



THE 48TH NCACC ANNUAL CONFERENCE IN PORTLAND, OREGON AUGUST 1ST — 6TH, 2021

Blake Hawthorne and Deana Williamson, Hosts



Save the date for the 48th annual meeting in Portland, Oregon, August 1st through the 6th, 2021. The meeting will be held at the [DoubleTree Hotel](#) in the Lloyd District. The hotel is conveniently located next to the city's [MAX Light Rail](#), which takes you into downtown in less than ten minutes and has direct access to the airport. Numerous restaurants and shops are within walking distance in the Lloyd District, including the Lloyd Center Mall, home of the indoor ice-skating rink where Tonya Harding learned to skate.

Portland is known for its restaurants, breweries, coffee shops, and bookstores. It is also the gateway to the Willamette Valley wine country.

Museums, hiking trails, and beautiful scenery abound in and around the City of Roses. You can visit [Travel Portland](#) to see all this amazing city has to offer. And perhaps the best thing about Portland is NO SALES TAX!! So make sure to bring extra shopping money!

While 2020 has not been the year any of us expected or wanted, we hope that 2021 is more enjoyable and we are able to host all of you in Portland, Oregon!

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THE DOCKET

News of the National Conference of Appellate Court Clerks

President:	Edythe Nash Gaiser (WV)
President-Elect:	Larry Royster (MI)
Vice-President:	Chris Prine (TX)
Past-President:	Laura Roy (MO)
Secretary:	Claudia Jenks (TX)
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	Debbie Autrey (TX)
	Carolyn Taft Grosboll (IL)
	Greg Hilton (MD)
	Meredith Montgomery (AK)
	Greg Pachmayr (IN)
	Doug Shima (KS)

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THE PRESIDENT'S PAGE

EDYTHE NASH GAISER (WV)



Being Well

2020 is a challenging year. As one friend recently said, "sorrow is everywhere." Working on a change of perspective can help. I will share with you an example that I experienced that has continued to resonate with me.

Those of you who know me well, know that I am passionate about gardening. I have been trying to spend more

time in my gardens to reduce the added stressors 2020 has brought to being a Clerk of Court. Recently I was trimming some hedges when I felt something bite my ankle. As the burning sensation set in, my mind began racing. I know of three people in my town who were bitten by copperhead snakes this summer. My thoughts began racing – look at the snake – note its color - memorize its markings - look to see you if you are able to distinguish its body from its head (I have heard that if there is no such demarcation, the snake is not venomous). I looked down at the ground, then at my ankle and was never so relieved to see a yellow jacket on my ankle. I am not especially allergic to such stings.

Put in its perspective at that moment, a yellow jacket sting was not such a bad thing.

What do you read here?



**Most people will read evil, but
some will see the good in life
at the first time.**

THE PRESIDENT'S PAGE

EDYTHE NASH GAISER (*CONTINUED*)

In these times of prolonged separation, it is vital that we keep our personal growth in perspective. If you are feeling as though you are not improving yourself daily, that is okay. Most of the world is likely struggling in a similar way. Krill explained it best when he stated, “[d]o not try every day to improve on the continuum. It is OK to stay where you are and not get worse.” If you feel you have spent the last few days at a five on the continuum, do not feel bad that you haven’t been able to pull yourself up to a seven because that is perfectly normal. Instead, try and be appreciative that you did not worsen your position. As I stated earlier, this is an incredibly challenging year for everyone, and it is important we keep that in perspective.

We are very fortunate in West Virginia that several of our justices have made the well-being of everyone a priority this year. They encourage the leaders in our court system to check on our teams and make their well-being our priority.

In an effort to exercise social distancing and maintain healthy members of our work family, we are working in two teams. The teams rotate being the office and working remotely. When the teams were implemented in April, I asked that each member perform one benevolent act each week they are working remotely. At the time I knew that many in our community could use our help. After seven months I believe that we have learned that we have received more than we ever gave while serving others during this pandemic.

