

# Engaging Employers: Managing Relationships

Thursday, September 27, 2018

Norfolk Waterside Marriott

7:30 Registration (Norfolk Foyer II)

7:45 - 8:30 Breakfast (Norfolk IV)

8:30- 9:00 **Welcome and Guest Speakers (Norfolk III)** - Ellen Marie Hess, Commissioner; Sara J. Dunnigan, Deputy Chief Workforce Development Advisor; and Shawn Avery, CEO of Opportunity, Inc.

## 9:00 - 10:00 - General Session

### Norfolk III

#### Overview of Employment Law and Major Developments

This fast paced overview will survey the most important federal and state employment laws with an emphasis on recent developments. Those new to the field will gain valuable exposure to the laws that frame today's workplace, while more experienced managers and human resources professionals will gain cutting edge insight into recent trends and further movement within the field.

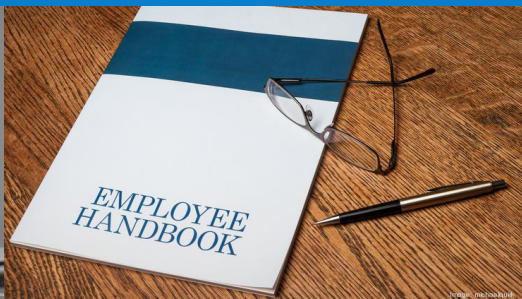
Robert J. Barry, John M. Peterson, and Randy C. Sparks Jr., Kaufman & Canoles

10:00 - 10:15 Break (Norfolk Foyer II)

## 10:15 - 11:30 Workshops - Session One

Norfolk I	Norfolk II	Norfolk V	Norfolk VI
<p><b>Effective Hiring Practices: Here Today and Not Gone Tomorrow</b></p> <p>Potential legal problems with employees begin long before discipline and discharge. Hiring the most qualified person may include more than meets the eye. This session explores best practices and warning signs during the application and interview process.</p>	<p><b>Problem Absenteeism: ADA, Workers' Comp and FML: Look Three Ways Before Crossing This Intersection</b></p> <p>Absenteeism causes not only lack of productivity, but also can be a catalyst for legal difficulties as human resources professionals and supervisors work with the employee on his or her return. This session will include the basics and practical advice on how company policies, FMLA, Workers' Compensation and the ADA all interact as employees take leave and return to work</p>	<p><b>Workplace Harassment in the Social Media Age: Established and New Thoughts On an Old Workplace Problem</b></p> <p>Workplace harassment is no longer new, but still troubles many workplaces. This session will focus on what is and is not unlawful as opposed to conduct that is unsatisfactory and/or against company policy. The session will also discuss office bullying, both in person and by electronic means and addressing harassment complaints.</p>	<p><b>Workers' Compensation Impacts: Navigating Issues Affecting Virginia's Workforce and Industry</b></p> <p>This session will provide an overview of workers' compensation fundamentals and insurance requirements in Virginia. We will explore workers' compensation laws and insurance requirements as governed by the Virginia Workers' Compensation Act. What are the national critical issues affecting Virginians? We will explore these issues in detail and discuss what you need to know.</p>
<p>Laura G. Gross Kaufman &amp; Canoles, PC</p>	<p>Sharon Reyes Kaufman &amp; Canoles, PC</p>	<p>Randy C. Sparks Jr. Kaufman &amp; Canoles, PC</p>	<p>Vivian Lane and Suzanne Soule Virginia Workers' Compensation Commission</p>

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**11:30 - 12:15** **World Cafe Employer Engagement - Hidden Talents: Identifying the Soft Skills Workers Need (Norfolk IV)**  
 In this session, we will explore the skills prospective employees need to be fully successful contributors to your businesses' goals and objectives. We will also ask you to help us design services and tools that increase the potential for job seekers to enhance their soft skills and be productive workers Day One at your company.  
**Moderators - Jeff Brown and Tim Kestner**

**12:15 - 1:00** **Lunch (Norfolk IV)**

**1:00 - 2:15 General Session**

**Norfolk III**



**Differing Attorney Perspectives on Discipline and Discharge and the Potential Consequences Thereof**  
 Don't get too relaxed right after lunch. Two experienced employment attorneys who are often on opposite sides of the same employment matter will discuss legal issues and potential claims arising from how employers handle discipline and discharge. If some sparks start flying, keep your water glass close by. Questions from the audience will be welcomed. This one should be fun.  
*Employee Side Lisa Bertini, Bertini Law, PLC and Employer Side Robert J. Barry, Kaufman & Canoles, PLC*

