

MARK YOUR CALENDARS

PLAN TO ATTEND...

2014 Fall Education Conference

October 24 – 26, 2014
The Peabody Memphis
Memphis, TN

2015 Annual Meeting

May 20 – 23, 2015
The Westin St. Francis
San Francisco, CA

2015 Fall Education Conference

October 9 – 11, 2015
Four Seasons Hotel Denver
Denver, CO

2016 Annual Meeting

June 22 – 25, 2016
Wyndham Grand Pittsburgh Downtown
Pittsburgh, PA

2016 Fall Education Conference

September 30 – October 2, 2016
Loews New Orleans Hotel
New Orleans, LA

2017 Annual Meeting

May 24 – 27, 2017
Fairmont Chicago, Millennium Park
Chicago, IL

2018 Annual Meeting

May 23 – 26, 2018
The Fairmont Hotel Vancouver
Vancouver, BC

ON THE INSIDE

FEATURES:

Memphis	1
REF	9
LRF	10
CPRG	12
New Members ...	14

COLUMNS:

Regional	
Roundup.....	4
Milestones.....	6
Book Review	8
Remembering	15

PRESIDENT'S CORNER BACK COVER

2014 FEC



The 2014 Fall Educational Conference in Memphis will follow up on some of the topics from the St. Louis Education Conference in 2013.

For example, Arbitrator Jeanne Charles Wood's 2013 multimedia extravaganza that offered an overview of social media will be followed in Memphis by Jeff Jacobs discussing the ever-changing role of social media in discipline grievances. Jeanne explained the various social media platforms; Jeff will examine how employees' use of those platforms has been addressed by the NLRB and also examine the analysis used in discipline cases.

Arbitrator Edwin Benn's St. Louis presentation on the media coverage of the Chicago teachers' strike will be followed in Memphis by Arbitrator Kathryn VanDagens leading a panel discussion with Arbitrators Barry Goldman and Gregory Van Pelt on recent media coverage of labor arbitrators' awards. When arbitrators get caught in the crosshairs of media interest in controversial decisions, it can be a bewildering and daunting place. Gil Vernon will join the panel to discuss the NAA's newest project: a website administered jointly by the NAA and the Center for the Study of Dispute Resolution at the University of Missouri School of Law for the dis-

cussion and dissemination of information with particular emphasis on arbitration.

Arbitrator Jeanne Vonhof will examine Common Core standards, No Child Left Behind mandates, Los Angeles schools' litigation, and the changing face of labor relations and the public schools with Garrett Hoerner, a management attorney, and Jason Caraway, a union attorney.

Rounding out the continued themes from St Louis will be Elizabeth Wesman and Steven Bierig's discussion: Illness, Injury, and Acts of God, Part 2. Part 1 was a lively and interactive audience discussion that identified the disruption or destruction to our practices that can be caused by life's events. This session will offer practical solutions that will allow us to make disruptions temporary interruptions, rather than career-ending events.

Other sessions in Memphis promise to be interesting. Arbitrator Rex Wiant will present an audience-participation session titled, Ethical Dilemmas of Arbitrators. The presentation will include scenarios drawn from situations our members have faced. Of course, the names will be changed to keep us all

(Continued on Page 3)

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 kavandagens@gmail.com or contact the feature author directly.

Alongside Every Good Arbitrator..., written by Linda Byars (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.

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

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

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



**Please Join Us:
2015 Annual Meeting
May 20 – 23, 2015**

**The Westin St. Francis
San Francisco, CA**

The Chronicle

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The Chronicle is published three times a year: Spring, Fall, and Winter. Copy deadlines are March 15 (Spring), July 15 (Fall), and November 15 (Winter). Please direct submissions to Kathryn VanDagens, Managing Editor, and the NAA Operations Center. For submission instructions, contact NAA Operations Center at (607) 756-8363 or email, naa@naarb.org

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ON TO *Memphis* by Betty and Bill Holley

Tradition! History! Museums! Music! Food! Frolic! – All within reach of your hotel.

Tradition: The Peabody Hotel – the South's Grand Hotel where the Mississippi Delta begins. Historian Alexander Cohn wrote, "If you stand near its fountain in the middle of the lobby... you will see everybody who is anybody in the Delta." Too much Jack Daniels whiskey and a prank of replacing decoys with live ducks in the lobby fountain started a tradition which began in the 1930s and continues today with a march into the lobby at 11:00 a.m. and a march to their residence at 5:00 p.m.

History: Located at the site of the Lorraine Hotel where Reverend Martin Luther King was assassinated, the National Civil Rights Museum chronicles the history of the civil rights struggle in America. Stanford Professor Clayborne Carson describes the museum as "the best and most recent scholarship on civil rights available today."

Museums: **SUN STUDIO** where Elvis Presley, Jerry Lee Lewis, Johnny Cash, Carl Perkins, Roy Orbison and others got their start; **MUSEUM OF ASIAN AND JUDIAIC ART** – a private collection of Memphis developers Jack and Marilyn Belz; **STAX MUSEUM** – also known as Soulsville USA, where Isaac Hayes, Otis Redding, Sam & Dave, the Staple Singers, Booker T & the MGS and Rufus and Carla Thomas recorded their music; **MEMPHIS ROCK N ROLL MUSEUM** – The only Memphis, Tennessee museum which tells the story of Memphis music history as researched by the Smithsonian Institution; **SLAVE HAVEN UNDERGROUND RAILROAD MUSEUM** – A display of ads, auctions, and artifacts that help tell the story of slavery and the Underground Railroad which helped slaves escape to freedom; **COTTON MUSEUM AT THE MEMPHIS COTTON EXCHANGE** – Tells the story of how Memphis came to be and explains how art, history, and music are so important to the culture of Memphis; **FIRE MUSEUM OF MEMPHIS** – A new downtown museum at 118 Adams Avenue.

Music: A wide variety of music from a classical pianist in the lobby of the Peabody to blues and rock and roll on Beale Street at Jerry Lee's, BB King's, W. C. Handy's Park and other clubs.

Food: Although known around the world for its BBQ, Memphis offers a wide

range of excellent restaurants. The Peabody offers Chez Philippe, a four diamond (AAA) French restaurant, the Capriccio Grill, an Italian steakhouse, and afternoon tea with elegance in the English manner. The Rendezvous is right across the street; Texas de Brazil is next door; Paulette's (the site of the President's dinner and our favorite restaurant in Memphis) is a short taxi ride away. For BBQ, there is Central BBQ, Payne's, Tops, Corky's, Rendezvous, The BAR-B-Q Shop, just to name a few and then there is The Cozy Corner, our favorite BBQ joint, which offers "to die for" ribs and BBQ Cornish hens (It can't get any better).


Frolic: Enjoy Beale Street with two or so blocks of bars, clubs, shops, and restaurants or take one the Memphis Riverboats for a 90-minute authentic Paddle wheeler cruise for sightseeing with historical commentary of past and present Mississippi River life. Also, you may choose an evening cruise with dinner and music ranging from R&B to Jazz.

Then, there is **GRACELAND**, the second most-visited private home in the United States. On any tour of Graceland, you will be joined by visitors from around the world.

Dine-Around: The traditional Academy Dine-Around on Saturday night will include three nearby restaurants: Rendezvous, The Flight, and Paulette's. Due to the high demand for tables on Saturday night in Memphis, **those interested must sign up in advance with your registration.**

The President's Dinner will be held at Paulette's on Thursday night with a cocktail reception at The Terrace which overlooks the Mississippi River. On nearly every late afternoon in October, you can view the sun setting over the Mississippi River – take your cameras for quite a sight.

Tours: Since most of the interesting places to visit are within a short distance of the Peabody and to allow flexibility, only one tour will be offered. On Friday afternoon, a tour to Graceland will be offered to the early arrivals

More information on your Memphis visit is just a click away by going the Academy's Web page (www.naarb.org) and scrolling to Upcoming Meetings. 



MEMPHIS *(Continued from Page 1)*


guessing, but it will be an interesting session, nonetheless. Rex will also try to answer the question of whether your location affects your ethics by exploring regional differences to ethical questions.

Remedy issues, such as scope of arbitrator authority, back pay, offset, mitigation, and the myriad of related questions, can be vexing. Arbitrator Michael McReynolds will lead a panel discussion of remedies with Memphis attorneys Samuel Morris and James Mulroy.

Arbitrators Christopher Albertyn and Jules Bloch will be offering a Canadian perspective on Teaching Old Dogs New

Tricks. This session will examine the new adjudicative techniques and their application to Canadian arbitration.

The past few FEC conferences have opened Sunday morning with a presentation that is "Something a Little Different," and Memphis continues that theme. Arbitrator Walter De Treux and Robert Grey will present, Perception – How It Affects the Testimony Given by a Witness and Heard by the Arbitrator, will examine the factors that affect witness' and factfinder's perception.

Hope to see you in Memphis. 

REGIONAL ROUNDUP

Reported by Margaret R. Brogan
National Coordinator of Regional Activities

As usual, the Regions have conducted a variety of meetings and conferences, furthering the mission of outreach, education, and collegiality among fellow arbitrators. You will also note below, that our immediate past NAA President, Jim Oldham, had many visits to different Regions, speaking and socializing to wild acclaim. This is a fine example of the positive connection between our National and Regional NAA officers and members. Along the same lines, a meeting of the Regional Chairs was held at the NAA Annual Meeting in Chicago in May. Attendance from the Regions was excellent. It was a great meeting of the minds and the only complaint was that the National Coordinator forgot to bring the wine. She won't make that same mistake next time.

