

# MARK D. DE BOFSKY

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## EMPLOYMENT

April 2002 – Present – *Daley, DeBofsky & Bryant*. Civil and Appellate Litigation -- Concentration in Employment and Employee Benefits Litigation, Disability Insurance and Other Insurance Claims and Coverage, Social Security Law and Practice

1984-2002 -- *DeBofsky & DeBofsky*. Civil and Appellate Litigation -- Concentration in Employment and Employee Benefits Litigation, Insurance Claims and Coverage, Social Security Law and Practice

1980-1984 -- *Stack & Filpi*, 140 S. Dearborn, Chicago, Illinois 60603. Associate Attorney. Concentration in Civil Litigation

## COURT ADMISSIONS

United States Supreme Court (1984); Supreme Court of Illinois (1980); Supreme Court of Hawaii (2005); United States Court of Appeals for the Seventh Circuit (1980); United States Court of Appeals for the Eighth Circuit (2006); United States Court of Appeals for the Ninth Circuit (2006); United States Court of Appeals for the Eleventh Circuit (2009); United States Court of Appeals for the Federal Circuit (1983); United States District Court for the Northern District of Illinois and Trial Bar; United States District Court for the Central District of Illinois; United States District Court for the Southern District of Illinois; United States District Court for the District of Arizona; United States District Court for the Eastern District of Wisconsin; United States District Court for the Northern District of Indiana; United States District Court for the District of Hawaii; United States District Court for the Eastern District of Michigan; United States District Court for the Western District of Wisconsin; United States Claims Court; United States Court of International Trade; United States Tax Court; Certified Arbitrator -- Circuit Court of Cook County

## **EDUCATION**

University of Illinois College of Law, Champaign, Illinois, Juris Doctor 1980

University of Michigan, Ann Arbor, Michigan, Bachelor of Arts with Honors and High Distinction 1977

## **ADDITIONAL TRAINING**

United States Arbitration and Mediation, Inc.—Basic Mediator Training, November 1994; Refresher Training—March 1997

## **PROFESSIONAL ORGANIZATIONS**

American Bar Association, Employee Benefits Committee (Committee Co-Chair-2007-present); Association of Trial Lawyers of America; Illinois State Bar Association; National Organization of Social Security Claimants' Representatives; Chicago Bar Association (1986-1987, 1995-1996 -- Chairman, Lawyer Referral Service Committee; 1990-1991 -- Chairman, Social Security Law Committee; 1994-1995 -- Chairman, Insurance Law Committee); Federal Bar Association (Director 2007-present); American Constitution Society for Law and Policy; Appellate Lawyers Association (Director - 1992-1994); Illinois Trial Lawyers Association (Insurance Committee); Seventh Circuit Bar Association; Hawaii State Bar Association; Scribes-American Society of Writers on Legal Subjects

## **TEACHING**

The John Marshall Law School, Center for Employee Benefits and Taxation (LL.M. Program); Adjunct Professor: “Employee Benefits Litigation,” 2000-present

“Supreme Court and Appellate Court Update,” John Marshall Law School, Fundamentals of Retirement Plan Issues (taught by Professor Kathryn Kennedy), Chicago, Illinois, November 23, 2009

“ERISA Preemption,” Chicago-Kent College of Law (course on Employment Relationships taught by Professor Laurie Leader), Chicago, Illinois, March 22, 2004.

“ERISA Fiduciary Liability,” University of Michigan (course on ERISA law taught by Professor Dana Muir), Ann Arbor, Michigan, November 19, 2002

“An Introduction to ERISA Law and Practice,” Loyola University School of Law, Health Care Institute, Chicago, Illinois, February 1997, 1998, 1999, 2000, 2001

## **VOLUNTEER ACTIVITIES**

University of Michigan College of Literature Science and the Arts – Honors Advisory Council

Center for Disability and Elder Law (volunteer since inception)

Chicago Multiple Sclerosis Society

Chapter Editor and Associate Senior Editor *Employee Benefits Law* (BNA)

Equip for Equality – 20th Anniversary Gala Planning Committee (2005); Gala Planning Committee (2006); Gala Planning Committee Co-Chair (2007); Gala Planning Committee (2008)

Illinois Institute for Continuing Legal Education – Labor and Employment Law Advisory/Planning Committee

## **AWARDS AND RECOGNITION**

Recipient of a Pro Bono Leader Award – Equip for Equality

Recognition as a Top 100 lawyer in the State of Illinois by Illinois Super Lawyers 2009

Finalist – LEXIS/NEXIS Insurance Law Center Person of the Year (2008) – Policyholder Attorney of the Year

Recognition as a “Leading Lawyer” by Leading Lawyers Network (Illinois)

Recognition as an Illinois Super Lawyer – Employee Benefits/ERISA

Martindale-Hubbell “AV” rating (Highest)

Fellow of the American College of Employee Benefits Counsel – Inducted 2005

Fellow of the American Bar Foundation

Center for Disability and Elder Law – Volunteer Recognition

## **PUBLICATIONS**

“ERISA: A Frankenstein made up of different laws,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, January 4, 2010

B. Magratten, editor, ERISA Survey of Federal Circuits, "Seventh Circuit" (2010 Edition)(with Michael Brown and Mark E. Schmidtke)

"Applying deferential standard of review in evaluating claims," *Chicago Daily Law Bulletin*, Lawyers' Forum, December 21, 2009

"Get to the truth on the matter," *Chicago Daily Law Bulletin*, Lawyers' Forum, November 30, 2009

"Court revisits difficult issue of 'total disability,'" *Chicago Daily Law Bulletin*, Lawyers' Forum, November 16, 2009

"Battle over discretionary clauses likely to continue," *Chicago Daily Law Bulletin*, Lawyers' Forum, November 2, 2009

"When a literal reading can be overridden," *Chicago Daily Law Bulletin*, Lawyers' Forum, October 19, 2009

"9th Circuit ruling provides greater protection of benefits," *Chicago Daily Law Bulletin*, Lawyers' Forum, October 5, 2009

"Clarity needed on contractual periods of limitations," *Chicago Daily Law Bulletin*, Lawyers' Forum, September 21, 2009

"Ruling clarifies contractual limitations period," *Chicago Daily Law Bulletin*, Lawyers' Forum, August 31, 2009

