

LLAM NEWS



LAW LIBRARY ASSOCIATION OF MARYLAND
A Chapter of the American Association of Law Libraries

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President's Message:

"The Springtime of Librarianship"

LLAM, I think, is having a wonderful year! President-Elect Ginger Gerton has organized some innovative and informative programs. We have a lot to thank her for, and it's not even over yet. On March 23, 2000, guest speaker Kirby J. Fowler, Esq., will discuss "Privacy in Employment Law in the Electronic Age." On April 13, 2000, LLAM members will participate in "Books and Bytes: Balancing Format in Today's Libraries," an AALL satellite videoconference. And, of course, I'll see all of you at this year's last event, the annual "Spring Fling" banquet, this time to be held at the Evergreen House.

Other LLAM activities are also bearing fruit. Ruth Hodgson (Publications Committee Chair) has been hard at work on a new membership brochure for LLAM which will be displayed at the Maryland Library Association conference and the Maryland State Bar Association annual meeting, thanks to the hard work of Sheri Ripley, (Public Relations Committee Chair).

The LLAM website has been highly current and will soon host the County Code Checklist (thank you to Betsy Sandison, Technology Committee Chair). Harvey Morrell (Chair of the Special Committee on Government and Vendor Relations) has testified on behalf of law librarians and AALL. The LLAM Newsletter is looking great, as it always does, because of Anne Morrison's heroic efforts. Ruth Watson (Placement Committee Chair) tracks and broadcasts via the LLAM discussion list law library position openings. Note that she also keeps a current resume file! Jim Gernert produced an excellent membership directory earlier this year, and Beverly Rubenstein (Archives Committee Chair) will enlighten Newsletter readers with "blasts from the past" (see elsewhere in this issue).

Just as flowers will start to open when you receive this issue, it's now high time for YOU to make LLAM blossom! There's always an opportunity to help on a committee or offer new ideas. Just get in touch with a LLAM Board Member or Committee Chair. Together we can make this Association even more beneficial to its members!

Steve Anderson

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Mark Your Calendars!

March 23, 2000

Privacy in Employment Law in the Electronic Age: Kirby J. Fowler, Esq.
Time and Location to be announced.

April 9-15, 2000

National Library Week

April 13, 2000

Books and Bytes: Balancing Format in Today's Libraries –
AALL Satellite VideoConference
at the University of Baltimore

May 12, 2000

Annual "Spring Fling"
Evergreen House, 4545 N. Charles St.
Guest: Cosette Sun, AALL Board
Watch for Details!

July 15-20, 2000

AALL Annual Meeting
Philadelphia Convention Center
Philadelphia, Pennsylvania

Difference of opinion.

536 Minn. 367 NORTH WESTERN REPORTER, 2d SERIES

Eleanor Louis BOOM, Respondent,
v.
Roland David BOOM, Appellant.
No. C2-82-1956.
Court of Appeals of Minnesota.
April 23, 1985.

536 Minn. 367 NORTH WESTERN REPORTER, 2d SERIES

Eleanor Louis BOOM, Respondent,
v.
Roland David BOOM, Appellant.
No. C2-82-1956.
Court of Appeals of Minnesota.
April 23, 1985.

Review Denied June 27, 1985.

Upon motion of wife, appeal by husband from a judgment entered in a marriage dissolution proceeding was dismissed. Husband petitioned for reinstatement of appeal. The Court of Appeals, Peter S. Popovich, J., denied the petition, and husband petitioned for further review. The Supreme Court, Coyne, J., 361 N.W.2d 34, reversed and remanded. Upon remand, the District Court, Traverse County, Bruce N. Reuther, J., divided the parties' property. Appeal was taken. The Court of Appeals, Sedgwick, J., held that: (1) disproportionate award of marital property to husband was justified where 13 years elapsed between service of summons and complaint and marriage dissolution and property was acquired solely by husband during that period, and (2) trial court may amend its judgment any time before appeal time on judgment expires.

Affirmed.

