Welcome

By Audrey Lustgarten—alustgarten@lustgartenglobal.com. Audrey is the founder of Lustgarten Global LLC, a boutique law firm that specializes in representing employers in global (non-US) immigration matters.

Welcome to the first edition of the YIN/Outreach newsletter for the ABA 2014-15 year. YIN is very pleased to announce that we have just received the 2014 Outstanding Committee Outreach Award! And we have even bigger plans for this year! As we are gearing up and preparing our business plans for the new ABA year, we hope that you will consider becoming involved in YIN and/or Outreach. Michigan Megardichian and Martha Bucaram have been appointed as YIN’s new co-chairs for the year and have some very exciting plans for the committee, including an enhanced presence on social media, in-person social and networking opportunities and much more. To learn more about the opportunities just send me an email or join us on one of our monthly YIN member calls, which are held the 2nd Friday of the month at 11 a.m. EST and are open to all members (call in information is on page 3).

Member Spotlight: Migan Megardichian

By Sabrina Damast – sabrina@wilawgroup.com

Migan Megardichian is an attorney at Lawson, Clark, & Oldman, PC, a small firm near Toronto, Canada. Migan practices business and real estate law, assisting clients in the purchase and sale of businesses, procurement of property, and financing. Prior to working at the firm, Migan worked at the Economic and Trade Department of the Canadian embassy in Washington, D.C., pursuing her interest in cross-border business and law.

Migan first became involved with the ABA as a first-year law student. She earned a double law degree from University of Windsor and the University of Detroit Mercy. The local bar association in Ontario offered students free membership, but Migan decided that the best way to pursue her interest in international law was to also join the ABA. As a second-year law student, she traveled to New York the week before her final exams to participate in the International Law Section’s Spring Meeting. She enjoyed the experience so much that she began joining committees and taking on leadership roles. She is currently serving her second term as Co-Chair of YIN.

Migan strongly encourages new attorneys to get involved with YIN by attending a national meeting of the International Law Section. “That’s where everything comes to life.” In addition, new attorneys should participate in YIN’s monthly conference calls, which frequently offer other ways to participate in the committee’s programming. Most of all, she recommends pursuing the networking opportunities and connections provided by participation with YIN. “I love having friends in every part of the world, and being exposed to things that I never would have experienced or learned otherwise.”

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CALL FOR CONTENT

Do you want to get published but don’t know where to start? Do you have a helpful tip or interesting bit of information that you would like to share with your fellow YIN/Outreach members? Or do you have an upcoming event or program you want YIN/Outreach members to know about? If so here is your opportunity! YIN and Outreach are currently soliciting content for our next quarterly newsletter. If you have ideas, suggestions, or would like to submit a brief article please contact Audrey Lustgarten (alustgarten@lustgartenglobal.com)
MEMBER SPOTLIGHT: MARTHA BUCARAM

By Joyce Williams — joycedwilliams@aol.com. Joyce is an associate attorney at Thoronka Law Offices and a board member of Kasama Micro Grants, a Zambia based non profit providing scholarship and mentoring programs to encourage female empowerment.

Martha Bucaram is an International Legal Consultant at the law firm of Kilpatrick Townsend & Stockton LLP. Martha focuses her practice on construction law and international transactional matters, particularly in Latin America. Prior to joining Kilpatrick Townsend, Martha worked for two non-profit organizations, focusing on immigration law and human rights issues.

Martha first became involved in YIN in 2012 after being nominated to YIN’s steering committee. Martha’s decision to become involved in YIN was influenced by the dynamic and vibrant nature of YIN. Martha saw the potential to expose her practice and meet attorneys in diverse fields of practice and countries.

Martha’s work routinely allows her to work with local counsel in various countries, and the large network of contacts members of YIN possess became a great resource to her. To sum up her decision to join YIN Martha said, “the benefits were clear to me from the beginning. I saw the nature of the members’ interaction and relationships at the traditional brunch during one of the Section’s meetings.”

After signing up for YIN membership, Martha did not stay in the background; she immediately recognized areas that could be improved to add value further to members of YIN. She immediately started volunteering in areas she knew she could contribute to improving the section. Martha also speaks proudly of the good friendships she has cultivated over the years with section members and leaders.

Now is the time to take those leadership roles and build that network because you will never have more time ahead of you than you do today.

Martha recounts an enriching network of attorneys, true friendship and continuous improvement in her leadership skills as some of the rewarding experiences she has enjoyed since becoming a member of the section. Martha is also proud of being part of the team that made YIN the recipient of the 2014 Outstanding Committee Outreach Award. This award was given to YIN for the team’s dedication and effort to improve YIN through increasing the section’s exposure and visibility.

