



**2009 ABVE
Annual Conference:
Hotel Monteleone
New Orleans
March 27-29, 2009**

By Don Jennings, Conference Chair

The 2009 American Board of Vocational Experts (ABVE) annual conference will be held in New Orleans, March 27-29, 2009 at the Hotel Monteleone. This is a great time to come together and learn from one another. The conference has been structured to provide a broad base of sessions focused in the forensic arena for our members. Since ABVE only has one conference per year, it is even more important to attend this conference to keep abreast of the increasing knowledge in our field and obtain continuing education (CE) units. Keep in mind, this conference offers you the possibility of obtaining up to 20 to 24 ABVE CE units and 13 to 16 CE units for CRC, CDMSC, CCM, CHC, NBCC, and APA.

Beyond all that jazz in the *Big Easy*, this year's conference jazz has two excellent pre-conference workshops: (1) Dr. Eugene Van de Bittner will conduct a program entitled: *Successful and Ethical Plan for Managing a Vocational Expert and Life Care Planning Practice and*, Dr. Tim Field will conduct a workshop entitled, *Critical Issues Impacting Vocational Testimony from 1970 to the Present*. Both program are sure to provide excellent information for you to take back to your practice.

The overall conference embraces a variety of topics, such as tips for the VE regarding consultations between the VE, attorney, medical and allied health providers. Additional workshops include: *Direct and Cross Examination Testimony; Ethical Issues facing VEs;* and *Functional Capacity Evaluations: History, Validity, Reliability and Use*. Look to the website (www.ABVE.net) for a full overview of the program and print out a brochure. While you are there, go ahead and register for the conference through our new on-line registration process!

Oh by the way, Saturday the ABVE Annual Business Luncheon is held for all members. Come and listen to the year in review, what is going to happen in the future, and meet your new ABVE leadership team! All registrants are welcomed and encouraged to attend.

Here's to looking forward to seeing you in New Orleans!

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President's Message: Two Years, A Reflection

By G. Michael Graham, ABVE President, 2007-2009

Colleagues, this is the last time I will be writing an ABVE Newsletter address as your President: My term of office ends with our conference in March. Where has the time disappeared to so darn quickly? Two years have seemed to have just “zoomed” by. Maybe that is a function of my own chronological age, everything seems to be on an acceleration curve! As I review some of your names in the ABVE Directory and make contact with colleagues in other venues, it seems that you too are being painted with grey hair, wrinkled skin, different interests and are making plans for retirement; how can this be? Now at least, I better understand what my own parents were talking about when they too felt that things, events, and their own mortality were going too fast as they also entered their “sage” stage, as my family called it.

Looking back over the past two years, it is difficult for me to isolate certain events or actions so that I can say, “look what took place on my watch.” I do not tend to live my life by the positive or negative “chunks” that come into and out of it, but in a capsule, here are five events that left their mark on me individually:

1. I personally, and ABVE in general, lost some very bright and contributing souls over the past two years, either through significant medical issues or death. The one abiding thought remains from my interactions with these fellow souls is *attitudes are much more important than aptitudes*. From these interactions, I will pass along to you, some of the thoughts that are a guidepost for me:
 - Look forward, not backward;
 - Trust your hopes, not your fears;
 - The biggest mistake you can make is to be afraid of making one;
 - Prepare to compromise but don't allow someone's opinion of you become your reality;
 - Believe that you can make a difference; and,
 - Make today count.
2. I had high hopes that ABVE could have made some positive progress with the American Bar Association in a collaborative effort to obtain a Federal Training Grant. This grant was designed to provide funds to hold collaborative training sessions all over the country with clusters of local ABVE members and their County or State Bar Association members. The purpose of the training was to introduce Bar Association litigators to the “Value-Added” benefits of retaining certified ABVE members as expert witnesses. I actually felt that ABVE had an “inside track” in this process when the incoming National Bar Association President at the time (2007-2008) was a well know and respected attorney in the Seattle area. Along with me, ABVE member, Harry Whiting, Jr. (at that time had recently moved to the Northwest) also spent many hours of his own time communicating with the Administrative Secretary of this attorney. The long and short of it is that neither Harry nor I made one bit of progress in

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President's Message Continued...

cementing such a contact—we were stonewalled! Preparations that were made in advance, in anticipation of this collaborative arrangement, included a wide scope of ABVE member volunteers from around the country willing to work on this committee and a new ABVE brochure was developed specifically pointed toward attorneys and the goals of this project. This still is a project which holds a lot of promise for all ABVE members. I had hoped this would be a way to enhance your marketing; increase attorney awareness of the professionalism of ABVE members; and, to bring litigators and ABVE members together in an exchange of ideas and contacts. One of my goals as Past President will be to continue to bring about a collaborative arrangement with the American Bar Association. From my past experience, I believe that I now have a better approach and I intend to be less idealistic in my attempt to make this collaborative arrangement happen.

