AMERICAN BAR ASSOCIATION
Occupational Safety and Health Law Committee
2008 Midwinter Committee Meeting
Tucson, Arizona
March 4–7, 2008

AGENDA

Tuesday, March 4, 2008
5:00 p.m. – 7:00 p.m. Registration
6:00 p.m. – 7:30 p.m. Welcome Reception at the Loews Ventana Canyon Resort, Croquet Court

Wednesday, March 5, 2008
7:00 a.m. – 8:00 a.m. New Attendees’ Breakfast
7:30 a.m. – 8:15 a.m. Registration
7:30 a.m. – 8:15 a.m. Continental Breakfast
8:15 a.m. – 12:40 p.m. General Session
8:15 a.m. – 8:35 a.m. Opening Remarks by the Co-Chairs
   David E. Jones, Ogletree, Deakins, Nash, Smoak & Stewart, PC, Atlanta, GA, Employer Co-Chair
   Lynn Rhinehart, AFL-CIO, Washington, DC, Union and Employee Co-Chair
Welcome Remarks by the Section Chair and Council Liaison
   Jim LaVaute, Blitman & King, LLP, Syracuse, New York
   Richard S. Cleary, Greenebaum Doll & McDonald, PLLC
   Victoria L. Bor, Sherman, Dunn, Cohen, Leifer & Yellig, PC, Washington, DC
8:35 a.m. – 9:05 a.m. Remarks from the Assistant Secretary, OSHA
   The Honorable Edwin G. Foulke, Jr.
   Assistant Secretary of Labor, OSHA,
   U.S. Department of Labor, Washington, DC
9:05 a.m. – 9:35 a.m.  Remarks from the Solicitor’s Office

The Honorable Jonathan L. Snare
Acting Solicitor of Labor
U.S. Department of Labor
Washington, DC

9:35 a.m. - 10:30 a.m.  They’re not Just Tooting Their Horns: Trends in Whistleblower and Retaliation Claims

Moderator:  David E. Jones, Ogletree, Deakins, Nash, Smoak & Stewart, PC, Atlanta, GA

Panelists:  Federal OSHA Representative (invited)

Edmund Baird, Office of the Solicitor, U.S. Department of Labor, Washington, DC

Paul O. Taylor, Truckers Justice Center, Burnsville, MN

Howard A. Mavity, Fisher & Phillips, Atlanta, GA

10:30 a.m. – 10:40 a.m.  BREAK

10:40 a.m. – 11:35 a.m.  Significant Decisions and Developments

Moderator:  Kenneth D. Kleinman, Stevens & Lee, Philadelphia, PA


Victoria L. Bor, Sherman, Dunn, Leifer & Yellig, PC, Washington, DC

Charles H. Morgan, Alston & Bird, LLP, Atlanta, GA

11:35 a.m. - 12:40 p.m.  Recent Trends in Enforcement

Moderator:  Eric E. Hobbs, Michael, Best & Friedrich, LLP, Milwaukee, Wisconsin

Panelists:  Federal OSHA Representative (invited)

Randy S. Rabinowitz, Seattle, WA

Mary Anne Garvey, Office of the Solicitor, U.S. Department of Labor, Cleveland, OH

Heather McDougall, Baker & Daniels, Indianapolis, IN

12:40 p.m.  ADJOURN
5:30 p.m. - 7:00 p.m. Committee Reception at the Loews Ventana Canyon Resort

Thursday, March 6, 2008

7:30 a.m. – 8:30 a.m. Registration

7:30 a.m. – 8:30 a.m. Continental Breakfast

8:30 a.m. - 12:35 p.m. General Session

8:30 a.m. – 9:25 a.m. Circumventing the Workers’ Compensation Bar: The Impact of OSHA and Workers’ Compensation Proceedings (Joint Session with Workers’ Compensation Committee)

Moderator: Robert J. Grace, Jr., Stiles, Taylor & Grace, PA, Tampa, FL

Panelists: Eric D. Holland, Holland, Groves, Schneller & Stolze, LLC, St. Louis, MO

