

**THE WALKING DEAD: LABOR AND EMPLOYMENT SECTION'S PROGRAM ON
DEATHLY TERMINATION STRATEGIES GETS GRAVE REVIEWS FOR
HALLOWEEN**

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The title was rather stimulating: THE WALKING DEAD: EMPLOYEE TERMINATIONS THAT RISE FROM THE GRAVE, and the program did not disappoint. This seminar, presented October 8, 2013, one of a series offered by the Labor and Employment Section, consisted of a thorough survey of employment terminations gone wrong, accompanied by suggestions for avoiding unexpected outcomes subsequent to conclusion of the employment relationship. The panel featured three eminently qualified employment practitioners: Solomon Gresen (Rheuban & Gresen), Steven Gatley (Lewis, Brisbois, Bisgaard & Smith), and Joseph M. Levy (Nezhad, Shayesteh & Levy), who was also program chair.

If there was one overall “takeaway,” it was that employers simply must be familiar with their fundamental obligations under the law, and/or retain knowledgeable counsel, to have some assurance that what by all appearances seemed to be an appropriate termination of an employee will not in fact result in substantial – and very expensive – legal concerns. Among the potential problem areas described, perhaps most common was failure of employers, at the slightest indication that an employee might be disabled, to engage in the interactive process, to determine if in fact a disability exists or appears to exist and if so how it may be accommodated. It was noted that many employers have virtually no awareness of the concept of disability accommodation, let alone the obligation to engage in the interactive process.

Other subject areas addressed by the panel, in which employers often seem to be uninformed or misinformed, included the distinction between employee status and that of an independent contractor, the difference between disability claims and family leave, and a variety of matters of importance in the circumstances and timing of the termination itself – what to say, what not to say, what should and should not be committed to writing, the importance of paying the employee all sums due virtually immediately, and when the termination should occur.

All in all, this was an informative program which was well received.