

**REPORT OF THE EXECUTIVE DIRECTOR**

**To The**

**AMERICAN BAR ASSOCIATION BOARD OF GOVERNORS**

**Monthly Highlights and Personnel Report**

**April, 2010**

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## **MEMBERSHIP:**

The lawyer category of lawyer membership is down from the same period in FY2009 by 15,117 members, or 4.9%. A membership decline of 5% was expected and the FY2010 dues revenue budget was adjusted accordingly.

## **PERSONNEL:**

At the end of April 2010, 943 positions are filled and we are actively recruiting for 36 positions.

## **PROGRAMS AND PROJECTS:**

### *ABA Journal*

- Legal Rebels, the Journal's project profiling innovative attorneys remaking the profession, is returning in 2010 after a hugely successful debut in 2009. We plan to focus this year's edition on solo practitioners, in support of the ABA's solo dues reduction.

Nominations have been solicited from our readers and we have encouraged them to sign the Legal Rebels Manifesto on <http://www.LegalRebels.com>. In August at the Annual Meeting, we'll be hosting a seminar about how solos can better run their practices. And later that month, we'll be showcasing a *Rebels in the Heartland* tour, featuring reports from two legal bloggers who are speaking at and traveling between two solo conferences sponsored by state bar associations.

We plan to post a solo profile a day online at LegalRebels.com during September, kicking off with a September cover story in the magazine. We'll also be posting video excerpts from our August seminar on LegalRebels.com during the month.

The whole project leads into the Membership Department's Smart Soloing School – a three-day virtual event being held exclusively for ABA solo members in late September. Solo members will be able to get all their annual MCLE credits through the School for free. It's one of the ways we're bolstering the value proposition of ABA membership for solos. The Journal is in the process of selling advertising for both projects.

- We've begun a series of monthly audio podcasts, bringing together experts on a topic in the news, such as alternative billing or how law firms can manage social media. We're also producing podcasts when major stories break, such as the nomination of Elena Kagan. Several advertisers are interested in the podcasts – evidence multimedia formats in legal information are catching on. The podcasts are available at: [http://www.abajournal.com/topic/aba\\_journal\\_podcast/](http://www.abajournal.com/topic/aba_journal_podcast/)

### *Administrative Law & Regulatory Practice*

- The Section held the first in a series of free programs on Regulatory Compliance. The Series of four programs will explore different aspects of four laws that are intrinsic to the rulemaking process: the Regulatory Flexibility Act; the National Environmental Policy Act; the Data Quality Act; and the Paperwork Reduction Act. The first program held on April 29 covered the Regulatory Flexibility Act (RFA), which requires agencies to consider the economic impact of their actions on small entities and consider less costly alternatives.

### *Antitrust Law*

- The Section held its 58<sup>th</sup> Spring Meeting in Washington, DC. There were approximately 2,200 registrants prior to the meeting (the final tally is pending). As this meeting has substantial international attendance, the volcanic ash presented a challenge for some of the European registrants, but the meeting overall, was a huge success. The Section's inaugural Supreme Court Swearing-in program was also successful. Twenty-four antitrust lawyers were sworn in to the bar of the U.S. Supreme Court on April 19-20. The Section anticipates repeating the event next year.
- Upcoming CLE Conferences/Meetings include: a program cosponsored by the Section at the Inter-Pacific Bar Association 20<sup>th</sup> Annual Conference, May 2-5 in Singapore; the annual Chair-Elect Planning Meeting on May 13-14 in Houston, TX; the Antitrust Innovation Symposium on May 20-21 at Stanford Law School; and the Antitrust in Healthcare Conference (cosponsored with the Health Law Section, and the American Health Lawyers Association) on May 24-25 in Arlington, VA.
- The Section, in collaboration with the Public Education Division, has completed its antitrust curriculum for high school students entitled "Antitrust Laws and You! Understanding Antitrust Laws, Competition, the Economy, and Their Impact on Our Everyday Lives." The curriculum is available via the Section's and the Public Education Division's websites.
- The Janet D. Steiger Fellowship students are set to begin their various summer internships – 20 students were selected to participate.

### *Armed Forces Law (StC)*

- The Standing Committee held its Spring Meeting via conference call. Topics of discussion were Model Code of Military Justice for the National Guard, Environment and Military Readiness, Sexual Assault issues in the Department of Defense and Expanded UCMJ Jurisdiction.

### *Bar Services*

- Bar Services staff presented a workshop session on bar association resources for ROLI directors in Washington D.C.
- Bar Services staff facilitated planning sessions for the El Paso County Bar (CO); Shreveport Bar Association, and the Virginia Bar Association.

### *Bioethics and the Law*

- The Committee is finalizing preparations for an Annual Meeting program on the recent US District Court decision rejecting Myriad Genetic's patenting of genes related to breast and ovarian cancer.

### *Business Law*

- The Section continued working closely with the ABA Publisher and Deputy Publisher to transition the Section's magazine, *Business Law Today*, to an electronic-only format. This has been identified as one of the Section's highest priorities for the next several months.
- Nine Diversity Clerkship participants have been selected for participation in the 2010 Diversity Clerkship Program. Diversity Clerkship participants will spend eight weeks clerking for judges in the Philadelphia Commerce Court and the Delaware Court of Chancery. Each Clerk receives a \$6,000 stipend to cover living expenses for the summer.
- The Fellows, Ambassadors and Diplomat Program (FAD) applications were due on April 30. The Section will be selecting, in early May 2010, up to five Fellows, five Ambassadors and one Diplomat to participate in the 2010-2012 Class.
- The Section's Diversity Committee sponsored a well-attended and informative CLE program at the Spring Meeting, "What is Diversity and How is it Relevant in Today's Economy," which explored how the importance of diversity has changed in corporate law departments in recent years as the economy has changed.
- In April, the Section published two books: *Annual Review of Developments in Business and Corporate Litigation, 2010* and the *Handbook for the Conduct of Shareholders' Meetings, 2<sup>nd</sup> Edition*. To date Business law has published six new titles in fiscal 2009-2010 and one PDF. The new PDF is called *Drafting Dispute Management Clauses*. Estimated April revenue is tracking at approximately \$123K, which is right on target for April. The Section originally budgeted to publish 16 new books this fiscal year, and that number is now reduced to six books and two PDFs.
- Partnering with the Colorado Coalition to End Hunger, the Section raised over \$1,000 in conjunction with the 2010 Spring Meeting to subsidize nutritious lunches for low-income children during the summer months.
- The Section presented its National Public Service Awards during the Spring Meeting Section Luncheon, recognizing the IBM Law Department for its pro bono legal services to nonprofits and Doug Rogers for his efforts in assisting Ohio homeowners in distress.
- The Section had 1,408 registrants, including 85 on-site registrants at its Spring Meeting held in Denver that featured 61 CLE Programs (9 CLE Programs specifically designed for the Young Business Lawyer), 56 Committee Meetings and 202 Subcommittee Meetings. One hundred percent of the CLE programs met speaker diversity requirements. Sponsorships spiked in the two weeks prior to the program, and BL landed a Section dinner sponsor, as well as filled out its exhibit area.
- The Section solidified its relationship with The Association for Corporate Growth® (ACG®). ACG was one of the sponsors of BL's Spring Meeting and is

promoted its Spring Meeting to its membership. Also, the Section had a membership booth at ACG's 2010 Intergrowth Conference held May 4-6 in Miami Beach, where attendees were able to network and discuss, with leading middle market M&A and corporate development professionals, the business outlook in the middle market sector. You can obtain more information about ACG and the Intergrowth Conference at <http://www.acg.org/>. ACG is a global organization for middle market M&A dealmakers and business leaders. Its membership includes business executives, private equity and venture capital funds advisors, investment bankers, accountants, valuation professionals, attorneys and other professionals involved in investing in or advising companies. Den White, who is an active member of the BL Section and its Mergers and Acquisitions Committee, is ACG's Chairman of the Board. The Section looks forward to an ongoing, mutually-beneficial relationship with ACG.

- The Section, through the ABA blanket authority process, sent a letter on April 23 to Senators Dodd and Shelby (and all other members of the Senate Banking Committee) expressing the Section's opposition to Section 926 of S. 3217, the "Restoring American Financial Stability Act of 2010.

### *Center for Continuing Legal Education*

- The Center for CLE held the fourth in its year-long series of stakeholder meetings on May 10. Staff briefed those attending on a proposed strategy for returning the Center to profitability, while simultaneously increasing revenue to the ABA entities which are its clients. The Standing Committee on CLE is currently reviewing three alternative business models for the Center, and expects to seek approval for the one it selects at the Board of Governors June meeting.

