Message from the Chair

Dear Business and Corporate Litigation Committee Members:

Congratulations to our new Network Newsletter Co-Editors Sarah Ennis and Kate Harmon for spearheading an excellent Fall Newsletter, particularly given the short time fuse between the Annual Meeting and Fall Meeting. Welcome to the newest Editorial Board member, Stephanie Kanan, who is one of our new Section Fellows. And Thank You to our continuing Editorial Board members, Kristin Swift and Anne Steadman.

On the topic of meetings, I hope you are able to attend the Fall Section Meeting in Washington, DC at the Ritz-Carlton, November 15-16, 2018. The BCLC will present a full day of excellent CLE programs on Friday, November 16:

Bankruptcy for Breakfast 2018
8:30 AM - 10:00 AM
Ritz-Carlton Roosevelt, Ballroom Level
Chair - Christopher M. Samis

The Future of Class Actions
10:30 AM - 12:00 PM
Ritz-Carlton Roosevelt, Ballroom Level
Co-chairs - George R. Calhoun and Hon. Heather Welch

Tour of the Ivory Tower: Developments in the U.S. Supreme Court for Business Lawyers & Clients
2:00 PM - 4:00 PM
Ritz-Carlton Roosevelt, Ballroom Level
Chair - Kendyl Hanks

The BCLC’s ever popular joint dinner with the Judges Initiative, Dispute Resolution Committee, and Sports Law Committee will be held on Thursday night, November 15 at Tredici Enoteca (2033 M St NW, located inside the St. Gregory Hotel, approximately 2 blocks from our meeting hotel). The reception will begin at 6:30 PM, followed by dinner at 7:00 PM. This is always a great opportunity for networking with old and new colleagues in the BCLC.

The BCLC Open Meeting will be held right before the Friday CLE programs - 8:00 AM - 8:30 AM, Ritz-Carlton Roosevelt, Ballroom Level. For those unable to attend in person, call in information will be provided in advance.

Two BCLC Subcommittee Meetings are scheduled for Friday, November 16:

Sports Related Disputes Subcommittee Meeting
12:00 PM - 1:00 PM
Ritz-Carlton Lincoln, Ballroom Level
Co-chairs - Jeffrey Schlerf and Mary Braza

Business Divorce Subcommittee Meeting
1:00 PM - 2:00 PM  
Ritz-Carlton Lincoln, Ballroom Level  
Co-chairs - Peter B. Ladig and Melissa Donimirski

Congratulations and Thank You to the outgoing and new incoming Subcommittee Chairs as of the conclusion of the 2018 Annual Meeting:

- **ADR** - outgoing Chair Peter Phillips; incoming Co-Chairs Jeffrey Benz & Hon. Joseph Iannazzone
- **Appellate Litigation** - outgoing Co-Chairs Mark Trachtenberg & Brigid Cech Samole; incoming Co-Chairs Keola Whittaker & Todd Lundell
- **Cannabis & Alcoholic Beverages** (elevated from Task Force status): Co-Chairs Jay Dubow & Alva Mather
- **E-Discovery** - outgoing Co-Chair Hon. Joseph Iannazzone; incoming Co-Chair Hon. Christopher Comas Wilkes
- **Ethics, Professionalism & Civility** - outgoing Chair Andy Halaby; incoming Co-Chairs Michael Rubenstein & Hon. Stephen Schuster
- **Securities Litigation & Arbitration** - outgoing Co-Chair Jay Dubow; incoming Co-Chair James Rollins
- **Sports-Related Disputes** - outgoing Co-Chair Hon. Joseph Iannazzone; incoming Co-Chair Mary Braza
- **Judges Initiative Committee** - outgoing Co-Chair Hon. Clifton Newman; incoming Co-Chair Hon. Christopher Yates

The BCLC is quite proud of former BCLC Chair Pat Clendenen, who will follow in the footsteps of another former BCLC Chair Bill Johnston. Pat is the new Section Chair-Elect and is positioned to become Section Chair at the conclusion of the 2019 Annual Meeting. Congrats to Pat!

