

## MARK YOUR CALENDARS

### PLAN TO ATTEND...

#### **2015 Annual Meeting**

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

#### **2015 Fall Education Conference**

October 23 – 25, 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

#### **2017 Fall Education Conference**

September 15 – 17, 2017  
Four Seasons Miami  
Miami, FL

#### **2018 Annual Meeting**

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

## Arbitration 2015: Privacy, Transparency, Legitimacy

May 20-23, 2015

*By Laura J. Cooper, Program Chair*

Picture yourself on a beautiful day in May, in the center of San Francisco, at a historic hotel right on the Powell Street cable car line, surrounded by welcoming professional colleagues, energized by the opportunity to attend multiple conference sessions presented by experts from across North America addressing current issues that even you, an experienced arbitrator, will find stimulating and enlightening. That is, picture yourself at this year's Annual Meeting, and make plans, if you haven't already, to attend.

As the workplace evolves, arbitration practice changes, too. You will want to be ready to address these complex new issues before the cases land on your docket.

- What about a police misconduct case in which you are called to evaluate evidence from a body camera? At the Annual Meeting, you'll have the opportunity to view an example of such a video, learn about an empirical study of the effects of police cameras, and hear from professionals, including an attorney who represented the police officer in the Oakland transit shooting that gave rise to the film, "Fruitvale Station."

- What if, in your next case, a worker has been fired for using marijuana for medical reasons, a use legal under state law? Nearly half of all states have legalized recreational or medical use of marijuana, or both. You'll find at the Annual Meeting a lively discussion of this new generation of workplace drug issues, including hearing from an attorney who spent nearly a decade litigating precedent-setting workplace marijuana cases.

- Did you notice that, in December 2014, the National Labor Relations Board completely changed its approach to the question of when the Board will defer to arbitrators' awards on issues that also could be considered

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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 [kavandagens@gmail.com](mailto:kavandagens@gmail.com) or Daniel Zeiser, Managing Editor-Designate, at [danzeiser@aol.com](mailto:danzeiser@aol.com) 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.

*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.

*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. 📌

## PLAN TO ATTEND:

### 2015 Fall Education Conference

October 23 – 25, 2015\*



### Four Seasons Hotel Denver Denver, CO

\* Please Note, that the 2015 FEC dates are two weeks later than originally announced.

# The Chronicle

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# SAN FRANCISCO ANNUAL MEETING *(Continued from Page 1)*

by the Board as unfair labor practices? How does that decision, in *Babcock & Wilcox*, affect how advocates will approach these legal issues in arbitration and how arbitrators should handle such cases? You are likely to be better prepared to answer those questions after hearing directly from a Member of the NLRB, Philip Miscimarra, in the conference's opening session.

- Might your next case ask you to decide whether an employer, rather than firing an employee, had a legal obligation to accommodate the employee's mental disorder despite an assertion that the employee posed a "direct threat" to others in the workplace? At the Annual Meeting, you'll learn about how the Americans with Disabilities Act affects such cases from Chai Feldblum, a Commissioner of the Equal Employment Opportunity Commission, who earlier participated in drafting the ADA, joining in a discussion with legal, arbitral, and psychiatric experts.

- Has your practice been expanding from labor arbitration to include employment arbitration as well? Several sessions at the conference address new developments in employment arbitration law and practice. The Distinguished Speaker Luncheon features the Honorable Goodwin Liu, California Supreme Court Associate Justice, speaking on the topic, "The Law of Arbitration Enforcement: Close Encounters at the California Supreme Court."

## *Thank you*

As my term as Managing Editor of *The Chronicle* draws to a close, I wanted to express my gratitude to all of you who have made this assignment so enjoyable. Each call for reporters brought immediate responses and no request for assistance went unheeded. Thank you, especially, to my behind-the-scenes helpers, Ben Kerner and Katie Griffin. Your help and support has been invaluable, and I truly could not have done it without you.

Kathryn VanDagens,  
Managing Editor, *The Chronicle*

Justice Liu authored the California Supreme Court's recent landmark decisions on the intersection of federal and state arbitration law. To understand the national significance of these decisions, you can attend the presentation of University of Santa Clara Law Professor Gary Spitko at the Invited Papers session. You can be among the first to hear the results of a new empirical study by Cornell Professor Alexander Colvin focusing on these questions: What are the backgrounds and professional practices of employment arbitrators? What factors influence their decision-making process? Another session features University of California, Irvine, Law Professor Catherine Fisk moderating a panel including attorney advocates, an arbitrator and an AAA case administrator, wrestling with the challenge of managing multiple parallel employment arbitration cases when employees have signed individual class action waivers.

Other sessions will address social

media and tripartite board ethics, putting psychological research to practical use in assessing credibility, techniques for avoiding unconscious bias in decision-making, recent legal developments affecting teacher tenure, Canadian issues of estoppel and procedural delay, airline mergers, new challenges in postal arbitration, the intersection of employee medical conditions and safety-sensitive work, and the surprisingly complex issue of resignation in just cause cases. Do you want to learn more about how advocates select arbitrators? Or current developments in the U.S. arbitrator-designating agencies? Expect the conference to end on a high note at the Fireside Chat, as ever-candid Stanford Law School Professor Emeritus and NAA member, William B. Gould IV, in conversation with Claude Ames (NAA), reflects on his extraordinary career including previously chairing the NLRB and now the California Agricultural Labor Relations Board. 🗑️





# WELCOME TO SAN FRANCISCO

By Claude Dawson Ames, Host Chair

The 2015 Host Committee extends a special welcome to our colleagues, friends, and guests coming to San Francisco, aka City by the Bay, for the Academy's Annual Meeting.

Late May is an ideal time of year to visit San Francisco and the Bay Area with its mild Mediterranean temperatures, cool breezes blowing off San Francisco Bay (you may want a wind-breaker, but it's unlikely to rain), with spectacular vistas of the Golden Gate Bridge, Coit Tower, Fisherman's Wharf, Alcatraz, Angel Island, and the pounding surf at Ocean Beach. The St. Francis Hotel in Union Square is a perfect departure point to see the many sites this city is known for, its natural beauty and vibrancy, theater, arts, and fine gastronomy. You may go by a walking tour, Muni and BART transit, Bay cruise, tour bus, or just hopping on and off a cable car that stops on Powell Street in front of the hotel. If you choose to drive, please be advised that parking is expensive -- you may prefer public transportation and taxis. But however you go, make the most of it, using the information at the registration desk. By the way, you may also want to bring a little extra cash, since San Francisco can be expensive with its many attractions and fine dining establishments.



The action starts on **WEDNESDAY** evening, May 20. The Host Committee's block of tickets for the baseball game between World Series Champion San Francisco Giants and arch rival Los Angeles Dodgers sold out immediately. If you're one of the lucky ones, bring a jacket or warm sweater because AT&T Park and McCovey Cove can get chilly. If you are foregoing the game, meet and greet friends, colleagues, and guests at the Wine & Cheese Reception Wednesday evening at the hotel.



**THURSDAY** morning the Conference begins with an excellent and varied program organized by our own Professor Laura Cooper, Program Chair and her Committee. **THURSDAY** evening, we have a great line-up of restaurants for the "**dine around**" when you can get better acquainted by mixing old friends and newer colleagues in conversation-sized groups. Also at the registration desk is a list of highly recommended restaurants for you to explore on your own.

On **FRIDAY** night there will be a "hot time in the old town"! You won't want to miss the special *surprise attraction* at the banquet, featuring Richard Bloch, one of our own uniquely talented and entertaining members! Bring your dancing shoes for the after-dinner dance, enlivened by a terrific band playing your kind of music (you name it, you get it). No dance lessons required to take to the dance floor, as this is when we get loose and have a good time.

On **SATURDAY**, after the "Fireside Chat" with Bill Gould -- icon of California arbitrators, author and labor law scholar -- we hold our Annual Business Meeting wherein we congratulate Shyam Das for his great year as President, inaugurate Allen Ponak as our new leader, and vote on who our new President-Elect will be (odds favor Margie Brogan). Be there to discuss, vote, and cheer.

The fun of being in San Francisco doesn't end when the meeting closes. **SATURDAY** evening, the world-class San Francisco Symphony performs (some have already signed up for group tickets arranged by Fred Dichter). Or, take advantage of the new San Francisco Jazz Center or the theater offerings highlighted in the Host Committee's information sheet. Celebrate at one of the fine restaurants on our list assembled by the knowledgeable and discerning "foodies" on the Committee. 🍴





## Fall Education Conference Program Highlights

### October 23-25, 2015

*By Jane Devlin and Paula Knopf – Program Co-Chairs*

In the early 1970's Denver, Colorado was selected to host the 1976 Winter Olympics. But the local voters would not support the ballot initiatives to allocate public funds to pay for the high cost of the games, so the games had to be moved. However, when the NAA selected Denver as the site of the 2015 Fall Education Conference, Denver welcomed us with open arms. Together with the Local Host, John Sass, we plan to provide a stimulating program in an interesting and vibrant venue.

In planning this program, we have worked with our FEC Committee to achieve several goals. We are committed to providing entertaining, yet substantive educational sessions with a balance of U.S. and Canadian content. We also hope to solidify some traditions, such as highlighting local labor history so that we can have a better appreciation of our host communities. Finally, we are trying to focus on both professional and personal aspects of being arbitrators by addressing aspects of our practice, our hearings, and our health.

