



# BAR COMMUNITY

## BOARD OF GOVERNORS JANUARY MEETING REVIEW

Below are highlights from the Jan. 30, 2009, meeting of the State Bar Board of Governors. To see the complete minutes, go to [www.myazbar.org/AZBarInfo/BOG/BoGMinutes.cfm](http://www.myazbar.org/AZBarInfo/BOG/BoGMinutes.cfm).

- ▶ **President's Report**—President Novak announced:
  - ▶ The State Bar's new CEO/ED, John Phelps, starts on Monday, February 2. Mr. Novak thanked the members of the Management Committee—John Furlong, Tom Johnson and Colleen McManus—who worked diligently to keep operations running smoothly, and focused on reducing expenses and generating additional revenue to help the Bar meet its budget.
  - ▶ The Arizona Foundation for Legal Services & Education has reached an agreement with the IOLTA banks to resolve payment of aged receivables due the Foundation as well as the rate of interest going forward.
  - ▶ Attorney General Terry Goddard has requested a waiver or reduction of dues for his assistants. President Novak responded that as much as we would like to accommodate him, we are unable to do so in fairness to our other members.
  - ▶ Ben Click's term as a public board member expires in June, and the Bar has issued statewide press releases seeking a replacement for his position.
  - ▶ Law School for Legislators was very successful, with 20 to 25 legislators in attendance. Presenters included Hon. Susan Bolton, Michael Grant, Hon. (Ret.) H. Jeffrey Coker and Chief Justice Ruth McGregor.
  - ▶ The search for a Chief Bar Counsel continues. Chief Administrative Officer Colleen McManus explained the hiring process to the board.
- ▶ There are approximately 2,000 members who have not taken the Professionalism Course. Of that number, 444 have not responded to notices from the Bar. The remainder have registered for the course or are wait-listed to do so.
- ▶ President Novak's message in ARIZONA ATTORNEY about professional liability insurance has drawn some comments from members. He encouraged additional feedback as the board continues to study the program.
- ▶ **Member Assistance Program (MAP) Presentation**—Maria Bahr (Director of Lawyer Assistance Programs) and Hal Nevitt (Director of Member Assistance Program) provided comprehensive details about the role of their programs in helping lawyers address issues of mental health, substance abuse, management of trust accounts, communication and organizational challenges of running a law practice.
- ▶ **Committee on the Rules of Professional Conduct (Ethics Committee)**—On behalf of the committee, Jon Sands (Chair of the Committee and Scott Rhodes, Vice-Chair) introduced a proposed revised Statement of Jurisdiction. The primary issues underlying the proposal have to do with the scope of the committee's authority. The board will consider the proposal at its February meeting.
- ▶ **Appointments Committee**—Joe Kanefield, committee chair, reported that applications are due on February 20 for the public member position on the board. The Supreme Court, by administrative order, expanded the number of members on the Character and Fitness Committee by four (two lawyers and two non-lawyers). Applications for that committee are due by February 25. Applications are also due on February 25 for one opening on the Conflict Case Committee and two on the Tempe Judicial Advisory Board.
- ▶ **Legislative Update**—Mark Bolton reported that Rep. Tom Boone has agreed to sponsor the Bar's proposed amendments to the Arizona Trust Code. The House and Senate Appropriations Committees are currently focusing on finalizing the 2009 budget.
  - ▶ There is talk of sunseting the Arizona Prosecuting Attorneys' Advisory Council (APAAC) in 2010. The board voted its support for continuance of APAAC in the 2010 budget, as well as the proposed S.B. 1099 relating to the Commission on Uniform State Laws.
- ▶ **CFO/Finance Committee Report**—Joe Kanefield opened the discussion and addressed some of the issues that were discussed at the January 29 Finance Committee meeting:
  - ▶ Contribution Requests: In the fourth quarter of 2008, the committee voted to have a moratorium on funding contributions as a result of our declining revenues. The committee voted to extend the moratorium through the first quarter of 2009.
  - ▶ Mailing List Leasing Policy: The committee discussed and approved a mailing list leasing policy that will be brought forth to the board at the February meeting.
- ▶ Chief Financial Officer Tom Johnson presented the December 2008 financial statements and noted the following key items: As a result of aggressive cost cutting efforts the Bar was able to respond to decreasing revenues. In spite of \$200,000 less revenue, the Bar was able to cut its expenses to achieve a loss in 2008 of \$139,000 versus a budgeted loss of \$141,000.
- ▶ **Proposal Regarding Public Member as Chair of Discipline Oversight Committee**—Discussion of the proposal was tabled until the next meeting.
- ▶ **Special Announcement**—The board congratulated Joe Kanefield on his appointment as General Counsel for the Governor.
- ▶ **Wills for Heroes**—Jeff Jacobson reported on the success the program has achieved since its establishment in 2005. To better meet the increasing demand for its services, Wills for Heroes will transfer administration of the program to the Arizona Foundation for Legal Services & Education.
  - ▶ Mr. Jacobson requested some financial assistance from the Bar for 2009, and that request will be referred to the Finance Committee.
- ▶ **Other News**
  - ▶ Mike Mason, president of the Young Lawyers Division (YLD), reported on their successful volunteer project for the Conference of Chief Justices. YLD on the Road continues, with the next visit scheduled for Yuma.
  - ▶ Taj Oladiran reported on the Black Bar Association. Their major goal this term will be the appointment of African American judges to the courts.
  - ▶ Ruth Khalsa, Arizona Women Lawyers Association representative, announced that on Friday, February 6, the association will sponsor a seminar on "Seizing the Opportunity: Finding and Pursuing Opportunities for Success," hosted by the Women Law Students' Association at the Sandra Day O'Connor College of Law at Arizona State University.
- ▶ **Meeting Schedule**—The next board meeting will be held on February 27 at 8:30 a.m. in the Boardroom.

