



Newsletter

A Chapter of the American Association of Law Libraries **Mar./Apr. 2009, v. 36, no. 4**

From the President... Jessica Wimer

I write this President's column during very uncertain economic times. At this point, President Obama's stimulus package has just been signed and the markets are continuing to decline. I do not doubt that the majority of us have devoted more of our time recently to thinking about the economic conditions of ourselves, our employers, and the companies and organizations that play roles in our lives. As a SCALL Board member for many years, I can assure each of you with confidence, that careful deliberation and consideration is given to how SCALL money is spent. As a result, we find ourselves financially healthy and able to cover both expected and unexpected expenses, in addition to maintaining a modest amount in reserve.

That said, raising the cost of membership dues as a method of maintaining our financial viability has been discussed every year I have served on the Board. Until now, no presi-



(continued on page 4)

Inside...

From the President...1,4,6
Newsletter Staff / Submission Deadlines / Advertisers...2
Editor's Notes...3
SCALL Scholarship Recipients Announced...3
CONELL at AALL... 6
Pepperdine Law Professor Kicks Off Institute Programs...8
Confidentiality and Ethical Standards for Practice in Mediation...9-10
SCALL Grants Awarded...10
Hot Topics in ADR...11
ADR Research Sources: Parts I and II...12-15
Arbitration of Employment Cases...16-17
Mediation Through the Eyes of a Trial Attorney...18-19
AALL Notices...19-21
Bringing It All Together: The Past, Present, and Future of ADR...22
AALL Board Member Carol Bredemeyer is V.I.P. at SCALL Institute...23-24
Heard Around Town...25
Fossil Discoveries at the New Thomas Jefferson Law School Building Site...26-27
Getting to Know You: Deborah Schander...28
Job Opportunities...29
SCALL Officers and Committee Chairs, 2008-2009...30-31





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Index to Advertisers

AALL ... 15, 17

Cal Info ... 10

EOS International ... 6

LegalTech ... 7

Legislative Intent Service ... 15

Legislative Research Inc. ... 29

Loose Leaf Filing Service ... 15

NYPL Express ... 29

Research Solutions ... 6

Westlaw Business ... 5

SCALL Newsletter Submission Deadlines

We welcome the submission of any articles of interest to the law library community. Contact Hugh J. Treacy, **SCALL Newsletter** Editor: htreacy@law.whittier.edu.

All submissions should be received by the following dates:

April 13, 2009
August 10, 2009
October 12, 2009
December 14, 2009
February 8, 2010
April 12, 2010
August 9, 2010
October 11, 2010
December 13, 2010
February 7, 2011

May / June 2009 issue
Sept. / Oct. 2009 issue
Nov. / Dec. 2009 issue
Jan. / Feb. 2010 issue
Mar. / Apr. 2010 issue
May / June 2010 issue
Sept. / Oct. 2010 issue
Nov. / Dec. 2010 issue
Jan. / Feb. 2011 issue
Mar. / Apr. 2011 issue



Editor's Notes... Hugh J. Treacy

I'm sure by now you have noticed that the March/April issue of the SCALL Newsletter is late, very late.... But, no worries! It's part of our fiendishly clever plan to provide you with all of the details of last month's excellent SCALL Institute held in the desert community of La Quinta. We hope you think it's been worth the wait as you read the very interesting articles inside this issue. Many thanks go to Betsy Chessler, SANDALL Vice President and Institute VIP guest, for taking and sharing with us her copious notes on many Institute programs.

Herein you'll find a description of every one of the Institute programs, including the complete remarks of our distinguished V.I.P. from the Executive Board of AALL, Carol Bredemeyer, who reported the latest news from our parent organization in Chicago. I'm sure it was a pleasure for all SCALL members in attendance to welcome Carol and hear her remarks at the Institute luncheon.

You may be as amazed as I was to learn of the February discovery of ancient fossils found at the site of the new building that will be the new home of Thomas Jefferson School of Law and Library in downtown San Diego. The discovery is mentioned in Larry Meyer's latest *Heard Around Town* column. We have been given permission to reprint the article that first appeared in the local newspaper about this exciting discovery. Enjoy the photos, too! The fossils don't look their ages, wouldn't you agree?

SCALL President Jessica Wimer provides us with a lengthy but important assessment of the financial condition of our organization. Nevertheless, despite the economic downturn, I'm very hopeful that the recession will not diminish advertising revenues to a significant degree. The struggling economy will also not interfere with us on the Newsletter committee to bring you quality articles, stories, and important notices, and other contributions from SCALL members. We hope you continue to enjoy every issue as much as we enjoy producing them!

Welcome, Deborah Schander, a new SCALL member and subject of this issue's *Getting to Know You* article!

2009 SCALL Scholarship Recipients Announced

Cheryl Kelly Fischer, Chair of the SCALL Library School Liaison Committee, and the entire Committee are pleased to announce that SCALL scholarships have been awarded to the following library school students:

Channa Cajero (Los Angeles, CA) – Channa is a current SJSU MLIS student and works in the Collection Management division of the LA County Law Library.

George Carter (Redlands, CA) – George currently attends the SJSU MLIS program and has been working at the Law Library for San Bernardino County for nearly six years.

Dignorah Gomez (Los Angeles, CA) – Dignorah also attends the SJSU MLIS program, has worked at a downtown LA law firm, and currently works with legal documents in HBO's Business Affairs department.

Michelle Gorospe (Los Angeles, CA) – Michelle is a current UCLA MLIS student and has six years of experience working in the legal field, including her position as Stacks Supervisor at the UCLA Law Library.

Cindy Guyer (Pasadena, CA) – Cindy is attending the SJSU MLIS program and has a JD from USC where she currently works as a Research Librarian at the USC Law Library.

Gina McCoy (Simi Valley, CA) – Gina is also a SJSU MLIS student, has a JD from Loyola Law School and works as a Research & Faculty Services Librarian at Pepperdine University School of Law.

From the President... (continued from page 1)

dent has wanted to do so without careful consideration of all the facts and a clear reason supporting such an action. It is at this time, that we find ourselves at a place where raising the membership dues is a course of action that must be considered in order to carry on as we usually do in supporting our members while remaining in a financially sound situation.

The Board understands that SCALL members' needs must be carefully considered before increasing the dues during such tough economic times. Therefore, in an October meeting of the Board and the SCALL committee chairs, the topic of a dues increase was addressed at great length. After setting forth the reasons behind a potential increase, discussing the amount of other chapter's dues, and deliberating alternative courses of action, committee chair support for proposing an increase to the SCALL membership fee was unanimous. I take the recommendation of the committee chairs quite seriously as they have proven themselves to be invested in SCALL, and have the best interest of our Association and its members at heart. It is also important to keep in mind that at this point, a dues increase is not set in stone and that an exact amount of the potential increase has yet to be decided. Members with concerns still have time to voice them to the Board before any action will be taken.

If anything, the last few months have shown us that we cannot expect a quick and easy solution to our nation's current economic problems. There is little we can do to predict or to change what is going on with our economy, but there are things we can do here at home to make sure the future stays bright for SCALL. It is important to think beyond the present and plan for the future of SCALL in better times. Limited thinking will not help our chapter continue to thrive and meet the needs of our members. Therefore, now is the time to realize what we do for our members, the resources we have available to us, what we need to do to continue operating in our current manner, and the goals our association would like to accomplish in the future.

Over the past few years the Board has kept a careful watch on the budget, making sure to keep a reserve, while still offering quality programs, grants and scholarships, and support for ICYP. Our main sources of revenue are the membership dues, the SCALL Institute and the Newsletter. Taking a careful look at each of these revenue streams will help explain the timing of the proposed dues increase.

Our current membership dues are twenty dollars annually, which is less than most other chapters with similar demographics. Indeed there are chapters that also charge

twenty dollars, but in general they tend to be less spread out geographically, plan fewer programs, have fewer members, and/or do not actively provide as much support in the form of scholarships or grants to their members. Other urban chapters with similar demographics, offering similar membership support and programming, have dues that range from thirty-five to fifty dollars.

The SCALL Institute is our primary continuing educational event of the year and is a major source of income through vendor sponsorships and exhibits. The reality is that fewer and fewer companies exhibit and sponsor events at the Institute while the costs associated with the institute continue to rise. It is impossible to know how much profit our Institute will make each year and what the final costs will be, but if history is our guide, technology fees and food costs will increase while exhibitor participation will decline. With the Institute's profitability varying from year to year, it is not a guaranteed source of revenue. Currently we have a special committee in place to examine our Institute, but their findings will have benefits in the future that will not be realized immediately.

