



THE DOCKET

News of the National Conference of Appellate Court Clerks

THE PRESIDENT'S PAGE

Tom Hall (FL)



It is amazing how fast the year goes by. I took office as President last August and after last week's visit to Tallahassee by NCACC's Executive Committee (EC), there is only one EC meeting left with me as President. Really difficult for me to believe.

Much of what we discussed at the spring EC meeting was NCACC's financial position. As noted in my previous columns, the loss of a \$10,000 yearly grant from the American Bar Association to help support our yearly conference was a catalyst for change within NCACC. We are in the middle of a capital campaign to fund the education endowment. But we also adopted and are operating under an approved budget this year. The budget is separated into three distinct parts – an operating budget, a conference budget, and an education fund budget. Operating with an actual specific budget has prompted the EC to look at all aspects of our financial health. We remain in very good financial shape. However, as with everyone else in these difficult economic times, we do not have the same flexibility we used to have. With the agreement of the EC, I appointed a special committee, chaired by former EC member and host, Irene Bizzoso, to make a recommendation to the EC about the amount of annual dues and various registration fees for the conference.

A final report from that committee is due in the fall. However, while awaiting that report, the EC voted to go ahead and raise the registration fee for this year's conference to \$350. We also made some other adjustments to the budget. The other "major" one was deciding to no longer distribute *The Docket* via mail. After this edition, it will be posted on our website. An e-mail will be sent out notifying everyone the new edition has been posted. We will also remind you to pass a copy along to your chief judge or justice. As it is everywhere else, our expenses continue to climb but our income (absent education fund donations) is stagnant. We will re-evaluate NCACC's financial future with regard to fees and dues once the Committee provides its report.

Although plans for this year's conference are still being finalized, there is one special event I want to mention. For some time, I have been interested in programs that provide books to children who cannot afford their own. For our Wednesday event, we will again partner with LexisNexis on a community outreach project. This year, our focus will be literacy and education and we have identified two local Sacramento schools, Maple Elementary and Ethel Phillips Elementary, as recipients of our collaborative effort. Right now, we are working with the school principals to obtain a recommended reading list for their 6th grade students.

How can you play a part? We're asking that each attendee at the Lexis/Nexis event purchase a new book from the reading list and bring it with you to the conference in August. I don't want to give away all the exciting details, but I promise we'll unwrap everything for you prior to our dinner with Lexis/Nexis that evening. No one

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HELP KEEP US INFORMED!!



To Remit NCACC Membership Dues:

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EDUCATION FUND AUCTION

Trish Harrington, VA

As those of you who picked up some fun jewelry – or a mini vacuum cleaner – can attest, the Education Fund Auction is an enjoyable part of the annual conference. We solicit contributions from the membership and then hold a silent auction. All proceeds go directly to the Education Fund. If you would like to contribute any items to the auction, please bring them with you to the registration desk when you arrive in Sacramento and give them to the helpful people on duty. They will have you fill out a form describing the item and giving a suggested starting bid. Then we'll do the rest. The following are always appreciated contributions: jewelry, photos, needlework, pottery, Les Steen's barbeque sauce, gift baskets of items with a theme, and any item with a description written by Joe Lane. Quite honestly, we are willing to take anything you want to contribute and then find it another home. If you have any questions about the auction, please feel free to contact Trish Harrington at pharrington@courts.state.va.us or (804) 786-5656.

Proposed Bylaws Changes

Bill DeCicco (USCAAF)

The Executive Committee has voted in favor of submitting the following change to the bylaws for a vote by the general membership at this summer's meeting. Under Article XI of the by-laws, it is to be published in *The Docket*.

The new language would add a new standing committee as section 3(c)(16) to Article VII of the bylaws:

(16) Contract Committee. The purpose of this committee is to review any contract referred to it by the President or the Executive Committee. The committee shall report its recommendation to the President and the Executive Committee.



