



The Addendum

GEARY SELECTED AS SHAREHOLDER AND DIRECTOR

Dysart Taylor is pleased to announce that Matthew W. Geary has been elected a shareholder and member of the firm's board of directors and that Amanda Pennington Ketchum has joined the firm as an associate.

Matthew W. Geary.

Matt joined the firm as an associate in 2002, after serving as a judicial law clerk to the Honorable Patricia Breckenridge.



Matt will continue his general litigation and appellate practice. Matt earned his law degree from the University of Kansas in 2001, where he was a note and comment editor for the University of Kansas Law Review and a legal

intern for the Honorable David J. Waxse. Matt earned his undergraduate degree in political science from William Jewell College in 1998. While at William Jewell, Matt earned varsity letters in soccer, cross country and track, was a captain of the cross country and track teams, earned all conference honors in track four times and was a member of the Phi Gamma Delta fraternity.

Matt is currently a member of the board of directors of the Lawyers Association of Kansas City Young Lawyers Section, where he is active in supporting the LAKC-YLS charities and assisting with the mock trial program. Matt has also been a

...Continued on page 6

In 1934 a small law firm was founded in downtown Kansas City. The original partners specialized in labor and motor carrier law. The firm grew and expanded its expertise in the transportation area and added expertise in commercial and insurance litigation, business transactions, banking and probate law.

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- Robert W. Cotter
 - Patrick K. McMonigle
 - Martin M. Montemore
 - Kent M. Bevan
 - Lee Burcham Brumitt
 - Stephen J. Bahr
 - Thomas E. Roszak
 - Patrick J. Kaine
 - George P. Coughlin
 - John F. Wilcox, Jr.
 - Don R. Lolli
 - Matthew W. Geary
 - Molly B. Bartalos
 - Michael J. Judy
 - Amanda Pennington Ketchum
- OF COUNSEL:
- Lewis A. Dysart
 - Frank W. Taylor, Jr.
 - Howard D. Lay
 - Phil A. Klawuhn
 - William J. Shapiro
-

DYSART TAYLOR ATTORNEYS NAMED SUPER LAWYERS AND RISING STARS

Congratulations to Robert W. Cotter, Patrick M. McMonigle, Lee B. Brumitt, George P. Coughlin and William J. Shapiro who were named Super Lawyers and John F. Wilcox, Jr. and Matthew W. Geary who were named Rising Stars by *Law and Politics*. Less than 5% of all attorneys are named Super Lawyers and less than 2.5% of attorneys are named Rising Stars. The selection process incorporated peer voting and professional achievement and independent research by *Law & Politics*. Lawyers were asked to

nominate the best attorneys they had personally observed in action, including those in private practice, public service, legal aid, and in-house corporate counsel. Additionally, to be eligible to be named a Rising Star, an attorney must be less than 40 years old or in practice for fewer than 10 years.



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DON LOLLI ATTENDS PEOPLE-TO-PEOPLE DIRECTORS/TRUSTEES' MEETING IN CAIRO

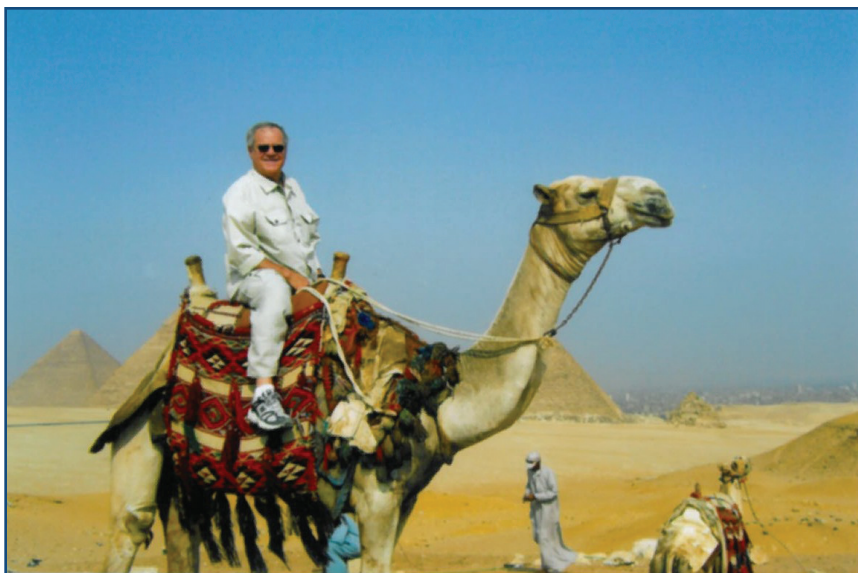
Don Lolli recently attended People to People International's Board of Directors and Trustees' meeting in Cairo, Egypt, which was held in conjunction with People to People International's 18th Worldwide Conference Symposium on Peace and Conflict.

