

REPORT OF THE INTERIM EXECUTIVE DIRECTOR

Of The

AMERICAN BAR ASSOCIATION

Monthly Program and Project Highlights Report

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PROGRAMS AND PROJECTS

A summary of the ABA's current programs and projects follows:

ABA Journal

The Journal received recognition from a variety of quarters in January:

- Associations Now, the flagship publication of the American Society of Association Executives, featured the Journal's Legal Rebels project as its cover story. "The magazine staff received a crash course on collaborative learning, and the image of the larger American Bar Association, which publishes the magazine, got an update that's firmly planted it in the 21st century," the magazine said. The story is online here:
<http://www.asacenter.org/PublicationsResources/ANowDetail.cfm?ItemNumber=47323>
- When the American Society of Magazine Editors wanted to show how magazines covered the last decade, they included the Journal's Nov. 2008 cover about the lawyers who would join the next Presidential administration among the 92 "most memorable and important magazine covers." It appears at the 1 minute 24 second mark: <http://www.magazine.org/asme/covering-the-decade-in-magazine-covers.aspx>
- The Journal was cited by media organizations on both the right and the left of the political spectrum. The conservative Drudge Report linked to our story from the Midyear Meeting about "Race & Gender of Judges Make Enormous Differences in Rulings, Studies Find" (http://www.abajournal.com/news/article/race_gender_of_judges_make_enormous_differences_in_rulings_studies_find_aba). And the liberal Huffington Post featured the Journal's Twitter feed (<http://www.twitter.com/abajournal>) in its coverage of the U.S. Supreme Court's decision in the campaign finance case *Citizens United v. FEC*.

ABA Publishing

- ABA Publishing is leading an inter-departmental team – which includes representatives from Interactive Services and IS – that will recommend the software, such as a website content management system and related tools, to be purchased to run the revamped website. ABA members and other ABA staff from other departments will be involved in the selection process. The CMS will need to be selected and installed in August, so that the technology is in place when Ogilvy's design work is done.

Antitrust Law

- The Section's Midwinter Leadership meeting was held January 15-18 in Miami. The Midwinter meeting provides a unique opportunity for the Officers, Council members, and Committee chairs to brainstorm about how the Section is doing and where it can improve. This year, an entire morning was dedicated to a very thought-provoking discussion on what the participants thought the Section of 2015 would look like, and what the Section should do to position itself for the

opportunities and challenges of the next five years and beyond. The use of technology was a common thread in much of the discussion. Additionally, the leadership discussed the future development of its membership -- particularly involving consumer protection and international practitioners -- as well as changes that will need to be implemented for the Section's programs and publications to meet the changing needs of its members. Many of these ideas are expected to develop into membership, programming, and publication initiatives in the near future.

- On January 29, the Section, along with NYU Law School and the American Association of Law Schools, sponsored the "Next Generation of Antitrust Scholarship Conference," a one-day symposium featuring some of the most creative research that is currently being conducted by junior antitrust scholars in the U.S. and abroad. Extremely positive comments were received from attendees.
- The Section is putting the final touches on the International Cartel Workshop, which will convene February 10-12 in Paris, France. Continuing the Workshop's tradition of instruction-by-demonstration, an experienced faculty from around the globe will take Workshop participants deeper than ever before inside a hypothetical international cartel matter. Nearly 300 people from 29 countries are expected to attend the conference.
- The Section had 80 attend its "Why Antitrust?" program held at Duke University School of Law on January 27. Free Section memberships were offered to the students.

Business Law

- The Midwinter Council Meeting held in Palm Springs was successful with about 100 of Section leadership in attendance, including ABA President Carolyn Lamm. The Section's committee chairs, officers, and council members participated in a five-hour session dedicated to identifying the manner in which the Section committees are addressing core responsibilities. Over 50 individual examples were shared, with nearly every committee providing input to the discussion. A synopsis of these examples is being prepared to serve as a resource to all committees and a guide in evaluating committee
- In its third year, the prestigious Business Law Section Diversity Clerkship has been extremely successful in placing highly qualified law students from diverse backgrounds into Clerkship positions in Pennsylvania or Delaware. Over 50 applications for the 2010 Clerkship have already been submitted and the judging process begins in February. The 2010 participants will be selected in mid-March. The 2010 Diversity Clerkship Program's deadline for applications was on January 29, 2010.

