

Identifying **12** Leading Labor & Employment Litigators

For the 12 lawyers in this issue's installment of *Legal Times'* ongoing Leading Lawyers series, the practice of law might be called a labor of love.

The focus of the article that begins on Page 38 is, of course, attorneys who specialize in labor and employment law. (You did note the subtle wordplay in the previous paragraph?)

"Labor and employment" is often spoken of as a single practice area. In truth, the phrase embraces a host of different kinds of lawyers doing work for different kinds of clients. There are lawyers who stand up for employees, and there are lawyers who sit on the side of management. There are attorneys who focus on helping labor unions, and others who counsel bosses in their dealings with unionized workers. As with many practices, there are litigators and negotiators. And there are the subspecialists, expert in important nooks and crannies.

We tried to touch all the bases in conceiving and reporting this article. Like the past, and future, Leading Lawyers articles in *Legal Times*, we followed our reporting to find a group of private practitioners based in the D.C. area who, the facts indicate, are among the best in the business. Reporter Marie Beaudette started



with leads provided by readers and sources. (As happens in all reporting, some tips were more useful than others.) Her pursuit was also informed by the base of knowledge in the newsroom at *Legal Times*. Beaudette conducted dozens of interviews—with clients, labor and employment lawyers themselves, and knowledgeable observers in academia. Thus, the process was part peer review, part field test.

In the end, we chose the lawyers profiled in this Practice Focus based on our reporting.

This week's article, which was sponsored by the ERS Group, is the first in a series of four similar reports

that will appear in 2004. Next up is a look at appellate litigators, which will be published on July 19. We started the series in 2003, investigating the best in real estate, trial litigation, intellectual property, and securities and corporate governance. You can find an archive of those articles, as well as information about our further plans for this year, at www.legaltimes.com.

—Richard Barbieri
Editor in Chief

—Elizabeth Engdahl
National Opinion Editor

Leading LAWYERS

**Legal Times Identifies Twelve of the D.C. Area's
Top Labor & Employment Litigators**

Lynne Bernabei

Bernabei & Katz

On first impression, she's unassuming, but Lynne Bernabei's opposing counsel know better.

Thomas Devine, legal director of the Government Accountability Project, the public interest firm that represents whistleblowers, calls her a "pit-bull advocate."

The 54-year-old plaintiffs lawyer started representing

Influence of Harvard Law School, a book by Joel Seligman.

After graduating in 1977, Bernabei clerked for Judge William Bryant of the U.S. District Court for the District of Columbia. Following a short stint at a small firm and as a Georgetown law professor, Bernabei took a job in 1981 at the fledgling Government Accountability Project.

In 1985, Bernabei left GAP and joined now-defunct Newman, Sobol, Trister & Owens, where she met associate Deborah Katz. The two decided to hang out their shingle in 1987, and Bernabei & Katz quickly gained a reputation as a haven for whistleblowers facing retaliation.

"I've always been sort of an activist," says Bernabei.

Their firm started with a bang, bringing a spate of cases against nuclear utilities and the Tennessee Valley Authority on behalf of whistleblowers alleging safety concerns at nuclear power plants. They also represented whistleblowers at NASA subcontractors who came forward with safety concerns in the aftermath of the space shuttle Challenger explosion of 1986.

Bernabei and Katz now counsel clients in a broad range of employment cases, including discrimination, sexual harassment, and high-level employment disputes. They have represented a number of women with professional jobs, including lawyers and surgeons, in employment discrimination claims.

Bernabei represented journalist and death row inmate Mumia Abu-Jamal when he sued National Public Radio for canceling a series of his commentaries in 1994. Abu-Jamal was convicted in 1981 of killing a police officer, but maintains his innocence.

In fact, the firm has turned suing NPR into a cottage industry, having represented several dozen NPR employees in lawsuits and private negotiations since the late 1980s.

Most recently, Bernabei has been lawyer to former *USA Today* reporter Jack Kelley, who resigned earlier this year after he was accused of plagiarism and fabricating stories.

At the same time, Bernabei, who was recently chosen to join the American Arbitration Association's panel of local employment neutrals, hasn't forsaken her roots: The whistleblower cases that made her a Washington fixture are still a large part of her practice.

For example, last summer she helped negotiate a settlement of almost \$1 million for Los Alamos National Laboratory security director Glenn Walp, who was fired after complaining of mismanagement at the nuclear facility.

"Whistleblowers are people who really risk a lot to help the general society," says Bernabei. "And there aren't a lot of supports."



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whistleblowers herself more than 20 years ago. Today, she's a tough litigator who represents employees in a whole range of employment law disputes.

"She can rise to any match," says Devine. "She has the capacity to out-macho any adverse counsel."

Bernabei, a Radcliffe grad, went to Harvard Law School after spending a few years in journalism. While she was at Harvard, consumer advocate Ralph Nader recruited her to work on the study that became *The High Citadel: The*