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Letter from the Editor

by Gail F. Giesen
CASA Secretary

This is my first edition of CASA Quarterly. I thank all of the contributors to this edition and encourage the submission of articles by any attorney who works (or has worked) for an appellate court. In addition, I would like to hear about what's new at your court or in your office -- this could involve new technology, case management techniques, procedural developments or even steps that are being taken to deal with the bad economy. We're all interested! I'll put them all together in a new column (probably with a really creative title like "News and Developments"). Please e-mail your news to me at GFGiesen@connapp.jud.ct.gov.

In this edition, Chair Bill Lowe has written a Chair's Message updating us on CASA news and emphasizing that one of our chief concerns right now is increasing our membership. His message is followed by the minutes of the CASA Executive Board meeting held in chilly Boston last month. Education Committee Chair Janice Irving shares with us her work on the upcoming Summit to be held in Orlando, Florida in November. Kembra Smith describes the popular sessions we have been holding at law schools around the country to inform students of the job opportunities offered by our offices. Her article also provides guidelines for the holding of future law school sessions. Elena Ris introduces a couple of new CASA members who attended the 2008 Summit in Phoenix. Bill Thompson has written an intriguing article on the down-side of electronic research. And, finally, I share with you my notes from a fascinating presentation on "implicit bias" at the ABA Mid-Year Meeting.

I hope you enjoy this issue!

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Chair's Message

by Bill Lowe
CASA Chair

After a too brief vacation stop in Washington, D.C., Kembra Smith and I (yes, we're engaged!) attended the ABA Mid-Year Meeting in Boston (February 12-15). We had both volunteered to judge the ABA's Negotiation Competition (sounds odd, but it was fun to watch and to judge) on February 13. We enjoyed it, and I commend it to your attention next year. If you think you'd be interested, contact Peggy Pissarreck with the ABA Law Student Division - 312.988.5621 - pissarm@staff.abanet.org.



Bill and Kembra at the Navaho Hut at the Desert Botanical Gardens in Phoenix, Arizona

On Saturday (Valentine's Day), the CASA Executive Board met. Susan Dautel was ill, and Janice Irving had a previous family obligation and did not attend, but both were missed. At the annual meeting in Phoenix, in November 2008, the Board had announced the possibility of having an independent CASA seminar in 2010. After a frank discussion by Lee Ramsey, Leslie Davis, Taye Sanford, Naomi Godfrey, Gail Giesen, Kevin Smith, myself, and aided by Kembra, a past chair, and Amanda Raible, our strong right arm from the ABA, we unanimously concluded that in these difficult economic times the proposal for an independent seminar was a sub-prime mortgage. A failure of either or both the CASA seminar or the AJEI Summit in 2010 would damage both organizations, and we were unwilling to take that risk.

We had a delicious dinner at Legal Sea Foods in the Prudential Center in Boston, which, after a big mix-up in the billing, was later completely comped by the Legal Sea Foods management, which was very gracious of them to do.

At the AJC/AJEI Executive Committee Meeting, I announced CASA's decision to abandon any plans for an independent seminar in 2010, which was well-received by the AJC leadership. It's clear to me now that the judges and the Council of Appellate Lawyers value our input on the Summit and enjoy our company as well. While I think they wanted to give us what we were asking (an independent seminar), they were relieved that we had decided to hang tough with them in these tough times (for everyone) and to try to make the 2010 Summit in Dallas (thankfully, not in Las Colinas) a rousing success. The judges and CAL promised to do everything they could to accommodate our needs (educational, professional and social) in the upcoming seminars.

The changes in CASA's by-laws, to clarify our membership base (any "appellate court attorney"), to make the by-laws

gender neutral, to provide for filling officer vacancies by the Executive Committee, and to allow "electronic" voting by the membership, were all ratified by the AJC Executive Board.

The next Summit will be in Orlando, Florida at the Regal Sun Resort, and will be in concert with the Florida judges. Hopefully, the 2010 Summit in Dallas will have a similar involvement with the Texas judiciary.

Increasing membership is our big mission right now, so go out and recruit for CASA. The ABA can't/won't tell you, but reduced membership costs in the ABA can be obtained by asking for them. The next mission for all of you reading this is . . . leadership. If I can do it, you can, too. This position has forced me out of my comfort zone, but I'm the better for it. Don't just think about volunteering for a committee, or a board or officer position. . . do it! CASA is helping you, and needs your help.

A special thanks to Taye Sanford, Rachel Eckery, Marcia McCormack, and Amanda Raible for their help in the 2010 independent seminar proposal. Even though one isn't yet planned, the idea is still alive, and will, at some point I hope, come to fruition.

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Minutes from Executive Board Meeting of February 14, 2009

Submitted by Gail F. Giesen

CASA Secretary

Bill Lowe, 2008-09 CASA chair, called the Executive Board meeting to order at 8:30 a.m. on Saturday, February 14, 2009, at the Sheraton Hotel in Boston, Massachusetts. In attendance were: Chair-Elect Naomi Godfrey; Immediate Past-Chair Lee Ramsey; Gail Giesen, Secretary; Members-at-Large Leslie H. Davis, Taye Sanford and Kevin Smith; CASA member and Past-Chair Kembra Smith; and ABA representative Amanda Raible.

After welcoming everyone, Bill asked for committee reports. Taye, the Chair of the Membership Committee, reported that she examined the roster of attendees at the CASA conference in November 2008 and ascertained that eighteen people came from federal courts, and fifty-three came from state courts. Bill noted that the AJEI mailing list needs to be updated at least every couple of years. Lee remarked that the AJEI mailing list is separate from the CASA Directory. The AJEI list is maintained by the staff at SMU and is used for the mailing of brochures. Because the list contained many names of nonlawyers and had dropped the names of permanent staff attorneys who had not attended recent conferences, Marcia McCormack and her work-group went through the entire list this past year and updated it. The list must be maintained on an ongoing basis, with CASA involvement.

Taye mentioned that she will get in touch with a Denver lawyer who has served on the membership committee of the ABA to talk about ideas for building our membership. She will be looking for CASA members to help her on her committee.

With regard to increasing attendance at conferences, as well as membership in CASA, the committee discussed the idea of asking a judge on the AJC to write a letter directly to chief judges of state courts and staff directors in the federal courts. Lee noted that Judge Rosemary Sackett did this a few years ago with moderate success. Kembra noted that CASA has, in the past, called or written to staff attorneys' offices to promote attendance.

At this point, Judge Barbara Lynn, the Chair of the Judicial Division, dropped by to introduce herself and express how much she appreciates CASA.

With regard to the CASA website, Lee reported that Amanda is working on it. There have been difficulties because the Judicial Division has lost its main technology person, but it has recently hired a new person. Lee will be working with that person to finalize changes to the website.

Kevin reported that he and Leslie have been working on a brochure about CASA, which he distributed to the board members in draft form. He explained that about 8 months ago, he and Justice Sullivan of the Indiana Supreme Court

considered how membership in both the AJC and CASA could be increased. They decided that one of the best ways to increase CASA membership was to convince the justices and judges that membership is a good thing and that it would be helpful if a brochure could be prepared for distribution to them at the conferences. This led to the preparation of the draft brochure. Kevin asked for the board's comments on the brochure. Bill suggested that the brochure should refer to "attorneys who work for appellate courts," as opposed to "staff attorneys." It was generally agreed that the brochure should not contain a CASA application, but instead should refer people to the CASA website, which would be current with respect to dues. It was also suggested that the brochure might be designed to be used as a mailing. Amanda pointed out that the word "Listserv" is copyrighted, so the brochure will have to be drafted so that this term is not used. Suggestions for text or graphics should be given to Kevin within thirty days. Amanda's office will handle publishing the brochure once it is in final form.

Kembra reported that she is serving on the Judicial Division's Diversity Initiative and has been asked to report back on what CASA is doing to increase the diversity of its membership. She noted that we have problems with diversity because there are few diverse members in our profession and few of them seek staff attorney positions. She feels, however, that the economic downturn may cause an increase in applications. She also reported that she would be attending the Spirit of Excellence Awards luncheon sponsored by the Commission on Racial and Ethnic Diversity in the Profession. She suggested that we mention in the CASA brochure that ABA membership offers many leadership opportunities to CASA members.

On the CASA Quarterly (CQ), Gail said that she has gathered a number of articles for the next edition, which will be released in March. She would like to add content to CQ that is of interest to all staff attorneys and mentioned, as an example, an article written by Taye last year about the caucus procedures in Colorado that created an ethical dilemma for staff attorneys. Lee mentioned that Amanda sent CQ last year to AJC Executive Committee members and that this is a way to raise our profile. Leslie suggested that CASA could report on innovative procedures that states adopt. Kevin suggested that a judge could write an article about why CASA membership is a good thing. It was also mentioned that articles could be written on the diversity initiative and on how to save money at the 2009 Summit in Orlando.

With regard to the 2009 Summit, Bill noted that the save-the-date brochure will be sent out in April and that the social sessions will be organized when the schedule is set. The idea of a Louisiana-style dinner was discussed. Bill then summarized a report by Janice Irving, Chair of the Education Committee, which she prepared after attending a planning meeting in Dallas with members of the AJEI programming committee. In her report, she wrote that the CASA education committee is composed of Cleo Rauchway, Elena Ris and Kevin Smith. If anyone else is interested in joining the committee, they should contact Janice. Leslie Davis pointed out that North Carolina requires at least three hours of continuing legal education on ethics and that this number of hours was not offered at the 2008 Summit. We discussed the possibility of having 3 hours of ethics education, possibly in two sessions, at the 2009 Summit.

Gail questioned the affordability of the summit in Orlando. Lee pointed out that we are getting an excellent room rate because the weekend of the Summit will be right before Thanksgiving. Kembra pointed out that a car is necessary in that area, if you want to get out of the Disney complex. Taye mentioned that someone in her office knows quite a bit about how to save money in Orlando. Taye will see if she would be willing to write a CQ article on this topic.

The next topic to be discussed was the 2010 seminar. Bill stated that the likelihood of putting on a successful independent seminar in Irvine, California in 2010 was slim because of the economy. He stated, however, that we should not take the notion of an independent seminar off the table. Lee suggested, and Bill agreed, that we should not advocate for an independent seminar in 2010 at the AJC Executive Board meeting on Sunday, February 15th. On the issue of whether we should have an independent summit at all, Naomi expressed her view that we benefit a great deal from a joint summit and that she is in favor of continuing joint summits. Kevin stated that it was his understanding that we would have independent seminars only every several years. Bill acknowledged that the membership of CASA is not of a single mind. Gail asked that the minutes reflect that the board is not unanimous on the issue of whether to hold an independent seminar at all and stated that she, like Naomi, sees many benefits in having joint summits. Lee noted that as the membership of the board changes, feelings about having an independent seminar may change. He added that the AJEI was not formed with the intent that joint seminars be held in perpetuity and that once the AJEI established itself financially, the three groups would have independent conferences.