As a new Co-Chair for the section, Martha hopes to continue to increase participation and membership by inviting outside speakers and organizing events that will expose young lawyers to substantial knowledge and learning opportunities while having fun.

To young lawyers who are either contemplating membership or not yet members, Martha advises that by joining YIN, you have nothing to lose and everything to gain. With great enthusiasm, Martha continued to emphasize the importance of making great connections and learning about other areas of expertise that young lawyers are not typically exposed to. In all Martha invites all young lawyers to become members of the section and enjoy a better-professional life and career and professional development.

Martha concludes with the following words to all young lawyers, “Law school does not teach us some of the most-useful skills to succeed in our profession. Working hard and meeting billable hours requirements can become the sole purpose of many young lawyers, but we must not forget that no matter where you work you are also building your practice and one day you will need a network of capable attorneys to share best practices with and trust your clients to, you will also need to develop various skills that YIN can help you develop. Now is the time to take those leadership roles and build that network because you will never have more time ahead of you than you do today.”
OCTOBER IN BEAUTIFUL BUENOS AIRES

For the first time ever the Section of International Law’s Fall Meeting will be held in Buenos Aires from October 21 to 25. Don’t miss the chance to visit a beautiful and historically significant city while also taking advantage of all of the networking and educational opportunities the Fall Meeting holds! We have included a summary of the YIN sponsored programs here, but there is so much more available for younger and seasoned lawyers alike. Be sure to check out the full program online here. And if you do decide to attend, we want to hear from you! Let us know you will be there so that we can help connect you with fellow YIN and Outreach members in attendance.

Don’t miss the chance to visit a beautiful city while also taking advantage of all of the networking & educational opportunities!

YIN MONTHLY CALLS
To learn more about YIN happenings join our Monthly Members Call on the second Friday of every month at 11 a.m. EST. Call-in information is as follows:
Toll-free dial-in number (U.S. and Canada): 866-646-6488
International dial-in number: 707-287-9583
Conference code: 8429003830

Tuesday, October 21
Pathways to Employment in International Law
3:30—5:00 pm
Join us for this “How to” program for both young lawyers seeking to bring their skills to the global arena & experienced practitioners who wish to expand their practices into international law. Top practitioners speak frankly about their formative experiences & tips they have for developing an international practice.

Speed Networking
5:00—6:30 pm
Start the Fall Meeting by meeting ABA International Leadership and other international lawyers. Bring your business cards! Participants will have the opportunity to engage in a number of speed networking rounds to learn about other members and create future business opportunities.

Wednesday, October 22
Are Quotas for Women on Boards the Answer in Latin America?
Leveraging Best Practices Across Regions
11:00 am – 12:30 pm
Experts have maintained that a better gender balance at the top offers substantial advantages for companies. But, if this is so, why do so few women hold posts in company boards and management positions? And numbers don’t lie. In the EU, women comprise less than 20% of board members of the largest
Thursday, October 23

Educating the Future Transnational Lawyer: Models of Legal Education and Legal Scholarship in Latin America
9:00 am – 10:30 am
The model for training and educating tomorrow’s lawyers used in Latin America is in many ways fundamentally different from the model used in the U.S. In this program, experts in legal education from various jurisdictions in Latin America and the U.S. will discuss and debate the advantages and disadvantages of different models of legal education in use in the Americas.

Friday, October 24

Freedom of the Press and the Law
2:30—4:00 pm
Julian Assange, Edgar Snowden and others have forced the U.S. and western democracies to scrutinize the balance between the government’s national security interests and the freedom of the press. This panel will look at the freedoms of speech and press and the precarious balance struck by different legal systems when looking at government claims of national security.

The Challenges of Anti-Corruption Compliance and its Impact on Global Mobility
2:30 to 4:00 pm
As global mobility increases in emerging markets, corporations are faced with a broader array of compliance issues in their effort to transfer talent and expand operations. This program provides an overview of the challenges faced in developing effective and integrated compliance programs adhering to the Foreign Corrupt Practices Act and local anti-corruption laws. The panel will include perspectives of in-house counsel, employment, corporate and immigration attorneys on best practices to mitigate risk.

