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Major legislative victory

Conferees include lawyer exemption language in financial reform package

The ABA, working in close cooperation with more than a dozen state and local bars and key House leaders, scored a major legislative victory last month when conferees drafting the final version of financial markets reform legislation agreed not to grant the new Consumer Financial Protection Bureau (CFPB) authority to impose an additional federal layer of regulations over practicing lawyers who represent consumer clients.

The conference report on H.R. 4173 includes language stating that the CFPB “may not exercise any supervisory or enforcement authority with respect to an activity engaged in by an attorney as part of the practice of law under the laws of a State in which the attorney is licensed to practice law.” The ABA, along with numerous state and local bar associations, had urged the conferees to include a broad practice-of-law exclusion in the final legislation to ensure that the new law did not impose burdensome new federal regulations on lawyers that would interfere with core aspects of the confidential attorney-client relationship or undermine traditional state court regulation of the legal profession.

In a statement released June 26, ABA President Carolyn B. Lamm specifically recognized the efforts during conference negotiations of House Judiciary Committee Chairman John Conyers Jr. (D-Mich.) and Rep. Maxine Waters (D-Calif.), who strongly advocated for respecting the interests of the state courts and the practicing lawyers licensed by those courts, while at the same ensuring full protection for consumer interests. This was done, Lamm said, by tying the practice-of-law exclusion to the existence of an attorney-client relationship with the consumer client.

Lamm also expressed appreciation to Senate Banking Committee Chairman Christopher Dodd (D-Ct.) and House Financial Services Committee Chairman Barney Frank (D-Mass.) for their support for retaining the traditional supervisory role of the states in regulating lawyers.

In a June 11 letter to the House and Senate conferees, the ABA emphasized that the association does not object to provisions in both the House- and Senate-passed version of the bill that would allow the new consumer financial protection agency or bureau to regulate lawyers who are engaging in various commercial activities that do not constitute the practice law. The ABA also noted that it had

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LEGISLATIVE BOXSCORE

ABA LEGISLATIVE PRIORITY	HOUSE	SENATE	FINAL	ABA POSITION
<p>Independence of the Legal Profession. On 7/29/09, the Federal Trade Commission (FTC) announced a 90-day delay until 11/1/09 for a "Red Flags Rule" that would include attorneys in the definition of "creditor" and require lawyers to implement programs to detect, identify and respond to activities that could indicate identity theft. The ABA filed a lawsuit against the FTC on 8/27/09 and a motion for partial summary judgment on 9/23/09 to block the Rule's application to lawyers. On 10/30/09, the court ruled that the FTC has exceeded its authority, and the FTC announced 2/26/10 that it would appeal the decision. The FTC has delayed implementation of the rule for all entities until 12/31/10.</p>				<p>Opposes the application of the FTC's "Red Flags Rule" to lawyers. Supports preservation of the attorney-client privilege and work product doctrine and opposes governmental policies, practices and procedures that erode these protections, including the routine practice by government officials of seeking to obtain a waiver of the attorney-client privilege or work product doctrine through the granting or denial of any benefit or advantage. See page 8.</p>
<p>Health Care Law. P.L. 111-148 (H.R. 3590), the Patient Protection and Affordable Care Act, and P.L. 111-152 (H.R. 4872), the Health Care and Education Reconciliation Act, overhaul the nation's health care system. The president held a Forum on Health Reform at the White House on 3/5/09. S. 1347 and H.R. 1478 would repeal the <i>Feres</i> Doctrine, which prohibits members of the armed forces and their families from suing the military for negligent medical care during their service.</p>	<p>Judiciary subcommittee held a hearing on H.R. 1478 on 3/25/09 and approved the bill on 5/19/09. House passed the final version of H.R. 3590 on 3/21/10 and the final version of H.R. 4872 on 3/21/10.</p>	<p>Senate passed H.R. 3590 on 12/24/09 and the final version of H.R. 4872 on 3/25/10.</p>	<p>President signed P.L. 111-148 (H.R. 3590) on 3/23/10 and P.L. 111-152 (H.R. 4872) on 3/30/10.</p>	<p>Supports increased access to health care for all Americans. Opposes federal legislation to preempt state medical liability laws or legislation to require patients injured by malpractice to use "health courts" that take away jury trials. Supports S. 1347 and H.R. 1478.</p>
<p>Judicial Independence. No cost-of-living adjustment was provided for federal judges for fiscal year 2010. S. 220 and H.R. 486 would create an inspector general for the judicial branch. S. 1653 and H.R. 3362 would authorize new federal judgeships.</p>	<p>H.R. 486 was referred to the Judiciary Cmte. on 2/9/09. H.R. 3362 was referred to the Judiciary Cmte. on 9/29/09.</p>	<p>S. 220 was referred to the Judiciary Committee on 1/13/09. Judiciary subc. held a hearing on S. 1653 on 9/30/09.</p>		<p>Supports increased judicial pay. Opposes initiatives that infringe upon the separation of powers between Congress and the courts. See pages 3 and 6.</p>
<p>Legal Services Corporation. A draft bill approved by a House Appropriations panel includes \$440 million for the LSC in fiscal year 2011 and would lift a restriction on class actions. S. 718 and 3467 would reauthorize the LSC and lift several restrictions.</p>	<p>Judiciary subc. held LSC reauthorization hearings on 10/27/09 and 4/27/10. House Approps. panel approved draft bill on 6/29/10.</p>	<p>S. 718 was referred to Health, Education, Labor and Pensions Committee on 4/1/09.</p>		<p>Supports an independent, well-funded LSC. See page 7.</p>

