



JOURNAL

THE AMERICAN COLLEGE OF TRIAL LAWYERS

**2018-2019 PRESIDENT
JEFFREY S. LEON, LSM
AND HIS WIFE, CAROL BEST,
CALL TWO PLACES HOME –
TORONTO, ONTARIO AND
SCOTTSDALE, ARIZONA.**



JOURNAL

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LETTER FROM THE EDITOR

AS ONE OF ITS FUNDAMENTAL TENETS, THE COLLEGE EMBRACES THE RULE OF LAW—THE CAPITAL LETTERS ADD MAJESTY TO AN ALREADY MAJESTIC CONCEPT—AS AN AVENUE OF INDEPENDENT AND IMPARTIAL ADJUDICATION OF LEGAL DISPUTES.

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While the Rule of Law has certain interpretive elasticity, it encompasses all forms of rights and obligations under an umbrella of equality and protection for all people, irrespective of race, gender, etc. There seems to me to be not only a macro level of the Rule, more politically related, addressing democratic values, the right to vote and the like, but also a micro level, focusing as the College does on a justice system that embraces concepts such as judicial and prosecutorial independence along with the presumption of innocence and so on.

As to the former, it's a fair observation that democracy has a certain fragility as "the law itself, the Constitution, and the Supreme Court can only uphold a small portion of our democracy. The rest is supported by individuals who operate within the traditions of their jobs" like the Attorney-General, the FBI Director and others. (Roiphe, "Can the Rule of Law...", *NYR Daily*, June 1, 2018)

As to the latter, we face systemic issues such as the cost of litigation to the 'vanishing trial.'

In the spring of this year, *Lapham's Quarterly* devoted an entire issue to the Rule of Law and, as it happens, nothing could be more apt in this age where rules-based values seem to be hanging by a very thin thread. As trial lawyers, we serve the Rule of Law as a mainstay of our calling. For further reflection, I offer a few thoughts, some cynical, on this heady topic by some great thinkers and writers of the ages.

From Abraham Lincoln: "...Let every lover of liberty, every well-wisher to his posterity, swear by the blood of the revolution never to violate in the least particular the laws of the country, and never to tolerate their violation by others." ("The Perpetuation of Our Political Institutions," January 27, 1838)

Joseph de Maistre: "There is then in the temporal sphere a divine and visible law for the punishment of crime. This law, as stable as the society it upholds, has been executed invariably since the beginning of time. Evil exists on the earth and acts constantly, and by a necessary consequence, it must be constantly repressed by punishment." ("The Soirees of St. Petersburg," 1821; de Maistre also said, "a democracy gets the government it deserves" but I leave that for another day.)

Frederick Douglass: "Law is in its nature opposed to wrong and must everywhere be presumed in favor of the right. The pound of flesh, but not one drop of blood, is a sound rule of legal interpretation. But there is another rule of law as well as of common sense, which requires us to look to the ends for which a law is made, and to construe its details in harmony with the ends sought." (Address on the *Dred Scott* decision made to the American Abolition Society, May 14, 1857.)

Janet Malcolm: "Truth is a nuisance in trial work. The truth is messy, incoherent, aimless, boring, absurd. The truth does not make a good story; that's why we have art... Trial law shares a vocabulary with science—

fact, evidence, proof—but its method is the opposite of scientific method; the experiment is always fixed." (*The Crime of Sheila McGough*, 2000)

Napoleon Bonaparte: "Rule constitutionally. Even if reason and the enlightenment of the age were not sufficient cause, it would be good policy for one in your position; and you will find that the backing of public opinion gives you a great natural advantage over the absolute kings who are your neighbors." (Letter to Jérôme Bonaparte, 1807)

Finally, from Erica Benner: "...laws can rule if we equip them to—but not by themselves. Even the kingliest laws need constant support from citizens who understand their human origins and all-too-human vulnerability." ("The Daimons' Wisdom," *Lapham's Quarterly*, Spring 2018)

The N'awlins meeting looks chock-a-block with fascinating topics and diverse speakers. What could be better than a bourbon on Bourbon Street with other Fellows at the end of September?

Especially as this is our "stand-alone" issue, I remind Fellows that at the *Journal*, we consider all submissions for publication, if they are timely and topical.

Stephen Grant

PRESIDENT'S PERSPECTIVE

A S THE COLLEGE YEAR WINDS DOWN AND WE APPROACH THE UPCOMING, EXCITING ANNUAL MEETING IN NEW ORLEANS, I WILL, WITH YOUR INDULGENCE, REFLECT A LITTLE ABOUT WHAT THIS YEAR HAS BEEN LIKE FOR BETTY AND ME.

In short, this has been an incredible experience, and we greatly appreciate the privilege and honor to have served as President and First Lady. By the time we arrive in New Orleans, I will have covered over 50 events around the United States and Canada, and Betty joined me on almost all of them. These events have included our Chairs' Workshops (in the future we will have a single, combined session to reduce expenses), final rounds in the moot and trial competitions we support in both countries, Regional Meetings, and state or province events at which the number of attendees ranged from quite large to rather small. Everywhere we have traveled, we have been welcomed with enthusiasm and warmth, making many new friends that we will enjoy in the years to come.





It would be impossible to name a favorite event or place we have visited, but one thing that does stand out is the beautiful Center for Human Rights located in Winnipeg Manitoba.

I was fortunate enough to have time during the day of my visit to tour this most impressive facility, whose theme throughout the various galleries is: “All human beings are born free and equal in dignity and rights.” If you should ever be in the Winnipeg area, I highly recommend even a short visit to this museum.

I am happy to report that the College is healthy in every respect. From a financial standpoint, we are in excellent standing, with a very careful system of budgeting, forecasting, and controls. We ended the 2018 fiscal year with solid operating and investment results. Lest any of us take our financial success for granted, one might compare the recent articles highlighting struggles faced by the American Bar Association, including significantly declining

membership and decreasing annual revenues, which has resulted in three years of significant operational losses.

We do not take our success and good fortune for granted, and must continue to conduct all our affairs in a manner such that all Fellows, new and old, desire and seek active engagement in the College at some level. We recognize that our annual dues are substantial and we strive to deliver value to our Fellows. In addition to all of the ongoing work done by State, Province and General Committees, during this year we have commenced a number of significant activities. We have a Task Force on Judicial Independence undertaking a review of the College’s existing white paper on that topic, as well as evaluating other ways in which we can be more supportive of the important principle of judicial independence; we have the Advertising Subcommittee, under the Admission to Fellowship Committee, reviewing our existing guidelines on lawyer advertising and how

“ QUIPS & QUOTES ”

ALL HUMAN
BEINGS ARE
BORN FREE AND
EQUAL IN DIGNITY
AND RIGHTS

The over-arching
theme of the Center
for Human Rights in
Winnipeg Manitoba.



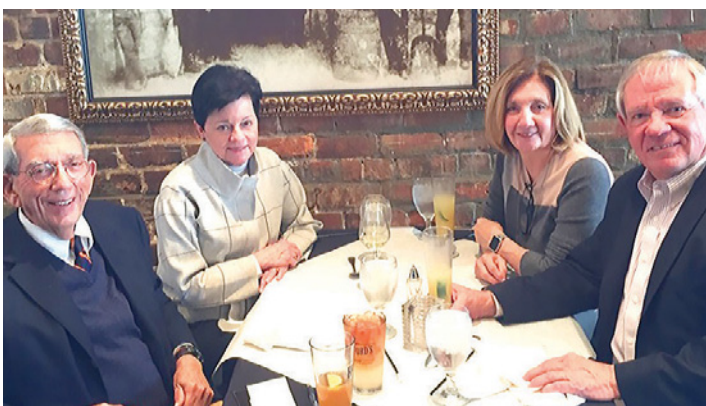
those impact evaluation of nominees; and we have the Ad Hoc Committee on the Response of Universities and Colleges in Canada to Allegations of Sexual Violence evaluating whether the College should supplement our existing white paper on the topic of fairness in campus sexual assault proceedings to address identical issues in Canada. Lastly, I recognize and thank again those Fellows who have worked so long and hard to assist veterans in the United States faced with unreasonable delays in resolution of appeals from denial of disability claims, as well as those who volunteered to assist families facing deportation proceedings.

The Board is careful, in everything we do, to recognize and honor our traditions, but consistent with recommendations approved from the 2015 Board of Regents Retreat, we seek ways in which the College and its mission can be more broadly recognized, and to improve our own internal communications with our existing Fellows. We follow our existing policies and processes on issues that arise and that might trigger a need for the College, or one of our Committees, to issue a public statement.

As our membership ages, it is always sad to lose any of our Fellows. We were saddened during this year to lose two of our treasured Past Presidents, Charlie Renfrew and Jimmy Morris, and two spouses of Past Presidents, Jane Morris and LeAnn Stout. We will miss them and all that they brought to the College during their respective lives.

On a much happier note, our travels this year have afforded a number of opportunities to visit with Past Presidents who continue to do so much for the good and well-being of the College, including Gene Lafitte, Tom Tongue, Chilton Varner, David Scott, Bob Fiske, Mike Cooper, Greg Joseph, and Bart Dalton, pictured below during our visits.

And what a personal treat it was to lunch with Karen Famularo, surviving spouse of beloved Former Regent John Famularo and well known to a number of you, during our visit to Lexington,





Karen Farmularo and First Lady Betty Franklin visiting while on the trip for the 2018 Kentucky Fellows Dinner

Page 5, from left to right:

President Franklin, First Lady Betty Franklin, Jackie and Past President Gene Lafitte during the 2017 Louisiana Fellows Dinner

Past President Tom Tongue, First Lady Betty and President Franklin at the 2017 Oregon Fellows Dinner

Morgan and Past President Chilton Varner; President Franklin and First Lady Betty Franklin during the 2018 Tr-State Regional Meeting in Savannah, GA

Past President David and Alison Scott; Carol Best and President-Elect Jeff Leon; First Lady Betty and President Franklin during their trip for the Sopinka Cup in Ottawa, Ontario

Below:

Past Presidents Greg Joseph, Mike Cooper, President Franklin, and Janet and Past President Bob Fiske at the Century Association for the 2018 Downstate New York Fellows Dinner

Former Regent Dennis Suplee, Eileen and Immediate Past President Bart Dalton, New Jersey State Committee Vice Chair Harry and Nancy Klingeman and Pat Suplee visit after the 2018 Third Circuit Regional Meeting in Wilmington, Delaware



Kentucky. The lasting friendships we make are one of the great benefits of our fellowship.

In my remarks to virtually every gathering I have attended, I have spoken about the challenge of identifying those trial lawyers who meet our standards and are worthy of invitation to Fellowship. Two aspects of this important responsibility shared by all of us are to be ever vigilant to look for young trial lawyers, and to be diverse and inclusive in our nomination process. At the two most recent Board meetings, in Montréal and Phoenix, we saw improvements in terms of the number of women and minority lawyers approved for Fellowship, so our attention to and efforts in this regard are paying dividends. Again, it is important in our nomination process to recognize there are differences in the 21st century trial lawyer and their courtroom opportunities from the trial experiences that many of us were able to enjoy in our early careers.


Words cannot adequately express the tremendous support that I have had from the Board of Regents, the Executive Committee, and our outstanding National Office staff. Our Executive Director, Dennis Maggi, passed his fifteenth anniversary as the leader of our wonderful group in the National Office, and continues to do an excellent job. I extend a special thanks to the members of the Executive Committee – Bart Dalton, Jeff Leon, Doug Young, Rodney Acker, and Mike O'Donnell – for all of the support, guidance, and wisdom they have provided to me during this past year. All of these Fellows and their spouses are special friends, to whom Betty and I are indebted. I am very excited about the future leadership at the officer level, and especially the passing of the maul to my great friend and our next President, Jeff Leon from Toronto, our second Canadian President.

I am so fortunate, so lucky to have enjoyed ten years in leadership positions in the College, including Alabama State Committee Chair, Regent, and four years in various officer positions. I look forward to the year as Immediate Past President and when that is done, will miss an active role in our leadership. This gift of leadership positions has allowed me to know so many outstanding Fellows from around the United States and Canada. I close by reminding everyone of the words from our induction charge, “Long and happy may be our years together!” ■

**A PROFILE ON
2018-2019 PRESIDENT
JEFFREY S. LEON, LSM**





 T'S HARD TO IMAGINE, FOR ME ANYWAY, THAT OUR INCOMING PRESIDENT HAILS FROM WESTERN CANADA BUT THAT'S THE CASE. BUT YOU CERTAINLY CAN TELL THAT HE HAD SARTORIAL SPLENDOR IN HIS BACKGROUND, HAVING WORKED IN THE MENSWEAR STORE HIS FATHER MANAGED IN EDMONTON, ALBERTA.

While he excelled in academics at the University of Alberta, having won several awards, none, as he told me, were in the 100-yard dash, high jump, or hockey. I think the uniforms for those sports weren't sufficiently elegant for him.

He has two brothers, both lawyers and is a staunch fan of the (second-rate, in my opinion) Canadian Football League. Coming from a western background, he was seen as a "leftie" at university, although a "weekend" one only as he told me. Law was an easy choice for Leon as the way to save the world or at least teach. After his graduation from University of Toronto Faculty of Law, he clerked for the Chief Justice of Ontario, he came in contact with the brilliant legal minds of the day, helping shape his own love of the law, persuading him to become a trial lawyer. As was the case, then, he was a generalist, even doing some family law which I faintly recall but he soon saw the futility of that aspect of the pursuit.

As part of his stellar career as an advocate, Leon ultimately became President of The Advocates' Society and, later, Chair of Pro Bono Law On-





tario. After induction into the College in 2002, Leon threw himself into both the professional and social aspects of the College. This to the point where the College has become a focal point in Carol's and his life. Apart from its own reward, Leon realized, as most of us do, that this was fun, and he has come to enjoy the friendship of Fellows across the continent.

Although Leon eschews the wearing of bow ties like his Canadian Past President and mentor **David Scott**, he intends to pursue the diversity initiatives undertaken by the College for several years now. Leon is passionately committed to a strong and relevant organization, seeing both diverse and younger lawyers as the College's future. To ensure that vibrancy of Fellowship, while maintaining our rigorous criteria, Leon wants to explore ways that the College can assist in identifying suitable candidates for Fellowship by promoting mentorship, giving younger lawyers the opportunity to have trial experience, finding institutional ways that facilitate such experience, and increasing the role of the College



and Fellows of the College in teaching trial skills. This includes “learn by doing” programs, demonstrative programs, both in the classroom and in courtrooms. Not only does Leon see this as important for the College but, in these tumultuous times, bolstering our mission of maintaining the Rule of Law and a strong and independent justice system. Quoting Samantha Nutt of War Child who spoke during the 2015 Spring Meeting in Key Biscayne, Florida, Leon reminded me that “what the world needs is more [trial] lawyers.”

In his “other” life, Leon finds grandfather-hood “the best.” (I share this view.) Given that the Best/Leon family does much travelling anyway, the rigors of a year through North America should be old hat for them. For Leon, it gets him as close as possible to his two other life goals—being a truck driver and itinerant cowboy. I did mention he comes from the west. Whether they spend as much time in their Scottsdale retreat as they have been doing remains to be seen.

Notwithstanding his slimmed down figure—his sartorial splendor continues—the Best/Leons continue to enjoy fine dining and good wine, particularly with good friends. Otherwise, Leon is a bit of a sports junk-

ie and shares tickets to our major sports teams here in Toronto (although, why bother with those other than baseball, especially the Canadian Football League, I wonder?). Leon in his new svelte self is now focused on some 5k and 10k runs. (Carol Best and he met running a marathon at the northern tip of Baffin Island, essentially, the North Pole, lo, those many years ago and have been inseparable since.)

Though he gave up his dream of saving the world as a lawyer, Leon has tried to make the world a better place, largely through law. He has undoubtedly succeeded as a role model for civility within the legal community and community at large. While he is unlikely to be remembered for being a rock star or star athlete, he will undoubtedly be remembered as someone who passionately pursued a career giving sound advice and wise counsel to his clients, and there’s much to be said for that achievement.

Finally, I asked Leon about his carbon footprint. All he told me was “guilty as charged.” Sentence suspended.

Stephen Grant

Toronto, Ontario





RIGHTING THE WRONGS

MISSOURI FELLOW SECURES FREEDOM FOR WRONGFULLY CONVICTED MAN



FELLOW **CHARLES A. WEISS**, A PARTNER OF BRYAN CAVE LEIGHTON PAISNER LLP IN SAINT LOUIS, MISSOURI, AND A FORMER CHAIR OF THE COLLEGE'S ACCESS TO JUSTICE AND LEGAL SERVICES COMMITTEE, DOESN'T JUST TALK ABOUT THE IMPORTANT OF PRO BONO LEGAL SERVICES – HE PERSONALLY PROVIDES THESE SERVICES. ONE RECENT CASE RESULTED IN AN EXTRAORDINARY DECISION OF THE MISSOURI SUPREME COURT AGREEING WITH THE REPORT OF THE SPECIAL MASTER APPOINTED IN THE CASE. THE SPECIAL MASTER FOUND “CLEAR AND CONVINCING EVIDENCE” OF THE “ACTUAL INNOCENCE” OF WEISS’ CLIENT, DAVID ROBINSON, OF THE 2000 MURDER OF SHEILA BOX.

Robinson’s conviction was based on two witnesses, one of whom said they saw Robinson fatally shoot Box in her car on August 5, 2000. The other claimed to be in the same jail cell with Robinson and said Robinson admitted he shot Box. Investigators found no physical evidence of Robinson’s involvement in the crime. The two state witnesses later recanted, saying they had testified against Robinson to receive favorable treatment with respect to their own legal troubles.

Moreover, another man, Romanze Mosby, later confessed on audio tape to a public defender investigator and to at least five other people that he shot Box, saying she pulled a gun on him during a drug deal. Mosby hanged himself in 2009, while in prison, but left behind the



taped confession of the Box murder. Although Mosby was an obvious suspect at the time, the State’s investigator did not investigate Mosby. The Special Master found the investigator instead “ignored or suppressed facts” to tilt the investigation toward Robinson.

Weiss said this case is a reflection of “how many hurdles” a wrongfully convicted and innocent person must overcome to gain his freedom under the law. Robinson’s conviction was affirmed on appeal. He was denied relief in a statutory post-conviction proceeding and again in a habeas hearing.

After Weiss and his team got involved, they filed another habeas corpus petition in the circuit court in Cole County, Missouri but, after an evidentiary hearing, the court again denied

Robinson relief. Weiss and his team followed up by filing a habeas corpus with the Missouri Court of Appeals, which also denied Robinson relief. They then filed a *habeas corpus* petition with the Missouri Supreme Court.

In early 2017, that court granted Robinson a preliminary writ of habeas corpus and appointed Judge Darrell Missey to serve as a Special Master to take evidence and to make findings of fact and conclusions of law. Judge Missey held seven days of evidentiary hearings in 2017 and heard testimony of 16 witnesses before issuing his findings of “actual innocence.”

While Weiss and Robinson were thrilled with this report, Robinson remained in prison. Ironically, if he had been sentenced to death, he would have been entitled under Missouri case law to a new trial or release from prison under this finding of “actual innocence.” But Robinson had been sentenced to life in prison, and the Missouri Supreme Court precedent on

“actual innocence” claims had never been applied in a non-capital case.

The Special Master urged the Missouri Supreme Court to recognize an actual innocence claim in a non-capital case, saying:

There is no reasonable argument that an innocent petitioner’s incarceration for life is not a “manifest injustice,” Missey wrote. “Only the most tortured logic could yield the conclusion that David Robinson must continue to serve a life sentence but would have walked free if only he had been sentenced to death. There is no basis in law or reason for such a distinction to be made.”

So, Weiss still had work to do to see this injustice corrected. It now has been.

On May 1, 2018 – Law Day – the Missouri Supreme Court entered its order finding that Robinson had established his “‘gateway’ claim of innocence” and was entitled to be released unless the

State elected to re-try him. Notably, in obtaining this significant order for a man who spent 17 years in prison for a crime he did not commit, Weiss had the victim’s daughter rooting for him to succeed, as she has publicly declared her own belief in Robinson’s innocence of the murder of her mother.

Happily, on Monday night, May 14, 2018, David Robinson walked out of prison, a free man after 17 years of wrongful imprisonment. Weiss and his team had filed an emergency petition to have Robinson freed and it was granted hours later. His law firm’s pro bono work was widely featured in the media, and Weiss was interviewed by *CBS This Morning*, highlighting the problem of wrongful convictions in our country.

The College is rightfully proud of Weiss’ pro bono service in this important and precedent-setting case.

Sylvia H. Walbolt
Tampa, Florida



AWARDS & HONORS



ANDREW J. GUILFORD

of Santa Ana, California, has been recognized with 2018 American Inns of Court Professionalism Award for the Ninth Circuit. He will be presented the award by Chief Judge Sidney R. Thomas at the Ninth Circuit Judicial Conference in Anaheim, California. A Fellow since 1992, he has served on the California-Southern State Committee and the Access to Justice and Legal Services Committee.



WILLIAM E. PETERSON

of Reno, Nevada, has been awarded the Presidential Award by the State Bar of Nevada. This award is presented annually to members of the bar whose conduct, honesty, and integrity represent the highest standards of the legal profession. He is a former Chair of the Nevada State Committee and has served as liaison to the Teaching of Trial and Appellate Advocacy Committee as well as a member of the Judiciary Committee. He has been a Fellow since 1993.




