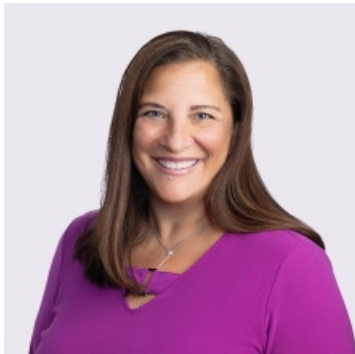


# Live from Workplace Horizons 2025: Manufacturing Roundtable

By Emily S. Borna, Patrick O. Peters & Ian B. Bogaty

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## Meet the Authors



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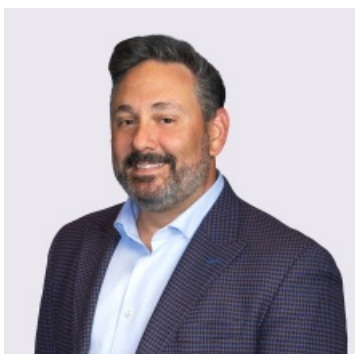


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## Details

May 29, 2025

Welcome to a special edition of We get work®, recorded live from Workplace Horizons 2025 in New York City, Jackson Lewis' annual Labor and Employment Law Conference. Over 500 representatives from 260 companies gathered together to share valuable insights and best practices on workplace law issues impacting their business today. Here's your personal invitation to get the insights from the conference, delivered directly to you.



## Transcript

### INTRO

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### CONTENT

#### Alitia Faccone

Senior Director of Business Development

Welcome to our Live from Workplace Horizons 2025 podcast studio. Thank you for joining me, Ian Bogaty, a principal in the Long Island Office of Jackson Lewis, Emily Borna, a principal in the Atlanta Office of Jackson Lewis, and Pat Peters, a principal in the Cleveland Office of Jackson Lewis.

I'm going to make this easy for you to start. All I want you to do is just tell me a little bit about your practice, and what issues you're hearing from employers in 2025, which we know has been a very interesting year so far. Pat?

#### Patrick Peters

Principal and Office Litigation Manager, Cleveland

Absolutely. Thanks, Alitia. My name is Pat Peters, and I co-lead, with Emily, the Manufacturing Group at Jackson Lewis. A lot of my work is centered on employment advice and counsel as well as litigation. One of the reasons that I love what we do is

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### Manufacturing

that it's very timely. I say that because if you think about 2020 with the coronavirus, the social unrest leading into a presidential election and the change in administration – all of that was reflected in the workplace.

Fast forward four years later, another change in administration, and there's even more uncertainty. So, uncertainty is the word of the day, and has been the word of the week here at Workplace Horizons. That's what our clients are looking for, some certainty in an uncertain world. We're here to work with them through those issues and provide them with some clarity. We had a great roundtable this morning to discuss some of those topics.

### **Emily Borna**

*Principal, Atlanta*

Even to the extent that it was a square table, there was incredible exchange. Just from my perspective, this is a big year for me. I'm looking forward to celebrating 30 years with the firm this November. It's been a minute, and like Pat, I also do a lot of advice and counsel as well as employment litigation related to discrimination.

As the co-leader with Pat of the Manufacturing Group, it is really great, not just to get some guidance in this time of uncertainty, but to hear from the frontline what our clients are dealing with. Several clients told me after our session that they just felt that they're not alone in struggling with these issues.

I do a lot with leave management. One of the first questions we had was about intermittent FMLA, which is right up my alley. We'll talk about some of the other things as well. I advise on RIFs, background checks, staffing, investigations, and all of those things are certainly coming to the front with so many developments happening with this new administration.

### **Ian Bogaty**

*Principal, Long Island*

Happy to be here. To start, I do traditional labor, so I deal with unions. I also do some work for the tertiary practice groups like OSHA, workplace safety and drug testing.

It was a lovely discussion during our roundtable, square table, where we had a lot of different topics discussed and very different pieces of expertise that we were able to impart. You got a really interactive session, which is something new for this year from Workplace Horizons. So, it was a lovely experience. We solved some problems for folks, and there's some follow-up that we'll all need to do.

### **Faccone**

So, it sounds like a lot was discussed. Pat, share a little bit about some of those issues that you really spent some time digging into.

### **Peters**

It was interesting to me that yesterday, a client came up to me and really praised the session that Amy Peck had done on immigration. Then, we were blessed that Amy

joined us today at our round table, square table, rectangle table, and dominated much of the discussion on ICE raids, E-Verify and international travel. A lot of the clients that attended this morning have executives who come in from other countries, and what are they doing at ports of entry? What are clients doing when ICE comes calling? What is the process to get warrants to search locations? This hits a lot of manufacturers. In particular, we learned today that it is hitting manufacturers in the food industry, especially.

There were clients who said that 95 % of their workplace is made up of people native to Mexico and Central America, many of whom are subject to some of this intense scrutiny on their immigration status. There was a lot of discussion about immigration status and the government's renewed focus and emphasis on enforcing our immigration laws and changing some of those directives that have been in place.

One client commented about the end of Temporary Protected Status in August and what they are going to do to staff up. It led to a robust discussion about staffing in general. A lot of what's happening that people read about in the newspaper politically impacts these manufacturers on a day-to-day basis.

### **Faccone**

Thank you. Emily, there are a lot of big issues. What were some of the other discussions that you had on what is affecting manufacturers this year?

### **Borna**

To segue off of what Pat was saying, staffing is an ongoing concern. Since the pandemic, staffing has been a challenge. Relative to that, one of the topics we talked about was drug testing. With the legalization of marijuana in so many states – nine states for recreational purposes, 20 states and counting for medicinal purposes – are these employers even doing pre-hire, post-offer testing? We had a question right on that issue.

