



# YOUNG CONAWAY STARGATT & TAYLOR, LLP

2011 ANNUAL EMPLOYMENT LAW SEMINAR



## Join In The Conversation

Wednesday, May 11, 2011  
Chase Center on the Riverfront  
Wilmington, Delaware



# Morning Agenda

8:30 a.m. - 9:00 a.m.

## Registration and Breakfast

9:00 a.m. - 9:15 a.m.

## Welcome and Opening Remarks

*Section Chair, Barry M. Willoughby*

9:15 a.m. - 10:15 a.m.

## Labor & Employment Law Update

**Moderator:** *Barry M. Willoughby*

**Panelists:** *Sheldon N. Sandler, William W. Bowser, Scott A. Holt, and Adria B. Martinelli*

The purpose of this segment is to provide attendees with a review of key changes to the workplace initiated by recent legislation and important court decisions. The highlights of this hour-long presentation are described below:

- We will review new and continuing trends among filings with the EEOC and the Delaware Department of Labor, including the continued rise in retaliation claims, and the impact that financial constraints are having on the processing of charges of discrimination filed in Delaware.
- As class-action litigation under the Fair Labor Standards Act continues to be an on-going employment law issue, we will discuss past and future trends in this area, including developments within the U.S. Department of Labor.
- As always, there are several recent U.S. Supreme Court decisions that warrant note. Among these are *Thompson v. North American Stainless, LP*, which established for the first time the right to be protected from third-party retaliation, and *Staub v. Proctor Hospital*, which officially adopted the Cat's Paw theory of liability, holding an employer liable for discriminatory animus of a non-decision-maker where that individual's opinions impacted the final decision-maker. We will also consider pending Supreme Court decisions, including *Wal-Mart Stores v. Dukes*, which addresses the question of whether exceptionally large class actions may be properly certified.

10:15 a.m. - 10:30 a.m.

## Break

10:30 a.m. - 11:30 a.m.

## Current Issues In Employment Law: Looking Forward

**Speakers:** *Adria B. Martinelli, Margaret M. DiBianca, Michael P. Stafford and Lauren E. Moak*

In this segment we will consider a range of developing employment law issues and trends through the popular *Pecha Kucha* presentation style. We will cover issues including social media horror stories, paperless HR, the use of credit checks by employers, and new regulations from the National Labor Relations Board regarding posting requirements.

# Afternoon Agenda

11:30 a.m. - 12:45 p.m.

## Lunch and Keynote Address

Keynote Speaker, *Paul Gregory Clark*  
New Castle County Executive

Paul Gregory Clark was sworn in as New Castle County's Executive in November 2010. Having lived and worked in Delaware his entire career, Mr. Clark is dedicated to providing quality core services and making government work for the citizens of New Castle County. Mr. Clark is "committed to keeping New Castle County a great place to live, work and raise a family."

Recently, Mr. Clark delivered his first budget address which outlined a \$164 million operating plan that deals with a \$10.1 million deficit without property tax increases or layoffs. He continues his budgetary work to find savings through spending cuts and austerity measures.

12:45 p.m. - 1:00 p.m.

## Break

1:00 p.m. - 2:00 p.m.

## Breakout Session One

### A. Special Topics for the Public Sector

**Speakers:** *William W. Bowser, Deborah Murray-Sheppard and Michael P. Stafford*

Deborah Murray-Sheppard is the Executive Director of the Delaware Public Employment Relations Board (PERB). Ms. Murray-Sheppard will join this session's presenters to review the major decisions and developments in the public sector during the past twelve months, including the continued expansion of PERB's responsibilities. This session will cover the impact of binding arbitration, as well as the forecast for the year ahead, and predictions about the impact of changes from the initiatives of the Obama administration.

