

# women lawyers JOURNAL®



Vol. 91 No. 3

SPRING 2006



## **Lauren Stiller Rikleen: Law Firms Must Reinvent Themselves from the Ground Up**

Read a review of her book, *Ending the Gauntlet: Removing Barriers to Women's Success in the Law*, and an Interview with the Author

## **Winning Essay:**

*NAWL's First Annual  
Selma Moidel Smith*

Law Student Writing Competition

**When Charity Doesn't Start at Home:  
The Torture Victims Relief Act and  
Female Inmates in the U.S.**



*Author M. Angela Buenaventura*

## ***Also Featured in This Issue:***

*Don't Stress: It's Just a Marketing Dinner  
Is Your Workplace Truly Dedicated to Diversity?  
Starting Your Own Firm? No Sweat!  
Make Part-Time Work for You*

# Join us for the NAWL Annual Meeting

## NAWL Annual Luncheon

Tuesday, July 18, 2006

Noon to 2:00 PM

The Waldorf-Astoria, New York City

Honoring

**Judge Katharine S. Hayden**

United States District Court, District of New Jersey

***Arabella Babb Mansfield Award***

**Wal-Mart Stores, Inc.**

***NAWL President's Award***

***NAWL Outstanding Member Award***

***Voice of Women Award***

***Investiture of the 2006-2007 Executive Board***

**Other Annual Meeting Events**

**“UP THE DOWN STAIRCASE”**

Monday, July 17, 2006 - 4:00-5:30 PM

*followed by cocktails*

**“EFFECTIVE PARTNERING STRATEGIES”**

Tuesday, July 18, 2006 - 9:00-11:30 AM Breakfast (CLE)

Both sessions to be held at the offices of

**Edwards Angell Palmer & Dodge LLP**

750 Lexington Avenue, New York City

*Seating is limited for the sessions at Edwards Angell Palmer & Dodge. Register soon!*

**For more information and to register, go to [www.nawl.org](http://www.nawl.org)  
Questions? E-mail Cathy Fleming at [cfleming@eapdlaw.com](mailto:cfleming@eapdlaw.com)**

# Women Lawyers Journal®

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## **About NAWL**

Founded in 1899, NAWL is a professional association of attorneys, judges, law students and nonlawyers 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. ©2003 National Association of Women Lawyers. All rights reserved.

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## **About Women Lawyers Journal**

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**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. No material can be returned unless accompanied by a self-addressed, stamped envelope.

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# Editor's Note

By Holly English

As we coast through spring and glimpse summer on the horizon, I am pleased to present another *NAWL Journal* full of must-read articles.

First, not only read *about* Lauren Stiller Rikleen's new book about how law firms can "end the gauntlet" for women lawyers, but grab a copy and read it cover to cover. Lauren is a partner with Bowditch & Dewey in Boston. She interviewed a wide range of people for her book, *Ending the Gauntlet: Removing Barriers to Women's Success in the Law*, which chronicles the obstacles to women's progress in the legal profession. What she found was disheartening; as she told me in an interview included in this issue: "We practice in firms that say they want to be run like a business, but they use an institutional model that's 200 years old that doesn't fit." She suggests excellent ideas for how to remove obstacles that impede women's progress; it's well worth your time to take a look. In addition to the author interview, Maritza Ryan has included a rave book review.

We are happy to present the winner of *NAWL's* First Annual Selma Moidel Smith Law Student Writing Competition. The winner is M. Angela Buenaventura, and her topic is an alarming one: "When Charity Doesn't Start at Home: The Torture Victims Relief Act and Female Inmates in the U.S." Angela, who just graduated from the Northwestern University School of Law, has penned a well-researched and gripping article detailing how torture arguably occurs in United States jails – when women inmates are raped by male prison guards — and yet treatment at federally funded torture centers is implicitly not available. Not only does Angela provide an excellent overview of this situation, but she has solid solutions for how it can and should be changed. Congratulations to Angela on a first-rate essay; we look forward to winners in the years to come.

Other articles also provide interest and insight:

- If the thought of a client dinner with a male – alone – makes cite-checking sound

like fun, think again. Sharla Frost, who calls this issue "the" marketing dilemma of the decade, has some practical tips to make such an encounter stress-free.

- Want to pursue your career part-time, but heard a lot about how it can wreck your career? Cynthia Calvert Thomas, Deputy Director and General Counsel of the Center for WorkLife Law, has outlined some specific steps that you can take to make part-time a success.
- A firm or other workplace can look inclusive and welcoming from the outside, but it's hard to tell. Consultant Jitrine Bentsi-Enchill gives some thoughts about how to tell whether an organization is truly dedicated to diversity.
- Maybe you've thought about starting your own firm but never progressed far. Kerry McGrath started her own immigration firm recently, in Atlanta, and she has advice about how to get your fledgling operation off the ground.
- Have a lot to do but nothing to feed your soul? In this month's "Lifestyle" column, read how Houston practitioner Melanie Gray found that participating in not-for-profit boards re-energized her life and her practice.

Finally, please let us know what you like and what you would prefer to see in the *NAWL*



*Journal*. Our aim is to provide useful, provocative and timely articles targeted especially for women lawyers throughout America.

Warmest regards,

Holly English  
 Women Lawyers Journal Editor, 2005-2006  
 Post, Polak, Goodsell, MacNeill &  
 Strauchler, PA Roseland, NJ  
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# From the President

By Lorraine K. Koc

“Women lawyers don’t know how to develop business.” That’s one of the explanations for the “50-15-15 problem” (meaning that women are 50% of law students but only 15% of equity partners and 15% of chief legal officers). In response, NAWL has sought to bring “both sides of the house” together, such that outside and inside counsel can have a meaningful dialogue on this issue. National panels, focus groups and surveys by NAWL and others consistently demonstrate that the way to develop business between inside and outside counsel, not surprisingly, is through strong client relationships. So how does inside counsel locate and evaluate their outside counsel?

Inside counsel at smaller companies typically use informal professional recommendations by their colleagues, both within and outside their company. Larger companies use ostensibly formal systems such as requests for proposals (RFPs), “beauty parades,” bidding and auction methods, and preferred provider lists. Yet, since time and money constraints prevent truly global searches, even formal methods are inevitably infused with informal relationships at points, especially regarding initial participation in the process. Indeed, a March 2006 survey confirmed that inside counsel overwhelmingly uses personal referrals from other lawyers in the initial selection of outside counsel. Therefore, referrals – and thus relationships – are critical to inside counsel. Outside lawyers won’t get referrals unless they are well-known within the legal community. Hence, NAWL has emphasized professional networking techniques in its programs.

Moreover, about half of all law departments do not perform any consistent, formal evaluation of outside counsel. Again, this suggests that informal relationships between inside and outside counsel are crucial.

As an aside, let me make an observation in my position as Vice President and General Counsel of one of Fortune’s “200 Best Small Companies.” I have had occasion to observe how nonlegal “relationship” vendors, such as risk management professionals, build client

relationships as compared to how outside counsel do so – and have found lawyers lacking in this comparison in two ways.

First, other professionals seem to have a longer view, developing a relationship in a very low-key, non-intrusive way via invitations to seminars — which builds the credibility of their in-house team and allows me to meet other satisfied clients of the vendors. Moreover, these interactions never involve overt “selling,” unlike many law firm events, which often follow with aggressive marketing pitches within days or weeks.

Second, when doing a presentation, non-legal professionals seem more flexible in adjusting their proposals in response to company concerns with creative pricing, staffing and other solutions. In contrast, law firms often plod through “alternative billing” scenarios unimaginatively.

NAWL would like to help remedy this sort of problem, in particular for women lawyers. Through its highly acclaimed national programming series on “Building Client Relationships,” NAWL has imparted practical tips on facilitating key relationships, stressing the importance of well-prepared corporate project strategies; clear communication and feedback; alignment with the business strategy and efficiency over “legalphelia.” We hope you will join us in an additional new series, “Effective Partnering

Strategies between Inside and Outside Counsel,” which focuses on strong partnering on a variety of issues.

Best regards,



Lorraine K. Koc  
NAWL President, 2005-2006  
General Counsel, Deb Shops, Inc.  
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# "Take Charge 0 Los Angeles, A



Panelists Maya Lee of the Los Angeles County Counsel's Office, Catherine Valerio Barrad of Sidley Austin LLP, and Susan Fillichio of DecisionQuest



Program Chair Lisa Gilford welcomes the Luncheon crowd



Panelist Maya Lee of the Los Angeles County Counsel's Office and Program Assistant Sayaka Karitani of Weston Benshoof Rochefort Rubalcava & MacCuish LLP



The Honorable Judith Chirlin of the Los Angeles Superior Court gives the Luncheon keynote address

# f Your Career''

April 19, 2006



Panelists Georgann Grunebach of DIRECTV and Elizabeth Atlee of BP America Inc.



Panelists Georgann Grunebach of DIRECTV, Linda Louie of the National Hot Rod Association, Elizabeth Atlee of BP America Inc., and Moderator Elizabeth Mann of McDermott Will & Emery LLP

## NAWL Takes “Backpack to Briefcase” to Nation’s Capital

By Lisa B. Horowitz

On March 24, 2006, the National Association of Women Lawyers presented “From Backpack to Briefcase: A Transitions Program for Law Students” in Washington, DC. The program, which is offered at no cost to law students, addresses the transition from third-year law student to first-year associate. It was attended largely by 3Ls as well as a number of 1Ls and 2Ls seeking guidance on what to expect as summer associates. Students came from all the local law schools as well as from as far away as Baltimore and the University of Virginia and William & Mary.

The program consisted of four panel discussions by attorneys in both large and small firms, the government, a public interest group and a trade association. It began with a look at “The Big Picture: Recognizing the Change from Law Student to Lawyer.” Moderated by Jessie Liu, Assistant United States Attorney and President-Elect of NAWL (2007), the panelists provided advice on working to another person’s schedule, how to be a boss and getting assignments. The second panel, “Getting Off on the Right Foot,” moderated by Nathalie Gilfoyle, General Counsel of the American Psychological Association and a member of the District of Columbia Bar Association Board of Governors, addressed issues ranging from what do to before you set foot in the door, to first impressions, to what to wear, and what to do when you make a mistake.

After a brief break, the third panel tackled the topic of “Working with Partners and Senior Colleagues.” Led by Lorelie Masters, a partner at Jenner & Block and President-Elect of the Women’s Bar Association of the District of Columbia, the group shared ideas about seeking out mentors, accepting assignments, seeking feedback and traveling with colleagues. During the last panel—“Investing in Yourself”—moderated by Lisa Horowitz, Senior Manager of Professional Development at McDermott, Will & Emery LLP, the panelists identified activities that every lawyer—regardless of where or how they are practicing law—can do. These included finding and being a mentor, doing pro bono work, attending internal and external training programs, creating an individual career plan and networking.

The program concluded with remarks by Superior Court Judge Stephanie Duncan-Peters, Deputy Presiding Judge, Civil Division, whom many described as “inspiring.” It was followed by a reception hosted by McDermott Will & Emery, where the students had an opportunity to network with each other and the panelists.

NAWL presented this program in Chicago in 2005 and looks forward to offering it in 2007 in another city.

# It's Just Dinner: How to Handle the Marketing Dilemma of the Decade

By Sharla J. Frost

Marketing has become the second pillar of the practice of law. To succeed, lawyers have to develop business for the firm. No matter how adept you are at marketing, however, the time will come when the required activity includes — dinner.

Nothing causes more angst amongst women lawyers than the idea of taking a male client out to dinner alone. Why are women so concerned about the basic business dinner? They are typically concerned because in American culture, dinner between a man and a woman means “dating.”

How does the successful marketer disconnect those two concepts?

Put simply, you should take charge of the situation by demonstrating that the dinner is a business. Here are some tips:

## *Use these tips to de-stress when having a business dinner with a male.*

Become a regular. Develop your own list of restaurants that are appropriate for business, spend time getting to know the staff and have them view you as a regular customer. You make the reservation at a restaurant you have found to be perfect for business dinners: good food, good service, good lighting, and low noise level. Make sure that the maitred' knows you are having a business dinner and gives you an appropriate table, rather than the “romantic” table in the corner.

**Look the part.** Wear a suit — look like you are going to a business meeting.

**Handle the logistics.** Arrange for your client to meet you at the restaurant: do not pick him up unless you have an

established business relationship that cannot be misconstrued. If need be, arrange for a car service to pick up and retrieve him.

**Don't drink too much.** Remember, this is not a social outing. There is nothing wrong with sharing a good bottle of wine or having a pre-dinner cocktail. However, know your limits and stick to them. Since you will be choosing the restaurant, consider arranging with the sommelier to bring a pre-selected bottle of wine. Not only does it remove the stress of picking something appropriate, it subtly

## *Businessmen are insulted when viewed as potential perverts who need a “chaperone”.*

signals that you are in control.

**Talk business.** Take a legal pad with you so that you can jot notes down when you get the portion of the dinner where you are talking about business. Prepare a simple agenda of topics to be discussed.

**Don't bring a “chaperone.”** You shouldn't take someone else with you unless they are part of the existing business relationship. You should treat this event as you would any other business event, therefore take a colleague if you would take him or her to a non-dinner meeting, but not if he or she is only there for protection. Businessmen tell me that they are insulted to be viewed as potential perverts who necessitate the presence of a chaperone. (If you have reason to believe that dinner is a pretext for something else entirely, change the meeting to a lunch or breakfast meeting. The venue remains the

*Continued on page 11*



# Part-Time, Done Professionally

By Cynthia Thomas Calvert

You've been warned that a part-time schedule is a career-ender, right? In many firms it can be: good assignments dry up, client contact disappears, and partnership is a mirage. While this is largely the product of traditional firm culture and unfounded stereotypes of part-time attorneys as being part-committed, there are some things you can do to continue to advance professionally on a reduced schedule.

**Manage Your Workload.** If a full-timer misses a deadline, everyone assumes he's busy. If a part-timer misses a deadline, everyone assumes she is no longer dependable now that she's cut back her hours. Be sure that you reduce your workload commensurately with your hours – failure to do so is a sure way to get negative performance reviews, angry supervisors, and low-level work. If you are going to be late with an assignment, communicate that fact as early as you can to your supervisor and be sure to state the work-related reason for the lateness.

**Manage Perceptions.** Colleagues, supervisors, and clients may perceive you and your work differently once you cut back your hours. Realize this, and meet it head-on. Common misperceptions include that part-timers are no longer committed to the firm or the practice of law, don't want to make partner, and can't have client responsibility because they aren't available to work if an emergency arises. If someone says something to you that suggests he or she is projecting these types of beliefs on to you unfairly, a direct response is in order: "I know you had my best interests in mind when you assumed I didn't want to work on the Big Client matter because of its short deadlines, but I'm really fine with it. My schedule is under control and I can get everything filed on time."

Conversely, when you accomplish something that runs counter to a common misperception, such as staying late at work once in a while to work on a rush project, make sure everyone knows. Walk around the hall and be seen, casually mention something

that happened during the evening, and leave messages for colleagues telling them they can reach you in your office. Similarly, if you work from home in the evening, don't keep it a secret.

Should you let clients and colleagues know you work part-time? Most part-time attorneys approach this on a case-by-case basis, depending on their relationship with the client in question. Clients who know and respect your work and with whom you are close probably should know so they can work with you and not undermine your schedule. For others, keep up the appearance of being full-time. Return calls and emails quickly, even if you're at home. Make sure your secretary tells callers you are "not in your office" when you're out, not that you're at home. When you are scheduling a meeting, tell the others you're "not available" rather than you have to be at the pediatrician's. Ideally, such subterfuge won't be necessary in the future, but you may be most effective working within the existing culture even as you help to reform it.

