

Legal Times

LAW AND LOBBYING IN THE NATION'S CAPITAL

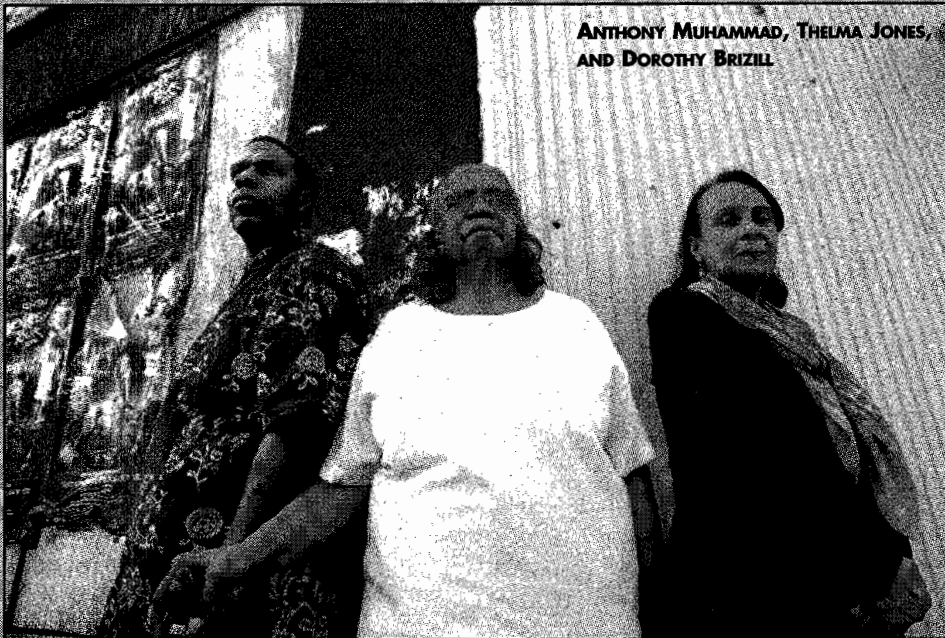
SEPTEMBER 4, 2006

The Day After: What if the Democrats' best strategy in the judicial wars, asks Evan Schultz, is to hand the Republicans a victory? Points of View, **Page 60**

ALM

One More Pull of the Lever

Three D.C. residents ask court to block initiative to bring slots to Anacostia.



ANTHONY MUHAMMAD, THELMA JONES, AND DOROTHY BRIZILL

BY BRENDAN SMITH

In a small storefront office tucked between a beauty salon and a plumbing-fixtures store in Southeast Washington, three community activists huddle around a table to discuss legal strategy for their fast-approaching oral argument before the D.C. Court of Appeals.

Despite the looming deadline, there isn't a lawyer in the room.

On Sept. 21 a three-judge panel is scheduled to hear the plaintiffs' expedited appeal, which challenges the legality of the latest casino ballot initiative funded by gambling financier Shawn Scott of the U.S. Virgin Islands. Under a proposed initiative very similar to a failed 2004 effort, Scott wants to build a casino filled with thousands of slot

SEE **Slots**, PAGE 8

DOJ Losing Ground In Wiretap Fight

Four Federal Cases Challenge Warrantless Surveillance Program

BY JASON MCLURE

Federal Judge Anna Diggs Taylor came under attack from conservatives last month after ruling the National Security Agency's warrantless surveillance program is both illegal and unconstitutional. Christian Coalition Chairwoman Roberta Combs derided the decision as "radical judicial activism" by a "Jimmy Carter-appointed judge." Combs' criticisms were echoed by Republicans in Congress and other groups supportive of the Bush administration.

But President George W. Bush's allies have more to be worried about in the federal courts than just Taylor's decision. Indeed, if the legality of the NSA's surveillance program ends up before the U.S. Supreme Court—where many observers think it's headed unless Congress manages to intervene—it's unclear whether Taylor's ruling in Detroit will be the case that got it there. That's because Justice Department lawyers are currently engaged in tough battles related to the surveillance program in three other federal courts.

