



THE BULLETIN

NEW PRESIDENT PLEDGES *to* PRESERVE TRIALS



Mike Stout and his wife LeAnn on their Kansas ranch

*T*rials are too important to the future of society to be diminished, incoming College President **Mike Stout** of Wichita, Kansas believes.

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SOUTHWEST REGIONAL CONFERENCE A SUCCESS

Based on report from Paul S. Meyer

Eighty-five Fellows and guests, including College President **David Beck** and his wife, **Judy**, attended the Southwest Regional Conference held July 20-22 at the Ritz-Carlton Laguna Niguel.

The conference began with an oceanfront terrace dinner on Friday evening. The Saturday program featured four speakers:

Sir Eldon Griffiths, President of the World Affairs Council, who spoke about his experiences with heads of state and global politics during his career as an advisor to the British Government and war correspondent in the Middle East.

United States Judge **David O. Carter**, Central District of California, who spoke on the work in which he had participated in Bosnia and Russia.

Colonel Will Gunn, retired, a twenty-four year Air Force veteran, Harvard-trained lawyer and the Chief of Military Defense Counsel for Guantanamo Bay Detainees, who led the audience through the process of his appointment and the legal maneuvering leading to the filing of a habeas corpus petition in the United States Supreme Court on behalf of his clients.

President Beck, who spoke about the work of the College and introduced a DVD about the College.

The conference for Southern California and Arizona Fellows was coordinated by Southern California State Chair **Paul S. Meyer** and Vice-Chair **Virginia Nelson**, assisted by Fellows **Charles Stern**, **Carol Salamacia**, **Steve Croft** and the College staff.



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A current calendar of College events is posted on the College website at www.actl.com, as are a current compendium of the ongoing projects of the College's National Committees.

AMERICAN COLLEGE OF TRIAL LAWYERS

THE BULLETIN

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**FROM THE
EDITORIAL BOARD**

In the last issue we solicited would-be journalists to write for The Bulletin. The silence has been deafening! Perhaps we should have been more specific about what a volunteer might have an opportunity to write about, and so here goes.

We need someone to take over the In Memoriam section. Whenever the College office is notified of the death of a Fellow, The Bulletin is immediately notified. If an obituary does not accompany the notice, we immediately seek to procure one. Using that, the Internet, including Google, Martindale Hubbell and other readily available sources, we compose a brief tribute to the departed Fellow, collecting them until press time. Exploring the lives of departed Fellows and describing them is a most rewarding task, and you would be creating one of the most well-received parts of The Bulletin.

We also need someone in each region who will write up regional meetings whenever they occur. We have access to the master calendars, and we know when meetings are taking place, but it is difficult for the editors to do justice to reporting them because we are not there. This would not be a time-consuming task, and the Fellows in your region would love you for it.

We try to do at least one profile of a Fellow in each issue. Whoever does this collects information about the subject of the profile, does an interview or a series of interviews of him or her, in person or by telephone, gets quotes from others and submits a draft profile. We look at it, suggest other areas that might be covered, other people the writer might talk with. Here again is an opportunity to put to work in a creative way the fact-finding skills

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CANADA-U.S. EXCHANGE

A SUCCESS

United States Hosts First Phase

Delegates from Canada and the United States gathered on Sunday, April 15 at the Supreme Court of the United States for the opening event of the fourth Canada-United States Legal Exchange. Justice **Stephen Breyer** introduced the delegates to the Court, its facilities and its history.

United States Chief Justice **John G. Roberts, Jr.** presided over a dinner at which Canadian Ambassador **Mike Wilson** and his wife and College President **David Beck** and **Judy** were among the guests.

The following morning Justice Breyer explained how the Justices in his Court go about their work, and the delegates then attended the oral arguments before the Court in two cases.

After a lunch with several of the host country's Justices, the delegates devoted the afternoon to a discussion of the historical relationship between the native

populations and the immigrant populations of their respective countries. These discussions dealt not only with the transition of land ownership from the natives to European settlers, but also with issues such as schools, economic development, sovereignty over tribal reservations, gambling casinos, the role of state laws and the administration of trust funds.

Appropriately, the evening was spent at the National Museum of the American Indian. The museum's principal architect was **Douglas Cardinal**, a Canadian aboriginal who also designed the Canadian Museum of Civilization in Gatineau, Quebec, the site of a College program during the 1994 meeting in Ottawa.

On Tuesday, the delegates were given a guided historical tour of the Capitol building by **Ronald Sarasin**, a former member of Congress and President of the United States Capitol Historical Society. The delegates then

visited the Canadian Embassy.

The Federal Judicial Center was the scene of both lunch, hosted by its director, Judge **Barbara Rothstein**, and the afternoon session, which was devoted to the conduct of civil litigation in the age of technology.

On Tuesday evening the delegates went by boat down the Potomac to the residence of George Washington at Mount Vernon, where they laid a wreath on the tomb of President Washington, toured his home and dined.

Traveling by bus to Williamsburg, Virginia on Wednesday, the delegates toured the historic campus of the second oldest university in the United States and dined in the Wren Building, the only structure in North America designed by Sir Christopher Wren. The dinner was hosted by the President of the College of William and Mary, **Gene Nichol**, who had addressed the College at its 2004 meeting in St. Louis, and

by Law School Dean Taylor Reveley III. College Past President **Jimmy Morris** and the Dean addressed the group at dinner.

On Thursday, the delegates toured the Law School's Courtroom 21 Project, a highly sophisticated contemporary electronic courtroom facility that is the joint undertaking of the Law School and the National Center for State Courts. The Thursday working session dealt with the reliance upon the use of the law of other nations in the resolution of legal issues. While the Canadian Charter of Rights and Freedoms mandates consideration of the dictates of governing principles in "free and democratic societies," this has been a controversial subject in United States jurisprudence in recent years.

Then, for over an hour, Justice **Sandra Day O'Connor**, Canadian Chief Justice **Beverley McLachlin**, Canadian Associate Justices **Marshall Rothstein** and **Marie Deschamps**, Judge **Charles Breyer** of the Northern District of California and Tenth Circuit Judge **Robert Henry** engaged in a question and answer session with law students, moderated by **Dean Reveley**.

The delegates were guests at a formal luncheon at the National Center for States Courts. They visited the site of the English settlement at Jamestown, which had just celebrated the 400th anniversary of its founding and had dinner at the recently constructed Jamestown Museum.

On Friday, the last day of the Exchange, the subject of discussion was the independence of the judiciary and the legal profession.

The first leg of the Exchange was highly successful. The second phase, which took place in Canada in September, will be reported in a later issue of the Bulletin.

The College has long sponsored such exchanges, allowing a mix of judges and justices from the highest courts of the participating countries, lower court judges, academics and practitioners to exchange information and ideas. The judges who have participated over the years have been uniformly appreciative of the opportunity to do so in a context in which the participants can speak freely in an informal interchange.

In the words of one of the judicial participants, they provide judges an opportunity to see beyond the "tangible and intangible walls" that surround them and to learn from the practicing bar and from their counterparts in other countries. More than one judicial participant over the years has reflected on the unique opportunity the exchanges provide them to hear from lawyers who are in the mainstream of the practice what is going on in the world beyond their courtrooms and their chambers.

