc.*, may modify the leave application process
- Recent changes to OFLA rules, including the definition of spouse, the definition of child, employees who need not requalify for additional OFLA leave, etc. **(180 minutes)**

12:45 to 4:00 pm

Session: Workplace Accommodations

Presenter: Jeff Burgess

Firm: BOLI

Description:

All employees need the right tools and work environment to perform their jobs. Some of those employees have unique needs that give rise to legal obligations for employers. Among those employees are individuals with disabilities, those who are or recently were pregnant, injured workers, those who have sincerely held religious beliefs, and victims of domestic violence, sexual assault, stalking or harassment. These folks may need, and be legally entitled to, additional resources or accommodations to effectively perform job duties. In this informative and interactive session, we will cover the wide range of accommodation issues that may arise in the workplace. **(180 minutes)**

Topics covered will include:

- Americans with Disabilities Act and Oregon's disability laws
- OFLA/FMLA leave and temporary job reassignments
- Injured worker re-employment and reinstatement
- Pregnancy accommodation
- Religious accommodation
- Reasonable workplace safety accommodations for certain crime victims
- Family friendly workplace policies and practices
- Documentation
- The "interactive process"
- Examples of reasonable accommodation
- What to do when the accommodation involves an undue hardship or a direct threat

12:45 to 2:15 pm

Session: Coming in 2017: the Oregon Retirement Savings Plan

Presenter: Lisa Massena

Firm: Oregon State Treasury

Description:

Did you know that over half of Oregon's workers – as many as 1 million people – don't have a retirement savings plan at work?

The Oregon Legislature created the Oregon Retirement Savings Plan as a way for people without a retirement plan at work to start saving part of their paychecks in their own, professionally-

managed accounts. The plan will benefit workers as well as small employers who don't have the time or resources to set up a company retirement plan.

The plan will launch in July of 2017. Top features for employees include automatic enrollment, payroll deduction, and automatic contribution increases once a year, all on a flexible, opt-out basis. It's expected the plan will offer savings choices both for growth, and safety. Employers with eligible employees will be limited to a facilitative role and will not be plan fiduciaries.

Learn more about the plan and what it will do for employers and employees. **(90 minutes)**

2:30 to 4:00 pm

Session: Oregon Sick Time

Presenter: Chet Nakada

Firm: BOLI

Description:

Oregon Sick Time is almost a year old, and employers have now had time to become familiar with the law's requirements. During this session, Chet will discuss some common concerns and the new administrative rules which provide clarification for areas of confusion. **(90 minutes)**

2:30 to 4:00 pm

Session: Uniformed Services Employment and Reemployment Rights Act (USERRA)

Presenter: Eddie Abrams

Firm: USDOL - VETS

Description:

In partnership with Employer Support of the Guard and Reserve (ESGR), Department of Labor, Veterans' Employment and Training Services (VETS) will present an in depth and thorough exploration of Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994. The workshop will provide an understanding of USERRA, the federal law that protect employment rights and provides for proper reemployment of employees who serve on military active duty, in the National Guard and Reserves. Topics that will be covered include eligibility criteria, reemployment rights, discrimination, retaliation, proper reemployment position, accommodating military disabilities, timely reporting following military service, seniority and non-seniority based benefits, and protection against discharge. The Ombudsmen volunteers from the Oregon ESGR committee will also be available to discuss their role in informal mediation as a first step towards proper application of USERRA, technical assistance, and a description of the services provided to military service members. Additionally, the workshop will provide information regarding local and state resources that Company HR Representatives can access to recruit and hire Veterans, National Guard and Reservists. **(90 minutes)**

PRESENTER BIOS

Eddie Abrams is the Assistant Director at U.S. Department of Labor (DOL), Veterans Employment and Training Services (VETS) in Oregon. Mr. Abrams investigates veteran's employment complaints (such as veteran's preference, veteran's discrimination, reemployment rights, and retaliation cases) filed under Uniformed Services Employment and Reemployment Rights Act (USERRA). Additionally, he evaluates and monitors State Workforce Agency (SWA) employment and training services to eligible veterans to assess the level and quality of services to veterans. Furthermore, he monitors Homeless Veterans Reintegration Program (HVRP) grantees that provide employment related services to veterans. His military experience includes: Active Army – 82nd Airborne Infantry 3rd Battalion, Oregon National Guard – Executive Officer, B Company 141 Support Battalion and Forward Logistics Officer (deployed to Afghanistan). His education includes: MBA from Keller Graduate School of Management (with distinction), Bachelor degree in Human Resource Management from Portland State University, and a Bachelor degree in Business Management from Linfield College (magna cum laude).

