



September 2010

# Arkansas Chapter

## The LEGAL Link

# ALA

### PRESIDENT'S

*Message*

*by*

*Nancy Collins*



#### OCD – Can't Control Myself

I hate to admit it but I am a bit OCD. It rears its ugly head when I see things that are wrong and have simple solutions. I like to think this is a plus for job performance as a CPA and legal administrator. It is probably not so well received by the rest of the world. Let me give an example.

I was in the doctor's clinic yesterday with doctors on several floors. I thought I remembered my doctor's floor, but, alas, my memory failed me. There was a directory taped to the wall of the elevator in alphabetical order by doctor with the correct floor for each except for my doctor. Upon arriving at the appropriate floor, I informed the receptionist of the omission. She didn't care. So, what would you do at this point? If you too are compulsive, you would probably bring this to the attention of their Business Manager. This is the part where the rest of the world doesn't always appreciate the effort.

I see this gaffe as a reflection on the business' attention to detail. Everything won't be perfect all the time, but I would hope that once pointed out, the oversight would be corrected as soon as possible. If we fail to correct the small things that are very fixable, it sends a message to the staff that the Firm lets the small things slide. We all know that malpractice and the devil are in those small details.

## Arkansas Chapter September Meeting

**Where:** The Little Rock Club  
Regions Bank Building, 30th Floor  
Little Rock, AR 72201

**When:** September 8, 2010

**Lunch:** 11:30 a.m.

**Meeting:** 12:00 Noon

**Topic:** Independent Contractor Relationships  
and the Peril of Misclassification

**Speaker:** Kathlyn Graves of Mitchell Williams

**Note:** Validated Parking  
Regions Parking Deck

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**Arkansas Chapter**

April 2010 - March 2011

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## Arkansas Chapter



### COME JOIN US!

- Membership in Association of Legal Administrators offers opportunities for:*
- \*Knowledge sharing and networking opportunities (locally, regionally, nationally and internationally)*
  - \*Professional recognition*
  - \*Chapter and leadership support (substantive educational tools, idea exchanges and workshops to educate chapter leaders)*
  - \*And a whole host of resources and opportunities for professional development*

*For more information, read more [about ALA](#) or contact Angelia Hadden at [ahadden@fec.net](mailto:ahadden@fec.net).*





## MISSION

The Association of Legal Administrators' mission is to:

- Promote and enhance the competence and professionalism of all members of the legal management team;
- Improve the quality of management in law firms and other legal service organizations; and
- Represent professional legal management and managers to the legal community and to the community at large.

## GOALS

The Association of Legal Administrators' goals are to:

- Develop and deliver programs and products that will provide high-quality, competency-based education to members of the legal management team.
- Improve and strengthen the flow of information to and from the members.
- Enhance the services and benefits available to members.
- Increase the visibility and credibility of the Association of Legal Administrators and its members in the legal community through effective marketing and communications and through partnering efforts with the bar and other law-related associations.
- Retain and recruit members from all components of the legal management team.

Maintain the Association's strong economic base.

Increase diversity in the Association, in the legal management community, and in all legal service organizations.

Promote and continue an organizational structure which clearly and effectively allocates the policy and operational roles and responsibilities of volunteers and staff through Governance Policies that ensure that organizational resources are best-used to achieve the Association's Mission and Goals.

# *The LEGAL Link*

## *Celebrations*



*Happy Birthday  
Diane Smith  
September 13*

**Professional Legal  
Management Week  
October 4-8, 2010**

## *Congratulations*

The following members were recipients of  
scholarships for attendance  
at the Region 4 Conference to be held  
on October 1-2 in Irving, Texas:

Vivian Koettle, Terri Dickinson,  
Carolyn Owen, Marie Ray, Carol Minor,  
Cathy Dille, and Donna Blacklaw.

Special thanks to our Business Partners  
who make such scholarships possible.



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*Silver Partnership and Friend & Supporter opportunities are still available.*

**Please contact Bonnie Vickery at [bvickery@mwlaw.com](mailto:bvickery@mwlaw.com) for more information on how your company can benefit from partnering with our chapter.**





## Question of the Month

**Question: Do you have any resources that will help with conducting performance reviews?**

**Answer: Sample Forms and Guidance for Effective Performance Reviews**

Regardless of whether one is the reviewer or the employee being reviewed, performance reviews are generally viewed as either incredibly critical or incredibly intimidating: critical for the employee because the future of his/her position depends upon a good review and intimidating to the manager because pointing out an employee's poor performance can invite loss of incentive or, worse, defensive anger that may lead to non-productive behavior. Therefore, the employer/employee relationship can be: (1) strengthened, (2) weakened, or (3) rendered unworkable by the style and tenor of the performance review.