**2:15 - 3:30 Workshops - Session Two**

Norfolk I	Norfolk II	Norfolk V	Norfolk VI
<p><b>Dealing With the Toxic Employee: Don't Let One Rotten Employee Spoil Your Whole Office</b></p> <p>Ever watch the TV show The Office? Then you know that one employee who is not in sync with office rules, procedures and decorum can affect several others. This workshop will take a look at handling and hopefully conforming an unpleasant and/or disruptive employee to the employer's and co-workers' expectations.</p>	<p><b>Drafting and Effectively Using Employee Handbooks: A Roadmap Through the Twists and Turns of Your Workplace</b></p> <p>This session will provide very practical advice on drafting and making employee handbooks and employer policies an important resource for both the company and its employees. Best practices and mistakes to avoid will be included. For example, you will find out the real reason why "FAIR" is a four letter word.</p>	<p><b>No Grief Grievances: Making Your Procedure Work As Intended</b></p> <p>Many employers offer grievance procedures, either because they are statutorily required or because employees view them as an important protection. This session, conducted by one of the primary drafters of the Commonwealth of Virginia's Grievance Procedure, will examine what an employer's procedure should include, what should be non-grievable, and making the procedure serve its intended purpose.</p>	<p><b>Social Media in the Workplace</b></p> <p>Don't let your policies lag behind technology. Stay up to date with the latest changes to e-communications, social media, and electronic privacy issues, as well as document retention regulations, record keeping, and more.</p>
<p><b>Laura G. Gross</b> Kaufman &amp; Canoles, PC</p>	<p><b>Sharon Reyes</b> Kaufman &amp; Canoles, PC</p>	<p><b>Robert J. Barry</b> Kaufman &amp; Canoles, PC</p>	<p><b>Leah M. Stiegler</b> Woods Rogers, PLC</p>

**3:30 - 3:45** **Break (Norfolk Foyer II)**

## 3:45 - 5:00 Workshops - Session Three

Norfolk I	Norfolk II	Norfolk V	Norfolk VI
<p><b>Successfully Managing Your Unemployment Insurance Claims</b></p> <p>This session will provide employers with an overview of the process followed to adjudicate claims for unemployment insurance. These initial decision and appeal processes are utilized to render decisions when claims are contested.</p>	<p><b>Worker Misclassification: Employee or Independent Contractor</b></p> <p>This workshop will help employers understand and avoid potentially costly errors with the status of workers in their workforce.</p>	<p><b>Today's Apprentices; Tomorrow's Workforce</b></p> <p>What is Apprenticeship? What are the benefits to employers and employees? Learn the next steps for employers interested in becoming sponsors and the benefits to the Commonwealth.</p>	<p><b>Wage and Hour and FLSA</b></p> <p>Keeping up with rules for wage and hour laws is a challenge. How can you stay up-to-date with all of the changes—from protecting your organization against a lawsuit, to knowing where the DOJ's appeal of the halted change to overtime regulation stands—and what does an HR professional need to understand to keep the government and your employees on the right track? This session discusses policies and actions that may lead to an employer's liability under the Fair Labor Standards Act.</p>
<p><b>William O. Walton</b> Unemployment Insurance Services Virginia Employment Commission</p>	<p><b>Geoff Garner</b> Special Investigator Virginia Employment Commission</p>	<p><b>Maynard Stowe</b> Department of Labor &amp; Industry</p>	<p><b>Leah M. Stiegler</b> Woods Rogers, PLC</p>

## Speaker Biographies

(Listed in Alphabetical Order)

**Shawn M. Avery, CEO of Opportunity, Inc.**

Mr. Avery currently serves as the President and CEO of Opportunity Inc. of Hampton Roads. In this role, he provides leadership for strategic initiatives, partner and community relations, business and industry development, industry sector activities, educational initiatives, and management and oversight for the largest Workforce Development Board in the Commonwealth of Virginia. He comes to Opportunity Inc. after serving as Vice President for the Peninsula Council for Workforce Development, where he provided leadership for the Councils' Private / Public Partnership Division. In addition, he has held the positions of Senior Manager of Development and Community Affairs for Opportunity Inc., Manager of the Peninsula Workforce Development Center and Grants Specialist for Thomas Nelson Community College.

Mr. Avery is the recipient of an Inside Business Top Forty under 40 in Hampton Roads award, as well as an Expanding Workforce Opportunities Award and a Chancellor's Award from the Virginia Community College System. Most recently, he received the Outstanding Business Partner of the Year Award from the Virginia Association of Career and Technical Education.

Mr. Avery currently serves on various Board and Commissions, including the GO Virginia Regional Council, Hampton Roads Chamber of Commerce, Tidewater Community College Workforce Solutions' Advisory Committee, Future Hampton Roads and the Hampton Roads Economic Development Alliance.