Kurt Barker is a partner at Karnopp Petersen LLP, Central Oregon's preeminent law firm. He serves as Chair of his firm's Employment Law department and on the board of the Oregon Employer Council - Central Oregon, and has served as President of his local SHRM Chapter. As an employment law and litigation attorney, Kurt has been representing employers in all aspects of the employment relationship for the last fifteen years, including counseling regarding terminations, accommodations and medical leave, drafting handbooks and contracts, helping employers avoid claims and defending them before agencies and in court.

Paula Barran, a founding partner at Barran Liebman, has been practicing labor and employment law since 1980. She has written extensively on management law and is a national speaker and trainer. In addition to providing employer advice, Paula handles employment litigation in state and federal courts, and labor disputes and employment arbitrations. Additionally, she develops and presents "train the trainer" programs to introduce comprehensive, and cost effective, training programs into workplaces. Since the first publication of the *Oregon Super Lawyers* magazine in 2006, Paula has repeatedly been named as a "Top Ten Lawyer" in Oregon. In 2008, and 2010, she was honored as the "Top Point Getter" for the year and was honored as the #2 Top Point Getter in 2016. Since 2003, Paula has been ranked #1 (with partners Ed Harnden and Rick Liebman) for Labor and Employment Law defense in the State of Oregon by Chambers & Partners USA, America's Leading Business Lawyers. She is also a fellow of The College of Labor and Employment Lawyers, a fellow of the American Bar Foundation, and has been named in *The Best Lawyers in America* directory since 1995. She is admitted to practice in Oregon, Washington and before the U.S. Supreme Court, U.S. Court of Appeals, Ninth Circuit; U.S. District Court, District of Oregon and U.S. District Court, Eastern and Western Districts of Washington.

Paula received her B.A. from the College of William and Mary, M.A. from Cornell University, Ph.D. from the University of British Columbia, J.D., with honors, from Osgoode Hall Law School at York University, and M.B.A. degree from the University of Oregon, Oregon Executive MBA program. Paula has also earned an ATIXA Title IX Coordinator Certificate. In addition to her labor and employment practice, she represents colleges and universities on wide ranging compliance issues including institutional obligations under Title VI, Title IX, and VAWA.

Clarence Belnavis is a partner in the Portland and Seattle offices. He is a trial attorney with a primary emphasis in employment litigation, including disability, racial and gender discrimination, retaliation, sexual harassment, and wrongful discharge. He also represents employers in wage and hour claims, employment class actions, and traditional labor matters.

Clarence also has significant experience counseling clients with respect to labor and employment matters, including disability and return to work issues, employee handbooks, termination procedures and litigation avoidance.

Clarence routinely provides client trainings and speeches to industry groups regarding current and developing employment law issues in Washington and Oregon.

He has been listed in Chambers USA, America's Leading Business Lawyers since 2006 and The Best Lawyers in America since 2009. He has also been named one of Portland's "Top 40 Under 40" by the Portland Business Journal, and he has been repeatedly recognized in Oregon Super Lawyers for his work in labor and employment law. He currently serves on the board of Big Brothers Big Sisters, Columbia Northwest.

In 2011, Clarence was honored as a "Convocation on Equality Champion" in recognition of the diversity work that he has been engaged in during his career.

Jeff Duncan Brecht has 20 years of trial experience representing businesses and individuals in state and federal court. Jeff trains and advises employers on lawful employment practices and assists in conducting workplace investigations. He regularly defends employers against employee complaints filed with state and federal agencies and in state and federal courts, including claims for unlawful discrimination, whistleblower law violations, wage and hour violations, leave law violations, workers compensation violations, and wrongful termination. Jeff also enforces non-competition agreements and protects employer trade secrets.

