

UPDATE

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FOR CIVIL RIGHTS AND URBAN AFFAIRS

SPRING 2005



L/R: Iris Toyer, Director, Public Education Legal Services Project, Washington Lawyers' Committee; Ron Flagg, Sidley Austin Brown & Wood; Mary Levy, Director, Public Education Reform Project, Washington Lawyers' Committee; and Jay Silberman, former D.C. School Board member.

Committee Reports on State of D.C. Schools 50 Years after *Brown*

On March 15, the Committee and Parents United for the D.C. Public Schools released a comprehensive report examining the condition of public education in the Nation's capital five decades after desegregation.

The report, *Separate and Unequal, the State of the D.C. Public Schools Fifty Years after Brown and Bolling*, was prepared by Committee staff and teams at cooperating law firms led by Ronald Flagg and Patrick Linehan at **Sidley Austin Brown & Wood**. Other contributing firms included **Akin Gump Strauss Hauer & Feld**,

Foley & Lardner, Fulbright & Jaworski, Steptoe & Johnson and **Covington & Burling**.

The report found: 1) racial isolation still exists as D.C. public schools are populated almost solely by African-American students; 2) the District of Columbia spends less per student than most surrounding school districts; 3) D.C. public schools' programs and course offerings have deteriorated since *Brown* and *Bolling*; 4) D.C. public school teachers and principals are among the most poorly paid in the region; 5) 70% of D.C. public school buildings are in poor and often dangerous physical

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Major Real Estate Developer Settles Disability Lawsuit

On June 8, the Washington Lawyers' Committee and co-counsel from **Cohen, Milstein, Hausfeld & Toll PLLC**, joined the Equal Rights Center, American Association of People with Disabilities and the United Spinal Association in announcing the settlement of a major disability rights lawsuit against Archstone-Smith Trust, the seventh largest developer of apartment complexes in the United States.

The lawsuit, filed in federal district court in Baltimore, Maryland, had charged Archstone and other defendants with continuous and systematic civil rights violations against people with disabilities in the design and construction of more than 100

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Rod Boggs

Executive Director
Washington Lawyers' Committee
for Civil Rights & Urban Affairs

Several articles in this *Update* highlight the Committee's expanding agenda as well as its special ability to harness the *pro bono* resources of our legal community. With the great help provided by our Project Directors and rest of the Committee's staff, more firms and volunteers are working with the Committee today than at any time in our history. The results of these collaborative efforts are reflected in the work of all of the Committee's projects.

The landmark settlement of a pattern-and-practice lawsuit challenging design and construction violations of the Fair Housing Act affecting people with disabilities and the series of new cases involving refusals of numerous local landlords to accept Section 8 vouchers from low-income tenants represent important new areas for Committee litigation. They also provide an excellent illustration of the link between the Committee's concerns for issues of disability and affordable housing.

Perhaps of greatest significance, these new cases demonstrate the strength and value of the Committee's expanded collaboration with the Equal

Rights Center (ERC). Under the leadership of its dynamic new director, Rabbi Bruce Kahn, the ERC's innovative research and investigations have laid the basis for many of the Committee's new housing and disability cases.

In similar fashion, the gratifying jury verdict returned at the conclusion of a two-week trial on behalf of our client Mary Linklater in her sexual harassment case represents a fine example of how the Committee's EEO project and one of its senior counsel, Warren Kaplan, have combined forces with teams of litigators at cooperating firms. Often these teams have included junior attorneys, getting their first opportunity to participate actively in a trial.

The addition of an increasing number of new firm co-counsel in our and Myrtle Beach cases, in which we represent the NAACP, as well as individual African-American clients, provides further evidence of the willingness of our law firm supporters to join forces in taking on large and challenging matters with significant national implications.

The Committee is enormously grateful for the collaborative efforts of the teams of area firms, led by Sidley Austin and American University Law School that produced a highly praised assessment of the state of public education in our city 50 years after desegregation. This study, *Separate and Unequal, the State of the D.C. Public Schools Fifty Years after Brown and Bolling*, has already begun to play a key part in the renewed effort to initiate a broad community campaign to insist that our city provide the resources and reforms that our school children so badly need. We hope that part of this effort will involve a dramatic expansion of the effective partnerships that the Committee has helped to forge between area law firms and local D.C. public schools.

