

**LABOR ARBITRATION INSTITUTE**  
Energizing Labor Law Education

**The Chicago Conference on  
Labor Law and Labor Arbitration**

Thursday–Friday April 8-9, 2010 | McCormick Place



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CHALLENGE • STRATEGY • KNOWLEDGE • RESULTS

# The Chicago Conference on Labor Law and Labor Arbitration

Thursday–Friday

April 8-9, 2010

McCormick Place



Every year, a top-ranked faculty assemble in Chicago to cover the issues that matter to labor and management. This year's program is one of the best ever.

New topics, all new case studies, new formats and a new venue.

The faculty members are among the leading labor arbitrators and law professors in the country. They are excellent speakers and know what is important to the processing of grievances, in settling cases, and in presenting cases for arbitration.

The conference also uses a range of formats that appeal to all learning styles. There are two sessions to choose from, so you can decide in advance whether it is a subject you want to know more about from the perspective of management or labor. Plus, a number of sessions in which you can ask, in a small group setting, any question of a faculty member.

Come to Chicago this spring, invest in your education, and be ready for your next case.

## Conference Highlights

- 25 sessions
- New course materials, new case studies, and new formats
- All sessions specifically designed for human resources staff, labor relations staff; union officers, stewards and business agents; and attorneys
- Q&A sessions with individual arbitrators
- The most complete compilation of topics, with a focus on the hot issues and the latest developments in labor law and labor arbitration

## Agenda

### Thursday, April 8, 2010

12:00-1:00 p.m. **Registration**

1:00-2:00 p.m.

#### ■ Case Analysis

In law school, students learn how to weigh the facts of a specific case and apply the legal principles — legal principles which have evolved from a long line of cases. Analyzing a case from various angles is an extremely valuable skill. It leads to making the arguments which persuade either the other side or the arbitrator. Learn more about case analysis, plus important principles that are borrowed from the law of equity. For example, notice is an important ele-

ment of fundamental fairness, but is notice required when the grievant is a professional and could reasonably have guessed what was required of him or her? Or, is management estopped from raising an argument in one case, when it refused to consider it in a past case? Or, if management offers a deal to one grievant, on a non-precedential basis, can it change its mind and not offer the same deal to a grievant, even when the grievant is in a protected class? This session will be a fascinating discussion about analyzing cases and recognizing bedrock principles.

*Prof. Ted St. Antoine, Arbitrator*

#### ■ Advocacy Strategies for the Opening Statement and Closing Argument

A simple case should stay simple. But a complex case or

one with many witnesses has unavoidable challenges. The speaker has written several books on advocacy and how a neutral decides cases. Learn how to prepare an opening statement, organize a case, and write the closing argument — all before the hearing starts.

**Prof. John Sonsteng**

**2:00-2:45 p.m.**

#### ■ **Discipline & Discharge: Hot Issues**

The panelists discuss cases from the past year which raise hot issues, such as workplace violence, subpar performance, sexual harassment, and absenteeism. The highlight of the session is hearing how arbitrators apply the arbitral principles in the context of actual cases.

**Panel: Arbs. Angelo, Doering, Jacobs & Graham**

#### ■ **Contract Interpretation**

The field of contract law includes ancient principles and common sense about how parties negotiate and reach agreements. The parties can avoid disputes by knowing how to handle ambiguous language, resolve conflicting provisions, and understand the approach which judges and arbitrators use in contract cases.

**Arb. George Roumell**

**2:45-3:30 p.m.**

#### ■ **Discipline & Discharge, Part II**

If you missed the previous session, this one picks up with new cases that are hot and controversial. An employee wants to go through the EAP a second time. Another takes a sick day whenever a job assignment comes up; And still another makes his supervisor explain everything twice. On the other side, a supervisor subtly provokes the grievant and another requires a doctor's note from some, but not others. The panelists discuss actual cases and what the parties should have done.

**Panel: Arbs. St. Antoine, Simon, Suardi & Vonhof**

#### ■ **Subcontracting**

An overview of the principles which arbitrators follow in subcontracting cases. Includes concrete examples and an overall structure in which to assess the

strengths and weaknesses of typical cases.

**Arb. Harry Graham**

#### ■ **Firing Line with Prof. John Sonsteng**

Ask any question of this nationally-known law professor who has consulted with the largest law firms in this country on winning a case in a courtroom or hearing room.

