



For the Record

The Official Newsletter of the John W. Peck
Cincinnati & Northern Kentucky Chapter
Extended Edition, Summer 2018

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President's Message, from Dan Donnellon

I continue to be blessed and impressed by the dedication and commitment of the Task Force on Gender Equity in the Courtroom. On July 26, we completed our second Skills Training Session (CLE pending). The title was "Beyond Oral Advocacy: Practical Skills for Public Speaking" and it really lived up to its name. We had over 30 registered attendees, the vast majority of which were women with fewer than 5 years' experience in practice.

Judge Tim Black, Magistrate Judge Stephanie Bowman, and I led the faculty along with other talented, younger women lawyers, Jade Smarda (Judge Barrett's law clerk) and Mel Matthews (KMK). We provided specific, practical skills to improve your public speaking, and gave the participants opportunities to be "on their feet" and demonstrate the skills they just learned. For example, Judge Bowman and I gave practical tips on developing your own "Elevator Pitch" when you have a brief opportunity to sell yourself to a captive audience. Then, each participant delivered their own Elevator Pitch to members of their small group and received constructive feedback. Judge Black gave excellent tips on how to run a



meeting properly as a real leader, and select participants got to put those skills to use leading a meeting of their group. Finally, we had an exercise on extemporaneous, persuasive speaking. It's hard to imagine this free CLE was all packed into 90 minutes. And, of course, the event was followed by a brief Happy Hour sponsored by the FBA.

We also concluded another excellent program for law students, federal externs and summer associates in private practice. They conducted 7 Mock Trials of a murder case before a real judge with volunteer jurors who, in several instances, actually reached a verdict in the short time provided. To our amazement, the verdicts were not consistent. Each of the 28 student participants had a wonderful and educational time and received a nice Certificate of Recognition with the FBA logo. I would like to thank Dinsmore for hosting the kickoff event, and the Taft/ firm for hosting a concluding

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Judges' Spotlight

LEAD YOURSELF FIRST

By Hon. Raymond Kethledge
United States Court of Appeals for the Sixth Circuit

Of all the decisions Dwight Eisenhower ever made as a leader, none was more important than his decision to launch the D-Day invasion on June 6, 1944 rather than two weeks later. That decision brought great risk: at the time Eisenhower made it, there was a strong possibility that the weather would prevent any reinforcements from landing on June 7, in which case the troops who landed the day before might be pushed out to sea. But a decision to delay the invasion would have brought great risks of a different sort, not least that the Germans would find out where the Allies planned to land. Eisenhower had to weigh all those risks, and choose between them. He did so only after obtaining—through deliberate effort—the greatest possible clarity as to which choice offered the best chance of success.

Eisenhower found that clarity through solitude. On June 3, 1944, he went to his tent alone and wrote a memorandum to himself, in which he distilled his thoughts down to a single rule that would guide him in the days ahead: “We must go unless there is a real and very serious deterioration in the weather.” And it was precisely that rule that Ike applied in the early morning of June 5, when he gave the order to launch the invasion.

Solitude—meaning the state of being alone with one’s thoughts, without input from others—has been instrumental to the effectiveness of leaders throughout history. Martin Luther King Jr. found moral courage while sitting alone at his table one night during the Montgomery bus boycott. Jane Goodall used her intuition while

Obergefell, Three Years Later: Q&A

with Hon. Timothy S. Black
By Augustus Flottman, Esq.,
Faruki Ireland Cox
Rhinehart & Dusing, P.L.L.



Justice is bigger than any one individual, and for attorneys our sense of professional responsibility is rooted in our inclusion in a system that is larger than the self. Throughout the country, individual courtroom battles between litigants play out as part of a system of justice in which advocating for a single individual's interest may very well result in a decision that ultimately affects the interests of all Americans. Our judges, the true engine in this system, are uniquely positioned to appreciate how the downstream effect of a single decision can lead to meaningful change to our society and its institutions.

“I knew my rulings would be appealed to the Sixth Circuit. But I never considered that Obergefell would become the named Supreme Court case.”
Timothy S. Black

Here in the Southern District of Ohio, the Honorable Timothy S. Black presided over one of those few generational cases that so fundamentally altered our society that it stands as a historic manifestation of the nobility of our system of justice. *Obergefell v. Hodges* asked Judge Black, at a high level, for a determination of the rights of same-sex couples and the extent to which those rights can be abridged by the states. The difficult legal questions and nuanced considerations presented by the *Obergefell* case were paralleled by a contentious national discourse on the social, moral, and religious issues implicated by the question of what rights and protections same-sex couples deserve. It was against this backdrop that Judge Black crafted an opinion underscored by a thoughtful appeal to human dignity, which evinced the court’s recognition that the *Obergefell* case presented not just questions of law, but fundamental questions on the integrity of our national consciousness.

The John W. Peck Chapter Congratulates
Hon. Thomas M. Rose
On 45 Years of Service to the Bench and Bar



Judge Thomas Rose

On May 9, 2018, our sister chapter in Dayton hosted a spectacular dinner and program at the Schuster Center, where more than 350 lawyers, judges, court staff, family and friends gathered to honor Judge Thomas M. Rose's 45 years of service to the bench and bar. After moving remarks by Judge Rose's friends and colleagues, including Judge Susan Dlott and Judge Walter Rice, Judge Rose's judicial portrait was unveiled. Judge Rose joined the United States District Court for the Southern District of Ohio in 2002. Prior to joining the federal bench, he served Greene County, Ohio for 11 years on the Common Pleas bench.

Our Chapter was thrilled to partake in this wonderful event. To show our support, we purchased a table, and several members of our Board attended as representatives of the John W. Peck Chapter. We are proud that our sister chapters of the Federal Bar Association offer such remarkable programming. Thank you, Dayton Chapter, for hosting this event.

And thank you, Judge Rose, for 45 years of service!

CONGRATULATIONS!



Judge Susan Dlott



Judge Walter Rice



Judge Rose, with family and friends



John W. Peck Chapter Table

The Sixth Circuit, addressing like cases consolidated from Michigan, Kentucky, and Tennessee, reversed Judge Black's decision by finding the issue of same-sex marriage is most appropriately decided through the democratic process – not by the judiciary. However, as most of us know, the Supreme Court reversed the Sixth Circuit in its historic decision that, like Judge Black, cited to the centrality of marriage to the human condition. The Cincinnati Chapter of the Federal Bar Association sat down with Judge Black for a Q&A to discuss the *Obergefell* case in order to learn and appreciate the perspective of one of the few judges who presided over a case that changed the lives of tens of millions and instantly became a part of our legal history.

Q: The beginning of your opinion in *Obergefell* references Justice Scalia's prediction that, following *Windsor*, the question would be presented to courts throughout the country whether, unlike the federal government, states can discriminate against same-sex couples. Did it occur to you at the time that your decision might find its way to the Supreme Court?

A: *No. I suspected the ultimate issue would eventually reach the Supreme Court. But in terms of my own cases, both Obergefell and Henry, I was simply focused on what was before me. I knew my rulings would be appealed to the Sixth Circuit. But I never considered that Obergefell would become the named Supreme Court case.*

Q. The *Henry* case was a somewhat less discussed case than *Obergefell*, which involved death certificates. Some of our readers may not know that *Henry* actually presented identical legal questions as *Obergefell*. However, *Henry* involved the right of both individuals in a same-sex couple to be listed on the birth certificate of a child that the couple was adopting or conceiving through a donor – a right which Ohio's marriage recognition ban denied same-sex couples. In your opinion in *Henry* you included a footnote with a poem about adoption. Can you tell us a little about that poem?