Center for Professional Responsibility

- The Center, in conjunction with the ABA Center for CLE, presented two CLE webcast/teleconferences, *Conflicts of Interest Update 2010*, and *Client Trust Accounts: Ethics, Management, Retainer Agreements, and Fee Disputes*
- The Standing Committee on Ethics and Professional Responsibility is drafting proposed amendments to the Application Section of the revised ABA Model Code

of Judicial Conduct to remedy gaps and inconsistencies for consideration by the ABA House of Delegates at the 2010 ABA Annual Meeting. Work continues on draft ethics opinions including "Lawyer Websites" and "Conflicts of Interest in Advising One Client about Contractual Obligations to an Assignee Which is Also a Client."

- The CPR Policy Implementation Committee submitted a letter to the Connecticut Bar Examining Committee recommending the elimination of the "reciprocity" requirement in Connecticut's admission by motion rule in conformity with the ABA Model Rule on Admission by Motion.
- ABA policy implementation updates include the Nevada Supreme Court adopting a revised Code of Judicial Conduct, the twelfth U.S. jurisdiction to make changes to their judicial code based upon the *ABA Model Code of Judicial Conduct* (2007); the Nebraska Judicial Code Task Force submitting recommendations for amendments to the Nebraska Supreme Court based upon the ABA Code; Maryland submitting a proposed revised Maryland Code of Judicial Conduct to the Maryland Court of Appeals; and the Iowa Supreme Court proposing a new Iowa Code of Judicial Conduct. ABA Ethics Counsel George Kuhlman met with the Tennessee Judicial Code Review Committee to discuss proposed changes to the Tennessee Judicial Code. Charts comparing a variety of state and ABA policies were updated.

Children and the Law

- On January 8, the Center on Children and the Law conducted a full-day Trial Skills for Child Welfare Professionals Training for 80 attorneys and social workers in New Orleans. This training, offered under a new agreement with the National Council of Juvenile and Family Court Judges, included a mix of lecture, demonstration and role-play for attorneys representing the child welfare agency, children, and parents.

Disaster Preparedness

- The Committee created a dedicated website on Haiti where members can access information on the legal developments and on efforts by the ABA, state and local bars, pro bono and legal services programs, and others. The web portal includes information on matters affecting Haitian nationals, including families and children in the U.S. as well as information on charitable giving.
- ABA entities were surveyed to ascertain plans related to Haiti and glean relevant information to be shared on the website.
- A one-page fact sheet on ABA efforts and initiatives related to Haiti was distributed to each attendee at the mid-year meeting.
- The Committee worked with the ABA Fund for Justice and Education to obtain Executive Committee approval to create the Haiti Legal Development Fund, which will be used to support ABA initiatives that will assist in rebuilding and reforming the Haitian legal and judicial sector.

Dispute Resolution

- The Section convened an invitation-only meeting to discuss the current state of the nation's consumer arbitration system and possible remedies for the problems plaguing this area. Twelve individuals representing the interests of consumers, business, neutrals, and academia participated in the two-day meeting to share perspectives and search for common interests and solutions. A preliminary report is being compiled with recommendations for the Section Council to consider.
- The Section's Mediation Committee sponsored a video contest for the best 3-minute video describing the benefits of mediation. Twenty-five videos were entered into the contest and are now on YouTube for public viewing. The contest is part of a long-term Section initiative to educate the public about ADR.

Domestic Violence

- The Commission hosted a two-day meeting on January 19–20 of the 40 co-conveners of the National Task Force to End Domestic and Sexual Violence Against Women, as they drafted proposed language and developed strategies for reauthorizing the Violence Against Women Act (VAWA) of 2010.
- On January 25 in Dallas, the Commission in collaboration with the Department of Justice Office on Violence Against Women and the National Institute for Trial Advocacy held a day-long Institute for over 40 attorneys entitled "The Fundamentals of Domestic Violence for Lawyers." Attendees were civil attorneys representing domestic violence victims, primarily in family law, who receive "Legal Assistance for Victims" funding under the VAWA and who practice in metropolitan and rural communities across the country.

