

**Jeffrey W. Pagano**

Partner
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New York

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Practice Areas

- Labor & Employment
- Litigation
- Retail Law

Jeffrey W. Pagano is a partner and Co-Chair of the Labor & Employment Practice Group. He focuses upon all forms of litigation and negotiation, primarily in the area of labor and employment law, arising under the NLRA, RLA, Title VII of the 1964 Civil Rights Act, ADEA, FLSA, ERISA, E.O. 11246, Rehabilitation Act, VEVRAA, OSHA, ADA, FMLA, FCRA, as well as the numerous state statutory schemes likewise impacting the workplace. Additionally, he continues to litigate significant complex commercial matters arising out of the purchase and sale of business organizations and contractual disputes in courts throughout the United States or in the arbitration context. His experience and knowledge is deep, having had the opportunity over a 32 year period to build, restructure and/or rebuild organizations, whether union represented or union-free. In doing so, he deals with the complexity of simultaneously achieving internal change, while managing the risk of external liability and minimizing the cost of implementation.

Mr. Pagano has experience in many industries, including the transportation, manufacturing, automotive, steel, retail, hospitality and a myriad of other service industries. Mr. Pagano approaches each assignment as unique, requiring independent and creative thinking, regardless of the "norm," in order to achieve a client's objectives.

Mr. Pagano has been involved in hundreds of union organizing campaigns on behalf of management. He also has extensive experience before the NLRB, in collective bargaining, as well as the ongoing administration of the employment relationship, including arbitration. Mr. Pagano has also developed workplace policies and procedures that produce effective internal workplace dispute mechanisms. These practices enhance management's credibility, thereby reducing union organizing risk, while reducing discrimination claims and the potential legal spend in the process. In this regard, once a client has followed the program designed by Mr. Pagano, whether in relation to an organizing campaign, wage-hour compliance process or any other workplace system, should litigation arise, he can utilize

alternative fee arrangements to reduce the legal spend and "partner" with the client toward the resolution of any dispute arising as a consequence. Mr. Pagano's client relationships are typically long standing because he actually invests in the relationship at many levels.

Mr. Pagano has also devised policies, procedures and agreements to protect an employer's intellectual property from theft or misuse. Such systems can be aggressively utilized in the workplace and in litigation to prevent unfair competition due to misappropriation of intellectual property by former employees.

Mr. Pagano's employment practice is not limited to the United States. He has evaluated and structured organizations in foreign jurisdictions, remaining sensitive to local practices and cultures. As well, employment litigation can arise among jurisdictions depending upon a definition of an employer within each jurisdiction, which has prompted Mr. Pagano to be responsible for simultaneous multiple-country employment issues and disputes. He has advised employers as to international employment and operating strategies, including The Brink's Company, Brink's Incorporated, TNT Worldwide Inc., ABX International Inc., DSV Air & Sea Inc., Robert Bosch, BAX Global Inc./DB Schenker Inc., Agility, Air Transport International L.L.C., and Stride Rite to name a few.

In addition to his employment practice, Mr. Pagano also has extensive experience representing multi-national clients in the international air-freight, logistics and transportation industries relating to regulatory and customs matters, structuring agreements for the transportation of international cargo, litigation of pricing issues under multi-lateral treaties affecting international cargo and mail, and litigation of international mail and international cargo matters.

Mr. Pagano is Contributing Editor of the "*Developing Labor Law*," and a Lecturer for the American Management Association and the Institute for Applied Management and Law, Inc. He served as Counsel to the General Counsel, National Labor Relations Board, Region 9, Cincinnati, Ohio. Mr. Pagano has participated in various speaking forums, including the National Policy Conference sponsored by the National Mediation Board concerning the globalization of collective bargaining under the RLA in the airline industry.

Education:

College de Europe, Brugge, Belgium (EEC Integration)
Ohio University, B.S., *cum laude*
Rutgers Law School, J.D.

Education

- Collège d'Europe, Brugge, Belgium
- Ohio University, B.S., *cum laude*
- Rutgers Law School, J.D.

Affiliations

Admitted to practice: New York, New Jersey and District of Columbia bars; the U.S. Supreme Court, U.S. Court of Appeals, Second, Third, Fourth, Fifth, Sixth, Ninth and Eleventh, DC Circuits; U.S. District Court, District of New Jersey; U.S. District Court, District of Columbia; U.S. District Court, Southern, Eastern and Northern Districts of New York; U.S. District Court, Eastern District of Michigan; and U.S. District Court, Eastern District of Wisconsin.

