

Oregon Attorney General Ellen Rosenblum Spearheads New State Attorneys General Issues Committee

By Jennifer Bragar

Oregon's Attorney General, Ellen Rosenblum, has served in the ABA House of Delegates for 25 years and as Secretary of the ABA from 2002 to 2005. She is currently the Vice-Chair of the Section State and Local Government Law and looks forward to chairing the Section in 2016-17. After a lengthy career as a trial and appellate judge in Oregon, Ellen retired from the bench and, soon thereafter, ran for Attorney General. After winning a hard fought primary election, she was appointed and then elected in November 2012. She has recently announced her plans to run for a second four-year term next year.

Ellen, along with her two private sector co-chairs, Ashley Taylor and Tony Majestro, recognized the need to create the Section's now two-year old State Attorneys General/Department of Justice Issues (AGDJ) Committee. The Committee has already attracted over 200 members, has published numerous articles, and has put on CLE programs at the ABA Annual and Midyear Meetings and at Section meetings on a diverse array of topics, including the inner workings of the new Consumer Financial Protection Bureau, regulation of electronic cigarettes, Internet privacy, the Class Action Fairness Act, and student debt. The Committee carries to the national level many of the Oregon Attorney General's state priorities—including consumer protection, protection of diverse communities through enforcement of civil rights, Internet privacy and digital crime issues, and elder financial abuse.

Although Attorneys General across the country often join forces to share resources and strategies, the AGDJ Committee provides an informal brainstorming ground and an opportunity to build connections and obtain input from a broad swath of lawyers whose clients' interests intersect with the work of state Attorneys General. With its strong emphasis, thus far, on consumer protection issues, these activities can help ensure that national solutions are found to stop some of the most abusive behaviors against the general public and vulnerable citizens.

Another way in which the Committee provides value is in attracting law student and young lawyer members to its ongoing work related to the "obligation of a lifetime"—student debt.

I asked Ellen to give me some examples of subjects that AGs are currently working on nationally. Although they are numerous, she gave two: An ongoing multi-state Attorney General investigation highlights some of the problems

pertaining to the "for profit" educational industry. Another involves inflated magazine subscription sales.

The Deceptive Practices of For-Profit Schools

A large group of state Attorneys General are participating in a joint working group examining for-profit colleges. Many of us have seen the commercials for such schools offering online degrees, but for most of us that is where the advertising stops. Some schools, however, go further to recruit students who would not otherwise meet minimum requirements to successfully obtain college degrees or who suffer from learning disabilities that make them ripe for abusive practices by the schools' aggressive recruitment policies.

Attorney General Rosenblum's office sits on a multi-state negotiating group working toward nationwide relief to change certain schools' recruiting tactics and to address harm to former and current students. These might include unlawful representations in advertising, inserting unconscionable clauses into enrollment agreements, and misrepresentations related to job placement rates and employment availability. In exchange for enrollment, students can end up with huge debt loads and little chance of a degree or success in a "high paying" job as promised during the recruitment phase. Meanwhile, in many states, community colleges offer similar programs for a fraction of the price.

White City, Oregon, Magazine Subscription Operation

Recently, Attorney General Rosenblum filed an unlawful trade practices lawsuit against 19 companies and nine people who operate a nationwide newspaper and magazine subscription enterprise based out of White City, Oregon. Four other states filed similar lawsuits the same day. Oregon's complaint alleges that since 2010, this enterprise made in excess of \$20 million by selling fraudulent newspaper subscriptions and by telling consumers that existing newspaper and magazine subscriptions were about to expire and offered to renew the subscriptions at 40% to 100% above the actual cost for such renewals. The Oregon lawsuit also alleges that the proceeds were laundered through companies created for that purpose. As of printing, the cases are pending, but she told me she is hopeful that all of the parties, including the other states that have sued, can work together to help resolve the outstanding issues successfully. If not, there could be separate trials in each state that has filed a lawsuit.

