

# UPDATE



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FOR CIVIL RIGHTS AND URBAN AFFAIRS

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*Plaintiffs' counsel in Columbia Heights litigation L/R: James A. Trilling, Jenner & Block LLP; Reed N. Colfax, Washington Lawyers' Committee; Hassan Zavareei from Tycko, Zavareei & Spiva LLP; Eliza T. Platts-Mills, Washington Lawyers' Committee; and Bruce V. Spiva, formerly of Jenner & Block LLP, now with Tycko, Zavareei & Spiva LLP.*

## Displaced Columbia Heights Tenants Win Fair Housing Suit

In April 2004, former tenants of 1512 Park Road, N.W., in the Columbia Heights neighborhood of Washington, D.C., won a resounding victory in a housing discrimination lawsuit against the District of Columbia. A twelve-member jury unanimously concluded that the District violated the Fair Housing Act when it summarily evicted the tenants in January 2001. The jury awarded the seven affected households almost \$200,000 in damages.

The tenants involved in the lawsuit succeeded in establishing that a District of Columbia housing code enforcement crackdown of 2000 and 2001, which led to threats of closure of several buildings and the actual closure of 1512 Park Road, had a discriminatory disproportionate impact on D.C.'s Latino population. The District barricaded and closed the building at 1512 Park Road in late January 2001 with only three hours of notice. Some tenants were unable to enter the building to retrieve their

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## New Cracker Barrel Suits Filed, DOJ Consent Decree Applauded

In four companion cases, the Washington Lawyers' Committee and co-counsel are representing the NAACP and approximately 100 African Americans who allege that they were discriminated against when they attempted to patronize various Cracker Barrel restaurants nationwide.

Specifically, the plaintiffs allege that Cracker Barrel has engaged in a pattern and practice of discriminatory treatment against African-American customers and implemented conscious policies designed, among other things, to provide preferential seating to white customers; segregate African-American customers from white customers by seating black customers in the back of the restaurant (commonly the smoking section); and refusing to provide African Americans with service or

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**Roderic V.O. Boggs**  
Executive Director  
Washington Lawyers' Committee  
for Civil Rights & Urban Affairs

This year, we commemorate two seminal events in our Nation's struggle for equal justice—the 50th anniversary of the Supreme Court's 1954 decision in *Brown v. Board of Education* and the 40th anniversary of the passage of the Civil Rights Act of 1964. These historic milestones in the modern civil rights era have figured prominently in the Washington Lawyers' Committee's work from the time of its creation in 1968. Several developments noted in this issue of our *Update* illustrate the continuing relevance of both of these events to the Committee's mission.

The new public education partnerships, linking the Committee's cooperating firms with D.C. public schools, and the important initiative we have recently joined in to forge a new commitment to educational reform among the city's political and civic leaders are part of a longstanding effort to secure equal educational opportunity for all children. That such efforts are still a centerpiece of the Committee's agenda is a sad reminder that 50 years after the Supreme Court's historic ruling, which declared the segregation of schools to be

unconstitutional, our city's public schools are neither equal nor integrated.

In this sense, the limited reach of the *Brown* decision in our city must be seen as an ongoing challenge to the Committee and our profession. In responding to this challenge, the Committee remains committed to working with the firms in our community to expand the direct services so generously offered by hundreds of law volunteers to our local schools through their partnerships and citywide advocacy efforts for education reform.

The Committee's ongoing litigation of numerous cases brought under the Civil Rights Act of 1964 serves as a stark reminder that the passage of legislation by itself is insufficient to guarantee the full protection of basic civil rights.

As noted in this issue of our *Update*, the Committee's successful collaboration with the Civil Rights Division of the Department of Justice in challenging a pattern and practice of racial discrimination in the treatment of customers by Cracker Barrel Restaurants, and similar cases in litigation against other national restaurant chains demonstrate the importance of vigorous enforcement of the civil rights laws.

The success achieved in the Cracker Barrel litigation in particular exemplifies the exceptional efforts of the team of cooperating firms that have worked together with Committee staff and the NAACP for over two years. It is reassuring to know that so many lawyers and firms in our community share the commitment to *pro bono* service and the goal of equal justice. At the same time, the cases discussed in this issue of the *Update* and the many significant matters under review or in the early

stages of litigation suggest that, regrettably, the services of our cooperating firms will be needed for some time to come.

As we seek to meet these new requests, we welcome the support of all in our legal community. The strength and enduring quality of the commitment so amply demonstrated by the Committee's supporters and its courageous clients give reason to hope that by our working together the dream of equal opportunity that lies at the foundation of the *Brown* decision and the 1964 Civil Rights Act will ultimately be fulfilled.

## Step toe Gift Sparks 2003/2004 Fund Drive

As the Committee passes the mid-point in its fundraising year, it is gratifying to report that with a special gift of \$100,000 from **Step toe & Johnson**, we are in a position to cover a shortfall in 2003 year-end funding and move toward the creation of a limited reserve fund in the coming year. Step toe & Johnson's gift, which resulted from their successful litigation with the Committee of a Title VII case, is an example of the firm's longstanding policy of supporting the Committee with contributions from fees received in cases in which their attorneys have served successfully as co-counsel with our staff. We are pleased to report that in recent months **Reed Smith** has also contributed a significant portion of a fee, received in another Committee case, to our general support.

