



DENVER 2008

ABA Section of Labor & Employment Law
2nd Annual CLE Conference
September 10-13, 2008 | Denver, Colorado

Conference Topics Include:

- EEO Litigation: From Complaint to the Courthouse Steps
- Neutrality Agreements, Card Checks and Voluntary Recognition
- Religious and Cultural Differences in the Workplace
- Advanced Litigation of Wage and Hour Class Cases
- Trial Practice Tutorials on Voir Dire and Cross Examination
- In-house Corporate Counsel Problem Solving Workshop
- Responding to Economic Crises: Plant Closings, Layoffs and Bankruptcy
- ERISA Supreme Court Cases and Fiduciary Litigation
- How to Grow Your Labor and Employment Law Practice



Labor & Employment Law



DENVER 2008

ABA Section of Labor & Employment Law 2nd Annual CLE Conference September 10–13, 2008 | Denver, Colorado

The success of our inaugural program last year quickly positioned the ABA Section of Labor and Employment Law's Annual CLE Conference as the premier meeting focusing on all aspects of labor and employment law. We are delighted to invite you to our 2nd Annual CLE Conference to be held September 10–13, 2008, in Denver, Colorado. We also are excited to have the ABA Young Lawyers Division (YLD) co-sponsoring the Fundamentals Track this year and hope to see many YLD members in Denver.

Many of the best characteristics from last year's conference will be featured in Denver:

- **Prominent speakers and exciting panels**
- **A full year's worth of CLE credit at a price that can't be beat**
- **A multitracked curriculum covering all aspects of your labor and employment law practice**
- **A multilevel program that will be of value regardless of your degree of experience**
- **Networking opportunities for you to meet with colleagues representing all perspectives in the labor and employment law arena**

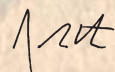


The Section's 2nd Annual CLE Conference gives you the opportunity to meet and talk with top practitioners representing plaintiffs, employers and unions, as well as in-house counsel, academics and government lawyers. Plus, a special networking reception and dinner have been planned at Coors Field, which includes tickets to a baseball game between the Colorado Rockies and the Los Angeles Dodgers.

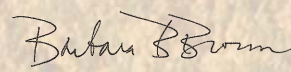
Before or after the Annual CLE Conference, be sure to take a little extra time to enjoy the beauty surrounding Denver and the many sights and sounds of the city itself.

For ABA Section of Labor and Employment Law members, the early registration fee of \$375 is the same as last year. Register online before July 25 and lock in this incredible rate for two and a half days of CLE credit. Programs will be held at the Westin Tabor Center and the Ritz-Carlton with accommodations also available at the Hyatt Regency.

We look forward to seeing you in Denver at the 2nd Annual CLE Conference!



James R. LaVaute
Chair, Section of Labor & Employment Law, Syracuse, NY



Barbara Berish Brown
Chair-Elect, Section of Labor & Employment Law, Washington, DC

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Nora L. Macey,
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Program Schedule

Wednesday, September 10

12:00 p.m. – 3:00 p.m.

Pro Bono Work Committee Service Project

4:00 p.m. – 8:00 p.m.

Conference Registration and Committee/Vendor Expo

5:00 p.m. – 6:00 p.m.

First-Time Attendee/New Section Member Orientation and Reception

6:00 p.m. – 8:00 p.m.

Welcome Reception

10:00 p.m. – 12:00 a.m.

Young Lawyers Division Hospitality

Pro Bono Community Service Project

The Pro Bono Work Committee invites you to join other members of the Section of Labor & Employment Law in a voluntary service project in the Denver community during the afternoon of Wednesday, September 10. We are planning a project that will not require legal skills but will focus on addressing a critical community need—strengthening families, seniors, digital inclusion, children's education, hunger relief, environment and people living with disabilities. Participants should plan to commit at least two to three hours to the project. Transportation to the project site will be provided. We hope that this project will provide all Section members who wish to participate an opportunity to give something back to the great city that will be hosting our 2nd Annual CLE Conference. If you would like to participate, please so indicate where provided on the registration form. Further details will be posted on the Pro Bono Work Committee web page. We encourage anyone who is interested to sign up in advance since the precise project is dependent on the number of participants.

Thursday, September 11

7:00 a.m. – 8:00 a.m.

Continental Breakfast

7:00 a.m. – 8:00 a.m.

Roundtable Discussions

8:00 a.m. – 9:15 a.m.

Plenary Session: Welcome, Award Presentations and Supreme Court Review

- 9:45 a.m. – 5:30 p.m.

ADR Track

9:45 a.m. – 10:30 a.m.

Overview of the Law of Alternative Dispute Resolution

The ADR Committee's 2007 Scholar-In-Residence, Professor Merrick T. Rossein, will keynote this track by analyzing the lead cases that are shaping ADR, and a panel of experienced advocates will react to his presentation. As part of his presentation, Professor Rossein will present and analyze the Supreme Court's 2008 decision in *Hall Street Associates v. Mattel* as well as other recent cases in labor and employment ADR.

10:30 a.m. – 11:15 a.m.

Employment Class Action Arbitration— Myth or Matter of Contract

Experienced advocates and neutrals will explore the availability/use of arbitration to resolve federal and state class and/or collective action issues, including cases involving discrimination claims and wage and hour claims. Join our panel of experts who will bring you up to date on the law in this area and discuss from their various perspectives where we are headed.

11:30 a.m. – 1:00 p.m.

Employment Mediation Strategies— From Selection to Resurrecting the Faltering Mediation

From the initial client meeting to preparing for mediation, the pre-mediation conference call, to handling sensitive issues in caucuses, our experienced panel will focus on ways of getting past the barriers at the "make or break points" of mediations and the use of a mediator's proposal. Our advocates and neutrals also will discuss various difficult circumstances they have handled successfully in mediation. First-year lawyers to experienced advocates will come away with improved strategies for their next mediation.



"The conference was fantastic. In my 16 years of practice I had never been at an event with so many attorneys who practice the same type of law that I do. I made a number of terrific

contacts from around the country with whom I can work on ABA projects and exchange referrals. I look forward to attending the next one in September in Colorado."

—Jeffrey A. Dretler, Esq.,
Prince, Lobel, Glosky & Tye LLP

"The ABA's Labor & Employment CLE Conference features diverse and sophisticated programming and participants. Of particular interest to in-house practitioners is the three-day consulting track, as well as a half-day session designed and presented by in-house counsel. Last year's conference attracted more than 100 in-house attendees, providing a wealth of opportunities for networking and best practice sharing."

—Melinda Burrows,
Progress Energy Service Company LLC

2:15 p.m. – 3:45 p.m.

Managing Bias in Dispute Resolution

Our perceptions and stereotypes, which are often unconscious and/or based on cultural, non-verbal cues, social-economic status, race and gender can become serious issues. If we allow these often unintentional biases to impact our interactions, they can undermine the ADR process and severely hamper the probability of reaching an acceptable result for your client, especially those from historically under-represented backgrounds. This interactive presentation will help participants recognize biases in themselves and others and will explore the broader implications of the impact of bias on the effective representation of your client. Our panelists will discuss their experiences,

Program Schedule Thursday, September 11

including how they have tactfully dealt with biased participants while keeping the ADR process on track.

4:00 p.m. – 5:30 p.m.

Pre-Hearing Issues and Tactics in Employment Arbitration

In the context of a pre-hearing conference in a complex discrimination and executive compensation case, our panel of arbitrator and advocates will address key tactical and procedural issues that arise in employment arbitrations. Topics include: applicable rules and choice of law issues; responsibility for fees and costs and scheduling; scope and manner of discovery, including electronic discovery procedures; pre-hearing submissions; motions to dismiss and for summary judgment; requests for interim and injunctive relief; dealing with non-cooperation and violations of confidentiality agreements; and steps that can be taken to facilitate a fair and efficient arbitration. Advocates also will discuss the circumstances and types of cases and clients for which they will voluntarily enter into pre and post dispute arbitration agreements and the terms to be negotiated.

- 9:45 a.m. – 5:30 p.m.

Consulting Track

9:45 a.m. – 11:15 a.m.

The Top Ten Issues in Employment Discrimination Law

A panel of experienced attorneys from inside and outside government will provide their insights on the top employment discrimination issues facing the EEOC, employers, unions and employees. The panel will identify the most challenging issues and discuss both legal developments and practical strategies.

11:30 a.m. – 1:00 p.m.

Between You, Me and the Internet: Technology and Privacy in the Workplace

The explosion of blogs, personal web pages, and email has blurred the boundaries between what employees say at work and what they say in private. The panel will explore the implications of widespread use of these technologies as they impact workplace culture, rules of conduct and employee discipline.

2:15 p.m. – 3:45 p.m.

Getting to Know You: The Use and Misuse of Screening Devices for Hiring and Promotion

Employers increasingly seek better information in making hiring and promotion decisions and much of that information is readily available on the internet. Yet employers are still unsure how to meaningfully interpret and apply the available information to screen out undesirable employees without

rejecting good employees and without violating applicable law. This panel will examine the use and misuse of screening devices, including tests of performance and personality, background checks for criminal records and credit histories. The panel will look at various legal restrictions on the use of these screening criteria under Title VII, the Fair Credit Reporting Act and other state and federal laws.

4:00 p.m. – 5:30 p.m.

Religious and Cultural Differences in the Workplace

As workforces become increasingly diverse, the conflicts between people of different religions, languages and cultures are reflected in increasing tensions in the workplace. This panel will examine the application of employment laws to the culture wars in the workplace, including accommodation of religious practices, permissible limits on proselytizing, lawful use of English-only rules, grooming and dress rules, work assignments that offend religious beliefs and the permissible enforcement of safety rules that impact religious practices or dress.

