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Employment Law Seminar

February 27th, 2019

The Country Club of Harrisburg
401 Fishing Creek Valley Road
Harrisburg, PA 17112



(717) 237-7100
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Thomas, Thomas & Hafer LLP
Employment Law Seminar
Wednesday, February 27th, 2019
At The Country Club of Harrisburg
401 Fishing Creek Valley Road, Harrisburg, PA 17112

Agenda

| | |
|-------------------------|---|
| 8:00 a.m. – 8:30 a.m. | Registration and Breakfast |
| 8:30 a.m. – 8:40 a.m. | Introduction & Welcome: Anthony T. Bowser, Esq. |
| 8:40 a.m. – 9:30 a.m. | Topic: Mid-Atlantic Employment Law Update – Pennsylvania, New Jersey and Maryland Presented by: David L. Schwalm, Esq., Chloe E. Gartside, Esq., and E. Meredith Wolak, Esq. |
| 9:30 a.m. – 9:40 a.m. | Break |
| 9:40 a.m. – 10:05 a.m. | Topic: Best Practices for Addressing Sexual Harassment in the #MeToo Movement Presented by: Anthony T. Bowser, Esq. |
| 10:05 a.m. – 10:30 a.m. | Topic: Considerations in Settling Employment Cases Presented by: Anthony T. Bowser, Esq. |
| 10:30 a.m. – 10:40 a.m. | Break |
| 10:40 a.m. – 11:30 a.m. | Topic: Practice Before the EEOC Presented by: Dana R. Hutter, Esq., Systemic Manager at EEOC U.S. Equal Employment Opportunity Commission |
| 11:30 a.m. – 12:20 p.m. | Topic: State Level Enforcement – Pennsylvania Office of Attorney General Presented by: Corbett L. Anderson, Esq., Chief Deputy Attorney General, and Christopher S. Hallock, Esq., Deputy Attorney General |
| 12:20 p.m. – 12:30 p.m. | Comments and Conclusion: Anthony T. Bowser, Esq. |
| 12:30 p.m. – | Buffet Luncheon |

Topic:
Mid-Atlantic Employment
Law Update

Presented by:
David L. Schwalm, Esq.,
Chloe E. Gartside, Esq., and
E. Meredith Wolak, Esq. of
Thomas, Thomas & Hafer, LLP

MID-ATLANTIC EMPLOYMENT LAW UPDATE



*Pennsylvania
New Jersey
Maryland*

Presented by:

Thomas, Thomas & Hafer LLP Attorney:



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Developments in Pennsylvania Employment Law

Dave has over 30 years of legal experience and concentrates his practice primarily in the defense of litigation against public and private entities and employers, involving issues of government liability, municipal liability, civil rights claims, and employment law.

Dave has appeared before most of the state's Common Pleas Courts and in the United States District Courts in Central and Eastern Pennsylvania and has handled appellate matters before the Pennsylvania appellate courts, the Third Circuit Court of Appeals and the United States Supreme Court. He has also appeared before courts in West Virginia, Maryland and New Jersey. In addition, he has handled employment matters before the Pennsylvania Human Relations Commission and the Equal Employment Opportunity Commission.

PHRC Guidance on LGBTQ Protections

On August 2, 2018, the Pennsylvania Human Relations Commission issued guidance clarifying that the Commission will accept for investigation charges that allege discrimination based on:



- *Basis of sex assigned at birth*
- *Sexual orientation*
- *Transgender identity*
- *Gender transition*
- *Gender identity*
- *Gender expression*

PHRC Guidance on LGBTQ Protections

- Sex has long been a protected class under PHRA and Title VII
- Courts have held that PHRA must be construed with Title VII
- Federal circuit courts are split on the issue (as are District Court decisions within 3rd Circuit)

PA Medical Marijuana Act Update

Employee Protections:

- No employer may discharge, threaten, refuse to hire or otherwise discriminate or retaliate against an employee regarding an employee's compensation, terms, conditions, location or privileges **solely** on the basis of such employee's status as an individual who is certified to use medical marijuana.



Noffsinger v. SSC Niantic Operating Co., LLC (D. Conn. Sept. 5, 2018)

- Federal court decision construing anti-discrimination provisions of Connecticut Palliative Use of Marijuana Act (PUMA), which mirrors PA's MMA
 - Employer, a federal contractor, made an offer of employment to Plaintiff contingent on her passing a pre-employment drug test
 - Plaintiff told Employer that she was a registered qualifying PUMA patient and she has used medical marijuana since 2015 to treat posttraumatic stress disorder
 - When the pre-employment drug test came back positive for marijuana, Plaintiff was not hired because the employer followed federal law holding that marijuana is illegal

Noffsinger v. SSC Niantic Operating Co

- Act provides a private right of action to aggrieved medical marijuana patients
- Federal law does not preempt PUMA's prohibition on employers' firing or refusing to hire qualified medical marijuana patients, even if they test positive on an employment-related drug test
- Court rejected Employer's argument that it did not violate Act because it did not discriminate against Plaintiff *based on her status* as a medical marijuana user; rather, it had relied on the positive drug test result
- Court concluded that argument would render a medical marijuana user's protection under the statute a nullity

Noffsinger v. SSC Niantic Operating Co

- Court also rejected Employer's argument that the federal Drug-Free Workplace Act (DFWA) barred it from hiring Plaintiff because that law prohibits federal contractors from allowing employees to use illegal drugs (marijuana is illegal under federal law)
- The court noting that the DFWA does not require drug testing and does not regulate employees who use illegal drugs outside of work while off-duty

Pittsburgh Logistics Sys. v. BeeMac Trucking, LLC (2019 PA Superior Ct)



- No-poaching provision in a motor carrier services contract between companies was unenforceable as a matter of law because it was void against public policy
- No-poaching provision essentially forced a non-compete agreement on employees of other companies without their consent, or even knowledge, in some cases
- The court held that the limits the employer wished to place on its employees from future competition was a matter between the employer and employee, not between competing companies

Dittman v. UPMC
(PA Supreme Court 2018)

Employers have “a legal duty to exercise reasonable care to safeguard” employee personal data stored on internet-accessible computer systems



Dittman v. UPMC
(PA Supreme Court 2018)

- Under the economic loss doctrine, recovery for purely pecuniary damages is permissible under a negligence theory “provided that the plaintiff can establish the defendant’s breach of a legal duty arising under common law that is independent of any duty assumed pursuant to contract”
- *Takeaway*: Now that PA recognizes a common law duty for data protection, employees now may sue their employers for purely economic loss arising from the failure to safeguard their data

**Philadelphia’s Fair Workweek
Employment Ordinance**

- Covers only those “retail establishments,” “hospitality establishments,” and “food services establishments” that employ 250 or more employees overall and have 30 or more locations worldwide, including chains and franchise locations (Approx. 130,000 people)
- Requires:
 - *Advance Notice of Work Schedules*
 - *Compensation for Changed Work Schedules*
 - *Right to Rest Between Work Shifts*
 - *Offer of Work to Existing Employees*
- Take effect January 1, 2020

Presented by:

Thomas, Thomas & Hafer LLP Attorney:



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Ms. Gartside defends municipalities in civil litigation claims brought under the Pennsylvania Subdivision Tort Claims Act and health care providers in person injury protection (PIP) arbitrations.

Prior to joining the firm in 2018, Chloe handled claims of employment discrimination and family law matters.

