



Thursday, August 4, 2011

1:00 – 2:30 p.m.

Class Action Litigation After *Dukes v. Walmart*

This panel will explore the implications of the Supreme Court's review of the 9th Circuit's decision upholding the certification of a gender discrimination class of two million female Walmart employees. The Court's decision is likely to impact the admissibility and use of expert testimony at the class certification stage, including the use of sampling, as well as the standards trial courts at both the state and federal level apply when determining whether to certify a gender discrimination class, in particular, whether common issues predominate, and when a class may be certified under 23(b)(2).

Moderator:

Beth Terrell, Terrell Marshall Daudt & Willie PLLC, Seattle, Washington

Speakers:

Barbara J. D'Aquila, Fulbright & Jaworski, LLP, Minneapolis, MN

John C. Coffee, Jr., Columbia Law School, New York, NY

T. Warren Jackson, The DIRECTV Group, El Segundo, CA

Roberta L. Steele, Goldstein, Demchak, Baller, Borgen & Dardarian, Oakland, CA

2:45 – 4:15 p.m.

Calculating Damages in an Employment Case: Strategies for the Canadian and U.S. Litigant

In both Canada and the U.S., plaintiffs seek injunctive, equitable and/or monetary relief in employment discrimination cases. The remedies available will influence litigation strategy, the negotiation of settlements and, ultimately, changes in workplace policies. Our experts will discuss damages available on either side of the border and the strategic decisions litigants must make to enhance or avoid damages, with a particular emphasis on eggshell or thin skull plaintiffs.

Moderator:

Nicole M. Walthour, International Paper Company, Memphis, TN

Speakers:

Raj Anand, WeirFoulds, Toronto, Canada

Barbara L. Johnson, Paul, Hastings, Janofsky & Walker, Washington, DC

Mort Mitchnick, Borden Ladner Gervais LLP, Toronto, Canada

Richard T. Seymour, Law Office of Richard T. Seymour, P.L.L.C., Washington, DC

Friday, August 5, 2011

8:45 – 10:15 a.m.

Ensuring Real “Win-Win” Cross-Border Mergers and Acquisitions

Recent reports indicate that mergers and acquisitions activity and venture investments are on the upswing. Such corporate transactions implicate a variety of legal disciplines and require a team of lawyers on each side from several practice areas, not the least of which is labor and employment law. Differences in laws among jurisdictions add a further layer of complexity to such transactions. This panel will examine the key issues in cross border corporate transactions involving U.S. and Canadian parties, focusing on the potential labor, employment, and employee benefits best practices and pitfalls for practitioners representing buyers, sellers, investors, and the workers who may be affected in such transactions.

Moderator:

George L. Washington, Equant, Oak Hill, VA

Speakers:

Katherine Blostein, Outten & Golden, New York, NY

Stephen B. Moldof, Cohen Weiss and Simon LLP, New York, NY

Eric A. Tate, Morrison & Foerster, San Francisco, CA

Donna Walwyn, Baker & McKenzie, LLP, Toronto, Canada

10:30 a.m. – 12:00 p.m.

“Wanna Keep A Secret, Eh?” Enforcing Restrictive Covenants in Canada and the United States

This panel will review issues related to the enforceability of various forms of restrictive covenants under Canadian and U.S. law including, but not limited to, non-competition, non-solicitation, no hire, and non-disclosure agreements, as well as garden leave and the inevitable disclosure doctrine. The panelists also will discuss best practices in each country for protection against trade secrets misappropriation and unfair competition in the employee context.

Moderator:

Daniel P. Westman, Morrison & Foerster, McLean, Virginia

Speakers:

David J. Bannon, Ogilvy Renault, Toronto, Canada

Arnold H. Pedowitz, Pedowitz & Meister, New York, NY

Michael P. Royal, Fisher & Phillips, Dallas, TX

Ian J. Roland, Paliare Roland, Toronto, Canada

12:00 – 1:15 p.m.

Careers in Labor and Employment Law

1:00 – 2:30 p.m.

