

South Asian Bar Association of Washington, D.C.

Quarterly Newsletter



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SABA-DC is off to an eventful year! Among other things, we discussed strategies for maintaining wellness, perspectives on the Devyani Khobragade case, the recent Indian Supreme Court ruling criminalizing homosexual acts, and recent U.S. Supreme Court decisions with Pratik Shah and Peter Karanjia. We have enjoyed fun-filled times as well at our welcome happy hour, the Washington Wizards game, and a guided tour of the newly-opened Beyond Bollywood exhibition at the Smithsonian.

SABA-DC is also expanding its mentorship program, and launched the Intellectual Property Law (IP) Section in January to provide a networking forum and continuing legal education programming for IP attorneys. We received a record number of applications for our Public Interest Fellowship this year, and recently awarded the fellowship to five highly-qualified law school students interning at public interest organizations in the Washington, D.C. area this summer.

SABA-DC will continue to hold educational and networking events of interest to our membership. We are glad to have seen many of you at our events this year, and look forward to seeing many more of you at our upcoming events.

Warm regards,

Shuchi Batra

SABA-DC President

SABA-DC JANUARY DINNER SERIES: STRATEGIES FOR MAINTAINING WELLNESS FOR THE BUSY PROFESSIONAL

On January 16, 2014, SABA-DC kicked off the new year with a Women's Mentoring Circle dinner series focusing on maintaining wellness for the busy professional. The speakers—Registered Dietitian Nutritionist, Certified Wellness Coach and Registered Yoga Teacher, **Anu Kaur**, and Wellness Coach, **Jaya Saxena**—discussed practical strategies for relieving stress and maintaining good nutrition and mindfulness.



SABA-DC FEBRUARY DINNER SERIES: PERSPECTIVES ON DEVYANI KHOBRADE CASE

On February 27, the SABA-DC monthly dinner series featured a discussion on the arrest of and pending charges against Indian diplomat Devyani Khobragade. The speakers for the dinner series, Martina E. Vandenberg, founder and president of The Human Trafficking Pro Bono Legal Center, and Tiffany Williams, the Advocacy Director of Break the Chain Campaign at the Institute for Policy Studies, and the coordinator of the Beyond Survival campaign of the National Domestic Workers Alliance, provided their unique perspectives as advocates for domestic workers and facilitated a meaningful discussion with the participants.

SABA-DC MARCH DINNER SERIES: FIRST AMENDMENT

The March Dinner Series was inspired by the Virginia Court of Appeals decision in *Yelp v. Hadeed Carpet Cleaning*, in which the court found that while anonymous is protected by the First Amendment, comments on Yelp are commercial speech and are therefore entitled to a lesser degree of protection. SABA hosted two speakers for this event: Mr. Matthew Schafer, a First Amendment attorney with Levine Sullivan Koch & Schulz, LLP, and Mr. Hamza Jilani, the Associate Director of Privacy Programs and Policy at UnitedHealth Group.

The speakers discussed the soundness of the decision and its potential impact on internet speech and frivolous defamation suits by unhappy vendors.

SABA-DC would like to thank Mr. Schafer and



Mr. Jilani for volunteering their time to speak at the March Dinner Series.

SABA-DC INTELLECTUAL PROPERTY LAW SECTION'S EVENT: LESSONS LEARNED FROM POST-GRANT PROCEEDINGS UNDER THE AMERICA INVENTS ACT

SABA-DC introduced its first practice group session this year! The new SABA-DC Intellectual Property Law Section kicked off this past January. The SABA-DC IP Law Section, comprised of Washington, D.C. area attorneys practicing in all areas of IP law, will:

- provide a professional networking forum for IP law attorneys;
- assist, guide, and mentor South Asian IP law attorneys; and
- conduct continuing legal education programming for IP law attorneys.



The IP Section's inaugural event, held on January 30th at the Finnegan law offices, focused on lessons learned from post-grant proceedings under the America Invents Act (AIA). Naveen Modi, a partner at Finnegan, and Samhitha Muralidhar, an associate at Finnegan, led a panel discussion about the new procedures to challenge patents under the AIA: post-grant review proceedings, inter partes review proceedings, and the transitional program for review of covered business method patents. Lessons learned, statistics of proceedings thus far, and effective strategies, for patent owners and petitioners, were covered.



EVENING WITH PRATIK SHAH AND PETER KARANJIA



On April 22, 2014, SABA-DC held a moderated conversation with **Pratik A. Shah**, Chair of Akin Gump's Supreme Court Practice Group and **Peter Karanjia**, Co-Chair of Appellate Practice at Davis Wright Tremaine LLP. Among other topics, the speakers discussed their career paths, the implications of recent decisions by the U.S. Supreme Court, the dynamics of the Court and between the Justices, and practical advice on preparing for an oral argument. The conversation was moderated by **Tejinder Singh**, Counsel at Goldstein & Russell, P.C.



