

Labor-Reads-with-Marjorie-Wittner

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SPEAKERS

Marjorie Wittner, Emily Martin

- E** Emily Martin 00:08
In this episode of the PERColator Podcast, my guest is Marjorie Whitner, the chair of the Massachusetts Commonwealth Employment Relations Board. I met Marjorie a few years ago at a conference. It was the annual meeting of the Association of Labor Relations Agencies. In this episode, Marjorie and I are going to talk a little bit about her role at the agency, which is the Massachusetts counterpart to the Public Employment Relations Commission in Washington State. We'll talk about how she ended up having a book club at the ALRA annual conference. And finally, we're gonna talk a lot about some books and popular culture that relate to conflict resolution, and labor relations.
- E** Emily Martin 00:52
Welcome, Marjorie, thanks for coming to the podcast today.
- M** Marjorie Wittner 00:55
Thank you so much for having me, Emily.
- E** Emily Martin 00:57
Tell us a little bit about your role at the Massachusetts Commonwealth Employment Relations Board.
- M** Marjorie Wittner 01:01
Well, on a daily basis, I do a lot of writing. But the Department of Labor Relations is very much like the National Labor Relations Board. People file charges of unfair labor practices, come to us for union elections, it's 99% public sector with a teeny little bit of private sector that the NLRB

doesn't take jurisdiction over. So we have hearing officers and mediators and investigators who first investigate the unfair labor practice charges as they come in. And if there's probable cause will go to a hearing, if there's not probable cause, they'll dismiss it. But unlike in the National Labor Relations Board, that dismissal letter is appealable to my three person board called the Commonwealth Employment Relations Board, with the appellate body within the agency, just like the five person National Labor Relations Board is the appellate body before all of the regions of the NLRB. We're appointed by the governor, I'm the full time chair, and I have two per diem members. So I'm there for two days a week for now reading the party's briefs, it's mostly a cold record for me. And then then I meet with my board roughly once a week, and we decide you know, whether or not we agree that there's probable cause sometimes we remand it and say we find that there is probable cause sometimes we say no, you were right, there's nothing here. And then if the matter goes to a hearing, it's the same process, the hearing officer will hold the hearing in the first instance and write a decision, and then the parties have a right to appeal any decision to my board. And then we deliberate, and then I do most of the heavy lifting in the drafting because I'm the full time person. Other hats that I wear, I do the unit clarification petitions. I don't know if Washington PERC has an equivalent of that, but it's you know, if there's a new employee, what bargaining unit should they go into? Particularly when I first came on as the chair, there wasn't really a pipeline, this whole system of a separate hearing officer followed by appeals to the serve was part of a reorganization of my agency in 2007. So we really didn't have a pipeline before that. So I said, let me make myself useful. I'll take the unit clarifications. And everybody said, Yeah, Marjorie, take them. So I spent a lot of time with bargaining units, and it's good because it keeps my hearing skills fresh. And it's good to mix it up, as I'm sure you know, not just reading a cold record and writing but getting out and being with the parties and holding hearings. So that is what I do.

E

Emily Martin 03:28

In a lot of ways it sounds like it's similar to Washington PERC in terms of some of the roles that you do and the agency does. But structurally, there's some differences as well. So it's not like there's one counterpart exactly to you here in Washington,

M

Marjorie Wittner 03:41

Right. I know that you have Marilyn chairing your board for many years. But, right, It's not perfect, It's kind of unique. We also have I mean, we have mediators as well who mediate not just the unfair labor, practice disputes, but mediate contract disputes. We don't for non-public safety, we don't have any arbitration. It's just kind of mediation that goes to factfinding, which is just a recommendation. But for public safety, we have something very unique called the Joint Labor Management Commission, which is exclusively for fire and police and a bunch of mediators and peer mediation, also, the members of that committee, or either union officials from other municipalities or town managers or things like that, and they help the relative parties get to a contract hopefully, or but they could go to a form of binding arbitration. So that is the DLR, does a little bit of everything. I don't mediate. I don't get involved in any ULP's that I could possibly get on is as the appeals body.