We are extremely fortunate to have a Newsletter committee so clearly devoted to excellence. I am impressed with every issue and the effort taken to create such a streamlined and professional finished product. Besides keeping SCALL members informed of our association's goings on, the Newsletter also functions as one of our major sources of income for the year in the form of advertisements. The number of advertisers submitting items to the Newsletter is down significantly for the year, and it is unknown if this trend will continue. At this point, income from the ads that are placed allows the Newsletter to pull in revenue similar to past years, but we will have to wait and see if fewer advertisers will eventually translate into less income.

In addition to decreasing revenue, the costs we incur are on the rise. There are times when Board members, VIPs, and/or committee chairs are required to travel on behalf of SCALL, and these travel-related expenses have increased a notable amount over the past few years. We are also unsure if some of the costs for printing SCALL material that has been subsidized in the past will be subsidized in the future. Program planning is increasingly becoming more of a challenge as well. Traditionally it has been our goal for programs to be largely self supporting - meaning the cost of registration largely covers the cost of attending the event. One challenge the Programs chair faces is finding a venue that is attractive to our members at a reasonable cost. Currently the average cost to attend a SCALL program is around \$30.00, but it is becoming increasingly difficult to find an attractive venue that will host our event

(continued on page 6)

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From the President... (continued from page 4)

for under \$40.00 per attendee. The Board is now faced with the difficult decision of how to handle these increased costs. Most solutions require spending money that was previously used for other purposes, such as operating expenses, scholarships, and/or grants. Passing the costs along to the members could result in fewer SCALL members attending the programs, and that is not what we would like to see. As it is fewer employers pay for members to attend SCALL events, I strongly suspect we will see an increased need for grants to attend the Institute and AALL.

This column is not meant to be all doom and gloom, and I would like to end on a positive note! With careful planning we can look forward to better times and continue to set our sights high on what SCALL can achieve. Positive things are ahead, but in order to reap future benefits we must plant the seeds today.

As I mentioned in my last column, the Membership committee is still actively investigating the possibility of migrating to a membership database to handle all association activities, and is still surveying the membership to see if there is a need or a desire for a mentoring program targeting new Southern California law librarians.

The Programs committee is exploring the idea of creating more opportunities for SCALL members to gather for brown bag lunches or additional opportunities for continuing education events.

We are all lucky to be members of such a vital association made up of an interested and invested membership. With a little understanding and planning, I am confident that we will come through all of the challenges we face today a more effective and streamlined organization.

Jessica Wimer is Law Librarian—Head of Research Services at USC Law Library.

CONNELL at AALL...

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Pepperdine Law Professor Kicks Off Institute Programs... reported by George P. Carter

Professor Anthony Miller of Pepperdine University School of Law kicked off this year's SCALL Institute by giving attendees a broad but concise overview of Alternative Dispute Resolution (ADR).

Prof. Miller began by stating that ADR is about disputes that arise from conflict. In handling disputes individuals turn to the various aspects of ADR, which include negotiation, mediation, arbitration, and litigation. Parties may also choose to avoid disputes altogether. In discussing the various aspects of ADR, Miller focused on the cost and the control the individual parties have in the process. By cost, Miller was referring to both the monetary charge and the emotional toll such disputes have on the parties. By control, Miller was referring to the amount of control the party has in a given dispute.

In negotiation, two parties try to settle their dispute without any formal help. The disputing parties have all the control and there is relatively little monetary cost but there is a high personal cost, because according to Miller, people do not like to negotiate. However, the parties can bring in their attorneys which increase the financial costs but can lower the emotional toll on the parties because they no longer have to do it alone. The attorneys add formality to the negotiation process but their presence also opens up diversity in the negotiation process.

One common feature of negotiation is distributive bargaining. The idea behind the concept of distributive bargaining is that the settlement value will be the half-way point between the first two reasonable positions. Miller notes that this is an essential part of the process that cannot be undercut.

Miller describes mediation as assisted negotiation which he notes is diverse in its offerings. For example, the mediator and the two parties can come together and negotiate. The mediator, the two parties, and their lawyers can come together and negotiate. The parties can use their lawyers to negotiate through the mediator in what Miller described as shuttle diplomacy. Finally, the parties can choose to detach themselves from the process and allow their lawyers to settle the dispute on their behalf. Media-

tion is more formal, the parties still have a lot of control over the process. The monetary cost rises but the emotional cost comes down.

Miller notes that there are two types of mediators, evaluative and facilitative. Evaluative mediators tend to take strong stands in regards to the positions of the parties meaning they either favor the position or will discourage the party from taking that position. Facilitative mediators work to get the parties to express their position in the mediation.

As Prof. Miller moved to the topic of arbitration he noted that arbitration is similar to litigation in that the parties involved have no control over the outcome.

Usually, an arbitrator has the power to decide the case for the parties. That power is derived from post dispute contract that the parties agree to because they would prefer someone to decide the case for them.

Both the monetary and emotional costs rise significantly as the parties must now withstand a tiring process and at the same time pay for the arbitrator, the witness, and the lawyers. In fact, arbitration is generally more expensive

than litigation because in litigation the state covers courtroom costs. Unlike litigation the arbitration is final and beyond review even if the arbitrator has made a mistake in relation to the law or to the facts of the case.

Prof. Miller touched on a variety of topics and provided an excellent proffer for the rest of the programming. On behalf of the SCALL chapter, we would like to thank Prof. Miller for the expertise he provided at this year's 37th annual SCALL Institute.



George P. Carter is a Reference Librarian at the Law Library for San Bernardino County in San Bernardino, California.

Confidentiality and the Ethical Standards for Practice in Mediation... reported by Betsy Chessler

Professor Mary B. Culbert is Associate Clinical Professor of Law and Director of the Loyola Law School of Los Angeles Center for Conflict Resolution (CCR). At the 37th Annual SCALL Institute in La Quinta, California, Professor Culbert presented a very interesting program that addressed various issues regarding confidentiality and ethical standards of practice in mediation of disputes.

At the CCR, there are 300-500 cases pending at any given time, handled by 30 staff. Professor Culbert handles EEOC, community, and court referred cases. The CCR specializes in helping the little guy who wants to take on a big corporation, because most attorneys won't take such cases. The courts, as you might expect, are also delighted to have so many cases removed to the CCR.

Professor Culbert reminded us that conflict is as natural as breathing. Mediators are there to help people have a conversation. If you don't feel comfortable with the other party, you need a mediator. Mediation can occur between employees and supervisors, husband and wife, professors and students, and so on. (In fact, many universities have ombudsmen to resolve campus conflicts.)

Anything goes in mediation as long as it is kept confidential. Mediation is an art, and the process for resolutions will vary. The mediator allows communications that are completely open, without fear of reprisal. The process should feel very much removed from the feel of litigation; and this difference allows people to have conversations that they couldn't have before. Transformative mediation is based on empowering parties to solve their own problems. Sometimes separated couples come to CCR and reconcile! It has happened.

Twelve states have adopted the Uniform Mediation Act, including the District of Columbia and Idaho, Illinois, Iowa, Nebraska, New Jersey, Ohio, Utah, Vermont, and Washington. Under this Act, the mediator has a privileged relationship with the parties.

Not so in California! Instead, California provides in its Evidence Code the types of material that can and cannot be disclosed. However, mediation should be free from the power of subpoena. One of the incentives to mediate is that it is a completely private process. Celebrities prefer mediation for this reason!



California Mediation Confidentiality

The mediator's promise is not to share information with the outside world AND with the other side without permission. Conversations are in a "lock box" and cannot be disclosed in later civil proceedings. According to California Evidence Code 1115-1128: the mediation discussion and all "writings" (including photos and recordings) are inadmissible. About a dozen California cases discuss confidentiality.

Mediator Standards

There are many national and state standards of practice that have been developed by ADR organizations such as the AAA, ABA, and the Association for Conflict Resolution. There are also the California Dispute Resolution Council's (CDRC)

Standards of Practice. These establish an informal standard of care for mediators.

The only laws adopted in California for mediation are rules of conduct for mediators in court-connected mediation programs for civil cases. These are minimum standards set by the court.

Ethics

Professor Culbert teaches a set of overreaching ethical standards for mediators, but then tells her students they must decide in each case the correct path to follow for that individual dispute.

The standards are as follows:

- Mediators do the least or no harm.
- They are neutral and impartial.
- They disclose conflicts of interest.
- They work for party self-determination.
- Process must be confidential, fair, balanced and voluntary.
- The process must not be coercive.