In the words of Canadian participants, they afford "an unparalleled opportunity to learn from one another, particularly in emerging and complex areas of law and practice. The involvement

of top jurists, academics and practitioners from both jurisdictions . . . provides for a level of dialogue that is rarely, if ever, witnessed elsewhere. It is only because of the ACTL's excellent reputation and professionalism that such an exchange is possible."

The College has long viewed its sponsorship of these exchanges as its gift to the bench and bar. This has not, however, been a gift without recompense. Five of the outstanding speakers at the College's 2006 annual meeting in London had been participants in previous exchanges, at least one of them more than once. Tenth Circuit Chief Judge **Deanne Tacha**, who has been participant in two Anglo-American Exchanges, is scheduled to address the College at its Denver meeting in October about her reflections on them.

Perhaps most important, most of the non-judicial delegates in the exchanges are Fellows of the College who pay their own way to participate. Their participation gives the College an opportunity to have its voice heard in the shaping of thought and policies in the highest reaches of the judicial systems of the participating countries.

The work of the College staff, in particular **Dennis Maggi** and **Mary Kate Lowe**, a veteran of several prior exchanges, was instrumental in the success of the exchange.

Past President David W. Scott contributed to this report.



that all trial lawyers have.

These are some of the more obvious opportunities we can offer you. You will not add to your taxable income, but you will get a byline with every article we publish!

Marion Ellis' e-mail address is on the masthead on this page. We look forward to hearing from some of you.

From time to time we are asked why we do not write up the great cases that Fellows try. The simple answer is that most Fellows at some time in their careers try one or more of those. Some try them all the time. We have made an editorial judgment that we would run out of space and bankrupt the College if we even attempted to report them all, and we would leave a lot of noses out of joint if

we did some, but not all.

From time to time, however, a war story comes along that is too good to keep. Find the article in this issue entitled "Blog Bites Back" and you will see what we mean. Stories like that we welcome.



REFUGEE AND IMMIGRANT CHILDREN'S CENTER *receives* EMIL GUMPERT AWARD

The National Center for Refugee and Immigrant Children of Washington, D.C. has received the College's 2007 Emil Gumpert Award. The award is accompanied by a \$50,000 grant, funded by the ACTL Foundation.

The Center will use the funds to target the recruitment and training of pro bono lawyers specifically to represent Special Immigrant Juvenile Status Children, those suffering from persecution, abuse or neglect.

More than 8,000 unaccompanied immigrant children enter the U.S. annually. The Center has received more than 1,500 requests for legal assistance and has secured pro bono representation for more than 450 unaccompanied minors. It has conducted twenty training sessions for more than 1,000 pro bono lawyers in cities throughout the nation.

A program of the U. S. Committee for Refugees and Immigrants (USCRI), the Center was established

in March 2005 with a grant from Hollywood star **Angelina Jolie**, who is a United Nations High Commissioner for Refugees Goodwill Ambassador.

The Emil Gumpert Award to the Center is the third since the award was revamped in 2003. The first of the new awards was given in 2005 to Dakota Plains Legal Services of Mission, South Dakota, and the 2006 award went to the Center for Legal Aid Education in Boston, Massachusetts.

Created in 1975, the Gumpert Award was given to 41 law schools over the years for excellence in the teaching of trial advocacy. In 2003, the College Board of Regents concluded that the original goal to encourage the teaching of trial advocacy had been met and the Board changed the mission of the Gumpert Award to recognize programs, public or private, whose principal purpose is to maintain and improve the administration of justice.

Further details are available at actl.com.

STUDENT ESSAY CONTEST WINNERS

address tension between JUDICIAL ELECTIONS *and* JUDICIAL INDEPENDENCE

State judicial elections are here to stay, and the scope of protected judicial speech is expanding, the winner of the College's first student essay contest concludes in his paper on judicial independence.

Jason D. Grimes, then a second-year student at Cleveland State University Law School, won the \$10,000 top prize from among more than two dozen entries.

"Such speech will increase many litigants' uncertainty whether their judges are truly impartial," Grimes writes. "Litigants' due process rights are violated when judges' words and actions combine to compromise their impartiality. Special interest money is making full-fledged politicians out of judicial candidates, further dashing citizens' faith in judges as impartial 'umpires.'"

"To combat this, judges must reclaim the high standards to which they have been held in the past. States have a compelling interest to mandate publicly-finance judicial elections. States must retool the Framers' doctrine of separation of powers for the twenty-first century. By doing so, they will bring judges' right of free speech and litigants' due process right to an impartial tribunal

back into a constitutional balance."

Grimes, a cum laude graduate of Wheaton College, is president of the Cleveland-Marshall chapter of the American Constitution Society and is presently Articles Editor of the Cleveland State Law Review.

In his entry, David Pozen, runner-up, sets forth several possible solutions to the growing problems created by judicial elections.

Pozen, a third-year student at Yale Law School, received a \$5,000 award. The prizes were funded by the ACTL Foundation.

He concludes that the states could raise minimum qualifications and increase judicial salaries; narrow the window in which fundraising and campaigning are allowed; lower contribution limits; require additional disclosure of contributions, especially for interest groups; enact public financing, and tighten restrictions on judges' political activities.

Pozen concludes: "While commentators have been focusing the bulk of their energies on debating incremental reforms that might help prevent judicial campaigns from becoming too much 'nastier, noisier and costlier,' it is the majoritarian difficulty that now poses the greatest risk to judicial independence and separation of powers at the state level. And it will only get worse."

"Those who would have the judiciary be more than just another majoritarian branch might do well to abandon the incrementalist posture, at least for the moment, and to remind the public and each other that there is no adequate remedy for this threat save to dismantle judicial elections."

A copy of Grimes' paper accompanies this issue of the the Bulletin and will be posted on the College website.



CORRECTION: In the "To the Bench" section of the last issue of The Bulletin we inadvertently announced that **Kenneth G. Nielsen**, a newly inducted Fellow, had been appointed to the Supreme Court of British Columbia. He had in fact been appointed a Justice of the Court of Queen's Bench of Alberta. We regret the error.

DELEGATES TO THE 2007 CANADIAN-UNITED STATES EXCHANGE



FROM CANADA:

Supreme Court Chief Justice
Beverley McLachlin, P.C.,
Ottawa, Ontario

Supreme Court Associate Justice
Marshall E. Rothstein,
Ottawa, Ontario

Associate Justice
Marie Deschamps,
Ottawa, Ontario

Federal Court of Appeal
Chief Justice
John D. Richard,
Ottawa, Ontario

Quebec Court of Appeal Justice
Pierre J. Dalphond,
Montreal, Quebec

Ontario Court of Appeal Justice
Eileen E. Gillese,
Toronto, Ontario

Chief Judge of the Provincial
Court of British Columbia
Hugh C. Stansfield,
Vancouver, British Columbia

Sheila Block,
Toronto, Ontario

Chris G. Paliare,
Toronto, Ontario

Gerald R. Tremblay, Q.C.,
Montreal, Quebec

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David W. Scott, Q.C.,
Ottawa, Ontario

George K. MacIntosh, Q.C.,
Vancouver, British Columbia

Lynne D. Kassie,
Montreal, Quebec

J. Patrick Peacock, Q.C.,
Calgary, Alberta

FROM THE UNITED STATES:

Supreme Court Chief Justice
John G. Roberts, Jr.,
Washington, D.C.

Supreme Court Associate Justice
Stephen G. Breyer,
Washington, D.C.



