

June 2019

LEADERSHIP FOR GREATER PURPOSE

IN THIS ISSUE

- [THE VICE PRESIDENT'S VIEW](#)
- [INTRODUCING THE CLASS OF 2019](#)
- [24TH ANNUAL INDUCTION DINNER](#)
- [ANNUAL FELLOWS' HAPPY HOUR – SAN FRANCISCO](#)
- [REGIONAL MEETING RECAP](#)
- [VHP CONTINUES INTERVIEWS FOR MEMPHIS SANITATION STRIKE DOCUMENTARY](#)
- [SPOTLIGHT ON FELLOWS](#)
- [FELLOWS ON THE MOVE](#)

THE VICE PRESIDENT'S VIEW: WHY I BELONG TO THE COLLEGE



I have been practicing labor and employment law in California since 1981, first as a union staff attorney and for the last thirty years as a plaintiff side advocate. I joined the College in 2004 and I currently serve as Vice-President. I am looking forward to serving as President of the College in 2020. This article is part of a series, loosely titled “Why I Belong to the College,” and it speaks most directly to why Plaintiff/Employee side lawyers would want to belong to the College.

To me, it has always been a no-brainer. Why would I not want to belong to the one labor/employment law organization that gathers the most outstanding, the most ethical, the most civil, and the most collegial practitioners in this discipline? It is a genuine honor to be selected to the College after its substantial vetting process. My induction certificate hangs on the wall in my office in Oakland overlooking Lake Merritt.

This recognition is important for the plaintiffs' bar for any number of good reasons. I believe that when I file a complaint or send a demand letter and my matter is reviewed either by in house counsel (many of whom are in the College) or by counsel retained to defend the employer, that one of the steps they take is to do some due diligence on the lawyers who are suing them. Part of that process likely includes referring to our firm's website (which lists our membership in the College and which features the College's logo). We can also be found in the College's annual Membership Directory. Finding us listed as Fellows assures defense counsel that they are dealing with experienced and knowledgeable attorneys, and that they are likely to be treated in the forthcoming litigation with respect, civility, and practicality. This is a pretty good way to start off a case. I can also refer to these resources and see if the defense counsel with whom I will be interacting for the next several years also has a reputation for skill, ethical practice, and civility.

This also works for us at the end of the litigation. My practice is, as is common for plaintiff side firms, almost entirely a contingent fee practice. We only get paid if we win or reach a settlement. Once success on liability issues has been achieved, we still have to either negotiate our fee shifting attorneys' fees payment with opposing counsel or ask a judge to award us our fees. This process necessarily involves a review of both our hourly rates and the number of hours we billed to the case. Having been recognized as a College Fellow facilitates this process by helping to support our hourly rates and by tending to mitigate challenges to the number of hours our records show that we worked toward achieving success in the litigation.

Beyond these very practical benefits, College Fellows benefit from the opportunity to meet and mingle with top drawer defense counsel, in house counsel, union attorneys, law professors, government officials, mediators, and arbitrators in various non-litigation contexts including our annual Induction Dinner, receptions, regional meetings, College committees, and the Board of Governors. These more informal contacts can help create better understanding and provide contacts for obtaining useful information that can assist our clients. We can practice bridgebuilding and working on making our separate peace within the often overly combative practice of the law. This can help make our daily work more enjoyable and less stressful. It can work to promote better results for our clients.

Finally, all of us pledge to adhere to the College's Principles of Civility and Professionalism for Advocates (click link [here](#)). Our membership and participation in the College, whether it be at social events, in our committee work, or in College governance, help to remind us that we are pledged to continue holding ourselves to the highest ethical standards and to conduct ourselves at work with the utmost civility and cordiality. I find this to be a very helpful touchstone that works to keep me out of trouble, to suppress "The Dark Side of the Force," and to work toward being a peaceful warrior for workplace justice. It helps me to go "high" when they go "low." I have been honored by the opportunity to serve the College and find that the rewards of membership are immeasurable.

David Borgen
Vice President

CONGRATULATIONS TO THE CLASS OF 2019

Please join the Board of Governors in welcoming the following distinguished lawyers who were elected Fellows of the College of Labor & Employment Lawyers in the Class of 2019.

