

Women lawyers JOURNAL



VOL. 86, NO. 3

San Diego Midyear Meeting 2001



'Prohibition Portia'

by Cecilia Rasmussen



The Billion Dollar Litigator

by Ellen Pansky



Dianna Kempe Wins Top IBA Post

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About NAWL

Founded in 1899, NAWL is a professional association of attorneys, judges, law students and non-lawyers serving the educational, legal and practical interests of the organized bar and women worldwide. Women Lawyers Journal®, National Association of Women Lawyers®, NAWL®, and the NAWL seal are registered trademarks. ©2000 National Association of Women Lawyers. All rights reserved.

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EDITORIAL POLICY Women Lawyers Journal is published for NAWL members as a forum for the exchange of ideas and information. Views expressed in articles are those of the authors and do not necessarily reflect NAWL policies or official positions. Publication of an opinion is not an endorsement by NAWL.

ARTICLES Book reviews or articles about current legal issues of general interest to women lawyers are accepted and may be edited based on the judgment of the editor. Editorial decisions are based upon potential interest to readers, timeliness, goals and objectives of the association and quality of writing. Unsolicited articles by nonmembers will not be published. No material can be returned unless accompanied by a self-addressed, stamped envelope.

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San Diego Midyear Meeting Events

All NAWL events will be held at the San Diego Hyatt Regency unless otherwise noted.
For notice of any up-to-the-minute changes and a map, go to our web site at:
www.abanet.org/nawl/sandiego.html

Thursday, February 15, 2001

1:00 p.m. - 5:00 p.m. NASD ARBITRATOR TRAINING
Gibbons A - 4th Floor

2:00 p.m. - 6:00 p.m. NASD ARBITRATION CHAIRPERSON TRAINING
Windsor B - 3rd Floor

For the past two years, NAWL and the NASD Dispute Resolution, Inc. have worked cooperatively to increase the number of trained women arbitrators available in the securities industry. This valuable training gives attorneys increased areas of expertise and entry to the challenging and profitable arena of alternative dispute resolution. Separate registration fee of \$75 required.

Friday, February 16, 2001

8:00 a.m. - 9:30 a.m. WOMEN'S BAR LEADERS NETWORKING BREAKFAST

NAWL joins the National Conference of Women's Bar Associations at the Networking Breakfast featuring speaker Deborah Rhode, new chair of the ABA Commission on Women in the Profession.

Location:

Law Offices of Luce, Forward, Hamilton & Scripps, LLP
600 West Broadway, Suite 2600

Advance registration is preferred (\$15 to NCWBA, PO Box 82366, Portland, OR 97282 for receipt no later than Monday, February 12. \$25 at the door.)

9:30 a.m. - 12:00 THE FUTURE OF AFFIRMATIVE ACTION (MCLE credit)
Manchester Ballroom H - 2nd Floor

This panel will feature Arthur Coleman, former Deputy Assistant Secretary for Civil Rights in the Department of Education, JoAnne SawyerKnoll, General Counsel for the San Diego Unified School District and other nationally known and local experts. The panel will address the status and future of affirmative action law in the area of education.

4:00 - 5:00 p.m.
STRESS REDUCTION STRATEGIES
(MCLE credit)
Manchester Ballroom H - 2nd Floor

Featuring Joyce Kenyon of Stress Mastery Systems. Techniques are tailored for attorneys and designed to improve overall health, well-being and productivity. Separate registration fee of \$35.00 required.

5:00 - 6:00 p.m.
RECEPTION FOR NAWL HONOREES
Hosted by and held at the
California Western School of Law.

Friday February 16, 2001

12:00 - 1:30 p.m.

The Gallery - Lobby Level

NAWL Awards Luncheon Honoring



**Judith Copeland,
Copeland & Tierman**

Copeland is a member of the Board of Governors of the California State Bar. She serves as a Pro Tem Superior Court Judge and Superior Court Arbitrator, and lectures on the area of her specialty, probate, wills, state planning and elder law for the California Continuing Education of the Bar. She has been adjunct faculty at Western States University of Law, San Diego California Western School of Law and Hastings Center for Trial & Appellate Advocacy.



**Judge Judith McConnell
San Diego Superior Court**

Founder of the Lawyers Club of San Diego and past member of the Board of Directors of California Women Lawyers. She has also been President of the National Association of Women Judges. In 2000 she received the President's award from the California Judges Association and was an honoree of the National Association of Women Judges.



Virginia Mueller

Mueller will receive NAWL's Lifetime of Achievement Award. She is vice president of and NAWL liaison to the International Federation of Women Lawyers. She is also NAWL's representative to the Federational International des Femmes des Carrieres Juridique and a member of the International Union of Lawyers.

Saturday, February 17, 2001

Manchester Ballroom E

9:00 a.m. - 11:30 a.m. NAWL General Assembly

Presidential Boardroom

11:30 a.m. - 1:30 p.m. NAWL Board Meeting

NAWL WISHES TO THANK FTI/CONSULTING FOR ITS GENEROUS SUPPORT AND SPONSORSHIP OF OUR PROGRAMS. FTI IS A MULTI-DISCIPLINED CONSULTING FIRM THAT PARTNERS WITH CORPORATE COUNSEL AND TRIAL LAWYERS ON HIGH STAKES LITIGATION. FTI HAS THREE PRACTICE AREAS: LITIGATION CONSULTING, FINANCIAL AND ECONOMIC CONSULTING AND APPLIED SCIENCES.

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First Woman President of the IBA



Dianna
Kempe
Queen's
Counsel

NAWL congratulates Dianna Kempe, Q.C., J.P., Senior and Managing Partner at the Bermudian law firm Appleby Spurling & Kempe, on becoming the first woman President to head the International Bar Association.

Anyone who imagines that Kempe rose to such a prestigious position overnight would be mistaken. She served as the IBA's Secretary-General from 1994 to 1998 and then as Vice-President from 1998 to 2000. When asked what she sees as the key to her success, she'll assure you that the "secret" is hard work.

Kempe's goal as IBA president is to galvanize debate about the services and initiatives provided by and to increase communication and coordination between international organizations to expand and improve those services.

To that end, the IBA Women's Interest Group, organized by Kempe, is hosting a World Women's Conference in London on March 1-2, 2001.

Women lawyers from all jurisdictions and across the whole range of practice areas will have the chance to meet, learn and network in a unique event attended by some of the world's most successful and powerful women. This is the first time that the voice of women in the law will be heard in such an international forum.

This conference is unique, not only because women lawyers from all parts of the world and a wide range of practice areas will participate, but because the conference will focus on the concerns of women in "developing" countries as well as those in so-called developed countries.

Special guest speakers include:

Queen Noor of Jordan

Former U.S. Secretary of State Madeline Albright

ABA President Martha Barnett

CNN journalist Christiane Amanpour

The conference will include sessions on family and individual rights; access to employment; the impact of insolvency on women and families; global economy; e-business; global jurisdiction; women, Islam and the law; skills for young lawyers and banking, finance and capital markets.

For more information and registration, go to the IBA's web page at: www.ibanet.org or email: confs@int-bar.org, or call Lynn Hazlewood at: +44 207 629 1206.

Women's Rights - a revolution?

Reprint of speech given by

Mel James,
International Policy Executive
of the Law Society of England and Wales,
at United Nations Human Rights Conference

An earlier speaker commented that there had been a revolution in women's rights in the United Nations. I agree - but it's a revolution that has some way to go.

Last month, delegates from all around the world met here in New York to appraise the implementation of the outcomes of the Fourth UN World Conference on Women, held in Beijing in 1995, a meeting known as Beijing+5. I'd like to quote from the three reports prepared for that meeting.

The first is UNICEF's study on domestic violence against women and girls. This report tells us that:

- There are 60 million fewer women in the world than would be expected from demographic trends. This is the result of sex-selective abortion, female infanticide and inferior access to food and medicine.

- Worldwide, between 40 percent and 60 percent of known sexual assaults occur within the family and are committed against girls who are under the age of 16.

- Nearly 14 million women are infected with HIV and the rate of female infection is rising. HIV infection for many women comes from a regular partner and is heightened by an unequal relationship that makes it difficult, if

not impossible, to negotiate safe sex.

A report from UNIFEM, also for Beijing+5, considered the progress of the world's women from the mid-1980s to the late 1990s. Focusing on the economic dimensions of gender equality and women's empowerment in the context of globalization, the report assesses women's progress using a variety of indicators.

To see what progress has been made towards gender equality, the report uses three gender-sensitive indicators that have been agreed by the United Nations. These are:

- The ratio of girls' enrollment to boys' enrollment in secondary schools;

- The female share of paid employment in nonagricultural activities; and

- Women's share of seats in the national parliament.

Only four countries have simultaneously achieved gender equality in secondary education, plus at least 30 percent of women in parliament, plus women's share of paid employment in industry and services of around 50 percent. These are Denmark, Finland, Norway and Sweden, although four others - Germany, Iceland, the Netherlands and South Africa -- come close.

