

Inside 4Q2009

- 2...International Legal Consideration for In-house Counsel
- 4...A Brief History of Our Charlotte Chapter
- 4...ACC Charlotte Member Goes to Prison
- 5...Chapter & ACC News
- 5...ACC Dollars Program
- 6...2009 Strategic Sponsor Firm Profiles
- 7...WANTED: New Committee Members

FOCUS

President's Message

Cindy Pitesa

Cheers for the Charlotte Chapter!

In September, the Charlotte ACC Chapter was selected as the winner of the "Chapter Challenge Competition" in the Small Chapter Category. The continued growth of the chapter, as well as its impressive membership recruitment and retention, were cited as contributing factors to the chapter's success. The Charlotte Chapter was further recognized for this award during the Leadership Awards Dinner at the Annual ACC Meeting in Boston this past October. I am so proud of our board, the committees, the chapter administrator and our members for working together to win this award. Thank you so much for your hard work and dedication to our chapter and we look forward to another exciting year in 2010!

Recent Chapter Events

At the September 2, 2009, Charlotte Chapter meeting held at Byron's in South End, Alston & Bird LLP presented a CLE program entitled "Corporate Governance: Executive Compensation and the Rest of the Changing Landscape." Gary Ivey educated the members on developments in the market that have triggered recent changes and further proposals by the SEC and the Obama Administration.

The chapter hosted a lunch for new members on September 21, 2009, at Firebirds Wood Fired Grill. The attendees enjoyed a great meal with some of the board members and were able to meet people whom

they will see again at future events.

Parker, Poe, Adams & Bernstein LLP hosted an afternoon CLE at its Charlotte office on September 24, 2009, entitled "Managing Employee Blogs, Facebook Pages and Websites." Speaker Jonathan Crotty provided chapter members with examples of social networking usage, which has become a major problem for employers. Members also learned about developing policies to address these evolving networks, as well as the claims that may be made by employees. The CLE concluded with cocktails and hor d'oeuvres and an opportunity for the members to socialize.

On October 7, 2009, the monthly chapter meeting included the CLE presentation "Whistleblowing in the International Context" given by Steven Lauer of Lumen Legal and Nick Ciancio of Global Compliance. Members were informed about the EU requirements for protecting personal data under Directive 95/46/EC and how such requirements may create conflicts when such data needs to be transferred to the United States.

This year's general counsel dinner was held at Mimosa Grill on October 8, 2009, with 20 GC/CLO's in attendance. This social event provided a forum for detailed discussions on current topics affecting



North Carolina companies and the chance to exchange ideas for addressing such issues. We would like to send a big thank you to the sponsors of this event, Corpedia and West.

The 2009 Annual ACC Meeting was held October

18-21 in Boston, MA. This conference offered valuable CLE training along with many networking opportunities. Charlotte members who attended were: Charles Blixt, Phillip Bryson, Chris Fox, George Jurch, Steven Lauer, Dana Miles, Steve Millsap, Jane Nohr, Tim Nohr, John Orgain, Stephen Scholle, Catherine Thomas and Susan Thomas.

On October 28, 2009, McGuireWoods LLP hosted a CLE Lunch N Learn at its Charlotte office entitled "Employee Terminations: Avoiding Potential Traps and Protecting Your Client." Members received some good advice on how to minimize the risks when ending the employee-employer relationship.

October 29, 2009, marked the Charlotte Chapter's Inaugural Pro Bono Event at the Charlotte School of Law. Those in attendance learned about the urgent need for in-house counsel to participate in pro bono legal services and how to deal with the unique issues that come along with representing clients in this capacity. Many

continued on page 7

International Legal Consideration for In-house Counsel

Susan Hackett, Senior Vice President and General Counsel, Association of Corporate Counsel

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So much of our time is spent attending to the *urgent* matters on our desks. Many of us complain that we don't have time to deal with the *important* ones: the ones that should be a priority in terms of long-term success, but are often shuffled to the bottom of the pile. Today, I'd like to talk to you about something that I think is long-term "important," and explain why at some point, if left unattended, it may become a daily "urgent" problem plaguing your practice.

