



FEDERALLY SPEAKING



NUMBER 3

by Barry J. Lipson

*The Western Pennsylvania Chapter of the Federal Bar Association (FBA), in cooperation with the Allegheny County Bar Association (ACBA), brings you **FEDERALLY SPEAKING***

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\$50 MILLION FEDERAL COURT RENOVATION IN PITTSBURGH – U.S. District Court Judge Gary L. Lancaster discussed the award winning \$50 million renovation of the **Federal Courts** in Pittsburgh, at the latest of the FBA's ongoing series of intimate luncheons with different Federal Judges. This renovation, which will add several new full sized courtrooms, attorney conference rooms, an atrium, and an elegant entranceway, among other improvement, is scheduled for completion in 2003. So far, FBA members have also intimately lunched with then **U. S. District Court** Chief Judge Ziegler, Judge Donald J. Lee, and Judge Donetta W. Ambrose. Space is limited. If you are interested in being added to the invitee list, please contact West Penn President Joe Perry (412/281-4900).

ARBITRATE OR RUINATE – The **United States Supreme Court** ruined the chances of a Circuit City employee having his discrimination suit heard by a Court of Law, when it ruled that, under the **Federal Arbitration Act of 1925** (9 U. S. C. §1), he was bound by his written agreement in his employment contract to “settle any and all previously unasserted claims, disputes or controversies arising out of or relating to my application or candidacy for employment, employment and/or cessation of employment with Circuit City, *exclusively* by final and binding *arbitration* before a neutral Arbitrator [emphasis in original]. By way of example only, such claims include claims under federal, state, and local statutory or common law, such as the **Age Discrimination in Employment Act, Title VII of the Civil Rights Act of 1964**, as amended, including the amendments of the **Civil Rights Act of 1991**, the **Americans with Disabilities Act**, the law of contract and the law of tort.” Circuit City Stores, Inc v. Saint Clair Adams, U.S. Supreme Court, No. 99-1379 (March 21, 2001).

THAT BLANKETY-BLANK PHONE'S RINGING AGAIN - The **FTC** has enforced the **Telemarketing Sales Rule** (TSR), which was mandated by Congress in the **Telemarketing and Consumer Fraud and Abuse Prevention Act of 1994**, for five years now, and our phones still rrrrrrrring off the walls with unwanted solicitations. The TSR requires telemarketers to make specific disclosures of material information; prohibits

misrepresentations; limits the hours that they may call consumers; prohibits calls to a consumer who has asked not to be called again; and sets payment restrictions for the sale by phone of certain goods and services. But, still the Feds have so far brought only 121 enforcement actions (or under 25 a year) alleging Rule violations. Of these, three-quarters “have been concluded,” whatever that means, resulting in injunctions against misrepresentations and future violations, some outright bans, and “\$500,000 in civil penalties.” Oh, yes, the FTC also reports that there has been “monetary judgments totaling over \$152 million in consumer redress.” One wonders what the “redress” will be once the FTC’s enforcement program is “all dressed up.”

ITALIAN AMERICANS, UNCLE SAM WANTS YOU! - Pursuant to the **Wartime Violation of Italian American Civil Liberties Act (P.L. 106-451)**, the **U.S. Department of Justice (DOJ)** is conducting a comprehensive review of the treatment of Italian Americans during World War II. The results of this review will be submitted in a report to Congress by November 7, 2001. Information is sought from all sources regarding Italian Americans who were taken into custody during World War II; who were ordered to move; who were arrested for “curfew,” “contraband,” or other alleged violations; who were prevented from fishing in prohibited zones and/or the Ports from which they were restricted; whose boats were confiscated; who were railroad workers prevented from working in prohibited zones; whose homes were raided by the **FBI**; and/or any other civil liberties infringements suffered by them during World War II. If you have specific knowledge relating to any of this, please contact the **DOJ** no later than September 1, 2001, by e-mail at itr.report@usdoj.gov, by phone at (202) 305-0569, or by snail mail at DOJ Civil Rights Division, P.O. Box 66260, Washington, D.C. 20035-6260. And we thought it was only Japanese Americans

