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In This Issue

Legal Developments and Constitutional Structures in Iraq
Dr. Chibli Mallat..... 3

Changes Involving the Visa Waiver Program and the Michigan Driver's License Application Process
Reginald Pacis 6

Legal Developments and Doing Business in Israel
Michael H. Traison..... 10

ILS Special Presentation: "New Approaches to International Legal Issues Under the Obama Administration: How Will They Affect Your Practice?" 12

The UAE - Open for Business: The United Arab Emirates and the New Global Economic Corridor
Tim A. Attalla and David J. Bazzetta 13

The Obama Administration and the H-1B Visa
Sonya Olds Som..... 16

Treasurer's Report 18

Minutes of Annual Meeting and Regular Council Meetings 18

Calendar of Events 22

Leadership Roster 25

Disclaimer: The opinions expressed herein are solely those of the authors and do not necessarily reflect those of the International Law Section or the Editors.

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Dear Members and Colleagues:

Greetings and welcome to the latest edition of the *Michigan International Lawyer*.

The mission of the International Law Section of the State Bar of Michigan is to provide education, information and analysis about issues of international significance through meetings, seminars, our website, public service programs, and publication of this Journal. I would like to extend my gratitude to the past chairs, and especially to my immediate predecessors Fred Frank and Lois Bingham, and our officers, Council members and other volunteers for the rich tradition of volunteering that they have fostered and passed on to the current leadership.



Nick Stasevich

The activities of the Section are first and foremost designed to provide extra value to its members. The Section aims to offer its members opportunities to take part in different events that are educating and interesting and at the same time facilitate networking. I encourage members to become actively involved in and contribute to the activities of the Section.

I invite all members of the State Bar, especially young lawyers and law students, to join the Section and become involved in its activities by participating in a committee or contributing in other ways. We have an active and successful Section and the Council is giving special emphasis to building the future by increasing law student membership in the Section. At the last annual meeting of the Section, we appointed two law students as ex-officio (non-voting) members of the Council. In addition, we have seen a significant increased participation in our activities by law students this year.

At our November 6, 2008 Council Meeting, the Section was addressed by Thomas Costello, the President and Chief Executive Officer of the Michigan Roundtable for Diversity and Inclusion. Tom spoke about the important work his organization is doing for our community and for the future of our state. His address also served as the launch of the International Law Section Diversity Initiative. The Initiative's goal is to engage Section members in the promotion of diversity in International Law including the promotion of the study of International Law by minority and women students. The Initiative is also aimed at furthering the careers of young minority and women lawyers. Tom also shared some of his experiences in international legal matters during his years of service as Senior Vice President and General Counsel of Compuware Corporation. His address was followed by an engaging question and answer session with Section members.

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*

Publication Deadline Dates

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Summer Issue
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Fall Issue
Articles due September 15

The following month the International Law Section and the International Committee of the State Bar Tax Section hosted "Current Trends in Canada: Cross-Border Lending Transactions, Holding Companies and Income Tax Treaties" at Automation Alley. Guest speakers Todd Miller and Pat Forgione from the Canadian law firm of McMillan LLP discussed current provincial developments with a focus on the structuring and financing of Canadian inbound investments, as well as holding company planning opportunities and the pending changes to the U.S.-Canada income tax treaty. The December event was a great success despite the snow storm that day. We appreciate the leadership of Mike Domanski, Chair of the International Business and Tax Committee, in organizing this event.

The program for the January 15, 2009, Council meeting, held at the offices of Warner Norcross & Judd, featured a presentation by Margaret Dobrowsky, in which she described her participation as the representative of the International Law Section on Governor Granholm's trade mission to the Middle East.

Finally, on March 5, 2009 a Council Meeting of the Section was held at Butzel Long. Our featured speaker at the Program following the Council Meeting was Joe Sepesy, Dow Chemical Company's Deputy Director of Global Ethics and Compliance, who gave a very well-received presentation entitled "Ethics and Compliance – A Multinational Corporation Perspective." He provided an overview of the U.S. Foreign Corrupt Practices Act and insights on how ethical compliance programs are best administered in a variety of jurisdictions and vastly different cultures across the globe. He also spoke about the practical problems that companies face in their compliance efforts and shared his experiences with meeting those challenges. We are very grateful to Joe Sepesy for an inspiring presentation.

In addition to the events noted above, the Section also has a number of upcoming events. There will be a Council meeting at the Bloomfield Hills and Grand Rapids offices of Dykema Gossett on May 12, 2009, from 5:30-8:30 p.m. Also, the Section will be putting on a special presentation, entitled "New Approaches to International Legal Issues Under the Obama Administration: How Will They Affect Your Practice?" at the Detroit Zoo on June 11, 2009. The presentation will begin at 4:00 p.m., and will be preceded by a 3:30 p.m. Council meeting. Private tram tours of the zoo will also be available.

Section members are invited to attend all council meetings, and will receive information regarding our upcoming meetings and programs via our listserv. We look forward to seeing you at our next Council Meeting and Program. If you have any questions regarding the Section or its activities, please do not hesitate to contact me at stasevich@butzel.com. I hope you will enjoy this issue of the *Michigan International Lawyer*. Many thanks to all the authors and editors who have contributed to this issue. 🌐

—Nick Stasevich



Legal Developments and Constitutional Structures in Iraq

By Dr. Chibli Mallat, SJ Quinney College of Law, University of Utah,

Address to the International Law Section, State Bar of Michigan, Dearborn, Michigan, September 19, 2008

It is a great privilege to address such a knowledgeable audience. I was delighted to hear from my colleagues about their practice in important Middle Eastern jurisdictions. In order to practice business under the rule of law, you need to have one, and the Iraqi theatre is most unusual in this respect. This is because post-dictatorship Iraq offers lawyers equally immense hopes and immense disappointments.

Immense disappointments are tied to security, first and foremost. Iraqi citizens generally, and people of the law in particular, cannot operate freely in Iraq. This is not because they are constrained by the government, but because they are the privileged targets of a brutal, unprecedented policy of mass violence aided and abetted by neighboring dictatorships that do not want freedom and democracy to prevail in Iraq. To date, applicants waiting in line for recruitment in the army and the police force continue to be the choice target of suicide and other unconscionable bombings. Dozens of judges and their families have been attacked by insurgents, and forty of that group have been killed since 2003. Perhaps the most poignant example is Chief Justice Midhat al-Mahmud's sacrifice, who suffered the loss of his son, the Abrahamic archetypal price for his dedication to the rule of law in the country.

One can see the drift of this presentation: immense disappointments, surely, but also heroic sacrifices, which are the hallmark of a society whose freedom in peace cannot be durably denied. Immense hopes because the prospects of democracy, human rights and the rule of law cannot be allowed to fail after so many sacrifices. All these hopes have been built on the strength of these incalculable costs, which will be perceived in history, despite the gruesomeness of violence in years past, as a joint American-Iraqi venture.

I know this is controversial, both in Iraq and in the United States. I was personally opposed to the war, but I also fought for twenty odd years against Saddam Hussein's dictatorship, far longer and far more intensely than I did for my own country, Lebanon. Dictatorships, in the Middle East and elsewhere, will come to pass. The question is how, and how long it will take. I am convinced that we can remove them mostly without violence, should we take the high moral ground of human rights, with a firm and relentless conviction that has led to the collapse of a far more entrenched system, and a far more powerful one than even the Soviet empire.

I am also aware that the freeing of Lebanon from cynical Syrian-government control, frail and relative as it remains, would not have been possible had the Iraqi earthquake not

taken place. Leadership by example is not a theoretical exercise in the Middle East or elsewhere.

Yes, persistent disappointments and promising hopes. Which will prevail? History bends toward justice, or so the old saw goes: the better future always trumps the past and its mistakes.

Comparisons may be an elusive exercise whenever Iraq is concerned. Yet I contend that Iraq has since 2004 been the freest and most democratic country in the Middle East, and that includes Israel and my native Lebanon. You can say whatever you wish in Iraq. Iraqis denounce daily and openly foreign military presence, and even call for violence against foreign soldiers and Iraqi recruits, without fear of being arrested. I do not know one other country in the world where free speech reaches such a magnitude. It may have been an error to have allowed this freedom to such an extent, as calls to kill must be restrained even in a democracy. Perhaps especially in a democracy when these calls materialize brazenly everyday. Yet, freedom, even excessive freedom, in Iraq is undeniable.

Iraq, at once occupied and the freest country in the Middle East, is a paradox. Despite the heavy reality of foreign military presence, I do not hear enemies of US policy in Iraq suggesting that the US or other members of the coalition have tampered with the many elections that have taken place. For an observer of modern Shi'ism, a paradox worth dwelling on is that the current and previous Prime Ministers of Iraq are leaders in the Da'wa party, the legacy of the leading Iraqi cleric of the 20th century, Muhammad Baqer al-Sadr. Neither the Da'wa, which sprang with Sadr from the world of legal learning at Najaf, nor Muhammad Baqer al-Sadr or his heirs can be doubted on their Iraqi nationalist pedigree. Nor are they known to be particularly pro-American in their worldview. Yet the fact remains, they presently lead Iraq thanks to America's continuing sacrifices.

I have shown enough of my political colors for this presentation, and I accept that many will not find them to their taste, either in the Middle East or in the United States. Such colors may not be that important for the task ahead, which is drawn to the future rather than pulled back into the past. The building blocks are there. They are called a Constitution; an electoral process; an increasingly respected government which was freely elected; an attention to diversity in Parliament and elsewhere, with a fourth of Parliament's membership reserved



Dr. Chibli Mallat

for women; a unique experience in federalism in the Middle East; and a slow but clear retreat of the foreign military in favor of an Iraqi takeover of security. In late summer 2008, this Iraqi takeover occurred in the eleventh of eighteen provinces and counting. This was not an insignificant one considering that the province was Anbar, a mostly Sunni populated hotbed of the rebellion in 2005.

The building blocks are frail to be sure, and sectarian and nationalist violence could flare up again at any moment. Iraqi history is full of disappointed expectations. But the improvement on the ground is real, and it is useful to start from these building blocks, which explain my renewed personal engagement with Iraq.

This re-engagement has taken two forms: First, we are establishing the Global Justice Project Iraq, a legal think-tank in Baghdad, with the College of Law at the University of Utah thanks to a major grant from the State Department. The team being built up is exceptional, and is tasked with assisting the emergence of an independent judiciary in Iraq that fulfils the highest promises for Iraqis and Americans. It will also assist with constitutional and legislative work on a wide range of issues. With trust in and from Iraqis, gained from twenty years of work against the dictatorship, and remarkable counterparts in the US Embassy and in the Government of Iraq, and the open collaboration with the United Nations and Iraqi and international NGOs, the brainpower deployed is simply formidable.

Second, is an invitation from the Iraqi Prime Minister to develop a network of supporters of Iraqi democracy in the United States and elsewhere. This is still a long shot, but such a network may well be unique in modern history, and its success is premised on the ability to structurally involve Iraqis and Americans primarily. Of course there is room for all people inclined to be part of the most promising democratic adventure in the Middle East in this joint and difficult adventure for freedom.

This is in terms of the actual outreach. One aspect of re-engagement in Iraqi matters developed from a course on Iraq in Spring 2008. The seminar saw students offer such dedication and quality that the effort resulted in a book in press at the prestigious Aspen Legal Education publishing house. The book is called *Iraq: Guide to Law and Policy*, and I would like to devote the rest of this brief talk to some pointers elaborated on, and sometimes elucidated, in the book.

The book is far-ranging, and its seven chapters give an idea of the breadth of the undertaking. Each provides a set of documents which articulate major questions lawyers and policy makers ask in Iraq: the roads not taken in Iraq (Chapter 1); a timeline from Mesopotamia to Iraq (Chapter 2); constitutional issues, including electoral laws (Chapter 3); the judiciary and the rule of law (Chapter 4); international law and the UN (Chapter 5); economic issues, including Islamic economics, oil and water (Chapter 6); and security, including

the agreements recently negotiated on strategic cooperation and the standing of the US military (Chapter 7).

