



NATIONAL RIGHT TO WORK LEGAL DEFENSE FOUNDATION, INC.
8001 BRADDOCK ROAD • SPRINGFIELD, VIRGINIA 22160

Stefan Gleason,
Vice President

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www.nrtw.org

June 4, 2007

Ms. Patricia Costello Slovak
Labor and Employment Law Section Chair
American Bar Association
321 N. Clark St.
Chicago, IL 60610

Dear Ms. Slovak:

I came across your "Comments from the Chair" article (see enclosed) in the Spring 2007 edition of the American Bar Association's Labor and Employment Law publication. Frankly, I was taken aback to see your remarkable claim that "in our Section, all presentations are balanced, with all sides of the debate aired." As you know, this is most assuredly not the case – at least as far as the Section's "Committee on the Development of the Law under the NLRA" is concerned.

In March, this Committee again held a series of unbalanced panels which conspicuously excluded the perspective of employees and their National Right to Work Legal Defense Foundation attorneys who brought the bulk of the litigation actually being discussed on the program.

Moreover, reports after the mid-winter meeting confirmed that the management and union presenters did not substantively present the perspectives of independent employees who are the charging parties and plaintiffs in these leading cases. Since unions and employers alike are the respondents and often codefendants in this area of litigation, the emphasis on their points of view alone provides no "balance" and is a disservice to ABA members.

I've enclosed a copy of my February 22 letter about these matters. I still await your response.

The perspectives of management and unions get plenty of play at these meetings. I'm glad you indicated a Section objective should be to "listen to and respect the views of all the players in the field of labor and employment law." That's why I think you will agree it is inappropriate for the Committee for the Development of the Law under the NLRA to continue excluding the viewpoints of independent employees exercising their Section 7 rights.

Accordingly, I again ask that the Committee invite one or more National Right to Work Foundation attorneys to present their work for employees at the next mid-winter meeting, particularly if a panel or series of panels are once again held regarding their cases.

Sincerely,

Stefan Gleason

CC: Karen Mathis, ABA President
Chairman Robert Battista
Member Peter Schaumber
Member Wilma Liebman
Member Dennis Walsh
Member Peter Kirsanow

General Counsel Ron Meisburg
W.V. Siebert, Committee Co-Chair
Paul Iverson, Committee Co-Chair
Barry Kearney, Committee Co-Chair
Prior Attendees

Defending America's working men and women against the injustices of forced unionism since 1968.

Comments

from the Chair



Patricia Costello Slovak

In addition to frequent flyer miles, I have gained some important perspective on our Section during this season of committee midwinter meetings: we really are better lawyers when we listen to and respect the views of all the players in the field of labor and employment law.

Some images come to mind from the midwinter meetings—the ADR in Labor & Employment Law Committee's new "Scholar-in-Residence" Professor Rick Rossein speaking about emerging issues; Davitt McAteer's moving description of the Sego Mine disaster at the Occupational Safety and Health Law Committee meeting; Rick Seymour, Marv Gittler, and Steve Hymowitz engaged in spirited but unfailingly courteous debate on cutting edge topics at the Employment Rights and Responsibilities (ERR) Committee meeting. These images, along with many others, confirm what I already knew; that is, in our Section, all presentations are balanced, with all sides of the debate aired. The result is sometimes a new consensus, but even when no consensus emerges, the result is often a new understanding of the other side of the story. You cannot get that in any other CLE programs. More than legal understanding is gained. Personal friendships are formed

We are better lawyers when we listen to the views of all the players.

across "party" lines, spouses become friends, children grow up together. For sure, you do not get that with the usual CLE providers, at any price. We are better lawyers and better people because of our participation in this Section.

One of our major goals this year has been to expand the reach of our Section's work. To that end, we looked at the problem of attorneys who do not attend our programs because their employers do not or cannot provide financial support. We established a **Section Development Fund** to provide support for such individuals. Successful applicants for the fund will be reimbursed for attendance at the Annual CLE Conference and a midwinter committee meeting. We hope that this will enable new participants to benefit from our programs and that they will become part of the fabric of our Section. Application forms are available on the Section website or from Judy Stofko at 312/988-5813. They are due by June 1, 2007.

Speaking of that **Annual CLE Conference**—as you will see elsewhere in this issue, the program for our first CLE conference next November in Philadelphia is phenomenal! It will be the most comprehensive, innovative CLE program in the labor and employment law field, offering training for new lawyers and sophisticated skill development for the more advanced. Be there! And mark your calendars for the 2008 Annual CLE Conference as

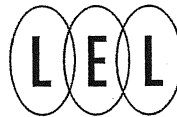
well, which be held in September in Denver, Colorado.

And do not forget San Francisco. At this year's **ABA Annual Meeting**, we will have some great CLE programming from Friday–Sunday, August 10–12, along with a very cool reception on Friday night at Ruby Skye. The Margaret Brent luncheon will be on Sunday, and I am pleased to tell you that Judge Marsha Berzon of the Ninth Circuit, whom our Section nominated, will be one of the recipients of the award this year. Congratulations to Judge Berzon. I hope to see many of you at the luncheon.

