



NATIONAL ASSOCIATION OF WOMEN JUDGES

COUNTERBALANCE

Volume 26, Issue 2, Summer 2005

Message from the President

(Remarks from the 2005 Regional Conference in Chicago presented by Judge Thompson on behalf of Justice Joan Dempsey Klein)

Introduction:

Congratulations, Judge Loftin, on the Chicago Getaway of NAWJ Districts 7, 8, and 9! I wish I could be with you to share the exciting regional meeting you have planned, and to thank you for the opportunity to remind attendees of why NAWJ was formed many years ago. I have added another dimension to my remarks: where do we go from here, or why continue NAWJ. I greatly appreciate President Sandra Thompson's willingness to impart my remarks to you. This organization is still a subject near and dear to my heart!

Early Priorities:

From my perspective of over 25 years with this organization, many changes have occurred internally and externally.

Originally, what few women judges there were in 1979 got together as much out of desperation as any other reason. We were isolated, disrespected, frightened and eager for understanding and help. The "war stories" of our first meeting among the 125 plus of us in Los Angeles said it all! Our priorities first and foremost were to share experiences, to "network" and to provide support for one another. Thereafter, we were determined to increase our meager numbers on the federal and state courts. Some locales, including states, had no women judges. Soon after formation, our leadership worked with women lawyers nationwide to put pressure on appointing authorities such as governors and the president and to encourage qualified candidates to run for election. NAWJ now sponsors "Bar to Bench" programs everywhere, among other relevant and successful programs.

(continued on page 2)



What's in this issue:



Membership News 4, 6-7
& 12-13

Acting Executive
Director's Report 5 & 9

Highlights from Events
14-15

Annual Conference
Information 16 & 27

District News 21-23

NAWJ's First Regional Conference in the Windy City a Great SUCCESS!!!

*Judge Brenda Stith Loftin
Vice President of District Directors*

The Sofitel Chicago Water Tower was the site of the first NAWJ regional conference on March 18-20, 2005. Districts 7, 8 and 9 joined together to host the regional conference and christen the theme, "Reaffirming Our Passion for Equal Justice, Judicial Education and Friendship." The Sofitel was imbued with the French spirit of architecture, interior design and luxurious service. A perfect setting to launch a regional conference.

On Friday, March 18, 2005, the conference committee members welcomed registrants to Chicago during a luncheon sponsored by resource board member, J.G. Wentworth. The afternoon program began with, "Games Judges Play". A game of bingo was created to challenge participants about the history of NAWJ. The remainder of the afternoon we posed the question, "What Can NAWJ Do for You?" **Judge Sophia Hall**, Past NAWJ President and conference committee member, spoke about our legacy. **Judge Sandra Thompson**, NAWJ President, traveled from California to talk about our leadership and our accomplishments. **Judge Vanessa Ruiz**, NAWJ President-Elect, joined us from Washington D.C. and spoke about the future of NAWJ. The afternoon

(continued on page 6)

Volume 26, Issue 2

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Message from the President

(continued from page 1)

Remember the 1980 presidential campaign promises of both Reagan and Carter, if elected, to put the first woman on the Supreme Court? I'm proud to say NAWJ played a part in history when our charter member, Justice Sandra Day O'Connor, was selected and honored as that first woman.

Contrast that success with President Nixon's ostensibly considering a first woman to the United States Supreme Court in 1971 by submitting her name to the ABA committee on judicial evaluations. I still remember the humiliating treatment this well qualified woman received from the ABA and other evaluating sources. Nixon had no intention of allowing a woman to serve, as he later made clear in his revealing statements on the subject. That woman complained to me that there was no women's group to help her. True indeed! NAWJ was not part of the judicial/political landscape at that time, so we could not weigh in and be reckoned with in any manner. We can thank our charter member, the Hon. Martha Craig Daughtrey, with her amazing organizational skills, for changing the culture of the ABA to be more female friendly.

Gender Bias Task Force:

We also recognized early on that it was in our best interest, and that of all women who found themselves in the justice system for whatever reason, to stress the very basic need for *fairness and gender equality in American courts* in a systematic manner. Toward that goal, NAWJ co-sponsored gender bias task forces to be set up in every state in the country and in the federal system. To no one's surprise, the studies found gender bias "alive and well" in our courts! Some of the resultant recommendations to eliminate these stereotypical practices are still being implemented by continuing access and fairness advisory committees, as in California. These studies are among NAWJ's proudest accomplishments and we have Lynn Hecht Schafran with the National Judicial Education Program in New York and the Hon. Marilyn Loftus of New Jersey to thank for their vision and early implementations. This issue, however, requires continuing NAWJ vigilance.

Expanded Outreach:

As our numbers grew, so did our outreach. I quote our former President, the Hon. Carolyn Engel Temin, who is now judging in Bosnia on the Court of Bosnia and Herzegovina. "NAWJ takes pride in its accomplishments. We were at the forefront in the establishment and implementation of gender bias task forces in both federal and state courts. We have greatly advanced the administration of justice in areas of domestic violence, child support and child custody, and the treatment of women in the courts of America. We also are respected as a leader in educating judges on bioethics, elderly abuse, the sentencing of women offenders with substance abuse problems; improving conditions for women in prison; and the problems facing immigrants in our court system. Currently we are developing curricula on the effect of genetic advances on women and vulnerable populations, the impact of international law on state and federal courts, and cognitively disabled persons in criminal courts." Judge Temin credits her strong affiliation with NAWJ as one of the reasons she obtained her current position in judging in a foreign land.

Some of NAWJ's more successful programs are the Genome Project, the Color of Justice, Beyond Borders, Sentencing Women Offenders, etc. These programs are available for presentation nationwide.

Leadership Sophistication:

In that regard, it's been my observation that the process of holding office in NAWJ enables those officers to expand their sense of self, their leadership skills, organizational ability, and their vision for the organization. I have watched with pride several of our members make the journey through the chairs, serve as president, and add a new dimension to their persona and perspicacity, making them more effective judges and leaders in their community. The process is a leadership training ground!

The LAWJ:

The international concept of NAWJ, the IAWJ, evolved in the mid-80s and became a program that has become nothing short of spectacular! What IAWJ has been able to accomplish under the leadership of Judge Arlene Pacht, and those dedicated judges who followed her, is beyond anyone's expectation! IAWJ holds out much promise to continue to help women judges wherever they are located, whatever their circumstances, and whatever their issues. NAWJ continues to support and encourage this most special network.

Message from the President

Expanded Goals and the Future:

As NAWJ has grown over the years, our goals have expanded, but always with our basic priorities in mind. As noted, one reason for our progress is that NAWJ's elected officials, presidents and other officers, have become more sophisticated in their leadership skills and vision. They work together with commonality of purpose. Some see NAWJ as a "judicial think tank" exploring "cutting edge" subjects related to women in the courts, judges, litigants, lawyers, etc. Others see NAWJ as the national and local guardian of what we initially set out to do: to fill the void that existed and to recognize that if NAWJ does not take that leadership role, who, or what organization, will? As Justice Sandra Day O'Connor observed: "Although women still have a long way to go in penetrating the American judicial system, let's not forget how far we have come."

Women judges still constitute a minority on the majority of courts everywhere, but law schools are now graduating about as many women as men. Basic NAWJ principles called for the judiciary to reflect the changing role of women in a democratic society. NAWJ needs to be in the forefront to make sure that happens. A basic fact we all must remember is that the judiciary is very powerful in a democracy and therefore judicial positions are highly sought after. The process of becoming a judge, by appointment or election, is likewise highly competitive. It would be naive for us not to recognize that power is not shared readily by anybody, anywhere! NAWJ must continue to be a player in that process.

Vigilance by leaders required:

Also in that regard, as NAWJ's vision has expanded, our leadership has recognized the need to be vigilant and to monitor the justice system continually, let there be back-sliding or unfounded attacks from any quarter on us as women judges or our goals. If need be, we can rally support from various organizations throughout the United States if we do not become complacent. Requiring vigilance is another way of recognizing that NAWJ must be relevant!

This expanded vision requires our leadership to be aware of what's going on in our world and to speak out when necessary. NAWJ communicates through its president and its president should be advised by all of us who perceive the need, and note the opportunity, for the president to make a statement on what, when and where NAWJ should take the lead or lend its voice. The issue could be unfair judicial selection process in Alaska which denies qualified women the right to serve, the plight of rural judges in their isolation, or whatever, wherever. To be a force to be reckoned with, NAWJ needs to be *relevant to current issues in American society*. Some members would say vigilance and relevance should have prompted a spokesperson on NAWJ's behalf to have responded to Harvard's President Summers remarks that for some reason, women are not quite as smart as their male counterparts, in the continuing effort to rid America of sexual stereotypes. Maybe just a comment that such ill chosen words created more heat than light would have been appropriate. Other members would say NAWJ did not "have a dog in that fight" and, appropriately, did not get involved. Vigilance as a byword also, requires NAWJ to be represented on boards and committees, and in seminars that are dealing with any issues impacting our goals, whether it is the ABA, American Judicature Society, Congressional committees, or local organizations. NAWJ should have input and be of assistance if possible. Providing such input must be accomplished by NAWJ leadership working with our Executive Director and support staff. Obviously, NAWJ needs and deserves strong administrative assistance. The organization cannot function properly without competent and loyal staff.

