FEATURED: The Opioid Crisis and the Elderly
By Donna J. Jackson & Chantelle Hickman-Ladd
The elderly face a unique set of problems in the wake of the opioid crisis. Working to create awareness can help loved ones struggling with substance abuse or financial exploitation.

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CHAIR'S COLUMN
As we progress into the 2018-19 bar year, Marvin shares the importance of "i mua", the Hawaiian word for moving forward towards a goal. Discover how our Division is moving forward and how you can be a part of the momentum in this month's Chair's Column.
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travel experience. These must-try tips will help you learn how to pack just a carry-on suitcase and backpack for your next big adventure.

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**Volunteer to do Pro Bono Now Through ABA Free Legal Answers**
By Tali K. Albukerk
ABA Free Legal Answers is an online platform where attorneys can volunteer to answer civil legal questions for persons living in over 35 states from the comfort of their own home.

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**SLD HAPPENINGS**

**SOC Outstanding Collaboration Award**
By Emily Roschek
And the winner is?us! The SLD took home the Section Officers Conference's Outstanding Collaboration Award for our collaborative effort in addressing the growing opioid epidemic in our country.

Learn More →

**Senior Lawyers Division Call for Nominations**
By John Hardin (Jack) Young, SLD Immediate Past Chair
The SLD Nominating Committee will accept applications and nominations for certain elected Division leadership positions. The deadline for submitting applications and recommendations is Monday, December 10, 2018.

Learn More →

Volunteer with the SLD

Get Involved!
The SLD is seeking volunteers to serve on its substantive and administrative committees. Get involved today by e-mailing your interest to abasrlawyers@americanbar.org.

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The Opioid Crisis and the Elderly

By Donna J. Jackson, JD, ILM & Chantelle Hickman-Ladd

“11.5 million persons reported nonmedical use of prescription drugs in 2016.” Even more startling, “134 people die every day from opioid related drug overdoses.” The opioid epidemic affects young and old alike. However, the opioid epidemic creates unique problems for the elderly because it affects them in multiple facets of their life.

As one ages, aches and pains may set in. These aches and pains leave the older adult seeking relief from chronic pain. Older adults may also experience opioid use through a child who is struggling with or lost to drug addiction, leaving the elder parent to care for his or her grandchildren.

Similarly, a family member who is addicted to opioids may try and take advantage of an elder relative they care for or visit, which could inevitably lead to abuse and/or financial exploitation of the older adult. These complex issues make addressing the opioid epidemic and the elderly especially important.

The Elderly and Opioids

A Centers for Disease Control and Prevention study found that in 2016, approximately twenty-seven percent of United States adults aged sixty-five to eighty-four, and thirty-three percent of adults aged eighty-five and above, suffered from chronic pain. Although these percentages sound small, this translates to an estimated 13,574,000 older adults experiencing chronic pain. With so many older adults suffering, one might ask how to combat their pain? The answer is complicated.

In a U.S. Department of Health & Human Services study, it was revealed that approximately one in three Part D Medicare beneficiaries “received a prescription opioid in 2017.” “460,000 beneficiaries received high amounts of opioids in 2017,” although this is lower than in 2016. However, “the population of older adults who misuse opioids is projected to double from 2004 to 2020, from 1.2 percent to 2.4 percent,” whereas opioid use in young adults, while still 8.1 percent, has decreased approximately three percent since 2002. One major concern with older adults taking opioids is that they face an increased risk of falling.
Intermixed in this issue of opioid use in older adults is the issue of overmedication—known as polypharmacy. In 2006, approximately fifty-eight percent of older adults aged sixty-five and older “reported taking five to nine medications, and [approximately eighteen] percent reported taking [ten] or more [medications] over the course of that year.” The problem with the elderly being overmedicated is that taking multiple medications increases the risk of “dangerous drug interactions and serious side effects.” More specifically, overmedication could affect the cognitive and mental capacity of an older adult, leaving them to mimic symptoms of Alzheimer’s or dementia.

With opioid use continuing to be a rising concern, it is important to always consider if an opioid is necessary or if another treatment could also be effective. Furthermore, Parentgiving suggests having a “brown bag review”, where you take all of the medication to the elder adult’s doctor or pharmacist to review, to consider what medication is necessary.

**Grandfamilies and the Opioid Epidemic**

“More than 2.6 million children are raised by grandparents, aunts, uncles, siblings, other extended family[,] and close family friends who step forward to care for them when parents are unable.” Research has shown that parental substance abuse is the main reason for grandparents stepping in to raise these children who would otherwise go into foster care. In fact, experts believe that the recent increase in the number of children going into foster care is the result of the opioid epidemic.

Although research has shown “that children who cannot remain with their birth parents thrive when raised by relatives and close family friends,” many grandparents need help to maintain their family when grandchildren move in. “One in five grandparents raising grandchildren lives below the poverty line,” and “one in four has a disability.” These challenges make it difficult for the grandparent to care for his or her grandchildren. Generations United suggests more support services are necessary to assist the elderly in raising their grandchildren of the opioid epidemic.

**Elder Abuse and Financial Exploitation**

Approximately ten percent of older adults have suffered from abuse. Abusers “are most likely to be adult children or spouses...[who] have a history of past or current substance abuse” and mental or physical health problems. A person addicted to opioids may try to steal medications from their elderly family member, steal money from their elderly family member, and/or abuse this family member in the process of feeding his or her addiction.
The financial exploitation by an opioid user could lead to the depletion of an older adult’s life savings and resources needed for his or her long-term care. If medicine used to keep the older adult comfortable is stolen, the older adult could be left to suffer in pain until the theft is discovered. And if the older adult denies the opioid user access to the money or the medicine cabinet, abuse could result. Caregivers and family members must stay aware of this possibility in order to protect the elderly from abuse.

The opioid epidemic has a unique effect on the elderly. From personal opioid use to a family member’s opioid use, the elderly face many challenges surrounding opioids. However, with awareness of and diligent work to try and address these problems, many of these issues can be attacked head-on.

Authors

Donna J. Jackson is a nationally recognized attorney, authority, speaker and educator in estate planning. Ms. Jackson is a CPA and holds a Master’s Degree (LL.M.) in Elder Law. Ms. Jackson has over 30 years of legal experience. She limits her practice to elder law, probate and estate planning.

Chantelle Hickman-Ladd is a 3L at the Oklahoma City University School of Law and is a legal intern in Donna Jackson’s office. She currently serves as the articles editor on the OCU Law Review.