Despite some improvements in girls' access to secondary education, between 1985 and 1997, access declined in:

- 11 out of 33 countries in sub-Saharan Africa;

- 7 out of 11 countries in central and western Asia; and

- 6 out of 26 countries in eastern Europe.

Women's share of paid employment has increased in most regions from the mid-1980s to the late 1990s (with the exception of parts of eastern Europe), but the quality of employment has not similarly increased.

Although the participation of women in national parliaments has increased in a number of countries, women constitute 30 percent or more of the members of parliament in only eight: Denmark, Finland, Germany, Iceland, the Netherlands, Norway, South Africa and Sweden.

The third report was produced by the World Bank and is titled *Engendering Development*. This report notes that

- Primary school enrollment rates for girls have doubled in the Middle East, south Asia and sub-Saharan Africa in the past 25 years.

- Women's life expectancy has increased by 15 to 20 years in

developing countries over the last 50 years.

On the other hand, the report notes that

- In South Asia, women have about half as many years of education as men, and female secondary school enrollment rates are two thirds of male rates;

- Control of land and other forms of capital is highly unequal;

- Throughout the developing world, female-managed enterprises are often under capitalized, having less access to credit and using fewer inputs and machinery than male-managed enterprises.

Particularly interesting are the conclusions that this report draws. The report concludes that countries that enact specific measures to protect women's rights have less corruption and achieve faster economic growth than countries that do not protect women's rights. Furthermore, countries with smaller gaps between women and men in such areas as education, employment and property rights have lower childhood malnutrition and child mortality; cleaner business and government; and more rapid economic growth.

Indeed, one of the authors of the report commented that:

"Much of the recent debate about gender and development has pitted growth-oriented approaches against rights-oriented approaches. But the evidence we examined suggests that economic development and institutional change are complementary - and that both are necessary."

That conclusion comes as no surprise. For many years, some of us have been arguing that enabling women to enjoy fully all their

Human Rights isn't just good for women - although that's an important consideration - it's good for all of us. It's good for our families, our communities and our societies. And now we have it on the authority of the World Bank that the realization of Women's Rights is necessary for economic growth as well.

I hope the world's governments listen carefully to that message, because the promises that they have been making about women's

... debate about gender and development has pitted growth-oriented approaches against rights-oriented approaches.

rights have not been well heeded. Starting with the Universal Declaration of Human Rights, promulgated by the UN General Assembly in 1948, governments promised that we are all equal in dignity and rights and that we are all entitled to all the rights set out in the Declaration without distinction of any kind. Similar guarantees of equality are contained in the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights, as well as other international human rights treaties.

Governments have shown a specific commitment to women's rights through the Convention on the Elimination of Discrimination Against Women (the Women's Convention), which has played a key role in raising awareness of discrimination against women and guiding legal and practical steps for its eradication. In 1993, the United Nations augmented its women-

specific standards by adopting the Declaration on the Elimination of Violence Against Women. Last Year the United Nations adopted an Optional Protocol of the Women's Convention allowing individual complaints about violations of the Convention. The Optional Protocol is not yet in force but it is to be hoped that governments will look carefully at becoming party to it.

These international standards and the outcomes of global UN conferences form an authoritative and informative framework that is at the disposal of governments that want to see women gain access to

their rights. But the sad fact is that what is agreed and celebrated at the United Nations is neglected or ignored at home - and that is particularly true of anything that affects women.

So what do we need to keep this revolution going? The contemporary Human Rights regime is predicated on governments' responsibilities to those under their jurisdiction. But that same framework of international human rights standards and the outcomes of global UN meetings is also at our disposal. It is the first responsibility of governments to implement those standards and outcomes. We should encourage them to do so in any way we can. We can also help their implementation in very practical ways. For example:

See what pro bono help you can offer local women's organizations.

Continued on page 11

Before Janet Reno, there was Mabel Walker Willebrandt, the highest-ranking woman in federal government in her day and indisputably the most controversial. As assistant attorney general for seven demanding years, she enforced one of America's most despised laws - the 18th Amendment, Prohibition - which tried to render the country "dry" and earned this woman enforcer the stinging nickname "Prohibition Portia."

Although Willebrandt's vision of justice began in a dingy, overcrowded Los Angeles courtroom swarming with female junkies and prostitutes, it took her all the way to the United States Supreme Court's marble palace, where she compiled a winning record seldom equaled.

Even before 1902, when she started school at age 13 on the Missouri prairie, Willebrandt had become engrossed in debate and language as she helped her German-born printer father, David Walker, set type for a newspaper.

Five years later, while enrolled at a Presbyterian college, she leaped into an argument over the virgin birth and won. Her outspokenness resulted in her expulsion from college.

Willebrandt then moved to her parents' home in the rough-and-tumble town of Buckley, Michigan. While in Buckley, she passed the teachers' exam without the benefit of a college degree. She was also lost in a blizzard, trapped by a raging forest fire and threatened by a student with a knife, but her biggest battles were yet to come.

She met and married the school principal, Arthur Willebrandt, who was suffering from tuberculosis.

'Prohibition Portia'

The pioneering career of Mabel Willebrandt

by Cecilia Rasmussen

The couple moved to Phoenix, where he set about recuperating while she finished college and supported them on a teacher's salary.

In 1912, the couple moved to Los Angeles. For him, southern California was "the consumptive's Holy Grail." For her, it was a place for new possibilities and new experiences. With her four years of teaching experience, Mabel found work as a principal and teacher at Lincoln Park Elementary School in South Pasadena. She studied at night for her law degree at USC's law school, which was then at First Street and Broadway.

It was around this time that Willebrandt's hearing became severely impaired. Throughout her legal career, she wore a hearing aid in each ear and spent an hour each morning arranging her hair to conceal them.

In 1916, Willebrandt left her husband and took up teaching at Utah Street Elementary School in

Boyle Heights. (The Willebrandts did not divorce until 1924.)

During Willebrandt's last semester of law school in 1916, she began doing pro bono work in the police courts while still teaching full time. She ultimately argued 2,000 cases as the city's first female public defender, taking only women's cases.

Her unwavering faith in human redemption made her a folk figure. A madam she defended asked for advice on "going straight," telling Willebrandt that she wanted to buy a house and raise her sons in a respectable environment. Willebrandt carefully checked her client's finances and advised her to keep at her profession for six more months - and then dipped into her own paycheck to help the woman make a new beginning.

The lawyer's sense of justice led her to depart from her defense role when she urged police to patrol nickelodeon houses and stop owners from preying on

young patrons, seducing and sometimes impregnating them. During the "Rosebud Baby Case," she exhorted policy to "prevent owners of nickelodeons from taking little girls who came to the Saturday morning movies behind the silver screen and getting them with babies, rosebud or otherwise."

After graduating from law school, Willebrandt opened a practice on Spring Street, where she handled mostly civil cases. Her partners were two classmates: Fred Horowitz, who later built the Chateau Marmont and John Shepherd, perhaps the only man she really loved, who was killed in World War I.

In 1921, at age 32, Willebrandt was well connected and highly regarded. Her law school professor and mentor, Frank Doherty, recommended that President Warren G. Harding appoint her assistant attorney general.

Excited and confident, Willebrandt accepted the appointment and its salary of \$110 a month, just \$10 more than her salary as a school principal. She landed in the nation's capital with just five years' legal experience and was assigned the task of enforcing Prohibition. So seriously did she take her work that the press christened her "Deborah of the Drys" and "Mrs. Firebrand."

Four years later, she adopted a 2-year-old girl named Dorothy. On her frequent visits to Los Angeles, her parents took care of their grandchild.

Willebrandt's job did not prevent her from campaigning in 1928 for Republican presidential candidate Herbert Hoover. She used Bible verse and radio to unite conservative Protestant prohibitionists and



Assistant Attorney General Mabel Willebrandt promoted air travel with Amelia Earhart. (Photo courtesy of Dorothy M. Brown, author of *Mabel Walker Willebrandt: a Study of Power, Loyalty, and Law*.)

Republican women voters. The press declared that "no other woman has ever had so much influence on a presidential campaign." Anti-Hoover critics shot back by splashing her "quiet" 1924 divorce across the papers, reporting how she "deserted and abandoned" poor Arthur Willebrandt.

Personally devastated and disgusted with politics, she left the Justice Department in 1929 for private practice, where she was a pioneer in aviation and radio law. An expert in federal regulations and taxes, she represented major industries, including Metro-Goldwyn-Mayer and the Screen Directors Guild of America. As general counsel for the cargo airline Aviation Corp. of America, she laid the groundwork for a new air-mail rate scale and changed the terms of government contract bidding. Willebrandt earned her

pilot's license and promoted air travel with Amelia Earhart, a fellow member of the Aeronautical Chamber of Commerce.

