

What is NAUIAB's Future?

The answer is in your hands

By Donna Watts-Lamont, Past President/Maryland

After twenty-seven years the future of our organization is in question. What started as an idea in 1979, by a handful of Appeals Board members, attending an administrative law training course, has grown into an international association. NAUIAB's inaugural conference was held in 1981 in Asilomar near Monterey, California. In the years that followed, NAUIAB's membership and conference attendance continued to grow year after year. In 2000, at the conference held in San Francisco, California, we had a record attendance of 243 individuals.

Unfortunately, we have not come close to that number in the ensuing years. Our conference attendance for the past eight years has been down significantly:

2001	Ashville, NC	160 attendees
2002	Portland, ME	130 attendees
2003	Charleston, WV	135 attendees
2004	Boise, ID	112 attendees
2005	Newport, RI	156 attendees
2006	San Diego, CA	146 attendees
2007	Baltimore, MD	118 attendees
2008	Scottsdale, AZ	105 attendees

Each year your NAUIAB Board of Governors, the Agenda Committee and your host state or, as we had in 2008, your individual host, expend an enormous amount of time, energy and care in preparing a conference that is not only educational but enjoyable in every way for you and your guests. During my eight years as a member of the NAUIAB Board of Governors, without fail at the end of each conference, I've had members comment on how smoothly the conference flowed. Unless you've been on the Board of Governors, the Agenda committee or hosted a conference you have no idea all that goes into making a conference "flow smoothly". Many a crisis has been handled without a ripple in the proceedings or activities.

Beginning shortly after each conference, the Agenda Committee brainstorms to develop an agenda that will be educational, interesting, timely and geared to meet the needs of our membership for the next conference. Once the topics have been selected the committee members carefully seek out individuals that are not only knowledgeable in their field but who are highly recommended as speakers and who are willing to attend the conference at a reasonable rate. Schedules are coordinated and flight arrangements are made all to ensure that our conference presenters arrive on time for their assigned slots on the conference.

Tim McArdle and Allan Toubmann have twice conducted their Certified Appeals Program (CAP) and will do so again this year in Oxford, MS. This "mini" course would cost \$2000.00 or more if attended at the National Judicial College. Tim and Allan's presentations were meticulously prepared and presented. On both occasions the courses have received excellent ratings from those that attended. I have every confidence that their presentation in Oxford will live up to the high standards they have set for themselves.

Every year the Agenda Committee ensures that the agenda contains several sessions that are approved for CLE credits. Obtaining these credits in your home state generally runs into hundreds of dollars in cost, in addition to time. Knowing the cost of these programs elsewhere, why not obtain the credits you need in conjunction with all the other benefits of attending NAUIAB's annual conference. You can't get a better deal than what you get for your registration fee, even with the cost of travel and accommodations added on.

Each year's conference host (except for Portland, who call pull a conference together in six months) works a minimum of three, but more likely four years to make all the preparations for the conference. The host committee is responsible for the hotel selection, contract negotiations, menus, entertainment events, side trips, website information and all the "little" things that make our conference so enjoyable each year.

Unfortunately last year, while the conference was held at a four star resort in Scottsdale, AZ, with an unbeatable room rate and an excellent agenda we only had 105 attendees. If the numbers of attendees remain at this level, future NAUIAB Board of Governors will not be able to offer the same high caliber conference that our members have come to expect or to hold conferences at such highly rated sites. In an effort to keep our registration fees low we have cut out many of the little extras that we provided in the past. We do not want to lower the caliber of

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President's Column

Marcella Riley / West Virginia



"The sense of humor is the oil of life's engine. Without it, the machinery creaks and groans. No lot is so hard, no aspect of things is so grim, but it relaxes before a hearty laugh." George S. Merriam

I love to laugh. I get it honestly. My whole family has the tendency to be silly. Being raised on a farm, I remember hot summers working in the hayfields with my two sisters. We sing funky songs and practice our jammin' dance moves while rolling bales of hay down the hills toward the pickup truck.