ABA presents “Well Qualified” rating for Elena Kagan

Kim J. Askew, chair of the ABA Standing Committee on the Federal Judiciary, testified July 1 that the Standing Committee’s members unanimously concluded that Solicitor General Elena Kagan merits the highest rating of “Well Qualified” for appointment to the U.S. Supreme Court.

Askew, appearing before the Senate Judiciary Committee during the confirmation hearings on Kagan’s nomination, explained that to merit a rating of “Well Qualified,” a Supreme Court nominee must be a preeminent member of the legal profession, have outstanding legal ability and exceptional breadth of experience, and meet the highest standards of integrity, professional competence and judicial temperament. The rating of “Well Qualified” is reserved for those found to merit the committee’s strongest affirmative endorsement, she said.

Askew – who was accompanied by William J. Kayatta Jr., the Standing Committee’s First Circuit representative and the lead evaluator for the Kagan investigation – emphasized to senators that the Standing Committee does not propose, endorse or recommend nominees; its sole function is to evaluate a nominee’s integrity, professional competence, and judicial temperament and rate the nominee either “Well Qualified,” “Qualified” or “Not Qualified.”

The Standing Committee based its evaluation of Kagan on interviews with judges, lawyers, law professors and community representatives from across the United States, on the ABA committee’s own reading of the nominee’s major writings, on reports of three readings groups of scholars and practitioners, and an in-depth personal interview of the nominee that was conducted by Askew and Kayatta on June 13.

As the Standing Committee

evaluated the nominee’s integrity, members looked at Kagan’s handling of military recruiters when she was dean of Harvard Law School. They found that she enforced the law school’s long-standing policy denying placement office services to any firm or organization that refused to hire students for reasons that include known sexual orientation. In lieu of such access, she set up an alternative channel to provide recruiting services through a veterans group. Later, she exempted the military from enforcement of the policy to avoid loss of federal funding for the entire university.

The Standing Committee concluded that she provided military

outstanding lawyer who “confidently and diligently learns fast, masters new roles, and has a remarkable ability to understand and fairly assess numerous complex and important issues, all while fulfilling faithfully her assigned role as lawyer for the United States and a steward of the Office of Solicitor General’s reputation.”

Exploring Kagan’s lack of judicial experience, Askew explained that in “the case of the Supreme Court, the extensive and in-depth writing, research, debate and teaching of broad areas of law may well satisfy the Standing Committee’s criteria for evaluating professional competence.” The Standing Committee found that the overwhelming



ABA witnesses William J. Kayatta Jr. and Kim J. Askew

recruiters with a degree of student access that likely would not have been provided to private employers with similar policies.

“Our interviews and review of these facts disclosed no evidence that then Dean Kagan demonstrated any type of bias that would cause us to question her integrity under our standards,” Askew said.

In assessing Kagan’s year and a half as Solicitor General, Askew said a “clear picture” emerged of an

view of the lawyers and judges interviewed is that it is important to have former judges on the Supreme Court, but it also is important to have those who have spent their time engaged with the law otherwise, either as practitioners, academics or government officials.