The first plenary sessions on both Saturday and Sunday mornings will be in the form of a Mock Arbitration. "Act One" on Saturday will be based on the events that were made famous in a celebrated play and movie. However, there will be a modern and topical twist to the plot. Leading advocates will present the evidence with some of our own Academy

members in their first acting roles. Two U.S. and two Canadian arbitrators will preside over the hearing. In the first Sunday morning plenary "Act Two" will have the Union and Employer advocates presenting oral arguments. The fate of the actors and the "drama" will climax with the four arbitrators rendering their decisions. Since Canadian and U.S. arbitrators have different social, jurisdictional, and legislative contexts, it should be fascinating to see how, if, and why the arbitrators come to differing or similar conclusions. We are confident that these two plenary sessions will be amusing, thought-provoking, controversial, and informative.

The second plenary on Saturday morning is titled, "Aging Gracefully." Our own wise, ageless, and graceful Betsy Wesman will lead a panel of experts in a discussion about the importance of recognizing signs of aging in our professional lives, addressing those issues, and maintaining our professionalism. We recognize that this is a sensitive subject but it is one that has to be addressed.

For lunch on Saturday, we will be offering more than good food. We will give you the choice between unplanned conversation and continuing on with educational discussions. When you walk into the luncheon room, you will see signs on tables. These signs will indicate topics that you may want to discuss with other mem-

bers. Susan Grody Ruben is coordinating this effort, coming up with great "table talk" topics. As examples: "Continuing the Discussion about Aging," "Your Thoughts on the Mock Arbitration," "Important New Cases," or "Great Places to Travel." For those who want to simply socialize, there will also be a number of tables designated for that purpose.

The concurrent sessions on Saturday afternoon promise to be noteworthy.

In "Colorado, Rockefeller, and Labour Relations: Trains, Planes, Oil, and Mounties," Dr. Daphne Taras, Dean of the University of Saskatchewan's Edwards School of Business, will explain the lasting impact of the infamous 1914 Ludlow Massacre at the Rockefeller-owned Colorado Fuel & Iron Company on North American labor law.

Given the recent changes in the laws of our host State, we could not pass up the opportunity to present "The Dope on Dope - Rocky Mountain High." Rob Herman, who is highly expert on this topic (no pun intended) will not be giving out samples, but will ensure that everyone leaves the session satisfied!

For the techies or want-to-be techies, David Williamson will lead a session on Technology, focusing on aids to our practice: modern innovations that could assist

*(Continued on Page 6)*



# COME TO DENVER IN OCTOBER

By Host Committee Chair, John Sass

The NAA Fall Education Conference this year will be held at the beautiful new Four Seasons Hotel in Denver. The Four Seasons is known for its excellent service, beautiful conference facilities, and its spa. Since the Academy's last visit to Denver, the city center has undergone a transformation. It is now much more vibrant and modern than it was in 1993. The Four Seasons is right in the heart of the city and there are many great restaurants within easy walking distance. The Performing Arts Center is practically across the street and the 16<sup>th</sup> Street Mall, with its free shuttle bus service, is two blocks away. There is also a new free shuttle service that makes a loop around downtown and has a stop near the hotel. Larimer Square (the city's oldest and most historic block, which now offers fine dining, shopping, and nightlife), the Tabor Center and Denver Pavilions (two more shopping and dining centers), a beautifully-restored and revitalized Union Station, the U. S. Mint, and the State Capitol building are all within easy walking distance or accessible by free shuttle bus. The Four Seasons also offers a complimentary town car service that can take you to the upscale Cherry Creek

Mall and the chic boutiques and restaurants of Cherry Creek North.

Denver is beautiful in the fall and has several great parks (that are easily accessible from the hotel) where you can enjoy the outdoors, including Civic Center Park, Confluence Park, and the Cherry Creek walk and bikeway that runs for miles through the city. Other city attractions include Elitch Gardens Amusement Park, Denver Art Museum, Denver Botanic Gardens, Downtown Aquarium, Denver Museum of Nature and Science, Cowboy Museum, Black American West Museum and Heritage Center, American Museum of Western Art, the wonderful new Colorado History Museum, and the Museum of Contemporary Art. Denver is also part of the B-Cycle program, which has numerous bike stations around the city where bikes can be rented and then returned to any other station. And finally, there are the local sports teams, including the Denver Broncos, the Colorado Rockies, the Denver Nuggets, and the Colorado Avalanche.

Come to Denver for the conference and then stick around to enjoy the beautiful scenery and attractions that Colorado

is famous for. Rocky Mountain National Park is just an hour and half drive northwest of Denver. An hour or so to the south is Colorado Springs, with the Air Force Academy, Pro Rodeo Hall of Fame, Garden of the Gods, Cave of the Winds, and the world famous Broadmoor Hotel. To the west of Colorado Springs is Pikes Peak (with its Cog Railway and automobile road to the top) and the historic mining (and current gambling) town of Cripple Creek. Just to the west of Denver is the town of Golden and the Coors Brewery. Farther west is the scenic drive up 14,271 foot Mt. Evans; the historic and current legal gambling towns of Black Hawk and Central City; the Georgetown Loop Narrow Gauge Railway; the Continental Divide; the mountain ski towns of Breckenridge, Vail, and Aspen; scenic Glenwood Canyon; and the town of Glenwood Springs which is famous for its historic hot springs resort.

So start making your plans now for a wonderful and educational fall vacation in Colorado. You deserve it! And if you need assistance in planning your trip, feel free to contact the Host Committee Chair, John Sass, at [jfsass@msn.com](mailto:jfsass@msn.com), or call him at 303-526-1149. 🗡️



## FALL EDUCATION CONFERENCE PROGRAM HIGHLIGHTS *(Continued from Page 5)*

hearings, and the use of websites.

Of course, there will also be a session devoted to Ethics. Dan Nielsen, the incoming Chair of the CPRG and Bob Landau, an experienced former CPRG member, will discuss ethical issues, problems, and solutions. For those requiring Continuing Education credit, this will be

of even greater value.

The second plenary session on Sunday morning should keep everyone in Denver. Have you ever wondered what happens after you render an award? We rarely find out if the person we reinstated worked out or if the person we placed in a new position after a job competition case could

actually do the work. Linda Byars will be leading this plenary discussing the impact of our awards and bringing in representatives of the parties to let us know the truth about what happens after we render our decisions.

We look forward to seeing you all in Denver. 🗡️

# MILESTONES

Edited by Michael P. Long

## NOTEWORTHY HONORS & PROFESSIONAL ACTIVITIES

**Laura Cooper** - has been appointed as the Alternate Member of the Minnesota Public Employment Relations Board (PERB) as a representative of the public at large. PERB is a new agency, created by the 2014 Minnesota Legislature that as of July 1, 2015, will consider unfair labor practice charges filed against state and local governments, public employees, or public sector unions.



**Joan Parker** - was honored in March with the Peggy Browning Award in Philadelphia. This award, presented in memory of Margaret A. Browning, a distinguished labor attorney and member of the NLRB, is given annually in several cities around the country to "social justice champions who have distinguished themselves with passion and dedication to the rights and needs of workers and their families." Joan expresses her appreciation to the Peggy Browning Fund that supports the training and education of students who want to pursue careers in labor law and public interest law, and states that she is extremely pleased to receive this honor.



**Alan Miles Ruben** - Emeritus Professor, Cleveland-Marshall College of Law and Advisory Professor of Law, Fu Dan University, Shanghai, PRC, was appointed to an Arbitration Tribunal by the International Court of Arbitration to adjudicate a dispute between a Bolivian and an American Corporation.

He lectured in the fall on "The Past Practice Puzzle" at the San Francisco, California and Cleveland, Ohio Programs presented by the Labor Arbitration Institute.



**Floyd Weatherspoon** - has been honored as the recipient of the Mary Parker Follett Award from the Association for Conflict Resolution (ACR), "In recognition of his work in the field of conflict resolution."

Floyd presented, "*Why Black Men Can't Breathe: The Persistence of Racial Inequality in the American Justice System*," at the West Virginia University College of Law in January. Floyd also has written a new book titled, African-American Males and the US Justice System of Marginalization: A National Tragedy, published by Palgrave Pivot. NY.

## PUBLICATIONS & PRESENTATIONS

**Mario F. Bognanno, Laura J. Cooper, and Stephen F. Befort** - along with former PhD students Jonathan E. Booth and Thomas J. Norman, have written "Discharge Arbitration Outcomes and Remedies: Fact or Fiction," which has been published in the *Cardozo Journal of Conflict Resolution* (Volume 16, No. 1, 2014). This study examines some of the arbitration community's commonly-accepted beliefs about arbitration outcomes and remedies in employee discharge cases, with the findings revealing that some beliefs are likely fact, while others, perhaps, are fiction. With data from 1432 Minnesota discharge awards and 74 arbitrators who decided them, eight truisms are examined pertaining to the following: the frequency that arbitrators use Daugherty's Seven Tests rubric to analyze case evidence and whether its use affects award outcomes; the distribution of varying quanta of required proof by arbitrators and how different quanta affect award outcomes; and the effect of employee job tenure and "last chance agreement" status on award outcomes. Using a subsample of "reinstatement with back pay" awards, the authors additionally examine the prevalence of arbitrators ordering how back pay should be computed and "retaining jurisdiction" over back pay cases.



**Charles P. Fischbach** - has written "Revisiting a National Railroad Trust Fund" that has been published by *Railway Age*. The article discusses previous, albeit unsuccessful, Congressional attempts to establish a trust fund to help finance the upgrading of the U.S. railroad systems' infrastructure, much like the Highway Trust Fund provides funds to states to improve the nation's highway systems. Charles proposes the establishment of a railroad trust fund to defray the costs that railroads currently pay to upgrade such things as main infrastructure, tunnels, and bridges. He points out that because commuter rail uses the same tracks, they, too, would benefit from the fund. Charles strives to provide the format for a meaningful dialogue between railroad executives and the U.S. Congress for the benefit of all.