CANADA

The NAA Canadian Region, along with the Ontario Labour Management Arbitrators Association, sponsored the Canadian Arbitrators' Conference in St. John's Newfoundland and Labrador on August 8 to 10, 2014. The Lieutenant Governor of Newfoundland and Labrador hosted the welcoming reception at Government House. NAA President Shyam Das made opening remarks. The Conference included four sessions. NAA member Jules Bloch moderated "Provincial Perspectives" with a panel of government labour relations representatives consisting of Bertha Greenstein from Alberta, Reg Pearson from Ontario, and Yvonne Scott from Newfoundland and Labrador. NAA member Chris Sullivan moderated "Personal Privacy in Arbitration" with a panel comprised of NAA member Stan Lanyon and Professor Bruce Archibald, which focused on publishing names in awards and other current topics. NAA member Randi Abramsky moderated "The Courts and Arbitrators" with speaker Professor Michael Lynk who discussed the latest research on judicial review of arbitration awards. An interactive session titled "Blink for Arbitrators: Intuition and Decision-making," was conducted with speaker Paula Chapman and others. Conference attendees were also treated to a variety of extra-curricular activities, including a boat tour for whale and puffin viewing.

Regional Chair is Chris Sullivan – csullivan@arboffice.ca

CENTRAL MIDWEST

Regional Chair is Brian Clauss –
brianclauss@midwest-arbitrator-mediator.com

METROPOLITAN D.C.

DC Region had an excellent speaker at its last breakfast meeting: Clarene Martin, newly-appointed Executive Director, District of Columbia Public Employee Relations Board. DC Region meets on the third Sunday every other month. The next meeting is August 24, 2014. NAA members from other regions who find themselves in the DC Region are invited to attend.

Regional Chair is Sean Rogers – rogerssj@erols.com

METROPOLITAN NEW YORK

Regional Chair is Randi Lowitt –
relowitt@lowittlaborarb.com

MICHIGAN

The Michigan Region just finished an all-star season, having four meetings, including a lecture from the Director of the Michigan Employment Relations Commission, an attorney explaining the new Uniform Arbitration Act adopted by Michigan, Chief Judge Robert Colombo explaining a judge's viewpoint in reviewing arbitration decisions and, finally, a blockbuster lecture by John Adam, the attorney for the Northwestern University football players who are seeking union representation. Plans are under way for a repeat outstanding season beginning this fall with the first meeting coming up in October 2014.

Regional Chair is George T. Roumell, Jr. –
roumell2000@yahoo.com

MID-ATLANTIC

The Mid-Atlantic Region will be holding its annual fall meeting on Tuesday October 7th at 5:30 pm at the offices of the American Arbitration Association in Philadelphia. Members will gather for light refreshments, socializing, discussion, and planning of our spring meeting.

Regional Chair is Mariann Schick – schickarb@comcast.net

MISSOURI VALLEY

The Missouri Valley Region of the NAA is pleased to announce that our member, Ed Harrick, has been elected to the Board of Governors of the NAA. Ed did a truly outstanding job as Regional Chair for the last eight years. Ed will be a hard act to follow! George Fitzsimmons, the most recent member of the NAA, took over effective June 1, 2014. George promises to continue the tradition of excellence set by his predecessors.

The Missouri Valley Region meets nine Fridays annually. Each meeting features a CLE speaker discussing timely topics of interest to NAA members. Upcoming events this fall include:

9/12/14 – Jim O'Grady, NAA, "Hot Topics in Arbitration."

(Continued on Next Page)

REGIONAL ROUNDUP *(Continued from Page 4)*

10/10/14 – (Pending) “A Union Advocate’s View of Arbitrators, Best and Worst Practices.”

11/14/14 – Gerard A. Fowler, NAA, “Arbitrator Best Practices, Scheduling, Billing and Continuances.”

12/12/14 – James N. Foster, Jr., Attorney “A Management Advocate’s View of Arbitrators – Best and Worst Practices.”

The Missouri Valley Region mourns the passing of Jack Dunsford. Jack was a long-time member of our Region, a Past President of the NAA, and a giant in the field of labor arbitration. We made a donation in honor of Jack Dunsford to the NAA Research and Education Foundation.

Regional Chair is George Fitzsimmons – georgefitzsimmonsllc@hotmail.com.

NEW ENGLAND

Regional Chair is Mary Ellen Shea – ArbitratorMEShea@gmail.com

NORTHERN CALIFORNIA

Regional Chair is C. Allen Pool – callenpool@comcast.net

OHIO-KENTUCKY

On May 1, immediate past President Jim Oldham spoke at the annual two-day FMCS/COLERA/Region 9 Symposium in Columbus, Ohio. The Region held its own meeting immediately before the symposium, where Jim engaged in a discussion of the Academy, the Region, and arbitration in general. He then opened the symposium as the keynote speaker, discussing the state of arbitration today. Due to a change in flight schedules, we were lucky to have Jim stick around for the rest of the afternoon.

Correction: In our last roundup, we noted that members of the Ohio-Kentucky Region participated in the Arbitration and Mediation Services Conference in Cincinnati in February. Frank Keenan and Bruce McIntosh were inadvertently left off as presenters during the conference.

Regional Chair is Daniel Zeiser – danzeiser@aol.com

PACIFIC NORTHWEST

Region 17 held its annual Arbitrators’ Day conference on April 2, 2014, in Seattle which was well attended by both Academy and non-Academy neutrals practicing in the Pacific Northwest. An “Arbitrators and Advocates” reception followed, offering an opportunity for neutrals and advocates to mingle in a casual setting. At the Region 17 dinner that same evening, Chair Bob Landau, after a very successful two years as Chair (thanks, Bob!), passed the reigns to Michael Cavanaugh, Chair for 2014-16. Please mark your calendars for next year’s Arbitrators’ Day in Portland, Oregon on March 18, 2015, and the LERA Conference March 19-20. All are welcome.

Regional Chair is Michael Cavanaugh – mec@cavanaugh-adr.com

SOUTHEAST

The NAA Southeast Region will hold its annual meeting on February 27 and 28, 2015, in Tampa, Florida. There are more spring training baseball camps in proximity to Tampa than any other single site in the USA. NAA members, arbitrators, and advocates should all plan to attend spring training and the NAA Southeast Regional Meeting on February 27 and 28, 2015. NAA President Shyam Das has already made plans to attend both. Why not plan to join the NAA President and many other NAA members in Tampa in February of 2015?

Regional Chair is Philip LaPorte – plaporte@gsu.edu

SOUTHERN CALIFORNIA

The Southern California Region met May 6 at the Proud Bird Restaurant near LAX. All meetings are typically open to NAA and non-NAA arbitrators. The guest of honor was immediate past NAA President Jim Oldham who led the 30 arbitrators and neutrals in attendance in a discussion of issues related to just cause. Participation was high and Jim demonstrated his skills as a seasoned law professor. Other topics discussed were mentoring of potential NAA members, providing advocate arbitration training in conjunction with Orange County LERA, and potential topics and formats of future meetings. It was suggested that we hold a members-only weekend retreat and even a weekend breakfast get together.

The next Southern California Region meeting will be September 16 at the Proud Bird. The meeting will be a roundtable discussion of very recent cases, future programs and other business that arises. Also, the Region will be putting on an afternoon advocate training program using NAA and other materials. This program will be held on November 13 in conjunction with OC LERA.

Regional Chair is Jon Monat – j.monat@verizon.net

SOUTHWEST

Regional Chair is T. Zane Reeves – tzane@unm.edu

UPSTATE NEW YORK

Regional Chair is Douglas J. Bantle – bantle@rochester.rr.com

WESTERN PENNSYLVANIA

The Western Pennsylvania Region held its first meeting of 2014 on April 25, 2014 at the Pittsburgh Athletic Association. Four labor attorneys representing Unions in the Pittsburgh area were invited to speak. The next meeting will be held on Friday, September 12, 2014. Management advocates will be asked to speak to the group. If any NAA members are ever in the Pittsburgh area you are welcome to join us for the luncheon meeting.

Regional Chair is Michelle Miller-Kotula – millerkotula@comcast.net 

MILESTONES

Edited by Michael P. Long

NOTEWORTHY HONORS & PROFESSIONAL ACTIVITIES

Floyd Weatherspoon – has been busy. He received the **Outstanding Volunteer Award** from Medical Mutual Insurance Company for his work with Big Brothers Big Sisters of Central Ohio, where he has served since 2001. Floyd, who is the Associate Dean for Alternative Dispute Resolution Programs and Professor of Law at Capital University Law School, was recently elected to the Board of Directors for the American Arbitration Association at its annual meeting held in San Francisco. Floyd is proud to state that AAA is the world's leading provider of conflict management and dispute resolution services.

In addition to all this, Dean Weatherspoon continues to have his works published. *Incorporating Mandatory Arbitration Employment Clauses into Collective Bargaining Agreements: Challenges and Benefits to the Employer and the Union*, appears in the Delaware Journal of Corporate Law, Summer 2014 edition.

PUBLICATIONS & PRESENTATIONS

Laura J. Cooper, Dennis R. Nolan, and Stephen F. Befort, – and one non NAA member, Richard Bales, have published the third edition of the casebook, *ADR in the Workplace* (West Academic Publishing 2014).