JOSEPH J. ROPER

of Kansas City, Missouri, is the recipient of the 2018 Ben Ely Jr. Defense Lawyer of the Year Award. The award is presented annually by the Missouri Organization of Defense Lawyers to one lawyer in the state, who exhibits high moral, ethical, and professional standards. Inducted into the College in 2007, he has served on the Judiciary, Jury, and Missouri State Committees.



JUSTIN P. WALDER

of Hackensack, New Jersey, has been awarded the New Jersey State Bar Foundation's highest award, the Medal of Honor. The award recognizes his contribution to improving the justice system and enhancing New Jersey's legal legacy. The award was presented on Sept. 17, 2018. He has served on the New Jersey State Committee and has been a Fellow since 1977.



REVIEW OF

BUSINESS AND COMMERCIAL LITIGATION IN FEDERAL COURTS, FOURTH EDITION,

ROBERT L. HAIG, EDITOR

There are some experienced lawyers who might respond skeptically to a proposed hefty investment in a detailed fourteen-volume treatise on the litigation business and commercial cases in the federal courts. Surely, such tomes have limited utility for trial lawyers seasoned in courtroom practice. Even if that seems a bit too smug, and it certainly is, treatises surely are the province of less seasoned lawyers who seem to rely exclusively on electronic information anyway. So, what is the value proposition here? I have the answer for you and the support of an impressive group of Fellows of the College who agree with me.

I am referring to the *Fourth Edition of Business and Commercial Litigation in Federal Courts*, edited by Robert Haig of Kelley Drye & Warren. It is a unique and invaluable resource for any lawyer handling complex civil litigation, trials, and appeals in federal court. While styled as a treatise, it is a practical guide by practitioners for practitioners covering most aspects of the trial lawyer's craft. The latest edition includes forty chapters authored by Fellows of the College, including chapters covering case evaluation, discovery, trial presentation, litigation management, civility between opposing counsel, and many areas of substantive law. For that reason alone, the Fourth Edition is worth the investment.

This monumental work is a joint venture between Thomson Reuters and the ABA Section on Litigation, with all royalties going to the Section on Litigation. Since the publication of the First Edition in 1998, Haig and his authors have refined and enlarged each succeeding edition. The Fourth Edition has 153 chapters, including twenty-five new chapters, as well as significant expansions of many chapters from the last edition. In addition to Fellows of the College, he has assembled an impressive cast of leading commercial litigation lawyers as well as twenty-seven judges as authors for this edition. As Haig stated in the forward to this edition, the treatise has



evolved into a “step by step practice guide that covers every aspect of a commercial case, from the investigation and assessment that takes place at the inception, through pleadings, discovery, motions, trial, appeal, and enforcement of judgment.”

The scope of the treatise is apparent from a quick perusal of the comprehensive table of contents, or if you wish to take a deeper dive, from the impressive index. Each chapter contains a comprehensive discussion of the particular subject matter and relevant citations, as well as an outline of practice aids, checklists, and relevant forms. The depth of experience of the authors emerges from the practical treatment in each chapter of the interplay between procedure, substantive law, client objectives, and strategy. Moreover, the quality of Haig’s work as editor is evidenced by the numerous cross references in each chapter to other chapters of the treatise.

Those of us involved in commercial litigation in the federal courts receive frequent reminders of the increasing complexity of the challenges faced by our clients, as well as the critical importance of quality lawyering to address those challenges. For that very reason – returning to my initial query on the value proposition – I am confident that this impressive, exquisitely practical treatise would be a valuable addition to the practice toolkit of every Fellow involved in commercial litigation and trial practice.

John T. Montgomery

Winchester, Massachusetts

A full version of this article with footnotes is available on the College’s website and can be found through the Search function. ■



COMPLETING THE MISSION — THE THALIDOMIDE SAGA

N EARLY SEPTEMBER 2017, PHILADELPHIA LAWYER **STEPHEN E. RAYNES** STOOD ALONGSIDE THE OTHER 77 NEW INDUCTEES OF THE AMERICAN COLLEGE OF TRIAL LAWYERS IN A MONTRÉAL HOTEL. IT WAS ONE OF THOSE LIFE MOMENTS WHEN MANY RELATED THINGS CAME TOGETHER IN A PROFOUNDLY MEANINGFUL WAY. IT WAS NOT JUST THAT HE WAS FOLLOWING IN THE FOOTSTEPS OF HIS LATE FATHER – **ARTHUR G. RAYNES** – IN EARNING THE DISTINCTION OF FELLOWSHIP. BEYOND THAT, THE LOCATION – ONE OF CANADA'S HISTORIC CITIES – WAS POIGNANT BECAUSE OF A UNIQUE RELATIONSHIP BETWEEN BOTH FATHER AND SON, AND SOME OF CANADA'S MOST VULNERABLE CITIZENS.

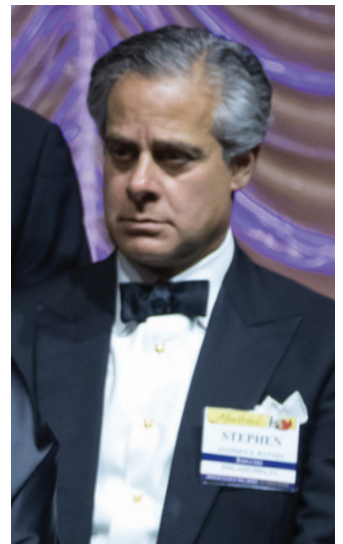
The story begins in the 1960s when the drug Thalidomide began to be marketed as a treatment for the morning sickness experienced by pregnant women. Over time, horrific birth defects began to appear in the children of mothers who had ingested the drug. America was spared the brunt of the tragedy because of a heroic stance by a pharmacist at the Food and Drug Administration, Dr. Frances Kelsey, who was Canadian. But the same could not be said of Germany, England, and Canada, where Thalidomide was widely marketed.

Given that American distribution was limited to physicians for research purposes, it is ironic that the first courtroom trial involving Thalidomide occurred in the U.S. More specifically, it took place in the Eastern District of Pennsylvania before Judge Emanuel Mac Troutmann in February 1969, with Arthur Raynes serving as counsel for plaintiff. Fittingly enough, for purposes of this story, one of the lawyers defending the manufacturer of the drug would also go on to become a Fellow - **Edward (Ned) Madeira** of Pepper Hamilton. The case proceeded in an era before there was a highly developed law of product liability, at a time when litigation of cases

against the pharmaceutical industry was a relative rarity. Arthur Raynes was still in his thirties, having left a leading plaintiffs' firm to start his own, and was just coming into his own as a force in the Philadelphia legal community. Both the costs and the complexity of the case were daunting, and as another member of the firm once confided to me, Raynes mortgaged his home to fund the litigation.

Through dogged legwork, Raynes found evidence strongly suggesting that his client had been prescribed the medication at the Cleveland Clinic while on a trip, where records demonstrated that a supply of the drug had likely been available for use in a clinical trial. That alone might not have carried the day, but any weakness in that proof was more than offset when Raynes persuaded Professor Widukind Lenz, the German scientist who first identified the risk of Thalidomide, to testify, and opine that the plaintiff's condition was emblematic of exposure to the drug. As the trial proceeded, it became the focus of increasing publicity, and as the evidence continued to break in plaintiff's favor, the manufacturer offered a confidential settlement approximately three weeks into the trial.

Meanwhile, in Germany, the toll exacted by Thalidomide led to a criminal prosecution, which resolved when the principal manufacturer estab-



Stephen Raynes, during the night of his induction in Montréal

lished a fund for victims supplemented by the government. In Britain, a combination of litigation and intense press coverage also led to the creation of a fund, later supplemented by the government, and ultimately accompanied by a formal apology from the Minister of State Health for regulatory failures surrounding approval of the drug. In Canada, however, Thalidomide victims fared far worse. Their plight was not initially a focus of public concern because the number of victims was comparatively smaller. As early as 1963, Canada's Health Minister vowed that the government would care for the affected children "in the best manner possible," but that noble sentiment was not followed by meaningful action. When the first claims arose in Canadian courts, the manufacturer imposed strict confidentiality on the relatively modest settlements that were reached. Canadian law did not recognize strict liability for product defects, and had short statutes of limitations that were rigidly enforced, leaving multiple claims barred once families identified Thalidomide as the culprit.

One lawyer in Canada saw a path around the obstacles, Professor Allen Linden, who would later become Canada's leading authority on torts and a judge on the Federal Court of Appeal. Linden had an insight that would be commonplace today, but was farsighted for its time: to look south to American courts, where he had observed and had been impressed with the creativity and perseverance of American lawyers, among them Arthur Raynes. And so it came to pass that Raynes, together with Ohio Fellow **Craig Spangenberg**, became the voice of Canadian Thalidomide victims.

The cases proceeded from there, with all of the usual ups and downs of complex litigation. Spangenberg pursued a class action in Canada, and Raynes a series of cases in different American venues. In the summer of 1984, a final series of settlements was consummated, which Raynes told the *Wash-*

ington Post "will close the book on the Thalidomide saga," as the last victims in North America had finally been compensated. But that hardly ended Raynes' relationship with those he had represented. That same year in 1984, he hosted the first reunion of survivors at the same Montréal Hotel – the Queen Elizabeth – where his son Stephen would later enter the College. He remained in personal contact with many of his clients. Just inside the door of Arthur's office hung a picture of a smiling young athlete draped in medals won in athletic competitions, Thalidomide survivor Josee Lake. On a shelf near his desk, Arthur kept Allen Linden's treatise *Canadian Tort Law*, with a 1969 inscription from its author: "To victory and justice for all Thalidomide children." And when Arthur passed suddenly in 2006, Josee Lake made the journey to Philadelphia to represent survivors at his funeral.

LIKE FATHER, LIKE SON

Steve Raynes was not yet a lawyer when the last Thalidomide case was settled, but because the case was so personal to Arthur and his entire family, he didn't just know the story, he knew many of the Canadian survivors. Like his father, as he came into his own as a lawyer, he also represented clients in an unusual number of complex international cases, such as the family of a doctor killed in the 2004 collapse of Terminal 2E at Charles de Gaulle Airport in Paris, and more than 1,300 hemophiliacs in Spain who contracted HIV from tainted blood products. Not surprisingly, he also came to represent many Canadians, including the victims of one of the worst tragedies in Newfoundland history, the crash of an American-made helicopter transporting 16 workers to an offshore oil rig.

Then in late 2012 Steve Raynes received a call, urging him to come to a meeting of Thalidomide survivors in Canada. It was Mercedes Benegebi, who was not just a former client but a family friend, and long-standing director of the Thalidomide Victims Association of Canada. The situation faced by



her community had become dire, and in her mind Steve was the only person to whom she could turn. When the cases had been settled decades before, no one knew how long the children of Thalidomide would live. Nor could physicians predict how their needs would increase as the normal toll of aging was layered on top of the ravages of the drug. The settlements were substantial and in some cases unprecedented for their time, but inflation exacted its toll. There was another group who for a variety of reasons did not participate in the American litigation. Some of the survivors were selling their homes to meet expenses. Listening to their plight, it was clear to the younger Raynes that he was morally obligated to take up the fight first waged by his father decades before.

A path forward was by no means clear. Releases alone would present an insurmountable bar to litigation, let alone the statute of limitations. In digging back through the worldwide history of the crisis, Raynes agreed with Benegebi that lessons could be learned from the other countries profoundly affected by the drug – where broad public campaigns had led to government support as recompense for regulatory failure. As he pondered possible approaches, one of the first calls he made was to a Vancouver Queen's Counsel with whom Raynes had co-counseled in major cases in Canada, Joe Fiorante. Together, all three began to develop an almost inconceivable plan: to persuade Parliament that Canada had, for all practical purposes, abandoned some of its most vulnerable citizens whose plight could be directly linked to failures of government. The audacity of the campaign – what Arthur would proudly call *chutzpah* – was striking. In litigation, it is the threat of an adverse judgment that gives a lawyer leverage, and none existed here. This was advocacy in its purest form, the proposition that a government should act solely because it was the right thing to do.

Both lawyers resolved to work pro bono, and absorb the costs associated with the campaign. They persuaded a former Member of Parliament, Barry Campbell, to volunteer his services as their advisor on the intricacies of the legislative process. A fair criticism of contemporary legal practice is that too many lawyers try to make themselves the center of a case: the press conference has become *de rigueur*. In keeping with the Raynes style, this team took the exact opposite approach, resolving that no one other than a victim of Thalidomide would ever make a public statement. And so began a nearly two-year process of painstakingly making the case and building pressure toward a public solution, during which time Steve Raynes shuttled back and forth from Canada, frequently walking the halls of the capital. In yet another example of intersecting circles of life, on one of those trips he enlisted the support of Professor Linden, who had gone on to serve on Canada's Federal Court of Appeal, and whose treatise on Canadian tort law was by then in its tenth edition.

In the 1970s in England, a series of stories by *The Sunday Times*, published in the face of threatened legal action under Britain's strict law of defamation, had played an important part in sparking legislation. Once again, Arthur's legacy manifested itself. Sir Harold Evans was the editor who had braved contempt to advocate for England's children. He had known and respected Arthur, which made him willing to introduce Steve Raynes to the editor-in-chief of Canada's most influential newspaper, the *Globe and Mail*. It quickly became the media voice for Canada's Thalidomide survivors, ultimately winning a Michener Award for its coverage, the equivalent of a Pulitzer Prize in the States. But as powerful as the *Globe's* stories were, for direct impact on the legislators, the most effective tool proved to be video testimonies about the survivors' lives. Raynes crisscrossed the provinces interviewing survivors, bringing to bear the expertise of his firm, which continues to be a pioneer in the use of videos in litigation.

The case to legislators was quietly pressed over many months, and when a bill was finally introduced, both its unanimous passage and its full funding occurred with remarkable speed. After decades of looking away, in 2015 Canada committed \$180 million in support for the remaining children of Thalidomide. Sir Harold Evans, who had focused Britain's attention decades earlier, described the effort in a published interview as a "huge and brilliant campaign...inspired by Mr. Stephen Raynes, a lawyer from Philadelphia, who succeeded in getting compensation in Canada increased to give the 100 or so victims a chance of a decent living." The *Globe and Mail's* health correspondent, André Picard, described the undertaking as "one of the most effective lobbying efforts in Canadian history," marveling that the lawyers "did it all pro bono and with little public credit." But it is Benegebi, speaking on behalf of all survivors, who says it best, calling Raynes "our miracle worker, the perfect combination of strategic brilliance and compassion."

The night before the Induction Ceremony in Montréal, Steve Raynes left the reception early, to have dinner with Benegebi and his Canadian co-counsel Joe Fiorante. They had fulfilled the quest laid down by Judge Linden some 30 years before: "To victory and justice for all Thalidomide children." And Arthur Raynes could continue the peaceful sleep that is earned by the just, secure in the knowledge that his son had completed the mission.

Honorable Gerald Austin McHugh
Philadelphia, Pennsylvania

JUSTICE JACKSON'S ROLE AS A TRIAL LAWYER DURING THE NUREMBERG TRIALS



REASURER **DOUGLAS R. YOUNG** INTRODUCED PROFESSOR **JOHN Q. BARRETT** DURING THE 2018 SPRING MEETING IN PHOENIX, ARIZONA. BARRETT TEACHES CONSTITUTIONAL LAW, CRIMINAL PROCEDURE, AND LEGAL HISTORY AT ST. JOHN'S UNIVERSITY SCHOOL OF LAW IN QUEENS, NEW YORK. BARRETT ALSO SERVES AS A FELLOW AND BOARD MEMBER OF THE ROBERT H. JACKSON CENTER, A LEGAL SOCIETY WHERE "UNIVERSAL PRINCIPLES OF EQUALITY, FAIRNESS, AND JUSTICE ARE PARAMOUNT." BARRETT ATTENDED HARVARD LAW SCHOOL, CLERKED FOR JUDGE LEON HIGGINBOTHAM, WORKED FOR THE INSPECTOR GENERAL AT THE DEPARTMENT OF JUSTICE, AND SERVED AS A MEMBER OF THE IRAN CONTRA INDEPENDENT COUNSEL PROSECUTION TEAM BEFORE JOINING THE ST. JOHN'S FACULTY.



Barrett is an expert on Justice Jackson and his leadership in the prosecution of war crimes in the historic Nuremberg trial in the International Military Tribunal ("IMT") between November 21, 1945, and October 1, 1946. Barrett is writing a book about Justice Jackson and Treasurer Young shared that he has lectured extensively on Justice Jackson, the Nuremberg trials (Jackson only participated in the main trial), and the legacy of war trials. Professor Barrett's law school biography page, <https://www.stjohns.edu/academics/bio/john-q-barrett>, has video clips of some of his lectures. Notably, Barrett also uncovered a manuscript written by Justice Jackson, which he then edited and published: *That Man: An Insider's Portrait of Franklin*

D. Roosevelt. Treasurer Young also welcomed Barrett's wife, Sarah Walzer, to the Spring Meeting. Ms. Walzer is, herself, a lawyer and is the Executive Director of a national program called the Parent-Child Home Program, which serves underprivileged families.



Barrett described the Nuremberg trial as “the work of trial lawyers. It was the work of the rule of law. It was the work to bring reason and our tools to the wreckage of the European continent following the devastation of World War II.” But, his remarks to Fellows and guests were focused more on Justice Jackson – the man and lawyer – than on the trial itself. Before he spoke about Nuremberg, he spent most of his lecture describing Jackson’s personal and professional life before his participation in the famous trial. He shared many slides of images from Jackson’s hometown, his young life, his days in private practice, and his time in significant

government positions before being elevated to the Supreme Court by President Roosevelt in 1941, six months before Pearl Harbor. Barrett recounted Jackson’s “meteoric rise” in life and in government before he was appointed the chief U.S. prosecutor at Nuremberg.

FROM SMALL TOWN TO THE JUSTICE DEPARTMENT

Robert Jackson was born in February 1892, in Northwest Pennsylvania (42 miles from Lake Erie) in the small township of Spring Creek. His father, Will Jackson, was an entrepreneur who tried his hand at a number of different industries. Will Jackson moved his young family to Frewsburg, another small town in New York, just across the state lines. He ran a hotel, became the proprietor of a livery stable, bought lumbered wood, and floated the lumber and other products down the river toward Pittsburgh. He raised horses, owned the first automobile in his town, and was the first auto dealer in southwestern New York state. “He drank and he didn’t think much of lawyers.”

Robert Jackson excelled in a small public school, in Frewsburg, yet, despite being the valedictorian (of a class of seven graduates), he did not attend college and, instead, went

directly into what amounted to “reading the law” in a two-man law office at the age of 18. He commuted from Frewsburg to Jamestown, New York (14 miles north) and served as an apprentice and was mentored by two trial lawyers. One of the lawyers took him to court in Chautauqua County and around the state. Barrett declared, “Jackson caught the trial lawyer bug.” The other partner was more “cerebral, intellectual, a gifted writer . . . who “took [young Jackson] under his wing and guided him to the [law] books, told him what to read and then quizzed him about what he had learned and acquired.”

Within two years, Jackson completed his apprenticeship, left home, and crossed the state to go directly to the last year of law school of a two-year law degree program at the oldest independent law school in the country, Albany Law School. He graduated near the top of the class when he was only twenty years old. Because the New York Bar would not admit someone until they were twenty-one years old, the law school decided it would be inappropriate to give him a diploma and instead, gave him a certificate of completion. Barrett delighted the audience when he told the story about how, “thirty years later when he’s Attorney General of the United States about to be appointed to the U.S. Supreme Court [the absence of a law degree] is a topic of some chagrin to the law school. They belatedly awarded him his LLB, which Jackson always took great pleasure in adding an asterisk footnote in his extrajudicial writings. He described his law degree as LLB, Albany Law School 1941, *nunc pro tunc* 1912.”

Jackson became a trial and appellate lawyer in 1913. He was a business lawyer and a criminal defense attorney and moved to Buffalo for over two years where he handled a high volume of tort defense work for the street car company in Buffalo. Jackson then moved back to Jamestown with his young wife to start and raise a family, and, in 1918 became president of the Jamestown Bar Association, then moved up the ladder within the state bar, ultimately becoming the elected head in 1930 of what today is the ABA House of Delegates.

“QUIPS & QUOTES”

That four great nations, flushed with victory and stung with injury stay the hand of vengeance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that Power has ever paid to Reason.

John Barrett, quoting Justice Jackson’s opening statement during the Nuremberg trial

1930 was the same year Franklin Roosevelt was reelected governor of New York and two years before he became president in 1932. Roosevelt and Jackson's paths had crossed briefly when Jackson was in law school in Albany and, in 1933, Roosevelt started "recruiting Jackson to the New Deal" when Roosevelt brought Jackson to Washington, D.C. and appointed him to a series of top level government positions – five of which required Senate confirmation – "his rocket is soaring."

Most of the positions were in the Justice Department, where he served as the Assistant AG, headed the Tax Division and later the Antitrust Division, and became Solicitor General in 1938. As SG, he argued forty-seven cases, including arguing and winning major New Deal victories such as the court rulings that the Social Security program and the Labor Relations Act were constitutional. In 1940, he was appointed Attorney General of the United States. One year later, in 1941, he was appointed an Associate Justice of the Supreme Court at the age of forty-nine, six months before Pearl Harbor. Among other significant cases decided by the Court, he cast a dissenting vote in the *Korematsu* Japanese internment case.

