



Fall 2012

# The Chronicle

## MARK YOUR CALENDARS

### PLAN TO ATTEND...

#### 2012 Fall Education Conference

October 12 – 14, 2012  
Francis Marion Hotel  
Charleston, SC

#### 2013 Annual Meeting

June 5 – 8, 2013  
Fairmont Hotel Vancouver  
Vancouver, BC

#### 2013 Fall Education Conference

October 18 – 20, 2013  
Hilton St. Louis at the Ballpark  
St. Louis, MO

#### 2014 Annual Meeting

May 21 – 24, 2014  
Fairmont Chicago,  
Millennium Park  
Chicago, IL

### 2012 FEC

*See You  
In  
Charleston!*

*by Hoyt N. Wheeler,  
Host Chair  
and Susan Grody Ruben,  
Program Chair*



The NAA is gathering at the historic Francis Marion Hotel in Charleston, South Carolina for the 2012 Fall Education Conference. We look forward to seeing you October 12-14.

The President's Dinner takes place on Thursday, October 11 at Magnolia's Uptown Down South, a restaurant known for its contemporary take on Southern cuisine. Magnolia's is located in a beautiful Charleston mansion

in the historic district of this charming seaside city-town.

Preceding the FEC is a Skills Enhancement Workshop during the day on Friday, October 12. The SEW focuses on Exploring Arbitration Practice with the Financial Industry Regulatory Authority ("FINRA") Dispute Resolution Roster. Co-chaired by NAA members Dick Fincher and Mariann Schick, the SEW is an opportunity to explore and learn about FINRA arbitration work. We are pleased to have as panelists Errol Angara, Manager of FINRA National Recruitment, and Barbara Brady, FINRA Vice President and Director of Neutral Management. The SEW will include an overview of the FINRA process, the key differences between labor arbitration and FINRA arbitration, a mock FINRA hearing, and a discussion of the qualifications needed to join the FINRA Panel of Arbitrators.

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**PRESIDENT'S CORNER**  
*BACK COVER*

# Submissions

*The Chronicle* runs several features and columns highlighting the lives, stories, and work of the members of the Academy. We are always in need of new subjects for the articles and new story ideas. If you have any suggestions, want to write, or would like to see someone profiled in one of these columns, please contact Kathryn VanDagens, Managing Editor, at [kvandagens@comcast.net](mailto:kvandagens@comcast.net) or contact the feature author directly.

*Alongside Every Good Arbitrator...*, written by Linda Byars ([lindabyars@byarsandbyars.com](mailto:lindabyars@byarsandbyars.com)), highlights the volunteer accomplishments of spouses and partners of Academy members;

*On The Job Training* provides first person accounts of arbitrators who have to experience hands-on the work lives of employees who appear before them.

*A Look Back in Academy History* features historical moments, large and small, in the Academy's past.

*NAA Book Review* is a review by an NAA member of a book written by an NAA member.

*Tales from the Hearing Room* is a compilation of members' stories of strange, funny, and unusual happenings during arbitration proceedings.

*Off Duty Conduct*, written by Barry Goldman ([bagman@ameritech.net](mailto:bagman@ameritech.net)), highlights the esoteric passions that members pursue in their time away from the hearing room.

*Milestones*, edited by Mike Long ([mlong@oakland.edu](mailto:mlong@oakland.edu)), reports on noteworthy accomplishments of NAA members.

We hope these features, complementing our current roster of outstanding columns and features like *Technology Corner*, *Canadian Perspective*, *Regional Roundup*, and *Arbitration Outside the CBA*, capture your attention and interest. 🪄

## Please Join Us:

### 2012 Fall Education Conference



**October 12 – 14, 2012**

Francis Marion Hotel  
Charleston, SC

# The Chronicle

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Kathleen E. Griffin

# See You In Charleston! *(Continued from Page 1)*

Our opening dinner is at the Francis Marion on Friday evening, October 12.

Retired University of North Carolina-Asheville Philosophy Professor Ileana Grams-Moog will address our Saturday morning plenary on “Logic and the Rule of Reason,” a foundational topic of labor arbitration. NAA member and Legal Representation Fund Coordinator Luella Nelson will moderate a panel on “Arbitrator Ethics – What Kinds of Claims Arise?” Panelists are NAA President and Past LRF Coordinator Sara Adler, Past Committee on Professional Responsibility and Grievances Chair NAA member Ed Krinsky, and Rob Badgley, outside LRF counsel from Locke Lord LLP.

Building on the success of their prior interactive presentations, NAA members Margie Brogan and Barry Winograd will present a highly interactive session on “Evidentiary Issues in Discipline Cases.” NAA member Melissa Biren will moderate a session on “The Business of Arbitration.” NAA member panelists Claude

Dawson Ames will address bankruptcy issues, Beber Helburn will focus on recent changes in postal arbitration, and Howard Edelman will discuss the ongoing controversy over teacher arbitrations in New York City.

NAA member Alan Miles Ruben is moderating a “U.S. Legal Update” panel. NAA member panelists Ruben Armendariz, Suzanne Butler, Ed Render, and Floyd Weatherspoon will address court review of arbitration awards, recent EEO cases, FLRA rulings, NLRB deferral, Arbitration Fairness Act, HIPAA, health insurance court rulings, and social media cases. NAA Member Jules Bloch is moderating the FEC’s annual “Canada Update.”

Our Sunday morning plenary brings a fascinating presentation on “Enneagram’ Personality Types – Understanding What Makes Arbitration Participants Tick.” NAA Members Brian Clauss and Kathy Fragnoli will introduce us to the teachings of Chilean-born psychiatrist Oscar Ichazo. Discover whether you take on the characteristic role of a reformer,



helper, achiever, individualist, investigator, loyalist, enthusiast, challenger, or peacemaker.

NAA member Phyllis Florman will moderate what is likely to be a lively panel on the “Report of the NAA Committee on a Code of Professional Responsibility for Employment Arbitrators.” NAA member Committee Chair Ted St. Antoine, along with NAA members and Committee members Marty Malin and Dennis Nolan will bring the membership up to date on the ongoing debates within the Committee. Programming concludes at noon on Sunday.

Two notable Charleston tours have been arranged. On Saturday morning, there is a combined Historic Charleston and South Carolina Aquarium Tour. Our very own Fran Nolan has arranged a special visit to the Sea Turtle Hospital as part of this tour. Sunday afternoon brings a visit to Middletown Place and Drayton Hall, Charleston historic plantations of great beauty. 🏠



*We look forward to seeing you in Charleston!*

# MILESTONES

Edited by Michael P. Long

## *NOTEWORTHY HONORS & PROFESSIONAL ACTIVITIES*

**Steve Befort, Susan Mackenzie, Marty Malin, Bob Moberly, Dennis Nolan, George Nicolau, Calvin Sharpe, and Arnold Zack** - have been elected to the National Executive Board of the U.S. Branch of the International Society for Labor and Social Security Law.



**Suzanne Butler** – pursuant to the request of the Society of Federal Labor and Employee Relations Professionals (SFLERP) Board of Directors, has accepted the sad honor of filling the vacancy created by the passing of **Margery Gootnick** as a Neutral Member of the Board. Suzanne acknowledges that she realizes that no one could ever take Margery’s place, but that she will follow Margery’s example in carrying on the mission of the organization.



**Daniel Jennings** – Andrew Rader Professor in the Look College of Engineering at Texas A&M University, has been inducted into the Phi Kappa Phi Honor Society, which is the nation’s oldest and most selective all-discipline honor society. Membership is by invitation only. Faculty membership is limited to those individuals who have achieved high scholarly distinction.



**George Nicolau** – has received special recognition by the New York City Board of Collective Bargaining, where he has served as a neutral member of the tri-partite body since 1987 and is now its longest serving member. The BCB, which has a much wider scope of coverage than the NLRB in New York City Public Employee Labor Relations, determines questions concerning improper practices, the arbitrability of grievances, the scope of bargaining, determination of impasses in collective bargaining between the City and its unions, and appeals from impasse panel awards. The neutral, three-person Board of Certification, on which George also serves, determines the appropriateness of bargaining units and decides certification questions.

In recognition of George’s 25 years of service as a member of the New York City Office of Collective Bargaining and his dedication to the cause of fair and responsible labor-management relations, Michael Bloomberg, the City’s Mayor, at an event in George’s honor, declared April 4, 2012 to be George Nicolau Day.

George has a dandy, framed Proclamation to that effect, which he treasures. He says that he is waiting to see what happens in 2013.



**Perry A. Zirkel** – University Professor of Education and Law at Lehigh University is the recipient of the annual Excellence in Research Award from Division A (Administration, Policy and Leadership) of the American Educational Research Association.

## *PUBLICATIONS & PRESENTATIONS*

**Richard N. Block** – made a presentation explaining the interest arbitration statute in Michigan at a meeting concerning “Prospects for Reform of Industrial Relations in the Ontario Broader Public Sector” in Toronto last summer. The meeting brought together academics, representatives from Ontario public sector unions, the industrial relations legal community, and various ministry officials.

Rich also served as a track coordinator for the 16th World Congress of the International Labor and Employment Relations Association in Philadelphia in July.



**Tia Schneider Denenberg, Catherine Harris and Jay Goldstein** – have been contracted by the FMCS to provide high quality, interactive, and professional instructional services for the Institute’s labor arbitrator and labor advocate courses. Each has delivered courses titled, “Becoming a Labor Arbitrator” in Washington

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# MILESTONES *(Continued from Page 4)*

D.C. and in Seattle, WA during the summer and will assist the FMCS in expanding its offerings in the near future.



**Stanley T. Dobry** – has joined the fray in writing two articles published by *Michigan Lawyers' Weekly* volume 26, Mich. L.W. No. 13, 340, pp. 12-13. Stan wrote a counterpoint under the general heading of “Do labor arbitrators’ scoreboards threaten the system?” An advocate wrote in the affirmative, “Scoring undermines traditional labor arbitration.” Stan, a true arbitrator always having the last word, penned a rejoinder entitled, “Acceptable labor arbitrators don’t scoreboard.”



**Robert Douglas** – of New York knows what to do and how to do it ethically. He has pursued an interest in arbitrator ethics that he first acquired almost forty years ago as a student of the late **Jean McKelvey** (a former President of the NAA) and of **James Gross** at Cornell’s ILR School and then while he taught a labor arbitration course at Hofstra Law School and while working on an LL.M in labor law at New York University Law School. Bob has developed a workshop for the AAA geared primarily for advocates that has evolved into a national webinar. In February Bob traveled to California to lead a discussion about arbitrator ethics at a conference sponsored by the Northern California Chapter of the NAA. After returning from California, he then conducted a two-day workshop for Cornell in NYC titled “Ethics in ADR” that attracted aspiring arbitrators. He also recently co-authored an article about arbitrator ethics that appeared in the quarterly publication of the Labor and Employment Law Section of the New York State Bar Association.



**Martin H. Malin** – has been busy. His article, “The Arbitration Fairness Act: It Need Not and Should Not Be an All or Nothing Proposition,” has been published and can be found at 87 Indiana L.J. 289 (2012). Marty spoke last winter on “The Tsunami that Hit Public Sector Labor Law” at the Association of American Law

Schools Annual Meeting, Sections on Labor Relations and Employment Law and on Employee Benefits Law. He also spoke on “Public Sector Collective Bargaining and a New Breed of Governors” at the Labor and Employment Relations Association Annual Meeting.

Marty lectured regarding “Two Models of Interest Arbitration” at a symposium on The Role of ADR Mechanisms in Public Sector Labor Disputes at The Ohio State University, Moritz College of Law, where he was joined on the program by NAA members **Howard Bellman** and **Lamont Stallworth**.

Marty also delivered an address at a symposium on Democracy and the Workplace at the University of Nevada Las Vegas Boyd School of Law concerning entitled: “Collective Representation, Employee Voice and Democracy in the Public Sector Workplace: Looking North for Solutions?” Marty presented on the same subject to a conference on Voice at Work at Osgoode Hall Law School, York University, Toronto, Canada in the spring.

Marty’s book, *Employment Discrimination Law: Cases and Notes*, coauthored with Professor Mack Player of Santa Clara University has been published by West. His article, “The Legislative Upheaval in Public Sector Labor Law” was published in 27 ABA Journal of Labor and Employment Law 149 (2012).



