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THE MAGAZINE OF THE AMERICAN INNS OF COURT[®]



PRACTICING LAW IN A MULTICULTURAL SOCIETY

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FROM THE PRESIDENT

The Honorable Kent A. Jordan

This issue of *The Bench* focuses our attention on serving the legal needs of people from a variety of cultural backgrounds. The word “multicultural” is often used as a shorthand expression for racial or ethnic diversity. Its literal meaning is “of or relating to a society consisting of a number of cultural groups, especially in which the distinctive cultural identity of each group is maintained.” (Oxford English Dictionary Online, www.oed.com, visited June 30, 2020.) So, the theme of “Practicing Law in a Multicultural Society” gives us the opportunity to consider how to develop a greater capacity to understand and respect the differing outlooks, born of differing backgrounds, that people bring with them when seeking legal advice.

The articles in this issue address practical problems that arise when language barriers and varying social norms make misunderstanding another person all too easy. Communication is challenging enough when shared experiences provide a base of safe assumptions about what we mean. When that base is less firm or is nonexistent, extra care is needed to ensure that a client, opponent, witness, and every other player in the legal system is both in fact and in perception heard respectfully and treated fairly.

Longer ago than I care to admit, I lived and worked in a foreign country for a couple of years. It was a great and formative time in my life, perhaps because it was also a very challenging time. I have vivid memories of the culture shock I felt during the first few months there, the sort of memories that get etched in the mind by strong emotions. Among the clearest of those memories is the frustration I experienced in trying to understand and make myself understood in a different language.

I remember thinking one day how tired I was of embarrassing myself and testing the patience of others with my inadequate language skills. And I recalled with a wave of empathy an acquaintance from my childhood whose halting English I’d found amusing. Now the proverbial shoe was on the other foot and that foot was in my mouth. Conversing with others had never been hard for me before, but it was now, and I had a new and powerful respect for anyone who strives to learn a new language and to function in an unfamiliar environment.

According to an article from a year ago on the Pew Research Center’s website, the United States is home to the most immigrants of any nation on Earth. “More than 40 million people living in the U.S. were born in another country, accounting for about one-fifth of the world’s migrants in 2017. The population of immigrants is also very diverse, with just about every country in the world represented among U.S. immigrants.” (Key findings about U.S. immigrants, by Jynnah Radford, www.pewresearch.org/fact-tank/2019/06/17/key-findings-about-u-s-immigrants, last visited June 30, 2020.) As a share of the overall U.S. population, the immigrant population is reaching levels not seen since the great waves of immigration in the late 19th and early 20th centuries. Demographic changes on such a scale raise a host of political, social, economic, and legal issues. Certainly, immigration has loomed large in the often acrimonious political debates of recent years.

The purpose of this issue is not to wrestle with those weighty matters. It has the more modest, but still very important, purpose of encouraging us in our efforts to be more effective advocates and legal counselors to all who may seek our help. Legal needs arise for practically all of us at some point in our lives. We, as lawyers and judges, have the particular privilege and responsibility to meet those needs, and we can do so better if we are attuned to the various distinct cultures within our shared American culture. I’m grateful to the authors of the articles in this issue, who have helped us to that end. ♦

Giles S. Rich American Inn of Court

The Giles S. Rich American Inn of Court, of Washington, DC, lost three giants this past year: Donald R. Dunner, Esquire; Judge Gerald Mossinghoff; and Q. Todd Dickinson, Esquire. Each were longstanding, active members of the Inn and the patent community.

Dunner, a founding member of the Inn, led virtually every association dedicated to intellectual property law. He was president of the American Intellectual Property Law Association, head of the American Bar Association's (ABA's) Section of Intellectual Property Law, and a member of the ABA House of Delegates. He was also a prolific writer and teacher, authoring a treatise on practice before the U.S. Court of Appeals for the Federal Circuit. He was also a leading practitioner of patent law and appellate practice, arguing more cases before the Federal Circuit than any other attorney. The Inn had to postpone its planned March program on lessons from Dunner's life, which was to have been a joint program with the Pauline Newman IP American Inn of Court.

Mossinghoff was an Inn Fellow and Emeritus member. He was commissioner of patents and trademarks and president of the Pharmaceutical Research and Manufacturers of America and was also in private practice. During his tenure as commissioner, the U.S. Patent and Trademark Office (USPTO) hosted the first trilateral meeting with the Japan Patent Office and the European Patent Office. During this time, there were also several significant changes to the patent laws and its adjudication, and Mossinghoff helped to modernize the USPTO.

Dickinson was a founding member of the Benjamin Franklin American Inn of Court in Philadelphia, Pennsylvania, and the Q. Todd Dickinson Intellectual Property American Inn of Court in Pittsburgh, Pennsylvania, was named for him. Dickinson was director of the USPTO, served as executive director of the American Intellectual Property Law Association, was chief IP counsel of GE, and was in private practice. Most recently, he testified before Congress about potential changes to the patent laws. Dickinson was an ever-present force in the IP community, a champion of diversity, and a mentor to many.

Don, Gerry, and Q. Todd will be missed. ♦



At the May presentation of the Young Inn's Legal Writing Award, from left to right, are Courtney Jackson; Judge Bob LeBlanc, Inn president; Mark L. Horowitz, Esq.; and Michael Hristakopoulos.

George C. Young American Inn of Court

In recognition of the outstanding service U.S. District Judge George C. Young provided to Central Florida, the George C. Young American Inn of Court of Orlando, Florida, created an annual Legal Writing Award that is given to law students attending Florida Agricultural and Mechanical University College of Law and Barry University Dwayne O. Andreas School of Law. This year's winners were Courtney Jackson and Michael Hristakopoulos. Awards were presented in May by Inn President Judge Bob LeBlanc and Inn board member Mark L. Horowitz, Esquire. Three gold-level sponsors made this award possible: the Law Offices of Horwitz & Citro, PA; A. Brian Phillips, PA; and Akerman LLP. ♦

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Judge Kent A. Jordan Begins Term as American Inns of Court President

By Melanie Padgett Powers

Anyone who joined the Jordan family dinner table when Judge Kent A. Jordan was a child would not be surprised to see what careers the six children selected. Jordan was born and raised at the U.S. Military Academy at West Point, New York, where his father, Amos Jordan, was the youngest professor in the modern history of the Academy, teaching national security, political science, economics, and history. Jordan, the youngest of six children, describes his childhood as “idyllic.”

“There was a palpable sense of patriotism on the post, and we were raised with a strong feeling of gratitude for the nation and all that it offers. The words ‘duty, honor, country’ were constant reminders to that ethos, and that’s been a real blessing,” he says.

Conversations at family dinner often focused on public policy, national security, and foreign affairs, with his parents educating their children and encouraging debate. The three sons ended up studying law, while the three daughters became a journalist, a nurse practitioner and professor, and the “classic business executive’s spouse,” helping her husband’s career at every step.

On July 1, 2020, Jordan became the new president of the American Inns of Court. He is a circuit judge on the U.S. Court of Appeals for the Third Circuit, which is based in Philadelphia. He was previously a district judge on the U.S. District Court for the District of Delaware. His home Inn is the Richard S. Rodney American Inn of Court in Wilmington, Delaware. He is also an adjunct professor of law at Vanderbilt University and the University of Pennsylvania.

As a young man, Jordan was influenced by his service in Japan as a missionary for the Church of Jesus Christ of Latter-day Saints. Living in Japan for 22 months in the late 1970s was “a very formative and important part of my life,” he says.

After earning his undergraduate degree in economics at Brigham Young University in Provo, Utah, Jordan earned his law degree at Georgetown University in Washington, DC. One of his brothers had shared what a great experience it was to work for a district judge, so Jordan set his sights on a clerkship. He was offered one with Judge James L. Latchum, of the United States District Court for the District of Delaware.

“I wasn’t really sure what I was going to do except I wanted to have that clerkship, and it turned out to be highly significant to me,” Jordan says. “The judge—my judge, I think of him as—was a big influence on me. ... I loved the year I clerked for him, and I was so impressed with the challenging and adrenaline-producing work that a trial judge gets to do. So, I thought if that opportunity ever came my way, I would jump at it.”

Before that opportunity arrived, however, Jordan practiced law in a variety of ways. First, he was in private practice, with a focus on corporate and commercial litigation. But when he was offered a spot as an assistant U.S. attorney (AUSA), he could not pass it up.

“Those AUSA positions are highly sought after, as they should be. It’s an honor and a wonderful experience to get to be an assistant U.S. attorney,” Jordan says. “I’ve never had more fun in my career, nor been more satisfied in my career. To get to stand up and say to a jury, ‘I represent the United States of America’ is really a signal honor.”

It was hard but satisfying work. “There are few things in life that engage so much of a person’s intellect and energy as trial work,” he explains. “Standing up in front of the jury and presenting a case is a demanding and an exhilarating experience. You are responsible as a prosecutor to only bring cases that you think need to be brought and legitimately can be brought, and so you’re not beholden to a client in the traditional sense.

“You’re making judgments about what justice requires, and then you’re fighting for justice as you understand it. And on the other side, you’ve got an able and a capable defense lawyer. ... That adversary system playing out in front of a good trial judge—it’s a thrilling thing to be a part of that process and see the rule of law working its way to a specific conclusion in a specific case.”

After his experience as an AUSA, Jordan returned to private practice for several years, this time focusing particularly on intellectual property litigation. He then took the opportunity to work in-house and view the law from another vantage point. He became vice president and general counsel for Corporation Service Company (CSC). CSC’s rapid growth provided Jordan the opportunity to build

an in-house legal department and work with “great business people who also became great friends.”

“I thought that that would be an exceptional experience, to get to see the law from a different perspective,” Jordan explains. “In litigation, practically by definition, you’re coming in after things have gone badly awry. I thought it would be fun and interesting and challenging to see the law during the building phase, not when things have gone haywire but when you’re trying to make things work.”

From CSC, Jordan took away respect for business professionals. “One of the things that I learned was how really good, thoughtful, smart, ethical business people operate—the way they see opportunity, the way they work to take appropriate advantage of the opportunities that come their way, the way they work in teams, the way good leaders motivate people.”

But then, a long-dreamed-of opportunity arose. A spot opened up on the United States District Court for the District of Delaware when one of the judges planned to retire. Jordan was nominated by George W. Bush and confirmed by the Senate in 2002. Four years later, he was nominated and confirmed for a seat on the U.S. Court of Appeals for the Third Circuit.

Along the way, Jordan has been involved with the American Inns of Court almost from day one. He learned about the idea of bringing the British mentoring system to the U.S. from an American Bar Association article. He saw that the first Inn was being created at his alma mater, Brigham Young University. He asked his brother, a lawyer in Salt Lake City, about Judge A. Sherman Christensen—who would become the Inn’s founding president.

“My brother said he was a great judge and a wonderful gentleman and if I had questions about the American Inns of Court, he was sure that the judge would probably be happy to talk to me.” Jordan laughs at his own gumption: “So, between my second and third year of law school, there in Salt Lake City, clerking for my brother’s firm, I picked the phone up and called Judge Christensen’s chambers and asked if I could talk to him about the American Inns of Court, and he said, ‘You bet. Come on over.’”

After spending more than an hour talking with the judge about his vision of the Inns, Jordan came away both impressed with the judge and excited about the concept. “I just couldn’t think of anything

that would be more interesting and educational than getting to practice courtroom legal skills in front of lawyers and judges who were the best at it in the community ... to have a chance to listen to and learn from these people, to break bread with them and get to know them and understand how they approached their careers.

“The Inns of Court movement is an extraordinary vehicle for passing on the best of the profession from one seasoned group to an up-and-coming group.”

Jordan returned to Georgetown and connected with professor Sherman L. Cohn, who would become the Inns’ first national president. The two helped create the Charles Fahy Inn in DC. Jordan also served as a student member of an ad hoc committee of the Judicial Conference of the United States exploring the creation of a national organization to promote the American Inns of Court.

