

Message from the Co-Chair by Joyce S. Meyers

This second issue of the Women in Communications Law Newsletter has much to report about the activities of our members in the past year. In the previous issue, Co-chair Michelle Tilton, at a crossroads in her career, wrote a reflective commentary on life as a media lawyer and the role of this subcommittee in promoting and providing opportunities for women in communications law.

The past year has been eventful for Michelle and many of our other members. Michelle left a position she had held for ten years and embarked on the creation of a new company. Other members changed law firms, made the transition from private practice to in-house positions, or the equally challenging transition from large-firm to small-firm practice.

Because one of the functions of this subcommittee is to help women media lawyers get to know each other and stay in touch, we have added to this newsletter a column on member news. In this issue, we have included information about Michelle Tilton's new venture as well as some of the exciting new directors that other members have taken. Charity Kenyon, for example, recently made the large-firm to small-firm transition when the large, long-established firm in which she was a partner suddenly dissolved and she and five colleagues undertook the challenge of founding a new firm.

We are sure that many other members have interesting news to report about new positions, significant cases in which they have participated, or personal observations about the challenges and rewards of defending the First Amendment. We want this newsletter to serve as a forum for the exchange of information and ideas. We appreciate the work of our editors Cynthia Counts and Pilar Keagy in creating this newsletter, and we invite all women in the Forum on Communications Law to contribute to it. Please send your information, comments, articles, or anything else you want to share to Cynthia, Pilar, Michelle or me. Our phone and fax numbers and e-mail addresses are listed in this newsletter, and we want to hear from you. We would also welcome your comments and suggestions for the content of future newsletters. *(continued on the next page)*

Officers

- Kelli L. Sager Chair of the Forum
- Barbara W. Wall Immediate Past Chair
- Michelle Worrall Tilton Subcommittee Co-Chair
- Joyce S. Meyers Subcommittee Co-Chair
- Cynthia L. Counts Vice Chair, Newsletter
- Pilar G. Keagy Vice Chair, Newsletter
- Amy Neuhardt Communications
- Carol V. Rose Communications

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Message from the Co-Chair

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We are also pleased to report that we have updated the Women in Communications Law Directory for 1999. Again, we encourage all members to use the directory frequently and share it with others. The women listed in the directory represent an enormous amount of knowledge and talent. I hope we will all get in the habit of turning to it first when we need a media lawyer to handle a case, answer a question, write an article, or participate in a seminar.

... the Women in Communications Law Directory... represent an enormous amount of knowledge and talent.

On a personal note, I have taken on a new role that enables me to provide opportunities for any of our members who would like to write articles for publication. This past year, I have been appointed to the Editorial Board of Litigation, the journal of the ABA Section of Litigation. One of my responsibilities is to identify potential authors for articles to be published. One of my goals, which is supported by the Editorial Board, is to include more articles by women lawyers. If anyone is interested in writing for Litigation, please let me know.

As I prepare this message, I reflect on the leadership of Barbara Wall as Forum Chair in initiating the formation of this subcommittee and supporting its development, as well as her other accomplishments. It is especially gratifying that she has been succeeded as Chair by Kelli Sager, another woman who has achieved national recognition as an outstanding media lawyer. I recall that when I first began attending these conferences, women were nearly invisible. Now, not only have our numbers increased but many of us have moved into positions of leadership and have made major contributions. Let's work together to continue this trend.

Women On The Move

This "Women on the Move" section is our space to provide general updates on our members. If you have any news to contribute, please contact Cynthia Counts. Her e-mail address is "ccounts@dlalaw.com."

- Pilar Keagy has moved to CNN as in-house counsel. She is responsible for pre-telecast review of scripts and packages and inquiries regarding defamation, privacy, and other newsgathering issues.
- Charity Kenyon has started a new law firm, Riegels Campos & Kenyon LLP, which is a partnership of six former Diepenbrock, Wulff, Plant & Hannegan, LLP partners who have practiced together for more than twenty years. Riegels Campos & Kenyon LLP represents insurers and employers and provide representation to media and public contract clients.
- Joyce Meyers has been appointed to the Editorial Board of Litigation, the journal of the ABA section of Litigation and is interested in soliciting articles from our members.
- Amy Neuhardt has moved to the big apple and a media litigation practice at Gibson, Dunn & Crutcher.
- Michelle Tilton has started new media insurance company, First Media, Inc.