Jeff's litigation experience also includes enforcing contracts in a wide variety of business disputes, prosecuting and defending against trust and estate claims and claims against fiduciaries, and representing long term care and senior living businesses and professionals on diverse regulatory, contract, licensure, and HIPAA privacy and security rule compliance matters. Jeff is a member of the following Lane Powell PC Practice Groups: Labor and Employment, Litigation, Long Term Care and Seniors Housing, Cannabis Law, and Privacy and Data Security.

Jeff Burgess received his undergraduate education at the University of California at Santa Barbara where he was a Scottish Rite scholar. He graduated in 1985 with Bachelor of Arts degrees in Law and Society and Business Economics. He received his legal education from the University of Mississippi School of Law in 1988. After law school he worked in private law practice for 15 years, with an emphasis in litigation. For most of the last 10 years, Jeff has been a case presenter with the Oregon Bureau of Labor and Industries (BOLI), taking Wage and Hour Division and Civil Rights Division cases to administrative hearing. Four years ago he joined the Technical Assistance for Employers Program at BOLI where he teaches seminars in Oregon employment law to employers, supervisors, managers and human resources professionals. He also writes a newspaper column that is published throughout the state, edits handbooks for employers, and answers telephone and email inquiries about wage and hour and civil rights issues for the business community.

Mitch Cogen began his career as a human resources executive. For ten years, Mitch was Corporate Manager, Human Resources for a large paper company based in Connecticut.. Frequently finding himself sitting across the table from attorneys representing unions and state and federal agencies, Mitch became fascinated by the practice of law and enrolled in the University of Connecticut School of Law.

In 1999, Mitch moved to Portland and joined Bullard Law shortly thereafter. Impressed with his work, in 2004 Freightliner LLC (nka Daimler Trucks North America LLC) hired Mitch away to serve as in-house counsel responsible for all labor and employment law matters. Mitch chose to return to private practice with Bullard Law in 2009.

With the business acumen acquired as a human resources professional and in-house attorney, Mitch truly understands the challenges his clients face. Mitch's unique perspective helps him accurately assess and analyze situations, devise creative and effective solutions, avoid potential lawsuits, and successfully defend lawsuits when they arise. Mitch is passionate about partnering with clients to strategize and execute plans that successfully deliver desired results.

Mitch's practice covers all areas of private and public sector labor and employment law, with a particular emphasis in employment and labor litigation and arbitrations, workplace investigations and preventative advice.

An avid athlete, Mitch plays competitive tennis, golf, and enjoys snow and waterskiing. When he has free time, Mitch spends as much of it as he can with his family.

Anne Denecke, Denecke Employment Law

Focus

Management employment and labor law, human resources consulting, corporate diversity counseling.

Representative Experience

Advice and counsel regarding:

- Wage and hour laws
- State and federal leave laws
- Personnel policies and procedures
- Discipline and discharge
- Independent contractors
- Union organizing
- Assessment and analysis of workplace diversity issues

Drafting and review of agreements such as:

- Executive employment
- Independent contractor
- Non-competition
- Non-solicitation
- Confidentiality
- Severance

Defense of state and federal employment discrimination agency charges and lawsuits, state and federal agency audits

Representation of management in labor contract interpretation and discharge grievance arbitrations

Training and education in areas including:

- Discipline and discharge
- Sexual harassment
- Internal investigations
- Wage and hour regulations
- Leave laws
- Union organizing
- Workplace diversity

Elizabeth Falcone is a Shareholder with Ogletree, Deakins, Nash, Smoak & Stewart, P.C. Ms. Falcone represents private and public employers in all aspects of employment law, including wage/hour matters, wrongful termination, discrimination, and harassment litigation. She has experience defending class action cases, as well as single and multi-plaintiff cases. She has tried

cases for employers in state and federal courts. She also has experience in traditional labor law, including handling grievance arbitrations and collective bargaining, as well as advising employers with unionized workforces.

