

**CASA QUARTERLY**  
**Winter 2007**

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## ***Letter from the Editor***

by Dave Ewert,  
Chief Staff Attorney  
Iowa Supreme Court

Welcome to my first issue of CQ. Let's get one thing straight: I did not become the editor through a merit selection process. I was duped by Kembra Smith into taking on this task. When I agreed to be nominated as CASA secretary, little did I know the job came with this little albatross around its neck. Even if I was competent enough to be an editor, I certainly would not have chosen to do so following Carol Couch, who is very competent and has far better judgment than I do.

That being said, my goal for CQ is to provide healthy doses of information and entertainment. Your life as a staff attorney is probably dry enough without me adding to your burden. All CASA members should be able to look to CQ as a guide to what's happening with the organization and for information on upcoming seminars. But CQ also should highlight the shared concerns of its members, and inject the occasional dose of humor.

This issue is in many ways a tentative first step. CASA chair Kembra Smith provides articles that carefully outline CASA's progress and explain CASA's role in a complex series of relationships with our friendly acronyms, ABA, JD, AJC, CAL, and, last but not least, AJEI. I would be willing to bet that if you can explain these relationships back to Kembra at the upcoming D.C. seminar, she will buy you the beverage of your choice! Paul McGrath then summarizes his extended reign as chair during a truly tumultuous period for CASA. Paul's steady hand kept CASA on course and he deserves our thanks. Elena Ris then provides a sneak preview of the 2007 CASA Seminar, which will be held in Washington, D.C. beginning September 27, 2007.

Among our other articles, Renee Simien tells her story as a staff attorney whose court and family were devastated by Hurricane Rita, and she explains the lessons they learned from that tragedy. And, because there was no one to stop me, I have included a short article on some of my favorite cd's.

I want to thank everyone who contributed articles for this issue under some pretty intense deadlines, and thanks as always to Bill Lowe for his skill with the camera and his quick wit. My undying gratitude also goes out to Amanda Raible and Sheena Johnson for their hard work in putting CQ together. They do the real heavy lifting. Most of all, I want to invite each of you to submit articles or tidbits for future CQ issues. This is your magazine; I'm just the temporary guardian.

***Notes from the Chair***  
by Kembra Smith  
Career Law Clerk/Staff Attorney  
U.S. Court of Appeals, 11<sup>th</sup> Circuit

Hello! I happily report that CASA is alive and kicking. My focus is directed toward the annual seminar, other benefits of membership, and increasing our membership. We have an energetic executive board and these directives well under control. We want new people involved on the executive board and with committee assignments so that they can ascend to CASA leadership to keep our 30 year organization moving forward!

As CASA Chair for 2006-07, I will serve as one of your shorter-term Chairs; I arrived in this position in November and will depart in September. Immediate Past Chair Paul McGrath served from July 2005 through November 2006, through our transition from an independent, separate summer seminar to a joint fall seminar with the Appellate Judges Conference (AJC) judges and the Council of Appellate Lawyers (CAL). My term will end in September at the annual seminar at the Omni Shoreham Hotel, Washington, D.C. from Thursday, September 27-Sunday, September 30.

I presided during the CASA Executive Board meeting in Miami, Florida, and you can find the minutes of that meeting in this issue of CQ. I represented CASA at the meeting of the AJC, and provided a report to the AJC; a copy of that report is also included in this issue. I also attended the meetings of the Appellate Judges Education Institute (AJEI), and the AJEI Education Committee.

*AJC Meeting*

The AJC meeting was held on Sunday, February 11, in Miami. Paul McGrath, Lee Ramsey, Elena Ris attended as guests. Judicial Division (JD) Chair-Elect and the AJC Delegate to the ABA's Board of Governors North Carolina Court of Appeals Judge James A. Winn, Jr. provided a report on the JD meeting. He will be hosting the JD's Spring Planning Meeting in Charlotte, NC in April. Oklahoma Court of Criminal Appeals Judge Charles A. Johnson is the AJC membership chair. He enthusiastically supports CASA and has volunteered to contact any judge to encourage them to have their staff attorneys and law clerks join CASA and attend our seminar.

*AJEI Meeting*

The AJEI meeting was held immediately after the AJC meeting. The AJEI Board approved allowing vendor booths for fund-raising and author tables for our speakers. Each entity (the judges, CAL and CASA) was encouraged to name an attendance chair for each seminar, to encourage attendance from under-represented jurisdictions. The 2008 AJEI Education Chair is North Carolina Supreme Court Justice Mark Martin who will also be working on Long Range Planning for 2009. The 2008 seminar will be held in November, and sites are being considered in the southwest.

### Governance and Organization(s)

By popular demand, the following is an explanation of the organizations (and their acronyms) with whom we are involved.

As CASA members, we are all members of the American Bar Association (ABA). Our parent organizations within the ABA are the Judicial Division (JD) and, within the JD, the Appellate Judges Conference (AJC). The membership within the AJC includes the judges and two Councils: the Council of Appellate Staff Attorneys (CASA) and the Council of Appellate Lawyers (CAL). The current AJC Chair is Iowa Court of Appeals Chief Judge Rosemary Sackett; the current CAL Chair is Missouri Solicitor General James Layton. CAL and CASA each have a non-voting representative on the AJC Executive Board.

CASA members are thus under three umbrellas: the AJC, the JD, and the ABA. The ABA provides funding to the AJC from dues and general revenues; the AJC then allocates a portion of that funding to CASA for “governance.” The governance money is used for meetings for CASA’s general membership and its executive board. Amanda Raible works for the ABA within the Judicial Division and with the AJC, and is the primary contact for ABA/JD/CASA related questions.

A few years ago, the educational functions of the AJC were transferred to a non-profit organization, the Appellate Judges Education Institute (AJEI). The AJEI is incorporated in Texas and “associated” with the Southern Methodist University (SMU) Dedman School of Law. The AJEI receives funding from the AJC both as a result of general monies set aside for education and from a fund held by the ABA for educational funding for the judges. It also receives funding from grants, donations from law firms and other organizations, and from seminar registrations. The AJEI Board consists of a Chair who is the immediate Past-AJC Chair, AJEI President Craig Enoch, representatives from the ABA and SMU, all of the AJC Executive Board, and representatives from CASA and CAL. SMU provides staff assistance for the AJEI and for the seminars sponsored by AJEI. Rebecca Greenan works for SMU and is our primary contact for AJEI and seminar-related questions.

### ABA Midyear and Annual Meetings

The ABA holds two meetings per year: the Midyear Meeting in February, and the Annual Meeting in August. During those meetings, the ABA Board of Governors and various ABA entities meet and hold programs and activities. As a member of CASA, you may attend both meetings.

The ABA/JD/AJC and CAL years begin and end at the ABA Annual Meeting each August, and the officers of each of those organizations are elected during their sessions. The AJC budget is adopted at its meeting, and CASA is provided governance money at that time. The JD also holds a Spring Planning Meeting for the Chairs-Elect

to plan their year and to coordinate those plans with the other JD entities. CASA Chair-Elect Lee Ramsey will attend this year's meeting.

CASA's year begins and ends with our annual seminar. Under our Bylaws, our official members' meeting is held in conjunction with our annual education seminar. CASA Bylaws Art. 3.1. During the CASA annual meeting, we elect officers and, at the adjournment of that meeting, the Chair-Elect succeeds to the Chair. In 2006, our official members' meeting was held at Café Cipriani during our annual educational seminar. Our annual seminar was co-sponsored by the ABA and the AJEI in collaboration with the seminars sponsored for the judges and CAL.

Although CASA has never had a significant presence at the ABA Annual or Midyear Meetings, these meetings provide many opportunities for networking and education. This year, in an effort to maximize our governance budget, minimize costs to the ABA, and provide more exposure for our executive board to the membership of the ABA, the executive board meeting was held during ABA Midyear Meeting in Miami.

We also co-sponsored with CAL a program for continuing legal education credit, "The Effect of Criminal and Civil Appeals On Each Other" during the Midyear Meeting. We will also be offering a program during the ABA Annual Meeting in San Francisco, "Seen But Not Heard: The New Word of Unpublished Appellate Decisions as Precedent." These single-session CLE programs will provide specialized educational opportunities for staff attorneys within those cities and for staff attorneys who may otherwise be attending one of the ABA meetings. These programs will eliminate the need for travel for those attorneys who live in the ABA meeting cities and will also provide more access to the numerous other sessions, events, and activities offered at the ABA meetings. The Midyear Meeting registration is free. The Annual Meeting has a registration fee that includes all sessions and events, or just the CLE sessions. We plan to continue these offerings at future Midyear & Annual meetings and would love suggestions for future sessions.

## ***CASA's 2007 Conference in D.C.***

by Elena Ris  
Supervising Staff Attorney  
U.S. Court of Appeals, 11<sup>th</sup> Circuit

Following months of telephone conferences, e-mails and an in-person meeting with the Council of Appellate Lawyers and the Spencer-Grimes Appellate Judges Education Committees during the ABA's Mid-Year meeting in Miami, Florida on February 11, 2007, the CASA Education Committee is getting close to finalizing the details of its proposed 2007 program. Among the confirmed speakers and topics are CASA favorites Professor Erwin Chemerinsky, who will present the Supreme Court in Review (Civil) program, Professor Susan Herman, who will give the Supreme Court in Review (Criminal) presentation, and immigration law guru Ira Kurzban, who will provide an Immigration Law Update. Other topics to be addressed by nationally recognized experts will include substantive law updates in the areas of habeas corpus, section 1983 actions, family law, separation of powers, federal preemption and statutory construction. In addition, "practical" sessions have been scheduled including management-related forums, a former staff attorneys' discussion group on career options outside the court setting, and a legal writing and editing skills workshop. Several sessions of special interest have also been incorporated into the proposed program including what promises to be a very politically enlightening session entitled "Election Law, With a View Toward 2008" and sessions addressing Law and History and Law and Literature.

The site of the 2007 CASA Seminar is the luxurious Omni Shoreham Hotel in Washington, D.C. The seminar is scheduled to begin the afternoon of Thursday, September 27, 2007, with Professor Chemerinsky's Supreme Court in Review (Civil) session and to conclude sometime around noon on Sunday, September 30 with the Law and Literature session by Professor Teresa Godwin Phelps of American University Law School. Given the hotel's central location, some off-site activities are currently on the proposed agenda, including a possible tour of the United States Supreme Court and a tentatively-scheduled reception there. In addition, CASA hopes to give its members the opportunity to hear from the Clerk of the Supreme Court, Bill Suter, and Legal Counsel to the Supreme Court, Scott Harris. A second reception, at the Military Court of Appeals, is also in the works. Finalization of the proposed seminar plans, including the off-site receptions, awaits final approval from the ABA Appellate Judges Education Institute with confirmation of funds being the primary remaining issue. "Save the Date" cards will be mailed to all CASA members in March 2007.

We think the 2007 Seminar is going to be a great one, even by CASA's high standards, and we hope you plan to attend.

***CASA – 2008 and Beyond***

by Lee Ramsey

Chair, Long Range Planning Committee

Staff Attorney

Tennessee Supreme Court

With the Education Committee's planning for CASA's 2007 conference well under way, the Long Range Planning Committee "met" (via email) in January to discuss CASA's 2008 conference and beyond. Our main topic was whether CASA would return in 2008 to the traditional, independent-conference format or whether we would again join the appellate judges and the Council of Appellate Lawyers ("CAL") for a joint seminar. The Long Range Planning Committee ultimately recommended to CASA's Executive Board that we should continue with the joint-seminar format in 2008, but that we should leave open the question for future seminars. The Executive Board approved that recommendation during its meeting in Miami in early February. So, CASA's 2008 conference will be a joint seminar with the appellate judges and CAL. A planning committee for 2008 was set up during the Appellate Judges Education Institute's Executive Committee meeting in Miami; that group will be choosing the conference site – and no, it's not going to be Dallas again – and the dates of the conference.

Although we've chosen to continue with the joint-conference format in 2008, the future remains open. In their meetings in February 2006, August 2006 and February 2007, the leading members of the Executive Committees of both the Appellate Judges Conference and the Appellate Judges Education Institute expressed strong support for CASA returning to independent seminars in the future. We're grateful for their continuing support. Following the 2007 joint conference in Washington, D.C., and as the planning for 2008 picks up steam, CASA's Executive Board and Long Range Planning Committee will consider whether to plan an independent CASA conference in 2009.

**28 Months to Remember:**  
**Reflections of an Immediate Past Chair**  
by Paul McGrath  
Chief Court Attorney, New York Court of Appeals

**Park City, Utah: July 19, 2004.** I attend the Park City Seminar knowing that at the upcoming business meeting I will receive the CASA Nominating Committee's nomination to be the Chair Elect of our organization. I am thrilled and excited by this prospect. On the eve of what turns out to be a very successful seminar under the leadership of CASA Chair Joe Merling and Education Chair Carol Couch, the CASA leadership meets to decide on the location of the annual seminar for 2004. After CASA Chair Elect Jack Fowler arranges for a call to be made to AJEI president Craig Enoch, CASA decides on going to Dallas, the home base of the AJEI and the Dedman School of Law at Southern Methodist University. Morale is high, and CASA believes it is doing its best to accommodate to the new realities of working with the AJEI under leaner economic conditions. AJEI support staff Rebecca Greenan and Rebekah Bell help to make the Park City Seminar an unqualified success, both educationally and in terms of the social events that have become such a large part of the CASA Seminar tradition.

**Dallas, Texas: October 24, 2004.** New CASA Chair Jack Fowler conducts a very successful Executive Board meeting at the Omni Mandalay Hotel. As the Chair Elect (and automatic chair of the Long Range Planning Committee (LRPC)), I seek direction from the Board as to the task before the LRPC. At this time, all Board members learn that many of the leaders of the AJEI were disappointed with CASA's decision to hold a separate summer seminar in Park City in July and not fully support the first AJEI "summit" to be held in November in Dallas and to be attended by the regular AJC judges (Spencer Grimes), the Council of Chief Judges of Courts of Appeal and the Council of Appellate Lawyers. The Board charges me to look at various alternatives which would give CASA members the kind of seminar that they have come to expect. At this point, there is an early recognition that the summer independent seminar is not automatic, but expectations are firm that CASA would hold a separate seminar in the summer of 2006.

**Dallas, Texas: November 11, 2004.** What a difference two weeks makes! Appearing as CASA's representative at the combined AJC/AJEI annual meeting, I learn for the first time that many in the AJEI are more than a little disappointed that CASA is not attending the November Summit "en masse." Leaving the meeting that day and hearing the reports of meetings held later that weekend, it becomes increasingly clear to me that the future of an independent seminar for 2006 is very much in doubt. Hope springs eternal, however. Perhaps with hard work, CASA can remain united and strong. We make plans to have next year's Executive Board Meeting in San Francisco in conjunction with the AJEI's second summit, and the AJC/AJEI Board meeting.

**Albany, New York: November 2004 through June 2005.** Back home in Albany that Winter and Spring of 2004-05, The Long Range Planning Committee goes to work on preparing a document that will hopefully educate the CASA rank and file on the inner-

workings of the AJC/ AJEI and CASA's relationship with those larger entities. An extensive document is prepared entitled "CASA at a Crossroads." The report recognizes that in the current organizational environment CASA's tradition of holding an independent summer seminar is threatened. Members are polled to determine what is important, having a seminar with Judges, without Judges, in the summer, in the fall. The need for CASA members to belong to the ABA is discussed, and options are explored.

**Dallas, Texas: July 2005.** Before the seminar even begins, I make one last pitch to Craig Enoch and Dean Attanasio to save CASA's seminar independent seminar for one more year. I make that request on exceedingly practical terms. The AJEI is set to go to Dallas in November of 2006; will CASA members want to go to Dallas two years in a row? Politely but decisively, Craig Enoch on behalf of the AJEI says no to a CASA independent seminar for 2006. Dissatisfied CASA members, led by attorneys from the Commonwealth of Virginia, form a rival organization, entitled the National Association of Appellate Court Attorneys (NAACA). NAACA uses the convening of CASA members at the Dallas seminar to recruit new members. The talk of a split of CASA members from the ABA and AJC, long in the formative stage, becomes a reality. CASA decides to persevere. Supported by long time CASA members such as Bill Lowe, Kembra Smith, Marcia McCormick and Carol Couch, CASA plans to go forward with the other arms of the AJC, hoping to develop better relationships with them, and to foster the overall growth of its members. CASA decides to work with the AJC Committee to put together an outstanding joint program for November 2006, wherever that seminar happens to be located.

**San Francisco, California: October 2, 2005.** Perhaps because they felt the shock of the NAACA/CASA split in Dallas, CASA members did not sign up for CASA committees like they have always done in the past. Thus, I was without an education chair, definitely not a good way to begin the year as chair. To the forefront comes Lee Ramsey, Chief Staff Attorney of the Tennessee Supreme Court. Because of Lee's decision to serve as Education Chair, I know we will have a great program for 2006, if we can only get staff attorneys to attend. At this meeting, relations with Dean Attanasio greatly improve and I am encouraged by the emergence onto the AJEI scene of Justice Frank Sullivan of Indiana, who manages to do a great job of displaying the AJC/AJEI financial information for all to see. Plans are set for the AJEI to go back to Dallas in the fall of 2006; the Executive Board's challenge is to get the word out to all staff attorneys, members and nonmembers alike.

