

2010 ABA Annual Meeting: A San Francisco Treat



Image Courtesy of bigfoto.com

On Aug. 5, thousands of lawyers will convene in San Francisco for the 2010 ABA Annual Meeting. ABA members and leadership, as well as representatives from other state, local, and specialty bar associations will be present for the five-day conference, regarded as the premier gathering of legal professionals in the U.S. Programming for the meeting will include over 200 CLE course offerings; various ABA entity meetings and award ceremonies; meetings of the House of Delegates and

Board of Governors; and the ABA EXPO, showcasing cutting-edge legal products and services. Section programming during the meeting will include Section Council, committee, and project meetings; the Thurgood Marshall Award Dinner; and a series of CLE programs on current topics in the law.

This year marks the **19th annual Thurgood Marshall Award Dinner** honoring leading civil rights and First Amendment attorney, **Paul M. Smith** of Jenner & Block LLP in Washington, DC. Smith is perhaps best known for his work to advance LGBT civil rights, which includes successfully arguing *Lawrence v. Texas* (2003); filing influential amicus briefs in the state litigation concerning same-sex marriage; leading a Jenner & Block team in a closely watched challenge to section 3 of the federal Defense of Marriage Act; and serving as co-

counsel with the National Center for Lesbian Rights in the pending U.S. Supreme Court case *Hastings Christian Legal Society v. Martinez*. Smith is also an accomplished advocate for voting and First Amendment rights.

The dinner will take place on Saturday, Aug. 7, at the Westin St. Francis. Those interested in attending may purchase tickets for \$150 per person via the Annual Meeting registration page. A ticket order form for non-meeting registrants is available for electronic submission from the Thurgood Marshall Award Dinner webpage (<http://www.abanet.org/irr/tmaward>), and is also included in the attached Annual Meeting insert. More information about the Thurgood Marshall Award, including a list of past recipients, is available at <http://www.abanet.org/irr/marshall-award.html>.

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Download a copy of IRR News Report at www.abanet.org/irr/newsreport.html

Nominating Committee Announces Slate of Candidates

The 2010 Section Nominating Committee (Paul Igasaki, Chair; Kristen M. Galles; Gerald B. Gardner; Shelley D. Hayes; and Richard M. Macias) has proposed the following slate of candidates for open positions for 2010-11:

Chair-elect:

Kay H. Hodge, Boston, MA

Vice Chair:

James R. Silkenat, New York, NY

Secretary:

Myles Lynk, Tempe, AZ

Three-year Council Positions:

Alex Hurder, Nashville, TN
Jerome L. Reide, Lansing, MI
Glenn Stover, San Francisco, CA
Robert A. Stein, Minneapolis, MN

Two-year Unexpired Term:

Barbara Arnwine (Minority-at-Large), Washington, DC

One-year Unexpired Term:

Kirke Kickingbird, Oklahoma City, OK

The Section will hold its 2010 Annual Meeting and elections on Friday, August 6, 2010, during the ABA's Annual Meeting.

Under the Section's bylaws, any Section member may make additional nominations for these positions by submitting a written statement of nomination signed by at least one other member in addition to the member being nominated. Nominations must be received by Section Chair Richard J. Podell or Section Secretary James R. Silkenat at least six hours before the election. Nominations will not be accepted from the floor at the time of the election.

Legislative Update

On Apr. 20, an explosion on a **British Petroleum** offshore oil drilling rig in the Gulf of Mexico caused a leak that is steadily releasing thousands of barrels of oil a day. Efforts to manage the spill have included controlled burning, dispersal, and plugging, all of which have been unsuccessful in stopping the flow of the underwater oil well. To address the source of the leak, BP has placed a containment dome over the more serious of two remaining leaks on the seabed to funnel the oil to the surface where it can be collected by a drill ship. The containment dome efforts were slowed however by clogs formed in the dome's opening as a result of the low temperatures and high pressure of the ocean floor. New solutions are continually being considered and implemented as officials desperately try to stop the leak. In response to the oil spill, Sen. Vitter (D-LA) introduced **S3375**, to amend the Oil Pollution Act of 1990 to increase the cap on liability for economic damages resulting from an oil spill.

