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U.S. COURT OF FEDERAL CLAIMS BAR ASSOCIATION



E-Newsletter Winter Edition | 2012

Dear Member,

We hope you enjoy our E-Newsletter. If you have any questions or comments or would like to submit an article for the newsletter, please send to newsletter@cfcbar.org.

Upcoming Events



[May 1: Law Day Luncheon](#)

Willard Hotel, Washington, DC
(click above link for more details)

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Court Community Honors Carole Bailey



Carole Bailey (and presenters)

Carole Bailey has left the building.

And as **Chief Judge Hewitt** explained of the Court's retiring Chief Deputy Clerk for Administrative Services at a December 8 retirement ceremony, to a packed Dolly Madison House, "you will hear me - and likely others - keep repeating and clinging to those words like a life raft: 'Carole's retirement from full-time service.' She'll still be with us some of the time, won't she? Yes. She'll still have a phone, won't she? Yes. She'll still be a sea of calm in the face of a storm, won't she? Yes. But just not every day, all day, from earliest business hours to whenever - in the late afternoon or evening - the last fire is put out."

But as the Chief, Judges of the Court, Bar members

and friends made abundantly clear, Carole's legacy still inhabits the building to its core, as she heads off to the next in her series of personal and professional adventures.

Opening the ceremony and summarizing what would be several emotional remarks, Chief Judge Hewitt said simply, "she's the most popular person in the building." Introducing persistent themes, laced with her personal Carole memories and highlights of Carole's "charisms," Chief Judge Hewitt

referred to Carole as the "irreplaceable" person who "listens and inspires trust," and "lifts weight from the shoulders of all who seek her help." Tracing the various roles Carole played throughout her career with the Court and the void remaining, Chief Judge Hewitt noted that Carole's development of the executive skills of her staff will be those the Court will lean on in a post-Carole world. But as one speaker after another evinced, the title most difficult to fill was simply "Carole" ("Carole does that . . . and that . . . and that." "You won't believe how Carole did this!").

A presentation from Carole's staff followed and showed the true measure of Carole's human contribution. As the Court's Space and Procurement Administrator, **Kelley Morgan**, detailed, Carole was no mere manager. "Carole believes in you and your abilities, cares for your family, even knows the name of your spouse," Kelley said. "She sees the big picture and ensures you fulfill your potential," Kelley added. "Carole feeds us," she continued, speaking literally about Carole's cooking prowess, while making clear that she did so figuratively as well as literally.

Reflecting afterwards on Kelley's tribute, Clerk of the Court, **Hazel Keahey**, underscored the importance of Carole's influence on the younger people of the Court. "She takes mentoring seriously," Clerk Keahey said. "Now, most young people stay three to five years in a job and then move on. Carole showed that a commitment to an institution is its own reward." Noting that Carole's interest in others was not limited to one's station in life, she explained, "whether it was a lawyer or a mail room clerk, there was no distinction with her. She just enjoys people, and there is not a person here who would not say that she made a difference to them."



Carole Bailey and staff

Others at the Court echoed the sentiment. Judge Smith's permanent law clerk, **Laura Palguda-Barbour** agreed. "She really cares about people," Laura started, adding that Carole did so while managing an extremely demanding position between the operational worlds of the Clerk's office and the chambers, where as important as accomplishing the incredible is the ability to gracefully say "no." Carole did both gracefully, she said.

The Court of Federal Claims Bar Association was no stranger to Carole's devotion, in recognition of which, current **Immediate Past President Bryant Snee** announced that the Association had established the creation of a law school scholarship in Carole's name. As Bryant explained, the Association was looking for a gift that was permanent, fitting, and continued to assist the Association's educational goal of furthering CFC jurisprudence, as Carole herself had devoted a career to doing. The Association's Past President, Treasurer and current Secretary, **Lew Wiener**, remembered the countless times he and Carole stood in the back of a packed conference and wondered aloud, "how did we get it done this time?" Closing with a toast that drew a round of amens, Lew intoned "Here's to goodbyes unspoken and friendships unbroken."

Former Chief Judge Damich, Carole's former law professor, joked that Carole was finally getting a "reprieve from her sentence" as the seemingly permanent sine qua non of the Court's annual judicial conference, and described how he lured Carole from the staff of the Administrative Conference of the U.S. Courts, where she worked with **Former Chief Judge Loren Smith**. Having observed her "professional, intelligent, diligent and mature" service there, he determined to make her a part of the Court's staff where, as he explained, he profited from years of her "sage and circumspect" advice, as well as her warm hospitality on social occasions.