Developments in New Jersey Employment Law

Changes to NJ Paid Family Leave

- On 2/19 Gov Murphy signed into law a sweeping expansion to the state's paid family leave program
- NJ enacted a paid family leave program in 2008
- Expands that program to provide additional job protections for those who miss work due to caring for a newborn child or a sick loved one



NJ Paid Family Leave Expansion

- **Doubles # of weeks for Family Leave Insurance (FLI) and Temporary Disability Insurance (TDI):**
 - Increases paid family leave from 6 weeks to 12
 - Leave must be taken in consecutive weeks
- **Increasing the weekly benefit:**
 - Individuals can now receive 85 percent of their weekly wage, with the maximum possible benefit going up to 70 percent of the statewide average weekly wage
 - Using data from this year, the maximum possible benefit would go up from \$650 a week to \$860 a week under this law

NJ Paid Family Leave Expansion

- **Increasing intermittent leave:**
 - Employees will be able to take up to 56 days of intermittent leave within a 12-month period, beginning in July 2020.
 - Increase from 42 days previously
- **Anti-retaliation provisions:**
 - Employers with 30+ employees barred from retaliating or discriminating against an employee because they took family leave
- **Including domestic and sexual violence:**
 - Allows TDI leave for medical attention, counseling, or legal assistance or proceedings arising out of domestic violence or sexual violence
 - Employee can take FLI if they were victim of domestic or sexual violence, or to care for a family member who was such a victim

NJ Paid Family Leave Expansion

Expands individuals eligible to take paid family leave to caring for:

- Siblings
- In-laws
- Grandparents
- Grandchildren
- Other blood relatives
- Any other individuals with equivalent of a family relationship



Medical Marijuana in NJ



CUMMA

N.J. Stat. Ann. § 24:61-2(a) New Jersey Compassionate Use Medical Marijuana Act ("CUMMA")

- Enacted in 2010 to decriminalize the use of medical marijuana in light of legislature's finding that medical research has discovered a beneficial use for marijuana in treating or alleviating the pain or other symptoms associated with certain debilitating medical conditions

CUMMA

- Nothing in the law requires "an employer to accommodate the medical use of marijuana in any workplace"
- Off-duty medical marijuana use?
 - Pending legislation (Bill A1838) - protection from adverse employment actions for medical marijuana patients unless the use impairs the employee's ability to perform job responsibilities

Cotto v. Ardagh Glass Packing, Inc. **(D.N.J. Aug. 10, 2018)**

- Plaintiff argued employer violated CUMMA and NJ Law Against Discrimination (LAD) by refusing to accommodate his use of medical marijuana by waiving a drug test
- Employer pointed to CUMMA for the proposition that it had no duty to waive the drug test
- Court rejects Plaintiff's theories
 - CUMMA **allows** employers to accommodate but does not **compel** it
 - CUMMA does not create a right of action for discrimination under the LAD nor does it waive an employer's obligations under the LAD
 - Court looked to prior CA decision holding that "[n]o state law could completely legalize marijuana for medical purposes because the drug remains illegal under federal law even for medical users"

Other NJ Med Marijuana Decisions

- **Cobb v. Ardagh Glass, Inc. (D.N.J. Jan. 26, 2018)**
 - Defendants have no liability for failing to accommodate Plaintiff's marijuana usage
- **Barrett v. Robert Half Corp. (D.N.J. Feb. 21, 2017)**
 - Plaintiff issued medical marijuana card and upon hire, notified employer of disability and medical marijuana card
 - 7 months later, employer conducted a mandatory drug test, Plaintiff failed, and was fired
 - Holding: Plaintiff failed to plead a cause of action for failure to accommodate under the LAD because the disclosure to his employer that he was licensed to use medical marijuana as part of treatment for his disability did not render a request for assistance in connection with his disability

Diane B Allen Equal Pay Act



- Took effect on July 1, 2018
- Allen Act goes beyond requiring equal pay for men and women
- Forbids pay differentials between members of *any* protected class performing substantially similar work

Diane B Allen Equal Pay Act, cont.

- Defenses available if paid differently for the same work pursuant to:
 - Seniority system
 - Merit system
 - System which measures earnings by quantity or quality of production
 - Certain “bona fide factors”
 - Must be “job-related” and “based on a legitimate business necessity”

Remedies under Allen Equal Pay Act

- Statute of limitations is **SIX YEARS** and every paycheck restarts the statute
- Treble damages (mandatory)
- Reasonable attorneys' fees and costs for prevailing plaintiff (mandatory)



Presented by:

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Developments in Maryland Employment Law

Meredith Wolak joined the firm in 2014 and concentrates her practice in the areas of workers' compensation and employment law defense. In this capacity, she represents employers and insurers in all phases of litigation, from administrative hearings through appellate practice. Meredith provides risk reduction and case management advice to clients facing employment law and workers' compensation claims. She is admitted to practice law in Maryland and the District of Columbia.

Disclosing Sexual Harassment in the Workplace Act of 2018

- Effective 10/1/2018
- Goal:
 - limiting employers' ability to avoid sexual harassment claims or keep such claims under wraps
 - #MeToo



Disclosing Sexual Harassment in the Workplace Act of 2018

- Renders null and void as against Maryland public policy any provision in an employment contract, policy, or agreement that waives **any substantive or procedural right or remedy** to a claim for sexual harassment or related retaliation **which accrues in the future** (except as prohibited by federal law); and
- Requires employers with more than 50 employees to complete two surveys reporting their sexual harassment claims and settlements

Disclosing Sexual Harassment in the Workplace Act of 2018

- Act doesn't define:
 - *sexual harassment*
 - *who is an employee*
- Act applies to waivers of future claims
 - *Does not prevent ERs from settling claims*
 - *Does not appear to invalidate past settlement agreements*
- Penalty:
 - *When ER attempts to **enforce** such an agreement*
 - *Responsible for reasonable attorney's fees and costs*



Disclosing Sexual Harassment in the Workplace Act of 2018

- Possible Preemption under Federal Arbitration Act (FAA)
- FAA strongly favors enforcement of arbitration clauses
 - e.g. *Epic Systems Corp. v. Lewis* (SCOTUS 2018) – Arbitration agreements enforceable in FLSA dispute despite possible conflict with employees' NLRA rights
- Practical considerations

DSHWA – Survey Requirements

- Complete/submit electronic survey to MCCR by 7/1/2020 and again by 7/1/2022
- Information covered:
 - # sexual harassment settlements by or on behalf of ER
 - # of times ER has paid a settlement to resolve a sexual harassment allegation against the same EE over the past 10 years
 - # of sexual harassment settlements w/ mutual confidentiality provision
 - Info on action taken against alleged harassers

DSHWA – Survey Requirements

- Commission will publish aggregate numbers of responses & executive summary from random selection of surveys
- Individual ER responses will be available for public inspection upon request to the Commission
- Recommendations for ERs
 - Collect/retain info
 - Be aware of public info

Other Laws Effective 10/1/2018

- State offices are now required to provide a reasonable, unpaid break time for state employees to express breast milk for a nursing child. State must provide a private place that is not a bathroom.
- All employees in the executive branch of state government now entitlement to 60 days of parental leave with pay
- State employees required to complete two cumulative hours of sexual harassment training. Supervisors required to complete training on responding to complaints, preventing further incidents/issues, and workplace culture
- Coverage of jockeys expanded (now includes jockeys who are training horses but only if the principal earnings of the jockey are based on live racing and not as an exercise rider)

Topic:
Best Practices for Addressing
Sexual Harassment in the
#MeToo Movement

Presented by:
Anthony T. Bowser, Esq., of
Thomas, Thomas & Hafer, LLP



Best Practice for Addressing Sexual Harassment in the #MeToo Era

Presented by:

Thomas, Thomas & Hafer LLP Attorneys:



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Anthony joined the firm in July 2012. His practice is focused on representing companies and municipalities in all aspects of labor and employment law, as well as commercial litigation.

Anthony has experience litigating disputes related to employment discrimination, wage and hour, employment contracts, restrictive covenants, trade secrets, unemployment compensation, family and medical leave, employee benefits, reductions in force and wrongful discharge. In addition to employment litigation, Anthony represents business entities in a variety of commercial disputes and municipalities in the defense of civil rights claims.

