



THE DOCKET

News of the National Conference of Appellate Court Clerks



J. O. Sentell Award

PENNY L. MILLER, Clerk of the Supreme Court and Court of Appeals for the State of North Dakota was awarded the J. O. Sentell Award at the 2004 Annual Conference in Anchorage, Alaska.

The prestigious J. O. Sentell Award is awarded to an NCACC member who has contributed substantially to the objectives of the conference, including improving skill and knowledge through conferences, seminars or other educational programs; promoting and improving the contribution of appellate court clerk offices within the area of effective court administration; and collecting and dissemination of information and ideas concerning the operation and improvement of the offices of appellate court clerks.

Penny Miller received her JD from the University of North Dakota School of Law in 1985, and a BA in Advertising and Public Relations from UND in 1981. She was appointed Clerk of the Court on July 1, 1992, after serving as Chief Deputy Clerk since 1988. Prior to joining the court, Miller was Communications Director for the State Bar Association where her primary responsibilities included the publication of THE GAVEL and NOTEPAD; press relations; law-related education; and coordination of the Interest On Lawyers' Trust Account program. While at the Bar Association, Miller assisted in the review and editing of the Law and Justice Curriculum Guide used in North Dakota high schools.

Penny serves as Secretary-Treasurer of the North Dakota State Board of Law Examiners, and Secretary of the Disciplinary Board of the Supreme Court of North Dakota. She is a Past President of the National Conference of Appellate Court Clerks (NCACC) and is currently active in many of the Conference's committees. She is also an active member of the Committee of Bar Admissions Administrators.

She also serves on behalf of the North Dakota Supreme Court and the State Board of Law Examiners as a liaison to many other standing and ad hoc committees for the improvement of the judicial system and lawyer admission and licensing on a state and national level.

2005 NCACC AWARDS COMMITTEE WANTS YOUR SUGGESTIONS

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Danielle Schott (LA)

Penny Miller (ND)
Daniel R. Schuckers (PA)
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The 2004-05 Awards Committee wants your nominations for the **J. O. Sentell Award** and the **Morgan Thomas Award**. These awards will be presented at the 2005 NCACC Annual Conference to be held in Key West, Florida.

The **J. O. Sentell Award** (See Article II of the Bylaws.) not only honors the recipient, it also pays homage to a founding member, James Oscar Sentell, Jr. He was born in Alabama in 1909 and practiced law there until 1967, when he was appointed deputy

clerk of the Alabama Supreme Court. A year later he became clerk of that court, serving until 1982. He was first president of the NCACC. In a tribute entered into the Congressional Record, Senator Heflin stated: Mr. Sentell made immeasurable contributions to Alabama's justice system as clerk of the Supreme Court of Alabama. Senator Heflin further described J. O. Sentell as a great public servant possessing a keen and analytical mind with perceptive insight and integrity beyond reproach.

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NEW ADDRESS: To Remit NCACC Membership Dues:

National Center of State Courts
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THE DOCKET

News of the National Conference of Appellate Court Clerks

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

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HELP KEEP US INFORMED!!





THE PRESIDENT'S PAGE

By Diana Pratt-Wyatt (LA)

It is hard to believe that this time has finally arrived and I am face-to-face with the responsibilities as President of the National Conference of Appellate Court Clerks. So, let's get to work! NCACC has a strong base from which to build in this next year and I am excited about the possibilities.

communication and had all of us "sharing our stories." I found his presentation so relevant to my personal observation of our organization: the strengths of NCACC members compliment those of the other and our differences challenge us to grow and learn. And no program is complete without a little humor in the form of Stress Management presented by Emily Ballance, who had all the clerks "clucking" before the end of the day. Congratulations on a job well done and thank you for the dedication of your time, talent, and hard work.

First, I want to extend my congratulations and appreciation to Marilyn May. The conference in Anchorage was an extolling success. The hospitality extended to our members was exceptional and the beauty of the scenery was only surpassed by the beauty of the people of Alaska. I want to thank Marilyn's Chief Deputy Clerk, Lori Wade, her Administrative Assistant, Cheryl Jones, and Programmer/Analyst, Tamara Grueber, who dedicated their time and talents to NCACC to insure everyone had the information they needed to enjoy the conference and explore Alaska. Our Educational Fund Raffle went off without a hitch and that credit goes to our NCACC members who donated items and Marilyn's case managers who manned the raffle booth. Thank you, Judi Udland, Connie Peterson, Ersula Harkley-Herrington, Jenny Burke and Beth Meyer. These ladies were great and added a lot of fun to the event. For those of you who were not able to join us, I am truly sorry for you missed one of those special NCACC experiences.

NCACC members strive for excellence and this is demonstrated year after year by the quality of our educational program. Steven Lancaster and the Program Committee are to be applauded for an excellent program. Reverend Michael Oleksa, Professor, Alaska Pacific University and University of Alaska set the tempo for the week stressing the importance of open and meaningful cross-cultural

Committee work is the heart and soul of NCACC. Many of you expressed a desire for us to describe each committee for the benefit of our newer members. Included in this issue is a brief description of each committee including the names of the 2004-2005 members. I thank everyone who volunteered to serve on a committee this year and look forward to the work ahead.

In closing here are items in progress:

- * I have appointed a committee to work with CATO representatives in an effort to plan a joint technology session in Key West. We will have more to report on that initiative in upcoming issues.
- * The fall Executive Committee meeting is scheduled for November 13, 2004, in New Orleans. In response to your request to keep you informed of the annual work of the conference, I will issue an Executive Committee report by list-serve following our meeting and also include same in the January issue of The Docket.
- * Program Committee is commencing its work so if you have any recommendations for speakers, please contact Chris Crow and pass the information.

(Continued on page 16)

THANKS FOR COMING!

By Marilyn May (AK)

I want to take this opportunity to sincerely thank all of the members who attended the 2004 annual conference in Anchorage. I couldn't have guessed that hosting was so much fun. Alaska was at her best, with sunshine and record-breaking highs in the 70's. The program was great, and the activities went off practically without a hitch. We have wonderful sponsors who really help to bring our group together. Most importantly, the members of this organization are a host's dream. Thank you from the bottom of my heart for an amazing experience.