Judge Smith, Carole's long-time mentor, had the honor of the final word. "This is a hard speech to make," he said. "It's the second time I lost Carole," the first law clerk he recruited while serving as the Chair of the Administrative Conference of the United States. Carole went on to become the Deputy Director and Acting Executive Director of the Administrative Conference from 1984-85. Illustrating her irrepressible and infectious enthusiasm, Judge Smith recounted her handling of his investiture, an occasion demanding some institutional pomp at a non-institutional price. Seizing the challenge, Carole convinced a local hot dog vendor to feed the celebrants ("It was Oktoberfest," Carole deflected from the wings, as if anyone would have invented such a delightful solution). And at his close, Judge Smith presented Carole the



Judge Loren Smith

Loren A. Smith award, created by then-**Chief Judge Baskir** in 2001, to recognize members of "the Court's family" for notable contributions to the advancement of the Court's mission. Fittingly, Carole is the first ever non-judge to receive the award.

Granted a rebuttal by Chief Judge Hewitt, Carole put to service the public speaking skills expected of one who practiced more in front of the bench than behind it. "Overwhelmed" was the word she used with evident emotion. First remarking that Chief Judge Hewitt was "not only a woman to be admired but a leader to emulate," she thanked the Chief for the opportunity to learn and to serve the Court. Then, weaving together the threads offered by others into the story of her varied career in public service, she explained how when serving as a young assistant dean for administration (and then a mother of three), she met Judge Smith at Delaware (now Widener) School of Law School. A few months later, she was in Washington, serving at the Administrative Conference with Judge Smith and followed him to the Court in 1985, serving as then Chief Judge Smith's first chief of staff and law clerk.

Two years later, she left the Court to join the FTC and ultimately moved to Atlantic City, where she operated a successful construction supply business with her husband, **Robert**. "Women seldom ventured into those trades," she reminded.

But service of others was never far from Carole's mind. She fit into her new community by counseling new entrepreneurs, eventually becoming an adjunct professor of business at the local community college. In 2001, she returned to DC and, seeing the needs in the D.C. school system, wrote to the Superintendent of D.C. schools, offering her assistance to do anything, eventually serving as a 4th grade teacher and adjunct professor at the University of the District of Columbia. While meeting those challenges, she was called by then **Special Master Margaret Sweeney**, who persuaded her to return to the Court. "I always had a passion and respect for the Court," Carole said afterwards, and my return to D.C. and conversations with Judge Sweeney "reignited my love for the Court." In 2003, then, she returned to the Court as a staff attorney, and rose rapidly through the ranks, culminating in her position as Chief Deputy Clerk.

Reflecting on this "cornucopia of experiences," Carole testified to the joys of public service, predictably focusing as much on the relationships forged as goals achieved - noting the inspirational leadership of the chief judges of the Court, the simple fun of working with them, and the evident pride she felt in the Court's staff. Reflecting on the Bar Association award, she explained her job was to help, along with **Judge Firestone**, to reach out to "let the bar shine," a bar, she said that was of the "highest caliber and character of any bar." Ever the mentor, turning to her staff, she said, what is important was the "commitment to service, something you have in abundance - an abundance that gave me the energy to keep going and made me look good." Closing, she challenged them to "continue to pursue your dreams," reminding them that the ability to fulfill their dreams was in their hands, and that they were the professionals that would keep the Court going and growing.



(L-R) Judge Smith, Carole Bailey, Chief Judge Hewitt, Judge Firestone

Summarizing afterwards, **Judge Horn** observed that Carole's departure will leave a "deep hole" to fill, but more than her work, "she'll be missed as a person." As Judge Horn explained, "many people do their jobs well - and Carole did hers extremely well - but with Carole you couldn't help but enjoy working with her." In accolades any lawyer would burn to hear, Judge Horn noted Carole's "creative problem-solving," her judgment and "strong ethical center," explaining that Carole was, as she had been and no doubt will be elsewhere, a person who forged her own way and made others better as she went.