**SAVE THE DATES:**

- **Section 2019 Spring Meeting** - Vancouver, British Columbia, Canada - March 28-30, 2019
- **Section 2019 Annual Meeting** - Washington, DC - September 11-14, 2019

As always, I need to give a few "shout outs":

- BCLC Vice Chairs who provide invaluable assistance and support - Stuart Riback, Hon. Gail Andler and Hon. Mac McCoy
- Roberta Cooper Ramo - for serving as an invaluable resource in her role as a Section Advisor
- BCLC "veterans" Hon. Elizabeth Stong and Michaela Sozio - for serving as Mentors to our BCLC Fellows
- BCLC Trial Practice Subcommittee Co-Chairs Hon. Mary Johnston and Michaela Sozio - for coordinating the "Tips from Trial Bench" event at the UT Law School
- BCLC Program Chairs & Speakers - for organizing and presenting quality CLE programs at the 2018 Annual Meeting
- BCLC Dinner Sponsors at the 2018 Annual Meeting - Bayard, P.A.; Case Anywhere LLC; Capitol Core Group; CourtCall; McAlpine & Associates PC; Hon. Stephen Schuster
- ABA Staff who pull everything together for our Section meetings/events - Katie Koszyk, Nicole Nikodem, Julia Passamani, Leslie Archer, Gina Dickinson and Graham Hunt

If you're passing through Phoenix, please let me know and we can grab a cup of coffee. Enjoy the nice Fall weather!

Best,
Heidi
Heidi McNeil Staudenmaier - Chair
Business and Corporate Litigation Committee
American Bar Association, Business Law Section

Featured Articles

Pennsylvania Adopts Revised Uniform Arbitration Act
By Robert J. Hobaugh, Jr.

Pennsylvania has joined 20 other states and the District of Columbia in adopting the Revised Uniform Arbitration Act ("RUAA") following model legislation promulgated by the Uniform Law Commission ("ULC") in 2000. The Pennsylvania Bar Association Alternative Dispute Committee ("PBA") supported the RUAA to resolve ambiguities and provide greater procedural rights than those found in the Uniform Arbitration Act ("UAA") adopted by Pennsylvania in 1958. The PBA cited improvements in the RUAA over the UAA as follows: party autonomy, provisional remedies, consolidation, arbitrator disclosure, arbitrator immunity, remedies, fees and expenses, compelling compliance with or vacating arbitration awards and electronic records. The RUAA, known as Act 55 of 2018, will promote the orderly and efficient use of arbitration procedures by parties to contracts who stipulate arbitration in Pennsylvania to resolve disputes.

Read more...

Getting Ready - The Challenges In-House Counsel Face Preparing for Trial
By Greg Marshall and Mark Webb

Many aspiring lawyers go to law school envisioning they will one day be in court arguing motions and trying cases, only to discover that civil litigation is nothing like it is portrayed. There's no need to cite the statistics. It is well known the vast majority of cases settle or resolve through motion practice, often with the litigants never having stepped inside the courthouse. For this reason, those few times outside counsel are called to trial, it is cause for excitement, if not outright celebration. Finally, outside counsel get to showcase their finely tuned advocacy skills too long suppressed by the daily grind of modern civil litigation.

Read more...

The Mediator's Anchor - They Asked You to Be There
By Lee Applebaum

As a child, the future mediator watches fights differently than other kids. Other children look on with the spectator's fascination, rapt in who will win, whether blood will spill, or mesmerized by the promise of violence. The future mediator, however, might wordlessly try to get in between the combatants to create enough pause so they can think twice about doing battle; or to give them an opportunity to step back without losing face.

This effort might be rejected with a "butt out," much harsher language, or even violence directed at a well-intended interloper. Knowing the propensity of their child, the future mediator already may have received parental admonitions like "don't get in the middle of things," "don't stick your nose in where it doesn't belong," or "stay out of other people's business." This is typically wise advice. One thinks of the postscript in the movie Stand by Me, when we're told that adult Chris Chambers, now a lawyer, is killed trying to break up a fight in a fast food line.

Read more...
Special Feature: Business Law Diversity Clerkship Program

This Special Feature includes reflections from five of the 2018 Business Law Diversity Clerks sharing their experiences.