I kid you not, five minutes after I left the session, I had a call from another client who had to send a third shift worker to a hospital in a remote area in the middle of the night where they did automatic testing, even though this client had elected not to do it anymore because staffing has been so challenging. Sure enough, the employee tested positive for marijuana. We had a discussion about termination considerations and workers' comp considerations. In a state like Georgia, where this employer has a drug-free workplace policy, they can certainly move ahead with a termination, but you have to look at that really closely in every jurisdiction. You've got to look at your policies and practices. It was reinforcing and ironic that that came up five minutes before I got the call.

We had several clients help us facilitate this discussion. To add to what Pat was saying, one of them, Ellen Weitz, with Siemens Energy, for example, a German-based company, really made some heavy notes as Amy was talking about immigration issues, like when their executives are traveling here, should they have burner devices? Even when U.S. citizens are traveling, there is authority to look at your devices, whether it's a company-issued cell phone or a laptop, and to turn your phone off when you go through customs, because if it's open and they put your face up next to

it, they can search it. So, there were a lot of things to think about and take away from our discussion.

### **Faccione**

Thank you, Emily. I know there were a lot of issues that have been changing quickly since the beginning of 2025.

Ian, I want to talk about the law, because the law evolves whether or not we have a new administration come into office. That's one of the reasons we have workplace horizons every year – to bring our clients up to date on what's happening.

For manufacturing clients in particular, what would you say are some of the more significant changes since we all met together last year?

### **Bogaty**

That's a great question, Alitia. We had a lot of clients raise union-related issues. For those who attended the full conference, we had a session with Chairman Kaplan of the Labor Board. It drove a lot of thought processes. Our clients don't know how to react, since the Labor Board has basically been paused right now. A new administration comes in, the expectations are that we're going to change a lot of the pro-labor, pro-employee direction of the labor board.

We had a case called Cemex that came out in 2022 or 2023, which changed the way unions can organize employers and put a burden on the employer to file their own petition if a demand for recognition was requested. So, when a new administration comes in, our expectations and our clients' expectations are that we're going to get a change, and that change is going to be relatively quick. Unfortunately, the way this administration has dealt with this issue is by removing a member from the National Labor Relations Board, which means there's no quorum and we can't get changes to the law.

Now, employers are dealt with trying to deal with this uncertainty. We're still under the old law that wasn't pro-employer. Do I go through my workplace policies and change them to what I believe the new administration and the new Labor Board are going to direct? It's very challenging for them to understand when to make these changes. How much risk should I take with regard to these issues? That was one thing that came up during our conversations.

Again, a lot of it's a wait-and-see approach, and it's a risk tolerance approach. Each particular company has to decide, do I want to take that next step, or do I want to wait until there's actually a quorum? We may not see a quorum for the Labor Board. It could be a year or until the end of this year. So, we'll have to wait and see how that goes.

### **Faccione**

Now, what do we do? How can we share some key takeaways just to keep everybody moving forward through this uncertainty, Pat?

### **Peters**

Some of the takeaways that I jotted down from the rectangle table are for immigration enforcement, we can audit the I-9s. If you've done an audit and you've identified issues, that's going to protect you in the future. Now more than ever, it's important to get a handle on who's working for you to head off any immigration enforcement and potential ramifications and penalties.

Staffing and planning ahead, some of the clients were even talking about investing in pathways programs and vocational schools. One of the things that resonated with me was clients talking about how there are individuals in the baby boomer generation who are going to retire. That's not ageist, it's just the fact, and there's no one to backfill these positions. Training, thinking ahead and having backfills, because where is the staffing going to come from? The key takeaway to me is, yes, it's uncertain, but you still have a business to run. What are those contingency plans to make sure we have people who are able to fulfill the functions to get our products manufactured into the marketplace?

### **Faccione**

Emily, helping people run their business is part of what we do as a labor and employment firm. Can you share how Jackson Lewis, and in particular the Manufacturing Group, is helping clients and employers deal with everything that they have to go through in 2025?

### **Borna**

Absolutely, Alitia. We've given this a lot of thought, and we do have some tremendous resources. We recently did a podcast with you on anticipated Reductions in Force. I'd be lying if I said the word tariffs didn't come up during our rectangle table discussion this morning. It has so many implications for changes to the composition of a staff and the structure, whether it's building up your team, reshoring a lot of your operations or even reducing some of your team if you don't have some of the raw materials you need and other things. We certainly have tools to help with that and some great subject matter experts.

There was also some discussion about a tool we have called CheckIt, which is a compilation of multi-state surveys that we keep updated all the time. When we were discussing things like background checks and how far employers check, and whether in difficult staffing circumstances, you really want to do a deep dive background check.

Likewise, when we're considering drug testing and what the local law is, it varies dramatically from place to place. We've compiled and keep current those resources for clients, which can be a big assist.

One of the first questions we had about FMLA and abuse of FMLA and intermittent leave, like we've got mandatory overtime, and suddenly everybody has a migraine. Their certification said that they would only have one or two a month, but now they're taking four or five days a month. What can we do to curb that abuse and to really keep a handle on things to keep the operation running? We have another tool, the LeaveSuite tool, that walks employers through the steps to consider. Obviously, an individualized assessment in each case is necessary. It's such a fact-intensive

inquiry, but we do have some great tools for clients that can be a big help as you're trying to keep your operation running.

### **Faccone**

Products, partnership and deep knowledge of the manufacturing industry.

Ian, Emily and Pat, thank you so much for joining us in the podcast studio this morning. I look forward to this conversation next year at Workplace Horizons 2026.

### **OUTRO**

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