

# Employment Law FORUM 2008



*A comprehensive compliance update  
for HR leaders at every level*



**Practical legal guidance  
to help you navigate the  
constantly changing  
employment law landscape.**

**April 22 - 23, Chicago, IL**

#### **Our expert faculty includes:**



**Mindy Chapman, Esq.,**  
Mindy Chapman & Assoc.,  
Conference Co-Producer



**Angel Gomez, Esq.,**  
VP of Human Resources,  
Wal-mart, Inc. Midwest  
Division



**Lisa Z. Fain, Esq.,**  
Sonnenschein Nath &  
Rosenthal LLP



**Richard H. Chapman,**  
Esq., Clark Hill PLC



**Jennifer M. Buckley, Esq.,**  
Clark Hill PLC



**Seth Halpern, Esq.,**  
Malkinson & Halpern PC

#### **You'll learn:**

- ▶ Employment law trends that will impact what you and your organization's managers can and can't do in the year ahead
- ▶ What top organizations are doing to sidestep the legal minefield surrounding recruiting, interviewing and hiring
- ▶ How to bulletproof your company against new and old types of discrimination and harassment claims
- ▶ The essentials of conducting employee complaint investigations without falling into the most common traps
- ▶ How to untangle the complex web of FMLA, ADA and performance documentation
- ▶ The right way to craft policies and contracts so they're understandable, legally sound and enforceable
- ▶ How to legally monitor employee e-mail, IM, blogs and internet activity
- ▶ What's new with FMLA and steps you can take to legally control intermittent leave problems

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## Two full days of employment law guidance ... for less than the cost of a few hours with your company's attorney

Dear HR Executive:

It seems that every year managing employment law issues becomes a bigger part of your job. Why? Because workers are more likely than ever to sue you if they feel their rights have been violated. To protect your organization, it's essential that you keep up with the latest regulations, court decisions and best practices for avoiding legal trouble spots.

That's why I'd like to invite you to the **Business 21 EMPLOYMENT LAW FORUM 2008** in Chicago on April 22 and 23. This event is perfect for busy HR professionals who want peace-of-mind that they're up to speed on the most critical employment law issues they'll face in 2008.

In today's hyper-litigious workplace, you simply can't afford to take any chances. I hope you'll join us for what is sure to be a worthwhile program.

Best regards,  
Stephen Meyer, CEO, Business 21

P.S. Think of it this way. This event will cost you less than a few hours with your company's attorney. If the ideas and updates presented during these two days help you avoid even a single employment law problem this year, your investment will be returned many times over.

P.P.S. The forum is being held at the University of Chicago's Gleacher Center. This state-of-the-art facility is the perfect setting for high-level professional meetings. Plus, it's located right in the heart of Chicago's business district so you'll have easy access to great shopping, restaurants and attractions.

### About the Employment Law FORUM 2008 Faculty ...



**Mindy Chapman, Esq.**, Conference Co-Producer, is president of Mindy Chapman & Associates LLC and a nationally recognized authority in employment law. She frequently conducts workplace compliance training and is the co-author of the American Bar Association's book "Case

Dismissed! Taking Your Harassment Prevention Training to Trial" used in law schools and legal departments across the U.S. Mindy has been named a "Top Speaker" by the Society for Human Resource Management (SHRM).



**Lisa Z. Fain, Esq.** is an attorney in the Chicago office of Sonnenschein Nath & Rosenthal LLP. She represents employers in matters arising under federal and state anti-discrimination and wage and hour laws, as well as in wrongful termination, breach of contract and restrictive covenant matters. She develops and presents

national training programs to all levels of the workforce from the boardroom to managers and employees on a variety of employment law issues.



**Richard H. Chapman, Esq.** is a member of Clark Hill's Litigation Practice Group based in Chicago. He has more than 24 years of successful experience as a leading trial lawyer concentrating in business litigation in federal, state and bankruptcy courts, as well as in arbitration, throughout the U.S. He brings both legal expertise and in-

depth business knowledge to all cases involving all areas of employment dispute - from hiring through termination.