Market Access for Foreign Lawyers: Are We Closer to Consensus?
4:30—6 pm
In a prior session meeting practitioners and academics from India and Brazil took a hard look at the issues affecting attorneys looking to practice outside their borders. This program will pick up the issue two years down the road to update the status of global market access, with a focus on China, India and Brazil.
Humans have hundreds of muscles in their bodies. We use them in everyday tasks and train them when we exercise. Our muscles get used to what we are doing and accommodate to a stimulus when continuously applied over a period of time, which results in muscle growth. Once the muscle adjusts, we reach a plateau, also called homeostasis, and growth is no longer seen — unless the muscle receives new stimuli.

Muscle confusion, a training principle that has been around for some years, suggests that athletes should vary exercises, sets, reps and weights to keep their muscles “shocked into growth.” Even though consistency in training is important, lack of variation can stall progress. It does not really make sense to limit our routine to barbell squats for the rest of our lives, never changing the exercise, only the weight.

Since this is not an article for a fitness magazine, it is fair to ask what this has to do with lawyers, recent graduates or law students. Let me tell you. During years of study in law school, and the bar exam at its peak, we used a special “muscle” to get us through this challenging time — our brain. Anatomically, our brain isn’t a muscle, of course. It contains a bit of muscle, but is mostly some gray and white mass with cellular structure. Its functions are different and much more complex; however, many compare the brain to a muscle, for good reason. We all know of the “use it or lose it” principle with regard to our brain, but the “muscle confusion” principle equally applies.

After we graduate from law school and master the Mount Everest of study, the bar exam, we hopefully find ourselves in employment. At the beginning this is quite challenging, we finally see law in action, not just in theory, and hustle to do a great job. But our brain will adjust eventually, as it always does, and we will soon reach a plateau. The former challenging task becomes routine and the grey and white mass in our skull is about to take a nap. This stage should never be reached, by anyone, but especially not young lawyers.

Mental stimulation, or muscle confusion, improves brain function. After we graduate we are thrilled by the prospect of never having to study again. This is a fallacy. Young lawyers should commit themselves to lifelong learning. Handling new clients, new cases, and changes in the law is not sufficient stimuli for our brain to grow. It is still the barbell squat, only using a different weight. To keep our brain up to speed to accommodate the challenges of a lawyer we need to introduce new “exercises,” in the form of study within and outside of law. In order to really "confuse our brain" and provide sufficient stimuli to grow, we have to explore and adventure into new areas outside of the law. A second language, taking classes on subjects of interest -- and subjects that might not be interesting at first, but will challenge us like physics, science, philosophy, and so on. Can you imagine how confused your brain will be if you, in addition to reading the ABA Journal, study an article about the concept of quantum entanglement and how particles are associated in such a way that measuring the quantum state of one particle places constraints on the measurements of the other particles?

By introducing different subjects into our life, we keep our brain sufficiently “confused” and challenge it to grow and this will ultimately benefit us as lawyers. We won’t easily be gridlocked in our regular approach but allow fresh juice into every new matter we handle. But exposing ourselves to new areas may benefit our practice on an even bigger scale. We may decide to incorporate our new interest into our current practice or find that we need to change practices altogether to make our career more fulfilling. For example, a lawyer taking art classes might decide to incorporate art law into his practice. In any case, we grow as lawyers in sync with our growth as professionals. And we only grow as professionals if we challenge our brain continuously.
The use of mobile technology means that flexible working arrangements are a reality— but managing your workload is key to productivity.

By Alan O’Doherty—aodoherty@mccarthydenning.com. Alan is a Partner with McCarthy Denning – London.

Law firms are evolving, slowly but surely. The use of mobile technology has meant that flexible working arrangements are a reality and enable lawyers to become more accessible to their clients; not only through email and cellular communications but also by offering the option of working on site at their client’s premises. Huge glass atriums in fancy offices at prestigious addresses do not automatically impress clients. They want good advice from an approachable lawyer for a fee that offers value for money. However, that does not necessarily mean that they expect low fees. They are looking for flexible billing structures such as success fees, conditional fees and fixed fees. The issue of fees is usually an issue dealt with by a senior member of the firm.

So how can young lawyers get involved in working remotely? It helps if you have a client following. Admittedly, this is not easy for a junior lawyer to achieve but the reality is that you may be working on your own a lot of the time and your workload may not be given to you from a colleague within your firm. We formed our firm (McCarthy Denning) last year having listened to our clients’ “wish list”. After all, we as lawyers, are a service provider and everything we do is driven by our clients’ needs. Clients who form a relationship with a lawyer (regardless of whether they are a Partner or recently qualified) do not want their legal matter passed onto another member of the team. They trust you and like you and want to communicate with you.