A: *Those are actually the lyrics to a John McCutcheon song titled "Happy Adoption Day." The song celebrates the beauty of adoption. In my family, we sing that song every year on my daughter's adoption day. It just happened that the day we issued the Henry*

decision, April 14, is actually my daughter's adoption day.

Q: How challenging was it to reach the conclusion that Ohio encroached on a fundamental right of the plaintiffs in light of the fact that the majority of federal courts had found the right to same-sex marriage was not implicated in the fundamental right to marry?

A: *To some degree, Obergefell presented a different set of circumstances from the other cases. First, it presented a marriage recognition issue. It was also post-Windsor.*

But the very first sentence of the first Order I issued in Obergefell started off: "This is not a complicated case." I didn't struggle with the decision, because the constitutional rights at issue were clear. And I do not say that because of my own personal beliefs or politics. The decision was not difficult because it was what was required under the law.

Q: Your opinion talks about the Bill of Rights withdrawing certain subjects from political controversy, but at the time same-sex marriage was a topic of contentious national debate, and an Ohio state representative actually sought to begin impeachment proceedings against you. How difficult was it to put into practice this principle that certain subjects are not up for political debate when at that very time, the question before you was being hotly debated?

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SAVE THE DATE

FBA Fall Luncheon

September 27, 2018 at the
Taft/Center

Our distinguished guest speaker will be
Judge John Nalbandian

Registration Information Will Follow by Email



Sealing Documents, Post-*Shane Group*

By Melissa Schuett, Esq.
Faruki Ireland Cox
Rhinehart & Dusing, P.L.L.

Non-Ohio counsel have at times inquired, "Do your local federal judges rubber-stamp filings under seal?" While there may have been some variation among judges previously, the answer to this question post-*Shane Group*—the landmark Sixth Circuit opinion on sealing records—is a definitive "No."

In *Shane Group*, the Sixth Circuit detailed the proper analysis a court should perform when a movant requests permission to seal documents filed on the court's docket.¹ The test set forth in *Shane Group* requires the movant to bear the heavy burden of demonstrating specific reasons why the interests in favor of "nondisclosure are compelling, why the interests supporting access are less so, and why the seal itself is no broader than necessary."² There is a "'strong presumption in favor of openness' as to court records"³ because without access to the docket, "the public is unable to assess for itself the merits of judicial decisions."⁴ In order to overcome that long-standing "strong presumption in favor of openness,"⁵ the movant must first demonstrate "a compelling reason why certain documents or portions thereof should be sealed."⁶ Then, the party must show that its proposed sealing is "narrowly tailored to serve that reason."⁷ This requires the party to "analyze in detail, document by document, the propriety of secrecy, providing reasons and legal citations."⁸ Since *Shane Group's* release, the district courts have emphasized the idea that the goal of preserving secrecy in discovery is very different than the competing interests involved in sealing documents filed with the court.

This article provides an overview of some of the various ways (including some creative ways) our local judges have approached balancing the competing interests between a party's interests in nondisclosure and the public's right to access.

JUDGE BARRETT:

Former defendants moved to seal depositions that had not yet been taken. The court explained that such a preemptive filing denied the court the opportunity to conduct the required analysis for sealing information on the docket. "Just as a court will not pre-authorize the sealing of yet-to-be-identified documents, this Court declines to pre-authorize the sealing of yet-to-be-taken depositions." The court went on to enter a limited protective order allowing the parties and movants to "*designate* (not seal)" the depositions as confidential during the discovery phase, noting that the litigants were permitted to seek leave to file the designated materials under seal at the appropriate time.

***NorCal Tea Party Patriots v. IRS*, No. 1:13cv341, 2017 U.S. Dist. LEXIS 91205, at *7-8 (S.D. Ohio May 18, 2017)**

JUDGE BERTELSMAN:

Defendants moved to seal deposition transcripts and student records. The court noted that sealing "presents issues involving the application of the Federal Educational Rights and Privacy Act" ("FERPA"), which dictates how parties are permitted to seek and produce student educational records. The court advised that student records may be redacted to exclude identifying information and ordered the parties to prepare an agreed order detailing the procedures necessary to comply with FERPA records. It denied the motion to seal documents without prejudice, explaining that compliance with FERPA should make Defendants' request for sealing any student records unnecessary. Finally, the court advised that it would consider any future motions to seal on a "document by document" basis.

***Doe v. Northern Kentucky University*, No. 2:16-CV-28, 2016 U.S. Dist. LEXIS 146744, at *4-5 (E.D. Ky Oct. 24, 2016)**

JUDGE BLACK:

The court found that the plaintiff failed to meet the standard set forth in *Shane Group*. But, in consideration of the parties briefing schedule, the court permitted the plaintiff to file its motion for summary judgment under seal on the condition that the seal would expire 30 days from filing unless (1) one or both of parties successfully met the *Shane Group* standard, or (2) one or both of the parties move to extend the conditional period while the motion to seal was pending.

Joseph v. Joseph, No. 1:16-cv-465, 2017 U.S. Dist. LEXIS 122108, at *6 (S.D. Ohio Aug. 3, 2017) ("The Court finds this to be a sound approach which balances the public's interest in access to court records with the parties' interest in complying with the Court's briefing schedule.")

JUDGE DLOTT:

The parties proposed limited and specific redactions of names and other identifying information of individuals that had not previously been publicly identified – some of whom were employees of companies that were believed to be potential victims. The court found that "safeguard[ing] their privacy interests and protect[ing] these individuals] from possible harassment or intimidation" was a compelling reason to redact the information, particularly in light of the relatively weak countervailing interests of the public.

The court noted that, unlike *Shane Group* where the parties requested to seal entire motions or exhibits, the parties proposed redactions that affected "limited and specific portions of pleadings, often only a person's name or a few words."

United States v. Maruyasu Indus. Co., No. 1:16-cr-64, 2017 U.S. Dist. LEXIS 205128, at *4-5 (S.D. Ohio Dec. 13, 2017)

MAGISTRATE JUDGE BOWMAN:

After the court had granted Defendants' request to file all motions and briefs pertaining to the enforcement of the settlement under seal, the court found that the confidentiality of the agreement constituted a compelling interest sufficient to justify entering the court's Report and Recommendation under seal. In order to balance the public's interest, the court filed a highly redacted copy of the Report and Recommendation in the public record.

Rorick v. Silverman, No. 1:14-cv-312, 2017 U.S. Dist. LEXIS 114645 (S.D. Ohio July 24, 2017)

MAGISTRATE JUDGE LITKOVITZ:

Plaintiff moved to seal the record of the proceedings, arguing that his reputation had been harmed, the record contained his date of birth, and third-party minors would be harmed if the record remained public. The court denied the request, explaining that Plaintiff's reputational harm was not sufficient to overcome the strong presumption in favor of openness of court records, the identification of any minors would be protected by Fed. R. Civ. P. 5.2(a)(3), and Plaintiff failed to analyze specific documents or identify specific portions of the documents that should be sealed.

Kiwewa v. Brennan, No. 1:15-cv-00815, 2018 U.S. Dist. LEXIS 126150 (S.D. Ohio July 27, 2018)



Gender Equity Committee Update: 2 Successful CLEs, and 1 Remaining in the Series

By **Sophia Holley, Esq.**
Keating Muething & Klekamp, PLC

Earlier this year, the Cincinnati & Northern Kentucky Chapter of the FBA identified a need for greater participation of female lawyers in the courtroom. This sparked the creation of the Gender Equity Committee, which is working to make small, incremental changes that can improve the participation and advancement of women in our profession.