Publications

- "Health Care Reform Is Here -- Now What?: What Employers, Employees, and Health Plans Need to Know Right Now About Health Care Reform," *Employee Benefit Plan Review* (August 2010). Co-Authors: William J. Flanagan, Kendra D. Miller, Jeffrey W. Pagano and Joel D. Wood.
- "Revisit Independent Contractor Classifications," *Society for Human Resource Management's Legal Report* (October – November 2007). Co-Authors: Kris D. Meade, Jeffrey Pagano, Ira M. Saxe and Jonathan A. Moskowitz.

Alerts & Newsletters

- "The NLRB's Acting General Counsel Asserts an Unprecedented Challenge to Employee Handbook Receipt Provisions," *Labor & Employment Law Alert - US* (May 8, 2012). Contacts: Jeffrey W. Pagano, Herbert I. Meyer, Kris D. Meade, Thomas P. Gies, Mark A. Romeo, S. Shane Sagheb.
- "Seventh Circuit Authorizes An "Issue Class Action" in Response to *Dukes*," *Labor & Employment Law Alert - US* (May 3, 2012). Contacts: Thomas P. Gies, Kris D. Meade, Jeffrey W. Pagano, Mark A. Romeo, Jasmine Velazquez, S. Shane Sagheb.
- "California High Court Rejects Fee Request For Rest Break Claims," *Labor & Employment Law Alert - US* (May 2, 2012). Contacts: Mark A. Romeo, S. Shane Sagheb, Kris D. Meade, Thomas P. Gies, Andrew W. Bagley, Jeffrey W. Pagano, Ira M. Saxe.
- "NLRB Notice Posting Rule Delayed," *Labor & Employment Law Alert - US* (April 18, 2012). Contacts: Thomas P. Gies, Jeffrey W. Pagano, Mark A. Romeo.

- "Brinker – Was It Worth The Wait For Employers?," *Labor & Employment Law Alert - US* (April 17, 2012). Contacts: Thomas P. Gies, Andrew W. Bagley, Jeffrey W. Pagano, Mark A. Romeo, Wendy A. Sugg, S. Shane Sagheb.
- "Preparing For May Day, And Beyond, At The NLRB," *Labor & Employment Law Alert - US* (April 16, 2012). Contacts: Thomas P. Gies, Jeffrey W. Pagano, Mark A. Romeo.
- "Maryland Takes the Lead on Social Media Access Legislation," *Labor & Employment Law Alert - US* (April 13, 2012). Contacts: Thomas P. Gies, S. Shane Sagheb, Jeffrey W. Pagano, Mark A. Romeo.
- "Transgender Employees Protected By Federal Law Against Discrimination," *Labor & Employment Law Alert - US* (March 23, 2012). Contacts: Kris D. Meade, Jeffrey W. Pagano, Mark A. Romeo, Wendy A. Sugg.
- "Federal Court Imposes Broad Preservation Obligation Regarding Potential Class Members in FLSA Action," *Labor & Employment Law Alert - US* (February 23, 2012). Contacts: Jeane A. Thomas, Christopher Calsyn, Jeffrey W. Pagano, Thomas P. Gies, Mark A. Romeo.
- "California and the USDOL Stake Out Common Ground in Focusing on Alleged Misclassification of Employees as Independent Contractors," *Labor & Employment Law Alert - US* (February 16, 2012). Contacts: Mark A. Romeo, S. Shane Sagheb, Melanie Natasha Henry, Jeffrey W. Pagano, Kris D. Meade.
- "NLRB Clarifies Its Position Regarding Employees' Social Media Usage ," *Labor & Employment Law Alert - US* (February 2, 2012). Contacts: Jeffrey W. Pagano, Herbert I. Meyer, Kris D. Meade, Thomas P. Gies, Glenn D. Grant, Christopher Calsyn, Mark A. Romeo.
- "“Collyer Lite” -- NLRB Announces Limitation on Collyer Deferral," *Labor & Employment Law Alert - US* (January 26, 2012). Contacts: Jeffrey W. Pagano, Herbert I. Meyer, Kris D. Meade, Thomas P. Gies, Glenn D. Grant, Mark A. Romeo.
- "FMLA Protections from Interference and Retaliation Extended to Pre-Eligible Employees," *Labor & Employment Law Alert - US* (January 25, 2012). Contacts: Kris D. Meade, Christopher Calsyn, Jeffrey W. Pagano, James E. Kellett, Ira M. Saxe, Mark A. Romeo.
- "NLRB and FINRA Signal Federal Push To Create A Right for Employees To Pursue Collective Litigation Regardless of Arbitration Agreements," *Labor & Employment Law Alert - US* (January 12, 2012). Contacts: Jeffrey W. Pagano, Herbert I. Meyer, Jared Levine, Kris D. Meade, Thomas P. Gies, Glenn D. Grant, Mark A. Romeo.
- "New DOT Regulations Require Commercial Truckers to Hit the "Breaks"," *Labor & Employment Law Alert - US* (January 5, 2012). Contacts: Trina Fairley-Barlow, Rebecca L. Springer, Jeffrey W. Pagano, Ira M. Saxe, Mark A. Romeo.
- "NLRB Issues Final Rule On "Quickie" Elections," *Labor & Employment Law Alert - US* (December 22, 2011). Contacts: Jeffrey W. Pagano,