General Practice, Solo and Small Firm Division

- GPSolo's teleconference, "Counseling Clients about the New FTC Rules for Use of Testimonials and Endorsements in Advertising" had over 100 registrants of which approximately 14 registered to become a member of the GPSolo Division.
- GPSolo held another teleconference, "In Good Faith: Navigating the New Federal RESPA Rules," with 67 participants of which 6 joined the Division.
- Debra S. Hart-Cohen's article "Canines in the Courtroom," from the well-received "Animal Law" issue of *GPSolo* magazine, has been reprinted in the *NAWBA Journal*. Based in part on the strength of Debra's contribution, that publication has been nominated for the Dog Writers Association of America's Best Club Newsletter Format Award.
- GPSolo announced a call for nominations for its annual 2010 Solo and Small Firm Awards. The annual awards program recognizes dedication to the practice of law as general practitioners or solo or small firm lawyers. Each year the Division honors outstanding solo and small firm practitioners, as well as bar leaders and bar associations, at the Division's Awards Ceremony held at the Spring Meeting. Recognition is given for Solo and Small Firm Lifetime Achievement Award, Solo and Small Firm Project Award, and Solo and Small Firm Trainer Award.

Governmental Affairs Office

- GAO and President Lamm met with Senator Dodd's Banking Committee staff director to discuss the FTC Red Flags Rule, solutions to assist with student loans, and the proposed Consumer Financial Protection Agency.
- GAO and a representative of the Task Force on Financial Markets Regulatory Reform, Marty Lybecker, met with a senior counsel to Senator Richard Shelby (R-AL), Ranking Member of the Senate Banking Committee, to explain the ABA's concerns over the expanded lawyer regulation provisions in the proposed Consumer Financial Protection Agency Act and to urge Sen. Shelby to support adding a practice of law exemption to the bill.
- GAO and ABA Criminal Justice Section volunteer leader Michael Hamden met in individual meetings with the legal advisors with Federal Communication Commissioners Copps, McDowell, Clyburn, and Baker, with FCC Chairman Genachowski, and finally with the entire staff of the FCC Wireline Bureau, regarding regulation of prison telephone rates.
- GAO met with Senator Dodd's banking staff to discuss S. 569, Senator Levin's legislation on beneficial ownership, and alternatives to the legislation. GAO prepared a letter for Senator Dodd to send to top educational lenders requesting assistance in helping law students and recent graduates with large student debts.
- GAO and staff from the National Association of Criminal Defense Lawyers and the NAACP held various meetings with Senate Judiciary staff from the offices of Senators Feinstein, Klobuchar, Durbin, Kohl, Schumer, and Graham in regard to S. 1789, the Fair Sentencing Act. GAO and Sentencing Project staff conferred by conference call with White House Domestic Policy staff regarding strategy for the Senate Judiciary Committee markup of the bill.
- GAO staff assisted the Task Force on the Impact of the Economic Crisis in preparing a late policy recommendation for midyear focusing on law student and recent graduate debt loads, and coordinated with the Young Lawyers Division to write the background report.
- GAO and Families Against Mandatory Minimums staff met with senior staff with Senator Jim Webb regarding Senate floor strategy for S. 714, the National Criminal Justice Commission Act. GAO and The Sentencing Project staff also met with Senate Judiciary staff with Senators Graham and Grassley regarding the bill.
- The formal communications submitted by the Governmental Affairs Office can be found at <http://www.abanet.org/poladv/whatsnew.shtml>.

Health Law

- The Section named the winner of the Health Law Section Law Student Writing Competition. The winner is Margaret Corely from Southern University Law Center in Baton Rouge who will be the Section's guest at the EMI program in Phoenix next month.
- The first draft of lawyer breast cancer survivor stories will be ready within the next month for the web page. A free training Breast Cancer Advocacy Program is scheduled for the EMI Conference and there are now 24 registrants.

