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2008

2008-12-19 H. Thomas Wells, Jr. ABA Presidential Correspondence

H. Thomas Wells Jr.

University of Alabama School of Law

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CORRESPONDENCE LOG

H. Thomas Wells, Jr.

December 19, 2008

Origin	Correspondence	Date	Rcvd	Status (All suggested dispositions subject to review by TW)	CCs (Informational copies)
AL	Jeanne P. Gray, Director Center for Professional Responsibility Ltr – enclosed copy of the 2008 <i>Journal of the Professional Lawyer</i>	11/21	12/2	<i>TW sent acknowledgment letter on 12/9/08</i>	
IL	H. Robert Fiebach, Chair StC on Substance Abuse Ltr – addressed to TW, Carolyn Lamm and William Hubbard, re: Issue Concerning Marajuana	12/12	12/17	<i>Forwarded to Hank White and Marina Jacks</i>	
IL	Prof Rajiva Wijesinha, Secretary Ministry of Disaster Management & Human Rights Colombo, Sri Lanka Ltr – thanks for 11/3/08 letter re alleged attack on Mr. J.C. Weliamuna	11/26	12/16	<i>Forwarded to Michael Pates, Center for Human Rights</i>	President Wells Hank White Janet Jackson Ira Pilchen
Email	Thomas S. Thornton, III Birmingham, AL tthornton@carrallison.com Ltr re the planning committee for a coalition named "MARC." (The Medicare Advocacy Recovery Coalition)	12/16	12/16	<i>E-mail response sent 12/19/08, advising that correspondence was forwarded to Section of Health Law and Commission on Law & Aging for their consideration.</i> <i>OP forwarded to Jill Pena & Charlie Sabatino</i>	
IL	Robert A. Fairfield Torrence, CA Ltr – re membership complaints	12/16	12/19	<i>Forwarded current letter and 8/14/08 letter to Paula Cleave. Beverly Curd will coordinate response with Paula Cleave.</i>	
IL	Henry F. White, Jr. TW copied on letter sent to Patricia M. Gruber, President, Gruber Foundation, inviting ABA to nominate individuals for the Annual International Justice Prize of the Gruber Foundation	12/18	12/19	<i>NRN</i>	

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DEC - 2 2008

AMERICAN BAR ASSOCIATION



Defending Liberty
Pursuing Justice

Center for Professional Responsibility
321 N. Clark Street
Chicago, IL 60610
Phone: (312) 988-5325
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Kimley Grant

National Lawyer Databank
Administrator

Roxanna Mazloom

November 21, 2008

H. Thomas Wells Jr.
Maynard Cooper & Gale PC
2400 Regions Harbert Plz
1901 6th Avenue N
Birmingham, AL 35203-2603

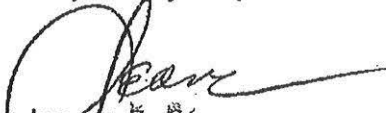
Dear Tommy,

On behalf of the ABA Center for Professional Responsibility, I am pleased to provide you with a personalized copy of the *2008 Journal of the Professional Lawyer*, which memorializes the centennial celebration of the ABA Canons of Professional Ethics.

We greatly appreciate your presentation of the Closing Remarks and your support of the Association's commemoration and its examination of the future challenges of the global legal profession.

I look forward to working closely with you during your presidential year.

Very truly yours,



Jeanne P. Gray
Director
Center for Professional Responsibility

H. Thomas Wells, Jr.
President
American Bar Association
321 North Clark Street
Chicago, IL 60654-7598
(312) 988-5109
Fax: (312) 988-5100

AMERICAN BAR ASSOCIATION

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twells@maynardcooper.com

December 9, 2008

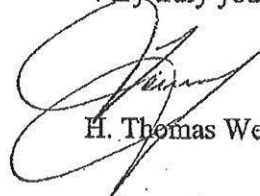
Ms. Jeanne P. Gray
Director
American Bar Association
Center for Professional Responsibility
321 N. Clark Street
Chicago, IL 60610

Dear Jeanne:

Thank you for sending me a personalized copy of the *2008 Journal of the Professional Lawyer* memorializing the centennial celebration of the ABA Canons of Professional Ethics. I was happy to be a part of this event.