The latter part of Barrett's talk was devoted to the planning for the Nuremberg trials and the most famous trial itself. He said "[h]ad Roosevelt lived, he intended to make [Jackson] the Chief Justice." Instead, "other events transpired" and, in May 1945, Jackson took a leave of absence from the Court when President Truman appointed him to be U.S. Chief Counsel for the prosecution of Nazi war criminals. Barrett continued his slide show and, before discussing the trials themselves and Justice Jackson's role in them, he talked about how the concept of war trials was developed and why Nuremberg was chosen as the place to hold the trials.

ESTABLISHING A WAR CRIMES TRIBUNAL

History states that the nine nations occupied by Germany met in London in April 1942, to start the discussion and draft an "Inter-Allied

Resolution on German War Crimes." [The nine nations were Belgium, Czechoslovakia, France, Greece, Luxembourg, The Netherlands, Norway, Poland, and Yugoslavia. Note also that the war began in September 1939, when Germany invaded Poland and that the U.S. did not enter the war until the Japanese bombed Pearl Harbor over two years later on December 7, 1941.] Thereafter, between 1943 and 1945, the three principal wartime allies – the United States, Soviet Union, and United Kingdom – held a dozen meetings, including meetings in Moscow (November 1943); Tehran, Iran (1943); Yalta, located in now present-day Crimea (February 1945); and Potsdam, Germany (1945); at which they discussed many issues, and, among other things, ultimately agreed on establishing a war crimes tribunal for punishing violations of laws of war.

Early on in these discussions when, as Barrett said, "the allies began to be confident that they would win this war," they signed the November 1943 Moscow Declarations. One of the four declarations was the "Declaration on Atrocities," which was written mainly by Winston Churchill and which called for the Germans who committed the criminal acts of "atrocities, massacres, and cold-blooded mass executions" to be judged. That particular Declaration led to the establishment of the European Advisory Commission. After the February 1945 Yalta meeting, which called for "international legal accountability," the Advisory Commission drafted the Instrument of Surrender of



Germany; that was signed in Berlin on May 9, 1945, less than a month after Roosevelt died. That Instrument of Surrender set forth the tribunal's jurisdiction. It had jurisdiction over war crimes, and it only had jurisdiction over crimes that took place after the outbreak of war on September 1, 1939, which brings the story back to Justice Jackson.

On May 2, 1945, twenty days after Roosevelt died and seven days before Germany surrendered, President Truman appointed Justice Jackson to be the U.S. Chief Counsel in pursuing this "international legal accountability" for war crimes. Indeed, Justice Jackson's first task as U.S. Chief Counsel was to assist in the drafting of the London Charter of the International Military Tribunal (IMT), which established the legal basis for the war crimes trials. The Charter, drafted by the European Advisory Commission and signed on August 8, 1945 by the "Great Powers," restricted the trial to "punishment for the major war criminals of the European Axis

countries." That agreement came only after the Soviet Union first called for a "public proceeding" where the charged persons "will be exhibited to the world for what they were and what they did before they are executed." Jackson and the West nixed that plan, according to Barrett and said, "No, no. Due process, rule of law, defense resources, a fair prospect of acquittal is what I signed up for."

A number of venues for this new tribunal were considered, and the allies chose Nuremberg for at

least the first and main trial. Germany no longer existed after its unconditional surrender, and the territory that had been Germany was divided into four sectors. The U.S. held the blue sector, the center of which was Munich in Bavaria. Nuremberg was (and remains) about 100 kilometers north of Munich, also in Bavaria. Most of the city was in rubble, as were other cities in

the former Germany. The large Palace of Justice, amazingly, was still standing, largely undamaged by the unrelenting Allied bombing of Germany. It conveniently had a large prison complex adjacent to it that was still intact as well. Barrett said that "the Americans wanted Nuremberg for security, for control, for resource provisions." Importantly also, Nuremberg also was considered to be the birthplace of the Nazi Party. Barrett spoke of the "horrific overtones of Nazi celebration ... [and] Nuremberg rallies" and he showed photos of some of the rallies with Hitler and Göring in 1936. It also was the city where the Nazis promulgated the Nuremberg laws in 1935, laws that "were racist, eugenicist madness categorizing people by Nazi edict as fit to be German citizens or Jews and not." Choosing Nuremberg sent a clear message that the Allies were determined to bury the Nazi party in its birthplace.

Barrett said that the London Charter "created the first international criminal court." It provided that the three principal Allies plus liberated France would each appoint one judge and an alternate, and that "this tribunal will have jurisdiction over four crimes: conspiracy, the waging of aggressive war, [war crimes], and the commission of crimes against humanity." Jackson set about immediately with his team to collect the requisite evidence and develop his arguments, while also performing many administrative oversight functions, such as making sure the roofs over the now famous Courtroom 600 were repaired in time for opening statements.

Approximately 200 German war crimes defendants were tried at Nuremberg, and 1,600 other lesser war criminal trials were conducted in military tribunals in Nuremberg, including the Doctors' Trial and the Judges' Trial. But the most famous trial was the trial in Courtroom 600 of the Palace of Justice at which Jackson "opened and closed" – a trial that lasted from November 20, 1945 through October 1, 1946, before the International Military Tribunal against twenty-four of the most significant living political and military Nazi leaders of the Third Reich, including Hermann Göring, Rudolf Hess, Albert Speer, and Field Marshal Wilhelm Keitel. Some of the accused committed suicide before the trial or before sentencing (Hermann Göring). Martin Bor-

“QUIPS & QUOTES”

The Nuremberg trial was the work of trial lawyers. It was the work of the rule of law. It was the work to bring reason and our tools to the wreckage of the European continent following the devastation of World War II. It was the task of many, but it was principally the task under the leadership of Justice Jackson to bring this about.

John Barrett

mann was tried *in absentia*. Some of the Nuremberg trial defendants were acquitted, others were sentenced to terms of imprisonment, and some were executed. Adolf Eichmann avoided trial in 1945, when, after Germany's defeat, he fled first to Austria and then to Argentina, only to be captured there in 1960 by Mossad, Israel's intelligence agency. He was tried in a lengthy public trial in Jerusalem in 1961, convicted, and hung in 1962. Barrett's slides were numerous and compelling as he quickly shared scenes and stories from the trial.

Barrett emphasized that, importantly, under the London Charter of 1945, the judges were instructed to "liberally consider relevant evidence," and that the "defendants will have the right to counsel of choice . . . the right to discovery...compulsory process to call witnesses and the prosecutors will have no supervisory connection to the jurists."

Historians agree that the Nuremberg trial was the first major international war crimes court and that its "typification of the crimes and the constitution of the court" set the stage for future international humanitarian treaties and conventions, such as the Hague Conventions, the Geneva Conventions, and the three Protocols under the Fourth Geneva Convention. The

Nuremberg trials also set into motion the creation of the first International Criminal Court created under the Rome Statute – a court that sits in The Hague.

The first paragraph of Justice Jackson's opening statement, a portion of which Professor Barrett read to the audience, perfectly sums up Justice Jackson's view of the Nuremberg trial experience:

May it please Your Honors: The privilege of opening the first trial in history for crimes against the peace of the world imposes a grave responsibility. The wrongs which we seek to condemn and punish have been so calculated, so malignant, and so devastating, that civilization cannot tolerate their being ignored, because it cannot survive their being repeated. That four great nations, flushed with victory and stung with injury stay the hand of vengeance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that Power has ever paid to Reason.

Carol Elder Bruce
Washington, D.C.

“QUIPS & QUOTES”

We are the apprentices of Nuremberg. Everything we do from grand stages to small settings, we carry it forward.

John Barrett



WAR STORIES FROM FELLOWS



BELLOW IS A CONTINUING SERIES IN THE *JOURNAL* FEATURING WAR STORIES FROM OUR VERY OWN FELLOWS. RANGING FROM ENTERTAINING TO INSTRUCTIVE, THESE STORIES WILL FEATURE SOMETHING A FELLOW DID OR SOMETHING THAT HAPPENED TO A FELLOW OR ANOTHER FELLOW DURING A TRIAL.

PLEASE SEND STORIES FOR CONSIDERATION TO EDITOR@ACTL.COM.

COMPLIMENTS ARE A FICKLE THING

Confidence is ephemeral at the counsel table during a long, difficult jury trial. It ebbs and flows with the unfolding of evidence and one of the things we try to do is stay optimistic with our co-counsel. As a result, a time-honored tradition is leaning over to whisper “good job” to our colleagues after the completion of an examination or argument. Sometimes clients become a part of that practice and frequently chime in. In a long, hard jury trial I was defending a corporation and its obese general manager in a fraud case brought by a talented plaintiff’s lawyer, Steve Heninger. Heninger had been clobbering us pretty good throughout, but we found a few times for the whispered “attaboys” among the lawyers on our side. The corporate representative had even gotten into the swing of it and had complimented us on some of our efforts, but the general manager had sat mute throughout. Finally the trial was concluding. I had worked long and hard on my closing argument, and it came together really well, I thought; perhaps one of my best ever. I sank back into my chair, as Heninger began his scorching closing, excoriating the defendants. After a moment, I felt the general manager stir in his chair next to me; he leaned over and put his hand beside his mouth to whisper to me. Here it comes at last, I thought, he is finally going to compliment me. He said, “Mr. Lightfoot, that Mr. Heninger is GREAT, ain’t he?”

Warren Lightfoot
Birmingham, Alabama

TEARS TELL ALL

My client was the defendant in a personal injury lawsuit arising from a vehicular collision, and I was meeting with him because he was going to be deposed that day. I immediately recognized that he was extremely nervous and as a result, was a nervous talker and was probably going to make a horrible, horrible witness. I spent a great deal of time with him. On the way over to the other lawyer’s office, we had enough time to stop at a coffee shop, have a cup of coffee, and sit down and talk some more about his deposition.



Once upon a trial...

There was a fearless attorney
determined to see justice
served who faced a judge with
back as the

His deposition was an absolute disaster; there were three lawyers who had a chance to cross-examine him, because there were two plaintiffs and a co-defendant, and by the time the three lawyers got through with him, he had told three different stories, and I was getting smirks from all of the lawyers involved.

What actually happened was that on a dark, foggy morning my client, on his way to work, driving his wife's car, was westbound at a stop sign, saw nothing coming on the main highway, and pulled out and made a left-hand turn to go southbound. At some point, after going southbound, he was hit in the rear. The question obviously was whether or not he had failed to yield the right of way to the southbound car that struck him in the rear, or whether or not the southbound car simply failed to maintain an assured clear distance. So, the issue was how far south of the intersection did the accident occur. My client had the accident occurring in at least three different locations.

Fortunately, I had told the jurors in opening statement what the facts of the case were and that my client, driving his wife's car, was in mortal fear for putting a scratch on his wife's car, as he pulled out, made a left-hand turn, and went south quite a distance before the accident occurred.

I had to put my client on the stand, and he told his story as I indicated he would to the jurors in opening statement, and then he was cross-examined and three different stories were told with three different locations as to where the accident occurred.

We all know that you don't ask a question unless you know the answer to the question before you ask it. But, having tried over 600 jury trials, and at that time had tried probably 300-400, I knew that there were times when the rules did not apply. On re-direct examination, I asked my client one question, "Jack, when I had you on the stand on direct examination you told one story. When Mr. Brown asked you on cross-examination about what happened, you told him another story. When Mr. Graham asked you what happened, you told a third story. When Mr. Christy asked you what happened, you told a fourth story. Why did you do that?"

Jack's tearful, sobbing answer was, in a voice racked with pain and fear, "I get nervous."
The jury returned a verdict for Jack.

Rick E. Marsh
Columbus, Ohio

FELLOWS' OTHER LIVES



BEYOND THE COURTROOM, OUR FELLOWS EXCEL IN MANY DIFFERENT PURSUITS. OFTEN THEY ARE DRAWN TO ARTISTIC CHALLENGES — BALANCING THEIR CREATIVE AND ANALYTICAL SIDES.

A GUITAR-PLAYING SONGWRITER

Georgia Fellow **Richard “Doc” Schneider**, a senior partner at King & Spalding, has labored day and night defending major clients in class action lawsuits. That does not leave much time for other pursuits. But put a guitar in his hands and a scrap of paper on which to scribble words and chords and a new song will definitely be born. “Prodigious” is the word that best describes Doc’s propensity for songwriting and performing. Fifty-one songs can be counted in *The Doc Schneider Songbook* published by Mercer University Press featuring selected songs from more than 100 songs and forty years of songwriting. Schneider has released three CDs available on iTunes and streaming on Pandora and/or Spotify, rounding out his efforts as a part-time composer and artist. One may wonder how this gifted lawyer and songwriter earned the nickname Doc. In 1973, he enlisted in the Navy and served as a hospital corpsman for a few months. In 1974, he was sent to the U.S. Naval Academy Prep School in Newport, Rhode Island where a salty Boatswain Mate dubbed him “Doc” and it stuck. He later attended the Naval Academy from 1975 to 1977, returning in 1978 to perform on a river boat on the Severn River for his classmates at their Ring Dance. It was there he sang his newly-penned “Sailor’s Dream.” More of his work can be seen at legalguitarist.com, YouTube, Pandora, and wherever good music streams beneath the sun.

David G. Hanrahan
Boston, Massachusetts





A PHOTOGRAPHY PHENOM

Kathy A. Cochran of Edgewood, Washington and a Fellow since 2003, spent most of her forty-one years as a trial lawyer defending the medical profession and pharmaceutical companies. Somewhere between reviewing medical records and preparing to cross-examine expert witnesses, she got the bug - the shutterbug! However, complex jury trials were definitely an impediment to travelling around the world photographing wildlife in their natural habitats. Cochran remained content to engage in her hobby only when time permitted. Five years ago she decided to pursue her dream in earnest.

Now retired (she will continue to serve as an arbitrator, mediator, and trial consultant), Cochran has travelled to Alaska, Antarctica, Iceland, Kenya, Svalbard (a Norwegian archipelago between mainland Norway and the North Pole), Manitoba, Botswana, and Namibia, her camera at the ready, in pursuit of the perfect photo. Her photographs are astonishing and inspiring. Many of her images can be viewed on her website <https://www.viewbug.com/member/kathyvid>.

A standout image was taken at Lake Clark National Park and Preserve in Port Alsworth, Alaska. For two arduous hours, Cochran and her small group followed a mother bear with two cubs - in bear country. When one of the cubs tugged on its mother's ear, Cochran correctly assumed it wanted to feed. Momma bear obliged, lying down in a water-filled tidal flat, the cubs on her stomach nursing, a priceless look on momma's face captured at precisely the right instant.

Cochran will soon be off to aim her camera at exotic flora instead of wild animals. Dahlias are now the targets for her flawless and artistic eye. For her, photography is "balancing the right and left side of my brain after spending forty-one years as a trial lawyer using only half a brain." About a year and a half ago, she opened her own studio and store. Her images can be purchased through www.images2impact.com. Along with her photo taking, her most recent book, *LATITUDES VI, AFRICA*, published in 2017, contains 300 pages of images from her travels in Africa.

David G. Hanrahan
Boston, Massachusetts



Arkansas, Louisiana, Mississippi, Texas

April 20-22, 2017

Graduate Oxford

Oxford, Mississippi

REGION 6: MEETING RECAP



THE MISSISSIPPI FELLOWS HOSTED NINETY FELLOWS AND GUESTS FOR THE REGION 6 MEETING (ARKANSAS, LOUISIANA, MISSISSIPPI AND TEXAS) IN OXFORD, MISSISSIPPI, DURING THE WEEKEND OF APRIL 20-22. REGION SIX MEETINGS CONVENE EVERY TWO YEARS AND ROTATE AMONG THE FOUR STATES. RECENT MEETINGS HAVE OCCURRED IN AUSTIN, TEXAS; LITTLE ROCK, ARKANSAS; GULFPORT, MISSISSIPPI; AND NEW ORLEANS, LOUISIANA.

The Graduate Hotel just off of the scenic Oxford Square served as meeting headquarters. The meeting began with a reception Friday evening at the hotel. Oxford Mayor Robyn Tannehill gave a special welcome to everyone visiting Oxford. Fellows and guests saw old friends and made new ones, with the attire ranging from a few jackets to very casual. Most of the group then made the short walk to the Square for dinner at one of the many restaurants near the historic Lafayette County courthouse.

On Saturday morning, the group reconvened in the Graduate conference room. Mississippi State Committee Chair **John G. Wheeler** welcomed all attendees, including special guests President **Samuel H. Franklin** and his wife, Betty from Birmingham, Alabama; Secretary **Rodney Acker** and his wife Judy from Dallas, Texas; and Regent **Thomas M. Hayes III** and the Honorable Karen L. Hayes from Monroe, Louisiana. Wheeler also recognized and led a round of applause for Fellow **William J. Threadgill** from Columbus, Mississippi. Threadgill, inducted to the College in 1967, drove himself to the meeting at the young age of 94. Wheeler then thanked Vice Chair **J. Cal Mayo, Jr.** for his efforts putting the meeting together and introduced President Franklin to say a few words about the College.

In his remarks, President Franklin recognized Former Regents **Christy D. Jones** of Mississippi and **Elizabeth N. Mulvey**, who made the trek from Boston to attend the meeting (and to see her daughter at Ole Miss). President Franklin had two messages for the attendees. First, he stressed the importance of diversity within the College. He encouraged greater focus on youth, diversity, and inclusion and highlighted recent successful efforts toward those goals. Second, he talked about the College's Foundation and its great work, including grants totaling \$150,000 to assist with legal issues in the aftermath of devastating storms in Texas, Florida, and Puerto Rico. Along similar lines, later in the program, Louisiana Fellow and Emil Gumpert Committee Vice Chair



Mark C. Surprenant spoke about a new College initiative: the Access to Justice Distinguished Pro Bono Fellows Pilot Project.

The morning meeting included outstanding speakers. However, at the outset, the group heard about something near and dear to them: food, and particularly the food that would be served Saturday evening. Elizabeth Heiskell (a.k.a the Debutante Farmer), familiar from her numerous appearances on the *Today Show*, is a trained chef, cookbook author, and magazine contributor. She described the southern meal planned for Saturday evening at the Farmstead at Woodson Ridge: fried chicken, greens, pinto beans, cornbread, and salad. More on that later.

State Chair Wheeler introduced the first speaker, **Rick Cleveland**. Known as the dean of Mississippi sports writers, Cleveland has personally met with and written about virtually every sports star in Mississippi over the last fifty-plus years. He was inducted into the Mississippi Sports Hall of Fame in 2017 and has been honored as Mississippi Sportswriter of the Year a record ten times by the National Sports Media Foundation. After opening with a hilarious anecdote about friend and former Auburn University athletic director David E. Housel (in honor of President Franklin), Cleveland discussed the amazing sports talent that a small state such as Mississippi has generated during his time as a sports writer. While other sports could have been the focus of his talk, his remarks centered on football for one simple reason: Mississippi has produced, and

Cleveland has covered, the following players who may well be the best at their respective positions in the history of the NFL: Walter Payton (running back); Brett Favre (quarterback); and Jerry Rice (wide receiver). Cleveland described Walter Payton as the best athlete he ever covered, but identified the others as truly amazing. His comments also included stories about Archie Manning and Steve McNair, two of the all-time great college and NFL quarterbacks. In closing, he identified as the best athlete who did not make the hallowed lists of the “greatest ever” as Marcus Dupree, about whom Cleveland’s friend Willie Morris wrote *The Courting of Marcus Dupree* and the subject of the ESPN 30 for 30 “The Best that Never Was.”

Vice Chair Mayo introduced the next presentation featuring Mississippi natives **Curtis Wilkie** and **Elise Jordan**. Wilkie, known for his book chronicling the legal bribery scandal in Mississippi entitled *The Fall of the House of Zeus: The Rise and Ruin of America’s Most Powerful Trial Lawyer*, was a longtime reporter for newspapers ranging from the *Clarksdale Press Register* in the Mississippi Delta to the *Boston Globe*, where he served as national and foreign correspondent until his retirement in 2000. Importantly for the panel discussion, Curtis covered eight presidential campaigns. In addition to *The Fall of the House of Zeus*, Curtis has authored or co-authored four other books and is currently on the journalism faculty at his

“QUIPS & QUOTES”

First time I ever shook hands with Jerry Rice, he had hands that came up right above my wrist, and they were rough. I mean really callused, rough hands. I said, ‘Jerry, what is the deal with your hands?’ He said, ‘My daddy is a bricklayer and a lot of people ask me how I can catch the ball so well. If your dad is throwing you bricks from the top of a ladder in August in Starkville, Mississippi, if you can catch those bricks, footballs are easy.’

Sports writer Rick Cleveland



alma mater, the University of Mississippi, in Oxford. Wilkie was joined by Jordan, who accepted the invitation to be on the panel for a number of reasons, including a visit with her mother. Jordan is a columnist for *Time* magazine and a political analyst for NBC News and MSNBC, where she often appears on *Morning Joe*. Among her prior jobs, she served in the White House Office of Presidential Speech Writing during the George W. Bush administration. She is certainly one of the top “rising star” political analysts in the country.

“ QUIPS & QUOTES ”

Beginning that night, December 5, 1955, and continuing for the better part of a year, Georgia Gilmore brought food to the Monday night mass meetings. Do you remember those old picnic baskets that had the swing handles? That’s what she brought to that first mass meeting, a picnic basket full of fried chicken sandwiches. It was long before Chick-fil-A. We’re talking about a piece of fried chicken with the bone still in it and two pieces of white bread.