The Committee kicked off the initiative with a 3-part CLE program specifically targeted towards female attorneys, as well as newer lawyers. These CLEs were designed to provide skills training, as well as advice and guidance from seasoned attorneys in the industry. The second CLE in the series, *Beyond Oral Advocacy: Practical Lessons for Public Speaking*, focused on teaching practical speaking and communications skills, and was led by Judge Black, Magistrate Judge Bowman, and FBA Chapter President Dan Donnellon. In helping to prepare the written materials for the CLE, I found a few public speaking tips to be helpful:

- **Use strong body language.** Christine Jahnke, a speech coach and author of *The Well-Spoken Women*, stresses the importance of body language when



Above: Magistrate Judge Bowman leading a segment on effective communication with the Court.

“Great things are not done by impulse, but by a series of small things brought together.”

Vincent Van Gogh

speaking. When giving presentations and making speeches, she recommends dropping your shoulders back, leaning your torso slightly forward, holding your head up, and smiling.

- **Keep it short.** In the words of Irving S. Cobb, “No speech can be entirely bad if it is short enough.” Speakers can benefit from keeping their arguments direct and focused.
- **Leave out filler words.** Words such as “uh” and “um” dilute the content of the message, and provide little value to substance. Identify when you use these words or phrases, and work to remove them.
- **Speak up in meetings.** Meetings present a wonderful occasion to present and speak to a smaller group of individuals. Communicating

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Above: Judge Black addressing participants regarding effective communication and strategy for leading meetings. **Page | 7**



Recap of 2018 FBA Capitol Hill Day

By **Steve Weigand, Esq.**
Faruki Ireland Cox Rhinehart & Dusing, P.L.L.

The Federal Bar Association is the premier professional organization of lawyers and judges associated with our federal court system. Each year, approximately 70 members of the FBA gather in Washington, D.C. to educate members of Congress about the state of the judiciary and needs of the courts – an event that is called FBA Capitol Hill Day.

On April 26, 2018, participants from 21 states and 35 separate FBA chapters participated in FBA Capitol Hill Day. From our Chapter, Kevin Schad (Appellate Director for the Office of the Federal Public Defender), Rich Nagel (the Clerk of Courts for the Southern District of Ohio), and I attended FBA Capitol Hill Day.

The three of us scheduled meetings with staff for Congressman Brad Wenstrup and Congressman Steve Chabot. We also participated in meetings with staff for Senators Rob Portman and Sherrod Brown, at which we were joined by several members of the Northern District of Ohio Chapter, including the national FBA President, Kip Bollin.

The goal of FBA Capitol Hill Day this year was to address with various members of Congress the four policy priorities of the FBA, as summarized below:

1. Adequate Funding Needed for Our Federal Courts

The federal judiciary, while comprising one-third of the federal government, receives less than two-tenths of one penny of a taxpayer's dollar. We emphasized during our meetings that the FBA supports the federal judiciary's fiscal year 2019 budget request of \$7.2 billion in discretionary appropriations, which comprises a modest increase of 3.2 percent from the 2018 appropriation. This funding would allow current services to continue and address needed improvements with cybersecurity. Overall, this topic was well-received by the Ohio representatives.

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with smaller groups of people can be a good opportunity to fine-tune speaking skills.

- **Practice!** Public speaking opportunities exist outside the courtroom. Charitable organizations, chambers of commerce, professional organizations, and other community groups provide lots of opportunities to sharpen public speaking skills. This also presents a meaningful way to participate and contribute to the community.

The final CLE of the series will include a panel of respected and talented female attorneys in the legal profession, and will include a question and answer session with the panel about succeeding as a female in the industry. This CLE is scheduled for September 7.

Diversity initiatives are more successful when they are inclusive of all people, including both majority and underrepresented individuals. Through tiny steps taken

as a legal community, the Cincinnati & Northern Kentucky Chapter of the FBA can strive to meet the goal of full and equal access to, and participation by, all individuals in the Association, regardless of race, gender, ethnicity, national origin, religion, age, sexual orientation, gender identity, disability, or any other unique attribute. On behalf of the Gender Equity Committee, we look forward to working with many of you in the future. ■

SAVE THE DATE!

Final Installment of 2018 Gender Equity CLE Series,
Panel Discussion with Female Leaders in the Profession

September 7, 2018, 2:30 PM
Potter Stewart U.S. Courthouse

Stay tuned for announcements regarding our distinguished panelists, and registration.



A Judges' Night Dinner to Remember

By Priya Mistry, 2L Washington Univ. School of Law

The John W. Peck Cincinnati & Northern Kentucky Chapter of the Federal Bar Association hosted its annual Judges' Night Dinner on June 12th, 2018 at the Renaissance Hotel in downtown Cincinnati. The Judges' Night Dinner provides an opportunity for attorneys and members of the Cincinnati and Northern Kentucky legal community to mix and mingle informally over drinks and dinner. Over 90 guests attended, including Sixth Circuit Court of Appeals Judges John Bush, Julia Smith Gibbons, Richard Allen Griffin, Joan Larsen, Karen Nelson Moore and Bernice B. Donald; U.S. District Court for the Southern District of Ohio Judges Michael Barrett and Susan Dlott; U.S. District Court for the Eastern District of Kentucky Magistrate Judge Greg Wehrman; U.S. Bankruptcy Court for the Southern District of Ohio Judges Jeffery P. Hopkins (Chief Judge) and Beth Buchanan; and Ohio Court of Appeals, 4th District Judge Matt McFarland, who has been nominated to the U.S. District Court.

The dinner began with a warm welcome from current Chapter President Dan Donnellon highlighting the chapter's progress and commitment to promoting gender equity and inclusion for female litigators with an appointed task force. The FBA honored student members of the chapter from both the University of Cincinnati College of Law and the Northern Kentucky University Salmon P. Chase College of Law with scholarships totaling \$2,000. Rachalle Bar Adkins and Kalise Moore of the University of Cincinnati College of Law, and Michael Bromwell of the Northern Kentucky University Salmon P. Chase College of Law, were this year's recipients.

The keynote speaker for the evening, Chief Judge Jeffrey P. Hopkins of the United States Bankruptcy Court for the Southern District of Ohio, gave a moving address to attendees. Judge Hopkins was first appointed to the court in 1996 and again for a second term in 2010. He has served as Chief Judge since 2014. Judge Hopkins began by talking about the area of bankruptcy law, involving the audience with a pop quiz on the history of



New York, New York

There is still time to register. Click [here](#).



Click [here](#) to view Judge Hopkins' *Pathways* video.

the U.S. Bankruptcy Code. He then shared engaging tales about famous figures who filed for bankruptcy and later found critical success, including Walt Disney and Henry Ford. Through these examples, Judge Hopkins emphasized the message of pursuing one's dreams and never giving up.

Judge Hopkins' address also provided personal anecdotes on his career path. Focusing on diversity and inclusion, Judge Hopkins explained how his upbringing and the influence of his family led him to a career in law. In particular, Judge Hopkins discussed the profound effect that the U.S. Supreme Court's decision in *Screws v. United States* had on him and his family. In that historic civil rights case, an Alabama sheriff beat an African-American man to death who allegedly stole a tire. That man happened to be Judge Hopkins' great uncle.

Justice William O. Douglas wrote the Supreme Court's opinion which ruled the federal

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July 2018 Federal Practice Seminar

By Jennifer Webster, SDOH Deputy Clerk



Judge Barrett, Judge Black, and Judge Dlott address attendees regarding practice in the SDOH.

