

## HIGHLIGHTS

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## JUSTICE O'CONNOR'S CONTINUING CONTRIBUTIONS

Justice O'Connor's historic appointment to the U.S. Supreme Court in 1981 brought to a close over 190 years of all-male service on the high court. Indeed, women had been barred from membership in the high court's bar until 1879, when Congress amended the Court's admission criteria to include women as well as men, following the persistent lobbying of the District's own Belva Lockwood, who went on to become the first woman to argue before the Court, in 1880.

O'Connor's confirmation was unanimous (99-0), and she quickly became, and remained, a powerful voice on the Court, not infrequently casting the decisive vote in 5-4 majorities on issues of great social and political import. Some of her more notable recent opinions include those in the University of Michigan Law School affirmative action case (*Grutter v. Bollinger*; authoring opinion for 5-4 majority), the "enemy combatant" detention case (*Hamdi v. Rumsfeld*; announcing judgment and authoring plurality opinion for four justices), and the Title IX student-on-student sexual harassment case (*Davis v. Monroe County Board of Education*; authoring opinion for 5-4 majority).



That O'Connor played such a pivotal role is all the more significant given the markedly ambivalent, when not outrightly dismissive, treatment accorded women throughout much of the Court's history. As a case in point, when the Court in 1873 rejected Myra Bradwell's claim that Illinois had violated the Privileges and Immunities clause in denying her application for admission to that state's bar on the grounds of sex, Justice Bradley, in concurring in the judgment, declared, "Man is, or should be, woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life." Bradley concluded, "The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator."

There was poetic, and other, justice then when, in her first term on the Court, Justice O'Connor authored the majority opinion in *Mississippi University for Women v. Hogan* (again, for a 5-4 majority), declaring the exclusion of male students from a state-supported nursing school violative of the equal protection clause. O'Connor warned in *Hogan* against reliance on "archaic and stereotypic notions" about the proper roles of men and women, citing as support many of the high court cases argued and won by her future colleague, Ruth Bader Ginsburg, as director of the ACLU's Women's Rights Project in the 1970s.

O'Connor's appointment to the Supreme Court nearly 25 years ago marked a revolutionary moment in women's status in the Court, one from which the Court, and appointing presidents, must not retreat.

*Mary L. Clark, Visiting Associate Professor,  
American University Washington College of Law*

A Publication of

**THE WOMEN'S BAR ASSOCIATION  
OF THE DISTRICT OF COLUMBIA**

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Executive Director

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## THANK YOU

I recall 1963, in central New Jersey, restless at grade eight to come to know myself, being plagued with that question-of-the-times, "what will I be when I grow up?" Two years earlier, I had fallen asleep to the radio broadcast of my first presidential convention, astounded at the noise of Johnson receiving the nod as running mate. "Could a woman possibly become President in my lifetime?"

I recall 1973, in central New Jersey, teaching eighth grade math to hoards of children wishing to resolve their identities. Plagued with the question of how quickly I could afford my first year in law school, I thought, "Gee, could a woman possibly be on the Supreme Court in my lifetime?" The jury was clearly out, those being the days of MS Magazine and consciousness-raising groups.

I recall 1981, a DC lawyer, heavy with child for the first time and wondering all kinds of things, when Sandra Day O'Connor took the judicial oath. Aspirations looked very different to me then - children consumed my future, and threatened to eclipse even the memory of my grade-eight musings. How Justice O'Connor had found a path to the bench was unimaginable - it seemed to me then that I was about to disqualify myself from a serious life-long career. It was easy to assume that the woman who first climbed to the Supreme Court must have had that plan before her from the beginning - say, eighth grade. My best answer to my mother's question, "But, dear, what will you do when the baby is born?" was, "Take one day at a time."

I have learned since, by reading, by watching, and by living, that Sandra Day O'Connor in fact excels precisely because she lives the life that her path gives her. She welcomes family and holds it in high regard, she seeks to excel in everything, she works hard with the belief she will get the job done, and she recognizes good opportunities. She never lost track of the instinct to dream. Obviously, she thoughtfully made wise decisions along the way.

