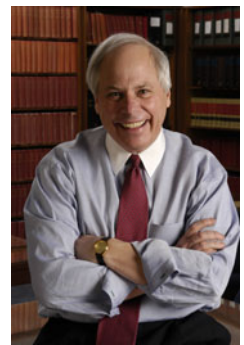


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## THE VICE PRESIDENT'S VIEW

Let's talk about DIVERSITY - not diversity based on race or gender or geography, but diversity in terms of the kinds of attorneys who make up the College of Labor and Employment Lawyers. Although there are a few who do not fall into these categories, the membership of the College is largely drawn from six different practice groups: attorneys who represent management; attorneys who represent labor organizations; attorneys who represent individual employees or former employees (and applicants for employment); attorneys employed by the government; neutrals, including labor arbitrators, mediators and investigators; and law professors.



We are in the midst of our most important work: vetting the seventy-seven nominees for the Class of 2018. You should all have received a list of these nominees by Circuit. Let's take a look at how the class breaks down by practice group: eight are neutrals, one is

employed by the government, and two are law professors. Take a guess at the remainder: 12, or 15.5%, identify themselves as employee representatives, 48, or more than 62%, identify themselves as management representatives and only 6, or less than 8%, identify themselves as union representatives. ***There is our startling lack of diversity.***

The numbers for 2018 are only a slight aberration. I have looked back at the 596 distinguished lawyers who have been admitted to the College since 2010. Attorneys who represent management make up 348 of them, or more than 58%. Only 96, or 16%, are union lawyers. Only 82, or 13.75%, are attorneys who represent individual employees. Forty-two, or 7%, are neutrals, sixteen, or 2.7%, are government attorneys and twelve, or 2%, are law professors.

Some of you may not share my concern about these striking disparities. You may suggest that management lawyers outnumber union-side or employee-side attorneys across the country (and in Canada). You may also suggest that admission to the College has greater marketing value to management attorneys, which at least in part, drives the larger number of nominations from the management bar.

All of the above is probably true. But I believe that my concern about diversity – or the lack of it – was shared by the founders of the College. They included a provision at Article III, Section 2 of the College's By-Laws giving the Board of Governors the authority to establish, from time to time, limitations on membership "necessary to maintain a balance of interests and geographical distribution which will contribute to the collegial fellowship and the purposes and objectives of the College." The Founders understood that diversity or balance – broadly defined – was essential to facilitating the values of professionalism, civility and collegiality which are at the core of our mission.

The Board of Governors has never exercised its authority under Article III, Section 2 of the By-Laws. All of us have a role to play in assuring that the Board of Governors never has to exercise that authority. Each of us has to search out and nominate qualified candidates from under-represented constituencies: employee representatives, government attorneys, neutrals and law professors, as well as those who represent organized labor. The future of the College depends on all of us doing our share to ensure the diversity or balance which our founders envisioned – and upon which attainment of the College's mission depends.

*John R. Runyan, Jr.*  
*Vice President*

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## 23RD ANNUAL INDUCTION DINNER

Join us on "The Streets of San Francisco" Saturday, November 10th for the 23rd Annual Induction Dinner at **One Market** in the Spear Tower, located near the iconic location

featured in the opening credits of the 1970's hit TV show of the same name. Fellows, their guests and our new Inductees will be dining and celebrating at One Market Restaurant, which was also the site of the 2nd Annual Induction Dinner in 1997. This time though, we're a slightly bigger crowd!



The Embarcadero area has undergone a huge transformation from the original working Ferry building and Pier, most notably the removal of the Embarcadero Freeway. The freeway that used to physically block the Ferry Building and the pier from the rest of the city was damaged during the 1989 earthquake and subsequently torn down in 1991. In 2002, a restoration and renovation were undertaken to redevelop the entire complex. The subsequent redevelopment and restoration efforts have, according to the National Trust for Historic Preservation, “contributed to a remarkable urban waterfront renaissance, with the Embarcadero Historic District serving as a major economic engine for the Bay Area.”

