

The Docket



News of the National Conference of Appellate Court Clerks

Vol. 21

April, 1993

No. 3

DATELINE: NASHVILLE!!

EDUCATIONAL PROGRAM

By Tom Lowe, Clerk, Texas Court of Criminal Appeals

The education program for Nashville is tailored, at the request of the membership, toward more breakout and group discussion sessions.

We have attempted to use the membership more in this year's program. The faculty consists of nine members (including Sandy) and nine non-members.

Beginning Sunday, August 1, as part of the new format, we will have educational videos available from 10:00 a.m. until 4:00 p.m. We currently have four videos lined up and will strive to get more.

Monday morning, after being welcomed and announcements have been made, Dr. Mark Pastin, Director of the Lincoln Center of Ethics at Arizona State University will fulfill our ethics requirement. There will be audience participation in this segment.

Monday afternoon will provide three choices in breakout sessions. Troy Bennett and Herb Schaefer from Texas will discuss relocating your court. Herb recently moved into new quarters, as did our court. Before we arrive at the annual meeting, Troy will have supervised

(cont. on p. 3)

SOCIAL AGENDA

By A. B. Neil, Clerk, Tennessee Supreme Court

Well, Nashville is about as ready as it can be. It's tuning up the banjos, the fiddles and guitars, and can't wait to start pickin', grinnin' and larnin'.



We will be residing and larnin' at the deluxe Sheraton Music City Hotel located in the lush Tennessee countryside and two miles from the Nashville Airport. Each guest room has a private balcony or patio and the hotel has a health club with indoor pool, outdoor pool, lighted tennis courts and 23 acres of beautiful grounds with scenic jogging trails. Room rates start at \$72.00 per night. Parking is free and the hotel has complimentary transportation to and from the airport. Cars may be rented at the hotel for about \$25.00 per day, unlimited mileage.

If you have not received your registration packet by this time, it will be sent to you shortly. When it is delivered, you'll get more detailed information about the convention plans but, just to whet your appetite, we will have an opening night reception, hopefully with some surprises along the way. On Monday night, on a first come first serve basis, we'll visit the Nashville Now Show, produced by The Nashville Network. Tuesday evening, I hope you can handle being a guest on the greatest showboat of them all--The

(cont. on p. 8)

The President's Page

Joyce Goldsmith



The spring meeting of the Executive Committee was held in Williamsburg on the weekend of a rare "blizzard." With this dubious beginning, the group managed to complete a full agenda, including final approval of the 1993 educational program and approval of Des Moines, Iowa, as the meeting site for 1996.

Now is the time to begin looking at your budget and planning for Nashville. The Program Committee has worked diligently to provide an outstanding educational program that will have something to benefit everyone. In addition, A.B. Neil has planned a vigorous activities schedule.

Attendance at the annual meeting not only will give members the chance to renew acquaintances, share information, discuss problems and solutions, but also a time to show support of the organization. The dedicated committee members who put so much effort into developing educational programs and in the ongoing activities of the organization deserve a special thanks. Show appreciation of the efforts of the committees and conference host through your attendance.

While looking toward the annual meeting, please take a few minutes and review the list of committees. Be the catalyst to help the organization remain strong and grow by volunteering to either chair or serve as a committee member.

The NCACC has continued to develop and grow stronger. Let's make sure it continues to be an effective force for the foreseeable future.

I look forward to seeing you all in Nashville.

The Docket

News of the National Conference of Appellate Court Clerks

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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.

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COMMITTEE PROPOSES BYLAWS CHANGES

Below are the proposed changes to the bylaws recommended by the Bylaws Committee:

ARTICLE III

Membership

1. Types of Members.

(a) Regular Members. (no change)

(b) RETIRED MEMBERS. RETIRED MEMBERSHIP SHALL BE OPEN TO ALL RETIRED CLERKS, ASSISTANT CLERKS OR DEPUTY CLERKS, OR OTHER SIMILAR POSITIONS BEARING DIFFERENT TITLES OF COURTS OF LAST RESORT OR INTERMEDIATE APPELLATE COURTS IN ANY FEDERAL, STATE, COMMONWEALTH, OR DISTRICT OF COLUMBIA COURT SYSTEM, AND IN THE COURT SYSTEMS OF UNITED STATES TERRITORIES AND POSSESSIONS.

