

**American Bar Association Section of Labor & Employment Law
International Labor and Employment Law Committee
Midyear Meeting
Hotel Majestic
Barcelona, Spain
May 3-7, 2015**

PROGRAM AGENDA

Sunday, May 3

7:30 – 9:00 p.m. **Welcome Reception at Hotel Majestic (*New House Garden*)**

Sponsored by:

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| Bloomberg BNA | Matheson |
| Borden Ladner Gervais, LLP | Morgan Lewis & Bockius LLP |
| Broach and Stulberg, LLP | Orrick, Herrington & Sutcliffe LLP |
| Davis Wright Tremaine LLP | Outten & Golden LLP |
| ELLINT Employment & | Proskauer |
| Labor Lawyers International | Taylor Wessing LLP |
| Epstein Becker & Green, P.C. | |

Monday, May 4

7:30 – 8:00 am **Registration (*Mediterraneo Ballroom Foyer*)**

8:00 – 8:30 am **Welcome by Committee Co-Chairs (*Egeo & Mármara*)**
Danny Kaufer, *Borden Ladner Gervais, LLP, Montréal, Québec, Canada*
Maryann Parker, *SEIU, Washington, D.C.*
Robert B. Stulberg, *Broach & Stulberg, LLP, New York, New York*

8:30 – 9:00 am **Welcome: Consul General of the U.S. Consulate General in Barcelona**
We will be welcomed by Tanya C. Anderson, Consul General, and learn about the challenges and opportunities on the ground in our host country.

Tanya C. Anderson, *Consul General, U.S. Consulate General, Barcelona, Spain*

9:00 – 10:00 am **Spanish Labor and Employment Law:
Overview and Practice Under the 2012 Reforms**
Spanish labor and employment law embraces written contracts, job security and minimum work conditions for most employees, and robust protection of trade unions and works councils. In 2012, the Spanish Parliament enacted dramatic changes to those laws (“2012 Labor Reforms”), which generally reduced protections for workers and unions and increased employer prerogatives. This panel will provide an overview of Spanish labor and employment laws and practice, and explore the cultural, political and historical roots from which they emerged. Panelists also will survey the 2012 Labor Reforms and other labor and employment controversies pending in Spanish legislatures, courts, tribunals and collective-bargaining forums.

Moderator: Bryan Dunne, *Matheson, Dublin, Ireland*

Speakers: Magistrado Fernando Valdés Dal-Ré, *Tribunal Constitucional de España, Madrid, Spain*
Salvador del Rey, *Cuatrecasas, Gonçalves Pereira, Barcelona, Spain*
Laura Pelay, *Catalunya UGT, Barcelona, Spain*

10:00 – 10:15 am **Coffee Break (*Liguria*)**

10:15 am – 12:30 pm

Flexicurity or Flexiprecarity?

Austerity, Inequality and Recovery in Spain and Around the World

Under pressure from the EU Commission, the International Monetary Fund and the World Bank, all 28 EU member states have adopted or proposed changes to their labor and employment laws, including, variously, reduced dismissal protections, decreased severance pay requirements and decentralized collective bargaining from the national/sectoral level to the company level. Proponents have hailed these changes as the start of a long overdue era of flexibility for employers that will decrease unemployment and restore financial stability. Opponents have castigated them as a frontal assault on worker protections designed to depress wages, weaken labor unions and further concentrate wealth.

a. Debate: The Spanish Case

This moderated debate will address the wisdom and effectiveness of the 2012 Labor Reforms in the country's current austerity conditions; the responses to those changes in the legislature and courts, at the bargaining table, and on the streets; and the arguments for maintaining, expanding or repealing those changes.

Moderator:

Esther Martin, *CM Murray, London, United Kingdom*

Speakers:

Magistrado Félix V. Azón Vilas, *Tribunal Superior de Justicia de Catalunya, Barcelona, Spain*
Ignacio García-Perrote, *Uriá Menéndez, Madrid, Spain*
Dra. Julia López López, *Universitat Pompeu Fabra, Barcelona, Spain*

b. Panel: Reactions and Perspectives from the European Union and Beyond

Panelists from multiple jurisdictions will address their nations' approaches to labor and employment law reform in the global economic climate. The panel will explore the doctrine of "flexicurity," which seeks to strike a balance between the European pro-worker social model and the need to improve EU competitiveness, while simultaneously reducing "segmentation" between workers protected by individual or collective contracts and "precarious" workers, who lack such protection.

Moderator:

Esther Martin, *CM Murray LLP, London, United Kingdom*

Speakers:

Cristiano Cominotto, *Assistenza Legale, Rome, Italy*
Bronwyn McKenna, *UNISON, London, United Kingdom*
Filip Saelens, *Loyens & Loeff, Brussels, Belgium*
Patrick Thiébart, *Jeanet Associés, Paris, France*

1:30 – 5:30 p.m.