**Jennifer M. Buckley, Esq.** is an attorney in Clark Hill's Detroit office. Ms. Buckley defends employers in state and federal court actions against sex, race, age, disability discrimination, ERISA and FMLA claims, as well as wrongful discharge and related tort claims. She lectures in the area of employment law at seminars

and for companies on such topics as terminating employees, wrongful discharge, employment policies, harassment, compliance with disability laws, FMLA, and more.



**Angel Gomez, Esq.** is the Vice President of Human Resources for Wal-Mart Stores, Inc. Midwest Division. Mr. Gomez was previously Director of the Office of Diversity for Wal-Mart Stores, and before that an employment law attorney with the firm Seyfarth Shaw, where he specialized in litigation, corporate transac-

tions, and e-commerce law. He is a past President of the Hispanic National Bar Association, which represents Hispanic attorneys, judges, law professors, and law students.



**Seth L. Halpern, Esq.** is a managing partner with the law firm Malkinson and Halpern. Previously, Mr. Halpern was an Associate at Grobart & Levick, LLC, where he concentrated on business and employment law, commercial real estate and general contracts law. Mr. Halpern has lectured for the Illinois Trial

Lawyers Association and the Illinois State Bar Association on employment discrimination issues and the FMLA.

## Agenda for Tuesday, April 22:

**7:30am – 8:20am**

Registration & Breakfast

**8:20am – 8:30am**

Welcoming Remarks

**8:30am – 9:30am**

### **Employment Law Trends 2008: The Year Ahead**

*Mindy Chapman, Esq., Mindy Chapman and Associates*

This session will give you a survey of the employment law landscape and an update on critical legal rulings that practicing HR professionals, senior managers, and employment law attorneys need to know. We'll discuss wage and hour updates, case studies, recent legislative developments, and practical legal guidance for 2008 and beyond. Topics and trends to be discussed:

- ▶ Avoid new hiring and promotion traps that surround Web 2.0, video resumes, and electronic recruiting
- ▶ The death of the "stray remark" defense for harassment and discrimination cases
- ▶ How the courts are extending the scope and timeframes of retaliation claims
- ▶ How far you must – and must not – go in informally "diagnosing" FMLA-qualifying conditions

**9:30am – 10:50am**

### **Best Practices for HR Around Recruiting, Interviewing, Hiring, and Promotions**

*Angel Gomez, Vice President of Human Resources, Walmart, Inc. Midwest Division*

Recruiting, interviewing, hiring, and promotions are a legal minefield. You want your hiring managers to push hard and probe deeply to make sure they get the right "fit." But the deeper they probe, the more selective they are, and the higher the standard they set – the greater their risk of provoking a lawsuit. This session will provide - detailed developments, lessons learned from recent court cases, and practical advice you can act on immediately. Find out:

- ▶ How to validate competencies for hiring, promotions, and training
- ▶ How to effectively – and legally - advertise internally, externally, and on the web
- ▶ How and why you have a much higher chance of being sued by an applicant than an employee
- ▶ How to review, filter, sort, and qualify applicants both thoroughly and legally

**11:00am – 12:20pm**

### **Discrimination & Harassment: Case Law Update**

*Seth Halpern, Esq., Malkinson & Halpern PC*

It's a new age of discrimination, where employees can and will sue if they feel they were discriminated against due to age, gender, national origin, race or anything else. This session will raise your awareness about new types of discrimination lawsuits and what you and your company must do to prevent them. This session will cover:

- ▶ What you can learn from the Isiah Thomas sexual harassment verdict
- ▶ How to prove you took "prompt effective action" – how fast is fast, how effective is effective?
- ▶ Documentation practices to protect yourself when employees sue
- ▶ The recent court crackdown on religious issues in hiring and promotions

