3Q2008

Inside

ACC AMERICA
Association of Corporate Counsel
Arizona Chapter

FOCUS

President's Message

Mark Rogers

As I write this President's Message, (1) the daily temperatures in Arizona are consistently above 100 degrees, and (2) I am looking forward to the Annual Meeting in Seattle in October.

There is some causal relationship between the two, but I've other reasons for mentioning both.

First, despite the high heat, in July we had a huge turnout for a program on record retention sponsored by Jordan Lawrence Group, an ACC Alliance Partner. I was happy to see so many members in Phoenix's historically slow season, and the program was a great success.

Second, I do want to encourage members of the Arizona Chapter to take full advantage of ACC membership, and attending the Annual Meeting is a great step in that direction. Don't forget about the Virtual Library or the committees either.

Next, I'd like to share a few thoughts on the size of the Arizona Chapter. When I first joined ACC (then, ACCA), the Arizona Chapter had approximately 100 members, and the turnover was approximately 20 percent per year. I am pleased to report that there are now approximately 225 members, and we experience less attrition than in the past. While this represents a big increase, I'm not satisfied yet with the size of the chapter because I know that there are eligible in-house attorneys in our area that are not members. So, we'll keep marketing, but I'm also asking for your help bringing them into ACC. If there are colleagues who are not aware of ACC, please tell them. The chapter would also be happy to send information about membership, and even send potential members a password to use the website for a month. More members means more program choices and more opportunities for networking, sharing knowledge, and exchanging ideas with colleagues. As partial proof, I'll pass along that the chapter now routinely receives proposals from national program providers and local firms continue to express interest in sponsoring chapter activities.

One of our most consistent sponsors has been Snell & Wilmer, and the firm has provided the articles for this quarter's newsletter. I am also pleased to report that Snell & Wilmer has agreed to sponsor another series of programs in March, April, and May of 2009—and as in the past two years—these will all be programs that will provide ethics hours for your CLE requirements. Mark your calendar now for March 17, April 21, and May 19, because these will sell out!

Thanks for your participation in chapter programs, and I hope to see you at an upcoming meeting soon.

Summer Fun, The Reading Undone, and Everything You Need to Go Back to School This Fall

Susan Hackett
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Those of you with kids in your life know that this time of year is when kids who've been enjoying a lazier pace and unlimited play time look around and realize that there is still much to do before they're sentenced to another year in the classroom. And they haven't even started plowing through their summer reading list.

I hope that summer has brought many of you some needed playtime and relaxation. Since we sometimes let the reading pile slide a little in summertime, I thought I'd help you catch up since Fall will bring challenges to you, too, that require you to be on top of your game.

SCARIEST HORROR: STORY BEACH READING

FASB and their proposed new loss contingency reporting rules

Summer started with an unwelcome announcement from the Financial Accounting Standards Board, or FASB (pronounced FAZ-BEE), that they were going ahead with a proposal they'd been urged to discard: a revision of Financial Accounting Standard (FAS) number 5, which regulates public company reporting of disclosures regarding potential losses or liabilities of the company. This proposed rule was issued in June with a comment deadline of August 8. ACC filed comments, co-signed by more than 100 companies and many other organizations. At last count, FASB had received over 225 comment letters protesting the rule, which is a firestorm of activity in terms of these kinds of comment requests, especially considering they snuck it in while everyone was on vacation!

ACC's comments, the FAS 5 revision proposal, and a number of our co-commenter's letters are online for your perusal at *www.acc.com/php/cms/index.php?id=84*. When you get to this page, you'll notice that this information is housed on the privilege protection page. Why is this story on the privilege page? That's why you need to catch up on your summer reading.