Lee moved to eliminate the independent seminar option in 2010 because of the budget crisis, but to keep the notion of an independent seminar as a viable option for the future. Gail seconded the motion, and the motion was passed. In connection with holding a future independent conference, a discussion ensued about the best season for such a summit.

Lee reported that he has written an article for CQ calling for nominations for the board and noted that the nominating committee must be composed of nonboard members, who will be appointed by Bill, as chair. The nominating committee will come up with a slate of nominees that it will present to the board.

On scholarships, Amanda reported that \$1,750 was awarded, out of a total of \$3,000 in available funds. The difference of \$1,250 must be spent before August of 2009. In the past, she noted, the leftover money has gone to help fund the CASA business lunch at the annual seminar. She also observed that after reimbursements have been made to today's attendees at this meeting, there will be some money left over that must also be spent by August of 2009. She suggested that this money could be used for the brochure.

Amanda said that membership is a priority for the ABA in these tough economic times. While ABA membership is up 1.1% this year, Judicial Division membership is down 2%. There is currently a hiring freeze at the ABA, and the Judicial Division is down two staff members. She is, therefore, busier than ever.

On CASA members' activities in the ABA, Lee spoke about his involvement with the Judicial Division's Special Initiatives Committee, of which he is serving as the chairperson. He serves on a committee, chaired by Judge Lynn (JD Chair), that is planning a symposium in April at SMU that will be entitled "Justice for All." It will address the perception of bias in the judicial system and will deal, specifically, with judicial decision-making, court interpreter services and issues of prosecutorial discretion.

Bill noted that staff attorneys have made several presentations over the past few years to law students about staff attorney work as a career option. He noted that we need to come up with a new name for our law student sessions. Lee pointed out that we have videotaped one of these programs and that the tape can be viewed by any CASA member who wishes to set up one of these presentations.

Taye noted that her court routinely hosts oral argument sessions for the University of Colorado and Denver University's legal writing classes. These sessions present an opportunity to reach out to law students and educate them about the various court attorney positions. Kembra commented that this might be something for the 11th Circuit to consider because there are law schools in Atlanta that might be interested in doing the same thing. Bill mentioned that he and Kembra served as judges for a negotiation competition for law students that was held the previous day at the ABA Mid-Year Meeting. He and Kembra said that it was an interesting and satisfying experience.

Bill invited all of those present at the meeting to join him and Kembra for an informal (Dutch treat) dinner at Legal Sea Foods that evening.

The meeting was adjourned at approximately 11:30 a.m.

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Call for Nominations

by Lee Ramsey, Immediate Past Chair
Tennessee Supreme Court

Under CASA's bylaws, the Immediate Past Chair (that's me) is designated as the chair of the Nominating Committee. The bylaws also provide that the Chair-Elect (Naomi Godfrey, U.S. Court of Appeals, 11th Cir.) serves on the Committee, as well as three other members of CASA (three "players to be named later" by our Grand Potentate and Chair, Bill Lowe).

By virtue of the bylaws, Naomi, currently Chair-Elect, will automatically become Chair at CASA's annual business meeting at the 2009 Appellate Judges Education Institute's Summit in Orlando. Likewise, Bill, currently Chair, will

automatically become Immediate Past Chair. That leaves two officer positions to be filled by vote of the membership at the business meeting – Chair-elect and Secretary. The membership also will elect five members-at-large of the Executive Board.

While the bylaws provide that the term of members-at-large is one year, the Nominating Committee customarily renominates, for one additional term, members-at-large who are completing their first term on the Board. Taye Sanford (U.S. Court of Appeals, 10th Cir.) and Janice Irving (Louisiana Court of Appeal, 1st Cir.) are currently serving their first terms on the Board and therefore, under our custom, will be renominated for a second term. Susan Dautel (New York Court of Appeals), Leslie Davis (North Carolina Court of Appeals), and Kevin Smith (Indiana Supreme Court) are completing their second terms as members-at-large and therefore, by custom, would not be considered for renomination. The Nominating Committee therefore is seeking recommendations as to three new members-at-large of the Executive Board.

On behalf of the Nominating Committee, I am soliciting suggestions from CASA's members as to persons the Committee should consider to fill all of the open positions. If you would like to serve on the Board, either as an officer or as a member-at-large, or if you know of other members of CASA who would good candidates for consideration by the Committee, please submit your/their name(s) to me at lee.ramsey@tncourts.gov no later than June 1, 2009. Please keep in mind that we seek racial, ethnic, and gender diversity, as well as diversity in jurisdictions (state vs. federal courts, and intermediate appellate courts vs. courts of last resort) and in geographical regions. I will share all suggested names with the Nominating Committee, and the Committee will then formally nominate a slate of candidates for the membership's consideration.

The Nominating Committee's slate of candidates will be published in the summer edition of CQ and/or disseminated via CASA's email list. The slate nominated by the Committee will be presented for a vote of the membership at the 2009 business meeting in Orlando (in November). In addition to the slate nominated by the Committee, the bylaws provide that nominations may be made from the floor during the business meeting.

CASA, as our "appellate-court-attorney bar association," depends on the active involvement of its members. On a personal note, I first served on various CASA committees, later served as a member-at-large of the Board, and then served as an officer. I have enjoyed my involvement in CASA, and I encourage all of you to consider contributing your time and talents to the organization.

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Planning for Orlando: Education Committee Report

by Janice Irving

Louisiana Court of Appeal, 1st Circuit

It seems to me that every year by mid-spring CASA Quarterly announces that plans for the annual seminar are under way. Until this year I had no idea what that announcement really meant. As the 2009 CASA Education Committee Chair, I have to say that planning this seminar is an eye-opening experience. CASA 2009 is several months away - November 19 through 22 at the Regal Sun Resort in Orlando, Florida, a Disney World hotel. However, the planning really began during the Phoenix conference last November. The AJEI Education Committee is made up of about fifteen appellate judges, most of whom seem very experienced at this kind of thing, and a few assorted members from CAL (the Council of Appellate Lawyers), and CASA. The Chair this year is Justice Liz Lang Mier from Dallas.

After the first meeting in Phoenix, the committee started conference calls – three or four so far, each at least an hour and a half. Many of the program sessions are prompted by presentations that committee members saw somewhere else. I sit at my desk and Google folks as other committee members mention them, since - aside from CASA seminars - I don't see speakers with a national reputation and therefore most of the names are totally foreign to me. Somehow, the assignments get parceled out, and we've been contacting tentative speakers since around Thanksgiving. We met in person in Dallas the last week of January to start working on when each session should take place during the conference. January! My Christmas decorations were still waiting to go in the attic, and we're already finalizing a plan for November?

The conference this year faces a number of challenges, not the least of which are the financial problems that governmental and private sector employees alike are confronting. Some of the judges at the Dallas meeting spoke of the possible “decimation” of their budgets when the state legislatures begin meeting this spring. We know also that some states are already furloughing state employees, including court personnel. Judges spoke of the fear that many folks from the West Coast may not be able to attend. Law firms are cutting back, too. While the quality of the programming is always important, the committee felt it imperative to bring speakers to the conference that we hoped would draw folks there despite the fiscal constraints. It is still a work in progress, but shaping up nicely. Here’s hoping that all of the CASA “regulars” are able to attend and bring some newcomers to experience the programs and the people. Watch for the “save the date” cards, to be mailed out in April!

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CASA's Sessions for Law Students

by Kembra Smith

11th Circuit Court of Appeals

During the November CASA business meeting, guidelines were adopted for the presentation of a session for law students based on past sessions that CASA members have conducted for law students to introduce them to the work of staff attorneys. The sessions have served as both a career development opportunity for the students and as a recruiting tool for CASA. Please consider setting up such a session in your community! You can volunteer for other sessions by contacting CASA Chair Bill Lowe.

For the past few years, the law student programs have been scheduled in conjunction with the CASA seminar (during the AJEI’s Summit) and with other AJEI meetings. The programs have been held at law schools the day before the seminars began. In 2006, the program was held at Southern Methodist University Dedman School of Law (SMU). In 2007, programs were held at both Washington College of Law at American University and SMU. In 2008, the program was held at Sandra Day O'Connor College of Law at Arizona State University. Students from other nearby law schools may be invited to attend, as they were when the program was held in 2007 at Washington College of Law at American University.

The programs are initiated by a CASA member who contacts the law school’s career development director. The past three seminar-related programs have been held during the lunch hour and have allowed the students to eat a brown-bag lunch during the session. Three CASA members, representing the various courts served by our members, have composed the panel: one from a state intermediate court of appeals, one from a state supreme court, and one from a federal appellate court. The program has been informal, allowing for a casual discussion between the panelists and the students both during and after the panel discussion. The CASA participants have dressed as they would for work, whether that be in a suit or in jeans and a court t-shirt. The following agenda has been followed:

1. Introduction by each panelist (about 5 minutes each):

-- a description of the job that the attorney performs for his or her court and the qualifications for a staff attorney position with his or her court.

-- a description of the panelist’s professional background.

2. A discussion of “other” attorney positions available in the panelist’s court (about 5 minutes each). These positions include paid and unpaid summer internships for law students, fixed term and career clerkships, “pro se” (or other limited jurisdiction) clerkships and positions, fixed term and career staff attorney positions, and positions in the courts’ administrative and other legal offices. Other positions include jobs in the clerks’ offices (as an administrator or as an attorney), administrative officers (as circuit executive, chief legal officer, legislative counsel, attorney-discipline officer, bar admission director), or legal staff (such as mediators). Contact information for finding job vacancies has also been provided.

3. A discussion of the reasons to take a position with the courts (about 5 minutes each). Reasons that have been mentioned include salaries, insurance and other employer-provided benefits; life-style considerations, such as work hours; and the value of judicial branch experience in seeking other career opportunities. This discussion has also covered the limitations of such a position and the reasons to seek one position over another (such as a term position instead of a career position).
4. Question and answer (10 minutes).

The 2008 program was filmed and is available through Immediate Past Chair Lee Ramsey for use by CASA members in setting up local programs. The only qualification for the presenters should be experience and a familiarity with positions at their court. The programs will raise the CASA profile and provide students (and their career development directors) with the opportunity to consider jobs that they may not have heard about. The programs have been offered without charge to the law schools; the law schools have provided the CASA members with lunch in exchange for their time.

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Introducing Two New CASA Members...

by Elena Ris

U.S. Courts of Appeals, 11th Circuit

I attended the Appellate Judges Education Institute in Scottsdale, Arizona, and had the pleasure of speaking with two new CASA members -- Rachel Zahniser and Michael Roew. They were both gracious enough to allow me to interview them and feature them in this article about first-time attendees at the CASA conference.