### B. How To Comply With The New GINA Regulations

**Speaker:** *Adria B. Martinelli*

Learn how the EEOC's new GINA regulations impact your employment practices. With the EEOC's recent release in November 2010 of new regulations for the Genetic Information Nondiscrimination Act, the door is now open for discrimination claims based on an employee's genetic makeup. This potential for legal action on the part of an employee makes it necessary for employers to understand the ramifications of these new regulations.

The intricacies of this law make it vital for you to have a solid understanding of what you can and can't do regarding an employee's genetic information. Among other important information, you'll learn the implications of GINA on social media, GINA's specific rules regarding confidentiality and recordkeeping, how to use the "safe harbor" language offered by the EEOC when requesting health information from an employee, and how to ensure your wellness programs are not violating GINA.

2:00 p.m. - 2:15 p.m.

## Break

# Afternoon Agenda

2:15 p.m. - 3:15 p.m.

## Breakout Session Two

- C. **The Patient Protection and Affordable Care Act: Where Are We in 2011?**  
*Speaker: Timothy J. Snyder*

Many of the provisions of The Patient Protection and Affordable Care Act (PPACA), as amended by the Health Care and Education Reconciliation Act of 2010, are effective on the first day of the medical plan year beginning on or after September 23, 2010. For most employers, the effective date was January 1, 2011. However, employers with a June 1 or later plan year beginning date must still plan to implement PPACA. Both small and large employers will be subject to new regulations regarding the provision of health care coverage to employees, as well as new tax and reporting requirements related to employee health coverage.

In this session, we will review the provisions of PPACA, its amendments, and its relevant regulations that are effective in 2011 and will assist you in complying with the myriad employer obligations springing out of this major piece of legislation.

- D. **New ADAAA Regulations**  
*Speakers: William W. Bowser and Lauren E. Moak*

The EEOC issued proposed new regulations pursuant to the ADA Amendments Act (ADAAA) in 2009. These proposed regulations elaborate on the ADAAA, which requires courts and administrative agencies to construe the term "disability" broadly. As a result, more individuals may be able to allege discrimination claims under the ADA. In this session, participants will be walked through the proposed regulations, and what they mean for employers.

3:15 p.m. - 3:30 p.m.

## Break

3:30 p.m. - 4:30 p.m.

## Social Media Policy Workshop

*Speakers: William W. Bowser and Margaret M. DiBianca*

Social media continues to be a hot topic in employment law. In the past year, we have seen abundant examples of the unfortunate results of employees' improper use of social media. Individuals attending this session will walk away with a solid social media policy that addresses emerging case law and other developing issues with social media in the workplace.

# Registration

**REGISTER TODAY!** The cost for this all-day seminar, including continental breakfast, lunch "with the lawyers," and complete seminar materials, is just \$145 per person. For each additional attendee from the same organization, registration is just \$125. *Register early because space is limited!*

**Organization** \_\_\_\_\_

**Name** \_\_\_\_\_

**Title** \_\_\_\_\_

**Address** \_\_\_\_\_

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**Checks should be made payable to:**

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**Four Ways To Register:**

*Return your completed registration form and payment information via:*

**EMAIL:** **elawseminars@ycst.com**

**FAX:** **302.576.3399** Attn: Felicia Grimes

**MAIL:** Young Conaway Stargatt & Taylor, LLP  
The Brandywine Building  
P.O. Box 391  
1000 West Street, 17th Floor  
Wilmington, DE 19801  
ATTN: Felicia Grimes

**OR ON THE WEBSITE:** Visit [www.YoungConaway.com/Events](http://www.YoungConaway.com/Events) and use the online registration form. Someone will follow up with you regarding payment information.

Registrations must be submitted and payment received by May 9, 2011. No cancellations after May 6, 2011. Confirmation of receipt of registration will be sent via email within two business days of being processed.

**NOTE:** This program has been submitted for 6.25 (General) recertification credit hours toward PHR, SPHR and GPHR recertification through the Human Resource Certification Institute (HRCI). For more information about certification or recertification, please visit the HRCI home page at [www.hrci.org](http://www.hrci.org).