- Staff reported that the EMI conference scheduled to be held on February 17–19 has exceeded the revenues goals set for the conference with two weeks left for registration revenue. Registrations are stronger than the past two years at this point and the Section has gained \$60,000 in sponsorships. Staff and leaders have worked hard on marketing and deserve kudos for an exceptional job.

Immigration

- The Commission announced the release and held a press briefing for a report prepared for the Commission pro bono by Arnold & Porter LLP, *Reforming the Immigration System: Proposals to Promote Independence, Fairness, Efficiency, and Professionalism in the Adjudication of Removal Cases*. The groundbreaking report provides a comprehensive review of the current system for determining whether a non-citizen should be allowed to stay in the United States or should be removed. The report identifies and analyzes problems with the system and makes recommendations for improvement through a series of reforms that would enhance independence, fairness, efficiency, and professionalism in removal adjudications. The press briefing, featuring ABA President Carolyn Lamm and a panel including Commission chair Karen T. Grisez and Commission member Andrew I. Schoenholtz, was held at the National Press Club on February 2.

Interactive Services

- Interactive Services is working daily with the ABA Membership Department and representatives from Ogilvy & Mather on revamping ABAnet.org. Decision-makers at each of the project's 13 stages will include teams of staff from across ABA departments/entities and the ABA members on the website taskforce. Ogilvy's work is scheduled to conclude in August, at which time the new design will be ready to populate with content.

International Law

- The Section Council was held Meeting January 22 in Washington, DC. The Section will hold its annual ILEX trip, this year from February 7-13 in Australia/New Zealand. Justice Scalia leads the 30+ member delegation.
- A very well-attended program with the NYU School of Law on "Global Law: A Comparative Look at Privilege and Confidentiality" was followed by a Pathways to Employment in International Law Program on January 28-29.
- A very well-attended program was sponsored by the Section's Canada Committee on "A Practitioners Guide to U.S. and Canadian Anti-Boycott Law and Policy" on January 13.

Labor and Employment Law

- The Section produced three teleconferences in January.
 - "Labor and Employment Law in Cyberspace: Navigating the Uncharted World of Social Networking Sites, Blogs and Other New Media" focused on the advances in technology that have changed the way in which we communicate. Employees and employers actively use social networking

sites such as Facebook®, LinkedIn®, and Twitter® in ways which blur the lines between business and personal communication.

- “International Labor and Employment Law 101” focused on the international labor and employment issues that U.S. lawyers most frequently come across. An expert panel explained the importance for U.S. lawyers to understand the issues facing their multi-national clients and their role in assisting them.
- “Avoiding Claims Arising from Religious Expression at Work: Lessons for the Multicultural Workplace. In increasingly diverse workplaces, differences in religious beliefs and practices can create tensions among employees and challenges for employers. The program explored the application of labor and employment law to the culturally diverse workplace including: accommodation of religious practices, permissible limits on proselytizing, enforcement of grooming and dress rules, work assignments that offend religious beliefs, and selective hiring or retention of employees based on their religion. Panelists provided insight into how to navigate the religious divide and ensure equal opportunity in the modern workplace.
- The Section held the 3rd Annual Trial Advocacy Competition National Finals in Washington, DC on January 30-31. The winning team from each of eight regions competed for the national title: Boston – Harvard University; Chicago – Chicago-Kent College of Law; Dallas – Southern Methodist University; Los Angeles – Pepperdine University; Miami – Faulkner University; New York – Brooklyn Law School; San Francisco – Golden Gate University; and Washington – University of Virginia. The winner of this year’s competition was Pepperdine University.

Law Library of Congress

- The Committee submitted a letter on January 20 to the General Services Administration in support of the Law Library’s request to register the “LAW.gov” domain name. This domain name would serve as the foundation for a collaborative effort among the Law Library and other federal agencies to provide free Internet access to a search engine for all legislative, regulatory, and judicial resources. The Committee is pleased to lend its voice in support of this important initiative that will undoubtedly benefit ABA members and lawyers across the country and around the world.