Steve Gillingham
U.S. Department of Justice, Civil Division

Letter from the Chief Judge



*Chief Judge
Emily C. Hewitt*

Greetings and all good wishes for 2012 to the members of the United States Court of Federal Claims Bar Association as you enter the Association's twenty-fifth (!) year. In addition to its ongoing mission of legal education, the CFC Bar Association has become the sponsor of four annual events in the life of the Court, each of which is a highlight of the Court year:

Welcome Breakfast, held this year on September 14th, at which the Court and the Bar Association welcome the Court's incoming and returning clerks.

Judicial Conference, held for the first time this year on the West Coast in Berkeley, California, on October 18th and 19th.

Celebration of Law Day, to be held this year on May 1, 2012 at the Willard Hotel, with **Linda Greenhouse**, journalist and legal scholar, as our honored guest speaker.

Swearing-in ceremony to the bar of the CFC for the Court's clerks as they conclude their service, including each year a special greeting from the Bar Association president and the generous invitation to join the Bar Association for a year at no cost.

To these annual events the CFC Bar Association and the Court added another, very special, event this year: a celebration of the service of **Carole Bailey**, Chief Deputy Clerk for Administrative Services on the occasion of her retirement. The CFC Bar Association, with whose members and leaders Carole has worked closely for most of the past decade, paid tribute to Carole's contribution by establishing a scholarship in Carole's name and honor. That tribute was the highlight of the evening.

Those of us who have worked with Carole inside 717 Madison Place found the experience both a joy and a privilege.

I wish to close this newsletter message with my remarks, expressing to Carole the Court's appreciation, sense of loss, and good wishes:

On behalf of the court, thank you all for joining us as we both honor and attempt to thank Carole Bailey for her contributions to the Court. It has been extraordinarily difficult for the Court family to plan this event. Our difficulty is a result of the fact that no one wants to believe that Carole's retirement from full-time service is actually happening.

You will hear me - and likely others - keep repeating and clinging to those words like a life raft: "Carole's retirement from full-time service." She'll still be with us some of the time, won't she? Yes. She'll still have a phone, won't she? Yes. She'll still be a sea of calm in the face of a storm, won't she? Yes. But just not every day, all day, from earliest business hours to whenever - in the late afternoon or evening - the last fire is put out.

Carole's positions in the Office of the Clerk of Court have included Staff Attorney, Ethics Officer, Bar Association Liaison, Senior Staff Attorney and, currently, Chief Deputy Clerk for Administrative Services.

The Court will not attempt to find a replacement for Carole in her present role as Chief Deputy Clerk for Administrative Services. This is for several reasons: the first and most obvious reason is that the activity of "replacing" Carole is, from the git-go, a fool's errand. No one in her right mind would attempt it.

A second reason speaks volumes about Carole's skill as a Court manager: the Court executives who reported directly to Carole these past years in her position as Chief Deputy Clerk for Administration - Peter Naum in HR, Kelley Morgan in Procurement and Bill Alexander in Finance - do not now need a supervisor located between them and the chief clerk. In her years as a supervisor, Carol has supported, guided and encouraged these executives as they developed their expertise and confidence to a high executive level.

Carole has not measured herself by the size of some pyramid she sits atop; she has measured herself by the skills development and empowerment of those with whom she works.

There is another reason that it would be a fool's errand to propose that the Court replace Carole. One does not replace charisms. Charisms are rare: in particular, charisms are rare traits of personality: presence, strength of character, magnetism, the ability to inspire trust.

Carole's work with judges, special masters and senior managers on ethics, personnel issues and other similarly sensitive matters was exemplary not only because of her ability to listen, identify the issue buried in a question, and support a conclusion with research, but also, and most importantly, because of her ability to inspire trust. Anyone who brings Carole a sensitive matter feels immediately that she addresses the matter in a way that lifts weight from the shoulders of each of us who seeks her out.

And then there is the lighter side of charismatic. Carole's company is a delight to others. Carole's service as liaison to the Court's Bar Association could have been handled with diligence by another Court officer, but not nearly as much of a pleasure for the Bar Association and its Board of Governors. For years, the Court has, quite simply, been represented - to its bar, to its Advisory Council, to the Administrative Office of the US Courts, and elsewhere - by the most popular person in the building.

Carole, it's been a great run for the Court. We'll miss you like hell, but we're really glad that you've been here and that you're not saying a complete goodbye.

With best regards,

Chief Judge Hewitt

Judicial Conference a Big Success

For the first time in its history, the United States Court of Federal Claims held its annual judicial conference on the West Coast, at the Claremont Resort and Spa in Berkeley, California.