- 9:45 a.m. – 5:30 p.m.

Fundamentals Track

Co-Sponsored by ABA Young Lawyers Division

9:45 a.m. – 11:15 a.m.

What Labor and Employment Lawyers Need to Know about Employee Benefits and ERISA

This compelling session will address recent developments in employee benefits, including the standard and scope of review, claims based on breach of fiduciary duty, issues under the Pension Protection Act of 2006, and recent Supreme Court decisions.

11:30 a.m. – 1:00 p.m.

EEO Law: Overview and Current Issues under Title VII, the ADEA and the ADA

This program will provide an overview of the federal anti-discrimination statutes relating to race, sex, color, national origin, religion, age and disability, which are administered by the Equal Employment Opportunity Commission, as well as the analogous regulations administered by the Department of Labor's Office of Federal Contract Compliance Programs. Going well beyond the basics, the panel will address the most interesting current legal issues and how they impact employers, unions and employees

2:15 p.m. – 3:45 p.m.

Ethics Fundamentals for Labor and Employment Lawyers

This program will discuss some of the common ethical issues confronted by labor and employment lawyers beginning with the retainer agreement, through investigation,

litigation, settlement and trial, including issues of privilege, confidentiality, conflicts of interest and ex-parte communications. The panel will provide analysis of cutting edge ethical issues arising in the context of multi-jurisdictional practices and multi-party representation as well as the challenges of handling tape recordings and electronic communications.

4:00 p.m. – 5:30 p.m.

Federal and State Laws On Wages and Hours: FLSA and More

Wage and hour laws affect every workplace in America. In addition to federal law, numerous states have enacted statutes setting their own wages and hour requirements. This panel will review current wage and hour laws, discuss the difference between misclassification and off-the-clock cases, and highlight trends in FLSA litigation.

- 9:45 a.m. – 5:30 p.m.

Litigation Track

9:45 a.m. – 11:15 a.m.

Tutorial on Trial Practice: Voir Dire

Trial lawyers in high profile cases who have had to prepare for and conduct extensive voir dire will demystify the process. What information can you get about the jury pool prior to trial? How do you work with jury consultants to profile the ideal juror? When can you use jury questionnaires and what should you ask? What are the state of the art techniques to elicit the information you need to select the perfect jurors? What are the practical issues in dealing with the judge? How do you keep track of the information in court and how do you strike without creating legal challenges? These and more questions will be answered in this tutorial.

11:30 a.m. – 1:00 p.m.

Tutorial on Trial Practice: Cross-Examination

Other than to "sit down and shut up" and "to avoid asking the question when you don't know the answer," what are the other subtle tricks of destroying the adverse witness on cross examination? What do you ask and how do you ask it? How do you stop the evasive and runaway witness? How do you more effectively use the deposition testimony and present exhibits to destroy the direct evidence or impeach the witness? How has the electronic courtroom changed the art of cross examination? Novice and experienced lawyers alike will benefit from this exploration of cross examination techniques.

2:15 p.m. – 3:00 p.m.

Tutorial on Trial Practice: Opening and Closing Arguments

Some suggest the great majority of jurors make up their minds after the opening and seldom

Pro Bono Workshop

The Pro Bono Work Committee invites all conference registrants to attend their annual Pro Bono Workshop on Friday, September 12 from 12:45 p.m. – 2:00 p.m.. Lunch will be provided. At the workshop, members will hear from the 2008 Frances Perkins Award Winner and local Pro Bono leaders. The workshop provides members at any stage in their careers with an opportunity to engage in discussions relating to providing pro bono services, including managing a pro bono project with a billable workload, identifying the needs of a pro bono project, working a pro bono matter from beginning to end, and how to get involved in a pro bono project. In addition, members learn first hand how the Pro Bono Work Committee interacts with the Section. If you would like to participate, please so indicate where provided on the registration form. Further details will be posted on the Pro Bono Work Committee web-page, and a sign-up sheet will be posted at the ABA Registration Desk at the Conference. We encourage anyone who is interested to sign up in advance because seating will be limited.

deviate. Closings provide one of the most important and exciting opportunities for advocacy where the lawyers marshal the facts and appeal to the jurors for a decision in their client's favor. Masters of the art of opening and closing arguments will explain how to develop an effective opening argument, closing the door before it opens, without crossing the line of impropriety. How to develop themes and handle those "bad" facts are two of the specific areas that will be addressed. After the roadmap is drawn and the evidence is in, how do you analyze what happened at trial to convince the doubtful jurors of the righteousness of your client's cause? Histrionics versus calm, flash versus simplicity, detailed exposition versus brevity are a few of the strategies of closings to be discussed.

3:00 p.m. – 3:45 p.m.

A View from the Bench: Judicial Perspectives on Effective Trial Techniques

The audience will hear insights from a panel of trial judges about what impresses them and what offends them in the courtroom. These esteemed members of the judiciary will share their insights of what are and are not effective trial techniques.

4:00 p.m. – 5:30 p.m.

The Verdict is In: Show Me the Money! The Mock Jury Trial on Damages Begins: Opening Statements and Direct and Cross-Examination of Plaintiff

When the jury finds the defendant liable, the game is not necessarily over. In this

cutting edge, comprehensive demonstration of the damages phase of a bifurcated trial the audience will see experienced plaintiff's trial lawyers present their state of the art techniques for maximizing monetary relief for their client.

- 9:45 a.m. – 5:30 p.m.

Traditional Labor Track

9:45 a.m. – 11:15 a.m.

Introduction to the Law and Practice Before the NLRB

Experienced union and management attorneys will be joined by the National Labor Relations Board regional director in Denver for a nuts-and-bolts session on the basic structure, purpose and procedures of the National Labor Relations Act.

11:30 a.m. – 1:00 p.m.

Hot Topic: Neutrality Agreements, Card Checks and Voluntary Recognition After Dana

This panel will look at Board decisions defining the role of NLRB elections in representation proceedings after *Dana* and examine the rationales behind the Board's decision in *Dana* that an election is preferable to authorization cards in establishing majority support for a union. The panel also will discuss the Board's decision in *Wurtland Rehabilitation* that employees should not have to endure the delays of a Board election when attempting to decertify the union but may instead eliminate recognition based on signatures on a decertification petition.

2:15 p.m. – 5:30 p.m.

NLRB Representation Proceedings: Mock R-Case Hearing

Experienced management and union attorneys will conduct a mock representation hearing before an NLRB hearing officer in a union organizing setting. The program will demonstrate procedures and strategies for effectively presenting evidence in representation proceedings, including evidence relating to community of interest and supervisory status. After completing the evidentiary hearing, the hearing officer will deliver an oral decision on the issues presented. The hearing officer and attorneys will then answer questions on the legal and strategic aspects of the hearing and decision.

- 9:45 a.m. – 1:00 p.m.

Immigration Track

9:45 a.m. – 11:15 a.m.

Public Enforcement Questions and Jurisdictional Fights

This panel will look at enforcement issues for employers, employees and unions, including an update on "No Match" regulations, enforcement and litigation. For employers, the panel will discuss practices for policing

hiring to avoid exposure to the disruption and cost of immigration raids. The panel will also examine the impact of the new rash of state and local laws, which impose penalties on employers of undocumented workers, and explore litigation issues in response to state and local regulation, including preemption and standing.

11:30 a.m. – 1:00 p.m.

Issues and Remedies in Representing or Defending Against Immigrant Employees

This program will address the remedies available to undocumented foreign workers under state and federal laws. Under *Hoffman Plastics*, illegal aliens are not entitled to back pay for work not done, but several courts have held there is no barrier to relief for work already done or where there is no duty of mitigation. The panel will discuss state law complications as to workers' compensation and unemployment compensation. This program also will discuss the risks of deportation and risks to the employer when an illegal alien draws attention to himself or herself by bringing claims against the employer. Finally, it will provide the latest update on the NLRA and immigrant workers discharged or disciplined for participating in the May 2006 demonstrations.

- 9:45 a.m. – 11:15 a.m.

International Track

9:45 a.m. – 11:15 a.m.

Confidential Information in a Global Economy

Protecting trade secrets and other confidential information and dealing with employees who leave and take such information with them is a major issue for many companies. For U.S. employers with overseas operations, extra challenges exist. What kinds of strategies, policies, and practices (including restrictive covenants and deferred compensation) should such companies consider to protect valuable information from theft, misappropriation and other misuse?

- 11:30 a.m. – 5:30 p.m.

Employee Benefits Track

11:30 a.m. – 1:00 p.m.

The Future of Pension and Welfare Benefits

An experienced panel of employer, union, employee and plan representatives will examine the current state of employee pension and welfare benefit plans and the challenges faced by employers, unions and employees in securing quality employee benefit plans in the current market. The panel will discuss recent developments in regulations, litigation and collective bargaining agreements.

1:00 p.m. – 2:15 p.m.

Lunch Break: Standing Committee Meetings

This is your opportunity to get to know more about the projects and activities of the Section of Labor and Employment Law Standing Committees. Box lunches will be provided courtesy of Jones Day.

2:15 p.m. – 3:45 p.m.

Benefit Claims: A Primer on Claims Procedures and Benefit Litigation

This program will provide practical advice and strategies for pursuing benefit claims during the claims review process and, later, in litigation. Topics include legal standards for benefit review, claims and defenses, and the role of attorneys in the claims review process.

4:00 p.m. – 4:45 p.m.