**Robert J. Barry, Esquire, Kaufman & Canoles, PC**

Mr. Barry is a member in the Labor and Employment Law Practice Group and the Manufacturing & Distribution Industry Team. His practice concentrates on employment law litigation, day-to-day advice, and long-term strategies for employers in both the public and private sectors. He regularly advises on discipline and discharge, employment discrimination, wage and hour issues, occupational safety and health, restrictions on competition, and unemployment compensation.

**Lisa A. Bertini, Bertini Law, PC**

Ms. Bertini practices at the boutique employment firm of Bertini Law, PC in Virginia Beach, and specializes in employment discrimination work. During the first half of her career she represented only employers and companies in employment litigation. Once she opened her own firm she began to specialize in representing employees.

Ms. Bertini has been named one of the Top 25 Female Lawyers in Virginia for five consecutive years. She has also been named among The Best Lawyers in America in the area of Labor & Employment Law every year since 2010.

**Jeffrey D. Brown, Director, Virginia Employment Commission Workforce Services Division**

Mr. Brown brings broad experience in both the private and public sectors, particularly in the field of education and the workforce. He began his career as a naval aviator. He served in the administrations of George H. W. Bush and Bill Clinton, and worked as a congressional liaison officer for the Office of the Secretary of Defense. While in Washington, Mr. Brown gained expertise in personnel policy issues on Capitol Hill, and he left the Navy to develop education and workforce policy, including welfare reform. Mr. Brown was tapped by the Governor of Virginia to direct welfare reform efforts in the Commonwealth, and was later appointed Commissioner of the Virginia Department of Labor

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and Industry (DOLI). After serving with DOLI, he left the public sector to pursue his life-long aspiration of teaching English literature. He served briefly as head of the upper school at St. Anne's-Belfield School in Charlottesville before returning to Washington to serve as director for the 200-year-old U.S. House of Representatives' Page Program. Mr. Brown also served on the faculty of the prestigious Federal Executive Institute in Charlottesville.

**Sara J. Dunnigan, Deputy Chief Workforce Development Advisor**

Ms. Dunnigan serves as the Deputy Chief Workforce Development Advisor and the Executive Director of the Virginia Board of Workforce Development for Governor Ralph Northam. Having previously served in the McAuliffe administration, Sara brings to the table more than 20 years of experience in the fields of workforce and economic development. Before joining state government, she led a consulting practice that helped public and private customers understand and respond to changing labor market conditions. More recently, she has shared her insights with a national audience as a faculty member of US Chamber of Commerce Foundation, refining their workforce development curriculum to better support constructive conversations in communities across the country.

**Geoff Garner, Special Investigator, Virginia Employment Commission**

Mr. Garner is a Special Investigator with the Targeted Audit and Investigative Enforcement Unit at the Virginia Employment Commission. He was educated at St. John's College and St. Joseph's University and has a JD from Rutgers and a MA from the Naval War College. He was a Navy JAG for 20 years, and his assignments included the carrier USS THEODORE ROOSEVELT during Operation Enduring Freedom, TF-134 in Iraq, and teaching at the U.S. Naval Academy. After retiring from the Navy in 2011, Mr. Garner went to work for the Maryland Department of Labor, Licensing and Regulation as Program Administrator of its Worker Classification Protection Unit.

**Laura G. Gross, Kaufman & Canoles, PC**

Ms. Gross has more than 20 years of experience representing employers before various governmental agencies, defending employers in employment-related litigation, counseling employers on various employment issues, and training employees on human resource and employment law issues.

**Ellen Marie Hess, Commissioner, Virginia Employment Commission**

Ms. Hess was appointed Commissioner of the VEC on January 12, 2015. She was previously appointed Deputy Commissioner at the Virginia Department of Motor Vehicles (DMV) by Governor McAuliffe. There she oversaw the agency's legislative, legal, and policy functions, as well as the Highway Safety Office. She was with DMV since January 2008 and has more than 20 years' experience in policy and regulatory functions in state government.

Prior to her service at DMV, she was the Director of Labor and Employment Law at the Virginia Department of Labor and Industry and a Staff Attorney with the Virginia Department of Taxation. She also gained private sector experience as In-house Counsel at Heilig-Meyers Furniture Company. Ms. Hess received a bachelor's degree with honors from Virginia Commonwealth University and a juris doctor from the University of Richmond.

**Timothy O. Kestner, Director, Economic Information & Analytics, Virginia Employment Commission**

As Director of the Economic Information & Analytics Division, Mr. Kestner manages the daily operations of Virginia's official source of labor market information. He is also responsible for developing and distributing new and innovative LMI products.

Prior to his current position, Mr. Kestner was a senior research economist in the division for four years. He was responsible for tracking and reporting on Virginia's economy as it related to the workforce, along with developing economic impact assessments of existing and declining industries. He continues to serve as a senior staff member to the Virginia Board of Workforce Development. As editor of the Economic Indicators, a VEC/EIA publication, he writes a quarterly abstract on the state and national economies that appears in the publication.