PATENTLY UNABSURD - The **United States Patent and Trademark Office (USPTO)** has just published its first set of patent applications under the **American Inventors Protection Act of 1999**, which requires publication of the vast majority of patent applications filed on or after November 29, 2000. “Publication of patent applications before a patent is granted is one of the most fundamentally significant changes to the U.S. patent system in over 100 years,” advised Nicholas Godici, acting Director of the **USPTO**. Applications will be published in various technical fields, which so far have included surgical devices, chemical processes, and business methods. Unlike some other major patent offices around the world, U.S. patent applications were previously held in confidence until a patent was granted. While publication may disadvantage applicants to whom patents are not granted, the successful applicants will enjoy the potential benefit of provisional rights to reasonable royalties from others who make, use, sell, or import the invention during the period between the time the patent application is published and the patent is granted; and the public will have the benefit of the availability of more and sooner technological information. Published applications may be viewed by “geeks” and others who are “technically literate” at <http://www.uspto.gov/patft/index.html>.

FOOT-IN-MOUTH DISEASE - Not to be herself diagnosed with Foot-In-Mouth Disease, **U.S. Department of Agriculture Secretary Ann M. Veneman** has demonstrated that the **USDA** has taken the Foot-And-Mouth Disease (FMD) outbreak very seriously by

announcing that the **USDA** will be “vigilant” in its efforts to prevent FMD from entering the United States. Under penalties of up to \$1,000, travelers from Europe and other FMD countries will be prohibited from bringing into the U.S. animal products that could spread FMD, or any agricultural products, and will be required to identify to **USDA** and **Customs** officials any visits they have made to farms or rural areas. There will be intensified scrutiny and inspections at ports of entry, all travelers and baggage will continue to be subject to personal inspection, dog teams will be used, disinfection of footwear and clothing may be required (whether or not it has been in one’s mouth), and there are temporary import prohibitions from countries that have confirmed FMD cases of swine (the four legged variety), ruminants (cud chewers), and products that could potentially carry the virus. While instances of Foot-In-Mouth Disease occur daily, there were no instances of Foot-And-Mouth Disease in the U.S. for approximately the past seventy years.

“THE D. C. MERRY-GO-ROUND” - It was nostalgic returning to the Nation’s Capital to celebrate the Fiftieth Anniversary of the **Court of Appeals for the Armed Forces**. I was admitted as a Naval JAG Officer (the TV show is about me, right?), while it was still known as **COMA** (“**Court of Military Appeals**,” not “unconscious”). I was accompanied by West Penn FBA President Joe Perry and West Penn FBA CLE Czar Rick Taylor, who were attending the National FBA Spring Council meeting. At this Council meeting, I suggested to the Bush appointee judiciary speakers that now that the ABA will no longer be pre-screening Federal Judge nominees, maybe this task should be taken over by the FBA (which brought the house down). Rick, a first time attendee, is all excited about the prospect of going to the FBA Annual meeting in Tucson this September.

THE FEDERAL CLE CORKBOARD™

Tues, May 8, 2001--Securities Litigation: What You Need to Know, Alan Steinberg,
FBA LearnAbout™ Monthly Luncheon Series*

Tues, June 12, 2001--FBA Meets FBI: The Seminar, FBI Special Agent Jack Shea,
FBA LearnAbout™ Monthly Luncheon Series*

Tues, July 10, 2001--Mediation in Federal Agencies, Joel Pretz and Kim Bobrowsky,
FBA LearnAbout™ Monthly Luncheon Series*

*FBA-For information and reservations call Rick Taylor at 412/566-1626.

*The purpose of **FEDERALLY SPEAKING** is to keep you abreast of what is happening on the Federal scene All Western Pennsylvania CLE providers who have a program or programs that relate to Federal practice are invited to advise us as early as possible, in order to include mention of them in the **FEDERAL CLE CORKBOARD™**. Please send Federal CLE information, any comments and suggestions you may have, and/or requests for information on the Federal Bar Association to: Barry J. Lipson, Esq., FBA Third Circuit Vice President, at the Law Firm of Weisman Goldman Bowen & Gross, 420 Grant Building, Pittsburgh, Pennsylvania 15219-2266. (412/566-2520; FAX 412/566-1088; E-Mail blipson@wbgglaw.com).*

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