On May 10, President Obama announced the nomination of Solicitor General **Elena Kagan**, of New York, to replace Justice John Paul Stevens as a Supreme Court Justice of the United States. Since the announcement the media has been abuzz with stories seeking to uncover the "true" Elena Kagan. Because Kagan's record of scholarly writings is rather thin, the smallest details of her life have become potentially meaningful insights into her legal and political beliefs; from her sexual orientation to her undergraduate thesis, everything appears to be fair game. Kagan has already begun to meet with prominent senators from both parties as the first step in her nomination process. The confirmation hearings led by the Senate Judiciary Committee will take place in the last week of June or the second week in July. See the **Supreme Court Update** for more information about the ABA's role in Kagan's confirmation hearings.

On May 18, Pennsylvania, Kentucky, and Arkansas held Senate primary elections, the results of which highlighted public dissatisfaction with incumbent members of Congress. In Pennsylvania, **Rep. Joseph Sestak** defeated incumbent **Sen. Arlen Specter** in the Democratic Senate primary, ending the veteran politician's 30 year Congressional career. In Kentucky, **Rand Paul**, son of presidential hopeful Ron Paul, soundly defeated **Trey Grayson**, current Kentucky Secretary of State. Paul will go on to face Democratic nominee Jack Conway. In Arkansas, **Sen. Blanche Lincoln (D)** will face Lt. Gov. Bill Halter in a June 8th runoff after Lincoln failed to break 50 percent.

to learn more about the crime of sexual assault, and to speak out against it.

Disability Law

On May 4, Sen. Pryor (D-AR) introduced S 3304, to increase the access of persons with disabilities to modern communications. The bill was referred to the Senate Committee on Commerce, Science, and Transportation.

On Apr. 15, Rep. Napolitano (D-CA) introduced H Res 1258, expressing support for designation of May 2010 as Mental Health Month. The resolution was referred to the House Committee on Energy and Commerce.

Education Law

On Apr. 29, Sen. Specter (D-PA) introduced S 3281, to expand student loan forgiveness, and to provide loan repayment assistance. The bill was referred to the Senate Committee on Health, Education, Labor, and Pensions.

On Apr. 15, Rep. Cohen (D-TN) introduced HR 5043, to amend Title 11 of the U.S. Code to modify the dischargeability of debts for certain educational payments and loans. The bill was referred to the House Judiciary Committee.

Elder Law

On Apr. 29, Rep. Hastings (D-FL) introduced HR 5187, to require the secretary to establish a commission designed to construct a comprehensive national strategy on how to increase the affordability, accessibility, and effectiveness of long-term care and community services. The bill was referred to the House Committee on Energy and Commerce.

Election Law

On Apr. 14, Rep. Hodes (D-NH) introduced HJ Res 82, proposing the "Doris 'Granny D' Haddock Amendment of 2010" to the Constitution of the United States regarding the authority of Congress and the states to regulate the spending and activities of corporations with regard to political campaigns and campaigns for election for public office. The joint resolution was

Children and Families

On Apr. 22, Rep. Murphy (D-CT) introduced H Res 1290, supporting the goals and ideals of a National Day to Prevent Teen Pregnancy. The resolution was referred to the House Committee on Energy and Commerce.

Civil Rights/Constitutional Law

On Apr. 29, the House passed, by a 223-169-1 vote, HR 2499, to provide for a federally sanctioned self-determination process for the people of Puerto Rico.

On Apr. 27, Sen. McCain (R-AZ) introduced S 3265, to restore Second Amendment rights in the District of Columbia. The bill

was referred to the Senate Committee on Homeland Security and Governmental Affairs.

