

# AMERICAN COLLEGE OF TRIAL LAWYERS

## PRESIDENT'S REPORT



John J. "Jack" Dalton

PRESIDENT

2008 – 2009

## **President's Report 2008-2009**

59<sup>th</sup> Annual Meeting  
Boston, Massachusetts  
October 8 - 11, 2009

It has been an extraordinary opportunity and unique privilege to serve as your 59<sup>th</sup> President. Thank you for this very high honor.

After taking office in Toronto last fall, Marcy and I have been warmly welcomed by Fellows and their spouses in 42 cities in 40 states and provinces. This almost weekly travel schedule allowed us to absorb the breadth and richness of our continent, and permitted us to experience the fullness of our fellowship. We can report that the College is thriving and our bonds remain strong.

Our year began with the Eastern and Western Chairs Workshops conducted by your Officers and Regents. These 3 day weekends provide the opportunity for our Committee leaders to learn more about what is expected of them and their committees, to offer and receive ideas about how to improve the conduct of the business of the College and, perhaps most importantly, to get to enjoy each other's company even more. The

commitment of time and College resources to these workshops has resulted in better candidate selection by state and province committees and significantly improved the nomination packages being sent up to the Board of Regents for review. Work project ideas for our general committees often begin and are developed at these workshop sessions as well.

Our state and province committees have worked successfully throughout this year on their most important task – identifying and screening worthy candidates for Fellowship. The Board of Regents considered 116 candidates at its 2009 Spring Meeting in Puerto Rico (approving 90), and will consider 122 more at this Annual Meeting in Boston. I encourage all Fellows to please be in touch with your state or province Committee members when you identify a trial lawyer you have encountered or learned about who might be a good candidate for consideration as a Fellow. The obligation to find qualified candidates rests with each of us, not just our local Committee members.

But the work of state and province committees did not stop with preparing nominating packages. This year state and province

committees helped enlist more Fellows than ever to serve as Judges for the College's regional Moot and Trial competitions in both countries. Almost all committees planned local social or business meetings of their Fellows. More state and province committees than ever conducted local seminars on how to try a case for new and inexperienced prosecutors, public defenders, Legal Aid and pro bono agency lawyers. These welcomed and successful programs for currently financially restrained public interest lawyers demonstrates the commitment of our Fellows to give back to our segment of the Bar where and when needed.

The energy of our Fellows was not only expended locally, it was also spent doing the work of our General Committees and our special task forces. These working groups each have stated missions, and they create and craft the positions to be reviewed by the Board of Regents for approval. Let me mention a few of the projects completed and advanced this past year.

- Our Legal Ethics and Professionalism Committee, under the leadership of Fellow Randy Sellers, and with the editing pen of Treasurer Greg Joseph, completed a revision and consolidation of

the College’s earlier Codes into our recently Board of Regents approved new “Code of Pretrial and Trial Conduct”. The College’s Codes of the past have been accepted for decades by the judiciary, academia, and respected trial lawyers as the standards to be followed when seeking to elevate the conduct of trial practitioners. This newer aspirational version will, no doubt, be similarly received and appreciated. We are fortunate that Chief Justice John G. Roberts, Jr. of the Supreme Court of the United States has authored its introduction.

- Our Complex Litigation Committee, under the leadership of Fellow George Pappas, has completed its handbook, “Anatomy of a Patent Case”, which has been published in cooperation with the Federal Judicial Center and distributed to every U.S. Federal District Court judge. It will also be released for public sale by publisher BNA this month.
- Our Federal Rules of Evidence Committee, under the leadership of Fellow Mark Aronchek, has commented to the Judicial Conference

Advisory Committee concerning the restyling of the Federal Rules of Evidence.

- Our Jury Committee, under the leadership of Fellow Mike Smith, has cooperated with the Federal Judicial Center to author and produce a teaching DVD on “Judicial Demeanor and Courtroom Control Practices,” featuring Fellows as actors, to be used in the Center’s education programs for all new federal judges. Also, this committee continues to seek wider awareness of the risks associated with the decreasing frequency of jury trials in our U.S. Courts.
- Our Access to Justice Committee functions in both the U.S. and Canada under the leadership of Fellows Guy Pratte and Jim Wyrsh, and continues to identify cases in both nations for indigent or public interest litigants that are of such significance or importance as to require the help of volunteer Fellows as experienced trial counsel.
- Our Discovery Task Force, under the leadership of Fellow Paul Saunders, received Board of Regents approval to publish its

provocative Final Report, prepared in cooperation with the Institute for the Advancement of the American Legal System, which details their investigation into the impact of the current system of discovery on the delay and expense of civil cases in U.S. courts. The Discovery Task Force is proposing for discussion and study a new set of principles that might shape solutions to the identified problems. The Discovery Task Force has received Board of Regents' approval to now proceed to test many of its principles within pilot projects at cooperating court systems around the country.