Women To Watch

Judy Margolin

by Carol V. Rose, Hill & Barlow (Boston)

Learning to juggle a wide range of legal issues was just one of the challenges that Judy Margolin faced when she moved from a large firm legal practice to become Associate Counsel with Penguin Putnam, Inc. in New York.

"At a law firm, you have a few big matters that go on for months, or years," says Margolin, age 33. "Here, I juggle 40 matters a day. The phone is constantly ringing with people asking me about new issues, or books that I've never seen before. It requires a certain agility and ability to focus on new issues."

Professional agility was a key factor in Margolin's ability to obtain her current position with Penguin Putnam. Prior to taking the job as Associate Counsel in September 1997, Margolin spent six years

... I wanted to be able to advise a company on a wide range of issues...

at the law firm of Cleary, Gottlieb, Steen & Hamilton, first in their litigation department

in Washington, D.C., and later in the firm's corporate department in New York.

"I switched from litigation to corporate because I wanted to move in-house, and did not want to be a full time litigator," says Margolin. "I wanted to be able to advise a company on a wide range of issues, and knew that people would not take me seriously without some corporate experience."

Margolin's work in private practice ranged from products liability and securities litigation to ventures and bond offerings. She did not have a specific

expertise in publishing when she applied for the job at Penguin Putnam, after reading about the job in the alumni magazine of NYU Law School, her alma mater.

"I think it is unusual for anyone to have experience in all the issues they will face as in-house counsel," says Margolin. "I've learned a great deal in the last 15 months."

Indeed, says Margolin, one of the advantages of working as in-house counsel over a law firm is the willingness on the part of Penguin Putnam to invest in her training. "People here are very interested in me and my growth," she says. "I'm not fungible to them. I'm part of the team."

Her current duties range from vetting manuscripts for libel, privacy and publicity issues, to dealing with product safety for things that are "books plus" -- books with gadgets attached to them. "I answer a lot of questions about copyright, trademark, and defamation," says Margolin. "But I also have had to learn consumer product safety law because so many books are packaged with plush toys attached."

Margolin says that working in-house has improved her quality of life. "The hours here are much better than at a law firm," she says. "People here really value being fully rounded and having other interests. And my time is much more focused because I don't plan to stay at the office until midnight." Margolin advises lawyers at law firms who seek to move in-house to "get as diverse an experience as you can."

A lot of lawyers at firms put off thinking about what they want to do next," she says. "My advice is to start thinking early about where you want to go and place yourself accordingly. It is hard to get these jobs and you have to give yourself the experience beyond litigation, and that takes time."

Women To Watch

Jennifer Falk Weiss

by Carol V. Rose, Hill & Barlow (Boston)

When Jennifer Falk Weiss arrived for her first day of work as First Amendment in-house counsel for Cable News Network, seven years ago, she was given a gift-wrapped beeper and a fax machine to set up in her home. "It has been a 24-hour, 7-day a week type of job ever since," she says.

As CNN's Assistant General Counsel, Weiss, age 37, works with producers and reporters regarding a wide array of issues, including defamation, invasion of privacy, newsgathering and copyright issues. She also presents seminars to CNN staff and journalists to raise awareness of these issues, "so that they know when to call me," she says. Weiss also oversees litigation involving CNN.

"This job requires you to be able to manage a crisis situation -- or a perceived crisis --

"This job requires you to be able to manage a crisis situation... and to make split-second judgments"

and to make split-second judgments," says Weiss. "If you say 'no,' to a journalist, they may feel frustrated.

But if you say 'yes,' it will be on the air in about two minutes."

Once, for example, Weiss was on the line with the producer during the broadcast of the program, Larry King Live. Says Weiss: "King does not like to be told how to conduct his interviews." Nevertheless, when a guest said something that had potential legal ramifications, with only 20 seconds left on the air, Weiss told the producer what King needed to say in order to avoid a potential lawsuit. The producer relayed Weiss' message into King's ear piece, "and about five seconds later I heard my words coming out of King's mouth," says Weiss. "At that point, I thought, Wow: I have a cool job."

Weiss assumed the in-house counsel position with CNN after graduating from Emory Law

School and working for nearly five years in a private law firm, Powell, Goldstein, Frazer & Murphy, in Atlanta, where she represented media clients.

"I had spent a summer in college acting as a news writer for CNN, which had only been around for a year, so I knew that I was interested in working for Turner," says Weiss. "When I first applied for the [in-house counsel] job, I was told that they wanted someone with more than five years experience, but that there was an entry-level job open in the legal department on the entertainment side doing copyright work for the film library."