I look forward to seeing you soon.

Very truly yours,



H. Thomas Wells, Jr.

HTW,Jr/psr

2007-2008

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RECEIVED AMERICAN BAR ASSOCIATION

DEC 15 2008

Standing Committee on
Substance Abuse
740 15th Street, NW
Washington, DC 20005-1022
(202) 662-1784
FAX: (202) 662-1787
e-mail: adelsonv@staff.abanet.org

December 12, 2008

H. Thomas Wells, Jr., Esquire
President
American Bar Association
321 North Clark Street
Chicago, IL 60654-7598

Carolyn B. Lamm, Esquire
President-Elect
American Bar Association
321 North Clark Street
Chicago, IL 60654-7598

William C. Hubbard, Esquire
Chair, House of Delegates
American Bar Association
321 North Clark Street
Chicago, IL 60654-7598

Re: Issue Concerning Marijuana

Dear Tommy, Carolyn and Bill:

First of all, I want to thank President Wells for having the confidence in me to assume the Chairmanship of the Standing Committee on Substance Abuse. I will certainly do my very best to justify the confidence shown.

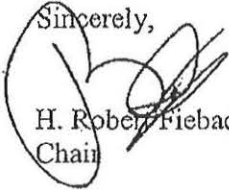
I wanted to give the three of you a heads up in connection with a matter which is likely to be on the Agenda of the House of Delegates at the Annual Meeting in Chicago. This is an initiative of the Kings County, Washington Bar Association. I do not know, as yet, the exact format of the proposed resolution but its substance will be to put the regulation and control of the production, distribution and use of marijuana into the jurisdiction of the individual states and to remove marijuana from federal control. The proposal is likely, in addition to dealing directly with this issue of marijuana, to raise issues of federalism that may also be applicable to other areas

currently under federal regulation since, at least at this stage, one of the arguments that I believe may be made is that the current federal legislation is a violation of the Commerce Clause.

The Kings County Bar Association has made presentations of its position to various ABA entities including the Standing Committee on Substance Abuse and has expressed its intention to have the issue on the Agenda for the next Annual Meeting. We understand they will be making the rounds again during the Midyear Meeting. Since this issue could be a divisive one for a large segment of our membership and because it is almost surely to get the attention of the media if it is on the Agenda (no matter what the disposition), I felt that as Chair of the Standing Committee on Substance Abuse I should give you this heads up as early as possible.

I also raise with you the question of whether or not you believe that the Committee on Substance Abuse should play a role in the debate that is surely to be had on this issue. It was my thought that our Committee should present a Forum on the issues raised at the Annual Meeting. Indeed, it was my early thought as soon as I was appointed Chair to pursue the possibility that this could be a "Presidential Showcase" program but our Staff person, Valerie Adelson, inquired and determined that the deadline for presenting such a program has passed. If you have any thoughts on this subject which you would like to pass along to the Committee, please let me know. We will be holding a telephone conference call on January 7 and we will be meeting at the Midyear Meeting on Saturday, February 14, from 11:00 to 2:00.

Sincerely,


H. Robert Fiebach
Chair

HRF/rb

cc: H. Thomas Wells, Jr., Esquire (office)
Carolyn M. Lamm, Esquire (office)
William Hubbard, Esquire (office)
Valerie A. Adelson, Staff Director

PHILADELPHIA\3921857\1 096753.000
DRAFT



DEC 16 2008

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MINISTRY OF DISASTER MANAGEMENT AND HUMAN RIGHTS

අංක 02, විජේරාම මාවත, කොළඹ 07, ශ්‍රී ලංකා

இலக்கம் 02, விஜேராம மாவத்தை, கொழும்பு 07, இலங்கை

No. 02, Wijerama Mawatha, Colombo 07, Sri Lanka

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My No. }ඔබේ අංකය }
உமது இல. }
Your No. }දිනය }
திகதி }
Date } 26.11.2008

Mr H Thomas Wells, Jr.
President
American Bar Association

Dear Mr Wells

Alleged attack on Mr. J.C. Weliamuna

Thank you for your letter of November 3rd, 2008 regarding the above, which has been passed onto this Ministry. We are glad you share our concern about such incidents. Maintaining the Rule of Law in the content of the culture of terrorism that was allowed to develop some years back is not easy, but we strive to do our best and our happy that the situation is improving.

