Message from the Co-Chairs
By Cynthia Counts and Carol V. Rose

Exciting events are on the horizon, and we hope that you all can get involved. Most important is the ABA Forum on Communications Law Seventh Annual Conference, to be held February 14-16, 2002, at the Boca Raton Resort & Club. As always, the Forum will provide exciting speakers and a range of workshops run by top media lawyers from all over the country.

Women attorneys in communications law continue to play a key role in both the conference and in the development of media and communications law in general. Kelli Sager and Barbara Wall are program co-chairs for this year's ABA Forum conference. Amy Neuhardt, another WICLS member, is chair of the Fifth Annual Media Advocacy Workshop, sponsored by the Law and Media Committee of the ABA Young Lawyers Division. This one-day workshop will be held in conjunction with the Boca Raton conference on Thursday, February 14.

WICLS members will have our own special gathering at Boca on Friday, February 15, at 5:00 p.m., when we will join for a business meeting and a wine and cheese reception. We hope that you will attend.

We also hope that you have received the 2001-2002 Women in Communications Law Directory. The WICLS Directory will help us all to stay in touch professionally and personally with other WICLS members. Please use it! If you have not received the directory and would like a copy, please contact Teresa Ucok at rucock@staff.abanet.org.

In this issue of the WICLS newsletter, we continue our custom of profiling prominent members as “Women to Watch.” These profiles help us get to know one another and remind us that there are many paths to being a successful woman in communications law.

This issue includes a profile of Elaine Rogers, an entertainment lawyer at Hill & Barlow in Boston, and also film agent and director of dramatic rights with that law firm's Hill & Barlow Agency, the largest literary/film agency in New England. We also feature Eve Burton, visiting professor at the Columbia School of Journalism and former chief counsel of CNN. Eve's advocacy on behalf of journalists seeking access to government information is particularly inspirational in light of the recent government restrictions on covering the war on terrorism.

After two fun-filled years, Cynthia Counts will be stepping down as co-chair of the WICLS committee to assume the position

COMMENTSARY

Balancing Act
Women attorneys say juggling work, family is tough but firms have become more flexible

(The following article appeared originally in New Orleans CityBusiness newspaper on Dec. 3, 2001.)

By Megan Kamerick

In the late 19th century, Leila Robinson, the first woman admitted to the Massachusetts State Bar, asked a question: “Is it practicable for a woman to successfully fulfill the duties of wife, mother, and lawyer at the same time?”

The question remains unanswered for many female attorneys, according to a new report from the American Bar Association’s Commission on Women in the Profession. “Balanced Lives: Changing the

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Woman to Watch

Elaine Rogers

By Laurie M. Ruskin, Sweder & Ross LLP

A typical work day for Elaine Rogers sounds like a stereotypical day in the life of any big Hollywood deal-maker. Hollywood deal-making is an art form—matchmaking par excellence. But, there are a few unique wrinkles in this picture. First, Elaine’s not just an agent, but a lawyer. Second, Elaine’s a Boston lawyer. In fact, there’s nothing “Hollywood” about her.

Rogers is a highly successful film agent/entertainment lawyer who dares to not hail from the entertainment capitals of Los Angeles or New York – the Mecca and Medina of the industry. Instead, Elaine is the director of dramatic rights at The Hill & Barlow Agency in Boston, the largest literary/film agency in New England. Another wrinkle is that the Agency appears to be the only one in the nation housed within a law firm. The Agency is a part of the Media and Entertainment Group of Hill & Barlow P.C., one of Boston’s prestigious law firms.