Supreme Court Associate
Justice, Retired,
Sandra Day O'Connor,
Washington, D.C.

Tenth Circuit Chief Judge
Deanell Reece Tacha,
Lawrence, Kansas

Tenth Circuit Judge
Robert H. Henry,
Oklahoma City, Oklahoma

Seventh Circuit Judge
Ann Claire Williams,
Chicago, Illinois

United States District
Court Judge
Charles R. Breyer,
San Francisco, California

United States District
Court Judge
D. Brock Hornby,
Portland, Maine

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Law School Dean
Andrew M. Coats,
Norman, Oklahoma

Karen S. Townsend,
Missoula, Montana

Thomas J. Fritz,
Rapid City, South Dakota

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Brian P. Crosby,
Buffalo, New York

James M. Bausch,
Omaha, Nebraska

James L. Eisenbrandt,
Overland Park, Kansas

Lauren E. Handler,
Morristown, New Jersey



CHICAGO-KENT

wins National

TRIAL COMPETITION

Fellows urged to participate in February 2008 regionals



*Keya Rajput and Joshua Jones
receiving their award*

Keya Rajput and **Joshua Jones** represent the future of trial advocacy. But their March 2007 trip to Houston and the Championship Rounds of the National Competition included significant hurdles. Joshua's father, an African-American officer with the Chicago Police Department, succumbed to cancer during Joshua's first year at Chicago-Kent Law School. Keya's parents challenged their daughter's decision to participate in the trial competition. Why, they asked, would a third year student with plans to practice transactional law with a major Detroit firm be interested in learning how to try cases?

At the banquet on the final evening of the Competition, Joshua's mother, Keya's parents, and Joshua and Keya joined students and coaches from 28 law schools, members of the ACTL National Trial Competition Committee, ACTL President **David Beck**, and representatives of the Texas Young Lawyers to learn which team had prevailed in the competition. Those in attendance rose to their feet to applaud the Chicago-Kent team on their victory and to applaud Keya as the winner of the Best Oral Advocate Award. Chicago-Kent received the \$10,000 prize sponsored by the law firm of Fulbright & Jaworski. The Temple College of Law received the \$5,000 runner-up award underwritten by Beck, Redden & Secrest.

Sponsored by the American College of Trial Lawyers and the Texas Young Lawyers, the trial competition involved more than 1,000 law students competing on 280 teams and representing

147 U.S. law schools. To reach the final round of competition, Keya and Joshua finished first in a competition at the University of Illinois at Champagne, then defeated three teams in the national preliminary rounds to advance to the national quarterfinals.

The quarterfinals featured trials between Chicago-Kent and the University of North Carolina; Temple University and the University of Houston; Notre Dame and California-Hastings; and Stanford and Pepperdine. After defeating North Carolina in the quarterfinals and Pepperdine in the semifinals, Chicago-Kent prevailed over Temple to win the championship.

More than a month earlier, in February 2007, approximately 290 Fellows participated as critiquing and presiding judges

in the 13 regional competitions held at law schools across the country. For one of those competitions, 35 Fellows traveled to Cincinnati from throughout Ohio, Kentucky, Michigan, and Tennessee, to volunteer their time and talent. The first round of the competition took place on Friday afternoon, February 9. Following that round, the Fellows and their spouses joined students and coaches at a reception hosted by the Dean of the Chase Law School at Northern Kentucky University. The Fellows judged two more rounds on Saturday and then assembled again on Saturday evening for their own reception and dinner. That event, in the Rookwood Room of the historic Hilton Netherlands Plaza, proved to be a highlight of the weekend.

Fellows in most of the 13 regions organized events similar to those that took place in Cincinnati.

One of the ACTL organizers of the competition in San Francisco noted:

“We had a wonderful time at the Friday night event [for Fellows and spouses].... I had the pleasure of judging two cases on Sunday. I can’t tell you how impressed I was with the student competitors. I also know that they all appreciated and benefited from the Fellows who judged the cases with me. This is a great program which we should be proud of as College members. Count me in for next time...!”

Two law school teams advanced from each of the thirteen regionals to the March Championship Rounds in Houston, where the Chicago-Kent team ultimately prevailed.

The National Trial Competition Committee encourages Fellows to participate in the February 2008 regional competitions closest to their home. State chairs in states where regional competitions will be held and state chairs in nearby states will be contacting Fellows asking for volunteers to serve as critiquing and presiding judges. When contacted, please consider signing up to assist. This is a rewarding experience, and is one you are sure to enjoy.



Karin Crump, President of the Texas Young Lawyers, Keya Rajput, best oral advocate, Joshua Jones and David Beck



OPINION:

BEFORE WE JUMP ON OUR HORSE *and* RIDE OFF IN ALL DIRECTIONS



E. Osborne Ayscue, Jr.

Mention the “vanishing civil trial syndrome” to a group of lawyers and each will have his or her own theory about its nature and its cause. And each will have his or her own solution.

Scratch beneath the surface, however, and each will define the problem differently. Each will attribute it to a different cause. Each will have a different solution.

The addresses of Wisconsin Law Professor Marc Galanter, National Center for State Courts President Mary McQueen and Institute for the Advancement of the American Legal System Director Justice Rebecca Love Kourlis at the College’s Spring meeting raised many questions. The Civil Justice Reform Summit that Kourlis’ Institute subsequently hosted raised even more.

Those questions did not necessarily conform to commonly accepted wisdom on the subject. Indeed, some of them produced an uncomfortable suspicion that many of our preconceived notions may not hold water.

THE CONVENIENT CULPRIT: THE RULES OF CIVIL PROCEDURE

Many blame the vanishing trial syndrome on the cost and delay inherent in the present Civil Rules. Drafted in 1938, before the Information Age, principally to address problems that by and large no longer exist, they were intended to facilitate the “just, speedy, and inexpensive determination of every action.” They were intended to prevent litigants from hiding the ball. They were also intended to become a model

for procedural uniformity.

Today they accomplish none of these things. They lead to delay, expense and unjust resolutions, resolutions that are driven by the cost of litigation as often as by objective merit. They do not always produce the truth. They have been Balkanized—every judge wants to have his or her own rules.

And electronic discovery now threatens to swamp the system.

In response, we have subjected the Rules to band-aid therapy. No one has undertaken to review them systematically, to examine whether the balance between the low threshold set by Rule 8 and the reliance on broad discovery to develop, or to determine whether one even has, a case remains appropriate seventy years after the Rules were adopted.

We seem to have lost sight of the admonition of Justice Oliver Wendell Holmes that, “The rule of relevance is a concession to the shortness of life.”

WHAT ELSE IS OUT THERE?

Clearly the Rules need to be reexamined, but can we really assume that they are the whole problem? Or even that they are really the problem? Can we safely address them in a vacuum without examining what else is out there?

We talk about the vanishing jury trial, and then Professor Galanter tells us that in the federal courts,

non-jury trials have disappeared twice as fast as jury trials.

We go to the Civil Justice Reform Summit and hear about jurisdictions where cases get tried regardless of what procedural rules they use. We find that not every state has a problem. We find that not even every Federal district has a problem.

WHAT THEN SHOULD WE BE ASKING OURSELVES?

Of course, we should look at jurisdictions whose rules require more specificity in pleading. Do they really foreclose just claims? And if they do, is the cost too great? And if they do not, why not?