3. ABVE lead the nation in coming to grips with the concept of “Who’s The Client” in forensic settings. You may recall that your ABVE Board of Director’s and a sub-committee lead by John Williams, wrestled with this issue. As the result of some of the remarks that were captured in the three surveys ABVE put forth a few years back. As the direct result of the survey results and subsequent discussions, the Board and ABVE members voted to accept the proposition that in a forensic setting, *the vocational expert has NO client except the truth*. The concept leaned heavily on evidence-based facts and professional clinical judgment. The effect is that you a practicing VE is not beholden to either the person with the disability nor the retaining agent. This concept was adopted by the ABVE membership and as a result, the ABVE Code of Ethics was revised to reflect, that in a forensic setting, *the vocational expert has NO client except the truth*.

Since many of the members of ABVE are also members of other related organizations, an inter-agency group met after an IARP Conference last year. I represented ABVE and hammered out a similar “Who’s The Client?” white paper that followed along the lines previously adopted by ABVE. This white paper has been adopted by all representative agencies and all now speak the same language and soul when one speaks of a “client” in a forensic setting. The importance of this action is that all agencies, whose members are involved in the provision of forensic services, understand that there is NO CLIENT. When retained as a vocational expert (VE), the goal is to seek and teach the truth about the matters under consideration. This is different for the provisions of direct services. That concept has not changed the definition or meaning of “client” when a vocational professional is involved in the provision of “Direct” services to the person with a disability.

4. One of the major “key stones” of ABVE has always been its Certification Process. This process, as published by Dave Martin and Larry Sinsabaugh through the ABVE Journal, is unique in the country. It has two distinct processes: (1) a peer-review process; and, (2) a knowledge-assessment process (ABVE National Certification Test), which focuses on the key elements that a vocational expert needs to know to practice in forensic settings.

ABVE is proud to welcome the following...

New Associate Members

- Godfried Fritz
- Ryan Bruce
- Alina Sala
- Edward Pagella
- Robert Gall
- Lisa Bartle
- David Lindes

New Student Members

- Andrew Nay
- Danny Wolstein

Additionally, we would also like to **congratulate our newly certified members:**

- Gabrielle David, Diplomate
- Gregory Gusha, Diplomate

We also extend congratulations to Abbe May for her **successful upgrade from Fellow to Diplomate status**.

Future ABVE Conferences

Mark Your Calendars!

Spring 2009
March 27 - 29
Hotel Monteleone
New Orleans, LA

Spring 2010
March 24 - 28
Town & Country
San Diego

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President's Message Continued...

The ABVE National Certification Test (NCT) was first conceptualized and developed by Harold Kulman in the 1980's. Harold was one of ABVE's early-on Presidents and a Board member for many years. Over the years, Billy McCroskey, aided by others on the Test Committee, reviewed content and added it to the test. However, the NCT had not undergone a major overhaul upgrade for many years. It had lost some of its focus on present-day knowledge and skills.

