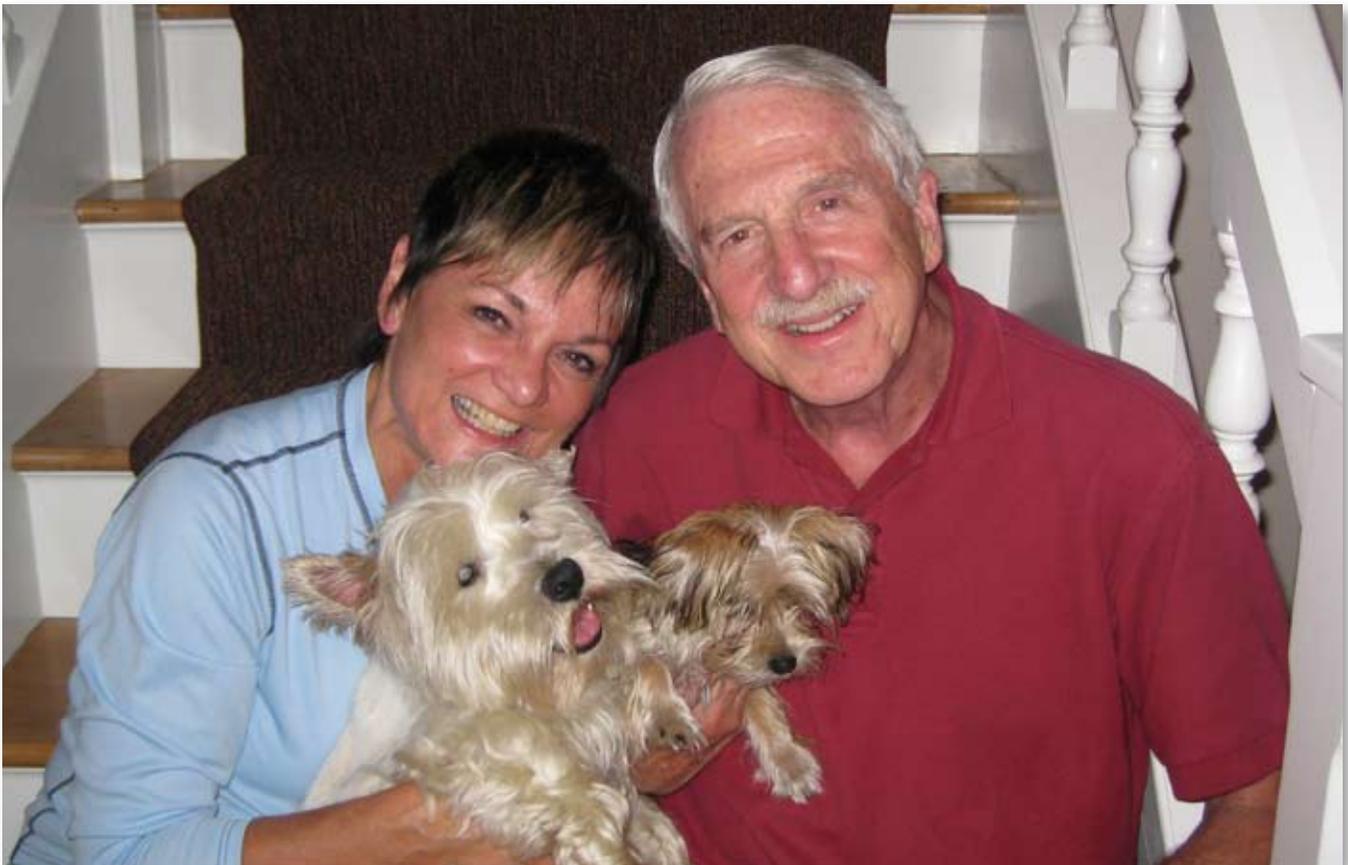


THE BULLETIN

JOAN A. LUKEY: COLLEGE'S FIRST FEMALE PRESIDENT



Joan Lukey and husband Phil Stevenson with Ollie, their Westie, and Reilly, daughter Heather's Morkie

*T*he life of **Joan A. Lukey**, a partner in the Boston firm Ropes & Gray LLP, who became the College's first female president at the Annual Meeting in Boston, would rival that of any one

Continued on page 8

FROM THE EDITORIAL BOARD

In this issue we profile, Joan Lukey, the College's first woman President, who was installed in Boston in October, and note with sorrow the passing of Past President Lively M. Wilson, the forty-fourth President of the College and the long-time President of the College's Foundation.

The In Memoriam section in each issue has become one of our most widely appreciated features. We have now lost all of the inductees from the college's first five years. Sadly, we still struggle to locate information about long-retired Fellows whose deaths are not called to our attention until well after the fact. The careers of many of these predate the Internet, so that we can find no information about them through electronic research. Many have ceased to be listed in legal directories and some have retired to places far away from where they practiced, so that they are essentially strangers to the Fellows in the state or province where they reside. We continue to search for ways to do more than list their names and their date of induction, and we welcome any ideas you may have about how we can address this continuing problem.

In this issue we are venturing beyond our traditional editorial guidelines for a purpose. The line we have to draw between those accomplishments of Fellows we note in the *Bulletin* and those we do not is a difficult one. It is a given that every Fellow is worthy of high ratings for legal ability and the recognition that goes with that status. Thus we do not note recognition that involves being included in an honored group in publications such as *Chambers* and *The Best Lawyers in America*.

We also try to confine our Awards, Honors and Elections column to singular, high-profile recognitions of Fellows that are personal to them, such as national and state bar presidencies and significant honors awarded by statewide or national organizations.

Likewise, we try to limit our profiles of Fellows to those involving unusual life stories or significant achievement in public service and our coverage of Fellows' cases to those that go beyond traditional service to client. We have rarely, if ever, profiled a law firm. In this issue we depart from that policy for reasons that we hope will become apparent as you read the article.

The legendary law firm we profile, which had its genesis forty-five years ago in an unheated, unairconditioned walkup, aided by a small grant to purchase law books, has produced a generation of accomplished leaders and changed its part of the world forever. The first racially integrated law firm in its state, its members and alumni include five Fellows of the College, including two of the firm's founders, and the ninth winner of what is now the College's Griffin Bell Courageous Advocacy Award.

We hope that you will find this a worthy departure from our traditional editorial policy.



THE BULLETIN

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(1895-1982)

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**UPCOMING
SPRING MEETING**

**Desert Springs JW Marriott
Resort and Spa**

Palm Desert, California
 March 4-7, 2010
 Mark your calendar!



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

PAST PRESIDENT LIVELY M. WILSON

(1927-2009)

Lively M. Wilson, Louisville, Kentucky, of counsel to Stites & Harbison, the forty-fourth President of the American College of Trial Lawyers, died July 22, 2009 after a long illness of cancer at age 82. His death marks the passing of a loyal and enthusiastic leader of the American College of Trial Lawyers and of its Foundation and a mentor and role model for a generation of lawyers, both in and out of Kentucky.



Lively M. Wilson

Born in Louisville, he grew up in Bowling Green, Kentucky. After one academic quarter at Western Kentucky University, he entered the United States Navy in 1944. His initial inclination to enter the ministry ultimately gave way to a career in the law. After World War II, he returned to Western Kentucky, graduating in 1948 with a degree in History and English.

After graduating from Harvard Law School in 1951, he spent two years as Executive Secretary of the Kentucky Public Service Commission. There he met John Wood, a partner in the firm of Stites, Wood, Helm & Taylor, a forerunner of Stites & Harbison, who represented South Central Bell Telephone Co. before the Commission. Wilson joined the Stites firm in 1953.

His early practice consisted principally of representing public utilities in rate-making proceedings and litigation. In 1972, he began representing Johns Manville in one of the first asbestos cases in the United States. "That turned into a long national saga that nobody knew was going to happen when

it started,” observed his law partner, John Tate. Asbestos litigation eventually involved over 5,000 cases in sixteen states. Wilson’s representation in that first case ultimately resulted in his being recognized as one of the premier toxic tort lawyers in the country.

For years afterward, Wilson was retained by company after company because of his extensive knowledge of asbestos, and he was a delegate to the World Health Organization Conferences on the biological effects of man-made mineral fibers in Copenhagen, Denmark in 1982 and in Lyon, France in 1987.

His professional life went far beyond merely representing clients. Outwardly a low-key, good-humored, self-effacing lawyer, he was known throughout his professional and private life for his ethics and his integrity and for his gift of imparting those values to those with whom his life intersected. In 1995 the Kentucky Bar Association recognized him as the Kentucky Lawyer of the Year. He served on the Board of The Supreme Court of the United States Historical Society and was its national membership chair in 1997-98. He was a founding member of the World Jurist Association and a Life Member of the Sixth Circuit Judicial Conference.

In 2003, he was honored by the University of Louisville Brandeis School of Law, which named its oral advocacy program the Lively M. Wilson Oral Advocacy Program in his honor. Contributions to that program furnished the law school’s moot court office and established an endowment to fund participation in oral advocacy competitions. When he delivered the law school’s 2005 commencement address, he spoke to its graduates about the importance of professionalism.

Inducted into the American College of Trial Lawyers in 1969, Wilson was elected to the Board of Regents in 1989, served as Secretary in 1992-93 and then in 1994 at the Ottawa meeting assumed the College presidency. He had been a delegate to a College-sponsored Canada-U.S. Legal Exchange in 1987 and had co-chaired, with Associate Justice Anthony Kennedy, the United States delegation to the 1993 Canada-U.S. Exchange. He also chaired the College delegation in the first Indo-American Legal Exchange in early 1994, and later that year was a delegate to the Anglo-American Legal Exchange.

Assuming the presidency in the wake of a 1993 long-range planning retreat, Wilson was an advocate for moving the College toward a more active involvement in external af-

fairs. He appointed the first Access to Justice Committee, an outreach program that has grown into an outlet for major pro bono engagements by Fellows of the College. He called on the Chair of the Senate Judiciary Committee to make known the College’s views on a number of pending issues and during his tenure the College published several papers on significant current issues.

After his College presidency was completed, Wilson became President of The Foundation of the American College of Trial Lawyers, Inc., assuming that position in 1996 and serving to 2005. In that position, he led the effort that raised the Foundation’s visibility among the Fellows of the College to the extent that in 2005 its assets had risen to \$1.7 million. Indeed, for ten years he was essentially the face of the Foundation.

Wilson was also a generous community benefactor and volunteer. He had served as the president of the Louisville Area Council of Churches, the Chairman of the Board of the Lexington Theological Seminary, the President of the Board of the Visiting Nurses Association and as a member of many other civic and nonprofit boards. The curriculum vitae that he filed with the College’s archives ended with “Lifelong Yellow-Dog Democrat.”



A member for over fifty years in the Douglass Boulevard Christian Church, he was an elder and had served as chair of its Board. The last two years of his life were dedicated to the development of affordable housing for seniors on the church campus in a building known as Woodbourne House.

Anyone who had ever enjoyed the warmth of the Wilson home, gathered around the piano with Frances, Lively's wife of almost 62 years, who for years played the piano in a local swing combo, listened to the family stories and were introduced to the annual rituals of the Kentucky Derby came away knowing that the private Lively Wilson was as genuine as the public Lively Wilson.

Wilson's partners, who had followed his long illness were eloquent in their praise. His partner Kennedy Helm's email reporting his death remarked, "Lively's most recent gift to us was the example of optimism, grace and dignity he exhibited every day that he fought his illness."

Fellow John Famularo, who had talked with him the week before his death, observed, "We did lose a true giant who showed dignity and grace even when very ill."

