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Government Contracts Section

The Government Contracts Section recently joined with the Federal Interagency Alternative Dispute Resolution Working Group to provide an Alternative Dispute Resolution Best Practices and Mock Government Contract Mediation program at Wiley Rein in Washington, D.C. The distinguished panel, which was moderated by Kara Sacilotto of Wiley Rein, included Judge Marion Blank Horn of the U.S. Court of Federal Claims along with Judge Richard Walters, Judge Anthony Borwick, and Judge Patricia Sheridan of the Civilian Board of Contract Appeals. In addition, Jonathan L. Kang, senior attorney at the Government Accountability Office; William Zeird of ITT Industries; and Jerry Alfonso Miles, associate attorney at Kellogg, Brown and Root, participated in the mock ADR session.

The representatives of the various agencies began the program with an overview of ADR practice before the Court of Federal Claims, the Civilian Board of Contract Appeals, the Armed Services Board of Contract Appeals, and the Government Accountability Office. Attendees not only learned about recent developments in ADR practice and techniques but also received insight into best practices by ADR representatives in each forum.



Section on Taxation: At the fall Women in Tax Law event—attendees pose with featured speaker Clarissa Potter, deputy chief counsel (technical) of the Internal Revenue Service, who served as acting chief counsel from December 2008 to August 2009.

The panel then progressed to an illustrative mock ADR session, during which a government contract dispute between a hypothetical contractor and a government agency was mediated by Judges Richard Walters and Patricia Sheridan from the Civilian Board of Contract Appeals. During the mock ADR, the judges fielded attendees' questions while enlightening them with assessments of the parties' relative positions and a glimpse into the board's ADR procedures for law students and junior government contracts practitioners. The Government Contracts Section would like to thank all the judges for their participation and support for FBA programming.

The Federal Grants Committee of

the Government Contracts Section held its monthly brown bag luncheon meeting on Nov. 5, 2009, at the offices of Schnader, Harrison, Segal & Lewis LLP in Washington, D.C. The topic of discussion was *J.S.R. v. Washington Hosp. Center*, a case that may be an anomaly, although it is difficult to assess because background information is not discussed in the case. It is unclear whether this situation adds to the limited exceptions to the general rule described in the GAO *Red Book* as well as the *Sizova* case. Anyone who has a grant case with a federal tort claim should also follow this case. The luncheon also included a discussion

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Government Contracts Section: At the mediation program—(left photo, l to r) Judge Patricia Sheridan, Judge Anthony Borwick, and Judge Richard Walters, all of the Civilian Board of Contract Appeals; Jonathan L. Kang, Government Accountability Office; Jerry Alfonso Miles, Kellogg, Brown and Root Inc.; and William Zeird, ITT Industries.

Indian Law Section: At the 11th Annual Washington, D.C., Indian Law Conference—(middle photo, l to r) Brian Sawers, Arizona State University College of Law; Stacy Leeds, University of Kansas School of Law; Richard Monette, University of Wisconsin School of Law; and Robert Odawi Porter, Syracuse University College of Law; (right photo, l to r) conference co-chairs, Katie Morgan of Akin, Gump, Strauss, Hauer & Feld LLP and Heather Dawn Thompson of Sonnenschein, Nath & Rosenthal.

court and whether it conflicts with Rule 23 of the Federal Rules of Civil Procedure. Full text is available at topics.law.cornell.edu/supct/cert/08-1008. **TFL**

Prepared by Jessica Lynn and Chris Maier. Edited by Joe Rancour.

Wood v. Allen (08-9156)

Appealed from the U.S. Court of Appeals for the Eleventh Circuit (Sept. 16, 2008)

Oral argument: Nov. 4, 2009

In 1994, Holly Wood was convicted of murder for shooting his ex-girlfriend

in the head. The judge imposed the death penalty, as recommended by the jury. Wood claims that, during sentencing, he did not receive effective assistance of counsel as guaranteed by the Sixth Amendment, because defense counsel had failed to investigate his mental disabilities fully and to present evidence of these disabilities at trial. According to Wood, the state court's rejection of this argument was an unreasonable application of federal law. He also argues that the Eleventh Circuit's standard of review in habeas corpus proceedings abdicates the court's judicial review function under the Antiterrorism and Effective Death Penalty Act

of 1996. The state of Alabama counters that the Eleventh Circuit properly deferred to the reasonable determinations of the state courts as required by the 1996 act. This decision will examine the appropriate level of deference due to state court factual determinations during federal habeas proceedings. Full text is available at topics.law.cornell.edu/supct/cert/08-9156. **TFL**

Prepared by Rob Trichinelli and Kevin Sholette. Edited by James McConnell.

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Winmill of Idaho, Tena Campbell of Utah, and William F. Downes of Wyoming—allowed an unfettered hour-long session of “ask the judges,” which resulted in developing or refining a process to review just how much discovery a particular case really mandates.

An interesting aspect of all of the presentations during the conference was the contrast in the differing impressions and solutions different judges and lawyers had on similar issues. It was apparent that different judges approach and solve these problems in different ways. All attendees went away with a slightly different view on various solutions to the problems that had been discussed. The conference made

it very clear that practitioners would be well-advised to consult the local rules frequently.

The multidistrict composition of the Annual Idaho, Utah, and Wyoming Tri-State FBA Conference is made up of the jurists and lawyers who work in the forefront of today's federal litigation, the result of which provides an unbeatable gathering for federal lawyers.

ELEVENTH CIRCUIT

Tampa Bay

The Tampa Bay Chapter recently hosted a reception honoring the judiciary of the Middle District of Florida. The event was held at the Renaissance Vi-

noy in St. Petersburg and was attended by more than 115 attorneys and judges. The judges attending the event were from all five divisions within the Middle District of Florida, which stretches across 350 miles from the Georgia border on the northeast to south of Naples on Florida's southwest coast. **TFL**

Chapter Exchange is compiled by Melissa Stevenson, FBA manager of chapters and circuits. Send your chapter information and photos to mstevenson@fedbar.org or Chapter Exchange, Federal Bar Association, 1220 North Fillmore Street, Suite 444, Arlington, VA 22201.

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of agency internal guidance and standards regarding whether the information a program is seeking for a grant program application requires a Paperwork Reduction Act review, followed by agency review of socioeconomic policies. For more information on the Federal Grants Committee, please contact Jana Gagner at jana.gagner@nist.gov.

Indian Law Section

On Nov. 13, 2009, the Indian Law Section, in conjunction with the National Native American Bar Association and the Native American Bar Association of

Washington, D.C., sponsored the 11th Annual Washington, D.C., Indian Law Conference. It was a great honor to have the meeting held at the National Museum of the American Indian—a site of tremendous significance to the issues covered during the conference. The day-long conference included the following panels: “Federal Court Update”; “Ethics: Inter-Tribal Investment and Co-Ownership: Who Is Your Client”; “Beyond Land-into-Trust: Creative Land Ownership Options for Tribes”; “Civil and Regulatory Jurisdiction Fix”; and “Tribal Bankruptcy? Options During Difficult Economic Times.” The

luncheon keynote speaker was Hilary Tompkins, solicitor at the U.S. Department of the Interior. **TFL**

Sections and Divisions is compiled by Adrienne Woolley, FBA manager of sections and divisions. Send your section or division information and photos to awoolley@fedbar.org or Sections and Divisions, Federal Bar Association, 1220 North Fillmore Street, Suite 444, Arlington, VA 22201.