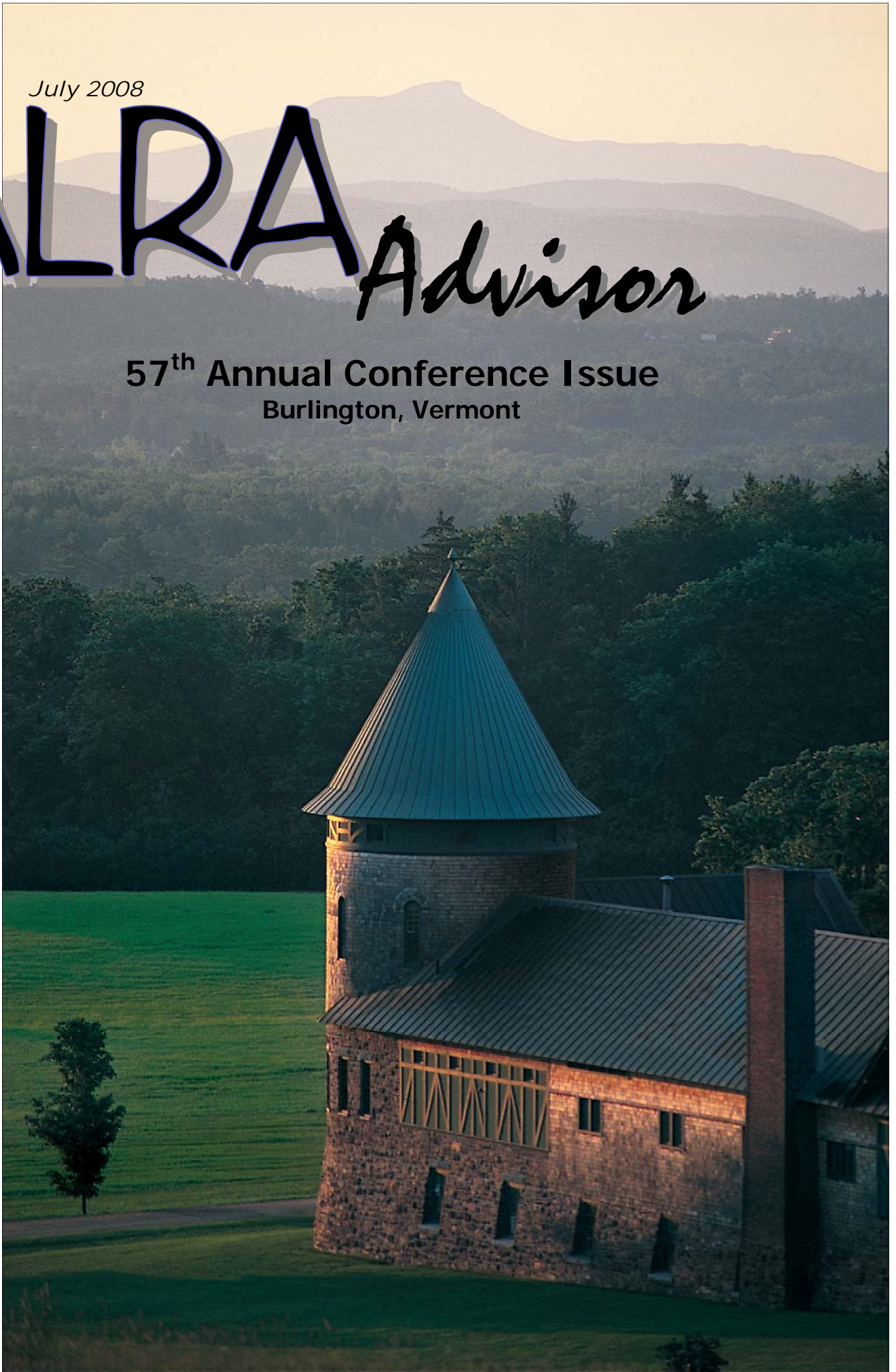


July 2008

ALRA *Advisor*

57th Annual Conference Issue
Burlington, Vermont



ALRA *Advisor*

ALRA Advisor is published for members of the Association of Labor Relations Agencies (ALRA) and their staff.



www.alra.org

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ON THE COVER

The view from Camel's Hump Mountain taken from the Hay Barn at Vermont's Shelburne Farms.

The *ALRA Advisor* is published bi-annually (January and July). On occasion, special issues are produced on an ad hoc basis.

DEADLINES: *January Issue:* November 1st — *July Issue:* May 1st
ARTICLES: Submit material as e-mail attachments (in MS Word or WordPerfect format)
PHOTOS: Submit digital files (jpeg, bmp, tif) at 300 dpi. Please do not embed/insert photos in text document.
EDITING: All articles are subject to editing for length and clarity.
SEND: Forward all material to the Editor: josee.dubois@psst-tdfp.gc.ca

From the President...

Another year has come and gone, and it is an opportune time to review the progress we have made in achieving ALRA's objectives. When I assumed the Presidency in 2007, I indicated that I had three goals: to continue the good work initiated by my predecessor to put ALRA back on a strong financial footing; to complete the Neutrality Project; and to begin planning for the future of the organization.

I am pleased to report that we have made excellent progress in all these areas. The success of the 2007 Toronto Conference has put us firmly in the black and enabled us to reinstate the ALRA Grant program for professional development activities.

The Neutrality Report has been completed and was approved by the Executive Board at its spring 2008 meeting. The Report will be presented to the membership for ratification at the 2008 Annual General Meeting.

I have created a "Council of Presidents", under the leadership of Past President Marilyn Glenn Sayan, to ensure that our institutional memory is retained.

Thanks to Michael Wolf of the National Mediation Board, the ALRA website has been revamped, and a "Members' Only" page created to allow us to share and exchange information throughout the year on a confidential basis.

The ALRA Advisor has "gone electronic": a pdf version of the *Advisor* is emailed to member agencies and posted on the web site twice per year. The Conference edition will continue to be printed and distributed at the Annual Conference and to those on the retirees mailing list.

Tim Noonan, Ed Zuccaro and the folks at the Vermont Labor Relations Board have planned a spectacular Conference for us in Burlington and the Program and Professional Development Committees have outdone themselves



in identifying interesting and topical issues for discussion. Many thanks also to the New England Consortium, which is sponsoring the *Advocate's Day* program.

