Message from the Section Chair

This fall has been a heady time in employment and labor relations. Government workers were furloughed across the country while Congress wrestled with the government shutdown. The Affordable Care Act's employee notice and insurance exchange provisions went into effect, with major tech issues for healthcare.gov. Same-sex marriages blossomed, with significant implications for employee benefits. In New York, the New York City Council enacted the Pregnant Workers Fairness Act, expanding job protections for pregnant employees. A federal court in New York held that unpaid interns are not employees for purposes of sexual harassment claims under the New York State and City Human Rights Laws. And in Tennessee, there was a possible harbinger of significant changes in labor-management relations: management at a new Volkswagen plant sought to establish a "workers council," based on the European model in which employees share in management of the enterprise.

We are at a critical juncture over how our workplaces work. Union membership is at its lowest level in 97 years—little more than 11 percent. In 2012, union membership dropped by 400,000, even as employment grew by 2.4 million jobs. According to studies analyzed in a recent article in *The Atlantic*, when it comes to income inequality—the gap between the super-wealthy, the wealthy, and the rest of the population—we are at a ratio comparable to the scores of Rwanda and Uganda. China actually does better on this scale than we do.[1]

The eminently successful capitalist Warren Buffet says that "the American populace as a whole has not come back (from the 2008 recession). Inequality is getting wider[.]"[2]

You don't have to be a dogged liberal to be concerned when the middle class is insecure. Low wages may help employers make short-term profits, but historically, when the middle class struggles, the likelihood of political instability and political extremism gets stronger.

Ideological battles aside, why does this matter to us as labor and employment lawyers? Whatever side we practice on, it's in our clients' interests that employers' and employees' interests are fairly aligned—so the work gets done, and employees are well-treated and well-motivated. While dissatisfied employees may generate litigation which produces recoveries for plaintiffs and legal fees for lawyers, an unstable workplace isn't good for anyone. Ironically, clients on both sides often conclude that employment laws and the judicial system are skewed to favor the opposition.

While we as lawyers can't fix these structural problems, we can work to educate each other and advocate about the issues involved in workplace conflicts, while advancing our clients' goals. Our Section's CLE programs and committees provide a way to do this.

Our Fall Meeting in Niagara-on-the-Lake succeeded in presenting a great variety of CLE programs, in a beautiful setting. We had more than one hundred registrants. Our panels covered the use of medical information when employees request leave or accommodations; the NLRA's new decisions affecting at-will employment, internal investigations and the use of social media; immigration issues impacting employment law; ethical issues in FLSA cases; best practices in labor arbitration; judicial review of PERB and public sector arbitration decisions; and labor laws affecting military service members. Thanks to CLE Chairs Sharon Stiller and Seth Greenberg for all their hard work in planning the meeting, and to Beth Gould and Cathy Teeter for all their great work on logistics. Thanks also to Rachel Santoro and Genevieve Peeples, who coordinated the pairing of volunteer mentors for every first timer at the meeting.

I particularly want to highlight the work of the Communications Committee, which, in conjunction with John Gaal, fully updated the Section's website, which also has a new design in line with the redesign of the NYSBA website. The Committee is posting papers from the Fall Meeting on the site. The Committee urges members to use the website to publicize activities, and to post blog entries on the LENY blog. Please contact Mark Risk about posting announcements and David Reilly about the blog.

Finally, welcome and thanks to two new Committee chairs: Allyson Bellovin (Labor Relations) and Nathaniel Lambright (Public Sector Labor Relations).

The CLE Committee has been planning our Annual Meeting for January 31, with a great mix of panels. I hope to see you there.

Best wishes for a good 2014.

Endnotes

1. *See* http://www.theatlantic.com/international/archive/2011/09/map-us-ranks-near-bottom-on-income-inequality/245315/.
2. http://www.youtube.com/watch?v=V4oJ_X_bPCo.

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