In California, the mediator must disclose any type of conflict, just as a judge would. Personal, professional, or economic conflicts must all be reported.

(continued on next page)

Confidentiality and the Ethical Standards for Practice in Mediation... continued from page 9

Competence of Mediators

Competency means that a mediator meets the reasonable expectation of parties. The court also has its own standards. In Los Angeles County, one must have 30 hours of training, plus 5 mediations of 2 hours each. Approximately 99% of mediators are lawyers. Nevertheless, an attorney acting as mediator cannot provide professional advice during mediation, only personal opinions.

Fees and Advertising

Mediators must engage in truthful advertising and explain fees in advance and in writing.

Discipline

It is very difficult to indict a mediator. The court can reprimand or remove a mediator or require additional training.

Betsy Chessler is Law Librarian at Morrison & Foerster LLP in San Diego. She is currently Vice President of SANDALL.

SCALL Grants Awarded...by Judi Bikel

The following members received grants from SCALL this year to help them pursue professional education. Thank you to the SCALL Board for funding these grants and to the members of the Grants Committee for their service.

Karol Pfeifer Howard
Bryan Cave LLP
SCALL Institute

Cheryl Kelly Fischer
UCLA Law Library
SCALL Institute

Edwin Butler
Law Library for San Bernardino County
AALL Conference

Judy Yu
Akin Gump Strauss Hauer and Feld LLP
AALL Conference

Benita Ghura
San Diego County Public Law Library
AALL Conference; Also awarded free registration from AALL

Tina Jagerson
San Diego County Public Law Library
CONELL at AALL Conference

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Hot Topics in ADR... reported by Betsy Chessler and Margot McLaren

John Van de Kamp was invited to speak at the 37th annual SCALL Institute to discuss recent legislation and cases concerning ADR (alternative dispute resolution). Mr. Van de Kamp has held a long and distinguished position in the legal and public service arenas. His areas of expertise include general business/commercial contract, employment, complex litigation, discovery reference, environmental/toxic torts, franchises, legal malpractice, official misconduct and antitrust. He served as District Attorney for the County of Los Angeles from 1976-1982, and as the 28th Attorney General for California from 1983-1991. In his capacity as attorney general, he helped create the Public Rights Division, which focuses on antitrust, civil rights, environment, and consumer protection issues. Since 1993 Mr. Van de Kamp has served as an arbitrator and mediator. He is currently Of Counsel, Dewey & LeBoeuf LLP in Los Angeles.

The following questions regarding ADR were addressed:

Should binding arbitration be subject to judicial review?

Should confidentiality agreements be broken to allow testimony in court?

How should pre-dispute contracts be drafted?

In the federal system, judicial review is limited to allegations, fraud, corruption, and misconduct. In California law, should courts review the arbitrator's decision so that parties have an escape valve if they are dissatisfied?

Some judges may require that cases go to pro bono mediators. Mr. Van de Kamp is one of those mediators who hears cases a couple of days each week.

Mr. Van de Kamp made reference to a recent case, *Simmons v. Ghaderi* (July 21, 2008). In this medical malpractice case, Mr. Ghaderi agreed to settle verbally, but then rescinded in mediation. Waiver of confidentiality has to be explicit, not implied. As a mediator, Mr. Van de Kamp stated that he never writes settlement agreements—he lets the parties and their attorneys write them.

More information regarding the above case can be located at: <http://www.thecomplexlitigator.com/2008/07/simmons-v-ghade.html>.

Contracts of adhesion were also discussed. A contract of adhesion may be defined as a contract whose terms are so imbalanced that one party is clearly favored over another to such an extent that the agreement could not possibly be freely bargained. Contracts of adhesion may include consumer contracts entered into when a consumer buys a



product. Such terms are the subject of many consumer arbitration cases. The Searle Civil Justice Institute (SCJI) at Northwestern University School of Law has just released its in-depth study of consumer arbitrations.

The report is available at: http://www.searlearbitration.org/p/full_report.pdf.

Two pieces of federal legislation recently introduced restrict the use of pre-dispute arbitration clauses in a wide variety of contracts, the Arbitration Fairness Act of 2009 (HR 1020) and the Consumer Fairness Act of 2009 (HR 991). HR 1020 is the broader of the two bills; it would prohibit pre-dispute agreements involving consumers, employees, franchises, and civil rights laws. Companies oppose it because it would drive away international businesses. HR 991 would prohibit arbitration agreements in consumer contracts. Additional information is available in an ADRWorld.com article entitled, "Bills to Limit Arbitration Agreements are Reintroduced to Congress," by Justin Kelly.

Betsy Chessler is Law Librarian at Morrison & Foerster LLP in San Diego. She is currently Vice President of SANDALL.

Margot McLaren is Serials/Government Documents Librarian at Whittier Law School Library in Costa Mesa. She is currently a SCALL Board Member.

ADR Research Sources (Parts I & II)... reported by John O'Donnell

ADR Research Sources Part I

ADR Resources Available on Westlaw

Michele Lucero, manager of West Librarian Relations, discussed ADR resources available on Westlaw. First, Michelle showed the ease with which a specific tab on International Arbitration could be added to your Westlaw home page. This tab allows for a quick and easy "one stop" access point to the specific ADR information.

In general Westlaw has a variety of materials on International Arbitration such as current awareness, treaties, model clauses, rules, guides, as well as country specific materials.

The current awareness resources include news and current events (i.e., the last 7 days). Michele stated that this is a great resource for items that have been in the news recently. Second, under current awareness there is a commentary and treatises section. These secondary sources will give you in depth legal analysis, practice aids, checklists, guides, as well as the table of content of various resources.

Michele showed the example of searching for Arbitration in Hong Kong. One can look at table on contents, use templates, or run a search within this area. One can also view arbitration awards and the case law database.

Michele explained how to search for treaties, specifically BITS--Bilateral Investment Treaties. Michele was asked to find BITs in her previous position at a law firm. Westlaw's coverage on treaties varies depending on the treaty. For example, GATT coverage is from 1994, and NAFTA from 1992.

Legislation and Model Laws

Westlaw contains specific databases that contain legislation and model clauses. Institutional materials are from groups such as the ICC (International Chamber of Commerce), China International Economic Trade Commission, and American Arbitration Association. Michele's sample search resulted in 21 model clauses.

Country specific information varies according to country in the Westlaw database. Westlaw has specific information for countries such as Australia, China, as well as the European Union.

Westlaw is constantly adding additional information to its databases. New information to be added by the end of 2009 includes information from AAA, as well as rules from Japanese, German, and French Arbitration Associations.

(continued on next page)



ADR Research Sources (Parts I & II)... continued from page 12

ADR Resources on Lexis

Michael Saint-Onge, Team Lead for LexisNexis Customer Consulting Group, discussed ADR resources on the Lexis online database.

Michael discussed the ease of adding the ADR tab to your Lexis home page. Lexis tabs have been reorganized over the past few years and are now more task based, and they are easier to use (e.g. to find forms, find ADR).

Michael first discussed the International Institute for Conflict Prevention and Resolution. This group of arbitrators and attorneys has drafted guidelines for specific industries such as oil and gas, products liability, insurance, and construction. Michael used the example of banking and financial services and showed the types of agreements that often lead to ADR.



Lexis has very recently developed a relationship with the American Arbitration Association (AAA). The AAA decisions have been moved exclusively to the Lexis database and are no longer available on the AAA website. They have the employment arbitration awards and labor arbitration awards.

Michael reminded the audience that Lexis was traditionally an aggregator and still has many great resources such as CCH and BNA materials online. Michael shared that one of his favorite images was a memorable scene in the first episode of the television series *LA Law*, in which an attorney who had just died was filmed still clutching a CCH binder in his cold, dead hands.

Michael talked about searching a database or browsing the table of contents and taking advantage of the logical order and context of a treatise. Drafting forms and instructions allow you to see the context of ADR clauses. Lexis has worked hard at giving online treatises the look and feel of a book. For example, the “book browse” feature allows one to go back and forth as if flipping the pages of a book. One can locate arbitration materials using the “Get a Document” feature.

California Forms of Pleading and Practice and *Martindale Hubbell Law Directory*, both Lexis products, contain useful information as well. *Martindale Hubbell* contains a separate Dispute Resolution directory. One can search for specific specialists, such as patent attorneys who work in a given geographic area.

"Analyzer" is a Lexis feature that gathers all of the many resources on Lexis in one search. After the search, one can see what is available in a given database without entering the pay database. This is a very efficient tool, since those who use it do not have to spend time and money searching a database that may have little or no relevant information available for their needs.

