



INSIDE THIS ISSUE:

The Problem with Jury Selection /1

From the President /2

Executive Director's Report /3

Independent - Not Isolated /6

Overcoming Bias Against Women Witnesses /8

News /11

A Night to Remember... /12

Calendar /15

District News /18

Member News /21

National Association of Women Judges COUNTERBALANCE

Volume 27 Issue 1

The Problem With Jury Selection

By HON. NANCY GERTNER

The jury system is supposed to be one of the pillars of our democracy: We tout its egalitarianism; twelve ordinary citizens called upon to decide questions about liberty or rights or damages. We rely on its legitimacy and the legitimacy it confers on the criminal justice system. But the system is flawed, especially in the federal courts of our country. Just as Congress has chosen to federalize more and more state offenses, just as the race and class of federal defendants change, we find the representativeness of our juries to be more and more suspect. I experienced this first hand.

Two African-American men were slated to be tried before a federal jury that was likely to be an all-white or largely white jury. They were facing the death penalty. Had they been tried in the courts of Suffolk County, where their offense took place, the jury would have had an entirely different complexion.

While legislative districts are drawn with the representativeness of racial groups in mind, judicial districts are not. There is no effort to balance the participation of minority and non-minority jurors. We draw district lines based on administrative convenience. The result is predictable: Census data for Massachusetts, like most states, shows that minority populations are clustered in urban areas. By choosing federal court and thereby expanding the jury district to include the more racially homogenous suburbs, the government invariably dilutes minority—and even urban—representation in the pool from which defendants' juries will be selected. In Massachusetts, for example, as *United States v. Green*, 389 F. Supp. 2d 29 (D. Mass. 2005) showed, when the government federalizes local crime from the more diverse cities of Lawrence, Lowell, or Boston, on the Eastern end of the state, or Springfield, on the Western, it homogenizes the decision maker. In Boston, for example, representation goes from 20% in Suffolk County to 7% in the Eastern District where I sit.

The District of Massachusetts has wrung its collective hands over the problem for over a decade. However significant the lament was before, the prospect has become uniquely chilling with the federal death penalty. An all-white, or largely white, jury could well decide whether an African-American defendant would live or die.

And, while the pool is diluted to start, because of the decision to go to federal court, after jury summonses are sent out to potential jurors, the situation is even worse. Like voting rates, jury participation rates are scandalous, especially for poorer and more diverse communities. Whatever the reasons for the non participation—and they are complex—it is an open question as to whether the defendant's Sixth Amendment rights should depend on the individual choices of citizens. Everything that could be done to secure the participation of the widest circle of our citizens should be done. Sadly, this is not the case.

Indeed, data in *Green* showed that the lists from which jury summonses were prepared were inaccurate. Substantial numbers of summonses were returned as "undeliverable." The defendants charged that



See JURY SELECTION page 4

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From the President

The following remarks were given by Judge Vanessa Ruiz in presenting NAWJ's first Lifetime Achievement Award to Justice Sandra Day O'Connor.

In its 27 year history NAWJ has not presented a Lifetime Achievement Award. Perhaps that is because this is an association replete with high achievers, not easily impressed. That era ended with Justice Sandra Day O'Connor.

Justice Sandra Day O'Connor has been described as the most powerful woman in American history; she has been the undisputed pivot at the center of the Supreme Court during most of her 25 years on the Court; her careful, realistic opinions have profoundly affected the lives of Americans and, more than that, defined the essence of what we mean by personal freedom in a democratic society committed to egalitarian principles. Well grounded in quintessential American traits and values, Justice O'Connor's approach has been that of a principled pragmatist and realist. Her jurisprudence has always been clear-eyed about how real people live and real governments function. We recognize and applaud her contributions and lasting impact on the law.

Tonight, however, we reach beyond those well-known and heralded public accomplishments, and we, who are her judicial colleagues in NAWJ, celebrate the woman whose personal qualities, childhood experiences, life-long character, consuming interests, unflagging energy, generosity, grace, and savvy provide the backbone to her amazing career. True to her roots growing up on the Lazy B Ranch in Arizona, where the sky is big and the land unyielding unless it is tended with care and passion, Justice O'Connor's portrait has to be painted in bold, yet precise colors drawn from real life. Formed by her education at Stanford, hers is an independent, professional, inquisitive, and open mind. A woman proud to be a wife, mother and grandmother, Justice O'Connor has during her life as a judge and in her decision to retire from the Court, always kept a firm



grasp on what is of utmost importance. For those personal qualities and because she is our friend, NAWJ salutes her.