**Michael D. McDowell** – served as a member of the faculty of the e-Discovery Symposium, recently held in Pittsburgh, and sponsored by the Pennsylvania Bar Institute - the Continuing Legal Education Arm of the Pennsylvania Bar Association. He spoke as a member of a panel that addressed the subjects of “Ethics, e-Discovery, Special Masters and the use of Alternative Dispute Resolution.”

Michael has also been elected as Chair of the Allegheny County Bar Association’s Labor and Employment Section for a two year term running through June 30, 2014.

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# MILESTONES *(Continued from Page 5)*

**Dan Nielsen** – has a new “College sweetheart.” Dan was recently elected a Fellow of the College of Labor and Employment Lawyers, and was inducted at the annual dinner in Atlanta, joining his wife, Jackie, who was quite rightly recognized by the College years earlier. They are now, officially, “College sweethearts.” Dan also delivered the plenary address to the NW LERA Chapter’s 35th Annual Collective Bargaining and Arbitration Conference in Seattle in April. Dan’s presentation, titled “Wisconsin and Beyond,” reviewed developments in public sector labor relations since the 2010 elections.



**John F. Sass** – presented a program entitled “Just Cause: Does Anybody Know What It Really Means?” to the Rocky Mountain Chapter of the Labor and Employment Relations Association (LERA) in Denver. John patterned the program with permission on a similar presentation moderated by NAA member **Barry Winograd’s** mock arbitration of “The Case of the Missing Money – Revisiting Elements of Just Cause” during the NAA annual meeting in San Diego in 2011.



**Maretta Toedt, Bill McKee, and Dan Jennings** – presented a lecture on “What to Expect from the Arbitrator Before, During and After the Arbitration” at the Texas Labor-Management Conference held last summer in San Antonio, Texas.



**Rosemary A. Townley** – led a roundtable seminar on the topic “Arbitration in the NFL” with a group of senior executives in the European sports industry, who were completing a MESGO degree (Executive Master in European Sport Governance). This degree program is offered by a consortium of four European universities and is headquartered at the Centre for the Law and Economics of Sport (CDES) at Limoges University in France. The MESGO degree program is supported by five of Europe’s leading sport federations: CEV (the

European Volleyball Confederation); EHF (the European Handball Association); FIBA Europe (International Basketball Confederation-Europe); FIRA-AER (European Rugby Association); and UEFA (Union of European Football Associations). There were 20 degree candidates who participated in the seminar, including a member of the European Soccer Federation Executive Committee, the General Secretary of the International Ice Hockey Federation, the Deputy Head of the European Commission Sports Unit and senior managers from a number of European and international sports associations. Rosemary remarked, “The fun aspect is that I had a black eye during the presentation (a long story) and no one noticed!” I’m thinking that the group had been desensitized to such things over their careers, and that black eye was to Rosemary’s benefit in establishing *esprit de corps*.



**Arnold Zack and Tom Kochan** – presented papers at the International Symposium on Collective Dispute Resolution and Regulation at Renmin University in Beijing last winter. They also both spoke the next day to different classes at Tsinghua University, a business school affiliated with MIT. Thereafter, MIT had Arnold speak at the Business Schools of its two other Chinese affiliates, Fudan University in Shanghai and Lingnan University in Quanzhou.

## ***ON A PERSONAL NOTE***

**Bonnie Bogue** – is putting rumors to rest, but she is not resting. She has retired from active arbitration, but not from the Academy or the profession. In the Northern-California Region, she is presenting at the annual “Meet the Labor Arbitrators” conference, with Andria Knapp and Jerilou Cossack ([www.MeetTheArbitrator.com](http://www.MeetTheArbitrator.com)). She volunteers with the California Public Employee Relations Program at U.C. Berkeley (where she worked from 1970-1993), writing award abstracts for the Arbitration Log in the quarterly CPER Journal. A revised edition of CPER’s Pocket Guide to Public Sector Arbitration (co-authored with Frank Silver) is in the

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# MILESTONES *(Continued from Page 6)*

planning stage. Plus, she has plunged into her “second profession” – **the bassoon**. She has played with the Prometheus Symphony Orchestra for 46 years in its five-concert season. She serves on the executive committee of its board ([www.PrometheussSymphony.org](http://www.PrometheussSymphony.org)). She also plays in a chamber orchestra (25 members, no conductor), a nonette (strings and winds), a woodwind octet, a woodwind quintet and a bassoon quartet, all of which perform regularly. And yes, she has grandchildren who live nearby.



**Janet Gaunt** – rocks. Janet is pleased to report to all, and especially to the golfers, that she scored her first hole in one this spring, shortly before attending the Masters Golf Tournament in Georgia. However, the event that generated her greatest joy was the birth of her first grandchild on June 20th: Granddaughter, Charley Alexandra Gaunt. Janet’s son and his wife live in Seattle, so instead of writing decisions, Janet’s been doing a lot of rocking. Much better for her blood pressure, says Janet!



**Arthur T. Jacobs** – celebrated his 100th birthday on August 19 by attending a reception in Rye, New York with family, colleagues and friends.



**Myron Joseph** – whizzed by his 90<sup>th</sup> birthday a couple of months ago. He has decided to “hang up his hat or whatever.” Myron says that he called FMCS and asked to be removed from their panels. Shortly thereafter, to his surprise, he received a handsome plaque announcing an Award of Distinction, “Upon your retirement from the FMCS Roster of Arbitrators - In recognition and appreciation of your 53 years of service as a distinguished arbitrator promoting dignity, fairness and cooperative processes in collective bargaining.” Myron says that while he believed it to be simply routine, it made him feel good anyway, particularly since he was struggling with one of the most difficult decisions he has had to write. Myron sends his regards.

**Nancy Kauffman** – who previously served as Treasurer to the Trenholm Artists Guild in Columbia, SC, has been elected to and is currently serving as President of the Guild. The Guild has 170 members and has 4 main activities during the year in addition to their 8 monthly meetings: a juried show in April, an unjuried show in June, an arts festival in late September, and a month-long Holiday Market in November-December. This summer, Nancy had a solo exhibit of her photographs in one of the 4 galleries maintained by Guild members.



**George E. Larney** – has made good on his promise. On February 4, 2012 he ran the 10K race in the 7<sup>th</sup> Annual Sedona Marathon, and finished in the top 25% of the male runners in his age group who completed the race.



**Bill Riker** – is proud – and rightfully so. Bill’s son, who is a graduate of the USMA and retired as a Lieutenant Colonel in 2004, after 20 years of service with his last tour of duty in the middle east, has three of his four children who have served or are currently serving in Afghanistan. First Grandson, Captain Colin Riker served with the 10 Mountain Division in the 2008-2009 time period receiving the bronze star for services rendered. Lieutenant Austin Riker, who also served with the 10 Mountain Division in 2010-2011 received two purple hearts earned in fighting the Taliban, and is currently back in the States. Third grandchild and first granddaughter, Brienne, is a first Lieutenant with the First Infantry Division. She began her 18-month deployment in March of 2012, and is the Executive Officer of an infantry company somewhere in the mountains of Afghanistan. They all grew up in Ann Arbor, Michigan. Thanks Bill and family!



**Mark Sherman** and **Jim Sherman** – have produced a child who may well become a third generation NAA member.

Let me explain —

Mark and Tyra Sherman became the proud parents of  
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# MILESTONES *(Continued from Page 7)*

their lovely baby daughter, **Cloe Nicole Sherman**, born February 17, 2012, in Houston, TX. Miss Cloe is also the first grandchild of Jim and Fritzi Sherman. Thus, the production of a possible third generation NAA Member? Cloe should be offering her first available dates for arbitrations in early 2050.




**Ted St. Antoine** – is always learning – and – he’s willing to share. Accompanied by his wife, Lloyd, Ted attended the midwinter meeting of the ABA Labor Section’s ADR Committee in Panama in February. Ted states that in addition to visiting the Canal, he learned three things:

- the Trump hotel he stayed in was the site of a “Bachelor” TV episode and, in his and Lloyd’s

opinions, was the worst designed hotel they have ever encountered: the bathtub stood right in the middle of the room (in fairness, with a curtain) and the shower’s siding was opaque only up to waist level;

- a myth in Lloyd’s family was confirmed: a relative by marriage, Rear Admiral Rousseau, was responsible for all the auxiliary structures of the Canal; and
- Professor Alex Colvin reported that one-fourth to one-third of all nonunion American workers are subject to mandatory arbitration agreements for handling employment disputes.

Ted also recently served on the search committee for the new President of the American Arbitration Association. 

## *Continuing Call for MILESTONES*

### **Honors? Publications? Exceptional activities - professional or otherwise?**

Please alert us if you know of a noteworthy activity or event, whether it involves you or another member. We are a diverse and vigorous group, and, while one may be modest and restrained regarding personal accomplishments with the parties to disputes, friends and colleagues in the National Academy from around Canada and the USA enjoy hearing about not only your professional service but also your noteworthy activities outside the hearing room as well.

Please send your news to Mike Long by e-mail at [mlong@oakland.edu](mailto:mlong@oakland.edu) (preferred way). If you’re not on line, just fax it to Mike Long at (248) 375-9918, or mail it to:

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# REGIONAL ROUNDUP

Reported by **Walt De Treux**  
*National Coordinator of Regional Activities*

At the Annual Meeting in Minnesota, I had the privilege of announcing to the Board of Governors, the Regional Chairs, and the membership that we had met the challenge given to us by Presidents Holley, Vernon, and Golick to create a standard advocacy skills training program to be used by the Regions. With considerable assistance from material previously conceived and taught by NAA members Barry Winograd, Margie Brogan, Homer La Rue, and Jack Clarke, we have developed one-, two-, and three-day programs that Regions can use in the training of advocates. The program, developed for training by NAA members, is highlighted by hands-on, interactive exercises that bring the substantive material into practical focus.

The program will debut about the time you are reading this column. On September 6, 2012, four Regions of the Academy, including Upstate New York, Metro DC, New York, and MidAtlantic, will present the one-day advocacy skills training program in Atlantic City, New Jersey. The training is being done in conjunction with an arbitration symposium, co-sponsored by FMCS and the Philadelphia chapter of LERA. The trainers hail from all four NAA Regions. Registration is limited to 50 attendees; and as of the date of this writing, registration was almost full.

On September 7, NAA members will participate as panelists and moderators in a series of arbitration-related sessions. NAA President Sara Adler will be the luncheon speaker, addressing a crowd of more than 200 advocates and arbitrators.

Soon after the Annual Meeting, several Regions contacted me about hosting an advocacy training program using the NAA-developed curriculum. I urge all Regions to consider whether advocates in their Region would benefit from such training. Please feel free to contact me, and I will gladly forward the material and provide any assistance you may need to set up the training.

## CANADA

The Canadian Region, together with the Ontario Labour Management Arbitrators' Association, sponsored the Canadian Arbitrators Conference held in Scottsdale, Arizona from March 3 to 5, 2012. Canadian Arbitrators enjoyed the education program and the Arizona sunshine.

Thanks to Paula Knopf for chairing the conference organizing committee. The program included a welcome by NAA President Roberta Golick, and presentations on "Sex and the Single Arbitrator" by Pamela Cooper Picher and Michel Picher; "Ethics Interactive" by Andy Sims and Randi Abramsky; "Wile E. Coyote and the Road Runner Present: Acme Arbitration, Outside of the Crate" by David McPhillips and Wayne Moore; and "Remedies, What Happens after the Hearing? Straight Talk and Feedback from Counsel" with Robert Herman, Moderator and Jessica Kearsley and Michael Sherrard, Counsel.

The Region met at the Annual Meeting in Minneapolis, following the panel presentation on "Arbitration and Human Rights Tribunals." Members of the Region will be promoting attendance at the Vancouver 2013 Annual Meeting, and are serving on the Host and Program Committees. The next Canadian Arbitrators Conference will be held in August 2014 in St. John's, Newfoundland. Jim Oakley will chair the conference organizing committee. Following presentation of the Nominating Committee report, members elected Randi Abramsky as Chairperson and Chris Sullivan as Vice-Chairperson of the Region.