We hope you will urge your government to stand firm against terrorism of all sorts and not be selective in its critiques of violence. Assistance with police training will also be appreciated, and perhaps you could fulfil the promise of your last sentence by writing to the Department of State accordingly, with a copy to us so I could take up the matter with your Ambassador here.

Yours sincerely,


Prof Rajiva Wijesinha
Secretary
Ministry of Disaster Management & Human Rights

Mastronardi, Kay

From: Curd, Beverly
Sent: Friday, December 19, 2008 10:55 AM
To: Pena, Jill; Sabatino, Charlie
Cc: Pilchen, Ira; Mastronardi, Kay
Subject: FW: ABA - Medicare Advocacy Recovery Coalition
Attachments: MARC-Working Agreement.doc

The enclosed email and attachment was sent to H. Thomas Wells and is being forwarded to you for your consideration.

Thanks.

*Beverly L. Curd
Office of the President
American Bar Association
321 N. Clark Street
Chicago, IL 60654
Tel: (312) 988-5133
Fax: (312) 988-5100
curdb@staff.abanet.org*

From: tthornton@carrallison.com [tthornton@carrallison.com]
Sent: Tuesday, December 16, 2008 3:12 PM
To: Tommy Wells
Subject: ABA

Mr. Wells:

First, I can not begin to comprehend how many e-mails you must receive in regard to the ABA, and your position. Second, I am a partner with the Carr Allison firm and work here in our Birmingham office. My litigation practice is centered around defending the retail industry.

I will attempt to keep this e-mail short! I am on the planning committee for a coalition named "MARC." (The Medicare Advocacy Recovery Coalition) A copy of the working agreement for the coalition is attached. MARC was created to attempt to address legislation passed in December 2007 which will severely impact both the defense and plaintiff's bar, and its respective clients, in handling or settling personal injury claims with Medicare recipients. The Act places severe penalties on, in part, on group health plans, group health plans, self-insured, and any other entities with regard to reporting and resolving personal injury claims with Medicare recipients if the interest of CMS is not protected. This includes penalties levied against "defendants" for failure to timely report to CMS certain claims of \$1,000.00 a day, per claim. In addition, with any settlement of a personal injury claims with a Medicare recipient, the released party is obligated in essence to satisfy CMS's subrogation right/lien 100%, without taking into account fault or liability.

This Act is in essence a continuation of what Medicare Set Asides did for the worker's compensation industry; but now they focusing on the general liability industry. My understanding is that the ABA supported various organizations which addressed obtaining amendments or changes with regard to the Medicare Set Asides for worker's compensation cases. MARC is hoping to gain the ABA's support with regard to the new regulations passed in December 2007, which begin to go into effect in May 2009.

I am confident this type issue falls outside the parameters of your responsibilities as President of the ABA. However, I was hoping to bother you with some direction on who I might contact with the ABA regarding this request.

Last but not least, congratulations on your elections and in representing the Birmingham and Alabama Bar Associations so admirably. Any direction you can provide would be much appreciated.

12/19/2008

Working Agreement

Medicare Advocacy Recovery Coalition

(MARC)

Introduction

The Centers for Medicare & Medicaid Services (CMS) requires reimbursement for conditional payments made on liability claims. CMS also demands that settlements, awards, judgments and other payments made on liability claims be available to fund future medical treatment that is related to the accident. There is no consideration for fault or other claim defenses. Payment creates responsibility and, under present Rules & Regulations, contingent liability for the self insured or insurance carrier including \$1,000 a day penalties for failure to respond.

