



THE 44th NCACC ANNUAL CONFERENCE
Lake Tahoe, Nevada
AUGUST 6 to AUGUST 11, 2017

I am so excited to welcome everyone to Lake Tahoe! We will be staying at Harvey's Lake Tahoe. The room rate is \$139 per night (plus taxes). Reservations must be made by July 5, 2017. You may make reservations now [online](http://www.totalrewards.com/hotel-reservations?propCode=HLT&groupCode=S07NCA7) at:

<http://www.totalrewards.com/hotel-reservations?propCode=HLT&groupCode=S07NCA7>

You can fly into Reno and rent a car, or take the South Tahoe Express (\$55 round-trip). If you opt to take the shuttle, there is plenty to do within walking distance of Harveys, including outdoor recreation, shopping, and dining.

In addition to the educational opportunities, we have some great events that will take full advantage of the beauty of Lake Tahoe. On Monday, we will be going on a dinner cruise on the MS Dixie, hosted by Thomson Reuters. Tuesday evening will be an optional event, a production of a Sherlock Holmes comedy in the outdoor amphitheatre overlooking Sand Harbor. The show is part of the Shakespeare at Sand Harbor festival, and there will be dinner available for purchase and general admission seating.

Wednesday evening, LexisNexis is hosting dinner and dancing at the Lakeview Lodge, which is on the ski slopes of Heavenly Valley. In the summer, the lodge is only available for private events, and has an amazing view of the lake. As a bonus, attendees ride the scenic tram to the lodge. The common wisdom is that to truly experience Lake Tahoe, you should see it both "from" the lake and from "above" the lake. With our Monday and Wednesday events, we will have accomplished both!

Online registration will be available starting in early May.

<http://www.appellatecourtclerks.org/>

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THE DOCKET

News of the National Conference of Appellate Court Clerks

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THE PRESIDENT'S PAGE

IRENE BIZZOSO (PA)

Greetings all! I look out my window and find it is hard to believe we are almost five months into the new year and that it is supposed to be spring. It was a dreary 48 degrees out this gray morning here in central Pennsylvania. Fortunately, that is nothing like the nice weather that greeted the Executive Committee at its Spring Executive Committee, which was held this past weekend in New Orleans, Louisiana at the suggestion of John T. Olivier, one of the NCACC's past presidents and we were lucky to have John and Terry join us at the two group dinners that we had.

The Executive Committee conducted the business of the conference by hearing the reports of all our varied and hardworking committees, including but not limited to the Treasurer's report. Upon the request of the most recent past two hosts and our fabulous host-to-be, Tracie Lindeman, the Treasurer and all other members of the Executive Committee took a hard look at our finances and the cost of putting on a quality educational program. Giving consideration to the ethical concerns members may have regarding the use of any vendor proceeds towards the actual cost of a specific program or topic, the board made the hard decision to raise the registration fees for all registrants, Regular and Retiree alike, by \$50.00.



While we have raised registration fees for regular members twice in the past eighteen or so years, we have never done so for retirees and did not decide to make this increase lightly. We looked at other annual conferences of similar length like COSCA and NACM and determined that even with this increase, the cost of our conference to \$450.00 for regular members and \$75.00 for retired members respectively, is still what could be considered a bargain for 18 plus hours of quality and timely educational programming that also qualifies for CLE for most states. At this time, registration fees for guests will remain at \$25.00 per person. (Guests only attend social events and 1 or 2 hours of programming that are open to all attendees). A raise in fees was a necessity, as at this time the only source of replenishment to the Educational Fund is through donations and the proceeds of the annual educational fund auction. Even when a host may return a surplus from their accounts that has not covered the full cost of speakers or scholarships over the past few years.

The financial well-being of the NCACC is of concern to the Executive Committee and all members, and our financial outlook is good, particularly if we continue to be cognizant that we must continue to seek ways that we can replenish funds that have been expended. The years where our predecessors were particularly fiscally conservative certainly enabled us to maintain a healthy corpus, and I have no fears that we will be unable to maintain said in the future with a little effort.

