

Conference Executive Committee

January 27, 2016

Minutes

Participants: Hon. Margaret M. Mann, *Bankruptcy Judge (SDCA), Conference Chair*, Hon. Timothy M. Burgess, *Chief District Judge (AK), Program Chair*, Hon. John Owens, *Circuit Judge*, Hon. Michael Daly Hawkins, *Senior Circuit Judge*, Hon. Edward J. Davila, *District Judge (NDCA)*, Hon. Thomas M. Renn, *Bankruptcy Judge (OR)*, Cathy Catterson, *Circuit and Court of Appeals Executive*, Margaret Corrigan, Esq., *Ninth Circuit Mediator*, Margaret G. Foley, Esq., *LRCC Chair, (NV)*, Autumn D. Spaeth, Esq., *LRCC Chair Elect (CDCA)*, At Large Members: Sean E. Frink, Esq. (*CNMI*), Holly Lake, Esq., (*CDCA*), James Patrick Shea, Esq., (*NV*) David M. Stern, Esq., (*CDCA*), Kimberly S. Winnick, Esq., (*CDCA*), Angela Walker Woolridge, Esq. (*AZ*)

Advisory Board Liaison: Harvey I. Saferstein, Esq. (*CDCA*)

Unable to Participate: Hon. Dale A. Drozd, *District Judge (CAED)*, Hon. Andrew J. Guilford, *District Judge (CDCA)*, Hon. Rosemary Marquez, *District Judge, (AZ)*, Lance Wilson, *District Court Clerk Liaison (NV)*

Staff: Renée Lorda, *Asst. Circuit Executive*, Phyllis Riddell, *Conference and Meetings Coordinator*, Tiffany Silva, *Conference and Education Assistant*

I. Introductory Remarks Hon. Margaret M. Mann, Bankruptcy Judge (CASD)
Approval of Minutes Chair, Conference Executive Committee

Judge Mann began the meeting by welcoming participants and expressing appreciation for everyone's excellent efforts in program development. She also acknowledged Judge Timothy Burgess' willingness to step in and serve as the program chair.

Judge Mann asked if the minutes could be approved as written. Margaret Foley, LRCC Chair, moved to approve the minutes and Jim Shea seconded the motion. The minutes were approved as written.

II. Program Development Hon. Timothy M. Burgess, *Chief District Judge (AK)*,
Moderator & Program Chair

Status Reports: Conference Program Sessions

Monday, July 11

A. Optional Alternative Programs

1. The Art of Judging: From the Philosophical to the Mundane

(Optimism to Nihilism?)

Hon. Edward J. Davila, District Judge (CAND)

10 Ways Not to Get Reversed

Hon. Michael Daly Hawkins, Senior Circuit Judge

Judge Edward Davila reported that Professor Terry A. Maroney, Professor of

Law, Vanderbilt University, is confirmed to join Judge Hawkins and Judge Fogel on the panel. Judge Davila explained that Professor Maroney has collaborated on a number of projects with Judge Fogel.

2. Management of Litigation for the Client and the Public:

Whose case is this anyway?

Kimberly Winick, Esq. (CACD)

With help from members of the LRCC, Kimberly Winick explained that she is working on creating a parallel panel dealing with the various stakeholders involved in case management issues. She explained that after reviewing Chief Justice Roberts' annual "State of the Judiciary" report focused on changes in federal rules. Ms. Winick stated that they wanted not only to look at Rule 16 issues but look at all aspects of case management including the pressures that the court, lawyers and clients are under and how to work with competing pressures to serve the needs of justice and fairness.

She said that Hon. B. Lynn Winmill, Chief District Judge (ID) would be an excellent participant and that he is very interested in being on the panel. The planning group will have another conference call on February 5 to review more ideas and suggestions. They want to involve judges and attorneys who have broad trial court experience. She added that they also are looking to build a program that will satisfy the ethics requirements that are usually so difficult to get in CLE requirements.

Judge Hawkins told her that he will be emailing a resume of someone he thinks would be very helpful and who teaches ethics at the law school. She envisions a moderated discussion, adding that the reference materials would include Chief Justice John Roberts' address about the State of the Judiciary.

