

# The Docket



News of the National Conference of Appellate Court Clerks

Vol. 21

Jan., 1993

No. 2

## NASHVILLE IS THE SIGHT OF THE TWENTIETH ANNUAL MEETING

### MUSIC CITY'S GETTING READY!

*By A.B. Neil, Jr.*

Bill Fulton's act in Washington is a hard one to follow and after seeing the facilities in San Diego, I tried my best to bypass Nashville and move the annual conference meeting onto the West Coast. I was voted down, so we're getting things ready for the first week in August of 1993.

There'll be lots to do and see including, but not limited to, river boat cruises, live nationwide TV productions by The Nashville Network, a visit to the nation's oldest distillery, tours, golf, fishing, the Opryland theme park, and much, much more.

I know that Tommy Lowe is working hard on a fantastic educational program which should be of tremendous benefit to each of us. You'll hear more about that later, as well as the details of the conference when you get your official invitation to visit.

So far as I am personally concerned, I will insist that you follow two hard and fast rules once you arrive. You can do nothing or whatever you want to do! So, get yourselves all packed up and get ready to visit Music City U.S.A. for some "picking", grinnin' and larnin'."

### EDUCATIONAL PROGRAM SHAPES UP!

The "larnin" portion of our annual meeting will include some entertaining and practical material for everyone.

Several break-out sessions will be used this year in response to the preference of the membership. Small sessions will be presented on moving a court, discussion of the NCACC code of

professional conduct, management of capital cases, disaster relief, and the Americans with Disabilities Act. There will also be a break-out session entitled "What's Buggin Me" where participants can simply discuss their common problems.

We will have a session on ethics again this year with Dr. Mark Pastin, Director of the Lincoln Center of Ethics, Arizona State University, providing the instruction. This session will include some fun, but thought-provoking, role-playing and will help our lawyers members to satisfy MCLE ethics requirements.

Judge John Shepherd of the Michigan Court of Appeals and our liaison with the Appellate Judges Conference, and Judge Mike McCormick of the Texas Court of

#### DEADLINE FOR FILING SCHOLARSHIP APPLICATIONS

Applications for NCACC Scholarships for the 1993 Conference must be submitted no later than March 1, 1993. An application form and the scholarship guidelines commence at page 8 in this edition of the DOCKET.

(cont. on p. 3)

## *The President's Page* *Joyce Goldsmith*



As we begin the new year, in spite of dealing with day-to-day operational needs, possible budgetary problems, etc., I hope you are all looking forward to Nashville. A.B. Neil and Tom Lowe have put together what will be an exceptional annual meeting.

Looking ahead to the annual meeting and at your court's budgetary constraints, I encourage those of you who may be faced with funding problems to request a scholarship. Members should not hesitate to request assistance in order to assure attendance at our annual meeting. By attending the annual meeting, you support the conference and grow professionally through the educational programs offered. In the past, there have been fewer requests than scholarships available. The Scholarship Committee would prefer too many applications than too few. In recent communication with Penny Miller, Chair of the Scholarship Committee, the deadline for application has been extended, so there is still time to apply.

The State Justice Institute is also offering scholarships for State court judges and court managers to attend out-of-state court-related educational programs. Application information is included in THE DOCKET. Apply for funding through this source as well.

Even though the court travel budget may be limited, I urge you to participate and support the conference by applying for scholarship assistance through the Conference and/or SJI. Your attendance is important!

## **The Docket**

### **News of the National Conference of Appellate Court Clerks**

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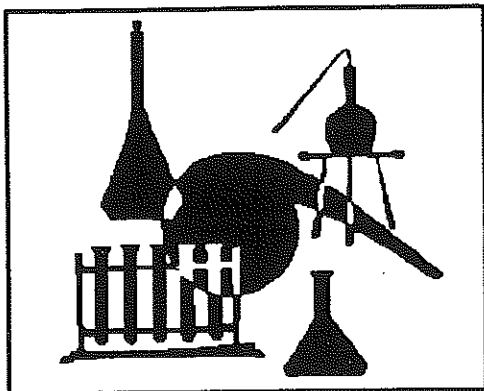
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Please submit items of personal or professional news to a regional reporter. Articles, letters and other submissions may be sent to the editorial office.