In the past several years, room blocks have been secured as a courtesy for those Fellows who were not attending the ABA Labor & Employment Law Section's CLE Seminar. Unfortunately, a city-wide convention this year in San Francisco has made it impossible to contract for a room block of any reasonable size. You are encouraged to start your hotel search now, if you do in fact, plan on attending the dinner, and although we haven't identified any hotels willing to give us a block at this time, we are continuing to look for a hotel (or two) close by the dinner venue and will keep you apprised of any such plans.

***Hotels within walking distance of One Market are listed below:***

[Hyatt Regency Embarcadero](#) (4 stars)

[Hotel Vitale](#) (4 stars)

[Hotel Griffon](#) (3 stars)

[Hotel Harbor Court](#) (3 stars)

A *Save the Date* will be mailed soon and dinner Invitations will be mailed in mid-August. Any information on room blocks and hotel arrangements, including the San Francisco Hilton, site of the Labor and Employment Law Section's CLE Conference, will be shared as soon as it is received.

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## ANOTHER SUCCESSFUL EVENT IN NOLA

### **February 16-17, 2018 – New Orleans, LA: Joint Regional Program**

The first ever joint regional program was, by all accounts, a big success! New Orleans did not disappoint as the location for the February 17th event which was held the weekend after Fat Tuesday.

A Friday night dinner at the famous Galatoire's, in the heart of the French Quarter, brought a surprise proposal by Phil Miscimarra as he romantically asked Kelly Dunkelberg for her hand in marriage in front of seventy Fellows and guests just before dinner was served. Wow – how do you follow that up?! With a superb Saturday program of course. The 5th and 11th Circuit Regional Planning Committees worked together to develop a stellar program that featured current and trending topics, including a brilliant legislative update by LSU Law Professor Bill Corbett and an NLRB overview by past Chair, and newly engaged, **Phil Miscimarra**. Fellows **Michael Green** and **Rod Tanner** looked at protected speech in the workplace as it relates to the Black Lives Matter. Luther Wright, from Ogletree Deakins' Nashville office, shared strategies on navigating the #MeToo movement in a time of heightened awareness, social media and public opinion. Unfortunately, Judge Richard Posner who was originally scheduled to speak had a conflict that prevented him from doing so as originally advertised. We appreciate Mr. Wright's willingness to step in and provide, at short notice, such a timely topic.

Special thanks to all committee members who worked on this event: **Tom Brooks, Ed Buckley, Marcel Debruge, Leslie Dent, Paul Donnelly, Greg Guidry, Patrick Maher, Armin Moeller, Tim Palmer, Art Smith** and **Rod Tanner**.

An agenda and meeting material can be found [here](#).

If you are interested in planning, hosting or organizing a regional event in your area, please contact [Susan Wan](#).





## FOCUS ON A FELLOW: DID YOU KNOW —

That Fellow **John Chamblee**, inducted a Fellow in 1999, filed a Petition for Recall with the National Highway Safety Administration in 1977 that resulted in the recall of 14 million defective Firestone tires, all because he complained about the five Firestone500 steel belted radial tires that failed him? Considered a ‘watershed for the consumer movement,” it also signaled an early venture into social activism by John who was then a 29 year-old labor lawyer in Tampa, Florida.



John practiced in Tampa from 1973 to 2000. While in Tampa, he served as Chair of the Labor and Employment Law Section of the Florida Bar (1985-86), was published frequently on a variety of topics and lectured extensively at CLE programs on issues relating to labor and employment law (including Public Employment Relations Forums; Equal Employment Opportunity Practice Seminars; Stetson University Labor and Employment Law Conferences; the First Annual Legal Issues for Police Administrators Seminar; and numerous ABA events. Later he relocated to Austin, Texas to take an in-house position

with an Austin / Los Angeles based company. Recently, John has become involved with the #TimesUp movement which brought together his relationship with the entertainment industry and his background in labor and employment law.

In October 2017, the [Legal Network for Gender Equity, through the National Women's Law Center Fund \(NWLCF\), was launched](#) in response to extensive and unprecedented threats to women's rights, to help connect individuals who experience sex discrimination on the job, at school, or in the health care system with legal information and attorneys willing to take on these types of cases. Since the launch of the Network, over 600 attorneys have joined and over 2,000 intakes have been received from individuals facing sexual harassment – across every industry, rank, and role.