1. Divorce ¶-252.3(3)

Disproportionate award of marital property to husband was justified, where 13 years elapsed between service of summons and complaint and the marriage dissolution and the property was acquired solely by husband during that period.

2. Judgment ¶-297

Trial court may amend its judgment any time before appeal time on judgment expires. 48 M.S.A., Rules Civ.Proc., Rules 52.02, 59.03.

3. Divorce ¶-254(1, 2)

Property divisions are final and are not subject to modification except when they are product of mistake or fraud; however,

this does not preclude trial court from reviewing award if the appeal period has not expired and a party timely moves for amendment pursuant to rule. 48 M.S.A., Rules Civ.Proc., Rule 52.02.

4. Divorce ¶-254(1)

A property distribution in a judgment and decree is not "final" until after the appeal period expires.

See Publication Words and Phrases for other judicial constructions and definitions.

Syllabus by the Court.

1. A disproportionate award of marital property to the husband is justified where 13 years elapsed between service of the summons and complaint and the dissolution and the property was acquired solely by the husband during that period.

2. A court may amend its judgment anytime before the appeal time on the judgment expires.

Robert E. Van Nostrand, Wheaton, for respondent.

John E. Mack, New London, for appellant.

Heard, considered and decided by POPOVICH, Chief Judge, and SEDGWICK, and NIERENGARTEN, JJ.

OPINION

SEDGWICK, Judge.

Appellant Roland Boom and respondent Eleanor Boom both challenge the trial court's division of property. Rolland also alleges the trial court erred: (1) in amending its judgment decree without any findings, explanation or justification; and (2) awarding Eleanor attorney fees. We affirm.

FACTS

Appellant Rolland and respondent Eleanor Boom were married in 1951. They

Headnotes summarize each point in case

OPINION

SEDGWICK, Judge.

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FACTS

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OTHERS

Opinion with citations verified, errors corrected and parallel cites added

Case synopsis

► KeyCite® warning flags appear on the cases in Westlaw®

↔ Key Numbers link cases on same point

Index to where point is discussed in opinion

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AALL NEWS



AALL 2000 Annual Meeting and Conference: Gateways to Leadership

Now it is easier than ever to get the information you need to attend the 2000 Annual Meeting and Conference in Philadelphia this summer (July 15-20). By logging onto AALLNET at http://www.aallnet.org/events/00_home.asp, you can access the dates and times of educational programs, workshops, meetings, and events. (Room assignments will be available in mid-June.) Find committee, SIS, and Chapter meetings, AALL business meetings, and special events like the Opening Reception, Association Luncheon, and Closing Banquet with just a click of a mouse. Jump-start your plans with this up-to-the minute information.

AALL 2000: A Moment in Time

The Public Relations Committee has a special project planned for the Philadelphia annual meeting. We are inviting all AALL Chapters, Committees, SISs, and the Executive Board to prepare time capsules, which we will then store for twenty-five years. We encourage LLAM to participate.

You can help define our time and also be a unique part of law librarianship's past and future. Our committee will supply the time capsules, and this will be an opportunity to offer a glimpse of your past to our future selves and colleagues. During this summer's Philadelphia meeting the time capsules will be sealed and tucked away for twenty-five years at AALL archives.

The objects you choose to encapsulate can run the gamut from the profound and serious to the weird, silly and sentimental. It's up to you. We'll have more details on preparing your time capsules in the coming months, but the Public Relations

Committee hopes you will start thinking now about what items you want included in the LLAM time capsule.

Twenty-five years isn't that long. Look how fast the millennium went by! In July, 2025 we hope we'll all still be around (it doesn't hurt to be optimistic) to attend the annual AALL meeting and watch as our time capsules are opened. For more information on how LLAM can become a permanent part of AALL's history, please call or e-mail me at the address below.

