Law Students Start Children’s Justice Project
by Hannah Renfro-Sargent and Notesong Srisopark Thompson

In the spring of 2002, the two of us met with a fellow law student at the University of Wisconsin Law School to discuss a common devotion to child and youth advocacy. The result was the formation of the Children’s Justice Project (CJP), a student led group with a goal of promoting the area of children and the law at the law school. One of CJP’s founders, Sarah Helvey, was in a joint degree program to receive her JD and Masters in Education. She was committed to advocating for kids’ rights and shaping education policy. Hannah Renfro-Sargent aspired to work in the legal and political arenas to advocate for children in the juvenile justice system. The third student, Notesong Srisopark Thompson, a pediatric nurse in Milwaukee, was dedicated to using her medical and legal knowledge to help abused children. Our backgrounds and interests varied, but we shared an objective and a passion to build a network of students and professionals dedicated to promoting the interests of children. With the help of our faculty sponsor, Gretchen Viney, CJP has become a large part of the law school’s community.

CJP started because we felt that children’s law was not given due attention at the law school. Although dedicated faculty existed, there was no concentrated, meaningful

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To Grandmother’s House We Go: Children in Kinship Care by Sherry V. Neal

Q.H. is five years old and has lived with his maternal grandmother most of his life. His mother, who is addicted to drugs and lives on the street, has been in and out of his life for several years. Q.H. is just old enough to understand a little bit about his mother’s problems and is often upset by his mother’s occasional visits. In January, Q.H.’s grandmother formally adopted him with the assistance of the Atlanta Legal Aid Society (hereinafter “ALAS”), so that she can provide him with the stability and care he needs on a permanent basis.

Q.H. is not unique. The 2000 U.S. Census data show that 6.3% of all children under the age of 18 in the United States live in grandparent-headed households – a 30% increase from ten years ago. More than 6 million children live in families in which the household is headed by grandparents or other relatives (approximately 4 million in grandparent-headed households). Around half of these families live within 200% of the federal poverty threshold.

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AFTER A BIT OF A HIATUS, LAPP IS BACK! FOR THOSE OF YOU UNFAMILIAR WITH THE ACRONYM, LAPP IS THE LITIGATION ASSISTANCE PARTNERSHIP PROJECT OF THE ABA SECTION OF LITIGATION. THE BRAINCHILD OF THE SECTION OF LITIGATION IN 1989, LAPP IS A PROJECT OF THE SECTION’S PRO BONO AND PUBLIC INTEREST PRACTICE LITIGATION COMMITTEE. THE GOAL OF LAPP IS TO LINK THE PRO BONO RESOURCES OF PRIVATE FIRMS WITH LEGAL SERVICE AND PUBLIC INTEREST PROGRAMS.

WITH NEW DIRECTOR NINA VINIK AT THE HELM, LAPP IS AGGRESSIVELY LOOKING TO IDENTIFY AND PLACE SIGNIFICANT PRO BONO LITIGATION WITH PRIVATE LAW FIRMS NATIONWIDE. LAPP IS LOOKING FOR CASES THAT INVOLVE BROAD, SYSTEMIC ISSUES, RATHER THAN INDIVIDUAL CLAIMS. HOWEVER, LAPP CLIENTS MAY BE INDIVIDUALS WHERE THE CLAIMS RAISED IMPACT A LARGE POPULATION. CASES THAT ARE COMPLEX AND TIME-CONSUMING AND REQUIRE RESOURCES UNAVAILABLE TO PUBLIC INTEREST LEGAL ORGANIZATIONS WILL BE A PERFECT FIT FOR LAPP.


WHY IS LAPP THE TOPIC OF THIS CHILDREN’S RIGHTS LITIGATION COMMITTEE (CRLC) CHAIRS’ COLUMN? THE CRLC IS PLEASED THAT LAPP IS BACK, AND EXCITED ABOUT THE PROSPECT OF HAVING IMPORTANT CHILDREN’S LAW CASES PLACED AND LITIGATED THROUGH LAPP. THIS COLUMN IS A CALL FOR CHILDREN’S LAW CASES IN WHICH OUR READERS MAY BE INVOLVED. THE CRLC KNOWS THAT THERE ARE IMPORTANT AND FAR-REACHING CHILD WELFARE, IMMIGRATION, JUVENILE JUSTICE AND OTHER CASES INVOLVING CHILDREN’S RIGHTS IN YOUR COMMUNITIES THAT ARE JUST WAITING TO BE LITIGATED. PLEASE TAKE THE TIME TO CONSIDER WHETHER LAPP MAY BE THE APPROPRIATE VEHICLE TO HIGHLIGHT AND RESOLVE THE SIGNIFICANT LEGAL ISSUES FOR CHILDREN IN YOUR CITY OR STATE.

