

THE BULLETIN

NUMBER 24

SUMMER

1996

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Pictured above are Roberta Cooper Ramo (L), President, American Bar Association; Charles B. Renfrew (C), ACTL President and Gordon F. Proudfoot (R), President, Canadian Bar Association.

ACTL Supports NCDA

By John L. Hill, Jr.

One of the most important ongoing programs of the American College of Trial Lawyers is to provide support for the National College of District Attorneys (NCDA). The NCDA was organized in 1969 as a result of the report of President Johnson's Commission on Law Enforcement and Administration of Justice. In addition to the American College of Trial Lawyers, the NCDA had the support of the ABA, the International Academy of Trial Lawyers and the National District Attorney's Association. The initial guiding force for the NCDA was provided by the late Leon Jaworski, FACTL of Houston, Texas, a Past President of the American College of Trial Lawyers, and Carol Vance, FACTL of Houston, Texas, who was then the District Attorney in Houston.

When the NCDA was organized, the University of Houston invited it to establish its

multi-disciplinary program of the NCDA. In 1991, NCDA realized that more and more prosecutors were requesting that it include the prosecution of domestic violence cases in its curriculum. After discussing the possibilities with prosecutors around the country, it was concluded that the presentation of a course on domestic violence for prosecutors only would have little impact on the domestic violence problem. Although many still believe that domestic violence is a "personal" crime, most now realize that as our society becomes increasingly violent, domestic violence must be dealt with differently than it has been in the past. Whether it is a symptom or a cause of violence in our society, it is not a problem that can be dealt with by prosecutors alone. Therefore, the conferences have been attended by not only prosecutors, but also judges, law enforcement officers, probation officers and

"Until the founding of the NCDA, there was no institution in existence that was devoted exclusively to providing continuing education to the nation's prosecutors."

headquarters at the university's newly completed law school complex, and the first course offering, the Career Prosecutor Course, was presented during the summer of 1970. The course is still part of the curriculum and approximately 200 prosecutors from all across the country attend the two week long Career Prosecutor Course presented on the campus of the University of Houston each summer. This intensive course concentrates on improving trial advocacy skills by emphasizing substantive case analysis and ethical standards rather than just technique.

Between 1970 and 1995, the number of courses presented by the NCDA increased from one to 21. Over 50,000 prosecutors and related disciplines have attended NCDA courses. In 1996, NCDA will present courses in 18 different cities across the country on subjects ranging from forensic evidence to government civil practice and from trial advocacy to domestic violence.

This year will be the sixth year that the NCDA has held a National Conference on Domestic Violence. This is the only completely

victim advocates. The reaction to these conferences has been overwhelming. The participants have been able to discuss the domestic violence problem with participants from other disciplines, facilitating a better understanding of the problem and potentially leading to better solutions.

Not only has the number and variety of courses changed over the years, but the teaching methodology has also undergone extensive updating. Some courses are presented in workshop format, others are a mix of workshops, lectures and demonstrations, and others involve practice exercises.

The prosecutor today heads a team that includes investigators and scientists who help develop and prepare the cases for presentation at trial. The entire team must be familiar with genetics, biology, physics, chemistry, psychology, and computer skills. Although DNA has received much public attention recently, new discoveries and techniques are developing daily in each of these scientific areas. The NCDA trains prosecutors to lead the team intelligently and ethically.

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American College of Trial Lawyers
THE BULLETIN

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(1895-1982)

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ACTL NEWS UPDATE

Fellows Appointed to the Bench

We are pleased to announce that the following Fellows have gone to the Bench.

Carol S. Ball, formerly of the law firm of Brody, Hardoon, Perkins & Kesten of Boston, Massachusetts, was sworn in as Massachusetts Superior Court Judge on February 14, 1996.

John T. Broderick, of Concord, was recently appointed by the Governor of New Hampshire as Justice of the New Hampshire Supreme Court.

Barbara S. Jones, of New York City, was recently inducted as Judge of the United States District Court for the Southern District of New York.

Benjamin Lerner, formerly of the law firm of Dilworth, Paxson, Kalish & Kauffman LLP of Philadelphia, Pennsylvania was sworn in as Judge of the Court of Common Pleas of the First Judicial District on June 6, 1996.

James M. Moody, of Little Rock, has been appointed as a United States District Judge for the Eastern District of Arkansas.

Jed S. Rakoff, of New York City, was recently inducted as Judge of the United States District Court for the Southern District of New York.

James Allen Stotler, of Newport Beach, was recently appointed by the Governor of California as Judge for the Central Orange County Judicial District.

In the future the College will make announcement of the Fellows who go to the Bench. Please forward such information to the National Office of the College in Irvine, California.

Roster Information

In converting the College's data base information to our current computer system there were a few Fellows who's information was either not listed or listed incorrectly in the 1996 Roster. We apologize for this error and have listed their correct information below.

Robert P. Chaloupka

Van Steenberg, Chaloupka, Mullin, Holyoke,
Pahlke, Smith, Snyder, Hofmeister
1904 1st Avenue (69363)
P.O. Box 1204 (69363-1204)
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Philadelphia, Pennsylvania
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San Diego Site for 1996 Annual Meeting

The 46th Annual meeting of the American College of Trial Lawyers will be held in San Diego, California October 17 - 20, 1996 at the Hyatt Regency San Diego. This will be the first time in 10 years the College has returned to San Diego for a National meeting. The Hyatt Regency San Diego is located on the harbor with close proximity to shopping, the harbor, gaslight historic area and downtown.

The 46th Annual meeting will include presentations of Honorary Fellowships to Sir Andrew Leggatt and Rt. Hon. the Lord Browne-Wilkinson both from Great Britain. President-Elect Andrew Coats is working on an exciting professional program to be held on Friday and Saturday mornings. The following speakers who are invited and confirmed as of this date to address College Fellows are: Joseph Ball, ACTL Past President; William M.

Hoeveler, U.S. District Court Judge; James R. Jones, United States Ambassador and Rya W. Zobel, Director, Federal Judicial Center. Additional speaker have been invited but have not confirmed as yet.