The Mission Statement:

The Medicare Advocacy Recovery Coalition (MARC) seeks the removal of barriers contained within the Medicare Secondary Payer Statutes, Regulations & Rules that inhibit the prompt and fair administration of liability claims. The group supports rules that create: 1) Transparency between CMS and Primary Plans with regard to conditional payment information; 2) Application of state law in the determination of the amount of conditional payment that may be collected; 3) Right of review of CMS decisions on conditional payments that may be owed; and 4) Clear methods for the identification of who is "Medicare eligible" by a primary plan that provides for a safe harbor.

Purposes

1. Facilitate national level coordination, collaboration, and communication among the member organizations regarding Medicare reimbursement and recovery policy.
2. Formulate policy recommendations to affect the member interests with respect to Medicare reimbursement and recovery procedures.
4. Serve as a communication, advisory and technical assistance resource for member interests.
5. Develop and implement legislative and regulatory strategy to affect substantive changes to Medicare reimbursement and recovery policy.

Responsibilities of Participating Organizations

1. Membership Levels:

- A. Steering Committee (SC) (Active Membership). An SC Member is one who participates in all Coalition meetings and activities, including, but not limited to, receiving mailings and notices, voting, and eligibility to hold elected office within the coalition. To be eligible to participate at the SC Member level, the member must be approved by a majority of current SC Members and participate at the requisite financial level. Financial contribution: \$20,000 per year.
- B. Member. A Member is one who receives mailings and notices and attends meetings of all Members. A Member is permitted a vote on policy issues, but is not eligible to hold an elected position. Financial contribution: \$5,000 per year.
- C. Affiliate. Any interested party that is not at the SC or Member level. Individuals and organizations in this status receive mailings, notices, and special recognition, but are not eligible to vote, and are not eligible to hold an elected position. A \$500 annual contribution is recommended, but affiliate membership dues can be waived if agreed to by the Co-Chairs/leadership body.
- D. The term of membership shall run from 10/1/2008 until 9/30/2009 and be renewed annually.

Coalition Structure

The Coalition is structured as a Member assembly including a leadership body/steering committee and a minimum of two officers acting as Co-Chairs of the organization. Co-Chairs are to be elected from within the steering committee.

1. Meetings of Steering Committee Members and Members.

- A. The Steering Committee will meet in person or by teleconference monthly or at the call of the chairs.
- B. The full membership of the Coalition shall meet in person or by teleconference every other month.
- C. Matters of procedure and substance to be decided by majority vote of the SC members. Consensus on substantive issues is preferred.

2. Working Organization

A. Leadership/Co-Chairs and SC Members.

- i. The Co-Chairs will be elected by a majority vote of all SC Members.
- ii. The Co-Chairs' term of office will be decided by the SC Members.
- iii. The Co-Chairs and Steering Committee will perform or delegate the following duties:
 - a) Bring to the attention of the Members, issues and requests brought to the Coalition by agencies, organizations, and persons in the public and private sectors.
 - b) Authorize expenditure of funds with SC approval.
 - c) Make arrangements for meetings and prepare a meeting agenda.
 - d) Bring to the attention of the Coalition members national Medicare reimbursement and recovery policy issues that are appropriate for Coalition consideration.
 - e) Coordinate and distribute materials to members, and when appropriate, to others.
 - f) Send an annual letter of dues assessment to the member organizations.

B. Management of Coalition Funds

- i. One of the member organizations with appropriate tax exempt status will be chosen by the Co-Chairs to serve as the fiscal agent for the Coalition funds.
- ii. Disbursements will be made on the authorization of the SC Members and/or the Co-Chairs.
- iii. An annual accounting of coalition funds will be provided by the fiscal agent, through its Member upon request.

C. Committees

- i. Appropriate standing and ad hoc committees will be established by SC to carry on the business of the Coalition.