Accordingly, I formed a committee to evaluate the present test and recommend solutions. The Test Committee is composed of Michael Graham, Chair and members including Larry Sinsabaugh, Estelle Hutchinson, Joe Havaneck, Jeff Lucas, Scott Stipe, Larry Wilkinson, Kristy Farnsworth, Eugene Van de Bittner, and Robert Cottle. The committee has diligently reviewed 280 original (existing) test questions. Through consensus they have discerned which questions should be retained or rejected based on content, importance, relevance, syntax and readability. The committee has developed new and replacement test questions reflecting the state of today's forensic world. Decisions have been guided by several books published by Elliott & Fitzpatrick, Dr. Tim Field and Janet Field publishing company. The Fields are seasoned professions in the forensic vocational expert business and they allowed ABVE to purchase the Daubert Series monographs and other state of the art textbooks at publisher's cost. The Test Committee has almost completed its work. Approximately 175 new test questions have been developed and the committee is coming to a collective decision as to "which ones to keep and which ones to leave out!" A next step in this process is to have the ABVE Board of Directors and all ABVE Diplomate members take this new test (which will be a combination of the existing test questions the committee concluded should be retained and the new questions the committee opined should be retained. This will constitute the validation study. Of course, the results of this testing study will be kept confidential. Results from the validation administration will NOT affect the certification status existing certificants. As I wrote, this administration is designed to be the validation study. This validation testing will only be a study of the test questions themselves, giving the Board of Directors an indication of evidence for "content validity" and "reliability." Following the validity studies, it is my intent to put this new 2009 version of the ABVE NCT in place. It is my intent that this process will add greater legitimacy to the test for our own members and others in the rehabilitation and forensic community. My goal is just about to be realized, this is, a strengthened ABVE National Certification Process.

5. There have been other actions and activities that have occurred over the past two years that have not been listed here, such as the cost-savings reduction from two yearly major conferences to a single conference. In addition, ABVE has also has savings from new processes implemented by Kristie Black. Kristie is ABVE's Headquarters Account Manager. Just to mention a few of the changes that she has put into place:
 - The ability of an ABVE Member to access his/her ABVE Online Directory profile and make changes, in real time,
 - Online event registration, paying of one's membership dues and buying various products, articles, monographs, etc.,
 - Updated the establishment of a "members only" designation on the ABVE website where members and certificants can obtain Board minutes, etc.

In closing, I wish that I could look right into the eyes of each of you and say, "The most significant decision you can make on a day-to-day basis is the choice of your attitude—that choice is always only yours to make!" In addition, I would also say, "Live life rather than letting life live you." Make "focus time" a habitual part of your day. Here is a "focusing question," "What wants my attention at this time?" and then wait and listen to your intuitive-self before acting. What the heck, give it a try!

I look forward to visiting with as many of you as can make it to the ABVE conference this late March, in New Orleans. Don Jennings, ABVE's current Past President, has assembled a great program of seminars and learning events, PLUS we have the French Quarter and the ambiance and flavor of New Orleans at our fingertips. See you there. One final comment, go to the ABVE Website (www.abve.net) and register. Oh yes, be sure to look me up while at the conference to say "hi" and let me know that you are practicing *The Power of Focus*!

From The Editor's Laptop

By Larry L. Sinsabaugh

This issue spotlights the upcoming spring conference in New Orleans scheduled for March 27-29, 2009. Inside you will find a new roster for the Board of Directors that begins in March. Also in this issue, Michael Graham, President, lists some of the major things that have been accomplished during his administration—some significant happenings that make this association more relevant and meaningful to certificants and members. Mike has worked very hard to accomplish some long needed advancement in the National Certification Test and the Code of Ethics to mention a couple of highlights. As Mike ends his tour of duty, we say, THANKS!

Over the last two years, Glenn Zimmerman has held the line on management fees to this organization, even cutting his fee the year before last to help keep ABVE in the black. We are grateful for what he has done to enhance ABVE's equity position. When conflict occurred among Directors, Glenn gently nudged folks to work out differences positively; and they did. To this end, ABVE says, THANKS Glenn! ABVE is also says THANKS to Kristie Black for keeping the administrative details under control and fixing the stiff points, when they happen. Moreover, ABVE is grateful to Shiela Locatelli-Wallace for her expertise that makes this newsletter look good, time after time—THANKS, Shiela.

Look over this newsletter with an eye to the financial state of the Association in an article by Gray Broughton. Later we also highlight his non-profit work with the North Star Foundation. Next, you will find a proposed code of ethics of for the treatment of experts by lawyers, and a listing of the new Board of Directors, certificants and members.

One final note, Betty Hale has edited the newsletter for the last two years. She never complained, she just did her job and she did it well. Her dedication and steadfast calmness in the face of major frustration with deadlines and copy issues deserves a big hand of applause. It is only because important emerging issues with family that she was not able to produce this final issue. Betty, in the deep recesses of our hearts we say thanks for being a “*good and faithful servant,*” for a job well done—THANK YOU!

New Orleans, A Good Place To Visit: Update 3 Years After Katrina

By Kristie Black



Kristie looking through various tourist and public relations press releases found:

New Orleans as a tourist destination has a fresher product, cleaner streets, new attractions and hotels, more restaurants, record-breaking attendance at cultural festivals, and a renewed sense of hospitality!