Creating a Pathway to Legal Success: The Invaluable Experience of Being Selected as a 2018 American Bar Association Business Law Section Diversity Clerk

By Vernetra Gavin

While competing in a moot court competition in New York, I received a call stating that I had been chosen by the ABA Business Law Section to be a 2018 Business Law Section Diversity Clerk. This is an honor because this summer program provides business law clerkship placements to only 9 finalists nationally. The focus is on helping students obtaining judicial clerkships, where diversity among judicial clerks remains disproportionately low. The summer clerks are placed with judges across the nation who mentor and support them in the business law field; I was placed with Judge Nancy Allf in Las Vegas, NV. My experience has been very beneficial and has enhanced my knowledge through courtroom observation, legal writing, leadership, networking, and mentorship.

Read more...

Subcommittee Reports

Subcommittee Reports

Business Divorce

The Business Divorce Subcommittee met at the Annual Meeting in Austin, where John Sciaccotta led an interesting discussion on Developments in Business Divorce Law. At the Fall Meeting in Washington, D.C., the Business Divorce Subcommittee will meet on Friday, November 16 from 1:00-2:00pm and is excited to welcome Curtis Golkow of Golkow Business Law LLC. Mr. Golkow will be speaking on "A Transactional Lawyer's Approach to Business Divorce." The Subcommittee welcomes all attorneys interested in the Business Divorce practice area and is always seeking members who would be interested in speaking at Subcommittee meetings. Members interested in presenting at Subcommittee meetings should contact Melissa Donimirski (mdonimirski@hegh.law).

Cannabis and Alcoholic Beverages Litigation

First, we are pleased that the Cannabis and Alcoholic Beverages Working Group has now become a permanent Subcommittee. We had a well-attended meeting in Austin both in person and on the phone. We discussed recent litigation and regulatory developments impacting the cannabis and alcoholic beverages industries. The group also discussed putting together a CLE program for the Vancouver meeting this spring, which will take place in a venue at which cannabis is legal on all levels. We have submitted a proposal to the Business Law Section for such a CLE program. Stay tuned. There also was a lot of interest in preparing a chapter of recent developments for the Committee's annual book. If you are interested in contributing to the chapter please contact any of the Subcommittee's leadership. Finally, we will have a Subcommittee meeting in Vancouver. We hope that you will be able to attend. For information, contact Jay Dubow (dubowj@pepperlaw.com) or Alva Mather (matherac@pepperlaw.com).

Communications and Technology Subcommittee
Dear Subcommittee Leaders:

We are continuing to work on the subcommittee webpages, which will be updated to a new platform at the end of the year. Here are some suggestions for your pages:

- Add links to articles from *Business Law Today* or *The Business Lawyer* relevant to your Subcommittee, even if not produced by your Subcommittee;
  - If you would like to add links to other articles, please get permission from the original publisher.
- For those of you attending the fall meeting in Washington DC, make sure you take a few pictures from any meetings or presentations your subcommittee has;
  - Don't forget to provide captions for smaller group photos identifying names and roles in the committee or subcommittee.
- Add links to program audio or materials from meetings or presentations; and
- Add some narrative on what your Subcommittee is doing or what your Subcommittee focuses on.

You can send text, links, or pictures to Graham Hunt (graham.hunt@americanbar.org) or Laura Readinger (lreadinger@morrisjames.com), and we will make sure they get posted.

**Committee and Subcommittee Website Pages are Changing**

The ABA launched a completely redesigned website at [americanbar.org](http://americanbar.org) on October 9. Why is this big news?

**First,** the new public-facing website features improved accessibility from mobile devices, optimized registration and ecommerce experiences, new join/renew processes, and a new login process.

**Second,** as it relates to subcommittees, the public-facing website contains only a basic list of BCLC subcommittees, their summary descriptions, and their leadership information. This limited information will be prepared by Section Staff in consultation with the BCLC Chair and Vice Chairs.

