



NATIONAL ASSOCIATION OF WOMEN JUDGES COUNTERBALANCE

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INSIDE THIS ISSUE

Program Spotlight: Success Inside and Out / 1

President's Message / 2

Let Our Judges Judge! / 3

A First Amendment Primer / 4

District News / 7
International News / 13

Conference Events

■ Boston / Mid Year and Northeastern Leadership Conference / 14

■ D.C./Chief Justices/Congressional Women's Caucus Luncheon / 16

■ Chicago / Midwestern Leadership Conference / 17

■ Portland/Annual Meeting and Educational Conference / 18

Committee Reports / 22

Philadelphia Retrospective / 27

Further A'Field / 30




Stacy Marrs of the Family Law Self-Help Center listens to questions during a workshop on child protection cases. Nancy Groszek, former Public Defender; Judge Vanessa White; and Barbara Malchick, Office of Public Advocacy, are also participating.

ALASKA MOUNTS ANOTHER 'SUCCESS' Hiland Mountain Correctional Center Host Second Annual Success Inside and Out Conference

Chaired by NAWJ board member Hon. Dana Fabe, Chief Justice of the Alaska Supreme Court, and supported by over 22 women leaders and women judges partnering with the Alaska Court System and the Alaska Native Justice Center, over 90 women inmates participated in Alaska's 2007 Success Inside and Out Conference held October 26, 2007 at Hiland Mountain Correctional Center in Eagle River.

Launched with a welcoming introduction from one of Success Inside and Out's leading champions, Chief Justice Dana Fabe, followed by Hiland Mountain Correctional Center Superintendent Dean Marshall, with remarks by Alaska State Commissioner of Corrections Joe Schmidt, over the course of the Conference more than 20 community volunteers presented workshops and other activities. Shirley Mae Springer-Staton inspired participating inmates with her Keynote Address Keep Movin Forward. Ms. Springer-Staton, who additionally performed several songs and offered motivational remarks throughout the day, received a standing ovation at the close of the conference. Ms. Springer-Staton shared her struggle to overcome an inability to read until she was well into adulthood, urging participants to try small incremental steps to overcome their own obstacles.

Conference plenary sessions included: Identifying and Celebrating Your Strengths, Successful Job Interviews, opportunities for those 'inside' to hear 'outside' success stories. One such presentation included Janice Weiss, Coordinator, Bridge to Success; Margi Mock, Public Defender, Panel Moderator; and three women who served  *Continued on Page 6*



Janice Weiss, Margi Mock, Elizabeth Halberg, Kim Guerin and Linda Smith.

MISSION

NAWJ's mission is to promote the judicial role of protecting the rights of individuals under the rule of law through strong, committed, diverse judicial leadership; fairness and equality in the courts; and equal access to justice.

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PRESIDENT'S MESSAGE



Dear NAWJ members,

As the 28th President of NAWJ, it is with great pleasure and enormous pride that I greet you in this first Counterbalance issue of my Presidential year. The enthusiasm and support I have received from those of you I have communicated with assures me that this will be another outstanding year of accomplishment for our wonderful and unique organization.

I emphasize "unique" because, more than any organization I know, NAWJ's membership reflects a broadly diverse alliance of pioneering women, each with remarkable chronicles of personal achievement and determination to support the advancement of other women. As those of you who attended the Philadelphia conference know, my personal narrative begins with my birth in 1949 in Indonesia to a Chinese mother and a Dutch father. Because of political hostility directed against the Chinese in Indonesia my family moved, eventually immigrating to Oregon. There, as a non-English speaking child of nearly seven, I entered the first grade. As required by then-existing restrictions on Chinese immigration, a church group sponsored us, agreeing to ensure we would be self-supporting; they donated a car that enabled us to migrate to Oxnard, California in search of work.

By age sixteen we were comfortable and I had the use of my own car. A local news story reported on an impoverished immigrant family that had become stranded in Oxnard when their car died leaving them unable to continue their journey to seek employment. The following morning, my car had disappeared from the driveway and the news that day reported on an "anonymous donor" who had left a car that enabled that family to continue their journey to a better life. My parents' act of generosity, which they saw as merely passing on the help that they had received, has served as an inspiration in all that I have attempted to achieve in my personal and professional life. As with so many of our members, scholarships, loans and part-time jobs enabled me to enroll in two fine state universities and ultimately to earn the legal degree that led to my eventual appointment as a judge sixteen years ago, and then to this wonderful organization. As NAWJ President, I have been given the opportunity to pass on fruits of what I have been given by working to achieve a diverse and independent system of justice to which all have equal access.

I will be relating in future Monthly Updates and Counterbalances the many projects which are already in high gear this year, including:

- Northeastern Regional Conference and Midyear Meeting April 11-13th in Boston featuring Jeffrey Toobin author of *The Nine* as Keynote Speaker;
- Third Annual Women Chief Justices/Congressional Caucus on Women's Issues Luncheon June 25 on Capitol Hill;
- Midwestern Regional Conference August 27-29th featuring Justice Ruth Bader Ginsburg as Keynote Speaker, as well as author and legal commentator Scott Turow;
- Keeping the Promise Annual Conference in Portland, Oregon October 15-19th featuring as Keynote Speaker New York Times United States Supreme Court Correspondent Linda Greenhouse; and
- Launch of our Report Card project, measuring and monitoring, state by state, the progress attained by women judges at all levels of the judiciary.

In closing, let me express my heartfelt gratitude to all of you who support NAWJ's mission and pledge my commitment to working side by side with you and our staff to take our organization to the next level of achievement and progress.

Nan Duffly
President

LET OUR JUDGES JUDGE!: THE IMPORTANCE OF JUDICIAL INDEPENDENCE*



BY JULIA HUSTON¹ AND MICHELLE BIELUNIS²

In the words of Tennessee Supreme Court Justice Adolpho A. Birch, Jr., “Judicial independence is the judge’s right to do the right thing or, believing it to be the right thing, to do the wrong thing.” Judicial independence is a cornerstone of our criminal justice system and, in order for such system to work, our judges should have the freedom to make decisions based on the law and the evidence before them, without letting the media, politics or other concerns sway their decisions, and without fearing penalty in their careers. Our judges should also be able to make decisions that are not subject to influence from the other branches of government. Too often, however, when a criminal defendant allegedly commits another crime, the first thing we do is criticize the judge.

Once recent instance of such criticism involves the case of Daniel Tavares. Superior Court Judge Kathe Tuttmann, after a bail hearing, released Tavares, who had been convicted and served his sentence for murdering his mother. Tavares then fled to the state of Washington where he is alleged to have killed again. As a result, Mitt Romney, the same person who appointed Judge Tuttmann to the bench during his term as Governor, publicly denounced Judge Tuttmann, calling for her resignation. Several other politicians have followed suit. In contrast, lawyers and judges recognize Judge Tuttmann’s decision as legally sound. As Supreme Judicial Court Chief Justice Margaret Marshall and Chief Justice for Administration and Management of the Trial Court Robert Mulligan explained, “Under the Massachusetts bail statute and Constitution, judges are not free to deny release to a person awaiting trial for a crime based on the judge’s or the public’s assumption of dangerousness.”

While the system may have failed in the case of Daniel Tavares, we should not use this case, or any other, as an excuse to attack our judges. There are procedures for addressing judicial decisions that the public may view as erroneous. For example, judicial rulings can be appealed to a higher court, and ultimately to the Supreme Court. Laws can be changed through the legislation process. Additionally, judicial disciplinary processes can be utilized to effect the removal of judges who are incompetent or who violate ethical standards. In order for our criminal justice system to work, our judges must be given the power to interpret and apply the laws impartially and without fear of reprisal. It would undermine our entire Constitutional system if, in order to obtain a popular ruling, our judges begin to ignore or rewrite the laws from the bench.

It is the job of our judges to uphold our laws, however unpopular that may be. We need to respect their ability to make decisions based on the evidence and the law. In the words of Supreme Court Justice Anthony M. Kennedy, “The law makes a promise---neutrality. If the promise gets broken, the law as we know it ceases to exist. All that’s left is the dictate of a tyrant, or perhaps a mob.” ■

¹ Julia Huston is the President of the Women’s Bar Association of Massachusetts, and a partner at the Boston intellectual property law firm of Bromberg & Sunstein LLP, where she co-chairs the firm’s trademark and copyright practice groups. She is also an amicus member of the National Association of Women Judges. Email jhuston@bromsun.com.

² Michelle Bielunis is member of the Women’s Bar Association of Massachusetts, and an associate in the corporate department of Proskauer Rose LLP in Boston, where she represents private equity funds, their managers and their investors. She can be reached at mbielunis@proskauer.com.

* Published in January 2008 Issue of “Exhibit A,” a Lawyers Weekly/Dolan Media publication for non-lawyers. NAWJ does not endorse or advance the cause of individual judges but periodically runs articles, such as the above op-ed article, by concerned judges, attorneys and others focusing on issues of interest to our membership. The content of, and views expressed in, this article are those of the author and do not necessarily represent those of NAWJ or its members.

PRESS FREEDOM AND STATE CONSTITUTIONS *



BY **JUDITH S. KAYE**, CHIEF JUDGE OF THE STATE OF NEW YORK

Few legal issues have generated such a wealth of case law and commentary as freedom of the press, so that my present overview cannot possibly be comprehensive. I accordingly focus on a topic that has long been important to me as a state court judge: the role of state constitutional law in preserving freedom of the press. I take this occasion to reassert that state courts should play a lead role in securing this precious right, and to consider some of the methodological problems they confront in doing so.

I write not only as a judge, but also as a former journalist concerned with how courts interact with the press and public. As I have suggested elsewhere, the third branch of government must learn to communicate more effectively with and through the Fourth Estate. Making this suggestion is simply another way of acknowledging that robust, unfettered, informed journalistic discourse is indispensable to the health of our society. The New York State Court of Appeals — that state's highest court — has affirmed that principle on several occasions.

Probably every introductory constitutional law course traces the emergence of our modern conception of civil liberties over the half-century that followed the First World War. Federal courts expounding the First Amendment figured prominently in this process — perhaps inevitably, as the crucial cases involved the expression of political opinion to national audiences (e.g., *New York Times Co. v. Sullivan*). But by the late 1970s the terms of the debate had shifted, and the author of the *Sullivan* decision, Supreme Court Justice William Brennan, had identified state courts as an increasingly important forum for the development of constitutional law.

A bit later in *Michigan v. Long* (1983), the Supreme Court clarified when it would recognize that a state court decision rested on independent and adequate state law grounds and was therefore beyond review. These cues lent renewed interest to the emerging dialogue among state judges about when and how to make constitutional law independently.

In this context, the New York State Court of Appeals put theory into practice in the 1991 decision *Immuno AG. v. Moor-Jankowski* (often called "Immuno II"). Dr. Moor-Jankowski edited the *Journal of Medical Primatology*, which published a letter to the editor critical of a research plan by plaintiff *Immuno AG.*, a multinational corporation that manufactures blood plasma products. The plan involved capturing chimpanzees and exposing them to hepatitis at a facility in Africa; the letter suggested that this plan would be unnecessarily harmful to chimpanzee populations and was designed to circumvent rules that protect that endangered species. On the basis of this letter and some other critical remarks by Moor-Jankowski published in the *New Scientist* magazine, *Immuno* sued him as well as several other individuals and both journals for defamation. All other defendants settled, but Moor-Jankowski, after extensive and expensive discovery, moved for summary judgment. The New York courts granted this motion on the ground that both publications were expressions of opinion and, as such, constitutionally shielded from defamation liability. (See *Immuno AG. v. Moor-Jankowski*, 1989, aka "Immuno I").

The view that expressions of opinion enjoy strong protection under the U.S. Constitution stemmed from the Supreme Court's dictum that under the First Amendment "there is no such thing as a false idea. However pernicious an opinion may seem, we depend for its correction not on the conscience of judges and juries but on the competition of other ideas" (*Gertz v. Robert Welch, Inc.*, 1974). Soon after *Immuno I*, the Supreme Court clarified that, as such, opinion enjoys no special federal constitutional protection; the issue with communications of any sort is merely whether they imply a false assertion of fact made with "actual malice" (see *Milkovich v. Lorain Journal Co.*, 1990). The Supreme Court then vacated and remanded *Immuno I* to the New York State Court of Appeals, and directed that we further consider our decisions in light of *Milkovich*.

