

Fort Worth, Texas - Where the West Begins!

By Stephanie Lavake (TX)

Polish your boots, dust off your Stetson, and get ready to swing your partner round and round as plans are underway for the 2006 conference in Fort Worth, Texas! The conference will be held July 30 - August 4, 2006 at the beautiful Renaissance Worthington Hotel in downtown Fort Worth.

Useful websites for the hotel and Fort Worth include www.fortworth.com, www.renaissancehotels.com, www.sundancesquare.com, and www.dfw.org.

We are working to put together a great conference with an excellent program and social events that promise to be a lot of fun. We have a family night of fun planned in Fort Worth's Historical Stockyards! Get ready to smile pretty as you get your photo on a Longhorn, brave yourself for the mechanical bull, and learn some new dance moves with our line-dance instructor. We are finalizing plans for another event as well and all the regular events will be held including the morning fun run/walk along the Trinity Trails, the golf tournament, hospitality suite, and banquet. All the details will be in the next issue of "The Docket" and will be posted on our conference's website soon. Hope to see you!

Scholarships for Fort Worth

If you are having trouble obtaining funding for the annual meeting in Fort Worth, Texas you may be eligible for a scholarship. Please do not hesitate to apply, last year we had money left over. The Scholarship Assistance Guidelines and the Selection Criteria are published in the NCACC directory. If you plan to apply for a scholarship, please read the Guidelines and the Selection Criteria and the following instructions:

DEADLINE: Mail or Fax the completed, signed application form by **June 1, 2006** to:

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

FAX: 757-259-1520



If you are uncertain as to whether you will receive funding from your court you may still apply for a scholarship, just note this on your application and update the scholarship committee of any changes to your funding status.

The Scholarship committee is authorized to award up to \$ 10,606.29 . These funds are not available to defray the cost of membership in the NCACC.

If you have questions or concerns please email the Chair of the Committee, Cynthia Rapp at cjrapp@scus.gov

This year's committee members are, Charles "Kelly" McNeely, Dan Schuckers, and Cynthia Rapp. Garland Pinkston serves as the Executive Committee Liaison.

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To Remit NCACC Membership Dues:

National Center of State Courts
300 Newport Avenue
Williamsburg, VA 23185

THE DOCKET

News of the National Conference of Appellate Court Clerks

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Brenda Stephens (LA)	Assistant

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 Terry Lord (MO)



I hope everyone enjoyed a peaceful holiday season. For the last several years I have made it a point to take the week off between Christmas and New Year's Day. No checking e-mail, no checking phone messages at work. Amazingly, the clerk's office and the court always survive quite well without me. If you can swing it, I highly

recommend it.

Last time I mentioned that I had been invited to participate in the National Conference on Appellate Justice which took place in Washington D.C. the first weekend in November. A number of well-known (at least well-known in the relatively small world of appellate courts) personalities were there, like Dan Meador, Paul Carrington and Kenneth Starr. Chief Justice Roberts attended the opening reception. Justice Breyer spoke at the opening session. (Did anyone notice the back of my head on C-SPAN?) Some judge from the Third Circuit Court of Appeals in Philadelphia was supposed to be a panelist, but then a couple days before the start of the conference he was nominated for the United States Supreme Court, so Judge Alito was a no-show. In general, there were a lot of appellate judges, both federal and state, a fair number of appellate practitioners and academicians, but very few court staff.

The conference focused on "big picture" issues; e.g. published v. unpublished opinions (a big bone of contention between judges and practitioners), submitting cases without oral argument (several academicians opined that every case should have oral argument - tell that to high-volume state and federal appellate courts), and attacks on the independence of the judiciary. One topic that directly implicated clerk's offices (although no one seemed to acknowledge it) was whether appellate courts today were dealing with a "crisis of volume." In general, steadily increasing case filings continue to be a fact of life in the federal courts of appeal but not so much in the state appellate courts. One panelist argued that the so-called crisis of volume is illusory because any increase in case filings is a direct result of a big increase in prisoner and other pro se filings, and those

cases are "easy to decide." Obviously, that speaker failed to consider the impact those "easy to decide" cases have on appellate clerks' offices. Appellate clerks know that pro se filings very often consume a disproportionately greater percentage of finite time in our offices compared to attorney filings. When we broke up into our small discussion groups, I made that point. Hopefully, I struck a small blow for the appellate clerks.