End Notes

1. Id. at 6.

2. Id.


4. Id.


6. Id.


14. Id.


16. Id.

17. Id.

18. Id.


22. Id. at 1950.
Chair's Column: October 2018

By Marvin S.C. Dang

Aloha (greetings) from Honolulu, Hawaii!

As the Chair of the Senior Lawyers Division for the 2018-2019 bar year, I want to thank you for reading the October 2018 issue of our Division's Voice of Experience e-newsletter.

Beginning with my Chair's column in August 2018, I've introduced you to a Hawaiian word each month, and I've connected that word to activities in our Division. If you missed them, here's the link to my August column with the word “ola,” which means life, health, and well-being. And here's the link to my September column featuring the word “laulima” – teamwork, cooperation, and working together for a common goal.

For this month's column, I want to share the Hawaiian word “i mua.” That means to move forward or to move ahead toward a goal.

As I noted in September, for the 2018-2019 bar year which runs from August 2018 to August 2019, I selected the goals of “W-I-S-E”:

- “W” represents “Well-being.”
- “I” refers to “Innovative.”
- “S” stands for “Service.”
- “E” means “Experience.”

Our Division is definitely moving forward toward our goals.

For example, we’ve innovatively revamped our monthly Voice of Experience e-newsletter both visually and substantively. Informative articles are written by experienced attorneys for you. Here's the link to the archive of past e-newsletters.
I want to give a “shout out” to those who have labored diligently to produce this year’s e-newsletters: Voice of Experience (VOE) Board Chair James L. Schwartz; VOE Board Vice Chair Edward Schoenbaum; VOE Board Members Jeffrey M. Allen, Richard Goodwin, Ashley Hallene, Donna J. Jackson, Kerry R. Peck, jennifer j. rose, and Norman Tabler; VOE Special Advisor David Godfrey; SLD Director Emily Roschek; and SLD Program Associate Lexie Heinemann. Thank you for your service!

As our Division moves forward in this bar year, we have many opportunities for you – the 60,000 SLD members – to share your experiences, knowledge, and insights.

If writing articles is your forte, please consider doing so for our Voice of Experience e-newsletter or our Experience magazine. We also are seeking experienced authors for SLD books.

If you’re interested in committee activities, the Division’s practice and substantive law committees need your assistance.

I’m inviting you to volunteer by logging into “myABA” and clicking on SLD committees under ”My Specialty Group Memberships & Committees.” Or you can simply e-mail your interest in volunteering to the SLD staff at abasrlawyers@americanbar.org.

Please join our Senior Lawyers Division’s team of volunteers. Our Division will continue its successes with volunteers like you as we move forward and move ahead toward our goals. I muu!

Marvin S.C. Dang
2018-19 Chair, Senior Lawyers Division

Marvin S.C. Dang is the managing member of Law Offices of Marvin S.C. Dang, LLC in Honolulu, Hawaii and has been an attorney since 1978. He’s the 2018-2019 Chair of the ABA Senior Lawyers Division, a member of the ABA Nominating Committee, a Delegate in the ABA House of Delegates, and a Commissioner on the ABA Commission on Racial and Ethnic Diversity in the Profession. Over the past 42 years, beginning as a law student member of the ABA, he’s held leadership positions in various ABA divisions: Law Student Division, Young Lawyers Division, General Practice, Solo & Small Firm Division, and Senior Lawyers Division. A former legislator in the Hawaii State House of Representatives, he’s now a registered lobbyist. His law firm’s practice areas include legislation, lobbying, creditors’ rights, and real estate matters. He received his law degree from the George Washington University Law School in Washington, D.C.
Member Spotlight: Carole Worthington

Tell us a little bit about your career.

I was honored to be the first female attorney hired by a major law firm in Chattanooga who did not have a family relationship with the firm. A fellow female attorney asked me who my father was, what business I brought to the firm, and a few similar questions. She could not understand why I had been hired. All I had was my law school record, academic honors, and my passion to become an exceptional lawyer.

My firm was committed to my development as a lawyer in all aspects, including client contact. In my days, I focused on estate planning and estate administration, corporate, construction law, and real property. The firm wanted me to be trained as a litigator, and I ultimately tried many cases. I believe this training was important for my development as a lawyer. This improved my drafting of legal documents. It is humbling and educational to litigate a document you drafted.

My first firm and partners are a significant a part of the lawyer, leader, and person I am today. They fully supported my commitment to bar and community service.

My practice has evolved through the years to include writing real estate title, securities offerings, banking, and elder law. Twenty years ago, I moved to Knoxville and became a solo practitioner. Certain areas of practice were eliminated to maintain a high standard of competence. Presently, my focus is estate planning and estate administration, real property, elder law, and problem-solving.

After all these years I still love the practice of law, my colleagues, and my clients. Some of my clients just drop in to see me and visit. It is important to me to make a difference in their lives.

Is it what you had planned when you started law school?

I truly loved law school. So many choices, and so little time. I worked 20-30 hours per week to put myself through law school. It was well worth the effort.
I considered obtaining a master’s degree and teach in law school (and perhaps become a dean). Little did I know, the practice of law would be so wonderfully challenging and fulfilling. It remains so to this day.

**What has been the highlight of your career?**

The highlight of my career has been the ability to make a difference in my practice and with my life, particularly with the ABA. I have written a section for West’s Tennessee Practice on estate planning, lectured for bar association and law school CLE programs, and was both elected and appointed to various offices and positions.

The opportunity to learn and grow every day has been the highlight of my career. My ability to make a difference to my clients, my profession, and my community has inspired me. It is most important for me to make a difference. Friends say that I change lives. I thrive on a challenge and think outside of the box. We can accomplish all that we can envision and more.

**If you could go back to the beginning of your legal career, would you have done anything differently?**

I would have spent more time with my daughter and been less of a workaholic.

**What advice would you give to someone considering law school today?**

Law school prepares a person for many careers other than the practice of law. The practice of law has been very important in my life.

It is important not to go to law school with the primary goal of becoming wealthy. The practice of law enriches you in many ways. The monetary gain cannot and should not be first and foremost.

Lawyers are blessed, and we have an obligation to give back to our profession and our communities.

**What were the biggest changes you saw in the legal profession over the course of your career?**

Technology has made the most difference. If my mother had not insisted I take typing in high school, I would be sunk today! As one young employee said, “You are really good with computers, for your age!”

