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# American Trial Lawyers Invade Tiny Palau

Jennifer Henderson, The Am Law Daily

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Pack the flip-flops and forget the tie—a group of U.S. trial experts is headed to the South Pacific.

Roughly a dozen fellows from The American College of Trial Lawyers will descend on the tiny Republic of Palau next month to show off their skills to more than 80 lawyers and judges from Palau and neighboring islands. The ACTL's Advanced Trial Advocacy Symposium in Palau runs from Nov. 4 through Nov. 6.

Palau, a western Pacific archipelago with a population of only about 20,000, has been in formal "free association" with the United States since 1994. The compact affords Palau U.S. naval protection, as well as financial assistance to prop up the country's tourism-heavy economy.

Palau's courts, meanwhile, have attracted [a surprising number of U.S. lawyers](#).

One American transplant is R. Ashby Pate, a former associate at Birmingham, Alabama-based Lightfoot, Franklin & White who is now a justice on Palau's Supreme Court. After Pate [accepted his judicial appointment in 2013](#), he began talking with his former firm's name partner, Samuel Franklin, about involving ACTL fellows in a trial training program for the country.

Franklin, a mentor to Pate, was overwhelmingly in favor.

"The goal of any [continuing legal education] is to make us all better lawyers," Pate said. Palau—a young republic with a legal system modeled after that of the U.S.—is continually creating new laws and is "committed to the rule of law," added the high court justice.

Back in 2009, Palau adopted the jury trial system for serious felonies. Pate explained that the right to a jury trial comes into play for criminal defendants who are charged with a crime for which the potential punishment exceeds 12 years in prison. As a senior court counsel in Palau, Pate worked on related legislation and authored the initial rules.

While the November training symposium will incorporate jury trial strategies among its sessions—there have only been a handful of jury trials in Palau to date—other topics will

relate more generally to trial work, including opening and closing statements, direct and cross examination, and evidence and appeals.

“The most important thing is to explain that you’ve got to be a convincing storyteller,” said Michael Warnecke, a partner at Perkins Coie in Chicago and former co-chair of the firm’s IP litigation practice. Warnecke, who will be among the presenters in Palau next month, added that this concept is even more important in jury trials, where he strives to establish a connection with jurors.

“I want them to think they’re winning the case for me,” he said. As an example of the attention that juries pay to lawyers, Warnecke added that in his early days trying cases, one juror was quite candid with him after a trial. The juror said, “Mike, I thought that tie you wore on Tuesday was really bad,” recalled Warnecke.

These days Warnecke and the other ACTL fellows won’t have to worry about ties—at least for the bulk of the time they’re in Palau. Warnecke said he was told that golf and Hawaiian shirts are in order. The legal dress code is a little less formal in Palau’s island setting. (The country, the site of World War II’s brutal [Battle of Peleliu](#), is made up of [more than 200 coral and volcanic islands](#) in Micronesia.)

Paul “Mickey” Pohl, another Palau presenter and litigation partner in Jones Day’s Pittsburgh office, said he hopes to stress that “presentation and picking your themes” are crucial and that “there is a danger in overtrying your case.”

Pohl also noted that he is anxious to learn from Palau’s local lawyers the type of tone that is most welcome in Palau’s courtrooms, and whether American movie and television references—frequently used in U.S. courts for making analogies—are familiar there as well.

Pate said that while the public bar is largely composed of American transplants, Palauans make up the majority of the private bar. His own appreciation for Palau began when he received an email touting legal career opportunities there. After capitalizing on his initial post and moving back to the U.S., where he worked at Lightfoot Franklin for several years, Pate submitted his name for what he thought would be a long-shot chance at an open Supreme Court post in Palau.

Ultimately selected despite being an outsider—one spot on the [nation’s top court](#) is traditionally reserved for an American, since native jurists frequently have to [recuse themselves because of ties](#) to one of Palau’s 21,000 residents—Pate said the opportunity to aid in the creation of law was extremely exciting. Of course, the fact that Palau is an island paradise was an added incentive.

The island’s allure has also earned Pate the added task of helping with travel arrangements for some soon-to-arrive ACTL fellows, many of whom have scheduled longer stays to enjoy the area’s pristine waters. Pate said several lawyers plan on scuba diving excursions on Palau’s [famed Rock Islands](#).

But Pate said he doesn’t mind his additional hosting duties. He noted that he’s “eternally grateful” to the ACTL fellows, who are traveling to Palau for the training at their own expense.

After all, he said, “it cannot be overstated how unique and wonderful this place is.”

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