E

Emily Martin 04:43

I met you at the Association of Labor Relations Agencies, which is an association of labor

I met you at the Association of Labor Relations Agencies, which is an association of labor boards in the United States and Canada and the conversation we just had, it's like some of the best part of ALRA, is where we can say, hey, what does, what does it look like in this jurisdiction? What does it look like in that jurisdiction? How do you do things? How do we have different ideas? I really value ALRA for that ability to learn from different entities and different jurisdictions and thinking about how can the work be done in different ways and getting different inspiration.

M

Marjorie Wittner 05:11

I call them my parallel universes, I first, you know, learned the value of it. There's there's a little mini ALRA in New England, appropriately called the New England Consortium of Labor Relations Agencies. And I got involved with that, when I was just a hearing officer and chief counsel at the previous iteration of my agency, and and what a treat, you know, how do you do what there? How do you do it there? And just to be able to send out an email and say, Hey, have you ever had a case like XYZ and get responses and because as you may or may not know, Washington is terrific about this, but not all of the smaller labor agencies have decisions that are easily accessible, but we all have it up in our heads. And so it's true, the the New England Consortium, and of course, ALRA, is a fantastic resource for us public servants.

E

Emily Martin 05:59

And one of the things ALRA, is that you've been part of a book club, you've started the conversations about having a book club within ALRA. So I thought that would be fun to talk about here today. Tell me about the book club inspiration in ALRA, what made you think that would be a fun or useful part of the conversation?

M

Marjorie Wittner 06:16

Well, I owe much to Tim Noonan, who for years was director of the Vermont Labor Board and involved in ALRA, and I'm a former president of ALRA. And I'm going to say around 2017, or 2018, he was happy to contribute to the ALRA newsletter, The Advisor, and he just did Good Labor Reads. That's what he called it, "Good Labor Reads" in quotes. And I thought that was kind of fun. Then at a planning meeting for the 2019 ALRA session, and I think Sarah Cudahy was there, who I saw was just on your show, came up with the brilliant idea for the conference called the neutrality buffet, because a complaint, perhaps a comment might be a nicer term that we received in evaluations post conference was, there are too many things to go to, and not enough time. And we would just love to do everything. So we tried to come up with ideas for a buffet, a smorgasbord, whatever you want to call it of, you know, two and a half hours of 20 minute sessions where people could hop from table to table and just get just a taste of something different. I know you've done social media, we've had decision writing topics. And I think almost half jokingly I said I want to do a book club, because I belong to a book club. I've always loved to read. And everybody said, Great, Marjorie, it's yours. And so then I had to think about how is that going to work in 20 minutes, any book club that I've ever been in? Everybody's read the book, this would be 20 minutes of people you don't know, coming to you, and how do you begin the conversation? So I began by just gathering from ALRA people soliciting anytime I spoke to anyone, probably being a little bit annoying in that regard. Tell me a good book that you've read about, related to labor relations. And I kept it deliberately broad

because our agency does, there's so many different facets to what we do. We're adjudicators, we're writers, we're mediators, sometimes we're negotiators and we also got into this field, presumably because we were just interested in the principles and history of labor relations itself, the idea of workers gathering, collectively to bargain for terms and conditions of employment. And we got a really comprehensive, I think about, you know, starting with Tim's book as kind of the root source, we expanded on it, and then for 20 minutes in Cincinnati, and I needed to, I had to ask permission, because it was just early in the afternoon, but I brought wine because it's not a book club without wine. And I brought goldfish, big bowls of goldfish, because you need to snack too, about eight people sat around the table for 20 minutes, and it didn't matter that nobody had read the book. You know, Tim did it with me, which was terrific. And we started with the list of books and then, and also movies and TV shows because there have been many terrific movies highlighting the labor movement, and people added their own which resulted in a post-conference list that we then put on the ALRA Advisor, and it's on the ALRA website, and I put asterisks next to the books that people had volunteered and I look back at it now, and it's really good. So we thought we would revive it this year virtually. And I did the same process of being a nudge of give me your new books. And I also did a lot more research to see what's been going on between 2019 and 2022. And, you know, it really hasn't been that eventful for three years, really not, not, not much has gone on at all, not true. And we tried to create it online. And what was interesting to me certainly was to see that the different categories of books, so I do have a section on the pandemic, and the books that have already come out and how to do work in the pandemic, you know, how to be your best in a digital meeting and other things. And also, what I saw more of that's been written, are several books about more marginalized groups, people's roles in the labor movement. So there's a book about LGBTQ's role in the labor movement and several books on the role African Americans played in the labor movement. So I was personally enhanced by the research, and it was more challenging, truthfully, to do it online. But we muddled through, you know, without the wine and, and the goldfish, it was a little bit harder, but but we muddled through, and I hope to do it again next year, if they'll have me in Vancouver (Plug, plug) for next year's conference in Vancouver in person.

