



Association for Women Lawyers
of Greater Kansas City

link

DECEMBER, 2008
VOLUME 20, NO. 4

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president's message

by Kimberley Fournier

As I look back on the ten years I have devoted to this organization, I am struck by two notable emotions: pride and certainty. Pride in this organization, and its wonderful achievements and accomplishments. Certainty that it will continue to grow and accomplish even more great things. I am thankful for the opportunity to have served this board and this membership in a number of ways. I will always cherish this organization and be grateful to it for the great experiences it has afforded me.

I spent a great deal of time thinking about what last thoughts as President of AWL I could share with the membership. I settled on a brief discussion of civility.

It is possible to "agree to disagree." As attorneys, this is – or should be – our occupation's mantra. Courts require that agreeing to disagree be done in a professional and courteous manner. Because of the public's negative perception of the legal profession, articles and seminars on civility abound, and significant attention is devoted to improving both the reality and the perception of civility among lawyers.

I strive to have amicable and professional working relationships with opposing counsel. Practicing in a specialized area of law, as I do, lends itself to making civility among foes more attainable. It's more difficult to be rude when it's likely you will be working with the same attorneys on a regular basis!

Likewise, when participating in volunteer board service or with other civic or religious organizations, we should seek a civil and courteous approach to be an effective servant to the organization. Members of our profession are incredibly generous with their time and resources. This generosity naturally leads to many attorneys serving on volunteer boards or as leaders in various organizations. Since we tend to be adversarial and argumentative at work, we easily forget how imperative it is to check our adversarial cloaks at the door when we enter the board room. The organizations we serve need meaningful discussions to happen among their leaders, and such discussions require courtesy to those with whom we serve.

I would encourage each of us, both as practitioners and as civically involved individuals, to commit ourselves to civility in our daily lives. Whether fighting for the rights of our clients or sharing ideas during a board meeting, civility is always the best choice – even when we must agree to disagree.

Thank you again for allowing me to serve as the president of this organization. It has truly been an honor.

Sincerely,

Kimberley Fournier

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Association for Women Lawyers of Greater Kansas City

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Please make note of our new address and phone numbers:

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www.awl-kc.org

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1 – Beverly Weber;
2 – Josh Peter;
3 – Players registering;
4 – Tamie Fox (President-Elect), Phyllis Norman (Golf Chair) and Kimberley Fournier (President).

AWLF/AWL's 13th Annual "I'm Not Serious About Golf" Tournament

Is A Great Success Again

For many years the Association for Women Lawyers has combined a fun afternoon of golf with an opportunity to raise money for local charities. This year's tournament was held on Friday, September 12, 2008 at Teetering Rocks Golf Course. Although this year there was a torrential downpour of rain, the tournament was still a great success.

The tournament raised over \$9,500 and was sold out (first time in the history of the tournament) with over 80 golfers, twenty of which braved the elements in the afternoon and golfed nine holes. As to the 60 other "not so serious golfers", they enjoyed lunch and various indoor activities, such as putt-putt, trivia and Wii Golf. The winner of the indoor putt-putt challenge was Erik Klinkenborg and the winning trivia team consisted of Hon. James Tobin, Hon. Joseph Dandurand, Teresa Hensley and Vicky Thomas.

We had over 100 door prizes for the golfers ranging from gift certificates to popular restaurants, massages, wine and a ton of other great prizes. Let's not forget this year's goodie bag donated by Mdivani Law

Firm, LLC (thanks so much), which contained over 25 great gifts as well.

As always, this tournament cannot happen without the help of many people. Thanks to all the many hole and general sponsors. These individuals and companies are so generous and this tournament would not exist without them. Please look at the complete list of 2008 Hole Sponsors and 2008 General Sponsors.

Special thanks to Focus Legal Solutions for designing and printing the signs – we love you guys. Also, while this tournament is only one afternoon it takes many months to plan and we could not do it without the help of the golf tournament committee members. Thanks to each of them for an outstanding job this year.