"Payment delays merely encourage denials," *Chicago Daily Law Bulletin*, Lawyers' Forum, August 3, 2009

"Claims require an 'independent decision,' not a 'review,'" *Chicago Daily Law Bulletin*, Lawyers' Forum, July 6, 2009

"Efficiency, expediency need to give way to fairness," *Chicago Daily Law Bulletin*, Lawyers' Forum, June 30, 2009

"Ruling provides thoughtful primer on discovery," *Chicago Daily Law Bulletin*, Lawyers' Forum, June 15, 2009

"Claim decisions must be reasonable and accurate," *Chicago Daily Law Bulletin*, Lawyers' Forum, June 1, 2009

"Ruling affirms Glenn's impact on standard of review," *Chicago Daily Law Bulletin*, Lawyers' Forum, May 18, 2009

“Settlement did not justify vacatur: U.S. court,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, May 4, 2009

“De novo review is not a rubber stamp,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, April 20, 2009

“Discretionary clauses under heavy fire,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, April 6, 2009

“Ruling shows courts must take more responsibility,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, March 23, 2009

“Ruling exposes defects in insurer’s determination,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, March 16, 2009

“Consider this before wrongfully denying a claim,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, March 2, 2009

“Court right to look at big picture in benefits case,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, February 2, 2009

“Ruling outlines scope of review in ERISA case,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, January 19, 2009

“Ruling puts Glenn to work,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, December 29, 2008

“Insurer functioned as administrator: court,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, December 15, 2008

“Ruling an indictment of Unum's operations,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, December 1, 2008

“An end to lenient regime of claim reviews,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, November 24, 2008

“Court finds conflict in review of claim,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, November 3, 2008

“Claimant not required to exhaust issues,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, October 13, 2008

“Insurer’s own guidelines dismissed as not binding,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, October 6, 2008

“Disability benefits adjudication: Attorney representing disability claimants,” Morgan & Sweet, eds., *Neuropsychology of Malingering Casebook* 476-487 (Chapter 38) (Psychology Press 2008)

“Court rethinks its approach after *Glenn* ruling,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, September 22, 2008

“Appeals court clarifies factors for fee awards,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, September 8, 2008

“Mediating in the Appellate Court,” *Litigation* (American Bar Association Journal of the Section of Litigation)(Summer 2008)

“Judge sees importance of discovery ruling,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, August 18, 2008

“Ruling underscores value of treating physician opinion,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, August 4, 2008

“Bankruptcy omission led to estoppel,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, July 21, 2008

“Ruling means end for lenient regime of reviews,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, June 23, 2008; reprinted in American Association for Justice, *Insurance Law Section Newsletter* (Summer-Fall 2008)

“Ruling shows problems with review system,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, June 9, 2008

“Offset ruling beneficial to claimants,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, May 19, 2008

“Court prevents review of doctor’s report,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, April 28, 2008

“The year in employee benefits,” *Chicago Daily Law Bulletin*, 50th Annual Law Day Edition, April 26, 2008

“Court finds conflict in insurer, reviewer relationship,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, April 14, 2008

“Struggle over mental illness exclusions,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, March 31, 2008

“Court nixes insurer offset for dependent SSA benefits,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, March 17, 2008

“Rulings uphold state power over review clauses,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, March 3, 2008

“A painful burden for disability claimants,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, February 11, 2008

“10th Circuit sticks to review proceeding,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, January 28, 2008

“Occupation review should look into the past,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, January 21, 2008

“Wrongly used standard can deny worthy benefits,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, January 7, 2008

“Examining the nature of illness and injury,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, November 26, 2007

“Credibility should have been the issue in review,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, November 12, 2007

“Benefit plan took the necessary steps,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, October 29, 2007

“Court refuses to rubber-stamp denial,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, October 15, 2007

“Line between ‘job’ and ‘occupation,’” *Chicago Daily Law Bulletin*, Lawyers’ Forum, October 1, 2007

“7th Circuit puts ERISA litigation back on track,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, September 17, 2007

“Ruling restores some balance to ERISA cases,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, August 13, 2007

“Unfair ruling against reasoning behind ERISA,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, July 16, 2007

“ERISA Litigation and Due Process,” American Bar Association, Employee Benefits Committee Newsletter (Summer 2007)

“Insured’s silence not enough,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, July 2, 2007

“No reason to deny jury trials for ERISA claims,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, June 18, 2007

“Insurance adjuster wins bid for disability benefits,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, June 4, 2007

“What Process is Due in the Adjudication of ERISA Claims?” 40 *John Marshall L.Rev.* 811 (Spring 2007)

“Disability Insurance Under the ERISA Law: Economic Security or Litigation Nightmare,” 25 *J.Insur.Reg.* 33 (Spring 2007)

“ERISA Survey of Federal Circuits,” (2nd Edition) (Seventh Circuit – with Mark Schmidtke)(American Bar Association 2007)(B. Magratten, editor), Contributing author

“Big step toward clearing up ERISA litigation,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, April 30, 2007

“Former insurance exec fights for disability benefits,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, April 16, 2007

“Is expediency more important than accuracy,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, April 2, 2007

“Ruling on scope, standard of review disturbing,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, March 19, 2007

“Right result but confusing reasoning,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, March 5, 2007

“Insurer can’t ‘cherry pick’ medical report,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, February 12, 2007

“Insurer can’t keep manual from claimant,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, January 29, 2007

“Work ability more than just physical,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, January 15, 2007

“The Past, Present, and Future of Discretionary Clauses in ERISA Plans,” *ATLA Insurance Law Section Newsletter*, Vol. 13, No. 1, Fall 2006

“Opinion aberrational on work definition,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, December 18, 2006

“Standard of review didn’t prevent reversal,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, November 27, 2006

“Discretionary Clauses and Insurance,” 25 *J.Insur.Reg.* 15 (Fall 2006)

“Oversights led to offsets for veteran’s benefits,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, November 13, 2006

“What Every Physician Needs to Know About Disability Insurance,” *Journal of Medical Practice Management* 22:113 (September/October 2006)

“Court misunderstands definitions,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, October 16, 2006

“Court issues important case on attorneys’ fees,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, October 2, 2006

“Judge has neither love nor mercy for ERISA,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, September 18, 2006

