



U.S. COURT OF FEDERAL CLAIMS BAR ASSOCIATION



Spring 2026 Newsletter

Dear Member,

We are pleased to share with you the Spring 2026 edition of the Court of Federal Claims Bar Association E-Newsletter.

This issue's theme is: The Pursuit of Excellence in Federal Practice. We asked members of the Court of Federal Claims community to share their perspectives on what excellence looks like in practice. We are honored to feature contributions from Bar Association President Robert Wagman, Judge Elaine Kaplan, Special Master Mindy Roth, and Staffer Jerome Brackins, Jr. Each offers a unique perspective on the standards, habits, and values that define excellence in advocacy, public service, and professional integrity within the Court of Federal Claims community.

In addition to these thoughtful reflections, this issue includes important updates and links to upcoming Bar Association events and opportunities for engagement. We hope you find this edition both informative and inspiring, and that it encourages continued dialogue and commitment to excellence in your own practice..

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

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President's Message

Dear Colleagues,

As we consider this quarter's theme—***The Pursuit of Excellence in Federal Practice***—I am reminded of the extraordinary responsibility each of us carry as practitioners before the United States Court of Federal Claims. Our Court occupies a unique place in the federal judiciary; entrusted with resolving some of



the most complex questions of public law, fiscal governance, and the obligations between citizens and their government. Excellence in this arena is not aspirational; it is essential.

My first appearance before the Court was in 2000 on one of the many *Winstar* cases. And, while much about the practice before the Court, and the practice of law generally, has changed since then the basic fundamentals remain unchanged. As I reflect on my experiences, there are a few lessons that stand out and have remained pillars of my personal pursuit of excellence in my practice.

Excellence begins with focus. Earlier in my career, I had the honor of working with Jack Miller and John Cassidy. Both were exquisite courtroom advocates; however, what was more memorable was their constant admonishment that “anyone, I mean ANYONE, can go to the merits.” Our clients come to us seeking solutions. Whether representing individuals, companies, or the government itself, we best serve them by understanding their real goals and employing the wisdom, strategy, creativity, or sometimes litigation on the merits, that will advance our client’s interests.

Excellence is reinforced through credibility. Our profession is built on the currency of trust -before the Court, before our clients, and among our colleagues on both sides of the “v.” One of the first, and most vital, lessons I learned in my career was that “as lawyers, we have nothing to sell but our reputations.” Integrity in representation, accuracy in advocacy, and professionalism in every interaction reinforce the confidence that is needed for effective advocacy. As lawyers, we must earn our credibility every day. In federal practice where the issues are often intricate and the stakes significant, credibility is not merely helpful; it is indispensable.

Excellence is sustained by purpose. One of my early mentors in the practice of law was Jim Dobkin who imparted the most memorable career advice, which is “find something you love to do and do it.” By any measure, the practice of law before the Court is demanding and pursuing excellence is a full-time, no-days-off endeavor. When striving for excellence, finding professional fulfillment in your practice is bedrock necessity to sustain lawyers through the numerous stresses that come with our profession.

As we look to the future, I invite you to consider what excellence means in your own practice. Perhaps it is a habit that keeps your analysis sharp, a mentor who shaped your approach to the law, or a moment in your career that reaffirmed the importance of professionalism. These experiences, when shared, elevate all of us. Our Bar Association plays a vital role in sustaining each member’s commitment to excellence. Through educational programs, practice-focused panels, and collaboration between the Court and bar, we strive to cultivate the shared values that strengthen our professional community.

Thank you for your continued dedication to the Bar Association and to each other. It is a privilege to serve as your president, and I look forward to our continued work together in promoting the highest standards of federal practice.