**Ted St. Antoine** - delivered a presentation on the Academy's new Guidelines of Professional Responsibility for Arbitrators of Employment Disputes before the Midwinter Meeting of the ABA Labor & Employment Law Section's ADR Committee on Valentine's Day, 2015 in Palm Springs, California, where **Alan Symonette** served as the moderator. Then early in April, Ted presented a paper on "The NLRB, the Courts, the

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# MILESTONES *(Continued from Page 7)*

Administrative Procedure Act, and Chevron Now and Then” at a Symposium on the 80th Anniversary of the National Labor Relations (Wagner) Act at Emory University School of Law. Later in April 2015 Ted and **Susan Grody Ruben** presented on the NAA’s new Guidelines of Professional Responsibility for Employment Arbitrators at the Annual Spring Conference of the ABA Section of Dispute Resolution in Seattle.



**Rosemary A. Townley** - has been busy sharing. She started in October by serving as one of two presenters at the AAA’s first “Breakfast Brainstorming Series” in NYC titled, “*Raising Your Game: Winning Practice Tips for Advocates in Employment Arbitration.*” In November 2014, she was a conference presenter on a program sponsored by the NYSBA’s Section on Labor and Employment Law in NYC titled, “*Social Media and the Workplace: Labor and Employment Legal Issues.*” Then in December she became an Inaugural Member of the New York Center on International Arbitration (NYIAC) in NYC. A non-profit organization, its mission is “to advance, strengthen, and promote the conduct of international arbitration in New York.”

In January Rosemary became a member of The Sedona Conference, Working Group Series 1 (WG1) whose mission is the development of “principles and best practice recommendations for electronic document retention and production in civil litigation” and WG2 dealing with the development of “principles and best practices addressing protective orders, confidentiality issues, sealing orders, and motions to vacate or modify orders to permit public access.” With some of her extra time in January, Rosemary also moderated “*Informal Discovery in State and Federal Courts,*” a session at the Annual Meeting of the New York State Bar Association (NYSBA), Section on Labor and Employment Law in NYC.

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

**James P. O’Grady** - after serving several years as the NAA Missouri Regional Chair & the Host of its monthly meeting at the Missouri Athletic Club, was elected Vice President of the Athletic Club’s *Forever Young Club*. This sub-organization of senior youngsters is one of the largest clubs within the MAC composed of 180+ members age 60 and over. Members meet monthly with a relevant speaker and take short trips in the Midwest area. Also, Jim will serve as the FYC President in 2016. His election took place at the December meeting while Jim was cruising in the Caribbean with his family of 19. Jim reiterates the well-known principle that this just demonstrates that “you cannot miss a meeting or colleagues and friends will notice your absence and give you a job upon your return.”



**Allen Ponak** - NAA President-Elect, has his head in the clouds again – yakking it up as usual. He recently celebrated his 65th birthday by getting high in the Himalayas. Starting from Darjeeling, Allen and a friend hiked 14 days to the base camp of Kangchenjunga, the world’s third highest mountain. Most of the trek was above 4000 meters (13,000 feet), and they were supported by Sherpas, cooks, and seven yaks.



**Lou Zigman** - says he has a hard time controlling his wife. Fran’s exuberance, and that he and Fran hosted a gala honoring Melissa Manchester at the Friar’s Club in New York on April 27.


## ***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 mail it to:

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# REGIONAL ROUNDUP

Reported by Margaret R. Brogan  
*National Coordinator of Regional Activities*

As reflected in the reports below, NAA President Shyam Das must have a twin, because he is everywhere! Shyam has done a simply amazing job of visiting Regions throughout the country. Many thanks to Shyam for his tremendous outreach and hard work in helping to unite our organization. Thanks also to the many Regions who welcomed Shyam at their Regional meetings and conferences.

The Regions have continued their mission of providing quality educational programming, outreach, and downright fun. Please keep this in mind as you are traveling, and see if your plans may coincide with a Regional conference or meeting. Contact the Regional Chairs below for more information.

As an initiative of the NAA Regional Education Committee, members have developed training materials, and those materials are available for Regional-sponsored training.

For the fourth year in a row, as an initiative of the NAA Regional Education Committee, NAA training was conducted on May 7, 2015, immediately preceding the FMCS Symposium in Atlantic City. The training was sponsored by the NAA Regions of the Mid-Atlantic, Metropolitan D.C., Northern New York, Metropolitan New York and Western Pennsylvania. This NAA training included two separate tracks, one session focusing on arbitrator development, and one session for advocates that included a mock arbitration performed by the participants.

A meeting of the Regional Chairs will be held on Thursday, May 21, 2015, at 4:30 pm at the site of the Annual Meeting in San Francisco, California.

## CANADA

Regional Chair is Chris Sullivan – [csullivan@arbofice.ca](mailto:csullivan@arbofice.ca)

## CENTRAL MIDWEST

The Midwest Region is planning their annual meeting for this spring in Chicago. With the recent “right to work” law in Wisconsin and a new Illinois governor advocating for similar legislation, there will be plenty for members and guests to discuss.

In late spring, a number of Midwest Region Academy members will be participating as instructors and mentors in the Joint Railroad Labor Management Committee of Arbitrator Utilization for a Railway Labor Act Training

Seminar. The seminar will instruct on arbitration in the Railroad Industry.

Regional Chair is Brian Clauss – [briaclauss@claussadr.com](mailto:briaclauss@claussadr.com)

## METROPOLITAN D.C.

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

## METROPOLITAN NEW YORK

NAA Region 2 had been sidelined by the winter weather. They were “snowed out” of their first meeting. Finally seeing the merest glimpse of spring, they were able to regroup and hold a well-attended and wonderful meeting. On March 10, NAA Region 2 held its most recent meeting, entitled LET’S HEAR FROM THE ADVOCATES – UNION SIDE, a program on best practices for Arbitrators from the Union perspective. Four very well respected Union lawyers joined with Moderator Randi Lowitt for a lively and engaging discussion. While there were questions posed to the lawyers by both the Moderator and the attendees, the program was a true give-and-take discussion among the participants and the attendees. The meeting was open to NAA and non-NAA arbitrators. Next up – LET’S HEAR IT FROM THE ADVOCATES – MANAGEMENT SIDE.

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

## MICHIGAN

The Michigan Region of the National Academy of Arbitrators has been active. On January 27, 2015, the Chapter met and former NAA President Theodore St. Antoine, joined by NAA members Paul Glendon and Mario Chiesa, discussed at a round table what the parties expect of arbitrators. It was indeed a lively discussion. On April 22, 2015, the Chapter met and our guests were Sheldon Stark, a prominent mediator, and Janet Holdinski, American Arbitration Association Vice President, we discussed the subject of “New Horizons and Opportunities for Arbitrators.”

Regional Chair is George T. Roumell, Jr. – [roumell2000@yahoo.com](mailto:roumell2000@yahoo.com)

## MID-ATLANTIC

To lift members out of their winter doldrums, the Mid-Atlantic Region sponsored a “Mid-Winter Doo-Dah” on Saturday night, January 17<sup>th</sup>, at the home of Kathy Miller and Shyam Das. Members and spouses enjoyed good food and lively conversation at the welcoming home of their colleagues. Their next planned event is a “Meet the Arbitrators” meeting which will be held on May 12<sup>th</sup> from 5:30 – 7:30 p.m. at the Philadelphia Racquet Club. NAA and non-AAA arbitrators alike will be invited to the event which is being cosponsored by our chapter, the Philadelphia chapter of the Labor and Employment

(Continued on Page 10)

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

Relations Association, and the American Arbitration Association. Light refreshments will be served, and invitees will have the opportunity to ask arbitrators about substantive and procedural issues that arise in our cases. Notices to the Philadelphia area labor-management community are being sent out courtesy of LERA and AAA.

Regional Chair is Mariann Schick – [schickarb@comcast.net](mailto:schickarb@comcast.net)

### MISSOURI VALLEY

The Missouri Valley Region meets nine Fridays annually from September through May. Each meeting features a CLE speaker discussing timely topics of interest to NAA members. Their Winter 2015 schedule included:

- |                  |  |
|------------------|--|
| January 9, 2015  | Shyam Das, President NAA, “NAA Happenings”   |
| February 3, 2015 | Jerome Diekemper, “FMCS, AAA, and ABA Rule Differences And Discovery Parameters in Employment versus Commercial And Labor Cases” |
| March 13, 2015   | Michael Lowenbaum, The Lowenbaum Partnership, “Arbitrator Involvement in the Hearing”  |
| April 10, 2015   | Rob Scott, Attorney, Illinois FOP Labor Council, “Defending the Arbitration Award”   |
| May 8, 2015      | Daniel O’Toole, Armstrong Teasdale, “Looking at the EEOC Charge-Management Perspective”  |

The Region was very pleased that President Shyam Das took time from his busy schedule to come to St. Louis and update us on “NAA Happenings.” Five of their members have committed to attend the NAA Annual Meeting in San Francisco, California where St. Louis Arbitrator, Jerry Diekemper, will be inducted.

Regional Chair is George Fitzsimmons – [georgefitzsimmonsllc@hotmail.com](mailto:georgefitzsimmonsllc@hotmail.com).