THE PRESIDENT'S PAGE

IRENE BIZZOSO (PA) *(Continued)*

With that being said, Rex Renk and the Program Committee have been working diligently and have secured several reputable and distinguished program participants including this year's Opperman Speaker, Professor Michael Gerhardt, Samuel Ashe Distinguished Professor of Constitutional Law, UNC School of Law at Chapel Hill. Additionally, recognizing that there is a very brief overlap with our annual meeting and the annual meeting of the Association of Reporters of Judicial Decisions (ARJD), the ARJD will be holding a session Sunday Morning August 6th on the relationship/interplay between Reporters and Clerks which those interested will be invited to and we will invite their members to our Sunday afternoon session *Leading with Laughter: How U.S. Presidents Use Humor to Relate, Motivate, and Communicate --- And How You Can Too!* – presented by Malcolm Kushner. More information on the Program will be published on the Conference page shortly, as well as in the June issue of *The Docket*.

Moving on, the Executive Committee voted to approve the Site Selection Committee's recommendation of Mobile, Alabama as the site for the 2020 conference. Host Scott Mitchell, Court of Criminal Appeals of Alabama, will continue to work out the specific hotel selection with the Contract Committee as well as members of the Site Selection Committee. Thank you, Scott, I am sure we all look forward to experiencing Alabama's southern hospitality! The Site Selection Committee is cognizant that some states have placed a travel ban to states with discriminatory laws and has taken efforts to see what "bathroom bills" or otherwise have been enacted when making their recommendation.

Other committees' reports were presented, discussed, and accepted where applicable. However many of the committees are just gearing up with some of their work. For example, the Convention Assistance and Awards, Resolutions and Memorials Committees are still in the midst of fulfilling their charges. The Nominations Committee completed the survey as charged and has relayed the information gathered on to the Executive Committee, which will continue to study the issue into the next Executive Board year; however, they are still in the midst of proposing a slate and will do so within the time frame allotted by the Bylaws. Of course, like a few other committees, the Membership and Pictorial Committee is constantly fulfilling its duties, so if you need to update any of your information, please reach out to Lisa Collins (UT). Likewise, if you know of any Clerks etc. that we should be recruiting to join the NCACC, please let us know.

Again, I want to thank all of you for what you bring to the NCACC. Without your participation, support, and vision, we would not be the force we are. If I have not mentioned an individual or a committee, that does not mean that they have not been fulfilling their charges, it simply means I need something to talk about in the June issue of *The Docket*. In the meantime, I simply cannot say enough about the dedication and work of all our committee members and look forward to experiencing the accumulation of all their efforts by way of the Lake Tahoe Annual Meeting this August.

As they say in New Orleans, *Laissez les bon temps rouler* - Irene M. Bizzoso, PA, President.

Scholarship Deadline Approaches
for 44th Annual Conference
in Lake Tahoe, Nevada
By: Marilyn May

May 1 is the deadline to request a scholarship to attend the annual meeting in Lake Tahoe. The application is posted on the NCACC website [here](#).

You may request a full or partial scholarship. Scholarship award criteria are detailed in the Scholarship Committee's operational guidelines, found in the NCACC directory.

Please submit your application to Nikiesha Cosby, National Center for State Courts, **by May 1, 2017**. Nikiesha's email and mailing address are on the application form. If you have questions about the process, please contact Scholarship Committee Chair Marilyn May at mmay@akcourts.us.

Welcome to Our New Members!

We would like to extend a warm welcome to our newest members to the organization.

Luz Estrada, Deputy Clerk, Fourth Court of Appeals, Cadenna-Reeves Justice Center, San Antonio, Texas

Rodd Naquin, Clerk of Court, Louisiana Court of Appeal, First Circuit

Amy Wood, Clerk of the Court, Court of Appeals, Division One, Phoenix Arizona

Lisa Dolph, Clerk of the Supreme Court, Delaware

Mary Beth Kuenzel, Clerk of Court, Florida District Court of Appeal, Second District

THE 44th NCACC
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AUGUST 6 to AUGUST 11, 2017
Educational Program Finalized
By: Rex Renk (MT)

The educational program for the 44th NCACC Annual meeting is complete. The Program Committee is very pleased with the slate of outstanding presenters who will offer our members a varied program of interactive workshops, panel presentations, and traditional speakers. We have established over 17.5 hours of CLE eligible hours, at least two of which will qualify for the required ethics credits.