At his memorial service, attended by nine former Past Presidents of the College, its current President, its Presi-

dent-Elect, its Secretary and its Executive Director, his longtime friend, Past President Ralph I. Lancaster spoke for the College. He began by remarking that Wilson's daughter Janie had told him, "Please remember that Daddy was a humble person and would wonder why we are making all this fuss." But, Lancaster observed, "That's true, Janie, but secretly and quietly he would have enjoyed it; and I suspect that he is smiling right now. Because he not only loved life, he loved laughter."

Wilson had an endless curiosity and joie de vivre, accompanied by an ever-present spontaneous sense of humor. Lancaster proceeded to relate a story about a trip that the Wilsons, inveterate world travelers, and the Lancasters had taken years ago that included an incident in which Lively Wilson had driven a rented vehicle in the dark through a narrow European alleyway that had been constructed long before the advent of automobiles, resulting in soft-metal damage to the sides of the vehicle, for which appropriate amends had thereafter been made. "Some time after we returned to the States," Lancaster related, "I got a blind copy of a letter that Lively had sent to Fiat. It thanked the company for its inquiry about his experience with the rental and then went on to say, 'Howev-

er in my opinion the van was too wide. You should make them more narrow.'"

"Yesterday," Lancaster continued, "hosted by [College Fellow and Wilson's partner] Mike and Mary Anne Cronan, after dinner we were invited to ride on Mike's restored fire truck. My first reaction was that this was inappropriate; after all we were here to grieve and mourn. Then reality set in. I said, 'Lancaster, Lively would have loved this - he would have laughed and laughed and loved the fact that his friends were doing this and thinking of him.'"

Indeed, anyone who had ever been treated to a ride in the famous vintage red pickup truck that Wilson used to transport guests at his Cashiers, North Carolina mountain home would have found that memorial ride in a red fire truck around his beloved Louisville an entirely appropriate way to celebrate the life of Lively Wilson.

Lively Wilson is survived by his wife, Frances Hildreth Wilson, four daughters, Laura Padgett, Jane Burks, Sara Thielman and Ellen Wilson, a brother, Charles Wilson, ten grandchildren and four great grandchildren.



FOUNDATION TRUSTEES AND OFFICERS ELECTED

The newly-elected officers of the Foundation of the
American College of Trial Lawyers are:

President: **Michael A. Cooper**, New York, New York
Secretary: **Frank N. Gundlach**, St. Louis, Missouri
Treasurer: **J. Walter Sinclair**, Boise, Idaho

The terms of **Stuart D. Shanor**, Roswell, New Mexico,
who has served as President since 2006, and Trustee
Dennis R. Suplee, Philadelphia, Pennsylvania, have expired.

The Board of Trustees for the coming year will consist of:
Past Presidents: **E. Osborne Ayscue, Jr.**, Charlotte, North Carolina;
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and **Charles H. Dick, Jr.**, San Diego, California.

Fellows at Large: **Jerry K. Clements**, Dallas, Texas;
Alan G. Greer, Miami, Florida, and **J. Walter Sinclair**, Boise, Idaho.

The Bylaws of the Foundation provide for a Board of Trustees consisting
of twelve persons, with terms staggered so that each year four people
will be elected for a three-year term. Six of the twelve must be Past
Presidents of the College, three must be Fellows who have served as
Regents, but not as President, and three are to be Fellows at large.

Continued from cover

of the trial lawyers on television's "Boston Legal," a favorite television show of Lukey's. She has all four seasons on DVD.

And Lukey, a Boston trial lawyer, is the real deal—no fiction needed.

Since selection as the Best Oral Advocate at the 1974 National Moot Court finals, the first woman to win that honor, Lukey has forged to the top, not only of the American College of Trial Lawyers, but also of high peaks around the world. In her time away from the office, her vacations have included summiting Mount Kilimanjaro, completing the Lo Motang loop in the Nepali Himalayas, and high altitude trekking in the French and Swiss Alps and the Peruvian Andes.

EARLY AMBITION: TO BE AN ACTRESS

There were no lawyers in her family, and Lukey did not set out to become a lawyer. "My father always made me believe that I could do whatever I wanted to do," Lukey said. "And I always felt that he believed that himself." Her father, Philip, a career soldier wounded in World War Two, died at age 65 when Lukey was 31. Lukey established the Philip E. Lukey Endowment Fund at Boston College Law School. Her mother, Ada, who is now 93, was an elementary school teacher and principal.

The family moved frequently and Lukey grew up on army bases from Puerto Rico to South Carolina to Massachusetts. At Wareham High School in Massachusetts, Lukey became a competitive gymnast, accepting knee injuries and concussion. "I simply competed through the pain," she said. "That's what was expected of athletes then."

outstanding speaker at the National Moot Court Competition in New York, became a member of the Order of the Coif and received her degree cum laude.

She then became one of three women associates at the venerable Boston firm Hale and Dorr, LLP, which became Wilmer Cutler Pickering Hale



Joan Lukey and daughter Heather trekking at 12,000 feet in the Himalayas of Nepal

As a Smith College undergraduate, she wanted to become an actress, but her drama professor discouraged her, saying that she was good, but not good enough. Undeterred, she remembered seeing trial lawyers like Pery Mason at work on television, and she decided that would be her outlet. Graduating magna cum laude from Smith in 1971, she entered Boston College Law School, where she edited the Environmental Affairs Law Review, was selected as the

& Dorr, LLP as the result of a 2004 merger. A litigation generalist, Lukey has been listed over the years in *The Best Lawyers in America* in a half dozen different categories. Nor is her talent confined to the courtroom. In 2000, she won one of the Burton Awards, a national prize for distinguished legal writing, in the first year of the awards. Back in 1994, she also published a novel, after which, in her words, she "did not give up my day job or I would have starved."

In 2008, Lukey changed firms after a dramatic flourish that harkened back to her early stage ambition. She played Cordelia, the daughter of the King of England, in a charity benefit reading of *King Lear*. Her knight in shining armour, the King of France, was played by law school friend John T. Montgomery, a Fellow of the College and the Managing Partner of power house Boston-based firm Ropes & Gray. As Shakespeare wrote the role, the King of France proposes to Cordelia, declaring her “dowry enough onto herself” when her father, King Lear, disowns her. In this particular performance, as they walked off the stage the “King” handed “Cordelia” an envelope containing an offer of partnership at Ropes & Gray. True to Cordelia’s role, Lukey later accepted.

CELEBRATED CASES

Lukey has tried more than 70 jury cases, the vast majority of them involving complex litigation, and argued over fifty appeals. Two of her more celebrated cases were, however, of a different sort. In the first, she represented Dr. Lois Ayash in her 1994 libel suit. *The Boston Globe* had incorrectly identified Ayash as one of the doctors who had signed an order for a massive overdose of chemotherapy that led to the death of one of its reporters. The doctor’s reputation was eventually restored as a result of Lukey’s trial work that re-

sulted in a multi-million dollar judgment, including appeals by the *Globe* all the way to a 2004 denial of certiorari by the United States Supreme Court.

In another well-known ongoing case, Lukey represents Patricia Cornwell, reportedly the best selling crime novelist in the world, who was being cyberstalked by a disgruntled fellow author. (Cyberstalking has been defined as a form of mental assault in which the perpetrator, using the Internet, repeatedly without invitation intrudes into the life of another, who may be and often is a stranger to the stalker.) “The case had some interesting twists,” Lukey recalled. “We couldn’t find him (the cyberstalker), so we asked for and were granted permission to serve him by email. I think that was only the second or third time that e-service was allowed in the federal courts of the United States. We obviously knew what his email address was, because that was the platform from which he was libeling her.” The case, tried in Richmond, Virginia in the cyberstalker’s absence but with his participation in the form of vitriolic e-submissions, resulted in a finding of forty-nine separate libelous statements.

“We were able to persuade almost all the major search engines to block him,” Lukey said. “So that was the end of that case, except that now he’s

using a pseudonym and continuing his attacks. We have a case pending here in federal court in Boston, asserting that this is the same person who has already been enjoined and held in contempt. We still don’t know where he is, but, fortunately, the judge here followed the Richmond judge’s lead in granting us permission to e-serve.”

BECOMING A VICTIM HERSELF

“Then about a year ago he turned his attention to me and began stalking me over the Internet. As a result, I’ve actually done a lot of speaking about Internet stalking and its dangers. I’ve even submitted draft legislation to a [U.S.] Senator in an effort to put a stop to this kind of deplorable conduct. There’s no reason why somebody who is posting blogs on the Internet should have protection that a newspaper or a TV station doesn’t have.”

At age 59, Lukey is the the College’s 59th President. Before her election to the Board of Regents, she served as Massachusetts State Chair, and as Secretary, Treasurer, and President-Elect of the College. Inducted in 1991, she is the first Fellow inducted in that decade to assume the College presidency. In 2000-2001, she served as president of the venerable 9,500-member Boston



Bar Association, founded in 1761, the sixth woman to hold that office. Her two role models in the law, J. Owen Todd and the late James D. St. Clair, both College Fellows, were her partners and mentors at Hale & Dorr.

Lukey, highly energetic and known for asserting her individuality with her avant garde hair style and couture wardrobe, looks forward to a busy, productive year as President of the College. One of her continuing string of "firsts" will be to establish a Presidential blog, an interactive Website on which any Fellow can post a question, which she will be able to answer in a form that all Fellows can see. "It's my goal to be really accessible to the Fellows, and I would like to make sure we are communicating fully with the Fellows," she said. "I hope that people will actually use my blog to get in touch with me and to hear what I'm thinking, what the College is thinking and what's happening."

She added with a laugh, "I thought about a Twitter, but it's limited to 140 characters and lawyers can't do anything in 140 characters."

STATE OF THE PROFESSION

"As I look at the mandate of the College ('to improve and elevate the standards of trial practice, the administration of justice, and the

ethics of the profession'), I believe that the standards of professionalism and ethics, while not perfect, are at as high a point as they have been in recent memory, so in a sense I think the profession as a whole and lawyers individually, including our Fellows especially, are comporting themselves well," Lukey said.

"Unfortunately there are a couple of forces in play that affect our remaining mandate, to improve and elevate the administration of justice. One of those forces that we, as lawyers, cannot control is the economy, which is creating a really difficult situation for many law firms and particularly for a lot of young lawyers and law students. My daughter is a law student so I am very mindful of this. But, the second force that is critically impacting the administration of justice is the decline in the number of trials, especially jury trials, which leads to concerns about how well the system is working, and this is an area where I believe that we can and should step into the void and try to be part of the solution, not part of the problem."

Lukey notes that Past President David Beck appointed the ACTL Task Force on Discovery as one of his initiatives to address issues that are contributing to the vanishing jury trial phenomenon. She says, "In conjunc-

tion with the Institute for the Advancement of the American Legal System, the Task Force issued a terrific report this year containing proposed principles that were designed to engender a real dialogue about problems with our civil justice system. I plan to expand the Task Force with additional leaders from our relevant general committees, and I hope that their mandate will encompass, not just discovery, but other areas of concern in our civil justice system. We need to focus on where the streamlining can occur that will let us get back on task."

ADDITIONAL AGENDA AS PRESIDENT

In addition to those problems, Lukey wants to use her year as President to continue the College's focus on the need to preserve the independence of the judiciary.