Chief Judge
Emily C. Hewitt

The Court's 24th Judicial Conference took place October 18-19, 2011, and attracted approximately 180 bar members, judges, law students, and other distinguished guests. The program touched on all of the Court's diverse areas of subject-matter jurisdiction. (Please note that all conference materials and photographs remain online. Please do not hesitate to [visit the site](#) to experience the conference virtually!)

Judge Thomas Wheeler kicked off the General Session with an interactive session entitled "Inside the Bid Protest Process at the Court of Federal Claims," as bid protests constitute one of the fastest growing areas of the Court's docket. Judge Wheeler assembled a panel of private and Government attorneys and had panelists play the roles of the protester client, the protester's counsel, the Government's counsel, the agency counsel, and the defendant-intervenor's counsel. Judge Wheeler, of course, played himself. As the panelists worked through a mock fact pattern of *Acme Aircraft Company v. United States* with the guidance of moderator **Allan J. Joseph**, the session provided insight as to the concerns and issues facing each player in a typical bid protest. The program led to a lively discussion of hot topics currently facing the Court and its bar.

The General Session next featured **Judge Mary Ellen Coster Williams'** panel, "Pre-Trial Ethics: When Do Litigation Tactics Cross the Line?" Panelists **Stephen M. Goldman**, **Stacy Ludwig**, and **Sarah Wilson** discussed various pretrial tactics that often cross the line and become ethical problems, ranging from unfair delay to harassing or abusive discovery tactics. They provided guidance as to how to prevent these problems from occurring, and how to resolve them once they do occur. The panelists also explained how the duty of candor to the tribunal applies in depositions, and they touched upon the unique ethical considerations that arise in Rule 30(b)(6) depositions.

Chief Judge Randall Rader of the United States Court of Appeals for the Federal Circuit was the luncheon speaker on Tuesday, and in a unique approach, at the outset of his talk, he asked the conference attendees to vote on one of three topics for him to address. After voting, however, he

made the executive decision to cover all three topics. In addition to addressing challenges facing the Federal Circuit and the judiciary in general, Chief Judge Rader foreshadowed his appearance at the reception later that evening as lead singer of Pro Hac Vice.

Following the luncheon, the General Session continued with **Judge Edward Damich's** panel, "Patents: Protecting Intellectual Property in Government Contracts." Panelists **John Fargo**, **Richard Gray**, **Sean O'Connor**, and **Mary Shallman** explored the statutory and regulatory provisions that govern the allocation of intellectual property rights - including patents - between the Government and its contractors. They discussed how these provisions play a role in later litigation, and also the issues involved in the decision expected from the Supreme Court in *Stanford v. Roche*.



John Fargo

The General Session closed for the first day with a panel by **Judge Francis Allegra** to discuss "Scientific Evidence in the CFC and the Importance of Peer-review." The panel, including **Drummond Rennie**, former editor of the *New England Journal of Medicine*, and **Hank Greely**, a professor who teaches at both the law and medical schools at Stanford, pondered the quandary facing trial judges when they exercise the "gate keeper" function required by cases such as *Daubert*. In those situations, judges often have to assess the reliability of studies and expert reports, and they frequently consider whether the study or theory presented by an expert report has been subjected to peer-review. The panel discussed whether peer-review is always an accurate indicator of reliability and the practices that some journals and groups use to conduct peer-review that affect the evidentiary value of peer-review. The panel provided insight and guidance to lawyers in gauging which peer-review processes are good and bad, and their effect on the reliability of scientific evidence. All in all, the panel provided helpful advice to judges and litigants in better understanding whether a particular peer-reviewed study or theory in an expert report is truly reliable.

Meanwhile, throughout the first day of the conference, there was a concurrent Vaccine Session taking place at the Claremont. **Chief Special Master Patricia E. Campbell-Smith** chaired two panels, one that discussed the new Institute of Medicine ("IOM") report on vaccine safety, and another titled "Contemplating Genetic Variation and Adverse Events." Members of the IOM panel included **Elizabeth Saindon**, Senior Attorney at the Public Health Division of the Office of General Counsel, Department of Health and Human Services, and **S. Claiborne Johnston, M.D., Ph.D.**, Associate Vice Chancellor of Research, Director of Clinical and Translational Science Institute, Professor of Neurology and Epidemiology, and Director of the Stroke Service at the University of California, San Francisco. Dr. Johnston had served as a member of the IOM Committee to Review the Adverse Effects of Vaccines. **Ellen Clayton, M.D.**, of Vanderbilt University, a member of the second panel and the Chair of the IOM Committee, addressed emerging legal, medical and ethical issues involving the scientific advancement of genetic variation and adverse events.