M. Ann Anderson, Pilot Mountain, NC
Melissa J. Auerbach, Chicago, IL
George Avraam, Toronto, ONT
Tracey T. Barbaree, Atlanta, GA
Mario A. Barrera, San Antonio, TX
Jose J. Behar, Chicago, IL
Megan A. Bonanni, Royal Oak, MI
Ivelisse Bonilla, Tucson, AZ
Malcolm D. Boyle, QC, Halifax, NS
Noelle C. Brennan, Chicago, IL
Frank E. Brown, Tallahassee, FL
Alexandre W. Buswell, Montreal, QC
Richard R. Carlson, Houston, TX
Gilbert F. Casellas, Chevy Chase, MD (*Honorary*)
John Milt Christiansen, Winnipeg MB
Keith A. Clouse, Dallas, TX
Brendan D. Cummins, Minneapolis, MN
Maria Greco Danaher, Pittsburgh, PA
Angie Coward Davis, Memphis, TN
Joshua M. Davis, Boston, MA
Jeffrey S. Donahue, Lansing, MI
Samantha Dulaney, New York, NY
Patricia A. Dunn, Washington, DC
Robert M. Elliot, Winston-Salem, NC
Cliff Freed, Seattle, WA
Jonathan C. Fritts, Washington, DC
Samuel R. Fulkerson, Oklahoma City, OK
Ruben J. Garcia, Las Vegas, NV
John L. Gierak, Birmingham, MI
Jeremy J. Glenn, Chicago, IL
Jill A. Goldy, Chicago, IL
Jennifer S. Hagerman, Memphis, TN
Kenneth R. Harrison, Coral Gables, FL
Peter F. Helwig, Lakeland, FL
Wade W. Herring, II, Savannah, GA
Cathi J. Hunt, Everett, WA
Fred B. Jacob, Washington, DC
Karen Ann Jensen, Ottawa, ON
David L. Johnson, Nashville, TN
Robert L. Jones, Jr., Ft. Worth, TX
Michael G. Kane, Westfield, NJ
Mark L. Keenan, Atlanta, GA
M. Brian Keller, Nepean ON
Brian J. Kelly, Cleveland, OH
Daren H. Lipinsky, Chino Hills, CA
Margaret J. Lockhart, Toledo, OH
Louis Lopez, Washington, DC
Paul J. Lukas, Minneapolis, MN
Nancy H. Maisano, Seattle, WA
David A. McManus, New York, NY
Rafael E. Medina, Chicago, IL
John R. Merinar, Jr., Bridgeport, WV
Michael D. Mitchell, Houston, TX
Evan R. Moses, Los Angeles, CA
Patricia M. Nemeth, Detroit, MI
Danielle L. Ochs, San Francisco, CA
Stephanie Padilla, Denver, CO
Kathleen Peratis, New York, NY
Rebecca G. Pontikes, Boston, MA
Eric D. Reicin, McLean, VA
Mori P. Rubin, Los Angeles, CA
Jennifer L. Sabourin, Detroit, MI
Rebecca L. Salawdeh, Wauwatosa, WI
Theodore (Ted) A. Schroeder, Pittsburgh, PA
Jason C. Schwartz, Washington, DC
Douglas T. Schwarz, New York, NY
Michael J. Sheehan, Chicago, IL
Kenneth B. Siepman, Indianapolis, IN
Mary Ellen Simonson, Phoenix, AZ
Jonathan L. Snare, Washington, DC
John L. Stout, Toronto, ON
Joan M. Swartz, St. Louis, MO
Arnold W. (Trip) Umbach, III, Birmingham, AL
Darrell R. VanDeusen, Timonium, MD
John A. Vering III, Kansas City, MO
George L. Washington, Jr., Oak Hill, VA
Douglas M. Werman, Chicago, IL
Carolyn L. Wheeler, Washington, DC
Nicholas Wyckoff Woodfield, Washington, DC
Melissa S. Woods, New York, NY
Mark A. Wright, Toronto, ON
Julie B. Yanow, Toluca Lake, CA

24TH ANNUAL INDUCTION DINNER IN NEW ORLEANS



As mentioned in the April newsletter, we will be returning to the National WWII Museum to celebrate the Class of 2019, at what is sure to be another spectacular evening. The College has secured a room block at the Higgins Hotel, a brand new hotel on the campus of the WWII Museum, which is scheduled to open in early October. Reservations can be made using the following link: <https://reserve.higginshotelneworleans.com/groups/clel>. The room rate will be \$269/night. In addition to the Higgins, we've identified a few other hotel options that are close to the Museum. Please note - we have not negotiated any room rates or secured a block of rooms at these hotels. This is for your convenience only.

[Renaissance New Orleans Arts](#)

700 Tchoupitoulas Street
New Orleans, LA
504-613-2330

[Loews New Orleans Hotel](#)

300 Poydras Street
New Orleans, LA
504-595-3300

[Intercontinental New Orleans](#)

444 St. Charles Avenue
New Orleans, LA
504-525-5566

Rooms will also be available through the ABA Labor and Employment Law Section's room block at their headquarter hotel, the [Hilton New Orleans Riverside](#). Reservations open in mid-August and we'll share the necessary information in the August newsletter.