On remand, the New York court held first that Immuno had not met its burden of showing that any assertion of fact implicit in the letters was false, so that summary judgment was proper even under Milkovich. Having followed the Supreme Court's direction to consider Milkovich, our court then returned to the source of rights that is our primary concern in most cases: state law — specifically, the New York Constitution. Explaining that “the Federal Constitution fix[es] only the minimum standards applicable throughout the Nation” and leaves intact “the traditional role of State courts in applying privileges, including the opinion privilege,” the New York State Court of Appeals considered whether the state constitution preserved such a privilege and thus furnished an independent ground for dismissal. Noting New York's traditional hospitality to the free exchange of ideas — and the contrast between the affirmative language with which the New York Constitution guarantees freedom of the press and the more negative wording of the First Amendment — the court concluded that the state constitution did, indeed, provide broader protection.¹

Concretely, this means that courts determining whether implied factual assertions in a statement of opinion are actionable must consider the full context of the statements, including the expectations of the average reader of the publication. Under this standard, even if one could construe the criticisms of Immuno to imply factual assertions, they were still not actionable, as a reasonable reader of the scientific journals in which they appeared would recognize their provenance in the marketplace of ideas.

The choice to rest the Immuno II decision primarily on our state constitution was made after a good deal of internal debate, reflected in no fewer than three concurring opinions — highly unusual for our court, which most often speaks in a single voice. These concurrences deserve particular attention because they raise issues with which other state high courts have grappled in comparable cases — indeed, they display the range of available methodologies for state court review, and the advantages and defects of each methodology. Judge Richard Simons, for example, suggested that our court, having developed no distinction between federal and state law on defamation and free speech in Immuno I, and having now construed Milkovich to support a disposition favorable to the media defendant, should not have addressed state constitutional law at all, which unnecessarily insulated the court's construction of Milkovich from Supreme Court review. The price of this choice, he argued, was a proliferation of dicta on both constitutions. Judge Stewart Hancock Jr. separately opined that under Milkovich, Moor-Jankowski was still entitled to summary judgment; he would in certain cases advocate dual constitutional analysis, but this was not the case.

While these concerns are valid, other weighty factors support applying state constitutional law even in cases where, as in Immuno, some federal law analysis is inescapable. Federal standards may be uncertain, in which case state courts, though willing to decide on federal grounds when asked, may still find a dual analysis useful to ensure finality and provide clear guidance to the public. This need was particularly acute in Immuno, where the shift in federal standards occurred only after the litigation had produced a significant statement by our court. As a review of the first Immuno decision and its published “Points of Counsel” shows, before Milkovich, Immuno conceded that under Gertz, statements of opinion enjoy federal constitutional protection (see Immuno I at 549). With this point granted and battle joined on whether readers would regard the disputed letters as fact or opinion, it would have been gratuitous at best for Moor-Jankowski to reach out and brief differences in the two relevant constitutions.

After Milkovich, of course, Moor-Jankowski's incentive to explore the differences was apparent. Equally clear was the need, given the cost and length of the litigation, for a result immune to further disturbance — although the court had recognized the urgency of this consideration for libel defendants from the first (see Immuno I at 561; Immuno II at 256). Finally, it was important to announce a settled standard on which the public could rely, whatever new developments might emanate from Washington. Under the circumstances, dual constitutional analysis was particularly appropriate.

At least one other state high court justice concurring in the dismissal of a defamation complaint has argued that the resort to state constitutional law is unnecessary because federal protections remain sufficient to dispose of the claim even after Milkovich (see *Vail v. The Plain Dealer Publ'g Co.*, Ohio 1995). Unlike the concurring judges in Immuno II, however, Ohio Justice Paul Pfeifer emphasized that the relevant state constitutional language, on its face, actually provides less protection to the press than the First Amendment. This is because the Ohio Constitution — like that of New York and many other states, but unlike that of the United States — qualifies its guarantee of free expression by expressly holding speakers, writers and publishers “responsible for the abuse of the right” (Ohio Constitution, Article I, Section 11). Justice Pfeifer's objection thus apparently pertains more to textual detail than to any broad conception about sovereignty or judicial restraint. Even so, it identifies a problem of construction that courts must confront in any state where a defamation defendant relies on



Chief Justice Dana Fabe (R) Chair of the Success Inside & Out Steering Committee greets conference participants at the registration table with Steering Committee Members Mary Hughes (L) and Linda Duck (C).



Shirley Mae Springer-Staten.



Joe Schmidt and Dean Marshall.



Alaska District Court Judge Jane Kauvar of Fairbanks (L) visits with Chief Judge Jane Smith (R).

Continued from Front Cover

but are now living successfully in their communities Elizabeth Halberg, Kim Guerin, and Linda Smith.. Other confession sessions appealed to a range of mind, body, and spirit aspects to successful re-entry to mainstream society:

- Surviving Probation
- Housing and Transportation
- Getting Your Education
- Getting Involved in the Arts
- Addiction Treatment
- Fitness Training and Yoga
- Managing Your Finances
- Writing a Resume
- Reading to Your Children
- Family Law Self Help Services
- Navigating the Urban Culture

Alaska's Success Inside & Out was initiated in November 2006 to help women inmates nearing their release date prepare for the transition to life outside prison. The goals of the program are (1) to provide mentorship and support for women in prison who are within one year of release by women judges and women professionals; (2) to provide women prisoners with information about resources available to them upon re-entry; and (3) to allow women judges and other women professionals the opportunity to participate in a program within the prison, observe the prison environment, and become acquainted with correction officials.

Sponsored by the National Association of Women Judges, the Alaska Court System, this venture is an outgrowth of the Alaska Native Justice Center 2006 Success Inside and Out Conference Bridge to Success initiative, a new program at the Center that offers community services and support to women who have been released. The Success Inside & Out and Bridge to Success programs are currently collaborating on a photo-text exhibit featuring women in reentry, "INSIDE/OUT: FACES OF CHANGE...Women Leaving Prison," which will be on display at Side Street Espresso in Anchorage throughout December and will travel to other locations in the new year. Chief Judge Jane Smith of the Colville and Tulalip Tribal Courts in Washington State attended the Alaska Success Inside and Out conference on behalf of the Washington Gender and Justice Commission to explore the possibility of implementing a similar program in Washington. For more information about Alaska's Success Inside & Out program please contact coordinator Brenda Aiken, 907-264-8266, baiken@courts.state.ak.us. For more information about Alaska's Bridge to Success please contact coordinator Janice Weiss, 907-793-3550; jweiss@anjc.net.

NAWJ AND SUCCESS INSIDE AND OUT

As mentioned before, Success Inside and Out is a women's conference for female prisoners within one year of release. It provides support and inspiration for their transition back into the community, and information on resources available to them upon reentry into the community. The program also allows women judges opportunity to participate in a program within the prison so that they may observe prison environment first hand and become acquainted with corrections officials in a project where they are working together toward the same goal. Success Inside and Out provides a way for women judges, along with women professionals in the community, to participate in an educational program for women prisoners in a manner which does not present ethical or conflict of interest concerns and allows women judges to interface with prison officials and women prisoners. Women judges may also serve as panelists and facilitators in break out sessions during the conference. The project is consistent with the goals of NAWJ's Women in Prison Committee. It is also capable of being expanded to benefit young women in youth correctional facilities.

PROGRAM AND PUBLICATIONS INFORMATION

A list of available NAWJ educational materials, publications and outreach programs such as the aforementioned Success Inside and Out, popular law career introduction Color of Justice, Genome Justice, Story Book Project and Removing Obstacles to Justice for Immigrants may be found at www.nawj.org. Members considering producing particular programs may contact their District Director for assistance. Publications and sample materials may be obtained from National Association of Women Judges assistant Lavinia Cousin, call 202.393.0222. ■

DISTRICT ONE

- **NAWJ Annual District Dinner Meeting and Reception** held September 26, 2007 welcomed **new Supreme Judicial Court Justice Margot Botsford** and New Probate & Family Court Chief Paula Carey, with a wonderful, festive event and a bounty of attendees. NAWJ President Justice Nan Duffy instilled in members the importance of personally inviting judges on their respective courts to become members of NAWJ. The numerous initiatives and events undertaken by District One and NAWJ nationally were shared with attending guests. Plans began in earnest on this year's upcoming Northeastern Leadership Conference and the NAWJ Mid-Year meeting (see page 14) We will use this occasion to welcome women newly appointed to the judiciary.
- District One will again present **"Branching Out: Opportunities to Make a Difference in the Three Branches of Government"** later this Spring or early next Fall. Assistance is welcomed with planning and implementing this exciting program that will offer women and minority law students and new attorneys opportunities to learn about the three branches from women leaders in those positions.
- **Lynda Connolly received the Excellence in the Judiciary Award** from the Massachusetts Lawyers Weekly and Massachusetts Bar Association at the February 5, 2008 annual Excellence in the Law celebration of achievement and distinction in the legal profession.
- **At this same banquet Hon. Fernande R.V. Duffy, Diversity Hero.** At a banquet in Boston President Fernande Duffy accepted the Diversity Hero award presented by the Massachusetts Lawyers Weekly for "a commitment to advancing Asian-Americans as lawyers and judges." In the Massachusetts Lawyers Weekly article President Duffy describes how "as a young lawyer, she was attracted to the newly formed Asian-American Lawyers Association of Massachusetts. In its early days, "maybe there were a dozen of us in AALAM," Duffy says, noting that Asians, as clients, were "invisible" then. The Association "cast a light on their needs [for legal representation] as the population grew." The Diversity Hero Award recognizes President Duffy's awareness of "the difficulties faced by minority litigants trying to navigate the channels of the judiciary. A seemingly chronic shortage of interpreters to assist non-English-speaking litigants in the court system is one challenge they must contend with. Cultural differences pose another, as Duffy explains: "I remember an Asian woman who wanted to give up any interest she had in property and children; she said that was her tradition. I asked for a volunteer lawyer to represent her. I couldn't do what she was asking until she had good representation by someone who spoke Chinese."
- **Hon. Nancy Gertner on the U.S. District Court in Massachusetts** has been named the recipient of the American Bar Association's Thurgood Marshall Award, which will be bestowed at the ABA Annual Conference in New York City on August 9. See Further A'Field for details on the Thurgood Marshall Award.
- **Northeast Region of the National Asian Pacific American Bar** Association recognized NAWJ President Fernande Duffy as 'Trailblazer. NAWJ President Nan Duffy, a longtime member and supporter of the Asian American Lawyers Association of Massachusetts, was proudly nominated by the AALAM ☞



NAWJ President Fernande Duffy, Superior Court Judge Margaret R. Hinkle, Supreme Judicial Court honoree Hon. Margot Botsford, Massachusetts Superior Court and NAWJ District One Director Hon. Amy Nechtem.



NAWJ District One Annual Dinner Meeting attendees.



NAPABA Awardee Hon. Fernande Duffy with Hon. Erica Yew and Hon. Carrie Zepada on the Santa Clara County Superior Court in California and Hon. Tammy Ryu, on the Los Angeles Superior Court in California.

DISTRICT DIRECTORS

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Hon. Amy L. Nechtem
Lynn Juvenile Court, MA

District Two (NY, CT, VT)

Hon. Sherry Klein Heitler
Appellate Term, Supreme Court,
First Department, NY

Hon. Barbara Leak
White Plains City Court, NY

District Three (NJ, PA, DE)

Hon. Sue Pai Yang
New Jersey Workers' Compensation Court

District Four (MD, DC, VA)

Hon. Cathy Hollenberg Serrette
Prince George's County Circuit Court, MD

District Five (FL, GA, NC, SC)

Hon. Diana S. Eagon
Hennepin County District Court, Retired

District Six (AL, LA, MS, TN)

Hon. Rosemary Ledet
New Orleans Parish Civil District Court, LA

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District Thirteen (WA, OR, AK, HI, ID, MT)

Hon. Julie Elizabeth Frantz
Multnomah County Circuit Court, OR

District Fourteen (CA, NV)

Hon. Cecilia Castellanos
Alameda County Superior Court, CA

International

Hon. Carolyn Engel Temin
Court of Common Pleas, 1st Judicial District, PA

ABA Delegate

Hon. Cara T. Neville
4th Judicial District Court, MN

for the National Asian Pacific American Bar Association (“NAPABA”) Northeast Region’s 2007 Trailblazers Award, and was awarded that honor at its National Convention in Las Vegas in the Fall. Judge Duffly has served as a role model and inspiration to many.