During the afternoon Vaccine Session panel discussions, **Special Master Denise K. Vowell**, **Vincent J. Matanoski**, Acting Deputy Director, Torts Branch, Civil Division, Department of Justice, and **Altom Maglio**, managing partner of Maglio, Christopher and Toale, P.A., discussed "litigative risk" settlements and Alternative Dispute Resolution ("ADR") techniques in resolving cases in the Vaccine Program. The final panel of the day included **Special Master Christian J. Moran**, Mr. Matanoski, and **Mark W. Rogers**, Acting Director, Torts Branch, Civil Division, Department of Justice. This panel addressed the procedural steps involved with vaccine judgments and payments.



Pro Hac Vice

Tuesday night, all conference attendees were welcomed at a Bench & Bar Reception at the Claremont. Fueled by wonderful food and libations, the judges and bar members in attendance were treated to a long musical set of classic rock and roll music by Chief Judge Randall Rader and Professor Sean O'Connor, two members of the band Pro Hac Vice. Some attendees were moved to dance, while others joined the band to take turns at the microphone as backup singers. There was even one conference attendee who was so inspired that he pulled out his own guitar and continued singing into the evening's late hours.

To kick off the second day of the General Session program, **Judge Marian Blank Horn** presented her panel,

"Multiparty Litigation and Related Cases in the Court of Federal Claims: How Much is Too Much?" Panelists **Jeanne Davidson**, **Brad Fagg**, and **Richard Marcus**, from the Department of Justice, private practice, and academia, respectively, discussed how the Court's docket includes a variety of multiparty and related cases involving takings, contracts, tax, civilian and military pay, and vaccine. Although these cases involve common issues, the panel explained how they often raise combinations of similar and different legal and factual issues. The panel explored considerations that the bench and the bar should take into account in handling these cases, including the extent to which litigation and ADR, in large or small groupings, should be combined. They also addressed when, at what stage of a proceeding, should cases should be combined to promote efficient and less costly resolution. Finally, the panel discussed the role of appellate court review of multiple considerations.



Jeanne Davidson



Jim Gette

Judge Nancy Firestone's program, "Cutting-Edge Issues and Valuation in Rails-to-Trails Cases," closed out the morning of the General Session. Panelists **Cecilia Fex**, **Jim Gette**, and **Andy Goldfrank** addressed one of the fastest growing and single largest group of cases in the Court's Fifth Amendment docket: claims brought as a result of the application of the National Trail System Act. The so-called "Rails-to-Trails" Act, which allows unused railroad corridors to be converted to interim recreational trail use and "railbanked" for future railroad use, has given rise to cases involving thousands of properties throughout the United States. Panelists discussed how these cases raise several important issues regarding the application of Fifth Amendment takings jurisprudence. They also addressed procedural issues, such as the use of opt-in class action procedures under RCFC 23 in Rails-to-Trails cases, and the interplay between class certification and the statute of limitations. Because Rails-to-Trails cases raise unique state law issues, the panel discussed the nature of the railroad's property interest in the rail line and whether easements that allowed the rail line to be constructed have been abandoned under state law. They also addressed the use of certified questions to state courts as a means of resolving uniquely state law issues. Finally, the panel debated the appropriate methodologies and practices for valuing the property under various scenarios of varying ownership interests of both the railroad and the plaintiffs, who are adjoining land owners.

There was a concurrent Vaccine Session in the morning of the second day as well, which was kicked off by Special Master Campbell-Smith, who presented a report on the effectiveness of the Vaccine Program in resolving cases. The conference concluded with an "Ask the Special Masters" panel, which included Special Masters Vowell, Moran, **Gary J. Golkiewicz**, and **George L. Hastings, Jr.** This panel fielded questions from the audience on wide-ranging topics.

The second day's luncheon speaker was **Assistant Attorney General Tony West**, who heads the Department of Justice's Civil Division. Assistant Attorney General West, who lives in nearby Oakland when not in Washington, told the luncheon attendees how the Court's cases affect the work of the Civil Division. He also explained the goals and achievements of the Civil Division in the past few years.