**Dallas, Texas: November 2006.** The Dallas Seminar works out beautifully. Attendance is solid; a good mix of CASA members and nonmember staff attorneys. Erwin Chemerinsky and Linda Elrod are bit hits as always. My year as Chair comes to an end. There are so many people to thank. First, I thank my wife Kate for her unwavering support through the two years as Chair Elect and Chair. Second, I thank Carol Couch who, as editor in chief of CASA Quarterly, put out 5 impressive issues (and was always patient with me when I missed a deadline by a day or two). Third, I thank Bill Lowe, Staff Director of Central Staff for the Louisiana Court of Appeals for the Second Circuit in Shreveport, for once again coordinating the annual CASA T-shirt Lottery. This year, we exported the lottery to the other arms of the AJC, and though some people still hid the good shirts as in

prior years, once again the T-shirt Lottery provided a great vehicle for new seminar attendees to mix with their colleagues from across the nation. Fourth, I thank the best Education Chair in CASA's history, Lee Ramsey, for pulling off this incredible seminar and working so well with other members of both the CASA Education Committee and the joint AJEI Education Committee. Fifth, I thank Kembra Smith, who along with Bill Lowe, chose the Spring Creek Barbeque as our location for the CASA annual dinner, a perfect compliment to the splashy affair with Justice O'Connor and all the seminar attendees. I also thank Kembra for her loyal support from November 2004 all the way through the completion of the 2006 seminar. I know that there were some things that Kembra would have done differently and probably better than I have done, but she was always patient and supportive. Last, but certainly not least, I thank Amanda Wynn Raible of the ABA, for her support of CASA in the short time she has been Conference Liaison and for reimbursing me for the CASA 30th anniversary cooler bags.

Overall, I want to thank every member of CASA for giving me the opportunity to serve the organization during these difficult times. To those that put your confidence in me and hoped that I would be able to successfully steer this CASA ship through the turbulent waters the last couple of years, I am sorry for my failures. At the same time, I am thankful to the support of others for my successes. I am enough of a dreamer to hope that one day in the not too distant future, CASA and NAACA can reunite and that CASA's 40th anniversary will be that genuine all-out celebration that was missing at our 30th anniversary. I am enough of a realist to know, however, that an earlier reuniting is not likely, but that our organization remains vibrant and open for new, younger members to assume a place in the upper echelons of leadership. I hope to see all of you in Washington this September, and as always if you have any comments about the year past, please call me at (518) 455-7780 or send me an e-mail at [pkmcg@msn.com](mailto:pkmcg@msn.com).

## **Membership**

by Renée R. Simien, Membership Chair  
Central Staff Director  
Louisiana Court of Appeal, Third Circuit

As Membership Chair of CASA, I have the unique opportunity to help grow not only the membership, but also the diversity of CASA, which is the primary goal for this year. As of January 25, 2007, there were eighty-one CASA members. Two of the four new members were scholarship recipients. Hopefully, at the next CASA seminar in Washington, D.C., I will be able to contact non-member attendees about becoming members of CASA. The retention of present members and the recruitment of new members is essential to maintaining the success of CASA as a national organization. Thus, it is vital to adopt a process by which CASA can consistently recruit new members.

The following are some ways we could increase our membership:

**1. Placement of membership forms-** Membership forms should be placed not only on the table during our seminars but also included in any packets that we hand out. Those participants who are not CASA members will have the forms handy that would allow them to become members. Registrants who are already CASA members can pass the forms on to other attorneys at their courts who are not members.

**2. Law School Contacts-**Provide information about CASA to law schools to give to its seniors who are interviewing to work in an appellate court or who have already accepted employment at an appellate court. In the materials clearly show the benefits the staff attorney will gain by joining and participating in CASA.

**3. Contact with Appellate Court Judges & Clerks of Appellate Courts-** Although I worked at my court for a number of years in various capacities, including a staff attorney, I did not find out about the existence of CASA until I was promoted to a supervisory position at my court. A brochure or newsletter mailing to all staff attorneys at the appellate courts explaining what CASA is about along with detailed information about the cost of membership and how to register may generate interest in joining CASA . [In fact, it might help to include a letter explaining how important the job of a staff attorney is to the workings of the appellate court system, and how membership in a national organization geared toward the unique interests of attorneys who work for appellate courts can benefit the judges.] This type of letter can also be sent to new staff attorneys with the addition of a congratulatory message about obtaining a staff attorney position with an appellate court. Clerks, at least in my court, are the officials who are concerned with and report to the judges about budgetary matters. Letters to the various clerks of appellate courts about how CASA can enhance their staff attorneys' production, may make them more inclined to support funding memberships for the their courts' staff attorneys and/or participation in the CASA seminars.

**4. Current Members-** Another way to increase membership is to find out what makes

current members renew their membership and participate in the work of the organization. This can be done either by adding a line to a membership registration form asking why they are renewing their membership or by questions in a separate e-mail. This is also another way of communicating with the members. Also, each current member could work to recruit a new member, whether that means simply convincing a particular person to join, or talking to the judge/clerk of court that may pay for a staff attorney's membership if money is a problem, or writing the name and contact information of someone who they feel could benefit from CASA membership. Pairing current members with new members is beneficial to retaining those new members.

**5. Member Registration Process-**Make it easy to register for membership especially if ABA membership is paid online as a group. Presently the group ABA billing does not include a mechanism that would allow registrants to join various sections of the ABA. Simplifying that process would possibly increase CASA membership.

During the ABA mid-year meeting in February 2007, CASA's executive board had the pleasure of meeting Ms. Sheena Johnson, the Membership and Technology Administrator on staff at the ABA. Ms. Johnson has begun to provide CASA with a monthly membership report. She informed me that "these reports will eventually illustrate a trend of increasing, decreasing, or stabilizing memberships [and that] [w]ith this data [CASA] will be able to create and conduct marketing techniques that will help incline or stabilize [our] membership." Ms. Johnson's contribution will certainly be beneficial to CASA's goal of increasing and diversifying its membership. Any additional ideas on how to increase and retain CASA members would certainly be welcomed.

## ***Council of Appellate Staff Attorneys 2007 Midyear Meeting Report***

By Kembra Smith, Chair

### **2005-06 Year and 2006 Seminar**

CASA held its annual meeting and seminar in conjunction with the AJEI's seminar for AJC judges and CAL in November 2006 in Irving, Texas at the Omni Mandalay Hotel.

For the seminar, CASA held one day of separate programming (family law, immigration law, death penalty law, habeas corpus law, an update on *Crawford v. Washington*, and then, over the following two days, joined the judges for some sessions and joined the judges and CAL for other sessions. Although there was concern that our average attendance (@ 110) would be significantly impacted by (1) the departure of a number of longtime CASA members to a competitive organization (the National Association of Appellate Court Attorneys [NAACA]), formed just before our 2005 seminar and its July 2006 seminar in Richmond, Virginia, (2) the delayed mailing of the CASA brochure, and (3) CASA's return to the Omni Mandalay Hotel in Irving for the second consecutive year, attendance for the CASA portion of the seminar was within the predicted range of 50-75 registrations: we had 67 attendees, about 34 of whom were CASA members.

In celebration of its 30<sup>th</sup> Anniversary, CASA held its annual meeting at Café Cipriani on Thursday, November 9. 2005-06 Chair Paul McGrath presented all attending members with soft-sided coolers. Paul recognized Executive Board member Bill Lowe for his work on the annual T-shirt exchange and for managing the CASA listserv; Executive Board members Lee Ramsey and Kembra Smith for their work on the Education Committee with Tim Schroeder and Paul; Carol Couch for her work as editor of CASA Quarterly, and Amanda Raible for her work and presence on behalf of the ABA. Carol reported that there were five issues of CQ published online since our last annual meeting in July 2005. Kembra reported on her attendance at the ABA Spring Planning Meeting, on CASA's efforts to cosponsor educational programming with CAL at the ABA Midyear and Annual meetings, and on the award of three ABA-funded partial and full scholarships for the 2006 annual seminar. Nominations Committee Chair Janette Thompson reported on the slate of candidates and, following a vote, the 2006-07 officers were installed. See Attachment 1.

CASA also sponsored its annual T-shirt exchange reception on Thursday, November 11, and invited the judges and CAL. Prizes, donated by Bill, were awarded to the attendees who brought and selected the "best" t-shirts. CASA held its annual dinner on Saturday, November 11, at Spring Creek Barbecue, with recorded music provided by Lee. During the dinner, Paul was presented with a red & yellow vase from Vetro Glassblowing Studio & Gallery in Grapevine, Texas. The design of the glass represented flames reborn into a beautiful vessel and recognized Paul's leadership during CASA's year of turmoil, loss, and rebirth.

### **2006-07 Year Activities/Executive Board Meeting**

The CASA Executive Board held its annual meeting on Friday, February 9, in Miami in conjunction with the ABA Midyear Meeting in order to provide the members with an opportunity to participate in the ABA's activities and to attend the AJC and AJEI meetings. We reviewed the educational programming agenda, and discussed goals for the year before adjourning to Versailles Restaurant.

### CASA Quarterly

CASA Executive Board Secretary Dave Ewert is also serving as editor of CQ. The first issue will be published in late February 2007, and will include articles regarding the 2006 and 2007 seminars and the educational programming in Miami.

### Educational Programming

In cooperation with the AJC judges and CAL, CASA cosponsored an educational program, "The Impact of Criminal and Civil Appeals on Each Other," on Saturday, February 10, during the ABA Midyear Meeting. This was CASA's first joint-sponsorship of such programming during the ABA Midyear Meeting, and we hope to continue this endeavor in the future and to expand our co-sponsorship of programming to the ABA Annual Meeting.

CASA Education Chair, Elena Ris; Kembra; and Lee have been meeting with the AJEI joint education committee in planning and coordinating the 2007 seminar to be held at the Omni Shoreham Hotel, Washington, D.C., from Thursday, September 27-Sunday, September 30. Following a review of the evaluations from the 2006 seminar, the CASA representatives have sought to provide more specialized programming for CASA. As of late January, the scheduling provides for sessions on Thursday, September 27, at the United States Supreme Court, including Erwin Chemerinsky's Supreme Court review of civil law. We will return to the Omni and participate in sessions with the judges and CAL on Friday, September 28-Sunday, September 30. Proposed sessions include the following topics: separation of powers, federal preemption, 42 U.S.C. § 1983, habeas corpus and death penalty, national and international disputes in family law, professional malpractice, punitive damages, statutory construction, a Supreme Court review of criminal law, legal writing and editing, immigration law, staff attorney management issues, staff attorney career options, a Supreme Court preview, law and history, and law and literature. We will also sponsor our annual meeting luncheon, the t-shirt reception, an annual dinner, and will join the judges and CAL for receptions and a dinner.

CASA hopes that the seminar brochures will be distributed by mid-May, in order to provide an option for staff attorneys who may also receive the NAACA brochures for their summer seminar.

### Long Range Planning Committee

One of the initial items facing the Committee is the decision of whether to return

to a separate seminar, and the timing of such an event. Long Range Planning Committee Chair Lee Ramsey and his committee worked on this project following the 2006 seminar. His report was submitted to the Executive Board. The Board recognized that any recommendation was to be contingent on the budget established by the AJC.

### Membership

Increasing membership is CASA's primary goal for this year. We lost some members due to NAACA's formation, and spent 2005-06 attempting to steady ourselves. Although some of our members left, others maintained their CASA membership while joining NAACA. We hope, however, to expand our membership during this year to reach the numerous staff attorneys who are currently who not members of other organizations so that we are more representative of our constituency of appellate court employed attorneys, especially in terms of our gender, racial, and age diversity. With this goal in mind, we scheduled meetings for the Executive Board and with CASA Membership Chair Renee Simien with both the ABA's membership staff and the JD's diversity representative, Judge Teri Love, during the ABA Midyear meeting. We hope an increase in membership will not only add to the diversity of our membership and leadership, but also will increase the attendance at our annual seminar.

## Attachment

### CASA 2006-07 Executive Board

#### *Chair*

Kembra L. Smith  
Career Law Clerk/Staff Attorney  
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## ***Impressions of My First CASA Executive Board Meeting***

by Gail Feingold Giesen

Chief Staff Attorney

Connecticut Supreme/Appellate Court

I am a new a member-at-large on the CASA Executive Board. On Thursday, February 8, I left chilly Connecticut to attend my first CASA board meeting, which -- happily -- was in sunny Miami. The meeting was to be held during the ABA's mid-year meeting. I found this exciting because, even though I've been an ABA member for years, I'd never been to an annual or mid-year meeting. CASA President, Kembra Smith, urged those of us who arrived on Thursday to attend the Judicial Division Welcome Reception. A glass of wine, a few hors d'oeuvres and some good conversation made this a rather pleasant duty that I shared with Kembra, past-president Paul McGrath, president-elect Lee Ramsey and fellow member-at-large Bill Lowe. The reception was packed with appellate judges, lawyers and lawyers-to-be from across the country. I was delighted to have a chance to chat with some of the many minority law students who participated in the Judicial Division's Diversity Program, which is aimed at increasing the number of minority law clerks. I was truly impressed with the bright, energetic and accomplished students I met.

After the reception, the CASA folks went out for a casual dinner at Tobacco Road, a renowned Miami burger bar, which offered, in addition to good food, some very decent bluesy-rock. The next day, we all got up early to go to the Judicial Division Welcome Breakfast. The keynote speaker at the breakfast was ABA President Karen J. Mathis, who gave an impassioned speech about the problem with the salaries of our federal judges – a topic that I had little knowledge of until that morning. Attorney Mathis pointed out that federal judges' pay has been frozen for years – and that the judges are not guaranteed cost of living increases, even when they're given to other federal employees. I was shocked.

Chief Justice Roberts focused on judicial pay in his 2006 Year-End Report on the Federal Judiciary, which was released on January 1, 2007. As that wasn't all that long ago, I'll share with you some of the statistics that he mentioned. First, federal district judges are paid about half what deans and senior law professors at top law schools are paid. Second, while U. S. workers' wages, adjusted for inflation, have risen 17.8% since 1969, federal judicial pay, also adjusted for inflation, has declined 23.9% since that year. Chief Justice Roberts pointed out that inadequate compensation threatens the viability of life tenure because an increasing number of judges are leaving the bench and returning to private practice due to the decline in real compensation. And, he observed, if such tenure is made uncertain, the independence of the judiciary will be eroded. This is a serious problem that Congress must address.

After this most interesting breakfast session, we were joined by Elena Ris, who is the head of CASA's Education Committee (and who just returned from a fabulous trip to China); CASA Secretary Dave Ewert; Renee Simien, head of the Membership Committee; and Jack Fowler, a past President of CASA, and convened the board meeting, which focused on our 2007 annual conference to be held in Washington, D.C. from September 27 through 30. Without going into detail, I will simply say that the planning process is different now from what it has been in the past because the annual conference will be held jointly with two other groups, the Council of Appellate Lawyers, and the Appellate Judges' Conference. Both of those groups, like CASA, are part of the Judicial Division, and not surprisingly, we have many of the same concerns and interests. While the planning process is more complex because of the number of players, our joint endeavor is sure to produce a fine conference in September, and I encourage all of you to attend!

Following the board meeting, we adjourned to the Versailles Restaurant in the Little Havana section of Miami for a lovely mid-afternoon lunch of Cuban delicacies. Due to a family obligation, I had to leave Miami immediately after lunch and was unable to attend any other sessions at the mid-year meeting. I understand that my CASA colleagues attended free CLE sessions on Saturday and continued to enjoy their stay in South Florida.

**MINUTES**  
**CASA Executive Board Meeting**  
**Friday, February 9, 2007**

**Introduction.**

CASA Chair Kembra Smith called the executive board meeting to order at 9:45 a.m. on Friday, February 9, 2007. In attendance were immediate past chair Paul McGrath, chair elect Lee Ramsey, members at large William Lowe, Renee Simien, and Gail Giessen, and secretary Dave Ewert. Education co-chair Elena Ris joined the meeting later. Also in attendance were ABA representatives Amanda Raible and Sheena Johnson. Former chair Jack Fowler attended as a guest. Bill provided the group with some tasty homemade biscotti.

Amanda introduced Sheena Johnson as the new Judicial Division administrator and technical support person. Sheena will maintain the website, publish CASA Quarterly (CQ), and assist with membership.

**Membership.**

The first item on the agenda concerned membership. Amanda and Sheena discussed matters disclosed at the Judicial Division membership meeting. They indicated CASA would be able to get a list of judges and other people who are not currently division members. Amanda indicated the current division membership number is 4106, and she thought there would not be any trouble reaching the goal of 4164. She indicated there would be a membership brochure that could be used once its use is approved. The division will be focusing on retaining members who try and drop their membership. They will be doing a survey on why people drop and reminder letters to avoid February drops. Amanda indicated there will be talking points developed for use in emphasizing the value of ABA membership.

Kembra mentioned the need to make membership more diverse by age, ethnicity, and gender preference. She stated Judge Warner wants membership information sent to every staff attorney and law clerk on the eastern seaboard with the 2007 seminar brochures. The group also discussed mailings to graduating third-year law students, and coordinating this with the ABA's Law Student Division.

Renee talked about the need to be able to highlight the dues waiver procedure to prospective members. Others noted the ABA had refused to allow mention of the dues waiver in recent membership solicitations. The board noted ABA dues posed a significant membership barrier to government employees whose courts ordinarily will not pay such fees and who often cannot deduct the fees. Bill noted the need to get the list of nonmember attendees at AJEI meetings from Rebecca Greenan. Renee talked of the possibility of expanding membership by allowing

group discounts and sought an easy way to do group registrations as CASA members online. Amanda and others noted the difficulty of getting dues waivers properly credited within the ABA and the problems caused by the ensuing dun letters.

Renee would like a list of seminar attendees including both AJEI members and nonmembers each year. Lee mentioned it had been difficult getting mailing addresses from AJEI. He noted they had deleted people who did not go to first Dallas seminar even though they had attended earlier ones. Renee noted the need to recruit through Chief Judges rather than just attorneys, pushing both CASA and its seminar. The group discussed contacting all clerks of court and law clerks as well. Amanda mentioned she has a state judicial education directory.

### **Adoption of Minutes.**

Kembra asked for the board to review the minutes from the October 2005 and April 2006 meetings. Upon a motion and second, the minutes were adopted as submitted.