The pictures of those days are priceless. Our skinny little arms peak out of Dad's huge work gloves. We are hot and sweaty with our faces covered in dust. We are laughing and flashing the cheesiest smiles. We had so much fun we didn't think to complain about the blisters

Humor is a powerful force. Humor has the capacity to wash away exhaustion, stress, anger and boredom. In the doom-and-gloom atmosphere so persuasive now, a little humor goes a long way to keep spirits up on the job. The economic downturn is seriously upon us. Many states are overwhelmed by the crush of new and continuing unemployment claims. **Let's all take the time to encourage one another in these demanding days. Something that seems little ñ telling a story or joke, sharing a smile and some self-deprecating humor ñ can go a long way and change the feeling in the office for the rest of the day.**

One of my favorite memories of a NAUIAB conference was when we all let our hair down playing "Ethics Survivor." Angela Bullard and Lynne Knox put together this competition testing our knowledge of the Model Code of Judicial Conduct for State Unemployment Insurance Appeals Officers. I was one of the contestants wearing the wild headband, going up against Bob Lorenzo and Pam Waite to win the coveted Mr. Potato Head. (What an appropriate prize for a Boise, Idaho, conference!) The entire audience was energized and engaged.

We look forward to reigniting this enthusiasm at our upcoming conference. The agenda committee, chaired by Pete Lansdowne, has put together a solid curriculum for our meeting in Oxford, Mississippi. There is something for everyone to enjoy, whether you represent higher authority, lower authority, or agency counsel. Bring your new hearing officers and judges — we are pleased to offer our CAP program again, presented by Allan Toubman and Tim McArdle. Appeals professionals who attend a specified curriculum of five hours will be awarded a "Certified NAUIAB Hearing Officer" certificate.

We are also excited to partner again with the United States Department of Labor to offer a series of workshops focusing on issues of interest to UI appeals support and administrative staff. On Tuesday morning of the conference, we've set aside a special time for you to meet with your US-DOL representative over coffee.

As you can see, it will be a very busy week! Come prepared to work hard, play hard, and laugh a lot. While you're at the conference make sure you have some time to enjoy the charming city of Oxford. Our social outing this year is dinner and music in The Grove, nestled in the beautiful campus of Ole Miss. This is a picture-perfect setting to relax and rejuvenate while networking with other appeals professionals.

With the conference just a few months away, I'm amazed that my time as your President is almost over. **Over this past year, I've seen abundant evidence that NAUIAB's mission is more relevant than ever.** More clearly than anything else, I have seen the way our membership, and the members of our Board of Governors cherish this organization. Together, we will ensure that NAUIAB remains THE high-quality professional organization for unemployment appeals adjudicators for generations to come.

Marcella Riley
President

UI History in Bas-Relief

Submitted by Brian Langley/USDOL

Part II: UI in the Early 20th Century America

"For the past 4 years the American people have witnessed a tragic demonstration of the breakdown of our older methods of dealing with men and women who are out of work through no fault of their own. The fundamental case for unemployment protection lies in the fact that under a democratic form of society we are forced to prevent any large scale starvation. Funds must be provided somehow It is practical sense to build a system which will gather the funds in good times and disburse them in bad times. This simple theory underlies all formal proposals for unemployment insurance, for unemployment reserves." — American Labor Legislation Review, December 1933

The governance of dealing with the old, sick, poor, or out of work people were largely left to state and county organizations, churches, social relief organizations, or small trade unions prior to the 1930's. The circus high-wire act of America's economy, without a public safety net, was a continual part of life from the Civil War up until World War II. During those years unemployment rates ranged from roughly 4 percent in the good years to over 15 percent during the depths of the worst economic downturns. But the problem reached its darkest point during the 1930s. Many historians point to the Great Depression as the catalyst for increased interest in an unemployment insurance (UI) system and the herculean effort leading up to the historic date of August 14, 1935, when a national UI system was first established.

Prior to the events of the Great Depression, labor and progressive social causes as it related to economics, were being discussed and championed at the University of Wisconsin in Madison. The University of Wisconsin in Madison was the epicenter for labor economics during the late 19th and early 20th centuries. The "Wisconsin World View," as some have called it, was lead by economist John R. Commons. Virtually all progressive social and labor legislation enacted during the 20th century can be attributed to him or to those students and colleagues with whom he taught or worked.

The Wisconsin World View saw government playing an active role in forming social policy. Professor Commons was the architect of Wisconsin's first-in-the-nation Workmen's Compensation program in 1911 and Wisconsin's unemployment insurance program in 1932. His legislative initiatives in the 1920's on social welfare and federal economic coordination framed most of the views hammered out in the New Deal initiatives of the 1940's.

