



Employment Law Section Annual Newsletter

Summer 2020

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ALSB 2020 Annual Conference: August 2-7 ONLINE

[General Information Link](#)

[Registration Link](#)

Join Us Online for Our Annual Section Meeting

Our annual section meeting will take place on August 4, 2020 from 5:00 to 6:45 pm. At this meeting, we will hear from our guest speaker, **Michael Gamboli**, a partner at Partridge Snow & Hahn LLP. Michael will talk to us about current issues in employment law, with a special focus on issues raised by the COVID-19 pandemic.

We will also resolve the issue of JELL’s future, announce the winner(s) of the Jackson Lewis Prize for Outstanding Employment Law Paper and elect a new slate of ELS section officers. Please see “Want to Become an Officer of the Employment Law Section” on page 4 of this newsletter if you would like to run for Secretary.

Upcoming Annual and Regional Conferences

The 2020 ALSB Annual Conference will take place entirely online from August 2-7, 2020. The conference registration link is [here](#).

The 2021 ALSB Annual Conference will take place from August 1-6, 2021, at the Renaissance Depot Hotel in Minneapolis, MN. The 2022 Conference will take place from July 27-31, 2022 at the Omni Hotel in Louisville, KY. For the location, dates, and submission deadlines for the ALSB regional conferences, please visit <http://alsb.mobi/regional-associations>.

Our Members’ Accomplishments

Our members had a highly productive year. **Charlotte Alexander** (Georgia State University) was named the Connie D. and Ken McDaniel Women Lead Chair and Associate Professor of Law and Analytics. She also received the 2019 FastCase 50 award, honoring "the law's smartest, most courageous innovators, techies, visionaries, and leaders." She published two articles in 2019. The first, *Litigation Migrants*, appeared in the ABLJ, and the second, *#MeToo and the Litigation Funnel*, was published in the Employment Rights and Employment Policy Journal. In addition, her article *Sorry (Not Sorry): Decoding #MeToo Defenses* was accepted for publication in the Texas

Employment Law Section Officers for 2019-2020

President:

Natalie Pedersen
Drexel University
Nbp24@drexel.edu

Vice President:

Carolyn Plump
LaSalle University
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Secretary:

Liz Brown
Bentley University
ebrown1@bentley.edu

Law Review (forthcoming 2020). Her article *Winning, Defined? Text-Mining Arbitration Decisions*, co-authored with Nicole Iannarone, will be published in the Cardozo Law Review this year, and *The Shadow Judiciary*, co-authored with Nathan Dahlberg and Anne M. Tucker, will appear in the Review of Litigation this year as well.

Leora Eisenstadt (Temple University) was granted tenure, promoted to Associate Professor and named Director and Founder of the Fox School Center for Ethics, Diversity and Workplace Culture. She published *Data Analytics and the Erosion of the Work/Non-Work Divide* in the ABLJ and *Employer or Big Brother? Data Analytics and Incursions into Workers' Personal Lives in Performance Appraisal in Modern Employment Relations: An Interdisciplinary Approach*, a book published by Palgrave Macmillan in 2019. She also coauthored an article with **Jeffrey Boles** (Temple University) and **Jennifer Pacella** (Indiana University) entitled *Whistleblowing in the Compliance Era*, which is forthcoming in the Georgia Law Review. Leora also published an op-ed in the Chicago Tribune entitled "Our Work-from-home World Is Proving More Job Flexibility Is Possible."



Linda Ficht (Christopher Newport University) wrote a bill (Senate Bill 480) based on her research that bans noncompete agreements for low wage earners, student interns, and independent contractors. It includes a \$10,000 penalty for each illegal contract, and an attorney fees and costs provision. This bill was signed into law and takes effect in Virginia on July 1, 2020.

Debbie Kaminer (Baruch College) published *Sex: Sexual Orientation, Sex Stereotyping and Title VII* in the Winter 2020 issue of the UCLA Women's Law Journal as well as *Discrimination Against Employees without Covid-19 Antibodies* in the New York Law Journal on May 4. She also published an op-ed on Bloomberg Law called *Fight the Pandemic, Mandate Flu Vaccines*, explaining why employers should adopt mandatory influenza vaccination policies, and why only minimal medical and religious exemptions to these policies are required under federal law.