And of course we should be asking whether higher pleading standards tend to shift identification of meritless cases to the Rule 12(b)(6) stage—before the expense of discovery—and away from post-discovery summary judgment, a procedural device which has progressively become an expensive trial by judge in advance of, or in avoidance of, trial by jury.

Of course, we should look at the results in jurisdictions whose rules limit discovery. And we should look at the results in those types of cases, including criminal cases, in which only limited discovery is available. And we should ask ourselves whether the results they produce are any less just.

Of course, we should look at jurisdictions that place limits of

expert testimony or on discovery of expert witnesses. Do those legions of professional “have theory, will travel” expert witnesses really produce more just results?

Professor Galanter, however, had some tantalizing statistics, all from Federal courts beginning in 1962, when they began to keep uniform records, through 2005. In 1962, over half of filed civil cases were terminated without “court action,” that is without motion practice or formal discovery that showed up on the court’s records. Another 20 per cent were terminated after court action, but before pretrial conference. That left 30 per cent to be disposed of at pretrial conference, settlement conferences or trial. And there were as many non-jury trials as jury trials.

Today, only 20 per cent of cases filed are terminated before court action. A whopping 70 per cent are terminated after court action, but before pretrial, that is during discovery and motion practice. Cases terminated during or after pretrial but before trial have decreased only slightly.

The result: the percentage and the actual number of civil cases ending in trial has declined precipitously, as have the number of trials per judge. The number of case terminations has increased by a multiple of more than five, but the number of trials has



decreased by about a third. We have had an explosion of litigation and an implosion of trials. The percentage of civil cases tried has dropped from almost 12 per cent of cases filed to 1½ per cent, the number of civil trials per judge per year from 21 to 6! And the greatest decline has been in non-jury trials: only one percent of filed civil jury cases are now actually tried; only one-half percent of non-jury cases are tried.

Shouldn't we be asking ourselves why this is so? And should we not be looking at comparable figures from state courts?

Shouldn't we be looking at how the role of judges has changed? And at why? Is it because the public is unwilling to provide and pay for enough judges? Or to give them adequate facilities and staff support? If so, the public needs to know that, because ultimately it is the loser if our courts do not dispense justice.

Is it because judges are being taught that their job is to manage dockets, instead of trying cases? And if that is so, is there a relationship between the magnitude of their jobs and the inadequacy of resources we have given them?

Is it because fewer and fewer judges come to the bench with significant civil trial experience? One need only to look at

the responses of nominees to the Federal bench in the questionnaire each files with the Senate Judiciary Committee, a public document, to see that over time more and more of them have to stretch to list ten significant litigated matters for which they have been responsible and to see how many have little or no civil trial experience.

In the states that select judges through the election process, should we be looking at the impact of judicial elections on how many experienced trial lawyers are willing to subject themselves to that process to go on the bench? And should we be looking at the adequacy of the compensation that goes with the job in both Federal and state courts and its impact on the level of trial experience it attracts?

Shouldn't we be asking if these factors have led to judges who manage dockets instead of trying cases?

And should we be looking at how judges are trained to do their jobs? Are they trained to be jurists—decision-makers—or managers? And how are their performances evaluated? Are they marked down if they have too many cases go to trial? And what effect does that have on the availability of trial for those cases whose just resolution requires a trial?

And should we also be looking

at what happens in those jurisdictions that do provide timely civil trials? Should we be asking whether the procedural rules are really an impediment to trial if a case is given a reasonably prompt, firm trial date before a judge the parties know can—and will—try the case if it is not settled? There is anecdotal data that tends to support the conclusion that they are not. In those courts, Parkinson's Law in the form of unnecessary discovery to fill up the time from filing to trial has no opportunity to take hold.

And should we not be looking to see if compulsory mediation, which in many cases requires completion of discovery and preparation that approaches that of actual trial, is less often resorted to in such courts?

And should we not examine the role of lawyers in the picture? Untrammelled discovery and the billable hour, where the lawyer controls how much he or she does and how long it takes to do it, are a toxic mix. Are we doing enough to sensitize lawyers to the ethical dilemma this creates? Have we created a generation of highly educated, expensive searchers of documents and briefers of motions who live off the present system and will never see a jury?

And are "case-manager" judges who have no personal trial experience and hence no sense

of the economic impact of delay on litigants being educated to its implications?

Should we be looking at the magnitude of the shrinking pool of lawyers and judges who have substantial trial experience, who know how to try cases? And should we be looking at the impact of that shrinkage on the quality of justice our courts dispense?

Should we attempt to quantify in a rough sort of cost-benefit analysis the out-of-pocket expenses incurred by litigants who do choose to go to court? Should we also attempt to quantify in some fashion the cost—economic and social—of meritorious claims not pursued and payments made in non-meritorious cases because of the delay and expense attendant to litigation?

We need to ask all these questions and more. We need to look at the variations among Federal districts, among states, among judges. We need to identify those courts that work—that stand ready to try expeditiously those cases that need to be tried—and to find out why they work when others do not, how and why they get more cases to trial.

Professor Galanter's preliminary research ought to be enough to tell us that we do not have all the answers and that some of

our preconceived notions of the problem have already been proved wrong.

If, without examining all the facts, we assume that we already understand the problem and already know the solution, we risk emulating the six men of Indostan in John Godfrey Saxe's poem, *The Blind Men and the Elephant*, who from their separate limited observations were variously convinced that the elephant was like: a wall, a spear, a snake, a tree, a fan and a rope. The poem aptly observes that "[E]ach was partly in the right and all were in the wrong!"

Pursuing these inquiries will be a formidable task. Professor Galanter has collected the macro numbers from the Federal system. Justice Kourlis' Institute is extracting data from selected Federal districts, ones that seem to be able to provide trials and ones that do not. Her Institute has already done significant work in developing methodology for objective evaluation of individual judicial performance of state court judges, and a number of states are already making use of these tools. The National Center for State Courts has projects underway. The College itself has more than one project underway.

But no one seems to have undertaken to ask or to answer all the questions to which I

have alluded, much less to make certain that all of them and all those that may occur to others are being addressed. No one seems to have established a clearinghouse of information that could lead to a rational, comprehensive, non-redundant approach to all facets of the problem.

Every organization addressing this issue needs to ask itself whether we are about to jump on our respective horses and ride off in all directions. And the College needs to ask itself what its role ought to be in all this. As the one national organization composed of experienced lawyers from every segment of the trial bar, it is uniquely equipped both to help coordinate and to contribute to this effort.

If we reach the point where trial lawyers become an anachronism or worse, an extinct species, the College will suffer along with the public it aspires to serve. We do have an interest in both the process and the outcome.

E. Osborne Ayscue, Jr.

[The opinions expressed in this editorial are those of the author, and not necessarily those of the College.]



STOUT, don't from cover

"We often discuss our concern about the vanishing trial from the lawyers' perspective," he said in an interview with *The Bulletin*. "But this should be a concern of all our citizens, not just lawyers. The duty of our citizens to participate in this aspect of the judicial system and to have an opportunity to know how disputes are being resolved is a critical part of the administration of justice. We all have an interest in assuring that participation of our citizens and transparency continue in our justice system in the United States and Canada."

Stout, who will take the gavel as the College's top officer in Denver, points out that arbitration and private alternative dispute resolution often leave the public in the dark. "You go to court to have a trial and everyone knows how the trial comes out," he says. "The public can sit there and watch if they like. In other methods of disposition of legal disputes the public doesn't know how these matters are resolved or what the rules are in those situations."