The DOJ's efforts to keep a lid on the program have been made more difficult by several factors. Among them: a whistle-blower in California, the accidental disclosure of a secret document by the Treasury Department, and a legal strategy by some opponents that has challenged the NSA program indirectly by targeting the telecom companies accused of illegally providing the government with customer data.

Last winter, when the warrantless surveillance program was disclosed in *The New York Times*, it seemed unlikely that legal

SEE **NSA**, PAGE 13

Coming Home

Programs work to bring lawyers back into the fold.

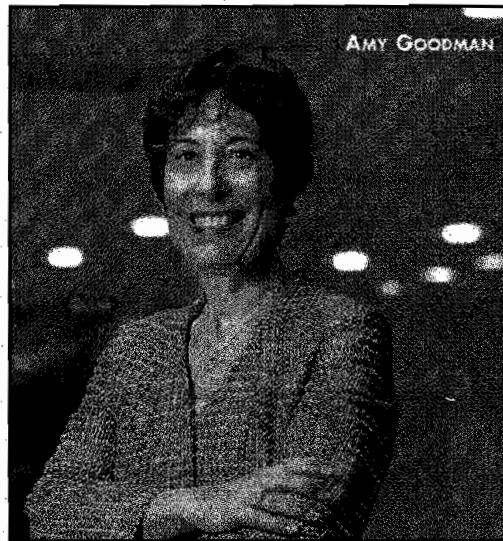
BY ALEXIA GARAMFALVI

Law firms are not known for innovative thinking when it comes to their hiring practices. Top firms typically focus on recruiting graduates from prestigious law schools and wooing laterals from competitors.

So what happens to attorneys who step off the 70-hour-per-week fast track, as many professional women (and a few men) do at some point in their careers, to spend more time with their children or to tend to other family responsibilities? Many lawyers who have opted out may want to get back in as their children grow older or may need to return to work due to a divorce or change in their family's finances.

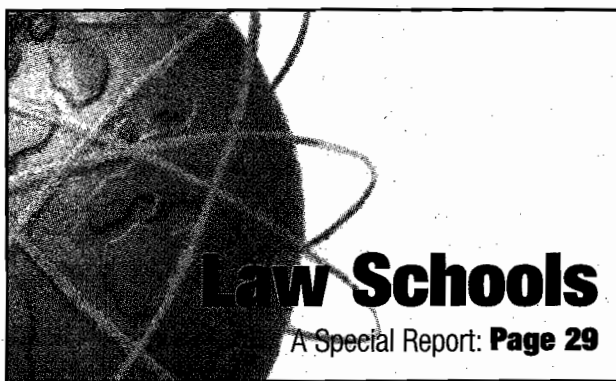
Traditionally, it's been an arduous journey for attorneys who have stepped off the

