

## MICHAEL C. DUFF

Professor of Law

University of Wyoming College of Law

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SSRN Author's Page: <http://ssrn.com/author=660895>

### EDUCATION

Harvard Law School, Juris Doctorate, June 1995

West Chester University of Pennsylvania, *summa cum laude*, B.A., Philosophy, December 1991

### PUBLICATIONS

#### Law Review Articles & Essays

*How the U.S. Supreme Court Deemed the Workers' Compensation Grand Bargain "Adequate" Without Defining Adequacy* (54 TULSA L. REV. \_\_\_\_ forthcoming spring 2019)

*Reflections on the "Persistence of Tort" and the "Demise of the Grand Bargain"* (symposium essay), 69 RUTGERS L. REV. 1257 (2018)

*A Tale of Two Standards: Why Wyoming Courts Should Apply the Actual Substantial Evidence Standard in Wyoming Workers' Compensation Cases*, forthcoming 18 WYOMING L. REV. 1 (2017)

*Facial and As-Applied Challenges to Workers' Compensation Statutes: The Elusive Inadequacy Tipping Point* (Work in Progress)

*Beyond Republic Steel: Seeing NLR A Remedies Through the Prism of the Collateral Source Rule* (Work in Progress)

*Workers' Compensation Judicial Decisional Independence* (Work in Progress)

*Comment on Chapter 4 of The Restatement of Employment Law: Principles of Employer Liability for Tortious Harm to Employees*, 21 EMPLOYEE RTS. & EMP. POL'Y J. 487 (2017)

*Worse Than Pirates or Prussian Chancellors: A State's Authority to Opt-Out of the Quid Pro Quo*, 17 MARQ. BENEFITS & SOC. WELFARE L. REV. 123 (2016)

*The Cowboy Code Meets the Smash Mouth Truth: Meditations on Worker Incivility*, 117 W. VA. L. REV. 100 (2015)

*Alt-Labor, Secondary Boycotts, and Toward a Labor Organization Bargain*, 63 CATHOLIC U. L. REV. 837 (2014)

*What Brady v. N.F.L. Teaches about the Devolution of Labor Law*, 52 WASHBURN L. J. 429 (2013)

## CV of Michael C. Duff

*New Nip in the Bud: Does the Obama Board's Preemptive Strike Doctrine Enhance Tactical Employment Law Strategies?*, 16 EMPLOYEE RTS. & EMP. POL'Y J. 143 (2012)

*Of Courage, Tumult, and the Smash Mouth Truth: A Union-Side Apologia*, 15 EMPLOYEE RTS. & EMP. POL'Y J. 521 (2012)

*Union Salts as Administrative Private Attorneys General*, 32 BERKELEY J. EMP. & LAB. L. 1 (2011)

*Labor Injunctions in Bankruptcy: The Norris-LaGuardia Firewall*, 2009 MICH. ST. L. REV. 669 (2009)

- Cited by dissent in 8<sup>th</sup> Circuit Court of Appeals, *Brady v. National Football League*, 640 F.3d 785, 797 (8<sup>th</sup> Cir. 2011)
- Cited by the United States Bankruptcy Court, District of Delaware, *In re Trump Entertainment Resorts*, 534 B.R. 93 (2015)

*Embracing Paradox: Three Problems the NLRB Must Confront To Resist Further Erosion of Labor Rights in the Expanding Immigrant Workplace*, 30 BERKELEY J. EMP. & LAB. L. 133 (2009)

*Days Without Immigrants: Analysis and Implications of the Treatment of Immigration Rallies Under the National Labor Relations Act*, 85 DENV. U. L. REV. 93 (2007)

### Books

WORKERS' COMPENSATION LAW (Carolina Academic Press, 2<sup>nd</sup> Edition 2017) (Part of the Context and Practice Series explicitly applying Carnegie principles to casebook design)

Teachers Manual for Workers' Compensation Law (Carolina Academic Press)

WYOMING WORKERS' COMPENSATION LAW (CALI eLangdell Press, forthcoming)

SECUNDA, HIRSCH & DUFF, LABOR LAW: A PROBLEM BASED APPROACH (Carolina Academic Press, 2<sup>nd</sup> Edition 2017)

LABOR, CIVIL RESISTANCE, AND THE RULE OF LAW (Work in progress)

### Book Chapters & Other Contributions to Books

*Pre-Trial Dispute Resolution of Workers' Compensation Claims* (with Judge David B. Torrey) in RESOLVING INSURANCE CLAIM DISPUTES BEFORE TRIAL (American Bar Association Tort Trial & Insurance Practice Section 2017)

