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THE VICE PRESIDENT'S VIEW



As we complete our review of the nominees for the Class of 2021, I am taking this opportunity to review the credentialing process for each year's nominees. This is the second year when I have had the privilege of chairing the Board Credentials Committee, and I was a member of that committee for four years before that. Every year we face new and different challenges in "doing the right thing" for our nominees.

This effort begins on February 1 when the applications are due and ends in mid-June when the class of new Fellows is announced. Fourteen Credentials Committees undertake the labor-intensive process of

vetting each of the candidates in their respective circuits. Each Credentials Committee consists of six members, including the Chair. These Committees are evenly divided among our four constituencies: management, union, employee, and neutral/academic/government, and have 10 weeks to send out requests for references, and receive and review those references (which often involves tracking down the stragglers). They review each nominee's completed Nominee Form including the personal statement, the Nominator Forms, the references, and input from existing Fellows whose views are solicited when the list of nominees is first distributed. The Committees then prepare a Nominee Evaluation Form for each nominee. They work tirelessly to complete an in-depth review of the nominees. I so enjoy reading the Personal Statements that express why each candidate was drawn to labor and employment law.

Following this review, nominees are given one of four ratings: Highly Qualified, Qualified, Not Qualified and Unable to Respond. For those not deemed Highly Qualified, the committee recommends a one-year, three-year or five-year wait. Each of these categories and the wait times are defined in the handbook distributed to all members of the Credentials Committees.

Once these ratings are submitted by the Credentials Committees, the Board Credentials Committee (BCC) begins its task. The members of the BCC are Alan Symonnette (ex-officio), Lori Ecker, John Higgins, Cynthia Nance, Yona Rozen and me. John Higgins deserves a special recognition for his service on the BCC for as long as I can remember. John and Susan Wan provide their invaluable recollections of how issues were addressed in prior years.

In mid-May, the BCC holds a series of calls between the BCC and each Chair of all fourteen Credentials Committees during which the Chair presents the Committee's recommendations, and the BCC asks each Chair questions to clarify the recommendations. The primary responsibility of the BCC is to ensure that the standards of admission are correctly applied and that there is a level playing field for candidates regardless of which Circuit Committee evaluated their nominations. Occasionally, the BCC determines that further information is needed for a particular nominee, and the nominators are asked to obtain this additional information about the nominee's background and qualifications.

Once the BCC makes its final recommendations, the Board of Governors undertakes an additional review with the same objectives. Those decisions become final, and the nominees and nominators are notified of the results. In the letters advising the nominees who were deferred for one or three years, information regarding what additional information is necessary for their acceptance in future years is offered.

Finally, after every credentialling cycle is complete, the BCC and the Board consider what changes, if any, should be made to improve the process. We canvas the members of the

Credentials Committees for their input on how to refine the system. For example, a few years ago, we created a document for Principles and Criteria for Overturning the Circuit Credentials Committee recommendations to ensure that appropriate deference is given to those recommendations. We have also created a Due Process Protocol to determine when potentially disqualifying conduct merits affording the nominee the opportunity to address the issue. The Board passed an amendment to the By-Laws to determine how to apply the 20-year rule for the required minimum amount of experience in labor and employment law. Each change was intended to make the process more fair, transparent, and discerning.

I sometimes hear comments about the credentialing process which are inaccurate. To dispel a few of those myths: Admission is not at all dependent on “who you know” or if you have the “right connections.” The listed references do not need to be a Fellow or someone “influential.” I’m not even sure what that means. The best references are attorneys who have first-hand experience with the nominee’s work, either as an adversary or co-counsel, and judges and other neutrals. References who are “bar buddies” or whose experience is limited to presenting speeches with the nominee are not sufficient.

Attention to detail on the Nominee’s form is important. The nominee should establish that the nomination is very important to them with a thorough and thoughtful application.

It is not enough for a nominee to be a good lawyer. Demonstrating a commitment to the profession, to mentoring other lawyers, and to contributing to the development of labor and employment law makes the nominee stand out.