On the morning of Tuesday, July 10, 2018, the Cincinnati-Northern Kentucky FBA Chapter held its semi-annual Federal Court Practice Seminar CLE in the John Weld Peck Federal Building across the street from the United States District Court for the Southern District of Ohio. Forty-four (44) attorneys from several different states attended the seminar.

Following opening remarks by Chapter President Dan Donnellon, District Judges Susan Dlott, Michael Barrett, and Timothy Black discussed practices and procedures relevant to cases litigated in the U.S. District Court for the Southern District of Ohio. Bankruptcy Judges Jeffrey Hopkins and Beth Buchanan then presented on the practice of law before the U.S. Bankruptcy Court for the Southern District of Ohio.

Next, Kenneth Parker, Esq., Criminal Division Chief, Office of the U.S. Attorney, discussed the details of Federal Rules of Criminal Procedure, and relevant local rules. Magistrate Judge Stephanie Bowman followed up with a presentation about the ins and outs of practice before the Southern District of Ohio Magistrate Judges. And finally, Russell S. Sayre, Esq. presented on jurisdiction and specific local rules governing practice.

The seminar concluded with a ceremony in Judge Barrett's Courtroom on the 1st Floor of the Potter Stewart Courthouse in which forty-four (44) attorneys were officially sworn in by Judge Barrett and admitted to practice in the Southern District of Ohio. ■

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government had not shown that the sheriff had the intention of violating the man's civil rights when he killed him. Invoking what has now become known as the "Screws Precedent," the Court determined the "under color of state law" requirement was met because the "officers of the State were performing official duties" whether or not "the power they were authorized to exercise was misused." Although with this ruling the Court greatly reduced the number of federal civil rights cases brought over the next few years, it did show that the Court was willing to address issues of racial injustice. Within ten years, the Court would go on to decide one of its most important cases, *Brown v. Board of Education*.

Lastly, Judge Hopkins stressed the importance of mentoring and spoke of how his mentors played an essential role in shaping his career. Paying it forward, Judge Hopkins explained how he makes time to mentor and tutor others and emphasized to all of the attendees their important role as advocates in today's society.

Learning from Judge Hopkins' experiences and intimate connection with the justice system made for a meaningful and impactful address. Guests will certainly be talking about it for years to come!■

***Judge Hopkins' family connection to *Screw v. United States* is available in the "Pathways to the Bench" series available [here](#).

UPCOMING NATURALIZATION CEREMONIES

8/24 2PM	Potter Stewart U.S. Courthouse Room 842
8/31 2PM	Potter Stewart U.S. Courthouse Room 842
9/17 10AM	Miami U., Hamilton Campus 1601 University Blvd. Hamilton, OH 45011
9/28 10AM	Summit Country Day School 2161 Grandin Road Cincinnati, OH 45208

SWEL GALA

October 6, 2018

6:30-11 PM

Renaissance Hotel
Downtown Cincinnati

Email

Zwalters@me.com or
Lwsmith@Cincybar.org
to register



The Summer Work Experience in Law (SWEL): Thankful for Thirty Years of Opening Doors, Building Leaders, and Diversifying the Legal Profession

By Kenneth Parker, Esq.
Assistant United States Attorney,
Criminal Division Chief, SDOH

“Thank you.” What better way to begin articulating a point than with a term that is not used enough, but denotes the sincerest gratitude. On behalf of the Summer Work Experience in Law (SWEL), I say thank you to the Federal Bar Association, in particular the Cincinnati/Northern Kentucky-John W. Peck and Dayton chapters.

In 1988, members of the Black Lawyers Association of Cincinnati (BLAC)-Cincinnati Bar Association (CBA) Roundtable, convened by the Honorable Nathaniel R. Jones and Honorable Robert L. Black, Jr., recognized there was a need to increase diversity in Cincinnati’s legal community as well as create better opportunities for minorities who desired to practice law. Attorney James L. Johnson (now retired) established SWEL to expose seven African American students to the legal profession through internships at top law firms, Procter & Gamble, and Federated Department Stores (Macy’s). Johnson also developed SWEL into an eight-week academic enrichment course, hosting attorneys and other members of the legal community each Friday to give advice and insight to the students. Although Johnson initially referred to the student participants as “apprentices,” now they are known as “SWEL Scholars” to denote their

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Above: Judge Painter addressing a group of SWEL students.



Above: Jim Johnson, SWEL founder.



Above: Judge Rice, with SWEL students, at the Potter Stewart U.S. Courthouse.



FBA Mentorship Program, Returning this Fall

By Chandra Napora, Esq., Morgan Verkamp
Megan Fields, Esq., Rendigs

Inspired by the success of mentoring programs for law students, and in conjunction with a larger initiative from National FBA, our Chapter launched a mentoring program for UC and NKU/Chase law students in the spring of this year. We are thrilled to report that the initiative was so well-received that we are continuing it into the 2018-2019 school year.

The positive effects of a well-designed mentoring program are clear: a mentee interested in federal practice is given the opportunity to build a relationship with a federal practitioner who can help navigate the often-treacherous career waters, can be a sounding board who can listen with care and empathy and provide guidance without the threat of a grade looming, and can be an entrée into the wider legal community, allowing for the mentee to make connections and impressions that could be life-changing. And for the mentor, the opportunity to share wisdom, resources, time and a listening ear provides an endorphin rush akin to a few-mile run without having to break a sweat!

There are many mentoring programs out there, and sometimes it can be hard to see the value in a new one. But the FBA mentorship program has unique value, and we have the data to prove it. In our inaugural session, we had 19 mentees paired up with 18 mentors. Our mentors included federal judges, appellate attorneys, federal criminal defenders, and those whose practices focus on areas that put them in federal court—or interfacing with federal agencies or regulations—routinely, like labor and employment; maritime; patent; trademark; class actions; securities; healthcare; government procurement; and on and on. Our mentees were 2Ls or 3Ls, all of whom were members in our law student divisions, showing that they already had an interest in federal practice. We kicked the program off with a group get-together in January, and then it was off to the races. (Not literally, although that could be a good upcoming mentoring activity...)

After the completion of the semester-long program, we solicited feedback from the participants. Folks reported that they attended social events together, had lunch, breakfast, and/or coffee together, went to networking events, went on a courthouse tour, attended a naturalization ceremony, and

“My mentor is fantastic!! She answered all of my questions and offered great advice!”

“Having participated in the FBA’s mentor/mentee program, I’m grateful to know that the future of our profession is in good hands. These are exceptional students who surely will go far.”

“This invaluable experience gave me a fresh perspective on our every day practice of law. It’s wonderful to be reminded why we are here and what an incredible impact we can make.”

“We all must play a role in the successful development of future lawyers. It is nice to be able to do that in a fun, relaxed, flexible environment.”

July 2018 Criminal Justice

Act eVoucher Training

By Rich Nagel, SDOH Clerk of Courts

On the morning of Friday, July 13, 2018, the Clerk's Office of the U.S. District Court for the Southern District of Ohio held an Electronic Voucher (eVoucher) Criminal Justice Act (CJA) Training CLE for CJA panel attorneys and their respective staff. The CJA panel attorneys and their staff provide a valuable service by furnishing representation in federal court for any person financially unable to obtain adequate representation. The eVoucher system is an automated solution for the paper-based Criminal Justice Act (CJA) vouchering system to prepare, submit, review, and certify CJA vouchers for payment.

Magistrate Judge Karen L. Litkovitz opened the training by thanking the CJA panel attorneys and their staff for the work that they perform in representing their clients and also for taking their time to attend the training. Following remarks by Clerk of Court Richard W. Nagel, Chief Deputy Clerk Julie A. Cobble, Financial Administrator Mike Socha and CJA Specialist Kristen Keppler discussed the eVoucher process, best practices for submitting vouchers and reimbursable and non-reimbursable expenses.