*John L. Lewis and the United Mine Workers* in THE AMERICAN MIDDLE CLASS: AN ECONOMIC ENCYCLOPEDIA OF PROGRESS AND POVERTY, Robert S. Rycroft, Ed. (ABC-CLIO 2017)

*The Cloak (of Authority) That Will Not Fit: The 6th Circuit Upholds the NLRB's New Pre-Recognition Negotiation Rule* in THE CHALLENGE FOR COLLECTIVE BARGAINING: PROCEEDINGS OF THE NEW YORK UNIVERSITY 65TH ANNUAL CONFERENCE ON LABOR, Samuel Estreicher and Michael Green, Eds., Chapter 8, (Matthew Bender 2013)

Shorter Pieces

*Noe Rodriguez v Brand Dairy: Balancing Equal Protection and a State's Economic Interest*, 3 INTERNATIONAL LABOR RIGHTS CASE LAW 106 (2017)

*Compulsory Arbitration: More Empty Preemption of State Workers' Comp?*, TORTSOURCE, PUBLICATION OF THE TORT TRIAL & INSURANCE PRACTICE SECTION, Vol. 19, No. 1 at 3 (Fall 2016)

*Opt-Out and ERISA's Empty Preemption of Workers' Compensation* (with Mark DeBofsky), TORT TRIAL & INSURANCE PRACTICE SECTION NEWSLETTER (Fall 2016)

*Workers' Compensation Laws: No Escape from ERISA Preemption?*, LEXISNEXIS LEGAL NEWSROOM, WORKERS' COMPENSATION LAW available at <https://www.lexisnexis.com/legalnewsroom/workers-compensation/b/recent-cases-news-trends-developments/archive/2016/05/23/workers-compensation-opt-out-laws-no-escape-from-erisa-preemption.aspx> (May 31, 2016)

*Choppy Waters Ahead: The New Environment of Law School Scholarships*, WYOMING LAWYER, 39-APR WYO. LAW 20 (April 2016)

*Are Workers' Compensation "Alternative Benefit Plans" Authorized by State Opt-Out Schemes Covered by ERISA?*, 45 THE BRIEF 22, A.B.A. TORT TRIAL & INSURANCE PRACTICE SECTION (Spring 2016)

- Cited by the Oklahoma Supreme Court concurrence, *Vasquez v. Dillard's*, 381 P.3d 768, 780 n.38 (Ok. 2016)

*Workers' Comp Agency Declares Oklahoma Opt-Out Statute Unconstitutional*, LEXISNEXIS LEGAL NEWSROOM, WORKERS' COMPENSATION LAW available at <http://www.lexisnexis.com/legalnewsroom/workers-compensation/b/recent-cases-news-trends-developments/archive/2016/02/28/workers-comp-agency-declares-oklahoma-opt-out-statute-unconstitutional.aspx> (February 28, 2016)

*A Hundred Years of Excellence: But is the Past Prologue? Reflections on the Pennsylvania Workers' Compensation Act*, 87 PA. B.A. Q. 20 (January 2016)

- Cited by Kentucky Court of Appeals, *Choate v. Bank of Cadiz & Trust Co.*, 2016 WL 3453326

Book Review: *Defamation Law and Social Attitudes: Ordinary Unreasonable People*, by Roy Baker, 42 INT'L J. LEGAL INFO. 420 (2014)

*The Continued Relevance of the NLRA to Non-Union Workplaces under Section 7's Mutual Aid or Protection Clause*, ABA Section of Employment Litigation and Labor Relations E-Newsletter (Winter 2014) available at <http://apps.americanbar.org/litigation/committees/employment/home.html>

*Terms Matter: Reflections on the Wyoming Debate Over the Teachers' "Union" and Teacher "Tenure"*, 34 WYOMING LAWYER 16 (April 2011).

*The Debt Ceiling Debate and the Constitution: A Call for Caution*, JURIST- Forum, July 16, 2011, <http://jurist.org/forum/2011/07/davis-duff-ware-debt-ceiling.php> (with Benjamin Davis, Craig Jackson, and Leland Ware)

## **BLOG**

Founder, Co-Editor, and Author, WORKERS' COMPENSATION LAW PROFESSORS' BLOG

- Nationally recognized blog devoted to analysis of workers' compensation legal issues and discussion of teaching workers' compensation in law school
- Featured regularly in the national workers' compensation online publication "WorkCompCentral"
- Blogpost cited in the Rand Corporation's 2018 publication HOW CAN WORKERS' COMPENSATION SYSTEMS PROMOTE OCCUPATIONAL SAFETY AND HEALTH?