Gaudi Tour (optional ticketed event)

7:30 – 8:30 p.m.

Cocktail Reception

Sponsored by:

Cuatrecasas, Gonçalves Pereira ~ Passeig de Gràcia, 111

Tuesday, May 5

7:30 – 8:30 a.m.

Breakfast Diversity Program:

Balancing the Demands of Caregiving with Legal Practice (*Alborán*)

Lawyers frequently confront the need to balance the demands of their practice with those of their roles as caregivers – for children, parents, spouses, partners, siblings and others. Achieving that balance can be challenging for the lawyer, the law firm, the legal department and the law school, especially when the competing demands are urgent, chronic and seemingly irreconcilable. Our multi-national panel of experts will lead a discussion exploring the contrasting legal frameworks, internal policies and cultural norms that inform this issue, and discuss how various stake holders manage the challenges of work-life balance in our profession.

Moderator:

Robert B. Stulberg, *Broach & Stulberg, LLP, New York, New York*

Speakers:

Colleen Cleary, *Colleen Cleary Solicitors, Dublin, Ireland*
Brian Johnston, *Stewart McKelvey, Halifax, Nova Scotia, Canada*
Ana Higuera Garrido, *Fundación Fernando Pombo, Spain*

8:45 – 10:00 am

Foreign Workers, Guest Workers and Refugees: Managing the Legal Challenges of Non-Traditional Employment Relationships Across Borders

(Egeo & Mármara)

Many foreign workers, guest workers and refugees take on great risks and hardships to find employment. At the same time, companies often struggle to find and retain a stable workforce to perform jobs that are ostensibly unattractive or unacceptable to locals. This panel will examine what legal options, if any, exist to protect foreign workers when the employment relationship is severed, including as a result of workers attempting to exercise their rights. Panelists also will discuss how their countries have attempted to balance the rights of workers and the objectives of employers in these situations.

Moderator:

Pascal Rochefort, *Dunton Rainville, Montréal, Québec, Canada*

Speakers:

Judith Droz Keyes, *Davis Wright Tremaine LLP, San Francisco, California*
Jennifer Rosenbaum, *National Guestworker Alliance, New Orleans, Louisiana*
Alex Spinrad, *Alexander Spinrad & Co., Tel Aviv, Israel*
Iván Suárez Telletxea, *Bufete Suárez de Vivero, S.L., Barcelona, Spain*

10:00 – 10:15 am

Coffee Break (Liguria)

10:15 – 11:30 am

**Independent Contractors and Interns,
“Zero-Hours” Contracts and Just-in-Time Scheduling:
Organizing, Representing and Bargaining with Precarious Workers**

Faced with market pressures to increase the bottom line, companies around the world are turning to and even creating whole new categories of workers who may not be paid for their services, or are paid only for specific projects or for hours worked. Still more workers find their employment subject to contingencies or the vagaries of scheduling software. Our panel of experts will examine these new work forms and assess how legislation, regulation, workplace agreements and collective actions have shaped non-traditional, precarious employment around the globe.

Moderator:

Wayne N. Outten, *Outten & Golden LLP, New York, New York*

Speakers:

Earl Brown, *Solidarity Center, Washington, D.C.*
Román Gil Alburquerque, *Sagardoy Abogados, Madrid, Spain*
Georgina Hirsch, *Devereux Chambers, London, United Kingdom*
Yasmine Tarasewicz, *Proskauer, Paris, France*

11:30 am – 12:45 pm

**Not Just Your National Pastime: Global Labor and
Employment Law Issues in Basketball, Fútbol and International Sport**

Our host city – the home of FC Barcelona, the second most valuable sports team in the world – will serve as the perfect backdrop for a discussion of the labor and employment law challenges that characterize the world of international sport. Our panelists, who represent players, clubs and player unions, will focus on professional soccer and basketball and consider cross-border issues that bear much in common with other multinational industries. In particular, they will address the challenges of crafting employment contracts – and setting collectively-bargained minimums and standards – that operate effectively in many jurisdictions, and provide cross-border perspectives on topics such as freedom of movement, player discipline and arbitration.

Moderator:

Stephen B. Moldof, *Cohen, Weiss and Simon LLP, New York, New York*

Speakers:

Rubén Agote, *Cuatrecasas, Gonçalves Pereira, Barcelona, Spain*
Massimo Coccia, *Coccia De Angelis Pardo & Associati, Rome, Italy*
Gary Kohlman, *National Basketball Players Association, New York, New York*
José Luis Llorente, *Asociación de Baloncestistas Profesionales (ABP), Barcelona, Spain*
Howard Z. Robbins, *Proskauer, New York, New York*

1:30 – 5:30 p.m.