- Hon. Sandra Lynch will begin her term as **Chief Justice of the U.S. Court of Appeals for the First Circuit** in June at the John Joseph Moakley U.S. Courthouse in Boston.
- In July, **Hon. Margaret Marshall** will take over as **President of the Conference of Chief Justices** at the CCJ Annual Conference in Alaska.
- Martha Grace was appointed to serve an additional term as **Chief Justice of the Massachusetts Juvenile Court**.
- Did you know that **Governor Duval Patrick** has named four women to the bench since January? January! Margot Botsford to the Supreme Judicial Court, Linda Fidnick to the Probate and Family Court, Christine Roach to the Superior Court and Gabrielle Wolohojian to the Massachusetts Appeals Court.

DISTRICT TWO

- **Hon. Jacqueline Silbermann Receives Ruth Schapiro Memorial Award**

Judge Jacqueline Silbermann who sits on the Supreme Court of the State of New York in New York County received the prestigious New York Bar Association’s Ruth Schapiro Memorial Award at their Convention earlier this month. The award, named after Ruth G. Schapiro, a tireless

advocate for women’s issues, honors a member of the association who makes positive contributions in areas such as domestic violence, child abuse, bias, health and other concerns of women in the profession and in public life. It is noted that Silberman said: “while young lawyers today have certainly benefited from the efforts of Ruth Schapiro and others who have followed in her footsteps, we all need to remember our obligation to be mentors and role models for the newer members of the profession. It has been both an honor and a privilege to serve as a jurist over the past twenty years, and it is my sincere hope that my efforts in the areas of family law and children’s rights will serve to inspire those who will follow me in this vital work.” Judge Silbermann currently serves as Deputy Chief Administrative Judge for Matrimonial Matters.

- **Westchester County, NY judges tour the United Nations** in advance of NAWJ’s Annual Conference in Philadelphia last fall. Judge Sandra Forster, Greenburgh Town Court, White Plains, New York participated in a group tour of the UN provided for the International Association of Women Judges. Along with Judge Terry Jane Ruderman, New York State of Claims, White Plains, NY attended with Judge Forster, both judges in Westchester. Local judges from New York City and New Jersey as well. A multi-lingual, enthusiastic group the women judges from foreign countries, many of whom attended NAWJ’s Conference in Philadelphia, included women from Taiwan, Korea, Nepal and the Ukraine.

Their assembly traveled a VIP tour which included a visit to the Security Counsel and the General Counsel, followed by an elegant lunch in the Delegates’ dining room and several lectures,



Hon. Jacqueline Silbermann

the most interesting given by an Argentinean delagate who was an associate lawyer to the International Criminal Court.

Through the course of meetings the Westchester contingent learned just how much societies look to America as the model of civil rights and rights for women. Exchanges of the description of life and society in our respective countries - dealing with divorce, domestic violence, custody of children – highlighted the degree to which share a common humanity.

DISTRICT THREE

- **International Judges Visit District Three**

NAWJ District 3 Director Sue Pai Yang, J.W.C. served as chair of the International Judges Committee for NAWJ’s 2007 Annual Conference, for which almost 40 international judges attended. Twelve of these judges accepted District Three’s invitation for a pre-convention visit: a **people-to-people program whose theme was “America Through the Eyes of the Legal and Community Leaders.”** With contributions and in person participation from Districts One, Two, Three, Four and Fourteen, the International Judges Committee packed the five-day visit to New Jersey, Delaware and New York with exciting activities. The outpouring of goodwill from the community, the courts, law schools and government officials were heartwarming to the international judges who came from Korea, Nepal, Taiwan and Ukraine.



L-R New York Supreme Court Justice Marcy Kahn; NAWJ District Three Director Sue Pai Yang; UN Secretary General Ban Ki-Moon; and Judge Young-Hye Kim, Korea.

Guests began arriving in New Jersey on Saturday, November 4, 2007. Some accepted invitations to stay with host families while others preferred to stay in hotels. Sunday began with attendance at a **re-dedication of the Somerset County, NJ Court House by the Grand Master of Masons** in an ancient ceremony, followed by a private reception at Judge Sue Pai Yang’s home to meet IAWJ President-elect Leslie Alden and IAWJ Executive Director Joan Winship. With energy and enthusiasm to spare the judges’ assembly headed to a **Welcome Dinner sponsored by NAWJ District Three and the Somerset County Cultural Diversity Coalition** with co-sponsorships by bar groups, community organizations and international businesses. Nearly 200 people, including community leaders, judges, law professors, attorneys and law students shared a multi-ethnic meal together. Entertainment included performances by community groups and the professional Nai-Ni Chen Dance Company.

Led by Judges Sandra Robinson and Sue Pai Yang, the next day’s activities was devoted to visiting the three branches of government. Starting with a visit to the Somerset County Superior Court hosted by Assignment Judge Yolanda Ciccone, the group



then headed to the Federal District Court in Trenton where Judge Anne Thompson played host inviting a U.S. Attorney and public defender to make presentations. After lunch, **meetings were scheduled with Attorney General Anne Milgram, Public Defender Yvonne Smith Segars, Workers Compensation Administrative Supervising Judge Virginia Dietrich, Secretary of State Nina Wells and Public Advocate Ron Chen.** Visits to the New Jersey Supreme Court and the New Jersey State House were not to be missed, as many international judges noted the impressive number and display of women in leadership roles throughout Governor Jon Corzine's administration.

Judge Marcy Kahn led the next day's activities with an early bus trip to the United Nations in New York City. A bevy of additional judges from New Jersey, New York, Taiwan and Japan joined us for a special tour to learn of the UN's efforts on behalf of women, children and the environment. **Judge Young-Hye Kim, the Chair of the IAWJ 2010 Convention in Seoul, Korea** arranged a private meeting between our group and Secretary General Ban Ki-moon, who expressed deep interest in promoting gender equality around the world.

Our next stop was a reception and tour of Rutgers Law School in Newark, NJ hosted by Dean Stuart Deutsch. Thirteen international judges from Japan, Korea, Taiwan, Nepal, and Ukraine were welcomed by Rutgers Law School-Newark faculty, administrators, and students. The group presented Dean Stuart Deutsch with the five-volume *Republic of China Constitutional Court Reporter*. Attendees also included New Jersey Supreme Court Justice Barry Albin. Following that gathering, an international judges' panel discussion at Seton Hall Law School sponsored by the **New Jersey Supreme Court Committee on Women in the Courts**, NAWJ District Three and several law



student associations offered thought provoking discussions.

Four judges from Nigeria joined us for a visit to Widener University School of Law in Wilmington, DE to hear Judge Jan Jurden's excellent program on the state-of-the art technology in e-discovery. Dean Linda Ammons hosted a luncheon for the judges where NAWJ District Three presented an **Equal Access to Justice Scholarship** to one of its law students. Each guest left with a large bag of gifts, including a book on Delaware from the Governor.

Participating International Judges: from Korea Judge Suk-Jong Back, Justice Young-Hye Kim, Judge Su Jin Lee, Judge Bo Kyung Mun, Judge Hyun-Kyung Song, Judge Hyun Ju Yeo; from Taiwan Judge Marisa Meng-Ying, Judge Gisele Chyi Chiu, Justice Pi-Hu Peggy Hsu, Presiding Judge Huei-Shan Kuo, Judge Jiin-Fang Lin, Supreme Court Justice Beyue Chen Su; from Nepal Supreme Court Justice Sharad Shrestha; from Ukraine Judge Larisa Kovtun. For more information contact Judge Sue Pai Yang, District 3 Director, NAWJ"suepyang@yahoo.com or phone 908-875-8005.

DISTRICT FOUR

- **Judge Brenda Murray** has been busy spearheading a re-entry program for women in the Maryland Correctional Institute for Women (See Committee News for information on Book Club sessions at MCIW) much inspired by Justice Dana Fabe's notable Success Inside and Out Program (see Program Spotlight front cover). In addition to NAWJ members, the organizing committee includes, among others, members of the Maryland Women's Bar Association, the chairperson of the Maryland Women's Commission, Warden Shell, and grassroots providers. The committee has targeted early next fall for the program.
- Judges Brenda Murray and Theresa Nolan have continued to run a biweekly book club at MCIW. The possibility of providing **college credit opportunities** for inmates is being explored.
- Previously, members of the **Maryland chapter of NAWJ** were successful in establishing Baltimore's Chrysalis House, a therapeutic **residential program for pregnant and post partum defendants and their babies**. Efforts are now underway to explore the possibility of establishing a similar program in Prince George's County, Maryland. **Judge Marielsa Bernard** has continued working on the **Story Book Project** for Maryland inmates and **Judge Marcella Holland** coordinates the Maryland chapter's Girl Scout project for inmates' children.



Judge Irma Raker holding scholarship certificate and check for Khadine Bennett, flanked by Judge Joan Churchill (far left), Immigration Judge retired, and President, District Four Director Judge Beverly Nash (far right), DC Office of Administrative Hearings, President, NAWJ Maryland Chapter and Board Member of NAALJ.

- At an October 18, 2007 **joint reception of the National Association of Women Judges with the National Association of Administrative Law Judiciary (NAALJ)**, on the occasion of the NAALJ 2007 Annual Conference in Washington D.C. at American University's Washington College of Law, Judge Irma Raker on the Maryland Court of Appeals, presented an NAWJ Equal Access to Justice Scholarship to Khadine Bennett, student at

AU's Washington College of Law. The reception followed the performance of an original play on Thurgood Marshall's role in the Brown vs Board of Education decision, **written by Paul Handy, a Judge at the DC Office of Administrative Hearings.**

- Plans are underway for the **2008 Edna Parker Awards Banquet**, its distinguished recipient IAWJ founder Hon. Arline Pacht.
- Judge Janet James Mahon will again organize the Color of Justice program in the **District of Columbia.**
- The **Virginia Chapter** sponsored a Color of Justice program at the Fairfax County Courthouse Saturday February 23.
- District Four's **executive board met** December 3, 2007.
- The Maryland Chapter, **chaired by Judge Beverly Nash**, met for dinner December 11, 2007.
- Virginia's chapter, **chaired by Judge Alotha C. Willis**, will meet early 2008.

DISTRICT NINE

- Former Missouri Western District Court of Appeals Judge Patricia Breckenridge was recently appointed by Governor Matt Blunt to fill the vacancy left by retiring Justice Ronnie L. White on the **Missouri Supreme Court.** Judge Breckenridge joins fellow NAWJ members Chief Justice Laura Denvir Stith and Judge Mary Rhodes Russell also on the Supreme Court. Through the Non-Partisan Court Plan the Governor was provided with three names, including that of Missouri Eastern District Court of Appeals Judge Nanette Baker. Many NAWJ members voiced their support for the two female candidates.
- Judge Maxine Aldridge White was named on the list of six nominees by **the Federal Nominating Commission** for the current vacancy on the United States District Court for the Eastern District of Wisconsin.
- In August, 2007 U.S. Magistrate Judge Celeste F. Bremer participated in a **Mediation for Court Program in Kuala Lumpur for Industrial Court Judges** in Malaysia who are considering using mediation as part of their case management. In addition, Judge Bremer met with the local bar association.



Hon. Patricia Breckenridge



Hon. Celeste F. Bremer with the mediation Training Team in Kuala Lumpur, Malaysia August, 2007.

- Two Iowa judges received awards at the **Iowa Organization of Women Attorneys** Annual Meeting last June. Judge Artis Reis of Des Moines was awarded the Gertrude Rush Award, co-sponsored by the Iowa Organization of Women Attorneys and the Iowa Chapter of the National Bar Association. The award is named for **Gertrude Durden Rush**, an Iowan who was the first African American woman attorney west of the Mississippi, and co-founder of the National Bar Association, the award recognizes a woman attorney or judge dedicated to promoting human and civil rights. Judge Reis, former director of the Iowa Civil Rights Commission and the Drake University Law School's

Legal Clinic, is now adjunct professor at Drake University Law School active in many civic and community organizations.