According to the early skeptics, such a set-up could not possibly work. Even Elaine acknowledges that “developing an entertainment practice in Boston was not an easy thing to do.” She had to develop contacts with key people within the industry; i.e., she had to convince studio executives, actors and directors to take her calls. How’d she do it? There were the constant trips to L.A., setting up 13 to 14 meetings a day. As Elaine describes it, she spent a lot of time “pounding down the door” and having to repeatedly answer the question, “Why are you in Boston?” But she managed to convince the skeptics by representing only quality projects – and by convincing people that being both an agent and a lawyer allows her to “package” the total project. Indeed, her hard work has paid off. Here are a few projects:

- Elaine, representing the Harvard University Press and their book *The Kennedy Tapes: Inside the White House During the Cuban Missile Crisis* by Ernest May and Phillip Zelikow, negotiated the film rights to what became Thirteen Days, starring Kevin Costner and distributed by New Line Cinema, and is working on the film West of Here with director Peter Masterson and starring Mary Stuart Masterson.

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- Another Rogers deal, with Sally Field, called A Change of Heart—the true story of a heart and lung transplant recipient who believes she has taken on the psychological traits of her organ donor—is being produced by VonZerneck Sertner Films at Lifetime Television. The book version is co-authored by ghostwriter-to-the-stars Bill Novak for Little, Brown. Rogers also set up another film VonZerneck Sertner Films called Two Came Back, starring Melissa Joan Hart, which aired on ABC-TV.

- Even before he got out of law school, Brad Meltzer had authored the legal thriller, The Tenth Justice, about a Supreme Court clerk who leaks one of the Court’s decisions and ends up embroiled in intrigue and blackmail. Meltzer’s manuscript wasn’t even completed before Elaine sealed a film deal with, among others, Fox 2000.

- Heidi Fleiss’s father, Paul, had his life story turned into a CBS made-for-TV movie called The Good Doctor, thanks to Elaine, who helped seal the deal both as Fleiss’s agent and as a co-producer of the film.


- Rogers and James Redford (Robert’s son) have joined ranks to co-produce a film which Redford will pen and for which he’ll make his directorial debut.

Not bad for a Boston lawyer. As an entertainment lawyer and film agent, Rogers represents numerous authors, publishers, screenwriters, producers, directors, talent, independent filmmakers and production companies. Acting as both agent and lawyer, she’ll put together a deal, sell it, do all of the contract negotiations, and even arrange the financing and take care of the foreign and audio/electronic rights. And, now, she’s even producing.

Elaine’s friendly and soft-spoken demeanor masks a whole other persona that is ready to go to work in the big leagues of the entertainment industry. Studio execs take her calls. They know that she only represents quality work. And, her clients know that she’ll work hard to seal the best deal possible: in the dedication to his newest novel, The First Counsel, author Brad Meltzer describes Rogers as someone “whose tremendous energy brought new definition to the term gangbusters.”

Rogers, who has been practicing law for about eight years, was a former advertising and public relations executive who worked for several of the world’s largest firms. She worked as a group account director and director of regulatory affairs, managing a variety of entertainment and healthcare accounts. In fact, she developed a documentary film on the relationship between ultra-violet radiation and photodamaged skin. While this is a far cry from working with star talent, the film won a Film Festival Award.

Last but not least, Rogers also manages to find time to be a Clinical Field Supervisor in entertainment law for Boston’s Suffolk University Law School, and is a member of the Advisory Council for Volunteer Lawyers for the Arts, and the Boston Bar Arts & Entertainment Committee. She is also a regular contributor to Legal Lens, a media arts publication of Imagine Magazine.

Asked what she likes best about her work, Rogers insists she likes everything. The diversity of doing different things – sometimes acting as an agent, a lawyer, or a producer – and, then again, doing everything as agent-lawyer-producer, all rolled up in one. She is, indeed, the consummate Hollywood deal-maker.

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Elaine Rogers has managed to convince the skeptics by representing only quality projects – and by convincing people that being both an agent and a lawyer allows her to “package” the total project.
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"I'm stubborn and ambitious, and thought, 'Guys can have kids and work full time, then I can have kids and work full time,'" says Mary Ellen Roy, of Phelps Dunbar LLP.

