

1:00-2:00  
GENERAL SESSION  
AGENCY ROUNDTABLE

In this one hour open-forum session, you will hear from representatives of both the EEOC and FCHR concerning their agencies' initiatives, and be given an opportunity to ask them about burning compliance and regulatory issues affecting employers.

2:10-3:10  
BREAKOUT SESSIONS

**ADA and FMLA Developments**  
*Heather Owen*

While no changes are expected to the ADA or FMLA in the near future under the Trump administration, new developments are always occurring in the courts. In this session we will explore hot accommodation and leave topics including reassignment, medical marijuana, pregnancy, medical certifications and fitness for duty forms, as well as combatting fraud and abuse.

**Years One and Two of a Trump Presidency:  
Anticipated Changes to Laws Affecting Employers**  
*Elizabeth Joiner*

With Donald J. Trump elected as the 45th President of the United States and a Republican-led Congress, what can employers expect from a man who defies all expectation and prediction? Anything but more of the same. In this session, we will discuss some anticipated changes to several laws affecting employers, from repealing portions of the Affordable Care Act to overhauling immigration laws.

**Protected Concerted Activity  
and Other NLRB Developments**  
*Cliff Nelson*

Think you are immune from the impact of recent activities of the NLRB? Think again! In this lively session, we will explore the scope of "protected concerted activity" and other NLRB initiatives affecting "non-organized" employers.

3:10-3:25  
REFRESHMENT BREAK

3:25-4:25  
BREAKOUT SESSIONS

**Avoiding and Defending Whistleblower Claims**  
*Damon Kitchen*

Once, not too long ago, the phrase "whistle while you work," conjured up happy thoughts of Snow White and the seven dwarfs. Sadly, those days are now long gone. It's not surprising. Over the last two decades, law makers on both a state and federal level have enacted a dizzying array of legislation to protect employees, and others, who "blow the whistle" on alleged improper acts and practices at work. Unfortunately, these legislative enactments typically lack uniformity and have largely been developed in a vacuum. As a result, it is often difficult for employers to reconcile these various laws with each other. To make matters worse, courts, in interpreting these laws, often reach conflicting and contradictory opinions concerning their application and scope, leaving employers even more perplexed about what activity is protected and what is not. We will discuss state and federal laws that provide whistleblower protections—and focus on how to avoid potential whistleblower claims under the various laws, as well as how to best defend against those claims.

**Benefits Update:  
Anticipated Changes by the New Administration**  
*Dana Thrasher*  
*Repeat of 11:00 a.m. morning session*

**Anticipated Effects of Florida's Legalization  
of Medical Marijuana for Employers**  
*Jesse Bannon*

On November 8, 2016, over seventy percent of Florida voters voted "yes" to approve Amendment 2, which legalizes full-strength marijuana for individuals with specific debilitating diseases or comparable debilitating conditions as determined by a physician licensed in Florida. This Constitutional Amendment went into effect on January 3, 2017, and Florida's Department of Health must set implementing regulations within six months thereafter. In this session, we will discuss the anticipated effects of Florida's legalization of marijuana on employer drug testing policies, zero tolerance policies, federal contracts, and an employer's obligation to accommodate disabilities.

**Round-Up of Wage and Hour Issues**  
*Ellen Kearns*  
*Repeat of 11:00 a.m. morning session*

4:30-5:30  
COCKTAIL HOUR



**CONSTANGY  
BROOKS, SMITH &  
PROPHETE LLP**

35TH ANNUAL  
LABOR AND  
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**An Advanced Executive Program**

Ponte Vedra Inn & Club  
Ponte Vedra Beach  
Florida

Friday, March 3, 2017



## GENERAL INFORMATION

New regulations, laws, court decisions, government agency activities—and now a new presidential administration—mean that keeping abreast of the workplace landscape is crucial for business, legal, and human resource professionals. For 35 years, the Jacksonville office of Constangy has striven to provide clients and guests with an annual event which focuses on new developments and trends in an atmosphere which encourages open dialogue and the exchange of ideas.

## SOMETHING NEW

This year, we are shifting to a more advanced approach in our materials and presentations. Content will go beyond discussion of workplace law fundamentals and be geared to the needs of professionals who bring experience and an understanding of the essential concepts. Presenters will do a deeper dive, hitting on important subtleties of workplace law issues and the most critical points for decision-making.

Join us as we also welcome representatives from the Equal Employment Opportunity Commission and the Florida Commission on Human Relations for a true “insider’s take” on what to expect in the coming year.

Our upscale venue also reflects what we hope you will agree is a superior workshop experience. **Seating will be limited to the first 150 registrants, so early registration is encouraged.** We look forward to seeing you on March 3, 2017.

## REGISTRATION

Register and pay online at [www.constangy.com](http://www.constangy.com), or complete the attached registration form and mail it with payment to Constangy, Brooks, Smith & Prophete, LLP at P.O. Box 41099, Jacksonville, FL, 32203-1099. You may fax or email your registration form and mail in payment. Forms may be faxed to 904-356-8200, or emailed to [bdarnofall@constangy.com](mailto:bdarnofall@constangy.com).

## REGISTRATION FEE

The cost is \$225 per person. The fee includes all reference materials, continental breakfast, lunch, and cocktail reception.