Askew said that Kagan’s temperament – demanding, open-minded but working well with others in a collaborative setting – was

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ABA urges dischargeability of private student loans

Bills would help those who have made good faith efforts to pay

ABA President Carolyn B. Lamm urged Senate and House support last month for S. 3219 and H.R. 5043, legislation to grant dischargeability of private student loans for those who have made good faith efforts to repay educational debts yet have had to declare bankruptcy as a last resort because of the current economic downturn and low-hiring job market.

In a June 16 letter to members of Congress, Lamm pointed out that 80 percent of students rely on student loans to help finance higher education, and law students, on average, incur almost \$60,000 in debt to attend public schools and more than \$90,000 in debt for private schools in addition to an average debt of \$20,000 for undergraduate loans. She explained that limits in the federal Stafford loan program cause many borrowers to turn to private loans that often do not provide the same repayment flexibility as federal loans.

Lamm said that in 2009 the nation's largest law firms suffered the deepest cuts in their attorney numbers in more than 30 years, and the legal industry as a whole lost approximately 42,000 jobs between November 2008 and November 2009.

"The current job market makes it difficult for many borrowers to find gainful employment to enable them to pay back their students loans," Lamm wrote. The number of associates in large firms shrank by almost nine percent last year, she said, and 42 percent of incoming first-year associates had deferred start dates.

"While bankruptcy is a difficult decision for anyone enduring economic hardship, allowing dischargeability of private student loans would provide help to borrowers who have tried but are simply unable to repay in full their edu-

cational loans," Lamm said.

She also suggested expanding the bills to provide other forms of loan relief to help avoid bankruptcy. Options would include: increasing Stafford loan limits; incorporating bar study loans into the

definition of an educational loan; allowing borrowers to refinance private loans in the federal system; and relaxing the criteria and provisions of income-based repayment and other federal loan programs so more individuals may qualify. ■

Financial regulation reform

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no objection to provisions that would allow the new entity to regulate lawyers to the same extent that they are currently regulated under the enumerated consumer laws identified in the legislation.

The association expressed its strong support to the conferees, however, for inclusion of a practice-of-law exclusion that had been passed by the House as part of its version of the bill while also noting its serious concerns about the broad definition of "consumer financial product or service" in the Senate-passed version of the bill. That definition, according to the ABA, would have authorized the consumer agency or bureau to regulate any lawyer assisting a consumer client with "debt management...debt settlement, modifying the terms of any extension of credit...(or) avoiding foreclosure."

As a result, the Senate language would have allowed the new entity to impose burdensome new federal regulations on many bankruptcy lawyers, litigators, family lawyers, real estate lawyers, tax lawyers, and general practitioners who help consumer clients resolve their debt problems.

Although housed in the Federal Reserve, the new CFPB would operate independently to protect American consumers from unfair, deceptive and abusive financial practices. The new agency is just one piece of what President Obama called the "toughest financial reform since the ones created in the aftermath of the Great Depression."

When the president called for prompt action on overhauling financial regulation last fall, the ABA sent administration officials and congressional leaders a proposed framework that included eight principles the association maintained should be the basis for financial reform legislation and regulations. The ABA recommendations, adopted by the House of Delegates in August 2009, were the product of the association's Task Force on Financial Markets Regulatory Reform, comprised of 15 prominent lawyer members who have served in the top levels of government, private practice and academia. The ABA also provided Congress separate recommendations in recent months on other aspects of the financial reform package, including potential technical improvements to the structure and powers of the proposed consumer financial protection entity.

Following approval of the conference report June 25, conferees reopened negotiations and made further changes to garner additional Senate support for the legislation. The House passed the conference report June 30, and a vote in the Senate is expected after the July 4 break.

House panel examines immigration courts

Executive Office for Immigration Review is subject of House Judiciary hearing

Emphasizing that the “immigration court system is in crisis, overburdened and under-resourced,” the ABA expressed support June 17 for creation of an independent body, such an Article I court, for adjudicating immigration cases but also recommended some incremental reforms that could be made within the existing structure.

Karen T. Grisez, chair of the ABA Commission on Immigration, testified before the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security and International Law that a recent report commissioned by the ABA confirmed that the immigration court system is in crisis.