On Friday afternoon an exciting list of optional tours will be offered to registrants. These tours include: San Diego Harbor Cruise; Oceanography Lecture on the beach in La Jolla - Picnic Lunch; Miramar Naval Air Station Tour and Lunch; Photo Caravan Tour of the Wild Animal Park. Registration material will be mailed in July to all Fellows. Please register early as space is limited. Hotel reservations can only be made by using forms provided in the registration packets to be mailed in July. The San Diego meeting promises to be an exciting and informative occasion.

Mark your calendars now!

COMMITTEE NEWS REPORTS

STANDING COMMITTEES

Access to Justice and Legal Services Committee

The most recent Legislation sent to the President funded LSC at \$278 million, and included a list of limitations on the kind of activities that could be funded with LSC dollars, including particularly proscriptions on class action lawsuits. That appropriations bill was vetoed. In the veto message, the President specifically noted that the LSC funding was inadequate. Whatever happens with funding ultimately, it is clear that LSC dollars will not be used on class action lawsuits, no matter how meritorious. This accentuates the need and opportunity for good trial lawyers to undertake or assist with meritorious cases.

Eight State Chairs have appointed individuals to chair Access to Justice and Legal Services subcommittees to undertake pilot programs in their respective states. The Chairs of these pilot programs have been encouraged to make known to at least the state or community legal services organizations, their state or local bars, and perhaps several other organizations serving particular "notch" or "gap" group clientele that the subcommittee might be contacted when potential new litigation or certain aspects of pending litigation require experienced trial counsel. The subcommittee might then identify Fellows who might handle a particular case, support or advise other trial lawyers handling a particular case, or either handle or assist with respect to appellate advocacy.

It is also anticipated that if state and local bars participating in the ABA Access to Justice Initiative identify opportunities particularly suitable to the skills and experience of the Fellows, the state bar might make these opportunities known to the subcommittee.

Should any State Chair be inclined to appoint an Access to Justice and Legal Services Subcommittee, this Committee would be pleased to provide appropriate background information and assistance.

John J. Bouma, Chair

Canada — U.S. Committee

Our Committee has three activities on the go. A subcommittee is at work assessing the cross-border restrictions affecting attorneys travelling between Canada and the United States on business. Questions have been raised about whether inquiries made of attorneys are appropriate, having in mind the confidentiality of client information. It is hoped that we will be able to report on this subject by the Fall meeting.

Secondly, efforts continue to establish a National Trial Competition in Canada patterned after the Texas Young Lawyers' effort. Funding, of course, is a significant problem. Efforts to interest the Canadian Bar Association were frustrated by financial constraints in that organization. Presently we are working on an initiative, which shows very real promise, of involving a Canadian Law School as host locale with sponsorship by the ACTL.

Finally, due to a very special effort made by Fellow Earl Cherniak of Toronto, we expect to have reviewed and "Canadianized" the College's Code of Trial Conduct. The exercise in reviewing it has demonstrated how much we have in common. Smoothing out the differences is now the work of a subcommittee and again it is hoped that this work can be completed soon.

David W. Scott, Chair

Canadian Judiciary Committee

This Committee was formed at the instance of the President, Charles Renfrew, in October, 1995. The Committee reviewed the various issues facing the judiciary in Canada. Those issues include the review of judicial salaries for federally appointed judges (known in Canada as the Triennial Commission); the development of a Judicial Code of Conduct (presently being discussed by a committee of the Canadian Judicial

Council); and the reform of procedures whereby complaints against judges are made in Canada (a subject which is now being reviewed by another committee of the Canadian Judicial Council).

The Canadian Judicial Council is a body established under the federal *Judges Act* and is composed of the Chief Justices and Associate Chief Justices of all the federal courts in Canada. Amongst other things, it is responsible for receiving and dealing with complaints against federally appointed judges.

The Committee has decided that the first issue which it might usefully address is the reform of the procedure for the making of complaints against judges. Enquiries will be made concerning the present status of those procedures, and the steps currently being taken by the Canadian Judicial Council to examine into and reform those procedures. At the Spring Meeting in Tucson, Arizona, the Committee reviewed the materials which it had assembled by that time.

The Committee met by telephone conference call on February 5, 1996 and again at the Spring Meeting in Tucson, Arizona.

The Committee was mindful of the need to establish the appropriate role for the American College of Trial Lawyers, and its Canadian Judicial Committee, with respect to Canadian judicial and legal affairs. It was felt necessary to ensure that any issues addressed by the Committee should be of broad and consistent concern to all justice systems, whether in Canada, the United States or elsewhere and upon which the views of the ACTL could thereby bring a respected view, after consultation with the Canadian fellowship in the College.

Thomas G. Heintzman, Chair

Emil Gumpert Committee

On January 13, 1996, the Committee met in New Orleans, Louisiana for the purpose of receiving reports, evaluations and recommendations for this year's advocacy program award to be given to one of ten law schools that made application to the American College of Trial Lawyers.

The recipient of the Award receives public recognition at a ceremony established for that purpose. A plaque is presented along with \$50,000 as an unrestricted gift to the law school.

As a result of the deliberations of the Committee, a recommendation was made to the Board of Regents, and then approved the University of Tennessee as the 1996 recipient.

No doubt, the increase of the prize to \$50,000 has encouraged additional law schools to apply. This situation has created a more intense procedure for judging the law schools and their devotion of time, effort and energy to advocacy teaching.

Members of the College are requested to encourage law schools to apply for this prestigious recognition and generous fund.

The extensive application filed by each school is reviewed and on-site evaluations are made by two members of the College and a member of the Committee who makes the presentation to the entire Committee for their consideration and selection of the recipient. The law schools that are not chosen are informed of any program deficiencies that concern the members of the Committee and often an application may be carried over to the next year for further consideration.

The recommendation of the Committee was confirmed by the Board of Regents at the March meeting in Tucson, Arizona and the winning law school will be presented the award on October 4, 1996.

