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Welcome New Members

We wish to welcome the following new members who have joined our chapter recently:

William Romanos, Florida Turbine Technologies
Daniel Green, Ryder System, Inc.
Dana Ballinger, A Fortiori Strategy
Richard Vilsoet, Dycom Industries, Inc.
William Van Vackenberg, Day Jet Corporation
Armando Olmedo Arias, Univision Communications Inc
Rob Nicks, Lennar Corporation
William Miller, BE Aerospace, Inc.
Nikki Setnor, ADP Total Source Inc
Julie Reby Waas, Baptist Health South Florida, Inc.
Silvia Iglesias, FPL Energy, LLC



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Steven J. Sibner President's Message

Dear Members,
As the last quarter of the year is upon us, I

wanted to take a moment to reflect on our chapter's accomplishments in 2007 and update you on our plans for what I believe will be a very exciting 2008.

Chapter Accomplishments for 2007

This has been a good year for our South Florida Chapter. Our One Night event in May continued its focus on bringing the in-house legal community together in a fun setting, and raised \$20,000 for Take Stock in Children, and \$2,500 in scholarship money for a deserving minority student at Florida International University. In addition, throughout the year, we offered several CLE programs and networking events in Miami and Ft. Lauderdale. In September, we held our third annual National Public Lands Day at John Lloyd State Park, where more than 60 members and their families planted trees to help prevent beach erosion and preserve the park's beauty for years to come, and in late October, the chapter sponsored the 4th Annual Minority Mentoring Picnic.

One of our most popular events for the year is still to come, so don't miss it!

■ **December 6**—Annual Ethics Seminar and Holiday Reception—Please visit our website at

www.acc.com/chapters/sfl.php for additional information on these events.

The Board's Vision for 2008

Next year promises to be a very exciting year for our chapter. We have surveyed our members and listened to your comments and feedback. In August, the board held a planning meeting for 2008, where we discussed your desire to develop a more local focus for members and a more consistent schedule of events. The feedback we received is that you would like to have a greater opportunity to meet other ACC members in your area. As part of this initiative, we decided to reintroduce our popular "Lunch and Learn" series. At least each quarter, we will hold separate lunch programs in all three counties, so that you can meet with other local ACC members to discuss topics of interest and have the opportunity to network. The board has developed a very active calendar for 2008 that will also include quarterly community service events, more frequent CLE programs and networking opportunities, as well as our popular One Night event.

Upcoming events for 2008 include:

■ **January 31, 2008**—Join our chapter and Lex Mundi and its Client Advisory Council—including general counsel from several multi-national companies—for a program on "technology as it relates to the future of the legal profession." — Loews Miami Beach Hotel

- **January**—Community Service Event—To be announced
- **February**—Our first Lunch and Learn of the Year
- **April 26, 2008**—*One Night in Las Vegas*, Renaissance Plantation Hotel, Davie

For additional information on these programs, please visit our website periodically at www.acc.com/chapters/sfl.php

We hope to see you at one of our programs! If you are interested in volunteering to help with any of these events, or have ideas for other activities, please contact our executive director, Jody Rosen, at jrosen@associationsource.com.

Thank you for the opportunity to serve as president.

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Discover Best Practices from ACC's Annual Meeting

Susan Hackett,
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I recently attended ACC's annual meeting in Chicago ... heck, who's kidding whom? It's a command performance for ACC staff and we fight over the privilege of attending and spending such high-quality time interacting with members!

There's an adage here at ACC that a former ACC Board Chairman (Bill Lytton, now retired CLO of Tyco, then CLO of International Paper) used to help us define a meeting's success for members: With so much information and so many "opportunities" flying by at light speed in their day jobs, anytime a member can go to a meeting and pick up even one really good, practical idea to take back home and implement, they will feel that the time was spent well. So here's my review of several really good ideas collected from the ACC Annual Meeting that I'd like to share with those of you who weren't there.... Maybe next year (October 19–22, 2008 in Seattle) you'll be able to pick up some gems without a middleman!

In no particular order:

■ **The first thing you do is send everybody home.** A ton of great ideas for responding to government investigations emerged from a wide variety of programs at the meeting, but one that resonated with many attendees is the idea of establishing a policy that if uniformed, government agents invade your premises and begin a sharp edged investigation, you should send the staff home immediately. The govern-

ment often uses the "raid" tactic not so much to collect documents, but to catch employees unaware and to scare them into saying things that damage the company—they don't do this in a formal interview environment, but they will storm an employee's office and begin unpacking their desk drawers. So if they show up, leaders from the law department and other designated staff should surely escort government officials around and cooperate fully, but only after the staff has "evacuated" the premises—the government is not entitled to interview employees without notice and authority, especially without counsel present (either the company's or the individual's personal counsel). They won't be happy with you for killing their fun, but if they're investigating your company in this manner, it's too late to wonder if you'll get extra points for serving coffee and cookies.