Below are highlights from the Dec. 19, 2008, meeting of the State Bar Board of Governors.

- ▶ **President's Report**—Ed Novak reported that Patricia Sallen was voted Employee of the Year by the State Bar staff, and he applauded the many contributions she has made to the Ethics Department, lawyer regulation and CLE.

President Novak announced that Bob Van Wyck resigned his position as Chief Bar Counsel effective Dec. 12, 2008. The selection process for his replacement is under way and will be led by the interim Management Committee, with advice from members of the board.

- ▶ **Management Committee Report**—The committee reported on progress with the 2009 budget, annual dues statements and the online subpoena project.
- ▶ **Rules Committee**—Whitney Cunningham, chair, reported on several action items proposed by the committee. The board voted as follows:
  - ▶ Bar staff recommended that the Bar file a proposed amendment to Rule 32(c)(3), which in its current form requires Bar members to provide the Bar with address, telephone and similar information. The motion to approve this recommendation passed. The amendment, if approved by the Supreme Court, will require that Bar members also provide their e-mail addresses.
  - ▶ The Professionalism Committee recommended an amendment to Rule 54, which in its current form provides for voluntary participation in peer review. The amendment would provide for mandatory participation in peer review. The motion to approve this recommendation failed.
  - ▶ The Civil Practice and Procedure Committee recommended an amendment to Rule 408, Rules of Evidence, to bring it into line with the Federal Rules of Evidence that were adopted in 2006. The motion to approve this recommendation passed.

- ▶ The Civil Practice and Procedure Committee recommended amendments to Rules 703 and 705. The proposed rule change to 703 would add language prohibiting disclosure to the trier of fact of such otherwise inadmissible evidence unless the court first determines there is probative value in doing so that outweighs the risk of prejudice. The change to Rule 705 would replace the word "disclosure" to avoid confusion with Arizona's codified disclosure requirements found in Rules of Civil Procedure, Rule 26.1. The motion to approve these recommendations passed.

- ▶ The Consumer Information and Education Task Force made several recommendations, including an amendment to Ethical Rule 1.5, a proposed comment to Ethical Rule 5.5; an amendment to the text of Ethical Rule 7.1 to include the word *lawyer's* after *non-member*; an amendment to Ethical Rule 7.2 (Advertising); and an amendment to Rule 7.3 dealing with direct contact with prospective clients, to add language that states that a lawyer shall not employ or compensate another to do so. The Rules Committee noted that there had been significant commentary received regarding the Consumer Information and Education Task Force's recommendations, particularly with respect to the proposed changes to Ethical Rules 1.5 and 7.2. A motion to table action with respect to the proposals concerning Ethical Rules 1.5 and 7.2 passed. A motion to approve the remaining recommendations also passed.

