



THE DOCKET

News of the National Conference of Appellate Court Clerks

The J. O. Sentell Award

by Pete Fitzgerald (LA)

The J. O. Sentell Award, established in 1979 in honor of our Conference's first president, is presented to an NCACC member who has contributed substantially to the objectives of the Conference by providing distinguished service including the improvement of skills and knowledge through conferences, seminars or other educational programs; promoting and improving court administration; and the collection and dissemination of information and ideas concerning the operation and improvement of the offices of appellate court clerks. On Thursday, August 6, 2009 this prestigious honor was awarded to Diana Pratt-Wyatt, retired Clerk of Court/Administrator of the Louisiana Second Circuit Court of Appeal.

While unable to attend the Sacramento meeting, the award was accepted on Diana's behalf by all Louisiana clerks in attendance. Kenneth deBlanc, retired clerk of the Louisiana Third Circuit Court of Appeal and 2005 J. O. Sentell award recipient, made the presentation.

Diana Pratt-Wyatt began her employment with the Second Circuit in 1975 as a bookkeeper and judicial secretary. In 1984, Diana was named court administrator and in 1986 she was appointed by the court as clerk of court. In addition to her membership in NCACC, Diana is a member of the Louisiana Clerks of Court Association, the Louisiana Court Administrators Association, the National Association of Legal Ad-



ministrators, the National Association for Court Management, and, an Associate member of the American Bar Association.

Diana served as editor of *The Docket* from 1995 until her retirement from service on July 1, 2009. She was the 2004-2005 NCACC President and 2000-2001 Secretary of our conference. She co-hosted the 2007 annual meeting in New Orleans and was instrumental in assisting with the establishment of the NCACC Educational Fund. Additionally, she has served on and chaired many committees of our Conference.

Diana, throughout her career, has consistently remained devoted to her family, her profession, her court and her responsibilities. Her integrity and her professionalism are exemplary. She is devoted to the NCACC and its members; she is extraordinarily giving with her time and her experience, as evidenced by her ongoing willingness to render selfless assistance to others.

With her retirement from the Second Circuit, a deep sense of loss has been experienced within the Louisiana appellate court structure. The NCACC has been enhanced in so many ways through the years because of her generosity, professionalism and dedication to duty. Diana Pratt-Wyatt personifies all of the qualities of leadership and inspiration that represent the true definition of the J. O. Sentell award.

Supreme Court Clerk Susan Stokley Clary Installed as President

Susan Stokley Clary, clerk of the Supreme Court of Kentucky, was installed as president of the National Conference of Appellate Court Clerks at the organization's annual meeting Aug. 6 in Sacramento, Calif.

Clary is the organization's 37th president. "There is no one working in the courts who has a deeper knowledge or greater love of the court system than Susan Clary," Chief Justice of Kentucky John D. Minton Jr. said. "Her election to the presidency of this professional

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Rory Perry (WV)	rory.perry@courts.wv.gov
Peter Fitzgerald (LA)	<pfitzgerald@fifthcircuit.org>
Susan Festag (CO)	susan.festag@judicial.state.co.us
<hr/>	
<u>Assistant Editor</u> Brenda Stephens (LA)	(318) 227-3706 bstephens@la2nd.org

Articles, letters and other submissions may be sent or faxed to the editorial office.

430 Fannin Street, Shreveport, LA 71101
Phone (318) 227-3702 FAX (318) 227-3735
bstephens@la2nd.org

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To Remit NCACC Membership Dues:
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THE PRESIDENT'S PAGE

Susan Clary (KY)

“There are millions of heads of families partially or wholly out of employment, and many of these must live in some degree on the earnings of their friends....In manufacturing and other lines, where labor is organized, and the unions will not permit reductions, wages remain more nearly at the old figures, but as there is nothing to prevent employers from reducing the number of employees....” Sound familiar? Only if you were a reader of the Denver News on September 20, 1896.

Just as in 1896, today's headlines are replete with stories about impending crises. Crisis has been explained as a process of transformation when a system needs change. It is unexpected, creates uncertainty and is seen as a threat to important goals. Crises can result from poverty and the economy, war, environmental disaster, or, simply aging to mid-life.