The other major event that occurred since the last newsletter was the fall executive committee meeting that took place on November 19 in Kansas City, Missouri. A couple of committee members were absent due to conflicts, but we were happy to have non-board members Tom Hall, Andrew Weber and Stephanie Lavake in attendance. Tom gave a final report on the Key West conference and presented his exciting vision for an "Exhibitor's Show (f/k/a the Vendor's Show) for Fort Worth. Andrew shared his committee's ideas for the program in Fort Worth. Suffice it to say there are a lot of good ideas which will hopefully translate into another outstanding educational program. Stephanie updated us on her considerable progress in putting the conference together. I am confident that Fort Worth will be a memorable experience for all.

We had a very productive meeting. Here is a very small sampling of the highlights. The executive committee articulated a new policy for reimbursement of guest speakers at the annual conference - something program chairs will greatly welcome. The technology committee chaired by Mike Catalano (TN) continues to post a very detailed, very easy to answer survey on our website (www.appellatecourtclerks.org) in sections. Please take the time to answer it. Also, there will be increased funds this year for scholarships to the conference in Fort Worth. If you find yourself in a situation where your court cannot provide travel funds for the conference, do not hesitate to request scholarship assistance. We want you there.

Finally, at the risk of sounding like a broken record, I want to reiterate my plea to all members of the NCACC to support the Educational Fund. Yes, we will pursue major donors, but the fund will always need the broad support of our membership. Have a great winter!

Nominations

By Carol Green (KS)

Elsewhere in this issue, you will find the nomination form for officers and Executive Committee members for 2006-2007. I have included a plea for participation on the form and will repeat it here.

In recent years, we have had as few as eight forms returned which makes the job of the Nominating Committee a difficult one and increases the risk that interested, capable members are not considered for leadership positions.

Please give thoughtful consideration to your own willingness to serve as well as to nomination of others. Do not feel obligated to submit an entire slate. Any suggestions are welcome.

As you know, the NCACC is a member-driven organization, and each member counts in keeping the organization strong. Thanks for your participation.

NOTICE/REQUEST OF MEMBERSHIP COMMITTEE

By Lanet S. Asmussen (NE), Chair

The Membership Committee is in need of updated information regarding new clerks of appellate courts. If you are, or know of, a clerk who has retired or resigned within the past few years, we would appreciate you contacting a member of the Membership Committee and notifying us of the name of the new clerk who has now filled the position. The Membership Committee will use this information to verify that the new clerk is a member of our organization. If not, it will give us the information we need to contact the new clerk and encourage them to join the NCACC and reap the many benefits membership has to offer.

Also, please be aware that if your membership dues are not current and you register to attend an NCACC annual conference, you will be charged an extra \$100 fee at that time. It is to your benefit and the benefit of the organization to pay membership dues in a timely fashion. Thank you for your cooperation in this regard.

Membership Committee:

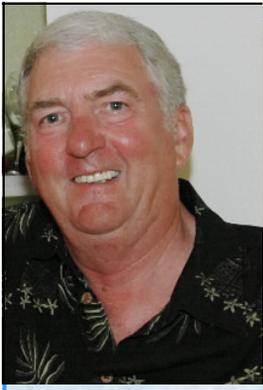
Lanet S. Asmussen (NE), Chair; Michele Angers (CN); Christie Cameron (NC); Deena Fawcett (CA); Eileen Fox (NH); Frankie Holt (TN); Lisa Matz (TX); Trish Harrington (VA), Executive Committee Liaison



FRANK J. HABERSHAW, Clerk of Florida's Fifth District Court of Appeal, retired effective October 31, 2005. Mr Habershaw served thirty-five years with the State of Florida including three years with the Office of the Governor, six years with the Supreme Court of Florida, and twenty-six years with the Fifth District. He was appointed Clerk upon creation of the Court in August, 1979, and held the position until his retirement.