All the members of the various Credentials Committees, the BCC and the Board of Governors are committed to diversity within our ranks. In addition to such factors as race, gender and socioeconomic factors, we try to ensure that each of our four constituencies are well represented. I urge all Fellows to consider nominating a qualified nominee from another constituency.

Finally, we fulfill the founders’ vision by nominating those who distinguish themselves by standing as an example of dignity, collegiality, and integrity. The College is only as strong as the professional reputations of our Fellows and the contributions they make to the profession. If you have not nominated a candidate before, please consider doing so. It’s an immensely rewarding experience.

While we are not perfect in making these decisions, I am struck by the dedication, respect and insight of all involved in the process of deciding who will be welcomed into our ranks. I am so grateful to the members of the Credentials Committees, the Chairs of those Committees and the BCC, who continue to amaze me with their wisdom and sense of fair play. Of course, Susan and Jen who so gracefully guide us through this process.

Susan Wan, Alan Symonette and I are available to address any questions you have about the process. We welcome your input.

Arlene Switzer Steinfield
Vice President

2020 – THE GREAT DISRUPTOR: THE FUTURE OF WORK, THE WORKPLACE AND THE WORKFORCE

The most recent CLEL webinar took place on April 14th and featured Futurist Jay Jamrog, The Institute for Corporate Productivity (i4cp), where he discussed with Fellows **Darrell Gay** and **Wayne Outten** what most folks would agree – that the way we live, work, and play will never be the same. Countless questions were presented regarding the future of work, the workplace, and the workforce, including what old rules need to be broken, re-written, or discarded, as employers and employees alike try to adjust to a new environment? Materials from this program (and others), including a video recording of the event, can be found on the College website by clicking [here](#).

LOOKING FOR BAD NEWS: CLEL’S CIVILITY TRAINING VIDEO

The College is developing a training program on civility and professionalism. We are presently in discussions with the American Law Institute (ALI – CLE) to develop a webcast and on demand program which will be available to Fellows at a discounted rate. The College will also have access to the program for its use. The program will discuss inappropriate behavior and the proper response recommended by behavioral experts. In addition, the program will cover professional and ethical issues arising from inappropriate behavior and the potentially serious consequences facing lawyers who cross the line

The committee working on this endeavor (**Alan Berkowitz**, **Homer Deakins**, **Samantha Dulaney**, **Ruben Garcia**, **Rebecca Pontikes**, and **Adele Rapport**) requests your assistance in gathering actual examples of uncivil or unprofessional conduct. We also want examples of implicit bias and micro-aggressions against women and minorities. Please gather and send deposition transcripts, video deposition excerpts, correspondence and other matter containing or describing inappropriate behavior. We are particularly interested in examples which resulted in sanctions. Although we hope to develop content through real life

examples of inappropriate behavior, the identities individuals and matters involved will not be revealed unless the matter resulted in sanctions reported in a published order.

This is a major undertaking by the College and your assistance is vital to the success of this project. Please submit any material you have to [Susan Wan](#) by June 30, 2021. The examples do not have to involve you personally. Indeed, if you are aware of situations involving other lawyers or court decisions, sanction orders or the like please submit them. Fellows who are in firms with other members of the College may wish to coordinate their responses. Thank you for your anticipated assistance.

LAW STUDENT WRITING COMPETITION

Papers for the CLEL/ABA Section of Labor & Employment Law's 2020-2021 Writing Competition for Law Students are now being accepted. Fellows who are adjunct professors at accredited law schools are encouraged to distribute and promote this wonderful opportunity with their students. And while we know that classes have not been held in the traditional sense during the past year, we also recognize that now more than ever, students will be looking for possible ways to supplement their income and their connections as they head toward graduation. View the complete announcement and rules for this year's competition by clicking [here](#). You, and your students, can also view previous winning submissions on the CLEL [website](#). Entries should address aspects of public or private sector labor and/or employment law relevant to the American labor and employment bar. Prizes awarded by the College of Labor and Employment Lawyers include: **First Place: \$3000**, Second Place: \$1000, Third Place: \$500. The first-place article will also be considered for publication in the *ABA Journal of Labor & Employment Law*, and its author will be a guest at the annual CLE program of the ABA Section of Labor and Employment Law and honored at the Annual Induction Dinner of the College of Labor and Employment Lawyers. **Deadline for papers is June 15, 2021.** Please contact [Susan Wan](#) if you have any questions.