The friendship that binds NAWJ to Justice O'Connor is close and our histories are intertwined. When NAWJ was founded in 1979, Justice O'Connor was then Judge O'Connor, on the Arizona Court of Appeals. She was, from the outset, a member and strong supporter. NAWJ brought together the not-too many—and usually isolated—women in the judiciary. Immediately upon its formation, NAWJ stood up, calling for the appointment of a woman to the Supreme Court, and both Jimmy Carter and Ronald Reagan promised to do so during the 1980 Presidential campaign. True to his campaign promise, President Reagan nominated Sandra Day O'Connor—the only candidate he interviewed, so impressed and taken was he with her demeanor and intelligence—and soon after everyone in the country was able to see for themselves what had been apparent to the President. Then NAWJ President Justice Joan Dempsey Klein testified in strong support of the still relatively unknown Judge O'Connor. Her confirmation sailed through the Senate on a vote of 99-0.

With such apparent ease, over 200 years of men-only on the Supreme Court came to an end. Since then, girls have been able to see that their futures truly can be what they make of them; women everywhere could rest easier, assured that the perspectives born of a woman's experience would directly inform deliberations on our highest court, just as Justice Thurgood Marshall could speak first-hand about matters of race in America; and female lawyers and judges were able to perform their duties with a newfound respect, in the reflected recognition of Justice O'Connor's rightful place at the apex of the American judiciary.

Justice O'Connor's historic appointment was also a marker for wide and deep review of the justice system from

See FROM THE PRESIDENT page 5

Executive Director's Report

By DRUCILLA STENDER RAMEY



Under the leadership of President Vanessa Ruiz, the Board of Directors and many of our committee chairs, the first few months of 2006 have been a whirlwind of activity. I've

perforce had to select from among the many activities pursued by our organization a few highlights to call to your attention.

NAWJ's Correspondence and Op Ed Piece on the Supreme Court Nominations and Confirmation:

In recent months, NAWJ has sent three letters to President Bush urging the appointment of a woman in the mold of Justice Sandra Day O'Connor to the Associate Justice and Chief Justice positions, respectively. We also sent a letter to Senator Arlen Specter urging that he and his Committee carefully scrutinize the record of now-Justice Samuel Alito, and of any candidate for the Supreme Court, with respect to the candidates' views on protection of longstanding Constitutional and statutory guarantees for the rights of women, minorities and other vulnerable groups. President Ruiz also authored a widely lauded Op Ed article addressing, among other things, the importance of increasing the numbers of women in the judiciary, which was first published in the *San Francisco Recorder* and the *Washington Legal Times*, and subsequently republished in a potpourri of other legal and non-profit publications.

NAWJ's Response to Proposed Changes to the ABA Model Code of Judicial Conduct:

On February 3, 2006, NAWJ filed a third set of Comments with respect to selected proposed provisions of the 2005 (Final) Draft Report of the ABA Joint Commission to Evaluate the Model Code of Judicial Conduct. We arranged for our Comments to be broadly disseminated to women's and minority bars, legal services organizations, ATLA and other groups across the country whom we believed would be adversely and unjustifiably affected by

certain of these Rules, as outlined below, and asked that the affected groups send representatives to join us in testifying at the Commission's February 11, 2006 final public hearings, held at the ABA Midyear Meeting in Chicago.

Judge Nan Duffy, who flew in specially to testify on our behalf, and I appeared before the Commission on behalf of NAWJ. We were pleased to be joined in our opposition to these provisions by the Chair of the ABA Commission on Racial and Ethnic Diversity, the President of the National Association of Women Lawyers, Lynn Schafran, and an officer of ATLA. (The Chair of the ABA Commission on Women in the Profession also was slated to testify, but her testimony was precluded by time constraints. They will, however, be filing written Comments, as will a number of civil rights and good government groups who couldn't make it to Chicago.)

We primarily directed NAWJ's written and oral comments to proposed changes in Rule 4.04. On the one hand, we applauded the Commission's broadening, in Rule 4.04 (B)(3), of permissible extra-judicial activities to include a judge's appearing, speaking, receiving an award or other recognition at, being featured on the program of, and permitting his/her title to be used on connection with, events of civic and charitable organizations concerned with the law, the legal system or the administration of justice, "**even though the event may serve a fundraising purpose.**"

We strongly objected, however, to the last phrase of Proposed Rule 4.04(b)(3) and the last sentence of proposed Comment 8 to that Rule, arguing that their language not only would effectively eviscerate the newly expanded provisions, but also would have at best a chilling effect, and at worst would impose an outright prohibition, on extra-judicial activities heretofore permitted by the current Rules with respect to events of minority, women's and other specialty bar associations, as well as legal services, civil rights, trial lawyers and other groups. (Please see the NAWJ Web site at www.nawj.org for the full text of our Comments.)