Based on the breadth of her experience and her achievements, in April 2016, Law360 selected Ms. Falcone from among over 1,000 nominees as one of the top lawyers in the United States under the age of 40. She was one of just 7 lawyers selected in the Employment law practice area.

Ms. Falcone has significant experience representing clients faced with putative class actions. She has litigated class action claims in many different industries, including retail, financial services, and the construction trades. She has experience leading class actions, and managing every step of the process, from pre-certification discovery involving voluminous data and documents, to settlement. Her experience includes defending against claims of misclassification for purposes of exempt status, missed meal and rest periods, adequacy of paystubs, and other wage-related claims. In one highly-publicized class action involving tens of thousands of employees, Ms. Falcone deposed several named plaintiffs, coordinated large scale preservation of documents and discovery, and prepared class certification opposition and supporting papers. She also has devised and executed large-scale discovery and declaration projects to marshal evidence for use in opposing class certification and for beating class matters on the merits.

In addition to her class action work, Ms. Falcone has represented employers at trial in various courts in California and Oregon, and in private arbitration. In addition to courtroom work, she has appeared before the United States Department of Labor, the United States Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, the California Division of Labor Standards Enforcement, and the Oregon Bureau of Labor & Industries. She also has experience litigating against government agencies, including the EEOC and BOLI. Ms. Falcone has broad expertise in the area of disparate treatment, harassment, retaliation, wrongful termination, and other issues commonly raised by individual employee litigants. She provides day-to-day advice to clients on issues including wage and hour matters, leaves of absence, accommodation of disabilities, and risk management when making disciplinary decisions. Ms. Falcone has represented both public and private employers in grievance arbitrations, as well as at the bargaining table. She regularly speaks on issues including basic employment law, reasonable accommodations, wage/hour considerations, the law of harassment and workplace investigations.

Kara Govro practiced employment and bankruptcy law for five years before joining Mammoth as the Laws Manager and was a Human Resources Generalist at an architecture and engineering firm for two years prior to that. As an attorney she worked on many wage and hour and discrimination claims in both state and federal court. Kara holds a BA from Oregon State University, a JD from Lewis and Clark Law School, and is a member of the Oregon State Bar.

Dan Grinfas counsels employers and conducts management and employee training in a variety of employment-related areas, including workplace harassment, civil rights laws, wage and hour laws, OFLA and FMLA, disability laws and reasonable accommodation, injured worker laws, legal hiring practices, policy writing and employer record-keeping requirements. He also represents employers before administrative agencies including BOLI and the EEOC.

Dan is certified as a Senior Professional in Human Resources (SPHR) by the Human Resources Certification Institute. He has also been selected for inclusion in the Employment Law category of Chambers USA: America's Leading Lawyers for Business, in Best Lawyers in America and in Oregon Super Lawyers.

Dan previously served as Lead Program Coordinator with the Oregon Bureau of Labor and Industries' Technical Assistance for Employers Program. He is a frequent speaker on employment law issues and has presented seminars to thousands of managers, supervisors and human resources professionals at public agencies and private organizations throughout Oregon. He has given numerous presentations for organizations including the Oregon State Bar, the Society for Human Resource Management, the Northwest Human Resources Management Association, the Oregon Employer Council, BOLI, the EEOC, the Oregon Law Institute, and the Labor Education Research Center.

Ronald G. Guerra, Innova Legal Advisors, brings a unique and diverse background to representing clients in employment and labor relations matters. Ron is a frequent speaker, writer and trainer on employment and immigration reform and compliance issues. Ron represents clients in federal and state courts and before federal and state administrative agencies, including the Oregon Bureau of Labor and Industries, the Equal Employment Opportunity Commission, the National Labor Relations Board and the U.S. Department of Labor. Prior to obtaining his legal education, Ron worked eleven years for the Whirlpool Corporation in various business management positions and was an Associate Professor of Management for Davenport University.