Michael D. McDowell – recently served as a speaker on two panels which presented the subjects of “Proposed Amendments to the Federal Rules of Civil Procedure”, and “Ethical Obligations – A Lawyer’s Duty of Competency in eDiscovery,” as a faculty member of the *eDiscovery Symposium* sponsored by the Pennsylvania Bar Institute and held in Pittsburgh

Mike also spoke on the subject of “Anatomy of ADR: Ethical Considerations for the Neutral and the Lawyer” at the American Bar Association Young Lawyer’s Division Spring Conference also held in Pittsburgh.



Theodore J. St. Antoine – has written “The Use and Abuse of Precedent in Labor and Employment Arbitration,” published in the Louisville Law Review at 52 Louisville L. Rev. 431 (2014). Ted states that he “stole shamelessly from Carlton Snow, Peter Seitz, Dennis Nolan, Dick Mittenthal, Marty Malin etc., etc.” He goes on to say, “It certainly has

been well-accepted that arbitrators applying precedent doctrine can take account of tribunals other than just other arbitrators, namely, courts and administrative agencies.”

ON A PERSONAL NOTE

James Dworkin – is appealing to a younger audience. He has just published his first children's book titled *The Dog and the Dolphin*. It is about what happens when a red Irish setter



becomes very bored one day on the beach and finds a new playmate in the most unexpected place. The press release for the book states: “*The Dog and the Dolphin* is the captivating children’s book for kids prekindergarten through third grade that may just give them an altogether different perspective on the unlimited potential for making

friends.” Jim was inspired by actual events he observed while vacationing at Sanibel Island, Florida.

Marcia Greenbaum and Ted St. Antoine were in Paris for five days in July at the invitation of Florence Gladel, a leading Parisian labor lawyer. They made one formal presentation to, and had a couple of more informal discussions with, various groups of French lawyers concerning the law and practice of labor and employment arbitration in the United States. Marcia indicates, “Ironically, the Paris lawyers went out on strike that day against the Ministry of Justice. We did not have to cross any picket lines, but did make a presentation to a smaller audience. After that we retired to a cafe where we sat and gazed at the Eiffel Tower. *C’est la vie!*”

(Continued on Next Page)



SILENT AUCTION WRAP-UP

by Betsy Wesman

The REF extends many thanks to the generous donors and bidders who made the 2014 Silent Auction a great success. In all, we netted over \$6000, all of which will go to augment the funds from which we can offer research and education grants. This was a banner year for donors (20 individual NAA members, 3 spouse companions, 11 NAA Regions and, for the first time, a generous donation by an advocate organization). Among them they contributed more than 37 individual items. The bidding was lively, and we very much appreciate those members, other neutrals, and advocates who participated. The item that attracted the highest bid, \$2300 (combined bids), was Linda Byars' generous donation of nine seats at the Michael J Fox Foundation for Parkinson's Research fundraising gala in New York City.

I would like personally to thank my excellent auction committee: Pattie Bittel, Linda Byars, and Marcia Greenbaum. They had great ideas and put in some serious time during the auction itself. Finally, the committee thanks Erica Tener, for again providing vital computer assistance before and during the auction. We truly could not have done this without her.

Our next silent auction will be held in two years at the annual meeting in Pittsburgh. It is never too early to start thinking about something that you would like to donate. 🖊

MILESTONES *(Continued from Page 6)*

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 (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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A DECISIVE DECADE: AN INSIDER'S VIEW OF THE CHICAGO CIVIL RIGHTS MOVEMENT DURING THE 1960s

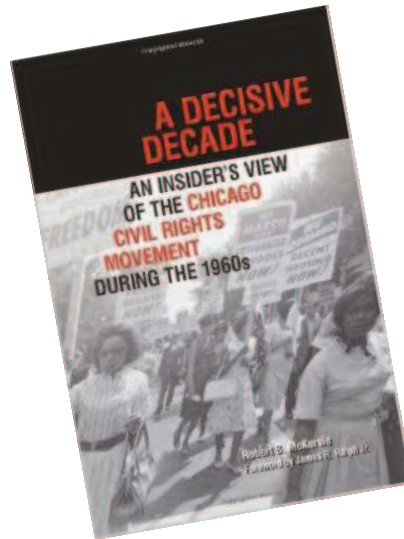
By Robert B. McKersie, Southern Illinois University Press, 2013

Reviewed by
Prof. Lamont E. Stallworth,
Ph.D.
(Quinlan School of Business,
Loyola University, Chicago)

This year marks the fiftieth anniversary of the United States Civil Rights Act of 1964, which of course prohibits discrimination in employment on the bases of race, religion, gender and ethnicity. The struggle that eventually led to the passage of that legislation is legendary, but deserves to be revisited carefully from time to time if we, as a nation, are to maintain progress toward being a truly pluralistic and just society.

Robert McKersie has written a particularly important and compelling memoir of the movement for racial equality that took place in Chicago around the time when the Civil Rights Act was being enacted in Washington, *A Decisive Decade: An Insider's View of the Chicago Civil Rights Movement During the 1960s* (Southern Illinois University Press, 2013). McKersie has rendered a uniquely valuable account, from the viewpoint of an insider with keen observational and analytical abilities.

Shortly after completing his graduate studies at Harvard Business School, McKersie, in 1959, joined the faculty of the Graduate School of Business at the University of Chicago, teaching collective bargaining and industrial relations. He and his fam-




ily took up residence in Chicago's Hyde Park community, near the University and in the heart of Chicago's South Side, where he quickly also became active in the First Unitarian Church. There, McKersie met and became allied with several African American members of the congregation who were central figures in the Chicago civil rights movement. Thus, McKersie actively participated in the planning and execution of numerous campaigns and demonstrations for open housing, fair employment, equal educational opportunity, and enhancing minority enterprise in Chicago during the 1960's. His book is a lucid and captivating recapitulation of those endeavors, and it includes his close observations of major figures who led or influenced the Chicago civil rights movement, including Rev. Al Pitcher, Timuel

Black, Jr., Alex Poinsett, Rev. Martin Luther King, Jr., Rev. Jesse Jackson, Al Raby, Leon Despres, Bill Berry, Dick Gregory, and Marshall Patner.

McKersie describes his memoir as "about a movement and the institutions involved in that movement, [but] more importantly a story about leaders, about individuals I observed at close range who, in varying degrees, I came to know as friends and associates." It is an impressive cast of characters that populates the book.

He writes that he became involved in the civil rights effort partly because his academic "research interests focused on understanding the process by which disadvantaged groups mobilized power, negotiated breakthrough agreements, and effected fundamental change." In that vein, his book trenchantly compares the dynamics of community organizing versus litigation as instruments to achieve justice and institutional change.

The book also prompts one to consider whether the success of a movement depends on its eventual achievement of stated objective(s); or, is it enough to raise important questions and focus attention on them through determined and energetic action? Whatever the answers, McKersie's first-person memoir represents a timely, insightful, and thought-provoking window into a momentous time in one of our country's most significant movements. 

The Research and Education Foundation

by Elizabeth C Wesman

NEW GRANTS AWARDED

The REF is pleased to announce that its board of directors has approved funding for a new study. The research project is directed by Cornell Professor Alexander Colvin and is titled, “*Understanding the Professional Practice and Decision-Making of Employment Arbitrators: The Impact of Institutional Environments and Workplace Context.*” The research will focus on arbitrators engaged in employment arbitration. Its purposes are first, to shed light on the backgrounds and professional practices of employment arbitrators, and second, to explore factors that influence their decisions. Factors that will be examined include the context of the dispute, the attributes of the workplace, the characteristics of the arbitrator, and applicable external laws. The sample will be composed of both NAA and non-Academy arbitrators. The results of this study will be presented to the NAA at an annual meeting in the next couple of years.


UNIVERSITY OF MISSOURI ARBITRATION WEBSITE INITIATIVE

At the REF’s board meeting in Chicago, we received a presentation from Professor Rafael Gely, a law professor and director of the University of Missouri School of Law Center for the Study of Dispute Resolution (CSDR). The Center has been working with an NAA committee, of which I am part, to establish an arbitration web site “for the discussion and dissemination of information on arbitration.” The web site is intended to provide general education and “myth-busting” information about labor arbitration. The REF anticipates a proposal at the Memphis meeting for seed funding for this important educational initiative.

TEACHING MANUAL FOR “THE ART AND SCIENCE OF LABOR ARBITRATION”

This documentary film, which was viewed at the annual meeting, was co-funded by the REF and the College of Labor and Employment Lawyers. While the film is a strong stand-alone product, the REF directors agreed that producing a teaching manual to accompany the film would enhance its usefulness as a teaching device for neutral and advocacy training and for laws schools and schools of labor relations. To that end, Past REF President Allen Ponak asked NAA Members Beber Helburn, Martin Malin, and Joan Parker, working with Bernard Dobranski of the College, to prepare supplemental materials to accompany the film. The REF anticipates that the manual will be ready by early fall and will be posted on the NAA and College websites. The film can be ordered by Academy members from the College website at the discounted price of \$65 (it is less if you are also a member of the College). The website is: <http://www.laborandemploymentcollege.org/products/Completed%20Projects.aspx>

FUNDING OF THE REF

As always, the Foundation is grateful to all those NAA members who contribute generously to the Research and Education Fund. If you know of an Academy member whose work might qualify for an REF grant or an academic researcher who may not be aware of our grant process, the application guidelines are on the NAA web site, or they may contact me directly (ecwesman@aol.com) if they have questions. 

