

## President

**Michelle Proia**  
RPM International, Inc.  
330.273.8859  
mproia@rpm-inc.com

## Vice President and President Elect

**Jonathan Dean**  
Eaton Corporation  
216.523.4129  
JonathanDean@Eaton.com

## Secretary

**William Davis**  
National City Corporation  
216.222.3974  
william.davis@nationalcity.com

## Treasurer

**John Moran**  
GrafTech International Ltd.  
216.676.2397  
john.moran@graftech.com

## Program Chair

**David G. Slezak**  
DentalCare Partners, Inc.  
440.684.6966  
dslezak@dcpartners.com

## Pro Bono Co-chairs

**Cynthia A. Binns**  
GrafTech International Ltd.  
216.676.2288  
cynthia.binns@graftech.com  
**John D. Moran**  
216.676.2397  
john.moran@graftech.com

## Sponsorship Co-chairs

**Gail L. Cudak**  
Eaton Corporation  
216.523.4077  
gailcudak@eaton.com  
**Rhonda S. Ferguson**  
FirstEnergy Corporation  
330.384.5620  
rferguson@firstenergycorp.com

## Immediate Past President and Communications Chair

**D. Russell Hood**  
TravelCenters of America  
440.808.7397  
hood.russell@travelcenters.com

## Board of Directors

**Joseph Daprire**  
**Steven Lee**  
**Richard Legenza**  
**Mark McClendon**  
**John Ritchey**  
**Michael Yaksic**  
**J. Adam Zangerle**

## Chapter Administrator

**Nancy Schneider**  
440.988.3213  
neoacca@centurytel.net

continued from page 1

satisfaction in being able to help people, but I am also frustrated when I am not able to solve their issues immediately on the spot because they may need further follow-up and direction from Legal Aid.”

I share John’s frustration, especially today with issues involving predatory lending practices targeting low-income families and the elderly. I spoke with the relative of a recently-deceased eighty-year old woman, who a few months prior to her death was enticed by a local car dealership to purchase a car that she did not need, on a seven-year sales contract. My initial instinct is to pick up the phone and call the manager of this car dealership, but that is not my role today. Fortunately, we can offer these victims other means of legal assistance, such as referring them to Legal Aid for follow-up or advising as to basic contract law.

Senior counsel for BASF Construction Chemicals, Mark McClendon, arrived to staff his fourth Clinic. Prior to moving to the Cleveland area nine years ago from Milwaukee, he worked in private practice in the areas of product liability defense, municipal law, and medical malpractice. Mark has been a NEOACCA board member for two years and serves on the Pro Bono Committee. I asked Mark what he enjoys most about NEOACCA. He replies, “The members are good people trying to do good things.”

We hope you will consider volunteering for our next Brief Advice and Referral Clinic on September 8.

**NEOACCA extends sincere thanks to Special Counsel and Jurinnov for underwriting the publication costs of this newsletter.**



216.622.2100



440.835.3600



Nancy A. Schneider  
Chapter Administrator  
413 Oaknoll Dr.  
Amherst, OH 44001

## Michelle Proia President’s Message

On the first sunny spring morning in Cleveland, NEOACCA members volunteered at a Brief Advice & Referral Clinic at the St. Martin de Porres Center located in a poverty-stricken neighborhood. Pro Bono Committee Chairs, Cindy Binns and John Moran, along with the assistance of Chapter Administrator Nancy Schneider, organized the clinic to counsel East Side residents.

Natalie Peterson decided to participate in her first NEOACCA-sponsored clinic today. Currently, Natalie is corporate counsel for STERIS Corporation, providing legal services to its Healthcare Division. Public service is not new for Natalie; she serves as vice chair for the Cleveland Bar Association’s Homeless Legal Assistance Program. On this beautiful Saturday morning, Natalie decided to forego her usual weekend activities. When asked why she is here, Natalie responds, “I believe it is the duty of lawyers to use their knowledge to help people who cannot afford legal services. The legal system can be so daunting—just having someone who can explain can be such a huge step.”

Goodyear corporate attorney Glenn Leonardi returned to staff his second NEOACCA clinic this morning. Prior to joining Goodyear’s legal department, Glenn served as general counsel to Dunlop Tire in Buffalo and was previously in private practice in Rochester. While an

attorney in Upstate New York, Glenn often staffed legal clinics in that region. When asked what he would tell fellow NEOACCA members who have not staffed clinics because of their unfamiliarity with the

types of legal issues which may arise, Glenn states, “They should come. It is not a question of being an expert in any one functional area. Sometimes people just need advice, and it is not necessarily legal advice. Lawyers have the ability to read and think and are not startled by the issues they face.”