*You can work part-time  
and flourish, rather than  
jeopardizing your career.*

**Manage Your Career.** Full-time attorneys do more than bill hours, but part-time attorneys rarely do. Create a plan for developing professionally, and actively manage your progress toward equity partnership. Be sure your scheduled work time includes time for administrative work, CLE, keeping up your connections in the firm and your local bar association, and developing your skills and expertise. Lay the groundwork for rain-making in ways that are compatible with your lifestyle – make sure everyone outside the office (parents of young children at the playground or in the PTA, colleagues in your volunteer organization) knows what you do

*Continued on page 11*

# Inclusion or Illusion? Determining if a Law Firm is Really Committed to Diversity

By Jitrine Bentsi-Enchill

Deciding where you'll work is a critically important decision. What should a lawyer look for when trying to determine a firm's commitment to diversity and inclusion? Here are some key things to look for during the interview and research process.

**Commitment at the top:** In order for diversity initiatives to succeed, there must be vigorous support from the senior level of the organization. Ask if there is a diversity task force or committee. Find out who is on it. Is it comprised only of minority and women lawyers? Keep in mind that partners are the change agents of a firm. Committees formed to address issues of diversity, recruitment and retention must be led by key leaders within a firm. Without the necessary foundation and leadership, efforts to build a diverse team will be ineffective.

*Do your homework and don't be afraid to ask questions.*

**A diversity plan:** Firms committed to inclusion and diversity have taken the time to carefully plan their diversity goals and objectives. They've also spent time creating a mission statement and guiding principals. Inquire about the firm's diversity mission statement or philosophy around inclusiveness.

**Diversity goals and objectives included in the firm's strategic plan:** Many firms fail to include diversity goals in the firm's overall vision and plan for growth and development. Firms successful in building a diverse workforce have implemented specific strategies for hiring, retention, professional development, communication, promotion, and mentoring. Many firms have taken the additional step of linking diversity goals to compensation and bonuses. Ask about the firm's long-term diversity goals and objectives.

**Commitment to diversity training and development:** Building awareness and alliances through diversity training is critical

to creating a productive, diverse, and inclusive workforce. Staff must have the opportunity to explore misconceptions about issues of inclusiveness, race, gender, sexual orientation, religion, and individuals with physical challenges. Without linking training and development to firm-wide diversity objectives, a firm cannot successfully build an inclusive and diverse organization

What's the bottom line? Do your homework and don't be afraid to ask questions. Keep in mind that the interview process is a two way street. The firm is assessing your level of competence and you also need to determine the firm's commitment and ability to sustain itself in the future.

The changing demographics in the U.S. and throughout the world will require firms to be prepared to meet the needs of a diverse and global client base. Firms committed to building inclusive work environments will go much further in successfully competing in today's global economy. Choose wisely.



**Jitrine Bentsi-Enchill**, is an attorney, Certified Executive Coach, and the founder and director of the

Esq. Development Institute, an organization committed to helping lawyers excel personally and professionally. The Esq. Development Institute specializes in executive and personal coaching for lawyers and training processes for law firms in leadership, communication, diversity, cultural competence and work-life balance. Ms. Bentsi-Enchill been featured in The Pennsylvania Law Journal, The Chicago Lawyer, Oprah Magazine, Women's Day, Health Magazine, The Canadian Bar Journal and other legal publications. Contact info: JBE@esqdevelopmentInstitute.com, www.EsqDevelopmentInstitute.com.

## marketing *continued*

same, but the social implications are quite different.)

**Leave gracefully.** Schedule another engagement to attend after the dinner, so that you are able to leave the restaurant without being obligated to after dinner socializing.

Remember: it's just dinner. Don't stress over it – and bon appetit.



**Sharla J. Frost** is a founding partner of Powers & Frost, LLP, a 45 lawyer firm with offices in Houston, Texas and

Rockville and Towson, Maryland. She serves as national coordinating counsel for Pfizer Inc in connection their asbestos litigation and is a member of the trial team for several other Fortune 500 clients. Ms. Frost is a member of numerous bar and professional organizations, including the International Association of Defense Counsel, the Defense Research Institute, the American Inns of Court and the Houston Bar Association. Active in NAWL, she serves on the subcommittee for the evaluation of Supreme Court Nominees. A native of Frogville, Oklahoma, Ms. Frost received a B.A. in 1984 from Southeastern Oklahoma State University and her J.D. in 1987 from Baylor Law School. She is licensed to practice law in Texas, Oklahoma, Colorado, Mississippi and West Virginia. Ms. Frost lectures frequently on litigation topics, ranging from jury selection to defensive case strategies. She can be reached at

[sfrost@powersfrost.com](mailto:sfrost@powersfrost.com).

## coaching *continued*

so they can refer business to you; write articles in your niche area in the evenings; network with other part-time professionals; stay in contact with referral sources through quick emails; and take advantage of the broader perspective you gain from having a life outside the office to think creatively about what your potential clients want and how you can get the message to them that you can provide it.

The future for part-timers is brighter today than ever before, and your future will be brighter as you balance professionally.



**Cynthia Thomas Calvert** is an employment attorney in the District of Columbia and Maryland and Deputy Director and General Counsel of the

Center for WorkLife Law (“WLL”), a nonprofit program located at the University of California Hastings College of the Law and funded by the Alfred P. Sloan Foundation and other grantors. WLL seeks to eliminate employment discrimination against family caregivers such as mothers and fathers of young children and adults with aging parents. WLL works with employees, employers, attorneys, legislators, journalists, and researchers to identify and prevent this discrimination.

In addition, Ms. Calvert is co-director of the Project for Attorney Retention (“PAR”), a project of WLL that examines work/life balance and part-time work for lawyers. PAR has developed a model policy and benchmarks for law firms regarding non-stigmatized part-time schedules for attorneys, and has recently completed a study of work/life balance in corporate law departments. Ms. Calvert is also co-author (with Joan Williams) of *Solving The Part-Time Puzzle: The Law Firm’s Guide to Balanced Hours* (NALP 2004). Ms. Calvert and Professor Williams are continuing to research and consult with law firms and lawyers about alternative work arrangements in law firms.

Ms. Calvert was with the D.C. litigation firm of Miller, Cassidy, Larroca & Lewin, L.L.P. (now Baker Botts LLP) for fourteen years, six as a partner. Ms. Calvert is a graduate of the Georgetown University Law Center. After graduation, she clerked for the Honorable Thomas Penfield Jackson, United States District Court for the District of Columbia. She is married and has two children.

# Going Out on Your Own: A Primer

By Kerry McGrath

Starting your own practice, by yourself or with a few colleagues, can be great. Lawyers who work for themselves usually say they only wished that they had started their own firm earlier! There are many reasons lawyers choose to start their own firms. Some want more independence or flexibility, others are not comfortable in their current environment, some seek more money, and others want to improve the quality of their work. Whatever the reason, there are a few things to watch out for.

**It's a profession *and* a business:** First, you must understand that you are in a profession. Making money is certainly part of the reason most of us are lawyers, but our desire to make a good salary must always be balanced with our obligation to provide quality legal services.

**Write a mission statement:** Starting your own office is a great opportunity to think about some of the bigger issues, your actual philosophy of practicing law. It brings up very basic questions: What type of person and practitioner do you want to be? What is the purpose of your law firm? What do you want your clients and your colleagues to think of you and your practice? It may be helpful to write a mission statement to clarify your values and your goals.

*Write a mission statement, get help from friends and mind your ethics.*

**Get help from the state bar:** Your state bar organization wants you to succeed, and they are happy to provide you with advice. Some bars hold seminars on starting your own firm, and others have good, comprehensive written mate-

rials and booklets on this subject. These organizations have the expertise and experience, and you should feel free to benefit from it. They may provide information about navigating the malpractice insurance maze, managing client and office files, setting up an IOLTA account, marketing your firm and drafting a retainer agreement.

**Mind your ethics:** Reading your state bar rules is one of the most important things you can do to get started. It contains information about naming your firm (for instance, I cannot call my firm "McGrath and Associates" until I hire an associate) and contacting your clients from the law office you are leaving.

**Location, location, location:** Obviously this is a very important issue. Is it important for you to be near the court, your largest client, or public transportation? Would you enjoy being downtown, or in a quiet residential neighborhood? Do you need to be close to home and your children's school? The other question, of course, is affordability. Sharing space and equipment saves on start-up costs, but it may be difficult to find compatible office companions, and there are client confidentiality issues to consider. A landlord can build out space to meet your own needs, but the build-out cost could be high and you may have to wait a few months before you can move in. (One of my colleagues worked from her house and kept her files in the trunk of her car for the first four months, while she was waiting for her space to be completed.)

**Tap into your network:** There is no need to reinvent the wheel. Who do you know and respect who has started his or her own firm in the past six months, or already has a solo practice? You can learn from them. Did they research computer firms, accountants or malpractice insurance? What did they decide?

*Continued on page 17*

# Finding Meaning Through Volunteering

By Melanie Gray

The year 1998 transformed my practice and my life. I had been practicing for 17 years and was a partner in a top-tier national law firm. I had three growing children and a fulfilling marriage. But work was slow. I don't know about you, but I'm miserable when work is slow. I believe in the old adage, "If you want to get something done, give it to a busy person." When I'm slow at work, I get next to nothing done, but give me more than I should be able to handle and then I thrive. So when work slowed for me in 1998, despite all my good fortune, I was unhappy. (Although I'm sure some of you are questioning my priorities and perspective, I believe that many may relate to this feeling).

Then a wonderful opportunity came along: I was asked to join the board of a new affiliate of Girls Inc. in Houston. This fledgling organization was experiencing growing pains, losing first its Executive Director and, soon after, its Board Chair. So, just three months into my appointment, I was asked to become Board Chair. I was taken aback by the suggestion, given my limited experience with nonprofits, but I was unable to resist the challenge. Thank God for Girls Inc. of Greater Houston, as it gave me a mission: to take the organization to the next level – everything from improving its structure to increasing fundraising ten-fold.

1998 introduced me to the challenge and reward of participation in nonprofits. After Girls Inc. of Greater Houston, I joined the board of my children's Montessori school (which I now chair). Since then, I have joined the Board of Houston's Society of Performing Arts, become an Executive Committee member of Syracuse University College of Law's advisory board, a Trustee of Syracuse University and a board member of Planned Parenthood of Southeast Texas (for which I chair its \$20 million capital campaign).

While it hasn't always been pretty, I haven't dropped a ball yet. Despite those times when I ask myself, "What am I

doing?" I've seen innumerable benefits from my various roles. As a mother, I am teaching my kids by example that hard work is rewarding in and of itself, and my children have also benefited from organizations in which I am involved. They have embraced the values that I hold and that these organizations represent. When I was struggling with whether to take on the role of capital campaign chair for Planned Parenthood, and finally decided I could and should, my 17-year old son exclaimed – and I do mean exclaimed — "YES!" When I asked why he was so excited, he said because it is such an important organization that serves so many women in need. My commitment to their schools and mine underscores the importance that I place on education. I know my children are learning by example that giving back is one of the most important things you can do with your life.

*Things getting slow? Try volunteering for not-for-profit organizations. You may even get some business out of it.*

I've also witnessed the benefits that connecting with the community and networking has for one's practice. Another practicing lawyer, close friend, and wife of the general counsel of a major Fortune 500 company in Houston worked with me on the Board of Girls, Inc. She saw me in action and told her husband that his company was missing out in not giving me some work. While at first I received only a few relatively modest cases, that opening resulted in a call in late 2001 from Enron in connection with their financial implosion. Since then, I've been one of the lead attorneys in Enron's chapter 11 case. I firmly believe in the saying that "you never

*Continued on page 14*

**Lifestyle** *continued*

know where your next client is going to come from.”

I give eternal thanks to my firm; it truly values community contributions and lends its support, both financially and by encouraging its lawyers and staff to stay involved in the community. I am even more thankful to my family, who accept that I am not happy without being fully occupied.

There has been much talk about balance and what it means. I’m concerned that for many attorneys, but especially for younger women joining the profession, balance sometimes means holding back from being fully occupied. While everyone must make her own choices, I encourage those who find themselves restless when not fully engaged to look beyond their jobs and families for other causes that mean something to them, and then to roll up their sleeves. For me, the slow period in 1998 was a dark cloud hanging over me – what I found was a most amazing sliver lining that has brought depth and incredible gratification to my life.



**Melanie Gray** is a Partner in the Houston office of Weil, Gotshal & Manges LLP. Co-chair of the firm’s

Bankruptcy Litigation practice, Ms. Gray specializes as a commercial litigator with particular expertise in complex litigation in bankruptcy cases. Over the past few years, Ms. Gray has been deeply involved in the firm’s representation of Enron in its bankruptcy proceedings, the most complex Chapter 11 case ever.

As a result of her professional achievements and community commitment, Ms. Gray was recognized as one of ten Houston “Woman on the Move” by Texas Executive Women in 2001, and as a Women Achiever by the YWCA of New York City in 2004. Ms. Gray has three children and is married to another trial attorney in Houston.

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# Ending the Gauntlet: Removing Barriers to Women's Success in the Law

By Lauren Stiller Rikleén  
(2006, Thomson/Legalworks)  
Reviewed by Maritza Ryan

“Gauntlet” is an Old Norse term for a type of punishment in which people armed with sticks or other weapons arranged themselves into two rows facing each other, and beat the poor unfortunate forced to run between them. Author Lauren Stiller Rikleén uses the word (in a title suggested by her husband) to describe the ordeal of “challenges and roadblocks” women face as they struggle to succeed in today’s law firms. The imagery is stark but apt, as Ms. Rikleén successfully builds the case that today’s legal culture has become dysfunctional and counterproductive, with dire consequences for attorneys — both women and men — for their clients, and for the survival of law firms themselves. Ms. Rikleén focuses on the particular toll this culture takes on women — albeit extremely talented, dedicated, and highly competent women — who are simply not “making it” in the legal profession. By casting a bright if unflattering light on the institutional, structural, and social roots of this failure and suggesting the “concrete actions” needed to bring about radical change, *Ending the Gauntlet* is a pivotal book for the legal profession. Every woman lawyer should read this book, and everyone who aspires to leadership and achievement within any profession should study it well.

Rikleén begins her book with a brief history. One might expect to find that circumstances for women lawyers have changed much for the better since Margaret Brent became the first woman to practice law in America in the 1600s, and they have. What may be surprising is how late major positive change in education and employment opportunities occurred, well into the mid-twentieth century, and even more astounding, how much progress

is yet to be made. In the early 1960s, 300 years after Brent arrived but still battling pervasive discrimination, women made up only 3% of the profession. Law school and legal firm doors began to open in 1970, when women made up 8.5% of incoming law students and approximately 5% of all law firm associates. By 2001, women had begun filling 50% of the seats in law schools, yet today, “[i]nstead of taking their place at the top of the profession, women are leaving in disproportionate numbers.” Overt discrimination has faded away, only to be replaced by what Rikleén terms “benign exclusion.” Despite all those female law students in the “pipeline,” women comprise only 30% of the profession, and — according to a 2005 survey — represent only 17% of partners in the top law firms.