Now, as a judge and the new Inns president, Jordan looks back and says he hopes he has internalized the credo of the American Inns of Court, bringing civility and the highest ethical standards to his work, as well as professionalism and a dedication to excellence. Those in the legal profession should embrace their responsibility of “providing equal justice under law to every citizen,” he says. “We’re living at a time when that promise is one that some people feel just has not been met—and there’s evidence that for some people, it clearly hasn’t been met in tragic ways—but it’s still something that we should be aspiring to and working toward.

“[We should be a] part of that process of seeking to improve the administration of justice in our society so that people are feeling, one hopes, more and more that they get fairness and due process and proper representation when they have problems. That’s a great thing to be a part of, and the Inns of Court are singularly well-positioned to lead in that effort.”

As Jordan looks back at his life and career, he says his happiest achievement is “raising good kids.” He and his wife, Michelle, have six adult children and 11 grandchildren, with a 12th due in August. It appears that, more than just public policy and history, those nightly family dinners and idyllic childhood at West Point taught him something about the priority of family too. ♦

Citrus-Hernando American Inn of Court

In light of all we have experienced in the past six months, the theme for the 2019–2020 program for the Citrus-Hernando American Inn of Court in Citrus and Hernando counties, Florida, should have been “adaptability.” Generally speaking, springtime is associated with change, but this spring we all faced a new definition of “change” as the COVID-19 pandemic arrived.

The Citrus-Hernando Inn canceled its March and April meetings before meeting on Zoom in May, the Inn’s first virtual meeting. About a dozen members participated. The meeting deviated from its normally scheduled program presentations, instead providing an opportunity for those in attendance to reconnect with one another. Members discussed how their practices were rapidly adapting in response to the pandemic and how everyone was adjusting to the new, more isolated, normal. Some members were

video-conferencing from their kitchens, others from offices, home-offices, and patios. One thing that was shared among all in attendance: appreciation for the opportunity to interact, socialize, and engage with their fellow Inn members after too much time away.

The Inn also discussed the best course of action to wrap up its program year. Those in attendance agreed to extend the Inn year, which was scheduled to end in May, into June to allow for a final meeting. One of the groups volunteered to go forward with its presentation in June.

In June, about 16 members attended. The presentation focused on a timely topic, lawyer well-being, which fostered healthy and relevant discussion. Those in attendance agreed to continue informal meetings through the summer as a way to stay in touch and continue engagement among members. ♦

George Mason American Inn of Court

As with the rest of the world, the George Mason American Inn of Court in Arlington, Virginia, is taking steps to adapt to our new post-COVID-19 world. The September, October, and November 2020 meetings, as well as the new member orientation/mentor kick-off event, will be held virtually using a video conference platform. The virtual platform will feature separate rooms for the first hour, traditionally our happy hour/meet-and-greet time, so that mentor-mentee pairings and other small groups can meet. The full meeting and continuing legal education hour will take place with the full Inn membership. A decision about whether to hold the first three meetings of 2021 live or by video conference will be determined at a later date.

The executive committee remains committed to understanding and responding to the needs of Inn members, including financial hardships and health concerns that have arisen due to the pandemic. The Inn’s goal is to maintain membership while not sacrificing the quality of member experience. The executive committee voted to significantly reduce membership dues for all members, in recognition of both the financial impact on some members

and the virtual nature of at least the first three meetings. Further decisions regarding dues will be made at a later time. In addition, the committee decided not to graduate anyone from the Inn and to accept six new members. Finally, for the first time, the committee will consider alternate forms of membership for those members who cannot actively participate in the 2020–2021 Inn season due to Covid-19–related concerns.

The George Mason American Inn of Court understands that work must be done to repair injustice and inequality in our legal system and stands united with the black community and other minorities who have historically not received fair enforcement and equal administration of justice. To that end, we plan to create programming that will help our members understand inherent bias and will include input from local leaders. We have asked our membership for suggestions on ways to address this often difficult subject. Reflecting on this past year, the November 2019 program was titled “Criminal Justice Reform in Virginia” and focused, in part, on how African Americans make up a disproportionate number of incarcerated people in the Commonwealth. ♦



Deb Harmon, left, of the Maple Park Village memory care facility receives one of many carts full of donations from Sagamore American Inn of Court President Aimee Rivera Cole, Esq.

Sagamore American Inn of Court

Each year, the Sagamore American Inn of Court in Indianapolis, Indiana, holds a drive to collect items to donate to charity. This year Inn members collected hundreds of books, games, and puzzles, which were donated to Maple Park Village, a local memory care nursing home facility. Maple Park Village offers different levels of care for people with dementia and Alzheimer's disease. Activities are an important part of a resident's day. Due to COVID-19, visitation to the facility was greatly restricted and residents were quarantined to their rooms for an extended period of time. The books, games, and puzzles were greatly appreciated because they provided residents with independent in-room activities during these restrictions. ♦

William B. Bryant American Inn of Court

The William B. Bryant American Inn of Court in Washington, DC, is mourning the passing of George Valentine, Esquire, a longtime Inn member and team leader who died in March from COVID-19. Valentine was a pillar in the DC community, having spent more than two decades with the D.C. Attorney General's Office and recently serving in the Mayor's Office of Legal Counsel. He brought deep experience, unique insight, and plenty of smiles to our Inn meetings. He will be dearly missed. ♦

Honorable Nancy F. Atlas Intellectual Property American Inn of Court

The Honorable Nancy F. Atlas Intellectual Property American Inn of Court in Houston, Texas, shifted gears once the pandemic set in to continue to engage its members and help the greater community.

For its April program, pupillage groups pivoted from their originally planned dinner program to a Zoom-based panel presentation on virtual proceedings. They tapped seven judges and a professional mediator for an engaging moderated discussion covering virtual hearings, mediations, and depositions. The judges and Inn members learned from each other about best practices for our virtual "new normal" world.

The Inn's June meeting challenged each pupillage group to report on lessons learned while practicing law during a pandemic. This resulted in creative and informative virtual presentations titled "The New Normal for In-house Counsel;" "The Impact of Losing In-person Contact on Professional Relationships;" "War Stories from Virtual Markman Hearings;" "Impact of COVID-19 on Witnesses, Parties, and Jurors;" and "The Federal Circuit's Arthrex Decision." The meeting ended with a virtual wine and tapas tasting that featured a local sommelier, cook-at-home food and wine kits, and presentations from winemakers in Chile and Argentina.

Recognizing the ongoing need to promote diversity, inclusiveness, and needed change, the Inn membership approved a charitable contribution corresponding to the cost of the canceled April dinner to the Foundation for Advancement of Diversity in IP Law (www.diversityiniplaw.org). The foundation's mission is to support underrepresented racial and ethnic minorities in their pursuit of intellectual property law careers.

To promote public service, charitable activities, and pro bono work in a time of desperate need, the Inn hosted a virtual meeting in mid-June to identify tangible ways Inn members could help the community. During the meeting—to which all other Houston-based Inns were invited—members of the Atlas IP Inn and the Garland R. Walker Inn heard presentations from four representative organizations working in the Houston area: the Houston Volunteer Lawyers, Houston Food Bank, Kids Meals Inc., and Harris County Domestic Violence Coordinating Council. ♦

John Belton O’Neill American Inn of Court

In January, the John Belton O’Neill American Inn of Court in Columbia, South Carolina, hosted an event at the University of South Carolina School of Law featuring professional actor Paul Morella. The event was open to other local Inns, as well as all students at the law school. Morella travels around the country performing his one-person production “A Passion for Justice: An Encounter with Clarence Darrow.” His performance is widely considered to be the definitive characterization of the legendary attorney.

Morella was introduced by Richard H. Willis, the Inn’s program chair. The dramatic play highlighted Darrow’s most famous, and perhaps infamous, cases and included verbatim arguments made in the 1925 Scopes “Monkey” Trial, the Leopold and Loeb murder trial in 1924, and the 1925 civil rights trial of Ossian Sweet. Additionally, Morella delved into allegations of jury tampering and bribery against Darrow in

the 1911 trial of the McNamara brothers, who were charged with bombing the *Los Angeles Times*.

Morella’s performance was captivating and thought-provoking, and he presented a complete picture of Darrow’s internal conflict between legal ethics and the power of the courtroom as an agent for social change. As Morella noted in his comments after the presentation, Darrow’s defenses of freedom of speech, integration, and fair labor practices, along with his opposition to intolerance, capital punishment, and abuse of power, are still relevant to issues facing society today.

This meeting garnered the highest attendance of the year, and many of the attendees—members of the Inn, students, and guests—expressed their appreciation for Morella’s acting ability and a deeper look at the motivation behind Darrow’s famous courtroom speeches. ♦

Richard S. Rodney American Inn of Court

The Richard S. Rodney American Inn of Court in Wilmington, Delaware, had planned to take a delegation via chartered bus from Wilmington to Washington, DC, to observe oral argument for the *Adams v. Carney* matter at the Supreme Court of the United States in March. For the oral argument, the Inn was able to secure three reserved seats, and over 20 other members were planning to attend via general admission. Regrettably, the oral argument was canceled due to the pandemic but is slated to be heard in October. If feasible, the Inn delegation intends to attend the rescheduled oral argument.

The *Adams v. Carney* case concerns judicial selection in Delaware as proscribed by Delaware’s Constitution, which requires that no more than the bare majority of judges on a given Delaware court could be of the same political party. James Adams, Esquire, a retired lawyer, sued the governor of Delaware in the U.S. District Court for the District of Delaware and argued that Article IV, Section 3 of the Delaware Constitution violated the First Amendment. A magistrate judge for the district court ruled that the provision was unconstitutional. On appeal, the U.S. Court of

Appeals for the Third Circuit affirmed in part and reversed in part.

Delaware Governor John Carney, acting in his official capacity, filed a petition with the Supreme Court of the United States and argued that the Third Circuit’s decision was in conflict with similar decisions from other circuit courts.

In January, Inn President Judge Meghan A. Adams hosted the Inn’s first (of hopefully many) “Lunch with a Judge.” The event garnered significant interest among Inn members and included almost 20 Associate members along with Adams. To ensure that the event would be inclusive and approachable for the Inn’s most junior members, Adams enlisted the help of two more senior Associate members to assist her with preparing a series of questions to discuss during the lunch, which included a broad range of topics such as leadership and empowerment, marketing, and career development. The lunch was well-received and furthered the Inn’s goals of excellence in mentorship and professionalism. The Inn intends to continue these events post-pandemic, and each event will feature a different member judge. ♦

Leo Bearman Sr. American Inn of Court

In the 2019–2020 term, the Leo Bearman Sr. American Inn of Court in Memphis, Tennessee, tackled social issues that the world is finally discussing. Before all the protests and demonstrations, the Inn organized programs for its members addressing social issues such as detrimental implicit bias in policing, explicit racism, and challenges within the criminal justice system. The Inn planned other socially relevant programs, but unfortunately the coronavirus intervened and caused programs scheduled toward the end of the term to be postponed.

In November 2019, Memphis Police Director Michael Rallings addressed the Inn and discussed how the Memphis Police Department recruits officers and polices the community. He also discussed how the department combats implicit bias within its ranks, as it strives to better serve Memphis' residents. Officer Lance Wright, a lead trainer for the department, presented on methods to recognize and alleviate harmful implicit bias in police departments.

In January, Peter Simi, PhD, associate professor of sociology at Chapman University in California and a leading expert on extremist groups, educated the Inn on the rise and cause of hate groups and hate crimes in America. Simi has studied hate groups for more than 20 years and has interviewed extremists and immersed himself in their environment. He shared his extensive experiences with Inn members to help them understand and combat racist ideology.

In February, Jessica Van Dyke, Esquire, director and lead counsel for the Tennessee Innocence Project, educated the Inn on the Innocence Project's work, which, across the country, has led to over 362 wrongfully convicted people being released from prison. She also discussed challenges within the criminal justice system that led to individuals being wrongfully convicted. Sabrina Butler-Smith, a wrongfully convicted mother who was exonerated through the Innocence Project, also presented at this program and discussed her experience navigating the criminal justice system.