### NEW ENGLAND

Regional Chair is Mary Ellen Shea – [ArbitratorMEShea@gmail.com](mailto:ArbitratorMEShea@gmail.com)

### NORTHERN CALIFORNIA

President Shyam Das’s visit to the NorCal Region fell on St. Patrick’s Day, and even some of the non-Irish wore green to our meeting and party. Shyam was warmly wel-

comed by over 30 Academy members and non-member arbitrators (always invited to Region events). The Region awarded Shyam with some mementos, in ascending order of significance: a bag of Ghirardelli choco-

lates, a World Champions S.F. Giants baseball cap, and the piece de resistance, a SIGNED Willie May’s #24 baseball! The last was obtained through the charm and personal contacts of Claude Ames.



Claude, as Host Chair for the Annual Meeting in San Francisco, reported on the Committee’s superb arrangements that will ensure everybody will have a swell time (story elsewhere in this issue). Unveiled was Barry Winograd’s fascinating summary of the labor history of the San Francisco Bay Area, plus Supreme Court labor cases that have emanated from the area. It is beautifully illustrated with landmark historic murals.

The dinner meeting culminated with the election of Nancy Hutt as our new Regional Chair. Bonnie Bogue led a heart-felt appreciation ceremony for Allen Pool, who



Seated, L to R, Nancy Hutt, new NorCal Regional Chair; Allen Pool, outgoing Regional Chair; Shyam Das, NAA President, and Claude Ames, Chair of Host Committee for SF Annual Meeting, shown with members of the NorCal Region and their guests.

finally stepped down from the longest term of office of any Chair in the history of the Region.

Regional Chair is Nancy Hutt – [Nancyhutt@naarb.org](mailto:Nancyhutt@naarb.org)

### OHIO-KENTUCKY

The Region had their annual regional meeting and then joint symposium with the FMCS and the Columbus, Ohio LERA group on April 30 - May 1, 2015, in Columbus, Ohio. President Shyam Das met with the Region and addressed the symposium in the opening session on April 30.

Regional Chair is Daniel Zeiser – [danzeiser@aol.com](mailto:danzeiser@aol.com)

*(Continued on Next Page)*



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

### PACIFIC NORTHWEST

Region 17's annual Arbitrators' Day Conference was held in Portland, Oregon on March 18 at the World Trade Center in conjunction with the annual Oregon LERA Conference on March 19. President Shyam Das was a featured guest. Approximately 30 Academy and non-Academy arbitrators registered for the day-long arbitrators' seminar, which featured a final session on ethics, with CLE credits for both advocates and arbitrators, followed by a reception to which all Oregon LERA members were invited.

Regional Chair is Michael Cavanaugh – [mec@cavanaugh-adr.com](mailto:mec@cavanaugh-adr.com)

### SOUTHEAST

The Southeast Region of the National Academy of Arbitrators held their regional meeting on February 27-28, 2015 at the Crowne Plaza Hotel in Tampa, Florida. The Friday, February 27th Advocates Training program was led by NAA Arbitrator Philip A. LaPorte. The training program attracted forty participants from throughout the Southeast region. Serving as Arbitrator/Coaches for the training program were NAA members Vicki Peterson Cohen, Hal Smith, Martin Soll, Hoyt Wheeler, and Jeanne Charles Wood and former FMCS Regional Director Sergio Delgado. Seventy-three people attended the NAA SE regional dinner on Friday evening. The guest list included four NAA presidents, Bill Holley, Dennis Nolan, Shyam Das, and Jim Sherman.

The February 28th program featured an address by NAA President Shyam Das on "Labor Arbitration Lessons from Professional Sports." President Das compared the arbitration procedures found in Major League Baseball and the National Football League. He reviewed the recent arbitration decisions by Judge Barbara Jones and Harold Henderson in the Ray Rice and Adrian Peterson cases and the decision by Federal Judge David Doty to vacate the award in the Peterson case. Agency updates were offered on behalf of the American Arbitration Association, the Federal Mediation and Conciliation Service, and the National Mediation Board by Charles Dorsey, Arthur Pearlstein, and Roland Watkins.

Management Attorney Greg Hearing of Tampa and Union Attorney Rich Siwica of Orlando gave their respective views on the awarding of interest in back pay awards and other remedy issues. NAA Arbitrator Dennis Nolan commented on their presentations and explained his rationale in determining that interest on back pay--and in some cases, compound interest--is appropriate in

making a back pay award. The final morning session examined Diversity and Acceptability in Labor Arbitration. NAA Arbitrators Vicki Peterson Cohen and Jeanne Charles Wood presented demographic data on the makeup of neutrals on various arbitration panels and the judiciary. They shared their individual experiences and suggestions for enhancing opportunities for increasing the diversity of arbitration panels and selections. Former FMCS Regional Director Sergio Delgado provided insights into the changing makeup of the workforce and the importance of having arbitrators that reflect this changing workforce.

The afternoon session featured representatives from the U.S. Postal Service and the American Postal Workers Union, the National Association of Letter Carriers, the National Rural Letter Carriers' Association and the National Postal Mail Handlers Union discussing their respective arbitration procedures and how aspiring arbitrators can apply to their various arbitration panels. The USPS was represented by James Oliver from Dallas, Texas, and the unions were represented by Pat Davis-Weeks, Judith Willoughby, Joey Johnson, and T.J. Branch. The program was organized by former NAA President William H. Holley, Jr. and the arbitrator perspective was provided by NAA Arbitrator Linda Byars. The 2016 NAA Southeast Regional meeting will be held on February 26-27 in Atlanta.

Regional Chair is Philip LaPorte – [plaporte@gsu.edu](mailto:plaporte@gsu.edu)

### SOUTHERN CALIFORNIA

The Southern California Region held a holiday dinner party at a neighborhood restaurant. Most arbitrators brought their significant others. A good time was had by all.

On March 16, NAA President Shyam Das spoke to their Region on the subject of Arbitrating High Profile Cases. A spirited discussion accompanied his remarks. Our next meeting is scheduled for June 2 when we will have the Regional Directors of the NLRB Regions 21 and 31 discuss the recent NLRB decision on arbitral deferral, *Babcock and Wilcox Construction*. In addition, members plan on attending the Annual Meeting in San Francisco.

All Region 16 meetings are open to members and non-members.

Regional Chair is Jon Monat – [j.monat@verizon.net](mailto:j.monat@verizon.net)

*(Continued on Page 12)*

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# SILENCE IS GOLDEN


*Sara Adler, LRF Coordinator*

A member recently contacted me after he'd sustained a discharge of a professional and began receiving a barrage of emails calling him witless (and worse). He had notified the parties simply that there had been post-award contact from the grievant and planned to continue to suffer in silence the slings and arrows coming his way.

I think he took the right approach, but did suggest that if the tone became hostile or threatening that he should notify the parties and the local police. I urged that he and his family be a bit more aware of what's happening around them.

From time to time we've had this problem arise. I once also sustained a discharge and was treated for many months to the grievant's fantasies of the documentary he was going to make with me not represented in a good way. Eventually he moved on with his life.

In an internet world I don't think there's much way to avoid post-discharge venting from coming to us. Practicing from a post box may slow the process a wee bit, but little more if the grievant is at all computer savvy. That's the bad news.

The good news is that in the 25+ years I've been in the NAA we've had only a few scares of more aggressive tactics and none that became a full-blown incident. The experience does, however, make it feel preferable to be sued! 

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

### **SOUTHWEST**

The 38th Annual Labor-Management Conference, held from February 19-21, 2015, at the Double Tree Hotel at Houston Hobby Airport, featured speaker Shyam Das, NAA President, who discussed, "Arbitrating When the Stakes are High." The plenary session speaker, Carl Bosland, Chief Counsel, National Employment Litigation, USPS, shared an overview of "Developments in the Laws Protecting Absences From Work — The FMLA, ADA, Title VII, USERRA and Many More," (his powerpoint presentation is posted on the region website at [naa.swr.org](http://naa.swr.org)). The Advocate Training Track used materials developed by the NAA's REF committee and the film, "The Suspension of Nurse Kevin," in sessions focusing on just cause discipline, contract construction and interpretation, and Texas fire and police arbitration training. The Conference also offered a range of topics for Arbitrators. In regional business, the new slate of officers for 2015-2017 was approved, which included Tom Cippola as Chair. The 39th Annual Labor-Management Conference will be held in Dallas during

March 2016 at dates to be determined. T. Zane Reeves, Regional Chair (2013-2015)

Regional Chair is T. Zane Reeves – [tzane@unm.edu](mailto:tzane@unm.edu)

### **UPSTATE NEW YORK**

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

### **WESTERN PENNSYLVANIA**

The quarterly meeting of the National Academy of Arbitrators in the Western Pennsylvania Region was held on Wednesday, April 29, 2015, at the Pittsburgh Athletic Association building. They were pleased to have our Academy President, Mr. Shyam Das, attend this meeting as guest speaker. This region is also looking forward to showcasing the City of Pittsburgh to all Academy members and guests at the 2016 Annual Meeting to be held in Pittsburgh.

Regional Chair is Michelle Miller-Kotula – [millerkotula@comcast.net](mailto:millerkotula@comcast.net) 



## Research and Education Foundation Report

*By Betsy Wesman*

The REF is grateful to Academy members for your continued support. The long list of donors recognized in this issue is wonderful evidence of the many NAA members who have contributed generously to the Foundation, and this generosity has enabled us to increase the ceiling on our grants to \$50,000. This increase should attract more applications and additional sophisticated proposals.

We are excited that a paper on the results of the study, *Labour Arbitration: Achieving Timely and Effective Dispute Resolution in a Radically Changed Environment*, a project supported by the REF carried out by a team of American and Canadian researchers, will be presented at the annual meeting in San Francisco in May 2015.


