American Bar Association
Federal Sector Labor & Employment Law Committee
2013 Midyear Meeting
April 10-11, 2013

Wednesday, April 10

8:30 – 9:00 Registration and Continental Breakfast

9:00 – 9:15 **Welcome and Introductions**

- **Heidi Burakiewicz**, Employee Co-Chair, Of Counsel, Mehri & Skalet PLLC, Washington, DC
- **Barbara Jaffe Sanford**, Employer Co-Chair, U.S. NRC, Washington, DC
- **Angelia Wade Stubbs**, Union & Employee Co-Chair, Assistant General Counsel, AFL-CIO, Washington, DC
- **Michael Wolf**, Public Co-Chair, Senior Dispute Resolution Specialist, Federal Labor Relations Authority, Washington, DC

9:15 – 10:15 **EEOC UPDATE**

A review of significant EEOC decisions and regulatory actions as well as EEO judicial decisions pertaining to federal employees.

- **David Lopez**, EEOC General Counsel, Washington, DC

10:15 – 10:30 Refreshment Break

10:30 – 11:45 **WHAT'S NEW AT THE FLRA**

Significant decisions by the FLRA and courts, plus other developments affecting federal sector representation elections, unfair labor practices, bargaining, and arbitration.

- **Ernest DuBester**, Chairman, Federal Labor Relations Authority, Washington, DC

11:45 – 1:15 Lunch Session: **GLASS CEILING FOR WOMEN IN THE FEDERAL WORKPLACE**

There are many unique issues that affect women in the federal workplace, including leave, nursing accommodation, telework, and the glass ceiling. This session will explore these and other issues from the perspective of employees and employers as well as neutral agencies. In addition to the panel presentation, we will promote an open, lively and relaxed discussion among participants.

- **James Tsugawa**, Deputy Director, Office of Policy and Evaluation, Merit Systems Protection Board, Washington, DC
- **Dr. Cynthia Ferentinos**, Merit Systems Protection Board, Washington, DC
- **Lakeisha Grant**, Environmental Protection Agency, Washington, DC

1:15 – 2:30 **WHISTLEBLOWER ENHANCEMENT ACT**

The Whistleblower Protection Enhancement Act of 2012 has significantly enhanced the whistleblower rights of federal employees. This panel will discuss changes to the scope of protected conduct, the availability of uncapped

compensatory damages, the expansion of the individual right of action appeal option, the non-disclosure agreement provisions of the WPEA, OSC's enhanced authority to pursue disciplinary action, and procedural enhancements to the WPA. In addition, the panel will discuss how other recent developments, including the Federal Circuit's Whitmore decision, will affect how whistleblower retaliation cases are litigated.

- **Jason Zuckerman**, Office of Special Counsel, Washington, DC
- **Bryan Polisuk**, Merit Systems Protection Board, Washington, DC
- **Tom Devine**, Legal Director Government Accountability Project, Washington, DC

2:30 – 2:45 Refreshment Break

2:45– 4:00 **INFORMATION REQUESTS**

Information is an essential resource in the labor-management relationship, yet access remains elusive for many unions and employee representatives. At the same time, many agency representatives are uncertain about when to say "yes" and when they will be served for saying "no." Three noted experts share their wisdom, strategies, stories, and tips to help you better perform your role on both sides of the table.

- **Barbara Kraft**, Washington DC Regional Director, Federal Labor Relations Authority, Washington, DC
- **Jared S. Gross**, Assistant Counsel, National Treasury Employees Union, Washington, DC
- **Kimberly P. McLeod**, Attorney, Department of Veterans Affairs Office of General Counsel, Washington, DC

Thursday, April 11

8:30 – 9:00 Continental Breakfast

9:00 – 10:15 **MSPB UPDATE**

The MSPB will make a presentation on the new MSPB regulations, which are effective Nov. 13, 2012. The speakers will include MSPB General Counsel and the MSPB Regulation Review Working Group. These new regulations will affect how you handle all your cases at the MSPB so please come and learn them from the experts.

- **Bryan Polisuk**, MSPB, General Counsel, Washington, DC
- **Susan Swafford**, Director, Office of Appeals Counsel, Washington, DC
- **Ronald Weiss**, Administrative Judge MSPB, Office of Regional Operations, Washington, DC
- **Mike Carney**, MSPB Office of the General Counsel, Washington, DC

10:15 – 10:30 Break

10:30 – 11:45 **WORKPLACE BULLYING**

Workplace bullying is a type of harassment that has been estimated to affect 37 % of today's workforce according to a recent Zogby International survey. This survey has further found that 72% of the perceived harassers are managers. Harassment might arise from discrimination over gender, age, and position in the company, and race. Other empirical research supports the proposition that increased workplace diversity in terms of age, gender and ethnicity has been associated with higher frequencies of work-place aggression (Baron & Neuman, 1996). According to research published by Leah Hollis (Bully in the Ivory Tower, 2012), workplace bullying in higher education disproportionately affects women, people of color and the LBGT community. Might similar conditions exist for those in federal sector workplaces? This session will help attendees recognize workplace bullying and identify sources of bullying fir those who work in federal sector. An esteemed panel of experts and workplace leaders will share lessons learned and suggest paths towards solutions.

- **Lamont Stallworth**, Arbitrator & Professor, Quinlan School of Business, Loyola University, Chicago, IL
- **Tracey Therit**, ADR Manager, Department of Veteran Affairs, Washington, DC
- **Dale Deshotel**, President, AFGE Council of Prison Locals, Oberlin, LA

11:45 – 12:00 **CLOSING REMARKS**

12:00 – 12:30 **COMMITTEE BUSINESS MEETING**