From the Chair

Mitchell L. Bach

This may be the last newsletter in which I have the opportunity to address you as Chair of the Committee on Business and Corporate Litigation. It has been an honor to serve in this capacity for these four years. Although it has required a lot of work, I have been blessed by the lasting friendships and professional relationships this position has enabled me to form.

I am the fifth person to serve as Chair of the Committee since its formation in 1991. I always have revered my four predecessors (Don Scott, Frank Balotti, Jim Holzman and Elizabeth Stong), and they left me with big shoes to fill and a remarkable legacy. The Committee has grown substantially during the past four years, and I hope that you will agree with me that we have been strengthened. I am especially gratified by the emergence of so many younger leaders, and I am confident that the Committee will be in good hands for years to come.

I was recently asked to write a preface for our legendary Annual Review of Developments in Business and Commercial Litigation which is about to go to press. I thought I would leave you with this preview:

This 2007 edition of the Annual Review of Developments in Business and Corporate Litigation is the fourth and the last edition which I have overseen, in my capacity as Chair of the Committee on Business and Corporate Litigation of the ABA’s Section of Business Law. In my view, it is the biggest and the best we have produced.

During the past four years, I have had the able assistance of many members of our Committee, too many to name in this brief Preface. They are the ones who have done all the heavy lifting. One individual stands out and is deserving of special recognition.

I have decided to dedicate this edition of the Annual Review to one of my predecessors and a dear friend, Jim Holzman. A number of years ago, Jim advocated a CLE program on recent developments in various aspects of commercial litigation. The Committee structure was well suited for this, being comprised of subcommittees which specialize in virtually every substantive aspect of business litigation. Each subcommittee became responsible for a section of the written materials which were distributed at the time of the CLE presentation.

This CLE program was well received, and we were asked to repeat it. Our Committee’s Recent Developments CLE program is now a permanent feature of the Section of Business Law’s Annual Spring Meeting. Our voluminous written materials have set high standards of excellence, and have been eagerly sought by participants each year, who brought them back to their law firms, companies, law schools and judicial chambers. One of the highest forms of praise came from the Section of Business Law which decided to publish these materials annually for wider circulation.

Jim could not possibly have imagined how huge and successful this project would become when he first advocated it. Each year, new chapters have been added, as our Committee added new subcommittees. This year, we add a chapter on international litigation, bringing the total number of chapters to 24. I have lost count of the number of authors, but I know it is well over 50.
Although producing and organizing these chapters has become an enormous year-round project, I am confident that the high standard of excellence throughout the volume has not wavered. It was Jim Holzman who set that bar high for all of us who have followed him. For me personally, I have always been inspired by Jim’s exemplary leadership and energy.

As I prepare to pass the baton myself, I want to salute Jim, and to express my appreciation for his support. The Annual Review project and the Committee on Business and Corporate Litigation itself are indelibly stamped by the foresight and leadership of Jim Holzman, and for that I shall be eternally grateful.

Hope to see you at the Annual Meeting in San Francisco.

Mitchell L. Bach
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Featured Articles

Is Nothing Sacred?: The Ninth Circuit’s New Take on ERISA Decision-Making
Virginia Perkins and Heather Reinschmidt

To most lawyers and laypersons alike "ERISA" is an enigma. These five letters could just as easily stand for "Every Rotten Idea Since Adam" as the lofty sounding "Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C §§1001, et seq." Even more confusing is the fact that most people who encounter ERISA will do so in cases that have nothing to do with "retirement security", but instead involve the denial of health or disability benefits. This is because, through ERISA, Congress undertook to regulate the universe of employee benefit plans (both retirement and welfare plans). True to the age old-adage that "no good deed goes unpunished" ERISA is most often described as a "comprehensive and reticulated statute" that has kept both the plaintiffs’ and defense bars gainfully employed for more than 30 years. Nachman Corp. v. Pension Benefit Guaranty Corp., 446 U.S. 359 (1980).

More...
Subcommittee Updates

Subcommittee on Alternative Dispute Resolution
Abigail Pessen

The Alternative Dispute Resolution Subcommittee had a productive meeting in Washington. Patricia Guidi of Brazil and Todd Burke of Canada attended, sparking an interesting discussion of dispute resolution trends in those countries and in China, where Todd's law partner, Peter Lukasiewicz, has been active in arbitration training. We also got the benefit of a first-year law student's perspective on the field of ADR (to date, ADR has not been mentioned in the curriculum of her law school). The upshot of the meeting was that a program highlighting key differences in ADR in the international community would be of interest to the Section and should be proposed jointly by our subcommittee and the International Litigation subcommittee chaired by Peter Lukasiewicz, for next year's meeting in Dallas.

