



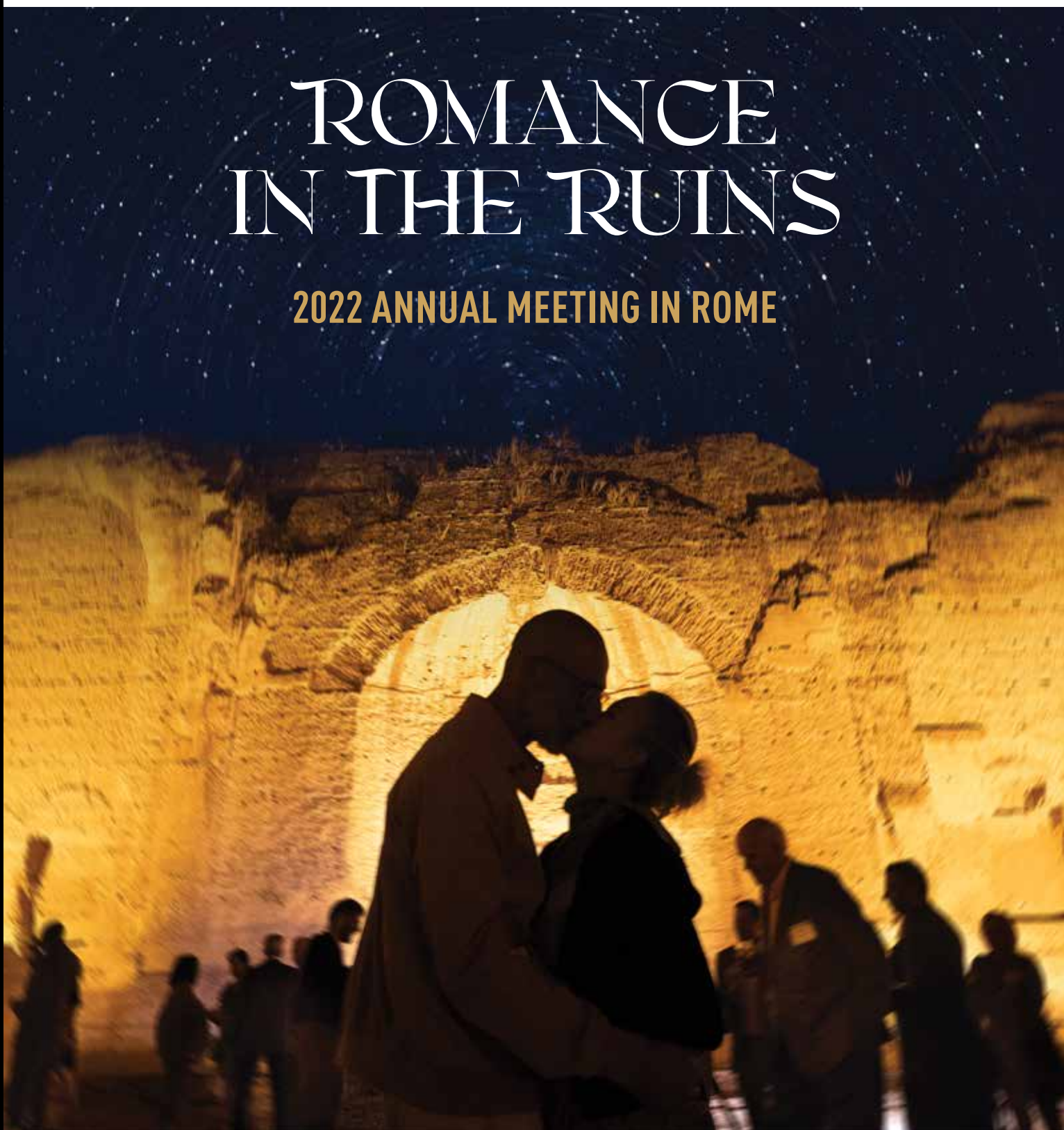
JOURNAL

THE AMERICAN COLLEGE OF TRIAL LAWYERS

ROMANCE IN THE RUINS

2022 ANNUAL MEETING IN ROME

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LETTER FROM THE EDITOR

MY STORYWORTH QUESTION LAST WEEK WAS “HOW HAS THE WORLD CHANGED IN YOUR LIFETIME?” I’M SEVENTY-SEVEN. IF YOU DEFINE LIFE AS FETAL VIABILITY, MY LIFETIME BEGAN JUST BEFORE THE FORMAL SURRENDER OF JAPAN ABOARD THE USS MISSOURI ON SEPTEMBER 2, 1945. SO THERE’S THAT – MY LIFE BEGAN WHEN THE WORLD WAS AT WAR, AND NOW . . . OH, HELL, WE STILL ARE . . .

Well, let’s get into the way-back machine anyway. When I was born, we had a Democrat in the White House. A guy who was Vice President under a predecessor that many thought was much greater. That hasn’t changed. When I was born we didn’t have a Vice-President – the office remained vacant when Truman became President upon FDR’s death and wasn’t filled until 1949. Boy, has that changed – now a black, Asian woman with a Jewish husband. Whodathunk? That is change – a good one.

The US population in 1945 was 138 million – we’re at 338 million now, every one of those two hundred million new folks cramming up the highway when I’m trying to drive. Driving used to be easier, more fun; change – neither good nor bad, just what it is.

I’ve always thought of myself as a Baby Boomer, but I’m not; technically I’m part of the Silent Generation (1927-1945), since Boomers are defined as folks born 1946-1964. But I lived in the age of the Boomer, as the wave of the population bump brought on by the relief of World War II ending changed pretty much everything.



I feel more boomer than silent, and Boomers have experienced – and made – changes.

When I was a kid, Clark Kent would duck into the nearest phone booth to change into his Superman costume. Where does he go now? Technology has changed a lot, some for the better, some not so much. The cell phone. The robocall. The computer. Identity theft. The Internet. The dark web.

But the real change, I think, is our ability to get – and our inability to avoid – information in real time. Not necessarily accurate information, but information. Tons of it. News. Fake news. Faux news.

When I was a boy, we got our local news from newspapers and our national and international news from newsreels – at the movie theater, filmed weeks before. It was stale, but it was dramatic.



Radio provided scratchy, hard to follow recent national news; it was, as I said, hard to follow, so I didn't. I know now that CBS started airing a nightly TV news program in 1948, but we didn't have a television then. We got our first set in 1951 – a jukebox-sized behemoth with an eight-inch black and white picture. I discovered *Douglas Edwards and the News*. Douglas gave way to Walter Cronkite, “the most trusted man in America,” in 1962. Meanwhile, over at NBC, John Cameron Swayze was succeeded in 1956 by Huntley and Brinkley.



We really trusted these people, with good reason. They didn't slant or spin, they reported. They told us the simple truth.

When there were just three networks, they had no choice but to tell the truth. They had to appeal to a wide swath of the public to survive; they couldn't exist by appealing to the fringe. And with only three outlets, they had to tell us the truth in small, limited segments, in not quite prime time, which was reserved for the real entertainment and the commercials to pay for it.

Cable changed everything. 24/7 news became possible, but not quite practical, since simple truthful reporting doesn't actually take all that much time. Like Boyle's Law, the gas has to expand to fill the space, so the programming had to be expanded. Facts only take up so much space. Opinion and spin and creative writing and pure fiction make for additional bulk. And now a word from our sponsor.

And now, when you can offer hundreds of channels, you not only *can* reach out to the fringe, you pretty much have to. And once you do that, the fringe begin to find one another and band together. Those tiny little outré voices we never heard before get amplified and magnified and achieve artificially inflated credence.

I'm not talking about one side or another being uniquely disingenuous here. We may or may not have *liked* the news as reported by Walter Cronkite or Huntley & Brinkley, but we never questioned that it was news, that it was the truth. But now, no one is being straight. Fox has a point of view; so does CNN. Neither reports simple news. Both wrap their views of the news in their own views. And the country suffers for that. We all tune in not so much to learn what's going on but rather to be comforted by hearing what we want to hear. We are soothed. But we are not genuinely informed.

Look at the screen shots to the right. Same press conference. Same facts. Same failure to report. CNN reports that Trump had a meltdown. Fox reports Trump's accomplishments. Both spin; neither reports. That's how the country has changed. And that's not for the good.

There probably have always been conspiracy theorists. There probably have always been flat-earthers and climate change deniers and election deniers. But seventy-five years ago, they didn't have Facebook and Twitter to post their fictions and find other like-minded deniers. Seventy-five years ago we did not have highly paid entertainers masquerading as newscasters validating their conspiracy fantasies. Seventy-five years ago, we did not have nationally elected public leaders who sense political opportunity by appealing to and harnessing false beliefs by branding the truth fake and the fake truth.

Now we do.

Many say that we have never been so polarized, but that isn't it. Certainly, we are not more polarized now than we were in 1860 when we actually declared war on one another and killed 620,000 of our fellow Americans, more combat deaths than in all of our other wars combined. But we were polarized then over actual facts. Slavery was a fact, not a conspiracy theory. Today we are polarized over fictions.

That is a shame, but it is a fact. We need to get back to facts, not spin. We need a Walter Cronkite.

We have another great issue for you. We report on the Rome Meeting. We tell the story of a Fellow who earned a Silver Star for valor in Vietnam. We tell you a few things we bet you didn't know about the Red Cross and Geneva Convention. We say farewell to a Past President, a Past President's wife of sixty-two years, and fifty other Fellows. And more.

Bob Byman





2023 ANNUAL MEETING

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PRESIDENT'S PERSPECTIVE

AS I WRITE THESE WORDS, THE ELECTION IS BARELY IN OUR REARVIEW MIRRORS. I KNOW THAT ONE CANDIDATE OR ANOTHER OR ONE PARTY OR ANOTHER HAS CLAIMED VICTORY IN ALL OF THE MANY RACES THAT TOOK PLACE, BUT I'D LIKE TO THINK THAT THE RESOUNDING WINNER IN THE RECENT ELECTIONS WAS THE RULE OF LAW. THE EXIT POLLS SHOWED THAT MANY VOTERS REJECTED THOSE CANDIDATES WHO DEFIED A FUNDAMENTAL PILLAR OF OUR DEMOCRACY: THE PEACEFUL TRANSFER OF POWER. RESPECT FOR THE RULE OF LAW IS IMBEDDED IN OUR MISSION STATEMENT: "THE COLLEGE STRONGLY SUPPORTS THE INDEPENDENCE OF THE JUDICIARY, TRIAL BY JURY, RESPECT FOR THE RULE OF LAW, ACCESS TO JUSTICE AND FAIR AND JUST REPRESENTATION OF ALL PARTIES TO LEGAL PROCEEDINGS." LYING ABOUT OR DENYING THE RESULTS OF A FAIR ELECTION DISRESPECTS THE RULE OF LAW, AND IT WAS GRATIFYING TO SEE VOTERS ACROSS THE UNITED STATES DISAVOW SUCH DISRESPECT.

I'd like to think that voters connected the dots between the political rhetoric that we were hearing and the political violence that we were seeing and the political conspiracy theories that had no factual basis and decided instead that facts matter. Some voters had it easy – the candidates who best reflected their personal views on the issues also respected the results of the 2020 election. But I particularly admire those who voted for a candidate who otherwise didn't reflect their views on the issues in order to support the rule of law. That vote took strength of character and an abiding respect for the rule of law. In a recent e-Bulletin article, I cited statistics from the World Justice Project, showing that the rule of law declined sixty-one percent between 2021 and 2022. That's a depressing statistic, but perhaps the recent elections show that there is reason for some optimism – at least in the U.S. Let's hope so.

Our Committee for Judicial Independence, chaired by John R. Wester, continues to work on an initiative (begun under the direction of Past President Mike O'Donnell) to evaluate recent hearings of the Committee on

the Judiciary for nominees to the Supreme Court. The Committee has been soliciting ideas from Senators on both sides of the aisle in its quest to promote fairness and confidence in the confirmation process and to enhance public respect for both the Senate and the Court. Once it finishes gathering information, the Committee intends to draft an Open Letter that will be provided to members of the press and the Senate, advancing ideas to raise the discourse and reduce the polarization of confirmation hearings for nominees to the Supreme Court.

In partnership with the Association of Pro Bono Counsel, our Access to Justice and Legal Representation Committee put on a terrific webinar event, entitled "Doing Well by Doing Good: Enhancing Your Career as a Trial Attorney with Pro Bono Services." The Committee is already hard at work on its next project—this one in coordination with the Innocence Project. Stay tuned.

In keeping with our mission statement "to improve the standards of trial practice," the College continues to prioritize the training of the next generation of trial lawyers with our boot camps and our competitions, including the National



Moot Court, National Trial and the Sopinka and Gale Cups. In May, we will hold another Diversity Trial Advocacy program for lawyers from racially diverse backgrounds in Chicago. And once again this year, the Foundation is supporting Just The Beginning—A Pipeline Organization, to help economically-disadvantaged and first-generation law students obtain paid internships or externships with federal judges.



As I travel around North America, I have been reminding Fellows that the first sentence of our mission statement describes the College as “an invitation only fellowship of exceptional trial lawyers of diverse backgrounds from the United States and Canada.” Our desire to increase the diversity of our Fellows is not simply aspirational or a matter of political correctness; it’s a value that is the key to growth. More and more, our clients want lawyers who look like our jurors. That means that increasingly the exceptionally qualified trial lawyers in our two countries are women and people of color. If we want the College to continue to represent

the absolute top trial lawyers, then it’s imperative that we find and nominate more candidates of color and more women. If we do that and if we then work at ensuring that everyone feels included and like they belong, then we will continue to have a vibrant organization of the best the bar has to offer.

Our 2023 Spring Meeting will be held from February 23 to 26 in Key Biscayne, Florida. President-Elect Bill Murphy has lined up some great speakers, including, among others, (1) Dr. Jennifer Languell, who will speak about how we can better plan buildings and communities to withstand the effects of global warming and climate change; (2) Berit Anderson, who chairs the Nobel Peace Prize Committee; (3) Casey Cep, who has written a book called *Furious Hours* about a series of unsolved murders in Alabama that Harper Lee was investigating; and (4) Justice Steven Breyer, who was chosen to give the Lewis F. Powell lecture, but instead will be interviewed by his brother, Judicial Fellow Charles Breyer. Secretary John Day has arranged a CLE presentation for the afternoon of February 23 during which two professional actors will address how to effectively communicate to others via remote video camera. Topics will include choosing an appropriate setting, appropriate dress, dealing with the gap/lag in the software, how to look at the camera, how to sit, the proper use of notes and other topics. The goal of the program is to help lawyers be more effective advocates in a legal world increasingly using remote video for courtroom appearances.

I look forward to seeing many of you at the Spring meeting and others at the state, province and regional meetings. As I meet more and more of you, it reinforces how fortunate I am to serve as President of this wonderful organization.

Susan Harriman
San Francisco, CA



TWO THOUSAND TWENTY TWO

WHEN IN

ACTL ANNUAL MEETING ~ ITALY

ROME









COLLEGE FELLOWS WERE
HAPPY TO "DO AS THE ROMANS
DO" AT OUR SPECTACULAR
2022 ANNUAL MEETING IN
ROME





HON. JOSEPH DONNELLY

AMBASSADOR TO THE HOLY SEE

JOE DONNELLY, THE GRANDSON OF IRISH IMMIGRANTS, ARRIVED AT NOTRE DAME UNIVERSITY IN THE FALL OF 1973. HE STAYED ON FOR LAW SCHOOL AND MET HIS WIFE JILL, WHO WAS AMONG THE FIRST WOMEN ADMITTED TO NOTRE DAME. JOE DONNELLY STAYED IN SOUTH BEND, WHERE HE PRACTICED LAW FOR FIFTEEN YEARS BEFORE STARTING A SMALL BUSINESS. WHILE RAISING FOUR CHILDREN WITH JILL, HIS POLITICAL CAREER BEGAN WITH SERVICE ON THE STATE ELECTION COMMISSION AND AS A MEMBER OF A LOCAL SCHOOL BOARD IN MISHAWAKA, INDIANA. FIRST ELECTED TO CONGRESS FROM INDIANA'S SECOND DISTRICT IN 2006, REPRESENTATIVE DONNELLY WORKED AS A MEMBER OF THE VETERAN'S AFFAIRS COMMITTEE TO REFORM HEALTH BENEFITS FOR FORMER SERVICE MEMBERS. HE WAS A MODERATE DEMOCRAT FROM A CONSERVATIVE STATE. IN 2012, JOE DONNELLY WAS ELECTED TO THE SENATE, WHERE HE CONTINUED TO FOCUS HIS LEGISLATIVE WORK ON VETERANS AND THE ARMED SERVICES, AS WELL AS AGRICULTURE AND THE SPECIAL COMMITTEE ON AGING. AFTER HIS SERVICE IN THE SENATE, JOE RETURNED TO THE PRACTICE OF LAW UNTIL HE WAS CALLED BY PRESIDENT BIDEN IN 2021 TO SERVE AS THE AMBASSADOR OF THE UNITED STATES TO THE HOLY SEE.

In addition to its place at the center of Roman Catholicism, the Vatican Embassy is at the crossroads of critical international diplomacy and peacemaking, where Ambassador Donnelly continues to serve our nation with great distinction. Ambassador Donnelly's abridged remarks follow.

I laughed when the American College of Trial Lawyers asked would I like to come to their meeting. I said, "This is the only way I'll ever get to go to their meeting." But it is great to welcome you to Rome, the Eternal City. And the best part is when Americans and friends come here. We're from Indiana and I will tell you, one of the things that's been very, very interesting is we had no idea the amount of friends we had all over the country who have wanted to visit. I have some security and they go, "Are we going to the airport to pick up your friends again today?" And it's like we have our own parking spot at this point.



I would also like to tell you it's a special privilege to be here with Justice Amy Coney Barrett. Justice Barrett and our family, we are actually from the same hometown in Indiana, and I was thinking this morning that the Justice of the Supreme Court and my family share the same Dairy Queen in South Bend, Indiana.

Being here has been a special privilege. I was able to serve in the House and in the United States Senate. I was visiting my sister in 2021 and she's a little bit older than me so I was visiting to make sure everything's great; she's doing well. And she said, "Hey, could we order out for dinner tonight?" I said, "Sure." So I called up for takeout and she said, "Could you put it on speaker? You got the order wrong last time; I want to make sure you get it right this time." I said, "Absolutely." So I called up the restaurant and halfway through the call, you know, call waiting comes in.

I said, "Yes?" And the person goes, "Senator Donnelly?" And my sister's head perks up. And I said, "Yes?" Then the person goes, "The President would like to speak to you." And I had to click back and tell the guy at the restaurant, "I need to call you back. Something has come up." And so my sister's like, "Take it off speaker. I don't want to hear this conversation." And it was President Biden who I was privileged to work with on a number of issues. And he said, "Hey, would you help us out over there?" And I said, "You know, if the President asks, you help. And if your friend asks, you help." So the conversation finished. I call the restaurant back and the guy goes, "You hung up on me." And I said, "If I told you why, you would not believe me so I'm not going to go into that."

But the first question that people ask when they hear U.S. Ambassador to the Holy See is why? Why would we have



an ambassador to a religious organization, a religious group, and in fact, why this religious group? How does that make sense for our nation? And that's a very fair question. My mission is like a lot of other ambassadors in many ways. I'm not here to be a participant in arguments between the U.S. church and the Vatican or between people in the U.S. church or to be in the middle of Vatican politics or church politics. I'm here to promote United States' policies; to work with the Vatican to see that we have success, that we can have success in places like Ukraine, that we can have success in trying to provide water and clean sanitation to places in Africa, and to coordinate with the Vatican on that effort.



And so you hear U.S. Embassy to the Holy See, the Vatican, how are they different? Well, the Holy See is like the universal government and the pope is in charge of that. And the Vatican is the hundred acres nearby that is the physical facility. A friend of mine from Minnesota said to me, "A hundred acres? My hunting camp is bigger than that." I said, "Yeah, well, you don't have St. Peter's Basilica in the middle of your hunting camp." And unlike the U.S. Embassy to Italy, we don't do visas. I don't have the privilege of meeting with local businesses to try to promote business growth. It's very much like a soft power. It is the Vatican, the Catholic church, but that church has over 180 ambassadors here to work with them. And part of the reason is because there are 600,000 sisters all over the world providing services, providing care. In places where we may not have influence, they do. In places where we do have influence and they may not, we work together.

And what you find is we don't agree with the Vatican on every issue; they don't agree with every issue on us. But we partner together on those issues we can. We work together to try to help provide that clean water and sanitation we talked about. And the old saying, "Sometimes one plus one really does equal three or four."

People ask how is the relationship? It's great. I was privileged to meet with the Pope to present him my credentials in early April. And the Pope and President Biden are very good friends. [The Pope asked] "And how's my friend the President?" I said, "He's great." And I said, "The President said to tell you how much he appreciates your friendship." He said, "That's great." I said, "I have a message here from the President in this envelope." And he said, "Well, what does it say?" I said, "Well, if I read it, I'd be in big trouble. So this is for you from him." And they do get along very well.

We work with - in addition to his Holiness - Cardinal Parolin, who is considered like the prime minister, the number two, the archbishop there who works on a lot of foreign policy. And he made a comment in a magazine interview recently, which I think sums up what we're supposed to do and how we're supposed to do it. The archbishop said, "We have a very, very good relationship with the United States. We don't agree on everything. They bring us ideas that we look at and go, 'Maybe not.' We bring them ideas that they look at and say, 'Doesn't make sense for us.' But we have a terrific relationship in working together to move those eighty percent of issues that we do agree on and that we do work on."



One of the guests we have here today with us, Delia Gallagher from CNN, just got back on the plane last night from Kazakhstan with the Pope, who was there to try to bring together a number of different countries, a number of different issues, and when they come back we sit down and we work together on those things. It's a unique time in that when I sat with the Pope, he looked at me and he said, "You're here at a really tough time." And what he meant was Ukraine. And other challenges around the world. And you know, without talking out of school about his remarks, he said, "I'm working so hard on this and I'm trying so hard to end the suffering and the killing." He goes, "And I'm just not being able to get there every day but I'm going to keep trying."

And so, we work really, really closely on those issues. In Ukraine, part of the brief we have is the Vatican is its own organization and they have a policy and the Pope also speaks off the cuff, as well. Our belief, what we know, is that Russia invaded Ukraine; they attacked their country. Ukraine is fighting for its life. And that's the message that when the Vatican talks about that to the world, to all parts of the world, it helps strengthen that message that there's no equality here. When they get off that message and get a little wobbly, it makes it much tougher. And so part of my responsibilities have been to make sure or to work and meet with them on a regular basis to go over here's what we're seeing, here's what's happening there, here's why there's no two equal sides, here's why there's an aggressor.

And just last night on the way back, the Pope made his strongest comments on Ukraine to date where he said, "Self-defense is not only allowed but is an expression of love for your homeland. Someone who does not defend one's self, who does not defend something, does not love it." And so my job, what we worked on, is to make sure that the Pope got to a position where he was comfortable to say those things.

One other remark I'll share with you, on a little lighter note, is when I met with the Pope. I said to him, I said, "Holy Father, the people of America love you." And he looked at me with a smile and he said, "Some of you do."

We also work on issues like China to help protect religious freedom. We have the Uyghur community in Xinjiang that are in concentration camps. We have the religious freedom in Tibet under attack every day. And we meet with the Vatican to try to encourage them to engage with China to help promote religious freedom there. Our job is to represent the United States to them; to say, look, a clear, crisp voice talking about protection of religious freedom is really, really important.

One of the areas we worked the closest with them on is in Africa. Think of this: You want a reason to have a mission? Twenty-five percent of the healthcare in the world is provided by the Catholic church. Approximately fifteen percent in the United States is provided by the Catholic church. And it's not in the best clinics in the wealthiest areas. They are providing care in the toughest neighborhoods in the poorest places and trying to make sure that children and families can have clean water, get an education, be able to pass on to their family a better, stronger country, and that's where we connect with a lot of Vatican organizations. We're working in one particular mission to provide to 151 communities in Africa water and sanitation programs so that people don't get cholera; so that people will be able to have clean water to cook [with].

That's the United States doing that in tandem with the Vatican that has parishes and sisters and people in all of these small communities all over Africa where we do not have that kind of ground coverage. That's the partnership that we talk about. It's been a long history of working together. We have the scourge of trafficking; trafficking of young people, of older people, of women. The Vatican is front and center on trying to help with that, as are we, as are you - the whole goal is try to protect the dignity and the humanity of everyone.

Pope Francis also has a special focus on our planet. He has written an encyclical about the importance of protecting this world of ours and making sure that we hand off to our children a planet in better shape than what was given to us.

So that's why we have the embassy to the Vatican. You know, in Indiana, we do a lot of manufacturing, a lot of automotive. There's some really great car companies in Italy - Ferrari, Maserati - I asked the U.S. Embassy to Italy, "Do you need me to go give a speech to Ferrari?" They said, "You have your business, we have our business, sorry about this one." But it's a great partnership; we work together with our U.S. Embassy. We work together with our U.S. Embassy to the World Food Programme where Cindy McCain, Senator John McCain's widow, is our ambassador there and doing an amazing, amazing job trying to help with food distribution around the world.

We're in this beautiful country, an incredible place, with extraordinarily kind people. But there isn't a day that I don't think about my home in Indiana, my home in the United States. I'm the grandson of Irish immigrants. My wife comes from immigrant families, as well, and that's what the United States is to us. That it gave all of us hope, all of us a chance to live in the most wonderful place in the world.

Thank you for letting me be here with you and may God bless the United States of America.

THE ROMAN FORUM & BATHS OF CARACALLA: BRINGING THE RUINS BACK TO LIFE

SOMETIMES YOU JUST HAVE TO BE THERE. "TELLING" ABOUT A "SHOW AND TELL" JUST DOESN'T CUT IT—PARTICULARLY WHEN THE "TELL" WAS COMPLETELY ANIMATED BY THE "SHOW." THIS IS CLEARLY THE CASE WITH THE PRESENTATION BY PROFESSOR BERNARD FRISCHER ABOUT THE ROMAN BATHS OF CARACALLA.

Attendees at the Annual Meeting in Rome were looking forward to dinner on Saturday evening at the iconic Baths of Caracalla. Many remembered being one of the more than 800 million people who watched the televised performance by the Three Tenors at the Baths in July 1990 as a prelude to the World Cup Final. Some had visited the ruins in person and had wondered about their history and what they had looked like in their day.

Professor Frischer showed us.

Bernard Frischer is a classical humanist. He speaks Latin and Greek and at least three other languages. He is widely published and has taught at leading universities in the United States and in Europe. But unlike a classical classicist, he is not anchored in the past. Bernie (as he insisted we call him) is a new age classicist, a high-tech classicist. Beginning in the '70s, as personal computers were first coming to be, he had an idea how he might use computer technology to show people what ancient Rome and ancient Greece looked like during their glory days.

So this classicist became an architectural historian and a master of cutting age technology. He and his colleagues have dig-

itized not only the Baths of Caracalla but much of ancient Rome and Greece. As described by lifelong friend, Fellow Rob Schlacter, Bernie has melded the classics with modern technology and made it available and fun for everybody.

Professor Frischer showed us how he and the various teams he leads have digitally reconstructed the ancient monuments of Rome and many other places around the world. His efforts began in the 1970s when he was writing a book about the ancient philosophical School of Epicurus and was looking for evidence that the school had used portraits of Epicurus to recruit new students. The problem was that the original portrait of Epicurus, dating to the 3rd century, BCE, was lost. All that was available were thirty Roman copies of his head and half a dozen or so headless torsos. Reconstructing the original portrait was, theoretically, not too difficult. In principle, one just had to put the most accurate copy of his head onto one of the torsos. Unfortunately, there remained one critical final gap in the available evidence. None of the torsos showed the right arm. The consensus of scholars for centuries had been that the arm was bent backward toward the chin, putting Epicurus into a thinker pose. But Bernie thought that if the



portrait was designed to do the work of publicizing the school, then the arm needed to be either outstretched in a gesture of greeting or perhaps raised slightly in a gesture of teaching.

Bernie's view was criticized by some. It was admittedly speculative, but no more so than the consensus that it would replace. But several years after Bernie published his book, another artifact was discovered in an excavation of a Roman site in France, a mosaic illustrating a statue of Epicurus that showed the right arm in the teaching position, attesting that Bernie's theory was correct.

Bernie purchased his first computer in the early 1980s and began thinking about the possibilities of digital reconstruction of ancient ruins. In 1986 he proposed a project to digitally recreate the entire city of Ancient Rome. His work continued over the next three decades. Bernie showed us the latest version, finished in 2018. He noted: "Digital Rome also wasn't built in a day."

Bernie then turned to the subject of his presentation—the Baths of Caracalla. He showed us photos, videos and computer graphics of the ruins and their reconstruction, explaining:

The way we did this reconstruction is something that I dare say everyone here could quickly figure out, at least if you ponder for a moment how you would approach an equivalent real-world problem. For example, if God forbid you had to rebuild your house exactly as it had been before it was destroyed by a fire, the first thing you would probably do is see if the architect still had the blueprints. If she did, this would get your rebuilding project off to a strong start. Similarly, in our case, although we cannot turn to the ancient architect for help, we can investigate if there's a modern scholarly monograph devoted to surveying the remains and integrating on paper the fragments that survived in the form of what we call a hypothesis of restoration. Luckily, there are



innumerable monuments around the world for which this is the case. The field of Roman archaeology is the oldest in the western world—dating back to the Papal Court in the mid-15th century. It is also highly organized. For example, we have a compendious topographical lexicon in six volumes that for us is an indispensable reference work. In the case of the Baths of Caracalla, we also have a small library of recently published books seen in this slide, as well as dozens of specialized articles that we have been able to use.

Bernie and his team found a small library of monographs that adequately covered all they needed to know to reconstruct the architecture of the baths. They found many plans, sections, and elevations that reconstructed the complex on paper. From these it was relatively easy for the team of modelers to make a highly accurate digital reconstruction of the architecture.

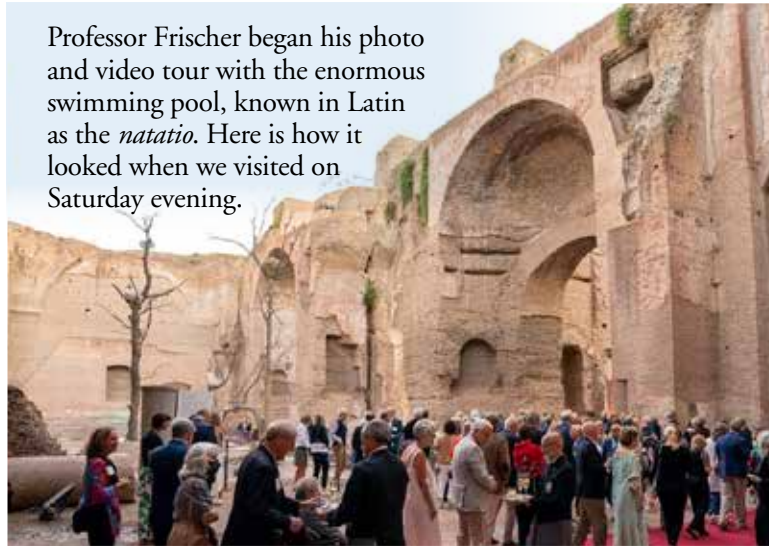
Bernie noted that in the reign of Rome's first emperor, Augustus, the state began to take steps to improve public health and hygiene in the city. The population of Rome then was an estimated one million people who lived mainly in very poor housing. Constructing huge public bathhouses was essential. Ultimately, Rome came to have seven public bath facilities spread around the city. The complexes were not simply places to go to take a quick shower; in fact, they didn't have showers. Think of them instead as health spas for the masses. At the public baths, one could while away the hours by strolling in the gardens, taking a swim, engaging in competitive sports, gawking at great works of art, listening to lectures and concerts, getting a massage, eating a snack, and drinking some wine. It was probably the last three activities that most people were most interested in.

One could proceed through rooms of differing temperature, ranging from very hot to very cold. Each room had pools of heated or cooled water. All of this was available at a nominal price. The Baths of Caracalla were built in five years—from 211 to 216 CE – and were able to host an estimated 10,000 people at any given time. They were built by the Emperor Lucius Septimius Bassianus, nicknamed Caracalla, a cruel and tyrannical ruler who murdered his brother and executed his wife, and who was himself assassinated in 217 CE, shortly after the Baths were completed.

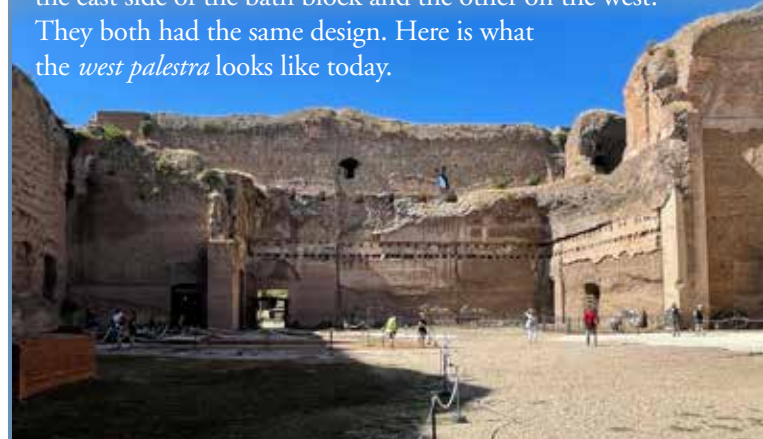
You can see why these reconstructions are so important. The random state of the ruins today gives one very little idea of how these buildings looked in antiquity, let alone how they functioned and what they meant to the people who used them.

The style of the building suggested an integration of statues with the architecture. Although there were some studies about

Professor Frischer began his photo and video tour with the enormous swimming pool, known in Latin as the *natatio*. Here is how it looked when we visited on Saturday evening.

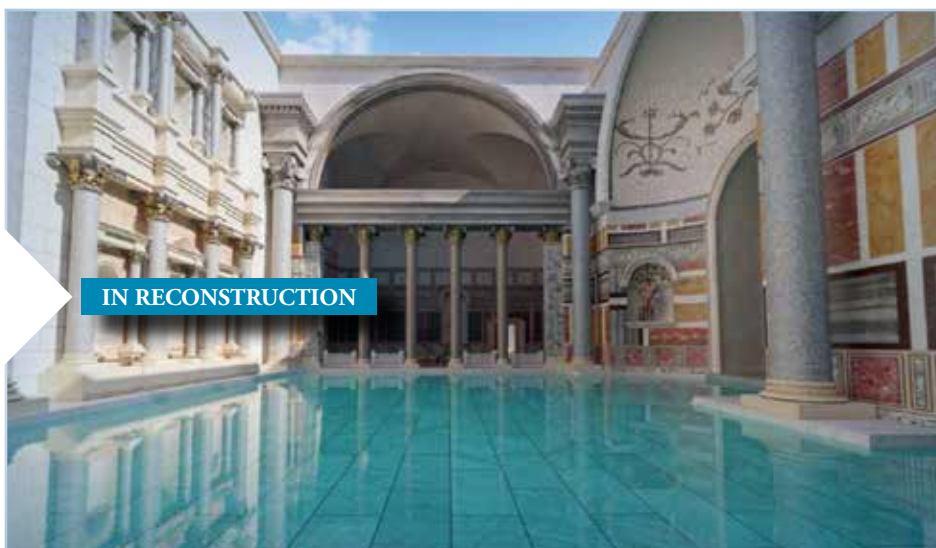


Near the great swimming pool were two exercise courts that were surrounded by columns, known as *palestra*. One is on the east side of the bath block and the other on the west. They both had the same design. Here is what the *west palestra* looks like today.



After swimming and exercising in the *palestra*, the ancient Roman would proceed to the baths proper, progressing through a series of rooms starting with the hot laconicum, or sauna, and then a caldarium, or steam bath. Next, our ancient citizen would proceed to other rooms, climaxing with the *grand frigidarium*, with its cold plunges. This is how it appeared when the Fellows visited on Saturday evening.





the sculpture, no one had combined the sculptures with the blueprints, so Bernie's team had to figure it out for themselves. A very rough estimate of the minimum number of statues could be made for the bath block, which had 108 niches. There were a similar number of other spots in the intercolumniations and in the open spaces of the rooms where statues could have been exhibited. So a very conservative estimate is that there were over 200 statues in the bath block. Of these, only seventy-three survived.

Unfortunately, we know the exact ancient positions of only six of the seventy-three. For another twenty-six, we at least know in which room they stood. All we know about the remaining forty-one is that they were found in modern times somewhere in the bath block. Thanks to partnerships with several museums, Bernie and his team were able to digitize the relevant statues in 3D. These were then restored for use in the reconstruction.

Professor Frischer concluded by showing a virtual video tour of the reconstructed Baths presenting the single most impressive work of art surviving from ancient Greece and Rome—the Farnese Bull. The massive sculpture is more than four meters in height and was found in the general area of the east palestra. Discovered in fragments in 1545 during an excavation sponsored by Pope Paul III, the statue was taken to the Farnese Palace in Rome to be restored—hence the name.

You can view more of Professor Frischer's incredible work at <https://www.flyover-zone.com>; <https://www.worldhistory.org/video/199/a-tour-of-hadrians-villa-with-dr-bernard-frischer/>; and <https://www.youtube.com/watch?v=8vkeLTTvtqE>.

Fran Wikstrom
Salt Lake City, UT

EMIL GUMPERT AWARD

CLEAN SLATE UTAH

THE EMIL GUMPERT AWARD RECOGNIZES PROGRAMS, PUBLIC OR PRIVATE, WHOSE PRINCIPAL PURPOSE IS TO MAINTAIN AND IMPROVE THE ADMINISTRATION OF JUSTICE.

Everyone deserves
a second chance



Our work began in the Fall of 2021 with a total of twenty-two grant applications. Through the hard work and dedication of the Emil Gumpert Award Committee, we were able to narrow down the many worthy applicants to three finalists. After intense investigation and site visits, we decided to recommend Clean Slate Utah's First Step Expungement Program. The recommendation was reviewed and approved by the Board of Regents and funded by the Foundation of the American College of Trial Lawyers.

Clean Slate Utah's First Step Expungement Program was started in 2021 to raise awareness of Utah's Clean Slate Law and to help low-income individuals learn whether their records were automatically expunged or if they need to be cleared through the petition-based expungement process. If individuals are eligible for a petition-based record clearance, Clean Slate's First Step Expungement Program will help those individuals understand the legal requirements, apply for an expungement, and cover the non-waivable fees associated with the application process, which is an average of about \$260 per person.

Once the expungement is complete, the impacted individuals will be able to legally respond to questions related to their history as if the criminal conviction had never occurred. Barriers to employment, housing, education, and full reintegration into society fall and thousands of these individuals can, indeed, have a clean slate.

While she was not able to be with us in Rome, we heard from the Executive Director of Clean Slate Utah, Destiny Garcia, who is herself a direct beneficiary of the law.