### **CASA Quarterly (CQ).**

Dave Ewert gave the CQ report. The board discussed proposed deadlines. Kembra requested that we aim for March 1 for the first issue and set a deadline for submissions at Friday, February 23. Paul suggested soliciting Bill Thompson for an article. The board decided that due to the deadline the next issue should be done in the current format, and the following one would be done in a new web-based formula by Sheena. Gail commented that she had submitted an article before and did not get any response or publication. Paul noted that previously the layout of CQ was very difficult and sometimes prevented publication of all articles. The board decided it would be important to thank the writer and give an explanation if articles were not used in the future. Dave Ewert suggested the scholarship form should be amended to provide the applicants agree to do an article/report of a designated session at the seminar. The board agreed this should be done. Dave also suggested the group should attempt to get volunteers prior to the seminar to agree to do reviews of at least the CASA-focused sessions.

The discussion then turned to articles for the March 1 issue. The following assignments were made:

Kembra agreed to do a combined article as chair/explanation of the AJC/AJEI/CASA relationship.

Lee Ramsey agreed to do an article of some sort.

Renee agreed to do a membership plug and an article on her court's experiences following Hurricane Rita.

Paul agreed to do an article on his year as chair and a review of the medical issues session from the November 2006 Seminar.

Gail also agreed to do an article.

Dave Ewert agreed to do at least one article including an Editor's introduction.

Elena and Tim agreed, in absentia, to do an article on the upcoming seminar.

Kembra suggested we shoot for mid-May for the second issue. Dave suggested adopting a mailbag type column in which jurisdictions could explain significant happenings. The group decided we should solicit mailbag news and ideas for the annual meeting.

### **Education/2007 CASA Seminar:**

Elena joined the meeting late, having spent much time searching for our meeting site. She had flown in from Beijing, China, the day before.

Kembra noted the reviews from the 2006 AJEI seminar were good, but expressed a need for more CASA-related sessions. She noted that these concerns were addressed in the 2007 seminar planning, and that, as a result of our insistence on more sessions specifically of interest to CASA's members and the interest expressed in those sessions by the other AJEI groups, CASA's costs of the speakers for those sessions would be shared by the judges and CAL.

### **Thursday:**

Elena noted the reception at military court has been confirmed for Thursday night. There is a proposed Friday night reception at U.S. Supreme Court Building from 6:30 to 8:30. Elena noted CAL has swearing-in for a limited number scheduled for Monday, and suggested asking CASA members if they want to horn in.

She indicated the Thursday afternoon Erwin Chemerinsky session might be moved up and would be held at the OMNI seminar site. The group hoped that we could still get Scott Harris or Bill Suter to speak to us somewhere in the Supreme Court building and provide a Supreme Court tour. The group decided Thursday still needs work but that we will need to remain flexible with this planning until we know more.

### **Friday:**

Elena noted she had heard nothing back from Professor Abernathy regarding the potential 42 U.S.C. § 1983 session. Elena will contact him one more time. If he cannot commit to doing the session, then Gail will try to get Professor Urbonya. The group also discussed the Statutory Construction session. The group favored getting Professor Rosenkratz after noting he had a definite position on the issue.

**Saturday:**

Lee agreed to contact Professor Theresa Godwin Phelps regarding the legal writing session.

**Sunday:**

Lee discussed the proposed law and history sessions, and asked for anyone with suggested speakers.

The group also discussed that the annual dinner and t-shirt lottery schedules were still up in the air and probably depended on whether the Friday reception would be held at the U.S. Supreme Court. Kembra stated she is firmly committed that t-shirt/dinner will be maintained for this seminar, and noted that further planning needed to await (1) approval of the proposed program by the ABA (expected during the next week), (2) the AJEI budget for the 2007 seminar, and (3) final AJEI scheduling.

Kembra called a 10 minute break. Biscotti was enjoyed by all.

**Listserv.**

Bill gave a brief report on the listserv, which apparently can no longer be called a listserv. He said the only minor problem, other than the lack of a name, is the age-old problem of users hitting "reply to all."

**Long range planning committee.**

Lee indicated the committee discussed whether CASA should pursue a joint or separate seminar for 2008. A plurality favored signing on for the joint seminar for 2008 and leaving options open for 2009. One staff attorney on the planning committee complained about not limiting the meeting to staff attorneys, noting there was little freedom to mix with peers because judges monopolized too much time. Others countered they were only able to attend because their judges attended. The committee thought CASA needed more influence on the joint program, and some discussion was had that CASA sessions were proving to be more popular across all groups. Even though the plurality favored the joint seminar format, they did not favor returning to the OMNI Mandalay in Los Colinas.

Paul suggested CASA explore moving back to the ABA due to problems with SMU. Amanda responded the ABA probably has tied up too much money with AJEI for that to happen.

The board discussed dissatisfaction with the OMNI in Dallas due to a lack of anything in the surrounding area and the fact CASA will not be able to compete

with NAACA if the seminar continues to be held there. Some people thought it was unlikely to happen anyway because CAL also would not agree to return. Jack mentioned he thinks the SMU Dean is probably committed to having the seminar in Dallas every other year.

Paul moved to accept the recommendation for a 2008 joint seminar, provided the seminar is not held in Dallas. If the seminar is to be held in Dallas, CASA should reconsider the matter. Paul's motion passed with one dissent (Bill).

### **Nominations.**

Kembra suggested the call for nominations must go in the next issue of CQ. Dave suggested also putting the call on the item formerly known as listserv two weeks before and after CQ.

### **Scholarship.**

Amanda commented that when she last spoke with Judge Sullivan, he seemed in favor of keeping scholarships for CASA. During the 2005-06 year, the ABA budget provided CASA with \$3500 for scholarships. Paul mentioned it was hard to distribute the money last year, but the group noted that could be due to the late announcement of funds availability and the repeat location of the seminar. At the Judicial Division spring planning meeting, 2007-08 AJC Chair Judge Ron Gillman will be meeting with CASA's 2007-08 Chair Lee Ramsey to develop the year's planning and a budget. Lee may do a CQ article based on that meeting.

### **Budget.**

Amanda reported that the projected dues revenue for the AJC was \$35,000 and that, as of December 31, 2006, the AJC had received \$33,524 so their goal was within reach. She commented that it appears that the AJC is, so far, under budget on expenses. She explained that certain funds (rolled over dues) are forfeited at the end of the year, and that the ABA will take 50% of the unexpended funds. From the 2005-06 year, \$4,024 was rolled over, and this money will be spent before any of the 2006-07 dues revenues. She also advised that the ABA JD Spring Planning Meeting will be held in Charlotte, North Carolina, in April, for the incoming 2007-08 Chairs to meet to plan their year. CASA will have one representative [CASA 2007-08 Chair Lee Ramsey] who will meet with the 2007-08 Chair for the AJC and CAL.

### **Other Business.**

The group unanimously voted to recognize Carol Couch for her fine performance as CQ Editor and CASA secretary. We wished Carol the best of luck in her post-CASA adventures.

Kembra adjourned the meeting at 12:15, and the board adjourned to the Versailles Restaurant in Little Havana for some fine Cuban cuisine.

Minutes prepared by Dave Ewert.

***CASA Scholarship***  
by Kembra Smith, Chair  
Career Law Clerk/Staff Attorney  
U.S. Court of Appeals, 11<sup>th</sup> Circuit

I was a lucky recipient this past fall of a CASA Scholarship! I work for a court which does not provide full (or sometimes even partial) funding for us to attend seminars. I am willing to pay my own way, however, because I find the seminars invaluable for education, network, and my mental health. [For those of you who may have missed the “memories” column in the fall 2006 CQ, one of my best memories was attending my first CASA seminar and realizing that there were folks like me doing like work and feeling like feelings—both pride & frustration].

The scholarship, which was funded by the ABA, covered my tuition. Since I was thus funded, I had a renewed sense of responsibility in attending the sessions: I was not only attending for my own education self but because someone (the ABA/AJC) knew the value of the seminars to all attendees.

If scholarships are offered again this year, I encourage all CASA members whose courts do not cover their expenses to apply. It is a sign to the ABA that we are interested and appreciate their support! And, it's yet another member benefit from the ABA.

***Litigation Concerning the Medical  
Treatment of Minors***  
***Seminar Presentation by:***  
***Professor Thomas Mayo***  
Reviewed by: Paul McGrath  
Chief Court Attorney  
New York State Court of Appeals

As in 2005, 2006 CASA seminar attendees were enlightened by the wisdom of Thomas Mayo, the Director of the Maguire Center for Ethics and Public Responsibility at Southern Methodist University and an associate professor at SMU's Dedman School of Law. In 2006, Professor Mayo's presentation concerned litigation surrounding the medical treatment of minors. Professor Mayo's remarks focused on five central areas: Treatment decisions by mature minors and their parents as impacted by constitutional precepts and the common law, statutory treatment of a minor's/parents' right to decide, the intersection between an individual's free exercise of religion and the state's *parens patriae* power, the concept of brain death, and the legal issues surrounding newborns.

Professor Mayo began his presentation by reporting on the case of Starchild Abraham Cherrix, who was 15 years old when he was diagnosed with Hodgkin's disease in August 2005. After submitting to chemotherapy as recommended by his oncologist, Cherrix's tumors were apparently eliminated by December 2005. However, by February 2006, the tumors returned and Cherrix's oncologist recommended a grueling regime of chemotherapy and radiation. This treatment regimen ravaged Cherrix's body, and after losing plenty of weight and all of his hair, Cherrix and his parents looked for another treatment option. Now 16 and with the support of his parents, Cherrix decided to forego conventional treatments for cancer and tried an alternative therapy known as the Hoxsey method, the colloquial name given to a treatment method prescribed by the Bio-Medical Clinic in Tijuana, Mexico.

According to Professor Mayo, the Hoxsey method has no proven success. Indeed, he asserted there has not been one documented case of successful cancer treatment with the Hoxsey method. When Cherrix's parents asked the oncologist, Dr. Byrd, to monitor Abraham's condition while he was on the Hoxsey regimen, Dr. Byrd refused and felt obligated to notify the county department of social services. The department investigated and accused Abraham's parents of medical neglect.

In July 2006, a Virginia Juvenile Court judge agreed with the department, concluded that the Cherrixes' failure to pursue radiation and chemotherapy constituted medical neglect, directed that custody be shared between Abraham's parents and the department, and ordered Abraham's parents to bring him to a hospital within four days to submit to the recommended treatment.

The Cherrixes immediately appealed to the state's circuit court and, in an interim ruling issued just four days after the juvenile court's order, Circuit Court Judge Glen Allen

Tyler reversed two key aspects of the juvenile court's order: Abraham and his parents were free to refuse the recommended treatments pending the full appeal, and full custody of Abraham was returned to his parents.

Before a trial on whether Abraham's parents were guilty of medical neglect, the Cherrixes settled with the County Department of Social Services under an agreement whereby (1) the Cherrixes could pursue the alternative treatment, (2) the alternative therapy would be monitored by a Mississippi oncologist, and (3) Abraham's condition and treatment would be monitored by the courts. Ultimately, as reported by the Washington Post, Abraham and his parents discontinued the Hoxsey method fairly early on in the six-week period. Instead, Abraham's Mississippi oncologist employed conventional radiation therapy in small steady doses to reduce side effects. From all accounts, the case appears to have ended amicably with a favorable outcome for all.

The Cherrix case suggests that American appellate courts are inclined to side with a minor's parents in deciding on whether a decision to select certain kind of medical treatment constitutes neglect. The case also raises the question of why Abraham, at 16 years old, should not be able to make his own medical decisions. In the abortion area, for example, state statutes must constitutionally provide a mechanism whereby a child - if she desires - can go directly into court to get a judge's permission to terminate the pregnancy without first consulting her parents. Outside of the abortion area, the mature minor's right to make medical decisions about his or own health has not been elevated to a constitutional right, but most states recognize a qualified common law right to make medical decisions. However, this right has its limits as illustrated by Commonwealth v Nixon (761 A2d 1151), in which a Pennsylvania Court upheld the conviction of two parents for involuntary manslaughter and endangering the welfare of a child when the parents, for religious reasons, refused to obtain medical assistance of their 16-year-old daughter who died of diabetes that medication would have controlled.

Professor Mayo noted that at least 38 states have some statutory provision which allows a minor's parents to use religious belief as an affirmative defense to criminal liability. However, interestingly, Professor Mayo noted that courts in four states have held that such religious exemptions constitute an unconstitutional establishment of religion. Professor Mayo noted that the American Academy of Pediatrics opposes all state statutes granting some special exemption based on religion to laws affecting medical treatment. This area is certainly bound to be a source of future litigation.

The subject of brain death quite obviously concerned Professor Mayo. Again taking his audience through an actual case study, Professor Mayo emphasized how misunderstood the concept of brain death is in this country. He noted that there is a great deal of confusion in the media concerning the definition of death. He emphasized that the question of when does life end is no less contentious than the question of when does life begin. Simply put, a person is brain dead, even though his heart continues to beat and his breathing continues as a result of mechanical assistance, when there is an irreversible cessation of all brain function (including the brain stem). In all 50 states, when brain death occurs, there can be

no civil or criminal liability for terminating treatment.

Time did not permit Professor Mayo to fully cover the topic of withdrawing medical treatment for infants. Congress has entered the field in this area placing legal limits on the withholding or withdrawal of life sustaining treatment from infants (see 42 USC § 5106[g], 435 CFR part 1430). These statutes and regulations are the place to start your research.

Without question, Professor Mayo gave an enlightening and inspiring presentation to an attentive CASA audience. Not only was Professor Mayo organized and completely knowledgeable in his subject area, he was thoroughly passionate about educating staff attorneys. He no doubt realizes that, as staff attorneys, we significantly shape the dockets and decision making of our courts. Nowhere can our decisions have more impact than when it comes to the life and death of our fellow members of the human family. Be sure to consult Professor Mayo's selected bibliography for more detail on the Cherrix case and other topics.

## **Tuning In**

by Dave Ewert,  
Chief Staff Attorney  
Iowa Supreme Court

Hey, I warned you this list was coming. This is what happens when someone is irresponsible enough to make me an editor. But, it's not like anyone is lining up for the job right?

Anyway, I was going to do a Top Ten Records list, but whenever I try something like that I end up (1) including at least 20 items by using phony devices like ties, and (2) placing titles on the list that are admittedly great, but actually just gather dust on my shelf. So my criteria for this list are that I listen to these albums a lot, and they are basically great all the way through. I haven't put numbers on them because that would be sort of like playing favorites among your children. Without further ado:

**Jimmy Buffett, *Don't Stop the Carnival*.** Yes, I'm a Parrothead. For those who are not, but have potential, I would also recommend *A1A*, *Fruitcakes*, and *Banana Wind*. But this collaboration with author Herman Wouk for a musical version of Wouk's *Don't Stop the Carnival* succeeds on all levels. It's my favorite musical, and anyone who ever walked a beach on the Caribbean understands the lure of the song *Island Fever*. Alas, as Jimmy sagely notes, "Remember Paradise, doesn't come without a price."

**Lou Reed, *New Sensations*.** I've always been a huge Lou Reed fan, but he did a number of records where either the lyrics or the music were dynamite, but often the two just didn't mesh. While I personally prefer the grit of *New York*, this is one of the rare glimpses of a happy, domesticated Lou Reed. It's music you could even dance to, if you were so inclined. Still, it wouldn't be Lou without a song about his friend George with his Killing Stick or Lou's ode to divorce and video games, "please, please, please leave me my red joy stick."

**Ray Davies, *Other People's Lives*.** The Kinks are my favorite band, and for all practical purposes, Ray Davies is the Kinks. One of my greatest moments happened in Chicago, when a concierge scored me add-on seats to Ray's *Storyteller* tour at small theatre, and it turned out the add-ons were front and center in the first row. I was close enough that I could have stolen his Guinness. This 2006 solo effort is his first new work in years, and it was well worth the wait. His voice sounds better than ever, and he explores diverse topics like depression, vapid tourism, breaking away, aging, and the fading of civility.

**Rickie Lee Jones, *Ricki Lee Jones*.** This debut album grips you from the first note and refuses to let go. Her sultry voice and phrasing never fail to bring on the chills. I can't imagine another female vocalist pulling off the intergalactic torch song *Company* (well maybe Patsy Cline). She offers streetwise insight and

raw innocence in equal measure. I picture her and Tom Waits slumping over the counter in some all night diner, with Edward (or maybe Dennis) Hopper watching from the shadows.

**The Faces, *A Nod is as Good as a Wink to a Blind Horse*.** First, class, that's a 10 for a great album title. Second, it's one of the very best studio recordings of all time. Every track sounds live, without the distractions of a live recording. This is one of the greatest rock bands of all time, performing at their peak. Rod Stewart never sounded better, and the supporting cast includes Ron Wood (Rolling Stones), Kenny Jones (the Who), Ronnie Lane, and Ian McLagan. It's everything rock music was at its inception - - honest, rude, raw, and funny.

**Bob Dylan, *Desire*.** The Rolling Stone raved when this album came out, but sniffed that they longed for the day when he would put out an entire album of *Hurricanes*, (the story of middleweight contender/framed for murder Ruben "Hurricane" Carter). Well, *Hurricane* isn't even the best song on this album. When you combine *Desire* with *Blood on the Tracks*, you get one of the best one-two punches of all time, and the Hurricane would have to agree.

**Kanye West, *College Dropout*.** OK, I'll admit my rap knowledge is pretty sad, although I did listen to some early Kurtis Blow. But if there was a rap version of *Sgt. Pepper's*, this would be it. It gets better every time I listen to it, and I listen to it a lot. He is equally at home singing about religion or comparative anatomy. The lyrics are raw, so wait till the kiddies go to bed.

**Neil Young, *Tonight's the Night*.** The greatest fiction is done by souls stripped bare, with hearts in fist and marrow aching. Right here is the single darkest record you'll ever hear. The account of the recording session in the biography *Shaky* pretty much explains everything except the greatness that somehow surfaced despite the extreme doses of tequila and other lethal chemicals. Young has one of the best catalogs of any living artist, and this may be his best.