Subcommittee on Appellate Litigation
Kendyl Hanks

At the ABA Section of Business Law Spring Meeting in Washington, D.C. in April, 2007, the Appellate Subcommittee of the Business and Commercial Litigation Committee presented a highly successful Committee Forum entitled A Tour of The Ivory Tower: Developments in the United States Supreme Court That Every Business Lawyer (and Client) Should Know About.


More...

Subcommittee on Business Courts
Merrick L. Gross and Lee Applebaum
The Subcommittee on Business Courts has been very busy over the past few months. We had a very busy agenda during the Section's Spring meeting in Washington, D.C. in March. We began that meeting with the Subcommittee's business meeting during which Subcommittee Chair Rick Gross moderated a program he put together entitled "Current Status of Business Courts in the United States." The program had Judge Ben F. Tennille of the American College of Business Court Judges as a speaker, along with Subcommittee Vice-Chair Lee Applebaum. The subcommittee meeting was very well attended by both lawyers and judges.

The Subcommittee also assisted in putting a CLE program entitled "An Introduction to Business Courts" as part of the Institute for the Young Business Lawyer, which was held during the Spring Meeting. The panel for that program included the Honorable Janet Barton from Arizona's Superior Court of Maricopa County's Complex Civil Litigation Program, the Honorable Albert Matricciani from Maryland's Business and Technology Case Management Program, and the Honorable Albert Diaz from the North Carolina Business Court, along with subcommittee vice-chair Lee Applebaum. The program was moderated by Mitchell L. Bach, former subcommittee chair and current chair of the Committee on Business and Corporate Litigation.

More...

Subcommittee on Financial Institution Litigation

Elyse Rosen

Bruce Smith, Partner and National Chair of the Civil Fraud practice group at Gowling Lafleur Henderson LLP, spoke at the Financial Institutions Litigation Subcommittee meeting held during the Spring Meeting in Washington, DC. During his presentation, entitled "Crossing International Boundaries - The Latest on Civil Fraud Remedies", Bruce gave away some of his innovative techniques for successfully locating, freezing, and recovering stolen monies from mixed bank accounts in foreign countries. Following the presentation a lively discussion ensued regarding the pros and cons of involving the SEC or other governmental authorities when attempting to trace assets on behalf of a client, and some of our members from civil law jurisdictions such as France and Quebec pointed out some salient differences with respect to tracing remedies in their jurisdictions. The presentation was extremely informative and appreciated by all who attended. I invite all those who missed it to contact me and I will put you in touch with Bruce so that you can obtain a copy of his PowerPoint notes.

I also invite all of you to share any ideas or thoughts you may have about our sub-committees activities and presentations.

It was great to see all of you who attended. For those who could not attend, I look forward to seeing you at future meetings.

Subcommittee on Securities Litigation

Jay Dubow

The Securities Litigation Subcommittee had a joint meeting with the Criminal and Enforcement Litigation Subcommittee at the Spring Meeting.
Our special guest was Joan McKown, Chief Counsel of the United States Securities and Exchange Commission's Division of Enforcement. Joan first described the work of the Chief Counsel's office and then discussed recent significant SEC cases. Joan graciously responded to a number of questions from the attendees about matters of substance and procedure at the Division of Enforcement.

Also at the Spring Meeting, Subcommittee Vice Chair, Michele Rose, presented at the Recent Developments program. Michele's presentation of recent developments was well done, enthusiastic and well received.

At the Annual Meeting in San Francisco this August, we will attempt to schedule a senior SEC or other regulatory official to attend our Subcommittee meeting.

Subcommittee on Tribal Court Litigation
By Gabriel S. Galanda

The Tribal Court Litigation Subcommittee keeps on rollin'. The Subcommittee participated in three programs at the Washington, DC Spring Meeting.

- "2007 Annual Review of Developments in Business and Corporate Litigation: Tribal Court Litigation";
- "Commercial Financing in Indian Country in the Era of Tribal Gaming," chaired by yours truly; and
- "Hot Topics in Federal Indian Gaming Law " Policy," chaired by Subcommittee Chair Heidi Staudenmaier.

