

PRACTICE POINTS

- **Antitrust Hot Topics (Mergers, Joint Ventures, Licenses and Franchising)-What You Don't Know Could Cost You**
- **Resale Price Maintenance and the Rule of Reason: The Liability Risk Increases.**
- **The Brave New World of Employee Mobility: The Corporate Duty to Identify, Value and Protect Trade Secrets.**
- **Do the Right Thing, Inside and Out: Ethics for Transactional Attorneys.**
- **Audio of: *Dialog with the SEC's Director of Corporate Finance.***
- **Report on Legal Opinion Risk Seminar.**
- **Buyer Beware: The Fiduciary Duties of a Buyer's Board.**
- **The Big Deal About the Fine Print: Negotiating & Drafting Contractual Boilerplate.**
- **Risk Issues and Internal Investigations: Best Practices and Ethical Considerations.**

[Click here](#)
to view last month's issue.



2007 Annual Meeting
August 10-14, 2007
San Francisco, CA
Format: Live/In-Person

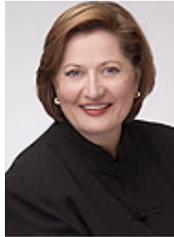
BUSINESS LAW CLE CONNECTION

6th Annual Commercial Law Developments Update

Webcast/Teleconference
07/18/2007 - 07/18/2007
Multi-site

For complete program details,
[Click Here](#)
To register, call 1-800-285-2221

Message from the Chair, Linda Hayman



Professor Richard Sander's 2006 article in the North Carolina Law Review, "[The Racial Paradox of the Corporate Law Firm](#)" has sparked an intense debate - in law reviews, in the press and in the blogs. But nowhere has Professor Sander's research been skillfully dissected than by the panel at the recent [National Conference for the Minority Lawyer](#). UCLA's Professor Sander was joined by Harvard's David Wilkins, Pillsbury Winthrop partner Kevin Fong, and Morgan Lewis partner Joan Haratani. And the result was a provocative and illuminating plenary session.

Although non-whites account for nearly two fifths of all attorneys, they make up less than four percent of the partners at large law firms. Professor Sander summarized his own research into big law firm decision making as follows:

- The big law firms rely mostly on grades and law school eliteness in hiring new associates, and over the past generation, grades seem to have grown in importance while eliteness has declined in importance. The big firms also have strong goals for minority representation among new associates; therefore they use hiring preferences, which range from mild in the case of Asians to very large in the case of blacks. This means that at any given elite firm, there's a grade gap between minority and white associates, which is especially large for black associates.
- Grades are closely related to success in the firm - not, I would suggest, because anyone pays attention to grades after the initial hiring decision, but because grades are linked to performance. A panel study of some ten thousand University of Michigan law graduates shows that, among white grads who get jobs at big firms, those with grades in the top tenth of their class are more than twice as likely to make partner as those with grades in the middle of their class.

Professor Wilkins rejected the notion that affirmative action had backfired, questioning whether grades alone predicted the success or failure of non-white associates at law firms. Irrespective of any "grade gap" between whites and non-whites, Professor Wilkins stressed the importance of the networks formed by graduates from elite law schools.

The socialization and networking benefits of graduating from an elite school undoubtedly help to explain why a degree from such an institution is universally considered to be a valuable credential in the job market. Even if we credit Sander's analysis of the information on starting salaries in the AJD Study, it is evident this credential provides a more visible and durable market signal than all but the highest grade point average. Over time, employers simply stop inquiring about grades. Similarly, applicants are likely to have an increasingly difficult time working their good grades into the conversation. Where one went to law school, on the other hand, is always apparent.

Was there a winner in the debate? No, not in the traditional sense. The importance of the event was the dialogue itself. That such potentially divisive statistics could be calmly discussed by such well-meaning people in such a thoughtful manner gives one hope. The audience was not divided by the discussion, but illuminated by it.

If you were not able to attend the National Conference on the Minority Lawyer this year, I hope you will take some time to read the excellent [CLE materials](#) from the conference.

The National Conference for the Minority Lawyer is sponsored jointly by the ABA's [Commission on Racial & Ethnic Diversity in the Profession](#) and the [Section of Business Law](#). Section members Jacqueline Parker (Co-Chair, Committee on Diversity), Frances Gauthier (Co-Chair, Business Law Fellows and Ambassadors), Scott Sullivan (Business Law Ambassador) and Agnes Bundy-Scanlan (Chair, Committee on Consumer Financial Services' Subcommittee on Compliance Management) served on the Planning Committee for the conference.

