

## 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

#### **2018 Annual Meeting**

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



## San Francisco 2015

## *Annual Meeting May 20-23*

*by Laura J. Cooper, Program Chair*

The Academy’s Annual Meeting in San Francisco will offer a rich variety of programs on labor and employment arbitration featuring nationally-prominent speakers, critical skills training, and sessions on up-to-the-minute developments on substantive and procedural issues.

The conference will open with a presentation by Philip Miscimarra, a Member of the National Labor Relations Board, addressing legal developments in the Board’s doctrine of deferral to arbitration. Two other plenary sessions will focus on the new

generation of workplace drug use issues, including medical and recreational marijuana; and how to apply psychological research to credibility determinations. We’ll also be continuing the successful discussion commenced at the Chicago Annual Meeting on personality disorders. At the San Francisco meeting, experts on arbitration, psychiatry, and law will now be joined by Chai Feldblum, a Commissioner of the Equal Employment Opportunity Commission, who will address the Americans with Disabilities Act’s impact on these workplace mental health issues. We look forward as well to the Presidential Luncheon address from Shyam Das.

We’ll have the pleasure of hearing from two NAA members from the Bay Area who have gone on to prominent national positions. The Distinguished Speaker Luncheon will be by The Honorable George P. Shultz, who served in four Cabinet-level positions, including Secretary of Labor and Secretary of State. The

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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: 2016 Fall Education Conference September 30 – October 2, 2016



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

# The Chronicle

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# SAN FRANCISCO BECKONS

by Bonnie Bogue, Annual Meeting Host Committee

Who really needs a “come on” to visit San Francisco? Who among us doesn’t have a favorite image of this marvelous City by the Bay. But just in case you are wavering about whether to attend the 2015 Annual Meeting, here are ten good reasons to come:

1. The stunning new Bay Bridge
2. The stunningly mature Golden Gate Bridge
3. Too many super restaurants and not enough time
4. Breathtaking views of the Bay and the Pacific
5. The San Francisco Giants
6. The seven hills and those “little cable cars”
7. An abundance of art, music, and theater
8. Fascinating history
9. Lovely weather—before the summer fog
10. And did I mention the Giants?

**Old San Francisco Style** – We meet at the venerably elegant Westin St. Francis on Union Square in the heart of downtown, close to art galleries, theaters, shopping, and a BART station (at Powell and Market). After opening in 1904, the St. Francis was brought down by the 1906 earthquake. But it reopened in grander style two years later. A hundred years of additions and renovations have kept pace with the times without marring its historic ambiance. The walls are lined with historic photos of visiting royalty and other famous folk.

**New Bridge:** If you fly into Oakland (an easier airport), you’ll get the bonus of driving across the City’s newest attraction – the breathtaking suspension of the eastern span of the San Francisco Bay Bridge. The bridge is beautifully lit at night, especially if viewed from the San Francisco waterfront north of the bridge.



**Seeing the Sights:** It is your choice what to see and when to see it. A good start is to hop on an open double-decker on/off tour bus right across the street from the St. Francis. A 48-hour pass is the best bet. Or, opt for an organized ferry or bus tour of the City, the Bay, or outlying areas like **Muir Woods** or the **wine country** to the north or **Monterey** to the south. Even whale-watching out through the Golden Gate to the **Farallon Islands Marine Sanctuary!** We have not organized a tour for spouses and companions (or truant attendees) because there are so many alternatives. Find a tour that suits you at [www.sanfranciscotours.us](http://www.sanfranciscotours.us). Come early or stay late to make the most of your visit.

**S.F. GIANTS!** We’ll have a block of seats to see our home town **World Series champions**. AT&T Park is a beauty: close in, just south of Market Street. For more information please contact Nancy Hutt, [camhutt@gmail.com](mailto:camhutt@gmail.com) or our local organizer, Paul Roose, [paul.roose@ggdr.net](mailto:paul.roose@ggdr.net).

**Restaurants.** Food and wine are a San Francisco thing. Cuisine for all palates. The **Dine-Around** provides the opportunity to meet new

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## SAN FRANCISCO: MAY 20-23, 2015 *(Continued from Page 1)*


Fireside Chat will feature an interview with William B. Gould IV, former Chairman of the National Labor Relations Board, and now Chairman of the California Agricultural Labor Relations Board.

Presentations will offer the latest results from significant empirical research, including work by Alexander Colvin on employment arbitration decision-making and by Kevin Banks on timeliness issues in Canadian dispute resolution. There will be practical sessions on how to avoid stereotyping and unconscious bias in assessing witnesses and on how arbitrators can manage multiple parallel employment arbitration claims when waivers preclude class action consolidation. You’ll want to register early to obtain one of the limited opportunities to join the labor history walking tour of the Union Square area

led by Catherine Powell, Director of the Labor Archives and Research Center at San Francisco State University.

Substantive sessions will address the most current significant issues in industries including the public sector, airlines, and postal, as well as thorny issues for tripartite boards used in diverse industries. Recognizing that discipline and discharge cases constitute the largest portion of arbitrators’ caseloads, we’ll devote a number of sessions to this topic including how the new rush to equip police officers with body cameras will affect arbitration of alleged police misconduct, how the Americans with Disabilities Act complicates cases in safety-sensitive workplaces, and the surprising complexity of employee resignation issues. Also included will be our traditional session bringing you the latest developments at the U.S. designating

agencies. Another session will feature a debate on the role of estoppel in Canadian labour arbitration. The program will afford continuing educational credit for attorneys, including special credits in ethics and elimination of bias, and HRCI credit for human resources professionals.

We think you’ll find spending these days in San Francisco with arbitration advocates and NAA colleagues and friends to be a delightful and engaging experience. Plan to come and do tell the advocates you see how much they would enjoy attending the NAA’s Annual Meeting. (If you would like to help in getting the word out to advocates about our program, you can download a two-sided flyer of program highlights from the Academy’s website under “Upcoming Meetings.”) 



# SAN FRANCISCO BECKONS *(Continued from Page 3)*

people and join old friends in small groups at selected restaurants. Sign up at the conference. We are also compiling a list of great restaurants for your own exploring, to be available at the registration desk.

**Performing Arts:** We'll have a block of reserved seats to hear the award-winning **San Francisco Symphony** (information in registration materials). The **S.F. Jazz Center** will be featuring local jazz and blues singer Lavay Smith and her Red Hot Skillet Lickers. Jazz and Japanese food? You bet! **Yoshis** in Oakland, at Jack London Square on the Bay. For theater buffs, the **America Conservatory Theater** (a block from the hotel) will be showing Sondheim's *A Little Night Music*. Tickets at [www.act-sf.org](http://www.act-sf.org). The Tony-winning **Berkeley Repertory Theater** is a 25 minute BART ride from Powell Station and a half-block walk from the Berkeley Station. British comedy *One Man, Two Guvnors* will be playing ([www.Berkeleyrep.org](http://www.Berkeleyrep.org)). Sadly, no Opera or Ballet while we're in town.

**History:** San Francisco is teeming with history—from the Spanish friars to the Gold Rush to the dot-com boom. A "labor town" with rich **labor history**, it has just marked the 80<sup>th</sup> anniversary of the 1934 waterfront and general strike. One concurrent session is a **walking tour** of labor-history sites near Union Square (fairly level, no hills to climb!) For in-depth sleuthing, get the *San Francisco Labor Landmarks Guidebook* (sites, photos, and walking tours) from the Labor Archives & Research Center ([www.library.sfsu.edu/larc](http://www.library.sfsu.edu/larc)). San Francisco was first and foremost a port, so the **Longshoremen's** turbulent history is featured in that book. Don't miss the **historic**



**ships** moored at the Hyde Street Pier and the **Maritime National Historical Park Museum**. For social history, there are **New Deal murals** at **Coit Tower** atop Telegraph Hill and at Rincon Annex south of Market.

**Chinatown** (landmark gates are five blocks from the hotel) is colorful and historical—the initial residents played key roles in the Gold Rush and building the transcontinental railroad. It is the largest Chinatown outside of Asia and the oldest in North America. Visit the Chinese Historical Society Museum on Clay.

**Mission District.** For a step back to 1776, visit the Spanish **Mission Dolores** in the center of the culturally vibrant Mission District (two BART stations from the Powell Station that is close to Union Square). Take in the **Carnival Festival** May 24 and 25 with inter-



national food, music, dance, arts & crafts, and entertainment (family friendly).

**Museums:** San Francisco boasts more than 50 museums, covering any topic you can think of. Two great art museums are the **deYoung** (in **Golden Gate Park**) and **Palace of the Legion of Honor** (in **Lincoln Park**) (See [www.famsf.org](http://www.famsf.org) for exhibits and directions.) The amazing **Asian Art Museum** is at the Civic Center, one BART station from the nearest BART at Powell and Market. (The Modern Art Museum is closed for renovations.) If art is not your thing, take a cable car up Powell over Nob Hill to Washington, and walk a block to the **Cable Car Museum** on Mason. Golden Gate Park also features the **California Academy of Science**, **Aquarium**, and **Botanical Gardens**. (For more, see Wikipedia's list of museums in the San Francisco Bay Area.)



# MILESTONES

Edited by Michael P. Long

## NOTEWORTHY HONORS & PROFESSIONAL ACTIVITIES

**Doug Collins** – has been appointed by Mayor Garcetti to a second five-year term as a member of the Los Angeles City Employee Relations Board, where Doug has served as Chairman for the last few years, as well as the ERB's Executive Director from 1972 to 2000.

Since its inception, the ERB has always had at least one NAA member among its ranks, and sometimes as many as three out of the five including stalwarts such as **Leo Kotin, J.A.C. Grant, Laurence Guild, Mel Lennard, Bob Leventhal, Tom Roberts, Tony Sinicropi, Geraldine Randall, Joe Gentile, Marshall Ross, Don Weckstein, Edna Francis, and Fred Horowitz**. For the last year Doug has been the only NAA member on the Board. However, he's happy to note that the membership application of the ERB's long-time Executive Director, Bob Bergeson, was approved at the recent FEC, so the Board is assured of a connection to the NAA for at least the next few years.



**Jim Darby** – of Lancaster Pennsylvania, recently completed nine years as a Board Member with the Pennsylvania Labor Relations Board. Jim was twice appointed by the Governor and unanimously confirmed by the Pennsylvania Senate to the three-member Board. With Jim being replaced on the Board by a hospital executive, the Governor and Pennsylvania Senate have discontinued the longstanding practice of having a neutral serve on the Board along with one representative from management and one from labor.



