

October 2020

LEADERSHIP FOR GREATER PURPOSE

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THE PRESIDENT'S PERSPECTIVE: THE PLAGUE YEAR



Things looked pretty good back in January. I thought it was going to be pretty cool to be President of the College for a year. I had two new baby grandsons. I had depositions, court dates, conferences, destination weddings, and all manner of travel lined up and calendared through to December.

Well, that lasted through February. I did take depositions all over the country for two months, attended the College's Regional CLE Conference and Board of Governors Meeting in St. Petersburg, FL, and my ABA committee's Mid-Winter Meeting in Cabo San Lucas. Once I

got home in early March, the wheels came off the bus for me as it did for College Fellows and fellow Americans all over the country.

It's been a tough year for a lot of people. We got sent home from our offices. We got grounded and isolated. Over 200,000 Americans have died from Covid19 so far. Businesses closed. Workers lost their jobs. College Fellows worked overtime advising employers how to remain open or how to close down. Essential workers risked their lives in hospitals, in grocery stores, in the fields growing our food, and in keeping our economy from a total collapse. As if this was not enough, the economic inequities exposed by the pandemic, along with yet more incidents of police violence directed against unarmed African Americans, brought about a national discussion about systemic racism and a reevaluation of America's history. Those of us in the Western states, also experienced unprecedented destructive wildfires and the weeks of smoky toxic air that followed.

Along the way, we all adjusted and learned some valuable lessons. We learned not to hold on too tightly to our plans. Poof and all our schedules, agendas, meetings, court dates, trials, depositions, conferences, weddings, went by the wayside. We spent more time than we could have dreamed just cancelling and rescheduling. We got more nimble and learned to roll with the punches

We learned lessons in humility and gratitude. No longer were lawyers like us necessarily as essential as we may have thought. Jury trials could be cancelled indefinitely. The essential workers were the nurses, health aides, grocery clerks, truck drivers, farm workers, and computer wizards who could supply vital economic needs.

Those of us toward the latter stages of successful careers could also be grateful for the seeming security afforded by the years of our labors, so that we could survive an economic slowdown and assist others less fortunate. We could be grateful for each healthy day as we wait for the scientists to deliver us a vaccine. Out west, we learned to really appreciate a bright blue sky and some fresh air, when they finally returned.

We learned an awful lot about IT solutions we had barely glimpsed before but which quickly became routine. We all worked remotely, assisted by ZOOM and other video conferencing apps that we quickly adopted for case meetings, webinars, court hearings, bench trials, arbitrations, board meetings, mediations, and even (at our firm at least) for our weekly Happy Hours.

We adapted with resilience. In lieu of the usual CLEL calendar of regional conferences, our Fellows and our fabulous staff (Susan Wan and Jen Motley) hosted more CLE webinars than we have ever done before, many addressing new pressing issues raised by the pandemic. We managed to run our Seventh Circuit law student conference online. At the urging of

Professors like Anne Lofaso (West Virginia) and Reuben Garcia (UNLV), we piloted our new Law Student Civility Class on Zoom instead of at the law schools. We convened our regular Board of Governors meetings on ZOOM and we carefully vetted a new class of Fellows online. We had to defer our gala 25th Anniversary Induction Dinner in Beverly Hills to next year, but we will instead be hosting this year's Induction Event online (and hoping you log on for this).

We have worked out vitally important muscles this year: resilience, patience, empathy, creativity. We were challenged, and as Fellows and as a College, we have responded. We have persevered and charted new paths to work around unforeseen obstacles. I want to thank everyone in our community for rising to meet the challenges of 2020. It turned out to be a pretty interesting year to be President of the College.