Among its many honors, the city was named as one of America's Favorite Cities in a 2007 by *travelandleisure.com* and *CNN Headline News* poll. Here's the skinny:

There has never been a better time to visit New Orleans—In the past few years, more than 150 new restaurants have opened in New Orleans, major hotel brands are investing in our city with renovations and upgrades and new real estate developments are happening year-round. I see a great future for the New Orleans business community.

Kristie suggests, “Go to the ABVE web page (www.ABVE.net) and register for the Spring Conference—See you in New Orleans!”

Keeping ABVE Financially Sound: A Treasurer's Perspective

By H. Gray Broughton, MS, Diplomate/ABVE, CRC


As the 2007-09 Board winds down, and the new one begins in March, I wanted to tell you a little bit about what the ABVE Treasurer does. As the current ABVE treasurer I am responsible for insuring that the books for the organization are kept in a fiscally responsible manner. As most of you know, our organization has an Executive Director, Glenn Zimmermann, who oversees the day to day functions of ABVE. He and the other members of his organization, BTF Enterprises, perform various tasks assigned to them by the ABVE Board of Directors. Financial statements including profit and loss statements and a monthly balance sheet are sent to me each month for review. In addition, I review and approve all invoices that are to be paid.

To my mind, BTF Enterprises does an excellent job supporting me as well as other board members and officers in different facets of the organization's administrative needs. They also do our annual taxes and file all other required documents with the Internal Revenue Service. In addition, BTF assists in conference planning and advises the Board of Directors about charges so that we can make a profit off of each conference—this keeps ABVE financially stable and operating in the black.

One change that the board made this past year was to have one conference per year instead of two. This has helped ABVE financially. It encourages people to come to the one conference that is offered and cuts down on the expense of having two conferences. BTF has also reduced its fees to ABVE about two years ago in order to help the organization during some financially tough times. Moreover, they have not increased their fees back to that previous level, nor have they increased their fees for the last three years or so. ABVE appreciates BTF's everyday's working in every way that they can to help us operationally and financially.

To make things go better, ABVE is considering changing our fiscal year from calendar year January 1 through December 31, to a fiscal year of July 1 through June 30. This would help us get a clear understanding of how much money we have. Our dues are paid towards the end of the year and our financial picture changes according to how many people pay their dues in advance and how many wait to pay them after the first of the year. This can be somewhat confusing. By changing the fiscal year ABVE can get a better picture of exactly how we are doing financially. I will bring a copy of the ABVE's year end equity for the past ten years between 1999 – 2008 to the Annual Business meeting to show members how the fiscal controls work to keep the Association financially healthy.

ABVE's financial health is directly connected to membership. The more members we have, the better off the financial picture will look. I am co-chairman of the membership committee and it is a very difficult task to get new members into the organization. You can't recruit just anyone; potential members have to be semi-qualified to be a vocational expert. Of course one can grow with the organization. One can join as an associate member and with the proper combination of background and test results, convert their associate status to one of certification. It is my goal to get as many members as possible. As with other organizations, ABVE is graying-out. We need members that are younger than the vast majority of our current membership. Some of us have retired and others are definitely "approaching retirement age." ABVE is receptive to any ideas that will help this association recruit and keep new members. So, don't hesitate to call (804) 282-4199 or email (bai@broughtoninc.com) me with your ideas. Come to the Annual Business meeting and I will share a new idea that I have about holding one-day "regional forensic seminars." Bring your ideas and tell us about them. ABVE has demonstrated an ability to "think-outside-of-the box. We do want to hear your ideas! Hey, when you get to New Orleans (March 27 – 29, 2009), look me up and say hi—also tell me some your ideas for making ABVE still better. I will look forward to seeing you at the upcoming spring conference.



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Code of Ethics

By Michael Graham, 2007 - 2009 ABVE President

As most of us know, 2008 was the year in which many vocationally oriented organizations revised their Code of Ethics. These well conceived doctrines provide vocational practitioners behavioral guidelines that, if practiced, keep us “professional;” and, protect the rights of those which whom we interact and serve. But what about the litigation lawyers who retain vocational professionals as expert witnesses who are asked to be the conduit for the evidence these lawyers present to judges and juries, and upon which they ask these “triers of fact” to based their judgments?