Willebrandt moved to West Hollywood in the 1940s, where Louis B. Mayer was her most powerful Hollywood friend and client. When the IRS was vigorously investigating other producers, she not only enabled Mayer to avoid fines, she also recovered a \$48,000 refund for him. Her friendship with Mayer and her tax expertise brought her such star clients as Jean Harlow, Clark Gable and Jeanette MacDonald.

Willebrandt died of lung cancer in 1963. Her lifelong friend, future federal Judge John J. Sirica, who later presided over the Watergate case, said of her in 1978, "If Mabel had worn trousers, she could have been president."

Organize a discussion within your law firm about the outcome of the Beijing conference on women and the Beijing Declaration and Platform for Action to see how your law firm might support its provisions.

Find out whether your government is a party to the Women's Convention and whether it is, or plans to become, party to the Optional Protocol. If it is not, write to your government about it. Don't just write once, write once a month and ask your colleagues to do the same.

And when your colleagues say that they're not interest in women's rights, just remind them: The World Bank says that the realization of women's rights isn't just good for business, but absolutely necessary!

FOOTNOTES

Progress of World's Women 2000, UNIFEM, June 2000

Countries That Reduce Gender Gaps Have Less Corruption and Faster Growth, says New World Bank Study, World Bank News Release, 2000/381/S, 1 June 2000

Member News - Marcia A. Wiss

Marcia Wiss is now a partner in the Washington, D.C. office of the firm of Hogan & Hartson L.L.P.

She continues her practice on international business project finance and business transactions, with particular focus on the financial structuring of international projects in emerging markets.

She currently teaches at Johns Hopkins School of Advanced International Studies and has taught at Georgetown University Law Center.

Member Profile - Dawn Henrichon

Dawn Henrichon is a new member and NAWL's liaison to the ABA Law Student Division.

Before law school, Dawn served as president of the National Organization for Women in Escambia County. When she moved to begin law school, Dawn resolved to stay uninvolved in any extracurricular activities, but could not do so. Instead, she is active in NAWL and serving as President of the Law Association for Women at the University of Florida, Levin College of Law.

Dawn also currently volunteers on a weekly basis with the restraining order assistance program at the local courthouse where she helps victims of domestic violence. Dawn says her drive to help is personal: "As a survivor of domestic violence, I'm able to be an empathetic advocate for the clients I assist My work with NOW and my own history were among the motivations to attend law school. I hope to do a few years of public interest law and eventually ... [focus] my efforts on family law."

Dawn is married and has four children. Her eldest children are either in college or recently graduated. Her husband Steve is completing his math degree and diligently working on his golf game in the hope of becoming a golf pro and never needing to use his math degree.



Warm Body or a Key Player?

Getting people to care that you were there

by Galina Davidoff

Young women attorneys often find it difficult to be fully accepted as equals by more senior attorneys and their clients. This lack of acceptance is most markedly manifested during business meetings. Even successful and knowledgeable women have had the experience of being dissatisfied with the way that they have been treated at a meeting. The complaints that we have heard from many young women include: "They look past me like I am not there," "They would ignore my remark, but then somebody else would say the same thing and everybody would pick up on it," or "I always get interrupted as soon as I start talking." There is nothing more frustrating than being ignored when you feel you could be making a valuable contribution. Having observed these young women attorneys struggle in a great number of meetings, we offer some observations and recommendations on how to become a more productive and efficient participant in meetings where all the stereotypes seem to work against them. We believe that it is possible to create an opportunity to be heard and listened to, even if others do not make an effort to give you a space in their conversation.

There are many components to successful participation in meetings. We have divided them into two categories: Investment and Opportunity.

Investment

The single most important component of successful participation is to be invested in the subject matter or case that is being discussed. Being enthusiastic not only allows you to do better work and to be more creative, it also earns you credibility because people who care can be relied upon to see things through. A per-

ceived lack of credibility is at the core of disrespect often shown toward young women. There is nothing that can overcome this perception better than demonstrating care and enthusiasm. Attorneys, for the most part, care a great deal about their cases and are willing to go to great lengths to help their cases along, including reconsidering their stereotypes. Fake enthusiasm, however, will wear you out and is rarely convincing. You have to find a way to be genuinely interested in the cases that you work on. The paradox is that in order to achieve personal advancement, we have to forget about ourselves and begin to care about something that transcends us, in this instance, the law and the just result for our client.

If you care, you think about the case and anticipate issues and questions that may be raised during the meeting; you make sure you are ready to talk about them competently

and you do not let others forget about what you think is important. Being prepared allows you to think one step ahead, to anticipate turns in the discussion and to initiate them. It also allows you to participate in shaping the case strategy. Ask yourself, "Would the case look different without your participation? Does your presence make a successful outcome more likely? If not, how can you change that?" Have specific goals that you want to accomplish during every meeting. Think about whose cooperation you need to reach your goals. Your objective should be to start something that requires follow-up, and will allow you to contact people from the meeting and establish working relationships with them. It can be as simple as volunteering to find information for somebody, to send them a document, or even to do something as ambitious as starting a new task.

Have specific goals that you want to accomplish during every meeting.

If you are invested in the outcome of the case, you become a problem-solver. The purpose of most meetings is to move things forward. Often young attorneys (both female and male) use their legal expertise, coupled with their lack of experience, to focus on what cannot be done because the law precludes it. Their statements are often categorical and negative, while more experienced and successful attorneys tend to use their knowledge of the law to find opportunities for achieving their clients' goals. Use your knowledge to find creative ways to solve problems rather than to tell people why something they want to do cannot be done. You want people to look to you for solutions, not for criticisms.

In summary: Invest yourself, create your own small projects within the larger process, and use these projects to connect with people and to move your cases ahead, focusing on how the client can achieve its objectives and leaving the role of nay-sayer to others.

Opportunity

Space, Body, and Movements

Many young women act and talk as if they want to occupy as little space and time as possible. Their answers are short, voices low, and postures uncertain. The desire not to impose on others' time and space has the side effect of making a considerate young woman appear uninterested.

Your goal at a meeting is to project confidence, enthusiasm and a sense that you are comfortable with who you are and what you are doing. Observe how men sit during meetings. Their posture is stable, they do not often shift positions and they occupy their space in an almost military sense: they own it, protect it and try to expand its boundaries. Men seem to be comfortable sitting on their backsides, keeping their backs straight and keeping their legs uncrossed. Many women cannot stand being in that position throughout a meeting: They cross and uncross their legs in different directions, sit on their legs, use their hands to prop up their heads in various ways and generally appear to have difficulty keeping their bodies in a single, comfortable position. Their space is often invaded or voluntarily abandoned. Fidgeting and a failure to protect your personal space conveys the opposite of what you want to project. Notice your body language during meetings and find a way to be comfortable, while projecting your desired image.

Two other habits that often undermine women's stat-

us at meetings in many men's eyes are indiscriminate nodding and smiling. It is well known that women nod and smile more than men. Psychologists believe that

women do this in an effort to put others at ease and to show their sympathy and support.



In a business

meeting, these gestures may be interpreted as a sign of weakness and a desire to agree with whoever is talking. Not all meetings, however, are the same. Some meetings involve a lot of smiling and nodding. So, your best strategy is to assess the friendliness of the meeting and to use these two important communication tools selectively, so that they do not lose their intended meaning.

Conversational Tactics

So, you are caring, enthusiastic, well prepared; your body language projects confidence and you believe that you have something valuable to contribute. But you still cannot get a word in. Generally, the later into the meeting you begin to speak, the harder it may be for you to be taken seriously. Look for opportunities to enter the conversation from the start. Always try to have something to say, at least to some of the people during the initial greetings (e.g., "Are you from the ABC law firm? I heard you won a big case last month. Were you involved in it?"). When you are asked a question, use it as an opportunity to say something that may become relevant during the meeting, so that this person can involve you in the conversation. Casually mention your experience with the law that pertains to this case, your knowledge of the facts, places, and people involved.

If you come to a meeting with a senior person with whom you are comfortable, ask him or her to introduce you and to say something that describes your involvement in the case and highlights your strengths and experience. It should be something more than: "This is Mary Jones, she is working with me on this case." For example, "Mary Jones has done a lot of

. . . you begin to feel like you have made so many "false starts" that you have shown yourself as a person whom others may interrupt.

work researching the law for our summary judgment motion"; or "Mary Jones will be taking some of the depositions of the expert witnesses."

Conversations during business meetings often resemble a ball game where a ball is thrown from one participant to another right past you, leaving you out of the game. The question becomes how to get the ball without interrupting people and appearing rude. In addition, when people with "low conversational status" start talking, they are often interrupted from the very beginning. This happens because somebody with higher status starts talking at about the same time and wins the opportunity to speak. If this happens to you many times, you begin to feel like you have made so many "false starts" that you have shown yourself as a person whom others may interrupt. Here are a few suggestions on how to get the ball and avoid being interrupted:

Catch the ball in the air: if somebody poses a question that can reasonably be interpreted as being addressed to the group as a whole, look for an opportunity to answer it. Your answer need not be complete or incredibly insightful, you can just say that, "Part of the answer lies in. . . ," etc.