**Josh Javits** – has been elected as president of the National Association of Railroad Referees, succeeding **Elizabeth Wesman**.



**Daniel F. Jennings** – Andrew Rader Professor of Industrial Distribution and the Program Director of the Master of Industrial Distribution at Texas A&M, has been recognized as an outstanding alumnus of the Industrial and Systems Engineering Department at the University of Tennessee. Dan graduated from Tennessee with honors in 1961. He joined the Texas A&M faculty in 1997 after 13 years at Baylor University and 20 years in industry. He earned his MBA degree from Northeast Louisiana University and his PhD in Strategic Management from Texas A&M.

**Susan Grody Ruben** – has been named to the American Bar Association Labor & Employment Law Section Council and the American Bar Association Dispute Resolution Section Council.



**Rosemary A. Townley** – was included in the 2014 Super Lawyers / New York Metro Magazine in the practice area of Alternate Dispute Resolution.



**Elizabeth C. Wesman, Barbara Deinhardt and David P. Twomey** – were appointed by President Barack Obama Chair, to a Presidential Emergency Board (No. 247) to help resolve a dispute between the Southeastern Pennsylvania Transportation Authority and some of its employees. **Elizabeth Wesman** will serve as Chair. The President stated that he believed that the Board would provide a structure that would allow the two sides to attempt to resolve their disagreements. In the 60 days following its establishment, the Presidential Emergency Board mission included obtaining final offers for settlement of the dispute from each side, and then producing a report to the President that selects the offer that the Board finds to be the most reasonable. The Board's report is not binding, but the party whose offer is not selected would be prohibited by law from receiving certain benefits if a work stoppage subsequently occurs.



**Arnold Zack** – has been booking it. In early November the first cartons of labor arbitration books donated by *National Academy of Arbitrators* members arrived at the U.S. Consulate in Guangzhou for delivery to Sun Yat Sen University. About one hundred labor relations classics sent by Howard Foster plus other NAA book donations are being used in the burgeoning field of labor negotiations and dispute resolution. Arnold asks that NAA members keep sending them including full sets of LAR. Extra copies are going to other school libraries in Guangzhou. Donors send books to DC, which are then forwarded gratis by the U.S. Department of State. Arnold says, "Start packing those cartons; the only outlay is book postage rate to DC; that and book value are fully tax deductible."

Here are the details: Books in cartons weighing no more than 66 pounds with total dimensions of no more than 77 inches

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# MILESTONES *(Continued from Page 5)*

(W+L+H) may be mailed at US domestic book rate to:

Michael Marble (C/O Books)  
Unit 4090 Box 2066  
DPO, AP 96521

The US Department of State will pay the ongoing shipping charge for sending the books to Guangzhou and our Consulate there will deliver the books to the Sun Yat Sen University Library. There is no restriction on the number of books, but to avoid more sets of LAR, or copies of Elkouri, I would appreciate your advising me (Arnold Zack) of what you intend to send.

The library is very appreciative. Any duplication will be sent to the Lingnan business school library, also a part of SYS.

Below is the photograph of Arnold with Thomas Kochan and associates celebrating the arrival of the first 8 cartons of Books for the International Center for Joint Labor Research at Sun Yat Sen University.



## ***PUBLICATIONS & PRESENTATIONS***

**Bonnie Bogue** – along with Katherine Thomson have completed the 4th edition of the ***Pocket Guide to Public Sector Arbitration: California***, released in January 2015 by the CPER Program at U.C. Berkeley. Originally authored by Frank Silver and Bonnie Bogue, the handbook has been in high demand since the first edition in 1992. This new edition for the first time speaks to the role of the ***National Academy of Arbitrators***, the standards for becoming an arbitrator, as well as the historic origins of arbitration. The principles, practices, and procedures are national, but this book is necessarily geared to California because of the state's statutory framework. (California boasts seven public sector bargaining statutes, two procedural protection acts for law enforcement and firefighters, and the California Arbitration Act, all of which yield PERB or court rulings that affect arbitration.) Bonnie and Katherine are also authors of the companion, ***Pocket Guide to Just Cause: Discipline and Discharge***, published in 2010 with the support of the National Academy's Research and Education Foundation. The Pocket Guide series was commenced in the 1970's, when Bonnie co-authored the first one, a guide to the local government bargaining statute (now in its 15th edition). Currently there are 23 titles in the series. See <http://cper.berkeley.edu> to see the titles, that include guides to due process and fact-finding. The California Public Employment Relations Program is part of Berkeley's Institute for Research on Labor and Employment.

*(Continued on Next Page)*

## ***Continuing Call for MILESTONES***

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

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

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

Professor Michael P. Long  
Chair, Department of Human Resource Development  
495-A Pawley Hall  
Oakland University, Rochester, MI 48309.  
Phone/fax (248) 375-9918

# MILESTONES *(Continued from Page 6)*

**Richard Fincher** – of Phoenix has been selected for a Fulbright Program Scholarship to teach at Ton Duc Thang University (TDTU) in Ho Chi Minh City, Vietnam, for the spring semester of 2015. TDTU is one of the three universities in Vietnam with a school of industrial relations. His teaching load will include courses in conflict management, collective bargaining and clinical studies. His research focus will be on preventing successive wildcat strikes in garment factories. In March 2015, TDTU will be hosting an International Conference on Comparative US-Vietnam labor law and ADR. For the past four years, Richard has traveled to Vietnam for USAID as a Consultant in Workplace Dispute Resolution. The USAID labor project was dedicated to increasing worker rights, as part of the ongoing trade preference negotiations.



**Alvin Goldman** – has authored a new book. Kluwer Law International recently published “Labour Law in the USA, 4<sup>th</sup> Edition,” by Alvin Goldman and Roberto Corrada. The treatise is part of the *International Encyclopaedia of Labour Law and Industrial Relations* and is available as a separate paperback book printed on demand. Alvin Goldman also prepared “Settlement of Disputes Over Interests and Rights,” in *Comparative Labour Law and Industrial Relations* published in mid-2014 by Wolters Kluwer Law & Business.



**Mark Sherman** – in addition to continuing his decades-long service teaching dispute resolution courses to Japanese Executive MBA students at Bond University on the Gold Coast of Australia, has, in October, started doing some dispute resolution training for the Telecommunications Regulatory Authority of Bahrain (their FCC).



## ON A PERSONAL NOTE

**Matt Franckiewicz** – passed more than 300 mile of stones and learned a new song recently, when over the course of a week he bicycled from Pittsburgh to Washington DC along with four other “young men” (as one waitress insisted repeatedly calling them) and three of their wives. One of the wives, a terrific string player, taught the cyclers “Ukulele Lady” along the way. The cyclists followed the Allegheny Passage and the C & O Canal trails. At the end of the trail, they calculated that their combined ages as 339, while they estimated the mileage at 335. Matt, who survived two falls but no broken bones, says: “It’s great to be a ‘young man,’ but my joints don’t feel so young right now.”



**Albert Gese** – is a man of true service to his country, who deserves our admiration and greatest respect. Now 94 years old, Albert has recently been appointed a “Chevalier” (knight) of the Legion of Honor, by the French government, for his role as a P-38 pilot in the 20<sup>th</sup> Fighter Group from August, 1943 through August 20, 1944. The French government expressed appreciation for the Fighter Group’s contribution in defeating the enemy – “that brought about the liberation of France.”

Albert says that in his retirement years in the states of Arizona and Washington, he’ll occasionally recall some event from his ten years as a Field Examiner with the NLRB, his seventeen years as a Mediator, with the Federal Mediation and Conciliation Service, and his fifteen years as an Arbitrator. However, he says, “As my mind drifts into the past, in this 94-year old body, it still vividly recalls my many pilot friends who lost their lives in the effort; the day my roommate failed to return from a mission; the numerous occasions where I had the good fortune to make it back to our base in England; and, the days in Normandy with the war raging around me.” Thank you, Albert, for all that you have done and the inspiration that you have provided.



**Bill Holley** – has a fallback occupation discovered at the NAA Fall Conference in Memphis, Tennessee. He channeled Johnny Cash when he was selected from a group of National Academy colleagues at the Sun Studio tour, about one mile down Union Avenue from the Peabody Hotel where the Fall NAA conference was held, to strum Johnny Cash’s guitar and lead the group in a sing along to “I Walk the Line.” Bill offers that he saw Johnny Cash imitate Elvis Presley in a Sun Studio Road Show concert in Clarksdale, MS from the 1950’s. Also

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# MILESTONES *(Continued from Page 7)*

performing at this concert were a few other wannabees who also turned out to be pretty good: Carl Perkins, Roy Orbison, and Jerry Lee Lewis. Bill says he has private pictures, but is giving no autographs.



**Lou Zigman** – and wife Fran produced the “Final Tribute” to their pal, comedic legend Sid Caesar on November 4, 2014, at the New York Friars Club. Those participating in the tribute included Mel Brooks, Carl Reiner, Garry Marshall, Tony Orlando, Robert Klein, Joe Bologna, Renee Taylor, and Fyvush Finkel. At the conclusion of the show, Sid’s daughter Karen, presented the beautiful portrait that hung in Sid’s living room for 30 years to the Friars Club.

Over the past twenty-five years, Lou & Fran helped to create both the Brooklyn Celebrity Path in the Brooklyn Botanic

Gardens and in the Bronx Grand Concourse at 134th-161st Streets, Walks of Fame - by inducting many of their personal entertainment friends and heroes. Lou says, “Fran and I ‘retired’ from doing them three years ago after a great run of 33 years. We came out of semi-retirement to produce this *final tribute* to our very close friend a few weeks ago. I believe it’s something that both old and younger people might be interested in.

“Most people *under 60* know Sid from his character as the coach in Grease. Just ask your kids or grandchildren if they saw Grease and if so, mention the coach and you will see the immediate reaction of smiles lighting up their faces. Sid was always thrilled to hear that he reached the younger generations when we told him that.” We are thrilled to have the team of Lou and Fran Zigman as NAA colleagues. 🍷

## LRF IMPORTANT REMINDER

If you are sued or subpoenaed, you absolutely **MUST** contact one of the LRF Coordinators **BEFORE** notifying your insurance company!!!! Failure to do so will make you ineligible for LRF coverage.