If you were not able to come to this year's conference, we missed you and hope to see you in Key West. When you can't resist any longer, come on up to Anchorage and I'll show you around.



LAUGHTER AND STRESS IN THE WORKPLACE

By Christie Speir Cameron (NC)



Emily Balance created many laughs, smiles and even a few tears, as she guided a group of potentially introverted Clerks to the benefits of "lightening up" in our work environments. Emily's study and experience provided some simple ways to re-think situations that court offices face daily and use them to create more smiles and less stress. So successful were Emily's techniques that she had a room full of court employees doing a chicken dance and playing in a band by the end of her presentation. Uhm.... There were also some ideas that we may want to try at the office...



MANAGING INFORMATION TECHNOLOGY

By Colette M. Bruggman (ND)



Rory L. Perry II started his presentation with some famous quotes which bear repeating:

Nothing endures but change.
Heraclitus (540 -480 B.C.)

There is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success, than to take the lead in the introduction of a new order of things.
Niccoló Machiavelli, The Prince (1532)

Give me where to stand, and I will move the earth.
Archimedes (287-212 B.C.) — in reference to the lever.

Discussion followed about the role of the appellate clerk in managing the flow of information through the court, and how that role is shaped by technology. The clerk manages more than just case flow; the clerk is the knowledge manager of the Court. Managing technology also requires integration of the Clerk's traditional role as supporting both open access to the courts and effective judicial decision making.

Strategic approaches to technological change involve answering an old question: "To pave, or not to pave, the cow path." In other words, be wary of requiring technology to duplicate existing methods precisely, no matter what. Instead, take the opportunity to evaluate existing business processes with a critical eye, even re-engineer them, if warranted, and develop technology for the way you want your office to work. Clerks can leverage longevity as a leadership tool

Development in other sectors places pressure on the appellate courts to be responsive to technological advances. The more access and availability the public has through internet access raises the expectation that all things will be

available online. For example: If John Q. Public can purchase his hunting/fishing license online, why can't he pay his filing fee and file his brief over the internet? Things to consider: disaster recovery and homeland security; paperless courts; e-government services; electronic filing; integrated criminal justice systems; intra-court and intra-agency data sharing; privacy vs. public access.

"Managing technology also requires integration of the Clerk's traditional role as supporting both open access to the courts and effective judicial decision making."

How does budgeting shape the delivery of technology and appellate court services? Technology can be costly and is not likely to take priority in deciding how to deliver court services. Aside from federal and state funding, it is recommended that you look at alternative funding streams. Kansas has successfully implemented a user fee that is earmarked specifically for technology management and enhancements. North Dakota has successfully implemented an electronic filing surcharge that is re-

turned to the Court to offset the cost of electronic filing. Alternative streams of funding may be available and should be seriously considered in funding your technology plan. Performance numbers can be helpful tools in supporting budget requests.

How can the appellate court clerk help get technological changes delivered on-time and on-budget? The most important step is to get a seat at the table. Be aware of delegation of duties and who is responsible for the duties. Be aware of any staffing issues and assist with staffing if possible. Be aware of complex policy issues—such as the tension between privacy and public access to court record—that accompany technology implementations. Don't set unrealistic deadlines for a project: remember the 80/20 rule (the final 20% of results require 80% of the work). Help fashion solutions in light of your role as knowledge manager.

What do appellate clerks need to know about emerging technology standards? Currently, the National Conference of Appellate Court Clerks is working in conjunction with the National Center for State Courts to bring about Functional Standards for Appellate Courts. Technology standards help vendors determine what type of technology will work for the functions performed by appellate courts. Accessibility standards are available on the web through the World Wide Web Consortium, or web sites such as Bobby, a free site that analyzes web pages for compatibility with accessibility standards, including those set forth in Section 508 of the Americans With Disabilities Act. Finally, don't forget to eat the Alphabet Soup: W3C (world wide web consortium), XML, XSLT, HTML (hyper text mark-up language), CSS, PDF/A (portable document format/archive), LegalXML (standards for legal document exchange), OXCI (Open XML Court Interface – open source electronic filing manager in development in eleven states), GJXDM (Global Justice XML Data Model – a standard format for exchanging criminal justice and other legal information).

What technological approaches to court work will increasingly influence the appellate court?

- ♦ Internal Knowledge Management
- ♦ Protecting Privacy while Preserving Public Access
- ♦ Syndication and Alternative Publication Methods
- ♦ Webcasting Oral Arguments
- ♦ Maintaining the Electronic Archive

How can appellate court clerks acquire and share best practices in managing information technology? CATO (Conference of Appellate Technology Officials), NCACC Committees, List Serv, Web site, and requests for input from colleagues around the county. Other sources include the Core Competency materials on the topic of "Information Technology Management" that are maintained by the National Association for Court Management at:

http://www.nacmnet.org/CCCG/cccg_4_corecompetency_ITmgmt.html

NATIONAL SECURITY AND INDIVIDUAL LIBERTY

By Dan Schuckers (PA)

Professor Marci Hamilton spoke on the very timely topic of "National Security and Individual Liberty" to a plenary session on Tuesday, August 10, 2004. Professor Hamilton, a former law clerk for Justice O'Connor, reviewed the historical and legal tension between concerns for national security (especially in time of war) and concerns for the preservation of individual liberty. In reviewing at length the most recent United States Supreme Court decisions of June, 2004 concerning the rights of various individuals presently incarcerated because of alleged terrorist activities, Professor Hamilton noted the United States Supreme Court's continued interest in striking a balance between the two concerns.

In two breakout sessions on Wednesday, August 11, 2004, Professor Marci Hamilton spoke about recent legal developments concerning federalism, i.e., the relationship between the federal government and the states. In her presentation, Professor Hamilton emphasized the historical tension involving federalism; she also noted the Supreme Court's efforts in the past decade (since *United States v. Lopez* in 1995 in which the Supreme Court struck down parts of the Gun-Free School Zones Act of 1990 as violative of the federal Commerce Clause) to strike a balance between the interests of the federal government and the interests of the states. Professor Hamilton also emphasized that much of the criticism of the Supreme Court's "New Federalism" since 1995 has been unjustified.