NWLCF is also housing and administering the [TIME'S UP Legal Defense Fund](#). The Fund, which was spearheaded by members of the entertainment industry, and top public relations professionals, helps individuals who face workplace sexual harassment and related retaliation, including defamation, connect with legal representation and public relations assistance, using the infrastructure of the Legal Network. In addition, the TIME'S UP Legal Defense Fund will provide financial support for attorney fees, costs, and public relations support in select workplace sexual harassment and sexual harassment-related retaliation matters based on priority criteria as determined by NWLCF through an attorney application process. The Fund will increase the availability of legal representation to individuals experiencing sexual harassment associated with work or related retaliation by helping to defray the costs of such representation in select cases where representation is not realistically otherwise available.

John's principal role has been to help assemble a labor and employment law "specialist" panel and believes Fellows of the College could provide a wealth of valuable expertise and talent to this very important and worthwhile effort. For more information, you can contact [John](#) or visit <https://nwlc.org/join-the-legal-network/>.

Papers for the CLEL/ABA Section of Labor & Employment Law's 2017-2018 Writing Competition for Law Students are now being accepted. Fellows who are adjunct professors at accredited law schools are encouraged to distribute, discuss, and promote this wonderful opportunity with their students. View the complete announcement and rules for this year's competition on the [website](#).

Entries should address aspects of public or private sector labor and/or employment law relevant to the American labor and employment bar. Prizes awarded by the College of Labor and Employment Lawyers include: **First Place: \$3000**, Second Place: \$1000, Third Place: \$500. The first-place article will also be considered for publication in the *ABA Journal of Labor & Employment Law*, and its author will be a guest at the annual CLE program of the ABA Section of Labor and Employment Law and honored at the Annual Induction Dinner of the College of Labor and Employment Lawyers. Deadline for papers is June 15, 2018. Please contact [Susan Wan](#) if you have any questions.

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## SPOTLIGHT ON FELLOWS

- Fellow **U.W. Clemon** was featured in the documentary "Trail of Hope - The Journey to Equality", tracing the path of the civil rights struggle through churches, courthouses, jail cells and other historic sites across the South, which aired on all Raycom Media markets during the month of February. According to Raycom Media, "the project was inspired by the United States Civil Rights Trail, a string of landmarks in 14 states that played a pivotal role in advancing social justice."
- Fellow **Samuel J. Cordes** has joined the Pittsburgh office of Rothman Gordon as a partner.
- Fellow **Judge Bernice B. Donald** was one of three African-American women trailblazers from West Tennessee honored by the Town of Mason at its first Black History program on February 17<sup>th</sup>.
- Fellow **Samuel Estreicher** had a column published in *The Spokesman Review* on March 3<sup>rd</sup> titled "How Unions Can Survive a Supreme Court Defeat" dealing with the upcoming Supreme Court decision in *Janus v. AFSCME* which could have "far reaching consequences for the future of public-sector unions in America." Read the full article [here](#).
- Congratulations to Fellow **Marisel A. Hernandez** who was re-elected to the Chicago Board of Election Commissioners as Chairwoman at their February 13th meeting.
- Fellow **Brian L. McDermott** has joined the Indianapolis office of Jackson Lewis as a principal.



- Fellow **Philip Miscimarra** returned to Morgan, Lewis & Bockius after his nearly five-year stint at the National Labor Relations Board as a Member and most recently as Chair.
- Fellow **Geoffrey Mort**'s article on New York's medical marijuana laws was featured in the *New York Law Journal* on April 3<sup>rd</sup>.
- Fellow **John E. Sands** (photo right) was one of three honorees presented with **The 2018 Peggy Browning Award** on April 24<sup>th</sup>. This award is presented annually to social justice champions who have distinguished themselves with passion and dedication to the rights and needs of workers and their families.
- Fellow **Eugene Scalia** was named [Litigator of the Week](#) by *The American Lawyer* for the week of March 23, 2018 highlighting his involvement in a 5<sup>th</sup> Circuit Court of Appeals challenge to the Department of Labor's fiduciary rule. A separate interview on the case can be found [here](#).
- Fellow **Michael Starr**'s article, "The Muddle of 'Motivating Factor,'" was published by the *Hofstra Labor & Employment Law Journal* (Vol. 35, No. 1). The first part of his article clarifies the concepts of reason, motive and cause as applied in employment-discrimination law and then proposes a new legal standard for when race, sex, religion or national origin can be considered a "motivating factor" for purposes of employer liability under Title VII of the Civil Rights Act of 1964. A copy of the article is [attached](#).