As a result of the testimony and

submissions described above, most of the Commissioners appeared to agree with us that the challenged language posed important problems for the system of justice that they had not intended or foreseen. They appreciated the proposed amendments suggested by Judge Duffy, deleting the objectionable language and replacing it with language reminding judges of their responsibility to carefully research and consider each invitation to an event on a case by case basis, always taking into account the caveats contained throughout the Canons with respect to, e.g., maintaining the reality and appearance of independence, integrity, and impartiality.

NAWJ filed final written Comments prior to the March 15, 2006 deadline. We are confident that many of the other adversely affected groups filed Comments in line with ours, but tailored to focus on the particular harm to their respective organizations. We are hopeful that the Commission's response will be positive.

Co-Sponsorship of Reception Honoring Justice Carol Corrigan and Judge Judith Ford:

On March 24, 2006, NAWJ co-sponsored with California Women Lawyers a Reception in San Francisco honoring Justice Carol Corrigan, whom we were delighted to congratulate on the occasion of her recent appointment to the California Supreme Court, and also honoring retired Judge Judith Ford, the first African American woman to sit on the Alameda County, CA bench.

New Committees; New Leadership by Members New and Old:

There isn't world enough and time to outline all the work of our committees, but I'd like to highlight just a few initiatives:

Membership Committee: Colonel Linda Murnane

(USAF, retired) is heading up our new Membership Committee which has leapt into the New Year with great vigor. Among many other projects, Colonel Murnane is actively involved in several upcoming Color of Justice Programs. On April 1, the University of Charleston, South Carolina will host the Color of Justice. This

came about following the very successful first ever Color of Justice in Kentucky held October 29 at the University of Louisville Brandeis Law School. Linda is working with the super-active Administrative Law Judges Committee, headed by Kathy Braeman, Joan Churchill and Judge Sullivan to mail to and recruit from a very substantial and growing list amassed through that Committee's heroic efforts and is working with the ALJ Committee on an NAWJ presentation at the National Association of Administrative Law Judges Convention in September. She is also working with staff and the co-chairs of the Federal Courts Committee to mail to and recruit from our new database of all women federal judges in the nation. Linda is also working with staff and former employee Cristina Silva to formulate a new initiative for law student membership in NAWJ, and will be working with staff and the **New Judges Committee**, co-chaired by Ellen Gesmer and Sue Kurita, to formulate and administer a comprehensive set of offerings for newer judges, including just prior to the regularly scheduled events at the Annual Conference.

Federal Courts Committee: Under the leadership of its new Co-Chairs, Mary

Schroeder and Nancy Gertner, this committee will be recruiting and presenting programs to federal judges across the country.

Ethics Committee: This committee, with the advisory assistance of Victoria Henley, Director of the California Commission on Judicial Performance, has led the effort to provide NAWJ's above-described response to the ABA Commission's proposals, will actively seek to involve NAWJ in other important ethical issues as they arise, and will advise NAWJ on organizational ethics questions.

Military Judges Committee: Under the leadership of retired U.S. Army Colonel Denise Vowell, this committee will be insuring NAWJ's participation and recruitment at major military judges' national meetings, and will be presenting a program on military judging in the context of the Iraq and Afghanistan conflicts.

Women in Prison Committee: Co-Chaired by **Brenda Murray, Susan Winfield** and **Betty Williams**, this committee will combine and focus the forces of the various District leaders who have been

aggressively pursuing innovative strategies in their communities with respect to women in prison and their children, and women transitioning back into the community.

Rural Courts Committee: Under the leadership of **Margaret Clark**, the Committee will develop a recruitment plan and will tailor programming responsive to rural judges and their particular needs.

2006 Mid-Year Meeting: This year's Mid-Year Meeting took place at the Caribe Hilton in San Juan, Puerto Rico, hometown of Board President Judge Vanessa Ruiz. It was a fun and informative gathering which included a presentation of the Genome Justice program and an evening Reception at the Governor's Mansion. Members of the local judiciary and legal community joined us.

Newport Getaway: Under the leadership of Patricia Hurst, Nan Duffly and many others, we held our Regional Conference in beautiful Newport, Rhode Island in early April. This too was a fun and informative gathering, featuring a Genome Justice presentation and welcome reception at the old Colony House.