**12:30pm – 1:40pm**

Lunch

**1:40pm – 3:00pm**

### **Conducting Workplace Investigations the Legal Way**

*Lisa Z. Fain, Esq., Sonnenschein Nath & Rosenthal LLP*

The better your organization handles employee complaint investigations, the less likely you'll ever get dragged into a costly, time-consuming lawsuit. And if you do find yourself in court, you'll find that an airtight investigation can be your best defense. Learn how to design and conduct investigations into all sorts of employee complaints and avoid the often unpredictable traps investigators fall into. Also find out how to deal with the tension investigators feel trying to achieve two, often conflicting, goals: 1) maintaining confidentiality and 2) digging deep to gather sufficient evidence. You will learn:

- ▶ New criteria for when you have to initiate a workplace investigation
- ▶ Who should conduct an investigation?
- ▶ The most important qualities of an investigator
- ▶ Key questions for effective interviewing
- ▶ Proper follow up and what to do after the interviews
- ▶ What to consider in determining whether to draft a report and what to include in the report

*(Session and speaker details subject to change.)*

**To register call 888-761-7294 or visit [www.b21pubs.com/Live2008](http://www.b21pubs.com/Live2008)**

## Agenda for Tuesday, April 22 (cont.):

**3:10pm – 4:30pm**

### **The Tangled Web of FMLA, ADA, and Performance Documentation**

*Mindy Chapman, Esq., Mindy Chapman and Associates*

Most employers assume that if they give an employee 12 weeks of leave to comply with the FMLA, their obligation is finished. However, if the employee also is disabled, the employer's duty under the ADA may be just beginning. And then what happens if this person is also a poor performer? Does documenting their poor performance obviate the need to worry about a possible discrimination claim down the road? Absolutely not. One of the toughest aspects of implementing the FMLA is coordinating the law with the ADA and documenting any related – or unrelated – performance problems. In this session, you'll learn:

- ▶ How to deal with legitimate performance problems of people who return from FMLA leave without triggering legal liability
- ▶ How an organization-wide performance management program protects you from legal exposure to FMLA and ADA "traps"
- ▶ How comparing one employee's performance to another can lead to serious legal trouble
- ▶ How to avoid retaliation charges when dealing with employees who exercise their ADA or FMLA rights
- ▶ How to look at your case "through the eyes of a jury" even before any claims are filed

**4:40pm – 5:50pm**

### **Interactive Panel Discussion — The Strategic HR Executive's Compliance Roadmap**

HR professionals, company leaders, and legal experts all need to stay up to date on the latest developments in employment law theory and practice. In this fast-paced interactive panel discussion, our expert faculty will share the floor with you, our forum participants, to connect employment law and compliance issues with your larger strategic HR initiatives. We'll share ideas on how you can:

- ▶ Stop playing a "policing" role with line managers
- ▶ Get everyone to step up their compliance with the latest HR and legal best practices
- ▶ Take a more proactive role to minimize the dangers of common employment law "gotchas"

**6:15pm – 7:30pm**

### **Business 21 Cocktail Reception and Networking**

Join us for drinks and hors d'oeuvres with beautiful floor-to-ceiling twilight views of downtown Chicago. Enjoy networking with fellow HR professionals and meet the employment law experts 1-on-1.



## Agenda for Wednesday, April 23:

**7:30am – 8:20am**

Registration & Breakfast

**8:30am – 9:50am**

### **Drafting Employment Related Agreements: What Will Stand Up in Court - and What Won't**

*Richard H. Chapman, Esq., Clark Hill PLC*

An employer may ask an employee to sign employment contracts, non-competes, non-disclosure agreements, and more. Often a business' most valuable assets are the proprietary processes and confidential information that it holds – and without a legal agreement it's far too easy for former employees to use that information against you. But the top question for every HR executive and manager is "What will stand up in court - and what won't?" This session will provide recent case law updates and solid guidelines to help you craft enforce-

able policies and protect your organization. Topics include:

- ▶ When is a "trade secret" not really a secret – and how to avoid "confidential information" traps
- ▶ How geographic scope and time limitations in non-compete agreements impact their enforceability
- ▶ Why confidentiality clauses in your employee handbook often can't protect your organization
- ▶ Adapting to the electronic age to narrow access to confidential and proprietary information
- ▶ Non-solicitation agreements – how they protect you and how they don't
- ▶ How 'readily-available' information cannot be protected no matter what the employee signs
- ▶ What you need to know about ownership of employee work product