1300 Oak St., Kansas City, MO 64106-2970  
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## ENVIRONMENTAL MEASURING DEVICES USED WITH LIBRARY & ARCHIVAL MATERIALS

*Reprinted with permission from the  
NAGARA Clearinghouse Newsletter*



Basic to any conservation program is the control of the environment where library and archival materials are stored, used and exhibited. Some instruments measure relative humidity, which is the ratio (percentage) of the water vapor in the atmosphere to the amount required to saturate it at the same temperature. The lower the temperature, the lower the amount of moisture required for saturation.

Standards set the optimal levels for temperature as 21 degrees C (70 degrees F) maximum and 20 degrees C (68 degrees F) minimum. Relative humidity standards are set at 47%-53%, with 38% minimum during winter and 55% maximum during summer. However, whatever levels are maintained within your collections areas, consistency is most important. Continuous fluctuation in heat and

humidity encourage mold growth and insects, while too little moisture causes embrittlement.

To facilitate monitoring heat and humidity, several types of measuring instruments are available. Below are listed heat and humidity measuring instruments; prices noted were obtained from the University Products (UP) and Light Impressions (LI) catalogs. Comparison shopping with suppliers of scientific instruments such as Cole Parmer may yield better prices.

**Thermometer** - measures temperature in Fahrenheit or Centigrade scales which use 32 degrees and 0 degrees, respectively, to mark the freezing point

**Hydrograph** - measures and records relative humidity (\$465 UP)

**Hygrometer** - measures temperature and humidity to give relative humidity reading (\$118 LI)

**Sling psychrometer** - thermometer unit with wet wick is attached to base and twirled to calculate relative humidity. (\$88 UP)

**Humidity indicator cards and strips** - humidity sensitive paper which will change color to indicate level of humidity (not a precise measuring device)

**Recording thermo-hygrometer/ Hygrothermograph** - measures and records temperature and humidity, usually over a one-day or seven-day span. Good for establishing a record of the measurements over a period of time, with a minimum of human intervention and for periods when no one is present to take readings (\$735 approx.)

**Digital thermo-hygrometer** - gives instant LED readout of temperature (C & F) and relative humidity (\$500 UP).

-- Pearl Holford  
Virginia State Library & Archives

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(EDUCATIONAL PROGRAM...cont. from p. 1)

Criminal Appeals will participate in a discussion on the relationships between judges and the Clerk's office. Finally, the program will include a session on Electronic Bulletin Boards and a mystery topic which Program Chair, Tommy Lowe, guarantees will be humorous! It looks like another fantastic program, indeed!

### For Your Information....

The U.S. Supreme Court has a pamphlet entitled "Visitor's Guide to Oral Argument" that provides information which explains the general procedures of the Court in layperson's terms and the roles of the various people visitors will see in the courtroom, as well as some do's and don'ts for visitors. If you are interested in preparing a similar pamphlet for your court, you may obtain a copy of the Supreme Court's pamphlet by writing to: United States Supreme Court, Public Information Office, 1 First Street N.E., Washington, D.C. 20543

An apocryphal story is told of a meeting between a medieval Pope and the Jewish Rabbi of Jerusalem during a time when the Christian armies were occupying Jerusalem. The Pope and his advisers were there to order the Jews out of the city, and, in the course of the meeting, both leaders sent their entourages out of the room. Though neither understood each other's language, the Pope decided to try to communicate with sign language.

He extended both arms and described a great arch around him; the Rabbi pointed to the ground with his index finger. The Pope raised three fingers, the Rabbi one. The Pope turned and picked up a chalice of wine, the Rabbi reached inside his robe and produced an apple.

The Pope then called his entourage back and announced that the Rabbi had persuaded him that the Jewish people should remain in Jerusalem. "How did he do that," they asked.

"Well, I spread my arms to indicate that God is everywhere, and he pointed to the ground, saying that God is also here. I replied that God is three persons; he responded that God is one. I produced the chalice to demonstrate Christ's sacrifices for us, and he displayed the apple that reminds us of our original sin against God. How persuasive he is!"

Meanwhile, the Rabbi's supporters were astounded at the Pope's reversal of position and asked the Rabbi how he had accomplished such a feat. "I don't really know," he said. "He spread his arms to indicate that we all had to leave Jerusalem, and I pointed to the ground to say that we were staying right here. He raised three fingers to say that we had to be gone within three days, and I responded that not one of us would leave. He picked up a wine glass, and I figured that if he was having

lunch, I would eat my apple."

This time, I want to consider *Communication*, the third component of the "O.S.C.A.R." list of organizational qualities: Orientation, Systematization, Communication, Amplification, and Rewards.