**3:30-3:45 p.m. Break**

**3:45-4:30 p.m.**

#### ■ **Insubordination**

Management must prove the three elements or the Union must disprove them. But cases which go to arbitration involve these additional issues: What is the workplace culture, the supervisor-employee's relationship, the employee's job description, the kind of response and attitude displayed by the employee? The answer affects the investigation for both sides.

**Arb. Tom Angelo**

#### ■ **Contract Interpretation: Case Illustrations**

The learning device is used in law school and labor relations classes: take actual cases, dissect the facts and arguments, and in the process learn how to apply the principles to wide range of cases. These are interesting cases that can also be used in your in-house training programs.

**Panel: Arbs. Doering, Jacobs, Simon & St. Antoine**

#### ■ **Firing Line**

No question is too difficult for this faculty member who has heard more cases and fielded more student questions than most arbitrators in the country. Fire away.

**Arb. Harry Graham**

**4:30-5:15 p.m.**

#### ■ **Ten Attributes of an Effective Advocate**

There are many aspects to successfully representing an organization. For instance, when you start to interview a witness, what do you tell them about the process and your client's position? Or, during settle-

## *Registration & Tuition*

**The cost is \$395, but if you register before December 30, 2009, the cost is \$345. This fee covers admission to all sessions, course materials, and all breaks.**

**This Conference is one of the best values in continuing education. The tuition is among the lowest of CLE and CE programs in the field of labor and employment law. Chicago is also reasonably-priced for airfares, with many choices of airlines and flight times into O'Hare and Midway. The group rate at the Hyatt is a very good value, not just for Chicago and other hotels in the top tier, but also in comparison to other major U.S. cities.**

**For more information, please call the Labor Arbitration Institute at 507-663-1220. You can also fax your registration to 507-645-2474.**

ment talks, do you withhold certain information as a strategy toward winning? Do you make your opening statement after hearing the other side's case-in-chief? Which definition of just cause makes your case easier to argue, and still fit within the arbitrator's philosophy? These points and more will be discussed.

*Prof. John Sonsteng*

#### ■ **Arbitration: Recession-driven issues**

A new presentation on the role of seniority in layoff and recalls, bumping and bid rights. Plus, advice on the collective bargaining agreement and the dual pressures of outsourcing and job protection.

*Arb. George Roumell*

#### ■ **Firing Line**

This speaker enjoys fielding questions on any topic and will draw upon his years as an advocate and his 25 years at the head of the table.

*Arb. Thomas Angelo*

5:15 p.m.

**Recess until 7:15 a.m. the following morning.**

## Friday, April 9, 2010

7:15-8:00 a.m.

**Continental Breakfast**

8:00-8:45 a.m.

#### ■ **Off-Duty Misconduct and Related Offenses**

An employee's private life is their own, until there's a nexus to the workplace. A discussion of that broad concept and related terms, including moral turpitude, discredit upon the employer and conduct unbecoming.

*Arb. Jeanne Vonhof*

#### ■ **Past Practice**

The Past Practice doctrine and the elements are well-established, but learn about three over-riding arguments: is the management interest stronger than the employee benefit or working condition? Is the change management seeking major or minor? And the biggest factor: is the practice a prescribed or present way of doing business.

*Arb. Mark Suardi*

8:45-9:30 a.m.

#### ■ **Computer Misuse**

After Twitter comes Google wave. The first challenge is understanding the new modes of communication and using the web as a resource. Then, tackle the discipline issue for employees who misuse the computer and the privileges. Advice for both sides and a review of recent cases.

*Arb. Barry Simon*

#### ■ **Past Practice: Case Studies**

The arbitrators discuss actual cases in which the key

issue was whether the practice was enforceable. The discussion focuses on the elements and the interplay with contract language. Valuable insights into the arguments used by the parties in each case.

*Panel: Arbs. Befort, Graham, Roumell & Suardi*

#### ■ **Firing Line**

Ask the former dean of the University of Michigan Law School and an umpire under several collective bargaining agreements your toughest question on any topic.

*Arb. Ted St. Antoine*

9:30-10:15 a.m.

#### ■ **Workplace Threats & Bullying**

Both are subtle and can lead to more dangerous situations. A review of the responsibilities facing management and labor, including a safe workplace, due process, progressive discipline and EAP.