Regional Chair is Randi Abramsky –  
[rabrmsky@rogers.com](mailto:rabrmsky@rogers.com)

## CENTRAL MIDWEST

The Central Midwest Region welcomed NAA President Roberta Golick to its annual dinner. The dinner included a discussion entitled "Arbitration Best Practices – the Advocates' Perspective" and featured distinguished attorneys from labor and management giving their assessment of what makes a good arbitrator. They discussed electronic filing, expedited/consolidated hearings, quality of analysis in awards, rising costs, and a variety of other topics. Needless to say in a room full of arbitrators, there were a number of opinions on the topics.

The Central Midwest Region turned out in large number for Marty Malin's annual Illinois Public Sector Labor Law Conference at Chicago Kent Law School. It was a well-attended event featuring a number of interesting topics.

Central Midwest Region members participated in the 2012 Advocate Training Day held in conjunction with the Wisconsin Employment Relations Commission's annual conference and co-sponsored by the Central Midwest Region. The training was organized by Stan Michelstetter and was well-received by the numerous attendees. At a difficult time for labor relations in Wisconsin, the number of attendees was an endorsement of the quality of the program.

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## REGIONAL ROUNDUP *(Continued from Page 9)*

The Region continues to expand its outreach into the labor-management community through continuing education programs and webinars. Members Steve Bierig, Brian Clauss, Lisa Kohn, Marty Malin, Peter Meyers, Rocky Perkovich and Jeanne Vonhof have all been part of the increased number of programs that AAA has been doing in the Chicago area.

The Midwest regions have been exploring opportunities to collaborate on programming. The Central Midwest, Missouri Valley and Michigan regions have developed a four-part labor arbitration webinar series with AAA that will launch this winter.

Regional Chair is Brian Clauss –  
[brianclauss@midwest-arbitrator-mediator.com](mailto:brianclauss@midwest-arbitrator-mediator.com)

### METROPOLITAN DC

On July 1, 2012, the DC Region held another breakfast meeting with two speakers, **Edward R. Levin, Esq.**, Saul Ewing LLP and **John R. (Jack) Mooney, Esq.**, Mooney, Green, Saindon, Murphy & Welch PC. Ed (employer-side) and Jack (union-side) are very active arbitration advocates. Many NAA DC Region Members have had Ed and Jack appear before them at arbitration. They joined forces in a free-ranging dialogue about their relationship with each other, their approaches to the arbitration and client expectations of management and union counsels. They laid out a top 5 list of what they like and hate in arbitration with a few case examples. The dialogue was lively and lasted well beyond our allotted time for these regular breakfast events.

The next NAA DC Region breakfast will be September 16, 2012. If you are in the DC metropolitan area, give the DC Region Coordinator a call and join us.

Regional Chair is Sean Rogers – [rogerssj@erols.com](mailto:rogerssj@erols.com)

### METROPOLITAN NEW YORK

NAA Region 2 concluded its “season” on May 9, 2012, with a dinner meeting about the following: “14 Penn Plaza—where are we now?” or, expressed another way: “Statutory discrimination clauses in a collective bargaining agreement—do they work?” As our guests, we had Howard Rothschild, President of the Realty Advisory Board on Labor Relations (RAB), Harry Weinberg, a senior attorney with the RAB, who has represented Temco Service Industries in connection with the *Pyett* arbitration, and

Walter “Terry” Meginniss, Jr., general counsel for SEIU 32BJ. These parties were the ones whose collective bargaining agreement initiated the *Pyett* issue. The discussion was engaging and informative. The speakers spoke about the practical implementation of *Pyett* and the pitfalls that they have deftly avoided through additional discussion and MOU’s. Region 2 will hold meetings again beginning in October 2012.

Regional Chair is Randi Lowitt –  
[relowitt@lowittlaborarb.com](mailto:relowitt@lowittlaborarb.com)

### MICHIGAN

On April 10, NAA members Ted St. Antoine and Barry Goldman spoke to the Mid-Michigan chapter of LERA at a dinner meeting in East Lansing, Michigan. Ted addressed current issues in employment arbitration and reviewed statistical information gathered in conjunction with the Arbitration Fairness Act. Barry spoke about the role of mediation in traditional labor arbitration, focusing on when an arbitrator might offer to mediate and when an arbitrator should wait for the parties to suggest it. Their comments led to a lively discussion among the many arbitrators and advocates who attended the meeting.

On September 11, NLRB Regional Director Terry Morgan will join the regional members for dinner. Ms. Morgan will tackle the intersection of NLRB policy and procedure and labor arbitration. She intends to share important insights regarding the Board’s *Collyer* doctrine, and its current expectations of arbitrators when cases are deferred to arbitration.

The Midwest regions have been exploring opportunities to collaborate on programming. The Central Midwest, Missouri Valley and Michigan regions have developed a four-part labor arbitration webinar series with AAA that will launch this winter.

Regional Chair is Kathryn VanDagens –  
[kvandagens@comcast.net](mailto:kvandagens@comcast.net)

### MID-ATLANTIC

The Region has joined with the Upstate New York, New York, and District of Columbia Regions to co-sponsor an advocacy training program scheduled for September 6, 2012 in Atlantic City, NJ. It will be the debut of the NAA-

*(Continued on Next Page)*

## REGIONAL ROUNDUP *(Continued from Page 10)*

developed curriculum for advocacy training. The Region is also planning a program focused on employment arbitration; details to follow.

Regional Chair is John Paul Simpkins –  
[adr6800@verizon.net](mailto:adr6800@verizon.net)

### MISSOURI VALLEY

Please see the Region's update in a separate Visibility Initiative article appearing in this issue.

Regional Chair is Ed Harrick – [eharric@siue.edu](mailto:eharric@siue.edu)

### NEW ENGLAND

Regional Chair is Nancy Peace – [npeace@igc.org](mailto:npeace@igc.org)

### NORTHERN CALIFORNIA

Regional Chair is C. Allen Pool – [callenpool@comcast.net](mailto:callenpool@comcast.net)

### OHIO-KENTUCKY

The Ohio/Kentucky Annual meeting was held on May 4, 2012 in Columbus, Ohio. The following members were elected to serve as officers for 2012-2013. Chairperson: Floyd Weatherspoon; Vice Chairperson: Daniel Zeiser; Secretary/Treasurer: David Stanton. The Region will be a co-sponsor of the FMCS 2013 Central Ohio Arb/Adv symposium.

Regional Chair is Floyd Weatherspoon –  
[fweatherspoon@law.capital.edu](mailto:fweatherspoon@law.capital.edu)

### PACIFIC NORTHWEST

The Region held its annual Labor Arbitration Conference at the Washington Athletic Club in Seattle on April 25, 2012. The full-day program was well attended by about 35 arbitrators from the region. We were pleased to have NAA President Roberta Golick as our special guest. Presentations included "The Historical Evolution of Labor Relations Legislation," by arbitrator and former Washington PERC executive director Marvin Schurke; "Financial Issues in the Public Sector - Creative Budgeting," by Seattle University professor James Sawyer; and "Financial Issues in the Private Sector - the Boeing/NLRB Experience," by attorney Kathleen Phair Barnard. As always, the agency presentations from AAA, FMCS and Washington PERC provided timely updates and the revolving small group discussions among arbitrators were lively and informative. The day was capped off by a special private dinner hosted by FareStart Catering, a culi-

nary job training and placement program for homeless and disadvantaged individuals that offers students the experience of preparing elegant and personalized gourmet meals for customers.

On September 7-9, 2012, the Region will hold its first-ever meeting in Alaska at the Alyeska Resort in Girdwood, about 45 minutes south of Anchorage. Invitations have been issued to all NAA members via the mail list and we are looking forward to having an eclectic mix of arbitrators from within and outside the region. The program will include a presentation by the director of the Alaska Labor Relations Agency. Bonus points will be awarded for the first bear, moose, and eagle sightings.

Regional Chair is Robert Landau – [rlandau@gci.net](mailto:rlandau@gci.net)

### SOUTHEAST

The Southeastern Region is working on the details of our annual meeting which will take place in Orlando on February 8 and 9, 2013. We invite members and advocates from all over the region and many other areas to participate. If you would like to receive our mailings about this meeting, please send me a note to that effect. The region email address is [naasereg@gmail.com](mailto:naasereg@gmail.com) or contact Harry Gudenberg at [hrg798@gmail.com](mailto:hrg798@gmail.com)

Regional Chair is Harry Gudenberg – [hrg798@gmail.com](mailto:hrg798@gmail.com)

### SOUTHERN CALIFORNIA

Regional Chair is Robert Steinberg –  
[rdsteinberg@msn.com](mailto:rdsteinberg@msn.com)

### SOUTHWEST/ROCKIES

The Region hosted its 35th Annual Labor-Management Conference in Houston, Texas on March 1 to 3, 2012. The conference included featured guest speakers. Ms. Roberta L. Golick, President of the NAA, greeted the attendees with a morning address. The Region and the LERA Houston Chapter joined forces to host a dinner graced by guest speaker Ms. Martha Kinard, Regional Director, Region 16, NLRB. Mr. Trey Bergman, Esq., of The Bergman ADR Group, presented a session to initiate the focus of the conference, "Say It in Writing! Keys to Effective Written Communication." The Region's conference included the customary separate all-day sessions for arbitration advocates and labor arbitrators. Other highlights of the conference were updates presented by the FMCS and the AAA, the Ethics of Social Networking, updates from the U.S.

*(Continued on Page 12)*

## REGIONAL ROUNDUP *(Continued from Page 11)*

Postal Service, the NALC and APWU, a red light/green light interactive session and an employment law update.

The Region now has a website: <http://naaswr.org>. The website posts information about upcoming events as well as a pamphlet developed by several members of the Region entitled, "Do's and Don'ts for Advocates."

The Region will host its 36th Annual Labor-Management Conference February 28 - March 2, 2013, in Houston, Texas.

Regional Chair is Maretta Toedt – [mctoedt@toedt.com](mailto:mctoedt@toedt.com)

### UPSTATE NEW YORK

The Region has joined with the Mid-Atlantic, New York, and District of Columbia Regions to co-sponsor an advocacy training program scheduled for September 6, 2012 in Atlantic City, NJ. It will be the debut of the NAA-developed curriculum for advocacy training.

Regional Chair is Douglas J. Bantle – [bantle@rochester.rr.com](mailto:bantle@rochester.rr.com)

### WESTERN PENNSYLVANIA

The Western Pennsylvania Region will meet on Friday, September 21, 2012, for its quarterly luncheon at the Pittsburgh Athletic Association. Our tradition is to invite all NAA member and non-member neutral labor arbitrators in the Region to attend. We have also invited several advocates to the September meeting as part of the program to discuss their perceptions of local labor-management matters.

The "Labor Arbitration Discussion Series," which the Region co-sponsored with the Allegheny County Bar Association's (Pittsburgh) Labor & Employment Law Section, and which consisted of five luncheon sessions held on the third Thursday of January through May 2012, was highly successful as the sessions attracted 56 total participants and averaged 20 participants per session, with some participants attending multiple sessions. These participant totals do not include the four different experienced labor advocates and NAA arbitrators (twenty in all for the entire program) who spoke at each of the sessions.

Regional Chair is Michael McDowell – [mmcdowell@arbitrationsandmediations.com](mailto:mmcdowell@arbitrationsandmediations.com) 

## Mark Your Calendar

# 2013 Annual Meeting June 5-8, 2013



**The Fairmont Hotel Vancouver  
Vancouver, BC**

## NEW MEMBER BENEFITS by Former Chair Amedeo Greco

The Special Committee on Membership Benefits has obtained the following new benefits:

### 1. AIRLINE DISCOUNTS FOR THE 2012 FALL EDUCATION CONFERENCE IN CHARLESTON, SOUTH CAROLINA

- Air Canada will offer a discount of up to 10% on its lowest available fares. Call 800-361-7585 or go to "[www.aircanada.ca](http://www.aircanada.ca)," meetings and conventions, event registration, using promotion code Q4TRHMP1.
- American Airlines will offer a 5% discount off of its lowest available fares in the states and in Canada and zone fares which are higher, but advantageous for last minute travel because they do not go up. Call 1-800-433-1790 or go to "[www.aa.com](http://www.aa.com)" using authorization code 43H2BW.
- Delta Airlines will offer a 5% discount on most of its discounted, restricted fares and a 10% discount on its full, non-restricted fares in the states and Canada, along with zone fares which are higher, but advantageous for last minute travel because they do not go up. Call 1-800-328-1111 or go to "<http://www.delta.com>" and then to "Meeting, Group and Event" travel page using booking code NMA6M.