Communication in one form or another is something we have discussed several times in this column. (January 1991 and June 1991, if you are keeping a tally.) One column talked about listening to customers and asking them questions about what they think is involved in your doing a good job for them. The other dealt with ZAPPING employees with shots of empowerment and with one of Steven Covey's "7 Habits," that of "seeking first to understand -- then to be understood."

Communication has been near the center of managerial attention for several decades. In all of our major institutions we have shown a great concern for communications. Has it helped? Naah! Communications by and large are just as poor today as they were twenty or thirty years ago. No matter how much we study this inexhaustible topic, communication just never seems to happen completely. We miss a link somewhere, just like the Pope and the Rabbi missed a link in their mimed discussion. But, do you have any question in your own mind that the Pope absolutely believed that the

# WATCH THIS SPACE

J. GREGORY WALLACE

MANAGEMENT & AUTOMATION CONSULTANT

Rabbi understood every gesture's meaning? No -- nor do we have any doubt that the Rabbi, puzzled though he may have been at the Pope's suddenly pulling out "his lunch," understood **from his point of reference** what the other was saying. But, they missed a link -- the "empathic listening" that Covey speaks of. For real communication to take place, we must try to understand the other's frame of reference and perspective (Can you say 'paradigm?') and listen to what they say from that frame of reference. Then we must work from out of that same perspective as we try to convey our own message.

And yet, despite all the writings and training on this "empathic listening" and communication, what do we do? We still communicate expectations from the top of the organization down. And, if Covey is correct, and we don't understand our subordinates' perspectives, the harder a superior tries to communicate something to a subordinate, the more likely it is that the subordinate will mis-hear and, therefore, will mis-understand, and will fail to perform in the way that the superior expects.

What if we presumed that everyone would take responsibility for their own work. Suppose we asked each person, "What are the contributions for which this organization and I, your superior, should hold you accountable? What should we expect

of you? How can we best utilize your knowledge and abilities?"

Once the subordinate has thought through these things, the superior has, of course, the right -- and responsibility -- to judge and modify the proposals. Don't be at all surprised if the subordinate's proposed objectives are very different from what you (the superior) thought they should be. Subordinates really do see things quite differently than the superiors do. Actually, the subordinates (particularly those who are capable and responsible) may surprise you with their perspective. If there are differences of opinion, who is right is not nearly as important as the fact that real communication in meaningful terms is being established.

These discussions can build on the mission and vision statements we talked about several installments ago, and you may find some good ideas about the systems currently in place, whether or not you evaluated your systems as we suggested last time.

On a larger scale, too, remember that communication involves both transmission and reception. From the transmission side, we should be considering *who* needs to know what's going on, how that can best be accomplished, and how we can arrange for full feedback? It wouldn't hurt to have a little sign on our desks for a reminder:

### **WHO ELSE NEEDS TO KNOW THIS?**

It doesn't matter what we are reading, reviewing, or doing, we ought to be aware, at some level of consciousness, that there may be others within our office or organization that need to know about the information or to know that some act or event has occurred or been accomplished. What is the best way to inform them? Phone call? Make a copy? Drop a

note? E-mail? If someone needs to know, don't put off communicating it until the information has become stale or has, as the Navy says, become "OBE" (overcome by events). Jot a note to yourself and do it at your first break.

We are part of the knowledge work force and real communication within our work force is becoming critical. We are victims of *infoglut*, inundated by information, most of it unfiltered, most of it impersonal -- pure information. And we are becoming so used to trying to cope with that impersonal information that our old problem of establishing the necessary communication to understand each other's needs, goals, perceptions and ways of doing things is exacerbated.

Does this sound like the antithesis of the preceding paragraphs about making sure everyone knows what is going on? Not at all! Making sure that those who need information have it communicated to them in a succinct and timely fashion is a hallmark of effective communication.

The data we wade through so much these days doesn't necessarily supply us with pertinent and timely, personalized information. The more we automate information handling, the more we will have to emphasize creating opportunities for effective, personal communication.


Take meetings, for example. They are excellent tools for communicating, but they can be awful drains on time. To be effective, we must know what to expect out of a meeting, a report, or a presentation.

Meetings should be held when necessary, not just when it is time to have them. Too many meetings can be a signal that the organization is in trouble. Ask yourself: "Why are we having this meeting? Do we want a decision, do we want to inform, do we

want to clarify our direction?" Think through the purpose and insist that the purpose be spelled out before a meeting is called. Then ask yourself if a meeting is the most effective way to accomplish the purpose that has been spelled out.