Louis W. Fryman, Chair

Federal Rules of Civil Procedure Committee

The Committee met at the annual meeting of the College in San Antonio for most of the day on September 21, 1995 with 15 Committee members present as well as former and present regent liaisons, Bill Vaughn and Tony Murray, respectively, and our former Chair, Fran Fox of Boston.

The San Antonio meeting dealt with one proposed amendment to the Federal Rules, 26(c)(1) concerning protective orders. We also addressed Rule 26(b)(1) dealing with the scope of discovery and Rule 23 on class actions, current proposed amendments to which are not yet extant.

The San Antonio meeting resulted in our recommendations to the Advisory Committee on Civil Rules that Rule 26(c)(1) permit stipulated protective orders. Our recommendation to the Advisory Committee that the scope of discovery allowed under Rule 26(b)(1) be limited to matters "relevant to the claim or defense of the party seeking discovery or to the claim or defense of any other party" rather than the current broad formulation of "subject matter involved in the pending action."

At our San Antonio meeting, we also had much discussion on Rule 23 on class actions and then our regular liaison to the Advisory Committee, Robert S. Campbell, Jr., of Salt Lake City and our Rule 23 Subcommittee Chair, Evan Schwab of Seattle, attended the Tuscaloosa, Alabama meeting of the Advisory Committee on November 9 and 10, 1995. The College's staff in the Irvine office has also been very helpful in digging through the archives and providing us with previously taken positions of the College on Rule 23. The yet evolving proposed changes to Rule 23 occupied much of the Committee's discussions at our March 26, 1996 meeting in Seattle.

In the meantime, on January 26, the Chair testified before the Advisory Committee on Civil Rules in Atlanta in favor of the proposed amendment to Rule 47(a) making it clear that lawyers in Federal Courts have a right to at least ask questions of jurors to supplement the court's voir dire.

Kenneth J. Sherk, Chair

Federal Rules of Evidence Committee

The Federal Rules of Evidence Committee has submitted to the Board of Regents for its approval a report on the law of evidence in federal sentencing proceedings. The report addresses a number of critical evidentiary issues, including burdens of proof, admissibility of evidence, confrontation rights and hearing procedures, that arise in federal sentencing proceedings under the Sentencing Reform Act of 1984. The report urges that these issues be addressed in a manner that recognizes the significantly more severe sentences that may be imposed under the federal sentencing guidelines when the sentencing court takes into consideration relevant conduct which is not the subject of the defendant's indictment and conviction.

Michael A. Cooper, Chair

Mexico Committee

Following a meeting in Mexico City, Justice Olga Sanchez Cordero of the Mexican Supreme Court was invited to speak at the Tucson Spring meeting. Justice Sanchez Cordero is the first woman to serve on Mexico's Supreme Court. She is a recent appointee of President Zedillo as part of Mexico's overall court reform and modernization movement.

The Committee continues to pursue the idea of preparing a short pamphlet or monograph for distribution to the Fellows, giving some information concerning the Mexican legal system, particularly as it relates to cross-border litigation, arbitration and mediation.

We have added some new members to the Committee, and would welcome others who are interested in Mexico. Members of the Committee continue to develop and maintain informal contacts with lawyers and judges in Mexico.

Philip A. Robbins, Chair

National Trial Competition Committee

The twenty-first annual National Trial Competition was conducted in Houston from March 20 through March 23 under the joint auspices of the College and the Texas Young Lawyers Association. Twenty-four teams of law students, representing 20 law schools, presented a mock trial through six rounds of competition. In the Final Round, the "case" was

tried to a jury of 12 Fellows, with President Renfrew as the presiding judge. That round resulted in a national championship for the team from Chicago School of Law at Loyola and the selection of Jeffrey A. Sobel of that team as Best Oral Advocate.

At the conclusion of Regional Competition, the following teams were selected as National Finalists:

Region I	University of Maine School of Law Suffolk University School of Law
Region II	Brooklyn Law School State University of New York at Buffalo Law School
Region III	Georgetown University School of Law University of Richmond (T.C. Williams School of Law)
Region IV	University of Memphis (Cecil C. Humphreys School of Law) Wake Forest University School of Law
Region V	Stetson University College of Law (2 teams)
Region VI	The Ohio State University College of Law (2 teams)
Region VII	I.I.T. Chicago-Kent College of Law Loyola University-Chicago School of Law
Region VIII	Washington University School of Law University of Iowa College of Law
Region IX	University of Houston Law Center South Texas College of Law
Region X	University of Denver College of Law University of Washington School of Law
Region XI	Loyola Law School (Los Angeles) (2 teams)
Region XII	Temple University School of Law (2 teams)

In Houston, all 24 teams participated in the first three rounds. After Round Three, the eight teams with the highest rankings were selected to proceed to the Quarter-Final Rounds. The eight teams which advanced to the Quarter-Final Rounds were:

1. Wake Forest University School of Law
2. South Texas College of Law
3. Stetson University College of Law (team one)
4. Stetson University College of Law (team two)
5. Loyola University - Chicago
6. The Ohio State University College of Law
7. Loyola University - Los Angeles
8. Temple University School of Law

Loyola (Chicago), Loyola (Los Angeles), Stetson and South Texas advanced to the Semifinal Rounds and Loyola (Chicago) and South Texas met in the Finals.

At the Awards Banquet on the evening of March 23, President Renfrew and Mike King, the Regent for the National Trial Competition Committee, presented Lewis Powell Medallions to each of the students who reached the National competition. In addition, the members of the championship team will attend the College's Annual Meeting in San Diego this fall to receive the Eidman Award. The George A. Spiegelberg Award will be presented to Mr. Sobel as Best Oral Advocate at that meeting.

David S. Cupps, Chair

Professionalism Committee

The Professionalism Committee currently has two major projects underway, either one of which should have a significant impact upon the widely noted decline in civility and professionalism among lawyers.