In honor of Justice O'Connor in this first issue of *Raising the Bar* since her January 31 retirement, I reprise the comments made when the WBA presented her the award called, uniquely, *The Star of the Bar*. We continue to learn much from the Justice.

### ON THE PRESENTATION OF THE AWARD, SEPTEMBER 22, 2005

Never before have we honored a single star on a single night, and we have honored many women from this podium in our annual "Stars of the Bar" reception.

We honor Justice Sandra Day O'Connor for many obvious reasons. To offer some not so obvious, I wish to speak on behalf of women who practice law.

Raising The Bar is published by the Women's Bar Association of the District of Columbia. Subscription rate is \$100 annually. Materials for publication may be submitted to the Editor, Raising The Bar, 1717 K Street, NW, Suite 503, Washington, DC 20036.



## President's Column

**Raising The Bar** now has an Editorial Board to assist in the timely dissemination of important WBA and WBAF news. Please contact any of the following Editors if you would like to contribute an article, program advertisement or photograph to an upcoming issue. We encourage submissions regarding matters of interest to our members, upcoming events, past events, flyers, squibs, blurbs and everything and anything that you would like publicized. However, please note that some copy editing might be necessary, and that space limitations may prevent every item that you submit from being published in the issue or format that you request.

All copy and photographs must be submitted by our publication deadlines:

**March 5th - Issue 5**, mailed to

members on March 20th

**April 5th - Issue 6**, mailed to

members on April 20th

Please contact an Editor if you have any questions. Thank you in advance for contributing to Raising The Bar.

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*First . . . for her Influence.* The popular print media offer such lines as "a legacy not yet sealed," and "a swing vote."

In reality, when considering a leader among women, there is no end to the expansion of her legacy. She integrates an entire life into making the legacy what it is. Sandra Day O'Connor is such a woman.

As to the swing vote notion - I would refer instead to "pivotal influence." Whether on the Court, as a family member, or among friends from law school and her home state, the way that Justice O'Connor has conducted her affairs has pivotal influence on all.

*Second . . . for her Courage.* I need to say little more than Rattlesnakes and Horses. Whether her book title is a metaphor for judicial service, a commentary on life, or a simple story for children about a child, it connotes a lifetime's outlook. And "outlook" is, perhaps, the base of all action.

Thus, the Women's Bar Association recognizes you, Justice O'Connor, for your pivotal influence on us as women lawyers; and your courage to make the right decisions . . . including the hard ones.

- You have displayed a magical mixture of good judgment, instinct, and heart.
- You have proven that we may aspire always to greater heights, no matter what befalls us along the way. That there is no such thing as "time off"; there is, rather, "time that is different."
- You, still and always, teach us to trust our instincts, including our *duty* to identify what we hold dear, and to use those instincts when making both the common and the life-shaping decisions.
- You have established, in the eyes of the nation, that doing all of these things and achieving a broadly influential career are not conflicting goals - they are part and parcel of the same good sense, heart, and instinct.

. . . And no small measure of intelligence.

*We will miss you on the Court.*

*We will look forward to your many contributions yet to come.*

*We will always learn from you.*



**Karen M. Lockwood**

**WBA President**



## CALL FOR NOMINATIONS

The Women's Bar Association of the District of Columbia welcomes nominations for the Women's Bar Association Officers and Board for the 2006-2007 Fiscal Year, beginning June 1, 2006. Nominations are sought for the following positions: President-Elect, Secretary, Treasurer-Elect, Director (two three year positions open). These are exciting positions of leadership in a growing and increasingly visible organization. Please submit your letter of interest, biographical material, and photograph to: The WBA Nominations Committee, 1717 K Street, NW, Suite 503, Washington, DC 20036, or email to [wba@wbadc.org](mailto:wba@wbadc.org). The deadline for submissions is March 10, 2006. With questions, please call any officer or Board member (see page 2).