PLEASE NOTE

Terrence Lord has a new email address: tlord@courts.mo.gov



EDUCATION FUND DONORS

By Sherie Welch (GA)

The list of NCACC Education Fund Contributors since May 17, 2004:



ALASKA NATIVE LAW

By Terry Lord (Mo)

One of the real benefits in attending a NCACC conference is the opportunity to learn something totally new. Such was the case with David Case's breakout presentation on Alaska Native Law. Mr. Case has a multi-faceted experience with the subject. After working in government, he currently engages in private practice representing the interests of Alaskan natives.

Mr. Case gave a synopsis of the complex history surrounding native claims to the Alaskan territory. The seminal event in this history was the enactment by the United States Congress of the Alaska Native Claims Settlement Act (ANSCA) in 1971. ANSCA effected the extinguishment of almost all native claims to Alaska in exchange for approximately one-ninth of the state's land plus almost a billion dollars in compensation. ANSCA created regional corporations, 12 within the state and one at-large. Under this legislation, the relationship between Alaskan natives and the land was completely transformed. No longer was ownership directly linked to Native government. Instead by conveying title to the 12 regional corporations all ties to traditional tribal governments were bypassed. Native Alaskans, whose earlier use and occupancy had made them co-owners of shared land, now became shareholders in corporate-owned land. ANSCA completely separated tribal membership from individual land ownership by eliminating the idea of "Indian country."

Mr. Case noted that the separation of the notion of tribal membership from tribal land mentioned above also plays into the evolving relationship between the Alaskan state courts and native tribal courts. The decision of the Alaska Supreme Court in **John v. Baker, 982 P.2nd 738 (1999)** provided a glimpse into this relationship. In **John**, father filed a custody

(Continued on page 11)

HOST SEARCH 2008

by Marilyn May (AK)
Chair, Site Selection Committee

The site selection committee seeks a host for the 2008 annual conference. We will entertain invitations from all states. Past hosts are not precluded from making an offer. Please provide information regarding conference space, activities, and hotels including rates (general information, not necessarily firm offers). Your local tourist board or convention bureau can help you with this process. Contact a member of the site selection committee if you have questions.

You should definitely consider hosting our conference. The work is spread over a long period, and you'll have lots of help. It's a wonderful way to show off your state. I can tell you from recent experience that hosting is a blast!

ANNUAL MEETING SITES

1973 Washington, DC	1991 St. Louis, MO
1974 Louisville, KY	1992 Washington, DC
1975 Flagstaff, AZ	1993 Nashville, TN
1976 Tarrytown, NY	1994 San Diego, CA
1977 Coeur d'Alene, ID	1995 San Antonio, TX
1978 Mackinac Island, MI	1996 Des Moines, IA
1979 Monterey, CA	1997 Point Clear, AL
1980 Orlando, FL	1998 Columbia River Gorge
1981 Jackson Hole, WY	1999 Portsmouth, NH
1982 Boston, MA	2000 Savannah, GA
1983 New Orleans, LA	2001 Newport Beach, CA
1984 Seattle, WA	2002 St. Paul, MN
1985 Lexington, KY	2003 Asheville, NC
1986 Austin, TX	2004 Anchorage, AK
1987 Hartford, CT	2005 Key West, FL
1988 Helena, MT	2006 Ft. Worth, TX
1989 Charleston, SC	2007 New Orleans, LA
1990 Tucson, AZ	

HOW DID THAT CASE GET THERE? FROM A STATE COURT TO THE UNITED STATES SUPREME COURT

By Chris Crow (LA)

Our very own Bill Suter, Clerk, and Cynthia Rapp, Deputy Clerk, of the United States Supreme Court entertained the NCACC troops (a/k/a troupe!) during a quick half-hour to explain the mystery: "How did that case get there...from a state court to the United States Supreme Court?"

With military precision, the panelists marched us through this journey, taking us step-by-step through the jurisdictional issues and screening processes at our highest court. We learned about efficient docketing, how extensions worked, how to submit that all-important response waiver, and color-coding of briefs.

The mysterious processes of developing the Conference List and circulating the cases were revealed, complete with

a picture of the inner sanctum conference room where the Justices meet for discussion. After these discussions, orders are then prepared and disseminated, and for granted cases, more briefing occurs before oral argument. Immediately prior to argument, attorneys are afforded the opportunity to gather in a quiet atmosphere in the attorney briefing room with the Clerk who informs them about what will happen in the Courtroom during argument.

Given their marching orders, Bill and Cynthia finished the session ON TIME, concluding with information concerning choosing opinion authors, opinion processing, and statistics on the number of appeals granted from state and federal courts and from what states (California leads the country once more!).

FROM THE NOMINATING COMMITTEE

By Bessie Decker (MD)

The positions for nomination at the 2005 Annual Conference are:

1. Vice President
2. Treasurer
3. Three Executive Committee positions:
Susan Clary
Dan Schuckers
Kelly McNeeley

Nomination forms will be included in the winter edition of THE DOCKET.

If you have questions or suggestions, please call Bessie Decker at 410-260-1508 or e-mail at bessie.decker@courts.state.md.us.

ELECTRONIC FILING

By Kristen Brown (PA)

Christie Cameron (NC) explored electronic filing in detail with two break-out sessions. Both sessions were well attended.



North Carolina has had an e-filing system in place for so long that Christie and her staff are looking at the next version and the advancements in available technology.

Her prepared slide show was wide ranging, going into some detail of the resources available to courts that are considering electronic filing. She discussed the differences and similarities of the Arizona and North Carolina electronic filing systems and reviewed a check-list of items that courts would want to use to structure the process of setting up an electronic filing system.

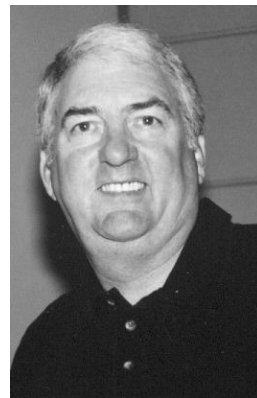
The sessions were very interactive as the audience raised probative questions and comments dealing with individual courts, potential obstacles and potential solutions for their individual situations.