The NCACC's answer to Simon & Garfunkel entertained the Executive Committee at a cookout at Tom and Lisa Hall's home in Tallahassee, Florida. Expect to see these two entertainers (Rory Perry and Rex Renk) in the hospitality suite in Sacramento.

(President's Page continued from page 1)

will want to miss out on this fun, interactive and meaningful experience. I am setting a goal of at least 200 children's books that we can provide to children in need. Watch for my next conference update with a list of books.

Hard to believe but it is time to start thinking of Sacramento. Registration packets are going in the mail the first week in May. We hope to see everyone there.

Lawyer Ethics and Technology: Wireless Computer Networks Part I

By Daniel J. Crothers

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This is the third in a series of articles about the lawyer's use of technology. The first article discussed using email while preserving the lawyer's duty of confidentiality and preserving the attorney-client privilege. The second article covered confidentiality issues associated with the use of cellular and portable telephones. This is the first of two pieces examining ethical implications of communicating confidential client information using wireless computer networks. Part I provides a light overview of the technical requirements and issues connected with wireless networks. Having this background, Part II will focus more directly on the ethical and legal issues.

Wireless Networks

Wireless computer networks are also known as wireless local area networks, "WLAN" or "Wi-Fi." Whichever label is preferred, the concept represents the use of radio technology to connect two or more computers or computer devices.

Computers equipped with wireless network cards can connect directly using peer-to-peer networking. In a peer-to-peer network there is no access point ("AP," or wireless access point, "WAP") controlling the connected computers. Rather, the computers are connected to each other. The benefits of peer-to-peer networking include simplicity, speed and no need for hardware and wiring external to the computers themselves. Detriments include limited flexibility and lack of security. The security concerns are discussed more fully below and in Part II.

Computers with wireless capability more commonly use a WAP to connect to a network of other computers, to the internet, or to other peripheral devices such as printers and scanners. WAPs typically are used in homes, offices and public places such as airports, book stores, coffee shops, hotels and public libraries so that computers can be connected without the need for extensive wiring and cabling. Obvious advantages of wireless networking include mobility, convenience and low cost. Cost savings are realized not only from the relatively inexpensive wireless equipment but also from not having to run cables to each network user.

The benefits of a wireless network are achieved with a corresponding set of detriments, including—compared to a traditional hardwired network—a relative lack of security, slower speed, limited range and intermittent reliability problems. Again, our focus is on the lack of security.

WLAN (In)security

WLAN connected computers communicate with each other using frequency modulation or FM radio waves. This is the same radio spectrum used by portable telephones. These WLAN radio transmissions are subject to interception and to redirection.

A WLAN user's first concern is whether the access point is legitimate. The second concern centers on whether the data transmitted through an otherwise legitimate WLAN is secure.

First, a malicious user can set up a WLAN with a fake login page that appears legitimate. The fake WLAN allows a user to login as if it was the legitimate site, except that the malicious user monitors the computer transmissions with the goal of capturing valuable information. Unfortunately, if a malicious user wants to mimic a legitimate site, there is little a casual user can do to detect the rogue system. The only easy protection is to not use public access points unless their legitimacy is known to be trustworthy.

Assuming legitimacy of the WLAN, the second concern regards security of the network to which a user connects. Many of the networks are found to be "unsecured wireless networks," meaning that the WLAN access point and the computer communicate with each other with no encryption and nothing to prevent anyone from using the wireless access point or from attempting to gain access to the computer resources attached to the access point. No active security is the default setting for nearly all consumer wireless access points on the market.

Wireless access points nearly always have some sort of encryption security that can be activated. "Wired Equivalent

Privacy” or WEP was the most widely available encryption prior to 2003. After WEP was found to be easily hacked, the industry created Wi-Fi Protected Access, commonly known as WPA and WPA2. “WPA and WEP are technologies that ‘encrypt’ the traffic on your network. That is, they scramble it so that an attacker can’t make any sense of it. To unscramble it at the other end, all systems using it must know a ‘key’ or password.”

“WPA and WEP provide both access control and privacy. Privacy comes from the encryption. Access control comes from the fact that someone must know the password to use your network.”