Let’s change our perspective, show gratitude and appreciation and perform benefic acts. Let’s make 2020 joyful and somewhat productive. Stay well.

Your president,

Eydie Nash Gaiser

FROM THE LISTSERV IN 2020: Resources on all things COVID from masks to oral arguments to handling the timer; Self-Help Resources; Curing Deficient Filings; Safety During Civil Unrest; Records Retention Schedules; How do your courts share documents for group editing?; Cybersecurity Policies; Tips for Moving to a New Location; does anyone have “light” briefing for criminal appeals?, and many more! This is an amazing resource. Don’t miss out. Sign up at lists.washlaw.edu/mailman/listinfo/ncacc.



A note from our Past President

Dearest friends and colleagues,

Just one last note of thanks to all of you for your support this past year. What a wild and crazy ride 2020 has been. You telephoned me throughout the year. You e-mailed notes to me. You mailed handwritten cards to me. You truly lifted my spirits this past year. Thanks for all of the encouragement.

I must give one more round of thanks to the Executive Committee, host Scott Mitchell, Nikiesha and Sydney at the NCSC, our speakers Professor Gary Marchant, Tom Hall, Cindy Guerra, Chris Weller, CLE guru Chris Crow, Sentell recipient Susan Clary, President's Award recipients Carol Anne Harley, Doug Robelen, and Chris Prine (Program Chair), and ALL of you. I was thrilled to "see" so many participants logged into our very first virtual conference. While this was not the Alabama conference I envisioned, this was the conference where we truly all came together to make the Annual Meeting possible. Thank you. I am truly grateful for the amazing NCACC family that I have.

Until we meet again.....

Laura Roy, Past President



GIVE YOURSELVES A ROUND OF APPLAUSE

Our impromptu virtual pledge-drive-in-lieu-of-auction during the 2020 Hospitality Suite and Conference yielded total pledges in the amount of \$3,450.00 to the Educational Fund. This giving ensures that we can provide the best education possible for our conferences. As of publication of this issue of The Docket, the following members have sent their pledges:

Carolyn Taft Grosboll · Bill DeCicco · Jenny Abbott Kitchings · Veronica Handy · John Tomasino · Greg Hilton · Steve Lancaster · Debra Spisak · Scott Mitchell · Irene Bizzoso · Stacey Pectol · Marilyn May · Kristina Samuels · Janet Johnson · Mary Beth Kuenzel · Amy Wood · Renee Townsley · Doug Shima · Larry Royster · Sandra Skinner · Meredith Montgomery · Polly Brock ·

You can still contribute by mailing a check to the National Center for State Courts @ 300 Newport Avenue, Williamsburg VA 23185.

Thank you!

