

31st Annual Labor & Employment Law Spring Conference

COURSE #: LED10

Tuesday, May 11, 9 a.m.—5 p.m.
The Colonnade Hotel, 120 Huntington Ave., Boston

Sponsored by the Labor & Employment Law Section Council

Register at www.MassBar.org/CLE



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DISCRIMINATION: SURVEY AND HOT TOPICS.....9 A.M.

This opening panel will cover developments in employment discrimination law both in Massachusetts and on the federal front. Hear about changes in legislation that impact your practice and the way in which you advise and represent clients in employment discrimination claims. From issues as fundamental as who is “disabled,” to changes in the interpretation of when certain damages may be available to the successful litigant, to the viability of mandatory arbitration of employment discrimination disputes, hear about these important developments and how they impact you and your clients.

Faculty:

David M. Conforto, Esq.
Conforto Law Group, Boston
Jaclyn L. Kugell, Esq.
Morgan Brown & Joy, Boston

DISCRIMINATION: PRACTICE TIPS AND TECHNOLOGY ISSUES 10:15 A.M.

This panel will provide practice tips and review technology-related issues in the area of discrimination law, with an emphasis on practice before the MCAD and EEOC.

Topics include:

- Practicing before the EEOC — what the agency expects of you and what you can expect from the EEOC;
- Practicing Before the MCAD — what the agency expects from you and what you can expect from the agency;
- Practice tips from Intake to public hearing; and
- Workplace harassment — policies, preventative measures and investigations in the age of electronic and social media.

Faculty:

Julie A. Moore, Esq.
President and founder, Employment Practices Group, North Andover
Robert L. Sanders
Equal Employment Opportunity Commission, Boston
Sunila Thomas George, Esq.
Commissioner, MCAD, Boston

BREAK..... 11:15 A.M.



WAGE AND HOUR UPDATE AND PRACTICE TIPS ON COLLECTIVE ACTIONS 11:30 A.M.

Massachusetts is a jurisdiction in which has seen tremendous growth in wage and hour law suits. This is due in part to decisions of the Massachusetts Supreme Judicial Court involving Walmart, the Attorney General’s Advisory on Independent Contractors, the continuing saga of adjusting to the Department of Labor’s white-collar regulations, decisions by the DOL to file amicus briefs on important issues before the circuit courts and an increase in “hybrid class actions.” Massachusetts employment law practitioners should take great care when answering wage and hour inquiries and initiating or responding to causes of action.

This panel will present the latest updates in this area of the law and provide you with practice tips on bringing and responding to collective and class actions.

Faculty:

Philip J. Gordon, Esq.
Gordon Law Group LLP, Boston
Ellen C. Kearns, Esq.
Constangy, Brooks & Smith LLP, Arlington

LUNCH.....12:10 P.M.

Featuring keynote speaker **Stuart J. Ishimaru**,
Acting chairman, U.S. Equal Employment Opportunity
Commission



STUART J.
ISHIMARU

ARBITRATION OF STATUTORY CLAIMS IN A UNION ENVIRONMENT 1 P.M.

2009 saw two significant judicial decisions addressing an employer’s ability to compel arbitration of statutory claims. Emphasizing the unionized environment, our panel will explore some of the many questions that lie ahead for practitioners, such as:

- What guidance is available in drafting and enforcing such provisions in union contracts?
- What standards apply to the interpretation of these provisions?
- Once an individual claim arises, how do attorneys representing the employee interact with union counsel?
- Who decides who prosecutes and tries to settle a discrimination claim — the employee or the union? Does management have anything to say about it?
- What changes might lie ahead for deferral policy given the NLRB general counsel’s recent statement (memorandum OM 10-13 11/3/2009) that “a new approach to cases involving arbitral deference may be warranted?”

Faculty:

Sharon Henderson Ellis, Esq.
Professor, Boston College Law School, Boston
Marc D. Greenbaum, Esq.
Professor, Suffolk University Law School, Boston
Katherine A. Hesse, Esq.
Murphy, Hesse, Toomey & Lehane LLP, Boston
James A.W. Shaw, Esq.
Segal Roitman LLP, Boston

BREAK.....2 P.M.

PRACTICE ISSUES EMPLOYMENT

LAWYERS FACE 2:10 P.M.

