

NATIONAL ASSOCIATION OF WOMEN JUDGES

# 2018 40TH ANNUAL CONFERENCE

OCTOBER 3-7, 2018 • SAN ANTONIO, TEXAS • HYATT REGENCY RIVERWALK

SHAPING THE FUTURE OF JUSTICE IN THE EMERGING LEGAL LANDSCAPE

## SCHEDULE OF EVENTS

### WEDNESDAY, OCTOBER 3, 2018

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8:00 am–6:00 pm	<b>REGISTRATION INFORMATION DESK</b>	Los Rios Foyer
9:00 am–3:00 pm	<b>2017-2018 NAWJ Board of Directors Meeting</b>	Chula Vista
3:00 pm–4:00 pm	<b>Optional Excursion:</b> Private River Boat Cruise (This activity is limited to attendees who paid in advance. Boat pick-up at 2:40 p.m. at the River Level of the Hyatt Regency)	Hyatt Regency
4:00 pm–5:30 pm	<b>New Judges and First Time Attendees Meeting</b>	La Vista Terrace
4:00 pm–5:30 pm	<b>International Judges Meeting</b>	La Vista Terrace
5:30 pm–7:00 pm	<b>WELCOME RECEPTION</b>	La Vista Terrace

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*\* The State Bar of Texas has accredited 21.25 MCLE and State Bar College hours, and 5.75 Ethics, for the conference's education sessions. Please be sure to complete each session's attendance sheet, including signing in before and signing out after each session.*

# THURSDAY, OCTOBER 4, 2018

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7:00 am–7:45 am	<b>Free Zumba Class</b>	Chula Vista
7:30 am–8:45 am	<b>BREAKFAST</b>	Regency East 1/2
7:30 am–8:30 am	<b>NAWJ Committee Meetings</b>	Regency East 1/2
7:30 am–8:30 am	<b>NAWJ Resource Board Meeting</b>	Chula Vista Boardroom
8:00 am–6:00 pm	<b>REGISTRATION INFORMATION DESK</b>	Los Rios Foyer
9:00 am–9:30 am	<b>OPENING CEREMONY WELCOME</b>	Regency East

NAWJ PRESIDENT, Honorable Tanya R. Kennedy  
New York State Supreme Court, New York County

NAWJ 40TH ANNUAL CONFERENCE CHAIRS  
Honorable Orlinda L. Naranjo  
419th District Court, Travis Court, Travis County, Texas

Laura G. Tamez, Esq., Partner,  
The Herrera Law Firm, San Antonio, Texas

Texas Supreme Court Justices Eva Guzman and Debra Lehrmann  
First Lady of San Antonio Erika Prosper Nirenberg

The National Anthem  
Dr. Patsy Torres  
Recognized as one of the “Top Female Tejano Stars”

Presentation of the Mattie Belle Davis Award to  
Karen Johnson-McKewan, Esq. Co-Chair, NAWJ Resource Board  
by NAWJ President Tanya R. Kennedy

9:30 am–10:30 am	<b>PUBLIC POLICY’S ROLE IN JUDGING</b>	Regency East
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District Judge David O. Carter  
U.S. District Court for the Central District of California

This session will discuss how public policy considerations could play into the decisions of a federal District Court judge. Public policy can amount to moral principles widely shared or not widely shared. An acceptable decision in San Francisco or New York is not perhaps acceptable in Louisville or Tallahassee. Public policy can amount to moral principles or standards of conduct that are widely shared in a particular society. But, public policy considerations can also derive from information or ideas that are not already widely shared or known or popular. Judges are not here to make public policy, but public policy considerations arise in many of the decisions that a judge makes. Sometimes public policy arises and provides an opportunity, but often their occurrences are thrust upon us. The session will also address how policy considerations play into written decisions; case management; and how public policy considerations can lead judges to step out sometimes and make the tough decision that a law may be outdated.