In-house counsel have complex jobs as both generalists and specialists for their company client, and this complexity increases as the number of jurisdictions and related "international" considerations that your practice must contemplate increases. Even companies that largely work in only one country are ever-more likely to contend with suppliers, laws, and other influences from beyond their "home" jurisdiction's borders.

So please consider for a few minutes how a number of developments and emerging trends in international legal practice may affect your ability to get your work done as a lawyer operating across country lines.

Trendlines that will affect your practice as an in-house counsel.

In-house counsel in places like the United States, Canada, Australia and New Zealand have long enjoyed the confidence that their ability to practice as in-house lawyers would be fully recognized and respected, both as lawyers at the bar and amongst the client community they serve. Yes, they fought for it, but no one questions it nowadays.

But in many parts of the world, regulators of the local profession still do not recognize in-house counsel as carrying the same professional rights and respon-

sibilities as lawyers in outside practice. In many jurisdictions in Europe and Asia, for instance, in-house counsel can no longer carry privilege rights for their clients or aren't seen as sufficiently independent to be allowed to exercise the status of outside counsel in courts or elsewhere. In many of these jurisdictions, an in-house counsel becomes a "non-lawyer" the day they receive compensation by paycheck rather than retainer check. [See, e.g., ACC's International Practice Almanac offering overviews of practice rights for in-house lawyers jurisdiction by jurisdiction — <http://www.acc.com/search.cfm?anytext=International%20Practice%20Almanac>.] In addition, almost every major business jurisdiction in the world places some level of limitation on the ability of lawyers not locally admitted to engage in practicing.

Many jurisdictions around the world have been engaging in MJP (or multi-jurisdictional practice) reform efforts to help the states or provinces that separately regulate lawyers, figure out how to allow and when to regulate inter/multi-state or inter/multi-province services within the country's borders without requiring separate admissions in each jurisdiction. While the ability of lawyers practicing within these nations has improved, we still have a ways to go before larger MJP authorization systems catch up with 21st century practice realities. Now these regulators have to figure out solutions that either facilitate or protect both the bar and the public from lawyers practicing in their jurisdictions who are not locally licensed anywhere in the country. It seems that our progress has been limited to figuring out a bit more about how a lawyer licensed in Ontario or California can follow a legal matter they've been retained to handle for a client to Alberta or Georgia (respectively). However, we still haven't really gotten a handle on how a lawyer from the company's office in another

country, locally educated and licensed there, can come work at corporate HQ in the company's home country, or how outside counsel in the many jurisdictions abroad doing work for the company in their home jurisdiction can engage in providing services that are essentially deemed as being provided by a "non-lawyer" since that person is not admitted in the company's home country.

So, here's the important nugget: if you thought that MJP was all but in the bag, it's actually just getting started in the emerging context of multinational practice. The corporate legal community, from both companies and firms, will need to push hard to explain why this is crucial for the bars to do since many are completely disinclined to get involved. They see the issues as a mere administrative inconvenience to the foreign lawyer that can be simply answered by saying "no."

I see an emerging opportunity in many jurisdictions in the next few years as a number of efforts are launched to think more about how to deal with multinational practice issues. Lawyer associations and bar groups around the world are starting to set up commissions, and ACC will be there to help. What is going to drive change more than anything else, according to my small and completely subjective crystal ball, is that these emerging conversations on international licensing authorization will take place at the same time that governments and other stakeholders are also thinking about how to make corporate lawyers better gatekeepers for the client entities they serve. And also how lawyers and the law can become more of a service profession to a larger segment of their society, rather than simply a business venture for the highly educated and well-compensated corporate lawyers of the world.

continued on page 3

continued from page 2

For instance: The bars in Europe [and elsewhere] are about to begin to consider responses to initiatives such as the Legal Services Act (www.justice.gov.uk/publications/legalservicesbill.htm), which arose in the United Kingdom a few years back; the fundamental precepts are now being replicated/gaining traction throughout Europe through the EU's Services Directive, which will take force at the end of 2009 [http://ec.europa.eu/internal_market/services/services-dir/index_en.htm]. When both of these initiatives were announced, quite a number of prominent leaders in the US ethics and professionalism community said: "Interesting, but an isolated event in time, and it will never happen here. Our self-regulated profession operates under time-honored traditions of independence and lawyers know best."