The Coordinators for 2014-15 are:

Sara Adler, Coordinator  
310-474-5170  
[sadlerarb@earthlink.net](mailto:sadlerarb@earthlink.net)

Luella Nelson, Assistant Coordinator  
503-281-8343  
[luella.nelson@SBCGlobal.net](mailto:luella.nelson@SBCGlobal.net)

Barbara Deinhardt, Assistant Coordinator  
718-237-8693  
[bdeinhardt@aol.com](mailto:bdeinhardt@aol.com)

The reason for this requirement is that the vast majority of matters involving our members will not require action by the insurance company but every, and I do mean every, notification is counted as an occurrence for underwriting purposes. Thus, notification to the insurer eventually increases our premiums without any corresponding benefit from the insurance – a result we’re trying to avoid.

Please note, the maximum reimbursement from the LRF is \$3,000 and most members carry a policy with a \$3,000 deductible. If you choose, you can get a higher deductible with a somewhat lower premium, but the extra deductible will not be reimbursed by the LRF. 🍷

## Michael J. Fox Benefit For Parkinson’s Research Gala



Margie Brogan and Barry Winograd, Bob and Lynn Moberly, Elizabeth Wesman and husband, Bob Lind, Susan Stewart and husband, Ken Petryshen, Emily Burke, and Linda Byars enjoy the Michael J. Fox benefit for Parkinson’s Research gala in Waldorf, New York, the result of their successful bid in the REF auction.



# REGIONAL ROUNDUP

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

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 Region Chairs below for more information.

As an initiative of the NAA Regional Education committee, members have developed training materials, and will be conducting training for the fourth year in a row immediately preceding the FMCS Symposium in Atlantic City, May 7 and 8, 2015. The training is sponsored by the NAA Regions of the Mid-Atlantic, Metropolitan D.C., Northern New York, Metropolitan New York, and Western Pennsylvania. This NAA training will include two separate tracks, one session focusing on arbitrator development, and one session for advocates that will include a mock arbitration performed by the participants.

Also, as noted below, for the second year, Regional Education Committee materials were used with great success by the Southern California Region in November 2014.

## CANADA

The Region gives the following report regarding the FEC meeting in Memphis: an impromptu Canada Region meeting broke out over BBQ and beer at the Rendezvous Restaurant on the Saturday evening, henceforth to be referred to as: "the rendezvous at the Rendezvous." A number of subcommittees were formed and their meetings were subsequently held, late into the night, at various Beale Street establishments. Very early the next morning Elvis was spotted at the magazine rack of a nearby corner store, although this report could not be confirmed.

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

## CENTRAL MIDWEST

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

## METROPOLITAN D.C.

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

## METROPOLITAN NEW YORK

The New York Metro Region had a wonderful meeting at the AAA with Ann Lesser and the Case Managers in October. They are in the planning stages of upcoming meetings, to which non-NAA Arbitrators will be invited, as well.

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

## MICHIGAN

The Michigan Region had a meeting on October 7, 2014, where Robert Vercruysse, an attorney representing management, and James Moore, an attorney representing labor, conducted a panel discussion on the subject "What the Advocates Expect from the Arbitrators." It was indeed a lively discussion, no holds barred and well-attended. All the members attending said it was a great meeting.

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

## MID-ATLANTIC

The Mid-Atlantic chapter held its annual fall meeting on October 14<sup>th</sup> at the Philadelphia offices of the American Arbitration Association. Members enjoyed "little bites" and wine and the company of their fellow members. They had such a good time being together that they are breaking up their anticipated mid-winter blues with a January "Do-Dah" at the home of President Shyam Das and Kathy Miller. Their March meeting will once again be devoted to a "Meet the Arbitrators" cocktail party to which they will invite the Philadelphia labor relations community, as well as member and non-member arbitrators alike.

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

## MISSOURI VALLEY

The Missouri Valley Region of the National Academy of Arbitrators meets nine Fridays annually from September through May. Each meeting features a CLE speaker discussing timely topics of interest to NAA members.

This fall, speakers have addressed: "Hot Topics In Arbitration;" "A Union Advocate's View of Arbitrators- Best and Worst Practices;" "A Management Advocate's View of Arbitrators- Best and Worst Practices;" "Arbitrator's Symposium- Scheduling, Billing, Conferences." Future meetings in 2015 include: "Arbitrating the Employment Case- Plaintiff's Perspective;" "Arbitrating the Employment Case-Defendant's Perspective;" and "Discovery Parameters in the Employment Case."

They have been in contact with NAA President Shyam Das who hopes to speak at one of their 2015 meetings. They are also pleased to announce that Gerry Diekemper, a long time friend of the NAA, has been approved for NAA membership and will be inducted in San Francisco in May, 2015.

They are working with the Gateway Chapter of LERA in co-sponsoring an all-day arbitration seminar. They have agreed on the topic of "Arbitration- The Good, The Bad, and The Ugly." Details as to speakers and seminar date are under discussion.

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)

# REGIONAL ROUNDUP *(Continued from Page 9)*

## NORTHERN CALIFORNIA

The NAA NorCal Region held a stimulating dinner meeting on Thursday Nov. 13 in Oakland, CA with NAA member and Stanford Univ. Professor Bill Gould giving them a look at his new and challenging role as director of the California Agricultural Labor Relations Board to which he was recently appointed by Governor Jerry Brown. The talk was of keen interest to those who were present, especially since several were involved in the ALRB's history.

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

## OHIO-KENTUCKY

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

## PACIFIC NORTHWEST

A small but dedicated group of Region 17 members gathered in Astoria, Oregon during the weekend of October 17-19 for our annual Fall Retreat. In addition to catching up with colleagues and meeting for a Saturday evening dinner with several spouses also in attendance, the group began planning the program for the Pacific Northwest Arbitrators' Conference to be held in Portland, Oregon on March 18, 2015, in conjunction with the Oregon LERA Conference scheduled for March 19-20, 2015. Anyone interested in attending should contact Michael Cavanaugh for additional information.

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

## SOUTHEAST

The Southeast Region of the National Academy of Arbitrators will hold its annual regional meeting at the Crowne Plaza Hotel in Tampa, Florida on February 27-28, 2015. The region will sponsor a one-day Advocates Training Program on Friday, February 27, 2015 featuring NAA Arbitrators Vicki Cohen, Don Crane, Harry Gudenberg, Martin Soll, Hoyt Wheeler, and Jeanne Charles Wood serving as Arbitrator / Coaches. The cost for this one-day training program is \$200.

The NAA Southeast Regional meeting begins with a cocktail reception on Friday evening, February 27th, followed by a dinner hosted by Regional Chair Phil LaPorte. The NAA Southeast Regional Meeting will feature the Presidential Address by NAA President Shyam Das, an Agency Update from AAA, FMCS and the NMB, a postal panel led by NAA Arbitrator Bill Holley, a panel examining arbitration procedures in professional sports leagues, and a discussion of diversity and arbitrator acceptability. The price for the NAA SE region meeting is \$300. Arbitrators and advocates are encouraged to attend both events for a total price of \$400.

Please note that the Crowne Plaza Hotel in Tampa is offering a \$129 per night conference room rate for NAA SE regional meeting attendees. The Crowne Plaza is located three miles from George Steinbrenner Stadium, the spring training stadium of the New York Yankees. Tampa has more baseball spring training camps and stadiums located in close proximity than any other city in Florida. Plan

now to attend the NAA SE regional meeting in Tampa. More information is available at the NAA SE web site at <http://www.NAASoutheast.org>.

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

## SOUTHERN CALIFORNIA

The Southern California Region held a Holiday Dinner on December 13 at a local bistro in Culver City. The dinner was well attended. The holiday spirit prevailed with members and guests bringing their spouses or significant other. On March 16, 2015, the So Cal Region will be hosting NAA President Shyam Das, an important event in our meeting year.

A regular meeting was held in September. The DVD, "The Art and Science of Labor Arbitration," was shown and discussed. It's an entertaining film and features many NAA arbitrators, a few of whom are no longer with us.

On November 13, 2014, the Region conducted an Advocacy Training Workshop for labor and managements representatives using materials prepared by the NAA Regional Educational Conference Committee. Approximately 50 advocates with varying levels of experience from the public and private sectors attended. This is the second consecutive year the Region has conducted these successful programs.

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

## SOUTHWEST

Reminder: SWR's 38th Labor-Management Conference is being held on February 19 through 21, 2015, at the Houston Hobby [airport] Doubletree Hotel. All NAA members are welcome to attend. Program includes guest dinner speaker Allison Beck, Acting FMCS Director; Arbitrator Training session, AAA and FMCS updates session with Patrick Tatum and Arthur Pearlstein respectively; guest luncheon speaker NAA President Shyam Das; NAA Member John Sass's session on marijuana and workplace issues; and much, much more. Visit [www.naaswr.org](http://www.naaswr.org) for more information.

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 Western Pennsylvania region held its annual holiday dinner for local NAA members and neutral guests on Monday, December 15, 2014. The dinner was held at Bistecca Steakhouse and Wine Bar at the Meadows Racetrack and Casino, located in Washington, Pennsylvania. The members always look forward to spending a good time and good conversation together in a holiday-themed setting.

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



## COMMITTEE ON PROFESSIONAL RESPONSIBILITY AND GRIEVANCES

*By Paula Knopf, Chair*

I was working recently with a very esteemed colleague putting together some scenarios for an “ethical issues” workshop for arbitrators in my province. We have both arbitrated for over thirty years and I consider this colleague to be the epitome of a moral compass for us all. In the process of crafting those scenarios, we did a “read through” of the Code of Ethics for our provincial organization. We were both sure that we knew its contents well, but thought that a “fresh read” might inspire some interesting ideas. Our Code was carefully drafted decades ago and has served us well. As we read through it, the basic principles of professionalism, integrity and, yes, good sense, shone through.

Then we came across a provision that shocked us both. The content of this rule is not important for purposes of this article. What is important is that we immediately realized that probably no one in our organization was aware of this rule or had followed it for decades. Nor did we think that the labour relations community would expect this rule to be followed literally. This has spurred an interesting conversation. In discussing this provision with leading counsel in our community, several commented that we are setting higher standards than the parties would expect of us. Perhaps that is a good thing. However, the ensuing conversation in our local organization has led to the realization that perhaps our local Code is ripe for a thoughtful “re-think” to ensure that all its provisions are appropriate and can remain operative for the foreseeable future.

What is the point of this confession of my local organization’s navel gazing? There are two points. First, although each of us may pride ourselves as being knowledgeable and in compliance with our regional, appointing agency Code of Ethics or the NAA Code of Professional Responsibility, a careful re-read may trigger insights or reveal standards that one wasn’t aware of before. In the case of the NAA’s Code, we also have the advantage of the Advisory Opinions that give life and context to our Code’s provisions, thereby helping us to better understand and apply important standards of practice.