(b)(c) Associate Members. (no change)

(e)(d) Sustaining Members. (no change)

2. Eligibility upon RETIREMENT OR Termination as Court Employee. A regular member of this Conference may continue as a member upon RETIREMENT OR termination of his or her service with an appellate court, but shall not be eligible to hold office, except that the immediate past president may continue to serve as a member of the Executive Committee as provided in Article VII, Section 2(b), even though no longer serving with an appellate court.

3. (no change)

4. (no change)

ARTICLE IV

Meeting and Voting

1. (no change)

2. (no change)

3. (no change)

4. Voting. All matters coming before any meeting of the Conference shall be determined by a majority vote of the members present and entitled to vote. Subject to Article III, Section 2,

regular members who are in good standing through the payment of dues pursuant to Article III, Section 4, shall be entitled to vote. RETIRED, Associate members and sustaining members shall not be entitled to vote.

ARTICLE VII

Committees

1. Statement of Committees' Work. The executive and administrative work of the Conference is conducted in its committees. Conference committees shall include an Executive Committee, standing committees, select committees and special committees. STANDING COMMITTEES SHALL HAVE COMMITTEE OPERATIONAL GUIDELINES. PROPOSED CHANGES TO THESE GUIDELINES WILL BE MADE IN WRITING TO THE EXECUTIVE COMMITTEE BY APRIL FIRST PURSUANT TO ARTICLE XI, SECTION 1 FOR APPROVAL. (SEE APPENDIX A, COMMITTEE OPERATIONAL GUIDELINES) THE CHAIR OF EACH COMMITTEE SHALL SUBMIT A WRITTEN STATUS REPORT FOR DISSEMINATION AT THE SPRING EXECUTIVE COMMITTEE MEETING.

2. (no change)

3. Standing committees. Standing committees are constituted to perform a continuing function of the Conference. They may be created by specific provision of these Bylaws or by resolution of the conference at any meeting called pursuant to Article IV of these Bylaws and shall remain in existence permanently, or until terminated in like manner. Standing committees shall consist of no more than nine [9] members, EXCEPT THE BYLAWS COMMITTEE WHICH WILL CONSIST OF FIVE [5] REGULAR MEMBERS, including PLUS the Chair and any ex-officio members. The term of a Chair of a standing committee shall be one year. The Executive Committee, upon request of the President or the committee Chair, or upon its own initiative, may remove a member of a standing committee for good cause.

(a-1) (no changes)

4. (no change)

5. (no change)¶

(Educational Program, cont. from p. 1)

another move back to our remodeled quarters. Also on Monday afternoon, Juleann Hornyak and "her Special Committee on Code of Conduct" will provide discussion on the proposed changes, if any, to the code.

The remaining breakout will be presented by Sandy Roos from the ABA and James Benway from Colorado. Their portion is entitled "WHAT'S BUGGIN ME" --Finding Solutions to Common Problems. This will be fun as well as educational.

Tuesday morning will find us with three more breakout sessions. Monica Washington, Capital Case Manager, U.S Court of Appeals, Fifth Circuit and Rick Wetzel, Executive Administrator, Court of Criminal Appeals of Texas will discuss capital case management. Joe Lane and Mike Yerly, what would a program chair do without them, will offer a segment on "Disaster Relief". The third breakout offered will concern "The Americans With Disabilities Act". This will be presented by Lisa McMinn, Staff Attorney, also with my court.

Tuesday afternoon will provide a panel of judges and Clerks discussing "Relationships Between the Judges and the Clerk's Office". The panel will be chaired by our own Jean Kennett from Boston. Other

members are Presiding Judge Mike McCormick from my court, Judge John Shepherd from Michigan and Ella's court and Steve Kelley from California.

Wednesday morning will feature Douglas Tinker, Attorney At Law from Corpus Christi, Texas, speaking on the subject or subjects of "COCKROACHES, SPOTLIGHTING DEER AND RUNNING BEARS" as they relate to the judicial system. I promise you do not want to miss this!

The remainder of Wednesday morning will be filled by Ralph Brown from the U.S. Bankruptcy Court of Eastern Tennessee. Mr. Brown is an expert on the subject of Bulletin Boards, Downloading to the Public, etc.

We will finally get to play on Wednesday afternoon!!!!

Thursday morning will find Linda Gravett from the HRC Group discussing "Employee Relations". She will cover a broad range in her presentation.