If the manager has followed good performance evaluation practices, nothing that is said in the review will come as a surprise and the encounter will end on a productive note. However, if the employee has not been informed of any problems or inadequacies throughout the performance period in question, this session can be devastating to both the reviewer and the employee.

**Performance Evaluation for Legal Administrators**

Evaluation, as a practice, is a continuing, ongoing, sophisticated process involving both the administrator and the evaluator. It is an opportunity to formally assess performance and work behaviors and, at the same time, identify areas for improvement and set goals for the future. The evaluation is an important part of job satisfaction, for both the administrator and the firm. It must be handled professionally and carefully.

Points to consider:

- The primary purpose of an evaluation is to document performance and to identify any areas for improvements in performance and/or behavior.
- Every employee wants to know how well he or she is performing. The closer the evaluation is to the performance, the more effective the evaluation. It is more effective, therefore, to have more frequent evaluations.
- Performance evaluations should be separated from compensation reviews. When combined, the person evaluated tends to focus only on the compensation, which neutralizes the evaluator's efforts to improve his or her performance. Though separate, the compensation review should be tied to the performance review. This relationship should be explained well before the evaluation.
- Evaluations should be based on previously determined and clearly understood expectations. It is not appropriate to evaluate someone on a task or responsibility that the person did not know was his or her responsibility. However, no job description or evaluation form is comprehensive enough

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## *Question of the Month*

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to identify every possible skill and responsibility. In every job, certain duties and responsibilities are assumed. For instance, for a financial manager, instituting adequate safeguards in the accounting area is assumed, even if it has not been specifically identified. The administrator needs to understand that he or she will be held accountable not only for the specifically identified tasks and responsibilities, but for the assumed areas that are integral to the job. In setting goals for the next review period, therefore, only special or added responsibilities and/or duties need to be defined.

- The more the person being evaluated participates in his or her own assessment, the more effective the evaluation will be. However, the evaluation session should not be solely self-evaluation. The firm has an obligation to identify clearly and communicate its assessment of the administrator's performance.
- The evaluation must speak with a single voice from the firm. For example, a compilation of individual partner assessments, reflecting a range of opinions on each skill item, is not a clear indication of how the firm assesses the administrator's performance.
- When creating evaluation forms, it is important to consider the environment and include certain basic components. Evaluation forms should take into account the following:
  - The evaluation time period.
  - A distinction between results and managerial skills/attributes/characteristics. One can, for instance, achieve short-term results, (e.g., reorganize the file room), but do so in a way that alienates and eventually causes some valuable people to leave the firm. Include space to identify the satisfactory accomplishments during the evaluation period as well as space to indicate the skill or proficiency levels in managerial characteristics.
  - If the performance of the administrator is unsatisfactory, include space to clearly identify what the firm expects of the administrator to bring performance to satisfactory levels and the time frame in which this is to be accomplished.
  - Include space for the evaluator and the administrator to date and sign the form. As good practice, the evaluator is encouraged to provide the administrator with his or her own copy of the completed form. Also, the administrator should be allowed to comment or provide his or her own statement (supplement) to the form as part of the evaluation. The supplement should be attached to the document so the evaluator may respond to statements made in the supplement.



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## ALA Code of Professional Ethics

The legal profession and business must adhere to high ethical standards to maintain public trust. This ALA Code of Professional Ethics sets forth guidelines or standards for the ethical administration of legal practices-private firms, legal clinics, corporate legal departments, governmental agencies, and the courts.

Legal administrators at all levels must become familiar with these standards and incorporate them into their everyday performance. They should also study and comply with all ethical guidelines of bar associations and law societies which apply in their own jurisdictions. Furthermore, they must take the lead in communicating relevant standards to staff personnel who may be less familiar than lawyers with the ethical guidelines of bar associations and law societies and in communicating appropriate policies and procedures to lawyers.

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## Education

### TEST YOUR KNOWLEDGE IN PREPARATION FOR CLM “CERTIFIED LEGAL MANAGER” EXAM

1. What is a money purchase plan?
2. What is a limited partnership?
3. What is internet protocol?

### *Did You Know?*

The ALA [Legal Management Resource Center \(LMRC\)](#), has a number of articles from associations, consulting firms, and government agencies that can help if you have a legal management problem, question, or issue that you need to resolve? The Legal Management Resource Center (LMRC), created and hosted by the Association of Legal Administrators (ALA), is designed to immediately provide the information you need or to quickly direct you to other resources, most on the Internet, where the knowledge you seek can be found. If you need quick personal assistance, ALA members can use the [ALA's Management Solutions<sup>SM</sup> Reference Desk](#), where our expert group of researchers will help you find the answer to your legal management question. The LMRC resources are available on the website. Log in with your ALA username and password for access to all ALA Members-only materials. The [ALA Management Encyclopedia<sup>SM</sup>](#) has many articles on Human Resource Management, complete with checklists, questionnaires, and evaluation forms, and is linked to other authority to help you solve HR problems in an efficient manner.