More seriously, I fear that lawyers have become less prepared, less able to set aside conflict, and more driven to tell clients what they want to hear, rather than what they need to know.
When did you first become a member of the ABA and why did you decide to join?

I joined the ABA out of law school. It never occurred to me not to join. The ABA stands for the best in our profession. It is an honor to belong and to participate. Members of my first firm were all ABA members.

What has been the highlight of your work with the ABA?

Every position has been a learning experience. Becoming the second woman and third youngest President of the National Conference of Bar Presidents was a great honor.

I love the House of Delegates and the process of negotiating, debating, and adopting resolutions. It is wonderful that such talented lawyers come together to bring important resolutions and to resolve their differences. I am always learning and growing.

If you had not become a lawyer, what do you think you would have done?

Probably become a veterinarian or a college professor. I love animals, enjoy students, and have a flair for teaching. I approach the practice of law by educating my clients on their options and on the advantages and disadvantages of each. They make their decisions from an informed perspective.

Author

Carole Lynch Worthington
Secretary, ABA Senior Lawyers Division

Carole L. Worthington is a self-described bar junkie, which appears to be incurable. She has and currently serves in numerous leadership capacities in the ABA, many terms as Delegate-at-Large to the House of Delegates and on the Nominating Committee. She is determined to make a difference, despite rheumatoid arthritis and degenerative disc disease. These may slow her from time to time but do not defeat her commitment to service. She asks each reader to make a difference in service in the SLD.

American Bar Association
2018 Tech Gift Suggestions

By: Jeffrey Allen & Ashley Halene

Technology upgrades can make great gifts around the holidays. The computer monitor often gets overlooked, and if your loved one’s monitor is getting up there in years, consider the HP 23.8-inch FHD IPS Monitor with Tilt/Height Adjustment and Built-in Speakers ($109.99, amazon.com). This HD display boasts a 178-degree viewing angle with beautiful color definition. It has a slim design that will fit nicely on your desktop. You can adjust the tilt, height and the pivot angle of the monitor to customize the view to your needs. If space is your primary concern, the built-in speakers are a nice touch; though they will not provide impressive sound quality, they will at least get the job done.

Cameras

For your favorite budding photographer, consider picking up the Canon PowerShot G9 X Mark II ($399, Amazon.com). This Compact Digital Camera features a touch-enabled 3-inch LCD screen and is Wi-Fi, NFC, and Bluetooth-Enabled. The 20-megapixel sensor produces quality images. It also features a fast shutter speed that helps to reduce the chance of blur.

The camera itself is fairly lightweight at 7.3 ounces (marginally more than the iPhone 8 Plus), making it easy to carry around in your pocket or a satchel. Depending on your skill level, you can manually control the settings (such as shutter speed, aperture, ISO, etc.), or enjoy the convenience of “Auto” (point-and-shoot) mode.

For the more serious photographer who wants a great all-around pocket-sized camera suitable for pretty much anything, simple enough for a beginner, and with features that will please a serious photographer, invest $1200 in the Sony DSC 100 III. It represents the newest and best in the RX100 line, which has ranked at the top of the pocket-sized camera field since the RX100 first came out several years ago.

The newest version adds telephoto capability to the camera without a noticeable increase in size. Sony continues with Zeiss optics in this line (some of the best in the world), Using a Zeiss Vario-Sonnar T*24-200mm high-resolution zoom lens. The camera uses a 20-effective megapixel Exmor CMOS sensor and takes both exceptional stills and excellent 4K videos. The camera measures 4” x 2 3/8” x 1 11/16” and
weighs only 10.7 ounces. The camera also features optical image stabilization. For a full description and specifications, check out the Sony website.

**Tablets**

The Kindle Fire 10 HD ($149.99, Amazon.com) puts millions of movies, TV episodes, songs, books, apps and games at your fingertips. The Fire Operating System offers Blue Shade, an exclusive Fire feature that automatically adjusts and optimizes the backlight to provide a more comfortable nighttime reading experience. The Kindle Fire 8 HD and the 10 HD are fairly close in terms of features, but the 10 pulls ahead here with the Alexa Hands-free feature.

Alexa, the digital assistant that powers the Amazon Echo and Show devices, allows you to control features on your Kindle through voice command. You can enable it on the Fire 8 HD, but it is only accessible when in use or plugged in. For the Fire 10, it is always enabled, meaning you can wake your Kindle Fire up with a voice command.

If you (or your giftee) already have an iPad, you won’t want to get the Kindle Fire. The iPad will do everything the Fire does and a lot more. However, even if you have an iPad, you may still want to get (or gift) a Kindle e-Ink device. They are smaller and lighter than the tablets and do not do as much as they have no color capabilities. Nevertheless, they provide an excellent reading experience and travel in most coat pockets.

Amazon has expanded its e-Reader line to include several models. Top of the line is the Oasis followed by the Voyage and the Paperwhite. The Paperwhite is the oldest of the ones we recommend, and it is several years old. It costs the least of our recommended versions ($140). The Oasis 2 ($249) is the most expensive. You can get a comparison chart and full specifications on the Amazon website. We virtually never leave home without our Oasis eReader.

**Smart TV’s**

Smart TV’s, like the Toshiba 43-inch 4K Ultra HD Smart LED TV with HDR - Fire TV Edition ($329.99, Amazon.com), are a great addition for the bedroom, study, or exercise room. This Toshiba is a SmartTV, meaning it is designed to connect to WiFi and works like a Fire TV device—which is typically an additional piece of hardware that allows you to stream services like Hulu, Netflix, Amazon, and more.

You can connect a cable box or antenna to it as well for your cable channels. The remote is voice-responsive and powered by Alexa. You can set the TV up with your voice; this makes a great gift for
anyone who is visually impaired. Alexa also allows you to control your smart-home devices through your voice commands.

Speakers

For the music maven, consider picking up a Bose SoundLink Color Bluetooth Speaker II ($129.00, Amazon.com.) This compact, portable speaker from Bose produces a beautiful sound quality whether you are at the pool, park, or out on your patio. It is available in Black, Blue, Red, or White so you can pick up the shade that suits you (or the person you intend to gift). It is encased in a rubber texture that makes it easy to grip and able to handle accidental drops. As an added bonus, it can act as a speakerphone when your smartphone is connected to it.