Many thanks to the members of my committee Jim Beway, Noel Dessaint, Elaine Goldsmith, Joe Lane and Mike Yerly. Each one is responsible for at least one segment of the program.!

REPORT OF SPRING EXECUTIVE COMMITTEE MEETING

By Nancy Foley, Clerk, Massachusetts Court of Appeals

The spring meeting of the Executive Committee was held in Williamsburg on the weekend of a rare "blizzard." With this dubious beginning, the group managed to complete a full agenda, including final approval of the 1993 educational program and approval of Des Moines, Iowa, as the meeting site for 1996.

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**SPECIAL COMMITTEE TO HOLD
WORKSHOP AND PROPOSE CODE
OF CONDUCT CHANGES**

The Special Committee on the Code of Professional Conduct for Appellate Court Clerks will conduct a workshop during the educational program at the annual conference in August on the changes they propose to the NCACC Code of Professional Conduct. Below is the Code with proposed revisions. Any comments regarding the proposed revisions should be sent to:

Noel Dessaint, Clerk, Supreme Court of Arizona, 402 Arizona State Courts Building, 1501 West Washington, Phoenix, Arizona 85007-3329.

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Preface

This Code of Professional Conduct was adopted by the National Conference of Appellate Court Clerks on August 11, 1983, at its annual meeting in New Orleans, Louisiana, and amended on August 6, 1992, at the twentieth annual meeting in Washington, D.C.

Preamble

The National Conference of Appellate Court Clerks, mindful that the character and conduct of an appellate court clerk should never be objects of indifference, and that declared ethical standards should become habits of life, adopts these principles which should govern the personal practice of appellate court clerks. The administration of justice requires appellate court clerks to adhere to the highest ideals of personal and official conduct.

The office of appellate court clerk casts upon the incumbent duties concerning the clerk's relationship to the state, its inhabitants, and all who come in contact with him or her. The National Conference of Appellate Court Clerks adopts this Code of Professional

Conduct as a guide for appellate court clerks in the United States of appropriate professional conduct. ~~and as an indication what the people have a right to expect from them.~~ The provisions of this code should be construed and applied to further these objectives.

Where any state or federal statutory requirements or court rules and policies address the same areas, they will take precedence over this code.

Adopted effective August 11, 1983. Amended effective August 6, 1992.

CANON I

An Appellate Court Clerks Should Maintain the Highest Standard of Professional Conduct in the Performance of Duties

An independent and honorable judiciary is indispensable to justice in our society. Appellate court clerks participate in establishing, maintaining, and enforcing the law, and should themselves observe high standards of conduct so that the integrity, impartiality and independence of the judiciary may be is advanced. (cont. on p. 6)

Adopted effective August 11, 1983. Amended effective August 6, 1992.

CANON II

An Appellate Court Clerk Should Avoid Impropriety and the Appearance of Impropriety in All Activities

(A) An appellate court clerk should respect and comply with the law and should conduct himself or herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

(B) An appellate court clerk should not allow family, social, or other relationships to influence his or her official conduct or the conduct of his or her office. A clerk should not lend the prestige of the office to advance the private interests of others; nor should a clerk convey or permit others to convey the impression that they are in a special position to exert such influence.

(C) An appellate court clerk may accept a gift donated to a group of employees, e.g., all the employees of an office or unit of the court system, provided that the value and circumstances of the gift are such that it could not be reasonably inferred that the gift would influence the employees in the performance of their official duties or that such influence was the purpose of the donor, and provided that any employee accepting such a gift promptly reports the gift to the supervisor, who shall be responsible for its proper distribution. Gifts received with the understanding that they will influence employees' official actions, decisions, or judgments are prohibited.

Adopted effective August 11, 1983. Amended effective August 6, 1992.

CANON III

An Appellate Court Clerk Should Perform the Duties of Office Impartially and Diligently

(A) An appellate court clerk should be patient, dignified and courteous to litigants, lawyers, and others with whom the clerk deals

in an official capacity, and should require similar conduct by staff and others subject to the clerk's direction and control.

(B) An appellate court clerk should exercise great care and discretion in initiating or considering ex parte or other communications concerning a pending or impending proceeding. However, an appellate court clerk may be called upon in the course of his or her duties to explain to litigants and their counsel the rules, operating procedures, and other practices of the court. Such explanations should always be rendered in an impartial manner, so as not to advantage or disadvantage any litigant. A clerk should never offer explanations to one party that the clerk would not share with the opposing party.