A total of nineteen attorneys attended the training. They will be obtaining one hour of continuing legal education as approved by the Supreme Court of Ohio for their attendance at this training.■

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stayed in touch via email and—gasp—even sometimes the phone. All respondents said they thought the FBA mentoring program was a great idea and was value-added. If there was one consistent critique it was that the program should have started sooner, lasted longer, and allowed for more mentor/mentee time together. This is exactly the kind of critique you like to hear, that the program participants want more.

We have taken the feedback to heart, and we are happy to announce that we are starting this year's FBA mentoring program this fall, with the mentor/mentee pairs to last the full school year. We will also be adding more group events beyond the kickoff, and, drumroll please, at the end of the program we will announce the winning team from our FBA M&M Bingo! Each mentor/mentee group (typically, these are pairs, but it might make sense for some mentors to take on more than one mentee, something we will work with you on) will be given the chance to compete, with a bingo card and a challenge: fill the card for the grand prize, lifetime bragging rights, and the knowledge that you've done good.

Kickoff will take place in early September, so we are gathering mentor names now. Please contact Chandra or Megan if you would be willing to step up to the mentoring plate and throw your hat in the ring for the title of FBA M&M Bingo Champion. (Clearly, we win the prize for the most mixed sports metaphors in one sentence.) If we don't hear from you, do not worry—we know where and how to find you, and find you we will.

Dates to keep in mind: kickoff, early September; mid-year gathering in January; end-of-the-year celebration in early April 2019.■



2018 Summer Mock Trial

By **Jade Smarda, Esq.**
Law Clerk to Hon. Michael R. Barrett, SDOH

For those of you unfamiliar with FBA Summer Mock Trial, it is a Chapter Program started by Judge Michael Barrett and Dan Donnellon that gives students a real-world experience unparalleled in virtually any other competitive mock trial setting. In a nutshell, courthouse externs and local summer associates pair off and try a fictional case. This year, half of the students were assigned to represent the people of the “State of Lone Star,” while the rest were assigned the unenviable task of representing a defendant pleading insanity on an unbifurcated murder charge. Based on their “scheduling order,” students were required to submit a proposed final pre-trial order to their assigned judge. Shortly thereafter, students argued motions *in limine* at their final pre-trial conference. And, on the day of their respective trials, students arrived at the courthouse each with the same goal: to convince a jury box full of strangers to render a verdict in favor of their client. **Between July 13 and July 25, 2018, seven such trials were held at the Potter Stewart U.S. Courthouse.** Presiding over each trial was a judge seated in the United States District Court for the Southern District of Ohio, Hamilton County Common Pleas Court, or Hamilton County Municipal Court. Each trial also included a panel of volunteer jurors—some practicing lawyers, some not.

The reason this experience is “unparalleled” is because of the level of realism Judge Barrett ensures. He personally recruits seated judges to preside, and dozens of volunteer jurors. This year, he recruited over 40 individuals to serve as the triers-of-fact. All took the time to deliberate (albeit on an expedited basis), and stayed afterward to offer students feedback. While mock trial exists at the high school, college, and law school levels, an educational/competitive mock trial experience with real judges *and* volunteer jurors is almost unheard of. As Dan Donnellon mentioned in his President’s Message, this Program is so original it is now being copied by other FBA Chapters.

This Program could not be successful without the work of nearly 100 participants. While the competitors and jurors are too numerous to name here, Judge Barrett wishes to recognize the following individuals for their

help this year cultivating the next generation of trial lawyers:

Judges

- Joshua Berkowitz
- Stephanie Bowman
- Patrick Dinkelacker
- Brad Greenberg
- Curt Hartman
- Karen Litkovitz
- John Williams

Coaches

- Abby Chermely (Dinsmore)
- Jeff DeBeer (Squire)
- Dan Donnellon (Sebaly)
- Kyle Healy (AUSA)
- Michael Meyer (Taft)
- Ian Mitchell (Reminger)
- Christy Muncy (AUSA)
- Tim Oakley (AUSA)
- Alex Rodger (Bingham Greenebaum Doll)
- Melissa Schuett (Faruki)
- Jade Smarda (Barrett Chambers)

Our Chapter is also grateful to Dinsmore for hosting a Program kickoff event, and to Taft/ for hosting a reception to honor all competitors, judges, jurors, and coaches after the final trial. Additionally, Judge Barrett and Dan wish to thank the Texas Young Lawyers Association for making their past case problems available for educational programs such as this one.

Another year of FBA Summer Mock Trial has come to an end. We are already looking forward to next season. If you are interested in getting involved, feel free to contact Dan at ddonnellon@ssdlaw.com. If you are interested in having your summer associates or externs participate next year, stay tuned for announcements in May/June 2019.

Finally, for major college mock trial news, make sure to check out the next page! ■

The John W. Peck Chapter Congratulates

MIAMI UNIVERSITY

2018 College Mock Trial

NATIONAL CHAMPION

In April, Miami University defeated Yale at Nationals in Minneapolis to win the 2018 college mock trial national championship. This is Miami's second championship. Out of hundreds of programs, Miami Mock Trial is ranked #1 in the nation.

Our Chapter supports the mission of the American Mock Trial Association, the organization that governs college mock trial. At AMTA's 2018 Opening Round Championship, hosted by the University of Dayton, our Chapter sent a member of the Executive Committee, Kevin Schad, to judge multiple rounds as a representative of our Board. Many of our Chapter's members also volunteered, including Judge Michael Barrett. A significant number of local competitors attend law school here, or return to this area to practice. By supporting college mock trial, we support our next generation of law students and trial lawyers.

Miami coach, Matt Rich of Katz Teller, offered the following statement on behalf of Miami's coaching staff:

"We really wanted to change the culture of the program this year. All year long, we preached character over competitiveness and the good of the team over individual glory. The students completely bought in to what we were trying to do, and the end result was a team that didn't need a lucky break here or there, but made its own luck by being incredibly confident, committed and coachable."

Congratulations to the national champions:

Students

Spencer Campbell
Lizzie Harden
Maria Hooker
Danielle Kunkel
Da'Rya McAllister
Chase Mulholland
Julia Pair
Isabella Seeberg
Chase Shelton
Austin Worrell

Coaches

Neal Schuett
Lawrence Hilton
Gus Lazares
Jaime Glinka
Emily Homel Arnzen
Matt Rich
Ben Sandlin
Alex Block



UC and Chase: Student Division Presidential Introductions



Ashley Ramm

As incoming President of the Federal Bar Association Division at the University of Cincinnati College of Law, I wanted to introduce myself. My name is Ashley Ramm and I am a rising 3L at UC. I am currently a summer associate at Frost Brown Todd LLC. I am excited to lead UC's FBA student division and participate in the Cincinnati/Northern Kentucky-John W. Peck Chapter.

Prior to law school, I earned my bachelor's degree from the University of Toledo. During and after my undergraduate education, I worked as a corporate paralegal for Owens Corning, headquartered in Toledo, Ohio, for three and a half years. Working with fantastic attorneys at Owens Corning solidified my plan to attend law school and desire to become an attorney.

The FBA was one of the first organizations I became interested in, and I joined my first year of law school. I attended many events sponsored by the FBA, including the Pizza Night at Tender Mercies. In the summer following my first year of law school, I clerked for GE Aviation. During my second year of law school, I was elected as UC's FBA Vice President, joined law review, and continued to clerk at GE Aviation.