Just the fact, ma'am

- **10/17 ABC News/Washington Post Poll:**
 - More than 1/2 of American women have experienced unwanted and inappropriate sexual advances from men
 - 3 out of 10 have put up with unwanted advances from male co-workers
 - 25% have endured them from men who had influence over their work situation
- **2016 EEOC Select Task Force Study**
 - 75 percent of those who experienced harassment never reported it or filed a complaint, but instead would “avoid the harasser, deny or downplay the gravity of the situation, or attempt to ignore, forget, or endure the behavior”

Impact on EEOC Filings

- According to EEOC fiscal year 2018 statistics released in October:
 - Charges alleging sexual harassment increased by more than 12 % from FY2017
 - EEOC recovered nearly \$70 million for victims of sexual harassment in FY2018, an increase of \$22.5 million from FY2017

Minarsky v. Susquehanna Cty (3rd Cir 2018)



Minarsky v Susquehanna Cty

- Yadlosky supervised Minarsky
- Sexual harassment
- Minarsky testified that these advances were unwanted, and happened frequently—nearly every week

Minarsky v Susquehanna Cty

- During the 4 years Minarsky was harassed by Yadlosky, she did not report the harassment in accordance with the County's policy
- Employer asserts *Faragher-Ellerth* defense

Minarsky v Susquehanna Cty

- *Faragher-Ellerth*: If the harassed employee suffered no tangible employment action, the employer can avoid liability by showing:
 - That the employer exercised reasonable care to prevent and correct promptly any sexually harassing behavior
 - That the plaintiff employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise
- District Court grants summary judgment, finding jury could not find that Minarsky's failure to report harassment was reasonable

Minarsky v Susquehanna Cty

3rd Circuit:



Minarsky v Susquehanna Cty

- 1st Element:
 - *Employer’s policies ok on paper, but facts showed knowledge of Yadlosky’s conduct*
- 2nd Element:
 - *Minarsky’s failure to report could have been reasonable under the circumstances*

Judge Rendell footnote in *Minarsky*

This appeal comes to us in the midst of national news regarding a veritable firestorm of allegations of rampant sexual misconduct that has been closeted for years, not reported by the victims. It has come to light, years later, that people in positions of power and celebrity have exploited their authority to make unwanted sexual advances. In many such instances, the harasser wielded control over the harassed individual's employment or work environment. In nearly all of the instances, the victims asserted a plausible fear of serious adverse consequences had they spoken up at the time that the conduct occurred. While the policy underlying Faragher-Ellerth places the onus on the harassed employee to report her harasser, and would fault her for not calling out this conduct so as to prevent it, a jury could conclude that the employee's non-reporting was understandable, perhaps even reasonable. That is, there may be a certain fallacy that underlies the notion that reporting sexual misconduct will end it. Victims do not always view it in this way. Instead, they anticipate negative consequences or fear that the harassers will face no reprimand; thus, more often than not, victims choose not to report the harassment. Recent news articles report that studies have shown that not only is sex-based harassment in the workplace pervasive, but also the failure to report is widespread. Nearly one-third of American women have experienced unwanted sexual advances from male coworkers, and nearly a quarter of American women have experienced such advances from men who had influence over the conditions of their employment, according to an ABC News/Washington Post poll from October of 2017. Most all of the women who experienced harassment report that the male harassers faced no consequences. ABC News/Washington Post, *Unwanted Sexual Advances: Not Just a Hollywood Story* (Oct. 17, 2017), <http://www.langerresearch.com/wp-content/uploads/1192a1SexualHarassment.pdf>. Additionally, three out of four women who have been harassed fail to report it. A 2016 Equal Employment Opportunity Commission (EEOC) Select Task Force study found that approximately 75 percent of those who experienced harassment never reported it or filed a complaint, but instead would "avoid the harasser, deny or downplay the gravity of the situation, or attempt to ignore, forget, or endure the behavior." EEOC Select Task Force, *Harassment in the Workplace*, at v (June 2016), https://www.eeoc.gov/eeoc/task_force/harassment/upload/rep_orl.pdf. Those employees who faced harassing behavior did not report this experience "because they fear[ed] disbelief of their claim, inaction on their claim, blame, or social or professional retaliation." *Id.*; see also Stefanie Johnson, et al., *Why We Fail to Report Sexual Harassment*, *Harvard Business Review* (Oct. 4, 2016), <http://hbr.org/2016/10/why-we-fail-to-report-sexual-harassment> (women do not report harassment because of retaliation fears, the bystander effect, and male-dominated work environments).

Parker v. Reema Consulting Servs. **(4th Cir. Feb. 8, 2019)**



Parker v. Reema Consulting Servs

- District Court granted Motion to Dismiss:
 - Considered the complaint about the rumor and its circulation to be based on her alleged conduct (having sex with the decision-maker) and NOT her gender
 - Also held that the harassment was not sufficiently severe or pervasive to have altered the terms and conditions of plaintiff's employment

Parker v. Reema Consulting Servs

4th Circuit:



Parker v. Reema Consulting Servs. **(4th Cir. Feb. 8, 2019)**

- As alleged, the rumor was that Parker, a female subordinate, had sex with her male superior to obtain promotion, implying that Parker used her womanhood, rather than her merit, to obtain from a man, so seduced, a promotion. She plausibly invokes a deeply rooted perception — one that unfortunately still persists — that generally women, not men, use sex to achieve success. And with this double standard, women, but not men, are susceptible to being labelled as "sluts" or worse, prostitutes selling their bodies for gain.
- In short, because "traditional negative stereotypes regarding the relationship between the advancement of women in the workplace and their sexual behavior stubbornly persist in our society," and "these stereotypes may cause superiors and coworkers to treat women in the workplace differently from men," it is plausibly alleged that Parker suffered harassment because she was a woman.

WHAT'S AN EMPLOYER TO DO?

- Ensure you have an effective anti-harassment policy
 - Clear language
 - Properly disseminated to *and understood* by employees
 - Provides helpful procedure for reporting and investigation
- Follow your procedures – every time
- Hold people accountable

WHAT'S AN EMPLOYER TO DO?

- Provide regular, interactive training
 - Rank & file employees
 - Supervisors (and HR staff!)
 - Avoid simply reviewing definition of harassment & instead focus on treating co-workers w/ respect
- Leadership buy-in
 - Promote commitment to doing the right thing

Topic:
Considerations in Settling
Employment Cases

Presented by:
Anthony T. Bowser, Esq., of
Thomas, Thomas & Hafer, LLP

Considerations in Settling Employment Cases



Presented by:

Thomas, Thomas & Hafer LLP Attorneys:



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Anthony joined the firm in July 2012. His practice is focused on representing companies and municipalities in all aspects of labor and employment law, as well as commercial litigation.

Anthony has experience litigating disputes related to employment discrimination, wage and hour, employment contracts, restrictive covenants, trade secrets, unemployment compensation, family and medical leave, employee benefits, reductions in force and wrongful discharge. In addition to employment litigation, Anthony represents business entities in a variety of commercial disputes and municipalities in the defense of civil rights claims.

General Considerations

1. Was a mistake made?
2. Will settlement have an impact outside of this case?
3. Venue & assigned judge
4. Will plaintiff be sympathetic?
5. How will our key witnesses present at trial?
6. Are plaintiff's damages limited?
7. What if the plaintiff is still your employee?

Tax Implications

- The “nature of the claim that was the basis for the settlement controls the nature of those damages for tax purposes”
 - *Ruffin v. C.I.R.*, No. 11785-10S, 2011 WL 6089940, at *2 (T.C. Dec. 7, 2011)
- The critical question regarding settlement proceeds is “in lieu of what was the settlement paid”
 - *Bagley v. Commissioner*, 105 T.C. 396, 406, 1995 WL 730447 (1995)
- If the settlement proceeds represent something that would have been taxable, such as wages, then the settlement proceeds, too, are taxable
 - *Estate of Williams v. Commissioner*, T.C. Memo 2009-5



Tax Implications: Damages Available in Employment Cases

- Back pay & front pay
- Compensatory damages (emotional distress)
- Punitive damages
- Liquidated damages
- Attorneys’ fees

Tax Implications

- Key is negotiating the tax treatment of the settlement amount
- *Gerstenbluth v. Credit Suisse Sec. (USA) LLC*, 728 F.3d 139 (2d Cir. 2013):
 - Payor’s intention is given particular weight in determining tax treatment of settlement payments
 - Without a negotiated tax classification stated in a settlement agreement and reflected in the settlement amount, the defendant—especially an employer or former employer—may have little incentive to treat a payment as anything other than FICA-taxable wages: an error in making a non-wage classification creates unnecessary and undesirable exposure for the employer in light of FICA’s withholding requirements.