### *Center for Professional Responsibility*

- Client Protection: The Standing Committee on Client Protection submitted a Report and Recommendation for consideration by the House of Delegates at the 2010 Annual Meeting that proposes that the Model Rule on Financial Recordkeeping be replaced by the Model Rules for Client Trust Account Records. The Committee is finalizing program details for the upcoming June 4-5 National Forum on Client Protection. Counsel reviewed and commented on a draft Report and Recommendation from the Section of legal Education and Admissions to the Bar that proposes amendments to the Model Rule on Admission by Motion; prepared materials and information on the Model Court Rule on Provision of Legal Services Following Determination of Major Disaster for the ABA Media Relations & Communication Services for use in a presentation by President-elect Zack; provided materials and information on the ABA Model Court Rule on Insurance Disclosure to the Chair of the subcommittee of the South Carolina Bar's Professional Responsibility Committee that is studying the issue of professional liability insurance disclosure; and prepared a chart on the MJP provisions contained in state rules for lawyers' funds for client protection.
- Ethics: Members of state judicial code review committees were notified that the ABA Standing Committee on Ethics and Professional Responsibility would be filing a Report and Recommendation with the ABA House of Delegates at the

2010 Annual Meeting that recommends amendments to the Application section of the 2007 Model Code of Judicial Conduct. The Committee then filed the Report and Recommendation.

- ETHICSearch responded to 166 research requests on topics including ethics issues related to electronic discovery; blogging in states where one is unlicensed; internet advertising; ethical screening measures when a lawyer changes firms and new firm members have potential conflicts with a former client; acceptance of a prospective client whom the lawyer knows to be committing fraud upon the court; donation of portion of a legal fee to charity; a lawyer writing a law review article that is unfavorable to former client's position; Twittering as a form of advertising; security of electronic files; the retention and destruction of client files; and the meaning of "real time electronic contact" under Rule 7.3, among many others.
- Professional Discipline: David Baker, Chair of the Standing Committee on Professional Discipline, wrote to the Director of the Administrative Office of the U.S. Courts regarding on-line access to the National Lawyer Regulatory Data Bank and the Model Federal Rules of Disciplinary Enforcement. The Regulation Department continues to encourage state bar admissions agencies to participate in the National Lawyer Regulatory Data Bank. As a result of this effort, the National Conference of Bar Examiners and the Council of Bar Admissions Administrators invited Data Bank Lawyer Ruth Woodruff to address their membership in August 2010.
- Professionalism: The ABA Standing Committee on Professionalism co-sponsored the University of South Carolina School Of Law Nelson, Mullins, Riley & Scarborough Center on Professionalism conference Mentoring 2: Towards Best Practices: What Works and What Doesn't, at which two of its members presented. Professionalism Counsel Art Garwin participated in the ABA Legal Education and Admissions to the Bar Accreditation Standards Review Committee meeting. The Committee's Gambrell Professionalism Awards subcommittee convened via conference call to select its recommendations to the full Committee for the 2010 awards. The Committee continued to compile and collate responses to its survey on Communications with Prospective and Entering Law Students Regarding Professionalism. Chair Mel Wright organized and moderated a pilot character and fitness program to first year students at Wake Forest University School of Law.
- Commission on Ethics 20/20: The Ethics 20/20 Commission's Third Party Litigation Finance Working Group and its Outsourcing Working Group held teleconferences. The Law Firm Ranking Working Group received and counsel reviewed a research memo prepared by one of the Commission's reporters. The Commission is soliciting comments about domestic and international legal process outsourcing from lawyers, law firms, clients and outsourcing providers. A series of [questions](#) were developed, and posted on the Commission's Web site with a request for comments by May 7<sup>th</sup>.

### *Children and the Law*

- On April 6-8, National Resource Center on Legal Judicial Issues (NRCLJI) staff along with staff from the National Counsel of Juvenile and Family Court Judges,

- participated in a three-day event sponsored by HHS, Administration for Children and Families to meet with the new Commissioner for Administration for Children and Families (ACF), Bryan Samuels, and strategize on how to implement priorities established by the new administration.
- On April 9–10, ABA consultants participated in a statewide Court Improvement Project summit in North Carolina, providing training on a recent Center publication *Child Safety: A Guide for Judges and Lawyers*. The Guide is a collaboration of the ABA NRCLJI and the National Resource Center on Child Protective Services, and provides methodology and tools to assist judges and lawyers in understanding and making safety decisions in child welfare cases.
  - On April 22–23, Kathleen McNaught presented training sessions at two regional trainings in Nebraska for their "Through the Eyes of the Child" initiative on Improving Education Outcomes for Children in Foster Care. The training sessions included an overview of the key goals and benchmarks to achieve education success for children in care (based on the Blueprint for Change) as well as in-depth legal overview on school stability, education decision-making for children in special education, and information sharing.

### *Criminal Justice*

- The CJS Council met on April 10 in Charleston, SC during the joint Criminal Justice Section/National District Attorneys Association Spring Meeting. The Council met to debate and discuss, among other things, proposed policy on issues such as Revisions to M.R. 1.6, Privatization of Juvenile Detention Facilities, Attorney Error v. Misconduct, and Guilt Negating Evidence Disclosure. The Council held a luncheon with the NDAA Board of Directors, where Section chair Charles Hynes presented Pima County (Arizona) Attorney Barbara LaWall with the 2010 Norm Maleng Minister of Justice Award.
- CJS held a panel discussion entitled "Careers in Criminal Justice" at both the University of South Carolina School of Law (April 8) and the University of Charleston School of Law. The moderator was, Steve Saltzburg, George Washington University School of Law, and former DOJ Attorney.
- The White Collar Crime Committee presented "What Every In-House Counsel and The Law Firms Who Represent Them Need to Know About E-Discovery" in conjunction with The Hispanic National Bar Association New York Region, and Huron Consulting Group on April 7 in New York City. The White Collar Crime Committee West Coast Region Subcommittee presented "Internal Investigations: New Developments, Perils and Pitfalls" on April 14 at the law offices of Venable LLP in Los Angeles.
- The White Collar Crime Committee Mid-Atlantic Region Subcommittee and Pietragallo Gordon Alfano Bosick & Raspanti, LLP presented "How To Survive a Criminal Tax Investigation" on April 15 at the law offices of Pietragallo Gordon Alfano Bosick & Raspanti, LLP in Pittsburgh, PA. The White Collar Crime Committee Washington, DC Region Subcommittee presented "Meet the New DC

United States Attorney: A Program with Ronald C. Machen Jr.” on April 23 at the ABA’s DC Office.

### *Dispute Resolution*

- The Section concluded its 12<sup>th</sup> Annual Spring Conference in San Francisco, drawing some 850 participants and offering over 100 CLE programs during the four-day event. The National Representation in Mediation Competition wrapped up at the conference, with the University of Maryland School of Law taking first place.

### *Diversity Center*

- In April, ABA Center for Racial and Ethnic Diversity the Center published the final edition of Diversity in the Legal Profession: Next Steps, report in conjunction with the Presidential Diversity Commission.
- The Center continues to strengthen the ABA’s outreach to the Native American legal community via several strategic steps including hosting ABA Joint Exhibit at the National Native American Bar Association convention and creating a Native American focus page on the Diversity Center’s Website that has generated high traffic numbers in its first month.
- The Commission on Sexual Orientation and Gender Identity finalized its report with recommendations to the House of Delegates on Marriage Equality – the primary sponsor is IR&R, and together with the Commission they are seeking additional co-sponsors. The Commission also finalized the presenters at the 2010 Presidential Showcase CLE on “Same-Sex Marriage: Moving on to the Federal Courts.”

### *Election Law*

- The Committee is finalizing an Annual Meeting program on the recent Supreme Court campaign finance decision in Citizens United.

### *Environment, Energy and Resources (Section)*

- The Section celebrated Earth Day and Arbor Day by highlighting several projects reflecting environmental stewardship, including the One Million Trees Project, the ABA-EPA Law Office Climate Challenge, and the call for nominations for the 2010 ABA Award for Excellence in Environmental, Energy, and Resources Stewardship.
- Staff for the Subcommittee on Energy and Environment, House Committee on Energy and Commerce, has requested that the Section provide briefings to committee staff on several subjects. On April 23, a briefing was held on the fundamentals of nuclear regulation. The briefing was led by the Section's Special Committee on Nuclear Power co-chair, Tyson Smith. Approximately eight congressional aids and Section leadership attended. Upcoming briefing topics include: Federal Power Act, Natural Gas Act and Natural Gas Policy Act, nuclear energy law, and others.