**Hank Williams, *24 Greatest Hits*.** Forget Mark Twain and George Gershwin, this is the great American author, with the great American songbook. Listen to it twice to purge your prejudices, then dive right in.

**Steve Earle, *I Feel Alright*.** "I was born my papa's son, a wandering eye and a smoking gun." Earle has done many great cds; this one is a hair better, and country has been well represented already in this list. He's one of the best songwriters around these days.

**Brian Eno, *Taking Tiger Mountain by Strategy*.** This would be my dark horse of the bunch. Eno got his first big exposure with Roxy Music, and then did a number of offbeat, pretty unapproachable atmospheric albums. Beyond that, he is probably best known for milking the best out of the Talking Heads in their

*Remain in Light* period. In between, this collection of songs about China has few parallels in pop music. This is a nuanced criticism of various aspects of life in Communist China, with strikingly original production. It should be overblown, but instead it is a wonderful collection of snappy pop songs with devastatingly clever lyrics.

Ok, that is eleven songs, but I come from Big 10 country. [There are 11 teams in the Big 10 conference].

***Hurricane Rita Wreaks Havoc: Court Weathers the Storm***

by: Renee R. Simien

Central Staff Director, Louisiana Court of Appeal Third Circuit  
CASA Membership Chair

On September 24, 2005, Hurricane Rita tore through the Texas and Louisiana Gulf coasts as a category 3 hurricane leaving damaged homes and businesses in its wake. The widespread damage included the courthouse for the Louisiana Court of Appeal, Third Circuit in Lake Charles, Louisiana. This was the second hurricane to hit Louisiana and occurred a little less than one month after Hurricane Katrina struck the New Orleans, Louisiana area and the Mississippi Gulf coast. The back-to-back hurricanes made it especially difficult for our court's employees to evacuate.

Because the court saw the devastation caused by Hurricane Katrina in New Orleans, in anticipation of the arrival of Hurricane Rita to Lake Charles, the Third Circuit court building shut down its operations on September 22, 2005. Our personnel secured the building from as much damage as possible by, among other things, unplugging all electrical equipment, relocating all records to a secure storage area in the center of the room and moving furniture away from the windows. With respect to our employees, supervisors allowed them time off from work to secure their homes and prepare their families for the storm. Initially, our court was to serve as an evacuation center for some of our employees and their friends. We had members of our security personnel on site to assist any evacuees who sought refuge at the court. However, by September 26, 2005 (two days after Hurricane Rita struck Lake Charles), our building had to be completely evacuated due to the lack of utilities throughout the city as well as any other type of services, i.e., gasoline, food, fire and police protection.

In anticipation of Hurricane Rita, members of our court had contact information on all key personnel. The actual courthouse of the Third Circuit is located in Lake Charles but the court's geographical jurisdiction – the largest in the state – covers twenty-one (21) parishes (called counties in other states). There are three judges who work in the Lake Charles office, nine other judges work in satellite offices within the twenty-one parishes. The location of the Third Circuit's satellite offices in parts of the state not affected by hurricanes striking the Gulf Coast, proved to be essential for the recovery of the court's operations after Hurricane Rita.

Evacuating to a safe place close to the city was somewhat of a problem. Remember, although Hurricane Rita struck Lake Charles a little less than a month

after Hurricane Katrina struck New Orleans and the Mississippi Gulf Coast, Katrina caused heavy and, as it turned out, long-term damage in those areas. In turn, those damages displaced millions of people from their homes and into the hotels, motels, churches, stadiums and school gymnasiums all over Louisiana and Mississippi as well as their bordering states. Some employees of the court evacuated to other states such as Arkansas and Texas. Some went to North Louisiana, close to the Arkansas border. My family first evacuated to Fort Worth, Texas where I have family. Like many others, we moved from that location to Houston, Texas during the evacuation period. There were a few who were able to return soon after the hurricane because electricity was restored to their homes or they had generators, however, there were hardly any places to buy food or gas and a curfew was in place. Others, like my family, were only able to return during a "Look and See" period, a limited amount of time authorized by the city officials within which citizens were allowed into the city to assess and mitigate any damages to their homes and/or businesses.

Of great concern was making sure the court employees would be paid which posed a unique problem because the court uses direct deposit of payroll checks done through a local bank. In anticipation of the hurricane strike, our business services manager prepared payroll, electronically transferred the information to our bank and obtained the contact information of the bank's branch manager. However, when the electricity went out all over the city as a result of the hurricane strike, it also affected that bank. After contacting the head of the local bank branch, the bank was able to obtain a generator, have it installed and get the court's employees their paychecks so that they would not potentially be financially strapped during their evacuation. Those employees who did not utilize direct deposit had to be sure to contact the business services manager with their mailing address since those checks had to be manually written out and mailed from a city other than Lake Charles. Since the hurricane, all court employees have direct deposit of their paychecks.

In addition to employee evacuation and payroll issues, the court had to locate a safe place to move our computer operations. The plan was to have the backup tapes moved to the Louisiana Court of Appeal, Second Circuit in Shreveport, Louisiana by our Clerk of Court who evacuated to Texarkana, Texas in the immediate aftermath of Hurricane Rita. Once a determination was made that the Opelousas office of the Third Circuit was safe, the backup tapes would be moved there. The Second Circuit's computer services and website were already in use by the three Louisiana courts affected by Hurricane Katrina. Our actual computer servers were moved to an unaffected satellite office of the Third Circuit in Opelousas, Louisiana

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CASA Official Publication

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### **Letter from the Editor**

by Dave Ewert, *Iowa Supreme Court*

Welcome to the Spring 2007 edition of CQ. This issue focuses on CASA's Washington, D.C. seminar, which will be held at the Omni Shoreham Hotel from September 27-30, 2007. Elena Ris, the education co-chair, presents a tantalizing preview of the seminar. Elena's vast web of confidants also has yielded a helpful article from Carol Griffith highlighting sightseeing options in the D.C. area. The seminar promises to be one of our best yet, packed with the best education for appellate attorneys and great social events.

Next, nominations chair Paul McGrath calls for nominations to the CASA leadership positions. This is your chance to help shape CASA's future. As Paul notes, self promotion is not only allowed, it's encouraged. Here's your chance to nominate someone you admire, even if that someone resides in your mirror.

Elizabeth Osborn has provided a great article on a Hoosier success story, Indiana's Courts in the Classroom program. As you will see, this comprehensive court education plan sets the gold standard and continues to improve.

Frances Asner then relates her experiences as a former CASA scholarship winner. If you haven't attended a CASA seminar before, Frances' article will whet your appetite. Speaking of "former," former staff attorney, former CASA secretary, and former attorney Carol Couch presents her view of devolution and redemption in "Downward Mobility." As the article demonstrates, Carol has opted for the "former" over the (career) "ladder," and she has managed to embrace her a simpler life in the process. Even better, she has kindly included some suggested "retirement reading."

Finally, I tell my sorry tale of a temporarily disabled attorney tackling the San Diego zoo, and Paul McGrath brazenly offers 10 great albums for CASA members to ponder and debate.

Sadly, one item missing from this issue is a letter from CASA chair Kembra Smith. Kembra is battling some personal health issues, and is trying to recuperate at this time. We all wish Kembra the best and hope she is back in the saddle soon. As Bill Murray says, without her we are like a foot without a big toe.

So scroll away me hardies, and I hope you enjoy this issue.

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## **The Seminar**

by Elena Ris, *Eleventh Circuit Court of Appeals*

CASA's September 27-30, 2007, Seminar has all the elements needed for a "not to be missed" event. We have lined up outstanding speakers, booked a luxurious hotel in a great location, and scheduled terrific social events.

Among the outstanding speakers at the seminar will be *The New York Times* U.S. Supreme Court correspondent, Linda Greenhouse, who will speak on the topic of "The Supreme Court: Justices Who Change and Justices Who Don't." A graduate of Yale Law School, Linda Greenhouse has been *The New York Times* Supreme Court correspondent since 1978 and was awarded a Pulitzer Prize in Journalism in 1998 for her coverage of the Court. Ms. Greenhouse is scheduled to address us on Thursday afternoon following an inside look at the Supreme Court by William Suter, Clerk of the Supreme Court, and Scott Harris, Counsel to the Supreme Court. A reception, to be hosted by Justice Clarence Thomas, will be held at the Supreme Court on Friday evening following CASA's tour of the Supreme Court building.

The Omni Shoreham Hotel in Washington, D.C., the site for this year's seminar, is a four-diamond hotel, located in lovely Rock Creek Park. Known for having hosted presidents, world leaders, and inaugural balls, this hotel is a truly significant historical Washington landmark. The hotel's convenient location will make it possible for seminar attendees to enjoy all that D.C. has to offer. The hotel is just one block from the Woodley Park Metro station, two blocks from the National Zoo and less than two miles from the White House, Capitol, Smithsonian Institution museums, and other popular tourist sites.

The social events being organized for this year's seminar will ensure that attendees will get more than just a great educational experience. There will be numerous opportunities to catch up with old friends and meet new ones. In addition to the Supreme Court reception, there is a reception scheduled for Thursday night at The United States Court of Appeals for the Armed Forces. An "opening ceremony," complete with a military Color guard, will be conducted, which is scheduled to be followed by a tour of the Court building. Military musicians will perform for us during the reception.

CASA's infamous t-shirt exchange and Annual Dinner (Friday) are also on the agenda. On Saturday night, CASA attendees will join the Spencer Grimes Appellate Judges and the Council of Appellate Lawyers in attending the Appellate Judges Education Institute's Dinner, which promises to be a lavish event complete with a renowned guest speaker and live entertainment.

This promises to be one of the best CASA seminars ever, so mark your calendars, buy your t-shirt, and get ready to conquer Washington, D.C.

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## **The Sights of D.C.**

by Carol Griffith, *Writer-Editor for the Animal Health Inspection Service, Part of the U.S. Dept. of Agriculture*

Beyond the popular tourist sights of Washington - the Capitol, the Washington Monument, the White House, Arlington Cemetery, and the many buildings of the Smithsonian Institution, just to name a few - there's a lot more to see and do. Most places in the immediate DC area are accessible easily by Metro, Washington's rapid transit system. Check the website ([www.wmata.com](http://www.wmata.com)) for more information and maps of areas surrounding each station.

Famous for its nightlife and shopping, Georgetown is located on the Potomac River. Most entertainment is located on a cobblestoned six-block area, but a short walk to the river leads to Washington Harbor, a complex of restaurants and shopping. It also hosts short boat rides in season that go down the Potomac, past the infamous Watergate buildings and the Kennedy Center for the Performing Arts. Georgetown is not accessible by Metro, and parking can be a problem,

so use the DC Circulator bus system which serves several Metro stations also.

Union Station, a grandly restored railroad station, has its own Metro stop. It contains several good restaurants and many unique stores. A short walk from there takes you to several unique restaurants on Massachusetts Avenue, and a bit longer walk leads past the Supreme Court and the Library of Congress. The Main Reading Room of the Library's Thomas Jefferson Building is breathtaking in its splendor.

For art lovers, the two buildings of the National Gallery of Art (Metro stop: Archives/Navy Memorial) and the Corcoran Gallery of Art (Metro stop: Farragut West) located in a lavish old mansion, will not disappoint. While in the neighborhood (Penn Quarter) near the Archives Metro stop, stop at the National Archives and see the Constitution. There are several new restaurants in the area.

The National Zoo (Metro stop: Woodley Park) has an extensive collection of animals, including Washington's panda cub, in a beautiful setting.

For wonderful Chinese food, why not go to Chinatown (Metro stop: Gallery Place/ Chinatown)? Walk through the neighborhood and find the famous restaurant in which ducks hang and noodles are handmade in the window. Gallery Place has a fun new bowling alley and good nightlife and shopping.

On the Virginia side, Tyson's Gallery and Pentagon City will provide an enjoyable day of shopping or pampering at a spa. A beautiful drive alongside the Potomac takes you to Mount Vernon, George Washington's beautifully restored home.

Just an hour north of DC, Baltimore's famous Inner Harbor attractions include shipboard dining and other renowned seafood restaurants with a view of the harbor, shopping in restored 17th century Fells Point, live music at the Power Plant, and boat rides.

Also in Maryland, an hour's drive to the east will find you in historic Annapolis, home of the U.S. Naval Academy, excellent restaurants and shopping, in a quaint colonial-era city.

And for beach-lovers, the Maryland and Delaware beaches are an easy 3-hour ride from DC.

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### **Request for Executive Board Nominations**

by Paul McGrath, *New York Court of Appeals*

Now is the time for CASA members to participate in the annual selection of members to the CASA Executive Board. Please take a few minutes to become involved in the selection of our future leaders.

Under the bylaws of our organization, I, as CASA's Immediate Past Chair, am automatically the chair of the Nominating Committee. Lee Ramsey of the Tennessee Supreme Court and the organization's Chair-elect is also a member of the committee. Three other CASA members, who will be named shortly at the direction of our current Chair, Kembra Smith of the United States Court of Appeals for the 11th Circuit, will round out the committee.

By virtue of the bylaws, Lee Ramsey will succeed to the office of Chair at the 2007 annual business meeting at the seminar in Washington D.C. At that time, Kembra Smith will complete her term as Chair and become Immediate Past Chair. Consequently, the office of Chair-elect will be open, and nominations for this critical position are needed.

Dave Ewert will complete a year as secretary and as editor of CQ, though he is eligible to remain on the Board in another officer capacity. Accordingly, nominations for the office of Secretary are also requested.

The CASA bylaws require five members-at-large for the Executive Board. Technically, the terms are one year and so

all five positions are open, but traditionally the current members-at-large completing their first term can be re-elected for a second term. William Lowe of the Louisiana Court of Appeal for the Second Circuit will be completing his second term and Elena Ris of the United States Court of Appeals for the 11th Circuit has decided not to seek a second term. Tim Schroeder of the United States Court of Appeals for the 4th Circuit, Gail Giesen of the Connecticut Supreme Court and Appellate Court, and Renee Simien of the Louisiana Court of Appeal for the Third Circuit will also be completing their first terms. Consequently, we need at least two nominations for member at-large-positions.

The Nominating Committee's slate of candidates will be published in the next issue of CQ or disseminated in the CASA official and unofficial list serves. This slate will be presented for a vote of the membership at the 2007 business meeting in Washington, D.C. Nominations can also be made from the floor during that meeting. The Nominating Committee solicits your views and recommendations to select CASA members with the time, initiative, energy, and commitment that the Executive Board requires. Fortunately, CASA will continue to be led next year by a super Chair, Lee Ramsey, who has proven his mettle by serving as Education Chair in 2005-2006 and through the huge amount of work he has done as Chair-elect this year. **Nominations for all open positions on the Executive Board are due no later than June 15, 2007.** Please contact me as the Chair at [pkmcg@msn.com](mailto:pkmcg@msn.com) with your suggestions, and I will share the information with the other members of the committee. The committee looks forward to hearing from you.

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## **Courts in the Classroom**

by Dr. Elizabeth R. Osborn, *Assistant to the Chief Justice for Court History and Public Education*

### **Introduction**

The Indiana Supreme Court's central education outreach program, "Courts in the Classroom," was launched in Fall 2001 with the installation of "webcast" technology in the Supreme Court Courtroom. This equipment enables all oral arguments to be webcast live on the Internet and then archived for later viewing. The "Courts in the Classroom" (CITC) project, has been recognized by the National Center for State Courts as a model for educating the public about the judiciary and was featured in the Center's 2005 *Modern Trends* publication. In 2006, the Indiana State Bar Association's Young Lawyers Division and the American Association of State and Local Historians both presented CITC with awards recognizing its contribution to public education.

Over the last five years this program has grown from the initial idea of making the workings of the Court more accessible to Hoosiers through the broadcast of oral arguments, to include on-line lesson plans, scripted trials, on-line museum-style exhibits, searchable databases, virtual tours of Indiana courthouses, and a variety other resources for teachers. CITC works to develop partnerships with other organizations interested in public education from around the state in the production of scripted trials for use in classrooms or small group settings, the publication of Indiana-based material about the workings of the trial and appellate courts, and the hosting of lectures and teacher workshops. As more and more resources and video have been added to the website, visits to the CITC website by teachers, students, and lawyers continue to grow. In 2005, CITC webcasts drew 60,924 visitors. The Indiana Supreme Court, through its educational outreach programming, is playing a key role in citizenship education for Indiana teachers, students, and citizens.

### **Webcasting: It's Not Just About Oral Arguments Anymore**

When the Courts in the Classroom project was launched in the September 2001, the initial focus was on the Internet broadcast of all Indiana Supreme Court, and selected Court of Appeals, oral arguments held in the Indiana Supreme Court courtroom. The initial costs of hardware, software, and installation totaled about \$100,000. Equipment includes four unobtrusive remotely operated cameras, two monitors, two recording devices, a mixing board, a PC, and a titler for including case and attorney names on the video feed. All of this equipment is located and operated from inside the Supreme Court's historic courtroom located in Indiana's nineteenth-century state capitol building. The equipment was

installed without any disturbance to the historical appearance of the room.

The broadcast of oral arguments continues to be a staple of the CITC's repertoire, and about 400 oral argument videos are accessible from the court's website. In addition, with the help of the Indiana Higher Education Telecommunications System, CITC has also been able to host live broadcasts of oral arguments and court sponsored events at various locations around the state including Indiana University East in Richmond, Indiana, the Grand Wayne Center in Fort Wayne, and Indiana University School of Law in Bloomington.

The oral argument videos, case summaries, and eventually the opinions are contained in a searchable database created specifically for this project. Attorneys report that they use the oral argument webcasts and database to help in their own preparation, for mentoring new lawyers, to help their clients view the argument without having to drive or fly to Indianapolis, and as a teaching tool for CLE sessions on appellate practice.