Being president of NAWJ is a demanding, if rewarding task. Each successive president brings her own vision, energy, commitment and goals to her presidency, a process that has kept NAWJ alive and well. But every president needs all the help she can get, and collectively, we all should remember that and respond accordingly.

Personal Membership Benefits:

Fortunately, from the very beginning, NAWJ has been a very mutually supportive organization. We have always respected one another and enjoyed our differences, as well as our similarities of education, drive and experience. We do not "back bite" or discriminate. We are there to reach out and help one another. We are proud to be an organization that encourages one another, seeks to bring out the best in everyone, and rewards those who contribute something special along the way. I'm very proud

(continued on page 8)



Founding Mother of NAWJ
Justice Joan Dempsey
Klein

If you have any other honors and recognitions to share in the next issue of Counterbalance, please email them to Sonia Queralt at squeralt@nawj.org!

HONORS & RECOGNITIONS

Congratulations to our President-Elect, Judge Vanessa Ruiz, of the District of Columbia Court of Appeals who was featured on the cover of the June 2005 Washington Lawyer Journal, in an article entitled, **Breaking Down Language Barriers to Legal Services.**

NAWJ member and Chief Judge of the U.S. Court of Appeals, 5th Circuit **Carolyn Dineen King** of Houston, Texas will be the recipient of the 2005 Joan Dempsey Klein Award. This prestigious award will be given out at NAWJ's 27th Annual Conference in Houston, Texas.

El Paso County Court of Law Judge, **Sue Kurita** and Milwaukee County Circuit Court Judge, **Maxine White**, are featured in a new book released on March 9, 2005, titled **Be Happy at Work: "100 Women Who Love Their Jobs and Why."** The book goes on to describe, "Judge M. Sue Kurita's primary motivation for pursuing a law degree was practical: get it quickly so that she could earn a living and take care of her child, then 3. She is now a county court judge in El Paso, applying what she says is a healthy dose of common sense to the bench, while handling cases including domestic violence, theft, drug possession and drunken driving."

On June 14, 2005 at the NAWJ event out in Knoxville, Tennessee another outstanding law student was rewarded with a \$1,000 scholarship!! Her name is **Miranda Chirsty** and she is a 3rd year law student at the University of Tennessee College of Law. From everyone here at NAWJ we send our congratulations to Miranda!

The NAWJ Nominations Committee presents the following candidates for 2005-2006 Board of Directors:

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This notice is being circulated to the voting membership, under By-Law Article IX, for election at the general session of the Annual Business Meeting in October 2005, in Houston, Texas.

Acting Executive Director's Report

Drucilla Stender Ramey



It is with great pleasure that I write this message to the entire membership of the National Association of Women Judges. It has now been my privilege to have worked with NAWJ for a little over two months, and I already can see why the organization has claimed the time and passions of so many of our nation's finest jurists.

I thought I'd take this opportunity to review a few of the recent efforts that NAWJ's leadership, at every level, has pursued in aid of the values and goals that NAWJ was founded to serve ensuring equal justice and access to the courts for women and other vulnerable populations; increasing the numbers, advancement and leadership status of women on the bench to more accurately reflect the role of women in a democratic society; fighting to preserve judicial

independence; and serving as the nation's leading provider of cutting-edge judicial training initiatives focused on issues of particular importance to women, minorities, immigrants, gay men and lesbians, people with disabilities and other marginalized groups.

Judicial Independence: As you know, in the wake of the horrific tragedies in Chicago and Atlanta, and in response to the political furor surrounding the Schiavo case, NAWJ President Sandra Thompson wrote a Letter to the Editor to the *New York Times* emphatically stating NAWJ's paramount commitment to judicial independence. Emphasizing that, "[O]ur system of democracy depends on judges being supported in the exercise of their constitutional obligation to protect the basic rights of individuals and decide cases fairly. Those decisions must be made according to the law, without regard to public pressure and without fear of political reprisal," Judge Thompson concluded by quoting Justice Anthony 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."

At the behest of several members, NAWJ is currently exploring the question of whether and how the organization might join with other judicial organizations in publicly exploring the constellation of professional qualifications that properly represent the *sine qua non* for appointment to the United States Supreme Court.

Diversity on the Bench: One of NAWJ's most historically important and powerful tools has been our ability to bring our influence to bear on the make-up of judicial appointments and advancement across the country. President Sandra Thomson's strong and informed letters to the Governors of Alaska and Massachusetts, for example, have already produced important results this year. We urge members across all our Districts to let the Officers know of states, districts, circuits, or jurisdictions within states in which the appointing authorities have failed to appoint women to the bench or to administrative law judge positions in adequate numbers, or in which appointment or election practices have served to disadvantage women seeking judicial appointment or advancement.

Comments on Ethics Proposals: Following solicitation of feedback from our membership, NAWJ has filed *Comments on the ABA's March 2005 Draft Model Code of Judicial Conduct*. (See www.nawj.org for the full text.)

Resource Board

NAWJ's enormously supportive Resource Board, graciously chaired this year by Victoria Cashman, is in the midst of significant expansion. First, we are pleased to welcome the support of the Audrey Hepburn Children's Fund, whose representative will sit on the Resource Board. Secondly, law firms who have made substantial three-year pledges to NAWJ have been asked to appoint a representative to serve on the Resource Board. The first three such appointments have already been made - Morrison & Foerster has appointed its Chief of Litigation, Lori A. Schechter; Farella Braun & Martel has appointed Stephanie Scaff; Fried Frank, Harris, Shriver & Jacobson has appointed Bonnie Steingart; Orrick, Herrington & Sutcliffe has appointed Diana Weiss as its representative in their D.C. office and Karen Johnson-McKewan to represent from their San Francisco office; and Lief Cabraser Heimann & Bernstein has appointed Elizabeth Cabraser. All additional Landmark Sponsoring Firms will shortly be appointing their Resource Board representative.

Law Firm Campaign:

In an effort to build upon the substantial contributions made by our Resource Board in creating a stable funding base for NAWJ, I have been working with Resource Board members and other non-judicial NAWJ supporters to launch an ambitious National Campaign seeking major commitments from leading law firms, ordinarily at either the \$50,000 or \$30,000 level over three years, depending on the firm's size and geographic scope. We are also pleased to have received

(continued on page 9)

WELCOME!

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January - June 2005

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Hon. Marilyn E. Williams

NAWJ Regional Conference...

(continued from page 1)

session closed by, "Reaffirming Our Passion for Friendship". **Judge Susan Moiseev**, District 7 Director, **Magistrate Christina Miller**, District 8 Director and **Judge Eliza Ovrom**, District 9 Director shared their experiences about friendship while members of NAWJ. The evening reception was held in the Cigale Restaurant of The Sofitel and sponsored by resource board member Lexis Nexis.

Saturday morning greeted us with a wonderful continental breakfast and outstanding educational session. The three hour CLE program, "Proposed Changes to the Model Code of Judicial Conduct", was presented by a panel of four experts. The following panelists were members of the American Bar Association Joint Commission knowledgeable to Evaluate the Model Code of Judicial Conduct: **Donald Hilliker, Esq., Robert Cummins, Esq., and Judge Ellen F. Rosenblum.** **Judge Warren Wolfson, Illinois Appellate Judge** gave a very thought provoking presentation on impaired judicial officers. The program was a lively give and take session explaining how NAWJ members may be affected by the changes and how we can influence the final results. At the close of the educational session at noon, we spent the remainder of the day on the magnificent mile cradled with trendy boutiques, restaurants, museums and other places of interest. And yes, some of us just relaxed and lunched with district friends we had not seen for quite a while.

The Saturday evening reception was the show stopper! We dined on baby lamb chops, arugula tartlets, tenderloin of beef, marinated shrimp and rosemary chicken at the top of the Park Hyatt overlooking Lake Michigan and the Magnificent Mile. The reception was sponsored by resource board member, Thomson West. **Dr. Fred Adler and Attorney Judy Adler** were gracious enough to allow NAWJ to host this reception in their luxury apartment at the top of the Park Hyatt. The couple was out of the country; however, they left us in good hands with the warm and friendly hosts **Attorney Debra Lynch Dubovich** and her husband **Steve Dubovich**. The view at the top of the Park Hyatt was spectacular once the fog lifted. Some of the guests reported a John Cusak sighting while enjoying the view. The actor has an apartment in a building nearby. Sunday morning we met for the farewell brunch to say our goodbyes and look forward to our next Getaway conference. The committee members did an outstanding job in planning the Chicago Getaway and deserve an honorable mention.

Judge Brenda Stith Loftin

Judge Sophia Hall

Judge Christina Miller

Judge Susan Moiseev

Judge Eliza Ovrom

Mr. Jeff Groton

REGISTER Now!!!

"The New Frontier"

**27th Annual Conference
Houston, Texas
October 19-23, 2005**

First Scholarship Recipient for NAWJ

At NAWJ's second Genome Program in Phoenix, Arizona, one of the many high points of the gathering was the presentation of NAWJ's first Law Student Scholarship for Outstanding Commitment to Equal Access and Opportunity in the Justice system. The recipient, **Cesely Hopper**, is an enormously poised young woman who currently is an outstanding first year student at the Arizona State University School of Law in Tempe, Arizona.