Secondly, a periodic re-read of the Code can reveal something that may have been thoughtfully adopted decades ago but that may no longer apply to modern labour arbitration practice. Further, new issues may have emerged that warrant modern approaches to professional standards.

One of the mandates of the Committee on Professional Responsibility and Grievances (CPRG) is to recommend revisions of the Code or Advisory Opinions to the Board of Governors. Our Constitution sets out the process that must be followed before any changes are made, [Article IV, s.2]. Consistent with that mandate, the newest Advisory Opinion 25 has just been issued to address the issues surrounding the giving of references or participation in professional activities. Further, at the suggestion of a member, we are currently taking a second look at an existing Advisory Opinion to determine if its advice is still viable or

appropriate for the profession and/or the parties who appear before us.

It is our professional responsibility to know and abide by the Code. It is also our duty to our profession to ensure that our Code remains applicable and effective. To that end, the CPRG encourages everyone to re-read the Code and Advisory Opinions carefully and regularly. We also welcome any requests to study existing provisions or consider new ones.

As a final note, I am delighted to announce that a new member has been added to the CPRG. Melissa Biren has joined the Committee and has already proven to be a valuable voice of reason and wisdom. The CPRG is now composed as follows:

Melissa Biren

James O’Grady

James Darby

Elizabeth Wesman

Howard Foster


David Williamson

Paula Knopf

Barbara Zausner

William Miller, Jr.

You are welcome to contact any one of us for advice on a confidential basis and/or to make suggestions for our consideration.

I am also pleased to announce that Dan Nielsen will take over as Chair of the CPRG in the Spring 2015. His wealth of knowledge, integrity and expertise will provide invaluable leadership to the Committee and the NAA as whole. 

## Research and Education Foundation Report

**By Elizabeth Wesman, President, REF**

The documentary film "The Art and Science of Labor Arbitration" is completed and in production. It is available to members of the NAA for a discounted price from the College of Labor and Employment Lawyers via their web site. The trailer for the film may be accessed on the REF section of the NAA web site. The REF is proud of the final product and especially thanks the film's participants, the film's narrator, Alan Symonette, and the film's director, Carol Rosenbaum, for their work on this project. As a reminder, 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>

Over the past months, a committee of two CLE members and three NAA members has nearly completed an excellent study guide to accompany the film. The guide should be completed and available in the next few months. The REF is grateful for the hard work of Bernard Dobranski and Susan Wan of the CLE and to REF directors Beber Helburn and Martin Malin (REF director and CLE member) and to NAA member Joan Parker, for producing a fine study guide in a relatively short period of time.

Two ongoing REF-funded research projects are proceeding on schedule:

### *Arbitration Delay Study*

A team of academics at Queen's University and Northern Illinois University are focusing on the extent and cause of arbitration delay using Canadian data. Delay of grievance arbitration cases that deal with statutory claims is being examined. Results from this study will be presented in San Francisco.

### *Adjudication of Statutory Claims: Comparing Arbitration and Human Rights Tribunals in the Province of Ontario*


Led by Professor (and NAA member) Martin Malin, a team of U.S. and Canadian researchers are comparing the process, outcomes, and the handling of questions of law in cases resolved through grievance arbitration versus similar cases resolved by a human rights tribunal.

We are pleased to announce that one new proposal has been approved for funding:

Professor Alexander J.S. Colvin of Cornell University and Mark D. Gough, also of Cornell, have received REF approval to fund their study, "Understanding the Professional Practices and Decision-Makings of Employment Arbitrators: The Impact of Institutional Environments and Workplace Context." Professor Colvin is a leading researcher on employment arbitration and we are pleased to be funding this worthwhile project.

In addition, two new proposals are under review, and the REF Board members discussed them at the Fall Meeting in Memphis. If you know someone, or know of someone, who is looking for assistance in funding a new project, please direct them to the REF tab on the home page of the NAA website.

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Remember that the REF can continue to support such projects only with the generous support of Academy members. As of mid-September we have received donations of approximately \$21,203. This is slightly down from last year at this time, but includes the \$6000 proceeds from the auction. We hope that, as the end of the year grows near, all members will contribute to the Research and Education Foundation. Remember, support for the REF is support for our profession. 



## Social Media and Discipline

**Reported by Randi H. Abramsky**

The Fall FEC meeting began with a plenary session about Social Media and Discipline, presented by Jeffrey Jacobs, NAA Member from Minneapolis. Social media – Facebook, Twitter, LinkedIn and other social media avenues – are changing the way people, especially younger people, interact and communicate. It has the capacity for good as well as harm, and it can get employees into trouble – both for the content of the message and the medium – the internet – which allows the message to reach thousands of people almost instantaneously and can never be eliminated. Is it the medium or the message? Is there a difference if two employees are overheard griping about management at a bar versus the same two employees posting those complaints on Facebook which then goes viral?

Mr. Jacobs explored the generational differences among employees. Someone born in 1990 posts almost everything that occurs in his or her life on Facebook or Twitter, thinks email is old-fashioned, and security is more important than personal privacy. An employee born in 1970, in contrast, uses email, texts, but still has a landline. He or she may use LinkedIn for business contacts, Facebook for friends, but would never post or blog about all aspects of their lives. Finally, employees born in 1950 (which includes a lot of arbitrators) use a cell phones (but may try to save the battery) and email, Facebook (set up by their grandkid) to connect with their kids and grandchildren, and still value personal privacy. Contrast that to junior high school students – the workers of tomorrow – who see sexting as “normal.”

Due in large part to technology and social media, society – and the workplace – is rapidly changing. The question is whether the “old rules” still apply. Employers still have a legitimate interest in protecting against unauthorized disclosures of proprietary information, bul-



**Jeff Jacobs (NAA) was introduced by Brian Clauss (NAA)**


lying, threats, and actions that reflect poorly on the business – but at what cost to the privacy of employees?

In the arbitration context, one of the first issues is whether the Employer has a rule concerning social media at all? If so, how old is it? In this rapidly changing environment, a social media rule can become outdated fairly quickly. If there is a policy, is the policy valid or overbroad? Also relevant is Section 7 of the National Labor Relations Act, which protects “concerted activity” by employees concerning their terms and conditions of employment. The General Counsel of the NLRB has issued a number of memorandums which have found employer rules in this area to violate or

chill Section 7 rights. The Section 7 issue may also come before an arbitrator if the issue is deferred to the arbitrator.

Arbitrators also look at the content of the message – what does it say, what was the intent behind it, what was the actual harm, what is the potential harm? In this regard, whether the employee is in the private or public sector may be material, as a public employee, who is also a taxpayer and citizen, has a right to free speech. Does a “like” on Facebook, or a “thumbs up” constitute “speech”? Does the message go too far, and lose any protection it may have had?

Finally, arbitrators also look at how the information was obtained by the Employer – and whether any rules or laws were violated in the obtaining of the information, which may render it inadmissible. In this regard, the federal Stored Communications Act, an anti-hacking law, may have some relevance.

In Mr. Jacob’s view, it is the medium AND the message. He believes that these cases will arise more and more as employers use social media to find out what their employees are doing and saying about work, and some employees will post critical messages without thinking it through. 

### 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.**

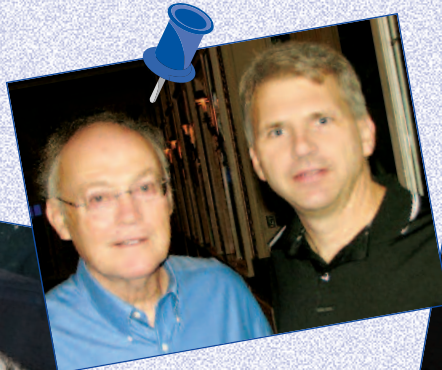
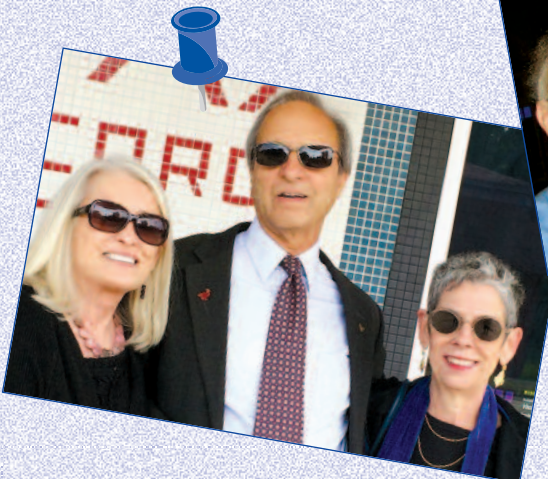
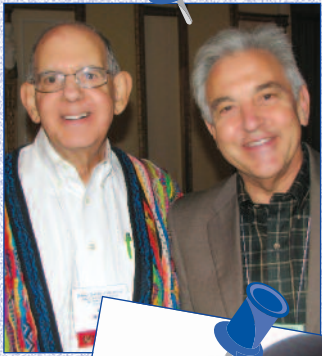






# "SCENE" in Memphis

The Academy's Fall Education Conference held from, October 24 - 26, 2014 at The Peabody Memphis was another successful FEC, with 108 members, 42 spouse/companion/partners, and 4 interns attending. Brian Clauss was Program Chair and William H. Holley, Jr. served as Host Chair. Many interesting and thought provoking topics were discussed at the plenary and concurrent sessions throughout the meeting. A good time was had by all. A special **THANK YOU** to everyone who submitted photos for this issue: Christopher Albertyn, Bonnie Bogue, Margaret Brogan, Linda Byars, Shyam Das, Walt De Treux, Jack Kelley, Joyce Klein, and John Sass.





## Ethical Issues in Arbitration or How to Get into Trouble Quickly

*Reported by Michael P. Long*

Sitting as an arbitrator places one in a powerful position that can have life-altering effects on enterprises, individuals connected with those enterprises and, on many occasions, the public in general. With the power comes great responsibility to act with honesty, integrity, impartiality, and general competence in labor relations matters. The Code of Professional Responsibility of our National Academy of Arbitrators (<http://naarb.org/code.asp>) states that an arbitrator must demonstrate ability to exercise these personal qualities faithfully and with good judgment, both in procedural matters and in substantive decisions. An arbitrator must uphold the dignity and integrity of the office and endeavor to provide effective service to the parties. To this end, an arbitrator should keep current with principles, practices, and developments that are relevant to the arbitrator's field of practice.

The Fall Education Conference addressed these important principles through the presentation titled, "*Ethical Issues in Arbitration or How to Get into Trouble Quickly*," by Rex Wiant, NAA member from Kansas City, MO and Debra Simmons Neveu, arbitrator from New Orleans, LA.