Lexisweb.com is a new service by Lexis that searches the legal web and pulls the best information in the legal area. Lexis claims to authenticate the resulting websites first. The initial screen is very simple. Lexis shows free as well as fee-based resources. Michael states that free resources and pay-for-use services are easily identified. In other words, it will ask for your Lexis password to continue on to a pay-for-use database.

(continued on next page)

ADR Research Sources (Parts I & II)... continued from page 13

ADR Resources Part II

Gina McCoy, Research and Faculty Services Librarian at Pepperdine University School of Law, discussed a new collection of arbitration materials available there. The American Arbitration Association Library and Information Center Collection were acquired from AAA in January 2007. This collection was originally started by AAA as a collection of articles and books and other materials on arbitration. In 1954, the Lucius Eastman Library was dedicated to one of the original founders of AAA. In June 2006 AAA decided to seek out a steward for its collection. Pepperdine was awarded the contract to house the collection in October 2006.

The collection is now housed in a beautiful cherry wood enclosure overlooking the Pacific Ocean in Malibu California.

Since AAA used their own method to organize the books, two catalogers working full-time took two years to catalog much of the collection. Currently about 80% of the collection is cataloged. Most of the collection is available to the public. The records are searchable in the Pepperdine catalog and in OCLC.

Content of the Collection

The collection contains a wide variety of ADR materials, including international and foreign dispute materials, labor and employment dispute resolution, commercial arbitration, family dispute resolution, intellectual property, maritime, and securities materials.

Types of Materials

The materials include mostly books, journals and historical documents. Some of the titles are historical materials dating back to the 1700's. Journals are available in a variety of languages, including Portuguese, Korean, and Japanese. Other hard to find materials include the *Canadian Arbitration Journal*, the *Society of Maritime Award Service*, the *Bulletin of the Japan Shipping Exchange*, the *Steelworkers Arbitration Awards*, and the *Motion Picture Arbitration Tribunal*.

Future of the Collection

In the future Pepperdine University School of Law would like to offer specific reference services for the collection, showcase it on the web, and digitize as much of the collection as possible.



Paula Hoffman (left) and Gina McCoy (right)

International ADR Research

Paula Hoffman, Foreign and International Law Library at the Los Angeles Law Library, focused on International ADR research in the last segment of the program.

Paula discovered that there is an abundance of free information on International ADR. Paula quoted an attorney who commented that arbitration works, saves money and is a neutral, speedy and confidential process.

Paula quoted *International Commercial Arbitration* by Gary Borne, who said "There is corruption, nepotism and lack of independence" in the court systems of some countries, where one literally may get what one pays for.

Paula spoke about three excellent research guides:

First, *A Selective Guide to Online International Arbitration Resources* by Gloria Miccioli. This guide explains the resources and highlights the most important links. It is located at the LLRX website. www.llrx.com/node/1331

Second, *International Commercial Arbitration: Locating the Resources* by Gene Wenger. You will find it on the LLRX website, too. This 24-page guide offers A-Z country listings, and discusses books and pay databases. www.llrx.com/features/intarbitration.htm

Third, *International Commercial Arbitration: Resources in Print and Electronic Form* by Lyonette Louis-Jacques. www2.lib.uchicago.edu/~llou/intlarb.html

Paula found an interesting arbitration case regarding former Tour de France champion bicyclist Floyd Landis, who was accused of using illegal substances. After reading the
(continued on next page)

ADR Research Sources (Parts I & II)... continued from page 14

case information, Paula said that the arbitrators were clearly not happy with Mr. Landis. This resulted in a ban from racing for two years and an order to pay large attorney costs to the opposing party.

The International Centre for Dispute Resolution of AAA has forms, guides for contract clauses, international arbitrator and mediator information, online filing and even international conference information.

The Treaty Convention on the Recognition and Enforcement of Foreign Arbitral Awards, also known as the New York Convention is the main treaty for ADR. This treaty allows one to enforce an award, which can be the most difficult part of the process.

Paula discussed some important book resources from the LA Law Library including:

Born's *International Commercial Arbitration* (Wolters Kluwer, 2009).

Bergsten's *International Commercial Arbitration*, 7 volumes (Oceana).

Friedland's *Arbitration Clauses for International Contracts* (Juris Publishing, 2007).

Finally, Paula highlighted the Kluwer Arbitration International. This electronic database is an excellent, searchable pay database containing books, awards, conventions, and other materials.

John O'Donnell is Public Services Librarian at Whittier Law School Library in Costa Mesa.

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Arbitration of Employment Cases... reported by Patricia Pelz Hart

The history and current state of employment arbitration was the subject of *Arbitration of Employment Cases*, a program at the 37th SCALL Institute, March 27-28, 2009. The speaker was Louise A. LaMothe, an attorney who is now a professional neutral mediator and arbitrator. The overall theme of the Institute was *Near and Far with ADR: Exploring the Many Facets of Alternative Dispute Resolution*. The Institute took place at the Embassy Suites La Quinta.

The term *labor arbitration* should not be considered a synonym for the term *employment arbitration*. They have commonalities. Labor arbitration served as the springboard for employment arbitration. But the employment arbitration of today is very different from the labor arbitration of many decades ago.

Labor arbitration was traditionally a means of resolving disputes in collective bargaining agreements. The parties, employers and unions, each had a measure of bargaining power. The disputing parties entered into an **arbitration agreement**. Arbitration was a relatively informal process that involved much direct contact between all sides.

Today, arbitration is frequently mandated by the employer rather than chosen by the employee. Employees now are often at will and not members of any union. New employees sign a pre-written contract that already contains an arbitration clause. This **pre-dispute arbitration clause** typically favors the employer. During arbitration, each side may be in a separate room and talk to each other primarily through a third party.

The number of employment cases going to arbitration has increased markedly in the last several years. Business defendant attorneys prefer arbitration to time-consuming and expensive court proceedings. Also, in arbitration, the decision makers are often judges or professional arbitrators. As **repeat players**, the arbitrators may be more receptive to business arguments and less easily swayed by emotions than are juries. Employee plaintiff attorneys prefer courts and juries.

The employer may be tempted to overreach when drafting the arbitration clause in today's standard employment contract. The clause may mandate that arbitration shall take place in only one state. Employees, however, may reside in other, distant states. Employees are likely to incur expenses and various difficulties when engaging in arbitration in the named state. When the arbitration clause is imposed on the employee and goes too far in fa-

voring the employer, the courts may view it as a **contract of adhesion** and provide remedies. The court may cut out the offending language from the arbitration clause, or it may not enforce the clause at all.

Leading Cases

An important case in employment arbitration is *Armendariz v. Foundation Health Psychcare Services, Inc.*, 24 Cal. 4th 83, 99 Cal. Rptr. 2d 745, 6 P.3d 669 (2000). The arbitration agreement required the employee to arbitrate wrongful termination or employment discrimination claims, but let the employer choose arbitration or litigation if it had a claim. The applicable statute was the California Fair Employment and Housing Act (FEHA), Gov. Code § 12900 et seq. After plaintiff employees sued, defen-

dant employer moved for arbitration.

In the past, experienced people had served as arbitrators for free or low fees. There was no initial preparation and hearings were short. By the time of *Armendariz*, arbitrators were paid hefty sums and other costs had increased. The subject arbitration clause required defendants to arbitrate and then said they must pay part of the arbitrator fees and forum costs. In addition, the clause limited damages to lost wages. The court found for the employees. The arbitration agreement was held to be an adhesion contract. Statutory rights that FEHA granted, such as punitive damages and attorney fees, could not be waived. The agreement also failed because it was unconscionably unilateral. The courts stated unconscionability could be procedural or substantive.

Armendariz set the **minimum standards** of a valid arbitration clause, to wit: the **arbitrator must be neutral**; the **arbitrator must issue a written decision** that reveals



(continued on next page)

Arbitration of Employment Cases... continued from page 16

the award's essential findings and conclusions; awards must provide all types of relief that would be otherwise available in court; employer must foot the costs; and there must be at least some discovery.

The subsequent case of *Ontiveros v. DHL Express (USA), Inc.*, 164 Cal. App. 4th 494, 79 Cal. Rptr. 3d 471 (1st Dist. 2008) set forth a laundry list of ways in which an adhesion provision may be unconscionable. Courts want arbitration clauses to mean there is only a change in forum, not a change in results.

Getting to Arbitration

A matter gets to arbitration by one of three methods. The **employment handbook** may mandate it. An ongoing court case may be submitted to arbitration to get it out of the clogged court system. A party makes a **motion to compel** to enforce the contract to arbitrate.