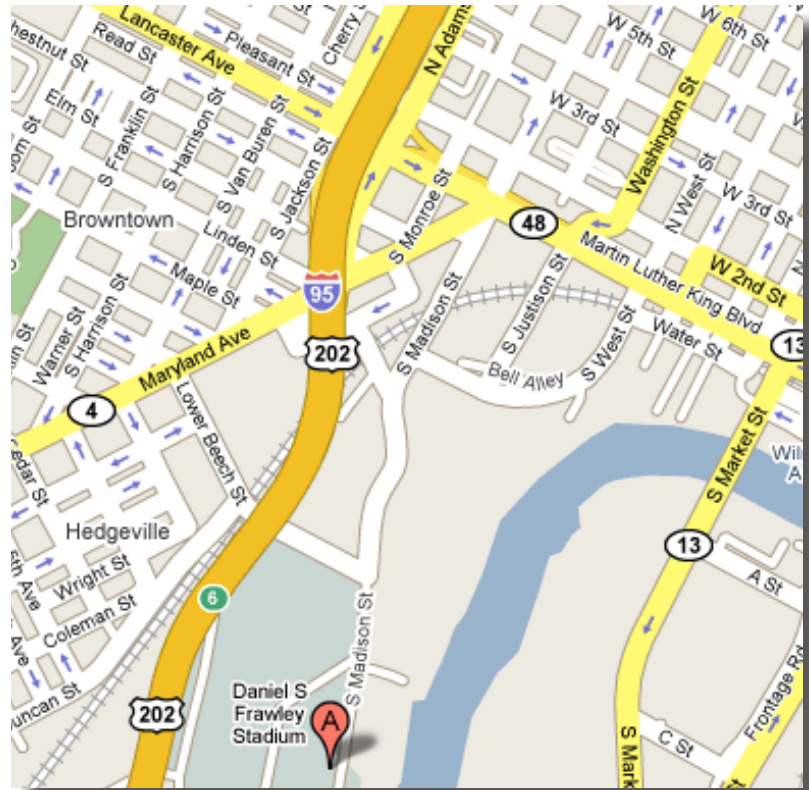
## CHASE CENTER on the riverfront



### Chase Center on the Riverfront

815 Justison Street (formerly  
800 South Madison Street)  
Wilmington, DE 19801

[www.centerontheriverfront.com](http://www.centerontheriverfront.com)



### FROM NEW YORK/ NEW JERSEY

Take the New Jersey Turnpike South to the Delaware Memorial Bridge. Continue through the toll plaza and stay to the left. Follow the sign that reads south to I-95 & Wilmington/Baltimore. Take I-95 N to Wilmington. Take Exit 6 in Wilmington, DE (Maryland Avenue) and turn right onto Maryland Avenue. Follow the signs to the Riverfront, turning right just before the 1st traffic light. Turn right onto South Madison Street. Turn left onto Beech Street at the light. Turn right onto Justison Street at the light.

### FROM PHILADELPHIA NORTH

Take I-95 South to Exit 6 in Wilmington, DE (Martin Luther King Jr. Blvd.). Turn left at the 4th traffic light onto Martin Luther King Blvd. Turn right at the 4th traffic light onto Justison Street.

### FROM MARYLAND SOUTH

Take I-95 North to Exit 6 in Wilmington, DE (Maryland Avenue) and turn right onto Maryland Avenue. Follow the signs to the Riverfront, turning right onto Read Street just before the 1st traffic light. Turn right onto South Madison Street. Turn left onto Beech Street at the light. Turn right onto Justison Street at the light.

### FROM CHESTER COUNTY NORTH

Take Route 202 south to I-95 south. Take Exit 6 in Wilmington, DE (Martin Luther King Jr. Blvd.). Turn left at the 4th traffic light onto Martin Luther King Blvd. Turn right at the 4th traffic light onto Justison Street.