Users who must connect to a computer network or to the internet using a public WLAN with no access control should strongly consider using a virtual private network (“VPN”). Using the term broadly, a VPN consists of software by that same name sold by Cisco (or similar products by other companies), or by connecting to an internet website like www.accessanywhere.net. Using a VPN provides the remote user with secure and encrypted access to their organization’s network via the internet. “[B]y encrypting data at the sending end and decrypting it at the receiving end, [a VPN] send[s] the data through a ‘tunnel’ that cannot be ‘entered’ by data that is not properly encrypted.”

My research has not revealed an ethics opinion or a court decision requiring an encrypted WLAN login or the use of a VPN. However, Part II of this series will examine why these types of security measures should be considered when communicating and safe keeping your client’s confidential information.

¹“Wi-Fi” is a registered trade name of the Wi-Fi Alliance. See www.wi-fi.com

²A location offering wireless access to the Internet is commonly referred to as a “hotspot.” See [http://en.wikipedia.org/wiki/Hotspot_\(Wi-Fi\)](http://en.wikipedia.org/wiki/Hotspot_(Wi-Fi)). Hotspots are both free and available only for a fee, either per diem or by subscription. Web sites exist that list free hotspots. See, e.g., <http://www.wififreespot.com>. Other sites focus on locating fee-based hotspots. See <http://www.wi-fihotspotlist.com/>

³ See http://en.wikipedia.org/wiki/IEEE_802.11

⁴ Id.

⁵ This article provides a non-technical overview of WLAN security. More technical treatments abound for those interested or needing additional details. See, e.g., <http://www.drizzle.com/~aboba/IEEE/>

⁶ See <http://techdir.rutgers.edu/wireless.html>

⁷ See http://en.wikipedia.org/wiki/Wired_Equivalent_Privacy

⁸ Id.

⁹ <http://techdir.rutgers.edu/wireless.html>

¹⁰ Id.

¹¹ See http://searchsecurity.techtarget.com/sDefinition/0,,sid14_gci213324,00.html

¹² Id.



Facts, Fiction, & Foolishness

Leslie Steen (AR)

Faithful readers (both of you) realize how shamelessly we plagiarize to entertain you. This column is no exception. Here are the results of a *Washington Post* contest to alter any word from the dictionary by adding, subtracting, or changing one letter and supply a new definition. Some of us who are not as bright as others may have to read s-l-o-w-l-y.

1. **Cashtration.** The act of buying a house, which renders the subject financially impotent for an indefinite period of time.
2. **Ignoranus.** A person who is both stupid and an a - hole.
3. **Intaxication.** Euphoria at getting a tax refund, which lasts until you realize it was your money to start with.
4. **Reintarnation.** Coming back to life as a hillbilly.
5. **Bozone:** The substance surrounding stupid people that stops bright ideas from penetrating. The bozone layer, unfortunately, shows little sign of breaking down in the near future.
6. **Foreploy.** Any misrepresentation about yourself for the purpose of getting laid.
7. **Giraffiti.** Vandalism spray-painted very, very high.
8. **Sarchasm.** The gulf between the author of sarcastic wit and the person who doesn't get it.
9. **Inoculatte.** To take coffee intravenously when you are running late.
10. **Osteopornosis.** A degenerate disease.
11. **Karmageddon.** It's like, when everybody is sending off all these really bad vibes, right? And then, like, the earth explodes and it's like, a serious bummer.
12. **Glibido.** All talk and no action.
13. **Dopeler Effect.** The tendency of stupid ideas to seem smarter when they come at you rapidly.
14. **Arachnoleptic Fit.** The frantic dance performed just after you've accidentally walked through a spider web.
15. **Beelzebug.** Satan in the form of a mosquito that gets into your bedroom at 3 a.m. and cannot be cast out.
16. **Catepallor.** The color you turn when you find one-half of a worm in the fruit you are eating.