SPOTLIGHT ON FELLOWS



Fellow **Bill Herbert**, a Distinguished Lecturer at Hunter College CUNY and Executive Director of the National Center for the Study of Collective Bargaining in Higher Education and the Professions, recently finished co-writing a book chapter titled *Geoprivacy, Convenience, and the Pursuit of Anonymity in Digital Cities*, which examines the use and misuse of geospatial data, and appears in the new book [Urban Informatics](#), published by Springer (2021). Bill's co-author is Jerome Dobson, a University of Kansas Geography Professor. A link to the chapter can be found [here](#).

Book chapter abstract: Abstract Cities demand spatial efficiencies that can be achieved only through sharing of information. Current technologies support collection, processing, and dissemination of unprecedented quantities of personal, public, and corporate information. Inherent in this milieu is an inevitable contest among societal efficiency, corporate profits, consumer convenience, personal privacy, and even freedom. The authors examine current trends in technology, data collection, legislation, and public acceptance. They find that without broad specific regulations limiting location data collection and use—including a universal protected right for individuals to pursue anonymity—governments, commercial enterprises, employers, and individuals increasingly will exploit tracking technologies at the expense of geoprivacy.



Fellow **Timothy Howlett**, a Member at Dickinson Wright PLLC and Leader in their Labor & Employment Practice, has been selected as a member of the *Michigan Lawyers Weekly* Class of 2021 Hall of Fame. *Michigan Lawyers Weekly's* Hall of Fame recognizes Michigan legal leaders over the age of 60, or who have practiced for 30 years or more, for their successful careers and valuable contributions to the community. "I am honored to be selected by *Michigan Lawyers Weekly* as a member of their 2021 Hall of Fame Class. This list is filled with such talented and accomplished attorneys," said Tim.



Fellow **Patricia Nemeth**, founder of Detroit-based management side labor and employment law firm Nemeth Law, P.C., has also been named to the Class of 2021 *Michigan Lawyers Weekly* Hall of Fame. Selection to the MLW Hall of Fame considers career accomplishments, contributions to the development of the law in Michigan, support of the bar and the state at large, and efforts to improve the quality of justice in the Wolverine State. A virtual event honoring the recipients was held on April 13.

Fellow **Patricia Wise** was elected by The Ohio Board of Professional Conduct to serve in a one-year term as board chair. Wise has served on the board since 2014 and has chaired the budget and personnel committee. In 2019, she chaired the *ad hoc committee* that recommended the appointment of Disciplinary Counsel Joseph Caligiuri. Wise is a partner with the Toledo firm Spengler Nathanson, where her practice focuses on labor and employment law.



The Board of Professional Conduct consists of 28 volunteer members appointed by the justices of the Supreme Court. The Board conducts hearings involving allegations of ethical violations by Ohio lawyers and judges and recommends discipline for professional misconduct. The board also engages in education and outreach activities that promote compliance with legal ethics rules and bring greater transparency to the disciplinary process.



Fellows **John Kruchko** (left) and **Don Slesnick** (right) played in the College of Labor & Employment Lawyers South Florida tournament and tied for 1st place! They were sorry more Fellows couldn't join them.