SEE **COMEBACK**, PAGE 24



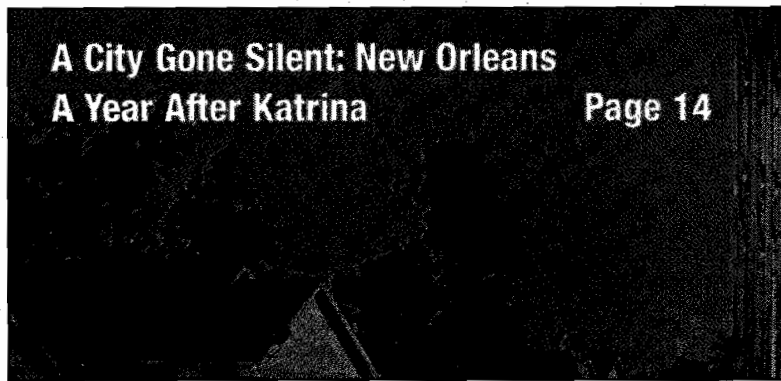
AMY GOODMAN

DIEGO M. RADZINSCHI



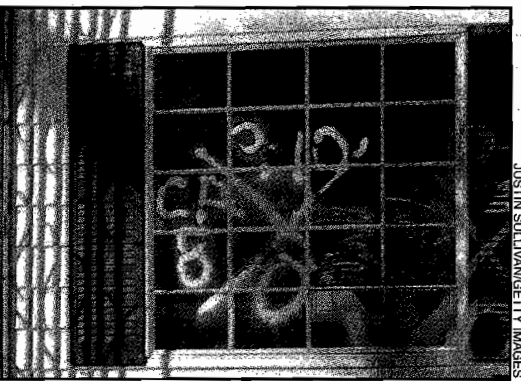
Law Schools

A Special Report: **Page 29**



A City Gone Silent: New Orleans A Year After Katrina

Page 14



JUSTIN SULLIVAN/GETTY IMAGES



1996 - 2006

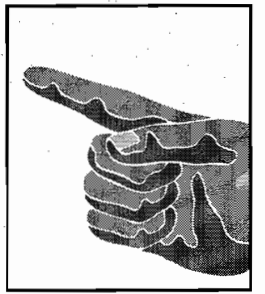
TEN YEARS, THREE DIVISIONS ... THOUSANDS OF PLACEMENTS.

Since 1996, LPI has provided firms with qualified temporary and permanent staff to meet their changing needs. From legal secretaries and paralegals to contract attorneys. Plus, our ITP division can deliver virtually any type of IT pro that you might need, our PTP division fills temporary and permanent positions where legal experience is not a requirement and our FAR division provides top-notch financial and accounting personnel. We have the people you need ... when you need them. So, call us or visit www.legalplacements.com today!

ESM
Skadden Arps
Library
1st Floor 1440 New York Ave NW
Washington DC 20005-2111
11010 06/11/2007



59250 973405



Legal Times LEGAL BUSINESS

PAGE 24

SEPTEMBER 4, 2006

Lawyers Who Take Time Off Face Tough Return

COMEBACK, FROM PAGE 1

treadmill to get back on. "It's not impossible, but it can be very difficult for people who haven't kept their hand in, in some way," says Marcia Shannon, a career-transition counselor with Shannon & Manch, a D.C.-based legal-outplacement and legal-management consulting firm.

But the market may be lending a hand. With attrition rates for associates as high as ever, some lawyers are looking for ways to reach out to non-traditional pools of talent.

Both the American Bar Association and the University of California's Hastings College of the Law in San Francisco are launching initiatives aimed at helping attorneys who have stopped practicing maintain their connections and ease their transition back into the profession. Two attorneys from Skadden, Arps, Slate, Meagher & Flom started the ABA project, Back to Business Law, in New York this past spring. The goal of the pilot project is to give nonpracticing attorneys a way to keep abreast of major legal developments and to give them opportunities for informal networking. The program will soon expand to Washington, D.C. Ann Ford, the managing partner of DLA Piper Rudnick Gray Cary's D.C. office, was so taken with the project when she read about it in May that she decided to organize a D.C. chapter.

GETTING BACK

Attorneys who take time off are often viewed as not being committed to their careers. "If you developed an identity as 'Mom' or anything else, if you have been willing to compromise your identity as a lawyer, then you are not [considered] serious. You are a dilettante," says Dr. Ellen Ostrow, a Silver Spring, Md.-based psychologist who has developed a nationwide career-coaching practice for female lawyers.

Even when firms are open to hiring returning lawyers in theory, it can be difficult to figure out where to place them within a firm's rigid hierarchy,



COMEBACK KID: Katherine Zeitlin, of counsel at the D.C. office of Morrison & Foerster, returned to the practice of law after spending seven years at home raising her children.

says a human resources director at a prominent D.C. firm. "There's still this lock-step mentality."

Whether many of these attorneys want to return to big law firms is an open question. "The practice of law has gotten tougher," Shannon says. With billable-hour targets moving upward of 2,200 hours a year, more lawyers, and not just those with children, are looking to get out of the exhausting grind.

Anecdotal evidence points to far more comeback lawyers going to small-firm, in-house, or government jobs. It is unclear whether that results from personal preference or from those career paths being more welcoming to such lawyers, D.C.-based recruiters and consultants say.

Women with sterling credentials, specialized expertise, and many years of

work experience have managed to get hired by law firms after even long gaps in their résumé. But they are few and far between. And even for these women, having good contacts seems to have been a key factor to getting a foot back in the door.

