

AMERICAN BAR ASSOCIATION

Occupational Safety and Health Law Committee 2008 Midwinter Committee Meeting Tucson, Arizona March 4–7, 2008

AGENDA

Tuesday, March 4, 2008

- 5:00 p.m. – 7:00 p.m. **Registration**
- 6:00 p.m. – 7:30 p.m. **Welcome Reception at the Loews Ventana Canyon Resort**

Wednesday, March 5, 2008

- 7:00 a.m. – 8:00 a.m. **First-Time Attendee Breakfast**
- 7:30 a.m. – 8:15 a.m. **Registration**
- 7:30 a.m. – 8:15 a.m. **Continental Breakfast**
- 8:15 a.m. – 12:40 p.m. **General Session**
- 8:15 a.m. – 8:35 a.m. **Opening Remarks by the Co-Chairs**
- David E. Jones, Ogletree, Deakins, Nash, Smoak & Stewart, P.C., Employer Co-Chair, Atlanta, GA
Lynn Rhinehart, AFL-CIO, Union and Employee Co-Chair, Washington, DC
- Welcome Remarks by the Section Chair and Council Liaison**
- Jim LaVaute, Blitman & King, LLP, Syracuse, NY
Richard S. Cleary, Greenebaum Doll & McDonald, PLLC, Louisville, KY
Victoria Bor, Sherman, Dunn, Cohen, Leifer & Yelling PC, Washington, DC
- 8:35 a.m. – 9:05 a.m. **Remarks from the Assistant Secretary, OSHA**
- The Honorable Edwin G. Foulke, Jr.
Assistant Secretary of Labor, OSHA,
U.S. Department of Labor, Washington, DC

9:05 a.m. – 9:35 a.m.

Remarks from the Solicitor’s Office

The Honorable Jonathan L. Snare
Acting Solicitor of Labor
U.S. Department of Labor
Washington, DC

9:35 a.m. - 10:30 a.m.

They’re not Just Tooting Their Horns: Trends in Whistleblower and Retaliation Claims

Moderator: David E. Jones, Ogletree, Deakins, Nash, Smoak & Stewart, PC, Atlanta, GA

Panelists: Federal OSHA Representative (invited)

Edmund Baird, Office of the Solicitor, U.S. Department of Labor, Washington, DC

Paul Taylor, Truckers Justice Center, Burnsville, MN

Howard A. Mavity, Fisher & Phillips, Atlanta, GA

10:30 a.m. – 10:40 a.m.

BREAK

10:40 a.m. – 11:35 a.m.

Significant Decisions and Developments

Moderator: Kenneth D. Kleinman, Stevens & Lee, Philadelphia, PA

Panelists: Joseph M. Woodward, Office of the Solicitor, U.S. Department of Labor, Washington, DC

Victoria L. Bor, Sherman, Dunn, Leifer & Yellig, PC, Washington, DC

Charles H. Morgan, Alston & Bird, LLP, Atlanta, GA

11:35 a.m. - 12:40 p.m.

Recent Trends in Enforcement

Moderator: Eric E. Hobbs, Michael, Best & Friedrich, LLP, Milwaukee, WI

Panelists: Federal OSHA Representative (invited)

Randy Rabinowitz, Seattle, WA

Mary Anne Garvey, Office of the Solicitor, U. S. Department of Labor, Cleveland, OH

Heather McDougall, Baker & Daniels, Indianapolis, IN

12:40 p.m.

ADJOURN

5:30 p.m. - 7:00 p.m. **Reception at the Loews Ventana Canyon Resort**

Thursday, March 6, 2008

7:30 a.m. – 8:30 a.m. **Continental Breakfast**

8:30 a.m. - 12:35 p.m. **General Session**

8:30 a.m. – 9:25 a.m. **Circumventing the Workers' Compensation Bar: The Impact of OSHA and Workers' Compensation Proceedings (Joint Session with Workers' Compensation Committee)**

Moderator: Robert J. Grace, Jr., Stiles, Taylor & Grace, PA,
Tampa, FL

Panelists: Eric D. Holland, Holland, Groves, Schneller & Stolze,
LLC, St. Louis, MO