DISCUSSION ON RECENT INDIAN SUPREME COURT RULING CRIMINALIZING HOMOSEXUALITY

On February 4, 2014, SABA-DC, the American India Foundation, KhushDC and the LGBT Bar Association of D.C. held a lively panel discussion on the recent Indian Supreme Court's ruling to reinstate Section 377 of the Indian Penal Code, which criminalizes homosexual acts. The discussion focused on the legal and fundamental human rights issues raised in the India by the ruling. The panelists were **Gautam Bhatia**, who was involved in drafting arguments defending the Delhi High Court's decision to decrimi-



nalize homosexuality as an intern in the office of Menaka Guruswamy; **Sapna Pandya**, who has been active with efforts to organize support, including funding, for LGBTQ advocacy in South Asia in the wake of the recent Indian Supreme Court decision; and **John Stokes**, who worked at the Naz Foundation, a non-profit AIDS prevention organization that brought the case. The event was moderated by **Vikram Raghavan**, contributor to a much-visited blog called "Law and Other Things" focusing on Indian constitutional law and governance. The event was hosted by Kirkland & Ellis LLP.

BECOMING A JUDGE IN THE DISTRICT OF COLUMBIA

On January 29, 2014, SABA-DC co-sponsored a panel event with the District of Columbia Judicial Nomination Commission (JNC) focusing on becoming a judge in the District of Columbia. JNC members provided information and answered questions regarding the process of applying for judicial vacancies and the judicial nomination process in the D.C. This event was held in conjunction with the Hispanic Bar Association of D.C., the Asian Pacific American Bar Association of D.C., and the National Bar Association, Women Lawyers Division of the Greater Washington Area Chapter.

SABA-DC QUARTERLY NEWSLETTER



SABA-DC WELCOME HAPPY HOUR

On January 23, 2014, SABA-DC held its first networking and membership drive happy hour of the new year at SEI. Despite the bitterly cold evening, many members and friends of SABA-DC attended to catch up with old friends, and to meet new friends and contacts.



SABA-DC BASKETBALL GAME



On March 15, the law firm of Schertler & Onorato provided SABA-DC members with a special treat – tickets to their reserved suite at the Verizon Center to see the Washington Wizards take on the Brooklyn Nets. This was the first professional basketball game ever attended by many members and was an experience enjoyed by all. While witnessing a rare Washington victory, SABA-DC was also able to raise over two hundred dollars for its pro bono activities.

A special thank you to Schertler & Onorato for its generosity and support of SABA-DC!

BEYOND BOLLYWOOD EXHIBITION TOUR

On Saturday, March 22, a group of 25+ members joined Smithsonian curator Masum Momaya for a guided tour of the groundbreaking exhibition “Beyond Bollywood: Indian Americans Shape the Nation.” The 5,000 square foot, first-of-its-kind exhibition explores how Indian-Americans have shaped the United States culturally, politically and professionally since the first Indian set foot on American soil in 1790.



FROM LAW FIRM TO IN-HOUSE: A CONVERSATION WITH ANITA KHUSHALINI

Anita Khushalani has served as Associate General Counsel at AARP for the past seven years. In this capacity, she works primarily on employment and employee benefits issues. Prior to this, she was an Associate at Arent Fox in Washington, D.C. for almost four years where she practiced commercial litigation with a focus on litigating labor and employment disputes. Before her legal career, Anita was a Risk Manager/Employee Relations at Sato Travel where she audited corporate and management practices, ensured compliance with workplace laws, and managed employment litigation to assess and minimize risk. She attended Michigan State University and received her JD from the American University, Washington College of Law.

Q: What motivated you to go to law school and pursue a legal career?

A: I worked in human resources right out of college. For me, the more interesting parts of this work involved interpreting employment laws and advising management on avoiding liability. I thought law school was the natural next step; however, I wasn't clear that I would work as a lawyer, but I found the law to be intellectually challenging, and it made sense to apply what I had learned in law school in practice. After law school, I worked as a commercial litigation and employment law associate at Arent Fox for almost four years. Private practice was an appealing option as it allowed me to develop critical lawyer skills and, of course, pay off student loans.

Q: What does an in-house position entail?