- ▶ **Consumer Information and Education Task Force Report**—Patrick McGroder, Chair of the Lawyer Communications and Regulations Subgroup, recommended that the board postpone any action on Rule 1.5 and

extend the comment period.

Jessica Gifford Funkhouser, Chair of the Public Information and Consumer Education Subgroup, reported that the subgroup would like some additions to the catalogue of available resources to be posted on the Bar's Web site. AZVictims.org, DNALegal Services.org, and the Victim's Witness Services groups at various prosecutors' offices will be added to the catalog.

- ▶ **Landlord Tenant Task Force**—Arizona Supreme Court Justice Scott Bales announced that the Court had adopted new rules for eviction actions and recognized the diligent and diversified membership of the task force.
- ▶ **Appointments Committee**—The Board of Governors, after considering the recommendations of the committee, voted to make the following nominations, which will be sent to the Governor for approval:
  - ▶ For one position on the Pima County Commission on Trial Court Appoints, the board recommended John C. Hinderaker, the incumbent.
  - ▶ For one position on the Maricopa County Commission on Trial Appointments, the board recommended Hon. Ronald Reinstein (ret).
  - ▶ For one position on the Arizona Commission on Appellate Courts Appointments, the board recommended Michael Sullyman.
- ▶ **Discipline Oversight Committee**—Maret Vessella, Deputy Chief Bar Counsel, reviewed key components of a proposed rule petition regarding Rule 50, ARIZ.R.S.Ct. The petition would include a provision that the Supreme Court appoint no more than five paid hearing officers to perform the adjudicatory functions of the formal disciplinary process as well as continue the use of volunteers for settlement conferences. The board approved the proposal.
- ▶ **Human Resources Committee Report**—Colleen McManus,

Chief Administrative Officer, reported that a recent analysis of the Bar's employee health insurance reflects that the Bar's plan compares very favorably with that of other organizations and continues to be very cost effective. Committee chair Bennie Click reviewed the policy for the board's handling of employee concerns and/or complaints.

- ▶ **Diversity Report**—I. Godwin Otu, Diversity Director, reported on the highlights of the past year, including the activities of the In-House Diversity Committee and the Diversity Pipeline Program. A kickoff meeting to discuss the Diversity-in-Action Alliance will be held in February.
- ▶ **Legislative Update**—Janna Day announced that 28 of the 90 legislators have responded to the invitation to Law School for Legislators indicating they plan to attend. The program will be held on January 7, 2009.
- ▶ **Honoring Lawyer Legislators**—Jennifer Burns introduced lawyer members of the Arizona House of Representatives, including Representative-Elect Cecil Ash and Representatives Sam Crump, Ben Miranda, Adam Driggs, David Lujan and Kyrsten Sinema. Each member gave a brief background of his or her professional career and legislative experience.
- ▶ **Arizona Women Lawyers Association Report**—Pamela Donison reported on the results of the Arizona Women Lawyers Association elections. AWLA was to have a 30th anniversary gala in November and hoped to announce the organization of its foundation. Ms. Donison reminded the board that admission to the organization is open to men.
- ▶ **CFO/Finance Committee Report**—Joe Kanefield, committee chair, addressed the November 2008 financial statements and noted that as a result of the efforts of a number of people the State Bar was now on target to achieve its 2008 budgeted results. Tom Johnson, Chief Financial Officer, presented the

November 2008 financial statements and noted that for the month of November consolidated revenues exceeded budget by \$104,000. As a result of aggressive cost-cutting initiatives that were implemented in the fourth quarter, expenses were \$64,000 less than budget. As such, the State Bar had a surplus of \$168,000 greater than budget. Year-to-date, as of November 30, revenues were \$310,000 less than budget and expenses were

less than budget by \$345,000; as a result, the loss from bar operations was \$35,000 less than budget. The projection for year-end is that the Bar will have a loss only approximately \$5,000 greater than that set forth in the 2008 budget.

Mr. Johnson next presented the 2009 budget. The budgeted net surplus for the year is \$165,000, and it was noted that the budget contains a \$350,000 contingency that will only be

used if approved by the Board of Governors and if revenue and expense objectives are achieved during the first half of 2009. The budget was approved unanimously.