Remote working requires discipline. Humans are creatures of habit and when we don’t have a regular office to work from, it can be disconcerting. The benefits of not commuting in rush hour are obvious but wandering around your home in your pajamas at 10am is highly unproductive! You must maintain a routine of regular working hours otherwise it is very easy to become distracted. For instance, on a Monday you work from home, Tuesday you work from a client’s premises, Wednesday you work from your local library, etc. Find a cool coffee shop or somewhere else that inspires you!!

Confidentiality and caution is critical. There have been many reported instances of government officials leaving confidential files on public transport. As soon as you take a client file from the office either in paper format or on your laptop / phone / tablet, you are responsible for a lot of information. You must ensure that when you work, it cannot be viewed by third parties. You don’t have to think like James Bond, but you do need to perform a reasonable check of your environment so that the information is hidden from cameras or prying eyes.

However, responsibility for files does not end there. When you are enjoying yourself having finished work for the day, you are still responsible for the client information in your possession. Where do you store your devices or files at night? Can other people you live with gain access to them? What happens to the information if your electronic device is stolen? These are serious, practical considerations which don’t disappear whilst you are sleeping!

Remote structures and flexible working is not suitable for all practice areas of law. Preparation for a trial such as photocopying bundles of documents requires the appropriate facilities. However, undertaking a day of research on a specific legal point can be carried out from anywhere with your laptop and an Internet connection. Managing your workload is the secret to productive remote working. Law firms want to keep clients satisfied but they are also keen to ensure their lawyers are happy. If less lawyers need desks, then law firms can be accommodated in smaller premises. However, you don’t have to relinquish your desk forever. Try working remotely for one or two days per week and you may find that you enjoy the best of both worlds!
FCPA 101: THE INTERNATIONAL LAWYER’S GUIDE TO FCPA COMPLIANCE

By Darcel S. Dillard — Darcel.Dillard@grifols.com

The FCPA is a U.S. federal law enacted in 1977 to address accounting transparency and bribery of foreign officials within multi-national corporations. The FCPA was created in response to the Department of Justice (DOJ) Watergate investigation. This inquiry revealed that companies were using slush funds to make improper payments and illegal contributions to American politicians. Prior to enactment of the FCPA, foreign bribery enforcement outside the U.S. was scarce. In 1997, the Organisation for Economic Co-operation and Development (OECD) Convention expanded its foreign bribery enforcement with the signatures of 29 OECD member nations and 5 non-member nations. In 1998, the FCPA was amended to coincide with the conventions of the OECD.

As a lawyer engaged in international practice, why should you care about the FCPA? Lawyers need to be cognizant of the FCPA to protect both themselves and their clients from significant civil and criminal penalties. Since 2008, there has been a sharp increase in the number of companies and individuals that have been prosecuted for FCPA violations, particularly companies involved in the pharmaceutical, oil/gas, retail, technology, and financial industries. Business transactions that pose the highest risk involve interaction/transactions with foreign government officials in countries with high levels of corruption. Transparency International (TI) has a website that identifies country risk levels. Some of the riskiest countries include the following: Brazil, Russia, India, and China.

The Accounting provision of the FCPA has two components: a book and records requirement and an internal controls requirement. The Securities and Exchange Commission (SEC) enforces accounting provisions and the DOJ enforces anti-bribery provisions. The SEC and DOJ collaborate on FCPA enforcement and reprimand corporate offenders criminally and/or civilly. Civil enforcement includes injunctive relief, equitable relief in the form of disgorgement of improper profits, monetary penalties, a corporate compliance monitor and debarment from US and EU contracting and World Bank & MDB Business. Criminal enforcement may include imprisonment and fines per violation that cannot be paid by the employer. FCPA enforcement fines imposed have been as high as $800 million and prison sentences have been as long as 15 years.

International lawyers and their clients need to have policies and procedures in place to mitigate risks posed by the FCPA, regardless of their area of practice or industry. Lack of intent and knowledge is not an affirmative defense to prosecution for FCPA violations. Companies subject to the FCPA are not required to be physically located in the U.S., they only need a corresponding nexus to the U.S.

There is not a conclusive approach to eradication of FCPA violations, but the expectation is that due diligence will be performed and that there will be internal controls and policies in place that will identify and mitigate risks. For additional information on the FCPA and for a comprehensive review of the statute and legislative history, please refer to the U.S. DOJ Criminal Division website for further resources.