- The Section's council met April 23-25 in Shepherdstown, WV at the U.S. Fish and Wildlife Service's National Conservancy Training Center. The facility was unique in that it was a campus environment, with lecture halls, cafeteria dining, and on site housing. The council highlights include the nominating committee report, discussion on a 2011 Environment Justice Symposium, budget and program discussions, and reports from Officers, Council, and Committee chairs. Thirteen meeting attendees also participated in a Sunday morning kayak trip on Antietam Creek.
- Several programs were held in April including the 2010 ABA Petroleum Marketing Attorneys' Meeting (April 19-20) and the Quick Teleconferences: "Recent Developments in Climate Change Disclosure: U.S. and Canadian Perspectives" (4/13/2010) and "Chemical Accident Investigations: What to Expect from the Chemical Safety Board, EPA & Other Governmental Agencies" (4/21/2010). The Section published the following April committee newsletters: Carbon Trading and Energy Finance, Energy Committees, and Special Committee on Nuclear Power.

### *Environmental Law (StCom)*

- The Committee designed and published the marketing brochure for its spring conference, compiled initial marketing lists and began circulation of conference publicity notices. Several financial supporters were confirmed and conference calls of the planning committee and a conference call of the program moderators were held.

### *Family Law*

- The Spring CLE Conference in New Orleans had 252 registrants – one of the highest totals for a Family Law conference in the past 15 years. Two volunteer programs – one to mulch trees for Parkway Partners and the other to raise money for Arise Academy in the lower Ninth Ward – were great successes. Social activities in the French Quarter included a reception at the Louisiana Supreme Court and a "Mardi Gras" parade to a dinner at Muriel's. Members of the Section of Individual Rights and Responsibility and the Senior Lawyers Division, who met concurrently in New Orleans, participated in these highly successful events. In addition to the usual number of CLE programs, the Section again offered a special track of CLEs on assisted reproductive technology. The highlight of the Section Council meeting was the vote in support of HR 3240, the "International Child Abduction Prevention Act of 2009."
- The Honorable Robert M. Bell, Chief Justice of the Maryland Court of Appeals, will be the keynote speaker at the Section's Families Matter Symposium to be held on June 24-25 at the University of Baltimore School of Law. Over 50 participants from various professional backgrounds will be attending, at their own expense, to develop practice methods and approaches to minimize the destructive consequences of the family law legal process on families.
- Family Advocate magazine is offering its first bilingual handout for divorce clients. The title is, "20+ Frequently Asked Questions About Divorce"/"20+ Preguntas y Respuestas Sobre su Divorcio," and it is being sold in PDF format.

### *General Practice, Solo and Small Firm*

- GPSolo held a teleconference on April 20 entitled “Credit Card Lawsuits: Prosecuting and Defending” for 1.5 hours of CLE credit. This program provided information on prosecuting and defending credit card lawsuits. The expert panelists included Robert L. Hyde, Partner, Hyde & Swigart, San Diego, CA; Benjamin K. Sanchez, Sanchez Law Firm, Houston, TX,; and Joshua B. Swigart, Partner, Hyde & Swigart, San Diego. The panelists discussed pleadings, evidentiary rules, factual support and other requirements necessary to prosecute a case to collect a delinquent credit card debt. In addition, the panel discussed defenses, counterclaims, and other means to defend a credit card collection case.
- GPSolo held another teleconference on April 29 entitled “Are You a Debt Relief Agency? The Consequences of *Milavetz, Gallop & Milavetz, P.A. v. United States*.” The expert panelists included: Marc S. Stern, Law Office of Marc S. Stern, Seattle, WA; Larry B. Feinstein, Partner, Vortman & Feinstein, Seattle, WA; Craig Goldblatt, Partner, WilmerHale, Washington, DC; and Alan S. Milavetz, Partner, Milavetz, Gallop & Milavetz, Edina, MN. In 2005 Congress passed the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA). BAPCPA made widespread changes in the attorney-client relationship. Bankruptcy lawyers became “Debt Relief Agencies.” There were unseen traps and burdens for lawyers. *Milavetz, Gallop & Milavetz v. U.S.* brought many of these issues to the U.S. Supreme Court. The Court has now rendered its decision. This program will address the operational affects on practice after *MGM v. U.S.*
- A Top Ten CLE download is a GPSolo program, “How to Hang Your Shingle and Start Your Own Firm.”
- GPSolo is in the midst of new book releases for FY2010 including *Building Your Best Argument* released the last week of March, which has already broken even. *Understanding the ADA* released the third week of March, has already turned a profit. *Minding Your Own Business* is anticipated to be a strong seller.
- GPSolo distributed the SOLO e-Newsletter, which had a theme of “Did You Know” and features five articles that focused on useful facts that are helpful to the solo and small firm practitioner – both in business and in representing clients: (1) a shorthand guide to the new credit card act; (2) online tax reporting requirements hidden in the Home Tax Credit Bill; (3) a new federal reporting system that tracks junky cars – NMVTIS – will help protect consumers and aid in litigation; (4) a look at the laws and regulations that offer relief from aggressive telemarketing -- including the new “artificial caller”—unwanted faxes, email, and junk mail; and (5) an examination of the new act that protects tenants during foreclosure proceedings.

### *Government and Public Sector Lawyers*

- Award submissions were received for the Division’s Hodson, Dorsey and Nelson awards. An Awards Committee meeting was held by conference call on April 26.
- The Division’s Nominating Committee met on April 15 and voted on council member and officer nominations.

## *Governmental Affairs*

- GAO hosted ABA Day in Washington; staff assisted with preparation and execution of the week's events.
- GAO organized and participated in a no-charge CLE ethics program for Senate staff; about 75 staffers attended.
- GAO met with Senate Judiciary Committee staff to express the ABA's concerns over the expanded lawyer regulation provisions in the proposed Consumer Financial Protection Act and to urge Chairman Leahy to add a broad lawyer exemption to the bill.
- GAO participated in a call with Sen. Durbin's staff on implementation of the John R. Justice Loan Forgiveness Program for prosecutors and public defenders. Durbin will make suggestions to the Department of Justice before it implements the final program.
- GAO staff met with the U.S. Chamber regarding a Department of Treasury substitute bill for S. 569, Senator Levin's bill regarding corporate beneficial ownership. (The ABA opposes S. 569 because of its intent to regulate lawyers under the Bank Secrecy Act and its implications on the attorney-client privilege.)
- ABA President Carolyn Lamm sent a GAO-prepared memo to White House Special Assistant Kareem Dale outlining the ABA's proposals on student loan reform. (Dale had asked for information on student loans at a White House meeting with ABA leaders.)
- GAO worked with House Judiciary Committee staff concerning problem legislation concerning military child custody.
- GAO staff and Director of the ABA Commission on Domestic Violence Vivian Huelgo met with Lynn Rosenthal, the White House Advisor on Violence Against Women.
- GAO staff met with staff of Rep. Lacy Clay to discuss the "Qualitech" issue, which concerns legislation that would protect the interests of lessees where the underlying real estate in bankruptcy matters is sold "free and clear of any interest."
- GAO continued to reach out to numerous state and local bar leaders to encourage them to lobby their senators to support adding the ABA's proposed practice-of-law exemption to the Senate version of the Consumer Financial Protection Act (Title X of S. 3217). In response to GAO's requests, the Connecticut, Florida, Illinois, Minnesota, Ohio, Orange County (California), Oregon, Rhode Island, Tennessee and Vermont bars sent letters to their senators expressing support for the ABA's amendment.
- GAO staff moderated a roundtable on the issue of veteran homelessness issues in New Orleans and across the nation. GAO staff also facilitated development of a long-range strategic plan for the Commission on Homelessness and Poverty.
- A summary of Formal Communications can be found at <http://www.abanet.org/poladv/whatsnew.shtml>.