Rex and Debra presented six scenarios to a full assembly of arbitrators who were more than happy to hear what fellow arbitrators had to say on the subject as well as add to the dialogue with elucidating broadly-described tales of their own dilemmas (actual names and specifics sufficiently kept confidential, of course).

There was the case of the night before the hearing in an out of town case disclosure by a well-meaning aunt that one of the main parties to testify was a distant cousin of the



Debra Neveu and Rex Wiant, II, (NAA)

arbitrator. Should the arbitrator disclose this to the parties?

Sections B., 4 & 5 of the Code were cited by audience members from memory. "If the circumstances requiring disclosure are not known to the arbitrator prior to acceptance of appointment, disclosure must be made when such circumstances become known to the arbitrator. The burden of disclosure rests on the arbitrator. After appropriate disclosure, the arbitrator may serve if both parties so desire. If the arbitrator believes or perceives that there is a clear conflict of interest, the arbitrator should withdraw, irrespective of the expressed desires of the parties. Discussion continued as to how this should be accomplished.

Another example concerns a case in which the arbitrator, unbeknownst to the parties, has specialized knowledge of an area of concern in a matter. Pursuant to this, the arbitrator discerns that one of the witnesses is lying – a circumstance that appears to have eluded the parties. What should the arbitrator do? While the Code states that an arbitrator must assume

full personal responsibility for the decision in each case decided, the general consensus was that the arbitrator may exercise discretion as to these matters, consistent with the acceptance of full personal responsibility for the award. A number of different but effective methods of handling such a situation were offered. A number of participants suggested that the arbitrator conduct an in camera discussion with the parties to provide disclosure and discuss an appropriate resolution to the dilemma.

Other scenarios involved long-past affiliations of the arbitrator of one form or another that are unremembered by the arbitrator but are brought up at hearing by one of the parties who has done some internet research, social media in relation to the arbitrator, and requests by one or both of the parties for inside access to the arbitrator's social media accounts, and hearings involving former students of the arbitrator as advocates. The overwhelming theme of the day was disclosure, disclosure, disclosure. The comments of our colleagues regarding how to accomplish this were the most truly enlightening portion of the presentation. It is one thing to know the Code of Professional Responsibility, read the theses and scholarly articles, study case decisions, and keep up with the specifics of the enterprises in which we are called to serve, but there is nothing quite like the free and open discourse between National Academy of Arbitrators members in closed session in relation to our field to keep us up to date so that we can expand our bases of knowledge and tools of mastery through the sharing of experiences and wisdom. Thanks to Rex and Debra for an educational and enlightening session. 🍷

## LABOR ARBITRATION IN THE CROSS HAIRS

*Reported by Michelle Miller-Kotula*

One of the afternoon breakout sessions held during the FEC was moderated by Kathryn VanDagens. The panelists included NAA members Barry Goldman, Mike Long, and Gil Vernon. Panelist Greg Van Pelt (NAA) was unable to attend the FEC, however, VanDagens presented his perspective on the topic based on the fact that he was heavily involved in planning discussions for this session.

The purpose of this session was for the arbitrators to recount their experiences dealing with media interest in controversial arbitration awards they issued. The panel offered suggestions from their personal experiences on how to navigate in this minefield when they find themselves in the “cross hairs.” Significant time was also spent during the presentation for the panelists to discuss the NAA’s newest website project.

VanDagens led the discussion by explaining when arbitrators issue awards it is rare to get a reaction. Sometimes an award gets lots of attention and puts the arbitrator in an uncomfortable situation. Following a video and a panel discussion about some of their personal situations, an open discussion was held about the NAA’s newest project.

Goldman discussed the unfortunate situation he found himself in after issuing an award. He said he followed his practice of listening to all of the facts of the case and made the best decision he could when he issued the award in question. He told the audience of the bad media coverage he received. He did not find for the grievant, and the media reported misinformation about what actually happened.

VanDagens discussed incidents that occurred with Van Pelt in Cleveland. She explained after he worked on a particular case, the news media started to print personal information about him when they wrote articles about his award. He told her it got too personal. Van Pelt’s



L to R: Mike Long (NAA), Gil Vernon (NAA), Kathryn VanDagens (NAA), and Barry Goldman (NAA)

thoughts were that because daily newspapers have been replaced by on-line news, the reporters are not being properly trained as journalists. The reporters are oftentimes paid by the number of hits or clicks received for their on-line articles.

Long talked about being an umpire between Chrysler and the UAW since 1984. He discussed an arbitration he had between the parties related to a video made of employees. He contended the evidence during the hearing warranted returning the 13 employees to work with back pay. He said after his award was issued, the media reissued the video again, but never came to him to discuss the facts of his ruling. He suggested that the arbitrators have a sound bite ready that is difficult to edit.

The question during this discussion became “What option do we have as arbitrators?” Gil Vernon exclaimed, “I am here to save you!” He went on to explain the proactive approach that is in the process of being developed to give the media an idea of what we do as arbitrators.

Vernon discussed a yet-to-be-named NAA media and education resource website that is under development. This website is a result between a partnership with the NAA and the Center for the Study of Dispute Resolution at the University of Missouri School of Law. The Center of Dispute Resolution will work with a newly-developed NAA

committee. He pointed out that subcommittees would be developed. One subcommittee will be responsible to make recommendations on what should be done. He commented that a partnership is also developing between the University of Missouri School of Law and the School of Journalism to help address arbitration for the media. The goal here is to have an educational resource available for the media in order to be proactive. It might include a section on the website for frequently asked questions on facts from area experts.

Vernon stated the website will be designed by the University of Missouri and our members will advise what content must be included. The anticipated target date to “roll out” the website is August 2015. He suggested that the purpose of the website is not to defend one arbitrator, but will be used to educate the media about the arbitration process. It will become a very important resource to the NAA.

The panel discussion opened up to the audience providing scenarios of what has occurred to them personally after issuing arbitration awards. The audience asked several questions about the new initiative and discussed how the NAA could become more proactive in this area. The arbitrators overwhelmingly felt the NAA is taking a big step in the right direction. It was suggested it is an important time for our members to provide input since

*(Continued on Page 18)*



## REMEDIES

*Reported by Randi Abramsky*

One of the roles of an arbitrator is to frame an appropriate remedy. To assist in that process, Michael McReynolds (NAA) moderated a panel with Samuel Morris (Godwin Morris Laurenzi Bloomfield, from Memphis, TN) and Colby Morgan (Of Counsel, Jackson Lewis, Memphis, TN). The panel discussed a number of remedial questions that can arise in regard to discipline cases. There was, somewhat surprisingly, significant consensus between the union and management speakers – but differences as well. It was a lively discussion and there was also significant input from the audience.

In terms of whether there is a distinction between a remedy and damages, both speakers agreed that a remedy may include damages, such as back pay or medical expenses, bonuses, overtime, or vacation. If an improperly discharged employee's COBRA (continuation of medical benefits) expired and he incurred medical expenses, a remedy could include the payment of those expenses. This was distinguished from consequential damages such as the loss of a house due to an inability to make mortgage payments on the basis that the Employer covers medical expenses under a collective bargaining agreement.

In terms of whether an arbitrator may retain jurisdiction, there was consensus that it may be done as to remedy only, for a limited period of time. But not the merits. In terms of the merits, the arbitrator is "*functus officio*" with



L to R: Michael McReynolds (NAA), Colby Morgan, and Samuel Morris

the issuance of the award. It was noted, from a member of the audience, that our Code of Professional Responsibility allows an arbitrator, on his or her own initiative, to retain jurisdiction.

There was also some consensus on "splitting the baby." One arbitrator in the audience voiced concern about a case that took almost three years to arbitrate and though he found that there was not "just cause" for the discharge, the issue was close and he was reluctant to order almost three years' back pay and give the grievant a "windfall." Morris was quick to respond that the back pay was not a "windfall," but a make-whole remedy. In his view, the delay was wholly irrelevant to the question of remedy. Morgan stated that he would prefer to split the baby in that case, but acknowledged that no one really benefits from an award that splits the baby. He did not think the employer would appeal such a ruling.

One area in which there was no real consensus among arbitrators is the

question of interest on back pay. Morris stated that he seeks it often but seldom gets it unless the Employer has delayed the proceeding. Morgan stated that the "traditional" rule is not to award interest, which led to a discussion of the history of that tradition. One NAA member noted that not awarding interest originated in NLRB rulings in the 1960's, which changed in the 1970's, and that she routinely awards interest based on the rate set out in the Federal Reserve Bank website in regard to civil judgments. Other arbitrators stated that they do not award it unless asked. There was consensus, though, that because of the current historically-low interest rates, the issue was not a significant one, either way.

McReynolds closed the session by stating that arbitration, including the remedies ordered, is part of the collective bargaining process and that the parties have to live with the Award. To that end, he suggested that it would be wise to avoid remedial rulings that make it more difficult to do. 🏠

## LABOR ARBITRATION IN THE CROSS HAIRS *(Continued from Page 17)*

we are in the formative stage of our new initiative.

The discussion moved to how the arbitrators should let the media know more about the arbitration process. There is a fear of the media being misguided. It was suggested for a

spokesperson be trained to deal with the media. It was further discussed that several NAA spokespersons should be trained because reporters do not wait to publish articles and at times we need to respond immediately to remain proactive. The discussion ended following

many questions and comments. Vernon suggested that since the project is still in the development stage, any arbitrator who is interested in working on this project should contact NAA President Das and tell him of his or her interest in participating in this endeavor. 🏠

## Teaching Old Dogs New Tricks

*Reported by Linda Byars*

Christopher Albertyn (NAA) and Jules Bloch (NAA), both from Toronto, moderated a lively discussion on “med/arb.” Their intent was to explore the differences between the Canadian and the U.S. experience.

The moderators divided the audience into approximately ten groups of three to five individuals, hoping to have a mix of U.S. and Canadian arbitrators at each table. They had us appoint a “rapporteur” (reporter for U.S.) to summarize the discussion for each question posed. The questions included the following.

1. You are appointed to arbitrate the case. At the start of the hearing, do you speak to counsel to determine what they want out of the day? Why or Why not?
2. You have heard opening statements and possibly some evidence and have a reasonably clear view of what your decision would be. What do you do?
3. The parties have agreed to your mediating. During the mediation one party is dominant and the other is conceding much more than the equities of the case require. What do you do?
4. As a consequence of your mediation, you know the employer is willing to pay more than the proposal from the union. Do you do anything?
5. What do you say to a grievant who asks the arbitrator/mediator, “What do you think I should do?”

