Message from the Chair

Labor and Employment Law Section Members:

We hope you are having a productive and positive 2019. The purpose of the Labor & Employment Section of the State Bar includes promoting the practice of labor and employment law in Nevada by disseminating information related to labor and employment law and encouraging positive and respectful relationships among labor and employment law practitioners.

Since being elected this past September, your executive committee has been meeting and discussing ways by which we can accomplish these goals, and we felt this newsletter is a great place to start. The purpose of the newsletter is to apprise you of a few decisions, questions, issues, or cases that impact our practice, as well as upcoming events related to our section.

In this regard, to promote camaraderie and fellowship and to benefit our working relationships, the section aims to provide opportunities to learn, socialize, and work together, through CLE presentations, mixers, and community service opportunities.

Our first event will be a service project at Three Square on Thursday, February 28, 2019, from 5-7 p.m. Although the details of the event are in another part of the newsletter, I wanted to take a moment to encourage you to set aside some time and come serve with us.

Set aside the attorney hat for two hours and forge positive relationships while serving those in need.

We look forward to seeing you there.

Matt Cecil, Chair
The Labor and Employment Law Section is very excited to invite all section members to join us in giving back to the community!

**WHEN:** Thursday, February 28, 2019 from 5-7 p.m.

**WHERE:** Three Square Food Bank in Las Vegas

**LOCATION:** 4190 N Pecos Rd, Las Vegas, NV 89115

For more information or to volunteer, please contact Membership and Communications Chair Kaine Messer at kmesser@gabroy.com. We hope to see you there!
Did you know about the medical marijuana case that is currently set for trial in July of this year—Nellis v. Sunrise Hospital and Medical Center, LLC, case number A-17-761981-C?

Many of you are likely aware of Nevada’s medical marijuana statute, NRS 453A.800. In sum, although the statute does not force an employer to allow an employee to be under marijuana’s influence at work, it does require an employer to attempt to accommodate an employee’s medical use of marijuana, as long as the employee has a valid medical marijuana card and the accommodated marijuana use would not: (1) pose a threat to persons or property, (2) cause an undue hardship on the employer, or (3) stop the employee from fulfilling any of his/her job responsibilities.

On its face, the statute does not authorize any administrative agency to enforce it, create a private cause of action, or identify what liability, if any, an employer would incur for its violation. Additionally, the statute does not explain what an employer must do to “attempt to accommodate” an employee’s medical marijuana use or what constitutes a potential threat to persons or property, undue hardship, or the inability to complete job responsibilities. It is in this setting that Nellis v. Sunrise Hospital is being litigated.

In sum, the first amended complaint alleges that Nellis worked for Sunrise Hospital as a registered nurse, had a medical marijuana card, tested positive for marijuana after a workplace injury, and was discharged because of the positive test. The matter includes claims for: (1) tortious discharge in violation of public policy, (2) violation of NRS 613.333, Nevada’s lawful use statute, and (3) violation of NRS 453A.010 et. seq. Sunrise Hospital denies any claimed wrongdoing or liability.

Labor and employment law attorneys should pay attention to this case, as its final decision will likely impact our clients’ duties and rights related to workplace medical marijuana in Nevada.