John Edge

Current events provided all of the ingredients these two seasoned political commentators needed. Based on the volume of questions from the audience, the presentation could have continued for hours. Wilkie, who referred to himself as the “ghost of campaigns past,” noted the similarities between the current political election climate and elections he covered in the 1970s. Jordan, with her in-depth current political knowledge (she also served as a policy adviser to Rand Paul’s 2016 presidential campaign) addressed the 2018 midterm elections in light of recent special elections, including in Alabama, and the President’s historically low approval ratings. Her recent participation in Mississippi and Tennessee focus groups called into question the conventional thinking on a number of House and Senate races.

Mississippi Fellow **Wilton V. (Trey) Byars III** introduced the last segment of the program: **John T. Edge**, Oxonian and James Beard Award winning food author. Edge has served as the director of the Southern Foodways Alliance, an institute of the Center for the Study of Southern Culture at the University of Mississippi, since it was founded in 1999. Many people recognize Edge from his prolific writing in magazines such as the *Oxford American* and *Garden and Gun*, his column in the *New York Times* (“United Tastes”), and appearances on radio (*All Things Considered*) and television (*CBS Sunday Morning* and *Iron Chef*). His journalistic endeavors have resulted in several James Beard Foundation awards, including induction in 2009 to the prestigious Who’s Who of Food and Beverage in America,

winning the MFK Fisher Distinguished Writing Award in 2012 for *BBQ Nation*, and receiving Publication of the Year Award in 2015. In addition to barbecue, Edge has written numerous books on southern staples such as apple pie, fried chicken, hamburgers, and donuts. For purposes of his talk, though, he focused on his most recent book, *The Potlikker Papers: A Food History of the Modern South*.

Ostensibly about southern food, the *Potlikker Papers* tells the story of the modern South from 1955-2015. With his audience in mind, Edge looked at the thread of justice in the South through the lens of food. After providing a number of other examples of individuals and groups who worked for justice in the South through food, he focused on two strong women who shaped American and Southern food culture during the civil rights era. He began with the Montgomery bus boycott and an African-American cook named Georgia Gilmore. Gilmore helped sustain the boycott by cooking and serving food to the Monday night meetings of the Montgomery Improvement Association for over a year. The second example of justice he drew from his book was Fannie Lou Hamer. Perhaps better



known for her involvement with the Mississippi Freedom Democratic Party, Fannie Lou Hamer was an African-American leader from the economically depressed Mississippi Delta. When the civil rights movement shifted to economic justice in the late 1960s, Hamer conceived agricultural solutions to the plight of those around her. These ideas included a communal farm and a livestock share program that set the stage for progressive agricultural practices of today.

After the morning session, attendees enjoyed lunch on their own and chose from a number of activities in Oxford on a beautiful spring day. For the sports minded, options included a baseball game between the Ole Miss Rebels and Georgia Bulldogs, both eventual national seeds in the NCAA baseball tournament, and the North Mississippi Classic professional golf tournament at The Country Club of Oxford. Readers in the group chose William Faulkner's home, Rowan Oak, and the famous independent bookstore Square Books. A number of Fellows and guests walked the Ole Miss campus and sat in the shade of The Grove, perhaps the most famous college football tailgating spot. Shopping and strolling around the Square seemed to be popular choices.

On Saturday evening, buses departed The Graduate with the Farmstead at Woodson Ridge as the destination. Fellows and guests again enjoyed the fellowship which makes College meetings so special. The scene Saturday evening was a rural farm where guests enjoyed cocktails outdoors on a beautiful spring Lafayette County evening while listening to local musicians Jesse and Kelley Pinion. After cocktails, dinner was served buffet style in an open barn and included the delicious food Elizabeth Heiskell had described that morning. Long farm tables accommodated the group, who followed their fried chicken, greens, and pinto beans with a trip to the cobbler bar. During dinner, the Mississippi Fellows presented the Franklins, the Ackers, and the Hayes with artistically designed pottery serving pieces.

Wilton V. Byars III
Oxford, Mississippi



Delaware, New Jersey, Pennsylvania

May 18-20, 2018

Hotel duPont

Wilmington, Delaware

REGION 13: THIRD CIRCUIT REGIONAL MEETING



CLOSE TO SEVENTY FELLOWS AND GUESTS GATHERED IN WILMINGTON, DELAWARE FOR THE THIRD CIRCUIT REGIONAL MEETING OVER THE WEEKEND OF MAY 18-20, 2018. THE DISMAL WEATHER DID NOT DAMPEN THE ENTHUSIASM OF THE PARTICIPANTS, WHO ENJOYED A WEEKEND OF FELLOWSHIP AND PROGRAMING.

The festivities began Friday evening with a cocktail reception at the Wilmington Club, which included welcoming remarks from the Governor of the State of Delaware, **The Honorable John C. Carney**.

The meeting continued Saturday morning at the historic Hotel du Pont, beginning with introductory remarks from Delaware State Committee Chair, **Donald J. Wolfe, Jr.** Participants were then welcomed by Judicial Fellow the **Honorable Andre Bouchard**, Chancellor of the Court of Chancery of the State of Delaware. Chancellor Bouchard noted the tremendous respect with which the Delaware judiciary regards the College and stated that he viewed his membership in the College as the capstone of his career as a litigator. Fellows and their guests then heard from President **Samuel H. Franklin**, who discussed the College's efforts to identify new Fellows in order to sustain and grow the College in the long term. President Franklin identified Pennsylvania as a leader in this endeavor – having nineteen candidates approved between two meetings in 2017 – and encouraged Fellows to continue identifying talented lawyers to add value to the College moving forward.

Next, the **Honorable Christopher A. Coons**, United States Senator for Delaware, provided his well-informed perspective on a wide range of hot-button issues, including the judicial nomination and confirmation process, appropriations for federal courts and the federal public defender's office, Special Counsel Robert Mueller, immigration reform, and U.S. relations with North Korea. Senator Coons also discussed his views on the current state of partisanship in Washington, D.C. that has overcome the long-valued civility and open discourse once characteristic of the Senate.

Participants were also privileged to hear from the **Honorable Leo E. Strine, Jr.**, Chief Justice of the Supreme Court of Delaware and former Chancellor and Vice Chancellor of the Court of Chancery of the State of Delaware, interviewed by Fel-



lows **Kathleen Jennings** and **William M. Lafferty**. Chief Justice Strine discussed his expectations for exceptional oral advocacy at both the trial and appellate levels, emphasizing that the lawyers who best advocate for their clients are those willing to address head-on the difficult questions and curveballs thrown by judges. Chief Justice Strine also discussed his efforts to change the way justice is administered in Delaware, with initiatives aimed at revising the penal code and bail system, instituting implicit bias trainings, and studying and addressing the root causes underlying mass incarceration of minority populations in the state.

Then came a fascinating panel presentation on *State v. Thomas Capano*, the sensational criminal prosecution in 1998 of a prominent and politically powerful Delaware attorney, Thomas J. Capano, for the murder of Anne Marie Fahey, the sitting Delaware Governor's scheduling secretary. Capano and Fahey had been engaged in a secret affair for three years, and she was last seen alive on June 27, 1996, when she went to dinner with Capano in Philadelphia to end the affair. The highly-publicized trial lasted for twelve weeks, from October 1998 to January 1999, and ultimately

resulted in the jury convicting Capano for murder. The panelists offered unique insights on the dramatic trial from all perspectives: the **Honorable William Swain Lee** was the presiding trial judge, Delaware State Committee Vice Chair **Colm F. Connolly** and Judicial Fellow the **Honorable Ferris W. Wharton** were members of the prosecution team, and **Charles M. Oberly** and Fellow **Eugene J. Maurer, Jr.** were members of the defense team. Although hampered by the lack of a body or murder weapon, prosecutors convinced the jury that Capano shot Fahey to death in his home with a gun bought by Deborah MacIntyre, one of his other longtime mistresses. The defense claimed that MacIntyre had burst into Capano's home wielding a gun and, as Capano and MacIntyre wrestled for the weapon, it fired, killing Fahey. Capano put Fahey's body in a white Igloo cooler and, with the help of his brother Gerry, who testified for the prosecution, used the cooler to transport Fahey's body to Gerry's boat in Stone Harbor, New Jersey. The Capano brothers pushed the cooler overboard while at sea; however, it floated, even after they shot the cooler. Thomas retrieved the cooler, took the body out, and wrapped the boat's anchor chains

around it. The Igloo cooler, with evidence of the bullet holes, was recovered months later by a fisherman and featured a prominent role during trial, with one juror climbing inside to assess whether Fahey's body would fit within its confines. The panelists' well-informed and diverse insights into the sensational trial proved riveting.

The weekend was capped off with a cocktail reception and dinner at the Brandywine River Museum of Art, renowned for its holdings of the Wyeth family of artists and others of the Wyeth school. During dinner, attendees heard remarks (and song) from **R. Ashby Pate**, former Associate Justice of the Supreme Court of Palau and an attorney with Lightfoot, Franklin & White LLC in Birmingham, Alabama. In addition to discussing his experience as a supreme court justice for an island nation in the Pacific Ocean, and his notable role as the appointed co-prosecutor in the widely publicized judicial ethics trial of Alabama's former Chief Justice Roy Moore, Pate stressed the importance of human connection in the practice of law and encouraged those privileged to use their positions as lawyers to make those connections to do so. ■

Atlantic Provinces, Maine, Massachusetts,
New Hampshire, Puerto Rico, Rhode Island

June 22-23, 2018

Regency Hotel and Spa

Portland, Maine

REGION 12: NORTHEAST REGIONAL MEETING



THE MEETING LAUNCHED, LITERALLY AND FIGURATIVELY, ON FRIDAY EVENING, JUNE 22, WITH A FERRY TRIP ALONG THE COAST AND LIGHTHOUSES ON CASCO BAY, DOCKING AT BEAUTIFUL GREAT DIAMOND ISLAND. THE WEATHER WAS PERFECT, AND A TRUE DOWNEAST LOBSTER BAKE WAS ENJOYED BY THE APPROXIMATE SEVENTY ATTENDEES AT DIAMOND'S EDGE RESTAURANT. STATE COMMITTEE CHAIR **MARK G. LAVOIE** AND REGENT **MARTIN F. MURPHY** OPENED THE MEETING AND WELCOMED ALL TO THE BEAUTIFUL COASTAL CITY OF PORTLAND, MAINE.

On Saturday, June 23, attendees heard from a fascinating array of speakers at the historic Regency Hotel & Spa, an early nineteenth-century refurbished armory, home base for Fellows and their guests. Past President **Ralph I. Lancaster, Jr.** opened the morning meeting with his usual sense of humor and focus on the important role Fellows play in the judicial system. Following Past President Lancaster was **Danielle Conway**, Dean of the University of Maine School of Law. Dean Conway took attendees through a moving story of her life in the law—and the law in her life—in the form of a read-aloud letter from her older, wiser self to herself as a child. Dean Conway's path from a single-parent home of an African American mother, to bumps with the law, to military service, to law professor and expert in legal self-determination of disenfranchised individuals, to dean of Maine's public and only law school, left many in the audience in tears. Next, a spirited panel of employment law specialists, led by former Maine State Committee Chair **Melissa A. Hewey**, spoke about "Traversing the Employment Litigation Landscape in the '#MeToo Era.'" The special guest panelist was **Michael J. Yelnosky**, Dean of Roger Williams University School of Law in Rhode Island, an employment law expert who posed the question of whether the #MeToo movement changes anything or everything. The panel also spotlighted former New Hampshire State Committee Chair **Martha Van Oot** and New Hampshire State Committee Chair **Charles P. Bauer**, who canvassed legal decisions and legal strategy as trial lawyers face this new dimension in their roles as advocates, negotiators, and mediators. Next, the audience was entertained by Maine author **Paul Doiron**, award-winning author of a series of suspense novels featuring protagonist Mike Bowditch, a young

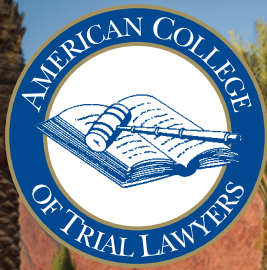


Maine game warden. Doiron took attendees on his path from Yale to editor of a major magazine to his love of writing and taking the plunge to do it full time, to the development of his protagonist, all starting with a lightning strike he himself sustained on a mountain in Maine. He signed copies of his first novel, *The Poacher's Son*, for many Fellows and guests. The final speaker was **David I. Bruck**, Director of the Virginia Capital Clearinghouse, who has devoted his entire professional career to representation of some of the most vilified defendants in capital cases in history. Bruck is a passionate advocate for abolishment of the death penalty. Regardless of where any one Fellow may stand on this important issue, his measured and fair approach, depth of knowledge, and commitment to the system of justice could only be respected and admired by all.

Saturday night topped off the meeting with a buffet banquet at The Regency. Remarks were offered by President **Samuel H. Franklin** who, despite the Alabama accent, has spent a good deal of time in Maine. Following dinner was a slideshow presentation of photographs by acclaimed Maine- and New York-based photographer **Sean Alonzo Harris**. His work and exhibits, the most recent of which is titled "Voices in Our Midst," told striking visual stories of how individuals, many of whom are forgotten members of society, fare in the world and how they perceive themselves. Harris was honored to have many Fellows take home as their own some of his photographs.

The meeting brought together old friends and new, with themes throughout the weekend of storytelling, inclusion, diversity, and respect—in both social interactions and professional programming

Karen Frink Wolf
Portland, Maine



FEB-MAR 2019 SPRING MEETING

28 - 03

La Quinta Resort & Club, La Quinta, California



List of invited speakers:

The Honourable Madam Justice Rosalie Silberman Abella
Associate Justice Supreme Court of Canada

S. James Anaya
Dean and Charles Inglis Thomson Professor of Law
University of Colorado School of Law
UN Special Rapporteur on the Right of Indigenous Peoples

Chief Justice Tani G. Cantil-Sakauye
Supreme Court of California

Honorable Neil M. Gorsuch
Associate Justice United States Supreme Court
Receiving Honorary Fellowship

Jeff Greenfield
TV Journalist, Author

Shon Hopwood
Georgetown University Law Center

Charles R. Marmar, MD
Lucius N. Littauer Professor and Chair of the Department of Psychiatry
New York University Langone Medical Center

Charles Philip "Chuck" Rosenberg
Former Acting Head of the Drug Enforcement Administration
News contributor with MSNBC

Amy Trask
Former CEO of the Oakland Raiders
Author: *You Negotiate like a Girl: Reflections on a Career in the National Football League*

CLE speaker The Honorable Ed Carnes, Chief Judge of the 11th Circuit, who will speak on the power and importance of persuasive prose

TEXAS FELLOWS ANNUAL LUNCHEON

The Texas Fellows held their Annual Summer Luncheon in Houston on June 22, 2018. State Committee Chair **Rod Phelan** and State Committee Vice Chair **Kathleen A. Gallagher** hosted approximately eighty Fellows. College leaders in attendance included President **Samuel H. Franklin**, Secretary **Rodney Acker** and Past President **David J. Beck**. Fellows from across the state – including as far away as Amarillo and El Paso – over 600 miles each – came to see old friends and enjoy a break from the summer heat. Several inductees from the 2018 Spring Meeting in Phoenix were in attendance as well.

President Franklin provided some remarks. He told the group he was attending his forty-third event as President and that he was headed to event number forty-four after the conclusion of the Texas luncheon – the Northeast Regional Meeting Portland, Maine. To get to Portland from Houston is not easy. Franklin had to travel through Detroit. He did not make it to Portland in time for the Friday night lobster cookout but advised that the hamburger in the Detroit airport was excellent.

Franklin stressed the importance of identifying new candidates – particularly younger and diverse lawyers. Franklin compared the demographics from 2002 and 2015. In 2002 the number of Fellows under age 60

was 1,435. By 2015 there were only 673 below age 60. Franklin also pointed out that 181 candidates had been approved at the last two meetings, of which forty-six were women and twenty were lawyers of color. Franklin then related his observations from having presided at the finals of the National Mock Trial Competition in Austin, Texas. The “jury” consisted of fifteen Fellows – eight men and seven women but no lawyers of color. Franklin noted that one of the teams had two African American members. He left the Texas Fellows with the question – would these soon to be lawyers feel like the College was a place for them?

Franklin also recognized the important work done by Fellows at the King & Spalding and Williams & Connolly LLP firms on behalf of veterans making disability claims. These lawyers recently achieved a major victory from the Federal Circuit Court of Appeals, which will significantly reduce the time for resolution of appeals from disability decisions.

The Texas Fellows will meet again in December for their Annual Holiday Luncheon.

David N. Kitner
Dallas, Texas

FELLOWS TO THE BENCH

The following Fellows have been elevated to the bench in their respective jurisdictions.

JOHN B. LASKIN
Ottawa, Ontario
Effective June 21, 2017
Justice
Federal Court of Appeal

SYLVAIN A. LUSSIER, AD.E.
Montréal, Québec
Effective August 2018
Judge
Superior Court of Québec

SUSAN E. SULLIVAN
Plainville, Massachusetts
Effective February 7, 2018
Justice
Massachusetts Superior Court

MARTHA LEE WALTERS
Salem, Oregon
Effective July 2, 2018
Chief
Justice Oregon Supreme Court

The College extends congratulations to these Judicial Fellows.

COMMITTEE UPDATES

THREE NEW COMMITTEES

Three new College Committees will begin their work this fall: the Gale Cup and Sopinka Cup Committees, which replace the Canadian Competitions Committee, and the Online Advisory Committee, which replaces the Task Force on the College's Online Presence.

ACCESS TO JUSTICE AND LEGAL SERVICES

On June 27, 2018, President **Samuel H. Franklin**, sent an email to all Fellows regarding the ongoing asylum and immigration crisis at the U.S. border with Mexico. In his message, President Franklin announced that the College had developed an organized way for Fellows to volunteer their pro bono legal services to assist needy children and families. In particular, the College established relationships with RAICES (The Refugee and Immigrant Center for Education and Legal Services) to allow Fellows to go directly to the Texas border to assist, and the American Immigration Lawyers Association to enable Fellows interested in assisting with asylum/immigration opportunities as they arise within their own city or state. Approximately twenty-five Fellows have already volunteered to help as needed. If you wish to volunteer, please contact **Mark C. Surprenant** Access to Justice and Legal Services Committee Member 504-585-0213 or at mark.surprenant@arlaw.com.

ADVERTISING SUBCOMMITTEE

The Admission to Fellowship Advertising Subcommittee is interested in considering any current issues in Canada touching upon the topic of advertising and how might impact the College's criteria for evaluating nominees for Fellowship. Contact Advertising Subcommittee Chair Peter Prieto, pprieto@podhurst.com.

KENTUCKY

The Kentucky Fellows co-sponsored with the Kentucky Supreme Court Access to Justice Commission, a trial skills training program for legal aid lawyers with less than five years' experience. On Friday, September 7, 2018, Kentucky Fellows presented lectures and training to the legal aid lawyers. The following day, Saturday, September 8, a mock trial took place with the scenario of a wrongful eviction case.

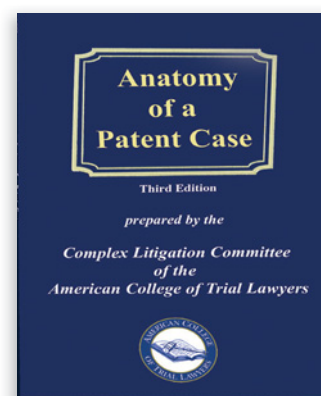
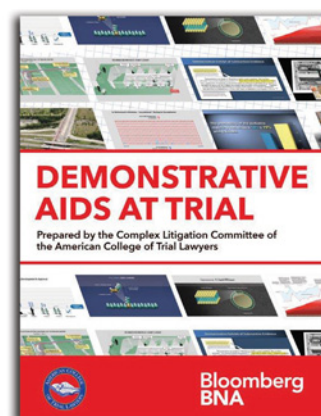


CONNECTICUT

On June 29, 2018, Fellow **Paul M. Iannaccone**, State Committee Chair **John J. Houlihan, Jr.** and Judicial Fellow **Hope C. Seeley**, Judge of the State of Connecticut Superior Court participated in the Connecticut Legal Services Annual Meeting by putting on a lecture and demonstration on use of expert testimony.

COMPLEX LITIGATION

The Complex Litigation Committee's latest book, *Demonstrative Aids At Trial*, identifies and unravels the legal and practical issues presented by demonstrative aids and offers suggestions for their persuasive and proper use. Included within the book are more than seventy pages of full-color sample exhibits; a thorough discussion of related law and rules; the best practices of experienced lawyers, with general guidelines all lawyers should follow; insights into the views of highly experienced federal trial judges, along with the opinions of jury consultants; useful checklists for judges and lawyers. Former Complex Litigation Committee Chair **Harry J. Roper** and Complex Litigation Committee Member **Douglas R. Dagleish** served as editors-in-chief of the publication. The book is available for purchase on the Bloomberg BNA website, <https://www.bna.com/demonstrative-aids-trial-p57982087143/>. Fellows are eligible to receive a twenty-five percent discount by using the code ACT18.