Culture of the Legal Practice" finds that attorneys, both male and female, find it increasingly difficult to meet both personal and professional obligations. This is affecting firms' abilities to retain the most talented professionals in the field, as well as efforts to promote more women to management slots.

Women make up almost 30% of the American bar and about half of law schools' entering classes. Most expect to have both a career and a family. Over the next decade, the report notes, many will be faced with not only child-care obligations, but also aging parents.

But most lawyers in private practice work at least 60 hours a week to make their quota of billable hours, according to the report. Thus, half of the lawyers surveyed by the researchers said, they don't have enough time for themselves or their families, and the number of women who doubt they can successfully combine work and family has gone up since 1990.

Law firm managers are taking note. But the report found that while most firms have part-time attorneys, only 3% of lawyers work part time and half did not believe their firms truly supported flexible schedules.

Locally, female attorneys say there is still a lot of room for improvement, though things have gotten much better over the past 20 years.

Mary Ellen Roy made partner at Phelps Dunbar LLP in 1991. She was pregnant at the time, but never considered going part-time.

"I'm stubborn and ambitious and thought, 'Guys can have kids and work full time, then I can have kids and work full time,'" she says. "Call me nuts, but I was just determined to do it."

She acknowledges it has not been easy. A person must be well-organized and set priorities, she says. Sometimes when she is with her family, she worries that she should be at the office. "The flip side is if I work late, (I wonder) should I have been home tonight?"

Karen Freese, a partner at Stone, Pigman, Walther, Wittmann & Hutchinson LLP, considered going part-time after her first child was born, but feared it might jeopardize her chance for partnership.

"I'm a very driven person and I was concerned if I went part time it might be perceived as a lesser commitment to the firm," she says. But that was eight years ago. The firm does have part-time options for attorneys now, she says.

Indeed, a number of firms do have part-time partners. But Lynn Luker remains wary of that option.

"We get into this profession that's mainly men and it takes a while to realize that you gotta make it yourself and make it for other women."

Luker, who was a partner at Adams & Reese and also has children, now manages a small firm, Luker, Sibal & McMaster LLC. "I don't think it really translates into the reduction in workload promised," Luker says. It's better to find a way to balance it all, she adds.

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"Being officially designated on the mommy track is a stigma and an unnecessary stigma," she says. "There's no daddy track."

Maggie Murphy was the first partner to work on a flexible schedule at Jones, Walker, Waechter, Poitevent, Carrere & Denegre LLP.

"I think some women have children and naturally work less because they have to, but they don't really have the stamp of approval on it so they feel uncomfortable and worried and feel they're not keeping up," Murphy says. "What has made me happy is it was agreed to up front."

Some women who take this option end up with dead-end assignments, according to the report, but Murphy says her experience has been good. She also credits this to her practice area, the corporate and securities section. She says it might not work as well for trial lawyers, whose schedules can be unpredictable.

"The report found that while most firms have part-time attorneys, only 3% of lawyers work part time and half did not believe their firms truly supported flexible schedules."

Some areas of the law will be more conducive to flexible schedules, says Donna Klein, a partner at McGlinchey Stafford APLC, so attorneys should evaluate their expectations from the outset and decide what they want. Klein, who made partner when she had three young children, says she has struggled over the past 20 years with balancing.

"It can be a chaotic lifestyle and you end up getting addicted to that chaotic schedule," she says. She recalls the days when she worked 50 or 60 hours a week and also carted work home, but has since added more balance to life with exercise and a more "sensible" attitude, she says.

Technology can help or hurt in all this. Some women say it has been a liberating force. But it can also raise expectations that they are available 24/7.

For Donna Mueller, it helped her keep her job. Mueller, a partner at Jones Walker, worked part time after her children were born. When her husband took a job in Houston in 1999, the partnership let her telecommute. She recently opened an office for Jones Walker near Houston. Mueller says a good relationship with her clients helped.

"They understood when they really needed me I would do longer hours or travel," she says. "The firm just kind of rolled with it and it worked well."