## WINE TASTING: WBAF GOES SOUTH OF THE BORDER!

On January 26, 2006, the Women's Bar Association Foundation (WBAF) celebrated the wines of Chile and Argentina at its annual Wine Tasting and Silent Auction. Held in the beautiful new offices of White & Case at 701 Thirteenth Street, N.W., the event opened with a reception offering attendees a chance to renew long-standing friendships and to make new ones. Co-chairs Consuela Pinto and Ellen Jakovic assembled an eclectic group of silent auction items, including romantic weekend getaways, vacations at the beach, sporting event tickets, afternoons at local spas, jewelry and accessories, and dinners at favorite Washington-area restaurants.

Back by popular demand, Washington Post wine critic, Michael Franz, led the wine tasting. The ever-entertaining Mr. Franz explained the characteristics of the renowned wine-growing regions in Chile and Argentina and gave an excellent presentation featuring the white and red wines from those regions. Attendees (from novices to oenophiles) enjoyed the educational commentary and the opportunity to relax and meet other WBA members.

Due to Committee's tireless work and vision led by co-chair Consuela Pinto, the WBAF was able to raise over \$10,000 at this year's event. The WBAF will use the proceeds to further its goals to:

- Promote women as leaders and role models;
- Ensure gender equality and eliminate workplace bias;
- Promote greater understanding, awareness and support of legal issues that are of importance to women;
- Make the legal profession more responsive to all of its members, reflecting the diversity of the community;
- Foster the education and training of women in law and legal issues;
- Provide a forum for women attorneys to contribute to the community; and
- Promote the delivery of legal services to the disadvantaged and needy.

Many thanks to the enthusiastic participants and sponsors who made this year's event one to remember.

## WBA Foundation



*Enjoying the Reception*



*WBAF Board*



*Eying the Auction Items*



*WBAF President Brenneman,  
Michael Franz and Tracy Durkin,  
WBA President-Elect*

*The Foundation thanks the following Sponsors who donated items for door prizes and/or the silent auction:*

A Pocketful of Posies of McLean, VA  
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Martha JP McQuade  
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Consuela Pinto  
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Studio Infinity  
Studio Theatre  
Sweet Pickle Press  
The Folger Theatre  
The Four Seasons Hotel  
The Inn at Perry Cabin  
The Kennedy Center  
The Shakespeare Theatre  
The Washington Chorus  
Two Coconuts  
Warner Theatre  
Mary Zaudtke  
Zola

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*The Foundation thanks the following Patrons for their generous support of this event:*

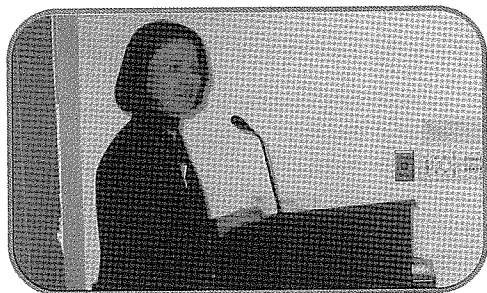
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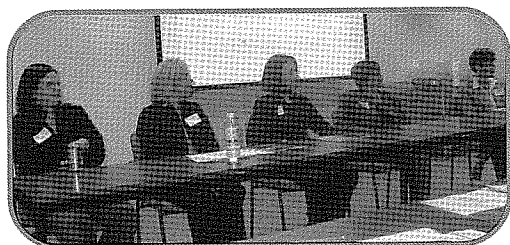
*The Foundation thanks the following Supporters who donated goods and/or services for tonight's event:*

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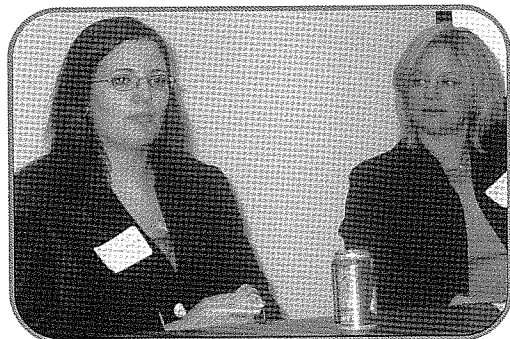
## Committee and Forum Highlights