At the January Inn meeting, from left to right, are Terrence Reed, Esq., Inn president; Peter Simi, PhD; Lucie Brackin, Esq., Inn program chair; Handel R. Durham Jr., Esq.; and Judge Tu M. Pham.

Recently, a lot of attention has been paid to the 1921 Tulsa Massacre, but few people know about the 1919 Elaine Massacre, in which more than 100 black residents of Elaine, Arkansas, were murdered by white mobs and vigilante militias, aided by federal troops. U.S. District Judge for the Eastern District of Arkansas Brian Miller is a member of the Elaine Massacre Memorial Committee, which had several relatives slain in the massacre. Miller was scheduled to present on this topic at the Inn's March meeting, but the program was canceled because of the pandemic.

The Inn was going to further address issues within the criminal justice system by having Cyntoia Brown and her attorney, Houston Gordon, Esquire, who is an Inn member, present at its April meeting, but that meeting was also canceled. Brown was a sex trafficking victim granted clemency while serving a life sentence for killing a "John" who she alleges was trying to kill her when she was 16 years old. Brown and her attorney will discuss their experiences with the criminal justice system at a new date in the next term. ♦

Robert W. Calvert American Inn of Court

Despite interference from the COVID-19 pandemic, the Robert W. Calvert American Inn of Court in Austin, Texas, continued its commitment to the Mentoring A Student (MAS) program at Travis High School. Ninety-six percent of Travis High School students are minorities and come from families with low income. Many Travis students are the first in their families to earn high school diplomas. Judge Raul A. Gonzalez leads the program. As the Travis County justice of the peace for the precinct that includes the school, Gonzalez has a special rapport with the students. He leads a team of Inn members who meet with students in the school's criminal justice class each month. The students are interested in a wide variety of careers in the justice system, from law enforcement to becoming attorneys and judges. This year the class explored scooter laws, immigration, and the U.S. women's soccer lawsuit for equal pay. Each year one class is devoted to "adulting" skills such as navigating driving laws, renting an apartment, using credit cards, and voting.

For the past seven years, the Inn has organized a mock trial to culminate the year. This year's mock trial was canceled due to the pandemic, but that did not stop the Inn from raising a record \$4,000 for scholarships. The generosity of Inn members funded four \$1,000 scholarships for deserving students. Despite the unique challenges seniors faced this year, one recipient said, "I am so thankful and excited for the opportunity this scholarship has given me! I promise that I will reach my full academic potential with this scholarship." The Inn is looking forward to the continued success of the program. ♦

James C. Cawood Jr. American Inn of Court

In June, the James C. Cawood Jr. American Inn of Court in Annapolis, Maryland, held a well-attended virtual joint meeting with the Anne Arundel Bar Association (AABA) that included a presentation by Judge Laura Ripken, administrative judge for Circuit Court for Anne Arundel County. Pupillage group leader and Cawood Inn Past President John K. Gardner, Esquire, and AABA President Brian Marsh, Esquire, co-moderated the event.

In a question-and-answer format, Ripken discussed the details of the new Anne Arundel County Circuit Court's COVID-19 Response Plan for the Progressive Resumption of Full Function of Judiciary Operations.

She explained the safety measures adopted by the court for resuming court business and the four case management plans (criminal, family law, juvenile, and civil) that will apply as the court moves back toward full operation. ♦

John Marshall American Inn of Court and Lewis F. Powell Jr. American Inn of Court

In June, the John Marshall American Inn of Court and Lewis F. Powell Jr. American Inn of Court, both of Richmond, Virginia, presented "Practicing Law in a Pandemic: Tips and Insights from the Bench." The 90-minute webinar featured a panel of judges offering best practices about litigating during the COVID-19 pandemic and through remote proceedings. Numerous members from both Inns participated in the program, which was moderated by Dabney J. Carr, Esquire. Jeffrey M. Hanna introduced the moderator and panelists: Judge John A. Gibney Jr., of the U.S. District Court for the Eastern District of Virginia; Judge Joi Jeter-Taylor, chief judge of the Circuit Court for the City of Richmond; Judge Stephen R. McCullough, justice of the Supreme Court of Virginia; and Judge Marla Graff Decker, chief judge of the Court of Appeals of Virginia.

Carr engaged the judges in an interesting round-robin discussion on the judges' recent experiences with remote proceedings. The judges also discussed tips and pointers on what attorneys should keep in mind to enhance their advocacy and persuasiveness in virtual and telephonic proceedings. The panel offered candid insights on how courts will begin to reopen in-person proceedings and what proceedings will likely continue on a remote basis. Tips from the judges included everything from remembering to pause if an attorney is presenting oral argument telephonically, to allow judges to ask a question, to keeping your background neutral and presentable in a virtual hearing. The judges also answered questions via the chat feature from audience members. Ironically, during the webinar, two of the judge panelists disconnected from the webinar due to internet issues and had to reconnect by telephone. The experience reiterated the advice from all the judges that attorney flexibility and patience is critical in this new virtual and remote world that COVID-19 has brought to the legal community. The Inns were pleased to partner together on such a timely and informative topic. ♦

Gus J. Solomon American Inn of Court

Despite the 2019–2020 year being cut short, the Gus J. Solomon American Inn of Court in Portland, Oregon, still had a wonderful year. The Inn revisited a previous theme for its presentations—films with legal significance (aka “A Night at the Movies”). Pupillage groups selected a film or play and created a continuing legal education program inspired by the content or title. Presentations addressed issues such as expert testimony, admissibility, and gender bias (“My Cousin Vinnie”); the First Amendment and whistleblower protections (“Citizen Four”); and property rights (“Repo Man”). The February pupillage group presented a panel featuring Latinx judges, lawyers, and law students to discuss their experiences with diversity and inclusion in the legal field (“Latin History for Morons”). The judges also offered insights into the increasing presence of Immigration and Customs Enforcement in the courthouse. As has become the hallmark of the Solomon Inn, the multimedia presentations blended a wealth of information with healthy doses of humor and creative costumes.

Outgoing President Sonia Montalbano, Esquire, and Executive Committee member Lake Perriguet, Esquire, attended the Celebration of Excellence at the Supreme Court of the United States in Washington,

DC, in October 2019 and the experience left a lasting impression on both of them. When conversing with members of other Inns from around the country all agreed that the role of the Inns in promoting civility, professionalism, and ethical conduct is more important than ever before.

This year the Solomon Inn and Owen M. Panner American Inn of Court, also in Portland, combined their joint Inn event with community service. In February, members of both groups spent the evening sorting food at the Oregon Food Bank. In what has become a tradition of friendly competition between the Inns, the Solomon Inn won the sought after “Arbitrary Award” by virtue of having the most attendees. They look forward to retaining the trophy for another year.



The future of how meetings will be conducted is still being discussed. However, Inn leaders are heartened by the number of individuals committed to continuing despite the uncertainty. While the landscape might look different, there is no doubt that the commitment to fostering the ideals of the Inns of Court will allow the Solomon Inn to find a way. ♦

Texas Tech University School of Law American Inn of Court

As part of its emphasis on community outreach, the Texas Tech University School of Law American Inn of Court of Lubbock, Texas, proudly joined with the Lubbock Area Bar Association (LABA) to facilitate the replacement of outdated computer equipment and software. The total donation of \$1,500 will be used to purchase new hardware and software for the Lubbock County Law Library. LABA will handle the equipment upkeep. The law library serves a significant number of pro se patrons who are unable to afford professional legal services and depend entirely on the resources offered at the law library.

Lubbock County Law Librarian Michele Campbell, MS, who has face-to-face experience with the pro se patrons, shared her thanks: “Inn

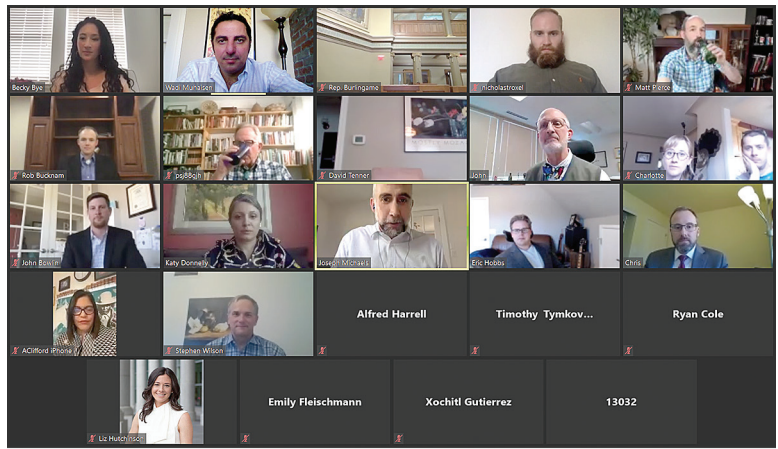
of Court’s generosity ensures the library will continue to provide equitable access to legal websites and forms for our patrons who would otherwise struggle throughout the process of representing themselves in court. Thank you, Inn of Court, for eliminating barriers and helping to bridge the digital divide in Lubbock County. Lastly, thank you, Lubbock Area Bar Association, for continuing to be a steadfast support system for the Lubbock County Law Library and making the phrase ‘access for all’ a reality in Lubbock County. It truly does take a village!”

A formal presentation of the check and a training session on the new computer resource will occur at a later date. ♦

Vassar B. Carlton
American Inn of Court

In June, the Vassar B. Carlton American Inn of Court in Melbourne, Florida, hosted its last meeting of the year. Held virtually, the meeting included a recap of the year from Inn President Mark S. Peters, Esquire, who also discussed members making charitable donations to local food banks and formally announced Judge Jennifer Opel Taylor as the incoming president.

Scarlett G. Davidson, Esquire, Inn mentoring chair, emphasized the importance of maintaining mentor-mentee communications and relationships, especially during this difficult time. Amy M. Romaine, Esquire, program chair, gave an update on the Inn's various presentations and continuing legal education credits for the year. Eric L. Hostetler, Esquire, membership chair, announced that the Inn was still taking nominations for the next year, and Taylor thanked Peters for his leadership and successes over the past two years as Inn president. Everyone ended with a toast to the Inn. ♦



Judge William E. Doyle American Inn of Court

In May, the Judge William E. Doyle American Inn of Court in Denver, Colorado, held its first virtual meeting. Becky Bye, Esquire, hosted her final meeting as Inn president, which featured the program “The History and Legacy of the Sand Creek Massacre” with Wyoming State Representatives Andi Clifford and Sara Burlingame.

The presentation focused on the history and continuing legacy of the Sand Creek Massacre for Colorado and the Northern Arapaho Tribe on the Wind River Reservation in Wyoming. Clifford is a member of the Northern Arapaho Tribe and a descendant of the Arapaho attacked by the Third Colorado Cavalry on Big Sandy Creek. She and Burlingame discussed the history of the Sand Creek Massacre from multiple perspectives and explored the massacre's legacy 156 years later. Clifford gave an emotional talk about the massacre of her people and the lasting effects. After their presentation, a discussion was held on how Sand Creek's legacy has affected the Arapaho and white people who live in the region. It was a moving and powerful evening. ♦

Randy J. Holland Delaware Workers' Compensation American Inn of Court

During the pandemic, the Randy J. Holland Delaware Workers' Compensation American Inn of Court in Wilmington, Delaware, has provided a critical service to its members and to workers' compensation law. To ensure that hearings addressing injured workers' benefits continued during the pandemic, the Delaware Industrial Accident Board initiated virtual proceedings through the platform Webex.

Virtual hearings were unprecedented in this area of the law and required significant training, communication, and collaboration by the Department of Labor, Industrial Accident Board, and workers' compensation attorneys of the Delaware Bar. In continuing to fulfill its mission to promote unity and civility among these entities, the Holland Inn organized and

hosted a virtual meeting in April. Richard K. Herrmann, Esquire, provided a tutorial of the Webex program as well as information on how to enhance the virtual proceedings taking place before the Industrial Accident Board. In the following weeks, the Inn provided numerous training sessions and filmed a mock virtual hearing, equipping its members with the tools necessary to serve their employers' and clients' needs. The program not only provided critical information but also injected some levity with a message of perseverance delivered by Inn President Julie Pezzner, Esquire.