Elena Interviewing Rachel

Rachel, who is originally from Campbellsville, Kentucky, now lives in Covington, Kentucky, which is located directly across the Ohio River from Cincinnati. Rachel has been a staff attorney at the Sixth Circuit Court of Appeals since August 2007. A graduate of the University of Kentucky, Rachel clerked for the Honorable Karl S. Forester of the Eastern District of Kentucky for two years and the Honorable Eugene E. Siler, Jr. of the Sixth Circuit for one year. Between her law clerkships and her current position as a staff attorney, Rachel worked for a law firm representing management clients in labor and employment cases. Since moving to Cincinnati six years ago, Rachel and her

husband have become loyal Cincinnati Reds fans and attend 20-25 games per year. It is not unusual for them to go “on the road” to see the Reds play. This year, they went to watch the Reds play the Yankees in the last season of the old Yankee Stadium. Rachel, who was one of three staff attorneys from the Sixth Circuit to attend the conference this year, found the "Appellate Decision Making and the Impact of Technology" session to be the most relevant to her job. Rachel was quite impressed with the speakers. In particular, Dean Chemerinsky, who (in his typical style) spoke without any notes and gave a lively review/preview of the Supreme Court civil cases; Professor Fears, who gave very “dramatic performances”; and Professor Marci Hamilton, who did not hesitate to express her opinion on controversial subjects. Although a CASA “newbie,” Rachel jumped right in and participated in the CASA social events including the T-shirt exchange, the annual dinner, and the reception at the Desert Botanical Garden. She hopes to be able to attend future CASA conferences.



Rachel Zahnizer

Michael Roew, whom I have had the pleasure of personally working with in the Staff Attorneys’ Office in Atlanta, is originally from Wichita, Kansas. He is a 2003 graduate of the University of Kansas. He worked for the State of Kansas Tenth Judicial District Court from 2003-2005. From 2005-2007, Michael was a staff attorney with the Eleventh Circuit Court of Appeals before moving on to his current position as a staff attorney at the Nevada Supreme Court, Criminal Division. Those of us who worked with Michael knew that he enjoyed cooking in his spare time. As a result of this “interview,” I have come to find out a little bit more about Michael than I formerly knew about him. Evidently, Michael was a bus driver during and briefly after law school. Clearly, this is a guy CASA needs – he cooks AND he drives buses! (Think of all the money we could save by putting him on the right CASA committees, i.e., transportation and/or receptions). Michael, along with six attorneys from the civil division of his office, attended the conference. Of the sessions that he attended, Michael found Professor Susan Herman’s "Supreme Court Update (Criminal)" most useful to the work he does, and he found the session on "Emerging Issues in Prisoner Litigation" a close second. With regard to the most “interesting” speaker, Michael found Professor Marci Hamilton, who spoke on “When Religious Practices Conflict With the Law,” to have demonstrated an impressive command of riveting material. Although Michael did not make it to any of CASA’s social activities, he informed me that he very much enjoyed the conference and looks forward to attending again as this was “a great way to knock out a lot of CLEs at one time.”



Michael Roew

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Have You Thought About the Price of Electronic Law?

by Bill L. Thompson

Supreme Court of Missouri

In the play *Inherit the Wind* (set in 1925), Henry Drummond reflects on the price of progress: Yes, you can have a telephone, but you give up privacy and the charm of distance; yes, a woman can gain the right to vote, but she can no longer hide behind her petticoat or powder-puff; and yes, you can fly in an airplane, but the birds will lose their wonder and the clouds will smell of gasoline. And so it is with the use of electronic research and records. It is fast, convenient, easily retrievable (most of the time), and relatively permanent. But what is the cost? Let's briefly examine at least the following: the loss of serendipity, context, shared knowledge, and privacy.

Electronic research is very good at finding exactly what you ask it to find. If you know the parties to a case, put them in a search and the case appears. Similarly, if you want a case involving a boat hitting a pier on a river, the search will return such a case for you. But what if you are not quite sure what you should look for? Perhaps the best case actually concerns a boat hitting a dock on a lake. Using a keynote or digest system may categorize both cases under the same topic. You looked for one, but found the other – serendipity.

Strictly relying on electronic keyword research also might lead to parallel development of the law. The plaintiff seeks to disqualify a juror for cause. The judge refuses. On appeal, the standard of review is abuse of discretion. In a later case, the standard of review is stated as abuse of discretion and a showing of prejudice. Now both standards exist independently, and a word search may reveal one but not the other. It may be over twenty years before the parallel development is discovered and the single standard reestablished. It is the very preciseness of electronic research that inhibits discovery of nuances and increased understanding of interrelated matters through serendipity.

Context sometimes also is lost. There may be a question as to services to be provided by a fire protection district and a city when the city annexes property within the district. Finding the statutes limited to that issue may fail to reveal that there is a specified resolution for one set of counties, but a different resolution for a different set of counties. The applicable statutes are in different chapters, but the statutes do not themselves set out the limitation as to the counties to which they apply. In the criminal area, there may be a statute requiring a mens rea for every crime and prescribing

a “knowingly” standard if the statute defining the crime fails to set out a mens rea. But there also may be exceptions to the rule set out in a different statute. It is only by looking at the statutes in context that the interrelatedness is apparent.

The lawyers’ ability to put the facts and law in the context of a particular case, when done well, is particularly useful to an appellate court. When not done well, using the Internet for independent research is a temptation. The use of case law and other legal authority not cited by the parties is an everyday occurrence. But the possibilities of Internet research expand the resources the court can use – and misuse. When research goes beyond legal authority, the lawyer can appropriately be concerned the court will decide the case without the lawyer being able to place the information in context and, more elementally, challenge the accuracy of the information or present contrasting information. The new model code of judicial conduct very clearly seeks to limit independent research by requiring notice of the intent to do such research and an opportunity for the lawyer to object. In a way, independent research involves abandoning the adversary system, which is thought to be the bedrock for correct decision-making. It is the loss of shared knowledge about the case that lawyers may fear - the court has a different basis for decision-making, different knowledge, from the lawyers.

Finally, Internet filing and posting of documents involves a greater loss of privacy. This creates responsibilities for the lawyers and the court to be sensitive to that loss. Facts on the Internet may last forever, so mistakes have a greater potential for harm. In a nasty divorce, how explicitly do the facts need to be stated in the opinion or in the brief if it will be accessible on the Internet? Should pseudonyms be used or initials? Should lawyers file redacted copies for inclusion on the Internet while filing unredacted copies with the court? Is the gratuitous insult to a person involved in the case necessary? Is civility to and among everyone in a case even more important in the Internet age?

As Henry Drummond noted, progress comes with costs. It is important to understand those costs, and use electronic law accordingly.

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Understanding Ourselves - And Our Biases!

by Gail Giesen

Connecticut Supreme and Appellate Courts

One of the benefits of belonging to the ABA is the opportunity to attend its national meetings, which offer speakers of the highest caliber. This year, I went to the ABA Mid-Year Meeting to attend CASA’s Executive Board meeting. I decided to do more than attend our board meeting, so I signed up for a session called “Mindbugs: The Psychology of Ordinary Prejudice” Little did I know what a fascinating session it would be.

Harvard University Professor Mahzarin R. Banaji discussed her research that proves that even though we may think we are not prejudiced, we almost certainly are! In a riveting, two hour talk, she presented what is usually a three hour symposium on “implicit bias.” For over twenty years, Professor Banaji, who is a social scientist, has studied our implicit attitudes and the social consequences that stem from them. Through the use of an “implicit association test,” she and the scientists she has collaborated with have discovered that even people who genuinely believe that they are unbiased harbor unconscious attitudes that impact their daily decision-making.

Her recent work has explored when race attitudes first form. In tests involving young children, she has found that Japanese and white New England children as young as six demonstrated both an open and an implicit preference for people like themselves. By the time the children reached the age of ten, however, her testing showed that their conscious and unconscious attitudes had begun to diverge. Thus, although they expressed egalitarian views, they revealed automatic implicit bias toward people of other races – those who were not like themselves.

Although recognizing that knowledge of such early developed prejudices can be discouraging, Professor Banaji is a firm believer in the effect of self-awareness and experience to counteract unconscious biases. She told us to think of the brain as we would a more ordinary muscle that, with proper exercise, can be strengthened and changed. She pointed out that not all biases are necessarily bad, noting that our natural bias toward our own children is a good one. Through knowledge and conscious effort, we can learn to distinguish between our good and bad biases, and viewing



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Letter from the Editor

by

Gail F. Giesen, CASA Secretary

The first part of the summer here in New England was cool and rainy -- great for plants and for saving money on air conditioning, but not so great for the beach and outdoor activities. It didn't make all that much difference to me, however, because in my office we start getting ready for the coming court year in June! Anyhow, preparing this edition of the CASA Quarterly has been fun, and I'm happy to share with you a collection of really good articles. We are gearing up for the AJEI Summit, of course, and Janice Irving, who is the head of the CASA Education Committee, has written a detailed update on the Summit. I hope you'll all be going! As funds are tight these days, I'm happy to say that CASA has some scholarship money to help one -- and maybe two -- people attend the Summit. The [scholarship application](#) must be filed by September 15, 2009. On the topic of the Summit, Dianne Kueck from the 11th Circuit has prepared a guide to Disney World that is full of practical details about how to get around, avoid lines and find good places to eat, etc. I recommend printing out her article and bringing it to Orlando. Also in this issue, Richard Schickele, a permanent law clerk at the 9th Circuit, shares with us his axioms for reducing stress on the job. Barbara Rodgers, the former head of my office, writes about life after being a staff attorney and about becoming a member of the Vermont bar. Last, but not least, Captain Stephanie R. Cooper has written a piece on what our lawyers do in Iraq. I met Stephanie at the reception at the Desert Botanical Garden at last year's AJEI Summit in Phoenix. While standing in the buffet line, I overheard someone say the word "deployment." As that is not a common word to hear (or overhear) at a reception of lawyers, I introduced myself and asked if she had been "deployed." She replied that she had recently returned from Iraq and, when I later contacted her about writing an article for the Quarterly, was kind enough to do so. I hope you enjoy this edition!

Update on the AJEI Summit in Orlando

by

Janice Irving

Louisiana Court of Appeal, 1st Circuit

The plans for the AJEI Summit in November are in the final stages, and the program should be posted on the ABA website by the time you read this article. Online registration is open at <http://www.law.smu.edu/AJEI> and the hotel (the Regal Sun Resort, a Disney World property) is taking reservations.

Those of you who have attended one of the AJEI Summits or CASA seminars in years gone by will feel at home, and we hope that those of you who have not attended one of the educational programs will give this summit a try. The AJEI Education Committee reviewed the feedback from the past several programs to try and identify the highs and lows, and as a result we have some new speakers with a smattering of familiar faces. We also took note of several specific comments, such as a request for more Ethics CLE for attorneys from the states that require more than one hour or specialized CLE in a particular field.

The Florida judges association will be meeting along with the AJEI Summit, and the Florida Appellate Practice Session will be sponsoring a very special welcome reception on the first day. The T-Shirt Exchange is back, and this year will be in conjunction with the annual dinner. Created (how many years ago?) by CASA's own Bill Lowe, the T-Shirt Exchange allows us to catch up with old friends and meet newcomers while enjoying an adult beverage or two. As a bonus, you don't have to pack a shirt to wear the last day unless you're afraid of having to sport a "Zwolle Tamale Festival" shirt on the plane.