In addition to special gifts of fees, the Committee is pleased to report a significant increase in gifts

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## Equal Employment Opportunity

### Utility Settles Race Discrimination Case

In December 2003, the Washington Lawyers' Committee, along with **Step toe & Johnson**, settled a racial discrimination case by consent decree on behalf of Paul Fenwick, an African-American lineman, against Southern Maryland Electric Cooperative (SMECO). The consent decree, which followed extensive discovery that included approximately 30 depositions, calls for company-wide injunctive relief, a monetary award for the plaintiff, and attorneys' fees.

For years, Mr. Fenwick had tolerated a racially hostile atmosphere where racial epithets and threatening conduct toward African-American employees was commonplace, but human resources and management ignored his discrimination complaints, and eventually he was discriminatorily terminated after 22 years of service. After he was ordered reinstated through union arbitration, Mr. Fenwick was transferred to a remote company location, ostensibly in an effort to force his resignation, and he was denied transfers into positions for which he had the greatest seniority.

The Committee and co-counsel filed suit in February 2003 on behalf of Mr. Fenwick, alleging racial harassment, disparate treatment and retaliation under Title VII and Section 1981.

Under the terms of the consent decree, SMECO must institute

mandatory diversity training for all employees, including not less than one full day of training for non-management employees and two days for management employees. In addition, the company has adopted a streamlined program of investigating discrimination complaints by an outside Discrimination Compliance Officer, with all such investigation reports being personally reviewed by the president.

The injunctive relief includes measures aimed at increasing the numbers of African Americans in management positions by recruiting at predominantly African-American colleges and advertising openings in *The Afro-American* newspaper of Baltimore.

Prior to the filing of this action, the plaintiff had been ordered reinstated as a result of union arbitration. He reports that as a result of this settlement, and the announced determination of the company president to end discrimination, there has been a dramatic improvement in the racial climate. Notwithstanding the major upheaval and cost to the company caused by the litigation, the plaintiff was recently described by the company president as a "model employee."

"This result was the best thing that ever happened to me in my life," said Fenwick, "and it was a great result for the company. People there are pleased with the outcome and told me that it was a long time coming. I really feel a sense of relief."

### More *Pro Se* Claimants Seek EEO Project Assistance

Two years ago, the EEO Project embarked upon a new initiative targeting the legal needs of individuals forced to pursue their employment discrimination claims in the courts *pro se*. Every day more and more persons affected by employment discrimination are filing *pro se* claims in courts throughout the area. This is especially true for individuals of limited means and those with difficult or novel, yet meritorious, claims. These plaintiffs are finding the court systems difficult, if not impossible, to navigate alone. The Committee's Intake Program has made special efforts to reach out to these individuals.

As a result, over the past two years, the Intake Program has assessed dozens of *pro se* claims. In over half a dozen cases, the Committee, along with co-counsel, has been able to offer representation to these individuals, including persons with claims for race discrimination, gender discrimination, disability discrimination, retaliation, and failure to accommodate.

For example, in 2003, the Program was approached by Dr. Rose Marie Toussaint, a former employee of Howard University Hospital, who had filed a complaint in D.C. *pro se*, and was seeking assistance. Dr. Toussaint had been a

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## Disability Rights

### Disabled Riders Sue To Improve Paratransit Services

On March 25, 2004, the Disability Rights Project with co-counsel **Wiley Rein & Fielding**, filed a class action lawsuit in the U.S. District Court for the District of Columbia against the Washington Metropolitan Area Transportation Authority (Metro) on behalf of the Disability Rights Council of Greater Washington (DRC) and a dozen named plaintiffs from the District of Columbia, Maryland, and Virginia.

The complaint alleges that Metro's curb-to-curb paratransit service is so substandard that it illegally discriminates against people with disabilities. The lawsuit alleges that Metro's paratransit system violates Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act, which requires Metro to provide comparable transportation services to people who cannot use the regular fixed route system as a condition of federal financial support for the regular system.

The plaintiffs complain that MetroAccess buses often arrive extremely late or not at all, forcing them to miss appointments, jeopardize their employment, and wait outdoors in inclement weather. The plaintiffs seek an injunction and court supervision requiring MetroAccess to develop and adhere to a plan to correct its service problems.

### Disabled Drivers Seek Accessible Parking, Sue D.C.

The Disability Rights Project, with the assistance of **Morrison & Foerster**, filed a lawsuit on March 31, 2004, in the U.S. District Court for the District of Columbia to remedy Washington's inaccessible on-street parking policies.

Most immediately, the lawsuit sought to replace the District's discriminatory parking policies prior to the anticipated arrival in Washington of thousands of disabled veterans and others for the May 2004 opening ceremonies for the World War II Memorial on the Washington Mall.

Plaintiffs in the case include the Disability Rights Council, United Spinal Association (formerly Eastern Paralyzed Veterans Association) and two individual plaintiffs. The complaint alleges that the city's parking program discriminates against people with disabilities. The lawsuit cites inaccessible parking meters, illegally intrusive disability placard application forms, failure to recognize placards from other states, and an unreasonably burdensome placard application process as constituting violations of federal and District law.

Since the filing of the lawsuit, the D.C. Council passed emergency legislation to allow disabled drivers with a valid permit, license plate, or placard from other jurisdictions to

park in time-limited spaces for free and for double the allotted time during the extended Memorial Day weekend. The special rules, announced by D.C. Transportation officials on May 17, 2004, will remain in effect from May 25 – June 2, 2004. While the special rules address the short-term need, the lawsuit continues to seek a permanent solution to inaccessible parking in the District of Columbia.