## High Billables

It is an open secret that attorneys in private practice are routinely pressured to produce astronomically high billable hours, sometimes under poor or even abusive leadership, as they labor on often tedious assignments while maintaining their availability to clients 24/7. When these environmental conditions combine with still burdensome cultural expectations and more subtle but persistent sex discrimination, it is no wonder that women lawyers have become the “harbinger of an unhealthy work environment.” Women attorneys report higher stress and more pessimistic outlooks on the future than men, suffer significantly higher-than-average attrition rates within firms, and fail to reach partnership levels despite the highest percentage of women in law school graduating classes ever. Women (and a growing number of men), who either don’t have a stay-at-home spouse capable of tak-

ing care of their children and running their homes while they habitually work extended hours, or who don't feel comfortable completely giving up all hope of a family life, find themselves at wits' end trying to conform to a severe, outdated institutional mold shaped by and for men.

*When high billable requirements combine with burdensome cultural expectations and subtle but persistent sex discrimination, it's no wonder that women lawyers have become the "harbinger of an unhealthy work environment."*

Rikleen draws on many interviews with women attorneys, their male peers, and law firm partners to put a human face to her statistics and to illustrate her arguments. The crucial role of leadership in the proper functioning of a law firm, and particularly to the advancement of women entering the field, is more than just a separate chapter: it is a recurring theme throughout her book. Despite the mushrooming growth in size and complexity of practice in today's law firms, lawyers ascend to leadership positions within many such organizations despite lacking any real interest or observable talent in leading others. The assignment of cases and important responsibilities to new associates, for example, so crucial to their advancement and the development of valuable expertise, are often haphazardly or even capriciously doled out. Women frequently suffer the brunt of poor leadership as they are overlooked in the tasking of important and challenging issues by supervisors in favor of young male attorneys who more closely resemble firm leaders when they were starting out. In other examples, some senior lawyers per-

sist in maintaining stereotypes that say women are just not "cut out" for certain specialties, e.g., litigation, or that they will never be "truly committed to the firm" no matter how many hours they work, particularly if they become mothers. In such firms, stories of extraordinarily conscientious women who felt the pressure to work such long hours that they gave birth prematurely are not unusual. Law firms that overlook the monumental cost in personnel turnover, disruption of client relationships, and simply loss of the best available legal talent each time another woman associate leaves in frustration, Rikleen notes, "do so at their own peril."

#### Another "Gauntlet"

Lauren Stiller Rikleen's book is an illuminating, well-researched look at the reality of life in the modern law firm today, a reality built on the assumption that women must sign on to endure an onslaught from all sides in the dim hope of achieving success. But the word "gauntlet" has another meaning, this one of French origin, referring to the armored glove worn in medieval times. "Throwing down the gauntlet" represented the issuing of a challenge, one knight to another.

*Rikleen explains how law firms must fundamentally alter their leadership philosophies, culture, structure and compensation schemes, if they are to "chart a new and successful course for the future."*

With this vitally important book, author Rikleen challenges the legal profession to undertake no less than radical change in order to remove the barriers that negatively affect all attorneys, but especially block the advancement of women. Rikleen explains how law firms must fundamentally alter their leadership philosophies, culture, structure, compensation



schemes, among other things, if they are to “chart a new and successful course for the future.” Only then will they be able to restore a healthy work-life balance, truly serve their clients, treat attorneys as both human beings and invaluable resources to be developed, and help fulfill the number one reason most women and men cite for becoming lawyers in the first place: to make a positive contribution to society. As Judge Judith Kaye put it, the profession of law — so intimately “concerned with the rights of others” — must step up to “the forefront of meaningful reform to effect genuine integration and equality within its own ranks.” Now, then, urges Rikleen, is the time for the profession to take up this crucial challenge and truly end the gauntlet for women in the law.



**C o l o n e l  
M a r i t z a S.  
R y a n**  
is an Academy Professor and Acting Head of the Department of Law at West Point, and teaches

Constitutional & Military Law and Jurisprudence. After graduating from USMA in 1982, she was commissioned as a Field Artillery officer and assigned to the 1st Armored Division, Pinder Barracks, West Germany, where she served as HHB Executive Officer and DivArty Assistant Adjutant. During that assignment, she was selected for the Judge Advocate General’s Funded Legal Education Program. In 1988, Colonel Ryan received her Juris Doctor degree from Vanderbilt Law School, where she was elected to the Order of the Coif.

Colonel Ryan is a member of the New York Bar. She holds a Master of Laws in Military Law from the Judge Advocate General’s School, a Master of Arts in National Security and Strategic Studies from the Naval War College, and has published articles in *The Military Review* and *The Military Law Review*. She hails from New York City, is the daughter of Spanish immigrants, a cancer survivor, and is married to fellow USMA graduate, Major (Retired) Bob Ryan, with whom she has two children, Alexander (15) and Andrew (12).

**Solo** *continued*

Who is their internet and telephone provider? Which copier did they buy or lease? Call your friends!

**Follow the money:** This is the last, but by no means the least important issue. Find an accountant whom you trust, and spend the time getting their advice. Do you want to borrow from your savings? Your parents? Do you want a loan or line of credit? Will the Small Business Association lend you money? How much, at what rate, over what period of time? Be a smart businesswoman so you don’t get in over your head.

**Don’t worry too much:** Of course you are going to worry a bit, but remember that many, many lawyers have started their own firms, and thrived. If they can do it, so can you. Work hard, keep your eye on the ball, follow the fundamental points listed above, and you can have your dream of heading your own firm.



**K e r r y  
M c G r a t h**  
received her J.D. from New York University School of Law in 1988. She attended Duke

University, where she received her undergraduate degree in computer science. She was an adjunct professor at Emory University from 1999 to 2004 and continues to lecture there regularly. She has been a member of the Georgia, New York and Florida bars and the American Immigration Lawyers Association.

McGrath has spent most of the past eighteen years as a public interest lawyer. She began her career as an advocate for homeless and runaway youth with Covenant House in New York City, where she represented young people from all over the country and the world. She has been a staff attorney for the Atlanta Legal Aid Society, representing people with HIV/AIDS and immigrants, and has served as Deputy Director of the Southern Regional office of Amnesty International. She opened her own immigration law practice in Atlanta, Georgia, in August, 2004.

# Rebuilding Law Firms from the Ground Up

In her new book, Lauren Stiller Rikleen challenges the shibboleths of law firm management. In this interview, she talks about outdated management practices, isolation, how women need to find their collective voice, and why women are often the best choices for counsel.

by: Holly English

*Lauren Stiller Rikleen is the author of "Ending the Gauntlet: Removing Barriers to Women's Success in the Law," a book about the institutional impediments to the retention and advancement of women in the legal profession. (See book review.)*

*Rikleen is a senior partner in the Real Estate and Environmental Law Group of Bowditch & Dewey, in Boston. Lauren has a diverse environmental law practice emphasizing negotiation, enforcement and compliance in this issue. She is also an experienced mediator.*

*Rikleen has garnered numerous honors in the course of her career. She is listed in The Best Lawyers in America and Chambers USA America's Leading Business Lawyers, and was also recognized as one of the "Top 50" women attorneys in the Massachusetts Super Lawyers publication. Rikleen received the Boston College Law School Alumni Award for Excellence in Law in 2004.*



Lauren Stiller Rikleen

*She has also been active in women lawyer issues. In the fall of 2005, the Women's Bar Association of Massachusetts awarded Rikleen the Lelia J. Robinson Award, named in honor of the first practicing woman attorney in the Commonwealth.*

*In August 2005, Rikleen was appointed by the President of the American Bar Association to the twelve-member ABA Commission on Women in the Profession. As the former President of the Boston Bar Association (1998-1999), Rikleen created the Task-Force on Professional Challenges and Family Needs, which produced a report*

*entitled: "Facing the Grail – Confronting the Costs of Work/Family Imbalance" (July, 1999). She continues her advocacy of these issues through her involvement with the Massachusetts Equality Commission and the related work of the MIT Workplace Center.*

*Rikleen is active in other pursuits as well. She is Chair of the Board of Directors of the Environmental League of Massachusetts and a member of the Board of Trustees of Clark University, in Worcester, Massachusetts. She is also a founding member of the Council for Women of Boston College and a member of the Board of Trustees of Middlesex Savings Bank, the Boston Bar Foundation, and Discovering Justice, the James D. St. Clair Court Education Project. Rikleen is also a member of the Board of Directors for the Massachusetts Women's Political Caucus and a fellow of the American Bar Foundation.*

*NAWL Journal Editor Holly English interviewed Rikleen in early April 2006.*

**Q. Holly English: Why did you write this book?**

**A. Lauren Stiller Rikleen:** When I was president of the Boston Bar Association in 1998 to 1999, I created a task force called "Facing the Grail," studying issues facing women and the bar. My own interest, my own passion for the topic, stems from the fact that I'm a mother with two kids, and working full time. The interest in the topic was pretty long standing. The work force in general is stressful for a parent but I think the law is particularly daunting.

When I completed the task force report I stayed involved with the Boston bar, and we created a standing committee. One of the things that struck me over the years that followed, when my kids were young, was that there were a lot of women to talk with and commiserate with about the challenges. As my kids got older, there were less women to

commiserate with. I started seeing the attrition issues far more starkly in that regard.

I've always talked to women all the time about this issue. Then I started to interview them on a more formal basis. I love to write, I do a lot of it anyway, but usually writing short op-ed pieces. I talked to some people about whether this could be a magazine piece, but magazines don't want confidential sources, which I relied on. And then I realized there was so much to say on each of the issues that comprised the daily life of law firms. Every chapter of the book reflects a different aspect of firm life, from the assignments, billable hours, compensation, mentoring, issues around family, work/family issues, and partnership considerations. In many ways my book became a business book about the institution of law firms.

*“We practice in firms that say they want to be run like a business, but they use an institutional model that’s 200 years old that doesn’t fit.”*

As I did other research and talked with many women, what became clear to me, while there were some ways in which women can do things through coaching and mentoring and other business developing skills, the bottom line is that the institutional framework is just outdated for the modern workforce. That's the fundamental conclusion. We practice in firms that say they want to be run like a business but they use an institutional model that's 200 years old that doesn't fit.

**Q. Can you give some specific examples?**

**A.** The entire workplace of law firms is structured around the assumption that there's a person at home raising the family, or else firms wouldn't be structured they way they are. There's an incredible reliance on billable hours. Firms are doing remarkably well because billable hours continue to go up and hourly rates continue to go up.

But as a business model that doesn't hold for the long term. At some point you max out on the number of hours that people can be asked to contribute. I really do think

we're there. I hear more and more women talk about billable hour expectations. On top of that there's the difference between what's stated and what's unstated. Most firms will tell you their billable targets are around 2,000, give or take. But what I hear is that to succeed, the firms expect 2,200, 2,400. I've talked to people who say that it's 2,600. That's not a sustainable way to live and a way to work. If the profit model is based on that trend continuing or even growing, it's a very flawed model.

**Q. How can firms think differently about practice?**

**A.** I really think that law firms need to start over and rethink the entire model. That may sound overly ambitious, but I think tinkering at this is not going to produce the types of significant changes that are needed to alter the attrition and the poor partnership numbers for women.

The flaw is this model of a silo in which you're an associate, then you become a partner, and if you're not one of those two things on that normal rack, then you're devalued. So there's no room for anyone to perform outside that ideal model of being an associate for x amount of years and then become a partner. Those who try to arrange alternatives in the current framework generally will say that they feel devalued, they feel stigmatized, and they don't feel like a productive, accepted member of the firm.

*“As a business model, the billable hours system doesn't hold for the long term. At some point you max out on the number of hours that people can contribute.”*

**Q. Let's say you could start over and set up a law firm in an ideal way. How would you set things up?**

**A.** A major point would be to increase the amount of time and expertise in management. Right now most firms are managed on a part-time basis. Some of the big national firms are starting to have managing partners

who are spending a larger amount of time in that role. But once you get past the managing partner, the expectation is that people who run practice groups will be highly successful lawyers and rainmakers who are then managing. You're asking people to manage 20 or 30 lines of business essentially on an hour or two or less a day. I don't know too many businesses that run successfully with that number of part-time managers.

The other thing that is hugely flawed is that law firm managers, again at the practice group level, are picked for their lawyering success and not their management capability. How does that make sense? Essentially what you have are unmanaged institutions. The result is people feeling they are not a part of a whole, they are not part of a team. Even institutions that stand for making a profit stand for something.

After I give speeches, a lot of people tell me, "The place I work has no fabric to it. I show up, I bill my hours. Sometimes I don't even understand what the big picture of the case is about. No one knows who I am, no one cares. I don't understand what drives this firm other than billing more hours and making more money." I don't think most law students go to law school for this to be their life.

*"Law firms are essentially unmanaged institutions."*

I approach this with a love for the profession. You can't be President of the Boston Bar Association without a real reverence for lawyers. There is so much good in what we do. But we often end up in these jobs in which we feel so alienated from that side of us that wants to belong to something that really matters.

**Q. Okay, you would improve management at firms. What else would you do?**

**A.** I would also make the workplace more horizontal than vertical. I would create a work environment in which your whole sense of self-worth is not tied to whether or not you become a partner. There are a lot of ways to practice law and practice law meaningfully. Therefore we shouldn't invest so much in a title that less people are achieving right now, because of the economics. As firms get bigger, the percentage of equity partners is dropping somewhat. You have to

step back and say, how can I create a system in which people are valued because of their work contributions, and managers are selected because they understand how to get the best out of the people. It's kind of rethinking how law is practiced in the modern work place.

Within that structure, of course, is thinking about more flexible ways people can live their lives and be good lawyers.

*"People hate change and lawyers really hate change."*

**Q. What are the chief obstacles to this change, and how can we move them out of the way?**

**A.** People hate change and lawyers really hate change. People resist change. The other big obstacle is that this is a model that works really well for a lot of people who are doing very well at the highest level.

**Q. What can individuals do to change their lot?**

**A.** I'm a very firm believer in the importance of women's initiatives. If the firm doesn't do it, women must start an initiative. The problem is that the term has lost a little bit of its substantive meaning over the last couple of years, as more firms have recognized that more women have become clients. So they create opportunities for women to meet clients. Women's initiatives can be a marketing effort and that's great, but that's not what I mean by this. The sole focus is how do you help women succeed.

The importance and value of a women's initiative is that it focuses on ways that a firm can retain and advance women. That should be the measurement and the focus of the program. The reason that it's so important to state it that way is that one of the real values of a women's initiative is that it allows women to find their collective voice. They need to work together better than they do.

**Q. Why are there problems with women working together?**

**A.** First, women express concern about whether firms will frown upon efforts to work in that type of an affinity group. That one is easily rebutted because so many firms are forming women's initiatives these days.

When I was interviewing people, I was always struck by stories that were heart-breaking. I asked them, what did you do, and they said they didn't think there was anything they could do. Part of the problem is that they felt they were isolated, and they didn't have the kind of relationships with other women that would make them feel comfortable using their collaborative voice to help solve a problem. So my concern is that women for too long have worked in an isolated way in firms.

**Q. What was a story that particularly struck home for you?**

**A.** In a negative way, one of the ones that struck me the most was a woman who was working for someone who was verbally abusive, in a very threatening way. And she didn't feel there was anybody who could help her. She went to another man, a partner with whom she worked closely, and he was the only person she thought she could talk to. His response was basically, "Well, I'll try to protect you as best I can," but he expected that she would never discuss this with anyone else in the firm. The implication was that at the same time that he was offering to help her, he was trying to protect his partner from his fallout. I did go into detail on that story, as it was so alarming. She did the one thing she thought she could, seeking help, and he really didn't help her, he continued to protect very outrageously inappropriate behavior from this partner, who by the way continues to this day to be a very successful partner. The punchline: she left the firm.