In light of the similar challenges that our nation faced in the early part of the 20th century, and that the American people are now facing again, Professor Commons' words are still timeless: "This is the first great problem of modern democracy... how to get a fair living by reasonable hours of work leaving enough leisure for both childhood and manhood." In 1932, Wisconsin became the first state to pass a first unemployment compensation law in the United States. By the end of 1936, thirty-five states and the District of Columbia had, by the passage of unemployment compensation laws, taken the first steps in reforming the old ways of assisting displaced workers.

The U. S. Department of Labor inducted Professor Commons into its Hall of Fame Honoree register in 1989. At his induction, Professor Commons was credited for being the force behind innovative concepts of social legislation involving trade unionism and collective bargaining. He was also called the "spiritual father" of Social Security.

The next issue of Navigator will cover Part III: federal-state UI program, the early years.

Sources:

- o U.S. Department of Labor
- o Three Years' Progress toward Social Security, 1935-1938, Social Security Board
- o Chicago Historical Society
- o Unemployment Compensation What and Why?, Social Security Board, 1937
- o Social Security Administration, history; www.ssa.gov/history

MEMBERSHIP OPPORTUNITIES EXPAND

The NAUIAB Board of Governors held its fall meeting in St. Pete Beach, Florida, in October 2008. At this meeting, the Board approved a new and easier way for States to offer NAUIAB membership to all of their appeals professionals.

Beginning this spring, NAUIAB will provide a flat-fee State membership. We will offer the following three-tier payment structure (depending on the number of appeals professionals enrolled):

- \$500 to enroll one to twenty-five members;
- \$1,000 to enroll twenty-six to seventy-five members;
- \$1,500 to enroll seventy-six plus members.

By taking advantage of this option, many States will recognize considerable savings over our traditional \$50 yearly individual membership fee. For example, if your State currently covers individual membership dues for twenty-five hearing examiners, it would save \$750 each year by switching to this new means of enrollment.

We hope you take advantage of this exciting opportunity. In addition to this new plan, NAUIAB continues to provide individual membership dues at \$50 each year.

Whichever way you choose to join, membership in our association puts you in touch with the most vibrant group of unemployment insurance leaders across the country. We provide professional development, workshops and continuing legal education; the Navigator newsletter; access to training materials on our website, www.NAUIAB.org; and an exclusive on-line forum for members.

If you have any questions, please contact Marcella Riley at mriley@workforcewv.org

Maryland Unemployment Benefits to be Paid by Debit Card DLLR Eliminates Paper Unemployment Checks, Saving Money and Time

DLLR Press Release Submitted by Clayton A. Mitchell / Maryland

On December 1, 2008, Department of Labor, Licensing and Regulation Secretary Thomas E. Pérez announced that all new recipients of unemployment insurance benefits will receive automatic payments through prepaid debit cards, eliminating the need for paper checks and saving the state \$400,000 a year.

"Marylanders who find themselves unexpectedly unemployed need access to unemployment insurance benefits fast, so they can continue paying for their living expenses and contributing to the local economy," Secretary Perez said. "As the national economic downturn leads to more Marylanders out of work, this switch to prepaid debit cards will create a more efficient and safer process for the State, and for its residents in need."

The State of Maryland's Treasurer's Office and the Department of Labor, Licensing and Regulation have partnered with Citi Prepaid Services to provide the debit cards, which will receive electronic payments automatically. Claimants will have the option of having payments directly forwarded to their own bank account. The switch to plastic reduces the costs of postage, paper, staff time and processing associated with the nearly one million checks issued each year by the Division of Unemployment Insurance.

"This program eliminates the problems caused by lost or delayed checks, and can save beneficiaries the costs of fees sometimes associated with cashing checks. It's a great program for our State, and for our residents," Unemployment Insurance Assistant Secretary Thomas Wendel said.

With their Citi Prepaid debit cards, unemployment insurance claimants will be able to:

- * Access fee-free funds at banks that accept Visa and ATMs within the Citi network
- * Make fee-free purchases everywhere Visa debit cards are accepted
- * Access fee-free cash at Visa member banks
- * Access fee-free cash at participating retailers
- * Manage their account online or make bank transfers for free
- * Access their account via toll-free interactive voice response system

Also, cardholders are supported by 24/7/365 multilingual Customer Service to assist with any questions or issues that may arise.