Law and National Security

- The Committee sponsored a luncheon program with keynote speaker Vice Admiral Ann Rondeau, President of the National Defense University. Her topic, “Professional Military Education: New Threats, New Institutions and New Missions for the Military and Intelligence Communities,” brought a new (military) audience interested in the work of the Committee.
- With pro bono printing assistance, the Committee will deliver hard copies of *Cyber Security Report* to government agencies, Capitol Hill staff and Senate/House members responsible for cyber-security issues, a very wide circulation.

Legal Services Division

- The ABA Standing Committee on Pro Bono and Public Service and the Center for Pro Bono partnered with the Taproot Foundation and the University of Chicago - Net Impact Group at the Booth School of Business to present the first-ever Chicago Pro Bono Summit for Professional Schools. Attendees included a broad cross-section of approximately 30 university administrators, faculty, and students from Chicago-area professional schools, including business, law, IT, architecture, and design. Center staff attorney Melanie Kushnir participated in planning for and spoke at the summit.
- The Standing Committee on Legal Aid and Indigent Defendants (SCLAID) completed its review of 3 nominees to the Board of Directors of the Legal Services Corporation, finding two of the nominees to comply with ABA criteria for such service and one nominee to fall short of meeting those criteria. A letter to that effect, co-signed by SCLAID Chair Bob Stein and ABA President Lamm, was delivered to the Senate Health, Education, Labor and Pensions Committee. This is the first time since the ABA established its process for conducting these reviews in the early 1990s that the ABA has found a nominee to not be worthy of Association support. SCLAID members and staff spent the remainder of the month finalizing a revised grant proposal to conduct training of indigent defense lawyers, and preparing for its annual "Summit on Indigent Defense" to be presented for bar leaders during the ABA February Midyear Meeting.
- The Standing Committee on the Delivery of Legal Services has announced recipients of the 2010 Louis M. Brown Award for Legal Access. Meritorious recognition will be presented to Illinois Legal Aid Online. The online resource center is populated with materials designed to inform viewers with legal concerns and in some situations provide the materials necessary for effective self-representation. The service has also worked with libraries and self-help centers around Illinois to reach out to those who can benefit from the resources. A lifetime achievement award will be presented to Richard Granat. Richard is the owner of DirectLaw, a resource for online document preparation that is licensed to law firms. He is also the first chair of the Law Practice Management Section's E-Lawyering Task Force. The recipient of the 2010 Brown Award is CUNY School of Law's Community Legal Resource Network. CLRN provides practice management support for lawyers entering private practice in low and moderate income communities. The Network lawyers receive low cost CLE, mentoring, practice resources and networking opportunities. CLRN has also established incubators to foster the development of new law practices in New York City.
- The Committee on Lawyer Assistance Programs has launched the National Judges Assistance Helpline (800-219-6474). The helpline has a roster of judges from around the country who have suffered from alcoholism, substance abuse, addiction or mental health matters. When a judge in need of peer assistance calls, he or she is matched with a judge from the roster. In order to provide confidentiality to both callers and those serving on the roster, the hotline is administered through the Texas LAP, where confidentiality is protected by statute. CoLAP is now promoting the availability of the helpline through the state LAPs.

Market Research

- The staff of the Market Research department worked closely with SCOM on their dues restructuring resolution and contributed to the Ogilvy Membership Growth Project.

Media Relations

- Media Relations staff promoted and staged news briefing at National Press Club to release immigration reform report. More than 50 persons attended the briefing, including representatives of the news media, members of congressional staff and government agencies and activists in the immigration law.

Meetings & Travel

- The ABA 2010 San Francisco Annual Meeting Website is up and running at www.abanet.org/annual/2010. The holding page will continue to capture email addresses until online registration is open/live. Comments/Questions left on the holding page will continue to be checked daily and responded to by Meetings staff members. A promotional ad is being placed in the ABA's weekly e-journal to promote registration for the 2010 Annual Meeting.