Our answers were all over the place. As expected, there is a significant difference between arbitrators from the U.S. and Canada on the question of med/arb. In summary, Canadians are more active in the hearing, are expect-



Jules Bloch (NAA) and Chris Albertyn (NAA)

ed to use med-arb, and are chosen for their readiness and ability to mediate. U.S. arbitrators are generally not expected to use mediation, but they do on occasion, usually informally and without advising the parties that we are

engaging in med/arb. Some U.S. arbitrators will advise the parties in advance that they would be willing to use med/arb, but it appears from the discussion that the parties rarely take them up on the offer. 🪄

## MARK YOUR CALENDAR

### 2016 Annual Meeting

June 22 - 25, 2016



Wyndham Grand Pittsburgh Downtown  
Pittsburgh, PA



## Illness, Injury and Acts of God – Part 2

### *Reported by Jeanne Vonhoff*

Part I identified the ways an arbitration practice can be severely affected by an unforeseen event. Part II was a follow-up session, moderated by NAA Member Elizabeth C. Wesman, Camas, Washington, in which members discussed practical measures to handle unforeseen events so that these situations don't derail our arbitration practices.

The discussion began with members discussing the merits of planning for long-term financial and medical care to address unforeseen events. Members discussed the benefits of disability and long-term care insurance policies. A number of members who bought such policies years ago lamented that in some cases the premiums have been allowed to increase, even though they were supposed to remain constant.

Members also engaged in a conversation regarding planning for access to information in case of emergencies, such as fire, or the sudden disability of the arbitrator. We discussed ensuring that someone has password access to financial and insurance documents, as well as to computer records of arbitration cases. We also discussed access to and storage of important arbitration case documents in case of sudden disability, fire, or computer breakdowns. Members recommended ways to keep digital copies of final awards. One Member touted the benefits of a fireproof safe to keep both personal and business documents. Other Members raised the perennial concern about limiting the arbitration documents we keep, especially after the award is completed.



Elizabeth Wesman (NAA)

We engaged in a spirited conversation about what an arbitrator should do in dealing with the parties when facing an issue that will affect one's practice, such as personal or family illness or injury. We raised our reluctance to let parties know that we are experiencing problems and discussed how much information to provide in such situations. Some members suggested that in many situations we need not disclose medical or other personal information. A planned surgery and recovery, for example, may make an arbitrator unavailable for scheduling cases for some period of time, but need not be treated any differently than a sabbatical, or another project that renders an arbitrator unavailable. More difficult are the completely unplanned family emergencies or personal medical situations, or situations in which it is unclear how much time we will need away from our practices. One member mentioned that other members in his region offered to help him write awards when he fell sick.

We generally agreed that it is better to remove one's name from appointing agencies and arbitration panels for a period of time, rather than to repeatedly issue late awards.

Members reported good results in being placed back on panels by appointing agencies after a period off the panels. Members also generally agreed that if an arbitrator decides to disclose personal information to the parties, he or she should consider providing only a minimum amount of information and providing the same information to all parties.

At this session members also began what is planned to be a continuing discussion among our members regarding the difficult issues surrounding arbitrators who are experiencing diminished capacity due to age. Members generally agreed that using CPRG sanctions should be a last resort, but that we need to develop a range of techniques to assist arbitrators in this position and to protect the standards of our profession and our organization. We talked about how difficult it is to approach other arbitrators who we have heard are having such problems. Some members have reported that in certain cases a frank and compassionate conversation, initiated by a fellow arbitrator, has helped. One member discussed "buddy" arrangements between arbitrators, with the agreement that one will inform the other when they think a problem is arising. Other members suggested using both the experience and perhaps the resources of lawyer associations, which have similar problems in addressing these issues. Another suggested that we have an FEC session led by an expert in issues related to aging professionals. Member Wesman informed us that the CPRG is interested in hearing member suggestions about how we should approach this important issue. 🛠️



## Perception: How it Affects Testimony

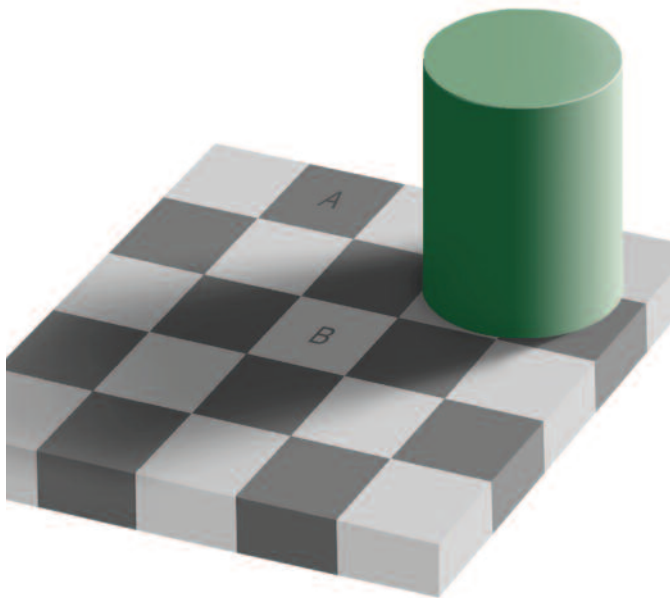
*Reported by Barry A. Goldman*


Retired New York City police officer turned labor and employment arbitrator and mediator Robert A. Grey gave a presentation titled, "*Perception: How It Affects the Testimony Given by a Witness and Heard by the Arbitrator.*" With one example after another, Bob demonstrated that the human perceptual apparatus and the brain systems that process perceptual information have a mind of their own. Our processing of perceptual information takes place below the level of conscious awareness. We perceive the products of the system; the conscious mind does not control its operation.

Even when the conscious mind is aware that the perceptual apparatus is being fooled, we can't will ourselves to perceive the world the way we know it to be. We perceive it the way the apparatus is wired.

The square labeled A in the illustration below is the same shade of gray as the square labeled B. If you block out the rest of the squares you can see that this is so. But when you take the block away the squares appear very different again. No amount of conscious thought can change those facts.

Similar problems affect our perceptions in countless ways. This is true of witnesses; it is true of counsel; and it is true of arbitrators.



Similar problems affect our perceptions in countless ways. This is true of witnesses; it is true of counsel; and it is true of arbitrators. 



Robert Gray was introduced by Walt De Treux (NAA)

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



Fairmont Chicago, Millennium Park  
Chicago, IL

## NEW MEMBERS WELCOMED IN MEMPHIS

### **Sheila G. Mayberry** **Portland, ME**

Sheila Mayberry is a full-time arbitrator and mediator. Her degree in economics from the University of Michigan led to her interest in labor-management relations. She began her career as a representative for the National Union of Hospital and Health Care Employees.



After attending Temple School of Law, she joined the National Labor Relations Board in its Philadelphia Regional Office. While the work was always interesting, she believed that working as a neutral could offer better outcomes for the parties. She left the NLRB and started her arbitration practice in 1998.

Her appointments have been through the AAA, FMCS, NMB, the Postal Service, state labor relations agencies, permanent arbitrator for a state's public employee reclassification and evaluation system, a neutral for the Maine State Retirement System, and a hearing officer for the Department of Education for special education complaints. She is active in LERA and local LERA chapters.

### **Ruth M. Moscovitch** **New York, NY**

Ruth Moscovitch has been an arbitrator since moving to the New York area from Chicago nine years ago. In the course of her legal career in Chicago she represented labor and management in both the private and public sectors and served as General Counsel to the Chicago Public Schools and the City Colleges of Chicago. She currently serves on panels for the American Arbitration Association, Federal Mediation and Conciliation Service, New Jersey Public Employment Relations Commission, New Jersey Board of Mediation, New York State Employment Relations Board, and on permanent panels for the Rochester Teachers Association and Rochester City School District, NYUFT and NYC Department of Education, and Realty Advisory Board/SEIU Local 32BJ. She also hears tenured teacher discipline cases in New York State.



She has taught education law to New Jersey principals and supervisors as part of a joint program by Rutgers University and the New Jersey Principals and Supervisors Association. She also taught education law to aspiring school principals at Baruch College.

She is a retired member of the Bar in Illinois and New York. She received her law degree *cum laude* from Northwestern University and her bachelor's degree *cum laude* from Radcliffe College, Harvard University.

### **Susan Wood Osborn** **Trenton, NJ**

Susan Wood Osborn is a full-time grievance arbitrator, interest arbitrator, mediator, and fact finder. Ms. Osborn is on the New Jersey Public Employment Relations Commission panels for grievance arbitration and interest arbitration. She also serves on the New Jersey State Board of Mediation grievance arbitration panel, the New Jersey Charter Schools Teacher Tenure Panel, the New Jersey Courts Minor Discipline Panel, and is NY-NJ Port Authority Employment Relations Panel Hearing Officer. She has extensive experience handling disputes with teachers, police, firefighters, support employees, hospital workers and production employees.



Prior to becoming a full-time arbitrator, Susan served in various capacities with the New Jersey Public Employment Relations Commission for 34 years, including Deputy Director of Unfair Practices and Representation.

Susan and her husband of 30 years live in Robbinsville, New Jersey, about 7 miles east of Trenton. In her free time, Susan enjoys renovating older homes and her continuing quest to find the perfect beach vacation.

### **John L. Stout** **Toronto, ON**

John Stout is an arbitrator and mediator practicing mainly in the province of Ontario. John is on the Ontario Ministry of Labour's approved list of grievance arbitrators, the Police Arbitration Commission Register of approved arbitrators, and is an approved adjudicator under the Federal *Canada Labour Code*.



John's practice includes mediating and adjudicating both rights and interest disputes in both the private and public sectors. He is named as a roster arbitrator in a number of collective agreements as well as being the Chief Arbitrator for all contracting out grievances between Essar Steel Algoma Inc. and the United Steelworkers Local 2251.

John is a graduate of the University of Windsor (B.A. 1989, B.A. (hons) 1990, LL.B. 1993). After his call to the bar in 1995, he practiced law in Toronto, first as an associate in a small firm specializing in labour and administrative law and then as a partner at a prominent labour and administrative law firm. In 2006, the Law Society of Upper Canada granted John the designation of Certified Specialist (Labour Law). John became a full-time arbitrator and mediator in 2008.

John resides in Toronto, Ontario with his wife (Melissa), two daughters (Alexandra and Abigail), two dogs (Marley and Guinness) and cat (Bart).