Meredith Montgomery, Educational Fund Chair, 2019-2020

2020 NCACC VIRTUAL CONFERENCE

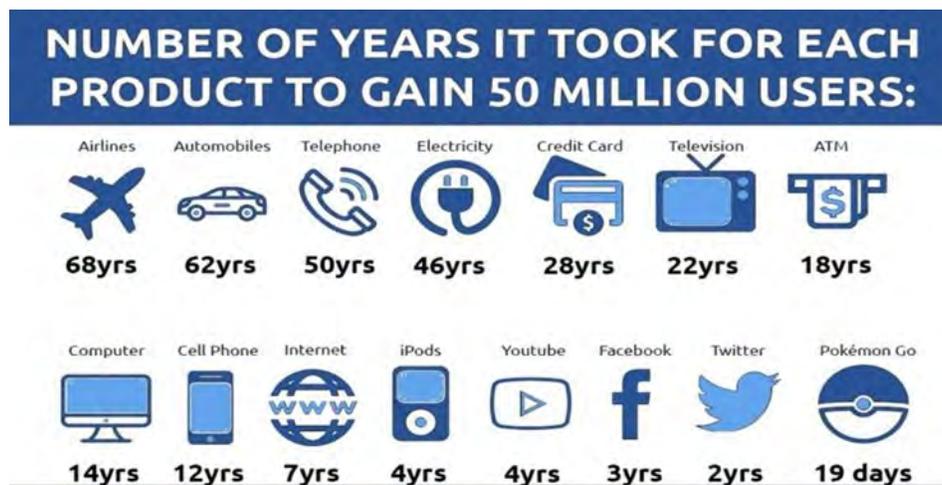
Summary of Program Speakers

By: Chris Prine, Texas Court of Appeals, First District

No matter what obstacles 2020 had to offer, our group stood strong and successfully held our first-ever NCACC Virtual Conference. Although our program was limited to just three speakers, all three speakers provided insightful and in-depth programs that were of great benefit to our members.

Our education program began with our Opperman Speaker, Professor Gary Marchant. Professor Marchant is the Lincoln Professor of Emerging Technology Laws and Ethics at the Sandra Day O'Connor School of Law at Arizona State University. Professor Marchant provided an interesting overview of the rise in our reliance on technology in the 20th Century and provided a futuristic look at the use of artificial intelligence in the judicial system.

Professor Marchant started his presentation by illustrating the technology revolution that occurred in the 20th Century. As the century progressed, the time it took for widespread adoption of new technology shortened dramatically.



Professor Marchant explained the courts have not been exempted by the impact of technology. Genetics have been used to show a predisposition for violence. The courts have struggled with the applying the expectations of privacy guaranteed by the Fourth Amendment and the growing use of emerging technology. Parties are using GPS to dispute speeding tickets.

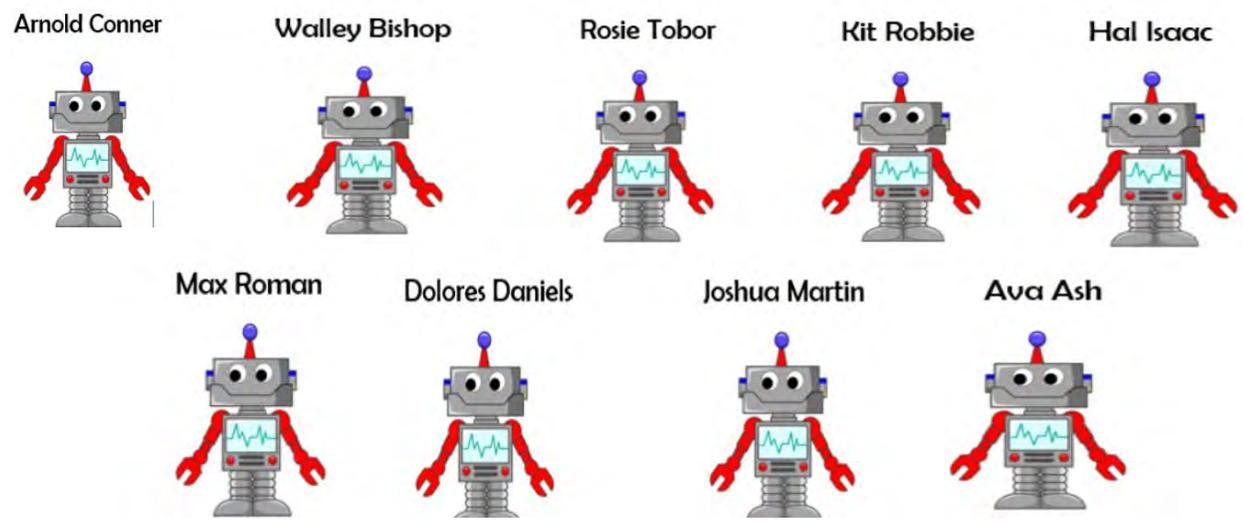
But new technology also means issues that must be faced. Artificial intelligence is limited by the programs made by people. Is a programmer responsible if a driverless vehicle takes steps that kill its driver in order to avoid harm to other people or fails to take actions to avoid harming bystanders? Is a computer responsible for actions taken as a result of its programming? Swiss police seized a program that automatically purchased items from the dark web when it ordered ecstasy. In Michigan, a man was arrested for a crime he did not commit based on the results of a faulty facial recognition program.

