

MARK YOUR CALENDARS

2018 Annual Meeting

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

2018 Fall Education Conference

October 26 - 28, 2018
Sheraton Austin Hotel at the Capitol
Austin, TX

2019 Annual Meeting

May 29 - June 1, 2019
Lowes Philadelphia Hotel
Philadelphia, PA

2019 Fall Education Conference

September 20 – 22, 2019
Savannah Marriott Riverfront
Savannah, GA

ON THE INSIDE

FEATURES

Vancouver	1
Austin	6
CPRG... ..	14
Slate Bios... ..	27

COLUMNS

Milestones... ..	9
Regional Roundup... ..	11
Remembering... ..	23

PRESIDENT'S CORNER

– BACK COVER



Boundaries and Bridges

By Elizabeth Wesman, Program Chair

The Final Program in Vancouver has evolved into an even richer offering than we had previously anticipated. Major credit for that goes to a terrific Program Committee and other Academy members who were willing to pitch in at the last moment. About three weeks ago, our first plenary speaker let us know that she would be unable to attend and present. After our initial disappointment in losing her timely session, the Committee prevailed on Bill Marcotte to move his concurrent session on arbitrator awarding of damages in Canada and the U.S. to the slot as the first plenary session. This will prove to be a challenging and informative introduction to the remainder of the Program, which appropriately features many sessions involving Canadian and U.S. comparisons and contrasts in arbitration.


Additionally, in a true example of “It’s an ill wind that blows nobody good,” Hurricane Irma, which forced the cancellation of our Miami FEC meeting, allowed us to call on Marty

Malin and his panelists to fill the now-vacated Concurrent Session 2 A on Friday morning, with their presentation on Developments Affecting Union Security and Strength in the US and Canada. Thanks to Dan Nielsen and Allen Ponak, who “regrouped” to fill in this opening with Marty for our Vancouver program. An additional bow is due, of course, to Barry Winograd and his program committee who had initially assembled such a fine Fall Education Conference program.

Our two sessions on sports will offer interesting insights into the similarities and differences between amateur and professional sports arbitration and dispute resolution. Mediation of High Performance Sports Disputes considers the challenges to mediators dealing with intensely competitive individuals in a “mix of volatile high-stakes win/lose issues.” Our final plenary session, “The Olympic Doping Probe and Discipline in Elite International Sport,” presented by Arbitrator Richard McLaren, will be particularly interesting, with the Winter Olympics

(Continued on Page 3)

LETTER FROM THE EDITOR

This is my last issue as Managing Editor of The Chronicle, so I wanted to say so long and thank you. It is hard to believe that three years have passed already. I have enjoyed my tenure as Managing Editor, but it is time to move on. Sharon Gallagher will take over and continue our fine publication. Of that I have no doubt. Thanks to everyone who offered kind words and encouragement for the last three years. And thanks to all those who have contributed to The Chronicle, especially those who report at the meetings. I could not have done it without you. But most of all, thanks to two special people. Ben Kerner served me so very well as Assistant Managing Editor. I could not have done this job without him. And Katie Griffin at the Operations Center has been indispensable. She is more responsible for The Chronicle than anyone who has not been Managing Editor realizes. Katie has been a godsend. Thank you all and happy reading! 

Dan Zeiser

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 Daniel Zeiser, Managing Editor, at danzeiser@aol.com or contact the feature author directly.

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

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.

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

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

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

The Chronicle

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Boundaries and Bridges...

(Continued from Page 1)



“...we will be holding a Remembrance of David Petersen from 2:45 p.m. to 3:45 p.m. on Saturday, immediately following the business meeting. All attendees are welcome – members, spouses, and non-members.”

just behind us and the Summer Olympics barely two years ahead. We are also pleased that our industry sessions — rail, airline, and postal service — will involve topics of current interest in those industries that inevitably impact both arbitrators and advocates. For advocates familiar with our tradition of providing advocate training before the official start of our meeting, we are proud that Lancaster House of Canada will be running the pre-meeting advocacy training this year. Their fine reputation for such training is indicative of the excellent program they will be offering.

On Thursday afternoon we will offer a “new to the NAA” poster session. This format has been tremendously successful in the Southwest Regional Meetings and may well prove a “repeat feature” at future academy meetings. Each of the four presentations at the session will focus on debate and discussion, not on lecturing, and each is a topic of current (and sometimes controversial) concern in the arbitration community. The topics covered will include a continuation of the second plenary session (Impact of Words in the Workplace), Class Action Waivers in

Arbitration, the results of a survey “Do Arbitrators Procrastinate,” and a Comparative Look at Evidentiary Privileges and Medical Records in the U.S. and Canada.

Our first plenary session on Friday will take a critical look at the traditional substance testing so common to numerous industries and force us to consider instead what actually constitutes impairment of an employee. It will suggest that many things not tested for now (for example fatigue) may, in fact, be more of a hazard in the workplace than the usual substances for which tradition dictates that a worker often can be automatically fired.

As a reminder, our Distinguished Speaker for our Thursday luncheon is, unquestionably, worthy of that designation. The Honourable Sheila Greckol, currently serving as a judge on the Alberta Court of Appeal, has agreed to share some of her rich and valuable experience with us. She previously served more than 25 years as a successful labour arbitrator, so she will bring a multi-faceted perspective to our Distinguished Speaker Luncheon. Former President Allen Ponak will introduce Madam Justice Greckol.

In a sad addition to the program, we will be holding a Remembrance of David Petersen from 2:45 p.m. to 3:45 p.m. on Saturday, immediately following the business meeting. All attendees are welcome – members, spouses, and non-members. David’s wife Angela, as well as all three of their children, Beth, Matt, and Rob, will be there with us.

As material for the Program Book is being assembled, it is clear that we have timely topics and supplemental readings that we hope will be a source of lively discussions during the Vancouver meeting and beyond. Barbara Dichter is doing her usual fine job of navigating CLE credits in the U.S., and Elizabeth MacPherson has notified us that we have similar credit for all the Canadian provinces. (Many thanks to Barb and to Liz.)

We hope you will not miss this opportunity to attend an exciting program in the rich environment of an exquisite Canadian city. 🍷

Welcome to Vancouver – Take Two

By **Randi Abramsky**

The Host Committee, once again, welcomes you to Vancouver, British Columbia, one of the most beautiful cities in North America. In addition to the information provided in the last *Chronicle* article, I wanted to update you with some new information:

The President's Dinner – invitations have gone out by e-mail to attend the President's Dinner, on Tuesday, May 22, 2018, at Hawksworth Restaurant, a top-rated restaurant, close to the hotel. It is sure to be a wonderful evening.

Add the App – if you have an IPAD, Tourism Vancouver has released a new IPAD app as a trip planning tool and travel companion. It's the "Visit Vancouver" app, available free for download from Apple iTunes or the AppStore. It provides information on dining, activities, transportation, events and the weather.

Check out the **Tourism Vancouver** website – if you do not have an IPAD, but you have a smartphone or computer, visit the Tourism Vancouver website. It is a great website, full of information about EVERYTHING going on in Vancouver.

DINE-AROUNDS: Thursday, May 24, 2018.

- 1** **Chambar Restaurant**, 568 Beatty Street, Vancouver.
7:00 p.m., hosted by Joan Gordon
- 2** **Carderos Harbour Restaurant**, 1583 Coal Harbour Quay
7:00 p.m., hosted by Arne Peltz
- 3** **Mahony and Sons at Burrard Landing** *Overlooking the North Shore Mountains and the beauty of Stanley Park, truly a unique and beautiful spot for any event large or small.* It is an easy walk from the Fairmont so folks should meet me in the lobby at 6:00 p.m., reservations are for 6:30 p.m. Sylvia Skratek will host.
- 4** **Golf and Tennis** - Anyone interested in golf please contact Chris Sullivan. Chris Albertyn has booked a tennis court for 2 hours on Wednesday, Thursday, Friday and Saturday. Anyone interested please contact him chrisalbertyn@icloud.com.

The Friday Night Entertainment – An Evening of Music and Magic.

Our very own past President Rich Bloch will be performing some of his "magic" for us, a true delight and a rare opportunity to see Rich Bloch as you've likely never seen him. There will also be a live jazz band, Hip Pocket Jazz, with vocalist Amanda Wood, for your entertainment pleasure. This will truly be a special evening.

Transportation to the Hotel from the Airport

Public Transit – a train runs from the airport to downtown Vancouver, approximately every 7 minutes. It's called "Canada Line" and it's part of Translink. Get off at the Vancouver City Centre exit (second to the last stop), and exit to Georgia Street. Head west for 1 ½ blocks. The Hotel is across from the Vancouver Art Gallery. The cost is \$9.75, although there is a senior rate. The train trip lasts 26 minutes.

Taxi. A taxi will cost \$35.00 if you ask for the flat rate. You must request this, or the meter will be used. The airport is 9 miles (15 kms.) from the City Centre, which is 20 minutes without traffic, and 30-45 minutes with traffic.

POST NAA MEETING IDEAS

- 5** **Train Trip**
If you have time (either before or after the Academy meeting), and want to see the Canadian Rockies, consider checking out Rocky Mountaineer. There are many options to choose from. www.rockymountaineer.com, 1-888-618-8163.

Roads Scholar

As mentioned in the Welcome to Vancouver article in the Chronicle, Roads Scholar is offering a fascinating excursion leaving from Vancouver, at the conclusion of the NAA meeting. The program is "Victoria and Vancouver – Glorious West Coast Gardens". www.roadsscholar.org

MORE IDEAS

- 6** **Cloverdale Rodeo, 2018.** (May 18-21, 2018). The weekend before the conference includes the holiday, Victoria Day (on Monday, May 21, 2018), which means that a lot of things will be happening, including the Cloverdale Rodeo. This is approximately 42 kms from Vancouver, along the TransCanada Highway. It is a *bona fide* rodeo, with cowboys competing for cash prizes. There is also a fair, with rides and games.

WINERY TOURS – check out TripAdvisor's top 10 winery tours, for options.

- 7** **Whale Watching** – www.princeofwhales.com/Vancouver.
- 8** **Off the Eaten Track** – culinary walking tours. Check out the Railtown Urban East Tour – rated a "Canadian Signature Experience" or the Olympic Village Food Tour. info@oftheeatenfoodtracktours.com
- 9** **Richmond Olympic Experience (ROX)** – this is a state of the art Olympic and sport simulator experience. See what a world-class athlete experiences as they compete in the Olympic ski jump, a white water kayak race, ski slalom race, and bobsled course. There is also a race car simulator.

- 10** **Hastings Race Course and Casino.**
There will be horse-racing on both Saturday May 26 and Sunday, May 27 at 1:50 p.m. Plus a full casino. 188 N. Renfrew Street, Vancouver.

- 11** **Soccer Game – May 26, 2018.**
See the Vancouver Whitecaps take on the New England Revolution at B.C. Place Stadium.

- 12** **Mama Mia** – The Arts Club presents Mama Mia at the Stanley Industrial Alliance Stage.

The choices are varied and plentiful. Your time at the meeting will be educational and social, and your free-time will surely be fun. Please come join us in beautiful Vancouver. 🍷





Willieland On The Edge Of LBJ Country

By Beber Helburn

Those who attended the 2004 Austin FEC are in for a surprise. Those who did not attend in 2004 and those who did are in for a treat. This year's FEC is set in a city of 900,000, the 11th largest city in the U.S., and a major metropolitan area of approximately two million. The FEC, from October 26-28, will be at the Sheraton Austin Hotel at the Capitol, 701 E. 11th Street, Austin, TX 78701. The hotel was completely redone when Sheraton acquired it about three years ago and will provide an attractive, sophisticated space convenient to downtown Austin.