■ **On the subject of lawyers as targets in criminal enforcement actions or prosecutions:** There's a whole lot of stuff out there on increasing lawyer liability for client failures, as well as why it is that lawyers are more likely to be targets, along with their clients, when the government comes calling. A number of programs focused on these issues, but one of the most troublesome worries repeatedly raised was whether there was anything that lawyers can do to avoid being called as fact witnesses (especially since many corporate counsel wear multiple hats in their jobs and carry business responsibilities). One idea discussed was for the in-house lawyer to file an appearance as counsel of record for the case. It makes it far more difficult for the government's counsel to call

the defense counsel on a matter as a fact witness, especially, as is almost always the case, when there are non-lawyers in the company who can testify to facts that the government wants to explore and document them. Calling a lawyer to do this endangers the client's ability to assert privilege over anything the lawyer worked on in the past (subject matter waiver) or, for that matter, in the future.

■ **Outside counsel budgets—an oxymoron?** Unfortunately, it seems so. One great idea presented by a large law department that has trouble getting certain high profile firms to follow clearly negotiated and detailed budgets for large matters is to have the board (or a relevant board committee) "approve" the outside counsel's budget for major projects. Then, when the outside counsel suggests that they're going to have to bust the budget or calendar because of "unforeseeable" events, you can ask them: "Would you like to notify the board of this recent development in person, or by report for their next meeting?" Let them know that the in-person presentation is preferred since they'll be able to answer board members' questions directly onsite. Heck, maybe you could sell tickets to your in-house counsel friends and colleagues?

■ **More on outside counsel costs:** Institute a system of shadow bills for outside counsel matters you're most concerned stay within budget or on track. Shadow billing is a law department-driven mechanism for reviewing outside counsel bills as each one comes in, and checking on whether they're on track with cost estimates that the department calculates, usually based on historical experience but

maybe based on other criteria, such as the spending cap for the matter/its value. For each relevant billing period, you compare the actual bill with the shadow bill you've predicted; if you know that monthly costs should be averaging \$35,000, and you start receiving bills for \$3,000 or \$300,000, you know that the matter is not proceeding as planned and is likely to miss budget. You know to ask outside counsel NOW for an explanation of what is causing the variance. You may find their answers completely satisfactory, you may have estimated poorly, or you may decide early out that your outside counsel is not properly managing, supervising, or budgeting the matter and can nip errant behaviors in the bud. After all, it's worse to have this conversation after the matter is irreversibly out of control and over budget.

■ **Think about establishing a more active role for lawyers in government relations.** An increasing number of law department leaders are either leading or supporting their company's "capital" office presence to stay abreast of developments that will affect your company or industry, and to influence emerging regulations when possible. The role of company lawyers is to help ensure that legislation doesn't lead to regulatory nightmares for the company. Involvement of the legal staff does not always entail directly lobbying activities, but usually does include responsibilities that confer new career challenges and personal development for lawyers somewhat trapped within the glass ceilings of their current in-house positions.

■ **Carefully consider the evolving relationship you may have with your**

company's outside auditors: While that primary relationship is "owned" by the CFO, you are likely to be increasingly involved in managing the auditor's requests, and likely also increasingly concerned about what auditors are asking to see in the conduct of their regular reviews of the company's fiscal health. The jewel: focus on a more proactive (rather than waiting to be placed in a reactive) role in anticipating some of these issues and negotiate them with the auditors in advance of retention. A panel addressing this subject and reporting on an ACC initiative to improve the lawyer-auditor relationship offered lots of specific ideas. Catch some of them in the material archived at www.acc.com/php/cms/index.php?id=368.

■ A number of programs touched on the issue of helping counsel prove (as in "quantify") their value to their clients, in spite of their status as a "cost center" within the company. Some counsel discussed their efforts to create what amounts to "dashboards" for their client leadership (a dashboard generally appears on the client's screen when opened and provides a ticker of information). These dashboards provide real-time status and dive-down detail on the costs that the client's area has "incurred," whether charged back to the client or not. This provides a method of linking law department costs more concretely to services and to client actions. Obviously, someone has to feed the dashboard beast, but it's worth thinking about, especially if the information could be entered by non-lawyer staff, outside counsel, or consultants.