CAREER RESOURCES

Interviewing Spectacularly...from Both Sides of the Desk
Date: September 12
Time: 1:00—2:00 pm ET
Register here
Succeeding in the legal profession requires networking & knowing the right people, and there is no exception for finding a law teaching position in China.

I was not even looking for a position when it fell into my lap. A professor and former Justice of the Constitutional Court in Taiwan delivered a lecture at Henan University Law School and was informed of their need for an American lawyer who could teach torts and contracts. His first thought was me. Being personally recruited by the Justice made rejecting the offer difficult, and I accepted the position despite already having professional plans in the United Kingdom.

For someone without any personal connections, the task is certainly more difficult. I recommend trying two approaches: 1. reaching out to American lawyers who do work in China; and 2. contacting deans or professors at law schools you would consider teaching at. Although it is common for Chinese law professors to spend time abroad after receiving their PhDs and be comfortable with English, it may be worthwhile to reach out in Chinese in order to maximize your chances of receiving a response. This obviously requires having someone who can speak or write Chinese assist you. You may be ignored or told there are no opportunities, but you are equally likely to find someone who will proactively help you find a position even if none exists at his or her home institution.

Networking at conferences may be another option for those who live in or near China. While my teaching post did not have any research requirements, I attended a couple of conferences on my own volition in order to meet professors from others schools and expand my network. At the risk of making generalizations, professional networking in China requires exchanging business cards and alcohol consumption. Be prepared with double-sided business cards with English on one side and Chinese on the other (make sure to hand them with both hands and the writing facing your new acquaintance), and be open to drinking Chinese baijiu.

Toward the end of the academic year, I received a couple of opportunities to teach American law at other Chinese law schools, some of which arose from my networking throughout the year. Once I started teaching, it was easier to make connections and other schools came knocking for someone with my background. This, of course, requires one to be already somewhat plugged into the system. For those who do not know where to start and do not know anyone, you know me now. I welcome you to contact me to kick off your search!
ALL ABOUT YIN

What is YIN?
YIN is the Young Lawyer’s Interest Network. As the name implies, YIN exists to provide networking opportunities for young practitioners, and to promote stronger relationships among young lawyer organizations worldwide. YIN is a network for new lawyers who have a special interest in international law. Yet YIN can be more than a simple place to meet, greet and talk shop. In the words of past chair Marcelo Bombau, YIN is what its members choose it to be.

YIN holds a special place within the framework of the ABA. YIN is a committee within the ABA’s Section of International Law (SIL). ABA-SIL has 61 committees, mostly organized by geographic interests or practice areas (e.g. arbitration, customs law, human rights). There are some committees, however, that are identified by the ABA-SIL constituents who make them up, such as the committee of US Lawyers Practicing Abroad, and YIN. YIN’s specialty is to connect young lawyers both to each other and to seasoned hands. For, since YIN is a network, that network can be plugged in to the broader community of international law practitioners. In this way, YIN is a miniature, specialized version of the generalist Young Lawyers Division, which helps connect new attorneys with veterans.

Because YIN is a network, staying in touch is the best form of participation. You can connect to YIN in many ways:

On the web - [YIN website](#)

On Facebook – [YIN Facebook page](#)

On Twitter – [@ABA_YIN](#)

On LinkedIn – [YIN LinkedIn](#)

On Instagram – [ABA_YIN](#)

YIN Committees include Programs, Special Projects, Publications, Policy, Membership and Communications/Website.

Please reach out to us if you would like to learn more about a particular committee. We are actively recruiting committee members (especially for programming, special projects, publications and website) so please consider volunteering!

YIN AND SIN COLLABORATE—
HOW YOU CAN HELP!

The ABA Section of International Law (SIL) has various committees you can join (all for FREE once you join SIL). The Young Lawyers Interest Network (YIN) and the Senior Lawyers Interest Network (SIN) have recently started new collaborations and we’d love your involvement. Both YIN and SIN are open to all who have an interest in the issues affecting young lawyers and senior lawyers. YIN and SIN bring its own perspective to the other, and may advocate for the other’s issues. How may this be accomplished? Suggestions so far include joint or separate newsletter submissions, collaboration on programming for SIL conferences, mentorship dinners, and, a delegate from YIN and SIN that will join the other committee calls to provide a monthly update on the collaboration efforts. SIN and YIN hope for a successful partnership, and perhaps we will be leaders starting a new trend for the Section -- apparent (but not actual) opposites working together on common goals! We are open to additional ideas and committee members that wish to work on this collaboration. Please contact the YIN Co-Chairs at m.megardichian@gmail.com or mbucaram@kilpatricktownsend.com to get involved!