*"I was struck by the isolation and the silence of it all."*

Could it have been a different result, had there been more of a collective voice of women in that firm? They could have looked out for one another, and provided some formalized vehicle that she could utilize.

**Q. Is there any firm where the women had found their collective voice?**

**A.** I'm not sure – I think that there were women who did think to seek out other people. I was more struck in the interviews by how rarely that happened. I was more struck by the isolation and the silence of it all.

**Q. What are other ways to break down this isolation?**

**A.** I think the isolation will be broken down as women become more comfortable working with one another. Another interesting opportunity for creating change is the importance of clients recognizing that they have a lot of power if they choose to exert it. They have a huge economic power that could literally change the face of law firms overnight.

**Q. Why aren't inhouse women waving their magic wands and making change, by hiring women?**

**A.** I find that some inhouse women are extremely supportive, and really do require law firms to demonstrate their commitment to diversity in very real ways. But there's still not enough. There are some women corporate counsel that I spoke with who would say that they're not interested, they just don't care. Others might say, "I care but I'm under enormous pressure to pick the best person." Picking the best person is not necessarily calling your friend who used so-and-so and who's part of the old guys network. For example, you could research similar cases to the one you have, since the lawyers involved are public information, and find out if there are terrific women who have great expertise.

It takes a little bit more effort. But we owe that to one another. Many of these women in corporate counsel left law firms for the very same reasons, the very same concerns I've been talking about here. Therefore they have some responsibility, they can exercise these opportunities to use their economic clout to improve the environment for other women. Inhouse women say, "I'm under enormous pressure to pick the best people and if anything goes wrong I'm on the line." There are a lot of good women who are the best people.



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# When Charity Doesn't Start at Home: The Torture Victims Relief Act and Female Inmates in the U.S.

By Maria Angela Buenaventura

*NAWL has established the annual Selma Moidel Smith Law Student Writing Competition to encourage and reward original law student writing on issues concerning women and the law. This is the first year of the competition and we were gratified to receive many superb entries. The winning essay is by recent Northwestern University School of Law graduate M. Angela Buenaventura. A biography of Buenaventura is at the conclusion of the article.*

*Selma Moidel Smith, in whose honor the Competition is named, has been an active member of NAWL since 1944. Smith is the author of NAWL's Centennial History (1999), and recently received NAWL's Lifetime of Service Award. She is a past Western Region Director, State Delegate from California, and chair of numerous NAWL committees. Smith served two terms as president of the Women Lawyers Association of Los Angeles, and was recently named their first and only Honorary Life Member. She was also president of the Los Angeles Business Women's Council. In the ABA Senior Lawyers Division, Smith was appointed the chair of the Editorial Board of Experience magazine (the first woman to hold that position) and was elected to the governing Council for four years, also serving as chair of several committees and as NAWL's Liaison to the Division. Smith is a member of the Board of Directors of the California Supreme Court Historical Society. She was president, and also a Charter Member, of the National Board of the Medical College of Pennsylvania, which recently honored her at the Board's 50th anniversary.*

*Smith's career as a general civil practitioner and litigator are recognized in the first and subsequent editions of Who's Who in American Law and Who's Who of American Women, and also in Who's Who in America, among others. Her articles on the history of women lawyers have been published in the Women Lawyers Journal*

*and Experience magazine, and have been posted online by the Stanford Women's Legal History Biography Project (together with her own biography). Her original research includes the discovery of the first two women members of the ABA (Mary Grossman and Mary Lathrop), both of whom were vice presidents of NAWL.*

*She is also a composer. Many of her 100 piano and instrumental works have been performed by orchestras and at the National Museum of Women in the Arts. She is listed in the International Encyclopedia of Women Composers.*

## I. Introduction

The United States government funds over 200 centers, both at home and abroad, to treat victims of torture through the Torture Victims Relief Act (TVRA).<sup>1</sup> Although TVRA funds have been extremely beneficial to the treatment of torture victims and the prevention of torture, the fact that the U.S. government funds these centers has negative implications for *domestic* victims of torture.

Under the TVRA definition of torture, women who are raped in U.S. prisons qualify as victims of torture.<sup>2</sup> However, with respect to torture treatment centers, the provision of treatment and services to female inmates who have been raped in U.S. prisons would mean recognizing that torture occurs within the U.S. Thus, because these torture treatment centers rely so heavily on federal funding, they make a political decision to refrain from treating these women. This political decision is very unfortunate, given the fact that treatment options for survivors of prison rape are severely lacking.

In this paper, I will discuss the conflict between political constraints on TVRA-funded centers and the needs of female inmates who have survived torture. In Part II of this paper, I will discuss well-documented cases of rape in women's prisons and why such harms qualify as torture under the TVRA. In Part III, I will outline the provisions of the TVRA and discuss the many

functions of torture treatment centers funded by the Act. In Part IV, I will explore the Act's explicit and implicit restrictions on treatment of particular categories of torture victims. I will focus on the implicit prohibition on treatment of survivors of domestic torture. In Part V, I will outline some possible repercussions of denying treatment to survivors of domestic torture, and more specifically, how female inmates are affected by denial of treatment. In Part VI, I will propose some possible methods which would allow TVRA-funded centers to aid in the treatment and prevention of the rape of women in prisons, despite the fact that these centers are implicitly prohibited from treating victims of domestic torture.

## II. Torture within the United States: The Rape of Female Inmates

### A. Documentary Evidence of Rape within U.S. Prisons

Over the past decade, U.S. women's prisons have become notorious for the severe and insidious sexual abuse of women prisoners by male guards.<sup>3</sup> The problem first came to light as a result of major litigation against state prisons.<sup>4</sup> For example, in the 2000 case, *Cason v. Seckinger*,<sup>5</sup> female inmates of Georgia's Milledgeville State Prison alleged that they were forced to have sex with staff, routinely exchanged sex for favors, and experienced verbal harassment.<sup>6</sup> In addition, their complaints about the abuse went uninvestigated,<sup>7</sup> the women suffered emotional and psychological harm as a result of the abuse, and the women did not receive appropriate counseling to deal with the trauma.<sup>8</sup> Soon after litigation against state prisons arose, both domestic and international organizations began taking notice and criticizing the U.S. administration's failure to address the issue.<sup>9</sup> In a 1996 report, Human Rights Watch found that:

Male correctional employees have vaginally, anally, and orally raped female prisoners and sexually assaulted and abused them. We found that in the course of committing such gross misconduct, male officers have not only used actual or threatened physical force, but have also used their near total authority to provide or deny goods and privileges to female prisoners to compel them to have sex or, in other cases, to reward them for having done so.<sup>10</sup>

In November 1998, an Amnesty International report similarly noted that "[m]any women in prisons and jails in the USA are victims of sexual abuse by staff, including sexually offensive language; male staff touching inmates' breasts and genitals when conducting searches; male staff watching inmates while they are naked; and rape."<sup>11</sup>

Tragically, prison officials act with impunity because "incarcerated women have no protection, no recourse, and nowhere to hide."<sup>12</sup> As Amnesty International has noted, by failing to discipline guards, prisons send a message to both the women and the correctional facility's employees that guards may harm women with impunity.<sup>13</sup>

### B. Prison Rape Qualifies as Torture under the TVRA

The rape of female inmates qualifies as torture under the TVRA. The TVRA specifically states that the definition of torture includes "the use of *rape and other forms of sexual violence* by a person acting *under the color of law* upon another person under his custody or physical control."<sup>14</sup> Case law supports the assertion that when prison guards rape female inmates, they are acting "under the color of law." In *Giron v. Corrections Corporation of America*, the United States District Court for the District of New Mexico noted that the function of imprisoning people has always been the exclusive function of the state and held that a private prison guard was acting under the color of law when he forced an inmate to have sexual relations with him.<sup>15</sup> Furthermore, in *Richardson v. McKnight*, the U.S. Supreme Court permitted a § 1983 action, which requires action "under the color of law," to proceed against private prison guards who had allegedly used excessively tight restraints on inmates.<sup>16</sup>

In summary, as the 1999 Amnesty International report and the 1996 and 1998 Human Rights Watch reports on the systematic rape of female inmates evidence, torture occurs within the U.S., and the treatment of survivors as well as mobilization against this form of torture are severely lacking.<sup>17</sup> Because these survivors are victims of torture under the TVRA, they should be entitled to the services provided by TVRA-funded torture treatment centers.

### III. Centers for Treatment of Survivors of Torture

Although well-documented torture exists on domestic soil, the current U.S. administration has seemingly turned a blind eye to domestic torture while pouring millions of dollars into efforts to prevent torture abroad and provide treatment to victims of torture by foreign governments.

#### A. Torture Victims Relief Act of 1998

Congress authorized the Torture Victims Relief Act of 1998 ("TVRA") to provide funding for torture treatment centers in the U.S. and abroad, which help torture victims reclaim their lives.<sup>18</sup> Before the TVRA was enacted, only a handful of treatment centers existed in the U.S.<sup>19</sup> Today, thanks to the TVRA, there are 27 domestic treatment centers and almost 200 centers in 70 countries around the world.<sup>20</sup> At domestic treatment centers, while U.S. citizens who were tortured abroad comprise a handful of those treated, the overwhelming majority of those assisted come from other countries.<sup>21</sup>

#### B. The Role of Treatment Centers

The main purpose of treatment centers is to provide direct services to survivors of torture and their families.<sup>22</sup> For example, Chicago's Marjorie Kovler Center's services include individual and group psychotherapy, health care, tutoring, ESL, transportation, and legal referrals.<sup>23</sup> These services help survivors rebuild their lives.

Beyond meeting the direct needs of individual survivors, treatment centers train practitioners to meet the needs of future clients. Because survivors of torture have specialized needs, untrained mainstream practitioners are often unprepared to treat survivors. As John Salzber, a staff member at the Center for Victims of Torture, noted, "[t]reatment centers serve as a learning resource about the issue and how best to help victims heal from the effects of torture. [T]hey become repositories of skills that are available to train others."<sup>24</sup> In addition, because treatment centers are often unable to meet the immense demand for their services,<sup>25</sup> treatment centers indirectly aid survivors by training the broader community to meet the needs of survivors.

Treatment centers serve a preventative function as well.<sup>26</sup> Centers help mobilize health professionals and the broader community in opposition to torture.<sup>27</sup> They provide

a place for people opposed to torture to gather and serve as symbols of concern about the issue of torture.<sup>28</sup> International centers for survivors of torture are integral parts of the human rights movements in their respective countries.<sup>29</sup> The centers provide forensic documentation, and written and verbal testimony to courts and legislatures; and challenge governments to improve their human rights records.<sup>30</sup> For example, Independent Medico, a treatment center in Kenya, provides information to the Kenyan parliament about the incidence of torture in police stations and prisons, provides forensic evidence to Kenyan courts, and challenges the Kenyan government to cure these human rights violations.<sup>31</sup> In addition, international treatment centers advocate for the rights of brutalized ethnic, religious, and minority groups.<sup>32</sup>

### IV. Funding and Domestic Survivors of Torture

Although TVRA-funded centers provide much-needed services to individuals who have been tortured abroad, treatment centers are implicitly prohibited from treating survivors of domestic torture.

#### A. Congress's Ability to Condition Federal Grants

Congress does not have an absolute obligation to distribute government funds equally. Furthermore, "Congress may choose which groups to fund based on the content of their speech."<sup>33</sup> Congress's ability to condition funding was explored by the Supreme Court in *Regan v. Taxation With Representation*.<sup>34</sup> In this case, the IRS denied Taxation With Representation (TWR), a nonprofit organization that promoted public interest in the area of federal taxation, tax-exempt status under § 501(c)(3) because a substantial portion of TWR's activities consisted of lobbying efforts.<sup>35</sup> TWR brought suit, contending that the prohibition against substantial lobbying was unconstitutional under the First Amendment.<sup>36</sup> TWR also claimed that the prohibition violated the equal protection component of the Due Process Clause because the Code permits taxpayers to deduct contributions to veterans' organizations that lobby.<sup>37</sup>

The Supreme Court held that Congress had not infringed upon any First Amendment rights, but rather had simply chosen not to subsidize TWR's lobbying out of public



funds.<sup>38</sup> With regard to the equal protection claim, the court held that § 501(c)(3) does not violate the equal protection component of the Fifth Amendment because it does not employ any suspect classifications.<sup>39</sup> A legislature's decision not to subsidize the exercise of a fundamental right does not infringe that right and thus is not subject to strict scrutiny.<sup>40</sup> The court found that it was not irrational for Congress to decide that tax-exempt organizations should not benefit at the expense of taxpayers by obtaining a subsidy for lobbying.<sup>41</sup> The court further found that it was not irrational for Congress to subsidize lobbying by veterans' organizations even though it would not subsidize lobbying by other charities because "our country has a longstanding policy of compensating veterans for their past contributions by providing them with numerous advantages."<sup>42</sup> In *Regan*, the Supreme Court, in effect, allowed Congress to choose which groups to fund based on the content of their speech.<sup>43</sup> Thus, it is clear that Congress has broad discretion in conditioning funding.

Indeed, as one commentator has noted, the federal grant system allows the federal government to advance its substantive policy goals and to impose conditions on private providers of social services.<sup>44</sup> Congress can require private social service providers to conform to the government's socioeconomic policies (such as anti-discrimination, environmental, and labor standards) as well as administrative and fiscal policies (such as inspection and auditing requirements) in order to qualify for grants.<sup>45</sup>

### **B. Domestic Victims of Torture and Funding**

Congress did not explicitly prohibit the use of TVRA funds to treat victims of domestic torture in the Act itself. In addition, the definition of torture found in 18 U.S.C. § 2340(1) does not define torture in a way that excludes victims of domestic torture. However, because treatment centers rely so heavily on federal funding, they must make a political decision to refrain from criticizing the current U.S. administration, lest they be denied funding. The Director of Chicago's Marjorie Kovler Center has stated that the Center does not treat victims of domestic torture because federal funds would probably not support the Center in doing so, and federal funds make up the bulk of the Center's resources.<sup>46</sup> Ironically, in the findings section of the TVRA, Congress noted: "In many nations, even those who

treat torture survivors are threatened with reprisals...for carrying out their ethical duty to provide care. Both the survivors of torture and their treatment providers should be accorded protection from further repression."<sup>47</sup>

Regardless, the administration would probably refuse to fund a treatment center which treated victims of domestic torture because this would imply that the center acknowledges that the current U.S. administration allows individuals to be tortured. In the current political climate, such an acknowledgement would be very dangerous. As one commentator has noted,

Attention to egregious human rights violations occurring abroad but not at home generates a convenient and false sense of security and superiority in the United States. Torture and inhuman treatment, for example, among the most frequently condemned international obligations, appear as a characteristic of the jails of dictators, not democracies.<sup>48</sup>

In examining the Congressional findings and hearings regarding the TVRA, there is ample evidence that Congress enacted the TVRA to convey the notion that the United States condemns torture and to derive a sense of moral superiority by condemning its political enemies as torturers. In its findings, Congress stated that "repressive governments often use torture as a weapon against democracy," and that "[t]he development of a treatment movement for torture survivors has created new opportunities for action by the United States and other nations to oppose state-sponsored and other acts of torture."<sup>49</sup> In addition, in the hearings regarding the TVRA, the same rhetoric was used to argue for the Act. For example, Douglas Johnson, the Executive Director of The Center for Victims of Torture, stated, "[T]orture is the most effective weapon against democracy... We believe that the original sponsors of the TVRA understood this connection and sought a new tool to help build democratic cultures, through the strategic investment in torture rehabilitation programs across the globe."<sup>50</sup>

The federal government may condition its grants explicitly, as is the case with the prohibition on lobbying by 501(c)(3) corporations, or it may condition its grants implicitly, as is the case with the prohibition on treatment of domestic victims of torture by TVRA-funded treatment centers. In the leg-

islative history behind the TVRA, there is substantial evidence that Congress enacted the Act not out of sheer concern for victims of torture, wherever they may have been tortured. Instead, Congress wished to support the U.S. administration's claim that the U.S. is unequivocally opposed to torture, and that torture is an anti-democratic tool. When a victim is treated at a treatment center, the treatment center in effect condemns the country in which the victim was tortured as a country that allows a person to be tortured while in the physical control of another individual and under the color of law. Thus, both domestic and international treatment centers are implicitly restricted from using TVRA funds to condemn the U.S. as a country that allows torture to occur domestically lest they be denied funding, causing their current clients go untreated.