While the legal community has embraced this opportunity to access the workings of the Court, increasing the knowledge of students and citizens about the legal system was one of the Court's primary goals in initiating this project. With that in mind, CITC develops and broadcasts a wide variety of other programs specifically for K-12 teachers, in addition to the webcast of oral arguments. Students and teachers can come to the Statehouse to participate in these events—about 1,000 did so in 2006—or watch from their own schools. Recent topics include the U.S. and Indiana Constitution, school desegregation, freedom of speech during wartime, and slavery. For each of these programs considerable resource material is provided on the court's website. For example, handwritten lower court proceedings from nineteenth-century slave cases were scanned and transcribed for teachers to use with their students. Scripted trials were written for two of the programs and placed on the website so that teachers in distant parts of the state (or the nation) could hold these programs in their own classrooms. In partnership with other organizations CITC also broadcasts a full-day teacher workshop sponsored by the Bill of Rights Institute on citizenship and character, and one day of the "Project Citizen: Central Region Summer Teacher Institute" is held in the Supreme Court's courtroom.

The Indiana Supreme Court also hosts a Legal History Lecture Series, offering free Continuing Legal Education credits for attorneys. These events are also webcast. In conjunction with a national conference on eugenics law, the Court hosted a program on the history of eugenics in Indiana in April 2007. 2006 programs were planned in conjunction with the release of a biography on long-time Indiana Supreme Court Justice Isaac Blackford and a volume on the history of Indiana law.

### **On-line Court History Resources**

As if over 400 oral arguments, lectures, and courtroom performances are not enough, the "Courts in the Classroom" website also contains a variety of other resources related to the history and operation of Indiana's legal system. The court history museum includes exhibits on Supreme Court justices, postcards from courthouses around the state, buildings where the court has met, biographical information on all the justices of the Indiana Supreme Court, and educational videos about the court system. Virtual tours of nineteen Indiana county courthouses are also available from the CITC website. Over the next few years CITC hopes to complete a courthouse tour from every Indiana county.

In addition to the oral arguments database, a second searchable database was created in conjunction with the Indiana State Archives and with support from the Court's judicial technology staff. It contains information about all Indiana Supreme Court cases dating from 1816–1872. For the first time ever, local historians, lawyers, and researchers, can electronically search cases by subject, county, party, and so forth. Another ongoing project involves the scanning and digitization of key documents from Indiana's territorial period through the nineteenth century. Many of the documents include searchable transcriptions. CITC has worked with the Indiana State Library and IUPUI's digital technology services department to implement this project.

### **Publishing Projects**

CITC also expends considerable energy and resources creating printed resources for teachers, lawyers, and those interested in the history of Indiana's judicial branch. Recent Indiana Supreme Court publishing projects include the biography of Justice Isaac Blackford mentioned earlier, two workbook-style student handbooks on the workings of trial and appellate courts, a forthcoming reprint of Indiana's 1816 Constitution, a collection of "In Memoriam" memorials about deceased jurists and public figures including Abraham Lincoln, published by the court between 1865 and 2001, and reprints of articles about the Indiana Supreme Court during the Civil War and about the Court's actions in a variety of antebellum slave cases.

### **Conclusion**

Over the last six years, the nature of the tasks and projects undertaken by "Courts in the Classroom" has continued to grow, and its mission has continued to expand. All projects, however, share the goal of the project from its conception: making the courts more accessible and understandable, and connecting Hoosiers to their past and present. As we gain more experience with the equipment and technology, our ability to present more materials will increase considerably. As a result, the next six years will see the scope of this educational initiative expand even further and the Indiana Supreme Court will remain a leader in preparing Hoosier children to be productive citizens of their state and nation.

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### **Memoirs of a CASA Scholarship Recipient**

by Frances K. Asner, *Former Staff Attorney, Eleventh Circuit Court of Appeals*

If memory serves, I joined CASA in late 2002 or early 2003 – during the second year of my five-year term as a staff attorney for the 11th Circuit Court of Appeals. In autumn 2006, I received a partial scholarship that enabled me to attend the CASA seminar in Texas, which I otherwise could not have afforded due to unanticipated expenses and the prospect of impending unemployment. I found most of the sessions that I attended informative and educational. (For those of you who have never been to a CASA seminar, attendees may choose among various "courses," or "break-out sessions," in addition to the "core" or plenary sessions). The presenters were so excited about their field of interest that I could not help but enjoy their sessions, regardless of whether I had any exposure to or need for the specific area of law in my job. I now find that a great deal of what I learned at the seminar has proven useful in my new position as a law clerk for a U.S. magistrate judge.

In addition to the educational opportunities and the accompanying CLE credits, I met many people, including state and federal appellate staff attorneys and members of the judiciary. There were structured and ad hoc opportunities to socialize and, because we already had something in common, it was easy to strike up conversations with complete strangers. (Remember the first day of law school?) Although I am a poor correspondent, I met several CASA members who live in southern California whom I plan to contact since I have relocated to that part of the country for my new job. The seminar also provided great networking opportunities.

Although the educational, socializing, and networking opportunities are present at all CASA seminars, I feel privileged to have been able to attend the October 2006 seminar because of the presence of Associate Justice Sandra Day O'Connor (retired). Hearing Justice O'Connor speak is a humbling experience, as she is one of the most brilliant and inspiring persons that I have been able to see in person in a small group setting.

I encourage everyone to attend as many CASA seminars as they can and to apply for a full or partial scholarship if they are not able to attend for financial reasons.

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### **Downward Mobility: The Key to Happiness?**

by Carol L. Couch, *Former CQ Editor*

The trajectory of my legal career would look something like a bumpy downward slope of the Matterhorn. Straight from law school, I entered a prestigious (for Santa Fe) and lucrative law firm, followed by a hiatus as a legal researcher with a non-profit health study, before becoming a central staff attorney with the New Mexico Court of Appeals. My nearly 20 years with the court staff was a series of oscillating positions. I started moving up what few ranks there were, until the top rung appeared in the early 1990s. After I decided, without much deliberation, that I did not want to apply for the Chief Staff Attorney position, I worked a short stint as the Acting Chief Staff Attorney until the court hired Gina Maestas as the Chief Staff Attorney. The Acting part of the position I held greatly appealed to my sense of theatrics.

For the next fifteen years, the patience of our human resources person was sorely tried by my changing from full-time to three-quarter's time, back to full-time, to half-time, to full-time supervisor, back to part-time line worker, all interspersed with unpaid leaves. Call me restless. So many friends and colleagues I admired seemed to find fulfillment in the law. What was the matter with me? Finally, I ran out of permutations of being a staff attorney, took pity on our human resources person, quit my job, and, just to complete the picture, resigned from the state bar on my last day as a staff attorney.

My quitting somehow morphed into my "retirement" among the court staff, although I wouldn't be eligible to receive benefits until I worked six more years or turned 65, which was still a few years away. Whatever my leaving might be called, by mid-January 2006, I was unemployed. Needing to at least pretend that I was doing something productive, I started taking the courses necessary for a license to teach junior high and high school math. But, after one long month of classes, the condescending naivety of the education staff got the better of my patience and I dropped out. Within one month, I had attained the status of an unemployed dropout. In a perverse sort of way, this career development was rather exciting. I toyed with the notion of adding drug addict to my new persona, based on prescription pills I am required to take. An unemployed dropout drug addict. What a fine example for my adolescent son.

The next eight months passed in a blissful haze of napping and cooking, sorting through closets and drawers (what treasures were to be found!), and reading and reading and reading (see list below), gardening, settling my son into 7th grade and, oh yes, editing CQ. So, winter passed into spring and summer into fall and savings dwindled with each change of season.

As the Fates would have it, a domino effect of personnel changes happened at the court while I was gone. Gina Maestas was hired as the new Chief Clerk and the clerk's office had an opening for a half-time administrative position intended to take charge of the imaging and archive work of the court, which was in dire need of organization. The extremely generous nature of New Mexico's retirement system would allow me to work half-time for six years and retire at a percentage of my staff attorney salary. Seemed like a no brainer to me. The position was advertised, I submitted my application, a formal interview was conducted, and references called. By early October, I was back at the court in a windowless basement storage space earning one-fourth the hourly rate of my staff attorney salary. Many see my career trajectory as having plunged to unprecedented, irredeemable depths.

So why is this woman smiling? I've always like organizing spaces and creating systems and I've always appreciated the potential historical value of documents as evidenced by the number of history books in the list below. My lowly job lets me do the kind of things I enjoy. I even like the physical aspect of the work, hauling hundreds of bankers boxes full of documents around. And I have enough energy and focus when I leave work that I can devote myself to reading, knitting, learning French, card-making, soap-making, creative writing and even helping my son with his math homework. Since I'm not trying to buy my way out of bitterly melancholic frustration, I don't need as much money as I thought I did.

I'm certainly not sitting on top of the world but I'm breathing easier at the lower altitude. Evidently, the key to my happiness was buried at the base of the mountain.

I would be happy to offer career advice to anyone interested in Downward Mobility. Feel free to email me at [clcouch505@cybermesa.com](mailto:clcouch505@cybermesa.com).

## **Suggested "Retirement" Reading**

Rising Tide: The Great 1927 Mississippi Flood by John M. Barry (1998) Simon & Schuster, 528 pp.

Strapless: John Singer Sargent and the Fall of Madame X by Deborah Davis (2004) Tarcher Reprint, 320 pp.

Nature's Metropolis: Chicago and the Great West by William Cronon (1992) W.W.Norton & Co., 556 pp.

The House of Morgan: An American Banking Dynasty and the Rise of Modern Finance by Ron Chernow (2001) Grove Press, 832 pp.

1918: War and Peace by Gregor Dallas (2001) Overlook, 620 pp.

We Wish to Inform You that Tomorrow We Will be Killed with Our Families: Stories from Rwanda by Philip Gourevitch (1999) Picador, 368 pp.

The Great Game: The Struggle for Empire in Central Asia by Peter Hopkirk (1997) Kodansha Globe, 624 pp.

Paris to the Moon by Adam Gopnik (2001) Random House, 368 pp.

Citizens: A Chronicle of the French Revolution by Simon Schama (1990) Vintage, 976 pp.

The Unfree French: Life Under the Occupation by Richard Vinen (2006) Yale University Press, 496 pp.

Why Geography Matters: 3 Challenges Faces America by Harm de Blij (2007) Oxford University Press, 320 pp.

Imperial Reckoning: The Untold Story of Britain's Gulag in Kenya by Caroline Elkins (2005) Henry Holt & Co., 367 pp.

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## **Great Albums: A Quick Top Ten List**

by Paul McGrath, *New York Court of Appeals*

1. **Can't Buy a Thrill** by Steely Dan. This is the first album and it is a classic. *Dirty Work* and *Brooklyn* are two of the many super cuts on this album, and they weren't even the hits!
2. **Exit O** by Steve Earle. This is the alt-country rocker's second release. It is very country-ish by today's standards. The album never got the press that Guitar Town did, but *The Week of Living Dangerously* and *I Ain't Ever Satisfied* might be two of the best country rock songs of all time, with apologies to the Eagles.
3. **Sweet Old World** by Lucinda Williams. Don't waste your money on her new album or buy the one all the critics rave about: Car Wheels on a Gravel Road. For my money, take a chance on Sweet Old World. *Six Blocks Away* and *Pineola* are just two of the great servings of classic Americana.
4. **Late for the Sky** by Jackson Browne. Penned before his great success with the Pretender and Running on Empty, this album never gets old. Every song is intriguing and well crafted. David Linley's steel guitar work is engrossing.
5. **The Gregg Allman Tour Album** by Gregg Allman and friends. This album was recorded in 1974 during a hiatus with Gregg's stint with the Allman Brothers Band. Gregg is accompanied by a 24-piece orchestra and features the incomparable Chuck Leavell on keyboards. The original vinyl featured a funny little intro by Martin Mull, which is left out of the CD. This album contains the best version of *Turn on Your Love Light* I have ever heard.

6. **The Crossing** by Tim O'Brien. O.k. I'll concede that it helps to have Irish roots, but this is a magnificent album by a great musician who specializes in bluegrass and old-time music, but who can play just about anything. Great guest appearances by Kathy Mattea and Darryl Scott. If you are Irish or like bluegrass music, I guarantee you will love this album.

7. **Born To Run** by Bruce Springsteen. Yes, I know this album has been hyped to death, but it deserves every bit of praise it received. Besides, every time I listen to it, I am reminded of the times I have seen the Boss, and I have never seen a better performer in any area of music. He gives his all in every note, and he makes you think and have fun at the same time. Not easy to do in Rock and Roll.

8. **Bring the Family** by John Hiatt. Great lyrics, great musicians, and a passionate, searing voice. This is an album for the 30+ crowd; people who have been around, and who know the complexities of love and the brutality of modern life.

9. **To Kingdom Come** by the Band. I know it is kind of lame to select an anthology album, but I make an exception for the Band because these guys are so talented and went through so many different phases in their career that you need a two-disc CD to fully appreciate their work. Robbie Robertson's songwriting is awesome, and with three great singers in Levon Helm, Rick Danko and Richard Manuel, you never get bored.

10. **Passin' it On** by Terry Cashman. This one's a hit for baseball lovers only. You might know Terry by the 1980's hit song *Willie, Mickey and the Duke* that celebrated the three great center fielders that starred in the three boroughs of New York City in the 1950s. Every song celebrates America's love of baseball. The singing is great and the musicianship is outstanding. If you know someone who lives for baseball, this CD is guaranteed to please because you just have to dust it off every spring when the season comes to life.

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### **Steppin' Out (Gingerly)**

by Dave Ewert, *Iowa Supreme Court*

I recently had what should have been the joy of attending a bar admissions-related seminar in San Diego in mid-April. I say it should have been a joy because I hurt my ankle several weeks prior to leaving, and it did not heal in time for my trip. Even worse, I aggravated my knees compensating for the ankle, to the point where I finally had to get crutches. I looked forward to the thought of navigating airports, busy streets, and a zoo like Rosie O'Donnell looks forward to sharing a hot tub with The Donald.

As much as I tried, through a combination of worthless doctor visits, rest, ice, compression, and a friend's home remedy of beer and ibuprofen (highly recommended), I ultimately concluded the crutches had to go with me on the plane. We packed light, left for the airport early, and our flight left on time. The family grew pretty frustrated following my glacial progress through the airports.

Things headed south quickly when our room at the Omni San Diego wasn't ready at 1:30. I had planned on resting for a half an hour before exploring during our free afternoon. Instead, I soon found myself whisked away in a cab for a short ride to Horton Plaza. Soon I was just plain beat, and my wife, Kathy, grabbed a wheelchair and pushed me around until we settled in at the Napa Valley Grille. I was in no condition to shop, so she and my son, Gabe set off on their own, leaving me with nothing but a cool San Diego breeze and a respectable wine list to bide the time.

After I registered for the seminar, Kathy, Gabe and I went to eat at Mister Tiki's Mai Tai Lounge in the Gaslamp District. We thoroughly enjoyed the Pu Pu platter, the namesake libations, and the surfervision. Then it was back to the hotel for ice for the ankle, plenty of ibuprofen, and an early bedtime.

The next day I hit the seminar hot and heavy while Kathy and Gabe took a cab to Sea World. You would be surprised at how many times you can answer the same questions about your ankle. I started inventing stories about alligators,

extreme fighting, and flesh-eating bacteria. I did manage to hobble over to the local branch of Hilo Hattie's over lunch for some hot deals on Hawaiian wear.

That night we cranked it up a notch and ate at Blue Point Coastal Cuisine, an absolutely wonderful seafood restaurant. I had the lobster encrusted sea bass and Kathy had a scallop dish, while Gabe had some buttered pasta, and prodigious portions of bread. The service was amazing, rivaled only by the total on the check. Back to the hotel again, for a second showing of *Stars Wars, the Phantom Menace*. Damn you OMNI for those built-in DVD players.

After another morning of seminar, we headed out to the San Diego zoo. While Gabe was chomping at the bit, I was dreading it. My hobbled husband act had worn thin, and no one was looking forward to braving the crowds only to do the zoo at a sloth's pace.

Upon arrival, we found they did not have any of the motorized carts left. While Kathy pleaded with me to rent a regular wheelchair, I doubted she could push my ample frame to the top of some of the hills, and I suspected that if she did so, she would be tempted to just let me careen down the other side. So crutches it was.

Our best decision was to take the double decker bus ride around the zoo to get the lay of the land. Among other things, we actually saw animals. Once that was over, we slowly made our way to the great apes. After a nice lunch and a well-deserved margarita at Alberts restaurant, I was ready to tackle Tiger River. Tiger River, for a guy on crutches, is the functional equivalent of Mt. Everest without the base camp. After all the work of traversing the rugged terrain, then traversing it again due to the unintelligible signs, and after avoiding the swirling hordes of kids and the show-offs in their motorized carts, we saw *zero* tigers.

We walked around more; saw some warthogs and a 140- pound species of rat (even bigger than those in New York sewers I'm told), then took the sky rider to the other end of the park and back. Our last stop, before the obligatory gift shop visit, was at the reptile house where we saw a monitor lizard. The monitor lizard was my favorite animal in the park, because it was moving slower than me, and it was the last animal we viewed in the park.

Gabe had a meltdown back at the hotel and Kathy was ready to do nothing but crash. While mother and son sparred, I mumbled something about going out for ice (sans bucket) and bolted as fast as one can on faulty legs. I went next to a place called Tin Fish and relaxed *relaxed!* with a big Alaskan Amber Ale. Ahhh. I took a menu home, and we headed back for dinner. I got two hefty halibut tacos with the trimmings for only \$12. These were the best fish tacos I've ever had. I would highly recommend this place, and for downtown San Diego, it really was a steal.

Families will also love this place. Gabe's fish and chips platter was huge, and the waitress told me anyone can order off the kids' menu. The gas tank was empty at this point, so we went back to the hotel and packed it up.