The writers of IMS Expert Services recently published, *Proposed: A Lawyers Code of Ethics*. The author, Robert Ambrogi, has been writing a series of articles over the past year on ethics and the use of expert witnesses. The problem as his organization sees it is that existing ethical rules for lawyers are all but silent on the topic of expert witnesses except by the consensus that is gathered in their seminars, legal education, trial and error and other such interactions. Ambrogi writes,

Taken together, these common-law and practice-generated mileposts can provide some useful guidance. But they are at best a patchwork, varying widely from jurisdiction to jurisdiction. Even within a single jurisdiction, these informal standards may be inconsistently applied and frequently misunderstood.

In an attempt to fill this “lack gap” IMS Expert Services has proposed a set of “Lawyer oriented” ethical cannons. Hopefully ABVE members will want discuss these ideas. A funny thought occurred, do we dare take these cannons to our local State or County Bar Associations for discussion and perhaps endorsement? Ethical behavior and guidelines permeate every professional conference we attend. Yet in my humble experience, the “*ethical revolver*” has always had its barrel pointed in our direction. Here are the ethics cannons for the lawyer as proposed by IMS Expert Services. I think that you will find these interesting to say the least:

A. Expert Impartiality

A lawyer shall do nothing to interfere with an expert witness’s independence and objectivity. A lawyer shall not attempt to influence the content of an expert witness’s testimony.

A lawyer shall not seek to pressure an expert witness, directly or indirectly, to change an opinion, even when that opinion is detrimental to the lawyer’s case.

A lawyer shall not induce an expert witness to offer opinions and testimony beyond the scope of the expert’s expertise.

A lawyer shall not knowingly permit an expert witness to present testimony that is false or misleading.

A lawyer shall not, directly or through a third party, seek to discourage an opposing party’s expert witness from testifying or attempt to influence the testimony of an opposing party’s expert.

A lawyer shall not manipulate an expert’s opinion by withholding relevant information

A lawyer may ethically ask an expert witness to disregard certain evidence or to assume the existence of certain evidence for the purpose of framing a hypothetical scenario on which to obtain the expert’s opinion.

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Code of Ethics Continued...

A lawyer may ethically assist an expert witness to prepare for trial or deposition, provided the lawyer does not seek to influence the substance of the expert's testimony or interfere with the expert's ability to testify truthfully and accurately.

In preparing the expert, the lawyer may tutor the expert on the issues of fact and law at issue in the case. The lawyer may inform the expert witness of the questions to be asked during direct examination and of the questions likely to be asked on cross-examination. The lawyer may counsel the expert witness on demeanor, language and form of answers.

B. CONFIDENTIALITY

In communicating with expert witnesses, the lawyer shall at all times ensure that the preservation of client confidences remains paramount.

A lawyer shall fully inform an expert witness on issues pertaining to client confidentiality as it applies to lawyer/expert communications. A lawyer should ensure that the expert witness understands that, in general, all of their communications may be subject to disclosure, either through discovery or testimony.

C. FEES

A lawyer may pay an expert witness an hourly fee and may pay a flat fee provided it reasonably reflects the value of the expert services and the expertise of the expert witness.

A lawyer shall not pay or offer to pay an expert witness a fee that is in any manner contingent on the content of the testimony or the outcome of the case.

D. EX PARTE COMMUNICATIONS

A lawyer shall not contact an opposing party's expert witness outside the process of formal discovery or otherwise engage in ex parte communications with an opposing party's expert witness.

When a lawyer has any reason to believe that an expert has been retained in any fashion by another party to the lawsuit, the lawyer should have no further ex parte contact with that expert.

F. CONFLICTS OF INTEREST

A lawyer should withdraw from a case if the opposing side's expert witness is a former client, unless that expert witness consents, in writing, to the lawyer's continuing involvement in the case, and acknowledges the potential for disclosure of confidential information obtained through prior representation.

A lawyer should refrain from retaining an expert who has opposed the lawyer, or his firm, in another case insofar as it may force the lawyer to alter his/her position on the expert's credibility.

A lawyer who retains an expert witness should request that the expert refrain from accepting potentially adverse engagements for the duration of the retention.

A lawyer should not serve as advocate in a case in which the lawyer or a member of the lawyer's firm may be called as an expert witness.

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Code of Ethics Continued...