All of the programs and cases discussed in this *Update* have benefited substantially from the generous volunteer and financial support provided by hundreds of area attorneys and scores of law firms. Our future success depends on this invaluable assistance. For this reason, the Committee invites all of our cooperating firms to renew their support and to join us in reaching out to new firms that might be encouraged to become part of our work in the months ahead.

Strong Support Aids Annual Funding Campaigns, Launches Burke Memorial Fund

As of June 20, the Committee had received 2005 Annual Campaign contributions of \$300,930 from 50 firms and \$207,723 from 652 individuals. Both campaigns are poised to exceed last year's totals. To reach our goals, we will need to receive gifts from all individuals and firms that supported the Committee last year. Please keep in mind that the Committee's campaign year ends September 30.

With gifts from 95 individuals, the John Burke Memorial Fund, established in 2004, has to date raised more than \$71,160 toward its initial funding goal of \$100,000. The Committee hopes that the Fund will reach this goal before the Committee's annual breakfast briefing this Fall. The Fund and our breakfast briefing, now called the John Burke Pro Bono Breakfast, are named after the Committee's late Counsel and Trustee John L. Burke, Jr. Contributions to the Fund, may be made online at <http://www.washlaw.org/secure.htm>, or by mailing a check to the Washington Lawyers' Committee, c/o the John Burke Memorial Fund.

Disability Rights

Capital Hotels Settlement To Provide Greater Accessibility

On December 3, the Committee and co-counsel **Kirkpatrick & Lockhart** announced a settlement of a lawsuit brought on behalf of the Disability Rights Council of Greater Washington and an individual plaintiff, seeking greater accessibility at Capital Hotels.

The lawsuit, brought under the Americans with Disabilities Act and the D.C. Human Rights Act, alleged that barriers at the St. Gregory and Governors' House Hotels in Washington, D.C., two hotels owned by this small luxury hotel chain, prevented access by people using wheelchairs.

Under the settlement agreement, Capital Hotels agreed to a broad range of modifications to the hotels that will make them more accessible for patrons with disabilities.

The barrier removal will include improving guestroom accessibility; improving accessibility in the common areas, including conference and meeting rooms; and removing barriers to wheelchair travel throughout the hotels.

Many of these improvements will be put into effect within six months of the settlement date. All improvements will be in place within eighteen months.

Deaf Patients Seek Improved Sign Language Services, Sue Laurel Hospital

On January 11, 2005, the Committee, along with co-counsel **Sutherland Asbill & Brennan**, filed a pioneering lawsuit claiming that limiting provision of interpreters to remote interpreters available through video conferencing technology does not ensure that deaf hospital patients are provided with effective communication in critical medical situations.

The lawsuit, filed on behalf of seven deaf individuals who sought treatment at Laurel Hospital, alleges that despite specific and repeated requests, they were denied in-person sign language interpreter services. The plaintiffs state that they were instead provided with inadequate video remote interpreting (VRI), cryptic notes or no communication at all. They allege that the VRI equipment was often unavailable, difficult to view and insufficiently mobile.

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Settlement Requires Accessible Evacuation From Retailers

On May 4, the Committee and co-counsel **Hogan & Hartson** announced the settlement of a high-profile, ground-breaking lawsuit against Marshalls that will require the major discount retailer to provide accessible evacuation routes for shoppers with disabilities in its 697

stores nationwide. This settlement makes Marshalls the first national retailer in the country to agree to address the critical emergency evacuation needs of persons with disabilities.

The settlement resolves a lawsuit filed by Katie Savage and the Disability Rights Council of Greater Washington after Ms. Savage, who uses a wheelchair, was evacuated

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Accessibility Suit Against Local Department Stores Settles

On January 25, the Committee, along with co-counsel **Cleary Gottlieb Steen & Hamilton**, settled an accessibility case against the May Company on behalf of the Disability Rights Council of Greater Washington and a number of individuals with disabilities.