Her comments demonstrate why the Committee made the right choice and why our awards are vitally necessary. Destiny's abridged remarks follow:

Here in Utah, one in three people have a criminal record, which also means that fifty percent of children in Utah have a parent that has a criminal record. Having a criminal record is a huge barrier on things like housing, employment, or licensures. It's a huge barrier for anybody to rebuild their life once they do have a criminal record.

I would like to share some of my personal story with you. I am a woman in long-term recovery from substance misuse disorder. My recovery journey started in 2017. Before that, I was in an abusive relationship for about seven years and in that relationship, I would get injuries that led me to the emergency room. When I would go to the emergency room, I would be overprescribed opiates. When I left that relationship, I was extremely addicted to opiates. I became homeless very quickly and a heroin addict downtown in Salt Lake City.

I was arrested in 2017 and with the help of law enforcement I was offered residential treatment. I accepted that treatment. I graduated and entered in the drug court program here in Salt Lake County. While I was in that drug court program and after I had graduated treatment, I transitioned into sober living. The rules with the drug court program and the sober living home was to get a job within two weeks. That's when I realized how much my criminal record was a barrier. I went all over Salt Lake Valley applying for any type of job that you could think of. Every place would not hire me. ▶

It was then that the mayor of Salt Lake County was asking employers here in the Valley to hire participants in drug court. “Give these people a second chance; they deserve a second chance.” He decided he should do the same thing that he was asking the employers to do. He gave me a job in the mayor’s office as a front desk receptionist. Once I got that job, he hired me at a great salary; more than I had ever made in my entire life. Before this time in my life, I was always on housing, I was always on food stamps, I was always getting some type of state assistance. When he hired me at that wage, I was able to leave all that behind and support myself. I was able to get into an apartment of my own, only with the help of my adult son. Because when I was looking round for apartments, nobody wanted to let me live in their complex because of my criminal history. My adult son signed for me, we moved in together, and I was able to get my own apartment.

I was able to pay all my fines and fees and restitution associated with the drug court. I was able to get my license back. I was able to get my first car again after being homeless. And then once I remained crime free for a certain amount of years and did everything the court asked me to do, I qualified to get my record expunged. So when I applied to get my record expunged, I got a letter saying I could expunge thirteen things off my record. They asked me, “How many of these do you want to expunge?” and to me the answer was simple; I wanted to expunge all of them. But what I learned quickly was what it meant was ‘how much can you afford to expunge’?

In Utah, once you agree to the expungement, you have 90 days to come up with that money. In my case, my 13 cases, it was \$3,600 to expunge. I did not have that money. I didn’t have a savings of any kind. I was literally rebuilding my life from homelessness. I was arrested with no shoes on my feet, to having a car, having an apartment, having food in my house. And I told myself that I would never become homeless again. So when it came down to choosing my monthly bills, my rent, my car payment, my food or my expungement, I chose my monthly bills.

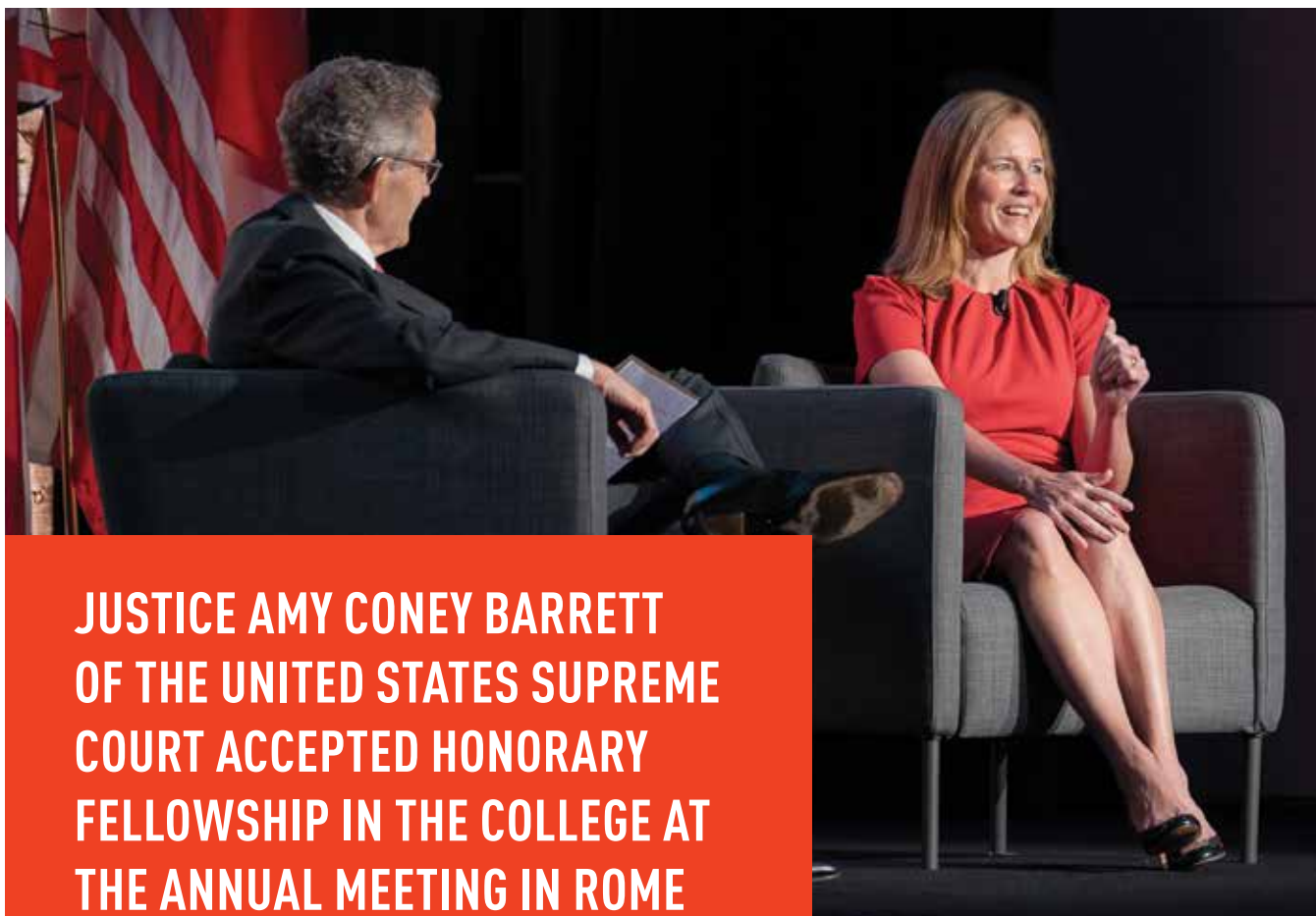
When my colleagues in the mayor’s office heard about this, they decided to do a fundraiser for me and they raised the money for my expungement. After I got the expungement, my life changed dramatically. I was able to purchase my own home. I got a raise and was able to pay off my car, able to provide for my children, able to live a healthy life. I was able to buy those healthy foods that I normally couldn’t afford because I was homeless. My life changed so much because the mayor’s office helped me pay for that expungement.

Being the recipient of this award is going to change so many lives. There are so many low-income families that can’t afford to get their record expunged. My story’s a lot different than most; I was afforded opportunities that most people don’t get. Most people with a criminal record that are trying to rebuild their life from the mistakes that they made are making minimum wage; they can barely afford their bills, they can barely afford food, they can barely afford to feed their children. I was given opportunities different than most people get so my story is a little different and I’m grateful for that. The money that we received from the Foundation and the American College of Trial Lawyers is going to help so many low-income families here in Utah be able to access those opportunities that I was able to access and hopefully their lives will change the way my life has changed.

I would like to thank the Foundation and the American College of Trial Lawyers once again for choosing Clean Slate Utah as this year’s recipient of the Emil Gumpert Award.

Thank you.

***Kathryn Snapka
Corpus Christi, TX***

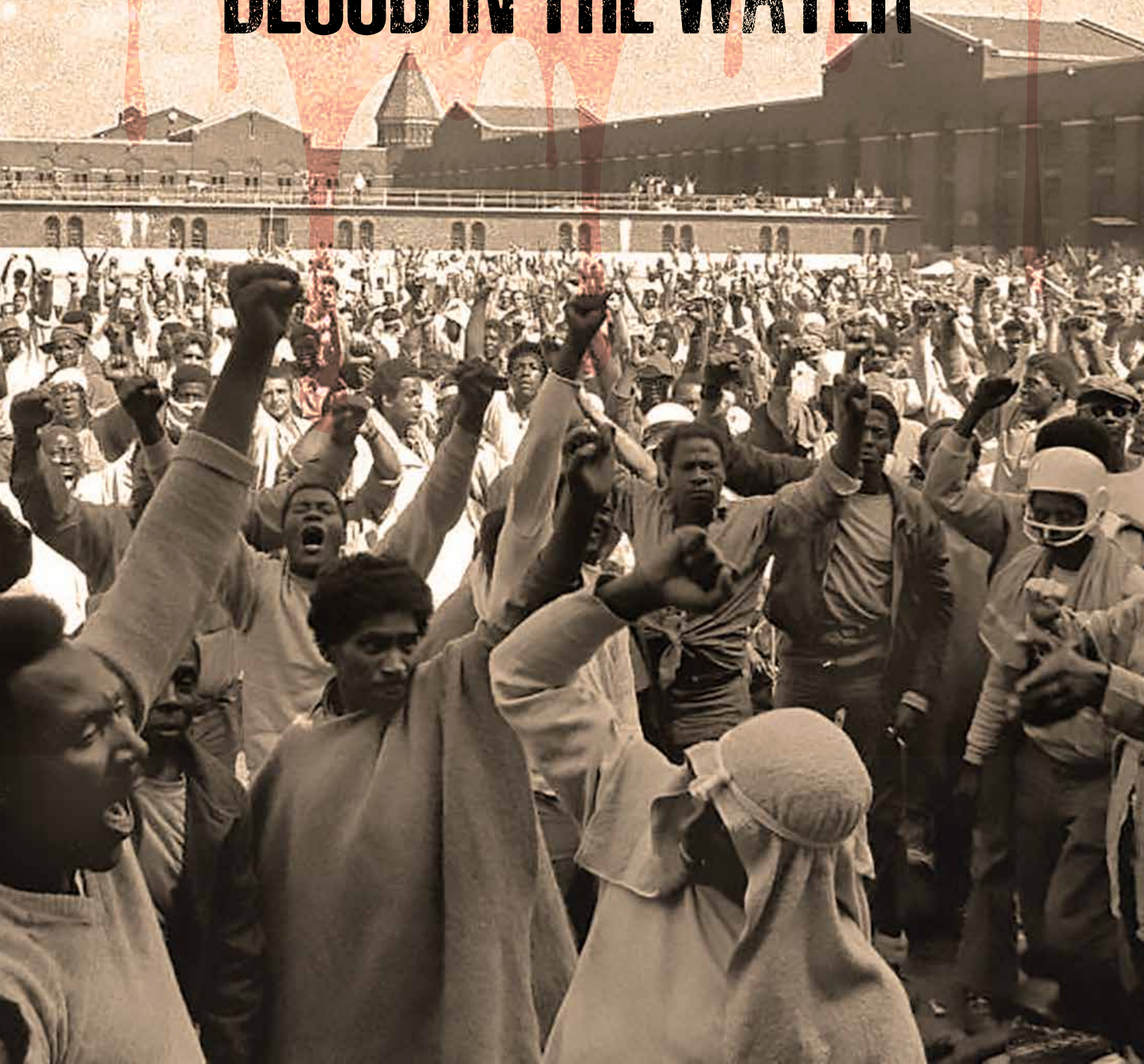


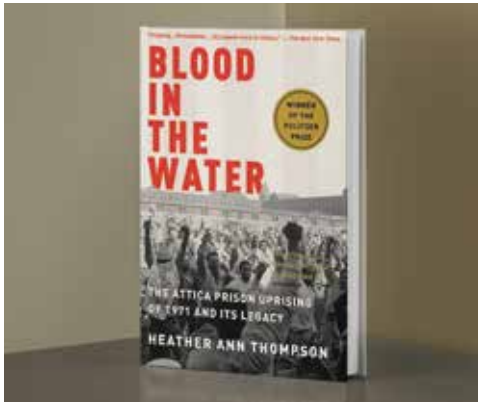
**JUSTICE AMY CONEY BARRETT
OF THE UNITED STATES SUPREME
COURT ACCEPTED HONORARY
FELLOWSHIP IN THE COLLEGE AT
THE ANNUAL MEETING IN ROME**



HEATHER THOMPSON

BLOOD IN THE WATER





I HAD THE GREAT PRIVILEGE OF SERVING AS A LAW CLERK FOR THE HONORABLE MICHAEL A. TELESKA IN THE EARLY 1980S. JUDGE TELESKA, WHO PASSED AWAY IN EARLY 2020, PRESIDED OVER THE SETTLEMENTS OF LITIGATION THAT SPANNED THREE DECADES AFTER THE ATTICA PRISON UPRISING. A SUIT WAS BROUGHT BY PRISONERS AND ANOTHER BY THE PRISON GUARDS AND THE FAMILIES OF GUARDS KILLED WHEN THE ORDER WAS GIVEN, AFTER FOUR UNSUCCESSFUL DAYS OF NEGOTIATIONS, TO FORCIBLY RETAKE THE PRISON. YEARS LATER, JUDGE TELESKA ASKED ME IF I KNEW THE TRUE STORY OF THE ATTICA UPRISING. I THOUGHT I DID, BUT HE QUICKLY CORRECTED ME AND ASSURED ME THAT I DID NOT. HE TOLD ME IT WAS AN IMPORTANT STORY FOR ME AND ALL AMERICANS TO KNOW, AND THE BEST RENDITION OF THAT STORY WAS DR. HEATHER THOMPSON'S BLOOD IN THE WATER. I FOUND DR. THOMPSON'S BOOK ONE OF THE MOST FASCINATING AND FRIGHTENING BOOKS I HAVE EVER READ. DR. THOMPSON GRACIOUSLY AGREED TO SPEAK IN ROME EVEN THOUGH SHE WAS ON SABBATICAL WRITING ANOTHER BOOK AND HAD DECIDED NOT TO ACCEPT SPEAKING ENGAGEMENTS THIS YEAR. BELOW IS AN ABRIDGED SUMMARY OF HER REMARKS:



So why should we talk about Attica here today, this morning, in this beautiful setting? Why should we talk about prison, about something so grim, so ugly, especially about an event that took place so long ago? Well, in short, I want to suggest we have to talk about this because if one is an American, one is never able to escape the fact that we now live in a country that locks up more men, women and children than any other country on the globe and also more than at any other time in our history. I want to suggest that our history matters to this story and that all of this happened in no small part because we got our history wrong in ways that are really troubling.

We have to look back to the 1960s and '70s and accept that we got it wrong in ways that were not actually our fault. The American people, ordinary people, goodhearted people who had been paying attention, trying to do the right thing, were, in turns out, deliberately misled, in some cases actually lied to about some of the most consequential events that were going on at the time. One of those events was the prison uprising that took place in upstate New York at the Attica State Correctional Facility back in 1971, fifty-one years ago this week. And what happened there, I want to submit to you, changed history.

So what exactly happened? Well, Attica is a place where 1,300 men stood together to call attention to the brutal conditions that were going on inside. Those were conditions of men being fed on \$.63 per day; terrible,

terrible, medical care. Terrible abuses, physical abuses, emotional abuses; indignities, one right after another. People being given one toilet paper roll per month.

And so these men came together on September 9, 1971, quite unplanned, quite unexpected, in a remarkable human rights uprising. I say "human rights uprising" because at the core, that's what those demands were. This was an uprising that captured the world's attention. The men had elected representatives to speak for them out of each of their cell blocks. They had set up a medical tent, a food tent. They had taken hostages. They felt that these hostages would be their way to prevent state officials from coming in immediately and retaking the prison. They surrounded those hostages with rings of prisoners to protect them. They protected those hostages for four days and nights and got the injured hostages out for medical care, as well as some of the injured prisoners.



They requested that observers be brought in to help them negotiate with the State of New York; observers ranging in political party and in political persuasion. There was a congressperson, journalists, men from the republican party, men from the democratic party. Negotiations between these observers and state officials went on for four long days and four long nights. The event was televised; the media was inside. Their demands were simple: decent healthcare, decent food, basic rehabilitation.

It seemed that a peaceful end was in sight. Twenty-three of the demands – almost all of them – had been met by the State during negotiations. But meanwhile, outside of the prison, every state trooper battalion from across upstate New York was descending upon the prison along with scores of off-duty corrections officers from Attica and other prisons around upstate New York. Outside the walls, weapons were being passed out like candy. Nobody was writing down the serial numbers; nobody was responsible as to who had what weapon. People were bringing weapons from home. These troopers were angry, they were tired, they hadn't had any sleep and they were itching to get inside.

The stakes were high. Inside were 1,300 prisoners but also forty state employees. The observers begged the Governor of New York, Nelson Rockefeller: "Please come to Attica. You don't have to come in; you just need to stand outside of this prison and tell these men that they can surrender and they won't be harmed. You have to assure them that there will not be indiscriminate prosecutions." And he said no. And they said, "Please, Mr. Governor, you have to come because if you don't," and they minced no words, "a massacre will take place." Because they could see what the men inside could not see, which was all of those armed troopers on the outside.

I discovered years later that Nelson Rockefeller's own military observers told him "Yes, frankly, Mr. Governor, you will kill your own employees if you go in there like this." Undeterred, however, on the fifth morning, he indeed sent in his own troopers and it was indeed carnage. One hundred and twenty-eight men shot; some six or seven times. In total, thirty-nine dead prisoners and guards alike. It was, indeed, a massacre.

This is not the story that the American people were told. In fact, the American people were told a complete fiction – that the prisoners had caused this bloodbath in Attica; that they had murdered the hostages. Worse, they had not just slit the throats of the hostages on the inside in cold blood,

they had actually emasculated one of them; they had buried some of them in the prison yard days earlier; that these atrocities had been witnessed by the men speaking to the press outside. And these lies then spread like wildfire. They were printed on the front page of the New York Times, L.A. Times and by the AP and UPI, meaning these lies went out on the front page of every small-town newspaper in America. This would have grave consequences.

Inside the prison, which of course the rest of the nation could not see, surviving prisoners were being tortured for days and weeks and months. This would not become apparent for a very, very long time. Lawyers could not get in. Medics could not get in. Doctors could not get in. This facility was under control of the State, and yet, horror and torture were allowed to go on. Did the American people know? No. Did we try to find out? Yes. There were hearings; there were many, many hearings. Public hearings, congressional hearings, there was even a federal investigation. But why didn't they find anything? Well, in part, we found out later – it took me thirteen years to write the book in part because it was all covered up. It was very actively covered up. The only investigation that actually mattered was an investigation that was carried out by the State of New York itself; commissioned by the Rockefeller administration.

Who were the investigators? The same state troopers that had actually retaken the prison. They had actually not made chalk markings where the dead bodies had fallen. Most of the evidence of the atrocity had been gathered up and buried behind the prison. The only evidence preserved would be evidence that would purport to point to prisoners as offending parties, not any member of law enforcement. This was an investigation that was skewed from the beginning. It was supposed to investigate both trooper and inmate crimes. In fact, it did not do this. Ultimately, sixty-two surviving prisoners were indicted on forty-two felony indictments. Not a single member of law enforcement was ever indicted. Yet every death that occurred in the retaking was ultimately determined to have been caused by the troopers and corrections officers who stormed the prison.

The deaths and torture of the prisoners was not the only horror, of course, the hostages' families also paid a very high price. Their husbands, sons, brothers had also died and

[Author's Note: One of the unsung heroes of the story told by Dr. Thompson in her book was the Monroe County Medical Examiner, who publicly refuted the story being told by state officials and confirmed that every guard who was killed died of gunshot wounds. The prisoners had no guns.]



suffered tremendously. Their widows would suffer further because the State did something pretty diabolical with them; it kept offering them checks. “Here, Mrs. Cunningham, here’s a small little tidbit to hold you over to buy groceries.” Mrs. Cunningham had seven children; she needed that money after her husband was killed. What they didn’t tell her and the other widows or the surviving guards who received some payments for hospital bills, was that by cashing those checks, they had elected a remedy under New York state law and were waiving their right to sue their employer.

No one in power did anything for decades, for years. In fact, quite the contrary. They just doubled down, continued the cover-up, refused to acknowledge that any of this had ever happened. In fact, they said it had been nothing but fraternity hazing, if anything had happened at all. Nobody had done anything wrong. Go home, forget about it.

This was a nightmare that had enormous political implications for the country. In fact, the consequences for the nation were dire. In 1970, before Attica, when polled, the majority of Americans were actually warming to civil rights. It’s really hard to believe now. They were becoming increasingly persuaded that prisoner rights were in fact human rights; believing that things like *Miranda* rights were necessary. That actually, the death penalty was wrong. Remember the moratorium? In the wake of Attica, and interestingly, other events spun similarly in a self-interested but seriously distorted way, the public grew wary overnight; not just wary but jaded, cynical, suspicious. Civil rights, they decided, was perhaps the problem. Civil rights had gone too far, had taken a violent turn. Not that state violence had taken a violent turn, not that law enforcement had perhaps gone too far; that wasn’t the problem.

Guns, perhaps, were not the problem. Civil rights was the problem, feminists were violent, anti-war protestors were violent, black people were violent; that was the problem. It was time to get tougher on crime, time to reimbrace the death penalty, time to roll back the clock on the notion that prisoners were also human beings. Attica, in particular, dealt this death blow. Thankfully, however, the story does not end there. The men inside of Attica and the guards who had been in Attica did not let this story get swept under state rugs. They dared to stand up for human rights, the prisoners and the guards alike, as well as their families. They refused to be silent, no matter how many times powerful state officials tried to tell them that nothing happened or tried to shut them up with threats of indictment or to swindle them; they would not go away. This itself is a thirty-year story; one I don’t have time to tell you, sadly, but it is an inspiring story, a David and Goliath-like story, if ever there was one. A story that culminated ultimately in the courtroom of the Honorable Michael Anthony Telesca, an appointee of President Ronald Reagan, who would be the first and only man of real influence and power to use it for good by insisting that the State of New York finally pay some measure of restitution. First, to the surviving prisoners and the families of those that died and then to the surviving guards and the families of those killed at Attica.

As important, Judge Telesca let each of them, one by one, sit in his courtroom and after thirty years of being belittled, interrupted, tortured, intimidated, and terrified, he allowed them to tell their stories on the stand, uninterrupted. Their stories of trauma were stenographically recorded so that they would forever be preserved for future generations to reckon with.

It has been fifty-one years since the men at Attica dared to stand together to ask for basic improvements on conditions on the inside. And sadly, prison conditions are worse today than they were five decades ago, which is hard to believe. This is in no small part because those men, and by extension their goals, were deliberately – at the time and steadfastly thereafter with stunning calculation and precision – discredited. And if you doubt this, I invite you to read *Blood in the Water*. It was hard for me to come to what I learned.

Stephen Schwarz
Rochester, New York

DELIA GALLAGHER ON “FLYING WITH THE POPE: AN UP-CLOSE LOOK AT POPE FRANCIS FROM A VETERAN VATICAN JOURNALIST”



WHEN DELIA GALLAGHER ACCEPTED THE INVITATION OF THEN PRESIDENT ELECT SUSAN HARRIMAN TO ADDRESS OUR ANNUAL MEETING IN ROME ABOUT HER ROLE AS CNN CORRESPONDENT TO THE VATICAN, SHE HAD NO IDEA THAT SHE WOULD BE ARRIVING BACK IN ROME FROM A TRIP TO KAZAKHSTAN WITH POPE FRANCIS AND HIS ENTOURAGE AT 4:30 A.M. THAT VERY MORNING. BUT THAT, AFTER ALL, WAS EMBLEMATIC OF THE EXPERIENCE THAT DELIA WAS IN A UNIQUE POSITION TO CONVEY. WHILE THIS RELEGATED DELIA AND HER INTRODUCER TO MEETING FOR THE FIRST TIME AN HOUR EARLIER AT THE SPEAKER'S BREAKFAST – AT WHICH SHE CONSUMED ONLY BLACK COFFEE AND, FOLLOWING TWO HOURS SLEEP, NONETHELESS APPEARED CONFIDENT, RELAXED, RESTED, AND WONDERFUL – THE CIRCUMSTANCES WERE NO IMPEDIMENT TO HER ENGAGING AND INSIGHTFUL VIEWS ON THE POPE, THE VATICAN, AND THE POLITICS OF THE HOLY SEE.

In her comments to a clearly engaged audience, Delia let us know from the get-go that press conferences are among the most important things that happen on papal flights. Each Pope has his own practices – Delia has been correspondent during the tenure of three, John Paul II, Benedict XVI and Francis – and the current pontiff only gives press conferences on papal trips, specifically on the return flight to Rome. The members of the press invited to travel with him, among whom Delia is a regular, therefore have a unique opportunity to ask the Pope questions and to communicate his answers to broad audiences. She noted that a phrase that set the narrative for his humble, populist papacy – “Who am I to judge” – itself came in response to a question in 2013 on his first papal flight returning from Brazil.

But the papal trip that stands out for Delia is the trip to Myanmar and Bangladesh in 2017. At that time, the United Nations had already publicly taken note of the oppression of a Muslim minority in Myanmar known as the Rohingya; and Pope Francis had done the same in comments made while in residence at the Vatican. But, the very word “Rohingya” was considered offensive by the government of Myanmar, and the question on everyone’s mind therefore was: Will Pope Francis expressly speak of the oppression of the Rohingya while on this trip? Each of the four days in Myanmar passed, with the Pope calling for peace without uttering the word Rohingya, and that omission was dutifully reported by the press corps and resulted in some negative articles in Europe and the United States. On the fifth and penultimate day, in neighboring Bangladesh, the last event of the evening wrapped up, again without mention of the Rohingya. A disappointed press entourage gathered up computers, bags, and other equipment and began boarding the bus. Suddenly, they heard the Pope’s voice and realized that, while milling about on stage with various notables, he had retaken the microphone and begun to speak in Italian, a language in which Delia, who is married to an Italian and lives in Rome, is fluent. The words he uttered were, “today, the presence of God is also called Rohingya.”



This, as you can imagine, set off a firestorm, with cell phones quickly pulled out, and calls being made to London, New York, and elsewhere.

But this, Delia told us, was not the point of the story. The real story was what happened in the press conference on the flight home. The Pope was not pleased with the negative press he had been receiving as a result of his press corps' reporting throughout his trip that he had omitted mention of the Rohingya. He explained that he wanted to keep the door to dialogue open, in Myanmar as elsewhere; that too aggressive a stance ends the dialogue; and that journalists, as specialists in conveying messages, should "understand this quite well." Zinger sent, and zinger received. And to be sure that the journalists were not so obtuse as to miss his displeasure, the Pope then announced that he would only take questions during the press conference relating to the trip itself, and to no other issues, no matter how significant. This, Delia ruefully informed us, was the beginning of the practice of only taking questions on the particular trip whenever that suited the Pope. Of course, it never suited the journalists.

The Pope expanded the practice a year later in 2018 on a trip to Lithuania, Latvia, and Estonia, three Baltic countries. After announcing that he would only take questions on the trip, the press corps decided to test his resolve by remaining largely silent and asking no questions. When it became apparent that there would be no questions, the Pope announced, "Then I would like to say a few things about the trip, which touched me very deeply." He spoke for fourteen minutes, very poignantly, in what Delia labeled "the Francis Filibuster, because there is no other way to describe it."



The final example Delia related was a trip to Canada in July of 2022, when the timely question was raised as to whether there should be a change in the Catholic Church's teaching on contraception. In circumstances in which many reporters felt that the Pope could, and perhaps should, give a yes or no response, he chose instead to speak in Italian, and to do so in terms that can be fairly characterized as obtuse: "This is very timely, but know that dogma and morality is always on a path of development, but in development in the same direction. . . . For the theological development of a moral or dogmatic issue, there is a rule that is very clear and illuminating. That's what Vincent of Lerins did in the 10th century, more or less. He says that true doctrine, in order to go forward to develop, must not be quiet. . . . That is it consolidates with time, it dilates, it consolidates, becomes more still, but still progressing."

One can only imagine that the Pope's comments, which seem obtuse but almost poetic even in English, were absolutely lyrical in Italian. But, what they meant, no one could determine. Delia suggests that this is explained, at least in part, by the fact that Francis is not a person who thinks in black and white, or one who sees issues with the type of clarity that



is expected in the mentality of Americans and other English speakers. Rather, as explained by one of the Pope's Jesuit students, when relating to reality Francis "appreciates other experiences of truth, like popular wisdom, traditional narratives, informal acquaintance and knowledge." In other words, that which we might expect to elicit a simple answer actually causes the Pope to bring many factors to bear, making the response less simple and more convoluted.

Delia pointed to two of Francis' favorite sayings as indicative of his complicated route to answering questions.

"Time is greater than space," means, she explained, that it is more important to start processes and to be part of processes than to demand immediate results that resolve all tensions and clarify all circumstances. Instead, "we must go along with the action of the spirit of the Lord." This manifests itself in such ways as the Pope fully supporting Ukraine while leaving the door open for President Putin to join in a dialogue.

"Reality is greater than ideas" means that concrete reality is more important than an abstract idea. An example includes leaving in place the general rule against permitting Catholics who divorce and remarry to receive communion, while stating that, "in some cases, in conjunction with . . . your pastor, you [as an] individual person, can decide with your conscience, if you are fit to present yourself for communion and that's fine with me." Another example involves the Pope's decision not to impose his view on conservative Catholic bishops that communion should not be used as a weapon against pro-choice politicians, but instead to meet with President Biden and, in the President's words, to say that "he was happy I was a good Catholic and I should keep receiving communion." As Delia noted, the Pope was modeling certain behavior for his bishops. "He didn't even have to say anything and he didn't; they got the message."

In sum, Delia informed us, this is a Pope who "confounds our expectations," by modeling Jesus, who was also a confounder of expectations. Francis chooses to respond, not on the basis of rules and regulations, but "from the heart." And, that is where he "is ultimately hoping to bring all of us."

Joan Lukey
Boston, MA



DAVID PANNICK K.C.

HOW CAN YOU ACT FOR SUCH TERRIBLE PEOPLE?

LORD DAVID PANNICK K.C. IS WIDELY CONSIDERED TO BE THE BEST ADVOCATE CURRENTLY PRACTICING IN THE UNITED KINGDOM. IN THE LECTURE HE DELIVERED TO US IN ROME HE PROVED BEYOND ANY REASONABLE DOUBT THAT THIS ASSESSMENT OF HIS REMARKABLE SKILLS IS ENTIRELY JUSTIFIED.

After a mere thirteen years at the Bar, David Pannick became a Q.C., Queens Counsel, a distinction bestowed only on the very best of advocates. In fact, he had the even rarer distinction of actually representing Her Majesty, the recently departed and most admired, Queen Elizabeth II. As a result of the accession of King Charles III, Lord Pannick and all other Q.C.s became K.C.s, King's Counsel.

David was appointed to the House of Lords in 2008 as what is called a “crossbencher,” that is, he was appointed on merit alone and not because of party affiliation.

Lord Pannick has appeared in the U.K. Supreme Court and its predecessor some 125 times, as well as in some thirty cases at the European Court of Human Rights, where he often defended the rights of the minorities and the oppressed. And if any more were needed, evidence that David Pannick is simply the best is that former Prime Minister Boris Johnson recently retained him to challenge the fairness of a parliamentary committee investigation into whether he misled the House of Commons in connection with what is known in the U.K. as “Partygate.”



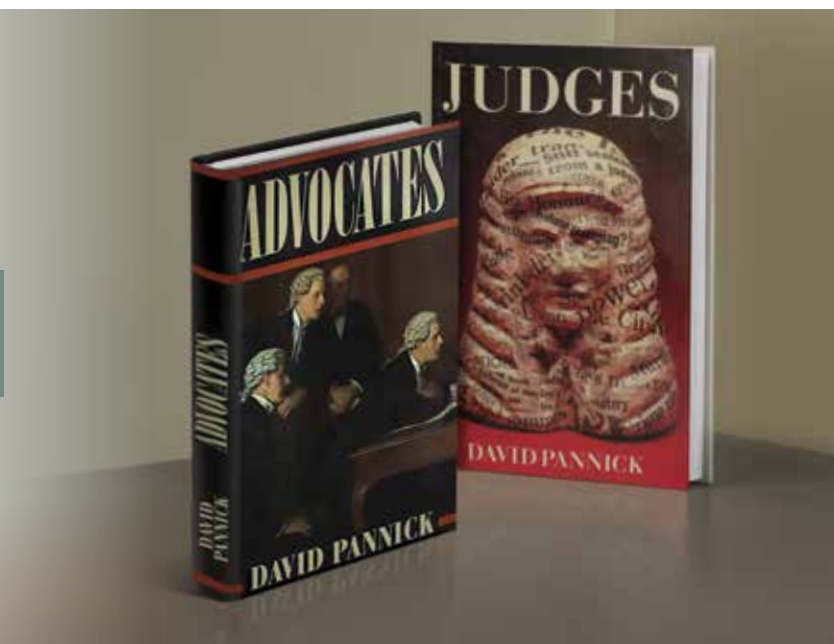
Johnson hired David despite – or perhaps because of – the fact that David had a few years earlier won two of the most significant constitutional cases that ever took place in the U.K., undermining Johnson’s attempts to circumvent Parliament in his dogged pursuit of Brexit.

David has written very highly regarded books like *Advocates* and *Judges*, and later this year his remarkable lectures on advocacy will be published by the Cambridge University Press.

At his lecture in Rome, Lord Pannick addressed one of the key tenets of the British legal system, the so-called “cab-rank rule,” the principle that anyone, however unpopular, should be and could be represented by the very best counsel one wants to retain, just as no one in England can be denied access to a cab if they are prepared to pay the fare. Indeed, no society can legitimately claim to be governed by the rule of law that allows this fundamental principle to be trampled or undermined.

As he explained:

“During the past forty years, I’ve often been asked . . . how can you act for such terrible people? I try to explain that the principle of advocacy is that you are paid to be argumentative, to be inquisitive, to be indignant, to be flattering, to be apologetic as the occasion demands and always as persuasive as possible on behalf of your client. The advocate earns his living propounding views to which he does not necessarily subscribe. She does this on behalf of clients for whom she may feel admiration, she may feel indifference, sometimes she feels contempt. You are paid to do a job like the surgeon operating on a patient and your job does not depend on, it cannot be influenced by your views of the clients or the conduct of which they are accused.”



Lord Pannick, with deep erudition and sparkling humour, illustrated his thesis by referring to a number of great advocates and judges, and even a cartoonist:

“A role model, it always seems to me, for the advocate is the defense attorney. In Jack Ziegler’s New Yorker cartoon in 2008, an attorney stands up in court next to his client, a whale, and tells the judge, “Objection, Your Honor, *alleged* killer whale.” The function of the advocate, as Justice Felix Frankfurter explained in 1955, is not to enlarge the intellectual horizon. Their task is to seduce, to seize the mind, for a predetermined aid; not to explore paths to truth. And this is an ancient principle. Two thousand years ago, here in Rome, Cicero boasted in his defense of [a client] that his speech had thrown dust in the eyes of the jury; that was his boast.”

“The skills of some eminent lawyers have highlighted this moral equivalence of advocacy, moral ambivalence of advocacy. It was said of Rufus Choate in 1859 that because of his courtroom skills, thieves asked about his health before they began to steal. More recently, the California defense attorney, Leslie Abramson, was described by one of her clients, a contract killer, as so good that ‘for a while there, she even had me believing I didn’t do it.’”

“One other example, William Kuntzler, the radical attorney best known, I think nowadays, for acting for the defense in the Chicago Seven trial in 1969, was reported as saying, “I’m not a lawyer for hire; I only defend those I love.” Well, that’s not the principle of advocacy, which I and most counsel, apply. If I had confined my advocacy to those clients I loved, I would’ve been unemployed for large parts of each year.”



Lord Pannick advanced two key reasons that justified the advocate’s role, indeed duty, to defend even the worst clients. *First*, “[t]he role of the advocate is to ensure that when judges and juries come to make up their minds, they are assisted in their difficult task by having the competing arguments on each side put before them as powerfully as possible.” *Second*, “the rule of law requires that the State does not send people to prison; the State does not impose civil liabilities to pay damages; and the State does not decide [any] dispute without giving the person concerned the opportunity to be heard, whether or not it makes any difference to the results.”

But while a fair process values the right to be heard as essential, very few people are able to plead effectively in their own defense. That is why “there needs to be a profession – us, a profession of advocates – to ensure that their points are put as effectively as possible. These principles need to be articulated from time to time because criticisms of counsel for performing their job continue to be made by people who ought to know better, at least in the United Kingdom.”



Yet Lord Pannick acknowledged that there must be limits to what the advocate is entitled to do in defense of his or her client:

“We must not mislead the court, for example, by misrepresenting what a witness has said or by concealing binding authorities. There is a fine but important line between moving the court or trying to move the court in the direction of our clients’ interests and impermissibly misleading the judge or jury. If, as has been alleged, one of the defense counsel in the O.J. Simpson murder trial replaced on the defendant’s bedside table a nude photograph of the defendant’s girlfriend with a photograph of the defendant’s elderly mother, fully clothed, when the judge and jury came to view the house, that was a clear case of misleading the court.

“You must not abuse your role as an advocate, for example, by making statements or asking questions merely to insult, to humiliate, or to annoy a witness or any other person. And you must speak and act respectfully towards the court and towards your opponents, however great the provocation and often it will be very great.

“There are important limits to what counsel may say on behalf of the client. A North Carolina attorney understandably faced disciplinary charges in 2015 for his comments in pleadings to the state supreme court about the court of appeals judges. This was his pleading: ‘Had I known the level of intellectual functioning and maturity of this panel in advance, I would have come prepared with a colouring book with big pretty pictures to illustrate my points.’”

While there are some limits on the advocate’s duty to his or her client, the advocate’s job is to speak for clients, however unpopular they may be or reprehensible their conduct may be because:

“Once you start to reject clients associated in controversial views of conduct, people will assume that any client you do represent has your approval and you will then be judged by the clientele that you keep and unpopular litigants will find it much more difficult to obtain competent representation.

“There’s no professional duty to like an obnoxious client or to maintain other than a professional contact with them. After the great Edward Marshall Hall secured an acquittal in London for a defendant accused of disreputable conduct earlier in the 20th century, the client asked to shake his hand. Marshall Hall refused: ‘No, that is not included in the brief fee.’”

As Lord Pannick so artfully demonstrated, while some may denounce the advocate who represents unpopular people and controversial causes, we should instead celebrate the role of the advocate. For the role of advocate “confers great privileges and it imposes great responsibilities; it is a role vital to the rule of law.”

