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In This Issue

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Dear Members and Colleagues:


Cameron DeLong

It was my honor and privilege to be elected Chairperson of the International Law Section at the Section's Annual Meeting held on September 23, 2010, at The Fairlane Club in Dearborn, Michigan. Section members in attendance also elected Margaret A. Dobrowitsky, Chairperson-Elect; Jeffery F. Paulsen, Secretary; and A. Reed Newland, Treasurer. In addition, attendees at the meeting elected Silvia M. Kleer to the Council for a term ending in 2012, and David B. Guenther, Gregory H. Fox, and Eve C. Lerman to the Council for terms ending in 2013. Finally, pursuant to the Section's Bylaws, the Chairperson, with the approval of the Executive Committee, has appointed the following law students *ex-officio* (non-voting) members of the Council for terms ending in 2011: Nick Nawatmeh (University of Detroit Mercy School of Law), Sam Saif (Wayne State University Law School), Quinten A. Smith (Thomas M. Cooley Law School-Auburn Hills Campus), and Timothy M. Kaufmann (Michigan State University College of Law). Congratulations to the new officers and Council members.

Let me take a moment to thank Richard Goetz for his service to the Section as Chairperson during the past year, as well as his service as a Section officer and Council member over many prior years. Dick's experience in international law as the head of the International Law Department at Ford Motor Company, and later in private practice as the head of the International Practice Group at Dykema Gossett, PLLC, has been a tremendous asset to the Section's leadership for many years. I look forward to receiving Dick's wisdom and guidance in his position as *ex-officio* immediate Past-Chairperson. All of the Section's past chairpersons are *ex-officio* Council members. We value and encourage their continued support and active participation in the Section's meetings and activities.

After the formal business portion of the Section's recent Annual Meeting, attendees listened to a program focusing on the general theme of *How International Trade Will Help Bring New Jobs and Business Opportunities to Michigan*. I would like to again thank each of the speakers for their excellent and well-received presentations and for taking time from their busy schedules to speak at our Section's Annual Meeting.

David A. Steiger, author of *The Globalized Lawyer: Secrets to Managing Outsourcing, Joint Ventures and other Cross Border Transactions*, made the case for the development of an international practice as a long-term strategy for Michigan lawyers, rather than as a short-term reaction to a sluggish economy. Mr. Steiger also outlined the primary skills and tools that attorneys need to develop to provide the best cross-border advice.

Dr. Robert A. Dye, Vice President and Senior Economist of PNC Financial Services Group, gave a presentation entitled *Dodging the Double Dip in a Dangerous*

Michigan International Lawyer Submission Guidelines

The *Michigan International Lawyer,* which is published three times per year by the International Law Section of the State Bar of Michigan, is Michigan's leading international law journal. Our mission is to enhance and contribute to the public's knowledge of world law and trade by publishing articles on contemporary international law topics and issues of general interest.

The *Michigan International Lawyer* invites unsolicited manuscripts in all areas of international interest. An author is encouraged to submit a brief bio and a photograph for publication. An article, including footnotes, should contain between 1000 and 3000 words.

Articles can be submitted for consideration in hard copy or electronic format. Manuscripts and photographs cannot be returned unless accompanied by a $5 check or money order made payable to Wayne State University Law School for shipping and handling.

The *Michigan International Lawyer* will consider articles by law-school students and may publish student articles as part of a regular column. A student should submit the article either through a law-school faculty member or with a law-school faculty member's recommendation.

Submissions should be forwarded to:
Professor Qin, Faculty Editor
Michigan International Lawyer
Wayne State University Law School
471 W. Palmer
Detroit, Michigan 48202
Telephone: (313) 577-3940
E-Mail: ya.qin@wayne.edu

Michigan International Lawyer

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Fall Issue
Articles due September 15

Year, in which he provided an overview of the current state of the World, U.S., and Michigan economies. He also summarized his current economic forecast, including the upside potential and downside risks for Michigan. I would especially like to thank PNC Financial Services Group for sponsoring Dr. Dye's trip from Pittsburgh to speak at our Section's Annual Meeting. Since entering the Michigan market, PNC Bank and its affiliates have sponsored several conferences and seminars in Michigan on international trade and we welcome their interest in the Section's activities.

Gil Pezza, Director of the Water Technology Initiative of the Michigan Economic Development Corporation, gave attendees a summary of business development activities in the Michigan alternative energy industry through his presentation entitled *Opportunities for Growth in Advanced Energy Storage, Solar, Bio Energy, Wind Turbine Manufacturing, and Water Technologies*. Many of the companies coming to Michigan to invest in alternative energy development have international roots. As part of his presentation, Mr. Pezza gave a list of recommended steps that Michigan lawyers should consider to pursue opportunities to represent clients in this developing industry in Michigan.

Eve C. Lerman, Senior International Trade Specialist with the U.S. Department of Commerce in Pontiac, Michigan, was the final speaker at the Section's Annual Meeting. Ms. Lerman has served in the past on the Section's Council and, as mentioned above, was elected again to the Council. She has given presentations at several past Section meetings, which are always informative and generate many follow-up questions. Ms. Lerman's presentation focused on outbound opportunities for Michigan businesses and attorneys, including a summary of priority export markets for U.S. businesses. She also highlighted the many services available from the U.S. Commercial Service to assist U.S. businesses that desire to export or pursue business opportunities outside the United States. If you or your clients have not taken advantage of the services offered by the U.S. Commercial Service, I encourage you to contact the U.S. Commercial Service to see what services are available for your clients who desire to pursue business opportunities in global markets.

There are many ways for you to become involved in the Section's activities. The Section sponsors five committees: Emerging Nations, International Business and Tax, International Employment & Immigration, International Human Rights, and International Trade. Contact information for each committee chairperson is listed in this issue of the MIL and on the Section's page on the State Bar of Michigan website. Please contact the chairperson of the committee that is of interest to you and find out how you can contribute to the committee's activities.

The Council will meet this fall to plan the activities and programs for the 2010-2011 year. All members of the Section are invited and encouraged to attend Council meetings as well as the programs that typically follow Council meetings. If you have suggestions for programs or activities that you think should be considered by the Council, please do not hesitate to contact one of the Section's officers or any Council member. We welcome all suggestions.

The primary means by which the Section's officers communicate and distribute notices of meetings and programs is through the Section's "announcement only" listserv. If you have not received email notices of the Section's recent meetings and programs, please go to the Section's page on the State Bar of Michigan website or contact the State Bar of Michigan to sign up for the listserv. If your email address has changed, please sign up again with your current email address.

Please enjoy this issue of the *Michigan International Lawyer* and I look forward to seeing you at the next Section event.

Best regards,

Cam DeLong, Chairperson

Developing an International Practice: Why Michigan Attorneys Need Global Reach Even More Than They Think—and How to Build It.

By David Steiger

As the local, Midwest region and the U.S. economies continue to struggle towards recovery, it comes as little surprise that attorneys from all over Michigan—for perhaps the first time in their professional lives—are looking today at how overseas legal work might help them pick up the slack in billable hours and revenues. Some may see this as a short-term strategy until things return to "normal." The reality though is that even post-recovery, both outside and inside counsel will be looking at a very different kind of "normal." Because of a convergence of long-term economic trends, it will become obvious enough that a global practice will be something that many—if not most—Michigan lawyers will want to build and sustain for the long haul. For those that seek to create such a globalized presence, this article will set out the core skills needed to create genuine value for their clients and generate new opportunities in the years to come.

Recovery, but a Different World

Signs of recovery in the state and the region give some reason for optimism, but the data remains mixed, as in much of the country. The Bureau of Labor Statistics stated that in August 2010, Michigan lost 50,300 nonfarm payroll jobs.[1] On the other hand, the Midwest region in that same period listed an unemployment rate 0.6% lower than the year before.[2] Additionally, the difficult restructuring of the American automobile industry, so long a key driver of the economy here, has started to bear fruit: Ford recorded a $2.6 billion profit in the second quarter of 2010, its fifth straight profitable quarterly result[3] and GM posted $1.3 billion in net profits in the same three months.[4] In any event, as new industries take root and a uniquely skilled workforce adapts, the long-term prospects for Michigan's rebound are solid.

That being said, Michigan attorneys need to understand that a revived local business community alone is unlikely to translate into a return of the practice they knew in years past. One reason for this is rooted in global economics meeting demographics; the other in changes to the business of law itself.

Globalization Requires Global Legal Practice

As Joseph Schumpeter noted in *Capitalism, Socialism and Democracy*, capitalism as a system thrives on the new consumers, goods, and markets it creates.[5] The United States in the 21st century is an established economy with modest projected population increases. The greatest growth can be expected in newer, developing markets. The International Monetary Fund's most recent World Economic Outlook bears this out: China's projected GDP growth for 2010 and 2011 are 9.8% and 9.6% respectively; India's economy is expected to increase at rates of 10.3% and 8% in that same period.[6] A Bloomberg Global Poll released September 21, 2010 found in a survey of 1,408 investors, analysts and traders that Brazil, China and India ranked ahead of the United States as preferred places to invest.[7] When one considers that China and India alone comprise more than third of the world's population, it is not difficult to understand why so many multinational corporations seek access to these markets.

As a window into what this means for the future, consider the following: General Motors sold more units in China in the first half of 2010 (1.21 Million) than in the United States (1.07 Million). [8] Ford recently announced its Chinese sales were up 42% in the first eight months of this year.[9] The focus of the large multinationals shifting to the developing world, combined with labor cost advantages and developing sectors of excellence across a wide variety of industries in those nations, create forces that continue to reverberate through the American economy—and their gravity pulls more and more small and medium-sized businesses in to the cross-border game every day.


David Steiger

The U.S. Commerce Department's International Trade Administration reports that 281,668 businesses with 500 or less employees exported from the United States in 2008, comprising a reported value of over $359 billion—up 14.5% from 2007 levels.[10] The number of these businesses exporting to China is up 783% since 1992.[11] Because of this, the supply chain of a wide variety of products and services is becoming more international every day for an increasing number of businesses.

Clients that up until now never set their sights on global markets or cross-border joint ventures suddenly have no choice but to venture into this frightening and often confusing territory, as their customers and clients are increasingly demanding it. Because of this simple reality, there is a critical need on the part of these small businesses for trusted legal advice on a global basis for the first time

to avoid the regulatory, cultural, political, logistical and other roadblocks that could severely damage, if not destroy their operations.

This almost certainly includes some of your current or potential clients---are you ready to respond? If you aren't, your competition will be happy to service your clients, not only on their new international work, but whatever work you would otherwise do for them.

It is important to stress however that globalization is even more about opportunity than threats—it's a big world out there and they have an immense hunger for what U.S. businesses can provide them. McDonald's reported August 2010 U.S. sales were up 4.6% while sales in Asia, Africa and the Middle East were up 7.8%.[12] Moreover, for lawyers, international work can often lead to more domestic work. As many formerly U.S.-based companies have merged with foreign companies, a significant number of the new investments and facilities raise domestic legal issues that require attorneys familiar with local law and process.

Changes in the Business of Law

Also consider how continuing changes in the provision of legal services in the U.S. are creating a new paradigm. Much as old social contracts that used to exist between employers and employees have given way to practical concerns, so too the relationship between clients and their legal counsel has undergone a fundamental change. Clients who once followed the lead of outside counsel are now asserting themselves in a fundamental reordering of the relationship, with the goal of slashing expenditures and taking control of how their work is staffed and executed.

More than ever, clients are attacking traditional law firm profit centers. For instance, they are in some cases questioning whether they should be financially responsible for training inexperienced young associates by allowing these newly minted lawyers to work on open files at traditional rates. They are instead dictating who will be authorized to bill on their matters, and in many instances, these clients are seeking alternative fee arrangements with a smaller set of preferred firms.

Against this backdrop, simply offering clients the same two dimensional service that ignores how international their business has already become—or likely will become in the not-too-distant future—is an unforced error that your competitors will use to their advantage. Do yourself a favor and add an international dimension to your practice now.

How to Build Your Global Practice

So—what is necessary to build an international practice? What is *not* necessary is an intimate knowledge of the law of every sovereign nation in the world. Fundamentally, you need four things: 1) learn how to evaluate the in-house capabilities of your clients and how you can most efficiently create and contribute to inside-outside teams at various stages of international deals; 2) develop your issue spotting skills; 3) know what you don't know, and 4) become a good quarterback--build an international network of experts you can pull in to fit the set of issues you face in a given transaction.

Evaluating your clients' capabilities is about taking the time to learn their business and the background and experience of their people. How big is their in-house department? How many in-house attorneys have international experience? Where and in what capacity? What are their current responsibilities—do they have time to give appropriate attention to the legal issues that an anticipated transaction or litigated matter will require? Does the client need someone to step in and take a leadership role or do they only need a sounding board? You will only know by taking the time to listen to your client, and repeating the process as their operations, goals and issues change over time.