When asked by The New York Times in 2017 if he could foresee a day when smart machines driven with artificial intelligences will assist with courtroom fact-finding or, more controversially even, judicial decision-making, Chief Justice Roberts replied: “It’s a day that’s here, and it’s putting a significant strain on how the judiciary goes about doing things.” Professor Marchant agrees and in fact legal robots have deployed in China to help decide thousands of cases.



Next, our very own Tom Hall led a discussion with Cindy M. Guerra, Chief Operations Officer, Clerk & Comptroller for Palm Beach County. The Palm Beach County Courts have been in the forefront implementing the use of artificial intelligence discussed by Professor Marchant. Ms. Guerra and Palm Beach County were the first in the country to use cutting edge AI and robotic technology to process court documents.

Palm Beach has integrated the use of 9 robot “clerks” to review and process electronic filings. Palm Beach keeps 6 robots working 24/7/365 to review filings before docketing.



Now 30% of their e-filings are never looked at by a human being before docketing. Each robot has the capacity to process the work of 4 full-time equivalent employees and never call in sick, worry about social distancing, or take vacation!

But using artificial intelligence is not without some challenges. There isn't a system that you can just download and implement out of the box. As with any new system there are heavy up-front investments of time and money. The program must deal with differences in docketing rules based on court and case types. Despite these potential hurdles, and as set out by Professor Marchant, it may not be long before every court makes a transition to some form of this type of AI technology.



We had a strong finish with Chris Weller who has practiced labor and employment law for over 20 years. Mr. Weller's presentation ran the gamut. He covered issues dealing with upcoming HR trends, marijuana use, and the COVID -19 pandemic.

His coverage of HR issues associated with COVID-19 provided practical tips on the obstacles we may face as we bring our work force back to the office. Before we see a full-scale return, we must all develop plans to reduce employee exposure. How are we going to clean and sanitize our offices? What steps must we take to enforce social distancing and hygiene? Mr. Weller's paper set out many things that must be considered before we bring our employees back to the courthouse environment. Is your Court ready?

The goal is reduction of employee exposure:

(1) clean & sanitize the work place

- provide sanitizers, wipe down counters, doorknobs, elevator buttons, etc.
- fog the work area after hours

(2) enforce social distancing & hygiene

- provide hand sanitizers, paper goods, sanitizing wipes, bottled water, face masks, gloves, tissues, soap, trash receptacles, etc.
- require employees who test positive or are symptomatic to remain home
- post reminders in common areas, e.g., bathroom, breakroom, elevators, copy machines, and central doors
- allow employees to telework when possible.
- limit business travel

- maximum restroom capacities
- limit in-person meetings, dining areas, events, and other social gatherings
- stagger work time or schedules to limit contact among employees
- restrict non-employee visitors when possible
- increase space between desks, cubicles, and other workplaces

