

WILLIAM A. HERBERT

36 Wellington Road
Delmar, New York 12054
(518) 475-0131(h)
(518) 605-4402 (cell)
wherbert@nycap.rr.com
http://works.bepress.com/william_herbert/

EMPLOYMENT

- 2007-present** **New York State Public Employment Relations Board
Deputy Chair and Counsel**
Chief legal officer of the New York State Public Employment Relations Board with responsibilities that include the research and drafting of Board decisions, and the oversight of agency policies, practices and legislation. Author and frequent lecturer on labor, employment and technology issues.
- 1989-2007** **CSEA Local 1000, AFSCME, AFL-CIO, Albany, N.Y.
Senior Counsel**
Full case management responsibilities for union-side labor and employment practice in federal and state courts, administrative agencies and in arbitration. Author and trainer of union staff and activists.
- 1988-1989** **Karlsson & Ng, P.C., New York, N.Y.
Associate**
Full case management responsibilities in civil and appellate litigation.
- 1984-1988** **New York City Commission on Human Rights
Supervising Attorney and Staff Attorney**
Directed the activities of eight attorneys in the investigation and prosecution of discrimination complaints.
- 1981-1984** **District Council 37, AFSCME, AFL-CIO, New York, N.Y.
Staff Attorney**
Full case management responsibilities for representation of union members in civil litigation.
- 1981** **New York State Judge Elliott Wilk
Law Assistant**
- EDUCATION** **J.D., Benjamin N. Cardozo School of Law
Yeshiva University, *cum laude* (June 1980)**
- B.A., University at Buffalo, *magna cum laude* (June 1977)**

PROFESSIONAL ACTIVITIES

American Bar Association

Labor and Employment Section, Technology in the Practice and Workplace Committee, Co-Chair

New York State Bar Association

Labor and Employment Section

Labor and Employment Relations Association

Capital District Chapter, President (2010-2011)

ADMISSIONS

United States Court of Appeals for the Second Circuit

United States District Court

New York State

BOOKS

Eigen & Estreicher, **Labour and Employment Initiatives and Proposals in the Obama Administration: Proceedings of New York University's 62nd Annual Conference on Labor**, Chapter 8, Kluwer Law Int'l (2011)

Morriss & Estreicher, **Global Labor and Employment Law for the Practicing Lawyer: Proceedings of New York University's 61st Annual Conference on Labor**, Chapter 8, Kluwer Law Int'l (2010)

Nash & Estreicher, **Workplace Privacy: Proceedings of New York University's 58th Annual Conference on Labor**, Chapter 1, Kluwer Law Int'l (2009)

Public Sector Labor and Employment Law, Third Edition
(2009 Revised) (Contributing Editor)

Public Sector Labor and Employment Law, Third Edition
(2008) (Contributing Editor)

New York Lawyer's Deskbook, Second Edition
2006-2010 Supplements (Contributor)

Public Sector Labor and Employment Law, Second Edition
2005, 2002, 2000 Supplements (Contributing Editor)

Public Sector Labor and Employment Law, Second Edition
(1998) (Contributor)

Preventing Sexual Harassment: What Works...What Doesn't
(1997) (Contributor)

ARTICLES AND PAPERS

Public Sector Labor Law and History: The Politics of Ancient History? 28 Hofstra Lab & Emp. L.J. 335 (2011)

Workplace Consequences of Electronic Exhibitionism and Voyeurism IEEE Technology and Society Magazine Vol. 30, No. 3 (Fall 2011)

Some Think of the Future: Internet, Electronic and Telephonic Labor Representation Elections (with Sara Slinn) 56 St. Louis U. L.J. (forthcoming)

The Progressive Discipline of Bartleby the Scrivener: Labor Law, Literature and History (forthcoming)

Card Check Labor Certification: Lessons from New York 74 Albany L. Rev. 93 (2010/2011)

Emerging Technologies and Workplace Privacy: Who's Watching the Man (Who's Watching Me)? (with Amelia K. Tuminaro) 25 Hofstra Lab & Emp. L.J. 355 (2008)

Workplace Electronic Privacy Protections Abroad: The Whole Wide World Is Watching 19 Florida J. L & Pub Pol'y 380 (2008)