Amy Goodman, now a partner in Gibson, Dunn & Crutcher's D.C. office, was hired by the firm in 1998 after spending 11 years at home with her children. Goodman had worked as an attorney at the Securities and Exchange Commission for 11 years, and she stayed firmly ensconced in the securities world during her time at home by working as an author and editor of several books and newsletters on securities and corporate law.

"In the midst of raising kids, you think you are going to be a parent forever, but children's needs change over time," she says. "It would behoove attorneys who have taken some time off from practice to think about keeping in touch and not closing doors."

Katherine Zeitlin, of counsel with Morrison & Foerster's D.C. office, returned to practice in 2001. Prompted by a divorce, she started to look at resuming her career as a lawyer after seven years at home with her children. Zeitlin, a gradu-

ate of Harvard and the University of Chicago Law School, credits her school and social contacts for helping her "get in the door at firms" for interviews. She also attributes her successful re-entry to

the training she gained as an associate for seven years in Kirkland & Ellis' D.C. office.

But for those with fewer connections or a less illustrious pedigree, the road back can be much tougher.

"No one is willing to give me a chance," says a 45-year-old Rockville, Md.-based attorney who attended a lower-ranked law school and who asked not to be identified because she continues to look for a job. She began her search almost two years ago, also as a result of getting divorced, after 10 years at home taking care of her three children. With several years' experience working for Deloitte & Touche and seven years as a staff attorney at the Environmental Protection Agency, she never expected finding a job to be so hard.

Environmental law is not currently a hot practice area, she says, so she's tried to parlay her tax experience with Deloitte into an estate-planning job, approaching small and midsize firms. She's offered to work for a substantially reduced salary in order to get some experience on her résumé, but no one has taken her up on her offer. Firms reply that "they don't feel comfortable hiring someone that way," she says.

She has even applied for paralegal positions, but employers told her they wouldn't consider anyone with a J.D. for those jobs.

KEEPING CURRENT

The ABA's Back to Business Law program aims to help lawyers who have left the active practice of law but want to maintain a connection to the business. "We want to provide a lifeline to the women out there," says Linda Hayman, a corporate partner in Skadden's New York office. Hayman, who is also the chair of the ABA's Business Law Section, got the ABA to sponsor the program and asked lawyers from other New York law firms and

"If you developed an identity as 'Mom' or anything else, if you have been willing to compromise your identity as a lawyer, then you are not considered serious," says psychologist Ellen Ostrow.

companies to pitch in and sit on the project's advisory board. Firms turned out to be eager to participate. "Firms are concerned about the

SEE COMEBACK, PAGE 26

October 7, 2006
Freedom Plaza
202.332.WALK

AIDS WALK Washington

The HIV/AIDS epidemic continues to ravage Washington. The need for *pro bono* legal services for people living with the disease has never been greater. For more than 15 years, the *Legal Community AIDS Walk Task Force (LCAT)* has taken the lead in raising funds for Whitman-Walker Clinic Legal Services. Join the following law firms and legal industry vendors that have pledged their support for this important cause.

Lace up for the fight against AIDS

benefiting & produced by



WHITMAN-WALKER CLINIC



For more information contact the LCAT co-chairs:
COREY ROUSH 202.637.5731 cwroush@hhlaw.com
STEVE ARNER 703.918.2483 sarner@kelleydrye.com

www.aidswalkwashington.org

RED RIBBON SPONSORSHIP

HOGAN &
HARTSON

LegalTimes
ALM

PATTON BOGGS LLP
ATTORNEYS AT LAW



CONTRIBUTING SPONSORSHIP

Smart in your world®
Arent Fox

CLEARY
GOTTLIEB

HOWREY

Skadden
Skadden, Arps, Slate, Meagher & Flom LLP
& Affiliates

AKIN GUMP
STRAUSS HAUER & FELD LLP
ATTORNEYS AT LAW

Cooley Godward LLP

STEPTOE & JOHNSON LLP

Wiley Rein & Fielding LLP

WILLKIE FARR & GALLAGHER LLP



SUPPORTING SPONSORSHIP

BEVERIDGE
& DIAMOND

Lexolution

POWELL
GOLDSTEIN LLP

Spriggs & Hollingsworth
Litigation Matters.®

COMEBACK, FROM PAGE 24

number of people who have left and want to keep up their connections to them," says Hayman. And they realized they could accomplish more as a group by attempting to find a systemic way to address the issue.