FOR MORE INFORMATION ON LAPP, PLEASE VISIT THE LAPP WEBSITE AT HTTP://WWW.ABANET.ORG/LITIGATION/LAPP/ OR CONTACT:

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CHECK OUT THE CHILDREN’S RIGHTS LITIGATION COMMITTEE ON THE WEB: WWW.ABANET.ORG/LITIGATION/COMMITTEE/CHILDRENS_L/
effort to promote juvenile law. At the time, there were two child focused classes, one that dealt with children’s law generally and one that focused on the juvenile justice system.

We tried diligently to find summer work in the area of child advocacy, but found that this was more difficult that we expected because we had no idea how or where to look for that kind of work, and, there was no one at the law school to help us. Now, CJP functions as an important resource for students interested in juvenile law. We help students find work by connecting them with individual attorneys, children’s law agencies, and by hosting career panels. Also, we make efforts to demonstrate that all attorneys, regardless of their primary practice area, can be involved in promoting children’s welfare by committing their pro bono hours to children’s law and sitting on boards for groups like Prevent Child Abuse Wisconsin.

In pursuit of our original objectives, we decided that it would be beneficial to attend the American Bar Association Children and the Law Conference in the summer of 2002. We created a funding request through the help of a generous faculty member, Peter Carstensen, and submitted the request to Law School’s Dean, Kenneth Davis. Subsequently, we were fully funded to attend the national conference which provided valuable information, contacts and inspiration. We met other law students dedicated to child advocacy with whom we still communicate. We met leaders with the National Association of Counsel for Children, the ABA Section of Litigation’s Children’s Rights Litigation Committee and the ABA Juvenile Justice Center. Essentially, we were introduced to the national children’s law community. That community has been key to the growth of CJP. CJP is currently trying to raise money to send three current and future CJP leaders to the 2004 Children and

Yet, a primary objective remained to be fulfilled. One of CJP’s original goals had been to increase students’ ability to work in the area of children’s law. Many, if not most, of the summer jobs in this area are unpaid. Grants that are available are competitive, and summer grants frequently cannot be applied toward government-related work. Because a large portion of child advocacy work is tied to the public sector, students face a difficult road when trying to finance a summer of public interest work.

In October 2003, CJP was given a golden opportunity to improve access to summer work in children’s law. Several CJP members were nominated by faculty members of the Law School for an award from the American Academy of Matrimonial Lawyers in honor of Attorney Leonard Loeb (a long-time advocate of children’s rights and child advocacy). The award included partial funding to attend the American Bar Association Children and the law Conference. We believe that national children’s law conferences are valuable educational and networking opportunities, and consequently, members’ participation in these conferences is vital to the growth of CJP.

Since the spring of 2002, CJP has flourished at the University of Wisconsin and accomplished several of our original goals. In CJP’s inaugural year, we were awarded a grant from the American Bar Association’s Law Student Division to sponsor a “lunch talk” in which we had a speaker who led a discussion on the waiver of children from juvenile court into adult court. In the fall semester of 2003, CJP brought Curry First and Larry

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Children living in households headed by relatives other than their parents face unique issues. Often, the relatives find it difficult to enroll the children in school, to obtain medical benefits or care for the children, or to make important day-to-day decisions about the children’s well-being. Many relative caregivers are older, retired, and living on limited incomes, which present a financial challenge for the caregivers. In addition, the children often have to cope with parents who have serious problems and are in and out of the children’s lives, often causing serious problems and are in and out of the children’s lives, often causing
To Grandmother’s House We Go (continued from page 4)

extreme disruption and confusion for the children.