## *Health Law*

- The Section held three member benefit teleconferences this month. The programs are now available on the Section web page.
  - The third member benefit podcast on the Healthcare Reform Legislation Series was presented by Andrew Demetriou, past Section chair and chair of the Access to Healthcare TF. In addition the Section is working on a series of teleconferences through the Center for CLE for members which will address specific aspects of the legislation.
  - “Should Vaccination Against the Human Papilloma Virus (HPV) be Mandatory? Medical, Economic, and Legal Perspectives” featured: Jessica Kahn, MD, MPH, Cincinnati Children’s Hospital; Jane Kim, PhD, Harvard School of Public Health; Lawrence O. Gostin, JD, Johns Hopkins and Georgetown Universities; and Alexandra Stewart, JD, George Washington University. The Teleconference was moderated by Howard H. Kaufman, MD, JD, MPH, FACS, U Miami SOM. Mr. Kaufman is also vice-chair of the Public Health Interest group.
  - “Five Big Myths of Advance Care Planning and How to Stay Anchored in Reality” was sponsored by the Section, the Senior Lawyers Division and the ABA Commission on Law and Aging and featured Richard Payne, MD, Duke University Divinity School and Charles P. Sabatino, J.D., Director of the American Bar Association’s Commission on Law and Aging. HLS Staff Simeon Carson moderated the program.
- The Health Law Section Council met April 17–18 in Austin, TX. The Section made progress on the Section Strategic Plan, discussed the major issues facing the Association, and were updated on the state of the Section finances. The Council visited the LBJ Library where archivist Bob Tissing located a letter Council member Shelley Hubner wrote to Mr. Johnson when she was a child. The story was picked up the ABA Journal.
- The Section submitted the Breast Cancer Advocacy Initiative for the SOC Meritorious Award.

## *Homelessness and Poverty*

- The Commission held a business meeting in New Orleans, LA on April 9-10. A full-day of programming on April 9 included roundtables with local judges, lawyers, police, and service providers on removing legal barriers to benefits, housing and treatment for homeless veterans, how to establish Homeless and Veterans Treatment Courts, and new housing initiatives post-Katrina. The homeless outreach team from UNITY of Greater New Orleans took the Commissioners on a city tour to view new housing programs along with abandoned buildings and housing inhabited by homeless squatters. The Commission spent the bulk of its meeting on strategic planning and ongoing initiatives related to homeless veterans, homeless courts, and homeless youth and the law.
- Through its Homeless Veterans Initiative, the Commission co-hosted a webinar training with the Veterans Administration and HHS/OCSE with teams from 10 pilot sites to discuss ongoing efforts related to modifying child support orders for

- homeless veterans. Held on April 27, the webinar focused on the role of the local Office of Child Support Enforcement and how lawyers can work with OCSE through the pilot program to expedite modifications.
- The Commission cosponsored the Fostering Connections National Summit held on April 16 in New York, NY. The goal of this invite-only working conference was to develop best practices related to youth aging out of the foster care system. Casey Trupin, Special Advisor to the Commission, facilitated sessions on housing and placement for youth aging out of foster care.
  - Paul Freese, Special Advisor to the Commission, was a panelist at the Veterans Advocacy Summit in Ohio on April 5. Freese discussed Veterans Treatment Courts and other diversion models for veterans.

### *Human Rights*

- The Center held its Spring Meeting in New York City on April 11. Guests from Human Rights Watch, the Office of UN Representatives on Business and Human Rights, and Priority Films helped inform various CHR project and policy efforts.
- The ABA submitted a CHR-sponsored report on U.S. human rights record to the UN Human Rights Council on April 19.
- The ABA Rule of Law letter on judicial independence was sent to the Government of Bolivia on April 19.

### *Immigration*

- The Commission held its spring meeting by teleconference. Agenda items included work following the Supreme Court decision in *Padilla v. Kentucky* (requiring criminal defense attorneys to address immigration consequences as they advise non-citizen clients) and draft standards for families in detention.
- Staff participated in a meeting with DHS/ICE and the DHS Office for Civil Rights and Civil Liberties (CRCL) and consultants on conceptualization of a national civil immigration detention system. Commission staff presented on the importance of legal access for immigrants in detention and highlighted possible best practices for legal access and resources in a new civil detention model environment.
- The “Fight Notario Fraud” project coordinated with the North Carolina Attorney General’s office to provide resources for an investigation into possible notario fraud.
- Staff coordinated with the Civil Rights and Civil Liberties working group to compile a list of recommendations for improvements to the complaints system for detainees, and provided suggestions for ways in which the DHS/CRCL can better address the needs of detained immigrants in terms of receiving and responding to grievances.
- Staff attended a monthly meeting with ICE Leadership as a member of the Assistant Secretary’s Detention Conditions Working Group. The meeting included a review and commentary on the ICE-proposed “Risk Assessment Tool,” a means of objectively evaluating the need for custody, custody level, and if released, level of supervision for an individual who comes into contact with ICE officers.

### *Individual Rights and Responsibilities*

- The AIDS Coordinating Committee held its Spring Meeting in New Orleans on April 16-17. Agenda items covered numerous topics in AIDS law and policy, and included screening and discussion of “Why Us? Left Behind and Dying,” a documentary about the impact of HIV/AIDS on African American youth.

### *Intellectual Property Law*

- The Section held a successful Spring Conference April 7-10 in Washington, DC. Attendance was at its second highest level for a Spring Conference in the last 10 years, with over 547 attendees. Sponsorships were also at their highest level in 10 years. Total revenue is anticipated to exceed costs for a positive net revenue higher than was budgeted for the conference.
- Section leadership finalized comments requested by U.S. Commissioner of Trademarks Lynne Beresford on the new Trademarks Next Generation Information Technology Initiative. Technical Comments were sent to Commissioner Beresford’s office on April 21.
- The Section is drafting an amicus brief in coordination with the GCO and Amicus Brief Committee in the Costco v. Omega case involving the first sale doctrine. The ABA House of Delegates approved the Section’s Recommendation 109 to interpret the statutory first sale doctrine in Section 109(a) of the U.S. Copyright Act to exclude application of the first sale doctrine to the importation of goods embodying a copyrighted work that were not manufactured in the United States.
- Section membership grew slightly in April, continuing its growth after the initial February drops. Membership totals now stand, as of April 30, at 23,490. This is about 3% lower than at this time last year. Due to several renewal, retention and recruitment campaigns, IPL anticipates the numbers will be back to the pre-February-drop levels by August.
- The IPL Books Board reports that it is still on track to produce about 7-8 titles this fiscal year, and there is a chance there will be even more titles than that, as there are several other books in development. Several new book titles debuted recently, and a “meet the author session” was held at the recent Spring Conference for three of the new titles including A Lawyer's Guide to Section 337 Investigations Before the U.S. International Trade Commission, and IP Attorney's Handbook for Insurance Coverage in Intellectual Property Dispute, and a new title soon to be available in the ABA Store, Trademark Trial and Appeal Board Practice.
- The Section produced a successful teleconference on April 21 entitled “Ariad Pharmaceuticals v. Eli Lilly: Examining the Written Requirement for Patentability.” The teleconference drew over 80 participants. Several teleconferences are in the planning stages for May. Anticipated net revenue for the teleconference effort this year will exceed budgeted expectations by about \$12,000, which will be double what was budgeted. In addition, the Section is cosponsoring a series of teleconferences being produced by the Forum on Sports and Entertainment Law, and the Section of Science & Technology Law.

### *International Law*

- On April 12, a Section Delegation met with officials at the United Nations for ABA Annual Day at the UN.
- ABA Day at the UN was followed by the Section's Spring Meeting – now almost a full week of programming and events. It was the Section's largest seasonal meeting ever. More importantly, however, this April event was bigger still because of the quality of the programming and the camaraderie of the 1,300+ attendees. Awards presented at the meeting included:
  - Ana Calderon Montes received the World Order Under Law Award, established to recognize individuals who have made a substantial contribution to and provided visionary leadership in pursuit of the American Bar Association's Goal VIII, which is "To advance the Rule of Law in the World."
  - The Section presented Peter Trooboff with its Leonard J. Theberge Award for Private International Law, established to honor those persons who have made distinguished, long-standing contributions to the development of private international law.
  - The Section acknowledged its 2010 winners of the Rona R. Mears Student Writing Competition and Scholarship Awards: Eric J. Langland of Tulane University School of Law and Michael K. Marriott of the University of California, Davis – King School of Law.
- At its April 17 Meeting, the Council considered and debated policy initiatives from the International Litigation Committee on libel tourism and from the International Financial Products and Services Committee on the education of judges on international issues. Immediately preceding the Council Meeting, the Section Task Force on Outsourcing held a public forum on outsourcing of legal services. The ABA Commission on Ethics 20/20 was also present for this event. The purpose of the forum was to gather information about legal process outsourcing from lawyers, law firms, clients and outsourcing providers. Testimony will assist the Section and Ethics 20/20 Commission in their studies of legal process outsourcing domestically and abroad.
- On April 29, the Section held a very successful second "Live at the ITC: Second Annual Forum on Section 337 of the Tariff Act of 1930" sponsored by its International Trade Committee and its International Intellectual Property Rights Committee.