Two other projects are proceeding on schedule:

1) The study led by NAA members Martin Malin, *Adjudication of Statutory Claims: Comparing Arbitration and Human Rights Tribunals in the Province of Ontario* is nearing completion;

2) The study led by Professor Alexander J. S. Colvin and Mark D. Gough, both of Cornell University is progressing well, with data collection in process and the project generally on schedule.

We are looking forward to considering some new proposals in San Francisco.

In addition to these ongoing research projects, at our Fall meeting in Memphis, the REF Directors agreed to a “seed money” grant for the establishment of an Arbitration Web Site. The website is a joint venture involving the NAA, the University of Missouri Law School’s Center for the Study of Dispute Resolution, and the University of Missouri School of Journalism. University of Missouri Law School Professors Rafael Gely and Robert Bailey (an Academy vice-president) will oversee the project for the University and act as liaison between the NAA and University. NAA Member Katherine Miller is chair of an Academy committee that will contribute to the development of website content jointly with the University. Her committee will focus on Labor/Management arbitration, including a glossary of common terms, Frequently Asked Questions (FAQ’s), and relevant links for site visitors seeking additional information. The REF is very excited about this project, which can become an important vehicle for disseminating accurate information on our profession.

The REF could not do its work without your support. Please contribute generously and often. Remember, support for the REF is support for our profession. 

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## MARK YOUR CALENDAR

### 2016 Annual Meeting

June 22 - 25, 2016



**Wyndham Grand Pittsburgh Downtown  
Pittsburgh, PA**

## PLAN TO ATTEND:

### 2016 Fall Education Conference

September 30 – October 2, 2016



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



# NAA Research & Education Foundation

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# REMEMBERING...

## REMEMBERING HOWARD COLE

*by Benjamin A. Kerner*

Howard A. Cole, an active and influential arbitrator throughout the 1970's, 1980's and 1990's, died in Ann Arbor, Michigan, on March 3, 2015, of colon cancer. He was born in Williamston, Michigan, on February 14, 1926. He attended college at the University of Michigan and law school at the U of M Law School. Nearing graduation in 1954, he had a conference with Professor Russell Smith (Smith, Merrifield, and St. Antoine, *Labor Relations Law, Cases and Materials*). Professor Smith had two job opportunities for Mr. Cole to consider, one as a member of the staff of the newly-formed Bureau of Workers' Disabilities and the other as an apprentice to a labor arbitrator. Howard was interested in the arbitration position, but protested to Professor Smith that he (Cole) was known to be sympathetic to unions, and didn't know how that would fit. "No problem," replied Professor Smith, "You must develop some sympathies for management."

Howard took the job with Arbitrator David Wolff as a paid apprentice. That lasted approximately 15 years, before Howard went out on his own. As a solo arbitrator, he flourished. He became umpire and had long-standing relationships with Republic Steel, Reynolds Metal, Mclouth Steel and their unions, among others.

Howard became a member of the Academy in 1960 and performed lengthy service as a member (1978-79) and later, Chair (1979-83) of the Committee on Professional Responsibility and Grievances (earlier, the Ethics Committee). He was also a Governor (1976-79) and a Vice President (1986-88). He always felt that the Academy was an invaluable touchstone of guidance in the matter of professional standards and practice.

Howard was not a person who weighed what the consensus was, rather, he weighed in with what his conscience dictated. There were a number of points of practice on which he diverged from commonly-accepted practice and maintained his principled exception. For instance, he would not sign subpoenas, arguing that since he did not have the power to enforce them, they were worthless. On the matter of consent awards, he would have no quarrel with an award which recited on its face that it was the settlement of the parties. However, he would not sign an award which failed to so indicate. He quoted Archibald Cox to the effect that, "The parties are free to arrange their affairs as they wish, but if they want me to sign an Award I have to be convinced it is just and equitable."

Throughout his professional career he was supported by his wife, Vivian Cole, who acted as administrative assistant for him. He is survived by her, after 65 years of marriage and by a son, Gary Cole, a grandson, Bradley Cole, and a great-granddaughter, Alexandria Cole. I will miss his generosity and always-willing spirit as a mentor. He was a strong, kind, and gentle man. "There will be no one like us when we are gone, but then there is no one like anyone else, ever." (Oliver Sacks, *My Own Life*). There will be no one like Howard Cole, ever.

## REMEMBERING ECK MUESSIG

*by M. David Vaughn and Charles Feigenbaum*

Arbitrator and Academy Member Eckehard (Eck) Muessig passed away in Springfield, Virginia on October 31, 2014, at the age of 90. Eck, a former Deputy Assistant Secretary of Labor who retired from the U.S. Labor Department in 1980, worked as a labor arbitrator from that time until his retirement from practice in 2003.

Eck Muessig served as a combat infantryman with the First Marine Division in World War II. He participated in combat action at Cape Gloucester, New Britain, Peleliu Island, and Okinawa. His decorations include service medals for the Pacific area, Marine Corps Commandant Medal for bravery in combat, and the Purple Heart for wounds received on Okinawa.

Many years later, Eck had another experience in the Pacific, or over it, that he later described as more harrowing than anything in combat. He and his wife, Jeanette were on United Flight 811, Honolulu to Auckland, New Zealand, February 24, 1989. This from Wikipedia: "After the plane had been flying for approximately 16 minutes, and was passing between 22,000 and 23,000 feet, a grinding noise was heard in the business-class section, followed by a loud thud that rattled the whole aircraft. One and a half seconds later, the forward cargo door blew out. The door swung out with such force that it passed its normal stop and slammed into the side of the fuselage, bursting the fuselage open. Pressure differentials and aerodynamic forces caused the cabin floor to cave in, and ten seats (G and H of rows 8 through 12 were ejected from the cabin.

*(Continued on Next Page)*



## REMEMBERING... ECK MUESSIG (Continued from Page 16)

All nine passengers seated in these locations were killed (seats 8G and 12G were unoccupied), as was a passenger in seat 9F, whose seatbelt failed. A gaping hole was left in the aircraft, through which a flight attendant in the business-class cabin was almost sucked out of the aircraft. Passengers and crew members saw her clinging to a seat leg and were able to pull her to back inside the cabin, although she was severely injured."

Eck received a Bachelor's Degree from The Ohio State University and then worked for the U.S. Government, serving as a management official with the U.S. Air Force, the U.S. Civil Service Commission and the U.S. Department of Labor. During his various assignments he received a number of performance awards including the U.S. Air Force Meritorious Service Award, the highest award for a civilian employee in the Air Force at that time. He served as Deputy Assistant Labor Secretary for five Secretaries of Labor, retiring in 1980.

As an arbitrator, Eck served on the Labor Panels of the American Arbitration Association, the Federal Mediation Service, and the National Mediation Board. He held a number of umpireships and panel appointments. He was a well known and acceptable arbitrator in the Washington, DC area.

Eck is survived by his wife of 68 years, Jeanette Gingery Muessig, two children, Christina (Reed) Ziegler of Arlington, VA and Laura (Fred) Jones of Fairfax, VA; four grandchildren, Jason and Courtney Ziegler and Tyler and Elise Jones, and a brother, Siegfried (Kit) of Pasadena, CA.

### REMEMBERING JIM JONES

*by Daniel J. Nielsen*


Jim Jones, Professor Emeritus at the University of Wisconsin Law School and a member of the Academy since 1980, died in late November at the age of 90.

A native of Little Rock, Jim served in the U.S. Navy during World War II from 1943 until 1946. On mustering out, he attended Lincoln University in Jefferson City, Missouri, from which he graduated Magna Cum Laude in 1950. The following year, he received his M.A. from the University of Illinois Institute of Labor and Industrial Relations. After working for a time as an analyst for Wage Stabilization Board in Chicago, Jim enrolled at the University of Wisconsin Law School. He received his J.D. in 1956.

On graduating from law school, Jim took a job with U.S. Department of Labor. He played a very significant role in the development of the civil rights legislation of the 1960's, and eventually rose to the post of Associate Solicitor of Labor. In 1969, Jim left the Department of Labor to join the faculty of the University of Wisconsin Law School, where he remained for the rest of his professional life. He served as Professor of Law and Industrial Relations until his retirement in 1993. He originated the William H. Hastie Teaching Fellowship program and, in 1991, he was named Nathan P. Feinsinger Professor of Labor Law.

Beyond his teaching, Jim was active in service to the profession and the public. He was a member of the UAW's Public Review Board, was appointed to the Federal Service Impasses Panel by President Carter, and served several terms on the Madison Police and Fire Commission. Jim was a life member of the NAACP and the Honor Society of Phi Kappa Phi.

While he cultivated a reputation as something of a curmudgeon, Jim was intensely proud of his students, his school, and his profession. He was known as a very demanding professor, but if he believed a student had ability, he would fully extend himself to be sure that student's professional career was well launched when he or she left UW.

Jim gave up arbitrating some time back, but as an emeritus professor, he continued to teach in the classroom, the hallways and the coffee shops. On any given day, Jim could be seen instructing students and former students (including Academy colleagues) on the finer points of arbitration, employment relations, labor law, and any other topic that might come up. 

### IN MEMORIAM

*It was recently learned that the following Member has passed away:*

**James C. McBrearty**  
NAA Member since 1981

A Remembrance will appear in a future *Chronicle*.

