

A hand in a dark suit jacket is shown from the wrist up, pointing upwards with the index finger. The years 2021, 2022, 2023, 2024, and 2025 are overlaid on the hand, with 2024 being the largest and most prominent. The background is a blurred outdoor scene with greenery and a bright light source.

BUSINESS IN 2024

WEEKLY WEBINAR SERIES

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Your Host



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TODAY'S AGENDA

Gabe Oberfield – (12:00PM-12:05PM)

- Intros / Agenda
- NYS Budget

Peter Wiltenburg – (12:05PM-12:15PM)

- The Implications of Bart v. Golub Corp.

Kristen Thorsness – (12:15PM-12:25PM)

- Past and Present College Athletes Sue NCAA Over Transgender Participation Rule

Sam Dobre – (12:25PM-12:35PM)

- Plaintiffs Line Up to Challenge “Hidden” Ticket Fees with Class Action Complaints

Camisha Parkins – (12:35PM-12:45PM) (G. Oberfield, Supervising)

- Congestion Pricing Progresses for NYC

G. Oberfield – (12:45PM)

- Questions / Wrap Up

Where We Are on the NYS Budget

- Deeper negotiations are underway...
- Yet, the budget deadline passed – April 1, 2024.
- Extenders are expected through late April.



Credit: Albany.org

The Implications of Bart v. Golub Corp.



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Past and Present College Athletes Sue NCAA Over Transgender Participation Rule



Kristen J. Thorsness

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NCAA Rules for Transgender Athletes

- Sport specific per national governing body standards
- Testosterone suppression therapy for one year
- (August 2024) Semi-annual documentation of testosterone levels

The *Gaines* Lawsuit – 14th Amendment & Title IX

- 2022 NCAA Swimming Championships
 - Shared locker room – privacy, shock and humiliation
 - Deprived of higher placing
- Roanoke College women’s swimming team
- Anonymous track & field athlete
- Fear of having to compete against trans-females
- NCAA pursuing DEI policies to distract from financial exploitation of athletes
- NCAA enforces “code of silence” against homophobic/transphobic speech
- NCAA rules are not fair or consistent

What do Plaintiffs Want?

- Ban transgender athletes from competition
- Withdraw/redistribute awards previously given to trans athletes
- Monetary damages
- Punitive damages
- Attorneys' fees
- Class action?

Possible Defenses

- NCAA not liable for Title IX violations
- NCAA doesn't act “under color of law”
- Univ. of Georgia merely acted as host
- Standing problems?

Soule v. Conn. Association of Schools

90 F.4th 34 (2d Cir. 2023)

- Plaintiffs allege that they were deprived of public recognition, the “chance to be champions” and college recruiting
- District Court held that:
 - The alleged losses too speculative
 - No evidence that defendants knew that their policy violated Title IX
- Second Circuit initially agreed
- *En banc* reconsideration overturned dismissal and allowed the case to go forward

Plaintiffs Line Up to Challenge “Hidden” Ticket Fees with Class Action Complaints



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The New York Arts & Cultural Affairs Law

- Under § 25.07(4), “every operator . . . of a place of entertainment . . . shall disclose the total cost of the ticket, inclusive of all ancillary fees that must be paid in order to purchase the ticket... Such disclosure of the total cost and fees shall be displayed in the ticket listing prior to the ticket being selected for purchase. Disclosures of subtotals, fees, charges, and any other component of the total price shall not be false or misleading and may not be presented more prominently or in the same or larger size as the total price. The price of the ticket shall not increase during the purchase process, excluding reasonable fees for the delivery of non-electronic tickets based on the delivery method selected by the purchaser, which shall be disclosed prior to accepting payment therefor.”

Plaintiffs Line Up to Challenge “Hidden” Ticket Fees with Class Action Complaints

- The law allows for any person injured by a violation to recover any actual damages or \$50, whichever is greater.
- The Court may also award reasonable attorneys’ fees to a prevailing plaintiff.



Recommendations

- Companies should evaluate ticket sale practices and make any necessary changes to comply with the amended New York Arts & Cultural Affairs Law.
- Businesses that work with third-party platforms and ticket resellers should be especially diligent in ensuring their business partners are also in compliance.

Congestion Pricing Progresses for NYC



Camisha L. Parkins

(under the guidance of Gabriel S. Oberfield)

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Background

- **April 1, 2019:** The New York State Legislature enacted the Traffic Mobility Act
 - Directed a congestion tolling program for vehicles entering the Central Business District (“CBD”) (i.e., area South of 60th street)
 - Authorized the establishment of Traffic-Mobility Review Board (“TMRB”) responsible for recommending toll prices and potential exemptions
- **June 2023:** Federal Highway Administration (“FHA”) issued an Environmental Assessment (“EA”)
- **November 2023:** TMRB Recommendations issued
- **March 27, 2024:** Metropolitan Transportation Authority (“MTA”) Board final 11-1 vote approving the toll rates recommended by the TMRB

Program Overview

- **Daytime Tolls (5AM – 9 PM weekdays; 9 AM – 9 PM weekends):**
 - Passenger vehicles: \$15
 - Small trucks (box trucks, moving vans, etc.): \$24
 - Large trucks: \$36
 - Motorcycles: \$7.50
- **Off-Hour Tolls (9 PM – 5 AM weekdays; 9 PM – 9 AM weekends):**
 - About 75% less than daytime prices
- **Gridlock Alert Days:** MTA reserves the right to raise the tolls up to 25%
- **Entry Charge Only:** Drivers will not be charged to leave the CBD or remain in the CBD
- **One Charge Per Day Limit**

Program Exemptions

- **Mandatory Exemptions:**
 - Authorized emergency vehicles
 - Includes: ambulances, police vehicles, correction vehicles, fire vehicles, blood delivery vehicles
 - Vehicles transporting persons with disabilities
- **Planned Exemptions:**
 - Government vehicles
 - Buses providing commuter or transit services
 - School buses that contract with the NYC Department of Education
 - Rideshares and taxis
- **Discounts:**
 - Low-income households
 - “Crossing Credits”

Purposes of Program

- **Ease Congestion**
- **Generate Revenue**
 - Designed to collect \$1 billion in annual tolls
- **Improve Air Quality**
 - Decrease greenhouse gas emissions associated with congestion

Backlash

- **Several lawsuits challenging the CBD Tolling Program**
- **Criticisms:**
 - Lack of sufficient exemptions
 - Very few exemptions included by design
 - Disproportionate impact on neighborhoods with fewer transit options
 - Concerns about traffic and resulting harmful emissions being diverted to other neighborhoods
 - Demanding an environmental impact statement
 - Impact on the 2021 “Green Amendment” to the New York State Constitution Bill of Rights

Going Forward

- **March 27th Vote:** Marked a major step forward
- **Lawsuits Produce Uncertainty**
- **Anticipated Start Date:** Spring 2024

Your Questions



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WORKPLACE 2024

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(under the guidance of Gabriel S. Oberfield)

New York Employment Law: The Essential Guide

NYS Bar Association Members can buy the book from the bar [here](#).

Non-NYS Bar Association Members can purchase through Amazon [here](#).

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It is not to be considered as legal advice.
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