*Rhonda Kaufman of the au pair placement agency, Interchange Au Pair USA, makes her remarks.*



*The Au Pair Program panel included: Duska Karsov (au pair), Joanne Myers (Interchange Au Pair USA), Rhonda Kaufman (Interchange Au Pair USA), Yahne Miorini (WBA Tax and Business Forum Co-Chair) and Tracy Durkin (WBA President-Elect).*



*Experienced au pair Duska Karsov shares her thoughts on a successful childcare match while Joanne Myers (Interchange Au Pair USA) looks on.*

### WORKING PARENTS FORUM CHILDCARE OPTIONS SERIES

The newly revived Working Parents Forum hosted its first program, which was co-sponsored by the Tax and Business Forum, on January 24, 2006. The Au Pair Program was the first in a three-part series on childcare options. The Au Pair Program was well-attended by WBA members, non-lawyers, dads, and a sleeping toddler. Rhonda Kaufman and Joanne Myers, local representatives from the au pair agency InterExchange Au Pair USA, led the presentation and explained how the application and matching process works, what to do if the au pair match does not meet expectations, and how much the program costs.

Au pair Duska Karsov spoke about her experiences as an au pair and gave her perspective on what made for a successful family match. During the lively question and answer portion of the program, Tracy Durkin (WBA President-Elect) and Yahne Miorini (Tax and Business Forum Co-Chair) provided valuable insights as parents who have hosted multiple au pairs in their homes, including what questions to ask during the interview process to find the best au pair for your children. Many attendees provided enthusiastic feedback and were grateful for the opportunity to fully explore au pairs as a childcare option.

The next program of the Working Parents Forum series, "Childcare, Back-up Childcare and Montessori," will be co-sponsored by the Lawyers at Home Forum, and it will be presented on Wednesday, March 15th from 12:00-1:30 pm at Sterne, Kessler, Goldstein & Fox P.L.L.C., 1100 New York Avenue, NW, Suite 800. The program's speakers are Lynn Wray, Regional Manager, Bright Horizons Family Solutions ([www.brighthorizons.com](http://www.brighthorizons.com)) and Pamela W. Trumble, Head of Schools – The Franklin Schools ([www.montessori-mmi.com](http://www.montessori-mmi.com)). For more information or to register visit [www.wbadc.org](http://www.wbadc.org) or contact Working Parents Forum Co-Chair Christina Ayiotis at 703.377.0399 or [ayiotis\\_christina@bah.com](mailto:ayiotis_christina@bah.com).

### LITIGATION FORUM PRESENTS: "SUCCESSFUL USE OF TEMPORARY ATTORNEYS"

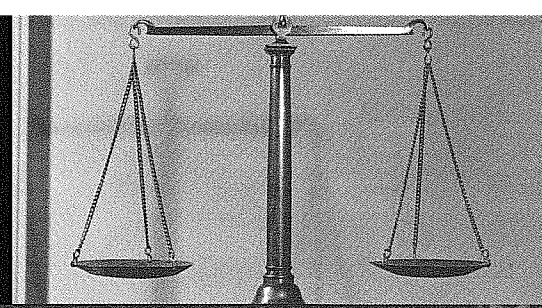
Join featured speaker, Karen Stempel, of Lexolution, LLC, at a lunchtime presentation on Wednesday, March 8, 2006, as she discusses:

- How and when to use temporary attorneys efficiently and effectively;
- How to integrate and train temporary attorneys for your litigation projects;
- How to retain institutional knowledge when using temporary attorneys;
- Why many clients are requesting the use of temporary attorneys and how law firms are responding.

See the Calendar of Events for more details and register online at [www.wbadc.org](http://www.wbadc.org).