Emily A. Spieler, Northeastern University School of Law, Boston, MA (invited)

George W. Goodman, Cummins, Goodman, Fish, Denley & Vickers, PC, Newberg, OR

9:30 a.m. - 10:30 a.m. BREAK OUT SESSIONS

A. Mine Safety: What Happens Next?

Moderator: Jill M. Lashay, Buchannan, Ingersoll, Rooney, Harrisburg, PA

Panelists: J. Davitt McAteer, Sheperdstown, WV

Edward P. Clair, Office of the Solicitor, U.S. Department of Labor, Washington, DC

George R. Salem, Law Offices of George R. Salem, Washington, DC
B. Petroleum Refinery National Emphasis Program: Blowdowns, Facility Siting, and Catastrophic Ruptures


Panelists: Federal OSHA Representative (invited)
Union Representative (invited)
Orlando J. Pannochia, Office of the Solicitor, U.S. Department of Labor, Washington, DC
Thomas H. Wilson, Vinson & Elkins, Houston, TX

C. Affirmative Defenses in OSHRC Litigation: Pardon, Parole, or Unwarranted Excuses?

Moderator: Russell C. Riggan, Lewis, Rice & Fingersh, LC, St. Louis, MO

Panelists: Michael T. Taylor, Arent, Fox, Washington, DC
Michael Doyle, Office of the Solicitor, U.S. Department of Labor, Washington, DC
Stephen A. Yokich, Cornfield & Feldman, Chicago, IL

10:30 a.m. - 10:40 a.m. BREAK

10:40 a.m. - 11:35 a.m. Comments From The Commissions

Moderator: Lynn Rhinehart, AFL-CIO, Washington, D.C.

Panelists: The Honorable Horace A. Thompson, III, Chair, Occupational Safety and Health Review Commission, Washington, DC
The Honorable Michael F. Duffy, Chair, Federal Mine Safety and Health Review Commission, Washington, DC
11:35 a.m. - 12:35 p.m.  

**Legal Privileges and Ethics in OSHRC Discovery**

Moderator: Felix C. Wade, Schottenstein, Zox & Dunn, Columbus, OH

Panelists: Brian Duncan, Office of the Solicitor, U.S. Department of Labor, Dallas, TX

Stephen A. Yokich, Cornfield & Feldman, Chicago, IL

John C. Artz, Ogletree, Deakins, Nash, Smoak & Stewart, PC, Pittsburgh, PA

12:35 p.m.  

**ADJOURN**

6:00 p.m. – 7:30 p.m.  

**Committee Reception at the Loews Ventana Canyon Resort**

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**Friday, March 7, 2008**

7:30 a.m. – 8:15 a.m.  

**Registration**

7:30 a.m. – 8:15 a.m.  

**Continental Breakfast**

8:15 a.m. - 11:15 a.m.  

**General Session**

8:15 a.m. – 9:30 a.m.  

**State Plans Update**

Moderator: Scott H. Dunham, O’Melveny & Myers, LLP, Los Angeles, CA

Panelists: Federal OSHA Representative (invited)

Vicki Heza, Division of Occupational Safety and Health, California Department of Industrial Relations, Oakland, CA (invited)

Victoria L. Bor, Sherman, Dunn, Leifer & Yellig, PC, Washington, DC

Ronald W. Taylor, Venable, LLP, Baltimore, MD

9:30 a.m. – 9:45 a.m.  

**Business Meeting**
9:45 a.m. – 11:15 a.m.  

**New Directions for OSHA: Strategic Directions for Enhancing Workplace Safety and Health**

Moderator: Lynn Rhinehart, AFL-CIO, Washington, D.C.

Panelists:  Federal OSHA Representative (invited)

John J. Howard, Director, National Institute for Occupational Safety and Health, Washington, D.C.

Jordan Barab, Committee on Education and Labor, U.S. House of Representatives (invited)

Dennis J. Morikawa, Morgan, Lewis & Bockius, LLP Philadelphia, PA

11:15 a.m.  

**ADJOURN**