On Apr. 15, Sen. Specter (D-PA) introduced S 3214, to prohibit any person from engaging in certain video surveillance except under the same conditions authorized under Chapter 119 of Title 18, United States Code, or as authorized by the Foreign Intelligence Surveillance Act of 1978. The bill was referred to the Senate Judiciary Committee.

Criminal Law

On Apr. 1, President Obama issued a proclamation declaring April 2010 "National Sexual Assault Awareness Month," and urging all Americans to reach out to victims,

Legislative Update

referred to the House Judiciary Committee.

Federal Government

On May 6, Sen. Tester (D-MT) introduced S 3321, to establish an advisory committee to issue nonbinding government-wide guidelines on making public information available on the Internet, to require publicly available government information held by the executive branch to be made available on the Internet, and to express the sense of Congress that publicly available information held by the legislative and judicial branches should be available on the Internet. The bill was referred to the Senate Committee on Homeland Security and Governmental Affairs.

Health Law

On Apr. 21, Rep. Feingold (D-WI) introduced S 3239, to repeal unwarranted provisions from the Patient Protection and Affordable Care Act and to more efficiently use taxpayer dollars in health care spending. The bill was referred to the House Committee on Finance.

On Apr. 15, Rep. Roybal-Allard (D-CA) introduced HR 5033, to authorize the secretary of Health and Human Services to carry out programs to provide youth in racial or ethnic minority or immigrant communities the information and skills needed to reduce teenage pregnancies. The bill was referred to the House Committee on Energy and Commerce.

HIV/AIDS Law

On Apr. 14, Rep. Lee (D-CA) introduced H Res 1250, supporting the goals and ideals of "National STD Awareness Month." The resolution was referred to the House Committee to Energy and Commerce.

Immigration Law

On Apr. 29, Rep. Maloney (D-NY) introduced HR 5193, to establish an employment-based immigrant visa for alien entrepreneurs who have received significant capital from investors to establish a business in the United States. The bill was referred to the House Judiciary Committee.

On Apr. 14, Sen. Menendez (D-NJ) introduced S 3207, to protect victims of

crime or serious labor violations from deportation during Department of Homeland Security enforcement actions. The bill was referred to the Senate Judiciary Committee.

On Apr. 13, Rep. Burton (R-IN) introduced HR 5002, to end the cycle of illegal immigration in the United States and withdraw federal funds from states and political subdivisions of states that interfere with the enforcement of federal immigration law. The bill was referred to the House Committee on Homeland Security.

Indian Law

On May 7, Sen. Inouye (D-HI) introduced S 3331, to establish a Native American Economic Advisory Council. The bill was referred to the Senate Committee on Indian Affairs.

On Apr. 28, Sen. Udall (D-CO) introduced S 3277, to amend the American Recovery and Reinvestment Act of 2009 to reserve funds under the programs for payments to the Bureau of Indian Education of the Department of the Interior for Indian children. The bill was referred to the Senate Committee on Health, Education, Labor, and Pensions.

On Apr. 22, Sen. Wyden (D-OR) introduced S 3246, to exclude from consideration as income under the Native American Housing Assistance and Self-Determination Act of 1996 amounts received by a family from the Department of Veterans Affairs for service-related disabilities of a member of the family. The bill was referred to the Senate Committee on Indian Affairs.

On Apr. 14, Rep. Grijalva (D-AZ) introduced HR 5023, to prescribe procedures for effective consultation and coordination by federal agencies with federally recognized Indian tribes regarding federal government activities that impact tribal lands and interests to ensure that meaningful tribal input is an integral part of the federal decision-making process. The bill was referred to the House Committee on Natural Resources.

International Law

On May 4, Rep. Faleomavaega (D-AS) introduced H Res 1321, expressing the sense of the House of Representatives that

the political situation in Thailand be solved peacefully and through democratic means. The resolution was referred to the House Committee on Foreign Affairs.