Unemployment Insurance claimants are required to register with the Maryland Workforce Exchange Web site, which can help them connect with employers. They will receive an informational brochure with instructions for registration after an initial claim for unemployment benefits is filed.

Sign Up for CAP Certification

By Allan Toubman (Founder, Administrative Justice Institute / Maine) and Tim McArdle (California)

Following successful programs in Newport ('05) and Baltimore ('07, the Certified Unemployment Insurance Appeals Professional (CAP) program returns. Oxford participants who sign up for the five hour program will be certified by NAUIAB and the Administrative Justice Institute (AJI).

HISTORY

The CAP program was created by NAUIAB at the Newport 2005 conference to provide a sampling of the National Judicial College Administrative Law: Unemployment Compensation course. That course was given as part of regular curriculum in Reno between 1990 and 2004. The course was designed and taught by the authors. It was based on the NJC's fair hearing course with the emphasis on UC law and procedure.

Over 70 participants received certificates at each of the conferences in Newport and Baltimore. Some states have sent participants specifically to attend the program and receive certification.

The Board of Governors decided that this is an important component of professional development and should be regularly offered. It will be certifying, with AJI, the successful completion of the program by participants.

WHAT IS THE CAP PROGRAM IN OXFORD? THE PROGRAM HAS TWO OBJECTIVES.

First, it provides instruction in illustrative topics that are included in a classical three or four day intensive Administrative Law: Unemployment Compensation course. Foundational legal standards are explored in an interactive learning environment.

Second, the faculty provides new insight into classical subjects. They are mindful that Oxford participants may have attended previous CAP programs. Therefore they apply alternative approaches to topics that have been previously taught.

The topics in 2009 include due process, admission of agency records, evidentiary objections, findings of fact and a new topic, "ethics and the internet". The presentation of the topics will be interrelated. Class participation is built into each topic. During the five hours, participants will have significant time for group problem solving.

The CAP program this year is being co-sponsored by the Administrative Justice Institute. The AJI was founded by Allan Toubman in 2006 to provide consulting services, including training to the UC appellate community. Its faculty, drawn from experienced UC appellate instructors includes Tim McArdle (CA), Marilyn White (AZ), Kevin Anselm (OR), Lynn Fitch (MS), Jim Pflasterer (WI), and Bob Lorenzo (NY). The AJI has attempted to fill the void created when the NJC stopped offering the UC course in 2004. Since 2006, it has presented administrative law courses to hundreds of hearing officers in many states. In 2007 and 2008 it presented the course Administrative Law: Board of Review in Rockport Maine. This course is specifically designed for the Board of Review and their staff. Nearly 20 states have sent Board or staff to the course.

NAUIAB - A Practical and Economical Solution to Obtaining CLE Credits

By Bob Lorenzo (New York / Lifetime Member - NAUIAB)

It has been over two years since I last served as NAUIAB's President; a position in which I was extremely proud to serve. The year as President, the seven years on the Board of Governors, and the years as a member have been extremely enjoyable, memorable, and professionally fulfilling. Through NAUIAB, I not only grew as a professional in the field of employment security and adjudication but I have built friendships that will last my entire life.

Although I have retired from state service, I am still very active in my private law practice. Just like most of you with licenses to practice law, my home state requires that I obtain Continuing Legal Education credits (CLE) if I am to remain active in the practice of law. Many of your states may require CLE credits in order for you to maintain your employment as adjudication officers. In my home state of New York, active lawyers are required to receive 24 credits within a two year period before renewing their law license. This is where NAUIAB comes in.

Over the years, I have found that NAUIAB is not only the most economical way to obtain CLE credits but, by far, the most enjoyable. Regarding the cost; the average yearly conference allows NAUIAB's members to obtain approximately 24 CLE credits, including the required ethics credits, over the four days of the conference. The cost to obtain these CLE credits is covered by the same conference fee that all members pay, at no additional cost to you. Each year, as a NAUIAB conference attendee, I was able to accumulate approximately 24 credits (my requirement for a two year period) for approximately what it would cost me to obtain only 4 credits from my state bar association and affiliated organizations. As far as dollars and cents go, this is a no brainer. Not only that, but I was amazed at how fast my state bar continuing legal education department accepted and approved my NAUIAB credits. I was also left with the impression that NAUIAB was indeed a well respected organization.