Herbert I. Meyer, Kris D. Meade, Thomas P. Gies, Glenn D. Grant, Mark A. Romeo.

- "NLRB Scales Back -- But Not By Much -- The New "Quickie" Election Rules it Proposed on June 22, 2011," *Labor & Employment Law Alert - US* (December 6, 2011). Contacts: Jeffrey W. Pagano, Herbert I. Meyer, Kris D. Meade, Thomas P. Gies, Glenn D. Grant, Mark A. Romeo.
- "OSHA Revises Its Sarbanes-Oxley Whistleblower Rules Impacting Public Companies and Their Affiliates and Subsidiaries," *Labor & Employment Law Alert - US* (November 9, 2011). Contacts: Mark A. Romeo, Samuel P. Nielson, Kris D. Meade, Thomas P. Gies, Christopher Calsyn, Jeffrey W. Pagano, Ira M. Saxe.
- "California Seating Lawsuits Meeting Resistance, But Employers Shouldn't Sit Idly By," *Labor & Employment Law Alert - US* (October 21, 2011). Contacts: Mark A. Romeo, Samuel P. Nielson, Jeffrey W. Pagano, James E. Kellett, Kris D. Meade, Thomas P. Gies.
- "California Enacts Legislation Limiting Employers' Use of Consumer Credit Reports for Employment Purposes," *Labor & Employment Law Alert - US* (October 12, 2011). Contacts: Jeffrey W. Pagano, Jonathan A. Moskowitz, Kris D. Meade, Rachel L. Talbot, Mark A. Romeo, Wendy A. Sugg.
- "NLRB Postpones Implementation of Its New Employee Rights Posting Requirement," *Labor & Employment Law Alert - US* (October 7, 2011). Contacts: Jeffrey W. Pagano, Herbert I. Meyer, Thomas P. Gies, Glenn D. Grant, Mark A. Romeo.
- "Seattle Enacts Ordinance Requiring Paid Sick Leave and Paid Safe Time," *Labor & Employment Law Alert - US* (September 29, 2011). Contacts: Jeffrey W. Pagano, Jonathan A. Moskowitz, Kris D. Meade, Rebecca L. Springer, Rachel L. Talbot, Mark A. Romeo.
- "NLRB Makes Employee Rights Poster Available on its Website Shortly After Commencement of a Lawsuit Challenging its Posting Rule," *Labor & Employment Law Alert - US* (September 15, 2011). Contacts: Jeffrey W. Pagano, Herbert I. Meyer, Jonathan A. Moskowitz, Kris D. Meade, Thomas P. Gies, Glenn D. Grant, Mark A. Romeo.
- "National Labor Relations Board Alters Landscape for Determining the Scope of Petitioned-For Bargaining Units," *Labor & Employment Law Alert - US* (September 9, 2011). Contacts: Jeffrey W. Pagano, Herbert I. Meyer, Jonathan A. Moskowitz, Thomas P. Gies, Glenn D. Grant, Mark A. Romeo.
- "The NLRB Overrules Prior Decisions to Reinstate "Recognition Bar" Protection for Unions Voluntarily Recognized and "Successor Bar" Protection for Incumbent Unions," *Labor & Employment Law Alert - US* (September 8, 2011). Contacts: Jeffrey W. Pagano, Ira M. Saxe, Herbert I. Meyer, Thomas P. Gies, Glenn D. Grant, Mark A. Romeo.
- "NLRB Imposes New Employee Rights Posting Requirement on Covered Employers," *Labor & Employment Law Alert - US* (September 6, 2011).