Stout does not foresee any drastic changes in direction for the College under his leadership. Pledging to continue the path set by President **David Beck** to reverse the vanishing trial trend, he says, "Frankly, it wouldn't affect lawyers much, but it would be a big loss to our citizens not to have the system we've had for the last couple hundred years."

Stout has represented many major businesses in the Wichita area, including Boeing and Coleman. And he has specialized in environmental and employment litigation. He won the first case applying comparative negligence law after it was adopted

in Kansas.

Stout was inducted as a Fellow in 1984 at Chicago. "I didn't know much about the College until I was invited to submit a statement of qualifications," he said. "When I saw the names of the Fellows from Kansas I realized for the first time what an honor it was to be included."

The College's mission is just as important now as it was when it was founded in 1950, Stout believes. Under his leadership, he says the College will continue its mission to maintain and improve the standards of trial practice, the administration of justice and the ethics of the profession. "The goals we have will continue to be our responsibility—education and training of trial lawyers, maintaining the judicial system with citizen participation and transparency and high ethical standards. We will continue to pursue these goals and we will do so in the company of Fellows we enjoy and respect."

Stout grew up as a farm boy from near tiny Bazaar, Kansas, (current population 81), about sixty miles northeast of Wichita. The most significant event in the town every year is a commemoration of the 1931 plane crash that killed Notre Dame football coach Knute Rockne and seven others.

Stout had no lawyers in his family and no idea what he would do in life until he took a standardized aptitude test as a young college student. The result pegged him as a future aviator, forest ranger or lawyer. "With mediocre eyesight and, being from Kansas, never having seen a forest, I chose law," he says. For his only

orientation, Stout traveled from Bazaar to the county seat in nearby Cottonwood Falls (population 966) and talked to a courthouse lawyer.

After graduating from Kansas State University in 1958, he went on to receive his J.D. in 1961 from Kansas University where he graduated with distinction, Order of the Coif and an editor of the law review. He then spent two years in the Army Judge Advocate General Corps, mostly trying courts martial.

After his discharge, he joined the Foulston Siefkin law firm in Wichita in the fall of 1963 and immediately began trying cases. "No one case stood out," he recalls. "I tried a lot of cases. I remember the ones I lost. I learned that our clients don't expect us to win every time, but they do expect us to care."

His early mentor was **Robert C. Foulston**, a Fellow of the College. Stout remembers, "He was a true professional, a living example of the Code of Trial Conduct, he also believed in making trial work fun."

Stout, who has a son and a daughter who are lawyers, believes the legal profession itself is in good shape. "Lawyers are demonstrating professionalism and providing high quality legal services," he says. "They are continuing their education, maintaining self-imposed disciplinary procedures and ethical requirements in a constantly and rapidly changing environment. We have problems like anybody else, but we solve most of the problems ourselves, which is not typical."

Stout and his wife, **LeAnn**, have

five adult children, two sons and three daughters, two of them twins. He and his family relax by riding horses and taking care of “a couple thousand acres” they own with his brother’s family near Bazaar, including the original home place. “I wouldn’t call myself a rancher,” he says. “We buy cattle, keep them for the summer and then sell them.”

He likes to spend his time clearing brush and keeping up with other chores, but swears he doesn’t do it to try to keep in shape:

“I have a chainsaw and a woodsplitter so I have done everything I can to mechanize it.”

Stout’s resume on his firm’s website reveals another facet of his personality. In 2001 he was Admiral Windwagon Smith XXVIII in the Wichita River Festival. His explanation: “You dress up in a phony admiral’s outfit and preside over the annual Wichita River Festival for 10 days. Pretty silly, but the kids like it. I am not sure it is a career highlight, but it might be.”



MIKEL L. STOUT

Born 1937.

B.S. in Animal Husbandry, Kansas State University, 1958;

J.D. with distinction, University of Kansas, 1961.

Order of the Coif; Editor, Kansas Law Review, 1960-61.

Captain, U.S. Army Judge Advocate General Corps, 1961-63;

Foulston Siefkin, LLP, Wichita, Kansas, 1963-present.

Member, American Bar Association. President, Kansas

Association of Defense Counsel, 1983-84;

President, Wichita Bar Association, 1987-88;

President, Kansas Bar Foundation, 1991-93.

Civil Justice Reform Act Advisory Group, United States

District Court, District of Kansas, 1991-95;

Kansas Commission on Judicial Qualifications, 1984-present,

Chair 1994-95.

Trustee, U. S. Supreme Court Historical Society;

Kansas Bar Association Professionalism Award, 1997;

William Kahrs Lifetime Achievement Award, Kansas

Association of Defense Counsel, 2005;

Robert K. Weary Award, Kansas Bar Foundation, 2006.

Community involvement: President, Wichita Festivals, Inc., 1978-79;

Captain, Wichita Wagonmasters, 1982-83;

Admiral Windwagon Smith XXVII, Wichita River Festival, 2001;

Board of Directors, Livestock & Meat Industry Council, 1999-present;

Kansas Park Trust, 2005-present.

Inducted into American College of Trial Lawyers, 1984;

Kansas State Chair, 1994-96; Board of Regents, 2000-present;

Secretary, 2004-05; Treasurer, 2005-06; President-elect, 2006-07.

Business litigation lawyer.

Listed in: Best Lawyers in America (Personal Injury Litigation,

Commercial Litigation and Bet-the-Company Litigation);

Chambers USA (General Commercial Litigation);

MO/KS Super Lawyer (Business Litigation);

Lawdragon 500 Leading Lawyers in America.

Email to the President:

Dave [Beck]: [O]n the recently received Bulletin from the College, with all the good stuff about the Spring meeting, is it true that this publication is now being written by Comedy Central? I made the mistake of taking it home for Leah to read, and I couldn’t pull it from her grasp, while she doubled up with laughter. . . . I read with pleasure several articles and inserts that were hilarious! (Some of the stories might even be true.) . . . [C]ommunications such as the Bulletin . . .—laced with humor—are quite welcome. Leah was so impressed that she insisted that we register for the Denver meeting . . . and show that we are still kicking. **Hubert [Green, former Regent]**

Editors’ note. We don’t make this stuff up. . . . Come and see for yourselves.

GEORGIA FELLOWS OFFER TRIAL PRACTICE SEMINAR *for* PUBLIC SERVICE LAWYERS

*By Jerry A. Buchanan,
Columbus, Georgia*

The Georgia Fellows sponsored a two-day trial practice seminar in August for the benefit of forty-eight Georgia public interest lawyers.

Regent **Chilton Varner** was on hand the first day to welcome the students and faculty. She emphasized the high regard in which the College holds the work of public interest lawyers and the College's dedication to their continuing legal education.

The Seminar was co-chaired by Fellows **Jerry A. Buchanan** of Columbus, and **Claudia Saari** of the DeKalb County Public Defender's Office. The faculty was comprised of Georgia Fellows, including former Georgia Governor **Roy E. Barnes**, Atlanta Bar Association President **Ray Persons**, recent inductees (and responders for their class of inductees) **Bernard Taylor** and Assistant U. S. Attorney **Sally Q.**

Yates, Georgia State Committee Chair **Davison Burch**, **Richard Sinkfield**, **Anthony L. Cochran** and **Jonathan C. Peters**. It included two women, three African-Americans, a former judge, a former governor and a current bar president.