- Judge Ruth Klotz, also of Des Moines, received the **Arabella Mansfield Award.** Arabella Babb Mansfield was the first woman licensed to practice law in the United States and has served as a probate judge in Des Moines since 1978. As a legal pioneer in Iowa, Judge Klotz is role model and mentor to countless members of the legal profession. During the most recent attorney plebiscite, Judge Klotz received the rare honor of having 100 percent of the attorneys who practice in her court approve her continuation in office.
- **Judge Constance Cohen** of Des Moines received the 2007 Drake University School of Education Outstanding Alumni Award. She also was selected for the **Congressional Coalition on Adoption Institute's 2007 Angel in Adoption Award.** A ceremony was held in Washington, D.C. last October.
- **Hon. Colleen Wieland** of Mason City, Iowa, was recently named **district court judge** for Iowa's Second Judicial District. Judge Wieland is the first woman district court judge for Iowa's Second District. Prior to her appointment she served as part-time magistrate for Cerro Gordo County, Iowa, and had a private law practice.
- St. Louis Women's Lawyer's Association and the Bar Association of Metropolitan St. Louis paired up with members of the Missouri judiciary to **"take a new bar admit tee to lunch" program** last fall. It was a great way for NAWJ to reach out to new women lawyers!
- **St. Louis County Missouri Judges responded to a "call for help"** when a local community center providing after school services and meals was broken into and all of the programs computers, electronic equipment, school supplies and food was stolen. The judges organized a quick drive and provided the Center with two new DVD players, a new VCR player, lots of school supplies and many non-perishable after-school snacks. Judges Thea Sherry and Ellen Levy Siwak made a special trip to the Center to meet with the student participants in the after school program and answer their questions on everything from becoming a sports lawyer to their favorite type of music!

DISTRICT TEN

- The State of Minnesota has now recognized the **appointment of five women to the district court bench by Governor Tim Pawlenty:** Kerry W. Meyer, Susan M. Robiner, Tammi A. Fredrickson, Sally L. Tarnowski and Ivy S. Bernhardson. This brings the number of women judges statewide to a high of 86.
- Local metropolitan judges, including supreme court justices, appellate court judges, law clerks and court staff recently participated in the **a bar-b-que benefiting the Dorothy Day Center**, a homeless shelter located in St. Paul, Minnesota supported by NAWJ. An Equal Access to Justice Scholarship was awarded in the fall to Suzanne Guertin who attends **William Mitchell College of Law.**
- On January 1, 2008 the Minnesota Court of Appeals added three new judges including a female judge from the district court, Heidi Schelhas. In 2007 Governor Tim Pawlenty also appointed the following women to district court positions: **Judges Janet Barke Cain, Kristine DeMay and Kristin Larson.**
- On the administrative side of law, the **Office of Administrative**

Hearings moved its office from Minneapolis, Minnesota across the river to St. Paul. Judges have oriented themselves to the new location as well as closer access to the state capital and Minnesota Judicial Center. There were no new reported appointments to the administrative law bench in 2007.

- Kansas Governor Kathleen Sebelius **named Melissa Taylor Standridge to the Kansas Court of Appeals** on January 12, 2008. Taylor Standridge's appointment will be effective upon her swearing in. She will be one of three women on the now 13-member court.

DISTRICT ELEVEN

- District Director Judge Elisabeth Earle kicked off the year hosting a Color of Justice program February 15, 2008 at the University of Texas School of Law where they awarded an Equal Access to Justice Scholarship.
- Plans are in store for **the Women's Resource Fair to be held in downtown Austin on Saturday, May 3, 2008** from 9:00 AM -3:00 PM at the Schmidt-Jones Family Life Center. The Women's Resource Fair is a comprehensive all day community event that will provide a variety of free resources and services to homeless and battered women, including legal assistance, medical services, job skills and educational counseling, social services and veteran's assistance, shelter referrals, mental health counseling, spiritual care, child care, breakfast, and lunch. Plans include legal assistance in the following areas: criminal cases, family law, child

support, domestic violence, protective orders, public benefit programs, immigration, housing and consumer questions. The **Women's Resource Fair has been an annual event sponsored in the San Diego, California** legal community for eighteen years and we hope to achieve the same success and longevity in Austin. Liz Branch, our NAWJ attorney liaison, has been instrumental planning both of these events. She is also partnering with the Travis County Women Lawyers Association.

DISTRICT THIRTEEN

- **Gender and Justice Commission Program and Reception.** NAWJ Finance Committee chair (then District 13 Director) Justice Barbara Madsen partnered with the Washington State Gender and Justice Commission to present a program and reception of networking, educational displays and tours for **District 13 members, Washington State Judicial Officers and State Administrative Judges.** The event took place last summer at the Temple of Justice in Olympia, Washington to a rousing success. Chief Justice Alexander welcomed the attendees and Justice Madsen spoke about the work of the Gender and Justice Commission and the strong connection they have with NAWJ. Judge Gina Hale and Judge J. E. Sullivan explained the range of work NAWJ engages in, and other speakers remarked on their connection with administrative law judges, and the benefits of membership in NAWJ. After the program, Chief Justice Madsen personally led a tour of the Temple



Rex Lamont Butler, Herman G. Walker, Jr., Johnny Gibbons, Lynda Limón, Joy Green-Armstrong and Donna Meyers were participating Anchorage attorneys in Alaska's Fifth Annual Color of Justice program. See District 13 news.



Hon. Stephanie Joannides, Chair of the Color of Justice Organizing Committee with participant.

of Justice. Spirited and lasting high-energy networking occurred before and after formal remarks.

- **2007 Presiding Judges Conference.** At another event, the Washington Supreme Court Gender and Justice Commission sponsored a session titled **“Sexual Orientation: Issues for the Courts”** at the 2007 Presiding Judges’ Conference. There were over 100 participants consisting of a team of two - the Presiding Judge and the Court Administrator. A panel was present to talk about recent changes to substantive legal areas using the **Judges’ Bench Guide on Sexual Orientation and the Law** and also to discuss with the participants general sensitivity to lesbian, gay, bisexual, and transgender lawyers and litigants. In addition to the educational program, the Commission arranged for two rural judicial officers to attend **Advanced Domestic Violence training through the National Juvenile and Family Court Judges’ Association.**

- **Washington State Governor Christine Gregoire** announced the appointment of Judge Debra Stephens to the Washington State Supreme Court, now a member of NAWJ. In addition, the Governor appointed the **first Korean American woman**, Judge Linda Lau, to the Washington Court of Appeals in Seattle.



Monica Kane, Judge Stephanie Joannides, Deborah Wing and Kyrstin Hardin.

- The **Fifth Annual Color of Justice** took place June 21-23, 2007 in Anchorage, Alaska. **Anchorage Superior Court Judge Stephanie Joannides** served as Chair of the Color of Justice Organizing Committee for the fifth straight year. Nearly 120 students participated in the two-day “high school track” included a series of workshops by law professors from the sponsoring law schools including continuing supporters University of Alaska Anchorage (UAA) and Alaska Native Justice Center, keynotes from inspiring attorneys, judges and other professionals from Alaska and the Northwest.



Whitney Earles, Susan Lee, and Dr. Sandra Madrid.

First day events took place in the UAA Commons where young Color of Justice participants were joined by several members of

the new **M. Ashley Dickerson Chapter of the National Bar Association** who met with Color of Justice participants for a special solstice presentation in honor of the late Ms. Dickerson, the first African-American attorney in Alaska and the first African-American woman attorney in the state of Alabama. The presentation, entitled **Let Your Light Shine**, included the **DVD “Choose Law”** from the American Bar Association and an interactive discussion of career choices with Anchorage attorneys Rex Lamont Butler; Herman G. Walker, Jr.; Johnny Gibbons; Lynda Limón; Joy Green-Armstrong, Chapter President; and Donna Meyers. Over half of the participants spent the night in the UAA dorms as an introduction to campus life.

The program’s second day was held in the Anchorage courthouses with a gathering of Chief Justice Dana Fabe, Color of Justice Chair Judge Stephanie Joannides and conference presenters enjoying the Supreme Court courtroom (see inside back cover). Students enthusiastically performed their own in-depth mock trial. Color of Justice participants received certificates of completion from Judge Stephanie Joannides at the close of their High School Track.

The half-day “college track” took place that Saturday, June 23. This **new track**, presented for the first time in 2007, allowed interested women and minority college students to meet with law school professors, admissions officers, current law students, and recent law school graduates in an informal half-day session held on the UAA campus. An in-depth view into the law school admissions process, a summary of careers that can be pursued with a law degree, and a presentation on the variety of support services at UAA and elsewhere available to students of color interested in pursuing a legal education satisfied the budding interests of attendees. Access to such information and support is vital in a state without a law school, where comparable opportunities for dialogue and exchange are few and far between.

Speakers at the opening luncheon on the UAA campus included **Monica Kane**, Executive Assistant to the Provost, UAA; **Judge Stephanie Joannides**; **Deborah Wing**, Director of Programs, Alaska Native Justice Center; and **Kyrstin Hardin**, Deputy Court Clerk in Dillingham, who attended Color of Justice to learn more about pursuing her career goal of becoming a judge.

Presenters for the Color of Justice College Track held at UAA’s Consortium Library included **Whitney Earles**, Associate Director of Admission, Seattle University School of Law; **Susan Lee**, Director of Admissions, Gonzaga University School of Law; and **Dr. Sandra Madrid**, Assistant Dean for Student Affairs and Community Development, University of Washington School of Law. Support for the program were generously provided by the three major Pacific Northwest law schools with major funding from the Law School Admissions Council (LSAC) and the Council on Legal Education Opportunity (CLEO).

Also enjoying a Color of Justice session on the UAA campus were **Thomasine Williams**, Director of Admissions, Council on Legal Education Opportunity; Palmer Superior Court Judge Beverly Cutler, a **co-founder of Color of Justice in Alaska**; and **Jacqueline Hancock**, Records Director, CLEO.

- Alaska hosted its **2007 Success Inside & Out Conference** October 26, 2007 at the Hiland Mountain Correctional Center in Eagle River. See Program Spotlight on front cover of this issue of Counterbalance
- **2008 NAWJ Annual Conference.** Looking ahead, District Director, Hon. Julie Frantz, and Conference Chair, Hon.



Thomasine Williams, Judge Beverly Cutler and Jacqueline Hancock.

Ellen Rosenblum, are pleased to report that plans are proceeding well for the 30th Annual NAWJ Conference to be held in Portland, Oregon, from October 15-19 at the Marriott Downtown Waterfront Hotel. Dozens of women judges and practitioners - both within our state and across our district -- have been busy planning the conference, which promises to meet the expectation of excellence enjoyed by those who attended the recent conference in Philadelphia. So, mark your calendars once again, and look for more information about this conference both inside this magazine and in upcoming releases. We are well on our way to living up to the theme of this year's conference: "Keeping the Promise..." Please join us in Portland. ■

INTERNATIONAL NEWS

LESLIE ALDEN TO LEAD IAWJ

BY CAROLYN ENGEL TEMIN

Leslie Alden, who served for five years as International Director of NAWJ, will be installed as President of International Association of Women Judges' at its Justice for All: Access, Discrimination, Violence and Corruption bi-annual meeting in Panama City from March 25-28, 2008. Leslie has been a trial court judge in Fairfax County, Virginia since 1995 and now sits on the Circuit Court of that county. During her tenure as International Director of NAWJ among other things, she developed the educational program entitled, "Beyond Borders: The Impact of International Law on State and Federal Courts". Since 2003, she has chaired the Board of Managerial Trustees for IAWJ.

She has lectured all over the world on the importance of the Rule of Law from a judicial perspective. The countries in which she has appeared included Nigeria, Cuba, Chile, South Africa, Italy, Russia, Turkey and Jordan. As fellow NAWJ members we are all very proud of her achievements and especially, of the confidence shown by our global colleagues in choosing her to fill this significant two-year position.