Dean Erwin Chemerinsky will be returning with his United States Supreme Court civil law update, but this year – by acclamation – he also will be giving the criminal law update. At the request of several of the judges on the committee, Erwin will be addressing CASA, the judges and private attorneys in a plenary session. Another returning speaker is Professor Linda Elrod of the Washburn University School of Law. Linda is an expert in laws affecting children, and she has chosen to speak on a variety of settings where the rights of children may be overlooked.

Professor Michael Klarman from Harvard Law School spoke at the Summit in Washington, D.C., and he scored some of the highest evaluation marks possible with his address on the backlash of United States Supreme Court decisions. A historian at heart, he also is an expert in constitutional law and once again will discuss several cases and what happened, legally and socially, as the result of them.

An interactive program on "How Judges Think – The Rule of Law or the Rule of Man" will be a highlight of the first day. This session is a panel discussion on how cognitive errors can distort judicial decision making and what can be done to prevent it.

Writing programs are always popular at the Summit, and this year there are two - one program to focus on writing in plain English, and the other program addressing effective editing. We have sessions on national security law, interlocutory appeals, immigration law, and the financial crisis. Michael Cohen, the director of the Florida Lawyers Assistance Program, will speak on the role of judges and court attorneys in addressing impairment including substance abuse and depression. Not something I come into contact with, you say? Sadly, we of the Louisiana contingent could tell you differently.

There is much more of the program to discuss – I haven't even mentioned Rufus Fears – and there are lots of social and Mouse-related activities available. At this point, though, I am more than 100 words over limit and fearful of getting cut. Please take a look at the program on line, and we'd love to see you in Orlando. Remember to book your room early, since the hotel is expected to fill quickly!

**Nominating Committee Selects Slate of Nominees for
Next Year's Board**

by

Lee Ramsey, Immediate Past Chair
Tennessee Supreme Court

On behalf of the Nominating Committee, we are pleased to announce our slate of nominees for CASA's 2009-2010 officers and members-at-large of the Executive Board. The Committee's slate of nominees will be presented for a vote of the membership during CASA's business meeting at the 2009 AJEI Summit in Orlando. While the Committee commends our slate of nominees to the membership, members may make additional nominations from the floor at the time of the election.

Under CASA's bylaws, Naomi Godfrey (U.S. Court of Appeals, 11th Cir.), our current Chair-Elect, will automatically succeed to the office of Chair. Similarly, our current Chair, Bill Lowe (Louisiana Court of Appeal, 2nd Cir.), will automatically succeed to the office of Immediate Past Chair.

The Nominating Committee is very pleased to nominate Gail Giesen (Connecticut Supreme Court & Appellate Court) as CASA's new Chair-Elect. Gail is a long-time member of CASA and currently serves as both Secretary and editor of *CASA Quarterly*. Prior to becoming Secretary, Gail served as a member-at-large of the Board and also chaired CASA's 2008 Education Committee. With the depth of her experience on the Board, we are delighted that Gail has accepted the Committee's nomination for Chair-Elect.

For the office of Secretary, the Nominating Committee nominates Susan Dautel (N.Y. Court of Appeal). Susan currently is serving her second term as a member-at-large of the Executive Board, and the Committee appreciates her willingness to "step up to the plate" and now become an officer of CASA.

In addition to electing the new Chair-Elect and the new Secretary, the membership also will elect five members-at-large of the Board. While CASA's bylaws provide that the term of members-at-large is one year, the Nominating Committee customarily renominates, for one additional term, members-at-large who are completing their first term. Taye Sanford (U.S. Court of Appeals, 10th Cir.) and Janice Irving (Louisiana Court of Appeal, 1st Cir.) are currently serving their first terms on the Board; Taye is Chair of the Membership Committee, and Janice is Chair of CASA's 2009 Education Committee. The Committee is pleased to nominate both Taye and Janice for a second term. The Nominating Committee also is pleased to nominate the following three people as new members-at-large of the Executive Board: Rachel Ekery (Texas Supreme Court), Jarrett Perlow (U.S. Court of Appeals for the Armed Forces) and John Olivier (Louisiana Supreme Court); the Committee is confident that all three will be excellent additions to the Board.

I close with a tip of the hat to my fellow members of the Nominating Committee — Naomi Godfrey, Marcia McCormack, Elena Ris and Kembra Smith. Many thanks for serving on the Committee.

Hope to see everyone at the AJEI's 2009 Summit in Orlando!

So, You're Going to Disney World?

by

Dianne Kueck, Staff Attorney
Tenth Circuit Court of Appeals

With November's CASA conference being held at the Regal Sun Resort located within the Walt Disney World Resort® in Florida ("WDW"), it's likely that more than a few attendees plan to take advantage of the Disney parks and activities. Here are a few hints to help make your visit more enjoyable.

An important thing most first-time visitors don't realize is that WDW is *huge*. It encompasses four theme parks, two water parks, the Downtown Disney shopping, dining, and entertainment area, seventeen Disney resort hotels, the Wide World of Sports complex, five golf courses (four eighteen-hole courses and one nine-hole walking course), two miniature golf courses, and more. There's plenty to see and do – which makes pre-planning imperative!

Parks. WDW features four theme parks: Magic Kingdom, Epcot, Disney's Hollywood Studios, and Animal Kingdom. WDW's official website is the place to find maps, park hours, and a list of attractions that may be down for refurbishment. (For example, Space Mountain in the Magic Kingdom is scheduled to reopen on November 21, 2009, after a lengthy rehab.) Each of these parks can easily fill up one or more days of touring.

Fastpass. Once you're in the park, make the best use of your time. The "Fastpass" program, which is available on many of the most popular rides, essentially allows you to "reserve" a place in line. Fastpass is available to anyone who has a ticket to enter the park; you don't need to pay extra for it. Locate the Fastpass machines near the ride; insert your park ticket; and receive in return a "Fastpass" ticket – a slip of paper giving you an hour's window in which to return to the ride sometime later in the day. When you return, you'll enter the Fastpass line (separate, and usually much quicker than, the regular line). You'll bypass most of the queue and be riding in no time! Generally you can be holding only one Fastpass at a time; your Fastpass ticket will tell you when you'll be able to obtain another Fastpass ticket. Fastpass rides are marked on WDW maps.

Tip Boards. Also, central areas of each theme park feature "tip boards" that alert guests to wait times for attractions and the times for the day's shows. Checking the tip board can save you a long walk across a park, only to discover that the line is much longer than you care to wait.

Extra Magic Hours ("EMH"). The "Extra Magic Hours" program allows Disney resort guests to enter parks an hour early or stay three hours after closing. The EMH schedule specifying which parks are open early or late is also available on WDW's website. Unfortunately, Regal Sun is not a Disney-owned

resort, even though it is within Disney's property, so Regal Sun guests are not eligible for EMH (but if you're staying at a Disney resort in conjunction with the conference, you will be eligible). An EMH day may mean that a park is more crowded. Many non-Disney resort guests plan to avoid a park on days when it has EMH, and instead pick a different park.

What Will You Celebrate? In 2009, WDW is helping guests mark all kinds of celebrations. If the CASA conference happens to overlap your birthday, on your birthday you can get free admission to the parks! If you're celebrating a birthday or some other occasion, such as an anniversary, stop by Guest Relations and pick up the appropriate button to mark your celebration.

Mickey's Very Merry Christmas Party ("MVMCP"). On certain days, WDW closes the MK a bit early and offers a special Christmas Party (for a price, of course!) from 7 p.m. to midnight. MVMCP dates include November 17, 19, and 20. The party features special decorations, holiday performances, a holiday parade, a special fireworks show, character interactions, and even "snow"!

Disney Transport. Disney offers bus, boat, and monorail transport among its parks, and between its parks and its resorts. A little-known fact is that you can ask to ride in the front car of the monorail with the engineer (four people maximum). It's quite the view!

Dining. WDW visitors need sustenance, and WDW is happy to serve. Among all the parks and the resorts, there are dozens of restaurants, bars, and lounges on-property, offering dishes and drinks inspired by almost all areas of the world. Options range from counter service to sit-down; from buffets, family-service, and "all you care to eat" to traditional single-plated meals; from meals with characters to meals without.

Reservations. Advance Dining Reservations (ADRs) are highly recommended for table-service locations. An ADR is not a reservation for a specific table, but it puts you at the head of the line for the next available table when you check in. During busy times (and, with the popularity of the Disney Dining Plan for Disney-resort guests, even not-so-busy times), many table-service restaurants will be unable to accept walk-ups. ADRs don't apply to counter-service locations, so those restaurants are a good bet for busy times if you don't have an ADR.

Most ADRs are available ninety days before the date you want to dine. Call 1-407-WDW-DINE and follow the prompts.

Dress Codes. In most WDW restaurants (both in-park and at the resorts), you can wear whatever you'd normally be wearing to visit a theme park. Only a few WDW restaurants have requests regarding dress. "Signature dining" restaurants (Artist Point, California Grill, Citricos, Flying Fish Café, Jiko,

Narcoosee's, and Yachtsman Steakhouse) have a "business casual" dress code. Only Victoria & Albert's restaurant in the Grand Floridian Resort & Spa (the only WDW restaurant that restricts children) has a "formal" dress code.

Special Needs. WDW is a great place for folks with special needs when it comes to food, including food allergies and special diets. All table-service restaurants will make efforts to accommodate allergies and special dietary needs. If you have special needs, ask that the need be noted when you make your ADRs. You are welcome (and encouraged) to telephone the chefs at WDW's restaurants to discuss special food needs beforehand. Be sure to remind the staff at the restaurant of your needs, and you may also ask to speak to a chef once you've arrived at your restaurant.

Activities.

Downtown Disney. Sadly, the Downtown Disney area doesn't offer as many entertainment options as it used to; in September 2008, the Pleasure Island area of nightclubs was closed. But in addition to the restaurants and shops, Downtown Disney still boasts Cirque de Soleil, the House of Blues, DisneyQuest (home of video and virtual-reality games and activities), and an AMC theater.

Boardwalk. The Boardwalk area (near Epcot and Disney's Hollywood Studios) also offers dining and shopping as well as entertainment. Here you will find the Atlantic Dance Hall, Jellyrolls dueling piano bar, ESPN Club, midway games, and a boardwalk atmosphere.

Electric Water Pageant & Fireworks. Almost every night, the Seven Seas Lagoon (in front of the Magic Kingdom) showcases the free Electric Water Pageant, a series of lit-up barges. You can view the pageant from in front of the Magic Kingdom or any of the Magic Kingdom resorts. You can also see the Magic Kingdom's fireworks shows from most of those resorts or from the Transportation and Ticket Center across the lagoon from the Magic Kingdom. Time your Californian Grill ADR properly, and you can watch the fireworks from the top of the Contemporary Resort.

Campfire & a Movie. The Ft. Wilderness resort hosts a campfire and a movie every night where, if you're not careful, Chip and Dale may help you eat your s'mores. You need not be a Ft. Wilderness guest to participate.