Wisconsin and Beyond: The State of Public Sector Bargaining in the United States

Public sector unions became front page news in Wisconsin, Ohio, Indiana, New Jersey, and elsewhere in 2011 as Republican governors and Republican-dominated state legislatures took aim at collective bargaining laws in an effort to balance state budgets. This panel will discuss the factors that led to the 2011 showdowns and what the future may hold for public sector collective bargaining in the United States.

Moderator:

George S. Crisci, Zashin & Rich Co., L.P.A., Cleveland, OH

Speakers:

Aaron L. Granger, Schottenstein, Zox & Dunn Co., L.P.A., Columbus, OH

Barbara Zack Quindel, Hawks Quindel, S.C., Milwaukee, WI

Joseph E. Slater, University of Toledo College of Law, Toledo, OH

Donald D. Slesnick, Slesnick & Casey, Coral Gables, FL

6:00 – 7:30 p.m.

Section Reception

Saturday, August 6, 2011

8:45 – 10:15 a.m.

The Ins and Outs of Contracting Out Legal Work

In a financial climate where clients may seek fee reductions and a lower bottom line, law firms and service providers may seek to outsource legal work. This panel will examine practical issues related to contracting out legal work, such as when it makes sense to contract with outside lawyers, choosing a vendor and best practices regarding the terms to be contained in any contract. The panel will also explore the myriad of potential ethical and liability issues related to contracting out work, such as avoiding the unauthorized practice of law, appropriate supervision, client confidentiality, duty to disclose, conflicts of interest and how contracted work should be billed. Finally, this panel will touch upon data privacy issues associated with contracting out.

Moderator:

Allan C. Hutchinson, Osgoode Hall Law School, Toronto, Canada

Speakers:

Andrew Altschul, Buchanan, Angeli, Altschul & Sullivan, Portland, OR

Gwen Handelman, Nova Southeastern University, Fort Lauderdale, FL

Marc Joseph, Haggard, Dallas, TX

Mauricio Paez, Jones Day, New York, NY

10:30 a.m. – 12:00 p.m.

A Divided North America: Comparing LGBT Rights in the U.S. and Canada

Canadian and U.S. panelists will discuss how their respective countries are addressing (or failing to address) legal issues facing LGBT people including issues related to health benefits, social security benefits, family and medical leave, how employers can or should

accommodate transgender employees, and other laws that effect employers and employees.

Moderator:

Anthony J. Amendola, Mitchell Silberberg & Knupp LLP, Los Angeles, CA

Speakers:

Michael Gottheil, Social Justice Tribunals Cluster, Toronto, Canada

Shannon Price Minter, National Center for Lesbian Rights, San Francisco, CA

Andrea Zwack, Heenan Blaikie, Vancouver, Canada

12:00 – 1:00 p.m.

Section Luncheon

All Section members registered for the Annual Meeting are invited to participate in this informal luncheon. Please note that space is limited and advance registration is required. Please visit the Section Information Desk to obtain a ticket.

4:30 – 5:00 p.m.

Section Business Meeting

Sunday, August 7, 2011

8:30 – 10:00 a.m.

Arbitration Case Law Update

Primary Sponsor: Section of Dispute Resolution

10:30 a.m. to 12:00 p.m.

ABA Presidential Showcase Program

Investigating and Forgetting on the Web

Every month there is a new site, or a new app designed to connect multiple sites and make it easier for users to link to each other and to share personal, biographical, attitudinal information and other resources and media. Employers now mine these sites for information about employees, applicants and plaintiffs and many unions use these tools or variants to communicate with their members and potential members. A panel of Canadian and American attorneys will examine the privacy, liability, and other potential problems raised by the constantly-expanding social media universe. The panel will also examine potential solutions, including whether the use of “cleaners,” social media expiration dates and other mechanisms to purge on-line histories could be used to benefit employees or to hamper employers and, if so, what the legal implications would be of using these new technologies.

Moderator:

Cynthia E. Nance, University of Arkansas—Fayetteville, Fayetteville, AR

Speakers:

Doug Dexter, Farella Braun Martel LLP, San Francisco, CA

Roy L. Heenan, Heenan Blaikie, Montreal, Canada

Lauren Schwartzreich, Outten & Golden, New York, NY