(C) An appellate court clerk should not disclose to any unauthorized person or persons any confidential information concerning authorship of pending opinions, internal calendar memos, internal discussions relating to pending decisions, content of proposed opinions, or any other information designated by the court as confidential.

(D) An appellate court clerk should abstain from public comment on the merits of a pending or impending proceeding in any court, and should require similar abstention on the part of all court personnel subject to the clerk's direction and control. This subsection does not prohibit clerks from making public statements in the course of their official duties or from explaining for public information the procedures of the court.

(E) An appellate court clerk should support the reputation and integrity of the judicial system and, because statements of an appellate court clerk may carry considerable weight with the public, should not make derogatory comments that would undermine public confidence in or promote disrespect for the judicial system.

(F) An appellate court clerk should maintain the files and other records of the court in a conscientious and accurate manner and continue to develop policies and procedures for reducing time delay and improving

efficiency of the appellate process.

(G) An appellate court clerk should diligently discharge responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the responsibilities of other courts and court officials.

(H) An appellate court clerk should require staff and other personnel subject to the clerk's direction and control to observe the standards of fidelity and diligence that apply to the clerk.

Adopted effective August 11, 1983. Amended effective August 6, 1992.

CANON IV

An Appellate Court Clerk Should Engage in Activities to Improve the Law, the Legal System and the Administration of Justice

(A) An appellate court clerk should encourage dialogue between the clerk's office and bar associations, legal secretary associations, trial court clerk associations and court reporters in an effort to promote better understanding of the court's processes. The clerk may participate in or conduct educational seminars for the benefit of those doing business with the office.

(B) An appellate court clerk should be alert to the need for improvements in the rules, court procedures and administrative functions of the court and offer suggestions for appropriate changes and improvement of the appellate process.

Adopted effective August 11, 1983. Amended effective August 6, 1992.

CANON V

An Appellate Court Clerk Should Regulate Outside Activities to Minimize Risk of Conflict With Court Related Duties

(A) Avocational Activities. An appellate court clerk may write, lecture, teach, and speak

on any subject, and engage in with arts, sports and other social and recreational activities, provided such avocational activities do not take undue advantage of the position as clerk, detract from the dignity of the office or interfere with the performance of the clerk's official duties.

(B) Civic and Charitable Activities. An appellate court clerk may participate in civic and charitable activities that do not reflect adversely upon the clerk's impartiality or interfere with the performance of the clerk's duties. A clerk may serve as an officer, director, trustee, or nonlegal advisor of an educational, religious, charitable, fraternal, or civic organization except that an appellate court clerk should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the clerk's court or will be regularly engaged in adversary proceedings in any court.

(C) Financial Activities.

(1) An appellate court clerk should refrain from financial and business dealings that tend to reflect adversely on the clerk's impartiality, interfere with the proper performance of the clerk's administrative duties, or exploit the clerk's position.

(2) Subject to the requirements of subsection (1), an appellate court clerk may hold and manage investments, including real estate, and engage in other remunerative activities, but should not participate in nor permit his or her name to be used in connection with any business venture or commercial advertising program, with or without compensation, in such a way as would justify a reasonable inference that the power or prestige of the clerk's office is being utilized to promote a business or commercial product.

(3) An appellate court clerk should not request or accept any remuneration, gift, bequest, favor, or loan that is made with the intent to influence or that creates an appearance of influencing the clerk in the exercise of court related duties.

(cont. on p. 8)

(Code Changes, cont. from p. 7)

~~(4) The provisions of subsection (3) are not applicable to campaign contributions for elected clerks. Acceptance of campaign contributions for elected clerks should be governed by any applicable state laws or court rules.~~

Adopted effective August 11, 1983. Amended effective August 6, 1992.

CANON VI

An Appellate Court Clerk Should Avoid Political Activities Which May Give the Appearance of Bias or Impropriety

An appellate court clerk is entitled to entertain personal views on political questions and is not required to surrender rights or opinions as a citizen. A clerk should avoid political activity which may give rise to a suspicion of bias or impropriety in any manner pending or impending before his or her court.

Adopted effective August 11, 1983. Amended effective August 6, 1992.