Cesely was the first person among her family to graduate from college and she then went on to receive her Masters in Psychology. She grew up in the inner city and has an impressive background in counseling victims of domestic violence, and in serving as a youth counselor for disadvantaged and emotionally disturbed children. **Cesely's** future plans are to concentrate as a lawyer on working to advance equality and access in the justice system for all. We would like to extend our congratulations to **Cesely Hopper!!!**

Texas' All Women Court

Hon. Susan Criss

In April the Fourth Court of Appeals in San Antonio, Texas became the only all female appellate court in the country. Gov. Rick Perry appointed Rebecca Simmons, a district judge, to the Fourth Court to fill the vacancy caused by Justice Paul Green's election to the Texas Supreme Court. Justice Simmons now serves with Chief Justice Alma Lopez and Justices Catherine Stone, Sarah P. Duncan, Karen Angelini, Sandee Bryan Marion and Phylis J. Speedlin.

But even though this is the only all women appellate bench in the country it is not first all female court in Texas history. An all woman Texas Supreme Court was temporarily convened in 1925 when Gov. Pat Neff appointed three female attorneys to hear one case. The case, *Johnson v. Darr* (114 Texas 516) was a land case involving a politically influential fraternity called the Woodmen of the World. The case was appealed from the El Paso Court of Appeals.

At that time the Texas Supreme Court consisted of a chief justice and two associate justices. Chief Justice C. M. Cureton and Justices Thomas B. Greenwood and William Pierson all belonged to the Woodmen of the World and had to recuse themselves.

Gov. Neff tried to find male judges or attorneys to appoint to hear the case. Every judge or lawyer that Gov. Neff asked to accept the assignment was also a member of the Woodmen of the World. The Governor spent ten months trying to find three men to take this appointment.

In January 1925 Gov. Neff appointed three female attorneys to hear the case. Two of the women resigned from their appointment. One of them had not practiced law for the seven year period required to be able to sit on the Court. Two more women were then appointed.

The first all women Texas Supreme Court consisted of Chief Justice Hortense Sparks Ward, and Justices Ruth Brazzil and Hattie Leah Henenberg. Chief Justice Ward had been the first woman to pass the Texas bar exam, the first woman to register to vote in Harris County, Texas and had written the first Texas suffrage law giving women the right to vote in Texas primary elections.

The female justices spent five months on the case before upholding the decision of the El Paso Court of Appeals in favor of the Woodmen of the World.

Congratulations to New York for Hosting Successful Color of Justice Programs!!!

On April 9th and April 16, 2005 Hon. LaTia Martin, Project Development Director, and District 2 Director Hon. Laura Jacobson, hosted two very successful Color of Justice programs. The first program took place at Saint Johns Law School in Queens County, which had a great turn out. The second program was held at the New York State Judicial Training Institute in Westchester County. Congratulations to all involved in planning and running these programs in New York!! If you would like more information or a curriculum on hosting a Color of Justice program in your District, please contact the National Office at (202) 393-0222.

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NAWJ Extends Our Sympathy to the Family of Judge Edith Miller



On December 19th, 2004 at age 75, Judge Miller passed away after suffering from Alzheimers. Edith Lorraine Meyer born on December 3, 1929 retired as Judge Edith Miller, a Justice of New York State Appellate term of the Supreme Court. She spent two decades as the Administrative Judge of The Family Court of New York County. She was the first woman to be appointed to the Appellate Term, New York State Supreme Court; the first black Catholic woman Judge and the fifth black woman to be appointed as a judge in the United States.

Judge Miller was very involved with her alumni at Hunter College and St John's Law School. Her volunteerism was extensive: she was a Trustee at The Practicing Law Institute, the NY Bar Association, The Hundred Black Women, NAACP, AARP, West Side Democrats, as well as many other professional organizations. She was a commissioner of the Office of Black Ministry of the NY Archdiocese, a board member of The United Catholic Woman of Harlem and a Member of the Mayor's Task Force on Child Abuse. She built houses with Habitat for Humanity, as well as donating her time and services to several colleges, including teaching English as a second language and several Criminal law courses. She was an adjunct professor with Fordham University's School of Social Service and a variety of organizations involving the education of the inner city youths.

During her time in family court, she was instrumental in helping to change NYS law whereby, children under age 16 committing heinous crimes can be tried as adults. She presided over the very famous, Willie Boskit case.

Judge Miller established the Edith Miller Scholarship Fund at Hampton University in Virginia.

Edith was preceded in death by her father Earl Oscar Meyer and her mother Florence Mary Martinbrough. She is survived by her daughter Janice Carol Newman, her son Brian Roy Miller, son in law Todd Newman, sister Yvonne Henry and her grandchildren Michael Mulroney, Mark Newman and Matthew Newman, as well as many cousins, nieces and nephews.

Message from the President

(continued from page 3)

of that! Also from the beginning, fond and lasting friendships developed through this organization, and personal networks of emotional and professional support grew. Recall any yearly conference, and experience again the exciting "cutting edge" intellectual challenges of speakers and programs conferences which stimulate and entertain. Think about the America we have visited through the conferences- Washington D.C., New York, San Francisco, Seattle, Salt Lake City, Memphis (and the ducks), Miami (with our own hurricane), Tucson, Denver, San Diego, Boston, Minneapolis, Chicago, Los Angeles, New Orleans, St. Louis, Atlanta and finally Indianapolis, America's heartland and home of the Speedway. Did I miss any? Would you have traveled to all of those places and gained a sense of "Americana" without NAWJ? I wouldn't, and I am looking forward to Houston in 2005 and Las Vegas one of these days. How about our visits to and with the United States Supreme Court in Washington D.C. over the years. Remember our reception by Chief Justice Burger! Recall the hospitality of President Carter in inviting us to the White House for lunch, where he proudly showed his 44 female appointees. President Clinton met with us too.

Finally, NAWJ is self sustaining and self selecting. It's membership is composed of highly educated, motivated, politically savvy, visionary, dedicated, extraordinary women and men. In short, every member is a star and a pleasure to know! As a consequence of such stellar membership, we have accomplished a great deal on the national and international judicial scene, and with continued support and new members we can be even more effective in the years to come! To those women judges who do not join and financially support NAWJ, you folks are getting a free ride from the rest of us who are accomplishing all the good works on behalf of us all! Join with us and have fun doing so! See you in Houston!!

-Justice Joan Dempsey Klein

Acting Executive Director's...

(continued from page 5)

smaller but no less important pledges from a number of other law firms. Among the pledges we have secured to date are:

- \$50,000 from Latham & Watkins
- \$50,000 from Morrison & Foerster, LLP, which is also providing us with our New York City pied à terre at 1290 Avenue of the Americas
- \$50,000 from Pillsbury Winthrop Shaw Pittman, LLP
- \$50,000 from Orrick, Herrington & Sutcliffe LLP
- \$30,000 from Fried Frank, LLP
- \$30,000 from Lieff Cabraser Heimann & Bernstein
- \$30,000 from Arent Fox, PLLC
- \$20,000 from Farella Braun & Martell, LLP
- \$3,000 from Munger, Tolles & Olson, LLP.
- \$1,000 from Finkelstein Newman, LLP

We anticipate a large number of additional pledges in the coming months from a broad range of additional major firms and corporations across the country.

Meanwhile, as otherwise highlighted in this issue of *Counterbalance*, I wanted to take special note of the extraordinary event recently sponsored in Los Angeles by Patricia Glas'er, Esq. of Christensen Miller Fink Jacobs Glaser Weis & Shapiro, LLP, and her dedicated committee of L.A. women lawyers. The brainchild of Judges Judith Chirlin, Mary Thornton House and Dale Fisher, and venue at the home of Denise and Terry Avchen, the reception honored NAWJ's President, Judge Sandra Thompson. Attended, so it seems, by everybody who is anybody in L.A., this wonderful soirée netted over \$89,000 for NAWJ! We are immensely grateful and thank the L.A. judges, Ms. Glaser and everyone else who contributed to the surpassing success of this event. (Please see the special article in this issue for a full list of contributing law firms, corporations and individuals.)

NAWJ Equal Justice Scholarship Program

Over the course of the past several months, we have initiated an NAWJ Equal Justice Scholarship Program, whereby \$1,000 scholarships are awarded at NAWJ District events across the country to law students who have demonstrated a sustained commitment to diversity and equality in the system of justice. Among the early \$5,000 donors to the Scholarship Program have been Guy Rounsaville, Jr., Executive Vice President and General Counsel of Visa International, and an anonymous San Francisco donor. In addition, \$3,000 of each \$30,000 or \$50,000 law firm contribution will be devoted to scholarships.

Our first two scholarship presentations took center stage at the March Genome Justice Program conference in Phoenix, AZ, where the recipient was Arizona State University School of Law student Cesely Hopper, and at the May Color of Justice program in Jackson, MS., where the scholarship was awarded to Kamesha L. Brown, a student at Mississippi College of Law. Both presentations proved to be extremely moving and uplifting for recipients and attendees alike. We are, so far, planning to award scholarships at upcoming District events in Knoxville, TN in June, in Albany, NY in September, in Los Angeles and Alaska later this fall, and at a District 1 Regional Conference planned for Newport in early spring.