From the occasional live music and the outstanding Salt Lick bar-b-que at the Austin-Bergstrom International Airport (ABIA) to the attractions in and around Austin, there is something for everybody. Tours may be had via double decker bus, a Segway, a bicycle or a Duck. Check out Trip Advisor or Expedia and other sites for the variety of tours available. Museums include the Lyndon Baines Johnson Presidential Library and Museum, the Blanton Art Museum and the Harry Ransom Center (see one of the five Gutenberg Bibles in the U.S.), all on The University of Texas campus. Nearby is the excellent Bob Bullock Texas State History Museum.

For joggers and walkers there is the hike and bike trail



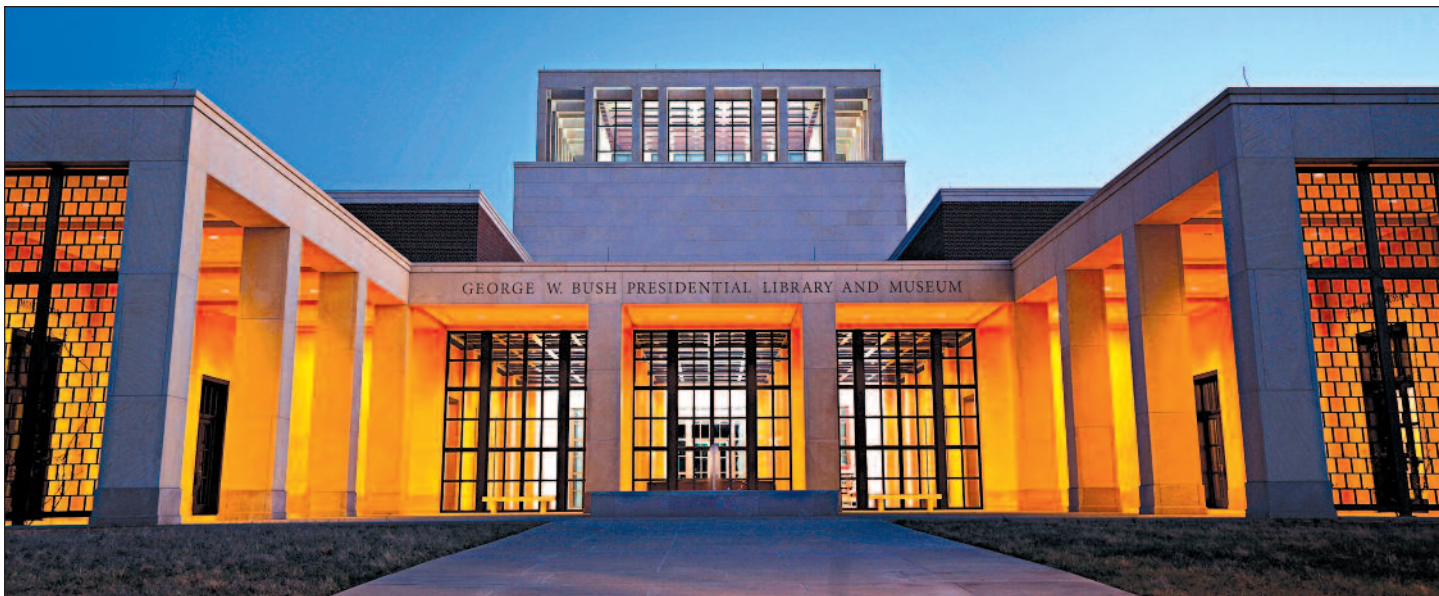
Lady Bird Lake

along both sides of Lady Bird Lake, aka the (other) Colorado River. Outdoors, in addition to the trails, are the Lady Bird Johnson Wildflower Center, the Zilker Park Botanical Gardens, including the wonderfully done Japanese Garden, and the Umlauf Sculpture Garden, which contains world-famous artists' works in a beautiful outdoor setting. Another sculpture garden exists at The eContemporary Austin at Laguna Gloria. For the truly hardy, there is Barton Springs, an artesian spring-fed swimming hole in Zilker Park, open year-round at a vigorous 68 degrees. While October 26-28 is late in bat season, it may be possible to watch the 1.5 million Mexican free-tailed bat colony, the largest urban bat colony in North America, emerge in a black cloud from under the Congress Street Bridge.

For shoppers, there is the Domain in North Austin. The Domain is a mixed-use installation with a multitude of upscale shops, a Macy's, a Nordstrom's and restaurants of all types. For those with transportation, about 45 minutes south on I-35 are large side-by-side discount malls in San Marcos. There you will find discount versions of many of the stores in the Domain. Also, there is weird South Austin, particularly South Congress Avenue between about 1400 and 1700, mainly on the west side of the street where there are antique shops, eclectic shops, galleries, restaurants, and some great children's shops.

In addition to the dine-around choices for Saturday night, to include Southern, Mexican (think the best mole sauce you've ever had) and other cuisines, there is the night-life on Sixth Street, Austin's equivalent of Bourbon Street. You will likely find jazz, rock, folk, rap and everything in between. And, there is Esther's Follies, the always current, irreverent, scathing, comedic send-off of all things political and some things not so political. This Austin institution is well worth the show. For those who want to explore Austin's eclectic food scene on your own, type 2017 Best Restaurants in Austin in your browser to get the top 25 in numerical order and the next 50 in alphabetical order.

(Continued on Next Page)



George W. Bush Presidential Library and Museum



No mention of Austin attractions would be complete without the inclusion of the flagship Whole Foods store in downtown Austin at 5th and Lamar Sts. Their profusion of foods is amazing and there are things to eat throughout the store. And there are those who would say that the main Central Market store on Lamar north of downtown is even better.

For history buffs who want to stay in Texas for a few extra days, there are the George Bush Presidential Library on the Texas A&M campus in College Station, TX and the George W. Bush Presidential Library on the SMU campus in Dallas, TX. Also, there is the LBJ National Historical Park in Stonewall, TX. For those thinking about visiting all of the Presidential libraries, you'll never have a better chance to check off three with one trip. And, 90 minutes south in San Antonio is the fabled River Walk with a multitude of shops and restaurants.

If you are in Austin in time for the Thursday night Presidential Dinner, join us at the Headliners Club, on the 21st (top) floor of the Chase Bank Tower, just under a mile from

the Sheraton. Dinner will be accompanied by spectacular views of downtown Austin and beyond, weather permitting. And, again, weather permitting, the reception before the opening Friday night dinner, may be outdoors on the Sheraton patio.

We hope that the combination of the program and the variety of entertainment possibilities will tempt you to attend the FEC in Austin—state capitol, major university setting, and high-tech mecca. Y'all come, ya hear! 🍸

Mark Your Calendar

2018 Fall Education Conference

October 26-28, 2018



Sheraton Austin Hotel at the Capitol
Austin, TX

OUTREACH COMMITTEE

*By Margie Brogan,
Chair, Outreach Committee*

I think we all remember the nervousness, as well as the excitement, of our first arbitration hearings. Many of us were lucky enough to have mentors to guide us through the beginning challenges. Those joys and challenges are at the heart of the Academy's Outreach Committee.

This is our second year, an initiative to identify mentoring and training models for newer arbitrators, and help Regions implement these models to assist promising newer arbitrators. A crucial component is connecting the dots between the newer arbitrators who are benefitting from these efforts, and the advocates who may select them. At the same time, we must be sensitive to the concerns of our members in those areas of the country who have seen work declining. There is no reason our efforts can't be geared also towards those who would enjoy more work, or work in a different location.

I am happy to report some modest but exciting developments. Most recently, Homer La Rue has conceived and will soon be implementing, with the help of Walt De Treux, former chair, and myself, a modern day "salon" for newer arbitrators which will cover both the Mid-Atlantic and D.C. Regions. Some of you may have been lucky enough to have benefitted from those early salons — small discussion groups held by Academy members in their homes. It will be an attempt to guide newer arbitrators in an ongoing and relaxed way, and to assist promising individuals with intersecting with advocates and appointing agencies.

The "Meet the Arbitrators" program, successfully run in different parts of the country, is continuing. The Northern California Region has done this program for years, with a format of both large and small group discussions, using the talents of our veteran arbitrators and our newer arbitrators. In line with the focus of the Outreach Initiative, and the Region's great success, the NorCal group plans to run it more frequently. The Mid-Atlantic Region ran a similar half-day program in the Fall of 2017 with eight newer arbitrators. The event was hosted and marketed by the American Arbitration Association, Philadelphia office. There was a terrific turnout of advocates, and some arbitrators who took part were pleased to report that they had additional appointments as a result.

The Southwest/Rockies Region has been a remarkable model of assistance to newer arbitrators. Beber Helburn gave us the following report. At their Southwest-Rockies regional meeting in Houston, Rex Wiant and Beber led a Thursday arbitrator training session that included several morning topics, and a discussion after lunch with FMCS Director of Arbitration Services Arthur Pearlstein, along with a management-side attorney and a union-side attorney, exploring the general topic of arbitrator behaviors that encourage and discourage selection. As always with these annual sessions, the established arbitrators talk about the criteria for membership and touch base with those arbitrators whom they believe will eventually qualify for Academy membership. Beber followed up with an e-mail to

those who attended, encouraging them to visit the Academy website to view membership standards, to write to Membership Chair Sarah Garraty for an application so that they have a good idea of how to keep files on the relevant information, and to contact Beber with questions about their practice. He recommends that they look at the Proceedings for some of the classic pieces if they have not read them. The Region expects two applications to be before the Membership Committee in Vancouver and he is optimistic about both, as they have strong regional support. This sort of supportive model should be replicated everywhere, in my view.

We are assisting Regions with training programs conducted by them, through the use of donated training materials written by our members. If anyone would like to donate training materials for this cause, please contact me. Also, new member John Obee reports that he and George Roumell have met with a group composed of mostly minority Arbitrators and Facilitators in the Michigan area. The group has been in existence for a number of years and seeks to assist its members in finding opportunities and experiences. John and George are lending their expertise, and John is generously mentoring newer arbitrators, despite his new NAA status.

If our organization is to continue, we need to seek out and assist new arbitrators, our future leaders. If anyone would like to join our effort on a Regional level, or put any of these models in place, please give me a shout. 📣

MILESTONES

Edited by Michael P. Long

NOTEWORTHY HONORS & PROFESSIONAL ACTIVITIES

Donald P. Goodman – donated his personal professional library to the University of Texas at Arlington. That included his collection of labor movies and songs, copies of his articles in professional journals, books he wrote or edited and many of his decisions. The Library created a special room named The Goodman Papers - Library of an arbitrator.

PUBLICATIONS & PRESENTATIONS

Charles Craver – has been selected as 2018 Recipient of Award for Outstanding Scholarly Work by the American Bar Association Section of Dispute Resolution. The ABA Award for Outstanding Scholarly Work honors individuals whose scholarship has significantly contributed to the dispute resolution field. Charles is the Freda H. Alverson Professor of Law at George Washington University Law School, where he teaches labor law, international negotiating, legal negotiating, alternative dispute resolution, and employment discrimination law. In the award, the ABA states, “Professor Craver’s writing is prolific and influential. His work on negotiation, particularly the modern use of distributive negotiation tactics and possible responses to them, has spawned other research and changed how lawyers approach negotiation. He has written seven ADR texts, including *Effective Legal Negotiation and Settlement*, first published in 1986 and now in its 8th edition. He has written 30 ADR journal articles and 35 online ADR articles over his career.”



Richard Fincher – visited the University of Yangon, Myanmar, in January, 2018 to teach comparative labor law and ADR in the College of Law. The college has undergraduate, masters, and PhD students. There are 20 faculty, with international commercial law the main concentration. All classes are taught in English.

Myanmar has recently enacted a three tier ADR system for labor disputes, including local mediation, then advisory arbitration at the regional level, and binding arbitration at the national level. The country’s ILO is the main consultant in ADR. FMCS has twice trained their mediators.

Historically, the university was the educational jewel of Southeast Asia. The university has been at the center of civil discontent throughout its history. All three nationwide strikes against the British (1920, 1936, 1938) began there. Anti-colonial movement leaders such as General Aung San and U Thant are notable alumni. After the military coup of 1962, the university was put directly under control of the government.