Age Discrimination Issues in Employee Benefit Plans

Topics include cash balance plan litigation, welfare benefit entitlements linked to social security eligibility and Medicare first requirements under health insurance plans.

4:45 p.m. – 5:30 p.m.

Ethical Issues in Representing Employee Benefit Plans

Topics include legally privileged and confidential information, conflicts in multiple representations between employer/fiduciary/plan; union/trustee and other conflict issues.

- 2:15 p.m. – 3:45 p.m.

Sports and Entertainment Track

2:15 p.m. – 3:45 p.m.

The Entertainment Industry Wars: Labor and Management Fight for Their Slice of the Digital Pie

Studio representatives and counsel to the Alliance of Motion Picture and Television Producers, the multi-employer collective bargaining arm of the studios, network and other content providers, will be joined by entertainment union attorneys to discuss the difficult and contentious issues facing the industry. Included in the presentation will be a summary of how the Writers' Guild bargaining failed and how the issues were resolved as well as ancillary proceedings in the courts and before the National Labor Relations Board.

- 6:00 p.m. – 7:30 p.m.

Diversity Reception

Friday, September 12

7:00 a.m. – 8:00 a.m.

Continental Breakfast

7:00 a.m. – 8:00 a.m.

Roundtable Discussions and Constituent Breakfasts

8:00 a.m. – 9:00 a.m.

Plenary Session: "Micro-Inequities" and the Practice of Law: The EEOC's View of Employment Challenges in Law Practices

"Micro-Inequities" are those seemingly small acts of abuse, aggression and disrespect that can dissipate energy, drain resources, lower morale, decrease confidence and impede performance in the legal workplace. Dr. Wesley E. Profit, Ph.D., J.D., a clinical psychologist and an attorney in private practice, will conduct a fast-paced exploration of the impact of these more subtle forms of discrimination that often become imbedded in the culture of law practice settings and undermine the effectiveness of the organization. Learn how to identify and address behaviors and practices that impair our ability to function as lawyers and legal organizations in the culture of the new century. Reed L. Russell, Legal Counsel to the U.S. Equal Employment Opportunity Commission, will comment on Dr. Profit's presentation of "Micro-Inequities" and address the EEOC'S concerns regarding employment law practices in the context of law practice environments.

- 9:30 a.m. – 5:15 p.m.

Consulting Track

9:30 a.m. – 11:00 a.m.

How to Do It Right: Workplace Investigations

This practical program will present a step-by-step analysis of an effective investigation of an employee's harassment complaint. Beginning with the formulation of an investigation plan and the selection of the investigation team through the witness interviews and gathering of evidence to the creation and dissemination of an investigation report, the experienced panel will disclose their best practices and point out pitfalls at each step of the investigation. The panel will discuss the impact on their investigation of laws governing privacy and defamation, as well as the issues of privilege and attorney work product. The panel also will examine a union's role in workplace investigations in organized workforces and the potential role of plaintiff's counsel in pre-litigation and post-litigation investigations.

11:15 a.m. – 12:45 p.m.

Please Sign Here: Crucial Strategies in Negotiating Employment and Separation Agreements

Employers and executives commonly negotiate employment contracts at the beginning of a relationship and severance agreements at the end. The employment contract will determine the parties' expectations going forward and the method for terminating the relationship. The terms of a separation agreement may vary based on an employee's potential legal claims and value to the company and the employer's concerns about competition, confidentiality and future contacts with the employee. This panel will discuss negotiation of the terms of these agreements from the perspective of both the employer and employee. The discussion will include difficult issues involving non-compete clauses and trade secrets as well as legal requirements for severance agreements, including waivers and releases, under the Older Worker Benefit Protection Act.

2:00 p.m. – 3:30 p.m.

Responding to Economic Crises: Plant Closings, RIFs, Layoffs and Bankruptcy

Major changes in an employer's economic fortunes, whether through plant closing, layoffs, RIFs or bankruptcy, present legal challenges for employers, unions and employees. The panel will discuss the legal landscape surrounding these events and evaluate employer strategies for making a smooth transition and avoiding legal liability. The rights and remedies of unions and employees in response to these events also will be explored. The panel will examine issues involving severance agreements, incentivized retirement plans and modification of benefit plans, as well as the impact of bankruptcy law, the WARN Act, OWBPA and employment discrimination statutes.

3:45 p.m. – 5:15 p.m.

This is Not a Vacation Day! Leaves of Absence

While employers are still coping with difficult issues under the ADA, the FMLA and state workers' compensation statutes for employees who are off work due to illness and injuries, new legal and practical issues arise for employees who seek leave as caregivers for children, spouses and aging parents. In organized workplaces, collective bargaining agreements often include absence plans and leave provisions which must be harmonized with employer policies and external law. This panel will unravel the impact of these laws on employer policies governing leaves, absences, seniority and job security.

- 9:30 a.m. – 11:00 a.m.

Employee Benefits Track

9:30 a.m. – 11:00 a.m.

An Update on ERISA Supreme Court Cases and Fiduciary Litigation

This section of the program reviews the latest Supreme Court decisions handed down during the term ending June 2008 and explores the fiduciary issues that are being litigated in the courts.

- 9:30 a.m. – 5:15 p.m.

Fundamentals Track

Co-Sponsored by ABA Young Lawyers Division

9:30 a.m. – 11:00 a.m.

EEO Litigation: From Complaint to the Courthouse Steps

Litigating employment claims involves more than just solid trial skills. This panel will discuss administrative procedures, pleading requirements, standards of proof, common evidentiary issues and best practices for preparing a case for settlement, summary judgment and trial.

11:15 a.m. – 12:45 p.m.

Federal Laws Governing Leaves of Absence: FMLA, Pregnancy Discrimination Act and ADA

Federal employment laws afford employees workplace leave for a variety of reasons, including serious health conditions, disabilities, and military leave. Often, leave issues implicate more than one statute. This panel will review federal laws governing leaves of absence and will offer practical advice for distinguishing among the legal issues raised by each.

2:00 p.m. – 3:30 p.m.

Non-Statutory Claims and Other Common Employment Law Issues

This program will canvass the typical non-statutory claims that arise out of the employer–employee relationship under state contract and tort law. The panel will provide an overview of workplace privacy, employer investigations, wrongful discharge and employment torts. The panel will discuss significant new developments and trends in these areas and share some practical advocacy tips.

3:45 p.m. – 5:15 p.m.

What Labor and Employment Lawyers Need to Know about International Labor and Employment Law

This program is an overview of key issues and important cultural differences that labor and employment lawyers need to know when dealing with employers and employees outside the U.S. or with foreign nationals employed by domestic companies. Topics will include

employee protections, dealing with employee issues and legal proceedings in Civil Code countries, roles of unions and worker organizations, differences between U.S. “at-will” employment and standards for due process in other countries, privacy rights and the use of employment agreements.

- 9:30 a.m. – 5:15 p.m.

Litigation Track: The Mock Trial on Damages

9:30 a.m. – 11:00 a.m.

Direct and Cross of Plaintiff’s Forensic Psychiatrist and Plaintiff’s Forensic Economist

11:15 a.m. – 12:45 p.m.

Direct and Cross of Company and Union Representatives

2:00 p.m. – 3:30 p.m.

Direct and Cross of Defendant’s Forensic Psychiatrist and Defendant’s Forensic Economist

3:45 p.m. – 5:15 p.m.

Closing Arguments, Charge to the Jury and Analysis by the Trial Judge and Trial Attorneys

- 9:30 a.m. – 5:15 p.m.

Traditional Labor Track

9:30 a.m. – 11:00 a.m.

A View from the National Labor Relations Board

The members of the National Labor Relations Board and the NLRB General Counsel in separate conversations will provide their perspectives on the decisions of the past year and on upcoming issues. A panel of experienced management and union attorneys will provide their own perspectives in response.

11:15 a.m. – 11:45 a.m.

The Conversation with the NLRB General Counsel Continues

Continuing the conversation from the previous session, the NLRB General Counsel and a panel of management and union attorneys discuss current enforcement issues.

11:45 a.m. – 12:45 p.m.

An Academic’s Perspective on Current Labor Law Issues

Professor Roberto Corrada will comment on recent court decisions and issues facing practitioners from his unique perspective as a distinguished labor law professor.

2:00 p.m. – 3:30 p.m.

Hot Topic: Remedies in Unfair Labor Practice Cases

This panel will examine the impact of recent Board decisions on remedy issues in unfair



“The panels, in addition to serving as a fabulous review of many of my employment law courses, also taught me a great deal about the practice of employment law in the ‘real world.’ The

Conference provided me with great networking opportunities; I met Section leaders, partners and associates from across the world, and fellow students. I still keep in touch with many of them on a regular basis and can’t wait to see everyone again in Denver!”

—Sarah Bryan, Student Liaison,
Employment Rights and Responsibilities

“The ABA LEL Section’s blockbuster CLE program in Philadelphia offered the best of the best in speakers and content.”

—Donald L. Sapir, Sapir & Frumkin LLP

labor practice cases, including the status of “extraordinary remedies,” attorneys’ fees, reinstatement issues arising from “salting” cases, and back pay issues after the recent NLRB decisions in *St. George Warehouse*, *Toering Electric* and *Oil Capital Sheet Metal*. The panel also will discuss legislative initiatives designed to enhance the NLRB’s remedial powers and engage in a frank discussion of the real “un-remedied” issues.

3:45 p.m. – 5:15 p.m.

Hot Topic: NLRB Election Procedures

How fair is the state of industrial democracy? This panel will provide a candid review of new issues confronting practitioners in contested elections and a critical assessment of the demands for change. The panel also will discuss new initiatives by management and unions and what current statistics tell us about the future of NLRB elections.

