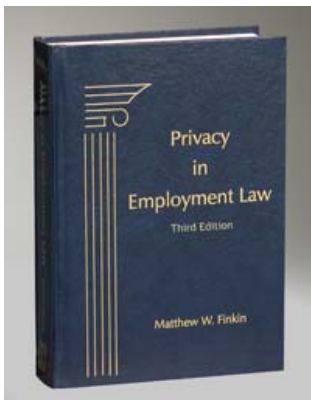


INSIDE THIS ISSUE

- From the Publisher
- [Labor and Employment Law on the Line](#)
- [News from the IP World](#)
- [Health Law Watch from BNA Books](#)
- [Publishing Opportunities with BNA Books](#)
- [Featured Titles](#)
- [New Titles](#)
- [Author Profile](#)



2009/Hardcover/1,150 pp.
Matthew W. Finkin

[Order Now](#)



Keep pace with the laws, rules, and legal developments in labor and employment law. See our titles in your practice area.

- [Employment Law](#)
- [Labor Law](#)
- [Labor Relations](#)

[Go to Top](#)

Labor and Employment Law on the Line

Positivism vs. Realism in the Law of Employee Privacy

Matthew W. Finkin

Author of [Privacy in Employment Law, Third Edition \(New Release\)](#)

Two recent cases have challenged the acceptability of the concept in U.S. law that nothing is private when it comes to employee use of computers if the employer unilaterally states that is the situation. This approach contrasts sharply with the approach of at least some European countries, e.g., France, which generally recognize privacy rights of employees using employers' workplace media absent legitimate employer needs overriding those rights.

A governing principle in the law of employee privacy in the United States—in the private sector as a matter of tort law and in the public sector as a matter of constitutional law—is in order for there to be a wrongful invasion of an employee's privacy, the employee must have a "reasonable expectation" of privacy. This principle plays out most prominently in the conduct of a search—of an employee's desk or the contents of a company-supplied computer. Consequently, employers are often advised by counsel to unilaterally disclaim the existence of any such expectation—by prominent and conspicuous statements of their property rights, the express reservation of the power to search, or both, either displayed as a notice in the workplace (or on the computer screen), incorporated into an employee policy manual, or supplied in a separate document the employee is required to sign. The assumption of the effectiveness of such devices rests upon the concept of legal positivism or "the preemptive strike"—in a nutshell: "I am in control and I have the right to tell you that what you get is what you see and nothing more." Widespread judicial acceptance of such a disclaimer arguably may be the result of a value judgment that such an approach truncates the prospect of yet further litigation, the transaction costs, and the uncertainty surrounding the reasonableness of the search (under the Fourth Amendment in the public sector) or the degree of offensiveness of it (under the tort of invasion of privacy in the private sector).

Not surprisingly, the law is saturated not only with the deployment of positivism but by its judicial acceptance. In one decision, when a company policy stated that, "Each employee agrees to allow management to search personal property . . . on our premises . . ." a Florida court held that an employee's discharge for refusal to permit a search of his briefcase amounted to misconduct of a sufficient severity to deny the employee unemployment compensation.¹

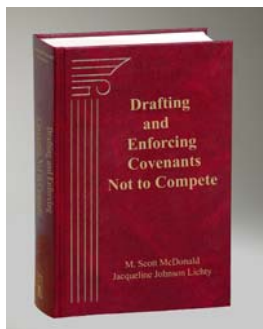
Perhaps the most confident pronouncement of positivism was made by Judge Posner in a case involving the forensic search of a company computer in the employee's possession:

Anyway Muick [the employee] had no right of privacy in the computer that Glenayre [the employer] had lent him for use in the workplace. . . . If the employer equips the employee's office with a safe or file cabinet or other receptacle in which to keep his private papers, [the employee] can assume that the contents of the safe are private. . . . But Glenayre had announced that it could inspect the laptops that it furnished for the use of its employees, and this destroyed any reasonable expectation of privacy that Muick might have had and so scotches his claim. . . . The

¹ Leedham v. State Unemployment Appeals Comm'n, 950 So. 2d 475 (Fla. App. 2007).

INSIDE THIS ISSUE

- [Labor and Employment Law on the Line](#)
- [News from the IP World](#)
- [Health Law Watch from BNA Books](#)
- [Publishing Opportunities with BNA Books](#)
- [Featured Titles](#)
- [New Titles](#)
- [Author Profile](#)

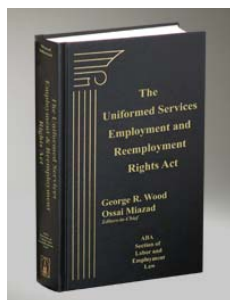


2009/Hardcover/500 pp.

Authors:

M. Scott McDonald
Jacqueline Johnson Lichty

[Order Now](#)



2009/Hardcover/340 pp.