The OMNI Hotel is a wonderful place that is actually attached to Petco Park, the San Diego Padres' new downtown field. The hotel is also immediately adjacent to the Gaslamp Quarter and its many fine restaurants and shops. The conference rate was \$195, but I suspect better deals can be had by persistent individuals. It is a beautiful, spotless hotel in the heart of everything. They even printed out our airline boarding passes for me at the front desk without charge (wait – does this mean they were happy to see me go?). My sole complaint was the glacial pace of the four elevators. The elevators even apologized out loud (true story) for taking so long. I told them to stop apologizing and work harder.

Overall, the trip was better than I had hoped. We had some good food, I wasn't killed and got stronger, and I developed an abiding respect for people who deal with a physical disability on a daily basis.

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Summer 2007

CASA Official Publication

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### **Letter from the Editor**

by Dave Ewert, *Iowa Supreme Court*

With every presidential wannabe traipsing through Iowa, it seems only fitting that I get to go to Washington, D.C. for the 2007 CASA Seminar. Unfortunately I don't get to call the politicians during dinner, but you can't have everything.

Anyway, this seminar will rock. Beyond the great education, the networking, and the decadence that occasionally accompanies the annual dinner/t-shirt lottery, Washington D.C. offers anything even the most jaded staff attorney could want - - and a *lot* of it is FREE. The Smithsonian museums are all free as is the National Zoo. The people watching - - both free and priceless. Anyway, this will be my third visit to D.C., and each time I've gone, I've had the same feeling on hitting the mall area, I *own* this place. No matter what the politics of the day may be, this is the microcosm of our country and its history. Don't miss the chance to enjoy it with your friends.

This issue features the return of our fearless and peerless leader, Kembra Smith. Elena Ris then shows how succinct a staff attorney can be by listing a mere five reasons to attend the D.C. Seminar. I provide the other five below. Our membership chair, Renee Simien, gives us some valuable membership information and underscores the importance of the ABA dues waiver option for appellate staff attorneys. If the cost of joining the ABA is keeping you or anyone on your staff from joining CASA, do not let that be a barrier any more. To make things easier, we are including the application and dues waiver form, along with the CASA seminar scholarship application, in this issue of CQ. Paul McGrath sets forth the slate of nominations for CASA leadership, and Lee Ramsey dusts off his crystal ball and predicts the future of CASA in his article. Finally, Joe Merling touts a couple of recent publications by CASA members.

I do hope to see you all in Washington, D.C., for what promises to be a wonderful seminar. Two of my favorite memories of D.C. are taking a boat trip on the Potomac to Mount Vernon, and visiting the intriguing International Spy Museum. [One of my more memorable, but least favorite, times was spent in the flight simulator at the Air and Space Museum with my son Gabe on the 4th of July. We spun uncontrollably for about 3 minutes, the equivalent of sitting

in a clothes dryer with seat belts]. In any event, as Elena mentions, CASA is on the road again, and that can mean nothing but fun.

So, without further ado, here are the other 5 reasons for going to the seminar:

- Nothing else happens from September 27 to September 30. Nothing.
- You might find the t-shirt of your dreams.
- Your court can't miss you if you never leave.
- Close proximity to hoards of lobbyists makes you feel less sleazy.
- It might be your last chance to visit before the capitol moves to Dubai.

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## **Notes from the Chair**

by Kembra Smith, *Eleventh Circuit Court of Appeals*

CASA has been busy this summer! After an unexpected break, I'm back at the helm and at work. We held an executive board meeting by conference call; a copy of those minutes and various committee reports are included in this edition of CQ. I will highlight some of the items that I believe are important for you as CASA members.

### *CASA-only events during the September 27-30 D.C. Seminar*

During the annual seminar, which will again be in conjunction with the Appellate Judges and the Council of Appellate Lawyers ("CAL"), we have scheduled a tour of the Supreme Court on Friday, September 28. The tour will be a CASA members- & guests-only event; CASA members have first tour-rights, and any unfilled spots will be given to CASA members' guests. The CASA business luncheon will also be held during the annual seminar. The luncheon will be held at Jandara, a chic Thai restaurant within walking distance of the seminar hotel, the Omni Shoreham. There will be no charge for either of these events for CASA members.

### *Membership dues waiver*

Although not easily accessible through the ABA website, we recognize that the ABA dues waiver is important for many of our members. We have, therefore, circulated the waiver to all CASA members via our email list and are publishing a copy of it in this edition of CQ. The waiver must be completed annually. The current version should be used as the ABA base fee has risen from \$25 to \$60. The Appellate Judges Conference ("AJC")/CASA dues remain at \$35. With the use of the waiver, CASA dues become an affordable \$95 for those members admitted to a bar for over one year.

If you've been admitted for less than one year, please renew your ABA membership as a regular member with less than one year of admission since your ABA membership is FREE. You will still need to pay the \$35 AJC/CASA dues.

### *Scholarships*

We received exciting news from the ABA in June when we learned that the AJC provided CASA with \$3500 for scholarships for this year's seminar. The application has been revised by the Scholarship committee, hopefully making it easier for applicants to complete. Scholarships can be requested for most of the expenses related to the seminar, including tuition, transportation, and lodging, in total or in part. A copy of the application was circulated on the email list, and is published in this edition of CQ. Applications should be submitted to me ([Kembra.Smith@ca11.uscourts.gov](mailto:Kembra.Smith@ca11.uscourts.gov)) as soon as possible or by Tuesday, September 11. (Applications will be accepted after that date, subject to any available funds).

### *Email list*

One of the benefits of CASA membership is use of our email list, managed by extraordinary (and I say that in the kindest and most appreciative manner) czar/troll Bill Lowe. In June, we received an updated membership roll indicating that we had 63 CASA members. The email list, however, had 90 enrollees. Bill then purged the email list, "axing" (his term) any non-CASA members and trimming duplicate addresses. The remaining email list now has 39 enrollees and is limited to current members, the Washburn list master, ABA staff, and a few Executive Committee-authorized former CASA Chairs.

### *Summing up*

Last, I thank all of you for your support during my recent surgery. I was diagnosed with ductal carcinoma in situ following an annual mammogram and a biopsy, and underwent a bilateral mastectomy and reconstructive surgery in mid-April. CASA never missed a beat: we were well-represented on the Appellate Judges Education Institute education and long range planning committees by Education Chair Elena Ris and Chair-elect Lee Ramsey, and CQ editor Dave Ewert managed and executed an edition of CQ. Thanks to these folks and other Executive Committee members, I was able to keep my focus on healing. I treasure the friendships that I have gained through my CASA membership and involvement, and hope that all of you recognize the care and concern that we—as members of CASA—have for each other.

I will be representing CASA at the August AJC meeting during the ABA Annual Meeting in San Francisco, and look forward to seeing you all in September at the seminar in Washington, DC. Let's make it one for the ages.

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## **Top Five Reasons to Attend CASA's 2007 Seminar**

by Elena Ris, *Education Co-Chair*

### **1. Location, location, location.**

It doesn't get much better than this--CASA's seminar is being held at the elegant Omni Shoreham Hotel in Washington, D.C., on September 27-30, 2007. The nation's capitol is not only an exciting and memorable location to hold a seminar, but also a place where free cultural attractions, including incredible museums, monuments and memorials, offer a variety of entertainment options for seminar attendees and their families.

### **2. Excellent educational programming.**

CASA has lined up an all-star cast for this year's seminar. Along with our yearly favorites--Professor Erwin Chemerinsky, Professor Susan Herman, and Ira Kurzban, we will be joined by General William K. Suter, Clerk of the U.S. Supreme Court, Scott Harris, Counsel to the Supreme Court, Linda Greenhouse, Supreme Court Correspondent for *The New York Times*, and many others. Our speakers will address a broad range of legal topics including habeas corpus, election law, section 1983 actions and immigration law. The Supreme Court review and preview sessions promise to be especially meaningful in light of our meeting location this year.

### **3. Fun times will be had by all and sundry.**

Among the numerous social events on the calendar for this seminar are receptions at both the U.S. Supreme Court and the United States Court of Appeals for the Armed Forces. Following a tour of the Supreme Court building (limited to the first 50 CASA members and guests who sign up by contacting Dave Ewert at [Dave.Ewert@jb.state.ia.us](mailto:Dave.Ewert@jb.state.ia.us)), Justice Clarence Thomas will be our host at the Supreme Court reception. At the Armed Forces Court of Appeals, we will take a tour of the courthouse before attending a reception that will be hosted by Chief Judge Andrew S. Effron that will include live music by a military band. Other planned social events include the not-to-be-missed T-shirt exchange/CASA annual dinner which will be held at Thunder Grill in the historic and vibrant Union Station. Scheduled for the final evening of the seminar is a joint annual dinner with the Spencer-Grimes Appellate Judges and the CAL lawyers which promises to be an entertaining social gathering as well as an excellent opportunity for networking.

#### **4. Perfect time for a getaway.**

Summer vacations are over. Holidays are not yet upon us. It's not too hot and not too cold to be in D.C. in September.

#### **5. On the Road Again.**

After back-to-back Dallas seminars, CASA is on the road again! Need I say more?

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#### **Building Membership on a Solid Foundation**

by Renée R. Simien, *Membership Chair*

One of CASA's continuing goals is to increase our membership. Throughout the year we have identified several areas for improvement. One of the main areas includes determining our true membership numbers. To that end, Ms. Sheena Johnson, Membership and Technology Administrator for the Justice Center/Judicial Division of the American Bar Association, has provided monthly reports to CASA's Executive Board tracking our membership numbers. The reports reveal that CASA has experienced a temporary downturn in membership likely caused by the formation of NAACA, the retirement or career changes of many appellate staff attorneys, the change to a joint seminar format, and the fact federal staff attorneys and many state staff attorneys do not have their ABA dues paid by their courts. We intend to counter any downward trend by recruiting a new and diverse membership base through use of the dues waiver program. Now that we know what type of membership foundation we have, we can work to build our membership from there.

One of CASA's efforts has already paid off. I have heard from many appellate court staff attorneys who have personally received our September 2007 seminar brochure who did not know that CASA existed and/or that members of their own court attended CASA seminars in the past. To be a member of CASA, a staff attorney must also be a member of the ABA, both of which require the payment of yearly dues. Although CASA's dues are a bargain at \$35 per year, payment of the ABA dues can be cost prohibitive even though appellate court staff attorneys qualify for the ABA's reduced dues for "lawyers in public service." Sometimes even the reduced rate is too much to bear.

In our drive to attract new members and retain our current members, we want to emphasize that as a CASA member you have the important option of applying for an ABA dues waiver. Under the waiver, you must certify that "full payment of the ABA dues would constitute a substantial hardship" as a result of your financial circumstances. The waiver does not apply to CASA's \$35 dues but it does apply to the ABA's reduced public service dues which can range from free (for less than one year of practice) to \$299.25 (for 10 years or more of practice). Upon such certification, you advise the ABA as to the amount you can pay, which can be no less than \$60, and then pay that amount plus \$35 for CASA membership dues by check or credit card. This waiver is good ONLY for the dues year in which it is filed. However, if your financial circumstances remain unchanged, you can reapply for the waiver. Given the many benefits of CASA and ABA membership, the dues waiver fee of \$95 is very reasonable.

The dues waiver application should be returned to Amanda Raible, at the address given on the application form.

[To download the PDF copy click here](#)

[Click here for application](#)

#### **Nominating Committee Lists Slate of Candidates for 2007-2008 Executive Board**

by Paul McGrath, *New York Court of Appeals*

In accordance with the CASA by-laws, the Nominating Committee, composed of Lee Ramsey of Tennessee (as current Chair Elect), Marcia McCormack of New Hampshire, Deborah Meyer of Florida, Bill Thompson of Missouri and

myself (as immediate past chair), conferred to select a slate of nominees for CASA officers and Executive Board members. The Committee is pleased to announce the following nominations which will be voted on by the CASA membership at its annual business meeting this September in Washington, D.C.

Under the CASA by-laws, there are nine individuals on the CASA Executive Board: three officers (the Chair, the Chair Elect, and the Secretary), the Immediate Past Chair, and five other members at large. By virtue of the by-laws, Chair Elect Lee Ramsey of the Supreme Court of Tennessee will move to the position of Chair. Also by virtue of the by-laws, current chair Kembra Smith of the United States Court of Appeals for the Eleventh Circuit will move to the position of immediate past chair. The Nominating Committee has nothing to say about these positions except to thank Kembra and Lee for having done a fantastic job both last year and this year. CASA members should already know how much Kembra did as Chair Elect and as Chair. They should also take great comfort in knowing the organization is in good hands with Lee, who demonstrated through his untiring work as Education Chair and now as Chair Elect that he will be a great CASA leader.

For the next officer positions, the Committee recommends Dave Ewert of the Iowa Supreme Court as the Chair Elect. Dave is currently serving as the Executive Board secretary and as editor of CQ. He has been active in the past in several CASA Committees. For the officer position of CASA Secretary, the Committee recommends Naomi Godfrey of the United States Court of Appeals for the 11th Circuit. Naomi has been very active in CASA for several years. Naomi has agreed to accept the position as editor of CQ along with her role as Executive Board secretary.

Two members at large have served one full year term on the Board and under our tradition are eligible for an extra year. Gail Feingold Giesen, the Senior Staff Attorney for the Connecticut Appellate Courts, and Renee Simien, the Central Staff Director for the Louisiana Court of Appeal, Third Circuit, have asked to stay on one more year. The Committee strongly recommends these two members. Gail has accepted an invitation from Lee Ramsey to serve as Education Chair and Renee will continue to serve as the Chair of the Membership Committee.

Two other members of the current Executive Board must leave the Board: myself and Bill Lowe from the Louisiana Court of Appeal, Second Circuit. Two other members of the current Board, Elena Ris from the United States Court of Appeals for the Eleventh Circuit and Tim Schroeder from the United States Court of Appeals for the Sixth Circuit, have decided not to pursue a second year with the Executive Board. Thus, there are three members at large spots available on the Board (besides Gail and Renee). The Committee recommends the following individuals: Leslie Davis of the North Carolina Court of Appeals, Kevin Smith of the Indiana Supreme Court, and Susan Dautel of the New York Court of Appeals. Leslie and Susan have been active with CASA in the past and Kevin learned about CASA through Judge Frank Sullivan and attended his first seminar last year in Dallas.

Although the previously named individuals are the Nominating Committee's choices for the 2007-2008 Executive Board, the Committee emphasizes that CASA members may make additional nominations from the floor at the annual CASA business meeting.

See you in D.C.

Please let me know if you have any questions or problems with this proposed list.

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## **CASA – Beyond 2007**

by Lee Ramsey, *Chair-Elect*

In the Winter 2007 edition of *CQ*, I reported on the Long Range Planning Committee's email "meetings" in January. In short, the LRP Committee discussed the pros and cons of returning in 2008 to CASA's traditional, independent-conference format versus continuing with the joint conference format (the "Summit" for appellate judges, appellate staff attorneys, and appellate lawyers). The Committee ultimately recommended to CASA's Executive Board that we continue with the Summit format in 2008. The LRP Committee, however, also recommended to the Executive Board that we leave open the format question for the 2009 seminar and beyond. The Executive Board approved the

Committee's recommendation during its meeting in Miami in early February. As a result, planning already is underway for another Summit conference in 2008. (The location of the 2008 Summit will be announced at the Appellate Judges Education Institute's 2007 Summit in Washington, D.C.)

In the spring and early summer, CASA Chair Kembra Smith and I participated in the conference-call meetings of the Appellate Judges Conference's Long Range Planning Committee, chaired by Judge Ron Gilman. The AJC's Committee discussed at length a number of topics concerning the AJC's future programs, including the formats of conferences *after* 2008. One of several options considered by the AJC Committee is for CASA to return to an independent seminar in 2009. In addition to discussing future seminars, the AJC's Committee also discussed other types of programs that the appellate judges, CASA, and the Council of Appellate Lawyers (CAL) could conduct to benefit the SMU Dedman School of Law, the host law school of the Appellate Judges Education Institute (the AJC's CLE "arm").

Judge Gilman will be submitting his Committee's report to the AJC's Executive Committee in August, at the ABA's Annual Meeting in San Francisco. At this point, we don't know whether the AJC's Executive Committee will make a decision in August about the format of future seminars, but Kembra will be representing CASA at the Executive Committee's meeting. She and I will report on the AJC Executive Committee's discussion and decision, if any, in an upcoming edition of *CQ*.

Before I sign off, I'd like to thank the members of CASA's 2007 Long Range Planning Committee – Bill Lowe, Bill Thompson, Marcia McCormack, Renee Simien, and Kevin Smith – for their service. On behalf of all of CASA's members, thanks for your important contributions to the planning for CASA's future – job well done.

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### **Publication of CASA Survey Results**

by Joseph C. Merling, *Past Chair*

The Journal of Appellate Practice and Procedure has published the results of a CASA survey conducted at the Charleston, South Carolina, seminar in 2003. *Advocacy at its Best: The Views of Appellate Staff Attorneys*, 8 J. App. Prac. & Process 301 (2007). Past Chair Buzz Kinnaird and a colleague initially surveyed a California state court, both staff and judges, and published the results in Charles A. Bird & Webster Burke Kinnaird, *Objective Analysis of Advocacy Preference and Prevalent Mythology in One California Appellate Court*, 4 J. App. Prac. & Process 141 (2002). The CASA survey utilized the questions from Buzz's survey and obtained responses from the attendees at the Charleston seminar. If you have an interest in best appellate practices, please look for both articles at your local law library.

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### **CASA Executive Board Mintues**

Tuesday, June 12, 2007

Chair Kembra Smith called the telephone conference meeting of the CASA Executive Board to order at 10:00 a.m. on Tuesday, June 12, 2007.

Board members Elena Ris, Lee Ramsey, Gail Giesen, Paul McGrath, Bill Lowe, Tim Schroeder, Renee Simien, and Secretary Dave Ewert took part in the conference call, along with Amanda Raible of the ABA. The call covered the following topics.