**Third,** old subcommittee webpages will be deleted entirely by the end of the calendar year. You must take immediate action to capture and preserve any special content (e.g., photos, meeting minutes, etc.) on your old subcommittee page that the subcommittee may want to re-purpose on the new website after it launches. Otherwise, that information may be lost forever when the subcommittee webpages are deleted at the end of the year. Click here to access your old subcommittee webpage.

**Fourth,** the ABA also plans very soon to launch a new and separate online tool named ABA Connect. Unlike the new public-facing website, ABA Connect will serve as a members-only interactive forum and collaborative space for committee and subcommittee members to discuss legal topics, share content, and build a professional network via discussion threads, comprehensive content libraries, community events, and a detailed member directory. Any special content you proactively choose to re-purpose from your old subcommittee pages will find a new home on ABA Connect.

**Fifth,** ABA Connect will feature an email alert system that will replace the Section's existing committee and subcommittee email listservs by the end of the year.

**Sixth,** in order to keep the content on ABA Connect engaging and fresh, the Section will require a minimum number of content updates to be
posted periodically. **Failure to comply with these requirements will result in the removal of your subcommittee’s page from ABA Connect.** Please start thinking now about how your subcommittee leadership will accomplish this. More announcements and instructions concerning the new ABA website and the ABA Connect service will be disseminated between now and the end of the year.

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### Past Meetings

#### Annual Meeting 2018 Recap

**By Stuart Riback**

The Business and Corporate Litigation Committee presented four CLE programs at the Business Law Section Annual Meeting in Austin, Texas, on Thursday and Friday, September 13 and 14, 2018. All were well-attended and well-received. Thanks and kudos to the program chairs and the panelists.

[Read more...](#)

#### Tips from the Trial Bench

**By Hon. Mary Johnston and Michaela Sozio**

Law students at University of Texas enthusiastically engaged in discussions with seasoned business court judges and lawyers during the Business Law Section meeting in Austin. The annual "Tips from the Trial Bench" program shifted focus to take advantage of the proximity to the law school. Through the excellent assistance of Ralph Molina, Chair of the law school's Board of Advocates, the event was standing-room only.

[Read more...](#)

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### Upcoming Meetings

#### BCLC Programs in Vancouver

**By Stuart M. Riback**

After the successful presentations in Austin, BCLC is looking forward to the Spring 2019 Meeting in Vancouver. The Committee expects to present another set of four engaging and compelling programs at the upcoming Spring Meeting, which will take place on March 28-30, 2019.

As usual, the Committee will present the Annual Review of Developments in Business and Corporate Litigation, for which over 200 committee members are participating in presenting written materials that will be published in book form.

- **Bradford Newman** of Paul Hastings in Palo Alto and **Judge Elihu Berle** of California Superior Court, Los Angeles County will be co-chairs.

- "Taming the Gig Economy; Freelance isn't Free" will look at issues raised by the disintermediation of business and the rise of peer-to-peer businesses, including the developing law relating to independent contractors. **Barbara Johnson** of BLJohnsonLaw PLLC and **Judge Randa Trapp** of California Superior Court, San Diego, will co-chair the program.

- **Emily Burton** of Young, Conaway, Stargatt & Taylor LLP in Wilmington, Delaware, and **Stephanie Lapierre** of Stikeman Elliott LLP in Montreal will co-chair "Director Independence Issues in the United States and Canada." The
program will consider how board members are supposed to react to various kinds of events, including corporate crises and takeover attempts, and will compare the requirements in the United States and Canada.

Rounding out the program, BCLC will present "Law & Order: Discovery Victims Unit," a dramatization and interactive program that will present a simulated discovery dispute that will include points of view from attorneys and clients as well as rulings from judges. Robert Witte of Strasburger Price in Dallas and Judge Christopher Wilkes of the West Virginia 23rd Circuit Court will co-chair the program.

Looking forward to seeing you in Vancouver!

**Publications**

**Business Law Today**

The Section's recently re-imagined web publication, *Business Law Today* (BLT), provides exciting new opportunities for Business and Corporate Litigation Committee members to become internationally published authors.

With a worldwide readership of tens of thousands of business law practitioners, BLT is indisputably the fastest and easiest way for Section members to gain meaningful exposure to national and international business law communities. Article authors are featured on their very own author page, allowing you to expand your professional digital footprint beyond your employer's website and traditional social media.