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## IN MEMORIAM

The College mourns the recent passing of the following Fellows.

Fellow and former member of the Board of Governors **Donald J. Capuano** passed away on March 13<sup>th</sup> at the age of 83. Inducted in the Class of 1998, Don practiced at O'Donoghue & O'Donoghue in Washington, DC for over fifty years, focusing on the full range of labor, employee benefits and employment law. In addition to representing numerous local and international unions and employee benefit funds, Don was active in several professional and honorary organizations, and served as the Chair of the ABA's Labor and Employment Law Section (1991-92). He was considered by everyone who knew him to be the consummate professional and always a gentleman. His full obituary can be found [here](#).



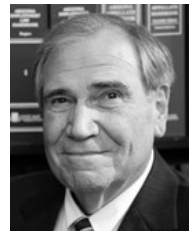


Inducted a Fellow in 1997, **Robert F. Childs** passed away on March 27<sup>th</sup>. A founding member of Wiggins Childs Pantazis Fisher & Goldfarb where he practiced for almost 40 years, Bob devoted his practice to defending the civil rights of workers and individuals throughout the United States. His obituary can be found [here](#).

**Leo Geffner**, a renowned lawyer from Southern California, who represented carpenters, teachers, service employees and members of the entertainment industry passed away on February 28<sup>th</sup>, a few days prior to his 90th birthday. Inducted in 1996, he was a former Chair of the ABA, Section of Labor & Employment Law, as well as the Los Angeles County Bar Association, Labor and Employment Section. He was a graduate of UCLA and earned his J.D. from the University of California, Berkeley, School of Law. Leo punctuated his illustrious career by successfully arguing County Sanitation District No. 2 of Los Angeles County v Los Angeles County Employees Union, Local 660 (1985), before the California Supreme Court, that established the common law right of public employees who don't perform essential services to strike. He followed that achievement in 1988 by securing a unanimous decision from the United States Supreme Court, in *Marquez v Screen Actors Guild*, that held a union didn't breach its duty of fair representation by negotiating a union security clause that mirrored the statutory language of the National Labor Relations Act. Leo was a gentleman and epitomized the qualities of civility and professionalism espoused by the College. Friends, family and colleagues will miss him. A link to his obituary can be found [here](#).

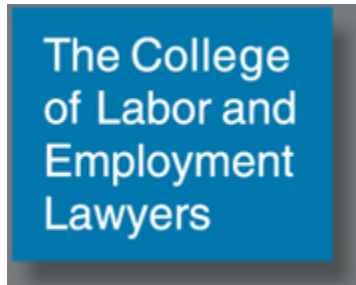


Inducted a Fellow in 2013, **Tom Rogers** passed away on March 23<sup>rd</sup> at the age of 72. He distinguished himself as a thoughtful, creative, and energetic lawyer who provided guidance and mentoring to younger colleagues. Beginning in 1995, Tom garnered the commitment and active support of around 80 men and women - Arizona lawyers representing individuals, management and unions, as well as neutrals and non-lawyer HR practitioners and others - to collaboratively write a comprehensive and definitive account of Arizona labor and employment law, the final product of which was the *Arizona Employment Law Handbook*, published by the State Bar of Arizona. Over the years, as Editor in Chief, Tom devoted countless hours to keeping the handbook up to date. Tom also supported the cause of justice for both public and private sector workers and advocated on behalf of employees through testimony before the Arizona legislature. His obituary can be found [here](#).



*Members of the College strive to promote achievement, advancement and excellence in the practice of labor and employment law. These Fellows distinguished themselves as leaders in the field, and the College was proud to have been able to call them Fellows. Our thoughts are with their family and friends.*

Fellows are encouraged to include the College logo on their website. Please contact [Susan Wan](#) for a downloadable file or download the logo.



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