



U.S. COURT OF FEDERAL CLAIMS BAR ASSOCIATION



E-Newsletter
Fall Edition | November 2020

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 email newsletter@cfcbbar.org.

Happy Thanksgiving from the Bar Association!

Need to join or renew your membership in the bar association? [Click here](#).

Letter from the Chief Judge



Members of the United States Court of Claims Bar Association,

I hope that this letter finds each of you well. It is an honor to serve as this Court's Chief Judge, and it has been a sincere pleasure meeting virtually with so many esteemed members of our Bar Association, including with the Officers and Board. During those discussions, I have underscored that one of our Court's priorities over the next several months is to successfully onboard and train new judges and their staff and introduce them to Bar members. Most recently, we welcomed Judge Edward Meyers, who I had the pleasure of swearing in on October 26th at the National Courts Building.

Mentorship is the subject of this month's newsletter and is an important initiative of the Court. Specifically, the Court's judges are currently engaged in mentorship of newly appointed judges, and each newly confirmed judge is paired with a senior judge to serve as a mentor, to assist with questions, and to serve as a sounding board. Additionally, our judges with a longer tenure on the bench are

preparing judicial training sessions for new judges and their staff, to occur in early 2021. This stewardship of the Court and mentorship program is essential to fostering a cohesiveness among judges and their staff, especially in a remote-work environment. We also look forward to working with the Bar going forward on programming, with virtual events in the near-term, and hopefully in-person events later in 2021. We hope to continue introducing the Court's newer judges to Bar members.

Though the Court continues to conduct most proceedings remotely, it is open for business and is currently operating at pre-pandemic levels. Judges, court staff, and the Bar have worked together to ensure dockets move efficiently, motions are promptly adjudicated, and trials still move forward, albeit remotely. As this Court has nationwide jurisdiction and Bar members practice across the country, litigants' and the public's safety is of the utmost importance to the Court. To that end, the Court has quickly adapted to remote technology to allow cases to proceed efficiently. Most recently, the Court announced it is permitting use of Zoom for Government for conferences, hearings, trials, and other professional-related activity. Many Bar members have already taken advantage of this new option, and it is proving to be popular among the Court's judges. The Court now has a wide array of videoconferencing and teleconferencing services available to the Bar and to the public to participate in and listen to court proceedings. Our goal is to keep the Court open and running efficiently, permitting Bar members from across the country to litigate their cases in a safe and manageable way.

I hope that this letter finds you well as 2020 comes to a close. I wish you, your families, and friends a safe, happy, and healthy Thanksgiving and holiday season.

Chief Judge Eleni M. Roumel

President's Message



Members of the Bar Association,

While we were not able to meet this year for the Court's annual Judicial Conference, we hope you were able to join our first ever online conference on October 15. The conference included reports on the state of the Court and vaccine program from Chief Judge Sweeney and Chief Special Master Corcoran, and the opportunity to get to know Judges Roumel, Solomson, and Meyers. We were delighted to hear the announcement of Judge Roumel's appointment as the new Chief Judge. The conference also included excellent panel discussions regarding recent developments in vaccine law (moderated by Judge Tapp), conducting a virtual trial (moderated by Judge Firestone), and ethics (moderated by Judge Hertling). The Bar Association appreciates the support and participation of all those who presented and facilitated the organization of this year's conference.

Looking ahead, the Bar Association's annual meeting will be held on Wednesday, December 2, 2020 at 4:00 – 4:30 pm ET. The meeting will include the election of new members to the Board of Governors and Officers. We encourage all Bar

Association members to attend. If you are not able to attend, please cast your vote online via proxy ballot.

Thank you for your continued support of the Bar Association, especially during this difficult year. Like everyone else, we are anxious to return to normal and hope that conditions will allow us to have live events in person again later in 2021. We hope that you and your families continue to remain safe and wish you a wonderful holiday season.

James Boland, President

Ask the Judge! Judge David Tapp

1. This month's newsletter is about mentoring and the law. You've had a varied career having previously served as a law enforcement officer, prosecutor, private counsel, and adjunct professor of law, and for many years, as a Judge. Each of these roles lends itself to mentoring and it is clearly something you value, having initiated Kentucky's 2014 new lawyer-to-judge mentoring program and authored the Transitions mentoring manual. What is the value of mentoring generally? And what are the specific benefits of it in the legal profession?