The first is an effort, which has already borne fruit, to enlist clients in a campaign to persuade retained counsel (or, if need be, to instruct them) that disrespect and incivility toward the bench and adversary counsel deserve the client's interest. Committee member Bill Montgomery, Vice President and General Counsel of the State Farm Mutual Automobile

ACTL CALENDAR OF EVENTS

STATE MEETINGS 1996

August 16-18, 1996

IOWA Fellows Meeting
Eagle Ridge Inn and Resort
Galena, IL

October 5-6, 1996

KANSAS Fellows Dinner/Breakfast
The Ritz Carlton
Kansas City, MO

November 15, 1996

OREGON Fellows Annual Dinner
Benson Hotel
Portland, OR

December 6, 1996

MISSISSIPPI Fellows Dinner
Jackson, MS

December 7, 1996

LOUISIANA Fellows Dinner
New Orleans, LA

1997

January 31-February 1, 1997

VIRGINIA Annual Black Tie Dinner/Brunch
Commonwealth Club
Richmond, VA

February 27-March 2, 1997

NORTH & SOUTH CAROLINA Fellows Annual Meeting
The Cloister
Sea Island, GA

REGIONAL MEETINGS 1996

July 28-30, 1996

Northwest Regional Meeting
Skamania Lodge
Stevenson, WA

1997

April 17-20, 1997

MICHIGAN, OHIO, KENTUCKY AND TENNESSEE Regional Meeting
Hyatt Regency Hotel
Lexington, KY

April 24-27, 1997

Southwest Regional Meeting
Spanish Bay
Pebble Beach, CA

1998

July 19-21, 1998

Northwest Regional Meeting
Salishan Lodge
Glenden Beach, OR

1999

August 1-5, 1999

Northwest Regional Meeting
Coeur d'Alene Resort
Coeur d'Alene, ID

NATIONAL MEETINGS 1996

October 17-20, 1996

ACTL ANNUAL Meeting
Hyatt Regency
San Diego, CA

1997

March 20-23, 1997

ACTL SPRING Meeting
Boca Raton Resort & Club
Boca Raton, FL

September 7-10, 1997

Optional Pre-Meeting Conference
Hyatt Regency
Vancouver, British Columbia
Canada

IF YOU WOULD LIKE MORE
INFORMATION ABOUT ANY OF
THESE MEETINGS PLEASE CALL
THE ACTL NATIONAL OFFICE.

(714) 727-3194



September 11-14, 1997

ACTL ANNUAL Meeting
The Westin Hotel
Seattle, WA

1998

March 19-22, 1998

ACTL SPRING Meeting
Marriott Desert Springs
Palm Desert, CA

October 29 - November 1, 1998

ACTL Annual Meeting
London, England

November 2-4, 1998

Optional Post Meeting Conference
Rome, Italy

1999

March 11-14, 1999

ACTL SPRING Meeting
The Ritz-Carlton
Naples, FL

October 28-31, 1999

ACTL ANNUAL Meeting
Philadelphia Marriott
Philadelphia, PA

2000

March 16-19, 2000

ACTL SPRING Meeting
The Ritz-Carlton
Kapalua, Maui, Hawaii

October 26-29, 2000

ACTL ANNUAL Meeting
JW Marriott
Washington, DC

OTHER MEETINGS 1996

October 13-16, 1996

Board of Regents Meeting
The Ritz-Carlton
Laguna Niguel, CA

October 31-November 3, 1996

EASTERN CHAIRS WORKSHOP
The Grove Park Inn Resort
Asheville, NC

November 21-24, 1996

WESTERN CHAIRS WORKSHOP
Meadowood
St. Helena (Napa Valley), CA

1997

January 17-18, 1997

Emil Gumpert Award Committee Meeting
Windsor Court Hotel
New Orleans, LA

January 27-30, 1997

ANNUAL NATIONAL MOOT COURT COMPETITION FINAL ROUNDS
The House of the Association of the Bar of the City of New York
New York, NY

March 16-20, 1997

Board of Regents Meeting
Boca Raton Resort & Club
Boca Raton, FL

1998

March 15-19, 1998

Board of Regents Meeting
La Quinta Resort and Club
La Quinta, CA

1999

March 7-11, 1999

Board of Regents Meeting
The Ritz-Carlton
Naples, FL

October 24-28, 1999

Board of Regents Meeting
Philadelphia Marriott
Philadelphia, PA

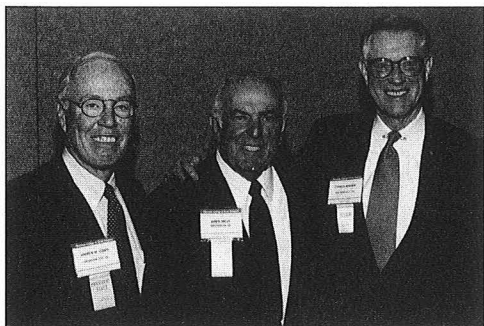
2000

March 12-16, 2000

Board of Regents Meeting
The Ritz-Carlton
Kapalua, Maui, Hawaii

October 22-26, 2000

Board of Regents Meeting
JW Marriott
Washington, DC



Pictured above are Andrew M. Coats (L), ACTL President-Elect; Honorable Abner Mikva (C), Chief Judge, District of Columbia Circuit and Charles B. Renfrew (R), ACTL President.

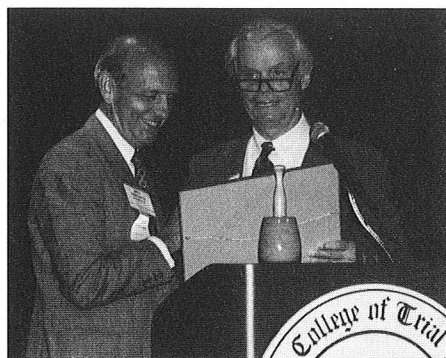
1996 Spring Meeting Highlights



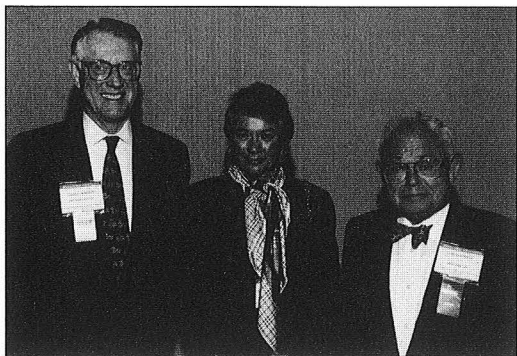
National Moot Court Competition winning team members from Emory University School of Law, Atlanta, Georgia Chris Roblyer (L), Angela Edwards (LC), Regent Jerome J. Graham, Jr.(RC), and winning team member Ted McCullough (R), Angela Edwards was presented with the Best Oral Advocate Award.