The “Weinstein Tax”

- For businesses, most legal settlements and legal fees are tax deductible (except fines and penalties paid to the government)
- Revised Section 162 provides:
 - PAYMENTS RELATED TO SEXUAL HARASSMENT AND SEXUAL ABUSE.
 - No deduction shall be allowed under this chapter for—
 - (1) any settlement or payment related to sexual harassment or sexual abuse *if such settlement or payment is subject to a nondisclosure agreement*, or
 - (2) attorney’s fees related to such a settlement or payment.
- Question as to attorneys’ fees paid by plaintiff

Settlement Strategies

- Early mediation with EEOC
- Court-sanctioned mediation
- Rule 68 Offers of Judgment
 - Allows a party defending a claim, at least 14 days before the date set for trial, to make an offer of judgment to the other party. ... However, if the other party rejects the offer and ultimately obtains a less favorable judgment, it then must pay the costs incurred after the offer was made.
 - Are plaintiff’s damages readily ascertainable?
 - Timing

Topic:
Practice Before the EEOC

Presented by:
Dana R. Hutter, Esq.,
Systemic Manager at EEOC
U.S. Equal Opportunity Commission



EEOC Update

DANA R. HUTTER, DEPUTY DISTRICT DIRECTOR
FEBRUARY 27, 2019
THOMAS, THOMAS & HAER LLP
EMPLOYMENT LAW SEMINAR
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Today:

- 1.National Initiatives
- 2.Harassment
- 3.Leave and the ADA
- 4.EEOC Goes Digital
- 5.ADR
- 6.Questions *** But feel free to ask along the way!

Current Commission

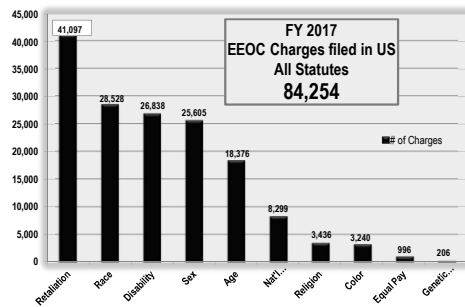
Bipartisan, 5-member
2 Commissioners- 3 Vacancies, Acting Chair Lipnic, Commissioners Charlotte Burrows

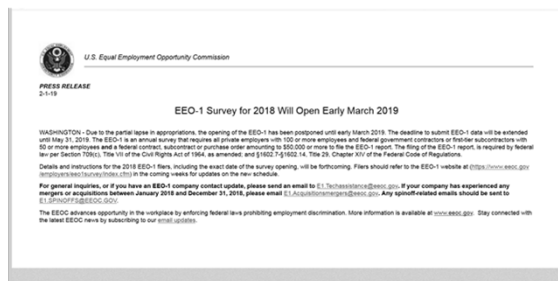


Victoria A. Lipnic
Acting Chair



Charlotte A. Burrows
Commissioner





2017-2021 Strategic Enforcement Plan

- Eliminating barriers in recruitment & hiring
- Protecting immigrant, migrant & vulnerable workers
- Addressing emerging & developing employment discrimination issues
- Enforcing equal pay laws
- Preserving access to the legal system
- Preventing harassment through systemic enforcement & targeted outreach
- Cases with Strategic Impact



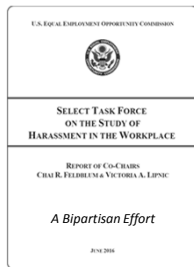
COMMISSION ACTION

July 7, 2016: The Commission releases its 10-year review of the **EEOC'S SYSTEMIC PROGRAM**

- 250% increase in systemic investigation in the past 5 years alone
- >71,000 workers received jobs & recovered lost wages due to systemic work
- Amount of monetary relief tripled in the last 5 years compared to the 1st 5 years.
- 64% successful conciliation rate in 2015, up from 21% in 2007.
- EEOC plans to build upon its systemic program to remove persistent & emerging barriers to opportunity.



June 2016: Commission issues Select Task Force on the Study of Harassment in the Workplace



Harassment continues to be one of the most frequently raised complaint—

- over 32% of all private sector cases
- 43% of Federal sector cases





Report available at:

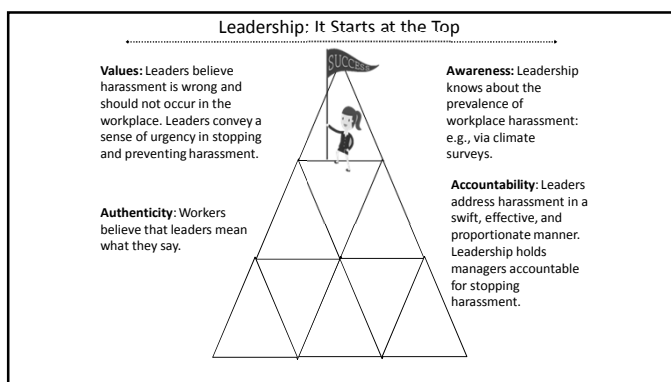
www.eeoc.gov/task_force/harassment/report.com

Harassment charges in FY 2017

EEOC received 6,696 sexual harassment charges and obtained \$46.3 million in monetary benefits for victims of sexual harassment.

EEOC received 29,978 harassment charges total (all bases not just sex) and obtained \$125.5 million on behalf of harassment victims, including sexual harassment.

| | | | | |
|---|---|---|--|---|
| Our Findings | Workplace harassment remains a persistent problem. | Workplace harassment too often goes unreported. |  | There is a compelling business case for preventing harassment. |
| The good news: We have some creative ideas. | Leadership and accountability can prevent harassment. |  | Workplace risk factors should be evaluated. |  |
| Training is important, but it needs to be the right training. |  | Employers need compliance training that is effective. | Employers should consider workplace civility training and bystander intervention training. | An It's On Us campaign in the workplace could be a game changer. |

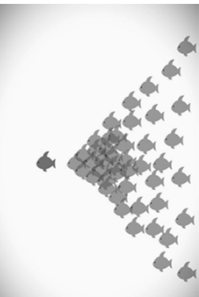


Frontline Management is Key

Frontline managers must be trained on how to respond to reports or observations of harassment in a swift and correct manner.

Frontline managers must be held accountable for their responses to harassment – using discipline or accolades.

The extent of harassment in a manager's division is not necessarily best measured by the number of complaints from that division.



| Risk Factors for Harassment | |
|---|---|
| Homogeneous workforces | Cultural and language differences in the workplace |
| Workforces with many young workers | Workplaces where some workers do not conform to workplace norms |
| Workplaces that rely on customer service or client satisfaction | Decentralized workplaces |

| Anti-Harassment Policies |
|--|
| Drafted in simple and clear language |
| Clear explanation of prohibited conduct, including examples |
| Protection against retaliation for employees who make complaints or participate in the investigation |
| Clearly described complaint process with multiple, accessible avenues of complaint and a prompt, thorough, and impartial investigation |
| Assurance that the employer will protect the confidentiality of harassment complaints to the extent possible; |
| Assurance that the employer will take immediate and proportionate corrective action and respond appropriately to behavior |

| “Reboot” Harassment Prevention |
|---|
| <i>Task Force Re-Convenes – 2016, 2018</i> |
| 1. <i>Workplace Harassment Remains a Persistent Problem.</i> |
| 2. <i>Workplace Harassment Too Often Goes Unreported.</i> |
| 3. <i>There Is a Compelling Business Case for Stopping and Preventing Harassment.</i> |
| 4. <i>It Starts at the Top - Leadership and Accountability Are Critical.</i> |
| 5. <i>Training Must Change.</i> |
| 6. <i>It's On Us.</i> |

Workplace Civility Training

Focused on creating a **civil** and **respectful** workplace for all.

