

Minority Caucus

Message from the Chair

By Michael D. Brown

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2010 has started off with great success—the Minority Caucus Reception at AAJ's

Winter Convention in Maui was the perfect setting for networking, and in March the Minority Caucus put together its first Lobby Days. This summer's Annual Convention in Vancouver promises to be an extremely well-attended event as well. With images of the beautiful city broadcast throughout the recent Olympics, many colleagues and their families

are eager to visit. The Minority Caucus will host several events, including a reception, special CLE program, and business meeting. Make plans now.

During the Annual Convention, your Minority Caucus presents the Johnnie L. Cochran Jr. Soaring Eagle Award. Nominations will be judged on the following criteria:

- How the individual has achieved professional excellence in his/her field
- Whether the nominee has made any significant contributions to the advancement of racial or ethnic diversity in the profession
- Whether the nominee has opened doors for lawyers of color in a variety of job settings that historically were closed to them
- Whether the nominee has advanced opportunities for lawyers of color within a practice area or segment of the profession

Take a moment to nominate whom you believe exemplifies the spirit of this award. Last year's winner was Nina Perales, Southwest Regional Counsel for the Mexican American Legal Defense & Education Fund.

AAJ has many other annual awards and student scholarships. The Steven J. Sharp Public Service Award is one of AAJ's highest honors. It is presented by the AAJ President to a lawyer and client who case tells the story of American Civil Justice. Check out the criteria and consider one of your colleagues or perhaps one of your own cases.



MESSAGE FROM THE CHAIR continued from page 1

While on the topic of recognition, I'd like to thank the contributors to this edition of *Drums Majors for Justice*. Navan Ward shares highlights from Maui. Simona Farrise reports on the Minority Caucus' first-ever Lobby Days. Marlon Kimpson discusses a hot topic in aviation litigation. LaBarron Boone notes that recalled tires are still a problem. And last but not least, Neda Sargordan weighs in on how the Minority Caucus will make her a better trial lawyer.

I hope to see you in Vancouver. ■

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Maui Convention Wrap-up

By Navan Ward Jr.

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Mauai was the host of this year's Winter Convention. Although Maui was a long way to travel for most who attended, it was certainly paradise once all arrived. The Hyatt Regency Maui Resort and Spa, and the Westin Maui Resort and Spa were the perfect locations to take in the palm-shaded, powdery

beaches and just a short distance from the quaint small towns, world-famous enclaves and lush rainforests. With the Convention's excellent and informative programming, along with the numerous opportunities to go on whale watching excursions, snorkeling, or just laying out at the pool or beach areas, it was guaranteed fun for both members and family.

On Sunday afternoon, the Caucus conducted its business meeting and it was well attended. The meeting focused on the Caucus' Lobby Day in Washington, D.C., which is scheduled for March 10th - 11th. Simona Farrise and Staci Yandle gave an update on the events that will take place during Lobby Day, which include a Welcome Reception with Members of Congress on the evening of March 10th and a Breakfast with a guest speaker and meetings with various Congressmen throughout the day on March 11th. The Caucus expects a good turn out to Lobby Day from current members and hopes to recruit many future AAJ members as a result of our lobby efforts. Since important and relevant issues change from week to week in Washington, it was decided that the specific issues that the Caucus would lobby on would be confirmed closer to the Lobby Day.

The upcoming Annual Convention in Vancouver was also discussed at the business meeting. The Caucus voted to not host a Minority Caucus Party in Vancouver and to focus our attention on the CLE programming and the Reception. The theme of the CLE will be "Litigation



Strategies for People of Color and the Colorful People Who Represent Them." Marcus Stevenson will moderate the program and Jackalyn Olinger, Navan Ward, Judge Nikki Ann Clark, Gregory Ramirez, and Robert Johnson will give presentations on various topics of interest.