From this vast agenda, let me discuss three examples.

First, most pressing, is an elaboration on security. A formidable, heated debate, has been taking place for the past several months in Baghdad and in Washington over the legal format of future American presence in Iraq, if any. It was originally called a Status of Forces Agreement agreement, dovetailing with a Strategic agreement, which started with an exchange of letters between Prime Minister Maliki and President Bush in 2007. The ramifications of such an arrangement, which regulates mainly the withdrawal of US troops and the immunity of soldiers, are immense. In the United States, my colleagues Bruce Ackerman and Oona Hathaway have decried the short shrift to the US Constitution, which, they argue, the outgoing administration has given such important commitment. I had the occasion in June to participate in a long televised debate with the Iraqi Foreign Minister on the dangers of a lightly negotiated treaty on the Iraqi political fabric. Other important aspects include the criminal prosecution of soldiers and contractors by Iraqi courts that the US government wants to avoid in Iraq. Now that the agreements have been signed, they need to be successful. On the issue of immunity, I have been a strong advocate of mixed or hybrid courts that could allay the fears of impartial justice not done or not seeming to be done.

Security remains a big issue in Iraq, of course, and both Iraqis and Americans face the danger of their success in the event of the emergence of over 500,000 security personnel in Iraq. While law needs power and order, the danger is dual: the specter of another strong man emerging from an oversized army, and the converse difficulty of the fissiparous nature of the army. Another central question hovering over Iraq derives from the success of the Sunni militias, known as ‘The Sons of Iraq’ or ‘The Awakening,’ and their integration and interaction with the regular army and other security forces and agencies. That proliferation itself of security and intelligence agencies and groups is particularly worrying for the rule of law.

The second, less pressing dimension, has to do with constitutional revision or review. Iraq’s 2005 Constitution was supposed to be final. It is not. Most glaring is the still undecided structure of federalism, which is the one major contribution of modern Iraq to Middle East history, and another reason why centralized, brutal metropolises around Iraq, namely Tehran, Damascus, Amman, Ankara, and Riyadh, want the Iraqi experiment to fail. While the Constitution proudly announces that the Iraqi system is republican and federalist, the institutions of federalism, most notably in the center in Baghdad, remain conspicuously absent. In the legislature, there is a Council of Representatives (CoR), the Iraqi Parliament. A Senate-like chamber that represents the regions, which are themselves ill-defined, has yet to be created. Article 65 states that “a legislative council shall be established named the ‘Fed-

eration Council' to include representatives from the regions and the governorates that are not organized in a region." It leaves it to the law to organize the Federation Council and its competence. This means that the skimpy articles that regulate legislative federalism in the Constitution remain to be developed into an effective representation of the regions in Baghdad.

Power of the capital's regions is the crucial matter. It is one major paradox of federalism, which I emphasize against the traditionally received view, that it secures the power of the regions not in the regions, but in the center. One might rail endlessly about the tentacular power of the capital over the regions because of the weakness of local decision-makers in the periphery. I do not share this view: to secure power in a federal country in accordance with legitimate democratic expectations, the problem is far less who rules in Kurdistan or in Michigan. Kurds naturally rule in Kurdistan and Michiganders rule in Michigan, Irbil citizens govern Irbil, and Dearborn citizens govern Dearborn; those from the outside do not stand a chance in a non-repressive society, and even in a repressive one, it is just a matter of time before the overbearing outsider is kicked out or brought down to size. This was true even in Saddam's Iraq. Imagine what it meant to be Saddam's governor in Suleymaniyya in the North or in Najaf in the South: a continuous, daily nightmare, in which he is restricted to his desk unless he physically gets his security forces to trample on the local population to carry out his decisions. This is why the rule by Baghdad of the provinces is secondary to the participation of the provinces to the rule in Baghdad. What federalism secures, and this is its central battle, is how much sway Kurds have in Baghdad, and Michiganders in Washington. Without a Senate, no federalism is conceivable. With the CoR standing alone, without that other crucial Chamber that represents the power of the regions in Baghdad, there will be no federalism to speak of in Iraq, and the country will go adrift.

The third dimension is the build up of the judiciary. In addition to the federal judicial dimension, especially in the context of the go-it-alone of the Kurdish judiciary so far, there is the problem of coherence of the rule of law in the central judicial institutions, specifically the Higher Judicial Council, the Federal Supreme Court, and the Court of Cassation. By luck, they are all under the banner of one president, the aforementioned Chief Justice Midhat al-Mahmud. The question is whether this felicitous alignment is personal, or institutional, and if the latter, what the situation of other satellite and quite important courts stands with regard to that coherence: the Shura Council, the highest administrative court; the High Criminal Tribunal, which condemned Saddam Hussein to death and continues to judge the leaders of the prior regime; and the military courts. One can see how daunting the work is to secure judicial independence, and an effective judiciary.

* * *

History may bend toward justice, but not on its own. We each have a responsibility in guiding it, making the sacrifices, recognizing the challenges, committing to the principles, and applying the creative solutions so that justice can prevail over violence and hope can overwhelm the despair of our repeated disappointments. 🌍

Dr. Chibli Mallat is Presidential Professor of Law at the University of Utah. This address was also given before the Global Justice Project-Iraq, started in Baghdad, for which he is acting as Senior Legal Advisor. The opinions expressed are the author's exclusively personal ones, but he wishes to acknowledge Dean Hiram Chodos's comments on the text, as well as the invitation to Dearborn, and help in Baghdad of Attorney James Rayis, the first in-country Director of the Project. The text was only slightly updated after two visits to Bagdad in October and December.



Changes Involving the Visa Waiver Program and the Michigan Driver's License Application Process

By *Reginald Pacis, Butzel Long*



Reginald Pacis

Introduction

This Article discusses recent changes in the enforcement of immigration law at the Federal and State of Michigan level. These changes not only affect foreign nationals that are presently in the United States, but also impact those that are outside of the United States with the intention to travel here for business or recreational purposes.

These new provisions further affect employers and educational institutions in the U.S. who retain foreign nationals, whether as employees or students.

Visiting the United States

Visa Waiver Program Changes

Visitors from foreign countries may travel to the U.S. for business or tourist purposes. Generally, foreign nationals are required to have a visitor visa¹ issued by a U.S. Consulate in their home country which they present to a U.S. Customs and Border Protection² Officer upon entering the U.S. The Officer interviews travelers and processes their entry into the U.S. ultimately issuing them an I-94 card. This I-94 card evidences their lawful status to visit the U.S. and provides the amount of time visitors may remain in the U.S.

Nationals from certain countries may travel to the U.S. without first applying for a visa, provided they meet certain conditions,³ under the visa waiver program. Persons from these countries may remain in the U.S. for up to 90 days only and may not extend their stay beyond the initial 90 days from their entry into the U.S. To travel to the U.S. without a visa, a foreign national must be a national of a participating visa waiver program country. Prior to November 17, 2008, designated countries whose citizens may visit the U.S. without first applying for a visa were: Andorra, Australia, Austria, Belgium,⁴ Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom.⁵ As of November 17, 2008, the following countries have been added to the visa waiver program: the Czech Republic, Estonia, Hungary, Latvia, Lithuania, the Republic of Korea,⁶ and the Slovak Republic.⁷ Nationals from these added countries may enter the U.S. without first having obtained a visa from a U.S. Consulate in their home country to visit the U.S.

Electronic System for Travel Authorization ("ESTA")

As a part of its overall security strategy to protect the U.S. borders, the Department of Homeland Security implemented, initially on a voluntary basis, the Electronic System for Travel Authorization (ESTA) program. On January 12, 2009, use of the ESTA program becomes mandatory for all foreign visitors wishing to use the visa waiver program to visit the U.S. without first applying for a visa at a U.S. Consulate abroad.⁸ This program requires foreign nationals to register their intended entry to the U.S. and use of the visa waiver program at a U.S. government sponsored website.⁹ Upon the registration of travel plans to the U.S., the ESTA system will inform prospective foreign visitors immediately whether they may proceed to travel to the U.S. without first applying for a visa or whether they must first apply for a visa before visiting the U.S. A "clearance" to use the ESTA program is valid for up to 2 years. Evidence of ESTA clearance should be printed and retained by foreign nationals for their trips to the U.S. and for their personal records.

Driving in Michigan

Foreign Driver's Licenses recognized in Michigan

Foreign nationals generally may drive in Michigan on a non-commercial basis if they are from countries that have reciprocity agreements or treaties with the United States with respect to operation of a motor vehicle. Usually a person must have an appropriate immigration status to be lawfully present in the United States. It is important to understand that the issue of driving in Michigan is a separate issue from the immigration concern.

The Michigan Secretary of State office ("SOS") maintains a list of countries whose Driver's license authority is recognized by Michigan.¹⁰ Citizens of these countries may operate a vehicle without a Michigan Driver's license, at times depending on whether the foreign Driver's license is for commercial or non-commercial purposes. For example, citizens of Canada, Australia, France, the United Kingdom, Germany, Japan and Korea may drive a vehicle within Michigan on a non-commercial basis provided they possess a valid noncommercial Driver's license from their home country.¹¹ Similarly, persons who are nationals of Mexico, Brazil, and Colombia must have a valid non-commercial *or* commercial Driver's license from their home country to lawfully operate a vehicle without a Michigan Driver's license.¹²

Each country has its own internal requirements for driver's license eligibility, such as residency conditions. While a foreign national visiting the United States for a short duration who is licensed to drive in his or her home country may use that foreign license to drive in Michigan provided his or her country appears on the Michigan Secretary of State's list, foreign nationals who are lawfully admitted to the United States for longer periods of time might be unable to meet their home country's requirement to maintain their foreign driver's licenses. Foreign nationals in this position would need to apply for a Michigan Driver's License.

The Michigan Driver's License

The law governing the Michigan Driver's license and its issuance was revised in early 2008. The Michigan Motor Vehicle Code provides that only residents of the State of Michigan may apply for a Michigan Driver's license and defines resident is one that is able to establish legal presence in the United States.¹³ The Motor Vehicle Code further provides,

If the applicant is not a citizen of the United States, the applicant shall provide documents demonstrating his or her legal presence in the United States. A person legally present in the United States includes, but is not limited to, a person authorized by the United States government for employment in the United States, a person with nonimmigrant status authorized under federal law, and a person who is the beneficiary of an approved immigrant visa petition or an approved labor certification.¹⁴

The key issue under the statute is that "legal presence" is required to successfully apply for a Michigan Driver's license. The concept of "legal presence" in the United States is quite often mistakenly blended with the concept of lawful immigration status.

Persons who hold lawful immigration status include U.S. Citizens, lawful permanent residents,¹⁵ H-1B nonimmigrants,¹⁶ L-1A and L-1B nonimmigrants (intracompany transferees from foreign countries whose employers have offices abroad and in the U.S. and are being transferred to the U.S.)¹⁷ and TN nonimmigrants.¹⁸ Generally, foreign nationals lawfully present in the U.S. possess a valid I-94 document issued by an immigration officer upon entry to the U.S. Persons who are lawfully present, but who might not hold valid immigration status would include persons with timely filed, but pending extensions of nonimmigrant status (H-1B, L-1 or TN) whose nonimmigrant status expired,¹⁹ or persons with pending applications for political asylum or adjustment of status (green card application) properly filed before an immigrant judge or an appropriate federal immigration agency such as the U.S. Citizenship and Immigration Services.²⁰ Under the Michigan statute, a person who holds a valid immigration status or is

otherwise lawfully present because of a properly filed pending application for immigration benefits may be eligible for a Michigan Driver's license.