One of the keys of successful international practice is simply developing good issue spotting skills. Clients are generally focused on the business of getting a deal done. They may not have even considered the tax consequences of repatriating profits from a newly created joint venture or the time and cost involved in getting necessary overseas building permits in a given locale. It is your job to think the deal through to completion and isolate what issues might cause a profitable transaction to become a dangerous money pit for your client. Also, you need to think ahead as your client grows and ask: what might be an issue for them in years to come?

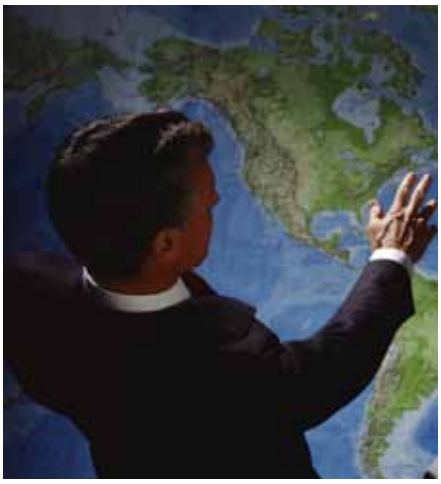
This leads to the next point: in the words of one international tax practitioner, you need to "know what you don't know." Few practitioners can realistically stay on top of all the potential issues, legal and regulatory changes and important geopolitical developments that can affect their clients' interests in every far-flung locale. As an attorney finalizes deals or conducts arbitrations in various countries, they build up a bank of experience as they would in any other field of endeavor. The temptation in a particular situation may be to extrapolate too much from one's own limited experience, instead of bringing in a local or issue expert. The more that is riding on the answer to a particular question, the more likely it is that an expert consultation is advisable.

This brings us to learning how to be the international quarterback. You need to be the person on the field who reads the situation, evaluates in real-time whether the strategy you intended to use has a likelihood of success or whether an unanticipated development means you should call a "time out" and make adjustments. It means knowing who the best person is to "carry the ball" at each step, whether local counsel or in-house management. You need to be the one who has built the network of experts that allows you to call one in quickly if circumstances dictate.

Practical Examples of Successful Quarterbacking

Savvy practitioners will tell you that those who stand out in cross-border work are those who focus on helping clients continuously focus on what is legally necessary to reach their end business goal. After all, any technician can tell a businessperson all of the reasons they can't reach their objective. A proper counselor on the other hand will devise creative ways to achieve the same ends, albeit with slightly different means if necessary. Make no mistake however, a good quarterback has to also be prepared to help a client grasp when to abandon a deal or settle a case when the costs of the business goal are simply too great.

A successful global practice requires a fundamental understanding of the difference in the business culture from one location to the next, and how the individuals across the table might react in various circumstances. A common complaint of businesspeople outside of the U.S. is how assured American-based counsel are that "the American Way" of doing things isn't just the right way but the *only* way of doing things. Everything from timing to relationship building to expressions of agreement can be affected by a difference in the business culture. Knowing how to assist especially your less seasoned clients in adopting the "American Way" to a more nuanced and sensitive approach is the mark of the well-trained quarterback.



Finally, American lawyers are rightly trained to carefully attend to the drafting of termination and dispute resolution clauses. Still, many successful quarterbacks warn that putting too much faith in enforcement of contract terms can be a mistake. Many cross-border experts liken international transactions to a marriage, and point out that if you spend more time reminding your partner about their responsibilities than building up the relationship, it is likely to fail. In saying that, many often point out that once a relationship is dead, even if you obtain an arbitration award in a neutral venue, you often have to return to a potentially hostile locale to enforce it. Quarterbacks know that implementing deals with an eye towards attention in areas where misunderstandings are likely will avoid the meltdowns of numerous international partnerships.

About the Author

David A. Steiger *is a licensed attorney and a member of the Visiting Faculty of the DePaul University School for New Learning. Steiger holds a Bachelor's degree in Political Science and a Juris Doctor from Indiana University. A licensed attorney for two decades, he lives and works in Chicago, Illinois. He is the author of* The Globalized Lawyer: Secrets to Managing Outsourcing, Joint Ventures and Other Cross-Border Transactions*, published by American Bar Association Publishing. Steiger is currently working on an expanded second edition of the book, with an anticipated publication date of Spring 2011.*

Endnotes

1 *Regional And State Employment And Unemployment Summary -- August 2010*, United States Department of Labor, Bureau of Labor Statistics, (Sept. 21, 2010, 10:00 am), http://www.bls.gov/news.release/laus.nr0.htm

2 *Id.*

3 Dee-Ann Durbin & Tom Krisher, *Ford Profit 2Q 2010: Automaker Posts Huge Quarter on Brisk Sales,* The Huffington Post (July 23, 2010, 5:31 PM), http://www.huffingtonpost.com/2010/07/23/ford-profit-2q-2010-autom_n_656836.html.

4 Sam Abuelsamid, *General Motors reports $1.3 billion profit in second quarter,* Autoblog (Aug. 12, 2010, 10:27 AM), http://www.autoblog.com/2010/08/12/general-motors-reports-1-3-billion-profit-in-second-quarter/.

5 *See* Joseph Schumpeter, Capitalism, Socialism and Democracy82-85 (Harper 3rd ed.1975) (1942).

6 *Rebalancing Growth*, International Monetary Fund World Economic Outlook(Apr. 2010), http://www.imf.org/external/pubs/ft/weo/2010/01/pdf/text.pdf.

7 *Bloomberg Global Poll: U.S. Loses No. 1 to Brazil-China-India*, Bloomberg(Sept. 21, 2010), http://www.bloomberg.com/news/2010-09-21/bloomberg-global-poll-u-s-loses-no-1-to-brazil-china-india.html.

8 Douglas A. McIntyre, *GM China Sales Top US For First Time*, 24/7 Wall St (July 2, 2010), http://247wallst.com/2010/07/02/gm-china-sales-top-us-for-first-time/.

9 Yajun Zhang, *Ford January-August China Sales Up 42% At 368,103 Units,* Fox Business (Sept. 2, 2010), http://www.foxbusiness.com/markets/2010/09/02/ford-january-august-china-sales-units/.

10 *Small & Medium-Sized Exporting Companies: Statistical Overview, 2008,* U.S. Department of Commerce, International Trade Administrationhttp://www.trade.gov/mas/ian/smeoutlook/tg_ian_001925.asp (last visited Sept. 28, 2010).

11 *Id.*

12 Emily Stephenson, *McDonald's August sales beat year-ago,* Fox Business, Reuters (Gerald E. McCormick ed) (Sept. 9, 2010), http://www.foxbusiness.com/markets/2010/09/09/mcdonalds-august-sales-beat-year-ago/.

A Legal Perspective in Promoting Investments: The Peruvian Experience and Michigan's Potential Opportunities

By Jorge E. Parodi

The early 1990s discussions amongst lawmakers and specialists were about how to help promote private investment and encourage new economic growth from the perspective of law? Are lawmakers that important? Can Congress, a Governor or a President decide whether businesses are going to grow, or not? The immediate answer is probably "no". But, it is not that easy. It is important to analyze what happened in other areas of the world and open our eyes to the experiences that took place elsewhere.

Like Oliver Wendell Holmes said in his book *The Common Law*, -"life of the law has not been logic, it has been experience."

In this respect, I would like to start by asking, what is the real effect of a legal framework on the impulse of private investment? Can legal changes create a friendly environment for private investment?

I had the opportunity to be part of the huge change that took place in South America in the mid 1990s. After the Fall of Berlin Wall, and the end of the so called "Cold War," the new world was focused on establishing the roots of the new world order. The "Washington Consensus" was part of every effort to change things, especially in the Third World. Of course, Latin America was not an exception. The enthusiasm was high, and it seemed that the free market, the free economy, and trade liberalism were the answers for everything.

When the International Monetary Fund (IMF) and the World Bank started this enormous changes by financing programs to "Reform the State" in Third World countries, they found out something on their way: no economic change could be made without changes in the country's legal framework.

> The "Washington Consensus" was part of every effort to change things, especially in the Third World.

What happened in Peru was very special. As part of the team of professionals that took part in this enormous effort to start what was called the "Reform of the State" program; we were direct witnesses of this change.

The change in Peru started in 1990. A terrible experience with former President Garcia had taken the country to the very edge of a cliff; with monster inflation, terrorism and a bankrupt economy. The Peruvian electorate then decided to elect Alberto Fujimori as President, and he arrived in Office without a political party. This uncommon fact in Latin American politics allowed President Fujimori to select his political team to help him make important economic decisions. The moment in time was perfect; and Peru could embrace the free market ideas of the "Washington Consensus;" and the idea that the private sector was the real leader of economic growth.

President Fujimori had one big obstacle ahead: a legal framework that wouldn't allow him to start economic reform in Peru. He proposed a referendum to approve a new Constitution, and the country electorate allowed these reforms. In this regard, the economic chapter of the newly written Constitution of Peru was crucial. When the economic chapter of the previous Constitution is compared to the economic chapter of the new Constitution, the following changes are noted as critical to Peru's economic successes:

Jorge E. Parodi

- The previous Constitution established that the economy should be planned by the State (emulating the old USSR model). The new Constitution discarded this concept and embraced free private initiatives.
- The previous Constitution established that the State could participate in the economy as a public enterprise, competing in the market, and at the same time; regulating the economy itself. The new Constitution discarded any participation of the State in the market; unless for a service that no private enterprise could provide. This change resulted in a new government initiated privatization process; selling most of the obsolete and nonprofitable public companies that the State could no longer afford.
- The previous Constitution established that the natural resources of the country; like mines, fisheries, and forests, belonged to the State. The new Constitution established that these resources belonged to the Nation, and that the State would only be an administrator. This change was a crucial leap in the con-

cept of natural resources, property and conditions for their exploitation.

In addition, the new legal framework of the country also established concepts that were crucial to promote private investment:

- The State could sign so called "Law-Contracts" with private companies and important investors that guaranteed to the companies and private investors that the legal and tax framework wouldn't change during the pendency of their investment. Not even a newly enacted law could change these 'Law-Contracts."
- The free tenure of foreign currency, which allowed the investors to make profits from investments without limitations.
- The establishment of an investment immigration policy that allowed for easier procedures to achieve immigration status for investors.
- The simplification of administrative procedures in order to facilitate the granting of licenses for new companies.
- The reform of judicial power; and encouragement of nonconventional dispute resolution forums, such as arbitration or mediation.
- The establishment of labor law facilities, and
- Tax reform to make taxation easier to understand and less complicated for investors.

All of these measures produced dramatic changes in Peru's economy in less than ten years, and resulted in the country being one of the best opportunities for private investment in the region. Today, Peru is quite different than it was in the 1980s. The country's establishment of a new legal framework was not the only answer to fuel economic growth and opportunities, but it removed the former legal framework's obsolescence that could have been an obstacle to meet the free market targets that had been established.

Today in Michigan, we hear the same concerns: what can we do to promote private investments? How can we make the economy grow and create new jobs? To help answer those questions, we should go back to our first question: is the state's legal framework important to promote private investments? *The History of Michigan Law* provides the perfect answer. Michigan's economy expanded with an industrializing and expanding America. The original legal framework of the state was based upon the legal framework of New York and New England. Similarly, Michigan law reflected the tradition of a dynamic jurisprudence and a legal culture that was flexible and adaptable in the face of the new conditions and circumstances.

In that respect and learning from history, Michigan's economy expanded because it had a legal environment that supported the expansion of market capitalism, rapid industrialization and the expansion and diversification of its population. The early legal measures of the state also ensured the promotion of new immigrants to the state, irrespective of nationality or race. Without this, the industrialization of Michigan would have failed.

Michigan has a long legal tradition, when compared to other states, in promoting the immigration of workers, investors and new businesses. It is time to re-discover those values and make the necessary legal changes to ensure that Michigan's future is as bright as its past. Opening up the state to new investors will make the difference, as it will not only encourage new private investment, from wherever it comes, but it will also ensure the economic recovery of this beautiful state.

About the Author

Jorge E. Parodi *is a lawyer and a graduate from the Universidad de Lima Peru. He received his lawyer title and bachelor's degree in Political Science in 1993. He is currently a member of the Lima Bar Association, and he has sixteen years of legal practice in Court in commercial law, civil law, family law, criminal law, administrative law, constitutional law and international law. In addition to his legal practice as a lawyer in Court, Mr. Parodi has been an advisor to the highest levels of public administration in the Peruvian Government including serving as a consultant to the Judicial System Reform Project financed by the United Nations Development Program (UNDP), the World Bank and the Interamerican Development Bank. He has also been an advisor to the Internal Affairs Ministry of Peru, an advisor to the Energy Committee of the Congress of Peru and an advisor to the Committee of International Relations of the Peruvian Congress. Mr. Parodi is now a resident of Michigan.*

Notes

The History of Michigan Law
Edited by Paul Finkelman and Martin J. Hersock.
Ohio University Press, 2006.

How Capitalism Saved America
Thomas J. DiLorenzo
Published by Crown Forum, New York New York, 2004.

The Roaring Nineties. A New History of the Most Prosperous Decade
Santillana Editores, 2003.