**The Medicare Advocacy Recovery Coalition (MARC)
Membership Agreement Form**

Please print clearly and fax back to Walker Dimmig at 202-457-1130

Name: _____

Organization (if applicable): _____

Lead Government Relations/Policy Contact: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____

E-mail: _____

Do we have permission to list your organization as a public member? Yes or No

What topics are you interested in? (List all that apply)

Membership Level (please check one of the following):

_____ Steering Committee Membership - \$20,000 per year

_____ Membership - \$5,000 per year

_____ Affiliate - \$500 per year

Are you willing to talk to the press? Yes or No

Comment: _____

Are you willing to testify at hearings? Yes or No

Comment: _____

Are you willing to actively lobby on these issues? Yes or No

Comment: _____

Signature: _____ Date: _____

Robert A. Fairfield

Attorney At Law
21515 Hawthorne Boulevard
Suite 820
Torrance, California 90503-6521

Tel - (310) 944-6428
Fax - (310) 944-6438

December 16, 2008

H. Thomas Wells, Jr.
President
American Bar Association
321 North Clark Street
Chicago, IL 60654-7598

Re: Membership of Robert A. Fairfield

Dear Mr. Wells:

I previously wrote to you on August 14, 2008, and since then I have had several communications with Rebecca Smith at the ABA. However, I am more confused about my initial inquiry than before I wrote to you.

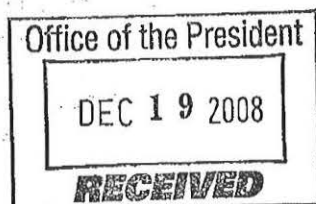
I am a member of the ABA and a member of the Litigation Section (which I have not renewed for the year 2009 because of this situation). At one time, I was a member of the Family Law Section, but have not been so for many years, now.

My initial inquiry dealt with a May 2008 newsletter from the litigation section regarding volunteers to assist people with military issues. I attempted to be a volunteer, but I was rejected, as I have been informed, because I am not a member of the Family Law Section.

I think it is deplorable that your organization rejects volunteers because of a reason such as this. That is the reason I have decided to drop my membership in the Litigation Section, this next year and the reason I probably will drop my membership in the ABA the following year (which will be the second time I have elected to suspend my membership in the ABA). I am sure that my membership and my annual dues will not cause any notice or hardship to your organization.

For some reason, I have not been able to volunteer in your Domestic Violence program, either.

I will not be withdrawing from the ABA over the dues, as I figure there are other worthwhile organizations that will be happy to receive that money from me. I will be withdrawing because my recent contacts with your organization have not produced the results I have expected.



Very truly yours,

A handwritten signature in cursive script that reads "Robert A. Fairfield".

Robert A. Fairfield

Robert A. Fairfield

Attorney At Law
21515 Hawthorne Boulevard
Suite 820
Torrance, California 90503-6521

Tel - (310) 944-6428
Fax - (310) 944-6438

Office of the President

AUG 19 2008

RECEIVED

August 14, 2008

H. Thomas Wells, Jr.
President
American Bar Association
321 North Clark Street
Chicago, IL 60654-7598

Re: Membership of Robert A. Fairfield

Dear Mr. Wells:

I have been a member of the American Bar Association, twice, with a break in membership when I felt the ABA was wrong in taking a position on purely social issues. I am considering another break in membership because of three recent incidents.

I am a member of my local bar association, and they claim that my membership allows me to receive a discount on products sold by the ABA. I tried to purchase a book on line on military issues in family law, and I attempted to apply for my discount. I could not get it to work. Per the instructions when having difficulty, I called the telephone number for the ABA. I received a recorded message and left the information requested. Although promised, I never received the telephone call. Finally, I ordered the book without the discount I felt I was entitled to receive.

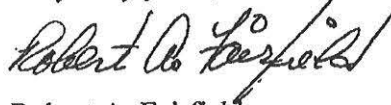
I discovered that the ABA started a program regarding Domestic Violence and I thought it was looking for volunteers. I provided the information that was requested, but I never heard anything further.

I discovered that the ABA was looking for volunteers to assist military personnel with family law issues. I signed up for this, too. I never heard anything further.

I do provide pro bono legal help through local legal agencies. It seems to me my money could be better used donating to these organizations instead of paying dues to the American Bar Association. I realize the loss of my membership is not a significant financial event to the ABA. I also realize that you can not make everyone happy all of the time. I realize that decisions are based on a cost to benefit ratio, and the cost of trying to please me is not worth the benefit of my membership money.

If nothing else, I feel much better having written this letter.