I hope that many of you are planning to come to Panama City to be there to support Leslie and to demonstrate our appreciation of her accomplishments. At the last IAWJ conference, which took place in Uganda, there were only 11 attendees from the US. This year, let's make sure to multiply that number many times over.

Detailed information and on-line registration is available on the IAWJ website at www.IAWJ.org. And, if you're planning to join me there, please let me know so I can look for you at the conference. You can contact me at cetemin@netzero.com. See you in Panama City! ■



Hon. Leslie Alden, Circuit Judge Fairfax County, VA.

NAWJ Mid Year and Northeastern Leadership Conference

NATIONAL ASSOCIATION OF WOMEN JUDGES

NORTHEASTERN LEADERSHIP CONFERENCE AND MIDYEAR MEETING
JURY'S BOSTON HOTEL, BOSTON, MASSACHUSETTS

April 11 – 13, 2008

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NORTHEASTERN LEADERSHIP CONFERENCE: AGENDA

FRIDAY, APRIL 11

Location: World Trade Center, 200 Seaport Boulevard



9:00 a.m. — Noon Registration

Noon — 1:30 p.m. Keynote Luncheon

- Keynote Speaker: Jeffrey Toobin, CNN commentator, Author *The Nine*

1:30 — 3:30 p.m. Panel –First Amendment and the High Profile Case

- Moderator: Amalia Barreda, Reporter, WCVB-TV

Panelists:

- Martha Coakley, Attorney General of Massachusetts
- Hon. Nancy Gertner, U.S. District Court, Massachusetts
- Joan Kenney, Public Information Officer Supreme Judicial Court, MA President, Conference of Court Public Information Officers
- Joan Lukey, Esq., WilmerHale

Location: Adams Courthouse, One Pemberton Square, Social Law Library



5:30 — 7:30 p.m. Gala Reception

- Presentation of Justice Ruth Abrams Scholarship by NAWJ President Hon. Fernande Duffly

SATURDAY, APRIL 12

Location: Jury's Hotel



8:00 — Noon NAWJ Board of Directors Meeting

Noon — 1:00 p.m. Joint Luncheon Meeting
NAWJ Board of Directors and Resource Board Members

1:00 — 4:00 p.m. NAWJ Board of Directors Meeting

1:00 — 2:00 p.m. NAWJ Resource Board Meeting

Location: Home of Alice Richmond, Esq.

5:00 — 7:30 p.m. Reception

SUNDAY, APRIL 13

Location: Jury's Hotel

8:00 — 9:00 a.m. NAWJ Board of Directors Meeting

9:00 — 10:30 a.m. Chief Justices Continental Breakfast

- Honoring Hon. Margaret H. Marshall
Chief Justice Massachusetts Supreme Judicial Court
President-Elect, Conference of Chief Justices

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Nancy Shilepsky

Shipelsky O'Connell Casey Hartley
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Congressional Caucus

NATIONAL ASSOCIATION OF WOMEN JUDGES

THIRD ANNUAL CHIEF JUSTICE / CONGRESSIONAL WOMEN'S CAUCUS LUNCHEON
CAPITOL HILL, WASHINGTON, D.C.

June 25, 2008

The National Association of Women Judges (NAWJ) will hold its Third Annual Chief Justices/ Congressional Women's Caucus Luncheon Meeting on Wednesday, June 25, 2008 at 12:00 noon in the United States House of Representatives Rayburn Office Building Room B-340. This Luncheon brings together members of the Congressional Caucus for Women's Issues and leading women jurists from across the country, including current State Supreme Court Chief Justices, Federal Circuit Chief Judges and other judicial leaders. Attorney Sheila Hollis has again graciously agreed to host a 'meet and greet' dinner on Tuesday June 24th the evening prior the Luncheon, providing early arrivals with an opportunity for pre-event discussion and planning. The first two Luncheons each drew over 50 jurists and Congresswomen, including Speaker Nancy Pelosi, who spoke eloquently to the importance of collaboration between the women leaders of the judiciary and the Congress on matters of shared concern.

Past-NAWJ Presidents Gladys Kessler and Vanessa Ruiz are again working closely with the 2008 Women's Caucus Co-Chairs, Congresswoman Lois Capps (D-CA) and Congresswoman Cathy McMorris Rodgers (R-WA) to determine which specific non-partisan issues of importance would be of most interest to prospective judicial and Congressional attendees, with an eye toward establishing year-round working relationships among the women leaders of the judicial and legislative branches.

The Congressional Caucus for Women's Issues has undergone several structural changes since its founding in 1977, and today includes within its membership all women currently serving in the House of Representatives. ■



Rayburn House Office Building

Midwestern Leadership Conference

NATIONAL ASSOCIATION OF WOMEN JUDGES

MIDWESTERN LEADERSHIP CONFERENCE
INTERCONTINENTAL HOTEL, CHICAGO, ILLINOIS
August 27 – 29, 2008

CONFERENCE HIGHLIGHTS

- Keynote speaker
Justice Ruth Bader Ginsburg
U.S. Supreme Court
- Presenter and Moderator
Scott Turow
National Legal Commentator,
Writer & Attorney
- Panel on Attrition of Women in
Large Firms and Its Impact on
Judicial Diversity
- Other Educational Panels
To Be Appointed

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InterContinental Hotel



Millennium Park



Magnificent Mile

Keeping the Promise

NATIONAL ASSOCIATION OF WOMEN JUDGES

30TH ANNUAL MEETING AND EDUCATIONAL CONFERENCE
MARRIOTT DOWNTOWN WATERFRONT, PORTLAND, OREGON

October 15 – 19, 2008

The 30th Annual Conference Committee is thrilled to be hosting NAWJ's Annual Conference in Portland, Oregon later this year. Portland is a wonderful town anytime, but the city is especially stunning in autumn, with foliage colors to rival New England's. Conference attendees will get a bird's eye view of the city's unmatched natural beauty when we ride the new urban aerial tram at Oregon Health Sciences University's Center for Health and Healing. There will be several sessions on health-related issues and a dinner in the Center's beautiful atrium. Our host hotel is the newly renovated Downtown Waterfront Marriott, with views of downtown Portland and the Willamette River, which you can explore along a wonderful walking path across from the hotel. You'll have the chance to take advantage of tax-free shopping, enjoy locally-grown food, and, if time permits, visit our many award-winning wineries that are less than an hour away. We have a lot planned for the conference, including sessions on international child abductions, programs for women-in-prison, holistic approaches to child neglect and abuse, victim's rights, climate change, mediation, election law, and more. But, most importantly, we and our Washington colleagues look forward to welcoming you to the beautiful Pacific Northwest October 15-19 ■



Mount Hood

constitutional language that contains the “responsible for the abuse” qualification. This problem is not insuperable, as the “responsibility” clause may be construed in a way compatible with holding that a state’s free-press guarantee is more protective than the First Amendment (see, e.g., *Wampler v. Higgins*, 2001; see also *Davidson v. Rogers*, 1978).

The *Immuno II* and *Vail* concurrences discussed so far characterized the use of state law as unnecessary at best. But a third *Immuno II* concurrence took a different tack — Judge Vito Titone would have decided the case solely on state common law grounds. This approach rested on the perception that the majority’s federal constitutional analysis was “inconclusive” and “unnecessary,” and the principle that courts should decide constitutional issues only after exhausting statutory and common-law alternatives. As the majority noted, both points disregarded the course that the parties steered by briefing only constitutional issues. Also, the Supreme Court’s instructions on remand left our court with little choice but to address these issues within the federal framework. Nevertheless, Judge Titone’s determination to make state law “the first line of protection for the people’s liberties” is compatible with the approach taken by many courts.

For instance, the Supreme Court of Utah — facing another appeal, in light of *Milkovich*, from the dismissal of a defamation action — opted to rely solely on its state constitution in *West v. Thomson Newspapers* (1994). Plaintiff West, a small-town mayor, accused the defendants of defaming him by publishing newspaper columns that falsely portrayed him as abusing the power of his office and misleading the public. Defendants obtained summary judgment because the Utah Constitution protects statements of opinion and supports a “totality of circumstances” analysis under which the challenged statements qualified as opinion.

As the *West* court explained, the choice to rely solely on state constitutional law reflected the “primacy” approach intended to minimize unnecessary federal review, facilitate the independent role of state constitutions, and acknowledge that state law rights are prior to federal constitutional rights. These are commendable goals, and other high courts addressing free-speech and free-press issues have identified further ways in which a primacy approach may promote judicial economy (see, e.g., *Davenport v. Garcia*, 1992). Of course, because the U.S. Constitution sets the minimum, or floor, for individual liberties and state constitutions, it may be hazardous to venture on state constitutional adjudication without also keeping an eye on the federal parameters. And, as noted, *Immuno* illustrates how a state court determined to develop state law may find that the mandates of federal law and the need for a final and economical resolution necessitate a dual constitutional analysis.

The Supreme Court of Louisiana has also found that the need for an efficient summary adjudication of defamation claims involving the press required it to articulate differences between state and federal law. In *Sassone v. Elder* (1993), defendants broadcast television news reports concerning plaintiff attorneys and their client, Marie Giordano Lloyd. Lloyd claimed rights, as heir to a previous landowner, to some mineral-rich lands and to royalties from these lands. With the help of her attorneys, she induced other heirs to join her in a class action asserting these rights and to contribute funds to the project. The television reports included footage of a local district attorney and other concerned persons who suggested that Lloyd’s scheme was fraudulent, as well as an interview in which plaintiffs were confronted with skeptical questions about the project. Plaintiffs alleged that the newscasts defamed them, and the intermediate appellate court held that under *Milkovich*, the televised reports contained statements that a juror could reasonably understand to imply defamatory facts.

In reversing, the Supreme Court of Louisiana observed that, unlike in the federal system, the state summary judgment standard in defamation cases differed from the standard in other civil cases. The difference arises from the recognition that because “the threat of unmeritorious litigation could otherwise have a chilling effect on freedom of the press, adequate protection of that constitutional guarantee requires that plaintiffs in defamation cases demonstrate at an early stage that they can meet their burden of proof at trial.” Therefore, while Louisiana at that time normally adhered to a strong preference for full trial on the merits and set a heavy burden on summary-judgment movants, it dispensed with this rule in defamation cases. (A movant is the moving party in a case, the party bringing the action or moving for an order, etc.) Applying the correct, relatively relaxed standard, the Louisiana high court determined that the “principal inference” reasonable viewers would draw from the broadcasts would not be that plaintiffs were “shady lawyers.” As the court noted, a reasonable viewer would consider the allegedly defamatory statements in the context of the entire broadcasts, and so would recognize that the broadcasts aimed mainly to question Lloyd’s motives rather than plaintiffs’. Accordingly, the court reinstated summary judgment.

Sassone differs analytically from the other cases we have considered. It does not hold that the state constitution affords stronger protection to the press than the First Amendment. Such an analysis was possible, as Justice James L. Dennis suggested in a concurrence. As the concurrence notes, the state constitution was enacted during the interval between [HYPERLINK "http://www.firstamendmentcenter.org/faclibrary/case.aspx?id=1683"](http://www.firstamendmentcenter.org/faclibrary/case.aspx?id=1683) *Rosenbloom v. Metromedia* (1971) and *Gertz v. Robert Welch, Inc.* (1974). Under the plurality opinion in *Rosenbloom*, defamation plaintiffs would have to prove that defendants who commented on affairs of public concern spoke with actual malice, while after *Gertz* the plaintiff's status has been dispositive and only public figures must prove actual malice. Justice Dennis urged that the ratification of the Louisiana Constitution before *Gertz* locked in the *Rosenbloom* standard, so that the *Sassone* plaintiffs, though private figures, would have the burden of showing that the defamatory statements were made with actual malice — a burden they had not met.