### 2. AIRLINE DISCOUNTS FOR THE 2013 ANNUAL MEETING IN VANCOUVER, BRITISH COLUMBIA

- Air Canada discounts for the 2013 Annual Meeting in Vancouver, B.C., will be offered when they become available.
- American Airlines will offer a 5% discount off of its lowest available fares in the states and Canada and zone fares which are higher, but advantageous for last minute travel because they do not go up. You can fly to Seattle or Vancouver. Call 1-800-433-1790 or go to "[www.aa.com](http://www.aa.com)" using promotion code 1663BU.
- Delta Airlines will offer a 5% discount on most of its discounted, restricted fares and a 10% discount on its full, non-restricted fares in the states and Canada and zone fares which are higher, but advantageous because they do not go up. You can fly to Vancouver or Seattle, Washington. Call 1-800-328-1111 or go to "<http://www.delta.com>" and then to "Meeting, Group and Event" using booking code NMBJK.

### 3. ENTERTAINMENT COUPON BOOKS

They can be purchased for \$25 with free shipping, which is about 50% off the regular price. The over 150 local edition books offer great discounts for dining; shopping and services; sports attractions and events; about 4,000 hotels; and travel. Call 866-382-0724 and use Corporate ID 2193334261 or go to <http://www.entertainment.com/2193334261>.

### 4. LODGING

The Kimpton Hotels chain has about 57 boutique hotels throughout the country under the Monoco and Palomar names, and it offers 10% discounts off its best available rates and sometimes offers special promotions such as a \$25 daily dining credit. These 3 and 4 star hotels have excellent service and outstanding restaurants— also pet friendly. Call 1-800-KIMPTON or go to <http://www.kimptonhotels.com> under the tab "rate code or global business ID," using corporate booking Code GBP16299.

The Committee previously has obtained discounts from Avis; Jos. A. Bank; Brooks Brothers; BNA; Bose; FTD Florist; Hertz; Hewlett-Packard; Hyatt Hotels and Resorts; and Office Depot.

All benefits are listed on the Academy's members-only website under "Membership Benefits." 

# Missouri Valley Visibility Initiatives

Since the National Academy of Arbitrators encouraged regions to engage in programs to enhance visibility, the Missouri Valley Region met on January 14, 2011, to discuss how we should respond to this challenge. Below is a list of actions to align regional activities with the NAA's visibility thrust.

- Encourage members to wear the NAA lapel pin. We suggested the wearing of the pin when serving as an arbitrator, at arbitration or labor relations related meetings, and as we travel to and from arbitration-related professional activities.
- Ask members to include the NAA designation on letterhead and business cards.
- Work with organizations (e.g., FMCS, AAA, LERA, NLRB, bar associations, labor councils, employer groups, schools, colleges, universities and media representatives) to promote the NAA and its mission. As appropriate, offer the services of members as speakers or resource persons.
- Describe the NAA, announce its website, and distribute descriptive NAA literature when possible. For example, this might be done as part of a professional presentation or in the form of a brochure distributed at professional meetings.
- Develop a data base of professionals interested in arbitration.

As a general policy, we do not believe the NAA is well known by advocates or labor attorneys, especially relatively new ones. These are our primary target markets. To reach these groups, we have developed a few linkages. For example, we described how we might seek common goals with the president and vice-president of programming for LERA, an FMCS mediator, a VP at the American Arbitration Association, the labor law coordinator of the local bar association, and a law school professor. We could offer educational programs with LERA, FMCS and AAA. The groups might market the program and NAA members would deliver content. With an area law school, we might provide speakers on topics of interest to its students. For example, a labor law professor was interested in a speakers program when the FEC is in St. Louis in the Fall of 2013. So, we may be working with the NAA's Program Committee to this end. In all of our efforts we will try to distribute the new brochure and reference our website.

In 1992, the Gateway Chapter of LERA designed a program entitled *Arbitration: the Good, Bad & Ugly*. Over the past 18 years, the Missouri Valley region has provided local and national speakers at this biennial conference (e.g., Dunsford, Nicolau, Sinicropi, Harkless, Gershenfeld, St. Antoine). This popular program draws 100-200 attendees.

Missouri Valley is a co-sponsor and hopes to continue to partner with LERA to provide educational programs directed primarily to advocates.

In August 2011 and in April 2012, we were invited to a meeting of advocates and arbitrators at a *Meet and Greet* program sponsored by the Bar Association of Metropolitan St. Louis. About 50 members of the labor and management community were in attendance. This afforded about a half dozen NAA members the opportunity to describe the NAA mission and "show off" the NAA pin. This was a social program with opportunities to meet and discuss issues of mutual concern. Many of the attendees were relatively young labor attorneys, one of our target markets. Since then, we talked with the labor law chair about a program directed to new attorneys with an interest in arbitration. We distributed the *About the NAA* flyer to the attendees.


On February 6, 2012, the region aligned an activity with the objectives of the NAA's visibility initiative when it partnered with the Gateway Chapter of Labor and Employment Relations Association to offer a breakfast meeting entitled *Privacy: the Internet, Social Media and your Job*. NAA speakers included Mark Suardi, Josef Rohlik, and Tom Cipolla. Cindy Flynn and Neale Sutcliff gave the NLRB's position on these matters. To enhance our visibility, the *About the NAA* flyer prepared by the Visibility Committee was distributed to the 65 attendees. The audience was primarily advocates and educators.

Each year we offer nine monthly luncheon meetings. In the past these meetings were directed primarily to NAA members. Recently, we expanded the audience to include non-NAA arbitrators who want to learn more about the NAA and arbitration in general. Clearly, these meetings have enhanced visibility, especially among non-NAA professionals. Below is a description of the programs offered over the past three years:

- Gerald Cohn presented *Zero Tolerance – What does it Really Mean?* Discussion followed Gerry's comments about how zero tolerance fits within the framework of just cause. Cohen believes that when zero tolerance is operational, the arbitrator's award must reflect case circumstances. October 2009. Because this event was reported in the Chronicle, Mr. Cohen was invited to another region to present his ideas.
- Anne L. Draznin discussed *Post Pyett: Is Gardner-Denver Dead or Alive?* Her discussion centered on the holding, after-effects and questions remaining to be addressed from Justice Thomas' opinion in 14 Penn Pl v Pyett, 129 S.Ct. 1456 (4/1/09). December 11, 2009.

(Continued on Next Page)

- Mark Suardi led a discussion of *Arbitral Subpoenas: Driving in the Fog*. Mark discussed subpoenas relative to the CBA, the arbitrators' implied authority, the Federal Arbitration Act, and state and federal law and court cases. He also provided a comprehensive set of references. January 8, 2010.
- Ed Harrick presented three cases on *Dilemmas of Due Process*. The cases were those presented at the Chicago National Academy of Arbitrators 2009 Annual Meeting. Local attendees discussed the cases, recorded how they would have responded, and then compared their decisions to those of NAA members at the Chicago meetings. February 12, 2010.
- *The Business of Arbitration or the Third Side of the Relationship* was presented by Jim O'Grady. Jim spoke about approaches to maintaining a docket. To aid in cash flow, he reported how some arbitrators now provide an interim invoice to recover travel-related expenses. We had lively discussion of professional liability insurance. March 2010.
- *Arbitrators' Communication with the Parties before, during and after the Hearing* was the subject of a Gladys W. Gruenberg presentation on ethical issues. She tried to obtain a consensus on several issues. April 9, 2010.
- Gateway Chapter of Labor and Employment Relations Association organized and the Missouri Valley Region of the NAA co-sponsored a one-day conference entitled *Arbitration: The Good, the Bad, and the Ugly IX*. September 28, 2010.
- Summary of the FEC meetings in Cleveland. Ed Harrick. November 12, 2010.
- *Critical Considerations in Crafting the Arbitration Award*, Gladys Gruenberg. December 10, 2010.
- Jim O'Grady led a roundtable discussion on Regional Visibility Initiatives. Some of our initial ideas included the development of a speaker's bureau; becoming more pro-active with Labor and Employment Relations Association and the bar association of St. Louis; discussion of ethical obligations of arbitrators; wearing the NAA pin at hearings & other events; plan a seminar to update parties on developments in arbitration; prepare press releases about NAA programs. January 14, 2011.
- *Costs Associated with Labor Arbitration* (AAA's cost report), Anne Draznin. February 11, 2011.
- *Update on the NLRB*, Claude Harrell, Regional Director of NLRB, Region 14. March 11, 2011.
- *Successor Organizations*. Ed Harrick. April 9, 2011.
- Missouri Valley Region met with advocates and arbitrators at a *Meet and Greet* program sponsored by the Bar Association of Metropolitan St. Louis, AAA and FMCS. About 50 members of the labor and management community were in attendance. August 17, 2011,
- Gladys Gruenberg and Ed Harrick discussed cases related to *Arbitration and Privacy*. Area arbitrators debated workplace matters associated with Facebook, smart phones, internet, keystroke monitoring, email, and cell phone usage. These cases were originally presented at the NAA meetings in San Diego. September 2011.
- *Witness Credibility*. Gerald Cohen discussed witness credibility issues. He used cases to illustrate points. October 2011.
- *The Arbitrator's Involvement in the Hearing*. Gerald Cohen. November 11, 2011.
- *Tax Issues in the Practice of Arbitration* was the title of a presentation by Kurt Hegedus of Larson Allen, CPA. Coordinated by Gerard Fowler. December 9, 2011.
- The region aligned its activities with the objectives of the NAA's Visibility Initiative as the Missouri Valley partnered with LERA to offer a breakfast meeting entitled *Privacy: the Internet, Social Media and your Job*. February 6, 2012.
- Ed Harrick led a discussion of *Thorny Issues Recently Experienced by Arbitrators*. We discussed difficult, challenging issues that we experienced recently. The meeting was an especially lively one with a variety of opinions expressed on the thorny issues. January 9, 2012.
- Gladys Gruenberg made extensive use of cases to facilitate her presentation *Ethics in Arbitration*. March 9, 2012.
- Mark Suardi discussed *Procedural Due Process* in April 2012. Representatives from both BAMSL and LERA were in attendance.
- Ed Harrick presented materials related to *Dos and Don'ts for Advocates* in May 2012. In addition to NAA members, non-NAA arbitrators and representatives from the Bar Association of Metropolitan St. Louis and LERA were present.

The Missouri Valley Region is committed to enhancing the visibility of the NAA and to seek strategies to better align our local activities with the interests of the National Academy. The Missouri Valley NAA meets the second Friday from September – May for luncheon meetings at the Missouri Athletic Club-West. Meetings are open to all NAA members. Contact Ed Harrick (618-288-4764 or [eharric@siue.edu](mailto:eharric@siue.edu)) for more information. 



June 8, 2012

GEORGE P. SHULTZ

THOMAS W. AND SUSAN B. FORD

DISTINGUISHED FELLOW

Dear Arnold,

On the occasion of the 50<sup>th</sup> anniversary of our membership in the National Academy of Arbitrators, I write to say that 50 is a small number from the standpoint of a 91-year-old like me. Nevertheless, this landmark causes me to think about my time as an arbitrator and mediator and about the applicability of what I learned to subsequent jobs such as that of Secretary of State.

What you learn is that much of life is really arbitrating and mediating. You learn how to figure out when to mediate and when to arbitrate – that is, to know when a decision must be made. You also learn to listen and to figure out the essence of the argument before you. When you can shift an argument about principles into an argument about problems, you are on your way to a solution. After all, people won't compromise on principles, but they're accustomed to solving problems. You also learn about appropriate roles. If you think of yourself as a mediator when you're actually a manager, you're going to get in trouble.

Anyway, in these and many other ways, my experience in our mutual line of work has served me well. I even wrote a book about the subject a couple of years ago: *The Ten Commandments of Negotiations*.

Congratulations to both of us on 50 good years!

Sincerely yours,

A handwritten signature in cursive script that reads "George".