Non-Park Recreation Opportunities. If you've been to WDW before, perhaps you're looking to expand your horizons beyond the parks. Did you know that WDW also offers numerous non-park recreation activities? You might want to look into mini-golf, boat rentals, horseback or carriage rides, fishing excursions, parasailing, water sports such as waterskiing or wakeboarding, or

perhaps treat yourself to a visit to one of WDW's spas or a Segway tour at the Ft. Wilderness resort.

Bringing the Kids.

Strollers. Stroller rental at WDW is *very* expensive. Many people find it's more cost-effective to buy an umbrella stroller just for the trip than to try to rent a stroller.

Ride Swap. If you're bringing young kids, no one has to skip their favorite thrill rides to stay with the little ones. For rides with height restrictions, the "baby swap" or "rider-switch" option lets an adult stay with the youngster while the taller ones ride. Then the waiting adult gets to skip the line to ride while the first adult waits with the youngster. This plan is especially great for slightly older kids, because the waiting adult can then bring another one or even two people with them when they ride (kids end up riding twice, once with each adult!). Be sure to check with the cast members at the entrance and loading areas if you want to use a "baby swap."

Special Activities. WDW offers several special activities for kids, including pirate cruises from several resorts, tea parties at the Grand Floridian Resort & Spa, and the Bush Camp at Animal Kingdom Lodge.

Bibbidi Bobbidi Boutique. "Fairy Godmothers-in-Training" in the Magic Kingdom and Downtown Disney will do your little princess's hair, makeup, and nails. Packages start at \$49.95 plus tax, and appointments are recommended.

Need more information? Numerous guidebooks and websites offer information about WDW. Two of my favorite websites are intercot.com and allears.net; both are comprehensive sites with answers to just about any questions.

Have a great time at WDW!

Maintaining Balance as a Staff Attorney/Law Clerk

by

Richard Schickele

U.S. Court of Appeals, 9th Circuit

I was flattered when I was approached to write an article concerning “balance” in my life. Certainly I have made decisions, what some might call sacrifices, to ensure that I have time in my life for my wife and two daughters. These are personal decisions. However, such balance as I have achieved in my professional life might be attributed, at least in part, to three axioms. These rules, by reducing the likelihood of the unexpected, help reduce the level of stress in my work to an acceptable, even enjoyable, level. Accordingly, they may be of some value to staff attorneys, law clerks, and other attorneys.

My first rule is to never take a problem to a judge that I or my colleagues can resolve. There are at least three reasons for this rule. The judge is busy and does not need or want another problem. You want the judge to conceive of you as a problem solver not a catalyst for conundrums. Third, if you take a problem to a judge you may be stuck with his or her solution to the problem.

The second rule is a corollary to the first, never take a judge a problem, always offer the judge alternative solutions. This requires that you have considered the issue from several angles and have crafted the appropriate responses for whatever decision the judge makes on the underlying problem. Such an approach should reinforce the judge’s perception of you as a problem solver. More importantly, it helps to ensure that whatever decision the judge makes, it can be implemented in a way that should not create additional problems.

Many years ago, I had the responsibility of presenting emergency motions to the judges of an appellate court. One judge had the habit of listening patiently to me for several minutes before he would pick up his pen and hand-write his decision on the motion. At that time, I had yet to appreciate my second rule, and before I knew what was happening, the judge had written an order that could not be implemented. I had to turn to a second judge for assistance, and it took us most of the day to convince the first judge not to proceed as he intended. I like to think that this embarrassment could have been avoided if I had commenced my presentation by stating to the judge that he could do A, or B, or possibly C.

My third rule is to always make sure that a judge understands the legal issues and arguments that I find unpersuasive. If I think that there are three reasons for deciding a particular matter a certain way, it really makes little difference whether the judge agrees with one or all of my reasons. However, a failure to advise a judge about arguments that you find lacking in merit can undermine his or her confidence in you. If the other judges on the panel find an argument that you summarily dismissed to be meritorious, your judge may be embarrassed if he or she has not been briefed on the argument.

The consequences may be more dire if the judge's or the panel's decision – based in part on your research – results in a meritorious petition for rehearing on an issue that was arguably presented by the briefs, but which you discounted. Accordingly, although I appreciate the need for brevity in my work (after all my memo is one more thing that the judge must read), I strive to ensure that arguments which I recommend that the judge reject are fairly presented.

I believe that these axioms have helped me enjoy my work as a staff attorney and career law clerk on a couple of federal appellate courts. I am at ease accepting that the decisions are the judges' decisions, not mine, when I know that their options have been fairly presented. Even when the judge or panel that I am working for is outvoted, or – as may happen on occasion – reversed, it is not because an issue was not considered. I have learned that good judges recognize that sometimes they are called upon to make hard decisions, and my “balance” is knowing that I fairly presented both sides of the issue and reasonable options.

Reinventing Myself After my Life as a Staff Attorney – An Unexpected Journey

by

Barbara Rodgers

Formerly of the Connecticut Supreme and Appellate Courts

It was Friday July 7, 2006, and I was lying in bed with hamstring cramps that felt life-threatening. I had spent a day in the hayfield moving bales into piles, then stacking them on the hay wagon and, finally, lugging them off the conveyor and into the barn, where they were stacked again. The temperature had been in the high 90's all day, and, with four men, I had harvested some 700 bales that day. When we were finished, I had made dinner for everyone and collapsed into bed, knowing I would have to do it all over again the next day.

Lying there that night, I wondered at how dramatically my life had changed. I, a city person, who had been the Chief Staff Attorney for the Connecticut Supreme and Appellate Courts for some 21 years, was now living on a farm in Vermont, engaged in vegetable gardening, making pies, and doing the hard, but soul-satisfying, field work of harvesting some 7000 bales of hay each year.

Looking back, I am surprised to conclude that I must have a pioneering spirit. I was Connecticut's first staff attorney, charged with building an office of Staff Attorneys. I am proud of what I ultimately accomplished. I thought I would stay there forever. But in 1997, my priorities shifted when my younger brother contracted a fatal disease. I decided then that I would retire as early as possible, to get the chance denied my brother - to enjoy life after work. I retired on August 1, 2002 at age 57.

In March 2003, my long time partner Armand and I took the plunge and moved to our 88-acre farm in Vermont. This was another pioneering move for me. I loved the quiet of the country, but I missed the city. There is no place to shop where we live, but we sleep to the sound of a stream; there are turkeys and deer in the yard; the sky is dark and the stars are amazing; and the moon shadows on the snow are awe-inspiring. I could feel myself changing.

In 2004, we met the couple who would become our hay partners. They own 12 horses who eat a LOT of hay. Armand had fond memories of haying in his youth in Vermont, and we started acquiring hay equipment. The enterprise I call "Geriatric Hay" was born. (Our ages range from 69 to 55.) I now mark the seasons by the ancient cycle of farm life - harvest the hay, feed the animals, collect the manure and spread it on the hayfield, and then harvest the hay again. Unlike law, this is a physical, rather than mental, approach to life.

Have I missed the law? Well, yes and no. For a number of years after I moved to Vermont, I wrote appellate briefs for a firm in Connecticut. My interest in that work gradually faded, and I came to know the joy of being completely free to spend the day however I wished. But in the summer of 2007, I realized that if I ever wanted to be a Vermont lawyer without re-taking the bar exam I had to act soon, and I knew that I just could not let that opportunity pass.

I applied for admission and was stunned to find that out-of-state lawyers must complete a 300-hour internship to be admitted to practice in Vermont. So last summer, my hay harvesting activities were curtailed while I worked as a law clerk/intern for a wonderful Vermont judge. My career had come full circle – from clerking for a U.S. District Court judge in 1978 to clerking for a Vermont Superior Court judge in 2008.

I was sworn in on December 9, 2008. And what have I been doing since then? I've been attending CLE courses to learn more about Vermont law, and I've been going to the gym to get ready for the 2009 hay season.

Will I ever practice law in Vermont? Who knows? But I am ready for any fascinating opportunity that may come my way. Someday I will no longer be able to lift 50 lb. hay bales, but as long as my mind stays sharp, I will never be too old to dabble in the practice of law. And I really like what I've seen of the way law is practiced in Vermont. Vermont lawyers work hard to maintain time-honored professionalism. They treat each other with respect and courtesy and enjoy the camaraderie of shared interests.

I am proud to now count myself among their number.



The author in 2008 in the family tractor.

Technology Advances in the Connecticut Appellate System

by

Gail F. Giesen

Connecticut Supreme and Appellate Courts

The Connecticut appellate system took some steps this spring to take advantage of available technology, and now our Supreme Court's briefs can be read online and certain motions can be filed by e-mail.

Regarding briefs, the Supreme Court entered into an arrangement with the Connecticut Bar Association (CBA) that has resulted in the court's briefs being posted on a blog maintained by the Appellate Advocacy Committee of the CBA. The arrangement is similar to that of the U.S. Supreme Court and the ABA. If you want to read a U.S. Supreme Court brief, you click "on-line merits briefs" on the Supreme Court's website. You are then hyperlinked to the ABA website, which allows you to access the court's briefs in cases scheduled for the current year, as well as the briefs in unscheduled cases. Similarly, on the Connecticut judicial branch website, when you click "Link to Supreme Court Briefs Online," which is found under "Supreme Court Information," you are hyperlinked to the CBA blog. From there, you can access Connecticut Supreme Court briefs.

The briefs are filed electronically pursuant to a March, 2009, amendment to Connecticut Practice Book § 67-2. Under the amended rule, parties represented by counsel and persons represented by counsel who has been given permission to appear as amici curiae are required to submit electronic briefs in addition paper briefs. At present, the rule applies only to the Supreme Court, but in the future, it may be extended to apply to the Appellate Court. Prior to the rule change, the CBA's Appellate Advocacy Committee created the blog and appellate lawyers voluntarily posted their briefs on it. The collaborative arrangement between the CBA and the Supreme Court has built upon that "labor of love."

Another rule (Connecticut Practice Book § 66-1) was amended to permit the e-mail filing of appellate motions for extension of time to file briefs and other papers. Although Connecticut is a small state, the change will save litigants lots of time and money.

The Necessity of Lawyers on the Battlefield

by

CPT Stephanie R. Cooper

As the fire enveloped me, my first sensation was burning. I tried to suck in oxygen, but it felt as if there was none left in the vehicle. I was breathing in flames. Instinct to survive overcame me, and I began fighting with the latch on the door to get out of the burning vehicle. Success with the complicated latch meant escape as I struggled out of the vehicle, weighed down by my heavy body armor. Now outside the vehicle, my lungs screamed for air as I breathed in deeply and coughed up the sand and smoke that came with it. I quickly patted out the fire on my uniform and checked to see if I was hurt. I took up a fighting position behind the up-armored door of the destroyed and still burning high mobility multipurpose wheeled vehicle (HMMWV), with my rifle ready. The dense fog of sand and smoke completely obscured my vision. When my hearing came back, I listened to the yelling and swearing from other Soldiers who had been in the vehicle with me. My mind cleared, I was in Iraq, our HMMWV had been blown up by an improvised explosive device (IED), and Soldiers were hurt. Law school had not prepared me for this, but the United States Army had.