**Sue Burch, Chair
Public Relations Committee**

**University of Kentucky College of Law
Library, Lexington, Kentucky 40506-0048
PH: 606-257-5133 FAX: 606-323-4906
E-mail: sburch@pop.uky.edu**

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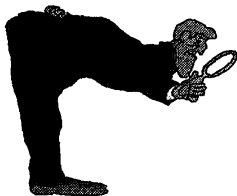
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The Librarian Relations Group is dedicated to supporting and serving the critical role you play as librarian. We bring the full power of LEXIS Publishing™ products and services, in the legal research tools, technologies and services that meet your needs. As your librarian liaisons, located across the nation, we understand the pressures on you, the challenges you face every day in a changing and more complex legal market. Think of the Librarian Relations Group as your partner, people you can rely upon.

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WEB WATCH



Jurisline.com – A Tangled Web is Woven

Anyone who subscribes to LAW-LIB has no doubt heard about Jurisline by now. A veritable soap opera has transpired before LAW-LIBBERS eyes, reading the latest updates from T. R. Halvorson and LLRX.Com.

For those of you who have not heard, Kendrick Chow and Lee Eichen are two attorneys and the founders of Jurisline (www.jurisline.com). Chow and Eichen formed Jurisline in 1998 with plans to develop a website that would offer the public free access to public documents.

In April, 1999, Lee Eichen entered into a subscription agreement for several of the Lexis Law on Disc legal research CD-ROMs. When he signed the subscription contract, Eichen identified himself as a "sole practitioner" in the space provided for his position/title.

Several months later, Jurisline.com appeared on the World Wide Web, with content very similar in nature to the contents of the Lexis materials. In fact, when the contents of the Lexis CD-ROMs are compared to the "Scope of Coverage" listed on Jurisline, the similarities are striking.

For example, I visited the Lexis.com Bookstore (www.lexis.com) and looked at the table of contents listed for several of the "Code on Disc" products.

The Michie's Alabama Law on Disc offers "Alabama Supreme Court Decisions since 1954, Alabama Court of Appeals Decisions January 1965 to September 1969, Alabama Court of Civil Appeals Decisions since 1969, and Alabama Court of Criminal Appeals Decisions since 1969." The Jurisline "Scope of Coverage" for Alabama reads " Supreme Court (mid-1950's through third quarter 1999), Court of Appeals, Court of Criminal Appeals, and Court of Civil Appeals (mid 1960's through third quarter 1999)."

The Lexis Publishing Law on Disc for Arizona offers "Arizona Supreme Court Decisions since January 1898 and Arizona Court of Appeals Decisions since February 1965." The

corresponding Jurisline offering is listed as "Supreme Court (late 1890's through third quarter 1999), Court of Appeals (mid 1960's through third quarter 1999)."

In December 1999, Jurisline filed a Federal lawsuit in the Southern District of New York against Reed Elsevier, Inc., alleging that Lexis limits the "choices of consumers of legal research services...by improperly seeking to prevent potential competitors from copying public documents that Lexis controls." Reed Elsevier's subsidiary, Matthew Bender & Co., in turned filed a lawsuit in New York state court alleging that Jurisline had fraudulently obtained Matthew Bender products (the Law on Disc CD-ROMs) and had used those products to develop "a legal information service in breach of express restrictions in its contracts with Matthew Bender."

Jurisline's contention is that under the Matthew Bender and Hyperlaw v. Westlaw decision (S.D.N.Y., May 19, 1997), data that "begins life in the public domain" (ie., court decisions), "continues to live in the public domain" where ever it may be reproduced or reprinted. In their "Amended Complaint" filed in the United States District Court, Southern District of New York, Jurisline readily admits to uploading "only the uncopyrightable public domain information consisting of the of the underlying text of the opinions and statutes." Jurisline then indexed this "core set of data to enable the public to retrieve individual files through a proprietary search engine that Jurisline developed."

(If you are interested in viewing the full complaint, along with many informative articles about the Jurisline situation, be sure to visit T. R. Halvorson's website at www.netins.net/showcase/trhalvorson/law/jurisline.html.)

Matthew Bender's lawsuit against Jurisline contends that Jurisline committed an act of fraud and breach of contract when Eichen represented himself as a "sole practitioner" to obtain the Law On Disc materials.