ANSWER: The old, but too often truthful joke about mentoring, is that I never had a mentor when I was a young lawyer. Now tormentors? Yes, I had plenty of those! Experience teaches that relationships with more experienced and hopefully wiser colleagues can have a positive effect on our own professional development. Within the law generally, and certainly the courts specifically, mentoring teaches about the culture of our profession. And hopefully, exposure to other's experiences provides a base to positively guide our own conduct. Most of us naturally develop informal mentoring relationships, but formal mentoring also has a place. While some bar associations have developed mentoring programs, very few courts have formal mentoring programs and there is a tremendous amount of knowledge which can be shared within such an arrangement. A lot of it relates to handling ethical issues which may arise within the judiciary, strategies for handling stress and developing responses to commonplace issues like the isolation of the bench, personal challenges relating to substance abuse or mental and physical health issues, case management, and professional development. Formal mentoring arrangements must never supplant the informal relationships we develop with our most immediate colleagues. Instead, formal mentoring augments the informal by providing another reliable and confidential sounding board for inexperienced judges.

2. Did your view of the role of mentorship in the law evolve as you transitioned into being an adjunct law professor? If so, how? How does mentoring law students compare with mentoring lawyers and judges?

ANSWER: Surprisingly, no. Most of my mentoring relationships, formal and informal, have involved attorneys and other judges rather than students. To this day, I still receive calls from lawyers and other judges who are confronting something which does not comfortably fit within their own wheelhouse. These

don't involve case specific issues but generally life or career issues. In years past, lawyers or judges might reach out because of some concern that seemed to threaten their practice or tenure on the bench. Sometimes, all you can do is provide a friendly ear, sometimes a mentor might suggest an alternative approach to viewing some issue or perhaps occasionally to resolve it. In a positive relationship, there is a mutual benefit. Young lawyers and new judges have often prompted me to look at some issue or problem from a different perspective. That's been helpful to me. Mentoring has benefits for both sides.

3. You've led innovate programs that involving the relationship of the legal system and the community, including Kentucky's probation program, SMART. What do you believe that experience will allow you to bring to your role as a judge in the US Court of Federal Claims?

ANSWER: That's a tough question. Much of my earlier work involved developing approaches to specific widespread problems within state courts—the opioid crisis, inadequate community supervision of high risk/high need defendants and the high rates of re-incarceration of those individuals, the prevalence of Hepatitis C within the justice involved community, bail reform, and the professional development of judges. At first glance, those types of efforts don't seem to lend themselves to address the unique jurisdiction of the United States Court of Federal Claims. Certainly, our court only deals with criminal justice related issues in only the most glancing ways. But in a larger context, all courts are confronted with ever-changing issues that can be externally or internally generated. I'm hopeful that in addition to the disposition of my own assigned cases, in time I might contribute to addressing some of the broader issues affecting all courts. Developing systemic and collaborative responses to re-occurring issues is not something that every judge aspires to. The degree to which I might participate in such efforts will largely be determined by my fellow judges and judiciary leadership. I hope that those opportunities come my way.

4. What role does the Bar play in mentorship, either formal or informal, in the law and the courtroom?

ANSWER: That's an easy answer. Bar associations can actively promote civility, diversity, and the availability of opportunity for younger attorneys. As professionals, we police our own profession, not simply through formal processes like disciplinary proceedings but in the expectations we establish for each other. When the standard a Bar association sets is-forgive the pun-a high bar, then that becomes the norm and individual members of the group are more likely to conform to those expectations. Conversely, if a local Bar is replete with attorneys who disregard deadlines, routinely tender pleadings, motions and responses which are ill-drafted or even misleading, abuse the discovery process, and appear in court tardy and ill-prepared, young lawyers accept that as the norm. It benefits nobody except perhaps those attorneys who perhaps should have pursued a different career path.

5. What is the role of judges in promoting and using mentorship in the courtroom generally as well as in times of crisis, such as the recent COVID-19 pandemic?

ANSWER: Even during the pandemic, judges have an obligation to ensure that parties have access to a forum which can timely adjudicate their grievances. Certainly, 2020 has interposed obstacles that courts have not previously confronted, at least in the last 100 years. Most courts have responded well to that challenge and certainly the Court of Federal Claims has done so. The obligations that judges assume when first taking the bench are not lessened as the result of calamity. The duty to ensure the orderly and just disposition of cases remains constant and judges and lawyers must be able to effectively react in times of unrest or natural disaster to ensure that the processes of justice remain viable. Those processes may look different, like web-based hearings instead of in-person proceedings, but the goal remains the same. Adapt, improvise, and overcome!

Rapid Fire Round!

6. Mac or PC?

ANSWER: Mac, though I'm only a recent convert and sticker shock is a pretty compelling factor in favor of PCs.

7. Top-three songs on your Spotify/i-tunes playlist?

ANSWER: Ever changing and dependent on my activity. Like most everyone, I have specific playlists depending on what I'm doing, one for driving, another for the gym, etc. During workouts, I prefer higher tempo pop mixed in with some mild rap. While driving, I listen to a lot of music that's nostalgic to me—songs that remind me of someone from long ago, or perhaps something that my family members may have especially liked. While writing these responses, SPOT is playing a Fleetwood Mac mix. And my favorite band growing up was Molly Hatchet, which I still occasionally play.