Caroline Guest is the Managing Shareholder of the Ogletree Deakins Portland office. For over 20 years, Caroline has represented public and private employers of all sizes in state and federal court, as well as before the administrative agencies tasked with enforcing employment rights. As a litigator, Caroline has successfully defended her clients in claims of breach of contract, wrongful discharge, and discrimination and retaliation based on gender, pregnancy, age, disability, whistleblowing, sexual harassment, and public accommodation law.

A substantial part of Caroline's practice, however, is providing proactive, creative, and practical advice to help her clients avoid litigation in the first place.

Prior to joining Ogletree Deakins, Caroline took a two-year break from private practice and worked as the executive vice president of human resources of a national retailer with over 27,000 employees throughout the United States and Canada. While in this position, Caroline and the HR department focused on advancing business objectives and strategies while successfully managing risk. This experience cemented her dedication to providing legal counsel that is business-oriented, and not just compliance-driven.

Caroline also regularly conducts training for HR professionals, as well as front-line supervisors and managers, on topics ranging from equal employment opportunity basics, preventing workplace harassment, performance management fundamentals, and disciplining and terminating employees while limiting liability.

A native of Albania and an Oregon Rising Star (2015), **Blerina Katori** is a partner in Tonkon Torp's Labor and Employment group. She has substantial experience advising employers in various matters, including pre-employment background checks, drug testing, discipline and sensitive terminations, training, and handbooks and policies. Her advice spans areas of discrimination, retaliation, FMLA/OFLA, wage and hour, harassment, non-competition, and employee benefits. Blerina further specializes in data privacy and security, and assists companies with dealing with data security breaches. Blerina also handles employment litigation, including wage and hour class actions and individual claims of retaliation, discrimination, harassment, leave laws, workers' compensation, noncompetition, and other matters. She has jury and bench trial experience, prevailing on both forums. Her most recent victories include winning a First Amendment case against the Oregon Department of Corrections. Before then, she won a jury trial involving breach of noncompetition agreement, breach of fiduciary duty, and other employment torts. Her clients range from healthcare public entities and large nonprofit entities to large and small private companies throughout the nation.

Josephine Ko is an experienced employment attorney at Vigilant, where she advises member companies on a wide range of employment law issues. Josephine guides companies in the right direction by offering tailored legal advice that addresses workforce realities and the unique dynamics within each workplace. Prior to Vigilant, Josephine specialized in employment law at an AmLaw100-rated law firm and premier boutique law firms in California and Oregon. She is licensed in California and Oregon, and she frequently speaks and writes on employment law issues. Josephine is a graduate of Duke University School of Law and UC Berkeley.

Anthony Kuchulis is with the firm of Barran Liebman and focuses his practice on representing employers and management in employment litigation. Anthony's involvement with a case spans the litigation process, and includes regularly advising on employment issues, including compliance with state and local laws and ordinances, representation before board and regulatory agencies, and when necessary, defending or litigating claims to resolution. Foremost in all of his work is an understanding of client needs, particularly the necessity to quickly understand the issues and risks at hand so as to arrive at an informed decision. Additionally, he has in-depth experience advising and litigating claims under the Employer Liability Law. Anthony developed his legal acumen early on while attending Lewis and Clark Law School and clerking with the Oregon Department of Justice Trial Division, where he advised various State agencies regarding employment-related issues and litigation. After serving two years on the Lewis and Clark Law Review he graduated with Honors in 2008.

In addition to his legal practice, Anthony serves on the Executive Committee of the Oregon New Lawyers Division of the Oregon State Bar, and he was recently honored with a Member Services Award for his work helping newer lawyers with the transition from law school to practice. Additionally, Anthony was a member and president of the J.R. Campbell Inns of Court, a national organization that teaches trial attorneys new ways to improve their craft. He is also a past president of the Rotary Club of Redmond, and has been an active volunteer for Big Brothers Big Sisters and Hospice of Redmond's Camp Sunrise. For his work with clients and the community, Anthony has been listed as a "Rising Star" by Oregon Super Lawyers since 2014.