“Where Social Security, insurance meet,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, August 28, 2006

“Court misses the mark on disability,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, August 14, 2006

“Ruling gives benefits, but not lawyer fees,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, July 24, 2006

“Court tries to end discretion debate,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, July 5, 2006

“Remand didn’t help when plan was at fault,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, June 26, 2006

“Decision begins to explain problems with ERISA litigation,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, June 12, 2006

“Attorney’s fees not enough to deter bad denial,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, May 30, 2006

“Benefit payments decisions should not be left up to insurers,” *Chicago Daily Law Bulletin*, Lawyers’ Forum, May 16, 2006

“Conflicted over conflicts of interest,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, May 15, 2006

“Case shows it’s not ‘all or none’ for disability,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, May 1, 2006

“Court tackles ‘church plan,’ ‘self-reporting’ case,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, April 3, 2006 (reprinted as “More than name needed to make a ‘church plan,” *Chicago Daily Law Bulletin*, April 17, 2006)

“Court too quick to allow in report,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, March 20, 2006

“The Failure of ERISA’s Promise,” published in H. Perritt (editor), *2006 Employment Law Update* 219-246 (Chapter 10) (Aspen 2006)

“Courts differ over weighing pain credibility,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, February 27, 2006

“Insurers not living up to ERISA duties,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, February 13, 2006

“The Disability Insurance Industry’s Attack on California’s Consumer Protection Initiative,” *The Insurance Forum* 16 (February/March 2006)

“Court finds employee was ‘totally disabled,’” Lawyers’ Forum, *Chicago Daily Law Bulletin*, January 23, 2006

“Documents ruling cuts access to courts,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, January 9, 2006

“Court: Judgment Stays on Books,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, December 27, 2005

“Another court questions partiality of doctor,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, December 5, 2005

“Claimant denied fair chance to continue benefits,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, November 21, 2005

“Court applies common sense to ERISA,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, November 7, 2005

“Death apparently not enough to prove disability,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, October 18, 2005

“Judgment an incentive for careful claims review,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, September 14, 2005

“Law trying to get head around mental illness,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, August 29, 2005

“Standard of review in ERISA cases ‘too deferential,’” Lawyers’ Forum, *Chicago Daily Law Bulletin*, August 1, 2005

“Social security case buttresses benefits claim,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, July 18, 2005

“ERISA Survey of Federal Circuits,” (Seventh Circuit – with Mark Schmidtke)(American Bar Association 2005)(B. Magratten, editor), Contributing author

“Appeals court rejects ruling on ‘tardy’ review,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, June 27, 2005

“1st Circuit Overlooks Crucial ERISA Distinction,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, June 20, 2005

“Why remanding ERISA cases verges on absurd,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, May 23, 2005

“Changed definition halts disability benefits,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, May 2, 2005

“Deferential, yes, but certainly not inconsequential,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, April 18, 2005

“Social security findings should play key role,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, March 22, 2005

“ERISA ruling sounds warning on nasty tactics,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, March 8, 2005

“Chronic pain and disability claims,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, February 23, 2005

“Ruling warns against failure to communicate,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, February 9, 2005

“Judge questions distinction set for types of illness,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, January 17, 2005

“Judge takes aim at disability insurers, ERISA,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, January 3, 2005

“Fourth Circuit joins chorus in questioning tactics,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, December 20, 2004

“Fifth Circuit Stands Alone on Degree of Disability,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, December 1, 2004

“Erring on ERISA by looking for common sense,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, November 17, 2004

“Turning up the power of the lens raises the heat,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, November 5, 2004

“Ruling undercuts ERISA promise of protection, Lawyers’ Forum, *Chicago Daily Law Bulletin*, October 20, 2004

“Cherry-picking info has its pitfalls,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, October 4, 2004

“Disability claims will falter without specifics,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, September 8, 2004

“Pre-existing conditions: symptoms versus diagnosis,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, August 16, 2004

“Defining ‘disability’ means looking at duties,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, July 14, 2004

“The Paradox of the Misuse of Administrative Law in ERISA Benefit Claims,” 37 *John Marshall Law Review* 727 (2004)

“Courts seek clarity on ‘subjective’ diseases,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, June 18, 2004

“When plaintiffs seek refuge of 5<sup>th</sup> Amendment,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, April 21, 2004

“Discretionary clauses starting to lose favor,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, April 2, 2004

“Court clears air on claims alleging conflicts,” Lawyers’ Forum, *Chicago Daily Law Bulletin*, March 10, 2004

“What Every Lawyer Needs to Know About Disability Insurance,” *DCBA Brief* (The Journal of the DuPage County Bar Association) November 2003

“Long Term Disability Insurance,” published in H. Perritt (editor), *2003 Employment Law Update* 45-96 (Aspen 2003)

“Cicio v. Does, 2003 U.S.App.LEXIS 2925 (2d Cir. 2/11/03) - Can We Extricate Ourselves From The Supreme Court's Quagmire of ERISA Remedies?” Published on-line at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=382680](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=382680) (March 2003)

“Using ERISA Against Those It Was Designed to Protect,” 30 *The Insurance Forum* 176 (February 2003)

“Great-West v. Knudson-The Death Knell of Fiduciary Liability Claims,” *Employee Benefits Committee Newsletter* (American Bar Association) Fall 2002

“So You’re Stuck With ERISA...Now What?” *Trial* 49 (October 2002)

“Navigating the Disability Insurance Maze,” *The CFIDS Chronicle* Summer 2002

“Winning Your Disability Case,” National Fibromyalgia Association *Fibromyalgia Online*, August 7, 2002

“What Physicians Should Know About Documenting Disability Insurance Claims,” *The Journal of Medical Practice Management* 16:326 (May/June 2001)

“Current ERISA Issues,” *Illinois Advocate* (National Employment Lawyers Association-Illinois Chapter)(December 2000)

“A Physician’s Guide to Disability Insurance,” *The Journal of Medical Practice Management* 16:160 (November/December 2000)

“ERISA Section 510 Claims,” *Employee Benefits Law* (Second Edition) (BNA/ABA 2000)(Chapter Co-Editor)

“The Nuts and Bolts of Lawyers’ Disability Insurance,” *Chicago Bar Record* 36 (May 2000)