10:30 am–10:45 am	<b>Break</b>	
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10:45 am–11:45 am      **ACCESS TO JUSTICE AND THE JUDICIARY**      Rio Grande Ballroom  
Harriet Miers, Esq., Locke Lord LLP  
First Woman President of the Texas Bar Association

12:00 pm – 1:20 pm      **KEYNOTE LUNCHEON**      Regency East  
  
**TRUTH, JUSTICE, AND THE AMERICAN WAY**  
Dan Rather, President and CEO of News and Guts

1:20 pm- 1:30pm      **Presentation of the “Defender of the American Way” Award  
To Dan Rather by NAWJ President Tanya R. Kennedy**

1:30 pm – 1:45 pm      **Break**

1:45 pm – 2:45 pm      **CONCURRENT SESSIONS**

**SESSION 1: Dark Web and Virtual Currencies**      Rio Grande East

- Una A. Dean, Esq., Partner, Fried, Frank, Harris, Shriver & Jacobson LLP
- Dixie L. Johnson, Esq., Partner, King & Spalding
- Marjorie J. Pearce, Esq., Partner, Ballard Spahr LLP

This panel discussion will provide a comprehensive overview of the foundations, evolution and legal context of cryptocurrency- and blockchain-based technologies and markets. Included in the presentation will be a discussion of how virtual currencies are used in dark marketplace transactions as well as how cryptocurrencies and blockchain-based technologies are increasingly used in mainstream markets and financial products. Throughout, we will discuss the current legal landscape and challenges, from both law enforcement and regulatory perspectives, that are finding their way to the courts.

**SESSION 2: Lucia v. SEC:  
Consequences of Expanding Judicial Appointment  
of Administrative Law Judges**      Rio Grande Central

**Moderator:** Chief Administrative Law Judge Brenda Murray,  
U.S. Securities and Exchange Commission

**Panelists:**

- Anton Metlitsky, Esq., Partner, O'Melveny & Meyers LLP
- Professor of Law Gillian Metzger, Columbia Law School
- Professor of Law Richard J. Pierce, Jr., George Washington University

Lucia v SEC involved the authority of administrative law judges (ALJs) at the United States Securities and Exchange Commission (SEC), an independent agency that enforces federal securities law. In 2012, an ALJ found that Ray Lucia had committed fraud, fining him and his company \$300,000. On appeal, Lucia insisted the penalty was invalid because the ALJ was illegally appointed. At the SEC, ALJs are typically appointed by a chief ALJ, and Lucia argued that ALJs qualify as “officers” and must thus be appointed by commissioners. The majority opinion found since ALJs exercise “significant authority” in applying the law, and therefore count as officers who must be appointed pursuant to the Constitution. Lucia’s ALJ was not, so the penalty against him is invalid. In

November, 2017, the Commission appointed its ALJs to their positions, one of whom, panelist Chief Administrative Law Judge Brenda Murray, will discuss the proceedings that took place surrounding the case. The session will discuss criteria to consider in appointment of ALJs. It will focus on the potential effects Lucia may have on the appointment process and on the removal power. Should subject matter expertise be a criterion for appointment as an ALJ? Agencies have long argued that it should be, but many ALJs think it should not. The panel will also address the strategic considerations in litigating the case when the government would not defend the judgment, and the potential consequences of the court's decision on the issue for non-ALJ executive branch positions.

**SESSION 3: Ethics Roundtable for International and National Judges**

Rio Grande West

- Hon. Judith Chirlin (Ret.), Executive Director, Western Justice Center, Los Angeles Superior Court
- Judge Lisette Shirdan-Harris, Judge, Court of Common Pleas, First Judicial District, PA, NAWJ International Director

This interactive session, moderated by Judge Lisette Shirdan-Harris and Judge Judith Chirlin, is designed to give the International judges attending the conference an opportunity to exchange ideas and best practices with U.S. NAWJ members. The program encourages participation in a roundtable format with judges from different countries and regions. The format is designed to encourage each roundtable to be comprised of judges representing different regions to allow for the best exchange. The discussions will be led by a panel of judges from different countries. Topics will include human trafficking, corruption, and gender equality. The goal is to hear about ethical issues unique to different courts and discuss resources available to aid the judges as they explore the issues, challenges, and safeguards available to them. Are there Codes of Judicial Conduct? Are there people in place to report unethical behavior? What are the consequences for unethical behavior? Are there consequences for reporting unethical behavior? Is there training in place to address ethical issues in the various courts? Is there independence of the judiciary in your court? This program is open to all conference attendees.