U.S. Carbon Markets: Business Opportunities or Compliance Liabilities?

Webcast/ Teleconference
08/08/2007 - 08/08/2007
Multi-site

For complete program details,
[Click Here](#)
To register, call 1-800-285-2221

18th Annual National Institute on Health and Welfare Benefit Plans: Responding to Change

Live/In-Person
10/15/2007 - 10/16/2007
Arlington, VA

For complete program details,
[Click Here](#)
To register, call 1-800-285-2221

Banking Law Basics

Live/In-Person
10/17/2007 - 10/19/2007
Boston, MA

For complete program details,
[Click Here](#)
To register, call 1-800-285-2221

The Supreme Court: Good for Business?

Teleconference
10/17/2007 - 10/17/2007
Multi-site

For complete program details,
[Click Here](#)
To register, call 1-800-285-2221

Investment Management Basics

Live/In-Person
10/29/2007 - 10/31/2007
Boston, MA

For complete program details,
[Click Here](#)
To register, call 1-800-285-2221

17th Annual National Institute on ERISA Litigation

Live/In-Person
11/01/2007 - 11/02/2007
Chicago, IL

For complete program details,
[Click Here](#)
To register, call 1-800-285-2221

22nd Annual National Institute on Compensation for Executives and Directors

Live/In-Person
11/12/2007 - 11/13/2007
New York, NY

For complete program details,
[Click Here](#)
To register, call 1-800-285-2221

For information on future programs,
check out the
[Section Meetings Calendar](#).

For more information on upcoming
Committee Meetings contact
ruppr@staff.abanet.org.

Linda Hayman
Chair, Section of Business Law

PRACTICE POINTS

[BACK TO TOP](#)

Antitrust Hot Topics (Mergers, Joint Ventures, Licenses and Franchising)-What You Don't Know Could Cost You

These program materials, containing more than 300 pages, and the audio from the program, provide a useful summary of some of the most current issues in antitrust law.

[Print Materials](#) | [E-mail to a Colleague](#)

Presented by the Committee on [Antitrust Law](#) at the 2007 Spring Meeting - March 15-18, 2007.

Resale Price Maintenance and the Rule of Reason: The Liability Risk Increases.

The antitrust treatment of resale price maintenance (RPM) agreements may soon change significantly. Instead of being judged under the per se rule, RPM may come, like most competitive conduct, under the rule of reason. The implications of that change are profound. Since this newsletter, the United States Supreme Court has issued a decision in this case.

[Print Materials](#) | [E-mail to a Colleague](#)

Presented by the Committee on [Antitrust Law](#).

The Brave New World of Employee Mobility: The Corporate Duty to Identify, Value and Protect Trade Secrets.

The Sarbanes-Oxley Act illustrates the perils to corporations that fail to devote sufficient attention to the protection of the company's trade secrets. One of the Act's central goals is the accurate valuation and protection of a company's assets.

[Print Materials](#) | [E-mail to a Colleague](#)

From [Network](#), the Newsletter of the Committee on [Business and Corporate Litigation](#), Spring 2007.

Do the Right Thing, Inside and Out: Ethics for Transactional Attorneys.

Avoid ethics problems in transactional matters by reviewing these excellent materials and listening to the audio of this program.

[Print Materials](#) | [Audio](#) | [E-mail to a Colleague](#)

Presented by the Committee on [Commercial Financial Services](#) at the 2007 Spring Meeting, March 15-18, 2007.

Audio of: Dialog with the SEC's Director of Corporate Finance.

In the April 2007 edition of eSource, we provided a short summary of a dialog with John White, the SEC's Director of the Division of Corporate Finance. Now, you can listen to the audio of this very informative program.

[Print Materials](#) | [Audio](#) | [E-mail to a Colleague](#)

Presented by the Committee on [Federal Regulation of Securities](#) at the 2007 Spring Meeting, March 15-18, 2007.

Report on Legal Opinion Risk Seminar.

The second Legal Opinion Risk Seminar (LORS II) was held in April. Review the highlights of LORS II.