E

Emily Martin 11:22

And we should mention that the conference has elements for just agencies, but also has an advocates' day, where it's open to advocates. So everybody who wants to come to Vancouver, whether you're from an agency or just an advocate representing union or management, you can come to ALRA and be part of our advocates' day. I love the idea of the book club, because it changed the format of, even though neutrality buffet and the idea of having conversations about books and literature and art, is a different way to have professional development is a different way to learn from each other and to share what's inspiring and share, share where you're learning from. And I also feel like thinking about how to be better at, whether it's be better being a hearing examiner, or be better at being a negotiator. There's so much we can learn from the different types of books we read. So in terms of thinking about how to improve our negotiation skills, or how to improve our advocacy skills, our labor relations skills, this, this idea of it doesn't have to be a traditional CLE, where somebody gives a lecture, all of that it can be a different kind of format, which is really important to think about, developing one's ability to be a better negotiator, better at what you do.

M

Marjorie Wittner 12:34

Absolutely, Emily!

E

Emily Martin 12:36

So I thought the book club was great.

M

Marjorie Wittner 12:38

Yeah, as I thought about it, I thought it actually satisfied many ALRA goals at once. One of the comments we get in evaluations is we want it to be more participatory. And I think in general, education itself has is moving away from the lecturer standing behind a desk and or writing on a blackboard. So that was, you know, one aspect, it was participatory. Also, it's just a great icebreaker in ALRA, we're always trying to get more participants to come and be excited about it. But there's no question it can be a little daunting, if it's your first time. But you know, there we were just all around the table talking about books that we loved, immediately finding common ground, even if it's not the same books, just the fact that we all love to read and think about these things. And finally, as you say, you know, just the educational aspect of it. I don't know, are you familiar with Atul Gawande at all, he did a fantastic. He's a surgeon out of the Massachusetts hospitals, but he's also a writer for The New Yorker. And he did a TED talk. And then a New Yorker article a few years ago about how even the most experienced of us can use a coach from time to time and he talked about being coached in surgery. And so I think of ALRA generally, and then the book club is, you know, kind of an inexpensive thing, well not the same as hiring a personal coach, but way of of just, you know, being coached in what we do, you know, none of us, none of us are so marvelous at what we do that that we can't be improved upon. And books provide a great way to do it.

E

Emily Martin 14:18

I love the idea of the tool of the book club to learn. I also love that you have these lists. One of my secret agendas of having you on the on the podcast is to be able to share a version of the list with our listeners. I hope that we'll be able to do that and attach that and in terms of the materials. I thought it would be fun for us to talk about some books. We're here, we like to read! Tell me, tell me some of the books that jump out to you, that you find or tell me about a book that you've found great.