Being an FBA division executive and member has been invaluable. The networking events I attended have allowed me to develop relationships with both federal practitioners and judges. I look forward to promoting the FBA so that my fellow law students can benefit from the organization as much as I have. This past February, I was lucky enough to attend the FBA Young Lawyers Division Symposium in Las Vegas. This opportunity allowed me to expand my network and meet practitioners throughout the country. Additionally, I participated in the FBA mentorship program, where I was paired with Magistrate Judge Bowman. The FBA truly offers some of the best networking and mentoring opportunities in the Cincinnati legal community, and I can't wait to help contribute to these great experiences. ■



Amber Daniel

My name is Amber Daniel and I am the 2018-2019 President for the NKU Chase Chapter of the Federal Bar Association. Prior to my year as President, I served my FBA division from 2016-2018 as the Vice President, and I am very excited to continue on in my new role. In addition to FBA, I am taking on the role of President of Phi Alpha Delta and Co-Chair of the Energy and Environmental Law Society this year.

I was born in Hopkinsville, Kentucky, which is about an hour North of Nashville, Tennessee. I moved to a few different towns from the ages of 6-10, but Hopkinsville was the only place that really felt like home, so my family returned and I spent my childhood and teenage years in Hopkinsville. As I'm sure you can imagine, Cincinnati is very different from my small hometown in Kentucky. After adjusting to the differences, I've grown to love Cincinnati and look forward to seeing what my future holds here!

Before coming to NKU, I graduated from Western Kentucky University in the spring of 2016 with a double major in Agri-Business and Political Science. While at WKU, I stayed busy with some great extra-curricular activities that included: my sorority, Sigma Kappa; Student Government; and Phi Alpha Delta (Pre-Law Chapter). All of these activities helped to further my interest in becoming an attorney. This is something I've been interested in since the start of my freshman year of high school. I confirmed my interest in attending law school by working for different law offices while completing my undergraduate studies. I achieved my 10 year plan by getting into law school and hope to

TENDER MERCIES



You are invited! Please help provide permanent supportive housing for formerly homeless adults in Cincinnati by attending the Tender Mercies Opening Doors Gala! The Gala takes place on October 6, 2018 at Music Hall at 6:00pm. The evening will begin with a cocktail hour, silent auction, and wine pull. Additionally, guests will enjoy dinner, a live auction, and dancing. For over 100 adults, Tender Mercies provides security 24 hours a day 365 days a year, medication monitoring, meals, laundry, assistance with benefits/income/vocational readiness, job training, computer training, GED/literacy building, living skills (hygiene, budgeting, appointment scheduling), counseling, and symptom management. Tickets can be purchased [here](#). ■

VOLUNTEERS NEEDED

Even if you cannot attend the Tender Mercies gala, please consider helping in other ways. Tender Mercies transforms the lives of homeless adults by providing security, dignity, and community in a place they call home. On the second Tuesday of every month, 2-3 FBA members show up with a dozen large pizzas, salads and soft drinks for the folks served by Tender Mercies. This important service project was started by Judge Beckwith over ten years ago, and we need fall volunteers! It is a commitment of less than one hour, and the cost is borne by our Chapter. Sign up [here](#).

Chapter Volunteer Opportunities

Civics Liaison:

The Liaison plans and coordinates Chapter activities connected with the FBA's National Civics Initiative, begun in October 2016 under the leadership of Magistrate Judge Michael Newman, in close collaboration with the Administrative Office of the United States Courts. The objective of the Civics Initiative is to increase civics engagement and education; and, fundamentally, to increase public knowledge about the third branch of our government. The Liaison is expected to work closely with local judiciary and U.S. District Court Clerk's office staff, and is encouraged to recruit Committee members to assist with the planning and promotion of civics-related activities.

If interested in serving, contact [Joan Brady](#).

SOLACE Coordinator:

SOLACE provides a way for the FBA legal community to reach out in small, but meaningful and compassionate ways, to FBA members and those related to them in the legal community who experience a death, or some catastrophic event, illness, sickness, injury, or other personal crisis. The Chapter SOLACE Coordinator is the person in charge of discreetly addressing any SOLACE requests received from Chapter members.

If interested in serving, contact [Joan Brady](#).

Newsletter Staff Writer:

We have expanded our newsletter, offering quarterly "extended editions" such as this one. We are seeking staff writers interested in covering Chapter events, and writing recaps for the newsletter. Each staff writer would be responsible for writing one article per quarter.

If interested in serving, contact [Jade Smarda](#).

A: *It was not difficult. That principle was recognized by the Supreme Court 70 years before Obergefell, in the case W. Virginia State Bd. of Educ. v. Barnette, which I cited to in my final order. In fact, I included the following quote from Barnette:*

The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections.

Barnette, 319 U.S. 624, 638 (1943).

Politics, public controversy, and personal beliefs do not dictate judicial rulings. Judges have an ethical obligation to not allow family, social, political, financial, or any other relationships to influence their judicial conduct or judgment. Everyone has personal opinions and beliefs, including judges. But those personal opinions and beliefs should never affect the outcome of cases, nor should they determine the validity of another person's fundamental rights.

Q. Similarly, a consistent theme in all the decisions and briefs associated with this case is this underlying question of whether a judicial decision on the definition of marriage and the legality of same-sex marriage is usurping the democratic process. As a judge, how difficult of a line is it to walk between an individual's need to access the courts to defend their rights and allowing the democratic process to legislate on such a right and to what extent was this a consideration for you?

A. *There are certain rights that are so fundamental to life, to liberty, to dignity, that enforcing those rights cannot be conditioned upon the approval of others. Certain rights are so fundamental that it does not matter if the majority of voters do not approve. It is simply not for them to decide.*

And when the electoral process, or any process, violates those fundamental rights, it is a judge's duty, when called upon, to address the issue. The

notion that judges are 'usurping the democratic process' by striking down unconstitutional laws fails to recognize that, in the first instance, the fundamental rights afforded to every human being in this country "depend on the outcome of no election." ■

reception on the day of the final trial. Special thanks go to Judge Barrett and his law clerk, Jade Smarda, for doing the heavy lifting of organizing this Program and obtaining the judges and jurors. This Program – that WE started – is now being copied by other FBA Chapters.

Finally, I am pleased to report that our Chapter was nominated for two Awards to be presented at the Annual Convention and National Council meeting in New York City next month. We were nominated for Chapter Excellence and, as I am sure you can see, a Chapter Newsletter Award. Thanks to Jade Smarda and Augustus Flottman for all the excellent work on the newsletters, and I hope to report on awards received after I attend the Convention and Meeting in New York.

I hope to have a large turnout for our Annual Meeting and Luncheon when I get to step down as President, September 27, 2018 at the Taft/Center. I promise a couple surprises.■

SOLACE

SOLACE provides a way for the FBA legal community to reach out in small, but meaningful and compassionate ways, to FBA members who experience a death, or some catastrophic event, illness, sickness, injury, or other personal crisis. The FBA's SOLACE initiative is open to all FBA members and those related to them within the legal community— judges, lawyers, court personnel, paralegals, legal secretaries and their families— not just lawyers. If you would like to submit a SOLACE request for help, contact Joan Brady at Joan_P_Brady@ohsd.uscourts.gov.

Joan is our Chapter's SOLACE liaison and will handle all requests discreetly.

alone in the jungles of central Africa, learning how to approach chimps. Thomas Edward Lawrence (“of Arabia”) devised the concept of insurgency while laid up with a fever in a tent. And Abraham Lincoln used solitude to regain his emotional balance after his most painful setback as commander in chief during the Civil War.