NCACC Website:
<http://ncacc.ncsconline.org/>

Facts, Fiction, & Foolishness

By Leslie Steen (AR)

Most of us have been watching Florida get bashed by Charley, Frances, Ivan, and now Jeanne. We have wondered about our colleagues and friends in the Plywood State and considered their fates. We received the material for this column from Debbie Casseaux before Jeanne arrived. Not only did Debbie have to withstand a hurricane, her daughter, Candace, was visiting her sister in Atlanta and had to be hospitalized with a bacterial infection. Debbie had to go rescue her after the hurricane. Our children should be more considerate. Regardless, whatever they lost in Florida, they did not lose their senses of humor, and we are very glad about that.



You might be a Floridian if:

- * You exhibit a slight twitch when introduced to anyone named Charley, Frances, and Ivan. (And, we assume that list now includes Jeanne)
- * You have an airboat and it is parked in your driveway instead of a car.
- * Your freezer never has more than \$20 worth of food in it at any time.
- * You're looking at paint swatches for the plywood on your home so it will accent the house color.
- * You think of your hall closet/safe room as "cozy."
- * Your pool is more accurately described as "framed in" rather than "screened in."
- * Your freezer in the garage now only has homemade ice in it.
- * You no longer worry about relatives visiting during the summer months.
- * You, too, have not heard back from the insurance adjuster.
- * You've ordered gas cans via FedEx.
- * You now understand what the little "2% hurricane deductible" phrase really means.
- * You're putting a collage together, on your driveway, from roof shingles of the houses in your neighborhood.
- * You were once proud of your 16" electric chainsaw.
- * You are considering upgrading to a 20" chainsaw.
- * Your street has more than three "No Wake" signs.
- * You now own five large ice crests.
- * Your parrot can now say, "hammered, pounded, and bunker down."
- * You recognize people in the ice, gas, and plywood locations.
- * You stop what you are doing, clap, and wave when you see a convoy of power company trucks come down your street.
- * You are depressed when they don't stop.
- * You have the personal cell numbers of the plywood, roofing supplies, and generator managers of Home Depot.
- * You've spent more than \$20 for "tall kitchen bags" to make your own sandbags.
- * You now think a \$6,000 whole house generator seems reasonable.
- * You look forward to discussions about the merits of "cubed, block, or dry ice."
- * Your therapist refers to your condition as "generator envy."
- * You fight the urge to put on your winter coat/wool cap and parade around in front of your picture window when you finally get power and your neighbors don't.
- * And, finally, you might be a Floridian if you ask your sister up north to start saving the Sunday real estate classifieds.

We are glad you guys are okay and have kept your senses of humor.



MANAGING THE TECHNOLOGY PROFESSIONAL

By Ed Hosken (CA)

Judy Robert's presentation stressed the importance of the court manager recognizing that technology professionals are not motivated in the same way as we are or as are the other members of the clerk's office. Survey results indicate that the technology professional is characterized by a desire for autonomy. This includes selecting the work conditions, pace, and content. He or she will be motivated by the work itself. They may be suspicious of management. And, they want the freedom to operate within broadly stated goals.

More characteristics of the technology professional include the need for a sense of achievement by solving difficult problems, feeling a part of a larger effort, and being supported and recognized. Unlike the rest of the court team/

members of the clerk's office, technology professionals think of themselves as automation professionals first and as court staff second. Accordingly, opportunities for professional development are very important. And yet, they also want to learn how to fit in with the rest of the clerk's office.

Not surprisingly, some of the ways to retain technical professionals are different from those for others in the clerk's office. These include non-monetary incentives, positive feedback, no micro-management, involvement in the court's business, involvement in national programs, and training and professional development.

Judy also discussed court managers' perspectives. The supervisory challenges for the court manager with his or her technical professionals include delegating responsibility, providing support and feedback, managing performance, providing for professional development, and ensuring two-way communication.

ETHICS IN THE COURT

BY ED HOSKEN (CA)

Judy Robert's presentation began with a discussion of ethics in today's environment. She then went into her survey results revealing that 58% of those who responded have personally dealt with an ethical dilemma in the past year; the same number of us has seen someone in our office deal with an ethical problem; and, 50% of us thought we knew what questions to ask to arrive at an ethical conclusion.

Ethical issues facing the courts as reported by members in response to the survey included maintaining confidentiality, being careful not to provide legal advice, avoiding favoritism or accepting gifts that create a perception of influence, and engaging in inappropriate political activities.

Judy had us grade 12 statements from with one of five choices ranging from clearly ethical to clearly unethical. When the "tables" reported their results, it was obvious that while we as individuals had our own opinions, there was not always agreement with our fellow clerks. Perhaps another way to assess the results of the poll is that ethics is not always black and white.

After some general discussion about the specific statements, Judy offered eight questions to ask that could help you arrive at an ethical decision:

1. Is it legal?
2. Does it comply with our rules and regulations?
3. Is it consistent with our organizational values?
4. Will I be guilt-free if I do it?

"Recognize and reward ethical employees."

5. Does it match our stated commitments?
6. Would the most ethical person I know do it?
7. Would I do it to my family or friends?
8. Would I feel okay if someone did it to me?

A discussion then followed about how can you manage conflicting rights? Is there some way to eliminate one of the conflicts? Can you decide what is more right? And finally, from whom could you seek assistance? A variety of potential sources were mentioned ranging from the institutional ethics organization (which many seemed to reject) to respected individuals in the community to NCACC members.

The characteristics of an ethical leader were defined as:

- ♦ High value awareness.
- ♦ High values accountability.
- ♦ Leadership by example.
- ♦ In-sync policies/procedures.
- ♦ Value and ethics education.
- ♦ Attention to perception.
- ♦ Steady incremental changes.
- ♦ Hire ethical employees.
- ♦ Recognize and reward ethical employees.



WHAT'S BUGGING YOU? SHARING PROBLEMS AND SOLUTIONS

Joseph Lane (CA)

Hosted by: Chip Hostutler (PA), with co-hosts: Susan Clary (KY), Carol Green (KS), and Daniel Schuckers, (PA)

This is always one of my favorite programs and proved to be a favorite with everyone this year.