Picasso and Old City Tour (optional ticketed event)

Wednesday, May 6

7:30 – 8:00 am

Registration (*Mediterraneo Ballroom Foyer*)

8:00 – 8:30 am

**Committee Business Meeting and Update from Section Leadership
(*Egeo & Mármara*)**

Danny Kaufert, *Employer Co-Chair, Borden Ladner Gervais, LLP, Montréal, Québec, Canada*
Maryann Parker, *Union & Employee Co-Chair, SEIU, Washington, D.C.*
Robert B. Stulberg, *Employee Co-Chair, Broach & Stulberg, LLP, New York, New York*

Joyce Margulies, *Section Chair, Margulies Employment Law Consulting, Memphis, Tennessee*
Wayne N. Outten, *Section Chair-Elect, Outten & Golden LLP, New York, New York*
Joel A. D'Alba, *Union & Employee Council Liaison, Asher Gittler & D'Alba, Chicago, Illinois*
Stewart S. Manela, *Employer Council Liaison, Arent Fox LLP, Washington, D.C.*

8:30 – 9:30 am

**Pay Equity, Caregiving and the Challenges of Work-Life Balance:
International Responses and Solutions**

The OECD in Europe, the GAO in the U.S. and the Library of Parliament in Canada, have all reported on the pay gap between men and women – and the workforce challenges that face all caregivers. This panel will examine issues of pay equity, including the perennial problem of the glass ceiling. It also will examine how supports for women, parents and caregivers more generally – whether bargained in contracts, secured in law, or provided by employer policies – can fuel economic growth and address growing inequality in many countries.

Moderator:

Caroline Fredrickson, *American Constitution Society (ACS), Washington, D.C.*

Speakers:

The Honorable Charlotte Burrows, *U.S. Equal Employment Opportunity Commission, Washington, D.C.*
Dr. Susanne Burri, *University of Utrecht, Utrecht, Netherlands*
Melanie Crowley, *Mason Hayes & Curran, Dublin, Ireland*
Gary Siniscalco, *Orrick, Harrington & Sutcliff, San Francisco*

9:30 – 10:30 am

**Does the Work Day Ever End? How Employers, Unions and
Employees are Grappling with Email, Social Media, BYOD and
On-Call Responsibilities Around the Clock and Around the Globe**

Workers around the world are increasingly wired to their devices even when they are not physically present at work. This panel will explore the many labor and employment issues that arise when work can be, and is, performed at any hour of any day or night, including: compensation for work done outside of regular hours and/or outside of the workplace; defining and managing – by law, regulation, individual contract or collective bargaining agreement – the work day and work week; protecting privacy and employer trade secrets; work-life balance; employee health and safety; and concerted activity and organizing in workplaces without time limits. The panel will explore the ways that different jurisdictions have addressed these concerns.

Moderator:

Christopher Jordan, *CMS Hasche Sigle, Cologne, Germany*

Speakers:

Katherine Blostein, *Outten & Golden LLP, New York, New York*
Claire Dawson, *Slater Gordon, London, United Kingdom*
Kimberly M. Sánchez Ocasio, *SEIU, Washington, D.C.*
Ian Carleton Schaefer, *Epstein Becker & Green, P.C., New York, New York*

10:30 – 10:45 am

Coffee Break (*Liguria*)

10:45 – 11:45 am

Mergers and Acquisitions: Key Concerns in Labor and Employment Law

Cross-border mergers and acquisitions often involve complex issues of labor and employment law. Some of these issues are governed by the statutes of the jurisdiction(s) in question, but others, such as vested rights, acquired rights and *de facto* firings, may be left to local custom and interpretation. Our panel of employer, employee and union experts will identify and address the issues that attorneys and clients should be aware of when seeking to make or respond to a transnational deal.

Moderator:

Mark S. Dichter, *Morgan Lewis & Bockius, LLP, Philadelphia, Pennsylvania*

Speakers:

Sonia Cortés, *Abdón Pedrajas & Molero, Barcelona, Spain*

Marjorie R. Culver, *Seyfarth Shaw, New York, New York*

Atul Gupta, *Trilegal, Bangalore, India*

Pierre Moreau, *Pierre Moreau & Associates, Montréal, Québec, Canada*

11:45 am – 12:45 pm

Old – and New – Models for Setting and Enforcing Labor Standards

This year the United States, Canada and the European Union are expected to adopt labor provisions as they enter into historic trade agreements (T-TIP and CETA). In addition to international commerce pacts that incorporate labor standards, multinational firms' supplier codes and corporate social responsibility policies are exerting ever greater influence over cross-border commerce. Our panel of experts will explore both of these models and discuss whether a product's suitability for trade should hinge not only on its soundness and safety ("product" regulation) but also on the process by which it was produced ("process" regulation).