Contacts: Jeffrey W. Pagano, Herbert I. Meyer, Thomas P. Gies, Glenn D. Grant, Mark A. Romeo.

- "OFCCP Drumbeat Continues: Agency Announces New FAAP Procedures," *Labor & Employment Law Alert - US* (July 1, 2011). Contacts: Rebecca L. Springer, Kris D. Meade, Jeffrey W. Pagano, Ira M. Saxe, Jonathan A. Moskowitz, Mark A. Romeo, Wendy A. Sugg.
- "The NLRB and USDOL Issue Controversial Proposed Regulations To Aid Union Organizing," *Labor & Employment Law Alert - US* (June 30, 2011). Contacts: Jeffrey W. Pagano, Philip F. Repash, Thomas P. Gies, Glenn D. Grant, Mark A. Romeo.
- "Supreme Court Changes The Class Action Landscape In *Dukes v. Wal-Mart*," *Labor & Employment Law Alert - US* (June 28, 2011). Contacts: James E. Kellett, Jeffrey W. Pagano, Thomas P. Gies, Trina Fairley-Barlow, Mark A. Romeo, Wendy A. Sugg.
- "Connecticut to Become First State to Mandate Guaranteed Paid Sick-Learn Time for Employees," *Labor & Employment Law Alert - US* (June 9, 2011). Contacts: Jeffrey W. Pagano, Philip F. Repash, Thomas P. Gies, Trina Fairley-Barlow, Mark A. Romeo.
- "EEOC Proposes to Extend Title VII and ADA Recordkeeping Requirements to Include Entities Covered by GINA," *Labor & Employment Law Alert - US* (June 8, 2011). Contacts: Jeffrey W. Pagano, Philip F. Repash, Thomas P. Gies, Trina Fairley-Barlow, Mark A. Romeo.
- "Fifth Circuit Applies Recent Supreme Court Decision to Revive Son's Title VII Retaliation Claim Based on Father's Protected Activity," *Labor & Employment Law Alert - US* (May 31, 2011). Contacts: Thomas P. Gies, Glenn D. Grant, Arash Jahanian, Jeffrey W. Pagano, Ira M. Saxe, Mark A. Romeo.
- "Think That California Lawsuits Over Seating Concern Only Retail Cashiers? Think Again," *Labor & Employment Law Alert - US* (May 26, 2011). Contacts: Mark A. Romeo, Wendy A. Sugg, Samuel P. Nielson, Kris D. Meade, Thomas P. Gies, Jeffrey W. Pagano.
- "Circuit Court Rules No Cause of Action for Discrimination Against Debtors," *Labor & Employment Law Alert - US* (May 24, 2011). Contacts: Thomas P. Gies, Glenn D. Grant, Arash Jahanian, Jeffrey W. Pagano, James E. Kellett, Mark A. Romeo.
- "NLRB Sues Arizona in Federal Court over Constitutional Amendment Requiring Secret Ballot Elections for Union Representation," *Labor & Employment Law Alert - US* (May 18, 2011). Contacts: Kris D. Meade, Thomas P. Gies, Glenn D. Grant, Arash Jahanian, Jeffrey W. Pagano, Ira M. Saxe, Mark A. Romeo.
- "Philadelphia Is Latest Jurisdiction to "Ban the Box" in Hiring Processes," *Labor & Employment Law Alert - US* (May 16, 2011). Contacts: Kris D. Meade, Glenn D. Grant, Arash Jahanian, Jeffrey W. Pagano, Ira M. Saxe, Mark A. Romeo.