Not focused on **status-based** characteristics.

Teaches employees to increase their **self-awareness** of **respectful** behavior.


Provides employees with the **skills** to control their **actions** and **reactions** to people and situations.

Leave as a Reasonable Accommodation

On May 9, 2016, EEOC issued "Employer-Provided Leave and the Americans with Disabilities Act," <https://www.eeoc.gov/eeoc/publications/ada-leave.cfm>.

Common Practices Presenting ADA Accommodation Issues:

- Maximum Leave Policies
- 100% Return to Work
- Reassignment As Accommodation?



U.S. Equal Employment
Opportunity Commission

Public Portal

This is the login page for access to EEOC's Online Charge Status System. The system is available to individuals who have open charges that were filed with EEOC on or after September 2, 2015. The system requires the charge number and the zip code of the Charging Party.

The authorized use of this system is for official EEOC case management and reporting. Access by unauthorized users or for purposes not authorized by the Commission, is subject to civil and criminal penalties or administrative action for computer fraud and abuse. EEOC takes measures to maintain the security, confidentiality, and integrity of the information we collect at this site, such as access controls designed to limit access to the information, as necessary to accomplish its mission. EEOC also employs various security technologies to protect the information stored in its systems. All uses of this system and portal are subject to monitoring and inspection according to public law.

Login for Online Charge Status System

Charge Number

Ex: 123-1234-12345

Charging Party Zip Code


Ex: 12345

efqqr

Enter the text shown in the image

Letters are case-sensitive

Submit



U.S. Equal Employment
Opportunity Commission

Public Portal

Below is the current status and information about the charge you have filed with the EEOC. Please pay your cursor over any of the status boxes or the dropdown menu entries, to provide additional information about each item that will display in a tool box. Additionally, for an overview of the charge process, select the "Show Full Process" button below.

| Status of the charge is | Contact Information | Office Information |
|--------------------------|--|--|
| <div>INVESTIGATION</div> | <div>Are Investigator</div> <div>Are Investigator@eecs.gov</div> | <div>EEOC Charlotte District Office</div> <div>123 W. Trade Street</div> <div>Charlotte, NC</div> <div>28202</div> |

INTAKE

INVESTIGATION

NEXT STEP

02/11/2015 Charge is filed

Has been assigned to an investigator

02/11/2015 Your charge has been assigned to an investigator

02/11/2015 EEOC continues investigation

02/11/2015 Notice of Right to sue Can Be Requested

Show Full Process

Login



U.S. Equal Employment
Opportunity Commission

EEOC Respondent Portal

Welcome to the EEOC Respondent Portal, where you can find information about the charge filed against you or your organization, communicate with an EEOC Representative and upload files and evidence pertaining to the charge.

Charge Number

430-2015-00000

Password

Sign In

Charge Password

Top 10 Reasons More Employers Opt to
Participate in Mediation

- Free
- Fair and Neutral
- Saves Time and Money
- Private and Confidential
- Avoids Litigation
- Fosters Greater Cooperation
- Improves Communication
- Helps Discover Real Problems
and Resolve ALL Issues
- You Control the Outcome
- Everyone Wins!



EEOC ADR PROGRAM
FY 2017 Statistics - NATIONAL

Mediations Conducted – 9,476
Resolutions – 7,218
Resolution Rate – 76.17%
Benefits - \$163,654,638
Average Length of Time – 105 days
96.47% Satisfaction rate amongst
participants



Questions?

Topic:
State Level Enforcement --
Pennsylvania Office of Attorney General

Presented by:
Corbett L. Anderson, Esq.,
Chief Deputy Director Attorney General,
and Christopher S. Hallock, Esq.,
Deputy Attorney General

State Level Enforcement – Pennsylvania Office of the Attorney General

Christopher S. Hallock, Esq.,
Deputy Attorney General
and
Corbett L. Anderson, Esq.,
Chief Deputy Attorney General



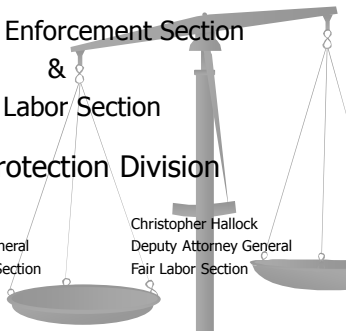
Pennsylvania Office of Attorney General

Civil Rights Enforcement Section
&
Fair Labor Section

Public Protection Division

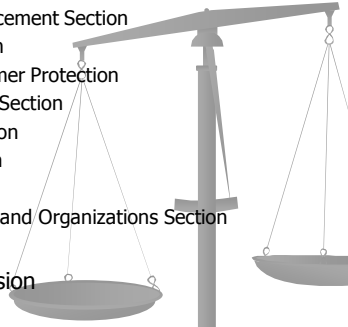
Corbett Anderson
Chief Deputy Attorney General
Civil Rights Enforcement Section

Christopher Hallock
Deputy Attorney General
Fair Labor Section



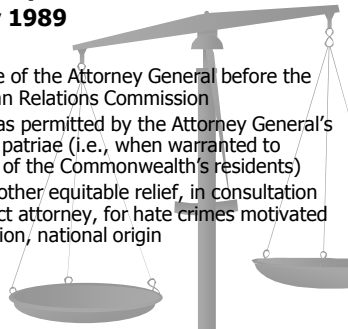
OAG – Three Divisions

- Public Protection Division
 - Civil Rights Enforcement Section
 - Fair Labor Section
 - Bureau of Consumer Protection
 - Special Litigation Section
 - Health Care Section
 - Anti-Trust Section
 - Tobacco Section
 - Charitable Trusts and Organizations Section
- Civil Law Division
- Criminal Law Division



Civil Rights Enforcement Section

- Task Force February 1984
- Section February 1989
- Jurisdiction:
 - Actions in the name of the Attorney General before the Pennsylvania Human Relations Commission
 - Civil rights actions as permitted by the Attorney General's standing as *parens patriae* (i.e., when warranted to protect the welfare of the Commonwealth's residents)
 - Civil injunctions or other equitable relief, in consultation with the local district attorney, for hate crimes motivated by race, color, religion, national origin
 - Outreach & Policy



Pennsylvania Human Relations Act

Unlawful to discriminate in:

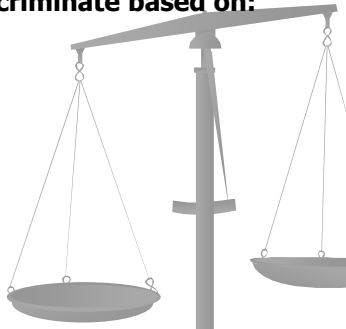
- Employment
- Housing
- Commercial Property
- Public Accommodations
- Education



Pennsylvania Human Relations Act

Unlawful to discriminate based on:

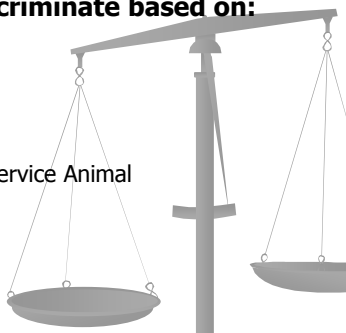
- Race
- Color
- Religion
- National Origin
- Ancestry



Pennsylvania Human Relations Act

Unlawful to discriminate based on:

- Sex
- Age
- Religion
- Disability
- Use of Guide or Service Animal
- G.E.D.
- Retaliation



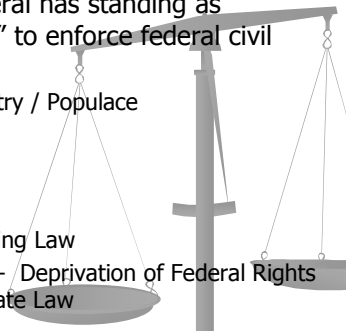
Jurisdiction to Enforce Federal Law

PA Attorney General has standing as
"parens patriae" to enforce federal civil
rights statutes.