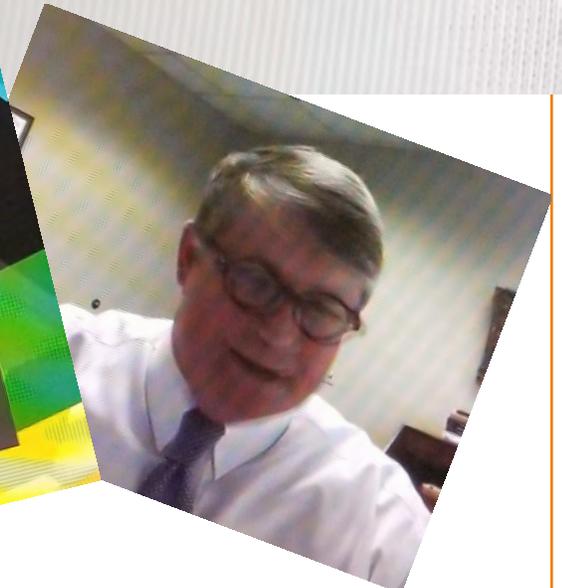
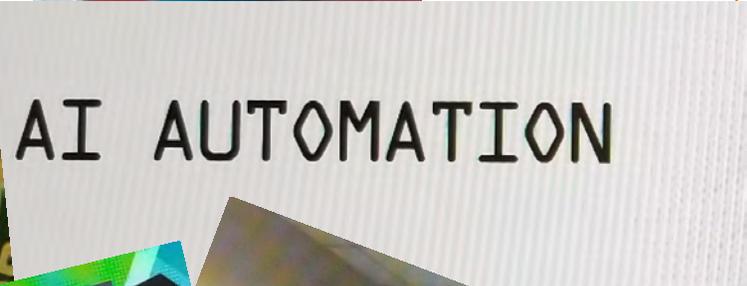
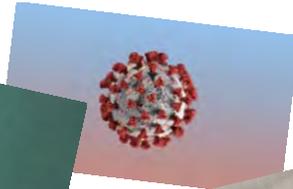
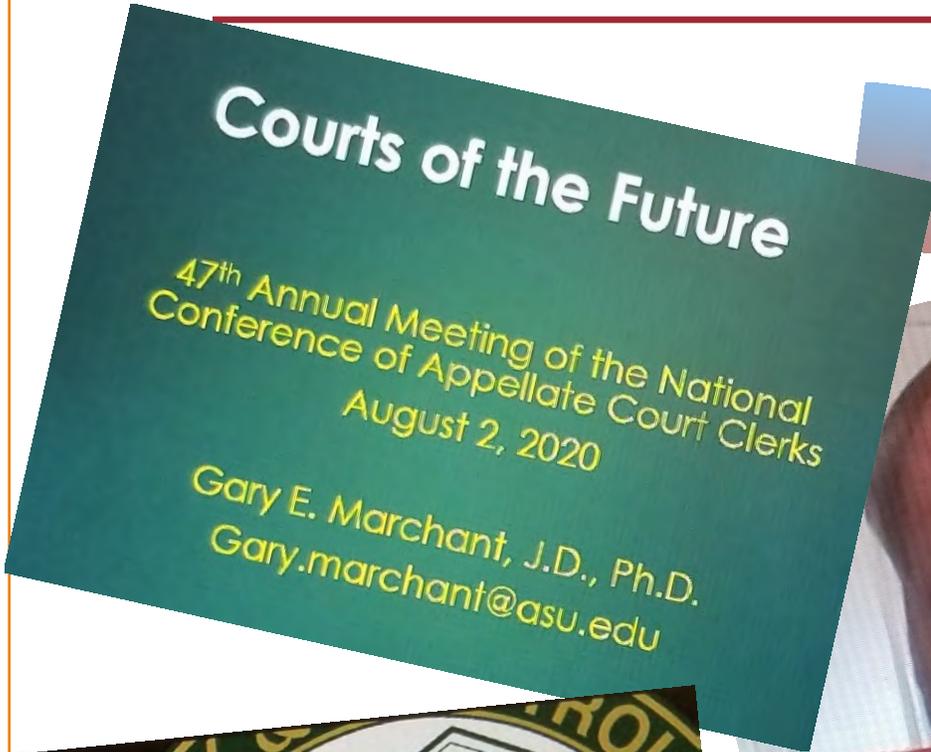
(3) enforce social distancing & hygiene

- mark off six foot waiting distances
- stagger meal and rest breaks
- install partitions or shield where there is public interaction
- review current ventilation
- train staff on safety protocols
- close off common spaces where employees or others are likely to congregate, e.g. break room, water cooler, media room, etc.

