

# Live from Workplace Horizons 2025: Arbitration or Trial Prep: What Do In-House Counsel and Senior HR Executives Need to Know?

By Nicky Jatana & Greg Riolo

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## Meet the Authors



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## Details

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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

Welcome to Workplace Horizons 2025 and Live from Workplace Horizons, our podcast series. Thank you for joining me behind the mic today. We have Nicky Jatana, a principal in our Los Angeles office. Nicky, just briefly tell our audience what you do and how you help clients at Jackson Lewis.

#### Nicky Jatana

Office Managing Principal, Los Angeles

I'm predominantly a litigator, through trials and arbitrations, but also anything in between. I predominantly handle your typical harassment, discrimination and wrongful termination cases, but a large part of my practice also involves class action work.

#### **Faccone**

Great, thanks. Sitting next to you, Greg Riolo, a principal in our Albany office. Going to ask you the same question, Greg?

**Greg Riolo**

*Principal, Albany*

I am predominantly a litigator, and I also co-chair our Trials and Appeals Group with my partner Donny English, who's out of our Baltimore office. In that group, our focus is really on making sure that our attorneys are equipped with the necessary tools, whether it's trial strategies and trial themes, so that they have those as they go into trial, so we can assist them in any way we can.

**Faccone**

I just spoke to Ana Shields, who told me about how certain trials are increasing in number based on what's going on. So, let's get into what your presentation was about today, which, not surprisingly, is about arbitration or trial prep, specifically what in-house counsel and HR leaders need to know.

Nicky, tell us just a brief summary about what that presentation was about at Workplace Horizons.

**Jatana**

What we covered today was the role of in-house counsel and the importance of in-house counsel in the trial or the arbitration preparation process. From our perspective, we look at trial and arbitration at the outset when we get the initial complaint. We talked about the communications that in-house counsel needs to have with their business leaders and all the nuances that go along with that.

**Faccone**

Greg, what would you say you spent the most time talking about during the presentation? What were the issues that you really wanted to share with our attendees here today?

**Riolo**

We wanted to share the involvement we require from HR and in-house counsel in terms of their buy-in to the case and their ownership of it, as we have been working closely with them from the very beginning. They are really our prime contact throughout the entirety of the case. We want to make sure that they are comfortable and have their input on the case. They understand what the company expects, its values, and how it wants to approach litigation. We want to make sure that we incorporate that into how we're going to present that case both throughout discovery, but more importantly, at trial.

**Faccone**

Nicky, this year at Workplace Horizons, we're happy to say we have more HR representatives than we ever had before, along with our in-house council, registrants and attendees. What were some of the issues that really resonated with that group of folks, which is now a little bit broader than we've had in the past?

## **Jatana**

One of the areas that really resonated had to do with really seeing the outcome of the HR process pre-litigation. They really see where their efforts to manage what is going on in the HR process can lead to, potentially, if you're headed to trial.

One of the other areas that really resonated was the importance of conducting a mock trial because it gives not only the trial attorneys, but the client and the company, the ability to really see how the themes and the issues could potentially play out at trial.

## **Faccone**

We've all been talking about how much has changed since last year, and in fact, how much has changed in the last several months.

Greg, what are some of the really significant changes between the last time we got together at Workplace Horizons and this year, and in particular in this space, and how you're helping clients deal with those issues?

## **Riolo**

There are more and more cases going to trial for a number of reasons. Whether demands are too high or some stakeholders really want to put a fork in the ground and say, we're not going to do this anymore, and we're not going to just settle cases. That resonates with employers, specifically in-house counsel.

It also makes it more difficult for the HR and in-house counsel because we've got to make sure that you're taking the right case to trial, because we have some cases where there are very large verdicts. Certainly, you don't want to be on the receiving end of those. It's important to get the buy-in from in-house counsel and take the right case to trial. You want to say, we're going to make a stand, or we're not going to give in to whatever the demands are. Those things are changing. It is indicative of the environment, where you'll see a lot more people putting stakes in the ground and saying, we're not going to do this anymore. That's indicative and falls over into the trials.

## **Faccone**

You're both going to be really busy, really, is what's going to happen.

Nicky, what were some of the other key takeaways you think our audience, our listening audience and our Workplace Horizons audience need to know?

## **Jatana**

You have to look at every case at the beginning and look at what your trial strategy or your arbitration strategy is going to be, so you're looking at the end at the beginning and throughout. That's really important. It's that you do not want to be preparing for trial or arbitration just right before. You want to be building all your themes, and what our side of the story is at the outset.

## **Faccone**

We've talked a lot with other colleagues and thought leaders about the importance of

being prepared and proactive, and I'm guessing that's a similar theme here.

Greg, what else would you say about how Jackson Lewis, your colleagues and you are helping our employers deal with these issues in these critical times?

### **Riolo**

The key for Jackson Lewis, and we always talk in terms of preventive strategies and positive solutions, that's our old motto that we used to have there. Now, it's we do work and we get work and all of those types of things.

We want to convince our clients that from the very beginning, we have their interests in mind. We want to know what the outcome is that they want. Some of those are that we don't want to go to trial, and some are that we want to try to resolve cases. Well, you know what? We're going to fight to the end. Both of those are diametrically opposed, but many times they conflate into one another. Many of those you say, well, this is a case that maybe you don't want to take that stand because there are bad facts, and instead, we want to work with in-house counsel. They're the ones who have direct contact with the client and the confidence of the client from the very outset of the case. We want to make sure that we're developing that rapport so that if they are convincing their client, you should settle or you should try the case, they have the total buy-in. They know how we're going to approach it and the themes in the case.

The other thing that's important is you have to be flexible because the very case at the beginning is not necessarily the case that you're going to try. Sometimes it gets better because you find out things that might help you with respect to the plaintiff. Maybe they did something that they weren't aware of, or something happened. There's also the opposite, where things tend to get a little bit worse or more problematic. Doesn't mean the case can't be tried, but it just means that we have to be flexible in terms of how we approach that. Having in-house counsel or HR involved from the very beginning is going to get their buy-in and confidence, and get the client to be flexible and change as things approach trial.

### **Faccone**

The importance of collaboration and a true partnership, which is one of the things that we pride ourselves on here at Jackson Lewis. Nicky, Greg, thank you so much for sharing this time with our We get work audience and enjoy the rest of the conference. you.

### **OUTRO**

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