### Judgment Requires Access For Disabled Florida Voters

A Florida judge issued a landmark ruling on March 24, finding that the Americans with Disabilities Act requires a county to make its voting equipment accessible to voters who are blind or who have manual disabilities. This groundbreaking victory, upholding the right of people with visual and manual impairments to vote independently and in secret, has been viewed nationally as an important precedent on this issue, and will have an enormous impact throughout the country in influencing counties to purchase accessible voting equipment. The impressive efforts of Doug Baldrige and a dedicated team from the law firm of **Howrey Simon Arnold & White** were instrumental in assisting the Committee in securing this important victory.

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The lawsuit, which was filed in 2001 on behalf of the class of affected voters with disabilities, three representative voters who had never cast a secret ballot before due to inaccessible equipment, and the American Association of People with Disabilities, a national membership organization, was the first of its kind to go to trial. The eight-day trial elicited key testimony demonstrating that Duval County had discriminated against voters with disabilities when it purchased an inaccessible voting system, that accessible voting technology was available to the County and has been used successfully throughout the State and the country, and that the State had not proactively sought to certify voting equipment to meet the needs of voters with disabilities.

In his final ruling on March 24, 2004, the U.S. District Judge for the Middle District of Florida ordered Duval County and state election officials to provide machines that allow blind voters to manipulate the ballot using an audio system and permit people who cannot write to vote using a touchscreen. The Order required Duval County to have at least one accessible voting machine in 20% of its polling places in time for the August 2004 Primary Election, for a total of approximately 80 polling places with accessible machines throughout the County.

Understanding the critical significance of this ruling, the County has noted an appeal to the Eleventh Circuit. Unfortunately, the Eleventh Circuit has stayed implementation of the District Judge's order pending this appeal.



Doug Baldrige  
Howrey Simon Arnold & White

## An Interview With Doug Baldrige, Lead Counsel in Florida Voting Case

Recently, Douglas Baldrige, a partner at **Howrey Simon Arnold & White** and lead counsel in the Committee's Florida voting case, talked about his experience working with the Committee.

*Q: What made you decide to become a lawyer?*

**A:** This sounds kind of corny, but I was very moved as a child by the character of Atticus Finch in the novel *To Kill A Mockingbird* by Harper Lee. I re-read that book every year between Christmas and the New Year. It dawned on me very early in life that an education in the law is a powerful weapon for good. As we practice law, we move away from that concept, mainly because the practice of law has become a business with financial requirements and budgetary constraints.

*Q: What kinds of cases have you handled since you graduated from law school?*

**A:** I have represented businesses in antitrust and patent infringement litigation, toxic torts, and general business disputes of all kinds.

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

**A:** Only a domestic relations matter in my first year out of law school.

*Q: Why had you not done any other pro bono work in all those years?*

**A:** You fall into a rut and you think you do not have the time. But you really do have time. It takes a lot of time and commitment to be in the practice of law, and it is sometimes overwhelming. You feel as if you cannot meet the commitments of your job — but you can, very easily.

*Q: What made you agree to handle a major case for free when you had not done that before?*

**A:** I was up in New York on Sept. 11, 2001. The events on that day really had a profound impact on me. I took a train ride back to Washington and I started thinking about all that I had been given and that we in the legal profession had been given. I thought about whether I had really done anything to make things better, and decided it was time I did something. When I returned to the office, the first e-mail that our *pro bono* coordinator sent out was this big case that took a lot of commitment — and I volunteered. I was Florida born and raised, I am a member of the Florida Bar, and I have practiced in the federal court in the Middle District of Florida. The case just seemed to fit. I thought it would have concluded much quicker than

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# Fair Housing

## Zeke's House Case Settles

The Fair Housing Project recently achieved a major settlement of a disability discrimination case that had successfully challenged the District of Columbia's zoning laws, which had created special burdens for group homes for persons with disabilities.

In September 2001, five formerly homeless men with mental disabilities moved into a single-family residential home in Northwest D.C., owned by the Community Housing Trust ("CHT") and the Community Council for the Homeless at Friendship Place ("CCHFP"). The move-in occurred despite the D.C. Zoning Administrator's decision to require the home to obtain a certificate of occupancy and strident opposition from neighbors. When the men moved into the home, the District of Columbia Department of Consumer and Regulatory Affairs ("DCRA") charged CCHFP with allowing the home to be occupied without a certificate of occupancy.

The Fair Housing Project and co-counsel **Shaw Pittman** filed suit in October 2001 under the Fair Housing Act on behalf of CHT and CCHFP alleging that DCRA and the Zoning Administrator required the certificate of occupancy and ticketed the home because it was occupied by persons with disabilities.

The federal district court for the District of Columbia granted Plaintiffs' Motion for Summary Judgment in April 2003, finding that the challenged zoning ordinance was facially discriminatory.

On May 24, 2004, the parties settled the remaining damages claims for \$275,000, and an agreement by the District of Columbia that decision-making employees of the

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## Housing Discrimination Administrative Complaints Settled

In the past year, the Fair Housing Project has filed a number of administrative complaints before state and local human rights offices on behalf of aggrieved individuals and the Equal Rights Center, a local fair housing advocacy organization. Three of the cases, which each raised novel issues regarding the application of the fair housing laws, have recently settled.