Not only is NAUIAB the most economical way to obtain CLE credits but it is also the most enjoyable and professionally rewarding way to obtain these credits. Over the years I have seen some of the most interesting and beautiful parts of this

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Insightful Humor

by Conny Franken/Indiana

"Law is crazy."
"Why's that?"
"They swear a man to tell the truth."
"So what?"
"Every time he starts to, some damn lawyer objects!"
MILTON BERLE

INK, A villainous compound of tannogalate of iron, gum-arabic, and water, chiefly used to facilitate the infection of idiocy and promote intellectual crime.
AMBROSE BIERCE

FROM ACTUAL COURT RECORDS

Lawyer: Were you the lone ranger on duty that night?
Witness: I was a park ranger on duty that night.
Lawyer: I mean the only one, the lone—
Witness: You mean alone?
Lawyer: Alone
Witness: Yes , I was.

If there no bad people there would be no good lawyers. CHARLES DICKENS

"No,no....I hate lawyers. I only work for them." ERIN BROCKOVICH portrayed by Ms. Julia Roberts in ERIN BROCKOVICH

Q: What's the difference between a good lawyer and a bad lawyer?
A: A bad lawyer can let a case drag out for several years. A good lawyer can make it last even longer.

FROM ACTUAL COURT RECORDS

Judge: Please begin
Counsel: Thank you. (to witness) Miss, while you have, if you do have—you still—oh, you don't.
Judge. That was a great start , Counsel

A woman was being questioned in a court trial involving slander."Please repeat the slanderous statements you heard, exactly as you heard them," instructed the lawyer.
The witness hesitated. "But they are unfit for any respectable person to hear," she protested.
"Then," said the attorney, "just whisper them to the judge."

Sharing a Good Read

By Cynthia Thornton/California

NONFICTION

The Girls Who Went Away: The Hidden History of Women Who Surrendered Children for Adoption in the Decades before Roe v. Wade by Ann Fessler. This book is sufficiently readable that my teenaged boys were actually not repulsed! (I know, not a ringing endorsement, but keep in mind we're dealing with surly teens!) This is a very readable series of stories told by the men and women who had to give children up for adoption in the sixties. Whatever your position on the abortion issue, this book serves as a thirty foot neon sign saying to teens "DON'T HAVE SEX" (which is how it ended up on the reading list for my teens!)

Cane River by Lalita Tademy: Tademy was Vice President of Sun Microsystems when she decided to write the story of her family in Louisiana on the Cane River. This is an Oprah Book Club book and includes lots of pictures of her ancestors who were considered black, but if you passed them on the street, you wouldn't think so. The book takes us from 1834 to 1936 and provides a fascinating history of the South.

FICTION

Bitter is the New Black: Confessions of a Condescending, Egomaniacal, Self-Centered Smartass, Or, Why You Should Never Carry A Prada Bag to the Unemployment Office by Jen Lancaster. Hilarious. Her website is Jenessylvania.com. Well written and hysterically funny. I found myself calling my sister to read passages to her. If you deal with unemployment law, don't miss her chapter on filing a claim with her Prada bag.

Running with Scissors by Augusten Burroughs. Don't let the movie scare you off. This memoir of the author growing up was funny, poignant and memorable. Very easy to read. Likely to make you laugh and cry within ten pages.

Dry by Augusten Burroughs. This is the same author's memoir of his time in a rehab center for alcohol abuse. Well written and funny in parts (but don't expect the side splitting scenes from Running with Scissors). It's this author's facility with language and ability to humorously express insightful observations that makes the book such a treat.

Shop Talk

Wedding Bells!

We are happy to announce that Marcella Townsend and Tony Riley were married on October 4, 2008, in Charleston, West Virginia.

Please note our President's name change to Marcella Riley, and e-mail address change to mriley@workforcewv.org

Congratulations and best wishes to the newlyweds!

NAUIAB TRIBUTE TO JAY ARCELLANA

By Clayton Mitchell / Maryland

The California Unemployment Insurance Appeals Board has terminated former NAUIAB President Jay Arcellana from his appointment as Executive Director/Chief Administrative Law Judge for the Board. On July 22, in open session at a heavily attended special meeting of the Board, former Chair Rick Rice cited four specific causes in support of Jay's ouster, all of which Jay vigorously disputes. In any event, Jay served at the pleasure of the Board which needed no justification to terminate his appointment. The vote was three to one (one member was absent and there were two vacancies on the board at the time).