Mental and Physical Disability Law

- Walmart has agreed in principle to donate \$20,000 for Commission projects related to lawyers with disabilities and, in addition, to be a primary donor for the third National Conference on the Employment of Lawyers with Disabilities planned for 2012.
- The Commission staff has drafted a letter for review by its chair and the chair of the Section on Individual Rights and Responsibilities to the Section on Legal Education and Admission to the Bar about problems that many students with disabilities have reported about trying to get suitable accommodations to take the Law School Admissions Test.
- Staff has completed a detailed outline for the Commission's 2011 publication, *Eliminating Bias and Enhancing Diversity in the Employment of Americans with Mental and Physical Disabilities*. Also, several chapters have been drafted.

Public Education

- The 2010 Law Day Planning Guide was produced in print and online versions. More than 12,000 print guides were distributed. The guide includes the following sections: Law Day 101, planning and publicity; outreach to youth, law students, and the community; instructional activities for elementary, middle, and secondary grades; reflections on the Law Day theme from leaders in the law; and a product catalog. Also featured are letters from ABA President Carolyn Lamm and National Law Day Chair Allan Tanenbaum. The 24-page print guide was streamlined this year, directing users to www.lawday.org for additional resources and tools: sample op-eds, news releases, public service announcements,

proclamation, as well as a planning checklist student handouts, and expanded components, such as the reflections feature from leaders in the law.

- The Division for Public Education and YMCA Youth In Government (YIG) leaders from the national office and four state programs formed a task force in fall 2008 at the suggestion of immediate past president Tommy Wells to determine ways in which the ABA and YMCA could work together to encourage and promote civic engagement. The result was a new booklet entitled *American Bar Association and YMCA Youth In Government: Partners in Civic Engagement*. The 24-page publication explains the purpose and types of available YIG programs, outlines a variety of law-related volunteer opportunities, and highlights Division resources that can be used for civic education. Mr. Wells provided the introductory letter in the booklet. In addition, he and three other ABA lawyer members who are YIG alumni are profiled. The booklet is being distributed to YMCAs and bar associations throughout the country and is online at <http://www.abanet.org/publiced/YouthInGovtYMCA.pdf>.

Taxation

- The Section produced an audio news release on end-of-year charitable giving in late December, which reached 6.4 million listeners. Information about the deductions was put together by the Section's Individual & Family Taxation Committee and posted on TaxTips4U.org.
- The Section submitted comments to the IRS and Treasury on the Foreign Account Tax Compliance Act of 2009, H.R. 3933 and S. 1934; Modification of the Qualified Small Issuer Exception Under Section 265(b)(3); and Partnership Allocations Permitted Under Section 514(c)(9)(E).
- The Section awarded six young lawyers as Nolan Fellows at its Midyear Meeting, identifying rising tax lawyers who show leadership potential in the field of tax law.

Young Lawyers Division

- The YLD coordinated the topics and speakers for two of the three ABA Career Productivity Teleconferences in follow up to the ABA Recession Recovery Teleconference series executed last year. The programs, free for ABA members, ran every other week since January 7 and featured social media, job search and soloing concepts. In total, the series assisted approximately 1,000 attorneys with their own quests for stronger and smarter career paths and the podcasts are now available. YLD was the most represented section, division, or forum as far as audience representation, although the age/stage span covered the gamut.
- Over 150 people participated in the two and a half day "Opening a Law Practice Program" the YLD cosponsored with the Chicago Bar Association.
- For the first time in recent history, the ABA will present at the ASAE Annual Meeting in August, 2010. The Staff Director initiated the accepted proposal, entitled "Engaging and Retaining Young Members: Three Grassroots Programs Your Association Can Consider." The program will feature Touch 10,000.
- YLD chair Kelly-Ann Clarke made remarks and presented the YLD Public Service Project, "They Had a Dream Too: Young Leaders of the Civil Rights

Movement,” at this year’s Martin Luther King (MLK) Day Celebration. Approximately 150 staff in Chicago and 25 in DC heard her message, and people said it was one of the best MLK presentations they’ve seen. Clarke also visited a local high school and shared the project with approximately 80 students.