"The Perils of Disability Insurance—Income Protection or Future Litigation," *Chicago Medicine*, April 2000

"Hot ERISA Topics," 88 *Ill. Bar Journal* 27 (2000)

"Bringing an ERISA Claim: A Step-By Step Guide," 88 *Illinois Bar Journal* 20 (2000); *reprinted in The Advocate* (Journal of the Consumer Attorneys Association of Los Angeles) December/January 2000-2001

"ERISA—What you don't know may hurt you," *Chicago Daily Law Bulletin*, October 8, 1999

"Disability Claims Update -- Fibromyalgia and CFS," *Chicago CFS News* 6 (April 1997)

"ERISA Protects Insurers," *The CFIDS Chronicle* 32 (Fall 1996)

J.A. Hamilton and M.D. DeBofsky (editors), *Rights of Postpartum Patients* (Postpartum Support International 1995)

"Broken Promises, Lost Benefits -- Holding Employers to Their Word," *TRIAL* 56 (April 1994)

"Interests of Policyholders Must be Recognized," *Chicago Daily Law Bulletin*, September 21, 1992

"Medical Insurance Litigation Problems of Postpartum Patients," in J.A. Hamilton and P.N. Harberger, eds., *Postpartum Psychiatric Illness -- A Picture Puzzle* (University of Pennsylvania Press 1992)

"Representing the Disabled -- A Guide to Attorneys' Fees," 1 *Workplace Injury Reporter* 25 (ATLA)(1991)

"Wrestling With ERISA," *The Brief* (ABA) 19 (Winter 1990)

"Social Security Disability Law -- A Game Plan" *TRIAL* 18 (June 1988)

"Truth and Consequences--Lie Detectors and Insurance Claims," *YLS Journal* (The Young Lawyers Section of the Chicago Bar Association) November 1987

"Mental Disorders -- Insurance May Cover Them," *TRIAL* 41 (December 1987)

"'Premium Shock,' or The Malpractice Crisis Comes to LaSalle Street," *YLS Journal* (The Young Lawyers Section of the Chicago Bar Association) January-February 1987

"Improper Insurance Claims Practices: Fashioning a Private Remedy" Spring-Summer 1986 *ITLA Law Journal* 24

"Document Recording Revolution is Needed," *Notary Viewpoint*, Vol. XIV, No. 1, February 1986 (with William Alban)

"The Computer Will Vanquish Title Insurers: True or False?" *Real Property* (ISBA) Vol. 31, No. 2, October 1985 (with William Alban)

"When Good Deeds Go Unrewarded: Recording and Torrens Land Registration," 65 *Chicago Bar Record* 118 (1983)

"Betamax on Trial: Universal City Studios v. Sony Corporation," 18 *PEAL* 95 (1979)

## **OTHER PUBLICATIONS**

"Disability E-News Alert," Monthly electronic newsletter distributed to attorneys and claim managers—Publisher, Editor, and Author (2001-present)

"Lawyers' Forum," *Chicago Daily Law Bulletin* – Regular column on disability insurance law – 2004 to present

*Employee Benefits* (BNA), Senior Editor and Chapter Editor (ABA Section on Labor and Employment Law, Employee Benefits Committee)

## **PRESENTATIONS**

"Long Term Disability Insurance Claims," American Bar Association, 19th Annual National Institute on ERISA Litigation," Chicago, Illinois, November 17, 2009 (with Mark E. Schmidtke)

"ERISA Claims: Scope of Relief," American Bar Association, 19th Annual National Institute on ERISA Litigation," Chicago, Illinois, November 16, 2009 (with Charles C. Jackson)

"ADA Redux: Current Developments and the Impact of the Americans with Disabilities Act Amendments," American Bar Association, Section of Labor and Employment Law, Third Annual CLE Conference, Washington, D.C. November 5, 2009 (with Peggy Mastroiani, Mary O'Melveny, Jeff Wray, and Patricia Slovak (Moderator))

“In the Lion’s Den: Surviving Cross Examination,” American Academy of Psychiatry and the Law 40th Annual Meeting, Baltimore, Maryland October 29, 2009 (with Roger Z. Samuel, M.D. and Henry Conroe, M.D.)

“ERISA Litigation Hot Topics,” American Bar Association Joint Committee on Employee Benefits (TeleConference/Live Audio Webcast), October 16, 2009 (with Howard Shapiro (moderator), Kay Kyungsun Yu, Richard C. Shea, and Teresa S. Renaker)

“Disability issues in patients and clients with multiple sclerosis,” Neurorehabilitation Symposium 2009, Rush University Medical Center, Chicago, Illinois, October 16, 2009

“Disability and Mental Illness – What it Means for You, Your Practice and Your Clients,” Defense Research Institute (DRI) 2009 Annual Meeting, Chicago, Illinois, October 9, 2009 (with Hon. Rebecca Pallmeyer, Warren von Schleicher, Hope T. Cannon and Barbara O’Connell)

“The Other Fork in the Road – Social Security Disability, Short-Term and Long-Term Disability,” Institute of Continuing Legal Education in Georgia, “Employment Law for the General Practitioner and the Pros,” Atlanta, Georgia, September 24, 2009

“Subrogation/Reimbursement Clauses in ERISA Plan Documents: When Can They Be Enforced and When Can the Make Whole Doctrine Prevail,” American Association for Justice Annual Convention, San Francisco, California, July 27, 2009

“Subrogation – Litigation at Sunrise,” American Association for Justice Annual Convention, San Francisco, California, July 27, 2009

“ERISA Basics Concepts,” “ERISA Claims: Standing, Jurisdiction, and Scope of Relief,” and “Benefit Claims: Litigation,” American Bar Association, ERISA Basics National Institute, Chicago, Illinois June 10 and June 11, 2009 (with Lissa Paris, Douglas Selwyn, and Mark Casciari)

“A Review of the Top 10 ERISA Cases in 2008 and to Date,” Illinois State Bar Association, Employee Benefits Section, Chicago, Illinois, April 17, 2009 (with Mark Casciari)

“Doing Well by Doing Good – Making a Social Security Practice Work for You,” Federal Bar Association, Chicago, Illinois, March 24, 2009, Moderator (with Honorable Arlander Keys, United States Magistrate Judge; Honorable Paul Lillios, Regional Chief Administrative Law Judge, Social Security Administration, and Frederick Daley)