CANON VII

An Appellate Court Clerk Should Seek To Improve His or Her Professional Competence and That of the Clerk's Staff

(A) An appellate court clerk should seek to improve his or her professional competence and that of the clerk's staff by participating in educational programs and seminars such as those provided by the Conference, reading profession-related materials, and attending and participating in other activities likely to enhance the level of competence of the clerk and staff.

(B) A clerk should participate actively in the exchange of ideas for rule change and improvement in appellate court programs and procedures with clerks of other appellate courts in the United States.

Adopted effective August 11, 1983. Amended effective August 6, 1992.

CANON VIII

An Appellate Court Clerk Should Not Engage in Discrimination Based on Race, Sex, Religion or Political Affiliation

(A) An appellate court clerk should not discriminate based on race, sex, religion or political affiliation in dealing with attorneys, secretaries, paralegals, court reporters, or others doing business with the court or in hiring practices.

(B) An appellate court clerk should not discriminate in hiring or promotion of personnel based on sexual or other favors.

Adopted effective August 11, 1983. Amended effective August 6, 1992.¶

(SOCIAL AGENDA, cont. from p. 1)

General Jackson, sponsored by West Publishing Company. Wednesday, thanks to Mead Data, we'll board buses in the afternoon for Lynchburg, Tennessee, and visit the nation's oldest registered distillery. Following the tour, the Jack Daniel people will entertain us with some good country fixins and plenty of blue grass music before we return to Nashville through the beautiful walking horse country of the State.

No group activities for spouses and families are planned during the educational program, but there is plenty to do and information will be available when you arrive. The hotel is five miles from Grand Ole Opry and Opryland USA, a theme park with rides, food and lots of great family entertainment. The hotel will arrange a shuttle to the park at minimal cost for a group. Parking at the park is \$3.00. Admission to the Park is \$22.95 for adults and \$12.95 for children ages 4-11 for one day; \$34.95 for adults and \$19.95 for children ages 4-11 for two days. Children 3 and under are free. A wave pool with water volleyball and a water slide is also close to the hotel. Downtown shopping is seven miles from the hotel.

I'll let you know the details of securing tickets to the Grand Ole Opry for Friday or Saturday nights as well as tickets to the Opryland Theme Park. For those of you interested in golf, three excellent courses are close by with six courses within a 15-minute drive of the hotel.

Come as early as you like, stay as long as you like, bring yourself or the entire family. Just come for a great Tennessee time!¶

"The consequence for not adequately training your Huns is their failure to accomplish that which is expected of them," says Dr. Wess Roberts in *Leadership Secrets of Attila the Hun*, and it is a good vantage point from which to consider the O.S.C.A.R. concept of **Amplification**.

To "amplify" your organizational efforts, a system of orientation, training, and personal improvement is a key, but many of us don't put much thought into it. We think: The job is not that difficult, once you learn it, you've learned it, and there's no obvious career path unless someone dies, retires, or leaves for greener pastures.

I've got to hand it to the military in this area. Their programs may not be perfect, but they include: front-end orientation and training of service-members, followed by professional or skilled trade training; additional training is prescribed, scheduled, and made available throughout a person's career. Performance evaluations, that include narratives and comparisons with others having similar grade and specialty in the command, are required at regular intervals. There is a well-defined career track, with promotion opportunities governed, in large part, by earned qualifications and experience. Supervisors are responsible for ensuring that their people make sustained progress toward the next goal.

A program to amplify the organization's effectiveness through employee development should begin with each new employee. Though we search for candidates with experience that we can identify as useful in our office, previous experience is not an equitable substitute for orientation and training. You know as well as I that an appellate court is a different animal -- and your appellate court and your office operation is different from all of the rest. What makes it that way? How will this new employee fit into the system? Do you have a plan for employee orientation? Do you use it?

Watch This Space

J. Gregory Wallace

Attorney at Law, Consultant, and Former Clerk

And, do you have a plan to correct--or praise--a new employee immediately and often? Withholding either is withholding training. How about a "mentor" system for the first few months, pairing each new employee with a good, positive, experienced member of your staff for one-on-one training and feedback?

You want your people to be excited about life. Someone who is excited is motivated, and motivated people boost the productivity of everyone around them. Encourage your employees to take as many educational courses as they can. A course needn't be directly related to their work so long as it lifts their spirits and keeps them intellectually alive. And, an employee who is willing to put in the time for education should be given special recognition for completing any course successfully.