George P. Shultz

Mr. Arnold Zack  
Via E-Mail

# A Look Back In Academy History

The Chronicle

September 1995 and Fall 2008

September  
National Academy of Arbitrators  
Special Annual Committee Reports  
Abstracts - See Center Insert

## The Chronicle

1995

### REMEMBER THE ALAMO (AND LOTS MORE!)

The Fall Education Conference in San Antonio, November 10-12, members-only program yet, exciting about that below), we will begin the program Saturday morning with an exploration of **The ADR Universe As It Really Is**, with Bill Hooley, Chris Vermeiren, Arnie Zack and Fred Horowitz. The morning will conclude with a dialogue about **New Frontiers in Traditional Practice**, in the U.S. and Canada, with Stephen Hayford, Elliott Goldstein and Allen Hinesman. In line with the commitment to recent years to have a lunch speaker who is really special (or not to have one at all), we are very pleased that former Secretary of Labor, Professor Ray Marshall, will share his insights with us on **The Future Shape of Labor Relations**.

Saturday afternoon you'll have a choice of six discussion groups from 2:00-4:00 pm. Sara Adler, Jim Cooper and Frank Quinn will lead a discussion of **ETHICS**, covering both traditional and

Management will be the topic of a discussion led by Bennie Cushman, Tom Roberts and Lois Rappaport. Doug Collins, Marc Goodbaum and Clara Friedman will lead a discussion on the **Awarding of Statutory Remedies Discretion and Legal Representation**. Committee Chair Joe Gonshe will help members figure out **How to Avoid Being Sued**. New forms of party relationships require that we consider **Evolution of Opinion Writing** in a discussion led by Stan Dubey, Susan Mackenzie, and Frances Blatstein. Changes in law and technology present us with **Emerging Evidentiary Issues**, such as those involving E-mail, which Amosha Greco, Tony Santopri and Brian Bence.

Sunday morning after breakfast and remarks by President Ted Wrenthorst, we will convene in plenary sessions to learn about some of the **Arbitral Workforce from around the World**. Implications of the Multicultural and Mickey Rappaport and a Mexican Training Consultant, Bob Adler in a



# The Chronicle

October 3-5  
**Seattle Local Host**  
by Sylvia Skrzutek, Host Committee Chair

The bustle of the nine-acre Pike Place Market introduces you to Seattle's land and sea creations with plenty of local fruit, vegetables, flowers and the morning's catch of fish. Local artists will delight you with their works and local vendors will regale you with their music. Seattle's colors, sounds and streets

will remind you of the oldest continually operating farmers' market in North America.

From the Market, it's a short stroll to the Seattle Art Museum where you will be greeted by the towering Hammering Man sculpture signifying the artistic wonders to be found inside.

Further down the street you'll find yourself in Pioneer Square Seattle's oldest neighborhood dating back to the 1800s. In the midst of the stately brick buildings you'll find specialty stores, art galleries and the Elliott Bay Book Company with its old wooden boxes and maze of rooms filled with intriguing books. Take time to visit Doc Maynard's Public House, a restored 1890s saloon, which serves as the starting point for the Underground Tour that takes you beneath the city's sidewalks to discover a history of art, occupation, sewer and scandal that must be seen to be believed.

Early October is one of the most beautiful (and most often sunny) times of year to visit Seattle. (Continued on Page 5)

**TO ATTEND:**  
Fall Education Conference  
October 3-5, 2008  
The Westin Seattle  
Seattle, WA

**2009 Annual Meeting**  
May 20-23, 2009  
The Crowne Plaza  
Chicago, IL

**2009 Fall Education Conference**  
October 3-5, 2009  
The Hilton Bellevue Hotel  
San Antonio, TX

**2010 Annual Meeting**  
July 26-29, 2010  
Loews Philadelphia Hotel  
Philadelphia, PA

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**PRESIDENT'S CORNER**  
BACK COVER

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The Chronicle

## FIRESIDE CHAT: George Schultz Remembers

Academy members attending the San Francisco meeting were treated to a review by former Academy member George P. Schultz of his service as Secretary of State from 1982 to 1989. Since January, 1989, Mr. Schultz has held the position of Professor of International Economics at the Graduate School of Business and Distinguished Fellow at the Hoover Institution at Stanford University.

Schultz recounted his training as an economist. He was Director of the Office of Management and Budget and, from 1973 to 1974, Secretary of the Treasury. Coming closer to our field, he was Secretary of Labor in the Nixon Administration. He said that "just development" of his career "just happened," that you "just sort of take" the skills and insights required for those positions and arbitration, from knowledge in negotiations generally. He added that as Secretary of State, he found himself thinking about labor relations.

Secretary Schultz conferred the applicability of the skills we learn and practice to an ever-expanding arena.

Responding to questions from Jim Stern, who introduced him, Schultz went on to give us an inside view of negotiations with the Russians, including with the proverbial handsome Gromyko and his successor Foreign Secretary, Shevardnadze. He described his efforts to obtain the release of that day Herold ushkov Shevardnadze informed him of the Soviet decision to leave Afghanistan. Schultz said that the collapse of the Soviet Union followed upon the bankruptcy of the system and our strong policy of containment, going back to George Kennan.

In a point of particular interest and surprise, Secretary Schultz characterized President Reagan's actions in 1981 as a traffic controller's strike of 1981 as a "most important foreign policy initiative," meaning, according to Schultz, that it showed the resolve of the Reagan Administration, a point not lost on the Soviets. Schultz emphasized the importance of strength in negotiations and the applicability of labor relations skills, including labor mediation and arbitration, in the international field. Strength and willingness to reach agreement and other side's constancy are key.

Schultz described as a "big thrill" hearing from reluctant Mr. Nulld that the fact "at home in Jerusalem." And in a way, we were all at home with Secretary Schultz. He said that he had learned much from members of the Academy. In turn, we learned a great deal from him.

—Jonathan Lebowitz




Reported by Don McPherson

## FIRESIDE CHAT FROM A TO Z: ARNOLD ZACK

Arnold Zack, former NAA President (1995), holder of the "Cliff Ragan Jr. Award for Attendance at the Most Consecutive NAA Annual Meetings" (51), and two-time winner of the event named after the Martha's Vineyard Spaulding County Fair ("Best Pickled Vegetables" and "Best Jams and Jellies"), led forth Fireside Chat.

The audience came expecting to be regaled by a new Galick's witty and thoughtfully prepared guidance as last year, they were not disappointed. A slide show of family and career photographs was displayed on large screens.

Zack summoned the courage to ask about the other, and Waller said he had asked for a job and Waller agreed. They began a long association which included sharing a summer passion Labor Arbitration course at Harvard that Waller had initiated in 1947.

Zack decided his own first arbitration case in 1957 when he was 26, the same year he attended his first Academy meeting. He has attended regularly ever since. He almost twice a year in Illinois and was introduced during Waller's distinguished speaker address by him because of a report that a slide show with Peace Corps Volunteer and Author Arnold had helped set up the Assistant to Sergeant Street, working building tradesmen to work as Norms, to whom he's been married for 39 years (even though, he reported, her mother told her he was "an Air Force" type), becoming grandparents in their children and their grandkids in their children and their great-grandchildren. He added that he was finally getting straight up the very best girl I could to whom she responded, "you know."

He began his well-known passion for international travel in the late 1980s and early 1990s, which he supported while




# Veterans' Procedure for NAA Membership

*The NAA Membership Committee reinstated, in 2009, the Veterans' Procedure for membership in the Academy which was suspended at the 2008 Annual Meeting. The revised procedures, outlined below, are intended to respond to problems associated with some confusion about the proper use of the Veterans' Procedure.*

## 1) What is the Veterans' Procedure?

The Veterans' Procedure is an NAA membership application process that intends to attract established arbitrators to join the Academy by lessening the rigours of the standard application process. The Veterans' Procedure is identical to the standard process save for two (2) major differences. First, the applicant is not required to provide the first and last pages of awards and other decisions which qualify as "countable" cases, along with the supporting worksheets; rather, she or he attests to having a sufficient caseload so as to meet our membership standards. Second, the Veteran application must be supported by letters of reference from seven (7) current NAA members instead of three (3) NAA members' references. References from management-side and union-side representatives are still required.

## 2) Who qualifies as a Veteran?

- a) A Veteran is an individual who 1) has been an arbitrator for a substantial number of years, and 2) would be a "slam dunk" in meeting our membership standards in the Academy. Both criteria must be met. In that regard, the mere fact that an individual has a long-standing practice is itself not sufficient to qualify under the Veterans' Procedure.
- b) In accord with our by-laws, a potential candidate must be of good moral character and must have substantial and current experience as an impartial arbitrator of labor-management disputes so as to reflect general acceptability by the parties.

## 3) How does an individual demonstrate "substantial and current experience"?

- a) An applicant must first meet our threshold for consideration of their application. Under current Board policy, the threshold consists of 60 countable cases in the last 6-year period. Of those 60 cases, a maximum of 20 may be "workplace dispute" cases. Of those 20, a maximum of 10 may be employment cases.
- b) The "workplace dispute" category (e.g., advisory arbitration, fact-finding, and teacher tenure and civil service cases under statutes or rules closely analogous to traditional arbitration) has recently been amended to include railroad cases in a limited manner.
- c) For railroad cases, one (1) letter of appointment that results in at least one (1) award is counted as one (1) workplace dispute case. Thus, if more than one (1)

award is issued under one (1) letter, that letter still only counts as one (1) workplace dispute case. Privately funded protection decisions are countable labor-management awards on a one-for-one basis as before.

- d) Meeting the threshold for consideration does not mean that an applicant automatically qualifies for admission. "Substantial and current experience so as to reflect the acceptability of the parties" implies a diversity of practice, as well as a consistent caseload throughout the years.

## 4) How does the Veterans' Procedure work?


- a) The Veterans' Procedure utilizes an informal, case-by-case approach that intends to assure the Academy a potential candidate is indeed eligible for membership as a Veteran candidate. The intention is to avoid problems previously encountered, whereby invitations to use this procedure were extended to individuals who did not meet our standards, leading to embarrassment to them and to regional sponsors.
- b) When an individual thought to be eligible under this procedure is identified by a regional member or by a Regional Chair (or is brought to their attention), the Regional Chair contacts the Membership Committee Chair to inform of a potential candidate for the Veterans' Procedure.
- c) The Membership Committee Chair contacts the person and explains the Veterans' Procedure and what is required of them, and that their obligation is to communicate with the Regional Chair about identifying potential NAA sponsors. Potential applicants are directed to review the NAA membership guidelines on the NAA website to assure that they believe that they meet the membership standards. Potential Veteran applicants will be asked at this time to provide the Membership Committee with their caseload figures for the previous six years, without supporting documentation.
- d) Seven (7) current NAA members need to be identified by the Regional Chair or sponsor, or by the potential candidate. These NAA sponsors must be willing to vouch for, in writing, the individuals' credibility, and ethics in the profession, and, provide whatever information they can about his or her work, for example, through personal contact, familiarity with their cases, or, their understanding of that indi-

*(Continued on Next Page)*

## NAA Hotel Selection Policy

In advance of the 2012 Annual Meeting some members expressed concern over the fact the Minneapolis Hyatt was not a unionized hotel. Although the contract with the Minneapolis Hyatt was made in compliance with the NAA hotel selection policy, the Board of Governors decided to consider whether this policy should be amended and to announce the results of its deliberations at the 2012 Business Meeting and in an article in *The Chronicle*.

The NAA hotel selection policy, which the Board of Governors ultimately decided to reaffirm in Minneapolis, requires that preference be given to a union house if a union house responds to our request for proposals and does not require terms so unreasonable in comparison to other responding hotels in the chosen city as to endanger the prospects for a successful meeting. The selected hotel cannot appear on an AFL-CIO or international union do not patronize or boycott list, and it must agree that even after the contract is signed the NAA can cancel without financial penalty if a labor dispute exists at the property or if the hotel appears on an AFL-CIO or international union do not patronize or boycott list. The Board understands this is the same hotel selection policy used by the AFL-CIO.

In authorizing hotel contracts for NAA conferences, which customarily are negotiated and executed years in advance of the conference dates, the Executive Committee and the Board of Governors insist on compliance with this hotel selection policy. The NAA would not hold any of its conferences at nonunionized hotels if a unionized hotel in the selected city bids on our business and does not insist on unreasonable contract terms. The NAA has, and will continue to, place meetings at bidding unionized hotels even where the offered sleeping room rate for members exceeds the rate being offered by nonunion hotels, assuming the other contract requirements of the unionized hotel are acceptable. In Minneapolis, the NAA received bids from one unionized hotel (Hilton) and two nonunionized hotels (Hyatt and Marriott) for its 2012 Annual Meeting. Negotiations with the Hilton failed; it refused to accept contract terms which the NAA has for years regarded as standard terms and which other Hilton properties in other cities had accepted. Negotiations with the Hyatt were opened thereafter and were successful. The contract was signed in August 2009. The NAA would have preferred to hold the Minneapolis meeting at a unionized hotel, but that was not an option in this case. The NAA is committed to utilizing unionized hotels for its conferences whenever possible. 