Formal invitations to the Induction Dinner will be mailed the end of August. Please contact Jen Motley at 410-972-4712 or jmotley@laborandemploymentcollege.org with any questions.

MARK YOUR CALENDAR!!

The 8th Annual Fellows Happy Hour will take place in San Francisco at [JONES](#), 620 Jones Street at Geary on Friday, August 9th from 5:30 pm to 7:30 pm. This annual event is held during the ABA Annual Meeting and has become the place to be for those attending Labor & Employment Law Section events as well as for those Fellows who live and work in the host city. A separate email announcement will be sent shortly, but feel free to rsvp now to [Jen Motley](#). Hope to see you there!

REGIONAL MEETING RECAP

2nd CIRCUIT HOLDS CONFERENCE ON ENDING WORKPLACE SEXUAL HARASSMENT

On Tuesday evening May 14 the Second Circuit of the College (NY, CT, VT, and Northern NJ) convened at the Seyfarth Shaw conference center in midtown Manhattan for dinner and a special three hour program focusing on the #MeToo Movement, ending sexual harassment in the workplace, and mandatory workplace sexual harassment training recently enacted by New York State and City Human Rights agencies. Featured speakers included Caroline Downey, General Counsel of the New York State Division of Human Rights and Dana Sussman, Deputy Commissioner of the New York City Commission on Human Rights.



Fellows [William Frumkin](#) (employee side), [Michael Bernstein](#), (management side) and [Michael Delikat](#) (management side), joined by [Melissa Woods](#) (former Deputy Commissioner and General Counsel of the NY City Commission on Human Rights, employee side)

served as panelists, presenting point and counter point and leading the discussion. Fellow [Evan Spelfogel](#) served as program moderator and chaired the conference. All are pictured above. [Loren Gesinsky](#) of the Seyfarth firm served as host. Approximately seventy Fellows and guests attended. 3.5 CLE credits were provided.

Among the topics covered were mandatory arbitration of sexual harassment complaints, non-disclosure and confidentiality agreements in settlements of sexual harassment claims, loss of business tax deductions for the amounts of payments to claimants and attorneys' fees in settlements of sexual harassment claims, employer, supervisor and individual employee liability in sexual harassment cases, the definitions of sexual harassment, civil penalties for sexual harassment, guidance for newly mandated work place sexual harassment training and how to calculate appropriate damages in sexual harassment cases (aside from employment loss, if any) including a review of a recent NY State Supreme Court decision (*City Commission vs Automatic Meter Reading Co.*) where the Court upheld damages to a single employee victim of sexual harassment totaling \$425,000 for back pay, pre and post judgement interest and emotional distress, plus a \$250,000 civil penalty.

Tentative plans are in the works for another of these semi-annual conferences of the Second Circuit, in the late Fall or early Winter. Fellows interested in serving on the Second Circuit planning committee should contact Regional Chair [Evan Spelfogel](#).

9th CIRCUIT NORTH HOLDS CONFERENCE ON ENDING WORKPLACE SEXUAL HARASSMENT

Fellows from the 9th Circuit North gathered on Thursday May 30th at the law firm of Ogletree Deakins for a program on the hot topic of #MeToo, titled "Me Too 2019 – New Laws, New Approaches." Topics included making credibility determinations in harassment cases; settlement issues - new rules and ethical challenges; and successfully litigating sexual harassment cases. An expert panel of College Fellows, including [Sue Ann Van Dermeyden](#), [Stephen Hirschfeld](#), [David Lowe](#), [Doug Dexter](#), [Alan Exelrod](#), and [Lynne Hermle](#), were guided through a discussion by program moderator [Doug Farmer](#). Afterwards, speakers and guests had a casual and friendly dinner at local restaurant *Perry's*.





VHP CONTINUES INTERVIEWS FOR MEMPHIS SANITATION STRIKE DOCUMENTARY

Two more interviews for the Memphis Sanitation Strike documentary were completed in May, that of Bill Lucy and Fellow [Marty Malin](#), both of which were conducted by Fellow [John Higgins](#).



Bill Lucy (*pictured in photo on left*) served in a number of AFSCME roles over the years and, as part of his leadership role, he lent his support in 1968 to the mostly black sanitation and other service workers who were striking for better wages and benefits. After Martin Luther King's assassination, he continued the work in Memphis, helping see the strike to a successful resolution. Mr. Lucy shared his first-hand accounts in the May 7th interview that will add another layer of depth and insight to the documentary. Professor Malin (*pictured in photo on right*) of IIT Chicago-Kent College of Law, co-

author of the case book *Public Sector Employment*, has done a great deal of research on the effects of the absence of a state labor law, and was interviewed by John Higgins during the National Academy of Arbitrators' Annual Meeting in Philadelphia.