# Upcoming Events



## Committee and Forum Highlights

### SHOWCASE EVENT

#### TRIENNIAL WBA JUDICIAL RECEPTION

On June 15, 2006, the WBA will sponsor its triennial judicial reception. This showcase event will focus on a timely topic of increasing importance to both the judiciary and the public, namely, the "Independence of the Federal Judiciary." Always well-attended events, the WBA judicial receptions allow our members and guests to mingle with members of the state and federal regional judiciary. This is an event that you will not want to miss, so mark your calendars and log on to [www.wbadc.org](http://www.wbadc.org) under "Calendar of Events" for upcoming participation details.

### INTELLECTUAL PROPERTY FORUM PROGRAM ON TRADEMARK RIGHTS

On Wednesday, March 29, 2006, the IP Law Forum will present a luncheon program that addresses the protection and enforcement of trademark rights in Cyberspace, including Internet domain names.

The speaker will be Roxanne A. Esch. Ms. Esch is an associate in the Trademark Practice Group of the Washington, DC office of Arent Fox PLLC. Her practice includes all areas of intellectual property law, with a focus on trademark and copyright litigation, trademark policing and enforcement, and counseling clients on Internet policies and on novel intellectual property issues.

The program will be held from noon to 1:30 p.m. Admission is \$10.00 for WBA and DC Bar IP Law Section members, and \$20.00 for non members. Applications for Virginia State Bar MCLE and DC Bar CLE approval will be submitted. Watch for more details to follow on the Calendar of Events at [www.wbadc.org](http://www.wbadc.org). For more information about this event, please contact Tracy Muller at 202.772.8697 or at [tmuller@skgf.com](mailto:tmuller@skgf.com).

### THE COMMUNITY PROJECTS FORUM OF THE WBA

Presents

#### LUNCHTIME VOLUNTEER SERIES

February and March 2006: Work Sessions at the National Multiple Sclerosis Society, National Capitol Chapter

What: Join fellow WBA members in having fun and doing good by helping the MS Society with various clerical tasks in support of their annual fundraising event, the MS WALK, which will be held on April 1st and 2nd.

Where: National Multiple Sclerosis Society, 2021 K St., NW, Suite 715 (Metro: Farragut West or Farragut North)

When: Thursday, February 23rd and Thursday, March 9th. The sessions will begin at noon and end at 1:30pm. Light refreshments will be provided, or you may bring your own lunch. Sign up for one or both sessions, as your schedule permits.

RSVP: Linda Donaghy, Co-Chair of the Community Projects Forum, at [ladonaghy@msn.com](mailto:ladonaghy@msn.com) or 301.774.8346.

The WBA/WBAF is pleased to announce the 89th Annual Awards Dinner, which will be held on Tuesday, May 16, 2006 at The National Building Museum, 401 F Street, NW, from 6:00pm until 9:00pm.

## CALENDAR OF EVENTS

The Judicial Reception is **MOVED** from February 23 to **THURSDAY, JUNE 15, 2006**

*Tuesday, February 28, 2006*

*12:00noon until 1:30pm*

Working Parents and Tax and Business Forums present, "How to Hire and (Legally) Employ the Perfect Nanny" featuring Barbara Kline, President of the White House Nannies and Stephanie Breedlove, President, Breedlove and Associates Stern, Kessler, Goldstein & Fox, P.L.L.C., 1100 New York Avenue, NW, 8th Floor. \$10 members; \$20 nonmembers  
Register at [www.wbadc.org](http://www.wbadc.org)

*Wednesday, March 1, 2006*

*12:00noon until 1:30pm*

Health Law Forum presents, "Everything you Need to Know About the New Medicare Drug Benefit" Finnegan, Henderson, Farabow, Garrett & Dunner, 901 New York Avenue, NW. \$8 members; \$15 nonmembers  
Register at [www.wbadc.org](http://www.wbadc.org).