The students came from across the State of Georgia, including from Waycross, Brunswick, Atlanta, Columbus, Gainesville, Augusta, Dalton, Albany and Macon. The transportation expenses of the attendees were underwritten by a grant from the ACTL Foundation. The Georgia State Committee covered the remaining expenses of the program.

The faculty demonstrated all aspects of trial practice, including jury selection, opening statements, direct and cross examination of lay and expert witnesses and closing arguments. Their demonstrations were followed by faculty panel discussions of the various trial topics, after which students and

faculty went into small break-out groups in which the students were allowed to perform the same trial tasks they had seen demonstrated by the faculty.

Both days of the seminar included a working lunch. On Monday, DeKalb County Superior Court Judge Robert Castellani spoke on trial ethics, and on Tuesday the faculty engaged in a panel discussion of ethical and practical issues associated with witness preparation and then took questions from the students.

The seminar was well attended, and the comments of the students were universally positive. The Fellows on the faculty worked very hard to make the seminar a success and to send a clear message to the pro bono community that the College and its Fellows are dedicated to the advancement of lawyers working in the public interest.



FELLOWS *to the* BENCH

The College is pleased to announce the following judicial appointments of Fellows:

ELIZABETH GLEICHER,
Royal Oak, Michigan, Michigan Court of Appeals

JOHN W. MARKSON,
Circuit Court, Branch One, Madison, Wisconsin

BLOG BITES BACK

“Are you ‘Flea’”?

According to a syndicated news report, that innocent-sounding question, addressed to the physician defendant in a Boston medical malpractice case, may have puzzled the jurors, but it produced a substantial settlement before the trial proceeded any further.

Plaintiff’s counsel had become aware of a running blog, labelled *drfleablog*, that described a trial in progress that seemed remarkably like a parody of the one she was trying. The blogger had reportedly ridiculed the plaintiff’s case, ridiculed the plaintiff’s lawyer, suggested that jurors were dozing, and, wonder of wonders, revealed defendant doctor’s trial strategy.

The observant plaintiff’s counsel?

Fellow and College Outreach Committee Chair,
Elizabeth N. “Liz” Mulvey, Boston, Massachusetts



Letter to the ACTL Foundation:

I . . . express my appreciation for the . . . scholarship assistance offered to defray tuition costs for my attendance at the Evidence for Prosecutors [National College of District Attorneys seminar]. . . . I live in a somewhat “rural” area and in order to attend beneficial training, I often must travel. The scholarship assistance will alleviate the expense to my budget. . . . **Nicole E. Foster,** State’s Attorney, Williams County, ND.

IN MEMORIAM

*We want to do justice to the lives of every Fellow who has passed from among us. Our tributes to them have been perhaps the most well-received feature of recent issues of **The Bulletin**. Despite our best efforts, the College's recent request for address updates produced information that, in addition to the deaths of sixteen Fellows for whom we had been sent published obituaries, nineteen Fellows whose deaths had not previously been known to the College had died, one of them in 2000, seven years ago.*

*We have done the best we could from College membership records, old directories and the Internet to gather information about these nineteen. Our tributes to them are, nevertheless, less complete than we would like them to be. In the interest of doing justice to deceased Fellows, we request that when any one of you becomes aware of the death of a Fellow, you send a copy of the obituary to the College office, copying the appropriate State or Province chair, so that the College, your local committee and **The Bulletin** can acknowledge the death promptly. We owe that to one another.*

(The date immediately following the name of the deceased Fellow is the date of induction.)

Dillard W. Baker, '63, Houston, Texas, a long-retired Fellow Emeritus and a graduate of the University of Texas, died January 29, 2007 at age 94.

Karl W. Blanchard, '68, retired from Blanchard, Robertson, Mitchell & Carter, PC, Joplin, Missouri, died July 10, 2007 at age 91. A graduate of the University of Missouri and of its law school, he had served as Operations Officer of the 2nd Engineer Special Brigade in the southwest Pacific in World War II and later as Brigade Executive Officer in the Occupation Force in Japan. He practiced law

for 67 years. An insurance defense lawyer, he had been honored recently by the Missouri Organization of Defense Lawyers with its Ben Ely, Jr. Defense Lawyer Award. His survivors include his wife, a daughter and two sons, one of whom, Karl, Jr., is a Fellow of the College.

Leonard M. Campbell, '62, Denver, Colorado, retired from Gorsuch, Kirgis, LLC, died September 16, 2006. Born in 1918, he was a graduate of the University of Colorado and of its law school and a World War II Air Force veteran. He had held a number of local governmental positions and had been president of his local bar.

Walter P. Christensen, '70, Groveland, California, a Fellow Emeritus who

practiced in San Diego until his retirement in 1991, died May 25, 2006.

William H. Clancy, '76, Holliston, Massachusetts, who until his 2001 retirement had practiced with Burns & Levinson, LLP in Boston, died November 8, 2004. Born in 1930, he was a graduate of Boston College and of its law school.

Hon. Thomas A. Clark, '75, Vero Beach, Florida, retired United States Judge for the 11th Circuit, died September 4, 2005 at age 84. A graduate of Washington and Lee, he served as a Lieutenant Commander in the U. S. Navy in World War II, then obtained a law degree from the University of Georgia, practiced law in several small towns in Georgia, taught law at Georgia Southwest College, served as a county prosecutor and was elected to the Georgia House of Representatives. He then moved to Florida, practicing in two Tampa law firms, the last being Carlton Fields. He was almost 60 years old when he was appointed to the Federal appellate bench in 1969. His chambers were in Atlanta. He took senior status in 1979. Known for his principled dissents, his chief judge described him at the time of his portrait presentation as reflecting "the conscience of the court."

John David Collins, '68, Macon, Missouri, retired from Collins and Grimm, died June 24, 2007 at age 81. A graduate of the University of Missouri and of its law school, he was a member of the board of editors of the law

review. An infantryman in World War II, he was wounded in the Battle of the Bulge. He had been awarded the Lon O. Hocker Memorial Trial Lawyer Award, named for the father of the late College past president Lon Hocker, and had served as president of the Missouri Bar Foundation. He had served his alma mater in several capacities and had been honored by the University of Missouri Law Alumni Association with a Citation of Merit. His survivors include his wife and two daughters.

Robert O. Cox, '73, retired from Cox, Young & Griffin, Florence, Alabama, died May 29, 2007 at age 78. A graduate of the University of Alabama and of its law school and a former Army JAG officer, his survivors include his wife and three daughters.

Richard E. Crow, '69, retired from The Crow Law Firm, Sacramento, California, died March 3, 2007. Born in 1919, he was a graduate of Miami of Ohio and of the University of San Francisco Law School (formerly St. Ignatius).

Pierre de Grandpré, Q.C., '88, St-Lambert, Quebec, Canada, a Fellow Emeritus, died June 14, 2007. Born in 1927, before his retirement he had practiced with de Grandpré Godin in Montreal, Quebec.

Edward P. Elsner, Jr., '77, a senior partner in Montgomery, Elsner & Pardieck, Seymour, Indiana, died April 27, 2007 at age 82.