M

Marjorie Wittner 14:51

Well, first I should preface it, is I think most people maybe I'm exaggerating a little, can be divided into, do you like fiction better, or do you like nonfiction better? And I have always been a fiction gal with exceptions for memoirs and autobiographies to me it's all about kind of the story instead of the the cold facts. My silliest book would be the Harry Potter that I put in here because in in, and it's in the list, and I'm not going to spend time riffing through it, but you could see it in the list and maybe the third or fourth book, Hermione decided to start a house elves union. And what was so interesting because she just felt that the House elves were, you know, just treated terribly. And what was so very interesting is the, some of the hostility she she she got from the house elves, which really surprised her. So there are all sorts of lessons in

that. And of course, you know, I think as labor relations professionals, we're all delighted when anything about unions comes up in an unexpected way. So so that that was a fun one. Also in 2019. Two memoirs were fantastic, one was called Janesville an American Story by Amy Goldstein. And she writes about the fallout from from the closing of a General Motors assembly plant in Janesville, Wisconsin, and she's a magnificent reporter, and she follows it for 10 years. But it's not just from the workers who lost their jobs. It's the bankers. It's the teachers who had to deal with a lot of stress on their students due to the breadwinners, losing their main source of income, the politicians, the job re- trainers, I mean, you really get a very 360 degree view of what went on. And then another book called Heartland, A Memoir of Working Hard and Being Poor in the Richest Country on Earth, Sarah Smarsh, also a fantastic writer, talks about Kansas, and describes the challenges of growing up poor in the Midwest, again, eye opening for me. Also from the first, that may about it for me, it says, oh, Managing High Conflict People by Bill Eddie. The Canadians in particular, we should mention Canada, because the Association of Labor Relations Agencies is the US and Canada, and this was frequently mentioned by our Canadian counterparts. Bill Eddie writes beautifully and just talks about, you know, as adjudicators, mediators, we all encounter high conflict people and he has really concrete ways of addressing moments, whether it's during a hearing, so I highly recommend that. And just a couple of documentaries, HBO films, The Last Truck: Closing of a GM Plant, and then American Factory, when China sequel when the Chinese bought that plant, just all really good stuff. And then our latest addition has a couple of negotiation books, which again, as an adjudicator. I don't read a lot of negotiation books, but but but these were quite eye opening, because as adjudicators we're persuaders whether I have to persuade my board, sometimes because I believe that a, you know, a decision should go a certain way or, or to persuade those that read it or, you know, or my decisions, by the way, one thing I neglected to say is, my decisions go into the state appeals court. And so you need to write persuasive decisions. And so, two books were very interesting to me. One was Never Split the Difference, Negotiating as if Your Life Depended on It. And then pre-conference, I know, Emily, you had some opinions on that. And it's written by a former FBI hostage negotiator, you know, you pick and choose what you like. But what I loved about my discussion with you about this book was what I love about book clubs, because you made me look at it a different way. I mean, what did you think about that book?

E

Emily Martin 19:10

I was thinking about what we talked about. And then I was thinking about, there is sort of a general principle where you don't want to, I saw this on the internet, and it was like, don't yuck somebody else's yum, like don't don't like say bad things about what other people enjoy. So I know lots of people enjoy it. It wasn't my favorite book. You know, I felt like there was a, there's a different power balance between a hostage negotiator and somebody in that situation that feels different than a lot of other conflict resolution elements of it. So some of that, that perspective, I felt like came from this point of view of somebody that was in a situation where there was a lot of resources on one side and not a lot of resources on the other side. And I'm not saying it should be equal resources. I understand the situation. It's a crisis and you're trying to keep people safe. But in terms of translating that are to other kinds of negotiation settings. That's what sort of bothered me about using that metaphor and thinking about what we can learn about that in different situations. That's sort of one of my questions about, about that idea, because I think it's a exciting and it's a thrilling area that I don't know, again it gave me pause in terms of how useful that is. But I know lots of lots of people in conflict resolution, really love studying that example to learn from. And I know in Washington, there are people in the

ADR community who are thinking about, like, let's talk about movies that deal with hostage negotiations, and think about how that applies to conflict resolution. It's just my personal point of view, though.

M

Marjorie Wittner 20:42

Well, that's what makes the book club so interesting. And I didn't think about that power disparity, or the, you know, just disparity in resources, I was more kind of looking to pluck from it, what I could, and then another one of my favorite books was actually in the 2019 one, How to Argue with a Cat. And I kind of put them side by side today. And we should say, that's by Jay Heinrich, and he's, he's a retro retention, and uses a lot of Greek words, and I never studied debate or anything like that. But, but But you could find a commonality in all of them, which is to, you know, be stay calm, don't get riled.