Andrea Wilson, assistant general counsel for Electrolux, decided to participate in her first clinic today. When asked what facilitated her decision, she jokingly quips it was the result of the repetitive emails that our chapter sends out to members about the clinics. Andrea quickly adds, “This service is an important thing to do. The Legal Aid Society provides good training before the clinic. I felt nervous at first, but the Legal Aid staff made us feel comfortable.”



©Jamie Janos

**Ann Porath, director of Intake and Referral for the Cleveland Legal Aid Society, presents the Society’s Pro Bono Service Award to NEOACCA. Accepting for the Chapter are (L-R) Glenn Leonardi, John Ritchey, Natalie Peterson, John Moran, [Ann Porath], Andrea Wilson and Chapter president Michelle Proia. In attendance, but not pictured: Mark McClendon. If you would like to see more NEOACCA photographs, visit the photo section at [www.acc.com/chapters/neh. php](http://www.acc.com/chapters/neh. php).**

After today’s experience, Andrea plans to help at future clinics.

NEOACCA board member John Ritchey is a frequent clinic volunteer. Sometimes though, John feels a bit of frustration when helping someone at the clinic. Since these are Brief Advice & Referral Clinics, the volunteer attorneys do not handle cases from start to finish. John notes, “I find

**continued on page 6**

**Viva la Revolution? . . . . .2, 3**  
**Practical Comments about**  
**U.S. Export Controls . . . . .4**  
**Upcoming Events and Programs . . . . .5**  
**Recruit a Member and Win a Prize—**  
**Guaranteed! . . . . .5**  
**Welcome New Members . . . . .5**

## Viva la Revolution?

By Susan Hackett, Senior Vice President and General Counsel, ACC

Am I the only one who sees the pink elephant dancing in the room? I'm still waiting for the in-house counsel community to rise up and protest, but the silence is deafening. What's going on out there? Many of the top-tier law firms announced their most recent round of first-year associate pay hikes, and though the legal press reports one major firm after another following suit, there's been surprising little action in response from the in-house bar. Disgust? Sure. But no hint of the revolution that I thought was coming. In-house counsel of the world: Who's managing your legal spending—you or the firms?

Let's do the math. Be conservative and say that an average employer pays about one-third of an employee's pay on top of their salary in order to offer benefits (such as paid vacation/sick time, health, life, disability insurance, retirement or 401K-type contributions, etc.). The newly announced first year salary level of \$160,000 plus \$50,000 in benefits takes us to a total of \$210,000. Then there's overhead, including a portion of the law firm's high-market rent, top-notch administrative support, computer, library, other office technologies, and the art-filled lobby. So let's add another \$100,000 on top of the previous \$210,000, and for the sake of keeping it simple, let's say that our highly recruited first year associate is now costing the firm \$300,000 year. Every associate will get this hike, even the not so competitively recruited ones get it.

That doesn't even take into account the cost of the cocktail-cruising summer associate program, the firm's high-power recruitment, or the cost of attrition. For every 10 of those really expensive first years less than half will make it to partnership and profitability before they're either pushed out or run screaming from the building.

Then, there's the added bonus that the majority of big firms operate on a lockstep salary system for associates, so a raise for the first-rung associates necessitates a corre-

sponding \$15,000/year increase (at least) for every other successive class. This way, the natives won't feel bad that the least experienced workers who've labored a shorter time are making more than them. Let's say, conservatively, that the \$300,000 cost of a first year associate, when combined with the very real costs of attrition and recruiting, brings us to a nice "blended" rate of about \$400,000/year in costs.

Who's paying for this? Do you think that when the decision is made to up first-year salaries that the partnership votes to take less money to pay for it? Or do you think that the associates will be expected to "earn their keep?" The latter is a nicer way of saying that clients will be billed for the overworked first-year associates' time and efforts, and the associates will be expected to perform the feat of billing more than anyone thinks they're worth. Both clients and associates lose.

I'm having so much fun with the math, I think I'll keep going.

If you assume that every one of those associates will bill 2,000 hours that can actually be invoiced to a client (as opposed to a certain amount of time that will be billed, but written off as non-collectable for pro bono, incompetence, client objections, learning curve, you name it), that means that their 2,000 hours will have to be billed at an average of \$200 per hour in order to reach the break even point. We all know that firms don't charge associate rates to break even. Large firms bill up to \$400 per hour for these newcomers.