But leaders today (along with everyone else) are losing solitude with hardly any awareness of the fact. “If I was to sum up the single biggest problem of senior leadership in the Information Age, it’s a lack of reflection,” says retired four-star Marine Corps General James Mattis. “Solitude allows you to reflect while others are reacting. We need solitude to refocus on prospective decision-making, rather than just reacting to problems as they arise. You have some external stimulus, then you go back to your experience, your education, and you see what needs to be done.”

These days that kind of reflection takes a conscious effort. For if an essential element of solitude is mental isolation, its antithesis is accessibility; and the minds of our leaders today are accessible as never before. The point hardly needs elaboration: e-mails, texts, tweets, and the rest, not to mention the Internet itself, all swarm about us with input from other minds. There are benefits to that phenomenon—some of the bites, so to speak, are salutary—but for leaders especially, there ought to be a lot more screened-off areas than there are now.

Yet there are ways to overcome all these obstacles. Some ways are simple: productive solitude is found as easily in the interstices of life as in its wide-open spaces. Driving on a highway, sitting in a waiting room, and dressing for work are all good times to think. Other ways require more discipline. A leader can mark off sixty minutes on her calendar each day for time to think. A leader can make it known that he does not text, and checks his e-mail only intermittently or at certain points in the day. A leader can designate weekends as periods for no work-related e-mails to be sent at all. Or better yet a leader can do all these things.

Solitude allows a leader to identify his first principles and then to stay connected with them. Those principles are the wellspring of all the benefits that solitude provides: clarity, creativity, emotional balance, and moral courage. A leader out of touch with his first principles will eventually run short of all these things. With a lack of direction internally, he will become directed externally. He will find himself governed by optics. He will have an uneasy awareness of a gap between what he thinks he believes, and what he in fact chooses to do. And when others see the gap—when they say he is phony or hypocritical, and discount his leadership accordingly—he will have nothing to draw upon inside.

An authentic leader finds herself on different ground altogether. A

leader who identifies her first principles, and then periodically measures her actions against them, is likely to act in accordance with them. That kind of leadership is inner-directed; and an inner-directed leader is unlikely to be diverted by moral criticism or praise. That is not to say a leader should be close-minded. For the leader who has reflected deeply on her first principles, however, the criticism or praise that ultimately matters most is her own.

It is only this kind of leader—clear, balanced, courageous—who truly leads. ■

Raymond M. Kethledge is a judge on the United States Court of Appeals for the Sixth Circuit. Michael S. Erwin is a three-tour combat veteran and the founder of a veteran-support nonprofit, Team Red White & Blue, as well as the CEO of the Character and Leadership Center and the president of the Positivity Project. Together they are the co-authors of Lead Yourself First: Inspiring Leadership Through Solitude, published by Bloomsbury.

These cases offer significant clarity on filing documents under seal: it's an uphill battle. In light of the judicial attentiveness to the requirements for sealing records, litigants must plan ahead if they expect to seek leave to seal any portions of exhibits, depositions, or briefs. This relief should be sought meaningfully in advance of any deadlines, particularly dispositive motion deadlines, and parties should fully explain in their requests for leave why the requested sealing is proper under the *Shane Group* standard and Sixth Circuit law. Movants must provide detailed analysis on a document by document—or for depositions, line by line—basis and then outline how the proposed sealing is narrowly tailored. Litigants should also be prepared to address why their requests for sealing are the least restrictive method possible (e.g., redacting information versus completely sealing a document from public view). While courts have provided some creative solutions to allow, at times, temporary sealing to accommodate certain deadlines and case events, litigants should not expect flexibility in every case, and should be prepared in advance to meet their burden of showing the propriety of sealing under *Shane Group*.■

¹ *Shane Grp., Inc. v. Blue Cross Blue Shield of Mich.*, 825 F.3d 299 (6th Cir. 2016).

² *Id.* at 306.

³ *Id.* quoting *Brown & Williamson Tobacco Corp. v. FTC*, 710 F.2d 1165, 1180 (6th Cir. 1983).

⁴ *Rudd Equip. Co., Inc. v. John Deere Constr. & Forestry Co.*, 834 F.3d 589, 593 (6th Cir. 2016), quoting *Shane Group* at 305.

⁵ *Id.* quoting *Brown & Williamson*, 710 F.2d at 1179.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* quoting *Baxter Int'l, Inc. v. Abbott Labs.*, 297 F.3d 544, 548 7th Cir. 2002).

2. Addressing the Historically High Levels of Judicial Vacancies

At the time of Capitol Hill Day, there were 149 Article III vacancies at the appellate and district court levels, although those numbers have increased more recently to 155 vacancies, with 89 nominations pending. These vacancies are at a historically-high level and constitute approximately 20 percent of the entire judiciary. We reminded the Ohio representatives (particularly the Senators) of the need for swift action by the President and Senate, as these vacancies impede the delivery of justice and efficiency within the federal court system – for persons involved in either criminal or civil proceedings. While the Ohio representatives understood the issue, and the need for prompt action, there did not appear to be any clear path toward expediting the nomination and confirmation process for appellate and district court judicial vacancies.

3. More Judgeships to Address Growing Caseloads

There have been no permanent judgeships added to the federal judiciary since 2002. In fact, while the number of cases filed in district and appellate courts has increased by 38 and 40 percent, respectively, since 1990, there has been only a 4 percent increase in judgeships in over 28 years. We informed the Ohio representatives that the FBA supports the recommendations of the Judicial Conference of the United States, by adding five judgeships at the appellate level and 52 judgeships at the district level. Understandably, this issue of creating new judgeships is overshadowed somewhat by the

large number of vacancies for current judgeships. But, the need for new permanent judgeships is critical, even in the shorter term, for certain courts that have a very high caseload, including the Eastern District of Texas, the Western District of Texas, the Eastern District of California, the Southern District of Indiana, and the Southern District of Florida.

4. Establishment of an Article I Immigration Court

The FBA, since 2003, has encouraged Congress to establish an Article I United States Immigration Court to replace the Executive Office for Immigration Review ("EOIR"). The EOIR is part of the Department of Justice, and is responsible for adjudicating immigration cases. The FBA has proposed legislation to establish an Article I immigration court (a copy of the FBA's proposed legislation can be accessed [here](#)). We discussed the FBA's view that the current immigration system is broken and in need of a massive change, as the current system has a substantial backlog of cases, uses outdated technology (or, at times, paper filings only), and ineffectively manages cases. The Ohio representatives were receptive to the FBA's proposal that relates principally to immigration procedures within a new Article I court, particularly as the Ohio representatives (and other lawmakers) are engaged in evaluating substantive immigration issues.

In sum, the FBA has established a strong relationship with many members of Congress, due in large part to the thoughtful, non-partisan approach that the FBA has taken to address some of the main issues affecting the judiciary.

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Under the leadership of Bruce Moyer, the Government Relations Counsel for the FBA, the efforts from Capitol Hill Day are one small component to help maintain and enhance this relationship with Congress, while providing members of Congress with specific information about the key issues affecting the judiciary.

If an event like Capitol Hill Day is of interest to you, then consider getting more involved in our Chapter and potentially joining our Chapter's Board of Directors; historically, our Chapter's Board will send a couple Board members to represent our Chapter (and the FBA) each year at the FBA Capitol Hill Day. ■

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complete my 15 year goal by passing the bar and becoming a practicing attorney. I currently work as an intern for the City of Cincinnati with the Prosecutors section.