### *Foster v. Beverly Court Cooperative* (DCOHR)

Housing discrimination on the basis of age is prohibited under the District of Columbia's fair housing law. As a result, when Margaret Foster and Robert Payne were told that their application to buy a condominium unit at the Beverly Court Cooperative was denied because they were too young, they, along with their realtor and the Equal Rights Center, filed a complaint with the District of Columbia Office of Human Rights.

The Office of Human Rights found "probable cause" to believe that the Coop Board had discriminated against Foster and Payne. The parties reached a settlement of all claims on April 27,

2004. This settlement provides for a payment of \$25,000 to the individual plaintiffs and a payment of \$5,000 to the Equal Rights Center, in recognition of its efforts to ensure equal housing opportunity for individuals in the District of Columbia metropolitan area. As part of the settlement agreement, the Beverly Court Cooperative Board of Directors agreed to be trained in fair housing laws and to develop an objective policy and set of procedures for assessing applicants.

### *Bussey v. Second New St. Paul Housing, d/b/a, Green Valley Apartments* (DCOHR)

Individuals with physical and mental disabilities have the right under federal law to request and receive reasonable accommodations from housing providers necessary to provide them equal use and enjoyment of housing.

Ms. Bussey, who has multiple sclerosis and requires the assistance of a caregiver, sought a reasonable accommodation of Green Valley Apartments' policy on overnight guests, to allow her caregiver to stay overnight at least three nights a week. Ms. Bussey did not receive a response to her reasonable accommodation request and instead was served with two subsequent notices to vacate for keeping an untidy apartment.

Ms. Bussey filed a housing discrimination complaint with the District of Columbia Office of Human Rights, which found "probable cause" to believe that the Respondents discriminated against Ms. Bussey.

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## Public Accommodations

### Myrtle Beach Restaurant Discrimination Cases Filed

On May 26, 2004, the Washington Lawyers' Committee and the law firms of **Hogan & Hartson** and **Derfner, Altman & Wilborn** filed federal civil rights class action lawsuits on behalf of the NAACP and several individuals against Damon's Grill, Greg Norman's Australian Grill, J. Edward's Great Ribs & More and Fleming's. Over the past several years, these Myrtle Beach area restaurants have closed their doors over Memorial Day Weekend when a large number of African Americans arrive in Myrtle Beach for Black Bike Week.

Each year, in May, two large motorcycle rallies are held in the Myrtle Beach area. In mid-May hundreds of thousands of predominately white riders come to Myrtle Beach for an event known as "Harley Week." Shortly thereafter, over Memorial Day weekend, a similar number of black motorcyclists arrive in the Myrtle Beach area to attend a similar rally, known as "Black Bike Week." The treatment of participants in the two events is starkly different. The white bikers are wholeheartedly welcomed by Myrtle Beach government,

businesses, and community leaders. When the black bikers arrive, restaurants close, some hotels implement special oppressive rules, and the City and police purposefully restrict travel in Myrtle Beach and triple the number of police officers to enforce a one-time "zero tolerance" policy aimed at black visitors.

The restaurants that have been sued were closed during previous Black Bike Weeks and remained closed last year after the NAACP and individuals filed discrimination

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### Report on Taxicab Discrimination Released

A report on taxicab service in the District of Columbia, released in October 2003, finds that D.C. area taxicab companies and their drivers exercise widespread discrimination against minority residents and visitors based on race and place of residence.

The report by the Equal Rights Center, with the assistance of the Washington Lawyers' Committee and **Hogan & Hartson**, clearly documents that although federal and D.C. law prohibit taxicab discrimination, the District of Columbia Taxicab Commission, D.C. Office of Human Rights, and the D.C. Metropolitan Police Department have not aggressively pursued discrimination claims.

Recommendations for improvement cited by the report include enacting legislation to hold drivers and owners of taxicab companies liable for unlawful

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## Immigrant and Refugee Rights

### Holland & Knight Obtains Release from Immigration Detention for Orphaned Asylum Seeker

**Holland & Knight** attorneys succeeded in obtaining freedom for Malik Jarno, a juvenile political asylum seeker with mental retardation on December 23, 2003, just in time to enjoy year-end festivities. Jarno fled to the United States in 2001 to avoid persecution in his home country of Guinea, where his father was imprisoned and killed by the government, but was immediately detained by immigration authorities when he arrived at Dulles Airport. He then spent almost three years in adult jails and prisons with no accommodation for his mental disability.

In October 2002, the Committee and Holland & Knight filed a complaint in United States

District Court alleging constitutional torts, under *Bivens* and Section 1983 of the Civil Rights Act of 1866, as a result of the mistreatment Mr. Jarno experienced during his prolonged immigration detention. In an outstanding litigation effort, the team took the case to trial in November of

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### D.C. Language Access Act Passed

On April 21, 2004, the Immigrant and Refugee Rights Project celebrated a major victory for immigrant rights when District of Columbia Mayor Anthony Williams signed the Language Access Act into law. Phased in over the next four years, the Act will eventually require 22 District agencies to provide persons with limited English

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### Political Asylum Victory

In January 2004, a team of litigators from **Williams & Connelly**, working with the Washington Lawyers' Committee, successfully obtained political asylum in Immigration Court for an Egyptian woman and her daughter. The woman and her daughter had been forced to undergo female genital mutilation in Egypt, their home country, where the procedure is practiced routinely by many ethnic groups. If ordered removed from the United States and returned to Egypt, the woman and her husband feared the same procedure would have been forced upon their two other daughters, both of whom were born in the United States.