Our two-person subcommittee also authored a "Tribal Court Litigation" chapter in the forthcoming edition of Annual Review.

We welcome your ideas about possibilities for collaboration with your subcommittee or groups within the Committee, Section or ABA. For information about the Subcommittee, or tribal business or litigation practice, please do not hesitate to contact Heidi Staudenmaier, Subcommittee Chair, at (602)382-6366 or hstaudenmaier@swlaw.com, or myself at (206) 628-2780 or ggalanda@wkg.com.
2007 ABA Annual Meeting
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→ Meeting Website

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Is Nothing Sacred?  
The Ninth Circuit’s New Take on ERISA Decision-Making

By: Virginia Perkins and Heather Reinschmidt, Jones Day/San Francisco

To most lawyers and laypersons alike “ERISA” is an enigma. These five letters could just as easily stand for “Every Rotten Idea Since Adam” as the lofty sounding “Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C §§1001, et seq.” Even more confusing is the fact that most people who encounter ERISA will do so in cases that have nothing to do with “retirement security”, but instead involve the denial of health or disability benefits. This is because, through ERISA, Congress undertook to regulate the universe of employee benefit plans (both retirement and welfare plans). True to the age old-adage that “no good deed goes unpunished” ERISA is most often described as a “comprehensive and reticulated statute” that has kept both the plaintiffs’ and defense bars gainfully employed for more than 30 years. Nachman Corp. v. Pension Benefit Guaranty Corp., 446 U.S. 359 (1980).

Even lawyers who have only a passing familiarity with ERISA can tell you that a cornerstone of employee benefit claims is the concept of claim “exhaustion”. What is exhaustion? To the uninitiated it means that a participant whose claim has been denied must file a request for a review of the denied claim before filing suit. The ERISA statute requires every employee benefit plan to have a claims review procedure for participants who think they have been wrongfully denied benefits. 29 U.S.C. § 1133. Although the requirement to file a claim with the plan before filing suit is found nowhere in the statute, every Circuit Court of Appeals has recognized that benefit claims must be taken up first with the plan administrator before they can be taken up with the court. Amato v. Bernard, 618 F.2d 559 (9th Cir. 1980). Exhaustion serves multiple purposes: (1) it allows a participant to submit additional evidence regarding his claim; (2) it allows the plan administrator to review the claim and reverse or affirm the decision to deny benefits; and (3) it creates an administrative record to assist a court in reviewing the claim in any subsequent lawsuit. Plaintiffs who fail to follow these procedures risk having their lawsuit dismissed for “failure to exhaust.”

In 1989 the Supreme Court reviewed this process and addressed the standard of review that courts must apply in reviewing ERISA cases in which plan administrators have denied benefits. Firestone Tire & Rubber Co. v. Bruch, 489 U.S. 101 (1989). In Firestone, the Supreme Court announced that a plan administrator’s interpretation of the terms of an employee benefit plan would be subject to “Judge Judy” review – called “de novo” review by lawyers – because the court gives no presumption of correctness to the plan administrator’s decision to grant or deny a claim for benefits. The Supreme Court also explained, however, that if a plan contains special language giving the administrator the power to construe the plan’s terms and to determine who is eligible for benefits, then the “abuse of discretion” standard applies. Under the abuse of discretion standard a plan administrator’s decision will be upheld unless it was “arbitrary and capricious.” In the Ninth Circuit, this has often meant that courts would uphold an administrator’s decision so long as it was “grounded on any reasonable basis.” Jordan v. Northrop Grumman Corp. Welfare Benefit Plan, 370 F.3d 869, 875 (9th Cir. 2004). Ever since this standard was announced, employers have scrambled to include “magic”, discretionary language in their plan documents and plan participants have cried foul. After all, most benefit claims are decided either by a plan administrator, appointed by the plan sponsor, or by the
insurance company paying the claims. Both of these entities arguably have a self-interest in denying claims.

Over the years, courts in the Ninth Circuit have struggled with the tension between the “abuse of discretion” standard and inherent notions of fairness. As a result, limited exceptions to the sacred “abuse of discretion” standard were recognized in instances where the plaintiff could present “material probative evidence, beyond the mere fact of the apparent conflict, tending to show that the fiduciary’s self-interest caused a breach of the administrator’s fiduciary obligations to the beneficiary.” *Atwood v. Newmont Gold Co.*, 45 F.3d 1317, 1323 (9th Cir. 1995). If the participant presented such evidence, the burden shifted to the administrator to prove that the conflict of interest did not affect its decision to deny benefits. If the administrator could not meet this burden, the court would review its decision *de novo*. While the courts appeared increasingly comfortable applying these concepts, the Ninth Circuit recently encountered a case which caused it to reverse course and alter the application of ERISA’s abuse of discretion standard. Other circuits may soon follow suit.