*Thursday, March 2, 2006*

*6:00pm until 8:00pm*

"Speed Mentoring"

Howrey LLP, 1299 Pennsylvania Ave., NW

\$20 members; \$30 nonmembers

*Friday, March 3, 2006*

*9:00 am until 5:30 pm*

National Conference of Women's Bar Associations Summit in DC  
"Advancing Women Lawyers to the Top"

Jones Day, 51 Louisiana Ave, NW

*Tuesday, March 7, 2006*

*9:00am until 1:30pm*

WBA Initiative on the Advancement and Retention of Women, Third Session "What is Working in Our Community's Efforts to Improve Advancement of Women?"  
Georgetown University Law Center, Hart Auditorium  
Register at [www.wbadc.org](http://www.wbadc.org)

## INTERNATIONAL FORUM HIGHLIGHTS

The International Forum is planning two events for this spring, one for March 14th and one in early April (tentatively April 11th, but stay tuned for an exact date). On March 14th, the International Forum will team up with the Women's Foreign Policy Group to host a luncheon on the Millennium Challenge Corporation (MCC). The MCC is a results-driven foreign aid initiative developed by the Bush Administration. To be eligible for MCC assistance, countries must demonstrate that they "rule justly," invest in their people and encourage economic freedom. By targeting aid to a select group of good performers, the MCC's aid is designed to be "transformative."

Scheduled speakers include the Director of Legal and Regulatory Affairs of the MCC, the Senior Policy Analyst for the MCC at the Center for Global Development, and a representative from one of the compact countries. The speakers will provide an overview of the MCC, with a look at how it differs from other aid programs; the MCC's requirement that compact countries uphold the rule of law, and how legal systems are evaluated; and how the MCC is or is not changing U.S. development objectives. There will be plenty of time for questions, so please arrive ready to participate in the discussion. For more details on this event, please see "Calendar of Events" at [www.wbadc.org](http://www.wbadc.org).

The second spring program will focus on the legal, policy and development challenges presented by the ravages of human trafficking. This program will be co-hosted with the Immigration Forum. The panel will include the Director of Anti-Trafficking and Human Rights Program at Vital Voices, an NGO dedicated to worldwide elimination of violence against women, a speaker from the Civil Rights Division of the DOJ, responsible for prosecuting crimes involving trafficking and sex tourism, and one more speaker yet to be announced. Again, the discussion will provide an overview of Vital Voices' anti-trafficking and human rights initiatives, and will touch on legislative and administrative policy issues, as well as the role of the U.S. criminal justice system.

This promises to be a compelling discussion for anyone interested in the promotion of human rights and the advancement of women. This program is tentatively scheduled for early April, and an event flyer with additional details will be up on the WBA website soon.

### NEEDED FOR SPEED MENTORING EVENT MARCH 2

**SENIOR ATTORNEYS** to help your fellow women attorneys by sharing the fruits of your experience.

**JUNIOR ATTORNEYS** to take advantage of this amazing opportunity to get advice on your most challenging professional dilemmas.



## Initiative

### CALENDAR OF EVENTS

Wednesday, March 8, 2006

12noon until 1:30 pm

Litigation Forum presents,  
"Successful Use of Temporary  
Attorneys" featuring Karen Stempel  
of Lexolution LLC  
Weil Gotshal & Manges, 1300 Eye St,  
NW, Suite 900

Wednesday, March 15, 2006

12noon until 1:30pm

Working Parents presents,  
"Child Care, Backup Child Care and  
Montessori" featuring Lynn Wray,  
Bright Horizons, Regional Manager  
and Debbie Phelps, Bright Horizons  
Sterne, Kessler, Goldstein & Fox,  
P.L.L.C. \$10 members; \$20 nonmem-  
bers. Register at [www.wbadc.org](http://www.wbadc.org)

Wednesday, March 22, 2006

12:30 until 2:00 pm

Immigration Law Forum presents,  
"Developments in Immigration  
Practice" featuring Robert Divine,  
Acting Deputy Director, USCIS  
Baker & Hostetler, 1050 Connecticut  
Ave, NW

Friday, March 24, 2006

2:00pm until 4:30pm;

Reception from 4:30pm

until 5:00pm

WBA and the National Association of  
Women Lawyers present, "From  
Backpacks to Briefcases"-  
four panel presentations:

"The Big Picture: Recognizing the  
Change from Law Student to Lawyer"

"Getting Off on the Right Foot"