The lawsuit against the May Company, which owns both the Hecht's and Lord & Taylor chains, asserted that the arrangement of movable sales fixtures in these stores left shoppers who use wheelchairs

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National Wholesale Liquidators Settles Accessibility Case

On March 11, the Committee and co-counsel **Hunton & Williams**, representing the plaintiff Disability Rights Council, achieved a major settlement in an accessibility case against discount retail chain National Wholesale Liquidators.

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Equal Employment Opportunity



L/R: Quentin Baird, Roland Schroeder, and Cynthia Abelow of Shearman & Sterling; with Warren Kaplan, Senior Counsel, Washington Lawyers' Committee.

Church Employee Awarded \$1.35 Million In Sexual Harassment Suit

On March 2, the Committee and volunteers from the firm of **Shearman and Sterling** won a major jury verdict in a case brought on behalf of a church employee who was sexually harassed by her pastor. The \$1.35 million verdict was awarded against the former pastor and church after a two-and-a-half week trial in Montgomery County Circuit Court.

With Montgomery County Circuit Court Judge Durke Thompson presiding, a jury of five men and three women awarded plaintiff Mary Linklater a total of \$1.35 million for intentional infliction of emotional distress against her former employer, Prince of Peace Lutheran Church, located in Gaithersburg, Maryland, and Rufus Lusk III, the former pastor of the church. Punitive damages of \$1 million and compensatory damages of \$300,000 were awarded against Pastor Lusk and \$50,000 was awarded against the church.

Ms. Linklater was employed at Prince of Peace from 1996 to 2001. From 1997 to 1999, she received outstanding annual performance

evaluations. Ms. Linklater alleged that in late 1999 and early 2000, after she complained about sexual harassment she was experiencing, she became the object of severe retaliation and a ruthless campaign to drive her from the church. As a result, she suffered extreme emotional distress. At trial, defendant Lusk denied making sexual advances toward Ms. Linklater, but admitted he had repeatedly urged the Church Council and Mutual Ministry Committee to terminate Ms. Linklater's employment.

The case raised important issues of first impression under Title VII, the First Amendment and Maryland law regarding whether religious institutions are immune from liability for discriminatory and tortious acts committed against their employees.

"This verdict goes far to hold religious institutions accountable for discrimination, and sends a clear message that all institutions and individuals will be held responsible for violations of basic civil rights in the workplace," said Susan Huhta, Director of the EEO Project at the Washington Lawyers' Committee.

Baltimore City Police Department Sued for Discrimination

On December 6, the Committee, along with co-counsel **Weil Gotshal & Manges, LLP**, filed a class action lawsuit in Maryland federal court on behalf of Sgt. Louis Hopson and several named plaintiffs, as well as over 1,200 other current and former African-American officers, alleging that the officers have for years been

subjected to a racially discriminatory disciplinary system, along with a hostile work environment.

The officers claim that they have been discriminated and retaliated against by being subjected to disciplinary measures when similarly situated white officers would not have been subjected to such discipline, and by being subjected to more severe punishment than is imposed upon their white counterparts who commit or are alleged to have committed similar offenses. The officers also allege that the use of racial epithets, harassing behavior and threats are not uncommon, that they have been discriminatorily denied promotional opportunities through the wrongful use of the Department's disciplinary procedures.

The lawsuit also alleges that officers who have spoken up about or filed claims alleging discrimination have been routinely retaliated against by the Department.

Civil Rights Trial Practice Program Organized By Committee and American College Of Trial Lawyers

The Committee, in collaboration with the American College of Trial Lawyers, helped organize a highly successful civil rights trial practice skills program at Georgetown University Law Center on April 12. Over 200 lawyers attended the day-long program.

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Civil Rights Practice Program
(continued from page 4)

Offered free of charge, the program was intended for lawyers in private practice who work or would like to work with civil rights organizations on public interest litigation matters. It also included

lawyers working at private civil rights organizations, government civil rights enforcement agencies and private firms specializing in plaintiffs civil rights representation.

Trial topics discussed ranged from opening statements, direct and

cross-examinations, motions, offering and excluding evidence, and jury instructions to closing arguments. Speakers included several judges, who discussed their views from the bench, as well as current and former Committee staff and board members and distinguished practitioners.