Jury Selection

continued from page 1

officials used inaccurate and out-of-date resident lists, particularly from the cities and towns with the highest percentage of African-Americans. The claim was ironic: Massachusetts pioneered the use of resident lists in place of voting lists, used by the rest of the country, precisely to maximize minority participation. But the duty to prepare and update these lists was an unfunded mandate, fulfilled with varying success across the district. The more affluent and whiter communities can afford to properly maintain the lists; the poorer, more racially diverse communities cannot. An Eastern Division resident has a better chance of getting on a jury if she hales from more racially and economically homogenous towns like Dover, than if she is from more racially and economically diverse communities like New Bedford or Roxbury.

While I could not find a constitutional violation on the record before me, that was hardly the end of the inquiry. The Constitution provides a floor, not a ceiling, to the court's obligation to provide representative juries. Just because something is *not unconstitutional* does not mean it is *right*.

I ordered that whenever a summons is returned as "undeliverable," no matter where it originated, the jury administrator of our court was to send out a second summons to the same zip code. While I was reversed by the First Circuit, the case sparked an important debate.

In the Massachusetts legislature, a bill is pending that would go a long way to redress the problem. It would permit the Commonwealth to develop a single administrative records list of all Massachusetts residents, 17-years-old

or older, drawn from all state agencies possessing electronic databases. The information on Massachusetts citizens maintained by the various state agencies would be merged by a computer program to purge the lists of duplicate names, thereby creating a single state-wide list with residential and mailing addresses. It would be a start.

Sadly, credit agencies get real-time information about where our residents live and when they move, while jury officials use resident lists that are months, even years, behind, or voting lists, that underrepresent minorities. The stakes could not be higher. They involve not merely the appearance of fairness, but with an unrepresentative jury, its reality. ☞

Judge Gertner sits on the United States District Court for the Eastern District of Massachusetts.

From the President

continued from page 2

a gender perspective. NAWJ led efforts to conduct reviews in every state of the nation on the treatment of women in the courts and the gender equality of judicial proceedings and rulings. Advocates continued the pioneering work of Justice Ginsburg in developing a jurisprudence of gender equality. And so, from the top, with the appointment of Justice O'Connor to the Supreme Court and throughout the judiciary, down to state trial courts, the impact of women in the judiciary and the consequences to women of judicial proceedings and rulings became the subject of serious study and reform. Women judges and women lawyers formed a common cause in these efforts.

We share Justice O'Connor's clear and firm defense of judicial independence, to be guarded and preserved, not as a shield from criticism and reform, but from the pressures that seek to influence judicial decision-making by the dictates of public opinion rather than law. We admire, and try

to emulate, her tireless efforts to educate the public about the courts and to be a role model—especially for young people. And in our increasingly interconnected world, our judges have followed Justice O'Connor's example, traveling the world to meet with judges and lawyers in other countries to speak about the importance of the rule of law as an essential component of an enduring and fair democracy. For this reason, NAWJ remains steadfastly committed to the International Association of Women Judges of which all NAWJ members are also members.

Following Justice O'Connor's example, our judges sit—as judges do—but the judges of NAWJ do not believe in sitting still when they can be taking concrete steps to further the cause of fair and equitable justice for women, minorities and those who historically have been disfavored.

I spoke earlier about how the time of Justice O'Connor's appointment to the Supreme Court and NAWJ's founding

coincided. The arc of Justice O'Connor's amazing career has spanned an equally amazing transformation in the composition of the courts of the United States. Justice O'Connor's retirement from the Court marks the welcome beginning of an end to an era of firsts, a coming of age for NAWJ and women judges in this country. We now speak not of beginnings but of legacies—but not exclusively, for in some places, in some courts, women have yet to be full participants.

Justice O'Connor's retirement from the Court does not signal an end to her active participation with the issues that she cares so passionately about: judicial independence and the rule of law. We look forward to her continued guidance, her warmth, her friendship.

Some thought last night's Academy Awards was the star-studded event this week, but not in our world. For NAWJ, this was the place to be.

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Independent - Not Isolated

How District 1 and the Massachusetts Caucus of Women Legislators Formed Close and (Hopefully) Lasting Ties

HON. FERNANDE R.V. DUFFLY

"Both legislators and judges have chosen public services as their way to contribute to society. Since our windows on the world sometimes show different views, it is in everyone's interest that we know and learn from each other."

—Rep. Ellen Story

It was just two years ago when a meeting of District 1 Massachusetts convened in the conference room of the temporary quarters of the Appeals Court, to discuss how we might forge better relationships between judges and legislators. We felt that, as the number of attorneys seeking election to the legislature had continued to decrease, there were fewer legislators who had experience with the judiciary; we, likewise, recognized that there was much about the function of the legislature that remained a mystery to many of us. Also, the media had been reporting on a number of legal decisions, both civil and criminal; these reports appeared to promote rather than dispel misunderstanding about the nature of the differing roles of the judicial and legislative branches. Judges were under attack from a number of fronts, and antagonists to judicial independence included some members of the legislature.