Editors-in-Chief:

George R. Wood and
Ossai Miazad
ABA Section of Labor and
Employment Law

[Order Now](#)

laptops were Glenayre's property and it could attach whatever conditions to their use it wanted to. They didn't have to be reasonable conditions; but the abuse of access to workplace computers is so common (workers being prone to use them as media of gossip, titillation, and other entertainment and distraction) that reserving a right of inspection is so far from being unreasonable that the failure to do so might well be thought irresponsible.²

Two recent cases challenge this pronouncement. They come at the issue not from the perspective of what the employer policy was, but of public policy and how the employees actually lived. The first, *Quon v. Arch Wireless Operating Co., Inc.*,³ is a public sector case under the Fourth Amendment. A police department had given its SWAT team text-messaging pagers the use of which was governed by the department's e-mail policy. The policy stated that the contents of these messages were **not** confidential [boldface in original] and that the system should not be used for personal communications. Nevertheless, the pagers were used for personal communications and the department knew it, billing the employees for an excessive transmission of text characters. The city retrieved the message traffic from its carrier, ostensibly to monitor cost and read the messages. The Ninth Circuit held that the officers had a reasonable expectation of privacy in the contents. It noted Judge Posner's opinion quoted above (and others like-minded) and opined that, "If that were all" the case could be resolved accordingly. But, that wasn't all. The officers had been led to believe that the department would treat the messages as private, despite the disclaimer, not only by the department's billing practice but also by a superior's statement, "if you don't want us to read it, pay the overage fee." That reality controlled, the court said. The U.S. Supreme Court has granted certiorari on the decision.

The second case involves the private sector and not just general privacy law but attorney-client privilege and is on appeal to the New Jersey Supreme Court, which could issue a decision running counter to the trend discussed above. In *Stengart v. Living Care Agency, Inc.*,⁴ the company had supplied a laptop computer to an executive under policies that stated that e-mail messages were "considered part of the company's business," although limited personal use was allowed. After the employee left the company and sued it for sex discrimination, the company conducted a forensic investigation of its computer and discovered communications between the former employee and her lawyer concerning the prospect of litigation. The former employee demanded the return of these messages on the basis of attorney-client privilege, which demand the trial court denied on the ground of waiver by virtue of the company's reservation of property rights.

Contrary to the approach typified by Judge Posner's decision, the appellate court (the decision of which is now being appealed) "reject[ed] the company's ownership of the computer as the sole determinative fact in determining whether an employee's personal emails may become company property."⁵ And contrary to Judge Posner it saw no difference between the contents of a desk—owned by the employer and maintained on its property—from the contents of a computer:

² *Muick v. Glenayre Elec.*, 280 F.3d 741, 743 (7th Cir. 2002).

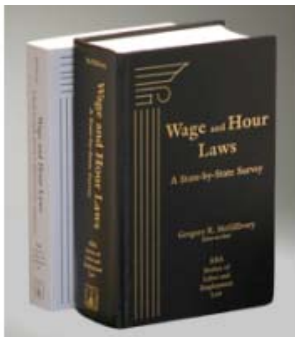
³ 529 F.3d 892 (9th Cir. 2008) *motion for r'hg en banc den* 554 F.3d 769 (9th Cir. 2009). *December 14, 2009 (No. 08-1332). Certiorari. granted.*

⁴ 973 A.2d 390 (N.J. App. 2009), *appeal granted, stay granted* 976 A.2d 382 (N.J. 2009).

⁵ *Id.*

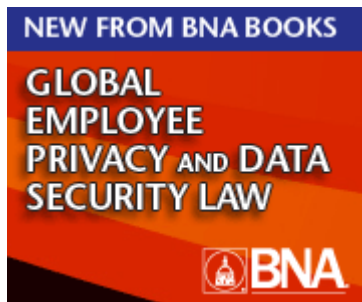
INSIDE THIS ISSUE

- From the Publisher
- [Labor and Employment Law on the Line](#)
- [News from the IP World](#)
- [Health Law Watch from BNA Books](#)
- [Publishing Opportunities with BNA Books](#)
- [Featured Titles](#)
- [New Titles](#)
- [Author Profile](#)



2004/Hardcover/2,312 pp.
2009/Softcover/900 pp.
Editor in Chief:
Gregory K. McGillivray
ABA Section of Labor and
Employment Law

[Order Now](#)



2009/Softcover/762 pp.
Morrison & Foerster LLP
Miriam Wugmeister
Christine Lyon

[Order Now](#)

