

IN THIS ISSUE

- [THE PRESIDENT'S MESSAGE](#)
- [2014 WRITING COMPETITION WINNERS](#)
- [FIFTH EDITION OF "LABOR GUIDE TO LABOR LAW"](#)
- [NEW GUIDELINES FOR ARBITRATORS](#)
- [CONTEMPLATING THE RECOGNITION OF A COMMON LAW TORT FOR WRONGFULLY REFUSING TO HIRE BANKRUPTCY DEBTORS](#)
- [LOS ANGELES PROGRAMMING](#)
- [NEWS & NOTES](#)
- [RECENT BLOG POSTS](#)

THE PRESIDENT'S MESSAGE

As I write this, we are just a few weeks away from the annual 19th Annual Induction Dinner at the Millenium Biltmore Hotel on Pershing Square, in Los Angeles. This beautiful and historic hotel has been the location of many important events: it was the site for John F. Kennedy's acceptance speech at the 1960 Democratic Party Convention and has hosted the Academy Awards as well as the semi-finals for *American Idol*. Scenes from many movies have been filmed at the Biltmore, including *Chinatown*, *Beverly Hills Cop*, *Ghostbusters*, *Ocean's 11*, *The Italian Job* and *Spider-Man*. It is entirely appropriate, therefore, that the College of Labor & Employment Lawyers will hold its annual dinner there!



At last year's dinner, we had surprise entertainment, the **Victory Belles**, who serenaded us with 1940's music especially fitting for our locale, the New Orleans World War II Museum. I assure you that this year's entertainment will be similarly fitting and equally enjoyable. Plus, as I noted in the August issue, there will be a great CLE program put together by a committee chaired by Fellow **Mike Posner** featuring a number of prominent Southern California judges. If you have not already made your plans to attend the Dinner, please do and, if you have not already done so, please purchase space in the commemorative dinner program to congratulate some or all of the incoming class of Fellows. The proceeds from the program dinner book go to fund the **STEPHEN E. TALLENT VIDEO HISTORY PROJECT** which documents the history of American labor and employment law with video interviews of key actors in its development; this is one of the College's most important and lasting endeavors.

As I have stressed in a number of my messages, the College is more than just the annual dinner. At this year's dinner, we will also be recognizing several Fellows who have assisted in expanding the opportunities for engagement by Fellows with the College and each other. Fellows **Homer Deakins, Jr., Willis Goldsmith, Adele Rapport** and **Evan Spelfogel** will be recognized for their leadership in regional programming; and **John Higgins, Jr.** will be recognized for his leadership of the **STEPHEN E. TALLENT VIDEO HISTORY PROJECT**. We will also present an award to the winner of the 2014 Law Student Writing Competition.

With this Induction Dinner, we will be 1,304 Fellows, representing forty-six States, eight Canadian Provinces, the District of Columbia and Puerto Rico. (For those who are curious, the states that are not represented are Alaska, Idaho, Rhode Island and Vermont. Help us recruit Fellows from these states!). We are a vigorous and growing organization of people who provide representation, education, and dispute resolution in a part of the law crucial to the maintenance of democratic institutions and to the well-being of the American and Canadian economies. I look forward to seeing each of you in Los Angeles.

Regards,
Bill Kilberg

2014 WRITING COMPETITION WINNERS

The College of Labor and Employment Lawyers and the ABA Section of Labor and Employment Law are pleased to announce the winners of the 2013-2014 Writing Competition for Law Students. A distinguished panel of attorneys from around the country reviewed over thirty papers on current and relevant topics of labor and employment law.