An Interview with Roland Schroeder, Lead Counsel in Linklater v. Prince of Peace Lutheran Church

Recently, Roland Schroeder, litigation counsel at **Shearman & Sterling** and lead counsel in the Committee's case on behalf of Mary Linklater against Prince of Peace Lutheran Church talked about his experience working with the Committee.

Q: What was it like to work with the Committee on this case?

A: As always, we had nothing but the most positive and enjoyable experience working with Warren Kaplan, Sue Huhta and others at the Committee on the Linklater case. It has truly been a team effort, combining the tremendous skill and expertise of the Washington Lawyers' Committee with the resources and dedication of Shearman & Sterling.

Q: What was the significance of this case?

A: The most immediate significance is that we obtained relief for our client, Ms. Linklater, who persevered under very difficult personal circumstances. We also hope that the jury's finding of liability allows Mary to enjoy a level of vindication and find peace after the wrongs committed against her.

More broadly, the Linklater case represents a case of first impression in Maryland, on the question of whether religious leaders and institutions may be held liable in civil court for acts of sexual harassment, retaliation and similar misconduct given concerns regarding the separation of church and state under the First Amendment. While such rights have been recognized in more liberal jurisdictions, it could prove to be a major turning point if we can prevail upon the appellate courts in Maryland, a far more conservative jurisdiction, to recognize the rights of women who have been subjected to this type of misconduct and bring suit for relief.

Q: What is the larger impact of the verdict?

A: The verdict represents the highest award of its type rendered against a religious leader or institution, to our knowledge, in any jurisdiction, and the highest punitive damage award against any individual ever obtained in Maryland in any kind of action. We fervently hope that it will send a very strong message throughout the religious community that churches and religious leaders do not have free license to abuse their employees and that they will be held accountable if they do.

Q: Before this case, had you done any *pro bono* work?

A: Yes, Shearman & Sterling is highly committed to conducting *pro bono* work in many different kinds of

cases. We also have had the good fortune to work with the Washington Lawyers' Committee on a number of prior discrimination and retaliation cases, and together have built a track record of successes.

Q: What made you decide to handle this case on a *pro bono* basis?

A: After conducting a thorough investigation of the underlying facts, we were utterly convinced that a serious wrong had been committed. We also found it disturbing that the defendants believed that they were immune from any liability or accountability for their actions simply because Mary happened to be employed in a religious institution, and we were even more disturbed that there was actually case law supporting that view. We thought it important to help Mary, and to try and create positive precedent allowing religious employees to share in the benefits of our employment discrimination laws.

Q: Did your *pro bono* experience change your thinking in any way?

A: The experience confirmed our continuing belief in the tremendous value of *pro bono* work to our clients, to our society as a whole, and to ourselves as people and professionals. It also reminded us how people like Mary Linklater would have no avenues for relief if it were not for the tremendous work of the Washington Lawyers' Committee.

Fair Housing



L/R: Michele A. Roberts, Akin Gump Strauss Hauer & Feld; Isabelle Thabault, Director, Fair Housing Project, Washington Lawyers' Committee; and Rabbi Bruce Kahn, Director, Equal Rights Center.

Committee Lawsuits Challenge Housing Choice Voucher Discrimination

On April 11, the Washington Lawyers' Committee and co-counsel **Akin Gump Strauss Hauer & Feld, Steptoe & Johnson, and McDermott, Will & Emory**, along with the Equal Rights Center filed three lawsuits against Gelman Management Company, E & G Group, and Sawyer Realty Holdings, Inc., alleging discrimination against prospective tenants who use Housing Choice Vouchers—a federal housing subsidy—to pay their rent.

The lawsuits, filed in D.C. Superior Court, charge that the companies refused to accept the prospective tenants' vouchers (formerly known as Section 8 vouchers) to pay a portion of their rent and that these refusals violate the D.C. Human Rights Act, which prohibits discrimination in housing on the basis of income, which includes the vouchers.

The lawsuits also charge the companies' actions constitute discrimination on the basis of race by

disparately impacting the African-American community, an additional violation of the D.C. Human Rights Act. The lawsuits seek compensatory and punitive damages.