Meetings should always have an agenda, start with a statement of the specific purpose and contribution it is to achieve. Don't allow meetings to denigrate into "bull" sessions; arrange for prepared presentations, and plan the opportunities for participation and feedback. Encourage contribution from each of those attending the meeting. Make the "attendees" into "participants." At the end of the meeting, always go back to the opening statement and relate the final conclusions to the original intent.

If a newsletter is appropriate for your organization it must be interesting and attractive, or it won't be read. (By the way, I believe that to be an appropriate tool, it must be directed to an audience so large or spread out that meetings are impractical and phone calls, E-Mail, or short, pertinent memos are ineffective.)

Of course we could go on (and we probably will at a later date) -- the discussion is endless! But, to boil it down, managers have to get out and around. Remember, it's not necessarily what you know, it's who you know -- and who knows your operation best? -- your employees. Tom Peters, in his *Excellence* series, calls it "management by wandering around." Know where your employees are coming from. Ask for ideas -- and the better you listen, the better you and your organization will become. 

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RALEIGH, NC 27606-8603  
(919) 387-8386

# FACTS, FICTION AND FOOLISHNESS

By Leslie Steen, Clerk, Supreme Court of Arkansas



My request for material to float this column did not exactly get the response the Commerce Clearing House would expect, and I would like to thank those who did contribute. I will attempt to involve the rest of you in the future.

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The Supreme Court of South Carolina received a letter that was addressed "Suprmean Court, Columbia S.C." Clyde Davis told his court that its reputation as a "super mean" court had obviously spread such that the postal service had no trouble in determining where to deliver the letter.

Clyde also passed along a comment from an attorney from Rock Hill, S.C. about judges. "The opinion most judges have of themselves is not an altogether bad thing. It is, I suppose, better than believing in no god at all." AMEN!!

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Michael Whetstone of West Publishing teaches a course in legal research for non-attorney administrative law judges. One night, after what I am sure was an exhilarating session, as I remember legal research being, Mike asked his class what role "dicta" played in legal terminology. One hand shot up and the professor was informed that "dicta" was the coach of the Chicago Bears. This may have been true when Mike's letter was written.

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Pat Davis of the Court of Appeals of Virginia received a notice of appeal indicating that the defendant was convicted of "robbery and use of a fireman" in the commission thereof. I thought the proper terminology was "fireperson" these days.

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A. B. Neil has enough jokes and stories to fill this column very easily for years to come; however, A. B. is too shy to assume this responsibility. He sent two stories, for which I will be eternally grateful. One I will print in this edition and the other I will save for later use:

I know Mr. John Hilldrop as a sole practitioner and an outstanding trial advocate. He used his sense of humor to his advantage in court.

He had represented an individual convicted of a crime and was arguing a

motion for new trial on a Saturday morning in Clarksville, Tennessee, a city some 45 miles north of Nashville.

In protecting the rights of his client, he oftentimes got carried away. During the closing of his argument, he remarked as follows:

"It was rulings such as your Honor made in this very case that caused our Savior to be crucified."

To which the Judge promptly replied:

"Mr. Hilldrop, that will be a \$10 fine."

Without hesitation, he responded:

"It matters not to me whether it is \$10 or 30 pieces of silver."

Again, the Judge ordered an additional \$10 fine for contempt.

After a brief silence, Mr. Hilldrop approached the bench and said as follows:

"I have looked about the courtroom and see no person present that I know as well as I do your Honor. I have examined the contents of my wallet and all I have is my train ticket on the Tennessee Central Railway to Nashville. Therefore, I wonder if your Honor would be so kind as to lend me the \$20 for payment of the fine which you have so justly imposed?"

To which the Judge turned to his clerk and said:

"Remit the fines; the State of Tennessee can bear this loss better than I can."  
(THIS IS A TRUE STORY)

Again, I would like your stories, jokes and anecdotes. If you do not have any, please tell me the best/worst excuse you have heard for being late or absent from work. Your material may be forwarded to: Leslie Steen, Clerk, Clerk's Office, Justice Building, 625 Marshall, Little Rock, AR 72201

## EXECUTIVE COMMITTEE HOLDS FALL MEETING

The Executive Committee held its Fall meeting in San Diego on November 14, 1992. At its November meeting, the Executive Committee approved appointments to the Scholarship and Nominating Committees. Those members are as follows:

### Scholarship Committee

Penny Miller, Chair  
Cornelia Clark  
Jill Engel

### Nominating Committee

Gloria J. Engel, Chair  
Reba Mims  
John C. Scott  
Glen D. Clark  
A. B. Neil, Jr.