#### **V. Repercussions of Denial of Treatment for Female Inmates who have Survived Sexual Abuse in Prison**

As detailed above, torture victim treatment centers serve multiple functions. Thus, when treatment centers are prevented from addressing torture that occurs within the United States or at the hands of the United States, torture treatment and prevention is harmed on multiple levels.

##### **A. Direct Services to Torture-Affected Survivors**

Because some problems faced by refugees who are treated by treatment centers and female prison-rape victims are inter-related, skills that could be very valuable to the treatment of survivors of prison rape are not being utilized for this purpose. First, both refugees who survived sexual violence and survivors of prison rape often display Rape Trauma Syndrome, which the United Nations High Commissioner for Refugees Guidelines describes as a "pattern of symptoms . . . [which] includes persistent fear, a loss of self-confidence and self-esteem, difficulty in concentration, an attitude of self-blame, a pervasive feeling of loss of control, and memory loss or distortion."<sup>51</sup> As the Canadian Immigration and Refugee Board guidelines note, one of the primary needs of refugee women is the recognition and treatment of Rape Trauma Syndrome.<sup>52</sup> With regard to female inmates, Human Rights Watch similarly noted that "[o]ne of the most common psychological effects of sexual abuse in prison is rape trauma syndrome,

which most often results in a loss of self-esteem and an inability to trust others."<sup>53</sup> Tragically, the vast majority of correctional facilities are not equipped with adequate mental health programs to counsel inmates on sexual assault issues.<sup>54</sup> Thus, torture treatment centers with specialized knowledge about the treatment of Rape Trauma Syndrome could be invaluable to the treatment of victims of prison rape.

Secondly, treatment centers have experience navigating gender barriers in communication. The Canadian Immigration and Refugee Board guidelines note that with respect to female refugees, it is important that aid providers be aware of gender differences in communication.<sup>55</sup> Often, female victims of rape are hesitant to speak out, particularly if the person questioning them is of the opposite sex. For example, as one commentator has noted, "[w]hen reports of rape camps and mass rape as a weapon of war in Rwanda surfaced, they were largely ignored until the prodding of the only female judge on that Tribunal forced prosecutors to go back and investigate rape, as well as to hire female investigators."<sup>56</sup> Similarly, female victims of prison rape often want to avoid the embarrassment of "sharing the highly intimate, sexual details of their rape with [primarily] male investigators."<sup>57</sup> Thus, treatment center staff, who communicate with victims of rape abroad regularly, are most likely much more attuned to gender differences in communication than an average community member.

In addition, because, under the TVRA, torture treatment centers must limit treatment to those who have been victimized "under the color of law,"<sup>58</sup> treatment centers have valuable experience treating the needs of those who have been victimized by state officials while in custody. In *Aydin v. Turkey*, the European Court of Human Rights held that the rape of a person in custody "by an official of the State must be considered to be an especially grave and abhorrent form of ill-treatment given the ease with which the offender can exploit the vulnerability and weakened resistance of his victim."<sup>59</sup> With regard to the rape of female inmates, victimizers are usually male prison officials.<sup>60</sup> As one victim noted, "Yes, I am a convicted felon, but my sentence does not require me to be exposed to or at risk of sexual assault anywhere, especially by the individuals hired to protect me."<sup>61</sup> Thus, treatment centers' experience treating victims

who have suffered at the hands of state officials while in custody could also be very valuable in the treatment of survivors of prison rape.

Furthermore, torture treatment centers also have experience treating torture victims' families. For example, the Kovler Center's holistic approach to treatment calls for treatment of the victim's family, particularly a victim's children, who may feel as if they have lost their parent on an emotional level.<sup>62</sup> Similarly, as Amnesty International notes,

Incarcerated women are not the only people suffering the consequences of the...failure to stop sexual abuse and retaliation. Their families and, in particular, their children are victimized...More than two-thirds of all incarcerated women have at least one child under the age of eighteen, and the majority of these are single mothers. Children need continuity in relationships with their adult caretakers and depend on their being available when needed.<sup>63</sup>

Moreover, torture treatment centers have experience gathering forensic documentation to challenge foreign governments' human rights records. This evidence-gathering experience could be very useful in litigation against prison officials.

### **B. Repositories of Skill**

Although a number of female prison rape victims' needs are similar to those of refugees who have been sexually victimized, other needs are unique. For example, female inmates often become pregnant as a result of rape.<sup>64</sup> Women who decide to terminate their pregnancies experience problems obtaining abortions, and women who carry their pregnancies to term experience difficulties obtaining appropriate prenatal care and arranging for custody of their children.<sup>65</sup>

While torture treatment centers serve as repositories of skills necessary to treat the specialized needs of non-domestic torture survivors and train mainstream practitioners, there is no comparable network of organizations to identify the unique needs of female inmates and hone the skills necessary to treat these particular needs. Thus, as torture treatment centers make advances in the treatment of survivors of non-domestic torture and increase the availability of treatment by training mainstream practitioners, no comparable advances are made in the treatment of

survivors of particular forms of torture that occur within the U.S. This lack of progress is especially troubling given that the number of female inmates in the U.S. has grown at an average annual rate of 11.2% since 1985.<sup>66</sup>

### **C. Preventative Education and Mobilization**

While international treatment centers act as a voice for brutalized ethnic, religious, and minority groups, female inmates in the U.S. do not enjoy such support. One female inmate told Amnesty International:

There's no voice telling taxpayers that their money is being wasted, that we are in need of adequate medical care, that we don't like being pawed on by male correctional officers under the pretense of being pat searched. No, we don't have a voice that will speak about how we are treated by the male officers, as if we were their private harem to sexually abuse and harass.<sup>67</sup>

As mentioned above, international centers for survivors of torture are integral parts of the human rights movements in their respective countries, mobilizing health professionals and the broader community in opposition to torture.<sup>68</sup> In their report on the incarceration of women in the U.S., Amnesty International noted that "[t]he USA's reluctance to fully accept international human rights treaties and standards denies women in the USA rights and protections which many other governments around the world have agreed to recognize," and urged the U.S. government to "give people in the USA recourse to international human rights protection mechanisms."<sup>69</sup>

Were domestic treatment centers free to challenge the current U.S. administration to accept international standards governing incarceration, they could put pressure on the administration to prevent male employees from having contact positions over female inmates. As human rights groups have noted, one of the key factors contributing to the abuse of women in prison is the fact that "the United States, despite authoritative international rules to the contrary, allows male correctional employees to hold contact positions over prisoners."<sup>70</sup> Amnesty International has noted: "The employment of men to guard women is inconsistent with international standards - Rules 53(2) and 53(3), Standard Minimum Rules for the

Treatment of Prisoners - which provide that: "female prisoners should be attended and supervised only by female officers." Thus, although a prohibition on the employment of male guards in female prisons could greatly decrease the suffering of female inmates and would bring the U.S. more in line with international obligations, TVRA-funded centers are politically prohibited from acting as a voice behind this cause.

#### VI. Proposed Changes

Treatment centers supported by the TVRA help countless survivors reclaim their lives. While these centers are already inundated with individuals seeking aid and are implicitly prohibited from treating victims of domestic torture, these centers may still be in a position to aid in the treatment and prevention of domestic torture. In this section, I will propose some methods through which treatment centers could potentially reach out to survivors of domestic torture.

First, treatment centers could possibly split off into two entities: one to address torture that occurs abroad and one to address torture that occurs at home. In *Regan v. TWR*, the Supreme Court suggested that TWR maintain a dual structure, with a § 501(c)(3) organization for nonlobbying activities and a § 501(c)(4) organization for lobbying.<sup>71</sup> The Supreme Court noted that by maintaining this two-entity structure, TWR could use public funds to subsidize its non-lobbying activity.<sup>72</sup> Domestic treatment centers could similarly structure their operations: TVRA funds would be used to finance the treatment of victims at home, and private funds donated to the center could be used to treat victims of domestic torture and advocate against domestic torture.

In addition, although the torture treatment centers themselves cannot use TVRA funding to treat victims, perhaps they could act as a referral service and direct victims of prison rape to other free community-based services such as rape crisis centers and pro bono legal services that might be able to help them. Perhaps some form of informal training could also be offered by torture treatment centers. These centers have amassed vast knowledge and skill in the area of torture treatment and could encourage rape treatment centers that service female victims of prison rape to contact them for advice on how to best treat survivors of torture.

In a related effort, treatment centers could also contact local law school clinics to

encourage them to look at the issue of rape in prisons. Clinics could address the many legal needs of female inmates, be it in a suit against a state prison where they endured sexual assault or in a suit to obtain necessary prenatal care. Thus, clinics could become repositories of skills needed to aid victims of domestic torture.

Moreover, many treatment centers abroad are affiliated with domestic treatment centers and are funded by the TVRA. Because the U.S.'s monopoly on treatment centers stifles criticism of the U.S.'s violation of international obligations, perhaps centers abroad should be more independent of domestic treatment centers (relying on funding from NGOs and private individuals) and thus be free to look critically at the U.S. administration's behavior.

#### VII. Conclusion

The Torture Victims Relief Act has immensely aided global efforts to treat and prevent torture by providing funding that has allowed the handful of treatment centers existing before the implementation of the Act to multiply to almost 200 centers worldwide. These centers provide direct services to torture-affected survivors, their families, and communities; train individuals to treat those affected by torture; and provide preventative education and mobilization.

However, while millions of dollars are spent on efforts to prevent torture abroad and provide treatment to victims of torture by foreign governments, efforts to prevent and treat well-documented torture on domestic soil are not funded by the TVRA. Because TVRA-funded treatment centers are implicitly prohibited from aiding survivors of domestic torture, domestic victims of torture, such as female victims of prison rape, cannot benefit from treatment centers' experience in treatment, identification, and prevention of torture.

Nevertheless, despite implicit prohibitions on providing aid to domestic victims of torture, perhaps TVRA-funded centers could still aid in the treatment and prevention of domestic torture. For example, because some problems faced by refugees who are treated by treatment centers and female prison-rape victims are interrelated, torture treatment centers could informally train practitioners who treat victims of domestic torture in areas such as the treatment of Rape Trauma Syndrome, the treatment of the particular trauma experienced by victims who

have been tortured at the hands of government officials while incarcerated, and awareness of gender differences in communication. In addition, torture treatment centers could act as referral services and encourage local law schools to provide the treatment that the centers are implicitly prevented from providing.

<sup>1</sup> Torture Victims Relief Act of 1998, 22 U.S.C. § 2152 (2000) [hereinafter TVRA].

<sup>2</sup> See Part II, *infra*.

<sup>3</sup> Amnesty International, Not Part of My Sentence: Violations of Human Rights of Women in Custody 55-56, AMR 51/01/99, Mar. 1999 [hereinafter Amnesty International, Not Part of My Sentence]; Human Rights Watch, Nowhere to Hide: Retaliation Against Women in Michigan State Prisons (Sept. 1998) [hereinafter Human Rights Watch, Nowhere to Hide]; Human Rights Watch, Women's Rights Project: All Too Familiar: Sexual Abuse of Women in U.S. State Prisons (1996) [hereinafter Human Rights Watch, All Too Familiar].

<sup>4</sup> See, e.g., *Cason v. Seckinger*, 231 F.3d. 777 (11th Cir. 2000); *Women Prisoners v. D.C.*, 877 F.Supp. 634 (D.D.C. 1994).

<sup>5</sup> *Cason*, 231 F.3d. at 777.

<sup>6</sup> *Id.* at n.2.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Brenda V. Smith, *Watching You, Watching Me*, 15 Yale J.L. & Feminism 225, 231 (2003).

<sup>10</sup> Human Rights Watch, All Too Familiar, *supra* note 3.

<sup>11</sup> Amnesty International, Not Part of My Sentence, *supra* note 3.

<sup>12</sup> Human Rights Watch, Nowhere to Hide, *supra* note 3.

<sup>13</sup> Amnesty International, Not Part of My Sentence, *supra* note 3.

<sup>14</sup> 22 USCS § 2152 (2000) (emphasis added).

<sup>15</sup> 14 F. Supp.2d 1245,1249 (D. N.M. 1998).

<sup>16</sup> 521 U.S. 399 (1997); see also *Monroe v. Pape*, 365 U.S. 167, 195 (1961) (maintaining that 1983 applies even if there is a remedy available under state law and holding that state officials act under color of law even when they exceed their authority).

<sup>17</sup> See Amnesty International, Not Part of My Sentence, *supra* note 3; Human Rights Watch, Nowhere to Hide, *supra* note 3; Human Rights Watch, All Too Familiar, *supra* note 3.

<sup>18</sup> 22 U.S.C. § 2152 (2000).

<sup>19</sup> Gunnar Stalsett, *After the Outrage: Caring for Torture Victims*, GUELPH MERCURY, September 28, 2004, at A9.

<sup>20</sup> *The Center for Victims of Torture, Torture Victims Relief Act*, at <http://www.cvt.org/main.php/Advocacy/TortureVictimsReliefAct> (last visited February 9, 2006).

<sup>21</sup> Stalsett, *supra* note 19, at A9.

<sup>22</sup> See, e.g., Prepared Testimony of Douglas A. Johnson, Executive Director, The Center for Victims of Torture, Hearing Before the House Appropriations Committee, Subcommittee on Labor, HHS, and Education, Fed. News Serv. (April 27, 2004), available in LEXIS, News Library, Current file [hereinafter Johnson Testimony I].

<sup>23</sup> International Rehabilitation Council for Torture Victims, *Find Centers and Programs: Marjorie Kovler Center for the Treatment of Survivors of Torture*, at <http://130.227.3.66/usr/irct/home.nsf/unid/JREW-5MSCU5> (last visited Dec. 15, 2005).

<sup>24</sup> Prepared Testimony of John P. Salzberg, PhD, The Center for Victims of Torture, Hearing before the House Appropriations Committee, Subcommittee on Foreign Operations, Export Financing, and Related Programs, BEFORE THE HOUSE APPROPRIATIONS COMMITTEE SUBCOMMITTEE ON FOREIGN OPERATIONS, Fed. News Serv. (March 30, 2000), available in LEXIS, News Library, Current file [here-

inafter Salzberg Testimony].

<sup>25</sup> Johnson Testimony I, *supra* note 22.