If you were unable to make it to the tournament this year, we encourage you to come out next year and join in the festivities – but remember, we are not serious about golf!!!

AWLF/AWL's 13th Annual "I'm Not Serious About Golf" Tournament

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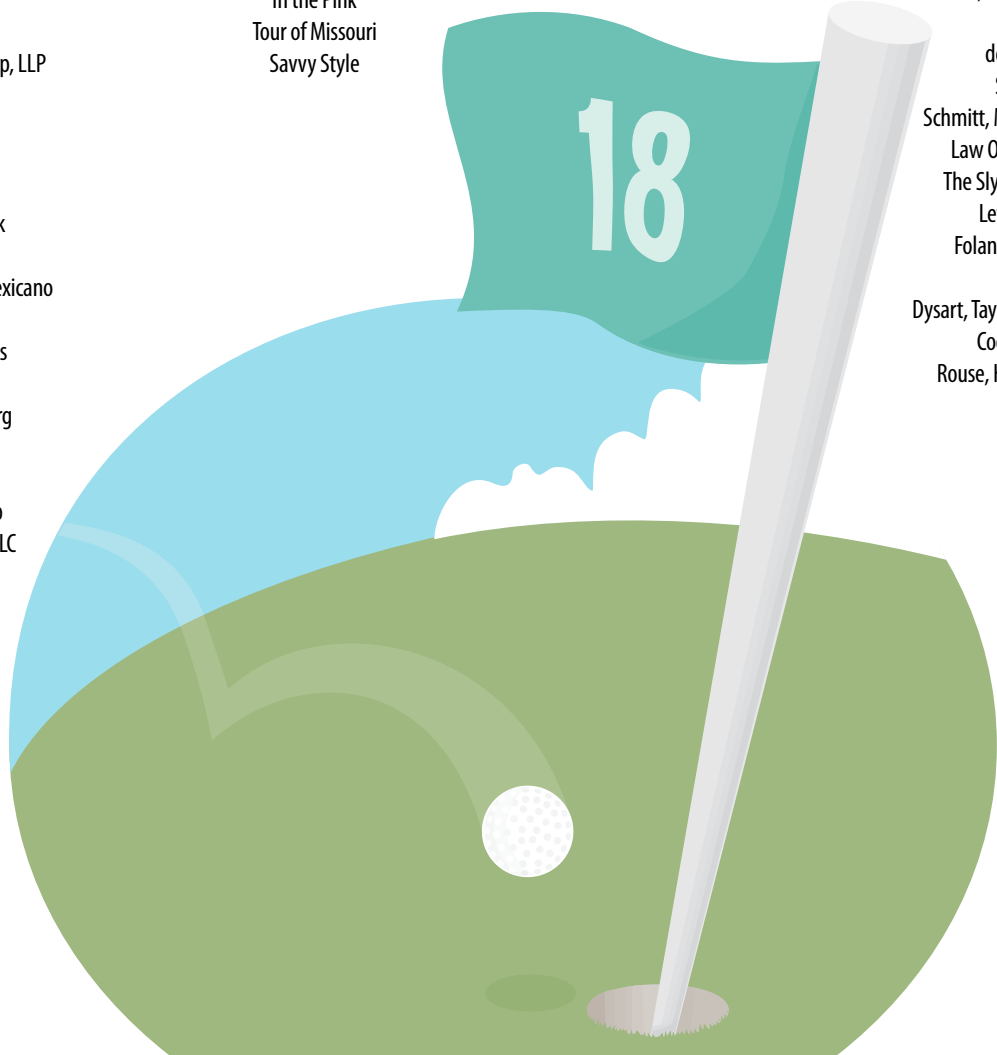
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What to Expect from the 2008 Amendments to the Americans with Disabilities Act

By Shelley I. Ericsson

On September 25, 2008, President Bush signed into law the ADA Amendments Act of 2008 (the "Act"), which amends the Americans with Disabilities Act ("ADA"). The Act, which becomes effective on January 1, 2009, expands the scope of disabilities covered under the ADA. Employers who have 15 or more employees need to be aware of the implications of the Act as it has broadened the scope of protections available to employees by rejecting two Supreme Court decisions that had narrowly construed the definition of "disability" under the ADA. As a result, employees who were not previously protected under the ADA may now be considered to have disabilities, thus possibly requiring employers to respond to an increased number of requests for accommodations.