The Executive Committee, at the suggestion of ABA representative Sandy Roos, approved NCACC's membership in the National Association of State Judicial Educators and funding was approved to send the Program Chair to its annual meeting.

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## PEOPLE, PLACES AND THINGS . . .

*DEL LABRANCHE, wife of FRANS LABRANCHE, Supreme Court of Louisiana, is recovering nicely from surgery to remove her sigmoid colon. Frans & Del send their thanks for all the prayers and best wishes received from their NCACC friends. Frans, borrowing from the late Morgan Thomas' humor, says he's now married to a "semi-colon", but it's better than being married to a question mark!"*

### FOCUS ON HOWARD J. "HOWIE" ZIBEL

*HOWIE ZIBEL, a new member of the NCACC, is both Clerk of Court and Reporter of Decisions in New Hampshire. Howie came to the court in 1985 as deputy clerk with responsibilities in the area of case processing which included conduct of pre-hearing conferences for both settlement and procedural reasons. The court has one lawyer deputy and one non-lawyer deputy. Howie assumed his current position in February, 1992 when Ralph Wood retired. His duties include overall responsibility for case processing, publication of the New Hampshire Reports, and administration of the bar examination.*

*Howie has long been active in the Counsel of Appellate Staff Attorneys (CASA), serving on the membership committee, as editor of the CASA newsletter Parascope, as education committee chair, and as a member of the executive board. Howie is most proud of his year as education committee chair and the 1990 CASA seminar held in Washington, D.C. That seminar included on its program Justice Scalia,*

*Solicitor General Starr, and Justice Higginbotham of the Fifth Circuit. An all-star lineup!*

*Howie was born and raised in Boston, graduating from Boston Public Latin School (the oldest school in the United States, founded in 1635). Howie earned his undergraduate degree in 1971 from the School of Industrial and Labor Relations at Cornell University. In 1976, he also earned his law degree, cum laude, from Cornell. Howie was in private practice for nine years, first as an associate, then as a partner, with the Concord, New Hampshire firm of Cleveland, Waters & Bass. His practice was concentrated in the areas of labor relations, real estate, and commercial law.*

*On a personal note, Howie and his wife Gay have two children, Cindy (age twelve) and Lori (age one). In addition to a host of civic and professional activities, Howie enjoys running, skiing, spectator sports, and musical theatre.*

## SCHOLARSHIP ASSISTANCE GUIDELINES

A. Pursuant to Article VII, Section 5, of the Bylaws, the Scholarship Committee shall consist of three members appointed by the Executive Committee. In addition, the members shall serve for a term of one year. They may be reappointed. The President shall designate the Chairman.

B. Scholarships shall be awarded as a means of promoting attendance at annual meetings of the NCACC by members who would otherwise be unable to attend due to limitations in Court funding.

C. The Committee shall recommend to the Executive Committee the award up to \$3,750 in scholarships annually. No individual scholarship may exceed \$750. Of the total amount awarded to each recipient, no more than \$500 may be allocated to travel expenses and no more than \$375 may be allocated for hotel accommodations (a maximum of \$75/night for no more than five nights). Each award shall specify the amounts allocated by type.

D. Scholarship funds shall not be applied to pay the registration fee for the annual meeting or to defray the cost of membership in the NCACC.

E. The membership shall receive annual notice of the availability of scholarship funds. Interested members shall obtain application materials from the National Center for State Courts (NCSC) as Secretariat of the NCACC. Applications shall be filed with the NCSC no later than February 22nd of each year. The NCSC shall forward copies of all applications to the Scholarship Committee for its consideration.

F. Applicants shall be responsible for presenting the Scholarship Committee with reasonable estimates of the cost of travel. Reimbursement for air or rail transportation shall be based on "coach" or reduced fares. Travel by automobile shall be reimbursed for the direct distance between the applicant's home and the meeting site (round trip) at the per mile rate set by the federal government for business travel by government employees (currently \$.24 per mile).

G. The Scholarship Committee shall review all applications in the light of the criteria set forth in these Guidelines. Supplemental information may be required from applicants should the Committee deem it appropriate. The Scholarship Committee shall report its conclusions and recommendations in respect of all applications to the Executive Committee through the President by March 1st. Recommendations that are not unanimous shall be identified as such.