ACC's letter details our concerns over several facets of the proposal, but focuses most on the following three points:

1. These proposals are a solution in pursuit of a problem. The current standards aren't broken: there is no evidence that current disclosure requirements are insufficient or harming market transparency. Adopting significant new and ill-advised proposals without evidence that changes are necessary, without a focus on how the rules will improve reporting (rather than just suggesting we need "more"), or without assurance that the new rules will improve (rather than frustrate) meaningful disclosure is folly.
2. Heightened disclosure requirements will create unprecedented waivers of the company's attorney/client privilege and work product rights. Because the proposed amendments will require clients to produce more sensitive and speculative information about possible losses related to litigation, and require earlier production of loss analyses than currently required (namely, before an exposure is well documented or quantified by "facts" as opposed to by an attorney's initial evaluation of possible liability or harm), reporting will likely increase the risk of waiver of privilege and have related punitive effects. These required "qualitative" disclosures will broadly communicate the company's litigation assessments that previously were carefully guarded in adversarial proceedings. Additionally, independent auditors may seek more detail from counsel to test the estimates and disclosures reported, adding to the risk of privilege waiver to auditors.
3. Deeper disclosures of attorney-client privileged assessments will coerce undesirable outcomes in matters on which companies are only asked to report. The proposed amendments' requirements to provide qualitative assessments of likely outcomes, timing of resolution, and the company's assumptions on loss amounts "give away the store" to any interested adversaries, providing invaluable detail about the company's litigation strategies and settlement coercion-points. The result would be a perverse twist on the FASB's stated desire to disclose more accurate and timely information about loss contingencies: companies' litigation counsel would likely become more circumspect about providing their clients with legal assessments and detailed contingency analyses to assist in their decision-making in order to avoid unnecessary disclosure or liability. Further, since contingency reporting under the rules must be made earlier and include disclosures on cases that are not well quantified or even likely, there's a concern that setting and publishing such numbers will become self-fulfilling prophesies—the settlement floor, even in cases that otherwise have little merit.

ACC has requested an opportunity to testify before the FASB when they meet to discuss these rules further. We'll keep you posted.

HEARTWARMING "WILL IT ALL TURN OUT ALRIGHT?" NOVELETTE

The saga continues: Can the DOJ overcome tremendous odds to save itself and untold numbers of innocent ACC members's clients from perilous privilege erosion?

In July, U.S. Attorney General Michael Mukasey announced to the Senate Judiciary Committee that new Deputy Attorney General Mark Filip was crafting another U.S. Department of Justice (DOJ) guideline that would replace the McNulty Memo and offer "real, significant proposed changes." The DOJ's McNulty Memo, like its predecessors, the Holder and Thompson Memos, have been criticized by ACC and its coalition partners for including privilege waiver, amongst other inappropriate terms, in the DOJ's list of criteria for cooperation in corporate failure investigations. Deputy Attorney General Filip issued a letter to the Senate Judiciary Com-

mittee leadership that offered an executive summary of the memo he said was still in draft, angering Senator Specter, who called for the DOJ to stop stalling and for the mark-up and passage of *The Attorney Client Privilege Protection Act of 2008.* And yet, the outlined terms of the proposed memo in this executive summary, if realized, are significant steps in the right direction. As always, the proof will be in the pudding, so watch the ACC site for info on the publication of the new DOJ Memo to be issued by the end of August. To read the Deputy Attorney General's executive summary of the memo he's promising and Senator Specter's response, visit the ACC Privilege Protection page at *www.acc.com/php/cms/index.php?id=84.*

TIMELESS TEAR-JERKER

You done me wrong, but our relationship—while often dysfunctional—is everything to me, so I'm taking you back. But under new terms.

More than 120 top CLOs and law firm managing partners have been in therapy with ACC this summer, and talking about how to get their relationships back in order. This sizzling summer best-seller is about to expose their clandestine meetings in top hotels around the country as they attended focus-group sessions for ACC's new initiative: the ACC Value Challenge. So tune in for this summer's hottest reality show, and see many of them caught on tape, telling everyone who will listen about the errant ways of their inside/outside counsel relationships, and how they plan to make it up to each other (and their clients).