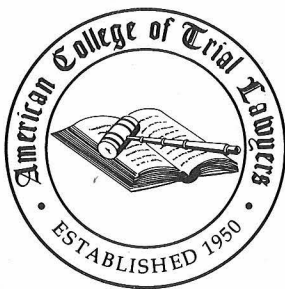
The Honourable Charles D. Gonthier (L), Associate Justice, Supreme Court of Canada was presented with Honorary Fellowship in the College by Ralph I. Lancaster Jr. (R), ACTL Past President at the 1996 Spring meeting held in Tucson, Arizona.



The Honorable Stephen Breyer (L), Associate Justice, Supreme Court of the United States is presented with Honorary Fellowship in the College by Gael Mahoney (R), ACTL Past President at the 1996 Spring meeting held in Tucson, Arizona.



Charles B. Renfrew (L), ACTL President is pictured with Honorable Olga Sanchez Cordero de Garcia (C), Justice, Supreme Court of Mexico, Mexico City, Mexico and Leon Silverman (R), ACTL Past President.



Andrew M. Coats (L), ACTL President-Elect is pictured with Senator Orrin G. Hatch (C), Chairman, Senate Judiciary Committee and Charles B. Refrew (R), ACTL President. Senator Hatch addressed members of the College at this years Spring meeting.

NEW FELLOWS INDUCTED AT 1996 SPRING MEETING IN TUCSON, ARIZONA

The College welcomes the following Fellows who were inducted into Fellowship at the 1996 Spring Meeting in Tucson, Arizona

ARKANSAS

G. Alan Wooten
Fort Smith

CALIFORNIA

William Alsup
San Francisco
Gary S. Anderson
San Francisco
Clayton E. Clement
Santa Rosa
Charles R. Keller
Monterey
Thomas J. Nolan
Palo Alto
John M. Ottobon
San Jose
John M. Poswall
Sacramento
Marcus S. Topel
San Francisco
James S. Bright
Glendale
R. J. (Jerry) Coughlan, Jr.
San Diego
Raymond C. Fisher
Los Angeles
E. Lee Horton
Los Angeles
James D. Nichols
Burbank
John J. Swenson
Los Angeles
John D. Vandeveld
Los Angeles

COLORADO

Jane Michaels
Denver

CONNECTICUT

William H. Clendenen, Jr.
New Haven
Paul E. Pollock
Bridgeport
Richard C. Tynan
Hartford

FLORIDA

Charles W. Arnold, Jr.
Jacksonville
Charles H. Baumberger
Miami
Jean A. Bice
Ocala
Dean C. Colson
Miami
Victor M. Halbach, Jr.
Jacksonville
Mark L. Horwitz
Orlando
Thomas D. Masterson
St. Petersburg
H. Edward Moore
Pensacola
Thomas G. Schultz
Miami
James W. Smith
Daytona Beach

GEORGIA

Michael C. Russ
Atlanta

ILLINOIS

William D. Heinz
Chicago
Todd A. Smith
Chicago

INDIANA

Danny E. Glass
Evansville
Frank J. Gray
Fort Wayne
Arthur G. Surguine, Jr.
Fort Wayne
John D. Walda
Fort Wayne

NEW JERSEY

Richard E. Brennan
Morristown
Thomas R. Chesson
Morristown

NEW YORK

Gustave H. Newman
New York

PENNSYLVANIA

Thomas Hollander
Pittsburgh
Charles G. Young III
Philadelphia

RHODE ISLAND

John W. Kershaw
Barrington

UTAH

James S. Jardine
Salt Lake City
Alan L. Sullivan
Salt Lake City

VIRGINIA

Thomas L. Appler
McLean
Ronald M. Ayers
Roanoke
Robert T. Hall
Fairfax
Blair Duncan Howard
Alexandria

WASHINGTON

C. William Bailey
Seattle
Ralph J. Brindley
Seattle
Kelly Corr
Seattle
Thomas V. Harris
Seattle
Thomas W. Hillier, II
Seattle
Ronald B. Leighton
Tacoma
Daniel E. McKelvey, Jr.
Spokane
J. Adam Moore
Yakima
Edward F. Shea
Pasco
Patrick "Pat" A. Sullivan
Spokane

WEST VIRGINIA

Thomas V. Flaherty
Charleston
Robert M. Steptoe, Jr.
Clarksburg

WISCONSIN

Michael Ash
Milwaukee
George W. Curtis
Oshkosh
Frank A. Scherkenbach
Milwaukee

BRITISH COLUMBIA

Peter C. M. Freeman, Q.C.
Victoria

ONTARIO

Donald J. M. Brown
Toronto
Bryan Finlay, Q.C.
Toronto



Inductees step forward to receive induction charge at the 1996 Spring meeting in Tucson, Arizona.

KENTUCKY

Charles E. Moore
Owensboro

MARYLAND

Ty Cobb
Baltimore
Alvin I. Frederick
Baltimore
Stuart M. Salsbury
Baltimore
Charles E. Wilson, Jr.
Rockville

MASSACHUSETTS

John J. Egan
Springfield

MISSOURI

John Gianoulakis
St. Louis
Charles E. McElyea
Camdenton

NEBRASKA

Michael F. Kinney
Omaha
D. Steven Leininger
Grand Island

TENNESSEE

Stephen T. Greer
Dunlap
Jerry D. Kizer, Jr.
Jackson
Henry T. V. Miller
Memphis

TEXAS

Darrell L. Barger
Corpus Christi
Tom Alan Cunningham
Houston
Dick DeGuerin
Houston
John S. McEldowney
Galveston
Barry McNeil
Dallas
Lonny D. Morrison
Wichita Falls
Charles C. Murray
McAllen
Broadus A. Spivey
Austin
Kenneth L. Tekell
Houston
Terry O. Tottenham
Austin

Insurance Company, so instructed his counsel in a recent letter, which concluded with the admonition that

"In the context of your role as a zealous advocate, your mission should be to advance your clients' positions toward optimal resolution with efficiency, skill, and grace."