"Here in Massachusetts the defining moment for us was the *Goodrich* decision in which a divided Supreme Judicial Court concluded that the ban on gay marriage was a violation of the Massachusetts constitution," she said. "Chief Justice Margaret Marshall, a South African native who headed the Student Congress at a very dangerous time in the Congress's efforts to end apartheid, is a person whom I greatly admire. Never one to back away from controversy, Marshall wrote the *Goodrich*

decision for the majority herself. It was a decision where you can absolutely understand how people would have different points of view—and as long as I am President I will never speak to what my personal point of view is, because that’s irrelevant. What is important is that the judge or judges who make that kind of controversial decision should not be under siege. There were death threats following that decision. That’s not acceptable, and it made me focus on how important the concept of independence of the judiciary actually is. Most judges take huge pay cuts and work with limited resources. For them to be subjected to the kind of battering that our Chief Justice took and that judges took in the Terry Schiavo case is simply inappropriate and wrong, regardless of one’s personal views of any given case.”

HOW OTHERS SEE HER

“Joan is an engaging personality and, unquestionably, a superb trial lawyer, respected by the trial bar and others who know her,” said Boston Fellow Roscoe Trimmier, Jr., another Ropes & Gray partner, a past chair of the ABA Standing Committee on the Federal Judiciary. “She is undaunted by challenge, has always been a leader of the Bar and a trailblazer. She has made significant contributions in support of the Col-

lege and its programs over many years.”

When Justice Marshall, one of Lukey’s predecessors as President of the Boston Bar, served as Counsel to Harvard University, she tapped Lukey for a high profile Law School tenure dispute involving the wife of the then-current Secretary of Labor. She arranged for Lukey to meet with the Dean of Harvard Law School, who, rumor has it, was rather surprised that the General Counsel was bringing in a Boston College Law School graduate, rather than one of Harvard Law School’s own alumni. Marshall has been heard to joke that, after five minutes, Lukey had the Dean eating out of her hand.

Alice Richmond of Boston, who became a Fellow in 1990, one of the first two women Fellows from Massachusetts, has known Lukey for thirty years. “She is meticulously prepared,” Richmond said. “You can’t really notice that. But . . . that enables her to be . . . very flexible in adapting to things that are surprises or things she had not anticipated. Always she just appears to be seamless and effortless.”

HER PERSONAL LIFE

Lukey and her husband Phil Stevenson celebrated their thirty-fourth anniversary in the midst of the Boston meet-

ing; and, he, too, will achieve a “first” to match his wife’s. He will be the first man to preside over the traditional Spouses Breakfast at College Board Meetings and will be the College’s first “First Gentleman.” Phil and Joan met in 1975 when, as a partner and associate respectively at Hale and Door, they worked on a case together. When they started dating shortly thereafter, that became the *only* case on which their firm allowed them to work together, and they were married in 1976. Following in her parent’s footsteps, daughter Heather is a second year law student at Columbia Law School where she also received her undergraduate degree.

“I’m very proud of her for taking two years off as a Teach for America volunteer in New York’s South Bronx,” Lukey said.

Heather shares, and even inspired, her mother’s unusual hobby of high-altitude trekking, including the rugged Inca Trail to Machu Picchu in Peru which they completed last summer. The next year, with Joan as President of the College and Heather in her second year of law school, will not likely include another such adventure. But, one can be sure that there will be many more to come.



JOINT TASK FORCE— DENVER INSTITUTE REPORT CONTINUES *to* GENERATE INTEREST *and* ACTION

The Final Report of the joint project of the American College of Trial Lawyers Task Force on Discovery and the University of Denver-based Institute for the Advancement of the American Legal System (Institute), highlighted in the last issue of the Bulletin, has continued to draw great interest from the Bar and the judiciary.

Citing a 2008 survey of Fellows of the College, the Final Report set forth a number of principles it suggested be followed in addressing the issues of cost and delay that plague many parts of the civil justice system. Among them were:



- substitution of fact-based pleading in the place of the prevailing notice pleading system for complaints, counterclaims and affirmative defenses
- limited discovery, targeted on the issues raised in the pleadings and reasonably tailored to the amount in controversy and the complexity and importance of those issues and
- judicial supervision of the entire process; including setting reasonably prompt, fixed trial dates.

A draft of the Final Report was presented at the invitation of the Standing Committee of the Judicial Confer-

ence at an open hearing in January 2009. After the Final Report was approved by the College's Board of Regents, it was released to the public. That release generated widespread publicity in both mainstream and legal media, in academic writing and on the Internet—publicity that continues.

A copy of the Final Report was sent to all the state court Chief Justices and to the chairs of state civil rules committees. To date, six states and one federal jurisdiction have indicated an interest in doing pilot projects to test the approach suggested by the Final Report.

A number of conferences around the country have focused on the Final Report. The Lawyers for Civil Justice made the report the primary topic of their Spring conference. The Litigation Section of the American Bar Association is submitting a version of the College's survey to its members. Representatives of the Task Force and the Institute have made presentations to regional and national meetings of other organizations.

The Institute held a conference in March 2009, entitled "Civil Rules Summit: From Anecdotes to Action." The participants included the chair of the Judicial Conference Standing Committee, in-house counsel; academics, practicing lawyers and judges at the state and federal level. Several members of the College's Task Force also participated in that conference.

The Conference of Chief Justices is holding a conference in November 2009 to consider civil justice reform, and it is using the Final Report to kick off its discussion. The report will also be on the agenda at a May 2010 Rules Conference involving decision makers in the Federal court system.

PREPARATION FOR PILOT PROJECTS

To make it easier for interested jurisdictions to try new procedures, the members of the College's Task Force have continued to work with the Institute to develop Pilot Project Rules that would implement the principles suggested in the Final Report. Simultaneously, the Institute is developing both Caseflow Management Guidelines that would be available to judges who are implementing the rules in pilot projects and suggested measurements that would allow court administrators to measure the success of the experimental procedures.

It is the goal of both the College Task Force and the Institute to have the Pilot Project Rules and the Caseflow Management Guidelines available in a 'tool kit' for jurisdictions that may undertake pilot projects by October 2009. The Institute hopes to have the Measurement Protocol soon thereafter.

The Institute and Fellows of the College who have been involved in this effort are already working with those jurisdictions

that have indicated an interest in conducting pilot projects of one sort or another.

To document the need for change, the Institute is engaged in an ambitious data collection effort, seeking cost information on recently closed litigation, including the proportion of such costs related to discovery and the relation between cost and the amount in controversy and the ultimate outcome of the litigation. This data will be particularly enlightening to judges who often have no way to become aware of the actual costs incurred by litigants in navigating the justice system.

The Institute also plans to distribute to corporate in-house counsel a survey similar to that conducted among Fellows of the College. It is considering the possibility of similarly surveying Federal District Judges and Magistrate Judges. It is also surveying practitioners in Arizona and Oregon—states whose procedural rules do not track the Federal Rules of Civil Procedure—to assess the effectiveness of their systems. In Oregon, the Institute is creating a database of closed cases so as to compare the relative cost-effectiveness of the state and federal procedural rules in terms of time to disposition, time to resolve motions, numbers of discovery disputes and resulting cost to litigants.

College President Joan A. Lukey, installed as President in Boston



on October 10, has stated her intention to make the work of the Task Force and the success of the pilot programs one of the highest items on her agenda for the coming year.

“The Board of Regents has already indicated its strong support for the continuing efforts of the Task Force, and I want to be sure that we maximize the very real possibility of having a positive impact on the civil justice system by integrating our outstanding General Committees into this im-

portant project,” Lukey said. To that end, she has appointed the Regent Liaisons to the College’s Federal Rules of Civil Procedure Committee, Judiciary Committee and Jury Committee as members of the Task Force.

The Final Report of the College’s Task Force can be found on the College and Institute websites. It was reported in detail in the last issue of the *The Bulletin*. The ultimate goal of this project fits squarely within one of the main purposes of the College, to main-

tain and improve the administration of justice. All Fellows engaged in civil trial work are urged to study the Report, both to become advocates for badly needed changes in our civil justice system and to be prepared to help take the lead in those states that will conduct pilot projects to test the validity of the proposals contained in the Report.



Re: Task Force on Discovery/Suggested Principles

Having participated in the survey sent out by the College in 2008, I read your recent report in the Summer 2009 *The Bulletin*, as well as the suggested principles, with great interest. I agree with each one of the principles stated, and hope that they will all find their way into the Rules of Civil Procedure in the near future.

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Thanks very much to . . . all . . . members of the Task force who labored on this meaningful and valuable effort at reforming the way we have come to practice.

Sincerely yours,
John B. Clark, FACTL
Daniel Coker Horton & Bell
Jackson, Mississippi

* * * * *

The Institute for the Advancement of the American Legal Profession, with which the College’s Task Force on Discovery has been working on the joint project to find the causes and possible remedies for the problem of cost and delay in the civil justice system, is creating a sub-site, www.du.edu/legalinstitute/tcri_publications.html, on its website to provide a comprehensive source of information about civil rules in the United States.



AWARDS, HONORS *and* ELECTIONS

Morgan Chu of Los Angeles, California has received an Honorary Doctoral Degree from the City of Hope Graduate School of Biological Sciences.

Susan Gaertner of St. Paul, Minnesota, a recently inducted Fellow, has received the Norm Maleng Minister of Justice Award from the Criminal Justice Section of the American Bar Association. Gaertner, the Ramsey County (Minnesota) Attorney, is the eighth recipient of the award given to an outstanding prosecutor.



Susan Gaertner

REGIONAL ROUNDUP

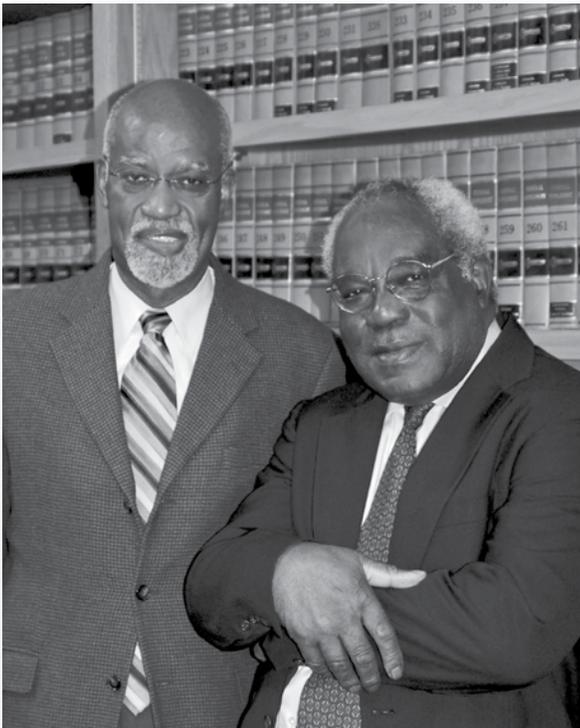
Thirty Fellows attended the Ontario Fellows Annual Dinner on June 17 at the Royal Canadian Yacht Club. Province Chair **Trisha Jackson** was in charge. In the gathering was former Regent **Bob Armstrong**, who served only three months before being appointed to the Court of Appeals. President **Jack Dalton** presented the Best Oralist award from the Gale Cup to **Kendra Naidoo** from the University of British Columbia.

Minneapolis, Minnesota's showcase 1930 hotel, The Foshay, was the headquarters for the biannual meeting of Region V in late June. With President Jack Dalton and his wife, Marcy, in attendance, the opening night dinner was held on Nicollet Island Pavilion in the middle of the Mississippi River. Minnesota State Chair **Karl Cambronne** and Vice Chair **Kathleen Flynn Peterson** organized the three-day event. The highlight came when President Dalton presented the Best Oralist from the Sopinka Cup to **David Ireland** from the University of Manitoba, who showed up wearing formal Scottish kilts.