## VETERANS' PROCEDURE FOR NAA MEMBERSHIP *(Continued from Page 18)*

vidual's reputation. The NAA sponsors should be directed to send their sponsoring letters to the Regional Chair, copying the Membership Chair at [naamemberchair@gmail.com](mailto:naamemberchair@gmail.com).

- e) The Regional Chair forwards to the Membership Chair any and all sponsoring letters received.
- f) Once the 7 sponsoring letters, as well as the caseload data, are received by the Membership Committee, the Membership Committee Chair undertakes – or assigns to Membership Committee members(s) – the task of an informal, but appropriate investigation to determine whether:
  - the individual is eligible to apply under the Veterans' Procedure, or
  - should apply under the standard application process, or
  - should be discouraged from applying as they do not appear to meet the threshold for consideration of their application.
- g) The investigation is used to augment the references from the seven (7) NAA members.
- h) The Membership Committee Chair makes the deci-

sion to extend or not to extend an invitation to the individual to apply for Academy membership under the Veterans' Procedure. If invited to use the Veterans' Procedure, the applicant will fill out the complete application, but not the supporting worksheets. The Committee, as is the usual practice, will solicit recommendations from the union and management references named by the applicant. The file will then be presented to the full Committee for determination.

In extending the invitation to use the Veterans' Procedure, the individual is advised that should issues be raised when the application is advanced to the full Membership Committee, he or she may be asked to provide further supporting documentation. If the individual wishes not to do so, he or she will be allowed to withdraw from the procedure without any action taken on the part of the Membership Committee.

If you have any questions about the Veterans' Procedure, or about membership standards in general, please contact the Chair at the e-mail account set up for the Membership Committee at [naamemberchair@gmail.com](mailto:naamemberchair@gmail.com). 

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## Cameras Focus on Arbitration

By Pattie Bittel

When the Research and Education Foundation decided to approve a \$25,000 grant for a documentary on arbitration, we knew one thing for sure: the producer is top notch. Carol M. Rosenbaum is an independent documentary writer/producer whose incisive writing and dynamic style have won two mid-Atlantic Emmys, three Emmy nominations, ten national first-place awards and the Robert F. Kennedy Journalism Award for best television news series. The new video will be titled *The Art and Science of Arbitration* and is the second full-length work by our grant recipient, the College of Labor and Employment Lawyers.

How does Carol do it? “I try to tell a really emotional, strong story. I know how to relax everybody so they talk, not just about what happened, but about what they feel about what happened. Then I’m able to weave these real feelings into the story.” She describes her passion for intertwining research with powerful visuals. “Interweaving makes it powerful,” she said. “That’s why I’ve won awards.”

Carol first became interested in cinematography when she traveled to Zambia on a hiking safari in 1969. She brought along a Super8 camera and followed the tracks of elephants and lions along muddy river banks, framing more than the wildlife. No matter that the camera filter was wrong so the footage came out blue; she found her destiny. She later took a sabbatical from teaching English to study film-making at UCLA and started writing and producing for WPVI TV 6 in Philadelphia when she came back. One of her first documentaries covered a Himalayan-bound women’s moun-

tain climbing team during their practice climb in California’s Sierra Nevada Mountains. She strapped on a 16 mm film camera, buckled on some snow shoes and followed the team for four days, camping out, making water from snow, and sleeping in frosty tents. She savored the experience, and the resulting film was a powerful and moving broadcast.

Needless to say, this tenacity has served her well. Her first full-length documentary for the College, *Working for American Workers*, focused on labor unrest during the 1960s and ‘70s as seen through the eyes of two former US Secretaries of Labor: W. Willard Wirtz and W.J. “Bill” Usery. In a similar style, *The Art and Science of Arbitration* will capture compelling stories and insights about arbitration, its origins, successes, challenges, and snafus, as well as how it was and is practiced by giants in the profession. “What I like the most is working with smart people who have heart and humanity and who can express that,” Carol said. “Attorneys are wonderful raconteurs,” she added.

The hardest part, Carol says, is figuring out what to leave out of the video because the material is all so fascinating. She will be working with Editor Ann Tegnell, who edited *Working for American Workers*. “She is probably one of the brightest, most sensitive people I know,” Carol said, adding that Tegnell brings enormous visual imagination and sense of story to the table.

*Working for American Workers* was the first documentary to pull from the College’s Video History Project. For the past twelve years, the College has ambitiously created a one-of-a-kind library of in-depth video oral

histories. The purpose, according to College Executive Director Susan Wan, is to preserve the history of labor law. The initial thought was to get as many subjects on tape as possible, reserving the option of pulling them together later.

Later has become now. *The Art and Science of Arbitration* will draw on this rich resource, including interviews with George Nicolau, Sec. George Shultz, Arvid Anderson, James Harkless, and Theodore Kheel, as well as Fireside Chat interviewees Frances Bairstow, Hon. Harry Edwards, Arnold Zack, Theodore St. Antoine, and Edgar A. (Ted) Jones. We will also hear from Usery and from FMCS Director George Cohen on the Steelworkers Trilogy history. Roberta Golick is scheduled to be interviewed in April.

The video will be fifty minutes to an hour in length, to facilitate its use in law school classrooms. According to Carol, viewers will likely be surprised by the excitement arbitrators feel about their cases and by how thorny and difficult those cases can be. “The impact of their decisions is a great responsibility,” she said, “almost scary.”

*The Art and Science of Arbitration* is in progress and likely to be released by the end of the year. It will be available from the College at a very nominal fee. The College, the REF, and many of us in the Academy think this is the most exciting project to come our way in quite a while. Want to help? If you have access to archives, particularly film, still photographs or historical letters, please contact Susan Wan, [swan@laborandemploymentcollege.org](mailto:swan@laborandemploymentcollege.org). 📧

## Research and Education Foundation Update

by Allen Ponak

### BE A STAR

The Research and Education Foundation raised a record \$30,000 in 2011. To recognize our many wonderful contributors, REF donors will have the opportunity to display a star on their name-tag at the NAA meeting in Charleston and, based on feedback, at future NAA annual and fall meetings. This is your chance to be one of our stars!

Your donations are sorely needed. We continue to receive high quality applications and we are currently funding two very exciting projects: *CLEL Documentary: The Art and Science of Arbitration* (see the story by Pattie Bittel) and a joint US-Canada study on arbitration delay.

### THANK YOU CHRIS KNOWLTON!!

At the Minneapolis meeting, Chris stepped down after a remarkable three years as REF president. The REF made enormous strides under her leadership — funding more projects, raising more money, increasing the Foundation’s visibility, and enhancing transparency. Chris’s dedication and creativity represent the best traditions of the Academy and we all owe her a tremendous vote of gratitude. The challenge for me, the REF Board, and the entire Academy is to maintain the momentum generated under Chris Knowlton’s dynamic leadership. Thank you, Chris. 📧

## CPRG Update

*by Ed Krinsky, former CPRG Chair*

Since my last communication with you I have fielded several complaints against members alleging violations of the Code. As you may recall, it is the CPRG Chair who receives complaints and then, in consultation with two other members of the CPRG, makes an initial determination about whether there is probable cause to believe the Code has been violated. If there is probable cause, a Hearing Officer is appointed. If there is no probable cause, the complaint is dismissed. Fortunately in all of these recent cases, I have found a lack of probable cause and have dismissed the complaints. As of this writing there are no matters pending before Hearing Officers.

I thought I would share with you the nature of the complaints.

One involved an allegation by an attorney that a member had made intemperate and unprofessional comments about him in e-mail correspondence sent to others involved in a case involving a government agency. I found there was not probable cause for several reasons: at the time the remarks were made, this attorney and a second agency which this attorney sometimes represents did not have a case pending before the member; the case which was of concern to this attorney had been settled by the parties, and this attorney had not been a part of that arbitration or of the settlement; the arbitrator's very negative comments about the attorney had been made to others in response to an unsuccessful attempt by the complainant to intervene in the case where he lacked standing, and where the parties involved in the hearing and the settlement did not view this attorney as having anything to do with the matter. In my view, there is something which we all might consider from this case; namely, that as we exercise our right of free speech we also should exercise caution about what we say to, or about, people in the labor-management field who might have cause to file complaints about us based on what we say.

Two cases involved allegations by unsuccessful grievants that the arbitrators who decided their cases had failed to consider important evidence which they had presented and which, had the evidence been considered, would have produced a different result. These complaints were dismissed because the CPRG is not in the business of reviewing members' decisions, and in neither of these cases was persuasive evidence presented that the arbitrators' conduct violated the Code. These cases highlight something we might pay greater attention to in our decision writing. For example, in a discharge case if we decide there was just cause for the discharge, we routinely discuss the evidence that led us to that conclusion. There may be other evidence presented, however, that does not persuade us and that we may not even mention in our decisions. I suggest we need to be alert to whether that evidence is viewed by the grievant or Union as of great importance. In such cases it may be better to mention the evidence and to say why consideration of it did not change the result. By doing so, we remove the potential allegation that we failed to consider important evidence and thus not acted impartially.

In another case, an unsuccessful grievant alleged a member had "extorted" money from her by billing her directly, where it was her understanding the government agency and the Union were each to pay half the arbitrator's

bill. Upon investigation, it turned out to be the case that she would have been correct had she been represented by the Union's counsel. She had opted to use private counsel, and under those circumstances was responsible for half the bill.

I was asked by an appointing agency to become involved in another matter where a member had not issued awards and was not responding to the parties or the agency. I did not know this member personally and I asked the Regional Chair to contact the member to find out what was going on. As it turned out, this matter involved a very elderly member who was no longer able to complete his responsibilities as an arbitrator. There was no formal complaint made by the parties or the agency, and thus no action was taken by the CPRG. To the extent you are aware of your own problems that interfere with your ability to meet your arbitration responsibilities, please be sure to communicate with the parties and/or the appointing agency so that problems such as this may be avoided. Parenthetically, if you are aware another member is having problems that are interfering with that member's ability to meet his or her responsibilities, I urge you to do something about it, such as contacting the member directly, contacting the Regional Chair, or the CPRG Chair. Such situations, if not addressed, may end up harming all of us as we strive to maintain high standards of our profession. 🗑️

### **Plan To Attend: 2013 Fall Education Conference**

**October 18 – 20, 2013**

**Hilton St. Louis  
at the Ballpark  
St. Louis, MO**



# N A A B O O K R E V I E W

*An occasional column featuring reviews of books written by NAA members*

By Walt De Treux

## *Servicemember and Veterans Rights*

Brian Clauss and Joseph Butler  
GENERAL EDITORS

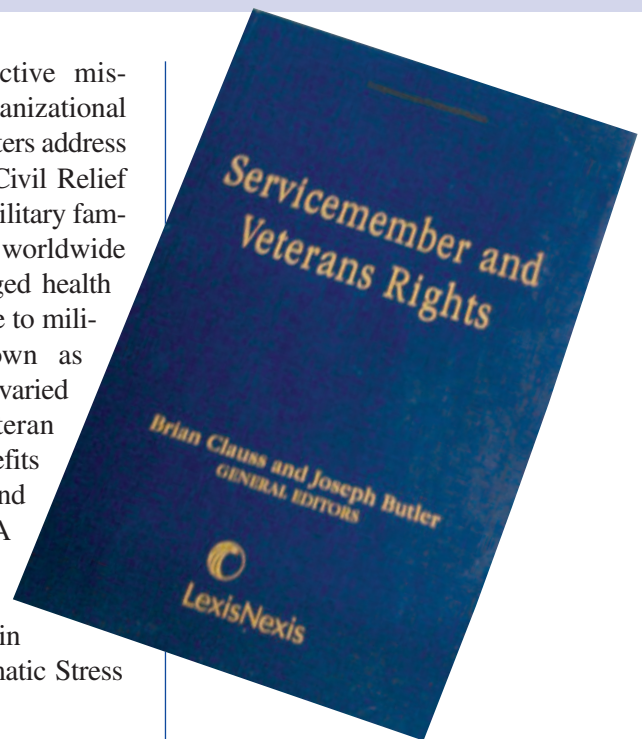
NAA member Brian Clauss is the General Editor (with Joseph Butler) and a contributing author to an invaluable guide on legal issues affecting or created by military service or veteran status. *Servicemember and Veterans Rights*, released in December 2011 by LexisNexis, contains nine informative chapters on a host of issues affecting active and retired military personnel and their families. The well-organized book is intended for practitioners who need to quickly and effectively access information when assisting service men and women in their professional and personal lives.