“Mediation Skills and Strategies,” Illinois Institute for Continuing Legal Education 12th Annual Employment and Labor Law Update, March 20, 2009, Chicago, Illinois (with Honorable P. Michael Mahoney, United States Magistrate Judge and James D. Harbert); repeated on March 25, 2009, Champaign, Illinois (with Honorable Byron G. Cudmore, United States Magistrate Judge and Anthony E. Antognoli)

“An ERISA Potpourri,” American Bar Association, ERISA Litigation, November 7, 2008, Chicago, Illinois (with Douglas M. Selwyn)

“Benefit Claims Litigation: Claims Standard of Review and Evidence,” American Bar Association, ERISA Litigation, Chicago, Illinois, November 6, 2008 (with Lissa J. Paris)

“Detection of Malingering in Disability Evaluations,” American Academy of Psychiatry and the Law, 39th Annual Meeting, Seattle, Washington, October 25, 2008 (with Roger Z. Samuel, M.D., Henry Conroe, M.D., and Wendy Marlowe, Ph.D.)

“The Supreme Court Speaks on ERISA Litigation Issues,” John Marshall Law School, Chicago, Illinois, September 25, 2008 (with Professor Kathryn Kennedy and Elizabeth Hopkins)

“Are Courts Denying Employee Benefit Claimants Due Process of Law?” American Association for Justice, Insurance Law Section, Philadelphia, Pennsylvania, July 13, 2008

“Dissecting the US Supreme Court’s Decision in *Metropolitan Life Insurance Co. v. Glenn* Teleseminar,” July 10, 2008 (American Association for Justice)(With Eric Buchanan and Jonathan Feigenbaum)

“Caveat Emptor! Everything You Need to Know About Disability Insurance,” MDRT (Million Dollar Round Table), Toronto, Ontario, June 25, 2008 (with Joe A. Sierra)

“Subrogation, ERISA Basics, American Bar Association, Chicago, Illinois, June 6, 2008 (with Lissa J. Paris)

“ERISA Claims: Standing, Jurisdiction and Scope of Relief, ERISA Basics, American Bar Association, Chicago, Illinois, June 5, 2008 (with Lissa J. Paris)

“Insurance Coverage for Eating Disorders,” Chicago Bar Association, Mental Health Law Committee, June 3, 2008 (with Mary Elsner)

“Mental Illness Clauses in Disability Income Insurance Policies,” Teleconference, American Bar Association – Tort and Insurance Practice Section, May 21, 2008 (with Ian Smith and Vaughan Finn)

“The Top Ten Lessons I Have Learned as an Employment Lawyer,” McDermott, Will & Emery ERISA Symposium, Chicago Illinois May 5, 2008

“*Sereboff v. Mid-Atlantic – Implications and Case Law Update*,” American Association for Justice – ERISA Update on Reimbursement Claims Teleseminar, April 8, 2008

“A Review of the Top 10 Employee Benefits Cases Since January 2007,” Great Lakes Benefits Conference (Co-sponsored by IRS and ASPPA), Chicago, Illinois, April 3, 2008 (with Mark Casciari)

“Disability Insurance: Individual and ERISA Claims,” Illinois Trial Lawyers Association – Insurance and Bad Faith Actions Seminar, Chicago, Illinois, February 18, 2008

“ERISA Civil Procedure,” 11<sup>th</sup> Annual Labor Law and Employment Short Course, Chicago, Illinois, February 14, 2008

“Top 10 Benefits Cases in 2007,” Chicago Bar Association, Employee Benefits Committee, January 18, 2008 (with Mark Casciari)

“Pre-Suit Requirement and Procedural Aspects of Litigating ERISA Claims,” Illinois Institute of Continuing Legal Education, ERISA Fiduciary Litigation -- Procedures and Tips, Chicago, Illinois, December 3, 2007

“Scope and Standard of Review,” Illinois Institute of Continuing Legal Education, ERISA Fiduciary Litigation -- Procedures and Tips, Chicago, Illinois, December 3, 2007 (with Mark A. Casciari)

“Hot Topics in Employee Benefits Litigation,” American Bar Association, Section of Labor and Employment Law, Annual CLE Conference, Philadelphia, Pennsylvania, November 8, 2007 (with Lissa J. Paris and Kay K. Yu)

“Subrogation and Reimbursement,” 17th National Institute on ERISA Litigation, American Bar Association, Chicago, Illinois, November 1, 2007 (with Lissa J. Paris)

“Benefit Claims Litigation: Claim Standard of Review and Evidence,” 17th National Institute on ERISA Litigation, American Bar Association, Chicago, Illinois, November 1, 2007 (with Mark Casciari)

“Due Process and ERISA,” John Marshall Law School, Lunch and Learn, October 5, 2007

“Subrogation and Reimbursement,” ERISA Basics, American Bar Association, Chicago, Illinois, May 4, 2007

“ERISA Claims: Standing, Jurisdiction and Scope of Relief, ERISA Basics, American Bar Association, Chicago, Illinois, May 3, 2007 (with Lissa J. Paris)

“What Process is Due in the Adjudication of ERISA Claims?” John Marshall Law School Fifth Annual Symposium on Employee Benefits, Chicago, Illinois, April 25, 2007

“Insurance & Employment: Know Your Rights,” BMTInfonet (Bone & Marrow Transplant Information Network), Oak Brook, Illinois, April 14, 2007 (with Susan Loeb and Paul Drucker)

“The Convoluted World of ERISA,” Illinois Institute for Continuing Legal Education, 10th Annual Employment Law Short Course, Chicago, Illinois, February 22, 2007

“ERISA Law Update,” Chicago Bar Association, Employee Benefits Committee, Chicago, Illinois, January 19, 2007 (with Mark Casciari)

“Status of ERISA Litigation and Attorneys’ Fees,” Annual Midwinter Symposium on Insurance, Employment and Benefits, American Bar Association, Tort, Trial and Insurance Practice Section, Laguna Beach, California, January 13, 2007

“Severance and Early Retirement Litigation,” *ERISA Litigation*, American Bar Association, Chicago, Illinois, November 10, 2006 (with Lissa J. Paris)

“Detection of Malingering in Disability Evaluations,” American Association of Psychiatry and the Law, Chicago, Illinois, October 26, 2006 (with Henry Conroe, M.D., Roger Samuel, M.D., and Thomas McLaren, Ph.D.)