Perhaps a few of those new-to-the-profession associates are so smart or have amazing previous experience, making them worth every dime of \$200+ per hour, and perhaps every one of their 2,000 hours billed is actually providing efficient and meaningful value to the clients they serve. But perhaps the vast number of those hired—smart, hardworking, and deserving as they are—are worth nowhere near \$200 per hour.

Do you remember how much you knew or what your functional worth was the first day you entered the workforce to take your first "real" job? I remember feeling incredibly incompetent and very confused that I'd not learned any of the stuff that I needed in private practice during my summer work, or in law school. Indeed, law school may teach students how to think like a lawyer, but it does very little to produce graduates who are capable of providing valuable and efficient legal services right out of the box. And that's okay, the value of a lawyer is something that's learned and earned over time with hard experience. But clients are expected to pay for it from day one, since firms don't seem to think it's their cross to bear, and I don't see associates volunteering to do internships until their services are worth what they're charging for them either. Most attorneys in the corporate bar are willing to pay for entry level associates working under supervision; it's how it's done...but at a rate that within the last five years was reserved for only the most experienced partners? Come on.

*Sanity check:* You can hire an incredibly smart and experienced partner-level lawyer in the next town over from New York or DC or Chicago or LA who bills at \$250 hour, and who can do the same work with a better result in half the time. That lawyer is very likely a refugee from the big firm and every bit as smart. Let's not forget about those nice folks in India or Iowa or ConsultantLand, or about your favorite vendors who will do the work for even less.

*Sanity check:* The members of the federal judiciary, who we hope will be composed of the best in our profession, and who must be attracted to engage in public service on the bench at the pinnacle of their careers, are paid less than these new first-years. Most of these newbies will make more in their first year than an associate justice of the US Supreme Court. Our underpaid judiciary is not the fault of large law firm associates, but it's a sign of how out of whack the law firm world's artificial pricing structure is.

*Sanity check:* Most new associates spend their time—as they should—learning the ropes by doing legal drudgery: endless, painstaking research; document review and shuffling through terabytes of discovery material; making necessary appearances and filings in courts; writing form contracts and pleadings; and hopefully learning their craft at the elbows of their seniors who have the experience necessary to bill \$500 per hour and more for their time and counsel. Associate apprenticeship is necessary and supervision of those on the learning curve is professionally mandated by every state's legal regulations, but billing for the time of the supervising lawyer and the learning associate is part of a time-honored legal tradition that often amounts to double-billing. Those in the non-law-firm vending community who can expertly perform a variety of the services performed by first-years at a third of the price are gaining ground and expanding their business lines daily. Why not hire a legal research company or a team of ediscovery consultants to do document work, or another in-house paralegal to do the routine and repetitive contracts and pleadings work? I hear of more and more in-house counsel who: 1) won't pay for entry level associates any more—they are "out-lawed" in the retention letter, 2) mandate that their firms work with vendors on some of the less exciting aspects of the case or matter that can be severed and done for a fraction of the firm's costs, and 3) give increasing amounts of work to a couple of savvy law firms who've started creating and offering those alliances with preferred out-sourcers so that they can be more efficient.

*Sanity check:* Many of the best and brightest students graduating from school today say that they don't want to work the hours or make the sacrifices that their senior partners did when they entered the profession. But they'll take the money, thank you. They'll still apply for the jobs in firms where they know that they're expected to put their lives on hold in perpetuity in order to earn the salary and have an eventual shot at a seven-figure income. And their partners, unable to get over their own frustrations, will continue to demand the same rituals of crazy hours that caused their pain.

*Sanity check:* Who says that firms that are paying these rates will recruit the best talent? Skyrocketing salaries and the need to bleed revenues from the resulting associate classes will do more to prevent these firms from hiring anything other than driven and "pedigreed" applicants, even though that may not be the only kind of talent that clients want. Perhaps what clients actually want is not the editor of the law review from one of the 25 "top 10" law schools in the country. Perhaps they want talent more broadly defined: experienced, diverse, and with life experiences beyond those normally held by the majority of "highly-pedigreed" graduates. Maybe clients want lawyers with a more developed ethical compass to work on their complex corporate-quagmire problems. Maybe clients are more interested in graduates with a pronounced passion for public service, or who communicate really well with juries, or who—dare I say it?—are actually satisfied with their jobs because they work in a more balanced work environment. There are plenty of bright lawyers who are actually a pleasure to work with because they are happy, and their lives are a bit more balanced with a mix of work and non-work activities and interests. Some of them might be in that rarified air of graduates who get the \$160,000 per year (read: \$400,000) offer; a great many of those people work elsewhere, though, and don't carry the baggage or the price tag of large law firm life.