Most states offer a variety of legal options and resources for children in kinship care. Attorneys who represent children and those who represent relative caregivers should be aware of the issues facing these families.

**Legal Options**

One of the most important steps for many relative caregivers to take is to create a legal relationship with the child. Having legal rights to make decisions for the children in their care makes it easier to provide the children with safe and stable homes.

Laws relating to the family have traditionally been left to the individual states to enact. In most states, there are a variety of options for creating a legal relationship. For example, in Georgia, relative caregivers have the choice of five different legal relationships – guardianship, temporary custody, permanent custody, foster care, and adoption. The following overview of Georgia's laws and regulations regarding children and the family may be instructive to practitioners in other states.

**Guardianship:** Relative caregivers in Georgia can obtain Letters of Temporary Guardianship either through the Probate Court or Juvenile Court. Guardianship is meant to be temporary in nature, and the parent can revoke the guardianship.

In Probate Court guardianship is based on express or implied consent of the parents. The guardianship is granted either if the parents consent or if they fail to appear and object. If the parents do not consent, the Court must transfer the case to Juvenile Court for a hearing on the child’s best interests.

The guardian gains the right to enroll the child in school, make medical decisions for the child, seek a child support order, and make other decisions important to the child’s well-being.

Relative caregivers may also file for guardianship in Juvenile Court by filing a private abuse and neglect petition directly with the court instead of going through social services. Guardianship through Juvenile Court is almost identical to that through Probate Court and provides the same rights and the same level of stability for the child.

Guardianship is often ideal for relatives caring for children on a truly temporary basis, such as children living with their grandparents because both parents are in the military and are deployed. It may also be the perfect solution for older children who do not want to permanently sever their legal relationships with their parents but are in need of more stability in their lives.

**Kinship Foster Care Placement:**

Caregivers can also seek custody, or a foster care placement through the Juvenile Court by filing a complaint alleging that the child is deprived with the Department of Family and Children Services (“DFCS”). This option results in the child being placed into state custody. The relative then may have access to one of two state funded programs that provides a subsidy: foster care placement or the Relative Care Subsidy. For some children, foster care with a relative is the best option because of the greater access to benefits and resources that foster care placement provides.

Instead of granting custody to the state, the juvenile court may choose to grant custody directly to the relative, either temporary custody that must be renewed every two years (and may eventually be converted to permanent custody) or permanent custody. Some relatives can get the Relative Care Subsidy if the court finds that reunification is not in the best interests of the child and transfers custody of the child from DFCS to the relative.

Creating a legal relationship through Juvenile Court is the best option for those children already involved in the child welfare system, for children who are victims of abuse and/or neglect, and for children who may have special needs that require access to services or financial resources not otherwise available.

**Custody and Adoption:** Often guardianships do not provide the necessary level of stability and permanency that children require. Additionally, dealing with the Juvenile Court system can be daunting, and many relatives shun the idea of allowing the children in their care to go into state custody, even though the child welfare system can offer greater access to financial and other resources for the family. For those families who want a more permanent placement than guardianship and who do not relish the idea of state involvement in their family, custody or adoption through the state court system may be the best option.

In Georgia, as in many states, relatives can file for custody of minor children in their care. Custody through the Superior Court provides a child a permanent and stable placement. The relative caregiver can enroll the child in school, obtain medical care for the child, seek child support from the parents, and make other important decisions for the child. The child gets stability because parents can modify custody

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Our country incarcerates nearly as many people as attend our colleges and universities and at a higher per person cost. Much of our response to crime is spending more money locking up more people for longer sentences. In the long run, it seems to me that there is a better way to invest some of our limited tax dollars to reduce crime.

Two sources provide strong evidence on how to fight crime before it ever begins. One can be found on the Internet at www.fightcrime.org and the other is the book, Ghosts from the Nursery: Tracing the Roots of Violence by co-authors Robin Karr-Morse and Meredith S. Wiley.

The web site is sponsored by over 1,000 police chiefs, sheriffs, prosecutors, and crime survivors who are dedicated to preventing crime and violence by our youth. Their evidence shows that having access to quality childcare and after school enrichment programs will re-direct our at-risk youth from criminal conduct to being more constructive members of our community.

