

CASA CHRONICLES

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MESSAGE FROM THE CHAIR

*Frank Gibbard, Staff Attorney
10th Circuit Court of Appeals
Denver, Colorado*



Greetings to CASA members, prospective members, and other interested parties! The Council of Appellate Staff Attorneys (CASA) is a Council within the Appellate Judges Conference (AJC) of ABA's Judicial Division. CASA provides professional legal education and networking opportunities for appellate court staff attorneys. Our membership includes central staff attorneys, permanent

and term judicial law clerks, administrative attorneys, and other attorneys employed in the federal, state, and territorial appellate courts. I am honored to serve as your Chair for 2016-2017.

CASA's signature event is the annual Appellate Judges Education Institute (AJEI) Summit, which we help present along with the AJC and the AJC's Council of Appellate Lawyers (CAL). This year's Summit will be held at the Westin Long Beach Hotel in Long Beach, California on November 2-5, 2017. The Summit this year will be co-sponsored by Duke Law School. We are looking forward to working with them.

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Social Media Issues for Court Staff

*Joe Merrick
Indianapolis, IN*

At the 2016 AJEI conference in Philadelphia, John Browning presented a session on judicial ethics and social media websites. Our CASA colleague Cliffie Wesson organized the thought-provoking class, which caused me to think about staff attorney and law clerks' ethical obligations in relation to social media. I imagine that most of us are subject to the same state or federal code of judicial ethics that bind our judges. These codes generally

apply to all of our communications, be they personal or private. Every year, I co-present a mandatory ethics class for Indiana Court of Appeals employees, and social media plays a heavy role in the presentation. Here are a few points I've learned that I thought I'd pass along for further discussion:

1. Social media websites want to make it as easy as possible for you to transmit your thoughts, activities, and cat picture memes. Most of them also strongly encourage immediate peer-to-peer interac-

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Ric Schickele and Cliffie Wesson, Co-Chairs of the CASA Education Committee, serve as CASA's representatives on the AJEI Planning Committee. They have assisted representatives from the AJC and CAL in developing a slate of timely and interesting programs for the Summit. CASA has undertaken a sponsoring or supporting role for this year's programs on "National Emergencies and the Boundaries of Government Power," "Self-Editing," "Using the 80/20 Rule in Managing an Appellate Docket," and "To Concur or Dissent, That is the Question." And of course, CASA remains the point of contact for the excellent Supreme Court Updates presented each year by Dean Erwin Chemerinsky. These programs, along with others sponsored or supported by AJC and CAL, provide outstanding opportunities for legal education relevant to the work that staff counsel perform on a daily basis and of great interest to those involved in the justice delivery system. I sincerely hope that many of our CASA members will be able to attend the 2017 Summit.

In addition to the educational opportunities presented by the Summit programming, CASA also offers a number of social events. The annual CASA t-shirt exchange and dinner will take place on Friday, November 3. This is a casual dinner event where participants can bring an XL-size t-shirt from their own state or hometown to exchange with other participants. Chair-Elect Joe Merrick is investigating dining venues in Long Beach for this event, and I am sure he will pick a great place for us! CASA also hosts the Summit's hospitality suite each night, where the conversation flows freely and a good time is had by all.

CASA also holds a business meeting at the Summit. During this annual membership meeting, CASA elects its executive board, which is comprised of the Chair, the Chair-Elect, the Secretary, two Second-Year Members-at-Large, and two First-Year Members-at-Large. As our

Immediate Past Chair, Christina Smith will present this year's slate of nominees for the 2017-2018 term. Please notify her if you would like to serve on the Board. Members of CASA are always invited to become involved with one or more of our committees: Education, Membership, Nominating, and the CASA Quarterly Committee, which helps put out the CASA Chronicles, our newsletter.

CASA members participated this year alongside judges in the Judicial Clerkship Program (JCP) at the ABA Midyear meeting in Miami this February. At the JCP, judges inform minority students about what it is like to have law clerks work for them and lead them through a hypothetical research assignment. They also help students by reviewing their resumes and offering helpful information on how to apply and get hired as a judicial law clerk. In recent years, CASA members have also participated in the JCP, where we can offer a unique perspective on what it is like to work with appellate judges. Because the 2018 Midyear meeting will be held in Vancouver, the JCP event will be held separately in April 2018 in Chicago. Please notify me if you would like to participate.