The Housing Choice Voucher Program is a federal program that provides rental assistance to low-income families. Approximately 9,000 households in the District of Columbia have vouchers to pay for part of their rent and another approximately 40,000 low-income households are on the waiting list to obtain a voucher.

Voucher holders pay 30% of their income towards rent, and the vouchers will pay the remainder up to a reasonable market rent. Because of the existing affordable housing shortage in D.C. and discrimination against voucher holders, low-income families in D.C. are experiencing a housing crisis.

Testing by the Equal Rights Center indicates that over 60% of the District's landlords and property

managers discriminate against holders of Section 8 vouchers. Laws in the District of Columbia, Montgomery County, Howard County, and approximately 15 other locations around the country prohibit discrimination on the basis of source of income, including housing choice vouchers.

D.C. Landlord Sued For Harassing Tenants

In November 2004, the Equal Rights Center filed national-origin based housing discrimination complaints with the D.C. Office of Human Rights against two local landlords on behalf of itself and nine Latino tenant households. In May 2005, the D.C. Office of Human Rights issued letters of determination finding probable cause that the landlords made discriminatory statements and harassed and intimidated the tenants based on their national origin. The Washington Lawyers' Committee and co-counsel from **Holland & Knight** are representing the nine tenant households and the Equal Rights Center in the administrative proceedings.

Shortly after purchasing and taking possession of the apartment building at 710 Jefferson Street in June 2004, Steven Loney and Caroline Charles filed eviction actions and sent a written notice threatening the tenants, most of whom are Latino, with a visit from immigration officials.

The landlords engaged in severe harassment, made derogatory statements to the tenants, told the tenants that they should go home to their countries, and attempted to force the tenants out of their homes.

Public Accommodations

Two Myrtle Beach Cases Settle

The Committee's ongoing litigation in Myrtle Beach, S.C., challenging racially discriminatory practices by the city of Myrtle Beach and area businesses during a motorcycle rally attended predominantly by African Americans has yielded significant victories. The rally, known as Black Bike Week, is held annually in Myrtle Beach over the Memorial Day weekend and is preceded by the Harley Davidson Spring Bike Rally, another bike rally

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Special Projects

Claims by Gun Violence Victims and Surviving Family Members Reinstated

On April 21, the District of Columbia Court of Appeals, sitting *en banc*, reinstated claims, brought by victims of gun violence and their surviving family members under the Assault Weapons Manufacturing Strict Liability Act (Strict Liability Act), that manufacturers and dealers are negligent in their distribution practices.

The Court also rejected the manufacturers' and dealers' challenge that the Strict Liability Act was

unconstitutional under the Commerce and Due Process Clauses.

The Committee, working with co-counsel **Wilmer Cutler Pickering Hale and Dorr LLP**, the Brady Center to Prevent Gun Violence, and the District of Columbia, filed the lawsuit in January 2000 against twenty-five gun manufacturers and dealers in D.C. Superior Court on behalf of nine individuals who were victims or surviving family members of victims of gun violence in the District of Columbia. The case sought damages for devastating injuries caused by firearms made by the manufacturers and sold by the dealers. The complaint alleged that

the gun manufacturers and dealers are negligent in their distribution practices and liable under the Strict Liability Act, a local statute.

In December 2002, the trial court granted manufacturers' and dealers' motion for judgment on the pleadings and dismissed the case, holding that the plaintiffs could not plead a case of negligence and that the Strict Liability Act was unconstitutional under the Commerce Clause.

The case is currently stayed while the manufacturers and dealers file a petition for writ of certiorari in the U.S. Supreme Court.

Public Education

Public Education School Partnerships Expanded

The Committee has decided to expand its public education law firm/public school partnership program under the leadership of an advisory committee chaired by Stanley Samorajczyk of **Akin Gump Strauss Hauer & Feld** and Guy Collier of **McDermott, Will & Emery**.

Their goal will be to reach out to additional law firms and legal departments in area corporations to join in the program. Fannie Mae Foundation, Health Right, Inc., and MCI Corporation are already participating in firm/school partnerships.

The Committee encourages new law firms and businesses to become involved in this initiative. To support this program, the Committee hopes to add personnel to assist the Public Education Projects and to expand sources of foundation support.