The book, Ghosts from the Nursery, talks about the critical importance of even earlier intervention. Much like the impact Rachel Carson's book, Silent Spring had on raising environmental issues, Ghosts from the Nursery speaks to the need to address at-risk children from conception to age two if we want to significantly reduce crime, violence, delinquency, child abuse, and many other related social problems.

The basic premise of this book is that the vast majority of people in prison and juvenile detention facilities, as well as those engaged in other anti-social activities, started on a path to those outcomes because of what happened to them from the day they were conceived until age two.

This well-written book synthesizes hundreds of research studies with anecdotal case histories to demonstrate the need for (and cost-benefit of) early education and intervention long before a child is ready for Headstart or kindergarten. As the book explains, it is in the womb when most brain cells developed for a newborn. A mother's use of drugs, alcohol, tobacco or the like can adversely affect this brain development.

From birth to age two, the child's brain cell wiring—the synapses and dendrites—and the foundation for the child's emotional development occurs. A positive, nurturing home creates a significantly better adjusted child and future adult than does a home where an infant is subject to isolation, yelling, or hitting.

As an attorney, I found the book both encouraging and discouraging. Encouraging in that four well-funded programs could dramatically reduce crime and a myriad of related social problems. Discouraging in that hundreds of billions of dollars currently spent every year to deal with such problems—after the fact—yield relatively poor results for the dollars spent.

The key areas needing increased funding include: 1) expanding access to family planning, so that every pregnancy is a wanted pregnancy; 2) ensuring pregnant women receive proper pre-natal care; 3) expanding the use of public health nurses and trained home visitors to educate and provide appropriate referrals for a newborn's parents who may need to learn parenting skills, receive counseling, participate in drug treatment, or other helpful services; and, 4) increasing the availability of affordable, quality childcare and after school enrichment programs.

While these interventions will cost additional money, it will be an investment that will save several times over the amount of tax dollars that otherwise will be needed to arrest, bring to trial, and incarcerate hundreds of thousands of persons every year, and to deal with out-of-control children in our

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community and schools. More importantly, expanding these programs will result in reducing the amount of crime and thereby reducing the number of victims of crime. Additionally, many more people would become tax dollar producers instead of tax dollar consumers.

I encourage all who are interested in this issue to take the time to visit the Fight Crime web site and to read *Ghosts from the Nursery*. Use this information to educate our policy makers and elected officials, especially on the federal and state levels, on the need to re-direct some of our tax dollars to a far more effective approach in addressing the causes of crime and the many other related issues. This does not mean that we stop arresting and prosecuting criminals. People who violate the law need to be held accountable for their actions. However, we can ill afford inaction on the root causes of crime.

This article first appeared in *The Fresno Bee* on April 27, 2002. It is re-printed here with permission.

Howard K. Watkins has been practicing law for over 30 years, and has worked exclusively in juvenile dependency law for the past 12 years. He is also the Past-President of the Fresno County Bar Association.

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WANTED:

Content for the Children’s Rights Litigation Committee Newsletter

*Topics for articles can include:*

- Unique or innovative children’s law projects or clinics
- The experience of children’s *pro bono* attorneys
- Information of interest to children’s lawyers or *pro bono* attorneys

Please contact our editor, Catherine Krebs at 202-547-3060 or catherinekrebs@prodigy.net if you have an idea for an article, or if you would like to write an article, but do not have a topic in mind.
Leadership of the Children’s Rights Litigation Committee (CRLC) has been working hard to build subcommittees that focus on one or two substantive projects a year. The subcommittee chairs strive to include all interested members on these projects (subcommittee membership is open to all CRLC members). Below is an update on current projects:

◆ Christopher Campbell of Latham and Watkins is the chair of the Immigration Subcommittee. The subcommittee members have agreed to draft a proposal to the ABA to adopt a policy statement on Special Immigrant Juvenile Status (SIJS) and to identify cities where new pro bono projects are needed to assist the unaccompanied alien minor population. To implement these projects, the subcommittee has identified eight discrete tasks. The interested members have signed up and have started working on these tasks. The subcommittee is also discussing the possibility of working with Irena Lieberman, Staff Director, ABA's Commission on Immigration Policy, Practice and Pro Bono, in regards to training pro bono attorneys to represent the unaccompanied alien population.