The Electronic Workplace: To Live Outside the Law You Must Be Honest 12 Employee Rts. & Emp. Pol'y J. 49 (2008)

No Direction Home: Will The Law Keep Pace With Human Tracking Technology to Protect Individual Privacy and Stop Geoslavery? 2 I/S J. L. Pub Pol'y 409 (2006)

A Law Not Busy Born Is Busy Dying: The NLRA in the Technological Age (2005)
www.abanet.org/labor/newsletter/tech/summer05/nlratech.html

Advanced Employment Retaliation Issues (2005)
www.bna.com/bnabooks/ababna/eo/2005/herbert.doc

The First Amendment and Public Sector Labor Relations 19 Lab Law 325 (2004)

When James Bond Enters the Workplace: Use and Abuses of Technology—A Guide for In-House Counsel and Litigators (2004)
www.bna.com/bnabooks/ababna/annual/2004/kelly.doc

Protections for Public Employees Who ‘Blow the Whistle’ Appear To Be Inadequate 76 N.Y. St. B.J. 2 (2004)

Civic Duty to Commemorate King’s Legacy Albany Times Union Op-Ed Jan. 19, 2004 p. A7

Balancing Test and Other Factors Assess Ability of Public Employees to Exercise Free Speech Rights 74 N.Y. St. B.J. 7 (2002)

Just Cause under Union Contracts and Employment Discrimination Litigation NELA New York Employee Advocate, Vol. 11, No. 5 (2002)

Who Is ‘Disabled’ Under New York State Law? NYSBA Labor and Employment Section Newsletter, Vol. 26, No. 1 (2001)

Discrimination and Other Motivational Issues in the Representation of Civil Service Employees NELA New York Employee Advocate, Vol. 10, No. 4 (2000)

Caveat Loquens: Let the Speaker Beware NYSBA Labor and Employment Law Section Newsletter, Vol. 24, No. 2 (1999)

Discrimination against Employees for Union Based Political Action NYSBA Labor and Employment Law Section Newsletter, Vol. 21, No.4 (1996)

PRESENTATIONS

Reasonable Expectation of Privacy When Using Employer Email 28th Annual Carl A. Warns, Jr. Labor and Employment Law Institute, University of Louisville Brandeis School of Law (speaker) (2011)

Public Sector Employment: Emerging Issues and their Potential Private Sector Impact ABA National Symposium on Technology in Labor and Employment Law, New York University School of Law (panelist) (2011)

Privacy Scholars Seminar: Employee Privacy Rights Samuelson Law, Technology and Public Policy Clinic Boalt Hall School of Law (panelist) (2011)

I Know What You Did Last Summer—Emerging Issues Raised by the Use of Social Networking Sites ABA 4th Annual Section of Labor and Employment Law Conference (panelist) (2010)

New Technology and Representation Elections: Don't Go Mistaking Paradise for Technology Across the Road
Fifth Annual Colloquium on Current Scholarship in Labor and Employment Law, Washington University Law School and St. Louis University Law School (presenter) (2010)

Procedural and Substantive Issues in Employment Retaliation Claims “Whistleblower Jurisdiction” 2010 Court of Claims Judges' Association Meeting (speaker)

Public Sector - New Technologies and the Protection of Privacy
2010 Association of Labor Relations Agencies Conference (speaker)

Someone to Watch Over Me: Technology, Privacy, and the 21st Century Workplace New England Consortium of State Labor Relations Agencies 11th Annual Conference (speaker) (2010)

Legal Ethics in the Electronic Age - Who is Watching Whom?
New England Consortium of State Labor Relations Agencies 11th Annual Conference (panelist) (2010)

The Electronic Workplace New York State Public Employer Labor Relations Association, Inc. 36th Annual Training Conference (speaker) (2010)

Workplace Consequences of Electronic Exhibitionism and Voyeurism Melbourne Law School (lecturer) (2010)

The Debate over Microchipping People with ICT Implants
IEEE Symposium on Technology and Society, University of Wollongong (moderator) (2010)

Legal Ethics: Social Networking, Blogging, and More
2010 Legal Landscape: Public Sector Labor Relations (speaker)

Virtual and Portable Workplaces: Social Networking and Twitter
ABA Section of Labor and Employment Law Technology in the Practice & Workplace Committee Midyear Meeting (panelist) (2010)