Program Schedule

Friday, September 12 – Saturday, September 13

• 9:30 a.m. – 12:45 p.m.

Public Sector Track

9:30 a.m. – 11:00 a.m.

Individual Rights in Public Sector Employment

The many differences in rights between public sector and private sector employees, including significant Constitutional protections such as free speech, due process and search and seizure protections, are changing through litigation. The panel will highlight important court decisions and address collective bargaining rights and the relationship between bargaining rights and civil service and tenure protections.

11:15 a.m. – 12:45 p.m.

Negotiation Skills in Collective Bargaining

Negotiations are a part of every labor and employment lawyer's day whatever the focus of practice. Collective bargaining in the public sector, whether at the bargaining table, in mediation or arbitration, or in dealing with your client, requires extra skills because of political constraints and the restrictions of statutes that control collective bargaining. The panel will focus on what works and what does not and will provide useful tools for working in the thicket of public sector bargaining.

• 9:30 a.m. – 5:15 p.m.

Wage and Hour Track

9:30 a.m. – 11:00 a.m.

Determining Compensable Work Issues

Following the Supreme Court's decisions in *Tim* and *Alvarez*, employers and the courts have been struggling with determining the beginning and ending of an employee's work day. This panel will address compensable work issues.

11:15 a.m. – 12:45 p.m.

White Collar Exemptions

Ever since the Department of Labor issued new regulations on the white collar exemptions to the FLSA, practitioners and the courts have grappled with the myriad requirements of these exemptions. A national panel will address developing issues regarding the Administrative, Professional, Executive, Computer, Outside Sales and Combination Exemptions.

2:00 p.m. – 3:30 p.m.

Pre-Litigation Compliance Strategies for Wage and Hour Issues

With the continued onslaught of wage and hour litigation, employers must evaluate their compliance with state and federal wage and hour requirements. This session will focus on the difficult questions arising when an employer identifies potential violations prior to litigation

3:45 p.m. – 5:15 p.m.

Advanced Litigation of Wage and Hour Class Cases

This program will address cutting edge techniques used in litigating large wage and hour cases under the FLSA or state laws. A panel of national experts will address practical and strategic considerations.

• 11:15 a.m. – 12:45 p.m.

Ethics and Professionalism Track

11:15 a.m. – 12:45 p.m.

Ethics at the Movies

This session will both amuse and inform by using cinema clips and other media formats, many of which end up in the hands of audience members, to illustrate important points about attorney ethics.

• 12:45 p.m. – 3:30 p.m.

In-House Corporate Counsel Track

12:45 p.m. – 2:00 p.m.

In-House Corporate Counsel Networking Lunch

In-house corporate lawyers, whether serving their companies as labor and employment lawyers or human resource professionals, will have an opportunity to meet among themselves and informally discuss the unique issues presented by virtue of their in-house roles.

2:00 p.m. – 3:30 p.m.

In-House Corporate Counsel Problem Solving Workshop

After three problem scenarios dealing with alleged Sarbanes-Oxley retaliation, wage and hour issues and Internal Revenue Code Section 409A are presented to the audience, in-house corporate counsel will retire to discuss resolution of these issues among themselves. The remainder of the audience, led by outside counsel, will engage in a discussion of the same scenarios, followed by a joint presentation of in-house corporate counsel and outside counsel of their respective advice as to the issues presented.

• 2:00 p.m. – 5:15 p.m.

E-Discovery and E-Trial Track

2:00 p.m. – 3:30 p.m.

Beginner's Session on E-Discovery and E-Evidence

This session will cover basic terms, concepts and obligations, including:

- What is metadata and does it hurt?
- Basics of litigation holds; and
- A demonstration of concepts.

3:45 p.m. – 5:15 p.m.

What's Practical for Employers and Employees? (Part I, Intermediate Level)

Employees and their counsel send and receive confidential legal communications and documents through the employer's equipment or over the employer's Internet connection. On what conditions is privilege waived or preserved? Are there exceptions for "road warriors" and workaholics? Does the employer face any risk in accessing such communications? What are the spoliation risks for employers, unions and plaintiffs?

• 3:45 p.m. – 5:15 p.m.

Sports and Entertainment Track

3:45 p.m. – 5:15 p.m.

Mock Baseball Salary Arbitration: Roberto Clemente in 2008

Interest arbitration, common in public sector bargaining and becoming more prevalent in other labor and employment arenas, is an annual ritual in Major League Baseball. In this unusual and entertaining demonstration of interest arbitration applicable generally to all areas of its practice, practitioners will see the process at work in the context of a mock baseball arbitration of a former "all-star player." The "players" in this demonstration will be a professional baseball arbitrator and experienced attorneys who have represented major league ball clubs and players.

6:00 p.m. – 10:00 p.m.

Take Me Out to the Ballgame: An Evening of Food, Drinks and Baseball at Coors Field

Welcome to YLD Members A Special Invitation to Young Lawyers

The ABA Young Lawyers Division is co-sponsoring the Fundamentals Track—eleven programs covering the nuts and bolts of your practice. Other programs of special interest to Young Lawyers are the ADR Track program on "Managing Bias in Dispute Resolution," the Ethics and Professionalism program on "How to Grow your Labor and Employment Law Practice," and Litigation Track tutorials on trial practice.

Be sure to enjoy the social and networking opportunities, including the Conference Reception at Coors Field on Friday. All are included in Conference registration fees. Join other YLD members and Section leaders participating in the Pro Bono Project on Wednesday afternoon and the Pro Bono Workshop and Luncheon on Friday. And don't miss the special YLD Hospitality Suite open for refreshments, fun and conversation on Wednesday evening from 10:00 pm to 12:00 a.m.

Saturday, September 13

7:00 a.m. – 8:00 a.m.

Continental Breakfast

7:00 a.m. – 8:00 a.m.

Roundtable Discussions

- 8:00 a.m. – 9:30 a.m.

ADR Track

8:00 a.m. – 8:45 a.m.

Enough of This Advocacy— I Want to be a Neutral

Our panel of successful neutrals—some of whom have transitioned from practice as advocates—will share their insights on the practical issues of becoming and being a neutral. Just how difficult is it to develop a full-time practice as an arbitrator or mediator? Will your former adversaries accept you as a neutral? What are the economics of being a neutral? This panel will review the criteria used by AAA, FMCS, JAMS and other organizations for inclusion on their neutral lists.

8:45 a.m. – 9:30 a.m.

What Labor and Employment Law Advocates and Arbitrators Really Want from Each Other

A panel of highly-regarded labor and employment arbitrators and advocates will challenge the validity of long-held assumptions. Which pre-hearing events could be better handled? What really bugs advocates and arbitrators during a hearing? How much corroborating evidence is advisable? What types of exhibits are persuasive? Which case elements are crucial to include in the record? Which litigation practices are ineffective in arbitration? In what ways are advocates' briefs and arbitrators' opinions and awards lacking? Should some boilerplate be retired? When is less really more? We welcome your participation in this candid debate.

- 8:00 a.m. – 9:30 a.m.

Bias in the Workplace Track

8:00 a.m. – 9:30 a.m.

Expanding Concepts of Discrimination: Sex, Sexual Orientation, Sex Stereotyping, Gender Non-Conformity and Transgender Claims

This program will provide an update on state/local legislation banning discrimination against lesbians, gay men, bisexuals and transgender persons. In addition, the panel will discuss expanding Title VII coverage based on sex stereotyping and gender

non-conformity claims; same-sex sexual harassment claims and employer policies; and benefits issues affecting LGBT employees, including "gross up" domestic partner benefits policies and status of employer domestic partner benefits policies after state recognition of gay marriage

- 8:00 a.m. – 1:00 p.m.

Consulting Track

8:00 a.m. – 9:30 a.m.

Do I See a Fraud? Developments in Whistleblowing Cases under Sarbanes-Oxley

The law governing Sarbanes-Oxley whistleblower cases continues to evolve and with it a host of problems for publicly-held companies. This panel will address the latest legal developments under Sec. 806, the practical impact of the statute's protections, issues of coverage, fraud, liability and damages, and strategies for pursuing and addressing these claims at work, at the Department of Labor and in court.

9:45 a.m. – 11:15 a.m.

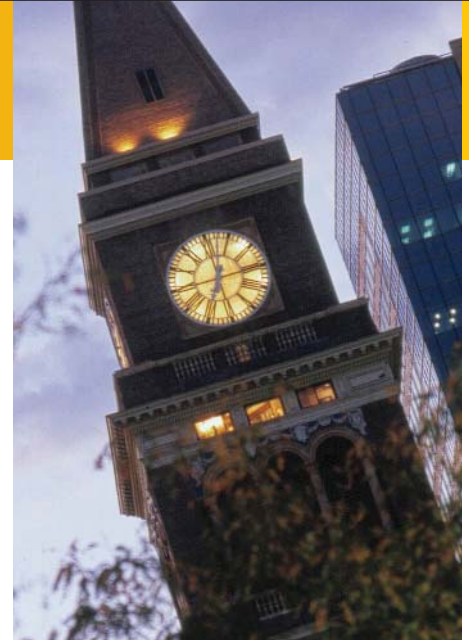
Keeping it Safe: Violence and Threats of Violence in the Workplace

Violent incidents in the workplace are increasingly in the news. Employer reactions to real and perceived threats are driven both by a concern for the safety of the workforce and by a fear of incurring liability by failing to perceive or effectively deal with potentially violent situations. This panel will discuss the lawfulness and effectiveness of various employer policies designed to deal with violence and threats of violence by employees and third parties and the role of union representatives in balancing the interests of all employees, both the accused and the real or potential victims.