Guy J. Pratte
Toronto, ON

ONE BITE AT A TIME — BOMA ALABI



BOMA ALABI, OON, SAN, A NIGERIAN TRIAL LAWYER, HAS AN AMAZING PERSONAL STORY. SHE WAS THE EIGHTH OF TEN CHILDREN THAT HER PARENTS, FORMER TEACHERS, RAISED IN PORT HARCOURT, NIGERIA. AS A CHILD, SHE WAS A VORACIOUS READER. BEFORE SHE WAS TEN, SHE HAD READ THE ENTIRE ENCYCLOPEDIA BRITANNICA TWICE, AS WELL AS SHAKESPEARE AND MANY CLASSICS. HER ADVOCACY SKILLS WERE DEVELOPED EARLY AS THE SELECTED SPOKESMAN BY HER MANY SIBLINGS IN DISCUSSIONS WITH THEIR PARENTS. HER FAVORITE UNCLE WAS A LAWYER WHO OFTEN VISITED AFTER COURT AND WHO DAZZLED HER IN HIS BLACK AND WHITE COURT CLOTHES LIKE THOSE THAT SHE NOW WEARS ON COURT BUSINESS.

After graduating from college and law school in Nigeria in 1988, she came to London and earned an LLM from Kings College. She practiced law in London but always planned her return to Nigeria as democracy was returning there. She was active in the fifty-four member country Commonwealth Lawyer's Association and became, in 2011, its first and only female president in its fifty-year history. The OON after her name stands for Officer of the Order of the Niger, the Nigerian equivalent of the British Honors List conferred by the English Monarch. The SAN stands for Senior Advocate of Nigeria, the equivalent of QC (now KC), which she received in 2021, recognizing her as having distinguished herself in the legal profession.

Nigeria has over 200 million people. There are only 693 SAN's, less than four percent of whom are women. Those seeking to be considered for SAN must have practiced at least

ten years in the country, tried to judgment at least seventeen cases, and their conduct must be distinguished.

Boma handles commercial and criminal cases as trial counsel and has tried cases throughout Nigeria. Currently, she is a founding and senior partner in the firm known as Primera Africa Legal or PAL in Legos, Nigeria. Like the U.S. and Canada, the Nigerian legal system evolved from its heritage as an English colony.

Boma's abridged remarks follow:

In Nigeria, when I was called to the Bar in 1988, we had one national law school based in Victoria Island. And all 1,600 or so of us who had made it to the Bar that year went to the single school. We came from different parts of the country, converged in Victoria Island, and spent a year in compulsory national service as solicitors and advocates of the Supreme Court of Nigeria. Currently, there are seven to eight campuses across the country. By virtue of the court bar, I qualified and am permitted to practice across the entire country, comprising of thirty-six states and the federal capital territory.

Before we are called to Bar, we have to be grounded in three types of systems of law, which sit side by side in Nigeria. The first being what we describe as statutory law. It is effectively case law and the study of the common law as received from the British colonial system.

We also have what we commonly refer to as native law and custom, for which I use the term "traditional law." We also have Sharia law. When there's a conflict between the laws, the common law takes precedence.

A recent case decided by the Sharia Court is an illustration of this principle. The Sharia Court held that a Muslim man who contracted a registered marriage as his first marriage under the Marriage Act and wished to take a second wife for any reason or change his wife, must first divorce his first wife. The court said "In law, the man, by opting for the registry marriage, has changed his 'factory setting' religion of Islam and the only way he could legally unbundle himself and return to the 'factory setting' from the status he willingly put himself, is by legally repudiating the statutory marital relationship he had with the 2nd appellant, through a legal divorce."

At the time I was admitted to the Bar in 1988, Nigeria was under military dictatorship. Our constitution was suspended and my country was ruled by decree. My university days and the one year in law school was a period when I had a number of personal confrontations with soldiers and police on the street who infringed on personal liberties. The military just felt that their uniform was their right to oppress rather than their duty to protect.

I had to leave. I applied for and was admitted to study for a masters in maritime law at King's College. I stayed in England after that, qualified as a solicitor, and practiced for ten or so years, whilst keeping in touch very closely with Nigeria and hoping for the day I would be able to return.

In 2009, the military returned to the barracks, where they belong, and in 2009, I returned to Nigeria. My entire experience up until then was that of a transactional lawyer but the conditions I found on returning to my country soon got me involved in pro bono advocacy. Hence, I describe myself as an accidental trial lawyer.

My first pro bono case was prosecuted with the help of the attorney general of Oyo State, one of the states in Nigeria. ▶



The victim in this case was a little girl who, at the time, was aged eight years old. She was on her way back from school when a stranger, a male adult aged about thirty years old, summoned her and instructed her to return a bottle of Coca-Cola to a street vendor and bring back his change. Now, Nigerian children, wrongly, in my view, are taught to be obedient and respectful to all elders without exception. So the little girl, being a good Nigerian child, obeyed. Trotted off with a bottle, returned with the change, at which point the stranger seized her, carried her off into a nearby bush, and raped her.

Fast forward two years later and I have to put this now ten year old child on the witness stand where she was cross-examined like an adult. She was asked long and complex questions. She was asked to define rape. She was asked if she had a boyfriend, to which she responded in the affirmative. In re-examination, I asked how old her boyfriend was and she said he's seven years old. The boyfriend turned out to be a family friend and her younger brother's best friend.

The rapist was convicted and sentenced to twenty-five years in prison with hard labor. The judge said to him, "Sadly, this is your first offense and so I cannot give you the maximum penalty but you do not belong in human society." Conducting that trial pro bono, my firm had to cover all expenses, including the transport fare of the investigating police officer, or IP as we call them, to assure that he attended to give his evidence and that the trial could proceed expeditiously.

Another pro bono case involved a police officer and we took this on at the last level of appellate courts, which is the Supreme Court. The trial had been handled by somebody else, as well as the appeal. And the correctional officers reached out to us to say this gentleman wants to change his lawyers because he has no confidence in their ability and this is his last chance. I went to the prison to have a chat with him and took it on.

The officer and his partner were on patrol duty, chasing suspected armed robbers who shot at them and they shot back. One of the chaps in the car sustained a gunshot injury; he died a few months later. And my police officer was arrested by his colleagues, prosecuted, and sentenced to death for murder. We appealed to the Supreme Court, we put forward our arguments, and the Supreme Court agreed that the appellant who was, like I said, a police officer, acted recklessly on the day of the incident. But the result was the prosecution did not present a compelling case that could have led to the sentencing of the appellant to death; and did not prove its case beyond reasonable doubt. The court then reduced the sentence to 25 years in prison. The appellant had, by this time, already spent 15 years in prison and, therefore, was released shortly thereafter.

A third case involved a lady called Joy. She had been accused of killing her husband and convicted of murder. Summary of the facts: Joy and her husband lived in – I wish I could show you this little accommodation – but it's one room where they cook, sleep, and eat. Their entire life is lived in a one room shanty.

They share a latrine, which is a pit toilet, and in order to clean that - because you can't flush it - they buy acid and pour it down the pit. She had acid in a bottle in that room, along with palm oil and various other things. And her husband, who was physically abusive, in the middle of the night gets a phone call from his girlfriend, wakes Joy up, and begins to beat her up. He says "I need you to leave this house because I don't want to stay married to you anymore." Then, he pulls a knife. There in darkness, because they have no electricity, she reaches for whatever she could to hit him and get him away from her. It was the bottle of acid that she grabbed. She hit him and he falls back screaming. She grabs her baby, and she runs.

But she comes back because he's still screaming and she and the neighbors take him to hospital. In any case, he was in hospital for about twenty-eight days before he died. Police interviewed him on the third day and from the trial records, he had gauze around his head; no indication of any other physical injury. A day before he died, he had surgery; no information as to what the surgery was about. And then he died the next day.



The autopsy reports were not before the court. And yet, she was convicted of murder because she had such poor representation at the trial court level. So anyway, we took it on and the appeal succeeded.

All of these individuals would not have received justice without our intervention due to the request of the Legal Aid Council. Legal Aid Council is an institution responsible for providing defense lawyers in matters involving life and liberty. However, because they're so poorly funded, they have to rely on rookie lawyers straight out of law school doing a year of compulsory national service. In Joy's case, I think there must have been at least twenty different advocates involved at the trial level so you can imagine that file just being passed from hand to hand; no one's taking the time or trouble to get to the bottom of the facts.

As trial lawyers in Nigeria, we have to do what we can. We concentrate our defense intervention on the areas where we feel we can make the most impact, so appeals, such as Joy's, and work with the Ministry of Justice, which is almost equally underfunded, to prosecute cases.

To give you further insight, I'll close with some statistics. The Ministry of Justice in Oyo State, where I prosecuted the rape case I referred to earlier, had at the time fifty-one lawyers dealing with over 5,000 criminal prosecutions. Over 1,000 of those defendants were in custody awaiting trial and had been in custody for periods of up to ten years. About fifteen years ago, a girlfriend of mine was elevated to the bench of a high court in one of the states of Nigeria.

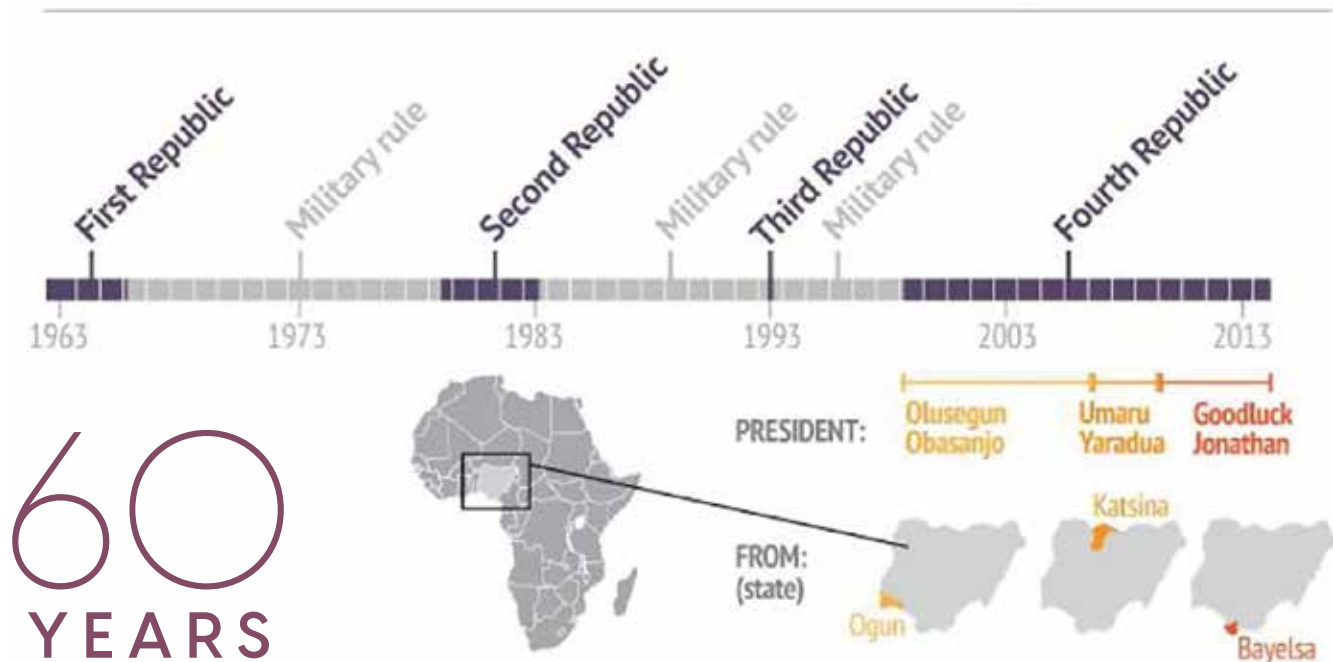
She called me a few days later to inform me she had been assigned 16,000 cases; all of which were new to her as she was not the trial judge or involved before in earlier stages of the cases before they were assigned to her.

In Lagos State, my primary place of work, which is a megacity with a population in excess of twenty million – closer to twenty-five million now because of the eternally displaced persons moving south as refugees from the frequent terrorist attacks in the northern part of the country and neighboring countries - we have less than seventeen judges of the superior court of record, known as the state high court. So it takes a lot of time to take a claim from filing of pleadings, to trial, and judgment.

Pre-COVID, late in December 2019, I requested the statistics from the Supreme Court of Nigeria. The number of judgments in the last quarter of that year was over 500. By comparison in the same period, the Supreme Court of England and Wales delivered 19 judgments or thereabouts. That's to say our judges are overworked and underpaid. Needless to say, this level of work will sometimes impact the quality of judicial pronouncement from time to time.

There's much to do but we are a very young country. We're but sixty years old, and I'm optimistic as I leave you with the African saying, which we will apply to trials in Nigeria. The saying goes, "How do you eat an elephant? One bite at a time."

Tom Tongue
Portland, OR



THE FIGHT



AGAINST ECONOMIC CRIME

BRIGADIER GENERAL (RET.) ANGELO MATASSA

GRAZIE, PRESIDENTE O'DONNELL. BUONGIORNO A TUTTI E BENVENUTI ALLA MIA BELLA ITALIA. NOW IN ENGLISH: THANK YOU, PRESIDENT O'DONNELL. GOOD MORNING, EVERYONE AND WELCOME TO MY BEAUTIFUL ITALY AND THE ITALIAN PORTION OF THE PROGRAM.

I was born and raised in southern Italy, in the region of Calabria, which is the toe of Italy. I was there for the first twelve and a half years of my life before my family moved me to Canada. And so, when I return, and I return often, it's not a visit for me; it's a homecoming. I'm a proud Canadian but I'm even more proud of being Italian and I hope that your visit here has been memorable.

When President O'Donnell asked me to come to Rome and introduce our next speaker, retired Brigadier General Angelo Matassa, I didn't hesitate for a moment. I first met General Matassa in 2012 when he was appointed attaché of the Guardia di Finanza at the Italian Embassy in Ottawa, Canada. Angelo became a fixture in the Italian community and immersed himself very quickly to the point that in 2017, when his term was up, he didn't want to leave and most of us didn't want him to leave. But diplomatic life being what it is, he returned to Rome and he and his wife Barbara, who is here with us today, live in Ostia, about a forty-minute drive to the west on the Mediterranean coast. Angelo comes back to Canada annually and has many friends and we love to see him all the time.

Angelo was born in Frosinone, a city about an hour south of Rome. He graduated from the University of Salerno, a city at the very southern end of the Amalfi Coast, a coast that I dared to drive last week. Mama Mia; what an experience that was. For those of you who've done it, you will know that it is both scary and an exhilarating experience. For those of you who haven't, I urge you to do so, but it's not for the faint of heart. At Salerno University, Angelo obtained a law degree and subsequently, he went to Rome's Tor Vergata University, where he obtained a degree in economic and financial security. He joined the Guardia di Finanza in 1976. Now, the Guardia di Finanza (G. di F.) is the Italian Financial Police Force; the equivalent of the FBI in the U.S. and the RCMP in Canada. Angelo was with the G. di F. for over forty years and retired in 2017. He held many posts, including commander, serving at the border between Italy and Switzerland, instructor, departmental head, and of course, diplomatic attaché. His duties included fighting economic and financial crime, as well as leading some very high-risk portfolios involving many national and international partners.



Pasquale Santini

Those investigations included operations in the areas of tax and financial fraud, serious crime, organized crime, money laundering, and proceeds of crime, corruption and fraud and the management of public funds of both the Italian and European Union budgets, border security and customs fraud. He served in various professional capacities in Italy and abroad, spending almost ten years at the national headquarters here in Rome.

After his retirement from the G. di F., Angelo started a new career in consulting with the public sector on compliance issues regarding the European Union General Data Protection Regulations and he is currently a partner in a law firm that deals with privacy matters, as well as compliance and anti-corruption legislation.

Ladies and gentlemen, let's give a warm North American welcome to Retired Brigadier General Angelo Matassa [Gen. Matassa's abridged remarks follow]: ▶

GOOD MORNING, LADIES AND GENTLEMEN.

It is a true privilege to be here and to have the opportunity to talk about the fight against economic and financial crime, a factor that contributes to social problems, a threat to financial stability and financial inclusion. I will try to illustrate the legal framework and the context of tackling the illicit flow of dirty money in the legitimate economy, aiming to underline how big is the challenge and why the topic must be constantly prioritized.

Curtailing money laundering has been around as a policy objective for a long time, but the target has broadened significantly and the mandate has grown over the past two decades to include tax evasion, financing of terrorism, human trafficking and modern slavery, state-sponsored and corporate bribery. While billions have been invested to tackle this type of criminality, greater emphasis needs to be placed on bolstering the efforts of law enforcement with the help of the private sector and ensuring the legal and regulatory framework and financial crime risk management toolkit are enhanced to enable stakeholders to achieve more effective outcomes.

Currently the cases uncovered continue to be a small fraction of the 2 - 5% of global GDP (€7-4 trillion) that is estimated to be laundered annually. To analyse the context of financial crime, we have to point out how factors such as globalization, the liberalization of international markets and the suppression of borders, have largely contributed to increase the possibilities of financial exchanges. Thanks to the evolution in the world of ICT (Information and Communication Technologies), such technological advances have made it easier to invest in developing countries, connecting people across the world, managing bank accounts even if financial institutions are located overseas.

On the other side, the same advancements have made it difficult to identify the beneficial ownership of accounts and monitor and freeze financial transactions involved in money laundering: while technology has the potential to make anti-money laundering and counter terrorist financing efforts faster, cheaper and more efficient.

What do we consider to be economic crime? It is firstly a breach of trust with fatal consequences if it strikes: financial loss, expensive investigations and follow-up work, damaged reputation and ultimately a wholesale threat to your existence. This means that if you want to prevent all these threats and damages, you should evaluate the risk of crime, take a clear stance on economic crime, establish a culture of trust within the organisation and, above all, pursue any suspicious cases uncompromisingly and act consistently in every respect.

Economic crime continues to be a major concern for organizations of any size and in virtually every sector. On the other hand, we have financial crime, which is when the offense is committed against property, involving the unlawful conversion of the ownership of property to one's own personal profit. Financial crimes are an increasing problem for all financial institutions, from the largest global organizations to the smallest companies and partnerships. The challenge is too big an issue for any single actor to solve on their own: everyone has a role to fulfil. As gatekeepers of the system, financial-services companies play a key part in this context and financial institutions are strongly committed to helping them accomplish this important mission.

Money launderers need the technical co-operation of a financial institution/entity, feeding a parallel market of financial intermediaries. The European Union (EU) Anti-Money-Laundering (AML) legislation is constantly updated, aiming to create the most harmonized regulatory framework among the different member states legislation. To make it possible the EU has different legislative tools such as regulations, directives, decisions, recommendations and opinions. These vary depending on whether or not they are binding and on how they are applied in the member states as described in Article 288 of the "*Treaty on the functioning of the European Union*."

Regulations are the preferred tools as they are binding and directly applicable, in their entirety, in the member states without domestic legislative process of transposition. In the international scenario, the Financial Action Task Force, also known by its French name, Groupe d'Action Financière (FATF-GAFI), is the most important intergovernmental organization. It was founded in 1989, on the initiative of the G7 countries, to develop global policies and standards to combat money laundering and, since 2001, also the financing of terrorism. In February 2012, the FATF-GAFI completed a thorough review of its standards and published the revised "*recommendations*" to strengthen safeguards and further protect the integrity of the financial system worldwide.

The recommendations have been expanded to deal with new threats such as the financing of the proliferation of weapons of mass destruction, and to be clearer on transparency and tougher on corruption.

Another important player in this context is the EGMONT GROUP (EG), the global organization for the Financial Intelligence Units (FIUs), set up in 1995, to provide support for operational practices and international cooperation. The EG manages and develops the protected network known as the "*Egmont Secure Web*" (ESW), which is used by national FIUs to exchange operational information.

The FIU is an independent, autonomous body, which supports a country's agencies by analysing and combating financial crime. The number of the FIUs participating in the EG organization has increased rapidly over the years; they are now at 150.

Another important AML institution is MONETVAL, a select committee of experts on the evaluation of anti-money laundering measures. It was set up in 1997 as part of the Council of Europe's European Committee on Crime Problems.

In Italy, AML law enforcement is disciplined by the Legislative Decree 231/2007 and covers a broad range of subjects such as the financial intermediaries, the professionals, the auditors, and a series of persons engaged in other (non-financial) activities.

Italian AML law enforcement also oversees the prominent role of G. di F. Guardia di Finanza, the Italian police force that deals with the fight against the economic and financial violations. The G. di F. is also a "competent authority" authorized to enhance the international co-operation with foreign agencies and counterparts.

Illicit financial flows related to drug trafficking threaten the political, economic and social development and security of countries around the world. Drug trafficking is just one of the criminal activities engaged in by organized criminal groups and illicit financial flows are a critical enabler of drug trafficking from which organized criminal groups derive wealth and power. In the last decades the fight against organized crime has been at the centre of the policy makers' agenda of most developed countries and the international security cooperation. One of the main concerns for national and international authorities is the ever-increasing investment of Organized Crime groups in the official economy through the infiltration of legitimate businesses. Organized Crime invests huge amounts of money and resources in legal firms in different fields and for different purposes. In addition to the negative effect on the allocation of resources resulting from unfair competition, these investments can increase local support for these crime groups, since they often provide economic opportunities in depressed areas.

Italy is a natural case study for investigating the role of Organized Crime in the legitimate economy for two main reasons: its pervasive presence in the country, and the regulatory framework that has been established over the years to tackle these groups is particularly advanced. To fight criminal organizations, Italian law enforcement agencies have been given the power to seize assets and corporations holding those assets.

Let me briefly remind you that money laundering is the process by which criminals attempt to conceal the illicit origin and ownership of proceeds from unlawful activities.

By means of money laundering, criminals attempt to transform the proceeds from their crimes into funds of an apparently legal origin. Money laundering has three stages: *First*, the introduction: the launderer introduces the illegal profit into the financial system; *second*, the layering: the launderer engages in a series of conversions or movements of the funds to distance them from their source; *third*, the integration: the funds re-enter the legitimate economy. Sometimes there is even a *Fourth* stage, according to evidence gathered by investigative journalists from *The Financial Times* in London. Some Russians oligarchs have defended their wealth and reputation by engaging top law firms. There are a variety of mechanisms to disguise the illicit nature of funds, from the simple purchase of luxury items to more-sophisticated techniques involving the transfer of the money through a transnational network of banks and other financial institutions.

In conclusion, I want to underline again that the current global framework for fighting financial crime is not as effective as it could be. According to policy makers and think tanks such as the Centre for European Policy Studies, there are several key issues that remain vital to developing a better anti-financial crime system and should be considered across reform efforts in the following areas:

1. global systemic improvements for financial crime risk management
2. advancing a more effective PPP (Public Private Partnership)
3. improving cross-border and domestic information sharing
4. improving the use and quality of data
5. beneficial ownership reporting transparency
6. reforming suspicious activity reporting regimes
7. mitigating the inconsistent or incoherent implementation of financial crime compliance standards and guidance and providing regulatory clarity
8. increasing and improving the use of technology to combat illicit finance.

Pasquale Santini
Ottawa, ON

A photograph of Kati Marton, an older woman with short brown hair, wearing a bright pink blazer over a white top. She is sitting in a grey armchair, smiling and gesturing with her hands. The background shows large, classical columns.

KATI MARTON THE REMARKABLE ODYSSEY OF ANGELA MERKEL

ANGELA MERKEL SERVED AS CHANCELLOR OF GERMANY FOR SIXTEEN YEARS. BY THE TIME SHE LEFT OFFICE IN 2021, SHE HAD BECOME THE SINGLE MOST TRUSTED LEADER OF THE WESTERN WORLD. KATI MARTON, AUTHOR OF *THE CHANCELLOR: THE REMARKABLE ODYSSEY OF ANGELA MERKEL*, DESCRIBES MERKEL'S LIFE AS "A REMARKABLE ODYSSEY." THE TRUTH IS THAT KATI HERSELF HAS HAD SUCH A LIFE.

Kati was born in Budapest, Hungary in the rough and ugly days of the early Cold War; her grandparents died at Auschwitz in World War II. Her parents were journalists who wrote for American wire services at a time when the Iron Curtain was a cruel reality. If you reported to the West about things that were happening in the East, you were suspected of being a spy for the Americans. And sure enough, her parents were prosecuted and convicted on the false allegation that they were working for the American intelligence services. They were jailed for two years while Kati was still a young girl.

In 1956, after Russia invaded Hungary, Kati's family fled to the United States. Kati arrived at the age of eight without knowing one word of English. Yet she put together a brilliant career as a journalist, working for NPR, PBS, and ABC News on radio and television. She has written for many publications including *The Atlantic* and *The New Republic* and has written ten books: One a novel; some autobiographical; many histories; all of them worth your time and attention.



Craig: You have said that this was “a Mount Everest of a biography,” referring to how difficult it is to write a biography about a person who is still alive, who has written no memoir and left no papers or emails or letters or journals behind. Merkel was still in office when you wrote this book. Why did you pick her as a topic, and how did you do it?

An abridged version of Fellow Greg Craig's conversation with Kati at the Rome Meeting follows.

Marton: Thank you for giving me this remarkable opportunity to spend two days with all of you. I will never tell another lawyer joke.

Craig: We are grateful for that. Now, as to Angela Merkel. What an amazing woman. I have followed Merkel's career. It was my impression that she was rather boring. She was conservative. She was predictable. She was unexciting. And then I read your book. Lo and behold, I find her to be a very interesting woman.

Marton: Far more interesting than she wants us to know. She would not be insulted to learn that you thought she was boring. She wouldn't mind that at all because she just didn't want anyone to know what was going on beneath that surface. So that, of course, was my big challenge – to get beneath that surface.

Marton: I picked her because she is the most powerful woman in history since Elizabeth II, and there wasn't yet a readable biography. Everything so far has been dry as sawdust because that's how she wanted it. She doesn't think that her persona, her character, her life outside the Chancellery is any of our god-damn business. But I was uninterested in the mechanics of the Bundestag. I was interested in the human story.

You mentioned my own childhood as the daughter of imprisoned journalists in Cold War Hungary. We – Merkel and I – shared growing up under Communism. I had written a book about my life behind the Iron Curtain and sent her a copy hoping it would attract her attention.

She did read it, and so I had a bit of an edge over other writers. We share the common experience of living under totalitarianism, and she was aware of that. From my own experience, I have an understanding and a sympathy for her youth in the Stasi State, the prison state, of East Germany. And I believe the first thirty-five years of her life in East Germany is really key to understanding who she is, how she has governed, and why it is that she is almost paranoid in her need for privacy.

As you may know, the Stasi had a deeper penetration and surveillance of the population of East Germany than even the Gestapo during the Nazi years.



Craig: And it's true, is it not, that the Stasi tried to recruit her when she was a student at Leipzig University to spy on her associates.

Marton: Yes. But her Lutheran pastor father and her mother had prepared her for just such an encounter with the Stasi. She had her lines ready: "I'm a blabbermouth. You cannot trust me with any secrets. I'm going to tell everybody that I'm an informer."

I too know something about informers. When I was working on my own memoir of my childhood in Hungary and my parents' trial and imprisonment, I discovered in the Hungarian KGB files – and my family had the dubious honor of having the largest file – that we were under surveillance all the time, literally 24/7. The biggest informer in our circle was our nanny, the person who took care of me and my sister. So maybe, like Merkel, I grew up being somewhat skeptical and distrustful.

Craig: Tell us a little bit about how you think growing up under Communism shaped her and influenced her role as Chancellor.

Marton: Let me begin by saying that she was trained as a physicist – and was a very good physicist. Parenthetically, let me say that we need more scientists to seek public service. She always was quietly, extraordinarily ambitious. I quote her saying "I was a good scientist but not Nobel material." If she wasn't going to win a Nobel, she wasn't interested in spending her life doing physics.

Overnight she changed her career. The Wall came down in November 1989, and Merkel joined that great flood of East Germans who poured into West Germany. She was dazzled by her first encounter with West Berlin – the showpiece of Germany – and within days, she began looking for ways in her neighborhood in East Berlin to join a political startup.

After half a century without freedom – first the Nazis and then the East German Communist Party – political parties in East Berlin popped up like mushrooms after rain. She walked into the office of a new small

party in East Berlin. All the men were sitting around a table. She noticed that there were a bunch of unpacked boxes in a corner; gifts of computers from some American donor. None of the guys sitting around that table knew how to assemble a computer or even plug it in. So quietly, in her Merkel mode and being tech savvy, she rolls up her sleeves, unpacks the boxes and assembles the computers. After that, they asked her to sit at the table.

One thing we don't often ascribe to women politicians is being canny and ruthless. Merkel was absolutely unsentimental when it came to her career. She always kept in mind the greater good but slowly, quietly and ruthlessly she pursued her ambition. She ultimately chose the conservative Christian Democrats as her home base, and her country was always preeminent in her interests.

But as you know, she guillotined her mentor, Helmut Kohl, when the moment came. I don't mean that literally.



Craig: Tell us how she got into politics. Because she was in Helmut Kohl's cabinet very early on as a young junior minister. How did that happen?

Marton: Merkel was deceptively low-key. She shielded her ambition. But in fact she was burning with ambition and eager to have a big career, a big life, an adventure. She was innately cautious, and she used her drab exterior to her advantage.

She was never much of a fashionista, although after she became Chancellor, she did ultimately figure out that she needed to look a certain way to make it.

As if by design, she was underestimated every step of the way – most importantly by the Titanic-figure of German politics, Helmut Kohl. Because of him, she rose to the top. Kohl engaged her – the youngest member of the cabinet – to be Minister for Women and Youth. My husband, Richard Holbrooke, was US Ambassador to Germany at the time, and he teased her, “Angela, you’re not interested in either of [those topics].” And of course, she wasn’t; but she was biding her time.

Her next portfolio was Minister of the Environment, and there she really flourished because she was an early environmentalist. From day one, she thought climate change was deeply concerning.

Craig: During her sixteen years as Chancellor she worked with many heads of state – including at least three U.S. presidents. And over many years – during much of her time in office – she also had to deal with Vladimir Putin.

Marton: That was a long and dysfunctional marriage with no possibility of divorce, given Russia and Germany’s geographic and political and economic proximity. It was Bismarck who said that the key to success in German politics is make peace with Russia. That is kind of what Merkel did.

For sixteen years, she was in an intense relationship with this man Putin, and unlike any other western leader, she understood his capacity for cruelty and deception. She was familiar with his KGB training, and she knew that he was, first of all, a KGB agent.

At their first meeting, he had done his homework and knew that she was terrified of dogs. During their meeting, Putin unleashed his giant black Lab, which went right at her. She just froze. She did not react. That was her way of dealing with bullies.

She had a similar experience with Trump, who tried to shake her, to bully her, to break her iron composure. After an intense negotiation at some G8 meeting, Trump fished an old piece of candy out from his pocket and tossed it on the table in front of her and said, “Angela, don’t say I never gave you anything.”

Everybody around the table was stunned. Trudeau was visibly shocked. All these heads of state were appalled at such uncouth behavior. Merkel pretended she hadn’t noticed. That was her way of diffusing whatever need for attention and power that bullies had. And it wasn’t just Putin and Trump. She had many bullies to deal with while she was Chancellor. She had her moments with Bolsonaro and Orban.

Craig: I was going to ask you about George W. Bush. There’s that famous video clip of George W. Bush coming up behind her and massaging her shoulders in the middle of a conference with various heads of state. She was caught off guard and was clearly surprised. But recovered. This of course raised questions about what her relationship was with Bush.



Marton: In fact, they really liked each other and have stayed in touch, but it was a signal to all the other members of the western alliance that there was – because when he delivered the surprise massage, she looked back. She saw who it was and saw that it was the American president, so she broke out in kind of a mischievous smile which gave a signal to the others that these two are bonding. And indeed, they did bond.

Her favorite trip, which I describe in some detail because it was fun to write about, was when she and her husband – who didn't normally accompany her on trips; an interesting marriage, by the way – went to Crawford, Texas, where George and Laura treated the Merkels like down home folks. The BBQ and the jogging around the Crawford estate was very informal. And she considered the visit to be one of her most memorable state visits even though it really wasn't a state visit.

Craig: Now in the policy world, there are probably three or four each of which would take an hour to talk about. One has to do with German energy policy; her decision to abolish nuclear power in Germany after Fukushima. This was in retrospect perhaps premature. Two, her support for Nord Stream 1 and Nord Stream 2, which made Germany reliant on energy from Russia. But I would like to focus more on the immigration story and on Ukraine before we have to call it quits.

Immigration, the challenge that she faced there, was enormous. She became the moral center of the entire world at that time.

Marton: Just think about it: Germany, one generation after the Holocaust, as the moral center of the world. This, too, is Merkel's legacy and she did this by allowing one million Muslim refugees to not only enter Germany but to put down roots as potential German citizens. And this was almost entirely a result of Merkel's deep Christian foundation. When she saw that all her fellow Europeans were busy unspooling barbed wire and building walls to keep out what British Prime Minister David Cameron called "the Swarm," she chose the opposite route. And it was chaotic at first because this group was not a million Ukrainians from a neighboring country. They came from Islamic cultures, unprepared for Germany. She made very definite conditions on their sanctuary.

Craig: They had to learn German.

Marton: Yes, had to learn German.

Craig: They had to go to school if they were of school age. They had to get a job



if they were employable and, fourth, they couldn't choose where they could live so they wouldn't be concentrated. The Germans spread them out throughout the country so that communities would be ready and able to receive them.

Marton: Yes. And you know what? I continue to visit Germany. It's not even a front burner story; they're just part of what is now, since Merkel's reign, a vastly more open and multi-ethnic population. And the Germans, I think, are proud to be on the right side of history for once. They're justly proud of how they've handled this.

Of course, the great challenge now barreling toward them is the war in Ukraine that is raging very close to Germany. And this, of course, has been deeply and personally upsetting to the Chancellor who spent sixteen years trying to prevent this very outcome.

In my view, it's not a coincidence that Putin attacked Ukraine just two weeks after Merkel left the Chancellery. He definitely felt empowered by her absence. She was the only leader who he respected and who really knew how to get through to him. They literally speak each other's languages. She's fluent in Russian from her Communist childhood; he is fluent in German from his days as KGB officer in Dresden. He would not have been able to seat her at the end of that ridiculously long table where Macron and others have been relegated because that's not their relationship. I discuss at some length her negotiating tactics with him and their history together. They did work together for sixteen years.

Craig: So Kati, the final point, which is a theme throughout your book, has to do with her being a woman; whether it was a benefit to her career or a disadvantage. And one saw pictures of participants of the summits – if you watched the news clips of the G7 or the G20 – and there they all were all lined up with just one woman in the middle of a phalanx of men.

You write very eloquently about how being a woman made her even greater and even more successful.

Marton: We've touched on aspects of her legacy, but I think her ultimate achievement will be that she has permanently put to rest any question we may still have about a woman's ability to lead.

I sometimes felt while writing this book that I was writing Machiavelli's Volume Two of *The Prince*, called *The Princess*. There is so much in this book about power, how to gain power, how to keep power, how to sustain power, how to wield power, and how a woman ultimately leads differently, perhaps because we haven't been at the table very long, and do not presume that we are owed that place.

Merkel's style and her remarkable achievement was to get stuff done without taking credit for it, without calling attention to it, to work, as I say, sideways. She didn't use the bully pulpit very much. She's actually a pretty lousy speaker.

For her, the important thing was to get the deal done. Okay, "You go," she would say to Macron or Sarkozy, "You go to the microphones and tell them what we just did." Even though it was her deal. I mean, her stamina in negotiations was incredible.

Unlike most other successful diplomats, Merkel didn't use either charm or the threat of force to get to agreement. She has a photographic memory. Nobody can beat her on her granular familiarity with the details of the battlefield.

When Putin launched the Ukraine aggression in 2014, she knew every tree in the Donbas. She would face him and say, "You know, your guys moved into this village last night and destroyed it." And he would say, "Those aren't my guys."

The Russian forces were known as "little green men" because they were not in uniform. They had no insignia. And she would just match him, nose to nose, with her knowledge and her command of facts and, again, the training as a scientist was helpful – her ability to retain details and her ease with charts. All of that turned out to be really useful during COVID.

That was her final crisis. In truth, the entire sixteen years of her journey as Chancellor was a rolling crisis, but her final challenge was to manage the COVID crisis. Here, again, her ability to project the trajectory of the disease helped the German people.

The other thing that really helped was that the German people trusted her. When she told them something, when she said, "This is serious," they believed her because she had never lied to them. She might have bored them, for sure, but she never exaggerated.

Craig: And when she left office, she was the most trusted leader in the world.

Kati, thank you so much for spending time with us.

Gregory B. Craig
Washington, D.C.

INDUCTEE LUNCHEON



AT EVERY MEETING, AT THE NEW INDUCTEE LUNCHEON, A PAST PRESIDENT TELLS THE INDUCTEES HOW THEY CAME TO BE ADMITTED TO OUR FELLOWSHIP. THIS YEAR'S REMARKS, SLIGHTLY ABRIDGED BELOW, WERE DELIVERED BY RODNEY ACKER.

Well, welcome! Welcome to both the new inductees and to their guests, to the Fellows, and to Justice Barrett. This is the closest I will ever be to talking before the Supreme Court. I hope you've enjoyed your time in Rome so far and I hope you're looking forward to the induction tonight.

I was inducted twenty-five years ago in Boca Raton. I'm sure we had great speakers but I don't remember a single one of them. Except, maybe, Sandra Day O'Connor. I remember the black-tie induction but mostly just that it happened; that there was a very distinguished Past President that gave the charge and some lawyer, from our class, gave what was probably way too long an inductee response.

So I don't really remember a lot of details, but the one thing that I do remember is this lunch. The purpose of the lunch is to tell you how you got to be a Fellow.

Now, when I got inducted, my now good friend, Andy Coats, was the President. Back then, at forty-seven, I hardly had my name on the door; he had a law school named after him. But then again, it was Oklahoma. Andy started with introductions of the Past Presidents and the Regents. He introduced Bob Fiske of Whitewater fame. He intro-

duced his friend Morris Harrell, the most famous lawyer in Dallas for many years. And he mentioned some other famous Past Presidents like Leon Jaworski, Watergate. Griffin Bell, former attorney general and Fifth Circuit judge. Earl Silbert, who you heard just passed away last week, the chief Watergate prosecutor.

At age forty-seven, I was starstruck. So I leaned over to my wife Judy and said, "Do you know how many famous lawyers are in this room? Do you know how many great lawyers are in this room?" Without missing a beat, she looked at me and said, "One less than you think." It's surprising that we just celebrated our fiftieth anniversary two weeks ago.

The point is that you inductees should enjoy every minute of this weekend. All the accolades that come your way are all very well deserved. But remember, when you get back home, your spouses may not be that impressed and they certainly won't think you're too important to take out the trash.

So now the point of this talk; the explanation of how you got here and how you became a Fellow. Fellowship in the American College of Trial Lawyers is by invitation only.



You cannot apply. The fact of your nomination is secret until you're invited to join. Hopefully, everyone here - hopefully the fellows involved in your nomination - followed that guide and you were not informed that you were even being considered until you got a letter from the College inviting you to fellowship. The reason that your nomination was so secretive and so confidential is because there are a lot of pitfalls along the way and many candidates don't make it so we don't want to embarrass anyone by having them know that they are being considered and then don't make it.