Any District planning an event at which you would like to award a NAWJ Equal Justice Scholarship should contact Judge Thompson, and cc: me at 917.301-7473, or by e-mail at dstender77@aol.com, so that I can assist you in working together with an appropriate neighboring law school to select a worthy recipient.

We are hopeful that the benefits of the Scholarship Program will far transcend the financial benefit to the individual students. Rather, the Program also promises to create enduring partnerships between NAWJ Districts and their local area law schools, and between NAWJ and new generations of women judges to come.

Web page: Lastly, on a more mundane but nonetheless important note, we are beginning to make modifications to the NAWJ web page (www.nawj.org), and we need your help. Routinely send us information and ideas which will enable us to continually update and enrich the site. Recent changes include: (1) A much more comprehensive Calendar of Events for the entire organization; (2) The addition of a large number of new links to organizations, and divisions within organizations, with whom our members frequently interact or from whom you often seek information; and (3) The addition of a United States map subdivided into segments representing our 14 Districts, allowing internet visitors to click onto a District and immediately be presented with the name and position of the District Director, together with all past and future District and National events for the current calendar year.

Conclusion (at last)

I'd like to close by thanking all of you who have patiently helped me traverse the daunting learning curve in serving as NAWJ's Acting Executive Director. NAWJ occupies a unique and vital position in the American system of justice, and I am eager to help advance and enlarge upon its remarkable legacy.

UPCOMING EVENTS

NAWJ Night at the Ballpark
San Diego, CA

September 6, 2005

• • • • •
48th Washington Judicial
Conference
Genome Justice Program
Tacoma, WA

September 20, 2005

• • • • •
NAWJ Wine & Cheese
Reception
Anchorage, AK

September 21, 2005

• • • • •
27th Annual Conference
for NAWJ
"The New Frontier"
Houston, TX

October 19-23, 2005

Judge Doesn't Accept Sob Stories — Torrance Jurist Tells Defendants to Pay Fines or Do Time — Judge Doesn't Let Sob Stories Get in the Way

(This article appeared in the Los Angeles Daily Journal on May 20, 2005)

*Sandra A. Thompson
Superior Court Judge
Los Angeles (Torrance)*

Career highlights: Elevated by unification to Los Angeles Superior Court, 2000; appointed by Gov. Deukmejian to South Bay Municipal Court, 1984; deputy Los Angeles County district attorney, 1981-83; deputy Inglewood city attorney; 1975-77; legislative coordinator, Department of Consumer Affairs, 1975-77; analyst, California Assembly Judiciary Committee, 1973-75

Law school: University of Michigan Law School, 1972

Age: 58

LOS ANGELES - Warning to defendants: When Los Angeles Superior Court Judge Sandra A. Thompson gives you 365 days to pay a fine or other court fee, make darned sure you pay it on time. If you walk into her Torrance courtroom on Day 366 with a sob story, it's likely you'll be spending the night in jail.

"I say you have a year to pay your fine," Thompson said, "but a year from now you either pay or go do the time in custody."

On a recent morning, Thompson listened politely to every word two tardy defendants offered and then politely reminded them of the order she'd given them - an order she had put in writing, so that they later wouldn't be able to claim ignorance. Then she politely asked the bailiff to escort them to the lock-up. Thompson wasn't always this absolute, she says. Back when she was hearing traffic and small claims cases, people would come in and tell her that their car engine had blown up or that they'd been evicted, and she would get involved in their lives, she says.

"I was really depressed," Thompson said, "and I couldn't figure out what was depressing me.

"It took me a little while, but I figured it out - everyone would come in and dump their problems on me."

That's when she reminded herself that the problems belonged only to them, and that any reasonable person - even someone who's financially strapped - can put aside enough money in a year to pay a fine. Nowadays, she keeps the right distance, she says. She's already given them ample time to solve the problems, so she's able to tune out the unrelated sob stories.

"I'm expecting you to pay this fine a year from now," Thompson now says in those cases, "and that's because it's none of my business where you live, it's none of my business what kind of car you drive."

Redondo Beach city prosecutor Michael W. Webb embraces Thompson's policy of give-them-time-but-not-a-minute-more. He says she's just expecting them to act like the adults they are.

"Because she gives them more time, they understand that they're going to be held responsible for it," Webb said. "I think she creates a good balance between giving people every opportunity to comply with their legal obligations and yet not allowing them to talk their way into even longer periods of time."

Kristin J. Matsuda, an attorney with the Torrance firm of Bird & Bird, says Thompson gives defendants time in yet another way - she takes the time to listen to

(continued on page 11)

Judge Doesn't Accept...

(continued from page 10)

them.

"I've never seen her cut off anyone addressing her," Matsuda said, "whether it's a pro se defendant trying to plead his case directly to the court or an attorney who's just trying to make a record on behalf of a client.

"She doesn't just sit there and nod politely with a decision already in mind."

Torrance attorney James T. Fox says Thompson runs a cordial but efficient courtroom.

"She's very fair minded, she's a good listener and she treats everybody with respect," he said. Webb says that the respect Thompson shows extends to every person who enters her courtroom - lawyers, witnesses, staff members, jurors and defendants. Thompson, 58, has earned respect outside the courtroom as well. She recently was elected president of the National Association of Women Judges.

Today, California Women Lawyers will honor Thompson with the Joan Dempsey Klein Distinguished Jurist Award. The group's president, Marguerite D. Downing, said she is particularly thrilled to honor Thompson because of the way she handled a situation when Downing was a young lawyer in her courtroom.

"I did a motion, and I was disrespected by the police officer I was cross-examining," Downing said. "Judge Thompson got off the bench and she walked behind me where the attorneys sit. She listened to the testimony and got back on the bench.

"She excused the officer, she granted my motion and she explained to the prosecutor that that person was not allowed in her courtroom until he could respect the attorneys.

"He had called me Missy in answer to one of my questions."

She says she's been a fan of Thompson since that day in the early 1990s.

All of this might never have come to be had Thompson's mother not vetoed her daughter's early career dreams.

"I really wanted to be an 18-wheeler driver," Thompson said, "because my cousin drove one and he always talked about places that he went to and the new cities he saw.

"So when I told my mother that I was going to do that, she said, 'I think not!'

"So I said, 'OK, I will be a taxi driver,' thinking I can get out of Santa Monica and see the city, and she said, 'I think not to that!'"

Actually, Thompson admits, her biggest dream was that of being Ella Fitzgerald.

"But I didn't really think that I have a good enough voice that I could stop people talking while I was singing," she said.

Instead, Thompson focused her energy on her studies and on her responsibilities as the president of the Santa Monica High School Girls League. One of the high school senior's jobs as president was to preside over a student court - a court that ruled on allegations of infractions such as wearing open-toed shoes with no nylons or failing the knees-on-the-ground-to-measure-the-skirt-length test.

"The adviser complimented me on doing a good job," she said. "That was the first time it was suggested to me that I could be a judge."

Years later, Thompson recalls, she and her sister got to see and hear Ella Fitzgerald perform at the Coconut Grove nightclub. They were both in awe of the singer's remarkable talent, she says.

"But even she couldn't sing well enough to make people stop talking," Thompson said.

She says she was tempted to go around the room and tell the people to be quiet.

Thompson's father owned and operated a dry cleaners in Santa Monica - until city officials played the eminent domain card. The shop gave way to a parking structure. Her father's attempt at setting up another cleaners in Venice failed, she said.

"So basically, he was out of business," she said.

When Thompson took the SAT test in high school, she checked a box on one of the sheets that identified her as African-American. Soon she received word from the National Scholarship Service and Fund for Negro Students that the organization was going to help her attend Linfield College in McMinnville. She worked on legislation that would deal with the harvesting of body parts to be used in transplants, she said.

(continued on page 17)

NAWJ's Women of Achievement Award presented to Dr. Maxine Singer

Carolyn Jackson

Dr. Maxine Singer, a distinguished scientist and former president of the Carnegie Institution of Washington, was the inaugural recipient of the NAWJ Women of Achievement Award. The award was presented to Dr. Singer at a reception sponsored jointly by The District of Columbia Bar and the National Association of Women Judges at the Ronald Reagan Building and International Trade Center in Washington, DC.

The Women of Achievement Award is designed to recognize outstanding women in other professions who not only have made distinguished contributions in their fields of endeavor but improved the standing of women within their professions and impacted positively the society at large. These are qualities and values espoused by the members of NAWJ in the judicial field.

The selection committee chose Dr. Singer for her work on defective simian virus 40 genomes containing host DNA sequences which led to studies of highly repeated primate DNA and the discovery of a human transposable element (retrotransposon). In presenting the award to Dr. Singer, the Hon. Vanessa Ruiz, District of Columbia Court of Appeals Judge and NAWJ President Elect, said, "Dr. Singer embodies all that the NAWJ believes in. While being top rate in her field, Dr. Singer has also gone beyond the normal boundaries of science to make a positive contribution to humanity."

In 1956, Maxine Singer completed her Ph.D. in biochemistry at Yale and began working on RNA at the National Institutes of Health (NIH). From 1988 through 2002, Dr. Singer was president of the Carnegie Institution of Washington while retaining her laboratory at the NIH. At Carnegie, she initiated science education programs for children and teachers in Washington, DC.