Jay was an immensely popular figure in California and across the country. He served on the Board of Governors from 1997 to 2004 and served as President during 2002/03 conference year. Jay exercised his trademark visionary leadership while on the Board. He is perhaps best remembered for his vigorous advocacy for amending the bylaws to expand NAUIAB's membership to include lower authority hearing officers as active members. Jay also hosted two unforgettable annual conferences, the 2000 conference in San Francisco and the 2006 conference in San Diego.

Jay joined the California Board in 1987 as an administrative law judge in San Jose. He became the Presiding Judge in San Jose in 1989 and was appointed the Assistant Chief ALJ in 1992. In 1995 the Board appointed Jay to the Chief ALJ position and in 2000 gave him the additional designation of Executive Director. Today, after a total of 13 challenging years as Chief and eight years as both Chief and Executive Director, Jay is spending time becoming reacquainted with his family. Jay has three sons. Jason, the eldest, is working in Japan. James is attending the University of San Francisco Law School on a scholarship. Jonathan graduated from high school earlier this year and is considering his college options.

At present, Jay is entertaining a number of highly promising opportunities in the private and public sectors. On behalf of the NAUIAB members, I extend to Jay my heartfelt thanks for all of his contributions over the years to this association and to unemployment insurance appeals generally and wish him good luck in the future.

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our annual conferences. Nor do we wish to hold our conferences at less favorable sites. However future Board of Governors, host committees, and agenda committees will not be able to offer conferences at the level of excellence that has been offered in the past with only 100 individuals attending the conference. The better hotels are not interested in groups of 100 or less. And while I'm certain future Boards and Committee members will be as devoted to this association as past members have been there comes a point of diminishing returns. The amount of work that goes into preparing NAUIAB's annual conference just can not be expended for 100 or less individuals. NAUIAB is committed to two more conferences; Oxford, Mississippi in 2009 and Mystic, Connecticut in 2010, without a significant increase in member attendance, serious thought will have to be given to the question of whether or not this association can continue to operate offering an annual conference. I truly hope that the answer to that question will be yes and that this association will continue to grow well into the future. However, whether it does or not is in the hands of the general membership.

It has been an honor and a privilege to serve as a Board member of this association these many years. I know that NAUIAB's general membership has, and will remain in fine devoted hands. However those that happily give of their time and skills to make this the outstanding association that it is now need to see that the general membership support and appreciate their efforts.

See you in Oxford, hon.

(The Board of Governors would be very interested in hearing from the membership as to why individuals have not been attending the annual conference in recent years. Kindly email comments to dwatts-lamont@dlr.state.md.us.)

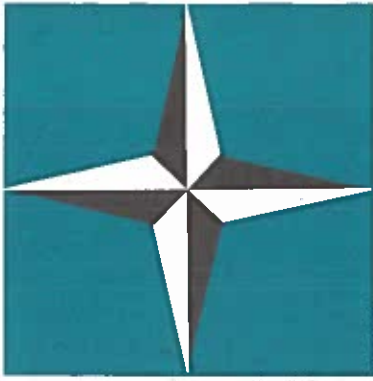
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great country of ours. I'm embarrassed to say that if it wasn't for NAUIAB, I might never have visited these places. The yearly conferences and my meetings on the Board of Governors have brought me to San Francisco, Baltimore, Scottsdale, Chicago, Newport, New Orleans, San Diego, and San Antonio, just to name a few.

The academic agendas are outstanding. They are not only directed toward our field of employment security but also cover general legal issues such as evidence, hearing officer demeanor, due process of law, constitutional and human rights issues. A separate session on ethics is always offered.

So if, like me, you are required to obtain CLE credits in order to maintain your law license or your employment as a hearing officer, I believed I have offered you the most enjoyable, practical and cost effective way of obtaining those credits. Become an active member of NAUIAB and attend our yearly conferences.

All the Best,
Bob Lorenzo



Spring 2009

NAUIAB Navigator

www.nauiab.org

Charting a Course in UI Appeals

A Newsletter of the National Association of Unemployment Insurance Appellate Boards

Save the dates of June 7-11, 2009

NAUIAB

Conference

Oxford, MS



"We may not win every game, but we ain't never lost a party."

www.mstourism.com/index.cfm • www.wikitavel.org/en/Oxford_(Mississippi)

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