Seriously though, we all recognize that there have been decades of conversations about the problems in-house counsel have with rising costs, a lack of focus on value (rather than profit per partner), the perverse disincentives to efficient service inherent in the billable hour system, and much more. And law firms are tired of arguing over bills, constant RFPs that have replaced the longer-term relationships that made practice satisfying for them, clients' willingness to trade in meaningful project management for a 10 percent discount, and a tendency to suggest they want innovation and a revised relationship, but at the end of the day, a decision that it's easier to chuck all that and continue to purchase over-priced billable hours from legacy firms. What can be done that will actually move the needle? That's what these focus groups were meeting to discuss this summer. ACC hosted off-the-record discussions to explore how we can change the focus from griping to acting on what is necessary to move us out of these unproductive cycles and help in-house and outside counsel rediscover the value of their relationships.

You can read ACC's magnus opus on how we're planning to help in-house counsel begin a (r)evolution in their outside firm relationships online at *www.acc.com/public/accvaluechallenge-overview.pdf.* And if you're bored with all the reading and just want to veg in front of the big screen, you can tune into the launch of ACC's Value Challenge by tuning in on your computer or getting your colleagues together in the conference room over lunch to pick up the live, free video feed of the Town Hall Meeting at which we'll "reveal all!" Contact *ACCValueChallengeEvents@acc.com* for information on how to tune in September 26 (or download the archived version from the website).

Get past "you done me wrong": it's best left in dimestore novels. ACC's Value Challenge is committed to working with you over the course of the coming months and years to help you take control of your outside spend and "(r)evolutinize" your outside counsel relationships and in-house budget and matter management.

THE TRAVEL JOURNAL THAT TAKES YOU PLACES YOU WERE NEVER LICENSED TO GO

ABA House passes model in-house counsel registration guidance for states that are seeking to accommodate in-house lawyers who've moved to a new job, but lack a local license where they're now employed.

Two-thirds of US states have now passed a version of the rule that ACC worked so hard to "encourage" the ABA to adopt: namely, Model Rule of Professional Conduct 5.5, which authorizes lawyers who are licensed and in good standing in their "home" jurisdictions to practice on a temporary basis (when taking a deposition, or negotiating a matter, etc.) in another jurisdiction in which they are not licensed. In-house counsel got further relief under the rule; under the provisions of section 5.5(d), in-house counsel who are licensed and in good standing in one jurisdiction are authorized to engage in "permanent" practice for their employer-clients when they move to a new job in another jurisdiction in which they are not licensed. While 5.5(d) is a complete authorization in and of itself, quite a number of states adopting the rule have coupled it with a registration system that allows the state to keep track of these in-house lawyers and usually collect payment from them comparable to local members' bar dues. Unfortunately, in their zeal to regulate, many state bar licensing authorities lost sight of the purpose of the rule, and the registration systems they adopted became more like mini-Spanish Inquisitions than simple registrations.

Not liking to see great disparity amongst the state rules regulating any aspect of lawyer practice, the ABA formed a group that proposed a model in-house registration system to provide some level of consistency and to suggest best practices. The first versions were overly complex. The new and improved model was adopted by the ABA House at the ABA Annual Meeting, and could be reading that saves you from much more reading studying for the bar exam next time you move to a job in another jurisdiction!

ACC's comment letters, our concerns that the ABA not adopt a model that pre-empts the underlying logic of 5.5(d) (namely, that no registration is needed at all in states that adopt the rule—the authorization is complete and the burdens of administering a rule may not be justified by any quantifiable threat the rules seem to suggest exist), and the new rule all appear online at:

ACC's Fall 2007 comment letter to ABA *(www.acc.com/php/chapters/filespace/All (admin)/accabainhousecomment.pdf)*
ACC's Summer 2008 comment letter to ABA *(www.acc.com/public/acc-comment-aba.pdf)*
ABA Model In-House Counsel Registration Rules *(www.acc.com/public/aba-sect-lega-educ-admi.pdf)*

Alright, now that you're caught up on the essentials and can approach fall equipped with the knowledge you need to move to the next grade, enjoy these last few days of warm weather and summer fun!

