



U.S. COURT OF FEDERAL CLAIMS BAR ASSOCIATION



E-Newsletter
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Dear Member,

We hope you enjoy our E-Newsletter. In anticipation of the upcoming 35th Annual USCFC Judicial Conference on October 23, 2024, the theme of this Newsletter centers around the importance of continuing legal education (CLE).

Registration for this year's USCFC Judicial Conference at the National Press Club is open. Click [here](#) to register.

If you have any questions or comments, or would like to submit an article for a future newsletter, please email newsletter@cfcbbar.org.

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

Letter from the Chief Judge



It goes without saying that lawyers cannot provide effective representation or advice to their clients unless they are up on the latest changes in the law in their practice areas. Further, to ensure that they adhere to the highest standards of the profession, lawyers would be well advised to receive periodic reminders of the requirements of their bar's code of professional responsibility. Continuous learning is essential to good lawyering.

And yet, whenever I hear the phrase "continuing legal education," I feel nothing so much as an impulse to yawn. Maybe that's because CLE, at least of the mandatory kind, seems more like a check-the-box exercise than an educational one. How many times has each of us sat in an audience watching everyone around us scrolling on their phones while the instructor desperately attempts to engage their attention, or worse, just drones on until, mercifully, time is up. And don't get me started on CLE courses delivered "on demand" to our personal computers and then muted while the purported student checks his Instagram or watches the latest Netflix series.

Mandatory CLE requirements were imposed by state bars on a widespread basis in the wake of the Watergate scandal, in response to the involvement of lawyers (including the then-Attorney General) in the planning of the burglary and the execution of the cover up. See Rima Sirota, [Can Continuing Legal Education Pass the Test? Empirical Lessons from the Medical World](#), 36 Notre Dame J.L. Ethics & Pub. Pol'y 1 (2022). “CLE, it was said, would keep lawyers abreast of important developments in the law and would reinforce lawyers' understanding of their ethical obligations.” Id.

Yet, as Professor Rima Sirota has observed, “no evidence-based reason has emerged to support the conclusion that CLE bears any relationship--much less a causal one--to better lawyering.” Id. “The mandatory CLE system,” she explains, “is oriented toward attendance, not learning.” Id. at 4. And “no state government or bar association has any system in place to assess whether attendees have actually learned anything from their CLE hours, much less whether they have retained or effectively put that knowledge to use.” Id.

It doesn't help, of course, that attorneys whose interest is only in meeting their CLE requirements often take courses that are not relevant to their practice either because of cost considerations or because they waited until the last minute to register for classes. And, as Professor Sirota observes, “[e]ven if a lawyer makes relevant CLE choices, lecture-based courses with little opportunity for interactivity or practice are unlikely to deliver lessons that stick.” Id. at 7.

Surely, it doesn't have to be this way. If attorneys are to be required to secure specified amounts of CLE credit hours on a continuing basis then, as Professor Sirota suggests, more should be done to ensure that their time (and money) is well spent. Attorneys must also do what they can to get value out of CLE courses by being more selective about choosing them. And the state bars imposing the requirements need to more rigorously monitor whether the courses approved for CLE credit are actually imparting useful skills or knowledge.

By the way, speaking of useful skills and knowledge, I look forward to seeing you all on October 23 at our annual Judicial Conference at the National Press Club. Come for the CLE credit; stay for the fun.

Chief Judge Elaine D. Kaplan

President's Message



Dear Colleagues,

In an ever-shifting legal landscape, the pursuit of Continuing Legal Education (CLE) credits is essential, but that is only part of the equation. As members of the U.S. Court of Federal Claims Bar who often practice in unique and specialized areas of the law, the importance of Continuing Legal Education cannot be overstated. Staying informed through case law updates, webinars, and peer conversations helps us to remain responsive to new legal developments. Leveraging new technologies, and research tools, also allows us to navigate the complexities of our practices more effectively.

This is where involvement with the U.S. Court of Federal Claims Bar Association plays a critical role. By actively participating, whether through attending Bar Association events or contributing to discussions, practitioners place themselves in a position to gain unique insights, share knowledge, and engage with leaders in our profession. I encourage all of you to get involved, as your participation not only benefits you professionally, but also strengthens our legal community as a whole.