In 1964, the schools of medicine, economics, and education were separated from the University. In 1988, 300 students died in further student protests against the military. For most of the 1990s, the university was closed. In 2013, the University re-opened for undergraduate students. The Dean of the College of Law invites western philanthropic academics and practitioners to teach there – albeit, the opportunity is without funding.



Martin H. Malin – Professor of Law and Director of the Institute for Law and the Workplace at the Chicago-Kent College of Law of the Illinois Institute of Technology has had his article, *14 Penn Plaza LLC v. Pyett: Oppression or Opportunity for U.S. Workers; Learning from Canada*, published in 2017 *U. Chicago Legal Forum* 347. The article, co-authored with Jon Werner, Chair of the Management Department at the University of Wisconsin-Whitewater, resulted from a study funded by the NAA’s REF, compares the handling of human rights claims in labour arbitration in Ontario to their handling before the Human Rights Tribunal of Ontario, and discusses the lessons it offers for the on-going debate in the U.S.




John Obee – has co-authored a new book related to the Civil Rights Movement, entitled *Mississippi’s Exiled Daughter*. It is currently set for publication in June 2018 by New South Books. The book tells the compelling story of John’s co-author, Brenda Travis, and her decision in 1961 at age 16 to become involved in the Civil Rights Movement in her hometown of McComb, Mississippi. It compellingly relates the consequences of that decision for both her and her family.

(Continued on Page 10)

MILESTONES *(Continued from Page 9)*

John E. Sands – spoke at the ABA Forum on the Sports and Entertainment Industries in Las Vegas and at the NJS Bar Association/NJ Association of Professional Mediators' ADR Day. His presentations were, respectively, "ADR in Professional Sports: How an Arbitrator 'Created' Free Agency and Athletes Became Millionaires" and "Effective Case Management in Arbitration." John's recent travel has included Iran with the NY Times late last year, the Galapagos this March, and Morocco planned for October.

ON A PERSONAL NOTE

Linda Byars – sent in this photo indicating: "... I'm sending because some of our members may want to play with us in Vancouver when they realize how good we are!" Do any of you know any of these people? 



Continuing Call for MILESTONES

Honors? Publications? Exceptional activities - professional or otherwise?

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

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

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Oakland University, Rochester, MI 48309.
Phone: (248) 375-9918

REGIONAL ROUNDUP

Reported by Kathy L. Eisenmenger
National Coordinator of Regional Activities

The Regions persevered through this severe and unpredictable winter weather to continue to engage with NAA members, other arbitrators and mediators, and labor management and employment colleagues. In these varied endeavors, the Regions used creativity and true-blue traditional opportunities to sponsor or co-host with the American Arbitration Association, bar associations, Federal Mediation and Conciliation Service, chapters from the Labor and Employment Relations Association, and a host of guest speakers from universities, public sector employers and unions . . . the list goes on.

The weather did have a negative effect on some of the Regions' plans, but they are in the throes to regroup and carry on as our friends across the pond are well versed. The Southeast Region faced a dilemma necessitating the cancellation of their February 2018 meetings but plan to resurrect their annual labor-management relations training conference later in the year. Watch for a new posting on the NAA website under Regional Meetings for updated information.

We are tickled red, white and blue that the Canada Region will hold a meeting this 🇨🇦 year. If you don't have a summer vacation planned this year, or even if you do, the Canada Region hosts vibrant meetings. Try not to miss this rare but thoroughly wonderful opportunity. Be sure to read through to the end (the last but not least) Western Pennsylvania Region section to catch up on all the doings since last publication and what's coming in the future. As always, if you find yourself traveling in an area of one of the Regions and have some extra time, please contact the Region's Chair and join them in their activity.

CANADA

Also known as Region 7, the Region's Mounties (aka NAA Members) have been busy this year. With great excitement, Canada once again hosts the 2018 Annual Conference in Vancouver, British Columbia, on May 23-26, 2018, at the Fairmont Hotel Vancouver. More information may be obtained in this Spring publication and on the NAA website, www.naarb.org. Additionally, Region 7 will host a delightfully stimulating and educational conference in Québec City, Québec, Canada, on August 2-5, 2018. Please check the NAA website under Regional Activities for more details to follow.

Regional Chairs are Randi Abramsky – rabramsky@rogers.com and Andre Rousseau – rousseau-arbitre@qc.aira.com

CENTRAL MIDWEST

Regional Chair is Jacalyn Zimmerman – JacalynZimmerman@gmail.com.

METROPOLITAN D.C.

The DC Region holds *ad hoc* Sunday Morning breakfast meetings about every two months at Jake's American Grille, Connecticut and Nebraska Avenues, NW, Washington, D.C.

Regional Chair is Sean Rogers – rogerssj@erols.com

METROPOLITAN NEW YORK

Regional Chair is - dgaines.nyc@gmail.com

MICHIGAN

The Michigan Region held its winter meeting at The Courthouse Grille, 41661 Plymouth Road, Plymouth, MI 48170 on Wednesday, February 28, 2018. Elizabeth Hardy, founding principal with Kienbaum, Opperwall, Hardy & Pelton in Birmingham, MI, was the featured speaker. Elizabeth's presentation addressed an Employer's perspective as to marijuana issues in the work place. The general consensus of the meeting was that one of the major difficulties in dealing with marijuana issues in arbitration is the lack of a reliable and widely accepted method that provides good information about who and when a person is impaired.

It is with regret that the Michigan Region reports the loss of NAA member Peter D. Jason, which has been reported in more detail in the *Chronicle* elsewhere.

Regional Chairs are Charles Ammeson – cammeson@tpalaw.com; and John Obee – obeearb@outlook.com.

MID-ATLANTIC

Region 3 held its fall meeting in October 2017 at Maggiano's restaurant in Center City Philadelphia at which time retiring Chair Mariann Schick literally passed the gavel (actually a hammer) of leadership to Ralph Colflesh. Needless to say, the Region, which turned out with near full attendance, expressed its great thanks to Mariann for her leadership of the Region over many years.

On February 1, 2018, the Region and the Philadelphia office of the American Arbitration Association presented a symposium entitled "Meet the Advocates" at which time members of the Region and guests had an opportunity to hear from our "clients" about what they do and do not like about arbitration practices and procedures.

(Continued on Page 12)

REGIONAL ROUNDUP *(Continued from Page 11)*

A spring/summer meeting is being planned which hopefully can combine conviviality with some ideas—possibly post *Janus*—about the future of labor relations in the United States and the role of arbitration in those relations.

Regional Chair is Ralph Colflesh – rafearb@comcast.net

MISSOURI VALLEY

The Missouri Valley Region meets monthly from September through May for a luncheon/speaker meeting open to all members as well as attorneys, management and union personnel. Our topics for the meetings include: Update on FMCS Activities Locally and Nationally; Employer's Right to Discipline for Off Duty Misconduct; Last Chance Agreements, The Employer's Viewpoint; Arbitrator Involvement in the Hearing, Union's Perspective; Ethics and Last Chance Agreements; Employees' Use of Social Media and Its Affect on the Workplace; Seniority Matters; Marijuana in the Workplace; Sexual Harassment in the Workplace. The Missouri Valley NAA members are working with LERA and the Labor Law Breakfast to present multiple programs for 2018.

We are still mourning the untimely death of Ed Harrick. Ed was a former Regional Chair and a longtime member of the NAA. The Region made a donation in his memory to the NAA Research and Education Foundation.

Regional Chair is – georgefitzsimmonsllc@hotmail.com.

NEW ENGLAND

Regional Chairs are Mary Ellen Shea – arbitratormeshea@gmail.com and Sheila Mayberry - adr@maine.rr.com

NORTHERN CALIFORNIA

On July 14, the Northern California Region will once again “show the flag” for the Academy at the Bike-a-Thon/Walk-a-Thon for the Bar Association of San Francisco's Justice and Diversity Center, which provides pro bono legal services to low income San Francisco Bay Area residents. Last year, the Region joined other sponsors in smashing the JDC's fundraising goal of \$20,000. Twenty teams brought in a total of more than \$32,000. The Academy's logo was featured in the publicity for the event, and the Academy's name was printed on the JDC t-shirts. On very short notice, three stalwart members – Regional Chair Nancy Hutt, Norm Brand, and Luella Nelson — walked while proudly bearing our NAA-logo shirts and computer bag. This year, with more notice, we hope to match or increase our donations, as well as the size of our team, and add some bikers to the mix. We were able to reach our goal again with donations from NAA Members nationwide. The Region was one of five teams to

raise at least \$2,500 in donations, which is our goal for 2018. Achieving our goal entitles us to a 1/4-page color ad in the San Francisco Attorney, far below the normal cost of approximately \$1,500, and wouldn't have been nearly as fun. Bonnie Bogue worked with the JDC to design the ad, which gave a shout-out for www.arbitrationinfo.com and our Code of Professional Responsibility, among other things.

We invite Academy members nationwide to again help us to achieve our fundraising goal for 2018 and, if you are in the SF Bay Area on July 14, join our team to walk (1.4 miles) or bike (12 or 53 miles). The event concludes with a free picnic and barbecue for all participants. To donate, go to <http://events.sfbar.org/bikeathon/> and look for the Academy team under the “team” tab.

Regional Chair is Nancy Hutt – nancyhutt@naarb.com.

OHIO-KENTUCKY

The OH-KY Region, in collaboration with the FMCS and the Central Ohio LERA, will be sponsoring the Arbitrator & Advocate Symposium on April 26-27, 2018. NAA President Kathy Miller will start the program off by speaking of the “Divining the Context of Labor Arbitration in 2018.” NAA Members Sharon Gallagher, Jeffrey Belkin, Lou Imundo, Mollie Bowers, Terry Bethel and Bill Heekin will present a variety of topics sure to pique your interests; i.e., *Hot Topics in Labor Law, Remedies: Including Last Chance Agreements and Penalty Grids, Social Media – Impact on the Workplace, What Arbitrators Want to Hear from Advocates, How Arbitrators Rule on Contract Interpretation Issues, Body Cameras, Surveillance Cameras and Phones, How Arbitrators Rule on Just Cause Issues*. This is an excellent program for a very good price. The Region welcomes all NAA Members to attend. Registration may be made online at: <http://tinyurl.com/2018arbconference>. You may also obtain more information by contacting Ms. Eleanor Garrison, Garrison & Associates, Inc., (614-273-100 or email: eg@garrisonevents.com

Regional Chair is – Charles (Chip) Kohler — kohlerlaw@aol.com

PACIFIC NORTHWEST

The Region will hold its annual meeting/retreat in conjunction with the Montana Labor Relations Agency's Labor Relations and Arbitration Conference in Butte, Montana. The Montana agency's conference is scheduled at the Copper King Inn for October 2-3; the Regional meeting/retreat will follow. We are throwing it open to colleagues nationwide in

(Continued on Next Page)

REGIONAL ROUNDUP *(Continued from Page 12)*

the hope of getting “critical mass” for a lively post-conference retreat. Online registration for the Montana Labor Relations and Arbitration Conference will be available at dli.mt.gov; the Regional meeting/retreat will be administered separately.

The Regional meeting/retreat will begin in the last hour of the Labor Relations and Arbitration Conference program on October 3, with the Regional election and a brief update on designating agency and Academy matters. Speakers for that session include Arthur Pearlstein from FMCS and incoming NAA President Ed Krinsky; John English from AAA has also been invited. We also plan to provide further content in the two days that follow. Discussions are afoot regarding a possible Montana labor history and/or mine tour, tour(s) of Butte’s three breweries and/or the Headframe Spirits Distillery, golf in Anaconda at a course designed by Jack Nicklaus, and visits to either/both of the nearby stunning National Parks (Yellowstone and Glacier). Montana members William Corbett and Pat Halter are providing their local expertise to the planning; Oregon members Howell Lankford and Luella Nelson have also had a hand in the early planning. If you would like to be involved in the planning, please let us know. Meanwhile, please put October in Montana on your calendar.