Mr. Parodi acknowledges the edits made to this article by Jeffrey F. Paulsen, Managing Member of Paulsen Law Firm PLLC based in Bloomfield Hills, Michigan.

New Energy Policy: Michigan to be Next Beneficiary

By Jeff Paulsen and John Monk


Jeff Paulsen


John Monk

A New Energy Policy is now reshaping Michigan's future

In 2010, while many people were still focused on the negative impact of the stalled US Economy, Oil Spills and the recovery of the American auto industry, our most precious state jewel, this article will draw attention to how new governmental energy policies have actually laid a new and promising economic framework for the State of Michigan. These new opportunities include not only technological advancements to petroleum based vehicle propulsion systems, but also investments that are being made to accelerate the advancement in alternative energy research and development. Whether one agrees with the direction of the new energy policies or not, we are now heading to a much greener world and Michigan is likely to be the next beneficiary.

Federal Policies and Efforts related to Alternate Fuels

On May 21, 2010, President Obama issued the following Press Release:

> America has the opportunity to lead the world in the development of a new generation of clean cars and trucks through innovative technologies and manufacturing that will spur economic growth, enhance energy security and improve our environment. We already have made significant strides toward reducing greenhouse gas pollution and enhancing fuel efficiency from motor vehicles with the joint rulemaking issued by the National Highway Traffic Safety Administration (NHTSA) and the Environmental Protection Agency (EPA) on April 1, 2010; which regulates these attributes of passenger cars and light-duty trucks for model years 2012-2016.[1]

In his memorandum, President Obama requested that the additional coordinated steps be taken to produce a new generation of clean vehicles:

- A new target of 20% reduction in greenhouse gases and an additional 25% fuel efficiency utilizing existing technologies that strengthen the industry and enhance job creation.
- Under the leadership of the EPA and the NHTSA, creation of a coordinated national program to improve fuel efficiency and to reduce greenhouse gas emissions of passenger cars and light-duty trucks for model years 2017 through 2025.
- A technical assessment leading to the deployment of new and emerging technologies, and incentives to encourage the development and deployment of new and emerging technologies that should strengthen job creation for the automotive manufacturing base for advanced vehicle technologies.
- Development of our National infrastructure to seek further promotion of cleaner fuels; including bio-fuels.
- Promotion of the deployment of advanced technology vehicles by providing technical assistance to cities by preparing them for deployment of electric vehicles, including plug-in hybrids and all-electric vehicles.[2]

Government Bailout

As a result of the $120 billion[3] bail-out of the auto industry and the additional $27 billion of related new energy awards provided by the U.S. Department of Energy (DOE),[4] Michigan is becoming the beneficiary of the new federal energy policies. As noted by the Center for Automotive Research (CAR), Michigan has received the majority of DOE Recovery Act Awards related to Electric Drive Vehicle Battery, Component Manufacturing, and Transportation Electrification Initiatives.[5] Michigan companies have also received billions of dollars through the DOE Advanced Technology Vehicle Manufacturing Loan program.[6]

Under the American Recovery and Reinvestment Act of 2009 (ARRA), Congress approved an economic stimulus package of up to $787 billion to create jobs, make infrastructure investments and to invest in energy efficiency and science, in addition to other purposes behind the Act.[7] ARRA investments in energy total over $27 billion, and include $3.1 billion for the State Energy Program to help states invest in energy efficiency and renewable energy, $2 billion for manufacturing of advanced car battery systems and components, $400 million for electric vehicle technologies, $300 million to acquire electric vehicles for federal vehicle fleet (GSA), $110 million for the development of high efficiency ve-

hicles and $42 million in support of new deployments of fuel cell technologies.[8]

Specifically, Michigan has participated in the DOE awards of $1.2 billion in Battery Cell Manufacturing, $465 million for Electric Drive Components, $254 million for Advanced Vehicle Electrification, $235 million for Advanced Battery Supplier Development, $71million for Advanced Vehicles, $38 million for Advanced Drive Education, $32 million for Electric Drive Sub components, $22 million for Transport and $9.5 million for the recycling of Lithium.[9]

Alternative Energy Companies in Michigan

Over the past 12 months, more than three dozen alternative energy companies dedicated to clean energy have begun operations in Michigam.[10] Michigan Governor Granholm has stated that an investment in clean energy is a path to create as many as 82,000 new jobs in Michigan over the next 10 years.[11] Nine small Michigan manufacturers recently qualified for $15 million in grants sponsored by the DOE. These companies included companies preparing to make light weight casting materials for use in windmills (which would be the first new foundry built in the U.S. in almost 40 years); a utility company improving the efficiency and performance of the electric grid; a company manufacturing structural steel towers used to support commercial size wind turbines; a company manufacturing wind turbine gears and gearboxes; a company manufacturing solar panels; a company manufacturing biomass gasification power systems, a company manufacturing PCB-free LED lighting panels, and a company manufacturing new energy efficient commercial window framing.[12] Governor Granholm believes that a push for clean energy will not only help to rebuild Michigan's economy, but that it can also protect the environment and enhance U.S. national security by eliminating the country's dependence on foreign oil and foreign technology.[13]

Facts related to Automotive Industry

Currently, there are 65-70 million cars, trucks and buses produced globally every year.[14] Of the nearly 250 million vehicles and motorcycles now on U.S. roads,[15] approximately 62% are dependent upon foreign oil to operate. As the number of globally produced vehicles continue to expand, it will become critical that the United States find alternative sources of vehicle propulsion as diminishing petroleum supplies and rising prices will impact vehicle consumers in U.S.. For all western economies (North America and Europe), the auto sector represents 4% of the combined Gross Domestic Product (GDP).[16]

Even before the global economic crisis, the auto industry meltdown and the current Federal Government actions, consumer behavior was radically changing and demanding more eco-friendly and fuel-efficient automobiles. In 2008, before the economic crisis became global, consumer automotive demand in the United States virtually stopped as the price of gasoline reached $4.00 per gallon. For the first time ever, the elasticity of the price of gasoline had finally reached a breaking point for the consumer.[17]

Given the current U.S. Federal Government's support for a new greener economy, new vehicle designs are already responding to this challenge of an energy efficient world. Automotive consumers will no longer be able to purchase large GM Hummers, and perhaps in the near future, Cross-Overs will completely replace larger SUVs.[18] No longer will the consumer accept Detroit's large gasoline guzzling vehicles.

This change in consumer thinking and behavior has helped to force the development of an entirely new generation of greener, fuel-efficient vehicles. Market demand coupled with the new Corporate Average Fuel Economy (CAFÉ) regulations have helped force a whole new generation of vehicles to be developed for the market place.

CAFÉ

Since 2006, automotive manufacturers have been working under the new, stringent CAFÉ guidelines that have been re-shaping the automotive sector.[19] CAFE standards, first enacted by Congress in 1975, were intended to improve the average fuel economy of cars and light trucks (trucks, vans and sport utility vehicles) sold in the United States.[20] By 2008, stringent CAFÉ reform was already underway, as manufacturers of gasoline guzzling vehicles were required to change their behaviors.[21] Under the CAFÉ reform, fuel standards were restructured so that they were to be based upon the measurement of a vehicle size "foot print", which multiplies the vehicle wheelbase by its width.[22] However, these standards have not been universally accepted. On August 2, 2010, Governor Rick Perry and the State of Texas filed a petition in the United States Court of Appeals for the District of Columbia Circuit to review the final action of the EPA,[23] claiming the Green House Gas Tailoring rules to be *arbitrary and capricious* and contrary to the Clean Air Act.[24]

New CAFE standards enacted in 2010

The National Highway Traffic Safety Administration (NHTSA) regulates CAFE standards and the US Environmental Protection Agency (EPA) measures vehicle fuel efficiency.[25] On April 1, 2010, the EPA and NHTSA formally agreed on a final ruling for CAFÉ standards for the 2012-2016 period. In the final ruling, there are different standards for passenger cars and light trucks. These rulings combine miles per gallon targets and carbon dioxide (CO2) targets. In order to reach the Model Year 2016 fuel economy standard, the fleet average fuel economy for the United States needs to improve 4.3% per year from Model Year

2011 to Model Year 2016. By 2016, passenger cars are expected to have a fuel economy of 39 mpg, while the light truck fuel economy will be around 30 mpg.[26] See CAFÉ examples below.

Although progress is being made, as a nation, the United States has a much weaker fuel economy standard than those of the European Union, Japan, China and other major countries of the world.[28] One of the clear impacts that these new mandated fuel economy standards will have is that Americans will be driving smaller vehicles.

But can Americans Learn to Love Small Cars?

Smaller vehicles have often been regarded by American car drivers as the poor man's vehicle. It is our belief that the future of the automotive industry now depends upon the small car. There will continue to be a shift around the world to smaller cars and electric and hybrid vehicles.[29] A market for small, lower cost cars is quickly emerging in the United States, following Europe's lead.

Although the Electric Vehicle (EV) and Hybrid Vehicle (HEV) market is today less than 2.0% of the automotive market, this segment is expected to grow to approximately 9.8% of the automotive sector by the year 2015.[30] Typically, one would tend to ignore this small portion of the overall automotive market, however, a 10% penetration of the automotive market with electric vehicle and hybrid vehicles within a few short years, is about to re-shape the entire automotive sector. New vehicle propulsion technology can be summarized in the table below.

A recent study concluded that the internal combustion engine will continue to be optimized and will be the mainstream automotive power train for several decades ahead. Engineering advancements have made great strides in direct-injection and turbo charging (i.e. diesel) and we are now going to see these new improvements applied to gasoline engines. As the automotive industry has expensive fixed investment and infrastructure costs in place, the internal combustion engine will continue to be re-invented and remain a significant portion of the vehicle propulsion market. Because of these factors, the gasoline-powered automobile is here to stay, at least for the immediate future.[32]

To achieve a 400-mile range, which is equivalent to a tank of gasoline, the cost of a battery to power the vehicle is currently about $30,000.[33] This cost is for the lithium battery alone, and does not include the cost of the vehicle. This is a huge cost hurdle to overcome. However, in a few short years, it is expected that lithium battery cost will fall nearly 60%.[34] With increased consumer demand and continued government subsidies, falling prices will make the electric vehicles more appealing to the general public.

Although the hybrid series (gasoline engine with electric) market will continue to grow and will be a majority of this new upcoming electric segment, most automotive analysts and industry experts believe the hybrid solution carries too many parts, adding excessive vehicle complexity and costs to be sustainable.[35]

Many analysts and engineers view hydrogen engines as an interesting solution. However, in an effort to prioritize research, development and current capital demands, hydrogen technology is currently being placed on the back burner and on hold.[36]

Dr. David Cole of the Center of Automotive Research has recently suggested that non-food cellulose is one of the best conventional solutions to our current dependence on gasoline. As the internal combustion engine is here to stay, the automotive industry needs a good viable alternative for our current oil based petroleum obsession. Non-food cellulose (i.e. algae and garbage) has tremendous energy offerings and would be consistent

CAFÉ EXAMPLES [27]

Vehicle	Footprint	MY2010 fuel economy	MY2016 fuel economy
Ford Fusion	46 sq. ft	25 mpg (39 for hybrid)	37.1 mpg
Ford Escape 4WD	44 sq. ft	22 mpg	32.9 mpg
Toyota Sienna	55 sq. ft	19 mpg (18 mpg 4wd)	28.2 mpg

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Alternative Propulsion Systems [31]

Conventional Technology	Example
HEV (Parallel Hybrid)	Ford -Hybrid Escape
Bio Fuels	Non -Food Cellulose
CNG	Compressed Nature Gas

Novel Technology	Example
PHEV (Series Hybrid)	Plug-in Chevy Volt
BEV	Battery Only-Nissan Leaf
FCV	Fuel Cells

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with Green World offerings. It is estimated that a gallon of non-food cellulose can be produced today at $1.50 per gallon; suggesting it could easily be an answer to gasoline at today's gasoline market price. While lowering petroleum consumption and carbon footprints, non-food cellulose is also a potential international solution as it could be easily produced in any part of the world. Certainly, as the automotive industry enters a new greener world, the debate will continue as to the correct technology for America's future.[37] Today, many are concerned that the United States economy will revert to recession, and that these new green initiatives will be stalled.

Fear of Double Dip Recession- Highly Unlikely

Disappointing data recently released[38] in the United States relating to jobs, retail sales and housing have revived new fears of a double-dip recession. Yet, the recent economic news from elsewhere, even the European zone, has been better than expected, and fiscal and monetary policy in most countries remains supportive of economic growth. Although another global slowdown looks inevitable, relapse into recession is unlikely.

This is good news for the automotive industry.

We are in the midst of a Global Race

Since Henry Ford and Alfred Sloan at the beginning of the 20th century, America has led the automotive and manufacturing sectors of the world. However, in 2009, China surpassed the United States in light vehicle sales by nearly 3 million units.[39] Considering the current Chinese government subsidies on small cars, electric and hybrid vehicles, the United States has had a rude awakening to global competition in this new green automotive market.