## **PRESENTATIONS & PUBLIC APPEARANCES**

Invited Presenter, "Judicial Review of Administrative Decisions," Wyoming Office of Administrative Hearings Annual Meeting, Jackson, Wyoming, September 29, 2018

Invited Presenter, "Beyond Silicon Valley: The Gig Economy Goes Low Tech," American Association for Justice Annual Convention, Denver, Colorado, July 10, 2018

Invited Presenter, "The Madness in March Madness?: Selected Labor and Employment Controversies Related to Athletes," Laramie County Bar Association Monthly Meeting, March 15, 2018

Keynote Speaker, "Meta Power Grabs," Workers Injury Law and Advocacy Group Annual Convention President's Dinner, Palm Beach, Florida, October 16, 2017

Organizer & Presenter, Wyoming Workers' Compensation Symposia, Series of Presentations on Wyoming Workers' Compensation Law Meant to Clarify and Restate Principles of Wyoming Workers' Compensation Law (First Such Workers' Compensation Presentations in History of the College of Law)

- Symposium 1 (Notice and Statute of Limitations), Laramie, Wyoming, September 22, 2017
- Symposium 2 (Scope of Coverage and Causation), Laramie, Wyoming, November 10, 2017
- Symposium 3 (Extent of Incapacity; Permanent versus Temporary; Partial versus Total Benefits), Laramie, Wyoming, February 9, 2018
- Symposium 4 (Select Administrative and Evidentiary Issues), Laramie, Wyoming, April 13, 2018

Invited Panelist, "Grand Bargain or Contract of Adhesion: The Ongoing Debate Over Benefit Adequacy, Procedural Efficacy, and Blanket Immunity in Workers' Compensation," Workers' Compensation Institute, Orlando, Florida, August 8, 2017

Invited Discussant, "Integrating Workers' Compensation Policy Experts into the Data Collection Efforts of the National Association of Social Insurance," Washington D.C., June 7, 2017

Invited Panelist, "Top 5 Workers' Compensation Cases in 2016," College of Workers' Compensation Lawyers' Inaugural Symposium, Phoenix, Arizona, March 18, 2017

Invited Discussant, Law School Outreach Summit, Pound Civil Justice Institute, Methods to Improve Communication Between Law Schools and the Plaintiffs' Bar, San Francisco, CA, January 6, 2017

CV of Michael C. Duff

Invited Presenter, “Comment on Chapter 4 of The Restatement of Employment Law: Principles of Employer Liability for Tortious Harm to Employees,” Labor Law Group Symposium, Indiana University, Bloomington, Indiana, November 18, 2016

Presenter, “The Corporatization of Workplace Adjudication,” ClassCrits IX Conference, Loyola University Chicago School of Law, Chicago, Illinois, October 21, 2016

Invited Presenter, “ERISA & Opt-Out,” Workers’ Injury Law & Advocacy Group Annual Meeting, Carefree, Arizona, September 26, 2016

Invited Discussant, “The Demise of the Grand Bargain” Symposium, Rutgers Law School, September 23, 2016

Invited Panel Moderator and Presenter, “The Opt Out, the Constitution, and the Grand Compromise,” 8<sup>th</sup> Annual National Workers’ Compensation Judiciary College, Orlando, Florida, August 23, 2016

Invited Panelist, “The Opt-Out Option in Workers’ Compensation: Who Gains and Who Loses?,” Disparate Income, Wealth and Opportunity: Implications for Social Insurance, National Academy of Social Insurance, National Press Club, Washington, D.C., January 27, 2016

Invited Speaker: “Methodical Confrontation of Suspected Bias in Administrative Decision Making,” Michigan Association for Justice 2016 Workers’ Compensation/Social Security Seminar, Detroit, Michigan, January 15, 2016

Keynote Speaker, “Footholds from Free Fall,” National Labor Relations Board Union Annual Meeting, Atlanta, Georgia, October 10, 2015

Keynote Speaker, “A Hundred Years of Excellence: But is the Past Prologue?” 31st Annual Fall Section Meeting of the Workers’ Compensation Law Section of the Pennsylvania Bar Association, Centennial Celebration, Hershey, Pennsylvania, October 7, 2015

Invited Panel Moderator and Presenter, “Two Enduring Workers’ Compensation Legal-Ethical Problems: Unrepresented Parties and Undocumented Workers,” American Bar Association Section of Labor and Employment Law, Tort, Trial and Insurance Practice Section, 2015 Workers’ Compensation Midwinter Seminar and Conference, Naples, Florida, March 20, 2015