If you are looking for some retro nostalgia, check out the IoFree Vintage Indoor/Outdoor Bluetooth Speaker with FM Radio ($99, Amazon.com). As with the Bose speaker, the IoFree connects to your devices via Bluetooth, making it perfect to play your favorite albums or radio stations from your smartphone. The speaker is equipped with a bass enhancement system to enrich the sound, and it works surprisingly well for its small size. It is very small and easy to pack and take with you for day trips.

If you want to listen in private, look at Bose line of headphones/earphones. Bose produces exceptionally well-engineered devices and has the top of the line noise-cancellation technology.

Note that while all the Bose headsets we have tried have produced excellent sound, not all of them have noise-cancellation technology. We think the noise cancellation technology is a worthwhile investment, and it will enhance your listening enjoyment when you find yourself in a noisy environment, such as inside an airplane. Check out the available models at your local Bose store or online at www.bose.com.

We are particularly partial to the Bose Hearphones, ($500) which you can customize to help you hear conversations better in addition to giving you excellent music. Another favorite, the QuietComfort 35 Headphones II ($450) give you excellent music and top of the line active noise cancellation technology.

If you want to spend less and/or don't want active noise cancellation, look at the Soundsport line of wireless headphones ($150-S200).

And one interesting sidelight: the new Bose noise-masking sleepbuds provide engineered white noise to mask annoying sounds and help you sleep ($250).
Entertainment

Give the gift of entertainment with the **Roku Ultra ($99, Roku.com)**. Roku can now stream over 2,500 channels, some of which are free whereas others are accessible with a subscription. The Roku Ultra comes with a Voice Search Remote that can operate your television as well, reducing the number of remotes you need in the house (your children and grandchildren will especially appreciate this when they come over.)

Another nice feature added to the device is a lost remote finder—a button on the player that you can press to play a sound. No more tearing up couch cushions trying to find the remote. The device includes headphones and the remote itself has a headphone jack, allowing you to listen to programming without disturbing the rest of the house.

The picture quality is great, it was designed with 4K Ultra HD TVs in mind. The Ultra also has a Night Listening mode that will automatically lower louder moments and boost quieter ones to provide you with just the right amount of volume at night.

Relish the sound of music with the **BÖHM Wireless Bluetooth Over Ear Cushioned Headphones with Active Noise Cancelling ($109.99 at Amazon.com)**. These headphones from Bohm provide active noise cancellation to help filter out low-frequency ambient noise. These are great for airplane rides. With the built-in microphone, you can answer calls without removing the headphones (provided you are connected to your smartphone). The wireless signal will connect up to 33 feet away. Not as good as the Bose, but considerably less expensive for very decent noise cancelation technology.

Work Accessories

It is fun to think of gifts that people want but would never buy for themselves, one of those gift ideas may be the **North Bayou Sit Stand Desk Converter Height Adjustable Standing Desk Workstation ($59.90, Amazon.com)**. This adjustable desk converter allows the user to choose whether to work from a sitting position or a standing position, providing a host of health benefits. While you are giving the gift of office enhancements, consider the **Qwork Mobile Laptop Desk Cart ($46.99, Amazon.com)**. This portable desk features a surface with a 180-degrees tilt to adjust the angle of your workspace.

For those of you who still work, travel, or carry a fair amount of gear around on a daily basis, think in terms of a daypack, sling, backpack or carrying case/briefcase. A well-designed bag is worth its weight in silver (gold has become too damned expensive). While you can get cheaper ones, the best-designed
bags we have found come from Tumi (www.tumi.com) and Tom Bihn (www.tombihn.com). You can check out both vendors online and Tumi has stores in most large cities and many airports. Tom Bihn does not have stores, but there is a factory showroom in Seattle where you can see and purchase their products. Both companies have large online businesses.

Tumi makes its bags in an increasing variety of materials. Of the various materials, we prefer ballistic nylon in terms of ruggedness and versatility. The leather looks richer but does not last as well. Tom Bihn also uses several products (no leather bags). Again, we prefer the ballistic nylon. While both lines can hit the higher end of the market in pricing, they justify that with high-quality manufacturing and amazingly useful designs.

Tumi provides a larger selection of models with different external designs and relatively similar internal features. With Tumi, what you see is what you get. Tom Bihn has far fewer models to choose from but has many internal design adjustments that you can make by acquiring different pieces that connect to the inside of the bag and, when installed, work like they built the bag that way. We think it is hard to go wrong with either line.

Favorites in the Tom Bihn line include the Synapse backpack (available in two sizes, the $190 Synapse 19 and the $200 Synapse 25), the $160 Pilot bag (a smaller version goes by the name “Co-Pilot” $140), the $160 Cadet briefcase, and the $145 Ristretto (vertical oriented messenger bag).

On the Tumi side, we have a strong partiality to the Alpha Bravo line. Favorites include the $250 Kelly Sling, the $395 Nellis Backpack, the $425 Albany Slim Commuter briefcase, and the $350 Davis Backpack. They also make a number of crossbody bags for women and in unisex models. We particularly like the $125 Pocket Bag (small) and the $225 Barton. All of the prices are the list prices for ballistic nylon, leather versions are costlier.

As you may have noticed, the Tumi bags tend to be pricier than the Tom Bihn. We have never seen the Tom Bihn bags discounted. Tumi bags are not regularly discounted online, but Tumi has two or three sales a year when they give you about 20% off the list price. You can also get discounts on discontinued models or discontinued colors in a continuing model line.

**Cases**

Speaking of cases, if you want leather phone cases, tablet cases, and the like, visit the Colonel (no, not the fried chicken guy), go to see Colonel Littleton (www.colonellittelton.com). We have had and used the Colonel's wallets, tablet cases, and phone cases. They are very well made and very high quality without exception. The prices are not cheap, but for the quality you get, they are not out of line.
Editor’s Note: The ABA’s official position is that it does not make recommendations as to products. Accordingly, note that these comments are those of the authors’ and do not reflect a position(s) by the ABA or the SLD respecting the gift items discussed. Except as noted, prices referenced reflect list pricing, often rounded to the nearest $1. You can find discounts for some of these products online and occasionally in a physical store.

Authors

Jeffrey Allen is the principal in the Graves & Allen law firm in Oakland, California, where he has practiced since 1973. He is active in the ABA, the California State Bar Association, and the Alameda County Bar Association. He is a co-author of the ABA book Technology Tips for Seniors.