After luncheon, the General Session resumed with a very lively panel discussion addressing "Water Rights and Fifth Amendment Takings." **Robert Meltz** of the Congressional Research Service moderated a panel, including **J. David Breemer**, **John Echeverria**, **Craig Manson**, and **Joseph Sax**, that vigorously debated the special challenges the Court faces with takings claims involving water rights. Although the Court has generally held water rights to be property for takings purposes, the panel explored how and why water rights tend to be more conditional - more subject to limiting state-law doctrines such as public trust and reasonable use - than land rights. The panel explained that Western state constitutions have specific provisions defining water rights and discussed how these qualifications affect the takings analysis. The panel also debated whether government frustration of a water right should be viewed as an appropriation, that is, a per se taking, and



*Chief Judge Hewitt
and Assistant
Attorney General
Tony West*

whether the fact that a water right is a right of use, not ownership, means that government interference must be analyzed under a regulatory, rather than physical, takings framework.

The General Session closed with **Judge Eric Bruggink's** panel "Indian Law in the Supreme Court's 2011 Term." Panelists **Elizabeth Kronk** and **Gregory Sisk** discussed the two important Indian law cases decided during the Supreme Court's 2010-11 term: *United States v. Jicarilla Apache Nation*, and *United States v. Tohono O'odham*. The panel explained that the first case addressed the question of whether the United States can deny an Indian tribe's request to discover communications between the United States and its attorneys based on the attorney-client privilege when those communications concern management of an Indian trust. They explored the affect that this ruling has on the United States' relationship with Indian tribes. The second case, *Tohono O'odham*, has more far-reaching implications, as it concerns the application of 28 U.S.C. § 1500 in the context of the uncertain boundaries between district court and Court of Federal Claims jurisdiction over Indian trust accountings. The panelists discussed the larger impact of this decision on section 1500 jurisprudence.



After the General Session closed on Wednesday evening, conference attendees left the hotel and moved to the conference's Evening Session held at Berkeley Law School, Boalt Hall. There, a panel consisting of Chief Judge Hewitt, Chief Special Master Campbell-Smith, Assistant Attorney General West, Department of Justice National Courts Section Director Jeanne Davidson, Morgan Lewis partner Brad Fagg, and CFC Bar Association President Bryant Snee introduced the Court and its bar to approximately 70 Berkeley Law students and faculty in attendance and discussed career opportunities involving the Court, whether as a clerk or a practitioner. The brief panel discussion was

followed by a cocktail reception and networking event, during which time the judicial officers in attendance spoke directly with students interested in learning more about the Court. We have received word that as a result of the event, there is at least one Berkeley Law first-year student heading to D.C. this summer to serve as an intern at the Court.

The Court and Bar Association were pleased to be able to bring the Judicial Conference to the West Coast for the first time, and to reach a new audience of practitioners, academics and law students. The Bar Association was particularly pleased with the support received from other bar associations-including the State Bar of California, the Bar Association of San Francisco, three sections of the American Bar Association, and the bars of many other western states-and from its law firm partners. Please [click here](#) for a complete listing of these sponsoring organizations, without which the conference would not have been a success.

President's Message



Luke Levasseur

Fellow Members of the Court of Federal Claims Bar Association: I would like to wish you a happy (albeit belated) new year. 2012 has started well and promises to be an exciting year for our Association, as the Board of Governors is planning outstanding events and activities for the membership and the Court.

A brief introduction. I have been practicing law before the Court of Federal Claims for almost 15 years. I spent nine years litigating with the Department of Justice, primarily fighting the Winstar wars. For the past six years, I have represented government contract clients before the Court and in other forums. It has been a rewarding field in which to develop a practice - one in which my experience has been enhanced by the relationships I have developed and contacts I have made through this Bar Association.

This year, I will be working with the Board of Governors on four major goals for the Association.

First, we will build on the efforts and achievements of the last several years to be certain that the

signature events that the Association plans or to which it contributes continue to be successful. These include the Law Day celebration, the Court's Judicial Conference, and numerous Brown Bag continuing education sessions.

Second, the Association will work hard to expand our educational mission, consistent with our 501(c)(3) status, and develop our scholarships and related programs. These include the new Carole Bailey scholarship recognizing substantial commitment to public service, our writing competition, and scholarships covering expenses related to the Association's activities.

