



U.S. COURT OF FEDERAL CLAIMS BAR ASSOCIATION



E-Newsletter
Spring Edition | May 2021

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@cfcbar.org.

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Letter from the Chief Judge



To the members of the U.S. Court of Federal Claims Bar Association:

Let me start by saying how honored I am to have been designated as Chief Judge of the Court of Federal Claims by President Biden this past March. I also want to thank Judge Roumel for her able stewardship of the Court during her period as Chief Judge. I also want to thank her and my other colleagues on the bench for the support and encouragement they have given me since I assumed this new role.

Ironically, the position of Chief Judge is not one that I sought or ever imagined I would hold. Indeed, when I came to the Court over seven years ago, in November of 2013, I was leaving a fairly stressful and visible leadership position at the U.S. Office of Personnel Management. I looked forward to letting go of management responsibilities, savoring the intellectual challenges of learning new areas of the law and deciding cases, and then walking off into the sunset when my term ended.

But life is unpredictable. And so, I find myself serving as Chief Judge during a period in which the Court will face several challenging transitions. These include

(fingers crossed) a transition back to normal operations, in the not-too-distant future, when in-person proceedings can become the norm again. I also look forward to a time when we will once again be able to meet and greet face-to-face at Law Day and at the Judicial Conference, and when we can re-invigorate the Advisory Council. At this time, we are still playing it by ear; the general order restricting access to the courthouse has been extended through the end of May and the plan is for another virtual judicial conference this fall. Nonetheless, we are all waiting and watching for the signals from public health authorities that will allow us to safely return to normal. Of course, the bad news is that once that day comes we will have to switch out of our sweat pants and back into more professional attire. But I hope you agree that it will be worth the sacrifice if we can once again speak to each other without the risk that our faces will periodically freeze up and without constantly reminding each other to mute our devices when we are not speaking.

In addition to an anticipated transition back to normal operations, the Court has been and continues to be in the process of transitioning in a large group of new judges. Ten of the Court's thirteen active judges arrived in the last two years. In addition, there are currently three vacancies on the Court that we hope will be filled in the near future. So far our new judges are a very talented bunch, who come from a variety of backgrounds, and who are all enthusiastic about the work of the Court. They have fresh perspectives that I expect will serve the Court well in the years ahead.

Finally, I would note that the theme of this issue of the Newsletter is leadership. Although I have held a number of positions of leadership, I am not sure that I have spent a whole lot of time musing about its component parts. But there are several qualities that I can identify in the leaders that I most admire. These include transparency, the ability to admit their own mistakes, and the encouragement of differing viewpoints. Each of these qualities inspires trust, which is the coin of the realm in any organization, and which is essential to effectively motivating others to achieve common goals—the central task of any leader.

Thank you for giving me the opportunity to share some of my thoughts about the Court and about leadership. I look forward to meeting more of you in the days ahead and I wish you all a wonderful, safe summer.

Chief Judge Elaine D. Kaplan

President's Message



Spring has sprung! While most of us have not returned to our pre-pandemic "normal," hope seems to be in the air. Here at the bar association, we're focused on continuing to bring you timely and relevant programming in the safest way possible, including recent virtual events on the Court's Highly Sensitive Documents procedures, and Perspectives on Intellectual Property Litigation. Keep an eye on your email for announcements about upcoming programs, like a "meet the judges" presentation, and the fall Judicial Conference. In addition, we are hard at

work on a complete redesign of our website, [cfcbar.org](https://www.cfcbar.org). If you have not already done so, please complete [the survey](#) by May 19 to let us know what you would like to see on our website. (You can also find a link to the survey on our homepage).

Although we are unable to gather for lunch this year to celebrate Law Day, please consider taking a moment to reflect on the 2021 Law Day theme, Advancing the Rule of Law Now. As the American Bar Association explains, this theme explores the sovereign will of the people expressed as laws that apply to everyone equally, and which limits the exercise of governmental power so that it does not exceed the authority granted to it by the people. This theme seems especially fitting for the work of the Court of Federal Claims, where the government stands as the defendant and may be sued by citizens seeking monetary redress. If you haven't yet had a chance to do so, learn more about the Court's history as "The People's Court" in the [Court's history brochure](#), available under the "About the Court" tab of the Court's website. And consider what the rule of law means to you, why it matters, and what you can do to help maintain and advance the rule of law.

Allison Kidd-Miller
President, Court of Federal Claims Bar Association

Ask the Judge! Edward H. Meyers

1. This month's newsletter is about leadership in the law. You have experienced the legal profession as a law clerk, private sector litigator, and now Judge, three distinct ways in which lawyers engage in leadership. How has your view of lawyers as leaders evolved through your career?

ANSWER: I have come to realize the importance of lawyers being what my law school called "servant leaders." We are all servants to the law and, practicing litigators are, by definition, servants to others. Whether it be their clients or their bosses, lawyers are always answering to somebody. That is not to say that lawyers must do whatever their clients say—indeed, if clients were always right, they probably wouldn't need their lawyers in the first place. In the end, the goal of the lawyer is to lead the client through the legal system and obtain a fair and just resolution to the client's dispute.