In declining this invitation the other justices passed up one opportunity for federal-state constitutional comparison, and focused instead on how constitutional norms required an adjustment in state civil procedure. The effect of this adjustment, at first glance, was arguably to bring Louisiana procedure more nearly into alignment with the federal summary-judgment principles set forth in [HYPERLINK "http://www.firstamendmentcenter.org/faclibrary/case.aspx?id=6240"](http://www.firstamendmentcenter.org/faclibrary/case.aspx?id=6240) *Anderson v. Liberty Lobby* (1986), another defamation case. Yet ultimately the test the *Sassone* court developed — requiring a determination of the principal inference a reasonable viewer of the telecasts would draw in context — is similar to *Immuno II* and suggests that media defamation defendants in Louisiana have a valuable alternative to *Milkovich*.

All of this merely goes to show that state courts have a rich variety of resources with which to develop principles appropriate to local conditions but responsive to the fundamental values enshrined in the Bill of Rights.

In using defamation as my point of entry for reviewing the role of state courts in securing freedom of the press, I do not mean to overlook other areas in which this role may be critical. State courts have, for instance, found that the constitutional protection trumps the interest in inhibiting publication of trade secrets (e.g., *State ex rel. Sports Mgmt. News, Inc. v. Nachtigal*, 1996). They deliberate on whether long-arm statutes confer jurisdiction over persons who publish on the Internet; on how statutes of limitations apply to Internet publication (e.g., *Firth v. State of New York*, 2002); and on other emerging issues relating to that medium. They also hear cases on public access to court proceedings and government documents; on the evidentiary privileges that may protect reporters' communications with their sources; and on many other issues that potentially implicate freedom of the press. In each of these areas state courts are taking the lead today, fulfilling the mission that Justice Brennan identified 25 years ago." ■

"Press Freedom and State Constitutions" was first published by the First Amendment Center. Reprinted here with permission of the author.

INTERNATIONAL PARENTAL ABDUCTION LIAISON NETWORK

BY SHIREEN AVIS FISHER, CO-CHAIR

The Committee was formed as an informal liaison network to serve as educators and mentors to other judges regarding international parental child abduction and the application of the Hague Convention on International Parental Abduction. The Committee invites all NAWJ members to contact the committee for more information about the Abduction Convention, and for all interested members to join the Committee.

Over the past year, members of the Committee have been involved in local, national and international activities. One of our original committee members, Judge Cathy H. Serrette (Circuit Judge Prince Georges County, Maryland) was appointed to a national committee of the National Center for Missing and Exploited Children to consult on international judicial networking. This initiative grew out of suggestions made at the Fifth Special Session for review of the Abduction Convention held at The Hague, at which the IAWJ was represented by Judge Patricia Whalen and Judge Shireen Avis Fisher. For the official report on this session please see www.hcch.net.

At the Fifth Special Session the delegates from the 76 nations who are party to that treaty, and invited NGO's including the IAWJ, were asked to reflect on the workings of the Abduction Convention over the preceding four years. Of particular concern for several delegates, including the delegates from IAWJ, was the effect of strict application of the Convention in cases where domestic violence was alleged. Judge Fisher has written an article on this issue which is published in the Hague Permanent Bureau's publication *The Judges' Newsletter*, volume 2007. We invite all interested judges to subscribe to this free publication.

The Committee is grateful that the issues of the Hague Conventions continue to be features in the programs of the NAWJ and the IAWJ. There will be a session devoted to the Hague Family Law Treaties at the Conference of the IAWJ scheduled for Panama in March 2008. In addition, a session on the issue of domestic violence and the Abduction Convention is currently planned for NAWJ's 30th Annual Conference in Portland, Oregon. Other co-chairs include Hon. Margaret Kravchuk and Hon. Patricia Whalen. Additional members: Hon. Kathleen Cardone, Hon. Patricia Cowett, Hon. Diana Eagon, Hon. Maureen Lally-Green, Hon. Janet Malone and Hon. Teresa Samina. ■

MEMBERSHIP OUTREACH AND RETENTION

BY COL. LINDA STRITE MURNANE, CO-CHAIR

DIVERSITY – ACTION AND NOT JUST WORDS: A REASON TO BELONG TO NAWJ

I am returning from a meeting of the National Bar Association's Judicial Council Winter Meeting as I write this article for the *Counterbalance*. I was invited to come to their meeting to speak about international opportunities for judges.

Although I admit that the opportunity to get away from the cold, wet and rainy weather in The Hague to St. Thomas in the U.S. Virgin Islands was an incentive to accept their invitation, I was drawn to this invitation more by the opportunity to speak to this specific audience, and to encourage participation in the many international opportunities which exist today for Judges to make a difference.

I couldn't miss the fact that in the audience at this important meeting were many members of the National Association, including past presidents of the National Association of Women Judges and a future president of our association. I was among many, many friends at this meeting, including incredibly important women in today's judicial community, including Judges Bernice Donald, Sandra Thompson, and La Tia Martin, among others.

It struck me then that the leadership of the National Association of Women Judges speaks of the commitment of our association to diversity in every aspect of the judiciary.

This commitment of the NAWJ is borne out in our many programs which encourage diversity – by more than merely saying that we believe in diversity, and instead doing something important to make it happen. The Color of Justice programs being presented across our country, the result of the creative energies of The Honorable Brenda Loftin, our immediate past President, are one example of what we do to make our goal of diversity in the judiciary in the United States a reality.

At this year's mid-year meeting of the American Bar Association, The Honorable Fernande Duffly, our current President, will participate as part of an outreach program being presented to young people in Los Angeles and our association will co-sponsor the program being presented by the Individual Rights and Responsibilities section of the ABA. Another example of doing something – not just talking about doing something.

How does this tie into membership? Our association is not only about the synergy which comes about from having creative strong women leaders learning and supporting one another. Our organization benefits from diversity in all of its forms. If you know a judge, male or female, or a court clerk, male or female, or a law student, male or female, who believes strongly that our nation's court system should mirror the diversity of our nation's population, then tell them about our association. Tell them about the diversity in leadership of our organization, and of our active commitment to achieving that reality.

And then, ask them if they'd like to join us in our efforts. We can use their involvement in this, and all of our important work. Hon. Joan Churchill also serves as co-chair of the Membership Committee. Additional members include: Hon. Margaret Clark, Hon. Jane Craney, Hon. Patricia Flynn, Hon. Gail Frazier, Hon. Nancy Gertner, Hon. Ellen Gesmer, Hon. Joyce Kean, Hon. Sue Kurita, Hon. Mary Schroeder, Hon. J.E. Sullivan, Ms. Diana Vilmenay (student), Hon. Denise Vowell, Hon. Brenda Weaver, Hon. Elizabeth Yablon and Hon. Sue Pai Yang. ■

MILITARY COURTS

The Committee welcomes **Lt. Col. Barbara Shestko** who will graciously co-chair the Military Courts Committee with Denise Vowell. In an effort to spread the word about the extraordinary competence of women military judges, to share their work, and amongst other things, show their continuing concern for protecting civil liberties and upholding the Rule of Law, we introduce fellow members to NAWJ's Military Courts Committee:

Dawn R. Eflein, Colonel, United States Air Force, Chief Trial Judge, Washington, D.C. She joined the Air Force Nurse Corps in 1984 after receiving her Bachelor of Science in Nursing and the Judge Advocate General's Corps in 1990 after graduating from the University of California at Davis School of Law. She served in a myriad of positions to include prosecutor, defense counsel and after receiving her LL.M. in International Law, she was the Chief of International Agreements and Litigation for the United States Air Forces in Europe. She also was the Staff Judge Advocate for Rhein-Main Air Base, Germany for three years. In 2002, she was detailed to the bench as a trial court judge in the Pacific Circuit, USAF Trial Judiciary, where she tried cases in Japan, Korea, Guam, Hawaii and Singapore. In 2005, she was selected as the Deputy Chief Trial Judge of the United States Air Force until 2006 when she was selected as the Chief Trial Judge. In her current position, Chief Judge Eflein has tried cases in Iraq, Kuwait and all over the United States.

Terrie M. Gent, Colonel, United States Air Force, Retired. Judge Gent was on active duty from 1984 until 2005. During her Air Force career she practiced law in a variety of specialties. She also supervised wing legal offices at Kelly Air Force Base, Texas, and Aviano Air Base in Italy. She was a detailed a judge on the United States Air Force Court of Criminal Appeals from 2003 until her retirement in 2005. Judge Gent lives in southern Arizona and is a member of Representative Gabrielle Giffords' Veterans Advisory Committee and a number of other organizations.



Hon. Terri M. Gent

Robert M. Kaufman is a senior partner in the New York law firm Proskauer Rose LLP and is Chairman of the Board of Old Westbury Funds, the mutual fund group of Bessemer Trust Company. He is also Vice Chair of the New York Community Trust and Chair Emeritus of the Times Square Alliance and The Fund for Modern Courts, and a former President of the Association of the Bar of the City of New York and the American Judicature Society. He is currently a director of the Women's Research and Education Institute (WREI) and of Legal Momentum. In the past, he was a member of the Board of Visitors of the United States Military Academy, a member of the Chief of Staff's Special Commission to Review the Status of the Honor System at West Point, a member of the Defense Advisory Committee on Women in the Services (DACOWITS) and a member of the Administrative Conference of the United States and Chair of its Committee on Regulations. As President of the Association of the Bar, he established the Association's awards for the best students



Hon. Robert Kaufman

in trial advocacy at the three military justice schools. He was also a member and Vice Chair of the United States delegations to the International Judicial Conference on Military Law sponsored by the United States Court of Military Appeals (now the U. S. Court of Appeals for the Armed Forces) from 1993 to 2003. He is a member of the Resource Board of the National Association of Women Judges and co-chair of its Amicus Committee.

Linda Strite Murnane, Colonel, United States Air Force, Retired, has been a member of the National Association of Women Judges for nine years and currently serves in her fourth year as the co-chair of the Membership Outreach and Retention Committee. Judge Murnane served as a trial court judge for the United States Air Force from 1994 until June 2004 when she retired from the service after 29 1/2 years of active duty service. She presided over the first trials of U.S. Air Force members tried in Operations Iraqi and Enduring Freedom, deploying on five occasions to ensure constitutional guarantees for U.S. Air Force members serving in the area of operations. She served two tours as a Chief Circuit Military Judge, the first as the Chief Circuit Judge, Europe and the last as the Chief Circuit Judge for the Eastern Circuit at Bolling Air Force Base, Washington, D.C.



Hon. Linda Strite Murnane

Judge Murnane went on to serve as the Executive Director for the Human Rights Commission for the Commonwealth of Kentucky from 2005 to 2007, and is currently the Senior Legal Officer for Trial Chamber III of the International Criminal Tribunal for the Former Yugoslavia, in The Hague, Netherlands.

Nancy J. Paul, Lieutenant Colonel, United States Air Force. Judge Paul is a graduate of Creighton University School of Law, Omaha, NE. She entered the USAF in 1988 pursuant to a direct commission. Since June 2003, she has served as a trial court judge assigned to the Western Region of the USAF Trial Judiciary, located at Travis AFB, in northern CA, hearing cases at Air Force installations throughout the western United States. In the summer of 2008, she will continue to serve as a military judge; however, will be reassigned to the Central Region USAF Trial Judiciary, located in Omaha, Nebraska, traveling to installations throughout the Midwest. Prior to taking the bench, she served various positions in the USAF, including Chief of Military Justice, Chief of Adverse Actions, Chief of International Law and Operations Law, Area Defense Counsel, Deputy Staff Judge Advocate at seven different installation, numbered air force, and headquarters level legal offices and deployed to Turkey, serving as the Legal Advisor for Operation Northern Watch's Combined Air Operations Center which enforced the no-fly zone in Northern Iraq.



Hon. Nancy J. Paul

Barbara E. Shestko, Lieutenant Colonel, United States Air Force, Co-Chair, Military Courts Committee. From 2003 until 2006, Lt Colonel Shestko served as a trial court judge presiding over 138 misdemeanor and felony trials in the Central Circuit, USAF Trial Judiciary. She is cur-



Hon. Barbara E. Shestko

rently the deputy general counsel to a three-star general at Eighth Air Force in Shreveport, Louisiana. After graduating from the University of South Carolina Law School in 1991, she joined the United States Air Force Judge Advocate General's Corps. Since that time, she has practiced in many diverse and challenging environments, including far-flung overseas areas and a wide variety of courtroom settings. Before becoming a military judge, Lt Colonel Shestko was a successful trial attorney for the Air Force. In addition to being a prosecutor in criminal court, she represented the Air Force in U.S. District Court on complex discrimination cases and appointed Special Assistant U.S. Attorney on select cases. As a senior defense counsel, she defended high-profile cases under the scrutiny of intense, national media interest (Kelly Flinn, the first female B-52 pilot, F-15 fighter pilot who shot down the Blackhawk helicopters in Iraq and the A-10 pilot who dropped live bombs on Army troops during a training exercise). She also has a LL.M. from George Washington University School of Law in Government Procurement.