However, Americans are a sturdy lot; sixteen of the thirty corporations in the Dow Jones industrial average trace their birth to the crisis of recession. Walt Disney, Bill Gates, Hewlett and Packard, and Sam Walton knew how to face crisis. If you look up “crisis” on the Internet, after the definition, you will be pleased to find the top listing is a national charity for homeless people. Now, that is a “can-do” spirit.

Our court systems today cannot avoid dealing with crisis. Finances dominate our conversations; budget shortfalls, furloughs, and layoffs are discussed. Clerks and administrators face stress in grappling with issues of crisis management in these difficult times. Whatever the cause of our current problems, we all face shrinking budgets, heightened expectations and anxious staff. Crisis intervention is called for and the National Conference of Appellate Court Clerks is prepared to meet that challenge.

I am continually amazed by you, my colleagues in the NCACC. Your willingness to give of your time and to serve on committees and in positions of leadership is what makes this organization so valuable. The projects that we work on, the friendships that we forge, and the information that we collectively share help all of us work more efficiently and effectively for our state court systems. Thanks to each of you for your work on our committees, listserv, white paper, website, directory, *The Docket*, and Executive Committee. Each member's contribution is vital to the well functioning of our organization. Welcome new members and thank you to all of our active and retired members for your valuable time. Thanks to Tom Hall for a spectacular year as President. Tom leaves large shoes to fill but has been most helpful in getting these high heels off to a good start.

The Annual Meeting in Sacramento provided us with the highest quality of relevant education, along with opportunities to share ideas and to discuss common problems and solutions. Our “hostess with the mostest,” Deena Fawcett and her staff, provided all of us in attendance with a “wealth” of information and enjoyable activities. Thanks not only go out to Deena for her hard work, but to Steve Kenyon and the program committee for the excellent programs and to Cynthia Rapp for the vendor show. I should also point out that at Friday's critique session, it was suggested that brownies and ice cream should become an integral part of the vendor show. The only thing found lacking in Sacramento, was the presence of this year's dynamic J.O. Sentell Award winner, Diana Pratt-Wyatt. It just wasn't the same without you Diana. We missed you and Johnny; your NCACC family wants to see you in Montana.

Continued training on “How to Do More with Less” will be a theme of our Annual Meeting in Whitefish, Montana, August 8-13, 2010. Cynthia Rapp and the program committee are finalizing topics that will help us all work more efficiently and effectively and our host, Ed Smith, has planned activities that include a tour of famed Glacier National Park on the celebration of its hundredth birthday. Make your plans to join us for a dose of crisis intervention and friendship with your NCACC family in Montana next year.

It is a privilege and honor to serve you as President; let's have a great year.

Lawyer Ethics and Technology: Public Computers

By Daniel J. Crothers

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This article examines ethical implications of communicating confidential client information using public computers. It is part of a series of articles recently published in the *Gavel* about the lawyer's ethical use of technology.

Using computers available to the public has the potential for unwittingly exposing confidential information to others. Public computers are found in libraries, internet cafés, hotels or airports. Confidential information can be exposed to third parties by intentional efforts to capture information, or by a computer user's failure to remove information from the public computer.

Benign computer use is not our concern. Few if any client secrets are put at risk by checking the weather or reading a newspaper online. However, experience teaches that lawyers (and judges) more often use public computers to read email or examine documents sent or retrieved over the internet. These uses create confidentiality concerns because a secure login is—or should be—required to access email, the content of the email itself may be confidential, and downloaded documents may contain private or privileged information.

Let's pretend Larry Lawyer goes on an extended vacation to Europe (we must pretend because we know those are the only extended vacations lawyers get to take). He maintains contact with his office by using internet cafés and hotel computers. He uses internet web browsers like Microsoft's Internet Explorer, Mozilla's Firefox or Netscape's Navigator on the public computers to access his law office computer system and email.