The Pre-Suit Demand Requirement In Shareholder Derivative Suits

By Jennifer Hadley Dioguardi

What Law Applies

The law of the state of incorporation determines the substantive requirements of the derivative suit, regardless of where the action is venued. *Kamen v. Kemper Fin. Svcs.,* 500 U.S. 90 (1991). In a derivative suit commenced against a Delaware corporation in an Arizona court, the Arizona court would look to Delaware law for the procedural requirements of a shareholder derivative action. Similarly, if a derivative action is commenced against an Arizona corporation in a Nevada court, the Nevada court looks to the Arizona corporate code for the applicable derivative procedural framework.

General Purpose of the Demand Requirement

The demand requirement is intended to balance the right of the board of directors to govern the affairs of the corporation with the right of the shareholder to monitor and redress harm to the corporation caused by the directors or management. As discussed more fully below, Delaware and Arizona law diverge with respect to the pre-suit demand requirement.

The "Futility" Exception to the Demand Requirement

Delaware recognizes the "futility" exception to the requirement that a written demand be made on the board of directors to take action prior to the shareholder commencing a derivative suit. The futility exception contemplates that it is unnecessary for the shareholder to make a demand upon the corporation, when the request would be a useless act due to the lack of director impartiality. Demand futility hinges upon whether or not the board can be considered neutral enough to evaluate and fairly act on the demand.

The practical result of the futility exception is that the shareholder commences litigation prior to giving the corporation or its board notice of the shareholder's concerns. The corporation, or any officers or directors who are also named as defendants, may move to dismiss the complaint for failure to satisfy the demand requirement. This motion to dismiss focuses on whether the complaint alleges sufficient facts from which the court could conclude that the futility exception should apply, excusing the shareholder from making the demand as a prerequisite to bringing suit.

The derivative shareholder plaintiff must plead particularized facts in the complaint sufficient to create a reasonable doubt that, as of the time the complaint was filed, the board of directors could have exercised its independent and disinterested business judgment in responding to the demand. *Rales v. Blasband,* 634 A.2d 927, 933-44 (Del. 1993). The plaintiff must allege facts showing a majority of the corporation's directors "face a sufficiently substantial threat of personal liability to compromise their ability to act impartially on demand." *Guttman v. Huang,* 823 A.2d 492, 501-03 (Del. Ch. 2003). These facts must be pled on a "transaction-by-transaction" and "director-by-director" basis and allege, with particularity, each defendant's role in the illegal acts. *Beam v. Stewart,* 845 A.2d 1040, 1051 (Del. 2004); *Fink v. Komansky,* No. 03CV-388, 2004 WL 2813166, at *4 (S.D.N.Y. Dec. 8, 2004).

If the plaintiff alleges a benefit received by a director disqualifies that director from acting in a disinterested way, the plaintiff must plead facts showing the alleged benefit was "material, which means that it must be 'significant enough in the context of the director's economic circumstances, as to have made it improbable that the director could perform her fiduciary duties . . .'" *Roselink Investors, L.L.C. v. Shenkman,* 386 F. Supp. 2d 209, 217 (S.D.N.Y. 2004). Where a corporation's charter "insulates the directors from liability for breaches of the duty of care, then a serious threat of liability may only be found to exist if the plaintiff pleads a non-exculpated claim against the directors." [1] *Guttman,* 823 A.2d at 501-03.

1. 8 Del. Code § 102(b)(7) provides that corporations may limit the personal liability of directors by charter with certain exceptions for intentional or bad faith conduct or where the director personally benefited.

Courts routinely refuse to disqualify a director simply due to "general oversight responsibility" for the activities underlying the derivative complaint. *In re Cray, Inc.,* 431 F. Supp. 2d 1114, 1124 (W.D. Wash. 2006). Only circumstances where there is a "sustained or systematic failure of the board to exercise oversight" – such as an utter failure to assure a reasonable information and reporting system exists – will establish the necessary lack of good faith. *In re Caremark Int'l Derivative Litig.,* 698 A.2d 959, 971 (Del. Ch. 1996).