2:45 pm–3:30 pm

**ACCESS TO JUSTICE AND THE RULE OF LAW INITIATIVE**

Regency East

Hilarie Bass, Esq., Co-President, Greenberg Traurig LLP  
President (2017-2018), American Bar Association

3:30 pm–3:45 pm

**BREAK**

3:45 pm-5:15 pm

**CONVERSATIONS WITH NAWJ LEGENDS**

Regency East

Presiding Justice Judith McConnell, California Court of Appeal Fourth Appellate District, interviews Senior Judge Martha Craig (Cissy) Daughtrey, U.S. Court of Appeals for the Sixth Circuit.

Hon. Dana Fabe (Ret.) Chief Justice Alaska Supreme Court interviews Chief Judge Anna Blackburne-Rigsby, District of Columbia Court of Appeals.

Through conversations with two remarkable NAWJ leaders and legends, this session will explore their career paths, the events and people who influenced them, and the obstacles they faced as pioneers on their courts. Among other topics, they will discuss the workings of their courts, what chief judges can do to improve collegiality and productivity; how they have encouraged diversity in the profession and access to justice; and their secrets for maintaining work-life balance.

## THURSDAY, OCTOBER 4, 2018 continued

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6:00 pm – 8:00 pm

**RECEPTION AT THE ALAMO**  
Sponsored by the Center for Women in Law



(The Alamo is located across the street from the Hyatt Regency at 300 Alamo Plaza. Attendees who paid for a private tour should go to the Alamo, and volunteers will direct you to the tour. The tour begins at 6:00 p.m.)

9:00 pm – 11:00 pm

**Hospitality Suite Sponsored by Los Angeles  
2019 NAWJ Annual Conference Committee**

Chula Vista

## FRIDAY, OCTOBER 5, 2018

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7:00 am–6:00 pm

**REGISTRATION INFORMATION DESK**

Los Rios Foyer

7:00 am–7:45 am

**Free Zumba Class**

Chula Vista

7:30 am–8:15 am

**BREAKFAST**

Regency East 1/2

7:30 am–8:15 am

**District Meetings**

Regency East 1/2

8:15 am–9:15 am

**#METOO: EXPANDING THE CONVERSATION**

Regency East 1/2

- Wendy McGuire Coats, Esq., Partner, Fisher Phillips
- Jocelyn Frye, Senior Fellow, Center for American Progress
- Justice Rebeca Martinez, Texas Fourth Court of Appeals

9:15 am - 10:30 am

**CONCURRENT SESSIONS**

**SESSION 1: A System in Crisis:  
Mental Health and the Justice System**

Rio Grande East

Honorable Milton L. Mack, Jr.  
Michigan State Court Administrator

Our mental health systems lack the capacity to intervene timely in the course of a person's mental illness resulting in our jails and prisons becoming the primary institutions for persons with mental illness. This session will explore problems in the current system; how the problems developed, strategies to address the problems; and the role of the courts in addressing the problems.

**SESSION 2: Race, Gender, Sexuality and the Judiciary**

Rio Grande West

Sharon A. Navarro, Ph.D., University of Texas at San Antonio

10:30 am–10:45 am

**Break**

10:45 am–12:00 pm

## CONCURRENT SESSIONS

### SESSION 1: Dementia in the Courtroom

Rio Grande East

- Robert Abrams, Esq., Co-founder and Executive Partner, Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara, Wolf & Carone, LLP
- Ellyn S. Kravitz, Esq., Partner, Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara, Wolf & Carone, LLP

This session will highlight the special role lawyers and judges have to educate their communities about dementia. Topics discussed will include: definition of dementia, its variants, relationship between dementia and mental health; treatment options; impact on caregivers; appointment of Guardian ad Litem (GAL) and the legal impact of Guardianship Orders; ethical issues of reporting a judge for diminished mental capacity, and the rules of conduct for judges; dementia and criminality; end of life decisions; age discrimination; attorney malpractice due to diminished mental capacity; government initiatives. Key cases from around the country will be used to frame discussion.