Moderator:

Judy Scott, *SEIU, Washington, D.C.*

Speakers:

Steve Gibbons, *Ergon Associates, London, United Kingdom*

Pablo Santos Fita, *Deloitte Abogados, Barcelona, Spain*

Owen Herrstadt, *LAMAW, Washington, D.C.*

Marley Weiss, *University of Maryland School of Law, Baltimore, Maryland*

1:30 – 5:30 p.m.

Miró Tour (*optional ticketed event*)

8:00 – 11:00 p.m.

Reception and Gala Dinner at *El Principal ~ Carrer de Provença, 286-288*

Thursday, May 7

7:30 – 8:15 am

Registration (*Mediterraneo Ballroom Foyer*)

8:15 – 9:30 am

From Germany to Tennessee, from Mondragon to Michigan: The Impact of Imported Foreign Models for Worker Organizing and Empowerment on U.S. Workplaces and Multinational Companies (*Egeo & Mármara*)

Has VW's adoption of German-style works councils at its Chattanooga, TN assembly plant sounded a new bell for companies and trade unions alike in the United States? Our panel of experts will comment on whether VW's imported labor model is portable and transferable to other parts of the United States and to businesses other than the automotive industry, and whether this is a positive development for unions, companies and employees. Our panel also will consider other foreign models for worker organizing and empowerment, like worker-owned cooperatives pioneered in Spain by Mondragon Cooperative Corporation (MCC) and emulated on a smaller scale in many U.S. cities, and low-wage worker centers established in Mexico and in numerous immigrant and minority communities in the U.S.

Moderator:

Gerlind Wisskirchen, *CMS Hasche Sigle, Cologne, Germany*

Speakers:

Dra. Consuelo Chacartegui Jávega, *Universitat Pompeu Fabra, Barcelona, Spain*

Matt Durham, *Winston & Strawn LLP, Beijing and Shanghai, China*

Benjamin Sachs, *Harvard Law School, Cambridge, Massachusetts*

Steve Swirsky, *Epstein Becker & Green P.C. New York, New York*

9:30 – 10:45 am

**New Strategies to Achieve Minimum,
Maximum, Living and Sectoral Wage Rates**

Over the past several years, we have witnessed an increase in wage initiatives around the world, both to address rising inequality of income and declining coverage of traditional collective agreements. In the United States, many states, including Alaska and Arkansas, have raised the minimum wage, many cities have passed living wage laws, and the “Fight for 15” has embodied a new kind of worker organization in hundreds of cities, spilling over from the fast food industry into many other sectors and countries. The minimum wage laws in Germany, Japan and other countries reveal important trends in wage-setting. These efforts have been mirrored by increasing efforts to rein in exorbitant compensation at the top end, including maximum wage campaigns in several jurisdictions. Our panel will explore these developments and what they mean from employer, employee and union perspectives.

Moderator: Catherine Ruckelshaus, *National Employment Law Project (NELP),
New York, New York*

Speakers: Sharon Block, *U.S. Department of Labor, Washington, D.C.*
Paul Callaghan, *Taylor Wessing, London, United Kingdom*
Michael Delikat, *Orrick Herrington & Sutcliffe LLP, New York, New York*
Jeffrey Vogt, *International Trade Union Confederation (ITUC), Brussels, Belgium*

10:45 – 11:00 am

Coffee Break (*Liguria*)

11:15 am – 12:30 pm

**Restrictive Covenants and Labor Mobility: A Case Study of
Non-Competes, and Choice-of-Law Provisions, in the Legal Profession**

This panel will focus on the legal and ethical issues involved when restrictive covenants are enforced across multinational jurisdictions against lawyers in law firms. In most states in the US, non-competes and non-solicitation agreements are unenforceable against lawyers. Notice and “garden leave” provisions are often temporally limited as well, and attempts to enforce them can even lead to ethics charges. But this is not the case in the EU, where, in fact, restrictions against lawyers are more enforceable than such restrictions would be against other groups of employees. A panel of lawyer’s lawyers on both sides of the Atlantic will address the strategic issues involved in these cases, suggest practical solutions to these disputes, and provide guidance on the in-house response to these situations as a plaintiff or defendant.

Moderator: J. Peter Coll, *Orrick Herrington & Sutcliffe LLP, New York, New York*

Speakers: François Berbinau, *BFPL Avocats, Paris, France*
Wendi S. Lazar, *Outten & Golden LLP, New York, New York*
Clare Murray, *CM Murray, London, United Kingdom*
Thomas Rihm, *Thouvenin Rechtsanwälte & Partner, Zürich, Switzerland*