A: The nature and scope of an in-house position varies depending on the size and needs of the organization. For example, there are in-house

positions that are generalist in nature while others focus on specialized areas of expertise. In my case, I manage employment related litigation and advise management and HR on employment and employee benefits issues. I also provide trainings for managers and human resources on employment laws, and conduct internal investigations.

Q: Tell us about how you made the transition from law firm associate to in-house?

A: It took me about one year of actively looking before I made the transition. I would recommend anyone hoping to make a similar transition to build in time to conduct a thoughtful search. I utilized the Association of Corporate Counsel (ACC) website, my network, and my pre-law background in human resources in making the transition. My position at AARP was advertised as requiring eight years of legal experience. I didn't have that, but I did have a background in human resources and part of the position involved advising on human resource issues, so my pre-law background was quite relevant. I was able to leverage my past experience to be competitive for the position I have now, which is a strategy I recommend to anyone attempting to go in-house. Any pre-law professional experience can be helpful in connecting the dots from private practice to in-house.

Q: What advice do you have for law firm associates hoping to go in-house?

A: Although there are a few exceptions, most in-house positions require three to four years of prior legal or law firm experience. I would recommend any attorney interested in going in-house first consider developing their legal skills in a firm. It gives you technical expertise, such as the practical application of civil procedure. You see how law is practiced; you learn how to juggle multiple tasks; you develop skills, credibility, and a strong work ethic from having flourished in a demanding environment. It will better prepare you to manage outside counsel. This type of experience is valued by companies.

And of course, you have to build your professional network. But not with an immediate return in mind. It's important to talk to and get to know people, particularly in industries of interest, without being immediate goal oriented. Don't expect the person you just met today to help you get a job tomorrow. Just build relationships with people who interest you and with whom you connect.

Be thoughtful as to how you treat people. Your immediate colleagues may one day be in-house or a resource in your search. Lawyers know other lawyers and move around jobs. Your reputation is important. Sustain relationships over time.

Be curious and ask for help when appropriate. Ask for advice (people love to give advice). Also, network in a way that is comfortable to you. If you are an introvert, meeting someone for coffee or speaking by telephone may be a more successful strategy than attending a bar association event or reception. You won't do yourself any favors forcing something that isn't the right fit. That said, a job search does require some stretch and stepping out of one's comfort zone.

Q: How does an attorney without prior in-house experience demonstrate sound business judgment to a prospective employer? This seems to be a frequently mentioned quality in in-house job announcements.

A: An in-house employer is running a department or helping run a business. So, a few thoughts: One, it's important to be able to provide legal advice on the spot. Your client doesn't want a memo educating them as to the issues several days later. You don't have the luxury of doing hours and hours of research. Adopt an orientation of a problem solver rather than an educator. Be a quick thinker and a good communicator.

Two, become a trusted advisor to a client. Your internal client(s) want to know how to achieve their business goals while minimizing the legal risk. They want you to help solve the problem.

They do not want to hear all of the possible options, nor do they want to hear "no, you can't do that."

One way to gain experience becoming a trusted advisor before going in-house is to become a chief advisor to a small corporation that might not have resources to have an internal support department, for instance an internal human resources department. Become their chief contact/advisor at the firm - the person the client contacts for answers to routine questions. Get practice providing legal advice on the phone. As clients keep coming back to you, you will gain experience and confidence, and experience to point to when you are in fact ready to apply for in house positions.

Q: On a related point to networking, any tips on how to develop a relationship with a potential mentor or professional sponsor?

A: Again, find someone you connect with and whose advice you respect. In private practice, I identified a partner who I liked and respected. I first got on her radar screen by popping into her office to say hello now and then. At some point, I asked her to lunch and asked her for advice. She gave me great advice that I still apply. Eventually, I did some work for her even though she was not in my immediate practice area. She ultimately ended up serving as a reference when I applied for in-house positions. After I left the firm, the relationship got easier because we weren't interacting as a partner and an associate at the same firm, but I was also a potential client. Now, we are good friends.

Q: When and how does it make sense for an attorney to share with colleagues at one's firm that he/she is hoping to go in-house?

A: Find people you trust and who will help you make the transition. This may or may not involve including people you directly work with. In fact, you may wish to seek out individuals who are outside of your immediate work group, but know your work, as it may be awkward to

speak to people for whom you are currently doing work.

Q: Can you recommend any professional associations that are particularly relevant to in-house practice?

A: The ACC has been a good resource for job listings. Also, this and other bar organizations have local chapters that host events and CLEs. If you go regularly, you start to see familiar faces and build relationships. Chapters may also have sections by practice group. LinkedIn is also a great way to identify second and third degree connections who may be able to give you the inside scoop on an employer and help make introductions.