### *Justice Center*

- The StC on Judicial Independence (SCJI) Justice is the Business of Government Task Force held a successful meeting on April 20 in Washington, DC at the Pepper Hamilton Law Firm. The Judicial Division also participated in this meeting.
- ABA Day took place in Washington, D.C. from April 20-22. SCJI Chair William Weisenberg participated on the panel for the opening session legislative training/ issues briefing to address the primary legislative issues of focus during Hill visits. Also in attendance at ABA Day were Judicial Division Chair Jack Brown and Justice Center Coordinating Council Chair Judge Cara Lee Neville.

- The StC on Federal Judicial Improvements (SCFJI) cosponsored a program with the Section of Litigation entitled, “Iqbal/Twombly Fallout: Are General Federal Rules Passe?” which took place at the Section of Litigation Annual Conference on April 22 at the Hilton New York. The program considered the effect of the recent U.S. Supreme Court decisions in *Ashcroft v. Iqbal* and *Bell Atlantic Corp. v. Twombly* on federal pleading standards and Federal Rule of Civil Procedure Rule 12(b)(6). Renowned Professor Arthur R. Miller, leading scholar in the field of American civil procedure, moderated the program. Other panelists included: Daniel C. Girard, Girard Gibbs LLP; Gregory G. Katsas, Jones Day; and Lorna G. Schofield, Debevoise & Plimpton LLP.
- SCJI and the StC on Federal Judicial Improvements (SCFJI) distributed their Spring 2010 Issue of *Courtly Currents*, a publication for members and collaborators of SCJI and SCFJI.
- SCFJI held a business meeting at the Hilton New York on April 23rd in correlation with the Section of Litigation Annual Conference. Among the many agenda items covered were a CLE program on aging in the judiciary (to take place at the 2010 ABA Annual Meeting), the SCFJI Media Alerts on Federal Courts of Appeals Project, and a possible report related to the Federal Courts Jurisdiction Venue and Clarification Act.
- The National Conference of Specialized Court Judges (NCSCJ) cosponsored the conference entitled “Access to Justice: A Judicial Symposium on Problem Solving Courts,” held at the James E. Rogers College of Law in Tucson, Arizona on April 10. A link to view the media site of the program is available on the NCSCJ homepage ([www.abanet.org/jd/ncscj/](http://www.abanet.org/jd/ncscj/)).
- The Lawyers Conference (LC) has announced Mr. Alan Carlson of Kensington, CA as the 2010 Robert Yegge Award recipient for his outstanding contribution in the field of Judicial Administration. The award ceremony will take place at the LC 35th Anniversary Celebration held at the E&O Restaurant in San Francisco on August 5, 2010.
- The National Conference of State Trial Judges (NCSTJ) is pleased to announce the release of the 2010 edition of the *Directory of State Judicial Association Officers with Chief Justices and Court Administrators Directory*. This directory is provided as a benefit of membership to those enrolled in the NCSTJ. A copy of the directory may be downloaded from the NCSTJ homepage: <http://www.abanet.org/jd/ncstj/>

### *Law and Aging*

- The Commission held its spring meeting on April 23, approving, among other things, two recommendations for submission to the House of Delegates at the Annual Meeting.
- Four CLE presentations were held in connection with National Healthcare Decisions Day (April 16): a free ABA teleseminar; a statewide live video seminar in Oklahoma; a similar one in Missouri; and an in-person keynote presentation at the Annual Meeting of the Coalition for Compassionate Care of California in Sacramento, CA on April 19.

### *Law Library of Congress*

- On January 20 the Committee had submitted a letter to the General Services Administration in support of the Law Library of Congress's request to register the "LAW.gov" domain name. The Law Librarian of Congress recently informed the Committee that the request was approved in April, and thanked the ABA for its support. The LAW.gov domain name will serve as the foundation for a collaborative effort among the Law Library and other federal agencies to provide free Internet access to a search engine for all legislative, regulatory, and judicial resources.

### *Legal Services*

- The Spring 2010 ABA National Legal Malpractice Conference was held in Washington DC on April 14-16 with the second highest number of registrants ever achieved (507). Justice Antonin Scalia and Bryan Garner presented the Opening Plenary on "How Effective Advocates Persuade Cases in Favor of Their Clients." ABA President Carolyn Lamm addressed the conference on the interplay of ethics and lawyer professional liability and the current review of the ABA Model Rules of Professional Conduct. The conference is sponsored by the Standing Committee on Lawyers' Professional Liability with co-sponsorship from the Law Practice Management Section, the Tort Trial and Insurance Practice Section and the Center for Professional Responsibility.
- Legal Aid / Indigent Defense: Four additional seats remain to be filled by the Obama administration on the Board of Directors of the Legal Services Corporation. The ABA, through the Standing Committee on Legal Aid and Indigent Defendants (SCLAID), evaluates nominees to that board. It has evaluated and given ABA support for two nominees who have not yet been confirmed. It awaits the last two nominees. Contacts with the administration suggest that those last two nominations will be forthcoming soon. SCLAID has made preparations for completing those evaluations as soon as the nominations are announced.
- SCLAID has submitted a Report with Recommendation for consideration by the ABA House of Delegates in August, 2010. The proposed resolution calls for ABA adoption of "Basic Principles for a Civil Right to Counsel," a set of guidelines for jurisdictions that wish to pursue the concept of a right to counsel for the poor in high-stakes civil matters.
- Pro Bono: The Center for Pro Bono conducted an onsite peer consulting visit to South Carolina Legal Services. Assistant Staff Counsel Melanie Kushnir and two volunteer consultants, Lora Livingston and Steve Xanthopolous, conducted the visit. Center for Pro Bono Director Cheryl Zalenski participated in the Colorado Access to Justice Symposium on April 24<sup>th</sup> as a panelist for "Pro Bono and Beyond."
- Interest on Lawyers' Trust Accounts: On April 13, 2010, the Board of Directors of the FDIC approved an interim rule extending the Transaction Account Guarantee (TAG) Program, which was scheduled to end on June 30<sup>th</sup>, to December 31, 2010. The interim rule also gives the Board the discretion to extend the program to the end of 2011 without additional rule making if it determines

that economic conditions warrant such an extension. Participating institutions can opt out of the TAG Program effective July 1, 2010, but if they do not, they must remain in the program until it ends. Under the TAG Program, funds held in IOLTA accounts will continue to be fully guaranteed by the FDIC, without limit, for participating financial institutions. IOLTA funds held in institutions that opt out of the extended TAG program (or that previously opted out of the TAG program) will be insured up to \$250,000 per owner (i.e. client) until December 31, 2013. Institutions are required to display their status as either participating or not participating. Comments on the interim rule are due by May 19, 2010. The Commission on IOLTA will monitor those comments to ascertain that no attempt is made to either eliminate IOLTA from coverage under the TAG Program or to in any way limit the interest rate that can be paid on IOLTA accounts for the full FDIC insurance coverage to apply.

- **Moderate Income Delivery:** The Access Listserv, comprised of those in states working on courthouse self-help centers and unbundled legal services, debuted at the beginning of April and now has over 130 members. Prof. Mike Millemann, a member of the Standing Committee on the Delivery of Legal Services, produced a symposium at the University of Maryland on changes in the practice of law and resulting responsibilities of legal educators. Approximately 90 students, faculty and practitioners attended. Committee member Jeanne Charn and Staff Counsel Will Hornsby made presentations at the symposium. A subsequent issue of the Maryland Law Review will be dedicated to the topic. In addition, Mr. Hornsby made a presentation at the John Marshall Law School Center for Intellectual Property CLE program. The Committee will meet at the Equal Justice Conference in Phoenix on May 15 – 16, 2010.
- **Group & Prepaid Legal Services:** Several members of the Standing Committee attended Law Day in Washington DC and lobbied on behalf of the ABA on several LSC issues, as well as access to justice issues dealing with group legal services. The Standing Committee is preparing for their annual conference co-sponsored with the American Prepaid Legal Services Institute. The Regulation Reporter has been reformulated to be an electronic, web-enhanced publication. The six month project has taken a 4 volume loose leaf set and transformed it to one CD with links to the most current laws, regulations, rules and opinions. This change will save over \$4000 in printing and postage annually.
- **Lawyer Referral:** Progress continues to be made on the project to establish a toll-free number for referral of FLSA and FMLA cases from the Department of Labor. Jane Nosbisch, Paul Haskins, and Charles Klitsch, Director of the Philadelphia Bar Association LRIS Program, met with representatives from the Department of Labor on April 21 to discuss details of the effort. The project is now slated for full implementation on July 30.
- **Lawyers' Professional Liability:** The Lawyers' Professional Liability Committee is planning a teleconference on recent amendments to the Medicare Secondary Payor Act. The new amendments raise questions about how to comply, and who is responsible for reporting under the new provisions. The teleconference will be scheduled in June.