In accepting the award, Dr. Singer called the NAWJ Genome Justice pilot program a visionary one. "I don't envy you having to deal with the complexities of the genome issue," said Dr. Singer. "I am honored to be the first recipient of the National Association of Women Judge's Women of Achievement Award."

Dr. Singer received the Distinguished Presidential Rank Award, the highest honor given to a civil servant, and the National Medal of Science, the nation's highest scientific honor bestowed by the President of the United States "for her outstanding scientific accomplishments and her deep concern for the societal responsibility of the scientist." Judge Ruiz summed up Dr. Singer in this way, "She's a pioneer. She's a fighter. She's our kind of woman."

For more information, contact Carolyn Jackson, CJ Consulting at 703-243-1222.

Michael B. Goodman To Receive Distinguished Service Award

Hon. Barbara Zúñiga, Honoree of the Year Co-Chair

On October 22, 2005 at our annual banquet, Michael Goodman will be presented with the Florence K. Murray Award. This prestigious award is traditionally given to a non-judicial member who has demonstrated a commitment to the Associations goals, a commitment Michael has repeatedly demonstrated.

Michael is a long time member of the Resource Board and a former chair. A 1983 graduate of George Washington University, in 1994, Michael became a principal with J.G. Wentworth, a nationwide specialty finance company that helped create the current structured settlement transfer industry. Michael recently used his skill in this field to assist NAWJ in developing a bench book on structured settlements. This guide, titled A Guide to the Transfer of Structured Settlements Annuities, is available on our website and has been hailed as a.... "most informative and useful tool for judges."

Please join the Honoree of the Year Committee in thanking Michael for his continued support and dedication.

Margaret Brent Recipient, NAWJ's Honoree of the Year

Hon. Barbara Zúñiga, Honoree of the Year Co-Chair

This year's honoree is Carolyn Dineen King, Chief Judge of the Fifth Circuit and one of this year's recipient's of the Margaret Brent Women of Achievement Awards.

Judge King is not only the first woman to be appointed to the Court of Appeals for the Fifth Circuit but she is the first woman to serve as Chief Judge of the Fifth Circuit. Judge King is currently in her final year as Chair of the Executive Committee of the Judicial Conference for the United States Courts, the first woman to also hold this position.

Judge King is highly regarded for her tireless efforts on behalf of women lawyers and judges.

In 1959, Judge King graduated *summa cum laude* from Smith College. When she was awarded the Smith College Medal, in 1997, the following comments were made "It is your personal touch - the embrace of a baby with AIDS or the mentoring of young women - that prompts colleagues to remark that God has put you here to do a job, and that you are doing that job exceedingly well.... family, justice, service. From a deep heart and a sharp intellect, your voice bespeaks reason and humanity."

NAWJ congratulates Judge King.

**NAWJ LAUNCHES NEW
AND IMPROVED
WEBSITE!!!**

**MAKE SURE TO CHECK
IT OUT!!**

The Honorable Peggy H. Walker Chosen for Prestigious Fellowship One of 25 Early Childhood Leaders Named

Washington, DC, June 10, 2005 – The Honorable Peggy H. Walker, a resident of Douglasville, GA, has been chosen as one of 25 fellows for ZERO TO THREE's prestigious **Leaders for the 21st Century** program. This leadership development initiative provides each of the participants with an opportunity to collaborate with top leaders from many disciplines, as well as receive assistance for an innovative project aimed at improving the lives of very young children. The initiative dates back to 1981, and over its existence has nurtured more than 225 leaders who are now making significant contributions to the early childhood field. Past participants in this program have used the fellowship experience to help them do such things as:

The 25 new fellows include 12 Solnit Fellows (individuals who are early in their careers) and 13 Harris Mid-Career Fellows (experienced professionals with an established record of leadership and achievement). They will all participate in a planned series of activities designed to further their career goals, increase their leadership skills, expand their knowledge and perspective, and enlarge their collegial circles. The new fellows come from 16 states, the District of Columbia and South Africa, and represent 9 disciplines including psychiatry, psychology, psychoanalysis, special education, pediatrics, law, policy, early childhood education and nursing.

Judge Walker, Juvenile Court of Douglas County, is a Harris Mid-Career Fellow and will focus her work during the eighteen-month fellowship on *using best practices and procedures for children zero to three to promote resilience*. Judge Walker earned both her JD and M.Ed. from Georgia State University and is a member of the Council of Juvenile Court Judges, Douglas County Bar Association, Georgia Association for Women Lawyers, and the National Association of Women Judges.

NAWJ 2005 Mid Year Meeting

March 3-6, 2005 Washington D.C.



On Friday evening, the NAWJ Board and guests were treated to a private, behind the scenes tour of the United States Capitol. The United States Capitol Historical Society provided detailed information on the Capitol and members and guests were even permitted to sit on the floor of the House. The experience was spectacular!!!!



First Regional Conference

March 18-20, 2005 Chicago, IL



2005 NAWJ “The New Frontier Conference” Houston, Texas October 19-23

Hon. Susan Criss

The theme of the 2005 NAWJ Conference is “The New Frontier”. The conference will be held in Houston, Texas from October 19 to 23. Justice Wanda Fowler is the Chair of the 2005 conference; Justice Kem Fowler chairs the Judicial Education Committee. Judges will be able to attend cutting edge educational classes and listen to outstanding speakers, including Ken Feinberg, Special Master of the September 11th Compensation Fund will speak. The educational programs include:

The Economic and Demographic Transformations’ Impact on the Legal System

Religious Liberty

Media Coverage of Trials and Appeals from the Journalist’s Perspective

Therapeutic Justice

Innovations to Improve the Jury System

Applying *Daubert* to Non-Science Experts

Military Justice and Crimes Against the Family

Ruling on Evidence in a High Tech World

Judicial Campaign Speech

Alternative Dispute Resolution

Security for Courts and Staff

Judicial Health and Wellness

Internet Jurisdiction

Life After the Bench

NAWJ Immigrants in Court Project

NAWJ Genome Justice Project

Additionally, Judges will get to visit the George Ranch and see a real Texas rodeo. Judges will see a dramatic performance of the Alley Theater production of *The Exonerated*. The highly acclaimed play highlights Texas death penalty litigation. There will be tours of the Johnson Space Center at NASA, the world renowned Texas Medical Center and the Houston Museum District.

Chief Judge Carolyn Dineen King will receive as the 2005 Joan Dempsey Klein Award. Judge King was the first woman appointed to the Fifth Circuit and the first woman to sit as chief justice of that court. Chief Judges and Presiding Judges will be honored along with the country’s only all woman appellate court, the Texas Fourth Court of Appeals.

You can register for the conference at www.nawj.org/conferences.html

MARK YOUR CALENDARS: NAWJ Wine and Cheese Reception During AJA Conference in Alaska on September 21, 2005

Fall comes early to Anchorage, Alaska, and our birch trees will be turning gold for the American Judges Association Annual Educational Conference in Anchorage, September 18-23. NAWJ members who will be in Anchorage to attend the AJA conference this fall are invited to a 6:00 p.m. wine and cheese reception from 6:00-8:00 p.m. on September 21, 2005, honoring NAWJ President Sandra Thompson, at the home of NAWJ District 13 Director Dana Fabe. Dana lives in a log home in the foothills of the Chugach Mountain Range with a view of Turnagain. Linda Murnane, NAWJ Membership Chair, will be attending, and current NAWJ members are encouraged to bring a friend who might be interested in joining NAWJ.

Judge Doesn't Accept...

(continued from page 11)

She later worked as an analyst on court-related legislation and then as a lobbyist for the Department of Consumer Affairs.

In 1977, after five years in Sacramento, Thompson became disenchanted with the political system and returned to Southern California, where she became a deputy city attorney for the city of Inglewood. She finally got the chance to practice law in a courtroom.

"I loved it," Thompson said. "I loved practicing law."

In 1981, she moved to the district attorney's office and worked out of the Los Padrinos Juvenile Center as well as in the South Bay courts. Two years later, the South Bay judges elected her commissioner. Nine months later, then-Gov. George Deukmejian appointed her as a South Bay Municipal Court judge. She knew she had found her place in life, she says, when a well-dressed, 60-year-old woman came into her courtroom after completing an alcohol-treatment program. The woman demanded to speak to the judge.

"She stood at the rail and said, 'I just wanted to tell you that today is the first time that my sons have seen me sober in 40 years,'" Thompson recalled. "And she was standing there and she was crying. 'If you hadn't made me go to that program, I would be drinking.'"

"Now that's changing somebody's life," Thompson said.

Thompson says she has come to the realization that she is limited in what she can do to improve society.

"I think my view of politics is sort of like my view of the judiciary - you get random opportunities to make a difference," she said.

"There are some things I can do, and I think I should do those instead of being paralyzed by the fact that I can't change the entire world."

Thompson spends much of her free time volunteering with professional and community organizations. She's on the board of trustees of Linfield College and Marymount College and is a member of nearly a dozen legal organizations. Thompson enjoys the theater and likes to read books. She has recently discovered she likes mystery novels; Sue Grafton is her current favorite. She has never been married, and she laughs when the subject comes up.