2. As a law clerk to Judge Loren Smith, you have an insider track on the Court and its cases. How has that helped you? How has the Court changed since you were a clerk?

ANSWER: It has been invaluable to have served as a clerk to Judge Smith. He has been a friend, mentor, and now colleague for the last 16 years and has been there for me in every major decision during that time. As for my current role, having the experience with the Court and its docket has allowed me to hit the ground running once I got here. The biggest change from when I was a clerk is all the new faces that are carrying the Court forward—the judges and staff. That said, one of the nice things in my early tenure is how many things have stayed the

same from when I was a law clerk—from the long-time members of the Clerk’s Office to today’s senior judges who were all around when I was clerking.

3. As a private practice attorney, you tried cases across the country. How has that prepared you to serve as a judge in the US Court of Federal Claims - a national court?

ANSWER: Trying cases around the country has shown me that there are a number of ways to do things that are different than the way we do things here in DC, and that we should not be stuck in our ways. As a judge with national jurisdiction, I hope to be served by this experience and welcome (within reason) the way things are done on “the American side of the Beltway.”

4. What leadership role does the Bar play in the legal community?

ANSWER: While any Bar needs to be responsive to its members, it is also incumbent on the Bar to represent its members’ views and interests, particularly to the Court. As judges, we hold hearings and issue decisions, but get very little feedback from the lawyers. The Bar should be that conduit that allows our practitioners to raise concerns or provide the Court with feedback on how we may improve going forward.

5. What is the leadership role of judges in the legal community?

ANSWER: First and foremost, I think judges lead by example and need to conduct ourselves in a calm and dignified manner to demonstrate to the litigants (and sometimes their lawyers) that although there is a real dispute, there is nothing to be gained from belligerent or abusive conduct.

Rapid Fire Round!

6. Mac or PC?

ANSWER: Mac.

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

ANSWER: Whatever is on the radio.

8. Orioles or Nationals?

ANSWER: Nationals.

9. Favorite hidden DC treasure?

ANSWER: Rock Creek Park.

10. Favorite DC “tourist” attraction: Cherry Blossoms in the Spring or Fireworks on the 4th?

ANSWER: Fireworks.

Ask the Special Master!

Herbrina D. Sanders

1. This month's newsletter is about leadership in the law. You have served as a US Department of Justice attorney and now a Special Master. How has your view of lawyers as leaders been influenced by your public service?

ANSWER:

Throughout my career, I have had the opportunity to see lawyers in all types of leadership positions. My first boss was an elected official. He was the leader of his office, but also a community leader with a responsibility to his constituents. I saw his dedication to responding to their concerns and his commitment to giving them a voice by trying difficult cases with ostracized and vulnerable victims. When I moved to the federal system, I saw how many lawyers hold leadership positions in all areas of American government and politics. I believe this is largely because good and honorable lawyers tend to be natural leaders. Lawyers lead by deeds and example, and working for the public adds an extra responsibility to represent the (people of the) United States with conviction.

2. What characteristics do you think are important to be an effective litigator? How do those characteristics transfer to the role of a special master?

ANSWER:

Litigators must be able to listen. They must be flexible and compelling. They must have empathy. A litigator is an advocate for someone else. A person, a cause, a company, or a government has hired the litigator to tell their story. In order to tell a story well, the litigator must hear and understand the story, including its weaknesses and strengths. Storytelling also involves a degree of persuasion, and empathy opens the door to understanding. Understand the issue. Have a plan b and c and d.... Highlight the good, explain the bad, and make the case. And, humanize the controversy.

Court is unpredictable, and being able to listen effectively and adjust are keys to successful litigation. Special Masters are unique because we are expected to be compassionate fact-finders. We must listen and make petitioners feel heard. We must evaluate the strengths and weaknesses of a case and remember that the standard in our program is "more likely than not." I believe litigators are uniquely qualified to hear vaccine cases, because we have been advocates for an entity that has been or feels wronged. We can evaluate the strength of a case despite the tragedy because (criminal) litigators do that as a matter of course.

3. What has been your leadership experience as a lawyer and special master, i.e. how do you view your role as a leader?

ANSWER:

I have always tried to lead by example for new lawyers and those looking to become public servants. I believe that serving the community requires a desire to do better and be better. I don't expect perfection; I certainly could not live up to that ideal. I try to remain principled in my work, fair to those opposite and before me, and compassionate to those less fortunate than me. While I do think it is

possible to do many things well, it has served me to focus on one or two main causes or service groups and put my all into that. My words, my life, and my service all tell one story and that is my commitment to vulnerable populations, particularly women and children. I have been involved in leadership roles through my undergraduate alumni association and focused our work on lifting up those vulnerable populations.

4. What leadership role does the Bar play in the legal community?

ANSWER:

The Bar has a responsibility to its members as an advocate and to the community as a source of information. Bar leadership should play a key role in addressing the concerns of its legal community with the courts, the government, and the legislature. New lawyers need access to a source of institutional knowledge. Experienced lawyers benefit from continuing education and fellowship opportunities. The Bar provides these types of resources.