There is no set checklist of circumstances that will establish the futility exception in every instance. A case-by-case analysis is required that, in the end, rests in the trial court's understanding of the totality of the circumstances. Regardless, certain recurrent fact patterns are routinely relied upon by plaintiffs in asserting the futility exception to the pre-suit demand requirement.

- **Naming Directors as Defendants**

Courts generally reject the argument that a demand is necessarily futile just because the plaintiff elected to name all of the directors as defendants. This strategy has been criticized as a transparent litigation tactic. On the other hand, the futility exception may apply where potential director liability rises above a mere threat and, instead, rises to the level of substantial likelihood.

- **Allegations of Director Financial Interest**

The futility exception will not apply if the plaintiff alleges nothing more than the director's general financial interest in the corporation's affairs. The futility exception may apply if the plaintiff makes particularized allegations that a director received a personal financial benefit from the challenged transaction, or appropriated or usurped a corporate opportunity.

- **Approval of or Acquiescence in the Challenged Transaction**

The mere fact that a director who had no personal interest in the challenged transaction was a member of the board at the time the transaction occurred, or that the board

as a whole approved of or acquiesced in the transaction, does not make that director interested or dependent such that the futility exception would apply.

- **Entrenchment**

Courts will find that a board is not disinterested in the underlying transaction if the plaintiff alleges the board of directors approved of the challenged transaction to entrench itself in control of the corporation. This requires allegations of an actual threat to the directors' positions. The test will be met where the complaint details manipulations of the corporate machinery by directors for the sole or primary purpose of perpetuating themselves in office.

- **Domination and Control**

The futility exception involves a showing that the directors are both disinterested AND sufficiently independent. Domination and control involves a director's independence which refers to whether the director makes their own decisions as opposed to being controlled by someone else with a personal stake in the transaction. Conclusory allegations are insufficient. Allegations that a director exercises control over the employment or compensation of other directors, particularly those who are officers of the corporation, may sustain claims of futility based on a lack of independence. *In re Trump Hotels S'Holder Deriv. Litig.,* 2000 WL 1371317 (S.D.N.Y. Sept. 21, 2000). Allegations that a director has a professional or personal friendship that borders on familial loyalty may suffice, especially if they are to consider the liability of an extremely close friend. However, only in very rare cases have courts found that a friendship rises to this level.

The applicability of the futility exception has generated extensive collateral litigation at the outset of the derivative proceeding. As a result, there is a trend away from the futility exception. Arizona is a part of that trend.

The Universal Demand Requirement

Arizona is a "universal demand" state. In 1994, A.R.S. § 10-742 was added to the Arizona Corporate Code (effective January 1, 1996), abolishing the common law futility exception to the demand requirement. Pursuant to A.R.S. § 10-742, no shareholder may commence a derivative action until: (1) a written demand has been made on the corporation to take suitable action; and (2) ninety days have expired from the date the demand was made. The universal demand requirement obligates a shareholder, without exception, to make a demand on the board before commencing a derivative action. *Marx v. Akers,* 666 N.E.2d 1034, 1038 (N.Y. 1996). The demand must identify the alleged wrongdoers, describe the factual basis of the wrongful acts and the harm caused to the corporation, and request remedial relief. *Carolina First Corp. v. Whittle,* 539 S.E.2d 402, 409 (S.C. App. 2000) [quoting *Allison ex rel. General Motors Corp. v. General Motors Corp.,* 604 F. Supp. 1106, 1117 (D. Del. 1985)].

The shareholder also must wait 90 days before commencing the suit unless one of the following three exceptions to the 90-day waiting period apply:

1) the shareholder has received notice from the corporation within the 90-day waiting period that the demand has been rejected;
2) a claim may be brought immediately if the applicable statute of limitations will expire before the 90 days is out;
3) where irreparable injury to the corporation may result in the 90-day period.

Comment 3 to Section 7.42 of the Model Business Corporation Act (MBCA) promulgated by the ABA provides guidance as to the scope of the "irreparable injury" exception to the 90-day waiting period. This Comment provides: "The standard to be applied is intended to be the same as that governing the entry of a preliminary injunction." See ABA's MBCA, § 7.42, Comment g.