My sincere thanks to everyone who has worked so hard on this year's conference, and especially to the members of the Executive Board for their support and encouragement throughout the year. We would not have made the significant progress that we have without their continued individual and collective commitment and contributions.

Sincerely,
Elizabeth MacPherson

The Advisor Has a New Editor



Josée Dubois has taken over as editor of the ALRA Advisor. Josée is an E-board member who has been involved in ALRA for the last nine years. She is looking forward to the challenge.

Josée would like to have a contact person from each of your agencies so that she can liaise with that person to get information for the Advisor. She will be following up with those of you who will be attending the conference in Vermont and would appreciate any ideas you may have to enhance the publication.

You can reach her at josee.dubois@psst-tdfp.gc.ca.

Welcome

... to the 2008 ALRA Conference.

The Vermont Labor Relations Board (VLRB) was pleased and honored to host the 1991 ALRA Conference, and welcomes the opportunity to again have Vermont as the venue for ALRA's annual gathering.

The VLRB appreciates the assistance of the New England Consortium of State Labor Relations Agencies, the only regional consortium of labor relations agencies in the United States, for providing staff for this event.

The Consortium is also providing funding to assist its members and staff to attend the conference, and is sponsoring Advocates Day. The VLRB has been active in the Consortium since its inception.

Burlington—a cosmopolitan city in a setting of lake and mountain beauty—was again chosen as the site for the conference.

Located on the eastern shore of Lake Champlain, between the Green Mountains and the Adirondacks and just south of the Canadian border, Burlington

is the economic and cultural center of Vermont and is rated as one of the most desirable places in the United States to live and visit.

The conference hotel—the Sheraton Burlington Hotel and Conference Center—is Vermont's largest convention meeting place. All guestrooms, as well as the conference center, have recently undergone major renovations.

The Sheraton is conveniently located next to the attractive University of Vermont campus and is a mile from downtown.

The Inn at Shelburne Farms (optional Tuesday afternoon social activity). Shelburne Farms, a 1,400 acre working farm and national historic landmark, includes walking trails, children's farmyard, cheese-making tour and perennial gardens.



Discover Burlington

There are many attractions available for ALRA delegates and their families within minutes of the hotel, including Shelburne Farms; Lake Champlain Shoreline Cruises; Echo Aquarium; and Shelburne Museum.

Other attractions less than an hour away, include the ever popular Ben and Jerry's Factory Tour, Stowe and Middlebury.

Summer recreation activities are limitless—swimming, boating, fishing, golf, tennis, running, bicycling and hiking.

The Burlington area also offers much in July—the Mozart Festival, St. Michael's Playhouse as well as events at the beautifully restored Flynn Center for the Performing Arts.

Those interested in fine dining will not be disappointed, nor will those who just want to “shop ‘til they drop”.



SPOTLIGHT ON THE HOST AGENCY: VERMONT LABOR RELATIONS BOARD

The Vermont Labor Relations Board administers five labor relations statutes: the *State Employees Labor Relations Act*, the *Judiciary Employees Labor Relations Act*, the *State Labor Relations Act*, the *Municipal Employee Relations Act*, and the *Labor Relations for Teachers Act*.

The Board, similar to other state labor relations boards, determines appropriate bargaining units, conducts union representation elections, and adjudicates unfair labor practice charges in cases

involving relations between employers and employees under the Board's jurisdiction (i.e. State of Vermont, Vermont State Colleges, University of Vermont, municipalities, school districts, and small private operations.)

And, unlike other state labor relations boards, the Board also arbitrates grievances of employees of the State of Vermont, the Vermont State Colleges and the University of Vermont under the *State Employees Labor Relations Act*.

The Board provides assistance in resolving negotiations impasses under the *State Employees Act* and the *Judiciary Employees Act*, and decides various other types of appeals pursuant to miscellaneous statutory provisions.

The Board consists of six part-time members with a balance of impartial, union and management backgrounds. A panel of three Board members generally hears and decides each case which goes to a hearing. The Board has two employees—Executive Director and Clerk.

SUPREME COURT of CANADA



Philippe Landreville

Dunsmuir v. New Brunswick

([2008] S.C.J. No. 9) is essential reading for labour adjudicators. In addition to clarifying the applicable law related to public employee dismissals, the Supreme Court of Canada (SCC) has simplified the standard for judicial review of decisions of administrative tribunals.

The case dealt with the dismissal of a public servant. The adjudicator had ordered reinstatement. The SCC held that by imposing a duty of procedural fairness on the employer, the adjudicator was incorrect. Where a person is employed under a contract of employment, regardless of one's status as a public office holder, the law of contract governs the dismissal.

The SCC also set out a principled framework for judicial review of tribunal decisions. The SCC has reduced two standards of patent unreasonableness and reasonableness *simpliciter* into a single standard of "reasonableness". There are now only two standards of review: correctness and reasonableness.

The "pragmatic and functional approach" has been replaced by the "standard of review analysis." Determining which standard of review applies will engage a two-step process.

First, the reviewing court should examine existing jurisprudence to determine whether the analysis of the applicable standard has already been satisfactorily performed "for the particular category of question."

Secondly, if not, a contextual analysis must be undertaken to identify the proper standard of review. A number of relevant factors have been identified, including: (1)

the presence/absence of a privative clause; (2) the purpose of the tribunal as determined by interpretation of its governing statute; (3) the nature of the question at issue; and (4) the expertise of the tribunal.

The correctness standard will apply to constitutional questions. Tribunals must also be correct when determining their jurisdiction. Jurisdictional issues are to be confined to those where the tribunal is determining whether it has the statutory authority to decide a particular matter.

Finally, when there is an issue of general law "that is both of central importance to the legal system as a whole and outside the adjudicator's specialized area of expertise," the tribunal must be correct; if not, the reviewing court will substitute its own view, and provide the correct answer.

The reasonableness standard will almost "automatically" apply where the question is one of fact, discretion or policy. Similarly, where the tribunal is interpreting its enabling statute, on other than a pure jurisdictional matter, or "statutes closely connected to its function," deference will usually be shown.