E

Emily Martin 21:33

Don't tell the other party to be calm.

M

Marjorie Wittner 21:37

Right! Never tell the other party to be calm, give choices. And mainly, you know, try to make the other party believe somehow, if you can, and this this takes skill and practice, that they're the ones in control. So you know, the the cat example is if you know, the cat is just refusing to eat dry food and only wants wet food but for whatever reasons, your veterinarian says, dry food for now, you set out a bowl of two different dried foods, well, then the cat has a choice. And anybody you know, who's who's negotiated, as you know, you could well we could do this, or we could do that. And the other person says, Uh huh, right, that I'm making the decision now. And in fact, you know, you've carefully crafted what those two choices are going to be. And certainly, I can't say I'm always deliberate when, you know, I'm discussing things with my fellow board members, but it almost defaults to that, well, you know, this precedent says this, this precedent says that or, you know, even discussing the two parties arguments, kind of presents that choice. And, and there's just a lot there. It also requires, you know, mindfulness and presence of mind to do it, instead of just throwing up your hands.

E

Emily Martin 22:55

I read that one last night. And then this morning, I'm like, oh, I want to get a really cute picture of my cat with this book, right? Like that would be fun for social media picture. And my cat does not want to pose in a cute way with the book. And I was stressed and I was trying to press it, I was like, I want to do it now. And it was not the right time, I did not have the treats out, I did not get food out.

M

Marjorie Wittner 23:17

You did not build the ramp?

E

Emily Martin 23:18

I did build the ramp, I did not give him the good thing. I was just saying let's do it. And then the puppy decided to try to be part of it. And like that was not making it good. He was not looking cute with that. So I need to think about the book and try to negotiate with my cat to get a good picture. And then think about how I can apply all those things outside of my, my house.

M

Marjorie Wittner 23:44

It's true. One other book that I do want to read and have not yet done so, is a book, *Storytelling for Lawyers*. Because, you know, as I mentioned, I like fiction, part of the reason I was drawn to labor law, as opposed to other areas of law is because there's always a story there. And any effective decision is going to tell a story, you know, I have to say from my unit clarifications, it's a bit harder to tell the story often the most exciting part could be why did they decide to create this new position? Sometimes there's a story there. But then, you know, when I get into the education required, that's it's harder to make that dramatic. But any efforts, you know, just speaking from the adjudicators point of view to tell your story and to be persuasive, all of these books, I think could be very useful, whether they be mediation or legal writing or any of that. So I will, in my free time, spend time with that.

E

Emily Martin 24:48

Yeah, there's endless possibility, endless possibility, oh, I had the recommendation for you. I had a book for your list called, *The Cold Millions*, by Jess Walter. This is a book I heard about last winter and I bought myself a coffee, and I've really bad about actually finishing books. If I don't have a deadline, or I don't have a reason to talk to folks about it. It can linger for a really long time. So I finally read it.

M

Marjorie Wittner 25:16

Did you finish it?!

E

Emily Martin 25:17

I did finish it, I did it! I finished it last week, it was good. It is the story of, it's set in around 1910 in Spokane, and at a time where there is labor organizing, and there's protests and reactions to the protests and time of of laborers and mine workers and these job agencies that people would get a job and then the the agency would make money by hiring, getting somebody hired. So therefore, those people wouldn't last very long, so they could hire more people. So it was this whole corrupt system, where the workers really couldn't really get ahead, and the workers were trying to organize and have this context. But it's it's a fictional story set in Spokane, when Spokane was young, and it was filled with theatres, and vaudeville. And, and feels very different than the city I've been to, you know, I go to Spokane for work. And it doesn't, that history there gave me a different depth of understanding that city's history, which I thought

was really, really interesting. So I really appreciated understanding some elements of the labor past and the context of what the city was like 100 years ago, I thought that was that was really valuable. And it was an interesting book in that it mixed historical figures with fictional characters to tell the story, so there are real people.