Do you know whether your employee benefits include tuition assistance? How does an employee apply? Is it a matching grant? Are they permitted to attend educational courses during worktime? How much worktime may they use? How often can they take a course? Must they show progress toward a degree, or can they take random courses?

Continuing education and training is a vital investment, not an expense to be tolerated or used sparingly. When someone asks whether learning something new and useful is worth the expense and effort, remind them that the uneducated are at the mercy of those who know the answers.

The lawyers among us are compelled to seek continuing legal education as a licensing requirement each year. Teachers must do the same type of thing to renew their certificates. More and

more licensed professions are requiring continuing education and training. Why is this not an important part of every appellate court's system of training? The NCACC's annual program, for example, offers education and training sessions that simply cannot be found elsewhere in so pertinent and practical a package for appellate court clerks and employees.

Do you have regular staff meetings? Do they include training? Recently, I joined a law firm here in Raleigh, and I have been pleasantly surprised to see how serious everyone is about in-house training. Short sessions are offered about everything from telephone techniques to overviews of some of the areas of law that the firm handles. Training sessions amplify understanding and enhance skills, from implementing new computer programs to training employee "backups" for each of your staff functions.

I have mixed feelings about performance reviews. I don't disagree that we must help our people know where they are now, through reviews, consultations, and evaluations of their performance. But, I believe that it is important to provide prompt and accurate feedback rather than to sit back and wait for an annual or semi-annual review (ambush?).

How can we "amplify" the efforts of our employees? I believe it takes a well-thought-out plan of orientation and training for each employee and position, opportunities for continuing education, regularly scheduled training, and supervisors who provide prompt and accurate feedback, and who have, as part of their duties, responsibility for the training progress of their employees.

Next time: Rewards. Ciao! 

PEOPLE, PLACES AND THINGS . . .



FOCUS ON

JAMES BENWAY, who has a Master of Science in Judicial Administration from the University of Denver College of Law, has been Clerk of the Colorado Court of Appeals since 1989. In that capacity, he is responsible for the direction of the Clerk's Office and for the Court's administrative functions. The Colorado Court of Appeals has sixteen judges and a total staff of eighty-one. It is an intermediate appellate court with mandatory review from state district courts and twenty-seven agencies. since 1992, the Court has reviewed industrial claims cases (workers compensation and unemployment compensation) through writs of certiorari. In fiscal 1991, the Court had 2,147 cases filed and closed 2,192, including 1,563 by written opinion.

Jim has served the Colorado Judicial System in several other capacities, including working in the State Court Administrator's office and as a trial court administrator. This overall perspective has led to many committee appointments, including facilitator for the Colorado Vision 2020 Committee, the State Judicial Advisory Council, President of the Colorado Court Employees Association, and presently President of the Colorado Managers Association (the

association of all court administrators in the state).

Jim and his wife Vivian have a ten-year old son, Thomas. Jim is an avid fly fisherman, ties flies, and frequently teaches others how to fish. He also enjoys skiing and golf and is a self-described exercise fanatic. He has a first degree brown belt and is an instructor in Kenpo Karate. He indicates that a black belt is unlikely because the "old knees" can't take the punishment.

JOHN BROWN is deputy clerk of the Texas Court of Criminal Appeals in Austin, Texas. This is a nine-member court, elected state-wide to six year terms. Each judge has a staff of three, one secretary and two attorneys. The Court also employs thirteen staff attorneys. The Clerk's Office is headed by Thomas Lowe, who is assisted by seven deputies.

John was born in San Antonio (site of the 1995 NCACC Convention) but describes himself as an "Air Force brat." His hobbies include hunting with Tommy Lowe, fishing with George Miller, snow skiing, and golf.¶

FACTS, FICTION AND FOOLISHNESS

By Leslie Steen, Clerk, Supreme Court of Arkansas



As promised, here is the second installment from A.B. Neil.

This story concerns a lawyer from a rural city not too distant from Nashville during the latter days of the depression. The lawyer's brother was the Speaker of the House of Representatives and every guard at the main prison in Nashville had been selected by the Speaker of the House. The lawyer had a habit of coming to Nashville at least once a month for the sole purpose of getting as drunk as he could. On a Saturday afternoon, he was seen coming out of the front door of a prominent hotel in Nashville barely able to walk with a friend. Two off-duty prison guards saw Mr. Clarence and his buddy and remarked that unless something was done to protect them, they might get injured in an accident or picked up by the local police. The guards decided to take them to the state penitentiary where they could sober up. The next day, Clarence's friend remarked:

"Clarence, do you know where we are?"