*Abatie v. Alta Health & Life Ins. Co.*, 458 F.3d 955 (9th Cir. 2006) (en banc).

*Abatie* began as a plain vanilla claim for benefits case. Dr. Abatie was a radiologist at the Santa Barbara Medical Foundation Clinic for over twenty years when he took a medical leave of absence in 1992 after developing non-Hodgkin’s lymphoma. The Clinic offered its employees both disability benefits and life insurance benefits under an unfunded life insurance plan. Dr. Abatie received disability benefits beginning in 1993, and ultimately succumbed to his illness in 2000. After her husband’s death, Ms. Abatie filed a claim for life insurance benefits with the life insurance company – Alta Health & Life Insurance Company - who also happened to be the claims administrator.

Alta conducted two reviews of Ms. Abatie’s claim. After the first review, Alta denied her claim on the grounds that her deceased husband had not filed a waiver of premium application following the onset of his disability and because he had not submitted proof of his total disability within 12 months of becoming totally disabled. Both of which were requirements under the policy. After Ms. Abatie filed suit and discovery revealed that the Clinic may have submitted a waiver of premium application on Dr. Abatie’s behalf, Alta reviewed Ms. Abatie’s claim for a second time. After the second review, Alta denied Ms. Abatie’s claim, standing behind its prior position that there was insufficient evidence to prove the Clinic had submitted a waiver of premium application for Dr. Abatie. During this second review, Alta introduced a new reason for denying the claim as well – stating that there was insufficient evidence that Dr. Abatie was “totally disabled” from the time he left work in 1992 until his death in 2000. Following this second review, the parties resumed litigation. The trial court reviewed Alta’s decision under the “abuse of discretion” standard and upheld the denial of her claim. Ms. Abatie appealed her case to the Ninth Circuit and the Ninth Circuit reversed.

The Ninth Circuit held that an inherent conflict exists when the plan administrator is also the funding source of benefits. On the one hand, the administrator is supposed to administer the plan so that those who deserve benefits receive them. But, at the same time, the administrator has an incentive to pay as little in benefits as possible because the less money the insurer pays out, the more money it retains in its own coffers. The Ninth Circuit determined that the existing rule
was not only inconsistent with Supreme Court guidance, but also unfair to plan participants. Lawyers bringing or defending ERISA benefit claims in the Ninth Circuit now have a new rule of law with which to contend. The jury is still out on whether the *Abatie* rule has simplified or complicated court review of these cases.

**According to the *Abatie* Rule:** Where a plan grants “discretion” to a conflicted administrator, the “abuse of discretion” review applies, but a financial conflict of interest must be weighed as a “factor” in reviewing a plan administrator’s decision to deny benefits. Courts must now be “skeptical” of the administrator’s motives. A court is required to consider all facts and circumstances and make the call on how much or how little credit to give the plan administrator’s stated reasons for denying coverage. Certain facts will increase or decrease the court’s skepticism. For example, skepticism will be high if the administrator gives inconsistent reasons for denying the claim, fails to adequately investigate the claim, fails to ask the participant for necessary evidence, or has repeatedly denied benefits to deserving participants by interpreting the plan’s terms incorrectly or ignoring the weight of the evidence in the record. *Abatie* at 968-69. On the other hand, the level of skepticism may be low if there is no “evidence of malice, or self-dealing, or of a parsimonious claims-granting history.” *Abatie* at 968. The burden is no longer on the plaintiffs to produce “smoking gun” evidence that the plan administrator’s decision was tainted by self interest. If anything, the burden has now shifted to the plan administrators to show impartiality.