I look forward to seeing many of my CASA friends at our upcoming events in 2017 and 2018. Should you have any questions at all, please feel free to contact me at frank_gibbard@ca10.uscourts.gov.

Appellate Judges Education Institute 2017 Summit

November 2—5, 2017 | Long Beach, CA

Join us in Long Beach, California for the fourteenth annual Appellate Judges Education Institute (AJEI) Summit for judges and lawyers.

<https://law.duke.edu/judicialstudies/AJEI/>

Continued from page 1: Social Media Issues for Court Staff

- tion. The downside? Those websites also discourage careful thought, encouraging reflexive “likes” or “shares” or an immediate response to your Uncle Eustace’s crazy political theories. As a result, court employees can easily end up commenting on inappropriate subjects even if that isn’t what was originally intended.
2. Speaking of peer-to-peer interaction, social media sites make it easy for other people to post to our pages or otherwise link us to a variety of news stories, videos, or commentaries. In some cases, merely being linked to a “friend’s” post can get a person in ethical trouble.
 3. These sites make money by scrutinizing our social media activities and connecting us with advertisers. As a result, most of the sites are structured so that our posts, likes, and retweets are open to the public, even if we wish otherwise, unless we maximize our privacy settings.
 4. The boundary between a “like” and an endorsement on Facebook is tenuous. A trial judge in Missouri was publicly reprimanded for using his Facebook page to publicize fundraising events (such as small-scale bake sales) by the local branch of the United Way.
 5. Related topic: dating websites! Many of these sites have taken on aspects of social media sites in recent years, especially by encouraging users to share many details about their lives, including topics such as politics or religion. The court where I work has cautioned employees that their communications on dating websites are also subject to the code of judicial ethics, and some topics are best reserved for an in-person first date.

Have your colleagues encountered problems arising from these or other social media issues? If you have any thoughts on these topics, or any (anonymous) anecdotes you’d like to pass along, please share them with me at joe.merrick@courts.in.gov.

Still Clerking After All These Years

*Richard Schickele
Sacramento, CA*

In a moment of weakness, I agreed to attempt an autobiography of my work as an attorney with the courts. In practice this seems like writing one’s own obituary; only more difficult because one has to live with its tone.

I graduated from the University of California at Berkeley Law School when it was still called Boalt Hall. My services were not in great demand. After passing the California Bar I had two opportunities, working for the law and motion judge in the San Francisco Superior Court or

in the international tax department of the Bank of America. The judge offered me a position, and I accepted.

I enjoyed the heavy workload and fast pace of law and motion. When my term expired, the court flattered me by appointing me as an assistant court commissioner. Thus, a couple of years out of law school, I was authorized by the great state of California to perform civil wedding ceremonies.

Perhaps not fully appreciating my position, I succumbed to the lure of private practice and made a poor choice. Within a year we had separated. However, fortune

smiled and I was picked up by the U.S. Court of Appeals for the Ninth Circuit to be its motions attorney. Shortly after I started, the court hired another attorney to handle criminal matters and I concentrated on civil cases.

I found my work as a motions attorney invigorating. Emergency motions would be dumped on my desk and it was my job to find judges who would listen to my presentations of the motions. The number of motions grew, the court grew, and the motions department grew.

It was at this time that I first became involved with CASA. I attended a conference and was elected to a position. My recollection is that I may have been the person who came up with the title CASA.

Being young, and I suppose ambitious, I was attracted to a notification for the position of “legal officer” with the U.S. Supreme Court. Somehow I managed to not only secure the position for a year, but to have the Ninth Circuit hold a position for me to return to. I had a wonderful year in D.C., seeing everything, and playing basketball on the highest court in the land.

I then returned to the Ninth Circuit and started a pre-hearing conference program in which I met with counsel shortly after an appeal was filed and tried to work out a firm mutually agreeable briefing schedule, and occasionally a settlement. I also took over the civil motions unit which had grown to five or six attorneys. I enjoyed the MASH nature of motions work. You either suture the issue up to be decided by a merits panel, or declare it DOA.

I was then flattered by an invitation from the Supreme Court to return to head up its two attorney legal office. I managed to negotiate a new title. Chief Justice Berger agreed that my title would be “counsel.” So I moved to Washington, D.C. to be a combined motions attorney and in-house counsel for the Supreme Court.