On Apr. 26, Rep. Smith (R-NJ) introduced HR 5138, to protect children from sexual exploitation by mandating reporting requirements for convicted sex traffickers and other registered sex offenders intending to engage in international travel, providing advance notice of intended travel by high interest registered sex offenders outside the United States to the government of the country of destination, and requesting foreign governments to notify the United States when a known child sex offender is seeking to enter the United States. The bill was referred to the House Committee on Foreign Affairs.

On Apr. 13, Rep. Ros-Lehtinen (R-FL) introduced H Con Res 260, recognizing the 62nd anniversary of the independence of the state of Israel, and reaffirming unequivocal support for the alliance and friendship between the United States and Israel. The resolution was referred to the House Committee on Foreign Affairs.

On Apr 13, the Senate passed S Res 409, calling on members of the Parliament in Uganda to reject the proposed "Anti-Homosexuality Bill."

Military Law

On May 13, Sen. McCaskill (D-MO) introduced S 3371, to amend Title 10, United States Code, to improve access to mental health care counselors under the TRICARE Program. The bill was referred to the Senate Committee on Armed Services.

On May 5, Sen. Kerry (D-MA) introduced S 3311, to improve and enhance the capabilities of the Department of Defense to prevent and respond to sexual assault in the Armed Forces. The bill was referred to the Senate Committee on Armed Services.

On May 5, Rep. Tsongas (D-MA) introduced HR 5224, to direct the secretary of Defense to conduct a comprehensive review of the health care services available for female members of the Armed Forces. The bill was referred to the House Committee on Armed Services.

On Apr. 15, Rep. Bocchieri (D-OH) introduced

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Supreme Court Update

ABA Begins Evaluation of Supreme Court Nominee

On May, 11, 2010, American Bar Association President Carolyn Lamm released a statement indicating that the ABA Standing Committee on the Federal Judiciary would begin its evaluation of the professional qualifications of nominee Elena Kagan for the position of Associate Justice of the Supreme Court of the United States.

The Standing Committee would contribute to the vetting process by providing the Senate with the important perspectives of lawyers and judges with whom Kagan has worked for consideration during the confirmation process. The ABA Standing Committee's extensive, confidential peer review process includes interviewing lawyers, judges and members of the community with knowledge of Kagan's integrity, professional competence and judicial temperament. These interviews will take place in every federal circuit in the country. The Committee will also examine her legal writings for quality, clarity, knowledge of the law, and analytical ability. Finally, Kagan will be interviewed at length by members of the Standing Committee regarding her professional qualifications.

After this comprehensive evaluation is completed, each member of the Standing Committee will then individually evaluate the nominee as either "well-qualified," "qualified," or "not-qualified." The majority rating constitutes the official rating of the ABA Standing Committee. This peer review will provide the Senate with a thoughtful, thorough evaluation of Kagan's professional credentials for serving on the nation's highest court as the Senate fulfills its critical constitutional role in the confirmation process (the Standing Committee does not consider a nominee's political affiliation or ideology).

For additional information please visit <http://www.abanet.org/>.

The Supreme Court of the United States recently issued several opinions of relevance to the Section's mission, two of which are summarized below (citations omitted). Full texts of all the opinions are available on the Court's Web site at <http://www.supremecourt.gov/opinions/slipopinions.aspx>.

Salazar v. Buono (08-472) (judgment by Kennedy; multiple dissents) – In 1934, members of the Veterans of Foreign Wars (VFW) placed a Latin cross on federal land in the Mojave National Preserve (Preserve) to honor American soldiers who died in World War I. Claiming to be offended by a religious symbol's presence on federal land, respondent Buono, a regular visitor to the Preserve, filed this suit alleging a violation of the First Amendment's Establishment Clause and seeking an injunction requiring the Government to remove the cross.

In the litigation's first stage (Buono I), the District Court found that Buono had standing to sue and, concluding that the presence of the cross on federal land conveyed an impression of governmental endorsement of religion, it granted Buono's requested injunctive relief (2002 injunction). The District Court did not consider whether the Government's actions regarding the cross had a secular purpose or caused entanglement with religion. While the Government's appeal was

pending, Congress passed the Department of Defense Appropriations Act, 2004, §8121 (a) of which directed the Secretary of the Interior to transfer the cross and the land on which it stands to the VFW in exchange for privately owned land elsewhere in the Preserve (land transfer statute).