"I'm still an undiscovered jewel."

Here are some of Judge Thompson's recent cases and the lawyers involved:

- People v. Arbelaez, 2SB05864 - DUI, resisting arrest
For the prosecution: Cheryl Y. Park, Redondo Beach city attorney's office
For the defense: Richard L. Mann, public defender's office
- People v. Brown, 3SB03029 - driving without a license
For the prosecution: Cheryl Y. Park, Redondo Beach city attorney's office
For the defense: Lupe M. Oronoz, public defender's office
- People v. Dotson, 4SB04633 - driving with an excessive blood-alcohol level
For the prosecution: Cheryl Y. Park, Redondo Beach city attorney's office
For the defense: Mauricio E. Hernandez, Eric D. Paris & Associates, Pomona
- People v. Creedon, 4SB08279 - resisting arrest
For the prosecution: Cheryl Y. Park, Redondo Beach city attorney's office
For the defense: Jeffrey Creedon, in pro per
- People v. Real 3SB08034 - driving with an excessive blood-alcohol level
For the prosecution: Cheryl Y. Park, Redondo Beach city attorney's office
For the defense: Donald L. Prichard, Redondo Beach

**Remember to register for
the Annual Conference
in Houston, you don't
want to miss it!!!**

Presumption that Domestic Violence Means Child Neglect is No Longer a Safer Course of Action for NY Judges

*Hon. Jacqueline W. Silberman
Administrative Judge for Matrimonial Matters*

No judge wants the notoriety of a case in which a child is harmed. Because of this axiom, and a rash of front page headlines in the New York tabloids, a practice developed which harmed a great many parents and therefore their children. As a judge who has long presided over divorce and custody proceedings, my primary concern is the well being of the litigant's children. Due to this concern for children and for victims of domestic violence, I have closely followed recent cases that dealt with the much publicized practice of charging battered women with "failure to protect" when the child was exposed to domestic violence in their home.

Prior to the cases discussed below, a mother who was the victim of domestic violence was often victimized once again if she called for protection from her abuser, risking the loss of her children to the New York Administration for Children's Services (ACS) — the New York City Child Protective Agency — once the abuse was reported. When an Article Ten petition, which is a child protective proceeding alleging child neglect, was brought before the Family Court under Family Courts Act § 1027, the victim often found that ACS and the judges elected what they presumed to be the "safer course of action", which justifies removal of the child, even where there are gaps in the evidence, purportedly pursuant to the standard requiring a finding of "imminent danger" to the child. Once the child was removed from the non-violent caregiver by ACS, the victim, usually the mother was left to fight the bureaucracy for a return of custody.

As a result of these practices, in 2002, Sharwline Nicholson, on behalf of herself and her two children, brought an action pursuant to 42 USC §1983, against the New York City ACS. (This action was expanded to include other mothers and their children and certified as a class action.) The action alleged that ACS, as a matter of policy, removed children from mothers who were victims of domestic violence, because as victims they were "engaged in domestic violence", and that defendants removed and detained children without probable cause and without due process of law. Further, the action alleged that this was an unlawful interference with the mothers' liberty interest in the care and custody of their children in violation of the U.S. Constitution. Thus, this troubling practice came before the United States District Court for the Eastern District of New York, where, in January 2002, Judge Jack Weinstein, widely acknowledged for his intellect and broad problem-solving skills, granted a preliminary injunction. He concluded that the City "...may not penalize a mother, not otherwise unfit, who is battered by her partner, by separating her from her children, nor may children be separated from the mother, in effect visiting upon them the sins of the mother's batterer." *In re Nicholson*, 181 F. Supp.2d 182, 188 (E.D. N.Y. 2002) (hereinafter "*Nicholson I*"). An appeal by ACS to the United States Court of Appeals for the Second Circuit resulted in three certified questions being posed to the New York State Court of Appeals to resolve open issues of New York statutory family law. *Nicholson v. Scoppetta*, 344 F.3d 154 (2dCir. 2003)

Recently, the Court of Appeals of New York State answered these questions in their decision in *Nicholson v. Scoppetta*, 787 N.Y.S.2d 196 (Ct. App. 2004) (here in after "*Nicholson II*"). New York's highest Court has provided guidance which will prove helpful to all who struggle with custody and neglect issues in a domestic violence situation. The

Court found that evidence that a parent is a victim of domestic violence, and a child is a witness to domestic violence, is not alone a sufficient basis for a finding of neglect. (*Nicholson II* at 203) The Court reasoned that for a finding of neglect sufficient to remove a child, the trial court is required to do an “in depth analysis of all cases where neglect or custody issues are present and rely upon particularized evidence”. (*Nicholson II* at 203)

While this is more time-consuming for the trial court, it will permit the court to tailor an order to the needs of the family, not based solely on the possibility, no matter how remote, that the mother is not fit. A finding of neglect can be made only upon a finding, pursuant to Family Court Act § 1012 (f), that “...a child’s physical, mental or emotional condition has been impaired or is in **imminent danger** of becoming impaired **and** that the actual or threatened harm to the child is a consequence of the failure of the parent or caretaker to exercise **a minimum degree of care** in providing the child with supervision or guardianship.” (emphasis added) The Court found that the drafters of Article Ten of the Family Court Act were “deeply concerned” that a definition of child neglect might result in “unwarranted state intervention to private family life”. (*Nicholson II* at 201) The Court further stressed that imminent danger is “near or impending not merely possible”. (*Nicholson II* at 201)

Thus, the trial court must evaluate parental behavior in an objective manner by asking whether, under existing circumstances, a reasonable and prudent parent would have so either acted, or failed to act. When a parent is a victim of domestic violence, a determination of whether she has failed to exercise a minimum degree of care for the child will depend on such factors as the severity and frequency of the violence, as well as the resources and options available to her. (*Nicholson II* at 202) Notably, the statutory test is “minimum degree of care” — not maximum, not best, not ideal. Failure must be actual and not merely threatened. The Court found that there is no presumption that domestic violence in a home is neglect. The Court did not disagree that the injury or possible injuries from witnessing domestic violence can potentially constitute danger or risk to the child’s life or health. Removal however requires more justification than simply a child’s witnessing domestic violence.

Nicholson II sets forth the increased level of scrutiny required before removing a child from the home of the non-violent parent. The Court must balance the harm that a removal will cause to the child against the “imminent danger” to a child remaining in a parent’s care. (*Nicholson II* at 208) In this fact intensive inquiry, the Court must further determine whether continuation in a child’s home would be contrary to the “best interests” of the child (*Nicholson II* at 207).

The “safer course of conduct” doctrine was emphatically repudiated by the Court of Appeals which stated that this doctrine “...should not be used to mask a dearth of evidence or as a watered down impermissible presumption.” (*Nicholson II* at 209) This decision sounds a death knell for the much publicized practice of charging battered women with “failure to protect.”

In cases where removal of the child is sought before court authorization can reasonably be obtained, such a removal is permissible only where there is imminent danger to the life or health of the child. The Court of Appeals found that emotional neglect would “very rarely be found” to be such a danger (*Nicholson II* at 210).

In light of the Court of Appeals decision, the Second Circuit remanded *Nicholson I* to the District Court for reconsideration, where it was resolved by a Stipulation and Order of Settlement agreed to by the parties and subsequently ordered by Judge Weinstein on

“The Court found that evidence that a parent as a victim of domestic violence, and a child as a witness to domestic violence, is not alone sufficient basis for a finding of neglect.”

Teens Experience Federal Court

Two 16-year-olds and their fellow students from Dowling Catholic High School in Des Moines, Iowa, learned, firsthand, about the confusion and apprehension that accused defendants experience when they encounter a legal system that speaks a foreign language. The students were part of a Social Justice class at the high school in the summer of 2003. Their teacher worked with United States Magistrate Judge Celeste Bremer and several bilingual federal employees, to provide the students with a first-hand experience involving arrest, booking, pretrial release interviewing and an initial appearance – all conducted in Spanish.

“Tengo una orden para arrestarlo a usted. Tiene el derecho de guardar silencio.

Cualquier cosa que usted diga podrá ser usada en su contra. Tiene derecho a un abogado. Voy a llevarlo ante un juez que le nombrará un abogado si usted no puede pagar a su propio abogado.”

“Vamos para sacarle la foto.”

“En un momento se va a sentar en la cárcel.”

The teens heard these phrases when federal agents took them into custody, directed them to the booking room, and put them in detention cells in the United States Courthouse in Des Moines. For the rest of the morning, the only other person who spoke English to them was a translator. The young men did not know the nature of the charges against them until they appeared in the courtroom. It was then that they discovered that the federal government was charging them with manufacture and delivery of methamphetamine.

This class field trip was far more than just a brief tour of the courthouse, with a dry lecture on the law. Instead, the “defendants” were “arrested” and “booked” by Spanish-speaking agents (DEA Agent Art Vogel and U.S. Marshal Cathy Kubik). Because the two students did not speak Spanish, they had no idea why they were being arrested. They only knew that their hands were handcuffed behind their backs. The arresting agents guided them through the booking process by gesturing and directing them by the arm: “Vamos para sacarle la foto” (“Let’s go take your photo”). When Agent Vogel told one teen, “En un momento se va a sentar en la cárcel” (“In a moment you’re going to sit in jail”), the young man did not understand, until he was placed in the cell.