FELLOW ON THE MOVE



In the next chapter of her career, Fellow **Arlene Switzer Steinfield** launched Steinfield Employment Law, PLLC. As a solo practitioner, Arlene will be counseling employers in all aspects of labor and employment law, including compliance with the latest governmental regulations and judicial developments. She will also be mediating labor and employment disputes and conducting independent investigations. Arlene can be reached at arlene@steinfieldlaw.com or (214) 893-0698.

IN MEMORIAM

The College mourns the recent passing of Fellows **Doreen Davis** and **Paul Tobias**.



Fellow **Doreen Davis** lost her 21-year battle with metastatic breast cancer on April 7th. She was 67 years old. Inducted in 1998, Doreen was a leader in the Philadelphia Bar Association, serving as Chancellor in 2000 (the first working mother to do so), and used her position to advocate for law firm policies that would improve lawyers' work-life balance. She was described as a "trailblazer," a "dedicated leader," "mentor" and "champion of civility in the practice." A graduate of Penn State and Temple University's Beasley School of Law, Davis began her career as a field attorney with the National Labor Relations Board and went on to be recognized as one of the top labor and employment lawyers in the country. She spent ten years at Montgomery McCracken Walker and Rhoads LLP, including four as chair of the firm's labor and employment department, before joining Morgan Lewis & Bockius in 2001. There she became co-chair of the labor management relations and labor disputes practice, splitting her time between the Philadelphia and New York offices. She joined Jones Day in New York as a partner in the labor and employment practice in 2012. Married to fellow Fellow **Robert Simmons** (*Class of 2000*), Doreen has one daughter Samantha, who is also an attorney. Those who wish to remember her with a donation may do so to a charity of their own choosing or in her name to Women Against Abuse or The Breast Cancer Coalition. Her complete obituary can be found [here](#).



The College has lost one of the giants of our field. **Paul Tobias** died on March 22, 2021 at age 91. He is survived by his beloved wife Phyllis, a close family, and many thousands of admirers. His obituary can be found [here](#). We will not soon see his like again.

Paul was elected to the College in 1996 and was on its Board of Governors from 2005 to 2010. In 2005, he was interviewed for the College's Video History Project as a major figure in US labor and employment law. A link to that interview can be viewed [here](#). I had the privilege of conducting that interview.

Professionally, Paul is best known for – and his proudest accomplishment was– being the founder of the National Employment Lawyers Association (NELA). In 1985, he called together a small group of employee-side lawyers attending a conference of the ABA's Section of Labor and Employment Lawyers, and they created what is now NELA. Over the next several years, Paul led the fledgling organization, personally buttonholing and inspiring hundreds of lawyers to help build the national organization – and its network of 69 affiliates - into the substantial and important organization it is now.

As Ralph Waldo Emerson said, *"An institution is the lengthened shadow of one man."* NELA is the "lengthened shadow" of Paul Tobias, and it will carry forward his vision and attributes long after his departure. Paul's collegiality, caring, sharing, passion, and commitment are embedded in NELA's DNA

Paul changed the lives of countless people, and his impact will continue to ripple outward for a long time. He personally touched thousands of NELA lawyers who he inspired by his enthusiasm and passion, encouraged in the face of the challenges of employee-side law practice, and greeted with a broad smile and a hearty handshake – as well as NELA's CLE, support, camaraderie, and influence. He affected the lives of tens of thousands of lawyers who benefit from the improved laws resulting from the efforts of NELA and its members in courts and legislatures, - as well as millions of employees who benefit from the work of those lawyers. What a legacy!

In addition, Paul was quite simply a wonderful human being.

We all are the better for knowing him.

Wayne N. Outten, Fellow, Class of 1996

Members of the College strive to promote achievement, advancement and excellence in the practice of labor and employment law. These lawyers distinguished themselves as leaders in the field, and the College was proud to have been able to call them Fellows.

COLLEGE LOGO IS A SIGN OF DISTINCTION

Fellows are encouraged to include the College logo on their website or as part of their email signature block. Two different formats are available for download - .jpg or .eps. Please contact [Susan Wan](#) if you would like a logo file in a different format.

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