Invited Panelist, “New Frontiers in Traditional Labor Law: From Student Athletes to Social Media,” University of Denver/Ogletree Deakins Annual Speaker Event, Sturm College of Law, Denver, Colorado, February 25, 2015

Invited Presenter, “Workers’ Compensation Judicial Decisional Independence,” Workers’ Injury Law & Advocacy Group Annual Meeting, Santa Barbara, California, October 29, 2014

Invited Presenter, “The Cowboy Code Meets the Smash Mouth Truth,” University of West Virginia College of Law, Zealous Advocacy for Social Change: Transforming an Anti-Labor Environment into a Culture of Civility, Morgantown, West Virginia, October 24, 2014

Presenter, “Workers’ Compensation and a State’s Right to be Worse than Pirates and Prussian Chancellors,” University of Colorado, 9<sup>th</sup> Annual Labor & Employment Scholars Colloquium, Boulder, Colorado, September 11, 2014

## CV of Michael C. Duff

Presenter, “What Brady v. N.F.L. teaches about the Devolution of Labor Law,” Washburn University, School of Law's Business and Transactional Law Center, The Landscape of Private Sector Labor Law in the 21st Century - Changes in the Arenas of Conflict, Topeka, Kansas, February 28, 2013

Panelist, “The Role of Law in Creating the Good Employer,” United Association of Labor Education Annual Conference, Pittsburgh, Pennsylvania, March 23, 2012

Panelist, “Exploring How Access to Education and Safe, Affordable Energy Contribute to Creating a More Just Workplace,” Working Class Studies Association Annual Conference, University of Illinois-Chicago, Chicago, Illinois, June 25, 2011

Presenter, “Collective Bargaining: What it is; What it isn't; Why it Matters,” Wyoming Continuing Legal Education Session, University of Wyoming, Laramie, Wyoming, April 16, 2011

Presenter, “Of Courage, Tumult, and the Smash Mouth Truth,” Association of American Law Schools (AALS) Annual Meeting, Author Meets Reader: Discussing Julius Getman's Restoring the Power of Unions, Section on Labor Relations and Employment, San Francisco, California, January 8, 2011

Presenter, “Canaries in the Coal Mine: The Tactical Use of the National Labor Relations Act to Aid in the Protection of Workers Exposed to Pollutants,” Shepard Symposium on Social Justice, University of Wyoming, Laramie, Wyoming, April 8, 2010

Panelist, “Contested Case Procedures under the Wyoming Administrative Procedure Act,” Annual Meeting of the Wyoming Association of County Officials, Laramie, Wyoming, September 22, 2009

Presenter, “University of Wyoming Social Justice Research Center and My Personal Commitment to Issues of Social Justice,” Martin Luther King Jr. Day, March and Days of Dialogue, University of Wyoming, Laramie, Wyoming, January 19, 2009

Presenter, “Working in the Federal and Wyoming Legal Systems,” Casper, WY, July 17, 2008 (Wyoming Continuing Education Seminar)

Presenter, “Federal Sector Equal Employment Opportunity Law Complaint Procedures Pursuant to 29 C.F.R. 1614,” National Labor Relations Board Union Convention, Miami, Florida, October 17, 2003

Presenter, “The State of ‘Refusal to Hire’ Law in the Wake of the NLRB's Decision in FES” International Brotherhood of Electrical Workers Regional Meeting, Pomona, New Jersey, January 16, 2003

Presenter, “Traps for the Unwary in National Labor Relations Board Regional Office Procedures,” Rutgers University School of Management and Labor Relations, Union Leadership Academy, April 2, 2001

## **MEDIA APPEARANCES**

*Quoted in* Braden Campbell, “Division Sown by UPS Contract Rift May Bode Ill for IBT,” LAW360, October 19, 2018

CV of Michael C. Duff

*Quoted in* Michael Gordon, “Company Couldn’t Cut Disabled Worker’s Benefits so it ‘Went Rogue’ and Had Him Arrested, Lawyer Says,” *The CHARLOTTE OBSERVER*, October 23, 2018

*Quoted in* Vin Gurrieri, “5 Supreme Court Petitions Employers Should Watch,” *LAW360*, September 22, 2018

*Quoted in* Branden Campbell, “Grievance-Handling Claims Get Tougher For Unions To Beat,” *LAW360*, September 19, 2018

*Quoted in* Peter Rousmaniere, “The Grand Bargain: Not so Rock Solid.” *Workers’Compensation.com*, Sept. 5, 2018

*Quoted in* Josh Eidelson, “Kavanaugh Sided With Trump Casino in 2012 to Thwart Union Drive,” *BLOOMBERG*, July 30, 2018