China's central government has played a critical role in the development of their electric vehicle sector. China's first major effort to encourage research and development of electric vehicles began in the early 2000's and during the period of China's 10th five-year plan, with the inclusion of electric vehicle technology under the country's "*863*" program. The genesis of the "*863*" name is derived from letters sent by Chinese Scientists to the Chinese Government on March 3, 1986, appealing for support in helping the country's high tech sector catch up with the rest of the world. During China's 10th five-year plan (2001-2005), the Chinese Government allocated 130 million US dollars for electric vehicle projects and an additional 147 million US dollars for research and development by local governments, enterprises, institutes and universities. For China's 11th five-year plan (2006-2010), the Chinese Government has increased its financial allocation for electric vehicle projects as it sees electric vehicles as an important growing market segment. China is investing heavily into these new technologies and it wants to win a strategic controlling position in the automotive industry and these new green technologies.[40] These investments have put China in a good position to be the leader of the electronic vehicle market in the world. According to Roland Berger estimates,[41] the hybrid electric vehicles and electric vehicle power train components industry will be a $26-64 billion per year business. A recent study by Autopolis suggests that Asia will lead the automotive industry worldwide with electric vehicles and hybrid electric vehicles, unless other countries increase their own investments and get into the competition.[42] Another study, issued in August 2010, reported that China's Central Government will consider proposals that could lead to the country being the world's largest market for alternative energy vehicles by 2020.[43] Surely a worldwide automotive technology race has begun and Asia is already ahead.

Of the Chinese manufacturers, BYD is thought to be the frontrunner in electric vehicle development. BYD saw its sales of electric vehicles double in 2009 and they expect another sales growth of 80% in 2010. Although these numbers are impressive, so far, most electric vehicle sales have been limited to public transportation, including buses, taxis and institutional internal use; and not to private individuals. In addition, BYD has delayed its launch of a pure electric vehicle offering several times.[44] The Chinese Government however has indicated that it expects the Chinese electric vehicle market to expand to 147 billion U.S.

dollars by 2020. However, just as in the United States, the higher price of the current electric vehicle offerings in China is a huge hurdle. The Chinese Government support is still needed to offset these costs to encourage consumer acceptance of the electric vehicle.[45]

While we are in the midst of a global race to determine which country or countries will become the leaders of electric vehicle technology and sales, it has still not been determined whether China, the United States, or other countries will ultimately prevail. China has a number of advantages that will facilitate its development of electric vehicles. These advantages include a) significant natural resources, especially rare earth and neodymium, which are key materials for manufacturing permanent magnets for electric vehicle core components and significant lithium reserves for Li-ion batteries, b) production cost advantages, c) a market size of over 1.4 billion people that if penetrated will achieve significant production economies of scale, d) the governmental ability to mobilize natural resources, e) an easier consumer adaptation to the new technology as gasoline propulsion systems have not yet penetrated the consumer market to a significant extent and f) a similar starting point with other countries in battery technology.[46] China also has a number of significant disadvantages it must overcome to win the race for the electric vehicle market. China trails the United States and other countries in core automotive technologies such as power train control, electric drive motors and batteries. It also faces competition among Chinese Federal Government ministries over ultimate control of the automotive industry. In addition the Chinese conservative approach to investing in innovative technologies and potential environmental issues are other disadvantages.[47]

Green Opportunities for Michigan Automotive Businesses

The globalization of the automotive industry and the reforms of CAFÉ standards have forced Michigan based automotive companies to consider new alternatives to vehicle propulsion and to consider ways to improve upon existing and soon to be even tougher fuel efficiency and emissions standards. Many opportunities exist for those willing to adjust to the new Federal and State regulations calling for more fuel efficient and environmental friendly vehicles. Companies that are willing to invest in engineering and inventive game changing technology, and that embrace these green changes, are poised to succeed. There are even opportunities for Michigan based companies to consider collaboration with Chinese companies that are also interested in the new green technologies of electric vehicles.

Time will tell what companies and what countries of the world will ultimately prevail in the race to embrace green changes. Because of the changes already occurring, Michigan has an opportunity to be one of the top beneficiaries of the new governmental energy policies and of the worldwide green competition that has already begun. The time to get into the global race to win the new vehicle propulsion alternatives and the automotive industry future is now.

About the Authors

Jeffrey F. Paulsen *has over 25 years of experience as an international business lawyer. He is a former Corporate Counsel of Allied Domecq PLC, a FTSE 100 company, a former General Counsel of a division of Brunswick Corporation, a Fortune 500 company, and a former partner of an AMLAW 200 law firm. He represents businesses and individuals on a wide variety of business transactions, and his experience includes counseling domestic and international based clients as well as drafting, negotiating and documenting mergers and acquisitions, joint ventures, supplier and distributor arrangements and various other business agreements, for both public and private companies. Jeff is currently the Managing Member of Paulsen Law Firm, PLLC based in Bloomfield Hills, Michigan. He also currently serves as the Secretary of the State Bar of Michigan International Law Section. He can be reached at jfp@paulsenlawfirm.com or at (248) 456-0646.*

Jeff received his Bachelor of Arts in Economics from the University of Michigan-Ann Arbor and his Juris Doctor from Michigan State University Law School.

John F. Monk *is a Managing Partner with autoPOLIS a UK strategy & change consultancy firm specializing with the automotive and manufacturing sectors. It provides market based analysis, strategy and advisory support for M&A to industry, governments and financial institutions. Its partners –directors and analysts are former Booz Allen Hamilton, Boston Consulting, Fiat and Renault. The firm is headquartered in London, and has offices in Detroit, New York, Paris, Melbourne-Australia, Istanbul-Turkey and Hong Kong.*

John has twenty-five years with the international automotive sector and specializes with emerging technologies, policy and risk mitigations. Previously, served as Executive Director of Business Strategy and R&D for ASC Incorporated, Renault and CITIC (China's high profile investment group). He is a graduate of Wayne State University and Central Michigan University with a Masters in Business Administration. Also, serves as a member of the advisory board for the Economist Conferences (EIU-Economist Intelligence Unit) and is frequently interviewed by the press /media.

Endnotes

1. Memorandum to Sec'y of Transp., Sec'y of Energy, Adm'r of the Envtl. Prot. Agency, Adm'r of the Nat'l Highway Traffic Safety Admin. (May 21, 2010), available at http://www.nhtsa.gov/staticfiles/rulemaking/pdf/cafe/2017-Memorandum_05212010.pdf.
2. *Id.*

3. Joseph Szczesny, *Battered Auto Suppliers Eye Better Times*, The Oakland Press, (Jan. 12, 2010), available at http://oesa.org/publications/articledetail.php?articleId=20600.
4. Statement of Matt Rodgers before the Committee on Ways and Means US House of Representatives, *Putting Americans to Work, Building a Clean Energy Economy and Reducing our Dependency on Oil*, (Apr. 14, 2010) U.S. Department of Energy available at www.congressional.energy.gov/documents/Final_Testimony(6).pdf.
5. *Gas, Diesel and Hybrid Tech. Pathways for Achieving Cost Effective Fuel Econ., Ctr. for Auto. Research,* (June 2010), AUTOMOTIVE Community Partnership, http://www.cargroup.org/pdfs/June.pdf
6. *Id.*
7. *American Recovery and Reinvestment Act of 2009: Oversight Challenges Facing The Dep't of Transp.*, Dep't of TransP. Report No. MH-2009-046. (March 31, 2009) http://www.recovery.gov/News/press/Documents/DOT_Oversight_Challenges_Report_final_508.pdf.
8. *Breakdown of Funding*, U.S. Dep't of Energy, http://www.energy.gov/recovery/breakdown.htm.
9. Gas, Diesel and Hybrid Tech., *supra,* note 5.
10. Joseph Szczesny, *Clean Energy Companies Creating Jobs in Mich.,* The Oakland Press, June 25, 2010.
11. *Id.*
12. Mich. Recovery and Reinvestment Opportunities, www.MichiganAdvantage.org.
13. *Supra, note 10.*
14. Autopolis, www.autopolis.com.
15. Editorial, *Beyond the theatrics, how to rate Obama on oil spill response*, USA Today, June 16, 2010.
16. John Monk, Autopolis, www:autopolis.com
17. *Id.*
18. *Id.*19. *CAFÉ- Fuel Economy*, National Highway Traffic Safety Administration, www.nhtsa.gov/fuel-economy.
20. *Corporate Average Fuel Economy*, National Highway Traffic Safety Administration, www.nhtsa.gov/fuel-economy.
21. Michael Omotoso, JD Powers- 2010, (July 7, 2010), www.jdpowers.com.
22. *Id.*
23. Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring, 75 Fed. Reg. 31,514 (June 3, 2010) (to be codified at 40 C.F.R. pt. 51, 52, 70, at al.)
24. Southern Legal Foundation v. U.S. Envtl. Prot. Agency, No. 10-1222 (D.C. Cir. filed Sept. 15, 2010).
25. *Corporate Average Fuel Economy*, National Highway Traffic Safety Administration, www.nhtsa.gov/fuel-economy.
26. *Establish Light-Duty Vehicle Greenhouse Gas Emission Standards and CAFE Standards* National Highway Traffic Safety Administration, www.nhtsa.gov/fuel-economy.
27. Omotoso, *supra* note 21.
28. Leigh Phillips, *Obama Fuel Standards Lag Behind EU Effort*, EU Observer, (May 21, 2009), http://euobserver.com/885/28171.
29. Robert Ward, *No Double Dip Recession*, The Economist: Economist Intelligence Unit, (Aug. 26, 2010), www.eiu.com.
30. John Monk, Presentation to State Bar Int'l Law Section Volume XXII, No 1, January 27, 2010. Copies available upon request.
31. *Id.*
32. John Monk, www.autopolis.com.
33. *Id.*
34. *Id.*
35. Interview with David Cole by John Monk (July 2010).
36. John Monk, www.autopolis.com.
37. *Supra* note 35.
38. Ward, *supra* note 29.
39. *Supra*, note 30.
40. Long Nanyao, *In A State Of Flux:Electric Car Sector In China*, Inter-China Consulting, (June 2010) http://www.interchinaconsulting.com/files/interchina_report_-_electric_car_sector_in_china_20100608_1.pdf
41. Nanyao at 4, discussing Roland Berger estimates.
42. John Monk, www.autopolis.com
43. *China to Consider Alternative Energy Vehicle Proposals*, The Engineer, (August 12, 2010) http://www.theenginer.co.uk/policy-and-business/business-briefs/china-to-consider-alternative-energy-vehicle-proposals/1004288.article
45. *Id.*
46. *Id.*
47. *Id.*

A Practitioner's Primer on Consular Notification of Arrest or Detainment of Foreign Nationals in Michigan

By Paul J. Carrier, Associate Professor of Law, Thomas M. Cooley Law School

The legal requirements concerning consular notification of arrest, or detention of foreign nationals, fall into a grey area between federal and state realms of authority, which is further complicated by conflict over which of the executive, legislative and judicial branches of government has ultimate authority over criminal proceedings (and due process) involving the citizens of other nations, i.e., whether the question is one of international relations or of international law. The evolving international terrorist threat, recent catastrophic natural disasters in places such as Haiti, obdurate regional conflicts in places like the Sudan, the facility of international travel, and mercurial changes in the technologies of communication, are but a few factors calling for an assessment of long-standing traditions regarding the protection of foreign nationals who are arrested or detained in this country. The purpose of this article is to briefly describe the development of law and practice in this area, both internationally and nationally, as well as to highlight some of the primary controversies in this area of law and practice, and to identify best practices for state and local authorities until a better standard is developed.

Predictably, and from a national perspective, cases and scholarship addressing consular notification, due process in criminal procedure, and *habeas corpus*, fall readily into two familiar categories. First is the conservative view of supremacy of national sovereignty in international relations, strict interpretation of constitutional and statutory language to the narrow intent of drafters and framers, and a clear separation of powers between the various branches of government, particularly to avoid the creeping expansion of law and practice by judicial legislation. Second is the more liberal focus on constitutions (and statutes) as living and breathing documents that permit expansion in changing times by judicial interpretation rather than by constitutional or legislative amendment, and the expanding recognition of individual rights by judicial interpretation rather than by changes of law in areas of substantive and procedural due process (including *habeas corpus*), human rights, and similar. Moreover, the two primary theories regarding the nature of international law demonstrate the same logic. Positivist theory stems from a belief in the primacy of sovereignty and of a binding undertaking only by clearly manifested choice (by treaty or by development of customary international law).[1] Natural law theory asserts that certain international rules develop out of a moral imperative and not by sovereign agreement, such as the duty to honor agreements once made and even the freedom of all to use the High Seas.[2]

Historical Development of International Criminal Law, Enforcement, and the Consular Protections in the United States – in Brief

The United States inherited its initial rules on criminal law and on international diplomacy at its founding, which was a time when it was seeking not only international validation, but also assistance as an independent nation free of control by Great Britain. Due to its relative weakness, this country's position in international affairs ran along the lines of natural law, with its moral imperatives and lack of written (treaty) standards. In fact, the country's diplomatic missions began during the Revolution before it was clear that the United States was in fact a recognized state under international law, and while it was still seeking legitimacy (and aid) from some of the established major powers of the age. A self-interested, positivist approach during the early stages of national development would not have been prudent.