In implementing this law, the SOS specifies various categories of documents it will accept in processing Michigan Driver's license applications.²¹ The categories of documents needed for persons to successfully obtain a Michigan Driver's license are divided into four categories: Social Security eligibility, Legal Presence, Identity Verification, and Proof of Michigan Residency. As outlined below, specific evidence is required to prove Social Security eligibility and Legal Presence.

The SOS requires that applicants who are applying for the Michigan Driver's License present the following evidence to satisfy the Social Security evidence criteria:²²

- W-2, SSA-1099 or non-SSA 1099 form;
- Pay stub containing the applicant's name and Social Security number;
- Valid U.S. military ID card with photo (DD-2 or CAC card);²³ or
- Letter of ineligibility from the Social Security Administration.²⁴

The SOS also provides that all Social Security information will be verified and authenticated using a Federal database.

With respect to the "Legal Presence" criteria, the SOS attempts to list all possible documentation that would demonstrate a person's legal presence in the U.S. To satisfy this portion of the application requirement, the SOS requires that Driver's License applicants present at least one of the following items.²⁵

- Original certified birth certificate issued by a government unit in the U.S. or U.S. territory;
- Valid, unexpired U.S. passport;
- Valid, unexpired Permanent Resident Card (I-551) issued after December 1997;
- Certificate of Citizenship (N-560, N-561 or N-645);
- Certificate of Naturalization (N-550, N-570 or N-578);
- Consular Report of Birth Abroad issued by the U.S. Department of State (FS-240, DS-1350 or FS-545);
- Valid, unexpired foreign passport in your name with English subtitles or translation, with stamped I-94 and an unexpired U.S. visa;²⁶
- Valid, unexpired Employment Authorization Card (I-688, I-688A, I-688B, or I-766);
- Valid, unexpired Refugee Travel Document (I-571) with stamped I-94; or
- Approved U.S. Department of Labor certification with a valid, unexpired foreign passport in your name with English subtitles or translation, with stamped I-94 and an unexpired U.S. visa.²⁷

The SOS also requires that the applicant's names on documents providing evidence of both legal presence and identity should match. If the names do not match, the applicant must show legal proof of the name change, such as an original marriage license, divorce decree or court order.

Conclusion

There have been many recent changes in U.S. immigration law as a result of the focus on national security and immigration reform. With the recent change in the Presidency and Congress and the renewed emphasis on border and worksite enforcement prompting the call for comprehensive immigration reform, it is expected that many further changes will take place in the immigration law context. 🌐

Reginald A. Pacis is a shareholder practicing in Butzel Long's Detroit office. He received his J.D. from the Detroit College of Law at Michigan State University in 1996 and his B.A. from James Madison College at Michigan State University in 1992. He joined the State Bar of Michigan in 1997.

Mr. Pacis concentrates his practice in immigration law and has handled a variety of immigration matters including H-1B specialty occupation cases, L-1 Intracompany transfers, Labor Certification matters, Immigrant Visa Petitions/ Adjustment of Status applications and interviews, TN Free trade cases, H-1B Department of Labor Investigations, I-9 employer verification compliance, and U.S. Port of Entry airport and land port interviews.

Mr. Pacis is a member of the American Bar Association, the American Immigration Lawyers Association (AILA), and the Samahang Pilipino Ng Oakland Filipino organization. He served two consecutive terms from 2003 to 2004 and 2004 to 2005 as Chairperson of the Michigan Chapter of AILA and was a member of the AILA National Board of Governors for those terms. He has been a speaker on immigration topics at many AILA, business, Hispanic, and Filipino presentations. Mr. Pacis is also a frequent presenter in the Annual Butzel Long Immigration Seminar. He has served in a variety of committees in the Filipino community. Additionally, Mr. Pacis has served as a member of the AILA National committee responsible for liaison with the Customs and Border Protection, a division of the U.S. Department of Homeland Security presiding over inspections and security of the U.S. border, and is now serving on the AILA Border Security Committee. He previously served as Chairperson of the Michigan AILA Committee responsible for liaison with the Michigan Customs and Border Protection Agency. He now serves on the Michigan AILA Advocacy Committee. He has been appointed by Governor Granholm to serve on the Advisory Committee for Asian Pacific American Affairs (ACAPAA). Mr. Pacis can be reached at pacis@butzel.com.

Endnotes

- 1 B-1 visa for business visitors or B-2 visa for visitors for pleasure.
- 2 U.S. Immigration falls under the jurisdiction of the U.S. Department of Homeland Security ("DHS"). Three sub agencies of DHS preside over the immigration function. U.S. Citizenship and Immigration Services presides over the "service" side of immigration such as Petition adjudication, naturalization and adjustment of status ("green card") applications. U.S. Immigration and Customs Enforcement presides over the enforcement side of immigration such as worksite enforcement and prosecuting criminal and removal cases. U.S. Customs and Border Protection presides over the border processing side of immigration such as processing foreign nationals for entry into the U.S.
- 3 Some conditions for use of the visa waiver program include that a foreign national must not have been previously denied a visa or have past negative legal or U.S. immigration history.
- 4 After May 15, 2003, citizens of Belgium are required to have a valid unexpired machine-readable passport to travel to the U.S. using the visa waiver program.
- 5 73 Fed. Reg. 67711 (2008).
- 6 South Korea.
- 7 73 Fed. Reg. 67711 (2008).
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- 10 http://www.michigan.gov/documents/Reciprocity_Agreements_and_Underlying_Authority_170819_7.pdf.
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- 13 M.C.L. §257.51a.
- 14 M.C.L. §257.307(1)(b).
- 15 "Green card" holders.
- 16 Professional specialty workers include engineers, physicians, professors, and lawyers.
- 17 Intracompany transferees from foreign countries whose employers have offices abroad and in the U.S. and are being transferred to the U.S.
- 18 Professionals from Canada or Mexico authorized to be lawfully present and work in the United States under the North American Free Trade Agreement ("NAFTA").
- 19 8 C.F.R. §274A.12(b)(20). INS Memorandum, T. Cooke, "Interpretation of 'Period of Stay Authorized by the Attorney General' in determining 'unlawful presence' under INA section 212(a)(9)(B)(ii)" (March 27, 2003).
- 20 INS Memorandum, J. Williams, "Unlawful Presence" (June 12, 2002).
- 21 http://www.michigan.gov/documents/sos/Applying_for_license_or_ID_SOS_428_222146_7.pdf.
- 22 *Id.*
- 23 Documents that expired less than one year ago will also be accepted.
- 24 Letters more than thirty days old will not be accepted.
- 25 *Id.*

26 As discussed in an earlier section of this article, visas and passports are reviewed by an officer of the U.S. Customs and Border Protection only for processing the entry to the U.S. Visas may only be obtained at U.S. Consulates in foreign countries. The SOS appears to require that a foreign national have the ability to enter the U.S. as well as mere lawful presence in the U.S. There are many instances where a person who is lawfully present in the U.S. with lawful immigration status no longer possesses an unexpired passport and visa. For example, a foreign national engineering student who entered the U.S. as an F-1 student with an F-1 visa to study engineering, completed his educational curriculum during which his F-1 visa expired, but not his status, applied for an engineering professional position and was sponsored for a change of F-1 status to H-1B Professional occupation status to work as an engineer is lawfully present in the U.S. but would need to apply for a new H-1B visa should he wish to return from foreign travel to the U.S. as his F-1 visa is no longer valid.

27 This section attempts to match the Michigan statute, M.C.L. §257.307(1) (b), but again adds the requirement of valid ability to travel in addition to lawful presence by requiring that an applicant have a valid visa in addition to a valid I-94 document that demonstrates lawful presence.



Join the Fun . . . Join a Section Committee

We have many great ideas but need your help. Make a commitment to give the Section 5-10 hours of your time each year. Think about it: the equivalent of no more than one working day. Please join a committee of the Section and support the objectives of the Section:

- International Business and Tax - Contact Mike Domanski (Chair)
- International Trade - Contact Andy Doornaert (Chair)
- Emerging Nations - Contact Ken Duck (Chair) or Dick Goetz (Co-Chair)
- International Employment Law & Immigration - Contact Debra Clephane (Chair)
- International Human Rights - Contact Professor Greg Fox (Chair)

We have made great strides but we cannot sustain the progress without greater involvement from our Section members. Contact information for committee chairs and co-chairs is available at the back of the newsletter.

Section Events At-a-Glance

For regular updates, see the ILS website

May 12, 2009 – ILS Council Meeting

5:30-8:30 p.m., Dykema Gossett, 39577 Woodward Ave. Suite 300, Bloomfield Hills, MI
Video conference available at Dykema Gossett, 300 Ottawa Ave., Grand Rapids, MI

June 11, 2009 – ILS Council Meeting and Special Presentation

“New Approaches to International Legal Issues Under the Obama Administration: How Will They Affect Your Practice?”
3:30-8:00 p.m., Council Meeting will begin at 3:30; Special Presentation to follow at 4:00
Detroit Zoo, Ford Education Center
A private tram tour of the zoo will also be available.

September 17, 2009 – State Bar of Michigan International Section Annual Meeting

Presentation topics will center on the international impact of the financial crisis
8:30 a.m.-12:00 p.m., Hyatt Regency, Dearborn, MI

Legal Developments and Doing Business in Israel

By Michael H. Traison, Miller, Canfield, Paddock and Stone, P.L.C.



Michael Traison

One of the interesting programs featured at this year's annual meeting of the State Bar of Michigan focused on doing business and practicing law in the Middle East. Participants included an audience of practitioners and law students who listened attentively to the presentations of representatives from a variety of lands and perspectives in that region. This topic was of a particular interest for the audience attending a program of the International Law Section of the State Bar of Michigan.

A Michigan lawyer's special interest in the Middle East emanates not only from a general academic interest in law and business, but also because this region is a homeland for many members of the Bar, their families and many families in the state of Michigan. Moreover, having Middle Eastern connections, through lineage or not, is especially important to the security of the United States. This region also has potential as a trading partner. This dictates that all lawyers with a worldview, and especially those with a client base interested in the Middle East, should be curious to learn more.

Israel is a Middle Eastern nation at the eastern end of the Mediterranean Basin with strong ties to the European Union and North America. Israel is a tiny country the size of the upper peninsula of Michigan. At some points it is only 6 miles wide and at its greatest length it is 265 miles long, comprising only 20,770 square kilometers.¹ The Israeli lifestyle tends to be consistent with western standards and Israel has a GDP exceeding many countries in Europe.² Its current GDP is reported to be \$ 28,900 USD per person, purchasing power parity.³ Israel's economy and its system of justice and democracy appears insulated from the volatile politics of the region and despite security concerns, the nation thrives.

As tiny as it is, Israel is an important part of the world, and we were privileged to hear of developments in various parts of the region. It is particularly interesting to focus on Israel and the Palestinian territory because they are central to the Middle Eastern region. The Palestinian Authority includes what is often referred to as the "West Bank" of the Jordan River and the Gaza Strip. Many hope that these lands will someday become a sovereign state to provide a homeland to the Arab people who identify themselves as Palestinians and yearn for a homeland there. Similarly, the State of Israel is home to approximately 7 million people, 85 percent of whom are Jewish. The remainder of the population is of various backgrounds, but approximately 19.5% are Arabs.⁴

Israel is a parliamentary democracy.⁵ Its laws have historic roots in Talmudic Law, the Law of the Ottoman Empire (which ruled over the region for over four hundred years) and English Law that was determinative during the era of the British mandate over the region granted by the League of Nations following the First World War and the defeat of the central powers, including Turkey.⁶ Unlike the United States, Israel operates like England in that it has no written constitution but maintains what is known as the basic laws.⁷ It has a court system quite similar to that of the United States which interprets the basic law.⁸ Religious and domestic matters are handled by religious courts of each of the religious groups, especially the Moslem, Jewish and Christian, established for such purposes.⁹

During the presentation at the State Bar annual meeting, Israeli and New York licensed attorney, Yaron Grofman, spoke to the audience from his home in Tel Aviv. His remarks were supplemented by the author, Michael Traison of Miller, Canfield, Paddock & Stone, P.L.C. whose practice includes clients and legal and business issues in Israel, Poland and the United States. These presentations highlighted certain themes for the audience.