B. Opening Program

Hon. Margaret M. Mann

Judge Mann stated that the opening program is still "under construction."

Tuesday, July 12

A. General Session: Economic Disparity Issues

Margaret Foley, LRCC Chair (NV)

Margaret Foley described a number of efforts underway to invite of former Attorney General Eric Holder. Judge Raymond Fisher, Senior Circuit Judge, is following up on the invitation sent by Chief Judge Thomas. At this point, Mr. Holder is the first choice. She reported the team is considering alternative paths if he declines, and they also hope he might offer some alternative suggestions. Judge Mann added that law schools such as Stanford, University of Chicago and Columbia are all looking at economic disparity issues

or have programs that are trying to deal with disparities. She gave examples of recent situations such as environmental issues with water in Flint, Michigan. Eric Holder has spoken about these issues. However, if he doesn't come, there are many academics involved in this area. Judge Mann thinks this is the most challenging of all the topics because it is an issue that doesn't fall into an established program. This program needs a strong mix from academia, a strong litigator such as Ron Greenspan (bankruptcy) and others. They have a number of strong leads. Autumn Spaeth, LRCC Chair-Elect, asked if they are speaking from a U.S. perspective or if the focus would be multinational. Judge Burgess responded that the focus should be national and the committee agreed.

Judge Mann asked the committee to send emails to Margaret Foley if ideas come to mind.

B. Breakout Sessions

1. Appellate

Renée Lorda confirmed that the Chair of the Appellate Lawyer Representatives, Anne Voigts, has agreed to coordinate the program development with a group of Appellate Lawyer Representatives.

2. Bankruptcy Session

David Stern, Esq. (CACD)

Mr. Stern explained that they are developing a basic program that will touch on the common problems faced by bankruptcy judges and lawyers. Pro se litigants are a major issue. He said that there will be a follow up call on February 10. Dozens of topics are on the table and he envisions three presentations with 3 topics each for 30 minutes each program segment.

3. Civil Session

Holly Lake, Esq. (CACD)

Ms. Lake explained that she will be working with two lawyer representatives to develop the program.

4. Criminal Session

Angela Walker Woolridge, Esq. (AZ)

Ms. Woolridge just accepted assignment to organize the program. She plans to contact other LRCC members who are involved in criminal practice to start developing the topic. Judge Burgess thanked her for agreeing to take on the responsibility.

Wednesday, July 13

A. General Session: Racial Disparities and Police Practices

Hon. Edward J. Davila

Judge Burgess commented that Judge Davila, Angela W. Woolridge and he have been successful collaborators in confirming speakers and pulling the program together. Judge Davila explained that they have confirmed a 1983 litigator, former law enforcement professionals, an academic, and someone from the community. Panel participants include:

- John Burris, litigator who is well known for taking on high profile police victim cases
- George Gascón, San Francisco District Attorney, Former police chief, SFPD
- Roberto Villasenor, former Tucson Police Chief
- Prof. Lori Robinson, George Mason University Law School, will moderate. She was on the task force for 20th century policing.

Prof. Robinson suggested Brittany Pattenet, New York activist, as another person who would be effective. as someone who would be good.

B. General Session: Tribes and Territories

Sean Frink, Esq (CNMI)

Sean Frink reported that the panel moderator will be Judge William Canby, Senior Circuit Judge. Panel members include:

- Raymond Austin: former member of the Navajo Supreme Court, professor at University of Arizona, who will bring interesting aspects of the tribal side of the discussion.
- Hilary Tompkins, Solicitor for the Dept. of the Interior, She was born in the Navajo nation. She also remarked on the fundamental legal differences between Guam and the Northern Mariana Islands.
- Senior Circuit Judge Juan Torruella, First Circuit Judge, who is considered to be one of the foremost experts on territorial law in the country.

Mr. Frink explained that there are now, six tribal or territorial issues before the Supreme Court. Judge Owens and Sean will be busy!