David Borgen
President

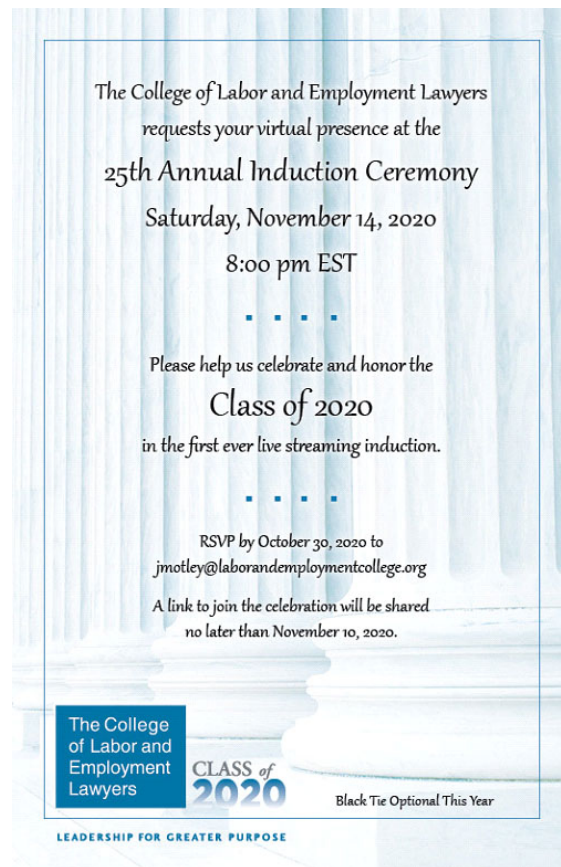


In 1995, a casual conversation between close friends was the genesis of an idea that would become *The College of Labor and Employment Lawyers*. Steve Tallent and Charles “Butch” Powell (both management side lawyers) spoke daily and in one of those telephone calls was a discussion focused on uniting members of the ABA Labor and Employment Law Section into a single organization composed of distinguished and esteemed lawyers who represented all aspects of labor and employment law. Along with Don MacDonald (a union lawyer and Chair of the Section at that time), they worked together to draft the bylaws and mission of the College, which Steve proposed would be an organization made up of those esteemed labor and employment law practitioners who had earned the respect of their peers through sustained service to the profession. The first induction dinner was held in August 1996 in Orlando, FL, where 125 Fellows were inducted – wearing tuxedos and ball gowns - in Epcot Center! Fast forward to 2020 and who would have thought that the College would be the force and factor it is today, continuing to raise the bar on practice, professionalism and civility in the labor and employment law field.



It is in honor of this history that we hope you will join the virtual celebration on November 14th and carry on the custom of recognizing and honoring the new Fellows being inducted. An invitation with information is below and can be found on the website. Keeping in mind CDC guidelines and social distancing of course, you might consider inviting some family and friends to join you and share the special program that is our tradition. Or maybe host a Zoom happy hour with a new Fellow(s) just before the program starts, similar to the popular cocktail hour we usually have in person. We've even created a signature cocktail (left) that you can enjoy, before, during or after the virtual ceremony. Click [here](#) to view the video preparation! New inductees will also be receiving a special delivery of mementos including their certificate and an induction book. In addition, the program will feature remarks from the four senior past presidents of the College, **Vicki L. Abrahamson, Harold Datz, Robert Dohrmann** and **Stephen Pepe** who will share their memories of the early days and their thoughts on the College's

future. It certainly wasn't the way we envisioned such an auspicious occasion playing out. There were plans for a memorable and fabulous celebration in recognition of the College's 25th anniversary. So, while the pandemic had other plans, we have tried to make the occasion one that can still be enjoyed and remembered in the years to come. And of course don't forget, tuxedos and ball gowns are optional this year!!



IS CIVILITY ENOUGH: A PRACTICAL, FRANK AND ELEVATED DIALOGUE ON CIVILITY, DIVERSITY AND INCLUSION

Saturday, November 14th - 2:00 to 3:30 pm (EST)

Don't forget to register for a very special College program. This panel of distinguished and diverse judges, neutrals and practitioners will explore how issues of diversity and inclusion impact the legal profession. The panel will ask whether civility is enough and what can be done to impact the under representation of women, people of color, and LGBTQ+ professionals on partnership track at major law firms (Defense and Plaintiff), on the bench, and among the elite ranks of neutrals. The panel will also explore how external events, such as civil rights and justice movements, impact the dialogue.

Panelists:

- **Judges:** Honorable William Bedsworth, California Court of Appeal for the 4th District
Honorable Fernando Olguin, US District Judge for the Central District of CA
- **Management:** Marta Fernandez, Esq., Jeffers Mangels Butler & Mitchell, LLP (CA)
- **Employee:** Renee Mochkatel, Esq., Allred Maroko & Goldberg (CA)
- **Employee/Union:** Daniel L. Bonnett, Esq., Martin & Bonnett, PLLC (AZ)
- **Union:** Jesús E. Quiñonez, Esq., Legal Director, California Teachers' Association (CA)
- **Neutral:** Angela Reddock-Wright, Esq., The Reddock Law Group (CA)
- Moderator:** J. Bernard Alexander, III, Esq., Alexander Morrison + Fehr (CA)

Please click [here](#) to register for this webinar.

After registering, you will receive a confirmation email containing information on how to join the webinar

CLE: Approval of CLE credit for this webinar is pending in California and Arizona. We anticipate that it will qualify for 1.25 hours of Recognition and Elimination of Bias CLE (California). If you are admitted to practice law in another state, you will be provided a certificate of attendance and documentation for purposes of self-reporting in your state of admission.