# SLATE OF OFFICERS AND GOVERNORS 2015-2016

## PRESIDENT-ELECT

### MARGARET R. BROGAN

*Philadelphia, PA*

Margie Brogan has been an arbitrator since 1990, and a member of the Academy since 1996. Happy twists of fate brought her to this rewarding career path. Born a Jersey girl, Margie was the first in her family to go to college, becoming a Hawk at St. Joseph's University. From there she acquired her law degree at Villanova University. She might have ended up in a boring law job, but for the fact that, while a law student, an attorney walked into the union hall where her mother was the dues clerk, and said "Don't you have a daughter in law school?" As annoying as it is to get your first good job from your parents, Margie clerked through law school at this firm and learned many of the secrets of labor and employment law and arbitration. From there she worked for the National Labor Relations Board in Philadelphia with other future shining lights of the Academy. But trial work was not an easy fit with her role of being a mom of little children, so Margie put out her arbitrator shingle, while teaching labor and employment law as an adjunct at her alma mater, St. Joe's. With some luck and support from the Philadelphia arbitration community, including mentoring from the wonderful Walter Powell, Margie's arbitration practice took off.



Now Margie enjoys a very rewarding practice in labor and employment arbitration and mediation on both the East and West coasts. She is on many permanent panels, and does cases in varied industries, including sports, airlines, transit, manufacturing and health care. She views it as a privilege that parties ask her to resolve their disputes. It has also been her mission to train and assist new arbitrators and advocates, and she continues that effort by now teaching labor and employment arbitration as an adjunct at Berkeley Law, with her husband and fellow NAA arbitrator Barry Winograd.

Which leads to the important facts. Margie shares a wonderful bi-coastal life with her terrific husband Barry. It is great fun being married to an arbitrator. Who else will delight in the niceties of a unilateral change case over dinner? Margie has three spectacular children (Katie, Tim and

P.J.) and two spectacular stepchildren (Ben and Rachel) and one grandchild, Jamie, too cute for words. In addition, Margie's closest and dearest friends are members (and spouses) of the Academy. There is no greater joy for her than spending time with her children and friends, no matter how many planes she has to board.

It is an honor for Margie to be nominated as President-Elect, and she is looking forward to giving back in a large way to this organization that has meant so much to her.

## VICE PRESIDENTS

*Second One-Year Terms*

### ROBERT GARY BAILEY

*Columbia, MO*

### ROBERT B. MOBERLY

*St. Augustine, FL*

## VICE PRESIDENTS

*First One-Year Terms*

### MARTIN H. MALIN

*Chicago, IL*

Martin H. (Marty) Malin is Professor of Law and Director of the Institute for Law and the Workplace at Chicago-Kent College of Law, Illinois Institute of Technology. He teaches courses in labor law, collective bargaining, arbitration, public sector labor law, employment law, contracts and jurisprudence.



Marty has maintained a part-time practice as an arbitrator and mediator since 1984. His service to the National Academy of Arbitrators includes membership on the Board of Governors (2006-09), membership on the Board of

*(Continued on Next Page)*

## VICE PRESIDENTS

*(Continued from Page 18)*

Directors of the NAA Research and Education Foundation (since 2010), Chair of the Program Committee for the 2009 Annual Meeting, Co-chair of the Protocol Conference Planning Committee (2006-07), Co-chair of the Committee on Statutory Disputes in Employment (2010-13) and Chair of one of the subcommittees of the Committee Drafting a Code of Ethics for Employment Arbitrators (2011-14). He has served as Secretary of the ABA Section of Labor and Employment Law (2013-14) and currently serves on the Board of Governors of the College of Labor and Employment Lawyers and the Board of Directors of the North American Branch of the International Society for Labour and Social Security Law. He previously served as Chair of the Labor Relations and Employment Law Section of the Association of American Law Schools and on the Executive Committee of The Labor Law Group.

In October 2009, President Obama appointed Marty as a Member of the Federal Service Impasses Panel and in January 2014 the President reappointed him to a term that runs through January 2019. Marty has published seven books and more than 70 articles in academic and professional journals. His work has been cited in numerous court and administrative agency decisions, as well as in the academic, professional and popular press.

## SUSAN L. STEWART

*Toronto, ON*

Susan is a graduate of Queen's University and was called to the bar of Ontario in 1981. After articling at the Ontario Labour Relations Board and practicing law in Toronto, she commenced her adjudication practice as a Vice Chair of the Workers' Compensation Appeals Tribunal. She commenced her arbitration practice in 1998 and in 1989 was appointed as a Vice Chair of the Ontario Crown Employees Grievance Settlement Board. In 2001, she was appointed as Chair of that Board, where she continues to serve. Susan's arbitration practice encompasses all sectors under provincial and federal jurisdictions. She has served as Chair of the Labour/Management section of the Ontario Bar Association and as an executive member of the Ontario Labour Management Arbitrators' Association. Susan has served as Chair of the Academy's Public Employment Disputes Committee, and as a member of its Board of Governors. In 2012, Susan served as a member of the executive committee of the Board of Governors. She is a currently a member of the Advisory Committee at the Queen's University Centre for Law in the Contemporary Workplace. Susan enjoys running, cycling and travel, and is a member of a cycling team of arbitrators, "The Shifty Neutrals", that is involved in charitable fundraising.



## BOARD OF GOVERNORS

**Three Year Terms**

### MATTHEW M. FRANCKIEWICZ

*Pittsburgh, PA*

Pittsburgh area native Matthew M. Franckiewicz was graduated from the Massachusetts Institute of Technology, with a S.B. in Economics. He also received a J.D. from the University of Chicago Law School.

After law school he was a trial attorney for the National Labor Relations Board for over 13 years. His experience there later formed the basis for his book *Winning at the NLRB* (BNA Books) (now in second edition with co-author Daniel Silverman).

Franckiewicz left the NLRB to attempt to establish an arbitration practice and gradually he did. About ten years later he applied for membership in the NAA and was accepted. He



has served as Regional Chair for Western Pennsylvania, as co-editor and lead editor of the Proceedings, and on several committees. Nearly 200 of his awards have been published, mostly in the Labor Arbitration Reports.

### PAULA KNOPF

*Toronto, ON*

As an arbitrator and mediator, Paula Knopf has been active in labour relations and dispute resolution in the private and public sectors since 1980.

She is the Past President of the Ontario Labour Management Arbitrators Association and is currently the Chair of the National Academy of



*(Continued on Page 20)*



## BOARD OF GOVERNORS

*(Continued from Page 19)*

Arbitrators' Committee on Professional Responsibility and Grievances. She is also the Director of the Ontario Ministry of Labour's Arbitrator Development Program.

In 1996 she was appointed by the Canadian Minister of Labour to act as one of the three members of the Task Force recommending changes to Part One of the Canada Labour Code.

She served as Chair of the Education and Colleges Relations Commissions from 1991 - 1997. She also served as a part-time Vice-Chair of the Ontario Labour Relations Board and the Grievance Settlement Board of Ontario.

She is named as a roster arbitrator in several collective agreements.

She has been an adjunct professor at Osgoode Hall Law School, who has taught Labour Arbitration and supervised several Masters theses.

## MARETTA COMFORT TOEDT

*(the last name is pronounced "Tate")*

**Houston, TX**

Maretta, a native of Rochester, New York, and a graduate of Syracuse University and Temple Law School, has lived in Houston since 1977 (more or less). After working in labor relations for two major oil companies and a large law firm, she started doing arbitration work in 1994, in part as an intern for Diane Dunham Massey.

She was admitted to the Academy in 2006 and has been active in the Southwest / Rockies Region, serving as region chair and helping with the region's annual (and very successful) labor-management conferences. She is active in LERA, serving as the Houston chapter's president (two terms) and now as de-facto permanent secretary/treasurer. She did the usual "mom stuff" while her kids were growing up and now serves on the altar guild at her church.

Maretta lives with D.C., her husband of 31 years, who teaches at the University of Houston Law Center and is also a commercial/IP arbitrator. Their adult children, Richard and Elizabeth, live and work in Houston and don't call their mother often enough.



## KATHRYN VANDAGENS

**Lansing, MI**

Kathryn VanDagens' journey to a profession as a labor arbitrator began as an undergraduate at Michigan State University in Dan Kruger's collective bargaining class. There, Professor Kruger told the class that he loved being a labor arbitrator because it was one of the few professions where the more fair you were, the more money you could make. It seemed like a delightful way to make a living, so after graduating with a degree in Journalism from Michigan State University, she matriculated to the University of Michigan Law School, where she eagerly enrolled in every labor and employment class offered, particularly those taught by former NAA President Ted St. Antoine.

After graduation, Kathryn spent a number of years as an advocate, eventually becoming a senior shareholder in a union-side boutique law firm near Lansing, Michigan. Looking to make good on her goal to make money while endeavoring to be fair, Kathryn left her firm and began arbitrating in 1998.

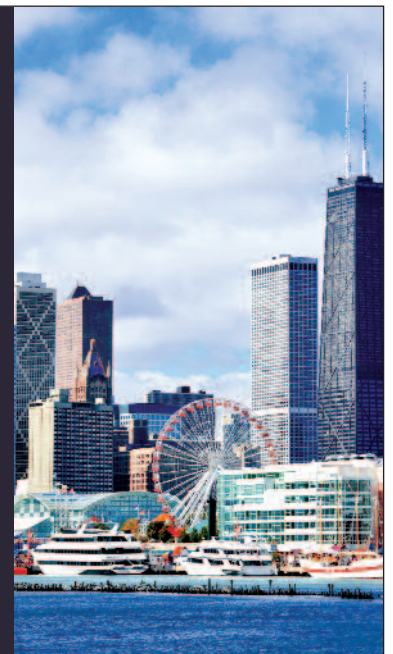
In 2010, Kathryn was admitted to the National Academy and nearly immediately was recruited to serve as the Managing Editor designee of *The Chronicle*. From 2011 to present, she has served as its Managing Editor. She served as Michigan Region Chair from 2010 until 2013, which included representing the region on the Visibility Committee. Most recently, she was appointed to the Arbitration Website Steering Committee. 🗡️



## MARK YOUR CALENDAR

**2017 Annual  
Meeting  
May 24 – 27, 2017**

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





# A Look Back in Academy History

## The Chronicle -- Vol. 1, No. 2 May 1975

### The Chronicle - 40 Years Ago



## The Chronicle's Corner

### The N.L.R.B. and Arbitration



Peter G. Nash

How fares the connection?