Mr. Johnson updated the board on the status of the tenant improvements for the Southern Regional Office in Tucson and noted that construction is well under way. The expected completion date is February 15, and the Bar is

planning an all-day open house at the new facility on April 7.

► **Conflict Case Committee**—The board approved a proposed amendment to the candidate criteria/qualifications for the Conflict Case Committee to enable former members of the Board of Governors, Supreme Court Disciplinary Hearing Officer panel, and Disciplinary Commission to be eligible for appointment after a one-year absence from the respective entity.

## NEWS FOR MEMBERS

## PROFESSIONAL VOLUNTEER OPPORTUNITIES

The State Bar Standing Appointments Committee is accepting applications to fill the following upcoming vacancies. Application forms are due at the State Bar office by the dates noted below and can be obtained by calling Carrie Sherman in the State Bar's Phoenix office at (602) 340-7201 or Amy Ihrke in the State Bar's Tucson office at (520) 623-9944. An application form also can be downloaded from the Bar's Web site ([www.myazbar.org](http://www.myazbar.org) – refer to *Appointment Committee News*).

The Standing Appointments Committee and the Board of Governors consider all aspects of diversity in their recommendations and appointments.

### ABA House of Delegates

**Application Deadline:**  
**Friday, May 1, 2009**

**Purpose:** The State Bar of Arizona's four delegates represent the State Bar at the annual and midyear meetings of the American Bar Association (ABA) House of Delegates. The State Bar reimburses only that portion of delegate expenses relating to that portion of the House's agenda which addresses the regulation of the profession and improving the quality of legal services. The delegates regularly appear before the State Bar's Board of Governors to report on House of Delegates' activities.

**Openings:** Two appointments will be made by the Board of Governors. In order to comply with the ABA Constitution, one of the two openings shall be filled by a lawyer who is less than 35 years of age at the

beginning of his/her term.

Delegate Brad Vynalek (Quarles & Brady LLP, Phoenix) is completing his second term and is eligible for, and is seeking, reappointment to a final two-year term. Delegate Susan Villarreal (Villarreal Law Office PC, Tucson) is completing her third term and, pursuant to a Board of Governors' policy, is ineligible for reappointment. The State Bar's other two delegates are Margarita Silva (Navidad Leal & Silva PLC, Phoenix) and Jim D. Smith (Sole Practitioner, Yuma).

**Criteria/Qualifications:** Applicants must be active members of, and in good standing with, the State Bar of Arizona. The successful candidates must also be ABA members in good standing throughout their tenures as delegates. Qualified attorneys under the age of 35 are encouraged to apply.

**Term:** Two years commencing August 5, 2009.

### Client Protection Fund Board of Trustees

**Application Deadline:**  
**Friday, May 1, 2009**

**Purpose:** The Client Protection Fund is a trust that exists as a separate entity from the State Bar of Arizona. The Fund's purpose is to promote public confidence in the administration of justice, and to preserve the integrity of the legal profession by reimbursing people who have sustained losses caused by the dishonest conduct of lawyers admitted and licensed to practice law in Arizona. Each lawyer licensed to practice law in Arizona contributes \$10 per year to the

Fund. The Trustees act as fiduciaries of monies deposited in the fund, invest those funds, and pay claims in appropriate cases.

**Openings:** One appointment will be made by the Board of Governors. John Balentine (Van O'Steen Attorneys at Law, Tucson) is completing his second term and, pursuant to a Board of Governors' policy, is ineligible for reappointment. The other trustees are Geoffrey M. T. Sturr (Osborn Maledon PA, Phoenix), Larry W. Suci (Law Offices of Larry W. Suci, Yuma), Charles W. Wirken (Gust Rosenfeld PLC, Phoenix), and non-lawyer Maria Hoffman (Fountain Hills).

**Criteria/Qualifications:** Any active member in good standing with the State Bar of Arizona, or any judicial member in good standing, who shall have practiced law or served in a judicial capacity in the State of Arizona for at least 10 years shall be eligible for appointment as a Trustee. Attorneys and judges in Maricopa County are precluded from applying for this particular opening. The Trustees meet five to six times a year and review more than 100 claims annually.

**Term:** Five years commencing July 2009.

### Community Legal Services Board of Directors

**Application Deadline:**  
**Friday, May 1, 2009**

**Purpose:** The Community Legal Services (CLS) Board of Directors consists of 27 members, four of whom are State Bar representatives. Powers of the board include estab-

lishment of standards of eligibility of applicants for legal services, establishment of standards covering the scope of legal services to be made available, and determination of major program policies.