Among these themes was the significant amount of trade in goods, services, and intellectual property that exists between Israel and many of its neighbors, especially the Palestinian Authority, Europe, Asia, and the United States.¹⁰ Of its immediate neighbors, the highest reported trade is with Jordan.¹¹ Exports to that nation from Israel increased to 87 million US dollars in 2003.¹² Israel's peace partner in the region, Egypt, ranks significantly lower as a trading partner, receiving only 26 million US dollars in trade in 2003.¹³ Israel's trade with Morocco in 2003 was 7 million US dollars.¹⁴ In addition, while it is not officially reported, there is significant trading with Arab States through third parties.

While Israeli exports include agricultural products such as oranges, dates, and flowers, its most highly regarded exports are based in technology and intellectual property.¹⁵ The technological and intellectual industries include industries such as pharmaceuticals, military components, high tech communication devices, and a wide range of other cutting-edge innovative developments.¹⁶ Israel is often referred to as Silicon Wadi, the Silicon Valley of the eastern Mediterranean Basin.¹⁷ Of all the stocks traded on the American stock exchanges, after those of the American companies themselves, the Israeli companies form the second greatest number of companies whose equity is being traded on the exchanges.¹⁸ With a population of over seven million, Israel has 3,400 high tech companies. In the

first three quarters of last year, these companies raised over 1.2 billion US dollars, a 10% increase over the preceding year. While technological industries are important to Israel's economy, it also benefits from tourism. For instance, in the last year tourism brought 11.8 billion US dollars into the State.¹⁹

Israel also benefits from its highly educated population. A large proportion of its citizens hold advanced degrees as PhDs, doctors, or other scientists.²⁰ Further, many more are in the creative arts such as film-making and television production. In addition, Israel is home to world-renowned institutions such as the Weitzman Institute and Hebrew University.

While education is a key factor to Israel's success, its ability to absorb immigration is also important. The country's population has experienced significant growth. Further, many of the immigrants were professionals with high levels of post-graduate education. In response to this, Israel has created new institutions which have allowed the new citizens to be absorbed into the country, and not burden the economy.

This region benefits greatly from Israel's democratic government and its healthy capitalism. These factors help to promote peace and security in the region. Increasing trade and strengthening ties can help to further stabilize this region. It is the author's hope that further efforts to build strong economies in the region, especially in the areas governed by the Palestinian authority, will have a lasting effect not just in the Middle East, but throughout the world. 🌍

Michael H. Traison is a principal at Miller, Canfield, Paddock, and Stone, P.L.C. His practice is concentrated in all areas of international law, commercial law, and debtor-creditor relations, with particular emphasis on the representation of unsecured creditors, committees, trustees and debtors under Chapter 11 and out-of-court workouts. Although resident in the firm's Detroit and Chicago offices, he also works out of Miller Canfield's three offices in Poland.

Prior to entering the practice of law, Mr. Traison was a public school teacher for 15 years in Detroit, Michigan and in Essex County, Ontario. He is certified in Michigan and Ontario as a secondary school teacher.

*He is admitted to practice before the United States Supreme Court (where he appeared *In Re Ron Pair Enterprises* on behalf of the debtor), the Third, Fourth, Sixth and Seventh Circuit Courts of Appeal, the United States District Court for the Eastern District of Michigan, Northern District of California, Northern District of Illinois, and the Eastern District of Texas, the United States Federal District Court for the Northern District of Illinois, and the States of New York, Illinois and Michigan. He has appeared on behalf of creditors, debtors, and trustees before courts throughout the United States including Arkansas, California, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Maryland, Mississippi, Missouri, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, and Virginia.*

He is active in numerous professional organizations including the American Bar Association, State Bar of Michigan, Illinois State Bar Association, Federal Bar Association, International Bar Association, Detroit Metropolitan Bar Association, Oakland County Bar Association, American Arbitration Association, National Association of Credit Management, Commercial Law League of America, American Trial Lawyers' Association, International Association/Jewish Lawyers & Jurists, American Bankruptcy Institute, State of Michigan Bilateral Trade Team for Israel, and the Association of Israeli Automotive Parts Products.

His civic organizations include the Israel/Poland Chamber of Commerce, Jewish Vocational Service, North American/Israel Chambers of Commerce, Detroit Branch of the NAACP, Jewish Community Counsel of Metro Detroit, Simon Wiesenthal Center, Jewish Federation of Metropolitan Detroit, American Jewish Committee, America-Israel Chamber of Commerce of Michigan and of Metropolitan Chicago, the Polish American/Jewish American Council, Polish American Chamber of Commerce of Chicago, Jewish National Fund Midwest, Chicago Historical Society, the American Friends of Shaare Zedek Hospital of Jerusalem, Israel – Midwest, the Standard Club in Chicago, originator (1996) of Ceremony of Annual Awards for Poles Preserving Jewish Heritage in Poland, Board of Foundation for Remembrance and Reconciliation Member, Creator of Pinczow Szabbat 2006, and board member of Mozes Schorr Foundation of Warsaw, Poland.

He is a frequent speaker on debtor-creditor relations and corporate bankruptcy issues throughout the United States, Israel, and Poland, and has been interviewed and spoken on economic developments and political growth in Central Europe including Hungary, Poland, and the Czech Republic, as well as Israel and the Palestinian authority.

*In 2003, Mr. Traison was honored as a recipient of the Polish-American Heritage Award from the Polish-American Heritage Council for his support of Detroit's Polonia and promotion of Polish heritage. He is listed in the Bankruptcy and Creditor-Debtor Rights Law Section of *The Best Lawyers in America*, 2006-2008 editions, as well as the 2007 edition of *Michigan Super Lawyers*.*

He received his law degree, magna cum laude, from the Michigan State University College of Law where he was a member of the Law Review, and a M.Ed. and Ph.B. from Wayne State University.

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ILS Special Presentation:

"New Approaches to International Legal Issues Under the Obama Administration: How Will They Affect Your Practice?"

June 11, 2009

3:30-8:00 p.m.

ILS Council meeting at 3:30 p.m.;
presentation to follow at 4:00 p.m.

Detroit Zoo

"Drippy-Wet Studios," Ford Education Center

The presentation will include speakers on a variety of topics related to changes in international law and policy under the Obama Administration. Further details to be posted on the International Section listserv and website.

Two trams have been reserved for a private tour of the Zoo.

Do not Miss Important Section-Wide Announcements: Sign up for the International Law Section ListServ

The listserv for the International Section is the primary means to receive notices and announcements about upcoming events and programs within the Section. The listserv is not discussion based, rather, it includes only important section-wide announcements and newsletters. Those who sign up can expect to receive 1-2 e-mails per month.

Section members are automatically signed up for the listserv when they provide their e-mail address to the State Bar of Michigan. In addition, section members can sign up for the listserv by accessing the International Law Section page on the State Bar website. Section members may also contact Heather K. Anderson, at handerson@mail.michbar.org, to be added to the listserv.

You must be a member of the International Law Section to sign up for the listserv.

The UAE - Open for Business: The United Arab Emirates and the New Global Economic Corridor

By Tim A. Attalla and David J. Bazzetta

The global economic corridor during the third century was known as “The Silk Road,” connecting the Roman Empire to China. This 4,000 mile ancient passage, regarded as the greatest trade route between the East and the West, was a conduit for the trade of goods and services. The Silk Road also served as a means to transmit knowledge and ideas, similar to an ancient information super-highway. Silk was carried westward, while wool, gold, and silver were carried eastward (Figure 1). With the fall of Rome, the route became unsafe. However, it was revived under the Mongols, and Marco Polo used it in the 13th century.¹

If we fast forward, today, we find a new economic path emerging in the “flat world” of the 21st century. Thomas Friedman suggests that there have been ten key events that have reshaped or “flattened” the world. Those events range from the fall of the Berlin Wall to the collapse of the Soviet Union, to the advent of high speed internet and email.² Within the flat world, suddenly there is a “true” global marketplace.

Today, within the new “flat world,” a new form of a silk road has emerged. This new silk road forms an economic corridor that begins in China, runs through India, traverses across the Middle East, through North Africa, and ends in the United States. This 21st century economic route covers more than 11,000 miles, contains 40% of the world’s population, and generates \$11.3 trillion in GDP.³

The focus of this paper is to highlight the economic opportunities of the emerging markets in the Middle East (Figure 2).

The term “Middle East,” which was popularized at the turn of the 20th century, is a region that spans southwestern Asia and northeastern Africa. It has no clear boundaries, and

is often used as a synonym to “Near East,” as opposed to “Far East.” The region is made up of diverse sets of countries. A three cluster model creates a better representation of the region: the Levant, North Africa, and the Gulf States.⁴



Tim A. Attalla

The Levant is comprised of Syria, Lebanon, Jordan, Iraq, Israel and the Palestinian Territories. This region has been hampered by political tensions and military conflicts since the end of WWII. The North African cluster includes: Algeria, Egypt, Libya, Morocco, Sudan, Tunisia, and the Western Sahara. Although a large and populous region, it is economically disadvantaged with a GDP per capita of \$5,000. The third area, the GCC (Gulf Cooperation Council) is the wealthiest region, and has become an attractive place to do business.

The GCC includes the countries of Saudi Arabia, Kuwait, Bahrain, Qatar, Oman, and the United Arab Emirates (UAE) (Figure 3).

Formerly known as the “Trucial States,” the UAE are a federation of seven individual city states, all ruled by emirs. Founded between the 7th and 8th centuries, the Trucial States granted the United Kingdom control of their defense and foreign affairs in treaties signed in the 19th century. In 1971, six of these states – Abu Dhabi, Ajman, Al Fujayrah, Sharjah, Dubai and Quwayn - merged to form the UAE. They were then joined in 1972 by Ras al Khaimah (RAK).



Figure 1



Figure 2



Figure 3

The UAE (Figure 3) occupies an area of 83,600 sq km along the south-eastern tip of the Arabian Peninsula. Qatar lies to the west, Saudi Arabia to the south and west, and Oman to the north and east. The capital and the largest city of the federation, Abu Dhabi, is located in the emirate of the same name.⁵ (Figure 4)

As the world continues to flatten and the playing field is suddenly equal for all to participate, the potential for the UAE to play an important role in the modern day economic corridor is significant. With a population of nearly five million, and a GDP per capita of over \$37,000, the UAE ranks just behind the United States with regard to the average GDP purchasing power of its citizens.⁶ Oil and other natural fossil fuels have historically contributed significantly to the GDP of each country. Outside of the oil and gas sector, which includes refining and the production of oil-derived chemicals, most economic activity is government sponsored, and designed to diversify the economy and reduce dependence on oil and gas. This strategy has been reasonably successful and the oil and gas sector's contribution to GDP is now down to about 45%. The economy has boomed in recent years. The IMF's estimate for the UAE's GDP growth in 2007 was a whopping 16.4%, keeping the country well on course to become a major financial player in the region.⁷

Typical misconceptions and misunderstandings of the region remain. Examples of such misconceptions include:

- The region is relevant only to the interests of energy-related companies.
- All individuals in the region are rich – only high end products and services are relevant.
- The GCC customer hates the United States – global brands and businesses cannot succeed.