LEGAL REPRESENTATION FUND

REPORT

Summer 2014

Luella E. Nelson, LRF Coordinator

FINANCIAL

As of April 7, 2014, the LRF assets stand at \$481,652. One LRF claim was paid out in September 2013, for \$693.50.

LRF POLICY

The LRF adheres to the policy put in place by the Board of Governors in 2011, which requires members who contemplate making an LRF claim to contact the LRF Coordinator, Sara Adler, (sadlerarb@earthlink.net) or alternate Coordinators, Luella Nelson (luella.nelson@SBCGlobal.net), or Barbara Deinhardt (bdeinhardt@aol.com), *before* notifying the insurer or otherwise retaining counsel. Failure to do so can be grounds for denying a claim for LRF coverage.

The purpose of this policy is to give the Coordinator an opportunity to determine if the problem can be resolved without retaining counsel. Many complaints are resolved with the standard non-appearance letter or informal arrangements (*e.g.*, dismissing the arbitrator from the action when the arbitrator has no stake or withdrawing a subpoena for materials the arbitrator no longer has).

A “standard non-appearance letter” is a letter to the court (*e.g.*, in a case involving a motion to vacate the award) that says the member acknowledges receipt of the pleadings, has no stake in the outcome, recognizes s/he will be bound by the judicial determination, and says s/he will not be making any appearance in the case.

If a member is subpoenaed for, *e.g.*, notes or exhibits, the best policy is not to have retained such materials after issuing the award, allowing the member to write a letter truthfully stating that no such documents are in the member’s hands. (If those materials are still in the member’s hands, they *must not* be destroyed. What happens to them can get complicated – for instance, if they would reflect the arbitrator’s thinking.)

This is a reminder to everyone of what to do if you are sued or subpoenaed: Call Sara (310) 474-5170, Luella (503) 281-8343, or Barbara (718) 237-8693, **before** contacting an attorney or the insurer. Please follow up with an e-mail to Sara, preferably attaching a scanned copy of whatever was served on you. If you are unable to scan the documents, please fax a copy to Luella at 1-503-281-8493. She needs the documents to make a recommendation regarding LRF coverage. She also needs to know whether you have insurance (which is highly recommended). In contacting any the Coordinators by telephone, please remember that Sara and Luella are on the West Coast, while Barbara is on the East Coast, and time your call accordingly.

Turning to the part that no one can resist, the following matters came in since my last report.

CLAIMS/POTENTIAL CLAIMS


1. A member was notified that a grievant whose discharge was upheld intended to file suit against the member. The union sought to vacate the award, but did not name the member as a defendant. That matter is currently “adjourned without date.” No attorney fees were incurred in that proceeding. However, the grievant later filed a CPRG complaint asserting that the member had failed to disclose pertinent relationships with the employer and later amended it to assert that the member had improperly provided an affidavit describing the nature and extent of his relationship with the employer, which the employer used in opposing the petition to vacate. The Hearing Officer dismissed the complaint. On appeal, the complaint was referred to a second Hearing Officer because of procedural errors. The second Hearing Officer dismissed the complaint and appeal is pending. The member sought LRF coverage for the costs of representation before the CPRG. LRF coverage was denied.

(Continued on Next Page)

LEGAL REPRESENTATION FUND REPORT *(Continued from Page 10)*

2. A member was named as one of the defendants in a suit seeking to vacate the award, but there were no allegations of misconduct by the member and no damages were sought from the member. Attorney for the plaintiff confirmed to me that the member was named only as the forum. The member submitted a standard non-appearance letter. LRF coverage was recommended and approved in the event that the member retained an attorney, but the matter was resolved without an attorney.

NON-CLAIM INQUIRIES

1. A member was notified that a disgruntled grievant intended to subpoena the member as a witness in an action against the former employer and union. The member was never subpoenaed.
2. A member was served with a petition for a writ of mandamus, in the member's capacity as a Hearing Officer under a c/b/a. The matter has not been resolved but no response has been required by the member.
3. A member was named as respondent in a motion to vacate the award, with the winning union named as the real party in interest. The member submitted a standard non-appearance letter.
4. A member was named, but not served, in an action seeking to vacate the award; the member learned of it only when served with the union's motion to dismiss. The complaint had been "served" at the offices of AAA, which had administered the case. AAA's in-house counsel submitted a lengthy notice of non-appearance on behalf of both AAA and the member.
5. AAA was served with a subpoena addressed to a member, seeking documents that the member had not retained. AAA's in-house counsel submitted a letter on the member's behalf, objecting to the procedural irregularity of serving AAA rather than the member, as well as the impropriety of subpoenaing an arbitrator and informing the party issuing the subpoena that the member no longer had the documents in question.
6. A member was served with a "FOIA request" from a prison inmate who believes he has some interest in a grievance that was heard by the member involving law enforcement. The member notified the parties to the underlying grievance, who agreed that no response was necessary. Ultimately, after more correspondence from the inmate which included threats to report the member to, *inter alia*, the State Bar, the member notified the inmate that the appointment was by the FMCS and that the member was not subject to FOIA. Nothing further was heard.
7. A member was served with a Motion to Vacate that did not name the member. The member sent a non-appearance letter.
8. A member received an e-mail which attached an appeal of the member's decision as a Civil Service Hearing Officer. The appeal did not name the member as a party, but the body of the appeal nonetheless referred to the member as a "defendant." The prevailing union has offered to cajole the plaintiff employer into removing the member as a defendant.
9. A member was notified that the employer intended to seek to vacate the award. The member was not named as a party.
10. A member was named in the caption of a motion to vacate. AAA's in-house counsel sent a letter requesting that the plaintiff withdraw the litigation as to the member (citing both arbitrator immunity and the lack of any need to have the member as a party). The parties stipulated to discontinue the action as to the member.
11. A member learned indirectly of a complaint naming the member, in addition to the union, in an action involving a case heard by the member. The member was never served in that action. The indirect notice of the action was receipt of the union's response to the court's order to address the possible unauthorized practice of law by the union's representative in the grievance. As the member was never served, I recommended, and the member agreed, that the less said the better. No LRF coverage was recommended at this juncture. 

REPORT TO THE MEMBERSHIP

by Paula Knopf, Chair, CPRG

The Committee on Professional Responsibility and Grievances ("CPRG") has the opportunity and authority to advise the membership concerning the application of the Code to particular situations. The Committee has recently decided that a formal advisory opinion should be issued to address questions that were troubling many members. The CPRG's draft opinion was approved by the Board of Governors and sent out to the membership.

Opinion 25 is now on the NAA Website and addresses the following questions:

What duty of disclosure, if any, exists where the arbitrator requests and/or grants favors to a party or advocate in the context of participation in the activities of a professional organization?

What duty of disclosure, if any, exists where the arbitrator has, or has had, a student-teacher relationship with an advocate or a party?

Many Academy members have had the honor of teaching, giving recommendations, soliciting counsel for panels, or being solicited for professional organizations. Opinion 25 is meant to give guidance about how to respond to these situations. In a nutshell, the Opinion allows for us to continue contributing to professional development but suggests a line must be drawn when the nature of a relationship could be damaging to the appearance of neutrality. For example, while it is perfectly proper to give a reference for an attorney who appears in front of you or to work with him or her in a professional organization, if the attorney is also a former student or colleague with whom you have a close social relationship, the recommendation or work may damage your appearance of impartiality.

Opinion 25 gives you factors to consider before agreeing to provide the recommendation or engage in professional activities and/or when the duty to disclose arises.

The CPRG welcomes any queries about the application of the Code or requests to reconsider the existing Advisory Opinions. This can be done informally, confidentially, or in any way you wish. The easiest way to contact the Committee is via the NAA Operations Office or to me directly at paulaknopf@bellnet.ca.

The CPRG is obliged to annually report to the Membership in *The Chronicle* a brief summary of all resolved disciplinary matters. The following chart should be read with the understanding that all complaints are taken seriously. The first action the CPRG takes is to endeavor to resolve the matter with an "informal and conciliatory approach where appropriate" in order to preserve the integrity of the Code. We do not aim to protect the Member or the Academy. Our responsibility is to ensure adherence to the Code. Since July 2012, we can report the following types of complaints and results:

No.	Nature of Complaint	Resolution
2	Delay in issuing decisions:	1 resignation, 1 informal resolution
4	Unhappy with the result	4 dismissals of complaint
3	Conflict of interest	2 dismissals, 1 settlement
2	Unprofessional conduct	1 withdrawal, 1 "stay"
1	Breach of Privacy	Dismissed - lack of jurisdiction


Please note that there is some overlap in the types of complaints issued against members.

This chart is somewhat misleading. We also receive a number of calls from unhappy grievants who never formalize their complaints after they are advised that we can only act on written complaints.

Unfortunately, the chart does not reveal an emerging theme to the complaints that we are now receiving. Quite often we are being told that our Members appear to have become unable to fulfill a full day's work or appear to be unable to stay alert at the hearing or to fully comprehend the nature of the proceedings. Each complaint has been addressed and none has resulted in the complainant choosing to pursue a formal resolution. However, the complaints are starting to reflect concern about signs of aging or deterioration in some of our cognitive capabilities. The parties can deal with their concerns very effectively by electing not to use an arbitrator again and advising their associates about their unhappy experiences. However, it is very sad to see a fine reputation damaged, whether the rumors are well-founded or not.