Illinois Governor Pat Quinn authored the foreword, lauding the book as “a great service...to our veterans and those who work hard to protect their rights...” Governor Quinn notably cites the efforts of the Veterans Legal Support Center & Clinic at The John Marshall Law School in Chicago, of which Clauss is Co-Executive Director, for publishing “this much-needed book.” He states the VLSC’s “vital contribution to the welfare of our nation’s veterans” has made it a “national model for law schools nationwide.”

The chapters of the book are wide-ranging. They include a discussion on all branches of the

military, their respective missions, and their organizational structures. Later chapters address the Servicemembers Civil Relief Act, an overview of military family law issues, the worldwide comprehensive managed health care program available to military personnel (known as TRICARE), and the varied Department of Veteran Affairs and state benefits available to veterans and servicemembers. A particularly compelling chapter discusses traumatic brain injury and Post Traumatic Stress Disorder.

NAA Member Clauss wrote a comprehensive chapter on the rights of National Guard and Armed Forces Reserve members under the Uniformed Services Employment and Re-employment Rights Act (USERRA). Clauss discusses base closings and the reduction in active military personnel after the collapse of the Soviet Union and the Eastern Bloc and the subsequent increase in activation of Reserve components during Desert Storm and the wars in Afghanistan and Iraq. He notes that the USERRA was passed to protect the employment and re-employment rights of these citizen-soldiers. The chapter is essential reading for



employers, unions, and advocates who must deal with the impact of the return of these reserve members on the collective bargaining agreement.

The book is fondly dedicated to “...the sons and daughters who serve the Nation, the families and friends they leave at home, and those who assist them when the need arises.” It serves as a valuable resource for all those in the labor-management field, and particularly for those practitioners who assist military personnel and veterans. 🗑️

# ALONGSIDE EVERY GOOD ARBITRATOR

A column featuring the volunteer accomplishments of our partners

## Georgine Clarke

*by Linda Byars, with information provided by Jack Clarke (NAA for 31 years), her husband for over 46 years (1965- May 2012) and daughter Denise Clarke.*

Georgine's parents and upbringing explain some of her individuality, personality and independent thinking. She was the daughter of George Rummage, an Indian Trader from the Great Dismal Swamp Area of North Carolina and Mahala Erickson, who was raised in Bayfield, Wisconsin but took a job teaching with the Bureau of Indian Affairs and eventually transferred to Zuni Pueblo in New Mexico. Georgine's father learned silver-smithing /jewelry making from Navajo and Zuni teachers and collected Navajo double-weave saddle blankets, some of which still grace Jack and Georgine's home as rugs and wall-art. Georgine was born in Gallup, New Mexico but claimed Zuni Pueblo, where her parents lived when she was born, as her birth-place. Georgine's family was one of only five Anglo families in Zuni, and she was raised to respect the Zunis' beliefs and traditions as well as those of the Navajos, Apaches, and other Indian groups. Georgine was born to parents who understood the value of cultural and ethnic diversity and passed it on to their daughter.

Jack Clarke and Georgine met as undergraduates at the University of New Mexico where they were both active in campus politics. Georgine went on to do graduate work in Psychology at The Ohio State University in Columbus, Ohio and Jack joined the Navy where he did submarine training in New London, Connecticut and sea duty with a home port of Key West. Their relationship was mostly long-distance while



Georgine finished her Master's degree and took a position with Ohio State. They reconnected briefly to marry in 1965 and moved to Key West but Jack immediately left again for a four-month deployment in the Mediterranean. They moved to Albuquerque where Jack attended law school, and their daughter, Denise, was born in 1969. After completing his law degree in 1971, Jack accepted a position to teach at the University of Alabama in Tuscaloosa. Their arrival in Tuscaloosa coincided with the nearby City of Northport celebrating its centennial in 1971. The centennial sponsored Georgine's Kentuck Festival of the Arts.

Georgine's vision began with a street fair which included an overgrown park (Kentuck Park) and evolved slowly but surely into the Kentuck Festival of the Arts in Northport, Alabama with 30,000 visitors each year, a year-round arts center featuring artists' studios, outreach programs, monthly multimedia events and more. Jack describes Georgine's vision as being possessed by an idea that if someone wanted to make a living as an artist and had the talent, he/she should be able to do so. Although she never studied marketing, she understood arts marketing and honed her skills with Kentuck. In addition to recruiting quality artists, she

recruited judges with strong national reputations. By inviting folk artists to exhibit, Georgine brought buyers from across the country to Kentuck.

Georgine was Kentuck's executive director until she was hired by the Alabama State Council on the Arts in 1994. She was hired to promote and market Alabama artists, and she continued to do so by presenting a series of exceptional exhibitions in the Alabama Artists Gallery. Georgine personally supported artists by buying their work as a way of thanking them and letting them know she sincerely believed in them.

Georgine put family above all else and Jack remembers the only possible exception being Kentuck. Denise easily explains the anomaly: To Georgine, Kentuck was family. Denise and Paul (born in 1972) grew up in Kentuck, and Georgine instilled in her children as well as her grandchildren the values that motivated her, including the value of art and diversity.

In October 2011, Kentuck named one of its permanent buildings for Georgine, and the Alabama State Council on the Arts recently announced that it would rename the gallery she managed since its opening as the Georgine Clarke Alabama Artists Gallery. 🗑️

# REMEMBERING...

## REMEMBERING MARGERY GOOTNICK...

*by Donald S. McPherson and Dennis R. Nolan*

Margery Gootnick, President of the Academy in 2005, passed away after a brief illness in Rochester, NY on April 16, 2012 at the age of 84. Margery was a person of enormous energy and indomitable spirit. She deeply loved the Academy, which she called the most important relationship in her life next to her family. She relished every opportunity to meet members, especially new members, and to connect them with one another. If it were possible to illustrate all of the connecting interpersonal relationship lines within the Academy, the number of lines that would pass through Margery would be astonishing. So is the number of members – and their spouses, partners and families – who counted her as “friend.” She was in touch with the Academy’s soul, and she lived her life as an expression of its heart.

Margery attended her first NAA meeting in 1976 as the guest of Jean McKelvey, who had introduced her to labor arbitration. Upon learning that Jack Dunsford was membership chair, she approached him directly with: “Mr. Dunsford, my name is Margery Gootnick and I’m so impressed with your organization I would like to join immediately. In fact, I have my checkbook here, and I would like to write you a check for my dues.” When she later received the membership standards, she reflected: “I realized I didn’t have any of them.” In reasonably short order she did and she never looked back.

Admitted in 1978 when the Academy had fewer than a dozen women members, Margery served on and chaired a startling number of committees, several more than once. She was proud to have been the Academy’s third woman president, preceded by Jean McKelvey (1970) and Eva Robbins (1980). There was no assignment or task she would not accept or to which she would not devote her full energy. Margery loved being president (although she often said she most enjoyed being past president) but her favorite role was New Member Orientation chair. She often regaled others with her tales of membership in two Academy “Secret” Societies: the Short Arbitrator Presidents Association and the Grandmothers of the NAA. She was a Life Fellow of the NAA Research and Education Foundation and a pioneer in leaving to the Foundation a Charitable Remainder Trust.

Margery was so visible in the Academy and in her national labor and employment arbitration practice that it comes as surprise that she began arbitrating relatively late. A native of Rochester, she majored in Government at Harvard and then went to law school at Cornell, having no exposure to arbitration or labor law at either. While in law school she met and married the love of her life, Dr. Lester Gootnick, an orthopedic surgeon. After law school, she joined a local law firm at which, she later recounted, “my job was to search titles and to repossess refrigerators and television sets.” She then took what she called “my fourteen-year maternity leave,” raising her three children. As the children entered their adolescent years, Margery heard about and enrolled in a labor arbitrator development course being taught in Rochester by Jean McKelvey, also a Rochester native, whom she had first met on the train from Rochester to Ithaca when she was in law school. The course was love at first sight and the beginning of what she later described, in her multi-media Presidential Address, as “my love affair with arbitration.”

Margery had a rich and rewarding life outside of arbitration as well. She and Lester, with whom she had 50 years of marriage before his death in 2004, were insatiable international travelers. “Let’s just say,” she recounted, “that I ran out of continents to visit.” But she was most passionate about sailing. She and Lester regularly sailed their 30-foot sailboat on Lake Ontario and their 20-foot gaff-rigged boat on Lake Canandaigua in the Finger Lakes. Margery and Lester shared a passion for music and ballet and for the Chautauqua Institution. They summered at Chautauqua each year, hosting family and

*(Continued on Page 26)*

# REMEMBERING...MARGERY GOOTNICK (Continued from Page 25)

friends and actively supporting the Institution's programs and mission. Margery was a leader and scholarship sponsor with the Chautauqua Dance Circle and co-sponsored the Everett Jewish Center's Annual Film Festival.

The daughter of Jean and Morris Fischbein, M.D., Margery was predeceased by her husband, Lester, and grandson, Nathan Gootnick. Surviving are her sons Jonathan, David and wife Betty Miller, and daughter Amy Gootnick; three grandchildren, Rachael Gootnick, and Ruby and Benny Miller-Gootnick; and her treasured Legal Assistant, Gayle Bates and Gayle's children Tyler and Abigayle.

Margery's death was sudden and unexpected. The outpouring of tributes from members and friends reflected the love and esteem held by those to whom she showed such care. She was a mentor, coach, confidant, "rabbi," mother, grandmother, "fairy god mother," and indefatigable promoter and public relations agent for her many friends. Margery always reminded others that "no one is promised tomorrow" and invested in her myriad personal relationships every day with phone calls, notes, e-mails and humorous birthday, special events and holiday greeting cards. She welcomed each moment as a gift and died, as she wanted, on the eve of her next *fascinating* case. One can almost hear her summary exaltation: "Mine was the *best* life, *ever!*" Margery will be deeply missed by her many Academy friends who could offer no better tribute to her example and memory than to continue paying forward her rich gifts of friendship, optimism, committed service and boundless good humor.

(Adapted from the Remembrance drafted for The Proceedings.)

## REMEMBERING MARGERY GOOTNICK...

*By Gladys W. Gruenberg*

Marge Gootnick and I lost our husbands about the same time, and at every NAA Annual Meeting thereafter, we exchanged experiences on the vicissitudes of widowhood. We talked about the pros and cons of retaining our large homes and ultimately decided to keep them. Marge threw herself more completely into her professional arbitration career, but the hardship of travel weighed down on both of us. Ultimately she partially solved the problem by acquiring a second address in Washington, D.C. She really loved arbitration.

In addition to her many responsibilities within the formal structure of the Academy, Marge was the founding mother of the informal Academy Grandmothers Club, whose members exchanged stories and pictures of their emerging family crew. In fact, Marge treated everybody as if she were your grandmother. Even after she had severed her term as NAA President, she requested and received the responsibility as Co-Chair of the New Member Orientation Committee because she wanted to ensure that all initiates into the Academy would feel welcome and learn to love (as she did) the ins and outs of the Academy's institutional history and its culture of good faith and due process. She even insisted that spouses be included in that education.

None of us will ever forget how she turned her small stature into an asset by seeking steps to the microphone so that everyone could hear her words of wisdom and good humor. As Academy President she finally was able to fulfill the wish of Jean McKelvey, the first woman to be elected Academy President and the sole founding mother of the Academy, by appointing as many women members as possible to important Committee positions. Whereas in 1970 Jean had only four women members to choose from, in 2005 Marge has more than 60, and she continued to encourage women to join and become active members. She will forever remain a role model for arbitrators everywhere.

