

34th Annual ALI-ABA Course of Study

Legal Issues in Museum Administration

**Wednesday-Friday, March 29-31, 2006
Chicago (Millennium Knickerbocker)**

*Cosponsored by The Smithsonian Institution
with the cooperation of
the American Association of Museums*

For museum directors, administrators, trustees, legal counsel,
and others concerned with museum operations

With special emphasis given to the legal and ethical issues of museum relationships
with for-profit exhibitors, lenders, and donors and with employees and volunteers



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Legal Issues in Museum Administration

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Comprising more than 17 hours of instruction, Legal Issues in Museum Administration provides museum directors, administrators, trustees, legal counsel, and others who are concerned with museum operations with an awareness of the legal issues and problems they will encounter. Primary emphasis is on new materials; however, the course is structured so that considerable familiarity with the subject matter is not required. The expert faculty provides practical information while presenting ways of avoiding and solving expected problems.

This year, special emphasis is given to the legal and ethical issues of museum relationships with for-profit exhibitors, lenders, and donors and with employees and volunteers.

All questions are presented from the legal point of view. However, no attempt is made to draw an arbitrary line between legal aspects and matters of policy. Time is reserved throughout the program to address registrants' written questions.

"This course has always been, by far, THE most useful practicum of all the ones I attended in 30+ years of museum work."

"GREAT PROGRAM as usual. It is the best 'one-stop-shopping' opportunity to keep up to date on art, museum, and non-profit law."

"This is my sixth ALI-ABA. As always, it was excellent. Thanks for yet another, 'I'm so glad they're covering this - it's just what I'm working on' and 'I didn't know I had a problem, I better deal with this when I get back!' course of study."

STEERING COMMITTEE (some also on faculty)

Rachelle V. Browne, Assistant General Counsel, Smithsonian Institution, Washington, D.C., *Program Chair*

Ildiko P. DeAngelis, Director, Museum Studies Program, George Washington University, Washington, D.C., *Arrangements Chair*

Kim Igoe, Vice President, Policy and Programs, American Association of Museums, Washington, D.C.

Rebecca L. Murray, Associate Counsel, Metropolitan Museum of Art, New York

Christine Nicholson, Associate General Counsel, Smithsonian Institution, Washington, D.C.

Gail Aidinoff Scovell, General Counsel, Solomon R. Guggenheim Foundation, New York

Stephen K. Urice, Director, Project for Cultural Heritage Law and Policy, Philadelphia; Lecturer in Law, University of Pennsylvania Law School

Adine K. Varah, Deputy City Attorney, San Francisco

FACULTY

Joel M. Asprooth, Vice President, Finance and Administration, Museum of Science and Industry, Chicago

Sandy Bellamy, Executive Director, Reginald F. Lewis Museum of Maryland African American History and Culture, Baltimore

Jeffrey N. Blair, Assistant Counsel, Metropolitan Museum of Art, New York

Evelyn Brody, Professor of Law, Chicago-Kent College of Law, Chicago

Cindy Caplan, Assistant Counsel, Metropolitan Museum of Art, New York

Stephen W. Clark, Deputy General Counsel, Museum of Modern Art, New York

Romi Crawford, Director and Curator, Visiting Artist Program, School of the Art Institute of Chicago

Teri J. Edelstein, Teri J. Edelstein Associates, Museum Strategies, Chicago

Richard A. Epstein, James Parker Hall Distinguished Service Professor of Law and Director, Law and Economics Program, University of Chicago Law School, Chicago

Marion R. Fremont-Smith, Senior Research Fellow, Hauser Center for Nonprofit Organizations, Harvard University, Cambridge, Massachusetts

Julia E. Getzels, General Counsel, Art Institute of Chicago

Fredric H. Goldstein, General Counsel, Los Angeles County Museum of Art, Los Angeles

Lauryn G. Guttenplan, Assistant General Counsel, Smithsonian Institution, Washington, D.C.

