

*Spring Conference, continued from Page 1*

the post election appeal standards.

The second panel, presented by Thomas Lilly, Jr. of SUNY Old Westbury and Thomas Wassel of Cullen and Dykman, was titled, "Recognizing, Preventing and Investigating Sexual Harrassment." Professor Lilly began by presenting the background which begins with the Civil Rights Act of 1964. Since there is no legislative history for this Act, the courts and administrative rules have become the basis for judgments in the cases. In 1980 the EEOC promulgated guidelines as well: unwelcome sexual advances may result in an employee's firing and may affect employment decisions (work schedules, promotions, job assignments). The big question is whether there is an intimidating or hostile work environment.

Mr. Wassel discussed how an employer can prevent having a hostile environment by presenting clearly expressed guidelines that are disseminated to the employees at least annually. They should also be posted on the employee's bulletin board and be printed in the employee manual. Any complaint should go to at least two (preferrably three) different supervisors who have received sensitivity training. If there is a complaint, there should be an immediate investigation by two management people (one to question, the other to take notes). Mr. Wassel's final recommendation was that the firm may want to use outside counsel since discussions would then be privileged.

The keynote address was delivered by the newly appointed Commissioner of Labor for Suffolk County, Samuel Chu. He began by highlighting the fiscal dilemma of Suffolk County, which anticipates a \$550m shortfall in its next budget. Nassau County is in worse condition with its finances under the control of the Nassau Interim Finance Authority. Mr. Cu recommends a comprehensive strategy for economic development in both counties, based upon using research and ident-

ifying resources such as Stony Brook University, Brookhaven National Laboratory and Cold Spring Harbor laboratory.

Mr. Chu believes that we should be able to create jobs for those who are unemployed, but not just a job, rather, a good job and a good career. The four main points that he emphasized were: 1) the need for data and the necessity to embrace performance metrics with evaluations based on "truth;" 2) solidarity and the need for labor and management to work together; 3) subtainability; and 4) moving from confrontation to conversation.

Certainly Mr. Chu's suggestions were consistent with the principles that LERA professes. We wish him well in his new position.

Please join us for our next meeting on Wednesday, September 12, at the Black Forest Brew Haus in Farmingdale. Our guest speaker will be Dan Farrell, the new president of the Suffolk AME.

**ANNOUNCEMENTS, NOTICES**

If you have an announcement or job posting that you would like to have published in our newsletter, send it for consideration to the editor at:

<jerryarb@optonline.net>.

***You can write. I can edit and publish. Let's get together. Have you had a case or incident in your practice that would provide insight to other practitioners? Have you read a book or article in a professional journal that you believe others might learn from and enjoy reading? Let's get together. Send me your manuscript via email to: <jerryarb@optonline.net>.***

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| <p><b>The Long Island LERA Newsletter</b> is a quarterly publication of the Long Island chapter of the Labor and Employment Relations Association.</p>   |                            | <p>LI LERA<br/>43 Northcote Drive<br/>Melville, NY 11747-3924</p> |
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| <p>Notices of address change should be sent to Membership Chairman, Thomas B. Wassel<br/>&lt;twassel@cullenanddykman.com&gt;. Inquiries about this publication, as well as submissions, etc., should be sent to Jerry Grayson at &lt;jerryarb@optonline.net&gt;.</p> |                            |   |

**Long Island Chapter**

Labor and Employment Relations Association

*Newsletter*

**ADVANCING  
WORKPLACE  
RELATIONS**



**June 2012**

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**PRESIDENT'S PERSPECTIVE:**

Ernesto Mattace, Jr., President

**SPRING CONFERENCE  
HUGE SUCCESS**

Our recent Spring Conference was a huge success. After many years of holding it at the de Seversky Center we changed venues to the Tam O'Shanter Club in Brookville. Although it was one of the few times in recent memory that we did not have great weather, the facility was prepared for the over one hundred participants.



Before any of the panels began, scholarship checks were presented to Johnny Cruz of NYIT, Ian Poulos of Hofstra, and Katherine Greco of SUNY Old Westbury. Each student provided an eloquent explanation of their interest in labor-management relations and also indicated what their future plans were. We hope that these students will continue their studies in the field. The next presentation was the MacGregor Award to Richard Roth for his dedication to the highest principles of labor relations and, also, his dedication to our chapter. Richard has held too many positions in the chapter to list here but his participation is a key reason that we are such a vibrant organization.

The first panel was entitled, "Recent Developments at the NLRB." Perhaps no two panelists would be as well qualified as those that we had. Karen Fernback, director of Region 2, which covers Manhattan, Bronx, Westchester, Rockland and Orange Counties, talked about "Social Media and the NLRA." There have already been many cases brought to the Board that involved emails, Facebook and Twitter. Frequently cases involve interaction between employees that employers find objectionable. These new forms of communication make it easy for employees to let each other know what they dislike about their work environment. Unions contend that based upon Section 7 of the NLRA this would be concerted protected activity. Ms.

**Upcoming Chapter Meetings**

**Wed., Sept. 12, 2012**  
**Black Forest Brew Haus, Farmingdale**  
**Speaker: Dan Farrell, AME President**

**Wed., Dec. 5, 2012**  
**Nassau County Bar Assoc., Mineola**  
**Holiday Party**

**Wed., Mar. 6, 2013**  
**Site to be determined**

**Fri., May 3, 2013**  
**Annual Spring Conference**  
**Tam O' Shanter Club, Brookville**

Fernback noted four tests of whether the activity is protected: 1) place of the discussion; 2) the subject matter of the discussion; 3) the nature of the employee's outburst; 4) was outburst provoked by an employer. Meeting these criteria would possibly allow the employer's action to be considered an unfair labor practice.

The other NLRB presenter was James Paulson, director of Region 29, which covers Brooklyn and Long Island. Mr. Paulson covered many important topics including the rules regarding the posting of Section 7 rights, the controversy over labor organization status of independent contractors, agricultural employees, graduate student teaching assistants, and seasonal employees in regard to eligibility or inclusion issues. He also discussed "Yeshiva" cases (employees as managers), the old rules and the new rules regarding the right to file post-hearing briefs, and the scheduling of elections and



# 2012 SPRING

# CONFERENCE



**Left:** James Paulson, Reg. 29 NLRB director after panel with Karen Fernback, (camera shy) Reg. 2 director.  
**Below right:** NYIT scholarship winner, Johnny Cruz.  
**Below center:** Richard Roth with Ian Poulos (Hofstra) and Katherine Greco (Old Westbury) scholarship winners. Richard Roth also received the MacGregor Award at the conference.



**Above right:** Chapter president Mattace presents plaques to Thomas Lilly, Jr. and Thomas B. Wassel who did panel on "Sexual Harrassment."  
**Right:** President Mattace presenting plaque to Samuel Chu, Suffolk County Commissioner of Labor who delivered the keynote address.