A Towering Presence in the Fight Against Injustice

SMALL RACIALLY INTEGRATED SOUTHERN LAW FIRM HAS PRODUCED A GENERATION OF LEADERS AND FIVE FELLOWS OF THE COLLEGE

“No law firm in the country has had more impact on—and I suspect sacrificed more for—the cause of civil rights . . . , this often in the face of threats and hostility that have been real and tangible.” August 2004 presentation by the Lawyers’ Committee for Civil Rights Under Law of its Civil Rights Legacy Award to Ferguson, Stein, Chambers, Adkins, Gresham & Sumter, PA.



*James Ferguson FACTL and Julius Chambers FACTL
Photo courtesy of Greater Charlotte Biz Magazine.*

At 4:30 a.m. on February 4, 1971, the telephone rang in Julius Levonne Chambers’ motel room in Raleigh, North Carolina. His wife was calling to tell him that his Charlotte firm’s law office had been torched. The roads were icy, Charlotte was 150 miles away and the damage was done, and so Chambers, by his own account, poured himself a drink and went back to bed. After all, this was not a new experience for him.

THE ORIGIN OF A LAW FIRM

Six and a half years earlier, in June 1964, with the help of a \$17,000 grant from the NAACP Legal Defense and Education Fund, twenty-seven year old Chambers had set up a solo law practice near downtown Charlotte, North Carolina in an unheated, un-airconditioned walk-up above a loan company.

Legal Defense Fund Director-Counsel Jack Greenberg had the idea that civil rights cases could be more effectively prosecuted if there were local law firms that could be counted on to help carry the ball. Charlotte was one of a half dozen southern cities he selected for this purpose.

Greenberg and his predecessor, Thurgood Marshall, had earlier chosen Chambers as the Legal Defense Fund's first intern. Chambers had graduated *summa cum laude* from a historically black campus of the Greater University of North Carolina, earned a Masters degree in history from the University of Michigan and three years later, in 1962, had graduated from the University of North Carolina School of Law, valedictorian of his class and the first black Editor-In-Chief of its law review. He had earned an L.L.M. from Columbia while interning for the Legal Defense Fund.

Rather than simply acting as local counsel in civil rights cases, however, Chambers set out to build a private law firm that would operate in the public interest by bringing high-profile cases while at the same time providing general legal representation to the minority community.

Civil rights cases were protracted and expensive. The day when they might start producing fees was years away.

And so, Chambers proceeded to build a firm in which other lawyers took on other kinds of work to support the civil rights cases. As they later jokingly put it, they did non-civil rights work, getting paid, so that they could do civil rights work, where they did not get paid.

A LOOK BACK

In 2009, the law firm Chambers created remains the only survivor of Jack Greenberg's venture. During its first decade, this firm may have done more to influence evolving civil rights law than any other private law firm in the United States. It has been widely celebrated for its early role in making the promise of *Brown v. Board of Education* a reality, for helping to put flesh on the bones of Title VII of the Civil Rights Act of 1964 and the Voting Rights Act of 1982 and for its continuing role in making our criminal justice system more just and more humane.

Often overlooked in the recognition of its contribution to the clients it represented in its more celebrated cases and to the development of the law it helped to shape are the collective professional accomplishments of those who have been a part of the firm over the intervening forty-five years. It has spawned a remarkable collection of professionals who have set a standard of public service and leadership in public affairs that would be difficult to match.

Over the years, that firm, which has never numbered more than a dozen active lawyers at any one time, has produced five Fellows of the American College of Trial Lawyers: **Julius L. Chambers** (92), **James E. Ferguson, II** (86), **James C. Fuller** (94), **Charles L. Becton** (99) and **Henderson Hill** (07).

And in 1994, it produced the ninth winner of the College's Courageous Advocacy Award, Julius Chambers.

THE FIRM EVOLVES

In 1967, Chambers had brought in two young lawyers, Columbia Law School graduate James Ferguson, who had grown up in Asheville, North Carolina, where as a student at an all-black high school, he had led a local movement for racial equality, and Adam Stein, a young white lawyer who had begun doing civil rights work as a law student at George Washington University. Both had worked as interns in Chambers' office while they were in law school.

Hiring these two and James E. Lanning, a white graduate of the University of North Carolina Law School, Chambers, in an unspoken statement that was not lost on the community, created the first racially integrated law firm in North Carolina and one of the first in the South. Over the years, this firm has maintained something close to an even racial balance.

THE FIRST CASE

Two months after Chambers hung out his shingle, he had received a call from the wife of a black Presbyterian missionary, in Charlotte on a sabbatical, whose son had been assigned to a segregated elementary school. That call would lead to a class action that would last for eleven years, make Chambers a national figure in the civil rights movement, change the rules of the game for dismantling racially segregated school systems and change his adopted city forever.

That case, filed in January 1965, was *Swann v. Charlotte-Mecklenburg Board of Education*. That same month in New Bern, North Carolina, Chambers' parked car had been blown up with a stick of dynamite while he was making a talk about school integration. He would thereafter joke that he always left his car door open and one foot on the ground while he started the engine to increase the chances that if the car blew up, he would be blown out instead of blown up.

Later that year, Chambers had filed suit seeking to integrate the Shrine Bowl Game, in which all-star teams of the best white public high school football players from North and South Carolina competed annually.

Shortly after midnight on November 22, 1965, Cham-

bers' home and those of three other civil rights activists in Charlotte were firebombed. He boarded up his front door with a sheet of plywood and he and his family, refusing to leave home, spent the rest of the night there.

The hostility towards Chambers was not confined to strangers in the night. One College Fellow, **L.P. "Tony" Hornthal, Jr.** of Elizabeth City, North Carolina, recalls, "Some of us older heads have some stark recollections of what these lawyers endured with such courage and professionalism. Julius appeared in Elizabeth City in federal court in the mid-60s. I was the only lawyer to greet him and shake his hand."

As the *Swann* case slowly wound its way through the judicial system, the hostility towards Chambers, his family, his law partners and James B. McMillan, the Federal District Judge overseeing the case, grew. In August 1970 Chambers, father's garage in the small central North Carolina town of Mt. Gilead had been set afire. It was again torched on New Years Day of 1971. Then on February 4 came the fire at his law office.

This final act of violence brought swift response from the community. Opposing counsel helped the firm to recreate pleading files. Members of the local bar and twenty-

two of Chambers' former law professors dug into their own pockets to help defray the cost of relocation. Some, looking back from the vantage point of time, see this response as a turning point, an awakening of other lawyers to the realization that this was not the Chambers firm's battle to fight alone.

In his characteristic understated, unemotional way, Chambers later referred to these incidents as "things that made life interesting." Ferguson put it this way: "You can't do this work and be scared."

When Chambers argued the appeal in *Swann* in the United States Supreme Court in October 1970, he was only thirty-four years old. The District Court's 1969 order to eliminate all racially identifiable schools, using every available tool, including if necessary busing, was affirmed by a unanimous Court on March 20, 1971. It was to have a profound effect on accelerating the progress of public school desegregation throughout the United States.

The late Federal District Judge McMillan, before whom Chambers tried many of his cases, including *Swann*, once observed, "There are lawyers who come to court and who put witnesses on the stand without knowing what they are going to say. Julius spends all the necessary time learning . . . then asks simple questions and gets simple answers.

... He does not try to create a case where one does not exist or to advocate a viewpoint that is not based on fact. As a trial lawyer, he is an educator, not a debater."

One of Chambers' opposing counsel in *Swann* later commented, "He was a very able lawyer and a gentleman. We kept each other informed of where we were coming from. . . . Julius knew how to make a point without getting emotional. . . . Some lawyers you don't enjoy working against. I enjoyed working against him."

The *Swann* case is chronicled in Frye Gaillard's *The Dream Long Deferred* (1986), in Bernard Schwartz' *Swann's Way* (1986), in *Reading, Writing & Race*, by Davison M. Douglas (1995) and in a chapter in Woodward and Bernstein's *The Brethren* (1979).

Busing as a tool for school desegregation was a failure in many places, but in Charlotte it pricked the conscience of the community, produced a new generation of leaders who ultimately drafted a pupil assignment plan that resolved the case and created a spirit that still drives the community.

In 1980, a different Charlotte-Mecklenburg Board of Education adjourned early so that its members could attend a dinner at which the National Conference of Christians and Jews presented its Brotherhood

Award to both Chambers and Judge McMillan.

THE FIRM'S FIRST DECADE

Swann would become the first of a remarkable string of celebrated cases, civil and criminal, that the small law firm Chambers founded prosecuted to successful conclusions during one of the most trying eras of our national history. The firm ultimately prosecuted over two hundred separate school desegregation cases.

Griggs v. Duke Power Co., outlawing non job-related employment tests used to segregate employees by race, which Chambers argued before the Supreme Court two months after *Swann*, and *Albemarle Paper Co. v. Moody*, which held that back pay awards should follow a finding of discrimination, are widely regarded as major landmarks in the development of employment discrimination law under Title VII of the Civil Rights Act of 1964.

And while Chambers was leading the effort systematically to dismantle a culture of racial segregation that was by no means confined to the southern states by prosecuting school desegregation and employment discrimination cases with national significance, others in the firm were battling on multiple fronts, notably including criminal defense of minority defendants. Indeed,

on the same day that the *Swann* opinion was handed down, the United States Supreme Court overturned the death sentences of four of the firm's clients, who had been convicted under North Carolina's then-prevailing mandatory death penalty statute.

In 1970 James Ferguson, three years out of law school, was appointed private prosecutor to assist the local district attorney in a small eastern North Carolina town in prosecuting two white citizens who had admittedly killed Henry Marrow, a twenty-three year old black Vietnam veteran. In the wake of the killing, the town had been engulfed in a conflagration of violence and unrest. An all-white jury, accepting a defense that wandered from self-defense to accident, acquitted the defendants. That case is the subject of a book, *Blood Done Sign My Name*, by Timothy B. Tyson (2004).

In 1971, Charles Becton and James Lanning, one black, one white, successfully defended the first black officer on the police force of a small central North Carolina town who was charged with murder in the death of a white business owner. In advance of the jury verdict, the presiding judge had quietly summoned a reinforcement of state highway patrolmen, and when the verdict of acquittal was announced, ordered everyone in the court-



room to remain seated while the patrolmen escorted the defendant and his lawyers from the courthouse and all the way through two counties to safety.

In 1972, Ferguson defended defendants known as the Charlotte 3, accused of burning a barn and killing several horses in a case with racial overtones. Two years later their sentences were overturned when it was discovered that the two prosecuting witnesses had implicated themselves and had then been given immunity from prosecution in return for their testimony against the defendants.

And two months later, Ferguson defended the Wilmington 10 in a case involving a race-related grocery store bombing. In 1977, the case was featured on a segment of *60 Minutes*, and in 1978 Amnesty International labeled the defendants' conviction and incarceration for a total of 282 years the first instance of political prisoners in the United States. Their sentences were later reduced and the Fourth Circuit Court of Appeals ultimately overturned their conviction and exonerated them.

One of Ferguson's early opponents, College Fellow **Robert F. Baker**, of Durham, North Carolina, recalls, "I had the pleasure early in my career of opposing Jim Ferguson in the Duke [University] Judicial board hearings on the charges

against some Duke students for their takeover of the administrative building during the civil rights uprisings. I had never encountered a more professional and upright lawyer, and I remembered that experience the rest of my career. It was a wonderful example of how a lawyer should act."

On less visible fronts, other lawyers in the firm were quietly going about the everyday business of a general law practice, handling all the other work that the firm's growing clientele brought, including plaintiffs' personal injury suits.

