The Association Law Year-In-Review 2010-2011

Jerald A. Jacobs

Agenda

<table>
<thead>
<tr>
<th>Tax Exemption</th>
<th>ADA</th>
<th>Trademarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liability</td>
<td>Standing</td>
<td></td>
</tr>
<tr>
<td>Antitrust</td>
<td>Class Actions</td>
<td></td>
</tr>
<tr>
<td>1st Amendment</td>
<td>Compensation</td>
<td></td>
</tr>
</tbody>
</table>
Report on AARP

- Two Ways & Means members attack AARP
- Seek IRS withdrawal of exemption
- Grossly flawed analysis

Group Exemption Tax Returns

- Private organization recommendation
- Would eliminate a primary benefit of group exemption
- Would grossly increase paperwork in federations
Metropolitan Yacht Club

• Member sues club over boat fire at club docks
• Club rules disavow liability
• Court treats rules as a binding agreement

EU Information Exchanges

• Fines can be imposed for information exchanges
• Reduced market uncertainty = reduced competition
• U.S. trade associations presumably at risk
AAPM Accreditation Bias

• Dosimetry calibration re-accreditation

• “Conflict of Interest Roundtable” skewed results

• Due process rules

Motor Fuel Temperature Litigation

• Third-party subpoenas to trade associations

• Sought legislative strategy documents

• Required actual loss of members or threats/harassment
ADA Private Club Exception

- Must Boy Scouts provide signing?
- ADA “private club” exception
- Seven-part 7th Circuit Test
- Contrast PGA and Boy Scouts

Association Standing to Sue

- S. Ct.’s 3-prong Hunt test
  - Members have standing
  - Within association purposes
  - Members not required
- Same court; month apart; different results
Wal-Mart/Class Action

- Court narrowed FRCP 3 ways
- Trial court must examine the bases for class claim
- “Commonality” is tighter than previously
- No class if individual monetary relief

Payment to Charity Volunteers

- Mass. State Attorney General’s Office inquiry
- Annual reports now required
- Senate Bill goes farther
Charity v. Charity

• Trademark suits between 2 similar charities
• Court let suit proceed
• Posited theory that charities deserve greater IP protect than businesses

Thank you

Jerald A. Jacobs
Washington, DC
jerry.jacobs@pillsburylaw.com