Matthew Bender, understandably, has stopped sending new CD-Rom materials to Eichen. Jurisline plans to continue to update its database by obtaining new materials directly from the courts. Maryland's own Court of Appeals and Court of Special Appeals decisions are generally published on their website the same day that they are issued (www.courts.state.md.us). As more state and federal courts provide access to their opinions via the web, this may be entirely possible.

Stay tuned - if nothing else, the year 2000 promises to be an interesting one for legal researchers!

Anne Morrison
Prince George's County Law Library

LLAM ACTIVITIES



LAW LIBRARY ASSOCIATION OF MARYLAND

January & February LLAM Meetings

The January and February LLAM meetings offered new perspectives for law librarians to consider. Both meetings, hosted by Ginger Gerton and Ober Kaler, left attendees with invaluable tools and tips for the future.

January

January's meeting focused on Flexible Work Environments, and considered whether law librarians could possibly work in such scenarios. Our Speaker, Debra McKenzie from Lexis Publishing, defined a "Flexible Work Environment" as one that combines telework and homebased work with a traditional work environment.

Whereas the traditional work environment has typically been production oriented, with workers geographically centered and focused on the manufacturing of specific goods, today's work environment features more "knowledge based" products and services, allowing workers to be based all over the world. As the workforce demographics have changed, the "Quality of Life" for workers has become an important factor. We have begun to see employees demanding more flexibility in their work environments.

With access to technology being more affordable, more employers are allowing, even encouraging telework. In fact, there are over 20 million teleworkers today, with more expected in the future!

Not every job is suited to telework, however. Not all job functions, particularly those of law librarians lend themselves fully to flexible work environments like telecommuting. But will that continue to be the case?

The program attendees broke into three discussion groups, and were asked to consider the following factors: 1) What changes have we as law librarians experienced in our positions during the past five years; 2) What changes have our employers experienced during the past five years; and the final group was asked to 3) Look into the future and "predict" where our positions may take us! The answers to these

questions may help us "re-market" ourselves for the workplace of tomorrow.

An interesting discussion ensued as to where the law librarian profession will be, and what our roles might be within our firms. Will law firms be forced to change the way they do business to reflect the changes taking place in their clients' workplaces?

No concrete answers were compiled, particularly because none of us own a Crystal Ball, but the program was indeed an interesting and thought-provoking one!

February

February's meeting was no less interesting. On February 16th, Rachel Jones, the Manager of Professional Education and Training at Dickstein, Shapiro, Morin & Oshinsky came to town to share her experiences in providing training programs within the law firm environment.

Rachel Jones was a reference librarian at both a law school and a law firm before taking on her new position, in which she oversees the firm's in-house professional development of attorneys and paralegals and assists with their compliance requirements for continuing legal education.

Although Maryland does not currently require attorneys to attend CLE programs, it is still important for librarians to see that the attorneys in their workplace are trained properly in their use of Lexis, Westlaw, CD-ROM materials, and of course, their intranets and the Internet.

Rachel informed attendees of several good resources for training information and materials, including the American Society for Training and Development (www.astd.org) and Fast Company (www.fastcompany.com).

Ideas for training programs come from a variety of sources. Rachel recommended one of her tips, keeping a daily journal where you would write down five things that you learned during the day. These items may be facts about your patron base, new skills learned in using a database, a new website that you've found on the Internet, or general product tips about legal research products. It often helps to perform a skills/needs assessment of your library users to determine what training is really needed!

Whatever training is performed, Rachel stressed that it is important to follow up on the training a few days or weeks afterward – if your students have not put the skills trained to use in their daily work, then the training may have been for naught!

Anne Morrison
Prince George's County Law Library

A PLEA FOR HELP

Once again, we are asking everyone to search their desk drawers and attics for anything from LLAM history. In sorting through the archives, I realized how many former members have left the state and/or the profession. What we have left are our memories and, when senility sets in, not to mention death, our successors will have little to remember us by.