Ashley Halle is a petroleum landman at Alta Mesa Holdings, LP, and practices Oil and Gas law, Title Examination, Due Diligence, Acquisitions and Oil and Gas Leasing in Houston, Texas. She frequently speaks in technology CLEs and is Deputy Editor-in-Chief of the Technology and Reviews Department of the GP Solo eReport.

American Bar Association
Adventures in the Law: Too Sleepy to Be Truthful

By Norman G. Tabler Jr.

John Montesanti's argument before the Supreme Court of Georgia was nothing if not imaginative. Denied admission to the Georgia bar for being untruthful in his application, John argued that he had simply been too sleepy to be truthful.

In its August 27 opinion, the court noted that the Fitness Board had found that John's application demonstrated a pattern of failing to disclose relevant information and providing inconsistent statements. For example, when initially asked why he failed to pay a small claims court judgment against him, John said that he forgot to pay it but later said that he refused to pay it because he disagreed with it.

Then there was the question of why he had withdrawn his application to the Florida Bar after a preliminary recommendation of denial. In one letter to the Florida Bar, John cited financial reasons for the withdrawal; in another letter, he cited an “undetermined illness.”

At an informal hearing with the Georgia Board, John said that he couldn't recall writing the second letter and didn't know what he had meant by “undetermined illness,” assuring the Board that he was healthy and that his health was certainly not the reason for the withdrawal.

But at the formal hearing before the Georgia Board, John claimed that his memory and attention were impaired during the application process due to a lack of sleep as a result of his sleep apnea. That impairment, he insisted, had rendered him unable to be truthful, accurate, and forthcoming.

What's more, John argued, his apnea qualifies as a disability under the ADA. Therefore, he reasoned that he was entitled to a reasonable accommodation for his disability. And just what accommodation did he seek? Waiver of character and moral fitness certification, based on his inability to be truthful, accurate, and forthcoming.

Not surprisingly, the court wasn't buying it. The court opined that even if the ADA does apply to apnea—a question the court declined to address—an applicant wouldn't qualify for its protection until he was
certified as having the character and moral fitness to sit for the bar exam. John never got past that hurdle.

Maybe the lesson is that if you get caught in a lie, you need a better excuse than sleepiness.

The case is *In the Matter of Montesanti*, Sup. Ct. of Ga.

**Author**

Norman G. Tabler, Jr., is a retired partner with Faegre Baker Daniels, where he led the firm’s health law practice. He serves on the editorial advisory boards of the ABA Senior Lawyers Division’s *Voice of Experience*, the ABA Health Law Section’s *The Health Lawyer*, and *Law360 Health*. He is the host of the American Health Lawyers podcast *The Lighter Side of Health Law*. He was educated at Princeton (A.B.), Yale (M.A.), and Columbia (J.D.). He may be reached at Norman.Tabler@FaegreBD.com.
A Weekend at Oktoberfest

By Emily Roschek

I just got back from my first trip to the official Oktoberfest in Munich, Germany. It was a whirlwind of a trip especially coordinating it with 10 friends, but it was absolutely worth it. Our weekend was filled with delicious beer and food, festive outfits, beautiful architecture, and countless opportunities to learn about German culture.

What’s Oktoberfest?

Why is there an Oktoberfest? It all started in the early 1800’s for a royal wedding. A crowned prince married his sweetheart and invited all the locals to the wedding. The wedding was so extravagant with horse racing that the locals wanted to celebrate the anniversary, and a tradition was born. Beer tents
and lederhosen came along the way. Oktoberfest is now an international attraction and the largest festival in the world.

**The Beer**

German beer is brewed under slightly different guidelines than American beer. They are restricted to only using water, hops, and malt. Some say this will help reduce a hangover should you imbibe too much, but after talking to experienced German beer drinkers, they say this is not the case!

**Planning a Trip**

If you're considering going, try to get tickets for one of the 14 tents. The tents sell out early, so you may need to make a reservation almost a year in advance. Tickets include admission and some food and beer with a server. Each tent has a different décor and live music. While you don't need to get into a tent to experience all the fun, the tents are monitored for capacity. So, on very crowded days it's slightly more manageable. My group was not lucky enough to score tickets, so we were instructed to get there early.

Oktoberfest is like a state fair but more extravagant. There are carnival rides, roller coasters, beer tents, food kiosks, etc. Everywhere you look there is entertainment for all ages.

Everyone wears the traditional German outfits—lederhosen for men and dirndls for women. You will stand out if you don't wear a festive outfit, so be sure to splurge on the outfit. You can either buy them in advance (online or at a German clothing store), or you can buy them once you arrive in Munich.

If I were to do anything differently, it would be to get a ticket and not go on a Saturday. About 7 million people fluctuate in and out of Munich during the four weeks of Oktoberfest, and weekends are their busiest times. Early on Saturday afternoon, it was like the running of the bulls just to get into the outside beer garden. We were fortunate to find a place to sit sharing a picnic table with some Italians who didn't speak English but enjoyed toasting us, “Prost!”

**The Wild**

Oktoberfest is known for people drinking large amounts of beer from steins the size of your head, dancing on tables and acting all silly but the craziest thing I observed was people snorting white powder out in the open. They would snort lines on a picnic table or from the side of their hand. Turns out it's not real cocaine, it's called *Wiesn koks* (Oktoberfest cocaine) and it's completely legal because it's made of sugar and menthol. Apparently quite the rush then clearing of the sinuses!
More in Munich (and Europe!)

There's no need to stay more than one or two days. A few of us went on a bike tour of Munich the next morning, which I highly recommend. They have a beautiful central park, man-made canals where people surf on the river, and the second largest beer garden in the world where you can eat lunch, listen to live music, and buy an empty stein for a fraction of the price in Oktoberfest (2 Euros!).

Take advantage of Europe's efficient trains while you're there to explore other nearby cities. I ended up going to the delightful cities of Salzburg, Berlin, Amsterdam, Haarlem, and Brussels. You won't be alone; everywhere I went I ran into people who had just been to Oktoberfest!

| Prost! |

Author

Emily Roschek is the Director of the ABA Senior Lawyers Division and ABA Career Center. She has previous experience in CLE programming at both the ABA and The Chicago Bar Association. She's currently the CBA’s Chair of the Future of the Profession Committee and Vice Chair of the CBA’s Human Trafficking Committee. Previously, Emily became a certified mediator through the Center for Conflict Resolution and was hired as a part-time Hearing Officer for the Illinois Office of the Comptroller. She
also has large firm eDiscovery experience, practiced labor and employment law in a small firm, and served in the general counsel's office of the Illinois Education Association-NEA.
Tips for Traveling Light

By Richard C. Goodwin

Over the past twenty years, my wife and I have traveled domestically and internationally on commercial and military aircraft for work and leisure.

