

**NAFTA 2022 COMMITTEE
OUTREACH SUBCOMMITTEE
SEPTEMBER 2013**

I. CURRENT CO-CHAIRS:

Canada: Selma Lussenburg

Mexico: Cecilia Flores and José María Abascal

United States: Phil Robbins and Cristina Castaneda

Assisting Members: Cecilia Azar, Steve Andersen, Harry Arkin, Bob Lutz and Jim Nelson

II. UPDATE:

At the 2012 Annual Meeting in Puebla, there was a consensus among Sub-Committee members that the outreach activities completed in 2011-2012 had mainly occurred in Mexico and that this year, outreach activities should be planned for Canada and the United States. However, the Sub-Committee was clear to point out that it does not mean that efforts will be completely removed from Mexico, rather, that special attention would be given to the existing plans to conduct outreach programs in the other NAFTA countries.

The following are updates on the work of the Subcommittee:

- **Jim Nelson (United States):** Training program for the Colorado Judicial Institute. The objective of this training would be to discuss issues relevant to the state courts. Jim Nelson was unable to attend the Annual Meeting but sends the attached report on this training as an update.

Jim Nelson is also part of the Task Force for Curriculum Development and has provided a separate report on the progress in this Task Force.

- **Selma Lussenburg (Canada):** Exploring the possibility of a training program in Canada targeted to the business community.

- **Alejandro Ogarrío (Mexico):** Exploring the possibility of conducting an outreach activity for the legal community in Mexico.

- **Cristina Castaneda (United States):** Outreach program for the legal community in Tucson, Arizona. We have been in touch with Judge Ted B. Borek, Trial Judge-Division 24, Arizona Superior Court in Pima County who is assisting in organizing a the Arizona State Bar's CLE session on International Arbitration. The meeting is scheduled for June 11-13, 2014 in Tucson, Arizona. There is opportunity to participate in two 45-minute presentations followed by a breakout session. We have provided Judge Borek with information about the NAFTA 2022 Committee. Committee members who are interested in participating as speakers in this outreach opportunity on behalf of the NAFTA 2022 Committee should contact us as soon as possible.

**REPORT FROM JIM NELSON ON TRAINING PROGRAM FOR THE COLORADO JUDICIAL
INSTITUTE**

From: James E. Nelson [mailto:jnelson@lindquist.com]
Sent: Monday, September 23, 2013 3:40 PM
To: 'SmeltzerTK@state.gov'
Cc: Cristina Castaneda
Subject: Judicial Education for State Court Judges

Tricia

Here is my report on work to date on the above project.

First, I would like to thank Bob Lutz and Cristina Castaneda for their help. Early this year, I had the benefit of being able to have an intern (3L) from the University of Colorado School of Law, Jay Swamidass. Jay has moved on (passed the California bar and is working in San Francisco) but has agreed to continue to assist. Also, I would also like to thank the Colorado Judicial Institute (CJI), a not for profit corporation formed to maintain the Colorado merit selection system (we do not vote for judges in Colorado!), provide independent evaluation of judges and assist in judicial education. CJI has already expressed a willingness to support such training when we have it developed.

In order to develop a judicial education course, we needed first to determine if there was a need for such training

While I personally knew of two relatively recent reported cases in Colorado State Courts dealing with international arbitration, I had no idea how many of such cases there were in other state courts and whether the trend is increasing. It appears that there are a number of cases and that, indeed, the numbers are increasing. The types of cases vary from enforcement of arbitration clauses, rulings on discovery, interim relief issues, and enforcement issues. For example, one of the Colorado cases dealt with an arbitration under the old AAA international rules with a subsequent challenge of the award on the manifest disregard of the law. The award was upheld.

Noting the discovery issues, we expanded our research to look at procedural rules that also affect arbitration. For example, we have found four states that have rules similar to the infamous Federal 1782 provision on compelling discovery.

The research is not complete but I have enlisted a retired Colorado state court judge who is active in judicial education, James Miller, to assist in course design. Judge Miller is currently a JAMS arbitrator and has taught in Reno.

I plan to have the research completed by year end and a course design completed by the end of the first quarter of 2014. I would be grateful if anyone on our Committee would review the work product.

Respectfully submitted

Jim Nelson
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