As his retirement date approached, Judge Emerson Thompson, a member of the Court, remarked to a local newspaper reporter that Mr. Habershaw would be missed for his knowledge and memory. As the dean of Florida's appellate court clerks, he was called upon frequently for his institutional memory and a great deal of the Court's success, according to Judge Thompson, can be related to Mr. Habershaw's service and tenure. Moreover, he was the first clerk to embrace computer technology in the appellate courts of Florida. He brought the Court from utilizing typewriters and filing cabinets to becoming fully computerized.

Subsequent to his retirement, Barbara J. Pariente, Chief Justice of the Supreme Court of Florida, wrote to extend her appreciation to Mr. Habershaw for the many years of outstanding public service that he rendered to Florida's judicial branch and its citizens during his long and distinguished career as clerk of court, and for his earlier work in the development of the foundation of court administration for the State of Florida.



Facts, Fiction, & Foolishness

By Leslie Steen (AR)

Just to get our small little minds working again after a long period of holiday feasting and frivolity, we thought we would include this amazing little story supplied to us by Bill Martin from Georgia. Please continue to read regardless of this seeming gibberish.

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Now after all these years you can see that we may have published some garbage, but not gibberish. To more important matters - as we know, there are some exceedingly stupid people out there. These are supposedly questions sent to "Dear Abby" by supposedly reasonably intelligent people. Abigail Van Buren (Dear Abby) admitted she was at a loss to reply to:

Dear Abby: A couple of women moved in across the hall from me. One is a middle-aged gym teacher and the other is a social worker in her mid-twenties. These two women go everywhere together and I've never seen a man go into their apartment. Do you think they could be Lebanese?

Dear Abby: What can I do about all the sex, nudity, bad language, and violence on my VCR?

Dear Abby: I have a man I just could never trust. He cheats so much I'm not even sure this baby I am carrying is his.

Dear Abby: I am a twenty-three year old liberated woman who has been on the pill for two years now. It is getting very expensive and I think my boyfriend should share half the cost, but I don't know him well enough to discuss money with him.

Dear Abby: I suspected my husband has been fooling around, and when I confronted him with the evidence, he denied everything and said it would never happen again.

Dear Abby: Our son writes that he is taking Judo. Why would a boy who is raised in a good Christian home turn against his own?

Dear Abby: I joined the Navy to see the world. I've seen it. How do I get out?

Dear Abby: My forty-year-old son has been paying a psychiatrist \$50 an hour, every week, for two and a half years. He must be crazy.

Dear Abby: I was married to Bill for three months and I didn't know he drank until, one night, he came home sober.

Dear Abby: My mother is mean and short tempered. I think she is going through mental pause.

Dear Abby: You told some woman whose husband had lost interest in sex to send him to a doctor. Well, my husband lost all interest in sex years ago and he is a doctor.



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WHAT'S COOKING?

By Ken deBlanc (LA)
Your Gourmet Extraordinaire



A great cookbook, I hope. Jean Kennett and I are attempting once more to put together a cookbook featuring recipes from all of the appellate clerk's offices. It will be titled "*Cooking With Appeal*". Hopefully, the money derived from its sale will go to the Association's Education Fund.

You do not have to be a member of the NCACC to submit recipes, just work in the clerk's office, or be in association with the court, such as staff attorneys. All clerks are requested to have all of their staff submit at least one (more are welcomed) recipe. Regional recipes are preferred, except for Marilyn May's office. Sorry, Marilyn, it's just too hard to get good fresh whale, seal, or caribou meat here in the states.

I will be hosting a cooking column in each of the forthcoming newsletters, featuring recipes Jean and I have received. So get those recipes coming.

Remember both Jean and I are retired and have the time to harass those of you who fail this request. I don't know about Jean, but I can be very ugly when I do not get what I want.