Since 1990, the ADA has prohibited discrimination against any individual with a disability who is otherwise qualified for the job. A person has a disability under the ADA if they have:

- 1) a physical or mental impairment that substantially limits one or more of the individual's major life activities;
- 2) a history of such an impairment, or;
- 3) are regarded as having such as impairment.

The Act contains the following amendments:

- 1 The Act specifically provides that the term "disability" shall be construed in favor of broad coverage for individuals;
- 2 The Act prohibits the consideration of "mitigating measures" such as medication, medical supplies, prosthetics, hearing aids, mobility devices and assistive technology in determining whether an individual has a disability;
- 3 The Act clarifies that an impairment that substantially limits one major life activity need not limit other major life activities in order to be a disability; and
- 4 The Act states that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

In enacting these amendments, Congress made it clear that the purpose of the Act is to broaden and strengthen protections for disabled individuals. In fact, the word "broaden" appears five times in the Findings and Purpose section of the Act. Further, Congress expressly rejected and overruled the "extensive analysis" and high standards that courts have utilized in determining whether an individual is disabled.

While Congress did not change the definition of an actual disability (i.e. - a mental or physical impairment that substantially limits a major life activity), it rejected the courts' interpretation of "substantially limits" as too high of a standard. The Act clarifies that "substantially limits" does not mean "significantly restricts" or "severely restricts".

The Act overrules U.S. Supreme Court jurisprudence establishing that mitigating measures should be considered when determining whether an individual is disabled. The Act states that the determination of whether an impairment "substantially limits" a major life activity must be made without regard to the "ameliorative effects of mitigating measures". Translated, this means that a court cannot consider whether medication, prosthetics, mobility devices, reasonable accommodations already provided by the employer, or any other measures alleviate the effects of the impairment.

The definition of "major life activities" has also been expanded. The expanded list now includes eating, sleeping, bending, reading, concentrating, thinking and communicating as examples of "major life activities". The Act also includes the following list of major bodily functions that are considered "major life activities": functions of immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

The definition of "regarded as disabled" (a/k/a perceived disability) has also been broadened to provide coverage even for those impairments that are not perceived to limit a major life activity. Put differently, individuals claiming perceived disability status do not have to prove that their employer actually perceived them as having an impairment that substantially limits a major life activity. All that is required is proof that the individual suffered an adverse action, e.g. were fired, not hired, or not promoted because of a perceived impairment. The only exclusions from the definition of "regarded as disabled" in the Act are those impairments that are transitory and minor (duration of six months or less).

Prior to these amendments, courts dismissed many cases on the grounds that the individuals were not "disabled" under the ADA. Employers should now assume that more employees are going to be covered by the ADA and make employment decisions with that assumption in mind.

Although the Act eliminates several defenses previously utilized by employers in disability discrimination cases, Congress confers two new perks for employers. First, Congress resolved the split in the federal courts as to whether the ADA requires a reasonable accommodation for "perceived disabilities." The ADA, as amended, makes it clear that employers have no duty to accommodate individuals who are regarded as disabled. Secondly, the amended ADA now expressly excludes claims of reverse disability discrimination, i.e. - claims on account of lack of a disability.

As the effective date of January 1, 2009 approaches, employers should be prepared for an increased number of employees to be encompassed by the ADA - thus, increasing the requests for accommodations and possibly the number of disability discrimination complaints/charges. Improperly denied requests could provide fertile ground for future lawsuits and thus, employers would be wise to revisit their existing policies and procedures and consult with an experienced employment attorney who can provide advice on how to handle employment issues that may fall under the rubric of the new Act.