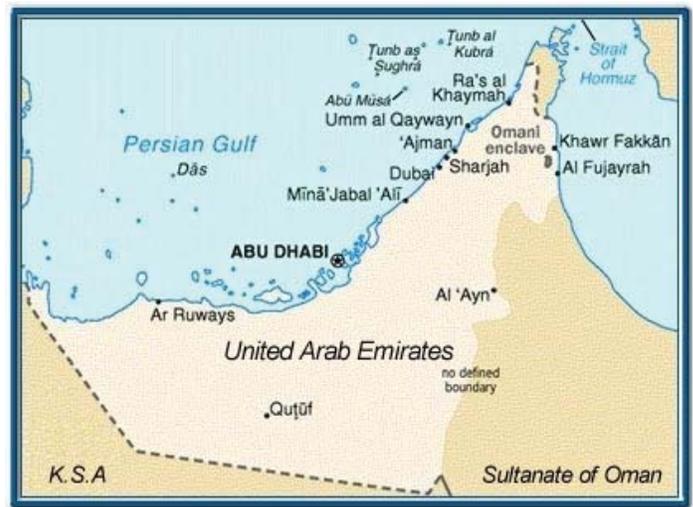


Figure 4

- Female consumers, employees and decision makers are marginal to the economy.
- The Arab consumer is the only target in the Gulf.⁸

However, these misconceptions or “mental models” could not be further from reality; the GCC economy is booming and the opportunities to do business there are enormous. Globalization continues in terms of the businesses from around the world setting up in GCC countries. In addition, succession into the WTO allows the GCC to continue to develop economic projects with countries like Australia, Britain, and the United States. Progress on women's rights has been steadily improving; women now serve in cabinet positions and amount to about 10% of the diplomatic corps, a dramatic change from 2001 when no females served in government.⁹

In fact, despite the misconceptions, the UAE offers numerous advantages for companies to start businesses in the emirates. The UAE has established a series of Free Trade Zones (FTZs). Establishing a business entity in one of the UAE's many FTZs can be an attractive option for foreign investors. To date the free zones have been successful in attracting a large number of companies and foreign direct investment, as well as expanding net non-oil exports. There are numerous advantages of setting up a business in a FTZ:

- 100 per cent foreign ownership of the enterprise
- 100 per cent import and export tax exemptions
- 100 per cent repatriation of capital and profits
- No corporate taxes for 15 years, renewable for an additional 15 years
- No personal income taxes
- Assistance with labor recruitment and additional support services.¹⁰

The largest and wealthiest emirate is Abu Dhabi, the capital of the UAE. Ninety miles from Abu Dhabi is Dubai. The emirate of Dubai has captured the attention of the world with its unprecedented growth, creative and luxurious real estate

projects, and the most FTZs in the UAE. “Dubai has become a leading business player on the global stage.”¹¹ Ironically, Dubai has no oil within its boundaries; instead its economic growth has been achieved by attracting global companies to invest and set up in a FTZ.

Currently there are 15 FTZ’s in the UAE with the majority based in Dubai. A few of the more significant FTZ’s located in Dubai are: Knowledge Village, Dubai Media City, and Dubai Internet City. Knowledge Village is home to more than 200 companies including international universities and colleges and providers of e-learning, training, and professional development.¹²

Another catalyst of the economic growth in Dubai is the shipping Port Jebel Ali. Located twenty miles southwest of Dubai city, Port Jebel Ali is the largest man-made harbor ever built and the largest in the Middle East. The port is home to over five thousand companies from 120 countries around the world.¹³ Called by some the fastest growing city on the planet, Dubai is a critical conduit in the new global economic corridor.

Yet another example of an emirate that is fostering and promoting global business development is the emirate known as Ras al Khaimah (RAK). In May 2000, the RAK Free Trade Zone (RAKFTZ) was established. It now has nearly 5000 companies from 70 different countries registered in the FTZ.¹⁴ The RAKFTZ continues to spread its wings in the industrial horizon with more and more companies willing to set up shop in the investor friendly environment. RAKFTZ is unique because it has three different business parks specializing in various sectors. The diversification of the Free Zone parks, both functionally and geographically, offers numerous advantages to the investors as they can choose their location based on the type of business activity. Each of the three parks, the Business Park, Industrial Park, and Technology Park, offers identical advantages and benefits to investors.¹⁵

Starting a business in the UAE is a relatively simple process. According to the World Bank database the entire process to start a business in the UAE takes approximately 15 days. Although a number of rules, regulations, and some red tape still exist, the government has taken dramatic steps to reduce the complexity and speed up the process.

What does all this mean for the US and in particular for Michigan? With the metro Detroit area experiencing the worst economic conditions in more than 70 years, the advantages are significant. It means that opportunities are global; the world is recognizing that markets can exist anywhere, and that the institutional forces are favorable. With more than 13% of the US GDP coming from exports, US companies are looking for tools to export their goods.

The UAE, specifically Dubai and RAK offer interesting economic alternatives to US based companies who wish to establish a global presence. The FTZs and world class infrastructure provide attractive support services for investors.

In summary, the new global economic corridor results from the advent of a flattened global marketplace where six billion consumers can participate. An organizational, diversified business model can take advantage of numerous locations along the path of the economic corridor. The Middle East, particularly the United Arab Emirates has the potential to be one of the premier core economic regions in the world. Fundamental, political, and ideological misconceptions are being transformed into a new, economic reality which US companies cannot afford to ignore. 🌐

Tim A. Attalla is Senior Counsel with Miller, Canfield, Paddock, and Stone, PLC. Mr. Attalla specializes in assisting US companies expand in the Middle East. Additionally, Mr. Attalla is an adjunct professor at Walsh College, in the Doctorate of Management – Executive Leadership Program. Mr. Atalla can be reached at attalla@millercanfield.com.

David J. Bazzetta is a Doctoral Candidate in the Doctorate of Management – Executive Leadership Program at Walsh College. Mr. Bazzetta served as a Finance Executive for twenty years in the automotive industry, and is now working as an Executive Business Advisor in the chemical industry, and is President of BlackTree Ventures. Mr. Bazzetta can be reached at dbazzetta@comcast.net.

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The Obama Administration and the H-1B Visa

By Sonya Olds Som, Dykema Gossett PLLC



Sonya Olds Som

President Obama, the son of a Kenyan immigrant, reiterated his administration's goal to have a comprehensive immigration policy in place in the next few months. However, while acknowledging that the current U.S. immigration system is "broken", the President also acknowledged that "we've got a lot on our plate right now," referring to the economic crisis. Consequently, many insiders question whether comprehensive immigration reform will pass in 2009, or even during President Obama's first term.

With thousands of U.S. workers losing their jobs on a daily basis, legal and illegal employment-driven immigration face significant scrutiny from the American public. This is particularly true of the H-1B nonimmigrant visa classification.

H-1B Classification Defined

H-1B visas are generally available to any organization that wishes to employ highly skilled and educated foreign nationals in any technical capacity (e.g., research scientists, engineers, systems or programmer analysts) or in any higher level management or professional positions (e.g., CEOs, senior human resource managers, attorneys, accountants). The foreign national must have completed at least the equivalent of a U.S. awarded bachelor's degree, and the sponsored position must normally require this level and kind of specialized education or experience.

H-1B status is generally valid for an initial term of up to three years, and can be extended for up to three additional years. The H-1B holder's spouse and unmarried children under the age of 21 may obtain dependent H-4 visa status which coincides with the principal H-1B holder's visa term; however, H-4 dependents are not permitted to work in the U.S.

Although six years is generally the maximum term for an H-1B visa, it is sometimes possible to extend H-1B status past the sixth year if a foreign national is in the appropriate stage of the U.S. permanent residence process.

Each year, new H-1B visas may be obtained by filing a petition starting on April 1 for an October 1 employment start date. For the 2010 fiscal year, 65,000 (the "H-1B Cap") H-1B visas will be available but an estimated 150,000 petitions will be received. An additional 20,000 H-1B visas are available in a separate lottery also on April 1 for foreign na-

tionals with a Master's or higher degree earned in the U.S. ("Master's Cap").

In recent years, all H-1B Cap visas have been allocated within the first few hours on April 1, and for the Master's Cap soon thereafter. This pattern is expected to continue on in 2009, even in the current economy. If applications received on April 1 exceed the Cap as anticipated, selection of successful applicants will be made by a computer generated random selection. U.S. Citizenship and Immigration Services ("USCIS") notifies successful applicants by sending a Receipt Notice notifying the employer that the petition has been received and is being processed to determine if an H-1B visa will be granted. Applicants not selected will have their petitions returned along with their USCIS Filing Fee checks. This process is typically completed by the end of May.

Not all H-1B visa petitions are subject to the fiscal year cap, however. The following "cap exempt" institutions may file for new H-1B visa at any time, without numerical limitations:

- Employers of existing H-1B visa holders who wish to extend the employee's status.
- New employers who file for foreign nationals who are currently in H-1B status with another employer.
- H-1B petitions filed by institutions of higher education or their related nonprofit entities, nonprofit research organizations, or governmental research organizations.

New Restrictions on H-1B Visa Petitions for U.S. Employers

On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act ("ARRA"), a massive bill that allocates \$789.5 billion in federal funds and tax cuts to stimulate the economy. Section 1611 of ARRA, the Employ American Workers Act ("EAWA"), severely limits the ability of employers (including the automotive industry, banks and other financial institutions) receiving funding under the 2008 Troubled Assets Relief Program ("TARP") or federal funds under Section 13 of the Federal Reserve Act ("Section 13") to sponsor and employ new H-1B temporary foreign national workers. EAWA requires that any employer receiving such funds must be considered an "H-1B Dependent Employer." As such, they are required to make

additional Labor Condition Application attestations to the Department of Labor not normally a standard part of submitting an H-1B petition. EAWA is effective for two years from its enactment.

Under the H-1B Dependent Regulations, an employer is prohibited from “displacing” a U.S. worker during the 90-day period before and after the filing of an H-1B petition (“direct displacement”), and from placing an H-1B worker with another employer that had displaced U.S. workers within a 90-day period before and after the placement (“secondary displacement”).

Further, the H-1B Dependent Employer is required to take “good faith steps” to recruit U.S. workers for the job to be filled by the H-1B candidate, and must offer the job to any U.S. worker who applies and is at least equally qualified for the job.

Complying with the H-1B Dependent Regulations before the April 1, 2009, H-1B filing start date presented a significant challenge this year for those employers who have received TARP or Section 13 funds. Consequently, TARP/Section 13 fund recipients may not have had adequate time to complete the additional steps required in order to petition on behalf of prospective H-1B employees and will be unable to employ new H-1B status foreign nationals beginning on October 1, 2009.

While additional government clarification regarding the intended scope of EAWA is still anticipated, it does not currently appear to apply to petitions for extensions of H-1B status on behalf of current H-1B employees of the same sponsoring employer, or to change or extension of status petitions by employers seeking to employ temporary foreign national workers in other nonimmigrant visa classifications, (e.g., L-1, TN, E-1/E-2, etc.). Nor does EAWA prohibit, restrict or otherwise adversely affect an employer’s ability to sponsor a current H-1B or other, otherwise eligible foreign national worker for U.S. Lawful Permanent Resident (“green card”) status.

Many supporters of high-skill level immigration argue that restrictions on the availability and process of obtaining an employment-based green card are as much a problem as the shortage of H-1B visas. In his pre-election platform, President Obama expressed support for easing those restrictions, saying “We should allow immigrants who earn their degrees in the U.S. to stay, work and become Americans over time. And we should examine our ability to increase the number of permanent visas we issue to foreign-skilled workers.”

Controversy Concerning Use of the H-1B Classification

Several publications have asserted that each H-1B visa creates five additional jobs in the U.S. and immigrants were the chief executives or chief technologists at one of every four technology and engineering companies started in America from 1995 to 2005, and 52 percent of Silicon Valley start-

ups. These immigrant-founded companies employed 450,000 workers in 2006. Nevertheless, U.S. public perception is increasingly that the H-1B visa classification is often misused resulting in the loss rather than the creation of jobs for U.S. workers.

While many Americans are concerned about the possible loss of U.S. jobs to both legal and illegal immigration, in reality both appear to be on the decline.