If the issue involves the application of general common law to the specific statutory context, or the issue is one which involves a mixed question of law and fact, the reviewing court will usually apply the reasonableness standard. The reviewing court will examine the reasoning process which led to the decision, as well as the decision itself.

For a decision to survive judicial scrutiny on a reasonableness standard, the decision must fall "within a range of possible, acceptable outcomes which are defensible in respect of the facts and law."

CANADA INDUSTRIAL RELATIONS BOARD (CIRB)

British Columbia Maritime Employers Association (2007), as yet unreported CIRB decision no. 397

The issue in this case originated in the federal government's introduction of a Marine Transportation Security Clearance Program (MTSCP). The MTSCP requires employees who work in safety sensitive positions on the waterfront to obtain a transportation security clearance (TSC) by a certain date.

The International Longshore and Warehouse Union (ILWU) advised its members "not to apply at this time" for the TSC. This led the



employer, British Columbia Maritime Employers Association (BCMEA), to apply for a

declaration of unlawful strike under section 91 of the *Canada Labour Code* (the *Code*).

The ILWU argued that the regulations implementing the MTSCP violated the *Canadian Charter of Rights and Freedoms*, the *Privacy Act*, the *Canadian Bill of Rights* and the *Canadian Human Rights Act*. During the hearing, the Attorney General of Canada made a Reference to the Federal Court of Appeal concerning these challenges.

The Board first addressed the preliminary issue regarding what impact the Reference might have on the matters before it. The Board was of the view that the challenges to the legislation contained in the Reference had been moved to the Court's jurisdiction.

The majority of the Board then determined that the Board had a continuing statutory duty to decide

(Continued on page 7)

(Continued from page 6)

whether an unlawful strike was taking place. The majority found that an unlawful strike had occurred when the ILWU advised the employees not to apply for the security clearance, as the employees had acted in concert when they refused to apply.

The dissenting member found that there had not been a strike, and would have awaited the Federal Court of Appeal's decision in the Reference before rendering a final decision.

The Attorney General's Reference is still pending before the Federal Court of Appeal and the Court has denied the union's request for a stay of the Board's order and the *Regulations*.

Global Helicopter Pilots Association (2007), as yet unreported CIRB decision no. 396

The Global Helicopter Pilots Association applied to the Board, pursuant to section 24 of the *Code*, to be certified as the bargaining agent for a group of helicopter pilots.



The employer (Global) is a Canadian business with headquarters in British Columbia. All pilots are hired in Canada. Global provides chartered helicopter services, in

Canada and around the world, to the oil and gas industry.

The decision dealt first with the preliminary issue of the Board's jurisdiction to hear the application. The question to be addressed was whether the pilots were employed on or in connection with the operation of a federal work, business or undertaking.

The Board concluded that the employer was a federal business or undertaking, and that the employees working at the Nova Scotia base were clearly within the jurisdiction of the *Canada Labour Code*.

The Board stated that the definition of federal work, undertaking or business may not only be national in scope, but also international. The Board indicated that when a Canadian company operates in a foreign country, it will be required to comply with all the laws and regulations of that country, but that does not convert the federal undertaking into a foreign corporation.

On the basis of all the evidence, the Board found that it was possible to rule that the Board has the initial jurisdiction to entertain an application for certification. However, the Board also concluded that a final determination as to jurisdiction over the pilots working outside of Canada

ought to await the determination of the issues of "true employer" and appropriateness of the bargaining unit.

The Board's decision was upheld on reconsideration, and an application for judicial review is pending before the Federal Court of Appeal.

Inquiry into Work Stoppages in the Federally Regulated Private Sector

On March 6, 2008, the Federal Minister of Labour, Jean-Pierre Blackburn, announced the establishment of an inquiry into the causes and impacts of work stoppages in the federally regulated private sector.

The inquiry will be headed by Peter Annis, former chair of the Canadian Artists and Producers Professional Relations Tribunal. *Link:* "Minister Blackburn launches study on causes and impacts of work stoppages," Human Resources and Social Development Canada. See <http://news.gc.ca/web/view/en/index.jsp?articleid=383579>.



Peter Annis

Janet Boehmer

From the bookshelf...

Globalization and Labor Conditions: Working Conditions and Worker Rights in a Global Economy

by Robert J. Flanagan. New York: Oxford University Press, 2006. 260 p. ISBN 978-0-19-530600-2

This book explains how three major mechanisms of globalization—international trade, international migration, and the activities of multinational companies—have altered working conditions and labor rights around the world during the late 20th century. Drawing on the analysis of a database on international labor conditions and a growing research literature on globalization and labor conditions, the book finds that trade, migration, and multinational companies are associated with improvements in world labor conditions.

About the Author: Robert J. Flanagan is a professor at the Graduate School of Business, Stanford University.





ONTARIO

The **Ontario Nurses' Association** reached a tentative agreement with various Ontario hospitals on February 22, 2008.

The membership voted 96% in favor of the agreement which includes new language concerning workplace safety and a commitment on the part of the employers to address workplace violence. Salary increases are 9.55% over the three-year term of the agreement and a lump-sum payment and improved vacation, benefits and premium pay.

A full-time registered nurse will earn between \$29.36 and \$42.44 per hour by April 1, 2010.

Highlights of the Settlement Between ONA and Participating Hospitals, term: April 1, 2008 to March 31, 2011 (http://www.ona.org/webfm_send/3999).

Card Certification Bill Voted Down

A private member's bill, which would have returned the right to certification based on membership cards to workers in Ontario, lost the vote on Second Reading in the Ontario Legislature on May 1, 2008.

Bill 65 was introduced by the NDP Leader, Howard Hampton, on April 23rd. Under card certification, a union can be certified as bargaining agent without a ratification vote if more than 55% of workers sign a union card. Card certification existed in Ontario from 1950 to 1995. It was removed by the Harris Conservative government in 1995.

Links: *Bill 65, Labour Relations Amendment Act (Certification)*, 2008, (http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&Bill-ID=1969&detailPage=bills_detail_debates); *Bill 65 An Act to amend the Labour Relations Act, 1995 with*

respect to certification of trade unions (five pages, http://www.ontla.on.ca/bills/billsfiles/39_-_Parliament/Session1/b065.pdf).