#### **Education (The Seminar and Related Topics):**

*Seminar.* Elena indicated the lineup in the brochure was set and no additional comments on the education portion of the seminar would be necessary.

*Supreme Court Tour.* The board then discussed the tour of the United States Supreme Court building. Because the tour will be limited to 50 people, the board decided it should be considered a CASA member only event, with any leftover spots to go to guests of CASA members. The board discussed limiting the tour to adults only. The board decided that would be done on an informal basis and that any notice would not directly address child participation. Kembra said a notice will be sent out to group.

*Annual Dinner.* Kembra then discussed the CASA Annual dinner. She said they had tentatively scheduled the event for Thunder Grill in Union Station; however, the restaurant indicated there was a problem because SMU had not yet approved the contract.

*Business Lunch.* Amanda Raible then addressed the CASA business luncheon, to be held on Saturday at noon. She explained there was a Thai restaurant called Jandara one block away, that would charge approximately \$12 plus tax and gratuity (\$16 total), or a tonier joint known as Café Paradiso, which would be over \$40 per person. Absent those options, she could look into arrangements with the hotel. The group unanimously indicated they wanted to get out of the hotel for lunch, and chose the Thai venue.

*Hotel registration.* Kembra initiated the discussion of problems getting the hotel to honor the rate published in the brochure of \$195 (50 rooms). She indicated this had been raised with SMU, seemingly without results. Dave Ewert said he had been given a rate of \$205 and the reservation agent refused to go lower. Lee suggested in order to get the right rate, members should specifically mention the special block of CASA rooms. Dave suggested it still was troubling to have the advertised rate not being honored. Kembra suggested further contact with Rebecca Greenan on this matter.

### **Membership:**

Renee Simien reported she is still waiting on a list from Rebecca Greenan of contact people at various courts so she can assign others to make contacts. Kembra indicated that list is the AJEI mailing list. Renee said she at one point had added to the list, but a subsequent version did not include the updates she had already made. Kembra said to request the list for sometime in the next month, and Renee will assign contact tasks.

The board next discussed updating the CASA Directory. Amanda pointed out that would be done through membership in ABA. Renee and Amanda will work on this matter. Lee suggested they should be careful not to dump seminar attendees from the mailing lists. The group asked whether the updates should be done simultaneously. Amanda said that given the AJEI delays, the CASA Directory update should be done without waiting on the AJEI list.

Amanda then discussed the elusive ABA dues waiver, which the board believes is critical to increased membership. Amanda indicated that the dues waivers are annual. Amanda noted the AJC base fee has risen to \$60. Kembra can send the dues waiver form out for the listserv, and it can be included in CQ. The board noted the dues waiver was not on the website. Kembra will update the CASA application and dues waiver form and have Amanda put them on the website. Lee noted the overall CASA website needs to be updated, and he volunteered to help Amanda with that project.

### **CQ:**

Dave Ewert announced the first web-based version of CQ had just been posted that morning. He noted ABA administrator Sheena Johnson's fine work in making it possible, and thanked the board members who had contributed articles. The board decided the next issue should be posted in late July, and Dave suggested a cutoff for articles of July 13th. The board discussed possible articles, including a nominations article by Paul and an article on CASA membership and dues waiver by Renee. In addition, there should be the minutes from the board meeting, and articles on the seminar and more D.C. attractions.

### **Nominations:**

Paul McGrath reported that it looks like a tentative slate of candidates is pretty much lined up, subject to new

nominations from CASA members. He indicated Naomi Godfrey has been informed of need to act as editor of CQ as part of her CASA Secretary duties.

### **Long Range Planning:**

Lee Ramsey attended a spring planning meeting in Charlotte with Judge Ron Gilman (chair-elect of AJC) and others. Lee said the Charlotte group discussed the status of the AJC/AJEI/SMU arrangement, and also discussed the problems associated with holding conferences in Dallas every two or three years. He said the ABA Midyear meeting would be February 8-11, 2008, in Los Angeles, and the CASA Executive Board meeting would again be held during that period. He stated the ABA annual meeting in 2008 will be from August 7-10 in New York City. The 2008 CASA seminar will be part of the joint AJEI seminar in Phoenix from November 13-15. SMU agreed to staff the Phoenix conference.

Lee said that Gail Giesen will chair the 2008 CASA education committee. Lee, Dave, Patience Huntwork, and Kevin Smith will serve as members of that committee (with perhaps one additional player to be named later). Lee, Gail, Dave, and Patience will also be on the AJEI education committee, and they may be part of an October meeting in Dallas.

Lee reported on the most recent conference call of the AJC's LRP committee. He indicated he explained CASA's position on the 2009 seminar. That position is that CASA should not return to the Omni Las Colinas. If a seminar must be held in Dallas, it should be in Fort Worth or downtown Dallas. CAL also indicated it would be problematic going back to Dallas. Judge Sullivan suggested that maybe '09 is time for a break from joint seminars and a return to independent seminars. The SMU Dean expressed concerns about SMU staffing three independent seminars. Lee said that one option is that the ABA would staff a CASA independent seminar. CAL is not interested in an independent seminar because it has always had its conferences with the appellate judges. Lee reported that he informed the AJC committee that CASA is willing to conduct another "lunch and learn" session for SMU law students, assuming travel expenses are paid for the CASA representatives to attend.

### **Scholarships:**

Amanda indicated there is \$3500 available for CASA scholarships for the D.C. Seminar, and the scholarship committee decides how to spend the money. The board discussed the need to publicize the availability of the scholarship funds as soon as possible.

### **ABA Budget:**

Amanda indicated if money is not spent by September 1 it gets reduced to 50%. She said there was \$66 left over from last year's scholarships and \$1435 left over from February's board meeting reimbursements. That leaves about \$1500 to spend before September 1, subject to Bill Lowe submitting a reimbursement request for the board meeting of up to \$710. If he does so, it leaves approximately \$800. The board decided the money would be forwarded to AJEI to be used towards the CASA annual dinner.

Kembra adjourned the meeting at about 10:57 a.m.

Minutes prepared by Dave Ewert.

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### **Photo Corner**

Bill Lowe Digging an Executive Board Meeting



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CASA Official Publication

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### **The Summit - It's Shaping Up and Looking Good!**

by Gail F. Giesen

*Connecticut Supreme Court and Court of Appeals*

I am writing to let all know that the plans for the 2008 conference are moving forward very nicely! It will be another "AJEI (Appellate Judges Education Institute) Summit," which means that it will be a joint conference for appellate staff attorneys, practitioners and judges. It will be take place in sunny Phoenix, Arizona, from Thursday, November 13, 2008, through Sunday, November 16, 2008.

During the course of the summit, the three groups will join together for a number of programs, but each group will have separate programming, as well. Although we're still in the early stages of planning, I thought I'd share with you a few of its features. We will, of course, have our "core" sessions with CASA super-stars: Erwin Chemerinsky and Susan Herman, who keep us current on developments in the United States Supreme Court, and Linda Elrod, whose expertise in the area of family law has made her a CASA "must-have." There will also be a great selection of sessions on substantive topics, as well as practical sessions to help us polish our skills. We will have our break-the-ice T-shirt exchange (hey, start looking for a good one!), our annual business lunch and a casual Southwestern-style CASA dinner.

The conference will be held at one of Arizona's beautiful resort hotels, the Doubletree Paradise Valley Resort/Scottsdale. It's a luxurious resort known for its Frank Lloyd Wright-inspired architecture, sparkling fountains and water features. It is located minutes from historic Old Town Scottsdale and offers stunning views of the Sonoran Desert. The resort has two large outdoor heated pools with whirlpools and a full health club. For anyone who plays golf, Scottsdale is a premier golfing destination, with almost 200 courses in the area. This is going to be a great summit, so mark the date on your calendars!

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## **Notes from the Chair**

by Lee Ramsey

*Supreme Court of Tennessee*

Before talking about where CASA is headed in 2007-2008, I'll first take a glance in the rearview mirror – the 2007 Summit for Appellate Judges, Lawyers and Staff Attorneys, held in Washington, D.C. at the end of September, was a grand success. More than a hundred staff attorneys attended the Summit, with the total attendance well over 300. Many of the program sessions received rave reviews. (Believe it or not, the session on statutory construction, which sometimes can be a snoozer of a topic, was one of the most highly rated sessions of the conference.) And the social events were unique to Washington: an enjoyable reception on Thursday evening at the United States Court of Appeals for the Armed Forces; a memorable reception on Friday evening at the Supreme Court of the United States, hosted by Justice Clarence Thomas; and CASA's annual T-shirt exchange and annual dinner, held at Union Station following the reception at the Supreme Court. A tip of the hat to Kembra Smith (Immediate Past Chair) and to the members of CASA's 2007 Education Committee, co-chaired by Elena Ris and Tim Schroeder, for all their work in making the Summit such a success.

CASA's annual business meeting was held during the Summit in Washington. The membership elected CASA's new officers and five at-large members of the executive board. The other officers for 2007-2008 are: Dave Ewert, Chair-Elect, from the Iowa Supreme Court; Kembra Smith, Immediate Past Chair, from the 11<sup>th</sup> Circuit; and Naomi Godfrey, Secretary, also from the 11<sup>th</sup> Circuit. Gail Giesen (Connecticut Supreme Court and Court of Appeals) and Renee Simien (Louisiana Court of Appeals, 3<sup>rd</sup> Cir.) were elected to second terms as at-large members of the board, and three new at-large members also were elected: Susan Dautel (New York Court of Appeals), Leslie Davis (N.C. Court of Appeals) and Kevin Smith (Indiana Supreme Court). The newly elected board held our first meeting in Washington to discuss our plans for the upcoming year. The board's next meeting will be held on Saturday, February 9, 2008, during the ABA's Midyear Meeting in Los Angeles. Current members of CASA may attend meetings of the executive board; for any member who is interested, note that there is no registration fee for attending the ABA's Midyear Meeting. (If you would like more information, please feel free to contact me at: [lee.ramsey@tscmail.state.tn.us](mailto:lee.ramsey@tscmail.state.tn.us).)

Looking ahead to next year's conference, the 2008 Summit will be held in Phoenix, and planning is already underway. Gail Giesen is the Chair of CASA's 2008 Education Committee, and she, Dave Ewert and I also are serving on the Appellate Judges Education Institute's programming committee, chaired by Justice Mark Martin (North Carolina Supreme Court). Both committees have already met, and they are in the process of developing a list of program topics, identifying potential speakers, and discussing possible social events while we're in Phoenix. Details will have to await future editions of CQ, but mark your calendars – the 2008 Summit will be held November 13-16 (Thursday - Sunday), 2008. Mid-November is an especially attractive time of year to visit Phoenix, especially for those of us who live in areas in which November weather can be gray and cold!

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## **Signing Off**

by Dave Ewert

*Iowa Supreme Court*

The King is dead. Long live the Queen. After three hectic issues of CQ, my reign as editor is officially kaput.

When I began working on my first CQ issue, the idea of actually getting an issue completed was inconceivable. I was clueless, and the achievements of my predecessor, Carol Couch, seemed beyond comprehension. I found that like most of my wayward contributors, I leaned towards procrastination. Not quite sanctionable, chronic procrastination, but the kind that says, "Never put off for tomorrow what you can do later on today." To put an island spin on it, my credo was "Not to worry mon, soon come."

It was always intriguing to see the articles as they arrived, usually accompanied by a sheepish apology for being a little late. Working with a lot of talented writers makes an editor's job pretty easy. I was especially floored by Renee Simien's article on the effects of Hurricane Rita on her court and staff. She nailed it. Des Moines had massive flooding in 1993, resulting in the city losing its water supply for quite awhile. I remember having to bolt for home during a conference call based on a (false) rumor that the last open bridge between the Capitol building and our home was on the verge of flooding. I understood that painful tug between the duty to your family and the duty to your job and the people you serve.

Just because the writers were talented, of course, did not mean I took a hands-off approach to their articles. My staff will tell you I'm a hopeless tinkerer. I relish the small changes that make the voice a little more active, the meaning a little clearer, and the form more consistent. The toughest part for me proved to be that tedious task of simply converting headers and text to a somewhat consistent format.

The actual publication was a breeze. Sheena Wade of the ABA did all the heavy lifting, and changed CQ to a web-based format. I would do some last-minute tweaks, but she did all the layout and links, and exercised all the patience. I took all the credit.

Whenever I needed help, I always had somewhere to turn. For help in figuring out all the many acronyms surrounding CASA (AJC, AJEI, etc.), I turned to then- CASA Chair Kembra Smith and current Chair Lee Ramsey, who Bill Lowe will sometime feature in a separated-from-Chevy Chase-at-birth photo array. When I needed sanity, I turned to Bill for his keen observations, hilarious Louisiana stories, and occasional unsettling tales of skinning beavers and the like. When I just needed abuse, Elena Ris was at her post, which is technically based in Atlanta. However, any time I talked to her, she usually had just returned from China or Kuala Lumpur or some other far-flung place, leading to the speculation that she actually worked for an acronym of a different sort (CIA?).

All in all, I loved editing CQ. It was a relief to do some creative work outside the strictures of legal writing. I also had a free reign, not that I was exactly daring in any particular topic. After an exchange of emails, Elena once suggested I write an article about a recent bar admissions seminar I attended in San Diego while I was relegated to crutches. I of course blew her off, then ended up doing exactly that. The fact it had nothing to do with being a staff attorney per se was irrelevant. CASA is a people group, and this was a people article. Besides we were an article short. It was fun to write about music, and to have Paul McGrath chip in with a follow-up article. Thank you to anyone who submitted an article during my term.

The future of CQ is in great hands with Naomi Godfrey. I hope she does exactly what she wants, because I think that makes CQ a better read. My only regret is that the concept of having a mailbag from the various jurisdictions didn't catch on. I still think short descriptions of important events in the appellate courts could be useful. If I were to write a section on recent events in Iowa, for example, it would go something like this:

The Iowa Supreme Court recently decided to reorganize its central research staff. Most staff attorneys will be integrated into the clerk's office. The clerk's office eventually will stop handling the bar examination, and it will focus on helping the court in its adjudicative functions. Once the current clerk resigns in February 2009, staff director Dave Ewert will take over bar admissions as a member of the new Office of Professional Regulation. Dave will begin working in the new position in approximately April 2008, and will continue briefing the court on matters involving bar admissions and discipline. The court intends to have some of the existing staff work directly with them on rules and projects when funding becomes available.

So thanks for putting up with me, and please think about being the next person to take up the pen in a noble cause.

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**Signing On**

by Naomi Godfrey

*U. S. Court of Appeals, 11th Circuit*

I hope. I hope I can step into the enormous shoes of the brilliant and articulate Dave Ewert as editor of this the CASA Quarterly. My first order of business was to gather articles. Not knowing what to do, of course, nothing happened. Then it occurred to me to solicit articles and they came rolling in. Meanwhile, according to instructions from Dave, I was to decide on a font. That was like deciding on what car I wanted to buy. First, I had to look at every newspaper I could come across. Afterwards, there was an examination of each and every font on my computer. Finally, the articles came in and all were changed to the selected font. Unfortunately, the word civil came out as "dvil." So back I went to choosing a font. Once a second font was chosen, all articles were converted to the new font and proofread. Next came formatting. Then came drafting a table of contents and on to this article which is supposed to summarize what's in the newsletter. So, here goes.

Of course, of special note is the fact already alluded to and that is that the King (Dave Ewert) has passed the torch (a blazing fire no less) to me. He does so with his usual aplomb. Our new chair, who is equally as sharp as Dave, gives us a look back and a look forward with a review of the 2007 Summit in Washington, DC, as well as a look ahead to the 2008 Summit in Phoenix. Dave then comes right back at us with an excellent and very informative summary of the U. S. Supreme Court session held at the 2007 Summit. Riley Fenner, now a 4th Circuit staff attorney (formerly an 11th Circuit staff attorney) gives his view of the summit from the eyes of a first time attendee.

Our lead off article gives us a preview of what to expect at the 2008 Summit in Phoenix. Gail Giesen, our Education Chair, is hard at work with members of the Appellate Judges Education Institute. This will be a joint conference including the Appellate Judges Conference (AJC), the Council of Appellate Lawyers (CAL), and CASA. The Summit will be held at a spectacular resort with the Grand Canyon, the art-filled and beautiful town of Sedona, the Petrified Forest, the Painted desert, and the San Francisco Peaks not far away. Not to mention all of the fun to be had with judges, practicing appellate lawyers, and staff attorneys at the Summit.

Meanwhile, some of us are planning a winter trip to the American Bar Association's mid-year meeting in Los Angeles in February. Of special note is the Judicial Division's dinner cruise planned for the evening of Saturday, February 9.

Finally, included are lots of minutes of the various meetings that have taken place since our last issue. There are the minutes of the meetings of the AJC and the AJEI held in August and September. Also included, are the minutes of the September 28, 2007, CASA Executive Board Meeting. Among other things, these minutes include the ongoing discussions about where CASA will meet in future years and with whom.

### **CRANK UP THE VOLUME**

The CASA Quarterly is currently soliciting articles for future publications. Anyone interested in submitting articles may do so. We are especially interested in articles about the work and lives of state and federal staff attorneys but other articles may also be appropriate. Some suggested topics are: career v. term staff attorneys, pros and cons of staff attorneys teleworking, pros and cons of staff attorneys working flexible hours, are performance evaluations really necessary or are they morale busters, if you were king/queen and could designate any location for a CASA seminar, where would it be, what do you like best about being a staff attorney, and what do you like least about being a staff attorney. Other topics may include reminiscences about what you do in your spare time, a book review, or the results of your favorite research project.

Anyone interested in submitting an article or articles should contact Naomi Godfrey, Staff Attorneys' Office, United States Court of Appeals, 56 Forsyth Street, Atlanta, GA 30303, 404-335-6411, [naomi\\_godfrey@ca11.uscourts.gov](mailto:naomi_godfrey@ca11.uscourts.gov).