Emily A. Spieler, Northeastern University School of
Law, Boston, MA (invited)

George W. Goodman, Cummins, Goodman, Fish,
Denley & Vickers, PC, Newberg, OR

9:30 a.m. - 10:30 a.m. **BREAKOUT SESSIONS**

A. Mine Safety: What Happens Next?

Moderator: Jill M. Lashay, Buchanan, Ingersoll, Rooney,
Harrisburg, PA

Panelists: Davitt J. McAteer, Sheperdstown, WV

Edward P. Clair, Office of the Solicitor, U.S.
Department of Labor, Washington, DC

George Salem, Law Offices of George
Salem, Washington, DC

B. Petroleum Refinery National Emphasis Program: Blowdowns, Facility Siting, and Catastrophic Ruptures

Moderator: Melissa A. Bailey, Ogletree, Deakins, Nash, Smoak & Stewart, PC, Washington, DC

Panelists: Federal OSHA Representative (invited)

Union Representative (invited)

Orlando J. Pannochia, Office of the Solicitor, U.S. Department of Labor, Washington, DC

Thomas H. Wilson, Vinson & Elkins, Houston, TX

C. Affirmative Defenses in OSHRC Litigation: Pardon, Parole or Unwarranted Excuses?

Moderator: Russell C. Riggan, Lewis, Rice & Fingersh, LC, St. Louis, MO

Panelists: Michael T. Taylor, Arent, Fox, Washington, DC

Michael Doyle, Office of the Solicitor, U.S. Department of Labor, Washington, DC

Stephen A. Yokich, Cornfield & Feldman, Chicago, IL

10:30 a.m. - 10:40 a.m.

BREAK

10:40 a.m. - 11:35 a.m.

Comments From The Commissions

Moderator: Lynn Rhinehart, AFL-CIO, Washington, DC

Panelists: The Honorable Horace A. Thompson, III, Chair, Occupational Safety and Health Review Commission, Washington, DC

The Honorable Michael F. Duffy, Chair, Federal Mine Safety and Health Review Commission, Washington, DC

11:35 a.m. - 12:35 p.m.

Legal Privileges and Ethics in OSHRC Discovery

Moderator: Felix C. Wade, Schottenstein, Zox & Dunn, Columbus, OH

Panelists: Brian Duncan, Office of the Solicitor, U.S. Department of Labor, Dallas, TX

Stephen A. Yokich, Cornfield & Feldman, Chicago, IL

John C. Artz, Ogletree, Deakins, Nash, Smoak & Stewart, PC, Pittsburgh, PA

12:35 p.m.

ADJOURN

5:30 p.m. – 7:00 p.m.

Reception at the Loews Ventana Canyon Resort

Friday, March 7, 2008

7:30 a.m. – 8:15 a.m.

Continental Breakfast

8:15 a.m. - 11:15 a.m.

General Session

8:15 a.m. – 9:30 a.m.

State Plans Update

Moderator: Scott H. Dunham, O'Melveny & Myers, LLP, Los Angeles, CA

Panelists: Federal OSHA Representative (invited)

Vicki Heza, Division of Occupational Safety and Health, California Department of Industrial Relations, Oakland, CA (invited)

Vicki L. Bor, Sherman, Dunn, Leifer & Yellig, PC, Washington, DC

Ronald W. Taylor, Venable, LLP, Baltimore, MD

9:30 a.m. – 9:45 a.m.

Business Meeting

9:45 a.m. – 11:15 a.m.

**New Directions for OSHA: Strategic Directions for
Enhancing Workplace Safety and Health**

Moderator: Lynn Rhinehart, AFL-CIO, Washington, DC

Panelists: Federal OSHA Representative (invited)

John J. Howard, Director, National Institute for
Occupational Safety and Health, Washington, DC

Jordan Barab, Committee on Education and Labor,
U.S. House of Representatives (invited)

Dennis Morikawa, Morgan, Lewis & Bockius, LLP
Philadelphia, PA

11:15 a.m.

ADJOURN