◆ Rosa Hirji, of Public Counsel in Los Angeles, is the new chair of the Education Subcommittee. Last year, this subcommittee made a commitment to the issue of discipline and zero tolerance policies in schools. As part of that effort it began initial preparations for working on a "model" discipline code. Attorney Hirji is working with the education subcommittee members to formulate the projects for the current year, and hopes to continue working on a "model" discipline code.

◆ Kate Federle, Director of the Justice for Children Project at Ohio State University College of Law, and Susan Brooks, Director of the Juvenile Practice Clinic at Vanderbilt University School of Law, are the co-chairs of the Child Welfare Subcommittee. Members of the Child Welfare Subcommittee have expressed a desire to make a real difference in the way the child welfare system treats children in its care. In light of this interest, the Subcommittee decided to pursue the following project. A well-publicized problem common to many (if not most) jurisdictions is the number of lost or misplaced children in state care. While the reasons for this are varied and complex, one way to enhance accountability would be to create a court rule that requires children to be present at each hearing. The members of the Subcommittee have reviewed the law in other jurisdictions and are now engaged in further discussions about the scope of the rule, whether there should be exceptions, and the nature of those exceptions, if any. A memo accompanying the text of a proposed rule will be circulated shortly among Subcommittee members for discussion and approval.

◆ Alfreda Coward, of the Office of the Public Defender in Ft. Lauderdale, is the chair of the Juvenile Justice Subcommittee. This subcommittee is currently working on building its membership, and will soon convene a conference call to discuss a project for the year.

◆ As reported in the last edition of the newsletter, CRLC has recently formed a Law Student Subcommittee. Rashida West of the Support Center for Child Advocates in Philadelphia, PA, will be the chair of this new subcommittee which will work to determine how the CRLC can best meet the needs of law student committee members.

To join any of the above subcommittees, please contact our Committee Director at catherinekrebs@prodigy.net or (202) 547-3060.
Announcements

◆◆ NITA and the Section of Litigation are once again joining forces to present *Training the Lawyer to Represent the Whole Child*. This intensive NITA skills training program combines traditional advocacy skills with the introduction of interdisciplinary knowledge in the areas of child welfare and juvenile justice. It will take place June 14-19, 2004 at Hofstra School of Law in Hempstead, New York.

◆◆ The ABA Child Custody Pro Bono Project has collected materials from many different sources, and has established a free resource library. This library is intended for use by programs, attorneys, and courts interested in child custody representation. Documents in the library include training manuals, substantive articles, informational brochures, and other educational materials. You can search an online database by subject category or key words. The database is available at http://www.abanet.org/child/rclij/education/home.html. Topics focus on educational advocacy in child welfare cases.

◆◆ Advocates from the Legal Aid Society of San Diego, Inc. and the Children’s Aid Society’s Office of Public Policy & Client Advocacy in New York City have created an alliance of foster care advocates by launching the Former Foster Youth Legal Coalition listserv. To join the listserv, go to www.yahoogroups.com, search for “ffylegalcoalition,” and join as a member.

◆◆ The American Bar Association Center on Children and the Law and the National Child Welfare Resource Center on Legal and Judicial Affairs is pleased to offer FREE copies of our publication *Representing Parents in Child Welfare Cases: A Basic Introduction for Attorneys* to courts, bar organizations, or providers of legal services to parents. Copies are available for either reference or distribution purposes. If you are a court, bar organization, or provider of legal services to parents, and would like to receive a FREE copy for reference or copies that you promise to distribute, please provide the following information via hard copy, fax, or email to Yvonne Brunot; 740 15th Street, NW Washington, DC 20005; brunoty@staff.abanet.org; Phone: (202) 662-1746; Fax: (202) 662-1755:


◆◆ The Chapin Hall Center for Children at the University of Chicago conducted a study of 749 youth aged 17 who are about to age out of foster care in three Midwest states. The study revealed that these youth are much more likely than their counterparts to be involved in the juvenile justice system, to experience mental health and substance abuse problems for which they receive psychological treatment, and much less likely than their peers to complete high school. The study will continue to track the same youth at age 19 and at age 21. To read more about these results visit www.chapinhall.uchicago.edu and click on the link to the study.
To Grandmother’s House We Go (continued from page 5)

only if they show that there has been a material change in circumstances and that modification would be in the child’s best interests.