The Committee's second ongoing project seeks to arrange a joint venture between the College and the Center on Professionalism of the Law School of the University of Pennsylvania. This union, if achieved, will join the most widely respected association of lawyers with its academic counterpart in developing programs designed to instill in law students and young lawyers (and perhaps others) the need and desirability for civility and professionalism in their careers at the bar.

William J. Brennan, III, Chair

Special Problems in the Administration of Justice

The Committee on Special Problems in the Administration of Justice, through appointed liaisons, continues to monitor projects of the American Law Institute to draft a Restatement of the Law of Torts: Apportionment of Liability, and a Restatement of Torts: Products Liability, and a project of the National Conference of Commissioners on Uniform State Laws to draft a Model Punitive Damages Act. These projects involve issues of considerable importance to the College. Ultimately, the committee will formulate recommendations to the leadership of the College as to whether a position should be taken on any of the issues included in the projects.

The committee has been asked to study actual and proposed changes in jury practices in state courts. Several states have adopted or are considering very significant changes in jury practices. There appears to be a greater impetus for consideration of such changes in the wake of highly publicized trials. The committee's first discussion of this project took place at the Spring Meeting of the College in Tucson in March.

Richard C. Hite, Chair

Teaching of Trial and Appellate Advocacy Committee

The Board of Regents asked the Committee on the Teaching of Trial and Appellate Advocacy to address a serious concern in our profession — that much litigation practice is characterized by a lack of civility amongst trial lawyers. This problem — which is by no means universal — appears to be getting worse and the Regents believed the College had to respond to it.

The Committee on Teaching Trial Advocacy was selected for this task because there is a strong feeling that the problem should be attacked at the earliest stage of a lawyers' career — at law school — as part of the curriculum on trial advocacy. Although most law schools have courses on professional ethics and professional responsibility, none appear to address conduct which falls outside disciplinary rules. The Committee has prepared a curriculum on the importance of civility in litigation to be used in trial practice courses in law school.

What do we mean by civility of incivility? We are talking about rudeness — personal hostility — disrespect for fellow attorneys — refusal to make accommodations and honor agreements and other "obnoxious" conduct. We mean conduct which except in the most extreme case would not be subject to disciplinary rules in the Canons of Ethics. These are not issues of rules — they are issues of culture: how people behave toward one another in the context of an adversary system.

How serious a problem is incivility in our profession? Many studies have been conducted and the results show that we do have a problem — much of the reported lack of satisfaction lawyers feel is shown to stem from the hostile relationships amongst lawyers. The problem is serious enough that 88 bar associations, circuit courts, and this College have published standards of professional conduct. These are not disciplinary rules — they seek voluntary adherence to a standard of conduct.

The title of the curriculum is "The Case for Civility in Litigation —

Representing Your Client and Preserving You." This title grew out of conversations the Committee had with law students who told us they were uneasy about joining a profession where the common belief is that you have to be "in your face" or NASTY or hostile to succeed. Few of these students want to give up their own value system in order to effectively represent a client. It is important that we address that concern.

The Committee decided that the best way to deal with the issue was to get inside the law schools and talk about it. Based upon discussions we had with law students, we believe that Fellows — who are successful — are the best salespersons for a civil approach to the practice of litigation. With all due respect to law professors, our credibility on this issue is higher with students.

In order to facilitate a presentation by Fellows in law schools, the Committee has prepared a written teaching curriculum which the Fellow can use in discussing civility with law students. This curriculum includes background information on the problems of civility and specific points for discussion with students.

A videotape depicting rather extreme instances of incivility has been developed for use by the Fellow. The videotape provides points of departure for discussions with the students.

The Committee hopes that with the use of the written materials and the videotapes, and the assistance of Fellows willing to go into the law schools our program will reach most of our future colleagues.

Michael B. Keating, Chair

STATE AND PROVINCE COMMITTEES

ALABAMA

April 25-28, 1996, was an exciting weekend for Alabama Fellows and their guests. Point Clear, Alabama, was the site of a weekend of fellowship, fun and controlled frivolity, along with a touch of CLE. Our President, Charles Renfrew, and our regent, Harris Dittmar, with their wives, were Alabama's guests.

The *Code of Trial Conduct* has been distributed to all Alabama trial judges and is now being used by the state law schools in both the ethics and trial advocacy courses. The State Chairman has been invited to discuss the Standard with members of trial advocacy classes.

Charles A. Stakely, Chair

ARIZONA

The Fellows of the Arizona American College of Trial Lawyers in Arizona have held the annual "Jenckes" competition for the last several years. This last year was no exception. It was held at the Arizona State University.

This is a competition where two team members from each of the law colleges at the two state universities, Arizona State University and University of Arizona, are presented an appellate argument problem. They argue and the Fellows of the American College serve as judges. It is then decided as to which school wins and awards are presented. The awards are \$300 to both first-place participants, and \$200 each to the second-place winners. All four participants are also awarded a trophy, as well as a travelling trophy to the winning college.

The Fellows of the Arizona American College of Trial Lawyers are also proposing to the American College at this time that they be allowed to assist legislative efforts to regain merit selection of judges on the appellate courts of Arizona. There are bills pending in the legislature at this time which will do away with merit selection and return to an election system which we feel is not appropriate. That request has been submitted to Tony Murray, the regent for Arizona. We are hopeful that it may be approved by the American College and that we can then take an active role in that legislation.

Ralph E. Hunsaker, Chair

NORTHERN CALIFORNIA

The Northern California Committee met on February 2, 1996 to discuss candidates for Fellowship, 1996 social functions, and efforts pertinent to facing the *Code of Trial Conduct* in the courts and law schools.