The Chronicle: Most, probably all, of the Academy members are at least aware of the Labor Board's decision in the Collyer Insulated Wire Case in 1971 to encourage resort to arbitration, where feasible, before it would rule on an unfair labor practice charge. Perhaps you could begin by outlining the Board's Collyer policy.

Nash: Speaking very generally, the Collyer policy means that formal Board proceedings will be deferred when the conduct leading to unfair labor practice charges also raises related or identical questions subject to arbitration pursuant to a collective-bargaining agreement. The concept of withholding Board processes pending the outcome of private arbitration is not new. The Board has actually been deferring to arbitration on a case-by-case basis for almost thirty years. But it announced more specific guidelines for the present deferral policy in Collyer.

(Continued on Page 5)

## The Law and Arbitration

by John E. Gorsuch

and Pamela B. Shaver

John E. Gorsuch, chairman of the Academy's Committee on Legal Affairs, and Pamela B. Shaver are lawyers associated with the Denver law firm of Gorsuch, Kings, Campbell, Walker and Groves. At The Chronicle request they undertake the following analysis of potential problems of liability for labor-management arbitrators in the 1970's relative to the manner in which they discharge their responsibilities.

The well-known Steelworkers Trilogy, I handed down in the Supreme Court in 1960, culminated a drive to switch the forum of labor disputes from the courts to the arbitration process.

These decisions which "sharply reduced the opportunity to make effective use of the courts in either an attempt to intercept the submission of issues to arbitration or to upset the awards which result," I led many arbitrators to clothe themselves with a mantle to expertise and involuntarily. Recently, however, arbitrators and students of the arbitration process have begun to question whether this course is justified. The 1974 Supreme Court decision in Alexander v. Gardner-Whescon, I whereby courts considering an action involving Title VII of the 1964 Civil Rights Act are instructed to look at "the competence of the particular arbitrator" in deciding what weight to give an arbitral decision, has given grounds for

further doubt. After briefly reviewing the arbitrator's historical position and some of the forces which appear to be undermining it, this article will present some problems and suggestions which have occurred to the author while contemplating the apparently changing status of the arbitrator.

### I. HISTORICAL CONSIDERATIONS

It is not surprising, given the case law since World War II, that many arbitrators have felt that their decisions and awards cannot be questioned successfully by disgruntled parties (except on very limited grounds) and that consequently their pronouncements are "the last word" in a dispute. This feeling of unassailability has doubtless been strengthened by the unique status of arbitrators: they carry out their quasi-judicial function backed by the traditional judicial immunity from personal liability, but unfettered by most of the evidentiary and due-process constraints of the courtroom. At least until recently, the Supreme Court seemed happy to stand behind this 15-year old view of the

(Continued on Page 6)

# The Chronicle

of the National Academy of Arbitrators

Volume 1, Number 2

May 1, 1975

## BOARD UNANIMOUS ON NEW PROFESSIONAL CODE



Hazel and Dave Miller

### Forewarned to a Friend

In October and November of 1974 David Miller sustained a series of heart attacks from which he was never to recover. He died peacefully at home, watched over by those he loved best, on 22 March 1975, at the age of 56.

In the practice of arbitration, to which Dave devoted all of his adult years, 56 is not an advanced age. The years since 1950, when his career as one of the country's leading arbitrators began, shaped and matured his judgment; at the time of his heart attack he was probably at the height of his powers. The great void created by his death, however, cannot be explained simply by his stature as a professional arbitrator: what we mourn is the passing of a fine man, a truly rare spirit who inspired not only respect but also deep affection among all of those who knew him well. It is impossible to summarize adequately those qualities that endeared Dave to his family, friends, and associates. He was a truly modest man; to paraphrase Samuel Johnson, he was content to sail quietly down the stream of regulation without longing to taste the froth from each stroke of the oar. But his modesty was tempered by self-respect and sound judgment, which permitted him to present his views and to pursue his goals with confidence untainted by arrogance. Normally tolerant of opposing points of view, he reacted with forthright indignation against policies he thought were morally wrong. In that connection one remembers a letter he wrote to former-President Nixon protesting this country's policies in respect of Cambodia and Vietnam and our treatment of young men called out to serve in a war which they opposed. Above all, Dave possessed a natural sweetness of disposition and consideration for others that imparted an indescribable grace to everything that he did.

Members of the National Academy of Arbitrators have suffered a special loss; no member has ever devoted himself more completely to our organization than Dave did from the beginning of his six-year term as Secretary many years ago, until almost the day he died. Not too long after he left the hospital, at a time when he had fallen almost 50 pounds below his normal weight and must have had at least fleeting intimations of his own mortality, he wrote a long letter to a friend in his own hand in which he passed quickly over his personal situation and concentrated mainly on Academy matters. Among his comments, the following was typical:

"Yesterday Dick Mittenthal and Joyce came to visit us. Dick reported that the Board of Governors unanimously approved the final draft of the new Code! I am so pleased — a real tribute to the effort of so many but particularly Bill, Syl and Ralph."

It was characteristic of Dave not to mention his own role, as President of the Academy, in tactfully but firmly steering the

(Continued on Page 7)

### Coronary Takes

#### Dave Miller

After a coronary attack in late October, 1974, occurring several days after the mid-month meeting of the Board of Governors over which he had presided in difficult circumstances with notable effectiveness, David P. Miller, 56, died in his sleep March 22, 1975 and was interred March 26 in Detroit.

Born in 1919, Dave Miller entered arbitration as a full-time arbitrator in 1962. He received his B.S. at the University of Arizona in 1948 and an M.B.A. from the University of California, Berkeley, in 1950. He entered arbitration in 1952 after working as an economic analyst in the federal Bureau of Labor Statistics. In addition to ad hoc cases, he held a number of arbitratorships in the intervening years, more recently under the collective agreements of the Aluminum

(Continued on Page 8)

## Presidential Reflections

by David P. Miller

The following commentary on the proposed Code of Ethics was drafted by Dave in the course of his preparation for the October 1974 meeting of the Board of Governors with the understanding that it would be presented in its entirety to the Board and would not be intended for publication. But it is so timely and so pertinent to the current state of mind of the Board of Governors that it is being published in its entirety.

A Code of Ethics that doesn't generate some difference of opinion is likely to be so innocuous as to be of little value. The Board of Governors left it to the Steering Committee to determine whether it would stick to a Code of Ethics involving simple statements or principles — as, thus must do this or that — or to produce a broader Code of Professional Responsibility to include specific indications of



what constitutes good arbitration practice. The Committee chose what is clearly the more difficult course — that is, to adopt a Code of broader dimensions to cover not only purely ethical guides but also "good practice" guides. It is important to understand that the proposed Code of Professional Responsibility is not

(Continued on Page 7)

## ETHICS

(Continued from Page 1) Meeting three votes are planned: on adoption of the Code, on the constitutional enabling amendments, and on requisite by-law amendments. Article 10 of the Constitution which I do not

Modest Thought of the Day On the last day of the Constitutional Convention, Benjamin Franklin spoke: "Mr. President, I confess that there are several parts of this Constitution which I do not

## Miller Services

(Continued from Page 1)

Company of Americans and the Aluminum Workers; U.S. Steel Workers; and Ford Motor Company; and the Auto Workers (S.U.B. and Retirement Plans). Dave served the Academy as Secretary for several years from 1962 during which Hazel and he warmly and graciously hosted the secretarial suite at the annual meetings.

Surviving him are his wife, Lilileen, Stephen and Christine. Dave is survived by his son, who lives in the D.C. area, and his daughter, who lives in the D.C. area.

Administration of the affairs of the Academy continues under the leadership of Richard Mittenthal, President, and the Board of Governors. Dave's death is a great loss to the Academy and to the profession of arbitration.

At the October 11-12 session in St. Louis, vigorous debate explored the concepts and a number of the details of the Simkin Joint Committee draft. Thereafter the Committee recommended and underdetermined further revisions based on the members' perception of consensus brought out in the St. Louis sessions. The fourteenth and final draft of the Committee was sent out to each member of the Academy under date of November 30, 1974.

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decey. He was a sweet, good man. All of us will miss him. "Sleep well, Dave."

There is a phrase that is much with us these days: the Quality of Life. It is usually taken to condescend to environmental conditions, the something to that, of course, is the thinking of Dave Miller, what I mean those attributes that have always been part of his character and nature. These are the inner things and I think of Dave as having lived a life of Quality, the all too brief span of his years.

First met Dave Miller nearly 25 years ago when he came to Detroit to assume the position of Manager of the Board of Administration of the Ford Motor Company and UAW Retirement Plan, the first Pension Plan established through collective bargaining in the auto industry. In a very short time he became the impartial Chairman of that Board of Administration and later one of the Unions under the Ford and UAW. It was then that I learned of the nobility of his spirit.