The Inn was the only entity capable of bringing the various components of Delaware's workers' compensation system together during this extraordinary time of separation. ♦

Judith K. Fitzgerald Western Pennsylvania Bankruptcy American Inn of Court

In 2018, the Judith K. Fitzgerald Western Pennsylvania Bankruptcy American Inn of Court in Pittsburgh, Pennsylvania, partnered with the Allegheny County Bar Association Bankruptcy & Commercial Law Section to form a special outreach committee to create and implement a personal finance presentation for local high school students.

The goal of the personal finance program is to educate students at the high school level so that upon graduation they would have basic knowledge to start planning for a secure financial future.

Inn members volunteer their time to the program, which has steadily grown over the past three years and has reached hundreds of high school students. The area high schools that have benefitted from the program are Plum Senior High School, Seneca Valley Senior High School, Woodland Hills High School, Shaler Area High School, Springdale Jr-Sr High School, and Thomas Jefferson High School.

The program is often tailored to meet specific needs of the high schools, which includes an overview of

debt, credit, and the bankruptcy process and an interactive budget activity. The program is a natural fit as members' practices require an understanding of and ability to untangle mismanagement of finances.

The sessions assess students' practical knowledge of financial and budget basics and aim to instill an understanding of financial decisions and consequences. A primary goal is to make students aware of both positive and negative consequences of financial decisions and the potential long-lasting effects of mismanagement. The volunteers, which include sitting and retired judges as well as attorneys who represent debtors and creditors, bring personal experiences of the struggles they have faced.

The program aims to bring about the benefits of financial literacy education, as illustrated by studies on the topic, which show that graduates from states with mandated financial literacy education in high school have higher credit scores and lower loan default rates than graduates from states without such requirements. ♦

Hay-Sell Pittsburgh American Inn of Court and Q. Todd Dickinson Intellectual Property American Inn of Court

The Hay-Sell Pittsburgh American Inn of Court and the Q. Todd Dickinson Intellectual Property American Inn of Court, both in Pittsburgh, Pennsylvania, held a joint virtual meeting in June. The meeting was held in a town-hall style with three judges from the U.S. District Court for the Western District of Pennsylvania participating. Sixty-seven members from both Inns listened as Chief Judge Mark R. Hornak (Pittsburgh), Judge Susan Paradise Baxter (Erie), and Judge Stephanie L. Haines (Johnstown) discussed procedures during the pandemic for all three divisions of the court.

The judges said all three court locations have never been closed during the crisis. The volume of day-to-day court activity has been unabated. While jury trials have been suspended until early September, other proceedings are taking place via telephone conferences and online.

Even alternative dispute resolution proceedings have continued, and neutrals have noted larger participation because of Zoom. Hornak noted that the court's technology was good and permitted their procedures to continue electronically. The three judges agreed that the state of the courts is sound.

The program was moderated and attendees were encouraged to submit questions via the online chat feature. Questions ranged from "When will jury trials resume?" to "Are masks used?" and "How do you deal with the presentation of physical evidence?"

The judges said they think they will continue to use this technology in the future. The use of technology saves time and money and permits attorneys to be more efficient and less expensive while not impairing the administration of justice. ♦

Benjamin Franklin American Inn of Court

The 2019–2020 season was well underway for the Benjamin Franklin American Inn of Court in Philadelphia, Pennsylvania, when the COVID-19 pandemic struck. The Inn, which is focused on intellectual property law, was enjoying a well-attended season that included meetings hosted by two area law schools, Villanova University and Drexel University. Over the course of a few short weeks, the Inn officers, board, and membership were forced to suddenly turn their attention toward their safety and livelihoods.

The experiences of Franklin Inn leadership, who generally hold positions at law firms and corporations, varied widely as they sought to continue their active legal practices in a different world. The Franklin Inn's current president moved his law firm office equipment into the basement of his home and switched from an in-person world to a virtual world almost overnight. With his law partners, he was able to keep his law practice running at a full clip while participating in virtual panels and hosting seminars on bankruptcy and collections for debtors. He also helped keep the Franklin Inn running by leading a videoconference meeting and an intellectual property quiz for membership with a prize for the winner.

In contrast, the Inn's immediate past president was already experienced in working from home and thus encountered few changes, except for an increased use of videoconferencing and more attention from the family pets. The intellectual property law profession has been largely virtual for many years, and his experience reflects that of many practitioners. One of the Inn's vice presidents was also fortunate to be equipped with a home office but had a challenging experience as an executive at a corporation that quickly needed to ensure its manufacturing of medicines and construction of a new manufacturing facility remained on track.

One of the Inn's program chairs also switched to the virtual world, along with the remainder of his firm, and it is possible that his firm may remain in a virtual environment for the foreseeable future. In addition to his duties as an attorney, he has become a homeschool teacher to his children and advocate for family members in the hospital fighting COVID-19. Another Franklin Inn board member has experienced just how flexible virtual meeting platforms can be, using the platform not only for internal social hours but also for depositions in federal court litigation. Adjusting to a virtual environment for depositions was a unique experience, but she truly believes it is "the wave of the future." Her next Zoom experience will involve mediation, complete with virtual caucus rooms.

Another Franklin Inn officer had to convert a complex workflow involving 10–12 people working as a team into a workable electronic system using existing technology not designed for such purposes. This required a remote team effort polished through electronic communications, phone conferences, and experiential learning to quickly put in place a workflow system whereby several hundred monthly deadlines could be handled efficiently and effectively by the team. One significant benefit of this exercise is that it will likely lead to streamlined workflow procedures going forward and upon an eventual return to the office, while also having built up a stronger mutual respect among the members of the team.

The Franklin Inn continues to plan for the 2020–2021 Inn year and is considering both increased virtual options as well as the possibility that in-person meetings and continuing legal education events could occur later in 2020. The nature of pupillage groups is highly rooted in personal interactions and learning experiences, and whether those occur in-person or virtually, the Inn will continue its mission of educating attorneys and law students in the wonders of intellectual property law. ♦

American Inn of Court of Acadiana

The American Inn of Court of Acadiana in Lafayette, Louisiana, was honored to receive the Luminary Award from the United Way of Acadiana for its service and contribution to the Early Head Start Program. The Early Head Start Program provides meals, early childhood education, and other services to over 100 children from low-income families.

The Inn was presented with the Luminary Award at the United Way Annual Meeting and Award Breakfast in March. The Luminary Award is given to an organization that lights the path in giving, advocating, or volunteering.

The Inn, led by Community Service Coordinator Franchesca Hamilton-Acker, Esquire, participated in the United Way's Early Head Start Days of Thanksgiving by raising money and donating non-perishable food items for families in need. The Inn also partnered with the United Way by participating in the Read Across America program in which Inn



Above, from left to right, are Inn Treasurer Daniel M. Landry III, Esq.; Inn President Dawn M. Fuqua, Esq.; and Inn Secretary Rebecca K. Bayless, Esq., accept the United Way of Acadiana Luminary Award on behalf of the American Inn of Court of Acadiana.

members volunteered in the Head Start classrooms by reading children's books, including "The Cat in the Hat," to promote literacy and a love of reading. ♦

James S. Bowman American Inn of Court

The COVID-19 pandemic and associated quarantine measures put an end to in-person meetings for the James S. Bowman American Inn of Court in Harrisburg, Pennsylvania. Instead, the Inn maintained a connection with members virtually.

The April meeting featured a presentation on the challenging role of the courts in the implementation of new law and also touched on issues relevant to the pandemic and its disruption to courts and legal professionals. A total of 67 members tuned in.

The May meeting was also held virtually, with 66 members in attendance. The presentation dealt with the role of deference in an administrative agency's interpretation of a statute. Attendance at our April and May meetings was higher than what the Inn typically experience in these months.

The Inn's mentoring committee also rescheduled several mentoring events to be held virtually. In May, the committee hosted a virtual

happy hour with Inn member Judge Michael H. Wojcik of the Pennsylvania Commonwealth Court. Wojcik spoke about his experience and career path prior to becoming a judge and his experience running for election to the bench. He also talked about the importance of remaining open to new opportunities as they come along, even if they are different than what you had planned at the time.

Two virtual mentoring events were held in June. The first was geared toward members in private practice, and the second was for attorneys in the public sector.

The use of modern technology has allowed the Inn to shift work from the office to home and to maintain connection to Inn colleagues. This has had the dual benefit of continuing the Inn mission of providing education and mentoring opportunities and has allowed members to check in with each other to maintain some human connection during this period of relative isolation. ♦

INN THE NEWS

Salmon P. Chase American Inn of Court and Potter Stewart American Inn of Court

The Salmon P. Chase American Inn of Court in Covington, Kentucky, and Potter Stewart American Inn of Court in Cincinnati, Ohio, held their annual joint meeting. The program was titled “Creating Awareness of ‘Unregulated’ Toxins: The Case of Worldwide PFAS Chemical Contamination” and featured Robert A. Bilott, Esquire, a partner at Taft Stettinius & Hollister LLP.

His presentation chronicled his change from an environmental defense attorney to taking on DuPont and other large chemical manufacturers on the plaintiff’s side, filing suit on behalf of a neighbor of his grandmother.

His original plaintiff was Wilbur Tennant, who lived on a farm just outside of Parkersburg, West Virginia, where he had been a cattle farmer most of his life. In the early 1980s, Tennant’s brother was in poor health and sold his adjoining property to DuPont, the largest landowner and employer in the area. Over the years, Tennant’s cattle became sick or were born with birth defects. Eventually, all died or had to be put down. The lawsuit took on its own life, but eventually, DuPont settled with Tennant.

The chemical at fault was PFOA, of which DuPont had studies dating back to the 1960s and knew the problems, harm, and substantial threat to health and the environment. After the lawsuit with the Tennants was resolved, DuPont confirmed it knew of the hazards and had been actively hiding it. Bilott became angry and sent what they now call his “famous letter” to the U.S. Environmental Protection Agency (EPA), which included all the pleadings from the Tennant case. DuPont filed for a gag order, which was denied. The letter led to a \$16.5 million settlement between DuPont and the EPA in 2006.

The settlement did not end the matter. Bilott filed a class action lawsuit. He faced countless challenges, including his own health issues, but he was able to successfully plead a cause of action in West Virginia called “medical monitoring.” In 2017, the matter was finally settled for \$620 million and lifetime medical monitoring for the class members.

Bilott’s presentation discussed the challenges facing lawyers when dealing with “emerging” or unregulated contaminants, based on his experience. The program was well-received with many questions after the presentation. ♦

Delaware Bankruptcy American Inn of Court

With the end of the 2019–2020 Inn year of the Delaware Bankruptcy American Inn of Court in Wilmington, Delaware, it is a good time to reflect on perhaps the most anomalous year on record, as well as the events and programs this year brought with it. As with each new Inn year, the year kicked off with the Inn’s orientation meeting. Always an enjoyable event, the orientation meeting allows members, new and returning, to meet and mingle over cocktails and discuss the upcoming Inn year in a relaxed environment.

In December, the Inn welcomed guest speaker Judge Kevin J. Carey, who retired from the bench in July 2019. He presented remarks and then took questions about his time on the bench and what he plans to do next. In January, the Inn’s first pupillage team presented the top 10 bankruptcy rulings in 2019, followed by a great team-building Bankruptcy Quizzo event. The February pupillage team presented a program on the Supreme Court’s recent Tempnology ruling, addressing the fascinating intersection between intellectual property and bankruptcy law. The February program was presented along with the Federal Bar Association’s intellectual property group. This combined program featured a mock hearing on the argument before the Supreme Court and then a best practices discussion.

Unfortunately, the annual March joint program with each of the other Delaware Inns was canceled, as was the Inn’s April and May programs. However, the June program was a smash hit—the entire Delaware bankruptcy bench participated in a “Newlywed Game” format, discussing intriguing bankruptcy ethical issues in which the judges were tasked with guessing how his or her partner might come out on the issue.