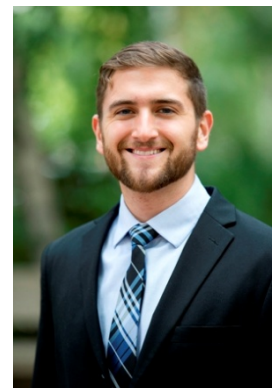
The **first place winner**, Andy Witko (photo right), graduated cum laude from the University of Maryland's Francis King Carey School of Law in May 2014. His winning paper is titled "[Evolving Causation Standards and Their Post-Nassar Application to Retaliation Claims Under the False Claims Act](#)". Andy joined The Employment Law Group in 2012 as a law clerk in the firm's litigation division. In that capacity, he supported TELG's attorneys in a diverse array of employment matters, including whistleblower retaliation, employment discrimination, non-compete enforcement and invalidation, wage and hour, and qui tam cases.



Andy has played an active role at trial and in other proceedings before federal, state and administrative tribunals. In October 2013, TELG promoted him to its evaluation team where he assists the firm's partners in vetting cases and selecting clients. Prior to joining TELG, he served as the Director of Federal Solutions for an information technology and management consulting company. He has provided acquisition support, business process re-engineering, and technology advisement services for civilian and defense agencies across the federal government.

Andy received his Bachelor of Arts from the University of Richmond with a double major in Economics and Urban Practice & Policy and a minor in Rhetoric & Communications. He is married to Claire Shoolin Witko and currently resides in Washington, D.C.

The **second place winner** is Jody Lopez-Jacobs (photo right). Jody is a 3L at the Beasley School of Law at Temple University. His paper is titled "[Who Owns the Tips? Chevron and Tip Ownership Under the FLSA](#)". Jody is currently on the editorial board for Temple Law Review. Before and during law school, he worked at law firms that advocated for the rights of employees. Jody decided to go to law school in large part because he felt that he could help more folks if he had a J.D. While in law school, Jody continued to look for similar opportunities to help workers and other people in need of legal services. He is doing a clinical this Fall with the Sheller Center for Social Justice, where he will help non-English speaking workers get minimum wage and overtime payments that they are entitled to under federal and state law. While in law school, Jody also discovered that he is interested in criminal justice reform. After law school, he hopes to find a position where he can continue to help workers but also address criminal justice issues, such as helping returning citizens successfully integrate themselves into the community and become productive members of society.



The **third place winner** is Timothy Farmer (photo right). Timothy is an evening student at the University Of Denver Sturm College Of Law. His paper is titled ["A Ground Shift for Union Organizing in Charter Schools: The NLRB Decision in In Re Chicago Mathematics & Sci. Acad. Charter Sch., Inc."](#) After completing his undergraduate degree at Louisiana State University, Tim became a 7th grade reading teacher in Jacksonville, Florida through the Teach for America program. During his time in the classroom, he recognized the need to improve both the education system and the teaching profession, which prompted Tim to pursue his legal education. Tim will graduate law school in December of 2014 and plans to pursue a career as an attorney for school districts, charter schools, private schools, colleges, universities, or any other educational entities.



FIFTH EDITION OF "LABOR GUIDE TO LABOR LAW"

The Fifth Edition of the widely used text *Labor Guide to Labor Law* by Labor Attorney/mediator and Fellow **Bruce Feldacker**, published by Cornell ILR Press, has just been released. University of Baltimore Law School Professor Michael J. Hayes is co-author of this new edition. *Labor Guide to Labor Law* is a comprehensive guide to labor law in the private sector written from the labor perspective and emphasizes the issues of greatest importance to unions and employees. The prior editions were used as a text in labor studies' programs and union sponsored training programs and as a reference aid by union officers, representatives, and organizers. Many labor relations educators; as well as practitioners' in the field representing labor, management, or individual employees; have also found the text's unbiased comprehensive approach suitable for their use.

Feldacker and Hayes cover applicable labor law principles from a union's initial organizing campaign to the mature bargaining relationship, including such subjects as the employee right to engage in protected concerted activity, the duty to bargain, labor arbitration, the use of strikes, picketing and other economic weapons in resolving a labor dispute, the duty of fair representation, internal union regulation, and employment discrimination. The new Fifth Edition comprehensively updates and expands the text to cover new statutes and regulations, current issues and recent developments. Each chapter includes a summary, review questions and answers, a restatement of "Basic Legal Principles" with citations to key cases, and a bibliography for additional research. Both authors have extensive experience in the construction field, and they have been careful to include material on those aspects of labor law that are unique to that field.