So the nomination; how were you nominated? Just to be nominated took a lot of work from someone. You were nominated and seconded by fellows from your state or province. Those fellows had seen you in a trial or a judicial fellow had seen you in a trial or a judge, who was not a fellow but knew of the College, told a fellow that you might be a good candidate. Once you were identified as a talented trial lawyer, then the process of gathering information for the nomination form began and that's not an easy process. In addition to gathering the background material on your law school career, all the firms where you've ever worked, and making a guess as to what Fellows you may know so they will know who to contact about you, the most difficult part is obtaining a trial list. And that's difficult because the process is secret, they can't ask you for a trial list. So there are a number of ingenious ways that the nominator has gone about trying to get your trial list.

If they knew and trusted your secretary or your legal assistant to keep a secret, they would approach them and ask them for a list of your trials. If they knew a Fellow in your firm, they would contact that person and try to get a case list. If you were a member of another professional organization that required a case list to become a member, they might contact a member of that organization and try to obtain your case list from that prior application.

So once the nomination package is complete, the nominator sends it to the National Office and to your state or province chair. The state or province chair then appoints a fellow to conduct a confidential investigation. The investigator is given a copy of your entire package, and most importantly, he's given your trial list. The investigation consists of calling all the judges that they can identify that you've ever appeared before. ▶

All your opposing counsel that you've ever appeared before. All the co-counsel in your cases that you've ever worked with. Fellows in your area that might know you and have an opinion as to your reputation. It is a very time-consuming process, because you have to have a substantial case list in order to be considered and to meet our qualifications and bylaws. Our Fellowship is limited to those trial lawyers who are outstanding and considered the best in a state or province. You see, admission to Fellowship in the College, being good isn't good enough. Being the best in your town is not good enough. You have to be considered one of the best in your state or province.

When the investigator begins his investigation, when he calls these people - the judges, the opposing counsel - unless they are a Fellow, he doesn't tell them why he's calling. He just says that he is calling because you are being considered for an honor and he asks them to keep that fact confidential. One, because we wouldn't want to embarrass anyone. And second because we want them to be entirely candid with us.

So during his interviews, the investigator will ask not just about your talent, not just about how good a trial lawyer you are, but he'll also ask about your ethics, your collegiality. He may go look at court records. If there's a question that comes up, he may read a deposition, if somebody questions your collegiality. So it is a very difficult process. A deficiency in any of those areas, whether it's talent, whether it's experience, whether it's ethics, whether it's collegiality, is a death knell for your nomination.

Once the state investigator completes his investigation, he writes a report, then he sends it to your state or province chair. Before the next state or province meeting, the state chair circulates that report to all the members of the committee. They have a chance to study it before they meet and when they meet, every candidate is discussed separately and thoroughly. If you pass the state committee, you're not admitted to fellowship; that's just the first step.

The next step is if you pass, the state chair sends your name to the National Office. The National Office then makes a list of all the nominees from your state or province that have passed the committee. The National Office then circulates that list to every Fellow in your state or province. It's a confidential poll and Fellows are given the chance to vote very favorable, favorable, unfavorable or, insufficient knowledge, and they're asked whether that is on reputation or by personal knowledge.

The poll gives the Fellows being polled the chance to write comments; you can imagine with a bunch of trial lawyers, there are comments; sometimes pages of comments on a particular candidate. From that, the Regent begins his investigation. When the Fellows write comments on the poll, the poll results are accumulated in summary form by the National Office - how many voted very favorable, how many voted favorable, how many voted unfavorable. It will list every comment, but the comments will not be attributed to any Fellow. The only person that sees who made what comment on the poll about you is the Regent. When the Regent makes their presentation to the board at the next national meeting, the Regent is precluded from attribution. If you make the mistake of mentioning someone's name, you only do it once. It is definitely precluded.

So the Regent starts the process all over again. He doesn't just take the state investigator's report, read it, and say, "That looks good to me." He starts over; he calls the judges, he calls the opposing counsel, he calls your co-counsel, he calls the fellows that have responded that they know you, and particularly, if you got an unfavorable vote by someone, he calls that person. Because the Regent's job is then to come to a national meeting where candidates are approved. Now, because you're being inducted at the annual meeting in the fall, most of you - unless you had some conflict and couldn't come earlier - most of you were considered for Fellowship at a board presentation last spring at Coronado, at the Del Coronado, in San Diego.

So what happens when the presentation is made to the board? There's a room about half this size with the fifteen Regents, the five officers, and ten or twelve Past Presidents. It might be like a Supreme Court argument but instead of nine justices, there are thirty-five. And it's great sport to try to find something that the Regent has missed. Everyone who's been a Regent will attest to that. The Regent is asked what he did, how many judges did he personally talk to, how many opposing counsel did he personally talk to, what kind of cases have you tried, how long did they last, how complicated are they? Did you try twenty cases or did you try one case twenty times? Is there some variety in the type of cases that you tried?

Now, the Regent is not allowed, as I said earlier, to comment on who the individual Fellows are who have commented. But the Board sees the summary and the comments. We get to quiz the Regent, him or her, on that. People will be on their iPads and their computers looking at your website, they will be googling you for any information that they can find about you online. There will be many questions for the Regent. Once the presentation is completed, all the questions are answered, there is a vote on each candidate individually. Only 75-80 percent of the candidates who were approved by the state or province committee are typically approved for membership.

Now, for you spouses and guests at this point, I might have joked that Judy leaned over to me and said, "How did you get in?" But you know she didn't do that. She might have thought it, but she was nice enough not to ask. So now you've been nominated, you've been investigated twice, you've been voted on by your state or province committee, you've been approved by the national committee, but you're still not yet invited to Fellowship. You may recall receiving a letter from the National Office with the statement of qualifications. Question 17 asks have you ever been -- are you the subject of any grievance? Are you the subject of any malpractice action? Is there something that, because of the private nature, the Regent couldn't have discovered? So you fill that out and you send it back and the Regent approved you and you're here today. So in a nutshell, that's probably 60 hours' worth of work in what went into you becoming a Fellow.

So now that you're here, what next? We have a request: Don't be a plaque hanger. Don't show up for this meeting, get your plaque, go home and put it on your office wall, and never show up again. Get involved. The College does a lot of great work. It's primarily done through one of the approximately forty general committees and sixty-two state and province committees. We hope that you will volunteer to be on a committee. When you do, not only will you be involved in some very interesting work, but you will meet some really great people; some really great lawyers and really nice people. And when you come to the national meetings, it will make it even more fun. And for our sake, bring your spouse or guest.

My friend, Past President Bob Byman, likes to say there's never a bad seat at a College meeting. You may sit next to a great trial lawyer but you're just as likely to sit next to an equally accomplished spouse or guest who's even more interesting than the lawyer. Exhibit A: Judy Acker.

So please come back and get involved. Welcome to the College!





FALL 2022 NEW INDUCTEES

FORTY-EIGHT NEW FELLOWS WERE INDUCTED AT THE 2022 ANNUAL MEETING IN ROME. OUR NEW FELLOWS LIVE AND WORK IN TWENTY-EIGHT DIFFERENT STATES AND PROVINCES.

MICHAEL E. MONE, JR., THE SON OF PAST PRESIDENT MIKE MONE, GAVE THE INDUCTEE RESPONSE, WHICH IS ABRIDGED HERE:



I want to congratulate all my fellow inductees and I want you to know what an honor it is to be inducted with you into this newest class of the American College of Trial Lawyers. I also want to thank all the Fellows who I have seen in the elevator or walking around the lobby or wherever who have come up to me and said, "Congratulations. We're happy to have you. Welcome to the fellowship and don't think for a moment that you don't belong here." It's been a wonderful welcome from all of you.

My job tonight is to give you an introduction to my fellow inductees. We hail from across the United States and the Canadian provinces and we also come from different sides of the V, but we have a lot in common.



And one thing that we have in common, that nearly every inductee mentioned, was that we all benefited from great mentoring. It's something just about every inductee mentioned in their submission; a mentor who guided us through the early stages of our career, showing us the finer points of trial practice, and encouraging us to be better lawyers and lawyers of integrity. We wouldn't be here if not for those hundreds of lawyers who cared enough about us and about the profession to take the time to give us some friendly advice and who were always there to lend a guiding hand when we needed it. They made us better lawyers and we carry their legacy with us here tonight.

We almost certainly wouldn't be here without the love and support of family. Whether it was a parent who inspired us, a sibling who looked out for us, a child who humbled us, or a spouse who loved and supported us, despite our many flaws. We likely would have never accomplished much in our lives if it wasn't for our family. For me, I am

blessed to share the journey through life with my beautiful wife, Amy Mone. She has always been the perfect sounding board for me and I use her as my own personal focus group. Whenever I have a case, I like to lay out the different facts and ask her, "Well, what do you think about this?" And then she tells me that she thinks the plaintiff has no case. And then I add on another fact, "Well, what do you think about this?" "Well . . ." "What if I told you this and this and this?" Eventually, she may give me a grudging thumbs-up but it's not often. But you know, it's better that I know and that she helps me identify the weaker aspects of my case, legal or otherwise, so that at least I get a preview of what I need to work on, legal or otherwise.

Amy and I are fortunate to be joined tonight by my mother, Margaret. As many of you may know, my father was a past president of the College; he passed away in March of 2020. But he and my mother enjoyed so many wonderful friendships here among the Fellows and their spouses and



I certainly wouldn't be standing here if not for my mother, since I was told, in no uncertain terms by a past president and regent, that she was to be invited to Rome. So I believe my induction to the College was contingent upon her being here tonight.

Allow me one more moment to acknowledge my dad. He was a great mentor, not just to me, but to so many other lawyers who would reach out to him when they needed advice. He always made time to talk to another lawyer who needed help. I do wish he was here tonight, obviously, not just to see me be inducted but so that he could meet my fellow inductees and I wish that they could meet him. I think they would have gotten a real kick out of him.

The professional accomplishments of this class of inductees are quite impressive. Rather than recite their long and lengthy resumes, let me share with you some of their origin stories; where they came from, why they decided to become trial lawyers, and how they have advanced the profession in the pursuit of justice.

We have an inductee who's a first-generation immigrant to the United States and the first lawyer in her family. Another inductee was adopted into what he describes as a modest middle-class family with parents who worked hard but had no college degrees. One inductee describes himself as just a cranberry farmer's kid from Middleborough, Massachusetts. We have another inductee who was the first woman in her family to graduate from college and earn a professional degree. One inductee grew up on a farm in Upstate New York where he and his father continue to raise registered polled Hereford beef cattle, polled meaning without horns. Now, this inductee, I believe, is also a long-suffering Buffalo Bills fan so it's not surprising that for most of his life he's raised cattle that have no horns. Although I think I'm about to find out what it's like to be a long-suffering Buffalo Bills fan now that Tom Brady is no longer a Patriot.

We have another inductee who is one of seven children born to a father who was a farmer, a mother who was an elementary school counselor. We have one inductee who grew up fixing motorcycles with her father; she had her own motorcycle by the time she was nine years old. And we have an inductee who was raised in a small town in the heart of Cajun country in southeast Louisiana which is the home of Tabasco sauce.

From those beginnings, we all came to the law in different ways. One inductee was slogging her way through college as an accounting major. Can you think of anything worse than being an accounting major? Eventually, she found a part-time job at a D.A.'s office and one day she sat in on a trial of a high-profile civil case. As the plaintiff's attorney built to a crescendo during his closing arguments, she felt her heart racing faster and faster. When the lawyer slammed his hand down on the podium, she felt her heart stop. The inductee felt like she had been struck by lightning. Right then and there, she knew what she wanted to be: A trial lawyer.

Another inductee grew up wanting to be just like his dad who was a lawyer and also a Fellow of the American College. But when he was in high school, this inductee got to watch Bart Dalton, Past President of the College, try a double murder case. By the end of that trial, this inductee knew he wanted to start his career as a prosecutor. We also have an inductee who was inspired to become a lawyer by his grandfather, a quintessential country lawyer in North Carolina.

Just about every inductee has spent time in public service, either as a prosecutor or as a public defender, and some have devoted their entire careers to public service. One inductee has twenty-three years of public service as an Assistant U.S. Attorney and as trial attorney for the Securities and Exchange Commission. Another inductee first started out as an Assistant U.S. Attorney and then spent the next seventeen years of his legal career practicing at a big white shoe law firm in Boston. He recently left that firm to become the First Assistant United States Attorney for the District of Massachusetts.

Many inductees hail from firms with long traditions of public service. One inductee comes from a small boutique firm that includes a former associate who went on to have a very long and storied career in public service and eventually became President of the United States. A guy by the name of Biden.

I am reminded of that wonderful quote by Dr. Martin Luther King, Jr. You know it: "The arc of the moral universe is long but it bends towards justice." I love that quote and I can almost hear that beautiful baritone voice of his saying it in my head whenever I read it. But what is implicit in that quote is that the arc doesn't bend by itself; it must be pushed. And we saw a little bit of that today when we heard from that marvelous woman in Utah and the effort she went to finally clear her record so she could pursue her life as a productive member of society.

And we heard the decade's long fight from the victims, the families of the victims of Attica, to expose the coverup and to finally receive some modicum of justice for what really happened at Attica. And I see that also in this inductee class; how over the years they've worked in ways big and small to push the arc and to make it bend towards justice.

We have an inductee who was the executive director of a federal defender program in Alabama and also Executive Director of the Alabama Post-Conviction Relief Project. This inductee has spent her entire career defending clients in criminal cases throughout the southeast of the United States. Another inductee has represented several transgender youth in matters related to the rights of minors to consent to gender affirming care. Another inductee was one of the lawyers representing six Muslim clerics who were removed from a plane in 2006 and arrested after attempting to pray before the flight. We have an inductee who was counsel in three separate class action suits seeking policy reforms in both corrections and policing. All three lawsuits resulted in settlements and monitoring.

This inductee class continues to push society a little closer to justice through their demonstrated commitment to pro bono representation, as well as their volunteer work in the community. In 2020, one inductee led a team of lawyers to assist asylum-seeking immigrants detained in New Jersey detention centers. This inductee and her team were able to get seven vulnerable individuals released from ICE custody. Another inductee developed a pro bono legal services program for veterans. One inductee, in an ultimately losing effort, represented a young girl in 2004 who had been arrested at the age of twelve for eating a French fry in a metro station. Although his equal protection and unreasonable search and seizure claims did not prevail in court, he did prevail upon the Washington Metro to change its policy.

In their spare time, members of this inductee class also volunteer for organizations focused on juvenile diabetes research, preventing child abuse, funding autism services, supporting children in need through local Big Brother, Big Sister organizations, and building houses with Habitat for Humanity. Another inductee is very active in a local foster and adoptive parents association. This inductee is herself a foster parent. One of our inductees founded the Charleston Forum after the 2015 massacre at Mother Emanuel AME Church in Charleston, South Carolina. It's a nonprofit organization with a mission to bring people of different races, religion, and viewpoints together to share their different perspectives in hopes of finding a way forward together as a community. Through these combined efforts, this inductee class has worked in ways big and small to push the moral arc of the universe so that it bends ever so slightly towards justice.

Not content with being superb lawyers, this inductee class excels in numerous pursuits outside of the courtroom. A number of inductees played baseball, basketball, football, hockey and lacrosse in college. One inductee gave up football and started playing rugby and continued to play the sport even after suffering a gash to his face that required twenty stitches to close. Let's see if we can pick him out during cocktail hour. We have marathoners, triathletes, and one inductee who has completed multiple tough mudders. What's a tough mudder? It's an endurance competition involving a ten mile run through an obstacle course that includes elements of fire, water, heights, and electricity. Hopefully, not the water and the electricity at the same time.

One inductee is halfway through a three-year plan to kayak all 444 miles of the Susquehanna River from Cooperstown all the way down to the Chesapeake Bay. Another inductee likes to spend her leisure time climbing mountains in the Pacific Northwest. One inductee in her younger days was a twirler, not just of batons, but flaming batons and swords. That must come in handy when she goes to court.

We have among us many talented musicians. We have two trained vocalists, elite guitarists, and a backup singer. We have two fiddle players; one was an Idaho State Junior Fiddle Champion and the other also plays bass and mandolin. One inductee played violin for twenty years before switching to the saxophone and another inductee plays the trombone. Needless to say, we're all looking forward to the sing-a-long. It's going to be great! You brought your instruments, right?

Let me close by drawing on the words of our chancellor, founder, Emil Gumpert, in his charge to find pleasure and charm in the illustrious company of our contemporaries and to take the keenest delight in exalting in our friendships. They say it's harder as you get older to make new friends but that was absolutely not the case for either of my parents when it came to the College. They made so many great friends with lawyers and spouses from across the states and the provinces. The fellowship part of the College was quite true for them and it enriched their lives, as I hope it will enrich ours.

So on behalf of my fellow inductees, thank you. Thank you so much for welcoming us into your fellowship. We look forward to advancing the values of the College into forming many new beautiful friendships. Thank you. ▶

FALL 2022 INDUCTEES

HERE ARE A FEW WORDS ABOUT EACH OF OUR NEW INDUCTEES.

Thank you, Michael. Well done. Now, Michael put his remarks together by combing through the brief statements we asked each of the new inductees to give us – but he wasn't given a full deck. When I asked the class to send in something unusual and interesting about themselves, most did. Some did not. They were warned. I told them "I have a vivid and vindictive imagination, and anyone who doesn't give me a response should not be surprised to be written up as a former toe-fungus model." So . . . the following bits of detail about each of our new Fellows are either true (at least as perceived by the Fellow) or whole cloth. You get to guess.

ALABAMA



Christine A. Freeman is the Executive Director of the Middle District of Alabama Federal Defender Program and the Alabama Post-Conviction Relief Project. Prior to joining the Federal Defender's office in Montgomery, Christine practiced law in Tennessee, Georgia and Kentucky, mostly in public interest and as a public defender. Christine has one son (who received his JD from Georgetown University in May 2022) and many foster children and grandchildren; there are now four public interest lawyers among her children and their partners.

Pat Shegon was adopted into a modest, middle-class family with parents who worked hard but had no college degrees. He knew early on he wanted to be a lawyer and worked in the mailroom and as a runner for a local law firm while in college. Pat enjoys coaching youth sports, serving on boards of charitable/non-profit organizations, flyfishing and hiking with his family.

ALASKA

Julie L. Willoughby is a second-generation Alaskan. A Stanford Law graduate, Julie lives and works in Juneau and practices exclusively criminal law. Julie has won the Iditarod Sled Dog Race four times using the pseudonym Susan Butcher.

BRITISH COLUMBIA



Michelle Booker pursued her undergraduate degree while playing varsity basketball and spent her summers working as a lifeguard at the local outdoor pool. Following completion of her undergraduate degree, Michelle worked as an anti-racism educator for several years before attending law school, to which she commuted three hours a day, worked part-time as a legal researcher, competed as a mooter and landed a legal clerkship with the *British Columbia Supreme Court*, all as a parent of a young child. After eight years in commercial litigation,

Michelle transitioned to criminal law as a Crown Prosecutor, handling serious crimes – murder, attempted murder, manslaughter, sexual violence and firearms offences.

Claire E. Hunter is a second-generation Fellow of the College. Her father John (now a BC Court of Appeal judge) is a former Regent of the College. Claire has received a number of awards for pro bono service in the US and Canada, including the Michael A. Cooper Award for Outstanding Public Service (named for our Past President). Over the past three years Claire has represented several transgender youths in matters relating to the right of minors to consent to gender affirming care, gender expression in schools and identification of minors without their consent in media publications. Claire has played trombone in community bands and orchestras in Vancouver, New York, California, Montreal and Toronto.

CALIFORNIA

Jennifer Chun Barry is a first-generation immigrant and first lawyer in her family. Jennifer was co-captain of the Johns Hopkins Varsity Women's lacrosse team and now a member of the John Hopkins Lacrosse Advisory Board. She has qualified and run the Boston Marathon more than once. After twenty-three years of service as an Assistant United States Attorney in Philadelphia and Cincinnati, Jennifer now works in Los Angeles as an SEC Trial Attorney.

Bradley M. Corsiglia is one of seven children whose father was a farmer turned truck driver and mother was an elementary school turned high school counselor. Brad played "a little" college football but his main sport was rugby, which he gave up after getting kicked in the head resulting in twenty stitches. Brad's wife was born in Thailand and they visit there often, but their favorite country to visit (duh! Look at his name) is Italy.

DELAWARE

Adam Balick always wanted to be a lawyer like his father Sid, who was a Fellow, but when he was in high school he happened to watch Past President Bart Dalton prosecute a double murder and decided he wanted to start his career as a prosecutor. Adam worked at the Delaware Attorney General's Office for six years before going to work with his father at the firm he started in 1957. Though the firm usually had no more than five lawyers at any time, most of them had significant public service experience. Four went on to become judges and vice-chancellors; one former associate, Joseph Biden, went on to have a pretty decent career in public service.

DISTRICT OF COLUMBIA

Jay Nanavati spent more than a decade as a state and federal prosecutor, specializing in tax-related matters. From 2013 to 2016, Jay assisted the White House Office of Presidential Personnel in a pro bono capacity by vetting potential presidential appointees for possible tax-related problems. But if you think you can surmise Jay's politics from that time frame, you should also know that Jay was asked to join Paul Manafort's legal team in 2018.

FLORIDA



Andrew J. Knight II comes from a family of educators. His mother and father were high school teachers who went on to higher degrees and careers; his wife was an elementary school teacher as is his youngest daughter. His brother taught high school and his eldest daughter is a Latin university professor. So Andy's choice of careers makes him odd man out in his family. Andy spent more than twenty years as an on field official in high school and small college football games and part of the officiating crews for several Gator Bowl games where he got to follow legendary coaches such as Frank Beamer, Bo Schembechler and Bobby Bowden up and down the sidelines.

Matt Menchel is a former AUSA who is an avid music and film buff who believes that all of life's lessons are contained within the films, *The Godfather* and *Godfather II* (he refuses to acknowledge the existence of *Godfather III*). Matt is also a passionate watch enthusiast who long ago stopped promising his wife that his next watch would be his last.

GEORGIA

While an undergrad at Georgetown, **Chris Twyman** was a runner for a law firm and made several runs for a (now) ACTL Fellow to the Clinton White House relating to the Whitewater Investigation, an experience that inspired his interest in law. Chris has tried forty-one jury trials to verdict in state and federal courts, including cases featured on Court TV, Dateline NBC, Discovery ID, and Snapped.



IDAHO

Mary York is a third generation Idahoan and first lawyer in her family. Mary attended elementary school in Germany, where her father was stationed by the Army, and her Junior year of college in Paris, attending L'Institute Catholique and La Sorbonne. She grew up helping her Dad fix motorcycles and had her own by the time she was nine. Mary was the 1983 Idaho State Jr. Fiddle Champion (thirteen and under) and placed sixth in the nation that year at the National Old Time Fiddlers Contest. Mary has climbed many mountains including Mt. Borah (highest in Idaho), Mt. Whitney, Mt. Shasta, Mt. Adams, Mt. Hood, and Mount Fuji, and she has made attempts on Mount Rainier and Mount Kilimanjaro.

ILLINOIS

Stetson Atwood is the first lawyer in his family; he decided to go to law school after a few years working at an insurance company because everyone seemed to have to talk to the lawyer before they could do anything. Stetson enjoys fishing and is President of the Donnell Lake Conservation Club, which provides social and conservational efforts for the 350 families who use the Michigan lake. Stetson hosts a youth fishing tournament every year for twenty-five to fifty kids.

Matthew Crowl clerked for Hon. James F. Holderman, U.S. District Court, Northern District of Illinois and worked in public service as an Assistant U.S. Attorney and as First Deputy Chief of Staff for the City of Chicago for fifteen years before entering private practice.

IOWA

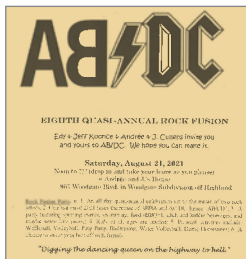
Steve Doohen and his wife Kathleen built an authentic Irish pub in the basement of their home. Of course, several trips to Ireland and its many pubs were required in order to get the design and ambience just right. Prominently displayed above the bar is the James Joyce Pub Award – awarded to those establishments that remain “an outstanding example of the tradition which Joyce immortalized in his works” and recognized as “an authentic Irish pub which retains a genuineness of atmosphere, friendliness and presence of good company.”

Matthew Novak was a Division III Academic All-American baseball player in college. He taught Business Law as an adjunct professor for twenty years at his alma mater, Coe College, where he gave a C to a student who is now the College's President. Matt once told a group of lawyers, to polite applause, that he had achieved twelve defense verdicts in a row over the previous two and a half years. But he received thunderous applause when he added that he had represented the plaintiffs in two of them.

LOUISIANA



David Bowling started in insurance defense work before transitioning to a primarily plaintiffs' personal injury practice. David is an avid fisherman and boater and a founding member of the Grand Isle Speckled Trout Rodeo and Redfish Roundup (“GISTRRR”). He is the lead guitarist and backup vocalist for the GISTRRR Band which performs annually at the event.



Ann Halphen is an avid gardener who has participated in several all-women mini triathlons known as Rocketchix. It helps that Ann actually enjoys swimming, biking and running. Ann was raised in a small town in the heart of Cajun Country in Southwest Louisiana – New Iberia – also the home of Tabasco. She loves to read and always has several books going at one time.

Chris Ieyoub has taken time off from his practice to fundraise for Autism Services of Southwest Louisiana, to assemble and supervise hurricane relief crews for Rita, Laura and Delta, and caddy for his son at St. Andrews on his 18th birthday.

MARYLAND

Curt Booth and his wife, his high school sweetheart, have run nine marathons together in the past five years. Curt grew up in Upstate New York and still has an interest in the farm where he grew up, where his father and he raise registered polled Hereford beef cattle. But Curt prefers buffalo to cattle, at least the Buffalo Bills.

MASSACHUSETTS

Joshua Levy has spent his entire legal career after a clerkship in two places in Boston, a law firm and the US Attorney's Office. First four years at the firm, seven years as an Assistant, then seventeen more years at the firm, then back to serve as First Assistant. If we had to guess the future . . . But while his career has been limited to Boston, his travels are not. Largely as the result of eighteen months on the Dukakis for President Campaign, Josh has visited all fifty states.

Michael Mone, Jr., is a second generation Fellow; his father was Past President Mike Mone and his uncle Peter Mone is a Fellow. Michael taught English for six months in Prague, The Czech Republic, subsisting on a diet of dumplings, gravy, and beer. If you travel to Prague and hear a native speaking English with a thick Boston accent, you can be sure they were one of his students. Michael considers the ten years he spent representing detainees in Guantánamo to be the best thing he will ever do as a lawyer.

MINNESOTA

Theresa Bevilacqua is the first woman in her family to graduate from college and earn a professional degree. Her undergraduate degree is in music, and she is a classically trained vocalist who has performed at Carnegie Hall. Theresa has worked at one firm her entire career, where she has been able to maintain a full trial practice, make partner, and change the parental leave policy so she could nurture her family (four kids) at the same time. Theresa plans and organizes her own and her extended family's adventure vacations to National Parks – sixteen to twenty people ages six to eighty – having toured nearly thirty Parks and National Monuments in the United States and Canada.

Frederick J. Goetz concentrates on criminal defense and plaintiff's civil rights litigation. He has been involved in cases of national importance including his representation of six Muslim clerics arrested at an airport after praying. Fred has been fortunate to travel with his wife and children and together experience the bloom of the cherry blossoms in Kyoto and watching the sun rise through the sun gate above Machu Picchu.

MISSOURI



Patrick Stueve was captain of his college football team. A retired running back, he credits his experience in football with teaching him how to organize teams around individual strengths. After a career in defense work, Patrick started his own firm in 2001 focused on commercial litigation defense work, work that includes a \$217 million dollar jury verdict for a class of Kansas corn farmers that then resulted in a \$1.51 billion settlement on behalf of all U.S. corn farmers. Patrick was one of the creators of a pro bono legal service program for veterans called Military Matters, which was awarded a \$50,000 grant in 2018 from the Foundation of the College. After raising their three children, Patrick and his wife, Janna, have for more than a decade served as foster parents for newborn infants.



NEW JERSEY

Tracey Salmon-Smith has a proud West Indian background, as her mother is from Trinidad and Tobago, and her father's family is from St. Lucia. Education was always important, and she wanted to be a lawyer from elementary school. After stints as an Assistant U.S. Attorney and in-house counsel for a global finance firm, Tracey now specializes in financial services litigation, with a heavy helping of pro bono projects, such as leading a team of lawyers to assist asylum-seeking immigrants.

NEW YORK

Craig Carpenito is the co-founder of a charitable organization called The Daniel Anderl Judicial Protection Project, named for Craig's personal friend Danny Anderl, who was tragically murdered and whose father was critically wounded by a self-described anti-feminist in an attempt to kill Danny's mother, U.S. District Court Judge Esther Salas, simply because she had the "audacity" to be a Latina woman who had ascended to the federal bench. The charity raises awareness and funds to lobby for judicial privacy protections, raise money for educational scholarships to students in the memory of Danny, and to help victims in need. Craig also serves on the boards of several other organizations, including the New Jersey Reentry Corporation Training Center, Seton Hall University School of Law Board of Visitors, Newark Boys Chorus School and the Newark Police Foundation. During college, Craig was an NJSIAA certified baseball and softball umpire.



Eric Moran honed the trial skills of listening and storytelling as a bartender during college and law school summers at one of the Jersey Shore's most famed establishments. Years later, he quite possibly met some former patrons as a corruption prosecutor in the U.S. Attorney's Office (working for a time under his 2022 co-inductee, former U.S. Attorney Craig Carpenito). Eric teaches White Collar Crime at Rutgers Law School, hopefully not how to do it but rather what to do about it. Eric spends his leisure time trying to divine what kind of fly a trout will take off a cold-water stream and trying to convince his pre-teen daughters to join him in the hunt.

Thomas M. Prato was an Assistant District Attorney for Monroe County (New York) from 1992 to 1997 and now primarily defends physicians against malpractice claims. Tom has served on multiple not-for-profit boards focused on youth hockey play and participation and he has coached and managed several youth hockey teams.

NORTH CAROLINA

Charles Raynal is the grandson of a trial lawyer and the son of a Presbyterian minister and a teacher. Charles is the past Board Chair of SAFEchild, a child abuse prevention organization, and continues to represent the interests of neglected and abused children in Guardian ad Litem appeals to the North Carolina appellate courts. Charles plays bass guitar, fiddle, and mandolin in a rock and roll band that has played dive bars, a large amphitheater, a university campus, charity events, and the Rock & Roll marathon.

NOVA SCOTIA

Rory Rogers had the foresight in late 2019 to buy a ninety-eight-year-old, off-the-grid, four-bedroom log cabin on a secluded Nova Scotia lake. Given no road access, it has provided a convenient base for some of his fleet of seven canoes; and has provided at least a partial response to his kids' frequent inquiry as to why any family much less one man could possibly need seven canoes. The log cabin has been a wonderful respite for Rory and his family during the worst of the COVID-19 shutdowns. He recently added solar power at the log cabin to host Elon Musk's Starlink for satellite internet access, but the jury remains out as to whether that was a good idea.

ONTARIO



Aaron Franks, if not a lawyer, would almost certainly be a chef. He loves to cook, and but for being interrupted by COVID, would have continued the part-time pursuit of a culinary degree, which he hopes to re-start again when life resumes. Aaron played violin for twenty years and then switched to saxophone. He wrote, directed, produced (and was in the orchestra – saxophone, of course) for the Osgoode Hall Law School “Mock Trial,” an annual music/comedy revue with proceeds going to charity.

OREGON

John Coletti and his wife are both runners and have completed multiple marathons, though John confesses that his wife usually has the faster time. John has completed five Ironman Triathlons, but none of them quickly. John enjoys fishing and hunting and has recently taken up golf but is not sure his personality suits the sport.

OHIO

Marc G. Pera played both baseball and basketball in college, although “played” might be a bit of hyperbole for basketball, since his primary position was end of the bench. Baseball runs in the family. Marc has a son who pitches for his college team and another son in high school committed to play at the University of Louisville (currently ranked in the top ten). And it runs in his practice. Marc successfully represented a brain injured child who was injured by a foul ball at a minor league game, getting past summary judgment despite a hundred-year-old Ohio rule that granted baseball stadiums immunity.

OKLAHOMA

Kayce Gisinger was a competition twirler (also twirled fire batons and swords) and an avid snow skier. She decided on accounting because she did well in math and did not like the idea of an additional three years of law school. But by the end of her freshman year she knew accounting was not for her and had no real plan B. She got a part-time job at the local district attorney’s office doing clerical work and slipped out to watch the closing of a high-profile case. She doesn’t remember what the case was about, a word that was said or even who won. She just remembers feeling as though she had been struck by lightning and knew then what she would do for a career.

PENNSYLVANIA

Angie Halim competed at two National Trial Competitions as a law student at Temple. She gave birth to her first and only child following the first evening of competition at a Regional tournament in Philadelphia. While she was in the hospital, her teammates finished the competition and advanced to the National tournament. Angie competed in Texas with her four-week-old daughter in tow. Nineteen years later, that “Trial Team baby” is a sophomore at Howard University. Angie is a solo practitioner in Philadelphia, where she lives with her wife and dog. She only accepts court-appointments to represent indigent defendants in federal criminal cases. Her favorite nickname is “The Punisher,” earned during a tensely-litigated three-month criminal trial.

Susan Lin is the first person in her family to be born in the United States and the first to go to law school, where she earned extra money by singing for the Choral Conducting Program for graduate students in the Yale Institute of Sacred Music. These days, she sings in the Mendelssohn Chorus of Philadelphia. Susan is in the middle of a three-year plan to paddle (kayak) all 444 miles of the main stem of the Susquehanna River from Cooperstown, NY to the Chesapeake Bay.

Michael O’Mara has completed multiple Tough Mudders – an endurance event series in which participants complete a ten to twelve mile run with various obstacles that include elements involving fire, water, electricity and heights. When not practicing or slogging through mud, Mike is actively engaged with several non-profits, such as the Center for Autism (the oldest autism treatment center in the country), BLOCS (Business Leadership Organized for Catholic Schools, which raises funds to provide more than 16,000 need-based scholarships every year), and St. John Vianney Center (a non-profit mental health facility that provides comprehensive programs, services, and resources for those in church ministry).



PUERTO RICO

Andres W. Lopez was born and raised in San Juan and is the first member of his family to become a lawyer or study state-side. After a federal clerkship in Boston, Andres did a stint at the firm in which Past President Gale Mahony practiced. Andres is the first Puerto Rican to serve as a presidential appointee to the Kennedy Center's Board of Trustees in Washington, D.C., and the only Puerto Rico resident to serve on the presidential commission that led to the creation of the Smithsonian American Latino Museum (which recently became federal law).

QUEBEC

Patrick Girard completed a PhD in Physics (Cosmology) while clerking at the Supreme Court of Canada. Despite such obvious educational attainment, he has never managed to get a driver license. Patrick did manage to get the Supreme Court of Canada to grant Leave to Appeal on behalf of 300+ administrative judges on a matter of Judicial Independence, only to have that order reversed two hours later by the Court saying leave had been granted by error with no further reasons. Patrick still has no idea why – it must be cosmic.

Stuart Kugler practices with his father, Gordon, and his younger brother, Robert. Gordon was inducted as a Fellow in 2003, and – who knows? – Robert may be in the wings. Speaking of wings, Stuart has played and watched ice hockey for almost his entire life. For some reason, he is able to remember which way every player he has played with or watched shoots. A player in his league once challenged and asked which way he shoots; Stuart replied, “Left – and usually wide.” Despite that, we are confident that Stuart meets the College's standard of collegiality.

Christian Trepanier was, for more than fifteen years, a member of the Board of the Quebec Bar Foundation, which promotes legal knowledge in disadvantaged communities. During college and law school, Christian pursued a possible career in hockey or beach volleyball, but the fact that he now practices law says something about the realism of that goal. Christian is a gourmet cook and future guitar player.

SOUTH CAROLINA

Brian Duffy founded a non-profit, The Charleston Forum, after the 2015 massacre at Mother Emanuel AME Church in his hometown of Charleston, SC. The basic premise of the organization is to bring people together to share different perspectives on various issues relating to race and to find a way forward together as a community. Brian compares the Forum to success in mediation – no one is willing to change course on an important issue until they have listened to other perspectives and had a chance for their own to be heard. The terrible events at Mother Emanuel drew people in to have a willingness to participate.

Samuel Mokeba was born in Cameroon, Central/West Africa, attended the University of Yaounde, where he earned a Licence en Droit (Bachelor in Law). While attending college, he worked as a game warden and personally saved three lions, two elephants and a hippo from poachers. Samuel attended the University of South Carolina where he obtained a master's degree in Public Administration, then Louisiana State University, where he obtained his Juris Doctor. Samuel served as a public defender before beginning his insurance defense practice.



Stanley Myers was a four-year starter as quarterback for The Citadel. He was commissioned as an Infantry Officer and deployed to Afghanistan in support of Operation Enduring Freedom. He switched over to the Judge Advocate General's Corps in 2004 and is currently the military judge for the South Carolina Army National Guard, the first African American to hold the position. Several years ago, he started a youth mentorship program in his hometown, Swansea, where he recently opened a barbecue restaurant that serves the best barbecue and fried chicken on the planet. Hey, it aint bragging if it's true.

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EARL J. SILBERT



MARCH 8, 1936 – SEPTEMBER 6, 2022

Earl Silbert, President of the College in 2000-2001, died peacefully, holding his daughter's hand, listening to his favorite Gilbert and Sullivan song *When I Was a Lad*.

If you know the song, you know that Sir Joseph Porter begins it with “When I was a lad I served a term . . . As office boy to an Attorney’s firm.” Sir Joseph continues “As office boy I made such a mark . . . That they gave me the post of a junior clerk. . . . Of legal knowledge I acquired such a grip . . . That they took me into the partnership.” And the refrain – “But that kind of ship so suited me . . . That now I am the ruler of the Queen’s Navee!”

No deep secret why the song was Earl’s favorite. It tells the story, with a hefty helping of humor and self-deprecation, of the rise from junior clerk at a law firm to First Lord of Admiralty. Not much different than Earl’s own story.

Earl didn’t aspire to be a lawyer. He wanted to be a teacher. But after graduating from Harvard College in 1957 and a trip with friends that summer, he was too late to get a teaching job. He enrolled at Harvard Law School simply because he had no viable options. He still held out hope of becoming a teacher. After law school graduation, Earl took teaching courses at George Washington University while slogging through his day job in the Tax Division of the Justice Department. On weekends he and friends ran basketball and softball leagues for local underprivileged kids.

A friend suggested that Earl apply for a job at the U.S. Attorney’s Office. He was hired and assigned to misdemeanor cases, which he describes as “the greatest experience one can ever have.” Maybe practicing law wasn’t such a bad career choice after all. Earl loved hearing people’s stories, helping those people. He especially loved it when he could help one of the kids he had managed in the youth sports leagues.