The "signs of aging" issue is a touchy matter that has arisen time and time again at the CPRG over the past few years. It raises serious questions about our duties to our organization, our colleagues, our profession, and most importantly to the labor relations community we serve. The CPRG is planning to consider this issue more closely in our next meetings. We ask that you offer us suggestions on the following questions.

1. Should the NAA or the CPRG play any role if rumors or complaints emerge about a Member appearing to be losing the cognitive and/or physical ability to arbitrate?
2. Who should be contacted if we hear concerns about a Member who does not seem to appreciate that s/he is losing the cognitive and/or physical ability to arbitrate? The CPRG, a friend, a spouse, the member him/herself, a Regional Chair, or some or none of the above?
3. How can we or should we assist a member who appears to be losing cognitive and/or physical ability to arbitrate?

My father was a professional who developed Alzheimer's disease in his mid-sixties. While we knew that something was wrong, we didn't know what it was or how serious it was until his colleagues told us of the mistakes he was making at work and how they could no longer "cover" for him. I am forever grateful for their honesty and their intervention. As arbitrators, we have no one who can "cover" for us. Our natural desire to keep doing good work may require that we face the issues of aging bravely on both a personal and organizational level. To that end, please send your suggestions to me c/o the CPRG, or at the e-mail address listed above. 

National Academy of Arbitrators

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NEW MEMBERS WELCOMED IN CHICAGO

DEBORAH M. GAINES

NEW YORK, NY

Deborah Gaines is a full-time arbitrator and mediator of labor and employment disputes. She serves on several rosters, including AAA, FMCS, the New York City Office of Collective Bargaining, and the NYS Employment Relations Board. In addition, she has been appointed to various permanent panels, mainly in the New York tri-state area.



Ms. Gaines has over 20 years of experience in all aspects of labor-management relations. She has served as General Counsel for the New York City Mayor's Office of Labor Relations, Director of Employee Relations for Asarco, Inc. (a fortune 500 non-ferrous metals producer), Vice President of Human Resources for Goldman Sachs & Co., as well as an Assistant Executive Director for the Directors Guild of America (the union representing film and television directors).

JERRY B. SELLMAN

COLUMBUS, OH

Jerry B. Sellman has been an arbitrator and mediator since 1983. His practice has been in both the public and private sectors conducting grievance, interest, and termination arbitrations. Prior to devoting full-time to arbitration and fact-finding, his law practice was primarily focused on international business development. The combination of the two "specialties" led to an opportunity as an adjunct professor at Capital University Law School and an invitation to address the Shanghai Judicial College and the Peoples Supreme Court of Justice in Beijing on the enforcement of arbitral awards.



He received his BA degree, with honors, from Otterbein University and his JD Degree, *cum laude*, from Capital University. He started his arbitration career in the coal industry, but quickly expanded into multiple industries. He is currently on the AAA Commercial and Labor Rosters, the FMCS Roster, and the Ohio State Employment Relations Fact-finding and Conciliation Roster. He serves on several permanent panels, including the U.S Customs and Border Protection Agency and the NTEU, the Bureau of Prisons and the AFGE, and the Ohio State University and the CWA.

Jerry and his wife Karen reside in Columbus, Ohio. Their daughter Megan, a primary care physician, and her husband and two children, are also in Columbus. His oldest son lives in New York and his youngest son is currently in Kabul, Afghanistan.

LOUIS J. PATAK

ALBANY, NY


Louis Patak spent most of his labor law career with New York State. He started as a hearing officer with the Public Employment Relations Board in Albany and then served as Director and Chief Regional Mediator of PERB's Buffalo office. After leaving PERB, Louis returned to Albany and worked in counsel's office at the State Office of Mental Health, representing the agency in labor and employment law matters. Upon retirement from the State, he served as Deputy Counsel for the School Administrators Association of New York State, representing school administrators in arbitrations and employment law proceedings. In 2004, Louis left SAANYs to begin his arbitration practice.



Louis is a graduate of Hobart College and Albany Law School. He and his wife, Anne, divide their time between Albany and Bonita Springs, Florida.

ARNE PELTZ

VICTORIA, BC

Arne Peltz practices as a labour mediator and arbitrator in the provinces of Manitoba and British Columbia as well as the Federal jurisdiction. He served as a Vice Chair of the Manitoba Labour Board for ten years and was a Human Rights Code Adjudicator for five years. Earlier in his career, Arne worked in inner city Winnipeg for the legal aid society and later founded a public interest law centre, which he directed for 21 years. Now he is active in grievance and collective bargaining dispute resolution, working in diverse industries including aerospace, postal services, transport, mining and steel, manufacturing, food services, public and post-secondary education, government services, and health care. Arne has also been appointed to resolve disputes involving commercial and Aboriginal interests. He lives in Victoria, British Columbia. 



REMEMBERING...

REMEMBERING JERILOU COSSACK

By Bonnie Bogue

Jerilou Cossack's death in April was unexpected and untimely – a loss to the arbitration community. Jerilou was a “presence” – bright, outspoken, energetic and dedicated. She knew a heck of a lot about labor relations and was a superb arbitrator. As one well-known labor advocate said at the celebration of her life, “Jerilou always ‘got it.’ You could depend on her award getting to the point, not bogging down in extraneous legalistic theories.” The turnout of arbitrators and advocates at the service that celebrated her life provided all the testament to her reputation that one could ask.

Jerilou made an early mark in labor relations, when not many women populated the field, even in California. She went to UCLA for both undergraduate and graduate degrees. In 1969, she received her M.S. in Industrial Relations, having been tutored in the art and science of labor-management relations at the Institute of Industrial Relations by no less a figure than Ben Aaron. She had no trouble landing a job with the National Labor Relations Board in 1969, where she was first a Field Examiner and then Supervisor of Region 31 until 1976.

By the mid 1970's, California Governor Jerry Brown (first incarnation) was making waves in both public sector and farm labor law. In 1975, as a result of the movement to organize farm workers led by Cesar Chavez, the state adopted the Agricultural Labor Relations Act. The NLRB loaned Jerilou to the new Agricultural Labor Relations Board to help fashion its initial rules and procedures.

Then in 1976, the Educational Employment Relations Act was passed, introducing collective bargaining (of a sort) into California's public schools. Perhaps the act's most significant contribution was establishment of California's first public sector labor board, then known as the Educational Employment Relations Board.

Jerilou, with her NLRB and ALRB experience, was a prime candidate for the new Board, and Gov. Brown named her as one of the first three Board members in February 1976, along with Reg Alleyne (the late, esteemed member of the Academy). With the initial decisions interpreting the new, controversial, and more than a little confusing statute, Jerilou and Reg had great influence on the shape of public sector labor law in California. While their heartfelt disagreements over those early decisions were legend, they helped to launch a new era.

Arbitration was the logical step in her professional progression, and her acceptance by the parties was proof of her stature and wisdom. Her background made her an ideal candidate to lecture on collective bargaining, labor law, and labor arbitration at the University of Louvain, Belgium, San Jose State University, California State University, East Bay, and the University of San Francisco, as well as at many professional conferences. She was on the executive committee of Industrial Relations Association of Northern California (IRANC/LERA) in Sacramento.

Jerilou was an active Academy member, having been admitted in 1997. Her service included the Designating Agency Liaison Committee, the Proceedings Committee, the Auditing/Budget Committee, and the Public Employment Disputes Settlement Committee (member 2001-2006 and Chair 2003-2005).

A long-time resident of Lafayette, over the hills to the east of the San Francisco Bay, she was indispensable to the Academy's Northern California Region activities. A stint as Regional Chair (2002-2005) wasn't enough, as she continued to serve on our ad hoc “executive committee.” In her role as our perennial regional treasurer, she was a key player in the Region obtaining 501(c)(3) status, to facilitate our educational programs.

She played a major role in creating the Region's successful and ongoing Meet the Arbitrator program, an educational conference held in the San Francisco/Oakland area, designed to educate advocates about labor arbitration practice and procedure, as well as providing the opportunity for them to interact with several arbitrators (both Academy members and emerging arbitrators) in small round-table workshop settings. She headed up one

(Continued on Page 16)

REMEMBERING...JERILOU COSSACK (Continued from Page 16)

of those small groups at each successive conference and also presented plenary session lectures. And, of course, helped with planning and handled the financial administration.

Jerilou was not “all work and no play.” Foremost in her varied passions were her two children, Becky Twohey Wright and Paul Twohey, whose many achievements she never tired of discussing. She was a rider with a beautiful horse to whom she was devoted. She loved jazz. She sang. She cooked. Her well-known generosity had many outlets – like mentoring emerging arbitrators and helping friends in trouble, including taking in neighbors after the Loma Prieta earthquake, and bringing dinner to a fellow-Academy member who she decided was not eating right while he was recovering from a serious illness.

The members of the Northern California Region honored her memory at its May membership meeting. We’ve lost a great friend, a fine arbitrator, and a remarkable woman much too early. She was just shy of her 70th birthday, leaving behind an active arbitration practice and a life full of friends.

REMEMBERING JACK DUNSFORD

by Gladys Gruenberg

We all lost a good friend and role model when John (Jack) E. Dunsford died on April 14, 2014, at the age of 86. In all of his relationships and endeavors, Dunsford believed in making lifelong commitments – as a *pater familias*, a law professor, and an Academy member. He lived in St. Louis all his life, except for brief stints serving as a U.S. Army lieutenant in the Korean engagement and as a student at Harvard University. His marriage to Margaret (Mari) Kingston lasted 60 years until she died in 2012. They stayed in the same house until they died, raising a family that included five children and six grandchildren. During all this, Dunsford was a faithful parishioner of St. Gabriel the Archangel’s Catholic Church, serving at the altar and participating in numerous activities, as well as generously contributing to many other Catholic organizations. A faculty colleague called him “the ideal Christian.”

