

The 7th Annual

Litigating Employment Cases: *Views from the Bench*

Thursday-Friday, October 2-3, 2003 • Washington, DC • 13.0 CLE credits

25 FEDERAL & LOCAL COURT JUDGES

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WHY YOU SHOULD ATTEND:

This annual program is designed to provide you with plaintiff, defense and judicial perspectives — delivered as practical, pragmatic tips, “do’s” and “don’ts” and lessons learned — that will help you become a more effective employment litigator. What differentiates this program from other CLE programs is that most of this pragmatic advice is given to you by judges, the same men and women who will be presiding over your cases. Once again this year, we have enlisted the help of more than 20 U.S. District Court and local court judges, who will help you gain an “insider’s” view. Not only will the judges answer your questions, but they will also discuss and debate the “hottest” employment litigation issues. You will also receive tips and strategic pointers from leading employment law practitioners on both sides of the counsel table.

The entire litigation process will be analyzed, from preparation for trial to the post-trial process, in both panel discussions and comprehensive course materials. As a special bonus, you will gain valuable insights into drafting ADR protocols.

This is a practical, pragmatic seminar focused on helping you improve your skills. Any topics mentioned in the brochure that are not addressed at the program due to time constraints are included in the course materials.

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**Georgetown University
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Moot Courtroom, 1st Floor
600 New Jersey Avenue, NW
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We are confident that you will have
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PROGRAM AGENDA: LITIGATING EMPLOYMENT CASES 2003

Thursday, October 2

8:00 - 8:45 am

Registration and Continental Breakfast

8:45 - 9:00 am

Introductory Remarks Larry Center,

Executive Director, Georgetown CLE

9:00 - 10:15 am

Pre-Litigation Phase I

Pl.: **John M. Clifford**

Def.: **Jeanne M. Phelan**

Judges:

Hon. Charles B. Day
Hon. John M. Facciola
Hon. Claude M. Hilton

- Case selection
 - Fee basis
 - Evaluation: its elements
- Administrative proceedings
 - Charge preparations
 - Drafting position statements
- Document preservation and
spoliation considerations
- Litigation budgets (insurance
fee guidelines)
- Representation agreements

10:15 - 11:15 am

Pre-Litigation Phase II

Pl.: **Linda Hitt Thatcher**

Def.: **Abbey G. Hairston**

Judges:

- Hon. James C. Cacheris**
Hon. Paul W. Grimm
- Due diligence/investigation/
ex parte communications
 - Themes (story line)
 - Recurrent ethical concerns
 - Maintaining the privilege
 - Gathering statements of
witnesses
 - Insurance coverage
considerations

11:15 - 11:30 am

Refreshment Break

11:30 am - 12:30 pm

Initial Stages of Litigation

Pl.: **Daniel S. Koch**

Def.: **Pamela J. White**

Judges:

- Hon. Charles B. Day**
Hon. Henry E. Hudson
Hon. Joseph E. Irenas
- Complaint – elements
 - Media/ethics/ex parte
communication
 - Removal to federal court and
motion to remand
 - Corporate disclosures
 - Answer
 - Affirmative defenses

- Motions to dismiss/demurrer
- Motions for a more definite
statement
- Discovery plan
- Local rules - peculiarities
- Electronic filing

12:30 - 1:30 pm

Luncheon

Address by

Hon. Diana G. Motz,
*U.S. Court of Appeals for the
Fourth Circuit*

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1:30 - 2:30 pm

Discovery Strategies and Techniques

Pl.: **Joseph M. Sellers**

Def.: **Harriet E. Cooperman**

Judges:

Hon. Theresa C. Buchanan
Hon. Jillyn K. Schulze
Hon. Reggie B. Walton

- Initial disclosures
- Protective orders
- Discovery and recurrent
disputes
- Use of third party subpoenas
- Discovery plan
- Deposition tasks
- Discovery to plaintiff and
defendant
- Privilege logs
- Liability discovery
- Damages discovery

2:30 - 2:45 pm

Refreshment Break

2:45 - 4:15 pm

Depositions of Fact & Expert Witnesses

Pl.: **Harris D. Butler, III**

Def.: **Michael J. Carlson**

Judges:

- Hon. Sherrie L. Krauser**
Hon. Robert E. Payne
Hon. Reggie B. Walton
- Deferral of damages discovery,
especially expert reports
 - *Daubert* motions
 - Pyramid depositions
 - Time limits on depositions –
limits on time vs. limits on
numbers
 - Typical experts
 - Mental exams