Kerry Lear oversees the HR Content team at Mammoth. Her team specializes in analyzing new legislation, developing HR policies, tools, and other materials for use by Mammoth clients, and putting together our content for webinars and presentations. Prior to entering the field of HR, she practiced as a family law attorney. Kerry holds a BA from Columbia University, a JD from Lewis & Clark Law School, and is a member of the Oregon State Bar.

Rick Liebman, a founding partner at Barran Liebman, has extensive experience representing employers in labor and employment law. Rick received both his undergraduate and J.D. degrees from the University of California at Berkeley. He is admitted to practice in Oregon, Washington, Hawaii and the U.S. Court of Appeals, District of Columbia. He is former chair of the Tri-County Affirmative Action Association and the Oregon State Bar's Labor Law Section. He is management editor of the Oregon State Bar's book and supplements entitled *Labor and Employment Law*, for which he was presented with the Association for Continuing Legal Education's Best Award of Outstanding Achievement in 2012. Rick has also served as an instructor in EEO law at Portland State University's Professional Development Center. Rick has three notable "firsts" that truly speak to his professional accomplishments: he was selected as the first "Labor and Employment Lawyer of the Year in Portland" for 2010, he was honored as the first "Management Practitioner of the Year" by the Oregon Industrial Relations Research Association in 2004, and he was the recipient of the Oregon State Bar Labor Section's first "Distinguished Service" award in 2003. Rick was also elected by his national colleagues as a national fellow of The College of Labor and Employment Lawyers for his sustained outstanding performance in the profession and is ranked #1 (with partners Paula Barran and Ed Harnden) for Labor and Employment Law defense in the State of Oregon by *Chambers & Partners USA*, America's Leading Business Lawyers, 2003-present. He has been selected repeatedly by his peers for listing in the *Best Lawyers in America* (1995-present) and was named *Best Lawyers'* 2014 Portland, Oregon Labor Law - Management "Lawyer of the Year." He has also repeatedly been named as one of the top 50 lawyers in Oregon by *Super Lawyers*.

Todd Lyon is a partner in the firm's Portland and Seattle offices. He has been a labor lawyer for nearly 20 years, representing public and private sector employers in labor negotiations, labor arbitrations, and employment litigation. Todd is a skilled negotiator who bargains pro-employer collective bargaining agreements. He regularly assists clients with the interpretation of collective bargaining agreements and disciplinary matters so as to avoid grievances. However, if the grievance is advanced to arbitration, Todd has conducted hundreds of arbitration hearings with superior results concerning virtually every aspect of contract interpretation, discipline, union security, and interest arbitration. Todd has also successfully litigated before the National Labor Relations Board and state labor boards in both representation and unfair labor practice hearings. He regularly assists clients in responding to union organizing campaigns and developing labor strategies to avoid campaigns altogether.

Todd is a regular speaker at industry conferences, continuing legal education programs, universities, law schools, and client training programs. He also enjoys writing on labor and employment law topics. Since 1998, he has been a Chapter Editor of *The Developing Labor Law*, the nation's leading labor law treatise. Todd has also served as a Chapter Editor for Oregon's public sector labor law treatise, *Labor and Employment Law: Public Sector*.

Lisa Massena is the Executive Director of the Oregon Retirement Savings Plan. In this role, she manages the development of the Oregon Retirement Savings Plan and serves as principal staff to the Oregon Retirement Savings Plan Board, which oversees the plan. Previously, Ms. Massena has worked for a variety of consultancies and investment firms and most recently served as a senior vice president at State Street's investment analytics unit. She earned a B.A. from Portland State University and is a Chartered Financial Analyst.

Gregory McAllister is the Oregon Department of Revenue's Withholding and Payroll Tax Outreach Coordinator. He is based in Salem and has a diverse background in both the public sector and private small business. The primary function of DOR's Withholding and Payroll Tax Outreach Program is to offer educational information and presentations on various topics to small business groups, associations, tax preparers, etc. Greg also partners with other agencies at the local, state, and federal levels to best reach those who can benefit from increased knowledge and understanding regarding Oregon payroll tax programs, policies, and procedures.

Rich Meneghello is a partner in the Portland office of Fisher Philips LLP. He is passionate about assisting employers with their labor and employment problems in a wide variety of areas.