11:30 a.m. – 12:15 p.m.

Do You Want to Know a Secret? When the Employee Knows Too Much

In this era of proliferation of business information easily accessible to employees through electronic means, employers are well-served to evaluate and invest in protection of confidential, proprietary information and trade secrets. This evaluation should include an assessment of what information is subject to protection, which categories of employees should be provided with access to this data, and policies, procedures and best practices for protecting this information. Legal issues to be explored include laws governing duty of loyalty, restrictive covenants, misappropriation of trade secrets, unfair and deceptive business practices and computer statutes.



"Just a note to tell you that the ABA conference was far and away the best, most useful CLE time I have ever spent... a beautifully executed conference. I was blown away by the scope of it. Congratulations on an outstanding job."

—Peggy McGovern, NLRB

12:15 p.m. – 1:00 p.m.

USERRA

Leaves of absence pertaining to military leave can be very challenging to many employers based on the stringent job protection requirements under USERRA. This program will focus on policies and procedures that employers should have in place, as well as implementation of those policies under this employee-friendly statute. This program also will include legal developments following the recent amendment of the FMLA to include protections for families of employees who are in active duty or who have been called to active duty.

- 8:00 a.m. – 1:00 p.m.

Fundamentals Track

Co-Sponsored by ABA Young Lawyers Division

8:00 a.m. – 9:30 a.m.

The Railway Labor Act: Representing Employers, Unions and Employees in the Airline and Railway Industries

The Railway Labor Act broadly governs labor-management relations in the airline and rail industries and differs in many ways from the laws regulating other sectors. This program will discuss issues of jurisdiction, representation and collective bargaining (including self-help) under the Railway Labor Act, and will provide an overview of the structure and function of the National Mediation Board as it differs from the National Labor Relations Board. The panel will also examine recent cutting edge developments and trends under the RLA.

Program Schedule Saturday, September 13

9:45 a.m. – 11:15 a.m.

Introduction to Class Actions and Collective Actions

For those attorneys who do not regularly appear in class action litigation, this program will provide an overview of class action litigation and practical advice for pursuing or responding to class claims. Topics include: identifying a potential class action claim; assessing the need to retain experienced class counsel; protecting class claims in administrative proceedings; responding to class claims; bifurcation of class claims for discovery; class certification procedures; appeals under Rule 23 (f); and settlement issues in class and collective actions.

11:30 a.m. – 1:00 p.m.

Workplace Safety and Health Laws: OSHA, MSHA and Workers Compensation

Workplace safety and health law is a critical specialty area within the labor and employment law field, but even the non-specialist can benefit from a sound understanding of this area. This program is designed both to provide an overview of occupational safety and health law and to explore more advanced materials from both management and union/employee perspectives. Topics include rulemaking, standards and regulations; OSHA inspections; OSHA citations and penalties; violations and affirmative defenses; informal conferences and citations; criminal prosecutions; and related civil actions. The panel also will discuss remedies for workplace injuries and occupational diseases under state workers compensation statutes.

- 9:00 a.m. – 2:00 p.m.

Law Student Track

9:00 a.m. – 9:30 a.m.

Law Student Welcome, Introduction and Update on Litigation Program

Law students who register for the “Careers in Labor and Employment Law” luncheon program will meet with Section leaders for an introduction to the events of the day. A member of the mock trial litigation team will provide a briefing on the first two days of the trial and invite the students to attend the finale of the mock trial program, including the results of the jury’s deliberations.

9:45 a.m. – 1:00 p.m.

Exploration of Labor and Employment Law Tactics

Law students are invited to explore any of the ten CLE programs offered during the Saturday morning session, including the Jury Results of the Mock Damage Trial or programs on Violence in the Workplace, Trade Secrets, E-Discovery, Class Actions, International Law, OSHA and Rainmaking.

1:00 p.m. – 2:00 p.m.

Careers in Labor and Employment Law: A “How to” Exploration of Options and Advice for Law Students on Finding the Right Job in Labor and Employment Law

If you are considering a career in Labor and Employment Law, come meet, talk and dine with leading labor and employment lawyers who will share their diverse perspectives on labor and employment law and their real-life experiences practicing on behalf of management, unions, and plaintiffs or serving as government attorneys and neutrals. Not only will you learn about the extremely varied career options open to labor and employment lawyers, you will receive concrete practical advice on how to get into the area that interests you, whether it is a big firm practice, a union legal staff, a boutique management or plaintiff’s firm, a federal or state regulatory agency or a corporate in-house position.

- 9:45 a.m. – 1:00 p.m.

E-Discovery and E-Trial Track

9:45 a.m. – 11:15 a.m.

What’s Practical for Employers and Employees? (Part II, Advanced Level)

This panel will discuss ways to cut the expense of e-discovery:

- Developing search terms;
- Random document check of a small percentage of documents, to see how effective the search terms are;
- Duties of cooperation;
- Selecting the E-Vendor—what to look for; what to avoid;
- Cost-sharing: when and why; and
- Handling special data.

11:30 a.m. – 1:00 p.m.

E-Evidence: Demonstrative Program on Use of E-Evidence at Trial

This panel will demonstrate the use of E-Evidence at trial, from the “Goliath” approach at the high end, where no options are unused, to the “David” approach at the low end, where limited case budgets require thrift and creativity.

- 9:45 a.m. – 1:00 p.m.

International Track

9:45 a.m. – 11:15 a.m.

Protecting and Advancing the Rights of Workers in Asia

As we continue to see the expansion of global production, the building of plants in emerging countries and many companies relying on emerging-country vendors for manufacturing and assembly, labor organizations and employee advocacy groups continue to play vital watchdog and advocacy roles. This session will focus on labor rights advocacy,

trade union activities and litigation involving companies in the U.S. aimed at protecting and advancing the rights of overseas workers.

11:30 a.m. – 1:00 p.m.

Developments Affecting U.S. Employers and Their Employees and Unions in Europe

Many U.S. companies do business in Europe or are affiliated with European companies. The labor, EEO and employee-privacy laws in Europe are changing rapidly. This session will provide an overview of developments and trends affecting U.S. employers doing business in the EU and various European countries.

- 9:45 a.m. – 11:15 a.m.

Litigation Track

9:45 a.m. – 11:15 a.m.

The Mock Trial on Damages: Jury Results and Wrap Up

It’s time to hear the juries’ damage awards. A panel of jurors and trial participants led by an experienced jury consultant will discuss the juries’ decisions and the impact of testimony, expert evidence and attorney strategy on the results. The attendees will view video clips of the highlights of the actual jury deliberations followed by audience questions of the judge, jurors and trial attorneys.

- 11:30 a.m. – 1:00 p.m.

Ethics and Professionalism Track

11:30 a.m. – 1:00 p.m.

How to Grow your Labor and Employment Law Practice

If you want more and better clients and more and better cases, this program will provide practical advice on strategies for marketing, advertising, and networking to build your law practice. Both traditional rainmaking methods and new opportunities through websites and lawblogs will be examined, from both a practical and ethical perspective. Particular insights aimed at those at different stages of their careers, and at women and minority attorneys, will be offered as part of the larger discussion.



Networking and Social Events

Wednesday, September 10

12:00 p.m. – 3:00 p.m.

Pro Bono Work Committee Service Project

Join other conference registrants in a voluntary service project in the Denver community. Transportation to the project will be provided.

4:00 p.m. – 8:00 p.m.

Registration and Committee/Vendor Expo

Sponsoring vendors and Section Standing Committees will provide information about products, services and programs they provide to labor and employment lawyers.

5:00 p.m. – 6:00 p.m.

First-Time Attendee/New Section Member Orientation and Reception

If you are a new member of the ABA Section of Labor and Employment Law or if you've just never attended a Section meeting before, join your peers to begin this conference on the right foot.

6:00 p.m. – 8:00 p.m.

Welcome Reception

All attendees are invited to meet, greet and network during this opening get-together at the Westin Tabor Center.

10:00 p.m. – 12:00 a.m.

Young Lawyers Division Hospitality

Join members of the Young Lawyers Division for after-dinner socializing and informal networking at this casual get-together open to all conference attendees.

Thursday, September 11

7:00 a.m. – 8:00 a.m.

Roundtable Discussions

The roundtable discussions are informal gatherings of interested lawyers, which are designed to encourage group discussions about various topics that have been identified as issues of importance to Section of Labor and Employment Law members.

1:00 p.m. – 2:15 p.m.

Standing Committee Meetings

Sponsored by Jones Day

Section of Labor and Employment Law Standing Committees will conduct meetings in an informal setting. Box lunches will be provided.

6:00 p.m. – 7:30 p.m.

Diversity Reception

*Presented by the ABA Equal Opportunity in the Legal Profession Committee
Hosted by the National Bar Association, the Hispanic National Bar Association, the National Asian Pacific American Bar Association and the National Lesbian and Gay Law Association*

Co-Sponsored by Baker, Donelson, Bearman, Caldwell & Berkowitz, PC; CRA International; Laner Muchin; Mitchell Silberberg & Knupp; Morgan Lewis & Bockius LLP; Ogletree Deakins; O'Melveny & Myers; Outten & Golden LLP; Paul, Hastings, Janofsky & Walker LLP; Pedowitz & Meister LLP; Porter Wright; Ryley Carlock & Applewhite; and Schiff Hardin LLP

Join us for a social and networking reception for lawyers of color; female lawyers; lesbian, gay, bisexual and transgender lawyers; disabled lawyers; and all those who support the Section's vision of diversity and inclusion.

Friday, September 12

7:00 a.m. – 8:00 a.m.