The list price for individual copies is \$89.95. Copies may be ordered through the Cornell ILR Press web-site: www.cornellpress.cornell.edu, www.amazon.com, and other booksellers. Cornell is currently offering a special limited time introductory discount price of \$67.46 (Phone: 607-277-2211, Promo Code CAU6). For further information, please contact Bruce Feldacker at laborlaw@anet-stl.com or at 314-862-3333, Ext. 15.

NEW GUIDELINES FOR ARBITRATORS

The Board of Governors of the National Academy of Arbitrators has approved a set of Guidelines for professional standards for arbitrators in mandatory employment arbitration proceedings. The Guidelines were developed over a two year period by a special Academy committee of a dozen members. The committee was chaired by Fellow **Professor Theodore J. St. Antoine**. The full text of the Guidelines can be found on the Academy's website at: http://naarb.org/Guidelines_for_standards.asp.

From a review, you will see that the Guidelines improve upon current arbitration rules and ethical standards for mandatory employment arbitration cases. Topics that are covered include limits on the source of an arbitrator's appointment, initial and continuing disclosure obligations, arbitrator disqualification, prehearing discovery, prohibited ex parte communications, monetary deposits, addressing issues of public law, and post-award clarification of a decision. It is anticipated that the Guidelines will be helpful in promoting heightened standards of professional responsibility in a manner that will be fair and of benefit for both claimants and respondents in the field. Fellow **Barry Winograd** published a recent law journal article discussing the background to the Academy's effort. Read the complete article [here](#).

CONTEMPLATING THE RECOGNITION OF A COMMON LAW TORT FOR WRONGFULLY REFUSING TO HIRE BANKRUPTCY DEBTORS

Fellow **Michael Moberly** recently had an article published in the *American Bankruptcy Institute Law Review* addressing the potential recognition of a common law wrongful failure to hire claim in the bankruptcy context. Click [here](#) to read the article.

LOS ANGELES PROGRAMMING



The College
of Labor and
Employment
Lawyers



The Judges' Perspective:

An Inside Scoop

on Civility and Professionalism in the Courtroom

Saturday, November 8, 2014 - 12:30 to 2:00 p.m.

Issues of professionalism and civility within the practice of law are an important matter in the day to day activities of labor and employment attorneys. The 2006 adoption of The College of Labor & Employment Lawyers' **Principles of Professionalism and Civility for Advocates** encourages widespread adherence to these Principles by all Fellows of the College, as well as other members of the labor and employment law bar. The Program will be moderated by Posner & Rosen Partner, College Fellow, and Member of the Board of Governors, Michael Posner. The discussion will focus on issues of professionalism and civility between attorneys and with respect to the courts and administrative agencies before whom they practice, providing a unique insight into protocol and practice from the perspective of arbitrators at various levels of our judicial system. Panel members will include Judge Fernando Olguin, USDC for the Central District of California, Judge Dean G. Pregerson, USDC for the Central District of California, Judge Christina H. Snyder, USDC for the Central District of California, and Magistrate Judge Jay C. Gandhi, USDC for the Central District of California. This esteemed panel will share their expectations of attorneys practicing before them and methods of handling challenges within the standards that legal professionals aspire, in addition to sharing their views on how they handled those difficult situations. Join us for this fascinating view from the other side of the gavel.

Please join us on Saturday, November 8th from 12:30 to 2:00 p.m. at the J. W. Marriott Hotel, 900 West Olympic Boulevard, Los Angeles, California.

RSVP is necessary for admission.

Seating is limited. Please call or email Jennifer Motley at:

Phone: 410-972-4712

Email: jmotley@laborandemploymentcollege.org

Learn what happens on the other side of the gavel when you join us for "The Judges' Perspective: An Inside Scoop on Civility and Professionalism in the Courtroom". This program is scheduled for Saturday, November 8 at 12:30 PM at the JW Marriott Hotel Los Angeles and will provide a unique insight into protocol and practice from the perspective of arbitrators at various levels of our judicial system. Seating is limited so please contact [Jennifer Motley](mailto:jmotley@laborandemploymentcollege.org) to reserve your seat.