<sup>26</sup> Salzberg Testimony, *supra* note 24.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> Prepared Testimony of Douglas A. Johnson, Executive Director The Center for Victims of Torture, Hearing Before the House International Relations Committee, Subcommittee on Africa, Fed. News Serv. (June 23, 2005), available in LEXIS, News Library, Current file [hereinafter Johnson Testimony II].

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> Christina E. Wells, *Mandatory Student Fees: First Amendment Concerns and University Discretion*, 55 U. Chi. L. Rev. 363, 386-87 (1988).

<sup>34</sup> 461 U.S. 540 (1983).

<sup>35</sup> *Id.* at 546-47.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* at 548.

<sup>41</sup> *Id.* at 550.

<sup>42</sup> *Id.* at 551.

<sup>43</sup> See Wells, *supra* note 29, at 386-87. Although *Regan* involved tax exemptions rather than direct grants, this case is relevant to our issue because, as the Court noted, “[b]oth tax exemptions and tax deductibility are a form of subsidy that is administered through the tax system [and] [d]eductible contributions are similar to cash grants of the amount of a portion of the individual’s contribution.” 461 U.S. at 544.

<sup>44</sup> Jody Freeman, *The Contracting State*, 28

Fla. St. U.L. Rev. 155, 167 (2000).

<sup>45</sup> *Id.*

<sup>46</sup> Interview with Aaron Spevacek, Director, The Marjorie Kovler Center for the Treatment of Survivors of Torture, in Chicago, Illinois (October 28, 2005) [hereinafter Spevacek Interview].

<sup>47</sup> TVRA, *supra* note 1, at 2 (Findings Section).

<sup>48</sup> Rhonda Copelon, *The Indivisible Framework of International Human Rights: A Source of Social Justice in the U.S.*, 3 N.Y. City L. Rev. 59, 69 (1999).

<sup>49</sup> TVRA, *supra* note 1.

<sup>50</sup> Johnson Testimony II, *supra* note 29.

<sup>51</sup> United Nations High Commissioner for Refugees, Guidelines on the Protection of Refugee Women (July, 1991) at 41, P 72.

<sup>52</sup> Canadian Immigration & Refugee Board, Women Refugee Claimants Fearing Gender-Related Persecution at 37, para. 60 (1993).

<sup>53</sup> See Human Rights Watch, All Too Familiar, *supra* note 5, at Summary.

<sup>54</sup> See Brief of Stop Prisoner Rape, Inc. at 16-17, *Farmer v. Brennan*, 511 U.S. 825 (1994) (No. 92-7247) (stating that only one Florida jail has comprehensive sexual assault counseling program available); see also *LaMarca v. Turner*, 995 F.2d 1526, 1534, 1544 (11th Cir. 1993) (finding constitutional violation where prison failed to provide psychological counseling to rape victims).

<sup>55</sup> Canadian Immigration & Refugee Board, Women Refugee Claimants Fearing Gender-Related Persecution at 37, para. 60 (1993).

<sup>56</sup> Adrienne Kalosieh, *Consent to Genocide?: The ICTY’s Improper Use of the Consent Paradigm to Prosecute Genocidal Rape in Foca*, 24 Women’s Rights L. Rep. 121, 123 (2003).

<sup>57</sup> Carl Weiss & David James Friar, *Terror in the Prisons: Homosexual Rape and Why Society Condone It* 119 (1974).

<sup>58</sup> TVRA, *supra* note 1, at 3 (“As used in this Act, the term ‘torture’ has the meaning given

the term in section 2340(1) of title 18, United States Code, and includes the use of rape and other forms of sexual violence by a person acting under the color of law upon another person under his custody or physical control.”); 18 U.S.C. 2340(1).

<sup>59</sup> 3 Eur Ct HR 300 at ¶ 83 (1997).

<sup>60</sup> Cheryl Bell, Martha Coven, John P. Cronan, Christian A. Garza, Janet Guggemos, Laura Storto, *Rape and Sexual Misconduct in the Prison System: Analyzing America’s Most “Open” Secret*, 18 Yale L. & Pol’y Rev. 195, 202 (1999).

<sup>61</sup> Deposition of Gladys Wilson at 206, lines 1-25; 207, lines 1-8; 208, lines 14-22; 209, lines 9-12, 18-15; 210, lines 1-25; 211, lines 1-4, 8-11, *Everson v. Mich. Dep’t of Corr.*, No. 00-73133 (E.D. Mich Feb. 23, 2001).

<sup>62</sup> Spevacek Interview, *supra* note 46.

<sup>63</sup> Human Rights Watch, *Nowhere to Hide*, *supra* note 3.

<sup>64</sup> Smith, *supra* note 9, at 288.

<sup>65</sup> *Id.*

<sup>66</sup> Lawrence A. Greenfeld & Tracy Snell, Bureau of Justice Statistics, U.S. Dept of Justice, *Special Report: Women Offenders 1* (2000).

<sup>67</sup> Amnesty International, *Not Part of My sentence*, *supra* note 3.

<sup>68</sup> Johnson Testimony II, *supra* note 29.

<sup>69</sup> Amnesty International, *Not Part of My sentence*, *supra* note 3.

<sup>70</sup> Human rights Watch, *All to Familiar*, *supra* note 3.

<sup>71</sup> *Regan v. Taxation with Representation*, 461 U.S. 540 (1983).

<sup>72</sup> *Id.*



**M. Angela Buenaventura** graduated from the Northwestern University School of Law in May 2006.

While at Northwestern, Angela was an Articles Editor for the Northwestern University Journal of Technology and Intellectual Property. Angela was also a clinical student at the Children and Family Justice Center at Northwestern and a legal intern at the Midwest Immigrant and Human Rights Center. Beginning in the Fall of 2006, Angela will be an associate at Bryan Cave’s Chicago office.

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## Recent NAWL Meetings

NAWL co-sponsored a career development program with the Minnesota Women Lawyers on April 25, 2005, modeled after NAWL's hallmark series, "Taking Charge of Your Career: Best Practices for Women Lawyers & Their Firms." "Taking Charge of Your Career" was designed to advance women in the law by developing the skills needed to achieve and sustain success in the long-term practice of law, and it has received outstanding feedback. This regional spin-off program was held at the law firm of Dorsey & Whitney in Minneapolis.

NAWL co-sponsored a Brown Bag program with the D.C. Bar Law Practice Management, Litigation, and Taxation Sections, and the D.C. Women's Bar Association on April 20, 2006, entitled "Making Rain: Practical Tips for Success." Held at the D.C. Bar, the discussion explored the dos and don'ts for seeking that next client or matter, and three leading legal professionals addressed such important topics as external marketing techniques, internal law firm marketing, effective use of large law firm marketing departments, and marketing by women lawyers.

NAWL sponsored the sixth program in its nationwide series, "Taking Charge of Your Career: Best Practices for Women Lawyers & Their Firms," on April 19, 2006 at the Millennium Biltmore, Los Angeles. The L.A. program continued in the standard of excellence, attracting a crowd of about one hundred attorneys from diverse practice areas. Speakers included leading attorneys and professionals from law firms, corporate legal departments, not-for-profit organizations, legal consulting firms, business associations, and the public sector. The Honorable Judith Chirlin of the Los Angeles Superior Court addressed the conference as keynote speaker. Co-sponsors included the ABA Women Advocates Committee, the Association of Corporate Counsel, California Women Lawyers, the Los Angeles County Bar Association Barristers, Santa Barbara Women Lawyers, and the Women Lawyers Association of Los Angeles. The law firm of Weston Benshoof Rochefort Rubalcava & MacCuish LLP served as the program's Host Sponsor.

NAWL co-sponsored the ABA Commission on Women in the Profession's "Women in Law Leadership (WILL) Academy" on March 30-31, 2006 at the Hyatt Regency McCormick Place, Chicago. Over 400 women lawyers attended the 2006 conference. A similar Academy is scheduled for Fall 2007. The 2006 WILL Academy's primary focus was career and legal skills development, with an eye toward leadership. Designed particularly for younger lawyers three to ten years out of law school, the Academy offered concrete advice and guidance on leadership, career planning and management.

## Upcoming Program News

### *International Bar Association 3<sup>rd</sup> World Women Lawyers Conference*

June 8-9, 2006

London, United Kingdom

Join hundreds of lawyers and other professionals from around the world in learning, networking, and exploring the many diverse issues facing women in the legal profession today at this comprehensive mega-conference of the IBA. NAWL is an active member of the IBA.

### *NAWL Annual Awards Luncheon & Meeting*

July 17-18, 2006

Waldorf Astoria, New York, NY

Edwards Angell Palmer & Dodge LLP, 750 Lexington Avenue, New York, NY  
Save the dates! On July 17, from 4:00 to 5:30 p.m. at Edwards Angell Palmer & Dodge LLP, join NAWL for "Up the Down Staircase," a discussion of why so few women



lawyers reach the top of big law firms, led by Timothy O'Brien, the *New York Times* reporter who wrote the March 19, 2006 article of the same title. On July 18, from 9:00 to 11:30 a.m. at Edwards Angell Palmer & Dodge LLP, have breakfast and attend "Effective Partnering Strategies," a discussion on the proper roles of inside and outside counsel and related topics. Between 12:00 and 2:00 p.m., NAWL will host its Annual Awards Luncheon, honoring outstanding lawyers who have advanced women in the profession. Also at the Luncheon, NAWL will install its 2006-2007 Officers of the Executive Board.

**2<sup>nd</sup> Annual Women Lawyers General Counsel Institute®**

October 26-27, 2006

Sofitel Hotel, New York, NY

Join NAWL for its 2<sup>nd</sup> annual *Women Lawyers General Counsel Institute*, targeted to senior corporate counsel who have the goal of advancing to the role of chief legal officer. The Institute faculty counts as members a broad array of directors, CEO's and general counsels of major public corporations, professional consultants and search consultants who assist corporations in filling top legal positions. The Institute provides a unique opportunity for women corporate lawyers to build top-tier professional and management skills in a supportive and interactive learning environment; and to learn from experienced officers and directors about the points of pressure and success for general counsels. Plenary and workshop sessions foster frank discussions about what it takes to be promoted and provides the means to improve skills and knowledge in a collegial atmosphere. The NAWL *Women Lawyers General Counsel Institute* promises to be an engaging and innovative CLE program with opportunities to learn and network with other senior legal and business professionals.

**NAWL Thanks 2006 Program Sponsors**

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**Publications**

The 7<sup>th</sup> Edition of *The National Directory of Women-Owned Law Firms & Women Lawyers* will be available in July 2006. The Directory is published annually and provides a well-organized guide for locating women lawyers and women-owned law firms throughout the United States. Experience in past years demonstrates that the Directory has become the definitive compendium of practicing women attorneys and their law firms in the country.

## **Amicus Committee News**

NAWL signed on as *amicus curiae* in support of the respondent in *Burlington Northern & Santa Fe Railway Co. v. Sheila White*, No.05-259, to the U.S. Supreme Court. The brief was filed by the National Women's Law Center and addressed the question of whether an employer is immune from liability for retaliation in violation of Title VII of the Civil Rights Act of 1964 when, in response to an employee's discrimination claim, that employer suspends the employee without pay for more than a month or reassigns the employee to a less desirable position within her employer-defined job description. It was concluded that the respondent, Sheila White, who was the victim of sexual harassment by a supervisor, was unlawfully prevented by the petitioner from seeking and claiming her Title VII rights and that the anti-retaliation provision was violated by the petitioner.

## **International Committee News**

The NAWL International Committee has written letters to fifteen United Nations Security Council representatives, urging the nomination of a woman as the next Secretary General of the United Nations. Stated in the letter was the fact that discrimination against women violates international treaties and practices, and that in the sixty years the UN has been in force, no woman has held the position of Secretary General. Additionally, the letter reminded the representatives that the Beijing Declaration and Platform for Action calls for increasing the number of women in leadership posts, specifically in positions at the UN.

Members are encouraged to submit news of significant international issues of concern to NAWL to the International Committee Chairs. The Chairs are also seeking volunteers to serve on the committee. Please contact Eva Herzer at or Stephanie Masker if you are interested in getting involved with NAWL's International Committee.

## **Legislation Committee News**

The Legislation Committee Chairs are seeking suggestions on legislative issues of interest to NAWL and volunteers. Please contact Kristen Albertson at if you would like to get involved with NAWL's Legislation Committee.

## **Committee for the Evaluation of Supreme Court Nominees**

NAWL is pleased to announce that Patricia Lee Refo, a partner with Snell & Wilmer LLP, and Anne M. Coughlin, O.M. Vicars Professor of Law at the University of Virginia, have been named as co-chairs of the Committee for the Evaluation of Supreme Court Nominees. "Trish Refo and Anne Coughlin have done an outstanding job on the Committee during the evaluations of now-Justices John G. Roberts, Jr., and Samuel A. Alito, Jr.," stated Lorraine K. Koc, President of NAWL. "They bring the complementary skills of seasoned litigator and law professor, respectively, and both have excellent legal judgment."

Stephanie A. Scharf, a partner at Jenner & Block LLP and Immediate Past President of NAWL, has served as Chair of the Committee since its founding in January 2005. Scharf expressed high regard for the incoming Committee chairs as well as the work of the Committee over the past year: "Every member of the Committee did an outstanding job. NAWL received enormously positive feedback about the Committee's evaluations and the balanced process that led the Committee to its conclusions. I look forward

to a continuation of the Committee’s mission under the leadership of Trish and Anne.”

The Committee for the Evaluation of Supreme Court Nominees reviews and evaluates the qualifications of each Presidential nominee to the United States Supreme Court with an emphasis on laws and decisions regarding women’s rights or with a special impact on women. Members of the Committee are appointed by the President of NAWL and include a distinguished array of law professors, appellate practitioners and lawyers concentrating in litigation, with diverse backgrounds from around the country and working in a variety of professional settings.

## **Membership**

### ***Alston & Bird***

*Martha G. Barber*, a partner and chair of Alston & Bird’s Trademark and Copyright Group, was named by the *Guide to the World’s Leading Trademark Law Practitioners* as a leading practitioner in trademark law. Martha practices in the firm’s Charlotte, North Carolina office providing counsel on worldwide portfolios for trademark owners. An active member in the International Trademark Association for over 18 years, Martha has served on the board of directors and the audit committee.

*Anne J. Randall*, as associate in Alston & Bird’s Charlotte office and a member of the firm’s IP Litigation Group, was named the 2006 Mecklenburg County Legal Aid Volunteer of the Year. Her nearly 120 hours of pro bono legal services included representing a gentleman from Eritrea in an asylum case, serving as guardian ad litem for three boys in a custody dispute, and representing a victim of domestic violence in obtaining an emergency protective order and child custody.

*Anne Tompkins* joined the Charlotte office of Alston & Bird following two tours in Iraq where she worked with a team of American and Iraqi lawyers, judges and investigators building a case against Saddam Hussein for crimes against humanity. She is a partner in the firm’s Litigation and Trial Group. Anne previously held numerous positions in the office of the U.S. Attorney for the Western District of North Carolina and also worked as an Assistant District Attorney with the Mecklenburg Country District Attorney’s Office.

### ***Arent Fox***

*Marylee Jenkins*, who heads the New York Office of Arent Fox’s Intellectual Property Group, will begin serving her term as President of the New York Intellectual Property Law Association (NYIPLA) at the Association’s Annual Meeting on May 24th. Jenkins specializes in intellectual property matters involving computers and the Internet and counsels international companies on intellectual property disputes and strategies, portfolio enforcement and management and e-commerce and software development and protection.