You can mail or e-mail your recipes to:

Kenneth J. deBlanc
615 Helen Street
Lake Charles, LA
E-mail: K.deblanc@cox.net

Jean M. Kennett
P. O. Box 1878
Duxbury, MA 02331
E-mail: jlass18@aol.com



Personal News

Congratulations, Grandma **Judy Pacheco** (WY)! Josephine (Josie) Jackson was born on October 19, 2005 and is a keeper at 9 lbs and 3 oz. According to Grandma, she is the "cutest and sweetest little girl ever born". Marilyn May came bearing gifts to see Josie and brother Peter and can confirm this.

We want to wish **Ed Smith** (MT) the very best in his run for re-election. All this, while getting his new case management system installed.

Best wishes!

ART + AUCTION = ENHANCED EDUCATION FUND

By Michael Richie (OK)

It is so much easier to respect someone who respects him/her self and the same can be said of an institution. Last year Mr. Opperman made a substantial contribution to the NCACC Education Fund demonstrating great respect for our organization. This year NCACC members and their friends are going to have an opportunity to do the same. There will be a silent/live auction at the Ft. Worth Convention to benefit the Education Fund.

We get to demonstrate our legal and administrative skills daily at work. Now is a time to look within and find the creative inspiration to make something to benefit an organization about which we all care deeply. We each have seven months to convert those creative urges into art. Even if you don't personally knit, crochet, paint, draw, etc., you know another clerk or lawyer who does. Ask them to help.

A committee of clerk/artisans will assess the creations you bring and the three or four pieces which generate the most interest will be auctioned live during the convention. The remaining items will be sold through a silent auction with the winners being announced during the business meeting on the last day we are together.

I have already got a Supreme Court Justice's staff lawyer and a Oklahoma Indigent Defense System lawyer to volunteer to knit something. You too can do this. See you and your art in August.

ALERT AND NOTIFICATION FOR BUSINESS CONTINUITY

By Chris Crow (LA)

As happenstance would have it last year, a last-minute break-out session was added on the subject of “Alert and Notification for Business Continuity.” Mr. Mark J. Burg, Director of Governmental Solutions with EnvoyWorld-Wide, Inc., provided an enlightening program concerning the challenges of maintaining communications in a crisis situation. Three weeks after this presentation, Louisiana, including the judicial branch, found itself faced with exactly the type of crisis, Hurricane Katrina followed by Hurricane Rita, that caused an extreme communication breakdown.

Mark mentioned the roadblocks faced by governmental agencies, particularly in establishing the “command and control” element of an agency’s contingency planning for a crisis. He suggested that it is important to have a “pecking” order for identifying who the decision maker will be in the event one or more persons in the order cannot be reached. Further, he suggested that any contingency plan include supervisory personnel being responsible for accounting for their subordinates and for the supervisors to have a mechanism to report to the decision maker.

In the “old” days, communications of this nature were accomplished by “phone trees”. In today’s world, technology provides new ways to communicate with automated messaging and contact systems. Messages can be tailored for the “decision team” and first responders of the organization, for the employees of the organizations, and for the

patrons of the organization in such a way as to effectively communicate the appropriate information to each group. An automated system can call a series of phone numbers to leave the message with the organization’s members. Call-in features are available for members who may be forced to relocate or cannot be reached even by automated calls to the entire series of phone numbers for that member.

The value of the automated system is the consistency of the recorded message so that the message does not become distorted by the “word of mouth” approach. Key personnel are free to handle other vital tasks rather than spending time on the “phone tree”. The system can be located in a place that is remote from the organization’s site so that it will operate even if the organization’s system is taken down in the crisis.

Speaking personally, for Hurricane Katrina I told the court’s judges and employees that I would leave a message on the court’s main line to let them know when to return to work. However, when cellular phone service went dead, I didn’t have an appropriate back-up for calling in. I couldn’t use the landline in my house because I had a cordless phone and no electricity for two days. The message eventually was placed on the court’s main line when I did get a “plug in” phone, but it was not soon enough to avoid confusion for some of the employees who called. Mark’s presentation really brought home the fact that “alert and notification” is a vital component of any Continuity of Operations Planning for an organization.