[Print Materials](#) | [E-mail to a Colleague](#)

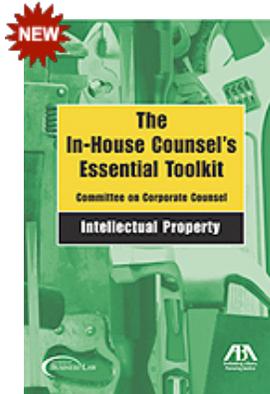
From the [Legal Opinion Newsletter](#), the Newsletter of the Committee on [Legal Opinions](#), Spring 2007.

Buyer Beware: The Fiduciary Duties of a Buyer's Board.

The fiduciary obligations of a selling corporation's board of directors in the context of a

In-House Counsel Essential Toolkit -- Available July 20th

By Committee on Corporate Counsel
ABA Section of Business Law
Copyright 2007



The following excerpt is taken from **In-House Counsel Essential Toolkit** by **Committee on Corporate Counsel**, Copyright 2007 by ABA Section of Business Law. Reprinted here with permission. The material contained herein represents the opinions of the authors and editors and should not be construed to be the action of either the American Bar Association or the Section of Business Law unless adopted pursuant to the bylaws of the Association. Nothing contained herein is to be considered as the rendering of legal advice for specific cases, and readers are responsible for obtaining such advice from their own legal counsel. To request reprint permission, contact the Manager, Copyrights and Licensing, at (312) 988-6102.

... [More](#)

For the complete excerpt, [click here](#)

[Click Here to Purchase Online](#)

corporate sale transaction, and the permissible scope of so-called "deal protection" measures, have been the subject of frequent analysis in both case law and legal commentary. The fiduciary obligations of a buyer's board in connection with such a transaction, however, have received scant attention until a recent decision of the Delaware Court of Chancery.

[Print Materials](#) | [E-mail to a Colleague](#)

From [Deal Points](#), the Newsletter of the Committee on [Negotiated Acquisitions](#), Spring 2007.

The Big Deal About the Fine Print: Negotiating & Drafting Contractual Boilerplate.

The term "boilerplate" connotes standardized one-size-fits-all provisions. Yet many of the provisions often referred to as boilerplate are anything but. For example, the representations, warranties, covenants, and conditions in one acquisition agreement may seem similar to those in another acquisition agreement. Nonetheless, an understanding of the legal and business effect of these provisions reveals that the differences are far more important than the similarities.

[Print Materials](#) | [E-mail to a Colleague](#)

Presented by the Committees on [Uniform Commercial Code](#), [Business Law Education](#), and [Commercial Financial Services](#) at the 2007 Spring Meeting, March 15-18, 2007.

Risk Issues and Internal Investigations: Best Practices and Ethical Considerations.

These extensive materials, and the audio program, cover such issues as managing the relationship with outside auditors, SEC cases against attorneys, securities fraud prosecutions, and pitfalls in government procurement contracts.

[Print Materials](#) | [E-mail to a Colleague](#)

Presented by the Committee on [White-Collar Crime](#) at the 2007 Spring Meeting, March 15-18, 2007.

Committee Spotlight

To learn more about or join the committees that contributed to this month's practice points, just click on the committee name below.

- [Antitrust Law](#)
- [Business and Corporate Litigation](#)
- [Business Law Education](#)
- [Commercial Financial Services](#)
- [Federal Regulation of Securities](#)
- [Legal Opinions](#)
- [Negotiated Acquisitions](#)
- [Uniform Commercial Code](#)
- [White-Collar Crime](#)

Section members are eligible to join the Section's committees at no additional cost. Become involved or simply stay in the information flow. It's FREE!

[BACK TO TOP](#)

The Section of Business Law of the American Bar Association

321 N. Clark Street - Chicago, IL 60610 - 312.988.5588

[Section Staff](#) - businesslaw@abanet.org - www.ababusinesslaw.org

eSource Editor [Nathaniel L Doliner](#) - Copyright © 2007

Ensure delivery of eSource every month - add ababusinesslaw@abanet.org to your "safe folder", "address book", "friend list", or "white list" of approved e-mail senders.

Your e-mail address will only be used within the ABA and its entities. We do not sell or rent e-mail addresses to anyone outside the ABA.

To change your e-mail address or remove your name from any future general distribution e-mails, call the ABA Service Center at 1.800.285.2221, or write to:

*American Bar Association
Service Center
321 N. Clark Street
Chicago, IL 60610*

Or, you can remove your email address or edit your email preferences at anytime by logging into "My ABA" at www.abanet.org/abanet/common/MyABA/home.cfm

To review our privacy statement, go to http://www.abanet.org/privacy_statement.html.