A Brave New Workplace: Issues and Potential Solutions in the Virtual World NYSBA Annual Meeting Plenary Session (moderator) (2010)

Labor and Employment Law in Cyberspace: Navigating the Uncharted World of Social Networking Sites, Blogs and Other New Media, ABA Continuing Legal Education Teleconference (panelist) (2010)

Access to Employer Property—Both Real and Virtual and the Impact on Employees and Unions in Both the Public and Private Sector Labor and Employment Relations Association of Western New York (speaker) (2009)

Certification Without an Election in the Public Sector: The New York Experience Fourth Annual Colloquium on Current Scholarship in Labor and Employment Law, Seton Hall University School of Law (presenter) (2009)

Card-Check Certification and Interest Arbitration: the Canadian Experience 62nd Annual Conference on Labor, New York University School of Law (commentator) (2009)

How Free is Workplace Speech? A Comparison of the Public and Private Sectors Albany Law School Government Law Center and the Labor and Employment Relations Association (panelist) (2009)

Chips Ahoy? The Legal Issues Associated with Radio Frequency Identification Technology (RFID) in the Workplace ABA Labor & Employment Section, Technology in the Practice and Workplace Committee Mid-Year Meeting (moderator) (2009)

Free Speech in the Public Sector Workplace New York State Continuing Legal Education Partnership (speaker) (2009)

Caught in the “Net”: Employment Issues Associated with the Internet NYSBA Labor and Employment Law Section, Fall Meeting (panelist) (2008)

Promises and Perils of Living in a Virtual World ABA Labor & Employment Section, Technology in the Practice and Workplace Committee Mid-Year Meeting (moderator) (2008)

Workplace Email and Internet Use by Employers, Employees and Unions Albany Law School program co-sponsored by the Labor and Employment Relations Association and the Albany Law School Journal of Science & Technology (speaker) (2008)

I'll be Watching You: Counseling Plaintiffs, Unions and Employers on Privacy in the Workplace ABA Labor and Employment Section's Annual CLE Conference (Panelist) (2007)

The Fine Line: Employer Technology and the Impact on Employee Privacy ABA Continuing Legal Education Teleconference (moderator/panelist) (2007)

Impact of Technology in the Workplace ABA Section of Labor and Employment Law Technology in the Practice and Workplace Committee Meeting Co-sponsored by NYU School of Law (moderator/panelist) (2007)

Legal and Ethical Considerations in the World of the Internet ABA Continuing Legal Education Teleconference (panelist) (2006)

Employee Privacy Issues in the Age of High Technology NYSBA Labor and Employment Law Section and Municipal Law Section, Fall Meeting (panelist) (2006)

The Supreme Court Speaks: *Garcetti v. Ceballos* Free-Speech Rights of Public Employees ABA Continuing Legal Education Teleconference (panelist) (2006)

Orwell's Wolf Is Back: Tracking Kids, Dogs, Old People, and Everybody In Between Annual Meeting of the American Association for the Advancement of Science (speaker) (2006)

Managing Disabilities and Serious Health Conditions in the Workplace: ADA and FMLA Trends and Developments ABA Annual Meeting (panelist) (2005)

Modern Day Implications of Technology in the Workplace ABA Continuing Legal Education Teleconference (panelist) (2005)

Best Practices Panel: the Americans with Disabilities Act and the Family Medical Leave Act EEOC New York Technical Assistance Seminar (panelist) (2004)

Public Sector Labor Law Meets the First Amendment ABA/NYSBA State and Local Government Law Joint Fall Meeting (speaker) (2003)

Constitutional and Statutory Protections for Protestors Albany Law School Institute of Legal Studies (speaker) (2003)

Keeping Statutory Claims Alive In a Union Environment
Albany Law School Institute of Legal Studies (speaker) (2003)

Special Substantive Law Provisions Applied to Public Employers
NELA Upstate Regional Spring Conference
Albany Law School Institute of Legal Studies (speaker) (2001)

HISTORICAL RESEARCH

Dreaming of Timbuctoo a museum exhibition highlighting Gerrit Smith's grant of 120,000 acres to African-Americans in the mid-19th Century (contributing researcher)

REFERENCES Available upon request