

**American Bar Association  
Section of Labor & Employment Law**

**Technology in the Practice & Workplace Committee  
Midyear Meeting**

**April 30 – May 2, 2008**

**American Bar Association  
321 North Clark Street, 21<sup>st</sup> Floor  
Chicago, Illinois**

**Wednesday, April 30**

**6:30 – 8:00 pm      Welcome Reception @ Hotel Sax, 333 N. Dearborn**

**Thursday, May 1**

**8:00 – 9:00 am      Registration and Continental Breakfast/Business Meeting**

**9:00 – 9:15 am      Welcome and Introductions**

Douglas E. Dexter, Employer Co-Chair, Farella Braun + Martel LLP,  
San Francisco, CA

Rhona Lyons, Union & Employee Co-Chair, Schuchat, Cook & Werner,  
St. Louis, MO

Wayne Gold, Public Co-Chair, National Labor Relations Board,  
Baltimore, MD

Darnley Stewart, Employee Co-Chair, Giskan, Solotaroff & Anderson LLP,  
New York, NY

**MODULE ONE: TECHNOLOGY IN THE WORKING WORLD**

**9:15 – 10:45 am      Promises and Perils of Living in a Virtual World**

This panel will explore employment issues related to the virtual world, such as training, interviewing and union strikes in a “second life,” and privacy and FCRA issues related to employers searching social networking sites for information regarding applicants or current employees.

*Moderator:* William A. Herbert, Deputy Chair and Counsel  
New York State Public Employment Relations Board,  
Albany, NY

*Panelists:* Daniel Rainey, Director, Office of Alternative Dispute Resolution Services, National Mediation Board, Washington, DC

Miriam Cherry, University of the Pacific McGeorge School of Law, Sacramento, CA

Dave Elchiness, Founder & CEO, VRWorkplace, Boulder, CO

Adam Forman, Miller Canfield, Paddock and Stone, PLC, Detroit, MI

Geri N. Kahn, San Francisco, CA

**10:45 – 11:00 am      Break**

**11:00 – 12:00 pm      International Employee Privacy Issues**

Where should the line be drawn between privacy and the use of technology in the workplace? This international panel will provide an in-depth exploration of the wide range of issues regarding the interplay between technology and privacy in the workplace and will discuss and explore recent decisions issued abroad related to employee privacy.

*Moderator:* Samuel Estreicher, Opperman Professor of Law & Director, Center for Labor and Employment Law, New York University, New York, NY

*Panelists:* Paul Callaghan, Taylor Wessing, London, United Kingdom

Déborah David, Franklin, Paris, France

Michael Delikat, Orrick, Herrington & Sutcliffe LLP, New York, NY

Carsten Domke LL.M., CMS Hasche Sigle, Cologne, Germany

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

**12:00 – 1:30 pm      Lunch**

Ian Ayres of Yale University discusses his book *Super Crunchers*, and issues regarding data driven decision making and the use of quantitative methods for analyzing and decision making.

## **MODULE TWO: TECHNOLOGY FOR THE LITIGATOR**

### **1:30 – 2:30 pm      Use of Electronic Evidence at Trial**

E-mail, web postings, chat rooms, text messages and more. How does a practitioner get such evidence admitted? This panel will discuss issues arising out of use of electronic evidence at trial, such as proper authentication, hearsay issues and whether "expert" testimony is required.

*Moderator:* Douglas E. Dexter, Farella Braun + Martel LLP,  
San Francisco, CA

*Panelists:* Honorable James B. Zagel, United States District Court,  
Northern District of Illinois, Chicago, IL

Michael J. Gray, Jones Day, Chicago, IL

Paul Mollica, Meites, Mulder, Mollica & Glink,  
Chicago, IL

### **2:30 – 3:30 pm      Finding the Golden Nugget or Smoking Gun**

Join this cutting edge panel as it discusses recent significant decisions interpreting the new Federal Rules. The panel will also engage in a "down in the trenches" discussion regarding what works and what doesn't when it comes to electronic discovery and will provide practical tips regarding such areas as: topics to discuss with clients regarding electronic discovery at the outset of a case; topics to discuss with opposing counsel regarding electronic discovery at the outset of the case; and what must be turned over in initial disclosures.

*Moderator:* Darnley Stewart, Giskan, Solotaroff & Anderson LLP,  
New York, NY

*Panelists:* Honorable Morton Denlow, Presiding Magistrate Judge  
United States District Court, Northern District of Illinois,  
Chicago, IL

Scott A. Carlson, Seyfarth Shaw LLP, Chicago, IL

Thomas A. Doyle, Saunders & Doyle, Chicago, IL

### **3:30 – 3:45 pm      Break**

**3:45 – 5:00 pm**

**Document Management and Retention Issues in the Electronic World**

Legal and practical considerations impose obligations on clients regarding what electronic information should be preserved and for how long. At the same time, managing such information effectively, including when and how to discard it, is increasingly important in light of electronic discovery and the explosion of electronically-generated and stored information. This panel will address client obligations, best practices, and solutions for the management, retention and destruction of electronic data from a variety of perspectives.