### SESSION 2: Social Media and the Judiciary

Rio Grande West

- Cynthia Gray, Director, Center for Judicial Ethics, National Center for State Courts
- Judge M. Sue Kurita, County Court at Law #6, El Paso, Texas

This session will analyze the advisory opinions and discipline decisions on social media and judicial ethics as published in the spring and summer 2017 issues of the Judicial Conduct Reporter. Speaker will introduce the topic and discuss issues related to judicial duties: “friending” attorneys, disqualification and disclosure, ex parte communications and independent investigations, and comments on pending cases. Additional topics will cover off-bench conduct: conduct that undermines public confidence in the judiciary, commenting on issues, abusing the prestige of office, providing legal advice, disclosing non-public information, charitable activities, political activities, and campaign conduct.

12:00 pm – 1:30 pm

## FRIENDS APPRECIATION LUNCHEON

Regency East 1/2

Remarks from Jill Dash, Esq., Vice President of Strategic Engagement, American Constitution Society

### THE SOCIAL MEDIA LANDSCAPE: PAST, PRESENT, AND FUTURE

Monika Bickert, Esq., Head of Product Policy and Counterterrorism for Facebook

1:30 pm–3:00 pm

## NEUROSCIENCE OF JUDICIAL DECISION MAKING-PART I

Regency East 1/2

Kimberly Papillon, Esq., Senior Education Specialist, California Judicial Council

Did you know that brain scans can tell us what keeps us from effectively solving problems, helps us to innovate, motivates us, scares us and fools us? How can we use these studies to help judges make effective, efficient and equitable decisions even under extreme pressure? In this highly interactive course participants will explore emerging research in neuroscience and how it affects the decisions made by judges. Neuroscientific studies will be used to explain how judges determine veracity, intelligence, threat, and competence in a diverse society. fMRI studies will be used to reveal how litigants, attorneys and jurors may react to women in positions of authority. The course will pinpoint the areas where discretion is utilized by judges and where cases can be affected by unconscious processes and subtleties. The participants will explore new methods for reaching the goal of impartial decision-making in the courts. The course will identify ways to increase fairness guided by science.

3:00 pm–3:15 pm

## **Break**

3:15 pm–4:30 pm

## **CONCURRENT SESSIONS**

### **SESSION 1: The Intersection of Popular Opinion and Judicial Decision-Making in the Federal Trial Courts**

Rio Grande West

- Chief Judge Barbara M.G. Lynn, U.S. District Court for the Northern District of Texas
- Magistrate Judge Rebecca A. Rutherford, U.S. District Court for the Northern District of Texas

This program will explore how public opinion and politics potentially impact the outcome of federal trial court decisions in cases involving hot button/high public interest issues.

### **SESSION 2: Judges and Justices Under Attack: How the Informed Voters Project Can Help!**

Rio Grande Central

- Annette Boyd Pitts, Education Chair, NAWJ Informed Voters Project; Executive Director, Florida Law Related Education Association
- Justice Robin Hudson, Supreme Court of North Carolina, NAWJ Judicial Independence Committee Co-Chair
- Justice Barbara J. Pariente, Florida Supreme Court, NAWJ Judicial Independence Committee Co-Chair

Attempts to politicize the courts and influence judicial selection processes are growing. From Iowa to Florida to Kansas, and many states in-between, such attempts have targeted the removal of judges for specific decisions unpopular with special interests or the political majority. But the courts were not intended to be a political or representative branch, swaying in the wind of public opinion. Judges should make decisions based on the facts and the law. Numerous national polls and surveys document the limited knowledge held by Americans about our government, and its corresponding institutions and processes. This session will highlight the vulnerabilities of the judicial branch in the midst of these present day challenges. To ensure an educated and informed public, one that is aware of the role of the courts in our constitutional structure, the National Association of Women Judges has created the Informed Voters, Fair Judges Project. This model educational program is designed to bring public attention to the role of the courts, judicial decision-making, and judicial selection processes, as well as the present-day challenges threatening a fair and impartial judiciary and ultimately the rule of law. This session will highlight current new resources and opportunities available through the project.