Henry Lowenstein (Coastal Carolina University) received his university's Chauncey's Champion Excellence in Service Award, which recognizes service excellence that goes beyond the call of duty. His article *E-Commerce Meets UCC: Accord and Satisfaction by Instrument in Cyberspace* was published in the Southern Law Journal. With **Laura Sullivan** (Sam Houston State University), he

Employment Law Resources (links embedded)

Law360's Employment Law News

Workplace Prof Blog

Sheppard Mullin's Labor & Employment Law Blog

General Law Scholar Resources

WNYC's More Perfect Podcast

Supreme Court Oral Arguments

The SCOTUS Blog

co-authored *Contracts and the Covid19 Virus Pandemic*, which also appeared in the Southern Law Journal.

Christine O'Brien (Boston College) wrote an article called "Twenty-First Century Labor Law: Striking the Right Balance between Workplace Civility Rules That Accommodate Equal Employment Opportunity Obligations and the Loss of Protection for Concerted Activities under the National Labor Relations Act" that will appear in the William & Mary Business Law Review this year. Her article outlines the current state of the law regarding conduct that, while otherwise protected by Section 7 of the National Labor Relations Act, nonetheless involves workplace profanity or offensive speech that potentially violates employer civility rules and equal employment opportunity laws and recommends a solution that balances public policy interests with employer and employee rights.

Jennifer Pacella (Indiana University) has an article forthcoming in Washington Law Review entitled *The Regulation of Lawyers in Compliance*, in addition to *Whistleblowing in the Compliance Era* mentioned above.

Carolyn Plump (LaSalle University) co-authored the third edition of *A Student's Guide to Business Law* and wrote the chapter on "Ethics and the Law" in the new book *Giving Voice to Values: An Innovation and Impact Agenda*.

Alex Reed (University of Georgia) published *NAFTA 2.0 and LGBTQ Employment Discrimination* in the ABLJ this spring. His article provides the first comprehensive analysis of the United States-Mexico-Canada Agreement's implications for federal antidiscrimination law and demonstrates that—regardless of how the Supreme Court rules in a trio of LGBTQ employment cases—a footnote in that Agreement actually stands to help, not hinder, the cause of LGBTQ equality.

Recap: The 2019 Annual Meeting in Montreal

At our annual meeting last summer, the Employment Law Section had the pleasure of hearing from Danny J. Kaufer, a partner at the prestigious firm of Borden Ladner Gervais LLP (BLG) who focuses his practice on labor and employment law. Danny spoke about Canadian employment and labor law issues. His engaging talk included statistics on the levels of unionization in the Canadian provinces, differences between Canadian and U.S. labor law, requirements for mandatory severance pay, and a discussion on worker categories (i.e., employees, independent contractors, and dependent contractors).

We then discussed the future of the Journal of Employment and Labor Law (JELL), after the passing of its editor, Bonnie Roach. Given that the most recent publication in spring 2019 contained only one article, the question was whether to continue publishing JELL. Lucas Loafman reported that in a 2019 survey, six people responded. Four voted to continue JELL, all recommended publication no more than two times per year, and some called for increased marketing efforts. A discussion ensued among the approximately 20 members during which some members cited the journal's less than rigorous reputation as a reason to discontinue it (because members could not publish in it due to institutional constraints) while others noted the need to continue it for faculty at teaching institutions. Several members supported the idea of ELS offering an annual symposium or colloquium for articles.

In our elections, Natalie Pedersen was elevated to President and Carolyn Plump was elevated to Vice President by unanimous vote. Liz Brown was unanimously voted to be the next ELS Secretary. The Jackson Lewis Award was awarded jointly to Leora Eisenstadt and Liz Brown.

Want to Become An Officer of the Employment Law Section?

The Employment Law Section will vote at the annual meeting for a new officer to fill the Secretary position. If you are interested in joining the section's executive team, please send any of the current officers a brief bio/personal statement about why you want to run:

President: Natalie Pedersen: nbp24@drexel.edu

Vice President: Carolyn Plump: plump@lasalle.edu

Secretary: Liz Brown, ebrown1@bentley.edu

We will distribute any statements we receive via email prior to the section meeting. We will also accept nominations during that meeting.

Upon election, the Secretary begins a two-year ascension to the Presidency. The Secretary is responsible for publishing the section newsletter prior to the Annual Meeting, including soliciting updates from section members. The next year the Secretary would become the Vice President, whom the executive team has proposed will now be responsible for the management of the selection process for any section awards, presently the Jackson Lewis Outstanding Paper award. The Vice President assists the Secretary and President as



needed. The following year, the Vice President would become the President. The President is responsible for organizing and running the annual section breakfast or lunch, including finding and inviting a keynote speaker, and serving as the point person for any ALSB and section member inquiries.