"Liberals defeat bid to facilitate forming unions: New Democrat bill would have returned right of card certification to workers in all sectors, by Robert Benzie, *Toronto Star*, May 2, 2008 (<http://www.thestar.com/article/-420663>).



CAW Members Ratify Three Year Agreements at Big Three

Bargaining between the Canadian Auto Workers (CAW) and the big three North American auto producers, Ford, Chrysler, and General Motors, was completed four months before the current contracts expire.

CAW members working at General Motors and Chrysler ratified new agreements between May 17th and 19th. The agreements follow the pattern of the Ford agreement, ratified May 5th, which froze wages, suspended cost-of-living allowances and reduced vacation pay, but at the same time improved benefits, strengthened health and safety regulations and avoided two-tier wages.

Links: "Clean sweep for historic auto deal: Chrysler workers follow in footsteps of Ford, GM in ratifying three-year deal that freezes wages," by Brett Popplewell, *Toronto Star*, May 18, 2008 (<http://www.thestar.com/News/Canada/article/427036>); *CAW News Now* (<http://www.caw.ca/news/newsnow/index.asp>), "Life after Buzz," by Greg Keenan, *Globe and Mail*, May 15, 2008 ([http://www-reportonbusiness.com/servlet/story/RTGAM.200-80515.wcaw0515/BNStory/Business/?page=rss&id=-RTGAM.20080515.wcaw0515](http://www.reportonbusiness.com/servlet/story/RTGAM.200-80515.wcaw0515/BNStory/Business/?page=rss&id=-RTGAM.20080515.wcaw0515)).

SASKATCHEWAN

Saskatchewan Government Passed Bills 5 and 6

Bill No.5, The Public Services Essential Services Act, and *Bill No. 6, An Act to Amend The Trade Union Act*, received Royal Assent on May 14, 2008.

Links: "Government Passes *Essential Services Act*," Saskatchewan Government News Release May 14, 2008 (<http://www.gov.sk.ca/news?news-Id=21967d40-6c5a-4249-ab2d-a56df4bbe0f1>); *Bill 5* (<http://www.legassembly.sk.ca/bills/PDFs/Bill-5.pdf>): *An Act Respecting Essential Public Services*; *Bill 6* (<http://www.legassembly.sk.ca/bills/PDFs/Bill-6.pdf>): *The Trade Union Amendment Act, 2007*; "Saskatchewan Party rams anti-labour bills through legislature," NUPGE, May 16, 2008 (http://www.nupge.ca/news_2008/n16my08a.htm).

Saskatchewan's Trade Union Act

A paper from the Canadian Centre for Policy Alternatives looks at Bill 6, the Saskatchewan government's amendments to the *Trade Union Act*, and predicts significant damage to the province's industrial relations climate.

CUPE has also released a paper on Bill 6, *An Act to amend The Trade Union Act* and Bill 5, *An Act respecting Essential Public Services*.

Links: *Joining the Race to the Bottom: An Assessment of Bill 6, Amendments to the Trade Union Act, 2008*, by Jim Warren, Canadian Centre for Policy Alternatives, March 26, 2008 (37 pages, http://www.policyalternatives.ca/documents/Saskatchewan_Pubs/2008/Joining_the_Race_to_the_Bottom.pdf); Press release (<http://www.policyalterna>



UNION MEMBERSHIP in the US — 2007

In 2007, the number of workers belonging to a union rose by 311,000 to 15.7 million according to the U.S. Department of Labor's Bureau of Labor Statistics. Union members accounted for 12.1% of employed wage and salary workers, essentially unchanged from 12.0% in 2006.

In 1983, the first year for which comparable union data are available, the union membership rate was 20.1%.

Some highlights from the 2007 data are:

- Workers in the public sector had a union membership rate nearly five times that of private sector employees.
- Education, training, and library occupations had the highest unionization rate among all occupations, at 37.2%, followed closely by protective service occupations at 35.2%.
- Among demographic groups, the union membership rate was highest for black men and lowest for Hispanic women.
- Wage and salary workers ages 45 to 54 (15.7%) and ages 55 to 64 (16.1%) were more likely to be union members than were workers ages 16 to 24 (4.8%).

From: *Union Members in 2007*, U.S. Department of Labor, Bureau of Labor Statistics, January 25, 2008.

HIGHLIGHTS of FMCS 2007 ANNUAL REPORT



In its 2007 Annual Report, US FMCS indicated that relationships between labor and management appear to have entered a peaceful era. In 2007, the Agency recorded only 173 work stoppages ending in the fiscal year, the fewest ever in its history and

a drop of nearly 95 % from 1977. Other highlights of the report include:

- FMCS mediators were actively involved in over 5,300 collective bargaining contract negotiations in every major industry throughout the United States;
- FMCS mediated 1,753 grievance cases and helped the parties reach agreement in over 1,200 of these;
- FMCS mediated 1,060 employment cases for private-sector workplace disputes in a unionized setting outside of the traditional collective bargaining context;
- FMCS' Office of Arbitration Services processed over 16,200 requests for arbitration panels nationwide.

The full report is available online at www.fmcs.gov.

FMCS—Youth Project

The U.S. Federal Mediation and Conciliation Service (FMCS), in cooperation with child development programs at the University of Maryland, the University of Southern California and the University of North Texas, has



developed a computer game designed to teach non-violence and conflict resolution skills to young children.

The computer game, called "*Cool School: Where Peace Rules*", features animated school characters in situations that ask youngsters, ages 5 to 7, to select an action for resolving a potential conflict, such as others crowding in line, refusing to share or treating playmates disrespectfully. The premise of "*Cool School*" is in sharp contrast to violent and often popular commercial games that can inspire youngsters to emulate physically aggressive behavior.

The game is free for downloading to teachers and families via the Curriki Web site (www.curriki.org). Curriki is a non-profit community of nearly 40,000 educators that offers free, open-source curriculum materials to teachers and schools worldwide.

The FMCS youth initiative program was inspired by the volunteer work of federal mediators in schools and communities and their successes in teaching dispute resolution skills. At its height, the program operated in 10 cities and used computer technology to facilitate surveys, communication and brainstorming sessions among concerned community organizations and school groups anxious to reduce youth violence.