This piece was compiled by Tara Sarathy, Career Advisor and Coach to Attorneys and an Associate of Neville Career Consulting, and Jaya Saxena, Assistant Director at The Center for Professional Development and Career Strategy at The George Washington University Law School.

Have you recently assumed, or are about to assume, a leadership position at your firm? Hone your leadership skills at Georgetown Law's *Moving from Lawyer to Leader* workshop.*

<http://www.law.georgetown.edu/continuing-legal-education/executive-education/program-schedule/lawyer-to-leader/index.cfm>

- SABA-DC does not endorse any workshop.

HUMAN TRAFFICKING: A BIG BUSINESS BUILT ON FORCED LABOR

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Trafficking in persons has become a big business. Globally, it's a \$32 billion industry involving 161 countries -- including the United States. Trafficking in persons involves activities where one person obtains or holds another person in compelled service. While many people are aware of sex trafficking, human trafficking that involves forced labor is far more prevalent. Some 78 percent of forced labor is based on state- or privately-imposed exploitation, not forced sexual exploitation.

It's likely you have encountered at least one of the 21 million people in forced labor. In developed economies such as the United States, Europe and Japan, we are seeing an increase in cases of trafficked immigrant teachers, nurses, construction and service workers -- all who hold valid visas. Their presence shines a light on the structural failures within our economic and employment systems that increase immigrant workers' vulnerability to severe forms of labor exploitation. Multinational corporations, employers, businesses, labor recruiters and others exploit these failures.

In other words, human trafficking is not only a big business. Trafficking in humans is increasingly a legitimate business.

While the media portray traffickers as organized criminal syndicates or underground blackmarketeers who exploit undocumented workers, today's traffickers can also be licensed labor recruiters -- those who solicit workers for jobs in other

cities or countries -- employers or even government officials. Trafficking for labor exploitation occurs within the legal framework of employment and business and through documented visa programs.

Trafficking for labor exploitation often goes undetected and gets little attention. Immigration officials may categorize immigrant workers who are trafficked as undocumented workers and deport them. Police and labor inspectors may view involuntary servitude or debt bondage in sectors such as agriculture, construction, manual labor and manufacturing as "mere" worker rights abuses, and so not justifying a remedy. Prosecutions for forced labor are far fewer than those for trafficking for sexual exploitation (and even those are low).

When such cases do make it to the justice system, they provide a rare look into the struggles of these exploited workers. In 2010, the U.S. Justice Department investigated the case of 400 Thai migrant workers who were allegedly trafficked to the United States under the H-2A visa program through false promises of decent work. The Thai workers "took on crushing debt to pay exorbitant recruiting fees," ranging from \$9,500 to \$21,000. After they arrived in the United States, according to the indictment, their passports were taken and they were set up in shoddy housing and told that if they complained or fled they would be fired, arrested or deported.

Human trafficking thrives in an environment of worker exploitation and engenders forced labor, debt bondage and other egregious labor abuse. The creation of so-called guest worker programs and the rise of "labor recruiters" have exacerbated the vulnerabilities for workers inherent in labor migration. Many labor recruiters charge exorbitant fees for their services, forcing workers into debt bondage. Temporary labor migration or "guest worker" schemes promoted by governments to fill demand for cheap labor often create a legalized system for employers to exploit workers, deny them their rights and increase their vulnerability to trafficking and forced labor.

If we want to end trafficking, forced labor and other forms of modern slavery, we must address these broader underlying root causes, including failures to protect workers and enforce labor standards. One of our most important weapons in the fight against trafficking is the federal Trafficking Victims Protection Act (TVPA), currently pending reauthorization but languishing in Congress. The TVPA provided critical resources and important tools. Its reauthorization is critical to maintaining U.S. leadership on this important issue.

Other steps to address forced labor through human trafficking include:

- Reforming labor laws to cover people now excluded from legal protection, such as domestic workers, and ensuring such laws are implemented and enforced.
- Providing safer migration processes for workers.
- Boosting scrutiny of imports and exports to ensure goods made by trafficked or forced labor are not allowed in the marketplace. U.S. law does not allow evidence collected by unions (and, hence, from the exploited worker themselves) or non-governmental sources to be the basis for restricting the importation of products made by trafficked or slave labor.
- Increasing pressure on companies to map their supply chains and make such information public.
- Promoting freedom of association and the right to organize – worker reporting and worker representation over unenforceable codes of conduct and third-party monitoring -- as an effective way to monitor supply chains for trafficking and forced labor.
- Regulating labor recruiters and subcontractors more strictly, ensuring the elimination of fees for jobs and the imposition of strict liability for employers for the actions of their recruiters/subcontractors.