Regional Chair is – Dave Gaba –
Davegaba@compasslegal.com

SOUTHEAST

The Region was unable to hold its traditional February labor-management relations conference in Atlanta, Georgia, this year. The Region has regrouped and plans to hold the conference in April 2018, provided a suitable hotel can be found. Additional information may be posted on the NAA website under Regional Activities. Stayed tuned.

Regional Chair is Philip LaPorte – plaporte@gsu.edu

SOUTHERN CALIFORNIA

Regional Chair is Robert Bergeson –
robertbergeson@earthlink.net

SOUTHWEST ROCKIES

The Region held its 41st Annual Labor-Management Relations conference on February 15-17, 2018, in Houston, Texas. A full description is located in this edition of The Chronicle.

Regional Chair is Kathy Eisenmenger –
kleisenmenger@gmail.com

UPSTATE NEW YORK

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

WESTERN PENNSYLVANIA

The NAA members of the Western Pennsylvania region celebrated the end of 2018 at their annual holiday dinner on December 3, 2017, with members and guests. This year the dinner was held at Lidia’s Restaurant located in the Strip District in Pittsburgh. The group was honored to host President Kathy Miller and former NAA President Shyam Das for an evening of friendly discussion, delicious food, and good cheer. The next meeting will be scheduled for Spring 2018, once the winter weather finally disappears. 🍷

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

Mark Your Calendar

2019 Fall Education Conference

September 20 – 22, 2019



Savannah Marriott Riverfront
Savannah, GA

Activities of the CPRG in 2017-2018

By Dan Nielsen, CPRG Chair

The By-Laws require the Committee to annually report through the Chronicle on its activities. It has actually been a quiet year for the CPRG on the complaint front, until the past ten days. Two formal complaints arrived in March. One has been brought by an individual employee who was terminated, and believes that the arbitrator showed bias in denying the grievance. The second has been brought by an employer, who alleges that the arbitrator engaged in ex parte contacts with a union and, as a result, changed an award that had already been issued. Both of these cases are in the very early stage of investigation.

The Committee has debated and provided informal opinions in four member inquiries. The first dealt with a member who was part of a group considering the formation of a neutral services firm. Two of the prospective members had existing consulting relationships that they wished to maintain, separate from the activities of the firm. The question was whether the member's participation in the firm would violate the ban on advocacy in Article 6 of the By-Laws. The Committee concluded that it would not, in and of itself, violate the By-Laws, depending upon the structure of the firm, and the actions of the firm's members. The Chair's response to the member relayed the Committee's thinking:

Under Article 6 (b), since 2008, it has been a violation of the By-Laws for a member to serve partisan interests in workplace dispute proceedings "or to become associated with or to become a member of a firm which performs such advocate or consultant work."

I believe your participation in the proposed firm would not violate the By-Laws, so long as the people with consulting relationships kept them strictly separated from the firm. There should be no cross-referencing on websites, stationery, marketing, etc. and no reference to the consulting role on firm bios, or reference to the firm in the course of their consulting work. Obviously, there can be no sharing of revenue from consulting with members of the firm. In other words, there can be no ties, real or apparent, between the firm and their separate consulting work.

One other note. The firm name might pose problems, if it is the usual "Smith, Jones, Anderson, Morton" sort of formulation. Depending upon how high profile the consulting work is, there is a possibility that the consulting work could be identified with the firm even if it is performed separately. That is more a question of appearances, but appearances matter and you want to be careful with your reputation. You may wish to suggest a more generic style of firm name.

This is something that would be your responsibility to monitor as time goes along, and that might be a bit onerous, but in practical terms, you are the one who would face adverse consequences if they crossed the line.

The second member inquiry dealt with two questions. First, the propriety of convening a remedy hearing, where the Union asserted that the Employer's interpretation of a remedial order did not comport with its understanding. The second was whether it was consistent with the Code to convene the remedy hearing if, after notice, the Employer refused to participate. The inquiry the Chair sent to the Committee included a summary of the matter and a proposed answer:

A member has contacted me for advice on two aspects of a case in which he retained jurisdiction over implementation of the remedy. The Award found that the employer failed to follow the procedures for laying off employees, and directed the employer to redo the layoffs, following the correct procedure. The Union has advised the member that it believes the employer again failed to abide by the contract in redoing the layoffs, and has asked for a hearing on whether the remedy was properly implemented. The employer has responded that this dispute goes beyond the scope of the original grievance and is outside of the arbitrator's jurisdiction.

The member's questions are:

1. Is it consistent with the Code to conduct a remedy hearing even though the employer claims he has no jurisdiction; and
2. If the employer refuses to attend the hearing, is it consistent with the Code to proceed ex parte.

My take on this is that the member has every right to convene the remedy hearing, since he expressly retained jurisdiction over implementation of the remedy, which is part and parcel of the original grievance.

As for proceeding ex parte, the Code unhelpfully advises that a member "must consider relevant legal, contractual, and other pertinent circumstances," and that the member must be certain that non-attending party has notice of the hearing. I do not believe a member violates the Code by proceeding ex parte in these circumstances, since the employer seems not to have a plausible basis for refusing to participate, and has recourse to court if they genuinely believe the member lacks subject matter jurisdiction, and wish to block the hearing.

(Continued on Next Page)

The Committee agreed that a failure to convene a remedy hearing would impair the Union's remedy and be inconsistent with the retention of jurisdiction over the implementation of the Award, which necessarily assumes that disputes over the remedy will come back to the arbitrator.

The third member inquiry dealt with the dangers we all face when we do conferences and address hypotheticals. The member was asked to react to a fact pattern based on an actual case already decided by another arbitrator. He told the audience how he would decide the case, and why he would decide it that way. A few months later he showed up for a discharge case hearing, and was presented with precisely the same issue. Because he believed that the union advocate had been in attendance at the conference and had heard his presentation, he disclosed that he had analyzed the issue and offered an opinion on it in that forum. He asked if either party wanted him to recuse himself. The Employer said "yes" while the Union said "no." Over the objections of the Union, he recused himself. The member asks three questions. First, was he ethically obligated to disclose what he had said in the presentation? Second, was he ethically obligated to recuse himself? Third, having recused himself, is he ethically permitted to charge the Employer for his time and expenses?

The Committee generally agreed that this was a question of good business practices, more than of obligations under the Code. Advisory Opinion #2, from 1955, addresses almost precisely this question. It posits an award involving a company and one union, and then a subsequent identical case with that company and a different union. It observes that it would be impossible to recall all prior statements and decisions on issues, and says that the parties are entitled to "an honest, rather than an uninformed, decision" and that "The decisive ethical question for the arbitrator is not whether he has considered a similar issue before, but whether he is still open to persuasion either way." This led to the conclusion that the duty to disclose hinges on the openness of the arbitrator to rethinking the prior decision. It says that if the arbitrator feels bound by the prior decision, he or she must disclose that.

The distinction drawn in Opinion #2 is somewhat opaque. An arbitrator is always open to argument and to reconsidering a position, but in most cases is unlikely to do so. The clearer basis for concluding that there is no duty to disclose is probably that, as one Committee member observed, "Cases are like snowflakes, they are white and have a combination of frozen molecules but no two are alike." Just because the issue sounds like the issue in the other case does not mean that it is, or that the outcome will be the same. There is, however, the practical business consideration of whether a disclosure is a good idea

anyway, since not disclosing raises the prospect of the Employer discovering the comments at the conference after the fact, and feeling that it was sandbagged. Once you disclose, of course, you have to be prepared for a request for recusal. There may be no ethical requirement to recuse, but it is an awkward position to be in. The threshold for disclosure is lower than the threshold for recusal, and an arbitrator must be ready to explain why he or she will not recuse, even while feeling a need to disclose.

As for the fee question, again this is a business decision. The Code addresses fees generally:

"In charging for services and expenses, the arbitrator must be governed by the same high standards of honor and integrity that apply to all other phases of arbitration work."

"An arbitrator must endeavor to keep total charges for services and expenses reasonable and consistent with the nature of the case or cases decided."

It is "consistent with the nature of the case" that the arbitrator charge for actual expenses, hearing day fees and travel time. The arbitrator incurred expenses in good faith, having no reason to suspect he would have to recuse himself, and he did so because the parties chose - as all parties do - not to tell him anything about the case before he showed up. He also gave them his time on that same basis. The arbitrator is not ethically precluded from billing. In terms of business relationships, it might be a goodwill gesture to bill only expenses, or waive the bill entirely, but it is not a Code requirement. The member question, though, asks whether it is ethical to bill the Employer. The sense of the Committee is that if one party is billed, so too should the other party be billed.

The fourth member inquiry, also dealing with advocacy, generated a certain amount of disagreement within the Committee. A retired member who did not wish to give up membership was approached about serving as an unpaid member of the local Police and Fire Commission. Among the statutory duties of the PFC is conducting hearings on disciplinary charges brought by the Chief. The Chief files charges, and recommends a penalty, but may not implement the discipline until after a hearing and decision by the PFC. The Chief is represented in the hearing, as is the charged member. The hearing proceeds in the much the same manner as any arbitration. At the conclusion, the PFC votes on whether and what discipline should be imposed. Technically, it is the Commission that imposes the discipline. The

(Continued on Page 16)


Chair's opinion was that, given these specific facts, the substance of what the PFC did was no different from what an arbitrator does, and that it was a neutral decision-making process, even though the outcome was the actual imposition of discipline, rather than just a review of discipline. Nonetheless, there would be an ongoing disclosure obligation of the PFC membership on all bios and to the parties in any future selection.

The majority of the Committee expressed agreement with that approach, but several members raised very serious reservations. One member regarded this role as analogous to a third step hearing officer in a grievance procedure, reviewing and facilitating management's decisions on discipline. Another took the position that service on a Board that has authority over employment matters, even if no direct involvement in day-to-day decision-making, raised a serious question of at least the appearance of partiality – being required to act in the best interests of the employer, and thereby being aligned with management. The question was posed “What is the difference between advocating for a position and sanctioning that position?” Along those same lines, another member posited that there was an issue of conflicting duties posed by any business relationship that aligns one with the interests of management or labor, even if it is not directly related to advocacy, citing someone who does financial consulting for a union, or owns a business and has the final say on hiring and firing.

A wide-ranging discussion followed, which greatly clarified the Chair's thinking, if not his conclusions. In deciding that there was a difference between direct advocacy and non-advocacy activities that might create the appearance of partiality, the Chair reasoned that “The simplest answer is that there is only one status offense, as far as I can tell, where a member is per se in violation, and that is advocacy and consulting. Anything else goes to the specific facts and actual conduct.” The possible appearance of bias is a legitimate concern, but if that is the standard it would swallow up almost any outside activity. Appearance is a matter of perception, and bias can always be perceived. That is why the question is what a reasonable person would perceive, and that very much depends upon the facts. In the end, the Chair advised the member that membership would be permissible without violating Article 6, so long as the PFC functioned in what was substantively a neutral fashion, and the member abided by the continuing disclosure obligation. The member decided to serve the community in a different way.

The discussion in the PFC case did not end the matter, as another member subsequently inquired about the propriety of serving on public boards, thereby reopening the discussion. The Committee is currently considering the possibility of conducting a session at an FEC about what sorts of outside activities might raise the specter of advocacy, or at least trigger an ongoing dis-

closure requirement. The Chair has solicited information from the FMCS and the AAA about their policies on outside activities, and the Committee will be discussing this question at its meeting in Vancouver.

In closing, I would like to congratulate incoming Chair Susan Stewart of Toronto, who will undoubtedly do a terrific job for the Academy. I would also like to thank the hardworking committee for their efforts over the past year – Linda Byars, Alan Symonette, George Larney, Susan Grody Ruben, Homer La Rue, Margo Newman, Jim Oakley, and Dennis Nolan. It's been an honor to serve with them. 

