

LABOR ARBITRATION INSTITUTE

Labor Law and Labor Arbitration

Friday

June 11, 2010

Cincinnati

CHALLENGE
STRATEGY

Labor Law & Labor Arbitration

Save money on training, work smarter back at the office or shop, and stay up-to-date.

We welcome you to Cincinnati to learn the latest developments in labor law and labor arbitration.

The faculty members are among the top labor arbitrators in the country. They draw upon their years of experience and give a real-world and sophisticated approach to every subject.

There is always more to learn, skills to acquire, and arbitrators to consult. This spring, Cincinnati will have it all.

Agenda

7:15-8:00 a.m.

Registration & Continental Breakfast

8:00-8:30 a.m.

Understanding Arbitrators and the Grievance Process

When you start to interview a witness, what do you tell them about the process and your client's position? Or, during settlement 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.

Arb. George Roumell

8:30-10:00 a.m.

Discipline & Discharge: Cases from 2009 and 2010

Using actual cases, the arbitrators explain the principles and rules that apply in these cases: workplace threats, computer misuse, sexual harassment, off-duty misconduct, subpar performance and other hot areas of discipline/discharge.

Arbs. Mollie Bowers, Harry Graham, Ted High, Frank Keenan & George Roumell

10:00-10:15 a.m. Break

10:15-10:45 a.m.

Insubordination

The three elements are straightforward (order, refusal, notice of consequences), but there are many other factors to consider: workplace culture, supervisor-grievant relationship, contrary contract provisions, and the employee's job description. All of these can change the answer in an insubordination case.

Arb. Mollie Bowers

10:45-11:15 a.m.

Job Performance

These cases can arise as a discipline or non-discipline matter. And the dispute can involve time studies, quality of work, and progressive counseling, to more ambiguous matters such as job neglect. An explanation of the principles that apply and the most likely resolution.

Arb. Frank Keenan

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

The Arbitrator as Umpire

Arbitrators are similar to and different from judges and juries. For example, in arbitration, all evidence is admitted into the record and all arguments are heard as if it were a trial, but an arbitration hearing is also like an appellate court in which the arbitrator can ask questions. There is also a significant difference between an arbitrator ascertaining the facts, and the jury finding the truth. In fact, some arbitrators don't even consider burden of proof. And you cannot call up a judge or labor arbitrator and ask how they would decide your case. However, you could choose an arbitrator who will take you and the other side out in the hall. Those arbitrators can and often do subtly suggest how they will rule. These advocacy topics and more will be addressed.

Arb. Ted High

Location & Registration Information

The conference will be held at the Millennium Hotel one of the finest hotels in Cincinnati. The hotel is within walking distance of several top attractions in the city, including the Great American Ballpark and Reds Hall of Fame Museum.

Located at the corner of 5th and Elm Street, the hotel is across the street from the Convention Center and three blocks from Interstates 75 and 71. The airport is 12 miles away and served by all major carriers.

The conference tuition of \$275 includes admission to all sessions, course materials (CD & workbook), and all breaks. You can save \$50 if you register before February 1, 2010. See the registration form or visit us online at www.laborarb.com

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

1:00-1:45 p.m.

■ Discipline & Discharge: Advanced Issues

An employee receives an offending email and forwards it to his spouse at home, making an internal matter one that exposes the company. A custodian returns the “lost” money and expresses remorse. An employee suffering from migraine headaches “rests his eyes” in order for the medicine to kick in. Another employee is on a last chance agreement, and uses a bad car and a dead cell phone as his excuse. These are cases with overlapping issues, and the panel explain how to cut through the issues.

Panel: Arbs. High, Bowers, Graham, Keenan & Roumell

1:45-2:30 p.m.

■ Contract Law: Applying the Rules of Construction

Knowing the principles of contract law is indispensable to any contract interpretation case. A fast-paced discussion of the most important principles.

Arb. Harry Graham

2:30-2:45 p.m. Break

2:45-3:45 p.m.

■ Contract Interpretation Cases

One of the best ways to learn is to hear the facts of a case, and have the arbitrator explain their decision if they had been the arbitrator in that case. The arbitrator knows that in this setting, he or she has to be succinct and get to the heart of the case quickly. The cases we present to the panel are a wide range of contract cases, so the panel discusses the legal principles and rules, including the Past Practice doctrine.

Panel: Arbs. Keenan, Roumell, High, Graham & Bowers

3:45-4:30 p.m.

■ 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

4:30 p.m. Adjournment

More to learn

The faculty will cover numerous legal and arbitral principles. But they do more than explain – they give advice on how to argue the legal and arbitral points.

Here are just two areas in which the faculty members go in-depth and help us become better prepared.

Workplace Violence

Zero-tolerance policies are common, but this does not mean you can skip the investigation, even when the participants admit to fighting, an obvious violation of the policy.

From an actual case, an arbitrator wished these questions had been asked by management during the investigation:

1. **Who was the aggressor?** A hard and fast rule on fighting does not mean that every person, even a hapless victim, must be discharged.
2. **What was the basis for the altercation?** Did one worker hurl a racial slur at the other, which would understandably lead to an altercation? There are triggering events which cause others to lose control. It does not justify their conduct but it may be a mitigating factor and a reason to reduce the discharge.
3. **What would be the impact on the workplace if either**

or both combatants went back to work? Could they be separated, so they would not have to work with each other?

4. **Would reinstatement impact their co-workers?** For example, would any co-workers be afraid?

Insubordination

In the typical case, management has to prove up the 3 elements of insubordination: order, refusal, notice of consequences.

The tough cases usually involve some twist on one of the 3 elements. For example, this employer invited an outside group of trainers to work with the employees.

The grievant snorted, grunted and yawned during the orientation and then, acted disrespectfully toward the trainer. Management issued discipline to the grievant for insubordination.

The case went to arbitration, and the employer won because it had done three things: It had explained to the employees in advance 1) what the trainers were going to do and 2) that the trainers carried the authority of the plant manager and supervisors, and 3) employees were expected to follow their orders. According to the arbitrator, the employer's failure to prove the third element (inform the employee of the consequences for refusing) was not a sufficient reason to reduce the discipline.

Come to Cincinnati and learn more!

Registration Options

1. Register Online at www.laborarb.com
2. Complete this form and mail to the Labor Arbitration Institute
3. Complete this form and fax to 507-645-2474

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Friday, June 11, 2010

Millennium Hotel Cincinnati • 150 West 5th Street • Cincinnati, OH 45202 • 513-352-2100

Name _____ Email _____

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Privacy Policy: The email address you provide is only used by the Labor Arbitration Institute (LAI). LAI does not sell or share its email lists, or any customer lists.

TUITION \$275.00 per registrant (if registering after February 1, 2010)
 \$225.00 per registrant (if registered before February 1, 2010)

PAYMENT

Check Enclosed \$ _____

Credit Card Payment \$ _____

Card Number (VISA, MasterCard or American Express) _____

Exp. Date: _____ Cardholder Signature _____

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 ACCOMMODATIONS

A block of rooms has been reserved at the Millennium Hotel. Conference attendees and everyone in their party are entitled to a group rate of \$129.00 (single or double). Please make your reservation as early as possible by calling the hotel at 513-352-2100. This special rate will expire on May 11, 2010 or earlier, if the room block is exhausted. We recommend that you make your reservation as soon as possible, and preferably before the early enrollment deadline of February 1, 2010.

MISCELLANEOUS

I am an attorney and request information on CLE credits for the state of _____.

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