I especially would like to highlight the importance of attending our upcoming annual Judicial Conference, scheduled to take place at the National Press Club on October 23, 2024. This event is a prime opportunity to hear directly from judges, legal experts, and fellow practitioners on the most pressing issues facing our courts and profession today. Whether it's through insightful presentations, thought-provoking discussions, or informal networking opportunities, the Judicial Conference provides invaluable knowledge and connections that can elevate your practice and help you stay ahead in our rapidly changing legal environment.

I look forward to seeing many of you at this year's conference as we continue to grow, learn, and lead together within the Court of Federal Claims community.

Warm regards,

Leah Durant

President, United States Court of Federal Claims Bar Association

Ask the Judge! **Judge Carolyn N. Lerner**

1. From your perspective as a Judge, can you describe the importance of continuing legal education within the legal community generally?

ANSWER: Maintaining the public's trust and confidence in our legal system requires lawyers to be knowledgeable, competent, and ethical. Continuing legal education can play a part in meeting these obligations. That said, ideally the definition of CLE would encompass more than formal classes taken for credit. Professional development can take many forms. For example, providing pro bono services is an excellent way to learn new areas of the law, as well as develop skills within or outside a lawyer's primary practice area. And the need for pro bono representation is vast—according to the Legal Services Corporation, nearly a million individuals who qualify for free legal services are turned away every year.

Many bar associations and nonprofit organizations provide excellent training for lawyers performing pro bono services—and these trainings often qualify for CLE credit. Pro bono may never be mandatory like CLE, but perhaps when considering what constitutes CLE credit, pro bono service itself could become part of the equation. We often recognize that pro bono helps new lawyers grow their knowledge and expand their skillset; this holds true for more experienced lawyers, as well. It is also a valued service to the Court, along with a great way for lawyers to fulfill their ethical obligations as members of the Bar.

2. Can you describe the usefulness of continuing legal education for a practitioner?

ANSWER: In most jurisdictions, CLE is required to maintain a law license, but there is much discretion in the types and formats of classes that qualify. In choosing courses, lawyers might consider whether they will have an opportunity to genuinely engage with the material and interact with other students and the instructor. I also recommend courses focusing on practical skills such as trial advocacy, negotiation, legal writing, and client communication – skills that can always use more practice. And with the growth of technology in legal practice, CLE can provide updates on new legal technologies, electronic discovery, and cybersecurity risks. Finally, one of CLE's less obvious but real values is bringing together lawyers from different firms, areas of expertise, and geographic locations. This creates valuable networking opportunities and fosters professional – and sometimes personal – relationships; one law school friend even met her husband at a CLE!

3. In anticipation of the upcoming USCFC Judicial Conference, can you describe a presentation from a former USCFC Judicial Conference that you found particularly insightful?

ANSWER: At the 2022 USCFC Judicial Conference, I moderated a panel on implicit bias with Hon. Bernice B. Donald (Ret.) of the U.S. Court of Appeals for the Sixth Circuit. Judge Donald has been on the forefront of explaining implicit bias in the law, and her presentation provided practical tools for both practitioners and judges to mitigate this bias. Acknowledging and addressing unconscious bias is crucial not only for our own personal and professional integrity, but also to ensure a fair and equitable justice system.

4. In addition to pursuit of formal continuing legal education credits, how can practitioners best keep up with the ever-shifting legal landscape?

ANSWER: There are myriad resources for lawyers to keep current on changes in the law. Legal news websites, journals, and law reviews are good places to start. I'm also an advocate of joining professional and voluntary bar associations. Both the ABA and the DC Bar have numerous sections, and there are also voluntary bar associations for specific practice areas. Finally, I'm a big fan of podcasts. They help me stay current on the law with the added benefit of making my commute less painful!

5. If you were not a Judge, what type of legal practice do you think you would be engaged in, and why?

ANSWER: Before joining the bench, I had several somewhat separate "careers" as a lawyer: litigating civil rights and employment cases; serving as a court-appointed special master; leading an independent government oversight agency, the U.S. Office of Special Counsel; and heading the mediation program for the federal courts in the D.C. Circuit. A common theme of each role was working in the public interest. So, if I were not a judge, I would likely still be working in some

type of public service.

****Quick Answer Round****

1. Grammar: Oxford comma or no Oxford comma?

ANSWER: Oxford comma.

2. Scheduling: digital calendar or manual calendar?

ANSWER: Digital.

3. While working: background noise (music/podcast) or silence?

ANSWER: Silence.

4. Lunch: bring or buy?

ANSWER: Bring.

5. Music: best concert you have attended?

ANSWER: For their first concert, my husband and I brought our kids to see Santana. Very fun!