Anatomy of a Patent Case: Third Edition is now available for purchase online <https://www.bna.com/anatomy-patent-case-p17179870731/> or by calling 800-960-1220. The latest edition was published and written in partnership with the Complex Litigation Committee and the Federal Judicial Center. Fellows interested in purchasing a copy may receive a twenty-five percent discount by using the discount code ACT18. The Honorable Paul Michel,



Chief Judge (retired) of U.S. Court of Appeals for the Federal Circuit said in the book's foreword: "Despite the inherent complexity of the subject, their text is extraordinarily clear and eminently readable. It is, in addition, so well organized as to enable the readers to immediately find the exact place within each chapter for any issue then confronting them. Its initial use is for trial preparation, but then its proper place is on the judge's bench and the litigator's table, for it can be a daily resource."

MASSACHUSETTS

Massachusetts held its second annual trial skills seminar on May 14, 2018. It was well attended with over 100 young attorneys practicing in the greater Boston area and in New England. Many Fellows affiliated with the region participated in the program. There were individual sessions with training and demonstrations provided by some local Fellows. Suffolk University hosted the event. This year's subject was direct examination.

NEW YORK

An all-day program with twenty-four participants was held by Fellows from New York-Downstate on June 27, 2018. All participants were legal services lawyers. Held at the Jones Day office in downtown Manhattan, it included nine Fellows who acted as trainers. Titled "Direct & Cross Examination," it consisted of mock trial exercises using College materials. Actors were used to play witnesses. Fellows who volunteered included: Regent **Ritchie E. Berger**, **Susan G. Kellman**, former Downstate New York Committee Chair **Isabelle A. Kirshner**, **Shawn P. Kelly**; newly nominated Regent **Larry H. Krantz**, **Marc L. Mukasey**, **Henry Putzel III**, **Andrew M. Lawler**, and **Tai H. Park**. The feedback received was overwhelmingly positive.

PENNSYLVANIA

On June 21, 2018, Fellow **Denny Shupe** received the Jeffrey A. Ernico Award of the Pennsylvania Bar Association. The Ernico Award is "an occasional award of the PBA Legal Services to the Public Committee that is to be given to such individuals and groups as the committee, from time to time, determines have provided unique service that has resulted in significant improvement in the provision of legal services to the neediest among us." Shupe received the award in large part for his work for veterans through the College's Special Problems in the Administration of Justice Committee (U.S.) which he currently chairs. He is one of the leaders in the College's nationwide effort to develop and implement a groundbreaking project to address the national problem of the Veteran Administration's over four-year backlog in processing and deciding disability award appeals for U.S. military veterans, delays that deny constitutional due process and can deny veterans the financial resources they need for daily living. Former Regent **Dennis R. Suplee** spoke at the award ceremony about Shupe's many efforts on behalf of veterans. He also read a letter of congratulations from President Franklin which stated, in part, "[t]he work that you, and other Fellows, recently have done to assist U.S. veterans in appealing adverse decisions in disability claims has been remarkable. On Jun. 7, 2018, the U.S. Court of Appeals for the Federal Circuit, in *Martin v. O'Rourke* and consolidated cases, granted significant relief, abolishing the mandamus standard that the Veterans Court has applied since 1999. That previous standard was an insurmountable one under which no veteran ever has prevailed because it required the appellant to show that the delay amounted to an 'arbitrary refusal to act' by the VA. Hopefully the newly adopted standard for evaluating agency delay will prove much more effective for all veterans."

TASK FORCE ON JUDICIAL INDEPENDENCE

The Board of Regents approved the creation of the Task Force on Judicial Independence during the 2018 Spring Meeting in Phoenix, Arizona. The purpose of the Task Force is to review the College's 2006 *White Paper on Judicial Independence* and update the same in light of current attacks on the judiciary, as well as to evaluate whether there are other actions the College might consider to be even more involved in defending judicial independence, consistent with the College's mission statement. Former Regent **Kathleen M. Trafford** is chairing the Task Force.

VERMONT

Vermont Fellows provided invaluable contributions to the Vermont Bar's Association Second Annual Trial Academy at the Vermont Law School on July 13, 2018. The day-long program was given high praise by participants. The program provided an opportunity for lawyers to present a variety of segments in criminal, civil, and family trial settings. Each participating lawyer was critiqued in individual courtrooms by either a judge or a volunteer lawyer. Judicial Fellows **Kevin Griffin** and **David Fenster** along with Fellows Ex Officio **David L. Cleary**, Vermont State Committee Chair **Thomas E. McCormick**, Vermont State Committee Vice Chair **Karen McAndrew**, Regent **Ritchie E. Berger**, **James W. Murdoch**, **E. William Leckerling III**, **James Wyatt Spink**, and **Mary Kay Lanthier** offered thoughtful and detailed personalized critiques of the lawyer participants as they presented opening statements, direct examinations, cross examinations, and closing arguments. Lanthier also provided a closing argument of her own. During the intervening plenary sessions, the judges and Fellows presented tips and tricks for the courtroom. Vermont Law School Dean and President Thomas McHenry commenced the event by welcoming all to the trial academy and Judge Fenster closed the event with final remarks and thanks to all of the participants and volunteers. ■



JAMES W. MORRIS, III
A MEMORIAL TRIBUTE

1933
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2018
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**JAMES WATSON MORRIS, III, THE FIFTY-FOURTH PRESIDENT OF THE
AMERICAN COLLEGE OF TRIAL LAWYERS, DIED SATURDAY, JUNE 9, 2018**

AT AGE EIGHTY-FIVE AFTER A PERIOD OF DECLINING HEALTH.



JAMES W. MORRIS, III
1933 A MEMORIAL TRIBUTE 2018

Born in Richmond, Virginia, after graduating from a local high school, he entered Virginia Military Institute, later transferring to Randolph-Macon College to complete his undergraduate education. He earned his law degree from the University of Richmond Law School. After a brief tour of duty in the United States Army Reserves, he joined Richmond's Browder, Russell, Morris and Butcher, led by John Barrs "Jack" Browder, his uncle. In 1989, he and his brother, Philip Browder Morris, also a Fellow of the College, created their own firm, Morris & Morris, PC. Several years before Jimmy's death, they had merged their firm into one that became McCandless Holton Morris.

Admitted as a Fellow in 1981 at age forty-eight, Morris had been President of the Virginia Association of Defense Attorneys at age forty-one and was already well on his way to his eventual presidency of the Richmond Bar and of the Defense Research Institute. He served the College as Virginia State Committee Chair from 1985 to 1988 and as Chair of the National Admission to Fellowship Committee in the early 1990s. He was elected to the Board of Regents at the 1996 Annual Meeting and began his term at the Spring 1997 meeting. In 2002, he was elected Treasurer of the College, chairing its Investment Committee and revising the College's Manual for State and Province Chairs. He became President of the College in 2004 and thereafter served for the rest of his life as an *ex officio* member of the Board of Regents. A few weeks before his death, he became an inaugural member of the newly created Virginia Lawyers Hall of Fame.

This obituary-appropriate recitation of some of the landmarks in the life of Jimmy Morris leaves undescribed a unique human being. A traditional Virginian with an easy manner, a warm smile, a twinkle in his eye, a classic Virginia accent, and a bow tie, his first college venture was Virginia Military Institute in Lexington, Virginia, the oldest state-supported military college in the United States. It was an all-male institution that offered its students "strict military discipline combined with a spartan, physically, and academically demanding environment." General George S. Patton had transferred from VMI to West Point. After a year at VMI, Morris transferred to Randolph-Macon College, a private liberal arts college near Richmond, at the time also all-male, the second oldest Methodist-run college in the nation. There he completed his undergraduate education.

Jimmy Morris, however, never forgot what he had learned at VMI. In turning over the College presidency at the 2005 Annual Meeting, he asked President-Elect Mike Cooper to come forward to the podium, remarking, "Having gone to military school, I know that's the last order that I give him that he will ever obey."

Morris went on to earn his law degree from the University of Richmond Law School, graduating in 1957 and joining a long line of lawyers on both sides of his family. In his words, "I thought about doing nothing else."

The tradition of the Richmond Bar stretched all the way back to Chief Justice John Marshall and was laden with members of national prominence. By the time Jimmy Morris became President of the College, it had already produced Past Presidents Harvey Chappell and Lewis F. Powell, Jr., who had then become an Associate Justice of the United States Supreme Court. It had also produced two honorees of the College's Award for Courageous Advocacy. One of these was George E. Allen, the award's first recipient, and the other was

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Oliver W. Hill, who went from being one of Thurgood Marshall's younger followers to becoming a lifetime force in the dismantling of the doctrine of "separate by equal" in his native state.

Indeed, two of Morris' local civic endeavors embraced both the old and the new Virginia. His role in the John Marshall Foundation, which undertook to perpetuate an understanding of the rule of law that Marshall helped to shape, embraced the old. His role in the Oliver White Hill Foundation, created to support the next generation of social justice pioneers, embraced the new. (College Fellows may remember from the Spring 2007 cover page of this publication a smiling 100-year-old Oliver Hill shaking hands with a smiling Queen Elizabeth, II, as he invited her to his birthday party.)

Outgoing, quick of mind, and wit, it became obvious from the beginning that Jimmy Morris was a born trial lawyer. In his modest appraisal of himself after his selection as President-Elect, he noted, "I have tried more than 500 jury trials to conclusion and countless non-jury trials. Essentially, I have been a small-town trial lawyer, mainly a 'dented fender' insurance defense lawyer [with] some plaintiff's work."

He then went on to confess, "Over time, I have tried almost every kind of case there is on the civil side." That emphasis in civil trials changed from automobile negligence claims brought against another vehicle's driver to claims against the manufacturer of that vehicle—product liability. As the economic world became more complicated, it again changed to commercial and professional liability litigation, and Morris' trial work changed with the times. "Trial work is never boring," he observed.

In his early years of practice, he had become a coveted Life Master in competitive duplicate bridge, a hobby he expressed the intention to resume if and when he retired. Indeed, his obituary disclosed that his last bridge encounter had taken place at the Richmond Bridge Center a few days before his death, when he and a ninety-five year old friend "allegedly" finished first in the monthly afternoon competition. After his presidency was over, some members of the College remember seeing him slip out of an occasional afternoon Regents' meeting to sit in on a poker game, a long tradition among two or three of the eldest among the Past Presidents.

On the eve of his term as President-Elect, he noted: "I used to play tennis, but my elbow doesn't let me do that anymore." As a substitute, the young members of his firm had taught him to play fantasy football and fantasy golf. "I'm every bit as competitive about that as I am about trying lawsuits," he asserted. As evidence of that, he displayed in a place of honor on the window ledge of his office, a loving cup, the "2003 John Barrs Browder Fantasy Football Trophy." He never lost his appetite for voracious reading: three newspapers per day, historical biographies, and the work of lawyer-novelists.

A review of the participation records the College maintains for each of its members discloses that from 1986 on, when these statistics were first collected, Morris had attended twenty Annual Meetings and twenty Spring Meetings. Only since 2010, when first his wife and then he himself began to have health problems, did his almost continuous attendance since his induction as a Fellow begin to slow.

His record leading up to the College presidency and his year in office were not dull. In an interview as President-Elect, he expressed the opinion that our justice system was under siege on many fronts, citing legislative-driven sentencing guidelines that diminished the discretion of trial judges, oversight of judges that challenged judicial independence, loosened restrictions on campaign rhetoric and monetary contributions, and unjustified attacks on trial by jury. He urged the need for the College to assert its leadership even more vigorously. He also expressed the need to continue to identify and bring into the College more women and minorities.



Jimmy Morris, Past President Leon Silverman, Judge Leonard Sand and John Siffert when Sand was presented with the first Leon Silverman Award in April 2005.

In his first report as President, he observed that upon entering office, he had found the scope of the College's activities to be "considerably enlightening, if not staggering." He began by urging the expansion of the value of College committees and local Fellows and urging attendance at regional meetings for those who could not attend national ones. He expressed the opinion that the profile of Fellows where they lived and worked should be raised.

Over the time of his presidency, the College dealt with continuing struggles over attorney-client privilege. It completed the publication of the College's *Codes of Pretrial and Trial Conduct* in both United States and Canadian versions, the latter in both English and French. The United States version was distributed to approximately 13, 000 judges of courts of record. In his second report, he explored the limits of outreach by an organization such as the College, an organization that one cannot "join." There is a tension between the tradition that the College speaks only on those subjects framed by its stated purpose, notably the administration of justice, and only where it can speak with one voice for the entire organization, and the need for Fellows of the College to become more well-known and of more individual influence. He pointed out that, although the College does not lobby, it could be valuable to educate legislatures and government about its bipartisan approach and its purposes, as well as about the quality of its Fellows.

As an example of this approach, in the Spring 2005 the Executive Committee drafted and published over Morris' signature a statement labelled an "Opinion." It was published in the wake of a recently-ended prolonged lawsuit, the Terry Schiavo Case, in which a Florida state judge had found that a married woman in a prolonged perpetual vegetative state with no hope of recovery was entitled to be allowed to die. Her parents had objected. The United States Congress, over the signature of the President, had enacted legislation that removed the case, clearly a state court matter, to the federal court "notwithstanding any prior State Court determination." The case was a thinly-veiled right-to-die versus right-to-live case cloaked in a legal struggle that had been allowed to violate the separation of powers among the legislative, executive, and judicial branches of our government.

The College's editorial comment, entitled *Judges Deserve Respect, Not Rantings*, was a textbook explanation of the separation of powers, a fundamental foundation of our legal system.

No one who ever met Jimmy Morris could come away without knowing that one of his unforgettable assets was his wit. Lose, win, or draw, the wit was always there. Over time, it became apparent that his wit was not trivial; it was his way of making a point without rancor and, with younger lawyers, a part of his way of teaching, of mentoring. Some of what follows next are repetition of one of his old stories, some bits of Morris' spontaneity and one rare one that left him the object of someone else's wit.

The old story concerned his account of a famous courtroom trick in Richmond. It was a murder trial where the alleged victim's body had never been found. The question was reasonable doubt of guilt in the absence of a body. In the closing argument, the defense counsel said, "Indeed, we don't even know if the victim was killed. I'm going to show you right now. He's going to walk through that door." They looked and looked, but the door never opened. The lawyer then said, "You see, you thought he really might come through that door. And that is reasonable doubt." It nevertheless took the jury only ten minutes to come back with a guilty verdict. The lawyer talked to one of the jurors afterwards to ask what had happened. "All of you turned and looked at the door," he said. "You must have had a doubt." The juror responded, "One of us didn't. He looked at your client, and your client didn't bother to turn around."



Past President Jack Dalton, Jimmy Morris and then Treasurer Bart Dalton during the 2015 Annual Meeting in Chicago.

One of his spontaneous utterings was related by an opposing young lawyer who had opposed Morris in a case in which Morris had carefully set up the facts supporting his client's defense of the plaintiff's own contributory negligence. At the charge conference, the judge, finding an exception to the law, dismissed that defense. "Rather than being upset, fuse, and fume, Jimmy, with a droll smile, made a simple motion: 'Your honor, I move for a stretcher.'" Morris then went out and won the case by successfully persuading the jury that his own client had not been negligent.

One piece of his wit rose up to bite him before a national audience. In anticipation of the 2004 Annual Meeting, which, as President-Elect, he was charged with organizing, he predicted a lineup that included a best-selling author of legal fiction "whose name will be revealed later." The speaker turned out to be the famous lawyer-turned-author John Grisham. His response to Jimmy's introduction went like this: "I met Jimmy six years ago. . . . I was sued by a plaintiff who was and is asking for eight million dollars in damages. . . . I hired him because of his reputation as a great trial lawyer, and people tell me all the time that this guy's from the old school; he's an old Southern trial lawyer who rarely, rarely ever loses, and juries will follow him anywhere. That's nice to hear, but I haven't seen that yet, because we can't get the case to trial. I'm the defendant. I really don't want to rush the court, but after six years of this lawsuit, Jimmy's cumulative fees are slightly more than what the plaintiff is demanding. . . . With people like Jimmy Morris in the overhead, it's almost cheaper to stop writing books."

Fellows of the College saw his wit on more than a few occasions. When a program participant then living on the West Coast and speaking at an event in Oregon introduced her husband, Jimmy immediately recognized him as a former Richmonder, pointed his finger at him and announced to the audience, "That is the paper boy who put a cherry bomb in my children's Halloween pumpkin!"

When, Mike Cooper, his successor as President, called on Jimmy to introduce a speaker at the next College meeting, Morris responded, "Thank you, Mike. You have just made your first mistake as President of the American College of Trial Lawyers. I have felt so deprived in my not being the center of attention this year that I vowed that if I ever got hold of this microphone again, I would never give it up."

In consonance with the *Journal's* continuing request that State and Province Committees send us comments and stories about departed Fellows, Virginia State Committee Chair Craig T. Merritt sent a collection that could serve as a model of what we need. Much of the things that follow are the product of his effort.

One former associate recalled that in Morris' making him a job offer in 1968, he offered him \$7,200 a year, remarking, "And you aren't worth that!" In a will contest with two aligned parties, the young lawyer co-counsel watched as Morris enthusiastically objected. After a while, Morris leaned over and asked him, "Am I going to have to do all the work?"

The remarks that follow are a sampling of the regard in which Morris was held by his fellow lawyers. First, from those who were his partners and associates: "He sat with me in one of my first trials, an incredibly minor matter, writing notes, pulling on my sleeve and 'whispering' advice. We won, but



afterwards, he said, ‘David, I don’t think that you took command of the courtroom.’ I said, ‘Jimmy, I couldn’t get command of my *table*.’ He laughed.”

“For his partners, decades of law school learning and CLE’s were crammed into a single trial grasp.” “Being assigned to Jimmy was the best thing that ever happened to me as a lawyer. His methods were unique. It was difficult to get his attention before 5:00 p.m., but once the phone stopped ringing, he could slow down and he would teach. Then we would go upstairs for a couple of pops and some storytelling. A great way to learn how to be a trial lawyer.”

From an opponent: “I had the unfortunate task as a senior associate in our firm of trying a case against Jimmy. The case presented the perfect trifecta of rather unfavorable non-compete law, less than compelling facts, and Jimmy Morris as opposing counsel. Needless to say, things did not go swimmingly against my client. Nonetheless, I learned an enormous amount about handling myself in the courtroom and [from Jimmy] how to win with grace.”

From others: “When I started practicing law, I was advised that if you wanted to see someone else to teach you how to try a case, you should find out when Jimmy Morris was trying a case and to go and watch him.” “When I was a young attorney, I remember showing up at a deposition, thinking that it would last about an hour. Jimmy was taking the deposition, and it lasted over four hours. At the end, I marveled at how Jimmy had taken the deposition. I felt like I knew the person’s life story after he had finished. I asked Jimmy about it a few weeks later. He told me to never stop asking questions and searching for answers until I was satisfied. I found that useful in law and in life.”

“He taught a lesson in a phrase, and it was an experience always to be with him.” “He has to have been one of two or three of the best trial lawyers I have ever seen.” “Jimmy was not only welcoming, but kind and funny and wise.” “He was justly proud of his cohorts and colleagues from Richmond, the antithesis of insularity.” “While he was a lot of fun when you were on the same side. . . he was even more so when you were on the other side, or when he was a mediator.” “No thesaurus can provide words to describe him. Jimmy would be the #1 nominee and the only recipient of an award as the person who most loved the practice of law.”

And finally: “It was impossible to encounter Jimmy professionally without learning about high-level lawyering, and it was impossible to be in a social setting with Jimmy and Jane without learning something about how to serve with joy. We shall miss him terribly, but the lessons he imparted live on in many of us.”

That last remark leads to the other side of Jimmy Morris. Everyone in the College who attended a national meeting or who met Jimmy Morris along the way in regional, state, or province meetings came away knowing from the beginning that Jimmy did not walk alone. Jane Carolyn Mallory “Buddie” Morris, a graduate of Virginia’s Longwood College, taught for several years at an insurance agency before “retiring” to raise her children. A lover of travel, she taught Sunday school, was a gardener, a bird-watcher, a great country cook, and a deft needle-worker.



Jane and Jimmy Morris with their grandchildren, Janie and Katie.

She was at Jimmy's side at virtually every College meeting, and the two of them were always the life of the party—and often the last to depart. During his presidency, they attended sixty-two events, spending over 152 days on the road.

And no one would ever forget the blonde granddaughters, Janie and Katie, whose mother had tragically died young and whose grandparents had stepped in to help guide them to maturity. They accompanied their grandparents to more than one College function, including their grandfather's installation as President. Their grandparents served them well. Janie, now twenty-seven, is a third-year law student at the University of Virginia and Katie, age twenty-four, is an engineering graduate, working with the maintenance of nuclear submarines at the Portsmouth, Virginia Naval Yard.

"Buddie" was confined for her last several of years with physical problems that kept her close to home. She died on December 26, 2017. Jimmy Morris, himself in declining health from cardiovascular problems, died six months later, on June 9, 2018.

His memorial service was held in St. Matthew's Episcopal Church, a small church in a wooded suburb west of downtown Richmond, where he and Jane had served for many years. He was laid to rest among Richmond friends and a gathering from afar of those who had known him in the College.

Each passing president of the College brings a different background, a different voice, to the institution. Some walk the national scene in government, in the judiciary, in foreign affairs. Others try landmark cases. Others like Jimmy Morris are a reflection of the place where they were born and lived their lives. One of the young lawyers who spoke of Jimmy Morris said it well: "I believe that he is what we are all about."

E. Osborne Ayscue, Jr.
Editor Emeritus



IN MEMORIAM

The lives of forty-eight more deceased Fellows of the American College of Trial Lawyers are memorialized in this issue, thus, in the thirteen years since we found the means to do so, bringing to our attention another remarkable group of departed Fellows now totaling 1,581.