At its spring meeting, the Executive Committee shall designate, in its discretion and consistent with these Guidelines, those who are to be offered scholarships and the amounts to be received, allocated by type of assistance. The Executive Committee shall not be required to expend all budgeted funds or to award the maximum number of scholarships.

H. The Secretary shall, within two weeks of the meeting of the Executive Committee, notify each applicant in writing in respect of the action taken by the Committee. Copies of the correspondence shall be forwarded to the President and the Treasurer.



I. Successful applicants shall be informed of the amount of their award and of the allocation of the funds by type. Further, the notice shall provide that the Treasurer will direct the applicant's reimbursement to the extent of the award after the conclusion of the annual meeting on receipt of satisfactory evidence of the payment of the covered expenses and the applicant's attendance at the educational portion of the annual meeting.

J. No applicant shall receive more than two scholarships in any four-year period.

K. Members of the Executive Committee and the Scholarship Committee shall not be eligible for a scholarship award.

L. SCHOLARSHIP ASSISTANCE -  
SELECTION CRITERIA

The actions of the Scholarship Committee and the Executive Committee, in respect of scholarships, full or partial, shall be based on an evaluation of the following criteria:

1. Membership in the NCACC in good standing. (Failure to meet this requirement shall result in the automatic rejection of the application).

2. The amount of Court funding available for the applicant's attendance at the annual meeting. (Applicants who have no funding available shall have a preference over those who are eligible for partial or full funding.)

3. The amount of Court funding expended on other educational programs for the applicant since the last annual meeting of the NCACC. (This

includes programs such as ICM seminars and meetings of other professional organizations. Applicants who have had no opportunity to participate in educational programs at court expense shall have a preference over those who have.)

4. The number of employees in the applicant's office who will attend the NCACC's annual meeting with court funding. (Applicants whose office receives no funding will have a preference over those who have one or more fellow workers attending the NCACC meeting at their Court's expense.)

5. The nature of the applicant's position. (To the extent practicable, scholarships shall be awarded to a mix of clerks, deputy clerks, and other eligible members of the NCACC).

6. The location of the applicant's court. (To the extent possible, scholarships shall be awarded to individuals in a manner that reflects the geographical diversity of the organization.)

7. Whether the applicant has previously received a scholarship award. (Applicants who have never received assistance shall have a preference over those who have.)

8. Whether an employee of the applicant's court has previously received a scholarship award. (Applicants from courts who have never received a scholarship shall have a preference over those who have.)

**ADOPTED: December 2, 1989**

## **SCHOLARSHIP APPLICATION INSTRUCTIONS**

A. File your completed application by **March 1, 1993.**

B. Send the application to:

Ms. Shelly Rockwell  
National Conference of Appellate Court Clerks  
c/o National Center for State Courts  
300 Newport Avenue  
Williamsburg, VA 23185

C. The following are the selection criteria for the award of scholarships as contained in guideline "L" of the Scholarship Committee:

1. Membership in the NCACC in good standing (a prerequisite for applying);
2. The amount of Court funding available for the applicant's attendance at the annual meeting;
3. The amount of Court funding expended on other educational programs for the applicant since the last annual meeting of the NCACC;
4. The number of employees in the applicant's office who will attend the NCACC's annual meeting with court funding;
5. The nature of the applicant's position;
6. The location of the applicant's court;
7. Whether the applicant has previously received a scholarship award; and
8. Whether any employee of the applicant's court has previously received a scholarship award.

**NATIONAL CONFERENCE OF APPELLATE COURT CLERKS  
APPLICATION FOR ANNUAL MEETING SCHOLARSHIP ASSISTANCE**

(Note to Applicants: Please complete the entire application. Print or type all answers. Instructions and selection criteria immediately precede this application.)

FUNDING REQUESTED FOR THE ANNUAL MEETING TO BE HELD \_\_\_\_\_, 19\_\_\_\_, AT \_\_\_\_\_

NAME: \_\_\_\_\_

TELEPHONE NUMBER: ( )-\_\_\_\_\_

POSITION HELD: \_\_\_\_\_ NCACC MEMBER IN GOOD STANDING? ☐ YES ☐ NO

NO. OTHER NCACC MEMBERS EMPLOYED BY YOUR COURT: \_\_\_\_\_ NO. PLANNING TO ATTEND ANNUAL MEETING: \_\_\_\_\_

FUNDING AVAILABLE FROM YOUR COURT FOR YOUR ATTENDANCE AT ANNUAL MEETING: NONE ☐ PARTIAL ☐  
(ESTIMATED TRAVEL \$\_\_\_\_\_ LODGING/FOOD \$\_\_\_\_\_ AND OTHER \$\_\_\_\_\_)