The report, *Reforming the Immigration System: Proposals to Promote Independence, Fairness, Efficiency and Professionalism in the Adjudication of Removal Cases*, undertook a complete examination of the structures and process of the current removal adjudication system, from the decision to place an individual in removal proceedings through potential federal circuit court review.

The report examined activities within the following entities: Department of Homeland Security, which houses U.S. Citizenship and Immigration Services, Customs and Border Protection, and Immigration and Customs Enforcement; the Department of Justice, which includes the Executive Office for Immigration Review (EOIR) encompassing immigration judges and courts and the Board of Immigration Appeals (BIA); and the federal circuit courts.

The ABA House of Delegates adopted a majority of the report’s recommendations in February as ABA policy.

In her statement to the subcommittee, Grisez emphasized that immigration judges complete more

than 1,200 proceedings and issue an average of 1,000 decisions each year – far more than adjudicators in other administrative agencies. A lack of adequate staff support – on



ABA witness Karen T. Grisez

average only one law clerk for every four immigration judges – contributed to the workload problem, she said.

“The shortage of immigration judges and law clerks has led to very heavy caseloads per judge and a lack of sufficient time for judges to properly consider the evidence and formulate well-reasoned opinions in each case,” she testified.

Grisez said that in addition to hiring additional judges to meet the expected increase in the workload, the immigration courts must provide more training and professional development as well as adequate supervision and discipline.

She also said that revising certain DHS policies and procedures consistent with enforcement priorities — such as encouraging prosecutorial discretion — could decrease the number of cases being sent into the immigration court system. Improving the process for handling asylum claims also could prevent thousands of such claims from reaching the immigration courts each year, she testified.

Grisez recommended increasing

access to legal representation and information, pointing out that less than 50 percent of noncitizens in detention proceedings and less than 20 percent of those detained have legal representation.

“Having a lawyer, or even access to basic legal information, will help ensure that those who have no legitimate claims for relief agree to departure and those cases that do proceed move more quickly,” she said.

She urged expansion of the Legal Orientation Program (LOP), established in 2003 to provide legal rights presentations and facilitate pro bono representation. A recent study by the Vera Institute of Justice revealed that cases for individuals participating in LOP moved an average of 13 days faster through the system.

Juan P. Osuna, associate deputy attorney general at the Department of Justice, testified that EOIR has made progress during the past two years to improve the immigration adjudication system and is seeking the resources necessary to hire additional immigration judges, BIA attorneys and other staff, to provide them with sufficient training and tools, and to fully implement a Digital Audio Recording system for immigration court hearings.

Dana Leigh Marks, president of the National Association of Immigration Judges, focused her testimony on actions that may be taken immediately to improve the efficiency of the immigration courts, including use of senior status judges, implementation of a case weighting system to maximize allocation of resources, and appropriation of greater resources. She also agreed with the ABA that EOIR should be removed from the Department of Justice and established as an independent agency or as an Article I court. ■

ABA urges Supreme Court to consider judicial pay

The ABA filed an amicus brief June 17 urging the Supreme Court to take up the case of *Beer v. United States* to rule on whether congressional denial of cost-of-living adjustments (COLAs) for federal judges violates the Constitution by compromising judicial independence.

The plaintiffs in the case, eight current and retired federal judges who began service on the bench before 1989, are asking the Supreme Court to reconsider a 2001 decision by the U.S. Court of Appeals for the Federal Circuit. The decision, *Williams v. United States*, ruled that Congress could withhold judicial pay raises under the Ethics Reform Act of 1989 without violating the Compensation Clause of Article III of the Constitution. That clause states that compensation of federal judges “shall not be diminished during their Continuance in Office.”

In January the federal circuit court denied, on a split vote, the plaintiffs’ petition for an en banc hearing on the issue, and the plaintiffs are appealing that decision to the Supreme Court. The justices are expected to decide whether to consider the case after July 16, when the federal government will be submitting its brief.

“Based on nearly 50 years of study of federal judicial compensation, the ABA believes that Congress’ periodic withholding of the judicial COLAs established by the Ethics Reform Act of 1989 has resulted in judicial pay that is now so low that it seriously compromises the independence that life tenure was intended to ensure, and is insufficient to attract and retain well-qualified jurists from diverse economic and societal backgrounds,” the brief stated.