Thank you to our co-sponsor Davis Wright Tremaine, which will be coordinating CLE accreditation and certificates of attendance.

For questions, please contact Jennifer Motley Phone: (410) 972-4712 or
Email: jmotley@laborandemploymentcollege.org.

2020 WRITING COMPETITION WINNER

The College of Labor and Employment Lawyers and the ABA Section of Labor and Employment Law are pleased to announce the winners of the 2019-2020 Writing Competition for Law Students. A distinguished panel of attorneys from around the country reviewed papers on current and cutting-edge labor and employment law topics.



Congratulations to Meredith Gramann, the author of this year’s first place submission - **“Down the Garden Leave Path: Massachusetts Reforms Post-Employment Non-Competition Agreements – Will Other States Follow?”** Meredith graduated from Seton Hall University School of Law in May 2020, where she was a Comments Editor of the Seton Hall Law Review, as well as the President of the Employment Law Forum. Prior to law school, Meredith was an archivist, having worked for American University and The World Bank. Meredith is a distance runner; she qualified for and completed the Boston Marathon in 2019. She recently joined McCarter & English, LLP as an associate in the Business Litigation group.

A second place paper was also awarded to Henry Schreffler, who is a third year law student at UCLA School of Law. Both papers can be found on the College [website](#).

SUCCESSFUL 7TH CIRCUIT LAW STUDENT PROGRAM GOES VIRTUAL

Seventh Circuit Fellows have been participating in a law student program for the past eight years and they weren’t about to miss this year’s program because of a pandemic! The shift to a virtual program saw our highest registration rate ever. While there was no Friday evening networking reception, which has become quite popular, the successful Saturday program schedule remained unchanged, including remarks from the Judge **Rebecca Pallmeyer** (USDC NDIL). *Hot Topics* morning discussions included US Supreme Court update, traditional labor and diversity and inclusion in the workplace. The second *Hot Topics* panel focused on issues surrounding the workplace during and after the pandemic such as remote trials, arbitrations and mediation and the remote workplace. The always popular afternoon session, which focused on the different practice areas in the labor and employment law field and how to get hired during a pandemic, did not disappoint! Two

networking sessions, each for 30 minutes, allowed students to connect with Fellows in small breakout rooms using the Zoom platform. One student remarked, “I think the breakout sessions were useful in helping to demystify aspects of networking, and they served to alleviate some of the intimidation issues which might arise in an in-person setting. It is almost easier to be tossed into a Zoom breakout room with someone— rather than try to sift through a crowd of professionals to try to find someone who shares your interests.” So, the pandemic might have thrown a monkey wrench in lots of plans, but it seems this successful law student program wasn’t one of them!

Thanks so much to all of the following Fellows who participated as a speaker, network session leader or both in what students have described as an afternoon of valuable information and connections!!

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|------------------|------------------|-------------------|
| Alisa Arnoff | Charles Baldwin | Jose Behar |
| Howard Bernstein | Robert Bernstein | Steven Bierig |
| Robert Bloch | Lisa Callaway | Mark Casciari |
| Michael Cramer | Tamara Cummings | Joel D’Alba |
| Patrick Deady | Carl Draper | Lori Ecker |
| Amy Moor Gaylord | Jeremy Glenn | Gerald Golden |
| Jill Goldy | Richard Gonzalez | Kathryn Hartrick |
| Timothy Hawks | Michael Karpeles | Joshua Karsh |
| Sang-Yul Lee | Martin Malin | Ellen McLaughlin |
| Peter Sung Ohr | Mark Olson | Adele Rapport |
| Burton Reiter | John Roche | Rebecca Salawdeh |
| Harry Secaras | Kenneth Siepman | Diane Smason |
| Diane Soubly | Nigel Telman | Joseph Tilson |
| Joseph Torres | Daniel Vliet | Jeanne Vonhof |
| Sherrie Voyles | Marni Willenson | Jacalyn Zimmerman |

IN THE CLASSROOM - COLLEGE FELLOWS SHARE LESSONS ON LABOR ARBITRATION

By **Alan A. Symonette**, Vice President

The documentaries and interviews produced by the College of Labor and Employment Lawyers have played and continue to play a significant role in the mentoring and education of future labor and employment advocates and neutrals. Most recently I had the opportunity to speak to several students in the Howard University School of Law about the labor arbitration process after they viewed the 2013 production of *The Art & Science of*