- Legal Assistance For Military Personnel LAMP and Military Pro Bono Project staff counsel have a follow-up meeting with the McCormick Foundation scheduled for June 2, to discuss (i) possible opportunities for external foundation support of the Military Pro Bono Project and (ii) a proposal to create pilot veterans' legal clinics at law schools around the country. McCormick has also expressed interest in supporting veterans courts, and has had direct communication with Jack Young of the Board of Governors on the veterans courts' piece. LAMP is coordinating with FJE on these initiatives, and coordinating with the ABA Veterans Coordinating Council.
- Lawyer Specialization: The six working groups formed after the March Specialization Roundtable are working on creating an emeritus status for certified specialists; drafting one uniform application for organizations seeking accreditation of lawyer specialty certification programs; studying best practices for certifying organizations; planning outreach to the bench, bar and public; and organizing a bank of test questions for certifying organizations to contribute to and draw from to strengthen their written exams.
- Paralegals: The ABA Paralegal Approval Commission met April 16-17, 2010 to consider action on paralegal education programs seeking ABA approval and reapproval. The Commission voted to recommend 5 programs for initial approval and 15 programs for reapproval. The Standing Committee will consider the recommendations at its May meeting. During the month of April, representatives of the Standing Committee on Paralegals Approval Commission conducted site visits to two paralegal education programs seeking ABA reapproval. These programs will be considered by the Approval Commission in November 2010.
- Lawyer Assistance Programs: The Commission on Lawyer Assistance Programs completed plans for a law student wellness award and will begin seeking nominations for the award, which will be presented at the Commission's National Conference in October. CoLAP has launched a program to secure commitments from treatment facilities to waive the cost of treatment for selected law students. Thus far, seven centers have agreed to participate. The Commission anticipates commitments from an additional five to seven centers. The Commission has submitted a proposal to produce a presentation at the annual meeting of the Conference of Chief Justices for 2011.

### *Litigation*

- A record-breaking 935 attendees enjoyed the Sections Annual CLE Conference held in New York City on April 21-23. The Conference featured over 50 programs in 12 tracks, and included plenary presentations on "How the Media Covers the Law – and How Lawyers Should Deal Ethically with the Media," featuring George Freeman, General Counsel of the New York Times, the Honorable Kimba Wood of the US District Court for the Southern District of New York, and legal affairs reporters from NBC News, The Wall Street Journal, and other publications, and on "Great Openings and Closings – By the Lawyers Who Gave Them," including Robert Bennett and David Boies.
- Over 35 Committees participated in a fun and exciting "Passport to the World" Committees Expo, where each Committee's table represented a city or country,

complete with costumes, appropriate food and beverages and fun give-aways to attract committee membership. Section Sponsor Navigant co-hosted the event, providing printed Passports for all participants, and donating 3 I-Pod Nanos loaded with Section Sound Advice sessions to 3 lucky winners who completed the Passport World Tour!

- The Section also presented its Diversity Award to Justice Frank Sullivan, Jr., of the Indiana Supreme Court, and to the Coca Cola Company Legal Division. The Section's John Minor Wisdom Award Public Service and Professionalism Awards were presented to 3 winners: Martha Bergmark, the Pittsburgh Pro Bono Partnership and the law firm of Wilmer Cutler Pickering Hale and Dorr LLP.
  - The Section offered a free CLE opportunity entitled "What Lawyers Need to Know about Representing LGBTQ Youth." Co-hosted by the Cardozo School of Law, the presentation will be available to practitioners through the Section's website.
  - For the 10<sup>th</sup> Year in a row, the Section sponsored a Legal Services Training Program which builds the capacity of 4 competitively chosen legal services organizations to raise funds from the private bar and other local resources. With a total Section investment of \$150,000 over the past 10 years, over 16 different state and local programs have been able to raise \$4 million annually.
  - Participants at the Conference could earn over 11 CLE credits, and more than \$250,000 was provided to the Section by sponsors for the event.
  - The Section continued its Sound Advice weekly series. Sound Advice is an audio library of timeless, sage advice spoken by Section leaders on a variety of topics in 10 minute sessions. In April, the Section released the following sessions:
    - April 7: Larry Fox: The Lawyer as Witness: Ethics Advice for the Client
    - April 14: Jennifer Bechet: Ethical Considerations for Lawyers Working with Private Investigators
    - April 20: Greg Joseph: Websites, Chat Rooms, Twitter, Google, Firefox: Internet Evidence and How to Get it Admitted
    - April 29: Bill Garcia: Tips For Becoming Trusted Outside Counsel
- Sound Advice has been popular enough to be promoted by a Pennsylvania pro bono group, which has included a link on their website to the Section's Sound Advice Library. The Library now contains over 20 audio files; the Section sends tweets and email announcements with each new weekly Sound Advice posting. To view the library and listen, go to the Sound Advice library at: [www.abanet.org/litigation/soundadvice](http://www.abanet.org/litigation/soundadvice). Twitter -- if you are a member of Twitter, "follow" us to receive weekly tweets @ABALitigation. Email -- to receive automatic weekly email updates, go to the Sound Advice URL above, and look under the "More Information" listing.
- The Children's Rights Committee hosted a free teleconference on "What Children's Lawyers Need to Know about Mandatory Drug Testing" in late March. The teleconference was attended by 300 practitioners. The program received excellent feedback, and is now posted on the CRLC website.
  - In April, the JIOP team completed processing and providing screening interviews to 655 program applicants (an increase over last year) and has filled 125 of 200 positions working with 163 program judges. Over 225 Section volunteers and

associates have contributed more than 1,200 hours interviewing program applicants. JIOP expanded to include Philadelphia, adding 17 judges and 18 positions in that one city alone, and causing an additional \$32,000 to be raised by Philadelphia firms and sponsors.

### *Market Research Department*

- The Market Research department continues to be heavily involved in the Ogilvy workstream.
- Staff presented results from benchmark/baseline wave of Attitudinal Tracking study (designed, fielded and analyzed by ABA MRD), along with results from National Lawyer Population Study and updated Bureau of Labor Statistics data to the Standing Committee on Membership.
- The National Lawyer Population Study surveys state bar/licensing agencies to determine the number of licensed lawyers in the country. Data is in and analysis complete. Report will be issued ASAP following “footnote clean-up and clarification” that is necessary.

### *Mental and Physical Disability Law*

- Commission chair, Alex Hurder, was interviewed for an article in Insight into Diversity Magazine, which prominently features the Commission’s Mentor Program and the Disability Diversity Pledge. Currently, there are 60 signatories to the Pledge including, most recently, American Airlines.
- The Commission cosponsored the National Federation of the Blind’s Jacobus TenBroek Symposium on disability rights, which was held in Baltimore in mid-April.
- The original materials were contributed from Civil Mental Disability Law, Evidence and Testimony (2010) on involuntary civil commitment for a memo to the U.S. Department of Justice on implementing the United Nations Convention on Disability as it pertains to mental capacity.

### *Public Education*

- The Division for Public Education published issue no. 7 of Preview of United States Supreme Court Cases ([www.supremecourtpreview.org](http://www.supremecourtpreview.org)), covering the 8 cases on the Supreme Court’s April argument calendar. Highlights include our cover stories on Christian Legal Society v. Martinez and City of Ontario v. Quon. Brett G. Scharffs, Francis R. Kirkham Professor of Law and director of the International Center for Law and Religion Studies at Brigham Young, analyzed the oral arguments in Christian Legal Society. This case will determine whether Hastings Law School violated the First Amendment rights of the Christian Legal Society by refusing to recognize it as a “registered student organization” on the grounds that the local chapter’s membership policies violated the school’s nondiscrimination policy. Erwin Chemerinsky, dean and distinguished professor of law at the University of California, Irvine, School of Law, analyzed the arguments in Quon, a case in which a police SWAT team member is asserting a right to privacy in the personal communications saved by his government-issued pager.