The brief noted that in six of the past 20 years Congress has refused to authorize judicial COLAs and that judges continued to lose ground even in the years that COLAs were provided. In real terms, according to the brief, a federal district judge’s salary has declined approximately 27 percent since 1969 as inflation-adjusted wages for American workers increased 19.5 percent. At the same time, federal judges’ workloads dramatically increased.

As a result, according to the brief, highly qualified and experienced jurists are leaving the bench in unprecedented numbers, often to assume more lucrative posts in the private sector.

The brief concludes that the Supreme Court, not a divided court of appeals, should decide the issue. ■

Kagan nomination

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found to be well-suited and deserving of a “Well Qualified” rating.

In her statement to the Senate Judiciary Committee before beginning two days of questioning, Kagan said, “I will listen hard, to every party before the court and to each of my colleagues. I will work hard. And I will do my best to consider every case impartially, modestly, with commitment to principle and in accordance with law.”

The Senate Judiciary Committee is scheduled to vote on the nomination July 13, with a Senate vote expected before the August recess. ■

Judicial Vacancies/Confirmations — 111th Congress (as of 7/8/10)

<u>Court</u>	<u>Current Vacancies</u>	<u>Pending Nominations</u>	<u>Confirmations</u>
US Supreme Court (9 judgeships)	1	1	1
US Courts of Appeals (179 judgeships)	20	12	9
US District Courts (678 judgeships)	79	29	26
Court of International Trade (9 judgeships)	0	0	0
Totals	100	42	36

Washington News Briefs

SOCIAL SECURITY ADMINISTRATION: The ABA urged members of Senate and House Appropriations panels last month to approve no less than \$12.528 billion for the Social Security Administration (SSA) in fiscal year 2011. In a June 9 letter to the Senate and House Appropriations Subcommittees on Labor, Health and Human Services, Education and Related Agencies, ABA Governmental Affairs Director Thomas M. Susman said the amount, proposed by President Obama, includes \$12.379 billion for SSA's Limitation on Administrative Expenses account, which provides administrative resources for programs administered by SSA, including Disability Insurance and Supplemental Security Income. "The \$12.528 billion level of funding, among other things, would allow SSA to continue its efforts to reduce the number of Social Security disability hearings pending before administrative law judges," Susman wrote. The yearly increases in funding provided by Congress since 2008 have enabled SSA to reduce its disability backlog from more than 768,000 to fewer than 700,000 cases and reduced the average processing time in the appeals process to 437 days from an average high of 532 days in August 2008. Susman explained, however, that SSA needs increased administrative funding to continue to make progress because there has been a steep increase in new disability claims due to the economic downturn and the growing number of aging baby boomers. He also told the panels that the ABA has a long-standing interest in the SSA process and has worked for more than two decades to promote increased efficiency and fairness in the system.

MANDATORY MINIMUMS: James E. Felman, co-chair of the ABA Criminal Justice Section's Committee on Sentencing, recently reiterated the ABA's long-standing opposition to mandatory minimum sentences during a hearing sponsored by the U.S. Sentencing Commission. The commission, which issued a report in 1991 that was highly critical of mandatory minimums, is undertaking a comprehensive review toward preparing an updated report to submit to Congress by October of this year. Felman noted in his testimony that, for the first time in U.S. history, more than one in 100 individuals are imprisoned, and the United States imprisons its citizens at a rate roughly five to eight times higher than the countries of Western Europe and 12 times higher than Japan. He explained that in the 25 years since the enactment of mandatory minimum sentences for drug offenses and the adoption of the U.S. Sentencing Guidelines, the average federal sentence has approximately tripled in length. "Sentencing by manda-

tory minimums is the antithesis of rational sentencing policy," Felman testified, explaining that such sentencing reflects a "deliberate election to jettison an entire array of undisputedly relevant considerations in favor of a solitary fact – usually a quantity of drugs that may bear no relationship to the defendant's particular culpability." He pointed out that mandatory minimum sentencing is opposed by a wide ideological array of groups and individuals, including the Judicial Conference of the United States. During the day-long hearing, held May 27, Sally Quillian Yates, U.S. attorney for the Northern District of Georgia, testified that the Obama administration recognizes that reforms are needed and supports limited but judicious use of mandatory minimum statutes as the Justice Department's Sentencing and Corrections Working Group reviews federal sentencing and corrections policy.