WILL YOUR COURT HAVE FUNDED THE ATTENDANCE OF NCACC MEMBERS FROM YOUR OFFICE TO OTHER EDUCATIONAL PROGRAMS DURING THE TWELVE MONTHS PRECEDING THE ANNUAL MEETING FOR WHICH SCHOLARSHIP ASSISTANCE IS SOUGHT? YES ☐ NO ☐ IF "YES", PLEASE IDENTIFY THE PROGRAM(S) AND THE TOTAL AMOUNT OF FUNDING MADE AVAILABLE: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
HAVE YOU OR ANY OTHER EMPLOYEE OF YOUR OFFICE EVER RECEIVED A SCHOLARSHIP FROM THE NCACC?  
ES ☐ NO ☐ IF YES, PLEASE THE YEAR(S) RECEIVED: \_\_\_\_\_

PLEASE LIST THE AMOUNT OF SCHOLARSHIP ASSISTANCE SOUGHT, UNDER "TRAVEL", YOU MUST LIST THE ESTIMATED COST OF "COACH" OR REDUCED FARE TICKETS FOR AIR OR RAIL USE, WHERE APPLICABLE. THOSE WHO SEEK AUTOMOBILE EXPENSES WILL BE REIMBURSED ON A "PER MILE" BASIS. PLEASE LIST THE ROUND TRIP MILEAGE FROM YOUR HOME TO THE MEETING SITE. THE "PER MILE" RATE WILL BE SET BY THE EXECUTIVE COMMITTEE. LODGING EXPENSES MAY BE ALLOWED UP TO \$75.00 FOR A MAXIMUM OF FIVE NIGHTS. PLEASE NOTE THAT NOT MORE THAN \$750.00 MAY BE AWARDED ON ANY SINGLE SCHOLARSHIP. SCHOLARSHIP FUNDS ARE NOT AVAILABLE TO DEFRAY COSTS OF MEMBERSHIP IN THE NCACC, THE ANNUAL MEETING REGISTRATION FEE, OR FOOD.

TRAVEL:                      Airfare \$ \_\_\_\_\_  
                                 Rail \$ \_\_\_\_\_  
                                 Auto \$ \_\_\_\_\_  
                                 Lodging: \_\_\_\_\_ nights @ \$ \_\_\_\_\_ per night = \$ \_\_\_\_\_

YOU MAY USE THE FOLLOWING TO MAKE ANY STATEMENT OR COMMENTS YOU CARE TO IN SUPPORT OF YOUR APPLICATION. (Feel free to continue on a separate piece of paper if necessary.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I HEREBY CERTIFY THAT THE FOREGOING ANSWERS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I ACKNOWLEDGE AN OBLIGATION TO KEEP THE NCACC APPRISED OF ANY CHANGES IN MY FUNDING STATUS THAT MIGHT AFFECT MY ELIGIBILITY FOR SCHOLARSHIP ASSISTANCE. I UNDERSTAND THAT MY ATTENDANCE AT ALL EDUCATIONAL PROGRAMS IS REQUIRED SHOULD I RECEIVE SCHOLARSHIP ASSISTANCE.

DATE: \_\_\_\_\_ SIGNATURE OF APPLICANT: \_\_\_\_\_

(Approved: 12/2/89)

## **. . . CLERKS CONFER . . . PROBLEM**

A person in a wheelchair comes to the Clerk's Office and asks to see you. You go into the front office to speak to the person and you find they are very upset. They relate to you, they called your office to find out if they could come down and pick up a copy of the court's decision on their case. They advise you that the person in your office who spoke with them apparently had a speech impediment because they had difficulty in understanding them. They asked this person if there was a handicap entrance to the building, and thought they were told "yes, it's at the front of the building where everyone comes in." They tell you when they arrive at the front of the building, they did not find a handicap ramp. After about a five-minute wait in the front of the building, a security officer came out and asked them what they were doing in the front of the building. After advising the officer they were looking for the handicap ramp, he told them the ramp was on the side of the building but the door was locked. However, he explained that he would go around and open the door to let them in. You apologize for the inconvenience but explain to them that since the court will be moving to a new building within the next year, a new ramp was not installed at the front of the building, which is the public entrance.