New to the program this year is a daily wrap-up session, where the members will discuss the day's education in a guided discussion led by two members of the Program Committee. We are piloting this new concept and offer it partly in lieu of the traditional "What's Bugging You" session.

The open afternoon will be Thursday, which is also when the golf tournament is scheduled. An earlier release time will occur on Tuesday at 3:30 p.m., in order to give attendees a mid-way break. In this regard and in addition to regular short breaks, we have scheduled 90-minute "lunch on your own" time to help avoid program fatigue and to help break up the day.

As for the program itself, we feel we have developed a strong one. Our Sunday lead-off speaker is **Malcolm Kushner**, a Sacramento resident who lectures around the country on effective communication and the use of humor. Mr. Kushner's topic, *Leading with Laughter: How U.S. Presidents Use Humor to Relate, Motivate, and Communicate --- And How You Can Too!* should be informative and entertaining and will appeal to members as well as their family and guests, who are traditionally invited to the Sunday session.

We start strong on Monday with a bit of a departure from the traditional speaker presentation in that we will offer an interactive workshop encompassing the entire morning. **Robert Lowney's** course, *"Honing Your Leadership Skills using the MBTI,"* will take us through a multiphasic personality inventory, perhaps similar to the "Emergenetics" program we had 10 years ago in New Orleans. Mr. Lowney is a Senior Manager at the Judicial Council of California and his informative and fun course will help us learn about ourselves and others so that we can better lead our workplaces and courts. Dovetailing with the morning's session, the afternoon will kick off with **Kristine Van Dorsten's** presentation on emotional intelligence. Ms. Van

Educational Program Finalized (Continued)

Dorsten is the Senior Education Developer for the California courts. Monday will then conclude with our featured Opperman Speaker, **Michael Gerhardt**, who is the Samuel Ashe Distinguished Professor of Constitutional Law at the University of North Carolina. Mr. Gerhardt will present on the fascinating subject of his latest book, *The Forgotten Presidents: Their Untold Constitutional Legacy* .

We will keep the ball rolling on Tuesday with another full-morning presentation on managing multi-generational offices by **Pam Harvit**, a dynamic speaker whom members might remember from Snowbird, Utah, where Ms. Harvit presented as our Opperman Speaker. Tuesday's education session will conclude with a session on Labor/Employment Law by **Patti Williams**, the Supervising Attorney of the Leadership Services Division of the Judicial Council of California.

Wednesday is technology day highlighted by the vendor show and programs. The morning education for that day will showcase a session on E-filing at the U.S. Supreme Court by Clerk of the U.S. Supreme Court, **Scott Harris**, whom we are excited to have present. Following Mr. Harris, the vendor show will be bracketed by two panels which focus on different aspects of record keeping. The first panel will look at different ways appellate courts around the country transmit and utilize electronic trial court records, and the second panel will explore the important topic of "privacy and access" of records at our courts. Wednesday should be a full and fun day concluding with our daily wrap-up discussion and then the Vendor Happy Hour.

There will be one plenary session on Thursday morning featuring our own **Tom Hall**, former Clerk of the Florida Supreme Court and past NCACC president, who will present an interactive ethics program exploring, in part, the NCACC's code of ethics for clerks of court in comparison with other national models. Finally, the business meeting will take place before we conclude the conference and break for the afternoon, the golf tournament, and then the evening Banquet.

We, the Program Committee, are excited about this program and we hope you share our enthusiasm. It is themed with a focus on leadership and management and it is the committee's goal to provide you, our members, with an interesting and useful program. We are looking forward to a great conference in a stunningly beautiful place and we hope that you will join us!

Educational Program Finalized (Continued)

Educational Sessions Include:

-Leading with Laughter: How U.S. Presidents Use Humor to Relate, Motivate, and Communicate — And How You Can Too! — Malcolm Kushner, *Author, Professional Speaker and Consultant*

-Honing Your Leadership Skills using the MBTI — Bob Lowney, *Director of Appellate Court Services and Court Operations Services at the California Judicial Council.*

-Emotional Intelligence: A Key Competency for Successful Leaders — Kristine Van Dorsten, *Senior Education Developer - California Judicial Council's Center for Judicial Education and Research*

-The Forgotten Presidents: Their Untold Constitutional Legacy — NCACC Opperman Speaker Professor Michael Gerhardt, *Samuel Ashe Distinguished Professor of Constitutional Law at the University of North Carolina.*