Listen attentively to what people say and think about what you could add to their words. Then, as soon as the person finishes, you can pop in saying, "Just to add to this point. . .," or "To address this last point before we move on. . . ." These introductions allow you to insert yourself in the conversation even though nobody threw the ball directly to you. Junior people make a common mistake of looking only at the most senior person(s) and ignoring the rest of the group. Such things are noticed by others. Pay attention to all participants during the meeting and try to address as many of them as you can. Connect your statements to the words of others: "To follow up on Tom's idea. . .," or "As Beth can probably confirm. . .," or "I like Shelly's suggestion, because. . . ."

If you have decided that something is worth saying, it must be worth saying it well and making sure that others understand what you mean. When you speak, speak confidently and with good volume and get right to the point. Do not try to lead listeners to your con-

clusion; start with it and then without pausing provide justification for it. This will also help you avoid being interrupted: If you appear to still be gathering your thoughts, people are much more likely to interrupt you than if you have already said something of substance. Avoid sounding passive and apologetic for your words. Do not start your statements with: "Can I just say. . ."; "I hope you do not mind me saying. . ."; "Excuse me. . . ." Make it clear that you have something worth listening to on your mind.

While you should make sure that your additions to the conversation are not focused on petty details that can be safely omitted at the beginning of the meeting, you also cannot afford to make statements that summarize the discussion on a general level (e.g., "What we are really talking about is . . ."). Such statements coming from a new or junior member of the group may sound arrogant. They are more appropriate for people who already are recognized and respected participants in the conversation. Once you establish yourself at the meeting, then such

Avoid sounding passive and apologetic for your words.

statements can be very productive. The same rule applies to introducing radical ideas. If you are not perceived as someone who has a lot of relevant experience or understands the matter very well, your innovative thoughts can be rejected as being "off the wall" and poorly reasoned. Once we were present at a meeting in which over twenty defense attorneys were discussing a toxic tort case involving thousands of plaintiffs, each claiming to have various health problems. The defense did not believe it could win the case, and so the conversation was focused on minimizing the damage awards. A young woman attorney who sat away from the conference table and had not spoken all meeting, raised her hand and, upon receiving people's attention, suggested that a specific kind of insurance fund be established for the plaintiffs. The senior attorneys reacted as if it were a ridiculous and inappropriate idea. They made a few jokes and moved back to the litigation issues. The young women soon left the room. About an hour after she had left, the same idea was brought up again and this time, it was discussed and the attorneys agreed to talk to their clients about it.

What should she have done differently? First, never raise your hand during a business meeting. This gesture positions you as someone who needs permission to speak. Second, the woman did not first establish herself as a competent member of the team and, thus, had no credibility with her listeners. Third, her suggestion was not connected to anything that was being discussed at that point in the meeting. If she had been a part of the conversation, she would have been able to position her suggestion much more successfully. If, however, her status precluded her participation in the conversation, a better strategy would have been either to talk to someone who might be receptive to the idea during a break, and have this more senior person create an opportunity for the young woman to explain it, to wait until the issue came up on its own, or to introduce it at the end of the meeting, when the person who led the meeting asks if there is anything else that needs to be discussed. If you are forced to introduce your idea in the latter situation, it is good to start with a brief statement of the problem that your suggestion seeks to resolve.

If you are unsuccessful or genuinely not ready to be a productive participant, keep an interested look on your face at all times, focus on whoever is speaking, or look at some relevant materials, and never allow yourself to look bored: The least you can do at this meeting

is not to damage your image and reputation. Treat this meeting as an opportunity to learn and to prepare for subsequent communications with others. You will find the right opportunity to make yourself heard.



Galina Davidoff is a Senior Research Associate with the Boston office of DecisionQuest. Her areas of expertise include behavioral research, jury analysis, strategic decision making and courtroom exhibits.

The firm's founders introduced the concepts of behavioral research to trial lawyers in the 1970s. The firm has offices in Los Angeles, New York, Houston, Chicago, Boston, Miami, Dallas, Atlanta, London, Jacksonville, San Francisco, Newport Beach and Washington D.C.

MEMBER PROFILE: Gail McKnight Beckman



Gail Beckman is a past president and life member of NAWL, as well as a past president of the Georgia Association for Women Lawyers. Born in New York City, Beckman graduated from Bryn Mawr and began her legal training in civil law as a Fulbright Scholar at the University of Tübingen. She then changed her concentration from civil to common law at Yale and later at Harvard. Beckman practiced at Morgan Lewis & Bockius in Philadelphia, where she specialized in estate planning. She then taught law for 30 years in Scotland, the UK and Germany.

Beckman has served as a delegate to the Hague Conference on Private International Law for the past ten years for both the International Bar Association and the International Lawyers Association. Her efforts include working to ratify the treaties signed by U.S. delegates and endorsed by ABA House of Delegates.

On the national front, Beckman is tackling the failure of various state bar associations, including her own state association, to introduce and enforce legal ethics requirements. She resides in Atlanta, Georgia.

PRIVACY ON THE INTERNET

ISSUES IN THE WORKPLACE

by
Lynne Anne Anderson, Esq.

The following article reprises the presentation that Anderson gave for the Privacy and the Internet panel at the New York Annual Meeting.

In this age of the "new economy," the Internet has become an indispensable business tool. There is no question that providing employees with workplace access to the Internet, especially for e-mail, is essential to stay competitive.

However, workplace use of the Internet is not limited to business use. Employees' personal use of work-provided Internet access is clearly on the rise.

For example, a recent survey of 1,200 employees found that "37.1 percent of employees surf non-work-related sites constantly during work hours."¹ Another study revealed that one in three corporate workers say they spend 25 minutes or more each business day using Internet for personal reasons.²

Examples of the top 25 most-visited sites during work hours also demonstrate the "nonwork" Internet use. Those sites include Amazon.com, eBay, Real Networks and Travelocity. Hits to sites such as Nasdaq.com and Sportsline.com are also up sharply. ⁱⁱⁱ

Given this trend of increasing workplace use of the Internet, employers are facing the issue of whether they should monitor or limit their employees' use of company-provided computer

resources.

This is a delicate issue that divides employees and employers. From the employee's perspective, personal use of the Internet at work is viewed not merely as an employee perk but an entitlement.

This perspective is understandable given the long hours employees are routinely expected to work in this fast-paced economy.

From the employee's perspective, personal use of the Internet at work is viewed not merely as an employee perk but an entitlement.

Employees contend that their only opportunity to do personal business is at work.

Moreover, employees view their lunch hour or other "down time" as free time to use however they wish - including using their desktop access to catch up with friends via e-mail, check their portfolios or bank statements, make plane reservations, do personal shopping or get on-line news updates.

Employees also claim an expectation of privacy for their personal use of the company-provided computer resources. This expectation may be reinforced by the use of confidential passwords and the employer's failure to notify its work force to the contrary.

However, from the employer's perspective, personal use of the Internet has resulted in a rash of problems ranging from reduced productivity and/or performance due to excessive use, to exposure for sexual harassment claims as a result of inappropriate e-mails.

Employers' concern about exposure to potential liability for harassment claims is merited. For example, one out of five respondents to a recent survey stated that they receive at least one potentially offensive e-mail per month from a coworker. In addition, one in ten survey respondents reported that they have seen coworkers accessing adult sites.

A Nielsen Media Research Survey revealed that employees at major Fortune 100 companies visited the Penthouse site at work thousands of times a month.³ As a result, many employers are using Internet filtering companies to block access to websites that they deem objectionable or distracting.

In addition to harassment claims, employers face other serious business risks related to their employees' use of the Internet. Disclosure of confidential information is becoming an increasing concern for employers given the increasing use of e-mail and the ability to quickly transmit information outside the company.

For example, a recent study showed a 170 percent increase in the number of employees who acknowledged receiving confidential information from employees at other companies.⁴

In a case that received a fair amount of press coverage, Ford Motor Company sought an injunction prohibiting a non-employee from posting on his own personal web site Ford trade secrets and confidential information allegedly obtained from Ford employees.⁵ A federal Judge in Michigan declined to issue a preliminary injunction to prevent the posting, on First Amendment grounds.

There are other problems facing employers. Employees' personal use also imposes a drain on the company's computer resources.

Personal use also raises conflict of interest issues. For example, one third of survey respondents reported that they have seen their coworkers job hunting on the Internet.⁶ "Cyber-moonlighting" is also becoming an increasing phenomenon. There has been a dramatic increase of web sites that pay users to surf, search and send e-mail. These web sites are enticing employees to use their Internet connections at work to earn extra cash.⁷

There has also been commentary regarding an employer's potential exposure for employee transactions on the Internet. In addition to "surfing the web," employees are engaging in on-line stock trading on employer-provided computers.