(4) screening employees & visitors

- have an action plan for employees who test positive/presumptive positive COVID-19, e.g., contact tracing, testing, send home
- temperature checks
- screening questions: employers have leeway to make certain medical inquiries otherwise prohibited by the ADA:
 - (a) have you or has anyone in your household experienced any COVID-19 symptoms in the last fourteen days?
 - (b) have you been symptom-free for at least three days?
 - (c) have you been exposed to anyone with a confirmed case of COVID-19?
- When can you require a test:
 - (a) direct threat & job impairment: the employer reasonably and objectively believes that an employee's current medical condition either impairs the employee's ability to perform essential job functions or poses a direct threat to the health or safety of the employee or others
 - (b) EEOC has held that such circumstances satisfy the ADA's requirement that any mandatory medical test of employees be "job related and consistent with business necessity"
 - (c) ADA standards require the test to be accurate and reliable. Consult CDC and U.S. FDA guidance

Altogether, the program provided timely information. Thanks to the Executive Committee, the Program Committee, and our NCSC volunteers for making it a success. And a special thank you to Chris Crow for making sure our members received continuing legal education credit for the program.



ANNOUNCEMENT OF J.O. SENTELL AWARD

NCACC ANNUAL MEETING (VIRTUAL)

By: Laura Roy, Clerk of the Missouri Court of Appeals Eastern District

The National Conference of Appellate Court Clerks announced that Susan Clary, the recently retired Clerk of the Supreme Court of Kentucky, is the recipient of the prestigious J.O. Sentell Award at its Annual Conference held virtually on August 2, 2020. Due to the current public health crisis, the Conference regretfully was not able to present this award to Susan in person at the closing banquet. President Eydie Gaiser and Past President Laura Roy will present this award to Susan, in person, in Lexington, Kentucky, when circumstances permit safer travel.



A faithful and dedicated member of the National Conference of Appellate Court Clerks, Susan Clary has distinguished herself and her court in exemplary service to her profession and the principles of the Conference. Her service to the NCACC includes member-

ship on the Resolutions and Memorials Committee, the Program Committee, and the Finance and Investment Committee. She has also served on the Executive Committee and is a Past President (2009-2010) of the NCACC. In 2019, she graciously hosted the Annual Meeting in Lexington, one of the most successful conferences ever.

Outside the NCACC, Susan's contributions to her profession include serving on the Supreme Court's Civil Rules Committee, the Appellate Rules Subcommittee, the Legislature's Capital Planning Commission, the Public Advocacy Commission, and as liaison with the Office of Bar Admissions and Kentucky's Criminal Justice Council. She also co-authored a book on Kentucky's Juvenile Law and has taught family law and juvenile law at Midway College. Susan obtained her Juris Doctor degree from the University of Kentucky in 1981, and in 1995, she was appointed Clerk/Court Administrator.

The National Conference of Appellate Court Clerks was founded over forty-five years ago. One of its founding members was J.O. Sentell, Clerk of the Supreme Court of Alabama. He also served as its first president and because of his leadership and inspiration, in 1979, an award was established in his honor as the Conference's most prestigious for a member. The J.O. Sentell Award is presented to those whose contributions and accomplishments have been an example for others to recognize and emulate. This is not an award that is sought. Rather, it is an award that seeks out that professional who has shown extraordinary devotion to duty, unfailing support for our justice system, and generosity in their service to others.

The National Conference of Appellate Court Clerks is a better conference for Susan's many contributions and her willingness to serve in so many ways. She epitomizes all those qualities we honor as appellate court clerks, and it is fitting that Susan's outstanding contributions be recognized by this award.

LR

From Lillian Richie to
Everyone

Susan, congratulations!!!

2020—2021 NCACC Committees

NOTE: As of October 30, 2020, some committees are still being finalized. Please let Eydie Gaiser know if you want to be on a committee.