* I'm going to let you see all the "substantive law" good ideas by logging onto the ACC website and checking out the course materials posted on the annual meeting's homepages.

One last reminder on picking up pearls at the meeting: If you attend the meeting in Seattle, set aside time to shop the exhibit hall for more good ideas than you can shake a stick at. I mean it. Unless you've been to an ACC annual meeting before, you have no idea what I'm talking about, but ask anyone who's been. The exhibit hall/trade show floor is the busiest place at the meeting. There are almost 200 firms (outside counsel, legal services providers, legal tech experts, staffing and professional consultants, etc.) present and they all bring their tippy top people who understand your business and can fashion solutions designed just for law departments. If you're in the market to interview firms, preview technologies, or discuss consulting services, come to the meeting with your pencil sharpened and your exhibit hall map marked with the most direct routes to visit the folks you need to see. You will have an unparalleled opportunity to meet with the top providers of virtually everything a law department needs: you can talk to them for 30 seconds or 3 hours, with as little or as much specificity as you like; if you're not interested, you walk to the next booth (usually with some nice swag in tow!). This is so much easier that inviting a line of prospects to interminable meetings in your offices and finding out they've sent a local account rep that can't answer your questions.

Comments or ideas for me? Contact me at hackett@acc.com.

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ACC News Briefs

Early Renewal Rate Expires On December 15

Most of our members are scheduled to lapse on December 31. Renew your membership by December 15 to receive this year's rate of \$225 and to avoid interruption in benefits. If you don't renew by December 31, you will miss out on chapter program announcements and other chapter broadcast email messages as well as *ACC Docket* issues featuring articles on records retention, outsourcing, litigation management, and compliance. Access to the Virtual Library and InfoPAKs will also be cut off, restricting you from accessing the hundreds of sample forms, policies, articles, checklists, and helpful web references available in these publications. To ensure that you don't experience an interruption in services, simply renew your membership now at <http://www.acc.com/membership/renew.php>. Questions? Contact the membership department at 202.293.4103, ext. 360; membership@acc.com.

2007 ACC/Serengeti Managing Outside Counsel Survey Report

Find out how your management of outside counsel compares with the approach of your in-house peers. Learn about the latest techniques being used by other law departments. Now in its seventh year, this survey report provides unique and valuable information regarding the diverse strategies being used by in-house counsel to manage their work with their law firms. Specific benchmarks by size of company and size of law department permit useful comparisons with your practice. From amounts spent and fee structures, to common management techniques (such as retention terms, alternative fees, and budgets), to technology solutions (such as electronic billing and Internet-based services), detailed information is summarized so that you can learn from the experiences of other in-house counsel. In addition, tables summarize the high, low and average hourly rates paid by corporate law departments for specific types of work in metropolitan areas

across the country. The 150 page report is provided on a CD, which organizes information for ease of reference. To get a free benchmarking worksheet or to order the full survey (discounted for ACC members), visit the Serengeti website at <http://www.SerengetiLaw.com>.

New InfoPAK: The New Face of Union Organizing Success—Neutrality Agreements, Ballot-Free Elections and Corporate Campaigns

In recent years, organized labor has employed new organizing issues, aggressive campaign strategies, and innovative techniques designed to catch the unwary employer off guard. Minimizing vulnerability to corporate campaigns should become part of the organization's overall risk management strategy. This new InfoPAK documents steps that can improve the ability to avoid or survive a corporate campaign, and will enhance an employer's overall human resource posture. InfoPAKs are free to members. Access it here: <http://www.acc.com/infopaks/newunionorganizing.php>.

ACC's 2008 Annual Meeting: Calling All New, Innovative Ideas for CLE/CPD Programs

Have new and innovative ideas for a CLE/CPD program? Send them to ACC. We are currently accepting program ideas for the 2008 Annual Meeting ("In-house, Informed, Indispensable", October 19-22, Seattle, Washington). To get started, go to <http://am.acc.com>, click on the "Call for Programs" link on the left side of the page, and select the appropriate category (members and in-house counsel, or sponsors) to submit your idea. ACC members/In-house counsel submissions are due by January 11, 2008. Your ideas are what make ACC's Annual Meeting a valuable resource every year. Questions? Contact the education team at education@acc.com; 202.293.4103, ext. 315.