"Working with Partners and Senior  
Colleagues"

"Investing in Yourself"

McDermott Will & Emery, 600 13th  
Street, NW

Wednesday, March 29, 2006

12noon until 1:30pm

IP Law Forum Presents,

"Trademark Rights"

\$10 members; \$20 nonmembers

Register at [www.wbadc.org](http://www.wbadc.org)

Monday, April 3, 2006

9:00am until 1:30pm

WBA Initiative on the Advancement

and Retention of Women, Fourth

Session "Lessons Learned;

A Synthesis and a Challenge to Other  
Bars in the US"

Georgetown University Law Center,  
Hart Auditorium

Register at [www.wbadc.org](http://www.wbadc.org)

*We proudly list those who have  
provided sponsorship of the  
Initiative to date. Additional  
sponsors will be added.*

### SPONSORSHIP LIST FOR 2005-2006 INITIATIVE

#### PLATINUM

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Women's Bar Association Foundation

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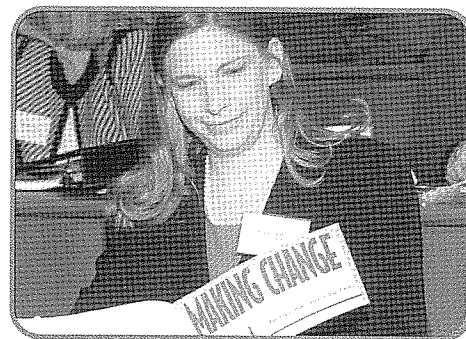
Jackson & Campbell LLP

Sterne Kessler Goldstein & Fox, P.C.

Willkie, Farr & Gallagher LLP

#### SMALL FIRM

Gura & Possessky, P.L.L.C.



*WBA Member Zhonette Brown of Kirkland  
& Ellis, as the WBA makes change with its  
Initiative on Advancement and Retention  
of Women*

## EVERYTHING YOU NEED TO KNOW ABOUT THE NEW MEDICARE DRUG BENEFIT

**SPEAKER:** Tricia Neuman, Sc.D., Vice President, Kaiser Family Foundation; Director, Medicare Policy Project

**WHEN:** Wednesday, March 1, 2006, 12noon until 1:30 pm

**WHERE:** Finnegan, Henderson, Farabow, Garrett & Dunner, LLP

901 New York Avenue, NW,  
Washington, DC 20001

**COST:** \$8 for members; \$15 for non members.

Optional box lunch available for \$12 for attendees pre-registered by Feb. 27th; select during pre-registration.

Register for this event at [www.wbadc.org](http://www.wbadc.org) under "Calendar of Events," or call 202.639.8880. Please register early because space is limited. For further information please contact Rachel Tumidolsky at 202.898.1707 or [rtumidolsky@odsalaw.com](mailto:rtumidolsky@odsalaw.com).

## MEDICARE'S NEW DRUG COVERAGE: A NECESSARY, BUT OFTEN CONFUSING, BENEFIT

As you have probably heard, on January 1, 2006, Medicare began offering prescription drug coverage to all Medicare beneficiaries under a new federal program called "Medicare Part D." All beneficiaries, including seniors and disabled persons, are eligible to enroll in this voluntary drug benefit, provided by private plans.

Many people who assist Medicare beneficiaries are trying to help their friend, client, or loved one decide whether to join and if so, what plan is the best for their circumstances. As a threshold matter, decisions about Medicare prescription drug coverage depend on the type of health care coverage the person currently carries. Those with drug coverage paid by a current or former employer face a very different decision regarding Part D than people without such coverage. Unlike seniors who pay out of pocket or use plans like Medigap, in most cases, those with good employer coverage will be better off staying with their existing drug plan, unlike seniors who pay out of pocket or use plans like Medigap. Beneficiaries who do not have an existing drug plan that is considered equivalent to or better than that offered by Medicare must enroll in a Part D plan by May 15, 2006 to avoid a penalty.