Washington Post readers were also asked to supply alternate meanings for common words:

1. **Coffee.** The person upon whom one coughs.
2. **Flabbergasted.** Appalled by discovering how much weight one has gained.
3. **Abdicate.** To give up all hope for a flat stomach.
4. **Esplanade.** To attempt an explanation while drunk.
5. **Willy-nilly.** Impotent.
6. **Negligent.** Absentmindedly answering the door while wearing only a nightgown.
7. **Lymph.** To walk with a lisp.
8. **Gargoyle:** Olive flavored mouthwash.
9. **Balderdash.** A rapidly receding hairline.
10. **Rectitude.** The formal, dignified bearing adopted by proctologists.
11. **Pokemon.** A Rastafarian proctologist.

Yes, that is correct, we are guilty of sarchasm.

36th Annual Meeting Schedule - Education Program

August 2-7, 2009
Sacramento, CA

Sunday, August 2, 2009

- ♦ Registration
- ♦ Welcome Meeting
- ♦ Roll Call of the States, Business Meeting Part I

Monday, August 3, 2009 (Four Sessions)

1. 8:40 a.m. - 10:20 a.m. Session
Topic: Intergenerational Leadership
Presenter: Dr. Whitfield
2. 10:30 a.m. - 12:00 Noon Session
Topic: Personal/Court Security Issues
Presenter: Malcom Franklin, California AOC
3. 1:15 p.m. - 2:45 p.m. Session
Topic: Metadata Electronic Document Issues
Presenter: Rick Borstein, *Adobe, Inc.*
4. 3:00 p.m. - 5:00 p.m. Session
Topic: Ethics and the Courts
Presenter: Dr. Jeffrey Thompson
BYU Marriott School of Business

Tuesday, August 4, 2009 (Two Sessions)

1. 9:00 a.m. - 10:45 a.m. Session
Topic: "What's Bugging You?"
2. 11:00 a.m. - 12:00 Noon Session
Topic: NCCC Statistics Model
Presenter: William Raferty, NCSC

1:00 p.m. - 5:00 p.m. Golf

Wednesday, August 5, 2009 (Three Sessions)

1. 8:30 a.m. - 10:00 a.m. Session
Topic: ADA and the Courts
Presenter: Linda Mc Collough, California AOC
2. 10:45 a.m. - 11:45 a.m. Session (Panel Discussion)
Topic: Electronic Filing Issues
Moderator: Rory Perry
3. 12:00 Noon - 5:00 p.m. Vendor Expo

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Thursday, August 6, 2009 (Four Sessions)

1: 8:30 a.m. - 10:15 a.m. Session

Topic: Investing in Today's World

Presenter: Jim Newhouse

2. 10:45 a.m. - 12:00 Noon Breakout Sessions (50 min. Breakout)

Breakout I 10:20 a.m. - 11:10 a.m.

* Death Penalty Panel

* Budgets - Current Developments (panel discussion)

* Those Retiring Within 5 Years

3. Breakout II 11:10 a.m. - 12:00 Noon

* Death Penalty Panel

* Budgets - Current Developments (panel discussion)

* Those with Retirement 5+ Years

4. 12:00 Noon - 1:30 p.m. Annual Business Meeting / Executive Committee Meeting

5:00 p.m. Banquet

Friday, August 7, 2009

Critique Session

Did You Know?

This edition of *The Docket* will be the last paper edition. All future issues will be in electronic format.

The registration packets for the Annual Meeting in Sacramento, CA will be mailed early in May.

Our Sympathy

Charlie Clary, husband of Susan Clary, Clerk/Court Administrator of the Kentucky Supreme Court passed away March 29, 2009. Charlie attended many of our conferences and often participated in the annual golf tournament. Some time ago, Charlie expressed appreciation to the NCACC for always making him feel welcomed and part of the group. He will certainly be missed by those of us who knew him.



Frances H. Smith who served as Clerk of Court, Supreme Court of South Carolina from 1959 until 1983 and was a member of the NCACC, lost her battle with cancer February 19, 2009.