Save the Date!
Mark your calendars for the following Labor & Employment Law Section Event

Details are subject to change. Check your emails and the Atlanta Bar Association website for updates.

**November 3:** Luncheon with the IP Section on the Defend Trade Secrets Act

**November 3:** Atlanta Volunteer Lawyers Foundation Wine Tasting: L&E sponsors

**November 15th:** Happy Hour at the Lawyers Club of Atlanta

**December 9th:** Breakfast Meeting with the Tax and Litigation Sections

**December 9th:** Luncheon with Judge Nancy Gertner

**January:** Newsletter: Topics: Overtime, Joint Employer and NLRB

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Message From the Editor
Daniel P. Hart, Seyfarth Shaw LLP

On behalf of the Labor & Employment Section of the Atlanta Bar Association, we are pleased to publish the Fall Edition of our Section newsletter. I want to thank the contributors to the newsletter. A special thanks goes to Jodie Gray with the Atlanta Bar Association for her assistance in putting the newsletter together.

We have three articles in this newsletter addressing timely topics. In the wake of the 2016 Summer Olympics in Rio, Kenneth M. Winkler reports on the U.S. women’s national soccer team’s pay discrimination claim and highlights Equal Pay Act challenges for employers generally in his article, "All that Glitters is not Gold: U.S. Women’s Soccer Team Challenges Pay Disparity." In their article "The More Things Change, the More They Stay the Same: How Courts Have Applied the Amended Federal Rules of Civil Procedure in Employment Cases," Craig S. Friedman and Allison C. Averbuch discuss rulings applying the recently amended Federal Rules of Civil Procedure. Finally, Neal F. Weinrich provides an overview of the recently-enacted federal Defend Trade Secrets Act in his article "A Federal Cause of Action for Trade Secret Misappropriation."

In the upcoming year, future issues of the Atlanta Bar Association L&E will focus on the new FLSA overtime regulations; the intersection between ADA, FMLA, and workers’ compensation claims; and other hot topics. If you would like to submit an article for a future newsletter, or if you have any feedback regarding the newsletter, please feel free to send me an email to dhart@seyfarth.com.

Message From the Chair
Amanda Farahany, Barrett & Farahany, LLP
Welcome to the Fall edition of the L&E section newsletter. Thank you to editor Dan Hart and the authors for their contributions. I’m excited about our plans for the upcoming year, including our new initiative: a trial boot camp for L&E members in early 2017. Attorneys of all levels of experience will be trained by experienced trial lawyers, and at the end of the program, will try the case to a mock jury. Look for more information about this program soon. In the meantime, save the dates for our upcoming events above.

If you are interested in submitting an article for the January newsletter, please let Dan Hart know. I look forward to seeing you at these great events!

All That Glitters is not Gold: U.S. Women's Soccer Team Challenges Pay Disparity
By Kenneth M. Winkler, Berman Fink Van Horn P.C.

Amid the myriad of controversy surrounding this summer's Olympics in Rio, the U.S. women's national soccer team entered the games involved in its own legal controversy. On March 29, 2016, five members of the team filed a charge of discrimination against the U.S. Soccer Federation with the Equal Employment Opportunity Commission (EEOC), alleging disparity in pay between male and female U.S. soccer players. The U.S. Soccer Federation contends that the men's national team players can sometimes lawfully earn greater compensation because they generate greater revenue, and that any differences in pay between the men's and women's teams is attributable to nondiscriminatory factors.

The women soccer team’s EEOC action was filed just a week after another sporting event sparked debate about perceived inequality in compensation between the sexes. On March 22, 2016, Raymond Moore, the chief executive of the Indian Wells Tennis Garden in California and director of its tournament, resigned as a result of the backlash he faced for suggesting that women tennis players “ride on the coattails of the men.”

Read the entire article

The More Things Change, the More They Stay the Same: How Courts Have Applied the Amended Federal Rules of Civil Procedure in Employment Cases
By Craig S. Friedman and Allison C. Averbuch, Jones Day
On December 1, 2015, amendments to the Federal Rules of Civil Procedure ("FRCP") became effective. Of particular note, the amendments revised Rule 26(b), which governs the scope of discovery, and Rule 37(e), which addresses the preservation of electronically stored information ("ESI"). Although the amended rules have only been in effect for ten months, the consequences of these changes have become apparent in how courts address discovery disputes. This article provides an overview of the key changes to the FRCP and discusses some of the first employment cases that have applied these rules to discovery disputes.

Amendments to the Federal Rules of Civil Procedure

The new version of Rule 26(b)(1) provides:
Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.

A Federal Cause of Action for Trade Secret Misappropriation

By Neal F. Weinrich, Berman Fink Van Horn P.C.

Trade secret theft is a very serious concern for employers. According to a recent report by the Center for Responsible Enterprise and Trade and PriceWaterhouseCoopers, LLC, trade secret theft has an estimated economic impact of 1% to 3% of the United States’ Gross Domestic Product. Hundreds of billions of dollars per year are lost through trade secret theft. Trade secret litigation has also multiplied in the last 15 years. And in the digital era, it is significantly easier for employees to misappropriate company data, which in turn makes it more challenging for companies to prevent trade secret theft.

The importance of trade secrets and the need to protect them got Congress’s attention. Earlier this year the Defend Trade Secrets Act (DTSA) passed the Senate and House, with widespread support across the aisles. On May 11, 2016, President Obama signed the DTSA into law.

What is the DTSA?

The DTSA amends the Economic Espionage Act, Chapter 90 of Title 18 of the United States Code. It creates a civil cause of action for the owner of a trade secret that has been misappropriated 'if the trade secret is related to a product or service used in, or intended for use in, interstate or foreign commerce.'

(estimating that annual losses to the American economy caused by trade secret theft are over $300 billion).

Read the entire article