Finding the Arbitrator

An arbitrator may be supplied by provider organizations or be a retired judge associated with an organization such as JAMS [Judicial Arbitration and Mediation Services.] The internet is a resource. A website of distinguished California neutral arbitrators is www.californianeutrals.org. Some arbitrators have their own websites. Many plaintiff lawyers share information about arbitrators on listservs. LEXIS has a useful database of employment awards.

A question of favoritism can arise if the arbitrator is working for the provider organization. Arbitrators who are freelancers may be more likely perceived to be neutral.

Unique Aspects

Traditionally, arbitration is informal. There is no record unless the parties agree to one and pay for it. Arbitration is a private process. Information is not readily available. The rules of evidence are largely inapplicable. Rules specific to arbitration exist. There is no judicial review of arbitration awards.

Class Actions

Wage and hour matters may involve small awards but a large number of cases. Class actions are the latest development in employment arbitration. A recent case is *Green Tree Financial Corp., nka Conseco Finance Corp. v. Bazzle et al.*, 539 U.S. 444, 156 L. Ed. 2d 414, 123 S. Ct. 2402 (2003).

California takes a liberal view. If the arbitration clause is silent on class actions, California courts say such actions

are allowed. If the clause forbids class actions, California courts look to see if the clause amounts to a contract of adhesion. If it is one, a class action is permitted. Once a clause is construed as allowing a class action, the class must still be properly certified. Most cases settle once the class is certified.

Current Congress

The Arbitration Fairness Act of 2009 and the Consumer Fairness Act of 2009 are bills in the current Congress. If passed, they will have significant impacts on employment arbitration.

Final Thoughts

Arbitration is prized for its flexibility, speed, and informality. Awards are not very large, compared to jury verdicts. The labor union template for employment arbitration has been revised as it applies to current labor market and employment contracts. Employment arbitration is looking more and more like employment litigation as courts try to safeguard employee rights.

Patricia Pelz Hart is Reference Lawyer/Librarian at Chapman University Law School Library, Orange, California.

Mediation Through the Eyes of a Trial Attorney... reported by Isa Lang

An experienced business lawyer, Scott Gilmore, devoted several years to learning mediation skills at the Straus Institute for Dispute Resolution at Pepperdine Law School after serving as Managing Partner of Hill, Farrer & Burrill. Currently, he continues to practice law and is also an active mediator. His presentation on mediation reflected his expertise as a transactional lawyer, a litigator, and a business executive.

Introduction: An "Irreverent" View of Mediation

By his own admission, Mr. Gilmore has an "irreverent" view of lawyers in the mediation process, although I would call it a "practical" view instead. He believes that lawyers do not value the mediation process and are impatient to get to a monetary settlement. They are reluctant to give pre-mediation information and are not thorough in documentation.

According to Mr. Gilmore, a good mediation is a voluntary process, assisted by an acceptable third party, that results in a mutually acceptable settlement. It should begin with a determination of the type of mediation that will occur. This part of the mediation process is called **convening**.

Convening: Planning the "Right" Mediation

Given the cost of mediation, the parties should plan their mediation with care. The following factors enter into the planning process: timing, mediator style (evaluative vs. facilitative); length of the mediation; and possible attendees. Mr. Gilmore believes that the convening period gives the parties time for a thorough exchange of information, possibly the most crucial determinant of a successful mediation.

Mr. Gilmore stated that characterizing a mediator as either and evaluator or a facilitator is unrealistic. Often, a mediator moves from one style to another over the course of a mediation. Initially, he/she may be an evaluator, questioning the parties and giving opinions based on the facts presented. Then he/she may begin facilitating by focusing on the parties and moving toward a reasonable settlement range. He noted that retired judges who mediate may be more evaluative and controlling because of their mindset as judges.

Exchange of Information: Joint Sessions and Caucuses

In addition to the pre-mediation information exchange, which may or may not include written briefs, a mediator may call for joint sessions or caucuses. At a joint session,



both parties are given the opportunity to tell their stories. In contrast to a joint session, a caucus allows the mediator to meet separately with each party.

Mr. Gilmore described one type of joint session in which the mediator hears each party's story. Following the story, she repeats what she thinks the party related. This type of joint session is helpful in that it allows each party to "vent" as well as making a record of the conflicting viewpoints. However, the parties can get emotional or feel threatened in a joint session.

Caucuses allow the parties/mediator to respond to points made in the joint session. They may also build trust between the parties and the mediator, resulting in a smoother negotiation stage. Mr. Gilmore views the caucus as an opportunity to discuss a potential settlement range.

Negotiation: \$\$\$ are the "Bottom Line"

To my mind, this was the most amusing and informative part of Mr. Gilmore's presentation. We had been hearing about mediation "in theory" for most of the Institute; now it was time to get down to business. First, Mr. Gilmore gave us examples of the distinction between the perception and the reality of mediation from a book called *Making Money Talk* by J. Anderson Little. The reality of negotiation is that it is basically **traditional bargaining**. So, after all the fancy preliminaries, the parties end up at a sophisticated garage sale!

Nonetheless, the mediator can perform a useful function in the bargaining process by nudging the parties through
(continued on next page)

Mediation Through the Eyes of a Trial Attorney... continued from page 18

the numbers and controlling the "dance," as the mediators call it. The "facilitating" mediator may again become an "evaluator," letting a party know whether he/she made a reasonable offer or counter-offer. Caucuses may be useful at this point because the mediator can discuss an offer openly with each party. When "the dance" stalls, a mediator may engage in "bracketing." Mr. Gilmore's example of bracketing is an offer to go to \$30,000 "if you go to \$100,000." Bracketing establishes a ceiling and a floor, making settlement a realistic possibility.

Closing the Deal: What Really Counts?

In moving from negotiating to closing, a mediator sometimes focuses on interests rather than "how much." For example, an important interest in a commercial mediation is the possible destruction of a good business relationship. This type of interest may motivate a party to settle even more getting a "deserved" settlement amount.

According to Mr. Gilmore, attorneys and their mediator can rush to "close the gap" as the hours grow late in a mediation. A patient lawyer and mediator, Mr. Gilmore expressed his disapproval of such "leaps," criticizing the "mediator's proposal" in particular. He believes that mediators should not respond to requests for "a number" unless there is an utter impasse.

Mr. Gilmore's rules for winding up a mediation are to get a signed settlement memorandum and a draft agreement in an agreed-upon form. The agreement should include a clear statement of monetary terms; releases from liability; and a statement that the settlement agreement is enforceable thus assuring its admissibility in court under case and statutory law.

Conclusion: A Well-Balanced Presentation

Throughout the Institute, I was struggling with the difficulties for attorneys, especially those who also practice, to become mediators. Law school and professional ethics emphasize the adversarial nature of law practice and the importance of advocating for your client. How can this be reconciled with the facilitative and evaluative roles of a mediator?

Mr. Gilmore's presentation addressed these difficulties. He looks at each legal conflict in a transactional way, whether it is a trial, mediation, arbitration, or a "deal." In any transaction, each party comes to the table from a different place. The goals of both attorneys and mediators are to ensure that all differences are resolved at that table in the most equitable way.

Isa Lang is Head of Information Services at Chapman University Law School Library, Orange, California.

AALL Notices... by Julia O'Donnell

New Advocacy Toolkit for the 111th Congress

The AALL Government Relations Office is pleased to announce an exciting new resource to help AALL members and chapters become effective advocates for law libraries. The [Advocacy Toolkit for the 111th Congress: 2009-2010](#) is designed to help you learn more about AALL's ambitious legislative agenda.

The purposes of the Advocacy Toolkit are to:

- illustrate the many ways in which you can get involved in advocacy;
- notify you of the latest action alert so that you can promote our legislative efforts;
- present you with a comprehensive look at the issues and legislation we are currently working on; and
- provide AALL members and chapters tools you need to become effective advocates on both federal and state levels.

The Advocacy Toolkit is available as a live document and as a PDF on the [AALL Government Relations Office Web site](#). I encourage you to sign up for the [RSS feed](#) to receive valuable updates, learn about AALL's latest action alert, and monitor our legislative priorities.