Northern California Fellows will act as host to the Southwest Regional Meeting to be held between April 24, and 27, 1997 at The Inn at Spanish Bay. Plans are well underway for what promises to be a very exciting gathering of Fellows.

We had a Northern California Luncheon at the World Trade Club on May 8, 1996 which was well attended.

We are pleased that twelve candidates were eligible for induction at the 1996 spring meeting.

David O. Larson, Chair

CONNECTICUT

The Connecticut State Committee has undertaken a wide distribution of ACTL's *Code of Trial Conduct* among the lawyers and judges of Connecticut. This has included distribution to all of the active and senior judges in both the State and Federal Courts, all 1,250 members of the Litigation Section of the Connecticut Bar Association, and publication of the full text in the monthly magazine of the Connecticut Trial Lawyers Association. In addition, copies have been distributed to the Deans of Connecticut's three law schools (Yale, University of Connecticut and Quinnipiac College of Law) for use in trial practice and professional responsibility courses of the law schools.

James F. Stapleton, Chair

DELAWARE

The Delaware Committee hosted the Delaware/Pennsylvania/New Jersey Regional Meeting in Wilmington, Delaware, at the Hotel DuPont on May 24 and 25, 1996. The weekend was well attended by Fellows from all three states. The program was exceptional and the Regional was resounding success.

Ben T. Castle, Chair

FLORIDA

The Florida Committee hosted the May 1996 Regional Meeting of the Alabama, Georgia, and Florida Fellows. A program on professionalism was planned, as well as various social activities. The Committee has also begun a Florida professionalism project. As its first step, it has been communicating with The Florida Bar's Professionalism Committee, chaired by Florida Supreme Court Justice Harry Anstead (who was a speaker at the Regional Meeting) with respect to possible ways that the Committee might assist in advancing professionalism in Florida's trial bar.

Sylvia H. Walbolt, Chair

KANSAS

At the urging of the Kansas Fellows, the law schools at both Washburn University and University of Kansas have adopted the use of the *Code of Trial Conduct* in teaching advocacy classes. In January, Washburn University commenced a Professionalism Colloquium which will meet one hour every two weeks through the semester to encourage professionalism. At the first meeting on January 25, Fellow Wayne Stratton presented the *Code of Trial Conduct* with his comments to approximately 70 students in attendance.

Mikel L. Stout, Chair

MARYLAND

Eighty-five MD, DC, and VA Fellows and their guests, including President Renfrew and his wife, met in Historic Williamsburg, VA, on November 10-12, 1995, for the Tri-State Fun Fall Weekend. John Marshall, a college Fellow from Georgia, presented a superb, thought provoking and timely program on professionalism, using video case scenarios and question and answer lecture style. The weekend finished

with a flourish with an Eighteenth Century Fife and Drum Corps. parade leading the guests from cocktails to an "authentic colonial dinner" with a later "joke telling, sing-a-long," all by candlelight after a power outage in the City of Williamsburg.

Regents Earl Silbert and Ozzie Ayscue joined the fun, as did past President Harvey Chappell. Maryland's Bill Rowan, Virginia's Fred Alexander, and D.C.'s Bob Bennett co-chaired the weekend.

William J. Rowan, III, Chair

MASSACHUSETTS

We are pleased to report the following activities of the Massachusetts Fellows:

1. On January 19, 1996, our annual dinner for Fellows was held at the Four Seasons Hotel in Boston. President Elect Coats and Mrs. Coats attended and were greeted by an enormous winter storm. Despite the weather, nearly 100 Fellows from New England joined them for the evening, which featured Hon. Reginald C. Lindsay, United District Court for the District of Massachusetts, as guest speaker.

2. The annual regional meeting for the Northeast Region was held at the Chatham Bars Inn on Cape Cod on the weekend of June 7-9. This meeting was a mixture of recreation and educational activities, the latter focusing on the relationship between advances in medical science and the law. The program included a presentation from members of the Whitehead Institute for Biomedical Research entitled "Genetic Testing: The New Legal Frontier." In addition, the Saturday night speaker was Dr. Mitchell Rabkin, President of Beth Israel Hospital in Boston.

We are pleased to report that one of our Massachusetts Fellows, Carol Ball, was sworn in as a Massachusetts Superior Court Judge on February 14.

Joseph D. Steinfield, Chair

MISSISSIPPI

The Mississippi Fellows of the American College of Trial Lawyers participated as co-sponsors with the University of Mississippi Law School in conducting the Regional National Trial Competition sponsored by the College on the Campus at Oxford, Mississippi on February 9 and 10, 1996. We had excellent participation and received many comments from the judges verifying what a great experience it is for the participating Fellows.

Additionally, the Mississippi, Arkansas, Louisiana and Texas Regional Meeting was held in Vicksburg, Mississippi, beginning Thursday evening, May 2 and ending Sunday morning, May 5, 1996. Headquarters was at Harrah's Hotel and Casino on the Mississippi River. Chief Judge for the Fifth Circuit, Henry Politz, was among the participants in the program. Also, a special presentation of the enjoyable skit of "Oh Mr. Faulkner, Do you write?" was performed. The meeting also featured the nationally and internationally recognized Folklorist and Director for the Center for Southern Culture at the University of Mississippi, Dr. Bill Ferris (perhaps known more locally to many as the "Blues Doctor" for his featured radio program that broadcasts over the entire State of Mississippi). We had excellent attendance and a great program, not to mention the opportunity to visit many historical sites of Vicksburg such as its National Military Park, Old Courthouse Museum and antebellum homes.

Landman Teller, Jr., Chair

OREGON

The Oregon Chapter of the American College of Trial Lawyers primary activity throughout the year has been screening potential candidates for membership in the College. The state committee meets four to six times per year for such reviews. An Annual Dinner was held at the Benson Hotel in Portland in November and was one of the best attended functions with National President Charles Renfrew and his wife, Barbara, being our special honored guests. The members of the Oregon Supreme Court were also guests at the Dinner. The annual dinner will again be held at the Benson in November of 1996 and the members of

the Oregon Court of Appeals will be special guests.