The Eisenhower Medallion, the highest award bestowed by People to People International, was awarded to Parents Circle—Families Forum, which is a grassroots organization of Palestinian and Israeli

parents who have lost children in their regions' conflict and who promote reconciliation as an alternative to hatred and revenge.

While in Cairo, Don visited the Great Pyramid of Giza, which dates to c.2560 B.C., the Sphinx, had dinner in a felucca (small sail boat) on the Nile River and visited the Museum of Antiquities which houses the amazing artifacts of King Tut's tomb. Although Don met many people from around the world, he also made a new friend in the Sahara Desert.

People to People International is a not-for-profit organization whose genesis came from President Dwight D. Eisenhower which promotes international understanding through educational, cultural and humanitarian activities. President Eisenhower's Granddaughter, Mary J. Eisenhower, is President and CEO of People to People International.



Stephen J. Bahr

NEWS AND NOTES

Stephen J. Bahr has recently been appointed as a member of the Executive Committee and the Finance Chair for the Catholic Foundation of Northeast Kansas.

Steve will continue to serve on the Board of Directors of the CFNEK. Steve also serves as a member of the Board of Trustees on the St. Ann Catholic Church Endowment Fund.

AIRLINE PASSENGER “RIGHTS”

Everyone has heard horror stories about cancelled flights, long delays, and some passengers being “held hostage” during tarmac delays.



Robert W. Cotter

Despite the fact that these are isolated instances in a complex system which is subject to external factors including weather, several groups have been lobbying for state legislation for a so-called Passenger Bill of Rights (PBR). Effective January 1, 2008, New York State enacted a PBR mandating a set of services that airlines must give their passengers on flights departing from New York airports during ground delays lasting three hours or more. These services include fresh air and lighting; waste removal for restrooms; and food, drinking water and other refreshments. The New York law also established an airline consumer advocate office and a consumer protection board. At least nine other states have proposed similar PBR legislation.

The New York State PBR law met strong resistance. The Air Transport Association of America (ATA), the trade association for most of the nation’s major airlines, filed suit in federal court seeking an injunction against enforcement of the PBR and a finding that the law was unconstitutional. *ATA v. Cuomo*. The ATA claimed that the New York law was preempted by federal law, specifically the Airline Deregulation Act (ADA) which was enacted in 1978. Under the ADA, Congress expressly provided that states “may not enact or enforce a

law...related to a price, route, or service of an air carrier....” One of the reasons Congress passed the ADA was to prevent the prospect of overlapping and/or inconsistent regulation of air carriers by each of the 50 states, with each state imposing its own requirements, prohibitions and standards on the airlines. The United States Supreme Court has interpreted the ADA preemption clause in three separate cases, and in each case, the Supreme Court has upheld the ADA and its preemptive authority over state legislation.

The ATA filed a motion for summary judgment against the State of New York on the basis that the New York law was preempted by federal law, specifically the ADA. In finding against the ATA, the federal district court refused to apply the ADA preemption. The court found that the New York statute concerned passenger “health and safety” and that there was a presumption against preemption. The court also concluded that the provisions for adequate refreshments and restroom facilities for passengers did not constitute “services” within the meaning of the ADA’s preemption language because “passengers do not specifically contract for” such provisions.

The case was appealed to the United States Court of Appeals for the Second Circuit. On March 25, 2008, the court reversed the district court and found the New York statute was preempted by the ADA. The court stated that “although the goals of the PBR are laudable and the circumstances motivating its enactment deplorable, only the federal government has

...Continued on page 4

“RIGHTS”...continued from page 3

the authority to enact such law.” Relying on the previous U.S. Supreme Court cases, the court rejected the State’s argument that there is a “health and safety” exception to the ADA preemption provisions. The court stated: “onboard amenities, regardless of whether they are luxuries or necessities, still relate to airline service and fall within the express terms of the preemption provision” of the ADA.

It should also be noted that the Department of Transportation (DOT) has published proposed rule making which would require airlines to adopt contingency plans for lengthy tarmac delays, and incorporate those rules in their contracts of carriage. Although

those rules have not yet been adopted, the DOT has made it very clear that any state or local laws addressing or related to the services offered by airlines are preempted under the ADA, and any final rule adopted by the DOT would also separately preempt any such state or local regulations.