Whatever the root cause of this antipathy for judges, or at least for judicial independence, we recognized that a major antidote to the problem would be to decrease our isolation and increase opportunities to meet, and get to know, women in the legislature and to provide venues for them to get to know us. But where and how to begin? Did they even want to get to know us? How could we approach them in a way that would make contact with us seem like a good idea, for both sides? Maryland, we knew, has had a highly successful annual dinner hosted by NAWJ members and women legislators, invitations to which are coveted, but this event had historic roots that we lacked; we decided we had to start smaller.

Pat Flynn, one of the members of what I shall refer to as a committee¹, is a

¹ Among those who have been involved from the beginning were District 1 Director Amy Nechtem, Martha Grace, Karyn Scheier, Judith Fabricant, Pat Flynn, Barbara Lenk, Margaret Feary, Nonnie Burnes, Mary Lou Rup, Gwen Tyre, Patty Bernstein, Cynthia Cohen, and Pat Curtin. Many others have since then



Pictured at left (from left to right): Appeals Court Justice Nan Duffly, Retired Supreme Judicial Court (SJC) Justice Ruth Abrams, Representative Mary Grant (D-Beverly), SJC Chief Justice Margaret Marshall, Representative Ellen Story (D-Amherst), Representative Lida Harkins (D-Needham), Retired District Court Judge Ann Gibbons, Representative Alice Peisch (D-Wellesley), and Representative Marty Walz (D-Boston).

personal friend of Pat McGovern, a former State Senator of considerable stature (who thus has great credibility among her former colleagues); she suggested we invite Senator McGovern to a meeting. Out of this meeting, we developed a strategy (no buttonholing to discuss raises at any events, EVER) and an approach: a small group of us would ask to meet with State Senator Cynthia Creem, a practicing attorney who some of us knew, to share our plans and solicit her support. The meeting in her office was fruitful -- and fun. With Senator Creem's imprimatur and support, we contacted the Massachusetts Caucus of Women Legislators to propose a meeting, at a mutually convenient time and location, where we might discuss further events of mutual interest. Approximately 6-8 legislators and an equal number of NAWJ members met in a private room at a restaurant, for hors d'oeuvres and beverages. It was an enjoyable social event; we introduced ourselves and agreed that we would look for further opportunities to learn more about each other.

As it happened, the Caucus was just in the planning stages with the Commission on the Status of Women of what was to become a semi-annual event — a dinner, participated in various ways to assure the success of these important events, and a number of Massachusetts members have signed up to attend the March 7 round table at the State House and the "Bringing Women to the Table" dinner scheduled for May 3, 2006.

called "Bringing Women to the Table." They were delighted to bring us to that table, and we attended our first dinner in March, 2004, an event that was well attended by 50 or more Caucus members, NAWJ judges, and various women leaders from various branches of state government.

In conversation that developed with the women legislators, we recognized one area of mutual concern was the unique issues that face incarcerated women prison. District 1 and the Caucus co-sponsored a tour of the oldest women's correctional facility in the country, MCI Framingham, where we had dinner and met with Department of Corrections Commissioner, Kathleen Dennehy and Framingham MCI Superintendent, Lynn Bissonette, as well as the heads of the various departments of that facility; this was followed by a tour of the prison and conversations with a number of incarcerated women.

Since that time, we have attended other "Bringing Women to the Table" dinners, co-sponsored a tour of the new home of the Appeals Court, the newly renovated Adams Courthouse, and hosted the reception that followed.

The Caucus has begun planning for an event, to take place March 7, 2006, at the State House, which they have billed: "A Day in the Life of . . . an event for female judges and female legislators to learn about each other's work." I am looking forward to attending, and seeing now familiar and



Over 50 attendees gather to hear remarks at the joint reception of the NAWJ District 1 and Mass. Caucus of Women legislators.

friendly faces. One example of our growing familiarity with each other took place at a dinner early in 2005, when the co-chair of the caucus, Rep. Ellen Story, saw me from across the room, waved and greeted me with an enthusiastic, "Now I know you!" Also at that dinner, another caucus member sought me out to offer suggestions as to how the judiciary might approach the legislature on the subject of raises (she thought we deserved them); I had dinner next to a legislator who gave me insights into a personal point of view she held that I disagreed with, but nevertheless found myself listening to with deep interest.