Hours earlier at the Watergate complex on the banks of the Potomac River, five men wearing business suits and surgical gloves had been arrested at the headquarters of the Democratic National Committee. One of them turned out to be James W. McCord Jr., a former CIA employee who was the head of security for the CRP, the Committee to Reelect the President. After obtaining search warrants, two key co-conspirators were identified, former White House aides G. Gordon Liddy and E. Howard Hunt.

Earl’s wife, Pat, had worked on the campaign of George S. McGovern, Nixon’s opponent in the 1972 election. Pat loathed Nixon and was convinced he was involved from the start.

Pat frequently proclaimed Nixon guilty, and Earl’s stock response — “Show me the evidence” — infuriated her. Earl sympathized. “Sharing a home with one of the few people in the country who had inside information on the most-talked-about mystery of the day — and who revealed none of it — could only have been maddening.” So maddening that one night Pat became so frustrated by his reticence that she emptied a glass of port on Earl’s legal pad.

Hunt and four of the burglars all pleaded guilty. Earl won convictions in January 1973 of McCord and Liddy. Meanwhile, Earl was investigating higher-ups. Amid mounting evidence of a coverup and growing impatience on Capitol Hill about the speed and scope of the investigation, Attorney General Elliot L. Richardson appointed special prosecutor Archibald Cox to assume authority for the Watergate investigation in May 1973. Cox was fired in the Saturday Night Massacre that October and was succeeded by Leon Jaworski, Past President of the College in 1961-1962. Jaworski would go on to secure convictions against former Attorney General John N. ▶

Earl served as an Assistant U.S. Attorney from 1964 to 1969; he returned to Justice to become the architect of the reform of the District of Columbia court system; and he returned to the U.S. Attorney’s Office as Executive Assistant to implement the reforms he had written.

In 1972, Earl was the First Assistant. At 6:30 a.m. on Saturday, June 17, Earl got a call from Chuck Work, a colleague in the office. “Earl, we have a hot one here.”

Mitchell, former White House chief of staff H.R. Halde-
man, former domestic affairs adviser John D. Ehrlichman
and former White House counsel John Dean. On August 8,
1974, under the mounting pressure from Watergate, Presi-
dent Richard M. Nixon became the first and only U.S. Presi-
dent to resign his office.

But when Cox was appointed special counsel, the investi-
gation that led to the later convictions was 90% complete.
Earl delivered a ninety-page memorandum to Cox that
served as the blueprint for future prosecution. The memo
included the names of twenty-seven targets for possible
indictment. One of them was President Nixon. It was
Earl and his prosecution team who got John Dean and
Jeb Magruder to implicate Mitchell, Bob Haldeman and
Ehrlichman and ultimately – after Dean was denied im-
munity from prosecution – Nixon.

Earl was appropriately dubbed, and will always be
remembered, as the Chief Watergate Prosecutor.

It might have been easy to have coasted on that accomplish-
ment, but not Earl. He became interim U.S. attorney for
the District of Columbia in January 1974 and was later
officially nominated, ironically enough, by Nixon. But the

nomination encountered resistance in the Senate, where
Earl was asked to defend the slow speed of the Watergate
prosecution. He was renominated twice by President Ger-
ald Ford before his ultimate confirmation in October 1975.

During Earl's term as U.S. Attorney, the Office handled
high-profile cases such as the assassination of Orlando
Letelier, a leading opponent of then-Chilean dictator Au-
gusto Pinochet, the brutal murder of a family of Hanafi
Muslims, and the white-collar fraud and bribery prose-
cutions of real estate developer Dominic Antonelli and
D.C. public official Joseph Yeldell.

At his memorial service, Earl's former partner and current
D.C. U.S. Attorney Matthew Graves commented that,
during Earl's time as Watergate prosecutor and tenure
as U.S. Attorney, he never held a press conference. Earl
didn't think it was appropriate.

Winston Churchill once described Clement Atlee as "a
modest man, who has much to be modest about." Earl
was a modest man, although he had much he could have
boasted about. He never publicized himself; he never
boasted. He didn't need to, but even if he might have, he
had no such inclination.





When Earl left public service in 1979, he developed a national reputation for his defense of white-collar clients. His clients included former Attorney General (and College Past President) Griffin Bell, when he was accused of defaming an E.F. Hutton branch manager in an investigative report on a check-kiting scandal; the former White House Chief of Staff Erskine Bowles, during the independent counsel Ken Starr's investigation of President Bill Clinton; and Kenneth Lay, the former chairman and chief executive of the bankrupt energy firm Enron.

What an extraordinary career, especially for someone who didn't especially want to be a lawyer. But at his memorial service, Pat wistfully posited that Earl actually achieved his dream of being a teacher. Certainly the scores if not hundreds of young lawyers he mentored were taught by him. Certainly the hundreds of kids he helped with sports and other activities learned from him.

One example. The Fishing School. Earl was a fisherman – we have the photo of him holding a fifty-pound sailfish to prove it. But the Fishing School is not what it sounds. It is from the adage “Give a man a fish, he will eat for a day; teach a man to fish, he will eat for a lifetime.” [Jay Leno added “Corner the market in fish, you'll eat steak for a lifetime.”] The Fishing School provides academic after-school and summer programs for elementary and middle-school youth from underserved communities in Washington, D.C. In the late 1980s, Earl signed up to take a course at the Servant Leadership School in Washington's Adams Morgan neighborhood, where he met Tom Lewis, a fellow student and retired police officer who had just opened a center for underprivileged children on a block of Washington then known as the “worst street in America.” Earl asked if he could help, in what would become the Fishing School, of which Earl was a board member and chair for more than two decades.

As Earl and Pat were driving home after a delightful day in Vermont with his daughter Sarah and the grandkids, he was struck with what appeared to be a heart attack. Serendipitously, they were fewer than ten



minutes from a familiar hospital in Keene NH, where they learned that he had suffered an inoperable aortic trauma and the end would come quickly within hours or days. Earl was the one calmly reassuring shocked, devastated family members that he was okay with the news because he felt so lucky to have had a great life blessed with his beloved family and friends. He then added, in a marveling tone, “And I got lucky with my work too!”

Earl's survivors include his wife of fifty-two years, the former Patricia Allott of Chevy Chase, Md.; his daughter, Leslie Silbert, a best-selling author who is finishing up the book she and Earl have been co-writing, *The Missing Watergate Story*, which will be published in 2023; his daughter Sarah Silbert, who teaches creative writing and English at Vermont Technical College; and three grandchildren.

So, not unlike the song he liked so much, Earl went from a low-level legal job to ruling the Queen's Navee. Not sure he wanted to be a lawyer, he became an exceptional one. Wanting to be a teacher, he succeeded beyond expectations. And he did it all with grace and humility. He was a great man. He was a nice man. He will be missed.

July 7 – 10, 2022

Alyeska Resort

Girdwood, Alaska

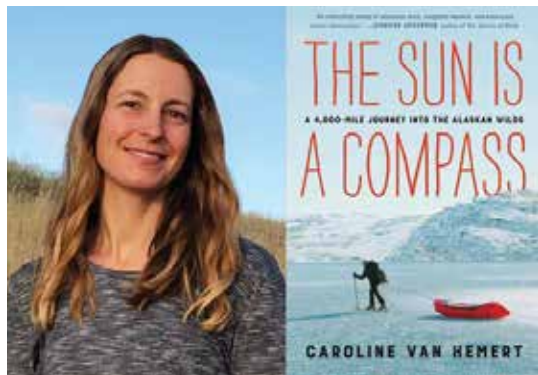
NORTHWEST REGIONAL MEETING



THE ALASKA STATE COMMITTEE HOSTED, FOR THE FIRST TIME EVER, THE REGION III CONFERENCE (ALASKA, ALBERTA, BRITISH COLUMBIA, IDAHO, MONTANA, OREGON, AND WASHINGTON) AT ALYESKA RESORT IN BEAUTIFUL GIRSDWOOD, ALASKA FROM JULY 7 – 10, 2022. THIS WAS THE THIRD YEAR THE ALASKA COMMITTEE HAD PLANNED TO HOLD THE CONFERENCE, WITH THE FIRST TWO YEARS BEING SCUTTLED ON ACCOUNT OF THE COVID PANDEMIC. THE THIRD TIME WAS THE CHARM. THIRTY-SIX INDIVIDUALS FROM SEVEN STATES AND TWO PROVINCES ATTENDED THE CONFERENCE, INCLUDING PRESIDENT MICHAEL O'DONNELL AND PAST PRESIDENTS TOM TONGUE, RODNEY ACKER, AND DOUG YOUNG. ALYESKA RESORT IS LOCATED IN THE CHUGACH MOUNTAINS, A SHORT DRIVE SOUTH OF ANCHORAGE. ATTENDEES ENJOYED STUNNING VIEWS OF THE CHUGACH MOUNTAINS WITH ITS MULTIPLE GLACIERS; HIKING AND FLIGHT SEEING OPPORTUNITIES; RIDING THE TRAM TO THE TOP OF THE SKI AREA; VISITING THE NEARBY ALASKA WILDLIFE CONSERVATION CENTER; AND CRUISING BY THE FACE OF PORTAGE GLACIER ON NEARBY PORTAGE LAKE.

The conference featured an informative and inspiring group of speakers. Major General Randy “Church” Kee, U.S. Air Force (Ret.), explained the newly formed Ted Stevens Center for Arctic Security Affairs, where he serves as Senior Advisor. General Kee addressed global security issues in the Arctic in light of climate change; the resulting increased usage of the Northwest Passage by commercial and military shipping; and the need to strengthen cooperative scientific and security organizations in the Arctic. The Hon. Dana Fabe and the Hon. Elaine Andrews, former Alaska Supreme Court Chief Justice and former Alaska Third Judicial District Presiding Judge, respectively, discussed successful mediation practices—proving to all that there is always more to learn despite many Fellows’ years of mediation experience. Anchorage wildlife





biologist Caroline Van Hemert, Ph.D., discussed her award-winning memoir, *The Sun is a Compass*. For six months, she and her husband traveled 4,000 miles by rowboat, ski, foot, raft, and canoe across some of the wildest places left in North America. Prominent Alaska journalist and commentator Larry Persily—who previously also held important state and federal government resource and finance positions—explained Alaska’s oil-driven politics, its unique position without a state sales or income tax while distributing oil-wealth savings dividends to the public, and the inevitability that nothing that good can last forever. Judge Jeremy Fogel (ret.) addressed the future of virtual proceedings and cameras in the courtroom after the eventual end of the COVID pandemic. Judge Fogel served as a United States District Judge for the Northern District of California (1998-2011) and as the Director of the Federal Judicial Center in Washington, D.C. (2011-2018). Judge Fogel presently serves as the Executive Director of the Berkeley Judicial Institute at Berkeley Law School. Our final speaker was Jeff King, one of the most famous individuals in Alaska. Jeff King holds four championship titles for the 1,049-mile Iditarod Trail Sled Dog Race and has also taken first place in the 1,000-mile Yukon Quest. In 2006, at age 50, he became the oldest musher to win the Iditarod. Jeff King personifies the can-do spirit and sportsmanship that we all aspire to in our varied professions.

The meeting ended with a banquet at Alyeska Resort and an invitation by the Alaska Fellows for our guests to return again to the “Great Land.”

Neil T. O'Donnell
Anchorage, AK

DELAWARE APPELLATE ADVOCACY PROGRAM FOR PUBLIC SERVICE LAWYERS



ON OCTOBER 6, 2022, THE DELAWARE STATE COMMITTEE AND THE SUPREME COURT OF DELAWARE CO-HOSTED AN APPELLATE ADVOCACY PROGRAM FOR YOUNG LAWYERS IN PUBLIC SERVICE. THE PROGRAM WAS THE BRAINCHILD OF JUDICIAL FELLOW COLLINS J. SEITZ, JR., THE CHIEF JUSTICE OF THE SUPREME COURT OF DELAWARE. SIXTEEN PUBLIC SERVICE LAWYERS, PREDOMINANTLY FROM DELAWARE'S DEPARTMENT OF JUSTICE AND OFFICE OF DEFENSE SERVICES (BOTH OF WHICH ARE HEADED BY FELLOWS), SIX JUDGES (INCLUDING THREE JUSTICES OF THE SUPREME COURT OF DELAWARE AND THE PRESIDING JUDGE OF THE SUPERIOR COURT), AND EIGHT FELLOWS CAME TOGETHER FOR AN AFTERNOON WITH THE GOAL OF AFFORDING A UNIQUE LEARNING OPPORTUNITY FOR THE PUBLIC SERVICE LAWYERS.

The afternoon began with comments from Chief Justice Seitz, who discussed the challenges for young lawyers to obtain hands-on opportunities and his desire to provide a comfortable environment for young lawyers to practice and to learn from experienced lawyers and judges.

The participants then adjourned to four separate courtrooms where four lawyers presented oral arguments to a three-judge panel made up of sitting judges and Fellows.

The mock case raised two issues related to a search warrant issued based upon location data collected by the government from a cell phone app. To challenge the advocates to think creatively, they were assigned the opposite side from the one they would represent in their daily practice (*i.e.*, prosecutors represented the defendant, while the public defenders represented the government). And to allow the advocates to focus their preparation on their oral argument itself, questioning was limited to the contents of the case record and bench memo provided to all participants—with outside legal research prohibited.

The hour-long oral arguments were the highlight of the program. Hot benches peppered the advocates with challenging questions concerning both the legal issues and the factual record, which the advocates handled skillfully. At the conclusion of the arguments, the advocates received individualized feedback

from the panel. While the judges were tremendously impressed with the quality of the arguments, they were able to provide tips for each advocate to consider in advance of her or his next oral argument.

After reconvening, the participants were treated to a roundtable discussion on appellate advocacy featuring the Chief Justice, along with the heads of the appellate divisions of the Department of Justice and Office of Defense Services. Collectively, the roundtable participants have participated in hundreds of appeals. After discussing issues spanning the entire appeal process, from identifying issues for appeal through preparing for and delivering the oral argument, the panel took questions from the young lawyers in the audience.

Following the roundtable, the participants adjourned to the Wilmington Club for a cocktail hour to celebrate the



advocates' excellent work and a sit-down dinner. Attendees not only enjoyed great conversation, but were privileged to hear from Justice Gary Traynor, who provided unique insights into appellate advocacy from the perspective of a Justice of the Supreme Court of Delaware.

Based upon the overwhelmingly positive feedback from all participants, the College is in discussions with the Supreme Court about hosting the program again soon. The Delaware State Committee is sincerely grateful to Chief Justice Seitz for his vision and partnership, and to the other members of the bench (notably Judicial Fellows Craig Karsnitz and Ferris Wharton) whose participation made the event particularly memorable for the advocates. In addition, the State Committee is grateful to Fellows Kathy Jennings, the Attorney General of Delaware, and Kevin O'Connell, Chief Defender, Office of Defense Services, for their partnership in this program. And finally, thank you to Past President Bart Dalton and to Fellows Adam Balick, Ken Nachbar, and Greg Varallo for volunteering their time to help train the next generation of advocates.

David Ross
Wilmington, DE



FOURTH BIANNUAL PACIFIC JUDICIAL COUNCIL CONFERENCE

SEVEN COLLEGE FELLOWS PARTICIPATED IN THE FOURTH BIANNUAL TRAINING CONFERENCE, CO-SPONSORED BY THE COLLEGE AND THE PACIFIC JUDICIAL COUNCIL (PJC) SINCE 2014-15, ON NOVEMBER 9-11, 2022. THE PJC IS COMPRISED OF THE CHIEF JUSTICES AND PRESIDING JUDGES OF AMERICAN SAMOA, GUAM, THE NATIONAL AND STATE COURTS OF THE FEDERATED STATES OF MICRONESIA, THE NORTHERN MARIANAS ISLANDS, AND PALAU. THE PRIMARY GOAL OF THE PJC IS TO ASSIST IN THE DEVELOPMENT AND DELIVERY OF CONTINUING JUDICIAL EDUCATION AND COURT PROFESSIONAL TRAINING AND TO ENSURE THE OVERALL IMPROVEMENT OF THE ADMINISTRATION OF JUSTICE IN THE MEMBER COURTS. THE TRAINING CONFERENCE WAS THE BRAIN-CHILD OF BRIAN O'NEILL, A FORMER REGENT AND PAST CHAIR OF THE COLLEGE'S INTERNATIONAL COMMITTEE. IN 2022 THE FOUNDATION OF THE COLLEGE CREATED THE BRIAN O'NEILL MEMORIAL FUND IN HONOR OF BRIAN, WHO HAD BEEN DIAGNOSED WITH ALS IN 2019 AND PASSED AWAY IN 2020 SOON AFTER THE THIRD CONFERENCE IN SAIPAN. FELLOWS PAY THEIR OWN WAY TO THESE CONFERENCES, BUT THE FUND HELPS DEFRAY THE EXPENSES FOR FELLOWS AND OTHER PARTICIPANTS WHO ARE IN PUBLIC SERVICE – JUDGES, PROSECUTORS AND DEFENDERS. THE FIRST CONFERENCE TOOK PLACE IN PALAU; THEN GUAM, SAIPAN, AND THIS YEAR'S CONFERENCE, HELD ONCE AGAIN IN KOROR, PALAU.



Palau is an independent South Pacific island country comprised of approximately 21,000 people. Prior to 1994 it was a United States territory. In 1994 Palau secured its independence. In 2008 the Palauan people passed a constitutional amendment allowing for criminal jury trials for defendants charged with crimes where exposure to prison exceeded 12 years. Given the small size of the population and relationships and friendships among the populace and clans, juries by necessity are limited to six people. The institution of these trials became the catalyst for the Conferences. Conference attendees travel from all islands of Palau as well as Guam, CNMI, American Samoa, and the Federated States of Micronesia (comprised of Yap, Kosrae, Pohnpei and Chuuk).



Panels of local judges and attorneys discussed issues of concern in those areas for the Palau, Guam and CNMI Bars and Courts. There are unique issues faced by Palauan juries that were discussed by the criminal jury trial panel. Those issues ranged from proper translation of the multiple languages spoken in the island country (Palauan and English by Palauan citizens; foreign nationals who spoke Fijian, Filipino and Chinese), to serving summonses on those who live on the outer islands, transporting prospective jurors to the main island for jury duty and the approaching of jurors by interested persons outside the courtroom.

The success of this conference as well as the three prior conferences were a result of months of planning. In particular, Chief Justice Phillip Carbullido of Guam and his staff spent hours helping to develop presentation topics as well as preparing logistical support for the conference. Throughout two years of planning, complicated by the pandemic, our team collaborated on a monthly basis directly with Chief Justice Carbullido and his staff, specifically the justice's assistant, Petrina Ula.

Fellows Keith Strong and Carolyn Ostby, both retired federal Magistrate Judges from Montana (Ms. Ostby is also a former Chair of the International Committee), Mickey Pohl of Pittsburgh, Claire Rauscher of Charlotte, Rob Goodin (current International Committee Chair) and Harold McElhinny, both of whom are from San Francisco, Rick Glaser of Charlotte, together with Hannah McElhinny, a federal Public Defender who handles juvenile cases in Washington, DC, presented on a number of topics. Fellows Strong, Pohl and Glaser have participated in all four conferences. Topics presented ranged from Search and Seizure, Pro Se litigants, Alternative Dispute Resolution, How to Handle High Profile Cases, How to Try Complicated Cases, Juvenile Justice Reform, Brady obligations, Expert Testimony, How to Get Documents into Evidence, Ethics, Civility and a review of the Criminal Trial experience on Palau.

The Bars of Palau and Guam as well as the PJC sponsored dinners for the presenters on all three nights of the conference. In addition to being feted each night by the local Bars, College team members enjoyed other island hospitality as well as the natural wonders of Palau. Fellows were able to snorkel and scuba dive in the pristine waters around and near the main island of Koror. We enjoyed local cuisine and were able to tour some of the smaller islands of Palau, including Peleliu, a living museum of an island where tanks, bunkers, man-carved caves and downed planes from a fierce WW II battle still dot its now-forested landscape.

On the last night of the conference, after listening to Palauan music and watching young adult Palauans perform historic dances, the Fellows presented the local organizers with crystal paper weights from the College for the extraordinary efforts the PJC displayed in partnering with the College for this event.

Plans are underway for the next Conference.

Richard S. Glaser
Charlotte, NC

MAKING A DIFFERENCE IN ONE'S LEGAL CAREER AND IN THE LIVES OF MANY



ACROSS THE UNITED STATES AND CANADA A SIGNIFICANT NUMBER OF INDIVIDUALS AND FAMILIES LACK MEANINGFUL ACCESS TO JUSTICE. FORTUNATELY, THERE ARE MANY LAW STUDENTS AND YOUNG LAWYERS SEEKING A PUBLIC INTEREST FOCUSED CAREER, BUT UNFORTUNATELY, TOO MANY OF THESE YOUNG PROFESSIONALS ARE UNABLE TO PURSUE THEIR DREAMS BECAUSE THEY LACK THE OPPORTUNITY OR THE NEEDED FINANCIAL RESOURCES. THE ACTL FOUNDATION AND INDIVIDUAL ACTL FELLOWS ARE TRYING TO FILL THAT GAP BY FUNDING PUBLIC INTEREST LAW INTERNSHIPS, FELLOWSHIPS, AND FINANCIAL ASSISTANCE PROGRAMS.

The College has been a strong voice for and generous financial supporter of access to justice related initiatives and programs. In the summer of 2021, the ACTL Foundation funded an internship for a Southern University Law Center (SULC-HBCU) student to work for six weeks at Southeast Louisiana Legal Services (SLLS), the largest legal services provider for the poor in Louisiana. SLLS is an access to justice partner with the College through our Access to Justice Distinguished Pro Bono Fellows Program. The ACTL Foundation internship continued during the summer of 2022 and is in place for the summer of 2023. Joan Lukey, President of the U.S. Foundation, comments: “Rarely has there been a program more perfectly suited to the missions and objectives of the Foundation and of the College. With these grants, we are simultaneously addressing a compelling need in the realm of access to justice, while also enhancing the administration of justice by assisting in the development of skilled trial lawyers, many of whom are from diverse backgrounds. The Foundation, on behalf of its donors, is proud to play a part.”

Inspired and motivated by what the ACTL Foundation is doing, the Louisiana Fellows collectively became the first state chapter to create and fund an access to justice related internship. More specifically, the Louisiana Fellows raised enough money to start an internship relationship between SULC and the Innocence Project New Orleans (IPNO), another College access to justice partner. That internship started in the summer of 2022 and is already fully funded for the summer of 2023. James Brown, current Chair of the Louisiana State Committee and a driving force behind the internship, states “Our Louisiana Fellows’ generous personal contributions to the establishment and continuation of the Innocence Project New Orleans internship are of great significance because they demonstrate our strong personal investment in increasing access to justice in Louisiana. Our collective contributions will inspire law students and young lawyers to make the same commitment to increasing access to justice into the future.”



“I remain optimistic about the future of our legal profession when I see the number of talented law students who are committed to working in the public interest arena and starting their careers in providing legal representation to individuals whose civil rights and liberties have been eroded based upon their race and/or lack of financial resources,” adds Kim Boyle, Louisiana Fellow and generous donor to the IPNO internship. “I strongly believe that it is incumbent on those of us who practice in the private sector to provide opportunities for these committed students to represent individuals, groups and organizations that provide access to justice and protect our civil rights and liberties. As a personal supporter of IPNO, I am honored to contribute to an internship for these law students who are truly making a difference.”



As SULC Chancellor John Pierre observes, “The ACTL Foundation and Louisiana State Chapter internship program in partnership with the Southern University Law Center has been a transformational opportunity for diverse law students who are overwhelmingly first-generation college students. The experiential learning opportunities offered to our law students enhance their professional development and make them better prepared for the rigors and responsibilities associated with being an attorney and legal professional. The Law Center is eternally grateful for the opportunities presented to our students.” SULC’s announcement for student intern applicants outlines the goal of the Internship Program: “to promote professional growth and workplace readiness for a Southern University Law Center student interested in pursuing a litigation practice upon graduation. The student would be assigned to an agency involved in criminal defense and/or social justice litigation in state and federal courts. This experiential learning approach, conducted during the summer session, will allow the student to enhance his/her analytical skills as well as to develop sound advocacy skills fundamental to trial lawyers. As part of the experiential learning approach, the student will participate in client meetings, witness interviews and trial team strategy sessions.” To enhance the experience, the intern is required to spend twenty hours in a court setting. Upon successful completion of the internship, the student receives three hours of law school credit.

Jee Park, Executive Director of IPNO, describes the importance of these internships for law students and the clients served thereby: “Most non-profit legal offices representing the poor like the Innocence Project New Orleans rely on dedicated law student interns during the summer to provide invaluable assistance to our wrongfully convicted and imprisoned individuals. The ACTL funded Access to Justice Summer Internship is critical in attracting talented law students to explore a career in public interest law furthering social justice. IPNO’s 2022 Access to Justice summer intern (Jusdan Meyer) conducted legal research, drafted memos and a section of a brief, reviewed public records, met with an imprisoned client, and learned about criminal investigation. Working at IPNO exposed him to the many injustices of our criminal legal system and how he can contribute to make it more fair and just, particularly to those who are poor, black and brown, and marginalized in our communities.”



SULC intern Jusdan Meyer summarized his experience: “Participating in the American College of Trial Lawyers 2022 summer internship was a fantastic and formative experience for me. I come from a background that includes no exposure to the law and how a law office operates, so any law experience is beneficial to me. At the beginning of my internship with the IPNO, I felt unprepared and trepidatious at the thought of performing tasks that I had no experience performing. While I had been taught the fundamentals of legal writing during my 1L year, I had yet to apply my knowledge in a real world setting where my work would impact real people. Despite my inexperience in the law, I experienced exponential growth due to the mentorship that I received from the attorneys at the IPNO. I found myself growing increasingly more confident as I completed important tasks and performed vital legal research for the attorneys that I was assigned to work for. In addition to the growth that I experienced, the actual work that I participated in at the IPNO offered me the opportunity to gain new insights

into our criminal justice system and the law. After spending my young working life holding retail and management positions at different companies, it was empowering to know that the work I was doing with the IPNO actually mattered and was of great benefit to individuals who unjustly had their lives destroyed. Overall, this internship offered me the opportunity to grow in my professional mindset. I feel far more confident in my abilities now after having had the opportunity to use what I had learned in a professional setting. I experienced what it was like to work in a law office, and by doing so I removed any uneasiness that I had about working in such an unfamiliar place.

I now feel far more prepared to practice law and I believe that the ACTL internship has set me on the right path towards success. It was a great experience and I learned a lot. The ACTL internship program has opened a lot of doors for me, as I will be interning in Judge Brian Jackson's (ACTL Judicial Fellow) chambers during the fall 2022 semester. Without the internship program it would have been unlikely that I would have been afforded such a wonderful opportunity. Thank you, ACTL, for making the program such a success."

The 2021 SULC summer intern, Michael Amenyah, had a similar experience and expressed similar gratitude. "I cannot be more thankful for my time working as an ACTL Intern at SLLS. . . . I was tasked with working closely with clients ensuring that their needs were met. As such, I did more than just perform intake interviews of clients and then pass it off to the managing attorney, I actually was tasked with helping clients from start to finish. . . . It was a very stressful time I must admit, I was nervous because handling the case of a person who's facing eviction, or is in danger of losing their child, is a task that has serious implications on the life of the client and you want to make sure you get the best outcome possible. However, thanks to the help and guidance of attorneys at SLLS, I was able to actually help all the clients I was assigned. The feeling of performing research for a client whose life is literally dependent on you is a surreal feeling, but now I can confidently say that I can handle a case on my own. It's one thing to learn in school the various steps of a lawsuit but to actually put things into practice and get first-hand experience I cannot stress how important that is for young lawyers.

The internship also provided me with the opportunity to attend court with the attorneys from SLLS and I learned so much from just watching. The ability to sit in the courtroom and actually see an eviction proceeding was very interesting, but also it's a very emotional and high pressure experience. . . . This internship gave me the confidence boost I needed, because I now know that I can be a trial attorney I also want to extend my deepest gratitude for the ACTL introducing me to Judge Jackson last summer. Meeting with him is the reason I decided to pursue a clerkship upon my graduation from law school in 2022. I am now working as a law clerk for Louisiana District Court Judge Derrick Kee in Lake Charles, Louisiana."



Judge Brian Jackson of the Middle District of Louisiana, a Judicial Fellow and SULC graduate, serves an invaluable role in regard to the SLLS and IPNO internships. Judge Jackson, who worked with Fellow Kim Boyle, SULC Chancellor Pierre, and SULC Professor Kenya Smith in creating the goals and requirements of the internship, observes that "the opportunity to shadow a federal judge in chambers and in the courtroom as an ACTL intern provides law students with a rare opportunity to learn about the judicial process and to get a practical perspective of the trial practice. I am pleased to be a part of this unique program and I hope it inspires these talented law students to choose litigation as an area of practice."

"The ACTL Foundation Internship is critical to helping SLLS close justice gaps while also essential to cultivating the next generation of access to justice leaders," says Laura Tuggle, Executive Director of SLLS. "The 2022 Justice Gap report released by the Legal Services Corporation found that programs like SLLS are not able to provide sufficient legal help for almost 75% of the problems facing low-income people. That is why the College investment in justice and new leaders is so important. It provides meaningful, on the ground learning opportunities that make a tremendous difference in the lives of historically underserved populations, advances diversity aid through the partnership with SULC, and develops the skill set of talented law students now instilled with a deeper commitment to legal aid and pro bono service. We are thankful for the ACTL's vision and leadership for this innovative and much needed Internship."



Kimball Anderson, Chair of the Access to Justice Distinguished Pro Bono Fellows Program, and his wife Karen are nationally recognized for their vision and generosity in creating and funding numerous public interest law internships and fellowships for decades through their alma mater, the University of Illinois College of Law. Their work has truly been an inspiration and shining example for many. Kimball speaks to the importance of these fellowships: “For almost twenty years, Karen and I have funded an annual public interest fellowship. Each Anderson Fellow receives a grant of \$50,000 paid out over five years. Fellows are outstanding lawyers who work in Chicago area public interest organizations. They are burdened with significant school debt which makes it difficult for them to continue in the field of public interest law. We started this Fellowship program because a survey of Illinois public interest lawyers, which I commissioned as President of the Chicago Bar Foundation, showed low salaries and very high school debt. Karen and I started the program to help ensure that the best and brightest public interest lawyers can remain at their public interest agencies. We have been very gratified to see that Anderson Fellows have remained at their agencies. Many have become executive directors or other leaders of their organizations. All have been essential to improving access to justice in Illinois.”

One of the Anderson Fellows is Teri Ross, Executive Director of Illinois Legal Aid Online: “Thanks to the Anderson Fellowship, Chicago legal nonprofits have retained promising new lawyers, and those lawyers have had the opportunity to grow into community leaders. Through their philanthropy, Kimball and Karen Anderson have positively transformed the professional paths of dozens of new lawyers by disrupting the impact of crippling law-school debt. For twenty years, the Andersons have sponsored one new fellow each year. As a result of their generosity and foresight, the Chicago legal aid community is rich with former fellows who are now nonprofit leaders - many of whom, like me, would not still be in legal aid today had it not been for their life-changing support. I received the fellowship when my daughter was three weeks old; by the time she was six, I had paid off my school loans. The Anderson Fellowship provided me with peace of mind and allowed me to focus on what matters. Thanks to the Andersons, I was a better legal advocate and a better mother.”

Access to Justice Distinguished Pro Bono Fellow Joseph Tate and his wife Detta have funded a successful financial assistance program through Villanova Law School for years: “Detta and I fund a Loan Repayment Assistance Program at Villanova Law School. Applicants work in poverty law for at least three years after graduation. As we all know, poverty law salaries are the lowest in the profession. Yet, we want to encourage our best and brightest to serve the poor in our communities.



We see applicants with hundreds of thousands of dollars of loan amounts. On their poverty law salaries, they will carry this debt their entire career. We award three students per year stipends to be used to pay down their loans. At any one time, we are funding nine students per year. The expressions of appreciation we receive from the students are gratifying. For Detta and me, the opportunity to help these students financially and encourage them to work in poverty law is really a gift to ourselves. In our mind, we are happier giving than they are receiving.”

These are just a few of the many examples of the tremendous impact fellowships, internships, and financial assistance programs have not only on those desiring a public interest law career, but also on their clients in need. The College’s Access to Justice and Legal Services Committee and the Access to Justice Distinguished Pro Bono Fellows Committee strongly encourage all Fellows to consider starting similar programs in their own states or provinces. We all want to make a difference in the lives of others. Often, we do not know the best way to do so.

Joe Tate suggests you start a program to help launch one’s public interest law career: “You will like it.”

Mark C. Surprenant

Chair, Access to Justice and Legal Services Committee

FELLOWS TO THE BENCH

ELIZABETH A. DUNIGAN was appointed Justice of the Massachusetts Superior Court in July, 2022. Judge Dunigan served as Deputy Chief of the Lowell Regional Superior Court until 2010 and then became Chief of the Malden Regional Superior Court where she investigated and prosecuted homicides and other serious crimes. Judge Dunigan was inducted as a Fellow of the College in 2017 and served on the Massachusetts State Committee and the Sandra Day O'Connor Jurist Award Committee.

BRENT A. TINGLE was confirmed as Justice of the Massachusetts Superior Court on August 17, 2022. Judge Tingle began his legal career in 1991 as a Judicial Clerk in the Massachusetts Superior Court. He later became partner at Morrison Mahoney LLP where his practice focused on medical malpractice. Judge Tingle became a Fellow of the College in 2022 just prior to his call to public service.

SIMPLY SUPLEE

EDITOR'S NOTE: Former Regent Dennis Suplee is a funny guy, occasionally on purpose. We have some extra space that we needed to fill, so we offer here a few Suplee-isms, hoping it isn't a waste of space.

"I HOPE I DIE DURING A DEPOSITION. THAT WAY THE TRANSITION FROM LIFE TO DEATH WILL BE LESS NOTICEABLE."

"THREE HOURS INTO THE DEPOSITION, I BEGAN TO GET OVERTLY ITCHY BECAUSE THE INTERROGATOR HAD STILL NOT GOTTEN TO HOW THE ACCIDENT HAPPENED. CO-COUNSEL, FACTL PETER HOFFMAN, WHISPERED 'IT'S CALLED THE GOING FOR THE CAPILLARIES APPROACH.'"

"THANK YOU FOR THIS AWARD. MY WIFE PAT EXPRESSES HER REGRETS FOR NOT BEING HERE TODAY BUT, AS LUCK WOULD HAVE IT, SHE HAD TO RETURN A LIBRARY BOOK." [OKAY, DENNIS ISN'T THAT FUNNY; HE STOLE THE LINE FROM FACTL DICKY GRIGG]"

"THE INTERROGATOR AT THE DEPOSITION, NOTICING THAT FACTL BRUCE HALL'S CLIENT WAS NODDING OFF, SAID 'PERHAPS YOU'D LIKE TO TAKE A BREAK SO YOU CAN WAKE UP YOUR WITNESS.' 'YOU WAKE HIM UP!' BRUCE REPLIED, 'YOU'RE THE ONE WHO PUT HIM TO SLEEP.'"

"A FRIEND ONCE HAD AN ARGUMENT INVOLVING AN ISSUE OF APPARENT AUTHORITY. HE SHOWED UP DRESSED AS A FIREMAN. THE JUDGE INQUIRED, 'MR. FOX, ARE YOU DRESSED AS A FIREMAN?' 'YES,' REPLIED FOX. 'BUT THAT DOESN'T MEAN THAT I AM ONE.'"

"YOUR HONOR, IF YOU ARE ASKING THAT QUESTION ON BEHALF OF MY OPPONENT, I OBJECT TO IT. IF YOU ARE ASKING IT ON MY BEHALF, I WITHDRAW IT."



A SHORT HISTORY OF THE GENEVA CONVENTIONS



THE BOOKSHELVES OF HISTORY ARE RIDDLED WITH ACCOUNTS OF EVENTS LONG FORGOTTEN AND RELEGATED TO GATHER DUST. YET MANY OF THOSE EVENTS HAVE HAD LASTING CONSEQUENCES, TAKEN FOR GRANTED EVEN AS THE DETAILS LAPSE UNREMEMBERED.

One such event was the simultaneous creation of the Red Cross and the formation of the first Geneva Convention. Established in 1864, both were the fruit of the inspiration of an obscure Swiss businessman, Jean Henri Dunant. Dunant was so distressed at the vicious carnage and brutality he witnessed at the battle of Solferino in 1859, upon which he stumbled by accident, that he felt compelled to embark on a campaign to establish a society for the care of the victims of warfare. This eventually evolved into the International Committee of the Red Cross and the first of the four Geneva Conventions. Dunant became the recipient of the very first Nobel Prize for Peace in 1901.

The middle years of the nineteenth century were host to serious changes in the way war was waged. The battlefield tactics had remained much as those Napoleon and Wellington had practised half a century earlier but improvements in offensive armaments created the ability to wreak immensely greater casualties. The invention of the telegraph took the dissemination of information out of the days of the carrier pigeon and allowed journalists to bring vivid accounts of campaigns to the home front within twenty-four hours of the events.

The constitution of the armies had changed. The Duke of Wellington described his own troops as “*The scum of the earth. The mere scum of the earth.*” On receiving a fresh contingent of troops in the Peninsular war, he remarked “*I don’t know what effect they have on the enemy, but they certainly terrify me*” – a comment that revealed the high command’s attitude to the foot soldier: they were merely cannon fodder. Gustave Moynier, a Swiss lawyer who worked with Dunant, described the shift from armies of outcasts to armies of citizens:

“Modern armies differ very much in composition from those of former days. These, for the greater part, were recruited from the vagabonds, whose bad habits made them unfitted for a quiet labourious life, and who excited but little interest in their fellow-countrymen; whilst the custom of conscription, generally employed in these days, or that of the Landwehr in use amongst the Prussians and the Swiss, have given rise to armies which strike home to the bosom of every family in the country. The army has struck its roots so deeply into the midst of the population, that it is impossible that people can remain passive spectators of its sufferings.”

The home front reading the news were now more likely to be the parents or siblings of the sons and brothers at the front (there were no daughters yet in the armed forces). Public opinion was beginning to stir and the times were ripe for reform of the kind that spawned the Red Cross and the Geneva Convention.

“The Geneva Convention” is the common term used to describe the agreement between nations that attempts, not always successfully, to bring some humanity to bear on the victims of war: not just military personnel, but also civilians subjected to what the Convention refers to as “collateral damage” and to the depredations, rape and pillage of the uninvited and unwelcome armies.



The title is not precisely correct, because there are four conventions. In 1949 the three original conventions were all consolidated into one expanded convention, which was then followed by three Protocols. In addition, in the decade before the First World War most nations ratified two international accords, known as the Hague Conventions. The history of the Geneva Conventions is closely bound to the history of the founding of the Red Cross.