The tough thing about going part time is that as a partner, she owes a fiduciary duty to the partnership.

"So you have to find a way to bring value to a firm," she says. "But the typical model is billing a gazillion hours and bringing new business in."

Firms need to figure out if this requirement will be applied universally for every year of an attorney's life, she adds.

The report allows there is no easy solution, but warns firms will not be able to retain or compete for the best attorneys if they don't deal with these issues. Bill Kelly, a partner with Adams & Reese, says young women ask recruiting committees about women in management.

"They want to know what the (firm's) leadership looks like and if it's an old gray men's club, they'll likely go elsewhere," says Kelly.

Privately, some attorneys say it will take time to overcome what is still a sexist culture.

Sharon Rodi, a partner at Adams & Reese, says her firm began holding luncheons every few months for the women attorneys. "It's up to us," she says. "We get into this profession that's mainly men and it takes a while to realize that you gotta make it yourself and make it for other women."
September 11th political climate, journalists will become “nervous” about asserting First Amendment rights, and wonders “whether the press will take aggressive action against the government even when it is unpopular with the public.”

Burton herself has never shied away from taking “aggressive action” against the government. At the New York Daily News, she successfully litigated against the city on a number of important access issues, including reporters’ access to crime scenes, family courts, and death penalty documents.

When she became Chief Legal Counsel of CNN, she added access issues as a focus of the group. Among other things, Burton hired a deputy to assist in bringing litigation over access to information and the CNN Legal Group proceeded to win a series of somewhat unlikely victories. In the Firestone/Ford Explorer litigation, they got journalists into the depositions of high-level executives. In Great Britain, they managed to get cameras into the courtroom during an “inquisition” into the government’s methods of investigation in a high-profile case.

One of the most stunning successes at CNN was when, during last year’s election crisis, the Legal Group, with support from CNN Chairman Tom Johnson, got the United States Supreme Court to release real-time audio tape of oral arguments in the case of Bush v. Gore.

Burton was aware that the odds were against her in all these cases. “Dealing with access issues means being willing to lose,” she says. “The three major victories we had at CNN were things you would think you would lose. But, when you push the envelope and try to do it intelligently,” she says, “you can get into some interesting places.”

Eve Burton has not yet decided what position she will take after her term as a visiting professor is up. It is certain, however, that wherever she goes, she will continue to promote access issues and end up in some interesting places.
WOMEN ON THE MOVE!

- **Jane E. Bremer** was named Vice-Chair of the Communications Law Section of the Minnesota State Bar Association, and will become Chair of the Section during 2002. Ms. Bremer was also a featured speaker at the 2001 Real Estate Institute, sponsored by the Minnesota Bar Association. Her presentation, “The FCC’s New Rules On Telecommunications Access to Multi-Tenant Buildings,” was attended by over 1100 real estate attorneys and professionals. Ms. Bremer is a shareholder and chairs the Telecommunications Practice Group of the firm, Larkin, Hoffman, Daly & Lindgren, Ltd.

- **Cynthia A. Casby** has an address change to announce. She can now be reached at the following address: Cynthia A. Casby, Esq., P.O. Box 4346, Burbank, CA 91503, ccasby@hh.com.

- **Allison K. Hift**, an attorney in the Miami, Florida office of Becker & Poliakoff, P.A., and a member of her firm’s Computer and E-Commerce Law Group, now directs the firm’s telecommunications practice. In 2001 she also was elected co-chair of the Emerging Technologies Subcommittee of the InternetCoast Institute’s Infrastructure Committee - a tri-county group of professionals who promote South Florida as a high tech corridor.

- **Janine Petit** has been promoted to Chief Administrative Officer and General Counsel of American Student Assistance, a company that provides technology in the financial services community. In addition to her responsibilities for corporate and regulatory compliance, she supervises marketing, corporate communications and human resources. She continues her emphasis in the areas of financial privacy and intellectual property.