With appreciation,

Ask the Judge! Judge Elaine Kaplan

1. **Written Advocacy:** *From your perspective on the bench, what qualities make a brief particularly effective or helpful to the Court? In your experience, what distinguishes truly excellent written advocacy from briefing that ultimately proves less useful to the Court's deliberative process?*

ANSWER: I have been on the court for more than 12 years but still find that virtually every matter before me raises legal questions I have never encountered before. And the issues are often very technical and complex. So I really need counsel's help to educate me. Do not assume that the judge knows anything beyond the most basic aspects of the governing law. Clarity and simplicity of language in your briefs is essential. Shorter is better, although ironically shorter makes writing a brief take longer. Minimize the use of acronyms.

Don't use bombastic language in your writing or when you present argument. I understand the occasional urge to harshly criticize the other side's arguments (or even their lawyer) but my practice as a lawyer (and more recently a judge) has always been to go over my final drafts to take that kind of stuff out. It's distracting and, in extreme cases, unprofessional.

2. **Oral Advocacy:** *What do the most effective advocates do particularly well during oral arguments or hearings before the Court? Are there approaches or practices that enable counsel to engage productively and present their positions in a manner that is both persuasive and genuinely helpful to the Court's consideration of the matters before it?*

ANSWER: It's somewhat of a cliché but I think the most important quality of an effective oral advocate is being prepared for the court's questions and having an answer to them. Surprises happen but if you understand your case, you can generally anticipate what questions the court will have. The best oral advocates spend most of their prep time thinking about the questions they can expect and practicing how to best answer them in a way that advances their case and maybe allows them to pivot to another point they want to drive home.

I ask a lot of questions at oral argument. There is nothing more frustrating to me as a judge than a lawyer who either cannot answer an obvious question about their case or who avoids answering questions. It is also especially helpful if the lawyer answers the question promptly when it is asked. Putting it off may make it appear that you are afraid to answer it. And sometimes by the time the lawyer gets around to answering my question, I forget why I asked it.

Finally, the best oral advocates are not afraid to concede a point that they cannot realistically win. You gain a lot of credibility if you are willing to concede, and then are ready to explain why your concession doesn't affect the result you want the court to reach.

3. **Preparation and Mastery of Record:** *In your experience, how does careful preparation, both by counsel and by the Court, contribute to achieving well-reasoned outcomes? In what ways can counsel most effectively assist the Court in understanding and resolving the issues presented?*

ANSWER: Preparation is everything when appearing in court. And mastery of the record gives counsel credibility. The judge also benefits from preparing but a judge should never find themselves in the position of knowing the record better than the lawyers. And that happens more than one might wish.

4. **Common Pitfalls:** *From your perspective, are there recurring mistakes or pitfalls that practitioners should strive to avoid as they pursue excellence in federal practice? What practices or habits tend to distinguish those advocates who navigate these challenges most effectively?*

ANSWER: See the points made above.

5. **Sustaining Excellence Throughout a Career:** *Reflecting on your career in the law, what habits, principles, or practices have helped you sustain a commitment to excellence over many years? Are there particular approaches to professional development, intellectual curiosity, or reflection that you believe are especially important for lawyers seeking to maintain a high standard of practice throughout their careers?*

ANSWER: I try to make it a habit to be willing to change my mind as I work on the proper resolution of a case. It is my practice to write multiple drafts of my decisions. It both improves the clarity of the writing and also helps me reach a conclusion consistent with the law. As with a brief, if an opinion “doesn’t write” then it may be time to go in a different direction.

Quick Answer Round

1. Grammar: Oxford comma or no Oxford comma?

ANSWER: I use Oxford commas, and always have...

2. Scheduling: digital calendar or manual calendar?

ANSWER: Digital. There are still people who use a “manual” calendar?

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

ANSWER: Silence. I think it’s a generational thing. It constantly amazes me when my clerks are wearing their headphones and listening to music or podcasts while they work. It just hit me though: maybe they aren’t working?

4. Lunch: bring or buy?

ANSWER: Neither. Eating lunch makes me sleepy.