In June 1859, bent on seeking an interview with Napoleon III about a business venture he had set afoot in Algeria (then governed by France), Henri Jean Dunant journeyed to Italy, where he knew the Emperor was conducting a campaign against the Austrians. Dunant happened upon and found himself an unwilling spectator at the battle of Solferino in Lombardy, a major engagement during the second War of Italian Independence; the defeat of the Austrians resulted in the annexation of most of Lombardy by Sardinia-Piedmont. The battle was remarkable on two counts: *first*, it was the last battle in which all the armies were commanded by their sovereigns, the French by Napoleon III, the Piedmontes by Victor Emmanuel II and the Austrians by Emperor Franz Joseph I; *second*, it was notorious for the scale of the casualties. Some 400,000 troops were engaged. The Austrians lost 14,000 men killed or wounded and more than 8,000 missing or taken prisoner. The Franco-Piedmontese suffered 15,000 killed or wounded and 2,000 missing or taken prisoner. During the next two months another 40,000 soldiers died as a result of the wounds they had received during the fighting. The casualties came close to twenty percent of the fighting force.

Most of these deaths could have been avoided had the wounded been able to receive medical aid on the battlefield, before medical complications rendered their situations irreversible.

Dunant wrote a book, *Un Souvenir de Solferino*, describing the horrors and suffering and proposing the creation of a neutral agency which would tend the wounded in the field, regardless of their nationality, as well as caring for civilians caught up in the conflict.

He describes the beginning of the battle:

“The Austrians advanced in perfect formation along the beaten tracks. In the centre of the solid masses of ‘white coats’ floated the colours, yellow and black blazoned with the Imperial Eagle... Against them moved the French forces, a dazzling spectacle in the brilliant Italian sun. There, the Guards could be seen, the gleaming ranks of Dragoons, Guides, Lancers and Cuirassiers”

He goes on to describe in graphic detail the sight of thousands of men in hand-to-hand combat, slaughtering one another over bleeding corpses, felling adversaries with rifle butts, smashing in skulls, disemboweling them with sabre and bayonet. There was no question of quarter. He was appalled at the fate of the wounded:

“Further on came the artillery in the wake of the cavalry. It ploughed its way through the dead and wounded which lay together indistinguishable on the ground. Brains spurted out as the wheels went over, limbs were broken and mangled so that men’s bodies were a shapeless, featureless conglomeration, unrecognizable as human creatures. The earth was soaked and running with blood and the field littered with human remnants...”

Wounded men lay about the field, unable to move, many slowly bleeding to death. It was a hot Italian summer’s day. The wounded lay for up to three days, without food or water and bereft of medical care. Dunant concluded that had there been an organized body, equipped to transport and care for the wounded immediately, many lives would have been saved.

Dunant devoted several days helping to collect up as many of the wounded he could, tending them in hospitals improvised out of churches, barns and monasteries. There was a desperate shortage of doctors. In the Chiesa Maggiore, Dunant found five hundred wounded who had been carried there and then forgotten. He rounded up the women of the village to come and tend them.

Dunant spent three years writing his book. He distributed sixteen hundred copies to people of prominence whom he hoped he could influence: to crowned heads and princes, ministers of war and of foreign affairs and to those in positions of importance and influence.





The book contained a plea for the establishment of societies in all countries, to be inactive in time of peace, but ready to act in time of war. He envisioned that they would be staffed by medical personnel, who would be neutral. This was a central theme of Dunant's crusade: the neutrality of the societies and their objective, to care for all military personnel, regardless of which side in the particular conflict they had been fighting for. The combatants would be required to leave these medical personnel unharmed and harassed.

The book was an immediate success. It electrified all those who read it in the capitals of Europe. The first edition was soon exhausted, so a second edition was published in December. Dunant received messages from a collection of influential people, Victor Hugo, Ferdinand De Lesseps, still wrestling with his canal in Egypt, and from the Emperor himself.

But there was opposition. The French high command, all professional warriors, dismissed the book as a menace. Marshall Vaillant was provoked to comment that, *"the game has lost some of its zest since captured cities were no longer burned and the garrisons slaughtered to the last man."* Advances in the destructive ability of weapons should not, in the eyes of the high command, be mitigated one wit by fancy ideas about bringing succor to the wounded.

Even Florence Nightingale found the proposal objectionable. In her view the proposed societies would take on responsibilities which belonged to the governments of the countries involved. She also scorned the idea that the aid proposed was limited to times of war, which, she felt, ought to exist at all times in order to be efficacious. She felt that the British army had, as a result of her own initiatives, established its own hospitals, field dressing stations and nursing staffs and did not need some international organization to lend aid.

In 1863 another 3,000 copies of the book, translated into German, English, Italian and Swedish, were printed and made available to the general public. The cause was taken up by Queen Augusta of Prussia, by Charles Dickens and by many of the Crowned heads of Europe.

The Swiss lawyer, Gustave Moynier, journeyed to see Dunant and recorded his dismay that Dunant appeared not to have any idea how he was going to carry his appeal into practice. Moynier took up Dunant's cause and persuaded him to accept his concrete plan for the promotion and establishment of the national societies. Moynier arranged for the plan to be discussed at a meeting of the Geneva Society for Public Welfare in February 1863. To Dunant's mild chagrin, Moynier seemed to have taken over his enterprise. This was just as well, for Moynier was a capable administrator, while Dunant was an idealistic dreamer.

Moynier chaired the meeting. Present was General Dufour, who had recently quelled a domestic rebellion amongst the Cantons of Switzerland. Dufour had read *Un Souvenir* and had commended Dunant on his initiative. Also in attendance was Dr. Louis Appia, who had invented a stretcher for evacuating the wounded. Appia had been present at Solferino and served as a field doctor. Dr. Theodore Maunoir, a physician and close friend of Dr. Appia's, also attended the meeting. The meeting ended with the appointment of Dufour, Appia, Moynier, Maunoir and Dunant as a special Committee of Five to study Dunant's proposals.

Dunant was keen to enlist the support of *Le Beau Monde*. He felt, correctly, that they needed the patronage of the potentates: the Kings, Queens and princes, not only to lend plausibility to the initiative, but also as a source of financing. General Dufour, in particular, had an appreciation of the lift that such patronage could give to an endeavor that might otherwise thin away into insignificance and oblivion. Though the Committee of Five spent time working on the mechanics of bringing improved medical aid to the victims of war, they also set on foot what would now be termed an advertising campaign to make their point.

Dunant wrote a report that dwelt on the need to send volunteer nurses to the battlefields, on the plan to improve methods of transportation of the wounded, the improvement of services in the hospitals and the introduction of innovations for the treatment of sick and wounded soldiers. It suggested that the Committee should become a permanent international body. Thus was conceived the idea that blossomed to become the International Committee of the Red Cross.

The opening years of the decade of 1860 were witness to a profusion of wars, that lent some immediacy to the Committee's endeavours. The American Civil War had broken out in 1861.

The French had sent an expeditionary force to Syria where the Maronite Christians were being massacred by the Druses. The Italian states were fighting for the unification of Italy. The French were struggling to subdue violent unrest in Mexico, that ultimately ended with the execution of the Emperor Maximilian. In 1864 Bismarck forcibly wrested the Duchies of Schleswig and Holstein from the Danes. The Poles were rebelling against Russian occupation, a revolt that was put down with savage ruthlessness by the Russians in April 1864. At the end of that decade the Franco-Prussian war resulted in the unification of Germany, the fall of Paris and capture and deposition of Napoleon III.

Moynier, rising above his normal Swiss cautiousness, proposed that the committee itself host an international conference to be held in Geneva. They fixed a date in October 1863.

In the meantime Dunant created a circular, which he signed quite without actual authority in the name of the Committee of five. Dunant sent the circular to the ministers of war and of foreign affairs of all the countries in Europe. The circular recommended that:

1. Each government in Europe should give its protection and patronage to the national committee to be organized in each capital city, with a membership of respected citizens;
2. Governments should accord neutral status to military medical personnel and their assistants, including members of voluntary aid detachments;
3. In time of war, governments should give facilities for the dispatch of medical and other supplies for medical personnel as well as donations which the national societies collected for countries at war.

Dunant wrote to his committee, confessing the moves he had made without authority. Moynier viewed it as an abuse of authority, but the committee eventually awoke to the fact that Dunant had succeeded in elevating the initiative from an affair of a few zealous Swiss to one of international significance. Dunant had, on his own responsibility created an international conference to establish the principle of neutrality to be applied to the sick and wounded in battle and to the medical personnel tending them.

“Neutrality” was the significant basis for this proposal.

Dunant spent some time petitioning the King of Saxony and, by correspondence, Napoleon III, both of whom agreed to send delegates to the conference on behalf of their countries. On the way home to Geneva via Vienna, Dunant persuaded the Archduke Rainer that Austria should favour the conference with a delegate.



23rd October 1863 came and the conference got under way. Thirty-six delegates attended, representing fourteen governments.

General Dufour opened the meeting. The old soldier confessed that he could see no end to war but was eloquent in support of the need to organize the support of those who were to tend the wounded in the field. Moynier then took the chair. Dunant was elected secretary to the meeting. Dunant read out over seventy names of influential people who had written to record their support. They included (again) Charles Dickens, Lord Shaftsbury and Florence Nightingale, who had finally come round to lending luke-warm support.

The debate revealed a polarity of views. The French doubted that volunteers would be able to do any good. The Prussian Knights Hospitallers of St. John protested their own long and honourable record as volunteers of mercy on the field of battle. An English delegate, Twining, blandly proposed that the wounded should be put out of their agony after a moment for composure and prayer “So that they should not die with a fevered brain and blasphemy on their lips.” The surgeon Major of the Spanish army described the frightful effect of the new conical bullet, now in use, which had a longer range than the round bullet and caused more serious wounds.

There was some trouble over the concept of neutrality for the wounded, as opposed to those coming to their aid. Some delegates, dismayed at the timidity of the proposals, held out for the establishment of international law for the protection of all victims of war. Finally a resolution was passed that field ambulances, hospitals, medical personnel and the inhabitants of a country giving aid to the wounded should have neutral status, and that a universal emblem, a red cross on a white field should be adopted in all countries for field ambulances and hospitals.

What the conference passed established the Red Cross and was the precursor of the first Geneva Convention.



In addition to the Resolution, the conference made three recommendations:

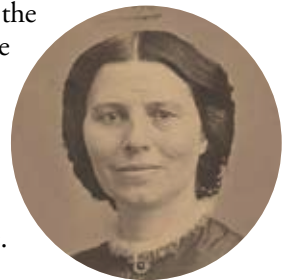
1. Governments should extend their patronage to relief committees which may be formed and facilitate ... the accomplishment of their task;
2. In time of war belligerent nations should proclaim the neutrality of ambulances and military hospitals and neutrality should be accorded ... to all official medical personnel ... nurses, to the inhabitants of the country who go to the relief of the wounded and to the wounded themselves;
3. A uniform distinctive sign be recognized for the medical corps of all armies ... and that a uniform flag also be adopted in all countries for ambulances and hospitals.

These recommendations were the seed from which all the Geneva Conventions eventually blossomed.

The Committee of Five set about arranging a conference to endorse the three recommendations at the same time as encouraging those who were establishing relief societies in many of the European states. The Swiss agreed to host the conference, which was set for August 1864 in Geneva. Invitations were sent to all European states, the U.S., Mexico and Brazil. Japan, they decided, was too remote to warrant an invitation. Moynier and Dunant drew up a draft convention for circulation amongst the delegates.

The International Congress attracted delegates appointed by sixteen countries. Several weeks were consumed in diplomatic wrangling of the kind that we still experience today, but, surprisingly Moynier's and Dunant's draft was finally approved with few modifications. It was a model of brevity, ten articles in just over five hundred words. The Americans refused to sign. The delegates returned home bearing the Convention with them and their respective countries ratified it one by one. It was approved by Belgium, Denmark, France, Italy, the Netherlands, Sweden, Norway, Spain and Switzerland in 1864. They were followed by Britain (1865), Prussia (1865), Greece (1865), Turkey (1865), Austria (1866), Portugal (1866), Russia (1867), Persia (1874), Serbia (1876), Chile (1879), Argentina (1879) and Peru (1880).

Clara Barton, a storied nurse in the American Civil War, led the campaign to persuade the United States to sign the Geneva Convention. In 1877, Barton organized the American National Committee, which three years later became the American Red Cross. However, it was not until 1882 that the USA signed the Geneva Convention. It also agreed to support Barton's efforts to distribute relief during floods, earthquakes, famines, cyclones and other peace-time disasters.



After the USA signed, others followed including, Bulgaria (1884), Japan (1886), Luxemburg (1888), Venezuela (1894), South Africa (1896), Uruguay (1900), Guatemala (1903), Mexico (1905), China (1906), Germany (1906), Brazil (1906), Cuba (1907), Panama (1907) and Paraguay (1907).

A number of wars broke out over the next forty-two years. The Austro-Prussian war was fought in 1866. Henri Dunant attended the Prussian victory celebrations as a guest of Queen Augusta and was much lionized. But in the spring of 1877, the Credit Genovais Bank, of which Dunant was a director, fell into difficulty as a result of ill-advised loans and purchases, including stone quarries in Algeria, which Dunant had owned before he sold them to his fellow directors. With scandal breaking in Geneva, Moynier forced Dunant to resign from the Committee. Dunant was ostracized and ruined, and slowly slid into the status of a penniless vagabond.

In 1877, Dunant, supported by a modest stipend from his family, began to write his memoirs and to work in the local hospital. A German journalist discovered him, broadcast his whereabouts and condition and various important people took up his cause, with the result that in 1901 he was awarded the very first Nobel Prize for Peace, which he shared with the pacifist, Frederic Passy. The one hundred and four thousand Francs that came with the prize supported him until his death in 1910.

At the Paris Exposition in 1867, four modifications were made to the 1864 Convention, (1) to extend its scope to maritime warfare; (2) that belligerents police battlefields at the end of hostilities so as to protect the wounded from looters and gratuitous injury; (3) that all soldiers should wear identity tags, to facilitate the dissemination of information about who had died and who was wounded and in captivity; and (4) that at the conclusion of a battle all belligerents should provide the enemy with information about the dead, wounded and prisoners. ▶

But these modifications would need another international conference, and that was seriously impeded by war, the most significant of which was the Franco-Prussian war of 1870, which resulted in the fall of Paris and the capture and deposal of Napoleon III. Several attempts were made at various congresses to amend and improve the Geneva Convention. However, the disappearance of Napoleon III from the politics of Europe restored the influence of the French High Command over the treaty negotiations. Political and diplomatic wrangling, mostly on the part of the French and the Austrians, delayed further progress.

Largely under the impetus of the Empress Eugénie, Napoleon III's widow, amendments extending the terms of the Convention to war at sea were proposed, but it was not until the second Geneva Convention of 1906 that the term actually passed.

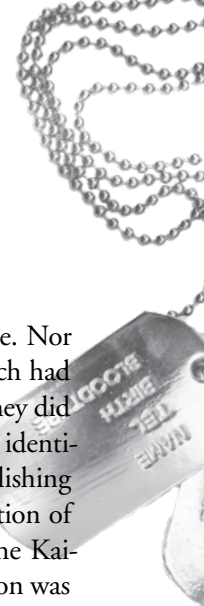
A history of the Geneva Conventions would not be complete without reference to the two Hague conventions, which, to some extent supplemented the Geneva Convention of 1864. The first Hague convention was negotiated in 1899. It was inspired by the Russian Ministers of War, Finance and Foreign Affairs. Russia found itself well behind in the arms race, by then in full swing amongst the European powers. They were all bent on furnishing their armed forces with the latest and most advanced weapons of destruction produced by Krupps, Skoda, Vickers-Maxim and Schneider-Creusot. The Russians were in despair at the prospect of having to spend money they did not have in order to match the expansion of the arsenals of their traditional European enemies. The ministers approached the Czar, Nicholas II, in the summer of 1898. The young Czar immediately sent off a circular letter to all the governments represented at St. Petersburg, proposing a conference to attempt to reach an agreement for the limitation of armaments. The spectacle of the Czar of All the Russias proffering an olive branch was received by the great powers with a mixture of astonishment and disdain. The Prince of Wales, soon to become Edward VII, unburdened himself of the opinion that "It is the greatest nonsense and rubbish I ever heard of... The thing is impossible. France could never consent to it - nor *we*." This sentiment more or less echoed the view of most of Europe's rulers. It did not augur well for the success of the convention. Also on the agenda were motions to extend the principles of the 1864 convention to naval warfare, to prohibit the use of asphyxiating gas, the use of expanding bullets, the dreaded dum-dum bullets, and prohibiting the discharge of explosives from balloons. The original proposal also included a court of international arbitration for the compulsory settlement of international disputes.

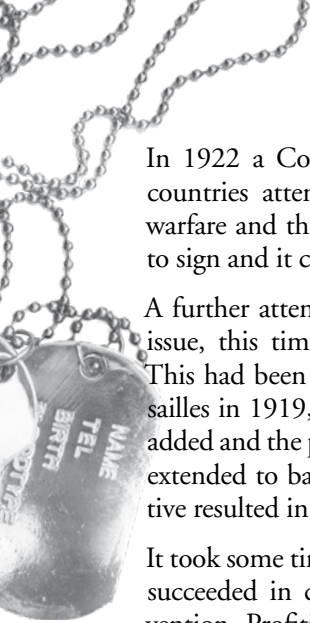
The limitation of armaments never got out of the starting gate. Nor did the extension of the 1864 principles to naval warfare, which had to wait until the second Hague Convention in 1907, though they did manage to include an article about the inviolability of properly identified hospital ships. The 1899 Convention did succeed in establishing an International Court of Arbitration. Efforts to make arbitration of international disputes compulsory failed, largely because of the Kaiser's opposition. His grudging agreement to voluntary arbitration was worded thus: "I consented to all this nonsense only in order that the Czar should not lose face before Europe. In practice however I shall rely on God and my sharp sword! And I shit on all their decisions." This, His Majesty's gracious consent to voluntary arbitration, actually sounds much ruder in German. But the participants succeeded in setting up a permanent court of arbitration. There were provisions for the humane treatment of prisoners of war. Asphyxiating gas was prohibited, as were orders of "no quarter" and the bombardment of undefended towns and pillaging. There were provisions for the formalities of capitulation and armistices and the internment of soldiers by non-belligerents and the discharge of explosives from balloons.

The second Hague Convention was promoted by the new American president, Teddy Roosevelt, although, once again, it was the Czar who issued the invitations. Provisions were enacted for arbitration, mediation and commissions of inquiry. There were clauses dealing with the need for warning before opening hostilities and notification to non-belligerents. There were more provisions about prisoners of war, the notification of who had been taken prisoner, and facilitating the sending of letters and parcels for prisoners. Unanchored mines at sea were forbidden and tethered mines were to be removed at war's end. Fishing vessels were to be free from capture or destruction.

Once again there was a failure to include any limitation of armaments. After all, Great Britain was in the process of laying down the keels of four new dreadnaughts, then the biggest warships ever built.

A further convention was planned for 1914 in Geneva, postponed for a year and then abandoned: rendered impossible by the butchery that followed the opening roar of the guns of August 1914.





In 1922 a Convention of the five victorious countries attempted to deal with submarine warfare and the use of gas, but France refused to sign and it came to nothing.

A further attempt to deal with the poison gas issue, this time successful, occurred in 1925. This had been dealt with by the Treaty of Versailles in 1919, but additional signatories were added and the prohibition on the use of gas was extended to bacteriological warfare. The initiative resulted in a Protocol.

It took some time, but the Convention of 1929 succeeded in creating the third Geneva Convention. Profiting from the experiences of the First World War, it dealt with the situation of prisoners of war. It was this Convention that established that all combatants must wear an identity token, the famous “dog tag,” to enable the identification of the dead and wounded. It also established the principle that no prisoner can be required to disclose any information to his captors except name, rank, age and service number. Although Japan had ratified the first convention, it refused to ratify the third. This was one of its excuses for its mercilessly ill treatment of prisoners of war during the Second World War.

In 1930 another stab at regulating submarine warfare succeeded in establishing that submarines may not sink a merchant vessel without warning and without arranging for passengers and crew to get to safety. Just permitting them to embark in lifeboats was not good enough. They had to be allowed to get to shore or to another merchant vessel. This Treaty was ignored in the Second World War, though not because it was not formally a part of the Geneva Conventions.

The savagery of the Second World War prompted the promulgation of the Fourth Geneva Convention of 1949, the prime focus of which was the protection of civilians. Hitherto, the Conventions had dealt with combatants, but the experience of the wholesale massacre of civilian populations between 1939

and 1945 provoked extensive articles dealing with the treatment of civilians in time of war. The 1949 Convention collected, amended and extended the three previous Conventions, as well as incorporating provisions found in other treaties and added the broad provisions regarding civilians caught up in conflicts between states.



Three Protocols followed the 1949 Convention: the first two in 1977. They sought to improve the legal protection for civilians and the wounded. The first Protocol dealt with those affected by international conflicts and the second with those affected by non-international conflicts: civil wars. Two Protocols were needed because some states were not prepared to grant the same degree of protection in both cases.

There was a third Protocol in 2005, which introduced a symbol, additional to the Red Cross and the Red Crescent for those countries who preferred not to use a symbol that bore either Christian or Muslim connotations. For them the Red Crystal was created.

How is the Convention enforced? Article 49 provides that all “High Contracting Parties” shall enact legislation permitting the prosecution of those who violate the provisions of the treaty. Extradition would be available in the ordinary way, to acquire jurisdiction over someone beyond the jurisdiction of the particular country’s courts. In addition, now the International Criminal Court can enforce the provisions of the Convention and the United Nations Organization can constitute special tribunals to prosecute offences, as it did for Rwanda.

One hundred and ninety-four nations are party to the Geneva Convention. One hundred and ninety-two nations belong to the United Nations organization. The process for becoming a party is a bit odd, though standard procedure for international treaties. First a representative of a nation will sign. Then the nation will ratify the treaty, authorized by an act of the nation’s legislature. The ratification will be deposited with the Swiss Federal Council in Geneva, which is where the Convention itself is deposited, if you would like to go and look at it. There are time limits for signing and for ratification. If a nation wishes to become a party to the treaty after the time limits have expired, it can “Adhere” to the treaty. There is also provision for withdrawing from the treaty. This is called, in the quaint vocabulary of international diplomacy, “Denunciation” Without such provision, it would not be possible to withdraw without the consent of all the other parties: it is, after all a contract and normal rules of contract law apply.

There have been many other treaties unrelated to the Geneva Convention, all of which have been efforts to make war more civil (an oxymoron if ever there was one), such as the prohibition of: the development, production and stockpiling of bacteriological and toxic weapons; weapons the primary effect of which is to injure by fragments that cannot be detected by X-ray; mines and booby traps; chemical weapons; genocide; and others.

So long as there are nations, and so long as they are governed by men, there will probably be wars. And war is hell. Thanks to Jean Henri Dunant and his friends, a little less hellish.

David Roberts
West Vancouver, BC



ALL IN THE COLLEGE FAMILY

a series

THE AMERICAN COLLEGE OF TRIAL LAWYERS IS A RELATIVELY SMALL GROUP, AND IT IS ALWAYS ENTERTAINING TO MEET FELLOWS WHO ARE RELATED BY BLOOD OR MARRIAGE TO OTHER FELLOWS. THE JOURNAL STARTED TO TALK TO THOSE FELLOWS AND FOUND SOME WHO ARE PARENT/CHILD, AND OTHERS WHO ARE MARRIED TO EACH OTHER. PERHAPS THERE ARE OTHERS OUT THERE? IF SO, THE JOURNAL WOULD LIKE TO KNOW OF ANY SPECIAL RELATIONSHIPS WITH OTHER FELLOWS, AS THIS IS A CONTINUING SERIES.

JOHN W. AND SUSAN DAUNHAUER PHILLIPS



THEY NOT ONLY ARE FELLOWS OF THE AMERICAN COLLEGE OF TRIAL LAWYERS TOGETHER, AND HUSBAND AND WIFE TOGETHER, BUT THEY PRACTICE LAW TOGETHER AS WELL. JOHN W. PHILLIPS, '08, AND SUSAN DAUNHAUER PHILLIPS '04, ARE LEADERS IN THE LAW AND IN THEIR COMMUNITY IN LOUISVILLE, KENTUCKY, AND BOTH INSPIRE OTHER YOUNG LAWYERS TO FOLLOW IN THEIR PATHS.

John grew up in a small town in southern Kentucky (Franklin) on a farm with three siblings. His older sister became a teacher, and his two younger brothers both became lawyers, today acting as prosecutors in that same small town. His dad was an educator and a farmer, and John says he was one of the smartest guys he knew. He almost worked himself to death physically. But there was a lawyer in town who although pretty much an idiot, did drive a nice car, married a pretty girl and drank good wines at night. John thought there was something wrong with that picture and decided that he, too, would go to law school. He wanted to earn a living thinking and speaking and reading and writing, and thus far, the law has been everything he ever wanted in a career. He loves every day he comes to work.

Susan grew up in a big Catholic family (seven children) in Louisville, and always thought she wanted to be a special education teacher. She was never encouraged to think beyond teaching, but on a whim she started taking some legal classes at the University of Kentucky. She found it very interesting and took the LSAT (obviously doing well) and was accepted into law school. Her mother was very encouraging, her father not so much. He was not happy that she was taking the place in law school of some young man who would need to support his family. He did, however, eventually come around and was both proud and happy of his lawyer daughter.

The two met while undergraduates at the University of Kentucky at a fraternity party on January 15, 1975; they dated on and off (John says he was always on, and she was sometimes off), and then married on May 24, 1980, just one year before both got their law degrees in the spring of 1981. They both took associate positions at a Louisville firm in 1981, and they both

decided to leave in 1999 when their mentor (Fellow William Guethlein) was about to retire. They convinced Guethlein to come with them and help start the new firm of Phillips, Parker, Orbersen & Arnett PLC, in Louisville. It is not exactly clear which of them is the “Phillips” in the firm’s title, since both were founding partners.

The two find it easy to practice together. Although they work in the same firm and have similar practices, they do not handle cases together. Susan says they did work together on one matter once, but they have different styles and approaches to the law. “One was enough,” she says. She describes John’s style as “more aggressive” while she has a softer approach. Still, it is easier because when one is in trial, the other understands that he or she has to do everything else in the household because the one going to trial can only focus on the trial. And, as John says, they each know exactly what the other one does.

Susan said she can come home and say, “I had a deposition all day with Attorney X,” and John will say, “sit down, prop up your feet, and I will bring you a drink.” “It’s just easier because we understand the pressures and know the personalities. We do talk shop quite a bit, but not excessively.”



Both handle medical malpractice defense (plus other civil defense matters). Susan primarily represents hospitals and some physicians while John's practice is mostly defending doctors and lawyers.

John has never watched Susan try a case, but he says, "everybody loves Susan. Juries love her – they wouldn't dare find against her client." While he may sometimes convince juries to find in his favor, "juries just want to adopt Susan, or date her, or have her be their mother."

Susan says she is not wimpy but practices by the adage that you catch more flies with honey than you do with vinegar. If you are nice to witnesses in depositions, they tend to spill their guts to you.

The first generation of women trial lawyers in Kentucky had to be "ball busters," per John, and more masculine and aggressive than the men. "I understand why," he said, but it didn't endear them to juries or their peers. "Susan was the first groundbreaker in a new approach to women litigators, and it's been hugely successful for her and a big influence on the next generation." She smiles when recalling that when she went to the first twenty or so depositions in her legal career, everyone assumed she was the court reporter. "We've come a long way," she says.

Susan believes the women before her felt that they had to be very aggressive. She prefers the adage, "Why can't women who feel they have to act like a man at least act like a nice man?" But those early women trial lawyers couldn't be seen as slack, or they would be perceived as weak. Susan was the first female associate and then the first female partner in her original firm – as such, she lacked female mentors. She is making up for that loss now as both she and John take special pride in mentoring other young lawyers in their firm, in their state, and across the country as they work on College committees.

Mentorship is critical, they both believe, because without mentors, young lawyers tend to act ugly when they don't have to.

They don't want to cut you a break, everything is scorched earth, and it doesn't have to be that way. The two try to teach the young lawyers that "what goes around, comes around." Mentoring is even more important now when there are so few opportunities to try cases. Without the check of a jury, young lawyers can fall heir to litigator's disease, which they describe as being a jerk all the time because you never have to pay for it in front of a jury. Per John, "if all cases settle before you get to the courthouse, you don't understand why you shouldn't be an a__hole."

Their current firm has three female partners and ten male partners, with about an even split among associates.

John and Susan are both sports fans and fans of the same teams, watching the University of Kentucky teams along with the St. Louis Cardinals, and both love to read and travel. Their 2018 vacation was a return to Oxford, England for John, and they went to France for a month in 2022, where Susan took a week-long cooking class with Patricia Wells at her farmhouse near Maison de la Romaine. John did a lot of reading during that period, but he was able to enjoy some of the meals that the class had prepared. Susan came home with a cookbook, an expertise in sorbet, and of course a few tips that she puts to good use when cooking at home. John presumably came home with a few added pounds.

John says Susan is special and an excellent trial lawyer because she is just a great human being. "I am her biggest fan," he says. "She is just one of those people who is a lovely human being." He likes to tell the story of her/their first pregnancy: she successfully tried two or three cases when she was six months pregnant. Then, when pregnant with their second child, she came to John and to Bill Guethlein and told them she had five trials set in her last three to four months, and she wasn't going to do that this time, that they would have to take over the trials.



They said sure. Months passed, and no requests came to try those cases. Bill finally asked if they needed to get ready for trial. She said no, all the trials had gone away. John said that when word got out she was pregnant again, they all settled or were continued. Trying a case against Susan was bad enough when she was not pregnant, but nobody wanted to oppose her in front of a jury when she was.

Susan explains that John's skills and successes stem from the fact that he is extremely smart and always well prepared. "In addition, and just as important, he's very witty and a wonderful storyteller. He's able to tell the 'story' of his case with examples and analogies that the jury can relate to, and appropriate humor, while still being very professional. He knows his case backward and forward, including the medicine in a med mal case, and can often make the other side's expert run crying from the room."

Both Susan and John continue to give of their time to the College. Both have been active on the Kentucky State Committee, serving multiple stints with each as chair. Both have been very active with the National Trial Competition Committee, which John describes as the "best committee in the College." They have traded roles as National Trial Competition Committee members, with Susan just completing her two-year term as Chair, and with both traveling to the regional and national final competitions every year for over

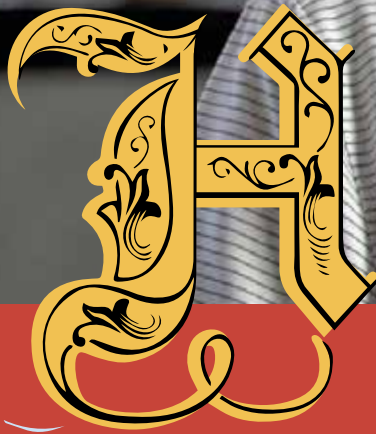
a decade. Not surprisingly, both rave about how good the competition participants have been, and how much they have enjoyed working with the other committee members.

They readily agree that the College is important – and relevant – because its emphasis is not only litigation but collegiality. While both belong to a lot of other professional organizations, they participate much more fully in the College just because of that collegiality factor. They don't attend as many national meetings as they would like – due in part to the time commitments of busy trial practices and of the National Trial Competition Committee – but they attend as many functions as they can.

The theme of togetherness continues, with their son, Jack Phillips, now a 6-year associate in their firm. I asked if he was going to follow in all of the paths they have created, but they were quick to say that they, as parents and partners in the firm, have absolutely no say in his compensation or partnership track. But they are proud that they have been able to work with him on at least a few matters. Daughter Witt did not choose the law, instead working in a publishing firm in New York City.

Between College events, the Phillips love to travel. Susan loves to cook. They both like to entertain. John says he is not a cook, he is an eater, and an enthusiastic supporter of her cooking. Susan says John is a voracious reader. Together, they practice law, they travel, and they eat and drink well.

Carey Matovich
Billings, MT



HERITAGE OF THE COLLEGE

Burr Udall

BURR UDALL WAS BORN IN ST. JOHNS, ARIZONA ON JANUARY 20, 1929. HE BEGAN COLLEGE IN 1948 AT THE UNIVERSITY OF ARIZONA AS AN ENGINEERING MAJOR, BUT, ACCORDING TO BURR, HE FLUNKED NEARLY EVERY ENGINEERING CLASS HE TOOK. HIS INTEREST THEN TURNED TO ACCOUNTING.

In his senior year of college, his father asked him what he was thinking of doing with his life. Burr responded that he hated accounting and didn't think he wanted to stay cooped up in an office studying ledgers for the rest of his life. His father, who was a judge, suggested that maybe he should try law school. Burr responded that "every damn Udall in Arizona was already a lawyer," but he agreed to give it a try.

Judge Levi Stewart Udall had passed the bar exam in 1922 without attending law school. After serving as a Judge in Apache County, Levi was elected as the Chief Judge of the Arizona Supreme Court, where he served until his death in 1960. Levi was succeeded by his brother and Burr's uncle, Jesse Udall.

Levi and Louise Udall had six children, Burr the youngest. Burr's two brothers, Stewart and Morris graduated from the University of Arizona Law School in 1948 and 1949, and formed a law practice in Tucson. Stewart served three terms as a United States Congressman, and was the Secretary of Interior under Presidents Kennedy and Johnson. Stewart's son Tom is the former U.S. Senator from New Mexico and the current U.S. Ambassador to New Zealand.

Morris served in the U.S. Congress from 1961 to 1991. Morris is the father of former Colorado Senator Mark Udall.

Burr graduated from high school in 1946 at a time when the government was looking for young men to replace the service men who had fought in World War II. Burr enlisted in the Army, trained in El Paso, Texas and was shipped out to the Philippines. With no medical training, he became a medic and served in the Philippines for one and a half years. Burr summarizes his military service as having gone in a Private and discharged a Private.

After discharge, Burr returned to Tucson and began his undergraduate years at the University of Arizona, which he chose because both Arizona State University and Northern Arizona were teacher colleges and he did not want to be a teacher. Burr had no car and when the girls would ask him which fraternity he belonged to, he would tell them he was an “unaffiliated pedestrian.” Burr believes that not having a car was the reason he did not have a girlfriend in college.

Despite his belief that Arizona didn’t need another “damn Udall lawyer,” in 1952, he walked over to the University of Arizona Law School five days before school was set to begin. He told the Dean’s secretary, “I’d kind of like to go to law school here.” She responded, “Give me \$35 and you are in.” At that time, there was no formal application nor any testing. In fact, you only had to have attended three years of college.

Burr worked as a clerk at his brothers’ law firm during law school. Burr notes he was paid nothing and has not forgotten that his brothers never paid him. Burr graduated from the University of Arizona Law School in 1954, yet took the bar exam in December 1953, prior to taking his January 1954 finals.



Just after graduating from law school, Burr met his wife to be, Alice. Alice had graduated from the University of Arizona and was employed as a juvenile probation officer. They were soon married. Sadly, after sixty-five of marriage, Alice, affectionately known as “Hurricane Alice,” passed away in 2020.

Alice and Burr had two daughters, Linda and Laura. Laura is a highly skilled criminal defense attorney in Tucson, defending individuals facing serious prosecution. Laura was inducted as a Fellow of the American College of Trial Lawyers in 2017. Burr also has two grandchildren, Collette Udall and Kai Udall.

Throughout law school, Burr intended to join his two brothers in their law practice. But as graduation approached, his brothers told him he should find a job, as the brothers were leaving the private practice of law. Stewart was considering running for Congress and Morris was planning to go to the Pima County Attorney’s Office. The next day, unexpectedly, Tom Chandler called Burr. Tom was one of the finest lawyers in Arizona, a Fellow and Regent of the American College of Trial Lawyers. Tom told Burr that he had heard Burr might need a job. Obviously, Burr’s brothers had reached out to Tom.

Burr started at \$200 per month. He was admitted to the Arizona Bar two months later and his pay was raised to \$250 per month. Burr recalls that he was probably overpaid. He has been with the firm, now known as the Udall Law Firm, ever since. Burr found Tucson to have a very collegial bar; it was a pleasure to practice law there. Most of the lawyers had breakfast at the same Tucson restaurant nearly every morning. Every lawyer in Tucson knew the other lawyers’ spouses and families; in fact, they even knew their dogs.

When Burr started practice there were less than one hundred lawyers in Tucson. In Burr’s first year of practice, he made it a practice to walk around on his noon hour to meet the other Tucson lawyers. Burr continued to meet and greet every new lawyer in Tucson for the next ten years, until the number of new lawyers grew too large. ▶

The word between the lawyers was their bond. Tucson lawyers never needed any confirmation of anything. Udall concludes, “It was a different world.” Burr recalls an example of the “different world” in a telephone conversation with his father. Burr had an upcoming appeal in the Arizona Supreme Court and Burr urged his father not to hear the case. But Judge Udall demurred, saying he could be fair. Burr thought to himself that was what he was afraid of, that his father would bend over backwards to rule against Burr’s client.

It was a different world and professional collegiality was everywhere. The United State Attorney’s Office had charged a saloon owner with watering down its bourbon and gin. The Federal Judge found the defendant guilty and ordered that the watered-down bottles remain in the custody of the United States Attorney. The Assistant United States Attorneys invited all members of the Pima County Bar to help finish off the bourbon and gin about a month later.

Burr was twenty-five years old when he began his practice. He tried his first two cases with Tom Chandler. He recalls that in the first case, he was basically a “bag man,” but in the second, he did the opening, questioned several witnesses, and gave the closing.

Five months into his practice, Burr received a call from a Pima County Judge’s secretary who instructed him to be in the courtroom on Monday morning. Burr went to chambers, not knowing what he would be assigned to, but knew it would be without pay. He learned quickly that it was a first-degree murder case. As he was sitting in his chair, the judge announced, “Mr. Udall, stand up, you’re appointed.” The death penalty was not being sought in this case. Burr remembers thanking God the man got convicted of manslaughter instead of murder. He also recalls that was probably what his client had coming.

Burr has had a state-wide practice, practicing in every county in Arizona. He has tried over 400 jury cases and handled over 100 appellate arguments.

Burr has about 110 first cousins, nearly all residing in Arizona. At times this could be problematic for Burr in picking a jury, especially a jury in Graham County where his mother was raised. Not too long ago, he was asking potential jurors in Graham County whether he was related to any of them.



One lady raised her hand and said she was related to Burr. In fact, she was his aunt. She forgave him for not recognizing her as they had not seen each other since Burr was nine years old. Then, a second potential juror raised her hand and said they were first cousins. She reminded him that they had met within the past year and she had hoped that he would have remembered her. Burr quickly fibbed that he did remember her.

Looking back on his life, Burr thinks one of the greatest evils in trial practice is discovery abuse. Burr maintains that too many depositions are taken and the deposition questioning goes on too long. Early on, it was not uncommon for Burr to go into a jury trial not having taken the plaintiff’s deposition, but he would then take the plaintiff’s deposition over the noon recess. Burr believes that, normally, only one or two depositions are necessary and both should be able to be completed in less than one hour. Burr is convinced depositions don’t really help cross-examinations. Instead, he believes that most witnesses are going to tell the truth. He encourages lawyers to trust their gut as to which points the witness will agree with, and ask those questions. Burr is convinced that present deposition practice plays a large part in the vanishing trial.