Roundtable Discussions

The roundtable discussions are informal gatherings of interested lawyers, which are designed to encourage group discussions about various topics that have been identified as issues of importance to Section of Labor and Employment Law members.

7:00 a.m. – 8:00 a.m.

Constituent Breakfasts

Meet in the company of your own peers to discuss pertinent labor and employment law topics. Separate breakfasts are scheduled for union, neutral plaintiff/employee and government lawyers as well as law students and law school deans/academics.

12:45 p.m. – 2:00 p.m.

Pro Bono Workshop

The Pro Bono Work Committee invites all Conference registrants to attend their annual Pro Bono Workshop, which will feature local pro bono leaders and the 2008 Frances Perkins Award Recipient. In addition, attendees will be able to engage in discussions relating to providing pro bono services and to learn first hand how the Pro Bono Work Committee interacts with the Section. You are encouraged to sign up in advance as seating will be limited.

7:00 p.m. – 9:00 p.m.

Networking Reception at Coors Field: An Evening of Food, Drinks and Baseball

Co-Sponsored by BNA; Littler Mendelson P.C.; Proskauer Rose LLP; and Winston & Strawn LLP

Join with old friends and new to celebrate the 2nd Annual ABA Section of Labor and Employment Law CLE Conference as you enjoy watching a baseball game between the Colorado Rockies and the Los Angeles Dodgers.

Saturday, September 13

7:00 a.m. – 8:00 a.m.

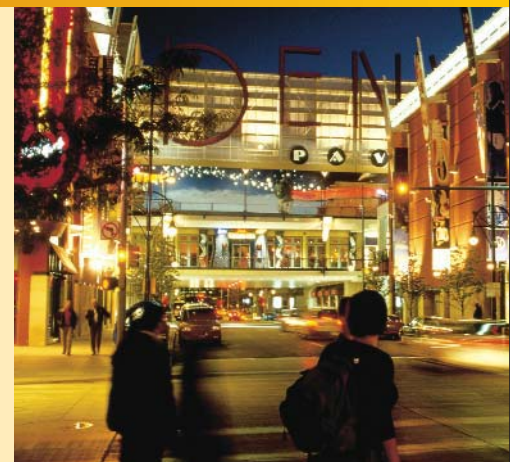
Roundtable Discussions

The roundtable discussions are informal gatherings of interested lawyers, which are designed to encourage group discussions about various topics that have been identified as issues of importance to Section of Labor and Employment Law members.

1:00 p.m. – 2:15 p.m.

Careers in Labor and Employment Law: A "How To" Exploration of Options and Advice for Law Students on Finding the Right Job

If you are considering a career in Labor and Employment Law, come meet, talk and dine with leading labor and employment lawyers who will share their diverse perspectives and their real-life experiences practicing on behalf of management, unions and plaintiffs or serving as government attorneys or neutrals. Not only will you learn about the extremely varied career options open to labor and employment lawyers, you will receive concrete practical advice on how to get into the area that interests you, whether it is a big firm practice, a union legal staff, a boutique management or plaintiff's firm, a federal or state regulatory agency or a corporate in-house position.



THURSDAY SEPTEMBER 11

7:00 am – 8:00 am	Roundtable Discussions			
8:00 am – 9:15 am	Plenary Session: Welcome, Award Presentations and Supreme Court Review			
	ADR Track	Consulting Track	Fundamentals Track	Litigation Track
9:45 am – 10:30 am	Overview of the Law of Alternative Dispute Resolution	The Top Ten Issues in Employment Discrimination Law	What Labor and Employment Lawyers Need to Know about Employee Benefits and ERISA	Tutorial on Trial Practice: Voir Dire
10:30 am – 11:15 am	Employment Class Action Arbitration— Myth or Matter of Contract			
11:30 am – 1:00 pm	Employment Mediation Strategies— From Selection to Resurrecting the Faltering Mediation	Between You, Me and the Internet: Technology and Privacy in the Workplace	EEO Law: Overview and Current Issues under Title VII, the ADEA and the ADA	Tutorial on Trial Practice: Cross-Examination
1:00 pm – 2:15 pm	Standing Committee Meetings			
2:15 pm – 3:00 pm	Managing Bias in Dispute Resolution	Getting to Know You: The Use and Misuse of Screening Devices for Hiring and Promotion	Ethics Fundamentals for Labor and Employment Lawyers	Tutorial on Trial Practice: Opening and Closing Arguments
3:00 pm – 3:45 pm				A View from the Bench: Judicial Perspectives on Effective Trial Techniques
4:00 pm – 4:45 pm	Pre-Hearing Issues and Tactics in Employment Arbitration	Religious and Cultural Differences in the Workplace	Federal and State Laws On Wages and Hours: FLSA and More	The Verdict is In: Show Me the Money! The Mock Jury Trial on Damages Begins: Opening Statements and Direct and Cross-Examination of Plaintiff
4:45 pm – 5:30 pm				
6:00 pm – 7:30 pm	Diversity Reception			

FRIDAY SEPTEMBER 12

7:00 am – 8:00 am	Roundtable Discussions and Constituent Breakfasts				
8:00 am – 9:00 am	Plenary Session: “Micro-Inequities” and the Practice of Law: The EEOC’s View of Employment Challenges in Law Practices				
	Consulting Track	Employee Benefits Track	Fundamentals Track	Litigation Track: The Mock Trial on Damages	Traditional Labor Track
9:30 am – 11:00 am	How to Do It Right: Workplace Investigations	An Update on ERISA Supreme Court Cases and Fiduciary Litigation	EEO Litigation: From Complaint to the Courthouse Steps	Direct and Cross of Plaintiff’s Forensic Psychiatrist and Plaintiff’s Forensic Economist	A View from the National Labor Relations Board
11:15 am – 11:45 am	Please Sign Here: Crucial Strategies in Negotiating Employment and Separation Agreements		Federal Laws Governing Leaves of Absence: FMLA, Pregnancy Discrimination Act and ADA	Direct and Cross of Company and Union Representatives	The Conversation with the NLRB General Counsel Continues
11:45 am – 12:45 pm					An Academic’s Perspective on Current Labor Law Issues
12:45 pm – 2:00 pm	Pro Bono Workshop and Luncheon				
2:00 pm – 3:30 pm	Responding to Economic Crises: Plant Closings, RIFs, Layoffs and Bankruptcy		Non-Statutory Claims and Other Common Employment Law Issues	Direct and Cross of Defendant’s Forensic Psychiatrist and Defendant’s Forensic Economist	Hot Topic: Remedies in Unfair Labor Practice Cases
3:45 pm – 5:15 pm	This is Not a Vacation Day! Leaves of Absence		What Labor and Employment Lawyers Need to Know about International Labor and Employment Law	Closing Arguments, Charge to the Jury and Analysis by the Trial Judge and Trial Attorneys	Hot Topic: NLRB Election Procedures
6:00 pm – 10:00 pm	Take Me Out to the Ballgame: An Evening of Food, Drinks and Baseball at Coors Field				

SATURDAY SEPTEMBER 13

7:00 am – 8:00 am	Roundtable Discussions			
	ADR Track	Bias in the Workplace Track	Consulting Track	Fundamentals Track
8:00 am – 8:45 am	Enough of This Advocacy— I Want to be a Neutral	Expanding Concepts of Discrimination: Sex, Sexual Orientation, Sex Stereotyping, Gender Non-Conformity and Transgender Claims	Do I See a Fraud? Developments in Whistleblowing Cases under Sarbanes-Oxley	The Railway Labor Act: Representing Employers, Unions and Employees in the Airline and Railway Industries
8:45 am – 9:30 am				
9:45 am – 11:15 am			Keeping it Safe: Violence and Threats of Violence in the Workplace	Introduction to Class Actions and Collective Actions
11:30 am – 12:15 pm			Do You Want to Know a Secret? When the Employee Knows Too Much	Workplace Safety and Health Laws: OSHA, MSHA and Workers Compensation
12:15 pm – 1:00 pm			USERRA	
1:00 pm – 2:15 pm				

Traditional Labor Track		Immigration Track	International Track	Employee Benefits Track	Sports and Entertainment Track	
Introduction to the Law and Practice Before the NLRB		Public Enforcement Questions and Jurisdictional Fights	Confidential Information in a Global Economy			
Hot Topic: Neutrality Agreements, Card Checks and Voluntary Recognition After Dana		Issues and Remedies in Representing or Defending Against Immigrant Employees		The Future of Pension and Welfare Benefits		
NLRB Representation Proceedings: Mock R-Case Hearing				Benefit Claims: A Primer on Claims Procedures and Benefit Litigation	The Entertainment Industry Wars: Labor and Management Fight for Their Slice of the Digital Pie	
				Age Discrimination Issues in Employee Benefit Plans		
				Ethical Issues in Representing Employee Benefit Plans		
Public Sector Track	Wage and Hour Track	Ethics and Professionalism Track	In-House Corporate Counsel Track	E-Discovery and E-Trial Track	Sports and Entertainment Track	
Individual Rights in Public Sector Employment	Determining Compensable Work Issues					
Negotiation Skills in Collective Bargaining	White Collar Exemptions	Ethics at the Movies				
			In-House Corporate Counsel Networking Lunch			
	Pre-Litigation Compliance Strategies for Wage and Hour Issues		In-House Corporate Counsel Problem Solving Workshop	Beginner's Session on E-Discovery and E-Evidence		
	Advanced Litigation of Wage and Hour Class Cases			What's Practical for Employers and Employees? (Part I, Intermediate Level)	Mock Baseball Salary Arbitration: Roberto Clemente in 2008	
Law Student Track	E-Discovery and E-Trial Track	International Track	Litigation Track	Ethics and Professionalism Track		
9:00 am – 9:30 am Law Student Welcome, Introduction and Update on Litigation Program						
Exploration of Labor and Employment Law Tactics	What's Practical for Employers and Employees? (Part II, Advanced Level)	Protecting and Advancing the Rights of Workers in Asia	The Mock Trial on Damages: Jury Results and Wrap Up			
	E-Evidence: Demonstrative Program on Use of E-Evidence at Trial	Developments Affecting U.S. Employers and Their Employees and Unions in Europe		How to Grow your Labor and Employment Law Practice		
Careers in Labor and Employment Law: A "How to" Exploration of Options and Advice for Law Students on Finding the Right Job in Labor and Employment Law						

Wednesday, September 10

4:00 p.m. – 8:00 p.m.