“Disability Insurance Claims Litigation Update – A Plaintiff Attorney Perspective,” Maine Event 2006 (Smith Group Disability and Reinsurance Consultants), Kennebunkport, Maine, September 19, 2006

“State Laws that Survive ERISA Preemption,” Association of Trial Lawyers of America, Seattle, Washington, July 15, 2006

“ERISA Remedies,” *ERISA Basics*, American Bar Association, Chicago, Illinois, May 12, 2006

“Enforceability of Discretionary Clauses Post-Diaz, Under New State Regulations, and After the UnumProvident Settlements,” American Conference Institute, *Litigating Disability Insurance Claims*, Miami, Florida, February 23, 2006 (with Mark Schmidtke and David Kalib)

“ERISA Developments – Point/Counterpoint,” with Mark Casciari, Chicago Bar Association, January 20, 2006

“ERISA Claim Appeals” and “Subrogation,” *ERISA Litigation*, American Bar Association, November 10, 2005

“Legal Aspects of Disability,” Midwest Pain Society, 29th Scientific Session, Chicago, Illinois, September 9, 2005

“ERISA Benefit Claims Procedures,” *ERISA Basics*, American Bar Association, Annual Meeting, Section of Labor and Employment Law, August 6, 2005

“Disability Insurance – Buying It and Securing It,” Post-Polio Health International, St. Louis, Missouri June 2, 2004

“ERISA Made Easy,” Illinois State Bar Association Law-Ed Series, Presented as part of “What’s New in Labor and Employment Law,” Chicago, Illinois (March 4, 2005); Bloomington, Illinois (March 11, 2005)

“Severance and Early Retirement Litigation,” *ERISA Litigation*, American Bar Association, Joint Committee on Employee Benefits, Chicago, Illinois, November 12, 2004 (with Evan Miller, Jeffrey Lewis and Lissa J. Paris)

“Subrogation and Reimbursement,” *ERISA Litigation*, American Bar Association, Joint Committee on Employee Benefits, Chicago, Illinois, November 11, 2004 (with Lisa Gomez)

“Benefit Claims Litigation: Claim Review and Exhaustion,” *ERISA Litigation*, American Bar Association, Joint Committee on Employee Benefits, Chicago, Illinois, November 11, 2004 (with Lisa Gomez)

“Ask an Attorney about Health Insurance Issues, Disability, Workplace Issues,” 7<sup>th</sup> International Thyroid Cancer Survivors’ Conference, Deerfield, Illinois, October 22, 2004

“What Every Lawyer Needs to Know About Disability Insurance,” Consumer Lawyers of Hawaii, Honolulu, Hawaii, June 29, 2004

“Employee Benefits Update,” Personnel Law Update 2004, Council on Education in Management, Oak Brook Terrace, Illinois, May 25, 2004

“Insurance Issues,” International Waldenstrom’s Macroglobulinemia Foundation, Lincolnshire, Illinois, May 22, 2004

“Ethics,” ERISA Basics, American Bar Association, Chicago, Illinois, May 20, 2004 (Panel discussion with Mark Casciari, Gabriel Minc, and Denise Clark)

“The Relationship Between Long-Term Disability and Social Security Disability,” National Organization of Social Security Claimants’ Representatives, San Diego, California, May 12, 2004 (Panel discussion with Pamela Atkins, Frank Darras, Lawrence Rohlfing, and Elizabeth Lishner)

“The Shifting Boundaries of ERISA Pre-Emption,” ERISA for Trial Lawyers, North Carolina Academy of Trial Lawyers, Raleigh, North Carolina, April 30, 2004

“The Paradox of the Misuse of Administrative Law in ERISA Benefit Claims,” Symposium on Employee Benefits Law, John Marshall Law School, Chicago, Illinois, April 2, 2004

“Recent Developments in ERISA Litigation,” (With Mark Casciari) Illinois State Bar Association, Employee Benefits Section, February 20, 2004

“Seventh Circuit ERISA Update,” Seventh Circuit National Employment Lawyers Association, Chicago, Illinois, February 16, 2004

“What’s Right and Wrong About The Trends in Benefit Litigation,” (with Mark Casciari) Chicago Bar Association, Employee Benefits Law Committee, November 21, 2003

“Benefit Claims Litigation: Standard of Review and Evidence,” (with Martha J. Wagner), ERISA Litigation – National Institute (American Bar Association), November 13-14, 2003

“LTD (Long Term Disability) Benefit Claims,” (with Lissa J. Paris), ERISA Litigation – National Institute (American Bar Association), November 13-14, 2003

“Recent Developments in ERISA Benefits and ERISA Preemption,” Decalogue Society of Chicago, November 5, 2003

“ERISA Update 2003 – Preemption, The Treating Physician Rule, and Cash Balance Pension Plans,” Chicago Bar Association, Labor and Employment Law Committee, September 10, 2003

“Prosecuting and Defending the ERISA Disability Case After *Black & Decker v. Nord*, American Bar Association, Section on Labor and Employment Law/Center for Continuing Legal Education, Teleconference Moderator and Participant, July 28, 2003

“ERISA Update 2003-Hall of Fame versus Hall of Shame,” Section on Health Care and Disability Law, Association of Trial Lawyers of America, San Francisco, California, July 22, 2003

“Benefit Claims Appeals” (with Mark Nielsen), “Benefit Claims Litigation (with Mark Nielsen)” and “Ethics” (Panel Discussion with Mary Ellen Signorille and Lissa Paris), American Bar Association, “ERISA Basics,” Chicago, Illinois, June 5, 2003

“Handling Medicare and ERISA Rights of Reimbursement on Tort Recoveries,” (with Henry B. Vess III), Illinois Institute for Continuing Legal Education, April 1, 2003

“ERISA Developments,” Chicago Bar Association Labor and Employment Law Committee/Employee Benefits Committee (Panel Discussion), December 11, 2002

“ERISA Fiduciary Liability,” University of Michigan Law School (course on ERISA law taught by Professor Dana Muir), Ann Arbor, Michigan, November 19, 2002