Rich has focused much of his practice on defending and advising employers on disability discrimination issues. He has maintained this focus since 1999, when he was the lead associate attorney before the U.S. Supreme Court in the case of *Albertsons v. Kirkingburg*, a unanimous decision interpreting the Americans with Disabilities Act in favor of employers.

However, Rich's practice is not limited to ADA matters. He commonly appears in court defending claims of sexual harassment, gender discrimination, injured worker discrimination, race discrimination, retaliation, wage and hour violations, and family and medical leave discrimination.

He also counsels employers on proactive ways to avoid legal problems, by rendering advice, drafting policies, and providing training. Rich has written a monthly column in the *Portland Daily Journal of Commerce* entitled "Solutions at Work" since 2007, and he has supervised Fisher & Phillips' Supreme Court Alert service, which publishes summaries and offers practical advice about Supreme Court opinions, since 2008.

Chet Nakada is a Training and Development Specialist with the State of Oregon Bureau of Labor and Industries Technical Assistance for Employers Program. He conducts employer seminars and helps employers comply with Oregon's Wage and Hour and Civil Rights Laws. Prior to working for Technical Assistance he worked as a Senior Civil Rights Investigator and prosecuted cases for the Agency in the Administrative Prosecution Unit.

Kent Pearson is with Bullard Law. He has practiced labor and employment law for over 30 years. Kent prides himself on being a "trouble preventer" for clients by helping them understand the issues and risks before problems arise. Kent has broad experience counseling employers on wage and hour matters, employment agreements, employer personnel policies, plant closing and other labor and employment issues.

Kent defends employers in administrative proceedings before entities including the Oregon Bureau of Labor and Industries, the Equal Employment Opportunity Commission, the National Labor Relations Board and the U.S. Department of Labor.

A North Carolina native, Kent was introduced to Portland during a summer law clerkship and fell in love with the Northwest. A big fan of the outdoors, Kent enjoys rowing, cycling, and trail running. A true weekend warrior, Kent has competed in triathlons and is an Ironman USA finisher. Kent is also a regular on the Bullard Law Hood-to-Coast team.

Elizabeth Semler is a partner at Sussman Shank, LLP. She assists clients in a broad range of business and employment matters. Ms. Semler's employment practice includes representing employers in court and before administrative agencies. She also provides advice, training and counsel to employers on a wide range of employment-related topics including: employee discipline and termination; issues related to competition and solicitation, and confidentiality; appropriate and effective employee documentation; harassment and discrimination investigations; sick, medical, and disability leave, wage and hour issues, and severance agreements.

Elizabeth is the author of Sussman Shank, LLP's Employment Law Blog and frequently writes and speaks on issues relating to employment law including, the federal and Oregon Family Leave Acts, Title VII and Oregon's anti-discrimination laws, the Fair Labor Standards Act (and corresponding Oregon statutes), and issues relating to independent contractors versus employees.

Joseph Tam is a Training and Development Specialist II with the Technical Assistance for Employers Program and a former Senior Civil Rights Investigator with the Civil Rights Division of the Oregon Bureau of Labor and Industries. He has been working for the agency for about 30 years. He is a graduate of Ricks College, Rexburg, Idaho and Portland State University. He conducts workshops on Oregon Family Leave Act (OFLA), federal Family and Medical Leave Act (FMLA), Oregon Military Family Leave Act, Disability Laws, Injured Workers Laws, Protections Because of Domestic Violence, Harassment, Sexual Assault or Stalking, Wage and Hour Laws including the Fair Labor Standards Act (FLSA), Payroll Issues, Effective Supervisory Practices, Legal Hiring Practices, Coaching, Performance Management, Documentation, Discipline and Discharge, Workplace Harassment, and Recordkeeping Requirements for human resources professionals, supervisors, managers, payroll specialists, accountants and lawyers of school districts, manufacturers, retailers, wholesalers, medical clinics, hospitals, restaurants, hotels, property management companies, operators of group homes, city and county governments, state agencies, non-profit entities and professional organizations and members of the Oregon Employer Councils of Baker County, Blue Mountain (Pendleton), Central Oregon, Columbia Gorge, Douglas County, Jackson County, Lane County, Lin-Benton County, Malheur County, South Coast, Tillamook County, Union County and Wallowa County. He provides business owners/managers with the very latest in employment law developments and trends via the Technical Assistance for Employers Program's free