- **Margaret L. Tobey** is serving as President of the Federal Communications Bar Association for 2001-2002. She is also Vice Chair of the Communications Subcommittee of the Government Functions Committee of the ABA’s Administrative Law Section.

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**Message from the Co-Chairs**

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as chair of the Media and Defamation Committee for the Torts and Insurance Practice Section (TIPS) of the ABA. Carol Rose will stay on as WICLS co-chair, working with co-chair-elect Mary Ellen Roy to continue the work of WICLS. Carol joins the WICLS membership in conveying her special thanks to Cynthia for the hours she has spent helping to build this organization over the past two years. Thanks are also due to Laurie Ruskin, Tamsen Love, and Teresa Ucok for their help in putting out this edition of the newsletter.

Please enjoy the newsletter and accept our best wishes for a wonderful 2002 full of possibility!

*Special thanks to the Media and Entertainment Group at Hill & Barlow, in Boston, for providing layout and design assistance for this issue of the WICLS Newsletter.*
UPDATE ON WICLS

This has been a highly successful year for the Women in Communications Law Subcommittee. Here are a few highlights:

Directory of Women in Communications Law
The subcommittee has distributed its third Directory of Women in Communications Law. This directory serves as a tool for members to keep in touch and to share information, contacts, and expertise with each other. If you have not received the directory and would like a copy, please contact Teresa Ucok at tucok@staff.abanet.org.

WICLS Internet Committee
WICLS this year created an Internet LISTSERV to enable our members to share information on-line about upcoming events, announcements, or important legal developments with one another. The WICLS Internet Committee, led by Carlyn Magliano, Patricia Stembridge, and Teresa Ucok, plans to develop a WICLS Web page that will provide ready on-line access to the WICLS directory and copies of the WICLS newsletter. Anyone interested in working on the WICLS Internet Committee should contact Carlyn Magliano at cmagliano@hillbarlow.com.

Newsletter Committee
The newsletter's purpose is to provide information to members about the activities of the subcommittee and other topics of interest to women in communications law. Several members volunteered to assist in this effort by donating articles and ideas to the newsletter, including Laurie Ruskin, Patricia Stembridge, Jill Vollman, Laura Stapleton, Mary Ellen Roy, and Tamsen Love. If you have suggestions or want to volunteer to assist with future newsletters, please contact the newsletter editor for 2002-2003, Mary Ellen Roy at roym@phelps.com.

Mentoring Committee
Since our last newsletter, we have had a tremendous response from women (especially law students in their 2nd or 3rd year) who are interested in being mentored. However, we need mentors who would be willing to have their phone numbers provided to women lawyers and law students who want to talk about creating a career in communications law. For the most part, this is an agreement to have a conversation with a prospective woman in communications law, rather than an on-going commitment. Please help us create an active mentor volunteer list by letting Cynthia Counts know if you are willing to fill that role. Also, young lawyers or law students who desire a mentor should also contact Cynthia. Mentors and potential mentees can call her at 404-876-1785 or email her at cccounts@lawcounts.com.

Social Committee
Susan Grogan Faller and Patricia Clark once again did a fabulous job of organizing the WICLS dinner-theatre evening at the November 2001 PLI meeting in New York. Nearly 20 WICLS members and would-be members gathered for an evening of fellowship, good food, and a trip to the theatre.

WICLS members will gather at Boca Raton on Friday, February 15, at 5:00 p.m. for a business meeting and a wine and cheese reception, co-sponsored by Hill & Barlow and First Media Insurance Specialists, Inc. The reception will be held in Salons III and IV of the Mizner Center. We hope that you will all feel welcome to attend. If you are interested in being involved in the social committee, please contact Gyuyl Cummins at gcummins@graycary.com.

New Officers
Cynthia Counts will be stepping down as co-chair of WICLS after serving her two-year term. Carol V. Rose and Mary Ellen Roy will serve as co-chairs of WICLS for the 2002-2003 term, pending approval of the WICLS membership in February 2002.