Property rights are no less offended when an employer examines documents stored on a computer as when an employer rifles through a folder containing an employee's private papers or reaches in and examines the contents of an employee's pockets; indeed, even when a legitimate business purpose could support such a search, we can envision no valid precept of property law that would convert the employer's interest in determining what is in those locations with a right to own the contents of the employee's folder of private papers or the contents of his pocket. As a result, we conclude a breach of a company policy with regard to the use of its computers does not justify the company's claim of ownership to personal communications and information accessible therefrom or contained therein.⁶

It then cited the *Quon* decision in making the following observation:

Certainly, the electronic age—and the speed and ease with which many communications may now be made—has created numerous difficulties in segregation personal business from company business. Today, many highly personal and confidential transactions are commonly conducted via the Internet, and may be performed in a moment's time. With the touch of a keyboard or click of a mouse, individuals may access their medical records, examine activities in their bank accounts and phone records, file income tax returns, and engage in a host of other private activities, including, as here, emailing an attorney regarding confidential matters. Regardless of where or how those communications occur, individuals possess a reasonable expectation that those communications will remain private.⁷

The reference to *Quon* is notable. The conventional wisdom is that constitutional constraints applicable to public employers do "not necessarily or logically apply in the private context,"¹ though why they should not be looked to for guidance even if private employers are not subject to constitutional restrictions of a government actor is never explained; a private sector employee's interest in having her privacy respected vis-à-vis an employer's search would not seem to differ in any respect from her publicly employed counterpart and a variation in judicial treatment of employees based on such a "status" classification seems debatable at best.

⁶ 973 A.2d at 399.

⁷ *Id.* at 400 (footnotes omitted).

⁸ *Okura & Co. (Am.) v. Careau Group*, 783 F. Supp. 482, 506 (C.D. Cal. 1991).

INSIDE THIS ISSUE

- From the Publisher
- [Labor and Employment Law on the Line](#)
- [News from the IP World](#)
- [Health Law Watch from BNA Books](#)
- [Publishing Opportunities with BNA Books](#)
- [Featured Titles](#)
- [New Titles](#)
- [Author Profile](#)

The New Jersey appellate court concluded with a pregnant comment on the status of unilaterally promulgated employer policies:

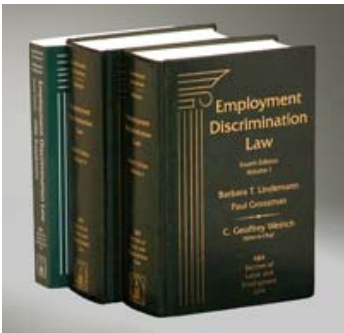
[T]he past willingness of our courts to enforce regulations unilaterally imposed upon employees is not limitless; the moral force of a company regulation loses impetus when based on no good reason other than the employer's desire to rummage among information having no bearing upon its legitimate business interests.⁹

The case is now before the New Jersey Supreme Court. That court might adopt a categorical Posnerian positivism approach or, following *Quon*, it might view the employer's reservation of power from what the author considers the standpoint of the social reality of the modern workplace. Regardless of the outcome, the decision likely will be of considerable moment.

⁹ *Id.* at 401.

Related title: [Mental and Emotional Injuries in Employment Litigation, Second Edition, with 2008 Cumulative Supplement.](#)

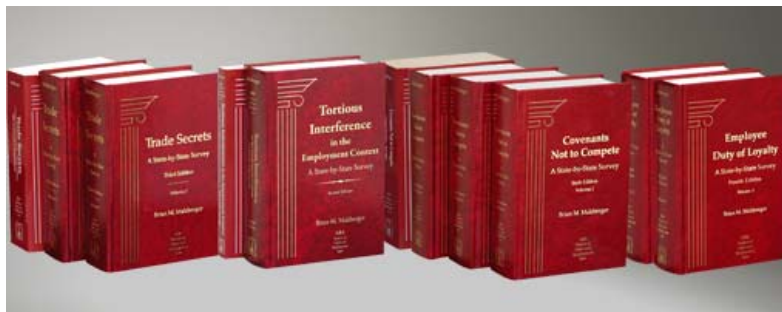
Information on current legal decisions are available from [BNA's Labor Relations Reporter](#).



2007/3,366 pp. 2 Volumes with
New 2009 Cumulative Supplement
By Barbara Lindemann and
Paul Grossman
Editor-in-Chief:
C. Geoffrey Weirich

[Order Now](#)

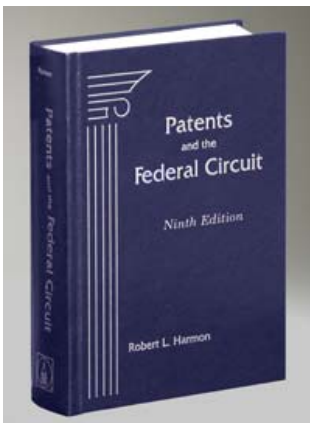
See our State-by-State Surveys (Order # 8398).