While at the Supreme Court, I met and married Sandra and we had our two daughters Anna and Danielle. When

it became time to move on, I was honored to be asked to serve at the Baha’i World Centre in Haifa, Israel. So we packed up and moved to Israel, where I served as an advisor to the Baha’i Universal House of Justice.

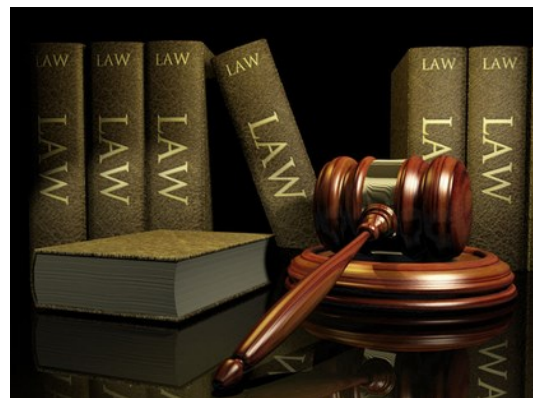
After two and a half years, it was time to return to the United States. I was retained as counsel for the California Commission on Judicial Performance. This little known agency has the authority to discipline and remove state judges, subject only to discretionary review by the California Supreme Court.

While working at the Commission, I received a call from Judge Consuelo Callahan, who I had only spoken to twice in my life. She had been a judge on a California Court of Appeals and had just been confirmed as a judge on the Ninth Circuit. She asked if I might consider being her career law clerk.

We met in Sacramento and Sandra looked at homes in Davis, California. Within a couple of weeks everything was settled. I went to work for Judge Callahan and we bought a house in Davis.

I have thoroughly enjoyed my return to the Ninth Circuit. Judge Callahan and I have our different perspective, but we work well together, and I enjoy the challenges of working with her term law clerks.

I take pleasure in my re-association with CASA, and working with judges and appellate lawyers on the AJEI education committee. I have a few more acts to perform before the curtain falls.



Looking Ahead: The ABA Judicial Clerkship Program in 2018

*Joe Merrick
Indianapolis, IN*

Hello everyone, hope your Spring is going well! I attended the Judicial Division's Spring Planning Meeting in April, and I learned a lot. For example, during the meeting I was reminded that the ABA's Judicial Clerkship Program will be held under different circumstances in 2018, and I want to spread the word well in advance.

For those of you who aren't familiar with the JCP, it is a three-day program that encourages law students to consider careers as clerks and judges. The program focuses on groups that have historically been underrepresented in the judiciary. Law students from around the country gather with volunteer judges, clerks, and staff attorneys to work on a fictional appellate case. There are lots of opportunities for interaction and learning (by the volunteers and the students) over the course of the three days. I've participated for the last two years, and it's a lot of fun!

The JCP is sponsored by the ABA Council for Racial and

Ethnic Diversity in the Educational Pipeline and the ABA Judicial Division. CASA is a co-sponsor as a Judicial Division subgroup.

In 2018, the JCP will be held in Chicago from April 19 to April 21. In years past, the JCP has coincided with the ABA's Midyear Meeting, which made it easier for CASA board members to volunteer for the JCP. The 2018 Midyear Meeting will be held in Vancouver, B.C., so the ABA decided to separate the two events.

One of the best ways for CASA to support the event (and to be worthy of our co-sponsor status) is for our members to volunteer. Won't you please consider attending the JCP, especially if you live relatively close to Chicago? Full disclosure: ABA staff is not yet able to tell me whether the ABA will reimburse CASA attendees for their travel expenses to Chicago. I intend to work with the JCP's 2018 co-chairs to ensure that reimbursement is available.

Please contact me at joe.merrick@courts.in.gov if you have any questions.

CASA Business Meeting, Minutes

February 4, 2017

The Board of Directors of CASA held its regularly scheduled business meeting on February 4, 2017 at the ABA Midyear Meeting in Miami, Florida. Board members present included Christina Smith, Joe Merrick, Frank Gibbard, Tray Owen, Cliffie Wesson, and Eugenia Gates. Richard Schickele attended a portion of the meeting by telephone.

Chair Frank Gibbard called the meeting to order at 8:00 a.m.