Affirming the District Court's judgment both as to standing and on the merits, the U.S. Court of Appeals for the Ninth Circuit declined to address the statute's effect on Buono's suit or the statute's constitutionality (Buono II). Because the Government did not seek review by this Court, the Court of Appeals' judgment became final. Buono then returned to the District Court seeking injunctive relief against the land transfer, either through enforcement or modification of the 2002 injunction. In 2005, that court rejected the Government's claim that the transfer was a bona fide attempt to comply with the injunction, concluding, instead, that it was actually an invalid attempt to keep the cross on display. The court granted Buono's motion to enforce the 2002 injunction; denied as moot his motion to amend it; and permanently enjoined the Government from implementing the land transfer statute (Buono III). The Ninth Circuit again affirmed, largely following the District Court's reasoning.

The Supreme Court reversed and remanded, concluding that Buono has standing to

maintain this action. Whatever the validity of the Government's argument that Buono's asserted injury —offense at a religious symbol's presence on federal land — is not personal to him and so does not confer Article III standing, that argument is not available at this stage of the litigation. The District Court rejected the argument in Buono I, the Ninth Circuit affirmed in Buono II, and the Court of Appeals' judgment became final and unreviewable upon the expiration of the 90-day deadline for filing a certiorari petition. Moreover, Buono had standing in Buono III to seek application of the injunction against the land-transfer statute. A party that obtains a judgment in its favor acquires a "judicially cognizable" interest in ensuring compliance with that judgment. Buono's entitlement to an injunction having been established in Buono I and II, he sought in Buono III to prevent the Government from frustrating or evading that injunction. His interests in doing so were sufficiently personal and concrete to support his standing, given the rights he obtained under the earlier decree against the same party as to the same cross and the same land. The Government's contention that Buono sought to extend, rather than to enforce, the 2002 injunction is not an argument about standing, but about the merits of the District Court's order.

Further, the District Court erred in enjoining the Government from implementing the land-transfer statute on the premise that the relief was necessary to protect Buono's rights under the 2002 injunction. A court may order an injunction only after taking into account all the circumstances bearing on the need for prospective relief. Here, the District Court did not engage in the appropriate inquiry. The land-transfer statute was a substantial change in circumstances bearing on the propriety of the requested relief. By dismissing as illicit the motives of Congress in passing it, the District Court took insufficient account of the context in which the statute was enacted and the reasons for its passage. Placement of the cross on federal land by private persons was not an attempt to set the state's imprimatur on a particular creed. Rather, the intent was simply to honor fallen soldiers. Moreover, the cross stood for nearly seven decades before the statute was enacted, by which time the cross and the cause it commemorated had become entwined in the public consciousness. The 2002 injunction thus presented the Government with a dilemma. It could not maintain the cross without violating the injunction, but it could not remove the cross without conveying

Supreme Court Update

disrespect for those the cross was seen as honoring. Deeming neither alternative satisfactory, Congress enacted the land-transfer statute. The statute embodied a legislative judgment that this dispute is best resolved through a framework and policy of accommodation. The statute should not have been dismissed as an evasion, for it brought about a change of law and a congressional statement of policy applicable to the case.

Where legislative action undermines the basis for previous relief, moreover, the relevant question is whether an ongoing exercise of the court's equitable authority is supported by the prior showing of illegality, judged against the claim that changed circumstances render prospective relief inappropriate. The District Court granted the 2002 injunction based solely on its conclusion that the presence of the cross on federal land conveyed an impression of governmental endorsement of religion, and the Ninth Circuit affirmed on the same grounds. Neither court considered whether the Government had acted based on an improper purpose. Given this sole reliance on perception, any further relief grounded on the injunction should have rested on the same basis. But the District Court used an injunction granted for one reason (perceived governmental endorsement) as the basis for enjoining conduct that was alleged to be objectionable for a different reason (an illicit governmental purpose). Ordering relief under such circumstances was improper. The court failed to consider whether the change in law and circumstances effected by the land-transfer statute had rendered the "reasonable observer" standard inappropriate to resolve the dispute. Nor did the court attempt to reassess Buono I's findings in light of the accommodation policy embraced by Congress. Rather, it concentrated solely on the religious aspects of the cross, divorced from its background and context.