Mr. Kestner has authored numerous articles and routinely participates in the public discussion regarding industrial changes in Virginia. He has tracked and reported on the Defense Base Closure and Realignment Commission (BRAC) for more than a decade. He has developed close relationships with the Commonwealth's universities, and serves as a consultant to local planning boards and county administrators.

**Vivian Lane, Claims Services Manager, Virginia Workers' Compensation Commission**

Ms. Lane currently serves as the Manager of the Claims Services Department. Prior to that she has held over 12 administrative positions in her nearly 30 year career with the Virginia Workers' Compensation Commission. In 2012, Ms. Lane served as the agency's Executive Director in an interim capacity during a brief change in leadership and is a member of the Southern Association of Workers' Compensation Administrators (SAWCA).

**John M. Peterson, Kaufman & Canoles, PC**

Mr. Peterson is of counsel and a member of the ESOPs & Employee Benefits, Business Taxation, Labor & Employment, and Healthcare Practice Groups at Kaufman & Canoles. He has 45 years of experience as both a practicing attorney and CPA in the areas of retirement plans, employee benefits, and tax law. Mr. Peterson has extensive teaching experience on ERISA matters, 25+ years as an adjunct professor at William and Mary Law School and 15+ years at Old Dominion University's Professional Financial Planning program. His employee benefits practice focuses on creative retirement plan design, particularly 401(k) and cash balance pension plans, and all aspects of the Affordable Care Act, particularly planning for the employer mandate.

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**Sharon Reyes, Kaufman & Canoles, PC**

Ms. Reyes is an associate in the firm's Norfolk office and a member of the Labor & Employment practice group. She provides advice and counseling to her employer clients on matters related to hiring and firing, discipline and discharge, drafting employment agreements, and drafting and implementing personnel policies. She also regularly defends employers before the Equal Employment Opportunity Commission and in federal and state court litigation.

**Suzanne Soule, Insurance Assistant Manager, Virginia Workers' Compensation Commission**

Ms. Soule has been employed with the Virginia Workers' Compensation Commission for over 16 years. Before joining the Commission, she was a paralegal for a general practice law firm in Richmond, Virginia.

**Randy E. Sparks, Jr., Kaufman & Canoles, PC**

Mr. Sparks is a member of the Labor and Employment Law Practice Group at Kaufman & Canoles. He concentrates his practice in employment litigation, representing employers in employment discrimination, sexual harassment, breach of employment contract, non-compete, and wage and hour claims before various state and federal courts and administrative agencies. Randy also advises and trains clients on lawful employment practices and other workplace issues.

**Leah M. Stiegler, Principal, Woods Rogers PLC**

Leah Stiegler is a member of the firm's Labor and Employment, Litigation, and Immigration practice groups. Ms. Stiegler's employment practice focuses on helping employers comply with various employment laws, defending related employment actions with the Equal Employment Opportunity Commission and in state or federal court, conducting workplace trainings and board trainings, guiding employers through workplace investigations, and working with employers regarding collective bargaining and grievances/arbitrations.

A Virginia native, Ms. Stiegler began her career at Woods Rogers as a summer associate in 2014 and joined the firm after completing a judicial clerkship with the Honorable Lawrence R. Leonard, U.S. Magistrate Judge for the Eastern District of Virginia, where she gained extensive experience in handling pretrial motions, discovery disputes, and settlement conferences.

**Maynard Stowe, Virginia Department of Labor and Industry**

Maynard Stowe has been with the Virginia Department of Labor and Industry Registered Apprenticeship Department since November of 2015. He is currently a Field Consultant in their Tidewater Region. Mr. Stowe has a long career history focusing on adult education and training providing adults with career and educational opportunities.

He, along with the Department of Labor and Industry, will assure that companies seeking to develop career and training for their employees through Registered Apprenticeship will have the highest quality of service and dedication. Combining both on the job training and related instruction, Mr. Stowe will assist companies in focusing specifically on how Registered Apprenticeship can meet their long term growth needs.

**William O. Walton, Unemployment Insurance (UI) Director, Virginia Employment Commission**

Mr. Walton is the UI Director for the Virginia Employment Commission. He has been employed by the VEC since 1992. As the UI Director, he is responsible for the administration of the UI benefit and tax programs in accordance with the Unemployment Compensation Act. Prior to being named UI Director, he was the Acting Chief of Benefits for the VEC. The Chief of Benefits implements policy and procedures to ensure the proper processing of unemployment insurance claims to include extended benefits.

Mr. Walton has also served as a Workforce Services Manager. Prior to becoming an office manager, he had experience working as a supervisor, hearing officer, and workforce services representative.