At the Adams Courthouse reception in December, the women legislators and judges greeted each other with hugs; Ellen and I both spoke of our mutual commitment to making these events a lifetime endeavor to improve understanding, foster respect, and find ways to work together on issues important to both of our groups.

These small steps will, we think, lead to improved communications and thereby to a better understanding of how our different

roles contribute to achieving the same goals. Judicial independence is not advanced by judicial isolation -- as judges, we must be actively involved in the legal and broader community.² We believe that District 1's program to increase communication and mutual understanding between the women on the state legislature and women judges can (and should) be successfully replicated in every NAWJ district, both at the state and

at the federal level, and we encourage our members to plan similar events. The Massachusetts Caucus's website, <http://masswomen.org/Resources/Political.html>, provides links to organizations pertaining to women in government; here is a link to The National Conference of State Legislatures website, which has a link to Women's Caucuses around the country: www.ncsl.org/programs/wln/caucus.htm. Please contact me for more information or support in planning your events. ✉

Judge Duffly sits on the United States District Court for the Eastern District of Massachusetts. She can be reached by e-mail at Fernande.Duffly@appct.state.ma.us.

² Editor's note: See the letter Dru Ramey sent to minority bar associations in conjunction with Judge Duffly's testimony February 11, 2006, at the ABA hearings on the proposed Model Code of Judicial Conduct, at <http://www.nawj.org>.



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Overcoming Bias Against Women Witness

HON. MARJORY D. FIELDS

This article was written for a workshop at the National Crime Victim Bar Association (U.S.A.) annual conference, 20th – 22nd June 2005. The purpose of the workshop was to discuss ways to counter bias against women witnesses testifying in court proceedings.

History

In the beginning there was the 1680-commentary by Matthew Hale: Rape is “an accusation easily to be made, and hard to be proved, and harder to be defended by the party accused tho never so innocent.”¹ Without any scientific basis or social science study to support that statement, it remains part of the mythology of sexual assault prosecutions.²

Rape was unique among crimes in that it was defined as a crime against women only, and the behavior and character of the complainant were the focus of the trial.³ The complainant’s utmost resistance, corroboration of the complainant’s testimony, and the complainant’s prompt complaint were statutory elements of the prosecutor’s case in chief, in addition to forced vaginal penetration.⁴

1 Hale, Matthew, 1 *Historica Placitorum Coronae* 635-36 (Nott and Gosling, London, 1734); [Hale, *The History of the Common Law in England* (Univ Chicago Press, 2003)]; Sheehy, Elizabeth, “Evidence Law and ‘Credibility Testing’ of Women,” 2 *QUTLJ* 157 (2002) [hereafter, “Sheehy”].

2 MacCrimmon, Marilyn, “What Is ‘Common’ About Common Sense?: Cautionary Tales for Travelers Crossing Disciplinary Boundaries,” 22 *Cardozo L Rev* 1433, 1444-50 (2001) [hereafter “MacCrimmon, Common Sense”]; MacCrimmon, M., “Fact Determination: Common Sense Knowledge, Judicial Notice, and Social Science Evidence,” 1 *International Commentary on Evidence* 1 (1998) [hereafter, “MacCrimmon, Fact Determination”].

3 *The Crime of Rape*, United States Department of Justice, Bureau of Justice Statistics (March 1985).

4 Model Penal Code, Part II, 271-439:

Historically, women were excluded from creating the rape laws and the rules of evidence. Male perceptions of women’s credibility⁵ and sexuality, male concerns for their property rights in their wives and daughters, and male wishes to protect their privileges were the bases for the definition and prosecution of the crime of rape.⁶ Rape laws were drafted and enforced in ways that protected the rapist and exacerbated injury to the victim.⁷

The first, comprehensive revision of a rape statute in the United States was enacted in Michigan in 1975. The crime of rape

§§213.1(1); 213.6(4) and (5) (American Law Institute, 1980 edition with Final Comments); New York Penal Law §120 prior to 1979.

5 Bienen, Leigh, “A Question of Credibility: John Henry Wigmore’s Use of Scientific Authority in Section 924a of the Treatise on Evidence,” 19 *Cal Western L Rev* 235 (1983); Kalven & Zeisel, *The American Jury* 39: 70-71; 248-57 (1966); Ploscowe, Morris, *Sex and the Law*, 175 (rev. ed, 1951); Ploscowe, M., “Sex Offenses: The American Legal Context,” 25 *Law and Contemporary Problems* 217, 222-23 (1960); Hibey, R., “The Trial of a Rape Case: An Advocate’s Analysis of Corroboration, Consent, and Character,” 11 *American Criminal L Rev* 309 (1973); Morosco, B.A., *The Prosecution and Defense of Sex Crimes* 4-196-97; 5-143-46; 5-180-81 (1976).

