CLE PROGRAM • COMMERCIAL LAW RISK SERIES

Risk Governance & Ethics Accreditation

COLLECTIVE STRENGTH IN PRACTICE

Navigating DEI, Ethics, & Harassment in Commercial Law

Transforming Risk Management, Firm Culture, and Client Governance Under Pressure

MODERATOR & PRESENTER

Marjorie Mesidor

Chief Visionary Officer & Founding Partner | Mesidor PLLC

Mesidor PLLC

I. PROGRAM FOUNDATION

From HR Compliance to Commercial Risk Management

⚠ High - Pressure Environment

High- volume workflows create blind spots where harassment, bias, and retaliation go unnoticed until claims arise.

⚖ The Commercial Lens

DEI and harassment prevention are essential business risk management tools, protecting firm reputation and client access.

OBJECTIVES 4 Core Pillars: Bias Detection • Client Pressure • Neutral Reporting • 30 - Day Action →

CASE SCENARIO 1 • DEBT COLLECTION & RETALIATION

DISPARATE ESCALATION

Selective Enforcement in Commercial Loan Defaults



Marcus Vance SENIOR ASSOCIATE

Commercial Banking Practice Group

Role: Commercial Loan Audit Lead

Action: Reported disparate fraud templates

The Pattern Discovered

Partner-approved default notices for Marcus's assigned minority-owned debtors used aggressive fraud-allegation templates, while non-minority guarantors received standard cure notices.

Immediate Management Fallout

One week after raising concerns with HR, the practice group leader reassigned Marcus's highest-billing lender accounts citing "performance alignment."

DUAL EXPOSURE RISK

Civil rights/FDCPA pattern claim + Illegal Title VII whistleblower retaliation.

CASE SCENARIO 2 • CORPORATE M&A & MICROAGGRESSIONS

ABA RULE 8.4(g) VIOLATION

Pigeonholing & Misallocation in Cross-Border Deals



Kenji Sato MID- LEVEL ASSOCIATE

M&A & IP Transactions Practice

Matter: $450M Cross- Border Tech Acquisition

Expertise: Complex IP Due Diligence Lead

The Dynamic

Lead partner repeatedly requested Kenji to act as an uncompensated translator during client dinners and assigned administrative tasks over junior white associates.

Career Progression Harm

Denied client- facing negotiation roles on the main transaction agreement, directly hindering milestone requirements for partnership track.

ETHICAL & RETENTION RISK

Stereotyping talent into cultural bridge roles violates professional conduct standards.

What Regulators & Plaintiffs Look For: The Pattern

1

Template Supervision

Unmonitored collection templates and inconsistent tone across files create immediate evidence of bias.

2

Documenting Exceptions

Deviations from standard settlement processes must be recorded with objective, non-pretextual justifications.

3

Audit Verification

Firms must mathematically prove why one debtor matter escalated while another non-minority matter settled.

CRITICAL TAKEAWAY

Intent arguments fail in discovery without documented, neutral operational criteria.

CASE SCENARIO 3 • CLIENT GOVERNANCE & STAFFING

GOVERNANCE SUCCESS

Resisting Improper Client Staffing Demands



Elena Rostova LEAD PARTNER

Restructuring & Bankruptcy Group

Matter: $12M Chapter 11 Restructuring

Demand: Client VP requested male replacement

The Improper Client Demand

Institutional client VP insisted Elena be replaced as lead in court by a male partner, claiming the creditor committee "responds better to traditional gravitas."

The Unlawful Capitulation Trap

Managing partner initially offered to quietly reassign Elena under "workload rebalancing" to satisfy client commercial pressure.

The Correct Governance Response

Firm General Counsel intervened, invoking anti-discrimination policy in client dialogue to affirm Elena's position based on domain mastery.

CASE SCENARIO 4 • DISABILITY & ACCOMMODATION

ADA COMPLIANCE EXPOSURE

Trial Intensity & Interactive Accommodations

David Miller • Senior Associate

Patent Litigation Practice

Requested written instructions and predictable trial prep schedules during an upcoming federal patent injunction trial for ADHD & anxiety accommodations.

Partner Retaliation

Lead trial partner dismissed requests as "weakness" and cut David from the courtroom team.

ADA Failure Claim

Failure to engage in interactive process exposes firm to direct statutory liability.

Key Takeaway: High-stakes litigation pressure does not suspend statutory duties to engage in the interactive accommodation process.

Handling Improper Client Staffing Demands

STEP 1

Accurate Record

Document exact client communications verbatim. Avoid sanitizing notes or emails.

STEP 2

Immediate Escalation

Notify General Counsel and Management Committee before agreeing to reassignments.

STEP 3

Ethics Alignment

Affirm that firm staffing is governed by experience, merit, and legal obligations.

STEP 4

Protect Attorney

Ensure affected lawyer is shielded from subtle retaliation or advancement loss.

Mandatory Rule: Never reassign an attorney to accommodate a client's discriminatory preference under the guise of "workload balancing."

CASE SCENARIO 5 • RAINMAKER MISCONDUCT & ABUSE

HIGH- ORIGINATOR EXPOSURE

Power Imbalances & Misconduct Protocols



Priya Sharma SENIOR ASSOCIATE

Debt Syndication Practice

Target: Verbally abused during deal sprints

Response: Practice chair dismissed complaint

The Rainmaker Exemption Myth

Practice chair advised Priya to "grow thicker skin for commercial deals" regarding Partner Arthur Pendelton's verbal abuse during late-night syndicate closings.

CRITICAL FIRST 48 HOUR INVESTIGATION PROTOCOL

1. **Immediate Evidence Preservation:** Secure emails, Teams chats, time records, and assignments.
2. **Neutral Conflict Assessment:** Determine if internal HR is conflicted and retain outside investigator.
3. **Interim Separation:** Remove direct supervision immediately without penalizing the associate.

Disciplining Discretion in Case & Client Allocation

Objective Qualification

Subject-matter experience, jurisdictional expertise, and verified bandwidth capacity metrics.

Professional Development

Explicit alignment with associate growth targets, succession planning, and mentorship goals.

Efficiency & Constraints

Documented client constraints, cost efficiency, and language or technical skills matching.

The Defense Vulnerability: Discretionary assignments without written criteria cannot defend unexplainable demographic disparities in discovery.

Practical 30-Day Action Plan for Law Firm Leaders

WEEK 1

Audit Templates

Review default form letters, call scripts, and escalation notices for tone and consistency across files.

WEEK 2

Work Allocation

Pull 2-year data on premium client assignments, dead lead roles, and lead court appearance distributions.

WEEK 3

Stress - Test Channels

Walk through a simulated complaint involving a top rainmaker or executive managing partner.

WEEK 4

Structural Reform

Adopt neutral reporting bypass routes, independent ombudsperson access, and written allocation rules.

Measurable Objective: Eliminate single points of failure in reporting and work distribution within 30 days.

3 Non-Negotiable Core Takeaways

1. Patterns Matter

Bias and misconduct emerge through unexamined operational patterns across files, not isolated accidents.

2. No Exceptions

Treating top revenue producers as policy exceptions creates catastrophic institutional liability.

3. Defensible Systems

Documented criteria, preserved evidence, and neutral reporting channels protect the firm under pressure.

CLE PROGRAM CONCLUSION

Questions & Discussion

Building Law Firm Infrastructure That Works Under Pressure

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