Larry's first concern should be that someone has installed keystroke logging software or hardware on the public computers he will be using.¹ Key logging hardware is small and usually plugs into the keyboard cable between the keyboard and the computer.² Key logging software is

installed on a computer's hard drive and is designed to capture key strokes, mouse movements and, often, images of computer screens (screen shots). The software is readily available on the internet for free or little money.³

The logged information is available by viewing a file on the logging computer or even remotely over the internet. One key logging software is described as "[t]he best monitoring and filtering software we have tested. It allows you to monitor a computer from the web so that you do not have to keep checking from the computer you are monitoring."⁴ Certainly, key logging software has legitimate uses such as detecting problems with software and hardware or monitoring unauthorized computer use. However, the software also can be used to illegally record passwords or encryption keys, both of which provide a thief with the information necessary to access the email, network, or other previously secure computer system Larry accessed.

Key logging hardware might be detected by visual inspection of the computer prior to use. Some key logging software is difficult to detect even with the proper resources. However, at a minimum the software cannot be detected without running other software, which usually is not a realistic option on a public computer owned and controlled by someone else. One solution offered by a company is a conduit and a number of single use passwords to allow logging on to a secured website without using the "real" permanent password.⁵ However, that use of a temporary password will not prevent capture of screen shots or other data entered or reviewed on the computer, so the only problem solved is that the "real" password will not be captured.

A simpler method when extended travel is required is to

(See "Public Computers" on page 5)

¹ See http://searchsecurity.techtarget.com/sDefinition/0,,sid14_gci962518,00.html

² See e.g. <http://www.ghacks.net/2007/06/28/how-to-defeat-most-keyloggers-on-public-computers/>

³ See e.g. <http://www.google.com/search?num=30&hl=en&newwindow=1&rls=com.microsoft:en-us&ei=HZmUSZOJDpSQmQedwPiHCg&sa=X&oi=spell&resnum=0&ct=result&cd=1&q=keylogger&spell=1>

⁴ <http://www.wellresearchedreviews.com/computer-monitoring/>

⁵ www.kyps.net

(“Public Computers” continued from page 4)

create a new email account on MSN, Hotwire, Gmail or other free service. Transfer all mail from the regular email account to the new, temporary, account during the trip, accessing the account with a password unique to that account, and periodically change the password during the trip. This method does not eliminate the risk of exposing confidential information by way of screen shots or even a captured password, but the risk of losing significant confidential information is reduced, and the permanent law firm computer system remains in the background, isolated from the information thief.

Most public computers run both the Windows operating system and run a popular web browser such as Microsoft Internet Explorer, Netscape Navigator or Mozilla Firefox. All of these programs are designed to store passwords and to track a “history” of each web page visited. Faced with these “features,” Mr. Lawyer’s next public computer concern is leaving a path on the computer that will permit another user to access Larry’s confidential information. In all circumstances Larry should “log off” any site for which “logging on” is required. Web pages requiring passwords often have a “dialog” or “click” box asking whether the user wants to save the user identification and password. Of course, that information should never be stored on a public computer. After logging off any website to which he has logged on, Larry also should close the web browser and, if possible, reboot the computer so that temporarily stored images of web pages visited will be erased from the computer’s memory.

To better “cover his tracks,” Larry should clear the history files, delete the temporary internet files, and clear all stored passwords from the computer. The exact procedures are different for each web browser, and the directions for any one browser are too lengthy to be printed here. But the procedures can be found by Googleing “erase browser tracks”⁶ or “clear browser history.”⁷ Each search can be refined by adding the browser’s name (i.e. search “erase browser history explorer”).

Space permits only the mention of two other cautions for Larry’s use of public computers. One caution is that he must be very careful opening email attachments or otherwise accessing documents containing confidential client information. Once a document is opened on a public computer, the document should not be saved onto that computer. However, even if not manually saved, the document still might be saved by way of automatic backup or as a temporary recovery file and care must be given to delete such files.

Another caution is that public computers are, by their nature, located in public places. This means others can see both the keystrokes used and can see the screen being read. Thus, information that might not otherwise be captured on the computer itself still can be seen and read on the screen by prying eyes. In the process, a lawyer’s obligation to protect client confidentiality will be jeopardized.