## REMEMBERING JOAN ILIVICKY GOLDSTEIN

*by Elizabeth Wesman*

Joan Ilivicky Goldstein passed away on Friday, June 22, 2012. In the last few months of her illness, she was comforted by cards and visits from friends and family, including many of her special friends in the Academy. As her son Kevin wrote, “She had a laugh you could hear from a mile away and unwavering loyalty to her family and friends.” There is no question that the NAA benefited from her loyalty, her energy, and her humor. She was always willing to help the Academy in any way she could and was a special asset for the regions to which she gave her time. Not only was she active in the New York City Region, but she was also a regular supporter of the advocacy training in the Southeast Region and a valued contributor to many meetings in the Philadelphia area.

In addition to her active arbitration practice, Joan was an avid gourmet cook, and a strong supporter of the Isabella Freedman Jewish Retreat Center and her temple’s food bank. She and her late husband, Arthur, also sampled fully of the cultural richness, both musical and artistic, surrounding them in the New York City area. Joan was a gift to all in the Academy who knew her, and we join her children – Kevin, Doug and Jolie – in mourning her loss; she will certainly be missed.

## REMEMBERING TED ROLE

*by James Cooper*

Long time NAA member Ted Role passed away on July 25, 2012. Ted was an active arbitrator in the Boston area for many, many years and participated in the local NAA dinners right up to his 90th birthday. Like so many of his generation, Ted understood the meaning of the Great Depression. At age sixteen Ted went to work on a production line for the Keystone Camera Company in the rough and tumble industrial neighborhood of Dorchester. While working, Ted attended Boston University at night and obtained a BA degree. Keystone Camera manufactured home movie equipment but during World War II Keystone shifted to aerial surveillance and guidance systems. By that time Ted had worked his way up to Vice President in charge of Production.

In 1958, Keystone sent Ted to the Advanced Management Program at the Harvard Business School where he befriended a well-known and famous professor, Jim Healy. It was under Professor Healy that Ted took up arbitration and a few years later when Keystone was sold, he went full-time and never looked back.

I first met Ted when he was teaching the arbitration course at the Boston Labor Guild which he bequeathed to me when he became too busy. He turned over all his notes, films, etc.; he could not have been more generous or helpful.

On the personal side, Ted’s wife of seventy years, Josephine, was by his side at every spouse-invited event. Ted had three children, two daughters, Nancy and Lorna, who are professors at SUNY Stony Brook (as are their husbands) and an anesthesiologist son, Philip, of Sand Point, Idaho, who died two years ago of multiple myeloma. He leaves seven wonderful grandchildren.

Ted was a fly boy in his early 20’s at a time when flying was really novel and dangerous. He rescued daughter Nancy stranded at summer camp and suffering from acute appendicitis by flying her in a piper cub from the wilds of northern New Hampshire to Boston Children’s Hospital just in time for surgery. A week before his passing, when Ted realized there was little time left before him, he exclaimed, “Damn, I wanted to vote for Obama and see the results of the next election.” Admissible hearsay and pure Ted.

(Written with help from Ted’s daughters Nancy and Lorna)

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## REMEMBERING CHARLES T. (TED) SCHMIDT, JR.

by Mark M. Grossman

Ted was born in Taunton, MA. He is survived by his beloved wife, Phyllis, a son and three daughters, eight grandchildren, and three great-grandchildren. Ted earned his undergraduate degree at UMass-Amherst, received an MBA from Northeastern University, as well as a Masters in Industrial and Labor Relations from Cornell University, and a Ph.D. from Michigan State University. (His dissertation concerned collective bargaining in public education.)

In 1968, Ted came to the University of Rhode Island as an Associate Professor of Industrial Relations. In the mid-1970's, he took a three-year leave of absence from URI to serve as Senior Technical Advisor and "Expert" in Industrial Relations to the government of Zambia under the auspices of the International Labor Organization/ United Nations.

In 1984, Ted became the founding Director of the Labor Research Center at the University of Rhode Island. Upon his retirement in 1998, the Labor Center was renamed the "Schmidt Labor Research Center" in his honor. In establishing the Center, Ted gathered faculty members from many of the social and behavioral sciences with interests in, and dedication to, social justice, equity, conflict resolution, employee rights and workplace safety. His goal was to develop a graduate program and collaborate on research in labor and employment issues. The Schmidt Labor Research Center remains dedicated to the values of fairness, equity, and social justice. It continues to be committed to the processes of collective bargaining and due process, as well as focusing on the concept of research and evidence-based practices. All of the work being done by the Schmidt Labor Research Center is part of his vision – his legacy.

Ted was a noted labor arbitrator and mediator, who served on many panels in Massachusetts and Rhode Island. He has written many articles and co-authored two books on public sector collective bargaining. In 1984, Ted was elected to be the founding President of the RI Chapter of the Industrial Relations Research Association. In 1994, Ted was the recipient of the "Director's Award" of the Federal Mediation and Conciliation Service. In 2003, the Institute of Industrial Relations at Providence College named Professor Schmidt as the recipient of the Rev. Charles B. Quirk Award.

Ted was the consummate scholar, teacher, and labor relations neutral. He unselfishly gave to help his students, colleagues, and friends, while never asking or expecting anything in return. His mentorship is directly responsible for the success of a number of active URI faculty members, who are quick to point out that Ted was their most influential role model.

In addition to all his other professional and personal accomplishments, Ted was an avid fan of the Boston Red Sox. He was the first Governor of Red Sox Nation for the State of RI. When interviewed for this position, he surprised the team with box scores he had taken and retained from the 1940s.

Ted will be missed by all his friends and associates at the NAA. He so enjoyed attending our conferences and renewing old friendships. And we were happy he came. 🪦

### IN MEMORIAM

It was recently learned that the following Members have passed away:

**William D. Eaton**

NAA Member Since 1971

**Linda Robins Franklin**

NAA Member Since 1989

**Joseph A. Gentile**

NAA Member Since 1982

**Jack Warshaw**

NAA Member Until 2003

A Remembrance will appear in a future *Chronicle*.

## NEW MEMBERS WELCOMED IN MINNEAPOLIS

### PETER CHAUVIN

Toronto, ON

In 1983, Peter Chauvin began his legal career articling with Miller Thomson, one of Canada's largest law firms. Peter practiced law for 21 years at Miller Thomson in the areas of labour and employment law. In 2004, Peter accepted an appointment as a Full-Time Vice-Chair of the Ontario Labour Relations Board, and also commenced his private practice as an Arbitrator and Mediator. Peter has served on the Executive of the Labour Law and the ADR Sections of the Ontario Bar Association.



Peter is a co-author of the *Canadian Employment Law Factbook*, a textbook that reviews the labour relations, employment standards, human rights, occupational health and safety, workers compensation, and pay equity laws across Canada. Peter has also written numerous articles and has spoken at conferences on a broad range of topics regarding labour and employment law and fairness in the adjudication process.

Peter is married to Diane Brownlee, who is also an arbitrator. However, luckily, Peter and Diane have five children, so they have better things to do in the evenings than talk about their cases.

### TIMOTHY HUNDLEY

Princeton, NJ


Tim Hundley, an Arbitrator and Mediator, is listed on various panels including the American Arbitration Association, the New Jersey Public Employment Relations Commission, the New York Public Employment Relations Board, the Delaware Public Employment Relations Board, and the New York-New Jersey Port Authority Employment Relations Panel.



Tim started employment with the New Jersey Public Employment Relations Commission (PERC) in 1975. He started as a staff mediator and then rose through the ranks to become Director of Conciliation and Arbitration. As Director of Conciliation and Arbitration, he was responsible for the administration of all of PERC's grievance and

interest arbitration matters including the appointment, training, and supervision of the Commission's Panel of Grievance Arbitrators and the Special Panel of Interest Arbitrators. In addition, Tim was responsible for the appointment, training, and supervision of all members of the Commission's Mediation, Fact-Finding, and Super-Conciliation Panels.

Tim retired from PERC on April 1, 2006. Since that time he has been selected in numerous arbitration, mediation, fact-finding, super-conciliation, and interest arbitration matters.

Tim received his B.S. in Business Administration from Syracuse University and his M.S. in Labor Studies from the University of Massachusetts. 

MARK YOUR CALENDAR:

**2014 Annual Meeting**  
**May 21 – 24, 2014**



Fairmont Chicago,  
Millennium Park  
Chicago, IL



## **2012 – 2013 COMMITTEE CHAIRS & COORDINATORS**

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HOST COMMITTEE  
(CHARELSTON)**  
Hoyt N. Wheeler, Chair

**2012 FALL EDUCATION  
PROGRAM COMMITTEE  
(CHARLESTON)**  
Susan Grody Ruben, Chair

**2013 HOST COMMITTEE  
(VANCOUVER)**  
Sylvia Skratek, Chair

**2013 PROGRAM COMMITTEE  
(VANCOUVER)**  
Daniel J. Nielsen, Chair

**ADVOCACY CONTINUING EDUCATION  
SUB-COMMITTEE**  
Elizabeth Neumeier, Chair

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LEGAL EDUCATION**  
Fredric R. Dichter, Coordinator

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EMPLOYMENT ARBITRATORS**  
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COMMITTEE**

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**NOMINATING COMMITTEE**

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**PARLIAMENTARIAN**

Robert Gary Bailey

**PROFESSIONAL  
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**PUBLIC EMPLOYMENT DISPUTES  
SETTLEMENT COMMITTEE**

Charles W. Kohler, Chair

**REGIONAL EDUCATION CONFERENCE  
RESOURCES SUB COMMITTEE**

Walter De Treux

**TRIBUNAL APPEALS COMMITTEE**

George R. Fleischli, Chair

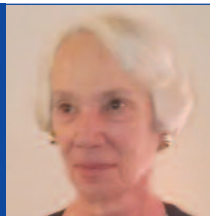
**VISIBILITY COMMITTEE**

Margo R. Newman, Chair

**SPECIAL COMMITTEE ON  
MEMBERSHIP BENEFITS**

Edward A. Pereles, Chair

# THE PRESIDENT'S CORNER



Welcome to a new NAA year! Working closely with a very engaged BOG and officers, I hope to be able to build on the many initiatives Roberta Golick and her team brought along and we have a few new ones in mind. Kudos are due to Allen Ponak, Linda Byars and Liz Neumeier for putting on a wonderful program for advocates, arbitrators and friends in Minneapolis.

I often run into people who tell me they don't come to the National Academy meetings because they feel like outsiders to the in-group. I'll let you in on a secret – it's a self-fulfilling prophecy. There are no invitations or secret handshakes for joining the in-group. Simply coming and actively participating at the meeting is the entrée. At your choice you can move from outside to being an integral part of the in-group by volunteering for a committee (fill out the yearly committee preference forms; we do use them as a basis for appointments), introducing yourself and chatting during breaks and going to the dine-around or to the other social activities. It takes a little more work once the green dot is gone from your name tag, but the regular attenders really love to add to their ranks.

The up-coming Fall Education Conference in Charleston (often voted the best tourist destination in the nation) looks to provide food for your mind, nourishment for your practice and lots of wonderful formal and informal activities. There will be a once-in-a-lifetime opportunity to see the sea turtle hospital arranged by Fran Nolan, in addition to the shopping, delicious food and interesting sightseeing available in both Charleston and its surroundings. If you can spare the time, consider the planation program on Sunday afternoon. Endless thanks to the Program and Host Committees.

If you've ever wondered how to join the FINRA panel — or improve your usefulness as a FINRA arbitrator — there will be a great opportunity for you to do that on Friday afternoon. This may be the perfect time to at least understand one other option available to the neutral community that is looking to welcome you in. The FINRA caseload includes some workplace disputes in addition to securities-related cases. Companions, friends and the just curious are welcome for the same modest additional fee.

From time to time since the initiation some thirty years ago of a second regular meeting (the Fall Education Conference) the Academy has considered whether or not to continue that pattern. Given the truly impressive revitalization of regional meetings, diminishment of practice opportunities in some areas and the parties' increased care in cancelling cases outside the late fee periods, it seemed to be the right time to look at the issue again. We know well that some of you love one meeting over the other and some prefer one time-frame more than others and some geographic areas rather than others and so on. There will be a computer-based, relatively short, survey soon to hear your views. I hope that you'll take the time to respond and to really let us know what you think. 📌

## ACADEMY HOLDS ITS 2012 ANNUAL MEETING IN MINNEAPOLIS

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See the insert in this edition of **The Chronicle** for details and pictures from the **Minneapolis Meeting**