But hear the undertones and think about whether it really is unlikely that this kind of "reform" movement will not seep beyond the four corners of Europe. The Legal Services Act was largely a consumer-driven initiative, responding to the perception and reality that legal services are not affordable or meaningful to most citizens' basic needs. The Act authorizes the development of new kinds of professional service entities that would include multidisciplinary practices and would liberalize the practice of law to make it more accessible. The EU Services Directive requires EU governments to review their rules governing the liberal professions, to ensure they are necessary and appropriate — that directive may open all kinds of conversations about whom should be allowed the privilege of lawyer in a society and how those persons should be regulated.

So — here's the nugget: why isn't it possible for such an over-arching review in Europe to include a discussion of whether companies can be better served by in-house lawyers who are fully recognized by the bars and carry the privileges that their peers in outside practice have always

enjoyed — hold them to the same standards of professionalism, of course, but offer them the same privileges of practice. Since the Akzo-Nobel case (in which ACC filed an intervention) is also still pending and may be decided soon, there will be the added limelight of a decision that either upends or supports the notion of privilege protection in the in-house practice context as interpreted by the highest courts in the EU interpreting local and EU law.

And, of course, for lawyers beyond the physical borders of the EU, EU rules define anyone not admitted in a EU jurisdiction as a non-lawyer for purposes of legal services provided in the EU jurisdiction. That means all of you out there who don't sit in Europe with a local admission, but have client interests in the EU. And this also applies to your local counsel whom you'd like to deploy in the EU negotiation or who has delivered the memo to your colleague sitting in Brussels, which is now discoverable, because privilege only applies to materials generated by lawyers (not non-lawyers).

At the same time, there are new initiatives in Australia and elsewhere that allow for law firms to seek out capital through public financing — essentially authorizing firms to become publicly traded companies, and thus be regulated as such. Thus, decisions about legal service modeling and provision in a publicly traded law firm may be influenced greatly by non-lawyers and regulators over time. And in the United States, in response to Enron and other corporate meltdowns, we see entities such as the SEC seeking to regulate the roles, fiduciary responsibilities, and even reporting requirements of lawyers working in public companies. We see Congress increasingly likely to hold hearings on corporate failures and subpoena lawyers and attorney-client privileged documents as a part of their investigations (and remember, privilege is a court doctrine in the United States, and Congress often maintains that it has no protective status in response to a

Congressional subpoena). This all means that folks who aren't "part of the guild" are increasing likely to have a hand in lawyer regulation.

We live in a new world, quite distinct from the traditions of our profession which allowed us to make decisions about professionalism as lawyers, without much "interference" from other stakeholders, such as clients, shareholders, public company regulators and the media. In an era marked by an alarming number of monumental corporate failures, questions about "where were the lawyers in all this?" will not be answered solely at legal colloquia. Like it or not, living in the new world will have consequences to our regulation and ability to practice for our clients. And we should be out in front of them, not lagging behind to see what others will make of our profession and how it works.

My point is that the consequences may seem remote to you right now. You could look at each of the above events as if they are separate and unrelated to your license, your practice and your client's service. But I think that is a short sighted view. And if I have only these few minutes with you every now and then to take you away from what's urgent to talk to you about what's important, then let this be my call to ACC members: If you want to protect what's important to you locally, you'd better be prepared to join us in fighting for what's unfolding internationally. It will directly affect your practice and your capacity to practice in the not so distant future. Contact me at hackett@acc.com.

