**13-F | SIMILAR CONDUCT**

On occasion, evidence that similar conduct has occurred may be proffered for different reasons. For example, the plaintiff's counsel make seek to introduce evidence that there was similar conduct in order to show that the employer had notice that of a particular co-worker's alleged harassment of other employees. As another example, the plaintiff's counsel may seek to introduce "similar conduct" evidence to show a "pattern or practice" of discrimination. Whether such evidence is admissible and probative will depend on the jurisdiction involved and a number of factors including but not limited to the following: 1) the type of claim involved; 2) whether the incident(s) is (are) related; 3) whether the incident(s) of similar conduct violates the law; and 4) whether the alleged similar conduct has any relevance to and is probative of the subject claim. In addition, the traditional rules of evidence may also affect the admissibility of the evidence. See e.g., Fed. R. Evid. 403 (whether the prejudicial effect outweighs the probative value).

*(American Bar Association // Section of Labor and Employment Law*
*Equal Employment Opportunity Committee // EEO Law Basics // Spring 2006)*