G. PROFESSIONALISM

A lawyer who retains an expert witness shall ensure that the expert fully understands the standards applicable to the jurisdiction to the use and admissibility of the expert's opinions.

A lawyer who retains an expert witness shall prepare and require the expert to sign a retention letter fully stating forth the scope of the retention and the expert's obligations with regard to truthfulness, independence and confidentiality. This retention letter shall also define the parameters of the relationship, including the scope and limitations, as well as the expert's responsibilities.

A lawyer shall not use expert testimony as subterfuge to introduce evidence that the court has already excluded or ruled inadmissible. A lawyer is permitted to ask the expert witness to base an opinion on admissible evidence if it is of a type reasonably relied upon by that expert in the particular field in forming opinions or inferences upon the subject.

A lawyer shall not identify someone as an expert witness before that expert has been retained or AFTER the expert has resigned or is terminated from the case.

A lawyer shall not retain an expert witness solely to exclude that expert from being retained by an opponent.

A lawyer shall not seek to induce a retained expert to switch sides in a case or to alter his/her analysis or opinions.

A lawyer shall not draft or dictate the contents of an expert's written report. A lawyer may properly guide an expert on the format of the report and the issues to address.

A lawyer shall not use complex scientific and technical expert testimony to complicate or obscure the issues in a case.

There you have it, what do you think?

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*This article was originally published in BullsEye, a newsletter distributed by IMS ExpertServices(tm). IMS ExpertServices(tm) is the premier expert witness search firm in the legal industry, focused exclusively on providing [custom expert witness searches](#) to attorneys. To read this and other legal publications, please visit [IMS ExpertServices' recent articles](#). Deborah Brousseau, Manager, Internet Marketing **IMS ExpertServices (1/19/09)**.*

Broughton '05 Dedicated to Helping Those with Disabilities

By **Betty Hale**

Serving people with disabilities is second nature for H. Gray Broughton, an Auburn University 2005 graduate of the College of Education (Master's in Rehabilitation Counseling). Broughton, who is passionate about serving those with special education needs, acts as chief executive officer and owner of his own private rehabilitation company.

Broughton Associates, Inc. has served the Richmond, VA area since 1982, with the exception of the years 1999-2002, during which time Broughton served as commissioner of the Virginia Department of Rehabilitation Services. During his tenure as commissioner, Broughton was responsible for five major programmatic rehabilitation areas in the state of Virginia, including all vocational rehabilitation field and regional offices, disability determination services regional offices, the Woodrow Wilson Rehabilitation Center, community-based programs, and administrative services. As provider of a range of contemporary rehabilitation service needs, Broughton's company offers medical coordination services and disability management advisement, vocational assessments and job placement for worker's compensation claimants, and expert witness testimony. Indeed, Broughton himself may be described as a "jack-of-all-trades." His numerous professional titles, all of which are highly respected in the field of rehabilitation, include certified rehabilitation counselor, licensed rehabilitation provider, and American Board of Vocational Experts/Diplomate.

Broughton's advocacy is also evident in the concept of total community living for young people with disabilities making the transition to the adult world. Broughton serves as a member of the board of directors of Northstar Academy, an independent school that provides individualized instruction in a structured and nurturing environment to students in grades K-12 with a broad range of learning issues and disabilities in the Richmond, VA area. The school's purpose is to strengthen student skills to allow them to return to their home schools and to provide a full academic curriculum through the 12th grade for students who may benefit from the program. Broughton assumed responsibility as Northstar's Chairman of the Board last year, and already, under his direction, significant changes have occurred that indicate future stability and growth for the school. According to Beth Daly, former chair of development for the Northstar Academy Board of Directors, "annual giving increased last year by an astounding 254 percent." Also at Northstar, Broughton has overseen the hiring of a new director of development and the completion of a five-year strategic plan. Not only has he tripled the endowment fund, but he has begun the process of partnership that will create a multi-functional community for people with disabilities. The proposed Nu-Solutions Partnership will include Northstar Academy, the Faison School for Autism, a transition to life/vocation/higher education program, an independent living center for people with special needs, and a special needs college that will prepare students with disabilities for careers.

"This is a wonderful opportunity" said Broughton. "We are looking for a new campus for Northstar Academy which will be at least five times the size of the current campus and will increase the school's capacity for students from 100 to 250."

This article was re-printed in its entirety from the Keystone, College of Education, Volume V, 2008 journal with permission of Auburn University.