Paul J. Carrier

Moreover, there were no codified legal standards for protection of diplomats at that time. Thus, the federal government adopted the international common law; so too the several states of the federation inherited customary international law standards.[3] This international law focused on the rights of nations vis-à-vis their rights and duties with regard to the citizens of other nations rather than on the rights of the individual. The players in customary international law were nations; individual rights derived from the respective sovereign charged with protecting the citizen.[4] In an early case, diplomatic protection extended to members of an official legation as well as to consuls under the auspices of a commission by the sovereign (in this case, the King of France).[5] The clear focus was respect of rights derived from the sovereign, not those of the individual.

In the 20th century, which is importantly when the Vienna Convention on Diplomatic and Consular Relations treaty was signed, positivist legal theory held sway.[6] Positivist theory and its focus on the supremacy of sovereign authority generally required that international criminal law to be treated as declaratory only, and that states parties to any such agreements retained the sovereign right to ratify treaties, implement legislation necessary to honor international obligations, and to determine and impose punishment.[7]

The Vienna Convention on Consular Relations[8]

The VCCR is intended to be a restatement of developed customary international law, not the creation of any new obligation.[9] Despite a growing trend toward positivist (or "legitimist") interpretation, it is hard to overlook the fact that the title concerns consular relations, not individual rights. Moreover, the VCCR makes clear at the very beginning that the purpose of the privileges and immunities contained therein "… is *not to benefit individuals* but to ensure the efficient performance of functions by consular posts on behalf of their respective States (emphasis added)."[10]

Article 5 of this Convention includes provision for assistance to a State's nationals in the case of dealings with government authorities:

> "(i) *subject to the practices and procedures obtaining in the receiving State*, representing or arranging appropriate representation for nationals of a sending State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, *in accordance with the laws of the receiving State*, provisional measures for the preservation of rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defence of their rights and interests…(emphasis added)"[11]

What is clear in the above-quoted language is the primacy of local law and not some international standard. Noticeably lacking is language of any private right in the foreign nationals as individuals. There is, however, a small toe-hold with regard to an individualized right to some level of due process.

Article 36 sets out the right of access to nationals. It provides:

1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State:

   (a) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State;

   (b) *if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, an national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner*. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall be forwarded by said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this paragraph;

   (c) consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgment. Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action.

   1. The rights referred to in paragraph 1 of this article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purpose for which the rights accorded under this article are intended. (emphasis added)"[12]

The highlighted language is unique in that it is the only language that may be construed as recognizing a private right in the individual. Moreover, the initial language of Article 36 makes clear that the purpose is to facilitate consular functions. Review of the VCCR in its entirety makes clear its primary, and perhaps exclusive, purpose of sanctifying by treaty the body of diplomatic customary law allowing sovereigns to advocate on behalf of and to protect their citizens abroad. A teleological approach (similarly described in varying sources as 'conservative' or 'positivist') would limit the right to the State, as represented by its official agents. A dynamic approach (also aptly described as 'liberal' or 'natural law-based') would expand this provision to create an independent right in foreign nationals.[13]

Examples of Specific Standards for Consular Notification

There are a handful of standards regarding consular notification at the federal, state and local levels. Standards are likely exist at state and local levels that are part of administrative policy, and it is far from clear that there are not similar standards regulating the behavior

of certain federal agencies as well, in light of the limited number of federal agencies for which published guidelines are readily located. A brief review of at least some of what exists is in order.

State Department Guidelines on Consular Notification

The United States Department of State (State Department)[14] is charged with assisting the executive branch in its dealings with other nations. In regard to treatment of arrested and detained foreign nationals, the State Department has issued a set of Guidelines outlining the requirements (or at least the 'best practices') for US adherence to the VCCR (hereafter "State Department Consular Notification Guidelines" or "Guidelines").[15] The Guidelines require notification of arrested or detained foreign nationals of their right to have consular officials notified, and that the nearest consulate officials must be notified in cases where there is a bi-lateral treaty requiring same. The Guidelines further call for consular access and the right to assist. This applies as well in cases of death (where notification is required), guardianship or trusteeship in cases of minority or mental infirmity, and ship or aircraft wrecks or crashes of foreign vessels. Mandatory notification countries are listed and suggested statements for optional and mandatory notification are provided, as well as a suggested fax sheet for notification, answers to frequently asked questions on issues such as the definitions of a consular officer, foreign nationals (and illegal aliens) and similar, a brief legal overview, important treaties and lists of treaties, and the addresses and contact information for embassy and consular offices.

Federal Bodies

The Department of Justice and the Bureau of Immigration and Customs Enforcement (BICE, which was formerly the INS) have adopted their own standards.[16] The Department of Justice requires notification to detained foreign nationals of their right to consular notification at the detainee's option, and in cases where a foreign national would decline any notification, the fact that notification is required by special bi-lateral treaty.[17] This is followed by notification to the nearest U.S. Attorney, including a detained foreign national's declension of the right.[18] The U.S. Attorney then notifies the appropriate embassy or consulate unless the foreign national does not wish it and it involves a country for which mandatory consular notification is not required.[19] The federal regulation also specifically carves out of its coverage administrative expulsion or exclusion proceedings conducted by the BICE.[20] Standards for BICE also provide for consular notification.[21] Comparison with the DOJ and BICE regulations highlight the highly specialized functioning of latter, which may detain, release, or expel. Presumably, the differences preserve the ability to expel or release prior to a prosecution. Apparently, there is also a set of military regulations or policies.[22] Differing standards, some of which are published and readily available, some of which are not, is an issue addressed *infra*.

States

Apparently, three states have codified their own consular notifications obligations. These are Florida, California, and Oregon. Originally, Florida required consular notification to the nearest consulate and failing that, to the nation's embassy in Washington, D.C. but has always provided that a failure would not justify a defense in any criminal proceeding nor a cause for discharge from custody.[23] California passed legislation on consular notification in 1999 which adopted the State Department guidelines and also repeats the mandatory language of notification found in the VCCR.[24] The Department of Corrections and Rehabilitation is further directed to inform entering inmates of the right not only to consular notification,[25] but also of a right to be transferred to the state of current or former citizenship.[26] Additionally, the Department of Corrections must provide a list of all inmates who are citizens of a foreign nation on request by an embassy or consulate where that embassy or consulate's country has entered into a mandatory-notification treaty with the United States.[27] Oregon requires the Board of Safety Standards and Training to ensure that police officers and reserve safety officers understand the requirements of the VCCR.[28] While it directs peace officers to inform a detained foreign national of the right to communicate with a consular official,[29] the statute makes clear that such officers are not civilly or criminally liable for a failure in such regard, nor would such failure constitute grounds for exclusion of otherwise admissible evidence.[30]

Local Authorities

There would appear to be consular notification standards, policies or guidelines generated by national accreditation bodies such as the Commission on Accreditation for Law Enforcement Agencies, and therefore of certain major city and state police departments which are accredited by or seeking accreditation from this agency.[31] Consideration of these standards is beyond the scope of this article, but noteworthy is the fact that other standards, whether circulated and available or not, may exist. These in turn could provide some guidance for other jurisdictions wishing to adopt their own standards, and as to support advocacy of a more direct federal standard. Michigan, like the majority of other states, appears to rely on the State Department Consular Notification Guidelines.

Important International, Federal and State Judicial Pronouncements on Consular Notification

A detailed analysis of the legal wrangling over consular notification requirements is beyond the scope of this article.

Nevertheless, some treatment of recent international and federal cases is appropriate to set out the parameters of the VCCR Art. 36(1) & (2) obligations in US courts. Because treaty interpretation is involved, case law in this area may be found from the federal system but not as commonly in the states' judicial systems (though a handful have passed legislation or sub-state administrative bodies have generated policy guidelines). The default appears to be adherence to the State Department Consular Notification Guidelines and, in cases where there state statutes involved, the state position tracks closely the federal standards, particularly that a violation of the notification duty does not constitute reversible error, and even that such failure does not justify criminal charges.

International Court of Justice

LaGrand (Germany v. United States)[32]

In *LaGrand*, the majority of Justices on the International Court of Justice noted the United States' acknowledgement of the failure to notify two brothers arrested and detained for alleged capital crimes,[33] and ruled over U.S. objections that VCCR Art. 36(1) created a right in individuals (foreign nationals).[34] The majority further ruled that VCCR Art. 36(2) did indeed indicate priority for national rules, but that the relevant procedural default rule (failure to preserve argument for appeal) failed to give full effect given the purposes of Art. 36[35] in that Germany may have been able to assist in preventing the death penalty had it been timely notified, as well had the LaGrands (two brothers) been provided notification of the right to contact the consulate. Further, the United States was found to have violated Article 91 of the United Nations Charter and Article 41 of the Statutes of the International Court of Justice for failing to suspect legal proceedings despite an order by the ICJ on provisional measures.[36] Finally, a US apology to Germany was insufficient to remedy the violations.[37] Further pronouncement on rights, however, was avoided in light of a US commitment to review and reconsider convictions and sentences under certain circumstances.[38] The US commitment also persuaded the majority of the Court to leave for another time whether the duty to notify detainees is a human right in addition to an individual right.[39]

Avena and Other Mexican Nationals (Mexico v. U.S.)[40]

In this case also involving death row inmates, the International Court of Justice basically reiterated the basic rulings of its *LaGrand* decision. The Court did find, however, that the U.S. had failed to effectively remedy its violations as required by international law.[41] The Court affirmed the State right to craft remedies under its own laws.[42] In doing so, the Court took into consideration certain US steps such as attempts at executive clemency and the distribution of pamphlets informing about Art. 36 rights, which it characterized as being in good faith, but it ultimately ruled that the US had had committed Art. 36 violations in a number of cases.[43] The Court basically affirmed its *Avena* judgment in *Request for Interpretation of the Judgment of 31 March 2004 in the Case Concerning Avena and Other Mexican Nationals (Mexico v United States)*.[44]

United States (Federal)

Breard v. Gilmore[45]

A Paraguayan national was charged with rape and capital murder, convicted, and sentenced to execution. The Supreme Court in a *per curiam* opinion denied a petition for writ of *habeas corpus*, leave to file a bill of complaint, petitions for *certiorari* and a say of applications requested by Breard and Paraguay. In the *per curiam* opinion, the Court ruled that the procedural rules of a State governs the implementation of treaty law such as the VCCR, which permits rules on procedural default, and that international treaty law is on parity with an Act of Congress, not above it, such that subsequent national legislation may interpret or narrow treaty law.[46] The Court also noted that the error, if any, based on VCCR Art. 36 was unlikely to result in an overturning of the final judgment in light of other evidence (i.e., harmless error).[47]

Sanchez-Llamas v. Oregon[48]

The majority in *Sanchez-Llamas* recognized that federal courts do not have supervisory authority over state courts except to "correct wrongs of constitutional dimension."[49] Whereas judicial remedies if any must be provided for in a treaty itself in order for the federal judiciary to require adherence by state courts, the majority ruled that it could not alter or amend treaties to recognize some right or remedy not within their terms.[50] Accordingly, the right to have a conviction for murder set aside for the alleged failure of the state courts of Oregon of the Art. 36(1) to notify the defendant of the right to have his consulate contacted did not fall under the Art. 36(2) requirement of a signatory to enable the full effect of the purposes for which treaty rights were intended.[51]

Medellin v. Texas[52]

Most important from this Supreme Court case is the ruling that the VCCR is not a self-executing treaty.[53] Additionally, the Executive does not have the power to convert a non-self-executing treaty into a self-executing, that is, a treaty which becomes binding at signature without any ratification or local implementation.[54]

Conclusion

The International Court of Justice has stopped just short of identifying the right of an arrested or detained foreign national to consular notification as a human right, although it has recognized this as an individual right requiring a remedy pursuant to VCCR Art. 36(1). Important to note is that the ICJ has left to the signatory States the ability to

determine the remedy under national (or even sub-national) law so long as it comports with the somewhat vague requirement in VCCR Art. 36(2) that the remedy ensures 'full effect' to the rights contained in the treaty. The United States in its federal courts has agreed that the Art. 36(1) right to be notified about the right to consular notification belongs to an individual, and that a remedy for violations is appropriate. However, the federal and state systems have sole responsibility for determining the remedy. This is asserted on two main bases. First, the treaty is non-self-executing and requires specific implementation, and it therefore possesses no more value as precedent than federal legislation. This can be read to announce that the Art. 36(1) right to be notified of the right to have one's consulate notified does not rise to the level of a constitutional right (for US purposes) or of a human right (for purposes of various international declarations and conventions to which the U.S. is a party). Second, state courts as well are empowered to determine their own rules on matters such as procedural due process and are subject only to supervision by the federal courts in cases of error of a constitutional dimension.