Denise Vowell, Colonel, United States Army, Retired, Co-Chair, Military Courts Committee, Special Master, U.S. Court of Federal Claims. Prior to her retirement from the Army in 2006 after more than 32 years of military service, she served as the Army's Chief Trial Judge. Other judicial assignments included serving as an associate judge on the Army Court of Criminal Appeals, Chief Judge of the 1st Judicial Circuit, and as a trial judge. Other military assignments included Staff Judge Advocate, 1st Infantry Division and Multinational Division (North), Bosnia-Herzegovina; Chief, Tort Claims Division, U.S. Army Claims Service; and Chief, Tort Branch, Litigation Division. She has authored several articles and studies on the military justice system and a number of published opinions while serving as an appellate judge and lectured frequently at military schools on trial advocacy and evidence. She has tried cases throughout the United States, Europe, Panama, Japan, Kuwait, and Afghanistan. She is a graduate of the University of Texas School of Law and the Industrial College of the Armed Forces. At the time of her retirement from active duty, she was the last former member of the Women's Army Corps on active duty in the Judge Advocate General's Corps. ■

WOMEN IN PRISON

Prison Projects at New York State Facilities for Women

I. BAYVIEW (MANHATTAN, NEW YORK CITY)

Justice Sylvia Hinds-Radix and Judges Sharon Aarons, Cheryl Gonzalez and Betty J. Williams attended the Seventh Annual Holiday Program at Bayview, on December 13, 2007. The one hour workshops, facilitated by volunteers and representatives from community based organizations, included: Permanent Housing Options and Other Entitlement Issues; Parole Issues; Foster Care and Parental Rights; Health and Nutrition; Stress Management; Successful Dressing, Your Body and You; Women's Wellness & Meditation; and Consequences of Going to Jail: Policies that Affect You. Entertainment was provided by the Bayview Gospel Choir and a professional saxophone player hired by a member of the WIPC.

On December 10, 2007, volunteer court attorneys and WIPC members, Justice Laura L. Jacobson and Judges Cheryl Gonzales and Betty J. Williams assembled gift bags for the Bayview inmates at a pizza party hosted by a WIPC member in the Kings County Criminal Court library. The gift bags, donated by the local and national NAWJ community and the Brooklyn Chapter of the New York State Women's Bar Association, included small personal items, such as note cards, day planners, pens, toiletries, candy canes and chocolate bars. The gift bags were picked up by Bayview staff on December 11, 2007 and distributed to the Bayview inmates before December 24, 2007.

NAWJ members and judges in New York City's five boroughs donated gifts, consisting mostly of stuffed animals, dolls, books, educational games and movie passes, to the children and grandchildren of Bayview inmates. Gifts were also collected at the Judicial Friends' annual dinner on December 6, 2007 and forwarded to designated courthouses by volunteer court attorneys. Bayview staff picked up the gifts on December 11, 2007 from the courthouses in each borough for the Children's Holiday Party, held on December 15, 2007 at Bayview.

II. TACONIC (BEDFORD HILLS, WESTCHESTER COUNTY)

Construction business owner, Monica Foster, conducted a workshop on "Non Traditional Jobs for Women," organized by Judge Cheryl Gonzalez, at the Taconic Correctional Facility, on October 12, 2007. Assistant Corrections Commissioner Paul Kikendall, Taconic staff, Judge Betty J. Williams, Judge Gonzalez and two hundred (200) plus women were present as Ms. Foster provided information on union jobs in the construction industry. Ms. Foster concluded her presentation by providing her company's telephone number and a promise of employment to any interested person.

On December 4, 2007, Retired Justice Betty Ellerin received a thank you letter from the Superintendent and the Inmates Liaison Committee at Taconic for contributing five (5) microwave ovens to the facility. The contributions were made in response to a Wish List developed by the WIPC with the assistance of the Inmate Liaison Committee and Taconic staff. The Wish List also included exit clothing, accessories, and books – a contribution of which was again made on October 12, 2007 – as well as the magazine subscriptions, workshops and seminars the WIPC has sponsored since the Taconic Program began in July 2006.

III. ALBION (ORLEANS COUNTY, WESTERN REGION OF THE STATE)

On December 18, 2007, Judges Cheryl Gonzalez and Betty J. Williams received a thank you letter from Constance Be. Eve, Chairperson and Founder of the Women for Human Rights and Dignity, Inc., for participating in the 29th Project Joy Holiday Program at Albion on December 7, 2007. Dr. Adelaide Sanford and NAWJ members Judges E. Jeanette Ogden, Cheryl Gonzalez and Betty J. Williams, along

with sixty (60) volunteers, participated in the program, held over twelve hours, with three hundred (300) women, attending four separate sessions. Gift bags, including books, socks, and toiletries, were assembled and given to the women at the end of the program. This year's program addressed re-entry issues with an emphasis on Certificates of Relief from Disabilities and Certificates of Good Conduct.

New York Legislation

I. MERIT TIME ELIGIBILITY BILL: S.3164/A.6150

On January 18, 2008, the State Office for the Prevention of Domestic Violence, the Governor's office that oversees all domestic violence policy, informed the Correctional Association of New York that the State Office will support the New York State Merit Time legislation for the incarcerated survivors of domestic violence and work with the Correctional Association to amend the bill. The amended bill will include a role for the State Office for the Prevention of Domestic Violence to assist the Department of Corrections in reviewing the applications for the merit time exception.

The Merit Time legislation will be reintroduced during the 2008 legislative session. Members of the NAWJ legislation subcommittee, Justice Debra A. James, Justice Marcy L. Kahn and Judge Betty J. Williams, held a meeting on November 27, 2007 with representatives from the Correctional Association of New York and discussed the status of this bill. Assembly members Darryl Towns and Joseph Lentol joined the meeting briefly and voiced their support for the legislation. The New York Correctional Association representatives recommended that the incoming NAWJ 2008 President, as well as individual members of the New York State NAWJ, send letters of support for the legislation to Governor Eliot Spitzer and individual New York State Senators and Assembly members. A draft letter will be available at the February 2, 2008 annual meeting of the New York State NAWJ membership.

II. MEDICAID S.5875/A. 8356

The New York State Medicaid Bill, suspending rather than terminating Medicaid for persons entering jail or prison, passed the New York State Senate and Assembly and was signed into law by Governor Eliot Spitzer in July 2007. The WIPC advocated strongly for the passage of this legislation, which ensures that more formerly incarcerated persons will have access to critical medical and mental services immediately upon returning to their communities. At the request of the WIPC, 2007 NAWJ President, Brenda Stith Loftin, sent a letter in support of the legislation to Governor Spitzer and New York State Assembly members and Senators, before the passage of the legislation.

NAWJ NEW YORK CHAPTER WIPC MEMBERS

Justices Cheryl E. Chambers, Darcel Clark, Carolyn E. Demarest, Phyllis Gangel-Jacob, Laura L. Jacobson, Sylvia Hinds-Radix, Debra A. James, Marcy L. Kahn, Sarah L. Krauss, Yvonne Lewis, Joan A. Madden, La Tia W. Martin, Janice Taylor, Delores J. Thomas and retired Justice Betty Weinberg Ellerin as well as Judges Sylvia G. Ash, Loren Baily-Schiffman, Susan Danoff, Cheryl J. Gonzales, Tanya Kennedy, Ellen Spodek, Ruth Smith, Wavny Toussaint, Betty J. Williams and retired Judge Claire T. Pearce. Chairperson and Chairperson-Elect are Betty J. Williams and Debra James, respectively. Justice Madden and Judges Gonzales and Williams are also member of NAWJ's Women in Prison Committee.

Maryland Correctional Institution for Women

BOOK CLUB

Last summer Women In Prison Committee co-chair Brenda P. Murray, Chief Judge at the US Securities and Exchange sponsored Book Club session at the Maryland Correctional Institution for Women. The last Book Club session of the year's gathering was led by Denise Ornstein, a licensed therapist and counselor, who weaved the autobiographical nature of Dorothy Allison's *Bastard Out Of Carolina* into discussions which sparked the inmates to speak honestly with their own frank disclosures of sexual abuse so vividly described in Allison's *Bastard*.

Judge Murray brought along two guests equally moved by the session as much as the inmates were: David Keplinger, noted poet and professor of literature and Ms. Ornstein's colleague, and Lori Mihalich, an attorney at Vinson & Elkins who just learned of the Book Club after attending the Congressional Caucus Luncheon just weeks before. Mr. Keplinger and Ms. Mihalich both planed to return again with Mr. Keplinger offering to lead a poetry session of his own. The women serving in Jessup were adamant the Book Club continue, optimistically with once a month sessions, even if/when a program of college courses

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is instituted, an idea as yet fully not explored at the time but recognized as beneficial to the women currently serving.

At the end of January of this year, Roberta Rubenstein led a discussion of *Their Eyes Were Watching God* by Zora Neale Hurston at yet another Book Club session at Maryland Correctional Institution for Women. Professor Rubenstein began with biographical information about the author Zora Neale Hurston, and next asked a series of questions to the women about the structure of the book, the strengths and weaknesses of the various characters, and how they interacted with one another. According to Judge Murray the women "had the book down cold." Professor's Rubenstein's thoughtful preparation made it possible to cover a lot of material in an hour and a half, and the women found these experience meaningful, many of whom have asked that we read one book and have one writing session each month. Two movie nights will include viewing of *Death of a Salesman* and *Their Eyes Were Watching God*, at their request.

Book Club sessions have drawn fame and attention in a wide array of circles among stakeholders inside MCIW and the progressive community at-large. Writer Nikki Giovanni was attendance September 29, 2007.

WRITING INSTRUCTION

The Book Club's First Writing Session found Goucher College, Maryland writing professors Dennis Kaplan, Carol Pippen, Barbara Roswell, and Pam Sheff meeting with close to 26 women for the first class of the writing sessions. The two professors were buoyed by two new volunteers Mary Jo Wiese and Natalie Sokoloff. On the strength of 'word of mouth' at least half to two-thirds of the women attending were new participants; and these new additions eagerly contributed to discussions. Sessions began with each person offering an oral description of their favorite grandparent and went on with instructors offering examples of a writing profile using excerpts from *The House on Mango Street*, piece written by someone inside a California prison.

Class participants were charged to write on a person or a group as their homework assignment with the requirement that they have to be able to speak with the individual or group members. Instructors again provided handouts that provided instruction and writing samples.

Rather than have a lot of disparate projects, the instructors would like to have one writing project continue over the entire period that perhaps could be the focus of a reading before a larger audience. It just occurred to me that maybe we could use this reading, embellished by the presence of some prominent authors, as a fundraiser for the college classes project. The 90 minute class moves quickly when you have 30 people - 22 to 26 participants, 6 instructors, and 2 judges - responding to each exercise.

A COLLEGE DEGREE PROGRAM AT MCIW

Along with Barbara Roswell and Pam Sheff, Judge Murray has plans to work with Ray Harbert of the Maryland Department of Education who ran two college programs at MCIW this past fall; and will plan to initiate the college degree program at MCIW this year.

Hazelton

Women In Prison Co-Chair Judge Brenda Murray along with a host of other NAWJ member judges and colleagues visited the U.S. Bureau of Prison Secure Female Facility in Hazelton, WV. Dawn Zobel, BOP's Female Offender Coordinator, arranged for the ten to tour the facility in response to a notice sent to NAWJ members in District Four. Attendees found that BOP's new "secure" women's facility in Hazleton, WV is led and managed by a staff of dedicated professionals, overcrowding (triple bunking), budget and staff deficiencies (insufficient staff quantity, no gynecologist on staff, and few bilingual staff) and an isolated location are causing severe problems. Attendees included: Hon. Joan Churchill, Judge Ann Keary, D.C. Superior Court, Chief of Criminal Division, Judge Gladys Kessler, U.S. District Court for D.C., Judge Brenda Murray, Chief Judge Securities and Exchange Commission, Hon. Theresa Nolan, Judge Vicky Ivory-Orem, Prince George's Orphans Court) Judge Vanessa Ruiz, D.C. Court of Appeals, and Joan Winship, Executive Director, Professor Goldstein and Allison DeCamp of IAWJ.