ALA members have free access to the ALA Reference Desk. Send any question on legal management to [infocentral@alanet.org](mailto:infocentral@alanet.org). Staff will conduct personal research on each question.

#### ANSWERS TO TEST YOUR KNOWLEDGE:

1. Firm contributions which are mandatory under the contribution formula and are generally based on compensation.
2. Partnership in which one or more partners, but not all, have limited liability to creditors of the partnership.
3. The standard that facilitates the routing of traffic from one computer network to another.

# The LEGAL Link



Mark Your Calendar

## Important Dates

**REGIONAL CONFERENCE**  
**October 1 - 2, 2010**  
**Four Seasons Resort & Club**  
**Dallas at Las Colinas**

**CCW Event**  
**Arkansas Food Bank**  
**October 22, 2010**

**Business Partner Fair**  
**November 12, 2010**  
**8:30 - 11:30 a.m.**

**ANNUAL CONFERENCE**  
**May 18 - 21, 2011**  
**Orlando, Florida**



## ALA - 2010 WEBINAR SCHEDULE

September 10, 2010	<u>Excel – Pivot Tables</u>
September 15, 2010	<u>Electronic Records Management: How to Manage Your ESI in the 21st Century</u>
September 21, 2010	<u>Money-Saving Ways to Boost Employee Productivity and Health</u>
September 28, 2010	<u>21 Tips for Successfully Managing Telecommuters</u>
October 12, 2010	<u>Conducting Hassle-Free Performance Evaluations</u>
October 14, 2010	<u>Smart Policies for Workplace Technologies</u>
October 20, 2010	<u>An 'EKG' from Your Document Management Provider</u>
November 9, 2010	<u>7 Hidden Productivity Traps and How to Avoid Them</u>

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*Thanks for the opportunity  
to be a part of ALA!*

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# The LEGAL Link



**SAVE THE DATES!**

## Region 4 Conference & Expo



**October 1-2, 2010**

Join us for the [Region 4 Conference & Expo](#)—October 1-2 at the [Four Seasons Resort & Club Dallas at Las Colinas](#).

This conference will *Diversify Your Knowledge* in all areas of lawfirm management including finance, marketing, human resources, technology and communications. In addition, you will have ample opportunity to learn new ways to be successful, network with your colleagues, connect with friends and discover what's new in the legal industry.

This year's conference agenda:

- Begins Friday morning with an energetic Keynote Address by Vicki Hitzges "*Put the Lawnmower Away, Charlie, There Are Trees Out There!*"
- Includes more than 20 informative educational sessions over a two-day period designed to provide necessary and current information for administrators and others in the legal profession.
- Ends on a high note with songwriter and speaker, Patrick Henry's closing session: "*Keeping Your Team in Tune.*"

In addition, your business partners will fill the Exhibit Hall with cutting-edge products and services as they educate you on the latest trends vital to running an efficient and prosperous law firm or corporate law department. You won't want to miss this opportunity.

We look forward to seeing you **October 1-2 in Irving, Texas!** Visit [www.alanet.org/region4](http://www.alanet.org/region4) often for conference updates. Online registration will open June 24.



## ALA Management Solutions

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just walked into my office  
and needs:**



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### **Where do you begin? Put your ALA membership to work for you!**

At the Association of Legal Administrators (ALA) we understand that when you need information, you want it quickly and from a reliable source.

ALA Management Solutions<sup>SM</sup> offers you access to a competent, experienced team of researchers — and **it's FREE to ALA members!** Just tell us what you need; we'll respond quickly with the best information available. Send your questions to [infocentral@alanet.org](mailto:infocentral@alanet.org), or call 847.267.1385.



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## **ANTITRUST GUIDELINES FOR MEMBERS OF ALA**

Professional associations such as the Association of Legal Administrators (ALA), although well recognized as valuable tools of American business, are subject to severe scrutiny by both federal and state governments.

The single most significant law affecting professional associations is the Sherman Antitrust Act, which makes unlawful "every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce...."

A professional association by the very nature of the fact that it is made up of competitors is a combination, thus satisfying one of the elements in proving an antitrust violation. Section 5 of the Federal Trade Commission Act is also applicable to professional associations; it makes unlawful the same types of conduct that are prohibited by the Sherman Act. Furthermore, almost all states have enacted antitrust laws similar to the Sherman Act.

There is no organization too small or too localized to escape the possibility of a civil or criminal antitrust suit. The federal government has brought civil or criminal actions against such small organizations as Maine Lobstermen, a Virginia audio-visual association, Bakersfield Plumbing Contractors, the Utah Pharmaceuticals Association, and local barbers associations.

The government has brought approximately five civil and ten criminal cases a year against professional associations. It is thus imperative that every professional association member, regardless of the size of the association or the size of those comprising the membership, refrain from indulging in any activity which may be the basis of a federal or state antitrust action.