*(Continued on Next Page)*



# ALONGSIDE EVERY GOOD ARBITRATOR

A column featuring the accomplishments of our partners

## Memoriam for Joyce Mittenthal

*(Prepared by Linda Byars, mostly from RM's memoir, "A View from the Middle of the Valley," self-published in 2008 and which he graciously shared with Lloyd and me when I begged him.)*

Joyce and Dick Mittenthal had been married for 61 years when she passed away on October 27, 2014. He knew her as well as anyone can know another person, and the word he most often used to describe his beloved wife is "remarkable."

Joyce's most significant traits, as described by her husband, were her "extraordinary serenity, a quiet and confident face to the world, and her projection of warmth and acceptance in relationship with others." An excerpt from a poem Dick wrote describes the qualities he admired in Joyce and their effect on him:


"... Because your serenity gave me peace  
Because your warmth gave me joy  
Because your love gave me myself"

Joyce was always modest, even secretive, about her accomplishments. She was a Vassar graduate with a degree in mathematics. When they met in Washington DC, Dick assumed Joyce had a security-sensitive position with the U.S. Government but she would not divulge any detail. The mystery remained for years after they married until one evening when Dick invited the British Labor attaché to their home for dinner. He revealed his war-time service as a crypt-analyst for the British. Without thinking, Joyce blurted out that she had done the same work for the U.S. government. Only after this slip, did Joyce later reluctantly reveal to Dick her code-breaking work for the NSA and how she had been recruited for the job and traveled to DC for a job interview without knowing anything about the job.

Dick describes Joyce as a "marvelous mother – caring, affectionate, firm, understanding" to their three children, Marilyn, Robert (Rob) and

John. Dick did his study and writing from home and spent his lunch and breaks with the children. Joyce devoted all of her time and energy to the children and began a long career in community work once the children were all in school. She tutored children, worked for the Detroit League of Women voters, the Michigan Committee on Law & Housing, the Fair Housing Center, and the Michigan Housing Trust Fund. She did not seek leadership roles in the organizations, but always rose to the top as she championed the rights of others. She was highly regarded as a person devoted to fighting discrimination in housing, and Dick referred to her as the "Mother Courage" of Michigan housing.

It is impossible to sum up a life so well-lived, but a poem written by Dick on the occasion of Joyce's 70<sup>th</sup> birthday, "Adoration," says so much about the "remarkable" person, Joyce Mittenthal.

"How long did it take? All that talk and touching.  
Sharing not just the fact but also the feeling.  
Hopes were easy to put into words.  
Doubts and fears and wonderment did not surface so easily.  
But we worked at it without knowing we were  
doing so. Slowly, ever so slowly, we became ever more  
fully realized to one another. Your gravitational field  
was irresistible. I was drawn ever closer by your capacity  
to love without reservation, to find joy in everything around  
you, to experience pleasure in things earthy or ethereal, to  
commit yourself totally to a cause, to accept with equanimity  
whatever chance happened to impose, to appreciate the  
simple and complex as one, to go on learning each and  
every day, and to do all of this with modesty and a pro-  
found respect for others. Altogether a remarkable life per-  
formance. Perhaps most of all, I thank you for that rarest  
of all gifts, unconditional love.  
I have tried, not without an occasional slip, to  
return to you what I have so happily received." 

## NEW MEMBERS *(Continued from Page 22)*

### Carol A. Vendrillo Richmond, CA


Carol A. Vendrillo has been a neutral arbitrator, mediator, and fact-finder since 1996. She has conducted evidentiary hearings in public and private sector disputes involving a wide range of labor and employment issues. She has served on fact-finding panels in local government and higher education jurisdictions.

From 1988 until 2011, Ms. Vendrillo worked at the California Public Employee Relations Program at U.C. Berkeley's Institute



for Research on Labor and Employment. She regularly contributed to the *CPER Journal* and was Program Director from 1994 until 2011.

Ms. Vendrillo is included on the roster of neutrals maintained by the American Arbitration Association, the California State Mediation and Conciliation Service, and the Federal Mediation and Conciliation Service. She also is a permanent panel member in collective bargaining agreements between labor organizations and cities, counties, transit districts, school districts, and federal agencies.

She is a graduate of Ithaca College and received a law degree from Hastings College of the Law in San Francisco. She is a member of the State Bar of California and served on the Executive Committee of the Labor and Employment Section of the State Bar of California. 



## LABOR RELATIONS AND THE PUBLIC SCHOOLS

*Reported by Jerry Sellman*

Both Union and Management agree that No Child Left Behind mandates and Common Core Standards are beneficial to students and teachers alike. Labor and management worked in harmony to craft standards and procedures that both could subscribe to in order to achieve higher standards of education. The State mandates they helped to create seemed reasonable and workable – that is, until budget cuts created a number of conundrums that may only be resolved in the courts. Jason Caraway, a Union Lawyer and Garrett Hoerner, a management lawyer, gave their perspective on the problems created in school districts in Southern Illinois when teacher evaluations used in the reduction-in-force process became problematic. NAA Member Jeanne M. Vonhof moderated this distinguished panel and added her perspective on developments in Charter Schools.

Jason Caraway was approached by seventeen teachers who lost their jobs in a Southern Illinois School District under a RIF process. Confronted with the query of what could be done on their behalf, he looked at the process itself. Was the process used in determining the evaluations flawed? If the process could be challenged, then a grievance could be filed.

Grievances on behalf of the seventeen teachers, referred to as the SB17 Grievances (named from Illinois SB 17 legislation), were filed. It was alleged that the process was flawed. The grievance arbitration is still pending and seeks final resolution by an arbitrator. If the process was flawed, then what does one do with the scores? With a flawed process, that would imply that the scores were arbitrary. What happens if it is determined that the scores are not substantively arbitral? Can an arbitrator answer these issues or are they headed to the courts?



L to R: Garrett Hoerner, Jeanne Vonhof (NAA), and Jason Caraway

The School District lawyers argued that the Districts properly followed the mandated statutory process and the RIF'd teachers were not entitled to arbitrate the process. The School Districts were following the law. They further argued that the grievance itself did not include the Union's theoretical arguments of what the process should be and those issues should not be considered and should be dismissed. Management also argued that the grievances were not filed timely.

In the past, teacher evaluations had very little relevance. They were taken, but they had little impact on a teacher's salary or considered in any reductions in force. Tenure and years of service determined salaries; reductions were made on a first in, last out basis. Today, under the Common Core initiative, these evaluations have become meaningful. Since these evaluations affect the rights of the teachers, they will be challenged under the grievance process of the collective bargaining agreements. Since these processes are mandated by statute and School Districts are arguing that they are merely follow-

ing the law, expect the disputed RIF process to be headed to the courts. If a teacher is dismissed because of an evaluation, deemed a "performance-based dismissal," there currently is a just cause process to address that grievance.

Charter schools continue to grow nationally. In California, one hundred new charter schools open every year. Vonhof, who currently sits as a permanent arbitrator for the largest group of Charter Schools in Chicago comprised of 13 schools and 1000 teachers, shared her views on labor issues developing in the Charter Schools.

Charter Schools are organized under the NLRA or by a State Public Employment Relations Board. In Chicago, the NLRB determined that they could be organized under the NLRA. In New York, it appears they are organized under state laws. In Chicago, a Chartered School must be a 501(c) 3 non-profit, while in New York it must be chartered as an educational institution by the State. With these different methods of organization, it will be interesting to see how constitutional

*(Continued on the Next Page)*

# REMEMBERING...

## Remembering Larry Foy

by Susan Meredith

J. Larry Foy, one of the busiest New England arbitrators, died on Labor Day at age 66. Most of you didn't know Larry because I don't think he ever went to a national meeting, not even the one a few years ago where he would have been given a 30-year pin. Larry had six children, two, or maybe three, of whom were world class figure skaters. In order to keep that household humming, Larry's wife supervised a lot of the skating (although Larry was at a lot of skating rinks at 5 am) and Larry made the money to keep it all going. One year, Larry's wife and two kids lived at Lake Placid while Larry took care of the other four and worked. There was never time or money left over for Larry to attend national conferences. He worked more and harder than anyone I have ever known. Although mostly confined to a wheelchair by emphysema, Larry was still a full-time arbitrator when he died.

Larry was a great arbitrator. His thorough analysis of every situation made for long and fascinating awards. Larry was the person who suggested to me that I might like to be an arbitrator and the person who told me about the Academy and gave me the information I needed to request an application. He worked in every industry, especially in New England. He was an amazing mediator who settled more teacher and municipal contracts in Connecticut than anyone can count. He had strong opinions about the role of arbitrators, especially interest arbitrators, which occasionally led to conflict with some of the rest of us. He was probably the most acceptable arbitrator in Connecticut for many years. He was also a good friend, a mentor and helper, and I will miss him.

## Remembering Ed Goggin

by Bill Heekin

Ed Goggin passed away on August 4, 2014, at the age of 83. Ed, who was born and raised in New York City, received his bachelor's degree from the City College of New York, his law degree from St. John's University School of Law, and an LLM in labor law from NYU. In the first part of his career, Ed was in New York City where he worked for a number of companies as a staff attorney. After receiving his LLM, Ed began a second career as an educator. This brought him to Cincinnati in 1972 in order to join the Salmon P. Chase College of Law/Northern Kentucky University faculty. There, he taught Labor and Employment Law and Contracts until his retirement in 2003. In addition, Ed was a widely respected labor arbitrator and an active member of the ABA Labor Law Section where he co-edited the Fifth Edition of *How Arbitration Works*.

For myself, Ed was someone I would have never forgotten based just on one night in early September of 1979. That night, during his first year Contracts class, he mentioned that if anyone was looking for a job to see him after class. In being unemployed, I of course responded. Later, I got the job: a labor case administrator at the Cincinnati office of the AAA, a job which turned out to be the beginning of a lifelong career. Ed was always very supportive, both when I was one of his students and for many years afterwards. I was not alone. For Ed, being an educator was all about the student.

Most importantly, Ed was a family man. On the many occasions when we were together he would often talk lovingly about his wife, Genie, and their two sons, Keith and Kevin. Ed and Genie were married for 47 years. Ed is survived by Genie, Keith, Kevin, and three grandchildren.

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## LABOR RELATIONS AND THE PUBLIC SCHOOLS (Continued from Page 24)

issues arising under the Common Core initiative will be handled, since some of the schools are deemed private and others Public.

In Chicago, 88% of the students in public schools are low income and qualify for assistance. With this mix, there is a strong push for more Charter Schools. The Schools are currently under the control of the Mayor in Chicago and he sees a real need for the Charter Schools.