8. Beaches in Honolulu or Bluegrass in Kentucky?

ANSWER: Kentucky bluegrass is where my heart will always be. That's home. Hawaii was wonderful but the rolling hills of Kentucky are indelible to one born there.

9. Eagles, Cardinals or Silverswords?

ANSWER: None of the above. Kentucky Wildcat basketball. No equivocation.

10. Stay-at-Home Binge: books or television?

ANSWER: Books! I don't watch a lot of television, mostly outdoors shows and my guilty pleasure—reruns of The Big Bang Theory. I read a lot, online news and opinion, some magazines, and multiple books simultaneously. I'm currently rereading all of Larry McMurtry's novels, most of Ian Fleming's, and for balance my recent reads include the Indianapolis (the most notable American WWII sea disaster), Sapiens (a history of humans), Hamilton (biography) and The Dark Art (exploring the relationship between large scale trafficking and terrorism). My wife and I also like the cinema but since Covid, that's not been possible.

Ask the Special Master!

Special Master Thomas Gowen

1. This month's newsletter is about mentoring and the law. You've had an extensive career primarily in complex tort litigation and for the ten years prior to becoming a special master as a partner at Locks Law Firm in Philadelphia. In addition, you served as Chairman of a hearing panel for the Disciplinary Board of the Supreme Court of Pennsylvania. Each of these roles lends itself to mentoring. What is the value of mentoring generally? And what are the specific benefits of it in the legal profession?

ANSWER: Mentoring in the legal profession is tremendously important in my view. When a young lawyer graduates from law school he or she has a broad exposure to many areas of the law, but little practical experience and virtually no knowledge of the factual areas they will encounter, particularly for litigators. Harry Philo, a great trial lawyer from Michigan, who was one of my mentors, always emphasized the importance of sharing with other lawyers in order to assure the best possible representation for clients coming into the legal system. This includes sharing knowledge of medicine or engineering or creative methods of case presentation. I have always tried to follow that credo in mentoring associates, helping other lawyers, speaking at seminars and so forth.

2. Did your view of the role of mentorship in the law evolve as you transitioned into being a law partner? A special master? If so, how? How does mentoring associates compare with mentoring law clerks or even other special masters?

ANSWER: The role of mentoring obviously became more important as I learned more and assumed first chair roles in cases with assistance from associates and paralegals. As I developed more focused knowledge in product liability, medical malpractice or specific types of cases like TBI or carbon monoxide poisoning there was also greater call for me to speak at seminars or write articles which is another way of mentoring. Since coming to OSM, I have tried to mentor law clerks. I have also been committed to a collegial exchange of ideas and past expertise with other special masters. There is also the role of guiding less experienced lawyers who are trying to learn the law, medicine, and folkways of the Vaccine Program. I have used status conferences with new lawyers to explain procedural requirements, the need for particular types of experts, and even why a certain case is unlikely to succeed in a way that the lawyer can understand and can explain to his or her client.

3. You've often mentored young people who want to become lawyers about the possible career paths. What's the best advice you've ever been given about being a lawyer? In turn, what do you think the best advice you've ever given about being a lawyer?

It is difficult to isolate a single piece of advice that I received as a young lawyer but as you are asking that question, I would say the advice to never exaggerate the facts or the law of a case by one iota. Your credibility depends on that. I think that was good advice then and is today.

I tell young lawyers or prospective lawyers that when we qualify for a license to practice law, it is important to understand that we are being given a sacred trust that requires us to work hard, to give honest advice, to be creative, and to understand the extent to which lay people rely on our judgment. As lawyers we need to remember that the difference between people obtaining justice, or not, is often in the quality of the lawyering they receive which often requires extensive preparation and mastery of the facts and the law of each case. This is particularly true when cases are complex with a great deal at stake. After that it is important to understand that life as a lawyer involves being willing to learn new things constantly and be prepared for change which happens frequently.

4. What role does the Bar play in mentorship, either formal or informal, in the law and the courtroom?

ANSWER: The Bar plays many roles such as in conducting seminars in relevant subject areas and in providing opportunities for social interaction with other lawyer and judges. Sometimes the best mentoring occurs in informal conversations at Bar events.

5. What is the role of special masters in promoting and using mentorship in the courtroom generally as well as in times of crisis, such as the recent COVID-19 pandemic?

ANSWER: I think it is important to assure that lawyers on both sides have the opportunity to fairly present their cases and represent their clients. It involves understanding some of the pressures of practice and the need to be flexible in these unusual times.