The College's handbook, *Code of Trial Conduct*, was distributed to the three Oregon law schools and the Supreme Court for evaluation and hopeful adoption as a standard for trial practice in Oregon.

Thomas E. Cooney, Chair

PENNSYLVANIA

The Pennsylvania State Committee sponsored a dinner meeting for Fellows at the Pyramid Club on February 13, 1996. Regent Jerome Graham was a guest of the State Committee and spoke to the club.

The committee met on March 21, at the offices of the chair to begin its investigation of nominations of new Fellows for induction into the College.

David H. Marion, Chair

VERMONT

We are pleased to report the following activities of the Fellows:

In January of this year and after prior discussions, the Committee submitted to Chief Justice Frederic Allen the College's statistical information distribution and acceptance of the *Code of Trial Conduct* in other jurisdictions.

On February 16, 1996, the matter was again discussed with Chief Justice Allen. He indicated that he was responding to a request from the Chief Justice of Delaware for his recommendations concerning Codes of Trial Conduct to be considered by the Association of Chief Justices at their meeting in Delaware, March of 1996. Of the two or three proposed Codes, Chief Justice Allen indicated that it was his intent, on behalf of Vermont, to recommend as his choice the College's *Code of Trial Conduct*.

It is my personal belief that if the College's *Code* is adopted by the Association of Chief Justices, the adoption of the same in Vermont will follow.

Over the past several years and as assisted by other members of the College contributing their efforts on a pro bono basis, John M. Dinse, a member of the College, has created and directed a successful Mediation project.

Although other Trial or Superior Courts in the State have, over the

past three to five years, adopted variations for non binding Mediation, it is apparent that Mr. Dinse's format and participants have a very successful track record. It is expected that the same will be discussed with other College members and Court Clerks in other parts of the State.

The Committee, through review of materials supplied and attendance at their meetings, is considering urging members of the College to become active participants in and support of the Inns of Court Program. As a personal observation, the program, in addition to being currently quite active, is receiving enthusiastic support from the younger members of the Bar.

The Committee is presently considering for submission three persons for membership to the College from Vermont.

Douglas Richards, Chair

WASHINGTON

The Washington Committee co-sponsored a 6.5-hour seminar with the University of Washington Law School on December 15, 1995. The unusual format involved direct and cross-examination skills using interactive video equipment and a panel of five Fellows. Displayed on a large screen was a recurring and challenging situation involving direct or cross-examination. Whenever a member of the audience objected, other attendees would vote with or against the objection, and a lively discussion ensued. The interactive video computer program then would state the "correct" answer, and move on to the next, live-action scenario — until another objection. It was a stimulating session.

On the evening of December 15, 1995, 41 Washington Fellows gathered at a Seattle hotel for its annual dinner. On April 19, 1996, 11 Fellows from eastern Washington met for a dinner at Spokane. Renewal of friendships with Fellows having common interests in the law assures good attendance at these functions.

The State Committee is establishing contact with the state's three law schools for Fellows to make 1996-97 presentations to students involving ethics, civility and professionalism. It is my hope and expectation that I can assemble a cadre of Fellows ready, willing and able to speak on these subjects to those studying to enter our profession.

J. Donald Curran, Chair

ACTL Supports NCDA

CONTINUED FROM PAGE 1

The NCDA combines "cutting edge" technology with the traditional communication skills in its trial advocacy training courses. Prosecutors are introduced to the electronic wizardry which produces a better understanding for the jury of the evidence in a trial by means of color imagery and video. The course workshops also focus on enhancing the individual skills of the prosecutors in speech dynamics and case analysis. The trial advocacy courses offered by the NCDA have been described as "intense" and are process oriented so that the attendees discuss and practice new methods to reinforce the training. The workshops feature multi-dimensional training packages to present an array of training issues rather than concentrating on single issue, repetitive training.

In addition to classroom and workshop presentations, one of the NCDA's projects that is nearing completion is the publication of one of its newest books — *Analytical Trial Advocacy: A Practical Approach for Prosecutors*. It should be available to district attorneys' offices soon. This trial advocacy text is designed to be used as either an individual training resource for prosecutors or as an office training resource manual to be used by

prosecutors' offices for in-house training. It provides a practical approach for teaching prosecutors effective trial advocacy skills by featuring concise articles on specific segments of the trial from pre-trial preparation through closing argument.

Until the founding of the NCDA, there was no institution in existence that was devoted exclusively to providing continuing education to the nation's prosecutors. In fact, there was very little training of any kind for prosecutors. Although many things have changed since 1967, the NCDA is still the only institution devoted exclusively to training prosecutors.

The NCDA enters its 26th year as America's School for Prosecutors with confidence that it will continue to assist an ever-growing number of prosecuting attorneys in meeting the challenges that they will encounter in seeking justice.

Continuing to provide substantial financial support to the NCDA is an important part of the American College of Trial Lawyers program. This is in addition to the contributions made by Fellows of the American College of Trial Lawyers who serve on NCDA's Board of Directors. Current members are Beal Dean,

FACTL of Fort Worth, Texas and Morris Harrell, FACTL of Dallas, Texas. The support of the NCDA enables the American College of Trial Lawyers to fulfill its purpose of improving trial advocacy skills, the ethics of our profession, and the administration of justice.

Members who currently serve with distinction on the American College of Trial Lawyers National College of District Attorneys Committee are: John L. Hill, Jr., Chair, Houston, Texas; Michael A. Beale, Phoenix, Arizona; Edward M. Booth, Jacksonville, Florida; Michael R. Capizzi, Santa Ana, California; Morris Harrell, Dallas, Texas; Dennis E. Kinnaird, Los Angeles, California; John J. O'Hara, Covington, Kentucky; William F. Reilly, Waukesha, Wisconsin; Barry A. Short, St. Louis, Missouri; Carol S. Vance, ex-officio, Houston Texas; and C. Harris Dittmar, Regent Liaison, Jacksonville, Florida. —

John L. Hill, Jr. currently serves as chair of the ACTL National College of District Attorneys Committee. He is a partner with Houston, Texas firm of Liddell, Sapp, Zively, Hill & LaBoon, L.L.P.