Conclusion

The State and Local Government Law Section is lucky to have a leader and strategist like Attorney General Ellen
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and *Shield: A Practical Approach to Section 1983 Litigation, Fourth Edition*, contains expert analysis regarding every issue you might face in a Section 1983 case. Fully updated since the 2006 publication of the Third Edition, this new guide provides you with a practical approach to this technically difficult and ever-evolving area of law.

Municipal Law Deskbook

This summer the ABA will publish a *Municipal Law Deskbook* offering legal guidance to municipal attorneys, private practitioners, city administrators, and educators. The book covers a full range of those issues that commonly arise in day-to-day local government administration and the content is intended for attorneys and nonlawyers alike. The chapters cover such topics as when and how federal laws and regulations preempt local legislation; how state freedom of information acts control local government meetings and record-keeping; the rules of ethical, transparent public purchasing and construction contracts; the basics of sources and uses of revenue; and those areas of local regulation that can constitute a taking of private property. The book also gives guidance on public employee labor law, on public employee rights under the U.S. Constitution as to freedom of speech on and off duty, rights against unreasonable search and seizure of personal property, and the consequences to the employer of a public employee's wrongful acts. The book gives guidance on the proper form of intergovernmental agreements and interstate compacts, such as mutual aid for emergency services. The book closes with a chapter on preparing a record for the most common form of judicial review of a local government action, namely, a review based on substantial evidence, together with an essay by a trial judge with much experience in that field.

The editor is William Scheiderich, a local government attorney in Oregon with over 30 years experience and the editor of the Section's publication on eminent domain. Chapter authors are from throughout the United States with notable experience in their fields of practice.

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Rosenblum to co-lead the AGDJ Committee. While all of us who practice in the substantive areas covered by the Section understand the important intersection of politics, public service, and the impact we make on the fabric of our communities, few of us have the opportunity to undertake the yeoman's work of Attorneys General who protect our most vulnerable populations. We applaud the work of Attorney General Rosenblum and the AGDJ Committee and invite all of you who do state-related public sector work or are interested in state activities to get involved with the Committee—and, of course, the Section—a place where you know your work will and does make a difference to those without access to justice.

Section Meeting Calendar

July 30–August 2, 2015

ABA Annual Meeting

Westin River North
Chicago, Illinois

October 8–11, 2015

Section Fall Meeting

Brown Hotel
Louisville, Kentucky

February 3–9, 2016

ABA Midyear Meeting

San Diego, California

April 7–11, 2016

Section Spring Meeting

InterContinental San Juan
San Juan, Puerto Rico

August 4–7, 2016

ABA Annual Meeting

San Francisco, California

November 17–20, 2016

Section Fall Meeting

Ritz Carlton
Phoenix, Arizona

February 2–5, 2017

ABA Midyear Meeting

Miami, Florida

April 27–30, 2017

Section Spring Meeting

Ritz-Carlton
St. Louis, Missouri

August 10–13, 2017

ABA Annual Meeting

New York, New York

A Sea Change in the Law

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movement. Same-sex marriage bans would remain constitutional, thereby allowing marriage bans to be revived in a majority of states (the 14 states with in-effect bans, plus all states in which courts have invalidated same-sex marriage bans post-*Windsor*). Such an outcome would be a setback for those arguing for increased rights for LGBT individuals (including LGBT employees).

An even more crushing blow to the LGBT rights movement would occur if the Court found that the Constitution does not require states to license or recognize same-sex marriages. Such an outcome would keep in effect the marriage bans in 14 states and allow over 20 states to argue that their marriage bans, which were struck down by lower courts, should be given full effect on a prospective basis. Such a ruling would have ripple effects beyond the same-sex marriage context. Just as pro-LGBT language from the Supreme Court will likely have an impact on lower court jurisprudence regarding issues surrounding LGBT individuals (including employment and employee benefit discrimination), so too would less positive or negative language from the Supreme Court make lower courts more wary of issuing rulings that increase LGBT rights.