Other lawyers marveled at this small firm's ability to handle the work load it undertook. Long-time firm partner John W. Gresham explained in a 2009 newspaper interview, "Chambers established a way of interacting that served us well through the years." Noting that in many law firms, lawyers become "territorial," he explained that in this firm, the lawyers "subvert self-interest to group interest."

SUBSEQUENT HISTORY

Throughout the 1980's and 1990's the firm's Supreme Court practice spread to other arenas, with several of its lawyers taking the lead. In 1985 the firm successfully argued *Anderson v. Bessemer City*, an early sex-discrimination case under Title VII of the Civil

Rights Act. In 1986, it successfully argued *Thornburg v. Gingles*, a case under the Voting Rights Act of 1982 involving the redrawing of state legislative districts. In 1988, it successfully argued *West v. Atkins*, involving the interpretation of "under color of state law" within the meaning of § 1983. In 1988, it successfully argued *Reed v. United Transportation Union*, involving the free-speech rights of a union member. In the 1990's the firm argued a series of cases relating to congressional redistricting that ultimately allowed the election of the first two minority members of the United States House of Representatives since Reconstruction.

By the end of the nineties, four different lawyers in the firm had argued and won cases in the United States Supreme Court, some of them more than one. Chambers alone had argued and won eight cases in that Court.

In the state courts, in 1990 in *Whittington & Planned Parenthood v. North Carolina Department of Human Resources*, the firm successfully prevented the enforcement of regulations that would have invaded the privacy of applicants for legal abortions and victims of rape and incest.

In 1992, in *Corum v. University of North Carolina*, the North Carolina Court of Appeals first held that violation of the state

Constitution gave rise to a claim for damages against the responsible state agents.

Many of the firm's cases in this era involved the rights of public school employees. They included *Boring v Buncombe County Board of Education* (4th Cir. 1988), holding that public school teachers have First Amendment rights.

The firm continued to handle a heavy load of trial work, both criminal and civil. Following in the wake of the major Title VII cases, the firm prosecuted class actions to dismantle racial discrimination in a number of still-segregated industries, including the trucking industry. It also developed expertise in areas such as education law, teachers' rights and police misconduct cases.

In 2004 Ferguson was instrumental in the exoneration through the use of DNA analysis of Daryl Hunt, who had spent 19 years in prison for a rape and murder he did not commit. In 2005 the firm procured the reversal of a death penalty case based on ineffective assistance of counsel.

The firm continued to attract bright young lawyers. In 1996, Henderson Hill, an African-American Harvard Law graduate who had come to North Carolina after a ten-year stay in the appellate public defender's office in Washington, D.C. to become the director of a

North Carolina resource center for those defending death penalty cases joined the firm.

In 2005, Bryan Nichols, had gone berserk in an Atlanta courthouse, killing a judge and three others. After Atlanta lawyers who practiced in that court had understandably declined to undertake the representation, Hill and another partner, sought out for their expertise in death penalty cases, accepted a court appointment to defend Nichols. After a stressful 2008 trial in a hostile environment in which jury selection took two months and the trial three more, the jury was unable to agree on the death penalty, and Nichols was sentenced to life without parole.

Ferguson had also begun to apply his trial skills to prosecuting catastrophic injury, medical malpractice and wrongful death cases. The firm's website discloses that over the most recent five-year period the firm had four seven-figure recoveries, two six-figure ones and a number of major cases whose settlement amounts were held confidential.

COLLECTIVE ACCOMPLISHMENTS

Perhaps as incredible as the firm's contribution to the clients it represented in those cases and to the development of the law it helped shape are the collective accomplishments

of those who have been a part of it over these forty-five years. Some are still a part of the firm, others have moved on, taking with them the foundation laid by their early experience in the firm.

In 1984, Chambers departed to become the third Director-Counsel of the Legal Defense Fund, following in the wake of Thurgood Marshall and Jack Greenberg. Then in 1993, he left the Legal Defense Fund and returned to North Carolina to become Chancellor of his undergraduate alma mater, North Carolina Central University. He was recruited by C. D. Spangler, whose first venture into public service had been to chair the local school board in the early seventies, implementing Swann, and who had gone on to become president of the Greater University of North Carolina. Having completed his term at North Carolina Central, Chambers is now the director of the Civil Rights Center at the University of North Carolina at Chapel Hill and of counsel to his old firm.

In addition to the College's Courageous Advocacy Award, Chambers has been honored with the Aetna Voice of Conscience Award, the Congressional Black Caucus Foundation's Adam Clayton Powell Award, the Thurgood Marshall Award from the ABA Section of Individual Rights and Responsibilities, and the ABA Spirit of



Excellence Award. In 2005, the University of North Carolina at Chapel Hill, whose undergraduate school had fifty-one years earlier denied him admission on account of his race, awarded him an honorary Doctor of Laws degree. He used his commencement address to remind his audience of both how far we have come and how far we have yet to go.

Over the forty-five years of its existence, the firm Chambers created, which never numbered more than a dozen active lawyers at any one time, has, in addition to him, produced a steady stream of public servants and leaders in the public arena.

In 1980, Adam Stein was appointed the first North Carolina Appellate Defender, a post he held for four years. Resident in the firm's Chapel Hill office, he has been president of his local Bar, president of his local Legal Services Board, president of the North Carolina Academy of Trial Lawyers and a member of the national governing body of ATLA. A founder of the North Carolina Center for Death Penalty Litigation, he remains of counsel to the firm.

James Ferguson has served as president of both the North Carolina Association of Black Lawyers and the North Carolina Academy of Trial Lawyers and as Chair of the National Institute of Trial Advocacy

(NITA). One of the one hundred members of the Inner Circle of Advocates, he has been named one of the nation's top ten trial lawyers by the National Law Journal. For fifteen years he was General Counsel of the ACLU.

Many years ago, through the auspices of NITA, Ferguson began to go each year to South Africa to conduct training in trial skills for black lawyers who had been deprived of adequate training during the days of apartheid. He and partner Geraldine Sumter, along with former UNC Law School Dean Kenneth Broun, also a former Chair of NITA, were recently honored by the post-apartheid government of South Africa. Their work is chronicled in *Black Lawyers, White Courts* by Kenneth Broun (2000), with a foreword by Chambers and a message by Nelson Mandela.

After some years with the Chambers firm, Charles Becton spent nine years on the North Carolina Court of Appeals, then returned to private practice. He relates, "When I joined the Chambers firm in 1970, Julius Chambers' advice to me was: 'Try every case against every lawyer as if you will have to try every case against that same lawyer for the rest of your life. That lawyers needs to know that your word is your bond—that you can be trusted. Be courteous, civil and professional.'"

An African American who went through law school never having witnessed a trial or a court proceeding, Becton became a legendary trial advocacy teacher. Regularly selected to demonstrate trial advocacy skills in ABA, NITA and ATLA video series, he is the John Scott Cansler Lecturer at the UNC School of Law and a Senior Lecturer at Duke University School of Law. He has received the William J. Brennan, Jr. Trial Advocacy Award, the Roscoe Pound Foundation's Richard S. Jacobson Award from ATLA, which recognizes the nation's best trial advocacy teacher, and the Robert Keeton NITA Trial Advocacy Teaching Award.

He recently completed a term as President of the North Carolina Bar Association, the second of his race to hold that office.

Melvin Watt, who joined the firm the same time as Becton, was the son of a single parent who by his own account grew up in a house with no electricity and no running water. A Phi Beta Kappa graduate of UNC-CH and a member of the Yale Law Journal, he served one term in the North Carolina Senate, where the media quickly dubbed him "the conscience of the Senate." He relinquished his seat after one term and withdrew from public life until his two sons had finished high school. In the interim, he served as President of his local Bar and managed

two successful mayoral campaigns of firm client Harvey Gantt, Charlotte's first African-American mayor, and Gantt's two unsuccessful campaigns for the United States Senate. In 1992, Watt was elected to the United States House of Representatives, one of the first two minority Congressmen from North Carolina since Reconstruction. He has served as Chair of the Black Congressional Caucus and currently sits on the House Financial Services Committee and the House Judiciary Committee.

In addition to Becton, James Fuller became a judge of North Carolina's intermediate appellate court. James Lanning and Yvonne Mims Evans, a graduate of Wellesley and Duke Law School, the first woman in the firm, and five other former members of the firm went on to become state court trial judges. Leslie Winner, the firm's first white female lawyer, served in the North Carolina Senate. Ironically, she also served as General Counsel of the Charlotte-Mecklenburg Board of Education, the firm's opponent in *Swann*. She then became Vice-Chancellor and General Counsel of the Greater University of North Carolina and is now Executive Director of the Z. Smith Reynolds Foundation, a major private philanthropic organization.

Three members of the firm have served as presidents of the statewide trial lawyers' as-

sociation and three were presidents of the statewide black lawyers' association. Two alumni are now law school professors. Ten past and present members of the firm are or have been adjunct professors or lecturers in law at least twelve different law schools, including Harvard, Columbia, Michigan, Penn, Virginia, the University of North Carolina and Duke.

PUBLIC RECOGNITION OF THE FIRM AS AN INSTITUTION

In addition to national recognition through the Civil Rights Legacy Award presented to the firm by the Lawyers' Committee for Civil Rights Under Law, a private, nonprofit, nonpartisan legal organization formed at the request of President John F. Kennedy in 1963, it has been similarly honored in its own community. In 2009, it received the Echo Award Against Indifference, given by a foundation whose creation was inspired by a 1997 visit to Charlotte by Nobel Laureate Elie Wiesel.

James P. Cooney, III, a College Fellow from Charlotte, commented on the night when that award was made. "I had the pleasure of attending the dinner. It reminded me of how different Charlotte and this State would have been without this firm and these lawyers. They have achieved the ultimate goal—as trial lawyers they transformed this place

and made it more fair and more just. It was humbling to be there and listen to all that they had done in the face of odds (and hate) that few of us have experienced."

Clearly, the challenges that gave rise to the creation of this firm are not gone. Geraldine Sumter can show a visitor a noose left with ominous significance in the workplace of one of her clients. Those who raise issues of unlawful discrimination are still the subject of subtle retaliation. Schools that were freed at great price of overt racial discrimination are slowly resegregating as the courts decide case by case that this is no longer their burden. Death rows are still inhabited by people who do not belong there.

Nevertheless, one might wonder how different this firm's community and state, and indeed, all the other beneficiaries of its accomplishments, might be today, and how much farther we would still have to go, had Julius Chambers not seen his father unable to find a lawyer who would handle his claim against a white truck owner who had refused to pay a large debt he owed him. It was that experience that made a teenage Chambers decide that when he grew up, he would become a lawyer.



FELLOWS URGED TO SERVE *as judges* IN STUDENT COMPETITIONS

The College's co-sponsorship of the National Trial Competition and National Moot Court contest as well as the Sopinka Cup and Gale Cup contests in Canada expose well over 2,000 law students to real-life exercises in trial or appellate practice under the critical eye of lawyers and judges who play the roles of judges and jurors.

Students from over 150 law schools compete each year in the National Trial Competition, and winners in the regional competitions competing in this year's final round March 26-28, 2010 in San Antonio, Texas.

Over 165 schools compete in the National Moot Court Competition in fourteen regions, leading to the final round February 1-4, 2010 in New York City.

In addition to its financial support, including the awarding of prizes to the winners, the College has traditionally provided judges for the regional Moot Court Competitions and judges and jurors for the National Trial Competitions.

The role of these judges and jurors traditionally goes beyond merely choosing the winners. They use the occasion as a teaching tool, providing constructive criticism at the end of the competition, so that the exercise can be a learning experience for all the participants, winners and losers.