Very truly yours,



Robert A. Fairfield

*logged 8/22/08
forwarded to Diane Brunk*

HENRY F. WHITE, JR.
Executive Director &
Chief Operating Officer

AMERICAN BAR ASSOCIATION

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December 18, 2008

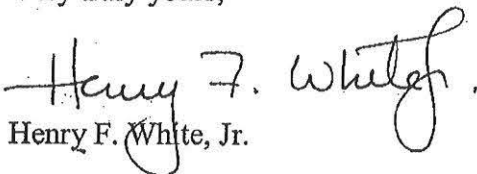
Patricia M. Gruber, President
Peter and Patricia Gruber Foundation
P.O. Box 502820
St. Thomas, VI 00805

Dear President Gruber:

I acknowledge receipt and thank you for your letter of early December inviting the American Bar Association to nominate individuals for the Annual International Justice Prize of the Gruber Foundation.

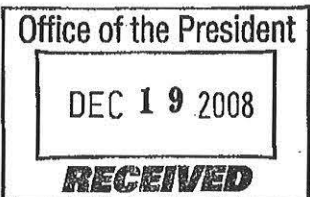
I have advised our current President, H. Thomas Wells of Birmingham, Alabama of your invitation and we look forward to the Gruber Foundation providing further information.

Very truly yours,


Henry F. White, Jr.

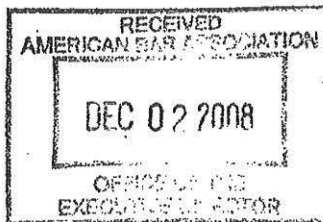
HFWJr/ae

cc: H. Thomas Wells, Esq.





GRUBER
FOUNDATION



Mr. Henry F. White
American Bar Association
321 North Clark Street
Chicago, IL 60654

Dear Mr. White,

At the suggestion of the Selection Advisory Board to our Justice Prize, we are writing to invite the American Bar Association to become one of a small group of distinguished legal organizations that annually submit nominations for the international Justice Prize of the Gruber Foundation.

This year the Prize was awarded jointly to Justice Thomas Buergethal of the International Court of Justice and to Jerome J. Shestack, Esq., a former ABA president, for their efforts in supporting human rights and the rule of law. The award ceremony was at George Washington University, and Harold Koh, Dean of the Yale Law School, was the featured speaker. Last year we were honored to have U.S. Supreme Court Justice Ruth Bader Ginsberg moderate a panel discussion as part of the prize presentation events.

A distinguished panel of legal professionals, working independently and without influence from the Foundation, selects the recipient each year from nominations received from around the world. Justice Arthur Chaskalson, former Chief Justice of South Africa, chairs the panel now; other current members are Dennis Archer, Esq., Michigan, Judge Bernice Donald, Tennessee, Giuseppe Bisconti, Esq., Italy; Param Kumaraswamy, Esq., Malaysia; and Martin Lee, Esq., Hong Kong.

The Prize, a gold medal in the form of a lapel pin and an unrestricted cash award of U.S. \$500,000, has been awarded annually for the past eight years. Recipients are selected solely on the merits of their accomplishments without regard to ethnicity, religious belief, geographical location or any other personal criteria. The Prize honors individuals who have advanced the cause of justice as delivered through the legal system. It both acknowledges individual efforts and encourages further advancements toward bringing about a fundamentally just world.

In the past, nominations have been broadly accepted but, going forward, nominations will be accepted only from a small, select group of organizations such as yours which have been expressly invited by the Foundation to be nominators.

More information about the Gruber Foundation and the Justice Prize – including the full list of laureates and former selection panels – is available on-line at www.gruberprizes.org.

Thank you for your consideration, and I look forward to your positive reply. The Foundation will be in touch soon.

With warm regards,

Patricia M. Gruber
Patricia M. Gruber, President
Peter and Patricia Gruber Foundation

Dear President Gruber:
I acknowledge receipt and thank you for your letter of early December inviting the American Bar Association to nominate individuals to the Annual International Justice Prize of the Gruber Foundation.

I have advised our current President, H. Thomas Wells of Birmingham, Alabama and you immediately and we look forward to the Gruber Foundation.

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International Justice Prize of the Gruber Foundation
no. 11 Thomas Wells Esq