Third, we are working to enhance the written materials that you receive as part of your membership. In addition to this newsletter, the Bar Association is working to constantly improve *Inside 717*, to make it as current and useful to the members as possible. We are also beginning the process of revising the *Deskbook for Practitioners* and making it available to members in the most useful form possible.

Fourth, the Board of Governors will focus on creating additional opportunities for established and new members of the Court community to socialize. We believe the Court of Federal Claims has a genuinely collegial bar, with genuinely nice folks on the Government and the private sides of the aisle, as well as behind the bench. The Board of Governors is working to sponsor additional cocktail hours and other social activities, so more Bar Association members can get to know each other in a relaxed atmosphere. We hope these efforts make legal practice before the Court more enjoyable and rewarding for all.

In conclusion, thank you for being part of everything the Bar Association is doing to assist with the mission of the Court of Federal Claims and enhance the practice of law before this forum. We sincerely hope you enjoy the Bar Association's programs and the other benefits of your membership, and that you contribute to our efforts in any way you can.

Luke Levasseur, President
U.S. Court of Federal Claims Bar Association
president@cfcbbar.org

501(c)(3) Equals "Charitable" and "Educational" Purposes

As Benjamin Franklin noted, "An investment in education always pays the best interest." Over the past year, the Bar Association has broadened its commitment to discharge our responsibilities as a 501(c)(3) tax-exempt organization. At every turn, we made strides in authorizing the expenditure of funds to strengthen the Association's "charitable" and "educational" activities to advance the practice of law in the Court and to enhance the public's understanding of the role of the Court in our judicial system.

Several programs were either initiated or reinvigorated within the past year to directly support the Association's charitable and educational missions.

By the end of the year, the Board of Governors had authorized the creation of an annual law student scholarship award to be named in honor of Carole Bailey, the retiring Deputy Chief Law Clerk (see related articles). In addition to serving as permanent recognition of Carole's many years of service to Court, the scholarship award will broaden awareness of and foster interest in the Court and its jurisprudence. Law students, by definition, are the interns, law clerks, and practitioners of the future, so the Association's modest investment in the form of an annual law student scholarship can be expected to generate significant, continuing interest in the Court both from individual students and, by extension, the schools they attend.

Additionally, we strengthened participation in our annual Law Student Writing Competition (see related article). Among other actions, we extended the competition to cover the full academic year and increased the award (to \$2,000) so as to be more consistent with other law student writing competitions. The law student writing competition field is a crowded one. During our contest's first two years of operation, we received deserving papers worthy of recognition and award, but we need to expand our presence to reach a broader range of schools across the country. After all, the Court has a national jurisdiction, so it is only appropriate that law student scholarship aimed at the Court should also be national in scope. We are continuing to strengthen our outreach to schools and students from around the nation.

Finally, we conducted two programs this year directly aimed at law and college students. First, during the summer, we sponsored a lunch-time program for summer interns and associates from across the Washington, D.C. area, which featured a panel of judges and practitioners describing the various substantive practice areas of Court's jurisprudence. We hosted a capacity crowd and the informal "Q&A" session carried on long after the scheduled end of the program. During the annual judicial conference held in Berkeley, California, there was an evening program at the University of Berkeley Law School attended by approximately 70 law students. The program, hosted by Chief Judge Hewitt, included introductions of the Judges of Court and short remarks by government and private practitioners concerning their experiences before the Court. The reception that followed made clear that the law students were engaged and eager to learn about new professional opportunities and practice areas that previously might have escaped their attention.

All of these activities are long-term investments. But they are investments that will strengthen the practice of law before the Court, improve the quality of scholarship directed at the Court's jurisprudence, and increase the public's understanding of the Court's role in our judicial system. As such, these "charitable" and "educational" activities are essential - indeed, fundamental - to the success of our Association.

On a personal note, as I have now passed the reins of leadership of the Association to our new President Luke Levasseur (of Mayer Brown), I want to thank you all for the opportunity to serve as President and for the support and contributions offered during the past year. I will continue to serve for one additional year on the Board of Governors (as Immediate Past President), and I look forward to working with Luke, the other Board members, and with each of you to strengthen the Association.