A Brief History of Our Charlotte Chapter

By Steven Millsap, President Elect

Our sincerest thanks and appreciation go out to all of our members, as well as to Cindy Pitesa and Jane Nohr for their leadership and assistance. Their vital roles were instrumental with the Charlotte Chapter receiving the Chapter Challenge Award for the small chapter category at the ACC Annual Meeting on October 18. This award recognized the chapter's 96 percent membership retention rate and a 14 percent net membership growth in 2009. What is the history that led to the chapter receiving this award for the first time?

Carlton Younger presided over a statewide version of the ACC chapter in the late 1980s with help from current board member, Luther Moore, as treasurer. Carlton road-tripped from Raleigh to Greensboro to Charlotte. Meetings were noticed by stamped envelope to upwards of 100 members statewide.

The statewide chapter activity eased off in the 1990s. Some members continued to pay dues, read the *ACC Docket*, and ship off to the national sponsored events where you could walk up to a speaker like Warren Berger and shake his hand after a speech. In the meantime, Luther kept the chapter checking account active.

In 2003, Michael Shor relocated to Charlotte and was looking for "great networking opportunities" with fellow GCs. After attending an ACC event, he saw a demand for organizing. "Build it and they will come" was his thought and, while exploring his options, he met Luther Moore.

Together Michael and Luther found the old ACC mailing list and called upon old and new members alike to join them at the City Club for events. With promising turnout and input from ACC National, the statewide chapter was reconfigured into regional chapters within the state in early 2004. Michael was elected the first chapter president.

By the end of the 2004, Michael, along with future chapter president Peter Barr, launched the inaugural gala. Despite forgetting to prepare nametags, the first gala was described as an elegant affair at the Mint Museum with over 100 people in attendance.

Michael passed the baton to Peter Barr in 2006. Under Peter's presidency, the chapter saw continued year-after-year membership growth from which he saw sponsorship opportunity. Inspired by other ACC chap-

ter experiences and with the leverage of a growing membership base, Peter created the strategic sponsorship program. In 2008 six law firms graciously agreed to sponsor the chapter and divided the luncheons at Byrons. The GC Dinners were next rolled out at the City Club with upwards of 35 general counsel in attendance.

In 2008, Cindy Pitesa began her presidency, which continues today. With the aid of many, including Janet Kelly, Cindy campaigned to hire our first chapter administrator, Jane Nohr, a former GC herself. With Jane's support, Cindy refined the chapter administration with a focus on committee development and board participation. In addition, we became an accredited sponsor with the NC State Bar for CLE, online luncheon registration was made available, the chapter posted its own website and our first part-time bookkeeper, Pam Garn, was brought on board – just to name a few highlights.

Today, the chapter is over 250 members strong thanks to this rich history of chapter leadership and membership. We are pleased to share that ACC National has recognized these accomplishments.

ACC Charlotte Member Goes to Prison

By Bill Robinson

Okay, the headline's a little misleading. Now that I've got your attention, though, read on to find out why I'll be going to prison.

Those of you who know me know that I am a corporate counsel at Liberty Mutual, managing complex litigation. My legal education has opened other opportunities too, and for the better part of the past two decades one of my true passions has been to teach college-level law courses. This semester's experience, though, will be truly unique: I'll be teaching at Brown Creek Prison in Polkton, just east of Monroe.

Here's how the opportunity arose: I'd taught dozens of college courses when I was in private practice and an in-house counsel in New Hampshire, and I knew it'd be fun to do so here, too. I reached out to South Piedmont Community College in Monroe — which, by the way, is ranked 14th in the nation among community colleges — and became accredited to teach several different courses. I was looking forward to returning to the classroom next spring when, in September, I received a call from the career technologies chair at SPCC.

She told me that the college was offering an employment law course that by chancellor directive, had to be taught by an attorney. Also, due to its location, the job would be a little unusual and she wanted me to meet with her to discuss whether I might be interested.

Not knowing what to expect, I met with the chair and learned that the course would be offered, in the evenings, at Brown Creek Prison. Years ago, a minor part of my litigation practice included criminal defense, and I had the opportunity to meet with incarcerated clients at

continued on page 5

continued from page 4

various prisons and jails. If you've never visited someone who's incarcerated, it can be a pretty overwhelming experience.