In addition, the same respect for a coordinate branch of Government that forbids striking down an Act of Congress except upon a clear showing of unconstitutionality requires that a congressional command be given effect unless no legal alternative exists. Even if, contrary to the congressional judgment, the land transfer were thought an insufficient accommodation in light of the earlier endorsement finding, it was incumbent upon the District Court to consider less drastic relief than complete invalidation of the statute. On remand, that court should conduct a proper inquiry into the continued necessity for injunctive relief in light of the

statute.

Graham v. Florida (08-7412) (6-3; opinion by Kennedy; dissents by Thomas and Alito) – Petitioner Graham was 16 when he committed armed burglary and another crime. Under a plea agreement, the Florida trial court sentenced Graham to probation and withheld adjudication of guilt. Subsequently, the trial court found that Graham had violated the terms of his probation by committing additional crimes. The trial court adjudicated Graham guilty of the earlier charges, revoked his probation, and sentenced him to life in prison for the burglary. Because Florida has abolished its parole system, the life sentence left Graham no possibility of release except executive clemency. He challenged his sentence under the Eighth Amendment's Cruel and Unusual Punishments Clause, but the State First District Court of Appeal affirmed.

The Supreme Court held that the Clause does not permit a juvenile offender to be sentenced to life in prison without parole for a non-homicide crime. Embodied in the cruel and unusual punishments ban is the precept that punishment for crime should be graduated and proportioned to the offense. The Court's cases implementing the proportionality standard fall within two general classifications: In cases of the first type, the Court has considered all the circumstances to determine whether the length of a term-of-years sentence is unconstitutionally excessive for a particular defendant's crime. The second classification comprises cases in which the Court has applied certain categorical rules against the death penalty. In a subset of such cases considering the nature of the offense, the Court has concluded that capital punishment is impermissible for non-homicide crimes against individuals. In a second subset, cases turning on the offender's characteristics, the Court has prohibited death for defendants who committed their crimes before age 18, or whose intellectual functioning is in a low range.

In cases involving categorical rules, the Court first considers objective indicia of society's standards, as expressed in legislative enactments and state practice to determine whether there is a national consensus against the sentencing practice at issue. Next, looking to the standards elaborated by controlling precedents and by the Court's own understanding and interpretation of the Eighth Amendment's text, history, meaning, and purpose, the Court determines in the exercise of its own independent judgment whether the

punishment in question violates the Constitution. Because this case implicates a particular type of sentence as it applies to an entire class of offenders who have committed a range of crimes, the appropriate analysis is the categorical approach.

Application of the foregoing approach convinced the Court that the sentencing practice at issue is unconstitutional. Six jurisdictions do not allow life without parole sentences for any juvenile offenders. Seven jurisdictions permit life without parole for juvenile offenders, but only for homicide crimes. Thirty-seven States, the District of Columbia, and the Federal Government permit sentences of life without parole for a juvenile non-homicide offender in some circumstances. The State relies on these data to argue that no national consensus against the sentencing practice in question exists. An examination of actual sentencing practices in those jurisdictions that permit life without parole for juvenile non-homicide offenders, however, discloses a consensus against the sentence. Nationwide, there are only 129 juvenile offenders serving life without parole sentences for non-homicide crimes. Because 77 of those offenders are serving sentences imposed in Florida and the other 52 are imprisoned in just 10 States and in the federal system, it appears that only 12 jurisdictions nationwide in fact impose life without parole sentences on juvenile non-homicide offenders, while 26 States and the District of Columbia do not impose them despite apparent statutory authorization. Given that the statistics reflect nearly all juvenile non-homicide offenders who have received a life without parole sentence stretching back many years, moreover, it is clear how rare these sentences are, even within the States that do sometimes impose them.