Update on the Status of the NEUTRALITY PROJECT

Thanks to the heroic efforts of John Higgins, Dan Neilsen, Marty Malin and numerous contributors, the Neutrality Report was completed in early 2008. The Report was reviewed and approved by the ALRA Executive Board at its Spring 2008 meeting and a copy is available for download from the 'Members' Only' portion of the ALRA website (www.alra.org).

The Report will be presented to the ALRA membership for ratification at the Annual General Meeting to be held in Burlington on July 23, 2008.

One remaining issue for discussion at that time will be to decide whether and how the Report should be made publicly available.

Please come to the AGM prepared to vote on the ratification and distribution of the Report.



NATIONAL MEDIATION BOARD



The National Mediation Board has conducted an unusually large number of elections involving large numbers of employees in the airline industry since December 2007. An election was held using Telephone Electronic Voting (TEV) and Internet Voting among approximately 7,660 fleet service employees of Continental Airlines. On January 10, 2008 the Board issued a Dismissal as less than

a majority of eligible voters had cast votes for representation.

On February 20, 2008 the Board issued a Dismissal after the results of a TEV and Internet vote established that less than a majority of Piedmont Airlines' approximately 2,574 fleet and passenger service employees had voted for representation.

On April 1, 2008 the Board certified the International Brotherhood of Teamsters as the representative of United Airlines' approximately 8,631 mechanics and related employees, who were

previously represented by the Aircraft Mechanics Fraternal Association.

The Board certified the US Airline Pilots Association as the representative of US Airways' approximately 5,238 pilots on April 18, 2008. The pilots had been represented by the Air Line Pilots Association.

On May 29, 2008 the Board issued a Dismissal in an election involving approximately 13,380 flight attendants of Delta Airlines, as less than a majority had voted in favor of representation.

In & around the States...



NEW DIVISION of LABOR RELATIONS in MASSACHUSETTS

Officially formed on November 14, 2007, the new Massachusetts Division of Labor Relations (DLR) is the result of legislation merging the Labor Relations Commission (LRC), the Board of Conciliation and Arbitration (BCA) and the Joint Labor Management Committee for Municipal Police and Fire (JLMC) located within the Department of Labor.

These three agencies were reorganized into the DLR with three goals in mind: (1) to maximize the efficient use of existing labor relations resources; (2) to professionalize the management of those resources; and (3) to restore and preserve judicial independence that is essential to the successful performance of their missions. The DLR will continue to carry out the

functions of all three agencies in a more efficient and responsive manner by eliminating the administrative and bureaucratic responsibilities which were borne by the individual agencies.

Organizational Structure

The DLR is led by a director, appointed by the Governor, who will manage the new organization, and carry out duties including administering the production of annual reports, communicating with stakeholders, processing revisions of existing regulations, as well as proposing new rules and regulations. In addition, the director will set benchmarks for the DLR to measure its performance and work closely with the newly created DLR Advisory Council in order to enhance the DLR's performance.

As part of the effort to increase efficiency and improve performance measures, a new DLR director means that former labor relations

commissioners will only be addressing caseloads and not handling daily administrative responsibilities.

The Governor will receive recommendations for the DLR director, as well as for the new Commonwealth Employee Relations Board (CERB), from the 13 member DLR Advisory Council. In addition, the Advisory Council will provide DLR stakeholders with the opportunity to work, on a regular basis, with the DLR director. Voting members of the Advisory Council will be appointed by the Governor and will include representatives from labor, management, labor relations professionals and academia. The Advisory Council will also include the Director of Labor and the DLR Director as ex-officio members.

Members of the Advisory Council will recommend a candidate to the Governor for the full-time director's position. In the meantime, until a director is appointed by the

(Continued on page 11)



(Continued from page 10)

Governor, Director of Labor George Noel has designated Michael A. Byrnes to serve as acting director of the DLR to address routine, day-to-day administrative responsibilities. Mr. Byrnes was chair of the former Labor Relations Commission and is serving as chair of the new Commonwealth Employee Relations Board.

The creation of the DLR unites the staff of the predecessor agencies, streamlines the process for resolution of labor disputes and enhances the role of professional staff.

Professional dispute resolution staff are empowered to play a variety of roles and work in areas where most needed to minimize backlog and increase efficiency. Agency staff will be engaged in a number of different functions including holding investigative conferences; referring cases to arbitration; issuing bargaining orders and dismissing cases on jurisdictional grounds.

If cases need to be adjudicated, other professional staff will hold adjudicatory proceedings and issue findings of fact and conclusions of law. Those decisions are binding unless appealed to the new Commonwealth Employee Relations Board (formerly the LRC).

The municipal police and fire management and union representatives who utilize the JLMC will see no change. The JLMC operates within the DLR in the same manner as it always has, and its structure remains intact.

2007-2008 PERC UPDATE

The Washington State Public Employment Relations Commission experienced much change in the last year.

Governor Gregoire appointed **Tom McLane** to assume the Commission position being vacated by **Douglas Mooney**, who is leaving the Commission to do anti-human trafficking work as a volunteer in Tajikistan. We will miss Doug and wish him a successful and safe journey. Tom McLane comes to the Commission by way of Spokane, Washington, where he is a partner in his Spokane firm, Allen and McLane, PC, which represents employers in labor and employment law matters.

In January, 2008, the Commission held the first of four rules adoption hearings to update the administrative rules that govern practice before the agency. Highlights of the recently adopted or amended rules include:

- Codifying existing agency practice of assigning settlement judges to mediate a potential settlement in unfair labor practice cases.
- Adopting an amicus brief practice for cases before the three-member Commission.
- Adopting a new practice to allow an employer or union to petition the Commission to temporarily lift the agency's requirement that the status quo regarding existing terms and conditions of employment be maintained during the pendency of a representation petition.
- Adopting a one year time limit for showing of interest cards.
- Adopting a 25 page limit for briefs filed with an examiner or hearing officer or the three member Commission, allowing for exceptions by the examiner, hearing officer, or Commission for cases presenting novel or complex issues.
- Adopting a 50% +1 cross-check procedure for state civil service employees.
- Adopting a rule setting forth the

rights of employees and non-employees to conduct representation election campaign activity on an employer's premises during working hours.