Discussion: “What is the best practice or solution to the problem of appellate delay, especially record preparation?”

John Lowe, Assistant Clerk of the Michigan Court of Appeals, asked this question. Chip Hostutler, Chief Clerk of the Commonwealth of Pennsylvania, lead the session with an explanation of the background to John Lowe’s quest to find a better practice or solution to the problem of appellate delay. Unfortunately, John Lowe could not attend and missed a lively discussion on problems many courts have and still have with record preparation. Here’s what was said:



Susan Clary, Clerk of the Kentucky Supreme Court, explained how in the earlier 1980s, Kentucky addressed the problem by moving their trial courts to video recording the proceedings and adopting the video as the official record. This enabled Kentucky to eliminate delay in preparation of a written transcription of oral proceedings since all that is required is a copy of the video, which can routinely be accomplished within 24 hours. The difference was, waiting twelve months for the printed record to having the video record the next day. Appellate counsel receives a copy of the video and cites to it in their briefs and the reviewing court views the proceedings instead of reading a reporter’s transcript.

The trial court benefits from having more control over record production but a downside is the speed with which one can review the record. i.e. viewing instead of reading. However, the overall benefits outweigh any downsides and Kentucky is pleased with its solution. Even the trial judges find it beneficial for the reviewing court to actually see the proceeding rather than relying on the printed version. Kentucky is now moving to digital recording.

Questions were raised on the acceptance of video by the bench and bar. Susan explained it was not a big issue and as explained, the trial bench believes that this is not an issue since there is better understanding by viewing (seeing) rather than just reading.

Discussion: Various members mentioned the problems they encounter with unions and lobbying groups in changing or adopting new practices in creating an official record.

Unfortunately, no solutions were forthcoming.

Discussion: Access to copies of briefs by legal publishers and other interested parties.

Most courts reported that they routinely make copies of briefs available. Some courts who receive electronic copies of the briefs post them to their web site.

Discussion: Staff moral and dress codes.



Staff moral garnered the most lively discussion. Members shared many ideas and programs that they use to, in the words of Garland Pinkston (Clerk of the District of Columbia Court of Appeals) “make it a happy place.”

Employee recognition was a common theme. Suggestions included providing cakes, flowers or pot luck lunches to celebrate birthdays; having donuts every Monday and having Christmas parties and other celebrations.

The program that elicited the most envy were those that apparently only the Federal Courts can accommodate . . . providing monetary rewards such as bonuses. Other ways to show appreciation include comp time off, copying the judges when compliments are received, developing awards to recognize exceptional work, either in or outside of the office, and recognizing staff at court functions.

As to dress codes, outside of a court moving to the use of uniforms (coordinated outfits), the consensus was that whatever dress policy a court has, it is vital that exceptions to the policy be addressed immediately. There seemed to be a range of options from strict to aloha shirts on Fridays, but no Levis or Capris, please.

Once again, this program (originally started many years ago by our friend Sandy Roos, former Director of Appellate Programs at the American Bar Association) was a success and provided a perfect forum for the members to share and discuss our concerns, problems and practices.



petition in tribal court seeking sole custody of his two children. The tribal court entered an order that custody of the children be shared with mother. Father then filed an identical custody action in the state superior court. Mother moved to dismiss based on the action of the tribal court. The superior court denied mother's motion and gave father primary physical custody. Mother appealed.

The Alaska Supreme Court stated that this dispute presented a question of first impression: do Alaska Native villages have inherent, non-territorial sovereignty allowing them to resolve domestic disputes between their own members? The Court held that Alaska native tribes, by virtue of their inherent powers as sovereign nations, possess that authority. However, while recognizing the tribal court's jurisdiction to adjudicate custody disputes between tribal members, the court noted that jurisdiction was not exclusive, that the state courts had concurrent jurisdiction over such custody disputes because the tribal villages did not occupy Indian country. Outside Indian country, all disputes arising within the state of Alaska, whether tribal or not, are within the state's general jurisdiction.

In summary, David Case gave a fascinating account of the evolving legal relationship between the Alaska natives and the federal territory and later the state of Alaska.



CROSS-CULTURAL COMMUNICATION

By Marilyn May (AK)

The 2004 conference kicked off with a wonderful program presented by Father Michael Oleksa. Father Oleksa is a Russian Orthodox priest who has worked all over Alaska and is a popular speaker on cross-cultural communication. Father Oleksa was dynamic and thought-provoking as well as funny. His talk was sprinkled with words from several Alaska Native languages.

Father Oleksa described three definitions of culture. The first is "the world as you see it," which may not be as others see it. For example, the native view of "animal" is a being of superior intelligence, in cahoots with each other. When hunting animals, the human is a visitor and is under surveillance.

The second definition is "the game of life." People of different cultures play the game differently. Each group thinks the other doesn't play by the rules, either because they don't understand them or because they are cheating. If you put people from two cultures together, they are playing "tackle baseball" — one is playing a timed game and the other is not. Interestingly, the biggest cultural differentiation is between urban and rural people, not racial.

The third definition of culture is "the story into which you were born." Everyone has a story, though they may not know it. In the United States, families move so often that people often lose their roots, their connections to family, and ultimately, their life story, resulting in a true loss of culture. Native Americans lose their culture when they assimilate. Loss of one's own culture can lead to anti-social and self-destructive behavior. Government throws money at such problems, creating a dependence that can lead to other problems.

In order to truly understand another person, we need to hear each other's stories. Respect for one another's rituals, values, and life experiences helps to make us aware of our differences and bridge the communication gap. Communication is like an iceberg, only a small part is visible. Mistakes regarding other cultures lead to miscommunication that can have serious effects, such as the Native person who calls a judge by her first name in an attempt to be polite, and receives a longer sentence.

Father Oleksa offered good advice on how to bridge the cultural gap. First, recognize that communication is partial and incomplete, so miscommunication is inevitable and unintentional. Get to know each other's stories, and try not to be offended by others who do not share your rituals or values. Given all of the opportunities for miscommunication, we should give each other the benefit of any doubt and assume good will. If a negative pattern repeats itself, it is best to call the problem to the other person's attention, by explaining how the other person's actions make you feel. The final step is asking forgiveness for miscommunication. It puts the ball in their court. When you forgive the other person for miscommunication, it allows you to move past your anger or frustration.