In those regions in which Fellows of the College participate as judges and jurors, the comments of the students who compete have been universally favorable. They appreciate both the opportunity to learn from experienced advocates, and their willingness to devote time and effort to sharing their experience.

Too often, however, because of a lack of communication between the sponsors of some regional competitions, generally law schools and local or state bar organizations, and College Fellows in their areas, too few Fellows have participated. Too few Fellows even know where and when the competitions are taking place in their areas. In those regions where the judges and jurors lack the experience and the perspective of seasoned trial lawyers, the

quality of the experience and its value to the student participants is measurably diminished.

The chairs of the National Moot Court and National Trial Competition committees urge individual Fellows to volunteer a day or so to help make these competitions a success. They also urge the various State Committees to make participation in these competitions by their Fellows a committee project.

The chairs of the analogous Canadian competitions generally make direct arrangements with those Fellows whose participation is needed to make them a success. Gale Cup finals are February 26-27, 2010; Sopinka Cup Competition ends on March 12-13, 2010.

The dates and exact locations of the regional competitions in the United States and detailed contact information for those who wish to volunteer are posted on the College website.



IN MEMORIAM

In this issue we note the passing of forty-three Fellows, the youngest sixty-two, the oldest approximately one hundred. Four were in their sixties, ten in their seventies, seventeen in their eighties and twelve in their nineties (including the one who may have been one hundred). One died less than five months after his induction into the College. The College's solicitation of address changes for the next published roster always brings to the surface Fellows whose passing had not previously been brought to the College's attention, many of them long retired to places away from where they practiced law, several over twenty years ago. Despite our research, their histories remain in great part unknown to us. Of those whose histories we know, twenty-five had military service, fifteen in World War II, two in the Korean conflict, one in both World War II and Korea and seven in peacetime service. As usual, in addition to their accomplishments as trial lawyers, those whose passing we mark include many with colorful backgrounds and fascinating stories. They include: a Fellow who, as a special agent in the predecessor of the CIA, was responsible for the security of two presidents, Fidel Castro and Nikita Khrushchev; a high school debate partner of NBC news anchor Chet Huntley; an all-conference quarterback; another who lettered in four different sports in college; one who as a prosecutor convicted Chicago mobsters Israel "Ice Pick Willie" Alderman and "Milwaukee Phil" Alderisio; one who successfully defended a former Governor in his impeachment trial; a Justice of the Supreme Court of Canada, whose grandfather signed the treaty of Versailles and who himself in retirement became the legal watchdog of the Canadian cryptologic spy agency; one who wrote the entry on maritime law in the 15th edition of Encyclopedia Britannica and who at age ninety testified as an expert witness in the salvage case involving the wreckage of the Titanic; a Marine fighter pilot who was one of only ten survivors in his squadron to return from a raid on an island in the South Pacific; a field artillery commander in the Battle of the Bulge, who was taken prisoner in 1944; one who survived the sinking of two ships in World War II and who came home with fifteen battle stars; one who founded a small firm that produced three federal judges and a state supreme court justice; one who represented the Swedish America Line in the litigation arising out of the sinking of the Andrea Doria; one who was licensed to practice law at age eighteen, a year after he finished high school, and who then went to undergraduate school; one who began his practice in the oldest law firm west of the Mississippi River; two who retired to Hawaii, one who retired to Ireland, one who chose to be buried in Israel and one who chose to be buried at sea; a past president of the Canadian Bar Association; one who was a law student under a professor and Senator-to-be named Wayne Morse and himself later served in the United States House of Representatives, one who in retirement returned to college to study poetry and one in whose living room the firm that was to become Nike was born.

We think that you will find the rich histories of those who have passed from among us worthy of contemplation.

Charles H. Abbott (83), a Fellow Emeritus from Falmouth, Maine, died June 12, 2009 at age 73 after a four-year battle with Alzheimer's disease. A graduate of Bowdoin College, he had been a financial analyst for Dunn & Bradstreet and, as an officer in the U.S. Army Counterintelligence Corps, was a special agent responsible for the security of heads of state and dignitaries, including Presidents Dwight D. Eisenhower and Harry S. Truman, Fidel Castro and Nikita Khrushchev. After graduating from Yale Law School, he joined the Auburn, Maine firm of Skelton, Taintor & Abbott, ultimately serving as its chairman. He had served as president of his local Bar, on numerous committees and commissions appointed by the Governor and the Supreme Court of Maine and on the Judge Selection Commission for the First Circuit in the Carter Administration. He had also served on the boards of directors of two publicly held corporations, as well as on several civic and cultural boards. He had also served three terms on the College's Maine State Committee, including a term as its chair, and on the College's Complex Litigation Committee. Raised on a working farm, he was an outdoorsman throughout his life. His survivors include his wife, two sons, a daughter, a stepson and a stepdaughter.

Edward C. Alexander (61), a Fellow Emeritus from Great Falls, Montana, died August 13,

2009 of natural causes at age 97. In high school, his debate partner was the late NBC news anchor, Chet Huntley. After graduation from the University of Montana and from its School of Law, he practiced law into his mid-seventies. He had served as president of both his local Bar and the Montana State Bar Association. During his career he had been a special assistant to the U.S. Attorney General acting as a hearing officer in conscientious objector cases. He led various civic organizations and had served several terms on the College's Montana State Committee, including serving as its chair. His local Bar had honored him by creating an award in his name, given periodically to one of its members for demonstrating outstanding competence in law and trial advocacy. A widower who had remarried, his survivors include his second wife, two sons and a stepdaughter.

Harold F. Baker (76), a Fellow Emeritus and the founder and former managing partner of the Washington, District of Columbia, firm Howrey LLP (formerly Howrey, Simon, Baker & Murchison), died November 11, 2008 at age 87 of complications following surgery. A graduate of Asbury College in Wilmore, Kentucky, he served in the Army Signal Corps in World War II. Based on Saipan, his unit was responsible for relaying messages from General Douglas MacArthur's headquarters back to



Hawaii. After the war, he graduated at the top of his class from George Washington School of Law. An antitrust lawyer, he had represented numerous national corporations in high-profile litigation. After his 1986 retirement, he moved to Boyds, Maryland, where he became involved in numerous civic activities. A defender of farming and the preservation of open space, he collected and raised dwarf conifers from all over the country and owned an antique mart, collecting American art pottery. His survivors include his wife, a son and a daughter.

Andrew T. Berry (09), Chairman of the Newark, New Jersey, firm McCarter & English, died July 2, 2009, at age 69, less than five months after his induction into the College at the Spring meeting in Puerto Rico. A *cum laude* graduate of Princeton and of the Harvard Law School, he was a Fellow of both the College and the American Academy of Appellate Lawyers. He had served in a number of leadership roles in civic and charitable organizations. His leadership of his firm in increasing its commitment to pro bono causes, including representation of returning veterans, death row inmates, dispossessed tenants and others seeking equal justice had been recognized by the New Jersey Chapter of the American Jewish Committee by awarding him its Judge Learned Hand Human Relations

Award. His survivors include his wife, who was also his law partner, a son, two daughters, a stepson and a stepdaughter.

Robert M. Bertsch (84), a Fellow Emeritus from Dubuque, Iowa, died July 27, 2009 at age 78 of multiple myeloma. A graduate of Loras College, where he played baseball and was an all-conference football quarterback, and of Georgetown University Law School, he served in the U.S. Marines as a platoon leader and staff legal officer before joining the firm of O'Connor, Thomas, McDermott & Wright (now O'Connor and Thomas, PC). He had held leadership roles in numerous civic and educational organizations and had been president of his county Bar. His survivors include his wife, a daughter and two sons.

Hon. William D. Browning (84), a Judicial Fellow from Tucson, Arizona, retired United States Judge for the District of Arizona died February 26, 2008 at age 76 after a two-year illness. A graduate of the University of Arizona and of its School of Law, he served in the Air Force and, before he ascended to the bench enjoyed flying his own planes. The local chapter of the Federal Bar Association, which he organized, bears his name. His survivors include his wife and four children.

Marcus Randolph Clapp (86), a Fellow Emeritus, retired from his Anchorage, Alaska, law firm, died June 5, 2009 at age 65 of Parkinson's Disease. A graduate of Arizona State University and of the University of Arizona School of Law, he clerked on the Arizona Court of Appeals, then moved to Anchorage, Alaska to work for the state's oldest law firm. During the years when the Alaskan Pipeline was being built, he opened an office for his firm in Fairbanks. In 1994 he started his own firm, Clapp, Peterson, Van Flein, Tiemessen and Thorsness, LLC. After thirty-five years of practice in Alaska, he retired to Florida. A former Regent of the University of Alaska and a former member of the Alaska Judicial Council, he had also been involved in numerous civic and cultural organizations. An outdoorsman who enjoyed marathons, cycling, cross-country skiing, weight-lifting and coaching his daughters' athletic teams, he chose to be buried at sea off the coast of Palm Beach. His survivors include his wife and two daughters.

James A. Clark (76), a Fellow Emeritus from Denver, Colorado, died August 5, 2009 at age 78 of cardiac failure following major surgery. A graduate of the University of Pennsylvania, where he played football, and of the University of North Carolina Law School, he had worked as a special agent in the Federal Bureau of

Investigation, then formed his own law firm with two fellow lawyers, both of whom later went on the bench. From time to time he had held various prosecutorial positions, including Assistant United States Attorney, Special Counsel for the Department of Justice and Special Assistant Attorney General for Colorado. As a government lawyer, he successfully prosecuted notorious Chicago mobsters Israel "Ice Pick Willie" Alderman and "Milwaukee Phil" Alderisio. In 1980, his firm merged with Baker & Hostetler, and he became the managing partner of the Denver office. In retirement, he and his wife, who had no children, lived a private life on a farm in Parker, Colorado, where they raised German Shepherds. His wife, Colorado's first female Federal Bankruptcy Judge, predeceased him.

John M. Conway (99), a Fellow Emeritus from Anchorage, Alaska, a founding member of Atkinson Conway & Gagnon, Inc., died March 31, 2009 at age 72 at his second home on the island of Molokai, Hawaii, of a stroke. A graduate of the University of Washington and of its School of Law, he came to Alaska to practice in 1961. His most noted case was the successful defense of the Governor of Alaska in his impeachment trial. He had been the recipient of the Alaska Bar Association's Award for Professionalism. Preceded in death by his



wife, his survivors include four daughters.

G. Richard Doty (77), a Fellow Emeritus from Huntington Beach, California died in May 2009. Born in 1928, he was a graduate of Stanford University and of its School of Law. Before his retirement, he practiced with the Los Angeles firm McCutchen, Black, Verleger & Shea, which had merged with Baker & Hostetler.

Benjamin Weems Dulany (73), a Fellow Emeritus from Washington, District of Columbia, retired from Jackson and Campbell, died May 28, 2009 at age 89. A graduate of the University of Virginia, he served in World War II as an officer in the United States Marine Corps, stationed aboard the *USS Idaho* in the Pacific Theater. After receiving his law degree from the University of Virginia, he practiced in Washington for over fifty years. In retirement, he was an avid race horse owner. Predeceased by his wife and a son, his survivors include three daughters.