From its beginning, the College was founded on the idea that it consisted of the sum of all those invited to become members, trial lawyers who had already demonstrated in their professional careers the highest standards of ethical conduct, professionalism, civility, and collegiality. The College was created to reflect the collective gravitas of all its members, rather than the opposite.

When the In Memoriam feature was created in 2005, it made it possible for the first time for the College's publication to its members to focus on the life of each individual Fellow who had died. We focus on the entirety of each as a human being and on their impact on those among whom they lived their lives. These memorial tributes come from the College's factual records, from published obituary notices and, increasingly, from reflections sent to us by those who knew them and chose to speak about them.

In recent years, we have started to see a departure from the traditional laudatory obituary to one that speaks with warmth and good-natured humor about the departed, many of them wrapped in the sense that the departed Fellow still lives among them. Among the following memorials, you will see several remarkable examples of this.

From a fellow lawyer: gruff on the outside, but a Teddy Bear on the inside, who could captivate a room, even with a boring story. From a published obituary, a list of interests that included golf, skiing, swimming, sailing, tennis, fishing, hiking, bicycling, and corny jokes. The description of one who

married his wife after a four-week courtship: once he made up his mind about anything, he never saw any reason not to get on with it. One who in retirement was described as enjoying painting, laughter, and Oban, playing tennis and golf regularly, and that with the same lack of success that had marked his earlier years in sport, but always with good humor in the hope of improvement. Another was noted for his witty sense of humor and his reading at least one page of *The New Yorker* before falling asleep at night. For another, on the day of their wedding, his wife said that she wanted ten children; they had eleven. And one was said to have donated his body to the University of Minnesota Anatomy Research Program in hopes that they will find the source of all his bad jokes, and, even better, a cure for Alzheimer's disease.

One stream of consciousness obituary, a memorial written by the widow, his daughter or both, sounded almost as if the deceased Fellow, a published writer, might have written it himself. It was so warm and witty that we have chosen to publish a slightly edited version of it in the memorials that follow.

Whether or not these published obituaries are a sign of changing times about the subject of death and its impact on the survivors remains to be seen, but we believe that you will find them engaging.

We again have an incredible number of Fellows who lived to advanced age. Twenty-eight were eighty-five or older, eighteen of those ninety or older, most of whom were teenagers swept up in the last year or so of World War II. One, a nineteen-year-old, lying on the ground in impenetrable fog in fourteen-degree cold, was badly wounded on the first night of the Battle of the Bulge when 200,000 German troops and almost 1,000 tanks attacked the 75,000 Allied troops who were trying to defend a front that was eighty miles long.

Those we honor came from many origins. Two were Midwesterners whose ancestors came by wagon train in the middle 1880s. One, the fifth of eight children of an emigrated Danish family, spent his early years in a one-room schoolhouse in Saskatchewan. Another, the daughter of expatriates who had fled Fidel Castro's Cuba, rode ninety minutes each way on public transit to seek her undergraduate education, then finished first in her law class and became a prosecutor to help the families of victims of crime. The mother of one who earned his undergraduate degree from a merchant marine academy enrolled him in law school because she did not want her son on a banana boat.

Their educations varied. Many were law review editors. One was a law clerk for two Justices of the United States Supreme Court. The courses of their careers were varied. One, an ordained minister, completed his masters and doctoral degrees in classical biblical literature and went to law school, seeing all the religions he had studied as entitled to equal and fair treatment and seeing the law as providing a professional service not unlike that of a minister.

Many were writers, teachers, and lecturers, mentors to decades of younger lawyers. One was a leader under whose umbrella nine judges emerged. Others were artists or musicians. Many were athletes—tennis, baseball, fencing, and handball. One who had won a poetry prize placed in his city's Senior Olympics in the fifty-yard dash. One used a sabbatical to work at a whitewater river center.

Their achievements in the legal world were consonant with their stature as Fellows. One was for several years Treasurer of the American Bar Association. Others rose to the highest office in their local and state Bars. Their public service ranged from helping to organize the effort to enlist a large city's lawyers to become Judges Pro Tem to assist in working through a huge buildup of thousands of pending lower court cases to those who furnished one-on-one reading to

the blind. One, the trustee of a theological seminary, once served as its interim president.

Another was a trustee of New York's Cathedral of St. John the Divine, who supervised its reconstruction from a devastating fire.

In retirement, many of them traveled. The spiritual home of one became London, where he made a regular pilgrimage to the changing of the guard at Buckingham Palace. Another died on a trip to Spain. For others, their engagement in retirement ranged from resuming piano lessons in one's seventies to acting as counsel to a Native American community. One, educated with a range of academic scholarships and mindful of what he had learned, focused his civic and charitable efforts on the betterment of his entire community to the extent that he, a Hebrew, was awarded a medal created by the Roman Catholic Church and awarded by the Pope.

You will again note that a few of the entries are altogether too brief. Some chose not to have descriptive obituaries published. Others, long retired to faraway places, lost contact with other Fellows of the College.

Once again, these memorials are a composite of far more than outsiders would have envisioned in the life of a lawyer. We hope that you will read and enjoy them. You should also feel free to suggest how we might better go about finding and describing the lives of this group of remarkable people.

E. OSORNE AYSCUE, JR.
EDITOR EMERITUS

ERRATA

The In Memoriam section of *Journal* Issue 87 erroneously listed the law firm affiliation of Fellow Emeritus Robert Gene Levy. He was retired in 1999 from Sullivan, Asbill & Brennan, Washington, D.C., and living in Baltimore, Maryland.



Murray Edward Abowitz, '87, Doerner, Saunders, Daniel & Anderson, LLP, Oklahoma City, Oklahoma, died May 10, 2018 at age seventy-seven. Born in West Philadelphia, he was a graduate of the Wharton School of Finance and Commerce of the University of Pennsylvania. Moving west with his new bride, he earned his law degree from Seton Hall University School of Law in Oklahoma City. A Past President of the Oklahoma chapter of ABOTA, he had served as a Special Prosecutor before both the Oklahoma Court of the Judiciary and the Oklahoma Bar Association. A man of contradictions who grew up in Philadelphia but found a home in the West, described as "gruff on the outside, but a 'Teddy Bear' on the inside," he was a fierce competitor who was universally regarded by his opponents as honorable, principled, and ethical. Also described as a man who could captivate a room, "even with a boring story," he was regarded as one who loved a party, told uproarious jokes, and danced on every possible occasion. His passions included rowing, running, dogs, guinea pigs, and the Philadelphia Eagles. He had served the College as Chair of the Legal Ethics Committee. His survivors include his wife of fifty-two years and two daughters.

Clyde Francis Anderson, '75, a Fellow Emeritus, retired for the last thirty years to Fort Myers, Florida, died June 10, 2009 in his eighty-eighth year. He was a graduate of the University of Minnesota and of its School of Law. No other information is available.

Jack Charles Benjamin, '93, a Fellow Emeritus, retired from Gainsburgh, Benjamin, David, Meunier & Warshauer, L.L.C., New Orleans, Louisiana, died June 11, 2018 at age ninety. Attending both Tulane University and its School of Law on academic scholarships, he served his country, first as a Staff Sergeant in the United States Army Quartermaster Corps and

then as a Reserve Officer in the Army's Judge Advocate General Corps. After two years as an Assistant United States Attorney for the Eastern District of Louisiana, he joined the law firm with which he practiced for rest of his career. In his professional life, he served a variety of roles at the state level, many of them related to selection of the judiciary. He was President of the Louisiana Organization for Judicial Excellence and the Louisiana Center for Law and Civic Education, which he helped to establish. President of the New Orleans Bar Association, he was also a member of the American Bar Association House of Delegates. Mindful of his own upbringing, his civic and charitable efforts focused on the betterment of his community, especially for the less fortunate and more vulnerable. President and a forty-year member of the Visiting Nurses Association, he was a Board Member Emeritus of Covenant House. He was instrumental in the formation of Court Appointed Special Advocates of New Orleans, serving on its Board for many years and, when President of the Metropolitan Crime Commission, its city-wide crime forum was televised during "prime time" by local major television stations. He had received the Endowment Achievement Award from the Jewish Endowment Foundation and was a recipient of the Weiss Award of the New Orleans Council for Community and Justice. The first Jewish Chairperson of the Archbishop's Community Appeal, he received the Benemerenti Medal, awarded by Pope John Paul II. His many professional honors included the Distinguished Attorneys Award of the Louisiana Bar Foundation and both the New Orleans Bar Association's Distinguished Maritime Award and its President's Award. A widower who remarried, his survivors include his second wife, two sons, and two stepsons.

Walter Joseph Bonner, '76, a Fellow Emeritus, retired from the District of Columbia firm, Crowell

& Moring, LLP, and living in Kensington, Maryland, died March 24, 2018 at age ninety-two. A graduate of Catholic University of America and of the Georgetown University Law Center, he had served as a law clerk for two judges before spending five years as an Assistant United States Attorney in Washington, D.C. His survivors include his wife, two daughters, and three sons.

Donald Richard Bounds, '83, Cunningham Bounds, LLC, Mobile, Alabama, died June 22, 2018 at age eighty-nine from the aftermath of a stroke. A graduate of the University of Alabama and of its School of Law, where he was a member of the law review, he had served in a United States Army medical unit during the Korean Conflict. Two years after graduation, he and his partner established the law firm that bears his name. A founding member of the Mobile Bar Foundation, which supports charities and community projects, he later served as President of both the Mobile Bar Association and the Alabama Trial Lawyers Association. He also served on the Board of Governors of the Association of Trial Lawyers of America, which awarded him its Howell T. Heflin Award. His civic and charitable efforts included establishing the Bounds YMCA in Daphne, Alabama, the Bounds Law Library at the University of Alabama School of Law, and the Bounds Chapel at his local Episcopal Church. He served as Chairman of the Mobile Downtown YMCA and the Southwest Alabama YMCAs. His survivors include his wife.

John Quincy Brown, Jr., '78, Hardy Erich Brown & Wilson, Sacramento, California, died February 3, 2018 at age ninety. A graduate of Stanford University and of its McGeorge College of Law, he served as a midshipman at the California Maritime Academy during World War II. He was the fourth John

Quincy Brown to live in Sacramento. The first, who arrived from Kentucky in 1850, had been the Mayor of Sacramento in the 1880s; the second served as Mayor from 1916 to 1919; and the third was the local District Attorney who was later appointed to the bench by Governor Earl Warren. Rejecting holding himself out as John Quincy Brown, IV, his son attached "Jr." to his identity. A co-founder in 1967 of Hardy, Erich & Brown, he served as President of the Board of Education of the Sacramento Unified School District and President of the Board of Los Rios College. A lifetime handball player, he also enjoyed hunting, fishing, and skiing. His retired law partner, Cavan Hardy, a Fellow of the College, whose memorial is also included in this issue of the *Journal*, died four months after Brown's death. His wife of forty-six years having predeceased him, his survivors include two sons, the older of which, is named, in family tradition, John Quincy Brown.

Windsor Dean Calkins, '88, a Fellow Emeritus, retired from Calkins & Calkins, Eugene, Oregon, died June 5, 2018 at age seventy-three. A graduate of the Clark Honors College of the University of Oregon and of Willamette University School of Law, his ancestors arrived in the 1850s by wagon train, and he was born in the local hospital his grandfather had helped to establish. His law school education was interrupted by service as an officer in the United States Army Reserve in the Vietnam era. He then joined his late father in the practice of law. His practice was devoted principally to serving the medical community of Eugene, representing the Sisters of St. Joseph of Peace Hospitals in Oregon, his county medical society, and other health care providers. He also represented the Eugene Water & Electric Board, as his father had done. He had edited continuing legal education texts on Oregon

tort law and served as an Oregon Commissioner on Uniform State Laws. In the civic arena, he was Chair of his county's Goodwill Industries. A musician who played the flute, he served on the Oregon Advisory Council to the College of Arts and Sciences and as Chair of the Oregon Mozart Players. At the time of his election to the College, his father was also a Fellow. His obituary lists as among his interests, golf, skiing, swimming, sailing, tennis, fishing, hiking, bicycling, and corny jokes. He had retired in 2011. His survivors include his wife, a daughter, and a son.

Gordon Willis Campbell, '93, a Fellow Emeritus, retired from Parsons Behle & Latimer, Salt Lake City, Utah, died June 12, 2018 at age seventy-five. Beginning his undergraduate education at Arizona State University, he completed his degree at Brigham Young University. After a five-year hiatus, during which he served during the Vietnam War in the Pacific as a Communications Officer on the *USS Princeton (LPH-5)*, an aircraft carrier, he entered and earned his law degree at Arizona State College of Law, where he was Editor-in Chief of the law review. He served as a law clerk for Judge M. Oliver Koelsh on the United States Court of Appeals for the Ninth Circuit and then joined the law firm for which he had worked while in law school. He later moved to Salt Lake City, where, on two separate occasions, he served as an Assistant United States Attorney for the District of Utah. A lover of story-telling, he wrote a legal thriller, *Missing Witness*, which appeared on the New York Times Best Seller list and was nominated for the Mystery Writers of America's prestigious Edgar Award for Best First Novel by an American Author. He is survived by his wife, also a lawyer, and a daughter.

Editor's note: The foregoing is a conventional memorial, extracted from Campbell's published obituary.

That obituary, however, was itself a stream-of-consciousness tribute, apparently written by a wife and daughter—or perhaps only the daughter—to a remarkable man. Finding it too good to pass by, we have borrowed from it the following excerpts:

*"A scratch player on the University [Brigham Young] golf team, his major college achievement was learning to ski, spending almost all of his grocery money on lift tickets. He survived largely on peanut butter during these years and could often be seen hiking around the campus in the snow, alarmingly skinny, but very happy. . . . After his discharge from the military, lured by the siren song of the Little Cottonwood Canyon, he returned to Utah and, after a series of odd jobs and a stint as a handyman, he joined the staff of Alta's Rustler Lodge. . . . Returning to law school, . . . he met his wife [Tena], a graduate student in French. As she recalls, she was studying out of her dorm balcony when she looked up and saw 'this beautiful blonde man loping by.' Setting down her books, she went out to investigate. A year and a half later, they were married. After his clerkship, he returned to Phoenix. . . . Having decided that if Gordon could be a lawyer, so could she, Tena started law school at ASU. The morning after her first-year final exams, [daughter] Mary was born. On the way to the hospital, Gordon stopped the car to put the top down. When Tena snapped that she was in a bit of a hurry, he replied, 'But it's a beautiful night.' A part of what was so captivating in the courtroom was his love of telling stories. Not content to save his tasks for jurors (and family members, and dinner guests, and the guy who happened to be sitting next to him on the chairlift), Gordon eventually wrote the legal thriller *Missing Witness*. . . . Gordon enjoyed powder skiing, fly fishing, golfing, sailing, canoeing, scuba diving and mountain biking, often with Mary reluctantly in tow. . . . A handful of things Gordon would likely want you to know about for him (or not) in no particular order. . . . Gordon once took Mary on a week-long golfing tour of*

Scotland. She doesn't play golf. Gordon's proudest military accomplishment was undoubtedly his involvement in the Battle of the Cubi Point Officers' Club in the Philippines, where he bravely defended his fellow naval officers against a pack of raving Marines before "doing a Western roll out the window and into the bougainvillea" and running off into the night. . . . Gordon did his best to tank Mary's college application to Brown University by repeatedly running through the sprinklers during her campus tour. He didn't behave much better at graduation. In service of Gordon's pirate fantasy, Mary and Tena were both required to become certified sailors. . . . Tena's intense seasickness and inability to tie an adequate bowline remained a constant problem. Gordon was deeply proud of his wife's professional accomplishments and enjoyed presenting himself as 'Tena's arm candy' at her work events. The family suspects that he was the only such piece of candy ever to introduce himself to a Supreme Court Justice while wearing a pair of damp fishing waders. Even when Tena was in the middle of an extended, multi-defendant trial, Gordon was not above calling chambers to inquire about 'the E.T.A. on dinner.' The night before Mary's wedding, Gordon stole the rest of the tooth bleach out of her hotel room. Interrupted mid-theft, he declared, 'I'm the one with a speaking role in this event, child' . . . [The obituary ended as follows.] When Mary was twelve, she asked Gordon to drop her on the corner rather than drive her all the way to junior high. He responded by parking his Dodge Ram Charger directly in front of the building and waiting until she was walking past the coolest boy in school, shouting, 'I love you, Mary Campbell!' out the window. . . . We have no idea what window you might have passed through, but just in case you're close enough to hear, 'We love you, Gordon Campbell.'"

William R. Caroselli, '99, a founding member of Caroselli, Beachler & Coleman, L.L.C., Pittsburg, Pennsylvania, died May 17, 2018 at age seventy-six.

A graduate of Brown University, where he was a 160-pound interior lineman, reputedly the smallest interior lineman in the Ivy League, he earned his law degree from Dickinson School of Law. After law school, he served briefly on active duty in the Pennsylvania National Guard, and in his early years also served as Assistant County Solicitor of Allegheny County. President of the Pennsylvania Association for Justice, he had been Chair of the Disciplinary Board of the Pennsylvania Supreme Court. In the civic arena, he served as Chair of the Board of the local National Public Radio station and the regional Easter Seals organization, and he was a major supporter of the Juvenile Diabetes Research Foundation. His survivors include his wife, two daughters, and two sons.

Hugh Arthur Chapin, '82, a Fellow Emeritus, retired and living in New London, New Hampshire, died December 13, 2017 at age ninety-two. After serving in the United States Navy in World War II, he earned his undergraduate degree from Cornell University and his law degree from Harvard Law School. A partner in the New York firm, Kenyon & Kenyon LLP, where he became a preeminent leader in the intellectual property bar, he retired in the middle 1950s, moving to New Hampshire. Turning his attention to community service, he served for many years as a Trustee of the New Hampshire Land Trust and served on the Board and as Chairman of New London's Kearsarge Council on Aging, which has been renamed the Chapin Senior Center in his honor. A widower, his survivors include three sons and a daughter, Sarah Chapin Columbia, who is herself a Fellow of the College.

Robert Morris Clay, '89, a Fellow Emeritus, retired from Young, Moore and Henderson, P.A., Raleigh, North Carolina, died February 3, 2018 at age eighty-two. His father died when he was six years old, and

he grew up among his mother's family in a small community outside Raleigh. A graduate of the University of North Carolina at Chapel Hill, he was a member of its fencing team, competing in the Épée in an NCAA Championship. After graduating from the UNC School of Law, he practiced for almost fifty years in a Raleigh firm that evolved into Patterson, Diltney & Clay, spending his final years with Young, Moore. An Eagle Scout, he was a member of the marching band of a North Carolina National Guard Division, playing the trumpet. He also played in a local dance band. His and his wife's wedding ceremony was performed by legendary basketball player, coach, and color commentator Horace A. "Bones" McKinney, who was also an ordained Baptist minister. Practicing primarily as a medical malpractice defense lawyer, Clay served on the North Carolina General Statutes Commission and on the North Carolina Courts Commission. Meticulous and soft-spoken, he was known for his immaculate attire. One Fellow who had worked with him remembered seeing him pack for a distant trial, carrying with him five grey suits and five maroon ties. His survivors include his wife of sixty-one years, a daughter, and a son.

Reed Clements, '78, a Fellow Emeritus, living in Sedona, Arizona, died May 30, 2018 at age ninety-two. In July 1943, a seventeen year old, he enlisted in the United States Army and served as a radio operator in World War II, seeing combat in France and Belgium and earning a Bronze Star for bravery in action. He then earned his undergraduate degree from the University of Idaho and his law degree from its School of Law. He joined his father in the practice of law as Clements & Clements in Lewiston, Idaho, where he lived until his 1991 retirement, then moving to Arizona. A former senior warden of his Episcopal Church, he was a 32nd degree Mason. He served the College

on both the Arizona and Idaho State Committees. A widower who remarried, his second wife also predeceased him. His survivors include two daughters.

John Ernest Clough, '77, a Fellow Emeritus, retired in Erie, Colorado, died June 14, 2018 at age eighty-five. After serving in the United States Navy in the Korean Conflict, he earned his undergraduate degree from the University of Colorado and his law degree from its School of Law. He first practiced with White & Steele in Denver, Colorado, then moved to Los Angeles, California, where he was Associate General Counsel of Transit Casualty Company. He then practiced with the Santa Monica firm Haight Brown & Bonesteel before returning to Denver to become a founding partner of Cooper & Clough, from which he retired in 2010. He was President of the Colorado Defense Lawyers Association, the Denver Law Club, and his Inn of Court and First Vice-President of the Colorado Bar Association. He taught as an adjunct professor of trial tactics and procedure, and in 1973 founded and was the first Director of the International Association of Defense Counsel Trial Academy on the Boulder campus. It continued there for thirty-one years before moving to Stanford University School of Law. His hobbies included scuba diving, white water rafting, skiing, sailing, hiking, running, reading, painting, and golf. Upon retirement, he recorded books for the blind and the dyslexic. His survivors include his wife and seven children.

Thomas Williams Davenport, Jr., '94, a Fellow Emeritus, Haughton, Louisiana, died April 27, 2018 at age seventy-seven. When his undergraduate education at the College of William and Mary was interrupted by the untimely death of his father, he returned to Louisiana and earned his law degree at Louisiana State University. After serving as a law clerk

before a state appellate judge, he joined the Monroe, Louisiana law firm Davenport, Farr & Kelly, later Davenport, Files & Kelly, where he practiced until his retirement. He served as President of the Louisiana Association of Defense Counsel and taught on several law faculties, including the NITA Southern Regional Programs. He served as a member of the Louisiana State Bar Association House of Delegates and the Louisiana Association of Criminal Defense Attorneys.