The Board approved the minutes of its November 14, 2016 meeting at the AJEI Summit in Philadelphia, PA.

Chair Gibbard presented the Chair's report. CASA is doing well. CASA currently has approximately 65 members, 40 of whom attended the AJEI Summit in Philadelphia.

The Chair reports the Judicial Clerkship Program is also doing well. Three CASA members were involved in the program this year. Any CASA member is welcome to participate in the program, and the chair encouraged

members to participate. Fourteen schools participated. Marketing to the schools and getting more schools involved is an issue. Participation is expensive for schools who pay costs of the program along with program sponsor Lexis. More judges volunteer than are needed.

The Chair attends many meetings and conference calls. He wrote an article for the JD Record. The Chair knows Justice Gorsuch and may be able to get him to speak at the AJEI.

Chair Elect Joe Merrick presented the long range planning report. The chair elect will attend the JD and AJEI meeting on February 5 and the JD Planning meeting in Nashville in late March. The Chair Elect will locate a restaurant for the CASA dinner at the AJEI Summit in Long Beach. Cliffie Wesson noted there are several affordable restaurants within walking distance of the hotel. There was surplus money collected for the dinner in Philadelphia but SMU is not sure whether those funds will be available for next year's dinner. CASA will invite the staff and JD president to the CASA dinner.

Tray Owen presented the Secretary's report. The Secretary noted the name change of CASA's newsletter from CASA Quarterly to CASA Chronicles. Articles are needed for the newsletter. Rick will do an article on his work history. Joanne Saringer is on maternity leave and Denise Jimenez Dempsey is the CASA contact for the CASA Chronicles. A picture of the Board should be included in the next edition so we members can put a face with the name.

Eugenia Gates presented the membership report. CASA dropped from 60 lawyers to 41 lawyers (plus 4 students) in January. January is a big drop every year as the ABA purges the rolls, then membership builds back up over the year. CASA may be able to pick up some new California attorneys with the AJEI in Long Beach.

Richard Schickele and Cliffie Wesson presented the Education Committee report. The committee met in Long



(L-R) Joe Merrick, Christina Smith, Frank Gibbard, Cliffie Wesson, Tray Owen and Eugenia Gates.

Beach. Under SMU, the committee meeting was always in Dallas, but Duke combined the meeting with a site visit. Only hotel expenses for the meeting were reimbursed, not airfare.

Duke is moving away from designated slots at the AJEI. Duke also want more nuts and bolts programs. There was some pushback, as attendees enjoy a mix of topics. Memos on topics are no longer required. Topics are just sent around to the committee and the committee members vote for their top 10 ranked choices. There is very little information on the topics before voting.

There will be 16 hours of programing at the AJEI this year. Eight CASA topics were selected. CASA is responsible for five programs. Dean Erwin Chemerinsky now has 90 minutes to accommodate more questions. The reception will be at the aquarium. A tour of the Queen Mary and Catalina Island are possible. The committee will continue to have monthly conference calls. Speakers are not paid and do not get free tuition. The AJEI only covers their flight and their hotel for one night.

The Chair asked if there was any other business. Hearing none, the Chair adjourned the meeting at 10:36 a.m.

Tray Owen, CASA Secretary

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2017 ABA ANNUAL MEETING

August 10—13, 2017

New York, NY

www.ambar.org/jdannual

The Judicial Division will host five complimentary CLE programs and three showcase Programs at the Annual Meeting.

COMPLIMENTARY CLE PROGRAMS:

Managing the ‘Lawyers, Guns & Money’ Cases – Hot Topics Involving National Security Issues

Veterans and the Courts: Serving Those Who Have Served

Community-Based or Cash Register Justice? How Judges Can ‘Ferguson-Proof’ Local Courts

The Death Knell for Judicial Independence in Turkey: The Recent Judicial Crisis

Building an Appellate Record in a Digital Age: Everything You Wanted to Know But Were Afraid to Ask

ABA SHOWCASE CLE PROGRAMS (TICKETED):

Deportation, Due Process and the New Frontier of U.S. Immigration Policy

Enhancing Justice and Reducing Implicit Bias in the Legal Profession: Strategies that Work

Issues of Sexual Violence on College Campuses and Beyond: Balancing Privacy, Constitutional and Civil Rights