Neil Harris, Preston and Sterling Morton Professor, University of Chicago

Brian F. Havel, Professor of Law, DePaul University College of Law, Chicago

Scott Hodes, Bryan Cave, Chicago

John E. Huerta, General Counsel, Smithsonian Institution, Washington, D.C.

Stephen J. Knerly, Jr., Hahn Loeser & Parks LLP, Cleveland

George A. Kuhlman, Ethics Counsel, American Bar Association Center for Professional Responsibility, Chicago

Roberta Rosenthal Kwall, Raymond P. Niro Professor of Law, DePaul University College of Law, Chicago

Elizabeth E. Merritt, Director, Museum Advancement and Excellence, American Association of Museums, Washington, D.C.

Daniel S. Rader, Assistant General Counsel, Library of Congress, Washington, D.C.

Mary Hutchings Reed, Winston & Strawn LLP, Chicago

Stefanie H. Roth, Associate General Counsel, Solomon R. Guggenheim Foundation, New York

Julian F. Saenz, Associate General Counsel, National Gallery of Art, Washington, D.C.

John P. Sare, Patterson Belknap Webb & Tyler LLP, New York

Marsha S. Shaines, Deputy General Counsel, Smithsonian Institution, Washington, D.C.

Jack B. Siegel, Chief Executive Officer, Charity Governance Consulting LLC, Chicago

Sophia Shaw Siskel, Vice President of Exhibitions and Education, Field Museum, Chicago

Shawn VanDerziel, Director, Human Resources and Information Technology, Field Museum, Chicago

Maureen Whalen, Associate General Counsel, J. Paul Getty Trust, Los Angeles

NETWORKING OPPORTUNITIES

Networking is an important reason to attend this and every other ALI-ABA course of study. The registrants for last year's presentation of this course came from 39 states!

AUDIOCASSETTE TAPES and AUDIO mp3 CD-ROMs

of this course will be available with the study materials approximately four to six weeks after the program for \$425, about one-half the tuition. Recordings are nonreturnable, but will be replaced if defective. To order, please see the form; shipping and handling are free!

PROGRAM

Tuesday, March 28, 2006

5:00-7:00 p.m. Early Registration

Wednesday, March 29, 2006

7:30 a.m. Registration and Continental Breakfast

8:00 a.m. Optional Session: **Introduction to the American Legal System** — *Professor Havel*

8:45 a.m. Networking Break

9:00 a.m. Introductory Remarks and Course Overview

Museums and Selected Relationships

➡ External Relationships: Private Parties

9:15 a.m. **Case Histories: The "King Tut" Exhibit (Foresight and Hindsight)** — *Mr. Goldstein and Ms. Siskel*

10:00 a.m. **Relations with For-Profit Exhibitors, Lenders, and Borrowers: Legal, Tax, and Ethical Aspects** — *Mr. Asprooth and Mss. Merritt and Roth*

11:00 a.m. Networking Break

11:15 a.m. **With Friends Like These — Donor Relations and Museum Obligations: Individuals and Friends' Organizations** — *Mss. Bellamy, Browne, and Edelstein and Mr. Sare*

12:15 p.m. Questions and Answers

12:30 p.m. **Luncheon and Address** — *Mr. Harris*

2:00 p.m. **Tax and Legislative Update** — *Mss. Brody, Guttenplan, and Shaines*

2:45 p.m. Questions and Answers

➡ Internal Relationships

3:00 p.m. **Museum Employees: Recent Developments in Employment Case Law** — *Mr. Epstein*

3:45 p.m. Networking Break

4:00 p.m. **The "Unpaid" Museum Staff: Recurring Issues with Volunteers, Interns, and Fellows** — *Messrs. Rader, Saenz, and VanDerziel*

4:45 p.m. Questions and Answers

5:15 p.m. Adjournment for the Day

6:00-

8:00 p.m. **Networking Reception for Registrants and Faculty at the Museum of Contemporary Art**

Thursday, March 30, 2006

7:30 a.m. Continental Breakfast

8:00 a.m. Optional Session: **Introduction to the Charitable Non-Profit Sector** — *Ms. Fremont-Smith*