I graduated from Suffolk Law in Boston, MA in 2004 and immediately joined the United States Army Judge Advocate General's Corps. After passing the Massachusetts bar exam, I subsequently attended The Judge Advocate General's Legal Center and School, where, for over three months, my class of almost 100 students extensively studied, and was tested on, the practice of military law. Graduation from "JAG School" was in April of 2005, and after requesting a duty assignment which would give me the opportunity to deploy, I was in Iraq by January of 2006.

Many ask, "What is there for a lawyer to do in Iraq?" The extent of our work is endless. The normal JAG functions, which include providing legal assistance to Soldiers having financial or marital trouble, conducting investigations, and prosecuting and defending Soldiers, are still necessary. Along with those tasks, however, come a list of new functions that are necessary and imperative for an attorney to perform in a deployed environment. These tasks include reviewing detainee information packets to make sure that there is probable cause to hold a detainee taken into U.S. custody, meeting with Iraqi judges and police to assist in creating a new rule of law for their country, negotiating with Iraqi lawyers on personal property or injury claims made by the local populace, briefing every single Commander and Soldier on the rules of engagement and the laws of armed conflict, attending Operation Planning meetings to provide legal advice on upcoming missions and being prepared at any time of the day or night to give immediate operational law advice when Soldiers are in contact with the enemy. Needless to say, lawyers in Iraq stay busy.

As a Claims Judge Advocate, I traveled to Iraqi homes throughout our area of operation to investigate claims of damage or personal injury allegedly caused by the United States Army. Many Iraqi civilians would hire attorneys to negotiate their claims with me. It was always interesting working with Iraqi attorneys whose culture, when it comes to the practice of law, is very different from ours. These were not bad attorneys by any standard; they just had their own style -- one that took some getting used to. Generally, the claimants and their attorneys requested exorbitant amounts of money for the loss of inexpensive property, figuring that even if they received a small portion of

what they were requesting, at least they wouldn't walk away empty-handed. While this strategy is not so uncommon in Western law culture, there were always one or two claimants who refused to take less than what they alleged their personal property was worth. For example, one prominent Iraqi requested \$1 million U.S. dollars for a small plot of empty land that was being used by U.S. forces as an outpost. Now, prior to this job, I had never assessed the real estate market for plots of desert in Iraq; however, I found it very hard to believe that in a society where the average Iraqi man makes the U.S. equivalent of \$3 for a day's work, the cost of an empty plot of desert land could be that high. Moreover, while Congress has provided some leeway in paying out claims under the Foreign Claims Act, it has not made allowances for million dollar payouts. My maximum limit for a single payment was \$15,000, and if I enlisted two additional attorneys to review the claim, our panel of three could approve a maximum of \$50,000. However, \$1 million was out of the ballpark, especially since this claimant provided no evidence to support his story. As you can imagine, this claimant wasn't happy to hear that his claim was denied, which is why it was imperative to have Soldiers on hand to escort the dissatisfied and sometimes hostile claimants out of the area.

Prosecuting U.S. soldiers in Iraq was a challenge. It took two full travel days and generally three different forms of aircraft just to get to the courthouse. Considering that the prosecutor, accused, escorts for the accused and all the witnesses were normally from the same unit, it meant taking eight or more Soldiers out of the fight for six or seven days. Reduced combat power meant that other Soldiers had to work longer hours and take on more missions. Moreover, even if the accused was convicted and sentenced to confinement, the temporary confinement facility was viewed by many as a "vacation" from the battlefield. Rather than working in a very dangerous location, conducting daily patrols or missions outside the safety of the base, putting in long hours and burning in the hot sun, the Soldiers confined in Kuwait had no missions or patrols, were housed in air conditioned cells, with access to TV and video games. Confinement just didn't hold the same fear factor compared with running patrols in Iraq.

The day my HMMWV was blown up by an IED, I was traveling out to conduct a three day claims mission to provide monetary compensation to Iraqi civilians who had legitimately suffered losses due to the ongoing fighting. However, experience had taught me that the very same Iraqi claimant that I provided compensation to that day, I might see again in a detainee information packet after being picked up by U.S. forces for his involvement in planting IEDs. Where I worked in Iraq, I dealt with only a small slice of the overall population. The intermingling of both good Iraqis and bad Iraqis in a war where none wear uniforms and there is no front line makes it absolutely necessary to have lawyers on the battlefield. Simply put, being on the ground to support our troops may mean being in harm's way to accomplish that mission.

After the IED destroyed our vehicle, we eventually got back to the relative safety of our Forward Operating Base. The wounded were taken to the medical aid station and treated while the convoy commander rounded up another HMMWV. A couple hours later, we were back on that very same road heading out to complete the operation. Taken in perspective, it was not a bad day. We did our job, accomplished the mission and suffered no serious casualties. In Iraq, that 's not a bad day.

The views expressed in this article do not necessarily represent the views of the Judge Advocate General's Corps or the United States Army.

Editor's Note: Stephanie Cooper is an active duty Captain in the Army and works for the Government Appellate Division of the U. S. Army Legal Services Agency. She practices before the Army Court of Criminal Appeals and the Court of Criminal Appeals for the Armed Forces. Stephanie attended the November, 2008 Summit in Phoenix, which is where I met her.

our mind as a computer running software with a few “bugs,” we can work to eradicate our “mindbugs”!

If you are interested in learning more about Professor Banaji’s work or in taking the Implicit Association Test to discover your own implicit biases, go to <http://implicit.harvard.edu>.

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Letter from the Editor

by Gail F. Giesen
CASA Secretary

This is the last edition of the CASA Quarterly before the 2009 AJEI Summit in Orlando. I hope you will be attending and that you have your plane tickets and hotel reservations squared away. My husband, Tom, and I are going to fly down on Tuesday -- a bit early in order to have a little time to see the sights. I really can't explain how it happened (especially since we are a blended family with a total of three - now grown - children), but somehow neither of us has ever visited Disney World or any of the other attractions in Orlando. So, we're going to make up for lost time!

In this edition, you will find an excellent article by Barbara Burke of the Arizona Supreme Court on electronic appellate filing. This is something that many states are planning to do, so what Barbara has to say will be of great interest to a lot of us. In addition, at the annual CASA business meeting on Saturday, November 21st, CASA members will vote on a slate of nominees for CASA officers and the board. I thought you might want to know more about the nominees, so I asked each one to write a short, informal bio for the Quarterly. I thank each and every nominee for writing a bio and apologize for being a "nudge."

As staff attorneys, our work is intense -- cases, motions and petitions just keep flowing in. To maintain a healthy balance in our lives, it's important to have an interest that we can pursue when we are not doing law. I have the good fortune to work with a colleague, Deputy Chief Staff Attorney John DeMeo, who not only is a talented lawyer, but also is an aficionado of rock music and vintage guitars. At my urging, John has written an article about his passion for guitars. I hope you enjoy this issue.

See you in Orlando!

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Electronic Filing in Arizona Appellate Courts: A Virtual Initiative to Provide Access to Swift Justice in a Digital World

by Barbara M. Burke
Arizona Supreme Court Staff Attorney

The Arizona Supreme Court recently began to accept electronically filed petitions for review. The Court's Administrative Order No. 2009-36, "Authorizing an Electronic Filing Pilot Program for Petitions for Review from the Court of Appeals, Division Two to the Supreme Court," noted that the first goal of the Court's 2005-2010 strategic agenda for Arizona's courts is to provide access to swift and fair justice. The ability to provide for electronic filing of documents and an electronic court record improves access and reduces court delay and reflects a national trend that is enhancing business models for courts throughout the country. Implementing electronic case processing will ensure that Arizona fulfills its commitment to improved efficiency and reducing delays for citizens.

In 2009, the Court initiated its pilot appellate e-filing project by convening several stakeholders representing the courts, large and small private law firms, and colleges of law to participate in the systems selection process. Aware that e-filing was prevalent in federal courts, *see* Rule 5(e) of the Federal Rules of Civil Procedure, the Arizona Supreme Court adopted the national LegalXML specification/standard for court electronic filing, the standard employed in federal courts. A contract was negotiated and formally awarded to Intresys, makers of TurboCourt e-filing software.

In March 2009, the court began accepting petitions for review and accompanying appendices filed in one division of the intermediate court of appeals and the Arizona Supreme Court. Arizona Supreme Court Clerk Rachelle M. Resnick thinks that the Arizona appellate courts e-filing project, known as "ACE" is great and she looks forward to the day when all cases are e-filed. However, at the moment, the e-filing project is limited to non-initiating documents. Clerk Resnick stated, "We're taking everything in baby steps." Project implementation began on the litigants' side with the Arizona Attorney General's office filing appellate responses. Shortly thereafter, the project was extended to include the Maricopa County Attorney's office and other public law agencies. At present, ACE supports 51 registered e-filers representing six different agencies that file into the Supreme Court and the Court of Appeals Division One.

The Court's administrative order provides that for purposes of this pilot project, all electronic documents accepted for filing by the clerk's office and the scanned images of any documents filed in paper form that are maintained in the Clerk's electronic document management system (EDMS) are considered the original documents of record in the Arizona Supreme Court.

Several other housekeeping matters had to be considered to successfully launch the project. The administrative order states that for the purposes of the pilot project, all electronic documents accepted for filing by the Arizona Supreme Court Clerk's Office and the scanned images of any documents filed in paper form that are maintained in the Clerk's EDMS shall be considered the original documents of record in and for the Arizona Supreme Court. A document printed from the Arizona Supreme Court Clerk's EDMS that is file-stamped by that Clerk's Office, or a document that is electronically transmitted from the Clerk's EDMS, shall be considered an official record. A document printed from the Clerk's EDMS upon which the Clerk's Office has placed its seal attesting to the document's authenticity shall be considered a certified copy of the original. A printout from the Arizona Supreme Court Clerk's EDMS that indicates the date the document was filed shall be sufficient to prove authenticity.

Certain procedural rules were suspended during the pilot project. For instance, the administrative order instructs that any court rule requiring that a document be an original, be on paper or another tangible medium, or be in writing, is satisfied by the electronic image defined as the original document. Further, portions of applicable rules of criminal and civil appellate procedure that refer to the original record on appeal as paper are suspended for the Arizona Supreme Court, thereby allowing that Court to provide original electronic records to other courts in electronic format, and allowing other courts access to the Supreme Court's electronic court records if those courts are able to accept a record in electronic format. Sensitive to the fact that not all lower courts are yet e-filing capable, the administrative order provides that the Arizona Supreme Court Clerk shall provide paper documents to other courts as needed.