Teachers typically have fewer rights under the Charter School collective bargaining agreements. This is evident when comparing the 200 page Chicago Public School CBA with a 31 page Charter School CBA. There are typically strong management rights contained in Charter School CBAs. Charter Schools contract out a lot of their services, such as short term substitute teachers, teachers specializing in remediation and enrichment, special educa-

tion, athletic coaches, and other supplemental services.

Vonhof sees more arbitrations in the future challenging charter school evaluations. If a bonus is tied to the performance evaluation, one can expect a grievance to be filed if the bonus is denied. Currently, there have been few dismissals based upon the evaluations in the Charter Schools; the evaluations are primarily used to help a teacher's performance. That could change. 



## Remembering Larry Hammer

*by Randi Hammer Abramsky*

It's a bit difficult to write about your father, a long time member of the Academy. I knew him best as a Dad although, since I am also in the Academy, he clearly had a big impact on my interest and understanding of labor arbitration. I know he loved it and the people he met through his work. I know he enjoyed the Academy meetings, both the social and educational components. He had many friends in the Academy – good friends and colleagues.

I believe that where he really excelled was as a mediator – particularly in a strike (or pending strike) situation. He was tenacious. He got settlements. Jeff Tener tells me that he was one of the three to five most active and sought after members of the New Jersey PERC ad hoc panel of mediators and fact-finders in the years when the law was new. Jeff said that “he would go anywhere, anytime and had a great relationship with the parties and their advocates. He was tireless and unrelenting in working toward a settlement and that was exactly what the parties wanted.”

One of my Dad's favorite stories was when he was mediating a strike somewhere in New Jersey, at a hotel, and while he was in the elevator going down to the lobby to give a press update, Joe DiMaggio entered the elevator. Now my Dad was an AVID baseball fan, and Joe DiMaggio was a true idol to him. When the elevator doors opened, the press mobbed my Dad, not Joe DiMaggio. He said that Joe DiMaggio turned and gave him a look like “who the hell are you?” At that moment, however brief, he mattered more than Joe DiMaggio.

Another time while mediating, he couldn't get the parties to budge, so he went up to his hotel room, took off his toupee, and returned with the same proposal. The parties were stunned and laughed, and progress began to be made.

There were many, many mornings that he would be coming home from a mediation as I was leaving to go to school. In most homes, that constant occurrence might be cause for concern or suspicion. But for those of you who knew how devoted he was to my mother (and she to him), there was NEVER any doubt that he truly was working.

Arbitration and mediation gave my Dad a wonderful career and life. He continued working almost to the end. The Academy meant a lot to him. He proudly wore his NAA pins (silver and gold). It was a special moment for him (and my Mom) when I finally got my act together and was accepted into the Academy. I owe a lot to my Dad. I miss him very much. I always will.

## Remembering Myron Joseph

*by Jon Monat*

Myron Joseph, a long-time member of the Academy, has died. A native New Yorker and 1942 graduate of City University of New York, Myron earned his Master's in labor economics at Columbia University in 1947 and a doctorate from the University of Wisconsin in 1953. He was a Professor of Economic and Industrial Administration at Carnegie Mellon until 1981, having served as an Assistant Dean of the Graduate School and department chairman. Myron left Carnegie Mellon after 1981 to live in and work from La Jolla, California.

Myron was a widely-respected arbitrator serving on numerous arbitration panels (AAA, FMCS, and others). A collection of his decisions resides in the library at Indiana University of Pennsylvania. He designed and was chair of the first United States Steelworkers of America program for international representatives at Penn State in 1960. Joseph was appointed Secretary of the Department of Labor and Industry of Pennsylvania in 1979. He was a senior staff economist to the President's Council of Economic Advisors under Presidents Kennedy and Johnson. Joseph served numerous other professional and community organizations, including as the NAA's Western Pennsylvania Regional Chair.

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## Remembering Donald Howard Wollett

by Norm Brand

Don Wollett (1919-2014) grew up in Peoria, Illinois. After law school at the University of Chicago, he began a long career moving between teaching and practicing labor law. In 1969 he was a management lawyer at Kaye, Scholer, Fierman, Hays & Handler when he took on a union client – the Huntington Teachers – in the early days of collective bargaining in New York. He successfully negotiated their first contract – after a strike. He went on to negotiate first contracts for many more teacher unions. Out of his experience came one of the earliest treatises on public sector bargaining: “The Law and Practice of Teacher Negotiations.” I worked for Don, who had been my labor law professor at UC Davis, when he was Director of Employee Relations for New York State in 1975.

Working for Don was a better education than law school. I can recall sitting with him in Rome, New York where Don had gone to give a speech. He told me how negotiations with all of the State unions would go over the next 7 months and where they would wind up. And he was right. It wasn’t omniscience; it was a deep understanding of how collective bargaining works.

Don taught his negotiators two principles. First, apply a simple test to anything you propose doing in negotiations. “If you saw it on the front page of the New York Times would you feel you had to explain it? If so, don’t do it.” Second, never try to get the last penny. When you have agreed on the deal, give the other side a “lagniappe” – a small gift. It will be remembered.

Don was tough in bargaining and hated it when union heads tried to go around him to the Governor. When the president of the New York State Civil Service Employees Union tried it, a newspaper reporter asked him what he thought about the head of the Union. Don replied: “CSEA doesn’t have a head, its neck just grew up and haired over.” Being Don, he later had a conciliatory lunch and got negotiations back on track.

Don was committed to equality, hiring the first black woman to become a labor relations professional in New York State Government. Hilda Ford went on to become the Civil Service Commissioner of Baltimore and later Maryland. He hired other women professionals and his office – in 1975 – had the highest percentage of professional women of any high level office in the Executive Branch.

Don was a baseball nut. He loved doing baseball arbitration but gave that up for a deeper involvement. He withdrew temporarily from the Academy because he was assisting Scott Boros in preparing for baseball arbitrations. While he was otherwise a brilliant analyst of legal issues, being a baseball nut clouded his judgment. When I was a student we debated the rationale for baseball’s anti-trust exemption. He thought he had administered the coup de grace to my argument when he pronounced: “Norm, it’s the national sport!”

From law school at the University of Chicago, commanding a Sub Chaser in WW II, teaching law at University of Washington, Louisiana State, Harvard, New York Law, University of California, Davis, and Mc George, being a partner at a major New York law firm, and bargaining for the Governor of New York, Don came a long way from Peoria. I will miss him. 🖊️

## IN MEMORIAM

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

**James E. Jones, Jr.**

NAA Member since 1980

**Eckehard Muessig**

NAA Member since 1988

A Remembrance will appear in a future *Chronicle*.



# THE PRESIDENT'S CORNER



by *Shyam Das*

I am writing this column shortly after the Fall Education Conference in Memphis. It was a truly wonderful meeting. Many well-deserved kudos go to Bill and Betty Holley and their Host Committee and to Brian Clauss and his FEC Program Committee. The meeting was held at the Peabody, the meticulously restored "Grand Hotel" of the South and one of the liveliest locations in town.

Many of us who were there got to spend at least some time at the very impressive and moving National Civil Rights Museum, which has been seamlessly built into the original structure of the Lorraine Motel where Martin Luther King was assassinated in 1968. Dr. King, of course, was in Memphis to support the sanitation workers' strike. An exhibit on the successful conclusion of the strike after the assassination included a list of what the workers achieved. As I mentioned in my opening remarks at the FEC, I was struck by one item on the list -- a grievance procedure. This brought two thoughts to mind. First, this was a powerful reminder that collective bargaining is about providing dignity and fairness to workers, as well as improved wages, benefits, and other working conditions. Second, as arbitrators we play a critical role at the culmination of the grievance procedure, which is both a tremendous responsibility and a great privilege that enriches all our lives. How very fortunate we are to do what we do and to know it makes a significant difference to the parties and affected employees.

Quite a few of us also found time to visit some of the iconic American music history sites located in and around downtown Memphis, including Beale Street, the original Sun Records Studio, the recreated home of Stax Records and,

of course, Graceland, which whatever your tastes leaves you breathless at the sheer stupendousness of it all.

Like many of my colleagues, this was my first visit to Memphis, and it reinforced my appreciation for our FEC's. These Fall meetings not only provide a great opportunity for us to discuss the substance and procedure of arbitration and our practices in a more relaxed and somewhat less inhibited fashion than at our larger annual meetings, but they have taken us to many interesting locations in the US and Canada that otherwise I never may have visited. I treasure exploring such locations with old and new friends in the Academy. Sharing a visit to Stax Records, or to the Rock and Roll Hall of Fame in Cleveland, just for example, brings out a different side of us than when we meet to learn about and discuss more prosaic -- albeit highly important -- professionally relevant topics.

It has been noted that arbitration is a frequently solitary profession. The Academy offers a truly special opportunity for those who seize it -- both at the regional and national level -- not only to develop and hone our knowledge and skills, but also to spend time and share experiences with colleagues. This is particularly valuable, it seems to me, now that so much of our time beyond hearings and writing awards is spent "one-on-one" with some electronic gadget or another.

I would be remiss if I did not also point out that our stay at the Peabody resulted in a new addition to my resume -- one that I am fairly confident no other President of this august body shares -- Honorary Duckmaster. I have a certificate and video proof of my expertise in "leading" (that may be a stretch if you were there to observe it) wild ducks to water, in this case from the rooftop of the Peabody (via elevator) across a red



carpet to the fountain in the hotel lobby. (For those who have not been to the Peabody in Memphis and are curious about the ducks, check out:

[www.peabodymemphis.com/peabody-ducks](http://www.peabodymemphis.com/peabody-ducks).

\* \* \*

I am happy to report that in Memphis the Board of Governors voted to change the 50-year Academy membership pin to a 40-year pin. (This corresponds to the change some five years ago from a 30-year to a 25-year gold pin.) I must acknowledge that I have never quite understood the thinking behind the original decision to award a 50-year pin in an organization with our demographics. Certainly, lowering the bar just a tad to 40 years likely will make it a more attainable goal for some of us. With notable exceptions, such as the redoubtable and globally peripatetic Arnold Zack, few of our members who have earned their 50-year pins still have been active in the profession or the Academy. A welcome change.

\* \* \*

As described elsewhere in this issue of the Chronicle, Laura Cooper and her Program Committee have put together an outstanding program for our 2015 Annual Meeting in San Francisco and Claude Ames and his Host Committee are ready to enthusiastically welcome all of us and to enhance our visit to one of the world's truly great cities. I hope to see many of you there. 🦆