When I first started traveling—before baggage charges—I always checked two suitcases, each weighing close to 50 lbs. I also brought a roll-on suitcase and briefcase, which I took into the aircraft cabin. My wife and I now each travel with a roll-on [sometimes we check it, sometimes not] and a backpack. So, what did we learn?

Checklists

Make packing checklists: one for personal trips and one for business trips. The business checklist should be an extension of the personal trip checklist. The checklists will save you from last minute omissions like forgetting your wallet, watch, passport, tickets, et al.

After you finish packing, run through the checklists to be sure you packed everything. The checklists will also keep you from over packing and help you double check for essential items.

Make a departure checklist to remind you to set timers for lights, turn off the coffee pot, set thermostats, leave a radio on, and set the alarm on the way out of the door.

A packing checklist should include some or all of the following:

- Wallet
- Passport
- Cell Phone: cords, a/c charger, d/c charger, plugs, cords, earphones
- Tablet(s): cords, a/c charger, d/c charger, plugs, cords, earphones
- Computer: cords, a/c charger, d/c charger, plugs, cords, earphones
○ Watch

○ Casual attire: short and long sleeve shirts, shoes, belt, sweater

○ Medications: generic and prescription (check your itinerary to determine whether you need to take your prescription with you)

○ Camera: batteries, film, extra digital storage cards, tripod

○ Umbrella

○ TSA locks

○ Extension cords

○ International plugs

○ Business attire: suit, dress shirts, tie, dress shoes, dress belt (and in my case, a robe to wear on the bench)

Pack a wardrobe which is interchangeable, i.e., pack sweaters, socks or shirts you can wear with business or casual.

**Layer**

Pack with the idea that you can layer everything you wear depending on the weather and situation. You should be able to wear casual attire with your business attire and vice versa.

**Shoes**

Bring two pair of shoes and assume one will get wet. Have several pairs of socks, assuming some will get wet. Make sure shoes are good for walking and suitable for what you will be doing. Flip-flops or sandals are not a good idea on aircraft.

**Lay Everything Out**

Take everything you want to pack and lay the items out. We use our spare bedroom. If you pack as you think about it, you will over pack. Go through everything to ensure you really need what you packed.

Pack and unpack
Then pack everything in your suitcase(s) as if you are ready to go. Now unpack everything. As you unpack ask yourself if you really need each item? If not, set it aside.

**Suitcase vs. Backpack**

Use your backpack or roll-on for things you may need immediately and do not want to be lost. Pack a change of clothes, cell phone, tablet with cords and cables, CPAP, and medications in your backpack. If you take a roll-on and backpack into the cabin, split things up between the backpack and roll-on. Your backpack should fit under the seat. Medications and jewelry ONLY go in your backpack, never in checked bags.

When packing, assume your checked suitcases will not arrive at your destination with you. Cosmetics can go in the roll-on, backpack, or checked bag depending on whether or not they are replaceable.

**Fabrics**

Use clothing made from microfilaments [polyester-polypropylene] instead of cotton. I took 10 pounds out of my suitcase just changing fabrics from cotton to polyester-polypropylene.

Parkas made from nylon and goose down compress to the size of a small pillow and are very light. They also double as pillows. Look for sweaters made with Merino wool and jackets made with polyester and nylon. Both are lightweight, dry easily and are warm. Hand knitted Qiviut scarves and headgear made from Musk Ox hair are light as a feather and incredibly warm.

**Suitcases**

Use suitcases with wheels which expand. We currently use two-wheel suitcases and hear positive comments about four-wheel suitcases. You get what you pay for, so buy a really good suitcase and check the warranty. Some people prefer soft side (we do), others hard side.

Expandable suitcases allow you to bring purchases home without buying a new suitcase. Our suitcases have several hundred thousand air miles on them and are designed to be repaired. I initially purchased an inexpensive name brand which fell apart after six months.

Pack a soft-sided, collapsible ‘tote’ bag in the outer pocket of your suitcases for purchases and souvenirs. We take one suitcase outbound and use the ‘tote’ as a second suitcase when we return.

Make your suitcases distinctive. In Japan, you can buy fancy decorative wraps to enclose your suitcase. Attach a few pieces of colorful ribbon or duct tape to the handles. You can also use a combination of
distinctive name tags and ribbons to mark bags.

Do not forget TSA locks.

Pack and Roll

ROLL EVERYTHING.

I read about this technique and thought it was nonsense until I tried it. I found I could get more in the suitcase with less wrinkling by rolling my clothes and packing. Ultimately, it allowed me to drop from two suitcases to one.

Wash and Wear

Travel garments should be microfilament, which can be washed in the sink and hung in the shower or room to dry. If you know you are going to have laundry facilities available, pack accordingly. We pack for seven days, regardless of the length of the trip. Before the seven days are up, we wash and repack.

The secret to packing a suit or sports jacket is to turn it inside out, fold it in half, and roll it before putting it into the suitcase. Roll the pants from the bottom to the top. Both will take up less room and will have less chance to wrinkle.

Use dress shirts made of “All Supima cotton” which are non-iron. You can wash them in the shower or sink, hang them to dry and wear them again. That reduces the number of dress shirts you need to pack.

When you get to your final destination, unpack the suits, sports coats, shirts, and hang them up. If they are wrinkled, turn on a hot shower, steam up the bathroom, turn off the water, and hang your clothes. After a while, the wrinkles should fall out.

Electronics

If traveling for leisure, leave the computers at home, and carry cell phones, tablets, et al. If you need a computer, take only what you need, e.g., use the touchpad, leave the keyboard at home. Purchase a cable for your computer so you can secure it to a desk.

Pack extension cords. Older hotels are not designed for all the electronics we pack. I found a very short extension cord in Japan which folds up to the size of my fist. I put that in my backpack and pack a longer one in my suitcase. The one in your backpack comes in handy while flying if you have more than
one thing you want to plug into the outlet or need to share an outlet, or at the hotel where they have one plug by the bed and you have a phone, CPAP, and/or another device you need near you at night.