Edythe.Gaiser@courtsww.gov

AWARDS, RESOLUTIONS AND MEMORIALS COMMITTEE:

Purpose: to recommend to the Executive Committee nominees for the J.O. Sentell Award and Morgan Thomas Award; to prepare appropriate resolutions for adoption by the Conference as formal expressions of its will and intent; and to prepare memorials for deceased members.

Chair: Jenny Abbott Kitchings

Committee Members: Ed Hosken; Sherry Williamson

BYLAWS COMMITTEE: [Under Construction]

Purpose: to consider amendments to the Bylaws and to make a written report to the Executive Committee each year by April 1st. The Bylaws Committee shall consist of no more than five members, including the Chair.

Chair:

Committee Members:

COMMUNICATIONS COMMITTEE:

Purpose: to inform the membership of the activities of the Conference; to provide information to enhance the professionalism of appellate court clerks and their offices; to publish the NCACC newsletter at least quarterly; and to promote the mission and objectives of the NCACC by providing information about the Conference and its members to appropriate individuals and groups.

Chair: Meredith Montgomery

Committee Members: Greg Hilton, MaryBeth Kuenzel, Greg Pachmayr, Doug Robelen, Doug Shima, Sherry Williamson

2020—2021 NCACC Committees

CONTINUED

CONTRACTS COMMITTEE: [Under construction]

Purpose: to review any contract referred to it by the President or the Executive Committee and report its recommendation to the President and the Executive Committee.

Chair:

Committee:

CONVENTION ASSISTANCE COMMITTEE:

Purpose: to provide practical guidance, advice, and assistance to the Clerks who are hosts for upcoming annual meetings. The Convention Assistance Committee shall consist of an unlimited number of members.

Chair: [TBD]

Committee: Ron Carpenter, Greg Hilton, Jenny Kitchings, Meredith Montgomery, Sherry Williamson

EDUCATION FUND COMMITTEE:

Purpose: to develop sources of income to be invested in a restricted fund, the proceeds of which shall be used for educational purposes as more fully set out in the Operational Guidelines. The Educational Fund Committee shall 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 Chair.

Chair: [TBD]

Committee: Larry Royster, President-Elect; and Jim Hivner, Treasurer

FINANCE AND INVESTMENT COMMITTEE: [Under construction]

Purpose: to recommend finances and investments to the Executive Committee. The Finance and Investment Committee shall consist of the Treasurer, who shall serve as its Chair, and four members appointed by the Executive Committee.

Chair: Jim Hivner, Treasurer

Committee: Janet Johnson (term expires 2021); Mac Squires (term expires 2021); ____;
_____.

2020—2021 NCACC Committees

CONTINUED

MEMBERSHIP AND PICTORIAL DIRECTORY COMMITTEE: [Under construction]

Purpose: to solicit new members and distribute information about the Conference and its activities to new or prospective members; to update and maintain the pictorial directory of the Conference, including annual meeting summaries contained therein; and to maintain and promote participation in the NCACC listserv.

Chair:

Committee:

NOMINATING COMMITTEE: [Under construction]

Purpose: 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 Chair, and shall be appointed by the President, with the approval of the Executive Committee at least six months before the annual business meeting.

Chair:

Committee:

PROGRAM COMMITTEE:

Purpose: to organize and present an educational program at the annual meeting of the Conference to further the objectives of the Conference; to enhance the skill and knowledge of appellate court clerks.

Chair: Greg Hilton

Committee: Jenny Kitchings; Scott Mitchell; Chris Prine; Larry Royster; Doug Shima

SCHOLARSHIP COMMITTEE: [Under construction]

Purpose: to recommend recipients of scholarships to the Executive Committee. The Scholarship Committee shall consist of three members, including its Chair, and shall be appointed by the Executive Committee.

Chair:

Committee:

2020—2021 NCACC Committees

CONTINUED

SITE SELECTION COMMITTEE:

Purpose: to solicit potential hosts for future annual meetings; to evaluate invitations from states; and to make appropriate recommendations to the Executive Committee.