In rolling out the e-filing initiative, the impact of e-filing on relevant rules of evidence and other legal procedures had to be considered. The administrative order instructs that any court rule requiring that a document be signed by an attorney is satisfied by inserting "/s/" on the document's signature line, typing the signatory's name under that line, and successfully registering and submitting filings with the court of appeals, division two's, electronic filing system. Any court rule requiring that a certificate of service be signed is satisfied by the following one of two methods. First, inserting "/s/" on the document signature line and typing the signatory's name under that line, if the certificate of

service is attached to a document and the server is acting at the direction of the submitting party. Alternatively, inserting “/s/” on the document’s signature line, typing the signatory’s name under that line, and successfully registering and submitting filings with the court of appeals, division two’s, electronic filing system, if the certificate of service is a separate document.

Obviously, the whole goal of the e-filing effort is to reduce the amount of paper being processed through the various court clerks’ offices, judicial chambers, and staff offices. The administrative order instructs that the restrictions on destruction of case records imposed by Rule 28.1(d) Arizona Rules of Criminal Procedure, and Rule 29(B), Rules of the Supreme Court, are suspended for petition for review case records transmitted between the court of appeals, division two, and the Supreme Court, thus allowing the appellate clerks to dispose of paper records that are converted to electronic records during the pilot project.

Rules relative to how many copies of a petition for review, response or other filing had to be filed with the courts were suspended for documents that are filed electronically in the pilot project. As a quality assurance measure, upon the request of the Clerk of the Supreme Court, parties who electronically file a document shall also submit a single corresponding paper document directly to the Arizona Supreme Court. The Order also suspended Section 1-506(E)(4) of the Arizona Code of Judicial Administration, which prohibits the electronic filing of confidential and sealed documents, for electronic filings in the pilot project.

Finally, the order instructs the administrative office of the courts to use procedures that ensure the availability of at least one other copy of electronically filed or transmitted documents at all times. Systems backups must be performed at least daily. For continuity of operations purposes during disasters or other normal operations interruptions, the Rule mandates that staff maintain multiple backups, at least one of which will be off-site in an area that would not be affected should a catastrophic event impact the court’s primary data center. The staff must use recording media for storing all electronic records filed in the pilot program in a manner that will ensure their continuing integrity and availability. Further, the rules mandate that staff ensure that any electronic case file records which must be maintained permanently are maintained in a place and manner as will reasonably assure their permanent preservation. The court of appeals, division two must maintain backups of any electronically filed petitions for review and appendices in accordance with its current business process and make electronic copies of electronic petitions for review and appendices available upon request of the Clerk of the Arizona Supreme Court.

So where do Arizona courts go from here in e-filing implementation? The Court issued Administrative Order 2009-43, stating that the Arizona Supreme Court Clerk’s Office would begin e-mailing orders, notices, minute letters, and other documents starting July 1, 2009. Ultimately, state wide implementation of e-filing at all levels of Arizona courts is contemplated. This will be a multi-year three-step effort. *See The Path to Digital Courts, A Roundtable Discussion*, www.myazbar.org/AZAttorney, July-August 2009 (pages 47 to 52). The Arizona Supreme Court has established a one-stop website to explain use the process. www.azturbocourt.gov. Concurrently with rolling out the appellate e-filing pilot project, efforts to analyze various case types in the Maricopa Superior (trial level) and justice courts got underway. The goal is to begin piloting family and general civil cases in the superior court and small claims, eviction actions, and civil cases in the justice courts by the winter of 2009. When in full operation, the system will serve attorneys and self-represented litigants by enabling online submissions of case files into any court in the State for any case type. The operation of the system is also intended to be as self-funding as possible. When the e-filing systems are fully operational, attorneys will be able to pay filing fees online using a credit card or via an established account set up for their practice with the court using the bank routing system.

However, as Arizona’s Supreme Court Clerk observed, baby steps are the best approach when launching efforts to administer justice in a digital world. Nationally, the advent of appellate e-filing has not been without some missteps. One commentator noted that e-filing gone wrong can confirm the wisdom of the old adage, “to err is human but to really foul up requires a computer.” *See Beware of Appellate Pitfalls of E-Filing, Legal Technology*, June 10, 2009 (recounting recent federal cases in which parties alleged filing-related tales of woe as the excuse for an untimely electronically filed notice of appeal). Other states also allowing web-based appellate e-filing include: Alabama, Delaware, North Carolina, Oregon, and Wisconsin.

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The Slate of Nominees for the CASA Board - Who are They?

As a long-time member of CASA, I have attended many annual business meetings at which I was asked to vote on a slate of officers and nominees for the board. Usually, I voted for the slate without knowing very much about the people I was voting for. To remedy this, I asked all of the nominees for next year's board to send me an informal bio that I could share with you in this issue of the Quarterly. (Naomi Godfrey, who is currently Chair-Elect and, by rule, automatically succeeds to the office of Chair, was also kind enough to write one.) I told everyone that their bios could be as formal or informal as they wished. Their bios (or, more accurately, "autobios") follow. --Gail F. Giesen

a. Naomi Godfrey Next Chair of CASA

I was born in Ormond Beach, Florida, also known as the "Birthplace of Speed" (which refers to car racing). I grew up in Daytona Beach, Florida which is a short stone's throw from Ormond. Both cities are located on the East coast of Florida approximately 40 miles northeast of Orlando. I received a bachelor's degree in English from Bethune-Cookman College in Daytona Beach. I briefly taught English in Daytona Beach before moving to Atlanta, Georgia where I earned a master's degree in English from Atlanta University. I later attended the University of Georgia where I received a juris doctorate. After law school, I worked in private practice at a law firm specializing in trusts and estates. I began working in the staff attorneys office of Unit B of the Fifth Circuit Court of Appeals located in Atlanta before the Circuit split in 1981. After the split, Unit B became the 11th Circuit Court of Appeals. I first served as a line attorney, then a supervisory attorney, and in 1994, I became director of the office. The statutory title for the director is Senior Staff Attorney.

I joined CASA many years ago; so many years ago that I can't remember how many. I do recall, however, that the first CASA seminar I attended was in Charleston, South Carolina and that Ira Robbins, Mark Zanchelli, and Bill Lowe were there. Before becoming chair-elect of CASA in 2008, I served as secretary, editor of the CASA Quarterly, and on the membership and education committees. I first joined the organization in order to meet other attorneys from throughout the country who did similar work. Then and now, we were exposed to substantive and procedural issues, writing and editing lectures, ethics, human resources management, and other relevant topics, in one place and in less than one week. Most of what we learn though comes through the exchange of ideas with state and federal staff attorneys and law clerks from offices like and unlike our own.

In the past, I have served as a member of the Atlanta Public Library Board of Trustees, Chair of the Staff Attorney Advisory Committee for the federal courts, and a member of the Human Resources Advisory Committee as well as many other study and working groups for the Administrative Office of the federal courts. I have also served as president of the National Alliance on Mental Illness for Dekalb County and currently serve as vice-president of that group. I am also a member of the Community Service Board for Dekalb County. The Dekalb CSB has oversight of services for the treatment of mental illnesses, developmental disabilities, and addictive diseases.

In my spare time, I own a small antique business, read, watch movies, garden and walk. I also enjoy traveling and most recently traveled to Istanbul and Inku, Turkey and Paris, France.

b. Gail F. Giesen Nominated for Chair-Elect

I am a Connecticut native who decided to head West for college. I received my B.A. from the University of Colorado at Boulder and then worked for my dad in Hartford as a paralegal for about a year. During that time, I met my first husband, a Japanese citizen who was in the States doing graduate work at Yale. We married and moved to Tokyo, where I worked as a paralegal in a Japanese-American law firm. During my years in Japan, I became "street fluent" in Japanese, skied and studied flower arranging. After a while, I decided that I'd like to do more than paralegal work and went to the University of Connecticut School of Law where I earned my J.D. Eventually, my husband and I split up, and I returned to the States. As a single mom with two very young sons, Jonah and Kenneth Takagi, I embarked upon

my career with the Connecticut Judicial Branch. After working briefly in the appellate clerk's office, I was hired as a law clerk at the Connecticut Appellate Court. Following my clerkship, I served for nine years as Executive Assistant to the Chief Judge of the Appellate Court. During that time, between raising my sons and pursuing my career, I was somehow lucky enough to meet Tom Giesen, to whom I've now been married for fourteen years. I joined the Staff Attorneys' Office as Deputy Chief Staff Attorney in 1994, and in 2003, I was appointed Chief Staff Attorney. My office consists of eight attorneys, a paralegal and a secretary and serves both the Connecticut Supreme Court and the Connecticut Appellate Court. Our core function is screening for jurisdictional defects, but we also summarize appeals for the courts' website, write bench memos and provide legal support for our preargument conference program, which leads to the settlement of many appeals.

Outside of work, I was involved in equestrian activities for many years but decided not too long ago to stop riding due to the time demands of my career and other interests. These days, when I'm not working, I'm studying French, going to the theatre, gardening, cooking and reading. I have traveled extensively in Asia, and Tom and I are planning a trip in January to Cambodia to see Angkor Wat. My next trip -- which I'm already looking forward to -- will be to Japan, which I haven't visited in twenty years.

In addition to belonging to the ABA and CASA, I'm a member of the Connecticut Bar Association, the Hartford County Bar Association and the Connecticut Supreme Court Historical Society. I'm also a James W. Cooper Fellow of the Connecticut Bar Foundation and serve on the Board of Directors of the Alliance Francaise of Hartford. Turning back to my CASA involvement, I was the head of the Education Committee last year and am presently the Secretary. I want to thank everyone who has written articles for the Quarterly during my tenure as Secretary!

c. Susan Dautel
Nominated for Secretary

I have served as Assistant Deputy Clerk at the New York State Court of Appeals since 2003. My primary focus is administration of the appeals (as opposed to civil motions for leave to appeal or criminal leave applications) before New York's highest court--from review and processing of filings to scheduling of arguments and dissemination of decisional documents. As part of the Clerk's five-attorney management team, I have been involved with court rules revisions, court policy reviews, death penalty case management and, most recently, coordinator of development of the Court's new case management system. I re-joined the Court staff after 16 years in private practice, becoming a founding partner in 1989 of the Albany firm of Deily, Dautel & Mooney, LLP. My private practice was concentrated in employment law and commercial litigation, appeals and transactional work. I previously had served the Court of Appeals from 1981 to 1986 as Central Staff Attorney, Deputy Chief of Central Staff and Deputy Consultation Clerk. I am a graduate of Albany Law School and Bucknell University.

I have been a member of CASA since 2003, and have enjoyed serving for several years on its Executive Board and earlier on its Education Committee. I have been pleased to attend CASA's annual seminar almost every year since 2003. I also am very active with the local Capital District Women's Bar Association, serving this year as Recording Secretary and co-chair of its continuing legal education committee. I enjoy lecturing periodically on appellate practice and procedure.