[Order Now](#)

INSIDE THIS ISSUE

- From the Publisher
- [Labor and Employment Law on the Line](#)
- [News from the IP World](#)
- [Health Law Watch from BNA Books](#)
- [Publishing Opportunities with BNA Books](#)
- [Featured Titles](#)
- [New Titles](#)
- [Author Profile](#)



2009/Hardcover/1,620 pp.
By Robert Harmon

[Order Now](#)

Order any title from
bnabooks.com
and get a 15% discount.
Use priority code: NEWYR

News from the IP World

Anatomy of a Patent Case

By [George F. Pappas](#), Editor-in-Chief, Covington & Burling, LLP
Complex Litigation Committee of [The American College of Trial Lawyers](#)
Published by **BNA Books – New Release**

"In this unique manual, a group of veteran patent litigators and a Judicial Board of Review of appellate and district court judges combined their talents to guide trial judges and practitioners through the web of complex problems arising in patent infringement actions as they proceed from filing to final judgment. Perfectly meshing legal theory with trial practice, this manual will serve advocates and adjudicators equally well."

Hon. Paul R. Michel, Chief Judge
U.S. Court of Appeals for the Federal Circuit

Anatomy of a Patent Case is a must-read for all who face the challenges of patent litigation, offering a concise—yet thorough—description of every stage of a patent case.

Conflicts over intellectual property—and specifically over patents—have assumed a pivotal role in today's global economy. In response to this recent increase in patent litigation, the Complex Litigation Committee of the prestigious American College of Trial Lawyers (ACTL) reviewed many of the published treatises on the subject. Their final determination was that no succinct guide existed on the issue. To fill that void, the ACTL undertook the goal of writing a manual to detail each phase of a patent case for judges and lawyers. A Judicial Board of Advisors from the U.S. Courts of Appeals for the Federal Circuit, the Third Circuit, and District Courts, reviewed the written manuscript to provide commentary and the benefit of their expertise. The result of this unique collaboration is: *Anatomy of a Patent Case*—a concise, but meaty narrative summary that expertly covers all steps required to bring a patent case to trial and the key elements that make such litigation unique.

Clearly, this resource couldn't have come at a more perfect time for today's litigator. Judgments and settlements in favor of patent holders today routinely amount to millions of dollars, and recently reached the \$1 billion dollar mark. In addition, injunctions are often sought in these cases, and sometimes these injunctions command wide public attention, as evidenced by the 2003 Research in Motion (RIM) litigation where the patent holder prevailed and Blackberry users faced the real possibility that an injunction would be entered that would have disrupted the continued use of those devices. The significance now being placed on controlling the exclusive rights to ideas, innovations, and inventions has even led Congress in the last few years to consider legislation that would affect significant patent law reform—the first time serious changes would be made to the patent statute since 1952.

Anatomy of a Patent Case brings all this to bear in specifically addressing the complex technical, procedural, and legal issues inherent in a patent lawsuit that are not usually found in other types of civil litigation. Compendious in length and focused in subject matter, in this handbook the ACTL analyze only the unique characteristics of patent cases that judges and lawyers can expect to see. Recognized as some of the most successful patent litigators in the United States and Canada, these authors not only crystallize the patent litigation process at an expert level but offer insights that could only come with their high level of experience. Beginning with a brief overview of a patent lawsuit, they follow with discussion an actual patent from the pizza box case (*Vitale v. PizzaBoxCo*) and then proceed step by step through each phase, from the Complaint to an appeal to the Federal Circuit.

INSIDE THIS ISSUE

- From the Publisher
- [Labor and Employment Law on the Line](#)
- [News from the IP World](#)
- [Health Law Watch from BNA Books](#)
- [Publishing Opportunities with BNA Books](#)
- [Featured Titles](#)
- [New Titles](#)
- [New Year Sale](#)
- [Author Profile](#)



Enhance your practice skills and better serve your clients with BNA Books publications.

- [Intellectual Property Law](#)
- [Legal Practice](#)
- [Litigation](#)

The handbook is so successful as a tool to navigate the patent litigation process that it has been added to the Federal Judicial Center's resource library for district court judges and their law clerks, and even required an additional printing so every federal district court judge could have a personal copy. For anyone who finds themselves faced with the many challenges of patent litigation, this straightforward resource can be relied on for its concise coverage of the fundamentals, effective lessons from the most significant cases, and essential insights from leading experts and high-level judiciary. *Anatomy of a Patent Case* is perfect as the reference of first resort for lawyers, judges, law students, and business executives who need to understand all aspects of a patent case.

Customers who bought [Anatomy of a Patent Case](#) also bought [Patent Law and Practice](#). See also [Harmon on Patents: Black-Letter Law and Commentary](#).