The Ocean Lanai Terrace at the Westin Maui was the perfect setting for the Minority Caucus Reception. Many AAJ members enjoyed an excellent opportunity to network and discuss ideas that affect minority attorneys and their practices. Special thanks to the law firm of Khorrami Pollard & Abir LLP, who sponsored this event. Finally, Gibson Vance, the incoming AAJ President, formed a new Committee of Committees and appointed our very own Rod Gregory as the Co-Chair of this committee.

We expect that the 2010 Annual Convention in Vancouver, British Columbia (July 10-14) to be just as exciting. As usual, the Minority Caucus is working hard with the staff at AAJ to prepare worthwhile events for our members. AAJ continues to provide valuable information to members' practice and the conventions allow for great opportunities to network with fellow AAJ members. We hope to see you in Vancouver! ■

AAJ MINORITY CAUCUS' FIRST LOBBY DAY— A HISTORIC AND AMAZING ACHIEVEMENT!

By **Simona A. Farrise**

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To say that AAJ Minority Caucus' first ever Lobby Day was an overwhelming success doesn't begin to capture the significance of what AAJ's Minority Caucus accomplished over one and one-half days in Washington. For the first time in the history of this organization, nearly fifty minority lawyers and diversity supporters from all over

the nation converged on Washington, DC to lobby Congress on two pieces of legislation important to AAJ—The Fair Access to Courts Act of 2010 that restores the notice pleading standard which had existed for decades prior to the U.S. Supreme Court's decisions in 2008 and 2009 in the *Iqbal* and *Twombly* cases; and the Foreign Manufacturers Responsibility Act which would require foreign product makers to identify to a U.S. agent for service of process for suits wherein those products cause damage. AAJ Minority Caucus members' lobby convinced several legislators to sign on as bill co-sponsors.

But the Caucus achievements did not stop with the legislative successes. Lobby Day activities also garnered AAJ brand new and returning members to AAJ's membership rolls!

Finally, Lobby Day was a different opportunity for lawyers to come together and connect with one another to forge relationships and ties that will bind us in successful business relationships and friendship. The two days of activities that were on the agenda were filled with exciting events such as the March 10, 2010 evening reception which was held at the U.S. Capitol Visitor Center that drew important and influential Congressional Members including Congressmen Joe Baca (D-CA), Bobby Scott (D-VA), Mel Watt (D-NC), and Congresswoman Carolyn Kilpatrick (D-MI), and other VIPs alike. Similarly, caucus members lobbied Congress members from many states including California, Illinois, South Carolina, Florida,

Virginia, North Carolina, Missouri, New Jersey, etc. Despite all that, the most incredible of the two days in the nation's Capital was no doubt the enthusiasm of this particular lawyer group to gather and be with one another accomplishing an important organizational mission!

Although I have previously participated in Lobby Days organized by other AAJ groups, this particular Lobby Day experience was unsurpassed. It was educational, inspirational, and gratifying. To say the least, it was well worth the trip that many of us made all the way from California. Participating in Lobby Day helped me clearly understand the important role that AAJ and plaintiffs' member lawyers like me play in our country's democracy. Like so many, I made different and more solid connections with other AAJ members who I have become close with and am already joining on cases! And yes, the power of being in the same space and location with a unified purpose and focus was a large part of it of what makes Lobby Day so magical.

As a co-chair of Lobby Day, along with Staci Yandle of the Yandle Law Firm in Belleville, IL, and the leadership of our current Caucus Chair Michael Brown, I am more than encouraged by the magnitude of the response that the Minority Caucus has received for this historic undertaking. The amazing support has come from AAJ Officers, Directors, and Staff; sponsoring law firms including Beasley, Allen, Crow, Methvin, Portis & Miles, P.C of Montgomery, Alabama, Khorrami, Pollard & Abir of Los Angeles, CA, and Farrise Law Firm of California; and caucus members and supporters. There is no question that this Lobby Day experience had a successful finish as a result of the tireless efforts, planning, and monetary support of so many. The Minority Caucus, small in numbers but mighty in enthusiasm, appreciates and thanks everyone for this support and the fantastic turnout in Washington on March 10 and 11. Until next year! ■

Knowing Is Half the Battle

By Marlon Kimpson, Esq.