Father Oleksa's presentation started our conference on a high note. Several attendees asked for information about his series of four one-hour videos entitled "Communicating Across Cultures," created by a public television station in Juneau. The series is available for purchase through the following website: <http://www.ktoo.org/videos.cfm>. I believe they are also available through inter-library loan.

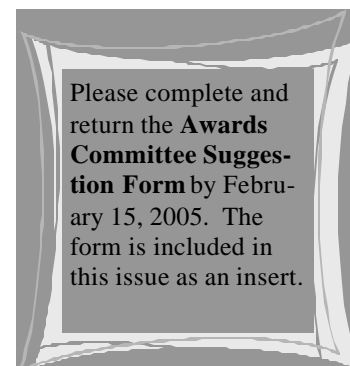
(Continued from page 1)

Past recipients of the **J.O. Sentell Award**:

<u>Year</u>	<u>Recipient/Court</u>	<u>Conference City/State</u>	<u>Year</u>	<u>Recipient/Court</u>	<u>Conference City/State</u>
1979	J.O. Sentell Alabama Supreme Court	Monterey, CA	1992	Rema Mims South Carolina Court of Appeals	Washington, DC
1980	Ronald L. Dzierbicki Michigan Court of Appeals	Orlando, FL	1993	Steve Townsend New Jersey Supreme Court	Nashville, TN
1981	Wilfried J. Kramer California Court of Appeals Third District	Jackson Hole, WY	1994	Peggy Stevens McGraw Missouri Court of Appeals	San Diego, CA
1982	Morgan Thomas Georgia Court of Appeals	Boston, MA	1995	Kevin Swanson California Court of Appeal Fifth District	San Antonio, TX
1983	Lewis Carter Kansas Supreme Court and Court of Appeals	New Orleans, LA	1996	Glen D. Clark Arizona Court of Appeals Division One	Des Moines, IA
1984	Mary Ann Hopkins-Young Arizona Supreme Court	Seattle, WA	1997	William S. Fulton, Jr. (Retired) U.S. Army Court of Criminal Appeals	Point Clear, AL
1985	Alexander L. Stevas Supreme Court of United States	Lexington, KY	1998	Ella Williams (Retired) Michigan Court of Appeals	Skamania, WA
1986	Luella Dunn North Dakota Supreme Court and Court of Appeals	Austin, TX	1999	Joyce A. Goldsmith Arizona Court of Appeals Division Two	Portsmouth, NH
1987	Jean Kennett Supreme Judicial Court for the Commonwealth of Massachusetts	Hartford, CT	2000	John Wilkerson, Jr. Alabama Court of Appeals	Savannah, GA
1988	John Scott Kentucky Supreme Court and Court of Appeals	Helena, MT	2001	R. Keith Richardson Iowa Supreme Court and Court of Appeals	Newport Beach, CA
1989	Joline Williams Georgia Supreme Court	Charleston, SC	2002	Marilyn L. Graves Wisconsin Supreme Court and Court of Appeals	Minneapolis, MN
1990	Frans Lebranche Louisiana Supreme Court	Tucson, AZ	2003	David B. Beach Supreme Court of Virginia	Asheville, NC
1991	Jill Engel South Dakota Supreme Court	St. Louis, MO	2004	Penny L. Miller North Dakota Supreme Court	Anchorage, AK

The **Morgan Thomas Award** is for recognition of an individual who is not a member of the NCACC and who has made distinguished contributions to enhancing professionalism and supporting the goals of the NCACC as a body and of its members individually. Past recipients of the **Morgan Thomas Award**:

1991	Charles Nelson	West Publishing Co.
1992	Justice James Duke Cameron (Retired)	AZ
	Justice Harry A. Spencer (Retired)	NE
	Justice William A. Grimes (Retired)	NH
1995	Sandra M. Roos	American Bar Association
1996	Jane Sanchez	Bureau of National Affairs
	Lew Tipett	Lexis/Nexis
1997	Michael J. Whetstone	West Publishing Co.
2003	Dwight D. Opperman	West Publishing Co., Former CEO





2004-2005 COMMITTEES

By Diana Pratt-Wyatt, (LA)

October begins a new year for NCACC, and with this new year comes new committee members who bring a willingness to work hard to make our organization successful. Below is a brief summary of each committee and a list of committee members.

Awards Committee

The purpose of this committee is to recommend to the Executive Committee nominees for the J.O. Sentell Award and Morgan Thomas Award.

Joseph Lane (CA), Chair	Michele Angers (CT)
Debbie Causseaux (FL)	Kathleen Kempley (AZ)
Penny Miller (ND)	Keith Richardson (IA)
Danielle Schott (LA)	Michael Yerly (CA)
Daniel Schuckers (PA), Executive Committee Liaison	

Bylaws Committee

This committee considers amendments to the Bylaws and makes written reports to the Executive Committee each year by April first. This committee shall consist of no more than five members, including the Chairperson and any ex-officio members.

Norman Herring (DC), Chair	Ashley B. Ahearn (MA)
Joseph Lane (CA)	Francis Drumm, Jr. (CT)
Frederick K. Ohlrich (CA), Executive Committee Liaison	

Convention Assistance Committee

It is the responsibility of this committee is to provide practical guidance, advice and assistance to Clerks who are hosts of upcoming annual meetings.

Sondra Joyner (FL), Chair	Colette Bruggman (ND)
Troy Bennett (TX)	Irene M. Bizzoso (PA)
Deena Fawcett (CA)	Frank Habershaw (FL)
Les Steen (AR)	Rex Renk (MT)
Patricia Krueger (VA)	

Special Committee a/k/a "Reinforcement Team"

Stephanie Lavake (TX)	Lisa Matz (TX)
Abel Acosta (TX)	Randy Bruns (VA)
Andy Horstmanshoff (NV)	Carol Green (KS)
Bessie Decker (MD), Executive Committee Liaison	

Educational Fund Committee

This committee will develop sources of income to be invested in a restricted fund, the proceeds of which shall be used for educational purposes. The Educational Fund Committee will be composed of the President-Elect, the Treasurer, and one Executive Committee member to be named by the President. The President shall appoint one of these members as the Chairperson.