Dunsford’s commitment to legal education and labor arbitration was equally passionate and long-lasting. He attended Saint Louis University, earning his bachelor’s degree in 1950 and his LLB *magna cum laude* in 1956. It was there that he met Reverend Leo C. Brown, S.J. The chemistry between them was special from the start. At the time Brown was a nationally known labor arbitrator and mediator, and had been one of the Academy’s founding fathers. Brown hired Dunsford as a law professor, but Brown really needed someone to help juggle all of his commitments, especially in arbitration. Dunsford immediately agreed to act as Brown’s intern. He accompanied Brown on cases when his teaching schedule permitted, drafted opinions, and adopted Leo as a member of Dunsford family, especially to perform baptisms. After selection by the parties on his own merits, Dunsford was admitted into the Academy in 1967.

When Dunsford requested *emeritus* status in 2008, he had been teaching labor law at Saint Louis University for more than 56 years. When the Bar Association of Metropolitan St. Louis decided that there were too few arbitrators in the St. Louis area, they turned to Dunsford for training assistance, enlisting his help in devising the curriculum and in selecting the prospective candidates. In 1987 he initiated and became first Director of the SLU Center for Labor and Employment Law. He was later named as the Law School’s Charles E. Myers Professor and held the University-wide McDonnell Chair of Justice in American Society from 1982-87.

Dunsford arbitrated nearly 1,000 disputes for groups such as U.S. Steel and the United Steel workers of America, the National Football League and the Bert Bell Retirement and Pension Plan, Southwestern Bell and Communications Workers of America, the Internal Revenue Service and the National Treasury Employees Union and the John Deere & Company and the United Auto Workers Union, and virtually all the U.S. airlines and their unions. He was also an early and active member of the Labor Law Group, which writes labor and employment textbooks. In 2000 he was named a fellow in the College of Labor and Employment Lawyers.

Jack Dunsford applied the same philosophy and values to his relationship with the National Academy of Arbitrators as he did to his family and the legal profession: Do whatever it takes to promote longevity and high ethical standards, enjoying every minute of it along the way. Academy members are aware of Dunsford’s con-

(Continued on Next Page)

REMEMBERING...JACK DUNSFORD (Continued from Page 16)

tributions to programs and committee reports, but the list of his NAA activities is impressive even among long-time venerated members. He was especially partial to committees that promoted membership standards, training, and organizational development.

As Academy President, Dunsford set up several committees to carry out his organizational and philosophical objectives. Under Dunsford's leadership, the Board of Governors approved his appointment of Alex Elson to begin the establishment of a Research and Education Foundation. They became such fast friends that Elson asked Dunsford to be the interviewer for his "fireside" chat at the 1997 annual meeting. In the interview Elson said to Dunsford, "Without your support and your promotion, we would not have a foundation today."

Dunsford's facility with words was legendary. In fact, in a discussion of "classics" presented at Academy annual meetings, President Dick Mittenthal listed Dunsford among those Academy members who had produced "insightful" classics, adding, "These papers reach for some essence...they deal with the fundamental principles upon which so much of our work rests." Among those Dunsford classics, is "Should Arbitrators Retain Jurisdiction Over Awards?" This article is especially interesting because Dunsford demonstrates his delightful wit in explaining how his "epiphany" had occurred. Yes, he changed his mind about "*functus officio*." After a quite lengthy description of the case involved, he continued:

We move now to the explanation of how I got the albatross off my neck. Pondering this antic experience after a third martini one night in my study, I had a blinding revelation regarding what had gone wrong in this case. Recalling, however, that this kind of phenomenon had also occurred previously after three martinis..., I waited until the next day to reach any final judgment.

President George Nicolau, who succeeded Dunsford to the podium on one occasion, began "Following Jack Dunsford is every bit like following Frank Sinatra or Luciano Pavarotti. By the time you begin, the audience is on its way home."

The last Academy meeting that Dunsford attended was the 2006 Fall Education Conference in New Orleans. He sent a videotape to accept his Honorary Membership status at the 2010 Fall Education Conference in Cleveland. The steady deterioration of his wife Mira's health kept Dunsford close to home thereafter. When she died in 2012, apparently his reason for living died with her because his health too declined sharply thereafter.

Finally, for those who believe in fate, be aware that Jack Dunsford was a Leo. He lived up to the destiny of his zodiac sign. May the "lion" rest in peace.

REMEMBERING JACK DUNSFORD

by Josef Rohlik

I first met Jack Dunsford when I joined the faculty of St. Louis University Law School in 1971, at the beginning of my fourth year in the United States. Jack knew that I had been involved with commercial arbitration in Czechoslovakia and for two years with the New York regional office of the AAA. He asked me to co-teach his arbitration seminar, and we continued to do so for some fifteen years. He arranged expedited arbitrations for me and introduced me to Al Dybeck, and I became special arbitrator of the Board of Arbitration of U.S. Steel and USWA. It was only fitting that I became a member of the NAA during Jack's presidency in 1985.

Jack was a brilliant teacher, first-class arbitrator both locally and nationally, and well-respected in the arbitration community and within the labor bar and countless unions. He was a scholar: the author of countless articles and a book in the labor and arbitration area. In St. Louis he led and taught, under the auspices of the St. Louis Bar Association, programs for future arbitrators. Indeed, he has been very helpful to a number of men and women who have sought entry into the profession.

Jack was a man of unbending principles, a very religious man, but also a perfect gentleman. As one of my colleagues who disagreed with Jack on most social and political issues wrote on hearing of Jack's death, it was instructive and indeed a pleasure to argue with Jack, as he was always respectful and never condescending.

Jack and his wife, Margaret, who everyone, including many members of the NAA, knew as Mari, were totally devoted to each other. When Mari died some two years ago, Jack suffered an irreparable loss. The last fourteen

REMEMBERING...JACK DUNSFORD (Continued from Page 17)

months of his life were extraordinarily difficult because of health issues. He could no longer come for lunch or a visit; he could not even have his beloved martini.

I have lost one of my best friends, and many of us will not only remember Jack for what he was, but will particularly miss our meetings, telephone calls, and, of course, Jack's wisdom.

REMEMBERING HERB HABER

by David Stein

When Herb Haber passed away on January 20, 2014, he had achieved sufficient stature in his professional life to warrant a half page obituary with a large photograph in the *New York Times* (January 27, 2014 edition). His career was also memorialized in an exhaustive article by Richard Steier in the January 31, 2014 edition of the *Chief-Leader*, which provided in gripping detail the history of labor relations between the City of New York and the unions representing public employees during the turbulent period of the Lindsay Administration. Herb's professional achievements are well detailed in both articles which merit attention.

I had the privilege of observing Herb as both a protégé and a family member during the period after his service with the City and while he engaged in his practice as a fulltime arbitrator-mediator. During that period, he continued to exhibit the same qualities described in Rich Steier's article in quotes by labor leaders Vic Gotbaum and Barry Feinstein, as well as our colleague, Alan R. Viani. He was always professional in demeanor, appearance, and practice. He kept his cool under fire and he possessed a tremendous sense of judgment. Herb had an instinctive sense of whether a party was taking a reasonable position, the party's realistic interest (including in situations where the party did not possess that knowledge) and the credibility of witnesses. These tools allowed him to serve in both rights and interests settings.

Unlike many of those who possess similar instinctive skills to Herb's, he was also very careful. Thus, he would test his instincts with the thorough review of evidence, legal concepts, and contract provisions. He would discuss the issues with colleagues and his written work was executed with painstaking attention. While a reader would appreciate the succinct nature of Herb's opinions, she/he could not realize the effort he expended on work which appeared so natural. Significantly, although Herb's opinions were concise, I never heard an advocate complain that her/his position had been overlooked.

Another aspect of Herb's practice was his easy control of hearings. While we have all witnessed advocates and witnesses lose control of themselves during contentious proceedings, I never saw an incident like that occur before Herb. The sense of dignity and integrity he projected were incentives for everyone to put their best feet forward. These qualities, as well as Herb's leadership, not only resulted in Herb's designation as a permanent arbitrator in important industries, including those where he had been an advocate (news publishing), but also resulted in regular repeat assignments on an *ad hoc* basis.

This same leadership also produced professional achievement by his former staff with the City. Neutrals who were former advocates on Herb's staff include John Sands and Mark Grossman. Mike Wittenberg was a negotiator who went on to represent management, including Westchester County, and Neil Lipton, a former general counsel of the Office of Labor Relations, is a partner in an important Union side firm. Herb's last hire at OLR, James Hanley, became the City's longest serving Director of Labor Relations. Esta Bigler graduated from her post with the City to assume an important position with the Cornell U. School of Industrial Labor Relations in New York City, and is currently Director of its Labor and Employment Law Program.

Herb's private life reflected the same personal attributes he displayed in his professional life. At his memorial convocation, held in his apartment at Lasell College, where he resided during his retirement, a woman who served on a committee with him (the residents there must serve on various committees which manage the community) spoke about how unique it had been to participate on a committee with a man of Herb's generation who actually communicated with women as equals. She had found it unusual to encounter a male who had achieved his level of success who actually *listened*. Herb was fortunate to have been married to two very bright intellectual women.

