



Standing Committee on Federal Judicial Improvements

Standing Committee on Judicial Independence

Special Fall Issue 2009 - Volume III

Discourse on Dismissals: Professor Arthur Miller Meets With SCFJI

The Standing Committee on Federal Judicial Improvements ("SCFJI") convened in New York City on October 31 for its 2009 Fall Business Planning Meeting. At its welcome dinner on October 30, the Committee was joined by renowned Professor Arthur R. Miller. Professor Miller is a leading scholar in the field of American civil procedure and is co-author of *Federal Practice and Procedure*. He provided the Committee with an enlightening perspective on the current debate over federal pleading standards.



(L-R) Konstantina Vagenas (Chief Counsel), Judge Nancy F. Atlas (SCFJI Chair), Professor Arthur Miller, Harvey Saferstein (SCFJI Member)

Following its morning business meeting, SCFJI hosted a fascinating discussion among several prominent academics, judges, and a variety of lawyers, including ABA Section of Litigation Chair, Lorna Schofield. This roundtable discussion explored the impact of the United States Supreme Court's decisions in *Ashcroft v. Iqbal* and *Bell Atlantic v. Twombly* on federal civil pleading standards and Federal Rule of Civil Procedure 12(b)(6) motions, as well as legislative and/or rule making responses that might be warranted.

SCFJI Launches new Media Alerts on Federal Courts of Appeals Web Site

The Standing Committee on Federal Judicial Improvements ("SCFJI") [unveiled its new Media Alerts on Federal Courts of Appeals Web site at the First Amendment Center in Washington, D.C. on November 18](#). Judge D. Brock Hornby, Chair of the Judicial Conference, attended the launch along with immediate past SCFJI Chair Judge M. Margaret McKeown.

Additionally, Judge McKeown presented a public lecture on transparency and the judiciary in Bosnia on November 9. At the lecture, she previewed the Media Alerts on Federal Courts of Appeals Web site to her audience of Bosnian media, judges, and lawyers. All present were highly enthusiastic about the new project.

The Web site is designed to provide reporters, lawyers, educators, and the public with prompt, accurate, unbiased information about newsworthy and legally significant cases pending in and decided by the Federal Courts of Appeals. The goal is to assist the media's efforts to provide timely and extensive reporting about federal court decisions. Anyone can use the Web site to find short summaries of recent opinions of public interest and noteworthy cases pending oral argument.

Currently, the Web site covers the Third, Fifth, and Ninth Circuits and is a pilot program. If successful, SCFJI plans to expand coverage to include the other circuits. From time to time, SCFJI will also include significant district court cases. Cases are selected and summarized by distinguished law professors, supported by their students. The content contributors include Temple University Beasley School of Law in the 3rd Circuit, the University of Texas at Austin School of Law in the 5th Circuit, and both the University of San Diego School of Law and the University of Arizona James E. Rogers College of Law in the 9th Circuit. Read more about this groundbreaking project in the [ABA Journal](#), [The Blog of the Legal Times](#) appearing in [The National Law Journal](#), and [visit the Web site](#) itself.

Judge M. Margaret McKeown Receives the 2009 Founder's Award from the ABA Immigration Justice Project

Judge M. Margaret McKeown, immediate past chair of the Standing Committee on Federal Judicial Improvements ("SCFJI"), was the recipient of the 2009 Founder's Award given by the ABA Immigration Justice Project ("IJP") on October 29. The award was presented at IJP's first annual pro bono recognition event, recognizing the work of the many volunteer attorneys, mentors, and translators that have made IJP a success. More than 60 members of the San Diego legal community attended the event, which was held at the offices of Coughlin Stoia Geller Rudman & Robbins LLP in San Diego.



Judge McKeown received this award for her groundbreaking work in spearheading IJP. In 2008, the ABA launched this innovative pro bono immigration pilot project in San Diego with a seed grant from the ABA Enterprise Fund. The mission of IJP is to promote due process and access to justice at all levels of the immigration and appellate court systems through the provision of high-quality pro bono legal services for those in immigration proceedings in San Diego. Judge McKeown continues to stay involved with SCFJI and is devoted to the success of IJP.