**Enjoy this volume and keep those articles coming!!!!**

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## **A Call for Volunteers**

by Lee Ramsey

*Chair*

Under our bylaws, CASA has five separate committees: the Nominating Committee, the Education Committee, the Membership Committee, the Publications Committee, and the Long Range Planning Committee. From personal experience – I got my "start" in CASA serving as a member of the long-range planning committee – I can tell you that serving on a committee not only allows you to contribute to our "bar association for appellate staff attorneys" but it also is a great way to make friends with staff-attorney colleagues from around the country. On behalf of the Executive Board, I invite you to serve on one (or more) of CASA's committees. Here is a brief description of each committee, along with the name of each committee's chair for 2007-2008:

1. Nominating Committee (Kembra Smith, Chair): responsible for nominating the slate of officers and at-large board members for the following year;
2. Education Committee (Gail Giesen, Chair): responsible for planning the annual educational seminar for CASA;
3. Membership Committee (Renee Simien, Chair): responsible for maintaining and increasing membership in CASA and, with the assistance of the ABA staff, maintaining a current roster of CASA members;
4. Publications Committee (Naomi Godfrey, Chair): responsible for the publication of CASA's quarterly newsletter, CQ;
5. Long Range Planning Committee (Dave Ewert, Chair): responsible for planning for CASA's future and for undertaking projects at the direction of the Chair and the Executive Board.

You can make an important contribution to CASA by serving as a committee member. Plus, service on a committee is easy – "meetings" are conducted via email and telephone conference call. If you would like to volunteer or if you have any questions, please send me an email at [lee.ramsey@tscmail.state.tn.us](mailto:lee.ramsey@tscmail.state.tn.us).

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## **Practice Before the Supreme Court**

A Session Review by Dave Ewert

*Iowa Supreme Court*

The lead-off session for the 2007 Summit for Appellate Judges, Lawyers, and Staff Attorneys featured excellent presentations by General William K. Suter, the Supreme Court Clerk, and Scott Harris, Counsel to the Supreme Court.

### General William K. Suter

General Suter first addressed the United States Supreme Court's workload. The Court processes about 25 appeals per year, and it must act on census and voting rights appeals.

The Court gets about 9000 certiorari petitions per year. About 2000 of those are paid cases, a number that has been virtually steady since 1970. The General estimates it costs about \$25,000 to prepare and file the petition, but he notes that many attorneys take cases for free.

In contrast, in forma pauperis petitions are up fifty percent in the last 10 years. The General maintains each petition is treated fairly and gets a careful review. He estimates the Solicitor General waives its brief in about 90% of the cases.

Each Justice has four clerks. A clerk has one week to prepare a memo on a petition. Justice Stevens reviews all petitions and asks for memos on certain cases. The Justices have one week to read the memos and briefs. The Court discusses about 5% of the cases, and it takes one Justice to request discussion. General Suter noted the Court will usually grant a petition if it presents a substantial federal question of first impression or if there is a split among the circuits or between state and federal courts on a federal question. He joked that the Court does not normally sit to merely correct errors, but sometimes the Ninth Circuit tempts them too much.

General Suter stated that the Court delegates many ministerial functions to the clerk. He addresses briefing issues like extensions of time and sets the court's argument calendar. He also informs the attorneys of the expected dress for arguments before the courts. He noted the process thrives on discipline and briefs are expected to be filed on time.

General Suter next addressed the Court's role in the death penalty process. He notes it takes four Justices to grant a petition for writ of habeas corpus, but it requires five Justices to stay an execution. He described this as the good news/bad news scenario. One attorney keeps track of all the scheduled executions. Each chamber gets the petition and the Circuit Justice takes the lead and does a memo. The Justices then vote and the matter is resolved quickly.

As far as the Court's philosophical make-up, General Suter notes only two Justices have been appointed by Democrats in the last 40 years. He describes the current court as bright, hard-working, and friendly. He points out the Justices always shake hands before hitting the bench for arguments. He also expressed tremendous admiration for the work ethic of former Justice Sandra Day O'Connor.

General Suter addressed the key role now played by Justice Anthony Kennedy on the Court. Out of 24 5-to-4 decisions last term, Justice Kennedy was on the majority in every one of them. He believes the current Court members have demonstrated they are very protective of free speech and academic rights.

He finally emphasized the three keys for presenting a successful Supreme Court argument: "preparation, preparation and preparation."

#### Scott Harris:

As Counsel to the Supreme Court, Scott Harris advises the Court and gives counsel regarding the Court as an Institution. He does not work on the certiorari petitions or opinions. He does work on cases in which one State sues another State, with cases involving boundary rights or interstate compacts more likely to be granted, and those in which there is another available forum less likely to be heard.

He also works on cases in which a party tries to invoke the Court's original, nonexclusive jurisdiction. In these cases, a special master is often appointed to review the matter. The Legal Office then writes memos on how these original cases should be resolved.

The Legal Office also works on original writs such as those for habeas or mandamus relief. To justify the granting of a writ of habeas corpus, the petitioner must show that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court. He notes these petitions are governed by the Court's rule 20.4 and are "rarely granted." In fact, the last grant was in 1925! The closest one he recalls occurred in 1999 when 3 Justices favored full briefing.

Mandamus petitions are also rarely granted. Under Rule 20.1 the moving party must show that the writ will be in aid of the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court. Mandamus relief could be sought to compel lower courts to comply with a Supreme Court ruling, to address the proper exercise of a lower court's jurisdiction, or to protect the Supreme Court's own jurisdiction.

Mr. Harris gives legal advice to the Court as an institution. He advises on ethics matters and handles the Court's litigation, which he describes as relatively "easy" given his litigation background. His litigation work includes some criminal litigation, personnel issues, authorizing police to carry weapons, and tort claims matters.

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**The Benefits of Attending the 2007 CASA Seminar**  
by Riley Fenner

*Staff Attorney, U.S. Court of Appeals, 4th Circuit*

I was fortunate to receive an ABA scholarship to attend the CASA seminar in Washington, DC, this past September. Because I had just begun my term at the 4th Circuit after finishing two years as a staff attorney at the 11th Circuit, and had paid all my own relocation expenses, I would not have been able to attend without financial assistance. The scholarship covered my tuition and transportation expenses, and would have covered my lodging expenses if I had been unable to stay with friends in the area. Furthermore, regarding a subject that is important to many staff attorneys, my seminar tuition included several free and tasty meals and even a couple of drinks at the evening receptions.

For the first time since I was admitted to the bar and began completing mandatory CLE hours, I was able to attend seminars that were directly relevant to the work that I do. The opportunities to meet other staff attorneys, who understood the basics of what my job entails without lengthy explanations, and to reconnect with some of my colleagues from the 11th Circuit, were also very enjoyable. As the only staff attorney from the 4th Circuit to attend the seminar, I was able to bring valuable sources of information back to my colleagues, many of whom were not previously aware that CASA existed.

Beyond these benefits, as a younger term staff attorney with a long career ahead of me to contemplate, I appreciated the chance to meet lawyers in appellate private practice and to attend some seminars that gave me insights into the issues they face. I also enjoyed the receptions that were held at the U.S. Court of Appeals for the Armed Forces and the U.S. Supreme Court, and I was honored to meet Justice Clarence Thomas. I encourage all staff attorneys, especially those who are just embarking on their careers, to attend CASA seminars in the future, and to apply for scholarship assistance if they need it.

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**Photo Gallery**

by Bill Lowe





**Report on the AJC and AJEI Meetings (August) on Sunday, August 12, 2007 in San Francisco, California**

Submitted by Kembra Smith

*CASA Immediate Past Chair*

*U.S. Court of Appeals, 11th Circuit*

**AJC Meeting**

The meeting was conducted by Appellate Judges Conference ("AJC") Chair Rosemary Sackett.

Following the reports by Judicial Division ("JD") Chair/AJC House of Delegates representative James Wynn, I provided a report on CASA's activities. James Layton, Chair of the Council of Appellate Lawyers ("CAL"), provided a report on CAL's activities.

ABA staff member Elizabeth Hurley presented the AJC budget. For 2007-08, the AJC governance budget anticipates

receiving \$25,000 from ABA general revenue, \$33,000 from 2007-08 dues, \$4,025 from 2005-06 dues rollover, and \$750 from 2006-07 dues rollover. CASA was provided \$3500 for scholarships for the 2007 Appellate Judges Education Institute ("AJEI") Summit. CASA was also provided monies for travel and expenses to attend CASA and AJEI meetings: \$7290 for CASA's Executive Committee's travel and expenses (for a maximum of \$760 per person) during the ABA Midyear meeting in February 2008 in Los Angeles; \$660, \$710, and \$200, respectively, for CASA's Chair or representative for travel and expenses to the AJC Executive Committee meetings in September in Washington, February in Los Angeles, and August in New York; and \$810 for CASA's Chair Elect's travel and expenses to the JD Spring Planning Meeting in May in New Orleans. Monies were earmarked for the Journal of Appellate Practice and the JD Record, and copies, telephones, and postage.

AJC Chair-Elect Ron Gilman presented the report of the Long Range Planning Committee. The committee met by conference call and discussed the annual summits, an annual roundtable on appellate justice, CASA program for law students ("lunch and learn"), an appellate practice institute, an LL.M. degree program, an appellate judge training institute, CLE programs at the ABA annual and midyear meetings, and membership development. Of specific interest to CASA, the committee considered Southern Methodist University's ("SMU") request that a summit be held in Dallas every third year, and the concerns expressed by the judges, CAL and CASA for more geographic variety to attract attendees. The committee proposed that, for 2009, multiple programs be held with at least one of the programs to be held in Dallas, and the others at outside-of-Dallas locations, including a separate seminar for Dallas.

The Nominating Committee report was accepted and approved. In accordance with the AJC By-Laws, U.S. Court of Appeals for the Sixth Circuit Judge Gilman became Chair and Indiana Supreme Court Justice Frank Sullivan became Chair-Elect. The new officers for 2007-08 are: Florida District Court of Appeals Judge Martha Warner as Vice-Chair; North Carolina Supreme Court Justice Patricia Timmons-Goodson as Secretary; California Court of Appeals Judge Thomas Hollenhorst, Louisiana Court of Appeals Judge Terri Love, Oregon Supreme Court Justice Virginia Linder, and Missouri Supreme Court Justice Richard Teitelman as Executive Committee members.

The JD Record production schedule was provided and we, as CASA members, were encouraged to submit articles for publication. Articles for the Winter 2008 issue are due on November 4, articles for the Spring 2008 issue are due on February 13, and articles for the Summer 2008 issue are due on May 7.

Judge Gilman also provided a new welcome package that he plans to provide all new executive committee members (and which would prove helpful to anyone coming into a leadership position with CASA). It includes information regarding the ABA annual meetings, midyear meetings, the AJEI Summits, and includes attachments of the AJC roster, Bylaws, sources of funding, the ABA/AJEI agreement, and histories of the Spencer Grimes lecture series (for judges only) and the AJEI. This packet is available through Amanda Raible.

#### AJEI meeting

Following the adjournment of the AJC meeting, the AJEI meeting commenced. It was chaired by AJEI Chair Craig Enoch.

Justice Sullivan reported that, based on his financial work-ups, it is clear that the annual summits are financially sustainable. He proposes that, during 2009, four separate seminars be conducted: (1) a joint seminar for the judges & CAL, staffed by the AJEI; (2) a separate CASA seminar, staffed by the ABA; (3) a judges-only seminar, staffed by the AJEI; (4) a CAL Appellate Practice Institute, staffed by the ABA. There was some discussion about allowing a "per day registration fee" for 2008, to permit attendees for only one or two days of the seminar. Dean John Attanasio explained that one of the assumptions for the AJEI initial proposal was that summits would show attendance of 2 lawyers for every 1 judge, and admitted that this assumption was wrong.

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**Report on the AJC & AJEI Meetings (September)** on Saturday, September 29, 2007 in Washington, D.C.  
Submitted by Kembra L. Smith

*CASA Immediate Past Chair  
U.S. Court of Appeals, 11th Circuit*

### AJC Meeting

The meeting was called to order and conducted by Appellate Judges Conference ("AJC") Chair U.S. Circuit Judge Ronald Gilman.

Following the adoption of the minutes from the Annual Meeting in San Francisco, Indiana Supreme Court Justice Frank Sullivan reviewed the AJC's 2007-08 proposed governance budget. Within it, the Council of Appellate Staff Attorneys ("CASA") was provided \$7290 (or a maximum reimbursement of \$760 each for nine attendees) for the CASA's Executive Committee meeting, \$810 for the Chair-Elect to attend the Judicial Division ("JD") Spring Planning Meeting, \$200 for the Chair to attend the American Bar Association's ("ABA") Annual Meeting in New York, and \$3500 for seminar scholarships. [Because the scholarship money is contained within the 2007-08 budget, this money should be awarded during the 2007-08 year, or before August 31, 2008 to attend the November 2008 seminar].

The Programs Committee reported that, due to the number of other sessions being offered during the 2008 ABA Midyear meeting, the originally scheduled program may change or be abandoned. A judicial dinner is planned, and may be subsidized. During the 2008 ABA annual meeting, the AJC will be sponsoring a program on "what the presidential candidates have to say about judicial candidates." Because it will occur during a national presidential election year, interest is expected to be high. The 2008 AJC Summit is planned for November 13-16 in Phoenix, Arizona. The 2008 Summit program committee will meet in Dallas from October 22-23, 2007, and present a roundtable discussion at the Dedman School of Law at Southern Methodist University ("SMU"). CASA will have three members participating, Chair Lee Ramsey, Education Chair Gail Giesen, and Elena Ris. These members they will also present a Lunch & Learn session at SMU regarding careers available within the courts.

On behalf of CASA, I presented an oral report. I explained that CASA Chair-Elect Lee Ramsey, CASA webmaster Bill Lowe, and I had presented a Lunch & Learn session at American University on Thursday, September 29. I also reported on our attendance at the Summit, and was congratulated on the large number of attendees by the AJC leadership. I thanked the AJC for the scholarship money it provided, which allowed us to award two scholarships.

The new Long Range Planning Committee, chaired by Florida Court of Appeals Circuit Judge Martha Warner, reported that they would begin meeting with their new committee soon. Judge Warner distributed copies of surveys which she hopes to have available for each of the AJC entities, the judges, the Council of Appellate Lawyers ("CAL"), and CASA, within the next few months. CASA Chair-Elect Dave Ewert will be our representative on this committee, and a copy of the proposed CASA survey was provided to Lee Ramsey and Dave.

Oklahoma Court of Appeals Judge Charles Johnson reported on membership. According to the August 2007 reports that he provided, the AJC had 1056 members, including 403 in CAL and 83 in CASA. He emphasized that personal contact was essential in recruiting new members.

Judge Gilman and Justice Sullivan are working on a revision of the AJC Bylaws, and requested that all members of the AJC submit any revisions to them.

### AJEI Meeting

Following the adjournment of the AJC meeting, the Appellate Judges Education Institute meeting commenced chaired by AJEI Chair Craig Enoch.

A discussion ensued regarding whether or not we should be planning four separate seminars during 2009, as was proposed during the August 2007 AJEI meeting in San Francisco. Following a vote, the AJEI executive committee decided that we should continue with the Summit model through at least 2009. I "lodged an objection" on behalf of CASA, explaining that, based on the August meeting, the CASA Executive Committee had, on Friday, September 28,

endorsed the idea of a separate seminar in 2009. I explained, however, that CASA would not force the issue to the extent of pulling out, but that we hoped that a separate seminar would be considered.

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### **CASA Executive Board Minutes**

Submitted by Dave Ewert

*Iowa Supreme Court*

CASA Chair Kembra Smith called the CASA Executive Board Meeting to order at 7:45 a.m. on Friday, September 28, 2007, in Washington, D.C. There was no change to the minutes from the February executive board meeting in Miami and the June executive board telephone conference; the minutes were adopted as previously submitted.

Dave Ewert reported on CQ and discussed the transition to Naomi Godfrey as editor. The board decided submissions to the next issue will be due on November 1st and should be submitted to Naomi. Naomi's first issue would be published in mid-November.

Elena had no comment on the 2007 AJEI summit. Kembra provided everyone with copies of her report on the ABA annual meeting in August, and Lee explained that the AJC and AJEI boards discussed CASA holding a separate seminar in 2009. Kembra asked for a vote on whether the CASA executive board supported such an option, and the board unanimously supported the proposition. Lee reported that the AJC had planned programming for the ABA midyear meeting in Los Angeles, but ABA staffer Elizabeth Hurley announced the AJC session had been withdrawn by the judges due to concerns over competing programming. Lee stated the 2007-08 executive board meeting would be held during the ABA midyear meeting on February 9, 2008. Lee also explained that Gail Giesen would serve as CASA education chair for the 2008 AJEI summit, and would represent CASA on the 2008 AJEI program committee.

Bill had no comment on the listserv except to remind everyone that they needed to be looking for his future replacement. Kembra raised the issue as to whether we wanted to continue to allow nonmember former CASA chairs to remain on the list. As there was some discussion but no resolution, there would be no change in the policy.

Lee reported on the Long-Range Planning Committee and indicated that a separate seminar seemed to be of great interest, and that no one wanted to return to Dallas. Renee provided a written report for the membership committee activities, and Kembra reminded everyone that, because all CASA registrants had been allowed to register for the CASA business lunch, we should encourage any attending nonmembers to join.

Paul provided an update on the nominations process, but there were no changes. Kembra advised that there were two scholarship recipients, Graham Bateman from the Louisiana Court of Appeal for the Third Circuit, and Riley Fenner from the U.S. Court of Appeals for the Fourth Circuit. Elizabeth Hurley provided an update on the CASA budget, and advised that scholarship money was budgeted for 2007-08. Kembra adjourned the meeting at 8:20 AM.

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