Adoption provides the most permanent and stable placement for children. Through adoption, the court terminates the rights of the biological parents and creates a true parent-child relationship between the relative caregiver and child.

In addition to permanently stabilizing the child, adoption may open up a wealth of financial resources to children living with relatives. Many children who are adopted are eligible for Title IV-E adoption assistance benefits. This federally created benefit provides matching funds to states that choose to provide a subsidy to “special needs” children following adoption. The benefit is available to “special needs” children who are adopted out of foster care and to children who are receiving SSI, and, in some states, it is also available to “special needs” children adopted privately by relatives. Attorneys representing relatives interested in this option should contact the state social services office, and attorneys representing children, particularly those in foster care, should be aware of the benefit and investigate its availability.

In addition to Title IV-E benefits, children adopted by relatives may be eligible for a child’s benefit if the relative is receiving Social Security Retirement or Disability benefits. Relatives interested in the option can contact the Social Security Administration at www.ssa.gov or (800) 772-1213.

Other Resources: In addition to having financial needs and the need for permanency, children living with relatives face a variety of other issues. All are coping on some level with the absence of their parents. Some have special education needs. Others face separation from siblings as well as from their parents. Attorneys representing both children and relative caregivers need to be sensitive to these issues and knowledgeable about resources in their area.

Child welfare advocates need to be aware of the specific laws of their jurisdiction as well as federal laws like the Adoption and Safe Families Act, the Indian Child Welfare Act, the Interstate Compact on the Placement of Children, the Uniform Child Custody Jurisdiction Act, and the Uniform Child Custody Jurisdiction and Enforcement Act. Each of these laws can affect the resources available to the child and the success of a relative placement.

It may be helpful to research medical consent laws in your state. Medical consent laws allow a parent to authorize a caregiver to consent to medical and mental health care for their child. Generally, medical consent authorizations are similar to powers of attorney and require the signature of the parent, the caregiver and two witnesses. Usually, they need not be notarized or approved by any court and do not alter the parents’ rights in any way. Medical consent authorizations can be revoked by the parent in writing, and are not binding in future custody, dependency or adoption litigation. If your state does not have Medical Consent legislation, look for authority to designate power of attorney to delegate powers regarding care of a minor. These two options allow the kinship caregiver to meet important needs of the children in their care without waiting for their day in court. Completing a simple form at home or in an attorney’s office, whether a Medical Consent Authorization or a Power of Attorney, can simplify the lives of kinship caregivers and dramatically improve the quality of life for children being raised by relative caregivers.

Some states have legal service programs that provide legal advice and representation for relatives who want to formalize their relationships with the children. For example, the Grandparent/Relative Caregiver Project at the Atlanta Legal Aid Society and the Legal Aid Society of Hawaii both specifically provide legal services in the area of adoption. For more information about these programs, check out www.atlantalegalaid.org and www.legalaidhawaii.org.

One of the best resources for relative caregivers – even those not retirement age – is the AARP Grandparent Information Center. This program has a wealth of information on issues facing relative caregivers on its website, a free quarterly newsletter, and several free publications available upon request. The Center can be reached at (800) 424-3410, gic@aarp.org, or www.aarp.org/grandparents/.

Some states have unique private programs that serve relative caregivers and the children in their care. For example, Project Healthy Grandparents is a program through Georgia State University that provides support groups for grandparents raising grandchildren, home-based social services, parenting classes, legal referrals, early intervention, and special programs for grandchildren. The success of this program has spurred the creation of replication sites at the University of Georgia in Athens, Valdosta State University in Valdosta, Georgia, the Medical College of Georgia in Augusta, the University of Maryland in Baltimore, and Winston-Salem State College in North Carolina. For more information about this and similar programs, visit www.gsu.edu/healthygrandparents.

Sherry V. Neal is the Director of the Grandparent/Relative Caregiver Project at the Atlanta Legal Aid Society.
MEMBERSHIP IN THE CHILDREN’S RIGHTS LITIGATION COMMITTEE

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