(continued on next page)

AALL Notices... continued from page 19

New Tools for Success Added to AALL Wiki

Many law librarians have been hit hard by the economic crisis. AALL is here to offer resources to help you get through it, especially the [Tools for Success in Today's Economy wiki](#). We encourage you to both use the resources and add more that would help our colleagues in law librarianship. Thanks to the members who have added resources so far. Here are a few examples of recent additions:

[Saving Costs May Save Jobs – Take it Seriously](#)
[Networking is Key to Navigating Recession](#)
[Take Proactive Steps to Avoid a Layoff](#)
[Finding Our Voices in an Internet World](#)
[Ask a Librarian—We're at Your Service](#)
[PDL's Public Displays of Law Library Books](#)



AALL Dues Help for Unemployed Members

AALL dues invoices for the 2009-2010 membership year were mailed out in mid-March. To help in these tough times, AALL is offering a discounted membership rate for AALL members who are recently unemployed. The discounted membership appears online and in all public records simply as an "Active" membership, but is billed at the student/retired rate (\$55 instead of \$218). The discounted rate is good through May 31, 2010.

Unemployed AALL members should fill out the [online form](#) or contact AALL Membership Services Coordinator Hannah Phelps (hphelps@aall.org or 312-205-8022) to sign up.

Archived Webinars Available on AALLNET

AALL members now have the chance to view six popular Webinars presented October 2008-February 2009 in the Members Only Section of AALLNET:

[Twenty Essentials for the Effective Speaker](#)
[How to Train Without Showing Up](#)
[Law Firm Library Budgeting for Hard Economic Times](#)
[Take the Lead: Journey to Authentic Leadership](#) (free for AALL members)
[C-ing is Believing- Next Steps for Library Success](#)
[Guided Tour of your AALL Membership](#) (free for everyone)

The links above are available for AALL members only. Nonmembers can access the [2008 Webinars](#) and [2009 Webinars](#) for a higher fee.

Ready, Set...TWEET!

AALL is now on Twitter. Get up-to-the-minute AALL news by joining the [AALLNET Twitter Feed](#). A separate [2009 Annual Meeting Twitter Feed](#) is dedicated to updates on this summer's [Annual Meeting](#) in Washington, D.C. Sign up and stay connected!

(continued on next page)

AALL Notices... continued from page 20

Save the Dates for Upcoming AALL Webinars

May 20: Libraries and Social Software

Time: 12 p.m. EDT

Speaker: Sarah Glassmeyer, Reference Librarian at the University of Kentucky Law Library

June 9: The Shared Electronic Resource Understanding (SERU): Can It Work in My Library?

Time: 1 p.m. EDT

Speakers: Judy Luther, President of Informed Strategies, and Karla Hahn, Association of Research Libraries

Check the [AALL Calendar of Events](#) for more details coming soon.

Take the Lead: Apply for the 2009 AALL Leadership Academy

Law librarians in the early stages of their careers can get ahead in the profession by attending the 2009 AALL Leadership Academy, October 16-17, at the Hyatt Lodge in Oak Brook, Illinois.

Train for leadership roles by acquiring both the self-awareness and strategies you need to emerge as a leader within your organization and the profession. Academy participants will use self assessment tools, group exercises, case studies, and skill practice to develop key signatures of leadership. Selected fellows will participate in pre-engagement exercises, be matched with a mentor, and receive ongoing leadership development opportunities.

Applications will be accepted May 1-June 30. For more information, visit www.aallnet.org/prodev/event_leadershipacademy.asp.

Leadership Academy flyer: <http://www.aallnet.org/prodev/docs/AALL-Leader-Academy-2009.pdf>

Free CALI Lessons

AALL now provides members free access to the full set of online lessons hosted by the [Center for Computer-Assisted Legal Instruction \(CALI\)](#). With more than 600 lessons covering 32 legal subject areas, these online learning opportunities feature a variety of interactive formats that make for an engaging, effective user experience. They are particularly helpful for new law librarians with little or no exposure to legal research. [Obtain the access code through the Members Only Section of AALLNET.](#)

Coming Soon: AALL2Go

AALL is proud to announce it is adopting a new, powerful, state-of-the-art learning technology, which will provide a new learning gateway to all AALL members. The new AALL2Go site will provide members with:

Online access to the AALL Annual Meeting program recordings, as well as archived Webinars, audio recordings, and video recordings

Continuing educational program handouts distributed electronically, adding convenience in an environmentally-friendly way

Advanced search capabilities, which will allow you to focus on your key areas of interest with maximum flexibility to find the materials where and when you need them

Online profiles so you can keep track of the continuing education programs in which you participate and determine areas where you need more education

Stay tuned for more news about when the AALL2Go site will be available.



Julia O'Donnell is Director of Publications for the American Association of Law Librarians (AALL) in Chicago.

The Past, Present and Future of ADR... reported by George P. Carter

Thomas Stipanowich, Professor of Law and the William Webster Chair of Dispute Resolution at Pepperdine University School of Law, was the closing speaker for the 37th annual SCALL Institute. Prof. Stipanowich was charged with the simple task of discussing the past, present, and future of ADR. He did a wonderful job of exploring the topic despite his apprehension about being the only obstacle between the attendees and lunch.

Prof. Stipanowich touched briefly on some historical aspects of arbitration and the fact that arbitration has become the surrogate of the court. The number of trials has decreased because ADR has become a more viable alternative and binding arbitration has expanded rapidly in the last 20 years. He spoke about his work on the subject of the vanishing trial and noted various reasons for the increasing use of ADR. Those reasons include an evaluation of the risk and costs associated with litigation. For example, litigation is extremely expensive and destroys relationships, business or otherwise. Prof. Stipanowich cited the 2004 Fulbright & Jaworski Survey where 70 percent of the respondents said that arbitration is faster than litigation, while 22 percent believed arbitration was more fair, and 59 percent believed that arbitration was less expensive.



In contrast there are some concerns facing arbitration. Businesses are concerned about the fairness of the arbitration process and the fact that it is by and large not appealable. There have been attacks on arbitration by consumer and employee advocates because of the rise of pre-dispute contracts. Competing options such as mediation and stepped approaches to managing conflict are looking more viable than the risk of arbitration.

Prof. Stipanowich noted that there is movement upstream as more people are using mediation and what he calls a real time approach to managing conflict. He believes that individuals and businesses need to create avenues of communication to prevent unresolved conflict. That is, we ought to address conflicts as they arise in order to stay connected with the pace of the relationship. He suggests keeping employees happy and reinforcing relationships. For example, Kaiser Permanente has implemented a policy of addressing potential issues while the patient is still in the hospital. Sometimes a simple apology is the deciding factor for someone thinking about pursuing legal action.

In addition to these internal trends, Prof. Stipanowich noted some rising external trends in the area of ADR, including globalization, and the revolution in information technology. That is more and more countries are adopting ADR methods to resolve conflict. As one might assume such methods are not going to work as they do in the United States. For example, there are mutual models of mediation being developed in China but the mediator is concerned with addressing conflict on behalf of the community.

The revolution in information technology has also changed the ways in which we are thinking about ADR. Some companies have begun to implement online negotiation and mediation. The Internal Revenue Service is considering similar methods of handling millions of various issues. Prof. Stipanowich also noted the rise of mediation and arbitration by videoconferencing. One can only imagine the more these technologies improve the more prevalent its use will become.

Though I cannot cover every issue raised in his discussion, we would like to thank Prof. Stipanowich who closed the institute on an informative, useful and entertaining discussion of ADR. As we move forward and return to our jobs, I am reminded of Oliver Wendell Holmes Jr. who commented, "Man's mind stretched to a new idea never goes back to its original dimensions."

George P. Carter is a Reference Librarian at the Law Library for San Bernardino County in San Bernardino, California.

AALL Board Member Carol Bredemeyer is V.I.P. at SCALL Institute

[Editor's Note: Prior to the Institute, Carol kindly provided me with her written remarks for inclusion in this issue of the SCALL Newsletter.]

I'd like to thank SCALL for inviting me to be here.

I've heard about the SCALL Institutes for years and was glad for the opportunity to attend one. I'm also happy to be someplace warm. I'd like to acknowledge my fellow Board member, Cornell Winston. Last year, the Board decided that new board members should get a seasoned board member as a mentor and I was assigned to Cornell. He's given me lots of great advice and helped make it possible for me to be here.

Before I talk about what's going on in the Association, I'd like to say a few words about how important my AALL membership has been to me. As I look around the room, I see memories.

I see Leonette Williams, who I met many years ago at the Annual Meeting in San Diego when we served together on the Education Committee. I met Melody Lembke at that same meeting and learned that she grew up not far from me. I see Larry Meyer. I don't exactly remember when I first met Larry – I think we met through mutual friends. I see names on badges that I've also seen on law-lib postings over the years and it's good to put faces with those names. I can't tell you how many times over the years I've picked up the phone or sent an email to request help from someone I've met through AALL. These and many others make up my professional family of sorts – people I keep in touch with by email or sit down and talk to at annual meetings. People who have helped me get Israeli Supreme Court opinions, old briefs, or links to obscure things dealing with art law. My activity in AALL has reaped huge rewards for me – I can't imagine being a law librarian without it.