## ACCOMMODATIONS

Overnight accommodations are available for those attendees who may need them. For reservations at the nearby Hampton Inn-Ponte Vedra, call 904-280-9101, the room block is under the name “Constangy, Brooks, Smith & Prophete, LLP.” Limited rooms are available at a discounted rate of \$139 per night. The reservation deadline is Wednesday, February 15, 2017.

## CONTINUING EDUCATION CREDIT

It is the tradition of Constangy, Brooks, Smith & Prophete, LLP to provide programs that meet the CLE requirements of the State Bar as well as certification credits through the Society for Human Resource Management. This program has been submitted for 6.0 general credits from HRCI and SHRM.

For more information, contact Bonnie Darnofall at 904-356-8900 or [bdarnofall@constangy.com](mailto:bdarnofall@constangy.com).

## AGENDA

8:00–8:30  
REGISTRATION &  
CONTINENTAL BREAKFAST

8:30–8:40  
INTRODUCTION

8:40–9:40  
GENERAL SESSION

### Recent Developments in Labor and Employment Law

*John Dickinson*

This popular session will review the most important new developments in labor and employment law, and will provide practical advice to employers to assist their efforts to manage their workplaces in the face of these new developments.

9:45–10:45  
BREAKOUT SESSIONS

### Uniquely Public Sector

*Lori Mans*

Public sector employers not only experience all of the challenges faced by private employers, but they must also contend with additional challenges unique to the public sector. Government employers will want to join us for this session as we review legal trends and developments specific to public sector employment. We will also discuss some of the most difficult employment law issues in the public sector, including organized labor, the impact of government in the sunshine and public records laws on employment matters, and constitutional considerations in personnel actions.

### The Evolving Definition of Sex Discrimination

*Meg Zabijaka*

Courts continue to expand the definition of sex/gender discrimination, leaving employers to grapple with confusing and sometimes contradictory rulings. In this session, we will explore the current state of the law in this area, including LGBT and transgender rights, issues of inclusion, and policies and procedures employers should implement to address this rapidly advancing area of employment law.

### Federal Contractors & The Trump Administration:

#### Is Relief Finally in Store?

*Cara Crotty*

Are you prepared for all of the recent mandates affecting federal contractors? What effect will the Trump administration have on the recent regulatory burdens imposed on federal contractors? This session will discuss the latest developments on paid sick leave, the Fair Pay & Safe Workplaces Rule, OFCCP’s final rules on sex discrimination and pay transparency, and other recent developments that affect federal contractors.

### Drafting Enforceable Employment Agreements

*Ray Poole*

Employment agreements can be incredibly valuable tools for employers by guarding against threats to an employer’s very existence. For example, well drafted non-compete and non-solicitation agreements can protect an employer’s customer base, while confidentiality agreements can protect an employer’s confidential business information from disclosure to its competitors. Moreover, arbitration agreements with employees may limit litigation costs in the event a dispute with an employee arises. At the very least, arbitration agreements enable employers to avoid potentially negative publicity arising from litigation through use of private arbitrations. However, while such agreements can be useful, they are not without their limitations. In this advanced session, we will explore the pros and cons of these agreements and ways in which employment agreements can be drafted and utilized for an employer’s benefit.

10:45–11:00  
REFRESHMENT BREAK

11:00–12:00  
BREAKOUT SESSIONS

### Classification of Workers: Employee v. Independent Contractor

*Gary Wheeler*

In late 2015, the DOL published new guidance suggesting more employers should be designating workers as employees instead

of independent contractors. Recently, misclassification cases have been litigated before courts and administrative agencies with increasing frequency. In this interactive session, we will discuss the following:

- Will employers have more latitude to designate workers as independent contractors under the Trump administration?
- What factors should employers consider when deciding on the appropriate designation?
- What are the key provisions employers should include in independent contractor agreements?

### Immigration Best Practices Update: Avoiding Fines by ICE or the Office of Special Counsel

*Penni Bradshaw*

In recent years employers have faced increased fines not only as a result of ICE audits but also from individual charges and independent investigations by the U.S. Justice Department’s Office of Special Counsel for Unfair Immigration-Related Employment Practices. In many of these cases, the “violations” were inadvertent and without any intent to discriminate. Learn best practices to avoid such claims by better training those in your organization who handle the “onboarding” process.

### Benefits Update: Anticipated Changes by the New Administration

*Dana Thrasher*

Based on promises made during his campaign, we fully expect Donald Trump to immediately focus on repealing and replacing the Affordable Care Act. Since health care is a key component in the compensation package for most employers, this will require significant changes to employer-provided benefits packages. In addition, we expect other welfare plan changes, such as increases in dependent care benefits. This session will focus on anticipated changes as well as compliance during a period of transition and uncertainty. *This session will be repeated at 3:25.*

### Round-Up of Wage and Hour Issues

*Ellen Kearns*

The DOL issued new regulations for exempt employees that were due to take effect on December 1, 2016, yet were enjoined by a federal court in Texas. What will the appellate court or a Trump DOL do to these regs? Moreover, what will be the focus of a Trump DOL? Also discussed in this session will be the compensability of time spent using a mobile device, engaging in pre and post shift activities, and traveling. Finally, this session will look at the fluctuating work week method of compensation and how it should be applied. *This session will be repeated at 3:25.*

12:00–1:00  
LUNCH