**What Now?**

Employers who sponsor self-funded plans or whose insurers also administer their plans need to re-evaluate their claims procedures in light of *Abatie*. This means:

- Be aware of the potential consequences if those who pay benefit claims also deny them.
- Read and follow the plan’s claims review procedures and make sure to comply with the Department of Labor regulations.
- Be wary of introducing new reasons for denying a claim on appeal.
- Be consistent in the application of internal claims guidelines and procedures.
- Don’t assume there will be no discovery if a claim ends up in court.
- Consider including evidence in the administrative record which shows internal claims review procedures were followed by a neutral decision maker.
- Give your claims administrator discretion. Discretion is still the most powerful tool available to a claims administrator. Without discretion, it is guaranteed that there will be no deference afforded to the claims review process.
Virginia Perkins and Heather Reinschmidt are associates specializing in ERISA litigation. Their work emphasizes defending plan sponsors and plan fiduciaries in complex employee benefits litigation and class actions including claims of: breach of fiduciary duty, plan asset misappropriation, and wrongful denial of benefits. Their nonlitigation practice includes counseling employers on all aspects of employee benefit plans and compliance with the HIPAA privacy regulations.

The views set forth herein are the personal views of the authors and do not necessarily reflect those of the law firm with which they are associated.
The Brave New World of Employee Mobility: The Corporate Duty To Identify, Value and Protect Trade Secrets

By Bradford K. Newman

For an increasing number of publicly-traded companies outside the traditional technology sector, a steadily increasing percentage of their value is comprised of intangible assets including Intellectual Property and trade secrets. The single largest threat to a company’s trade secrets originates from current and former employees. With the increase of globalization, technology and employee mobility, the ability to protect trade secrets from disclosure to competitors is of paramount importance to maintaining and increasing market share. Even the smallest innovation now leads to product differentiation, and time to market has never been more critical to the bottom line. Intellectual property management systems will not effectively protect trade secrets unless they address the realities of worker mobility.

The Sarbanes-Oxley Act (“SOX”) illustrates the perils to corporations that fail to devote sufficient attention to protection of trade secrets. One of SOX’s central goals is the accurate valuation and protection of all of a company’s assets. With respect to the protection of trade secrets, there is a growing consensus that one SOX provision deserves special attention in light of the SEC’s compliance guidance relating to that provision. As a general matter, Section 404 requires management to document, test and certify the effectiveness of internal controls over financial reporting. Although the relationship between internal controls and trade secret protection is not clear from the face of Section 404, the SEC’s compliance guidelines identify safeguarding of assets among the internal controls that must be verified. The SEC defines “internal control over financial reporting” to include procedures that provide reasonable assurances regarding “prevention or timely detection of unauthorized acquisition, use or disposition of the issuer’s assets that could have a material effect on the financial statement.”

There is no distinction made between “tangible” and “intangible” assets. A sizable portion of a corporation’s intangible assets would surely qualify as trade secrets, provided (1) the assets contain commercially valuable information or data not generally known to the public, (2) they have a value derived, at least in part, from the exclusive possession of the information, and (3) reasonable efforts have been made to keep them confidential.

To the extent that a company’s trade secrets, if subject to improper acquisition, disclosure or use, could have a material effect on the financial statements, then Section 404 would seem to create corporate obligations with respect to identification, valuation and protection of those trade secrets. But even for companies not governed by SOX, the same concerns exist and in many cases may be more pronounced. The success of early stage and less mature companies may be even more dependent on identification and protection of trade secrets than larger entities’ whose

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1 Mr. Newman serves as the Chair of Paul Hastings’ Employment Law Department in the Palo Alto office and leads the Firm’s Silicon Valley Trade Secrets practice. He routinely prosecutes and defends complex, high-stakes trade secret disputes on behalf of national and multi-national corporations such as Yahoo!, Inc. Patrick Sherman, an associate resident in Paul Hastings’ Palo Alto office, contributed to this article.
shares are publicly traded. And it is likely that all companies owe a fiduciary duty to their shareholders to protect valuable trade secrets.

Nevertheless, oftentimes senior management does not fully appreciate the scope of their obligations as it relates to protecting trade secrets. Most notably, a failure to even account for a corporation’s trade secrets necessarily means that the corporation probably has not instituted effective measures to protect the confidentiality of the unidentified assets.

The three largest problem areas are: (1) failure to identify, inventory and value trade secrets; (2) failure to institute internal controls regarding confidentiality; and (3) failure to protect trade secrets when employees depart. Similarly, corporations need to protect against the porting of third party trade secrets into the company when new hires arrive.