LEXIS-NEXIS' GIFT OF BOOKS TO LIBRARIES IN WOMEN'S PRISONS

Longtime NAWJ supporter, and already its leading contributor, saw to that some of the unmet needs of the women at Hazelton are partly ameliorated. Catherine Morales, Senior Vice President for Government and Academic Markets at Lexis-Nexis contacted Hazelton Bureau of Prisons to find out books needed at the prison. On behalf of Lexis-Nexis she committed the organization to donate in the name of "NAWJ - Women in Prison Project" about 80 new titles in Spanish, a mixture of fiction and non-fiction. Lexis-Nexis is also donating in your NAWJ's name a series of LexisNexis law titles on popular topics, such as criminal

COMMITTEE REPORTS

law and family law that will be made available for use in the kiosks that are in use in Hazelton already. Committee co-chair Judge Murray and the rest of NAWJ are thrilled for the support to the women now serving, and the gifts on NAWJ's behalf. Committee co-chair Judge Betty Williams has asked Judge Betty Ellerin to handle any donations to New York institutions.

LIBRARY OF CONGRESS SURPLUS BOOK PROGRAM

The Library of Congress's Surplus Book Program donates books to educational institutions (including full-time tax-supported or non-profit schools, school systems, colleges, universities, museums, public libraries), public bodies (agencies of local, state or national government, including correctional facilities), and other tax-exempt institutions. The guiding principle behind the program is to build Library collections. Books obtained from the program cannot be sold for any reason.

To participate, an organization has to submit a letter on official stationery stating that the organization is a non-profit/educational organization and wishes to participate in the program to the following address:

*Judy Mansfield, Acting Chief
Anglo American Acquisitions Division
Library of Congress
101 Independence Ave., S.E.
Washington, D.C. 20540-4170*

The letter should also provide the name of the person or persons who would be selecting books on its behalf. Someone representing an approved organization has to select the books, which are on display in the Library's Madison Building on Capitol Hill from 9 a.m. to 4 p.m. Monday through Friday. The Library staff will pack them in boxes, but the organization has to arrange for shipping either by supplying FedEx or UPS account information or by contacting a Congressional office and requesting that it approve the Library's use of franking labels so that the Library staff can ship the books to the authorized organization under the Congressperson's signature.

NAWJ has submitted a letter and has used the program to ship books to the library at the federal Bureau of Prison Secured Female Facility in Hazelton, WV.

Questions should be addressed to Joseph J. Mahar, Acquisitions Specialist, Library of Congress, at the above address or (202) 707-9524 or jmah@loc.gov. ■



Hon. Brenda Murray, Co-Chair of the Women In Prison Committee, Chief Administrative Law Judge, SEC, speaking at a Judiciary Leaders/Women Caucus Luncheon on Capitol Hill, right. Hon. Gladys Kessler, left.

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Carolyn Engel Temin
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* List as of January 31, 2008

NAWJ 29th Annual Conference A Transcendent Success

The National Association of Women Judges hosted over 350 members, sponsors, speakers and guests, including over 40 judges from twelve countries (listed below), at its “We the People” 29th Annual Conference in Philadelphia, Pennsylvania November 7-11 at the Four Seasons Hotel. Events were mounted in locations around the city at the National Constitution Center, Pennsylvania Academy of Fine Arts, and a Keynote Luncheon at the Park Hyatt at the Bellevue. (See District Three News for details of their host of the international judges with a pre-convention ‘people-to-people’ program entitled “America Through the Eyes of the Legal and Community Leader.” This program offered a range of activities in the week before the Conference from November 4 to 7 spread among New Jersey, New York and Delaware to acquaint visiting judges for American judicial life.)

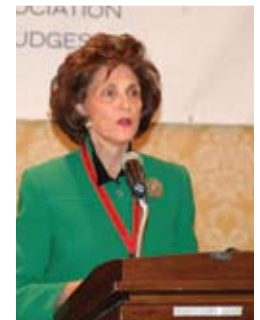
Chairs Judge Norma L. Shapiro and NAWJ past-president Judge Carolyn Engel Temin, two longtime NAWJ leaders with deep roots in Philadelphia and held in the highest regard among its legal community, welcomed all to a joyful time of exchange, camaraderie, learning and challenge, with a program reflective of the changes that have taken place in the world, the nation and in NAWJ over the years. The magnificent Philadelphia Friends Committee, co-chaired by Bobbie Liebenberg and Stephanie Resnick, did a brilliant job in securing the generous support of seemingly the entire Philadelphia legal community.

Extraordinarily high quality panels and speeches addressed issues including the breadth of the Constitution’s guarantees, Separation of Powers, the Roberts Court, the Innocence Project, Immigration, Gender and Sexuality Law, The Public Perception of Women Judges, challenges facing new judges, and International Justice for Women.

Distinguished guests and panel leaders over the four days included Luncheon Keynote Speaker Judith Rodin, President of the Rockefeller Foundation; Pennsylvania Governor Ed Rendell; Pennsylvania Chief Justice Ralph J. Cappy; Harvard Law Professor Charles Ogletree; Third Circuit Judge Marjorie Rendell; Tenth Circuit Chief Judge Deanell Tacha; author Lisa Scottline; Professor Penny White; Stanford Law Professor Pamela Carlin; Innocence Project Executive Director Maddy de Lone; journalist Marciarose Shestack; Brooklyn Law School Professor (and longtime NAWJ activist) Elizabeth M. Schneider of Brooklyn Law School; and Judge Leslie Alden, President-Elect of our sister organization, the International Association of Women Judges. We were also greatly honored by the presence of Justice Ruth Bader Ginsburg at the Friday night Gala Reception.

The Annual NAWJ Business Meeting saw the election and installation of President Fernande Duffly and the 2007-08 Officers and the passing of two resolutions (see later in this Update.) This year’s Silent Auction raised \$7,500.

The Four Season’s beautiful Ballroom provided the perfect setting for the year’s NAWJ Awards Banquet. Judge Temin was awarded the Justice Joan Dempsey Klein Honoree of the Year; the Florence K. Murray Award was presented to longtime and generous NAWJ supporters LexisNexis© and Morrison & Foerster LLP; the Mattie Belle Davis Award was awarded to the Honorable Sandra Farragut-Hemphill, and the newly inaugurated Justice Vaino Spencer Leadership Award was awarded to NAWJ officer Bankruptcy Judge Sarah Sharer Curley (see later Update entry for detail.) ■





President Nan Duffly Travel's

- President Nan Duffly just returned from the ABA Midyear Meeting in Los Angeles, and the mid-year meeting in Williamsburg of the Conference of Chief Justices, optimistic about future collaborations. At the ABA, it was her pleasure to meet with the governing bodies of many ABA entities with whom NAWJ shares a common mission, including the Commission on the Status of Women in the Profession, the Commission on Racial and Ethnic Diversity in the Profession, the Individual Rights and Responsibilities Section, several groups within the Judicial Division, and the National Conference of Bar Presidents. President Duffly joined former NAWJ President Sandy Thompson in participating on the NAWJ co-sponsored panel: "From Diversity to Advancement: Overcoming Challenges to Achieve Success in the Legal Profession."
- In Williamsburg, President Duffly noted that many of the members of this organization of the chiefs of our highest state (and territorial) courts are members of NAWJ and it was an invaluable opportunity to meet the new chiefs and tell them about NAWJ. In addition to attending several meetings and seminars, many of which focused on issues of mutual interest to our members, she met with supportive NAWJ members and obtained their commitments to attend the Third Annual Luncheon with the Congressional Caucus of Women's Issues now scheduled for June 25, 2008 in Washington DC. With their help, NAWJ has begun forming an impressive committee of chiefs who will join in encouraging judicial leaders to attend this historic event. Justice Duffly also met with Colleen K. Killilea and Eileen Olds, this year's President of the American Judges Association (Congratulations Eileen!) from the Virginia chapter, and they discussed areas of our mutual and participation in the upcoming Virginia chapter meeting. ■

NAWJ Co-Sponsors With ABA Panel On Election Issues For Candidates, Gala For Hon. Judith Kaye

- In addition to the Summer ABA programs previously agreed to by the Executive Committee, NAWJ will co-sponsor two additional programs at the Annual ABA Conference in New York City August 8, 2008: 1) "What the Presidential Candidates Should be Saying about Federal Judicial Selection" and 2) a Gala dinner honoring Chief Judge of the State of New York Judith Kaye. Justice Mark Martin of the North Carolina Supreme Court and ABA's Judicial Division Program Chair, along Justice Randy Holland on the Delaware Supreme Court and Hon. Harry Lemmon., are planning an outstanding program. *New York Times* Supreme Court correspondent Linda Greenhouse will moderate a panel whose distinguished confirmed panelists include Erwin Chemerinsky, nationally recognized Constitutional Law scholar and the newly appointed Dean of the new University of California-Irvine Law School (and a primary, and extremely well-received speaker at our Las Vegas Conference); Pepperdine Dean Kenneth Starr, and University of Maryland Professor Sherrilyn Ifill, who is perhaps the nation's foremost expert on the differential impact of various kind of judicial selection, retention and evaluation systems on women and minorities.

Awards

HON. NANCY GERTNER—RECIPIENT OF ABA'S 2008 THURGOOD MARSHALL AWARD

On August 9, 2008 U.S. District Judge Nancy Gertner, Co-Chair of NAWJ's Federal Courts Committee, will receive the ABA's distinguished Thurgood Marshall Award. Only the second woman to receive this coveted award (the first was Justice Ruth Bader Ginsburg), Judge Gertner's selection was based on her lifelong extraordinary career of courageous and tireless efforts, both as an attorney and federal judge, to guarantee the Constitutional rights of women, racial minorities, criminal defendants, and other vulnerable populations in our society.

Established by the American Bar Association and the Section of Individual

Rights and Responsibilities in 1992, the Thurgood Marshall Award honors U.S. Supreme Court Justice Thurgood Marshall, who epitomized individual commitment, in word and action, to the cause of civil rights in this country. The award recognizes similar substantial and long-term contributions by other members of the legal profession to the advancement of civil rights, civil liberties, and human rights in the United States.

HON. TAM NOMOTO SCHUMANN PRESIDENT-ELECT OF AMERICAN JUDGES ASSOCIATION

NAWJ member Tam Nomoto Schumann, judge on the Superior Court of California in Orange County was elected President-Elect for the American Judges Association. Judge Schumann offered: "As a member of NAWJ, I hope that our two organizations can work together in attaining common interests and goals as a strong united voice is harder to ignore. I also hope that I will see you at the AJA conference and my installation in Maui in September 2008. Aloha!" ■



Hon. Tam Nomoto Schumann



Hon. Nancy Gertner



Over 120 students participated in Alaska's two-day Color of Justice High School Track this year. Here, participants gather with the Hon. Dana Fabre, Chief Justice of the Alaska Supreme Court, Color of Justice Chair Hon. Stephanie Joannides on the Superior Court Judge in Anchorage, Alaska, and conference presenters in the Alaska Supreme Court courtroom June 22, 2007.



NAWJ

National Association of Women Judges

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Washington, DC 20036-1834

GENDER RATIO STATISTICS

19%	Percent of women on all federal courts.
19%	Percentage of women on U.S. Court of Appeals and Bankruptcy Appellate Panels.
28%	Percentage of women on State-level Final Appellate Jurisdiction Courts.
22%	Percentage of women on State-level General Jurisdiction Court.
41%	Percentage of women on courts in the state with the highest percentage, Vermont.
11%	Percentage of women on courts in the state with the lowest percentage, South Dakota.

* Sourced from Forster-Long, Inc.'s *THE AMERICAN BENCH: Judges of the Nation 2007*