When an employee buys or sells stock on an employer-provided computer, the employer's identity may appear as part of the transaction record. Some legal commentators have speculated that such trading may expose employers to liability for the on-

These websites are enticing employees to use their Internet connections at work to earn extra cash.

line transaction costs.

Employers must also be aware that they are responsible for their employees' activity on company-provided forums such as bulletin boards or chat rooms.

For example, certain vendors charge companies a fee to customize employee portals that offer worker discounts as well as forums to discuss issues, including non-work-related issues such as parenting and the logistics of obtaining a car loan. Companies such as Oracle, Starbucks and Sun Microsystems have been reported as offering these forums as an effort to provide perks to attract and retain employees in this competitive job market.

However, the New Jersey Supreme Court has recently weighed in on the issue of whether an employer should be held responsible for activity on such forums.

The New Jersey Supreme Court considered whether an employee of Continental Airlines has viable claims for sexual harassment, retaliation and defamation against Continental (and her coemployees) based on derogatory postings about her on a computer "bulletin board" provided to its

pilots.⁸ The bulletin board was not maintained or monitored by Continental.

Although Continental flight crews had access to the system to obtain work-related information, including flight times and new assignments, employees were not required to either view or take part in the bulletin board's e-mail forum.

New Jersey's lower courts ruled that the electronic bulletin board was a "nonworkplace" environment and that Continental had no duty to police the Internet to control its employees' nonbusiness activities.

Now, the New Jersey Supreme Court has held that if an employer has notice that employees are engaged in inappropriate conduct on a work-related on-line forum, the employer has a duty to remedy that harassment.

It is important to note that this decision does not mean that employees have a duty to monitor employees' e-mail, only that they may not disregard the posting of offensive messages on company e-mail systems when the employer is made aware of these messages.

In addition to developing case law, Congress is considering legislation that may have an impact on the issue of employees' personal use of work-provided e-mail and Internet access.

The Consumer Privacy Protection Act (S. 2606) was introduced by Senator Ernest F. Hollings on May 23, 2000. It addresses privacy protection to consumers in on-line and off-line marketplaces.

That proposed legislation includes a provision that directs the Department of Labor to con-

duct a study of privacy issues in the workplace and report to Congress as to what - if any - regulations may be necessary to protect worker privacy.

Currently, there is limited legislation on this topic. The Electronic Communications Privacy Act of 1986 ("ECPA") prohibits "interception" of wire, oral and electronic communications "while such communications are in transit." Title II of the ECPA also prohibits "unauthorized access" to stored communications.

However, employers are generally covered by the "consent of party" exception to the statute. Generally, implied consent is presumed provided the employer notifies its work force that monitoring of electronic communications may take place without limitation.

Moreover, the Fourth Amendment right of privacy generally does not extend to the private workplace. However, an employee may have a "legitimate expectation of privacy" unless office policies and procedures dictate otherwise.

If an employer has an appropriate policy in place, invasion of privacy claims with regard to use of an employer's computer systems have generally been dismissed by the courts. As stated by one court, "A company's interest in preventing inappropriate and unprofessional comments or even illegal activity over its e-mail system outweighs any privacy interest the employee may have in those comments."⁹

Therefore, prior to monitoring, employers must inform their employees that they should have no expectation of privacy with

regard to their use of any employer-provided computer systems by company-wide dissemination of a policy statement.

Employees should be provided with the policy before they are allowed access to the Company's computer system.

This can be accomplished by distributing "hard copies" to all new employees and by including a screen message as part of the log-on.

An appropriate computer use policy should include the following:

- o Computer systems are company-owned and for business purposes only.

- o Computer use, including access to the Internet and e-mail, is subject to employer monitoring; therefore, employees should have no expectation of privacy.

- o While using employer-provided Internet access and e-mail, employees should act appropriately as company representatives. They should conduct themselves on line in the same manner as they would be expected to act in any other professional communication.

- o A demonstrated commitment to compliance with copyright laws and applicable software/shareware agreements.

- o Notice that employees must treat all trade secret or proprietary information as confidential and use caution in storing or communicating such information electronically.

- o Passwords are not intended to limit the company's access or ability to monitor computer use. Employees are required to disclose passwords to their supervisors and/or Information Services Department.

- o Employees will be subject to discipline, up to and including discharge, for violation of the computer use and related policies (such as policies against workplace harassment and violence).

As with any policy, an employer must take steps to enforce it. In this regard, use of computer systems is comparable to use of the telephone.

Allowing employees to make a few personal calls each day is acceptable but excessive use warrants discipline. Discipline for violations of the policy must be applied uniformly.

For example, a vice president who sends harassing e-mails or frequently visits pornographic web sites at work should be disciplined in the same manner as a data entry clerk who engages in similar misconduct.

Additionally, if an employer provides a forum such as Continental's bulletin board, users should be warned about the "non-workplace" nature of the service. Users should also be required to go through a sufficient number of steps to access the site so that their use can be deemed voluntary.

Further, an employer that has such a forum should consider providing a hotline for complaints about the service. The hotline should be directed to the human resources department, or other appropriate personnel, who have the background to appreciate the nature of the complaint.

Employers should also train managers to be responsive to employee concerns or complaints regarding use of these computer resources. This is especially important given that employers will not be able to anticipate all problems,

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ABA Senior Lawyers Sponsor New Diversity Plan

by Selma Moidel Smith

NAWL Liaison to the ABA Senior Lawyers Division

The ABA Senior Lawyers Division has formally adopted Goal 12, "to increase the participation of lawyers of color, women lawyers, and lawyers with impairments or disabilities in the membership, on the Committees and in the leadership of the Division."

One of its objectives is to identify such lawyers within the Division and encourage them to take an active role so they can be advanced promptly to leadership positions. The Division recognizes the vital importance of communication, both in announcing its new Diversity Plan in publications of women's and minority bar associations, and also in informing them that all women and minority members who are age-qualified (55) are welcome to join the SLD.

The plan, proposed by the membership committee (cochaired by Harry Hathaway and Virginia Mueller), sets forth major goals, as well as detailed steps to be taken to achieve those goals. It addresses the need for preparation and training of women and minority members and those with impairments or disabilities to enable them to fill positions of leadership in committees, on the Council and in Division offices.

Goal 12 stresses the necessity of obtaining unequivocal support and participation of each existing and incoming Division officer, Council member and committee chair, as well as the need to foster the spirit of inclusiveness in all the Division's activities. This would include diversity in all CLE and committee programs and the compiling

of a list of women, minorities, and persons with impairments or disabilities willing to appear on Division programs.

This plan provides for diversity training for current and future Division leaders at the midyear meeting or at a committee chair orientation meeting. It also encourages a policy that the Division will cosponsor programs with ABA Sections and Divisions only if there is a diverse panel.

In the Division's publications, contributions by diverse lawyers are to be encouraged and recognized,

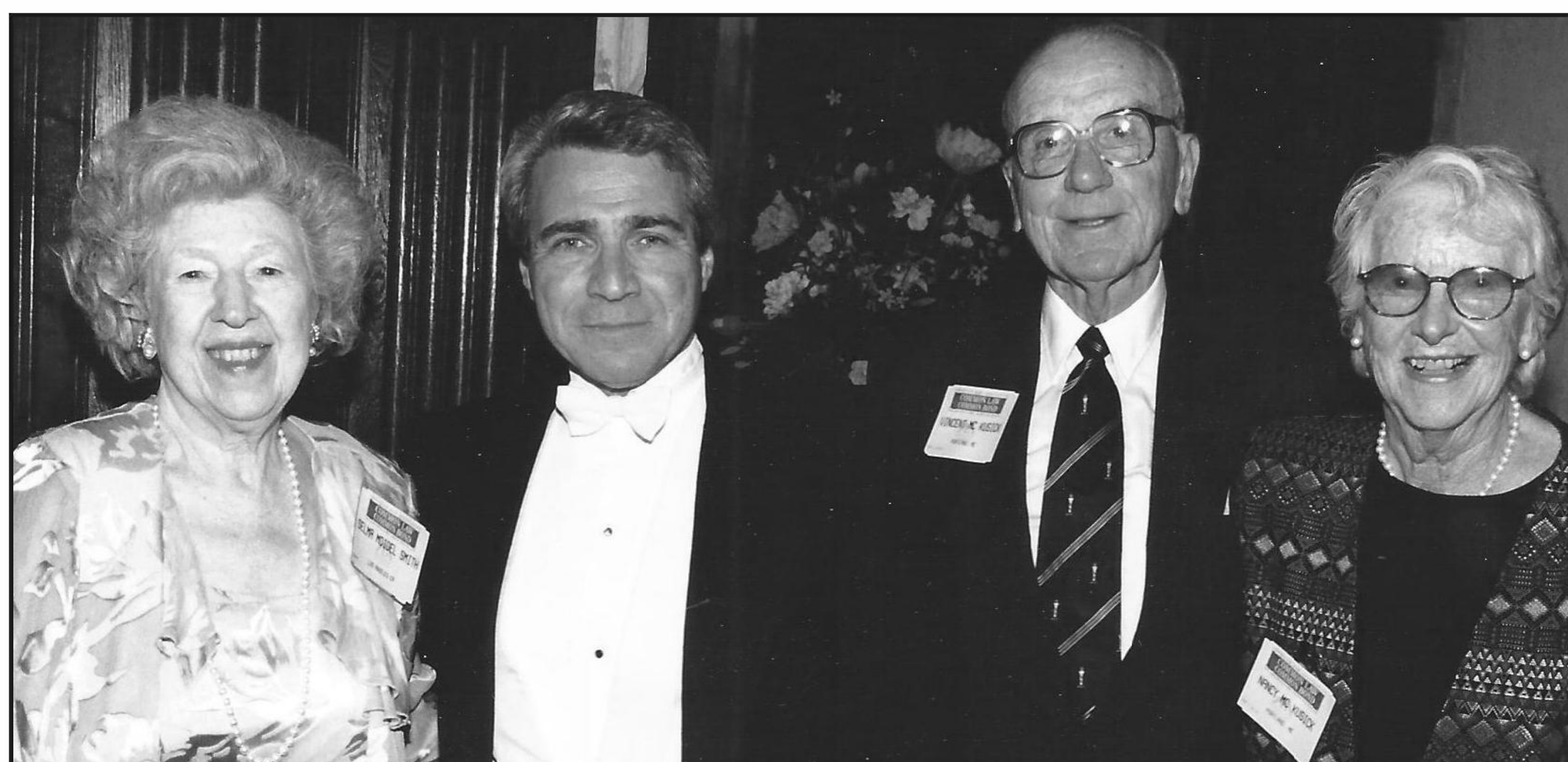
using photos of contributing authors where appropriate. Photos are to be used as well in membership materials to acknowledge diversity of membership.