The type of sentence at issue is actually as rare as those other sentencing practices when viewed in proportion to the opportunities for its imposition. The fact that many jurisdictions do not expressly prohibit the sentencing practice at issue is not dispositive because it does not necessarily follow that the legislatures in those jurisdictions have deliberately concluded that such sentences would be appropriate. The inadequacy of penological theory to justify life without parole sentences for juvenile non-homicide offenders, the limited culpability of such offenders, and the severity of these sentences all lead the Court to conclude that the sentencing practice at issue is cruel and unusual.

2010 ABA Annual Meeting: A San Francisco Treat

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The Section will offer five CLE programs (CLE credit can only be obtained in certain states for one of the programs) during the conference addressing some of the most pressing legal issues in the individual rights field. Topics include Native American concerns, religious freedom, same-sex marriage, and racial myths. For more information on Section programming and co-sponsored programs, please refer to the

insert included or visit the Section's website.

The advance registration and hotel reservation period ends on Monday, July 12. Annual Meeting registrations and housing will continue to be accepted online; however, faxed forms will not be accepted after July 12. Beginning on July 23, housing reservations must be made directly with the official ABA hotels. For more information about registration, visit <http://www.abanet.org/annual/2010>.

2010 MARGARET BRENT WOMEN LAWYERS OF ACHIEVEMENT AWARD

Section of Individual Rights & Responsibilities

Proudly Congratulates Former Section Chair

Brooksley E. Born

and

Applauds All of the 2010 Award Recipients
For Their Achievements and Their Contributions

SAVE THE DATE!

Section of Individual Rights and Responsibilities

Fall Conference
October 21-23, 2010

ALL NEW FORMAT! Join us in Memphis this fall for three days of CLE programming, networking, and social events. At this meeting, you'll have the opportunity to network with experts in the fields of civil rights, civil liberties, human rights, and social justice, and you'll receive updates on cutting-edge issues in these areas of law.

PEABODY HOTEL
Memphis, Tenn.



Legislative Update (cont.)

H Con Res 261, expressing the sense of Congress that the Supreme Court should uphold laws that allow the families and friends of fallen members of the Armed Forces to mourn their loved ones in peace and privacy. The resolution was referred to the House Judiciary Committee.

National Security

On May 7, Sen. McCain (R-AZ) introduced S 3332, to implement a comprehensive border security plan to combat illegal immigration, drug and alien smuggling, and violent activities along the southwest border of the United States. The bill was referred to the Senate Committee on Homeland Security and Governmental Affairs.

On May 6, Sen. Lieberman (I-CT) introduced S 3327, to add joining a foreign terrorist organization or engaging in or supporting hostilities against the United States or its allies to the list of acts for which U.S. nationals would lose their nationality. The bill was referred to the Senate Judiciary Committee.

On Apr. 28, Sen. Cornyn (R-TX) introduced S 3237, to establish a program to provide southern border security assistance grants, and to authorize the appointment of additional federal judges in states along the southern border. The bill was referred to the Senate Judiciary Committee.

Veterans' Affairs

On May 12, Sen. Klobuchar (D-MN) S 3355, to provide for an Internet website for information on benefits, resources, services, and opportunities for veterans and their families and caregivers; to Veterans Affairs.

On Apr. 20, Sen. Murray (D-WA) introduced S 3234, to improve employment, training, and placement services furnished to veterans, especially those serving in Operation Iraqi Freedom and Operation Enduring Freedom. The bill was referred to the Senate Committee on Veterans Affairs.

2010 Thurgood Marshall Award Dinner

*Honoring Leading Civil Rights
& First Amendment Attorney
Paul M. Smith*

Westin St. Francis
Saturday, Aug. 7, 2010
8:00 p.m. - 11:00 p.m.
Reception to begin at 7:00 p.m.