3:15 pm–4:30 pm  
continued

### **SESSION 3: Neuroscience of Judicial Decisionmaking Part II**

Rio Grande East

Kimberly Papillon, Esq.,  
Senior Education Specialist, California Judicial Council

6:00 pm–8:00 pm

### **Dine Around, Riverwalk Tours, Boat Rides. Free evening**

8:00 pm–10:00 pm

### **Hospitality Suite Hosted by the Bexar County Women's Bar Association**

Atrium Suite

# SATURDAY OCTOBER 6, 2018

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7:30 am–8:30 am	<b>REGISTRATION INFORMATION DESK</b>	Los Rios Foyer
7:30 am–8:45 am	<b>NAWJ Annual Business Meeting (Breakfast)</b>	Regency East 1/2
9:00 am–10:00 am	<b>U.S. SUPREME COURT UPDATE</b> Justice Jeffrey S. Boyd, Texas Supreme Court	Regency East 1/2

A sitting Texas Supreme Court Justice will summarize the U.S. Supreme Court's recent term, highlighting developments and decisions of particular interest to other state judges and justices.

10:00 am–10:10 am	<b>Video: NAWJ “#WETOO IN THE LEGAL WORKPLACE”</b> Meeting on Capitol Hill Justice Tanya R. Kennedy, NAWJ President	Regency East 1/2
10:15 am–10:30 am	<b>Break</b>	
10:30 am–12:15 pm	<b>CONVERSATION WITH JUDGE VANESSA RUIZ</b> President, International Association of Women Judges, Introduction of documentary, The Judge.	Regency East 1/2

Film screening: THE JUDGE

The Judge offers a unique portrait of Judge Al-Faqih Kholoud—her brave journey as a lawyer, her tireless fight for justice for women, and her drop-in visits with clients, friends, and family. With unparalleled access to the courts, THE JUDGE presents an unfolding vérité legal drama, with rare insight into both Islamic law and gendered justice. In the process, the film illuminates some of the universal conflicts in the domestic life of Palestine—custody of children, divorce, abuse—while offering an unvarnished look at life for women and Shari'a. Directed by Erika Cohn. Running time is 82 minutes.

## **Lunch on your own and free time to Explore San Antonio.**

12:15 pm–1:15 pm	<b>NAWJ Judicial Independence Committee Meeting</b> <b>Informed Voters-Fair Judges Program</b>	Chula Vista Boardroom
1:45 pm–3:45 pm	<b>2018-2019 NAWJ Board of Directors Meeting</b>	Chula Vista
4:00 pm–5:00 pm	<b>2018-2019 NAWJ District Directors Meeting</b>	Live Oak
6:00 pm–7:00 pm	<b>COCKTAIL RECEPTION</b> Entertainment by students from Guadalupe Mariachi Academy	Regency Foyer



## SATURDAY OCTOBER 6, 2018 *continued*

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7:00 pm–10:00 pm

### **NAWJ ANNUAL GALA BANQUET**

Regency East ½

### **SILENT AUCTION**

### **NAWJ ANNUAL BANQUET**

*featuring works by Conspire Theatre*

The Gala dinner features performance by Conspire Theatre of Austin, Texas. Conspire Theatre's mission is to offer incarcerated women and their allies a healing and empowering experience through theatre and creative writing. Their vision is that every woman realizes her potential as a creative, worthy being.

### **EMCEE: Maria Elena Torralva Alonzo**

Former News Anchor for KMOL-TV and the first Latina to anchor a newscast at the local and national level, and she is married to Judge Al Alonzo.

### **NAWJ 2018 AWARD HONOREES**

#### **Justice Joan Dempsey Klein Honoree of the Year**

Hon. Bea Ann Smith (Ret.)  
NAWJ President 2002-2003

#### **Justice Vaino Spencer Leadership Award**

Hon. Bernadette D'Souza  
NAWJ Secretary

Hon. Marcella A. Holland  
NAWJ Project Chair

Hon. Lisa S. Walsh  
NAWJ President 2015-2016

10:00 pm- 12:00 am

### **DJ AND DANCING WITH JC**

Regency West

DJ JC is one of the top Rated DJ's in San Antonio! He keeps dance floors packed across SA! He doesn't only consider himself a DJ but an entertainer who loves interacting with the crowds either by joining them on the dance floor or by creating mixes and memories that will last a lifetime! DJ JC is passionate about his craft, making people smile and dance!

## SUNDAY OCTOBER 7, 2018

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8:00 am–10:00 am

### **FAREWELL BREAKFAST**

Chula Vista