Layout all your electronics before packing. See how many use the same plugs, cords, chargers. If you have four plugs and cords to charge three devices, take two. ALWAYS take more than one set of charging plugs, cords. NEVER pack them together or in checked luggage.

Portable cell phone chargers are a great item to purchase and use. We picked one up in Japan that will hold a charge for hours and we use it to charge our cell phones and tablets on long trips. We actually take two with us.

Hints & Resources

Most hotels now have toiletries, shampoos, hairdryers, et al. If you know those will be available at your destination don’t pack them.

Get tips from camping and outfitter stores and websites

E.g., break your toothbrush in half; it is now half the weight. Take a small comb instead of a brush. Take a small toothpaste tube. Many stores sell travel items which are less bulk and weight than normal sizes. Every ounce you take out is one less ounce you have to carry. My single suitcase now weighs about 40 lbs. on average.

When you return from your trip try to keep travel items separated from everyday items—it makes it easier to find and repack them.

Travel Resources


○ Rick Steves at https://www.ricksteves.com/

Author

Richard C. Goodwin spent almost twenty (20) years in private practice in Maryland and the District of Columbia trying cases in both state and federal courts. He has over twenty (20) years of service as a federal administrative law judge with four (4) agencies. He retired from the U.S. Army Reserves in 2002 as a Colonel in the Judge Advocate General's Corps and was awarded the Legion of Merit and two (2)
Meritorous Service Medals. He is past chair of the Judicial Division of the American Bar Association. He is a graduate of the College of William and Mary (A.B.), Xavier University (M.B.A.), Northern Kentucky University, Chase College of Law (J.D.).
Volunteer to do Pro Bono Now Through ABA Free Legal Answers

By Tali Albukerk

Addressing Civil Legal Challenges with Virtual Pro Bono Advice

In June 2018, a South Carolina resident needed urgent legal advice regarding custody of her three children. She submitted her legal question online to ABA Free Legal Answers and was able to receive timely legal advice from a qualified pro bono attorney licensed in South Carolina. This attorney helped her understand her legal rights and options without having to hire legal counsel that she could not afford. Subsequently, her case was escalated by her state social service agency which arranged for kinship care for all three of her children and is currently working to provide her with full custody of one of her children.

In September 2018, a Florida resident found himself in danger of becoming homeless and needed immediate legal advice. He submitted his legal question on ABA Free Legal Answers and quickly received an easy to understand response from a qualified pro bono attorney licensed in Florida. This attorney’s advice allowed the client to better understand his legal rights and options. As a result of the advice, he was able to return to court with his required paperwork in order and received an extension of time resulting in a far less dangerous living situation.

These are just a couple examples of the thousands of legal issues that are being addressed on ABAFreeLegalAnswers.org, an online virtual legal clinic through which income-eligible clients can post civil legal questions to be answered by pro bono attorneys from their state.

Addressing an Access-to-Justice Gap by Providing Pro Bono Legal Advice to Clients Where They Are—Online

According to a recent Legal Services Corporation survey, 71% of low-income households in the United States struggle with civil legal problems. The survey also reported that more than half of the estimated 1.7 million problems that were presented to LSC organizations last year received limited or no legal help due to limited time and resources, resulting in an access-to-justice gap.
Given that legal advice is increasingly sought online and—according to a recent report from the Pew Research Center—nearly 80% of households with low-moderate income households have internet accessibility, the solution was clear.

Modeled after a legal advice portal created in Tennessee, the ABA Center for Pro Bono launched the first and only national pro bono legal advice portal, providing non-incarcerated adults with income under 250% of the federal poverty level and assets under $10,000 with access to brief civil legal advice from attorneys who are licensed and in good standing in their jurisdiction.

The site is designed to allow any qualified user with an internet connection to access civil legal advice and resources at any time from across their state—ultimately to prevent larger legal crises from developing and to allow existing legal services staff attorneys to focus on full representation.

**Register with ABA Free Legal Answers to Provide Brief Legal Advice at Your Convenience**

In addition to its successes, this site has provided much-needed legal assistance resources to our low-income populations. ABA Free Legal Answers has also been a useful tool for attorneys searching for convenient, short-term pro bono opportunities. The majority of site volunteers who responded to a biannual survey recommend ABA FLA and report that the site is very simple to navigate and fosters easy client communication.

If you are on inactive or retired status, many states provide **emeritus rules** that allow you to continue to practice on a pro bono basis under the auspices of a legal assistance agency, including many ABA Free Legal Answers state site hosts.

Moreover, the ABA provides legal malpractice insurance to all volunteer attorneys for their communications on the site—a valuable feature for senior lawyers who may have discontinued their coverage.

ABA Senior Lawyers Division members can sign up to get involved at ABAFreeLegalAnswers.org under “Volunteer Attorney Registration.” Questions are submitted in a variety of civil legal areas, including family law, landlord/tenant matters, and consumer rights, among others.

Attorneys can sign up to receive notifications when questions are posted in their areas of interest as well as sort by subject matter and for questions that are submitted by those with senior and/or veteran status.
“For the senior lawyer who wants a supported, convenient, and accessible platform to provide pro bono legal assistance to persons unable to afford an attorney, Free Legal Answers is the way to go. I urge my senior colleagues to give FLA a try,” said Anthony Barash, Senior Lawyers Division Council Member.

Contact the ABA Free Legal Answers National Administrator, Tali Albukerk, at tali.albukerk@americanbar.org, for further information about the site or how to make a tax-deductible financial contribution.

Author

Tali Albukerk is the national administrator of ABA Free Legal Answers for the ABA Center for Pro Bono. Tali previously held the position of staff attorney/pro bono projects manager for the ABA Standing Committee on Legal Assistance for Military Personnel. During her career, Tali has worked for several Chicago law firms focusing on federal civil rights litigation, specifically addressing police misconduct claims. Tali is also board president of the Pro Bono Network, a Chicago area nonprofit that provides pro bono programs for attorneys with nontraditional work schedules. Tali has a B.A. in Political Science from the University of Michigan and a J.D. from Chicago-Kent College of Law. She lives in Oak Park, IL, with her husband and two daughters.
SLD Wins SOC Outstanding Collaboration Award

By Emily Roschek, Director of the ABA Senior Lawyers Division and Career Center
2018 SOC Outstanding Collaboration Award

The Senior Lawyers Division (SLD) was honored to receive the SOC Outstanding Collaboration Award during the Section Officers Conference (SOC) Fall Leadership Meeting on Thursday, September 27th, 2018, for its collaborative effort in organizing an Opioid Summit to address the opioid epidemic permeating our country.

