

# Chairs' Column



**Ann Marie Painter**



**Kimberly G. Stith**

It is impossible to ignore our worsening economy. In March 2009, the number of unemployed increased by 694,000 to 13.2 million, and the unemployment rate rose to 8.5 percent. Over the past 12 months, the number of unemployed persons has grown by about 5.3 million, and most do not predict a decrease in the near future. Many of us have assisted clients, both employers and employees, directly impacted by these layoffs and reorganizations, and the work continues.

The Equal Employment Opportunity Commission reported a record high number of discrimination charges for calendar year 2008—a 15 percent increase from the prior year—and it is anticipated that these numbers will continue to rise and result in an increase in litigation.

Although the focus is on the economy, the Employment and Labor Relations Committee continues to await the legislative changes to the employment and labor law arena promised by the president and the Democratic Congress. To date, the much-talked-about Employee Free Choice Act that hopes to dramatically change the manner in which unions organize and are certified is still in committee, and the chances for quick and easy passage seem to have diminished. Additionally, the Paycheck Fairness Act, which would make punitive and compensatory damages

available under the Equal Pay Act, has passed by Congress but, to date, has not been introduced in the Senate. In addition, many other employment and labor law bills are under consideration.

So what does all of this mean for the employment and labor litigator? It is more important than ever that we look for ways to stay abreast of legislation and court decisions impacting our profession. To that end, this committee has added a Hot Topics subcommittee, chaired by Darryl G. McCallum, a partner with Baltimore's Shawe & Rosenthal, LLP. The Hot Topics Subcommittee will ensure we communicate important legislative changes and court cases to members quickly via email and on our website.

Darryl regularly defends employers in areas like employment discrimination, retaliation, wrongful discharge, and wage/hour regulation both in court and before federal and state agencies. Darryl is a frequent speaker on employment law issues, and is a member of the board of the Maryland State Bar Association Section of Labor and Employment Law as well as the board of the Maryland Hotel and Lodging Association. He is also cochair of the Labor and Employment Subcommittee of the American Bar Association Section of Litigation's Committee on Corporate Counsel and has contributed articles to the Corporate Counsel Subcommittee's quarterly newsletter. Additionally, he has served as a revisions editor for the Matthew Bender publication *The Employment Law Deskbook*. Darryl earned his B.A. degree, cum laude, from Princeton University, and his J.D. degree from Harvard Law School. We are pleased to have Darryl on our committee and look forward to his continued efforts with future Hot Topics.

To find out more about this committee, the many tools available, or how you can get involved, visit [www.abanet.org/litigation/committees/employment](http://www.abanet.org/litigation/committees/employment).

**Ann Marie Painter  
and Kimberly G. Stith**

## Message from the Editors



**William C. Martucci**



**Brian Koji**

One only has to tune in to the daily news or peruse any major newspaper to witness numerous accounts deconstructing the deleterious effects that the credit crisis and the woes of the financial services industry are wreaking upon the economy in general and employers in particular. Against this backdrop, the analysis by Timothy H. Savage and Ross H. Friedman concerning the applicability of WARN's unforeseeable business circumstances exception provides timely guidance concerning an important issue confronting employers, employees, and their respective counsel.

Another area likely to emerge as a hot topic in employment law is the legal standards governing employee background checks. As employers and credit reporting agencies become more and more creative and technological advances permit more intrusive screening of applicants and employees, labor and employment law practitioners will no doubt be called upon by clients to provide legal counsel concerning the permissible scope and manner of conducting background checks. Eva Shih

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