-Applying Education: What We've Learned (members only) — Daily 30 minute sessions focused on applying the day's education to our work environments
Moderator – Polly Brock, *Chief Deputy Clerk, Colorado Court of Appeals*

-The Multi-generational Workplace — Pam Harvit, *Professional Speaker, Consultant and Columnist with The Harvit Group*

-Recent Developments in Employment Law/How to Avoid Traps for the Unwary — Patti Williams, *Supervising Attorney of the Legal Services office's Labor and Employment Unit*

-E-Filing at the U.S. Supreme Court — Scott Harris, *Clerk of the U.S. Supreme Court*

-Electronic Trial Court Records on Appeal – What has Worked and What Hasn't — Panel Moderator – Kristen Brown, *Prothonotary, Commonwealth Court of Pennsylvania*

-Public Access vs. Party Privacy: Managing Court Records in the Electronic Age — Panel Moderator – Kristen Brown, *Prothonotary, Commonwealth Court of Pennsylvania*

-Ethics for Clerks – What You Really Don't Want to Know — Tom Hall, *Consultant and former Clerk of Florida Supreme Court.*

**In addition there will be three breakout sessions presented by various vendors featuring technology and their applications to the Courts and filing offices.*

Results of the Nominating Committee Survey

By: Colette M. Bruggman (CA)

In 2016, the Nominating Committee reported two issues to the Executive Committee, including the issue of whether the NCACC President (Vice President, President-Elect and Past President) is required to be the Clerk of the Court, or its equivalent. The 2016 Nominating Committee recommended that the Executive Committee address that any eligibility requirement for the position of President should be known and that there should be no artificial barriers to holding office. In other words, if the NCACC President must hold the position of Clerk of the Court, or its equivalent, such a requirement should be clearly spelled out in the Bylaws.

In her charge to the 2017 Nominating Committee, President Irene Bizzoso (PA) asked the committee to consider the question of qualifications for President of the NCACC, and whether a member must be a Chief Clerk (Clerk of the Court), or its equivalent, to hold the office. Historically, it appears that Deputy Clerks (or equivalent) have been passed up during the nominating process.

In accordance with the President's charge, the Nominating Committee created and electronically distributed through the listserv a short survey to NCACC members. The survey had a brief forward, as follows:

Pursuant to subdivision 3, Article III of the Bylaws, eligibility for office is limited to regular members in good standing with the Conference for the two years immediately preceding the election or an appointment to fill a vacant elective office. Types of membership are set forth in subdivision 1 of Article III of the Bylaws. Regular membership is open to all clerks, assistant clerks or deputy clerks, or other similar positions bearing different titles of courts of last resort or intermediate appellate courts. Beyond being a regular member in good standing for two years, there are no limitations on being eligible to run for or be appointed to an office. This includes being an officer, consisting of President, President-Elect, Vice-President, Secretary, Treasurer, and Past-President. Regular members other than clerks (or similar titles) have been discouraged from being nominated as officers, namely President, simply because they do not hold the position of clerk even though this is not a limitation imposed under the Bylaws. Many members believe this practice is unfair because assistant clerks, deputy clerks, or others holding similar positions pay the same amount in membership dues, regularly serve as committee members and committee chairs, including chairing important committees such as Program Committee, and have served as conference hosts.

Results of the Nominating Committee Survey (Cont.)

By: Colette M. Bruggman (CA)

Following this forward were four questions:

1. Are you a clerk (or similar) or a chief deputy clerk (or similar)?
2. How long have you been a member of NCACC?
3. Should all regular members be eligible to be nominated or appointed to hold an office in the NCACC, including President, consistent with the Bylaws?
4. Should the Bylaws be amended to accurately reflect the membership that is eligible for the office of President?

You may find the results here: http://www.appellatecourtclerks.org/members-area/NominatingCommitteeSurveyData_All_170317.pdf.

In summary, the overwhelming consensus is that all regular members as defined in the Bylaws are qualified and eligible to be nominated or appointed to an office, including the office of President. The consensus also was that the Bylaws should be changed only to add clarity and to prevent the elimination of deputy clerks (or similar) as candidates for the nomination or appointment to an office, including the office of President. Those who disagreed with a Bylaws change believed the Bylaws were clear and unambiguous and already allowed deputy clerks (or similar) to be nominated or appointed to an office, including the office of President. The results of the survey have been submitted to the Executive Committee to determine next steps.