Jeremy G. Epstein (91), New York, New York, a partner in Shearman & Sterling, died May 20, 2009 during heart surgery at age 62. He was a Phi Beta Kappa graduate of Columbia College, from which he graduated *summa cum laude*. He furthered his education by earning undergraduate and masters degrees from Jesus College, Cambridge, and a law

degree from Yale. After law school, he clerked for a federal district judge and served as an Assistant United States Attorney in the Southern District of New York. He had served as head of his firm's litigation department and on its policy committee. His wide range of practice included both civil and criminal cases, as well as litigation involving the fine arts. His commitment to equal access to justice had led him to be director of the Legal Aid Society of New York City and of the City Bar Justice Center and a member of the College's Access to Justice Committee. An ardent proponent of the study of literature, he had taught in law schools and was a frequent lecturer and author of articles for legal publications. His survivors include his wife, a daughter and a son.

Hon. Charles D. Gonthier, C.C., Q.C., (96), an Honorary Fellow from Montréal, Québec, a retired Justice of the Supreme Court of Canada, died July 16, 2009 at age 80 of non-smoker's lung cancer. The son of Canada's long-time Auditor-General, he was educated at Collège Stanislaus, whose board he later chaired, with a year at Loyola University to study philosophy and English before entering law school. Following a family legacy—his maternal grandfather had signed the 1918 Treaty of Versailles as Canada's Minister of Justice—he was graduated from McGill University with first class honors in law and

practiced in Montréal for over twenty years before being appointed to the Québec Superior Court in 1974. In 1988, he was appointed to the Québec Court of Appeal and less than a year later to the Supreme Court of Canada. After reaching mandatory retirement age, he returned to the practice of law. Developing an interest in environmental and sustainable development law, he was chairman of the board of governors of the Centre for International Sustainable Development Law at McGill. In 2006, he became commissioner of the Communications Security Establishment Canada, in essence that cryptologic spy agency's legal watchdog. His keen interest in the arts led him to serve as honorary secretary of the Montréal Museum of Fine Arts and on the board of the McCord Museum of Canadian History. He had received many honors and awards during his career, including Queen's Counsel, the Order of Canada, the Montréal Bar Medal, the Québec Bar Medal and honorary doctorates from McGill University, the University of Ottawa and the University of Montréal, and he had been made Knight of L'Ordre des Palmes Académiques, a French award established by Napoleon. His survivors include his wife, a physician, and five sons.

David G. Hanlon (78), a Fellow Emeritus from Tampa, Florida, of counsel to Gray Robinson, PA, died February 14, 2009 at age

85. He received a B.S. degree from the United States Merchant Marine Academy and served in World War II on the *USS Delta*. After the war, he earned a B.A. degree from Duke University, and his law degree from Southern Methodist University, where he was editor of the *Southwestern Law Journal*. He spent most of his career at Shackleford Farrior Stallings & Evans, PA, which merged with Gray Robinson, PA in 2000. He was lead counsel for the State of Florida in the litigation resulting from the 1980 collapse of the Sunshine Skyway Bridge. He had received the Herbert G. Goldberg Memorial Award from the trial lawyers section of his county Bar. In retirement, he returned to the classroom to study poetry. His survivors include his wife, three sons and a daughter.

Nicholas John Healy (88), a Fellow Emeritus, founder of the New York City maritime law firm Healy & Baillie, LLC, died of natural causes May 20, 2009 at age 99 at his home in Glengarriff, Ireland. A graduate of the College of the Holy Cross and of Harvard Law School, he practiced maritime law until World War II, in which he served first as a naval officer and then in the Department of Justice, handling a growing volume of cases involving United States ships and cargoes. A renowned expert in maritime law, his active career spanned almost seventy years. As late as 2000, he was retained at the age of 90 as an expert witness



in the salvage case involving the wreckage of the *Titanic*. He taught admiralty law at New York University School of Law for nearly forty years and was the editor or co-author of many leading maritime casebooks, texts and journals. He was the author of the entry on Maritime Law in the 15th Edition of the *Encyclopedia Britannica*. His clients were as diverse as Lloyds of London and Aristotle Onassis. He had also served a term in the American Bar Association House of Delegates. A widower, his survivors include two sons and four daughters.

John E. Jaqua (67), a Fellow Emeritus from Eugene, Oregon, died May 14, 2009 at age 88 after a long illness. A Marine fighter pilot in World War II, he had been one of only ten survivors of his squadron to return from a raid on one Japanese-held island. He later served as air support officer during the battle for Okinawa. Discharged as a major, he earned the Distinguished Flying Cross, seven Air Medals and the Battle Campaign Medal with five stars. After the war, he received undergraduate degrees from both Pomona College and the University of Oregon and his law degree from the University of Oregon. He was a founding partner in Jaqua & Wheatley. It was in his living room on his McKenzie River farm that legendary University of Oregon track

coach Bill Bowerman and a young former runner named Phil Knight held the meeting that led to the creation of the company that is now Nike. Jaqua served on Nike's board for thirty-six years. The headline in the news article reporting his death called him his community's trustee. Known for his generosity, he was a major donor to his law school, whose law library is named for him and to the Jaqua Concert Hall at the Shedd Institute. His law school named its Distinguished Alumnus Award for him. He had served a long list of community and legal organizations, including the American Red Cross, the Marist Foundation, Springfield Museum, Sacred Heart Medical Center Foundation, the YMCA, Oregon Historical Society and the Eugene Chamber of Commerce. He had been president of the Oregon State Bar and had served in the American Bar Association House of Delegates. He twice chaired the College's Oregon State Committee. He and his wife made a lasting contribution by selling a conservation easement on their 1,200-acre McKenzie River farm property to the Nature Conservancy. Now known as the Coburg Ridge Preserve, it is the largest privately owned nature sanctuary in the Willamette Valley.

T. Paine Kelly, Jr. (54), a Fellow Emeritus from Tampa, Florida, who at the time of his

death was the last living Fellow inducted before 1956, died August 5, 2008 at age 95. A graduate of the University of Florida, where he lettered in football, and of its School of Law, he first practiced with his father, a former Attorney General of Florida. During World War II he was the commander of the 589th Field Artillery Battalion of the 106th Infantry Division. A lieutenant colonel, he fought in the Battle of the Bulge and was taken prisoner by the Germans in 1944. After the war, he led the trial department of Macfarlane Ferguson Allison & Kelly for almost fifty years. He practiced until 2005. In 1996 he wrote his autobiography, *Fifty Years of Courting*. A classic southern gentleman, always impeccably dressed, always courteous, polite and respectful, he was the mentor to many trial lawyers in Tampa. He had served as president of the greater Tampa Chamber of Commerce and was the Tampa Civitan Club Citizen of the Year in 1951. For many years he shot his age on the golf course. Predeceased by a son, his survivors include his wife of sixty-eight years and two daughters.

John J. Kennelly (58), Oak Brook, Illinois, died July 5, 2001. Born in 1911, his law degree was from Loyola University of Chicago School of Law. He had practiced in Chicago.

Denis R. Malm (94), Lake Havasu City, Arizona, a partner in Wachtel, Biehn and Malm, died June 30, 2009 at age 62. A graduate with distinction of the University of Nebraska Law School, where he was a member of the board of editors of his law review, he had been president of his county Bar and was a past president of the Arizona Trial Lawyers Association. He had chaired the Mojave County Planning and Zoning Commission and been president of his district school board. He had also served on the Arizona Supreme Court Committee on Examinations for ten years and had chaired the Arizona Supreme Court Disciplinary Committee. Preceded in death by a daughter, his survivors include his wife, four sons and two daughters.

Richard A. Mayer (88), Merrillville, Indiana, a partner in Spangler, Jennings & Dougherty, PC, died November 14, 2008 at age 74. A graduate of the University of Indiana and of its School of Law, he served in the United States Army Reserve for six years. He was a founder of the Calumet Inns of Court and had served as legal counsel to four regional school boards. His survivors include his wife, a daughter and a son.

Joseph A McMenamin (73), a Fellow Emeritus from Vero Beach, Florida, is reported to have died, apparently on March 25, 1995, at age 95.



Robert A. Neeb, Jr. (59), Rancho Santa Fe, California, died May 12, 2007. He was born in 1907.

Hon. William Lindsay Osteen (88), a Judicial Fellow from Greensboro, North Carolina, former United States Judge for the Middle District of North Carolina, died August 9, 2009 at age 79 of cancer. Judge Osteen, who grew up on a farm, was a graduate of Guilford College, where he lettered in football, basketball, baseball and golf. After two years in the United States Army, he entered the University of North Carolina School of Law. After law school he practiced first in North Wilkesboro and then in Greensboro, North Carolina. Serving two terms in the North Carolina House of Representatives, he was House Minority Leader. After four years as United States Attorney for the Middle District, he returned to his small law firm, which ultimately produced three United States District judges, two of whom were himself and his son, and a Justice of the North Carolina Supreme Court. He had served on the Council of the North Carolina State Bar and was the recipient of many awards, among them the Guilford College Alumni Association Award, the University of North Carolina Law School Distinguished Alumni Award and the North Carolina Bar Association's highest award, the

John J. Parker Award for conspicuous service to the cause of jurisprudence. A few weeks before his death, he received the American Inns of Court Professionalism Award for the Fourth Federal Circuit. His survivors include his wife and three sons, all three Eagle Scouts, one of whom, Hon. William L. Osteen, Jr., had been confirmed to take his father's seat on the Middle District bench.

W. Marion Page (65), Columbus, Georgia, practiced with Page, Scranton Sprouse, Tucker and Ford until his death on May 26, 2009. He had been born in 1917, graduated from the University of Georgia School of Law and served as a major in the United States Army in Africa, Sicily and Europe in World War II. A member of ODK and an Eagle Scout, he had taught a Men's Bible class for almost fifty years and had served on the Board of Governors of the State Bar of Georgia. A widower who had remarried, his survivors include his second wife, a daughter and a son.

Charles Benjamin Park, III (86), Beaufort, North Carolina, died August 9, 2009 at age 78 of cancer. A graduate of North Carolina State College, during the Korean Conflict he served as Detachment Commander for the 92nd Chemical Service Detachment, 8th United States Army, stationed in Korea. After

graduating from the Michigan University School of Law, he practiced with the Charlotte, North Carolina intellectual property firm, Bell, Seltzer, Park & Gibson (now Alston & Bird) until his retirement to Beaufort. In retirement, he and Fellow Claude R. Wheatly, Jr. successfully represented the Episcopal Diocese of Eastern North Carolina in a landmark case involving the ownership of church property when a dissident group severs its ties with the denomination. His survivors include his wife, two sons and a daughter.

Gordon W. Paulsen (82), a Fellow Emeritus from Gwynedd, Pennsylvania, a maritime lawyer, died December 20 at age 91. A graduate of New York University, where he earned both a bachelors and a masters degree, he served in the United States Army and then graduated from Columbia University Law School. First as a partner in Haight, Gardner, Poor and Havens and then as of counsel to Healy & Baillie, he was instrumental in the implementation by the United States of the International Rules of the Road. He had received a knighthood from King Harald of Norway. He represented the Swedish America Line in the litigation arising out of the collision between the liner *Stockholm* and the *Andrea Doria*, which had resulted in the sinking of the latter vessel. He had been president of the Maritime Law Association of

the United States. His other love was music. He played the organ and directed the choirs of many New York area churches, most notably the Community Church of Douglaston, New York, where he served as organist and music director for forty years. His survivors include his wife, a daughter and a son.

Wayne Pearson (78), a Fellow Emeritus, retired since 1991 from the Dallas, Texas firm, Burford & Ryburn, to Athens, Texas, died June 12, 2009 at age 82. A graduate of the University of Texas and of its School of Law, he was a veteran of both the U.S. Air Force and of the U.S. Navy. He had received the Distinguished Litigators Award from the Dallas Association of Defense Attorneys and had been county attorney of Kaufman County. His survivors include his wife, a son and a daughter.