2008 Judicial Recognition Award
Hon. Kelly J. Moorhouse



The Honorable Kelly J. Moorhouse, Circuit Judge in the Sixteenth Circuit, lost her battle with cancer on October 7, 2008. Judge Moorhouse, 49, was in private practice for ten years, working at the Legal Aid of Western Missouri, serving as an attorney for the

Juvenile Officer of Jackson County and then serving as one of the first pro bono attorneys in the Greater Kansas City Metropolitan Area while with the firm of Watson, Ess, Marshall & Enggas. In 1995 Judge Moorhouse was appointed as a Family Court Commissioner in Division 43, Sixteenth Circuit in Jackson County, serving for five years. She was appointed to Division 9 of the Sixteenth Circuit in Jackson County by Governor Mel Carnahan in 2000. Judge Moorhouse was always guided by the question "Is it good for the children?"

As a Family Court Commissioner, she founded the Fathering Court in March 1998. This innovative program was designed to collect delinquent child support payments while encouraging fathers to have an ongoing relationship with their children and strengthen their parenting skills. Today, Commissioner Moorhouse's former courtroom in Division 43 at the Kansas City courthouse in Jackson County still holds morning and evening dockets monthly to ensure that fathers do not need to miss work to attend court. As part of the program, the fathers must attend a twelve week fathering class. As of March 2008, ten years after the inception of program, more than 100 fathers have graduated from the program and more than \$2,765,000.00 in delinquent child support payments have been collected. This program has become a pilot program for other fathering courts nationwide. The Fathering Court was always close to Judge Moorhouse's heart.

Judge Moorhouse always worked to ensure that family law matters got the attention they deserved and continuously looked for ways in which to improve Jackson County's domestic docketing system.

2008 Organization of the Year Award — AWL Foundation

In 2008, five legal leaders made a commitment to advance AWL's focus on the community and establish AWL's sister organization, the AWL Foundation. The efforts of two AWL past presidents, Tracy Bornman and Denise Henning, brought together an AWLF board of directors comprised entirely of AWL past presidents. The Foundation's strategic plan is devoted to charitable purposes that will better the lives of women and girls. AWL is proud to recognize the AWL Foundation and its founding board of directors as the 2008 Organization of the Year. Congratulations, and thank you for your commitment to this new chapter for AWL.

Nancy Kenner
AWLF Chairwoman of the Board
AWL President, 2000

Nancy Kenner founded her own firm in January, 2008. The Kenner Law Firm focuses on plaintiff's medical malpractice and serious personal injury. Nancy also does mediation and arbitration, particularly in the area of employment law.



Denise Henning
AWLF President
AWL President, 2003

Founded in 2002 by Denise Henning, The Henning Law Firm, P.C. is a trial law firm that represents plaintiffs who have been the victims of personal injury and wrongful death caused by explosions and transportation-related injuries resulting from tractor-trailer accidents, highway defects, and other negligent acts.



Victoria Schatz
AWLF Vice President
AWL President, 2002

Victoria Schatz serves as Corporate Counsel for Kansas City Power & Light Company. She has previously served as Managing Attorney and Senior Attorney for KCP&L and General Counsel and Assistant Secretary for Great Plains Energy Services.



Tracy Bornman
AWLF Treasurer
AWL President, 2007

As a partner with Hovey Williams, LLP, Tracy Bornman specializes in foreign and domestic chemical patent preparation and prosecution, biological patent preparation and prosecution, preparing patentability and non-infringement opinions, negotiation and preparation of licensing and development agreements, and trademark application preparation and prosecution.



Janeen deVries
AWLF Secretary
AWL President, 2006

B. Janeen deVries is a managing shareholder of deVries & Associates, P.C. where she practices probate, estate planning, and criminal defense.



2008 Woman of the Year Award

Susan Montee, CPA, JD

AWL is pleased to announce that Susan Montee, CPA, JD, is the recipient of AWL's 2008 Woman of the Year Award.