5. Music: best concert you have attended?

ANSWER: I can’t pick a “best” concert. But some memorable ones include Laura Nyro (Central Park, summer of 1976); Lena Horne and Dianna Ross (both in the

early 80s and at Carnegie Hall), Joan Baez (the Strathmore) and Brandi Carlile (Wolftrap, a few summers ago).

Ask the Special Master!

Special Master Mindy Michaels Roth

1. **Written Advocacy:** *From your perspective as a Special Master, what qualities make a brief particularly effective or helpful to the Court? In your experience, what distinguishes truly excellent written advocacy from briefing that ultimately proves less useful to the Court's deliberative process?*

ANSWER: Beneficial briefing provides an overview of the case, sets forth and targets the issues to be addressed, argues each issue with references to the evidence and addresses the arguments and evidence of the opposing side on each issue. More is not better. Presenting what it is that you intend to prove and have the court focus on and understand is best.

2. **Oral Advocacy:** *What do the most effective advocates do particularly well during hearings before the Court? Are there approaches or practices that enable counsel to address complex issues and present their positions in a manner that is both persuasive and genuinely helpful to the Court's consideration of the matters before it?*

ANSWER: The most effective advocates present the issues in the case, address each issue in a comprehensive and complete fashion before moving on to the next issue, keep the witnesses on task, identify the evidence in support of the issue with specificity and acknowledge and distinguishing the opposing side's position and evidence.

3. **Preparation and Mastery of Record:** *In your experience, how does careful preparation, both by counsel and by the Court, contribute to achieving well-reasoned outcomes? In what ways can counsel most effectively assist the Court in understanding and resolving the issues presented?*

ANSWER: At the risk of sounding redundant, the most effective case presentations include the parties and the court knowing the facts and evidence in the record, each side presenting the issues in a clear and coherent fashion with specific cites to the evidence, acknowledging and distinguishing or conceding evidence in opposition, asking pointed questions of their witnesses on each specific issue and keeping their witnesses on task.

4. **Common Pitfalls:** *From your perspective, are there recurring mistakes or pitfalls that practitioners should strive to avoid as they pursue excellence in federal practice? What practices or habits tend to distinguish those advocates who navigate these challenges most effectively?*

ANSWER: The most common pitfall/mistake I see is the open-ended question to a witness allowing the witness to control the presentation rather than the attorney, resulting in the issues not being succinctly and adequately addressed.

5. **Sustaining Excellence Throughout a Career:** Reflecting on your career in the law, what habits, principles, or practices have helped you sustain a commitment to excellence over many years? Are there particular approaches to professional development, intellectual curiosity, or reflection that you believe are especially important for lawyers seeking to maintain a high standard of practice throughout their careers?

ANSWER: The most important lessons I learned as a young lawyer were to always be prepared, study my case, make sure I understood the evidence and present not only the facts, evidence, strength and weaknesses of my case, but to also acknowledge the strengths and weaknesses of the opposing side up front and throughout the process. This provides not only credibility with a jury or fact finder but also avoids becoming so invested in your own side that you cannot see and address the merits of the other side.

Quick Answer Round

1. Grammar: Oxford comma or no Oxford comma?

ANSWER: I use both but am a creature of habit, so Oxford comma.

2. Scheduling: digital calendar or manual calendar?

ANSWER: Both, but I rely on my manual calendar.

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

ANSWER: Silence.

4. Lunch: bring or buy?

ANSWER: Always bring.

5. Music: best concert you have attended?

ANSWER: I am a diehard Fleetwood Mac fan so every - and there have been many - Fleetwood Mac and/or Stevie Nicks concerts. But Pink is definitely on the top of the list of incredible concerts, and I am always in awe of what she is capable of.

Ask the Staffer! **Jerome Brackins, Jr.**

1. Can you describe your role at the U.S. Court of Federal Claims and what a typical day looks like for you?

ANSWER: I work in the Staff Attorneys Office. My work involves reviewing *pro se* filings for procedural compliance, processing judicial misconduct and attorney discipline matters, and conducting legal research to help clarify the issues before the Court.

