

No major bombshells in labor law on the horizon

By Casey J. Dickinson

Journal Staff

SYRACUSE — Mackenzie Hughes' first legal seminar of 2005 presented a look back at the developments of the past year as well as a view into the future of labor law. Approximately 50 clients joined Mackenzie Hughes partner Jacqueline Jones at Drumlins Country Club on Jan. 11 for the firm's monthly Labor Law Review.

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The past year was a good one for employers, says Jones, as courts, legislatures, and administrative agencies didn't drop any major legal bombshells.

"Overall it was a good year for employers with regard to union issues," says Jones.

She expects the 2005 labor-law front to remain on the same track as last year, with few major labor issues reaching the U.S. Supreme Court during the current term.

New overtime regulations and a ruling on whether non-union employees were entitled to the assistance of a co-worker during a workplace investigation were 2004 issues that most affected Central New York employers, she adds.

The re-election of President Bush signals a continuation of pro-employer trends at federal agencies such as the National Labor Relations Board, explains Jones. Presidential appointments to administrative agencies tend to reflect the overall philosophy of the chief executive, she adds. NLRB has recently reversed some pro-labor Clinton-era decisions.

In addition to the "no co-worker" ruling, NLRB has upheld dismissals and declined to declare that certain employees had a "community of interest" for union-organizing purposes.

While executive agencies may be tilting back toward employers, unions are not giving up, says Jones. The passage of labor-neutrality, card-check unionization, and "living-wage" laws are high on unions' 2005 agendas. Labor-neutrality laws prohibit employers from using public funds to fight unionization campaigns.

New York and California's labor-neutrality statutes are facing court fights as unions try to expand such legislation nationwide, says Jones.

Unions are also advocating "card-check" unionization as opposed to traditional-recognition campaigns. Under a card-check system, unions gather signature cards from employees to prompt a union-recognition vote, Jones explains. The unions, she contends, would like to do away with elections and simply use the signature cards as proof that the employees want a union.

"Living-wage" laws require employers with public contracts to pay a wage similar to the prevailing union wage. The measures have been debated in localities across the nation.

Organized labor is discussing several potential union mergers designed to create larger labor unions in order to increase labor's influence nationwide, says Jones. Unions have targeted large employers such as Wal-Mart for unionization drives.



Jones

The Bush Administration hasn't given employers a free pass, says Jones. The Occupational Safety and Health Administration (OSHA) has stepped up enforcement against willful rule violators, especially those that endanger workers.

Jones' presentation also covered the past year's developments in workplace harassment, family leave, litigation evidence preservation, and several other topics.

Next month's Labor Law seminar will address the procedure for hiring foreign workers. Mackenzie Hughes' immigration-law specialist Ramon Rivera will outline the way employers can look overseas for hard-to-fill jobs. □