Our FBA executive board for Chase is very excited for the upcoming year. In the coming year, we plan to first and foremost make sure our members understand all of the opportunities available to them through the John Peck Chapter. I would like to see more law school participation in the lunch with a judge program, mentorship program, and volunteering at Tender Mercies. I personally have had the opportunity to participate in lunch with a judge and have volunteered at Tender Mercies; I found them both to be incredibly beneficial opportunities, and enjoyed both as excellent networking experiences. I believe other students can also benefit from these programs in similar ways. I also have a wonderful mentor, Judge Karen Litkovitz, who I met through the mentorship program. I think this program is a great opportunity for law students to get to know legal professionals and have the opportunity to ask questions.

I am looking forward to this coming year! We have a wonderful FBA executive board eager to serve for the 2018-2019 school year. We are already planning to have our normal two-part networking series in the fall. We will begin this networking series with a panel of legal professionals who will explain the dos and don'ts of networking. We will end the series with a social

hour designed to let our chapter members use the information they've obtained to network with our professors and deans. In the spring, we have a networking event planned where we invite judges and local attorneys to network with our students. Our FBA executive council is pushing to make this an even bigger event. We want to make this more accessible for judges and attorneys to attend, and hope to have a larger turn out than in past years. ■

commitment to excellence in education, professionalism and service.

For thirty years, SWEL has worked to provide African American high school and college students, with serious interests in law, the opportunity for exposure to and understanding of the legal profession. SWEL's network has grown with law firms, federal and state judges, the legal departments of municipalities, corporations, and non-profit organizations and law schools. Annually, the program serves approximately 30-35 Scholars, who may remain in the program through their college graduation. SWEL activities also take the Scholars on an annual tour of law schools, rotating its annual visits between the schools in the Tri-State area of Ohio, Kentucky, and Indiana and other states. To date, SWEL has visited schools as far away as Michigan, Georgia, and the Washington D.C./ Maryland area. During the tour, Scholars learn more about the law schools' academic regimen, application process, journals, and clinical programs. The Scholars also get a chance to meet with the schools' deans, professors and other staff, and students. One year, I had the pleasure of personally chauffeuring approximately eleven Scholars to visit the law schools in and around Washington, D.C. and Maryland. While serving as a chauffeur is far from my daytime job and true professional love, the trip fit

perfectly within the essential mission of SWEL because one of the Scholars, albeit admitted to Georgetown University Law Center and awarded a very significant academic scholarship, did not have the financial means to visit the law school before classes began. I am proud to say that the SWEL Scholar (now Georgetown Law alumnus) is a well-established attorney, practicing in one of the best law firms in the United States. In addition, a number of the other Scholars on the trip have gone on to graduate from various law schools and become involved in the legal profession.

SWEL Scholars have also held international internships for global exposure to the practice of law. They have interned with the Supreme Courts of Bermuda and Botswana, and with the United Nations in Costa Rica. This is another reason why SWEL is one of the premier pipeline legal enrichment programs in the nation.

Although SWEL began in Cincinnati, through the assistance of a number of federal judges, the Ohio Second District Court of Appeals, the Cincinnati/Northern Kentucky-John W. Peck Federal Bar Association and the Dayton Federal Bar Association, the program has grown and firmly established itself in Dayton and Columbus. The City of Hamilton, Ohio also hosts a SWEL Scholar annually in its legal department. Presently, the vision is for SWEL to have an increased footprint throughout the State of Ohio within the next

few years stretching from Cincinnati to Cleveland. However, two years ago, the Sixth Circuit Court of Appeals began hosting a SWEL Scholar, causing me to re-evaluate whether SWEL may also take on a Circuit-growth perspective through our federal courts, as well as, a State of Ohio, city-by-city model.

SWEL appreciates all of the assistance it has received from the FBA's Cincinnati and Dayton chapters. The chapters truly embrace the FBA's Diversity Statement that, "achieving diversity in the legal profession requires the Association's continued effort and commitment." The chapters have hosted SWEL Scholars on tours of the federal courthouses, networking events with their Young Lawyers Divisions, and allowing Scholars to serve as witnesses during FBA mock trials. In addition, individual members of the chapters have championed the FBA's commitment to diversity through mentoring SWEL Scholars without any request from the program facilitators. In 2015, the Cincinnati Chapter voted unanimously to become a named supporter of SWEL, making a significant contribution to our mission.

SWEL survives on a modest budget and we appreciate every individual, group, or entity that has financially supported the program. Although the Scholars are paid directly by the private employers, SWEL subsidizes the

Member Anniversaries

Col. Linda Strite Murnane

Col. Murnane (U.S. Air Force, Retired) has been a member of our Chapter for 20 years. A graduate of the University of Cincinnati College of Law, Col. Murnane served for several years as Chief, Court Management Services Section for the Special Tribunal for Lebanon in Leidschendam, The Netherlands.

Thank you for twenty years of membership!

Stephen Schilling

Stephen Schilling has been a member of our Chapter for five years. A graduate of the University of Dayton School of Law, Mr. Schilling clerked for the Hon. Michael Barrett in the United States District Court for the Southern District of Ohio before entering private practice at Strauss Troy.

Thank you for five years of membership!

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internships for the state and federal judiciary and the non-profit entities. In addition, we are fortunate that people volunteer as speakers to educate the Scholars during their Friday, academic sessions; their additional assistance is invaluable. The Scholars give back to the community as well through volunteerism and fundraising for worthy causes chosen by them. For instance, they have supported the Freestore Foodbank, Cincinnati Ronald McDonald House, Lighthouse Youth Services, Boys & Girls Club of Greater Cincinnati, BLAC Avondale-Bond Hill Legal Clinic, and a book fund at the University of Dayton in honor of a colleague who passed away.

I would be remiss if I did not recognize our Board members for the tireless efforts and dedication to the program: Renee S. Filiatraut; Charles Ashdown;

Kimberly S. Amrine; Honorable Susan J. Dlott; Natalia Harris; Bryce A. Lenox; Barbara McFarland; Tifanie R. Owens; J. Phenise Poole; Calvin S. Tregre, Jr.; Nathan Waller; Bernice Walker; and, Alexandra Walters. You will not find a greater group of people in Cincinnati who are committed to establishing and sustaining diversity in the legal community.

As you can tell, I cannot thank people enough who support SWEL, and ultimately seek to ensure true diversity in the legal profession. On October 6, 2018, at the Renaissance Hotel in downtown Cincinnati, from 6:30 to 11:00 p.m., SWEL will be celebrating its 30 years of existence and I would like to invite everyone who supports and believes in diversity in the legal profession to attend. Please contact Zand Walters at Zwalters@me.com or LaDonna Wallace Smith at Lwsmith@Cincybar.org for registration information. ■

Future Editions

If interested in joining the Newsletter Committee, or submitting content for future issues, email

Jade_Smarda@ohsd.uscourts.gov

Jade Smarda,
Chair and Editor-in-Chief

Augustus Flottman,
Substantive Content Editor

Social Media

Remember that you can also get up-to-the-minute information about Cincinnati/Northern Kentucky FBA events, newsletters, and CLE opportunities by following us on Twitter (@FBACinciNKY), liking us on Facebook, and accepting our LinkedIn invitation.

FBA Blog

Follow the Federal Bar Association's blog [here](#).

Membership

Membership in the FBA provides attorneys with unique relationship-building and skills-building opportunities, including (1) multiple networking opportunities with federal judges and other federal-court litigators; (2) unique CLE opportunities that provide a greater understanding of practice in federal court, particularly in the Southern District of Ohio and the Eastern District of Kentucky; (3) an annual "Judges Night Dinner" and two annual lunches featuring outstanding keynote speakers; and (4) "Lunch with a Judge" events where our federal judges individually host a small group of FBA members in their chambers for lunch and conversation.