Employer Information Line. He also sets up cost-effective, customized, onsite training for businesses in a variety of industries and professions and public-sector employers focusing on issues that specifically meet their training needs. He is known for making the Oregon Family Leave Act (OFLA) easy to understand and fun to learn and turning recordkeeping requirements interesting.

Amanda Van Wieren is an Associate in the Portland office of Ogletree Deakins. Amanda represents employers in all aspects of employment-related litigation in state and federal courts and before the Equal Employment Opportunity Commission and analogous state agencies, including the Oregon Bureau of Labor and Industries and Washington Human Rights Commission. Her experience includes defending against a complaint of race discrimination and harassment issued by the Oregon Labor Commissioner on behalf of a class of minority employees.

Amanda also brings real world experience to the practice of law. Prior to attending law school, Amanda obtained an undergraduate degree in Hotel Administration from Cornell University and went on to work in the food and beverage industry, where she participated in employment-related disputes as a member of management, including an I-9 audit, proceedings before the Massachusetts Committee Against Discrimination, and collective bargaining agreement negotiations.

Rebecca Watkins joined Sather Byerly & Holloway, LLP in 2004. She represents employers on all issues relating to their employees. Rebecca defends employers before agencies such as the EEOC, BOLI, and the Workers' Compensation Board, and before state and federal courts in Oregon and Washington. She also manages the appellate department at SBH. In addition to litigation, Rebecca enjoys consulting with employers on difficult employment decisions to help them avoid lawsuits. She provides in-house training, and is a frequent presenter at seminars for employers, HR professionals, and lawyers. Prior to beginning her law career, Rebecca worked in the cognitive research field, and with individuals with developmental and behavioral disabilities.

Professional Activities:

Admitted to the Oregon State Bar, Washington State Bar, and United States District Court, District of Oregon.

Member: Oregon Association of Defense Counsel; OSB Appellate Section; OSB Labor & Employment Law Section; Oregon/SW Washington Disability Management Employer Coalition (Legal/Legislative Board Member 2014-2016).

Presenter: Oregon Law Institute, 2009-2015; Oregon Bureau of Labor & Industries, 2009-2015; DMEC, 2011-2016; Oregon Employer's Counsel, 2013-2015.

Recent speaking engagements include:

- Oregon Bureau of Labor & Industries annual conference, *Workers' Compensation for Employers* (2015)
- Oregon/SW Washington DMEC, *BOLI and EEOC Complaints* (2016)
- OEC Annual State Conference for Business, *Legislative Update* (2015)
- Oregon Law Institute, *Combined Condition Claims* (2014)

Education:

Northwestern School of Law at Lewis & Clark College, J.D. (2004); Portland State University, M.S. (1999); Portland State University, B.S. (1995).

Andrea Zekis joined the Basic Rights Oregon team after 10 years in Arkansas. There, she co-founded the ArTEC, Arkansas Transgender Equality Coalition, a statewide transgender organization focused on public education, resource development, transgender inclusion, policy and research. She also served as the group's executive director for the past year and primary investigator of its Transform Health Arkansas project, which empowers transgender, genderqueer, gender non-binary and intersex Arkansans to lead their own health care research. Andrea is a 2015 Victory Empowerment Fellow for the Victory Institute and previously consulted for the Human Rights Campaign's Project One America. Besides her health research work, Andrea successfully increased access to legal name and gender change services, advancing policies that support transgender equality at the local and national levels and developed a database of transgender friendly providers in Arkansas. Originally from the Chicago suburbs, Andrea completed graduate studies in journalism at Syracuse University in Syracuse, New York and geographic information systems at University of Central Arkansas in Conway, Arkansas and previously had careers in both fields. (Pronouns: She/Her)