2009 Elections: ABVE Elects New Board of Directors

ABVE welcomes winners in the most recent election to the Board of Directors (BOD):

- Cheryl R. Chandler, Secretary
- H. Gray Broughton, Treasurer
- Jayne Barton, Member at Large
- Ronald Ted Smolarski, Member at Large
- Howard L Caston, Member at Large
- Richard Barry Hall, Member at Large

The term of the new Board begins on March 26, 2009. These newly elected Members of the BOD will join Larry Sinsabaugh, Mike Graham, Dick Baine and Estelle Hutchinson in ABVE governance. Also, E. Dais Martin, Jr., continues as Journal Editor, in an appointed position term of editorship. When the new board is installed, Mike Graham will serve as Past President and Larry Sinsabaugh will become President.

Expert Witness

Below, attorney David Tirella advises attorneys on what to look for in quality expert witnesses. Experts would be well served to take this information to heart, as your prospective attorney-clients are probably looking for these qualities in you!

A Four ‘P’ Expert

After years of locating, interviewing, and personally hiring hundreds of authoritative expert witnesses, I now believe the process of selecting experts can be narrowed down to four simple questions. If all four questions can be answered in the affirmative, then the type of quality witness that will help advance any litigation case has been found. I refer to this type of exceptional expert witness as a “four P expert.” A “four P expert” is a person who has the following qualifications: The witness is a practitioner in his or her field of study; the witness is a professor in his or her field of study; the witness has published peer review articles, textbooks, or guidelines in his or her field of study; the witness presents well in front of a jury.

Practitioner—One who practices an occupation, profession, or Technique . The first “P” of a “four P expert” stands for practitioner. Dictionary.com defines a practitioner as “one who practices something, especially an occupation, profession, or technique.” Practitioners are engineers, technicians, physicians, surgeons, dentists, scientists, counselors, and hundreds of other jobs. Expert witnesses who possess practitioner experience have an advantage in testifying before a jury because they routinely perform the very procedure or practice that is being questioned in the litigation. A practitioner expert witness can look the jurors in the eye and confidently assure them that his or her opinions are correct. This confidence stems from the fact that the practitioner expert successfully performs the questioned procedure on a regular basis. An expert witness who has little or no hands-on experience can be vulnerable to cross examination, even if the expert has an impressive curriculum vitae. An expert witness with practitioner experience, on the other hand, can quiet critics, whether they are judge, jury, or opposing counsel contending that the expert is merely restating opinions he has only read about. Quite simply, there is no substitute for doing.

Published — One Who Has Been Published in Periodicals or Books - The second “P” of a “four P expert” stands for published. An expert who has published peer review professional journal articles, chapters in texts, or books will have a strong working knowledge of all published opinions and counter opinions on the area in question. A published expert witness can explain to a jury how his or her opinions agree or disagree with other national published experts. An expert witness who has published in peer review publications gets the benefit of the jury’s understanding that her research and opinions have been deemed worthy to publish for all the world to see. In short, this kind of witness has authority and veracity.

Professor — a Teacher or Instructor—The third “P” of a “four P expert” stands for professor. An expert witness with teaching experience, especially in the area in question, is a tremendous advantage. Virtually every civil law suit needs such a teaching witness to help explain the issues of liability, causation, and damages to the jury. Further, such a witness will be able to explain these issues and opinions in a clear and concise manner that is ideally suited for a courtroom presentation. Not all expert witnesses have such teaching experience, and hence may not be ideal for creating a teaching environment for the jury. Who is better qualified to teach a jury than a quality teacher?

Presentation — a Lecture or Speech Set Forth for an Audience The fourth “P” of a “four P expert” stands for presentation. Research tells us that for many individuals, the messenger is just as important as the message. If this research is accurate, then trial lawyers must be sensitive to what their expert witnesses look and sound like in hope of having a messenger to which the jury can easily relate.

Credibility and personal likeability are intertwined with actual content of the message. If time is not an issue in the case, then a personal visit to any new potential expert witness is well worth the time and effort in order to ascertain how the expert presents. If time is short, then a current photograph and a curriculum vitae for your analysis before retaining an expert witness can be very helpful. Having a one-on-one meeting with the potential expert witness can help to resolve any potential issues that a jury might have with the witness. As we know, a picture is worth a thousand words.