"I have no idea," he replied.

"Well, Clarence, we're in the state pen. Do you remember coming out here?"

To which Clarence replied:

"Hell, I don't even remember the trial!"

As all of A.B.'s stories, this is reputed to be true.

Our office of the attorney general supplied the following:

A local crime lord was going to trial on a murder charge and the defense attorney was sure that his client would be convicted to lengthy sentence. After the jury was selected, the attorney

discovered that one of the jurors had several of the most undesirable character traits of his client; so, the attorney approached the juror and offered him \$20,000.00 to get his client a manslaughter conviction. The offer was accepted.

The trial lasted several days and the jury finally began deliberations. Time passed. Days became weeks and weeks become months. The crime lord and the lawyer grew increasingly uneasy. Finally, the jury returned a verdict for manslaughter.

When the money was delivered to the juror, the attorney exclaimed, "You earned your money on this one. It must have taken some real convincing to get a manslaughter conviction!" The juror replied, "I'll say. The rest of those guys wanted to acquit him!"

We have a frequent visitor in our office who is a notorious talker. Recently, he was expressing his views on his own funeral. He said, "When I die, I hope people don't come up and look in my coffin and say how natural I look. I hope someone comes up and says, 'You know, I think this is the first time I've ever seen him with his mouth closed.'"

He also supplied this bit of wisdom:

Diplomacy is the art of telling someone to go to hell and make him look forward to making the trip.

Any contributions to this column would be appreciated. Please mail your material to:

Leslie Steen, Clerk, Arkansas Supreme Court,
Justice Building, 625 Marshall, Little Rock, AR
72201

WANTING TO KNOW.....

JOSEPH LANE, California Court of Appeal, requests information concerning your court's use of notices and mailers. His office uses computer generated notices using laser printers and window envelopes. The case and attorney and/or party address is pulled from the data base and printed on the notice. Then the notice is folded so that the address appears in the window on the envelope. He admits this is not a "bad" system, but adds it is labor intensive since it involves folding and stuffing. He is interested if anyone is using a more efficient method of notice generation and mailing. An example would be the use of "mailers", either pre-printed or blank. One of the advantages of a "mailer" is that no envelope is used, thus no folding or stuffing. If you think you have an efficient method, please share it with him. Please send examples, along

with your comments, to: Joseph Lane, California Court of Appeal, 300 South Spring Street, 2nd Floor, Los Angeles, CA 90013.

JEAN KENNETT of the Supreme Judicial Court of Massachusetts wishes to know which appellate courts are using bar coding as a case management tool. Beyond that, she would like to know how bar coding is being used and whether the jurisdictions using it consider the program successful. Please call or write to her at:

Supreme Judicial Court for the Commonwealth
 Room 1412 Courthouse
 Boston, MA 02108
 (617) 725-8055

ATTENTION APPELLATE COURT CLERKS!!!

The membership committee is in the process of updating the address and telephone directory of all appellate court clerks. Please complete the form below and return to Ella Williams at the address listed below. We would appreciate the inclusion of your fax number, if applicable.

NAME: _____		
COURT: _____		
ADDRESS: _____		
CITY: _____	STATE _____	ZIP _____
TELEPHONE # _____	FAX # _____	
Return to Ella Williams, 109 West Michigan Ave., P. O. Box 30022, Lansing, MI 48909, Fax: (517) 334-7808		

. . . CLERKS CONFER . . . PROBLEM

Our Court does not favor continuances and expects the Clerk's office to convey this disfavor to the parties in a courteous and professional manner. Yet, too often, once the formal request for continuance is made or the motion for continuance filed, the Court sets aside its disfavor and grants the continuance, leaving the Clerk's office with egg on its collective face. How do we convey to the Court the necessity of establishing a policy regarding continuances that truly means something. One which will allow those of us in the Clerk's office to look as informed as we know ourselves to be?

Please help this clerk with his/her problem. Send your response to Peggy McGraw, Editor, c/o Missouri Court of Appeals, 1300 Oak Street, Kansas City, Missouri 64106.