*Arb. Barbara Doering*

#### ■ **Management Rights**

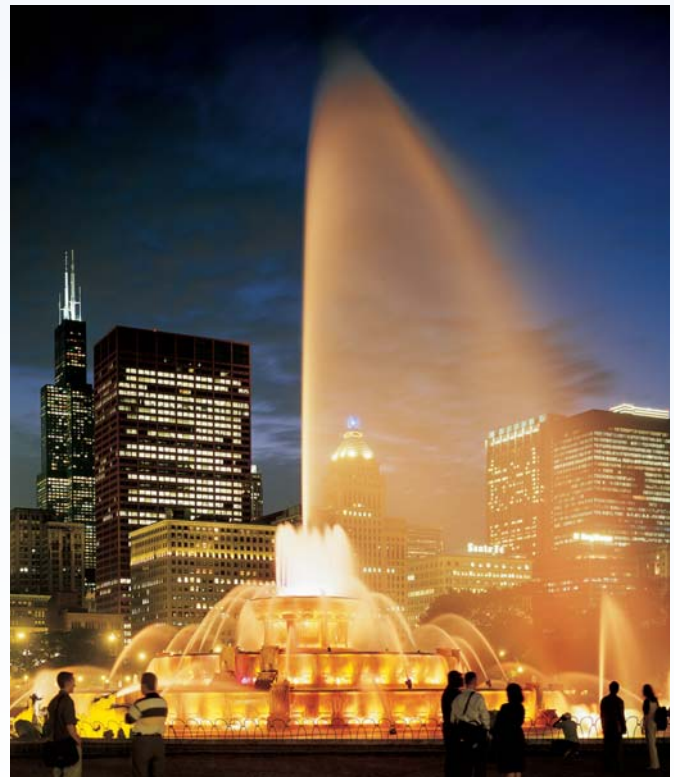
The employer wants to change a policy or practice in the middle of a contract term. What kind of management rights clause permits that? If another contract provision speaks to the issue, how does that affect the exercise of managerial rights?

*Arb. Harry Graham*

#### ■ **Firing Line**

Every question is welcomed, the answer will be complete, and the setting is a seminar room, next to the lecture hall. The panelist is one of Chicago's top labor arbitrators.

*Arb. Jeanne Vonhof*



## 10:15-10:30 a.m. Break

## 10:30-11:15 a.m.

### ■ Job Performance

How many warnings are required before demotion or removal? If a time study is reasonable, can the union challenge the unreasonableness of its application as applied to a single employee? Is the temporary loss of a license a basis for suspension or removal? Which factors distinguish subpar performance from negligent performance or job neglect?

*Arb. Mark Suardi*

### ■ Negotiating Contract Language

In a new format, the panelists look at language, and then re-write it, in order to save the parties the cost of a lengthy dispute. This is a practical session, for anyone on a negotiating committee, or who has to deal with the fallout in the middle of a contract term.

*Panel: Arbs. Angelo, Roumell, St. Antoine & Vonhof*

### ■ Firing Line

Meet with one of the Midwest's premier labor arbitrators and ask any question about her lecture or your own cases.

*Arb. Barbara Doering*

## 11:15 a.m.-12:00 Noon

### ■ Americans with Disabilities Act

An update on this federal law, including recent court decisions and arbitration awards. The focus will be on the issues which arise in grievance cases.

*Prof. Steven Befort, Arb.*

### ■ Procedural Due Process

Due process is often defined as fundamental fairness, but it also draws upon decades of judicial and arbitration decisions. When should timelines be strictly or loosely applied? When should management have to re-start the discipline process rather than add charges? When can management change its mind about the quantity of discipline?

*Arb. Jeffrey Jacobs*

### ■ Firing Line

If you have any question on your contract language or what was said in his lecture, this is the expert to ask. He was once an advocate and now arbitrates in many high profile collective bargaining agreements.

*Arb. George Roumell*

## 12:00-1:00 p.m. Lunch (on your own)

## 1:00-1:45 p.m.

### ■ Direct & Cross-Examination Techniques

The parties control the process, but the arbitrator controls the hearing. Learn what arbitrators want from a direct & cross examination. These tips will improve your witness' performance and maximize the chances of winning.

*Arb. Tom Angelo*

### ■ Family and Medical Leave Act

With new regulations and recent court decisions, the FMLA remains a hotbed of problems. Avoid them with this timely discussion of the issues and solutions.

*Prof. Steve Befort, Arb.*

## 1:45-2:45 p.m.

### ■ Advanced Issues

Many cases involve multiple issues and competing principles. For example, you have to balance a good work record with a serious offense. How do you factor in weak evidence with the operational need to respond swiftly? Do you consider the employee's excuse against the goals of the policy that was violated or on its own merits? These are cases that have many complications, and the arbitrators explain how to cut through the issues.