Rapid Fire Round!

6. Mac or PC?

ANSWER: I have always been a PC user.

7. Top-three songs on your Spotify/i-tunes playlist?

ANSWER: Hard to say, probably some Bruce Springsteen or Willie Nelson songs

8. Philly Cheesesteak or Ben's Chili Bowl half smoke?

ANSWER: Philly Cheesesteak of course.

9. 'Nova hoops or Seventy-Sixers?

ANSWER: 'Nova hoops for sure.

10. Stay-at-Home Binge: books or television?

ANSWER: Both, as well as newspapers and magazines. I read the New York Times every day and try to keep up with significant developments in medical

literature in relevant areas too. We have been glad for the availability of television series on the cable networks which have provided significant entertainment.

Ask the Staff!

Joe Taylor, Operations

1. This month's newsletter is about mentoring and the law. Working in Operations as a teleworker, you often have to help lawyers and their staff through issues, which can be a form of mentoring them. Tell us a little about what you do day to day, and how you view your role with respect to the overall operation of the Court?

ANSWER: I view my role with the Court as a jack of all trades, master of none. I've been afforded many opportunities over the years to learn and grow in several different capacities in Operations. I attribute many of the successes in my career to Margaret Earnest, a former Clerk of Court who first hired me, and Lisa Reyes, our current Clerk with whom I have had the pleasure of working with for many years. My day-to-day duties include managing the CM/ECF helpdesk and doing my best to help out all who call with an unimaginable number of issues. In doing so, I am able educate and provide tips to attorneys and their staff, ensuring that their experiences with CM/ECF are positive and that they are comfortable using the system. I also provide training to incoming law clerks and chambers' staff, and I am very fortunate to be able to train new employees in Operations and to provide guidance on a daily basis to case managers. It is very rewarding for me to help other staff members as I have been helped over the years. I also manage the CM/ECF data dictionary and attorney database, and I provide reports and statistics to the Clerk of Court.

2. Where are you from? How long have you worked at the Court? Where did you work before?

ANSWER: I grew up in the DC area and I currently reside in beautiful South Florida.

I have worked at the Court, off and on, since 1997. I have also worked at the U.S. District Court for the Eastern District of Virginia and the U.S. Court of Appeals for the D.C. Circuit and for a very brief period of time at the law firm of Crowell & Moring, which gave me a great insight and understanding into what the people on the other end of the phone are dealing with and experiencing.

3. Most of us have been adjusting to working remotely just since March, as someone who has always teleworked remotely what are some tips you can give us to improve our experience?

ANSWER: Prepare for problems and have a backup plan: If you can't connect wirelessly to your network, make sure you have a long enough cord so that you can plug up with your router. I had to rush out and get a 50 foot one so I could finish a project on time. If you lose internet service, remember that most, if not all, cell phones have a hot spot. Remember that if you're on Skype or Teams or whatever you use to communicate via video, people can see your surroundings

and, if you're not muted, hear too. And most importantly, if you have a 7-year old, make sure you have a quality lock on your office door. Believe me when I say, they can successfully bypass inferior locks and appear at training sessions, interviews and even meetings with judges.

4. What role can the Bar play in assisting you in ensuring the operations of the court function as close to normal as possible during this time?

ANSWER: Call if there are ANY problems, concerns or questions because we really are here to help. If there is a suggestion for a procedure or docket event or tutorial that could help make things more efficient, please let us know.

5. What is the role of Operations generally as well as in times of crisis, such as the recent COVID-19 pandemic?

ANSWER: We do our best to keep things moving and in order! Continue to provide service to the public – attorneys and their staff and pro se litigants. And our judges of course!

Rapid Fire Round!

6. Mac or PC?

ANSWER: Mac, but only because they look really cool.

7. Top-three songs on your Spotify/i-tunes playlist?

ANSWER:

Shot in the Dark – AC/DC

Shadow Life – Slash

Song # 3 – Stone Sour

8. St. Andrews or Augusta? And, favorite Course to play in Florida?

ANSWER: St. Andrews, my game requires a lot of open space. Being 100 yards right of the fairway, it's possible, I've been there.

Sandhill Crane, they do a good job in waiting to send out the next group. You disappear after your second shot and don't see anyone until you finish. And the alligators leave you alone!

9. Biggest fish you ever caught?

ANSWER: Nothing worth mentioning. My fishing is like my golf – I have the tools and look like I know what I'm doing but the end result is usually bad.

10. Stay-at-Home Binge: walking your dogs, books or television?

ANSWER: Television. Recently watched all 4 seasons of Hart of Dixie – don't judge me – it's a great show!

Important Announcements from the Court

Please visit the home page of the Court's [website](#) for important announcements.

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