“ERISA Subrogation” (with Thomas Lawrence) and “Long Term Disability and Retiree Health Insurance Claims” (with Erin Sweeney), American Bar Association, “ERISA Litigation” Chicago, Illinois, November 14-15, 2002

“Reversal of Fortune? The Department of Labor’s New Claims Review Regulations,” (with Greg Braden) LexisNexis/Mealey’s-ERISA: A Practitioner’s Guide, Boston, Massachusetts October 28, 2002

“ERISA and Long Term Disability Insurance-How We Got Here and Where We’re Going,” Smith Group Maine Event, Portland, Maine, September 24, 2002

“So You’re Stuck with ERISA...Now What?” Association of Trial Lawyers of America, Atlanta, Georgia July 2002

“Age Discrimination,” Presented at “EEO Basics,” American Bar Association, Chicago, Illinois, June 6-7, 2002

“Litigating Long Term Disability Insurance Cases,” National Organization of Social Security Claimants’ Representatives, Atlanta, Georgia, May 10, 2002.

“Update on Supreme Court ERISA Cases--2002,” Chicago Bar Association, Chicago, Illinois April 25, 2002

“Current Issues in Disability Insurance,” Chicago/Illinois State Medical Society, Midwest Clinical Conference, Chicago, Illinois, March 21, 2002

“The Ten Most Important Lessons Learned From This Past Year’s Employee Benefits Cases,” Chicago Bar Association, Chicago, Illinois, March 14, 2002

“Violation or Vindication—Patients’ Rights in the Workplace,” Crohn’s & Colitis Foundation of America, Symposium for Doctors, Patients and their Families, Rosemont, Illinois, November 17, 2001

“Subrogation,” American Bar Association, Seminar on “ERISA Litigation,” Chicago, Illinois, November 10, 2001 (With Thomas H. Lawrence, Esq.)

“Benefits Litigation,” Practising Law Institute “Employment Law,” Chicago, Illinois, October 30, 2001

“Long Term Disability,” FAME 2001, National Fibromyalgia Awareness Campaign, Chicago, Illinois, June 23-24, 2001.

“Benefit Claims Litigation,” American Bar Association, Seminar on “ERISA Basics,” Chicago, Illinois, May 3, 2001 (With Erin Sweeney, Esq.)

“An Update on ERISA Preemption,” Patient Advocate Foundation, National Legal Symposium, Loyola University School of Law (Chicago), April 7, 2001

“Recent Developments in Health and Disability Insurance,” Illinois State Bar Association, Seminar on “Insurance Coverage: An Update.” Chicago, Illinois April 5, 2001; repeated in Peoria, Illinois on April 18, 2001

“Current Issues in Disability Insurance,” Chicago Medical Society, Midwest Clinical Conference, February 22, 2001

“Obtaining Insurance Coverage,” RESOLVE (Infertility Support Group), Lutheran General Hospital, Park Ridge, Illinois, February 13, 2001

“Benefits Litigation,” Practising Law Institute “Employment Law,” Chicago, Illinois October 23-24, 2000

“Recent ERISA Developments,” Association of Trial Lawyers of America, ATLA 2000 Annual Convention, August 1, 2000

“ERISA §510 Claims,” American Bar Association, ERISA Basics Seminar, Chicago, Illinois, March 24, 2000

“Estoppel Claims,” American Bar Association, ERISA Basics Seminar, Chicago, Illinois, March 24, 2000

“Ten Things Not to Do With ERISA Plans (or--How to Help the Plaintiff Win)”, Chicago Bar Association Employee Benefits Committee, March 17, 2000

“Benefits Litigation,” Practising Law Institute “Employment Law,” Chicago, Illinois November 15-16, 1999

“Navigating the Claims Review Process and Review of the Proposed DOL Regulations”, American Conference Institute, “Advanced ERISA Litigation” Chicago, Illinois October 25-26, 1999

“ERISA and Subrogation,” Patient Advocate Foundation, September 17-18, 1999

“ERISA, ADA and Health Insurance: What is Your Client Entitled To?,” Illinois State Bar Association, “Nuts and Bolts for the Tort Practitioner,” Lake Geneva, Wisconsin, June 25, 1999

“The Magic of ERISA,” American Conference Institute, “Litigating Disability Insurance Claims”, Boston, Massachusetts, June 10-11, 1999

“The Current Hottest Issues in Disability Insurance Litigation,” National Organization of Social Security Claimants’ Representatives, Washington, D.C., April 23, 1999

“An Introduction to ERISA,” Chicago Attorneys’ Council of Hadassah, Chicago, Illinois, March 16, 1999

“Preemption of Consumer Protections Under ERISA,” Presented at “Patient Protections: A Missing Link in Health Care,” Missouri Consumer Health Care WATCH Coalition, St. Louis, Missouri, May 1, 1998

“Overview of Insurance Coverage Litigation,” and “ERISA Basic Procedures,” Presented at Annual National Legal Symposium, The Patient Advocate Foundation, Loyola University School of Law, Chicago, Illinois, April 24-25, 1998

“Life, Health, and Disability Insurance -- An Update,” Presented at “What’s Covered and What’s Not: An Insurance Law Update,” Illinois State Bar Association, Chicago, Illinois, March 2, 1998

“Disability,” The CFIDS (Chronic Fatigue Immune Dysfunction Syndrome) Chronicle Live, Pheasant Run Resort, St. Charles, Illinois, October 26, 1997 (With Nancy Klimas, M.D.)

“The Vocational Impact of Psychiatric Disabilities,” National Organization of Social Security Claimants’ Representatives (NOSSCR), Chicago, Illinois October 15-18, 1997 (With Michael Komie, Ph.D.)

“ERISA and Long Term Disability Insurance Claims,” Smith Group Reinsurance “Maine Event”, Northeast Harbor Maine, September 17, 1997

“Avoiding and Litigating the ERISA Claim”, WEB, Chicago, Illinois, August 27, 1997 (Panel Discussion with Mark Casciari, J.D.)

“The ADA and Disability Insurance” and “The ADA and Social Security Disability”, Presented to the Legal Services for People with Disabilities Committee, Young Lawyers Section of the Chicago Bar Association, June 18, 1997

“ERISA Benefit Claims -- A Plaintiff’s Perspective”, Defense Research Institute, Chicago, Illinois, May 15 -17, 1997

“Claiming Benefits Under Group Long Term Disability Plans,” National Organization of Social Security Claimants’ Representatives (NOSSCR), Washington, D.C., April 2-4, 1997 (Presented with Aba Heiman, J.D.)