Ninety percent of Burr’s practice has been insurance defense. Burr is a harsh critic of the hourly bill. Historically, he always had

UDALL LAW FIRM, LLP



an excellent working relationship with the insurance carriers he represented, but that relationship has been displaced with an adversarial relationship between the insurance carriers and the defense attorneys. These are tensions that did not exist earlier. Burr points out that in early years, the lawyer would advance the costs until the case was over. At the end of the case, Burr would determine what he thought was a fair amount to charge, plus the costs he had advanced. The only pushback he ever got from an insurance company was that he had not billed enough.

As Burr approaches 94 years old, he continues to work every day at the Udall Law Firm. He admits he is in the office seven to eight hours per day, although he probably works two to three hours. In recent years, Burr's practice focuses on mediation. When lawyers call Burr and ask who is a good mediator, Burr humorously responds, "Me." Burr believes that what he brings to a mediation is a good feel for what the range of settlement should be.

While training the lawyers in his firm, Burr tells them to forget about picking up a Dictaphone, typing emails, or texting the opposing lawyer. They should instead, get on the phone and have a phone conference with the lawyer on the other side and things will get done faster.

Burr's advice to any young lawyer is: Try as many cases as they can, always do pro bono work, and be 100% honest.

Having an honest reputation pays off. Early in his career, Burr saw an attorney, Rogers, on the street. Burr needed an extension. Rogers said OK. Nevertheless, Rogers filed a motion arguing the missed deadline. Burr recounted to the Judge the conversation he had with Rogers on the street. The Judge turned to Mr. Rogers and asked if that was true. Rogers responded, "I don't recall, but if Burr says I did, I must have agreed."

Burr was inducted into the College in 1979. Burr didn't think he was qualified when he was nominated, but was honored. Burr has been an active member of the College, especially the Arizona State Committee. He points out that the positive things the College has brought to him are getting to know people of great integrity and great talent. In his opinion, the College represents the best of the best. When looking at any nomination, he looks for #1 - Integrity, #2 - Ability to try cases, and #3 - Collegiality.

In 2005, Burr was recognized for distinguished service to the profession and to the people of Arizona by the Arizona State Bar. He is one of only two lawyers so honored, the other being Sandra Day O'Connor.

In a 2018 interview with the University of Arizona Library, Burr was asked about precedent setting cases he had tried, and said, "I don't think I ever did. Nothing out of the ordinary. I just represent who walks in the door." He added "My most important case is the case I am trying."

We should all be proud of our Fellow Burr Udall who has been an active trial lawyer for nearly eight decades!

Ronald H. McLean
Fargo, ND

HEROES AMONG US BOB BREWER

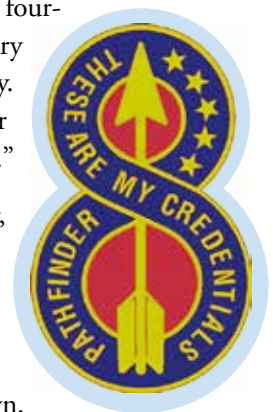


It has become a regular Journal feature to tell the stories of the heroes among us, the stories of Fellows who wore the uniform, who fought and bled to keep us all safe. This is one of those stories. If you have one, please share it with us . . .

A leader is said to be an ordinary person with extraordinary determination. So, are real leaders born, or are they raised in some way that, like cream, makes them rise to the top? We all observe that leaders seem to possess something special. President Eisenhower argued that integrity was the prime quality of a leader; living a life of integrity and purpose, he believed, equips a person to lead. San Diego Fellow Robert Brewer, '99, is a case study for the proposition that a leader is simply a person with the authority and opportunity to serve other people in some special way.

Born and raised in Ithaca, New York, Bob Brewer was a leader from the start. An accomplished high school athlete, his athletic prowess took him to St. Lawrence University, where he excelled in soccer and track, and also became Student Body President. Working to make ends meet, Bob sought and was awarded an Army ROTC scholarship, which financed his last two years of undergraduate study. He graduated in 1968 with a degree in government and a yearning for law school, but first came serving his country and honoring the four-year commitment his ROTC scholarship required. As a Distinguished Military Graduate, he was commissioned a Second Lieutenant in the Regular Army. Choosing the Army Branch in which to serve, the words of an ROTC mentor echoed in his mind: "Go with the Infantry...that's where the real leaders are."

1968 was a time of turbulence in America. Opposition to an unpopular war, the assassinations of MLK and Robert Kennedy, and racial unrest all made for trying times. Bob Brewer kept focus through Infantry Officer Basic School at Fort Benning, and he successfully powered through Airborne School and Ranger Training. His Winter Ranger Class 6-69 graduated several notable military figures, but amidst that crew, Bob Brewer held his own.



The completion of training brought orders to Germany, where Bob became a platoon leader and eventually a company commander in the 1st Battalion, 1st Brigade, 8th Infantry Division. Prominent in WWII, the 8th Division had been reactivated during the Cold War and sent to West Germany as a first line of NATO defense. When Bob joined the 1st Brigade, it was the only mechanized US airborne brigade in Europe.

One year of exemplary service in Europe resulted in Bob receiving orders detailing him to the US Military Assistance Command Vietnam (“MACV”), where he was assigned as an Advisor to Charlie Company, 5th Battalion of the Vietnamese Airborne Division—elite troops of the Vietnamese Army (“ARVN”). Once in country, Bob was promoted to Captain, and his leadership skills were put to the test.

Advisor duty with the Vietnamese paratroopers meant two things. First, Brewer would be the only fluent English speaker embedded with the ARVN troops. The advisor was “the voice of the unit,” helping call in US air support, gunship fire, medevacs, and reconnaissance. Especially in the heat of a battle, excited ARVN soldiers often talked so fast the radio message would be garbled. Having the command voice of a composed American on the ground could make all the difference.

Advisorship with Vietnamese Airborne also meant the probability of consistently dangerous missions. Paratroopers were “the best of the best” among ARVN forces. They also were the unit most trusted by Vietnamese President Nguyen Van Thieu, and it was the ARVN Airborne that would be deployed to the most perilous locations along the border between South Vietnam and Cambodia. Assignment to Charlie Company would find Bob Brewer facing repeated danger.



Charlie Company was pulled out of Cambodia in June of 1970 and reassigned to Tay Ninh’s “Dog’s Head Region” in the III Corps Tactical Zone. That September, the Company was on patrol searching for North Vietnamese Regulars (“NVN”). As the afternoon wore on and it came time to make camp for the night, the unit walked into a veritable wall of enemy lead. With ten ARVN soldiers quickly killed in the ambush, the unit found itself pinned down and surrounded by at least two NVN companies. Facing relentless enemy fire, Charlie Company deployed into a perimeter. They were vastly outnumbered, the enemy was making repeated probing attacks, and there was no way out.

As night fell on the encircled ARVN troops, Brewer called his commanding officer, Major Brian Cundiff, who said he would grab a helicopter and fly out to assess the situation. The Major arrived in some twenty minutes, circled the defensive positions, and made radio contact with Brewer to discuss the situation. As he returned to base, Cundiff’s parting words came with a promise: “Be tough. I will be back in the morning.”

At midnight, while the ARVN unit was hunkered down in defense, an enemy voice could be heard shouting a message in Vietnamese. Brewer asked the Company Commander, a young ARVN 1st Lieutenant, to translate. The NVN was saying “Give us the American, and we will let you all go.” Fear kept Brewer from saying more than “You aren’t going to do that are you?” The young Company Commander’s response was resolute: “You stay with us, and we will fight them to the end.”



Captain Brewer and his ARVN counterpart spent the night crawling from foxhole to foxhole, distributing ammunition from the dead and severely wounded, and checking on the status of their troops. Despite physical and mental exhaustion, there was no sleep to be had. And, at approximately 4:30 in the morning, the enemy troops attacked. A hellacious gun battle ensued.

During a moment when the gunfire paused, there came an unmistakable sound—“whoop-whoop-whoop”—as many American helicopters were approaching the site. Major Cundiff called Brewer and said, “we are here for you,” and then in succession, every individual helicopter pilot radioed Brewer’s call sign and each recited, “we are coming to get you.” To this day, the names of those many pilots remain unknown, but their own valor has left an indelible impression on Bob Brewer. Nobody asked for his pedigree, race, religion, age, or rank. They came at their own risk because there was an American “out there” who needed help.

The gunships poured punishing fire on the NVN troops, and with Brewer’s leadership, Charlie Company counterattacked. Eventually the unit reassembled for evacuation, though sadly, a sniper’s bullet killed the young ARVN Company Commander as the unit was being withdrawn. Everybody was airlifted from the zone by midafternoon, after the gunship attacks had killed over 100 enemy soldiers.

For his valor and fearless leadership supporting his Vietnamese comrades-in-arms, Bob Brewer was awarded the Silver Star. His Citation reads:

Captain Brewer, oblivious to the intense fire, began to direct close fire support around the hard-pressed perimeter, breaking the enemy’s attack. The North Vietnamese infantrymen did return several times . . . fanatically throwing themselves at the paratroopers, trying to break the perimeter. Captain Brewer courageously met each blast with aerial rocket artillery . . . repelling their attacks. At dawn the next morning, Captain Brewer suggested to his counterpart that the paratroopers assault the enemy . . . With Captain Brewer in the lead element, the paratroopers seized the enemy complex. Captain Brewer’s conspicuous gallantry is in keeping with the highest traditions of the United States Army and reflects great credit upon himself and the military service.

Soon after the unit’s heroism at the Dog’s Head, the 5th Battalion was called to guard duty at the Presidential Palace in Saigon. For the next month, Brewer and his counterparts walked the perimeter of the Palace to safeguard President Thieu and his staff. Twenty-six years later, Brewer would return to Saigon and tour the Palace, where he was allowed to visit the basement map room he occupied as a Battalion Advisor. To his amazement, the room remained as he had remembered it; the same maps were on the walls, and nothing had been moved. It was a bit of *deja vu*.

In January 1970, Bob was reassigned to an elite team in Saigon known as the MACV Studies and Observation Group (“SOG”). Working undercover, SOG publicly was labelled a history unit writing the story of America’s involvement in Vietnam. In reality, SOG was charged with operating clandestine, cross-border reconnaissance teams into Laos and Cambodia. These teams comprised Montagnard tribesmen and an American leader, and they would be dropped into enemy-held territory to monitor NVN troop movements. The teams also were called upon to make attempted “snatches” of NVN prisoners for intelligence purposes, observe the Ho Chi Minh Trail, and help recover American POWs.

There was no brass band or hero’s welcome when Bob Brewer came home in July 1971. There were no parades, no garlands, and no tributes. In fact, he was told not to wear his uniform when flying from Travis Air Force Base. Brewer quietly reported for duty at Fort Leonard Wood in Missouri, where he completed his obligated military service as the operations officer with a Basic Training Battalion—a position in which his Vietnam experience equipped him to train recruits for combat.



Bob had spent a week receiving medical attention at San Diego’s Balboa Naval Hospital, and when it came time to revisit a legal education, he jumped at the opportunity to study at the University of San Diego. Graduating from the law school in 1975, Bob was hired by the District Attorney in Los Angeles, and for the next two and a half years, he prosecuted thirty-six jury trials to verdict. During one of the last cases, a distinguished gentleman was observed sitting in the back of the courtroom during Brewer’s opening statement, and that individual turned out to be the Chief of the Criminal Division in the United States Attorney’s Office.

Impressed with Bob's advocacy, he called the young prosecutor in for an interview; two days later a job offer arrived, and Bob Brewer spent the next five years as an Assistant US Attorney in the Central District of California.

Brewer had many significant cases while working with the US Department of Justice, but none stands out as much as the espionage prosecution of Marian Zacharski in 1981. Zacharski was a Polish national living in Los Angeles undercover as the CEO of a Polish machinery company, while in fact, he was a deeply-embedded spy for Polish intelligence. Zacharski recruited an American named William Bell to photograph top secret data at Hughes Aircraft. The information pertained to advanced radar systems and stealth technology, and during a two-year period, Bell was paid over \$150,000 to steal secrets important for development of the B-1 and Stealth Bombers.

The FBI had Bell and Zacharski under surveillance, and Bell eventually was arrested as Zacharski was preparing to leave for Poland. Bob Brewer was assigned the case without notice, and when Zacharski demanded a speedy trial after being arrested, Bob had less than three months to review years of surveillance evidence to prepare for trial. A five week jury trial ensued, with some forty witnesses, and when Zacharski rested his defense without calling witnesses, the jury convicted—the first non-Soviet spy to be convicted in the United States since World War II. Zacharski was sentenced to life in prison, as Brewer moved ahead with his prosecutorial career, eventually assuming a position as the Assistant Chief of the Criminal Division in the Los Angeles Office of the United State Attorney.

In 1985, Zacharski was released from prison as part of a prisoner exchange with the Soviet Union. Returning to Poland, Zacharski resumed a prominent position in the Polish government, culminating in his appointment to head the Polish Intelligence Service. The Solidarity Movement in Poland and the emergence of Lech Walesa as the head of a new Polish government led to Zacharski's removal from government service and seeming "disappearance" in 1996.



Ten years later, in 2006, Brewer had returned to San Diego and was enjoying prominence as a trial lawyer. While attending a short-course at Oxford University relating to prosecution of famous espionage cases, Brewer obtained an email address for Zacharski in Switzerland, and the two began corresponding. This led to a reunion in 2007 at the bridge crossing the International Border between San Diego and Tijuana, Mexico. The meeting was filmed as part of a documentary by Polish Television.

Service comes with a price, and twenty-seven years after Bob Brewer returned home from Vietnam, he was diagnosed with Non-Hodgkins Lymphoma. Traceable to his months of duty in the Vietnamese and Cambodian jungle, where Agent Orange was widely-used as a defoliant, this life-threatening condition called for extensive chemotherapy. And the therapy worked, giving this remarkable soldier yet more chances to serve. As now-Colonel Brian Cundiff has said, "You don't find many people like Brewer. He's one in a million."

Bob Brewer has gone on to enjoy a distinguished career as a trial lawyer, handling both white collar defense engagements and complicated commercial litigation. In 2019 he was confirmed as the United States Attorney for the Southern District of California, headquartered in San Diego, and he served in that position with acclaim until 2021 and the inauguration of a new presidential administration. His tenure as the chief law enforcement prosecutor in San Diego was marked by several notable cases involving drug cartels. Under his leadership, the Office stepped up efforts to combat human trafficking, and he established a Violent Crimes Unit. Among his office's most prominent cases was a prosecution relating to a 2019 hate crime shooting at the Chabad of Poway Synagogue, which had resulted in the killing of a congregant and wounding of the Rabbi. The shooter was given a life sentence just as the Rabbi and several other congregation members were indicted for a brazen federal tax evasion scheme. Today, Bob Brewer is "of Counsel" to a prominent San Diego law firm whose name lives in tribute to a deceased Fellow of the College—Gerald McMahon—and Emeritus Fellow Reginald Vitek, '98.

To borrow a phrase from the late sports writer, Roger Angell, heroes "illuminate our imagination and raise our hopes for ourselves to such an extent that we often want the best of them to become models for us in every area of life." Bob Brewer is one who has set many examples for us to follow. His life has been one, long commitment to servant leadership. Saying "thank you" falls short of expressing the gratitude we so naturally feel.

Charles H. Dick, Jr.
San Diego, CA

A FUNNY THING HAPPENED ON THE WAY TO THE FORUM . . .

WE OCCASIONALLY PUBLISH WAR STORIES FROM FELLOWS, WHEN WE FIND THE RARE ONE THAT IS ACTUALLY FUNNY AND NOT TOO SELF-AGGRANDIZING. WE ALLOW, EVEN EXPECT, A BIT OF FICTIONALIZATION IN THESE STORIES. BUT TRAVEL CAN BE WARFARE TOO, AND THIS STORY FROM FELLOW ANTONIA APPS CAUGHT OUR EYE. IT EVEN HAS A GRAIN (BUT ONLY A GRAIN) OF TRUTH.

Antonia Apps arrived in Rome early, excited to attend her first international College meeting. As a rule, she never checks bags, because like most of us she prefers to spend as little time as humanly possible in airports. But needing attire for leisure, business and black-tie, and because she is a world-class heptathlete training to secure a spot on the US Olympic Team, she needed to travel with her own personal shot and javelin. She could put the shot in a carry-on bowling bag; and she could put on dark glasses and paint the javelin white so she could claim it was her cane. But she would need to check the bag with her clothes.

After forty-five minutes of leaning on her javelin at the baggage carousel, she sensed there was a problem. No one else was still waiting. Looking carefully, she noticed there was a single, lonely bag that kept circling. It looked remarkably

similar to her checked suitcase, but it wasn't. Hers had a name tag - with her name on it. This one had a tag as well. It read: "G. Rossi. +39-055-123-4567."

Antonia did not roll off a radish truck. She is Fellow of the American College of Trial Lawyers. She has degrees from the University of Sydney, Oxford and Harvard. She is smart. So she immediately - well, no, she's not *that* smart, it took her forty-five minutes to check the name on that bag - figured out that G. Rossi must have her bag; and Antonia had his. Or maybe hers. Or its or theirs.

Antonia called G.'s number. Straight into a recording. "*Quel numero non e piu in servizio.*" She tried again. "**Quel numero non e piu in servizio.**" Once more. "**Quel numero non e piu in servizio, Stupido!**" Antonia had an inkling what she was up against. Italian impatience.



Antonia decided to take G.'s bag to the Fiumicino Airport baggage claim counter, where she asked what *Quel numero non e piu in servizio* meant. "That number is no longer in service," they explained. "Can you look up another number for G. Rossi?" she asked. Rossi is the most common name in Italy, they explained. There would be thousands of them. And, um, "Madam, could you put down the javelin?" they entreated.

Well, Antonia said, surely G. will inquire about his (or her or its or their) bag once Antonia's was opened and the mistake was revealed. "*Chissa*" (Perhaps), they shrugged, if G.'s stuff is better than yours. Uh, oh. Antonia is a snazzy dresser – her bag was packed with good stuff.

After a frustrating hour with the baggage claim people; the airline insisted it was no longer their responsibility once the bag is placed on the carousel, Antonia dug into the outside pocket of G.'s bag to see if she could find something further to identify him. Or her. Whatever.

Paydirt. A paystub.

Armed with a name and employer (and, of course, a javelin), Antonia called Dan Nardello, to whose investigative firm she had turned on numerous occasions to assist with trials and corporate investigations. The task was complicated by the fact that, under Italian privacy laws, employers cannot give out an employee's personal information. But the Nardello team did not give up. Through their London office, they connected Antonia with an investigator in Rome who came to see her at the Cavalieri, where the Rome Meeting was being held. Unfortunately, the Investigator spoke almost as little English as Antonia spoke Italian. But somehow he managed to convey (1) his title was "Prof." and (2) he wanted to take Antonia to a local police station to file a report.

Antonia never learned what Prof. stood for. Maybe he was a professor of investigation. Maybe he was a professional investigator. Maybe a practical joker. But we digress.

The police station was a two-story, dilapidated building nestled between multi-story apartment buildings within walking distance from the Cavalieri. The ground floor, with a room no bigger than sixty feet long and forty feet wide, was populated with a handful of buff policemen sitting at their desks smoking. They looked up with mild curiosity as Prof and Antonia entered and were escorted upstairs to the head detective's office, a small room with a couple of government issued chairs that looked like they'd seen better days, thirty years ago.

Finally, Antonia felt a glimmer of hope. Prof appeared to know the detective. After speaking in rapid Italian for several minutes, the detective turned to Antonia with a look of contempt. Her glimmer of hope began to fade. Apparently, the big-time Roma detective wasn't sure that finding lost luggage was a good use of his time. Antonia briefly considered offering the detective her javelin as an incentive, but she had left it in her room at the Cavalieri.

After a few more minutes of advocacy and pleading by Prof – or what she assumed was pleading as it was all in rapid Italian – the detective relented and picked up the phone. He made several calls, then spoke to the Prof again, this time with a satisfied grin on his face. The Prof turned to Antonia and, in labored English, announced: "they have found the bag." "Great," she said, "Where?" The detective's grin fell, and with a beleaguered sigh, he reluctantly picked up the phone again.

After five more minutes of rapid Italian, which now included sweeping hand gestures, he explained that the person who had the bag was located in a small town thirty minutes outside of Sienna. G. had agreed to take the bag to a local police station in Sienna where she could retrieve it. Victory! Antonia was reunited with her bag in plenty of time for her to don appropriate attire for our black-tie event. You almost couldn't tell that G. had apparently tried on her dress.



FOUNDATION UPDATE

WE ARE A SOCIETY THAT IS GENERALLY IN A HURRY. WE EVEN PREFER THAT OUR GRATIFICATION BE INSTANT. BUT, AS ROBERT LOUIS STEVENSON SUGGESTS, OUR BEST ROUTE TO FINDING FULFILLMENT EACH DAY IS BY CONSIDERING THE POSITIVE FORCES THAT WE HAVE PUT IN PROCESS, OR, METAPHORICALLY, THE SEEDS THAT WE HAVE PLANTED.

In the realm of charitable grants, the day that the grant is made is one of gratitude for the grantee and of anticipation and promise for the grantor. For both, there is the proverbial sense of “planting the seed.” But, depending upon what the grantor and the grantee are hoping to grow, the reaping of the harvest may take months or even years. That explains, in part, why my reports to you are frequently comprised of one or two year look-backs as to how the ACTL U.S. Foundation’s grants were put to use and whether those uses have yielded the desired harvest.

Today, I am looking back an entire decade; and my focus is not so much on what our own grant directly accomplished, but more on the role we played in helping to raise a particular grantee’s charitable profile.



JUDGE EACH DAY
NOT BY THE
HARVEST YOU REAP
BUT BY THE SEEDS
YOU PLANT

ROBERT LOUIS STEVENSON



In 2012, the Emil Gumpert Award Committee selected a non-profit Arizona organization called the Florence Immigrant and Refugee Rights Project (the “Florence Project”) as the recipient of the Award and its \$100,000 grant. (This past year, the Foundation prospectively raised the Gumpert Award to \$150,000.) The mission of the Florence Project is “to provide free legal and social services to detained adults and unaccompanied children facing immigration removal proceedings in Arizona.” Its vision is “to ensure that all immigrants facing removal have access to counsel, understand their rights under the law, and are treated fairly and humanely.”

The history of the Project is the perfect illustration of the words of eighteenth-century essayist D. Everett that, “tall oaks from little acorns grow.”



The Florence Project (then called the Florence Asylum Project) was founded in 1989 with a staff of two in one office working primarily with Central Americans who had fled violence in their home countries in search of protection. The legal services expanded to include not only asylum seekers, but also adult detainees, and later unaccompanied minors, facing deportation. By 2001, the Project added its Integrated Social Services Program to address the myriad of social service needs of its clients. In 2007, the Project launched the Arizona Defending Immigrants Program to provide training and consultations to public defenders relating to the immigration consequences of criminal convictions.

In 2012, the College, through the Gumpert Committee and the Foundation, provided a meaningful influx of cash. By 2018, the Florence Project had a staff of seventy operating from three offices.

All of this is mere prelude to the extraordinary event recently announced by the Florence Project: MacKenzie Scott, one of the nation’s most generous philanthropists, gifted the Florence Project with \$10 million to continue with its critical mission.

The Gumpert Committee and the Foundation did not need confirmation by another donor that the Fellows’ charitable dollars were well invested, but the recognition that our seed likely assisted in attracting other grants and contributions is fulfilling and affirming nonetheless.

The day that the Gumpert Award was made to the Florence Project a decade ago, a seed was planted. Now, without question, a bountiful harvest is being reaped.

And that is a very good thing.
Because justice can’t wait . . .

Joan A. Lukey
Foundation President



IN MEMORIAM

Since our last Issue, we have learned of the passing of a Past President, the wife of a Past President, and fifty-five other Fellows.



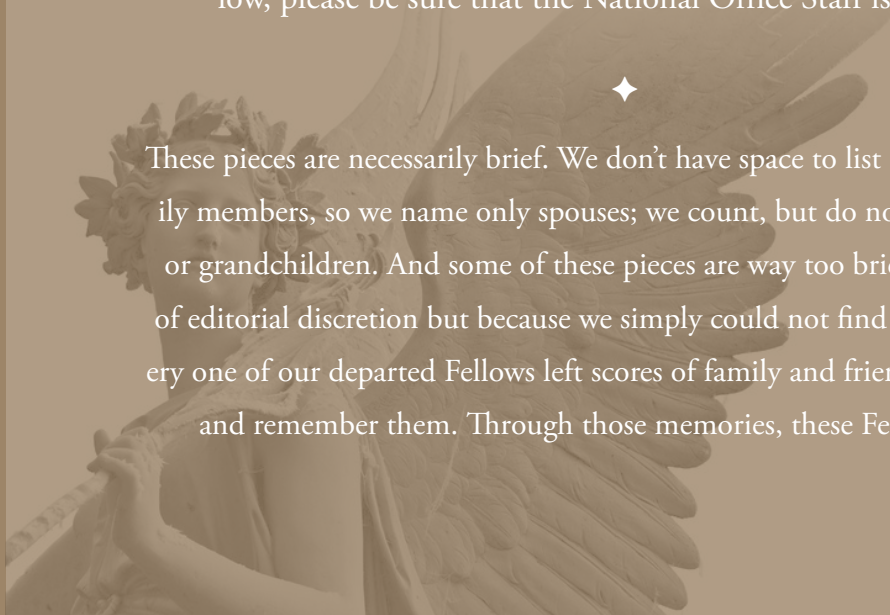
Our fifty-six departed Fellows ranged in age from seventy-four – way too young – to one hundred and three – still a bit too soon. Twenty-four of these departed Fellows were veterans, two of them having served in World War II. Nine were judges. Seven were college athletes. They will all be missed.



We can only honor those we know have passed, when we know. We do not charge retired Fellows dues, so we don't think much about not hearing from them. So if you learn of the passing of a Fellow, please be sure that the National Office Staff is informed.



These pieces are necessarily brief. We don't have space to list all surviving family members, so we name only spouses; we count, but do not name children or grandchildren. And some of these pieces are way too brief – not because of editorial discretion but because we simply could not find the facts. Yet every one of our departed Fellows left scores of family and friends who will miss and remember them. Through those memories, these Fellows live on.



Lloyd Senter Adams, Jr., '80 died peacefully on September 10, 2022 at the age of ninety-seven. Lloyd, a 1946 graduate of the U.S. Military Academy at West Point, served in the U.S. Army until 1950, mostly with the occupation forces in Austria. Following discharge, he attended Vanderbilt University School of Law where he served as editor-in-chief of the Vanderbilt Law Review, was elected to Order of the Coif, and graduated first in his class of 1952. Lloyd practiced law in Humboldt until 1982 when he left to join a firm in Memphis, where he practiced until his retirement in 1990. While in Humboldt, Lloyd served as President of the Chamber of Commerce, City attorney, chairman of the school board, and in numerous lay positions within the United Methodist Church. Lloyd married Betty Rose Driver of Humboldt in 1946; they were married sixty-two years until her death in 2018. Lloyd is survived by his children, grandchildren and nine great-grandchildren.

Louis F. Allen, Sr., '84, passed away at age eighty-five on November 14, 2022. Louis was born in Memphis and attended the Citadel, where he played football. He went on to the University of Tennessee and the University of Memphis to earn his B.S. in economics in 1960. In 1964 he graduated from the University of Mississippi School of Law with a J.D. He proudly served in the Air Force Judge Advocate General's Corp. Louis practiced law for fifty-three years until his retirement in 2017. Louis was an enthusiastic supporter of Ole Miss athletics, and he enjoyed his lake house at Pickwick where he spent many weekends fishing and boating with his family and friends. Louis was preceded in death by his wife of fifty-eight years, Carole Jane, and survived by his two children and three grandsons.

John Harvard Baker, '83, died at age ninety-two on October 15, 2022, after a brief battle with lymphoma. Jack was born and raised in Fresno where he graduated from Fresno State College in 1952. He attended Hastings College of the Law in San Francisco, then spent his professional life in Fresno, serving as President of the Fresno County Bar Association in 1970. Jack's avocation other than law was golf, and he continued playing until his diagnosis at age ninety-one. Jack was survived by his wife of forty-six years, Nancy (Tucker), three children, four grandchildren and four great-grandchildren.

Joseph J. Balliro Sr., '75, was ninety-four when he died August 10, 2022. Former Massachusetts Governor William F. Weld, who served as U.S. Attorney in the 1980s, remembered Joe well. "My overwhelming memory of him is that he was a perfect gentleman. Joe's word was his bond." Joe represented Luigi "Louie" Manocchio, the former boss of the New England Mafia, in Louie's 2012 trial when Joe was in his 80s. Joe handled the high-profile defense of F. Lee Bailey when he went before the state Supreme Judicial Court for disparaging the New Jersey legal system in a letter that became



public. "I have never seen a more honest man in my life," said Bailey. Joe is survived by his wife of thirty-five years, former WCVB-TV reporter Amalia Barreda; four children, seven grandchildren and five great-grandchildren.

Forrest Bowers, '93, died just shy of his ninety-fifth birthday in May 2019. Raised on a cotton farm, Pearl Harbor occurred near the end of Forrest's first semester of college. In the spring of 1945 he was sent to the southwest Pacific to fly the P-51 Mustang. He flew over thirty combat missions, one of the last of which allowed him to witness the Nagasaki blast which signaled the closing days of the War. After the War he farmed for two years before moving to Austin to resume his undergraduate work and enter law school, graduating in 1951. He worked three years in the Lubbock County District Attorney's Office, then privately practiced from 1954 until his retirement in 2015. During fifty-three years of marriage, Forrest and his wife



Tila enjoyed hunting, fishing, traveling, gardening, and anything else together until her death in 2016. Forrest was survived by his four children and a host of grandchildren and great-grandchildren. ▶

Walter Woods Bussart, '91, passed away peacefully at his home in Nashville on October 25, 2022 at the age of eighty. Walter attended the University of Tennessee at Knoxville, where he served as President of the Student Body. After graduating from the University of Tennessee College of Law in 1966, Walter clerked for Justice Thomas Dyer of the Tennessee Supreme Court. Over his distinguished career, he partnered in law practice with notable lawyers, including Senator Fred Thompson and his daughter, Lee Bussart. He served as Speaker of the House of Delegates for the Tennessee Bar Association and was elected to the Tennessee House of Representatives to serve in the 90th General Assembly. He was chosen as the Marshall County General Sessions Judge in 1972 and later appointed to the Tennessee Court of Appeals in 1997. Walter was a member of the Tennessee National



Guard and rose to the rank of Colonel during his thirty-two years of service. Walter is survived by his two daughters, three grandchildren, and his companion, Barbara Kellett.

The Honorable **Lawrence L. Cameron**, '71, Navy Veteran, Boston Police Officer, Lawyer, Chief Justice of the South Boston District Court, and Life Trustee of Suffolk University, passed away on November 6, 2022 at 103 years old. Judge Cameron was a veteran of the United States Navy, serving in both the European and Pacific theatres in World War II. In 1946 he joined the Boston Police Department where he worked while attending college and law school at Suffolk University. In 1955 he joined the Suffolk County District Attorney's office. In 1974 he was appointed Justice of the South Boston District Court and he held court until his retirement in 1989. Judge Cameron was married to his partner in life and law Barbara G. Cameron for forty-three years until her passing in 1993. He married his second wife Irene Hughes in 1998 and they enjoyed fourteen years together until her passing in 2012.



Former U.S. Attorney General **Benjamin R. Civiletti**, '77, was eighty-seven when he passed on October 17, 2022 of complications from Parkinson's. "He was a great man and a total gentleman," former Maryland Gov. Martin J. O'Malley said. "Even when Ben Civiletti was out of the public limelight, he was still active and cared deeply about politics and his country's journey." Ben attended Johns Hopkins University, where he was an accomplished athlete, playing on the football, baseball and basketball teams. Ben attended law school at Columbia University and obtained his law degree in 1961 from the University of Maryland School of Law. While a law school student, Ben married the former Gaile L. Lundgren. After a clerkship for U.S. District Court Judge Calvin Chesnut, Ben spent two years as an assistant U.S. attorney for the District of Maryland before entering private practice. Attorney General (and later College President) Griffin Bell recruited Ben to the Department of Justice, where he served as Assistant Attorney General in charge of the criminal division and then as Deputy Attorney General, before succeeding Judge Bell as Attorney General.



Three months into his tenure, Iranian extremists seized the U.S. embassy in Tehran in 1979, including fifty-two diplomats and citizens. Ben directed the Justice Department's efforts to deport Iranians who entered the U.S. illegally and also traveled to the International Court of Justice at the Hague where he persuaded its judges to rule in favor of the United States in denouncing the Iranian seizure of the embassy. During that same time, he argued before the Supreme Court for the right of the government to denaturalize Nazi war criminals. In 2008, Gov. O'Malley appointed Ben as chairman of the Maryland Commission on Capital Punishment, which voted 13-7 — with its chairman voting with the majority — to recommend that the state General Assembly abolish capital punishment. At the time of his appointment, Ben told *The Baltimore Sun* that he had never represented anyone charged with a capital offense. "I come in with views, but they are not fixed views," he told the newspaper. Ben served as chairman of his venerable firm from 1993 to 2006 and retired as chairman emeritus in 2014. Active in the College, Ben chaired several General Committees. Ben is survived by Gaile, three children, nine grandchildren and three great-grandchildren.

F. Walter Conrad Jr., '95, passed away on September 24, 2022 at age eighty-three. Walter received his bachelor's degree in history from Princeton University in 1961 and a law degree from the University of Texas School of Law in 1964. Following law school, he served in the army as an artillery officer before beginning his practice in Houston specializing in environmental litigation. Walter was an avid outdoorsman and enjoyed hunting, fly-fishing, and hiking in Montana, where he was a summer resident in Kalispell. He loved to travel and went on frequent trips to Argentina and Scotland. Walter is survived by his high school sweetheart, the artist Nancy Conrad, two children and three grandchildren.



Robert Emil Currie, '84, was eighty-five when he passed away peacefully on October 21, 2022. Bob, an Eagle Scout, graduated from the United States Naval Academy in 1959. He served as a Naval Aviator in active service and as an Intelligence Officer in the Naval Reserves, retiring as a Captain in 1983. After completing his active service, Bob attended Harvard Law School. Upon graduation, Bob and his wife Brenda moved to Los Angeles. Bob represented a broad range of clients from local developers to public companies in high profile, complex matters in both state and federal courts across the United States. An enthusiastic and accomplished gourmet and oenophile, Bob was a Judge at the Los Angeles County Fair Wine Competition and a member of both the Hollywood Wine & Food Society and Orange County Wine & Food Society. Bob and Brenda travelled extensively in their tireless search for the finest restaurants and vineyards, making friends all over the globe in the process. Bob loved to play bridge and was a voracious reader of history, politics, and the classics. Bob is survived by Brenda, his wife of sixty-two years, three children, nine grandchildren and three great-grandchildren.

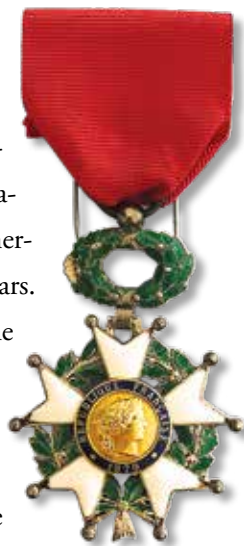
Eugene Driker, '81, who helped mediate the Detroit bankruptcy, died September 29, 2022 at the age of eighty-five. Eugene was one of six mediators, the only one not a Federal Judge. But he was tasked with some of the most difficult parts of the case, such as addressing the city's unfunded pension liabilities. He also helped raise \$866 million for the creation of an independent nonprofit for the Detroit Institute of Arts. The move ensured the museum stayed open and protected its collections from creditors. Michigan Gov. Gretchen Whitmer called Eugene "a pre-eminent attorney, a lifelong and untiring advocate for his home city of Detroit, and a friend. He served with distinction as a Wayne State University governor and



spent every day working to enrich and uplift his community. Eugene's achievements in urban affairs, law, arts, and culture leave a legacy for every Michigander to carry forward." Eugene was the son of Ukrainian immigrants, growing up in a close-knit Jewish community near Dexter and Davison and learning Yiddish as his first language. He met his future wife Elaine when they were students at Wayne State University. He asked her to a fraternity party; a pin soon turned into a proposal, and they wed when he was twenty-two and she was twenty. Eugene only spent three years of his life outside of Detroit; three years as an attorney under Attorney General Robert Kennedy with the U.S. Justice Department's antitrust division in the early 1960s. In addition to Elaine, Eugene is survived by his two children and five grandchildren.

William A. Foster, '85, passed in June 2022 at the age of ninety-five. Bill obtained his law degree in 1952 from the University of Florida and practiced in West Palm Beach his entire career. When he filled out his statement of qualifications in 1984, he estimated that he had tried "to conclusion" more than four hundred jury cases.

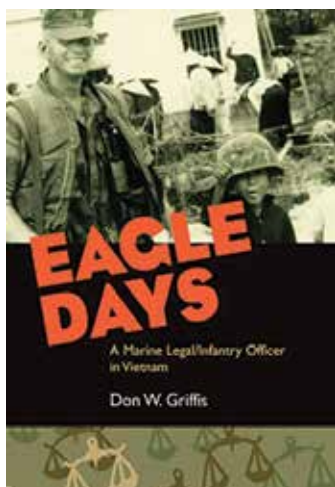
Guy Gilbert, '81, was ninety-three at his death on October 13, 2022. Guy dedicated the major part of his career to Insurance Law, representing Quebec insurance companies as well as Canadian and American companies for over fifty years. He has also acted as Counsel to the Attorney General of Canada in the litigation with the tobacco industry over the constitutionality of the Tobacco Act. Guy's expertise took him overseas for a number of high-profile cases, including a criminal trial about the illegal export of component parts used in an atomic plant in Pakistan. Honored on numerous occasions, Guy was named Queen's Counsel and in 1995, the Court of Paris presented him with the *Medaille de l'Ordre des Avocats*.



Robert S. Goggin, '95 died July 3, 2022 at the age of eighty-five. Bob was a USAF ROTC cadet at St. Joseph's College when he met Jane Gallagher. His deployment upon graduation would have adversely affected his relationship with Jane so he stayed on for law school to secure a deferral. Upon graduation they were married and stationed in France for several years. Captain Goggin left the USAF and joined the US Attorney's Office criminal division in Philadelphia, after which he joined a small five-person private law practice also located in Philadelphia. By the time he retired, the firm had grown into a multi-state, multi-disciplinary practice with over one hundred lawyers. Bob's claim to fame was winning the first defense verdict in an asbestos case, instrumental in helping his firm corner the market in asbestos defense litigation. Bob loved being a trial lawyer but mostly he enjoyed mentoring the other lawyers within his firm. Bob is survived by Jane, eight children and seventeen grandchildren.