To its credit — and to my surprise — SPCC has a robust prison outreach educational program for all security level institutions, and, after agreeing to teach the course, I had the chance to travel to the prison for orientation.

Brown Creek is a medium security institution for adult males that received its first inmates in 1993. SPCC works with the

prison to provide classes in a wide range of studies, including mechanical engineering, carpentry and business administration, under which the employment law course falls. In order to enroll in college level courses, inmates have to have a high school education, speak English fluently, and they must pass the very same college entrance exam that all other students have to take.

After passing through security, and three locked doors — fortunately, I'm not claustrophobic — I was escorted to the education building where I met with the

corrections education chair. I learned the things one would expect: don't bring contraband into the jail, don't deliver mail or other messages for inmates, and the like, but I also learned things that just aren't that intuitive: One can use opaque pens, but not clear ones. Did you know it's a FELONY to bring a cell phone into a prison?

I'll have seven students when classes begin on October 15, and I'm pleased to have the opportunity to help them help themselves.

Chapter News

Online Registration for Chapter Events

Don't forget to register for chapter events online using your Visa, Mastercard, Discover or AMEX card. This eliminates the need to bring a check or cash and expedites the check-in process. We have been very pleased with the success of this system and appreciate all of our members who have taken advantage of this service.

Member Announcement Form

We want to hear about your latest professional and personal accomplishments. A member announcement form is available at our chapter meetings or from Jane Nohr, chapter administrator, at cltacc@yahoo.com to obtain a form. We will post this information on our webpage.

ACC Charlotte Chapter Website

Please remember that all of our upcoming events, past-presentation materials, job listings, chapter leadership and committee contacts and new members are all listed on our webpage at <http://charlotte.acc.com>.

ACC and Thomson West Present ACC Dollars Program

Thomson West, in addition to being an ACC Alliance Partner and providing quality programs and services to ACC members at discounted rates, also provides additional services that benefit ACC chapters. ACC has also developed the ACC Dollars program in which West issues dollars to members that purchase West products and services. ACC Dollars can be used for ACC membership and chapter programs. To learn more about the ACC Dollars program, contact your local Thomson West representative. To find your local West representative, visit west.thomson.com/replocator/ and enter your zip code.

ACC News

ACC Value Index Launched!

Since its launch at the Annual Meeting, the ACC Value Index — a resource that measures client satisfaction with law firms — has acquired over 1600 evaluations of more than 600 law firms. We need your help to expand its evaluation library. Browse evaluations and take a minute to fill out evaluations for the law firms you work with at www.acc.com/evaluation. You will need to enter your member ID and password to gain access to the site. To have your password emailed to you, enter your email address at www.acc.com/login/forgotmypassword.cfm.

Renew Your ACC Membership Today!

Renew your membership to ensure access to professional training programs, practical legal resources and great networking opportunities with your peers. Renew by December 11, and you will receive a promotion code for a free online educational program! You can renew online at www.acc.com/membership/renew.php, or over the phone with us at 202.293.4103, ext. 360.

2009 Strategic Sponsor Firm Profiles

At McGuireWoods, we have one thing on our minds — serving clients. Our commitment to providing them with quality work and personalized service has allowed us to become one of the most client-centric law firms in the country. We deliver exceptional value, use technology to provide effective and efficient legal solutions and employ a diverse workforce to bring real-world and innovative perspectives to meet our clients' needs.

We are a national law firm.

McGuireWoods' Charlotte office supports clients in banking and financial services, real estate, corporate, tax, intellectual property, labor and employment and areas. As one of the largest law firms in Charlotte,

we provide a wide range of services to companies.

We have been recognized for our quality and service through dozens of awards. More importantly, we have been selected to participate in formal convergence programs with clients such as DuPont and International Paper, McGuireWoods prides itself on "partnering" with clients by listening to their needs, understanding their businesses and utilizing this knowledge base to provide efficient service. In many cases, we serve as national or regional counsel for corporations such as DuPont, Ford and Siemens.