8:45 a.m. Networking Break

Implementing Fiduciary Responsibilities: The Duty of Loyalty

9:00 a.m. **Duty of Loyalty: What Is Required of Your Staff and Governing Board?** — *Ms. Fremont-Smith and Messrs. Sare and Urice*

10:15 a.m. **Developing Conflicts of Interest and Whistleblower Policies for Your Staff and Governing Board** — *Mss. Brody and Getzels and Mr. Knerly*

11:00 a.m. Questions and Answers

11:15 a.m. Networking Break

11:30 a.m. **Ethical and Legal Audit for Museums** — *Messrs. Huerta and Siegel*

12:30 p.m. Lunch Break (on your own)

2:00 p.m. Concurrent Sessions

- **Lawyerly Communications with Represented or Unrepresented Parties** — *Mr. Kuhlman*
- **Don't Be Burned by the Boilerplate: Standard Contractual Provisions** — *Messrs. Blair and Havel*
- **Immigration and Foreign Visitors and Workers** — *Mss. Caplan and Crawford and Mr. Rader*

3:15 p.m. Concurrent Sessions

- **Cultural Property Update** — *Messrs. Clark and Knerly*
- **When Curators, Conservators, or Other Museum Staff Moonlight: Ethical and Legal Issues** — *Mss. Browne and Merritt*
- **Nuts and Bolts of Sponsorship and Advertising Arrangements with For-Profits** — *Mss. Reed, Roth, and Shaines*

4:15 p.m. Networking Break

4:30 p.m. **Federal International Loan Indemnity Program: A Risk Management Strategy** — *Mr. Saenz*

4:50 p.m. **Litigation Update** — *Mr. Clark*

5:30 p.m. Adjournment for the Day

Friday, March 31, 2006

8:30 a.m. Continental Breakfast

Managing and Protecting Museum Intellectual Property (IP)

9:00 a.m. **Hidden Treasures or Minefields? Basic Issues, Challenges, and Applications for Museum IP Assets** — *Mr. Asprooth and Ms. Whalen*

10:00 a.m. **Developing an Intellectual Property Collection Policy for Acquisitions and Gifts: How Museums Use Their or Others' IP, and When Others May Use Museum IP** — *Mss. Guttenplan and Whalen*

10:45 a.m. Networking Break

11:00 a.m. **Is That Lawn a Sculpture? What Every Museum Needs To Know about the Visual Artists Rights Act** — *Mr. Hodes and Mss. Kwall and Varah*

12:00 noon Questions and Answers

12:30 p.m. Adjournment

*Total 60-minute hours of instruction (including optional lectures):
17.5, including two hours of ethics*

The 2005 presentation of this course of study is dedicated to the memory of Stephen E. Weil, an internationally recognized leader and mentor in the field of museum law and management, who passed away in August 2005. Mr. Weil was instrumental in the creation and development of this course, serving as its chair for several years and as a member of its planning committee for more than 30 years.

► Mandatory CLE and CPE Credit

Virtually all ALI-ABA Courses of Study are fully accredited in mandatory continuing legal education (MCLE) jurisdictions for varying numbers of credit hours.

To obtain specific information on CLE, CPE, or other professional accreditation of this course, please contact ALI-ABA, or go to www.ali-aba.org/ALI-ABA/mcle_infopage.asp.

► Registration

800-CLE-NEWS—www.ali-aba.org

Tuition for this course is \$845. Tuition entitles registrants to admission to all sessions, a set of study materials, Continental breakfasts and refreshment breaks daily, and a box lunch and reception on Wednesday. To register, simply return the form provided, with payment; or register with a credit card by:

- **Phone:** 800-CLE-NEWS (800-253-6397)
- **FAX:** 215-243-1664
- **Internet:** www.ali-aba.org

Registrations will be accepted at the door if space is available, but please call in advance to avoid disappointment. **All course accounts must be settled by the first session of the course to ensure admittance to the classroom.**

Newly admitted lawyers (within the past two years) and retired senior lawyers (65 and over) are eligible for a 50% tuition discount and should include a note explaining their eligibility. Discounts may not be combined.