My main interests outside of the legal world are travel and competitive tennis. In the last few years I have participated in Habitat for Humanity builds in India and Portugal, and have wandered to Bolivia, Peru, China, Australia, Ireland, Spain and Greece. Part of my traveling has been to meet up with my globe-trotting daughters, one currently in a PhD program at the University of Chicago, and the other about to graduate from Bucknell. When at home, I am usually on a tennis court. I just returned from a tournament played at the U.S. Open Tennis facility on Long Island--great fun to step in the footsteps of the greats!-- where my team won the right to proceed to national competition in Orlando next April. Would be happy to do some hitting with CASA members in Orlando in November--tennis anyone?

d. Taye (Sara H.) Sanford
Nominated for Member-at-Large for Second Term

I'm the Supervising Staff Attorney at the U.S. Court of Appeals for the Tenth Circuit in Denver, Colorado. After

graduating from Wesleyan University in 1980, I went straight to law school at William and Mary and got my J.D. in 1983. After law school, I moved to Denver and clerked for two Colorado district court judges. In 1985, I became the first female associate at a small firm in Golden, Colorado, where I mostly did litigation related to real estate development. After three years in private practice, I realized that if I ever wanted to have a personal life, I needed to find a job that was less stressful and didn't require me to work late at night and on weekends. I was lucky enough to get hired as a staff attorney at the Tenth Circuit in April 1988. I was a line staff attorney until 1998, when I was promoted to Supervising Staff Attorney. I got married a few months after I started working as a staff attorney and I later had two children who are now, unbelievably, 17 and 14. My 21 years at the court have passed swiftly, no doubt because the work has been interesting and my colleagues wonderful. When I'm not working or fulfilling my duties as family chauffeur, I like to garden, hike, and snatch some quality time in the hammock with a good book. My short-lived skiing career came to an abrupt halt some years ago when I had a bad fall that ended in a trip down the mountain strapped to a ski patrol sled. While that was quite an amazing experience, it's not one that I want to repeat. So I'm thinking of taking up snowshoeing

e. Janice Irving

Nominated for Member-at-Large for Second Term

I have been a staff attorney for the Louisiana First Circuit Court of Appeal since July 1982, the first month the Louisiana Courts of Appeal had jurisdiction over criminal matters. I became the assistant director for the criminal section in 1984 and have been the central staff director since 2004. Our staff has grown from 4 attorneys and a secretary to 25 attorneys and a slew of support people during the past 27 years. At the end of September I went through a box of emails, memos and other assorted directives staff has received over the years, and I was shocked at how much some things had changed – and how some things had not.

My first CASA conference was the great Chicago trip of 1984, but I had a terrible cold the whole time. I stuck to decongestants and diet Coke, thus avoiding the ouzo hangover that plagued a few. My favorite conference was Key West in 1994. I was sitting on the beach with a group of friends when word came about O.J. Simpson and the white Bronco chase, but we decided it was too pretty to go inside. I've still never seen any of the video footage.

I am finally settling into an empty nest – my husband and I dropped our younger daughter off at college a month ago, and our older daughter is living in Utah, trying to convince her dad and me that she really will go back to school in January. We set an ambitious schedule of Things To Do when the kids were finally out of the house – go bike riding (check), cook different types of ethnic dishes (check), arrange a home library (check) go the gym twice a week (uh, maybe next week). I am on the board of directors of a local adult literacy organization, and it seems we are always having to plan fundraisers these lean and hungry days. We are a family of avid readers, and I just finished cataloging our fiction (1000+ entries) and have 24 boxes of nonfiction to keep me busy after football season. Go Tigers!

f. Rachel Ekery

Nominated for New Member-at-Large

I graduated from law school in 1993 and practiced law for eight years, first as an associate and then as a shareholder, with firms in Dallas and El Paso, Texas. My practice centered primarily on commercial litigation and appellate law, and I am board certified in the latter. I have been a staff attorney since 2002, when I was hired by the Texas Supreme Court as the staff attorney for extraordinary writs, more commonly known as the mandamus attorney. As mandamus attorney, I reviewed all emergency matters that came before the court and made recommendations to the justices about how to proceed on particular cases. In 2003, Justice Wallace Jefferson hired me as his staff attorney, and I have been in that position ever since. In 2004, Justice Jefferson was elevated to the Chief Justice position.

The Texas Supreme Court is the highest court in the state for civil matters (criminal matters are handled by the Court of Criminal Appeals, which is in a different section of the building). It is a court of discretionary review. Each chambers is staffed by a justice, a staff attorney, two law clerks, and an executive assistant. My job consists primarily of helping Chief Justice Jefferson draft opinions and managing our two law clerks. I really enjoy the work and learn something new every day.

I first learned of CASA through former Texas Supreme Court Justice Craig Enoch, who encouraged me to get involved. I have really enjoyed the two CASA seminars I have attended--in D.C. and in Phoenix—and am looking forward to Orlando. I have learned a lot and am looking forward to becoming a more active member.

g. John Tarlton Olivier
Nominated for New Member-at-Large

John Tarlton Olivier received his undergraduate degree in Business Administration and his Juris Doctor degree in 1979 from Loyola University School of Law (New Orleans). He is admitted to the Louisiana State Bar and to practice in the Eastern and Western Districts of the United States District Court and in the United States Supreme Court.

Mr. Olivier entered the private practice of law with the firm of Olivier & Brinkhaus in 1979. In 1982 he moved to New Orleans and worked for the Board of Commissioners for the Port of New Orleans. In 1985 he was appointed by the Louisiana Supreme Court as Deputy Clerk and on March 1, 1996, was Mr. Olivier completed the National Center for State Court's Institute for Court Management Executive Development Program and in 1991 was recognized as a Fellow of the Institute during ceremonies at the United States Supreme Court, presided over by Chief Justice Warren Burger. Since 1991, Mr. Olivier has been a member of the Conference of State Court Administrators (COSCA)/National Center for State Courts (NCSC) Court Statistics Project Advisory Committee which guides and directs staff in the content, design, collection, compilation, and analysis of State court caseload statistics for the nation. Also, he is currently a member of the Supreme Court of Louisiana Historical Society (formerly on the Board of Directors), National Conference of Appellate Court Clerks (NCACC) where he served on the Executive Committee 2007-2009 and is currently Chair of the Technology Committee, National Association for Court Management (NACM), American Bar Association (ABA), and Louisiana State Bar Association (LSBA).

In 2003, Mr. Olivier was presented with the National Center for State Court's Distinguished Service Award. In 2004, he was recognized by Louisiana Supreme Court Chief Justice Calogero for exemplary service to the Court and the renovation of the historic Royal Street Courthouse.

In his spare time, Mr. Olivier enjoys sailing with his family and friends.

h. Jarrett B. Perlow
Nominated for New Member-at-Large

Jarrett B. Perlow is in his third year as a staff attorney at the United States Court of Appeals for the Armed Forces. Previously he served for three years as a staff attorney and law clerk at the United States District Court for the Eastern District of Virginia. He graduated cum laude from the American University Washington College of Law in 2004, where he was Editor in Chief of the Administrative Law Review. He also earned his Bachelor of Arts in History from American University in 2000. He is admitted to practice in the Commonwealth of Virginia and the District of Columbia, as well as before several federal courts. Outside of the court, he has been teaching legal writing at American University since January 2006, and he plays tuba in the university's wind ensemble.

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Lawyer by Day, Guitar Builder by Night
by John DeMeo
Connecticut Supreme and Appellate Courts

I play guitar in a rock band in my spare time. It's not a big time commitment - we get together once a week and, while we haven't played a paying gig in years, we're always willing to play a benefit or at a friend's backyard party. We do a few original numbers, but most of our set list is composed of covers of tunes by bands like the Beatles, the Rolling Stones and Cream.

Like many guitarists, I believe that they just don't make electric guitars like they used to. (How many guitarists does it

take to change a light bulb? Five - one to change the bulb and four to talk about how much better the old one was). The vintage guitar market went crazy by the 1990's and, while the economic downturn has put something of a dent in vintage guitar prices, an original Fender guitar from the 1950's or 60's is now priced well out of my reach. So I build replicas of old guitars, and whenever possible I use the same materials and techniques that Fender used in making the great Stratocaster and Telecaster guitars of the company's golden period.

I don't hew guitars out of logs (though some do). Unlike Gibson guitars, Fenders are screwed together out of fungible parts, and reproductions of many the old parts are available from a sometimes fanatical group of suppliers. Some of Fender's early manufacturing methods, however, appear to be lost to the ages. For example, in the early 60's, Fender used an off-white material for the fret position markers on its dark rosewood fingerboards. I've followed many a discussion on the internet debating what these so-called "clay dots" were actually made of, and a clear consensus has yet to emerge. A good friend of mine is a stringed instrument repairman and claims to have learned the secret of the composition of the clay dots from a now-deceased Fender employee. He won't tell me what it is (something about having to kill me). Another material used in the manufacture of Fender electric guitar pickups has been dubbed "unobtainium" - everyone knows what it is, but it simply can't be had anymore.

Nothing stirs the heart of a vintage guitar enthusiast quite like a custom-color Fender, and I tend to use period-correct Fender colors on my guitar builds. While Fender's standard colors for the Stratocaster and Telecaster were sunburst and blond, respectively, beginning in the late 50's custom colors could be ordered for a small additional charge. All other things being the same, a custom-color Fender will be worth a good deal more on the vintage market than one in a standard color. These colors were borrowed from the automotive world, for the most part, and had names like Fiesta Red, Lake Placid Blue and Burgundy Mist. My personal favorite is Dakota Red, a deep, dark shade that was first offered on 1958 Cadillacs.

Of particular concern to vintage guitar freaks is that the guitar be finished in nitrocellulose lacquer just as they were in the old days - modern polyester and polyurethane finishes, it is said, don't "breathe" and therefore rob an instrument of tone. While the older finishes were certainly less durable than today's finishes, this is generally regarded as a good thing, and vintage guitar enthusiasts complain that a poly-finished guitar will never acquire the post-apocalyptic patina of Keith Richards' battered 50's Telecaster or Stevie Ray Vaughan's gig-scarred Stratocaster.

Finishing a guitar at home takes patience, to say the least. There's a fair chance that something will go terribly wrong at any stage in the process, requiring that the painstakingly-applied finish be stripped and the process started all over. After the final coat of clear lacquer is applied over the color, a guitar body should be set aside for a month or more to allow the solvents in the lacquer to evaporate so that the finish is hard enough for wet-sanding and polishing. Nitrocellulose lacquer can take literally years to fully cure, and the temptation to rush the process can sometimes lead to disastrous results. The final stage of the finishing process is a nail-biter, to be sure, as successively finer grades of sandpaper - and then rubbing compound - are taken to the clear coat. If all goes well, you won't sand into or through the color coat (start over!) and the result will be a lustrous, thin, "vintage correct" finish.

You can do everything right and use the best materials and parts available, but there's no guarantee that the guitar you finally produce will actually sound good. Despite its electrical components, a guitar like a Telecaster is still made predominantly of wood, and it seems that no two pieces of wood ever sound exactly the same. Still, I've had pretty good luck so far and, while I've certainly got enough guitars already, I'm always looking forward to another project. Does a Stratocaster in Seafoam Green do anything for you?

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