Weiss accepted the entry-level opening eight years ago. One year later, when the First Amendment in-house counsel job opened again, she landed it.

Her advice for others seeking to break into the business? "If you really want to do this, you have to be willing to live in a city where these opportunities are available," says Weiss. "I'm an Atlanta native, so I'm fortunate. Otherwise, I would have to be in New York, LA, or Washington. It is also important to work in a law firm that does this kind of work, and do as much of it as you can."

In addition to her work at CNN, Weiss is the mother of two small children (Daniel, age 5, and Whitney, 1). In order to balance her dual role as mother and lawyer, she recently cut back her schedule to three and a half days a week, and reduced her workload commensurately.

"I waited until I felt I really needed to cut back," she says. "Working part-time has been great, because I love the extra time with my children and I love my work. I'm lucky that the company was willing to accommodate that."

"While the lifestyle is very demanding, it suits me," she added. "I'm a newsaholic. I like journalists; I cannot think of clients that I would find more interesting. Not only that, I'm a lawyer who gets to watch television."

Commentary: From time to time this newsletter will publish comments from its readership. The comments in this article do not necessarily reflect the opinions of the editorial staff of the newsletter or the ABA.

Dishonest Journalism: A risk we can't afford to take

by: Sue Reisinger, Viewpoint Editor, *The Miami Herald*

There was one joke about why there are so many toxic waste dumps in New Jersey and so many lawyers in Florida. Answer: New Jersey won the coin toss and chose first.

And then there was the suggestion that we should combine the First and Second Amendments, and just let the gun fanatics take care of the media.

Ah, lawyers and journalists together at a bar/media conference -- or, as one participant described these conferences: "It's like the locusts held a picnic and invited the cockroaches over."

Both lawyers and journalists are listed near the bottom of the public's credibility list these days, and as a lawyer-journalist (emphasis on the latter profession, which pays my salary), I often bear the brunt of attacks on both. Some surveys have shown that while the public thinks lowly of lawyers' ethics, so long as their own lawyer wins, they are placated. Such satisfaction does not exist for journalists, though. Without their credibility, journalists and the media are at best take-it-or-leave-it gossip mongers; or at worst, the producers of a needless product.

The American Society of Newspaper Editors, a national organization of editors and publishers, released in mid-December a ground-breaking survey on press credibility. It found that the American public thinks the news media should rein in their eagerness for the sexy story and try harder to be fair.

Painfully, no one seems to understand why journalists are continuing to shoot themselves in their ethical Achilles heel, but ASNE has embarked on a \$1 million project to try to find out in an effort to improve the credibility of journalism. There is room for improvement.

Consider 1998:

The Monica-Bill episode tops the list for allegations of flawed reporting (many of these alleged flaws later proved to be correct, I might add), mixed with the taint of major newspapers, news magazines and TV networks emulating tabloid-style reporting; CNN retracted a story alleging U.S. use of poison gas against American defectors during the Vietnam War; Time magazine, which had run the same story from the same reporters, ran an open letter to its readers on the holes in the story; the Boston Globe fired two top columnists for fabricating facts or quotes; The New Republic apologized to its readers after finding that one

of its associate editors had made up stories; the Cincinnati Enquirer suffered the Chiquita banana debacle, in which a reporter allegedly stole Chiquita executives' voice-mail to write his expose, and then lied to his editors about his source. The paper fired the reporter, printed a front page apology and paid Chiquita in excess of \$10 million to avoid a lawsuit.

...the American public thinks the news media should rein in their eagerness for the sexy story and try harder to be fair.

What is going on here?

One explanation comes from Jonathan Alter, writing in Newsweek: "When too many reporters chase too few real stories, you get news inflation, also known as hype." Or, Alter adds, "maybe there's something in the newsroom coffee



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Dishonest Journalism (cont.)

this year.” Coffee theories aside, Alter blames cyberspeed and 24-hour competition while lamenting that the profit-minded media now favor cleverness and attitude over the substance of policy issues. Others, in and out of the media, have bemoaned the downsizing of news staffs, the bottomline goal of many news organizations, the ratings/circulation/profit frenzy that is feeding the push for hype.