Committee/Vendor Expo and Registration

5:00 p.m. – 6:00 p.m.

First-Time Attendee/New Member Orientation and Reception

6:00 p.m. – 8:00 p.m.

Welcome Reception

10:00 p.m. – 12: a.m.

Young Lawyers Division Hospitality

Thursday, September 11

7:00 a.m. – 8:00 a.m.

Roundtable Discussions

8:00 a.m. – 9:15 a.m.

Plenary Session: Welcome, Award Presentations and Supreme Court Review

• ADR Track

9:45 a.m. – 10:30 a.m.

Overview of the Law of Alternative Dispute Resolution

10:30 a.m. – 11:15 a.m.

Employment Class Action Arbitration— Myth or Matter of Contract?

11:30 a.m. – 1:00 p.m.

Employment Mediation Strategies— From Selection to Resurrecting the Faltering Mediation

2:15 p.m. – 3:45 p.m.

Managing Bias in Dispute Resolution

4:00 p.m. – 5:30 p.m.

Pre-Hearing Issues and Tactics in Employment Arbitration

• Consulting Track

9:45 a.m. – 11:15 a.m.

The Top Ten Issues in Employment Discrimination Law

11:30 a.m. – 1:00 p.m.

Between You, Me, and the Internet: Technology and Privacy in the Workplace

2:15 p.m. – 3:45 p.m.

Getting to Know You:

The Use and Misuse of Screening Devices for Hiring and Promotion

4:00 p.m. – 5:30 p.m.

Religious and Cultural Differences in the Workplace

• Fundamentals Track

Cosponsored by ABA Young Lawyers Division

9:45 a.m. – 11:15 a.m.

What Labor and Employment Lawyers Need to Know about Employee Benefits and ERISA

11:30 a.m. – 1:00 p.m.

EEO Law: Overview and Current Issues under Title VII, the ADEA, and the ADA

2:15 p.m. – 3:45 p.m.

Ethics Fundamentals for Labor and Employment Lawyers

4:00 p.m. – 5:30 p.m.

Federal and State Laws On Wages and Hours: FLSA and More

• Litigation Track

9:45 a.m. – 11:15 a.m.

Tutorial on Trial Practice: Voir Dire

11:30 a.m. – 1:00 p.m.

Tutorial on Trial Practice: Cross-Examination

2:15 p.m. – 3:00 p.m.

Tutorial on Trial Practice: Opening and Closing Arguments

3:00 p.m. – 3:45 p.m.

A View from the Bench: Judicial Perspectives on Effective Trial Techniques

4:00 p.m. – 5:30 p.m.

The Verdict Is In: Show Me the Money! The Mock Jury Trial on Damages Begins: Opening Statements and Direct and Cross-Examination of Plaintiff

• Traditional Labor Track

9:45 a.m. – 11:15 a.m.

Introduction to the Law and Practice Before the NLRB

11:30 a.m. – 1:00 p.m.

Hot Topic: Neutrality Agreements, Card Checks, and Voluntary Recognition After *Dana*

2:15 p.m. – 5:30 p.m.

NLRB Representation Proceedings: Mock R-Case Hearing

• Immigration Track

9:45 a.m. – 11:15 a.m.

Public Enforcement Questions and Jurisdictional Fights

11:30 a.m. – 1:00 p.m.

Issues and Remedies in Representing or Defending Against Immigrant Employees

• International Track

9:45 a.m. – 11:15 a.m.

Confidential Information in a Global Economy

• Employee Benefits Track

11:30 a.m. – 1:00 p.m.

The Future of Pension and Welfare Benefits

2:15 p.m. – 3:45 p.m.

Benefit Claims: A Primer on Claims Procedures and Benefit Litigation

4:00 p.m. – 4:45 p.m.

Age Discrimination Issues in Employee Benefit Plans

4:45 p.m. – 5:30 p.m.

Ethical Issues in Representing Employee Benefit Plans

1:00 p.m. – 2:15 p.m.

Lunch Break: Standing Committee Meetings

• Sports and Entertainment Track

2:15 p.m. – 3:45 p.m.

The Entertainment Industry Wars: Labor and Management Fight for Their Slice of the Digital Pie

6:00 p.m. – 7:30 p.m.

Diversity Reception

Friday, September 12

7:00 a.m. – 8:00 a.m.

Roundtable Discussions and Constituent Breakfasts

8:00 a.m. – 9:00 a.m.

Plenary Session: “Micro-Inequities” and the Practice of Law: The EEOC’s View of Employment Challenges in Law Practices

• Consulting Track

9:30 a.m. – 11:00 a.m.

How to Do It Right: Workplace Investigations

11:15 a.m. – 12:45 p.m.

Please Sign Here: Crucial Strategies in Negotiating Employment and Separation Agreements

2:00 p.m. – 3:30 p.m.

Responding to Economic Crises: Plant Closings, RIFs, Layoffs, and Bankruptcy

3:45 p.m. – 5:15 p.m.

This is Not a Vacation Day! Leaves of Absence

• Employee Benefits Track

9:30 a.m. – 11:00 a.m.

An Update on ERISA Supreme Court Cases and Fiduciary Litigation

• Fundamentals Track

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9:30 a.m. – 11:00 a.m.

EEO Litigation: From Complaint to the Courthouse Steps

11:15 a.m. – 12:45 p.m.

Federal Laws Governing Leaves of Absence: FMLA, Pregnancy Discrimination Act and ADA

2:00 p.m. – 3:30 p.m.

Non-Statutory Claims and Other Common Employment Law Issues

3:45 p.m. – 5:15 p.m.

What Labor and Employment Lawyers Need to Know about International Labor and Employment Law

- **Litigation Track**
The Mock Trial on Damages
 9:30 a.m. – 11:00 a.m.
Direct and Cross of Plaintiff's Forensic Psychiatrist and Plaintiff's Forensic Economist
 11:15 a.m. – 12:45 p.m.
Direct and Cross of Company and Union Representatives
 2:00 p.m. – 3:30 p.m.
Direct and Cross of Defendant's Forensic Psychiatrist and Defendant's Forensic Economist
 3:45 p.m. – 5:15 p.m.
Closing Arguments, Charge to the Jury and Analysis by the Trial Judge and Trial Attorneys
 - **Traditional Labor Track**
 9:30 a.m. – 11:00 a.m.
A View from the National Labor Relations Board
 11:15 a.m. – 11:45 a.m.
The Conversation with the NLRB General Counsel Continues
 11:45 a.m. – 12:45 p.m.
An Academic's Perspective on Current Labor Law Issues
 2:00 p.m. – 3:30 p.m.
Hot Topic: Remedies in Unfair Labor Practice Cases
 3:45 p.m. – 5:15 p.m.
Hot Topic: NLRB Election Procedures
 - **Public Sector Track**
 9:30 a.m. – 11:00 a.m.
Individual Rights in Public Sector Employment
 11:15 a.m. – 12:45 p.m.
Negotiation Skills in Collective Bargaining
 - **Wage and Hour Track**
 9:30 a.m. – 11:00 a.m.
Determining Compensable Work Issues
 11:15 a.m. – 12:45 p.m.
White Collar Exemptions
 2:00 p.m. – 3:30 p.m.
Pre-Litigation Compliance Strategies for Wage and Hour Issues
 3:45 p.m. – 5:15 p.m.
Advanced Litigation of Wage and Hour Class Cases
 - **Ethics and Professionalism Track**
 11:15 a.m. – 12:45 p.m.
Ethics at the Movies
 12:45 p.m. – 2:00 p.m.
Pro Bono Workshop and Luncheon
 - **In-House Corporate Counsel Track**
 12:45 p.m. – 2:00 p.m.
In-House Corporate Counsel Networking Lunch
 2:00 p.m. – 3:30 p.m.
In-House Corporate Counsel Problem-Solving Workshop
 - **E-Discovery and E-Trial Track**
 2:00 p.m. – 3:30 p.m.
Beginner's Session on E-Discovery and E-Evidence
 3:45 p.m. – 5:15 p.m.
What's Practical for Employers and Employees? (Part I, Intermediate Level)
 - **Sports and Entertainment Track**
 3:45 p.m. – 5:15 p.m.
Mock Baseball Salary Arbitration: Roberto Clemente in 2008
 6:00 p.m. – 10:00 p.m.
Take Me Out to the Ball Game: An Evening of Food, Drinks and Baseball at Coors Field
- Saturday, September 13**
- 7:00 a.m. – 8:00 a.m.
Roundtable Discussions
 - **ADR Track**
 8:00 a.m. – 8:45 a.m.
Enough of This Advocacy—I Want to Be a Neutral
 8:45 a.m. – 9:30 a.m.
What Labor and Employment Law Advocates and Arbitrators Really Want from Each Other
 - **Bias in the Workplace Track**
 8:00 a.m. – 9:30 a.m.
Expanding Concepts of Discrimination: Sex, Sexual Orientation, Sex Stereotyping, Gender Nonconformity and Transgender Claims
 - **Consulting Track**
 8:00 a.m. – 9:30 a.m.
Do I See a Fraud? Developments in Whistle-blowing Cases under Sarbanes-Oxley
 9:45 a.m. – 11:15 a.m.
Keeping It Safe: Violence and Threats of Violence in the Workplace
 11:30 a.m. – 12:15 p.m.
Do You Want to Know a Secret? When the Employee Knows Too Much
 12:15 p.m. – 1:00 p.m.
USERRA
 - **Fundamentals Track**
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 8:00 a.m. – 9:30 a.m.
The Railway Labor Act: Representing Employers, Unions, and Employees in the Airline and Railway Industries
 9:45 a.m. – 11:15 a.m.
Introduction to Class Actions and Collective Actions
 11:30 a.m. – 1:00 p.m.
Workplace Safety and Health Laws: OSHA, MSHA and Workers Compensation
 - **Law Student Track**
 9:00 a.m. – 9:30 a.m.
Law Student Welcome, Introduction and Update on Litigation Program
 9:45 a.m. – 1:00 p.m.
Exploration of Labor and Employment Law Tactics
 1:00 p.m. – 2:00 p.m.
Careers in Labor and Employment Law: A "How to" Exploration of Options and Advice for Law Students on Finding the Right Job in Labor and Employment Law
 - **E-Discovery and E-Trial Track**
 9:45 a.m. – 11:15 a.m.
What's Practical for Employers and Employees? (Part II, Advanced Level)
 11:30 a.m. – 1:00 p.m.
E-Evidence: Demonstrative Program on Use of E-Evidence at Trial
 - **International Track**
 9:45 a.m. – 11:15 a.m.
Protecting and Advancing the Rights of Workers in Asia
 11:30 a.m. – 1:00 p.m.
Developments Affecting U.S. Employers and Their Employees and Unions in Europe
 - **Litigation Track**
The Mock Trial on Damages
 9:45 a.m. – 11:15 a.m.
Jury Results and Wrap-up
 - **Ethics and Professionalism Track**
 11:30 a.m. – 1:00 p.m.
How to Grow Your Labor and Employment Law Practice