Every study out there says it over and over: You don't get more—indeed, you get less—from folks who are working at surge capacity 24/7/365. Those workers are less and less productive and more and more inefficient. The business model of hourly billing in firms exacerbates the problem by encouraging work to be done in greater quantity, rather than with greater efficiency.

So who will stop the madness? Are we going to wait until firms announce in 2009 that the class of 2010 will be offered \$180,000? Will that finally be enough? Or have you reached the end of your rope now?

The corporate legal community needs to stand up and exercise its not inconsiderable

influence. You and your clients are being overcharged for legal work in the largest firms. Do something about it. Tell your firms that charge too much that you won't pay increased rates, and that you don't want any of those nice new associates (or their increasingly expensive senior associate colleagues) billing to your account unless the firm can quantify why it is that they'll provide more value to you as the client than a partner in a less expensive firm, or an expert legal service vendor/consultant. Ask why, if the top 20 recruits in the nation need this much, it is that firms can't just give a raise to them, rather than to every associate in the firm's pool? Explain to them that they're killing the practice of law by driving associates into the ground, and that you're not going to help them do it.

Then go out and hire from the abundant pool of talent in less expensive places, whether it be smaller firm lawyers, or lawyers working outside the confines of the really big cities. Let your expensive firms' management know that while you'll miss their high quality work, they've just got it wrong and you won't be forced to pay for their continued lack of business principal and judgment. Remind them that in spite of what they tell themselves and you everyday, there's quality legal service to be had at a fraction of the cost. After all, most of those large firm's mid-level and experienced associates will be secretly interviewing for jobs in your legal department or these alleged "second" and "third" tier firms as soon as they realize that the cycle of pain at the most prestigious firms just won't stop. We all know they'll be willing to take half the pay in order to earn the privilege of working somewhere they're valued for more than the number of hours they bill, but rather lauded for the high quality legal services they're bright enough to provide.

What can ACC do to support you on this matter? We're considering the alternatives and would like to hear your views. Let me know by emailing me at [hackett@acc.com](mailto:hackett@acc.com). After all, my bill to you is only \$225 per year if you're eligible for membership!

## Practical Comments about U.S. Export Controls

By Bob Heintel

Export control compliance is an area of U.S. regulatory compliance that can easily be overlooked by businesses. Unlike imports, which may have to physically pass through the control of U.S. customs, exports typically do not come within the control of any U.S. regulatory agency while in transit. Also, export controls impact more than just export of tangible goods. A business can easily engage in exporting activity that, unbeknownst to the business, violates U.S. laws or regulations. Fortunately, export controls affect a relatively small percentage of transactions. The purpose of this article is to highlight the regulatory issues most likely to affect exporting businesses.

The two key government agencies regulating exports are the Bureau of Industry and Security (BIS), within the Department of Commerce and the Directorate of Foreign Trade Controls (DFTC), within the State Department. Other agencies, such as the Nuclear Regulatory Commission, also regulate exports, but the scope of their authority is so narrow that it is unlikely an affected business would be unaware of the applicable regulations.

BIS regulations contain restrictions and limitations on exports of particular products, technology and software. The exact restrictions depend upon the destination and end use of the products. The Commerce Control List (CCL) of covered products is lengthy and varied. Although CCL items tend to be items that are high tech, have very high performance characteristics, or obviously could have some application in military or terrorist use, it is otherwise very difficult to generalize the items on the list. Any exporting business should examine the CCL to get a feel for what it contains and then determine whether any of the business's products fall on the list. The CCL, and helpful information relating to the list, is available on the BIS website ([www.bis.doc.gov](http://www.bis.doc.gov)).

DFTC regulations, the International Traffic in Arms Regulations (ITAR), govern weapons and military items and technology and therefore impact a small percentage of busi-

nesses. However, a business may make a single product or a few products specifically for a military application. Such a product very well may fall under ITAR. A business that sells any product designed for military use must be conversant with ITAR to insure compliance.