4:15 - 5:30 pm

Summary Judgment Proceedings

Pl.: **Meredith S. Francis**

Def.: **Elizabeth L. Lewis**

Judges:

- Hon. John M. Facciola**
Hon. Joseph E. Irenas
Hon. Stanley P. Klein
- Rule 56(f) - Essential legal
principles
 - Local rules requirements
 - Practical techniques to obtain
summary judgment
 - Proven strategies for avoiding
summary judgment
 - Motions to strike summary
judgment evidence – waiver issue
 - The pretext battle – post-Reeves
 - Settlement techniques and timing
 - Importance of separate
statement of disputed facts
 - Building your motion/your
opposition as discovery develops
 - Affidavits that “clarify” or
“contradict” depositions

Friday, October 3

8:00 - 8:30 am

Continental Breakfast

8:30 - 9:30 am

The 60 to 90 Days before the Trial

Pl.: **Thomas J. Gagliardo**

Def.: **Mary E. Pivec**

Judges:

- Hon. John D. Bates**
Hon. William G. Connolly
Hon. Henry Coke Morgan, Jr.
- Motions practice in employment
cases
 - Pretrial order preparation
 - Witness preparation
 - A mock motion in limine –
recurrent evidence issues
 - Jury instructions
 - Voir dire
 - Summary of case for jury
 - Preparing the presentation of
exhibits – low tech/high tech
 - Technology in the courtroom

9:30 - 10:45 am

Trial Tips I

Pl.: **Timothy E. Cupp**

Def.: **Leslie M. Turner**

Judges:

- Hon. T.S. Ellis, III**
Hon. Joseph E. Irenas
Hon. Nan R. Shuker
- Presentation of plaintiff's case
on direct
 - Cross-examination of plaintiff's
case
 - Presentation of the defense and
affirmative defenses
 - Plaintiff's rebuttal case

- The jury charge session: keeping your head and making a coherent record
- Handling damages in opening and closing, and proof

10:45 - 11:00 am

Refreshment Break

11:00 am - 12:00 pm

Trial Tips II

Pl.: **Alan Banov**

Def.: **Deborah P. Kelly**

Judges:

Hon. Rosemary M. Collyer

Hon. Benson E. Legg

Hon. Richard L. Williams

- Those little-considered but vital motions at the end of the plaintiff's and defense's cases
- A mock jury charge session

12:00 - 1:30 pm

Lunch (on your own)

1:30 - 3:00 pm

Evidence - Recurrent Issues

Pl.: **Carolyn N. Lerner**

Def.: **Connie N. Bertram**

Judges:

Hon. Alan Kay

Hon. J. Frederick Motz

Hon. James R. Spencer

- Criteria for admission of electronic evidence
- Prior bad acts
- Civil Rule 412 – its scope
- Employer sex harassment investigation and privilege issues
- Experts and *Daubert*
- “Me too” evidence
- Comparators
- Character evidence
- Scope of treaters’ and lay persons’ testimony on emotional distress
- Statistics
- “Stray remarks”

3:00 - 3:15 pm

Refreshment Break

3:15 - 4:30 pm

Settlement and ADR – Drafting ADR Protocols

Pl.: **Robert B. Fitzpatrick**

Def.: **Roxane Sokolove Marenberg**

Judges:

Hon. Catherine C. Blake

Hon. Alan Kay

Hon. Gerald Bruce Lee

- Attorneys’ fees and costs
- Tax considerations
- ADR modes available; cost-benefit
- Mediation
- ADR – Binding or non-binding
- Confidentiality

4:30 pm

Adjourn

SPECIAL BENEFITS OF ATTENDING:

- Learn the secrets to being effective and efficient at each step of the pre-litigation process.
- Understand judicial viewpoints on the most common evidence issues in employment cases.
- Grasp the secrets to effective motions practice and receive judges’ warnings on what to avoid.
- Hear directly from the judges as they provide you with their top tips for employment law litigators.
- Obtain pragmatic strategies for planning and implementing discovery.
- Learn what judges really value in depositions of fact and expert witnesses.
- Receive a comprehensive review of summary judgment proceedings, including tips for obtaining and avoiding summary judgment.
- Gain access to sample forms and checklists provided by our experienced attorney speakers, documents which will immediately help you in your practice.
- Receive a list of the best employment law web sites for sources of research materials, forms, checklists and chat groups.

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