Of course, a great Inn year is not made up of meetings and programs alone. In order to gain admission to the Inn’s orientation meeting, members brought canned goods and other food items, resulting in 175 pounds of food being donated to the Food Bank of Delaware. Further, the Inn chose the Office of the Child Advocate (OCA) as this year’s charitable organization. Many members signed up to “adopt” an OCA child at the orientation meeting for whom to buy holiday gifts. In addition, due to the cancellation of the April and May programs, the Inn was able to donate an additional \$5,000 to other local charities, including the Delaware Food Bank.

The Inn also continues to sponsor the Honorable Thomas L. Ambro Fellowship, which provides a stipend for a summer internship with the Bankruptcy Court. Another important aspect of Inn participation is mentoring. In addition to the mentoring that occurs during the preparation and presentation of the programs and dinners, the Inn’s Pupil and Associate members are invited to participate in two brown bag lunches with some of the bankruptcy judges for a casual roundtable discussion.

The final annual banquet typically held in June will be held in September (hopefully!). At this event, the Inn will honor the best programs of the year. ♦

Thompson G. Marsh American Inn of Court and Justice Sonia Sotomayor American Inn of Court

As the legal profession adjusts to the realities of the COVID-19 pandemic, the Thompson G. Marsh American Inn of Court and the Justice Sonia Sotomayor American Inn of Court, both in Denver, Colorado, put on a special program in June about how lawyers can navigate the virtual courtroom. The program, "COVID-19 and the Virtual Courtroom," was hosted over Zoom and featured a distinguished panel of Colorado judges and practitioners, including Judge Sueanna P. Johnson of the Colorado Court of Appeals, Judge Russell B. Klein of the Jefferson County District Court, Judge Jay S. Grant of the City and County of Denver District Court, Judge Chantel Contiguglia of the Arapahoe County District Court, and Wadi Muhaisen, Esquire, of Muhaisen & Muhaisen, LLC. The panel was moderated by administrative law Judge Heidi Kutcher.

The panelists discussed their experiences transitioning to a virtual courtroom and gave Inn members some tips and tricks for appearing in court while on screen. Some suggestions included pausing after the last speaker finishes to account

for any internet lag time and avoid speaking over another person, which protects the record and promotes civility. Another suggestion was to ask a witness who is testifying by video if he or she has papers in front of them to make sure the witness is not reading his or her testimony. They also recommended looking straight at the camera to simulate eye contact and create a human connection, and they stressed the importance of preparing clients and witnesses with how to use the technology before the hearing.

The panelists emphasized the continuing importance of professionalism in an attorney's demeanor or appearance, and one judge discussed a lawyer who set up a podium at home for a virtual hearing, saying that even the subconscious association with being in court seemed to make a difference in the lawyer's performance.

The program had a remarkable turnout, with numerous members from both Inns tuning in from their home offices. In the words of one panelist, professionalism and human connection is what lawyers do, and it is not lost even in a virtual setting. ♦

Stann Givens Family Law American Inn of Court

Amber Boles, Esquire, has been awarded the Theodore Millison Professionalism Award by the Stann Givens Family Law American Inn of Court in Tampa, Florida. The award is named in honor of the late Theodore Millison, a Tampa family law practitioner who was beloved in the family law community. It is given once a year to an attorney who exemplifies the highest standards of ethics and professionalism in the practice of family law.

Boles is a full-time mediator and a well-respected and highly sought-after professional for dispute resolution. Her peers chose her for this award in part because she is extremely warm and kind to everyone she meets, is knowledgeable in the area of family law, and is a professional and collegial professional who is always open to collaboration and problem-solving at the highest levels.

The award was presented during the May meeting, which was held virtually and was well-attended.

When the courthouse reopens to the public, Inn members will hold a ceremony dedicating the plaque permanently located on the fourth floor at Hillsborough County's George Edgecomb Courthouse.

Boles graduated from the University of South Florida, with a degree in public relations, and went on to earn her J.D. from Stetson University College of Law in St. Petersburg, Florida. Following law school, she opened her solo firm, The Law Office of Amber Boles, where she exclusively practiced in the areas of marital and family law. As a litigator, she represented clients with the same dedication and devotion as she would for her own family members. Boles transitioned her focus to exclusively family law mediation in 2016 and takes great pride in helping people resolve even the most contentious of cases with dignity and respect. ♦



American Inns of Court 2020 Pegasus Scholarship Recipients Selected

The American Inns of Court is pleased to announce that Kristen A. Lee of New Orleans, Louisiana, and Matthew C. Zorn of Houston, Texas, have been selected as Pegasus Scholars for 2020. Due to the COVID-19 pandemic, the 2020 scholars will spend six weeks in London, England in fall 2021, studying the English legal system.



Kristen A. Lee, Esquire, is a judicial law clerk for the Louisiana Fourth Circuit Court of Appeal in New Orleans, and in this role has spent three years honing her research and writing skills while drafting criminal, civil, civil service, workers' compensation, and juvenile writs, orders, and appeals. Before that, she served as a judicial law clerk in a state criminal trial court. As an undergraduate at Loyola University New Orleans, where she graduated summa cum laude in 2012, Lee studied political science. As a student at Loyola University New Orleans College of Law, she took her interest in comparative law abroad, studying comparative law in Austria, studying comparative international law in Greece, and participating in the European Union Field Study, visiting European Union institutions in Belgium, Luxemburg, and France. She received young alumna of the year awards from both her college and her high school. She is an associate

member of the Thomas More Loyola Law School American Inn of Court in New Orleans.

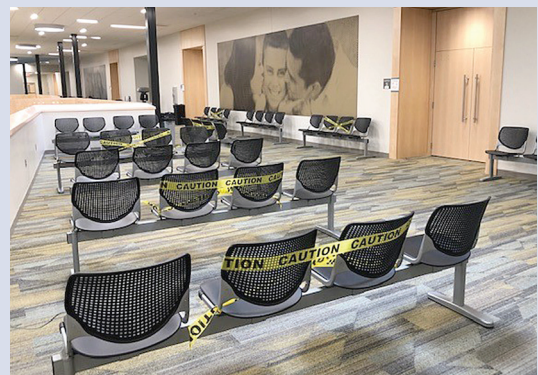


Matthew C. Zorn, Esquire, began his transition from a lifelong East Coaster to a Texan who wears cowboy boots to work when he accepted a clerkship with Judge Rodney Gilstrap of the U.S.

District Court, Eastern District of Texas, one of the nation's busiest civil trial dockets. In 2017, he became a trial and litigation associate at the Houston law firm Yetter Coleman LLP, where he represents clients in intellectual property litigation and complex commercial matters. Over the past year, he has also become an authority on federal cannabis law through his pro bono work in the DC Circuit, which catalyzed national changes in medical marijuana research policy. Earlier in his career, Zorn developed an iPhone app that allows users to access court records, making the legal system more accessible. He released the open source app for free. In 2009, Zorn graduated summa cum laude in European history and applied mathematics from Emory University, where he developed a passion for British history. In 2012, he earned his law degree from Columbia Law School, where he was articles editor for the *Columbia Journal of European Law*. He is a member of the Honorable Nancy F. Atlas Intellectual Property American Inn of Court in Houston. ♦

Hudson Hall Wheaton American Inn of Court

Members of the Hudson Hall Wheaton American Inn of Court in Tulsa, Oklahoma, took the lead in the State of Oklahoma District Court of Tulsa County during the pandemic as the courts closed and then began to reopen. Presiding Judge-Elect Doug Drummond chairs the Supreme Court's Judicial Pandemic Advisory Subcommittee on Reopening of Tulsa County District Court. Members of the Inn helped implement strict safety procedures in compliance with Centers for Disease Control and Prevention guidelines and completely restructured high-volume pro se dockets to serve the community and reduce barriers to justice. The plan also included providing dedicated court



interview rooms for legal aid attorneys and community resource providers. ♦

2020 Temple Bar Scholars Announced

The American Inns of Court is pleased to announce the selection of its 2020 Temple Bar Scholars.[®] Due to travel restrictions and the COVID-19 pandemic, this year's scholars will spend a month in London, England, in fall 2021, visiting the English Inns of Court and meeting with members of the British bench and bar. The 2020 scholars are Jodie Cheng Liu, Esquire; Joseph O'Meara Masterman, Esquire; Dahlia Mignouna, Esquire; and Anagha Sundararajan, Esquire.



Jodie Cheng Liu, Esquire, is a clerk for Associate Justice Sonia Sotomayor of the Supreme Court of the United States. Liu traces her interest in international law back to childhood visits to her grandparents in rural China, where she saw that individuals and communities harmed by others often had no legal recourse. After graduating summa cum laude from Columbia University in 2012, she earned a law degree magna cum laude in 2015 from Harvard Law School, where she served as deputy executive editor of the *Harvard International Law Journal*. During law school, she worked on international human rights in Hungary and examined patent laws' impact on pharmaceutical development in India. She worked on international legal issues and national security at the Brookings Institution before becoming a clerk for Judge Debra Ann Livingston of the U.S. Court of Appeals for the Second Circuit in New York and Judge Patricia Ann Millett of the U.S. Court of Appeals for the DC Circuit.



Joseph O'Meara Masterman, Esquire, is a clerk for Associate Justice Samuel Alito Jr. of the Supreme Court of the United States. As an English major at Harvard College, where he graduated summa cum laude in 2013, Masterman penned a novel as his thesis and worked on the *Harvard Lampoon*. He earned his law degree in 2016 from Yale Law School, where he served as executive editor of the *Yale Law Journal*. He has also clerked for Judge Raymond Kethledge of the U.S. Court of Appeals for the Sixth Circuit and Judge Amul Thapar of the U.S. Court of Appeals for the Sixth Circuit and the U.S. District Court for the Eastern District of Kentucky. A supporter of originalism, Masterman recently co-authored a piece with Thapar for the *Yale Law Journal* arguing that judges should resolve

ambiguous cases by considering how the nation's founders would have understood the limits of judicial roles.



Dahlia Mignouna, Esquire, is a clerk for Associate Justice Stephen Breyer of the Supreme Court of the United States. Mignouna was born to Togolese parents in Belgium and lived in Belgium, Togo, and Nigeria before coming to the United States at age 10. That upbringing sparked her interest in international issues. In 2012, she graduated magna cum laude from Yale College with a degree in ethics, politics, and economics with a concentration in international development. In 2016, she earned her law degree from Yale Law School, where she was executive editor of the *Yale Law Journal*. A native French speaker, she first translated for and then represented clients seeking asylum through the Immigration Legal Services Clinic at Yale Law School. After law school, she clerked for Judge Sri Srinivasan of the U.S. Court of Appeals for the DC Circuit and was a litigation associate at the law firm of Munger, Tolles & Olson.



Anagha Sundararajan, Esquire, is a judicial law clerk for Chief Judge Jeffrey Howard of the U.S. Court of Appeals for the First Circuit in Concord, New Hampshire. She previously served as a judicial law clerk for Judge Douglas Woodlock of the U.S. District Court for the District of Massachusetts. As a first-generation American, Sundararajan turned to law not just to help other immigrants but to continue the legacy of her great-grandfather in southern India and the legal practice he built. She earned an undergraduate degree in mathematics and political science with honors from the University of Chicago in 2015 and earned a law degree with honors in 2018 from the University of Chicago Law School. She has extensive pro bono experience, including serving as pro bono counsel with the Domestic and Sexual Violence Project in Chicago, Illinois, and as a pro bono team member for the International Refugee Assistance Project in Chicago. ♦

Manatee American Inn of Court

When the executive committee of the Manatee American Inn of Court in Bradenton, Florida, met last summer to plan the 2019–2020 year, the committee reviewed feedback from Inn members about the previous year. With respect to mentoring, members wanted something less structured to allow mentoring moments to develop organically. To balance the feedback with concerns that members would not participate without structure, a new idea was born: Members were challenged to have breakfast or lunch with another Inn member whom they had not associated with outside the monthly Inn meetings. Each meeting, the members who participated since the last meeting were entered to win a prize such as an Amazon gift card.