Susan Montee is Missouri's 35th State Auditor, the first in Missouri history who is both a CPA and an attorney. Susan was elected in 2006, winning with more votes and elected by a wider margin than any previous State Auditor.

Born and raised in St. Joseph, Susan is the daughter of Arlene Humphrey of St. Joseph and U.S. Marine Galen Humphrey, Missing-in-Action in Vietnam since 1966. Susan is the first statewide official elected from Buchanan County in over 125 years.

Susan earned an accounting degree from Drury College. She worked as an accountant and CPA in private practice and then in one of the nation's largest accounting firms. Susan spent



the next six years raising her three children, Amanda, Andy and Austin, as a stay at home mom. Susan then went back to school and obtained her law degree from the University of Missouri-Kansas City. Her tenure at UMKC included serving as business editor for the Law Review—all the while still raising her family. Susan graduated with distinction in 2000. Susan's first elected position was to an at-large position on the St. Joseph City Council in 1998. Susan was elected Buchanan County Auditor in 2000, as position she held for six years.

The Honorable Zel Fischer

By Kim Fournier



On October 15, 2008 Atchison County Associate Circuit Court Judge Zel Fischer was appointed by Governor Matt Blunt to fill the Supreme Court of Missouri vacancy that was created by Judge Stephen Limbaugh Jr.'s appointment to the federal bench.

Judge Fischer, originally from Rock Port, Missouri, received his Bachelor of Arts in Philosophy and Political Science in 1985 from William Jewell College, and his Juris Doctor with distinction from the University of Missouri-Kansas City School of Law in 1988. Upon graduation from law school, he had the opportunity to clerk at the Missouri Supreme Court for the Honorable Andrew Jackson Higgins. He then went into private practice for the next 17 years. Ultimately, he was elected as the Atchison County Associate Circuit Judge in November of 2006 where he served until his Supreme Court appointment. During his years of practice, Judge Fischer has been an incredibly active member of the Missouri Bar, the Fourth Judicial Circuit Bar, the Platte County, and Clay County Bars as well as the Missouri Association of Trial Attorneys and the Kansas City Metropolitan Bar Association. He has also held substantial involvement in community activities including the Community Awareness Team, the Atchison County DARE program and the Fellowship of Christian Athletes. He has actively participated in his church and the Rock Port Rotary Club as well as coaching the Tarkio High School Cross Country Team.

When asked some questions about his process of applying to be a Supreme Court Judge, he indicated that he knew he wanted to be a judge at the Supreme Court of Missouri within weeks of beginning his clerkship with the Honorable Andrew Jackson Higgins in 1988. He finds cases that deal with the constitutionality of legislation and those that are direct appeals on death penalty cases to be the most interesting and challenging. Judge Fischer hopes to bring a practical perspective based on his litigation experience to the Supreme Court of Missouri.

The Association for Women Lawyers congratulates Judge Fischer on his appointment to the Supreme Court of Missouri.

AWL Holds Annual Holiday Reception

The Association For Women Lawyers gathered at the home of Nancy and David Kenner to celebrate another successful year.

The evening started with the Annual Meeting, whereby new amendments to the By-Laws were passed, along with election of a new Board for the 2009 year.

Susan Montee was celebrated as the Women of the Year. The most emotional and poignant party of the otherwise joyous occasion came when the Legal Community as a whole was once again reminded of the loss of one of its brightest stars. We all lost a good friend and a legal leader with the passing of the Honorable Kelly Moorhouse. To celebrate her commitment to AWL and the legal community as a whole, AWL honored Judge Moorhouse with the Judicial Recognition Award. The founding members of the Association for Woman Lawyer's Foundation, a group of former Presidents of AWL, were honored as the Organization of the Year. AWL would like to thank all those involved for their assistance in making this year's occasion a success. We hope that all who attended truly enjoyed themselves, and reconnected with friends, both new and old. AWL would like to wish everyone a happy holiday season with peace and prosperity for the coming year.