“Avoiding Unintended Consequences -- Pitfalls Posed by the ADA and ERISA,” Presented to the Workers Compensation Lawyers Association Ltd., March 19, 1997

“ERISA and Insurance”, Presented to Chicago Bar Association, Insurance Law Committee, March 6, 1996

“Social Security Disability Claims and Awards--Their Relationship to Long Term Disability Insurance Claims and Benefits, Workers’ Compensation, and Discrimination Litigation”, Presented at NOSSCR Spring Conference, Washington, D.C., April 5-8, 1995.

"Motion Practice in the Chancery Division," Chicago Bar Association Seminar on Chancery and Special Remedies, January 19, 1994. Repeated January 17, 1995.

"Sexual Harassment in Employment", Chicago Bar Association Lunch and Lecture Program, October 15, 1993

"Postpartum Mental Illness and Insurance Claims--Strategy and Recent Developments," Seventh Annual Conference of Postpartum Support International, Rush-Presbyterian St. Luke's Medical Center, Chicago, Illinois, June 24-26, 1993

"ERISA, Disability Insurance, and Social Security -- Practice and Procedure," National Organization of Social Security Claimants' Representatives, National Spring Conference, Washington, D.C., June 9-12, 1993; repeated at NOSSCR Fall Conference, San Francisco, California, October 20-22, 1993

"Social Security Disability and Substance Abuse," May 12, 1993, Chicago Bar Association, Legal Rights for the Disabled Committee (Young Lawyers Division); Seminar on "Alcohol, Drugs and Your Client: A Guide to Legal Aspects of Addiction."

"ERISA Claims and Extracontractual Damages," May 19, 1992, Chicago Bar Association, Insurance Law Committee, Seminar on Bad Faith and Extracontractual Damage Claims in Insurance Litigation

"Social Security Disability", April 15, 1992, The Decalogue Society of Chicago

"Social Security Disability", Chicago, Illinois, February 20, 1992, American Educational Seminars

"Social Security Disability", October 20, 1989, City of Chicago, Department on Aging and Disability, Southeast Regional Center

"Breaking Through the Blues", Oakbrook, Illinois, June 19, 1989, NI-ASPO/LaMaze Continuing Education Workshop; Presentation on insurance coverage for postpartum psychiatric illness,

Perspectives on Postpartum Depression and Criminal Responsibility -- May 28-30, 1987 -- The Pennsylvania State University, University Park, Pennsylvania --

"When a Postpartum Depression is Compensable Under an Insurance Policy That Limits or Excludes Coverage for Mental or Nervous Disorders"

## **TESTIMONY**

National Association of Insurance Commissioners, Consumer Protections & Innovations Working Group, December 4, 2008, Testimony: "Disability Insurance Claims Handling Best Practices

ERISA Advisory Committee, United States Department of Labor, July 7, 2005, Hearing on Communications Issues in ERISA Benefit Claims

National Association of Insurance Commissioners, Committee on Consumer Protection, December 8, 2003. Testimony: "Why Discretionary Clauses in Disability Insurance Policies Must Be Prohibited."

United States Department of Labor, Hearing on Proposed Amendments to ERISA Claim Processing Regulations, Washington, D.C., February 19, 1999

United States Congress, House of Representatives, Committee on Ways and Means, Subcommittee on Social Security, May 13, 1987, Hearings on Attorneys' Fees in Social Security Disability Claims

**PERSONAL**

Born: June 1956

Marital Status: Married, two children

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## SIGNIFICANT REPRESENTATIVE CASES

*Diaz v. Prudential Insur.Co. of America*, 499 F.3d 640 (7th Cir. 2007) and 422 F.3d 635 (7th Cir. 2005). ERISA claim – Court of Appeals overturned district court rulings for insurer finding that court should not have given deference to insurer’s findings. Court overturned two prior rulings and set precedent regarding standard of review applicable to ERISA claims and method of adjudicating ERISA claims.

*Feibusch v. Sun Life*, 463 F.3d 880 (9th Cir. 2006). ERISA claim – Court of Appeals overturned district court ruling for insurer and ruled that lower court improperly applied discretionary standard of review. The court also ruled the district court improperly construed insurance contract.

*Seitz v. Metropolitan Life Insur.Co.*, 433 F.3d 647 (8th Cir. 2006). ERISA claim – Court of Appeals overturned district court ruling for insurer and ruled that even if claimant can perform some job duties, he qualifies for disability benefits if he cannot perform all job duties.

*Ruttenberg v. U.S. Life*, 413 F.3d 652 (7th Cir. 2005). ERISA claim – Court of Appeals overturned benefit denial and established doctrine of *contra proferentem* and “reasonable expectations of the insured” in benefit claims.

*Hackett v. Xerox Corporation*, 315 F.3d 771 (7<sup>th</sup> Cir. 2003). ERISA claim—appellate court overturned lower court ruling; ordered that judgment be entered in favor of claimant restoring payment of benefits.

*Herzberger v. Standard Insurance Company*, 205 F.3d 327 (7th Cir. 2000). ERISA claim—court overturned prior precedent to issue sweeping ruling modifying standard of review applicable in employee benefit cases.

*Ladd v. ITT Corp.*, 148 F.3d 753 (7th Cir. 1998). ERISA disability insurance claim; summary judgment for defendant reversed on appeal; benefits awarded to plaintiff.

*Smith v. The Equitable Life Assurance Society*, 67 F.3d 611 (7th Cir. 1995) (claim for disability income insurance--case tried/verdict for plaintiff for full indemnity as well as statutory penalty for unreasonable and vexatious delay; affirmed by Court of Appeals, including award of prejudgment interest)

*United States v. Clarence McClain*, 934 F.2d 822 (7th Cir. 1991)(criminal appeal--major civic corruption case. Several charges reversed by Court of Appeals)

*Castillo v. XLO Micromatic (Ex-Cello Corporation)*, No. 83 L 18654 (Cir.Ct.Cook County, Illinois)(products liability--die casting machine/catastrophic injury). Jury verdict: \$1.2 million