The Plan states that Division members should personally invite members and leaders of minority and women's bar associations in the

host city of Division meetings to attend programs and social events, and where appropriate, the Division should waive or discount registration fees for the leaders of such associations.

The plan also provides for regular reports to be published with regard to achievements in the area of diversity.

The Division strongly supports the policies of the American Bar Association to improve diversity in the profession and the Association. The full text of the new Diversity Plan may be obtained from the Senior Lawyers Division by contacting Judith Legg, Director, at 312-988-5583 or by e-mail at leggj@staff.abanet.org.



In London with the ABA Senior Lawyers Division (l-r) NAWL Liaison Selma Moidel Smith, U.S. Ambassador to Great Britain Philip S. Lader, Chief Justice (ret.) of Maine Vincent L. McKusick and his wife, Nancy McKusick. The occasion was the Division Dinner at Lincoln's Inn on July 19, 2000.

BILLION DOLLAR LITIGATOR

CHRISTINE SPAGNOLI

by Ellen Pansky

Christine Spagnoli is a litigator worth watching -- and learning from. As cocounsel in the landmark 1999 case against General Motors, Spagnoli fought the automotive Goliath and won a unanimous jury award of \$4.9 billion. Ms. Spagnoli shared her experience and legal acuity in a lecture and Powerpoint presentation at an event co-sponsored by NAWL and the Loyola University Law School Women's Roundtable.

Spagnoli represented the Anderson family, who were seriously burned when the gas tank exploded in a rear-end collision while driving their GM automobile. Spagnoli and her partner, Brian Panish, presented evidence at trial that when the bumper and rear portion of the vehicle receives even a relatively minor impact, the gas tank is easily punctured.

Ms. Spagnoli, Panish and their cocounsel convinced a jury that GM had knowingly concealed defects in the car's design. Spagnoli's team discovered internal memoranda that revealed the cynical cost-benefit calculus conducted by GM. The auto manufacturer determined that because the average cost of a wrongful death claim would be \$200,000, it would be cheaper to defend the anticipated claims than to correct the potentially deadly design flaw.

Ms. Spagnoli described the importance of meticulous pretrial preparation and networking with other counsel who had handled similar products liability cases throughout the United States. By gathering evidence that was introduced in other cases involving the same vehicle, they were able to take advantage of discovery that had been conducted in other cases and to compare discovery responses that had been made in the various cases brought over a number of years.

Ms. Spagnoli illustrated, through the use

of graphics, the methods used to demonstrate to the jury, the amount of income generated by General Motors on a yearly, monthly and daily basis. The approximately \$4.8 billion punitive damage award rendered by the jury represented two weeks of General Motors' income. Moreover, until the recent \$145 billion punitive damage jury award imposed by a Miami-Dade County jury against the tobacco industry, the punitive damages award against GM was the largest in history. Even after the defendants moved for remittitur, the trial judge only reduced the award to \$1.09 billion. The jury's verdict, which included \$107 million in compensatory damages for the six plaintiffs, also awarded punitive damages for what the jury concluded was GM's decision to put profit before its customers' lives.

After trial, the catastrophically burned plaintiffs offered to donate half of the after-tax punitive damages award to the State of California for treatment of future burn victims and their attorneys offered to donate their fees earned on the donated amounts. General Motors rejected the offer. The judgment is currently on appeal.

Anderson v. General Motors is not the first time that Spagnoli has won a multimillion dollar verdict. She has previously represented plaintiffs in product liability and negligence cases resulting in awards of \$14.4 million, \$8.8 million and \$6.4 million, respectively.

Spagnoli has frequently shared her winning trial techniques both as a lecturer to various bar groups and in numerous publications. The law is not Spagnoli's first career. After graduating from UCLA with a degree in political science, she served as a congressional intern in Washington D.C., then returned to California to work as a district

field representative for a local assemblyperson.

Since her admission to the California State Bar in 1986, Spagnoli has worked for Greene, Broillet, Taylor, Wheeler & Panish, an exceptionally well regarded plaintiff's litigation firm. She is currently first vice president of the Consumer Attorneys Association of Los Angeles and will serve as its president in 2002. She has participated in numerous other bar activities, including serving by appointment to the Chief Justice of the California Supreme Court on the Civil Subcommittee of the Task Force on Jury Instructions.

As an alumna of Loyola University School of Law, Los Angeles, Christine Spagnoli generously donated her time for the mutual benefit of Loyola and NAWL. As a result of her

efforts, the program generated funds that were shared equally between the Loyola Women's Roundtable and NAWL. We are grateful to Ms. Spagnoli for her efforts.



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or potential claims, arising out of Internet and e-mail use in the workplace.

While the forums (Internet, electronic bulletin boards, etc.) are new to the employment setting, the basic problems are the same. Employees must be responsible and professional with regard to use of these resources. The "business card" rule is helpful - don't use your workplace access to the Internet to visit a site where you wouldn't leave your business card.

Also, while e-mail exchanges may be viewed as "casual," when it is done at work it is still a "business communication." Employers must be equally responsible and proactive in preventing inappropriate, unauthorized use of company-provided computer resources.

ENDNOTES:

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2. Carolyn Duffy Marsan, "Employee study cites rampant Internet abuse" (April 20, 2000), www.cnn.com/2000/TECH/computing/04/20/work.surf.idg/index.html
3. *See supra*, endnote 1.
4. *Id.*
5. *See supra*, endnote 2.
6. *Ford Motor Company v. Lane*, 67 F. Supp. 2d 745 (E.D. Mich. 1999).
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DEBORAH RHODE'S IN THE INTERESTS OF JUSTICE:

REFORMING THE LEGAL PROFESSION
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by Prof. Paula A. Monopoli, Visiting Scholar,
University of Maryland School of Law

Every generation of lawyers faces the public perception that the profession harbors less than honest members and is a somewhat unsavory group as a whole. The price of zealous advocacy seems to be the public's disdain. In her new book, *In the Interests of Justice: Reforming the Legal Profession*, Stanford law professor and legal ethics expert Deborah Rhode points out that,

"[o]ver two thousand years ago, Seneca observed advocates acting as accessories to injustice, 'smothered by their prosperity,' and Plato condemned their 'small and unrighteous souls.'" This longstanding public relations problem has been the subject of many books and articles over the years as has the issue of "professionalism" and the decline in civility in our profession.

While much has been written about this crisis of confidence in lawyers, few writers have approached the problem from the premise that it is the underlying structures of the legal profession and the law that give rise to the public's dismal view of the profession. In this ambitious project, Rhode sets out to examine those structures, the problems they produce and the reforms necessary to ameliorate the most pernicious of those problems. Rhode succeeds admirably and her eloquent examination of a profession she clearly cares deeply about is very much worth reading.

Rhode is a former president of the American Association of Law Schools as well as the Director of the Keck Center on Legal Ethics and the Legal Profession at Stanford

Law School. She brings an academic perspective to her discussion of "the conditions of practice, the advocate's role, the adversary system, the distribution of legal services, the regulation of lawyers' conduct, and the structure of legal education" - all areas that Rhode identifies as structurally flawed. In the first chapter, Rhode sets out a clear description of her thesis: the disjunction between the public's perception of the problem and that of the legal profession itself. Hers is clearly a "book with a reform agenda," as Rhode herself admits. She begins the book with her conclusion that "the challenges facing the American bar can only be met through fundamental changes in professional responsibility and regulation."