### Asylum Litigation Training Held

On January 28, 2004, the Committee co-sponsored a highly successful training on political asylum litigation in federal court with the Lawyers Committee for Human Rights and the Capital Area Immigrants' Rights Coalition. The four-hour training was attended by approximately 40 *pro bono* attorneys and immigration legal services providers.

The Project's annual all-day political asylum training session will be held this year on Thursday, October 14, 2004.

Attorneys interested in working on appellate political asylum cases, or in attending the annual training session, should contact the Immigrant and Refugee Rights Project at (202) 319-1000, ext. 120.



Community leaders join Mayor Anthony Williams at the signing of the D.C. Language Access Act. Immigrant and Refugee Rights Project Director Denise Gilman stands fourth from left.



## Public Education

### New Firm/School Partnerships

Over the past six months, the Public Education Legal Services Project has welcomed the following firms that have established partnerships with D.C. public schools.

**Spriggs and Hollingsworth** joined the Public Education Legal Services Project's firm/school partnership network by establishing a partnership with Backus Middle School. The school is located in far Northeast Washington, D.C., and

represents the first partnership in that section of the city. The firm's school committee met with school staff to plan activities for the students during the remainder of the school year.

**Health Right, Inc.**, brings its existing relationships with four D.C. public schools into the Public Education Legal Services Project's firm/school partnership network. The company, which focuses on health care issues, has partnerships with H.D. Cooke, Ferebee-Hope, and LaSalle Elementary Schools and with Lincoln Middle School.

### Committee Joins D.C. Foundations and Advocates in Call for School Reform Dialogue

The Washington Lawyers' Committee and Parents United for the D.C. Public Schools have joined other public education advocates and members of the foundation community in a call for joint action for school reform. In a letter to local school and D.C. government leaders

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## Special Projects

### Annual Introduction To Legal Reasoning Program Offered

As in previous years, the Washington Lawyers' Committee for Civil Rights and Urban Affairs will be offering an "Introduction to Legal Reasoning" program for students entering Washington area law schools who are members of groups traditionally disadvantaged or under-represented in the practice of law. The law firm of **Hogan & Hartson** is coordinating the city-wide program with the Committee.

The program is designed to prepare students for the first year of law school by providing a taste of the highly analytical, argumentative

style of learning to which some students have had little or no exposure. The course also provides a preview of some basic legal jargon and the fundamentals of the American judicial system. The course does not teach students substantive law. Rather, it emphasizes the process and procedures involved in law school.

The program enables the students to gain a basic familiarity with legal reasoning and legal writing, and culminates in a moot court. The students are also introduced to basic legal research methods. In the last decade, nearly 1,000 students planning to begin their legal studies at American University, Catholic University, the District of Columbia

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### D.C. Court Panel Upholds Strict Liability Statute Against Gun Makers

On April 29, 2004, a panel of the D.C. Court of Appeals upheld the D.C. Assault Weapons Manufacturing Strict Liability Act, allowing D.C. residents who are victims of assault weapons to recover damages against gun manufacturers. In reversing significant parts of an earlier Superior Court ruling, the D.C. Court of Appeals rejected claims by the gun industry that the statute is unconstitutional under the Commerce and Due Process Clauses of the U.S. Constitution.

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## Arrivals

### NEW BOARD MEMBERS

The Washington Lawyers' Committee recently welcomed five new members to the Board of Directors: Ronald S. Flagg, Peter B. Hutt II, Leslie M. Turner, Lewis S. Wiener, and Steven M. Wellner.

#### Ronald S. Flagg

Ronald S. Flagg is a partner in the Washington, D.C. office of **Sidley Austin Brown & Wood**. His practice focuses on complex commercial and administrative litigation for regulated industries and professional firms. In recent years, he has worked with the Committee staff and Parents United for the D.C. Public Schools on a variety of public education reform issues. He is a Phi Beta Kappa graduate of the University of Chicago and received his law degree from Harvard University Law School.

#### Peter B. Hutt II

Peter B. Hutt II, Vice Chair of **Miller & Chevalier's** Litigation/Government Contracts Department and a member of the firm's Executive Committee, is experienced in litigating complex government contracts matters. He is a graduate of Stanford Law School, where he served as Senior Articles Editor for the *Stanford Law Review*, and he clerked for Judges William W. Schwarzer and Vaughn R. Walker of the U.S. District Court for the Northern District of California.

#### Leslie M. Turner

Leslie M. Turner is a partner specializing in employment law at **Akin Gump Strauss Hauer & Feld**. She served as counselor to Secretary Bruce Babbitt and Director, of Intergovernmental Affairs, U.S. Department of the Interior, from 1995 to 1996, and as Assistant Secretary for the Office of Territorial and International Affairs, U.S. Department of the Interior, from 1993 until 1995.

Prior to joining Akin Gump, she was a law clerk to the Honorable William C. Pryor, former Chief Judge of the District of Columbia Court of Appeals. She earned her B.S. from New York University in 1980 and her J.D. from the Georgetown University Law Center in 1985. Prior to her term of government service, Ms. Turner served as counsel with the Committee in a successful class action case challenging racial discrimination at the U.S. Department of State.