LRF

A PLEA AND REMINDER

By Sara Adler, LRF COORDINATOR

Please, I beg of you, get rid of the record and your notes a nanosecond after you issue the Award – even if you retain jurisdiction over the remedy. Ninety percent of the legal issues simply vanish with a single phone call or letter if you have nothing in your file. To the best of our knowledge, no one has ever sought e-discovery of a member's computer, but it would be equally a safeguard to at least delete all drafts of your award and any other computer notes you have made.

A few years ago we had a rash of teacher filings against arbitrators, but the current occupation that seems most litigious is peace officers – and those investigating them. If you are contacted in any fashion for any information about your hearing/award/perceptions, **please do not share any information until we have had a chance to talk.**


REMEMBER

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 2017-18 are:

Sara Adler, Coordinator
310-474-5170; sadlerarb@gmail.com

Luella Nelson, Assistant Coordinator
503-281-8343; luella.nelson@SBCGlobal.net

Barbara Deinhardt, Assistant Coordinator
718-237-8693; bdeinhardt@aol.com 

PART 2

WHAT WOULD YOU DO?


By James S. Cooper

In the first part of this series I presented a scenario wherein for various reasons I found myself having issued an opinion without proper authority and when called back by the parties, I was given specific authority, but conditioned on writing an opinion completely opposite of my original award. (See Chronicle, Winter 2018, p. 11). I sought opinions and ideas from anyone willing to send me an e-mail. I got a total fifteen replies, which I will explain shortly. One of the reasons I engaged in this exercise is that I have been covering lectures, sessions and chats for the Chronicle for almost ten years, writing as many articles as the editors allow or need. I have gotten feedback on only two occasions: Dennis Nolan objected to a word I used to describe him and Ed Benn was shocked to see his name appear in the article about the Chicago police last year. Having gotten fifteen replies, I now know that at least 150 of our members read the publication, assuming that only ten percent would take the time to write a response. That's enough to make this hobby worthwhile.

Most of the fifteen responses suggested that I should never compromise my principles and having expressed my honest opinion I should stick to it no matter what the parties want me to do. Some suggested that I reopen the hearing and request testimony from at least one witness from which I could, if he or she testified as the parties contended, draw a conclusion that my first opinion lacked a full exposition of the evidence and that the "new" evidence turned me around. Others suggested that I should simply recuse myself from the case and let the parties do as they please. The danger, all saw, was that my reversing myself at the parties' request I was perpetrating a fraud on the bargaining unit members which aided and abetted the employer. It would be a clear no-no as a "fix" and ruin my reputation. The most clever response was to have the parties agree to convert the arbitration from a "grievance" arbitration to an "interest" arbitration, in which case I would be determining the "interests" of the parties rather than inter-

preting their collective bargaining agreement with the concomitant precedent setting effect. One sentence in the Award would accomplish this goal and no one but the parties' representatives would know or care about the difference.

As it turned out, I did precisely what the parties asked me to do. I was just starting out in what has turned out to be a long career, but at the time I considered my goal as not upsetting the apple cart and I was looking for new business. The issue in dispute was not earth shattering and involved, as the Union stated a "chicken shit" grievance. In a word, I caved. But that is not the end of the story. I have had many cases within the utility industry as the chair of a tri-partite panel. Whenever I meet with my panel members (one union and one management) I would talk about the quandary of this case and ask what they think I should have done. Every panel member has told me that they would expect and want me to do just as I did. (I would always talk about this after I had voted or told them how I would vote on the case; I did not need or want to curry favor from anyone.).

But this is also not the end of my story. A number of years later, after Arnold Zack cajoled me into applying and eventually joining the Academy, I was assigned as a panel leader at the fall education conference in Austin. I wrote up the facts of this case and presented it as an anonymous bystander. The session was in a small conference room. I walked Ben Aaron, Tom Roberts, David Feller, among several other long-established well-knowns. When they heard this case they lit into this anonymous arbitrator with a vengeance, calling the person a "whore" and a plague on the profession and someone who should never be admitted or if admitted, thrown out. I sheepishly told them that the whole scenario was fictitious. So, there you go: an ethical issue with the parties' expectations on one side and the arbitrator purists on the other. Who says this business is not fun. To those who responded, many thanks. 

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SEEKING A NEW DIRECTOR

By Catherine Harris

There are many ways in which members can contribute to the work of the Academy. However, serving as a Director of the Research and Education Foundation is certainly one of the most interesting and fulfilling ways of making a concrete and lasting contribution. There are two main responsibilities associated with the position of Director. One is assessing applications for funding and the other is fundraising.

Applications are assessed on the basis of our mandate to "promote understanding, competence, and integrity in the field of labor and employment arbitration." Typically, applications for funding are assigned by the REF President, Catherine Harris, to two directors, to conduct an initial review. This assignment leads to an opportunity for discussion and debate between the two Directors, with the associated pleasure of getting to know a NAA colleague a little better.

There will then be discussion within the committee as a whole in order to address any issues or concerns about the funding application. Ultimately, a decision will be reached about whether the proposed project will be accepted, rejected, or whether further communication with the applicant is necessary.

Funded projects may include lecture programs, films, conferences or training seminars. The REF was a major contributor to the recent film, "The Art and Science of Labor Arbitration." Recently, the creation and distribution of instructional videos and study guides by researchers at Wayne State University dealing with employment mediation and arbitration was approved. The results of a research project on arbitrator procrastination, conducted by Allen Ponak and Daphne Taras, and funded by the REF in 2017, will be presented at our Vancouver meeting. The funding mandate is not restricted to North America. A labor

arbitration project in Cambodia has been funded by the REF. The REF recently initiated an external marketing campaign, to ensure that academic and other organizations are aware of our Foundation and our ability to fund worthwhile projects, in accordance with our mandate.

Of course, ongoing fundraising is critical to the REF's ability to fund worthy projects. NAA Members have been generous in the past and our Silent Auction Fundraiser has been a remarkable success. However, fundraising requires ongoing diligence and creativity and new ideas are certainly welcome.

The REF is looking for an additional Director, to be appointed in Vancouver, in May. We are particularly interested in a Director to contribute to the work of the next Silent Auction, which will be held in Philadelphia in 2019. Please contact me at ssstewart@idirect.ca if you are interested in joining in the work of the Foundation. 

NAA Research & Education Foundation

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 Kenneth A. Perea
 John D. Perone
 William W. Petrie
 Allen Ponak
 Nancy D. Powers
 Joseph L. Randazzo
 David J. Reilly
 Gerard G. Restaino
 Arthur A. Riegel
 William E. Riker
 Haydee Rosario
 Stephen J. Rosen
 George S. Roukis
 Alan Miles Ruben
 Susan Grody Ruben
 John F. Sass
 Martin F. Scheinman
 Jerry B. Sellman
 Stanley H. Sergeant
 Mary Ellen Shea
 Elliott D. Shriftman
 Jay M. Siegel
 Barry E. Simon
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 Clifford E. Smith
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 Donald F. Sugerman
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 Gregory P. Szuter
 Sherrie Rose Talmadge
 Jeffrey B. Tener
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 Jack D. Tillem
 Maretta Comfort Toedt
 Kathryn A. VanDagens
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 George Nicolau
 David A. Petersen
 Gil Vernon

Region Donations

Metropolitan New York
 Missouri Valley

41st Annual Labor-Management Relations Conference

NAA Southwest Region

Houston, Texas

By NAA Regional Coordinator

Kathy Eisenmenger

The Southwest Rockies Region revisited Houston, Texas to host its 41st Annual Labor Management Relations Conference on February 15 through 17, 2018. Of special note, the Region paid tribute to our revered member, the late Raymond L. Britton Sr., the “father” who created the program for its first debut. Ray left us in May 2017 after a full life devoted to his family, the labor-management bilateral process, and furthering the education of the labor arbitration field. After law school and serving in the military during WWII, Ray purposely crafted the structure of our annual program because he discerned the need to bring all parties in the collective bargaining community together and offer close-up, non-confrontational settings for parties, agencies, and arbitrators. Ray had almost 51 years as an Academy Member. Throughout the Southwest Region’s experience with highs and lows in the use of collective bargaining, mediation, and arbitration by industry employers and labor organizations for peaceful labor dispute resolution, Ray’s establishment of the Region’s annual conference continues to allow for the educational, instructional, and congenial interactions that draw a robust crowd of labor and employment relations practitioners and arbitrators.

The first day of the program is spent holding two separate “training” days. Arbitrators, new and old alike, participate in a structured roundtable with experienced NAA members and guests from either a listing agency, labor union, employer, or subject matter guests for a topical interest to fine tune arbitrators in the multiple facets of the arbitration process. Separately, both labor and employer advocates and attorneys engage in a variety of educational and practical sessions to build on arbitration advocacy skills. The Region invites all of the participants from both the Arbitrators Training and the Advocates Training sessions to attend a luncheon. At the end of the long day, everyone joins a Region NAA Member who hosts an “Agency Update” from the AAA, the FMCS or sometimes the NMB.

The second day of the conference follows a typical pattern of a plenary session in the morning followed by a number of breakout workshops geared for particular subjects of interests. Some standard sessions include Ethics with emphasis on the Code, an update on the Texas Local Government Code as pertains to police and firefighter issues, a Federal Sector, and a panel of officials from the U.S. Postal Service Labor Relations, the APWU, Mailhandlers, NALC, and Rural Letter Carriers.

The day breaks for lunch with a guest speaker of reputable note. The luncheon speaker is oftentimes the current President of the Academy or, in her (or his) absence, an honored speaker. The attendees leave on a pleasant Gulf of Mexico February (or early March) day to catch planes, drive home to other destinations in Texas, Louisiana, Arkansas, Oklahoma or New Mexico, or fly home to Utah or Colorado (or Washington, D.C. or Ithaca, New York for example). Those NAA SWR members who stay to the end enjoy a delightful dinner with spouses, designated guests, and interns.

The third day includes a bright-eyed breakfast “business meeting” with the Southwest Region’s members to debrief the conference and plan for the following year. At mid-morning, one (or two) of the Region’s Member(s) moderates a lively and sometimes emotive two-hour “conversation” with postal service advocates, district or area officials, union officials and advocates, and arbitrators.

The Southwest Rockies Region’s 41st Annual LMR Conference paid tribute to the enduring contributions the late Ray Britton Sr., made to the Region, the Academy, and collaborative labor-management relations, including arbitration. He will be missed greatly by his son, Raymond “Lee” Britton Jr., his friends, colleagues, students, and all who crossed his path.

For the 41st conference, NAA Arbitrators Ruben Armendariz, I. B. “Beber” Helburn, and Rex Wiant conducted the Arbitrators Training with Mr. Arthur Pearlstein, Director of Arbitration Services, FMCS, Mr. A. Martin Wickliff, an employer’s attorney, and Ms. Julie Richard-Spencer, a union attorney. Mr. Pearlstein also graciously participated in the Agency Update later in the day with NAA Member Tom Cipolla and Ms. Chante Little, AAA Manager of ADR Services-Labor, Employment and Elections Division, Dallas, TX. NAA Members Sidney Moreland and Sharon Gallagher presented the Advocates Training with Mr. Joseph “Chip” Galagaza, an employer attorney, and Mr. Eric Nelson, a labor attorney. The evening ended on a social note with the Greater Houston Chapter, LERA, dinner and speakers Houston Chief of Police Art Acevedo and Houston Police Officers’ Union President Ray Hunt describing the productive bilateral relationship and collective bargaining experience, moderated by Walter Darr, FMCS Commissioner and President of the Chapter.

On February 16, 2018, NAA Member Marsha Kelliher moderated a Red Light/Green Light with a Twist plenary session by posing probing questions to a panel of arbitrators and

(Continued on Next Page)

advocates. The panel paired NAA Members Moreland, Will Hartsfield, and Zane Lumbley with advocates Samantha Martinez (employer attorney) and Ms. Richard-Spencer. The program continued with Poster Sessions: four topics presented in an open forum. NAA Member Benjamin M. Shieber presented Discipline and Discharge; NAA Member Katy Durham with arbitrator Angela McKee presented Hearsay in Arbitration; NAA Member Ruben Armendariz, with NLRB Houston Resident Attorney Laurie Duggan, presented ULP deferral to arbitration under the recent Babcock & Wilcox doctrine; and FMCS Commission Walter Darr presented Interest-based Bargaining.