LEGAL SERVICES CORPORATION: The House Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies approved a fiscal year 2011 funding bill June 29 that includes \$440 million for the Legal Services Corporation (LSC). The amount represents a \$20 million increase over the \$420 million the program received for the current fiscal year and \$5 million more than the amount included in President Obama's proposed budget. The bill also would lift a restriction on class actions, a step that subcommittee Chairman Alan Mollohan (D-W.Va.) said "will allow grantees to more efficiently address systemic issues such as predatory lending or wrongful eviction." The bill retains other restrictions currently in place, including a restriction on the use of non-LSC funds. The ABA has been urging Congress to appropriate at least \$440 million for the program for fiscal year 2011, pointing out that the LSC is the central foundation for the legal aid system and that federal resources to support the LSC are grossly inadequate. At the same time, other major sources of funding for legal aid, including state appropriations, private giving and Interest on Lawyers' Trust Accounts (IOLTA) revenues, are declining and are unstable due to the current economic downturn. According to the ABA, local legal aid programs make a real difference in the lives of millions of low-income American families by helping to resolve everyday legal matters and helping those who suddenly qualify for and need legal assistance during times of recession and after natural disasters. The programs are also the nation's primary source of legal assistance for women who are victims of domestic violence.

Clarification needed for homelessness rule

The ABA offered comments June 21 on a proposed Department of Housing and Urban Development (HUD) rule intended to implement the definition of homelessness in the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009.

The 2009 statute, which reauthorized the McKinney-Vento homeless assistance programs, expanded the definition of homelessness by adding several new categories of “homeless” persons. The statute’s definition of “homeless” now includes those who live in shelters and those at imminent risk of losing their housing. It also includes unaccompanied youth and homeless families who are defined as homeless under other federal programs, have lived a long period of time without permanent housing, have moved frequently, and will continue to experience instability because of disability, a history of domestic violence or abuse, or experience several barriers to employment.

Josephine A. McNeil, chair of the ABA Commission on Homelessness and Poverty, writing on behalf of the ABA, urged HUD to ensure that the regulations comport with the statute and provide for better alignment of services.

McNeil expressed concerns about the verification procedures in the proposed rule for those at imminent risk of losing their housing. According to McNeil, a requirement for written verification of an oral statement showing that individuals are losing their housing within 14 days may create unreasonable delay in receiving services.

She also expressed ABA concern about defining “long-term period” as 90 days and defining “frequent moves” as three or more moves within that 90-day period for determining “persistent instability as measured by frequent moves.” In defining these terms, the ABA recommends consideration of shorter time frames because “any period in which children and youth are without housing is damaging to their health, development and ability to attend and succeed in school.”

The ABA comments also recommend that HUD

reconsider limiting application of the HEARTH law to dangerous or life-threatening conditions related to violence. Under the statute, the law should apply when there are conditions not related to violence, such as overcrowded homes or spaces with a high risk of fire due to faulty wiring or improper use of space heaters.

The final rule also should explicitly ensure that homeless youth are eligible for HUD homeless assistance as required under the law, McNeil wrote. She recommended coverage for individuals up to age 24. ■

D.C. Circuit sets deadlines for Red Flags appeal

The D.C. Circuit Court has announced the deadlines for briefs in the Federal Trade Commission’s (FTC) appeal in the Red Flags case.

The FTC is appealing a decision issued Oct. 30 by Judge Reggie Walton of the District Court for the District of Columbia that concluded that the FTC exceeded its authority by applying its “Red Flags Rule” regarding identify theft to practicing lawyers. Walton concurred with the ABA, which brought the case against the FTC last August. The association maintains that lawyers should not be included in the rule, which will require “financial institutions” and “creditors” to implement programs to detect identify and respond to activities that signal possible identify theft.

The FTC’s brief to the circuit court is due July 21, and the ABA must submit its brief by Aug. 20. Amicus briefs are due Sept. 7. The New York State Bar will be joined by more than 15 other state bars in submitting an amicus brief to the court in support of the ABA.

Meanwhile, the commission has delayed implementation of the Red Flags Rule through the end of the year.

The monthly *Washington Letter* reports news of national public interest to the legal profession, including congressional, executive branch and ABA activities concerning the association’s legislative priorities. The newsletter is published by the Governmental Affairs Office as a service to ABA members and national, state and local bar associations. Full text is available on the Internet at <http://www.abanet.org/poladv/publications.shtml>. © 2010 American Bar Association. All rights reserved. Please address correspondence to:

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