Information on current developments is available from *BNA's Patent, Trademark and Copyright Journal* and *BNA's U.S. Patents Quarterly*.

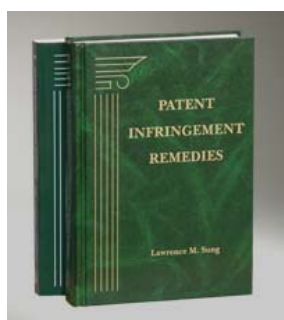
[Patent, Trademark, and Copyright Laws, 2010 Edition](#)

By Jeffrey M. Samuels

The **2010 Edition** includes recent changes to the nation's intellectual property laws. These changes relate to the Fiscal Year 2010 appropriations for the United States Patent and Trademark Office and the Copyright Office, amendments to the copyright law to provide for agreements for the reproduction and performance of sound recordings by webcasters, and a provision authorizing the Director of the United States Patent and Trademark Office (PTO) to use up to \$70 million of trademark fees to support patent operations. Depending on developments now in play, legislation that would amend the copyright law to renew the current satellite compulsory licensing provisions and broaden the scope of performance rights for recording artists may also be included.

Ratified Treaties and Complete Text of Book on CD!

Along with the **2010 Edition** is an updated CD-ROM containing the entire text of the book in HTML for easy searching and copying-and-pasting. The CD-ROM also contains additional materials not in the print edition, provided by Adobe® Portable Document Format (PDF) and HTML. New to the CD-ROM are the Rules of Practice of the U.S. Court of Appeals for the Federal Circuit. Those who practice before the court obviously need to be well-acquainted with these complex rules. The rules cover such issues as how to file an appeal, stays or injunctions pending appeal, motion practice, the preparation and filing of briefs, oral argument, citation practice, en banc determinations, and petitions for rehearing. The CD-ROM also includes new information relevant to congressional consideration of patent law reform. Both the Administration and key figures on Capitol Hill have indicated a desire for Congress to pass such legislation before the end of 2009.



2004/Hardcover/ 759 pp.
New 2009 Cumulative Supplement
By Lawrence M. Sung

[Order Now](#)

[Go to Top](#)

[Order Now](#)

INSIDE THIS ISSUE

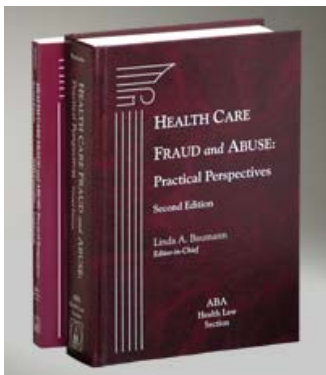
- From the Publisher
- [Labor and Employment Law on the Line](#)
- [News from the IP World](#)
- [Health Law Watch from BNA Books](#)
- [Publishing Opportunities with BNA Books](#)
- [Featured Titles](#)
- [New Titles](#)
- [Author Profile](#)



2002/Hardcover/986 pp.
New 2009 Cumulative Supplement
Michael K. Loucks and Carol C. Lam

[Order Now](#)

[Pharmaceutical Industry Blog on Michael Loucks' Federal Career](#)



2007/Hardcover/770 pp.
New 2009 Cumulative Supplement
Editor-in-Chief: Linda A. Baumann

[Order Now](#)

Health Law Watch From BNA Books

Michael K. Loucks and Carol C. Lam on Their Careers as Federal Prosecutors and Health Care in the Coming Decade
Authors of [Prosecuting and Defending Health Care Fraud Cases, with 2009 Cumulative Supplement](#)

Published by BNA Books

Most of us hope to die old. If you share that hope, then you should expect to use a variety of health care services in the years ahead, and possibly lots of services. You will likely need a host of health care providers, both general practitioners and specialists, and all the equipment, gear, and drugs that go with keeping *your* system, if not in tip-top shape, at least functioning reasonably well. Congress is grappling with health care reform legislation that will attempt to control spiraling costs and provide broader availability of coverage for the American people. An equally serious problem is rampant health care fraud that adds billions of dollars to the nation's annual health care bill and the relatively meager sum that Congress has allocated to fight health care fraud, which sum has remained essentially unchanged since 2001.

The demand for health care services will intensify over the next decade, as Mother Nature catches up with the Baby Boomer generation. Although we expect that the money spent on health care will continue to grow dramatically, we also anticipate that as legitimate Medicare and insurance reimbursements decline, the provider pool may shrink relative to the needs of the over-65 population. In other words, there will be fewer doctors and other providers to tend to a greater number of creaky knees, aching hips, and clogged arteries.