Services for Persons with Disabilities: If special arrangements are required for an individual with a disability to attend this program, please inform ALI-ABA of any special needs at least two weeks in advance.

► Cancellations

Cancellations received no later than **March 24** will be honored and tuitions refunded, less a \$50 cancellation fee. Cancellations received by noon **March 28** also will be honored and tuitions refunded, less a \$100 cancellation fee. Telephone cancellations (800-CLE-NEWS) will be honored under the above time limits and terms, but must be confirmed by letter; all requests for refunds must be received in writing and must be postmarked no later than **April 3**.

► Hotel Accommodations

A limited block of rooms has been reserved at the Millennium Knickerbocker Hotel. Room rate: \$125 per night, single or double occupancy. These rooms will be held as a block, unless exhausted, until **March 7**, at which time they will be released to the general public. Registrants must make their own hotel reservations and indicate that they are attending the ALI-ABA Course of Study to qualify for rooms in the block.

Room reservations may be made by calling or writing to the Millennium Knickerbocker Hotel, 163 East Walton Place (at N. Michigan Ave.), Chicago, IL 60611; phone 312-751-8100 or 800-621-8140; FAX 312-751-9663. Confirmations will be sent by the hotel. Please read the cancellation policy carefully.

► Discounted Airfares

For ALI-ABA discounted airfares, please call UNITED at (800) 521-4041, re: File #535DG. Restrictions may apply.

► Special Scholarship Assistance

A limited number of full tuition scholarships are available for those who cannot attend Legal Issues in Museum Administration without financial support. Persons interested in applying for scholarship assistance should submit a statement justifying their scholarship request and a personal resume to: Museum Scholarships, Alexander Hart, ALI-ABA, 4025 Chestnut Street, Philadelphia, PA 19104-3099. Scholarships are awarded on the basis of professional relevance and financial need. **Scholarship applications must be received by Friday, February 17, 2006.**

► Additional Information

For further information write Alexander Hart, Director, Courses of Study, ALI-ABA, 4025 Chestnut Street, Philadelphia, PA 19104-3099; or telephone (215) 243-1630 or (toll free, U.S. and Canada only) (800) CLE-NEWS (253-6397), extension 1630. **To view full details and updates and/or register online, please go to www.ali-aba.org/aliaba/CL077.htm.**

CAN'T ATTEND? ORDER THE STUDY MATERIALS!

A book of specially prepared study outlines and related material will be distributed at the course site. To order these materials separately for \$119, please use the form provided; shipping and handling are free!



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COURSE REGISTRATION FORM

- To register or order please clip, fill out, and mail this form together with payment to American Law Institute-American Bar Association Continuing Professional Education: REGISTRAR, ALI-ABA, 4025 Chestnut Street, Philadelphia, PA 19104-3099.
 - Save time when registering or ordering by credit card. Send your completed coupon to ALI-ABA by FAX: (215) 243-1664. Please do NOT duplicate previously FAXed registrations or orders via mail or phone.
 - To register or order by phone using a credit card, please call: 1-800-CLE NEWS.
 - To register or order via the Internet using a credit card, visit www.ali-aba.org.
- Please attach names and addresses of additional registrants. Payment by check or credit card should accompany order or registration. Advance confirmation recommended for door registration.

☐ Please enter ____ registration(s) for the ALI-ABA Course of Study,
Legal Issues in Museum Administration, March 29-31, 2006, in Chicago.
Tuition: \$845

I cannot attend this course. Please send me:

- ☐ Audiocassettes of the program, including printed course materials, for \$425. **AL077**
- ☐ Audio mp3 CD-ROM of the program, including printed course materials, for \$425. **AL077CD**
- ☐ Course materials only for \$119, available in April. **SL077**

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☐ My office is a member of ALI-ABA In-House. Payment is in the amount of the stated tuition or price, minus 15%. For more information about ALI-ABA In-House, visit www.ali-aba.org/aliaba/Cle_MenuPg.asp.

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