There is also an educational role the Bar must play to inform the public about the function of a particular legal community. The Bar helps control the narrative through traditional and social media campaigns, the selection of issues to pursue in higher courts, and negotiation of rules and protocols within the court system.

5. How does leadership in public service differ from leadership in private practice?

ANSWER:

I can't really speak to this question because I have been a public servant, by choice, my entire career.

Rapid Fire Round!

6. Mac or PC?

ANSWER:

Mac

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

ANSWER:

Hmmm, I am a music lover so that changes by the week, but right now. . .

Sade- By Your Side

Lauryn Hill- Lost Ones

Anything Adele

8. The Cardinals or The Cardinal?

ANSWER:

The Cardinal. Always.

9. Ted Drewes Frozen Custard or Fitz's Root Beer?

ANSWER:
Ted Drewes!!!!

10. Final meal?

ANSWER:
Pappadeaux Fried Shrimp and Crawfish Etoufee
Chick-fil-A large fry
Diet Grapico Soda
Insomnia Cookies Triple Chocolate Cookie

Ask the Staff! Harold Wymbs

1. This month's newsletter is about leadership in the law. You have worked as a leader in operations in the US Court of Federal Claims for many years. 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 like to think that most of my time is spent guiding and mentoring the members of the operations team to provide excellent customer service and to ensure the integrity of the official Court record. I spend a great deal of time reviewing and researching the rules and procedures of the Court to make sure that we properly maintain the official record. I also enjoy interacting with the public and the attorneys.

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

ANSWER: I'm from Chicago, Illinois, the windy city. I started working at the Court in August of 1991 and prior to working for the Court I worked for many years as a Family Counselor at a crisis shelter for homeless or run-away youth. I also worked for several years in IT at the U.S. Senate.

3. What characteristics make a good leader in your experience in the Court? In your church?

ANSWER: In my experience in the Court, good leaders are supportive and value the contributions of their staff. Our leaders are patience, understanding and clear thinkers who are interested in the development of the staff. The same characteristics apply to good leaders in the church. I've grown stronger professionally and spiritually under the Court and church leaders who are compassionate and patience.

4. You are often present at Open Admissions for the CFC Bar Association and always seem to enjoy participating in that. What part of your job do you enjoy the most? What can the Bar do to help facilitate your work?

ANSWER: I enjoy working directly with the various judges at the Open Admissions sessions. I take pride in being a part of the history of each newly

admitted attorney to the Court. I love doing the Court cry as the judge takes the bench and, administering the oath to the newly admitted attorneys.

5. As a fellow Hamilton fan, tell us why you love it and any favorite scenes or songs? Does it speak to you about leadership?

ANSWER: The music and the inclusiveness of the cast are what make Hamilton so special to me. As far as favorite scenes or songs "Satisfied" and "Room Where It Happened" are just a few of my favorites. I've never thought about how Hamilton would speak to me as a leader.

Rapid Fire Round!

6. Mac or PC?

ANSWER: Mac of course.

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

ANSWER: (1) Satisfied; (2) Dear Theodosia; and (3) Quiet Uptown.

8. Hamilton or Burr, Sir?

ANSWER: Hamilton.

9. Favorite fact or space or room in the Court that most people don't know about?

ANSWER: Library on the second floor close to the windows facing Lafayette Park.

10. Church hymns or Broadway showtunes?

ANSWER: An even toss for me. I love both equally. Great is Thy Faithfulness is one of my favorite hymns.

Lay Day - May 1, 2021 Advancing the Rule of Law, Now

On May 1st every year, we celebrate Law Day, a national day set aside to celebrate the rule of law. Law Day provides us with an opportunity to expand our understanding of the law's contributions to liberty, justice and freedoms in America and abroad.

President Dwight D. Eisenhower established Law Day in 1958 as a day of national dedication to the principles of government under law.

In 1966, Congress designated May 1 as the official date for celebrating Law Day. This program continues today and has grown to many countries around the globe.

As we celebrate Law Day virtually for the second year in a row due to COVID-19 restrictions, the Court of Federal Claims Bar Association wanted to take a

moment to reflect on the significance of Law Day. This year's theme was Advancing the Rule of Law, Now. From the American Bar Association's statement: "The rule of law is the bedrock of American rights and liberties—in times of calm and unrest alike. The 2021 Law Day theme—Advancing the Rule of Law, Now—reminds all of us that we the people share the responsibility to promote the rule of law, defend liberty, and pursue justice."

As the Court of Federal Claims Bar Association's Spring 2021 Newsletter celebrates leadership and law, the Bar's leadership, in the ongoing face of COVID-19 challenges, continues its efforts to educate, facilitate best practices, and encourage and promote cooperation between the Bench and Bar to advance the rule of law, now.

We hope to see you next, back in person, for Law Day 2022!

Important Announcements from the Court

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

Bar Leadership

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