- Parent of Country / Populace
- State's Interest

For example:

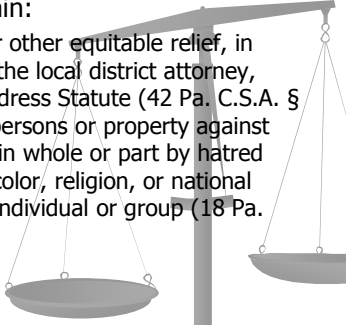
- Federal EEO Law
- Federal Fair Housing Law
- 42 U.S.C. § 1983 - Deprivation of Federal Rights
Under Color of State Law



Ethnic Intimidation (Hate Crimes)

PA-OAG may obtain:

- Civil injunctions or other equitable relief, in consultation with the local district attorney, under the Civil Redress Statute (42 Pa. C.S.A. § 8309) to protect persons or property against crimes motivated in whole or part by hatred toward the race, color, religion, or national origin of another individual or group (18 Pa. C.S.A. § 2710).



PA Interagency Task Force on Community Relations

Primary Partners:

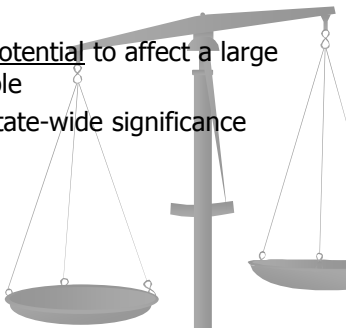
- Pa. Human Relations Commission
- Pa. Office of Attorney General
- Pa. State Police

Monthly meetings



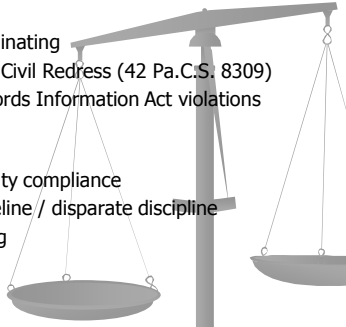
**** HIGH IMPACT ****

- Affects or has potential to affect a large number of people
- Legal issue of state-wide significance



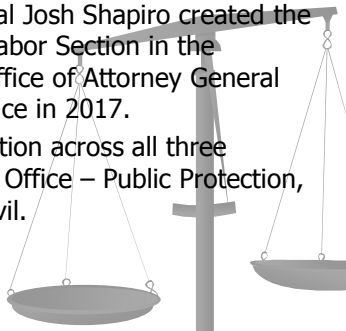
EXAMPLES OF ISSUES

- Pattern or practice
- Disparate Impact
- Gov't officials discriminating
- Ethnic Intimidation / Civil Redress (42 Pa.C.S. 8309)
- Criminal History Records Information Act violations (secs. 9125/9183)
- Harassment
- Disability / accessibility compliance
- School-to-prison pipeline / disparate discipline
- Fair housing / lending



Fair Labor Section

- Attorney General Josh Shapiro created the first-ever Fair Labor Section in the Pennsylvania Office of Attorney General after taking Office in 2017.
- FLS has jurisdiction across all three Divisions of the Office – Public Protection, Criminal and Civil.



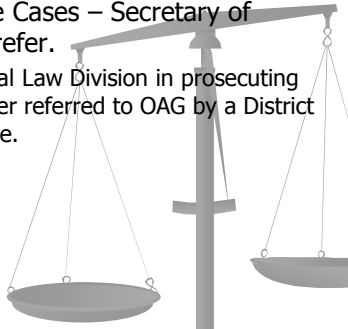
Examples of Cases

- PA Corrupt Organization Act – Criminal Cases – Prosecute where an enterprise engages in two or more acts of racketeering activity –
 - Theft of services
 - Theft by failure to make required disposition of funds
 - Public corruption
 - Human trafficking



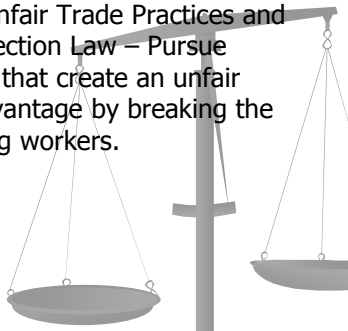
Examples of Cases

- Prevailing Wage Cases – Secretary of Labor/DA may refer.
 - FLS and Criminal Law Division in prosecuting a criminal matter referred to OAG by a District Attorney's Office.



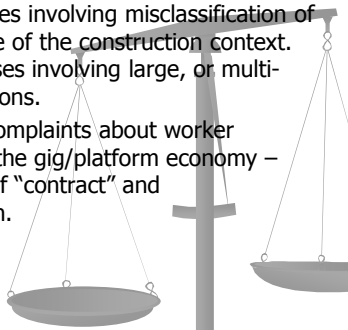
Examples of Cases

- Pennsylvania Unfair Trade Practices and Consumer Protection Law – Pursue employers that create an unfair competitive advantage by breaking the law or exploiting workers.



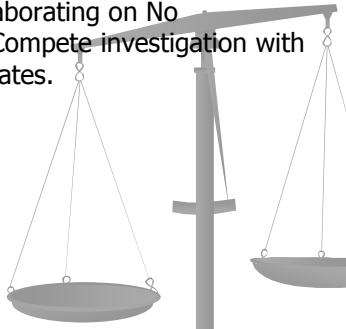
PA UTPCPL

- Looking for cases involving misclassification of workers outside of the construction context. Specifically, cases involving large, or multi-employer locations.
- Investigating complaints about worker exploitation in the gig/platform economy – both in terms of “contract” and misclassification.



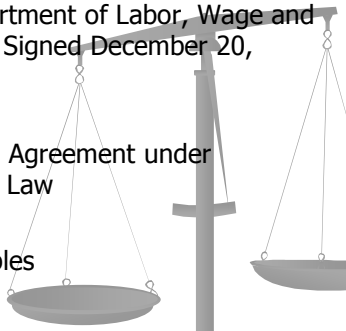
Examples of Cases

- Antitrust – Collaborating on No Poaching/Non-Compete investigation with several other states.



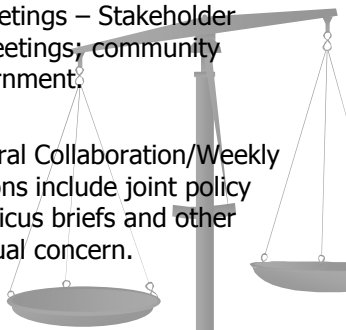
Outreach/Partnership Efforts

- MOU U.S. Department of Labor, Wage and Hour Division – Signed December 20, 2017
- Working on L&I Agreement under Minimum Wage Law
- Labor Roundtables



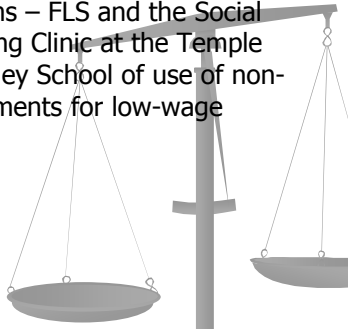
Outreach/Partnership Efforts

- Stakeholder Meetings – Stakeholder organization meetings; community outreach, government.
- Attorneys General Collaboration/Weekly Calls –Discussions include joint policy statements, amicus briefs and other matters of mutual concern.



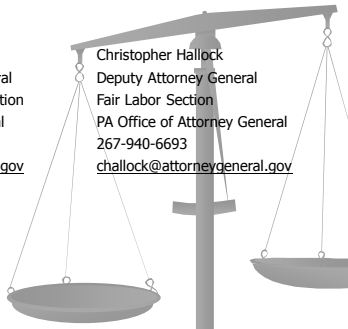
Outreach/Partnership Efforts

- Clinical Programs – FLS and the Social Justice Lawyering Clinic at the Temple University Beasley School of use of non-compete agreements for low-wage workers.