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The first scheduled commercial airline flight took off on January 1, 1914. Over 95 years later, as one may expect, the industry has certainly changed—some changes have been for the better, but some for the worse. As air traffic steadily increases and commercial air travel becomes the Greyhound bus line of the sky, we have seen

the entire system become strained: pilots are overworked, passengers are overbooked, maintenance is outsourced overseas and safety takes a back seat to profit margins. And that’s just at home.

These days maintenance is not the only thing going overseas—as aircraft manufacturers continue to develop newer, bigger and brighter models; the older, aging aircraft are jettisoned and sold to foreign carriers to make room in their budgets and their lines for newer aircraft. These foreign carriers, some of which are fly-by-night operations, put a new coat of paint on their 30+ year-old aircraft and fly unwitting passengers around the globe. Many foreign carriers and maintenance hubs are not held to the same standard of safety as U.S. carriers and shops. In fact, most are not. Consequently as the planes age and are not properly maintained they begin to fall apart...and subsequently crash. International crashes, therefore, are on the rise. With crashes come injury and loss of life, and with injury and loss of life come litigation—international, cross-border and multi-country.

For any one international airplane crash there can be any number of potential fora in which to file suit. For example, an aircraft departed from Panama with a destination of Martinique; the flight crashed in the Venezuelan mountains; the individuals on board were Martiniquian, Italian and French citizens; the aircraft was manufactured in the United States; the airline and maintenance were based in Colombia; the aircraft was registered in Panama; the contracting carrier was based in the United States and the investigation of the crash was conducted by French and Venezuelan authorities. This one crash offers seven different potential fora to pursue legal recourse for loss of life. But which forum is proper?

This question and the issue of forum non conveniens has become the most talked about and passionately discussed topic in aviation litigation today. The answer—any one of those seven fora may be proper. Many defense attorneys will complain that U.S. litigators will find any U.S. link in international crashes in order to file suit on “home turf,” but at a recent defense and insurance firm lead aviation litigation seminar—those counsel proved exactly why. These same defense counsel who protest filing in the U.S., file countless forum non conveniens motions and decry “forum shopping!” at every given chance, presented and compared average settlement and verdict figures for several countries including the United States, France, Asia, Brazil, Canada, the United Kingdom, Australia and the new European Union. These average figures are based on a 45-year-old average earner in a clerical position, leaving behind a partner and one teenage child:

Average Settlement and Verdict Figures

	EURO	GBP	USD
Asia	175,000	150,000	250,000
The New EU	300,000	250,000	450,000
United Kingdom	850,000	750,000	1,250,000
Australia	950,000	850,000	1,400,000
France	950,000	850,000	1,400,000
Brazil	1,050,000	900,000	1,550,000
Canada	1,150,000	1,000,000	1,700,000
United States	3,000,000	2,600,000	4,350,000

Foreign families cannot understand why American families get special treatment or why their lives are worth so much more. This is simply not the case. The nationality of the individual is not at issue—it is purely an issue of law. The above, defense and insurance counsel provided list makes it clear—it is simply better for the victim’s family to file suit in the United States. And if the United States is one of a number of acceptable fora, counsel should seek the jurisdiction where their client has the best chance at a fair recovery for the loss of their loved one. To not fight for what is best for your client could even be a violation of your legal duties. The United States simply offers larger recoveries to those injured or lost in aviation crashes.

Defense attorneys clearly know this. And now you do too. ■

Related AAJ Resources

AAJ Sections

Aviation Law Section

The Aviation Law Section focuses on major air crash litigation. The Section studies federal legislation and treaties such as DOHSA, GARA, Warsaw, and The Hague to ensure that those injured in air tragedies have avenues of recourse and recovery. The Section offers information on all aspects of accident investigation and reconstruction as well as how to handle suits involving the federal government.

To join or learn more, visit www.justice.org/sections or call 800-424-2725 or 202-965-3500, ext. 8700.