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Genetics: The Newest Protected Class

By Josh Woodard, Kim Magyar and Kate Hackett

Introduction

In today's business environment, most employers understand that federal and many state laws prohibit employers from discriminating against their employees on the basis of certain attributes, including race, color, religion, sex, national origin, age and disability. But what about genetic discrimination? What is it, and is it also prohibited?

The Genetic Information Nondiscrimination Act of 2008

Advances in genetics, including the deciphering of the sequence of the human genome, have opened up major new opportunities for medical progress in areas such as earlier disease detection, the development of more successful and effective therapies to treat disease, and the reduction in the likelihood of disease contraction. These advances, however, also give rise to the potential misuse of genetic information, as well as the potential for discrimination against individuals with certain genetics. Unwarranted use of genetic information may threaten the utilization of existing genetic tests and the ability to conduct further scientific research.

As a result, on May 21, 2008, the President of the United States signed into law the Genetic Information Nondiscrimination Act (GINA), to prohibit discrimination on the basis of genetic information with respect to health insurance and employment. Senator Ted Kennedy called it the "first major new civil rights bill of the new century." The long awaited measure had been debated in Congress for thirteen years, with heated argument over the need for federal legislation.

What does GINA require of employers?

GINA expands Title VII of the Civil Rights Act of 1964 by imposing broad restrictions

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on the collection, use, and disclosure of genetic information in the employment context. GINA applies to those employers who are subject to Title VII – generally, employers with fifteen or more employees.

GINA defines "genetic information" as "information about (1) an individual's genetic tests; (2) the genetic tests of family members of the individual; and (3) the manifestation of a disease or disorder in family members of the individual." "Genetic information," however, does not include information about the sex or age of an individual. The term "family members" is defined expansively to include an employee's dependents as well as the employee's and employee's dependents' other relatives, to the fourth degree.

GINA makes it an unlawful employment practice for an employer to: (1) fail or refuse to hire or discharge any employee, or otherwise discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment, because of genetic information with respect to the employee; or (2) to limit, segregate, or classify employees in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect the status of the employee, because of the employee's genetic information. In other words, GINA makes it unlawful for an employer to discriminate against any employees on the basis of that employee's genetic information, in hiring, termination, compensation, and other personnel actions such as promotions, classifications, and assignments. GINA also prohibits employers from retaliating against an employee who opposes genetic discrimination.

GINA also makes it an unlawful employment practice for an employer to request, require, or purchase genetic information with respect to an employee or a family member of the employee. The bill provides exceptions to this policy where: (1) an employer inadvertently requests or requires family medical history of the employee or a family member of the employee; (2) an employer offers health or genetic services as part of a bona fide wellness program and the employee provides prior, knowing, voluntary, and written authorization for the disclosure of genetic information in aggregate terms that do not disclose the identity of the specific employee; (3) an employer requests or requires family medical history from the employee to comply with the certification provisions of the Family and Medical Leave Act of 1993 or similar requirements under State family and medical leave laws; (4) an employer purchases documents that are commercially and publicly available that include family medical history; or (5) the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace. Despite these exceptions, however, information inadvertently or permissibly received may still not be used for purposes of employment actions based on genetic information.

Although no genetic discrimination case has been brought before a federal or state court, in 2001 the Equal Employment Opportunity Commission (EEOC) settled the first lawsuit alleging this type of discrimination. The EEOC filed suit against Burlington Northern Santa Fe (BNSF) Railroad for secretly testing its employees for a rare genetic condition that causes carpal tunnel syndrome. The EEOC utilized the Americans with Disabilities Act (ADA) to argue that the genetic testing was unlawful because it was not job-related, and that any condition of employment based on such test would be cause for illegal discrimination based on disability. The EEOC obtained an injunction against BNSF to end the genetic testing of employees. The EEOC was also permitted to seek compensatory and punitive damages up to $300,000 per individual for its 20-30 class of claimants.