The Award recognizes significant collaboration between two or more ABA entities on a program, project, or initiative that provides substantial value to the ABA membership, profession, or society.

The Award was presented to SLD leaders by the SOC Awards Committee Chair, the Honorable Bernice B. Donald, Former Chair of the Section of Civil Rights and Social Justice.

Led and organized by the Senior Lawyers Division, the Summit entitled “Experienced Lawyers, American Families, and the Opioid Crisis” was held at the ABA Headquarters in Chicago on Friday, May 4, 2018.

The Summit brought together various entities within the ABA, external organizations, and a multidisciplinary group of experts from a range of legal areas for a holistic approach to the opioid crisis.
The Summit involved 30 people from ABA entities and non-ABA organizations, 5 nationally recognized speakers, 17 leaders of the Senior Lawyers Division, as well as 6 ABA staff members, and 2 volunteer law students as recorders. It was led by SLD Chair (2017-18) Jack Young and SLD Chair (2018-19) Marvin S.C. Dang, along with a planning committee. Diverse attorneys (from the perspective of ABA Goal III) were actively involved with the Summit as planning committee leaders and members, speakers, facilitators, and participants.

Here is a complete list of ABA entities represented at the Summit:

- Center on Children and the Law
- Center for Professional Responsibility
- Commission on Disability Rights
- Commission on Law and Aging
- Commission on Lawyer Assistance Programs
- Criminal Justice Section
- Division for Public Services
- Government and Public Sector Lawyers Division
- Health Law Section
- Law Student Division
- Section of Intellectual Property Law
- Section of Labor & Employment Law
- Section of State & Local Government Law
- Senior Lawyers Division
- Solo, Small Firm and General Practice Division
- Standing Committee on Legal Aid and Indigent Defendants
- Standing Committee on Bar Activities and Services
The Opioid Summit was a collaborative process from the beginning. Staff from the invited entities either attended the Summit themselves or secured entity members as proxies who provided valuable contributions to the Summit. All participants were invited to share materials in advance; those materials were distributed to all the participants. On the day of the Summit, volunteers from the ABA Law Student Division as well as staff from the ABA Government and Public Sector Lawyers Division, and the ABA Senior Lawyers Division took notes.

The Opioid Summit provided ABA entities and non-ABA organizations with a forum to discuss and make recommendations about the opioid crisis—a crisis which affects not only the legal profession but our society. The Summit fostered and encouraged collaboration among the various entities and organizations about critical issues involving families, public policy, laws, treatment, access to treatment, and education.

A report incorporating the productive discussions, recommendations, and action items from the breakout sessions was written by Dr. Mary Carter, a member of the planning committee and Summit presenter on the history and scope of the opioid epidemic invading our country. The Report, “Experienced Lawyers, American Families, and the Opioid Crisis”, can be found here along with other background materials: http://www.ambar.org/opiod.

The report was distributed to the ABA Board of Governors and the House of Delegates at the ABA Annual Meeting in Chicago in August 2018. While the ABA in the past has adopted resolutions addressing attorney well-being, the Summit’s planners will use the Report to collaborate with other ABA entities to develop policy resolutions addressing the opioid crisis. Those resolutions will be considered by the ABA House of Delegates as early as the ABA Midyear Meeting in January 2019.
Call for Nominations: Division Officers, Council Members, and Delegate

By Jack Young

Nominating Committee

The Chair of the Senior Lawyers Division Marvin S.C. Dang has appointed the following to the Division’s Nominating Committee: Jack Young, Chair, and Albert C. Harvey, Karen P. Campbell, Leonard H. Gilbert, and Donna J. Jackson, Members.

Automatic Succession

Under the Division’s Bylaws, upon adjournment of the 2019 ABA Annual Meeting, Chair-Elect Albert C. Harvey becomes Chair; Vice-Chair Michael J. Van Zandt becomes Chair-Elect; and Marvin S.C. Dang, Chair during the 2018-19 bar year, becomes Immediate Past Chair of the Division.

Request for Applications and Recommendations for Nominations

The Nominating Committee will accept applications and recommendations for nominations for the following elected Division leadership positions for terms beginning with the adjournment of the ABA Annual Meeting in August 2019. The DEADLINE for submitting applications and recommendations is MONDAY, DECEMBER 10, 2018.

Officers:

- **Vice-Chair** for a one-year term with automatic succession to Chair-Elect the following year
- **Secretary** for a two-year term
- **Budget Officer** for a two-year term
- **Division Delegate** for a three-year term
Council Members-at-Large: Four (4) Council positions for four-year terms to expire in 2023 are to be elected. The current incumbents are ineligible since they will have served full four-year terms. Additional Council positions may be open if an existing Council member is nominated for another position.

Application and Recommendation Process

You can recommend yourself or another person for an elected Division leadership position by sending an email or letter to the Nominating Committee. If you are recommending another person, please confirm with that person that he or she will accept a nomination and state this in your recommendation. Anyone currently holding an elected Division position can apply or be recommended for another position even if the term for the current position expires after August 2019.

All nominations must include at a minimum a letter and a statement of the applicant’s or the recommended person’s activities within the Division, the ABA and the legal profession.

The Nominating Committee will meet at the ABA Midyear Meeting and intends to submit its report to the Division Chair at that meeting. Additional nominations may be made by petition pursuant to Section 6.2 of the Division Bylaws, which requires receipt of such petitions by the Chair of the Division no later than sixty (60) days prior to the opening of the Annual Meeting of the Association.

All elections shall be held at the business session of the Division during the 2019 ABA Annual Meeting in August in San Francisco, CA.

Deadline for Nominations

Please e-mail applications or recommendations by the deadline of Monday, December 10, 2018 to the Nominating Committee Chair or to any Committee member with a copy to Division Staff Director Emily Roschek at Emily.Roschek@americanbar.org or mail a copy to Emily’s attention at ABA Senior Lawyers Division, 321 N. Clark Street, Chicago, IL 60654.

Here are the e-mail addresses of the Nominating Committee Chair and members:

Jack Young (Chair): young@sandlerreiff.com

Albert C. Harvey: aharvey@lewisthomason.com

Karen P. Campbell: karen.campbell@northfloridaopg.org
Leonard H. Gilbert: leonard.gilbert@hklaw.com

Donna J. Jackson: donnajacksonlaw@aol.com