A graduate of Indiana School of Business and of the Indiana-Bloomington Law School, his education was interrupted by World War II, in which he spent 20 months in the Corps of Engineers in the European Theater, receiving four battle stars. Returning to his hometown to practice with his father, he served in the Indiana State Legislature, chairing the House Judiciary Committee, and was Assistant Speaker of the House to Birch Bayh. He had served as president of his local bar and of the Young Lawyers Section of the Indiana State Bar and served on the Board of Managers of the State Bar and the Indiana Board of Law Examiners. A civic activist, a businessman and an avid bridge player, he once qualified for the final playoffs at the Vanderbilt National Bridge Tournament, playing against four nationally known players, including Oswald Jacoby. He is survived by his wife, three daughters and a son.

Francis B. Feeley, Sr. '75, Litchfield, Connecticut, retired from the Waterbury firm Feeley, Nichols, Chasder & McDermott, PC, died March 1, 2006 at age 86. A graduate of Holy Cross and the University of Connecticut School of Law, he was an Army veteran of World War II. His survivors include his wife, a son and two daughters.

Robert L. Floyd, '76, Of Counsel to Richman Greer Weil Grumbaugh Mirabito & Christensen, PA, Miami, Florida, died May 14, 2007 at age 89. A graduate of the University of Florida and of Washington College of Law of American University, he had served as president of his local

bar and of the Florida Bar, as well as serving in the American Bar Association House of Delegates. He had also served as mayor of Miami, a member of the Florida legislature, a circuit judge for eight years, Sheriff of Dade County and an FBI Special Agent. He had been President of the Society of Former Special Agents of the FBI.

John F. Gates, '75, long retired to Santee, South Carolina, died June 28, 2007.

Howard Gittis, '79, Vice Chairman and Chief Administrative Officer of MacAndrews & Forbes Holdings Inc., New York, New York, and a former senior partner in Wolf, Block, Schorr & Solis-Cohen, Philadelphia, Pennsylvania, died unexpectedly in his sleep September 16, 2007 at age 73. A twenty-three year member of Wolf, Block, he had served on its executive committee and was chairman of the firm for three terms. He had served as Chancellor of the Philadelphia Bar in the early 80s. The son of immigrants, he had attended the University of Pennsylvania on a scholarship. After law school at Penn, he had clerked for a Pennsylvania Supreme Court justice before following him to Wolf, Block. Trained as a litigator, he became a generalist in the practice. In 1985, he left the firm to join his friend Ronald Perelman at M&F Worldwide, whose subsidiaries include Scientific Games, Revlon and Panavision. Over the years there, he served in several capacities, including running Revlon, an M&F subsidiary. A believer in education, he had given generously to his

law school and to Temple University and had served on both their governing boards. Gittis Hall and the Gittis Center for Clinical Legal Studies at his law school are named for him, as is Temple's student center. His honors had included the Eleanor Roosevelt Humanities Award, the Temple University Russell H. Conwell Founders Award and the Temple University Hospital Auxiliary Acres of Diamonds Award. His survivors include four daughters.

William C. Harvin, '64, retired from Baker & Botts LLP, Houston, Texas, died July 14, 2007 of complications from Parkinson's disease at age 88. A graduate of the University of Texas and of its law school, his education had been interrupted by World War II, in which he served first on the USS New Mexico and then as a naval aviator. His mother, a widow, was an office administrator for Baker & Botts, where he started work as a boy as a messenger. He joined that firm after law school and for 12 years before his retirement was its managing partner. He had chaired the board of the Houston Chamber of Commerce and had served the Houston medical community in many capacities, including chairing the board of the Texas Medical Center. He had been honored by his University with a Distinguished Alumni Award. He had served as a vestryman and senior warden of two Episcopal churches, and he had received the Brotherhood Award of the National Conference of Christians and Jews and been honored with the Leon Jaworski Award for service to the community. His survivors include his wife, two sons and a daughter.

Clark R. Heggeness, '68, Long Beach, California, a Fellow Emeritus retired from Carlsmith, Ball, died May 29, 2007. Born in 1920, he was a graduate of North Dakota State University and of Michigan Law School.

David B. Heyler, Jr., '81, Pebble Beach, California, retired from the Los Angeles firm Ward & Heyler, died August 21, 2007.

Hon. John Luke Hill, Jr. '73, a partner in Winstead Sechrest & Minick, Houston, Texas, died July 9, 2007 at age 83 of a heart condition. A successful plaintiff's attorney before entering public service, he was the only person in Texas history to have served as its Secretary of State, Attorney General and Chief Justice. He had also been an unsuccessful candidate for his state's governorship. As Secretary of State, he had installed the Uniform Commercial Code in Texas. As Attorney General, he persuaded the legislature to enact the Texas Deceptive Trade Practices-Consumer Protection Act and created his office's environmental protection and consumer protection divisions. After two of his fellow justices had become the targets of ethics inquiries and national attention was focused on the role on campaign contributions in Texas judicial elections, he resigned from the office of Chief Justice to work to change the way in which Texas selects judges. His work in support of merit selection of judges had received national attention. He had been honored by the American Judicature Society with its Herbert Harley Award. A graduate of Kilgore College,



where he won a national debating championship, his law degree, with honors, was from the University of Texas, where he was a member of the Order of the Coif. His law school had honored him with its Lifetime Achievement Award, and today hosts the John L. Hill Trial Advocacy Center. He had long represented the College on the board of the National College of District Attorneys. His survivors include his wife, two daughters and a son.

Oliver W. Hill, '87, Richmond, Virginia, whose photograph shaking hands with Queen Elizabeth II appeared on the cover of the last issue of the *Bulletin*, died peacefully during breakfast at his home on August 5, 2007 at age 100. A law school classmate of the late Thurgood Marshall and part of a team that included Marshall, Howard Law School Dean Charles Hamilton Houston, a mentor to both Marshall and Hill, and Spottswood W. Robinson III, a future Howard Law School Dean and future Chief Judge of the Court of Appeals for the D. C. Circuit, Hill was the lead attorney in *Davis v. County School Board of Prince Edward County*, one of the five cases consolidated into the landmark *Brown v. Board of Education*. Born in Richmond, he lived in Roanoke, Virginia until he was fifteen, when he left to go to school in Washington, D.C. because Roanoke had no high school for African-Americans. A copy of the Constitution left him by an uncle had whetted his interest in the law. He began an unsuccessful law practice in Roanoke during the Depression, waited tables for a time in Washington, then returned to Richmond

in 1939 to practice law. In 1940 he won his first civil rights case, establishing the right to equal pay for black and white teachers. After service in the Army in World War II he ran unsuccessfully for the Virginia House of Delegates. Then in 1948 he became the first black person elected to the Richmond City Council in 50 years. President John F. Kennedy appointed him an Assistant to the Commissioner of the Federal Housing Administration. He practiced law well into his eighties. A winner of many awards, including the Presidential Medal of Freedom, he was one of the thirteen winners of the College's Courageous Advocacy Award. His survivors include his son.

John R. "Jack" Hoehl, '71, Jacksonville, Florida, retired from the Miami firm Blackwell, Walker and Gray, died June 23, 2007 at age 82. He began his college education at Emory, transferred to Duke, from which he graduated with honors in physics, and was a member of Phi Beta Kappa. A World War II naval officer, he graduated with honors from the University of Florida Law School, where he was editor in chief of the law review. He had been president of the Dade County Bar and of the International Association of Defense Counsel. A member of the Orange Bowl committee for over 30 years, he had served as its president. His survivors include his wife, three daughters and a son.