50 Years After Brown (continued from front page)

condition; 6) D.C.'s special education program suffers from outdated facilities, insufficient and uncertified staff and lack of adequate programming; 7) D.C. public schools offer far fewer opportunities for athletic and extra-curricular programs than neighboring school districts; and 8) many D.C. public school health suites lack adequate running water, beds or cots, and refrigerators for storing medications.

To address these issues, the report urges that government leaders be held accountable for their policymaking and budgetary decisions regarding D.C. public schools. The report also recommends amending the District of Columbia Charter to include a right of all children attending D.C. public schools to receive an adequate and meaningful public education. Doing so, the report suggests, will make clear the importance of education, and reinforce the obligation of D.C. government to make education reform a true priority.

The report's authors were assisted by a Business and Civic Leader Advisory Committee, which

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Immigrant and Refugee Rights

Immigration Court Program Established

In May 2005, the Washington Lawyers' Committee began a new program at the Arlington Immigration Court to provide assistance to *pro se* individuals appearing before the Court. The program is led by attorney Tom Jawetz, an Arthur Limon Fellow working with the Immigrant and Refugee Rights Project at the Committee.

The goal of the program is to provide *pro se* individuals with a general legal orientation to the Court

process, and to screen such individuals to determine whether they may be eligible for any relief. The program helps people understand the Court process, and helps individuals with bona fide claims for relief find legal representation.

Due to several statutory and regulatory changes in recent years, the need for an attorney in Immigration Court proceedings has increased substantially. The Washington Lawyers' Committee works with Arlington Immigration Court personnel as well as other area nonprofit organizations and private

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Political Asylum Litigation Training Session Held

On October 14, 2004, the Committee co-sponsored a training session on political asylum through the D.C. Bar Pro Bono Program. Approximately 100 pro bono attorneys and immigration legal services providers attended the all-day training session. Over the past few months, the Committee has placed several political asylum cases at law firms whose lawyers attended the program.

Arrivals

New Co-Chair: James N. Bierman

James N. Bierman, a Washington Lawyers' Committee Board Member since 1997, has been elected Co-Chair of the Committee, succeeding David J. Cynamon, who recently completed a two-year term as Co-Chair. Jim served as the former managing partner of **Foley & Lardner's** Washington, D.C., office for 15 years and is a member of the firm's Regulatory Department. He is a graduate of Washington University and Harvard Law School.

New Board Members

The Washington Lawyers' Committee recently welcomed seven new members to the Board of Directors: Mary L. Azcuenaga, Patrick S. Campbell; John M. Faust; Jonathan Hacker; Stephen P. Murphy; Paul M. Smith; and Gary Thompson.

Mary L. Azcuenaga

Mary L. Azcuenaga, a partner in the Washington, D.C., office of **Heller Ehrman LLP**, focuses on antitrust matters, and has served two terms as Co-Chair of the firm's Antitrust & Trade Regulation Practice Group. She received her A.B. degree from Stanford University, and her J.D. from the University of Chicago.

Patrick S. Campbell

Patrick S. Campbell, a partner in the Washington, D.C., office of **Paul Weiss**, concentrates on corporate transactions and regulatory matters in communications and technology areas. He is a graduate of Georgetown University and Stanford Law School.

John M. Faust

John M. Faust is a partner in the Washington, D.C., office of **Vinson & Elkins LLP**, specializing in complex commercial litigation, and represents companies and individuals in civil, criminal, and administrative disputes. He is a graduate of Williams College and the University of Virginia Law School.

Jonathan D. Hacker

Jonathan D. Hacker, a partner in the Washington, D.C., office of **O'Melveny & Myers LLP**, focusing where he works on appellate and complex litigation matters. He received his A.B. from Harvard University, and J.D. from the University of Michigan.

Stephen P. Murphy

Stephen P. Murphy is a partner in the Regulatory Litigation Group in the Washington, D.C., office of **Reed Smith**. He is a graduate of Boston College and received his J.D. from Catholic University School of Law.

Paul M. Smith

Paul M. Smith is managing partner of the Washington, D.C., office of **Jenner & Block**, and a member of the firm's Management Committee. He graduated from Amherst College and Yale Law School.