Bryant Snee, Immediate Past President
U.S. Court of Federal Claims Bar Association

New Officers and Members Elected to Board of Governors

The Bar Association held its annual meeting at 5:00 p.m. on December 8, 2011, at the Court's Tayloe House, to elect officers and new members to the Association's Board of Governors. The following individuals were elected for the 2012 calendar year:

Officers:

- President: **Luke Levasseur**, Mayer Brown LLP*
- Immediate Past President: **Bryant Snee**, Civil Division, U.S. DOJ
- President-Elect: **G. Rob Stewart**, Tax Division, Court of Federal Claims Section, U.S. DOJ
- Treasurer: **Marc Smith**, Environment & Natural Resources Division, U.S. DOJ
- Secretary: **Lewis Wiener**, Sutherland Asbill & Brennan LLP

** (Pursuant to the CFC Bar Association Bylaws, Luke Levasseur, the 2011 President-Elect, automatically succeeds to the position of President on January 1, 2012, and current President, Bryant Snee, serves as Immediate Past President.)*

Board of Governors:

- **Mark Barron**, Environment & Natural Resources Division, U.S. DOJ (3-year term)
- **William Bergmann**, Baker & Hostetler (3-year term)
- **Altom Maglio**, Maglio Christopher & Toale (3-year term)
- **Patricia McCarthy**, Civil Division, U.S. DOJ (1-year term)
- **Matthew Solomson**, Sidley Austin LLP (3-year term)

The Bar Association thanks all of these individuals for their willingness to serve.

The Association also acknowledges with deep gratitude the contributions of those Board members whose term of office ended in 2011: **Brad Fagg**, Morgan, Lewis & Bockius LLP; **James Gette**, Environment & Natural Resources Division, U.S. DOJ; **Steven P. Hollman**, Hogan Lovells; and **Richard Rector**, DLA Piper US LLP.

Bar Association Announces Law Student Scholarship

The Bar Association has created a new law student scholarship to honor **Carole Bailey**, former Chief Deputy Clerk of Administrative Services, announced Immediate Past President **Bryant Snee** and former Treasurer (now Secretary) **Law Wiener** at a reception held on December 8, 2011, at the Court's Dolley Madison House. The Association's Board of Governors voted to create the annual \$5,000.00 scholarship to acknowledge Carole's longstanding commitment to public service, and to commemorate her tireless efforts in working with and providing assistance to the Association. Carole has graciously agreed to help in the selection of the inaugural scholarship recipient. The Board is in the process of finalizing selection criteria and application guidelines for the scholarship, and will make those details public in the coming months.

2011-2012 Law Student Writing Competition

The Bar Association's Law Student Writing Competition for the 2011-2012 academic year is underway. The announcement and the rules for the competition can be found on our website by [clicking here](#).

The Law Student Writing Competition is central to the mission of the Bar Association: to promote public awareness of, and interest in, the United States Court of Federal Claims and its distinctive role in American jurisprudence. Indeed, the writing competition is a prime example of why we sought, and deserve, 501(c)(3) status as a non-profit, charitable organization. By conducting this competition, we hope to encourage legal scholarship directed at interesting topics that lie within the substance, procedure, or scope of the specialized jurisdiction of the Court.

For this year's competition, we have adjusted the rules slightly to make it easier for students to compete. Most notably, we changed the submission deadline to June 29, 2012, to afford students an entire calendar year to complete their papers. This deadline is consistent with other major law student writing competitions. Additionally, we increased the prize amount to \$2,000. Please help spread the word about the competition and encourage law students you may know through your practice or your alma mater to submit papers.

Find Us On Facebook

The Bar Association has a Facebook page where we will post the latest news, events and other important information. Click on the link below and when you get to our page click "Like" so you can stay informed.

[Find us on Facebook](#) 

Bar Leadership

Officers	Board of Governors	Honorary Governors
<p>President Luke Levasseur</p> <p>President-Elect G. Robson ("Rob") Stewart</p> <p>Secretary Lewis S. Wiener</p> <p>Treasurer Marc A. Smith</p> <p>Immediate Past President Bryant Snee</p>	<p>Mary Abate Mark Barron William Bergmann John Fargo Don Grove Voris Johnson Altom Maglio Patricia McCarthy Kevin Mullen Maureen Rudolph Matthew Solomson Sarah Wilson</p>	<p>Honorable Emily C. Hewitt <i>Chief Judge</i> Hazel C. Keahey <i>Clerk</i> U.S. Court of Federal Claims</p>

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U.S. Court of Federal Claims Bar Association
Ben Franklin Station
P.O. Box 7614
Washington, DC 20044
phone: 202-220-8638

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