Richard W. Ellis, '96, a Fellow Emeritus, retired from Ellis & Winters, LLP, Raleigh, North Carolina, died July 9, 2018 at age seventy-six. A graduate of the University of North Carolina and of its School of Law, from which he earned high honors, between undergraduate and law schools, he served as an officer in the United States Navy, stationed on the *USS Lindewald (LSD-6)*, a dock landing ship, operating in the Atlantic and Caribbean. He began practice at Smith Moore Smith Schell & Hunter, a large Greensboro, North Carolina law firm that thereafter, in an era of growth in North Carolina, merged with a Charlotte firm to become Smith Helms Mulliss & Moore, where he practiced in its Raleigh office. In 2000, he helped to organize a Raleigh trial firm in which he practiced until his 2012 retirement as his health declined. He had served as regional coordinator with trial responsibility in eight states for a major manufacturer in national breast implant litigation. Taking advantage of a generous sabbatical arrangement in his earlier firm, he spent a term working as an instructor at the Nantahala Outdoor Center. The Nantahala, a Native American word for "the land of the noonday sun," was a winding, precipitous eight-mile gorge on the western slope of the Eastern Continental Divide. The Outdoor Center, which for a time became the training ground for Olympic paddlers, had been created about the time that the first, flat-keeled

open-deck canoes, capable of navigating twisting rock-strewn whitewater rivers such as the Nantahala had first been invented. There, Ellis found a second home, and he later became a member of the Center's Board. His survivors include his wife and two sons.

Neil Richard Finkelstein, '99, McCarthy Tétrault, LLP, Toronto, Ontario, Canada, died June 12, 2018 at age sixty-six. He earned his bachelors and chartered accountant degrees at McGill University and his law degree at its School of Law. He then went on to earn a Master of Law degree at Harvard Law School. After serving as a law clerk for Canadian Chief Justice Bora Laskin, over the ensuing years, he practiced in a succession of two law firms. In an incredible thirty-five-year career, he had been Constitutional Advisor to the Premier of Newfoundland and Senior Policy Advisor to the Attorney General of Ontario, argued thirty appeals before the Supreme Court of Canada, and fifty-eight appeals before Courts of Appeal, had 102 trials and hearings, two Commissions of Inquiry, and two international arbitrations. He was co-counsel to the Canadian Government's Gomery Commission on Sponsorships and Advertising and conducted the first public inquiry of a sitting Prime Minister since 1873. A Life Bencher of the Law Society of Upper Canada, which later honored him with a Doctorate of Laws *honoris causa*, he had been co-organizer of a Rauol Wallenberg International Human Rights Symposium. He authored or co-authored seven books, including, at the specific request of Chief Justice Laskin, authoring the 5th edition of *Laskin's Canadian Constitutional Law*, also authoring thirty-two articles and case comments. He also taught as an Adjunct Professor at Osgoode Hall Law School and the University of Toronto and taught two courses at the University of Ottawa Law School. His survivors include his wife of forty years and five children.

John Leonard Foster, '92, a Fellow Emeritus, retired from Foster, Meadows, & Ballard, P.C., Detroit, Michigan, and living in Naples, Florida, died February 26, 2017 at age eighty-five. An Alabama native, while in undergraduate school at the University of Michigan, the Alabama National Guard was nationalized, and he entered the United States Army during the Korean Conflict. Graduating from the University of Alabama, he then returned to earn his law degree at the University of Michigan. An expert in maritime law, he represented many shipping lines in the Great Lakes area. His survivors include his wife of fifty-nine years and three daughters.

Jack Michael Giles, Q.C., '82, Fellow Emeritus, retired from Farris, Vaughan, Wills & Murphy, LLP, Victoria, British Columbia and living in Salt Spring Island, British Columbia, was born in 1936 and died March 27, 2018. After a lifetime related in his delightful obituary as living around the world with his parents, his father being described as "always looking for the pot of gold at the end of the rainbow," Jack Giles returned to Victoria to earn his undergraduate and law degrees from the University of British Columbia. He married his wife after a four-week courtship. "Once he made up his mind about anything, he never saw any reason not to get on with it." He spent his entire career with the Farris firm. Retiring in 2007, he and his wife moved to Salt Spring Island, where, in the words of his obituary, he "plunged enthusiastically into the next phase of his life, enjoying painting, laughter, and Oban. He played tennis and golf regularly and with the same lack of success that had marked his earlier years in sport, but he always lost with good humor, in the hope of improvement and with pleasure to be with those he loved." A friend referred to him as "the consummate gentleman." His survivors include

his wife of more than fifty years and three sons.

Allan Harvey Gordon, '93, a Fellow Emeritus, retired from Kolsby, Gordon, Robin & Shore, Philadelphia, Pennsylvania and living in West Hallandale, Florida, died June 19, 2018 at age seventy-seven of lung disease. A graduate of Temple University and of its School of Law, where he graduated at the top of his class, he first started his own law firm with fellow classmates and worked as Assistant City Solicitor for the City of Philadelphia. Several years later, he joined Kolsby & Wolf, which ultimately became Kolsby, Gordon. He was involved in a number of national product liability class actions in the pharmaceutical arena. He served as Chancellor of the Philadelphia Bar Association, chaired its Board of Governors, and was President of the Philadelphia Trial Lawyers Association. He had helped found the Judge Pro Tempore program within the Philadelphia Court of Common Pleas, a civic Bar effort that eliminated around 15,000 pending cases from the city's backlog. After moving to Florida, he continued to act as an arbitrator for Philadelphia's ADR Options. His survivors include his wife and three daughters.

Hon. Paul Raymond Haerle, '84, a Judicial Fellow, living in retirement in Tiburon, California, died March 16, 2018 at age eighty-six of congestive heart failure. He greatly admired his father who did not graduate from high school, and, starting with a job in the mailroom of an insurance company, eventually became its president. A graduate of Yale University and the University of Michigan School of Law, where he was Editor of the law review, he received the Oreon E. Scott Award for Distinguished Legal Scholarship and was a member of the Order of the Coif. He practiced with San Francisco's Thelen, Marrin, Johnson & Bridges, becoming its first managing partner. Taking

a two-year leave to serve as Governor Ronald Reagan's judicial appointments secretary, he became the Northern California Chair of Reagan's Reelection Committee and Assistant Floor Manager for the President Ford Committee at the 1976 Republican National Convention. He had also been Chair of the California Republican Party and had served on the state's Judicial Selection Committee under two governors. Appointed to the California Court of Appeals by Governor Pete Wilson, he served for twenty years, retiring in 2014. His lifelong interest in history fueled his interest in travel, and he and his wife carefully planned ahead and traveled regularly throughout Europe, Asia, and Africa. Courtly and gentlemanly, his spiritual home was London, where he made a regular pilgrimage to see the changing of the guard at Buckingham Palace. Trustee of the World Affairs Council of Northern California, he frequently moderated its programs and introduced its speakers. A dedicated hiker and tennis player, he was still playing tennis in his early eighties. After retirement, he volunteered as a dog companion for the Marin Humane Society. His survivors include his wife, a daughter, and a son.

Gould Barrett Hagler, '76, a Fellow Emeritus from Augusta, Georgia, died February 14, 2018 at age ninety-three. A combat veteran of World War II who volunteered in the United States Army at age eighteen, he served in the European Theater of Operations. Graduating from the University of Georgia and its School of Law, he practiced with Augusta's Fulcher and Fulcher, now Fulcher Hagler LLP, for over forty years before retiring. He had been a co-founder of the Georgia Defense Lawyers Association, President of the Augusta Bar Association, and a member of the Board of Governors of the State Bar of Georgia. He also served as Chairman of the State Board of Bar Examiners. A wid-

ower whose wife of sixty years predeceased him, his survivors include a daughter and four sons.

Cavan Hardy, '80, Fellow Emeritus, retired from Hardy Erich Brown & Wilson, Sacramento, California, and living in Carmel, California, died June 25, 2018 at age ninety-one. Born in Phoenix, Arizona, he spent his childhood in Honolulu, his mother's homeland. After graduating from high school, he made passage to San Francisco. Married soon after, he was drafted into the United States Army at the end of World War II and shipped to the Aleutian Islands. Upon his return, he earned his undergraduate degree at the University of San Francisco and his law degree from its School of Law. Moving to Sacramento, he joined the law firm of Bradford, Cross, Dahl & Hefner. Eleven years later, he and two of his friends formed Hardy, Erich & Brown. He retired in 1984 and thereafter moved to Carmel. He volunteered for years as a part-time professor at Monterey College of Law. His partner in Hardy, Erich & Brown, John Quincy Brown, Jr., also became a Fellow of the College. Brown's memorial is also recorded in this issue of the *Journal*, having predeceased Hardy by four months. Hardy's survivors include his wife and two daughters.

George Robertson Hillsinger, '78, a Fellow Emeritus, retired from Hillsinger & Constanzo, Los Angeles, California and living in Glendale, California, died June 4, 2018 on his ninety-second birthday. After serving for four years as a gunner's mate on a destroyer in the Pacific Theater during World War II, he earned his undergraduate degree at Pasadena City College and his law degree from Southwestern School of Law, then establishing the firm of Hillsinger & Costanzo, where he practiced until his retirement. One of the original founding members of the American Board of Trial Advocates (ABOTA), he served as

its President in its third year. He also served on the California Bar Association's Board of Governors and as its Vice-President. A graduate of the Strauss School for Dispute Resolution, he was one of the draftsmen of the *California Jury Instructions: Book of Approved Jury Instructions*. A widower, his survivors include a son.

Theodore Howard Hoffman, '86, Hoffman & Gelfman, St. Louis, Missouri, died March 27, 2018. Born in 1930, he was a graduate of St. Louis University and of its School of Law, and a recipient of an Award of Honor from the Lawyers Association of St. Louis. A widower, his survivors include three daughters.

Oliver Sterling Howard, '14, Gable Gotwals, Tulsa, Oklahoma, died May 21, 2018 at age seventy-two. He earned a degree in high honors in History and Biblical Literature at Oklahoma Christian College and then graduated from Abilene Christian College with a Master of Arts degree in Patristic Greek and Biblical Literature. He had been a Church of Christ minister, preaching in small churches since he was sixteen years old, and in his middle twenties he began studying for his Ph.D. at Hebrew Union College in Cincinnati, Ohio. Then, at age thirty, he decided to leave church work to pursue a career in law. In 1979, he earned his law degree at the University of Cincinnati, where he was Editor of the law review and a member of the Order of the Coif. The year before, he had completed his Ph.D. in Biblical and Early Rabbinic Jewish Literature. Returning to Oklahoma, he practiced law for the next thirty-nine years with Gable Gotwals, becoming its President. He was lead trial attorney in a suit arising from a failed merger that resulted in a jury verdict for his client that was the largest judgement ever awarded in Oklahoma. He served as Adjunct Settlement Judge for the United States Court for the Northern Dis-

trict of Oklahoma and served on its Committee on Admissions and Grievances. He also served on the Board of Visitors of Pepperdine University College of Law. In his continued church life at his Tulsa Christian Church, he had many leadership roles, taught a Sunday school class, and sang in the choir. He served on the Board of the Phillips Theological Seminary, where he also taught as an adjunct professor and as a Board member. He was President of the Oklahoma Center for Community and Justice, an organization that promotes interfaith dialogue, diversity, and inclusion, in his words, a natural outgrowth of his own faith journey, "a way to begin dialogue to find common ground." He was quoted as saying, "With the change in demographics in this country, it's inevitable that Christianity has to be seen as one of many religions in the United States, and that all of these religions are entitled to equal and fair treatment." . . . "And," he added, "I think it's been hard for some people." Throughout the rest of his life, he officiated at many marriage ceremonies and gave many eulogies for departed families and friends. An outgrowth of what others described as his "big-tent theology," he saw his work in law as being "a professional service provider," . . . "not unlike being a minister—dealing with people in crisis, problem areas where they have disagreements, and helping them get through it." He and his wife of fifty-two years traveled the world and played many rounds of golf. His survivors include his wife and three daughters.

John Kimbrough Johnson, Jr., '97, Lewis Thomason, PC, Memphis, Tennessee, died November 7, 2017 at age seventy-five. Earning his undergraduate degree at the University of Mississippi, he was an officer in the United States Marine Corps, serving a tour of duty in the Vietnam War. He then earned his law degree at Vanderbilt University School of

Law and practiced law in Memphis throughout his remaining life. He was a longtime Elder and Trustee of his Presbyterian church. His survivors include his wife of fifty-three years, a daughter, and two sons.

Charles Clayton Keller, '86, Peacock, Keller & Ecker, LLP, Washington, Pennsylvania, died May 10, 2018 at age ninety-four. A graduate with highest honors of California State Teachers College (now California University of Pennsylvania) and of the University of Pittsburgh School of Law, his undergraduate education was interrupted by World War II. He was for three years a bomber pilot in the United States Army Air Corps, flying thirty-five missions in the European Theater. He retired as a lieutenant colonel and a member of the Judge Advocate General Corps in the Air Force Reserves. In his early practice, he acted as a Borough Solicitor. As a Deputy Attorney General of Pennsylvania, he represented the Commonwealth in condemnation matters for many years, and as an Examiner for the Public Utility Commission, pioneered some of the early practices in administrative law. He retired from his Pittsburgh area firm at age ninety-four, the year in which he died, after practicing for more than sixty-five years. He served as President of his local Bar, of the Pittsburgh Bar Association, and the Pennsylvania Bar Association and as a member of the American Bar Association House of Delegates. In the civic arena, he was active in the Boy Scouts, having himself been an Eagle Scout. A Rotary Club member from the time he began practicing law, he ultimately served as President of Rotary International. He also served on the Governor's Commission on Financing Higher Education and had organized and chaired the Association of State Colleges and Universities. His undergraduate alma mater had bestowed on him a Doctor of Humane Letters, *honoris causa*. An avid tennis player, he loved music, played the coronet and, for forty years, was

choir director of his Methodist church. A widower who remarried, his survivors include his wife, two daughters, two sons, a stepdaughter, and a stepson.

Robert W. Kettering, Jr., '10, a Fellow Emeritus, retired from Arthur, Chapman, Kettering, Smetak & Pikala, P.A., Minneapolis, Minnesota, died April 22, 2018 at age sixty-nine, of Alzheimer's Disease. A graduate of Princeton University and a cum laude graduate of the University of Minnesota School of Law, after his first two years of practice, he joined the firm he helped to build and in which he practiced for the rest of his life. In what has often become a graceful way of honoring the humanity of too many who die too soon, his family described him as "being remembered for his dedicated love of his wife, two daughters, and son-in-law, family, friends, neighbors, colleagues, the practice of law, the game of golf, his loyal love of Princeton, DeLaSalle [his high school], and his respect for education, his witty sense of humor and reading at least one page of *The New Yorker* before falling asleep at night. Not necessarily in that order." His wife of thirty-eight years had kept the promise that he would remain at home in his house and neighborhood. In a final tribute from his family, they noted that he "passed away peacefully . . . with his devoted and loving wife by his side and, as he would have wanted, his two favorite daughters soundly asleep upstairs." And, they concluded, "Bob has ended his earthly journey with grace and is now playing endless rounds of golf, eating lots of cookies . . . [He] donated his body to the University of Minnesota Anatomy Bequest Program in hopes that they will find the source of all his bad jokes, and even better, a cure for Alzheimer's Disease, the terrible life sentence that robbed him of joyful years and continued accomplishment." His survivors include his wife and two daughters.

Henry Lawrence King, '75, a Fellow Emeritus, retired from Davis Polk & Wardwell, LLP, New York, New York, died June 18, 2018 at age ninety. A graduate with honors from Columbia University and from Yale Law School, where he was Managing Editor of the law journal, he began a career of over sixty years with Davis Polk. He was its managing partner for twelve years, during which it moved from downtown to mid-town and generally shifted to a global economy. Known for championing the promotion of women, he was involved in a high-profile case challenging New York City's calculation of the pensions of female employees. He was the principal trial lawyer for many national concerns, as well as regularly advising them on antitrust issues. He served Columbia University in a number of ways, as Chair of its Board for two terms, remaining as Chair Emeritus, and leading searches for two of its presidents, as well as chairing its Health Science Sciences Advisory Committee. He served on the vestry of Trinity Church Wall Street and was later a trustee of the Cathedral of St. John the Divine, shepherding its recovery from a devastating fire. He served as President of the New York Bar Association and was a Trustee of the Lawyers Committee for Civil Rights Under Law. His many civic endeavors ranged from those involving medical issues and those that impacted the city of New York to his membership on the Council of Foreign Relations. His survivors include his wife, two daughters, and two sons.

Alfred Smith Landry, '92, a Fellow Emeritus, retired from Landry, Watkins, Repaske & Breaux, New Iberia, Louisiana, died July 17, 2018, at age ninety-one. The youngest of six children, he attended Southwest Louisiana Institute for four semesters before earning his undergraduate degree from the United States Merchant Marine Academy. He then went to sea on a passenger/banana ship. His moth-

er, not liking the idea of her son on a banana boat, enrolled him in law school at Tulane University. Beginning practice in New Iberia with his brother, two years later, he was commissioned an officer in the United States Navy and stationed on the heavy cruiser *USS Helena*, (CA-75), during the Korean Conflict. Returning to New Iberia, he practiced law until six months before his death. President of the Chamber of Commerce and of the Louisiana Association of Defense Counsel, he had received his local Inn of Court's Professionalism Award. On the day of his marriage, his bride told him that she wanted ten children. They had eleven. Whenever misbehaving children were told "wait til your Papa comes home," they were elated because they knew that Papa was too gentle to punish them. His wife of sixty-six years predeceased him by three months. His survivors include four sons and five daughters, one of whom, Adrienne Landry Baumgartner, is also a Fellow.

Wendell Graham Large, '03, Richardson, Whitman, Large & Badger, Portland, Maine, died April 7, 2018 at age sixty-five of heart failure while attending a legal conference in Arizona. A Phi Beta Kappa graduate with honors from the University of North Carolina at Chapel Hill, he earned his law degree from the University of Virginia and began his practice in Maine, becoming a founding partner of his firm. A President of the Maine Bar Association and of the New England Bar Association, a Governor of the American Bar Association, a director of the USLAW Network, and several times co-director of the Maine College of Trial Advocacy, he was an active member of Portland Trails. He had served the College as its Maine State Committee Chair. In the words of his wife of thirty years, a printmaker, ceramicist, and beekeeper, he was her neighbor who came for dinner one night and never left, and they were a couple who never fought.

“When he died,” she said, “the only silver lining was that there was nothing left unsaid. We lived well together.” His survivors include his wife and a daughter.

Mercedes Luque-Rosales, '16, Chicago, Illinois, died April 15, 2018 at age fifty-six of a heart ailment. The child of Cuban immigrants who left their comfortable lives as Fidel Castro tightened his power, they built a new life in the United States and never saw their relatives again. Beginning her undergraduate education at DePaul University, she had graduated from Loyola University, making a ninety-minute journey on public transportation twice a day and working at Marshall Field when she was not studying. Winning a scholarship to Creighton University School of Law, she graduated at the top of her class. After a year working for the Chicago Board of Education, she went to work for the Cook County State's Attorney Juvenile Justice Bureau. In her sister's words, “This kid got job offers and salaries you couldn't imagine. She said, ‘No, my dream was always to be a prosecutor.’ She wanted to help victims' families.” She especially undertook to form bonds with the families of those whose crimes she was prosecuting. Her sister related that *To Kill a Mockingbird* had helped inspire her to become a prosecutor. Reading it over and over, she even acquired a first edition of the book. A founding member of the Hispanic Lawyers Association of Illinois and President of the National Hispanic Prosecutors Association, she was regarded as a mentor to many law students, inspiring them to go to law school. A devotee of rescue dogs, she was also a fan of musical theater and song who travelled with her mother as far as Hawaii to see her favorite performers. Her sister related that she had seen two of her favorite musicals so many times that she could have understudied every role in them. Her survivors include her expatriate mother, her sister, who became

a dentist, and a brother, who became a police officer.

Frederick H. Mayer, '75, Armstrong Teasdale, LLP, St. Louis, Missouri, died June 8, 2018 at age ninety-three. His undergraduate education at the University of Minnesota was interrupted by World War II in which he became the pilot of a B-29 bomber stationed in Tinian and Saipan, participating in the bombing of Tokyo. Returning to college, he completed his undergraduate education at the University of Missouri and earned his law degree at Washington University, St. Louis. For his first two years, he was an agent for the Federal Bureau of Investigation and then became a First Assistant United States Attorney. Thereafter a member of a St. Louis law firm, he had been appointed Director of the Attorney General's Task Force on Organized Crime for the State of Missouri. President of the International Society of Barristers, he had served the College as its Missouri State Committee Chair. A widower who had remarried, his survivors include his wife, a daughter, a son, two stepdaughters, and three stepsons.