Thursday, July 14

A. Neuroscience: Improving Advocacy and Fact-Finding

By Juries and Judges

Autumn Spaeth, LRCC Chair Elect (CACD)

Autumn Spaeth, LRCC Chair Elect, explained that she and her team, including Judge Guilford and Harvey Saferstein have reached out and identified two individuals who would be available:

- Dean of UCLA School of Law Jennifer Mnookin, Her expertise is evidence and she will take up the topic in any direction the organizers want to go. Organizers are still struggling with the direction of the program but they now have a more specific direction. Issues involve whether or not to discuss truth telling or memory perception?

The organizers are interested in seeing where the speakers will go. Harvey Saferstein added that Dean Mnookin definitely qualifies as a legal “rock star.”

Ms. Spaeth went on to say that she reached out to Professor Craig Stark, from University of California, Irvine. He can discuss any aspect of implicit bias. Ms. Spaeth heard from multiple sources that he, alone, could carry the program. She will press him for more up to date science and technology. The program will include brain imaging and what brain imaging actually can do for us. Which areas of brain imaging are reliable? Is it predictive? She described a case involving a UCLA professor whose family lineage includes murderers. The professor has the same brain configuration that his relatives have but he isn’t a murderer.

Judge Mann recalled there was a program about brain imaging six years ago. Speakers involved Stephen Morse and Hank Greely from Stanford. The program included lots of pictures with great imaging.

David Stern, Esq. (CACD) stated that he reached NPR Reporter Shankar Vedantam. Since he charges high speakers’ fees, he is unable to commit in advance. However, he did encourage Mr. Stern to stay in touch with him in the event he might be able to show up or combine the Conference with another engagement.

Judge Mann suggested pinning down the topic and speakers a little more before making a formal request to Chief Judge Thomas. She suggested making sure that the speakers would all be okay with the structure that the organizers want to see. Harvey Saferstein, in his “reach for the stars” stated that he had spoken to Ron Olsen but has not heard back yet.

B. Contemplative Judging and Lawyering and Its Advantages for Justice

Hon. Dale Drozd, District Judge (CAED)
Margaret Corrigan, Esq., Circuit Mediator

With Judge Drozd having to get back to the bench, Margaret Corrigan gave the report. The main topic is mindfulness and to date, they have confirmed:

- Judge Alan Gold, Senior District Judge (Ret.) who has written pieces for Time Magazine and given many presentations on the benefits of mindfulness meditation. She explained that judges and lawyers would be able to relate to Judge Gold.
- Dr. Amishi Jha, Associate Professor of Psychology, University of Miami is the second person. Dr. Ja speaks extensively about the way mindfulness practice affects people, their bodies and their well-being. She has done work with people being deployed to teach them techniques to help them be less traumatized.
- Timothy “Tim” A. Tosta, a high profile real estate attorney in San Francisco is the third person they would like to have on the panel. They have contacted him to find out about his availability and determine his interest in participating on the panel. He has very personal experiences with mindfulness and mediation that started when he was diagnosed with

cancer. Ms. Corrigan has seen his You Tubes and states that he is a very thoughtful and entertaining person. The team will seek approval for his participation. A moderator has not yet been selected. Dan Harris is someone that was referred by Dr. Jha. His involvement will be explored further.

III. Deadlines

Judge Mann discussed the deadlines and stressed the need for reference materials in order to comply with MCLE requirements.

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| February 16: | Final Confirmation of Speakers |
| February 23: | Title and description of your program is due |
| March 17: | Conference website goes live! |
| May 16: | Conference reference materials are due. |

IV. Next Meeting in San Francisco:

- Dinner: Thursday, February 25 (6:30 p.m. no host and 7:00 p.m. Dinner)
- Meeting: Friday, February 26, 10:00 a.m., Courtroom Five, James R. Browning U.S. Court of Appeals
 - 8:45 a.m. Organizers' Meeting
 - 9:45 a.m. Group Photograph will be taken before the full meeting begins
 - 10:00 a.m. **Meeting Begins**
 - 12:00 p.m. Lunch will be served

V. Adjournment: The meeting was adjourned at 4:50 p.m.