Employers that provide retiree drug coverage also have decisions to make under the new law. The Medicare Part D law provides employers with several options to help keep and pay for their existing drug coverage. This year, most employers will maintain their drug coverage, and simply apply for a new federal subsidy to help pay for their retiree drug costs. However, for the coming years, it is important to be aware that employers can change their plans to reduce or drop prescription coverage.

There are two ways to get Medicare prescription drug coverage. A beneficiary can join a Medicare prescription drug plan or can join a Medicare Advantage Plan or other Medicare Health Plan that offers drug coverage. Information is available at [www.medicare.gov](http://www.medicare.gov) and [www.kaiseredu.org/tutorials\\_index.asp](http://www.kaiseredu.org/tutorials_index.asp).


Like other insurance, enrollees pay a monthly premium, which varies by plan, and a yearly deductible (no more than \$250 in 2006). Also, enrollees pay a part of the cost of prescriptions, including a copayment or coinsurance. Costs vary depending on the drug plan selected. Some plans may offer more coverage and additional drugs for a higher monthly premium. If the beneficiary has limited income and resources, and qualifies for extra help, he or she may not have to pay a premium or deductible. Information about such assistance is available by calling Social Security at 1-800-772-1213 (TTY 1-800-325-0778) or visiting [www.socialsecurity.gov](http://www.socialsecurity.gov).

Medicare prescription drug coverage is meant to provide greater peace of mind by protecting seniors and the disabled from unexpected drug expenses. Even if a person does not currently use prescription drugs extensively, it is important to consider all of the Part D enrollment options. As we age, most people need prescription drugs to stay healthy. For most people, joining now may mean protecting themselves from unexpected prescription drug bills in the future.

The Health Law Forum of the WBA is sponsoring a lunchtime presentation, entitled "Everything You Need to Know About the New Medicare Drug Benefit," to discuss these and other important Medicare Part D issues. Please join us for this timely presentation (see sidebar for the program details).



## *The Schiavo Tragedy*



### WHAT YOU SHOULD KNOW ABOUT ADVANCE DIRECTIVES TO AVOID THE TERRY SCHIAVO TRAGEDY

The experiences of Terry Schiavo's loved ones and family demonstrate the clear need for each person to communicate their wishes in the event of a health care crisis. The Schiavo tragedy could have been avoided had Terry Schiavo had an Advance Directive (also called a Medical Power, Health Care Decision or Medical Proxy) or a Living Will (also called Natural Death Declaration). A Living Will, a shorter version of an Advance Directive, provides simple instructions for end of life procedures.

The legal basis of an Advance Directive comes from the right to die, which has been recognized by the Supreme Court as a right to refuse treatment conferred by the privacy rights conferred by the Fourteenth Amendment. Since the 1970s, states have been faced with guardians who have requested court orders for removal of artificial life support or feeding tubes. In 1976, the Quinlan case was the first case where a court authorized such power to a family member. During the next decade, states passed varying forms of legislation regarding the rights to die and refuse treatment. Currently, some states recognize verbal advance directives, while others solely accept a written Advance Directive that must be signed by two witnesses.

In order to avoid a tragedy like the one that Terry Schiavo's family experienced, it is imperative to communicate your wishes to physicians, religious representatives, and family members. This is most easily done through drafting an Advance Directive. This type of clear written communication will make your wishes known, and thus, more likely to be respected and implemented. Selection of a trusted agent to carry out your Advance Directives is key. Obviously, the agent has to be someone whom you trust with your life and who can speak for your best interests, even in the face of conflicting opinions among family, friends, and medical personnel. Your agent also must be a strong advocate in the face of a potentially unresponsive doctor or institution. Communication is a must.

In order to ensure full consideration and communication on a host of possible health care issues, successful Advance Directives identify and address the most significant issues by starting off with answers to a list of frequently arising questions in health care crises. If you have further questions regarding Advance Directives or would like a copy of a list of questions to get you started, please contact Tax and Business Forum Co-Chair Yahne Miorini at [yahnemiorini@farmlawfirm.com](mailto:yahnemiorini@farmlawfirm.com).





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