- Our Special Problems in the Administration of Justice – Canada Committee, under the leadership of Fellow Phyllis Smith, has prepared and is now distributing throughout Canada a special Code of Conduct for Canadian trial lawyers when dealing with self represented litigants.
- Our National Trial, Moot Court, and Canadian Competitions Committees under the leadership of Fellows David Kott, Doug Farnsley, and Ken McCullough completed four highly successful

regional and final competitions in cities across the continent. I was privileged to attend and participate in three of the four final competitions and also to participate when the competition winners were recognized in their law school's region at local Fellow's events.

- Our Canadian Essay Competition Committee, under the leadership of Fellow John Barry, successfully concluded its project for Canadian law students to submit essays on the topic, "Freedom of Religion in a Multi-Cultural Society", and awarded \$15,000 in prizes to the top two competitors.
- Our Emil Gumpert Award Committee, under the leadership of Fellow Bill Kayatta, presented its \$50,000 gift, funded with the cooperation of the College's Foundation, recognizing the programs of Pro Bono Ontario – the first Canadian recipient of our College's largest award.
- Our Teaching of Trial and Appellate Advocacy Committee, under the leadership of Fellow Jim Virtel, produced and published a splendid 3 hour DVD program with supporting materials on

improving written advocacy skills that is available to all Fellows for use at CLE, Inns of Court or law firm events.

- Our Federal Civil Procedure Committee, under the leadership of Fellow Chris Kitchel, has commented to the Civil Rules Advisory Committee for the U.S. Judicial Conference on rules impacting subpoenas, summary judgment and protective orders.

These are only some of the many accomplishments and efforts of our Fellows over this past year, and only space prevents my relating more to you. All Fellows need to be grateful for the efforts of our colleagues serving the College. Additional accomplishments and efforts by Fellows will continue since many still unselfishly offer their time, counsel and skills to further the work of the College and our Fellowship.

Despite this commitment by Fellows, little could be accomplished by the College without the leadership of our Executive Director Dennis Maggi and his staff – Ann Walker, Natalie DeWitt, Suzanne Tavares, Brenda Bates, Mary Whitney, Scott Bryan, Sue Dvorak, Lindsey Mayfield, and Cheryl Castillo. To each of you, please know that Marcy and I are especially grateful for your attention to making this year go so

well for us. These wonderful people are all dedicated to the College and to its Fellows. I hope you will get to know them better at this meeting and afterwards. Special note must be made that Natalie DeWitt will be retiring at the end of this year after 17 years of loyal service to the College. Natalie, we wish you great success, and we will all miss your smiling face.

I am very proud to have served with a hard working and most effective Executive Committee. Mike Stout, Joan Lukey, Greg Joseph, Tom Tongue, and Chilton Varner have all been willing to make themselves and their judgment available to me and to the College at almost any time, of any day, as we went about the year. Thanks to each of you for your wisdom, dedication, and for making sure I did not get into too much trouble!

I began this year committed to maintain our high standards on admissions, and I believe we have. I was committed to maintain the enjoyment of being together by keeping distance between the College and policies or issues that can create discord within our fellowship, and I believe we have. I had an objective that we should continue to use our

respected voice sparingly and only when essential, and I believe we have.

I am perhaps the only one who understands how much Marcy has meant to both me and to the College over this past year. She arranged her life to complete 36 trips with me, charmed everyone she met along the way, imparted her wisdom when needed to keep me on message and on schedule, and repeatedly laughed at the same old jokes and stories.

Thank you Dear.

Marcy and I will both remember this special year as one in which we had an opportunity to give back a bit to a College that has given so much to us since 1985. We were fortunate to again be with friends met through the College over the years. We have been blessed to make and enjoy the company of new friends. And perhaps most significantly, we have realized over and over again that we are a part of the most worthwhile professional organization imaginable!

We look forward to being with you all again in Palm Desert in March.