Friday's luncheon speaker, Professor Harry C. Katz, President of LERA and back to his roots as a teaching professor at the Scheinman Institute on Conflict Resolution (formerly the Dean), Industrial and Labor Relations (ILR) School, Cornell University, raised the attendees' consciousness on the importance of preserving sound workplace policies and interactions between employers and their employees, including involvement with labor organizations. Professor Katz laid forth the charge for organizations such as the ILR School, the NAA, and LERA to utilize opportunities similar to those offered by the conference to further a successful shaping of the working world in a global economy.



Left to right, NAA Member Katy Durham, Professor Katz, NAA Members Louise Wolitz and Maretta Comfort Toedt

Friday afternoon offered attendees the choice of three workshops. NAA Member T. Zane Reeves moderated a panel discussion with Mr. Jason L. Aldrich, attorney for the National Border Patrol Council, and Ms. Jennifer Sims, Attorney, Office of Assistant Chief Counsel, U.S. Customs and Border Protection, focusing on federal sector issues such as the jurisdiction particularities of the Merit Systems Protection Board, Douglas factors of discipline and adverse actions, the roles of arbitration, the impact of exceptions to arbitration awards to the Federal Labor Relations Authority, and modifications to awards. NAA Member Maretta Toedt introduced Mr. Christopher Bacon, an attorney with Vinson & Elkins LLP, who discussed issues on

LGBT Workplace Issues. NAA Members Lynne Gomez and Leroy (Lee) Bartman raised real life dilemmas impacted by the Code of Professional Responsibility to discuss Ethics for Advocates and Arbitrators.



Picture left to right: NAA Members Lynne Gomez and Lee Bartman

NAA Member Paul Chapdelaine moderated the Postal Service Update with panelists Manager of Field Labor Relations Rick Acker, United States Postal Service; Vice President Lew Drass of the National Association of Letter Carriers; Contract Administration Manager Tony J. Branch of the National Postal Mail Handlers Union; Labor Relations Director Joey Johnson of the National Rural Letter Carriers Association; and Labor Relations Director Vance Zimmerman of the American Postal Workers Union. NAA Members Norman Bennett and Don E. Williams held discussions with advocates in the Police and Fire Update session pertaining to issues of non-criminal force, best practices with police and fire dispute resolution, use of body cameras as evidence, dealing with firefighters' or police officers' criminal conduct, discretionary actions, hearsay, and methods to displace discovery.

Friday evening, NAA members enjoyed a lovely dinner with spouses and invited guests.

Saturday morning, the Region met to debrief about the conference and plan for the 2019 conference. The Region decided to hold the 2019 conference in February at the same Double-Tree Houston Hobby Airport hotel. Updates on the conference may be accessed on the website: www.naaswr.org. All NAA Members are welcome to attend.

To close out the conference, NAA Member Paul Chapdelaine convened a two hour "open mike" session on late Saturday morning with advocates and arbitrators to discuss aspects of postal arbitration. 📌

25 & 40 Year NAA Members To Be Recognized In Vancouver

The following members were admitted to the National Academy of Arbitrators in 1993 & 1978 and will be recognized at the Annual Business Meeting on May 26, 2018 at the Fairmont Hotel Vancouver:

25 Year Members

Richard Adelman <i>New York, NY</i>	Anita Christine Knowlton <i>Berkeley, CA</i>
Gary David Altman <i>Brookline, MA</i>	Kinard Lang <i>Philadelphia, PA</i>
Patricia Thomas Bittel <i>Cleveland, OH</i>	Peter A. Prosper <i>The Villages, FL</i>
Phyllis E. Florman <i>Louisville, KY</i>	Michael C. Ryan <i>Freeport, ME</i>
Ronald Hoh <i>Sacramento, CA</i>	John Mark Skonier <i>Norristown, PA</i>
Randall M. Kelly <i>New York, NY</i>	Jane R. Wilkinson <i>Lake Oswego, OR</i>
Ildiko Knott <i>Bloomfield Hills, MI</i>	

40 Year Members

Armon Barsamian <i>Pollock Pines, CA</i>	Sinclair Kossoff <i>Chicago, IL</i>
Fred L. Denson <i>Webster, NY</i>	Craig E. Overton <i>Boca Grande, FL</i>
Peter B. Doeringer <i>Newtonville, MA</i>	Thomas N. Rinaldo <i>Williamsville, NY</i>
Thomas J. Erbs <i>St. Louis, MO</i>	Josef P. Sirefman <i>Glen Head, NY</i>
John J. Flagler <i>Minneapolis, MN</i>	Theodore J. St. Antoine <i>Ann Arbor, MI</i>
Joe H. Henderson <i>Santa Rosa, CA</i>	Helen M. Witt <i>Pittsburgh, PA</i>
Walter N. Kaufman <i>San Diego, CA</i>	

REMEMBERING...

Peter D. Jason

By Charles F. Ammeson

It is with deep regret and respect that the Michigan Region of the National Academy of Arbitrators notes the loss of Peter D. Jason on November 17, 2017 in Naples, Florida. Peter was born in Toledo, Ohio in 1941, and is survived by his wife, Sandra; sons, Andrew and Nicholas; and daughter, Molly.

Peter graduated from the University of Notre Dame and the University of Detroit Law School, and also earned a Master's in Theological Studies from St. Johns Seminary.

Peter rose to become assistant corporation counsel for the city of Detroit, where he developed expertise in the pension and labor areas, later serving Detroit as its Director of Labor Relations.

Peter was also a well-respected professor at Thomas M. Cooley Law School for over 40 years, where he was awarded the Stanley E. Beattie Teaching Award, and directed the overseas study program in Australia.

Because of the respect that he earned throughout all his endeavors, Peter was a frequent arbitrator in labor disputes for both government and private industry and was a member of the National Academy of Arbitrators.

The Michigan labor/management community will miss Peter's contributions.

David A. Petersen

By Shyam Das

David Petersen died on February 3, 2018, leaving us far too early. We will memorialize and celebrate David and his multifaceted and unsurpassed contributions to the Academy at our meeting in Vancouver in May. This is offered as a short and more personal tribute.

David and I met in the late 1970s in Pittsburgh where we both were fledgling arbitrators employed at the U.S. Steel/Steelworkers Board of Arbitration. It was all new to us, and we had little idea what the future would bring. We were immediately introduced to the Academy by our mentors and attended annual meetings for several years before we were eligible for membership. The NAA and arbitration were irrevocably intertwined from the outset of our careers and we both developed a lifelong love for the Academy.

Some 40 years later David and I remained colleagues at the Board of Arbitration. He was a superb arbitrator. He focused in on the nub of the issue in his cases and doggedly chewed it apart until he found the kernel inside. I spent a great deal of time with David and spoke often with him over that period. We got to know each other extremely well and became very good friends.

David was a gem of a person. He was funny, with a dry but acid wit. He sized up people very quickly and was loyal and kind to those who were genuine, regardless of their stature or formal accomplishments. He disliked phonies. David treasured his family and spoke often and fondly of Angela, his children Beth, Matt and Rob, and later his grandchildren.

(Continued on Page 24)

He was genuinely interested in other people and their families and in the larger issues of the day. Perhaps less well known, he regularly visited and kept in touch with a number of our older colleagues as they neared the ends of their lives — which they greatly appreciated. One could not ask for a better friend or colleague. We all will miss him very much.

William M. Weinberg *By Joel M. Weisblatt*

I had the great privilege of working very closely with Will Weinberg for more than 17 years. We were colleagues sharing a love and dedication to our work as impartial members of the labor relations community. We were part of a remarkable team, with Bonnie Weinstein, Steve Spencer, Mary Crangle and Jeanna Belkin, at the Port Authority Employment Relations Panel where Will set the tone for our success through his wisdom, experience and special instinct for dispute resolution. Most importantly, he was a wonderful friend; a friendship I shall always cherish.

Will possessed extraordinary abilities as a teacher. This was a fact that all who had the good fortune to interact with him learned at the time of instruction and, even more often, upon later reflection. Will had that uncanny ability to be a “sneaky teacher;” you did not always realize that you were being educated, but the learning process was always in motion. Frequently he would teach via a low key series of questions designed to get you to think constructively and, in the end, you might believe that it was you, and not he, who had found the way through a thorny problem. It was no accident. Will brought people to a point of understanding by getting them to diagnose the elements of a problem, consider the facts and then reach a reasoned and practical conclusion.

Will was not one to ignore the importance of practicality. He keenly understood that, in the dispute resolution field, there was a downside to the failure of the parties to reach a settlement. [Note that Will always insisted that the failure of the parties to resolve a dispute was not indicative of a failure by the mediator, only by the parties.] He had that incredible ability to recognize the importance of timing in his craft and sometimes that meant having the flexibility to allow a dispute to get a little more heated before it could be put to rest. Will often reflected that the enormous sense of accomplishment a mediator attains when the parties resolve a difficult dispute has a purity all its own. He encouraged, cajoled and shepherded parties along the way through skillful mediation; his feeling of accomplishment, he said, was further enhanced when the parties thought they did it themselves and only the mediator knows how effective he or she was. Will thought it was just perfect to be the anonymous mediator or arbitrator or Panel Chair.

As an arbitrator, Will was respected throughout the labor relations community. He was committed to his impartial role and his work always reflected that ideal. His many decades of service as arbitrator confirmed the overwhelming consensus that he was professional and trusted. He arbitrated complex cases and held a broad acceptability throughout the labor relations community. His expertise was acknowledged in both the public and private sectors. He wrote decisions that were clear and concise; the parties were able to understand his reasoning whether or not they agreed with the result.

Will Weinberg’s life experiences were so varied that he had a treasure trove of material to share. He told amazing stories and it was hard to comprehend that one person could have such a breadth of experiences. Some of you may know that Will literally shared a foxhole

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with Audie Murphy, the most decorated soldier during WWII. He was not quick to acknowledge his interesting background; you may have known him for years before hearing of his Army escapades. Some years later he may have added that he was the character “Teach” in “To Hell & Back” (Audie Murphy’s biography in book and film).

Will was so calm and unassuming that it was shocking to learn of his wild side. The story Will told of the night before he shipped out for WWII was a great example. Knowing they were to sail the next day, he and a few of his buddies decided to go AWOL in order to get in a little drinking and carousing prior to heading off to war. He expressed no fear of getting caught, “what will they do keep me from shipping out” was his rationale.

In another aspect of his life, Will was deeply involved in the world of jazz, where he had friendships with many of the great performers. He was a major force in the establishment of the Jazz Institute at Rutgers, a legacy of which he was very proud. That institute continues to thrive today at the Newark campus of Rutgers University.

Will was enormously proud of his work with the New Jersey Board of Mediation. He served that agency as a mediator, the Executive Director & the Chairman, although his fondest stories about the State Board were of his early mediation efforts in the 1950’s. In serving the NJ Public Employment Relations Commission, Will co-chaired the study commission (which included union and management advocates, legislators, academics and neutrals) that provided the foundation for the interest arbitration statute in New Jersey.

Professor Weinberg, as some knew him, had yet another career at Rutgers University. He was an extraordinary teacher, a skilled administrator (for a time the chief negotiator for the university) and a great supporter of the collective bargaining process in all his roles.

Will’s work as a mediator and arbitrator led to tremendous admiration in the field, though he might say that it also ruffled some feathers when required. He was committed to serving with an ever-present respect for the collective bargaining process.

Will was an active member of the Academy and other labor relations organizations. He attended and made numerous contributions to the annual conferences of ALRA (the Association of Labor Relations Agencies) and was quick to acknowledge that he was also involved when it was ASMA (Association of State Mediation Agencies) and ALMA (Association of Labor Mediation Agencies).