The Memphis strike was a very sad example of what was and is a much bigger problem as a number of states, like Tennessee, have no means of peacefully resolving representation disagreements with public unions. Capturing the voices of those voices of people who were key players in the dispute adds tremendously to the important documentation of US labor history.

This documentary will show the history of the strike, its background and its implications for public sector labor law and will emphasize that this history can be repeated in any state without a peaceful means of resolving public sector representation and impasse disputes. The strike was eventually resolved, the union recognized, and the parties negotiated a Memorandum of Agreement; however, the price was high. As we highlight the mistakes of the past, this documentary will very much have an eye towards the future.

SPOTLIGHT ON FELLOWS



In a College first, the Board of Governors extends a heartfelt congratulations to Fellows **John Higgins, Jr.** and **Rosemary Pye** (pictured left) on the occasion of their wedding which took place on May 4, 2019 at Blessed Sacrament Church in Washington, D.C. John, a former President of the College (2005), teaches at Catholic University Law School and is the Editor-in-Chief of the *Developing Labor Law*. Rosemary is retired from the NLRB and currently arbitrates and serves on the Foreign Service Grievance Board. We wish them many years of happiness and wedded bliss!

- Fellow **Michael Bernstein** was asked by *Chambers USA* to be its Contributing Editor of the inaugural *Chambers Global Practice Guide, USA Regional Employment, 2019*. The *Guide* is directed at private sector global entities interested in identifying where they may wish to establish a presence or enhance an existing one.

- Fellow **Ed Buckley** (pictured right) was featured in a recent article regarding his nomination for **Attorney of the Year** by the *Daily Report's 2019 Georgia Legal Awards*. This award recognizes a Georgia lawyer who in 2018 had the biggest impact on the law or the Georgia legal community or who did the most to advance the cause of justice. Mr. Buckley was one of three nominees. <https://www.law.com/dailyreportonline/2019/06/19/attorney-of-the-year-nominee-edward-buckley/>



- Fellows **Michael Hanlon**, **Sarah Kelly** and **Jeff Pasek** were selected as **2019 Pennsylvania Super Lawyers** by *Super Lawyers*.



- In May, Fellow **Connye Harper** (*pictured left*) was appointed Chair of the Nevada Equal Rights Commission for a two-year term by Governor Steve Sisolak. Connye, a resident of Las Vegas since 2013, is the principal of *Harper Strategies, LLC* which provides HR consulting and mediation services.

- Fellow **Debra Katz** was honored as a 2019 *Law360 Titan of the Plaintiffs Bar* - an award bestowed upon influential plaintiff-side attorneys who made significant impacts inside and outside the courtroom in the past year. Debra was also honored by T'ruah, an organization of rabbis and cantors with the mission of advancing human rights, with the **Raphael Lemkin Human Rights Award** for her representation of survivors of sexual assault and harassment.

- Fellow **Dan Nielsen** of Lake Bluff, IL was elected President-Elect of the National Academy of Arbitrators (NAA). He will succeed current President, and College Fellow, **Barry Winograd** when his term expires in May 2020 at the annual NAA conference for labor and management practitioners in Denver, CO.

- Fellow **Casey Ryan** (*pictured right*) has been selected as one of ten attorneys recognized as a **2019 Distinguished Leader**. This recognition is part of *The Legal Intelligencer's 2019 Professional Excellence Awards* which honors Pennsylvania attorneys who have made a significant and positive impact on the legal professional. The **Distinguished Leader** award honors those who achieved impressive results in the past year and demonstrated excellent leadership skills. Honorees will be recognized during an awards dinner on Thursday, June 27 at the Crystal Tea Room in Philadelphia.



- Fellow **Joseph Slater** testified on Capitol Hill before the House Committee on Education and Labor at a hearing on June 26 titled "Standing with Public Servants: Protecting the Right to Organize." Professor Slater, who spoke in favor of a bill that would establish a basic right to bargain collectively for public workers in all states, teaches at the University of Toledo's College of Law.



- Fellow **Don Slesnick** (*pictured left*) has been selected for the fourth year in a row as a **Florida Legal Elite** lawyer in the field of Labor & Employment Law by *Florida Trend Magazine*, one of Florida's most respected lists recognizing lawyers of note. The **Legal Elite** is a peer selection process with balloting to choose Florida lawyers that are held in the highest regard.