*Quoted in* Jennifer A. Dlouhy and Josh Eidelson, “Trump’s Deregulators Emboldened by Kavanaugh Supreme Court Pick,” *BLOOMBERG*, July 25, 2018

*Quoted in* Editorial Board, “State Should Assist Workers with Unpaid Wage Claims,” *CASPER STAR TRIBUNE*, July 11, 2018

*Quoted in* Heather Richards, “Wyoming Doesn’t Offer Remedy for Wage Disputes with Current Employers,” *CASPER STAR TRIBUNE*, June 30, 2018

*Quoted in* Emily Brill, “ERISA Question May Kill States’ Retirement Programs,” *LAW360*, June 8, 2018

*Quoted in* Justin Bachman and Mary Schlangenstein, “The Days of the Airline Strike May be Over,” *BLOOMBERG*, June 8, 2018

*Quoted in* Josh Eidelson, “Musk Stock-Option Tweet Violated U.S. Labor Law, UAW Alleges,” *BLOOMBERG*, May 24, 2018

*Quoted in* Josh Eidelson, “Airline Pilots May be Next in the Corporate War on Unions,” *BLOOMBERG*, May 1, 2018

*Quoted in* William Rabb, “Court to Decide if Kentucky Can Hold a Georgia Hospital to its Fee Schedule,” *WORKCOMP CENTRAL*, April 24, 2018

*Quoted in* Mike Elk and Karina Moreno, “Union Leader Faces Members’ Protest Over Sexual Misconduct Claims,” *THE GUARDIAN*, April 22, 2018

*Quoted in* Peter Rousmaniere, “The Real Gig Problem for Work Comp,” *WORKERSCOMPENSATION.COM*, April 18, 2018

*Quoted in* Josh Eidelson, “U.S. Labor Board’s Holocaust Commemoration Goes Awry,” *BLOOMBERG*, April 13, 2018

*Quoted in* William Rabb, “Death Benefits Bill Goes to Governor,” *WORKCOMP CENTRAL*, April 9, 2018

*Quoted in* Josh Eidelson, “Labor Board Democrat Under Investigation for Loose Talk,” *BLOOMBERG*, March 29, 2018

CV of Michael C. Duff

*Quoted in* Josh Eidelson, “Trump Labor Board Scrambles to Avoid Pro-Worker Ruling, Lawyers Claim,” BLOOMBERG, March 17, 2018

*Quoted in* Joyce Famakinwa, “Postmates Paid Premiums, but Cases Still Rare,” BUSINESS INSURANCE, March 5, 2018

*Quoted in* Bruce Vail, “Inside the Trump Administration’s Plan to Shrink the NLRB,” IN THESE TIMES, January 31, 2018

*Quoted in* Stephen Caruso, “Pittsburgh Post-Gazette employees plan byline strike Thursday to protest stalled contract negotiations with management,” PITTSBURGH CITY PAPER, January 24, 2018

*Quoted in* Daniel Marans, “How a Literal Shock Inspired a Former Marine to Run for Office as a Democratic Socialist,” HUFFPOST, November 14, 2017

*Quoted in* J. Todd Foster, “Lawmakers to Use Off Year to Study Compounds, Designated Doctors,” WORKCOMP CENTRAL, November 6, 2017

*Quoted in* J. Todd Foster, “Claimants’ Attorneys: Proposed Protz Fix Unconstitutional,” WORKCOMP CENTRAL, October 12, 2017

*Quoted in* Emily Brill, “Drug-Court Work Rehab Program Took Worker’s Benefits, Report Says,” WORKCOMP CENTRAL, October 6, 2017

*Quoted in* J. Todd Foster, “Medical Ethicist Says Attorney and Doctor-Owned Pharmacy is Conflict of Interest,” WORKCOMP CENTRAL, September 26, 2017

*Quoted in* Daniel Marans, *Did the Washington Post Break a Law When it Disciplined a Reporter Over a Jeff Bezos Op-Ed?* HUFFPOST, September 15, 2017

*Quoted in* J. Todd Foster, “Lawmakers Urged to Close Anti-Fraud Loophole Used Against Undocumented Workers,” WORKCOMP CENTRAL, August 25, 2017

*Quoted in* J. Todd Foster, “Panelist: Grand Bargain Imperiled, but State Has Constitutional Safeguard,” WORKCOMP CENTRAL, August 9, 2017

*Quoted in* J. Todd Foster, “Business Interests Huddle with Lawmakers Over Protz Ruling that Removed IREs,” WORKCOMP CENTRAL, August 2, 2017