- "New York State Department of Labor Issues Guidance and Sample Templates in Connection With the New York Wage Theft Prevention Act," *Labor & Employment Law Alert - US* (April 12, 2011). Contacts: Jeffrey W. Pagano, Ira M. Saxe, Jonathan A. Moskowitz, Kris D. Meade, Thomas P. Gies, Mark A. Romeo.
- "EEOC Issues Final Regulations on ADA Amendments Act of 2008," *Labor & Employment Law Alert - US* (April 7, 2011). Contacts: Jeffrey W. Pagano, James E. Kellett, Ira M. Saxe, Kris D. Meade, Thomas P. Gies, Mark A. Romeo.
- "New York Wage Theft Prevention Act Takes Effect on April 9, 2011," *Labor & Employment Law Alert - US* (April 4, 2011). Contacts: Jeffrey W. Pagano, Ira M. Saxe, Thomas P. Gies, Kris D. Meade, Mark A. Romeo.
- "Oral Complaints are Sufficient to Support an FLSA Retaliation Claim," *Labor & Employment Law Alert - US* (March 28, 2011). Contacts: Jeffrey W. Pagano, Ira M. Saxe, Thomas P. Gies, Kris D. Meade, Mark A. Romeo.
- "NLRB Flexes Its Muscles by Opposing State Constitutional Amendments Requiring the Use of Secret Ballot Elections for Union Representation Purposes and Limiting Deferral to Arbitration," *Labor & Employment Law Alert - US* (January 26, 2011). Contacts: Jeffrey W. Pagano, Ira M. Saxe, Thomas P. Gies, Kris D. Meade, Mark A. Romeo.
- "New York State Hospitality Industry Wage Order Increases the Wages to Be Paid to Tipped Employees and Authorizes Tip Pooling and Tip Sharing," *Labor & Employment Law Alert - US* (December 23, 2010). Contacts: Jeffrey W. Pagano, Ira M. Saxe.
- "Proposed OSHA Noise Regulations Reverse Long-Standing Interpretations And Increase Potential Costs To Employers," *Labor & Employment Law Alert - US* (November 24, 2010). Contacts: Kevin C. Mayer, Clifford J. Zatz, Jeffrey W. Pagano, Ira M. Saxe.
- "Marijuana Legalization Under California's Proposition 19: The Impact on Employers," *Labor & Employment Law Alert - US* (October 27, 2010). Contacts: Mark A. Romeo, Kris D. Meade, Joel D. Wood, Jeffrey W. Pagano, Kelly T. Currie.
- "Interim Rule Requires Federal Contractors to Report Executive Compensation and First-Tier Subcontract Awards," *Labor & Employment Law Alert - US* (July 12, 2010). Contacts: Kris D. Meade, Rebecca L. Springer, Peter Eyre, Jeffrey W. Pagano, Ira M. Saxe.
- "Department of Labor's Wage and Hour Division Provides Answers, Raises New Questions," *Labor & Employment Law Alert - US* (June 23, 2010). Contacts: Kris D. Meade, Jeffrey W. Pagano.
- "*New Process Steel* – The Supreme Court Sends The NLRB Back To The Drawing Board," *Labor & Employment Law Alert - US* (June 17, 2010). Contacts: Thomas P. Gies, Glenn D. Grant, Jeffrey W. Pagano, Mark A. Romeo.