- Adopting a rule that allows small groups of unrepresented employees to vote to be included in existing appropriate bargaining units.

Finally, Governor Gregoire signed into law a bill that allows research and teaching assistants at Washington State University the opportunity to organize for the purpose of collective bargaining. The research and teaching assistants at the University of Washington have had similar rights since 2002. A bill that would have allowed owners and employees of child care centers who receive state subsidies passed the House of Representatives but failed to pass the Senate.

(AROUND THE PROVINCES
Continued from page 8)

[tives.ca/News/2008/03/PressRelease-1853/index.cfm?pa=BB736455](http://www.tives.ca/News/2008/03/PressRelease-1853/index.cfm?pa=BB736455)); How the Sask Party plans to shift the scales in favour of employers, CUPE, February 15, 2008 (32 pages, PDF, (http://cupe.ca/updir/Bill_5_6_Feb_2008.pdf); *Bill no. 5, An Act respecting Essential Public Services*, Background, (<http://www-.gov.sk.ca/adx/asp/adxGetMedia-.aspx?mediaId=369&PN=Shared>); *Bill no. 6, An Act to amend The Trade Union Act*, Background, (<http://www-.gov.sk.ca/adx/asp/adxGetMedia-.aspx?mediaId=370&PN=Shared>).

Awards...

GENEVA (ILO News) The International Labour Organization's (ILO) Decent Work Research Prize 2008 was awarded to Nobel Prize winning economist Joseph Stiglitz and leading Canadian labour researcher Harry Arthurs.

The jury of eminent international experts on labour and social policy issues named **Professor Stiglitz**, of Columbia University, New York, for his extraordinary lifetime contribution to knowledge on the central concerns of the ILO and its constituents reflecting advances in understanding of different dimensions of decent work.

Professor Stiglitz is also Chair of Columbia University's Committee on Global Thought, former Chief Economist of the World Bank and a member of the World Commission on the Social Dimension of Globalization convened by the ILO. Professor Stiglitz, who received the Nobel Prize in economics in 2001, said that being selected for the Decent Work Research Prize was "a fantastic honour".



Prof. Harry Arthurs

Professor Harry Arthurs, former Dean of Osgoode Hall Law School at York University in Toronto, Canada and former President of the University, was cited for a major specific contribution to the understanding of socio-economic relationships and policy instruments for the advancement of decent work.

Professor Arthurs, Canada's leading labour law academic, said that "for a labour law scholar, this is truly the most coveted prize". He is also the author of a report to the Canadian government on "Fairness at Work. Federal Labour Standards for the 21st Century" submitted in 2006.

The ILO Decent Work Research Prize entails a financial award of US\$10,000, to be shared by the winners. It is managed by the ILO's International Institute for Labour Studies which was established in 1960 as a centre for advanced studies in the social and labour field.

The first two recipients of the prize in 2007 were Nelson Mandela, former President of the Republic of South Africa and Nobel Peace Laureate, and Professor Carmelo Mesa-Lago Professor Emeritus on Economics and Latin American Studies of the University of Pittsburgh, Pennsylvania, USA.

Candid Camera...



WINTER E-BOARD MEETING Phoenix—March 3-5, 2008

TOP LEFT (L-R)—Jackie Zimmerman (former ALRA president) and Marlene Gold (NY Office of Collective Bargaining)

TOP RIGHT (L-R)—Ed Zuccaro and Tim Noonan (Vermont Labor Relations Board) with Jacques Lessard (FMCS-Canada)

BOTTOM—Scot Beckenbaugh (FMCS-US)

Photos by Jim Breckenridge



Comings and Goings...

ALRA

After a short stint as Acting Director of FMCS Canada, ALRA E-Board member **Akivah Starkman** has taken up new duties at Acadia University in Nova Scotia. Akivah's contribution to ALRA, particularly to the Professional Development Committee will be greatly missed.

Akivah has been replaced on the E-Board by **Sheri King** of FMCS Canada.

Jacques Lessard, well-known to ALRA members as the co-host of the very successful Montreal Conference, filled in for Akivah at FMCS, until a permanent successor was selected.

Guy Baron took over the position of Director General at FMCS. Guy had been the Director, Dispute Resolution Services at the Public Service Labour Relations Board since 2000. Prior to his arrival at the PSLRB, Guy was the Systems Integration and Select Case Mediation Manager at the Department of National Defence where he was involved in the design, development and implementation of a conflict management system within DND/CF and in all related training activities.

FMCS—CANADA

Guy, a graduate of the University of Ottawa, was called to the Québec Bar in 1984. He pursued Alternative Dispute Resolution studies in the USA and in Canada, and worked with the Public Service Staff Relations Board as a principal mediator.



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Janet Boehmer

CANADIAN INDUSTRIAL RELATIONS BOARD

On February 6, 2008, the Honourable Jean-Pierre Blackburn, Minister of Labour and Minister of the Economic Development Agency of Canada, announced the appointment of **Claude Roy** as Vice-Chairperson of the CIRB for a term of five years, effective March 3, 2008.

Mr. Roy has been in private practice since 1974, and he has worked in the areas of civil, labour, commercial, criminal and quasi-criminal, municipal and bankruptcy law. He has significant expertise in administrative and criminal law. He has also served as First Councillor of the Barreau du Québec.



Since April 2006, Mr. Roy has been an adjudicator and referee, appointed by the Minister of Labour, to hear cases of unjust dismissal and to sit in appeal of wage recovery determinations by departmental inspectors. Mr. Roy is a graduate from the Université Laval in Québec City and has been licensed by the Barreau du Québec since 1974.

Ginette Brazeau, formerly of FMCS Canada, is the new Executive Director, CIRB.

ALRA looks forward to welcoming Ginette and Guy to its ranks.

PUBLIC SERVICE LABOUR RELATIONS BOARD

The Governor-in-Council appointed a number of new members in the latter part of 2007 and early 2008.

Marie-Josée Bédard was appointed as Vice-Chairperson effective March 10, 2008 for a term of five years. Ms. Bédard possesses extensive experience in labour law, labour relations and human resources.

She holds a bachelor's degree in administration and a degree in civil law (*magna cum laude*), both from the University of Ottawa, and was called to the Québec Bar in 1993. Ms. Bédard practised labour law in a private-sector firm for over eight years, then joined the Société de transport de l'Outaouais (STO) as Director of Human Resources and legal counsel on labour relations.

