

# Proving Employment Discrimination & Retaliation: Issue-Spotting & Tracking Evidence

*Learn how to identify and gather circumstantial evidence, and devise strategies of proof or defense*

Direct evidence of discrimination or retaliation in employment cases is relatively rare in the modern workplace. Consequently, employment law practitioners must understand how to prove their cases through circumstantial evidence—which includes evidence that an employer’s purported business reasons for an adverse employment action was not justified or valid, and therefore raises an inference of discriminatory or retaliatory animus.

Hear from both plaintiff-side and management-side counsel about the key aspects of discrimination and retaliation law under Title VII and G.L. c. 151B and types of pretext evidence to be on the lookout for. The faculty teach you strategies to approach proving your claims or defenses—both at the agency level at the Massachusetts Commission Against Discrimination (MCAD) and the U.S. Equal Employment Opportunity Commission (EEOC), and in court. You also learn how to preserve, collect, and organize evidence of discrimination—particularly electronic evidence, at all stages of a case.

## Agenda

- Elements of Discrimination and Retaliation Law Under State and Federal Law
- Various Types of Pretext Evidence That Raise an Inference of Discriminatory or Retaliatory Animus
- Issue-Spotting Tips from Plaintiff and Management Counsel’s Perspectives
- Approaches to Proof of Claims and Defenses at the Agency Level v. Court
- Collecting Evidence at the Earliest Stages of Cases, Including Electronic Communications, Social Media, Personnel Records, and Witness Statements
- Keeping Track of Witnesses, Including Former Employees
- Guidance on Preservation Requests and Litigation Holds
- Best Practices for Organizing Evidence for Use in Discovery, Summary Judgment, and Trial
- “Ask the Experts” Q&A Session

## Faculty

Catherine M. Scott, Esq., *Morgan, Brown & Joy LLP, Boston*

Monica R. Shah, Esq., *Zalkind, Duncan & Bernstein LLP, Boston*



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## Dates & Location

Register at [www.mcle.org](http://www.mcle.org)

### LIVE WEBCAST

Thursday, November 16, 2023  
12:00 pm–2:00 pm  
Program # 2230025WBC

### REBROADCAST

Friday, December 1, 2023  
9:00 am–11:00 am  
Program # 2230025RB1

### REBROADCAST

Monday, December 11, 2023  
2:00 pm–4:00 pm  
Program # 2230025RB2

### ON DEMAND WEBCAST

View after Monday, December 11, 2023  
Program # 2230025WBA

## Tuition *(includes written materials)*

- \$145
- \$130.50 MCLE Sponsor Members
- \$72.50 New Lawyers admitted to law practice within 5 years, Pending Admittees, Law Students, and Paralegals
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## Materials

*Employment Discrimination in Massachusetts* ebook, plus speaker materials

- E-materials link emailed upon registration
- Transcript & videorecording emailed 2 weeks post-program

## CLE Credits

Earn up to 2 CLE credits