AAJ Exchange Litigation Packets

A Guide Through Preemption

[UPDATED March 2009; 1,813 pages]

Discusses preemption in pharmaceutical, medical device, auto safety, aviation, and railroad cases. Explores the implications of various regulatory agencies and attempts to preempt state tort laws.

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AAJ Education

Aviation Law Section Session #419-T10

2009 Annual Convention

Presenters: John W. Bloomfield; Lee Coffman; Thomas V. Girardi; Lara Herrmann; Walter J. Lack; Ricardo M. Martinez-Cid; Gary C. Robb; Ladd Sanger; Donald Sommer

Track includes the Aviation Trial, Litigating a Helicopter Crash Case, the State of Aviation Law, International Air Carrier, Disaster. To order, visit www.iplaybackaaaj.com/product/1216/198 or call 800-241-7785.



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The Firestone Tire Debacle: More people will die and be maimed because all the recalled tires were not removed from the marketplace

By LaBarron Boone

Beasley, Allen, Crow, Methvin, Portis & Miles, P.C., Montgomery, Alabama, Labarron.boone@beasleyallen.com



As most Americans know, Ford and Firestone were involved in the world's largest tire recall in history a few years back. Firestone produced a specially designed 15-inch ATX tire in 1990 which were installed by Ford on Explorers as original equipment. Tragically, the Firestone tires were defective and the Explorer was prone to

rollover. Obviously, that was a very bad marriage and one that resulted in an untold number of catastrophic injuries and deaths. Unfortunately, the Ford and Firestone saga continues. There have been a number of cases over the past several years arising out of Firestone tire detreads and Explorer rollovers. There was a recently resolved case involving a Ford rollover in 2007, where the victim was a front seat passenger in a 1996 Ford Explorer. She and other family members were traveling on an interstate when the left rear tire detreaded and the Explorer rolled over. The victim, who was properly restrained in her seat belt, was partially ejected from the vehicle during the rollover and was severely injured. Even though the driver was traveling at highway speeds, approximately 70 miles per hour, he was unable to control the vehicle when the tire detreaded. The tire detreaded because of defects known both to Ford and Firestone. It was originally a spare tire on this Explorer. Due to a recall, four of the original Firestone tires were taken off the Explorer, but the spare remained in the vehicle. Eventually the spare was put on the left rear of the Explorer and it was involved in this rollover. Both Ford and Firestone knew all about the defective tires several years before that first tire recall took place in the United States. In fact, several years prior to the first recall, Ford implemented a series of "secret recalls" in Venezuela. Ford recognized the problem there and eventually remedied the

problem by making the shock absorbers on the Explorer much stronger. It was known from a number of prior cases, including several arising in Venezuela, that the remedy was to replace the shocks with stiffer and stronger ones and to place them further outboard. The same fix was recommended by Ford engineers for the U.S. market, but it wasn't done. In fact, NHTSA was not even informed about all the detread and rollover problems in Venezuela and several other foreign countries. Firestone first recalled the defective tires in the United States in August of 2000. A recall notice was sent out at that time by first class mail. Over the next few years, Ford and Firestone came to realize that millions of recalled tires were still on the road and in use. Subsequently, a second recall was done in 2006. Significantly, Firestone sent out the second recall notice by third class mail and without a reply card. As you may know, third class mail is not forwarded if the addressee's address has changed. Also, the notice is not returned to the sender if it is not delivered. A tremendous number of owners never got a recall notice, resulting in millions of defective tires remaining on U.S. highways. Neither this victim nor the used car lot that sold the Explorer received any recall notice from either Ford or Firestone. A prior owner of this Explorer received a recall notice and, as a result, the four Firestone tires that were on the ground were replaced. But the spare remained with the vehicle. The Defendants in the case, which was set for trial on April 20, 2009, were Ford Motor Co., Bridgestone/Firestone North American Tire LLC. The case settled with all Defendants the day prior to the trial date. During the investigation of this case, it was found that Firestone tires that had been spares were still on Ford Explorers. Tragically, fatalities and serious injuries will continue until such time as Ford and Firestone locate and destroy all of the recalled tires that are still in service. ■

Related AAJ Resources

AAJ Sections

Motor Vehicle Collision, Highway and Premises Liability Section

The Motor Vehicle Collision, Highway and Premises Liability Section networks on federal no-fault issues, showing members of AAJ, Congress, and our communities how unjust and costly such legislation would be. Education programs and newsletters feature low speed collision cases, truck safety, highway design, auto collision, and premises liability.