*Quoted in* J. Todd Foster, “Attorneys Take No Issue with DWC’s Interpretation of Compounds as ‘Specialty Services,’” WORKCOMP CENTRAL, July 21, 2017

*Quoted in* J. Todd Foster, “Court Decision Could Affect State’s [Pennsylvania] Ability to Enact Formulary, Officials Say,” WORKCOMP CENTRAL, June 29, 2017

*Quoted in* Jim Sams, “Inaction By Lawmakers Not Always a Partisan Divide,” WORKCOMP CENTRAL, June 26, 2017

*Quoted in* Emily Brill, “Single-Payer Bill to Consider How Experience Ratings Fit into Comp Merger,” WORKCOMP CENTRAL, June 5, 2017



CV of Michael C. Duff

*Quoted in* Peter Rousmaniere, “Unconstitutional in Alabama,” WORKERSCOMPENSATION.COM, May 17, 2017

*Quoted in* Alan Pyke, “Introducing Alex Acosta, Trump’s Slightly Less Terrible Labor Pick,” THINKPROGRESS, March 2, 2017

*Quoted in* Emily Brill, “Appeals Court Misinterpreted Definition of ‘Willful Misconduct,’ High Court Finds,” WORKCOMP CENTRAL, March 1, 2017

*Quoted in* Bryce Covert, “The Nurses Who Lost Their Jobs Thanks to Trump’s New Labor Secretary Nominee,” THINKPROGRESS, February 23, 2017 (Note: I argued in support of the nominee)

*Quoted in* Nat Levy, “Postmates ordered to pay 2+ years of workers’ comp premiums for more than 3,000 couriers,” GEEKWIRE, December 13, 2016

*Featured in* Emily Brill, “Workers’ Comp Professor Has One Foot in Theoretical, Practical,” WORKCOMP CENTRAL, November 22, 2016

*Quoted in* Sherri Okamoto, “Unlevel Playing Field?” in WORD ON WORKERS’ COMPENSATION 2016, WORKCOMP CENTRAL, November 10, 2016

*Quoted in* J. Todd Foster, “Federal Interest in Comp Making Some Nervous, but Quick Action Unlikely,” WORKCOMP CENTRAL, October 7, 2016

*Quoted in* LexisNexis Newsroom Staff, “8 Myths and Facts About Workers’ Compensation,” LEXISNEXIS LEGAL NEWSROOM WORKERS’ COMPENSATION LAW, August 19, 2016

*Quoted in* Timothy Noah, “Who’s Afraid of the Persuader Rule,” POLITICO, August 3, 2016

*Quoted in* David DePaolo, “The Real Objection to Opt Out,” WORKCOMP CENTRAL, June 10, 2016

*Quoted in* Emily Brill, “Report: Opt Out in Texas Shifts \$400M-\$600M to Public, Private Payers,” WORKCOMP CENTRAL, June 10, 2016

*Quoted in* Howard Berkes, “Oklahoma Commission Declares Workers’ Comp Alternative Unconstitutional,” NATIONAL PUBLIC RADIO, February 29, 2016

*Quoted in* Karen C. Yotis, “Federalization of Workers’ Comp: Politics, Opt-Outs and Survival of the State-Based Status Quo,” LEXISNEXIS LEGAL NEWSROOM, WORKERS COMPENSATION LAW, February 19, 2016

*Quoted in* Sherri Okamoto, “Claimant Attorneys Fight Cost Cutting with Constitutional Challenges” in WORD ON WORKERS’ COMPENSATION 2015, WORKCOMP CENTRAL, November 25, 2015

*Quoted in* Moshe Z. Marvit, “Duquesne’s NLRB Filing Reads as a Brazen Threat To Adjunct Union Organizers,” IN THESE TIMES, August 3, 2015

*Quoted in* Andrew Elrod, “Inside the Case That Could Hold McDonald’s Responsible for Union-busting,” IN THESE TIMES, April 29, 2015

*Quoted in* Lisa Nagele-Piazza, “Uber, Lyft Drivers’ Wage Claims May Affect

On-Demand Business Model, Attorneys Say,” BLOOMBERG BNA DAILY LABOR REPORT, April 8, 2015

*Quoted in* Richie Bernardo, “2015’s Hardest Working Cities in America.” WALLETHUB, February 2015

*Quoted in* Andrew Elrod, “How a Good Employer Supports Union Busting,” THE NATION, August 15, 2014

*Interviewed by* Melodie Edwards, “Latino Workplace Safety,” WYOMING PUBLIC RADIO, July 18, 2014

*Interviewed by* Mike Elk, “Former DOJ Inspector General Represents GOP NLRB Member Caught in Scandal,” IN THESE TIMES, April 11, 2012