M

Marjorie Wittner 26:37

I love when they do that. I love when they do that. I mean, I learned so much more about history that way. I read a book called, *The Sympathizer*, by a Vietnamese author that that took place during the Vietnam War and its aftermath. And I learned so much more about the Vietnam War, you know, to put the real events, but in, in the context of a fictional story with characters you care about, and are, you know, typically struggling in some way, to me brings it to life. Now, some people would disagree, if Tim Noonan were here, the number of you know, straight history books that he has read is so impressive. And he's so learned, I just sat there kind of, you know, talking about Harry Potter, but I think in our in our own way, just there's just the urge to kind of educate oneself. And I started *The Cold Millions*, I haven't finished it. But what fun to learn about the wobblies, who, and to see the parallels of our economic times now, with with those of, you know, over 100 years ago.

E

Emily Martin 27:57

You know, you say Harry Potter, but I do think that like, it's not just books is how we see these issues play out in different forms of art, whether it's movies, TV, whatever. My favorite TV show right now is, *What We Do in the Shadows*. I don't know if you've ever you ever heard?

M

Marjorie Wittner 28:12

Is that the vampires?

E

Emily Martin 28:13

The vampires! And there was, so last season, they had scabby the rat, made an appearance. It was very exciting for labor relations, folks. And then there was an element of employees work. So there is this season has a little more labor. I mean, it was not good labor practices in any way. But, but season, the new season does have did have a really good labor scene, maybe two episodes ago.

M

Marjorie Wittner 28:51

Well, I was asking, one of the questions on my online book club was just to see how people's reading habits or viewing habits changed. And I actually got a split. Frankly, some people said they were reading much more and other people said that they were just, you know, streaming, but it caused me to think of, you know, how could we have gotten through this pandemic? Without the art that that came to us? Either through our screens or in our hands? So I am very grateful for that. Hey, have you, speaking to TV shows... Have you watched *Severance*?

E

Emily Martin 29:31

Oh, yeah. I think that was a really interesting chat. I was thinking about the dance party. When was that seen as the dance party? You know? There's there's that dance experience.

M

Marjorie Wittner 29:44

Right. You you and you get to you get to pick your music. For for anybody who's not listening, that that's a TV show where people voluntarily, we think at least, surgically divide, get a chip put in their head that completely separates their work persona, their "innie" from their outside persona, their "outie", and all of the things that could possibly go wrong afterwards, and it's it's very dystopian and a little dark.

E

Emily Martin 30:17

And what happens when people want to collectively try to change the situation they're in? You know, I think I think you mentioned before to me, there was an article about that, as this show talking about it as a collective action story.

M

Marjorie Wittner 30:33

Right. I think probably that it's it's such a peculiar series that you could put any spin on it that you, view it through any lens, but you could certainly look at it as as the "innies" get more and more frustrated, the collective action they try to take to figure out who they are and, and what the heck they do all day. If nothing else, it's just a diatribe against meaningless work. Certainly.

E

Emily Martin 31:02

I totally agree. I'm looking forward to the next season. I think it was excellent. I'm with you. I'm definitely one of those people who is streaming more and reading less in the last few years. And I'm not sure why, it was harder to keep going with a book, unless I had somebody to talk about the book with, I needed to have an appointment or schedule or a plan, like read a book with some friends, and then we're going to talk about it. I think that community part of it kept me reading in a way that I was struggling with as being an independent reader during the last few years. It feels like it was much easier to stream, watch stuff, watch movies and television shows.

M

Marjorie Wittner 31:41

And also just to find the time, I mean, we have all I think been very busy during the past few years, adjusting to new ways of doing work, adjusting to having meetings like this one, and there are just more distractions.



Emily Martin 31:58

Well, thank you for coming today and talking about books with me. I really enjoyed it.



Marjorie Wittner 32:02

It's been an absolute pleasure and I hope to see you next year in Vancouver, Emily.