I want to acknowledge the recent death of former AALL President (and SCALL member) Francis Gates. [Gates was president 1980-81.] He was one of the rare law librarians who worked in all three types of libraries. At dinner Thursday night, Albert Brecht told us about what a wonderful mentor Francis was and what a strong believer he was in providing good library service.

I bring you greetings from the Executive Board. We'll be gathering in Chicago in about 3 weeks for our spring meeting. I'd like to refresh your memory on some actions the Board took at its fall meeting in October. We approved a recommendation to create an AALL vendor liaison representative position. The position description is on AALLNET. The deadline for applications was March 1.

Next Tuesday, March 31, is the deadline to register for the Annual Meeting and get a Member Appreciation registration discount of \$50. April 1 is the deadline to apply for grants and scholarships. There are also deadlines upcoming for reserving space in the Activities Area, Continuing Professional Education grants, Call for Papers (Open, New Member and Student Divisions and cash awards donated by LEXIS-NEXIS), and the Hot Topic proposals.

The Board also approved the creation of a Membership Marketing and Communications Dept. at Headquarters. This will allow AALL to create a comprehensive marketing and communications plan; integrate the Association's communications, including print publications, AALLNET, and electronic communications and conduct research and data collection of members' interests and needs – bottom line, improve member communications and services. Julia O'Donnell who was director of publications will direct this department. Hannah Phelps, the Membership Services Coordinator will be part of this department. and Hillary Baker was hired as Marketing and Communications Manager.

Beginning with the Fall 2008 meeting, Board minutes will be posted to the Members-Only Section of AALLNET after the Board approves them. The Fall meeting agenda book is posted with the exception of Executive Session items. Board meetings are open and members can attend, except for Executive Sessions.

(continued on next page)



Carol Bredemeyer...continued from page 23

The board approved a name change for the Washington Affairs Office; it is now the Government Relations Office, reflecting the scope of our advocacy efforts at both national and local levels. Mary Alice Baish, who was the Washington Affairs Office Associate Representative for many years will head the GRO. AALL will have a full day advocacy training on Friday, July 24, prior to the Annual Meeting. This FREE program will include meeting with your representatives in Congress. There is an "Advocacy Toolkit for the 111th Congress" available on AALLNET. <http://www.aallnet.org/aallwash/toolkit/contents.asp>

President James Duggan has had 2 major initiatives this year. First, he appointed an AALLNET Strategic Planning Committee chaired by Kathie Sullivan to begin the process of revamping AALLNET. They met in December and we hope to have a new look and structure for AALLNET before the end of the year. The second initiative, a Membership Recognition Special Committee chaired by Gail Warren is looking at ways to honor long time members of our Association while we still give the Marion Gould Gallagher Distinguished Service Award as our highest honor.

The Board continues to work on Strategic Directions. Our 3 directions for the 2005-2010 period are Education, Leadership, and Advocacy. We are working on the next Strategic Plan and the Board always spends time on planning during our meetings.

In the Education area, AALL/BNAL Continuing Education Grants are available to individuals, chapters, SLSs, caucuses to develop programming; money can be used to pay for speakers, podcasting. Last year there were 13 grants Of \$875 to \$6,000. There are four rounds of grants each year.

Continuing Professional Education Media – many of the grants I just mentioned go to programs that can be shared online through the Members Only section of AALLNET. Please take advantage of these programs.

Leadership – The AALL Management Institute was held last week. Last fall's Leadership Academy was very successful and another academy will be held this fall October 16-17. Flyers available on AALLNET; applications accepted May 1-June 30. The program includes a year of mentoring from an AALL leader. Please encourage newer members to attend as they are the association's future. Being an active AALL member gave me the confidence to take leadership roles on my campus, including two terms as Faculty Senate President.

The Nominations Committee is working on the slate for

this fall's election.

Advocacy – I already mentioned the new GRO and the Advocacy training in DC. Mary Alice has worked with several AALL policy committees to write a Statement for the Obama-Biden Transition Team in the area of information policy and GRO is seeking allies to work with us on achieving some of these goals.

Mary Alice also extends thanks to SCALL, NoCALL, and SANDALL for letters written to Sen. Barbara Boxer regarding the closing of EPA libraries; and Rep. Zoe Lofgren for introducing legislation last July to improve funding for the Law Library of Congress.

If you read last week's monthly e-newsletter from Headquarters, you saw that HQ is moving. Our lease is up in July and HQ staff considered options and recommended to the Board that we move – one block away. The new HQ will be on Adams Blvd. and we will see a significant savings over the long term. The new building has better infrastructure and better use of space than our current location. The move will occur in early June so the staff has time to settle in before they pack up to go to DC. We have been in the same building since an independent HQ was established in 1964. If you've never been there, when you step off the elevator it is reminiscent of the building where Sam Spade's office was in *The Maltese Falcon*.

Even though economic times are tough, I hope that many of you will be able to attend the annual meeting in DC. In yesterday's *USA Today*, Al Neuhaarth commented that "Fact is, most state, regional, national and international meetings of business groups of all kinds are productive gatherings. Cancelling them in tough times to avoid possible criticism by politicians or the press is stupid." For those of you who cannot attend this year or aren't able to attend every year, our future meetings will be in Denver (2010), Philadelphia (2011), Boston (2012), Seattle (2013), and San Antonio (2014).

Thank you again for inviting me.

Carol Bredemeyer is Assistant Director for Faculty Services at Northern Kentucky University Salmon P. Chase College of Law Library. She is also a member of the AALL Executive Board, serving as Liaison to the AALLNET Committee, the Awards Committee, and the Law Library Journal and AALL Spectrum Committee.


Heard Around Town...by Larry Meyer



It is hard to believe that Spring has arrived! Seems like 2009 is quickly moving along. As reported elsewhere in this issue, the Institute has come and gone. Congratulations to Brian and his committee on a very successful meeting. Many SCALL members commented on the high quality of the speakers and the program. Many attendees also indicated (off the record) that they enjoyed the chance to visit the Desert and enjoyed various haunts in La Quinta and the adjacent area.

In the last *Heard Around Town* column, I mentioned an upcoming performance by Bob Ryan and his theater group. According to sources, SCALL was well-represented at the performance with attendees including: Nan Hoskins, Joan Schipper, Marjorie Leary, Galeen Roe and Mary Dryden. Those attendees I talked with indicated it was a very enjoyable evening and that according to Bob, "all survived without serious side effects."

Congratulations are in order for the San Diego Public Law Library, which on March 10th celebrated 50 years in their main building in downtown San Diego. Many SCALL members from the San Diego area participated in the 50's-themed festivities. Amongst other guests noshing on delicious goodies, including root beer floats, were SCALL Board member Margot McLaren, Mrs. Bill Rohan (accompanied by her granddaughter), and Mrs. Jim Werner. Most of the readers of this column know that Bill Rohan is the namesake of our Rohan Chapter Service Award and Jim Werner was a former Director of the San Diego County (Public) Law Library. Both ladies were a pleasure to meet and SCALL members who had the chance to visit with each reported a delightful and entertaining conversation was had by all. Pictures of the event can be found at: <http://gallery.me.com/botsko#100193>.

Speaking of San Diego SCALL members, have you been following the news about the prehistoric discoveries made during the excavation of the site of the new Thomas Jefferson Law School? SCALL members Karla Castetter and Patrick Meyer report that the discovery of a mammoth, a prehistoric whale, and possibly sloth bones at the location has created some interesting conversation at the TJSJ Law Library. Those wishing to view pictures of some of the finds and/or construction progress may go to: <http://www.tjsl.edu/new-campus> for more information. Or, you can turn the page... 

Moving further North, many SCALL members report their pleasure in opening the Sunday, February 15th *Los Angeles Times* and finding an article about USC Law Library's Lincoln Reading Room with quotes from SCALL Vice President Brian Raphael and Past President Leonette Williams. At least one SCALL member was able to identify both Brian and Leonette in the accompanying pictures. Congratulations on a nice article and the great P.R. goes out to Brian and Leonette as well as the entire USC Law Library community.

Kudos to Mark Gediman from Best, Best and Krieger; he is one of the presenters at this year's NOCALL Institute. He and Jan Rivers from Dorsey and Whitney in Minneapolis will be speaking on: "Using CI to Stay Ahead of the Curve." This program is receiving funding from the AALL/BNA Continuing Education Grant Program. Should you be one of the few SCALL members unaware of what CI is, this program should be on the AALL website in the near future. You can also send Mark an email directly to discuss the topic with him.