*Quoted in* Geoff Williams, “Workers’ Compensation, Employers Complication,” NFIB.COM, December 14, 2012

## **EXPERIENCE**

### **ACADEMIC LEGAL EXPERIENCE**

**University of Wyoming College of Law** 8/2006-present

#### **Academic Appointments**

Professor of Law 7/2012-present

Associate Professor of Law 8/2009-6/2012

Assistant Professor of Law 8/2006-7/2009

**University of Denver, Sturm College of Law** 1/2013-5/2013

Visiting Professor of Law

#### **Administrative Experience**

Associate Dean of Student Programs and External Relations 10/2015-9/2016

Responsible for day-to-day management of student programs, including oversight of student recruitment, admissions, and career services; supervision of external relations with a variety of entities including State Bar officials, legal employers, undergraduate pre-law advisors, and the Law School Admissions Council; catalyst for new program development responsive to rapid changes in the overall law school environment; coordination of student counseling, academic support, and Bar admissions support; and staff supervision in connection with each of these functions.

### **NON-ACADEMIC LEGAL EXPERIENCE**

**National Labor Relations Board**, Philadelphia, PA; Minneapolis, MN 9/1997-8/2006

*Regional Office Attorney*

**McTeague, Higbee & MacAdam et al.**, Topsham, ME  
*Associate*

9/1995-8/1997

**Massachusetts Department of Industrial Accidents**, Boston, MA  
*Appeals Division Law Clerk*

6/1993-6/1995

## **HONORS AND AWARDS**

Recipient, *2017 University of Wyoming College of Law Extraordinary Merit Award*, for “outstanding service to the College of Law and the University of Wyoming.”

Fellow, *American Bar Foundation*, “The Fellows is an honorary organization of attorneys, judges, law faculty, and legal scholars whose public and private careers have demonstrated outstanding dedication to the welfare of their communities and to the highest principles of the legal profession. Membership in The Fellows is limited to one percent of lawyers licensed to practice in each jurisdiction. Members are nominated by their peers and elected by the Board of the American Bar Foundation.”

Member, *National Academy of Social Insurance*, “The National Academy of Social Insurance is a nonprofit, nonpartisan organization made up of the nation's leading experts on social insurance. Its mission is to advance solutions to challenges facing the nation by increasing public understanding of how social insurance contributes to economic security.”

Fellow, *College of Workers' Compensation Lawyers*, “The College of Workers' Compensation Lawyers has been established to honor those attorneys who have distinguished themselves in their practice in the field of workers' compensation. Members have been nominated for the outstanding traits they have developed in their practice of twenty years, or longer, representing plaintiffs, defendants, serving as judges, or acting for the benefit of all in education, overseeing agencies and developing legislation.”

Pound Academic Fellow, *Pound Civil Justice Institute*, Group of twenty-three legal academics from law schools across the U.S. who serve with Pound Institute Trustees to keep the Institute abreast of the latest legal trends and to assist the Institute in maintaining a relevant, meaningful dialogue with the nation's courts and law schools.

Recognition Award, *Workers' Injury Law and Advocacy Group*, September 2016, for research and writing focused on injured workers and the attempted deregulation of workers' compensation systems

Centennial Distinguished Professor of Law, *University of Wyoming College of Law*, 2014-2017, a professorship established to “recognize and retain a distinguished professor of law who has outstanding abilities as a scholar and teacher.” Recipients are selected by a faculty committee and serve a multi-year appointment.

## **ACCOMPLISHMENTS OF NOTE**

Consulted by Congressional Committee on Education and the Workforce in winter of 2016 to provide legal analysis on the intersectionality of ERISA and state workers' compensation systems in the context of emerging and novel employee benefits models

Designated by Dean at University of Wyoming's 2017 Fall Convocation as Outstanding College of Law Faculty Member for Work in Wyoming Workers' Compensation Law

## **COURSE INSTRUCTION**

*Employee Benefits* (2017-2018)

*Alternative Dispute Resolution in the Workplace* (2014-2015)

*Torts* (2013-present)

*Evidence* (2013)

*Administrative Law* (2008-2012; University of Denver, Sturm College of Law, Spring 2013)

*Introduction to Law* (2007-2012)

*Workers' Compensation Law* (2007, 2013-present)

*Labor Law* (2007-present; University of Denver, Sturm College of Law, Spring 2013)

*Administrative Law* (University of Wyoming College of Law, Guest lecturer, 2006)

*Alternative Dispute Resolution* (University of Wyoming College of Law, Guest lecturer, 2006)