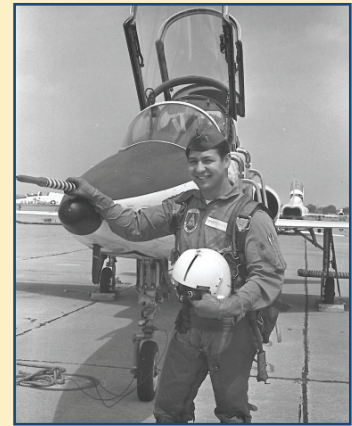
As a result of the court’s decision in *ATA vs. Cuomo* and the preemptive effect of the ADA, if there is going to be any passenger bill of rights legislation, it will have to be done at the federal level. In fact, there are a number of bills which have been introduced in Congress in the last few years with regard to the tarmac-delay problem. However, as of this date, those bills have not had much success.

AWARD FOR PATRIOTIC SERVICE

The State of Missouri passed into law legislation awarding Marty Montemore a medal, medallion and Certificate of Recognition for his service during the Vietnam War.

In a letter to Mr. Montemore, the Governor stated that it was an honor to present this award “recognizing your bravery, selfless service and dedication” in service to the people of the United States of America and the State of Missouri.

Mr. Montemore served two tours of duty in Vietnam as a USAF pilot, logging over 1,000 hours of actual combat flying time. He was awarded the Distinguished Flying Cross, the Air Medal with six (6) Oak Leaf Clusters and the Vietnam Gallantry Cross, among other awards and decorations.



Marty Montemore

TLA

Earlier this year, Pat McMonigle and John Wilcox attended the 2008 Transportation Lawyers' Association annual conference and Canadian Transport Lawyers Association mid-year meeting in Ft. Lauderdale, Florida. This meeting ended Pat's tenure as Secretary/Treasurer for the TLA. This year, Pat is serving

as the TLA's Second Vice President. Pat and John made a presentation regarding shipper liability before the TLA's litigation committee.

In September, Pat and John attended the Arkansas Trucking Seminar in Fayetteville. Pat gave a presentation entitled Mediation Guidelines for Casualty Cases.



Pat McMonigle



John Wilcox

BILL SHAPIRO NAMED URBAN HERO



Bill Shapiro

Mayor Mark Funkhouser declared September 30, 2008 “Cyprus Avenue Day” in Kansas City to acknowledge Bill Shapiro's 30 years of volunteer efforts for KCUR which, in addition to building that station's audience, have directly raised more than \$750,000 to support public radio in Kansas City.

Additionally, The Downtown Council of Kansas City has named Bill Shapiro as one of its eight “Urban Heroes” of 2008 for his volunteer work on behalf of the not-for-profit Folly Theater through the creation and development of the Cyprus Avenue Live at the Folly series. The award will be presented on Friday, December 5, 2008 at a luncheon at the Sprint Center.

GEARY...continued from cover

barrister in the Ross T. Roberts Inn of Court program, which prepares young trial lawyers for courtroom appearances and promotes excellence, collegiality, professionalism and ethics in the legal community. Matt and his wife Dana live in Roeland Park, Kansas.

Amanda Pennington Ketchum.

Mandy joined the firm as an associate in May of this year. She received her Bachelor's Degree in international relations and philosophy from William Jewell College in 1998, where she earned varsity letters in basketball and track, was a member of Alpha Gamma Delta sorority, studied abroad at Oxford University, and graduated magna cum laude. She graduated from the Institute of Comparative Political and Economic Systems at Georgetown University, and



went on to earn her law degree from the University of Missouri – Columbia in 2001.

Mandy has practiced civil litigation for the past seven years, focusing mainly on personal injury and employment matters. She is licensed to practice law in Missouri and Kansas. Mandy is active in the legal community, serving as the Chair of the Special Projects Committee for the KCMBA Young Lawyers Section, Vice-Chair of the KCMBA Solo and Small Firm Committee, Chair of Awards and Scholarship for the Association for Women Lawyers, 2008-2009 KCMBA Bar Leadership Academy, and is an elected member of the Missouri Bar Young Lawyers Council and serves on its Executive Committee.

Mandy and her husband Tyson have a one year old son and live in Kansas City, Missouri.

The Editor of the Addendum is **Matthew Geary**. Mr. Geary received his B.A. from William Jewell College in 1998 and his J.D. from the University of Kansas in 2001.

The Dysart Taylor Addendum is intended as a report to our clients and friends on legal developments of general interest. In no case does the published material constitute an exhaustive legal study and applicability to a particular situation depends upon investigation of the specific facts and professional advice.

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DYSART  **TAYLOR**

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