REMEMBERING...HERB HABER (Continued from Page 18)

His first wife, Helen, died in 1977. Later Herb married Doris Gelman, and they were married for almost 34 years. Showing his ability to bring people together, Herb was able to forge a new family which included his two daughters from his first marriage, his grandchildren, Doris's four children and their children. My wife, three children and I, although not related by blood to Herb (Helen had been my mother-in-law's sister) were also included. My children refer to Herb as their "Herbie."

Every year, Herb's children and stepchildren, as well as all of the grandchildren gathered at Cannon Beach in Oregon. There, in the midst of all these loving folk, sat Herb in the happy picture after picture. With his gift of leadership and belief in the best that people had to offer, he had unified two families. Clearly, he brought the same gifts to the table in all aspects of his life. Herb was committed to making the world better and he did that in so many ways.

REMEMBERING LARRY KATZ

by Sharon Henderson Ellis

Lawrence E. Katz, a brilliant and much-loved arbitrator, died on April 28, 2014, succumbing to leukemia when he was not yet sixty-eight. Raised in New York, Larry attended Queens College and then Harvard Law School. He began his career in a law commune in Cambridge that represented indigents as well as important political causes. He was also a managing attorney for one of Boston's Legal Services programs and worked at a small firm representing unions. He then took an internship with Bill Fallon, an arbitrator who later became president of the Academy. When Larry went out on his own, he and other former interns formed the Fallon Fellows, choosing a new arbitrator to mentor each year, passing on what they learned from Bill Fallon while honing their own skills. Throughout his career, Larry would always take time to discuss a case if someone called to ask.

As an arbitrator, Larry was widely respected and greatly sought after. He was so often selected that he sometimes had five cases in a week. He was exceedingly diligent, thorough, and even punctilious in his work. He was so conscientious that he made notes of what he wore to a hearing so that when he saw the parties for a second time he wouldn't be wearing the same thing. Witty and self-effacing, Larry brought the dimension of humor to his cases—and he kept his sense of humor to the end. Three days before Larry died, his doctor, seeking to assess his mental state, asked if he knew where he was. "In the toilet," was Larry's wry reply.

Much as Larry loved labor relations, his family relations were most important to his life. His wife, Stefanie, his sons and daughters-in-law—and his new grandsons, Charlie and Ezra—were his joy and delight. Within the family, Larry's commitment to his work was part of a larger commitment to ethical living. When his boys were growing up, the family spent time during many a summer at the World Fellowship Center, "where social justice meets nature," in Conway, New Hampshire. An annual extended vacation with the family was an imperative for him.

Larry was very active at the regional level of the Academy, once serving as Regional Chair. He frequently attended the Academy's annual meetings and stayed in contact with numerous fellow arbitrators. He touched many lives, professionally and personally, in ways that demonstrated his values and his care for his fellow beings.

REMEMBERING JACK WEISHEIT

by Dennis E. Minni

John Sherman ("Jack") Weisheit, was an active member of the NAA and the OH-KY Region. Jack entered into the arbitration profession, as many of us do, after having served as an advocate. His interest in becoming a neutral was spurred by the advent of Ohio's public sector collective bargaining law in the early 1980's. His experience as a certificated educator had exposed him to the reality that public school labor relations varied greatly within the multitude of school districts. Collective bargaining, even without a statutory platform, provided a way to shape important issues for teachers, initially in his home school district, and eventually all of Ohio after he became a Bargaining & Research Specialist with the OEA.

Jack often talked about the impetus which Chapter 4117 of the Ohio Revised Code provided him in undertak-

(Continued on Page 20)

REMEMBERING... JACK WEISHEIT (Continued from Page 19)

ing to serve his fellow educators, particularly as a seminar developer and trainer for those involved in contract negotiations. He also had some public sector management experience when he was elected to city council in Fremont, Ohio, where he was a teacher.

Eventually striking out on his own as a SERB Roster Fact-finder and Conciliator, he expanded his acceptability into the private sector where he was soon listed with the major designating agencies as an arbitrator. I first met Jack in the mid-1990's at a seminar. His practical side had been developed, he maintained, from negotiating without benefit of a state labor relations law.

We soon came to see the similarity in our respective careers; he often noted that we had "paid our dues" by being advocates before there was a state law. Several years later Jack questioned me about what membership in the Academy might provide. I invited him to the next OH-KY Regional program and his interest ripened into membership within a few years thereafter in 2003.

Jack and I shared an interest in collecting fountain pens. It was always a happy occasion when the Pen Fanciers organization put on its annual three-day convention in Columbus. At seminars and NAA meetings we'd always show each other our latest acquisitions and share "leads" gleaned from the burgeoning internet sites.

Jack passed away peacefully on November 15, 2013, at the age of 74, preceded by his wife of over fifty years, Jean Marie, by about a year. The Weisheits had resided in Galion, Ohio since 1990. Jack had a great love of family (son, Eric, daughter, Beverly, & four grandchildren) friends, travel, music, and theatre. He loved his adopted home of Galion where he was a member of the Elks, the Galion Planning & Zoning Commission, the Galion Community Theatre (he played Elwood P. Dowd in their production of *Harvey*), an avid golfer, and member of the Galion Country Club. He was honored to be a member of the Fourth Degree Knights of Columbus, as well.

Jack earned a Bachelor of Science in Education Degree from Bowling Green State University in 1961, followed by a Masters of Education Degree from the University of Toledo in 1966. He was born in Clyde, Ohio, a small town which had undergone an embarrassment of riches when the Whirlpool Corp. decided to build an enormous appliance plant in the middle of a vast cornfield. This factory's impact on Clyde's tax revenue had brought about legendary municipal spending (and nepotism and juicy office romantic involvements). So when I ventured out there to hear a case, Jack (having learned of my appointment through his native-son grapevine) warned me to expect to see municipal largesse beyond the norm for small-town Ohio. This hearing held all that Jack had prepared me for. Suffice it to say that the bottomless pit of funding had brought about behavior which would make Chicago, Detroit, and Cuyahoga County (Cleveland) Ohio proud. The record from this case could be a sequel to *Peyton Place*! Back then, Clyde seemed to have run out of ways to spend money. The most telling example of this to me was that city hall's men's room had its own subscriptions to several magazines and newspapers! After I issued my award, I phoned Jack to tell him he was fortunate to have settled in "normal" Galion and not suffer the fate of some of his childhood friends from Clyde.

Jack's even temperament and contract writing skills served him well as a neutral. His friendship, loyalty, and support for the OH-KY Region make him memorable.

REMEMBERING CLARE B. MCDERMOTT

by Dick Mittenthal

(This Remembrance of Mickey McDermott was first given by Dick Mittenthal many years ago at a Pittsburgh dinner honoring his dear friend. Dick asked that it be included in *The Chronicle*.)

Senator Chris Dodd of Connecticut once said, "It's the goal of every Irishman to be a witness to his own eulogy." It is my pleasure to perform that honor in behalf of Clare B. McDermott, better known to all of us as "Mick" or "Mickey" - and like the immortal "Harrigan," "proud of all the Irish blood that's in him, never a word to say 'agin' him ..."

He was that rare being who is able to combine the best of the physical and intellectual worlds. An accomplished

(Continued on Next Page)

REMEMBERING...CLARE B. MCDERMOTT (Continued from Page 20)

ice hockey player in his youth, later a coach of that sport, still later a committed long-distance runner, he was always competing, not necessarily against others, but surely against his own limits. A true scholar, he was the only man I know who actually set out to read his way through Western history and philosophy, from ancient times to the present, and actually accomplished that feat. Maybe that's why some of his awards reached the parties a trifle late.

He began his career as a Professor at the University of Pittsburgh Law School and was then seduced by that titan of our craft, Syl Garrett, to become part of the U.S. Steel-Steelworkers Board of Arbitration. He thereafter went on to serve in many umpireships in basic steel, mining, packaging, brewing, and so on. He distinguished himself with keen analysis, independence of thought, and good fellowship. He was, I suspect, the arbitrator least likely to engage in any kind of self-protection in drafting an opinion. The very idea of Mickey ever bending to anyone's power or influence or charisma was impossible.

His colorful commentary on an arbitrator's adventures always prompted laughter from his friends. I can remember his hearing a case in some God-forsaken backwater and later, having forgotten the name of the town, telling me that he'd just been to "East Overshoe" for a hearing. He had a great eye and ear for the oddball behavior of the parties.

Mick had a long history of devotion to the Academy. His fingerprints are on a good many of our policies and procedures. For he served as Secretary (perhaps Secretary-Treasurer as well) for years and played an active role in a few of the heated controversies that arose every ten years or so. And, as president of the Academy, he gave a memorable address. Who can forget how he was interrupted during his speech by a disgruntled Tom Roberts who maintained that Mick's ideas were quite mistaken. Few in the audience realized, initially at least, that this was Mickey's ingenious way of awakening his audience and gaining its full attention after they had been drugged by a heavy lunch. It was a marvelous talk full of the rich ideas and grit that typified him.

I salute a man who never lost touch with his high school friends, the "Rusty Skulls," who always returned to the reunions of his fellow World War II veterans, who faithfully attended our annual meetings until recent years, and who truly appreciated arbitration as a joint enterprise with roots deeply embedded in the collective bargaining process. I salute a man for all seasons, an Academy treasure, "Mickey" McDermott.