**2016-2017
EXECUTIVE
COMMITTEE**



**Blake, Jakob,
Eileen, Dan,
Janet, Chris,
Irene, Scott,
Sherry, Jenny,
Lisa, Lillian**

MICHIGAN SUPREME COURT'S PRISONER E-FILING PILOT PROGRAM

*by Larry Royster,
Chief of Staff/Clerk of the Michigan Supreme Court*

The Michigan Supreme Court implemented a web-based electronic filing system in January 2015. From the very beginning, it was embraced and almost fully utilized by practitioners. We now rarely receive hard copy filings from attorneys. Unfortunately, approximately one-half of the 2,000 new cases filed each year with the Court are initiated by incarcerated self-represented litigants who cannot access the e-filing system from inside the correctional facilities. Because the Clerk's Office no longer maintains hard copy files of our cases, we must scan the paper documents filed by prisoners and manually link them to our case management system. That task takes several hours a day and strains our limited personnel resources.

A few years ago, I learned about a program operated by some federal district courts in cooperation with their state's prisons in which inmate filings are scanned and emailed by prison officials to the courts. The program appears to have originated in the middle and southern district courts of Illinois and has expanded to district courts in other states, including Arizona, Connecticut, Indiana, Louisiana, and Washington. After speaking with the staffs of several courts and prisons and hearing only glowing praise for the programs, I contacted the Michigan Department of Corrections (MDOC) in early 2015 to propose a similar pilot program in our state. Over two years and a lot of bureaucratic red tape later, we have yet to receive our first prisoner e-filings—but we are very close.

For the pilot phase of the program, the Court purchased two "digital senders" for installation in separate correctional facilities. A digital sender is similar to a high speed fax machine but, instead of creating paper copies at the receiving end, it transmits a digital file to a pre-programmed email address. The digital sender requires a connection to a data line but it does not allow for Internet access. The same process can be done with many high-end multi-function copiers, but we thought that providing dedicated machines to the prisons would ease some of the MDOC's security concerns. The machines were installed on March 2, 2017, and have been configured to require individual log-ins for every transmission and are restricted to sending to a specific Court email address. The prisons are currently waiting for a MDOC policy document to begin transmitting the prisoners' documents. At the MDOC's request, filings will be limited to applications for leave to appeal in criminal cases during the initial phase of the pilot program.

MICHIGAN SUPREME COURT'S PRISONER E-FILING PILOT PROGRAM (CONTINUED)

*by Larry Royster,
Chief of Staff/Clerk of the Michigan Supreme Court*

Once the program is underway, a prisoner will give his pleadings to the prison's librarian for scanning into the digital sender. After being scanned, the hard copy documents will be immediately handed back to the prisoner. The prisoner must retain the documents in their original form and produce them at a later time if directed by the Court. The Court's IT staff has configured our email server to generate an automated reply acknowledging receipt of the emailed filing. No later than the end of the next business day, the Clerk's Office will conduct a jurisdictional review of the pleading and determine whether it complies with the court rules. If the pleading is accepted for filing, the Clerk's Office will email a one-page notice of acceptance and a date-stamped copy of the pleading's cover page to the prison librarian, who will print copies for the prisoner's personal file. To increase acceptance by both the prisons and the prisoners, the Clerk's Office has agreed to electronically serve an accepted pleading on opposing counsel, as well as to provide notices of the filing to the Court of Appeals and the trial court. If the Court does not have jurisdiction or if the filing does not substantially comply with the court rules, the Clerk's Office will transmit a notice of rejection to the prison librarian that specifies the reason(s) for the rejection. A copy of that notice is to be given to the prisoner without delay.

All filings by prisoners must be transmitted electronically to the Clerk's Office unless the digital sender is not operational when the documents are presented to the prison librarian. If the machine is not operational at the time of presentment, the filing is to be sent by regular mail unless the system will resume operation before the filing deadline. If a prisoner is subsequently transferred to a correctional facility without e-filing capability, he must submit all future filings in hard copy by mail and must immediately notify the Clerk's Office of the change of address.

For reference, the form notices of acceptance and rejection are appended.