As a Senator, President Obama expressed support for the H-1B visa program, including increasing the Cap. He has also pledged “to stop giving tax breaks to companies that ship jobs overseas,” but he hasn’t specifically linked the H-1B visa program to this issue. Despite his general support for the program, the President has maintained that the H-1B visa program needs reform. In October 2008, the USCIS released a report which found that as many as 1 in 5 H-1B visa petitions filed on behalf of foreign nationals possessing specialized knowledge contain fraudulent information (13.4%) and/or contain technical violations (7.3%).

In late February 2009, the USCIS released a report stating that, in Fiscal Year 2008 (“FY 08”), 6 of the top 10 recipients of new H-1B visas, were outsourcing vendors based in India. Infosys Technologies Limited, topped the list with 4,559 H-1B approvals. Other Indian companies on the list include Wipro Limited (2,678), Satyam Computer Services Limited (1,917), Tata Consultancy Services Limited (1,539), Larsen & Toubro Infotech Limited (403), and IBM India Private Limited (381).

Microsoft Corporation (1037) is the U.S. company which received the most new H-1B approvals in FY 08. Its Chairman, Bill Gates, has repeatedly called upon the U.S. government to increase the annual H-1B cap. Microsoft announced the termination of 1400 U.S. employees in January 2009, with another 5,000 jobs to be cut over the next 18 months.

These statistics lead to the perception – only strengthened in a bad economy – that the H-1B classification is being used by companies to train foreign national workers to replace U.S. workers (at lower wages) in positions, both in the United States, in outsourced positions overseas. Consequently, it is unlikely that any immigration legislation passed in the near future will increase the annual H-1B Cap, or the annual availability of employment-based immigrant visas.

Conclusion

While many Americans are concerned about the possible loss of U.S. jobs to both legal and illegal immigration, in reality both appear to be on the decline. With regard to legal immigration, with no H-1B cap increase likely in the near

future, and as conditions abroad become increasingly attractive, many highly-skilled foreign nationals are returning home with their U.S. education and training. An estimated 50,000 of these immigrants have left the U.S. in the last two decades and returned to India and China. In the next five years, another 100,000 may return, enhancing the capabilities of foreign competitors instead of contributing to growth in the U.S. Once the current economic crisis has passed, the U.S. may find it difficult to woo them back. 🌐

The article was written by Ms. Sonya Olds Som, Of Counsel with the Dykema Gossett PLLC law firm. Ms. Som heads the firm's immigration group in Chicago. Her practice focuses on the representation of small to large individual and business clients on a wide variety of corporate immigration and related employment matters, including advising human resources personnel, managers, executives and professionals and multinational corporations on immigration matters, preparing nonimmigrant and immigrant visa petitions and applications. Ms. Som can be reached at Ssom@dykema.com.



Treasurer's Report

International Law Section
Submitted by Margaret A. Dobrowitsky, Treasurer
For the twelve months ending September 30, 2008

	Current Activity September	Year-to-date September
Income:		
International Law Section Dues		13,380.00
International Stud/Affil Dues		120.00
Seminar Income	275.00	1,025.00
Subscription to Newsletter		33.00
Total Income	275.00	14,558.00
Expenses:		
ListServ	25.00	30.00
Meetings	1,225.00	2,157.04
Seminars		2,284.00
Annual Meeting Expenses	4,577.59	4,577.59
Travel Expenses	862.27	1,162.09
Newsletter		3,032.67
Postage		18.68
Miscellaneous	246.60	312.35
Total Expenses	6,936.46	13,844.42
Net Income	(6,661.46)	713.58
Beginning Fund Balance:		
Fund Bal-International Law Sec		27,637.28
Total Beginning Fund Balance		27,637.28
Ending Fund Balance	(6,661.46)	28,350.86

Minutes of Annual Meeting and Regular Council Meetings

Annual Meeting

On Friday, September 19, 2008, the International Law Section of the State Bar of Michigan held its Annual Meeting at the Hyatt Regency Hotel in Dearborn, Michigan pursuant to notice duly circulated to all Section members.

The meeting was called to order at 8:35 a.m. by the Chairperson, Frederick Frank. The Secretary confirmed a quorum of the Section was present.

The Chair informed the meeting that the Treasurer,

Cameron DeLong, was out of the country on a business trip and not available to present the Treasurer's Report. The Chair advised that the Treasurer's Report would be published in the next edition of the *Michigan International Lawyer* and considered at the next meeting of the Council of the International Law Section.

Next, Mr. Frank presented the Chairperson's Report summarizing the numerous events and accomplishments of the Section during his tenure.

Next, Nicholas Stasevich, the Chairperson-Elect presented the report of the Nominations Committee. The mem-

bers of the Nominations Committee were Nicholas Stasevich, Richard Goetz and Cameron DeLong, each of whom was appointed by the Chairperson pursuant to Article IV, Section 3, of the Bylaws of the Section. Mr. Stasevich informed the meeting that, in accordance with the By-laws of the Section, the Chairperson-Elect of the Section automatically becomes the Chairperson at the end of the term of the Chairperson. Consequently, the Chairperson of the International Law Section for the coming year will be Nicholas Stasevich. He then advised that the Nominations Committee recommended that the following members of the Section be nominated for election as officers of the Section at the Annual Meeting:

Richard G. Goetz – Chairperson-Elect
 Cameron S. DeLong – Secretary
 Margaret A. Dobrowitsky – Treasurer

Mr. Stasevich further indicated that it was the Committee’s recommendation that the following persons be nominated for election to the Council of the Section for the terms to expire as of the annual meeting of the Section in September of the applicable years indicated below:

Michael E. Domanski	2011
Ashish S. Joshi	2010
Jeffrey F. Paulsen	2011
Andrew H. Thorson	2011

Finally, he indicated that it was the Committee’s recommendation that the following persons have been appointed *ex-officio* law student members of the Council:

Douglas Peters, University of Detroit
 Sonia Salah, Wayne State University

Upon a motion made and seconded to accept the recommendations of the Nominations Committee, all members of the Section in attendance voted unanimously in favor of the nominated persons.

Next, Frederick Frank presented the gavel to the new Chairperson of the Section, Nicholas Stasevich. Mr. Stasevich thanked Mr. Frank for his excellent leadership and recognized the capable leadership of past Chairs of the Section. He presented Mr. Frank with a plaque and gavel in recognition of his contribution to the continued success of the Section.

There being no new business presented before the Section, the business meeting was adjourned at 9:00 a.m. All in attendance were invited to remain after the meeting to attend the Section’s Annual Program entitled Legal Aspects of Doing Business in the Middle East.

Respectfully submitted,
 Richard G. Goetz, Secretary
 International Law Section, State Bar of Michigan

November 6, 2008 Council Meeting

A meeting of the Council (“Council”) of the International

Law Section (“Section”) of the State Bar of Michigan (“State Bar”) was held on November 6, 2008, at the offices of Butzel Long, P.C., located at 150 W. Jefferson Avenue, Suite 100, Detroit, Michigan 48226-4452.

The following voting members of the Council were present in person: Cameron S. DeLong, Margaret A. Dobrowitsky, Michael Domanski, Richard G. Goetz, Jeffrey F. Paulsen, Nicholas J. Stasevich, and Aziza N. Yuldasheva.

The following *ex-officio* (nonvoting) members of the Council also attended the meeting: Frederick J. Frank (immediate past Chairperson of the Council), Douglas Peters (law student member of the Council), Sonia Salah (law student member of the Council), and Randy Wright (past Chairperson of the Council).

Several other members of the Section also attended the meeting as guests. Names and contact information for each attendee will be filed with the minutes of the meeting.

Call to Order: Mr. Stasevich, Chairperson of the Council, called the meeting to order at 5:00 p.m.

Introductions: At the Chairperson’s request, attendees introduced themselves and described their professional affiliations.

Notice and Quorum: The Secretary presented a written notice of the meeting that was mailed or delivered to all members of the Council and to members of the International Law 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 declared that a quorum was present at the meeting, without objection.

Approval of Agenda: The Chairperson circulated an agenda for the meeting, which was approved as presented.

Approval of Annual Meeting Minutes: The Secretary circulated a draft of the minutes of the annual meeting of the Section held on September 19, 2008. After discussion, upon motion made and supported, the Council approved the minutes as written for presentation and formal approval at the next annual meeting of the Section in September 2009.

Treasurer’s Report: The Treasurer, Ms. Dobrowitsky, presented drafts of the financial statement of the Section for the 12-months ended September 30, 2008, and the related detailed trial balance for the same period, prepared by the Finance & Administration Division of the State Bar. For comparison, the Treasurer also presented the financial statement of the Section for the 12-months ended September 30, 2007.

The Treasurer noted that the State Bar had not yet issued the final financial statement for the Section for the 12-months ended September 30, 2008, but no significant adjustments from the draft presented at the meeting are expected. Total income for the Section for the year ended September 30, 2008, was \$14,558.00, with total expenses of \$12,312.74, resulting in net income for the period of \$2,245.26. The Section’s fund

balance increased from \$27,637.28 at the beginning of the Section's fiscal year to \$29,882.54 as of September 30, 2008.

Attendees asked questions and received responses from the officers concerning various aspects of the financial statement. The attendees discussed the size of the fund balance and the desire to use those funds for appropriate activities to achieve the goals and objectives of the Section.

The Section's final financial statement for the 12-months ended September 30, 2008, will be presented for approval at the next meeting of the Council after the final statement has been received from the State Bar.

Chairperson's Report: The Chairperson described the initiatives that the Chairperson would like the Council to emphasize during the 2008-09 fiscal year.

The Chairperson noted that diversity is an important element in society and the legal profession should lead by example in the development of diversity and inclusion. He mentioned several possible ways that members of the Section could encourage diverse participation in the profession by giving presentations and developing initiatives at the high school, college, and professional levels. Mr. Paulson mentioned that he is the current Chairperson of the Standing Committee on Public Outreach for the State Bar and he may be able to provide some assistance to the diversity initiative.

As an adjunct to the focus on diversity, the Chairperson also suggested that the Council consider sponsoring programs that focus on countries with diverse cultures. Programs focusing on Africa, Vietnam, India, and Russia were mentioned as possibilities.

As a third initiative, the Chairperson noted the recent economic decline and suggested that the Council should consider programs or activities in the coming year that focus on the impact of the financial crisis on international business activity.

The Chairperson reminded Council members that the Section is a member of the International Bar Association ("IBA"). The Chairperson is the contact person for the Section's membership and he will circulate IBA notices at Council meetings or have them published in the *Michigan International Lawyer* (the Section's newsletter).

Finally, the Chairperson noted that he would meet with the Treasurer to develop a budget for the Section's current fiscal year.

Michigan International Lawyer: The Chairperson reported that Ms. Tricia L. Roelofs had agreed to be the Section's coordinator with Wayne State University Law School on the publication of the *Michigan International Lawyer* for the current fiscal year. Ms. Yuldasheva offered to assist Ms. Roelofs, if necessary.

International Business and Tax Program: The Chairperson introduced Mr. Domanski, new Council member and current Chairperson of the Section's International Business

and Tax Committee. Mr. Domanski stated that he is also current Chairperson of the International Tax Committee of the Tax Section of the State Bar. Mr. Domanski proposed that the Section jointly sponsor with the Tax Section a program entitled "Current Trends in Canada: Cross-Border Lending Transactions, Holding Companies and Income Tax Treaties."

Mr. Domanski expects to have guest speakers from the Toronto office of the Canadian law firm of McMillan LLP to discuss current developments in Canada with a focus on the structuring and financing of Canadian inbound investments, as well as holding company planning opportunities and the pending changes to the US-Canada income tax treaty. Speakers at the program are also expected to discuss the current lending and general business environment in Canada and techniques to effectively navigate through the constantly evolving Canadian regulatory and tax regimes. Mr. Domanski said the program is tentatively planned for December 1, 2008, at Automation Alley in Troy, Michigan, and is expected to last about three hours.