This panel will focus on two key practice issues impacting employment lawyers — malpractice avoidance and data security compliance.

The panel will begin with a presentation by the president of the Massachusetts Bar Association Insurance Agency on risk management tips, what to look for when buying malpractice insurance, common mistakes made by attorneys when they buy malpractice insurance, statistics on where claims are happening and the reasons claims are being filed, and information on claims related to referrals and referral fees. The panel will then focus on your legal obligations with respect to data security. If you have personal information about your clients and employees — and virtually all employment lawyers do — you should have developed a written information security plan, named a compliance officer, conducted employee training and prepared yourself to report any breaches of personal information. This session will cover the new Massachusetts law that requires notification of security breaches and a practical discussion of things you can do to protect your employees and clients from identify theft.

Faculty:

*Terence J. Welsh, CPCU, AIS
President, MBA Insurance Agency Inc., Boston/Springfield*
*David B. Wilson, Esq.
Hirsch, Roberts, Weinstein LLP, Boston*

SUMMARY JUDGMENT:

THE REAL WORLD3:10 P.M.

**Featuring the Hon. William G. Young
U.S. District Court, District of Massachusetts**

The panel will address the shifting burdens and presumptions that frame summary judgment arguments in discrimination cases. The group will also discuss how defense lawyers can counsel employers before a termination takes place, to give their clients effective advantages under Rule 56 scrutiny. Also, the panel will discuss how plaintiff-side lawyers, in real world situations, can build an effective summary judgment record, even if evidence directly contradicting the employers' statements is unavailable.



HON. WILLIAM G. YOUNG

Faculty:

*Hon. William G. Young
U.S. District Court, District of Massachusetts*
*David C. Casey, Esq.
Littler Mendelson PC, Boston*
*Robert S. Mantell, Esq.
Rodgers, Powers & Schwartz LLP, Boston*

RECEPTION..... 4:10 P.M.

CONFERENCE CO-CHAIRS:



DAVID E. BELFORT



CATHERINE E. REUBEN

FACULTY:



DAVID C. CASEY



DAVID M. CONFORTO



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ROBERT S. MANTELL



JULIE A. MOORE



JAMES A.W. SHAW



TERENCE J. WELSH



DAVID B. WILSON

NOT PICTURED: ROBERT L. SANDERS

We gratefully acknowledge input and assistance also provided by:

*Thomas W. Colomb, Esq.
Murphy, Hesse, Toomey & Lehane LLP, Quincy*
*Sheryl D. Eisenberg, Esq.
Hirsch, Roberts, Weinstein LLP, Boston*
*Thomas J. Gallitano, Esq.
Conn, Kavanaugh, Rosenthal, Peisch & Ford LLP, Boston*
*Christina L. Montgomery, Esq.
Law Office of Christina L. Montgomery, Waltham*
*Dahlia C. Rudavsky, Esq.
Messing, Rudavsky & Weliky PC, Boston*
*James A.W. Shaw, Esq.
Segal Roitman LLP, Boston*

SPACE IS LIMITED, REGISTER EARLY.

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HOW TO REGISTER

CALL: MBA Member Services at (617) 338-0530 or (877) 676-6500. Have your MasterCard, Visa or American Express card ready.

ONLINE: Register at www.MassBar.org/CLE.

FAX: (617) 542-3057 • **TDD:** (617) 338-0587

MAIL: Send form with payment (checks made payable to the Massachusetts Bar Institute) to MBA, CLE Dept., 20 West St., Boston, MA 02111-1204.

TO ORDER WRITTEN MATERIALS: If you cannot attend but would like to purchase the course materials, call MBA Member Services after the conference for price and ordering information at (617) 338-0530.

CANCELLATIONS: Cancellations received by Friday, April 30, 2010 will receive a full refund. All others will not receive a refund but will receive the written materials.

CLE CREDIT: The MBA is an accredited sponsor of CLE in New Hampshire, Rhode Island, Vermont and New York. Forms certifying attendance will be made available on the day of the conference.

CONFERENCE FEES:

- MBA member paralegals, law students and recent admittees (2009):.....\$100
- MBA Labor & Employment Law Section (sponsoring) members\$160
- All other MBA members:\$180
- Nonmembers:\$220

TOTAL: \$ _____

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