6 MacKinnon, Catherine, “Reflections on Sex Equality Under Law,” *Yale LJ* 1281-1308 (1991); Sheehy, note 1, *supra* at 157-59.

7 LeGrand, C.E., “Rape and Rape Laws: Sexism in Society and Law,” 61 *Cal L Rev* 919 (1973); Robin, G.D., “Forcible Rape, Institutional Sexism in the Criminal Justice System,” 23 *Crime & Delinquency* 136 (1977); Quenneville, K., “Will Rape Ever Be a Crime of the Past? A Feminist View of Societal Factors & Rape Law Reforms,” 9 *Golden Gate ULR* 581 (1979); Schwartz & Clear, “Toward a New Law of Rape,” 26 *Crime & Delinquency* 129 (1980); Marsh, Geist & Caplan, *Rape and the Limits of Law Reform* 1-6 (1982).

was replaced by the gender-neutral crime of “criminal sexual conduct.”⁸ Corroboration of the complainant’s testimony and proof of the complainant’s resistance were excluded by the express provisions of the statute.⁹ Michigan enacted also a rape-shield provision prohibiting inquiry into the complainant’s sexual history, unless the court determines that it is essential to a fair trial.¹⁰

Unfortunately, 30 years of reform legislation and improvement in women’s political, legal, and social positions failed to remove from sex offense cases those ancient requirements based on myths about women and rape.¹¹ We have changed the language but not the substance of criminal and civil court proceedings for sex offenses.¹² The myths persist under the veil of changed laws and gender-neutral language. Overcoming the myths requires that we identify them, the problems they cause, and ways lawyers may respond.

The Myths

“Just because he beats his wife does not mean he is a bad father.”¹³

8 Mich Comp. L Ann. §750.520a - .520c (1975); Estrich, Susan, “Rape,” 95 *Yale LJ* 1087, 1143-48 (1986).

9 Mich Comp L Ann §§750.520h-.520i.

10 *Id.* §750.520j.

11 Sheehy, note 1, *supra* at 157-59; See also, *The Unfinished Agenda: Women in the Legal Profession*, ABA Commission on Women in the Profession (2001).

12 *Women in the Courts: A Work in Progress*, 12-15; 28-29, New York State Judicial Committee on Women in the Courts (2002); “Report of the New York Task Force on Women in the Courts,” 15 *Fordham Urban LJ* 11, 27-63 (1987); Wikler and Schafran, “Learning from the New Jersey Supreme Court Task Force on Women in the Courts,” 12 *Women’s Rights Law Reporter* 315 (1991), on line at <http://womenlaw.stanford.edu/learningfrom-njsc.pdf>.

13 Female judge’s response to my application that father who had been determined after a divorce trial to have

Women provoke domestic violence by nagging.

Women provoke rape by wearing provocative clothing and going to risky places (bars; men's apartments).

Women make false accusations of rape to avoid responsibility for their sexual behavior, and for revenge.

Women and girls imagine they have been raped and make accusations based on fantasies.

The 1980 Commentaries to a proposed United States Model Penal Code stated:

Often the woman's attitude may be deeply ambivalent. She may not want intercourse, may fear it, or may desire it but feel compelled to say "no".... Some have expressed the fear that a woman who subconsciously wanted to have sexual intercourse will later feel guilty and "cry rape."¹⁴

In 1960, Professor Morris Ploscowe, author of Sex and the Law (1951), wrote

Complaints of sex offenses are easily made.... the dangers involved to innocence where the law makes it possible to imprison a man on the uncorroborated testimony of a disturbed child or a spiteful woman outweigh the necessity for obtaining convictions in sex offense cases.¹⁵

These quotations articulate without inhibition what remains "common sense."¹⁶ beaten his wife repeatedly, including in her 8th month of pregnancy, have supervised visits with his child, in 1980.

14 Model Penal Code, Part II, *supra* at 302-03. This proposed Model Penal Code was not enacted.

15 Ploscowe, Morris, "Sex Offenses: The American Legal Context," 25 Law and Contemporary Problems 217, 222-23 (1960).

16 MacCrimmon, Common Sense, note 2, *supra* at 1444-50; 1452-60; MacCrimmon, Fact Determination, note 2, *supra*; Davis, Peggy C., "The Proverbial Woman," 48 The Record 7

I suggest, however, the bias is veiled by gender-neutral language and political-correctness.¹⁷ Hidden gender bias is more difficult to overcome because it is denied. (This is not a criticism of gender-neutral language, which I support.)