Several NASDAQ and S & P 500 companies are currently trending towards internal reviews of and modifications to their trade secret programs. Experienced trade secret counsel are also devising state of the art procedures tailored towards specific industries designed to help maximize protection of Intellectual Property, including trade secrets. At minimum, every company should institute the following processes, which in many cases, will not be sufficient to adequately identify and protect trade secret information.

- Create an internal committee to identify and account for key corporate trade secret data
- Institute controls to ensure the confidentiality of the trade secret data, including limiting who may access core trade secret data and monitoring access
- Institute processes to ensure that external candidates do not violate their confidentiality obligations to their current employers
- Require new hires to execute and abide by Confidential Information Agreements
- Develop policies about use of external storage devices with company laptops, transmission of company data to private Web email accounts, and usage of Instant Message Software
- Require departing employees to execute a Certification detailing what external computer media they used while employed and reminding them of their obligations not to copy, retain, disclose or use trade secret data in tangible or intangible form
- For sensitive or high-risk departures, create a forensic image of the departing employee’s hard-drive and maintain a library of such images
- Institute policies to protect outsiders from accessing trade secrets.

It is further recommended that corporations conduct audits on at least an annual basis to assess the status of their trade secret programs and protections. Continued improvements and modifications will no doubt be required.
At the ABA Section of Business Law Spring Meeting in Washington, D.C. in April, 2007, the Appellate Subcommittee of the Business and Commercial Litigation Committee presented a highly successful Committee Forum entitled *A Tour of The Ivory Tower: Developments in the United States Supreme Court That Every Business Lawyer (and Client) Should Know About.*


The panel discussion provided an inside look, from a business perspective, at the Ivory Tower of American jurisprudence: the United States Supreme Court. The panelists explored developments and cases of interest to business lawyers and their clients, and did an excellent job of making the discussion relevant to non-appellate practitioners. Specifically, they discussed significant opinions from the Court in the areas of punitive damages, patent law, antitrust, administrative law, environmental law and securities law, among others, which we expect will have far-reaching impact in the business world. Panelists reviewed recent opinions of note, and discussed pending cases and issues the Court is expected to address in coming terms. The program was well attended and feedback was positive, and has led to discussion of similar panels in the future.

At the Subcommittee’s meeting in Washington we also developed ideas for future panels and programs. As a result of that discussion, we have proposed panels to the Business and Commercial Litigation Committee leadership pertaining to developments and problems in the area of business torts (specifically contract/fraudulent inducement and fiduciary duty), and a program discussing when and why to hire appellate counsel. We are also planning an integrated panel discussion on the process of affecting policy change through lobbying and appellate law, which we anticipate will include government affairs specialists, industry group representatives, appellate lawyers, and will address significant changes in national policy that have been brought about by lobbying efforts on the one end, and appellate advocacy (e.g., through amicus briefs in Supreme Court cases) on the other. We will explore opportunities to co-sponsor such a program with other committees and, possibly, sections.
We are always looking for new participants and ideas - so sign up online, or contact the Subcommittee Co-Chairs, Kendyl Hanks of Haynes and Boone, e-mail: kendyl.hanks@haynesboone.com, or Robert Witte of Winstead, Sechrest &quot; Minick, P.C., e-mail: rwitte@winstead.com, and for more information.
The Subcommittee on Business Courts has been very busy over the past few months. We had a very busy agenda during the Section's Spring meeting in Washington, D.C. in March. We began that meeting with the Subcommittee's business meeting during which Subcommittee Chair Rick Gross moderated a program he put together entitled “Current Status of Business Courts in the United States.” The program had Judge Ben F. Tennille of the American College of Business Court Judges as a speaker, along with Subcommittee Vice-Chair Lee Applebaum. The subcommittee meeting was very well attended by both lawyers and judges.

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Also for the fourth consecutive year, Lee Applebaum as Subcommittee Vice-Chair coordinated the “Business Courts” chapter of the Annual Developments book, which this year included co-authors from Baltimore, Boston, New York, North Carolina and Rhode Island. The Subcommittee further provided information and assistance to a South Carolina Task Force studying whether or not to implement a business court program in that state, and has provided information to lawyers and judges in Georgia, Missouri, Florida and Ohio as well. The Subcommittee is proud to say that new business courts have been implemented in Maine and certain jurisdictions in Florida.

Finally, the Subcommittee is planning a CLE Program that has been approved for the ABA Annual Meeting in San Francisco in August. We hope to see everyone there. If you have an interest in the Subcommittee's activities, feel free to contact Rick or Lee.
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