Ask the Special Master! **Special Master Christian Moran**

1. Can you describe the importance of continuing legal education as a Special Master?

ANSWER: The Office of Special Masters is a wonderful organization. It's small and all its members are devoted to the same mission---fairly adjudicating claims in the Vaccine Program. However, its size and focus can carry downsides as well in that special masters may not learn what is happening in other fields. Participating in continuing legal education and attending the judicial conference is an opportunity to see other aspects of the legal community.

2. Can you describe the usefulness of continuing legal education for a practitioner?

ANSWER: I think the answer for practicing attorneys resembles the answer for special masters. We don't know what we don't know. All attorneys can learn about substantive areas of the law and can learn how to represent clients more effectively.

3. In anticipation of the upcoming USCFC Judicial Conference, can you describe a presentation from a former USCFC Judicial Conference that you found particularly insightful?

ANSWER: The Judicial Conference in 2023 included a talk about artificial intelligence in practicing law. Until that session, I had not imagined how a

computer program can “assist” in drafting legal documents, such as briefs. I placed “assist” in quotation marks because more recent (funny and not-so-funny) stories have shown that the program invented precedents. However, artificial intelligence, like other tools, can help lawyers write better briefs and/or write briefs more quickly.

4. In addition to pursuit of *formal* continuing legal education credits, how can practitioners best keep up with the ever-shifting legal landscape?

ANSWER: Because I am admitted to practice in Connecticut and I need to obtain legal education credits, I listen to a monthly podcast called “Calendar Call.” Although “Calendar Call” is focused on the law of the nutmeg state, other states probably provide similar podcasts. By the way, the “Calendar Call” devoted two episodes to college sports, including “Name, Image, and Licensing.” These episodes would be of interest to any fan of college sports.

5. If you were not a Special Master, what type of legal practice do you think you would be engaged in, and why?

ANSWER: A lawyer specializing in Section 1983 litigation would be high on my list. Attorneys in this field often represent the little person who has been (allegedly) mistreated by government officials. Civil litigation contributes to balancing power in democratic society between the government and the citizens. So, I think these attorneys combine representation of individuals with (potential) improvement to society.

****Quick Answer Round****

1. Grammar: Oxford comma or no Oxford comma?

ANSWER: Oxford comma.

2. Scheduling: digital calendar or manual calendar?

ANSWER: Digital.

3. While working: background noise (music/podcast) or silence?

ANSWER: Mostly silence.

4. Lunch: bring or buy?

ANSWER: Bring.

5. Music: best concert you have attended?

ANSWER: In terms of exceeding expectations, the Avett Brothers. Before going to a concert at Wolf Trap with my wife, I was not really familiar with them. But, I was soon wowed by them.

Maurice Brabham

1. Can you explain your role at USCFC? How long have you been in this role?

ANSWER: Procurement Administrator. I purchase supplies and negotiate IT contracts for our courthouse. Also, I assist with space and facilities. I have been in this role for four years.

2. Prior to working at the USCFC, what did you do?

ANSWER: I was a procurement specialist / Contracting Officer in Reno, Nevada.

3. In anticipation of the upcoming USCFC Judicial Conference, can you describe a presentation from a former USCFC Judicial Conference that you found particularly insightful?

ANSWER: I have never attended a USCFC Judicial Conference. However, at this year FCCA conference, there was a former district judge who gave a very insightful seminar on racial inequality.

4. Outside of the continuing legal education programming offered at the USCFC Judicial Conference, are there other aspects of the USCFC Judicial Conference that you look forward to?

ANSWER: Nothing in particular, I'm always willing to learn new things.

5. If you were not in your current role at the USCFC, what type of work would you be engaged in, and why?

ANSWER: Anything talking about sports, primarily basketball and football. Sports podcaster.

****Quick Answer Round****

1. Grammar: Oxford comma or no Oxford comma?

ANSWER: No Oxford comma.

2. Scheduling: digital calendar or manual calendar?

ANSWER: Manual calendar, I'm sort of old school with some things.

3. While working: background noise (music/podcast) or silence?

ANSWER: Office silence, work from home, normally a podcast or tv for some background noise.

4. Lunch: bring or buy?

ANSWER: Buy.

5. Music: best concert you have attended?

ANSWER: March 2020, I attended a hip hop concert in Oakland, CA. Some of my favorite hip hop artists were performing, Nas and Wu-Tang.

Important Announcements from the Court

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

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