McGUIREWOODS
Relationships That Drive Results

We apply the lessons learned from these relationships to better manage work for all our clients.

With approximately 900 lawyers and 17 strategically located offices worldwide, McGuireWoods uses client-focused teams to serve public, private, government and nonprofit clients from many industries including automotive, energy resources, health care, technology and transportation, thus meeting clients' needs from virtually any area of law.

Robinson, Bradshaw & Hinson, P.A. is a corporate and commercial law firm founded in 1960 committed to providing each client with the highest quality, comprehensive legal services. We currently have over 130 attorneys practicing in our offices in Charlotte, Chapel Hill and Rock Hill, South Carolina. Our firm serves as counsel to public and closely-held enterprises operating in domestic and foreign markets, individuals, municipal, county and state agencies, public utilities, health care institutions, financial institutions, tax-exempt organizations, and investment funds of various types. The breadth of experience derived from these representations has equipped our firm to anticipate and respond to the rapid changes defining today's business environment.

We believe in maintaining a client-oriented, results-oriented firm. For example,

because we want our lawyers to focus on solving

problems and completing projects, our compensation system is not based on individual lawyers' "billable hours" or "origination credits," nor do we establish sub-groups as "profit centers." As a result, the client can be assured that the sole focus in staffing projects is determining which lawyers are best suited to handle the project successfully on a cost-efficient basis. Another notable characteristic is the quality of lawyers who make up our firm. We devote substantial resources to hiring lawyers of exceptional academic achievement with practical ability to solve problems and to meet the challenges facing our clients in the real world.

ROBINSON BRADSHAW & HINSON

Our core ideals are professionalism (put-

ting the client's interests first), excellence (holding ourselves to very high standards for the quality of our work), and teamwork (encompassing both the "one-firm" approach to professional activities and the cultivation of mutually supportive personal relationships within the firm).

We seek to establish, maintain and communicate an inclusive work environment in which people of all backgrounds, outlooks and interests can share a commitment to these ideals.

2009 Strategic Sponsors:

Alston & Bird LLP

McGuireWoods LLP

Parker Poe Adams & Bernstein LLP

Robinson, Bradshaw & Hinson, P.A.

Wishart Norris Heninger & Pittman, P.A.

Womble Carlyle Sandridge & Rice, PLLC

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continued from page 1

thanks to Street Law, Corporate Pro Bono, Private Attorney Involvement (PAI) of Legal Aid of NC and the Mecklenburg County Bar Volunteer Lawyer Program for helping highlight this important topic.

On November 18, 2009, Wishart Norris Henninger & Pittman, P.A. hosted a CLE presentation at its Charlotte Office, focusing on a review of issues in 2009. Topics included updates on Immigration, Use of Offshore Legal Entities, Covenants Not to Compete, and Developments in Commercial Litigation.

Upcoming Events: Save the Date!

December 2, 2009 — Join us for the next Charlotte Chapter meeting at Byron's in South End. This social networking lunch is in appreciation of our 2009 chapter sponsors and will include the annual election of officers.

January 22, 2010 — Back by popular demand — the Annual Gala at Bentley's Restaurant on 27! Each member and a guest are invited to enjoy a complimentary evening of great food, music and camaraderie. Look for your invitation in the near future.

For more information on upcoming chapter programs, visit <http://charlotte.acc.com>.

WANTED: New Committee Members

We are always looking for new committee members to contribute to the success of the Charlotte Chapter. Currently, there is a need on the Programming, Membership and Communications Committees. Please contact Jane Nohr, chapter administrator, at cltacc@yahoo.com if you are interested.

Welcome New Members

We welcome the following New Members who have joined our chapter from August through October 2009:

Michael Coyne, Lowe's Companies, Inc.

Virginia Theis Daly, Polypore International, Inc.

Sandra Dermody, Lowe's Companies, Inc.

Thomas Graham, Lance, Inc.

Darryl Marsch, Krispy Kreme Doughnuts, Inc.

Marisa Sifontes, SERC Reliability Corporation

Kim Thompson, SGL Carbon, LLC