Finance and Investment Committee

The purpose of this committee is to recommend finances and investments to the Executive Committee. The Finance and Investment Committee shall consist of the Treasurer, who shall serve as its Chairperson, and four members appointed by the Executive Committee.

Sherie Welch (GA), Chair	Bill Martin (GA)
Rob Phelps (GA)	Tom Kahn (GA)
John Doerner (CO)	

Long Range Planning Committee

The purpose of this committee is to recommend to the Executive Committee strategies with positive impact on Conference Purposes and steps to implement those strategies. The Long Range Planning Committee shall consist of no more than nine members, including its Chairperson and any ex-officio members. The Vice-President of the Conference shall serve ex-officio on this committee.

Steven Lancaster (IN), Chair	Kristen Brown (PA)
Andrew Weber (TX)	Louise F. Pearson (TX)
Sandra Skinner (MO), Vice President/Ex Officio Member	
Executive Committee Liaison	

Membership Committee

This committee solicits new members and distributes information about the Conference to new or prospective members.

William Martin III (GA), Chair	Abel Acosta (TX)
Cornelia Clark (WI)	Peggy Culp (TX)
Frankie Holt (TN)	Diane O'Neal (TX)
Robert L. Phelps, II (GA)	Margie Thompson (TX)
Ed Smith (MT), Executive Committee Liaison	

(Continued on page 15)

Nominating Committee

The purpose of this committee is to recommend the nomination of regular members to office. The Nominating Committee shall consist of at least five but no more than nine members, including its Chairperson, and shall be appointed by the President, with the approval of the Executive Committee, at least six months before the annual business meeting.

Bessie Decker (MD), Chair & Exec. Committee Liaison
Marilyn May (AK) Penny Miller (ND)
Ed Smith (MT) Joseph Lane (CA)
Michael Yerly (CA) Daniel Schuckers (PA)

Past Presidents' Committee

This committee will assist the President and Executive Committee as needed. The Past-Presidents' Committee shall be composed of all living Past-Presidents of the Conference.

Ed Smith (MT) 2004, Chair & Exec. Committee Liaison
ALL PAST PRESIDENTS

Pictorial Committee

The purpose of this committee is to update and maintain the pictorial directory of the Conference, including the annual meeting summaries contained therein.

Charles McNeely (LA), Chair & Exec. Committee Liaison
Carol Anne Flores (TX) Bessie Decker (MD)
Cathy Howard (DE) Judy Pacheco (WY)

Program Committee

This committee organizes and presents an educational program at the annual meeting of the Conference to further the objectives of the Conference and to enhance the skill and knowledge of appellate court clerks.

Christine Crow (LA), Chair Andrew Weber (TX)
Kristen Brown (PA) Jon Wheeler (FL)
Christie Cameron (NC) Ed Hosken (DC)
Danielle Schott (LA) Joseph Lane (CA)
Terry Lord (MO), Executive Committee Liaison

Public Relations Committee

The purpose of this committee is to promote the mission and objectives of the NCACC by providing information about the Conference and its members to the appropriate individuals and groups.

Susan Clary (KY), Chair & Executive Committee Liaison
Laura Roy (MO), Vice Chair Penny Miller (ND)
Frankie Holt (TN) Peter Fitzgerald (LA)

Publication Committee

The Publication Committee informs the membership of the activities of the Conference, provides information to enhance the professionalism of appellate court clerks and their offices, and publishes the NCACC newsletter at least quarterly.

Diana Pratt-Wyatt, Chair & Executive Committee Liaison
Cornelia Clark (WI) Deena Fawcett (CA)
Judy Pacheco (WY) Sherry Williamson (TX)
Les Steen (AR) Mike Yerly (CA)

Resolutions and Memorials Committee

This committee prepares appropriate resolutions for adoption by the Conference as formal expression of its will and intent, and to prepare and arrange memorials for deceased members.

Margie Thompson (TX), Chair Deena Fawcett (CA)
Louise Pearson (TX) Frankie Holt (TN)
Sandra Skinner (MO), Executive Committee Liaison

Retired Members Committee

This committee consists of all retired members who wish to continue their participation in NCACC.

Scholarship Committee

The purpose of this committee is to recommend recipients of scholarships to the Executive Committee. The committee shall consist of three members, including its Chairperson, and shall be appointed by the Executive Committee.

Cynthia Rapp (DC), Chair Michele Angers (CT)
Kristen Brown (PA)
Charles McNeely (LA), Executive Committee Liaison

(Continued on page 16)

Site Selection Committee

Potential hosts for future annual meetings are solicited by this committee. The Site Selection Committee also evaluates invitations from states and makes appropriate recommendations to the Executive Committee.

Marilyn May (AK), Chair	Deena Fawcett (CA)
Lisa Matz (TX)	Dan Crutchfield (TX)
Norm Herring (DC)	Paul McGill (CA)
Andy Horstmannshoff (NV)	Michele Angers (CT)
Keith Richardson (IA)	
Christie Cameron (NC), Ex Officio Member	
Daniel Shearouse, Executive Committee Liaison	

Technology Committee

This committee provides technical support and advice to appellate court clerks and their staffs, and coordinates communications between the Conference and other organizations.

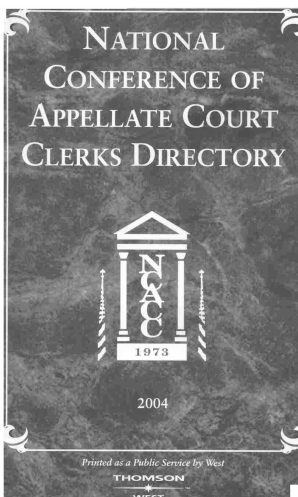
Colette Bruggman (ND), Chair	Irene Bizzoso (PA)
Michael Catalano (TN)	Christie Cameron (NC)
Joseph Lane (CA)	Rex Renk (MT)
John Olivier (LA)	Rory Perry (WV)
Daniel Shearouse (SC), Executive Committee Liaison	

(Colette Bruggman, John Olivier, and Rory Perry are JAD representatives)

Website Committee

Rory Perry (WV), Chair	Michael Catalano (TN)
John Doerner (CO)	Thomas Hall (FL)
Penny Miller (ND)	James Pelzer (NY)

- * William H. Rehnquist Award for Judicial Excellence Dinner, November 18, 2004 at the U.S. Supreme Court, Washington, DC.
- * COSCA Midyear Meeting, December 1-4, 2004 in New Orleans, LA.