We are especially sparse for the following years:

1984-85
1986-87
1987-88
1993-94
1994-95

If you have any program notices, minutes of meetings, correspondence, etc., for those years or any others, please send them to me. We are also still looking for photographs. We have received some from Nancy Holden, Anne Morrison and Jean Hessenauer. Some of the rest of you must have others.

In my last plea, I mentioned that we had a complete run of the LLAM Newsletter. Since then, some seem to have disappeared. If you have copies of the following, please send them:

v.4 #3
v.7 #4
v.9 #4
v.14 #3

Thanks for your help.

Beverly Rubenstein

Please send items to:

Beverly Rubenstein
LLAM Archivist
MD Attorney General's Office
200 St. Paul Pl., 18th Floor
Baltimore, MD 21202

Phone: 410-576-6400
Email: brubenstein@oag.state.md.us

MEMBER NEWS

Sally Miles Retires

Effective February 11, 2000, Sally Miles retired from full time law library employment. Sally asks to please keep her in mind for temporary, part time positions in your libraries. Otherwise, Sally reports that she'll be working as "Sally Homemaker" in Mt. Washington.

We all know that family can keep you busier than Supreme Court Justices, so congratulations, Sally, and best wishes!

Piper on the Move

Effective February 21, 2000, Piper Marbury Rudnick & Wolfe, LLP moved to their new location at 6225 Smith Avenue, Baltimore, Maryland 21209-3600. The firm's main telephone number is (410) 580-3000, and the main fax number is (410) 580-3001.

Library staff members can be reached directly as follows:

Tom Fleming (410)-580-4653
Ronney Manger (410) 580-4655
Michele Banks (410) 580-4650
Earla Croll (410) 580-4651
Susan Leboeuf (410) 580-4654
Viola Williams (410) 580-4657
Zhanea Sheshi (410) 580-4656
Reference Desk (410) 580-3010

Best of Luck in your new surroundings, and let us know when the "library warming" will be - we can't wait to see your new place!

New Look / New URL

The Thurgood Marshall Law Library at the University of Maryland School of Law has re-designed its web page. Along with the new look comes a new URL. Please update your links to:

<http://www.law.umaryland.edu/Marshall/>



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DID YOU KNOW?

Lexis Publishing to Move Distribution Center

The Lexis Publishing Distribution Center in Puerto Rico will no longer be shipping any Michie products as of April 1, 2000. (No, this is NOT an April Fool's Joke!)

Effective April 1, all "Michie" products will be shipped from the Matthew Bender Distribution Center in Conklin, New York, or directly from Charlottesville, Virginia.

It is hoped that this "move" will greatly enhance the shipping and services of Lexis Publishing products...

COMAR NOW AVAILABLE ON THE INTERNET!

COMAR, your guide to Maryland State Agency regulations, is now available on a searchable, full text internet web site @ www.dsd.state.md.us.

As the first page of this website explains, the MARYLAND REGISTER, the bi-weekly publication which updates COMAR is under construction and will appear later.

We, in the State of Maryland, can now proudly boast that the four major sources of primary legal authority are now accessible over the Internet.

State Code (http://mlis.state.md.us/cgi-win/web_statutes.exe)

State Regulations (www.dsd.state.md.us)

Court Opinions (from 1995-date)
(www.courts.state.md.us/opinions.html)

and *Court Rules*
(<http://mdrules.westgroup.com/home/mdrules/default.wl>)

Mike Miller
Maryland State Law Library

Will UCITA Become Law in Maryland ?

Harvey Morrell reported on the LLAM Listserv in early February that the Maryland General Assembly is currently considering passage of UCITA, the Uniform Computer Information Transfer Act. (HB 19/SB 142)

Most library associations are opposed to UCITA because its language appears to favor software developers at the expense of consumers.

Harvey drafted a sample letter in opposition to Maryland's UCITA bills. (A copy of the letter, from which you can create your own to be sent to your MD State Delegates and Senators can be found in this issue on page 12, if you are interested in voicing your personal views on UCITA.)