Rhode details each of these areas of concern in the next six chapters that make up the heart of the book. In Chapter 3, she grapples with the thorny issue of zealous representation of clients. After discussing the profession's belief that neutral advocacy is the best way to the truth, Rhode goes on to dismantle the premises that support that revered principle. In her eyes, the assumptions that underlie the principles - that "an adversarial clash between opposing advocates is the best way of discovering truth" and that "morally neutral partisanship is the most effective means of protecting human freedom and dignity," do not withstand closer scrutiny and are expedient and self-serving.

Rhode instead suggests a more morally activist stance on the part of lawyers, especially when it comes to civil litigation, with lawyers more consciously making moral decisions about whether to take representation

and refusing to take strategic steps in representing their clients that do not further the interests of justice.

While her analysis of this tension between lawyers as advocates and lawyers as officers of the court and agents of justice is thoughtful and thorough, it is unlikely that readers will embrace this activist role. As lawyers, we hold deeply ingrained views on the wisdom of judging our clients and the risk that such value-laden judgments will subtly affect our ability to give our clients our undivided loyalty and best efforts.

While this most controversial of Rhode's proposals may not be embraced by the profession, it is likely that many of her other reforms will be. In Chapter 7, she turns her laser-like analysis on modern American legal education. The result is a critique of the processes and structure of legal education in this country that should stand as a blueprint for reform.

While the institutions that educate novice lawyers entering our profession have entrenched interests in the status quo, the winds of change are blowing from Washington in the form of the Department of Justice and the Department of Education, as well as from cyberspace. Rhode argues that regulatory pressures to open up legal education and trends like distance learning will force change in American legal education in this generation.

America's law schools would do well to listen to what Rhode has to say about the benefits of allowing diversity both within the student body and the faculty, as well as in the type of programs offered to train lawyers in this country.

In writing about disillusioned lawyers, the lawyer regulatory process, the provision of pro bono services and the use of alternative dispute resolution, Rhode delivers on the publisher's promise that the book is "elegantly written." In Chapter 2, "The Lawyers and Their Discontent," Rhode discusses the impact on lawyer satisfaction of escalating salaries and the concomitant lifestyles they afford. She writes, "[t]he more direct exposure lawyers have to luxury lifestyles, the

more natural and necessary they seem. And desires, once satisfied, beget more desires." She notes that " [l]aw in prime time offers, wealth, excitement, and heroic opportunities at every turn. Law in real time is something else again." This kind of prose makes reading this important book a pleasure.

In the Interests of Justice should be required reading in American law schools. Law professors would do their students a great service by introducing them to this thoughtful examination of the profession they are about to enter.

Lawyers, judges and academics who delve into this remarkable book will be greatly enriched. We hope that they will respond to Rhode's ideas by working to bring many of her proposed reforms to fruition. The public and the profession can only benefit if they do.



Prof. Paula Monopoli is a graduate of Yale University and the University of Virginia School of Law. She is currently a Visiting Scholar at the University of Maryland School of Law and is the author of the forthcoming book *American Probate* (Northeastern University Press 2001).

CONTINUING LEGAL EDUCATION ON LINE

How to get what you need without getting burned

by Cheryl L. Conner

The ABA House of Delegates has adopted a change to permit ... accreditation of online CLE programs.

As time-savers go, the Internet has a dubious track record. It often seems to extract more time than it bestows. There are, however, some instances when the Internet allows us to complete tasks that are impossible to accomplish over the telephone and inconvenient to perform in person.

Continuing legal education (CLE) is one such task. In some states, it is a recurring, mandatory commitment - one that often involves Herculean efforts to fit it within a busy attorney's schedule. It seems more often than not that the CLE most useful for our practice is scheduled on the worst possible day at the most inconvenient location. This is especially true for attorneys in smaller cities and towns who must travel to larger areas to meet their bar requirements.

Bar associations' CLE rules deter widespread use of the Internet. Thirty-nine states require their lawyers to participate in mandatory CLE; yet only California, New York, Texas (and arguably Florida) accept CLE courses offered on line without imposing significant limitations.

The ABA House of Delegates has adopted a change to the Model Rule for Minimum Continuing Legal Education to permit accreditation of online CLE programs. We hope that the remaining states will soon recognize this valuable tool as well.

Other states may allow online CLE credits with limitations. Some states allow only a portion of the required CLE hours to be fulfilled online; other states require that the CLE be interactive, rather than pure self-study and testing.

The best source of information for your

state's requirements is your bar association. You can find your state's requirements at various CLE course web sites, but the accuracy of that information is doubtful. For instance, www.lawyersed.com states that Georgia does not allow CLE requirements to be met via the Internet, while www.cognistar.com reports that Georgia allows fulfillment of six of the 12 CLE hours required each year by "technologically transmitted" means.

Assuming that your state allows on-line CLE accreditation, the next step is finding available courses. A good place to start is your state bar association; some provide courses themselves. If yours does not or if it does not offer the course that you are looking for, consider the several organizations and private companies that offer courses. Be certain that your state bar accepts the particular entity's courses. Most sites offering CLE courses identify the states that have approved their courses. Again, confirm this with your state bar association to be certain.

Some of the established legal organizations that offer on-line CLE included the American Bar Association (ABA) and the American Law Institute (ALI-ABA). The ABA's CLE offerings are found at www.abanet.org/cle; click on "online CLE." The ABA's selection is rather limited but does provide interesting topics, such as "Common Bonds/Common Challenges: Women, Minority and Younger Lawyers" in the 21st Century Law Firm." The ALI-ABA site address is www.ali-aba.org; click "cle online." Its "Direct-to-Desktop CLE" is still in development and does not currently provide a list of the type of CLE programs that it will provide.

A multitude of private companies also offer on-line CLE courses. www.CLEOnline.com pro-

vides seminars for California, Texas and New York. Other states may also provide accreditations because of the CLE reciprocity that they share with the above-referenced states. New users complete a free on-line registration form before purchasing a seminar. There are several payment options from which to choose.

www.LegalEd.net states that its courses are approved in nineteen states (Alaska, California, Colorado, Florida, Idaho, Kentucky, Montana, Nevada, New Mexico, New York, Oregon, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wyoming). Its CLE material can be accessed online in an interactive multimedia format and on CD-ROMs.

www.Cognistar.com includes 20 states in its accreditation list (Arizona, California, Colorado, Florida, Georgia, Kentucky, Missouri, Montana, Nevada, New Hampshire, New Mexico, New York, Oregon, Texas, Utah, Virginia, Vermont, Washington, and West Virginia), as well as England, the Netherlands and Scotland. This company is the successor in interest of Kansas City Technology. Registration is required to view the full course listing.

www.LawyersEd.com provides a clickable list of the states to determine accreditation. California, New York, Florida and Texas are listed as approved states. Courses are not interactive. The material is downloaded to the user's computer for printing and reading. The user can also print a short quiz and a CLE certificate.

www.Taecan.com lists 11 approved states (Arizona, California, Florida, Kentucky, Missouri, New York, Ohio, Tennessee, Texas, Washington and West Virginia). Taecan, Inc. formed a content partnership with LEXIS Publishing in November of 1999.

Many other companies provide on-line and technologically transmitted CLE courses. Some are targeted toward particular states, such as www.lawline.com, which appears to be seeking accreditation only in New York. www.FindLaw.com provides an alphabetical list of many of these sites by clicking on "CLE Online" and then on the link "CLE Courses from other providers."

The Most Important Considerations When Choosing Online CLEs:

(1) Make sure that the CLE is accredited in your state. Also find out your state's requirement for proof of completion of the course.

(2) Make sure that your computer meets the system requirements of the seminar that you want to take. If the site does not tell you what you need, call the company before ordering. Some sites may require a certain amount of computer RAM (random access memory) and/or a certain modem speed.

The convenience of on-line CLEs makes it more likely that attorneys can complete CLE requirements and complete them on time. Attorneys will be less likely to take a course for which they have no interest because of the impending CLE deadline. Attorneys are also more likely to learn something because they can often pause and revisit the seminar for further study, rather than sitting in a live seminar nonstop for several hours.

If your state does not currently allow on-line CLE, consider contacting your CLE commission or committee. On-line CLE should be seen as a welcome addition to the existing legal learning opportunities.

Attorneys will be less likely to take a course for which they have no interest because of the impending CLE deadline.



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EATING TO LIVE INSTEAD OF LIVING TO EAT

How nutrition impacts the balance of our everyday lives

by Susan Ann Koenig

We live in a culture where we are bombarded daily with messages about our food and our bodies. A nonstop stream of advertising tells us simultaneously that we ought to be working toward a rail-thin body at the same time we should be queen-sizing our order of a bacon cheeseburger with fries and soda.