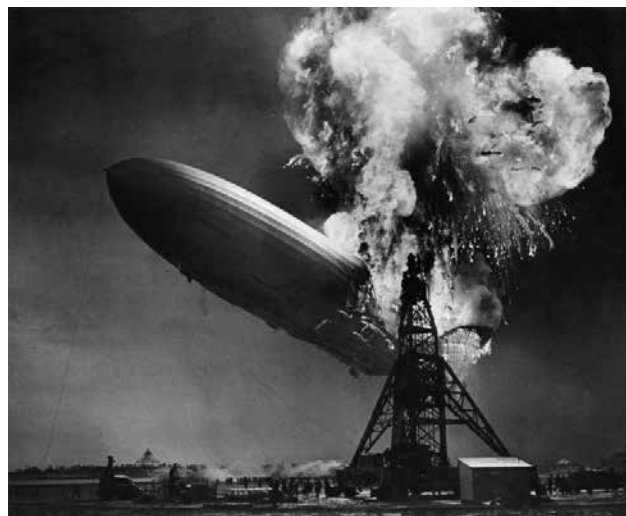
John Gardner Golding, '89, ninety-four, died peacefully on November 11, 2022. John graduated *cum laude* from Williams College in 1950 second in his class from the University of North Carolina School of Law in 1953, where he was co-editor-in-chief of the North Carolina Law Review. During law school John met his future wife Virginia Batte Wilson, an undergraduate involved in the Carolina Playmakers; she played the part of a coed who had poisoned a sorority sister in a staged crime, and he was assigned to prosecute her in a mock trial sponsored by his law fraternity. Following graduation, John served in the Army JAG Corps, stationed in Kaiserslautern, Germany. After his military service John and Virginia settled in Charlotte, where he specialized in medical malpractice defense work. Opposing counsel somewhat fondly nicknamed him "The Prince of Darkness" and "Mr. Assassinator." John enjoyed community theater productions. He was a Rolls Royce aficionado, a frequent international traveler, a history buff, and a proud grandfather who loved to take his grandchildren to Carowinds and the Lazy 5 Ranch. John was preceded in death by an infant granddaughter, a daughter and his wife Virginia. He is survived by two daughters, ten grandchildren and six great-grandchildren.

Donald W. Griffis, '95, passed away on October 3, 2022 at the age of eighty. Don attended the University of the South in Sewanee, Tennessee, where he played football for four years and was on the unbeaten, untied 1963 team that was subsequently inducted into the Sewanee Football Hall of Fame. Graduating *Phi Beta Kappa* in 1964, Don went on to law school at the University of Texas. Upon graduation, he was commissioned in the United States Marine Corps and was assigned to the legal office at Force Logistics Command in Vietnam. He volunteered to serve as the Commanding Officer for the camp's Provisional Rifle Company, assigned to provide security and defense for the base. Don was awarded the Bronze Star, the Combat Action Ribbon and the Vietnamese Cross of Gallantry. When Don was discharged in 1969, he clerked for U.S. District Judge Joe Estes in Dallas for a year and then returned to San Angelo to practice law with his father as a trial lawyer. Don tried cases throughout West Texas, from El Paso to Fort Stockton, Del Rio, Midland, Odessa, and from Abilene to Dallas/Fort Worth. He retired from the practice of law in 2018. Don was known for the yellow convertible Karmann Ghia he owned from 1973 through 2019, in which he and his bride, Prissy, drove to Acapulco, Mexico for their honeymoon. Don ran thirty-five marathons, numerous half-marathons, and regularly could be seen walking his golden retrievers in the neighborhood. If you ever had a question about the Civil War or World War II, Don had the answer. He was an avid reader of military history, and his love for history extended



to the military artifacts he collected that would make any museum jealous. Don also published his memoirs from the Vietnam War in his book "Eagle Days." Don is survived by his wife, Priscilla Chase Griffis, four children and seven grandchildren.

Hon. David Warner Hagen, '82, died in his Reno home on September 28, 2022 surrounded by his family and the ashes of a dog he detested four days shy of his ninety-first birthday. Born in Camden, Arkansas, his family soon moved to Lakehurst, N.J., where David and his siblings bore first-hand witness to the crash of the Hindenburg.



As the airship crashed to the earth in a spectacular fireball, five-year-old David reportedly asked his mother "can we do that again?" David joined the Air Force at age seventeen, serving during the Korean War and attaining the rank of Staff Sergeant. The skinniest and youngest in his unit, he was forced to carry the receiver group of the .50 caliber machine gun as a practical joke. He got his revenge after he was assigned to be the driver of base-to-base jeep transports, beginning a seven-decade tradition of being the worst driver in either hemisphere. After service, he attended the University of Wisconsin and the University of San Francisco School of Law, graduating in 1959. In 1993, he was appointed to serve as a Federal District Court Judge by President Clinton. After retirement from the bench, he practiced mediation and arbitration until near the end of his life. He was active in the Reno Little Theater, winning a national amateur theater competition in 1973, and was an accomplished ocean racer, being one of first Americans invited to sail the Sydney to Hobart Yacht Race in Australia. Judge Hagen enjoyed making up songs to entertain his children, tripping over the family basset hound he despised, and mocking local auto dealership commercials. Judge Hagen is survived by his wife of forty-two years, Peggy, his five children and seven grandchildren.



Richard E. Hall, '91, passed away on October 6, 2020 at the age of seventy-six. After graduating from the University of Idaho with a Bachelor of Arts degree, *cum laude*, in 1966, Rich attended Harvard Law School where he obtained his Juris Doctorate in 1969. He was admitted to the Idaho State Bar in 1970 and the Washington State Bar in 2004. His distinguished fifty-year career as a civil defense attorney earned him numerous accolades. Rich is survived by his wife of fifty-six years, Tonya, four daughters and six grandchildren.

Ivan Halley, '96, died August 8, 2022 at the age of seventy-four. Duke met Charlene Ann Hunter when they were fifteen. They graduated from High School in 1966 and married mid-term in 1967 while they both attended Southwestern Oklahoma State University. When they graduated in 1970, Charlene then began her teaching career and Duke was accepted into the Oklahoma University School of Law. Duke had a quick wit and infectious (ornery) smile. He was an exceptional storyteller and never missed a chance to share a good one. Duke loved coaching the sports his daughters played and having them work beside him at his farm and in the office. Duke is survived by Charlene, two daughters, and three grandchildren.

Hon. William P. Hampton, '86, was eighty-four at his passing on August 24, 2022, survived by his wife Lanie Anderson, three children and four grandchildren. Judge Hampton, who practiced law for over fifty-eight years, was a former state representative and a former Oakland County Circuit Judge. He was frequently referred to as the "dean of municipal lawyers in Michigan." He represented Bloomfield Hills, Bloomfield Township, West Bloomfield Township and Auburn Hills for over forty years. Judge Hampton enjoyed playing golf, piloting his Sea Ray Weekender, cruising on Ponant small ships, and attending Michigan State football games. Over the past thirty years he traveled to all seven continents at least once, and repeatedly to his favorites.

James R. Harris, '89, was born in Crawfordsville, Indiana and attended Indiana University; upon graduation in 1953, Jim was commissioned in the United States Air Force and stationed at Rammstein Air Force Base in Germany. He met Betty Jo Fisher on a blind date in Dallas and they were married in Corpus Christi in 1954. After completing his tour in the Air Force, he and Betty moved back to Texas. Jim attended the University of Texas School of Law. Jim and Betty returned to Corpus Christi where he practiced law for sixty years. Jim coached Little League and served as President of the Corpus Christi Museum. Jim once searched for buried treasure in Mexico with a map found in his father's basement. He followed Kipling's travels throughout Central Asia and India, and explored China and Japan. He embarked on safaris in Africa, fished for salmon in Alaska, toured the whole of Europe, and visited all fifty states. Jim was predeceased by Betty and survived by his two children, seven grandchildren, and eight (and counting) great grandchildren. Jim was ninety-one.



Francis J. Higgins, '88, died December 1, 2018 at age eighty-one. Frank's father Frank J. Higgins Sr. was a courtroom bailiff and Chicago building inspector. His mother Lois took the first policewoman's exam in 1935; she placed first out of 1,119 women who took it and went on to head the Illinois Crime Bureau. Languages came easily to Frank. He was able to converse in Arabic, French, Italian, German, Polish and Spanish. After Harvard Law, Frank did defense work for major corporate clients, handling complex cases involving securities fraud, antitrust litigation, proxy fights and hostile takeovers. Frank loved opera — in Italian, French, German or English. He enjoyed classical music, the Chicago Symphony Orchestra and also Elvis Presley, Johnny Cash and Bob Dylan. Frank was survived by three children and six grandchildren.

Robert E. Horan, Jr., '83, who served as Fairfax County Commonwealth's Attorney for forty years before retiring in 2007, died on October 28, 2022 at the age of ninety. He graduated from Mount St. Mary's College in 1954 and subsequently joined the Marine Corps, during which he met his wife, Monica. They were married on October 26, 1957. He then attended Georgetown Law School and graduated in 1961. Robert entered private practice, spent two years as an assistant prosecutor, and was appointed to the Commonwealth's Attorney's position in Fairfax County in 1967. Robert prosecuted many high-profile cases during his forty years, handling the trials himself, including James L. Breeden, convicted of killing four people in a walk-in refrigerator at a Roy Rogers restaurant; Mir Aimal Kausi, convicted of killing two employees and wounding three others at the CIA; Lee Boyd Malvo, convicted of killing ten people in northern Virginia, the District and Maryland; and Alfred Prieto, convicted of killing two people in Fairfax. Robert was an avid golfer and once won a Mercedes Benz for hitting a hole in one in a tournament in which he was competing. Robert continued in the Marine Corps Reserves and retired as a Lieutenant Colonel in 1992. Robert is survived by Monica, his three sons and three grandchildren.

H. Gilbert Jones, '74, was ninety-five when he passed on November 29, 2022. Gil was born in Fargo, North Dakota, received his B.S. in Civil Engineering from Yale University in 1947 and his J.D. from UCLA in 1956. He founded a medical malpractice defense firm and continued his active trial practice through much of his '90s; he even had one case pending at the time of his passing. Over the course of his career, Gil tried more than 200 cases to verdict and argued several significant matters before the Supreme Court of California and various appellate courts. In 2014, Gil was honored as the Best Personal Injury Defense Attorney in Orange County, California. He was named National President of ABOTA in 1989 and remained an active member of that organization until the time of his passing.

George Kargianis, '81, was ninety-three at his death in what we believe was September 2022, but there was no obituary, so the details are not clear. We do know that George graduated from the University of Washington Law School in 1953. He served four years as an administrative law judge and focused his practice on complex class action litigation.

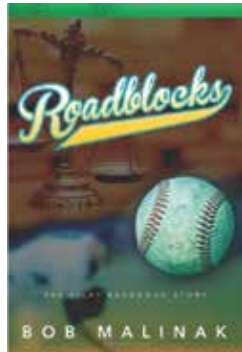
William J. Kunkle Jr., '89, died November 19, 2022. Probably best known for his successful prosecution of serial killer John Wayne Gacy, Bill could have coasted on the celebrity of that case for the rest of his career but instead used the experience to travel the country to teach others about the trial and its legal peculiarities. He prosecuted several other high-profile cases.



He was a special prosecutor of the “DuPage 7”—the seven law officers accused and later acquitted of cooking up evidence to convict Rolando Cruz in the 1983 kidnapping, rape and murder of 10-year-old Jeanine Nicarico in Naperville Township. He headed an unsuccessful defense of disgraced Chicago Police Lt. Jon Burge, accused of torturing dozens into false confessions. And he helped conduct the congressional inquiry that forced former House Speaker Jim Wright, D-Texas, to resign. Before becoming a prosecutor, Bill worked as an assistant public defender in Cook County. Bill left the Cook County State Attorney's Office in 1985 for private practice. He was Chairman of the Illinois Gaming Board from 1990 to 1993, then served as a Cook County judge until retiring in 2014. Bill enjoyed cross-country motorcycle trips he organized with colleagues and friends since 1978, sometimes spanning 1,500 miles, with stops for camping at national parks. “He planned everything: where you were

going to have breakfast, lunch and especially where you're going to have dinner," his friend (and FACTL) Tom Breen recalled. Bill's wife Sarah Florence Nesti Kunkle died in 2014. He is survived by two daughters and a grandson.

Robert J. Malinak, '85, was eighty-six when he passed on November 29, 2022. A native Texan, Bob received a B.A. degree from Rice Institute in 1958 and an L.L.B. degree from the University of Texas School of Law in 1961. He was a trial lawyer in Houston until 1999, trying more than one hundred cases in state and federal courts in Texas and Arkansas. After that, he was an arbitrator and mediator. In 2016, Bob began his career as a novelist, specializing in baseball stories. Bob became a serious baseball fan when he listened to a radio broadcast of a World Series game between the New York Yankees and Brooklyn Dodgers in 1947.



G. Wesley Manuel Jr., '87, died at the age of eighty-seven in June 2022. While attending Bucknell University and the University of Pennsylvania Law School, Wes worked as a wholesale representative for a large automotive dealership, attending weekly auto auctions in Pennsylvania and New Jersey. His exposure to auto mechanics would serve him well as he later began to try product liability cases. During his first six years of practice he tried and won more than eighty cases and developed a reputation for successfully defending product liability cases, representing General Motors, Ford, Toyota, Nissan, International Truck and Harvesters, Harley Davidson, and many others.



His interest in engines was not limited to land vehicles; he had a passion for boating, representing Checkmate Boats, Penn Yan, Wellcraft, Detroit Diesel, Rule Industries and Sen Dur. Wes was also general counsel to Jersey Yachts,

Pacemaker Yachts and Real Ships, Inc. It is estimated that Wes tried more than 400 jury trials in his career. Wes was predeceased by his wife Rose and survived by his life partner Beverly, two children and five grandchildren.

Gerald T. McDonald, '86, passed away on November 9, 2022, at home at the age of eighty-nine. Jerry was predeceased by his wife of fifty-eight years, Margaret Cole McDonald, in 2016, with whom he had four children and eight grandchildren. Jerry was President of the Oneida County Bar Association and Chair of the New York State Bar Association Trial Lawyers Section. Jerry was captain and quarterback of the >150 lbs football team at Cornell. He loved skiing but merely enjoyed golf, tennis, racquetball and swimming in Lake Delta.

Edward Menkin, '12, passed away on March 31, 2022 after a two week battle with acute leukemia. Edward came to Syracuse in the 1960s and enrolled in the graduate program in the English department where he received his PhD. After several years of teaching as an associate professor of English at SUNY Upstate, where he met his wife Laurie, he pursued his law degree at Syracuse University and was admitted to the bar in 1978. Edward worked as an Assistant District Attorney for two years before deciding to open his private practice in 1980 as a criminal defense and personal injury attorney. Edward was passionate about the pro bono work he did for his community and was known for his story telling, his sense of humor, his kind heart, and his great love for his family and the precious summers on Fourth Lake in Old Forge. Edward is survived by his wife Laurie, three children and three grandchildren.

Edward Lee Middlebrooks, '86, was eighty-five when he passed on July 30, 2022. Ed attended the University of Miami, where he received his BA and law degree. He practiced from 1960 until January 2022, the last several years with his son, Todd. Ed was active in the Broward County Justice Association, serving as a past president. Ed is survived by his wife of fifty-nine years, Barbara, three children and nine grandchildren.

Walter Robertson Milbourne, '76, died at the age of eighty-nine, survived by his wife of fifty-seven years, Sue Dyer Milbourne, four children and ten grandchildren. Walter earned his undergraduate degree at Princeton and his law degree at Harvard.

Robert J. Muldoon, Jr., '82, was eighty-five when he passed on July 4, 2022. Bob attended Boston College Law, becoming the rarest of birds, a quadruple Eagle (counting degrees conferred by BC while he was in the seminary). Bob clerked for the Hon. Paul G. Kirk at the SJC of Massachusetts before embarking on his career in Boston. Bob met Barbara Mooney in 1966; they married two years later and raised three children. As a Dad, Bob had a tendency to quote from King Lear, particularly on long car rides. "How sharper than a serpent's tooth is an ungrateful child!" Bob was a man of many interests: He made doughnuts, bread, and brownies from scratch; his "Daddy Bob's Pancakes" recipe is justly famous. He loved both the Texaco Radio Opera and the Hillbilly at Harvard show. He read history, mysteries, and P.G. Wodehouse voraciously. In his later years, Bob enjoyed the company of his grandsons, both of whom he called "Old Boy," even as infants. "It's a poor heart that never rejoices!" was Bob's mantra whenever an opportunity for indulgence occurred.

Gardner Marshall Mundy, '85, a lifelong resident of the Roanoke Valley, passed away on October 31, 2022 at age eighty-eight. Marshall attended the Virginia Military Institute, where he played basketball, graduating in 1956 with a BA in English. He served as a first lieutenant in the U.S. Army for two years. In 1962, he graduated from the University of Virginia Law School, where he was executive director of the law review. Appalled by the racial segregation he witnessed in his youth, Marshall was an ardent supporter of the civil rights movement. He embraced feminism and founded and coached a girls' basketball team at Crystal Spring Elementary, at a time when there were few organized sports for girls. Marshall practiced law for fifty-four years. He did criminal defense work and would bring Thanksgiving dinner to clients serving time in jail. He loved using his legal skills to help people but was not

above small personal infractions. For many years, he had a bookie he called on Fridays, to place minor wagers on sports games. He had a series of unreliable used Jaguars, and an arrangement with a car mechanic who would provide him with free auto repair in return for free legal representation. It was never clear who got the better end of that deal. In his younger days, Marshall was an avid tennis player, and ran the New York City and Roanoke marathons. He owned dogs and cats, donkeys, parrots and peacocks. Marshall is survived by his wife, Monika, four children and five grandchildren.



Mark Nye, '91, passed away on July 17, 2022 at the age of seventy-six. A past president of the Idaho State Bar and an Idaho State Legislator, Mark was born in New York, raised in Idaho, schooled in Boston (Harvard), and graduated law school at the University of Idaho. The seven-year gap between his undergrad and law degrees in 1967 and 1974 suggests he may have served in the military or peace corps or some other noble endeavor; or perhaps he simply took a few years off in Sun Valley. Mark loved the outdoors, skiing, golf and fishing. He flew his own plane and traveled with family and friends as much as time would allow. Mark was preceded in death by a son and survived by his wife Eva, three children and four grandchildren.

Terrence O'Sullivan, '98, died peacefully on August 19, 2022, survived by his wife of forty years, Corey Simpson, his two daughters and two grandsons. Terry grew up as part of a warm and lively family in Campbellford Ontario, where he played hockey, baseball and pranks. Terry practiced law for almost fifty years, building a storied career and legacy of mentorship. Terry generously gave his time and leadership talents to many good causes including the Advocates' Society, the Women's College Hospital Foundation, Toronto Rehab Institute, and Sunnybrook Health Sciences Foundation where he volunteered for many years, even after his cancer diagnosis. ▶

Jan Eric Peterson, '98, was seventy-eight at his passing on August 14, 2022. Jan was known for his larger-than-life personality, his generosity, his willingness to help and support his colleagues, friends, and family. Jan earned his undergraduate degree from Stanford University in 1966 and his law degree at the University of Washington Law School in 1969. After stints at the ACLU and OEO Legal Services, Jan co-founded his own firm in 1973 where he achieved record-breaking verdicts for his clients. As Washington State Bar president, Jan's mantra of "Proud to be a Lawyer" united lawyers on both the plaintiff and defense sides. Jan is survived by his wife of thirty-eight years, Margy Peterson, four children and a grandchild.

Charles Neal Pope, '01, was eighty-three when he passed away on August 11, 2022 at Emory University Hospital in Atlanta. Neal graduated from Auburn University in 1961 and served as an officer in the United States Marine Corps. In October 1962, Neal commanded a platoon of Marines aboard the *USS Thuban* during the Cuban Missile Crisis. After returning from active duty in 1963, Neal earned a law degree from the University of Alabama and began practice in Phenix City, across the river from Columbus, Georgia. Neal specialized in civil cases with large jury verdicts. His cases of national notoriety resulted in appearances on *The Phil Donohue Show*, *CBS Morning News*, and cover stories in *USA Today* and *Newsweek*. Neal lived nearly thirty years with a transplanted heart, never slowing down as he battled the challenges that included quadruple bypass surgery on his new heart. Neal loved a big project, like relocating his home from Midtown Columbus to the backwaters on Lake Harding, which required that the home be cut into seven pieces and reassembled on site. While continuing to work as a lawyer, he branched out into agriculture, founding Neal Pope's Farm just up the road from his Salem home. This organic, self-sustainable, geothermal, solar powered farm produces hemp and tomatoes. Neal is survived by his wife of forty-six years, Virginia Pitts Pope, three children and seven grandchildren.



Phillip C. Potter Jr., '83, passed away peacefully at age ninety-five on September 29, 2022 in Mt. Sinai Hospital in New York City, a block from his childhood home and his elementary school, survived by his wife of sixty years, Letitia McClure Potter, three children and three grandchildren. Philip attended Harvard College and Harvard Law School. An avid soccer player, he served as varsity soccer captain at Harvard and was invited to the Olympic trials. His outstanding skill and leadership were recognized by selection to All-New England and All-American Honorable Mention teams. In 1943, during World War II, he spent his summer at age sixteen working at Republic Aviation Company as a riveter, building P-47 fighter planes, with his classmate George Plimpton. In 1944, he joined the American Field Service as a volunteer ambulance driver with the British Army in Italy, later shipping out to India in preparation for the Burma Campaign, which thankfully was cut short by the end of the war. Early in his law career, Phillip, serving pro bono, successfully won the release of an innocent prisoner had served eighteen years. He ran a group, Recording for the Blind, which transcribed law books to audio format for blind students and lawyers. Phillip loved sailing, particularly in the Pacific Northwest. In winter, he willfully endured family ski trips with cheer.

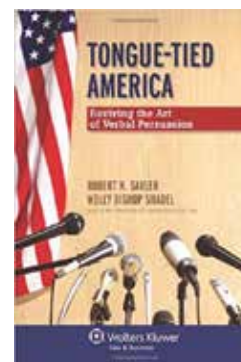


Gerald J. Rapien, '86, passed peacefully at age seventy-nine on July 5, 2022. Jerry grew up a Boy Scout with a lifelong love of the outdoors, enjoying backyard birding, dry-stack stone wall building, and a passion for golf. Jerry's knowledge of steam engines and the railroad industry was another passion. Running model trains at the Behringer Crawford Museum at Christmastime was great fun for Jerry, and he served on its Board of Directors for several years. Jerry was active in the College, serving as Chair of the Outreach and Ohio State Committees. Jerry is survived by his wife of thirty years, Cheryl Johnson, and his first wife, Kathryn Beresford, as well as three daughters and four grandchildren.

Frederick Martin Rowe, '69, died a week shy of his ninety-seventh birthday on January 11, 2022. Born in Mannheim, his family immigrated to the United States in 1936 and settled in the Bronx. Fred was drafted into the U.S. Army in 1944 at the age of nineteen, where his first assignment was a tank destroyer unit in Fort Hood, Texas. Upon learning that he spoke German, French and Yiddish, he was asked to join the Military Training Center at Fort Ritchie where he became a Captain in Military Intelligence. He was sent to the Ardennes, where he gathered front line intelligence during the Battle of the Bulge. After Germany surrendered in 1945, he met his future wife, Franziska Elizabet Rupp. She was an accomplished athlete who had competed in the 1942 Axis Games in the uneven parallel bars and placed second in the 100-meter dash. In 1944 she was drafted to teach German Luftwaffe pilots how to fly gliders. Fred and Frances returned to the United States and married in 1947. Fred attended City College of New York on the G.I. Bill, graduating *magna cum laude*. He went on to Yale Law School, where he became Executive Editor of the Yale Law Review and graduated first in his class. Fred clerked for Supreme Court Justice Tom C. Clark and during his career in D.C. he argued and won five cases before the U.S. Supreme Court. In the 1980's he went on sabbatical, teaching at Yale, Harvard and the London School of Economics. In 1990 Fred and Frances moved to Santa Fe, where he worked as a community activist. He helped organize the Greater Callecita Neighborhood Association, the Neighborhood Network, the No-SLAPP Alliance, and the Neighborhood Law Center. In 1996, at the age of seventy-one, he became the oldest person to have passed the New Mexico Bar Exam. Fred loved blues and jazz records and a daily 6:00 am swim. Fred was preceded in death by Frances, and survived by his two children, three grandchildren and three great-grandchildren.



Robert N. Sayler, '95, died on September 7, 2022 at the age of eighty-two, survived by Marty, who he met at age fourteen and to whom he was married sixty years. Bob was a Kansas High School debate champion before venturing west to Stanford, where he continued his debating career and was President of the Student Body. He attended Harvard Law School, and in 1965 he joined a prominent D.C. law firm. As a thirty-one-year-old associate, Bob argued *pro bono* before the U.S. Supreme Court, advocating for the rights of individuals facing termination of disability benefit payments. Bob chaired the Litigation Section of the American Bar Association, served as a member of the ABA's select committee that evaluates federal judicial nominees, and served as President of the Board of the Legal Aid Society in Washington. In 2002, Bob and Marty moved to Charlottesville, VA where Bob was a professor at the University of Virginia Law School, teaching rhetoric and trial advocacy. Bob reveled in his role helping budding lawyers strengthen their speaking skills, and he co-authored three editions of the book "Tongue-Tied America: Reviving the Art of Verbal Persuasion." Bob spent summers for over fifty years in Boothbay Harbor, ME, where he intrepidly sought to be crowned Mouse Island's Intergalactic Grand Champion of tennis, croquet, shuffleboard, and other important sports. In addition to Marty, Bob is survived by his two children and four grandsons.



Charles F. Scott, '98, passed away suddenly surrounded by family on August 30, 2022, survived by his wife of fifty-three years, Catherine Anne Scott (née Rayment), three children and eight grandchildren. He was seventy-four. Charles attended the University of Toronto, graduating with an Honours BA in Political Science and Economics in 1969, and an LLB in 1972. Charles and Cathy were big supporters of the arts with subscriptions to various arts events over the years. Charles was a long-time Director of the Confederation Centre



of the Arts in Charlottetown (of which his father had been a founder). P.E.I. was always a favourite place to visit and was close to his and Cathy's hearts. He also had a long involvement with St. Christopher House in Toronto. Charles was an excellent lawyer, but he had many other interests as well: family, golf, cars, food, travel, wine, and photography to name a few. Since 2007, Charles and Cathy visited their medieval house in Pigna, Italy every spring and fall where they enjoyed friendships with the locals and ex-pats and taking long meals on the terrazzo.

Past President **Earl J. Silbert**, '77, passed at the age of eighty-six on September 6, 2022. See p. 65 for his tribute.

James S. Simonson, '81, was eighty-seven when he died peacefully surrounded by family on October 10, 2022. Founder and longtime coach of the Minneapolis Wesac wrestling program, Jim was a prominent member of the Minneapolis community. Raised on a farm and educated in a one-room country schoolhouse, he wrestled at the University of Wisconsin. He earned his law degree from Harvard Law School in 1959. Jim was known for bicycling to work (including through the winter, and this is Minneapolis, remember). He ran daily around Lake of the Isles. He loved opera and golf. Jim is survived by his wife, Carol (Merryman) Simonson, four children, five grandchildren and two great-grandchildren.

Federal District Court **Judge Richard Smoak**, '92, passed peacefully at his home on Monday, May 2, 2022. Judge Smoak graduated in 1965 from West Point and served in the Army until 1970, during which he did two tours of duty in Vietnam. He earned his law degree from the University of Florida and was in private practice from 1973 through 2005, when he was appointed to the bench by President Bush. Judge Smoak's published biography is sparse, and a testament to his modesty, but discloses the impact his time in the Army – in Vietnam – must have had: "He accomplished many things during his life, and one that he was most proud of was administering the Oath of Citizenship to new Americans, especially to refugees from Southeast Asia."

P. Craig Storti, '99, passed away on March 4, 2022. Craig was born in San Francisco. When Craig was eight and his father died, Craig and his mom relocated to Buhl, Idaho. Craig attended the University of Idaho, earning a degree in Economics. He then enrolled at Hastings College of Law, graduating at the top of his class in 1971. He served as a law clerk to Idaho Supreme Court Justice Robert Bakes. After passing the California and Idaho Bar Exams, Craig entered the United States Marine Corps and served in the Judge Advocate General Corps. In 1975 Craig and his wife Tanya, who predeceased him after forty years of marriage, returned to Boise for private practice. In 2004 he took a position as Vice President of Litigation and Claims for Washington Group International and remained there until his retirement in 2015. Craig is survived by his three sons and their families, including three grandsons.

Michael Chandler Stewart, '85, passed away on November 22, 2022. Mike was an avid athlete who was invited to try out for his favorite team, the St. Louis Cardinals, after high school. And, like many Oklahomans, Mike was a diehard OU Sooner fan. He attended the University of Oklahoma, graduating with a Geology degree. He received his Juris Doctorate from OU and went on to serve in the JAG Corps. Mike later served as an Assistant US Attorney before beginning a private practice that spanned forty years. He loved golfing with his buddies. Mike is survived by his wife, Janie Morrison Stewart, to whom he was married for sixty-two years, four children, eleven grandchildren and four great grandchildren.



Patrick A. Sullivan, '96, was eighty-seven at his death, eighty-six years after his family had moved to Eastport, Idaho where his Dad served as an officer in the US Border Patrol. The family moved to Spokane in 1941 and most of his life was spent there. Pat was always either singing or playing one of his many instruments; at last count, he could play at least eight. Pat was a proud Gonzaga University graduate, both undergrad and law school. He was the Gonzaga band director during his undergraduate years and put himself through law school playing in a jazz band he created. After graduating with his law degree in 1959, he went on a blind date cooked up by his father and the father of Diane Zack. After a whirlwind three week courtship Pat's duty in the Army Judge Advocate's General Corps called him to Louisiana. He proposed long distance and they married on a leave three months later. During his assignment as a JAG officer Pat served as Chief Contracts Counsel for the Boeing Company, Saturn Branch, where he met regularly with NASA and space personnel such as Werner Von Braun. Pat wrote many of the original contracts for the Apollo Space Program for the Saturn V Booster. After service, Pat and Diane returned to Spokane where Pat's specialty was construction law. Pat is survived by Diane, their four children and multiple grand and great-grandchildren.



Colin J. S. Thomas, Jr., '82, passed on August 26, 2022 at the age of eighty-five, preceded in death by his wife of fifty-three years, Susan Timberlake Thomas, and survived by his three children, eight grandchildren and two great-grandchildren. Cal grew up in Ruxton, MD, where he acquired the nickname "Pinny." Cal served in the Marine Corps and obtained his undergraduate and law degrees from the University of Virginia, after which he joined Susan's father firm in Staunton, VA. Cal served as president of both the Augusta County Bar Association and the Virginia Association of Defense Attorneys. He was active in the College, serving on and chairing several committees. Cal taught at the National Institute for

Trial Advocacy and at the Trial Advocacy Institute at the University of Virginia, which he helped found in 1988. Cal enjoyed history, reading, poetry, hunting and fishing.

Harry J. Trainor, Jr., '01, passed away at home on October 10, 2022 at the age of seventy-seven, survived by Leslie Billman, his wife of thirty-four years, his daughter and two granddaughters. His friends observed that he was never without a bottle of Windex (without explaining why that was) and that he never missed an airline flight (without needing to explain).



Robert Lewis Trohn, '83, died peacefully at his home on July 17, 2022 at the age of ninety-one. He was born on Dec. 28, 1930, in Stamford, Connecticut to Philip and Beatrice Osman Trohn. While at the University of Florida, Bob asked his sister Susan about a beautiful sorority sister and was introduced to Doris Moss. Two weeks later, Bob proposed. Doris would become his lifelong partner – sixty-three years of marriage. Bob began his legal career as a criminal prosecutor, an assistant county solicitor, and an assistant City Attorney before founding his own firm. In his thirties Bob taught himself to sail and before long he was competing, including an annual race from St. Petersburg to Mexico. But apart from sailing, Bob rarely travelled, believing that the most interesting and beautiful place on earth was his house on the Manatee River. Bob is survived by Doris, three children and seven grandchildren.

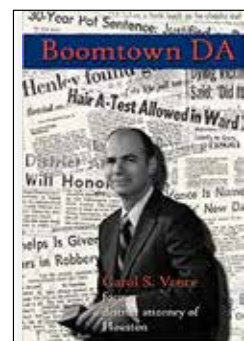


Carol Stoner Vance, Jr., '89, passed away at home on June 24, 2022. He was eighty-eight. Carol attended Texas A&M his freshman year, then transferred to The University of Texas where he received a BA and his law degree. At UT, Carol was on The University of Texas Rifle Team where his sharp-shooting earned him first place in the Southwest Conference. During law school Carol set his sights on and married Carolyn Kongabel. Carol served in the U.S. Army. He became an Assistant District Attorney for Harris County in 1958, and was later appointed District Attorney at the age of thirty-two. He was elected to another four terms, never facing an opponent on the ballot. As DA, he personally prosecuted some twenty jury cases of historical significance in Houston. Carol worked to pass many new laws, including the Texas Penal Code of 1974, which is still in effect today.



In 1979, Carol left public service for private practice. Carol served as Chairman of the Board of the Texas Department of Criminal Justice, which oversees the Texas Prison System. As Chairman, Carol started the first Christian-based program in a U.S. prison. The prison, in Richmond, Texas, was renamed the Carol S. Vance Unit in 1997 and led to similar programs in other states. Carol preached regularly in the Harris County Jail and taught courses, did field evangelism and missionary trips to Malawi, Kenya, Brazil, Argentina, Turkey, and Ecuador. Carol authored three books, including *Boomtown D.A.*, which recounts his adventures as a DA, including brushes with the

Mafia, grisly murder cases, and the prosecution of a Texas Supreme Court Justice. Carol is survived by Carolyn after sixty-eight years of marriage, his five children, fourteen grandchildren, and six great-grandchildren.



The Honorable **Henry R. Wilhoit, Jr.**, '80, passed on September 12, 2022 at the age of eighty-seven, survived by his childhood sweetheart Jane Horton (Huff) Wilhoit, with whom he eloped over sixty-six years ago, three children, five grandchildren, and three great-grandchildren. Judge Wilhoit was a renowned storyteller and a natural public speaker. Just a few months after being sworn in as President of the Kentucky Bar Association in June of 1981, President Ronald Reagan appointed him to serve as a judge in the Eastern District of Kentucky, where he remained for over forty years. As he quipped, "Jane Horton married me for better or worse, but not for lunch, so I had to keep working." Judge Wilhoit began practicing law in 1960 with his father and was the family's fourth generation of trial lawyers dating back to 1867. All three of his children went into law, two of them judges, and three of his grandchildren have extended the family legacy to six generations of attorneys. The Judge had a booming operatic voice and proudly professed that he never needed a microphone when he sang at UK football games. He rarely missed a game and it was widely known that his court docket was generally scheduled around UK games.



EMILY URQUHART AYSCUE

October 31, 1933 - November 1, 2022

Emily Urquhart Ayscue, wife of Past President Ozzie Ayscue (1998-99,) died peacefully on November 1, 2022 in Chapel Hill just after her eighty-ninth birthday. Born Emily Mizell Urquhart in Woodville, North Carolina, Emily played on the girls' basketball team in high school; she attended St. Mary's Junior College, where she was editor of the student newspaper. In 1955 she finished her undergraduate degree in Education at the University of North Carolina at Chapel Hill, where she met Edwin Osborne Ayscue, Jr., to whom she was married for sixty-five years. I once asked Emily, when they were nearly fifty years into that marriage, whether it had been love at first sight. With her signature twinkle in her eye, Emily said that she wasn't all that sure she actually wanted to get married – she enjoyed teaching so much. Apparently, she excelled at both teaching and marriage.

Emily taught high school civics in Norfolk, VA and Durham, NC, where her students excelled, and she later returned to UNC for her Masters degree in Education. Charlotte, became Emily and Ozzie's home in 1960, and they devoted themselves to community life. Emily volunteered in the Junior League and served on boards of the Thompson Children's Home and the Community School of the Arts as well as St. Mary's School in Raleigh. For more than four decades, Emily and Ozzie belonged to a reading group of good friends, who were always highlights in their lives, and with whom they shared many travel adventures. Emily was active in Christ Episcopal Church, where she served on the Vestry, and later became a member of Chapel of the Cross in Chapel Hill, where they moved in later years. Emily also was a member of the Charlotte Assembly and the National Society of the Colonial Dames of America.



Emily was an avid entertainer, accomplished bridge player and an impressive would-be husband-screener for her three daughters. She was also a proud grandmother, delighting in her eleven grandchildren's antics and accomplishments over the years.

At her memorial service, Emily's son, Edwin Osborne Ayscue, III, told the congregants that his mother:

would be so happy you are here. She loved, *loved* gatherings, and she would want to make sure everything was just right for you, and mostly she would be thrilled that we have an opportunity to be with each other. Perhaps one

thing we all have in common in our experiences is that when she was with you, she was never somewhere else. One-on-one, connecting with you, was her superpower.


I have never met Emily and Ozzie's son, and I certainly did not know Emily as well as he did, but, boy, does that capture her. I saw Emily only at College meetings, lots of College Meetings. And when you were lucky enough to be seated next to her at dinner, it was a treat. You got a heavy helping of that eye-twinkle. You got her undivided attention. You connected. Well, no you didn't connect, she did. She put the beautiful ding in Southern Belle.



She will be missed. Certainly by Ozzie, by her son and three daughters and their families and her eleven grandchildren and her bridge partners. And by all lucky enough to have known her.



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— from the College Induction Charge

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Mark your calendar now to attend one of the College's upcoming gatherings. Events can also be viewed on the College website, actl.com, in the 'Events' section.

NATIONAL MEETINGS



2023 SPRING MEETING
THE RITZ CARLTON,
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2023 ANNUAL MEETING
MARRIOTT MARQUIS
SAN DIEGO, CALIFORNIA
SEPTEMBER 21-24

STATE/PROVINCE MEETINGS

FEBRUARY 10-12, 2023	NORTH CAROLINA AND SOUTH CAROLINA FELLOWS EVENT, BLUFFTON SC
MARCH 8, 2023	NEW YORK DOWNSTATE DINNER, NEW YORK NY
APRIL 6, 2023	NORTHERN CALIFORNIA FELLOWS EVENT, BERKELEY CA
MAY 5-7, 2023	MISSOURI FELLOWS RETREAT, RIDGEDALE MO
MAY 12-14, 2023	TEXAS FELLOWS EVENT, SAN ANTONIO TX
MAY 19-21, 2023	OKLAHOMA FELLOWS EVENT, GRAND LAKE OK

OTHER EVENTS

MARCH 3-4, 2023	GALE CUP MOOT
MARCH 16-18, 2023	SOPINKA CUP
MARCH 30-APRIL 2, 2023	NATIONAL TRIAL COMPETITION, SAN ANTONIO TX
MAY 5-7, 2023	ACTL DIVERSITY TRIAL ADVOCACY PROGRAM
MAY 11-13, 2023	ACTL CORPORATE IN-HOUSE COUNSEL PROGRAM

JOURNAL

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*Hon. Emil Gumpert
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