In September 2007, she was appointed General Manager of the STO. Ms Bédard's appointment complements the Vice-Chairpersons group of the Board, composed of **Michele A. Pineau** (appointed January 2007) and **Ian R. Mackenzie** (appointed May 2005).

Roger Beaulieu was appointed for a five year term starting November 2007. Mr. Beaulieu holds a B.A. and a law degree and is a member of the Québec Bar. He brings extensive senior management level experience in providing legal advice, directing human resources including labour relations, and negotiating mergers and acquisitions for large corporations based in Canada, the United States and globally.

(Continued on page 14)



Comings and Goings...

(Continued from page 13)

Renaud Paquet was appointed for a five year term starting March 2008. Mr. Paquet holds a Ph.D. in Industrial Relations from the Université de Montréal and a Master's degree in the same discipline from the Université du Québec en Outaouais.



He also pursued post-doctoral studies at the New York State School of Industrial Relations at Cornell University in Ithaca, New York. Most recently, Mr. Paquet was a professor at the Université du Québec en Outaouais.

Before embarking on his academic career, he held a variety of positions in the federal public service. From 1982 to 1989, he was National President of the Canada Employment and Immigration Union and he was a member of the National Board of Directors of the Public Service Alliance of Canada. Since 2002, he

has acted as an adjudicator and referee under the *Canada Labour Code*.

John Mooney was appointed in November 2007 for a term of 4 years. Mr. Mooney holds a B.A from the University of Ottawa, along with a License in Civil Law (LL.L). He brings extensive experience in adjudicating employment cases as well as in managing quasi-judicial bodies related to employment litigation. In addition, he has participated in the design and drafting of laws, regulations and recourse mechanisms related to employment, most notably, the federal *Public Service Employment Act*.



For more biography details:
http://www.pslrb-crtfp.gc.ca/about/boardmembers_e.asp

FMCS—UNITED STATES

Dawn E. Starr is the new US FMCS General Counsel. Most recently, she was a labor lawyer in private practice, and prior to that she was staff counsel to NLRB Chairmen Stephens and Dotson and Board Member Jenkins.

Recently Retired

- Norm Beattie (Springfield)
- Chuck Burton (Admin. Services, National Office)
- Ed Cahill (Cedar Rapids)
- Ruth Carpenter (Oakland)
- Tom Carroll (Hardford)
- Pat Duff (Pittsburgh)
- Dan O'Leary (Chicago)
- Pearl Newton (Arbitration, National Office)
- Ron Sweet (Milwaukee)

JUDGE RULES WAL-MART VIOLATED LABOUR LAWS

NEW YORK (Reuters) A Minnesota judge has ruled that Wal-Mart Stores Inc. violated state wage and hour laws, requiring employees to work off the clock, and the discount retailer could now face more than \$2 billion in possible fines.

Minnesota District Court Judge Robert R. King Jr, ruled Wal-Mart owes \$6.5 million to thousands of current and former employees because of wage violations, which included a failure to give workers their full rest breaks and requiring hourly employees to work off-the-clock during training.

Wal-Mart could now face a fine of up to \$1,000 for each violation of the Minnesota wage and hour rules. With more than two million violations cited by the judge, that means the discount retailer could face more than \$2 billion in fines.

Wal-Mart spokesperson Daphne Moore said the retailer was still reviewing the order and considering the option of appeal.

"We respectfully disagree with portions of the decision," she said. She also said the retailer's policies are to pay every employee for every hour worked, and to make rest and meal breaks available for its employees. She said managers who violate the policies are subject to discipline.



Wednesday, July 02, 2008 © The Star Phoenix (Saskatoon) 2008

A **BIG** Thank You!

Thank you...Thank you...

The ALRA *Advisor* extends its sincere thanks to out-going Editor **Jim Breckenridge** of the Ontario Ministry of Labour.

Jim has carefully nurtured the *Advisor* over many years and due to his considerable efforts, we have a treasure trove of memories from numerous ALRA events captured on film and paper. We were able to catch some photos of the normally “camera-shy” Jim at last year’s Toronto conference (gotcha!)

Best wishes, Jim, in all your future endeavors and thank you for all of your hard work in making the *Advisor* such an effective vehicle of communication for the Association’s members!



Boehmer © photo

Thank you...Thank you...

Thanks are also due to **Joy Reynolds**, formerly of the US Department of Labor. As a contributing correspondent to the *Advisor* for many years, Joy ensured that we were all kept up to date on events at the Department, the US FMCS and the NLRB.

Many thanks, Joy, and we all wish you a long and healthy retirement!



Thank you...Thank you...

“Merci beaucoup” to **Michael Wolf** of the National Mediation Board, for revamping the ALRA website and creating a “*Members’ Only*” page to allow us to share and exchange information throughout the year on a confidential basis.

Michael also looks after uploading all material, including conference info and the *ALRA Advisor*, to our website.



Breckenridge photo

Elections

The Nominating Committee has completed its work, and the 2008 nominees for election to the ALRA Executive Board are:

- For **President**: **Phil Hanley** (Phoenix Employment Relations Board)
- For **President-Elect**: **Mary Johnson** (National Mediation Board)
- For **Vice-President, Finance**: **Scot Beckenbaugh** (US FMCS)
- For **Board Members** (three positions):
 - **Pierre Hamel** (Public Service Labour Relations Board - Canada)
 - **Sheri King** (FMCS Canada)
 - **Paul Roose** (California State Mediation and Conciliation Service)

NOMINEES for NEW BOARD MEMBER POSITIONS



Paul Roose



Sheri King

Boehmer © photo

DESCRIPTION of DUTIES

President

The President serves a one year term immediately following a year of service as the President Elect of the Association, appoints all committees, and leads and sets the agenda for board meetings and the annual meeting of the Association.

President-Elect

The President-Elect is elected to a one year term, chairs the Policy and Constitution Committee, prepares a financial plan with the Vice President-Finance, and performs duties of the President in the President's absence.

Immediate Past President

The Immediate Past President serves a one year term immediately following a year of service as the President of the Association and like all officers, is a member of the Executive Board.