Chair: Scott Mitchell

Committee: Ron Carpenter; Amy Funderbunk; Patricia Harrington; Ed Hosken; Jenny Kitchings; Dan Shearouse; Sherry Williamson

STRATEGIC PLANNING COMMITTEE: [Under construction]

Purpose: to review and evaluate ideas and suggestions referred to it by the Executive Committee; and to recommend to the Executive Committee courses of action the Executive Committee should adopt.

Chair:

Committee:

TECHNOLOGY COMMITTEE: [Under construction]

Purpose: to provide technical support and advice to appellate court clerks and their staffs; to coordinate communications between the Conference other organizations regarding technology issues.

Chair:

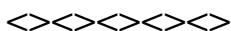
Committee:

BY THE WAY ...

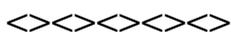
By: Mary Beth Keunzel, Clerk of the Florida Second District Court of Appeal



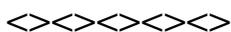
Docketing and providing assistance to parties and attorneys—these are essential functions of every appellate clerk's office. Recent educational programs have shown that robots are stepping in to help. In this issue, Clerk **Chris Prine**, TX, recaps the presentation about the use of robots to docket filings in Palm Beach County, Florida. In 2019, Clerk **Brian Cotta**, CA, showed the chatbots built into the California Appellate Courts Self-Help Resource Center. You can catch Brian's presentation on the NCACC website, <http://www.appellatecourtclerks.org/video/2019/GrantFundedTechInnovations.html> or just go to the resource center and have a chat <https://selfhelp.appellate.courts.ca.gov/>



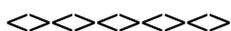
As **Chris Prine** mentioned, Professor Marchant discussed the law enforcement conundrum surrounding a computer program that bought drugs on the dark web. The dark web was a mystery to me until I saw the 2019 Opperman Speaker, Mark Lanterman, discuss that plus cyber security and (yes) the investigation into Prince's death. If you missed it or want to watch it again, this is another great segment on the NCACC website, <http://www.appellatecourtclerks.org/video/2019/EasiestCatch.html>.



Computer-produced documents bring their own issues, and Clerk **Scott Mitchell**, AL, shared the new requirements in the [Alabama Rules of Appellate Procedure](#): Century Schoolbook 14 is the required typeface and certificate of compliance must include a word count.



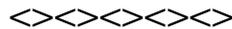
Speaking of document style, the Seventh Circuit Court of Appeals favors one space after a period. Those are fighting words in some places although I did not hear it discussed in the recent confirmation hearings. Find this and more in the updated Practitioner's Handbook for Appeals <http://www.ca7.uscourts.gov/rules-procedures/Handbook.pdf>.



BY THE WAY ...

Continued.

Maybe you are old school and want to see how briefs were written back in the day. Clerk **Blake Hawthorne**, TX, has got you covered. In his continuing work to provide free access to briefs filed from 1945 to present, his office is adding [scanned copies of the briefs filed from 2000-2007](#) to close the gap between the last scanning project for 1981-1999 and the start of electronic filing.



The intermediate appellate courts in Florida are bracing for a change in jurisdiction come January 1. Florida circuit courts are generally trial courts but are constitutionally provided with appellate jurisdiction according to general law. Legislation passed in 2020 removes circuit court jurisdiction over county court appeals in civil and criminal cases. Because the bill did not include a savings clause, the district courts of appeal will receive all cases pending as well as those filed after the effective date. The lion's share of cases will head to the [Fourth District Court of Appeal](#), and you know Clerk **Lonn Weissblum**, FL, will be ready.



BTW, let's stay connected in ways new and old. If you have news to share or see something interesting in our appellate world, give me a shout kuenzelm@flcourts.org.



2020 Conference Virtual Hospitality Suite, August 1, 2020 on Zoom