⁶ <http://www.google.com/search?num=30&hl=en&newwindow=1&rls=com.microsoft%3Aen-us&q=erase+browser+tracks>

⁷ <http://www.google.com/search?num=30&hl=en&newwindow=1&rls=com.microsoft%3Aen-us&q=clear+browser+history>

Kathy Gillis Named Clerk of the Mississippi Supreme Court and Court of Appeals

The Mississippi Supreme Court appointed Kathy Gillis of Jackson as the new clerk effective June 1, 2009. Kathy will replace Betty Sephton, whose retirement was effective May 31, 2009. Kathy has worked for the office for the Supreme Court Clerk for 28 years and she has served as chief deputy clerk for 17 years. She and her husband, Walter, live in South Jackson and they have two adult daughters and a grandson.



Sacramento Conference

By Deena Fawcett (CA)



What can I say? I believe every aspect of the conference was a marvelous success—even though I'm a little prejudiced! I will share a few highlights of the conference and include quotes from some of the attendees.

The Holiday Inn outdid itself in accommodating our every need. Having all of the educational sessions on the first floor of the hotel made it easy to find each session and not get lost. The members especially appreciated having the pool deck for our 4-square tournament. One person said, "Good location, and it was great that so many things were in walking distance."

The West event on Monday at the California State Railroad Museum was spectacular! The ambiance, music, food, and tours of the railroad cars will be held in our memories for years to come.

LexisNexis sponsored a California beach party theme event on Wednesday evening with a cruise down the river followed by a delicious dinner and endless dancing in an outdoor courtyard in Old Sacramento. Many attendees took home photos from posing in front of the surfboards in the sand. Also, the local schools were thrilled to re-

ceive all of the books that were donated! What a great idea!

The wine trip that followed the critique breakfast on Friday was attended by many. One winery gave us an informative tour and explanation of the wine making process. We visited six wineries. Each winery had selections to please everyone's palate—well, almost everyone's palate. One attendee tasted a wine and said, "I am going to wait for a wine that is out of its training bra!"

The program offered a rich array of educational topics. Some members' comments follow. "This is the only relevant CLE and conference that is applicable to what I do." "I enjoyed the financial and retirement planning topics at this conference and would like to see more." "Outstanding educational and professional opportunity." "[The conference] provides the information and camaraderie we need as clerks of court."

Every successful event takes a team to make it successful. I had the assistance and support of many. One attendee said, "This was truly an excellent conference with great attention to detail." Thank you to everyone, especially my assistant, Jack. I couldn't have done it without him! I look forward to sitting back and enjoying next year's conference in Montana!

In Memoriam

Robert E. (Bob) Womack passed away Tuesday, July 28, 2009, in Jackson, Mississippi. He was appointed Mississippi Supreme Court Clerk on September 18, 1979, and was sworn in January 16, 1980. He retired in January, 1986. He was 87 years old, and is survived by his wife, Charlotte, after 65 years of marriage.

Herb Schaefer, the former Clerk of the Fourth Texas Court of Appeals in San Antonio, passed away on September 14, 2009. Herb served as clerk for twenty-two years until his retirement in 2004. He was a long time and valued member of the NCACC and hosted the conference in San Antonio in 1996. For those of us who knew him, we will remember and miss this fun loving Texan.



Facts, Fiction, & Foolishness

Leslie Steen (AR)

Since 1995, I have been sending my columns to Diana and it seems strange to me not to do that now. She gave me the unbridled freedom to chase my windmills but I knew she was looking over my shoulder. It is a little scary to think I don't have anyone looking over my shoulder. Regardless, I will miss her being at the helm.

Here is a little something that was sent to me from one of the faithful readers. See if a lot of them do not apply to the way you think.

* Nothing sucks more than that moment during an argument when you realize you are wrong.

* I don't understand the purpose of the line, "I don't need to drink to have fun." Great, no one does. But why start a fire with flint and sticks when they have invented a lighter?

* More often than not, when someone is telling a story all I can think about is that I can't wait for them to finish so I can tell my own story that's not only better, but also more directly involves me.

* There is a great need for a sarcasm font. (Most of you would probably agree one has been used here before.)

* Sometimes, I'll watch a movie that I watched when I was younger and suddenly realize I had no idea what was going on when I first watched it.

* How the hell are you supposed to fold a fitted sheet??

* I think part of a best friend's job should be to immediately clear your computer history if you should die.

* "LOL" has gone from meaning, "laugh out loud" to "I have nothing else to say."

* Whenever someone says, "I'm not book smart, but I'm street smart," all I hear is "I'm not real smart, but I'm imaginary smart."