- The 60-page facilitator's guide, "Antitrust Laws and You!: Understanding Antitrust Laws, the Economy, and Their Impact on Our Everyday Lives," was published in April and presented at the Section of Antitrust Law's spring meeting. A joint project between the Section and the Division for Public Education, the four-part curriculum introduces students to antitrust and competition laws through real world examples, important historical developments, and mock trials. The curriculum is being distributed to teachers across the country and can be accessed online at <http://www.abanet.org/publiced/antitrust/>. Forthcoming is a student guide.
- The Standing Committee on Gavel Awards met April 23-24 at the ABA offices in Chicago to select the 2010 Silver Gavel Awards for Media and the Arts. Five Silver Gavels were awarded: "Trial by Fire" by David Grann, *The New Yorker* (magazines); "Presumed Guilty: The Story Behind the Headlines of the Greatest Miscarriage of Justice in Nebraska's Modern Legal History," *The Lincoln Journal Star* (newspapers); "California's Three Strikes Law: 15 Years of Controversy," National Public Radio (radio); "Juvenile Rehabilitation," ABC News Primetime (television); and SCOTUSblog (websites). Three Honorable Mentions were also selected: *Equal: Women Reshape American Law* by Fred Strebeigh, W.W. Norton and *Snitching: Criminal Informants and the Erosion of American Justice* by Alexandra Natapoff, New York University Press (books) and "The Reckoning: The Battle for the International Criminal Court, Skylight Pictures (documentaries). The 2010 Gavel Awards will be presented by ABA President Carolyn Lamm on Wednesday, July 7 at the National Press Club in Washington, DC. Daniel Zwerdling, national correspondent for National Public Radio, and an acclaimed investigative journalist, is the featured speaker.
- The Division for Public Education conducted a series of educational programs in Washington, DC during the last week in April to mark Law Day 2010. On April 26, the Division collaborated with the Close Up Foundation for the 13<sup>th</sup> annual Law Day Close Up Seminar for Teachers. Held at the National Press Club, the program featured ABA President Carolyn Lamm, who talked about the history and significance of Law Day and George Washington law professor Jeffrey Rosen, who discussed how the 21<sup>st</sup> century will challenge us to preserve constitutional values in the face of new technologies. Audio is available for download at [www.lawday.org](http://www.lawday.org).
- The Division held three "lawyer in the classroom" Dialogues on Law in the 21<sup>st</sup> Century programs in Washington, DC. Each focused on three topics: reforming American government in the 21st century, music distribution and copyright, and pirates and the law. The programs were held at the Interior Building with high school students across the country participating in the Close Up Foundation's program, the Duke Ellington School of the Arts, and the Cesar Chavez Public Policy Charter High School. Dialogue leaders included ABA President Carolyn Lamm and National Law Day Chair Allan Tanenbaum, who each led two of the Dialogues.
- On April 27, the Division for Public Education conducted two Law Day programs in collaboration with and hosted by the Wilson International Center for Scholars in Washington, DC. Both were moderated by John Milewski, host and executive

producer of dialogue, the Wilson Center's weekly television and radio public affairs program and featured panel discussions related to the 2010 Law Day theme, "Law in the 21<sup>st</sup> Century: Enduring Traditions, Emerging Challenges." The first was a taping of dialogue (<http://wilsoncenter.org/index.cfm?fuseaction=dialogue.welcome>) with ABA President Carolyn Lamm and Beth Simone Noveck, Deputy Chief Technology Officer and Director, White House Open Government Initiative. Joining Prof. Noveck for a panel discussion at the 10<sup>th</sup> annual Leon Jaworski Public Program (<http://www.abanet.org/publiced/jaworski/jaworski.html>) were Anita L. Allen, Deputy Dean and Henry R. Silverman Professor of Law and Professor of Philosophy at the University of Pennsylvania Law School; Paul Schiff Berman, Dean, Sandra Day O'Connor College of Law and Foundation Professor, Arizona State University; and Jamie Gorelick, Partner, WilmerHale and former Deputy Attorney General of the United States. ABA President Carolyn Lamm presided at the event.

### *Public Utility, Communications and Transportation Law*

- The Section held its Spring Council Group (Officers, Council, Committee Chairs and Vice Chairs) Meeting, April 28-May 1. The keynote speaker was Francine Kerner, Chief Counsel, U.S. Transportation Security Administration. A CLE program, "Safety and Security in Transport," representing the Section's industries of Aviation, Infrastructure Security, Nuclear Energy, Oil Pipelines and Railroads was also presented. All the other Industry and Practice Committees presented substantive reports to the group.

### *Rule of Law Initiative*

- ABA ROLI held its annual staff retreat in Washington, D.C. from April 19-24. The retreat was attended by 94 ABA ROLI staff members, 38 of whom were attending from overseas offices. The retreat focused on programming meetings and substantive trainings for the staff, meetings with donors and a full day public event showcasing various rule of law programs. The public event was attended not only by ABA ROLI staff, but also by 82 outside attendees, including representatives from the U.S. Departments of State and Justice, USAID, the World Bank, foundations, law schools and other rule of law implementers. The event opened with remarks by Professor Francis Fukuyama of Johns Hopkins University and was followed by seven substantive tracks highlighting ABA ROLI's work around the world.
- Democracy Fund – ABA ROLI is working with the Arab Council for Judicial and Legal Studies (ACJLS) to develop a justice sector monitoring framework that will enable local and regional civil society organizations (CSOs) to monitor access to justice issues. ABA ROLI and ACJLS have convened a series of virtual and in-person meetings to bring together regional and international experts to analyze the framework's methodology. On April 22, ABA ROLI convened a meeting in Washington, D.C. to bring together CSO representatives that implement programs in Africa, Asia and the Middle East and North Africa. The focus of discussion was to share best practices relating to the implementation of programs in these

regions and to provide feedback on the framework's content. The meeting resulted in a list of recommendations, and the framework is currently expected to be finalized in the coming month.

### Africa

- Democratic Republic of Congo (DRC) – ABA ROLI's Country Director and four of its Project Directors from the Democratic Republic of Congo (DRC) were in Washington, D.C. from April 24-29. During their visit, they met with several representatives from the State Department and with a legislative aide from Senator Feingold's office. They also participated in ABA ROLI's public outreach event on April 28, presenting and highlighting our work on combating the rape crisis in eastern DRC. That event drew approximately 50 participants, and attendees included representatives from the State Department, USAID and other prominent NGOs such as Human Rights Watch, Oxfam and the International Rescue Committee.

### Asia

- Bangladesh – ABA ROLI launched its street law program this month, receiving positive responses from the schools that benefitted from the courses. One of the primary topics of instruction involved sexual harassment because it is a serious problem in Bangladesh and is very common in secondary school and college settings. A number of the schools have requested ABA ROLI return to provide additional presentations.
- Cambodia – A law student team that won ABA ROLI's Cambodia Client Counseling Competition was sent to Hong Kong to compete in the International Client Counseling Competition from April 7-10. The student team was accompanied by ABA ROLI's legal education advisor and advanced to the semi-final rounds of the competition, finishing ahead of all the other Asia teams. The performance of this law student team was later publicly lauded by the Cambodian Minister of Education.
- China – ABA ROLI has been successfully pursuing its online training program for criminal defense lawyers in western China. ABA ROLI is cooperating with the Northwest University of Politics and Law and the All China Lawyers Association's Criminal Law Committee on this program. New teaching materials are being employed in additional rounds of trainings, and the topics include criminal legal practice, client interview skills and mitigating professional risk.
- Mongolia – As a part of the program on strategic litigation on human trafficking, ABA ROLI assisted in organizing a human rights training in Ulaanbaatar for private lawyers who provide legal services to trafficking victims. The objective of the training is to increase awareness of trafficking crimes within a broad, social, cultural and economic context, and to enhance lawyers' understanding of the unique trauma that victims experience. The training also covered international anti-human trafficking standards and laws and their application in domestic courts. Finally, the lawyers were trained on communication methods to enhance their capacity to represent victims effectively. This training is the first of its kind,

as Mongolian private lawyers have not previously been integrated into anti-human trafficking programming.

- Philippines – As a result of the success of ABA ROLI’s small claims court pilot program, the Supreme Court of the Philippines ordered that all first level courts around the country maintain small claims dockets. Designed to increase judicial efficiency and access to justice for Filipinos who cannot afford an attorney to address their legal problems, the first pilot small claims courts were launched in 44 trial courts in select urban areas of the Philippines in October 2008, targeting cases involving small money claims of up to \$2,000 (costing an average of \$30 per case). One of the primary goals of the pilot program was to increase the disposition rate of incoming cases. As a direct consequence, just nine months after the program started, the pilot courts had already decided 3,547 cases. In the pilot courts, cases have been heard and decided four months after a litigant has filed a claim, while traditional courts normally require three to four years to resolve civil cases. The Supreme Court amended the Rule of Procedure on small claims cases in November 2009, paving the way toward nationwide implementation of small claims courts. It is anticipated that this innovation will enable the courts to tackle a crippling backlog of approximately 700,000 civil cases per year, while increasing access to justice for the poor.
- ABA ROLI and the International Foundation for Electoral Systems (IFES) helped the Philippine judiciary prepare for May 2010 election disputes that may arise from the recent installation of the Automated Election System (AES). With the Philippines being the first country in the region to try the AES, ABA ROLI and IFES implemented a series of trainings for judges around the country in anticipation of a host of new legal issues that would arise out of the use of the AES and the election’s outcome.