#### Lewis S. Wiener

Lewis S. Wiener, a trial lawyer at **Sutherland Asbill & Brennan**, focuses his practice on complex construction, commercial litigation, environmental law and eminent domain/inverse condemnation litigation before state and federal trial and appellate courts and administrative tribunals. Prior to joining Sutherland, he served as a trial lawyer with the U.S. Department of Justice. He received his B.A., from the State University of New York at

Albany, and his J.D. from American University, Washington College of Law.

#### Steven M. Wellner

Steven M. Wellner, a partner in the Washington office of **Kirkland & Ellis**, focuses on environmental counseling, especially in corporate transactions. He administers the firm's *pro bono* legal services program for the Washington office, overseeing the intake of new matters, monitoring ongoing cases and serving as a liaison with local legal service providers. Prior to his election to the Committee's Board of Directors, he served as a member of the Committee's Board of Trustees. He received his B.A. from the University of Virginia, and his J.D. from the University of Michigan Law School.

### NEW CO-CHAIR: BENJAMIN F. WILSON

Benjamin F. Wilson was recently named Co-Chair of the Washington Lawyers' Committee, succeeding Jeffrey Robinson, who stepped down after three years. Ben, who is a Principal in the Washington, D.C. office of **Beveridge & Diamond**, is a former member of the firm's Management Committee and past Chairperson of the firm's Litigation Practice Group. He has been a member of the Committee's Board of Directors since 1993, serving an earlier term as Co-Chair in 1998-1999. Mr. Wilson received his B.A.

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degree from Dartmouth College, *magna cum laude*, and is a member of Phi Beta Kappa. He received his law degree from Harvard University.

## Aaron Epstein

Aaron Epstein, a newspaper reporter and editor for 45 years, has joined the Washington Lawyers' Committee as a part-time volunteer lawyer with the EEO Project. He most recently worked as a national correspondent for Knight Ridder Newspapers, covering the Supreme Court, the Justice Department and national legal issues. Since retiring from full-time newspaper reporting in 2000, he has volunteered for a range of pro bono legal assignments. He received a B.A. in government from Dartmouth College, was a graduate student at the University of Missouri School of Journalism, and earned his law degree from the University of the Pacific's McGeorge College of Law in Sacramento.

### *Columbia Heights (continued from cover)*

belongings, including personal photographs and medicine. The tenants accused the District of Columbia of targeting "hot properties" with the goal of gentrifying the area around Columbia Heights.

Originally, four tenant associations filed a federal civil rights lawsuit in April 2000 against the District of Columbia to stop its condemnations of four Columbia Heights apartment buildings. The lawsuit alleged that the proposed condemnations had a discriminatory impact on Hispanic and Vietnamese tenants in violation of the federal Fair Housing Act and the District of Columbia Human Rights Act. The lawsuit also charged the landlords with housing discrimination and

retaliation against tenants. After achieving a landmark settlement for one of the tenant associations, whereby the association became the owner of its building and received \$300,000 from the landlords to improve the property, negotiations with the District of Columbia and the defendant landlords stagnated. In May 2001, the District of Columbia filed a motion to dismiss asserting that the tenant associations do not have standing to raise claims regarding the threatened closure of their buildings and that the Fair Housing Act did not apply to the District of Columbia. In November, \$285,000 of the proceeds of sale of a building owned by landlord defendant McRae was earmarked for the tenants of 1611 Park Road.

The plaintiff tenants in the case were represented by the Washington Lawyers' Committee and the law firms of **Jenner & Block, LLP**, and **Tycko, Zavareci & Spiva LLP**.

### *Cracker Barrel (continued from cover)*

providing notably inferior service to that afforded white patrons. The cases seek injunctive relief and monetary damages. Discovery is underway in all cases.

The Washington Lawyers' Committee and its co-counsel in these four public accommodations cases played an important role in assisting the U.S. Department of Justice in investigating Cracker Barrel and successfully encouraging the Department of Justice to file suit against Cracker Barrel. Specifically, on May 3, 2004, the Department of Justice Civil Rights Division announced that it had filed a complaint against Cracker Barrel in federal district court in Georgia, and simultaneously entered a consent decree with Cracker Barrel to resolve the complaint. This complaint alleged

that Cracker Barrel engaged in a pattern and practice of discrimination against African-American patrons in violation of Title II of the Civil Rights Act of 1964 in at least 30% of Cracker Barrel stores in seven specific states, as well as elsewhere, and that Cracker Barrel managers directed, participated in or acquiesced to the discrimination. The strong consent order requires Cracker Barrel to hire an outside auditor to oversee the implementation of effective nondiscrimination policies and procedures, the development of new training programs to ensure compliance with the policies and procedures, and the creation of an enhanced system to investigate and resolve customer complaints of discrimination, including severe discipline for Cracker Barrel employees found to have discriminated against any patrons.

In commenting on the Department of Justice settlement, **Crowell & Moring** partner Andrew Marks, who serves as lead counsel in the private actions, said, "We are greatly encouraged by the settlement reached by the Department and Cracker Barrel and we look forward to resolving the damage claims of the many individuals who are not parties to the government's suit."