**Openings:** One appointment will be made by the State Bar's Board of Governors. Todd Lang (Citizens Clean Elections Commission, Phoenix) is completing his six-year term and, pursuant to the CLS Bylaws, is ineligible for reappointment.

**Criteria/Qualifications:** Applicants must be active members of, and in good standing with, the State Bar of Arizona. The CLS Board meets once a month except in July and August.

**Terms:** Six years commencing June 2009.

### Maricopa County Commission on Trial Court Appointments

**Application Deadline:**  
**Friday, May 29, 2009**

**Purpose:** This non-partisan commission is chaired by the Chief Justice of the Arizona Supreme Court (or her designee). Primary responsibility is to screen, interview and select judicial candidates for submission to the Governor of Arizona for her final selection to fill judicial vacancies.

**Openings:** One. Commissioner Toysha R. Martin (Wells Fargo Bank NA), representing Supervisorial District 4, has resigned and has relocated out of state. The Board of Governors will submit one nomination to the Governor of Arizona for her appointment, which is subject to the advice and consent of the

Arizona State Senate.

The other attorney-commissioners are:

- James E. Blair, Jr., Maricopa County Attorney’s Office, representing Supervisorial District 1
- Ronald S. Reinstein, Administrative Office of the Courts, representing Supervisorial District 2 *(at the time of this notice, gubernatorial appointment and Senate confir-*

*mation are pending)*

- Michael A. Leal, Navidad Leal & Silva, PLC, representing Supervisorial District 3
- Jennifer R. Hunter, Arizona Attorney General’s Office, representing Supervisorial District 5

**Criteria/Qualifications:** Applicants must be active members of, and in good standing with, the State Bar of Arizona. Applicants shall have resided in **Supervisorial District 4**

in Maricopa County for at least one year and be admitted to practice before the Arizona Supreme Court for not less than five (5) years. There are no restrictions as to one’s political party affiliation with regard to this opening. To learn what district you reside in within Maricopa County, go to <http://recorder.maricopa.gov/pollingplaces/GetDistrict.aspx> or call the Maricopa County

Recorder’s Office at 602-506-1511. The commission meets as necessary when judicial openings occur. Attorney-commissioners are not eligible for appointment to any judicial office in Arizona until one year after membership on the commission terminates.

**Term:** Fill an unexpired term to January 2011.

## PEOPLE, PLACES, HONORS, AWARDS



GLYNN



HALE



HOSKINS



JEWELL



SWENSON



VENDRELL

Greenberg Traurig, LLP added five new associates in its Phoenix office: **Janel M. Glynn** (business reorganization and bankruptcy),

**Laura N. Hale** (commercial litigation), **Kami M. Hoskins** (litigation and bankruptcy), **Lindsay A. Jewell** (business finance ) and **Katherine A. Swenson** (corporate and securities).

The firm also announced that **Viviane Vendrell** joined the Phoenix office as a Foreign Legal Consultant in finance and real estate.



STEIN

**Scott J. Stein** has formed **Stein Law, PLC**, and will practice in real estate, financings, workouts and modifications, business transactions and entity formation, structuring and strategic planning.



CORK



CULP

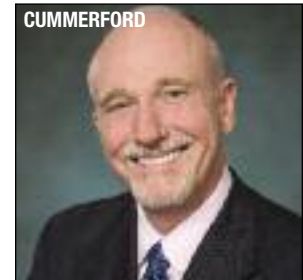
**Squire, Sanders & Dempsey LLP** has elected to partnership two lawyers in its Phoenix office: **Sean T. Cork** (bankruptcy and restructuring) and **Peter W. Culp** (environmental, health and safety).

**Osborn Maledon, PA**, Phoenix, announced the return of a former partner and the addition of a new associate. The partner, **Douglas Dalton**, is a litigator who has practiced for 31 years. The new associate is **Erick Ottoson**, an intellectual property attorney who focuses primarily on patent litigation.

## HONORS & AWARDS

**William A. Mundell** has been appointed the new Director of the **Registrar of Contractors** by Gov. Jan Brewer. Mundell, an attorney, most recently served on the Arizona Corporation

Commission. Previously, he was a member of the Arizona House of Representatives and the presiding judge of the Chandler Municipal Court.