Gary S. Thompson

Gary S. Thompson is a founding partner in the Washington, D.C., office of **Gilbert Heintz & Randolph**, where he specializes in representing policyholders in insurance matters. He received his B.A. from Georgetown University, and his J.D. from Rutgers-Newark Law School.

Donald L. Kahl Joins Committee as Senior Counsel

Don Kahl recently joined the Washington Lawyers' Committee as Senior Counsel with the Fair Housing Project. As a former partner with the law firm of Hall & Estill, P.C., in Tulsa, Oklahoma, he specialized in complex business litigation, including securities, antitrust, intellectual property, oil and gas, and class action litigation. He received his B.A. and J.D. degree from the University of Nebraska.

accessible to persons who use wheelchairs. Alterations will include removal of steps at entrances; widening of interior doors; expansion of floor space in kitchens and bathrooms; and relocation of switches, controls and electrical outlets. Archstone will also alter leasing offices, club housing, parking lots and sidewalks to make them comply with federal law. The cost of these alterations is estimated to range from \$20 million to over \$50 million.

The settlement also provides for Archstone to certify that its future construction of apartment complexes will comply with the accessibility requirements of the Fair Housing Act and the Americans with Disabilities Act, educate personnel on the rights of persons with disabilities under those laws, and pay the plaintiffs \$1.4 million in damages, attorney's fees and costs.

Sign Language Services (continued from page 3)

The plaintiffs seek injunctive relief and damages under the Americans with Disabilities Act and the Rehabilitation Act. They also request an order requiring the hospital to provide deaf individuals with auxiliary aids and services necessary for effective communication, including qualified sign language interpreters, TTY's and close captioned televisions.

Accessibility Suit (continued from page 3)

with insufficient access to merchandise, violating the Americans with Disabilities Act.

Under the settlement agreement, fifteen Hecht's and Lord & Taylor stores in the D.C. metropolitan area will ensure that aisles leading to most merchandise are wide enough for customers with mobility impairments to navigate. Periodic audits will be performed to ensure that such access is maintained.

The agreement also provides for removal of architectural and other barriers in fitting rooms and restrooms, and installation of accessible merchandise checkout facilities, as well as accessible bridal and baby registry computers.

Accessible Evacuations (continued from page 3)

from Marshalls only to become trapped during a September 3, 2002, emergency evacuation of the mall where the store is located. Ms. Savage was unable to evacuate from the mall because of an emergency shut-down all elevators and escalators.

The settlement was preceded by a landmark decision issued on December 28, 2004, in which Judge Debelius of the Circuit Court for Montgomery County, Maryland, declared that the Americans with Disabilities Act (ADA) requires that places of public accommodation, including landlord malls and tenant stores, must consider the needs of people with disabilities in developing emergency evacuation plans.

As part of the settlement, Marshalls agreed to certify that each of its stores located within the United States and Puerto Rico provides an accessible emergency exit or area of rescue assistance for people with disabilities. Marshalls also agreed to develop written, corporate-wide policies and procedures for the evacuation of people with disabilities; train all current and future employees on its new evacuation policies; and retain an ADA Consultant to help plan and implement the terms of the settlement. Marshalls must also designate an employee to oversee and coordinate implementation of the terms of the settlement, and verify compliance with the terms of the settlement by submitting compliance reports as the new evacuation policies are implemented.

Archstone (continued from front page)

apartment complexes in 18 states and the District of Columbia.

Specifically, the suit alleged that Archstone-Smith discriminated against persons with disabilities by building apartment complexes across the country without including accessible features in their design and construction as required by the federal Fair Housing Act and the Americans with Disabilities Act. Allegations included that many Archstone buildings had steps at entryways, doorways that were too narrow, insufficient turning space in kitchens and bathrooms, and other barriers that prevented persons who use wheelchairs from entering or fully using the apartments, and the apartment complex facilities.

In the Washington, D.C. area, Archstone apartment complexes alleged to be out of compliance included Archstone Columbia Town Center in Columbia, Archstone Governor's Green in Bowie, and The Park Connecticut in Washington, D.C.

