the order vacated and authorized a study to provide the factual basis to support its request. In the interim, a person who was adversely affected by the order filed suit. Later, that person's lawyer learned that the State was seeking to vacate the order and moved to intervene (according to one Assistant Attorney General, the lawyer stated he was doing so to jump the State's claim). Ultimately, the court agreed to vacate its order. When it did, the intervener's attorney sought attorney's fees as a "prevailing party." The Eleventh Circuit granted his request. IMLA joined as an *amicus* to urge the Supreme Court to review whether a prevailing party can obtain attorney's fees from another prevailing party with which that party is aligned. Sadly, the Supreme Court has decided not to grant certiorari in this case.

Another interesting case, *U.S. ex rel Wilson v. Graham County Soil Conservation District*, that IMLA has not yet joined and is pending a decision on whether certiorari should be granted involves the False Claims Act. An employee of a Soil Conservation District raised a number of concerns about the operations of the District with the local county commissioners and with the State. Believing those concerns serious enough, the County opted to conduct a review and determined that the District had acted improperly. The State conducted a similar review and reached a similar conclusion. Both the State and County acted promptly to correct the deficiencies. Nevertheless, the employee filed a False Claims Act action which the District sought to dismiss, based on a provision in the Act that precludes suits brought based on facts found in administrative reviews. The Fourth Circuit concluded that the Act was intended only to exempt suits that were derived from federal administrative reviews, not reviews conducted by state or local governments. The court has asked the Solicitor General to provide that office's insight into the case and as to whether certiorari should be granted. Should the Court grant certiorari, I expect that IMLA will participate as an *amicus*, as this case poses dire consequences for local governments and acts as a disincentive to local and state governments to conduct audits of, and report on wrongdoing in, federally-funded programs.

These cases enjoy one central theme—the potential increased cost to local government should a decision adverse to local government either be made or upheld. Most local governments are already suffering in a down economy and adverse results in these cases can exacerbate that suffering.

IMLA cannot support local governments in these and other cases without your help. Our advocacy programs (as well as our other programs) all require sufficient resources to keep them effective. For that reason, I am asking you to help us attract and retain members. I am also asking that you support our educational programming. We try very hard to provide excellent CLE programs in a cost-effective manner, and the evaluations of our programs confirm we are successful in pursuing that goal.

Because so many of our members report that travel budgets are being slashed, we are now offering audio/webinar programming at very affordable rates. By comparison, our fees are substantially less than many other CLE providers; yet, in comparison to others, who can subsidize their programming through substantially greater membership revenue, our rates are a little higher. Thus, if we can increase our membership base (or be assured of a "sell out" audience), we should be able to reduce some of our programming costs in the webinar/audio marketplace.

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# Member News

## IMLA Past President Appointed to Queen's Bench



On December 12, Bruce Noble, Q.C., an IMLA Past President (2004-2005) and the City Solicitor for Fredericton, New Brunswick, was appointed by Canada's Minister of Justice and Attorney General to the Court of Queen's Bench, Family Division, in the Province of New Brunswick. This is a tremendous honor and distinction. Bruce was sworn in on January 9, 2009, and will be serving in the City of Saint John. As a Canadian judge in a senior or superior level of trial court, he will be the Honourable Mr. Justice Noble.

Bruce has been an active IMLA member for very many years and, among his many distinctions, he served as the first Canadian President of IMLA. On leaving the world of local government law, Bruce notes: "Municipal law has provided me with a wonderful career and a fascinating life filled with what can only be called stimulating challenges. I have enjoyed the company and the advice of great attorneys on both sides of the border." Although he'll be leaving the municipal legal world, we're pleased to note that the Honourable Mr. Justice Noble intends to remain an IMLA member.

We're extremely proud and happy for Bruce, and wish him every success in the new chapter of his professional life. **ML**