Marvin Kalb, a 30-year veteran of CBS and NBC, now director of the Shorenstein Center on the Press, Politics and Public Policy and Murrow professor at Harvard’s Kennedy School of Government, wrote of journalism’s rash of sins recently in the Los Angeles Times. Like Alter, Kalb blames a vast technological revolution that has spawned heated competition around the clock, while many news organizations have been taken over by business masterminds who are demanding higher annual profits. In Kalb’s words, “NBC manufactures news in much the same way and with much the same motivation as GE manufactures light bulbs ... This new technological revolution and this new profit-centered, business-oriented news have transformed the ethics, values, standards and professionalism of journalism. In this radically changed atmosphere, everything is different.”

Well, yes, things are different today, but not all the changes are for the worse. As columnist Hendrik Hertzberg wrote recently in *The New Yorker* magazine: “It’s worth remembering that news-as-entertainment is not exactly new. The Hearst papers in their turn-of-the-century heyday were more fun (and scarcely more ‘factual’) than Nick at Nite; Bernard McFadden’s old New York Evening Graphic makes today’s New York Post look like *L’Osservatore Romano*; and if Damon Runyon’s columns provided better value than ‘Hard Copy’ it wasn’t because they were backed by superior research. . . What is new and noteworthy here is not that a columnist made up quotes or a reporter made up anecdotes; it’s that they got caught.” And each new media mea culpa brings editors out in force in their newsrooms, re-emphasizing standards to their staffs, and re-embracing values and ethics.

While the pressures to increase circulation is felt deeply at many papers, most papers are still standard and professional enough to be laughed at by the editors of supermarket tabloids like the *National Enquirer* or the *Globe*. At a media law conference in Florida, *Globe* Editor Tony Frost implied that editors of traditional newspapers are marketing morons.

Dishonest Journalism (cont.)

Perhaps we are, but one hopes that most readers understand the difference, and in the long haul will choose reliable information laced with standards and values over the quick celebrity fix. Despite the recent revelations of wrongdoing in the media, I still believe that a free and RESPONSIBLE press is our last, best hope. For the world, and for journalism itself. And I believe that the quality of journalism has increased, not decreased, through the years while we've become more honest about mistakes, more open-minded about apologies.

Or, as New Yorker's Hertzberg says: "[T]he press today probably gets it closer to right somewhat more reliably than it used to in the good old days. Reporter and editors, on the whole, are better educated, more professional, and less likely to be addled by drink than they once were. C-span, tape recorders, searchable databases, and random spot checks have made dishonesty riskier."

"C-span, tape recorders, searchable databases, and random spot checks have made dishonesty riskier."

Dishonesty a risky business? Yes, and the risk is one of extinction if we lose all credibility. Even in what Jonathan Alter and Marvin Kalb describe as a world of profit-centered and market-driven media, risky business is not acceptable.

Boca Raton Conference Highlights

Boca Raton, Florida was the site for our latest gathering of the Women's Subcommittee of the Forum on Communications Law. Dozens of enthusiastic members led by subcommittee co-chairs, Joyce Meyers and Michelle Worall Tilton, met on February 12, 1999 at the Fourth Annual Conference of the Forum. The group both generated new ideas and gave us suggestions on how to improve upon some old ones. The highlights follow:

Directory of Women in Communications Law. This subcommittee has now distributed its second Directory of Women in Communications Law. Our plan is to update and publish the directory annually. Some updated information received after publication is included with this newsletter. We want the directory to serve as a tool for members to keep in touch and hopefully to share information and expertise with each other.

If you find you did not receive a directory, or know that you were not included within it, please take a moment to complete the attached form and fax it to Teresa Ucok [Fax No. (312) 988-5677] for inclusion in the next update.

WICLS Newsletter. The newsletter's purpose is to provide information to members about the activities of the subcommittee and other topics of interest to women in our field. At the committee meeting, we announced our plans for this second newsletter and several members generously offered to donate articles and information. We hope the new material will be of interest to you. If you have any suggestions, or want to volunteer to help us with the content or format of future issues, please contact Cynthia Counts at "ccounts@dlalaw.com."

Future subcommittee events. By all accounts, the Boca meeting was a success and we are working to schedule similar opportunities to get together throughout the year. At present, we are contemplating meeting at the PLI communications law seminar. Be sure to look for information about the subcommittee activities at other media law conferences.

Addendum to the 1998 - 99 Women in Communications Law Directory:

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Calendar of Upcoming Events:

September 22-24:

1999 Libel Conference - Arlington, VA

November 10:

LDRC Annual Dinner
New York, NY

November 11:

LDRC Defense Counsel Section
Annual Meeting
New York, NY

November 11-12

PLI Communications Law Conference
New York, NY