Our 40 years of combined experience as federal prosecutors, much of it spent chasing health care crooks, tells us that this increase in demand coupled with a stressed system of supply and a new influx of dollars will invite more fraud. Just as foolish investors will flock in a crummy economy to the Ponzi purveyor who promises splendid returns, so too can we foresee many elderly victims falling prey to health care scams that promise longer, better, more active lives: the experimental operation that promises to ease pain, the untested drug that warrants the risk, the new device that will restore the bounce in our step.

All of this health care will be extremely expensive, and fraud will add to the bill. It may even be the straw that breaks the camel's back. In other words, since it is not clear that we can afford the escalating cost of an honest system that can deliver all the care that we will need, it follows that we certainly cannot afford to pay all the bills in a system rife with fraud. While we don't want to stifle innovation in our health care system, and the goal should be to pay for all necessary care, we are in no position to pay for fraudulent *unnecessary* care.

So, is our health care system positioned to deliver quality medical care without being crippled by fraud? We think not. In the past 20 years, the Department of Justice has recovered about \$23 billion from health care fraud schemes. Let's drill down and look at these numbers. If we attempted to argue that federal law enforcement had successfully addressed all of the health care fraud affecting government insurance programs, our \$23 billion in recoveries would mean that the level of fraud in the delivery of care throughout the Medicare and Medicaid programs has been less than one-half of 1% of the total spent over the last two decades. Does anyone believe that our democracy currently has a government health care delivery system that is 99.5% free of fraud? Hmmm, we don't see any hands waving, and ours are not.

INSIDE THIS ISSUE

- From the Publisher
- [Labor and Employment Law on the Line](#)
- [News from the IP World](#)
- [Health Law Watch from BNA Books](#)
- [Publishing Opportunities with BNA Books](#)
- [Featured Titles](#)
- [New Titles](#)
- [Author Profile](#)

Another way to analyze this issue—have we captured all Medicare and Medicaid fraud?—is to look at the law enforcement resources deployed and where the cheaters have been caught. Well-deployed resources across all of the health care industry might be expected to catch fraud in all sectors (unless there is some reason of which we are unaware to believe that there are parts of the health care industry that are unaffected by fraud). Are our resources well deployed?

The answer to that is a resounding “no.” First, most of the \$23 billion has been recovered largely through the efforts of only a few U.S. Attorney’s Offices, together with the DOJ Civil Division. For example, although there are 93 U.S. Attorney’s Offices, Boston and Philadelphia are responsible for more than \$10 billion of the \$23 billion. Either Massachusetts and eastern Pennsylvania have cornered the market on health care fraud, or the other offices have chosen not to make a priority of large-scale health care fraud prosecutions.

In fact, many U.S. Attorney’s Offices have not made a priority of pursuing health care fraud cases, either because of other competing pressing needs in those districts (for example, violent crimes, border-related crimes, narcotics importation, or securities fraud) or because the resource requirements of a large white-collar case can overwhelm a smaller office. Some U.S. Attorney’s Offices have fewer than 30 attorneys to handle virtually all the federal crimes in that district.

This brings us to our second point: Congress has not put its money where its mouth is on this issue. Congress has not seen fit to increase funding for health care fraud prosecutors for more than eight years, a period in which the Democrats and the Republicans traded off control. The population of the country has grown, and the money spent on health care has increased. Yet the dollars allocated to fund dedicated federal health care fraud prosecutors is stuck at the same level that it was in 2001. In the meantime, existing laws and successful lobbying by the *qui tam* bar has created a skewed enforcement system weighted heavily in favor of individual whistleblower plaintiffs in single cases. For example, during the past decade, whistleblowers collectively were paid more than \$1 billion in health care cases, while Congress allocated only about \$30 million for all health care prosecutors nationwide each year.

Our third point: Smart and efficient law enforcement strikes should supplement, but cannot replace, broad-based enforcement of health care fraud laws. Recently—in May of 2009—DOJ and HHS announced the creation of a strike force called HEAT (Health Care Fraud Prevention and Enforcement Action Team). HEAT was in large part an outgrowth of efforts in southern Florida, where a handful of prosecutors successfully prosecuted cheaters in one particular area—infusion therapy—and uncovered a fraud in the billions of dollars. In just one year, the small group of DOJ attorneys, and the agents working with them, brought more cases in just one small sector of health care than half of the U.S. Attorneys across the country. This initiative has since been recently replicated in Texas and Michigan. While this effort is a step in the right direction, we are concerned that a few disparate successes will end up masking, rather than underscoring, the need for a dramatic increase in resources and a renewed focus on health care fraud enforcement nationwide.