Right, top to bottom: 1. Honorable Victor Howard, Honorable Gary Fenner and Kimberley Fournier; 2. Shelley Ericsson, Nancy and David Kenner; 3. Susan Montee and Kimberley Fournier; 4. Kimberley Fournier and Kim Gibbens; 5. Tamie Fox, Melissa Howard, Mandy Ketchum and Honorable Victor Howard; 6. Kimberley Fournier and Tamie Fox; 7. Scott Moorhouse, his daughter and Tamie Fox during Judicial Recognition Award presentation



Introducing the 2009 Board of Directors

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President-Elect	Mira Mdivani
Immediate Past-President.....	Kimberley Fournier
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Awards & Scholarship Vice Chair.....	Kimberly Gibbens
Membership Chair	Courtney Hasselberg
Membership Vice Chair	Wendee Elliott Clement
Judicial Chair	Nikki Cannezzaro
Judicial Vice Chair	Pascale Henn
Community Support Chair.....	Athena Dickson
Community Support Vice Chair.....	Sheryl Nelson
Social Chair	Phyllis Norman
Social Vice Chair.....	Brandee Bower
CLE Chair.....	Jenny Redix
CLE Vice Chair.....	Beth Murano

Members At Large	
Golf Tournament.....	Melissa Howard
Fundraising.....	Anne Schiavone
CLE	Lynn Weddle Judkins
Photographer	Sheila Thiele
Special Projects.....	Tricia Scaglia Amber Van Hauen

AWL MEMBER NEWS

■ **Samara NAZIR ZAMAN** has joined the **MDI-VANI IMMIGRATION LAW FIRM** in September 2008.

Samara practices in the areas of employer immigration compliance, I-9s, E-Verify, work visas, and immigration matters for families with foreign-born members. Samara also serves as Training Director for the firm's affiliated training company, www.I-9Seminars.com.



■ **Julie Anderson** (formerly **Haverley**)

has had lots of changes this year - a new husband, a new firm and a new house! She is now

an associate at **Swanson Midgley, LLC**. Exciting news at the firm is that we're moving to the Plaza. Our new address as of January 1, 2008 will be: Plaza West Building, 4600 Madison Avenue, Suite 1100, Kansas City, MO 64108. Julie married Sean P. Anderson from Fairway, Kansas on October 11, 2008.



2008 AWL President's Awards

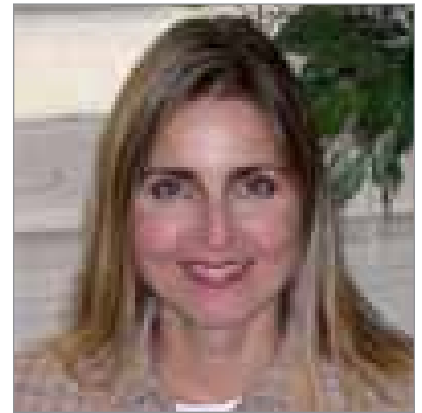
By **Kimberly Fournier**

At the Annual Holiday Meeting and Judicial Reception on December 9, I was honored to give this year's president's awards to board members Kim Gibbens and Sheryl Nelson. Both of these ladies have done a tremendous amount of "behind the scenes" work this year. They have both made my job a lot easier by suggesting and drafting bylaw amendments as well as other thankless tasks. They also did a wonderful job of coordinating our community support events and charities this year.

I wish I could have given an award to all of the board members for their hard work, particularly Phyllis Norman whose golf tournament was our best yet, (even though we did not play golf!!) and Mira Mdivani for yet another successful Women-In-Shelter Step Up. Even though we had a great year of participation at each of our events and all of the members of the board did phenomenal jobs, I chose to thank some members whose jobs were low profile, challenging and time consuming! Thanks again Sheryl and Kim! It has been a pleasure working with both of you.



Kim Gibbens



Sheryl Nelson

DO YOU HAVE NEWS TO SHARE? If you are an AWL member and would like to share information or write an article for the LINK, contact Mira Mdivani, mmdivani@uslegalimmigration.com