There are four main areas of antitrust concern for professional associations: price fixing, membership, standardization and certification, and industry self-regulation. The area of greatest concern, for it is the area where individual members are most likely to violate the law and the area where the government appears most concerned, is price fixing. The government may infer a violation of the Sherman Act by the mere fact that all

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or most of the members of the professional association are doing the same thing with respect to prices. It is not required that there be an actual agreement, written or unwritten, to increase prices. Rather, price fixing is a very broad term which includes any concerted effort or action which has an effect on prices or on competition.

Accordingly, professional association members should refrain from any discussion which may provide the basis for an inference that the members agreed to take action relating to prices, production, allocation of markets, or any other matter having a market effect. The following topics, while not the only ones, are some of the main ones which should not be discussed at regular meetings or member gatherings:

1. Do not discuss current or future billing rates, fees, disbursement charges or other items that could be construed as "price." Further, be very careful of discussions of past billing rates, fees or prices.
2. Do not discuss what is a fair profit, billing rate or wage level.
3. Do not discuss an increase or decrease in price, fees or wages, or disbursement charges. In this regard, remember that interest charges are considered an item of price.
4. Do not discuss standardizing or stabilizing prices, fees or wages, or disbursement charges.
5. Do not discuss current billing or fee procedures.
6. Do not discuss the imposition of credit terms or the amount thereof.
7. Do not complain to a competitor that his billing rates, fees or wages constitute unfair trade practices. In this context, another law firm (or even a corporate legal department) may be considered a competitor.
8. Do not discuss refusing to deal with anyone because of his pricing or fees.

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Do not conduct surveys (under the auspices of ALA or informally) relating to fees, wages or other economic matters without prior review by antitrust legal counsel. Any survey should have the following characteristics: a) participation is voluntary and open to non-members, b) data should be of past transactions, c) data should be collected by an independent third party, such as an accounting firm, d) confidentiality of each participant's data should be preserved, and e) data should be presented only in a composite form to conceal data of any single participant. If these criteria are met, an association can collect and disseminate data on a wide range of matters, including such things as past salaries, vacation policies, types of office equipment used, etc.

However, care must be taken to ensure that the purpose of any survey is to permit each firm to assess its own performance. If a survey is used for the purpose of or has the effect of raising or stabilizing fees, wages, disbursements, credit policies and the like, it will create serious antitrust problems.

Within this same legal framework applicable to surveys, an association can make presentations or circulate articles regarding such educational matters as establishing sound office procedures, etc., provided it is clear that the matters are educational and not a basis for law firm uniformity or agreement.

Inasmuch as association antitrust violations can subject all association members to criminal and civil liability, members should be aware of the legal risks in regard to membership policy and industry self-regulation. Fair and objective membership requirement policies should be established. Membership policies should avoid:

1. Restrictions on dealing with non-members.
2. Exclusions from membership, especially if there is a business advantage in being a member.
3. Limitations on access to association information, unless the limitation is based upon protection of trade secrets.

The Association of Legal Administrators has a code of ethics, which sets forth parameters of ethical conduct. However, to ensure that the Code of Ethics does not create any antitrust problems, ALA must continue to ensure that its Code does not have arbitrary enforcement procedures or penalties.

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The penalties for violating federal or state antitrust laws are severe. The maximum criminal penalty for violating the Sherman Act was increased in 2004 from \$350,000 to \$1,000,000 for an individual and from \$10,000,000 to \$100,000,000 for a corporation. Pursuant to the Sentencing Reform Act, alternative maximum fines could be increased to twice the pecuniary gain of an offender or twice the loss to another person.

Individuals and corporate officers who are found guilty of bid rigging, price fixing or market allocation will virtually always be sentenced to jail pursuant to the Sentencing Guidelines; community service cannot be used to avoid imprisonment. The minimum recommended sentence is four months; the maximum is three years.

Additionally, there are civil penalties such as injunctions or cease and desist orders which could result in government supervision of association members, restricting the association's activities or disbanding the association.

Civil suits may be brought by consumers or competitors. Civil antitrust actions result in treble damage awards and attorneys' fees. Thus, if association members are held liable to a competitor for antitrust violations which resulted in \$500,000 worth of lost business, the verdict may exceed \$1,500,000.

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## Professional Legal Management Week

Members of the Association of Legal Administrators (ALA) and other legal industry professionals have a special week to call their own: Professional Legal Management Week (PLMW). In its sixth year in 2010, PLMW provides a forum for recognizing those in legal management for what they do and the roles they play in their organizations' successes. Among PLMW's objectives are to provide awareness, understanding, and education about the legal management profession; to increase knowledge of the diverse roles within the profession; and to communicate to key stakeholders the importance of and need for professional management teams in all facets of enterprise leadership.

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