*Moderator:* Rhona Lyons, Schuchat, Cook & Werner, St. Louis, MO

*Panelists:* Jeffrey J. Joyce, Kroll Ontrack, Dallas, Texas

Donald H. Nichols, Nichols Kaster & Anderson, PLLP,  
Minneapolis, Minnesota

E. Ray Stanford, Jr., Shapiro, Fussell, Wedge & Martin,  
LLP, Atlanta, Georgia

**6:00 – 7:00 pm**

**Reception @ A Mano, 335 N. Dearborn**

*Sponsored by Jones Day*



**7:30 – 10:30 pm**

**Dine-Around**

No need to dine alone. This is the perfect opportunity to meet your fellow Conference attendees in a small group setting. At the meeting, you will have an opportunity to sign up to have dinner at a particular, pre-arranged Chicago restaurant with others who desire to dine at the same location.

## **Friday, May 2**

**7:30 – 8:15 am            Continental Breakfast**

### **MODULE THREE: TECHNOLOGY FOR THE PRACTITIONER**

**8:15 –9:30 am            The Use of Technology By Agencies In Labor and Employment Cases**

How are government agencies using technology and are those agencies insisting on production of electronic data as they audit or prosecute a case? You might be surprised. This panel of governmental agency representatives will provide information regarding the types of electronic information they are requiring in their audits and prosecutions and they will share innovative uses of technology in their respective practices, such as virtual arbitrations and mediations.

*Moderator:*    Matthew T. Bodie, Associate Professor of Law, St. Louis University, St. Louis, MO

*Panelists:*     Joseph A. Barker, Chicago Regional Director,  
National Labor Relations Board, Chicago, IL

John C. Hendrickson, Regional Attorney,  
U.S. Equal Employment Opportunity Commission  
Chicago District Office, Chicago, IL

Michael J. Wolf, Counsel for Dispute Resolution  
Technology, National Mediation Board, Washington, DC

**9:30– 9:45 am            Break**

**9:45 – 11:00 am        The Register Guard Decision**

The National Labor Relations Board recently issued its decision in Guard Publishing Co., d/b/a The Register-Guard, determining the scope of NLRA, Section 7 rights to employer policies with respect to the use of email. This panel will discuss implications regarding the NLRA in the technological workplace.

*Moderator:*    Wayne Gold, Regional Director, National Labor Relations Board, Baltimore, Maryland

*Panelists:*     Samuel Estreicher, Opperman Professor of Law &  
Director, Center for Labor and Employment Law,  
New York University, New York, NY

Jeffrey Hirsch, University of Tennessee College of Law,  
Knoxville, TN

Martin Malin, Professor of Law and Director of the  
Institute for Law and the Workplace, Chicago-Kent  
College of Law, Chicago, IL

**11:00 – 11:15 am      Break**

**11:15 – 1:00 pm      Measuring the Effectiveness of Electronic Document Review Process**

How does a computer driven document search and retrieval process stack up against one completed in the more traditional manner? This panel will discuss issues related to electronic search and retrieval technology.

*Moderator:*     Arthur Miller, Professor, New York University School of Law, New York, NY

*Panelists:*     Nicolas Economou, CEO, H5, San Francisco, California

Dr. Douglas W. Oard, Associate, Dean for Research & Associate Professor, College of Information Studies, University of Maryland, College Park, MD

Darnley Stewart, Employee Co-Chair, Giskan, Solotaroff & Anderson LLP, New York, NY

Julie A. Totten, Orrick, Herrington & Sutcliffe, LLP, Sacramento, CA

**1:00 – 2:00 pm      Lunch**

**2:00 – 3:30 pm      Technology and Legal Ethics**

Communicating via e-mail and the internet is quick, efficient and inexpensive. However, such electronic communications can result in inadvertent legal problems and relationships. This panel will address a number of ethical issues raised relating to electronic communications with present and potential clients.

*Moderator:*     Joan Canny, Morgan Lewis & Bockius LLP, Miami, FL

*Panelists:*     Jim Grogan, Deputy Administrator and Chief Counsel Attorney Registration and Disciplinary Commission, Illinois Supreme Court, Chicago, IL

Russell Hoover, Jenner & Block LLP, Chicago, IL

Daniel W. Smith, Loss Prevention Counsel, ALAS, Inc., Chicago, IL