Sean M. Powers, Esquire, an Associate member, and Judge Renee Inman, a Master of the Bench member and an Inn Executive Committee member, had lunch together near the courthouse, where they discussed adoption for an upcoming pupillage presentation. What came out of the lunch meeting

was something much more: a commitment to present together at local middle school on a constitutional right.

Ana Reyes, a Pupil member who is a law student at Western Michigan University Thomas M. Cooley Law School, had lunch with Lisa Moore, Esquire, a Barrister. They enjoyed discussing the differences and similarities of their law school experiences. Moore, a solo practitioner and mother of four school-age children, was impressed with Reyes' positive and "go-getter" attitude, especially upon learning Reyes has young children too.

On the heels of the program's initial success, the executive committee will consider continuing the program into next year with modifications to accommodate virtual meetings and video mentoring moments in the post-pandemic world. In addition, Emeritus members will be invited to mentor a pupillage group in preparing its program, giving Emeritus members a chance to mentor group leaders and meet new members within the pupillage group. ♦



APPLICATIONS DUE:
January 4, 2021



Apply Now for a 2021 American Inns of Court Pegasus Scholarship

The American Inns of Court® is pleased to offer an invaluable experience to talented young American lawyers. Through the Pegasus Scholarship Trust, two Inn members travel to London, England, for six weeks to study the English legal system. All members admitted to the bar in the past few years are encouraged to apply for this "once-in-a-lifetime" opportunity.

Pegasus scholarships provide opportunities for young American lawyers to visit London and learn first-hand about the English legal system by working directly with English barristers and judges.

Please visit www.innsofcourt.org/PegasusScholarships to apply.

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What Is the Remedy for Appellate Judicial Bias?

This short ethics column will highlight a recent decision of the Pennsylvania Supreme Court that addressed the appropriate remedy for appellate judicial bias. It will not address whether the jurist involved was appropriately described as having either apparent or actual bias, nor will it address the standard for determining actual or apparent judicial bias.

The decision in *Commonwealth v. Koehler*, 2020 Pa. LEXIS 2293 (Pa. Supr. April 24, 2020), involved an appeal that challenged post-conviction proceedings. This case was based on an allegation that a prior appellate court decision that denied appellate relief was tainted by the alleged bias of one of the jurists on the appellate panel.

Procedural History

The tortuous procedural history of this matter will not be covered in much detail. Rather, the focus of these highlights will be on the court's analysis of what the appropriate remedy is for the participation of an allegedly biased jurist in a prior appellate proceeding. The Pennsylvania Supreme Court determined that a claim for judicial bias relates directly to the constitutional validity of a decision upholding an underlying conviction and sentence.

The appellant in this case was convicted of murder in 2006. In 2012, a former appellate judge was on a panel that denied appellate relief pursuant to a post-conviction relief statute. In 2015, the former appellate jurist was the subject of newspaper articles that quoted from emails the former judge exchanged with prosecutors. The emails were described as jokes that were merely forwarded, but they were viewed by some as being insensitive to victims of domestic violence and others. The appellant argued, based on the 2015 newspaper story, that those emails supported allegations of bias in the 2012 decision.

Constitutional Concerns

The Pennsylvania Supreme Court described a challenge to the impartiality of an appellate judge as similar to an issue challenging the effectiveness of appellate counsel and held that it "constitutionally relates directly to the validity of the decision upholding the underlying conviction and sentence. It is an attack upon the truth-determining process, a process that logically includes collateral attacks on the judgment of sentence." *Id.* at * 24. Pennsylvania's high court

determined that *nunc pro tunc* relief is a deeply established means of remedying a breakdown in the appeal process caused by an error of constitutional magnitude. "An award of *nunc pro tunc* relief is intended to put the petitioner in the same position he or she was in just prior to the alleged constitutional deprivation." *Id.* at * 25. The court reasoned that a new appeal will vindicate the constitutional deprivation of due process protection against a potentially biased jurist.

Court's Reasoning for Appropriate Remedy

The court's reasoning heavily relied on decisions of the Supreme Court of the United States granting a new appeal as an appropriate remedy for the denial of the due process right to an impartial tribunal. In a decision that also featured a Pennsylvania appellate judge, *Williams v. Pennsylvania*, 136 S.Ct. 1899 (2016), the Supreme Court of the United States addressed the due process rights of a litigant being violated if a biased appellate judge decided the fate of the litigant's appeal and held that the appropriate remedy for the denial of the due process right to an impartial tribunal was a new appeal. *Id.* at 1909-10.

In the *Koehler* case, the Pennsylvania Supreme Court observed that the paramount duty of the judiciary lies with the solemn obligation to protect and uphold constitutional rights. The Rules of Professional Conduct may provide more safeguards than due process requires, and most questions of recusal are addressed by more stringent and detailed ethical rules. The *Koehler* court added that the same conduct may prove to be a due process violation or it may also be regulated by the Code of Judicial Conduct, but that is not a reason to ignore constitutional violations. Courts are bound to address due process claims and provide relief when those due process rights are violated even when the consequences of implementing that remedy may be awkward. *Koehler*, 2020 Pa. LEXIS, 2293 at * 37.

The *Koehler* court concluded that the proper forum to consider allegations and evidence of judicial bias was at the trial court level, and after factual and evidentiary development occurred in that forum, the appellate court could review those rulings on appeal. Thus, the matter was remanded to the trial court. ♦

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Multicultural Awareness in the Practice of Law

By Ricardo Vasquez, Esquire

“I do solemnly swear that...I will treat all persons whom I encounter through my practice of law with fairness, courtesy, respect, and honesty.” That is part of the oath of admission that I took in Colorado to receive my license to practice law. My practice has focused almost exclusively on family law matters, and so far, the firm that I have spent the longest time at was an immigration-focused firm.

What that meant as a domestic relations practitioner was there were many state court custody orders as a predicate to Special Immigrant Juvenile Status applications. These clients are the family members of children from impoverished nations, many of whom flee gang violence because these gangs extort and threaten these children and their families. In addition to those heart-wrenching cases, of my remaining caseload of divorces and custody cases, I would estimate that at least half were Hispanic clients. Another facet of this is that about 85 to 90 percent of my clients at this firm were not English speakers.

“How is this fair?”

“In my country, this situation would result in [insert favorable outcome here.]”

“Why does the parent need access to internet, fax, and a notary?”

These are the questions that I would get in my practice of law, as I have had the privilege of working with clients from different countries and cultures. The ethical and practical considerations of such work often cause tension with clients. This article discusses some of the tensions I have dealt with.

Fairness

While it may seem easy to treat persons you encounter with fairness, the question is: What is fair? The attorney may see something as fair, but the client may not. This is where country of origin and different cultures has, in my opinion, the most influence. Take for instance a divorce. In many legal systems outside the United States, a party is entitled to a divorce only in limited circumstances. That is not unfamiliar to us as prior to 1970 every state required that a spouse prove fault to obtain a dissolution of his marriage. Today, under the Uniform Dissolution of Marriage Act (UDMA), which was adopted by

Colorado, a court need only find that the marriage is “irretrievably broken” to dissolve the union. E.g. Colo. Rev. Stat. § 14-10-106(1)(a)(II).

Delving further into the example of a divorce, in terms of property division, the UDMA instructs the court to justly set apart property to each spouse “without regard to marital misconduct.” Colo. Rev. Stat. § 14-10-113(1). Advising any client that their spouse’s infidelity is irrelevant, while validating their feelings toward what everyone would likely agree is misconduct, is often the most difficult part of any dissolution case. It is made harder in cases where the client is from another country and attaches different cultural significance to the misconduct. While most clients whose primary experience is American culture can more easily move past the subject of marital misconduct, many clients of different cultural backgrounds spend the whole case reminding me of the fact of the other party’s misconduct or infidelity. Their perception of fairness and justice is influenced heavily by the fact that fault is central to relief in their native countries’ systems of justice and they do not fully accept that under the laws applicable in U.S. states and in American court systems, fault and misconduct are not central to the issues.

Honesty

I am going to skip over courtesy and respect for now and talk about honesty. Honesty is often tough in the practice of domestic relations. It is difficult in the sense that the practitioner enters an emotional situation and often the truth is not what the client wants to hear. Using the example of obtaining a state court custody order for a juvenile who wishes to seek Special Immigrant Juvenile Status, honesty about what society thinks is fair, and therefore the statutory framework that the juvenile must navigate, more often leads to the conclusion that there is little to no chance of success.

First is the problem of personal jurisdiction. The UDMA requires personal service upon the respondent(s) or waiver and acceptance of service in an Allocation of Parental Responsibilities (APR) case, colloquially known as a custody case. Often, the juveniles involved have made the journey to the United States alone and one or both parents lives in a place where the nearest notary, internet café, or store with fax capabilities is an hour’s bus ride or more away. I personally do not have connections to process servers that could make achieving personal service for these cases an easy task. Having those conversations with clients and ensuring that the respondents understand the importance of a waiver of service, while fulfilling ethical obligations as counsel for a family member who wants to take custody from that parent, is vital. After all, it is in

the child’s best interest to not have United States Citizenship and Immigration Services challenge the validity of the predicate custody order.

The second problem that often comes up in these cases is that the juvenile wanting assistance is 18 or 19 years old (and one or two were even 20). These “children” were usually enrolled in a program in which a GED certificate or high school diploma is the result of successful completion. In terms of subject matter jurisdiction, at least until a binding case was announced by this state’s intermediate court of appeals, this was a gray area. Was that juvenile emancipated? Arguably not. Therefore, did the district (trial) court have subject matter jurisdiction?

These situations called for honesty with the client and equally with the court. Model Rule of Professional Conduct Rule 1.1 requires competent representation, which means “legal knowledge, skill, thoroughness, and preparation.” Additionally, Model Rule of Professional Conduct Rule 3.1 states that “a lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law.”

A final rule I would like to mention is the duty of candor toward the tribunal. In fulfilling his duty as an advocate, a lawyer shall not knowingly make a false statement of fact or law, fail to disclose directly adverse legal authority, or offer evidence that the lawyer knows to be false. Model Rule of Professional Conduct Rule 3.3.

In applying all these obligations, a lawyer advising a client about obtaining a custody order at age 18 or older is often “between a rock and a hard place.” Prior to the adverse authority from the Colorado Court of Appeals, arguing that someone 18 or 19 was not emancipated and the district court could enter an order allocating parental responsibilities over that juvenile was an intensely fact-specific argument over interpretation of the UDMA.

The child support guidelines provide that emancipation occurs at age 19 “unless ... the child is still in high school or an equivalent program, support continues until the end of the month following graduation.” Colo. Rev. Stat. § 14-10-115(13)(a)(III). Often, given the lack of opportunity that these juveniles face in their native countries, they have only completed what we would consider middle, or junior high, school. Thus, historically, they could often enroll in a program equivalent to high school. The issue is honesty about the facts and whether

Continued on the next page.

the child is enrolled, planning to enroll, or simply wants to state he is enrolled.

Counsel has a professional obligation to advocate for the client if there is an argument that the juvenile is not emancipated and the trial court has subject matter jurisdiction to enter an order regarding that juvenile's custody. Fulfilling this obligation requires honesty about the facts, and based on that, honesty about the probability for success of obtaining an "Order Allocating Parental Responsibilities" as it is termed in my state. Prior to the adverse opinion from the Colorado Court of Appeals, some trial courts sided with the petitioning family member seeking custody of the juvenile or "minor" that a juvenile age 18 or 19 was not emancipated and therefore the court was not deprived of subject matter jurisdiction to enter an order regarding custody. Other trial courts took the position that age is determinative of its subject matter jurisdiction.

There were the cases where the juvenile was not in a program working toward a GED certificate or a diploma. The recommendation of counsel was usually that the juvenile should enter a program quickly. Often, the juvenile and the client would not understand the importance of this despite counsel's attempt to stress it. As time would pass and the juvenile inched closer to the immigration deadline for submission of the application, the family would hope that counsel could simply represent to the court that the juvenile was in school. That was another cultural difference regarding the client's understanding of the U.S. courts' system and an attorney's role and duties within the system.