I was so fortunate to have had Will Weinberg as my friend. I’m certain many of you feel this way as well. We ate good food together, drank good wine together, and had wonderfully interesting conversations. I will carry our friendship with me forever. I celebrate his life, confident that all those lucky enough to know him are the better off for that experience.

Ernest Weiss
By Robert E. Light

Ernest Weiss, age 83, died Friday, February 24, 2017, in Somerset, New Jersey. He was born April 14, 1933, in Henčočve, near Vranov (formerly CSSR, now Slovakia) to Samuel and Sarah. His mother died suddenly when he was only three. His father, a Talmudic scholar, owned the village general store. The family fled to Hungary after the Germans invaded in 1942, and then to Budapest. Samuel Weiss was deported from Budapest, to Mauthausen, where he perished. The fate of his parents was a great source of sorrow – it was merely two years ago that he learned the details of his father’s death.

(Continued on Page 26)

As orphans, he and his two sisters, Olga and Gabrielle, were to immigrate illegally to Israel, when a keen-eyed aunt noticed their names on a list and removed them from the transport convoy. She then arranged for them to be brought legally to the United States, on the Swedish-American *Gripsholm*. They all arrived in America in 1947. He spoke often of his first sight of the New York skyline as the ship pulled in, and the way that the sun shone on the Statue of Liberty to welcome them.

After finishing 8th grade in Highland Park, Ernie skipped high school and went to work before he was even sixteen years old. He eventually returned to school and received a Master's Degree in Education and Labor Studies from Rutgers University. His career was vast and varied and included everything from working as an electrician to serving various labor unions in NY and NJ.

Ernie took great pride in his work as a self-employed labor arbitrator for more than thirty-five years. He was an avid dancer and skier in his younger years, and was also very active in musical theater, singing as a dramatic tenor in many community productions. He was known for his sense of humor, and his generosity and kindness to all.

He is survived and will be missed by his devoted son Noah (Selmin) and his beloved grandsons Eli and Ari, sisters Olga Fried (Fred), and Gabrielle Kessler-Tracy (David), many cousins, nieces, nephews, and friends. His ultimate pride and joy was his son Noah, and dear grandchildren Eli Samsun and Ari Daniel. He believes that the next Weiss generation is proof that Hitler did not succeed. 🪦

IN MEMORIAM

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

Thomas P. Lewis

NAA Member since 1972

William S. Rule

NAA Member since 1976

Mark R. Sherman

NAA Member since 1998

We will be holding a Remembrance of David Petersen from 2:45 p.m. to 3:45 p.m. on Saturday, May 25 in Vancouver, immediately following the business meeting. All attendees are welcome – members, spouses, and non-members. David's wife Angela, as well as all three of their children, Beth, Matt, and Rob, will be there with us.

SLATE OF OFFICERS AND GOVERNORS 2018-2019

* PRESIDENT-ELECT *

EDWARD B. KRINSKY *Madison, WI*



I began arbitrating in 1966 as a staff member of the Wisconsin Employment Relations Board. Having been born and raised in Brooklyn and then gone to Antioch College in Ohio, I moved to Wisconsin for graduate school and a PhD in Economics from the University. I then joined the staff of the WERB which was for many years one of the premier labor relations agencies in the country. Its Commissioners (Morris Slavney, Arvid Anderson and Zel Rice) were Academy members and more than a dozen staff members also went on to be Academy members.

In 1970 I began my own arbitration practice, while doing part-time administrative work and teaching at The University of Wisconsin. In 1976 I joined the Wisconsin Center for Public Policy doing research and mediation. The Center became part of The Mediation Institute where I made use of my Brooklyn background mediating solid waste facility siting disputes and State-Tribal fishing rights disputes over lake trout allocations.

I have been arbitrating full-time since 1987. I became a member of the Academy in 1976. My Academy responsibilities have included being an annual meeting Program Chair, Nominations Committee Chair, CPRG Chair and being a Vice-President.

In my spare time, I enjoy spending time with my wife Mary Jane, my four children, her three children and my 9 grandchildren located in Wisconsin, Washington State, California and Israel. My other joy, besides travel, is choral singing which I have been doing since I was a college freshman, and for the past 48 years as a member of The Philharmonic Chorus of Madison.

*President-Elect David Petersen recently passed away, and the NAA Constitution is silent regarding the procedure to be followed to fill that position when a member dies while in that status. Edward Krinsky's nomination as President-Elect to follow David Petersen already has been reported by the 2017-2018 Nominating Committee, his name will be presented by the 2017-2018 Nominating Committee Chair, Jeffrey Tener, for membership vote at our Business Meeting in Vancouver, along with the rest of the slate of candidates for 2018-2019. Once the membership vote officially installs Ed as President-Elect for 2018-2019, he will be in the position to assume the office of President for 2018-2019 pursuant to application of the relevant provision of the NAA Constitution.

PRESIDENT-ELECT

BARRY WINOGRAD *Oakland, CA*



Barry Winograd has maintained a full-time dispute resolution practice since 1988 as an arbitrator and mediator of labor and employment cases, as well as other civil disputes. He is a former vice-president of the National Academy of Arbitrators, has been the program and arrangements chair for Academy meetings, and served as a committee chair. Before becoming an arbitrator, Mr. Winograd was an administrative law judge for the California Public Employment Relations Board and an attorney for the United Farm Workers of America. Mr. Winograd has written a number of articles on labor relations, arbitration, and mediation. For many years, he has taught courses on those subjects as a member of the adjunct law school faculty at the University of California, Berkeley. He also taught on the adjunct law faculty at the University of Michigan. Mr. Winograd is listed on dispute resolution rosters of neutral provider organizations and federal and state courts, and is a permanent arbitrator on labor-management contract arbitration panels in the private and public sectors. Mr. Winograd received his B.A. at the University of California, Santa Barbara, and his J.D. and LL.M. from the University of California, Berkeley, School of Law. Mr. Winograd is the proud husband of Margie Brogan, a past president of the Academy. Their family (the "Brograds") includes five children, spouses and companions, and three grandchildren, with one more on the way in summer 2018.

VICE PRESIDENTS Second One-Year Terms

WILLIAM A. MARCOTTE
Toronto, ON

ELIZABETH C. WESMAN
Camas, WA

(Continued on Page 28)

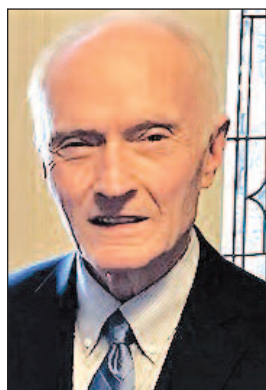
VICE PRESIDENTS

First One-Year Terms

WILLIAM L. MCKEE

Denton, TX

Bill McKee grew up in a Missouri Ozarks farm family that moved to town for work on the railroad. He is Professor Emeritus of Applied Economics at the University of North Texas, member of the National Academy of Arbitrators, and former chair of the Southwest/Rockies Region of the NAA. He recently completed a term on the NAA's Board of Directors.



After completing his degree in economics, Bill received a post-doctoral appointment at the Brookings Institution in Washington, D.C., where he served from 1977-78. Bill is a founding member of the Texas Labor-Management Conference and the Texas Mediator Credentialing Association. At UNT he served as Professor of Applied Economics, Executive Assistant to the Chancellor, Academic Integrity Officer, Faculty Athletic Representative to the NCAA, and chair of his department. He founded or co-founded the Master's Program in Labor and Industrial Relations, Interdisciplinary Minor in Alternative Dispute Resolution, Denton County Disputer Resolution System, and the Academic Integrity Office.

A labor and employment arbitrator on panels of the AAA, FMCS, NMB, and U.S. Olympics, he has arbitrated/mediated disputes in virtually all industries and sectors of the U.S. economy on a wide range of issues. His arbitration experience includes several complex cases in the airlines industry, including interest, scheduling, and subcontracting disputes. Bill also arbitrated a large, complex international construction dispute for the AAA International Centre for Dispute Resolution as the single arbitrator. He is an appointed panel arbitrator for several employers and unions.

Bill was selected as Faculty Athletic Representative of the Year by the All-American Football Foundation in 2003. In 2004 he was elected to the Texas Labor Management Conference Hall of Fame. Bill served two years on active duty in the US Army and five years in the Army Reserve and National Guard.

ALAN A. SYMONETTE

Philadelphia, PA

Alan Symonette has been a full-time labor and employment arbitrator since 1988. He is also the president and owner of Symonette ADR Services, Inc. located in Philadelphia Pennsylvania.



He has conducted numerous grievance and interest arbitrations in public, private and federal sectors throughout the country. He has particular experience in issues involving airlines, utilities, education, including higher education, sports, law enforcement, education, health care and firefighting.

A member of the National Academy of Arbitrators since 1996, he currently serves on the labor panels of the American Arbitration Association, Federal Mediation and Conciliation Service, National Mediation Board, the Pennsylvania Bureau of Mediation and the Public Employment Relations Board for the U.S. Virgin Islands. Mr. Symonette is also a Fellow with the College of Labor and Employment Lawyers where he serves on the Board of Governors as its Treasurer and on its Strategic Planning Committee. He also currently serves on the Advisory Board of the Scheinman Institute, Cornell University School of Industrial Relations. Mr. Symonette has been active in the American Bar Association, Labor and Employment Section where he has served as the neutral co-chairperson of the ADR in Labor and Employment Committee and is currently the neutral co-chairperson of the Pro Bono Committee.

Most recently Mr. Symonette has served as the moderator in the documentary film, "The Art and Science of Labor Arbitration." This documentary is a project sponsored by the College of Labor and Employment Lawyers and the NAA Research and Education Foundation.

He is also a Chapter Editor, in the 3rd Edition of Discipline and Discharge in Arbitration; Melissa Biren and Norman Brand Editors (Bloomberg BNA, 2015)

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BOARD OF GOVERNORS

Three Year Terms

KATHY L. EISENMENGER

Denver, CO

Kathy has been a labor arbitrator since 1993. She has arbitrated thousands of interest and grievance arbitration cases between numerous labor organizations and private, public and federal employers. Kathy is listed as a labor arbitrator with FMCS and AAA. She serves on several permanent arbitration panels. Kathy is a member of the National Academy of Arbitrators (NAA) since 2004. She continuously serves as the NAA's Regional Coordinator since the invitation from then-NAA President Margie Brogan. Kathy has also served as a member of the NAA New Member Orientation Committee, the NAA Membership Committee and as a reporter for *The Chronicle*. She is currently the Chair of the NAA Southwest Rockies (SWR) Region, having been the Region's past Vice Chair and Secretary. Kathy is also a Public Arbitrator for the Financial Industries Regulatory Agency (FINRA).



Kathy received her Bachelor of Sciences, Business Administration, in 1981 from the University of Redlands, Redlands, CA. She received her Juris Doctorate from the now Texas A&M School of Law (formerly the Texas Wesleyan University School of Law) in 1995. She is a licensed attorney with the State Bar of Texas. She is also a member of the Labor-Employment Section of the Texas Bar. Kathy has conducted numerous sessions for various organizations on the subjects of labor-management negotiations, arbitration, grievance investigations, anti-discrimination laws, and mediation for a variety of organizations such as the NAA SWR, LERA, USDA Graduate School and others. Kathy began her labor-management career in 1977 in California. She worked for various federal sector employers whose employees were represented by the AFGE, NAGE, IFPTE, FOP, IAFF, LIUNA, IBEW, IAMAW, International Association of Masters, Mates and Pilots, Metal Trades Council, etc. The employers in Kathy's labor career consisted of a position as labor advisor to the Commander-in-Chief, Pacific Fleet for the Pacific Rim, two naval shipyards (Pearl Harbor, HI, and Director of Labor Relations at Philadelphia, PA), a submarine base (Bangor, WA), the Air Force Civilian Appellant Review Agency (Denver, CO), the Air Force Academy (Colorado Springs, CO) and a U.S. Marine Logistics Supply Base (Barstow, CA).