When the “defendants” met with the pretrial release official (U.S. Probation Officer Martha Rockwell), they had the benefit of a court interpreter, Michael Piper. The interpreter also was there when the young men met with their defense attorney, Federal Public Defender John Burns. The interpreter was with the teens when “Judge” David Cortez (in reality, an investigator in the Federal Public Defender’s office) came into the courtroom, and when the prosecutor (in reality, court interpreter Francisco Melendez) asked that the judge order that the “Defendants” be detained until trial.

Experiential Learning

Judge Bremer arranged the federal court experience to illustrate to the students not only that people may find their first encounter with the legal system a bit intimidating, but also that the experience is even more overwhelming when they speak a different language. It is not merely the legal terminology that is foreign. Even a request for basic identifying information was a struggle for the students to understand. The interpreter is an essential prerequisite for a criminal defendant to understand basic legal rights, and to explain the practical import of the case.

The English-speaking “defendants” said they felt apprehensive because standard legal procedures were foreign to them, but their concerns were even greater when they realized that they could not communicate with officials about any topic without an interpreter. The students also gained an appreciation for the experience of criminal defendants who may face the prospect of several days in jail, hearing only a foreign language spoken to them.

The exercise allowed the students to tour the courthouse in an entirely different way, and to learn about court procedures through experience, not a lecture. The federal employees didn’t just describe their jobs, they illustrated what they do. After the arrest, booking, pretrial interview and initial appearance, the students talked with Judge Bremer and the other federal court employees about court processes and procedures. They also talked with Inga Bumbary-Langston, an Assistant United States Attorney, about civil rights, civil liberties, and criminal justice. The students’ questions were based on what they had experienced, not on what they had read in a book or heard in a lecture.

In just over an hour, federal employees brought to life the academic principles of justice that Dowling Catholic High School’s Social Justice students had learned in school, but in an entirely different way. The students gained insight into the need for the rule of law, the value of liberty, and the importance of communication.

The students were not the only ones to benefit from the exercise. The program also provided an opportunity for the court staff to function as a team in planning the program. Together, they developed ideas to illustrate the pertinent facts of the arrest, pretrial release, initial appearance and detention hearing. The program was a valuable reminder of the need to treat all defendants as individuals. This exercise also demonstrated the excellent level of cooperation among all of the criminal justice participants in the Southern District of Iowa.

This year’s Annual Conference is at the beautiful Omni Houston- If you haven’t made your hotel reservations for the Houston conference, do so ASAP!!! Call 1-800-400-1700 and say that you are with NAWJ, to obtain the conference rate before September 19, 2005!!

District News

District 11 members are busy preparing for the NAWJ New Frontier Conference to be held in Houston, Texas at the Omni Hotel October 19 to 23, 2005. Some of the programs that will be presented are “The Economic and Demographic Transformations of America”, “The Appointment and Confirmation of Federal Judges”, “Religious Liberty”, “Media Coverage of Courts”, “Evidence in a High Tech World”, “The Future of Campaign Speech”, “The Vanishing Trial” as well as classes on Administrative Law and Military Law. We will get to watch the Alley Theater’s highly proclaimed production of “The Exonerated”. And we will go to an authentic Texas ranch.

The Fourth Court of Appeals in San Antonio, Texas became the only all female appellate court in the country in April when Gov. Rick Perry appointed Justice Rebecca Simmons to the court. Justice Simmons now serves with Chief Justice Alma Lopez and Justices Catherine Stone, Sarah B. Duncan, Karen Angelini, Sandee Bryan Marion and Phylis J. Speedlin. Justices Bea Ann Smith and Marilyn Aboussie played prominent roles in the annual Stennis Center Southern Women in Public Service Conference in May in San Antonio. Justice Smith was the opening speaker and Justice Aboussie was the closing speaker. The members of the Fourth Court of Appeals Court of Texas were recognized at that conference for being the only all female appellate court in the nation.

The 2005 Annual District 11 Dinner will be held September 19 at Carmelo’s Restaurant in Austin, Texas during the Texas State Bar Judicial Section Annual Conference. “Here comes the bride/judge!” Judge Sue Kurita married Alan Simpson in a private ceremony in May. They honeymooned in Hawaii.

ALASKA’S THIRD COLOR OF JUSTICE PROGRAM IS A SUCCESS

Dana Fabe, District 13 Director

Led by NAWJ **District 13** member Judge Stephanie Joannides and Alaska Court System Project Coordinator, Jennifer Abbott, a committee of Alaska NAWJ members, including Judge Beverly Cutler and Judge Morgan Christen, successfully presented Alaska’s third Color of Justice program on April 29, 2005 to forty-three high school students from around the state, partnering this year with the Alaska Native Justice Center, the University of Alaska Anchorage, the Alaska Court System, and three law schools in Washington State Seattle University School of Law, University of Washington School of Law, and Gonzaga University School of Law. This signature NAWJ program introduced the students, two-thirds of whom were young women and a quarter of whom were Alaska Native, to careers in law and the judiciary.

Alaska’s Chief Justice Alexander Bryner welcomed the students to the Alaska Supreme Courtroom, where they heard remarks from Denise Morris, president and CEO of the Alaska Native Justice Center, and Joseph Garoutte, Senior Legal Advocate of the Center, and listened to an inspiring keynote address entitled Justice is Like a Rainbow: All Colors a Promise, by the Honorable David D. Raasch, Chief Judge of the Stockbridge-Munsee Band of Mohicans Tribal Court in Wisconsin. At the opening ceremony, judicial robes were distributed to the students who wore them throughout the day.

Traveling to the Anchorage courthouse from high schools in Sitka, Mountain Village,

(continued on page 22)

Alaska's Third Color...

(continued from page 21)

Talkeetna, Big Lake, Palmer, Wasilla, and Anchorage, the students participated in a full-day program, learning about law school from three law school deans: C Dean George Critchlow of Gonzaga, Dean Kellye Testy of Seattle University, and Assistant Dean Sandra Madrid, of University of Washington in a session entitled "Law School Rocks." The student participants also gained knowledge of the challenges and rewards of a judicial career from Chief Judge Elaine Houghton of the Washington Court of Appeals and Alaska Superior Court Judge Sen Tan, in descriptions of life on the bench entitled "Why America Needs You on the Bench" and "The Top Ten Reasons Why You Want to be a Judge." Seattle University School of Law Professors Lori Bannai and Susan McClellan presented introductory law classes "No Sleeping in the Park": "Thinking Like a Lawyer" and "Video Wars: Building Legal Arguments for a Video Company" and the teens were soon participating in the discussions like seasoned law students.

During a working lunch break, students squeezed in a mini mock trial with a script developed by Alaska Court System law clerk Karlin Itchoak, of Nome. The Council on Legal Education Opportunity's executive director, Cassandra Ogden-Sneed, flew to Alaska from Washington, D.C. to participate in the program, armed with wonderful CLEO bags filled with office supplies. And with grants and contributions from all of the program's partners, the students received an assortment of souvenir goodies including t-shirts, fabulous embroidered Color of Justice baseball caps (our Chief Justice is now sporting one) and NAWJ water bottles. Generous grants also funded travel scholarships for those students from communities outside of Anchorage. Next year, we hope to be bigger and better with a goal of expanding the program to one hundred students from across the state.

**International Association of Women Judges
8th Biennial Conference**

**May 3-7, 2006
Sydney Australia**

***"An Independent Judiciary"**
Culture- Religion- Gender- Politics*

For more information please contact:

Email: iawj@dcconferences.com.au

Website: www.dcconferences.com.au/iawj2006

Alaska's Color of Justice Program



They're Back-so Hurry Up and Get One Before They are all Gone!!!



Scales of Justice Pin - This smart looking pin was exclusively designed for the woman legal professional. Elegant, but understated. Made in sterling silver, marcasite and onyx.

Measuring 1 1/4" x 1", it is exactly the right accent piece for a business suit or dress. You can't miss giving this as a gift or buying it for yourself.

Gift Boxed

Purchase this wonderful pin for \$100 of which \$50 is a tax deductible donation to NAWJ!

Contact Jeff Groton at 202-393-0222 or by email at JGroton@NAWJ.Org

California Reception for Judge Thompson a HUGE hit!!

NAWJ President Sandra Thompson was honored by a group of preeminent Los Angeles area law firms and legal departments at a reception held on April 28th at the home of Denise and Terry Avchen. Judicial officers from both the state and federal courts were present to support Sandra and NAWJ, including the Honorable Mary Schroeder, Chief Judge of the Ninth Circuit Court of Appeals and a past president of NAWJ, the Honorable Alicemarie Stotler, soon to be Chief Judge of the Central District of California, and the Honorable William McLaughlin, Presiding Judge of the Los Angeles Superior Court.

Prominent Los Angeles attorney Patricia Glaser, of Christensen Miller Fink Jacobs Glaser Weil & Shapiro LLP, who was largely responsible for organizing the event, spoke to the assembled judicial officers and attorneys about the importance of “leveling the playing field” by increasing the presence of women on the bench.

The event raised nearly \$89,000 for NAWJ!!!