*Olivia Fox Cabane* will be continuing the “*How to Become a Superstar in Your Field*” series in May with a session on “*Positioning yourself as an Expert in Your Domain.*” A former legal counsel, Olivia has worked with an Am Law 50 firm and in-house for a Fortune 500; her education includes three Master’s degrees in business law.

*Amelia Carolla* of Montgomery, McCracken, Walker & Rhoads, LLP serves as co-chair of the Special Education Law practice, a practice committed to protecting the rights of parents whose children have special education needs. Ms. Carolla is a member of the firm’s litigation department. Her practice concentrates on complex commercial litigation and education-related matters. Ms. Carolla received her J.D. degree from Rutgers University School of Law at Camden in 1995.

*Wendy Curtis* has been named a “Rising Star” by the Healthcare Businesswomen’s Association (HBA). The “Rising Star” award is part of HBA’s dedication to promoting the careers of women in the healthcare industry. This award recognizes women from the HBA’s corporate member companies whose accomplishments make a difference in the industry and inspire others. Wendy is a senior associate in the Washington, D.C. office of Fulbright & Jaworski LLP.

*Doris Dabrowski* successfully persuaded the Third Circuit Court of Appeals to restrict the application of break in service rules to deny credit for pre-ERISA service in *DiGiacomo v. Teamsters Pension Trust Fund*, 420 F.3d 220. On March 3, 2006, the U.S. Supreme Court denied the Fund’s petition for certiorari. Additionally, Doris Dabrowski has been named a Pennsylvania Super Lawyer.

*Linda K. DiSantis* was recently honored with the Ben F. Johnson Public Service Award, which is given annually by the Georgia State University College of Law. Former winners include former U.S. Attorney and federal judge Griffin Bell, civil rights icon Donald Hollowell and federal Circuit Court Judge Elbert Tuttle. Ms. DiSantis was given the award for her work as City Attorney for the City of Atlanta.

*Heather Giordanella* was recently elected shareholder at Miller, Alfano & Raspanti, a Philadelphia litigation boutique where 4 of 13 shareholders and 11 of 22 attorneys are women. Ms. Giordanella practice has involved, among other things, assisting Special Discovery Master Gregory P. Miller in overseeing discovery in thousands of federal diet drug cases and resolving disputes between litigants. Ms. Giordanella is president-elect of the Temple University Owl Club; in April 2006, the Owl Club presented Ms. Giordanella with an award for her outstanding support and service.

*Georgann Shelby Grunebach*, Assistant General Counsel for Intellectual Property at DIRECTV, Inc., was nominated to the Executive Committee of the Intellectual Property Section of the California Bar Association April 4, 2006. Ms. Grunebach has been serving as Co-Chairman of the Standing Committee for Patents of the IP Section of the California Bar since 2005. She has been practicing before the United States Patent and Trademark Office since 1987 and is admitted to practice in both California and Pennsylvania.

***Hall Estill Attorneys at Law***

*Sarah Jane Gillett*, shareholder in Hall Estill’s Tulsa office, was promoted to equity partner in February. Ms. Gillett’s primary practice is in corporate/commercial litigation. She received her B.A. in Political Science, cum laude, from Wellesley College in 1989 and her J.D., cum laude, from Boston College Law School in 1992. Further, she serves as an Adjunct Settlement Judge for the U.S. District Court for the Northern District of Oklahoma’s court-ordered dispute resolution program.

*Molly A. Bircher*, an associate in the Tulsa office, was recently named one of the top five professional single women in Tulsa by *Oklahoma Magazine*. Ms. Bircher’s primary practice is in Labor & Employment litigation. In addition, she serves on the Board of Directors for the Oklahoma Bar Association Young Lawyer’s Division, and the Executive Board of the Tulsa County Bar Association Young Lawyer’s Division.

*Elaine R. Turner*, shareholder in Hall Estill’s Oklahoma City office, was recently selected as a recipient of the 2006 Leadership in Law Awards presented by *The Journal Record* publication. The award is presented to attorneys who exemplify outstanding leadership and community involvement. Ms. Turner practices in the firm’s Labor & Employment group. Ms. Turner serves as the Oklahoma Special Olympics State Sports Director.

*Ashley A. Bowen* Murphy, an associate in the firm's Oklahoma City office, was recently appointed Chairperson of the Oklahoma Bar Association Law Schools Committee and Co-Chairperson of the OBA Young Lawyers Division Law Schools Committee. Ms. Murphy's primary field of practice is litigation, including corporate/commercial, media law and oil & gas.

**Jodeen Hobbs** was recently elected shareholder at Miller, Alfano & Raspanti, the Philadelphia litigation boutique where she began her legal career as a summer associate in 1996. Ms. Hobbs is the first woman at the firm to be elected shareholder while working a reduced-hours schedule. Ms. Hobbs has substantial experience litigating a broad range of employment and commercial matters in federal and state court. Ms. Hobbs also draws on her considerable sentencing guideline experience when litigating complex white collar criminal defense cases.

**Holland & Knight**

*Judith "Judy" M. Mercier*, a partner in the Orlando office, has been named chair of the firm's Women's Initiative program, a firm-wide commitment to diversity. Launched in the mid-1990s, the program's mission is to develop professional opportunities and create a positive and supportive environment for the firm's woman attorneys, and to distinguish Holland & Knight among national law firms with visibility and contributions of its women attorneys.

*Marie Lefere*, partner, is the first recipient of the Tillie Kidd Fowler Leadership Award, which the firm established as an annual award to recognize and honor an individual who demonstrates the high standards and commitment to excellence that the firm's late partner Tillie Kidd Fowler displayed throughout her life.

**Professor Marilyn J. Ireland**, a member of the faculty of California Western School of Law (San Diego, CA), has been selected for a Fulbright Foreign Scholar Award for the academic year 2006-2007. She will be stationed in Maribor, Slovenia, where she will be working with the Constitutional Law Faculty in the planning and implementation of an international conference on free speech. In addition to lecturing on Anglo-American law and free speech, Professor Ireland will also lecture in Slovenia and at other universities in the region on issues relating to women's rights under the law. Professor Ireland, a recognized scholar in the area of women and the law, recently served as a contributor and reviewer of the American Bar Association's *Legal Guide for Women*. An active member of the National Association of Women Lawyers, Ireland has served as Chair of the Legislation Committee, as Vice President and Membership Chair, and as Treasurer. She has been a member of the Board of NAWL since 2002.

**Jenner & Block**

*Debbie L. Berman*, a partner at Jenner & Block LLP, hosted a debate presented by the Jewish United Fund/Jewish Federation of Metropolitan Chicago on the future of the U.S. Supreme Court, at a recent event at Jenner & Block's Chicago office.

*Denise Kirkowski Bowler and Debra M. Doyle*, associates at Jenner & Block LLP, spoke at the panel discussion entitled, "Beyond the Billable Hour: Pro Bono Practice in Large Law Firms," in Notre Dame, Indiana. The discussion addressed why attorneys take on pro bono work and what kinds of pro bono opportunities are available to attorneys in large law firms, among other topics.

*Patricia A. Bronte*, a partner at Jenner & Block LLP, served as a panelist at the 2006 Minority Corporate Counsel Association CLE Expo. Her session on the evolution of e-discovery focused on the increasingly complex legal issues surrounding electronic discovery.

*Julie M. Carpenter*, a partner at Jenner & Block LLP, spoke at a Global Health Council forum in Washington, DC entitled, “The Anti-Prostitution Pledge: Navigating the Legal Waters.” The session covered issues surrounding a U.S. government directive that requires any organization receiving federal funds to combat HIV/AIDS and to have a policy explicitly opposing prostitution and sex trafficking.

*Jill S. Factor and E. Lynn Grayson*, partners at Jenner & Block LLP, were named Co-Chairs of the Jenner & Block Women’s Forum. The Women’s Forum fosters opportunities for professional, social and personal growth for all of the women attorneys, communicates Jenner & Block’s strong commitment to the success of its women attorneys and enhances the visibility and recognition of Jenner & Block’s leadership in support of women in the legal profession.

*Jill S. Factor*, a partner at Jenner & Block LLP, served as a panelist at a Martindale-Hubbell *Counsel to Counsel* Forum that offered corporate attorneys and their outside counsel practical tips and strategies for seamlessly closing today’s increasingly complex commercial transactions.

*Katherine A. Fallow*, a partner at Jenner & Block LLP, spoke at a Law Seminars International conference entitled, “Gamer Technology Law,” in Beverly Hills, California. Ms. Fallow led a session entitled, “The State of Gaming Content Regulation: An Overview of National & State Laws and Their Legal Challenges,” which discussed notable court decisions and the implications for regulation of game content.

*E. Lynn Grayson*, a partner at Jenner & Block LLP, spoke at the National Conference of Women’s Bar Associations Leadership Summit entitled, “Effective Techniques to Advance Women Lawyers to the Top,” in Washington, D.C. Ms. Grayson served as a panelist at a session entitled, “Bar Association Techniques for Addressing Women Lawyer Advancement – Success Stories and Challenges.” Ms. Grayson is a member of the NCWBA Board of Directors.

*Kathleen E. Karelis*, a partner at Jenner & Block LLP, co-authored a Briefing Paper entitled “Government Contracting After a National Disaster,” which explains how increased contracting activity resulting from disasters such as Hurricanes Katrina and Rita, as well as the nature of a disaster itself, tend to lead to opportunities for commercial companies which traditionally have not been heavily involved in government contracts.

*Susan C. Levy*, a partner at Jenner & Block LLP, spoke at a seminar sponsored by Harvard Law School Women’s Law Association and Jenner & Block entitled, “The Rules of the Game,” at the law school. The session discussed the “unwritten rules” in large law firms and what it takes to succeed in that environment.

*Linda L. Listrom and Stephanie A. Scharf*, partners at Jenner & Block LLP, were recently named “Champions of Justice” by *Lawdragon* magazine in its list of the 500 Leading Litigators in America. Recognized for their “talent and tenacity,” the magazine stated that the attorneys were selected by *Lawdragon*’s editorial staff after extensive research and interviews with legal professionals across the country.

*Lorelie S. Masters*, a partner at Jenner & Block LLP, served as a panelist at the 2006 InsideCounsel SuperConference. Ms. Masters spoke on the “New Issues in Insurance” panel discussing the relationship between a company’s risk management department and their outside counsel.

*Monica R. Pinciak*, an associate at Jenner & Block LLP, co-authored the article “Compelling Private Company Employee Information” in the January 2006 edition of *The Corporate Counselor*.

*Michelle Speller-Thurman*, an associate at Jenner & Block LLP, was a panelist at a recent Northwestern University School of Law panel discussion. The discussion was held during the law school’s inaugural “Diverse Admit Day 2006 - A Celebration of Diversity.” The panel of attorneys reflected on their experiences during and after law school and advised the students of color on how to make the most of their law school years.

*Tanya J. Stanish*, a partner at Jenner & Block LLP, authored the article “A Quiet Divorce,” published in *Worth* magazine. The article outlined ways spouses can keep their divorce and its terms outside the public eye and minimize legal costs by considering several alternatives to litigation, including mediation, collaborative law and direct lawyer negotiation.

*Shehla F. Syed*, an associate at Jenner & Block LLP, spoke at the North American South Asian Law Student Association annual conference in Chicago. Ms. Syed advised the aspiring attorneys that they should strive to make themselves indispensable to their firm and clients and stressed the importance of maintaining relationships with people encountered throughout one’s career.

*Martina E. Vandenberg*, an associate at Jenner & Block LLP, spoke at a District of Columbia Bar International Law Section program entitled, “Advancing Women’s Rights Internationally: Using Courts to Promote Women’s Status,” held at The George Washington University Law School in Washington, DC. The program discussed ways in which a nation’s court systems can help – or hinder – the advancement of women’s rights in this country and abroad.

*Shyni R. Varghese*, an associate at Jenner & Block LLP, participated as an alumni panelist at a University of Chicago conference entitled, “Diversity in the Workplace: Sharing Knowledge, Promoting Leadership.” The program offered panel discussions featuring participants from a variety of professions who shared some of the experiences and challenges that they have faced as professionals of color.

*Charlotte L. Wager*, a partner at Jenner & Block LLP, spoke at the National Association of Law Placement’s recent Diversity Summit in Chicago. Ms. Wager stressed that a firm’s work assignment system is one key to building an “inclusive” law firm environment that attracts and retains promising attorneys early in their careers.

*Caroline Lewis Wolverton*, an associate at Jenner & Block LLP, spoke at a Harvard Club of DC dialogue entitled, “The Perfect Professional Age - Is there one?” The session featured women panelists representing a variety of age groups and industries discussing how one’s age intersects with personal and professional leadership development. The dialogue also offered insights on work, life, and family and whether there is a “perfect” professional age.

**Kristina Johnson** has successfully completed the requirements for national certification in business bankruptcy law by the American Board of Certification. The American Board of Certification is a non-profit organization dedicated to serving the public and improving the quality of the bankruptcy and creditors’ rights bar. The ABC is co-sponsored by The American Bankruptcy Institute and the Commercial Law League of America.

**Jennifer L. Keller** of Irvine, California has been named to the 2007 edition of *Best Lawyers in America* in both the white-collar and non-white-collar categories. Ms. Keller has handled some of the highest-profile cases in Southern California. Her current clients include the Sheriff of Orange County.

*Latham & Watkins*

*Michele Penzer* serves on the firm's Executive Committee, the seven-member body that governs the firm's global network of 22 offices. Ms. Penzer will also be included in the upcoming prestigious Vault Guide: *View From the Top - Advice From Women Legal Leaders*. This guide provides law students, associates, corporate counsel and senior lawyers around the country with the ability to read helpful wisdom from 100 top women partners and general counsel in the US.

*Janet Link* has been named as Global Co-Chair of the firm's Litigation Department.

*Sharon Bowen* serves as Vice Chair of Latham's Diversity Committee and will be named Lawyer of the Year by the Metropolitan Black Bar Association at a gala reception on May 17, 2006.

*Ursula Hyman* serves as the firm's Global Chair of the Public and Tax-Exempt Finance Practice Group. In response to Hurricane Katrina, Ms. Hyman is part of a multi-organization task force that is assisting survivors in the gulf coast.

*Claudia O'Brien* was the 2005 recipient of the Marvin Frankel Award, for her role in leading the firm's commitment to safeguarding the rights of refugees through pro bono representation. The accolade was awarded by Human Rights First.

*Margaret "Peggy" Zwisler* is Global Co-Chair of the firm's Antitrust and Competition Practice Group and was named one of the Top 500 Leading Litigators in America by *Lawdragon*, a leading legal guide for the profession.

*Erica Steinberger* was named to ALI-ABA's Securities Law Advisory Panel.

This year the following women all became partners at Latham & Watkins:

*Cathy A. Birkeland* (Chicago office) practices corporate law with a focus on corporate finance, securities matters and general company representation.

*Ana Genender O'Brien* (Los Angeles office) practices tax law with a focus on the federal taxation of mergers and acquisitions, joint ventures and financing transactions for corporations, partnerships and REITs.

*Jennifer S. Perkins* (New York office) practices corporate law with a focus on mergers and acquisitions, general corporate representation of public and private companies, and public and private debt and equity offerings.

*Rachel W. Thorn* (Paris office) practices international commercial arbitration and international litigation with a focus on investor-state disputes and disputes involving the energy and construction sectors, long-term purchase agreements, joint venture agreements, and purchase price adjustments.

*Christine G. Rolph* (San Diego office) practices environmental law with a focus on insurance litigation for policyholders and the defense of corporate entities in toxic tort and multi-plaintiff actions.