*Panel: Arbs. Angelo, Graham, Simon & Suardi*

### ■ Ethics for the Practitioner

The Model Rules on Professional Responsibility have existed for over 30 years, and the goal is still the same: To resolve the ethical dilemmas by knowing the rules.

*Panel: Arbs. Jacobs, Roumell, St. Antoine & Vonhof*

### ■ Firing Line

Meet with an expert on the ADA & FMLA, and discover more gems and insights from the previous lectures.

*Arb. Steve Befort*

## 2:45-3:00 p.m. Break

## 3:00-4:00 p.m.

### ■ Arbitrator's Decision-making Process

The famous phrase is that arbitrators are neutral, not neutered. They come to the hearing room with pre-conceived notions of how workplaces operate and how people interact. Discover the nuances and attitudes which arbitrators bring into the hearing room.

*All faculty*

## 4:00 p.m.

### Adjournment

## Chicago

For a list of events and things to do in Chicago, visit the website [www.meetinchicago.com](http://www.meetinchicago.com) at the Chicago Convention and Tourism Bureau. Chicago's nightlife includes sports, jazz, theater, and award-winning restaurants. The arts scene and shopping are second to none.

**Don't miss out — Chicago is the place to come for this training.**

# The Chicago Conference on Labor Law & Labor Arbitration

Thursday-Friday, April 8-9, 2010

McCormick Place • West Building (Rooms 190-192) • 2301 South Lake Shore Drive • Chicago IL 60616

[www.mccormickplace.com](http://www.mccormickplace.com)

*For additional registrants, please photocopy this form.*

Name \_\_\_\_\_

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City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

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## TUITION:

\$345.00 per registrant (if registering before December 30, 2009)

\$395.00 per registrant (if registering after December 30, 2009)

## PAYMENT

Check Enclosed \$ \_\_\_\_\_

Credit Card Payment \$ \_\_\_\_\_

Card Number (VISA, MasterCard or American Express)

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Payment must accompany registration, unless other arrangements are made ahead. Please call the conference registrar at 507-663-1220 for details. Checks may be made payable to Labor Arbitration Institute.

## HOTEL INFORMATION

A block of sleeping rooms is available at the Hyatt Regency McCormick Place. This hotel is directly across the street from the McCormick Place — in fact, you will see it as soon as you walk out of the meeting room (West 190 and 192). The group rate of \$165 single or double is very good for this time of year.

We continue to monitor the ongoing negotiations between the major union representing employees at the Hyatt and management. Our contract with the Hyatt requires labor peace during the program. Call us with any questions or comments, and above all, reserve your sleeping room at the Hyatt so we know to keep you posted.

Please call the Hyatt at 1-800-233-1234 (or 1-312-567-1234) and indicate you are attending the Labor Arbitration Institute Conference in order to receive the group rate. Please make your reservation as early as possible. The group rate expires on March 7, 2010, and the safest option is to make your reservation by December 30, 2009.

Hyatt Regency McCormick Place, 2233 S Martin L King Dr, Chicago IL 60616, 312-567-1234. You can make your sleeping room reservation online! Click onto <https://resweb.passkey.com/go/laborlaw>

## MISCELLANEOUS

I am an attorney and request CLE credits for the state of \_\_\_\_\_ . The Labor Arbitration Institute is an accredited provider in several states, including Illinois, California and Pennsylvania. Please let us know in which states you hold a license.

I cannot attend, but please send me information on future conferences.

**MAIL TO:** Labor Arbitration Institute, 205 South Water Street, Northfield, MN 55057

For more information, call 507-663-1220 or FAX number 507-645-2474.

**Please choose your session preference for each time slot.**

## Thursday, April 8, 2010

- 1:00 p.m.**  Case Analysis  
 Advocacy Strategies from Opening to Closing
- 2:00 p.m.**  Discipline & Discharge, Hot Issues  
 Contract Interpretation
- 2:45 p.m.**  Discipline & Discharge, Part II  
 Subcontracting  
 Firing Line with Prof. Sonsteng
- 3:45 p.m.**  Insubordination  
 Contract Interpretation Cases  
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- 1:00 p.m.**  Direct & Cross Examination  
 Family and Medical Leave Act
- 1:45 p.m.**  Advanced Issues  
 Ethics for the Practitioner  
 Firing Line with Arb. Befort
- 3:00 p.m.**  Arbitrators' Decision-making Process (only session available)