Corbett Anderson
Chief Deputy Attorney General
Civil Rights Enforcement Section
PA Office of Attorney General
717-705-6840
canderson@attorneygeneral.gov

Christopher Hallock
Deputy Attorney General
Fair Labor Section
PA Office of Attorney General
267-940-6693
challock@attorneygeneral.gov





UPCOMING EVENTS

- 6th Annual Claims Symposium, May 23rd, 2019 at The Country Club of Harrisburg, PA
- Workers' Compensation Today Annual Conference, September 27th at the West Shore Country Club, Camp Hill, PA
- General Liability Round Table Conference, October 24th, 2019 at The Hollywood Casino at Penn National Race Course in Grantville, PA

Faculty Information



Partner & Co-Chair Labor and Employment Law Practice Group

Mailing Address

Thomas, Thomas & Hafer LLP
P.O Box 999
Harrisburg, PA 17108-0999

Contact

abowser@tthlaw.com
717.441.3959 phone
717.237.7105 fax

Anthony joined the firm in July 2012. His practice is focused on representing companies and municipalities in all aspects of labor and employment law, as well as commercial litigation.

Anthony has experience litigating disputes related to employment discrimination, wage and hour, employment contracts, restrictive covenants, trade secrets, unemployment compensation, family and medical leave, employee benefits, reductions in force and wrongful discharge. In addition to employment litigation, Anthony represents business entities in a variety of commercial disputes and municipalities in the defense of civil rights claims.

Anthony has successfully litigated cases in federal and state courts throughout the United States through summary judgment, trial verdicts and appeals. He has extensive experience representing employers before federal and state agencies, including the Equal Employment Opportunity Commission, US Department of Labor, Occupational Safety and Health Administration, PA Human Relations Commission, PA Labor Relations Board and PA Department of Labor & Industry. Anthony regularly acts as local counsel to firms outside of Central Pennsylvania in a variety of litigation matters.

Outside of his litigation practice, Anthony works with employers on risk avoidance strategies to ensure compliance with the multitude of federal, state and local employment laws and regulations. He counsels employers in workplace investigations and in making difficult employee discipline and termination decisions with the goal of minimizing the risks of litigation. Anthony also assists employers with union workforces in the negotiation of collective bargaining agreements, as well as grievances, arbitrations and unfair labor practice charges.

Anthony believes in working with his clients to understand their goals, and then ensuring those goals are met in a timely and cost-effective manner.

Anthony is a frequent presenter on a wide array of employment law topics. He has also been an adjunct faculty member at York College of Pennsylvania, where he taught Employment Law in the school's business management department. He was recently named the Chair of the Employment Practices Liability Committee of the Professional Liability Defense Federation. Anthony resides in Camp Hill, Pennsylvania with his wife and two sons, where he coaches youth soccer and is a member of the Board of Directors of the Camp Hill Soccer Club.

Practice Areas:

Commercial & Business Litigation, Government Entity & Civil Rights, Labor & Employment Law

Education:

Widener University School of Law (J.D. 2006)

--Moot Court Honor Society

The Pennsylvania State University, Smeal College of Business (B.S. 2002)

--Business Logistics (major)

--Legal Environment of Business (minor)

Bar Admissions:

- Pennsylvania, 2006
- Supreme Court of the United States
- Third Circuit Court of Appeals
- US District Court for the Middle District of Pennsylvania
- US District Court for the Eastern District of Pennsylvania
- US District Court for the Western District of Pennsylvania



**Partner & Co-Chair
Labor and Employment
Law Practice Group**

Mailing Address:

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dschwalm@tthlaw.com
717.255.7643 phone
717.237.7105 fax

Dave has over 30 years of legal experience and concentrates his practice primarily in the defense of litigation against public and private entities and employers, involving issues of government liability, municipal liability, civil rights claims, and employment law.

Dave has appeared before most of the state's Common Pleas Courts and in the United States District Courts in Central and Eastern Pennsylvania and has handled appellate matters before the Pennsylvania appellate courts, the Third Circuit Court of Appeals and the United States Supreme Court. He has also appeared before courts in West Virginia, Maryland and New Jersey. In addition, he has handled employment matters before the Pennsylvania Human Relations Commission and the Equal Employment Opportunity Commission. He has also written articles and made numerous presentations to clients and various other organizations in these areas of law.

Dave previously served as a Director and President of the Halifax Area School Board, coached youth soccer, and was active with local scouting groups.

Practice Areas:

Governmental Entity & Civil Rights, Insurance Coverage & Bad Faith,
Labor & Employment Law

Education:

The Dickinson School of Law of the Pennsylvania State University, J.D., 1980

Franklin and Marshall College, B.A., 1977

Bar Admissions

U.S. Supreme Court, 1985
Pennsylvania, 1980
Middle District of Pennsylvania, 1981
U.S. Court of Appeals 3rd Circuit, 1983
Eastern District of Pennsylvania, 2002

Professional Associations and Memberships:

- Pennsylvania Bar Association
- Dauphin County Bar Association
- Defense Research Institute
- Bar Association for the Third Federal Circuit



Ms. Gartside defends municipalities in civil litigation claims brought under the Pennsylvania Subdivision Tort Claims Act and health care providers in person injury protection (PIP) arbitrations.

Prior to joining the firm in 2018, Chloe handled claims of employment discrimination and family law matters.

Practice Areas:

General Liability

Education:

University of South Carolina School of Law, J.D., 2012

- Presidents List
- CALI Award for Receiving the Highest Grade in Evidence

Associate**Mailing Address:**

Thomas, Thomas & Hafer LLP
Four Penn Center
1600 JFK Blvd., Suite 620
Philadelphia, PA 19103

Contact:

CGartside@tthlaw.com
215.564.2928 x8511 phone
215.564.3281 fax

Temple University, B.A., magna cum laude, Political Science & Engineering, 2008

- Dean's List
- Dean's Scholar
- Member of Pi Sigma Alpha (Political Science Honor Society)
- Member National Honor Society
- Recipient of Study Abroad Scholarship – Tokyo, Japan
- Recognized for Outstanding Writing, Research and Analytics
- Temple University Undergraduate Research Forum
- Recipient of Simon Youth Scholarship

Bar Admissions:

- Pennsylvania State Court, 2012
- United States Eastern District Court of Pennsylvania, 2016
- New Jersey State Court, 2012
- New Jersey District Court, 2017
- Utah State and Federal Court, 2013



Associate

Mailing Address

Thomas, Thomas & Hafer LLP
Woodholme Center
1829 Reisterstown Road
Suite 200
Baltimore, MD 21208

Contact

MWolak@tthlaw.com
410.653.0460 x8720 phone
410.484.2967 fax

Meredith Wolak joined the firm in 2014 and concentrates her practice in the areas of workers' compensation and employment law defense. In this capacity, she represents employers and insurers in all phases of litigation, from administrative hearings through appellate practice. Meredith provides risk reduction and case management advice to clients facing employment law and workers' compensation claims. She is admitted to practice law in Maryland and the District of Columbia.

Prior to joining Thomas, Thomas, & Hafer, Meredith served as a judicial clerk to the Honorable Christopher B. Kehoe of the Maryland Court of Special Appeals. Meredith attended the University of Maryland Francis King Carey School of Law where she graduated *cum laude*. Upon her graduation from law school, she was awarded the Public Service Award for her work with the Community Justice Clinic. During law school, Meredith worked as senior law clerk at a civil defense firm in Silver Spring, Maryland, as Research Assistant to Professor Donald G. Gifford, and as Articles Editor for the Journal of Health Care Law & Policy.