CUMMERFORD

Greenberg Traurig shareholder **John E. Cummerford** has been appointed to the Board of Directors of the **Arizona Technology Council**, a trade association that represents and supports the state's technology industry.



MALEDON

**William Maledon**, a founder of Osborn Maledon, PA, was appointed by the Chief Justice of the United States to an additional three-year term on the **Federal Judicial Conference Standing Committee on Rules of Practice and Procedure**. The committee has oversight responsibility for all changes to federal rules relating to civil, criminal, appellate and bankruptcy proceedings as well as federal rules of evidence. It consists of seven federal judges, four practicing attorneys and two law professors appointed by the Chief Justice.

Gallagher & Kennedy partner **Paul E. Burns** was appointed to serve as an adjunct professor of law at **Pepperdine University's Straus Institute for Dispute Resolution**.



BURGESS

Greenberg Traurig attorney **Juliet Speisman Burgess** has been appointed to the Leadership Council of **The Wellness Community of Central Arizona**, part of a national nonprofit

## HONORS & AWARDS

organization that provides support programs for people with cancer and their loved ones, free of charge. She also was appointed as an Advisory Board Member of **Autism Care and Treatment Today**, Arizona Chapter.



**Katosha Nakai**, an attorney in the Phoenix office of Lewis and Roca, was named by the Governor to the **Arizona Oil & Gas Conservation Commission**; her term with will run until 2010.



Lewis and Roca partner **Thomas H. Campbell** has been appointed to the **Arizona Technology Council** Board of Directors for a three-year term. His practice in the Phoenix office is concentrated in the areas of regulatory and administrative law, particularly energy, telecommunications, water and utility regulation.



**Michael R. King**, a founding partner of the law firm Gammage and Burnham, has been awarded the **James F. Sullivan Lifetime Achievement Award** by the affiliate of the **National Association of Credit Managers**.



Commander **Yancey Garner**, United States Navy, was recalled to active military service as the new Executive Officer for the **Space and Naval Warfare Systems Center Pacific**, located in San Diego. He is second in command for the Navy's Scientific and Testing Center. He previously served as a superior court and justice court judge pro tem.



Greenberg Traurig attorney **Jeffrey M. Manley** has been appointed president of **Valley Estate Planners** for a one-year term.



Two associates with Lewis and Roca have been named to leadership positions in the **American Bar Association Criminal**

Litigation Committee of the Litigation Section. **Scott Bennett** was selected as chair of the Forfeiture Subcommittee, and **Peter Wand** was selected as chair of the Young Lawyers Subcommittee.



**Marian Zapata-Rossa**, an attorney with Quarles & Brady, was elected to the 2009 **Los Abogados** Board of Directors.



**Michael McGrath**, a partner with Mesch Clark & Rothschild, received the 2008 Champion Award from the **Tucson Urban League**, honoring those who have been longtime supporters of the organization.



**Christian Olson**, an associate with Fennemore Craig, has been selected to serve on the board of the **Child Crisis Center Foundation**. The center provides emergency shelter, counseling and intervention on behalf of children and families.

**Frank X. Curci**, a member with the Phoenix office of Jennings, Strouss & Salmon, has been

appointed to the Board of Advisors for **ASU Technopolis**, an initiative to move research in technology and the life sciences into the private sector and raise the profile of Greater Phoenix in the international economic arena. Curci serves as chair of the firm's Biotechnology & Life Sciences Industry Group and of the Intellectual Property & Technology Practice Group.

**Michael Palumbo**, a member with Jennings Strouss & Salmon, was inducted as a Fellow in the **Litigation Counsel of America**, a trial lawyer honorary society.

**Frank Lesselyong**, an attorney with Kleinman Lesselyong and Novak in Phoenix, has become a Fellow of the **American College of Trial Lawyers**.



**Scott H. Gan**, a partner with Mesch Clark & Rothschild in Tucson, was appointed by the Governor to sit on the **Commission on Appellate Court Appointments**.



Shughart Thomson & Kilroy, PC, shareholder **Robert G. Anderson** has been appointed chairman of the Real Estate Advisory Commission for the **State Bar of Arizona Board of Legal Specialization**. He will chair the group for one year ending in August 2009.