The settlement, approved by the court, requires Archstone to alter approximately 12,000 apartment units in 71 apartment complexes across the country to make them more

National Wholesale Liquidators (continued from page 3)

The Disability Rights Council sought the removal of barriers at entrances and access throughout merchandise aisles in the stores.

The nationwide relief achieved against this growing discount retail chain included a survey of all stores' access barriers; remediation of readily achievable barriers; removal of cart corrals at store entrances; promulgation of policies on accommodations to customers with disabilities; 36" pathways to restrooms, dressing rooms, elevators, check outs, emergency exits, and along all primary aisles; and at least one 32" pathway to at least 50 percent of the merchandise on every fixture.

The settlement also requires training of staff in their obligations to customers with disabilities; appointment of an ADA Coordinator; compliance reports, including all complaints regarding access; and fully compliant new stores.

Myrtle Beach (continued from page 7)

held the previous week known as "Harley Week." The Harley Week participants are predominantly white.

In October 2004, the Committee and the law firm of **Patton Boggs** obtained a \$1.2 million settlement of claims against the Yachtsman Resort Hotel, one of the largest hotels in Myrtle Beach. Claims alleged included that the hotel's onerous guest policies and practices imposed on Black Bike Week guests were racially motivated and substantially different from the policies imposed on guests during other busy times of the year, including Harley Week. The consent

order includes a victim's fund for Black Bike Week guests who stayed there during the 2000, 2001, and 2002 Memorial Day weekends and broad injunctive relief to insure against a recurrence of the alleged unlawful practices.

In April 2005, the Committee and the law firm of **Hogan & Hartson** obtained a consent order against J. Edward Fleming, the owner of several large restaurants in Myrtle Beach, who since at least 1999 had closed his restaurants over the Memorial Day weekend to avoid serving patrons attending Black Bike Week. The order requires that Fleming keep his restaurants open during normal business hours during Black Bike Week. The order also provides for monetary compensation to eight African American plaintiffs who would have dined at the restaurants during previous Black Bike Weeks had the restaurants been open, and the to Conway Branch of the NAACP, which was also a plaintiff in the case. Lawsuits continue against two other large restaurant chains in Myrtle Beach that allegedly engaged in similar practices.

In May 2005, the Committee and the law firm of **Steptoe & Johnson** won a bitterly contested motion before federal district court judge Terry Wooten for a preliminary injunction against the city of Myrtle Beach and its police department requiring that it adopt the same traffic patterns during Black Bike Week that it imposes during Harley Week. Since 1999, the city had required all Black Bike Week traffic to move one way on Ocean Boulevard, its main ocean front roadway, with few opportunities for right hand turns. The court held that this traffic plan was racially motivated, and that it was designed to cause traffic gridlock and drive Black Bike Week attendees out of Myrtle Beach. During

predominantly white Harley Week, the city permits traffic to move freely in both directions on Ocean Boulevard with no right-turn restrictions. The city obtained a stay of the district court's order after an emergency appeal to the Fourth Circuit. A briefing schedule was recently set on the appeal.

50 Years After Brown (continued from page 8)

included Barry Coburn, Maudine R. Cooper, James O. Gibson, James W. Jones, Charles R. Lawrence, Ignacia S. Moreno, Jay Silberman, Richard W. Snowden III, Leslie M. Turner and Roger Wilkins.

Immigration Court (continued from page 8)

immigration attorneys to conduct the screenings. The Project's "Matters Available" list will now include descriptions of both asylum and non-asylum cases that have been identified for pro bono representation.

In May 2005, a *pro bono* attorney from **Jones Day** teamed up with Committee staff and successfully obtained withholding of removal in Immigration Court for a woman from Gabon.

When the woman arrived in the United States in October 2004, she appeared at the airport with a valid entry visa. However, because she informed the airport inspectors of her need for protection in the United States, she was taken to jail, where she remained in detention for nearly five months. The woman was released from detention due to generous financial contributions made by individuals at both Jones Day and the Washington Lawyers' Committee. If returned to Gabon, the woman feared that she would be arrested by the police because of her political opinion, or would be killed by an extremely abusive former boyfriend.

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