#### Europe and Eurasia

- Russia – On April 16 in Rostov-on-Don, ABA ROLI’s USAID-funded Russia program launched the first independent alternative dispute resolution center in the Russian Federation. More than 50 guests attended the ribbon-cutting of the Rostov Mediation Center, which was jointly hosted by the Rostov District Court and the Russian Academy of Justice. The opening also was timely as it closely followed the introduction of a mediation bill on March 11 by the President of the Russian Federation.

#### Latin America and the Caribbean

- Ecuador – ABA ROLI conducted a trial advocacy training workshop for 54 attorneys, judges, police officers, law professors and law students in Manta, Ecuador.

#### Middle East and North Africa

- Jordan – ABA ROLI facilitated a two-month mentoring program implemented by the Arab Women’s Legal Network (AWLN) in which 25 women law students from four Jordanian Universities participated. The USAID-funded program was designed to encourage women law students to pursue challenging roles as legal

- professionals. The mentors shared their experiences about becoming women judges and lawyers in a male-dominated profession, exposed the students to diverse practice areas and engaged the students in skills building exercises. At the closing ceremony, the Minister of Justice and the AWLN Deputy Director distributed certificates to the students and recognized the mentors. Several students spoke about the impact of the program, describing how the experience changed their professional goals, enhanced their self-confidence and raised their expectations regarding the success of women in the legal profession.
- Lebanon – In April, ABA ROLI concluded a two-year program in Lebanon to promote transparency through access to information and whistleblower protection legislation. The State Department-funded program successfully supported the establishment of a multi-sector Lebanese network: National Network for the Right to Access Information, comprised of 17 governmental and non-governmental institutions and organizations committed to promoting transparency and combating corruption in Lebanon. Some accomplishments of the program include: access to information and whistleblower protection draft laws completed and submitted to parliament; the first-time celebration of International Right to Know Day in Lebanon; a website to promote access to information; increased awareness of the media, politicians and the public and private sectors on the importance of transparency and combating corruption; and, an action plan for advancing a public initiative to raise awareness of the new legislation across sectors.
  - Qatar – Based on recommendations made by an ABA ROLI team site visit in December 2008, the faculty at Qatar University Law School formed a quality assurance committee to analyze and update their curriculum. ABA ROLI then arranged for an external review of the proposed curriculum by U.S. experts, who praised the law school for its efforts and provided positive feedback. This month, upon submission of the experts' reviews, the Dean of the law school approved the new curriculum (for the fall 2010 semester), which will include two mandatory legal writing courses and a skills-based course.

### *Science and Technology Law*

- The Section cosponsored the Intellectual Property Law Spring Conference again this year and presented three programs during the meeting. Topics included biosimilars, DMCA and its application to user-generated content sites, and patent licensing for standards. The biosimilars and patent licensing programs are being repurposed as Section teleconferences in May and June.
- The topic for the Section's Monthly teleconference for April was online issues at work. As part of the Section's ongoing individualized learning pilot projects, an interview was recorded between the program moderator and one of the speakers and the link to the interview was placed on e-flyers and the website. The Section is testing to see if this type of marketing results in greater registrations and after market sales. Download numbers will be available shortly.
- The Section conducted a number of membership related projects this month, including a targeted recruitment campaign, an exit survey of all members who

dropped the Section and haven't yet reinstated, and survey of women members to determine what types of networking mediums are desired.

### *Senior Lawyers Division*

- The Division held its Spring Council meeting in New Orleans, in cooperation with the Section of Family Law and the Section of Individual Rights & Responsibilities. A CLE program was presented on the topic of “The Intersection of Marriage and Long Term Care and the Rights of Those Involved.” All three entities were represented on the panel which was moderated by Jeffrey Snell of Ohio.
- C-SPAN has requested permission to air 17 oral history videos which are part of the Division’s Women Trailblazers series which is cosponsored by the Commission on Women. SLD Council member Brooksley Born was interviewed by C-SPAN to introduce the first video shown on May 1.
- ABA Past President S. Shepherd Tate was named the 2010 John H. Pickering Award recipient. Mr. Tate will be honored at the annual Division dinner during the ABA Annual Meeting in August.

### *Substance Abuse*

- The Committee held a business meeting on April 19. A policy recommendation was approved to be presented at the Annual Meeting, which urges states to allow adolescents with substance abuse offenses to participate in pre-arrest diversion programs such as Florida’s Civil Citation program, discourages ‘one strike and you are out’ provisions, and allows parents to trigger acceptance of their substance-abusing adolescent into the treatment options of the pre-arrest diversion program without requiring law enforcement intervention. The Committee also approved comments on proposed standards implementing the Parity Act. The comments will be forwarded to Lillian Gaskin for approval and submission.
- The Committee voted to cosponsor the Judicial Division Policy recommendation “Driving Them to Sobriety.”

### *Women in the Profession*

- General Practice, Solo and Small Firms Division has agreed to cosponsor in name-only the Commission on Women's upcoming publication entitled, Road to Independence: A Woman's Guide to Forming Her Own Law Firm. Projected release of the publication is for spring 2011.
- The 4th Women in Law Leadership (WILL) Academy took place on April 29-30 in Philadelphia with a combined early bird and on-site registration of 500 participants, the largest WILL Academy ever.
- The regional Summit for Women In-House Counsel program, “Capture Your Power – Your Role in Advancing Women in the Legal Profession,” was held on April 28, one day prior to the WILL Academy at Temple University Center City in Philadelphia. Attendance at the invitation-only event was at capacity with 70 participants.

- Members of the Commission on Women’s subcommittee, Resolution and Legislative Concerns, attended ABA Day in Washington on April 22 to lobby on behalf of strengthening the Equal Pay Act, one of the ABA legislative priorities that resulted from the Commission-sponsored Resolution 107 on paycheck discrimination.

### *Young Lawyers Division*

- Effective May 1, The Young Lawyer moves to the “members-only” area of the website. The Young Lawyer, circulating to over 150,000 readers, is the Division's practice-oriented publication which focuses on matters of interest for the new lawyer.
- Through ABA YLD Touch 10,000, a member-to-member outreach program, YLD members (Ambassadors) are connecting with new bar admittees (NBAs) by email and phone to share their ABA experiences, answer questions, and serve as a valuable resource for the association’s newest members.
- The Disaster Legal Services (DLS) Program legal hotlines were established for four federally declared flooding disasters in Massachusetts, New Jersey, Rhode Island and West Virginia. Through the DLS Program, the Division and the Federal Emergency Management Agency (FEMA) provide immediate and temporary legal assistance to disaster victims at no charge.
- The Division spearheaded the effort to add a “Practice Basics” track to the ABA Annual Meeting. This track will highlight programs to assist new lawyers and those changing practice areas with a fundamental understanding of various areas of law.
- Through ABA Day 2010 participation, approximately 20 young lawyers helped educate the Obama Administration and the 111th Congress on issues of importance to lawyers.
- In mid-May, the Division will implement its public service project, “They Had a Dream Too: Young Leaders of the Civil Rights Movement” at the Ivanna Eudora Kean High School in the U.S. Virgin Islands. Modeled after an initiative developed by the Texas Young Lawyers Association, They Had A Dream Too is a year-long initiative that is designed to educate 11<sup>th</sup> and 12<sup>th</sup> grade students on the unrecognized roles of children in the civil rights movement and to inspire them to become future leaders.

### *Youth at Risk*

- On April 15 -16, over 100 leaders and experts met at the Roosevelt House Public Policy Institute at Hunter College in New York City to discuss how to effectively execute the Fostering Connections to Success and Increasing Adoptions Act law. The Commission, along with Hofstra University School of Law and the Roosevelt House Public Policy Institute at Hunter College, sponsored the two-day program which included over 30 national organizations and foster youth discussing guidance for implementing key provisions of the Act in areas such as the court and legal process, education, housing and employment, among others. A special April 2010 issue of the Family Court Review Journal was also given to

participants featuring a number of articles on transitioning foster youth and the value of ongoing court involvement and legal advocacy for this population. Among the speakers was ABA President Carolynn Lamm, Rep. Jim McDermott, one of the original sponsors of the legislation, Carmen R. Nazario, assistant secretary of Children and Families in the Department of Health and Human Services, and Judith Kaye, chief judge (ret.) of the state of New York.