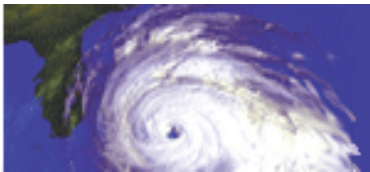


2005 NCACC DIRECTORY

By Kelly McKneely (LA)

Included as an insert to this issue of The Docket is an information form for the directory. If you are a new member, please provide this information along with a 3X5 or 4X6 photo. Our directory will not be complete without you.

Current members may also use this form to update their information and submit an updated photo, if you wish. Please look at the 2004 directory to make sure your information is correct, and submit any changes that need to be made. Please give special attention to email addresses, as this is becoming a more preferred method of communication.



GREETINGS FROM THE PLYWOOD STATE

By Tom Hall (FL)

Although the hurricane season does not end officially until mid-November, we are hopeful that the last of the hurricanes are over for this year. All the appellate courts in Florida have survived, so far. We thought a quick update on what went on would be good and offer those of us in Florida a chance to offer thanks to those of you who helped us.

First, thanks to all who wished us well and kept us in your prayers. Thanks as well to all who offered to help in any way they could.

Damage to the state has been extensive and it will take a long time to recover. At least two trial court courthouses in the state were damaged so badly they were condemned. Two intermediate appellate courts (the 4th in West Palm Beach and the 5th in Daytona) suffered relatively minor damage (if you consider \$50,000 or \$60,000 dollars worth of damage minor). Every courthouse in the state was closed at least some time because of a storm. Many were closed for long periods of time. The courthouse in Pensacola is badly damaged and it will likely be 6 months before they are fully operational again.

We learned two really valuable lessons from all this. First, Florida's courts, because of 9/11, had mandatory COOP plans in place. They proved invaluable. Some of them needed revised, we have discovered, but even the ones that were not as good as they needed to be were better than what many executive branch agencies had in place. One example of that is Pensacola. There the court had a COOP in place and had made arrangements for an alternative site in the event they could not operate from the courthouse, which proved to be true. However, the state attorney, the public defender and the clerk's office (all of which had offices in the same building as the court) had not made alternative arrangements. Trial court clerks in Florida are elected and do report to the court. So even though the court got temporary court rooms operating very quickly, it could not really do criminal cases because the other agencies had no place to operate from and thus could not operate.

The court ended up helping them make alternative facilities arrangements.

Second, the Supreme Court and the Office of State Court Administrator, ended up playing a much bigger role in keeping the system operating than we thought would be required in our own COOP plans. We set up a daily conference call that all the courts from around the state participated in to keep everyone informed. It really helped all the courts communicate with each other and trade ideas, solutions, etc. We listed all court closures and info about each of the courts on the Supreme Court's web site so that attorneys around the state could find out what was happening in their local area, even when their local courts lost the ability to communicate. At the Supreme Court we have now entered more than a 180 tolling orders because of court closures and attorneys can get those directly from our web site.

Finally, as always, belonging to NCACC proved really valuable. At one point when one of the storms was projected to go right down the middle of the state, south to north, we became concerned that we would lose power and the ability to keep everyone else around the state informed. We had not had a chance to actually do a trial run operation from our alternative site and we became very concerned that site might not be available if damage was extensive. We had never actually tried our generator and judged to what extent we could keep operating our web site, which we now knew was providing invaluable information to the other courts. I learned from our tech people that all we need to update our web site was one working computer and access to one phone line. We decided we needed access to a web server outside the state as a back up. Since Rory Perry had gotten permission from his Chief Justice to host NCACC's web site, I thought he might be able to help us. I got with our Public Information Officer, who also knows Rory, and we called him and made our request to house a copy of our emergency pages on the West Virginia site. Within the hour Rory had permission

*"...as always,
belonging to NCACC
proved really
valuable."*

(Continued on page 18)

(Continued from page 17)

and had provided our PIO with FTP info and access and we had our emergency pages posted. We issued a press release telling the courts, the public and the media where to find the info if our site went down. Thanks Rory!!!! Rory and the web site committee are already discussing how to develop a permanent solution that would be available to all NCACC members across the country allowing the opportunity to keep web sites operating in an emergency.

I must also note that in the middle of all these storms the Florida Supreme Court handled, from start to finish, two very high profile emergency cases – the Nader ballot case and the Terry Schiavo right to die case.

Thanks again to everyone for all the kind words and offers of support.

P.S. I do not want to do a presentation next year on how to handle an emergency high profile case in the middle of a hurricane.



Awards Committee Suggestions Form

J. O. SENTELL AWARD

Please make your recommendation below and give your reasons. (If more space is needed, please attach additional page(s).)

I nominate: _____ No nomination ☐

Reasons: _____

MORGAN THOMAS AWARD

Please make your recommendation below and give your reasons. (If more space is needed, please attach additional page(s).)

I nominate: _____ No nomination ☐

Reasons: _____

Please return this form by February 15, 2005

by FAX ? Joseph A. Lane, Clerk

FAX: (213) 897-2430

or by mail ?

NCACC
Joseph A. Lane, Clerk of the Court
Court of Appeal, Second Appellate District
300 S. Spring Street, Room 2217
Second Floor, North Tower
Los Angeles, CA 90013

2005 NCACC DIRECTORY

Member Information

Name: _____

Title: _____

Office Address: _____

Office Phone: _____ Fax Number: _____

Email Address: _____

Date of Birth: _____ Home Telephone: _____

Home Address: _____

Biographical Information: (attach additional sheets, if necessary)

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Please mail to: Charles Kelly McKneely
NCACC Pictorial Directory
P. O. Box 16577
Lake Charles, LA 70615