REMEMBERING CLARE B. "MICKEY" MCDERMOTT

by Kathy Miller

Mickey died at 90 on May 9, 2014, 11 months after the death of Eleanor ("El"), his wife of 67 years. He left behind five children, 11 grandchildren, and one great-grandchild.

Mick interrupted his college education to serve -- and earn a Bronze Star -- as an Army staff sergeant in Europe and the Pacific during World War II. After completing college and law school, he clerked for two years at the U.S. Court of Appeals in Philadelphia. He then returned to his lifelong home in Mt. Lebanon, a suburb of Pittsburgh, Pennsylvania. After six years as a full-time professor at the University of Pittsburgh School of Law, he began to work as an arbitrator for the U.S. Steel/Steelworkers Board of Arbitration in the late 1950's. He began his independent arbitration practice in 1974, and he remained active as an arbitrator into his late 80's.

Mick had a boundless gusto for life, and he distinguished himself at everything he undertook. He was a long-distance runner into his 80's, a lover of large dogs (especially his Newfoundlands), and a locally-renowned hockey coach. Mick was instrumental in starting the Mount Lebanon High School hockey team, and, in 1976, he led the team, which included one of his sons, to its first state championship. He retired from coaching in 1978, after becoming the first Western Pennsylvania Interscholastic League hockey coach to win 100 games. It was no accident that his teams built their winning records while also accruing the fewest penalty minutes in the league. Thirty years later, Mick was thrilled when his former team, now with his grandson as a member, won the 2006 state championship.

Mick was an absolute genius at friendship. He engaged completely, and his loyalty was limitless. Until recently, he met for an annual weekend with a group of his Army buddies who called themselves "The Rusty

(Continued on Page 22)

REMEMBERING... CLARE B. MCDERMOTT (Continued from Page 21)

Skulls." He was loving and generous and unabashedly affectionate with the many other persons who were privileged to be his friend.

I shared office space for eight years with Mick in the 1980's and early 1990's, and the bonds that grew are deep and permanent. When our schedules occasionally permitted us to have lunch together, we would begin with an inordinately long two-block walk to a popular pub-style restaurant in Mt. Lebanon named The Saloon. It was like trying to make progress down the street with the mayor. Every several steps, Mick would encounter someone who was delighted to see him, and he was constitutionally unable to break away until he had been updated on every aspect of that person's life. As we arrived at The Saloon, I always would tell Mick that it was like going to Cheers with Norm. As we entered, a chorus of voices would call out, "Mi-i-i-ck!" and he would set about greeting everyone there. Mick loved a lively political debate, and he was an expert at thinking of just the right provocative statement to trigger one.

Mickey dearly loved the Academy, which he served as President in 1979-80. After a lifetime of involvement, he regretted that he was unable to attend our meetings in the last several years. My regret is that our newer members never had the opportunity to know this remarkable man. I am certain that all those who did have his measure will miss him. 🪦

IN MEMORIAM

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

J. Larry Foy

NAA Member since 1987

Ed Goggin

NAA Member since 2002

A Remembrance will appear
in a future *Chronicle*.

**PLAN TO ATTEND:
2015 Fall Education
Conference
October 9 – 11, 2015**



**Four Seasons Hotel Denver
Denver, CO**

**MARK YOUR
CALENDAR
2016 Annual Meeting
June 22 - 25, 2016**



**Wyndham Grand Pittsburgh Downtown
Pittsburgh, PA**

THE PRESIDENT'S CORNER *(Continued from Page 24)*

a committee can contact me (dasarb@verizon.net).

The website will include sections on Recent Developments, in the structure of a "blog," Archival Resources and External Links. Members of the Academy will be invited to submit commentary to be posted in the Recent Developments section, and the Archival Resources section can include Frequently Asked Questions, as well as video clips and podcasts recorded by Academy members on topics likely to be of interest to the public. Editorial policies will be jointly established and administered by the NAA and CSDR. The MOU, which Gil, David Petersen, and I are working on with Rafael, will ensure that the Academy's interests and control as an equal partner are protected.

There also will be a major focus on efforts to promote and advertise the website so that it can succeed in becoming a source of information for the public, the media, and other parties interested in the arbitration process. The CSDR will seek to draw on the expertise of the University of Missouri Journalism School, a top notch institution in the world of media and communication.

All in all, this is a truly exciting development that promises to provide a very concrete basis on which we can make a significant contribution to promoting understanding of collective bargaining and, particularly, arbitration. Collaboration with the CSDR greatly enhances our ability and resources to move forward with the website concept initially proposed by Gil Vernon and his committee. Many thanks to them and to Bob Bailey, Rafael Gely, and their colleagues at the University of Missouri. And, of course, the REF -- and your ongoing contributions to the

Foundation -- will be critical in helping to provide the funding needed to launch this splendid project and get it underway.

* * *

In Chicago, the Board of Governors also approved the Guidelines for Standards of Professional Responsibility for Arbitrators in Mandatory Employment Arbitration. These Guidelines were drafted over the course of several years by a committee chaired by Ted St. Antoine. Ted and his committee devoted a great deal of time and effort to crafting the Guidelines which the Committee ultimately unanimously endorsed despite substantial differences of opinion on certain subjects. As former President Jim Oldham stated, the Guidelines are "a signal accomplishment that simply would not have been possible without Ted's extraordinary leadership," a conclusion I heartily endorse. The Guidelines are now available on the Academy's website, and steps are being taken by Barry Winograd and others involved in the project to bring this positive development to the attention of other organizations and publications.

* * *

This year's Fall Educational Conference will be held in Memphis -- a city with lots of history and great music and food. As described elsewhere in this issue of *The Chronicle*, Brian Clauss and his Program Committee have put together a broad and thought-provoking program, and Bill and Betty Holley and their FEC Host Committee have done a marvelous job in making arrangements and telling us everything we need to know to enjoy our visit to this fascinating city. Hope to see all of you (or as Bill and Betty would say, "y'all") there! And keep your eye out for the ducks at the Peabody hotel -- they are quite something. 🦆

PLAN TO ATTEND: 2016 Fall Education Conference September 30 – October 2, 2016



**Loews New Orleans Hotel
New Orleans, LA**

MARK YOUR CALENDAR 2017 Annual Meeting May 24 – 27, 2017



**Fairmont Chicago, Millennium Park
Chicago, IL**

THE PRESIDENT'S CORNER



by Shyam Das

I joined the Academy in 1981 in one of our loveliest meeting sites -- the island of Maui. There was little ceremony -- no introducing yourself to the membership and no New Member Orientation. But my joy and pride on being admitted to this wonderful organization were palpable. Over the ensuing decades I have known and admired a remarkable group of arbitrators, including many of the giants in our profession, made many friends, and watched the Academy evolve as the world of labor and employment has evolved. I am deeply honored to assume my role as President and look forward to the coming year.

Speaking of evolution, the assault from certain quarters on collective bargaining -- which, after all, is at the core of what we do and who we are as labor arbitrators -- continues apace. One of the problems, I am convinced, is a significant lack of knowledge and understanding on the part of much of the general public -- including many I have talked with -- about the collective bargaining process, and, in particular, arbitration. Unfortunately, the media often projects misinformation. In recent weeks I have seen an administrative agency referred to as an "arbitrator," the terms "mediator" and "arbitrator" used interchangeably as if there were no difference, and opinion pieces castigate arbitrators' decisions with little, if any, appreciation of how we are selected or that what we do is interpret and apply jointly agreed-to contracts.

In his last Presidential column in *The Chronicle*, Jim Oldham reported on Gil Vernon's proposed initiative to have the Academy create a website to educate and inform the media and the

public about arbitration and the collective bargaining process. Jim announced that he had appointed an *ad hoc* Presidential Committee, with Gil as chair -- the NAA Media and Educational Resource Website Committee -- to further develop this proposal. Much remained to be worked out.

Sometimes the stars align themselves in amazing fashion. We are already well on our way to what I hope and believe will be the beginning of a wonderful partnership with the Center for the Study of Dispute Resolution at the University of Missouri School of Law (CSDR). The CSDR is among the top institutions in the country focusing on dispute resolution. Our own current Vice President Bob Bailey served until just recently as its Director and is a member of Gil's Committee. With Bob's assistance and participation, and Gil's guiding hand, Rafael Gely, Bob's successor as Director of the CSDR, made an initial presentation to the Board of Governors in Chicago about establish-

ing a joint NAA-CSDR website for discussion and dissemination of information with particular emphasis on arbitration. The Board responded enthusiastically, and the Academy and the CSDR are currently in the process of drawing up a Memorandum of Understanding to be presented to the BOG for its approval in Memphis. Rafael also met in Chicago with the Research and Education Foundation to discuss securing an initial three-year funding grant for the website, and he was given the green light to submit a funding proposal to the REF for consideration at the fall meeting in Memphis.

Details still are to be worked out and the necessary approvals obtained, but I can report on the anticipated website format and structure. The CSDR will provide the server to host the website and be responsible for its maintenance. CSDR students and faculty will be principally responsible for maintaining and creating content for the website, which will address all types of arbitration with a prominent and easily identifiable section on Labor and Employment Arbitration. The CSDR will work with a new NAA Committee, yet to be appointed, on editorial and content matters. Any members interested in serving on such

(Continued on Page 23)



ACADEMY HOLDS ITS 2014 ANNUAL MEETING IN CHICAGO

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