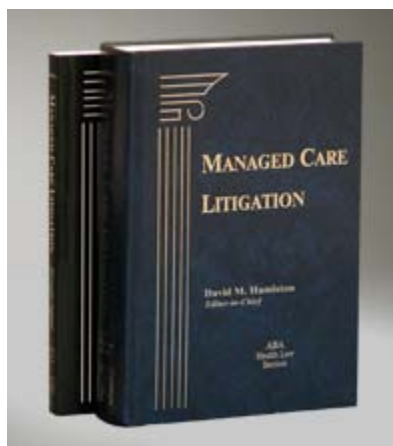
It is now the eve of 2010, and the first of the Baby Boomers is hitting 65. As Congress enacts and implements health care reforms, we should not merely fear that new fraud schemes will arise—we should assume they will. Health care reform will not reform thieves. This is the time to ensure that mechanisms, resources, and effective law enforcement are in place to take on abuses of a new system. For if we fail to heed the lessons learned from 1965 to the present, then we will indeed have paid tribute to the old adage: “Fool us once, shame on you. Fool us twice, shame on us.”

See [authors’ profile](#) at the end of this newsletter.



2002/Hardcover/782 pp.
New 2009 Cumulative Supplement
Editor in Chief: Barbara Bennett

[Order Now](#)



2005/Hardcover/789 pp.
New 2009 Cumulative Supplement
Editor-in-Chief: Julie A. Barnes

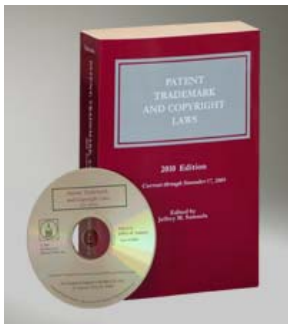
[Order Now](#)

INSIDE THIS ISSUE

- From the Publisher
- [Labor and Employment Law on the Line](#)
- [News from the IP World](#)
- [Health Law Watch from BNA Books](#)
- [Publishing Opportunities with BNA Books](#)
- [Featured Titles](#)
- [New Titles](#)
- [Author Profile](#)

We value your feedback. If you have any comments or suggestions about this newsletter, please get in touch by sending us your [Ideas/Suggestions/Feedback](#).

A Best Seller



2009/Softcover/928 pp.
Editor: Jeffrey Samuels

[Order Now](#)



Copyright © 2009

Publishing Opportunities with BNA Books

Discover the advantages of teaming up with a highly respected leader in legal publishing. BNA Books welcomes inquiries from established, talented professionals who have ideas for new legal treatises and who are seeking a publisher.

BNA Books gives its authors an extraordinary combination of editorial support and marketing resources, backed by BNA, one of the largest private information-gathering organizations in the world.

If you have an idea, outline, or manuscript that would complement the BNA Books publishing program, we would like to hear from you.

Please send a query in an e-mail to books@bna.com with the following:

- Summary of the proposed subject, purpose, content, approach, market, length (in double-spaced, 8.5" x 11" pages), and estimated date of submission.
- Reasonably detailed outline or table of contents showing how the subject matter is developed and organized.
- Explanation of how the book will provide timely information or guidance of practical use to the legal community; list of other legal books on the topic already in print; and an explanation of how your book is different.
- Current curriculum vitae or description of your credentials, expertise, and writing and organizational skills, or web address for the same.

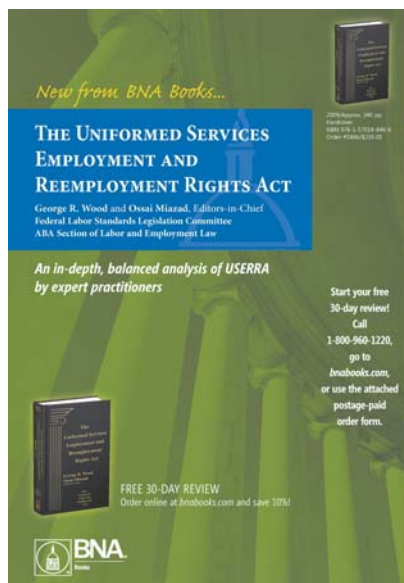
All suggestions you send will be kept in confidence and given our full consideration. We will contact you in three to six weeks to discuss your proposal. If you prefer to submit your proposal by mail, direct it to:

Acquisitions Manager
BNA Books Editorial Offices
1801 S. Bell Street
Arlington, VA 22202

[Go to Top](#)

INSIDE THIS ISSUE

- From the Publisher
- [Labor and Employment Law on the Line](#)
- [News from the IP World](#)
- [Health Law Watch from BNA Books](#)
- [Publishing Opportunities with BNA Books](#)
- [Featured Titles](#)
- [New Titles](#)
- [Author Profile](#)



2009/Hardcover/340 pp.
 Editors-in-Chief
 George R. Wood, Ossai Miazad
[Order Now](#)

Featured Titles

[The Uniformed Services Employment and Reemployment Rights Act](#)

George R. Wood and Ossai Miazad, Editors-in-Chief

[Federal Labor Standards Legislation Committee, ABA Section of Labor and Employment Law](#)
 2009/340 pp., Hardcover – **New from BNA Books**

Gain a full understanding of the complexities of USERRA requirements.