We are expanding our reach to more law students as well. Our **Trial Advocacy Competitions** will expand to two more cities next fall: Dallas, Texas, and Miami, Florida. Even more exciting, we will inaugurate a National Trial Advocacy Competition in which our six regional winners will compete in Chicago for the trophy January 26–27, 2008.

Our reach also expands to those not so fortunate. Our **Pro Bono Committee** is developing a Model Law Firm Pro Bono Policy geared toward labor and employment law practitioners. Of course, the committee oversees the Frances Perkins Public Service Award process as well. If you know of someone worthy of this award, visit the Section website at www.abanet.org/labor/pbcomm/frances_perkins.shtml for more information, including how to submit a nomination.

The last image I want to leave you with from the midwinter meetings is one in which management, union, and plaintiff lawyers, professors, judges, government lawyers, spouses, and friends joined together for something other than our usual legal debate: 70-plus attendees of the ERR meeting cleaned and painted a park building/concession stand/restroom facility in one of the devastated areas of New Orleans so that local kids would be able to use it this summer. It made all of us realize that, although we may be tired of requests for contributions to the hurricane relief effort in New Orleans, many folks there still need a great deal of help. Please think of that and consider making a donation now to the **Section Information Fund for the New Orleans and Louisiana Public Libraries**. The form is on our website at www.abanet.org/labor/infofund.html. ■



Labor & Employment Law

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February 22, 2007

Karen J. Mathis, President
American Bar Association
321 N. Clark St.
Chicago, IL 60610

Patricia Costello Slovak
Labor and Employment Law Section Chair
American Bar Association
321 N. Clark St.
Chicago, IL 60610

Dear Ms. Mathis and Ms. Slovak:

On behalf of the National Right to Work Legal Defense Foundation, I write regarding recent, troubling developments involving the American Bar Association's upcoming mid-winter meeting of the Section of Labor and Employment Law's Committee on the Development of the Law under the National Labor Relations Act.

The Committee's actions regarding selection of program speakers raise serious questions about the fairness and probity of the ABA and surely run counter to its motto, "Defending Liberty, Pursuing Justice."

This year's program, scheduled March 4-7, 2007 in Hawaii, features six plenary sessions regarding issues pending before the National Labor Relations Board and the courts. Three of these six panels concern pending cases brought by National Right to Work Foundation attorneys for employees against offending unions and employers.

The three plenary sessions deal directly with cases involving "card check" organizing and "neutrality agreements" – and specifically whether they violate LMRA Section 302, NLRA Section 8(a)(2) because of premature bargaining, or NLRA Section 8(e) as "hot cargo" agreements.

The spotlighted cases (and virtually all other pending cases in this area of labor law) were brought on behalf of employees represented by National Right to Work Foundation attorneys. Immediately after the panel topics were first made public in November (but before the publication of any speaker selections), we offered the attorneys handling this litigation to speak on these panels.

Sadly, despite our repeated inquiries and offers, the Committee rebuffed all offers to participate in the presentations by the Foundation attorneys handling the very cases selected for discussion.

Defending America's working men and women against the injustices of forced unionism since 1968.

Letter to Ms. Mathis and Ms. Slovak

February 22, 2007

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In the context of card check agreements, commonly neither the union *nor* the company takes steps to defend the employees' statutory right to refrain. Indeed, the employers and unions are joint defendants in most such cases. Of course, the issue upon which these cases hinge is the employees' right to choose for themselves whether to unionize – free of coercion by either union or management officials (or both).

The absence of other recourse for employees who may, for a variety of reasons, not want union officials as their monopoly bargaining representatives is why National Right to Work Legal Defense Foundation attorneys have so often been called upon by employees to defend their legal rights.

For your background, I've enclosed our correspondence with a co-chairman of the Committee. The excuses provided for excluding National Right to Work Foundation attorneys from these panels about their cases have evolved over the past few months. In the meantime, however, *opposing union counsel in the specific cases at issue have been added to the published program to explain their positions.* And management attorneys have been added to explain the positions of employers.

We also understand that union lawyers have threatened to boycott ABA meetings where National Right to Work Foundation attorneys are allowed to make presentations.

A decision to silence the voices of the only parties granted rights under the Act – the employees exercising the right to participate in, or refrain from, union activity – based upon juvenile and unprofessional threats by union lawyers or specious reasons can only discredit the American Bar Association and its leaders.

Moreover, a program that so conspicuously and intentionally omits one side to the issues under discussion jeopardizes the integrity of these conferences that seek attendance by every Member of the National Labor Relations Board, its General Counsel, and other “neutrals.” Such neutrals may well rethink their formal participation on this controversial ABA program.

The ABA, its members, and the legal community generally are poorly served by this deliberate decision to present an unbalanced program about this rapidly developing and high-profile area of labor law.

Sincerely,



Stefan Gleason

Vice President

CC: Chairman Robert Battista
Member Peter Schaumber
Member Wilma Liebman
Member Dennis Walsh
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