SCJI Visits the Capital

On October 16, the Standing Committee on Judicial Independence ("SCJI") convened in Washington, D.C. for its 2009 Fall Business Planning Meeting. SCJI was pleased to welcome new presidentially-appointed SCJI



Committee Citings

On October 28, the U.S. Chamber Institute for Legal Reform released their new [Promoting "Merit" in Merit Selection guide](#). The guide makes specific reference to the [ABA Standards on State Judicial Selection \(2000\)](#). These standards were developed by a nine-member commission appointed by the Standing Committee on Judicial Independence ("SCJI"). The Chamber's guide also reflects the efforts of the Standing Committee on Federal Judicial Improvements ("SCFJI") to bring commission-based judicial selection to the forefront. It was not that long ago when the Committee's [Resolution 118](#) was approved by the ABA House of Delegates.

In the wake of the U.S. Supreme Court's decision in *Caperton v. Massey Coal Co.*, the State Bar of Wisconsin's Board of Governors unanimously recommended that a study committee be established to evaluate the recusal issue in the context of judicial campaign support. As explained in the [Wisconsin Law Journal](#), "at the hearing, attorney Thomas L. Schober, Chair of the bar's Judicial Independence Committee, suggested that the court not rush to a decision simply to have a rule in place by the spring 2010 judicial elections. Schober also suggested that the court might benefit from an American Bar Association (ABA) report on recusal. . . ." Nevertheless, on October 28, the Wisconsin State Supreme Court decided 4-3 that campaign donations alone will not necessitate that a judge step down from a case involving a contributor.

In a November 2 *National Law Journal* article, "[Congress Examines Judge Recusals](#)," David Ingram explained that Congressional attention on the issue of judicial recusal was sparked by *Caperton v. Massey Coal Co.* Ingram went on to reference the SCJI Judicial Disqualification Draft Report and explained that former SCFJI Chair and current Chair of the Judicial Conference Committee on Codes of Conduct, Judge M. Margaret McKeown, was scheduled to testify before Congress on the issue.

On November 5, the Michigan Supreme Court adopted a new rule on judicial recusal, allowing for justices to review another justice's decision not to step aside in some cases. Justices will have to step aside if they are biased or if there is an appearance of impropriety. During the public hearing on this matter, Chief Justice Kelly referenced the 2008 Judicial Disqualification Draft Report of SCJI and said it was time for the Court to act. A video of this November 5 hearing is available on the State Bar of Michigan's [Virtual Court Web site](#).

Board of Governors liaison and ABA past President Tommy Wells, along with members W. Scott Welch III and Samuel Porter. The Committee was also visited by Dr. Gene Flango from the National Center for State Courts ("NCSC"). SCJI discussed a range of exciting



(L-R) William K. Weisenberg (SCJI Chair), Tommy Wells (ABA past President and SCJI BOG liaison)

topics, including the new *Justice is the Business of Government Task Force*, an outgrowth of Mr. Wells' Presidential Commission on Fair and Impartial State Courts of which Retired Supreme Court Justice Sandra Day O'Connor served as Honorary Chair. That evening, Committee members were honored to attend a reception at ABA President Carolyn Lamm's home.

Member Spotlight: Karol Corbin Walker

The Standing Committee on Federal Judicial Improvements ("SCFJI") welcomes its newest member, Carol Corbin Walker. Ms. Walker is a shareholder in the Litigation Group at the law firm of LeClairRyan. In 1995, she became the first African American woman to attain partner status at any major New Jersey law firm. She is a litigator with trial and appellate experience in the state and federal Courts. Ms. Walker focuses her practice on business, commercial, employment, environmental, hazardous waste, insurance coverage, toxic tort, and product liability matters. Her clients have included many Fortune 500 corporations as well as other publicly and privately held corporations, financial institutions, entertainers, and insurance companies.



In 2003, Ms. Walker became the first African American President in the then 105-year history of the New Jersey State Bar Association ("NJSBA"). She previously served as a member of the New Jersey State Ethics Commission. The Commission is responsible for ensuring that state employees adhere to ethics rules. New Jersey Governor Jon S. Corzine appointed Ms. Walker to this Commission.

Courtly Currents is a publication for members and collaborators of the Standing Committee on Federal Judicial Improvements and the Standing Committee on Judicial Independence. Opinions expressed herein are not to be deemed to represent the ABA unless and until adopted by the ABA.

Honorable Nancy F. Atlas, Chair
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William K. Weisenberg, Chair
Standing Committee on Judicial Independence

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