The ADA protects individuals with disabilities, and defines a disability as: (1) a physical or mental impairment that substantially limits one or more of the major life activities of an individual; (2) a record of such an impairment; or (3) being regarded as having such an impairment. While the ADA does not explicitly address genetic information, it does protect persons who are regarded as having a disability and individuals with symptomatic genetic disabilities. As such, not all genetic discrimination cases overlap with ADA cases. For example, an individual with a genetic predisposition to a disease may not find protection under the ADA if he or she is not presently disabled, does not have a record of being disabled, and is not regarded as being disabled. This loophole in the ADA is exactly why advocates pushed for the passage of GINA.

Conclusion

Like traditional Title VII claims, employees must exhaust administrative remedies before initiating a lawsuit under GINA, and damage awards are subject to the same restrictions as those applicable to Title VII. Although GINA does not become effective until November 21, 2009, employers should begin taking action now to adopt policies to ensure compliance with, and prevent liability under, the law. GINA should not result in a flood of litigation if employers promptly address their obligations under the law.

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Welcome New Members

We wish to welcome the following new members who have joined our chapter recently:

Jeremiah Beitzel, PetSmart, Inc.

Brooke Budoff, Emerson Network Power

Alan Lundgren, Fender Musical Instruments Corporation

Natasha Price, Avnet, Inc.

Michael Rafford, Cheyenne Mountain Entertainment, Inc.

Robbyn Salganick, Apollo Group, Inc

ACC News

Recruit a Member and Win a Prize—Guaranteed!

Each time you use the ACC network, you get access to valuable skills and experience only available through ACC. More members provide improved educational opportunities, enhanced networking, increased online resources, and advancement of the profession worldwide. You can expand your network by taking part in ACC's "Everybody Wins" membership drive. Recruit a member and you will win prizes ranging from Starbucks' Cards loaded with $5 and cutting edge electronics including portable DVD players, digital cameras, and new computers, to free ACC Annual Meeting registrations and a $750 travel stipend. ACC's "Everybody Wins" membership drive ends on September 30—so don't delay, recruit today! See the attached brochure for more information. Also, for tips on recruiting members, including a sample email to send to your colleagues, go to *www.acc.com/everybodywins.*

2008 Annual Meeting: Become Indispensable to Your Company's In-house Legal Team

Don't miss the educational and networking event of the year for corporate practitioners. With over 100 programs with special sessions for new in-house counsel, new legal managers, chief legal officers, small law department practitioners and much more, the 2008 Annual Meeting, October 19–22 in Seattle, WA, has something for every in-house practitioner. To help you become the most informed and indispensable member of your company's legal team, ACC's Annual Meeting offers a variety of opportunities to meet, interact with, and learn from fellow in-house counsel with a wide variety of experience. Check out *am.acc.com* to register, select your sessions, and book your hotel! Don't delay. Register today for only $1400. This early rate expires on September 5. Questions? Contact *education@acc.com* or 202.293.4103, x.451.

ACC Top Ten: Key Questions (and Answers) for Complying with US Export and Embargo/Sanctions Law and Regulations

As markets, supply chains, and workforces become increasingly global, more and more businesses are confronted with the need to comply with US export laws. But, the diversity and complexity of these laws and the implementation of regulations make benchmarking obligations and adopting sensible internal compliance mechanisms a difficult challenge. Read ACC Top Ten at *www.acc.com/resource/v9984* to gain a better understanding of US export control laws and learn how to manage the compliance risks inherent to global business.

ACC Blog—Are You Connected?

ACC recently launched the first blog by in-house counsel, for in-house counsel. Help us make the blog a success by expressing your own opinions, or by simply perusing the dialogue. Recent blog discussions include "Why Does Historical Perspective Appear to Minimize the Impact of Change," "Why Federal Courts Do Not Apply the Rule of Law Part 2," "Federal Erosion of Business Civil Liberties: Part 5." Check them out at *www.acc.com/blog*