NEWS & NOTES

REGIONAL MEETING NEWS

- The next semi-annual meeting of the Second Circuit of the College of Labor and Employment Lawyers (NY and CT, with our friends from Northern NJ invited) is scheduled for Wednesday, November 12. The meeting will be held at 5:30 PM at the conference facilities of Seyfarth Shaw LLP. The meeting is co-sponsored by the American Bar Association's Labor & Employment Law Section Practice & Procedure Committee (Jessica Drangel Ochs of Meyer, Suozzi, English & Klein, for the P&P Committee) and will feature a discussion of current/hot issues under the National Labor Relations Act. NLRB Regional Directors Karen Fernbach (Region 2 New York), James Paulsen (Region 29 Brooklyn) and David Leach (recently sworn in at Region 22 Newark) are confirmed speakers/panelists.

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- Fellow **Michael Pitt** (photo right) received the State Bar of Michigan's Champion of Justice award at its 2014 Annual Meeting in Grand Rapids. The Champion of Justice award is given for integrity and adherence to the highest principles and traditions of the legal profession, extraordinary individual accomplishments and commitment to causes that benefit national, state or local communities.



- Fellow **Carl E. Ver Beek** (photo right) received the State Bar of Michigan's Roberts P. Hudson Award, considered the highest award conferred by the State Bar. The award was presented on September 17 in conjunction with the Annual Meeting in Grand Rapids. The Hudson Award is presented periodically to commend one or more lawyers "for their unselfish rendering of outstanding and unique service to and on behalf of the State Bar of Michigan and the legal profession, which has been given generously, ungrudgingly, and in a spirit of self-sacrifice."



- College President and Fellow **William J. Kilberg** was presented with the 2014 Torch of Learning Award by the American Friends of The Hebrew University at a dinner on September 17 in Washington, DC. The Torch of Learning Award is presented to a distinguished member of the legal community and recognizes leadership, professionalism and humanitarianism. It is bestowed upon those with outstanding achievements, concern for justice, and great respect for the cause of higher education. The dinner benefits The Aharon Barak Center for Interdisciplinary Legal Research at The Hebrew University of Jerusalem.



- Fellows **Nancy S. Shilepsky** and **Lawrence J. Casey**, were named 2015 New England *Best Lawyers* in the field of Labor and Employment Law. Ms. Shilepsky was also named a *2014 New England Super Lawyer* by Thomson Reuters / *Super Lawyers*. She is listed as one of the Top 10 Lawyers in Massachusetts and one of the Top 100 Lawyers in New England.

- Fellow **Robert McKinley** was selected by his peers for inclusion in *The Best Lawyers in America* for 2015. Mr. McKinley was recognized for his representation of management in labor and employment issues. In addition, he was recently appointed to the Labor and Employment Arbitration Panel of the American Arbitration Association.

RECENT BLOG POSTS

If you haven't visited the College web site recently, you may have missed several recent entries on the World Blog. **Robert B. Fitzpatrick** and **Edwin S. Hopson** regularly contribute their insightful perspectives and welcome your comments and feedback.

New blogs in the series include:

[Cy Pres on the Supreme Court's Radar](#)

[FLSA Pleading - Your Way, My Way, and the Middle Way](#)

[Ward & Solomon - the D.C. Circuit Can Be Quite Accommodating](#)

[Statute of Limitations Starts Running Before Constructive Discharge](#)

[Out of Bounds: Second Circuit Blows the Whistle on Extraterritorial Application of Dodd-Frank's Anti-Retaliation Provisions](#)

The complete archives can be accessed at <http://laborandemploymentcollege.org/fellows/blog>.

We hope you find the World Blog to be of great value and encourage you to share your thinking, opinions and experiences.

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