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## Agenda for Wednesday, April 23 (cont.):

10:00am – 11:20am

### **E-Privacy: How You Can Legally Monitor E-mail, IM, Blogs and Internet Activity**

*Mindy Chapman, Esq., Mindy Chapman and Associates*

Your workers can find all kinds of creative ways to get themselves (and your company) into trouble online – and not just through obvious things like e-smearing, cyber-stalking, or viewing/ posting obscene materials. Even experienced HR executives are challenged by the flurry of new laws that regulate electronic monitoring of employees. This session lays everything out in plain language so you can take the steps you need to protect your company without getting tripped up. Learn:

- ▶ Your new responsibilities for e-discovery under the Federal Rules of Civil Procedure
- ▶ Employee bloggers' basic misconception of their First Amendment rights (even on their "personal" blogs)
- ▶ To what degree information on an employee's company-owned computer is private
- ▶ What conditions, if any, must be present in order to trigger electronic monitoring of employees

11:30am – 12:30pm

Lunch

12:40pm – 2:00pm

### **FMLA and FMLA Intermittent Leave: End the Abuse Without Violating Worker Rights**

*Jennifer M. Buckley, Esq. Clark Hill PLC*

Many workers exploit the complexity of FMLA law, taking advantage of employers who fear they'll get sued if they try to stop abuse. When companies fall into that trap, their productivity and morale suffer. Take control of intermittent leave abuse now. In this session, you'll find out how to attack this nagging problem with confidence and rein in abuses. You'll learn:

- ▶ How to effectively challenge medical certification – and seek clarification and/or completion
- ▶ When and why to push for a second opinion – and how it forces you to get a third
- ▶ How to establish calendaring practices that reduce FMLA abuse and ease administration
- ▶ Circumstances that are sure tip-offs to FMLA abuse – and how you can respond
- ▶ Return to work – what you can and can't do and say when employees return from FMLA leave

2:10pm – 3:30pm

### **When "At Will" Ain't: Termination and How to Avoid Retaliation Charges**

*Seth Halpern, Esq., Malkinson & Halpern PC*

Retaliation is a difficult subject for HR pros and line managers to get their arms around because it covers a lot of ground. Consider these examples: A worker complains about work conditions and later loses a promotion to a more qualified candidate. Another takes leave under FMLA and following his return is terminated for poor performance. Another files a sexual harassment complaint and later has her hours cut due to "a work slowdown." In every case, the managers may have been perfectly justified in their course of action. But justified or not, all of these instances resulted in legal action where a company had to defend itself against a costly, distracting retaliation lawsuit. How you deal with these people makes the difference between fast resolution and a time consuming, expensive legal battle. This session covers the "ins and outs" of terminating employees without the risk of getting sued. We'll discuss:

- ▶ How to ensure consistency of documentation to successfully defend a wrongful termination claim
- ▶ When it's too late to document employee behavior
- ▶ When does putting an employee "under a microscope" create employer liability
- ▶ How to establish and strengthen your legal credibility in termination cases
- ▶ What you must put in your employee manual to ensure you maintain "at-will" status
- ▶ When can you rightfully terminate someone who can't perform "the essential functions" of a job - without getting into legal hot water?
- ▶ What you might say at termination that can create liability at the very last moment before an employee is safely out the door

3:30pm – 4:00pm

Conference wrap-up and closing remarks



*(Session and speaker details subject to change.)*

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# What makes *Employment Law FORUM 2008* different from other events?

**#1 - Get all of your employment law questions answered at once.** Sessions are designed to cover the ins and outs of the most pressing employment law issues and you'll be given ample time to ask any specific questions you may have on each topic. If the information you need isn't addressed in one of the presentations, Forum faculty members will be happy to speak with you during the networking periods.

**#2 - Unique 'Forum' format allows for interactive discussion time with our expert faculty.**

Moderated question-and-answer sessions give you the opportunity to explore ideas, brainstorm on common challenges and get the answers you need.