- Fellow **Arlene Switzer Steinfield** (*pictured right*) authored a *Law360 Expert Analysis* article, titled **Justices Highlight Importance of Title VII Procedural Details**. The article, which can be found [here](#), focuses on the US Supreme Court's June 3rd ruling in *Fort Bend County v. Davis*. In a unanimous decision, the Court held that the exhaustion requirement a plaintiff must first bring a Title VII discrimination charge to the US EEOC or the equivalent state fair employment practices agency is not a



jurisdictional requirement, but rather a claims-processing rule that is mandatory but can be forfeited if the defense is not raised in a timely manner.

- Fellow **Deborah Willig** was named to the list of **Top 50 2019 Women Pennsylvania Super Lawyers**. Fellows **Alaine Williams** and **Start Davidson**, also from the Philadelphia firm of Willig Williams & Davidson, have been recognized for the 16th year as *Pennsylvania Super Lawyers*.



- Fellow **Carolyn Witherspoon** (*pictured left*) was one of eight women named to this year Arkansas Women’s Hall of Fame. As Director and Founder of the firm Cross, Gunter Witherspoon and Galchus, Carolyn was the first woman to serve as President of the Arkansas Bar Association. She’s also supported and created organizations that serve and mentor women. The annual induction ceremony will take place on Thursday, August 29, at the Statehouse Convention Center in downtown Little Rock.

- Fellow **Sheree Wright** (*pictured right*) has been named to the *Nashville Business Journal’s* 2019 “Best of the Bar” in the category of corporate counsel. Ms. Wright, senior associate general counsel in Vanderbilt University’s Office of General Counsel, is among those recognized by the business publication as Nashville’s most talented and respected legal professionals.



- Numerous Fellows participated in the recent New Jersey State Bar Association’s *NJICLE 2019 Hot Tips in Labor and Employment Law*. The program was moderated by **Shep Cohen** and speakers included **John Bennett, Maureen Binetti, Domenick Carmagnola, Steven Cohen, Hon. Melvin Gelade, Rosemary Gousman, Jon Green, Cynthia Jacob, Paul Kleinbaum, David Leach, Lisa Manshel, Sharon Margello** and **John Schmidt**.

Congratulations to the following Fellows who were recently recognized by *Lawdragon’s 2019 Guide to the Most Powerful Corporate Employment Lawyers*. Fellows of the College comprise 41 of the 100 attorneys selected, which is the result of law firm submissions and editorial research conducted over the past year.

Nancy L. Abell	Joseph J. Costello	Maurice G. Jenkins	Theodore O. Rogers Jr.
Rosemary Alito	Lisa J. Damon	F. Curt Kirschner Jr.	Paul Salvatore
Michael L. Banks	Michael Delikat	Jeffrey S. Klein	Terry E. Sanchez
Mario Barrera	Dennis P. Duffy	Matthew W. Lampe	Jason Schwartz
Mark Batten	Adam S. Forman	Paul Lancaster Adams	Patrick W. Shea
Elise M. Bloom	Michael J. Gray	Alison B. Marshall	Grace E. Speights
Paul W. Cane Jr.	Elizabeth P. Hardy	William C. Martucci	Nigel F. Telman
Mark Casciari	Gerald T. Hathaway	Marko J. Mrkonich	Joseph E. Tilson
Terri Chase			

Joseph T. Clees
John J. Coleman III

Lynne C. Hermle
Stephen J. Hirschfeld

Charles M. Poplstein
D. Michael Reilly

Joseph J. Torres
Julie Totten

Lawdragon also announced their **Legends** for the **2019 Hall of Fame**. of the corporate employment bar. **Hall of Fame** status starts after 35 years in employment law and requires consistent recognition for all-around excellence in counseling clients, contributing to the bar and serving as a visionary to improve workplaces. The following Fellows were recognized as **Legends** this year:

Vincent A. Cino
Catherine A. Conway
Harriet E. Cooperman
Louis P. DiLorenzo
Jerry M. Hunter
D. Ward Kallstrom
Jay P. Krupin
Jeffrey Londa
Steven W. Suflas

FELLOWS ON THE MOVE

- Fellow **Joe Torres** recently joined the Chicago office of **Jenner & Block** as a Partner in their ERISA Litigation Practice. *Chambers USA, Legal 500* and other rankings regularly recognize Joe as a leading lawyer in the field and he is a frequent speaker and author on ERISA issues.
- Fellow **Peter Zinober** has joined the Tampa office of **Ogletree Deakins**. Known as the "Dean" of the Florida labor and employment bar, Pete will assist the Firm's Executive Committee with strategic expansion in Florida and other key major markets.



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](#) [Download eps File](#)

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