2. The theme of this issue is *The Pursuit of Excellence in Federal Practice*. What does "excellence" in professional life mean to you in your role at the

Court??

ANSWER: For me, excellence in federal practice means bringing precision, clarity, and consistency to every stage of a case. In my role, that translates into careful attention to the record, clear communication, and a commitment to ensuring each matter is procedurally sound before it reaches chambers.

3. What qualities or habits do you notice in attorneys who appear especially professional and well prepared in their interactions with the Court?

ANSWER: The attorneys who make the strongest impression are the ones who understand both the substance of their case and the rhythm of the Court.

They're respectful to staff, they communicate clearly, and they come prepared with a practical understanding of where their case sits in the process. Even small things like submitting clean, organized filings or responding promptly to queries signal their engagement with their work and other people.

4. In your view, what qualities help people (whether judges, attorneys, or staff) perform their roles at the highest level?

ANSWER: Across the Court, the people who perform at the highest level tend to share a few qualities: they're steady under pressure, collaborative in a positive way, and intentional about understanding protocol and how their work fits into the larger process. I've also found that those people who know how to bring a little good-natured humor into the day often perform better. Those habits create an environment where the Court can operate harmoniously and serve the public appropriately.

5. Over the course of your career, what practices or approaches have helped you perform your work at a high level?

ANSWER: A few practices have carried me: when I start a new role, I create a "cheat sheet" of templates, checklists, and information I update as I learn; I raise issues early and provide ways to address them; I rely on reusable systems and spreadsheets to maintain organization and manage records. I maintain a positive and optimistic outlook. This keeps my mind sharp and my work accurate, efficient, and sustainable at a high level.

****Quick Answer Round****

1. Grammar: Oxford comma or no Oxford comma?

ANSWER: Oxford comma.

2. Scheduling: digital calendar or manual calendar?

ANSWER: Digital Calendar.

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

ANSWER: Background noise (Music/News).

4. Lunch: bring or buy?

ANSWER: Bring lunch.

5. Music: best concert you have attended?

ANSWER: Brandy's The Boy Is Mine Tour. Though, I don't really prefer going to concerts.

Law Day 2026

Law Day 2026 – Rule of Law and the American Dream
May 18, 2026 – 11:45 am – 2:00 pm
Speaker – Judge Roy Altman

The Willard Hotel
1401 Pennsylvania Ave NW,
Washington, DC 20004

Registration is now open!
Early registration ends April 13, 2026 (price increases after this time)
Registration ends May 11, 2026

Information [here](#).

Upcoming Educational Programming

May 28, 2026 – Education Program
Bid Protest 101
Additional Information Forthcoming to be posted [here](#).

Seeking Volunteer Contributors for 2027 Deskbook For Practitioners (7th Edition)

Every decade, the Court of Federal Claims Bar Association publishes an updated edition of the Deskbook for Practitioners, a reference book for the Court's practitioners. The sixth edition was published in 2017, with publication of the seventh edition scheduled for early 2027. The Deskbook is the product of collaboration among Government and private sector attorneys who volunteer to update the Deskbook. The Bar Association provides a complimentary hard copy of the Deskbook to each of its members upon request.

Work on the updated Deskbook has begun, and the Bar Association is looking for additional Government and private sector contributors for certain of the book's chapters. The Bar Association would welcome contributions from attorneys who could help to update chapters addressing the following topics, among others: Military Pay Claims, Civilian Pay Claims, and Attorney Fees. If you are interested and willing to contribute, please contact Jason Bergmann via email at jason.bergmann@usdoj.gov.

Judicial Conference

The 2025 Judicial Conference has officially been rescheduled for September 24, 2026.

All 2025 registrations will remain valid, and new registrations will open in July 2026.

Information [here](#).

Membership

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2026 Firm Membership

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Thank you to our 2026 Firm Members!

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Important Announcements from the Court

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

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