Practice Areas:

General Liability, Labor & Employment Law, Workers' Compensation

Education:

University of Maryland Francis King Carey School of Law, J.D.,
cum laude, 2012

Emory University, B.A. in Political Science with a Minor in English
Literature, 2009

Bar Admissions:

Maryland, 2012
District of Columbia, 2018

Professional Associations and Memberships:

Maryland State Bar Association
District of Columbia Bar Association



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Philadelphia District Office

801 Market Street, Suite 1300
Philadelphia, PA 19107-3127
Intake Information Group: (800) 669-4000
Intake Information Group TTY: (800) 669-6820
Philadelphia Status Line: (866) 408-8075
Philadelphia Direct Dial: (215) 440-2602
TTY (215) 440-2610
FAX (215) 440-2606, 2632, 2848 & 2604
Website: www.eeoc.gov

Dana R. Hutter
Deputy District Director

Mr. Hutter began his career at the EEOC as an intern in the EEOC's Chicago District Office, and was hired as a Trial Attorney there after graduating law school. For ten years he worked as a Trial Attorney and Supervisory Trial Attorney in the EEOC's Chicago and Baltimore Districts, focusing on large class action cases.

In 1998, he joined the Office of Field Programs in EEOC Headquarters where he served as National Training Coordinator for EEOC's enforcement staff, and as Attorney Advisor to the Director of the Office of Field Programs.

In December 2003, he was assigned as Acting Director in the Washington Field Office, and in May 2005 was named permanent Director. In September 2008 he was appointed Systemic Investigations Program Manager, charged with building the Commission's systemic program and leading the efforts to establish the EEOC as a model National Law Enforcement Agency. In 2014, he was selected as Deputy District Director for the EEOC's Philadelphia District, which is responsible for enforcing federal employment discriminations laws in Pennsylvania, Southern New Jersey, West Virginia, Eastern Ohio, Maryland, and Delaware. He has been selected to serve on numerous agency-wide committees and task forces which review the agency's goals, mission and structure, including the work group that led to the EEOC's Strategic Enforcement Plan, establishing national priorities for the Commission's enforcement work.

Mr. Hutter received his undergraduate degree from Vanderbilt University in 1983 and his law degree from the DePaul College of Law in 1987. He has been admitted to practice in the State of Illinois since 1987 and also has been admitted to practice before the United States Court of Appeals for the Fourth and Seventh Circuits.

CORBETT L. ANDERSON

EXPERIENCE

PENNSYLVANIA OFFICE OF ATTORNEY GENERAL, Harrisburg, PA

CHIEF DEPUTY ATTORNEY GENERAL, *Civil Rights Enforcement Section* (10/2018–Present). Lead and coordinate the work of a section focused on protecting and advancing the civil rights of Pennsylvanians through investigating and litigating complaints; outreach to ensure members of the public understand their rights and responsibilities; and policy. Work with other governmental agencies and nongovernmental stakeholders on civil rights matters.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Washington, DC

ASSISTANT LEGAL COUNSEL / LITIGATOR / POLICY ATTORNEY (10/1999–9/2018). Almost 20 year career at the EEOC, culminating in serving the final six years as an Assistant Legal Counsel, charged with supervising teams of attorneys responsible for drafting EEOC policy documents; coordinating with other agencies to promote consistent federal EEO mandates; and managing the EEOC's process for formulating its regulatory agenda. Previously served in several other capacities at the agency, including as a litigator at both the trial and appellate levels, and as a legal and policy advisor to two EEOC chairs.

EQUAL EMPLOYMENT ADVISORY COUNCIL, Washington, DC

COUNSEL (9/1998–10/1999). Provided analysis, guidance, and training on EEO-related matters to association of Fortune 500 employers. Drafted weekly memoranda to member companies on important EEO-related legal developments, and fielded compliance-assistance phone calls from their representatives. Drafted amicus curiae briefs for filing in the U.S. Courts of Appeals, and comment letters for submission to federal agencies. Helped create a "Self-Audit Checklist" for auditing employers' EEO practices, and assisted in providing associated training.

BUCHANAN INGERSOLL, PC, Pittsburgh, PA

ASSOCIATE (9/1995–4/1997). Practiced under wide range of labor, employment, and civil rights laws. Assisted firm partners in providing services to clients, including by: co-creating an FMLA policy; creating an affirmative action plan; providing advice and representation during union organizing campaign; and drafting briefs, position statements, and research memoranda related to proceedings before EEOC, NLRB, arbitrators, and courts. Co-drafted petition for writ of certiorari submitted to U.S. Supreme Court involving important procedural issue under 42 U.S.C. § 1983.

EDUCATION

GEORGETOWN UNIVERSITY LAW CENTER, Washington, DC
LL.M., Labor and Employment Law, October 1998.

HOWARD UNIVERSITY SCHOOL OF LAW, Washington, DC
J.D., May 1995.

INDIANA UNIVERSITY OF PENNSYLVANIA, Indiana, PA
B.S., Management, May 1992.



Christopher S. Hallock, Esquire
Deputy Attorney General
Pennsylvania Office of the Attorney General

Attorney General Josh Shapiro created the Fair Labor Section to help assure that hard-working Pennsylvanians receive fair treatment in the workplace and to support employers that comply with labor and employment laws. The Fair Labor Section is the only Section in the Pennsylvania Office of Attorney General that has jurisdiction across all three Divisions of the Office – Public Protection, Criminal and Civil. This allows the Fair Labor Section to evaluate complaints of labor, employment and other workplace violations from multiple perspectives and to collaborate with other Sections of the Office. Christopher works on a range of matters impacting workers’ rights including worker misclassification, wage theft, and human trafficking. Prior to joining the Pennsylvania Office of Attorney General, Fair Labor Section, Christopher gained litigation experience practicing law in a multitude of areas in the civil sector. He is licensed to practice before state and federal courts throughout the Commonwealth of Pennsylvania.



THOMAS, THOMAS & HAFER^{LLP}

Attorneys At Law

Thomas, Thomas & Hafer LLP has grown into one of the largest litigation firms in Pennsylvania since our start in 1977. Our practice has evolved over the years from our small firm roots to serve the growing needs of our client base, while still maintaining a focus on personalized, cost-effective representation.

Initially based in Harrisburg, the firm also maintains offices in Allentown, Pittsburgh, Philadelphia and Wilkes-Barre, Pennsylvania, as well as Baltimore, Maryland, Washington, D.C., Clinton, and Marlton, New Jersey, facilitating the firm's ability to provide services throughout Pennsylvania, Maryland, New Jersey, Virginia, Ohio, West Virginia, and the District of Columbia.

The firm's experience and expertise extends into numerous legal forums, including federal and state courts, several administrative agencies, professional licensing disciplinary boards, and arbitration panels such as the National Labor Relations Board. The firm's vast experience and effective advocacy in these forums has resulted in our receiving a firm-wide AV rating from Martindale-Hubbell, and has led to several of our attorneys being named among "The Best Lawyers in America" and as "Pennsylvania Super Lawyers."

In addition to spanning numerous forums, the firm serves a multitude of practice areas important to our clients. The firm offers legal advice and representation in a wide variety of matters, including general liability defense, healthcare and professional licensure, insurance coverage and bad faith, administrative agency, appellate practice, workers' compensation, employment law, government entity and civil rights, transportation, real estate, construction and surety, lead paint poisoning and subrogation matters. Each of the firm's attorneys has a unique set of experiences and practice interests which go beyond those general areas of the law. Thomas, Thomas & Hafer LLP attorneys, together with their practice areas and experiences, are:

Executive Partners

PETER J. SPEAKER, born Williamsport, PA, 1957; admitted to PA Bar, 1985; U.S. District Courts, Middle District, 1987, Eastern District 1988 and Western District, 2001, of PA; U.S. Court of Appeals, 3rd Circuit, 1987; U.S. Supreme Court, 1990. Education: LaSalle College (B.A., maxima cum laude, 1980); Temple University School of Law (J.D., 1985). Deputy Attorney General, Commonwealth of PA, Office of Attorney General, Torts Litigation

www.tthlaw.com

PENNSYLVANIA

MARYLAND

NEW JERSEY

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