Individual Tickets \$150
Table Sponsorships starting at \$2500

To purchase tickets and tables, visit the event webpage:

<http://www.abanet.org/irr/tmaward>



AIDS Committee to Host Hearings on HIV and Criminal Law



Image Courtesy of Victoria John

The ABA AIDS Coordinating Committee, chaired by IRR Council member Shelley D. Hayes, of Washington, DC, will conduct hearings on "Criminalization of HIV Transmission and Related Concerns," on Oct. 18, 2010, from 9:00 a.m. to 3:00 p.m., at the George Washington University Elliott School of International Affairs in Washington, DC. The hearings will examine the growing use of criminal law to sanction HIV transmission and the potential consequences for HIV prevention and public health.

The hearing will be open to ABA members and the general public. For more information, contact the AIDS Coordination Project at (202) 662-1025, or aidspj@staff.abanet.org.

Arizona's New Immigration Bill Sparks Controversy

On Apr. 23, 2010, Arizona Governor Jan Brewer signed the nation's toughest immigration bill into law. "Support Our Law Enforcement and Safe Neighborhoods Act," introduced as SB 1070, aims to crackdown on illegal immigration by making the failure to carry immigration papers a crime, and by empowering local law enforcement to detain any persons suspected of being in the country illegally. Gov. Brewer's signing of the bill sparked backlash from organizations and individuals across the country. Opponents of the law say it will spur open harassment and discrimination against Hispanics regardless of their citizenship status. ABA President Carolyn Lamm released a statement about the Arizona law in which she stated:

"The recently signed immigration law in Arizona runs contrary to the fundamental tenets of our Constitution relative to equal protection and due process. This draconian, and likely unconstitutional, law threatens to reverse nearly 50 years of civil rights advancements in our nation. It is, quite

simply put, a law based on prejudice and fear, one whose purpose is to be divisive.

This law encourages second-class treatment of individuals based on the color of their skin, and that is unacceptable. The American Bar Association has long opposed these kinds of initiatives because they intrude on personal civil rights and because they belie our nation's principle of justice for all. When justice for anyone in America is threatened, it diminishes us all as a free people."

President Lamm added that while the ABA is aggressively urging Congress to enact immigration reform, SB 1070 gives Arizona state and local law enforcement broad authority over immigration enforcement activities that rightfully fall under federal responsibility.

Section Council Member Myles Lynk, a professor at Arizona State University Sandra Day O'Connor College of Law, had sent a letter (along with equally concerned professors) to Gov. Brewer urging her to veto SB 1070. In the letter he outlined some of the bill's legal flaws:

"Senate Bill 1070 requires state and local police officers in Arizona to arrest individuals whose crimes render them deportable. This is quite problematic. First, a simple criminal charge does not necessarily lead to a removal ground. Second, only a federal immigration judge can find an individual removable. Finally, it takes complex analysis to determine whether a criminal conviction leads to deportation."

In protest of the new law set to take effect in July, numerous cities and organizations are boycotting Arizona. The ABA, however, citing the detrimental effect of cancelling a previously planned conference on legal services for the poor, has opted instead to honor its commitment to host the conference in Phoenix, but to also add programming addressing legal issues arising from the immigration legislation.





Section of
**Individual Rights
and Responsibilities**

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Upcoming Events

ABA 2010 Annual Meeting

Aug. 5-10, 2010
Westin St. Francis
San Francisco, Calif.

Thurgood Marshall Award Dinner

Honoring Paul M. Smith
Westin St. Francis
Aug. 7, 2010
San Francisco, Calif.

IRR Fall Conference

Oct. 21-23, 2010
Peabody Hotel
Memphis, Tenn.

ABA 2011 Midyear Meeting

Feb. 9-15, 2011
Atlanta, Ga.

IRR News Report is published quarterly by the American Bar Association Section of Individual Rights and Responsibilities.

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