Many clients I have served come from places where "money talks." Their perceptions, formed by their experiences, were that the simple transaction of paying my firm for my services meant that I would guarantee an outcome. Certainly, some thought that because they were paying my firm, I would represent whatever necessary to achieve the desired outcome. The unfortunate truth is that the legal systems in these clients' home countries do operate that way. Thus, the amount of honesty that counsel has with clients and the courts, first out of obligation, and secondly just out of basic human decency, often shocked many clients.

I have since moved on to another firm, and in writing this article and citing the pertinent statutes, I discovered a change in law that might make at least allocation of parental responsibilities for Special Immigrant Juvenile Status cases easier for the practitioner faced with a "child" 18 or older. The statute regarding commencement of an allocation of parental responsibilities case contains the following

provision of which I was unaware: "For purposes of this subsection (1.5) only, 'child' means an unmarried individual who has not attained twenty-one years of age." Colo. Rev. Stat. § 14-10-123(1.5)(a). That subsection goes on to permit a court to enter an allocation of parental responsibilities order if the "child" resides with and is dependent upon a caregiver and a request has been made for findings to establish eligibility as a Special Immigrant Juvenile. Colo. Rev. Stat. § 14-10-123(1.5)(b).

Courtesy and Respect

Lastly, courtesy and respect go hand-in-hand. No matter the practice area, all lawyers should strive to exhibit the utmost courtesy and respect possible. Particularly in family law, the conversations had, and the advice given, is often negative from the client's perspective. Every so often, clients react emotionally. That is human nature. I hope that I am courteous and respectful of clients. Even if I am, there is always room for improvement.

In terms of multicultural awareness in the practice of law, what is considered courtesy and respectful in my view may be different from a client who was raised in a different culture. Certainly, the nature of the practice of law, with one eye often always toward the clock, does not ring as courteous to many clients, even if not of a different national culture. Being aware that your client may not have the same cultural upbringing as you experienced can go a long way in building the trust and rapport that is essential to a functioning attorney-client relationship. This relationship with your client will influence their willingness to be open and honest with you and make it easier for you to be honest with your client, even if it is a tough truth. This will hopefully result in the fairest possible outcome.

Many considerations are at play when dealing with a client from another country. You may even be that client's first exposure to the American legal system. Your client's perceptions of law, justice, and fairness are often quite different from ours as attorneys. Being aware of this is the best possible way to afford your client competent legal representation and use your knowledge of the law for the betterment of society and the improvement of the legal system. Even I learned something new—about a change in the law—as I was writing this article for you all. ♦

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PHOTO: ©iStockphoto.com/Yuri_Arcurs.

It's a Small, Small World: Broadening Your Multicultural Client Base

By Joy Baxter Ramsingh, Esquire

When Mr. B saw blue lights behind him, he immediately slowed down, indicated, and pulled over safely. The officer approached and said, “Hello, how are you today?” Mr. B, smiling, replied using one of the few English phrases he knew: “Fine, thank you.” The ensuing conversation consisted of my client staring bewilderingly as the officer asked him a series of routine questions, none of which he understood.

Mr. B, my client, was a C-suite executive for a software company in Burkina Faso. His cultural research taught him how to interact with the police, so thankfully, he did not offer the officer a bribe during the stop, a routine practice in some countries. However, his misunderstanding with the officer gave rise to my representation, which consisted of an explanation and a subsequent dismissal of the charges.

This interaction occurred in a small town in Tennessee, highlighting the reality that the nature of the practice of law is increasingly global and multicultural, regardless of where we choose to practice. While international clients are no different from any other client in many regards, they may require additional cultural and linguistic guidance as they navigate the U.S. legal

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system. The following practical tips present some ethical and pragmatic pitfalls to avoid.

Explore, dignify, and value the client's culture

As always, before you meet with the client do research. There is a sense of complacency, especially among the well-traveled, that assures attorneys that they understand Latin American culture and commerce simply because they vacationed in Mexico. Avoid this hubris. Learn the form of the client's native government, read scholarly articles on commercial transactions, and study cultural norms. For a good read on this topic, I highly recommend Terri Morrison's "Kiss, Bow, or Shake Hands: The Bestselling Guide to Doing Business in More Than 60 Countries."

Once you have this information, don't rely on it exclusively. Use the information as a springboard

Similarly, the more you know about business relationships and legal institutions in your client's home country, the better you can anticipate issues that will arise during a negotiation, transaction, or litigation process.

for a conversation with your client. Don't presume, even when you're sure of what the cultural "norm" is. Instead, ask. Ask detailed, intentional questions about the client's prior experiences with legal systems.

When I began to work with Mr. B, I researched his city of origin and realized that he immigrated to the U.S. with his family to avoid frequent terrorist attacks. Between my conversations with him and my own research, a picture of the political landscape of his hometown emerged, informing my advocacy goals for my client. The sense of dignity he conveyed made it clear that removing this incident from his record was incredibly important to him.

Similarly, the more you know about business relationships and legal institutions in your client's home country, the better you can anticipate issues that will arise during a negotiation, transaction, or litigation process. For example, many cultures are not deadline driven, which can conflict sharply with a legal system that relies on harsh statutes of limitation and "time is of the essence" clauses. At times, you may need to impress upon clients the gravity or consequence of a specific action or inaction; in other instances, you may need to assure or comfort

an anxious client who is worried that "nothing is happening" because no action has been taken on the case in weeks, especially if that client is accustomed to swift rulings by an arbitrator.

This research effort should be proportionate to the need for it, but even a small effort to appreciate your client's understanding of the justice system will go far to build your client's trust in you and in our legal institutions.

Never rely on family members, friends, or Google as interpreters

Communication, or the lack thereof, is one of the most frequent bases of bar complaints and malpractice suits. If you are going to serve individuals from other countries, the first step is to determine whether an interpreter is necessary. If so, find a certified court interpreter and keep that person's contact information in the client file. When possible, try to use the same interpreter for meetings with the same clients, as clients will speak more comfortably with familiar faces in the room.

In instances where I have represented indigent individuals, I have encountered situations in which children are used as interpreters for parents. Many parents are accustomed to using their children to interpret, and in many situations, this is a viable communication solution.

However convenient (and inexpensive) this practice may be, there are obvious pitfalls. Parents may be unwilling to discuss illegal activity or financially distressful information in front of children, or they may try to explain the problem in a way that doesn't frighten the child, thereby obscuring or eliminating facts. If a parent is about to lose her house, getting her to explain the full extent of the problem by relating the problem to her teenager can be difficult.

Use a certified interpreter whenever possible. Even if you or another attorney in your office has some experience with the subject language, there can be a significant issue with using a non-fluent interpreter. Informal linguistic acquisition can be dangerous to rely upon, as it is often strong in some areas and weak in others. For example, the brother of your small business owner client may be "fluent" when it comes to informal conversation, but he may be unable to interpret commercial transaction terms.

When clients are nervous, they may bring support individuals along with them. In cultures that promote strong family interdependence, you may find that several generations of family members will want to attend client meetings. Refresh your understanding of your state's interpretive case law

on what qualifies as “disclosure to a third party” for purposes of attorney-client privilege. If a friend is simply there for moral support, be prepared to explain the attorney-client privilege and ask that all individuals who are not the client, or the client’s agent, leave the room.

Finally, clients may be accustomed to using Google Translate or another artificial intelligence interpretation app as a communication device for business transactions. It’s far better to send an email through a certified interpreter to a client than to send an email in English to a non-English speaking client, leaving your client to find his own internet translation resource. Google Translate is often inaccurate (which I say with deep respect for its helpfulness to me as a tourist). If you type “Would you like to review your bill?” to a client and the client uses Google Translate to translate the phrase into Russian, the corresponding phrase is “Want to see your score?”

Due to some extenuating circumstances surrounding the representation, the court permitted me to interpret for Mr. B during his appearance, but I do not recommend this practice even if you are fluent and confident. First, it heavily distracts from the representation itself. Also, if you’re not a native speaker, it can be helpful to have another interpreter in the room to ensure comprehension, which leads to my next point.

It’s not sufficient for you to explain or disclaim; the client must understand.

For important meetings where decisions are being formed, meet in person if possible and in the presence of an interpreter. Ask the client to explain his understanding of the rights being waived or the issues being resolved. Document the steps taken to ensure comprehension. I repeat: Document the steps you took to ensure that the client understood what he was agreeing to. It doesn’t have to be incredibly time-consuming, but just taking the time to draft a short memo documenting the contact information and credentials of the interpreter and the concerns discussed with the client can go a long way to avoid a future complaint that the client didn’t understand what he was agreeing to.

Comprehension can require repetition or variants of explanations as to the effect or consequence of an action. Understand that the client may be impatient with your commitment to clarity and comprehension, but likewise understand that your reputation and competence as a practitioner depend upon such commitment. If you choose to engage a client who has a linguistic barrier, the Rules of Professional Responsibility do not bend with this choice. All

of the same duties and obligations still apply. In addition to meeting those obligations, you should ask “Does the client actually understand?” and then “Have I documented this understanding in a way that protects both me and my client?”

The value of representing diverse clients

The practice of law can be disheartening. This is especially true when you have non-English-speaking clients. I once represented an injured non-English-speaking factory worker who was asked by his supervisor to sign a piece of paper that stated (in English, of course), “My injury did not happen at work.” At our first consultation, the client had a settlement offer in his workers’ compensation case for \$500. When I notified opposing counsel that he had obtained competent legal representation that offer immediately jumped by thousands

Perhaps most importantly, seeing the American legal system through an international client’s eyes can renew your passion for the profession, which benefits every other client in your practice.

of dollars, without any offer of proof. My client had strong evidence from the outset, but it was not until he had an English-speaking professional on his side that any semblance of fairness developed in his case.

Multicultural clients are more than worth taking; they’re inspiring. These clients are the hardest-working people I know, and they typically exhibit an incredible moral compass. Indigent multicultural clients are unbelievably grateful for pro bono assistance, and such experience will give you an introduction to other cultures, as well as an opportunity to brush up on a second language—leading to future opportunities with international clients. Working with diverse clients presents the opportunity to explore and confront implicit biases also.

Perhaps most importantly, seeing the American legal system through an international client’s eyes can renew your passion for the profession, which benefits every other client in your practice. ♦

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PROFILE IN PROFESSIONALISM

Nancy Winkelman, Esquire

2020 Professionalism Award for the Third Circuit

By Rebecca A. Clay

As a girl in Bethesda, Maryland, Nancy Winkelman loved reading about Helen Keller and other people with disabilities. “I would read any book I could find about people with disabilities,” remembers Winkelman, who now leads the law division of the district attorney’s office in Philadelphia, Pennsylvania.

That interest was more than a passing whim. After graduating magna cum laude from Wesleyan University in Middletown, Connecticut, she faced a choice. “I knew I wanted to help people with disabilities, but I did not know whether from a legal perspective of helping people with their rights or from a social work perspective of helping people with their lives,” she says. To find out, she went to work as a legal advocate for people with severe mental illness at a state hospital in Massachusetts. It was the early 1980s and people were being institutionalized, medicated, secluded, and restrained involuntarily and often unnecessarily. The experience persuaded Winkelman to choose law. “Legal advocacy appeared to me a more effective way to empower people,” she says. She intended to return to the legal advocacy project as a lawyer after graduating in 1987 from the Western New England College School of Law.

Then the first of Winkelman’s two daughters was born with a significant disability. “I felt it would be too much for both my personal and professional lives to center on advocating for people with disabilities,” she says. Instead, she spent a year clerking for Judge Dolores Sloviter of the U.S. Court of Appeals for the Third Circuit, then joined the Philadelphia law firm Schnader Harrison Segal & Lewis LLP. Over nearly three decades, Winkelman focused on federal and state appellate litigation as cochair of the firm’s litigation services department and appellate practice group. In addition to appearing before the Third Circuit and many other appellate courts, she presented argument before the Supreme Court of the United States, representing the plaintiff pro bono in a prisoner civil rights case.

