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Chief Justice, State Bar Network in Singapore and China

By Elizabeth Bennett

Of the DLW

These days it's hard to pick up the business press without reading about Asia and its place at the forefront of the burgeoning global economy, and Delaware naturally wants to make sure the Asian corporate community is aware of everything the state has to offer.

To that end, Chief Justice Myron T. Steele of the Delaware Supreme Court traveled to Singapore and China last month with Cynthia Kane, the special assistant to the Delaware Secretary of State, International. Their mission was to get the word out about the advantages of doing business in Delaware. They were joined by members of the state bar.

"Delaware gets about 30 percent of its annual statewide budget from the corporate franchise tax," said John L. Reed, a partner with the Wilmington office of

Edwards Angell Palmer & Dodge who made the trip. "As the economy goes global it's going to be important for Delaware internationally to keep the place that it maintains in the [United States] regarding corporations."

Singapore was the first stop, where Steele had been invited to sit on a panel by the International Bar Association (IBA) that was holding its annual meeting in the Southeast Asian city-state.

According to Kane, her office saw this invitation as good opportunity to visit China as well.

"We were in that part of the world. The chief justice said he would go with us to Beijing so we put it together. It was a longer trip than we usually take and well worth the effort."

In Singapore, the interest in Delaware was evident during the panel, which Steele reported drew a large audience.

"I stressed Delaware corporate law and

reemphasized to several hundred lawyers why Delaware is the center of corporate activity in the United States," Steele said.

The panel dealt with the obligations of shareholders and was held on Oct. 15. Panelists included experts from China, Uruguay and France.

The next day Ellisa Habbart, founding partner of Wilmington firm the Delaware Counsel Group, also participated in a panel. Her program dealt with the hot topic of "club deals," transactions involving private equity consortiums and the legal, ethical and practical issues that can arise.

Habbart got involved in the IBA meeting by virtue of her post as vice-chair of the private equity subcommittee of the IBA's business organization committee. Her panel covered possible conflict that can arise in these deals, and gave Habbart the chance to discuss how Delaware alternative entity vehicles can be useful.

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"There were some there who had worked in Delaware and others who had not," Habbart said, adding that she has already received some follow-up calls as a result of the program.

The team from Delaware also had the chance to meet with the Wong Partnership and Rodyk & Davidson, two of Singapore's biggest law firms, as well as Chan Sek Keong, the chief justice of the Singapore Supreme Court.

In addition, Kane took the vital networking measure of hosting an official Delaware Secretary of State dinner, attended by about 30 people.

"We invited the panelists who spoke on the chief justice's panel and a few lawyers the chief justice knew, and Ellisa Habbart knew and John Reed knew from their dealings in the international arena," Kane said. "We had a nice convivial meeting."

Kane added that this IBA meeting meant there were 3,000 lawyers in Singapore from all over the world, with 15 or 20 percent in the corporate law section.

"You just couldn't lose. These are the people Delaware would most like to have on its agenda."

After Singapore the Delaware contingent traveled to China, where it met with the country's two largest law firms: King & Wood – a fully Chinese firm despite the Western name it has adopted – and the Jun He Law Offices.

In addition, Steele spoke at the Tsinghua University and Peking University law schools. The group also met with leadership of the Chinese equivalent of the Securities and Exchange Commission, as well as three members of the civil division of the Chinese Supreme Court.

"We discussed common problems and common issues in corporate and commercial law for about two hours," Steele said.

He also noted that this was more an exchange of ideas than an advice-giving session.

Zhun Lu, an intellectual property lawyer with Wilmington firm Connolly Bove Lodge & Hutz and director of its Asian-Pacific practice who joined the delegation for the China segment, said the Chinese judicial system is in the process of modernizing.

Lu was born in the Chinese city of Wuhan and his native tongue is Mandarin. He was an obvious boon for the delegation. Habbart didn't make the trip to China.

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Some of the concerns of the Chinese jurists, "are very similar to the ones our judges have in corporate matters," Lu said. "They are thinking they can learn from our expertise. ... I think they are moving in the right direction."

Steele explained that the Chinese judicial system is still developing with a goal of being more like a Western system in which the rule of law will be recognized.

"Their concept of judicial independence is quite different than ours. The judiciary to a large extent is part of the executive branch. There isn't the detachment and independence we believe we've achieved in common law systems," Steele said. "From what I hear, there are areas of China where the judiciary is well respected and rule of

law is equally respected, and there are other areas where that is still a goal."

As well as the activities above, Steele was invited to deliver a speech at the Eminent Persons Forum hosted by the State-Owned Assets Supervision and Administration Commission (SASAC) of the State Council.

"I gave a lecture on current trends in corporate governance in the United States, with an obvious emphasis on Delaware, to about 200 people. It was a terrific forum," Steele said. "The audience was made up primarily of practicing lawyers with a mix of business people and gave Delaware some high-profile publicity."

Steele and the group also met with Bai Yingzi, a deputy director of SASAC, a Chinese entity that has no U.S. equivalent. The chief justice explained that its job is to handle state assets and determine which businesses in China can offer shares to private buyers and how they should be structured.

"If the Chinese government remains a 51 percent shareholder and offers private investment in 49 percent of a government-controlled business, what are the responsibilities of the Chinese government to other shareholders under Chinese law? What is the best corporate governance relationship?" Steele asked, by way of explaining the nature of the discussion.

The chief justice added that the group was able to get out the Delaware message: If companies are privatizing and going international they should come to Delaware.

Lu said the Delaware team was able to bring a lot to the table in terms of majority shareholders' responsibilities and their duties to the minority.

"Delaware is excellent in balancing the interests of the shareholders and management and the boards of directors, and balancing majority and minority interests. Delaware courts deal with those questions all the time," Lu said. •

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Security Assessment Fee Instituted by Superior Court

The Superior Court has instituted a

court security assessment pursuant to legislation passed by the General Assembly and signed by the governor.

Per an administrative order from the court, effective Dec. 1., the prothonotary will collect a \$10 court security assessment for all initial civil filings in addition to the \$175 filing fee. This assessment will also

be collected for all criminal and traffic charges for which there is a conviction. The monies collected will be maintained in a separate account designated as the "Court Security Assessment Fund."

These changes reflect amendments to Superior Court Civil Rule 77 and Criminal Rule 58. •

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