Every LLAM Member is encouraged to inform themselves about UCITA! If you would like further information about UCITA, be sure to visit the www.4cite.org website.

Just For Fun!

A prison law library figures prominently in John Grisham's new novel *The Brethren*. Three judges who are incarcerated at a minimum-security federal prison work in the prison law library. Enjoy the following excerpt, which describes the judge's "work:"

"Justice Joe Roy Spicer of Mississippi earned forty cents an hour sweeping the floors and straightening the desks and shelves. He also emptied the trash, and was generally considered to be a pig when it came to his menial tasks. Justice Hatlee Beech of Texas was the official law librarian, and at fifty cents an hour was the highest paid. He was fastidious with his 'volumes,' and often bickered with Spicer about their care. Justice Finn Yarber, once of the California Supreme Court, was paid twenty cents an hour as a computer technician. His pay was at the bottom of the scale because he knew so little about computers."

Archives Of Maryland Online Project

The Maryland State Archives has undertaken the Archives of Maryland Online Project, which was started by putting the 72 volume Archives of Maryland series published by the Maryland Historical Society online with images of the pages as well as searchable text. The series was transferred to the Maryland State Archives in 1981 and they have continued to add volumes. The Archives now has 105 volumes in the series with the eventual goal of putting the complete legal history of the state of Maryland online up to the present day. The Maryland Archives invites LLAM members to link to the project from their websites or provide links in their MARC records. They believe this will prove to be a valuable resource for legal historians and welcome any feedback.

This is an ongoing project and interpretive information will be added as the project progresses. For more information, contact Roger Kizer Ball or visit the Maryland State Archives website at <http://www.archivesofmaryland.net>.

Roger H. Kizer Ball
Email: rogerhkb@mdarchives.state.md.us
Archives of Maryland On-Line
Maryland State Archives
Annapolis, Maryland 21401
410-260-6417

2000 NATIONAL LEGAL RESEARCH TEACH-IN -- TECHNOLOGY FOR A NEW MILLENNIUM

Are you feeling beleaguered and bewildered in our fast-paced, ever-changing law library environment? Have technological advances outpaced your ability to keep your patrons up to date on all of the new developments? You will be pleased to know that there is one thing in our crazy, mixed-up world that remains constant -- the National Legal Research Teach-In! It is returning in 2000 for its eighth consecutive year!

The 2000 Legal Research Teach-In, organized by the Research Instruction & Patron Services SIS (RIPS-SIS), offers the opportunity to improve the skills of your patrons and showcase your skills as a teacher and information provider. Following the pattern of the past seven years of highly successful Teach-Ins, Teach-In 2000 is scheduled in conjunction with National Library Week (April 9-15, 2000). As in previous years, the Teach-In committee has worked with the West Group and LEXIS-NEXIS to prepare unique instructional and promotional materials. Thanks to generous donations from the two companies, the MATERIALS WILL again BE AVAILABLE AT NO CHARGE. It is a true measure of their

commitment to the law library community that both West Group and LEXIS-NEXIS continue to underwrite this activity, as they have since its inception eight years ago.

RESEARCH TRAINING KITS

Topped the "BESTSELLER" list again last year! -- West Group distributed approximately 750 kits to law librarians all over the world! The 2000 Teach-In training kit will cover a wide range of subject areas around the theme, "Technology Training for a New Millennium," bringing together traditional legal resources and the newest electronic sources in one convenient package. The kits are designed to provide that extra assistance to get an instructional program off the ground. They may include pathfinders, research guides, posters, lesson plans, lecture notes, research exercises; a myriad of instructional materials developed by law librarians for use by law librarians. One kit per institution is available free of charge from the West Group. Contact Marketing Support, West Group, by fax 1-800-854-1597 or email mkgsupport@westgroup.com.

Be sure to provide your name, address, institution, telephone number, and, if available, your West Group account number.