The co-counsel in these cases are **Covington & Burling; Crowell & Moring, LLP; Ferguson, Stein, Chambers, Adkins, Gresham & Sumter, P.A.; Gardner, Willis, Sweat & Goldsmith; Kaplan, Brewer, Maxey & Haralson, P.A.; Law Offices of Grant Morris; Kennedy Covington Lobdell & Hickman, LLP; Piper Rudnick, LLP; Shaw Pittman, LLP;** attorneys from **Skadden, Arps, Slate, Meagher & Flom, LLP;** and **Wiggins Childs Quinn & Pantazis P.C.**



*2003/2004 Fund Drive (continued from page 2)*

from individuals and strong renewed support from area law firms. To date, over 700 individuals and 65 firms have provided over \$530,000 to meet the Committee's annual budget of \$2.5 million. The total of \$210,000 received from individuals represents an increase of over 40% in the number of donors and the total amount of contributions. It is hoped that with a successful Branton Luncheon and a strong finish to our funding drive over the next few months, it will be possible to reach our goal of \$900,000 in law firm and individual support this year. To meet our overall budget, this figure will need to be supplemented by increases in foundation grants for specific Committee projects and the receipt of attorneys' fees awarded to the Committee in successful cases.

In commenting on the progress of the Committee's funding drive, James Bierman, Chair of our Finance Committee noted, "We are extremely grateful for the unwavering support from our city's lawyers and firms for the vital work of the Committee. This generous support is a resounding endorsement of the Committee's mission and demonstrates the commitment of our profession to the cause of equal justice."

*Gun Makers (continued from page 9)*

The D.C. statute imposes strict liability on manufacturers of assault weapons that inflict injury or death in the District of Columbia. In addition, the statute holds manufacturers strictly liable for injuries caused by any firearm that can use a high capacity ammunition magazine allowing the gun to shoot more than 12 rounds without the need to reload.

*continued on page 14*

*J. Douglas Baldrige (continued from page 5)*

it did. I never thought we would go through a dozen depositions, several rounds of summary judgment briefs, a summary judgment, and nine days of trial.

**Q:** *Was representing disabled clients in the Florida case any different from representing the business clients you had in the past?*

**A:** It was an unbelievable experience to represent people with an issue that they consider life-altering – in comparison with the cases we handle daily, as important as they are, which tend to be strictly about money. The individuals we represented in the Florida case rightfully felt that the case dealt with the question of dignity and being treated fairly, and that made a big difference for me.

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

**A:** The major change for me was the realization that working on pro bono cases is not simply altruistic. There is a quantifiable financial benefit to a law firm that becomes involved in pro bono cases. What law firms sell are superior, experienced lawyers, and there is no better way for young people to get such solid experience today. Pro bono work offers lawyers a golden opportunity, of which this case is a great example. Look at the training our associates received. How many associates have the opportunity to handle witnesses in federal trials on

cutting-edge issues? Our associates are not only better attorneys due to this experience, but also their morale is high. Pro bono activities give you this opportunity — and the experience has a quantifiable value. In addition, the publicity the firm has received from this case has been good, although that was not the reason we took the case. But the result has been very good for the firm.

**Q:** *Beyond the opportunities that the case offered to the firm and lawyers, how did the experience affect you personally?*

**A:** The sense of fulfillment has been wonderful. My firm has been very supportive and there has been a lot of good feedback. The experience made me see that you have to strive for the proper balance between the profit motive and giving something back. What you realize after you have done it is that, remarkably, both goals are consistent. You are giving back at the same time that you are getting that bottom-line profit advantage through training, listening and so on.

**Q:** *Were you reminded of Atticus Finch?*

**A:** Oh, yes. All during the case, I kept saying 'this is taking so much time,' but by the end, it gave me the same feeling you get when you read that book.

## SPRING 2004 UPDATE

### EEO Project Assistance (continued from page 3)

prominent surgeon, professor, and Director of Liver Transplant Services during her six-year tenure with Howard University Hospital. During this time, she performed in an exemplary manner. Nevertheless, she was demoted, denied tenure and discharged while her supervisor, who allegedly made frequent derogatory comments about women and female surgeons, promoted in her place a more junior, less qualified male surgeon. Dr. Toussaint had been representing herself for almost nine months when the Committee, along with the law firm of **Kator, Parks & Weiser**, entered their appearance in the case in January 2004. At that time, Dr. Toussaint was facing tight deadlines by which she was required to respond to written discovery requests, to which it would have been immensely difficult to respond without the assistance of counsel. Attorneys from the Committee and the firm immediately jumped in and assisted Dr. Toussaint in providing timely responses. Discovery is still underway. *Toussaint v. Howard University* (D.D.C.)

Similarly, in the past few years, the Program has offered representation to several other *pro se* claimants whose claims were at various stages of advancement. However, the need is still great. There are still many persons with good claims who are navigating the maze of our court system and complex litigation without counsel. Attorneys interested in assisting the Committee in similar cases may contact EEO Project Director Sue Huhta at (202) 319-1000, ext. 113.

### Zeke's House (continued from page 6)

D.C. Office of the Zoning Administrator will receive fair housing training and that the parties

will meet within 60 days of the effective date of the agreement to coordinate and review proposed changes to the zoning regulations that were declared facially invalid in the Court's summary judgment opinion.

### House Discrimination (continued from page 6)

With the assistance of the Fair Housing Project, the parties reached a settlement of all claims, which included a payment to Ms. Bussey of \$10,000 and Green Valley Apartments' agreement to adopt a written, non-discrimination policy that will apply to all of its housing-related decisions and actions and a written policy for evaluating and responding to requests for reasonable accommodations. The Respondent also agreed that its Board of Directors and the apartment manager of Green Valley Apartments will receive fair housing training and that it will only contract with a management company that has an anti-discrimination policy.