In every profession the people where in the greatest respect from their colleagues are those who combine superb technical competence with unforgiving loyalty to the profession's highest ideals. As a colleague, Dave left nothing to be desired. Friendly and buoyant in spirit, gracious and serene, his every thought and

action mellowed by gentleness and humility, he was a unifying influence in the hearing room and in the councils of Arbitrators. He believed that the arbitration process is inescapably human, necessarily never flawless, but capable of improvement.

Somewhere in the practice of arbitration, there is a nice balance between dignity and austerity, between courtesy and fairness, between intellectual staidity and snap judgment and indecision. I know I express the feeling of all his fellow arbitrators when I say that Dave Miller had attained that middle ground and had planted his standard upon it. I am certain I do not overstate when I say that we are all poorer and the lives of all of us are enriched for Dave Miller's passing.

The New York Times reported February 7, 1975 that getting the Navajo and Hopi Indian tribes together to settle their almost century-old Arizona land dispute is the new assignment of former New York Governor William E. Simkin. Congress has ruled that the acres inside 1.8 million reservation, must be solved within six months by negotiation. But, Bill is empowered to make a recommendation to the Federal courts.

The following is submitted for the next issue of The Chronicle. Name (PRINT): \_\_\_\_\_ Date \_\_\_\_\_

## BULLETIN BOARD

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# **NAA Members**

## **To Be Recognized in San Francisco**

*The following members will be recognized at the Annual Business Meeting  
on May 23, 2015 at the Westin St. Francis:*

### **Honorary Life Members**

Gladys W. Gruenberg, *St. Louis, MO*  
James L. Stern, *Sarasota, FL*

### **49 Year Member**

Howard S. Block, *Mission Viejo, CA*

### **48 Year Members**

Raymond L. Britton, Sr., *Houston, TX*  
J.F. W. Weatherill, *Ottawa, ON*

### **47 Year Members**

Arthur A. Malinowski, *Morton Grove, IL*  
Seymour Strongin, *Washington, DC*

### **45 Year Members**

William B. Gould, IV, *Stanford, CA*  
Charles J. Morris, *San Diego, CA*  
John C. Shearer, *Overlin, OH*

### **44 Year Members**

Howard D. Brown, *Oakville, ON*  
John Kagel, *Palo Alto, CA*

### **43 Year Members**

Howard S. Bellman, *Madison, WI*  
Neil N. Bernstein, *St. Louis, MO*  
John T. Conlon, *Amherst, MA*  
David G. Heilbrun, *Larkspur, CA*  
Joseph Lazar, *Boulder, CO*  
Thomas P. Lewis, *Vero Beach, FL*  
James J. Sherman, *Tampa, FL*

### **42 Year Members**

Richard I. Bloch, *Washington, DC*  
Marvin J. Feldman, *Cleveland, OH*  
Marcia L. Greenbaum, *Essex, MA*  
James M. Harkless, *Washington, DC*  
Theodore K. High, *Cincinnati, OH*

### **41 Year Members**

Tim Bornstein, *Lincoln, MA*  
Robert B. Moberly, *St. Augustine, FL*  
James L. Stern, *Sarasota, FL*

### **40 Year Members**

A. Dale Allen, Jr., *Waco, TX*  
Stephen B. Goldberg, *Chicago, IL*  
George Nicolau, *New York, NY*  
Herman Torosian, *Madison, WI*

### **25 Year Members**

Joan G. Dolan, *Brookline, MA*  
Jerry A. Fullmer, *Cleveland, OH*  
Norman R. Harlan, *Montgomery, WV*  
James H. Jordan, *Naples, FL*  
Roger P. Kaplan, *Alexandria, VA*  
Paul E. Klein, *Goodyear, AZ*  
Howell L. Lankford, *Milwaukie, OR*  
Eric B. Lindauer, *Portland, OR*  
Roger E. Maher, *Brooklyn, NY*  
Joyce M. Najita, *Honolulu, HI*  
Elizabeth Neumeier, *Gloucester, MA*  
Jeffrey M. Selchick, *Albany, NY*  
Samuel Spencer Stone, *Morgantown, WV*  
Steven M. Wolf, *Villanova, PA*



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

bargaining process came from Gil Vernon and was further developed by the NAA Media and Educational Resource Website Committee appointed by President Jim Oldham and chaired by Gil. With the Board of Governors' enthusiastic support, that Committee worked with Raphael Gely, the CSDR Director, assisted by Bob Bailey, the former Director and current NAA Vice President, to develop a governing Memorandum of Understanding between our two organizations. The MOU was signed on September 9, 2014, and approved by the BOG at the FEC in Memphis. The REF also approved an initial grant to the CSDR to help finance the launch of the website. Once again the REF has shown what an important role it can and does play in promoting knowledge and understanding of arbitration.

The devil, of course, is in the details. Following approval of the MOU, I appointed the Arbitration Website Steering Committee, chaired by Kathy Miller, to undertake with the CSDR the critical step of implementing the project. The other Steering Committee members are Chris Albertyn, Kathryn VanDagens, David Vaughn, and Betsy Wesman.

The website will include permanent, or archival, content, as well as temporary content intended to address arbitration-related events as they occur and are covered in the media. Content will be approved by a four-person Editorial Board. Kathy has been working closely with Rafael, as well as the NAA's two editors -- Gil Vernon and Bill McKee. Academy contributors, who, in addition to the Steering Committee members, are Marty Malin, Jim Oldham, Susan Stewart, and Ted St. Antoine, are hard at work writing and gathering content for the website.

Communications also have been established with the three groups of MU students who will be involved in helping to create the website. The three groups are: 1) a project

team from the renowned Journalism school; 2) the editors of the Law School's Journal of Dispute Resolution; and 3) members of the Law School's nationally-recognized ADR student organization. Several components of the project are being developed simultaneously. For example, while NAA contributors are developing content, the J school team has designed a survey to send to a broad range of journalists in order to determine their knowledge of arbitration and their use of resources for the purpose of ensuring accurate reporting on stories. The J school team will conduct follow-up interviews of journalists and the results will provide a research-based foundation for strategies as to how best to reach journalists and to educate them. Even this small initial step has increased our visibility with relevant sectors of the media.

All of this is very exciting. I am impressed with the considerable progress that has been made and by the huge contribution made by Kathy Miller and her committee and the other Academy members who are devoting so much time and effort to bring this project to fruition.

If any of you have suggestions about the website content and design, you are encouraged to submit them to a special email account that has been established to facilitate sharing of your input with all members of the website team. The address is: [naarb.orgmedia@gmail.com](mailto:naarb.orgmedia@gmail.com)



I look forward to seeing many of you in San Francisco. As described elsewhere in this issue, Laura Cooper and her Committee have put together a stellar program, and Claude Ames and his Host Committee have gone all out to ensure we have a wonderful time in the City by the Bay. 🏖️



**Plan to Attend  
2017 Fall Education  
Conference**  
September 15 – 17, 2017

**Miami Four Seasons  
Miami, FL**

# THE PRESIDENT'S CORNER



*By Shyam Das*

Starting last summer with a truly memorable visit to St. Johns, Newfoundland on the occasion of what I was told was the first All Canada Regional conference held in Canada, I have visited a good number of our regions. These visits have been an especially rewarding and enjoyable highlight of my Presidential year.

Much of the life of the Academy takes place in the regions. Activities range from members-only lunch or dinner meetings to more highly-structured conferences -- some co-sponsored with organizations such as FMCS, AAA, and LERA -- which welcome participation by nonmember arbitrators and advocates. These activities are regularly reported in the Regional Roundup section of *The Chronicle*, which gives a good flavor of the extent and variety of what takes place between our NAA Annual and FEC meetings.

Quite a few of the regional conferences -- a growing number, I think -- include training sessions for arbitrators and/or advocates. I am struck by how much effort and enthusiasm many of our members put into preparing and conducting these sessions. Based on conversations with some of the participants, it is clear that they are highly appreciative of these training programs and the opportunity to better get to know our members and to share their insights and experiences. Of course, it is a two-way street. Our members who put on the training not only have expressed how rewarding this is to them, but pointed to insights they have picked up from their interaction with their "trainees."

I also have been impressed with the substantive sessions I have attended. The smaller number of participants

allows for greater interaction and more intimate sharing of ideas and experiences than often is possible at our larger meetings, as well as greater focus on issues of particular local interest or concern. At one conference, for example, there was a session focused on police body camera recordings. The main speaker, a local Union lawyer, did a terrific job of describing what is going on and the myriad issues that use of such recordings presents -- many of which likely will end up in arbitration cases. The arbitrators in the audience -- mostly our members -- were able to describe some of the issues they already had dealt with and to raise additional thoughtful questions in the context of that locality.

All this takes significant (unpaid) time and hard -- even if enjoyable --

work. I am very proud of the contributions Academy members make at the regional level to promote the practice and understanding of labor and employment arbitration. I also am deeply impressed with the high degree of camaraderie and sheer joy I observed, whether at a conference or simply a members-only get together. As President, I got to see and talk with not only old friends, but also members I really did not know that well. All were extremely welcoming. At the risk of being self-congratulatory, these visits only further confirmed how very special our Academy and its members are.



In my first Presidential column last fall I described the genesis of the ongoing website project the Academy is pursuing with the Center for the Study of Dispute Resolution at the University of Missouri School of Law (CSDR). The initial idea of creating a website to educate and inform the media and the public about arbitration and the collective

*(Continued on Page 23)*

## PLEASE JOIN US

**2018 Annual Meeting  
May 23 – 26, 2018**



**The Fairmont Hotel Vancouver  
Vancouver, BC**