What is clear is that law and practice concerning Art. 36(1) & (2) is still within the realm of diplomacy, assuring involvement if not supremacy of the executive and legislative branches as well as that of the judicial branches. This will remain true until the VCCR is amended to provide that, or another treaty clearly provides that, these rights rise to the level of a 'constitutional' or a 'human rights' right. The VCCR is not self-executing, and *state courts,* in addition to federal ones, are free to determine the implementation of the rights and remedies within the (arguably) vague parameters of a treaty signed in 1963. Even the federal executive may not unilaterally interpret VCCR

It is important to weigh the potential costs of judicial activism in this sensitive area of law and diplomacy. First, while the U.S. may receive kudos for taking the moral high ground in recognizing a human/constitutional right to notification in favor of foreign nationals, it may also lose a bargaining tool for encouraging other nations to improve their own human rights records. Second, there are separation of powers considerations at issue too complicated to address here. Third, even the costs of prosecution and administration could prove insupportable were federal authorities, and those of the states derivatively, not able to expel prior to the attachment of constitutionally-based due process rights. It is argued that the members to the VCCR intended its terms to be opaque enough to provide some diplomatic bargaining space. It is further argued that the proper venue for changes is amendment of the VCCR in that it respects the rights and the needs of all branches of US government as intended by the Constitution. In other words, to preserve the separation of powers (between branches, and between the federal government and the several states), as well as the executive branch's right to use the inducement of reciprocity in foreign relations, a conservative or positivist approach is recommended. In the absence then of any clear standard, which appears to be the current state of affairs, the safest course is to adhere to the State Department Consular Notification Guidelines, while recognizing the limitations in cases which fail to comply.

About the Author

Paul J. Carrier *is an Associate Professor of Law at Thomas M. Cooley Law School. He teaches several international law courses and property law, and he co-coaches Cooley's Jessup International Moot Court Competition teams.*

Endnotes

1 The law of treaties has always focused on consent, i.e., on positivism, and this is true of the Vienna Convention on the Law of Treaties. *See* John K. Setear, *An Iterative Perspective on Treaties: A Synthesis of International Relations Theory and International Law*, 37 Harv. Int'l L. J. 139, 156-158 (1996).

2 Professor Setear points to the "legitimacy theory" of Thomas Franck, which bears all of the hallmarks of 'natural law' theory. *See id.*, pp. 162-163.

3 *Respublica v. De Longchamps*, 1 U.S. 111 at 116 (1784).

4 A particularly informative example of customary international law as national law is the treatment of private fishing vessels during wartime. Customary international law developed on a nation-to-nation basis where states held the rights and exercised them on behalf of their citizens. *See The Paquette Habana*, 175 US 677, 686-713 (1900). The Confederated States sent delegates to France, for example, to deal with international uproar over seizure of naval vessels, *see, e.g.*, Ingrid Brunk Wuerth, *International Law and Constitutional Interpretation: The Commander in Chief Clause Reconsidered*, 106 Mich. J. Int'l L. 61, pp. 86-87 (2007), even before statehood was officially recognized.

5 *Respublica*, *supra* n. 3, p. 115.

6 *See* Setear, *supra* n. 1, pp. 156-158.

7 *See* Jordan J. Paust et al., International Criminal law: Cases and Materials, Ch. 1, p. 10 (3d ed. 2007). While preference was for national control over crime and punishment in international law during the positivist era, worthy of note the requirement that nations indict, or else they must extradite, international criminals. *Id.* (citing renowned natural law theorist Hugo Grotius, De Jure Belli ac Pacis, Bk. II, Chp. XXI, §§ III 8 IV (1624). Indicative of this is the fact that there were no international punishment regimes until certain *ad hoc* tribunals such as the international criminal tribunals of Nuremburg and Tokyo were established. *Id.*, p. 11.

8 Vienna Convention on Consular Relations, Apr. 24, 1963, 21 U.S.T.

77, 596 U.N.T.S. 261 (hereafter "VCCR" or "Convention").

9 The Convention begins by recognizing the fact that "… consular relations have been established since ancient times." *See id.*, *Preamble* to the Vienna Convention on Consular Relations.

10 *Id.*

11 *Id.*, Art. 5.

12 *Id*, Art. 36.

13 *See generally* John Quigley, *"If You Are Not a United States Citizen…": International Requirements in the Arrest of Foreigners*, 6 Ohio st. j. crim. l. 661 (2009); Brittany P. Whitesell, *Diamond in the Rough: Mining Article 36(1)(B) of the Vienna Convention on Consular Relations for an Individual Right to Due Process*, 54 Duke L. J. 587 (2004); Comment, *Giving State and Local Law Enforcement the Benefit of the Doubt: How to Ensure VCCR Compliance without Judicial Remedies*, 17 j. l. & pol'y 609 (2009); Comment, *Meddling with the Vienna Convention on Consular Relations: The Dilemma and Proposed Statutory Solutions*, 40 McGeorge l. rev. 179 (2009). *See also* Julian G. Ku, *The State of New York Does Exist: How the States Control Compliance with International Law*, 82 N.C. L. Rev. 457 (2004) (arguing that the states play a major role in enforcing international treaty rights, including those found in Article 36 of the Vienna Convention).

14 The Department of Foreign Affairs (now the State Department) was the first executive branch established after the ratification of the Constitution to assist the President. *See* Act of July 27, 1789, ch. 4, §1, 1 Stat. 28-29 (establishing an executive department known as the Department of Foreign Affairs). The foreign affairs power, which includes dealings not only with other nations but also with their delegations, is granted to the Executive by the Constitution, U.S. Const. art. II, cl. 2, although Congress has ultimate legislative authority, which includes the exclusive power to ratify international agreements that are non-self-executing. *See id.*, art. I, cl. 8.

15 *See* http://travel.state.gov/law/consular/consular_753.html (last checked on April 11, 2010).

16 A significant amount of information exists on the web, *see, e.g.*, http://users.xplornet.com/~mwarren/ and especially the sixth document found at that website, http://users.xplornet.com/~mwarren/compliance.htm (hereafter "Consular Notification") (last checked on April 1, 2010). Also quite helpful is the information provided on the web by the U.S. State Department. *See* http://travel.state.gov/law/consular/consular_737.html (last checked on April 11, 2010). It will be recommended *infra* that the standards advocated by the State Department be used by default as best practice, and the site includes recommended notification language (even in foreign languages), information on important distinctions such as nations for which notification is mandatory by treaty agreement between the U.S. and other nations, and a listing of foreign embassies and consulates in the U.S. as well as the contact information.

17 28 CFR § 50.5(a) (1).

18 *Id.*, § 50.5(a)(2).

19 Where the embassy or consulate must be notified pursuant to bi-lateral treaty, the U.S. Attorney is required to notify the detained foreign national of the consular notification and the reason. *Id.*, §50(a)(3).

20 *Id.*, § 50.5(b).

21 8 CFR § 236.1(e). In addition, subsection (e) lists the countries with which the United States has a bi-lateral treaty requiring notification (a list currently of 58 countries and federated nations, some with extra requirements or exemptions from the notification obligation, some noting the successor status of nations after a break-up such as with the former Soviet Republics). In a mandatory notification, officials are directed not to inform of a request for asylum or a withholding of removal. *Id.*

22 Web citation to a book or pamphlet entitled Consular Protections of Foreign Nationals Subject to the Uniform Code of Military Justice is cited in Consular Notification, *supra* n. 16.

23 Fla. Stat. Ann. §901.26 (Westlaw 2010). Review of the legislative history indicates that Florida acted after signature but before the United States ratified the VCCR, and that its primary simplification was undertaken in 2001.

24 The statute requires adherence to the procedures set out in the Department of State Guidelines Regarding Foreign Nationals Arrested or Detained in the United States, *see supra* n. 16, and it also sets out the nations for which notification is mandatory pursuant to the terms of a bilateral treaty. Cal. Penal Code Ann. §834c(2) & (3)(b) (Westlaw 2010).

25 *Id.*, § 5028(a).

26 *Id.* The Governor is to be notified of any such applications for transfer to another country. *Id.*, § 5028(c).

27 *Id.*, § 5028(b)

28 Or. Rev. Stat. Ann § 181.642 (Westlaw 2010).

29 *Id.* § 426.228(9)(a).

30 *Id.*, § 426.228(9)(b).

31 For examples of sub-state agency guidelines, *see generally* Consular Notification, *supra* n. 16.

32 LaGrand Case (Germany v. U.S.), 2001 I.C.J. 4. For an analysis of the LaGrand opinion from the viewpoint that it did not go far enough to define individual rights or necessary remedial measures, *see* Joan Fitzpatrick, *The Unreality of International Law in the United States and the LaGrand Case*, 27 Yale j. int'l l. 427 (2002).

33 *Id.*, p. 490, para. 67.

34 *Id.*, p. 494, para. 77.

35 *Id.*, p. 497-4998, para. 91.

36 *Id.*, pp. 505-506, paras. 108-109.

37 *Id.*, pp. 513-514, para 125.

38 *Id.*, paras 125 & 127.

39 *Id.*, p. 514, para. 126.

40 2004 I.C.J. 12 (Mar. 31).

41 *Id.*, pp. 53-55, para. 106. The Court cited to a famous case of its predecessor (the Permanent Court of International Justice) - *Factory at Chorzow, Jurisdiction*, P.C.I.J. Series A, No. 17, p.47, which sets out the "natural law theory" tenet that breaches of international obligations require a remedy. *Id.*, p. 59, para. 119.

42 *Id.*, p. 66, para 141.

43 *Id.*, pp. 65-70, paras. 140-152. The Court noted with apparent approval a 1998 outreach program including dissemination of a State Department booklet (the Guidelines, *see supra* n. xxx) as well as efforts in some jurisdictions to provide information about Art. 36(1)(b) in parallel with a *Miranda* warning. *Id.*, pp. 68-69, para 149.

44 2009 I.C.J. 1.

45 523 US 371, 378-379 (1998).

46 *Id.*, pp. 375-377. This is true even in light of the fact that treaty law is the "supreme law of the land." U.S. Const. art. VI, cl. 2.

47 *Breard*, p 377.

48 548 U.S. 331 (2006).

49 *Id.* at 345.

50 *Id.* at 346.

51 *Id.* at 347.

52 552 US 491 (2008). For a comprehensive analysis of the *Medellin* case, see Luke A. McLaurin, Medellin v. Texas *and the Doctrine of Non-self-executing Treaties*, XX Mich. Int'l Lawyer 1 (No. 11, Spring/Summer 2008). *See also* U.S. Supreme Court Releases Decision on Vienna Convention Cases, written by the State Department, *available at* http://travel.state.gov/law/consular/consular_2967.html.

53 552 US at 508-509.

54 *Id.* at 525-526.

Photos from the Annual Meeting

September 23, 2010 at The Fairlane Club in Dearborn

Event Calendar:
Meetings, Seminars, & Conferences of Interest

November 2-5, 2010
International Private Law Conference
Barcelona, Spain
http://www.asil.org/events-il-calendar.cfm

November 2-6, 2010
ABA 2010 Fall Meeting
Paris, France
http://www.abanet.org/intlaw/calendar/home.html

November 3, 2010
Islamic Finance Conference
Dubai, UAE
http://www.ibanet.org/Conferences/conferences_home.aspx

November 4-6, 2010
Full Speed Ahead: Recent challenges and solutions for the shipping industry
Istanbul, Turkey
http://www.ibanet.org/Conferences/conferences_home.aspx

November 5-6, 2010
AILA Texas Chapter 2010 Fall CLE Conference
Playa del Carmen, Mexico
http://www.aila.org/content/default.aspx?docid=9352

November 11-12, 2010
6th Balkan Legal Forum
Sofia, Bulgaria
http://www.ibanet.org/Conferences/conferences_home.aspx

November 11-13, 2010
23rd Annual AILA California Chapters CLE Conference
Monterey, CA
http://www.aila.org/content/default.aspx?docid=9352

November 12, 2010
ASIL Mid-Year Meeting
Coral Gables, FL
http://www.asil.org/events-il-calendar.cfm

November 17-19, 2010
2nd Asia Pacific Regional Forum Conference
Tokyo, Japan
http://www.ibanet.org/Conferences/conferences_home.aspx

November 18-19, 2010
Rule of Law Conference
Wellington, New Zealand
http://www.abanet.org/intlaw/calendar/home.html

November 18-20, 2010
Int'l Economic Law in Time of Change: Reassessing Legal Theory, Doctrine, Methodology and Policy Prescriptions
Minneapolis, MN
http://www.asil.org/events-il-calendar.cfm

November 23, 2010
1st Ukrainian International Dispute Resolution Conference: Ukraine, Russia and CIS
Kiev, Ukraine
http://www.ibanet.org/Conferences/conferences_home.aspx

November 25-26, 2010
4th Law Firm Management Conference
Moscow, Russia
http://www.ibanet.org/Conferences/conferences_home.aspx

November 30, 2010
54th UIA Annual Congress
Istanbul, Turkey
http://www.abanet.org/intlaw/calendar/home.html

November 30, 2010
International Private Equity Transactions Conference
London, England
http://www.ibanet.org/Conferences/conferences_home.aspx