- "What Employers, Employees and Health Plans Need to Know Right Now About Health Care Reform," *Labor & Employment Law Alert - US* (May 12, 2010). Contacts: William J. Flanagan, Joel D. Wood, Jeffrey W. Pagano.
- "What Should Large Employers Do Now? Implications of *Dukes v. Wal-Mart*," *Labor & Employment Law Alert - US* (April 29, 2010). Contacts: Kris D. Meade, Thomas P. Gies, Rebecca L. Springer, Jeffrey W. Pagano.
- "Becker Means Change At The Labor Board," *Labor & Employment Law Alert - US* (April 1, 2010). Contacts: Thomas P. Gies, Kris D. Meade, Jeffrey W. Pagano, Mark A. Romeo.
- "European Parliament Hearing of László Andor, Commissioner-designate for Employment and Social Affairs," *Labor & Employment Law Alert - Europe* (February 4, 2010). Contacts: Emmanuel Plasschaert, Jeffrey W. Pagano, Kris D. Meade.
- "New FTC Guidelines Require Employers To Strengthen Social Networking Policies," *Labor & Employment Law Alert - US* (January 8, 2010). Contacts: Jeffrey W. Pagano, Kris D. Meade, Christopher Calsyn.
- "Sweeping Prohibition on Arbitration of Employment Disputes in 2010 Defense Appropriations," *Government Contracts Bullet Points* (December 28, 2009). Contacts: Kris D. Meade, Angela B. Styles, Mark A. Romeo, Jeffrey W. Pagano.
- "Congress Limits Arbitration of Employment Disputes by Defense Contractors and Subcontractors," *Labor & Employment Law Alert - US* (December 23, 2009). Contacts: Kris D. Meade, Angela B. Styles, Mark A. Romeo, Jeffrey W. Pagano.
- "DOL Issues Proposed Rule Implementing Executive Order 13496 - Notice of NLRA Rights ," *Labor & Employment Law Alert - US* (August 10, 2009). Contacts: Jeffrey W. Pagano, Ira M. Saxe, Kris D. Meade, Kathleen Clair.
- "Minimum Wage Increases Federally And In 16 Jurisdictions," *Labor & Employment Law Alert - US* (July 24, 2009). Contacts: Jeffrey W. Pagano, Kris D. Meade.
- "Fee-Splitting Provisions In Arbitration Agreements Subject To Scrutiny," *Labor & Employment Law Alert - US* (May 14, 2009). Contacts: Jeffrey W. Pagano, James E. Kellett.
- "Full Speed Ahead for San Francisco's Health Care Security Ordinance," *Labor & Employment Law Alert - US* (April 6, 2009). Contacts: William J. Flanagan, Mark A. Romeo, Jeffrey W. Pagano.
- "Card Check Legislation Introduced In Congress," *Labor & Employment Law Alert - US* (March 11, 2009). Contacts: Thomas P. Gies, Jeffrey W. Pagano, Mark A. Romeo.
- "Obama Administration Issues Pro-Union Executive Orders," *Labor & Employment Law Alert - US* (February 2, 2009). Contacts: Thomas P. Gies, Jeffrey W. Pagano, Mark A. Romeo.

- "Is "Card Check" In Your Future?," *Labor & Employment Law Alert - US* (November 6, 2008). Contacts: Thomas P. Gies, Jeffrey W. Pagano, Mark A. Romeo.
- "New Law Prohibiting Genetic Discrimination Raises New Risks For Employers," *Labor & Employment Law Alert - US* (May 27, 2008). Contacts: Thomas P. Gies, Jeffrey W. Pagano, James E. Kellett, Mark A. Romeo, Rebecca L. Springer.
- "New Jersey and Washington D.C. Paid Leave Laws Gain Momentum," *Labor & Employment Law Alert - US* (May 1, 2008). Contacts: Thomas P. Gies, Jeffrey W. Pagano, Mark A. Romeo.
- "Crowell & Moring Establishes that an Employer May Unilaterally Exercise Management Rights Implemented after Bargaining Impasse," *Labor & Employment Law Alert - US* (February 7, 2008). Contacts: Jeffrey W. Pagano, Ira M. Saxe, Herbert I. Meyer, Glenn D. Grant.
- "Commissioned Salespersons in New York State Must, Effective October 16, 2007, Be Paid Under Written Agreements," *Labor & Employment Law Alert - US* (October 12, 2007). Contacts: Jeffrey W. Pagano, James E. Kellett, Ira M. Saxe, Thomas P. Gies.
- "Non-Statutory Labor Exemption to the Federal Antitrust Laws Does Not Bar Class-Action by Employees Against Hospitals," *Labor & Employment Law Alert - US* (April 16, 2007). Contacts: Thomas P. Gies, Jonathan A. Moskowitz, Jeffrey W. Pagano.

Speaking Engagements

- "Top Labor and Employment Issues For Government Contractors in 2012 and Beyond," Crowell & Moring's 2012 Ounce of Prevention Seminar (OOPS), Washington, D.C. (May 9-10, 2012). Co-Speakers: Jeff Pagano, Ellen Dwyer, Kris Meade, Rebecca Springer.
- "Labor Law & NLRB Update," National Armored Car Association Conference, Coppell, Texas (November 16, 2010). Presenter: Jeffrey W. Pagano.
- "Keeping It Legal: What Every Owner Should Know About Employment Law," 2010 Limo Digest Show, Atlantic City, NJ (November 2010). Presenter: Jeffrey W. Pagano.