H. Roland "Rolly" Hofstedt, '85, a retired partner in Merrick, Hofstedt & Lindsey, P.S., Seattle, Washington, died August 4, 2007 at age 73 of heart failure. A graduate of the

University of Washington and of its law school, he is survived by a daughter and two sons.

Charles M. Jones, '79, retired from Jones, Osteen & Jones, Hinesville, Georgia, died May 2, 2007 at age 76. His undergraduate education interrupted, he served in the US Army in Korea as a platoon leader. Graduating from the University of Georgia and its law school, he had served for ten years in the Georgia House of Representatives, serving as majority whip until his retirement after an unsuccessful bid for the office of Lieutenant Governor. Active in his community, his church and in a number of legal organizations, he had served as vice-president of the Georgia Trial Lawyers Association. His survivors include his wife and a daughter.

Herbert V. Kelly, '76, Jones, Blechman, Woltz & Kelly, PC, Newport News, Virginia, died February 19, 2007 at age 87. A graduate of the College of William and Mary, he had received a Doctor of Laws Honoris Causa from William and Mary in 1993.

John F. King, '68, Of Counsel to Anderson Coe & King, LLP, Baltimore, Maryland, died July 4, 2007. Born in 1925, he was a graduate of Dickinson and of Georgetown School of Law. Active in local civil rights organizations, he had been a visiting faculty member at Harvard Law School.

Laidler B. Mackall, '72, retired from Steptoe & Johnson LLP, Washington, District of Columbia, died June 6, 2007. Born in

1916, he was a graduate of Princeton and Georgetown School of Law and served as a bomber pilot in World War II.

Wiley E. Mayne, '57, Mayne & Madsen, LLP, Sioux City, Iowa died May 27, 2007. Born in 1917, he was a graduate of Harvard and of its law school. He had begun his career as a Special Agent for the FBI before going on active duty in the US Navy in World War II.

Senior United States District Judge Alan A. McDonald, '67, Yakima, Washington, died July 26, 2007 at age 79. Appointed to the bench in 1985, he was a graduate of Whitman College and the University of Washington School of Law. He began his career as a prosecutor, then practiced with the firm of Halverson, Applegate and McDonald for 19 years before going on the bench. His survivors include his wife and three daughters.

J. Read Murphy, '75, Bloomfield, Connecticut, retired from the Hartford firm Murtha, Cullina, Richter & Pinney, died June 4, 2007. Born in 1920, he was a graduate of Yale and of Cornell Law School.

Richard E. Quinn, '79, Fort Wayne, Indiana, a Fellow Emeritus, died September 24, 2000. Before his 1998 retirement he had practiced with Quinn, Johnston, Henderson & Pretorius in Peoria, Illinois.



Lawrence Drew Redden, '69, Of Counsel to Redden Mills & Clark, Birmingham, Alabama, died July 2, 2007 at age 84. A graduate of the University of Alabama, where he was a member of Phi Beta Kappa and ODK and of its law school, where he was the first editor-in-chief of the law review, he had served as a Lieutenant in the Army Coast Artillery in the European and Asiatic-Pacific theaters in World War II. He had served as president of both the Birmingham and Alabama Bar Associations. He retired as a Major General in the Army Reserves, having earned the Army Distinguished Service Medal and the Legion of Merit, as well as other awards for his military service. His survivors include his wife.

William F. Reilly, '79, Of Counsel to Hippenmeyer, Reilly, Moodie & Blum, S.C., Waukesha, Wisconsin, died July 6, 2007 at age 75. A graduate of the University of Wisconsin and of the Marquette Law School, he held dual citizenship with the Republic of Ireland and the United States. He had served as president of his local bar and as a member of the Board of Governors of his state bar, as well as serving as State Chair in the College. His survivors include his wife, six sons and three daughters..

David W. Robinson, '78, Baton Rouge, Louisiana, died August 7, 2005 at age 67. Of counsel to the firm of Dué, Price, Guidry, Piedraketa & Andrews, he had taught at the

law schools of both LSU and the University of Texas, where he was a full professor. A graduate of Louisiana State University and of its law school, where he was a member of the Order of the Coif and a law review editor, he had earned an L.L.M. and a J.S.D. at Yale Law School. A classroom had been dedicated in his name at the LSU Law School.

William Wesselhoeft, '74, Schwabe, Williamson & Wyatt, PC, Portland, Oregon, died July 15, 2007 at age 87. A graduate of Harvard and of its law school, he had practiced most of his life in Seattle, Washington with Schwabe, Williamson, Ferguson & Burdell.

William Neal Woolsey, '78, Chaves, Resendez & Rivero, LLP, Corpus Christi, Texas, died July 25, 2007 at age 75. A graduate of the University of Texas and of its law school, his education had been interrupted by the Korean War. Serving in the Navy, for three and a half years, he had received a commendation for his role in the rescue of 500 United States troops who had been stranded at sea. Active in many civic and charitable endeavors, he had served in the Texas House of Representatives during his last year of law school. He is survived by his wife, his brother, two daughters and a son.





AWARDS, HONORS *and* ELECTIONS

James J. Brosnahan of San Francisco, California has received the Lewis F. Powell, Jr. Award for Professionalism and Ethics from the American Inns of Court.

Fredric Tausend of Seattle, Washington has received the 2007 John P. Frank Award from the Ninth Circuit recognizing an outstanding lawyer practicing in the federal courts of the western United States.

Marvin Karp of Cleveland, Ohio has been appointed to serve on a Supreme Court of Ohio panel that will revise and improve the rules governing the conduct of Ohio judges.

Hon. **Ralph Artigliere** of Bartow, Florida received the Justice Harry Lee Anstead Award for the Florida Bar Board Certified Lawyer of the Year at the 2007 Florida Bar Association convention.

William C. Hubbard of Columbia, South Carolina has received the American Inns of Court's Professionalism Award for the Fourth Circuit.

Karl W. Blanchard, Jr. of Joplin, Missouri has been elected president of the Missouri Organization of Defense Lawyers.

Thomas G. Fritz, Rapid City, South Dakota, has been named Trial Lawyer of the Year by the South Dakota Trial Lawyers Association.

John C. Yaris, Jr. of Hartford, Connecticut has received the American Inns of Court Professionalism Award for the Second Circuit.

THE BULLETIN
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STATEMENT OF PURPOSE

The American College of Trial Lawyers, founded in 1950, is composed of the best of the trial bar from the United States and Canada. Fellowship in the College is extended by invitation only, after careful investigation, to those experienced trial lawyers who have mastered the art of advocacy and those whose professional careers have been marked by the highest standards of ethical conduct, professionalism, civility and collegiality. Lawyers must have a minimum of 15 years' experience before they can be considered for Fellowship. Membership in the College cannot exceed 1% of the total lawyer population of any state or province. Fellows are carefully selected from among those who represent plaintiffs and those who represent defendants in civil cases; those who prosecute and those who defend persons accused of crime. The College is thus able to speak with a balanced voice on important issues affecting the administration of justice. The College strives to improve and elevate the standards of trial practice, the administration of justice and the ethics of the trial profession.



"In this select circle, we find pleasure and charm in the illustrious company of our contemporaries and take the keenest delight in exalting our friendships."

HON. EMIL GUMPERT, CHANCELLOR-FOUNDER, ACTL