PROMOTIONAL MATERIALS

A BIG HIT from last year is back by popular demand! Over 20,000 notepads were sent out to approximately 525 locations around the United States, Canada, and Australia, setting another new record! Colorful notepads designed with Teach-In committee assistance and produced by LEXIS-NEXIS, can help you promote your 2000 Teach-In activities. These notepads can be used by library staff or given away to patrons as an incentive to participate in your library events. Email or fax requests to Judy Floyd Evans, Director, Librarian Relations Group, LEXIS-NEXIS, at judy.floyd@lexis-nexis.com or 937-865-1585. Be sure to indicate your name, address, and the minimum quantity you need. If deemed necessary, a limit will be imposed in order to accommodate as many requests as possible.

Orders for training kits or promotional materials should be placed by March 10, 2000, so you will receive them in time for your National Library Week events.

Now is the time to make the commitment that your library will conduct some sort of event involving legal research during National Library Week 2000. With the vast amount of materials available to you, it's easy to plan an educational event. If you need more ideas, descriptions of Teach-In kits from previous years can be found on the RIPS-SIS web page at <http://www.aallnet.org/sis/ripssis/>. Past years' kits can be obtained through AALL Headquarters. Contact: AALL, 312-939-4764.

(SAMPLE UCITA OPPOSITION LETTER)

Dear Senator/Delegate _____:

I am writing to voice my opposition to the Uniform Computer Information Transactions Act, which has been introduced here in Maryland as House Bill 19 and Senate Bill 142. I am a librarian. Our nation's libraries are among the largest consumers of software. We use software to run our internal operations and we provide patrons with computerized access to electronic information products and services. Nationwide, public, academic, special and government libraries expend hundreds of millions of dollars in fees for databases each year and the amount continues to grow. The library community, therefore, has a huge stake in the outcome of your deliberations on the future of UCITA here in Maryland.

I am sure you are well aware of the high level of opposition to UCITA, including the American Law Institute, 24 state Attorneys General (including Maryland), the Federal Trade Commission, consumer groups, software customers, several coalitions of law professors, the entertainment industry, the library community, and even some software developers.

I would like to bring to your attention to three major areas of concern to the library community:

First is the validation of shrink wrap and clickable licenses, in both the mass-market context for consumers and the standard form contract context for libraries, that may restrict otherwise legitimate uses. Our concern is not so much with the validation of these types of licenses but rather with the content of the licenses, and how they may affect our users. We continue to believe that MUCITA's preemption provisions, Section 21-105(a) & (b), are unnecessarily vague and do not guarantee that licensing terms will not restrict uses that are otherwise granted under copyright law. We are not reassured that contract terms may be unenforceable because they are "unconscionable" under Section 21-111. That is a high threshold indeed. Nor do we believe that courts would take seriously the claim that a contract violates "a fundamental public policy." We remain unsure of what a "fundamental public policy" would be in this context.

Second, Section 21-503 indicates that a term in the contract prohibiting transfer is enforceable. This provision could effectively eliminate the "first sale" doctrine by denying libraries the right to transfer legally acquired materials through interlibrary loan, or to enhance their collections through gifts and exchanges. Moreover, although there is a requirement that such a provision must be conspicuous in a mass market license, there is no equivalent requirement for standard form contracts that libraries typically would use.

Third, Sections 21-618 and 21-814 to 21-816 on termination and electronic self-help permit a licensor to recover its data or prevent the use of its product when a license expires. This provision would seriously undermine a library's traditional role of preserving information resources. In addition, the electronic self-help provision of "manifesting assent" has no requirement of conspicuousness and there are few procedural protections.

In summary, the provisions of the Act would substitute the private law of contract for the public law of copyright in ways that would leave consumers, including libraries, with little bargaining power and few rights. We in the library community fully support the thriving growth of electronic commerce. This Act, however, tilts heavily in favor of software developers and publishers of electronic information at the expense of software consumers and users of electronic databases.

I therefore oppose this Act in its current form and urge that it not be recommended for adoption in Maryland. Thank you for your time and attention.

Sincerely yours,