* How many times is it appropriate to say "What?" before you just nod your head and smile because you still didn't hear a word that was said?

* What would happen if I hired two private investigators to follow each other?

* I find it hard to believe there are actually people who get in the shower first and THEN turn on the water.

* Bad decisions make good stories.

* There's no worse feeling than that millisecond you're sure you are going to die after leaning your chair back too far.

* "Do not machine wash or tumble dry" means I will never wash this ever.

* Sometimes I look at my watch three consecutive times and still don't know what time it is.

* Even if I knew your social security number, I wouldn't know what to do with it.

* I disagree with Kay Jewelers. I bet on any given Friday or Saturday night more kisses begin with booze than Kay.

If you cannot relate to any of these, we are living on different planets.

THE WORLD WILL NOT END IF YOU BECOME THE HOST IN 2013

The Site Selection Committee is looking for members to host the Conference in 2013. This invitation is open to ALL members of the NCACC, including past hosts. If you have been thinking about hosting, I would encourage you to do so now, and show your disdain for Nostradamus, the Mayans, the History Channel and others predicting the end of the world before the 2013 Conference. If you have any questions about submitting a bid proposal, please do not hesitate to contact me. Please give us the opportunity to visit your beautiful State!

Dan Shearouse, Chair
Site Selection Committee

The Clerk's Prayer

Dear Lord,

So far today, I've done all right. I haven't gossiped, haven't lost my temper, and haven't been greedy, grumpy, nasty, selfish, or over indulgent. So far today, I haven't barked at one lawyer, snarled at a judge, or hissed at a runner. And, Lord, I am so thankful about all that.

But, in a few minutes, Lord, I'm going to get out of bed. From then on, Dear God, I'm probably going to need a LOT more help.

Thank you.

(President continued from page 1)

organization is not only a significant accomplishment for Susan, but it also brings honor to the commonwealth of Kentucky."

Clary has been clerk of the Supreme Court of Kentucky since March 1995. She also serves as the court's administrator and general counsel. She has been the court administrator since 1988 and the court's general counsel since 1983.

Gov. Steve Beshear praised Clary's work with the Supreme Court. "For almost 15 years, Susan has served as clerk of the Supreme Court of Kentucky, earning a reputation as an invaluable resource and trusted advisor," Beshear said. "Her seamless management skills honed here in Kentucky will certainly be welcomed as head of the NCACC, as we continue to show the nation that Kentucky is a state filled with unparalleled leadership."

Clary was elected as NCACC vice president in 2007. The vice president automatically succeeds to the office of president-elect and then president.

Clary is a member of the Supreme Court Rules Committee and the Civil Rules Committee and is chairwoman of the Supreme Court Appellate Rules Subcommittee. She is also a member of the court's Appellate Technology Committee and is the Supreme Court liaison with the Office of Bar Admissions.

Prior to her appointment as clerk, she served the Supreme Court as a law clerk for Justice James B. Stephenson and as administrative assistant to Chief Justice Robert F. Stephens. She earned her juris doctor from the University of Kentucky College of Law, graduating in 1981. She also previously served as general manager of the Department of Juvenile Services for the Administrative Office of the Courts, during which time she established a statewide juvenile intake and diversion program.

Clary has co-authored a book on Kentucky juvenile law and taught family law and juvenile law at Midway College.

She and her son, Nicholas, reside in Lexington.



2009 - 2010

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Betty Sephton, Mississippi Supreme Court Clerk, retired on May 31, 2009. She worked for the court for 19 years including eight and a half years as Clerk of the Courts. She looks forward to spending more time with her two grandchildren in the future. The members of the NCACC wish her many years of good health and happiness.

Diana Pratt-Wyatt, Clerk of Court/Judicial Administrator of the Second Circuit Court of Appeal in Louisiana retired July 1, 2009. (Please see related article on page one.)

Ashley Ahearn retires as the Clerk of the Massachusetts Appeals Court on October 16, 2009. She began working for the court as an assistant clerk in 1984 and was appointed clerk in 1997. After she retires, Ashley plans to practice part time and to spend the winter months in Florida with her husband, Robert. She is the proud mother of a 22 year old quarter horse, Seneca.