Coming Up...

Start planning to attend NAWJ's second regional conference in New York's capital city! The New York Getaway is on track to be a very successful and fun conference. Organizers of the conference are reaching out to fellow NY, CT, VT and NJ Judges to attend a weekend of cutting edge programs, shopping and mingling with fellow members!

The NY Getaway will also include a shortened version of the Genome Justice Program. The dates for the conference are Sept. 15-17, 2005. To get more information about the program and how you can attend, contact the National Office at (202)393-0222.

Thank you for your generous support:

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Teens and judges discuss careers in law

Thirteen Jackson middle school students spent a recent Saturday morning at the Mississippi College School of Law talking with judges from all levels of the judiciary about careers in the legal profession. Hinds County Chancery Judges Denise Owens and Patricia D. Wise organized The Color of Justice program to introduce young female students to the possibilities of careers as lawyers and judges. Nine judges, a private practice attorney, a law professor and a law student participated in group discussions with the students.

Students from Blackburn, Hardy, Peeples, Rowan and Siwell middle schools in Jackson participated in the program.

The April 23 program was sponsored by the National Association of Women Judges and the Jackson and Lefleur's Bluff Chapters of Links.

Mississippi Supreme Court Presiding Justice Kay Cobb of Oxford told the students, "We hope to plant a seed in your mind. We hope to give you encouragement. When I was your age, I didn't even consider being a judge. No one from my family had ever been a lawyer. When I decided to go to law school, I hadn't been in a courtroom more than two or three times in my life."

Judge Wise said, "When I was their age, I had never seen a judge or a lawyer." Judge Wise told the students, "We want you to know if you are interested in the law and the legal profession, you can start planning right here."

Judge Owens said the program "gives us an opportunity to provide mentoring for young girls. Hopefully it will motivate them to pursue law careers."

Jackson Municipal Court Judge Gail Lowery said her interest in the law started at her aunt's kitchen table. "My earliest spark was an aunt who was in civil rights," she said. She recalled an occasion when her aunt was looking for someone to provide legal representation.

"She turned to me when I was about seven years old and said, 'I need a lawyer and I can't find one anywhere. Why don't you be a lawyer when you grow up?' That's where my seed was planted," Judge Lowery said.

Attorney and Magnolia Bar Association President Crystal Wise Martin, Judge Wise's daughter, said Judge Lowery provided her first up-close experience in a law office. After five years of studying chemistry and chemical engineering, she worked a summer in the Lowery law office. She went on to law school.

Mississippi College second-year law student Davetta Cooke, who was a biology major in undergraduate school, said her career dreams ranged from doctor to lawyer to Miss America. She settled on law school.

"The hard part is figuring out what you want to do. Everything is available. Figure out what is going to be your passion," Cooke said.

Mississippi College School of Law Professor Patricia Bennett said, "Regardless of what you want to do, you have all of these options available."

Judges and other program participants spent about four hours discussing the legal profession and the judiciary. They answered students questions about their job duties and the education preparations it took to get where they are.

Workers Compensation Commission Administrative Law Judge Melba Dixon, the first African-American woman judge to preside over commission hearings, explained to students that her job includes much travel to hear claims in different parts of the state. "One thing I take pride in is professionalism," she said.

Circuit Judge Margaret Carey-McCray of Greenville told students that it is important that men and women of all races know that they will be treated equally in the justice system.

"We are creating a justice system in Mississippi that everyone can feel good about and can feel they have a stake in, and feel that they are being treated fairly," Judge Carey-McCray said.

Madison County Judge Cynthia Brewer recalled being addressed as "little lady" when she began practicing law 20 years ago before a predominantly white male judiciary. "That's what I brought to the bench, that you don't have to hear that," Judge Brewer said.

The state's 139 trial and appellate court judges include 29 women. Fifteen trial court judges

(continued on page 26)

Teens and Judges Discuss...

(continued from page 25)

African American women. Figures do not include Justice Courts, Municipal Courts and administrative law judges. Women make up 23 percent of the legal profession in Mississippi; 1,503 women are among the 6,506 in-state members of the Mississippi Bar. The Mississippi Bar has 237 minority female members.

KeAnna Myers, 13, a student at Blackburn Middle School, said after the program, "It's like they opened a lot of doors for us because they have done so much and set the standard for us."

Alexis Walker, 13, a student at Hardy Middle School, said, "This is a good experience because I want to be a lawyer one day. I've never had this kind of interaction with so many lawyers and judges before. All I had seen was on TV."

St. Louis County Circuit Court Judge Brenda S. Loftin, who created The Color of Justice model which has been presented in numerous other locations, said, "This has been a very articulate group of young girls."

Los Angeles County Superior Court Judge Sandra Thompson, president of the National Association of Women Judges, said, "To see these young ladies and see how enthusiastic they are, it's very exciting."

Presumption that Domestic Violence...

(continued from page 19)

December 17, 2004. Pursuant to the terms of the Stipulation, the parties agree that *Nicholson II* accurately sets forth the applicable law to be followed by ACS and it also sets forth procedures for resolution of disputes in these matters. Thus, the Plaintiff's claims for injunctive and declaratory relief were ordered to be dismissed with prejudice on September 1, 2005, unless the defendants have failed to act, on a systematic basis, consistent with the decision in *Nicholson II*. This dismissal will not preclude members from commencing actions for declaratory and injunctive relief for alleged violations of law occurring after September 1, 2005. Since *Nicholson II*, a number of cases have been brought to the appellate level courts throughout the State of New York asserting that a finding of neglect should not have been made based upon the facts of the particular case. Upon review by various appellate courts, in the majority of these cases sufficient evidence was found in the record to substantiate a finding of neglect. However, in two cases recently decided by the Appellate Division of the Third Department, this was not the case. In the first case, *In the Matter of Daniel G.G.*, 2005 N.Y. App. Div. LEXIS 3587 (N.Y. App. Div. 3d Dep't. 2005), the trial court neglect finding was reversed, because it had been based upon an isolated incident where the child was in another room during the domestic violence and there was no evidence of impact upon the child. In the second case, *In the Matter of Eryck M.*, 791 N.Y.S.2d 857, 2005 N.Y. App.Div. LEXIS 3588 (N.Y. App. Div.3d Dep't. 2005), the Third Department reversed the prior trial court summary judgment finding of neglect against a domestic violence victim for failure to protect; this case was remitted to Family Court for a fact-finding hearing to determine the issue of imminent risk to the life or health of the children.

In the handful of cases decided post *Nicholson II*, the appellate level courts have scrutinized the facts adduced at the trial level court, specifically reviewing the severity, frequency, level, duration and intensity of the violence and proximity and any actual harm to the child. It is clear, in light of *Nicholson II*, that a victim would be charged with neglect, not because she is a victim of domestic violence or because the children witnessed the abuse, but because a preponderance of the evidence established that the children were actually harmed by reason of the parent's failure to exercise even minimal care in providing them with proper oversight. It is also clear that the victim of domestic violence must be offered alternatives which are less draconian than a surrender of her children when she has sought protection from her abuser.

As a Justice of the Supreme Court and the Statewide Administrative Judge of Matrimonial Matters for New York State, I have never been faced with the unenviable task of deciding whether to remove a child from her home. Thankfully, the Court of Appeals wrestled with these difficult issues and provided sage guidance for the judges who are called upon to make these life altering decisions. In calling for more scrutiny and in-depth inquiries, the Court of Appeals has provided a great service to the smallest and weakest of the victims of domestic violence, the children, and for that we can all be grateful.



NAWJ 27th Annual Conference Registration

Houston, TX • October 19 - 23, 2005

REGISTRATION FEES

The registration fee for conference attendees includes all educational sessions, receptions, meals, transportation to events listed in the program, and use of the hospitality suite. The guest registration fee includes the meals and social events only.

REGISTRATION DEADLINE AND LATE REGISTRATION

Registration forms postmarked or submitted electronically after the registration deadline of September 19, 2005, must include a \$50 late registration fee.

CANCELLATION POLICY

If notice of cancellation is received after September 26, 2005, the registration fee, less a \$75 processing fee, is refundable. Cancellations received within 5 days of the conference are non refundable.

LODGING

Rooms at the Omni Houston, located at four Riverway, Houston, Texas, have been guaranteed at the rate of \$145.00 plus tax, single or double occupancy. For reservations, call 1-800-400-1700 or (713) 871-8181 and state that you are with the National Association of Women Judges conference. Reservations must be made on or before **September 19, 2005**, to guarantee the conference rate (subject to availability).

REGISTRATION (You may register online at www.NAWJ.org)

Please print your name and title as you wish them to appear on your name badge.

Name: _____ Title: _____

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Number of persons attending: _____ Wed. Eve. Opening Reception; _____ Thurs. Lunch; _____ Thurs. Dinner; _____ Fri. Lunch; _____ Fri. Dinner; _____ Sat. Honoree of the Year Banquet; _____ Sun. President's Breakfast

Registration Fees (Please add \$50 to each category after September 19, 2005)

NAWJ Member: \$450 \$ _____

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Total: \$ _____

Method of Payment (Payment due at time of registration)

Enclosed is a check payable to NAWJ for \$ _____ or Credit Card(*circle one*): MasterCard, Visa or AMEX

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