After discussion, upon motion made and supported, the Council approved an expenditure of up to \$500 to sponsor a joint program with the Tax Section as described by Mr. Domanski.

Trade Mission to Israel: The Chairperson reported that Governor Granholm is planning a trade mission to Israel, tentatively scheduled for early December 2008. The State Bar has been given the opportunity to send a representative on the trade mission. A State Bar official contacted the Section's Chairperson to see if a member of the Council would be interested. The Chairperson said that Ms. Dobrowitsky volunteered to go on the trade mission, at her firm's expense, to officially represent the Section and the State Bar.

Post-Meeting Reception and Program: The Chairperson reminded attendees that a reception would be held immediately after the adjournment of the meeting and Thomas Costello, President and Chief Executive of the Michigan Roundtable for Diversity and Inclusion (and former Senior Vice President and General Counsel of Compuware Corporation), would be the guest speaker. Mr. Costello was expected to focus on the importance of diversity in business relationships and management.

Adjournment: There being no further business to come before the Council, the Chairperson adjourned the meeting.

Respectfully submitted,
Cameron S. DeLong, Secretary
International Law Section, State Bar of Michigan

January 15, 2009 Council Meeting

A meeting of the Council ("**Council**") of the International Law Section ("**Section**") of the State Bar of Michigan

("State Bar") was held on January 15, 2009, at the offices of Warner Norcross & Judd LLP, located at 2000 Town Center, Suite 2700, Southfield, MI 48075-1318.

The following voting members of the Council were present in person: Cameron S. DeLong, Margaret A. Dobrowitsky, Michael Domanski, Richard G. Goetz, Jeffrey F. Paulsen, Nicholas J. Stasevich, and Andrew H. Thorson.

The following *ex-officio* (nonvoting) members of the Council also attended the meeting: Sonia Salah (law student member of the Council).

Several other members of the Section also attended the meeting as guests. Names and contact information for each attendee will be filed with the minutes of the meeting.

Call to Order: Mr. Stasevich, Chairperson of the Council, called the meeting to order at 5:00 p.m.

Introductions: At the Chairperson's request, attendees introduced themselves and described their professional affiliations.

Notice and Quorum: The Secretary presented a written notice of the meeting that was mailed or delivered to all members of the Council and to members of the International Law 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 declared that a quorum was present at the meeting, without objection.

Approval of Agenda: The Chairperson circulated an agenda for the meeting, which was approved as presented.

Approval of Annual Meeting Minutes: The Secretary circulated a draft of the minutes of the Council meeting held on November 6, 2008. After discussion, upon motion made and supported, the Council approved the minutes with minor corrections.

Treasurer's Report: The Treasurer, Ms. Dobrowitsky, presented the final financial statement of the Section for the 12-months ended September 30, 2008, and the related detailed trial balance for the same period, prepared by the Finance & Administration Division of the State Bar. The Council reviewed and approved a preliminary draft of the financial statement at the Council meeting on November 6, 2008.

The Treasurer noted that total income for the Section for the year ended September 30, 2008, was \$14,558.00, with total expenses of \$13,844.42, resulting in net income for the period of \$713.58. The Section's fund balance increased from \$27,637.28 at the beginning of the Section's fiscal year to \$28,350.86 as of September 30, 2008.

Chairperson's Report: The Chairperson lead a brief discussion of possible topics for upcoming programs following Council meetings. He noted that he received several compliments from members of the Section regarding the presentation by Mr. Thomas Costello, President and Chief Executive of the Michigan Roundtable for Diversity and Inclusion (and

former Senior Vice President and General Counsel of Compuware Corporation), after the last Council meeting.

Attendees suggested several possible topics for future programs, including international antitrust issues and international compliance issues. The Chairperson suggested that perhaps Mr. Joe Sepesy, Deputy Director of Global Ethics and Compliance of Dow Chemical Company, would be available and willing to give a presentation on compliance issues after the next Council meeting.

The Chairperson urged Section and Council members to consider persons who might be interested in serving as officers or committee chairpersons for possible election or appointment at the 2009 annual meeting. He also said that he would like to delegate more responsibility to officers and committee chairpersons for activities of the Section.

Finally, the Chairperson reported that the State Bar was very pleased with the Section's 2008 annual meeting held in September 2008 with a focus on the Middle East. The Section received many compliments from State Bar members who attended from other sections. The State Bar would like the Section to continue to hold the Section's annual meeting in conjunction with the State Bar's annual meeting.

Committee Reports: The Chairperson asked Mr. Domanski, Council member and current Co-Chairperson of the Section's International Business and Tax Committee, to report on the tax program jointly sponsored with the Tax Section entitled "Current Trends in Canada: Cross-Border Lending Transactions, Holding Companies and Income Tax Treaties." Mr. Domanski said the program was held on December 1, 2008, at Automation Alley in Troy, Michigan, but was unfortunately sparsely attended due to a heavy snow storm in the area. Some consideration will be given to repeating the program at another time if there is sufficient interest in the topic.

Michigan International Lawyer: The Chairperson read a short written message from Ms. Roelofs regarding the status of the next publication of the *Michigan International Lawyer*. Ms. Roelofs indicated the publication would be delayed by about two weeks due to revisions to articles to reflect recent developments. The issue will focus on topics concerning the Middle East.

2009 Annual Meeting Planning: The Chairperson asked Mr. Goetz, Chair-Elect, to summarize the currently planning for the Section's 2009 annual meeting. Mr. Goetz reported that the State Bar's annual meeting will be held at the Hyatt Regency Dearborn on September 16-18, 2009. After discussion, the Council approved holding the Section's 2009 annual meeting at the same time and at the same location as the State Bar's annual meeting.

Mr. Goetz then lead a discussion of various topics for the 2009 annual meeting. Attendees suggested a possible focus on international legal issues associated with the current financial and economic crisis or possible topics selected and presented by the Section's committees. Other attendees suggested a fo-

cus on geographic regions such as Australia and New Zealand, South America, or NAFTA issues and trade with Canada. Mr. Goetz thanked the attendees for their thoughtful comments, welcomed additional thoughts after the meeting or in the following weeks, and suggested that a final decision on the annual meeting topic might be made at the next Council meeting in March 2009.

Public Policy Items: At the Chairperson's request, Mr. Goetz circulated two e-mail messages received from the State Bar describing public policy items that were identified as being of possible interest to the Section for purposes of submitting comments to the State Bar. One item involved changes to court rules relating to mediation and case evaluation as recommended by the Dispute Resolutions Rules Committee of the State Court Administrative Office. The other item involved a proposed amendment by the Michigan Supreme Court to the Michigan Rules of Evidence to clarify that a judge is entitled to establish reasonable standards regarding the appearance of parties and witnesses to evaluate the demeanor of those individuals and to ensure accurate identification. The proposal was suggested in response to a case in which a district judge was sued for dismissing a plaintiff's case after the plaintiff's refusal to remove her hijab during testimony.

After discussion, the Council declined to take a position or provide comments on the public policy items, although the Chairperson suggested that the Section's International Human Rights Committee might consider providing comments with respect to the proposed amendment to the Michigan Rules of Evidence.

Post-Meeting Reception and Program: The Chairperson reminded attendees that a reception would be held immediately after the adjournment of the meeting and Margaret Dobrowitsky, Council member and Treasurer of the Section, would give a short presentation describing her participation as the representative of the Section on Governor Granholm's trade mission to Israel.

Adjournment: There being no further business to come before the Council, the Chairperson adjourned the meeting.

Respectfully submitted,
Cameron S. DeLong, Secretary
International Law Section, State Bar of Michigan

Event Calendar: Meetings, Seminars, & Conferences of Interest

April 6-7, 2009

Fundamentals of Immigration Law Practice Conference
Boston, MA
<http://www.aila.org/content/default.aspx?bc=1010>

April 6, 2009

2009 AILA Midwest Regional CLE Conference
Chicago, IL
<http://www.aila.org/content/default.aspx?bc=1010>

April 7, 2009

USCIS/SCOPS/AAO: Updates, Tips and Strategies from AILA Liaison
Audio Seminar
<http://www.aila.org/content/default.aspx?bc=1010>

April 14, 2009

Market Watch Part I - Dealing with Reductions in Force in the NIV & IV Context
Web Seminar
<http://www.aila.org/content/default.aspx?bc=1010>

April 14-18, 2009

ABA Section of International Law Spring Meeting
Washington, D.C.
<http://www.abanet.org/intlaw/calendar/home.html>

April 16, 2009

Representing Clients with Controlled Substance Issues
Web Seminar
<http://www.aila.org/content/default.aspx?bc=1010>

April 20-21, 2009

Arbitration in the 21st Century: Making it work
New Delhi, India
http://www.ibanet.org/conferences/Conferences_home.cfm

April 20-22, 2009

International Mining and Oil and Gas Development and Investment
Buenos Aires, Argentina
http://www.ibanet.org/conferences/Conferences_home.cfm

April 22-24, 2009

7th Biennial Project Finance Conference
Washington DC, USA
http://www.ibanet.org/conferences/Conferences_home.cfm

April 22-24, 2009

Advising Private Enterprises In A Globalising World
Berlin, Germany
http://www.ibanet.org/conferences/Conferences_home.cfm

April 23-24, 2009

Key Employment, Labour and HR Challenges for Today's
Multi-National Employers
Berlin, Germany
http://www.ibanet.org/conferences/Conferences_home.cfm

April 23-24, 2009

AILA Rome District Chapter 2009 Spring Conference
Israel
<http://www.aila.org/content/default.aspx?bc=1010>

April 23, 2009

PERM to I-140 Adjudication - Strategies for Dealing with
Degree Equivalency, Ability to Pay More
Web Seminar
<http://www.aila.org/content/default.aspx?bc=1010>

April 28, 2009

Market Watch Part II - Dealing with Reductions in Force in
the PERM Context
Web Seminar
<http://www.aila.org/content/default.aspx?bc=1010>

April 29 - May 1, 2009

7th Annual Anti-Corruption Conference
Prague, Czech Republic
http://www.ibanet.org/conferences/Conferences_home.cfm

April 30-May 1, 2009

AILA Minnesota/Dakotas Chapter CLE Conference
Minneapolis, MN
<http://www.aila.org/content/default.aspx?bc=1010>

April 30, 2009

Critical Issues - Precedent Asylum Decisions in 2008
Audio Seminar
<http://www.aila.org/content/default.aspx?bc=1010>

May 1-2, 2009

Issues Which Really Count for Clients in International
Agency, Distribution and Franchising Agreements
Atlanta, GA
<http://www.abanet.org/intlaw/calendar/home.html>

May 5, 2009

Transferring Pains - What Makes a Multinational Function
Manager Under EB-1-3
Audio Seminar
<http://www.aila.org/content/default.aspx?bc=1010>

May 7, 2009

Security Clearances and Nonimmigrant Processing -
Strategies for Resolving Issues at the Consulate and at the
Border
Web Seminar
<http://www.aila.org/content/default.aspx?bc=1010>

May 10-13, 2009

20th Annual Conference of Investment Funds
Southampton, Bermuda
http://www.ibanet.org/conferences/Conferences_home.cfm

May 12, 2009

ILS Council Meeting, 5:30-8:30 p.m.
Dykema Gossett, 39577 Woodward Ave., Suite 300
Bloomfield Hills, MI
Video conference available at Dykema Gossett,
300 Ottawa Ave., Grand Rapids, MI

May 14, 2009

E-2 in Lieu of H-1B - An Affordable Alternative?
Audio Seminar
<http://www.aila.org/content/default.aspx?bc=1010>

May 13-15, 2009

26th International Financial Law Conference
Rome, Italy
http://www.ibanet.org/conferences/Conferences_home.cfm

May 15, 2009

Tax Considerations in the Global Financial Crisis
Bonn, Germany
http://www.ibanet.org/conferences/Conferences_home.cfm

May 17-19, 2009

15th Annual Global Insolvency and Restructuring
Conference: Crash of the Titans
New York City, USA
http://www.ibanet.org/conferences/Conferences_home.cfm

May 18-19, 2009

20th Annual Communications and Competition Law
Conference
Florence, Italy
http://www.ibanet.org/conferences/Conferences_home.cfm

May 19, 2009

Relief From Removal Under the Violence Against Women Act
Web Seminar
<http://www.aila.org/content/default.aspx?bc=1010>

May 19-20, 2009

25th Annual IFA/IBA Joint Conference
Washington DC, USA
http://www.ibanet.org/conferences/Conferences_home.cfm

May 20-21, 2009

4th Annual Bar Leaders' Conference
Paris, France
http://www.ibanet.org/conferences/Conferences_home.cfm

May 21, 2009

E-3 and H-1B1 Nonimmigrant Visas - Australians, Chileans
and Singaporeans on the Move
Web Seminar
<http://www.aila.org/content/default.aspx?bc=1010>

June 3-6, 2009

Annual Conference
Las Vegas, NV
<http://www.aila.org/content/default.aspx?bc=1010>

June 4-5, 2009

The Future of Transnational Litigation
Vienna, Austria
http://www.ibanet.org/conferences/Conferences_home.cfm

June 11, 2009

ILS Special Presentation: "New Approaches to International Legal Issues Under the Obama Administration: How Will They Affect Your Practice?"