With the number of Americans in military service remaining high and possibly increasing, the rights and obligations regarding an employee taking military leave, and the circumstances surrounding the employee's return from leave, are of great importance. This makes knowledge of the Uniformed Services Employment and Reemployment Rights Act (USERRA)—the federal act governing military leave and discrimination/retaliation issues resulting from military service—critical in today's workplace. But given USERRA's relative infancy, courts have not provided substantial guidance with respect to its application and interpretation, which makes the release of BNA Books' **The Uniformed Services Employment and Reemployment Rights Act** extremely important to lawyers who have to deal with military leave issues.

USERRA is one of the broadest statutes that exists with regard to granting employees leave from employment; in fact, it covers every employer in the United States. The new treatise provides a comprehensive analysis of USERRA's breadth and the myriad complicated issues involved with its application and enforcement. The authors include both practitioners who represent employers and those who represent employees, thereby providing a more balanced view of USERRA and its rights and obligations. The treatise analyzes USERRA's critical *issues*, including the following:

- A history of USERRA and its predecessors
- Coverage of employers and employees under USERRA
- Leave entitlements and the requirements placed on both employers and employees regarding leave requests
- Issues of leave scheduling and notice requirements
- Pay and benefits when an employee is taking a leave of absence under USERRA
- Healthcare and non-healthcare benefits that a returning employee is entitled to receive
- Discrimination and retaliation rights
- Remedies and enforcement mechanisms
- USERRA's relationship with other statutes, both on the federal level and those enacted by various states

Having practitioners from both sides of the aisle provide their views of the major issues surrounding the Act and its implementation in this exceptional treatise allows for detailed analysis of the pitfalls of this broad statute. The cooperative basis through which The Uniformed Services Employment and Reemployment Rights Act has been developed is sure to assist all attorneys working with USERRA to have a better understanding of its proper interpretation and purposes.

INSIDE THIS ISSUE

- From the Publisher
- [Labor and Employment Law on the Line](#)
- [News from the IP World](#)
- [Health Law Watch from BNA Books](#)
- [Publishing Opportunities with BNA Books](#)
- [Featured Titles](#)
- [New Titles](#)
- [Author Profile](#)

Keep your library current by signing up for [Standing Order](#). Get the satisfaction of knowing that you will always have the most current information available from BNA Books.



2008/Hardcover/808 pp
Editor-in-Chief: **Bradley C. Wright**

[Order Now](#)

New Titles

December 2009 Releases

- [Age Discrimination in Employment Law, 2010 Cumulative Supplement](#)
- [American Factoring Law](#)
- [Canadian Labour and Employment Law for the U.S. Practitioner, Second Edition, 2009 Cumulative Supplement](#)
- [Electronic and Software Patents: Law and Practice, Second Edition, 2009 Cumulative Supplement](#)
- [Employment Discrimination Law, Fourth Edition, 2009 Cumulative Supplement](#)
- [ERISA Class Exemptions, Third Edition, 2009 Cumulative Supplement](#)
- [Health Care Fraud and Abuse: Practical Perspectives, Second Edition, 2009 Cumulative Supplement](#)
- [International Patent Litigation: A Country-by-Country Analysis, 2009 Supplement](#)
- [Intellectual Property Technology Transfer, 2009 Supplement](#)
- [International Labor and Employment Laws, Volume IA and IB, Third Edition, 2009 Supplement](#)
- [Labor Union Law and Regulation, 2009 Cumulative Supplement](#)
- [Patent Prosecution: Law, Practice, and Procedure, Sixth Edition](#)
- [Patent, Trademark, and Copyright Laws, 2010 Edition](#)
- [Patent, Trademark, and Copyright Regulations, November 2009 Supplement](#)
- [Pharmaceutical Law: Regulation of Research, Development, and Marketing, 2009 Cumulative Supplement](#)
- [Prosecuting and Defending Health Care Fraud Cases, 2009 Cumulative Supplement](#)
- [Privacy in Employment Law, Third Edition](#)
- [Railway Labor Act, Second Edition, 2009 Cumulative Supplement](#)
- [Tortious Interference in the Employment Law Context: A State-by-State Survey, Second Edition, 2009 Cumulative Supplement](#)
- [Uniformed Services Employment & Reemployment Rights Act \(USERRA\)](#)
- [Wage and Hour Laws: A State-by-State Survey, with 2009 Cumulative Supplement](#)
- [Whistleblowing: The Law of Retaliatory Discharge, Second Edition, 2009 Cumulative Supplement](#)

Don't forget to use your priority code NEWYEAR to claim your 15% discount.