*Jennifer S. Van Driesen* (Washington, D.C. office) practices finance law with a focus on secured lending and other financing transactions, including cash-flow and asset-based loans, Zmezzanine and other subordinated debt facilities, and construction loans.

In March 2006, the following women were appointed to the designated firm committees:

*Linda Schilling* (Orange County) - Technology Committee  
*Charity Gilbreth* (Orange County) - Associates Committee  
*Livia M. Kiser* (Chicago) - Associates Committee  
*Rita A. Cavanaugh* (Washington, DC) - Associates Committee  
*SallyJean Tews* (Washington, DC) - Associates Committee  
*Kimberly A. Posin* (Los Angeles) - Associates Committee  
*Gail E. Crawford* (London)- Associates Committee  
*Meredith L. Mackey* (New York) - Associates Committee  
*Diana S. Casey* (San Diego) - Associates Committee  
*Stephanie L. Kuhlen* (San Diego) - Associates Committee  
*Deborah Sankowicz* (Paris) - Diversity Committee  
*Nia C. Mathis* (Washington, DC) - EEO Review Board  
*Cindy Sobel* (Chicago) - EEO Review Board  
*Lauren A. Hanrahan* (New York) - EEO Review Board  
*Deborah Sankowicz* (Paris) - EEO Review Board  
*Michelle E. Rose* (Virginia) - EEO Review Board  
*Liliana Pá-rias Neuburg* (New York) - Ethics Committee  
*Janice M. Schneider* (Washington, DC) - Finance Committee  
*Sara K. Orr* (Washington, DC) - Pro Bono Committee  
*Mia G. DiBella* (Chicago) - Recruiting Committee  
*Marguerite "Maggy" M. Sullivan* (Washington, DC) - Recruiting Committee  
*Anne Schöning* (Hamburg) - Recruiting Committee  
*Jennifer Blair* (Los Angeles) - Recruiting Committee  
*Shivaun A. Cooney* (Los Angeles) - Recruiting Committee  
*Claudia Heins* (Munich) - Recruiting Committee  
*Elissa J. Glasband* (New Jersey) - Recruiting Committee  
*Angela Roxas LaVigne* (New York) - Recruiting Committee  
*Ann Buckingham* (San Diego) - Recruiting Committee  
*Viviann H. Chui* (San Francisco) - Recruiting Committee  
*Lauren Y. Clairicia* (Orange County) - Training and Career Enhancement Committee

### ***Lewis & Clark Law School***

*Lydia Loren*, a law professor at Lewis & Clark Law School, has been named as the school's interim Dean. Loren becomes the first woman to lead the law school and assumes the post on July 1, 2006. She succeeds James L. Huffman, Erskine Wood Sr. Professor of Law, who announced his return to the classroom after having served for 13 years as Dean. Loren's areas of expertise include intellectual property, copyright, cyberspace law, and international intellectual property.

***Carrie A. Mandel***, Executive Director in the Legal Officers and Corporate Officers practice of Russell Reynolds Associates, is actively engaged on a number of General Counsel and Chief Compliance Officer searches for Fortune 500 companies and financial services firms. She is based in New York and works on national and global search assignments.

*Lisa A. Marino*, President of the Justinian Society of Lawyers, bestowed upon Dorothy Brown, Clerk of the Circuit Court of Cook County, the *Justice Anthony Scariano Humanitarian Award* on April 20, 2006. This award is bestowed annually to a person of non-Italian heritage who has been sensitive to and made contributions to the Italian-American Legal community.

***Mintz, Levin, Cohn, Ferris, Glovsky and Popeo***

Marking a significant expansion to the West Coast, Mintz Levin has acquired the *Reed Intellectual Property Law Group*, a prominent Palo Alto-based boutique that was founded by its Managing Partner, *Dianne E. Reed*. Reed and approximately ten other attorneys, agents, and patent specialists in the group have extensive experience representing clients in the life sciences, chemical and technology sectors.

*Deborah A. Daccord* has been named as one of Boston's Future Leaders by the Boston Chamber of Commerce based on her outstanding professional skills and her contributions to the Boston community through her extensive community service activities. Ms. Daccord is a Member of the Health Section.

*Helen Gerostathos* will receive the 2006 Shining Star Award for her work on behalf of the Rape Survivors Law Project of the Victim Rights Law Center. The VRLC said that Helen serves "as an inspiration for our entire pro bono" team and hopes that her work on *amicus* briefs on the issue of whether and how defendants can access rape victims' privileged records will influence the Supreme Court favorably in its pending case on this issue.

*Cynthia J. Larose* has earned certification from the International Association of Privacy Professionals (IAPP) as a Certified Information Privacy Professional (CIPP). Although the IAPP has over 2,000 individual and corporate members, there are fewer than 450 CIPP designates nationwide and only 6 in Boston, where Ms. Larose is a Member of the Business & Finance Section. The CIPP designation offers privacy professionals a means of distinguishing themselves as being among the upper tier of the privacy profession.

*Susan Phillips* is one of a select group of private-sector attorneys invited to join ASTM's International Task Group to develop a national standard for evaluating vapor intrusion into buildings, an issue that has become a focus of government regulatory programs. She will co-chair the drafting committee for the standard.

*Darlene H. Smith* was selected to receive the "40 under Forty" achievement award by the National Business Network Journal for outstanding achievement in the corporate world and significant contribution to the African American community. She was also elected to the Board of Women Work! The National Network for Women's Employment, a nonprofit, nonpartisan organization that advocates for women's economic security.

***Betty Southard Murphy***, the only woman ever to serve as the Chair of the National Labor Relations Board, was elected "Republican Lawyer of the Year" by the Board of Governors of the Republican National Lawyers Association (RNLA) for 2005. Murphy, who has had seven Presidential appointments with five Senate confirmations, is a partner at Baker & Hostetler LLP in Washington, D.C. She is also the only person in full-time private practice ever elected to the prestigious National Academy of Human Resources.

***Nelson Mullins Riley & Scarborough***

*Zoe Sanders Nettles*, a partner, received the 2005-2006 National Association of Women Lawyers Service Award at the organization's midyear meeting in March. The award recognizes

Ms. Nettles' efforts to "move along the path that emphasizes professional development, a mission that unites women attorneys regardless of practice, setting or political leanings," according to NAWL President Lorraine Koc, who presented the award. Based in the Columbia, South Carolina office of Nelson Mullins, Ms. Nettles practices administrative law and business litigation with an emphasis on class actions and pharmaceutical litigation.

*Pamela J. Roberts*, a partner and the 2005-2006 Chair of the American Bar Association's Commission on Women in the Profession, was a featured panelist at the *Women in Law Tipping the Scales: Voices of Experience, Visions and Progress Symposium* on Wednesday, March 29 at UNC Chapel Hill. Ms. Roberts discussed *Transitioning into the Legal Profession: The Early Years*. Ms. Roberts practices in the areas of complex business litigation and securities litigation. Her litigation practice focuses on securities fraud and shareholder issues and she supports the firm's pharmaceutical and medical device practice.

A father who longed to know his son has come closer to his goal with the help of three Nelson Mullins Riley & Scarborough attorneys. *Susan Quist, Cherie Blackburn and Stephanie Lewis* have followed the saga of the imprisoned father for four years. What came to Ms. Blackburn via a pro bono court assignment in 2002 quickly became a crusade to reunite the two. In March, an appellate court reinstated the man's parental rights. Ms. Quist received the 2005 Nelson Mullins Riley & Scarborough Claude M. Scarborough, Jr. Award for her commitment to pro bono cases, including this one. Ms. Blackburn received the award the previous year for this case and the pro bono work she does for nonprofit organizations. Ms. Blackburn, Ms. Lewis, and Ms. Quist all practice in the firm's Charleston office. Ms. Blackburn practices in the areas of labor and employment, litigation, and intellectual property; Ms. Lewis practices in the area of labor and employment; and Ms. Quist practices in the areas of immigration, labor and employment, and litigation.

**Ellen Pansky**, Past President of NAWL, has moved her practice, Pansky & Markle, to downtown Los Angeles. Ms. Pansky's firm has become "Of Counsel" to the law firm of Robie & Matthai. Edith Matthai is the current President of the Los Angeles County Bar Association.

**Catherine Merino Reisman** of Montgomery, McCracken, Walker & Rhoads, LLP serves as co-chair of the Special Education Law practice, a practice committed to protecting the rights of parents whose children have special education needs. Ms. Reisman's practice concentrates on education-related counseling and litigation at administrative hearings and in federal court, complex commercial and professional liability litigation, appellate litigation, and employment law.

**Caryn M. Silverman**: Sedgwick, Detert, Moran & Arnold LLP's Women's Forum welcomed Linda Fairstein as keynote speaker at the forum's annual Afternoon Tea on March 29, 2006, in New York City. Fairstein is a bestselling novelist and former bureau chief of the Sex Crimes Prosecution Unit of the New York County District Attorney's Office. She discussed women's evolving roles in the law and her transition from prosecutor to full-time author. Sedgwick's Women's Forum is a program fostering professional growth and networking for women in the law and other professions.[RTF bookmark start:

**Fern Singer** of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC announces the formation of The Baker Donelson Center for Dispute Resolution to provide high-quality alternative dispute resolution services in order to creatively, efficiently and privately assist in the resolution of complex issues. The Center is a select group of 20 attorneys with experience in a variety of ADR techniques, including: mediation, conciliation, mini-trials, neutral investigations, neutral evaluations, non-binding and binding arbitration and ADR audits.

**Jill Steinberg** of Baker, Donelson, Bearman, Caldwell & Berkowitz with offices in Tennessee, Mississippi, Alabama, Louisiana, Georgia and Washington, D.C., announces the formation

of the firm's Women's Initiative. The mission of the Initiative is to: Enhance the economic value of the firm by more fully capitalizing on the talents of women attorneys; substantially improve the recruitment and retention of women attorneys; increase the representation of women in firm leadership positions; and improve career development for the firm's women attorneys.

*Stetson University College of Law*

*Dorothea Beane*, Stetson University's first black tenured law professor, received the 2005 Excellence in Teaching Award, the highest teaching honor the University bestows on faculty.

*Darby Dickerson*, Dean of Stetson University College of Law, received the 2005 Burton Award for Outstanding Contributions to Legal Writing Education from the Burton Foundation, in association with the Law Library of Congress. Dickerson was also recognized as the 2005 Tampa Bay Nonprofit Business Woman of the Year by the *Tampa Bay Business Journal*.

*Roberta Flowers*, who holds the Wm. Reece Smith Jr. Distinguished Professorship and directs the Center for Excellence in Advocacy at Stetson University, received the 2005 Faculty Award for Professionalism from the Florida Supreme Court Commission on Professionalism and the Florida Bar's Standing Committee on Professionalism.

*Rebecca C. Morgan's* Elder Law Ethics Video Project, which she co-produced as director of the Center for Excellence in Elder Law at Stetson University, received the 2005 Professionalism Award from the Florida Supreme Court Commission on Professionalism and the Florida Bar's Standing Committee on Professionalism. The video was produced in conjunction with Stetson's Center for Excellence in Advocacy. Professor Morgan holds the Boston Asset Management Faculty Chair in Elder Law at Stetson.

*Ellen S. Podgor* has been named associate dean of faculty development and distance education at Stetson University College of Law, effective June 1, 2006. She comes to Stetson from Georgia State University and co-authors the popular White Collar Crime Profs Blog at [lawprofessors.typepad.com](http://lawprofessors.typepad.com).

*Ruth Fleet Thurman*, Stetson's first female tenured law professor, was one of ten individuals inducted into the Stetson University College of Law Hall of Fame this fall. More than three decades of Stetson students learned from Thurman, who was the only woman in her spring 1963 graduating class.

*Rebecca S. Trammell* was appointed law library director and associate professor of law at Stetson University. She joins Stetson from the University of Kentucky, where she served as law library director and assistant professor of law.

*Stephanie Vaughan*, acting director of legal research and writing at Stetson University College of Law, has been appointed Director of Stetson's Tampa Law Center. Her new administrative role adds to her work with Stetson's world-champion moot court board.

*Strickler, Sachitano & Hatfield*

*Jennifer A. Forquer* has become a partner. Ms. Forquer joined the firm as an associate in July 2001. She practices family law litigation including custody, property division, spousal support, child support and issues surrounding the division of government and private retirement benefits. Ms. Forquer is a member of the Maryland Bar Association, the DC Bar Association, the

Family Law Section of the Montgomery County Bar Association, the Montgomery County Chapter of the Maryland Women's Bar Association, and the Washington State Bar Association.

*Strickler, Sachitano & Hatfield, P.A.* invited mothers from a Kensington, Maryland non-profit organization, Crossway Community, Inc., to join them on May 12th, for a Mother's Day spruce-up at the luxurious Toka Salon & Day Spa. The women enjoyed beauty treatments and champagne. The firm supports Crossway Community's mission to provide an integrated array of educational, training, employment and housing programs to metro area families who have made the conscious decision to make positive changes in their lives.

*Carmelita Tiu and Jiyeon Choi*, second year students at DePaul University College of Law, and Ellie Jung, a first year, were awarded Asian Pacific American Law Student Association (APALSA) achievement scholarships at the annual APALSA reception held on April 5, 2006. Every year, APALSA awards three or more scholarships to students exhibiting outstanding accomplishments and dedication to the community.

*Charlene L. Usher* is proud to celebrate the fifth anniversary of her firm, Usher Law Group in Pomona, California. Usher Law Group is a woman-owned law firm representing employers in workers' compensation matters in California. Ms. Usher is commemorating this milestone by hosting a dinner honoring UC Hastings Chancellor & Dean Mary Kay Kane and AT&T and AT&T West General Counsel, William R. Drexel for their contributions to women and minorities in the legal profession. Proceeds of the dinner will benefit the Black Women Lawyers Foundation of Los Angeles.

*Sylvia Walbolt* received the ABA Section of Litigation's *John Minor Wisdom Public Service and Professional Award* on April 20, 2006. The decisions of Judge John Minor Wisdom, a scholar and jurist of the highest integrity whose tenure on the U.S. Court of Appeals for the Fifth Circuit is best known for its recognition of constitutional rights of all citizens, established the right to vote, implemented equal educational opportunities and strengthened the right of effective counsel.

### ***Washburn University School of Law***

*Linda "Cricket" D. Elrod*, Distinguished Professor of Law at Washburn University School of Law, was honored as the 2006 Woman of Distinction award during The American Business Women's Association Career Chapter scholarship luncheon March 29, 2006, in Topeka, Kansas. Kansas Governor Kathleen Sebelius declared March 29, 2006, as Linda Elrod day in a proclamation presented to Elrod at the event honoring her tireless efforts in assuring children of divorced parents have a voice in the legal system.

*Lisa Weiss* has joined Morrison & Foerster LLP's New York office as a partner.

*Marcia A. Wiss* is proud to announce that her law firm, Hogan & Hartson, delivered a presentation by the firm's Chairman at the D.C. Women's Bar Association Initiative on the Advancement and Retention of Women in Law Firms on April 3, 2006. The Chairman emphasized the importance of retaining and advancing women in law firms; the success of Hogan & Hartson's record, including its high number of women partners and women in firm management; the challenges ahead; and proposed solutions to ensure continued progress.

*Rosalyn Zakheim* has been appointed to the Judicial Council's Advisory Committee on Access and Fairness by California's Chief Justice, Ronald M. George.

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Image from the Collection of the Supreme Court of the United States.



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