U.S. country sanctions apply to nearly all products, therefore any business involved in international trade should be aware of these restrictions. The U.S. imposes sanctions against only a small number of foreign countries, and anyone conversant with current events in U.S. foreign policy will already be aware of the most notable countries affected by sanction programs, such as Cuba, Iran and North Korea. It is therefore unlikely that a business will find itself inadvertently shipping in violation of U.S. sanctions. More likely, a business may believe that it can sell to customers who then ship into a sanctioned country, such as Cuba. Such attempts at "end runs" around sanction regulations are themselves violations. One can generally assume that a shipment which a business has reason to believe will ultimately end up in a sanctioned country will not be lawful no matter how the transaction is structured.

The lists of particular persons and entities subject to some type of export sanction or restriction are long and varied. These lists include domestic as well as foreign persons and entities. Any business selling a significant number of products for export, directly or indirectly, should be aware of these lists and should incorporate a system to check them with each order. No business can afford the publicity that would accompany a revelation that sales of its products are in some way helping to fund global terrorism.

Exporting businesses must also be aware of U.S. regulations prohibiting honoring foreign boycotts ("anti-boycott regulations"). However, because violations of anti-boycott regulations can often be avoided by the prospective customer's appropriate wording of its request, and any customer familiar with the anti-boycott regulations will use the appropriate wording, it is not common for a business to see an actual boycott request. It is more likely that a business will see something that on its face appears to be a boycott request,

such as a requirement that no carrier of country X may transport the goods, when in fact this type of request is not considered a boycott request. However, any request from a customer that seems to impose restrictions relating to a particular country should be carefully reviewed in any case.

*Bob Heintel is a partner at Cavitch, Familo, Durkin & Frutkin, where his practice focuses on international trade compliance, transactional and tax matters. He can be reached at [rheintel@cfd.com](mailto:rheintel@cfd.com) or 216.621.7860*

## Upcoming Events and Programs

- |                     |   |
|---------------------|---|
| <b>June 21</b>      | CLE seminar Commercial Issues: Practical Ways to Protect Your Company from Financially Distressed Customers |
| <b>July 19</b>      | CLE Seminar: IP for the Boardroom   |
| <b>August 9</b>     | CLE Seminar: Internal Investigations, Ulmer & Berne   |
| <b>September 8</b>  | NEOACCA will staff a Brief Advice and Referral Clinic at a Westside location to be announced                |
| <b>September 20</b> | CLE Seminar, Securities Issues, Thompson Hine   |

For more information on upcoming chapter programs and events, go to [www.acc.com/chapters/neo.php](http://www.acc.com/chapters/neo.php).

## Recruit a Member and Win a Prize—Guaranteed!

Help increase ACC's membership by participating in the ACC's Share the Wealth Membership Drive. Each time you use the Association of Corporate Counsel network, you gain valuable skills and experience only available through ACC. More members in ACC translate into improved educational opportunities, enhanced networking, increased online resources, and advancement of the profession worldwide.

Each time you recruit a member, you will receive a Starbucks Card loaded with \$5.00. Recruit two or three members and win a chance to receive a portable DVD player. Recruit four or five members and receive a chance to win a digital camera. Recruit six or more members and receive a chance to win a Mac or PC valued at \$1,500 or a free ACC Annual Meeting or ACC Europe Annual Conference registration and a \$750.00 travel stipend.

ACC's Share the Wealth Membership Drive ends on July 31—so don't delay, recruit today! Get more information and tips on recruiting members at [www.acc.com/sharethewealth](http://www.acc.com/sharethewealth).

## Welcome New Members

**Michael A. Albanese**, DougMac Air Limited LLC  
**Scott E. Allbery**, Eaton Corporation  
**Todd J. Andersen**, Tenable Protective Services, Inc.  
**Jennifer I. Ansberry**, The Lincoln Electric Company  
**Gina Brickley Beredo**, American Greetings Corporation  
**Stephen D. Klinge**, Premier Farnell Corporation  
**Robert P. Reffner**, FirstEnergy Corporation  
**June E. Rickey**, The Goodyear Tire & Rubber Company  
**Hilary W. Rule**, Eaton Corporation  
**Jennifer L. Souza**, Westfield Group  
**Robert F. Steinmetz**, Applied Industrial Technologies  
**Bruce G. Van Valkenburgh**, Eaton Corporation  
**Karl R. Wetzel**, Visual Evidence/E-Discovery LLC  
**Michael J. Whitehead**, The Lincoln Electric Company  
**Lizbeth L. Wright**, Eaton Corporation