Congratulations to Maryruth Storer from Orange County Public Law Library, who was the first person to correctly answer the question in the last issue. Maryruth (and many others) correctly remembered that Aleta Benjamin was the local arrangements chair for the Anaheim convention. Maryruth further correctly identified Judy Meadows as that year's AALL President. Thanks to all who responded. I was gladdened to receive so many emails from long time law library professionals. It is great to know that you are still active in this profession.

This issue's question: Keeping with the theme of celebration down in San Diego, who can name (in order) the Directors who have served San Diego County Public Law Library beginning with the construction of their current building? Be the first person to respond and see your name in the next issue.

As a reminder, please send your news tips to me at: larrym@sblawlibrary.org

Lawrence R. Meyer is Director of the Law Library for San Bernardino County in San Bernardino, California.

Fossil Discoveries at New Thomas Jefferson School of Law Building Site...

Editor's Note: Reprinted with permission of the author, Chris Saunders, Communications Specialist, Thomas Jefferson School of Law in San Diego. This article is a compilation of stories written by Mr. Saunders and published on the TJSL website after the initial discovery of the fossils on February 3, 2009. This article was edited by Patrick Meyer, Associate Library Director, Thomas Jefferson School of Law, San Diego.

Construction crews have found the tusk, skull and other bones of a 500,000 year old mammoth while excavating the construction site of the new downtown Thomas Jefferson School of Law campus, at 11th and Island Avenues in the East Village of San Diego. "It is the first mammoth skull ever found in San Diego County," said Tom Demere, the Curator of the Department of Paleontology at the San Diego Natural History Museum.

The 8-foot tusk of the mammoth is largely intact and was unearthed when it was struck by the blade of a backhoe during excavation, at a depth of about 20 feet below street level. The paleontologist on scene immediately stopped the digging and experts from the museum were called in to begin the careful unearthing process, which led to the discovery of the skull.

The skull was largely intact and some of its teeth were visible. Parts of one of its legs were also visible. Demere says the bones are in "very good condition."



One of the mammoth tusks.

"This is an extraordinary event for San Diego County," said Thomas Jefferson School of Law Dean Rudy Hasl. "It's an extraordinary piece of history revealed right before your eyes." Dean Hasl noted that the law school's namesake, Thomas Jefferson, was fascinated with mammoths and mastodons, "which makes it particularly appropriate that the remains were found on the site of a school which will carry his name forever."



The mammoth skull — snout at left.

Tom Demere says the Columbian Mammoth (*mammuthus columbi*) was the largest North American land mammal of its time and it lived about 500,000 years ago during the ice age. It is related to the modern elephant, though larger, and the one found today is an adult, according to Demere. "It's a piece of the puzzle in understanding the geological history of San Diego," Demere says. The Natural History Museum has a contract with the Centre City Development Corporation to manage any fossils recovered on the construction site. The process of carefully digging out all of the remains took several days, and the mammoth will eventually go on display at the museum.

Also found was the partial skeleton of a gray whale (*Eschrichtius sp.*) including the rostrum, left lower jaw, and left shoulder blade, as well as numerous vertebrae and ribs. The fossil bones occur over an area measuring approximately 15 feet wide by 30 feet long. The distribution suggests the skeleton probably decomposed on the ancient sea floor before being scattered by currents. This fossil is the only record of a Pleistocene marine mammal known from San Diego County and provides evidence that gray whales lived off our coast in the distant past. The geologic age of the specimen is not precisely known, but is between 200,000 and 500,000 years old. The whale fossil was discovered in a sandstone layer approximately 10 feet below a different sandstone layer in which the mammoth was buried. Preliminary analysis suggests that the fossil whale may be at least 100,000 years older than the mammoth.



Sarah Siren and whale rib.

(continued on next page)

Fossil Discoveries... continued from page 26

Gray whales are a rather distinctive group of baleen whales that are known to undergo long, annual, coastal migrations from their summer feeding grounds in the north Pacific to their breeding and nursery sites in Baja California. The fossil record of gray whales is very incomplete, which makes the new specimen discovered at the project site so important. Future studies of the TJS� gray whale will provide new information to better understand the evolutionary history of this truly unique California native.

Finally, the remains of what is believed to be an ancient sloth were found on Friday March 6th. According to paleontologist Pat Sena, who made the sloth discovery, the bones are "poorly preserved" and may not be collectible. Sena adds that this is a very rare find, and that the animal may have stood 6-8 feet tall and measured 10-12 feet in length.

Though a species of sloth exists named after Thomas Jefferson - *Megalonyx jeffersonii* - it is too soon to tell whether this sloth was one of them. If it does turn out to be *Megalonyx jeffersonii*, who would be surprised at this point?

The new 8-story ultramodern law school is scheduled to open during the 2010-2011 academic year.

Here's a link to the video of the fossil discoveries: <http://www.sddt.com/files/media/view7.cfm?media=ISBPOA35>



A design concept of the new building that will house the Thomas Jefferson School of Law in the East Village section of downtown San Diego, occupancy expected in the 2010-2011 academic year. On this site buried in deep layers of sandstone were discovered the fossilized remains of a Columbian mammoth, a gray whale, and an ancient sloth who lived and died here between 200,000 and 500,000 years ago.

Getting to Know You: Deborah Schander... by Margot McLaren

Deborah Schander is originally from Mohnton, Pennsylvania. She earned her bachelor's degree in English from Columbia Union College in Tacoma Park, Maryland (2003), and both her MLIS and J.D. from Florida State University (2007).

When I asked her what made her pursue a career in law librarianship, and who was her source of inspiration or mentor, she replied: *I*

had a great law library internship at Georgia State University. I really credit Nancy Johnson and her staff with helping me figure out what actually goes on in a law library, our profession in general and how I can contribute to both. I am a behind-the-scenes person, and I knew I did not want the life of a firm lawyer, so I started looking into alternative career paths. Florida State offers a joint JD/MLIS program that I could complete in three years, so I applied after my first year of law school. I like the variety law librarianship offers. I can keep current on a lot of legal topics, not to mention do everything from teaching to designing brochures.

While at Florida State University, Deborah has held a number of interesting positions. She served as a research assistant, as student coordinator for FSU Law at Oxford Program, and as a law library intern at Georgia State University. In addition, Deborah was program associate/webmaster for The Muse Machine (a student arts organization) in Dayton, Ohio.

Deborah left Florida in 2008 for sunny southern California to secure a position as reference and electronic ser-

vices librarian at the University of LaVerne College of Law Library. Her responsibilities include assisting students and the public and teaching.

When asked what she considers the most challenging aspect of her current position, she said: *I would probably have to say answering reference questions. Even if I've successfully answered a dozen questions in a row, I still*

have moments of "What are they going to ask next? Will I be able to answer it?" The confidence comes with time and with knowing you've helped a lot of people already; but I do not know if the feeling ever quite goes away.

Deborah keeps active in her profession by participating in AALL and its SIS Committees-RIPS, FCIL, and CS (Communications Committee), and in SCALL.

When not immersed in professional activities, she loves visiting different parts of the United States

and other countries of the world. She does not feel tied to one location, having moved several times for school and work. In fact, she added, *I chose my law school sight unseen and wound up being somewhere that was a perfect fit for me. Every move is a new adventure.*

Although Deborah enjoys the variety of working in law libraries, she plans to specialize in FCIL and IP law--which she finds endlessly fascinating--and publish some scholarly pieces. Some day, she plans to live abroad and work in a foreign law library. Deborah seeks to become a great law librarian, and to garner the respect of her colleagues.



Margot McLaren is Serials/Government Documents Librarian at Whittier Law School Library in Costa Mesa. She is currently a SCALL Board Member.

Job Opportunities... by Jodi Kruger

**Senior Director for Library Operations,
LA Law Library; Los Angeles, April 21.**

**Circulation Services Manager;
University of California, Irvine School of Law; Irvine, April 8.**

**Assistant Director of Public Services and Legal Research;
Pacific McGeorge School of Law; Sacramento, March 23.**

**Substitute Legal Reference Librarian;
San Diego County Public Law Library; San Diego Area, February 8.**

**Librarians & Library Technical Assistants,
California Department of Corrections and Rehabilitation,
Statewide, April 15, 2008.**



***Jodi Kruger** is Research Services Librarian at Pepperdine University School of Law in Malibu. She is currently Chair of the SCALL Placement Committee.*



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