Vice President—Administration

The Vice President—Administration is elected to a two-year term, keeps minutes of association and executive board meetings, chairs the Publications and Communications Committee, maintains all association records, prepares association correspondence, and coordinates publication of the ALRA Advisor.

Vice President—Finance

The Vice President—Finance is elected to a two-year term, receives revenues, pays bills, invests assets, chairs the Membership Committee, and maintains association financial records.

Vice President—Professional Development

The Vice President—Professional Development is elected to a two-year term, chairs the Professional Development Committee, receives training grant requests, coordinates ALRAcademy, oversees development of conference training programs, and maintains a listing of available training materials.

Board Members

There are six Board Members who are elected to staggered, two-year terms, serve on various committees by appointment of the President, and serve as members of the Executive Board which is empowered to transact the business of the Association between meetings of the membership.

ALA Executive



Elizabeth MacPherson
President

President

Elizabeth MacPherson (613) 995-7046
Canada Industrial Relations Board
e-mail: info@cirb-ccri.gc.ca
[TERM ENDS JULY 2008]

Vice President—Administration

Robert A. Hackel (609) 292-9830
New Jersey Public Employment Relations Commission
e-mail: rhackel@perc.state.nj.us
[TERM ENDS JULY 2009]

President-Elect

Phillip E. Hanley (602) 262-4024
Phoenix Employment Relations Board
e-mail: hanley@superiorcourt.maricopa.gov
[TERM ENDS JULY 2008]

Vice President—Finance

Scot Beckenbaugh (202) 606-8100
Federal Mediation & Conciliation Service—U.S.
e-mail: sbeckenbaugh@fmcs.gov
[TERM ENDS JULY 2008]



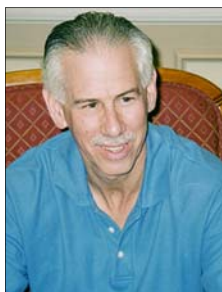
Marilyn Glenn Sayan
Past President

Immediate Past President

Marilyn Glenn Sayan (360) 426-7440
State of Washington Public Employment
Relations Commission
e-mail: sayanglenn@aol.com
[TERM ENDS JULY 2008]

Vice President—Professional Development

Lester A. Heltzer (202) 273-1940
National Labor Relations Board
e-mail: lester.heltzer@nlrb.gov
[TERM ENDS JULY 2009]



Robert Hackel
VP—Administration



Scot Beckenbaugh
VP—Finance



Les Heltzer
VP—Prof. Development



Phillip Hanley
President-Elect

ALRA Board Members



Mary Johnson

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[TERM ENDS JULY 2009]

Marlene Gold (212) 306-7170
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[TERM ENDS JULY 2008]



Sue Bauman



Boehmer © photo

Sheri King



Marlene Gold



Boehmer © photo

Josée Dubois

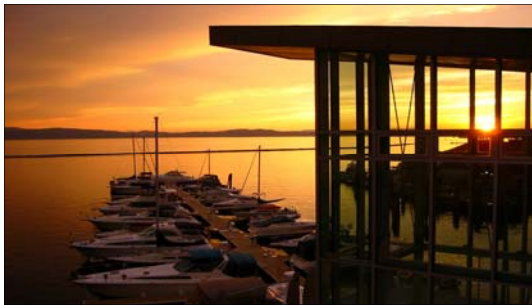


Boehmer © photo

Pierre Hamel



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LEGEND

1. Shelburne Museum (optional Tuesday afternoon social activity) showcases a diverse and extensive collection of Americana, folk art, French Impressionist and American paintings, as well as New England history. Over 150,000 works are uniquely displayed in 39 exhibition structures on 45 acres.
2. ECHO at the Leahy Center for Lake Champlain – Lake Aquarium and science center on Burlington’s Lake Champlain waterfront.. © Nick LaVecchia 2006
3. ALRA 2008 Conference hotel, the Sheraton Burlington Hotel and Conference Center.
4. Ticonderoga, National Historic Landmark Lake Champlain steamboat on the grounds of the Shelburne Museum.

2008 CONFERENCE PROGRAM



Saturday, July 19

1:00 6:00Conference Registration
 6:00 8:00 Reception

Sunday, July 20

9:00 4:30Conference Registration
 9:00 ALRA Executive Board Meeting
 11:30 1:15Opening of Conference & Brunch
 Welcome
 Neutrality Project Report
 A 40th Anniversary View of New York’s Taylor Law
 1:30 3:15Concurrent Roundtables (General Theme for all
 Roundtables – Generational Changes in ALRA
 Agencies: Implications and Planning to Meet the
 Challenge)
 3:00Break
 3:30 4:15Report on Roundtables

Monday, July 21 (Advocates Day)

8:00 9:00Registration
 9:00 9:15Welcome
 9:15 10:15Innovative Approaches to Improving Union Density
 10:15Break
 10:30 11:45Coming to Terms with Underfunded Employee &
 Retiree Benefits in the Public Sector
 11:45 1:15Luncheon Speaker: Wilma Liebman—Decline and
 Disenchantment: Reflections on the Aging of the
 National Labor Relations Board
 1:30 3:00CONCURRENT WORKSHOPS
 I – State of the States: State Government Budget
 Shortfalls and Labor Relations Implications
 I – *Kentucky River, British Columbia Health* and the
 Right to Organize and Bargain
 III – Dealing with the Interplay of FMLA, ADA and
 Workers Compensation Statutes in a Union Setting
 3:00Break
 3:15 4:45Union Activities in the Electronic Workplace
 6:00 8:00Evening Reception at ECHO Lake Aquarium and
 Science Center

Tuesday, July 22

9:00 10:30Who’s Holding the Cards? Agency Administration of
 Card Check and First Contract Arbitration Statutes
 10:30 10:45Break
 10:45 noonThe Wizards of Ethics

Wednesday, July 23

9:00 10:30ALRA Annual Business Meeting
 10:30 10:45Break
 10:45 11:45View from the Top
 11:45 1:00Lunch
 1:00 2:15Just Between You, and Me and Google. Balancing
 Privacy Considerations in the Agency Process
 2:15 2:30Break
 2:30 4:30Can I Really Wear Two Hats?
 6:00Reception
 7:00Closing Banquet