“Nancy devoted thousands of hours to so many different pro bono causes, not just prisoners’ rights, but immigration and asylum matters, First Amendment issues, and others,” says Stephan A. Fogdall, Esquire, of the Schnader firm, who wrote in support of the nomination of his former partner for the award. Winkelman also served on the boards of the Disabilities Law Project and the Disabilities Rights Network of Pennsylvania.

For many years, she focused on writing briefs. “Then I realized that clients weren’t going to hire me to do the oral argument when I had no experience,” says Winkelman, who published an influential article called “Just a Brief Writer” in the American Bar Association’s *Litigation Journal*. “And it was hard to get experience if I was always second chair.” To remedy the problem, she sought out pro bono appointments and ended up arguing several cases in the Third Circuit Court of Appeals—plus the Supreme Court—before paying clients began to hire her.

Winkelman also served as president of the American Academy of Appellate Lawyers in 2016 and taught appellate advocacy at the University of Pennsylvania Carey Law School and Temple University Beasley School of Law. Winkelman, who cofounded the Third Circuit Bar Association and served as its first president in 2007, is also a Master of the Bench member of the University of Pennsylvania Law School American Inn of Court.

But despite how much Winkelman loved her job, she wondered if she could apply her appellate advocacy skills to a new arena—the criminal justice reform movement. “I kept thinking, ‘I went to law school to do public interest law,’” she says. “I wondered if I could have another chapter of my career doing what I went to law school to do.”

That opportunity soon came, thanks to the progressive prosecutors movement, which aims to reform the criminal justice system from within. When progressive prosecutor Larry Krasner, Esquire, was elected as Philadelphia’s district attorney in 2017, Winkelman took a one-year sabbatical from Schnader and joined him as the head of the law division. Before the year ended, she had resigned as an equity partner in the firm.

Winkelman now leads 60 to 65 lawyers who tackle the appellate and post-conviction work for the district attorney’s office. “Our job is not just to defend convictions; it is to defend just convictions and advance the fight against overincarceration, racial injustice, and criminalizing people primarily because they are poor or have substance abuse or mental health problems,” she says. “I think we’ve been able—in a careful, ethical, sensitive way—to use the appellate courts in appropriate cases to help with much-needed criminal justice reform.” ♦

PROFILE IN PROFESSIONALISM

Robert A. Zauzmer, Esquire

2020 Professionalism Award for the Third Circuit

By Rebecca A. Clay



As a child, Robert A. Zauzmer, Esquire, made such persuasive arguments that his family always predicted he would end up being a lawyer. They were right: Since 1990, Zauzmer has been an assistant U.S. attorney in the U.S. Attorney's Office for the Eastern District of Pennsylvania. In 1998, Zauzmer became chief of appeals, supervising all federal criminal appeals in the district.

"That position puts him on the frontline for the most difficult criminal issues involving his office," says a judge of the U.S. Court of Appeals for the Third Circuit, who wrote in support of Chief Judge D. Brooks Smith's nomination of Zauzmer for the professionalism award. "I make notes about counsel in the cases I sit. While many times they are detailed, in Mr. Zauzmer's case, I often write no more than 'a pro,' the highest compliment I can give."

Although Zauzmer has prosecuted all kinds of federal crimes, he has focused on corruption and fraud. In 2005, for example, he prosecuted the Philadelphia City Hall corruption case, resulting in the conviction of the city's treasurer and several business executives and sparking a significant reform movement in the city's government. He also prosecuted a powerful Pennsylvania state senator convicted of defrauding the state Senate and a charity he founded, as well as Philadelphia's district attorney, who pled guilty to bribery and fraud. "Nothing is more important than prosecuting political corruption and ridding the system of corrupt actors," says Zauzmer, who enjoys such cases' complexity.

Pre-pandemic, Zauzmer spent his days working on a wide variety of cases, writing briefs, arguing appeals, and helping to develop policy. But with COVID-19's arrival, Zauzmer's focus has now shifted almost entirely to the compassionate release of prisoners. Inmates around the country are desperate to be released in hopes of avoiding infection in facilities where physical distancing is impossible. Zauzmer has helped develop the response and now oversees the motions for compassionate release in his district. "If someone presents a risk factor that the Centers for Disease Control and Prevention says puts them more at risk of severe outcomes from the disease, that person can get consideration," he says.

In fact, Zauzmer has long been interested in prisoners' issues. Starting around 2007, he began developing a specialty in sentencing reform.

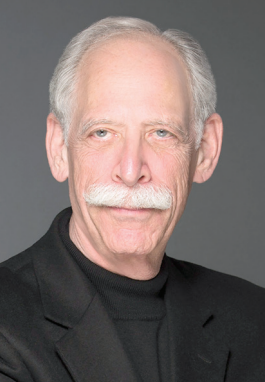
Starting in the 1980s, he explains, laws passed that ensured very long sentences—sometimes life in prison—for many offenses but particularly drug-related crimes. Since then, actions by the U.S. Sentencing Commission, Congress, and the Supreme Court of the United States have made many prisoners sentenced under those draconian laws eligible for shorter sentences. After each of those actions, prosecutors and defense lawyers review old cases to see whether the new rules apply.

Then President Barack Obama announced an initiative to extend executive clemency to nonviolent drug offenders serving longer sentences than would be imposed under later law. "There was an obvious fairness question," says Zauzmer, who helped review cases of nonviolent offenders prosecuted in his district. When the person responsible for overseeing the clemency initiative and making recommendations to the White House resigned in 2016, Zauzmer moved to Washington, DC, for a year to serve as the U.S. Department of Justice's pardon attorney. "I had an incredibly intense year of working around the clock with an amazing team," he says. "We got the job done." Ultimately, 1,700 prisoners saw their sentences reduced.

Zauzmer has twice received the Department of Justice's John Marshall Award, its highest honor for litigation activities. While the first award recognized his help in prosecuting drug organizations, the second recognized his work helping the department respond to changes in sentencing guidelines for crack cocaine offenses, which resulted in the resentencing of thousands of defendants.

Before joining the U.S. Attorney's Office, Zauzmer was in private practice. He served as a clerk for Judge Arlin M. Adams of the U.S. Court of Appeals for the Third Circuit. Zauzmer earned his undergraduate degree summa cum laude from the University of California, Los Angeles in 1982 and earned his law degree in 1985 from Stanford Law School, where he was a member of the Order of the Coif.

When he is not working, Zauzmer—a native of Los Angeles—relaxes by watching movies. "I'm a silent movie buff," he says. "They reveal a different world that doesn't exist anymore." But even at home, the emphasis is on public service. His wife, Jan Zauzmer, has a children's book called "If You Go with Your Goat to Vote" coming out this fall to promote interest in voting. ♦



TECHNOLOGY IN THE PRACTICE OF LAW

Richard K. Herrmann, Esquire

The Virtual Courtroom—Zoom on Steroids

During the past several months we have been exposed to a number of different approaches to practicing law remotely. One of these has been video conferencing through a variety of platforms that work well generally but present questions of insecurity, awkwardness, and general lack of formality. Services have been available to assist courts with remote technology, but the coronavirus pandemic has brought them front and center. One service is CourtScribes led by Michael Breyer.* I thought it might be helpful to talk with him here:

Herrmann: I know you are not a member of the Delaware Bar, but where have we seen you in the past?

Breyer: In 2001, I worked with courts to install public Wi-Fi networks in courthouses across the country, and the Delaware courts were one of the first courts to allow us to install such networks. We then expanded from basic network services to media coverage of court proceedings and broadcast trials.

Herrmann: Tell us about CourtScribes.

Breyer: CourtScribes provides judges with a turnkey virtual courtroom with 24/7 operator-assisted support. We layer great customer service, scheduling, technical support, trained operators, and enhanced features like exhibit sharing and closed captioning on top of an easy-to-use platform to provide a virtual courtroom that assists judges in moving along demanding court calendars. Our staff acts as a virtual judicial assistant who helps the judge through the sharing of exhibits, breakout rooms, etc. We have also supported the Center for Legal and Court Technology project at William & Mary Law School.

Herrmann: How does CourtScribes control security?

Breyer: Our operators monitor for internet hackers interrupting court proceedings. Only authenticated participants are allowed into the virtual courtroom, and judges are given the option to password-protect entrance. One way of balancing the public's right to view or listen to court proceedings with the court's desire to ensure the proceedings are secure and uninterrupted is to provide separate access to the public through either a live stream or provide the public with a "view/listen only" link or phone number to access the hearings. Sensitive documents or sidebar conversations would be protected and screened from public access.

Herrmann: Walk us through a virtual hearing.

Breyer: Our operator will greet all attorneys in a virtual lobby in advance of the hearing, ensuring that attorneys connecting to the call are muted until their case is called. The CourtScribes operator can troubleshoot attorney connections, volume controls, and linking a user's telephone to their video if applicable. The CourtScribes operator will announce that the judge has arrived and that court is now in session. The operator will have the attorneys available for the judge whenever the judge is ready for a particular case to be called, instruct the attorney to announce his/herself each time the attorney addresses the court, monitor and provide technical assistance during the hearing, mute attorneys as necessary, serve as a virtual judicial assistant to the judge (assisting with screen sharing, private discussions in breakout rooms, etc.), and provide access to late arriving attorneys in the virtual lobby, ensuring there is no disruption to the actual hearing.

Herrmann: How have court reporters reacted to this kind of service?

Breyer: We have a very positive relationship with official court reporters because they understand that we are here to assist the court and in no way intend to replace the very valuable work that they do. While we can create high-quality transcripts of the proceedings like we do when we provide court reporting services in depositions outside of the courtroom environment, we do so only in jurisdictions and proceedings where the official court reporter is not available. Recordings of court proceedings are only made with a judge's approval.

Herrmann: What is the cost to use CourtScribes?

Breyer: There is no cost to the court. The attorneys in Delaware pay a minimal charge of \$15 per connection during the COVID-19 crisis to help us cover our costs. After COVID-19, we will charge \$30 per connection.

Herrmann: If anyone is interested in seeing a live session in action, is there a way to do this?

Breyer. Yes, please visit www.courtscribes.com and contact us by phone or email. ♦

*Disclaimer: CourtScribes is one of many technology services available to courts and attorneys. This interview is intended for informational purposes only and neither Richard K. Herrmann, Esq., or the American Inns of Court has received any form of compensation for publishing this information.

Richard K. Herrmann, Esquire, is director of law and technology and visiting professor at Delaware Law School. He is a Master of the Bench member of the Richard K. Herrmann Technology AIC.

Cultural Competency: A Necessary Tool in the Ethics Toolbox

Program No.: P13032

Presented By: Honorable William A. Ingram American Inn of Court

Presented On: November 12, 2014

Materials: Script, Handouts

CLE: 1hr

Summary

This program tackled the nuanced issue of cultural competency, beginning with several key questions: What does it mean to be culturally competent? How does culture affect the workings of the legal system and attorney-client relationships? What do attorneys and judges need to know to conduct themselves with competence, whether in the courtroom or the conference room?

The program began by defining what we mean by cultural competence and exploring the duty of competency from both attorney and judicial perspectives. Many educators believe cultural competency is a practice skill that needs to be taught in law school. However, this increasingly necessary tool in the toolbox is not without ethics ramifications. The presenters prepared a compendium of ethics resources, and the moderator engaged a panel of attorneys and bench officers to illustrate cultural competency dilemmas that arise in different practice areas. Audience engagement was encouraged with several opportunities to present views during the program, which ended with a rousing question-and-answer session.

Roles

Moderator (Judge) Master of the Bench
 Panelist (District Attorney) Master of the Bench
 Panelist (Public Defender) Master of the Bench
 Panelist (Judge) Guest Panelist from Dependency Court
 Panelist (Litigator) Master of the Bench
 Panelist (Court Executive) Guest Panelist Court Executive

Agenda

Introduction 5 minutes
 Part 1: Defining Culture 15 minutes
 Part 2: Is Justice Colorblind? 5 minutes
 Part 3: Examples from the Panel 20 minutes
 Part 4: The Culturally Competent Court 10 minutes
 Part 5: Q&A with the Audience 10 minutes

Recommended Physical Setup

Podium, table, chairs

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The Bencher

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