The person in the wheelchair next asks you if they may use the rest room. You tell them there are no rest room facilities for the handicapped on the second floor and they must go down to the first floor to the rear of the building. They seem unhappy about this, but leave and return, asking where the drinking fountain is. You explain that the drinking fountains are inoperative, however, you offer to get them a glass of water. Next, they ask you for a copy of the court's opinion on their case. You hand them a copy of the opinion which is typed in 10 pitch type. The person in the wheelchair now tells you that they cannot read. They ask if you can have someone read the opinion to them. In an effort to accommodate them, you begin to read them the opinion. They stop you and say, "I am sorry, I don't understand what you are saying. English is not my native language. My native language is Tamil. Would you please have someone translate the opinion into my native language and read it to me." You refuse, stating that no one on your staff speaks Tamil and you do not have the funds to hire an interpreter. The person in the wheelchair becomes very upset and says he is going to file a discrimination suit against you personally and against the court for violation of ADA and EEO violations. Questions: 1) Were there any violations of ADA? 2) Were there any EEO violations? 3) In addition to any perceived violations, would you have handled any of the situations differently and/or would you have had any discussions and advice for court personnel involved in handling this person? (NOTE: THIS SITUATION DID NOT OCCUR AND IS SUBMITTED FOR PROBLEM SOLVING PURPOSES ONLY.)

## **A RESPONSE**

(Thanks to Tom Granahan, U.S. Court of Military Appeals, for his response to last issue's Clerks Confer column)

1. The Clerk of Court should initiate a private meeting with the judge in question and verify whether his or her law clerk was accurate in representing the judge's permission to have these clearly personal documents prepared and printed by the Clerk of Court's secretary. At such meeting, the Clerk of Court should explain what should be court policies against personal matters being done by court personnel for judge's staff outside Chambers. Similar action should be initiated with other judges on a private and confidential basis.
2. The Clerk of Court should also -- and perhaps as a preliminary to 1. above -- meet with the Chief Judge and fully discuss the Court policy on this matter. It sounds like workload considerations and "who works for whom" issues need to be clarified and supported by the Chief Judge.
3. If judges are allowed this leeway into personal matters being done on court time and equipment, perhaps the time has arrived for more laser printers -- one for each judge!

**NATIONAL CONFERENCE OF APPELLATE COURT CLERKS**  
**NOMINATION FORM**

1. For the Office of Vice President: (1 year term)  
(Office presently held by Ella Williams)

Nominee:  
Qualifications\*:

2. For the Office of Treasurer: (2 year term)  
(Office presently held by Keith Richardson)

Nominee:  
Qualifications\*:

3. For Member of the Executive Committee: (2 year term)  
(Office presently held by A. B. Neil, Jr.)

Nominee:  
Qualifications\*:

4. For Member of the Executive Committee: (2 year term)  
(Office Presently held by Jerrill D. Carter)

Nominee:  
Qualifications\*:

5. For Member of the Executive Committee: (2 year term)  
(Office presently held by Thomas F. Lowe)

Nominee:  
Qualifications\*:

Name \_\_\_\_\_ (optional) Date: \_\_\_\_\_

Send by February 15, 1993, to: Gloria J. Engel, Clerk of the Court, Supreme Court  
of South Dakota, 500 East Capitol Avenue, Pierre,  
South Dakota 57501

\*(Your reasons for nominating this person)

### SJI SCHOLARSHIPS AVAILABLE FOR ANNUAL MEETING ATTENDANCE

The State Justice Institute now has scholarships available to enable judges and court managers to attend out-of-state educational programs that they could not otherwise attend because of limited State, local and personal budgets. Scholarships may be applied to the cost of tuition and transportation up to \$1,500. Funds for lodging, meals, local transportation, etc. must be obtained from other sources.

You may apply by submitting a Judicial Education Scholarship application form (Form S1). Applications for our August conference must be submitted by March 1, 1993. All applicants must obtain written concurrence of the Chief Justice of his or her state on the form provided (Form S2) and should also include a letter of support from his or her supervisor. Forms and additional information may be obtained from the State Justice Institute, 1650 King Street, Suite 600, Alexandria, Virginia 22314.

### WANTED: DISASTER MANUALS

Mike Yerly and Joe Lane are making a presentation on Disaster Preparedness as a part of our educational program in August. If your court has a manual on disaster preparedness and you would like to share it with our membership, please send a copy to Mike Yerly, Clerk, Court of Appeal, Sixth Appellate District, 333 W. Santa Clara Street, San Jose, CA 95113, or to Joe Lane, Clerk, Court of Appeal, Second Appellate District, 300 S. Spring Street, Los Angeles, CA 90013.

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