Whether you are a newer lawyer or an existing influencer and thought leader, we encourage you to consider submitting any of the following content types to the BLT Editorial Board for consideration: Month-In-Brief (a 1-paragraph summary concerning recent legal developments within the past 30 days); Short Articles (750 words or less on a timely business law topic without footnotes or extensive citations); or In-Depth Articles (longer-form content offering deep analysis of a topic with footnotes and more citations). If you were a panelist at a recent Section CLE program or substantive presentation, convert your topic to a short article! If you recently published a case law alert for your law firm, convert it to an original Month-In-Brief! If you want to promote awareness of a complex issue or topic relevant to business law or litigation, transform your idea into an in-depth article!

To get started, email your pitch or original manuscript to Hon. Mac R. McCoy (mac_mccoy@flmd.uscourts.gov) (Executive Editor) and Sara E. Bussiere (sbussiere@bayardlaw.com) (Managing Editor).

**The Business Lawyer**

*The Business Lawyer* Editorial Board invites Business Law Section committee, subcommittee, and task force submissions as well as topical, scholarly submissions, including case law analyses and commentary on developing trends, that may be of interest to business lawyers generally and other members of the Business Law Section. An editorial decision is made on lead articles typically within two to four weeks after submission, with detailed substantive editing thereafter. We are looking for interesting, well-researched submissions on areas of topical interest. Lead time with full peer review and professional staff editing is approximately four to six months.

Articles (and questions concerning submissions) should be submitted to Diane Babal, Production Manager, at diane.babal@americanbar.org.
Members in the News & Notes

*Check out the recent activities and achievements of our BCLC members!*

**Fred W. Bopp III**, Partner with Holman, Howard, Bopp & Guecia, recently changed law firms and is now a named partner with his new firm.

**Steven E. Clark**, Clark Firm PLLC, was named SuperLawyer (Labor & Employment) in Texas and Lead Counsel in Business Law. He also recently gave a presentation on Advantageous Use of LLCs at an NBI teleconference on September 25, 2018, and will be speaking at the upcoming NBI Seminar on Social Media Evidence on November 15, 2018.

**Byron F. Egan**, Partner with Jackson Walker LLP in Dallas, Texas, was presented on September 19, 2018 with a Lifetime Achievement Award by the Texas Lawyer as part of its 2018 Professional Excellence Awards that honor impact players in the Texas legal community. An article about the Texas Lawyer Honors Byron Egan With Lifetime Achievement Award has been posted at [https://www.jw.com/news/texas-lawyer-byron-eganlifetime-achievement-award](https://www.jw.com/news/texas-lawyer-byron-eganlifetime-achievement-award).

**Henry Ian Pass**, a business transactional and commercial litigation attorney in Bala Cynwyd, Pennsylvania, and Managing Director of the Law Offices of Henry Ian Pass, was recently appointed to serve on the Children’s Hospital of Philadelphia’s Innovation Council. The Innovation Council assists CHOP’s Office of Entrepreneurship & Innovation in its mission to create a culture of entrepreneurship and innovation by identifying and elevating innovative solutions for pediatric pain points in healthcare, developing an innovation and entrepreneurship knowledge base, and forging strategic partnerships to serve the community.

Admitted to practice in Pennsylvania and Massachusetts, Mr. Pass has served on several non-profit boards of directors and has provided proactive, personalized legal services in diverse and sophisticated matters since 1975. He currently serves as a director of the Private Investors Forum and the Vesper Boat Club.

Mr. Pass is also the founder and Managing Director of Patriot Venture Capital Group, LLC, a venture capital firm focusing on investment opportunities in early stage companies.

For further information, please contact Henry Pass at (610) 660-8001 (telephone), (610) 660-8004 (fax) or hip@hipesq.com (e-mail).

**Michael Wayne Ullman**, President of Ullman & Ullman P.A., was a speaker at the International Factoring Associations "Think Ahead or be Left Behind" training course on October 18-19, 2018 in Las Vegas, Nevada.