

Live from Workplace Horizons 2025: How to Be a Multistate Employer — One Size Does Not Fit All

By Richard I. Greenberg & Kellie M. Thomas

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Meet the Authors



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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, Business Development

Here we are, and welcome to Live from Workplace Horizons, our We get work® podcast studio here at the Hilton Midtown in New York City. I'd like to welcome Kellie Thomas, principal in the Baltimore Office of Jackson Lewis, and Rich Greenberg, principal in the New York City Office of Jackson Lewis.

I want to start by asking you a pretty simple question. Tell us a little bit about your practice, and really, what employers are asking you here in 2025 after a pretty interesting few months. Kellie?

Kellie Thomas

Principal, Baltimore

That is an understatement, yes. As you said, I'm Kellie Thomas. I'm the co-lead of our Employee Benefits Group, which is our national advice and counsel

practice in the benefits space. We also work closely with our ERISA Group when it comes to litigation avoidance strategies. We cover all things health and welfare, retirement plan, compensation and tax. We're getting a lot of questions right now from employers—what do we do? We're hearing a lot of headlines about new regulations, and a lot of lawsuits in the fiduciary space for both health and welfare plans and retirement plans. There's a lot of uncertainty out there, but also a lot of opportunity. That's much of what we're talking to clients about.

Faccone

Rich?

Richard Greenberg

Principal, New York City

What we're continuing to talk about with clients is day-to-day compliance issues. There's a little bit more reaction to what's been occurring on the federal level, and then the state responses to that. The hardest thing we're dealing with now is trying to predict the future. That's the one thing that we've learned in the last hundred days: the future is fully unpredictable, which creates loads of conflicts for clients planning, budgeting and deciding what programs to implement. We're doing our best with clients to try and be proactive, and help them take a step back to think about the underlying fundamental principles of their compliance program.

Faccone

The title of your presentation was, 'How to be a Multi-State Employer.' That's a question that is never going to go out of style. Kelly, tell us a little bit about your presentation and what you covered from the benefits perspective, because, as Rich and you just shared, there are a lot of issues to discuss.

Thomas

Absolutely. The thing about benefits is we often think of it as really governed at the federal level, whether we're talking about ERISA or the tax code. However, there are state-level considerations for employers with benefits. Sometimes, it's benefits that aren't subject to ERISA, so state contract law might apply. That would be things like cash bonus plans. You may also see equity plans that are governed by federal and state securities laws.

Even the ERISA plans, there's a whole host of activity right now in the pharmacy benefit management space, which we represent plan sponsors, and you might think, well, how does that affect them? There are obligations created in some state laws that can affect certainly our fully insured plans and even self-insured plans, too, which is unexpected and not what employers are used to seeing. We had a lot of conversations about that.

Really, one of the highlights and what I was trying to get through in the presentation was just to simply inventory your benefits and to think about them from both the typical federal level, but also state considerations as well.

Faccone

Rich, from the Multistate Advice and Counsel component. What did you share? What did you talk about today?

Greenberg

We really talked about three or four fundamental issues. First, if you're going to begin operations in a state, what are the major things that you should become aware of, that you should evaluate and determine whether or not you can comply with that, want to take the business judgment and make the business risk.

Then, we talked about how so many issues may be covered by existing policies or national programs and that you can't look at everything in a vacuum. None of this is really rocket science. It's all about acquiring knowledge so you can make reasoned risk assessments. This perfection may not be possible; however, it's balancing risks and knowledge.

We talked about how just because you decided you ordered the things in 2023, you can't say, we're good and we don't need to worry about it again. We used the example of the changes in the federal government's position. We went through some slides on developing state laws in different areas throughout the employment lifecycle, just to show the need to be constantly vigilant in these areas, so you are aware of risks and can determine whether you want to implement national programs. Also, so you can determine what policies may need to be modified and what issues people need to be aware of.

Faccone

These words came up a lot in our discussions today here in the studio – proactivity, policies and patience. Would you apply some of those same words in your discussions with employers?

Greenberg

I could not say that more eloquently. Being proactive and knowing what the rules of the road are is absolutely necessary for decision-making. I look at my practice, and we actually made this analogy during our speech, as a proactive practice, as opposed to litigation, which is a reactive practice. In litigation, you are defending anything. You are saying that's not a legal claim. My job is to assist clients in having information and helping them avoid risk. Avoiding risk doesn't always mean doing everything perfectly. You may not always be able to do everything perfectly. Knowing what risk you may be taking ensures that if an employee or a third party raises an issue, it gets escalated appropriately with an appropriate response to make sure that the issue doesn't further exacerbate.

Faccone

Kellie, what would you say on the benefit side?

Thomas

One of the things that we talked about during the presentation, and it just really

gets this simple, where are your employees? Especially in this day and age of remote work, we may not always know. Someone might move, they might be working from a beach somewhere, and they haven't told anybody. That has implications from a tax perspective, from a withholding perspective, and certainly from a benefits perspective when you find yourself in a state that may have some benefit mandate that you weren't expecting because you didn't even know they were there in the first place. Fundamental, but an important one.

Faccone

Exactly. Rich, proactivity, obviously, we just discussed that. How is Jackson Lewis helping employers be proactive?

Greenberg

Jackson Lewis makes so many attempts at this in so many ways. First, through our client relationships. We try to ensure that every client has a primary contact attorney. For example, if that primary contact attorney is a litigator, they will build someone else into that relationship on an advice and counsel level or a benefits level if it's a regular benefits counsel, so that someone doesn't feel that they're talking to a random person all the time. This is all about trust, like any other relationship, similar to a marriage. You want to trust who you're talking to and feel comfortable picking up the phone. You want to make sure that that person understands your needs and talks to you in a different way. Let's be honest, some people like long-winded conversations. Some people like yes or no answers. That's absolutely vital.

Number two, we have developed a tremendous amount of internal resources. Internal resources from different surveys, handbook policies to onboarding practices. Pretty much any issue that's part of the day-to-day employment lifecycle that comes to us, we have an internal expert, resources and practical experience. We can respond to a client on a moment's notice.

In terms of products, we are beyond excited to talk about CheckIt Via JL, which is something I was intimately involved with, as well as my co-practice group leader, Scott Ruygrok, which is taking, honestly, 25 to 30 years of survey development and putting that in an online format where now we have 40 surveys searchable by topic or by state, showing recent updates. That is just a very simple resource for clients to get the initial answer on most day-to-day issues. We are working on further expansions of that product to get up to 50 surveys by the end of the year.

Jackson Lewis also has a separate DLHM product, which is a leave management service that provides much, much more detailed information on leave of absence compliance, so that any employer going into a specific state or dealing with a specific issue can know how to handle it. We honestly feel that we are a national one-stop shop for internal counsel, human resources or for any issue that comes up relating to day-to-day employment law compliance.

We also regularly interact on more granular issues with the Benefits, Wage and Hour practice and Disability Leave and Health Management Groups to ensure

not only that we're giving accurate information, but that we're pointing out the nuance and the arcane issues where it may be necessary to get speak to a further expert and to make sure most importantly, the person that we're speaking to is aware of the issue.

To me, having done this for many years now, the most important thing for an internal decision maker to have is knowledge. If they have that knowledge, they know what they're being told and not being told, and they know what the risk level is, then they can make reasoned decisions. Life is all about making reasoned decisions.

Faccone

Access, answers and a good partner. And efficiency. Excellent.

Kelly, Rich, thank you so much for sharing your insights today. And I know it's been a long day, but enjoy the rest of the conference, and we'll see you at Workplace Horizons 2026.

OUTRO

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