Austin McCaskill, Sr., '79, a Fellow Emeritus, retired from Barber Law Firm, PLLC, Little Rock, Arkansas, died December 15, 2017 at age ninety-seven. Entering Washington & Lee University at age sixteen, he earned both his undergraduate degree and law degrees there. Inducted into the United States Army in World War II, he was assigned to the Counter Intelligence Corps, attached to securing the United States' Atomic Bomb Project. Until 1995, he practiced law in Little Rock with the firm that evolved into Barber, McCaskill, Amsler, Jones & Hale, thereafter becoming counsel to the firm. In a life not without its changes and challenges, he was preceded in death by his wife of forty-two years, remarried to a second wife who died about a year later, and mar-

ried a third time to a wife who survives. Whenever asked how he was doing, he most often responded, “Fantastic. I just couldn’t be better.” He had served the College as its Arkansas State Committee Chair. His survivors include his wife of twenty-one years, two sons, two stepdaughters, and two stepsons.

Julius Walker McKay, ’68, a Fellow Emeritus, retired from Haynsworth Sinkler Boyd, P.A., Columbia, South Carolina, died July 6, 2018 at age ninety-five. A graduate of The Citadel, he served in World War II and then earned his law degree at the University of South Carolina School of Law, practicing law in Columbia for fifty years before retiring. A generous and unassuming Southern gentleman, his favorite hobby was described as “collecting friends.” His front porch was a gathering place. He loved a good party, but never hesitated to tell his guests when it was time to go home. A confirmed bachelor until age forty, he then met his wife, whom he described as “well worth the wait.” He served as President of both his local Bar and the South Carolina State Bar Association and had served the College as its South Carolina State Committee Chair. He helped to create one Episcopal Church and later served as Senior Warden of another. During his service as President of the Board of Trustees of his county library, it constructed a new building, expanded, and upgraded nine branches and was once named the country’s best. A longtime supporter of the Boy Scout movement who had earned its Silver Beaver Award, the group that he started at his church became the largest Explorer Troop in the country. At a recent reunion of his Eagle Scouts, he was described as “a man who proved through his own life that honor and responsibility were character traits . . . rewarded for truth, honesty and respect, . . . respect for those who choose to walk the path towards manhood with an understanding that our

world was a thing made much richer by giving some part of ourselves to a group, a cause, or a belief that was bigger than our individual egos and self-interest.” In retirement he and his wife spent their summers in the cool mountains of North Carolina at Little Switzerland, where he served the local church and was chair of the town roads committee. His survivors include his wife, a daughter, and a son.

Henry Dave Menghini, ’84, a Fellow Emeritus, retired from Evans & Dixon, L.L.C., Fenton, Missouri, died March 20, 2018 at age eighty-three. He earned both his undergraduate and law degrees from Washington University, St. Louis, with an intervening hitch as an officer in the United States Army in the Cold War era. Early in his career, he was awarded the Lon Hocker Award (named for the tenth person to serve as College President) as a young lawyer who has demonstrated unusual proficiency in the art of trial advocacy. He later taught trial advocacy at the law school of his alma mater. Representing his school district for over thirty years, in retirement as an advocate, for nearly a decade he became a popular mediator known for his fairness and his ability to settle disputes. A handball player for his entire career, he won the Missouri State Doubles Handball Championship on more than one occasion, and he coached his children’s baseball and softball teams and taught his grandchildren how to fish. A widower whose wife of fifty-eight years predeceased him, his survivors include a daughter and a son.

Ronald Ivan Meshbesh, ’89, a Fellow Emeritus, retired from Meshbesh & Spence, LTD, Minneapolis, Minnesota, died June 13, 2018 at age eighty-five after a long bout with Alzheimer’s disease. As a teenager, he had started going to court to watch trials that he had seen about in the newspaper. He earned his undergraduate and law degrees from the University of

Minnesota and, beginning at age twenty-four, in his three years in the Hennepin County Attorney's office he tried forty-five felony cases with a ninety-two percent conviction rate. He then moved to the defense side of the criminal bar. Characterized as "the dean of the local criminal defense bar for forty-five years," he initially became a household name in defending two cases. One was a high-profile kidnapping case, a case that was never resolved, in which the million-dollar ransom had been paid in twenty-dollar bills. The other was a case in which he successfully defended a woman accused of orchestrating the murder of her adopted mother and her nurse in order to gain the eight million dollars she would receive upon the mother's death. The woman's husband was thereafter convicted and later confessed to the murders. He also handled major civil cases and wrote the 1992 *Trial Handbook for Minnesota Lawyers*. His honors had included the presidency of the National Association of Criminal Defense Lawyers. In his own statement in an interview, he called the American jury system the most important part of our legal system. "To have," he continued, "twelve people from all walks of life, who know nothing about the case, come in and make a decision is the right way to do it." He was widely respected by his opponents. One observed, "Our dispute never impaired to the slightest degree my strong admiration and respect for Ron as a great lawyer and a terrific person." Another said, "Ron was a formidable opponent, but he never let the adversary process prevent us from talking before and after court as we sought ways to resolve matters for the best of all parties. . . . He was a special person and is deeply missed by many." A longtime partner noted that one of the biggest reasons for his success was his amazing ability to connect with people—all people. "When you talked with him, he listened and made you feel truly special. As a law partner, he was

a benevolent leader." A younger partner, one of nine under his tutelage who later ended up on the bench, at least one of them a member of the Minnesota Supreme Court, related, "He had a love of the law and took time to educate and help young lawyers who joined the practice." A former law student who watched him try a murder case said, "He very graciously spent time with me after the trial, explaining what he was doing on cross-examination and why he was doing it. Those were lessons I never forgot." At his death, his wife's Facebook post read: "The Defense Rests. May 18, 1933—June 13, 2018." His survivors include his wife and four daughters.

James Watson Morris, III, '81, Richmond, Virginia, the fifty-fourth person to serve as President of the College, died June 9, 2018 at age eighty-five. A tribute to his life may be found on page 45 in this issue of the *Journal*.

John Darby O'Brien, '91, Las Vegas, Nevada, died March 30, 2018 at age seventy-seven. A graduate of Creighton University and of its School of Law, he joined the 173rd Airborne Brigade of the United States Army, attending the John F. Kennedy Center for Special Warfare. He then served at forward operating bases in the Central Highlands, participating in one of the bloodiest combat operations in the Vietnam War and earning a Bronze Star for his service. Beginning his legal career as a Deputy District Attorney, he was at one time a partner of his longtime friend, Senator Richard Bryan. He was later named a part-time United States Magistrate and thereafter practiced for thirty-three years with former Federal Prosecutor Donald J. Campbell. A former President of the Nevada State Bar, he served the College as Nevada State Committee Chair. His survivors include his brothers and nephews.

Alvin M. Owsley, '81, a Fellow Emeritus from Houston, Texas, died February 4, 2018 at age ninety-one, three days short of his ninety-second birthday. The son of an Army colonel, while growing up, he lived in Texas, Romania, Ireland, Denmark, and Indiana. A graduate of the Lawrenceville School, his education at Princeton University was interrupted by service as a field artillery sergeant in the United States Army in World War II in Italy, earning two battle stars. Returning to Princeton, he was Cadet Commander of the Army ROTC Battalion, emerging as a commissioned officer. Earning his law degree at the University of Texas School of Law, he was Associate Editor of the law review and a member of the Order of the Coif. He practiced with Baker & Botts in Houston for thirty-four years before retiring in 1986. Appointed as a Special Hearing Officer for the United States Department of Justice, he was a life member of the National Republican Committee. He had been involved in a number of health-related organizations and had created a number of academic scholarships. He was also principal manager of the Alvin and Lucy Owsley Foundation, named for his parents. A man of broad talents, he had won a poetry prize and was a Bronze Medalist in the 13th Houston Senior Olympics in the fifty-meter dash. A widower, his survivors include a daughter and a son.

Anthony J. Palumbo, '03, Palumbo, Wolfe & Palumbo, PC, Phoenix, Arizona, died April 16, 2018 at age seventy-one while on a trip to Triacastela, Spain. After earning his undergraduate degree at Fairfield University, he served in the United States Army in Vietnam and thereafter graduated cum laude from the University of Notre Dame Law School. After first practicing in an established Phoenix law firm, four years later he co-founded another firm. Then, twenty-five years later, he organized a firm with his best friend and

his son, where he practiced for the rest of his days. He had been involved in a number of local charitable organizations, notably Boys Hope Girls Hope of Arizona. His survivors include his wife and two sons.

Philip A. Robbins, '80, Phoenix, Arizona, died March 20, 2018 at age eighty-five. Born in Indiana, his family moved to Tucson when he was five years old. After earning his undergraduate and legal education at the University of Arizona and its School of Law, he served as a law clerk for a United States District Judge in Los Angeles, California and worked as an Assistant District Attorney in San Diego, where he remembered prosecuting the only known horse-stealing case. Returning home to Arizona, he practiced in Phoenix with his first firm for fifteen years before forming, with several colleagues, Robbins, Green, O'Grady and Abbuhl, where he practiced for the next thirty-three years. He then served as Special Counsel for two successive firms before retiring in 2017. He had been President of the Arizona Trial Lawyers Association, had been involved in many Arizona-Mexico organizations, and had been Chair of the Board of the National Law Center for Inter-American Free Trade, the U.S.-Mexico Bar Association, the Arizona-Mexico Commission, the Phoenix Sister Cities Commission, and the Border Health Foundation. He was a member of the NAFTA Advisory Committee on the Use of Mediation and Arbitration in Private Commercial Disputes and had served with former President Jimmy Carter as an election observer in Indonesia and Honduras. Until his death, he was a member of the Executive Board of Vote Smart-Facts Matter. A member of ABOTA, he had received its Professionalism Award and was inducted into the Maricopa County Bar Association Hall of Fame. He had served the College both as Arizona State Committee Chair and as chair of several globally focused general committees.

His passion for travel and love of hiking had taken him to many parts of the world, including the Peruvian Andes. A lifelong lover of the opera, theater, and the arts, his art studio at home was nearly finished when he died. Twice married, his obituary notes that his survivors included both wives and five daughters.

Hon. Vern Simonsen, '82, a Judicial Fellow Emeritus, Winnipeg, Manitoba, Canada, died April 8, 2018. Born in 1931, he was the fifth of eight children in a Danish family and the first among them to be born in Canada. Growing up on a farm in Saskatchewan during the Great Depression, he attended a one-room schoolhouse in his younger days, then attended Luther College in Regina, Saskatchewan and Dana College in Blair, Nebraska. After teaching in rural high schools, he decided to go to the University of Manitoba Law School, where he won the Gold Medal in Law. For twenty-three years he practiced for what eventually became Scarth, Simonsen, Dooley, Olsen and Weins. President of the Law Society of Manitoba, he was appointed a judge of the Manitoba Court of Queen's Bench and served until his retirement in 1997, fifteen years later. Serving as the Honorary Danish Consul in Manitoba for years, he was a Trustee of a local school district, a member of the Winnipeg Police Commission, and an active supporter of youth sports teams. His survivors include his wife, two daughters, and a son.

Herbert Davis Sledd, '70, a Fellow Emeritus, retired from Wyatt, Tarrant & Combs, LLP, Lexington, Kentucky, died June 18, 2018 at age ninety-three. He served in the United States Marine Corps, First Marine Division, in World War II, landing on Guadalcanal on the way to Peleliu to set up artillery in the invasion of Okinawa. He earned his undergraduate education at the University of Kentucky while working in his family's steam laundry. He then gained

his legal education at Chicago-Kent College of Law. A founding member of Brown, Sledd and McCann, he later retired as a partner at Wyatt Tarrant. President of his county bar, with whose highest award he was twice honored, he served the Kentucky State Bar Association as President of its Young Lawyers Conference and later as the Association's President. An incorporator of the Kentucky Bar Foundation, he became its President. He was a member of the American Bar Association's House of Delegates and later of the ABA Board of Governors, completing four terms as Secretary of the ABA and also serving as President of the American Bar Foundation. At the state level, he served as Chair of the Kentucky Peace Officers Council. In his religious life, he was a deacon and then an elder in his congregation and served in several leadership roles. Elected to the Board of Trustees of Lexington Theological Seminary, he served both as its Chair and as Interim President of the Seminary. In addition to a large number of fraternal organization and civic leadership posts, he served as President of the Lexington Chamber of Commerce. He was Chair of the local Shriners Hospital. An Eagle Scout, he was a fifty-year veteran scoutmaster. He had received numerous awards over the years for his leadership, particularly in the legal world. His wife of forty-seven years having predeceased him, he had remarried. His survivors include his second wife, two daughters, and a son.

Jerry Wayne Snider, '91, a Fellow Emeritus, retired from Faegre & Benson, LLP, and living in Chanhassen, Minnesota, died June 9, 2018 at age seventy-seven of Alzheimer's disease. A graduate of Wake Forest University, where he met his wife, the two of them began their life together teaching elementary school along the Texas/Mexico border. He then attended the University of Houston Law School and thereafter served as a law clerk for both Chief Justice Warren



Burger and Associate Justice Tom Clark. His next forty-one years were spent in Minneapolis at Faegre & Benson, where he had a remarkable fan base among the younger lawyers. In a memorable contribution to this article, a former mentee described him as “sharp, quick-witted, cheeky, irreverent at times, plain-spoken, with a great baritone voice and a hint of a North Carolina twang that was eminently relatable to juries. He had five go-to jokes that he recycled endlessly for decades—sometime in closing arguments. . . . He delighted in doing things that raised eyebrows.” After negotiating a settlement with a recently released murderer he had sued in a wrongful death case on behalf of the victim’s family, the adversary told him, “I bet you would never take someone like me into your house.” Snider not only invited him over for dinner, but he and his wife put him up for the evening in their guest room. Another former partner remarked that the picture in his obituary captured his confidence, but never cockiness, and the ever-present suggestion that he was thinking of something mischievous. In retirement in Chanhassen, he provided legal counsel to the Shakopee Mdewakanton Sioux Community. His survivors include his wife of fifty-two years and three sons.

Gerard Francis Thomas, Jr., ’79, a Fellow Emeritus, retired from Thomas, Donahoe & Thomas, Natchitoches, Louisiana, died February 10, 2018 at age ninety-five. After earning his undergraduate degree from Northwestern State University, he served in the Pacific Theater in World War II as an infantry officer and platoon leader in the United States Marine Corps 2nd Marine Division, participating in the invasions of Saipan, Tinian, and Okinawa and then in the occupation of Japan. He earned his law degree at Louisiana State University and practiced in Natchitoches for over fifty years. For more than thirty-five years

he was a member of the House of Delegates of the Louisiana State Bar, where he chaired its Disciplinary Board, and he was honored in 1985 with its President’s Award. He was also President of the Louisiana Trial Lawyers Association and Chair of the Judiciary Commission of Louisiana. He had served the College as a member of the Louisiana State Committee for twenty-two years. A widower whose wife of sixty-seven years predeceased him, he is survived by six sons.

Seymour Irving “Spence” Toll, ’89, a Fellow Emeritus, retired from Larson & Scheuritzel, Philadelphia, Pennsylvania, and living in Bala Cynwyd, Pennsylvania, died June 5, 2018 at age ninety-three. After graduating from high school and working on a dairy farm for six months, he served in World War II as a combat infantryman in the United States Army’s 75th Infantry Division in Luxembourg and Western Germany. On December 16, 1945, the first day of the Battle of the Bulge, over 200,000 German troops and nearly 1,000 tanks had attacked an Allied force of 75,000 defending an eighty-mile wide front. That night, Toll, a nineteen-year-old, lying on the ground in dense fog in fourteen-degree cold as German shells fell around him, was badly wounded by shrapnel. Many of his squad did not survive. Hospitalized for four months, he returned home with a Purple Heart and a Combat Infantryman’s Badge. A daughter observed, “He viewed every day after that as a gift. He never understood why his life was spared.” A graduate of Yale University and of its School of Law, he married an editor at Harper & Row and worked in several law firms before co-founding his own firm in 1975. With impressive oratory skills and a flair for drama, he often used Greek mythology in his arguments. As one daughter put it, “He viewed the courtroom as a theater.” A prolific writer, in the 1970s he began contributing a weekly column to

the *Philadelphia Inquirer*. Over his lifetime, he published two books and more than 100 editorials and articles, mainly about the “Lost Generation,” the war, and his family. For decades, however, he rarely recounted his own trauma in World War II. Then, sixty-eight years after the event, at the request of his eight grandchildren, he began to speak and write about it. He taught trial advocacy at the University of Pennsylvania School of Law, read books to the blind at the Philadelphia Library for the Blind, and was for five years Director of the Executive Committee of the Philadelphia Housing Development Corporation. He always started his mornings with a jog, once writing an article about his habit of picking up litter while running five miles on a road near his summer home in Maine. A lifelong learner whose hobbies included photography, cooking, skiing, and after having played briefly as a child and as an adult, at age seventy-three he resumed piano lessons. He was an avid Mozart fan with a vast collection of music. A widower whose wife of forty-eight years predeceased him, his survivors include four daughters.

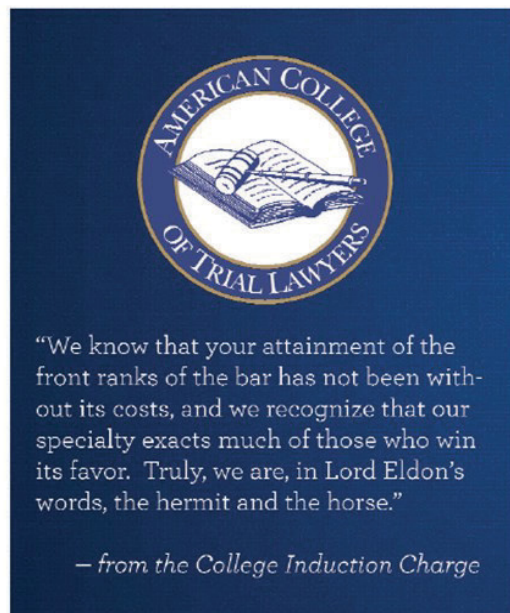
Frank Joseph Vecella, '89, a Fellow Emeritus, retired from Anderson Coe & King, LLP, Baltimore, Maryland, died February 31, 2018 at age eighty-three of leukemia. A graduate of Bowdoin College, where he was captain of the baseball team, he then served four years as an officer in the United States Navy, bridging the Korean and Vietnam eras. He then earned his law degree with honors at the University of Maryland School of Law, where he was a member of the law review. Retiring from law practice in 1989, he and his wife split their time between Timonium, Maryland, and Islamorada, Florida. His survivors include his wife of fifty-nine years, a daughter, and a son.

Lonnie Boyd Williams, Sr., '76, a Fellow Emeritus retired from Marshall, Williams, & Gorham, Wilm-

ington, North Carolina, died April 11, 2018 at age eighty-nine. The youngest of six boys, after graduating from high school in 1946, he joined the United States Army, serving one of his years in Korea before entering Wake Forest University, where he earned his undergraduate and law degrees. After serving as the first law clerk for the North Carolina Supreme Court, he practiced law in Wilmington for sixty-two years. An inductee of the North Carolina Bar Association General Practice Hall of Fame and an honoree of North Carolina's Order of the Long Leaf Pine, he was President of his local Bar and of the Wake Forest Law Alumni Association and was for twenty-four years a member of the Board of Trustees and thereafter a Life Trustee of Wake Forest University. In one well-known incident in which the new claims manager of one of his insurance clients adopted a practice which he disagreed, he simply asked him to come and pick up his files. In several trials before his retirement, including his last actual trial, he told the jury, “This is my last trial.” His obituary closed with the following: From Dad: “All gifts of thanks that I am finally gone, please contribute to your favorite charity (hospice is good)—and be generous! To quote the late Addison Hewlett, Jr. [an older Wilmington lawyer], ‘Thank you, Lord, it’s been fun.’” A widower, his survivors include a daughter and two sons.



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UPCOMING EVENTS



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

NATIONAL MEETINGS



2019 SPRING MEETING
La Quinta Resort & Club
La Quinta, California
February 28-March 3, 2019



2019 ANNUAL MEETING
The Westin Bayshore
Vancouver, British Columbia
September 26-29, 2018

STATE/PROVINCE MEETINGS

October 4, 2018	VERMONT FELLOWS MEETING	November 29, 2018	ARKANSAS FELLOWS DINNER
October 5, 2018	MICHIGAN FALL RECEPTION	November 30, 2018	MISSISSIPPI FELLOWS DINNER
October 12, 2018	INDIANA FELLOWS DINNER	December 1, 2018	LOUISIANA FELLOWS DINNER
October 24, 2018	BRITISH COLUMBIA FELLOWS DINNER	December 5, 2018	OREGON FELLOWS DINNER
October 25, 2018	WASHINGTON FELLOWS DINNER	December 7, 2018	TEXAS FELLOWS WINTER LUNCHEON
October 26, 2018	TENNESSEE FELLOWS DINNER	February 1, 2019	NORTHERN CALIFORNIA FELLOWS DINNER
October 27, 2018	OHIO FELLOWS DINNER	February 7-10, 2019	SOUTH CAROLINA FELLOWS MEETING
October 29, 2018	EASTERN PENNSYLVANIA FELLOWS DINNER	March 21-25, 2019	NORTH CAROLINA FELLOWS MEETING
October 30, 2018	NEBRASKA FELLOWS DINNER		

PROFESSIONAL PROGRAM

November 8-9, 2018 **JERE WHITE TRIAL ACADEMY**

COMPETITIONS

January 28-31, 2019	NATIONAL MOOT COURT FINAL ROUNDS
February 15-16, 2019	GALE CUP
March 15-16, 2019	SOPINKA CUP
March 28-31, 2019	NATIONAL TRIAL COMPETITION

JOURNAL

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Statement of Purpose

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

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

*Hon. Emil Gumpert
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American College of Trial Lawyers*