*Contract Enforcement and Interpretation* (Rutgers University School of Management and Labor Relations, Adjunct, Spring 2002)

## **INSTITUTIONAL GOVERNANCE & SERVICE**

Student Conduct Hearing Officer, assigned by University Dean of Students to hear sensitive sexual assault case, February, 2017

Member, University of Wyoming Provost, Vice President of Academic Affairs Search Committee, Spring 2016

Member, University of Wyoming Faculty Dispute Resolution Panel, 2014-2015, Chair, Ad Hoc Hearing Committee, 2014-2015, selected by University Administration and Faculty Senate to hear sensitive faculty dismissal/sexual assault case

Member, University of Wyoming College of Law Dean Search Committee, 2014-2015

Member, University of Wyoming College of Law Honor Council, 2013-2015 (Chair, 2014)

Member, University of Wyoming University Reappointment, Tenure & Promotion Committee, 2013-2015

CV of Michael C. Duff

Faculty Consultant, University of Denver Sturm College of Law, Wagner National Labor and Employment Law Moot Court Competition, Spring 2013

Founder & Director, University of Wyoming College of Law Academic Support Program, 2006-2012

Member, University of Wyoming College of Law ABA Accreditation Committee, 2012-2013

Member, University of Wyoming College of Law Academic Policies and Procedures Committee, 2012

Chair, University of Wyoming College of Law Bar Examination Task Force, 2012

Member, University of Wyoming Faculty Academic Standards and Rights and Responsibilities Committee, 2011-2012

Member, University of Wyoming College of Law Admissions Committee, 2007– 2011, 2014-present

Member, University of Wyoming College of Law Clinics and Skills Committee, 2011-2013

Member, University of Wyoming College of Law Marketing Committee, 2011-2013

Member, University of Wyoming College of Law Faculty Appointments Committee, 2009-2010, 2016-2017

Faculty Consultant, University of Wyoming College of Law, Appellate National Moot Court, 2006-2009, 2012

## **REPORTED LITIGATION**

*Northeast Iowa Telephone Company*, 346 NLRB 465 (2006)

*Volair Contractors*, 341 NLRB 673 (2004)

*Smucker Company*, 341 NLRB 35 (2004)

*American Sprinkler DE*, 2002 WL 225708 (2002)

*In re Bakery Workers Local 6*, 337 NLRB 407 (2002)

*Jacee Electric, Inc.*, 335 NLRB 568 (2001)

*Neshaminy Electrical Contractors, Inc.*, 334 NLRB 994 (2001)

*Ebroadburl Realty Corp.*, 330 NLRB 70 (1999)

*Three-I Truck Line, Inc.*, 1999 WL 33452951(1999)

*BIW Deceived v. S6, Marine Workers*, 132 F.3d 824 (1<sup>st</sup> Cir. 1997)

*Ciampi v. Hannaford Brothers Co.*, 681 A.2d 4 (1996) *cert. denied* 519 U.S. 1056 (1997)

## **NON-LEGAL WORK EXPERIENCE**

**U.S. Airways**, Philadelphia, PA 3/1986-8/1992  
*Fleet Service Agent*

**Flying Tiger Line**, Philadelphia, PA 7/1983-7/1986  
*Claims Prevention Supervisor*

## **PROFESSIONAL ASSOCIATIONS**

American Bar Association, Tort Trial and Insurance Practice Section, Workers' Compensation Committee (2015-present; Vice Chair August 2015-present)

American Association for Justice (2014-present)

Wyoming Bar Association (2014-2016)

American Civil Liberties Union, Member (2006-2012)

American Bar Association, Labor and Employment Section, Member (1995-2000; 2006-2012)

Maine Bar Association, Member (1995-1997)

## **PUBLIC SERVICE**

Board of Directors, Snowy Range Academy (K-9 Elementary School), Chair, 2015-2016; 2010-2012; Member 2014-2017)

During my 2015-16 Chairmanship oversaw school's ascent to top academic K-8 school in Albany County School District (Wyoming) and one of the highest performing K-8 schools in state of Wyoming (est. top 5%) on statewide performance assessment.

Election Judge, County of Albany, Wyoming (2007-2010)

Panelist, American Civil Liberties Union, Wyoming Statewide Advisory Panel (2007-2012)

Advisory Board Member and Interim Director, Social Justice Research Center at the University of Wyoming, (2007-2010; Interim Director: Spring 2009)

Faculty Consultant, University of Wyoming United Multicultural Council (2007-2008)

Board Member, Board of Zoning Appeals, Golden Valley, Minnesota (2004-2006)

## **BAR ADMISSION**

Maine 1996