These messages come to us in the midst of lives that too often encourage poor eating habits. Too little sleep can cause us to drink more cups of coffee than we wanted. Pressured work days can mean shortened lunch hours. Fatigue from sitting at our desks and computers invite junk food eating for imagined energy "boosts." Rushing to pick up children at the end of the work day makes fast food look appealing. Exhaustion after a long day beckons us to the drive-through or take-out counter.

While we intellectually know there are benefits to eating healthier, deciding that it's a high priority in our lives is usually the biggest challenge.

Recently my husband had a serious medical crisis. We learned a change in diet would benefit his health. I committed to change my diet as well.

The impact of healthier eating on a daily basis has been dramatic. It did far more than cause me to lose several pounds -- which brought me close to a weight I had not seen since I was a teen. I have never felt better in

my body or in my mind.

The powerful impact of healthier eating has been one of increased energy, more calm, greater awareness of the world around me and increased clarity. All of these gifts have supported my life not only in practicing law but in parenting, teaching and relationships. No longer do I drag myself out of bed in the morning or collapse on the sofa after dinner. I have more vitality than I did twenty years ago as a law student.

Even though most of us know we'd feel better and improve our overall quality of life if we ate better, old habits are tough to break.

So how do we develop a lifestyle of healthy eating that leaves us feeling energized rather than sluggish at midmorning and drowsy during long afternoon depositions? Here are some possibilities.

1. Assess your own satisfaction with your nutritional lifestyle. Begin by conducting an inventory of your own satisfaction with the way in which your eating supports your active life.

Are you pleased with your energy level on a daily basis?

Do you have habits of taking in excessive sugar?

Do you take time to eat when you are hungry?

Do you eat junk food or fast food more often than you would like?

Are you eating to prevent the onset of disease?

How often do you berate yourself for your eating choices?

Are you experiencing physical symp-



toms because of poor nutritional choices?

Do you ever feel concern for your intake of caffeine? Alcohol?

How would you rate the quality of your immune system for resisting illness?

Do you have difficulty sleeping? Getting up in the morning?

While women's magazines will constantly seek to sell you the latest get-thin-quick routine, your own nutritional goals should be based more on how you feel than on how you look.

2. Decide which nutritional habits you most want to change. Changing habits that we have developed over a lifetime cannot happen overnight. Rather than deciding to give your lifestyle a complete overhaul, consider identifying those parts of your daily life that you feel most strongly motivated to change.

Maybe you want to reduce your evening take-out food orders to once a week. Perhaps your goal is to limit your intake of office pastries. It might be that getting your five servings of fruits and vegetables a day means that you decide that each dinner at your home will have two veggies.

By committing to those changes that matter most to you, you will increase the likelihood that you will move further along the path to a healthy lifestyle.

3. Set specific and realistic goals. Once you have identified the changes that are most important to you, get specific.

Rather than saying, "I want to eat more vegetables," decide how many servings you intend to include in your diet each day. Instead of saying, "I want to cut down on coffee," declare that by June you intend to be down to drinking one cup of coffee per day.

By focusing on realistic goals, you can make lasting changes in eating for wellness. You will soon begin to experience the benefits of these small but important changes in your life.

4. Develop a written plan for making your desired changes. While making a commitment in your mind is the first step on the path to a healthier life, a plan for your success is critical. Rather than succumbing to

the latest fad diet, consider the plan that will support your individual goals.

If you are committed to walking as part of your lunch break rather than eating out, plan to look for a partner to walk with you.

If your intention is to eat breakfast each day, set out the items needed for your breakfast the night before to give yourself a morning boost.

If quick, healthy meals are what you strive for at the end of the day, it may only be accomplished if you first take the time to create a simple menu plan and shopping list.

If you seek to eat more fresh fruits and vegetables, a plan for having them available at home and office will be critical.

Whatever your plan, put it in writing. Put it where you can see it. Record your progress. Review it regularly.

5. Include more whole foods in your diet. One of our greatest challenges in our busy lives is simply finding the time to acquire and prepare the healthy food we want to eat. However, some changes in our diet will not necessarily demand more time. Rather, they simply require healthier choices.

Selecting more whole foods and fewer processed foods is a powerful way to improve the quality of our eating. Whole grain breads and tortillas, for example, provide far better nutrition, without taking more of your time. Seeds or nuts can be a better choice than chips.

Fresh green vegetables, which should be a part of our daily diets, can be steamed until a bright green just about as quickly as frozen vegetables can be heated in the microwave. However, the benefits of the fresh greens will be superior.

When eating out, really pausing for a few minutes before you place your order will help you to reflect on the choice that is consistent with your goals.

My personal favorite food is brown rice, which has become a part of my daily diet. While its many nutritional benefits have long

*consider
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life that
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strongly
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to change*



been touted, I never guessed that inner peacefulness could come from a grain. I am an energetic woman who is always on the go. My brown rice leaves me with energy remaining late in the day as well as a calmness within that is quite remarkable. Try it for yourself.

6. Reduce sugars, unhealthy fats and alcohol. What we put into our bodies will either support or wellness or will take up calories of other more nutritious foods that could.

Even though entire books have been written about the harm caused by sugar, it might be more helpful to ask yourself what nutritious food you could be putting into your body instead of that soda pop or slice of pie.

While the benefits of a low fat diet are well-established, we still need to resist the urge to find a quick fix weight loss diet that encourages high intakes of animal fat, especially when we see the colleague down the hall lose 20 pounds in a month.

When it comes to alcohol, as in all things, moderation is the key. As attorneys we can be especially vulnerable to substance abuse, which is yet another good reason to be mindful of our alcohol intake.

7. Distinguish between "treating" and "cheating." Recognize that while commitment to change is essential, total rigidity will hinder your success. If you are truly focusing your

intention on your goals, an occasion exception will not doom you to failure.

Sometimes we are so hard on ourselves that we view occasional leniency as some sort of failure. To help me with this, I now call it "treating" rather than "cheating" when I eat something that is on my list of foods I try to avoid.

By reframing my choices in this way, I still take responsibility for my choice without punishing myself for an occasional break.

We can remind ourselves that we are committed to excellent nutrition that supports our demanding lives and that an occasional piece of chocolate might just be a part of that.

8. Develop a positive attitude about your eating. Pay attention to your thoughts and words about the food you are eating. If you are complaining about your nutritious food selections, it will be difficult to incorporate them into your everyday eating.

Always remember to have gratitude for the food that you are about to eat. Pause for just a moment to feel appreciation for the bountifulness of food we enjoy as Americans.

If you feel deprived by your food choices, perhaps you should revisit your priorities. If a negative attitude surrounds you when you are eating your lunchtime bowl of vegetable soup, it is likely that tomorrow will end up with fries and malt from the Burger Barn instead of sticking to your goals.

By ultimately developing eating habits that bring us vitality and good health, we can enjoy our food choices, feel terrific and have the benefits of a healthier life for years to come.

Commit to your life. Create your plan. This is your century.



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Concentrations Key

Ad	Administrative
Adm	Admiralty
App	Appellate Appeals
At	Antitrust
AttMa	Attorney Malpractice
Ba	Banks & Banking
Bd	Bonds, Municipal
Bky	Bankruptcy, Creditors
Bu	Business
CA	Class Actions
Ch	Child; Custody; Adoption
Ci	Civil; Civil Rights
C	Collections
Co	Corps.; Partnerships
Com	Commercial
Comp	Computer
Con	Municipalities; Takings
Cons	Constitutional
Cs	Consumer
Cont	Contracts
Cor	Coops; Condos
Cr	Criminal
DR	ADR; Arbitration
De	Defense
Dis	Discrimination
Disc	Attorney Discipline
Ed	Education
EI	Elder Law
Em	Employment; ERISA
Ent	Entertainment
Env	Environmental
Eth	Ethics
F	Federal Courts
Fi	Finance or Planning
FL	Family Law
Fo	Foreclosure, Creditors
Fr	Franchising; Distribution
GP	General Practice
GC	Government Contracts
Gu	Guardianship
H	Health
I	Immigration
Ins	Insurance
Int	International & Customs
IP	Intellectual Property (C-copyright; P-patents; TM- trademark; secrets)
La	Labor
Ld	Landlord, Tenant
Le	Legal Aid, Poverty
Leg	Legislation
Li	Litigation
LU	Land Use
Mar	Maritime
M/E	Media & Entertainment
Me	Mediator
MeMa	Medical Malpractice
MeN	Medical Negligence
N	Negligence
NP	Nonprofit Organizations
PI	Personal Injury
Pr	Product Liability
Pro	Probate
Pub	Public Interest
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RM	Risk Management
Sec	Securities
Sex	Sex Harassment;
Assault	
SS	Social Security
T	Tort
TA	Trade Associations
Tx	Taxation
U	Utilities—Oil & Gas
W	Wills, Estates & Trusts
WC	White Collar
WD	Wrongful Death
Wo	Workers' Compensation
Wom	Women's Rights

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