Labor Arbitration. If you have not had an opportunity to view the film, it is described as a “compelling film focusing on distinguished arbitrators whose careers and contributions are landmarks in labor law policy and in the resolution of industrial disputes.” The film was produced by Emmy award winner Carol Rosenbaum and funded by donations from Fellows of the College and a grant from the National Academy of Arbitrators Research and Education Foundation

The film was assigned to the students as part of an arbitration course taught by Professor Homer C. LaRue, Esq. Professor LaRue is a Fellow of the College and recently was the recipient of the 2020 **D’Alemberte-Raven Award** from the ABA Section of Dispute Resolution. The course is entitled *Arbitration: The 21st Century Litigation*. It is the first of two courses taught in sequence. This first semester course is devoted to labor-management arbitration. According to Professor LaRue, “the intent is to teach students the ‘gold standard’ of arbitration focusing on the law and procedures related to labor-management arbitration in the United States.” The second semester is devoted to mediation and arbitration in the non-collectively bargained setting

The students were asked to write a reflective memorandum addressing five questions posed by Professor LaRue. On August 25, 2020, I was invited to engage the students, via videoconference, in a round-table discussion about the film and the arbitration profession. The discussion was quite wide ranging. My presence, according to Professor LaRue was to “put a human face on the arbitration process. It was value added that the renowned arbitrator was Black.”

The discussion covered arbitration as a form of Alternative Dispute Resolution, the impact of arbitration on collective bargaining, the business of serving as an arbitrator, what human qualities are necessary to become a an arbitrator, and how and why certain arbitrators are selected and not others. The students were enthusiastic about the subject matter and wanted to learn more about the ADR process as a career and as a means of resolving disputes not only in the workplace but in other areas of society.

Professor LaRue was kind to provide testimonials of the students describing the film and our discussion:

Lawrence Hudson: “Having an opportunity to watch the film, I’ve gained a new appreciation for how integral arbitration has been the last 80 years in keeping the American economy strong.”

Learning more about the history of arbitration, as well as seeing arbitrators, who look like me, doing amazing things across industries has been truly inspirational, and I hope to follow in their footsteps as well as I craft my own defining legacy in arbitration.”

Chesley C. Swann: *“The Art and Science of Labor Arbitration* and Mr. Symonette make clear that the evolution and development of labor-management arbitration is truly an American story. They speak to the triumphs and trials of being a 'peacemaker' in an imperfect world, the never-ceasing fight for racial and gender equity, and the necessary “courage to stick to truth no matter the consequences.”

Leah Wilson: “In this film Mr. Symonette helps to tell the story of the development of modern day arbitration. Law students are able to see first-hand the work and dedication of arbitrators that has made the practice of labor-management what arbitration what it is today. Any law student, regardless of their interest in labor law, should watch this video to understand the importance and value of labor rights.”

John Wilburn: “The film, *The Art and Science of Labor Arbitration*, narrated by Alan Symonette, gave the viewer a thorough history of the evolution of labor arbitration and how it became the respected practice that it is today, focusing on the *Steelworkers' Trilogy* cases. Although giving a historic overview of labor arbitration in the U.S., the film didn't seem like a documentary because of the personal testimonials by pillars in labor arbitration.”

Brittany Johnson: *“The Art and Science of Labor-Management Arbitration* is a dynamic film that exposes students to the process and purposes of arbitration. As a second-year law student, I found that this film solidified my interest in alternative dispute resolution (ADR) and helped shape my career planning. Moving forward, I will highly recommend this film to everyone who has interest in ADR. Well done!”

After our session, Professor LaRue wrote to tell me that the students were “far more eager to take the “deep dive” into the perhaps more tedious, yet important, legal structures and policies that make labor arbitration work. As a long-time practicing arbitrator, educator, and trainer of arbitration, I highly recommend the film.”

**

For me, being involved in its production gave me the honor of sharing the knowledge of many of those arbitrators who were essential in establishing the institution of workplace dispute resolution. The standards demonstrated by those women and men serve as the

foundation for fairness and equity in the workplace. It was also an honor to share the stories of these individuals with a new generation of law students.

We are continuing to make films and gather archival footage to preserve the moments and testimonies of those people who were instrumental in the drafting of the laws and creating the standards to benefit workers in the American workplace. The Project is currently working on a history of the 1968 Memphis Sanitation Workers Strike and its impact on collective bargaining in the public sector. There is an exciting trailer available which you can watch by clicking [here](#). I ask you, if you have not done so already, to please consider [donating](#) to the Video History Project. You will be helping to support the preservation of the history of labor and employment law through film and even more important, providing resources for students engaged in the study of labor and employment law.