### ***2535 13th Street Tenants' Association, et al., v. Crescent 13th Street, LLC, et al.*** (DCOHR)

Housing discrimination against Latinos in the District of Columbia has been well documented in studies but has, for a variety of reasons, resulted in relatively little litigation before judicial or administrative bodies. In some instances, the victims of housing discrimination lack sufficient command of English to know their rights under local and federal civil rights laws, and in other instances the increased vigilance of U.S. immigration enforcement agencies has chilled the exercise of these individual civil rights.

Four Latino tenants of a building located at 2535 13th Street, N.W. in the Columbia Heights neighborhood of D.C. decided to

speak up against their landlord and management company and, with extensive help from staff from the Equal Rights Center, recently settled their discrimination claims.

Among other things, the tenants accused the manager of their apartment building of repeatedly threatening to call the Immigration and Naturalization Service in response to the tenants' complaints about housing code violations in their units. In the settlement, the apartment building owner agreed to pay \$25,000 to the individual plaintiffs and the Equal Rights Center. In addition, he will adopt a written, non-discrimination policy; will post Fair Housing Law posters in English and Spanish in each of his rental properties; and will attend fair housing training.

### Myrtle Beach (continued from page 7)

complaints with the South Carolina Human Affairs Commission. The restaurants have concocted different reasons for closing during one of the busiest weekends of the year, including broken appliances in the kitchen, the need to repave the parking lot, and other unusual circumstances that just happen to occur each year over Memorial Day.

The complaints, filed in United States District Court in South Carolina, follow the filing last year of other complaints filed by the Washington Lawyers' Committee against the Myrtle Beach police and a Myrtle Beach hotel that maintains special and oppressive rules during Black Bike Week that apply at no other time of the year.

## WASHINGTON LAWYERS' COMMITTEE

### *Taxicab Discrimination (continued from page 7)*

discrimination, and amending D.C. Taxicab Commission regulations to increase monetary fines and impose non-monetary sanctions against taxicab companies and drivers.

The report's other recommendations include hiring and training hack inspectors to identify civil rights violators, prosecuting charges against drivers and owners of taxicab companies liable for discrimination, conducting testing and sting operations in the taxicab industry, and instituting mandatory diversity training and instruction on federal and local civil rights laws for drivers applying for a hacker's license.

The release of the report received extensive local news coverage and prompted the D.C. Council to hold a day-long hearing on taxi industry discrimination. It is anticipated that major legislative proposals incorporating the report's principal recommendations will be introduced in the Council in the near future.

### *Orphaned Asylum Seeker (continued from page 8)*

2003. While the jury unfortunately did not return a favorable verdict, the proceedings allowed Mr. Jarno to remain in the country while additional Holland & Knight attorneys worked forcefully to place political and public pressure on the immigration authorities to resolve Mr. Jarno's situation outside of the courtroom.

These efforts were finally successful—the Department of Homeland Security freed Mr. Jarno from the maximum security prison in York, Pennsylvania, where he was being held and reopened his asylum case.

### *D.C. Language Act (continued from page 8)*

proficiency written translation of documents and interpreter services for public meetings, services and activities.

The District of Columbia will become only the third city nationwide to require all of its government agencies to provide translation services for residents with limited English skills.

Over the past year, the Immigrant and Refugee Rights Project spearheaded the effort to secure adoption of this legislation, with a coalition of Asian, Ethiopian, Latino, and other agencies that provide services to immigrants. Since the release of the 2002 Mt. Pleasant anniversary reports, which documented civil rights needs in the D.C. area faced by newcomers who speak limited English, the Project has been working on initiatives to reduce language barriers that can preclude meaningful access by these individuals to important government services.

### *Foundations (continued from page 9)*

the participants in this effort stated, "Clearly we have failed our children. They have not been foremost in our minds and they have suffered." The purpose of the initiative is to create a healthy environment for sustained efforts that are essential to meaningful improvements in student achievement. The collaborative plans to select priority areas for improvement and develop detailed plans to implement those improvements.

The foundation community led by the Fannie Mae Foundation, the Kimsey Foundation and the Community Foundation sought to bring together the wide variety of local public education stakeholders after hearing from all quarters the need for the community to unite and take action on improving the quality of public education in the Nation's Capital. The participants include community organizations, parents,

teachers, students, funders and business leaders.

### *Legal Reasoning (continued from page 9)*

School of Law, Georgetown University, George Washington University, Howard University, George Mason University and other law schools participated in the program. Based on the Committee's past experience and the reports of former students, the program gives students a significant advantage during the first semester of law school. It is the Committee's hope that the program will advance the competitive posture of its participants as they commence the study of law.

The course runs for six weeks, meeting four nights each week. Students will be assigned to one of several sessions of the course, each of which will be held at the D.C. law offices of the volunteer instructors from 6:30 to 8:30 in the evening. Students are asked to pay \$50.00 to help defray the cost of reproducing the course materials, but no tuition is required.

### *Gun Makers (continued from page 12)*

The case, in which **Wilmer Cutler Pickering**, and the Brady Center to Prevent Gun Violence served as co-counsel with the Washington Lawyers' Committee, was brought on behalf of the District of Columbia and eight individuals injured or killed by firearms in the District. The plaintiffs alleged that gun manufacturers and distributors were liable for damages incurred as a result of gun violence occurring in the District, based on theories of negligent distribution, strict liability under the statute, and public nuisance.



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