John L. Quinlan (63), a Fellow Emeritus from Garden City, New York, died January 11, 1992, two days short of his eighty-fourth birthday. He was a graduate of both Fordham University and of its School of Law.

Donald N. Rothman (79), a Fellow Emeritus from Cockeysville, Maryland, died June 8, 2009 at age 86 of respiratory failure. A graduate of Johns Hopkins University, where



he acted in student theater and community productions, he served as a lieutenant commander aboard a subchaser in the Atlantic and Pacific Theaters in World War II. After the war, he was accepted at both Harvard Law School and Yale School of Drama, choosing the former. A founding partner of what is now the Baltimore firm Gordon Feinblatt Rothman Hoffberger and Hollander, he chaired its litigation department for more than thirty-five years. Among his more high profile cases, he had represented movie exhibitors in obscenity and censorship cases involving the 1967 film *I Am Curious (Yellow)*. He was widely known for his support of the theater arts, including helping create a regional theater at a time when that concept was new in America. After helping to create Baltimore's Center Stage and finding it a new home when its building had burned down, he went on to chair the board of the Baltimore School for the Arts and to become an adviser to Everyman Theater. His survivors include his wife, two sons, one an actor, the other chairman of the parent company of 20th Century Fox Film and Television, and two daughters, one a historian, one a food and recipe columnist.

John R. Rucker (78), a Fellow Emeritus from Murfreesboro, Tennessee, died July 10, 2009 at age 93. Going directly from high school to the Cumberland School of Law, he graduated

in one year and was licensed to practice law in Tennessee at age 18. He then began to practice with his grandfather and enrolled in Middle Tennessee State College, earning his undergraduate degree four years after he had received his law license. He was a glider pilot in the Army Air Corps in World War II and remained in the Air Force Reserve, retiring as a full colonel. After the war, he established his own practice, ultimately practicing with his two sons until his 1990 retirement. He had been president of his local Bar and a Vice-President of the Tennessee State Bar. He had served as General Sessions Judge for fourteen years and served for six years on his local City Council and for twelve years as a State Senator, serving for a time as Speaker Pro Tem. A widower, his survivors include two daughters and two sons.

Joseph J. Schneider (82), a Fellow Emeritus from Tualatin, Oregon, died May 4, 2009 at age 77. He was educated at Calvin College in Grand Rapids, Michigan and had graduated with honors from the University of Michigan School of Law. He practiced in Honolulu, Hawaii for thirty years. In the College, he had chaired the Hawaii State Committee. His survivors include his wife and three daughters.

Jerome W. Seigfreid (73), a Fellow Emeritus from Mexico, Missouri, retired to Naples,

Florida, died June 9, 2009 at age 82. A graduate of the University of Missouri-Columbia School of Law and of the Judge Advocate General School at the University of Virginia, he served in the Merchant Marine in World War II and in the Judge Advocate General Corps in the Korean Conflict. He began his practice with Seigfreid, Runge, Leonatti & Pohlmeier, the oldest law firm in continuous existence west of the Mississippi River, then founded a firm in Belleville, Illinois and in 2002 joined his son and daughter-in-law in the Seigfreid Law Firm LLC. The author of numerous articles and books on legal subjects, he was a member of the Board of Examiners for admission to the local federal district court for ten years. He received a Citation of Merit for Outstanding Achievement and Meritorious Service in Law from the University of Missouri in 1988. His survivors include his wife, two daughters and two sons.

Louis C. Shell (74), Petersburg, Virginia, retired from Shell, Johnson, Andrews and Baskerville, PC, died August 14, 2009 at age 83. A graduate of the University of Virginia and of its School of Law, he had been president of his local Bar and had served on the Council of the Virginia State Bar, on the local City Council and as Vice Mayor of Petersburg. He was also Chairman of the

Bi-Racial Committee for the City during the 1960's. A charter member of his Methodist church, he was the first Chairman of its Board of Stewards and served as Chairman of its Trustees until his death. His survivors include his wife and two daughters.

Hon. Perry J. Shertz (79), a Fellow Emeritus from Boca Raton, Florida, formerly of Wilkes-Barre, Pennsylvania, died September 21, 2008 at age 80. After finishing high school, he enlisted in the U.S. Navy in 1946 and later served in the Marines during the Korean Conflict. He was a graduate of Dickinson College and of the Temple University School of Law. After twenty-one years of law practice, he was appointed to the Pennsylvania Superior Court as an associate judge. Two years later, he returned to his law practice and practiced for seven more years before retiring. Among his many civic activities, he had been a member of the Governor's AIDS Commission and Chair of the Wilkes-Barre General Municipal Authority. He had been an active member of Congregation Ohav Zedek, Board Chairman of the United Hebrew Institute, President of the Eastern Pennsylvania Council of B'nai Brith and president of the local Zionist Organization of America. His survivors include his wife, three daughters and a son. Three of his four children live in Israel, and at his request, he was buried in Tiberius, Israel.



Maury D. Smith (77), Montgomery, Alabama, a retired partner in Balch & Bingham LLP, died May 24, 2009 at age 82. A graduate of the University of Alabama and of its School of Law, he served in World War II, both as an infantryman and in the U.S. Army Specialized Training Program. He had served as assistant attorney-general of Alabama and as a deputy district attorney. He served as president of his local Bar and on several civic boards and had chaired his local Chamber of Commerce and the local Committee of 100. He was an Emeritus Trustee of the University of Alabama. He had chaired the College's Alabama State Committee. His survivors include his wife and three adult children.

William Lorne Northmore Somerville, Q.C. (75), a Fellow Emeritus from Toronto, Ontario, died June 10, 2009 after a long illness at age 87. After his 1943 graduation from Trinity College at the University of Toronto, he volunteered for the Canadian Army. Originally serving as an officer in the Royal Canadian Artillery Corps, he was transferred to the Royal Canadian Intelligence Corps and in 1945 was seconded to the U.S. Army Intelligence Corps, stationed in Washington. After intensive training in Japanese, he served as a part of the occupation force in Japan after World War II. He obtained his law degree from Osgoode Hall Law School and joined the firm of Borden &

Elliott (now Borden Ladner Gervais LLP) and later served for ten years as chairman of the firm. In the business world, he served on the board of Eastern Utilities Ltd., Hilti (Canada) and as chairman of the Canadian Board of Norwich Union Life Insurance Company. He was a member of both the American Bar Association and the Advocates Society. He had served as president of the Canadian Bar Association as well as of the Ontario branch of that organization. He was also a governor of the Canadian Institute for Advanced Legal Studies. In the College he had served as both Province Chair and as chair of the Canada-United States Committee. A member of the Church of England, he had served as Church Warden of St. James Cathedral. His survivors include his wife, two daughters and three sons.

Louis J. Stuart (83), a Fellow Emeritus from Pueblo, Colorado, died April 30, 2009 at age 85. After serving as a bombardier, navigator and pilot in World War II, he earned his law degree from the University of Colorado and practiced in Pueblo for over fifty years in the firm of Stuart & Gerler. A widower, his survivors include two daughters.

William James Tanney (82), Tanney, Eno, Tanney, Griffith, Ingram, Clearwater Florida, died August 23, 2009 at age 83. A graduate of American University and of Washington

College School of Law of American University, he had been president of his local Bar and Chair of the Trial Section of the Florida Bar and was a past president of the Academy of Florida Trial Lawyers. His survivors include his wife, two daughters and two sons.

Wilfred C. Varn (77), a Fellow Emeritus from Tallahassee, Florida, died May 30, 2009 at age 90. After attending Oxford College of Emory University and Stanford University, he received his law degree from the University of Florida and began the practice of law in Panama City, Florida. Later, moving to Tallahassee, he was United States Attorney for the Northern District of Florida, after which he joined the firm of Ervin, Varn, Jacobs, Odom & Kitchen. He served in the United States Army in World War II in New Guinea, Australia, the Philippines and occupied Japan. He retired as a lieutenant colonel in the Judge Advocate General's Corps. His last duty assignment took him to Washington, D.C. as a judge of the Army Court of Military Review. Upon his retirement he was awarded the Legion of Merit. He had served five times as Senior Warden of his church, as a member of the Executive and Standing Committees of the Episcopal Diocese of Florida and as Vice Chancellor of the Diocese. He helped organize Goodwill Industries in Tallahassee and served

as its first president. He was also legal counsel to the Junior League of Tallahassee for twenty-five years. A widower, his survivors include a daughter and two sons.

Thomas J. Walsh (72), a Fellow Emeritus from Port Washington, New York, died January 23, 2009 at age 90. A graduate of Brooklyn College and of the Brooklyn Law School, he had practiced in Garden City, New York. A widower, his survivors include four sons and two daughters.

Rolf Weddigen, Q.C. (85), a Fellow Emeritus from Vancouver, British Columbia, died May 12, 2009. Born in 1931 in Germany, he first received a Bachelor of Law degree from University College, London, followed by study at the Universities of Munich and Hamburg. In 1955 he emigrated to Canada and, after working for Canadian government agencies in Ottawa and for insurance companies in Montréal, moved to Vancouver, earned a Bachelors of Laws degree from the University of British Columbia, articulated for a law firm in which he ultimately became a partner and was called to the Bar in 1963. Later in his career, after several years as a sole practitioner, he joined Singleton Urquhart as Associate Counsel. During his career he served on the Canadian Bar Association Council and as President of the Canadian

Bar Insurance Association. He had received the Lawyer Volunteer of the Year Award from the Salvation Army's Pro Bono Lawyer Consultation Program. In the College, he served several terms as chair of the British Columbia Province Committee. His survivors include his wife, a son and a daughter.

Gordon K. Wright (67), a Fellow Emeritus from Pasadena, California, retired from Pillsbury Winthrop, died September 26, 2004 at age 84. A magna cum laude graduate of the University of Southern California and a member of Phi Beta Kappa, he served as a destroyer naval officer in World War II, surviving the sinking of two ships. He participated in naval engagements at Midway, Guadalcanal, Santa Cruz, New Guinea, the Bismark Archipelago, Munda Air Field, New Georgia and in the Coral Sea. He received several commendations, the Legion of Merit and fifteen battle stars. After the war, he attended the University of Southern California School of Law, on whose Board of Trustees he later served. The firm with which he practiced, Lillick, Geary, McHose & Roethke, ultimately merged with Pillsbury, Madison & Sutrow, now Pillsbury Winthrop. He had served on a number of Bar committees and had served both as a member of the California State Bar Board of Governors and as Vice President of that organization. His wife predeceased him.

Wendell W. Wyatt (60), a Fellow Emeritus from Portland, Oregon, died January 28, 2009 at age 91. A 1941 graduate of the University of Oregon Law School, where he had been allowed to enroll without an undergraduate degree, he first joined the FBI and was then a Marine pilot in the South Pacific in World War II. After the war, he joined the Astoria firm of former Oregon Governor Albin Norblad, father of Congressman Walter Norblad. He chaired the Oregon State Republican Central Committee, and when Representative Norblad died, Wyatt was elected to fill his seat in a special election. He served four terms in the U.S. House of Representatives and was a member of the House Interior Committee and later the House Appropriations Committee, where he was involved in or responsible for several bills creating land use and preservation projects. One of his professors in law school had been Wayne Morse, who as a United States Senator later became his political adversary. Remaining active in Republican politics, Wyatt became a partner in the Portland firm of Schwabe, Williamson & Wyatt. He also served as a Commissioner of the Port of Portland. The Edith Green-Wendell Wyatt Federal Building in Portland is named for him and a fellow member of Congress. His survivors include his wife, two daughters, a son, a stepdaughter and a stepson.



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.



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