3:30-8:00 p.m.

Council Meeting at 3:30 p.m., with presentation following at 4:00 p.m.

Detroit Zoo, Ford Education Center

June 12-13, 2009

12th Transnational Crime Conference

New York City, USA

http://www.ibanet.org/conferences/Conferences_home.cfm

June 16, 2009

J Waivers - A Procedural Roadmap for Non-Physicians

Audio Seminar

<http://www.aila.org/content/default.aspx?bc=1010>

June 18, 2009

Interplay Between Immigration Law and Labor/Employment Law

Audio Seminar

<http://www.aila.org/content/default.aspx?bc=1010>

June 19-20, 2009

The Global Employer: How to Handle Expatriation Challenges To, From, and Within Europe

Hamburg, German

<http://www.abanet.org/intlaw/calendar/home.html>

June 23, 2009

The Road Most Traveled - Maintaining LPR Status to Become a U.S. Citizen

Web Seminar

<http://www.aila.org/content/default.aspx?bc=1010>

June 23-24, 2009

8th International Mergers & Acquisitions Conference

New York City, USA

http://www.ibanet.org/conferences/Conferences_home.cfm

June 25, 2009

Unlawful Presence - Facing the Bar Head On

Web Seminar

<http://www.aila.org/content/default.aspx?bc=1010>

June 25-26, 2009

Antitrust in a Global Economy

New York City, USA

http://www.ibanet.org/conferences/Conferences_home.cfm

June 30, 2009

National Interest Waivers - New Trends and Tricky Issues

Audio Seminar

<http://www.aila.org/content/default.aspx?bc=1010>

July 29-30, 2009

Leadership Retreat

Lake Geneva, WI

<http://www.abanet.org/intlaw/calendar/home.html>

July 30-August 2, 2009

ABA Section of International Law, Annual Meeting
Chicago, IL

<http://www.abanet.org/intlaw/calendar/home.html>

September 3-4, 2009

IBA Northern European Business Lawyers Conference
Helsinki Finland

http://www.ibanet.org/conferences/Conferences_home.cfm

September 11-12, 2009

13th Annual Competition Conference

Fiesole, Italy

http://www.ibanet.org/conferences/Conferences_home.cfm

September 17, 2009

State Bar of Michigan International Section Annual Meeting
Presentation topics will center on the international impact of the financial crisis

8:30 a.m.-12:00 p.m.

Hyatt Regency, Dearborn, MI

October 2, 2009

AILA 2009 Fall CLE Conference

Pittsburgh, PA

<http://www.aila.org/content/default.aspx?bc=1010>

October 4-9, 2009

IBA Annual Conference 2009

Madrid, Spain

http://www.ibanet.org/conferences/Conferences_home.cfm

October 16-17, 2009

23rd Annual AILA Central Florida Chapter Immigration Law Seminar

Clearwater Beach, FL

<http://www.aila.org/content/default.aspx?bc=1010>

October 27-31, 2009

ABA 2009 Fall Meeting

Miami Beach, FL

<http://www.abanet.org/intlaw/calendar/home.html>

November 12-14, 2009

22nd Annual AILA California Chapters Conference

Marina Del Rey, CA

<http://www.aila.org/content/default.aspx?bc=1010>

November 19-20, 2009

2009 International Bar Association Global Immigration Conference

London, England

<http://www.aila.org/content/default.aspx?bc=1010>

December 2-4, 2009

African Regional Forum Conference

Cape Town, South Africa

http://www.ibanet.org/conferences/Conferences_home.cfm

December 5-6, 2009

Arbitration in the 21st Century: Making it work
New Delhi, India

http://www.ibanet.org/conferences/Conferences_home.cfm

STATE BAR OF MICHIGAN

International Law Section Leadership Roster 2008-2009

CHAIR:

Nicholas J. Stasevich
Butzel Long PC
150 West Jefferson, Ste 100
Detroit, MI 48226
Telephone: (313) 225-7035
Fax: (313) 225-7080
E-mail: stasevich@butzel.com

CHAIR-ELECT:

Richard G. Goetz
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

SECRETARY:

Cameron S. DeLong
Partner
Warner Norcross & Judd LLP
111 Lyon St NW, Ste 900
Fifth Third Ctr
Grand Rapids, MI 49503
Telephone: (616) 752-2155
Fax: (616) 222-2155
E-mail: cdelong@wnj.com

TREASURER:

Margaret A. Dobrowitsky
Brinks, Hofer, Gilson & Lione
524 S. Main Street, Ste 200
Ann Arbor, MI 48104
Telephone: (734) 302-6026
Fax: (734) 994-6331
E-mail: mdobrowitsky@usebrinks.com

COUNCIL:

Term Expiring 2009
Andrew P. Doornaert
KPMG LLP
150 W Jefferson Ave, Ste 1200
Detroit, MI 48226
Telephone: (313) 230-3080
Fax: (313) 447-2413
E-mail: adoornaert@kpmg.com

Onnie Barnes Jacque
Senior Associate-International Tax
KPMG LLP
150 W Jefferson Ave Ste 1200
Detroit, MI 48226
Telephone: (313) 230-3263
Fax: (313) 447-2807
E-Mail: ojacque@kpmg.com

Scott D. Relf
TRW Automotive
12001 Tech Center Dr
Livonia, MI 48150
Telephone: (734) 855-2483
Fax: (734) 855-3351
E-Mail: scott.relf@trw.com

Term Expiring 2010
Ashish S. Joshi
Lorandos & Associates
214 N 4th Ave
Ann Arbor, MI 48104
Phone: (734) 327-5030
Fax: (734) 327-5032
E-mail: a.joshi@lorandoslaw.com

Eve Lerman
Intl Trade Specialist Automotive Team
U. S. Department of Commerce
250 Elizabeth Lake Road
Ste 1300W
Pontiac, MI 48341
Telephone: (248) 975-9605
Fax: (248) 975-9606
E-mail: eve.lerman@mail.doc.gov

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

Term Expiring 2011
Michael W. Domanski
Honigman Miller Schwartz & Cohn LLP
660 Woodward Ave Ste 2290
First National Bldg
Detroit, MI 48226
Phone: (313) 465-7352
Fax: (313) 465-7353
E-mail: mdomanski@honigman.com

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

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

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
Vercruyssen 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:

Lois Elizabeth Bingham
Yazaki North America, Inc.
6801 Haggerty Road, Ste 4625E
Canton, MI 48187
Telephone: (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
Telephone: (313) 496-7577
Fax: (313) 496-8451
E-mail: birgbauer@millercanfield.com

Stuart H. Deming

229 E Michigan Ave, Ste 445
Kalamazoo, MI 49007
Telephone: (269) 382-8080
Fax: (269) 382-8083
E-mail: Stuart.Deming@DemingGroup.com

Frederick J. Frank

Honigman Miller Schwartz & Cohn LLP
660 Woodward Ave., Ste 2290
Detroit, MI 48226
Telephone: (313) 465-7384
Fax: (313) 465-7385
E-mail: fff@honigman.com

Godfrey J. Dillard

Law Offices of Godfrey J. Dillard
PO Box 312120
Detroit, MI 48231
Telephone: (313) 964-2838
Fax: (313) 259-9179
E-mail: godfreydillard@ameritech.nt

Stephen W. Guittard

131 E 66th St. #2A
New York, NY 10065
Telephone: (212) 628-6963
E-mail: sguittard@acedsl.com

Howard B. Hill

President & CEO
 Quattro Legal Solutions Inc
 PO Box 36632
 Grosse Pointe Farms, MI 48236
 Telephone: (727) 488-6841
 E-mail: howardbhill@comcast.net

Professor John H. Jackson

Georgetown University Law Center
 600 New Jersey Avenue, N.W.
 Washington, D.C. 20001
 Telephone: (202) 662-9837
 Fax: (202) 662-9408
 E-mail: jacksojh@law.georgetown.edu

Robert D. Kullgren

Varnum Riddering Schmidt
 Howlett LLP
 333 Bridge St NW
 PO Box 352
 Grand Rapids, MI 49501
 Telephone: (616) 336-6813
 Fax: (616) 336-7000
 E-mail: rdkullgren@varnumlaw.com

Clara DeMatteis Mager

Butzel Long PC
 150 W. Jefferson, Ste 100
 Detroit, MI 48226
 Telephone: (313) 225-7077
 Fax: (313) 225-7080
 E-mail: mager@butzel.com

Jan Rewers McMillan

Law offices of Jan Rewers McMillan
 400 Galleria Officentre #117
 Southfield, MI 48034
 Telephone: (248) 352-8480
 Fax: (248) 352-8680
 E-mail: jrmmillan@provide.net

J. David Reck

Miller, Canfield, Paddock & Stone
 150 W Jefferson Ave, Ste 2500
 Detroit, MI 48226
 Telephone: (313) 963-6420
 Fax: (313) 496-7500
 E-mail: reck@millercanfield.com

Susan Waun de Restrepo

General Motors Corporation
 300 Renaissance Center
 MC 482-C32-B61
 Detroit, MI 48265
 Telephone: (313) 667-1420
 Fax: (313) 665-0792
 E-mail: susan.waun@gm.com

Logan G. Robinson

4131 Echo Rd
 Bloomfield Hills, MI 48302
 Telephone: (248) 672-8911
 E-Mail: loganr@comcast.net

Timothy F. Stock

3830 9th St. N, Apt. 901E
 Arlington, VA 22203
 Telephone: (703) 524-2960
 Fax: (703) 465-9834
 E-mail: tfstock@aol.com

Bruce C. Thelen

Dickinson Wright PLLC
 One Detroit Center
 500 Woodward Ave #4000
 Detroit, MI 48226-3425
 Telephone: (313) 223-3624
 Fax: (313) 223-3598
 E-mail: bthelen@dickinsonwright.com

Anthony P. Thrubis

General Motors – Legal Staff
 300 Renaissance Center
 MC 482-C24-D24
 Detroit, MI 48265-3000
 Telephone: (313) 665-4768
 Fax: (313) 267-4388
 E-mail: anthony.p.thrubis@gm.com

Thomas R. Williams

Kerr, Russell and Weber, PLC
 One Detroit Center
 500 Woodward Ave #2500
 Detroit, MI 48226-3406
 Telephone: (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 #320
 Birmingham, MI 48009-6210
 Telephone: (248) 645-9680
 Fax: (248) 645-1233
 E-mail: rwright@berrymoorman.com

Michigan International Lawyer

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

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