Another Skadden partner, Kayalyn Marafioti, chairs the advisory board. "I think most firms are starting to realize that this is a tremendous opportunity for them," Marafioti notes. Hiring women who have taken time off is not something that occurs to firms "right off the bat," she says, but she hopes that firms will gradually get to the point where they can add such lawyers to the mix.

The group decided early on that it would be more useful to provide the attorneys with seminars to keep them abreast of important legal developments, rather than give them "pep talks," Hayman says.

"We heard over and over from women who are not practicing that they want to know what's going on, that they want to remain part of the legal community," she explains. The idea is that keeping current will help these attorneys "talk the talk" and be more confident during the interview process if they want to re-enter the field.

Although the project is currently focused on legal content, the group hopes it will evolve into something more, Marafioti says. They aren't quite sure what that next step will be, but they would like it to be something aimed at easing lawyers' re-entry into the work force.

Meanwhile, DLA Piper's Ford is busy contacting D.C. firms to organize an advisory board for the D.C. chapter of the initiative.

In D.C. the seminars will not be limited to corporate law issues. Rather, they will cover the range of practice areas most prevalent here. Like in New York, the project will be a collaborative effort, with different firms hosting the seminars and providing speakers. The board's membership should be firmed up in the next couple of months, and the group should be in a position to have its first event in December or January, Ford says.

Washington is a natural place for expansion. The Women's Bar Association in the District is one of the most active in the country. It spearheaded a large-scale, citywide discussion on what needed to be done to promote the advancement and retention of women in the profession, which resulted in its May report *Creating Pathways to Success*.

So far, Ford says she has received a lot of positive feedback from the firms she has contacted. "People see it as a no-brainer," she says. They are interested in developing other avenues to attract and retain talent, she says, adding that attrition and maintaining a diverse work force, particularly at senior levels, remain a challenge for firms.

"A lot of firms are pretty robotic in terms of hiring," Ford says. "Hiring patterns could afford to be more flexible." The program may open some of these firms' eyes to the fact that they should be considering more nontraditional lawyers, she adds.

"The demand for re-entry is growing," says Joan Williams, a professor at Hastings and the director of its Center for WorkLife Law. "But we want to kick-start that process." The center is preparing to launch an eight-week program early

next year to help women navigate their way back into legal practice.

Unlike the ABA initiative, this program will not center around brushing up on knowledge or skills but will prepare women to re-enter the market by advising them on practical issues, such as how to represent the gap on their résumé, what kind of networking they should be doing, and how to negotiate a part-time salary and schedule.

Another major focus of the program, Williams says, will be to help women think about the family dynamic that led them to step out of the work force in the first place and address how it needs to change for women to be able to resume work. "A lot of these women are too self-conscious to hire a baby sitter to allow them to go to CLE."

DOLLARS AND SENSE

Perhaps law firms should take a cue from the accounting industry.

"Law firms are using a flawed accounting system," says Williams, who, through her work for the Center for WorkLife Law and as co-director of the center's Project for Attorney Retention, has been trying to convince

'I think most firms are starting to realize that this is a tremendous opportunity for them,' says Kayalyn Marafioti, who chairs the advisory board of the Back to Business Law program.

law firms that there are sound business reasons for them to embrace more flexibility in the workplace.

The accounting industry has come up with innovative programs to stem the tide of attrition it has been facing, Williams says. For example, one Deloitte & Touche initiative allows its employees to leave the company for up to five years while staying connected to the company and keeping their skills current through firm-sponsored training, mentoring, networking events, and ad hoc assignments.

Other accounting firms have followed suit and adopted forward-thinking family-friendly policies. "The reason is that they do the numbers," Williams says. "They know how much it is costing them to churn and burn." They have realized that it is economically in their interest to retain and re-recruit the employees they have already trained, she adds. The Project for Attorney Retention estimates that the cost of replacing a second-year associate, for example, runs about \$200,000.

"Law firms are driving up expenses by driving out valuable workers one after another," Williams says.

Alexia Garamfalvi can be contacted at agaramfalvi@alm.com.