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AAJ Exchange Litigation Packets

Firestone Tire Tread Separation

[August 2000; 929 pages]

Discusses ATX, ATXII, and Wilderness AT tire recalls.

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April 9-10

Growing on the Vine: Maximizing Profitability in Changing Times Seminar

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April 9-10

Litigating Medical Negligence and Injured Infant Cases Seminar*

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April 15-19

Mega College: Integrating "Rules of the Road," Overcoming Juror Bias, "Reptile," and Damages from Case Intake to Trial*

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* Open only to AAJ plaintiff trial lawyers (Regular, Life, Sustaining, President's Club, and Leaders Forum). AAJ Paralegal Affiliates may attend AAJ Education programs (some restrictions apply).

April 13

Toyota Sudden Acceleration Teleseminar*

April 29-May 1

Jazz Fest Seminar: Litigating Auto Collision Cases

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New Orleans, LA

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May 20-21

Litigating Traumatic Brain Injury Cases Seminar*

Hotel Allegro Chicago
Chicago, IL

Cosponsored by AAJ's Traumatic Brain Injury Litigation Group

June 4-5

Trial Advocacy College: Establishing Nursing Home Corporate Negligence Using Cost Reports and Other Financial Documents*

AAJ Headquarters
Washington, DC

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June 10-13

Trial Advocacy College: "Rules of the Road"*

Hotel Monaco Denver
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AAJ and the Minority Caucus—Paths to a Fulfilling Legal Career

By **Neda Sargordan**

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When I started as a first-year associate at Khorrami Pollard & Abir LLP, one of the first e-mails I received was a notification that my firm had registered me for a membership with the American Association for Justice (AAJ). Like most new attorneys, my primary focus was on finishing my

assignments and finding my place within an established and cohesive department. Networking and becoming active in legal associations were the least of my concerns. Needless to say, I didn't think much about my membership and continued on with my work routine.

It did not take long for me to realize the valuable role AAJ could play in my career and in the lives of my clients. By mobilizing trial attorneys throughout the country, AAJ has given the plaintiffs bar a united voice—a voice that fights for the rights of consumers and the public. It has fearlessly stood up to big business and its attempts at undermining our civil justice system through anti-consumer initiatives. AAJ has enabled its members to connect with colleagues from around the nation for support and exchange of legal strategies.

Perhaps the most important and intangible benefit membership in AAJ brings is the sense of camaraderie, community, and direction amongst its members. In our type of battle, it helps to know there are like-minded

attorneys fighting for the same righteous cause—justice.

As with every large group, some AAJ members find that they have unique struggles in their daily practice. These members have formed Caucuses to help them address these challenges head-on. Within these divisions of AAJ, members participate in events, discussions, and trainings directed at the special needs and interests of each group. As a young attorney and a minority, I have recently joined the New Lawyers Division and the Minority Caucus.

My decision to join the Minority Caucus was primarily fueled by the group's mission to develop education and networking programs of special interest to AAJ's minority members. I also appreciate the recognition the Minority Caucus gives to its members through awards like the Soaring Eagle Award and member spotlights on their Website and in newsletters. Hearing about the great work and dedication of these attorneys inspires me to become a better advocate and leader. Perhaps the most important aspect of the Minority Caucus is its commitment to advancement of minorities in the legal profession.

As I continue to develop my skills and confidence as a young attorney, I will look to my fellow members in the Minority Caucus and the New Lawyers Division for support. The motivation I have received from AAJ, the New Lawyers Division, and the Minority Caucus has truly been tremendous. I encourage all young, minority attorneys to join a Caucus—it will only work to amplify their experience! ■

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