November 30, 2010
ICDR/IBA Int'l Arbitration Conference
Buenos Aires, Argentina
http://www.ibanet.org/Conferences/conferences_home.aspx

December 1, 2010
13th Annual AILA New York Chapter Symposium
New York, New York
http://www.aila.org/content/default.aspx?docid=9352

January 6, 2011
Internationalizing the Faculty
San Francisco, CA
http://www.asil.org/events-il-calendar.cfm

January 16-22, 2011
Seminar for Advanced Studies in Public and Private Int'l Law: "Security in the International Law of the Sea"
The Hague, Netherlands
http://www.asil.org/events-il-calendar.cfm

January 28, 2011
2011 AILA Midyear CLE Conference
Puerto Vallarta, Mexico
http://www.aila.org/content/default.aspx?docid=9352

February 9-13, 2011
Gujarat National Law University International Moot Court Competition (GIMC 2011)
Gujarat, India
http://www.asil.org/events-il-calendar.cfm

February 9-15, 2011
ABA Midyear Meeting
Atlanta, GA
http://www.abanet.org/intlaw/calendar/home.html

February 10-11, 2011
TLCP Symposium 2011 "Ten Years after 9/11: Rethinking Counter-Terrorism"
Iowa City, IA
http://www.asil.org/events-il-calendar.cfm

February 10-11, 2011
The Global Commercialisation of Knowledge Based Industries - Israel's Experience
Tel Aviv, Israel
http://www.ibanet.org/Conferences/conferences_home.aspx

February 21-23, 2011
Olimic Size Investments: Business Opportunities and Legal Framework
Rio de Janeiro, Brazil
http://www.ibanet.org/Conferences/conferences_home.aspx

February 23-25, 2011
AMPLA/IBA Resources and Energy Law Conference South East Asia
Singapore
http://www.ibanet.org/Conferences/conferences_home.aspx

March 3-4, 2011
14th Annual IBA Int'l Arbitration Day
Seoul, South Korea
*http://www.ibanet.org/Conferences/conferences_*

home.aspx

March 7-8, 2011
16th Int'l Wealth Transfer Practice
London, England
http://www.ibanet.org/Conferences/conferences_home.aspx

March 10-11, 2011
Merger Regulation in the EU after 20 years
Brussels, Belgium
http://www.ibanet.org/Conferences/conferences_home.aspx

March 13-15, 2011
12th Annual Private Investment Funds Conference
London, England
http://www.ibanet.org/Conferences/conferences_home.aspx

March 23-25, 2011
Mergers and Acquisitions in Latin America
Mexico City, Mexico
http://www.ibanet.org/Conferences/conferences_home.aspx

April 5-9, 2011
ABA 2011 Spring Meeting
Washington, DC
http://www.abanet.org/intlaw/calendar/home.html

April 8, 2011
2011 Spring CLE Conference
Washington, D.C.
http://www.aila.org/content/default.aspx?docid=9352

April 10-12, 2011
The New Normal: The Effect of the Global Financial Crisis
Chicago, IL
http://www.ibanet.org/Conferences/conferences_home.aspx

April 14-15, 2011
Employment Law and Discrimination Law Conference
Brussels, Belgium
http://www.ibanet.org/Conferences/conferences_home.aspx

April 28-29, 2011
Joint IBA and KBA Competition Law Conference
Seoul, South Korea
http://www.ibanet.org/Conferences/conferences_home.aspx

May 4-6, 2011
Second Conference of the Americas
Miami, FL
http://www.ibanet.org/Conferences/conferences_home.aspx

August 4-9, 2011
ABA Annual Meeting
Toronto, Ontario, Canada
http://www.abanet.org/intlaw/calendar/home.html

August 23, 2011
Managing A Modern Law Firm: A Dream Come True Or A Complete Nightmare?
Amsterdam, The Netherlands
http://www.abanet.org/intlaw/calendar/home.html

October 30-November 4, 2011
IBA Annual Conference 2011
Dubai, UAE
http://www.ibanet.org/Conferences/conferences_home.aspx

Other ABA Section of International Law Events
http://www.abanet.org/intlaw/calendar/home.html

Other AILA events
http://www.aila.org/content/default.aspx?bc=1010

Other ASIL Events
http://www.asil.org/events/calendar.cfm

Other IBA Events
http://www.ibanet.org/conferences/Conferences_home.cfm

Minutes of the Annual Meeting of the International Law Section of the State Bar of Michigan September 23, 2010

The annual meeting of the International Law Section ("**Section**") of the State Bar of Michigan ("**State Bar**") was held on Thursday, September 23, 2010, at The Fairlane Club in Dearborn, Michigan, pursuant to notice duly circulated to all Section members.

Call to Order

Mr. DeLong, Chair-Elect, called the meeting to order at 1:30 p.m. EDT.

Notice and Quorum

The Secretary stated that a written notice of the meeting was mailed or delivered to all members of the Section in accordance with the Section's Bylaws. The Secretary said that the notice will be filed with the minutes of the meeting. The Secretary confirmed that a quorum was present at the meeting.

Approval of Minutes

The Secretary circulated a draft of the minutes of the annual meeting of the Section held on September 17, 2009. After discussion, upon motion made and supported, the Section approved the minutes as presented.

Treasurer's Report

The Treasurer, Mr. Jeffery Paulsen, presented the financial statement of the Section for the eleven months ended August 31, 2010, and the related detailed trial balance for the same period, prepared by the Finance & Administration Division of the State Bar. The Treasurer noted that total revenue for the Section during the period was $_____, with total expenses of $_____, resulting in net income for the period of $_____. The Section's fund balance decreased from $_____ at the beginning of the Section's fiscal year to $_____ as of August 31, 2010.

Nominating Committee Report and Election

Mr. DeLong circulated the report of the Nominating Committee. The

members of the Nominating Committee were Cameron S. DeLong, Margaret A. Dobrowitsky and Jeffery F. Paulsen, each of whom was appointed by the Chairperson pursuant to Section 3 of Article IV of the Section's Bylaws.

Mr. DeLong informed the meeting that, in accordance with the Section's Bylaws, the Chair-Elect of the Section automatically becomes the Chairperson at the end of the term of the current Chairperson. Consequently, the Chairperson of the International Law Section of the State Bar of Michigan for the coming year will be Cameron S. DeLong.

Mr. DeLong then advised that the Nominating Committee recommended that the following members of the Section be nominated for election at the Section's annual meeting as officers of the Section for the coming year:

Margaret A. Dobrowitsky — Chair-Elect

Jeffrey F. Paulsen — Secretary

A. Reed Newland — Treasurer

Mr. DeLong further indicated that the Nominating Committee recommended that the following persons be nominated to the Council for 3-year terms ending in 2013:

David B. Guenther
Gregory H. Fox
Eve C. Lerman

Mr. DeLong also stated that the Nominating Committee recommended that the following person be nominated to the Council for a 2-year term ending 2012 to fill the vacancy left if Mr. Newland is elected to the office of Treasurer:

Silvia Kleer

Upon motion made and supported, the meeting voted in favor of accepting the recommendations of the Nominating Committee. After an invitation by Mr. DeLong, no other nominations were made from the floor of the meeting. Upon motion then made and supported, all members of the Section in attendance voted unanimously in favor of the nominated persons who were thereupon elected to the positions so designated.

Finally, Mr. DeLong said that, in accordance with the Section's Bylaws, the Chairperson has appointed the following persons *ex-officio* law student members of the Council with the approval of the Executive Committee:

Nick Hawatmeh, University of Detroit Mercy School of Law

Sam Saif, Wayne State University Law School

Quinten A. Smith, Thomas M. Cooley Law School (Auburn Hills Campus)

Given below is the updated roster of the State Bar of Michigan International Law Section Officers and Council Members 2010 – 2011.

2010-2011 UPDATED ROSTER OF OFFICERS AND COUNCIL MEMBERS

Officer	Name	Address	Telephone	Email
Chairperson	Cameron S. DeLong	Warner Norcross & Judd LLP 900 Fifth Third Center 111 Lyon Street, NW Grand Rapids, MI 49503-2487	616-752-2155	cdelong@wnj.com
Chairperson-Elect	Margaret A. Dobrowitsky	Brinks, Hofer, Gilson & Lione 524 S. Main Street Suite 200 Ann Arbor, MI 48104	734-302-6026	mdobrowitsky@usebrinks.com
Secretary	Jeffrey F. Paulsen	Paulsen Law Firm PLLC 6632 Telegraph Road #127 Bloomfield Hills, MI 48301	248-456-0646	jfp@paulsenlawfirm.com
Treasurer	A. Reed Newland	Plastipak Packaging Inc. 41605 Ann Arbor Road East Plymouth, MI 48170	734-354-7142	rnewland@plastipak.com

Council Members	Term Expires	Telephone	Email
Michael E. Domanski	2011	313-465-7352	mdomanski@honigman.com
Linda J. Armstrong	2011	313-983-7476	armstrong@butzel.com
Andrew H. Thorson	2011	248-784-5165	athorson@wnj.com
Tricia L. Roelofs	2012	313-568-6530	troelofs@dykema.com
Debra Auerbach Clephane	2012	248-540-8019	dclephane@vmclaw.com
Silvia M. Kleer	2012	313-323-2320	skleer@ford.com
Gregory H. Fox	2013	313-577-0110	gfox@wayne.edu
David B. Guenther	2013	734-761-9000	guenther@cmplaw.com
Eve C. Lerman	2013	248-975-9605	eve.lerman@mail.doc.gov

Chairperson's Report

Mr. Goetz gave his Chairperson's report. Mr. Goetz thanked the officers and Council members for their support and willingness to serve the Section. He also thanked the law students for their eager participation in the Section and for their valuable assistance with the publication of the Section's newsletter, the *Michigan International Lawyer*. Mr. Goetz also noted the help of committee chairpersons with program planning throughout the year. Mr. Goetz also introduced and thanked the following law students who will work on the publication in the coming year: Melina Lito, Jennifer Gross, Zachee Pough and Silvia Hashorva.

Mr. DeLong thanked Mr. Goetz for his capable leadership of the Section and, on behalf of the Section, presented Mr. Goetz with a plaque in recognition of his contribution to the continued success of the Section.

Post-Meeting Program

Mr. DeLong reminded attendees that, after a short break, the Section would hold the annual meeting program entitled "*How International Trade Will Help Bring Michigan New Jobs and Busi-*

ness Opportunities" that featured the following presentations:

1. How to Develop a Globalized Legal Practice

David A. Steiger, author of the ABA Publishing best-seller, *The Globalized Lawyer*, made the case for the development of an international practice as a long-term strategy for Michigan lawyers, rather than as a short-term reaction to a sluggish economy. He outlined the primary skills and tools that attorneys need to develop to provide the best cross-border advice. Mr. Steiger is a practicing attorney and a member of the Visiting Faculty at DePaul University's School for New Learning in Chicago.

2. Michigan's Role in the Global Economy

Dr. Robert A. Dye, a vice president and senior economist of PNC Bank, provided an overview of the current state of the World, U.S. and Michigan economy. He also spoke to the role that Michigan has in the global economy and what may be the best business and job growth opportunities for Michigan in the near future. Dr. Dye is responsible for contributing to economic forecasting and analysis for PNC nationwide and globally. Dr. Dye has a Bachelors degree from Marietta College, a Masters degree from Ball State University and a Doctorate from the University of Pennsylvania. Dr. Dye is also the past President of the Economic Club of Pittsburgh.

3. Opportunities for Growth in Bioenergy, Wind, Solar, Battery and Water Technologies

Gil Pezza, director of the Water Technology Initiative of the Michigan Economic Development Corporation's New Markets Unit, gave an overview on the strategic approach in successfully diversifying Michigan's economy. Formerly an attorney in private practice and, prior to that, a successful professional fencer and Fencing Master, Mr. Pezza holds undergraduate and graduate degrees from Wayne State University and a J.D. from the Detroit College of Law.

Treasurer's Report
For the eleven months ending August 31, 2010

INTERNATIONAL LAW SECTION

For the eleven months ending August 31, 2010

	Current Activity August	Year-to-date August
Income:		
International Law Section Dues		11,910.00
International Stud/Affil Dues		65.00
Total Revenue		11,975.00
Expenses:		
ListServ	25.00	275.00
Meetings		10,116.79
Travel Expenses		1,664.40
Telephone		84.58
Newsletter	141.18	1,232.58
Postage		109.97
Miscellaneous		322.99
Total Expenses	166.18	13,806.31
Net Income	(166.18)	(1,831.31)
Beginning Fund Balance: Fund Bal-International Law Sec		26,599.73
Total Beginning Fund Balance		26,599.73
Ending Fund Balance	(166.18)	24,768.42

4. Outbound Opportunities for Michigan Businesses

Eve Lerman, International Trade Specialist with the U.S. Commercial Service, gave a presentation on specific areas of the global market where Michigan businesses may find opportunities and how the U.S. Commercial Service can help Michigan attorneys and their clients pursue business opportunities in the global market.