FEDERAL COURTS LAW REVIEW INVITATION

The Federal Magistrate Judges' Association is making a special opportunity available to all College Fellows. The editorial board of the *Federal Courts Law Review* is composed of US Magistrate Judges and law school professors and is dedicated to legal scholarship relating to federal courts. Because the federal courts' dockets are comprised of a healthy array of employment matters, the readers of the *Federal Courts Law Review* are keenly interested in federal employment law-related legal issues. Given that this opportunity aligns very well with the College's mission, to act as a resource of labor and employment law knowledge for academia, government and the judiciary, Fellows are invited to submit academic papers for the *Law Review*. Topics could include developments in federal wage law and litigation related thereto, the equal pay act, impact of COVID-19 on employment litigation, federal leave law (sick and parental) and litigation, privacy-related topics, employee benefits topics (e.g., retirement-plan-related litigation, health law), marijuana in the workplace and the interaction of federal and state law, the impact of state harassment law training mandates on success of *Farragher/Ellerth* defense in harassment cases, etc.

There is no deadline – submissions are accepted all year long. If you are interested in submitting a paper, please review the [website](#) and previous submissions. The journal typically publishes lengthy articles on issues relevant to the federal court. Questions and submissions can be sent to the Honorable David Sanders, Editor of the *Law Review*, at David_Sanders@msnd.uscourts.gov.

College COVID Webinars from July and September can be found on the CLEL website, along with related materials. Click [here](#) to see the list of videos available.

SPOTLIGHT ON FELLOWS



- Fellows **Denise Drake** and **David Johnson** were authors of an article that appeared in the June 2020 **LEL Flash**, published by the ABA Labor and Employment Law Section. The article, titled *Supreme Court Speaks: Title VII Forbids Workplace Discrimination Based on Sexual Orientation and Transgender Status*, can be found [here](#).



- **Denise Drake** was also recently named to the **POWER 30** Employment Law list by *Missouri Lawyers Media*. Attorneys are selected based on interviews with attorneys and other leaders around the state, a review of verdicts and settlements, and the *Missouri Lawyers Media*.

- Congratulations to Fellow and College Board Member **Cynthia Nance** who has been named chair-elect of the American Bar Foundation Fellows. As chair-elect, Cyndi, who is a Professor at the University of Arkansas School of Law, will be part of a four-person team leading the fellows — attorneys, judges, law faculty and legal scholars – who have demonstrated outstanding dedication to the principles of the legal profession and to their communities' welfare. The foundation is an independent, nonprofit organization with a mission to expand knowledge and advance justice through innovative, interdisciplinary and rigorous empirical research on law, legal processes and legal institutions.



- Fellow **Jerry Hunter** Hunter has been named a recipient of the *Missouri Lawyers Media* **2020 ICON Awards**. The award honors 26 Missouri attorneys for their notable and sustained success and leadership both within and beyond the field of law. *Lawyers in America* as its 2021. The awards are presented to attorneys age 60 and older in recognition of their exemplary careers and longstanding commitment to the Missouri legal community. Mr. Hunter is a partner at Bryan Cave Leighton Paisner in St. Louis, MO.

- Congratulations to Fellow **Joe Tilson** who was named the 2021 Chicago Labor Law - Management “Lawyer of the Year” by *Best Lawyers in America*. This is the fifth time in the past nine years that Joe has been received this recognition.



FELLOWS ON THE MOVE



- Congratulations to Fellow **Randel Johnson** who was appointed to the US Department of Labor’s Administrative Review Board (ARB) in August. Randy was formerly with Seyfarth Shaw before joining the ARB. His career history includes positions at the Department of Labor’s Office of Administrative of Law Judges, the Department’s Office of the Solicitor, serving as Labor Counsel to the United States House of Representatives’ Education and Labor Committee and as Senior Vice President for Labor Immigration & Employee Benefits with the US Chamber of Commerce



- Fellow **Gail Glick** has joined the roster of neutrals at Judicate West. Previously, she was a partner at the firm Alexander Krakow + Glick LLP, which she co-founded. Gail will be based in Judicate West’s Los Angeles office and is available for mediations throughout California. Active in the legal community, she is a member of the Los Angeles County Bar Association and, for the past five years, she has served as vice president of the board of directors for the Disability Rights Legal Center. Gail volunteered as a panelist for the Los Angeles County Superior Court’s ADR panel, and she is a member of the ABA’s Labor and Employment Law section, Consumer Attorneys of California, Consumer Attorneys Association of Los Angeles and the National and California Employment Lawyers Association.

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.

[Download jpg File](#)

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