PHILIP A. LAPORTE

Atlanta, GA

Phil LaPorte serves as the Southeast Regional Chair for the National Academy of Arbitrators. The National Academy of Arbitrators is the country's leading professional association for labor arbitrators. Professor LaPorte served on the faculty of Georgia State University for thirty-two years. He took emeritus status from the GSU College of Law in January. Professor LaPorte was appointed as Chair of the City of Atlanta's Civil Service Board by Mayor Andrew Young and appointed to a second term by the late Maynard Jackson. He holds appointments as the permanent arbitrator for numerous employers and unions including the IBEW and NECA, MARTA and ATU and AT&T and CWA. Professor LaPorte also serves on the Salary Arbitration Panel for Major League Baseball and the Major League Baseball Players Association.



Phil LaPorte is a graduate of Saint John's University and the University of Minnesota. He serves as Program Chair for the award-winning Atlanta Chapter of the Labor and Employment Relations Association and Secretary-Treasurer for the Georgia Labor Management Conference. He received the TERRA Lifetime Achievement Award in 2016 for "achieving excellence in labor-management relations and promoting the ideals of the Labor and Employment Relations Association."

RANDI E. LOWITT

Far Hills, NJ

Randi Lowitt has been a full time labor arbitrator since 1992. She has been a member of the National Academy of Arbitrators since 2005 and has served as the Chair of the New York Region. Additionally, Ms. Lowitt is also active as a labor mediator and a fact finder, in areas involving sexual harassment, discrimination, and myriad other workplace issues.



Ms. Lowitt is on the labor panel of the American Arbi-

(Continued on Page 30)

BOARD OF GOVERNORS

(Continued from Page 29)

tration Association, the Federal Mediation and Conciliation Service, the New York State Public Employment Relations Board, the New Jersey Public Employment Relations Commission, the National Mediation Board, the New Jersey Board of Mediation and the New York City Office of Collective Bargaining. She also serves as the permanent arbitrator to a number of permanent labor management panels in a variety of industries, including education, engineering, food industries, security and safety, telecommunications, health care, manufacturing, transportation, and service industries. Ms. Lowitt is named and serves on permanent panels in both the public and private sectors.

Ms. Lowitt received an AB from Hamilton College and a JD from Fordham Law School. She is admitted to the New York State Bar and the District of Columbia Bar. She is a member of the Labor and Employment Section of the New York Bar Association and a member of the Labor and Employment Relations Association. Ms. Lowitt's practice is primarily located in New York/New Jersey, although she travels throughout the Eastern United States and Midwest for cases, as well.

DANIEL G. ZEISER

Cleveland, OH

Daniel G. Zeiser has been a full time labor arbitrator since 1999 and joined the National Academy of Arbitrators in 2011 in San Diego. He is just finishing a three year term as Managing Editor of *The Chronicle* and served as Chair of the Ohio-Kentucky Region from 2014-2017. In



addition to arbitration, Mr. Zeiser is a fact finder and conciliator for Ohio's State Employment Relations Board, is a hearing officer for Cuyahoga County's (Cleveland, Ohio) Personnel Board of Review, a hearing officer in school discipline matters, and a mediator in various matters. He is on the labor panels of the FMCS, AAA, Arbitration and Mediation Service, and on the AAA's employment arbitration panel. He also serves on a number of permanent panels. A labor and employment lawyer since 1984, Mr. Zeiser is certified as a Labor and Employment Law Specialist by the Ohio Supreme Court. He is a member of the College of Labor and Employment Lawyers and the National Academy of Distinguished Neutrals.

Mr. Zeiser received his A.B. from Kenyon College in 1981 and his J.D. from Case Western Reserve University in 1984. Before becoming a labor arbitrator, he was in private practice in a small labor law firm, a national trucking company, and a nationwide bank. He was lucky enough to be mentored by two members of the NAA during his early years as an arbitrator.

Mr. Zeiser is married to Lori Gallo, also an attorney, who has been his companion for almost 40 years and joins him at the annual meetings and FECs. They have three children, but no grandchildren yet, a sore point with Ms. Gallo, but do not tell her he said so. In his spare time, indeed all the time, Mr. Zeiser is a self-described nerd. He studies the Civil War rabidly and has traipsed many a battlefield, has visited all but three of these United States, including twelve capitals and their capitol buildings, and reads avidly. Last but not least, he has become something of a bourbon connoisseur and plans to continue his education in that industry. 🪄

The Academy at 75

By Barry Goldman

In 2022, the Academy will be 75 years old. To mark the milestone the President and the Board of Governors have determined that we will publish a supplement to *Fifty Years in the World of Work*. I was asked to chair the committee. I am writing to introduce the members of the team and to provide an update on our progress. We have code named the operation Academy@75.

Unlike the original volume edited by Gladys Gruenberg, Joyce Najita, and Dennis Nolan, the book we are planning will not have a single authorial voice. Instead, like *The Common Law of the Workplace*, it will have a separate author for each chapter. Walt De Treux will write the Institutional History chapter. His beat will range over anything in the last 25 years of Academy history that isn't covered by one of the other chapters. Dennis Nolan has the New Directions Committee. That's the one that got the Academy to recognize employment arbitration. Ted St. Antoine will cover employment arbitration more broadly. Josh Javitz has railroads and airlines. Dan Zeiser will do nuts and bolts, that's indexes, appendixes, and the like. Bonnie Bogue will write the chapter on women. Alan Symonette and Homer La Rue are teaming up to handle race. Rich Bloch has the FTC controversy. Dan Nielsen will cover ethics. Mark Lurie has technology. And I will do a chapter about the future.

Other members of the committee are Susan Grody Ruben, Barbara Zausner, and History Committee chair Nancy Kauffman. Susan's discussion of the project with BNA, now known as Bloomberg Law, is proceeding with all deliberate speed.

Authors may be contacting Academy members for interviews as we put our chapters together. But you don't have to wait. If you have something to add to the conversation, please call the relevant committee member and tell them about it.

Thank you in advance for your help. 🪄

PRESIDENT'S CORNER *(Continued from Back Page)*

and has done an exceptional job under circumstances that may have proved more daunting to someone less talented and dedicated. Walt and I both are crack-of-dawners, and we typically cover a lot of ground in our early calls and texts. He also manages to make himself available to me and others to discuss Academy matters which need attention at multiple other times. Also, a singular achievement of Walt's during his first year as EST has been overseeing the implementation of the new NAA website. Beyond the obvious benefits of the improved functionality of the site, I think its more contemporary look and feel project just the right image of the Academy for the present moment.

I fully expected that my duties as Academy President would include substantial communication with members, but I have been pleasantly surprised by the degree to which the outgoing has been accompanied by the incoming. Members' voices count, and I want to

thank the many members who have contacted me of their own volition to share their opinions and suggestions about Academy matters. Beyond the benefit of hearing some brand new creative ideas, it has been gratifying to discover how many of you actively care about the current status and future direction of the Academy. I also want to note that more than 190 members completed the survey designed by the Bloch Committee, and many of the responses included thoughtful comments. I am very grateful for all the time and effort contributed by Chair Rich Bloch and committee members John Kagel, Bobbie Golick, Allen Ponak, Walt De Treux, and for some months David Petersen. Whether the committee ends up recommending major changes or only minor adjustments for our meetings, I am pleased that they will have done their work with the benefit of substantial member input.

Notwithstanding the above ode to strategic planning, the Academy's recent

experience is well captured by a line I will borrow from John Lennon's "Beautiful Boy" (which Lennon also borrowed): "Life is what happens to you while you're busy making other plans." The late cancellation of the FEC in Miami, along with other significant unanticipated events, resulted in an unusual number of practical and logistical challenges over the last year. Much more importantly, it is no exaggeration to say that, in addition to presenting more such challenges, our loss of David Petersen rocked our organizational—and in many cases individual—equilibrium. We will gather together in Vancouver to remember and honor David publicly, but I never will forget the ways in which so many have honored him privately by pulling together behind the scenes.

It truly has been my honor and privilege to serve as the President of the Academy for the last year, and I very much look forward to seeing many of you in Vancouver. 🏠

Plan to Attend 2018 Annual Meeting May 23 – 26, 2018



**The Fairmont Hotel Vancouver
Vancouver, BC**

Plan to Attend 2019 Annual Meeting May 29 – June 1, 2019



**Loews Philadelphia Hotel
Philadelphia, PA**

THE PRESIDENT'S CORNER



By Kathleen Miller

This is my final President's Corner column, and I dedicate it to David Petersen. I deeply regret that we will be deprived of the benefit and pleasure of reading the President's Corner columns David so richly deserved to write.



I used to wonder how an Academy President could expect to accomplish anything substantial in a one-year term, beyond attending to the ongoing flow of organizational business. Over the last few years I have learned that the whole of three successive presidents working closely together is greater than the sum of its parts. For much of my presidential term, I was sandwiched between Immediate Past President Margie Brogan and President Elect David Petersen, both of whom fully understood the value of continuity of leadership. Ed Krinsky already is becoming a presence within the presidential troika, and I look forward to continuing to work with him when he is at the helm after Vancouver. I also want to thank Ed for agreeing immediately and graciously to assume his presidential duties a year earlier than he expected — no minor matter when he had only a few months to make all the necessary professional and personal adjustments.

I have an addition to my first President's Corner column, where I updated you on the prodigious efforts of our members working on national committees as well as on regional programs and initiatives. I have appointed Barry Goldman to chair a committee which is tasked with creating a supplement to our 1998 "Fifty Years in the World of Work" history. Under Barry's able leadership, this committee will complete the supplement in time to honor the Academy's 75th anniversary.

In my second column, I expressed optimism for the resiliency of the Academy, along with labor arbitration, in extremely challenging legal and political circumstances. There is no question that the volume of labor arbitration cases is down from previous decades and will remain so for the immediate future. It also is clear that a primary reason the Academy developed its importance and prominence in the world of labor arbitration is the nature of our membership. In order to sustain the Academy in its historically meaningful position, we need to replenish our ranks with new arbitrators: who are sufficiently qualified and impressive that they have other attractive professional options; and who nonetheless choose to commit themselves to full, long-haul careers as neutrals.

The Outreach program initiated by Margie Brogan could be planned in one year but could not be implemented fully at the regional level during that short period of time. For that

reason, Margie asked me before launching the program if I supported its mission, and my answer was an unequivocal "yes." Based on our many discussions, I knew that one essential feature of the Outreach is encouraging advocates to use promising newer arbitrators who are in the process of becoming established. It seems to me that, in addition to assisting newer arbitrators, this active partnership with established advocates bodes well for the prospect of shoring up the bonds between the labor-management community and the Academy. I was very impressed by the progress of the Outreach initiative while I was President Elect, and I am grateful that Margie agreed to my appointing her to chair the Outreach Committee after she passed the gavel to me in Chicago last June.

A few years before I approached my own presidential term, I had begun to believe it was time for the Academy to revisit the nature and structure of our national meetings to determine how to make them more attractive to both members and guests in current, rather than outdated, circumstances. I am particularly interested in enticing the parties to return to the fold, and our incipient partnership with them within the Outreach seems to present an auspicious moment. Before I appointed the Bloch Committee last year, I consulted with David Petersen to determine his interest in presiding over the implementation of any potential recommendations which could not be accomplished by the time I passed the gavel to him in Vancouver. I now also have consulted with Ed Krinsky, and, like David, he is enthusiastic. David was equally enthusiastic about my appointing him to the Bloch Committee as a means of tapping the wealth of institutional knowledge he had accumulated over his unprecedented 15-year term as Executive Secretary-Treasurer (EST).

Speaking of ESTs, the EST's participation in strategic planning with successive presidents contributes significantly to the continuity of leadership in the Academy. Walt DeTreux hit the ground running the day he assumed this position last June,

(Continued on Page 31)