ADR Track

James N. Adler, *adleradr.com*
Sara Adler, *Arbitrator/Mediator*
Loretta T. Attardo,
Attorney Arbitrator Mediator
Beverly P. Baker, *Ogletree, Deakins,
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Howard University School of Law
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National Center for Lesbian Rights
Teresa Renaker, *Lewis, Feinberg,
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Consulting Track

Hon. Ronald S. Cooper, *General
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Opportunity Commission*
Hon. Stuart J. Ishimaru,
*Commissioner, U.S. Equal
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E-Discovery and E-Trial Track

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Fundamentals Track

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Litigation Track

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Dan Halem, Major League Baseball

Ray Rodriguez, Screen Actors Guild

Michael Weiner, Major League
Baseball Players Association

Traditional Labor Track

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General Counsel, National
Labor Relations Board

Hon. Peter C. Schaumber,
Chairman, National
Labor Relations Board

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Federation of Professional &
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Plenary Sessions

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Registration

The Conference early registration fee is **\$375** per person for Section of Labor & Employment Law members and **\$595** for ABA members who are not members of the Section (please note that Section dues are \$40 per year). Non-ABA members may register for **\$695**. ABA Young Lawyers Division (YLD) members may register for **\$325**. Government agency employees, academics, and nonprofit employees may register for **\$250**. Law student Section of Labor & Employment Law members are invited to register at no charge. **NOTE: All of the fee categories except law student, guest/spouse/partner and child rates will increase after July 25, 2008.** The registration fees cover the Wednesday Welcome Reception, Thursday Diversity Reception, Friday Reception at Coors Field including baseball ticket, continental breakfasts, refreshment breaks, and attendance at all CLE sessions as well as a CD of the Conference program materials. Printed copies of the course materials may be pre-ordered at a cost of \$75 per set. The guest/spouse/partner registration fee of **\$75 (\$50 for children 12-18)** includes the Wednesday, Thursday and Friday evening events including one baseball ticket.

You are encouraged to register online at www.abanet.org/labor. You also may register by filling out the registration form and returning it with your payment by August 27, 2008, to the Section office. Registration fees are refundable, less a \$50 administrative fee, for written cancellations received in the Section office by August 20, 2008.

Hotel Accommodations

We have negotiated special group rates at the following hotels:

Westin Tabor Center: A block of rooms is available at the Westin Tabor Center (Headquarters Hotel) for \$239 per night (single or double occupancy). Reservations may be made by calling the hotel at 888/627-8435 by August 18, 2008.

The Ritz-Carlton Denver: The Ritz-Carlton Denver is holding a block of rooms at the group rate of \$289 per night (single or double occupancy). In addition, a limited number of One-Bedroom Suites-Club Level are available at \$389 per night (single or double occupancy). Reservations may be made by calling the hotel at 303/312-3814 by August 8, 2008.

Hyatt Regency at Colorado Convention Center: A block of rooms also is available at the Hyatt Regency at Colorado Convention Center for \$195 per night (single or double occupancy) for September 10, 11 and 12 only. Contact the hotel at 303/436-1234 by August 11, 2008 to reserve your room at the group rate.

Be sure to mention you are attending the "ABA Section of Labor & Employment Law 2nd Annual CLE Conference" to receive the group rates. Our blocks of rooms may be consumed prior to the hotel cutoff dates, so please make your reservations early to ensure you receive your first choice.

Air Travel Discounts

Discounted fares are available from ABA Orbitz For Business including ABA negotiated discounts on American and United Airlines. To book online, go to www.abanet.org/travel; click under the Orbitz For Business logo at the top of the page; click on the appropriate link in the Self Paid Travel box. For assistance with online or offline reservations, call toll free 877-222-4185. If you call the airlines directly, use the indicated code numbers:

American Airlines (800-433-1790) Code # 19838

United Airlines (800-521-4041) Code # 578IG

ABA Section of Labor and Employment Law

2nd Annual CLE Conference • September 10-13, 2008 Westin Tabor Center and Ritz-Carlton Denver

Online Registration:

www.abanet.org/labor
(Credit card payments accepted online only.)

Or Mail to:

Meeting Registrar
Section of Labor and Employment Law
American Bar Association
321 North Clark Street
Chicago, IL 60610

Or Fax:

312/988-5814

(Please print or type)

Name _____

(First name as it should appear on your name badge) _____

ABA Membership ID _____

Firm/Organization _____

Address _____

City _____ State _____ Zip _____

Business Phone _____ Fax _____

E-Mail _____

Guest/Spouse/Partner Name _____

Registration Fees

	On or Before July 25, 2008	After July 25, 2008	
* LEL Section Member	\$375	\$495	\$ _____
ABA Member	\$595	\$695	\$ _____
Non-ABA Member	\$695	\$795	\$ _____
ABA YLD Member	\$325	\$425	\$ _____
LEL Law Student Member	\$0	\$0	\$ _____
Gov't/Academic/Nonprofit	\$250	\$350	\$ _____
Guest/Spouse/Partner	\$75	\$75	\$ _____
Child (12-18)	\$50	\$50	\$ _____
Printed Course Book	\$75	\$75	\$ _____

CD-ROM is included with conference fee.

*Not a Section member? Join online at www.abanet.org/join to register for the Conference at the LEL Section Member rate. **Total \$** _____

Affiliation

- Employer/Management
 Union & Employee
 Employee/Plaintiff
 Government/Public
 In-House Corporate Counsel
 Neutral
 Other

I Plan to Attend

- Welcome Reception (Wednesday)
 Pro Bono Community Service Project (Wednesday)
 Diversity Reception (Thursday)
 Pro Bono Workshop/Luncheon (Friday)
 Conference Reception at Coors Field (Friday)
 I Am a First-Time Attendee.

Method of Payment

- Enclosed check (made payable to American Bar Association)
(Credit card payments accepted online only at www.abanet.org/labor.)

The deadline for receipt of advance registration forms and to appear in the meeting roster is **August 27** at 5:00 p.m. (Central Standard Time).

Questions? Call 312/988-5523



American Bar Association
Section of Labor and Employment Law
321 North Clark Street
Chicago, IL 60610



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ABA Section of Labor & Employment Law
2nd Annual CLE Conference
September 10-13, 2008 | Denver, Colorado

Conference Highlights

Conversations with National Labor Relations Board Members and the NLRB General Counsel

As part of a multi-program Traditional Labor Track, hear Board Members and the General Counsel provide their perspectives on recent decisions and upcoming issues and learn how experienced union and management lawyers view the same issues.

Mock Jury Trial on Economic, Compensatory and Punitive Damages

Employee, union and employer trial counsel demonstrate state-of-the-art techniques for maximizing monetary relief for the plaintiff or convincing the jury that no compensable injury occurred at the hands of the union or the employer. Watch the trial unfold through opening and closing arguments, direct and cross of fact witnesses and forensic experts, and videotaped jury deliberations and analysis.

My Lawyer Will Know the Answer

Much of labor and employment law practice focuses on answering client inquiries on difficult factual scenarios in the ever-evolving legal landscape. The Consulting Track will cover 12 cutting-edge issues including technology and privacy in the workplace, screening devices for hiring and promotion, USERRA, violence in the workplace, and whistle-blowing. Panelists representing government, management, unions and employees highlight the latest developments in the law and provide practical advice.