THE TRANSITION BETWEEN WORK AND HOME FIVE GREAT THINGS:

1. **Snack.** A half-hour before you leave work, have a light snack (glass of juice or milk, apple, crackers, etc.). This will increase your blood sugar, improve your mood, and take the edge off your before-dinner appetite.
2. **Shout 'Stay!'** Before leaving work, one company vice president makes a list of things he wasn't able to finish. Then he puts the list in a desk drawer, closes the drawer, backs out of his office, points at his desk, and shouts, "Stay!" If thoughts about the unfinished work begin to bother him at home, he tells himself, "That's impossible. Those things are locked up in my desk at work." He admits this exercise sounds silly, "but it works."
3. **Go Casual.** Change into your at-home clothes and shoes before you leave work. It's an instant way to extend your evening.
4. **Exercise.** Sick and tired of the traffic mess? Find a place to exercise near your workplace and get your 30-60 minutes of exercise in before leaving for home. You'll miss the traffic and arrive home relaxed and refreshed.
5. **Take 15.** Make a deal with the people you live with to leave you alone for 15 to 30 minutes after you arrive home. (Set a kitchen timer, if necessary.) Use the time to jump on your exercycle, take a shower, or read the paper.!



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WHAT'S YOUR FIELD?

A proposal to form on-call consulting teams of NCACC members having special experience or knowledge in the fields listed below for the purpose of advising, on request, other appellate court clerks wishing to evaluate or improve their own operations or programs, or needing assistance in resolving ongoing problems, has failed of adoption. As an alternative, the Long-Range Planning Committee has been tasked with making available a resource list of members willing to advise or assist other clerks in the fields noted on an individual basis.

Please indicate by number each of the fields listed below in which you would be willing to advise or assist another clerk with a problem. A form for you to list this information appears at the end of this article.

FIELDS OF SPECIALIZATION OF NCACC CONSULTANTS

CODES OF CONDUCT

- (1) Drafting, interpreting, administering standards of conduct or codes of ethics for appellate court staff

PERSONNEL MANAGEMENT

- (2) Employee recruitment
 (3) Employee orientation and on-the-job training
 (4) Employee handbooks or manuals
 (5) Equal opportunity programs (minority; handicapped)
 (6) Combatting gender bias and/or sexual harassment
 (7) Employee assistance, including family care programs
 (8) Leave and absence policies and procedures
 (9) Performance standards and performance evaluation
 (10) Termination, grievance procedures, official and person dispute resolution
 (11) Maintaining employee records; access, confidentiality

SECURITY

- (12) Requirements, standards, and procedures for security of personnel, equipment, and/or information
 (13) Dealing with bomb threats

- (14) Disaster recovery

PRO SE LITIGATION

- (15) Service to litigants; management of pro se litigation

COMMUNITY RELATIONS

- (16) Public Relations
 (17) Media Relations

RELATIONS WITH, AND ASSISTANCE TO, THE APPELLATE BAR (18)

MANAGING CAPITAL CASES (19)

SPACE MANAGEMENT

- (20) Location, design, allocation, and use of facilities
 (21) Moving: Planning and execution

RECORDS MANAGEMENT

- (22) Policies and procedures for receiving, safeguarding, automating, miniaturizing, retaining and storing, or disposing of court records

OFFICE MANAGEMENT

- (23) Case processing

- (24) and management
- (24) Workflow monitoring
- (25) Technology and its applications
- (26) Office manuals (standing operating procedures)
- (27) Evaluation of overall office performance
- (28) Budget and accounting; handling funds
- (29) Employee health matters, ergonomics, smoking, emergency actions

- (30) Scheduling hours of work; flextime

ADDITIONAL MATTER IN WHICH YOU ARE WILLING TO SHARE YOUR EXPERIENCE OR EXPERTISE:

- (31) Compliance with the Americans With Disabilities Act
- (32) Use of Electronic Bulletin Boards
- (33) Any other areas. Please list.

YOUR NAME: _____

YOUR MAILING ADDRESS: _____

YOUR TELEPHONE NUMBER: _____

YOUR FAX NUMBER: _____

LIST NUMBERS OF THE FIELDS IN WHICH YOU ARE WILING TO ADVISE OR ASSIST, OR CIRCLE ON THE ATTACHED LIST

Please return this form and/or questionnaire to: Frans J. LaBranche, Jr., Supreme Court of Louisiana, 301 Loyola Avenue, New Orleans, LA 70112. Fax: (504) 568-2846