A Curious Word

By Hal Odom

Senior Research Attorney, Second Circuit Court of Appeal
State of Louisiana

Even though Spell Check screams at it, the legal expression *per curiam* is spelled correctly and means *by the court*. It describes an opinion not attributed to any one member of the court, usually a routine matter with little precedential value and handled summarily. It also describes a written ruling by a trial judge in a criminal case. *Per curiam* is a prepositional phrase used as an adjective; however, it is so familiar that it may serve as a noun as well. “The Clerk of Court is hereby instructed to forward a copy of this *per curiam* to the Office of Disciplinary Counsel of the Louisiana Attorney Disciplinary Board.” *In re Green*, 2005-2120 (La. 8/23/05), 913 So. 2d 113.

One of the alternatives offered by Spell Check, *curia*, is the medieval Latin word for a *royal court*, and is another form of *curiam* (nominative rather than accusative case). The royal court was an administrative body or kingly retinue, quite different from a court of law (called a *judicium*), but the concepts merged in English law. The administrative sense is retained in the *Roman Curia*, the group of commissions and councils that support the Pope.

The other alternative, *curium*, is a synthetic chemical element named after Marie Curie. The following usage is wrong: “Additionally, when the trial court submitted its *per curium* on November 27, 2000, it also provided this court for the first time with a partial transcript from a hearing on September 1, 1995[.]” Avoid radioactive writing! Set your Spell Check to recognize *per curiam*.

Sharon E. Page, Myrna J. Byrd and Tom H. Harris have a new address:

Regional Justice Center
Nevada Supreme Court
200 Lewis Avenue, 17th Floor
Las Vegas, NV 89101
(702) 486-9350



2006 NCACC DIRECTORY

Included as an insert to this issue, 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. Please look at the 2005 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 often a preferred method of communication



2005 Conference

DISCIPLINING EMPLOYEES

By Chris Crow (LA)

Mark Stephens, the plenary speaker for the morning session about challenging employees, continued to entertain and educate the group on one of the most difficult parts of the job, disciplining employees. Mark presented valuable tips to use every day concerning when to discipline an employee and how to go about disciplining an employee.

Mark stated that unsatisfactory performance includes any behavior that affects the moral or performance of other employees as well as the public we serve. Mark suggested that it is important to control the setting for confrontation when dealing with the problem employee. Rather than allowing the employee to control the time and place, set the time and place by letting the employee know you are “finishing a project” and that you will talk later. Offer times to meet. Then, in the meeting, solicit the employee’s solutions and put on a “listening hat”, writing down the suggestions so the employee feels that you are giving them consideration.

Mark’s big message was to be considerate of your employees by being specific with the “thank-you’s” and “please’s” because people respond to being valued. He categorized different varieties of problematic people: 1) those who can improve to a satisfactory level in their current positions with competent guidance, clear goals and considerable encouragement; 2) those who are in the wrong job or organization and will not improve until they are properly placed; and 3) those who do poorly no matter how much guidance or where they are placed.

“Discipline is a one-way street”, Mark cautioned. Rather, he suggested “intervention” by arranging a time and place

for a developmental meeting with the employee, informing the employee in advance as to why you are meeting, and preparing for the meeting by writing down the points you wish to review.

Discipline means punitive actions and carries weight and gravity, so it is important that the employer does not yell “wolf” to be effective. Progressive discipline includes writing down the egregious conduct or performance and giving solutions for corrective action. If the problem is performance, give expectations regularly, give the employee time to perform and time to correct. For conduct problems, use the “48 hour rule” and give expectations that the employee’s conduct will be corrected in two days.

Discipline is formal and even “verbal” warnings are in writing. Consistency among employees is the key and the warning is in the nature of a gentle nudge and reminder of expectations using job descriptions. The written reprimand needs to be uniform and look consistent. The form and procedure used is to date the letter, using the employees name and your name, to be specific about dates, times, and specific occurrences, and to present consequences. Write down a draft of the letter and set it down for a day. Do not give the written document to the employee prior to the disciplinary meeting.

All in all, this session provided many extremely valuable tools that we were all able to take home with us to use immediately. A lot of information was packed into an hour and a half and many of us could have discussed this topic for the entire afternoon, particularly since Mark was quite an entertaining presenter!