Adjournment

There being no new business to come before the meeting, Mr. DeLong adjourned the meeting.

Respectfully submitted,
Margaret A. Dobrowitsky, Secretary
International Law Section, State Bar of Michigan

State Bar of Michigan

International Law Section Leadership Roster 2010-2011

CHAIR

Cameron S. DeLong
Partner
Warner Norcross & Judd LLP
111 Lyon St NW Ste 900
Grand Rapids, MI 49503
Phone: (616) 752-2155
Fax: (616) 222-2155
e-Mail: cdelong@wnj.com
Web: www.wnj.com

CHAIR-ELECT

Margaret A. Dobrowitsky
Brinks Hofer Gilson & Lione PC
524 S Main St Ste 200
Ann Arbor, MI 48104
Phone: (734) 302-6026
Fax: (734) 994-6331
e-Mail: mdobrowitsky@usebrinks.com

SECRETARY

Jeffrey F. Paulsen
Paulsen Law Firm PLLC
6632 Telegraph Rd # 127
Bloomfield Hills, MI 48301
Phone: (248) 456-0646
Fax: (248) 332-9452
e-Mail: JFP@paulsenlawfirm.com
Web: www.paulsenlawfirm.com

TREASURER

A. Reed Newland
Assistant Corporate Counsel
Plastipak Packaging Inc
41605 Ann Arbor Rd E
Plymouth, MI 48170
Phone: (734) 354-7142
Fax: (734) 354-7398
e-Mail: rnewland@plastipak.com

COUNCIL MEMBER

Term Expires 9/30/2011

Linda J. Armstrong
Butzel Long PC
150 W Jefferson Ave Ste 100
Detroit, MI 48226
Phone: (313) 983-7476
Fax: (313) 225-7080
e-Mail: armstrong@butzel.com

Michael W. Domanski
Honigman Miller Schwartz & Cohn LLP
660 Woodward Ave Ste 2290
Detroit, MI 48226
Phone: (313) 465-7352
Fax: (313) 465-7353
e-Mail: mdomanski@honigman.com

Andrew H. Thorson
Warner Norcross & Judd LLP
2000 Town Ctr Ste 2700
Southfield, MI 48075
Phone: (248) 784-5165
Fax: (248) 603-9465
e-Mail: athorson@wnj.com
Web: www.wnj.com

Term Expires 9/30/2012

Debra Auerbach Clephane
Vercruysse Murray & Calzone PC
31780 Telegraph Rd Ste 200
Bingham Farms, MI 48025
Phone: (248) 540-8019
Fax: (248) 540-8059
e-Mail: dclephane@vmclaw.com

Tricia Lynn Roelofs
Dykema Gossett PLLC
400 Renaissance Ctr
Detroit, MI 48243
Phone: (313) 568-6530
Fax: (313) 568-6691
e-Mail: troelofs@dykema.com

Silvia M. Kleer
Ford Motor Company
1 American Rd Ste 336-A6
World HQ
Dearborn, MI 48126
Phone: (313) 323-2320
Fax: 888-343-1631
e-Mail: skleer@ford.com

Term Expires 9/30/2013

David B. Guenther
Conlin McKenney & Philbrick PC
350 S Main St Ste 400
Ann Arbor, MI 48104
Phone: (734) 761-9000
Fax: (734) 761-9001
e-Mail: guenther@cmplaw.com
Web: www.cmplaw.com

Gregory H Fox
Professor of Law
Director, Program for International Legal Studies
Wayne State University Law School
471 West Palmer Street
Detroit, MI 48202
Phone: (313) 577-0110
Fax: (313) 577-2620

Eve C. Lerman
Senior International Trade Specialist
US Dept of Commerce
250 Elizabeth Lake Rd Ste 1300W
Pontiac, MI 48341
Phone: (248) 975-9605
Fax: (248) 975-9606
e-Mail: evelerman@hotmail.com

LAW STUDENT

Term Expires 9/30/2011

Nick Hawatmeh
University of Detroit Mercy School of Law
Telephone: 586-871-6522
nickhawatmeh@yahoo.com

Sam Saif- 2011
Wayne State University Law School
Telephone: 586-256-0856
samsaif@gmail.com

Quinten A. Smith-2011
Thomas M. Cooley law School
Telephone: 248-497-0838
Quinten.smith@gmail.com

IMMEDIATE PAST CHAIR

Richard G. Goetz
Int'l Practice Group Leader
Dykema Gossett PLLC
400 Renaissance Ctr
Detroit, MI 48243
Phone: (313) 568-5390
Fax: (313) 568-6832
e-Mail: rgoetz@dykema.com

COMMITTEE CHAIRS:

INTERNATIONAL BUSINESS AND TAX

Michael Domanski, Chair
Honigman, Miller, Schwartz & Cohn, LLP
660 Woodward Ave, Ste 2290
First National Bldg
Detroit, MI 48226
Telephone: (313) 465-7352
Fax: (313) 465-7353
E-mail: mdomanski@honigman.com

INTERNATIONAL TRADE

Andrew P. Doornaert, Chair
KPMG LLP
150 W Jefferson Ave, Ste 1200
Detroit, MI 48226
Telephone: (313) 230-3080
Fax: (313) 447-2413
E-mail: adoornaert@kpmg.com

EMERGING NATIONS

Ken Duck, Chair
Senior Attorney
Foley & Lardner LLP
One Detroit Center
500 Woodward Ave, Ste 2700
Detroit, MI 48226-3489
Telephone: (313) 234-7121
Fax: (313) 234-2800
E-mail: kduck@foley.com

Richard G. Goetz, Co-Chair
Int'l Practice Group Leader
Dykema Gossett, PLLC
400 Renaissance Center
Detroit, MI 48243
Telephone: (313) 568-5390
Fax: (313) 568-6832
E-mail: rgoetz@dykema.com

INTERNATIONAL EMPLOYMENT LAW & IMMIGRATION

Debra Auerbach Clephane, Chair
Vercruysse Murray & Calzone, P.C.
31780 Telegraph Road, Ste 200
Bingham Farms, MI 48025
Telephone: (248) 540-8019
Fax: (248) 540-8059
E-mail: dclephane@vmclaw.com

INTERNATIONAL HUMAN RIGHTS

Professor Gregory Fox, Chair
Wayne State University Law School
471 W. Palmer
Detroit, MI 48202
Telephone:(313) 577-0110
Fax: (313) 577-2620
E-mail: gfox@wayne.edu

LIAISONS:

ACADEMIC LIAISON:

Virginia B. Gordan
Assistant Dean of International Programs
The University of Michigan – Law School
941 Legal Research Building
Ann Arbor, MI 48109-1215
Telephone: (734) 764-5269
Fax: (734) 763-9182
E-mail: vgordan@umich.edu

COMMISSIONER LIAISON:

Margaret A. Costello
Dykema Gossett PLLC
400 Renaissance Center
Detroit, MI 48243
Telephone: (313) 568-5306
Fax: (313) 568-6691
E-mail: mcostello@dykema.com

REPRESENTATIVE ASSEMBLY LIAISON:

Joe Sepesy, Chair
Deputy Director Ethics & Compliance
The Dow Chemical Company
2030 Dow Center Office 612
Midland, MI 48674
Phone: (989) 636-0271
Fax: (989) 636-6857
E-Mail: jsepesy@dow.com

MICHIGAN INTERNATIONAL LAWYER:

Professor Julia Y. Qin
Wayne State University Law School
471 W. Palmer
Detroit, MI 48202
Telephone: (313) 577-3940
Fax: (313) 577-2620
E-mail: ya.qin@wayne.edu

Prof. John E. Mogk
1000 Yorkshire Rd
Grosse Pointe Park, MI 48230
Telephone: (313) 885-4589
Fax: (313) 577-2620
E-mail: jmogk@yahoo.com

Aziza N. Yuldasheva
Associate—International Tax
KPMG LLP
150 W Jefferson Ave, Ste 1200
Detroit, MI 48226
Telephone: (313) 230-3356
Fax: 313-447-2436
E-mail: ayuldasheva@kpmg.com

Tricia L. Roelofs
Dykema Gossett PLLC
400 Renaissance Center
Detroit, MI 48243
Telephone: (313) 568-6530
Fax: (313) 568-6691
E-mail: TRoelofs@dykema.com

EX OFFICIO

Frederick J. Frank
Honigman Miller Schwartz & Cohn LLP
660 Woodward Ave Ste 2290
Detroit, MI 48226
Phone: (313) 465-7384
Fax: (313) 465-7385
e-Mail: ffrank@honigman.com
Web: www.law.honigman.com

Lois E. Bingham
Yazaki North America Inc
6801 N Haggerty Rd # 4625E
Canton, MI 48187
Phone: (734) 983-5054
Fax: (734) 983-5055
e-Mail: lois.bingham@us.yazaki.com

Bruce D. Birgbauer
Miller Canfield Paddock & Stone PLC
150 W Jefferson Ave Ste 2500
Detroit, MI 48226
Phone: (313) 496-7577
Fax: (313) 496-8451
e-Mail: birgbauer@millercanfield.com

Stuart H. Deming
Deming PLLC
229 E Michigan Ave Ste 445
Kalamazoo, MI 49007
Phone: (269) 382-8080
Fax: (269) 382-8083
e-Mail: stuart.deming@demingGroup.com
Web: www.deminggroup.com

Godfrey J. Dillard
PO Box 312120
Detroit, MI 48231
Phone: (313) 964-2838
Fax: (313) 259-9179
e-Mail: godfreydillard@ameritech.net

Stephen W. Guittard
131 E 66th St Apt 2A
New York, NY 10065
Fax: (212) 459-4598
e-Mail: sguittard@acedsl.com

Howard B. Hill
PO Box 36632
Grosse Pointe Farms, MI 48236
Phone: (313) 617-9817
e-Mail: howardbhill@comcast.net
Web: www.quatrrolegal.com

John H. Jackson
Professor
Georgetown University Law Center
600 New Jersey Ave NW
Washington, DC 20001
Phone: (202) 662-9837
Fax: (202) 662-9408
e-Mail: jacksojh@law.georgetown.edu

Robert D. Kullgren
Varnum LLP
333 Bridge St NW
PO Box 352
Grand Rapids, MI 49501
Phone: (616) 336-6000
Fax: (616) 336-7000
e-Mail: rdkullgren@varnumlaw.com
Web: www.varnumlaw.com

Clara DeMatteis Mager
Butzel Long PC
150 W Jefferson Ave Ste 100
Detroit, MI 48226
Phone: (313) 225-7077
Fax: (313) 225-7080
e-Mail: mager@butzel.com

Jan Rewers McMillan
Law Offices of Jan Rewers McMillan
400 Galleria Officentre Ste 117
Southfield, MI 48034
Phone: (248) 352-8480
Fax: (248) 354-9656
e-Mail: jrmcmillan@provide.net

J. David Reck
Miller Canfield Paddock & Stone PLC
150 W Jefferson Ave Ste 2500
Detroit, MI 48226
Phone: (313) 410-9891
Fax: (313) 496-7500
e-Mail: reck@millercanfield.com

Logan G. Robinson
Professor
University of Detroit Mercy School of Law
651 E Jefferson Ave
Detroit, MI 48226
Phone: (313) 596-9412
e-Mail: loganr@comcast.net
Web: www.law.udmercy.edu/faculty/distinguished/robinson.php

Timothy F. Stock
3830 9th St N Apt 901E
Arlington, VA 22203
Phone: (703) 524-2960
Fax: (703) 465-9834
e-Mail: tfstock@aol.com

Bruce C. Thelen
Dickinson Wright PLLC
500 Woodward Ave Ste 4000
Detroit, MI 48226
Phone: (313) 223-3500
Fax: (313) 223-3598
e-Mail: bthelen@dickinson-wright.com

Anthony P. Thrubis
37700 River Bnd
Farmington Hills, MI 48335
Phone: (248) 478-2490
e-Mail: thrubis@earthlink.net

Susan Waun de Restrepo
General Motors Corp
300 Renaissance Center
MC 482-C29-B24
Detroit, MI 48265
Phone: (313) 665-0280
e-Mail: susan.waun@gm.com

Thomas R. Williams
Kerr Russell & Weber PLC
500 Woodward Ave Ste 2500
Detroit, MI 48226
Phone: (313) 961-0200
Fax: (313) 961-0388
e-Mail: trw@krwlaw.com

Donald E. Wilson
Senior Tax Counsel
Deloitte & Touche Tohmatsu Ltd
3955 Holden Dr
Ann Arbor, MI 48103
Telephone: +61 2 9322 7543
Fax: ((734) 995-1101
E-mail: donwilsona2@mac.com

Randolph M. Wright
Berry Moorman PC
255 E Brown St Ste 320
Birmingham, MI 48009
Phone: (248) 645-9680
Fax: (248) 645-1233
e-Mail: rwright@berrymoorman.com
Web: www.berrymoorman.com

Michigan International Lawyer
State Bar of Michigan
Michael Franck Building
306 Townsend Street
Lansing, MI 48933-2083