**#3 - Content is king.**

All of our speakers are experts in employment law. You won't have to deal with a single "motivational" speaker who has nothing useful to say. Our focus is 100% on practical, in-depth information that impacts bottom-line results. No theory. No fluff. No bull. And no tired topics you've seen before at large HR events. You'll get hypotheticals, case studies and scenarios so you'll understand what to DO, not just what to THINK, about the issues we're addressing.

**#4 - Extensive handouts so you take everything home with you.**

Take minimal notes and still return with your Forum Binder filled with information, tools, checklists, worksheets, and reproducible forms you can use the moment you get back to your desk.



**#5 - Professional peer networking is built in to your schedule.**

You'll have ample time to connect with your peers during formal and informal networking times. And we'll make it easy for you to identify those who come from similar industries and company sizes.

**#6 - No outside vendors.**

You've come to learn and develop specific skills, not to be solicited for everything from a new insurance program to the latest e-learning doo-dad.

**#7 - We feed you.**

Continental breakfast and lunch are included in your Forum registration fee as well as an executive cocktail reception on your first night with us. You won't be wandering around another huge conference center hungry and alone looking for a place to sit.



**#8 - Intimate "Forum" sized event.**

130 executives and managers interacting with each other, sharing best practices, and connecting on the issues that matter most to their professional success. That's what B21 Forums are all about. No cattle-call events with thousands of people. And no overstuffed agenda that almost guarantees you'll miss something important.

**#9 - We've built-in breathing room.**

We put you face-to-face with leading experts and give you intense information-packed learning time – and time to absorb everything you need to do your job better, faster, smarter and easier.

**#10 - You'll experience 100% of the event.**

With our single-track Forum format, you won't miss a single idea ... and you'll take home a complete set of "do-it-now" tools you can use right away.

## **HRCI CREDITS:**

This program has been approved for 13.5 recertification credit hours toward PHR, SPHR and GPHR recertification through the Human Resource Certification Institute (HRCI). Business 21 Publishing is an HRCI Approved Provider. For more information about earning certification or recertification, please visit HRCI at [www.hrci.org](http://www.hrci.org).



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# Employment Law Forum 2008

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April 22 - 23, 2008  
Chicago, IL

## Registration Form:

**YES! Reserve my seat for the EMPLOYMENT LAW FORUM 2008, April 22-23 at the University of Chicago's Gleacher Center. My registration fee includes:**

- ▷ Access to all conference sessions
- ▷ Open discussion time with FORUM faculty to discuss specific questions
- ▷ Employment Law binder containing key ideas, handouts and worksheets from all sessions
- ▷ Continental breakfast both days
- ▷ Complimentary lunch both days
- ▷ Daily refreshment breaks
- ▷ Networking cocktail reception Tuesday evening

### ▶ Registrant Information

#### 1st Registrant:

Name \_\_\_\_\_  
Title \_\_\_\_\_  
Company \_\_\_\_\_  
Address \_\_\_\_\_  
City/State/ZIP \_\_\_\_\_  
Email \_\_\_\_\_  
Phone \_\_\_\_\_  
Fax \_\_\_\_\_

#### 2nd Registrant: (if applicable)

Name \_\_\_\_\_  
Title \_\_\_\_\_  
Email \_\_\_\_\_

#### 3rd Registrant: (if applicable)

Name \_\_\_\_\_  
Title \_\_\_\_\_  
Email \_\_\_\_\_

*Please note any additional registrants on a separate sheet of paper.*

### ▶ Tuition Fees (see Fee Schedule above)

1st Registrant ..... \$ \_\_\_\_\_  
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**Substitutions & Cancellations:** Substitutions are permitted with advanced notice. Cancellations: A 100% refund will be issued if request is made in writing (mail, fax or email) by April 1, 2008. A Business 21 credit will be issued for any cancellations after April 1st. This credit is valid toward the purchase of any publications, training products, audio/web conferences or upcoming live conference events.

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