Myths Continue to Influence Court Proceedings

Judicial decisions show the tenacity of assumptions about women and our response to violence. For example judges in the United States have held that rapes were "not violent" when the complainants did not suffer physical injury, and imposed light sentences because defendants are executives and caring fathers.¹⁸

As the noted Canadian legal scholar, Elizabeth Sheehy, wrote

Most testimony in court cases, both criminal and civil, relies upon memory, but with the possible exception of challenges to eyewitness testimony, only in the area of sexual assault prosecutions have we seen such an extraordinary effort to undermine the reliability of memory through 'science'.¹⁹

Since 1982, 40 states and seven United States federal court Task Forces on Women in the Courts²⁰ have documented the (The Association of the Bar of the City of New York, 1993).

17 Fair Speech: Gender Neutral Language in the Courts, New York State Judicial Committee on Women in the Courts (undated, about 1989); On the Bench, Judicial Responses to Gender Bias, NYS Jud. Com. on Women in the Courts (1999).

18 Schafran, Lynn H. "Maiming the Soul: Judges, Sentencing and the Myth of the Nonviolent Rape," 20 Fordham Urban LJ 439 (1993); Estrich, Susan, Real Rape 103 (Harvard Univ P, 1987)

19 Sheehy, note 1, *supra* at 158.

20 www.njep.org/history; Wikler and Schafran, "Learning from the New Jersey Supreme Court Task Force on Women in the Courts," 12 Women's Rights Law Reporter 315 (1991), on line at <http://womenlaw.stanford.edu/learningfrom-njsc.pdf>.

pervasive bias against women in the courts. "Women are often denied equal justice," concluded the New York Task Force on Women in the Courts in 1986.²¹

Following the reports of the Task Forces, there is continuing work to implement reforms and monitor institutional change.²² In 2002, the New York State Judicial Committee on Women in the Courts reported that the testimony of rape victims is accorded less credibility than the testimony of victims of other crimes. Often, domestic violence victims are not believed. They are accused of provoking the violence and penalized "for failing to proceed with court cases despite the difficulties and even dangers of pursuing abusers through legal processes." Protection order applications are denied as "merely tactical maneuvers" when matrimonial cases are brought. Frequently, domestic violence is ignored when judges make decisions regarding access to children.²³

The decision of the United States Supreme Court in U.S. v. Morrison²⁴ striking down the civil rights remedy in the Violence Against Women Act shows that women's rights are not civil rights.²⁵ Also, compare the "strict scrutiny" Constitutional standard applied to racial discrimination, Grutter v. Bollinger²⁶, with the "heightened scrutiny" Constitutional standard applied to gender-based discrimination, J.E.B. V. Alabama ex rel. T.B.²⁷

21 "Report of the New York Task Force on Women in the Courts," 15 Fordham Urban LJ 11, 15 (1986-87), for example.

22 Appendix I is a list of state and federal court task forces on women in the courts from the National Judicial Education Project which has hotlinks to each task force and maintains the Gender Bias Task Force Listserv, www.njep@legalmomentum.org, or www.njep.org.
23 Women in the Courts: A Work in Progress 2, 12-13; 15 New York State Judicial Committee on Women in the Courts (2002).

24 529 U.S. 598, 627 (2000).

25 Weissman, Deborah, "Gender-Based Violence As Judicial Anomaly: Between 'The Truly National And The Truly Local,'" 42 Boston College L Rev 1081 (2001).

26 539 US 306 (2003).

27 511 US 127 (1994).

Overcoming the Myths

Expert Testimony

In the U.S., expert testimony is the accepted tool for making judges and jurors aware of social science and medical research that disproves the myths regarding sex crimes and domestic violence. Expert witnesses help triers of fact resist the tendency to rely on stereotypical assumptions in reaching their verdicts.²⁸

Social framework testimony regarding the incidence, demographics, dynamics, and impact of domestic violence is admitted in most U.S. jurisdictions. It may be used to counter popular misconceptions regarding the prevalence of false allegations, "why she stayed," victim provocation, and the behaviors of battered wives and wife beaters.²⁹

In sexual assault cases, testimony recounting sociological and psychological scholarly literature and government data may be introduced to overcome the myths of "normal or proper" victim conduct and reactions, and real rape victims resist and suffer physical injuries, and to document that most rapes are perpetrated by men

known to the victims.³⁰

Mental health evaluations, however, are costly and delay trials. They are unnecessary when there is no issue of mental illness or disorder. The determination of the child's best interests and parental relative fitness should be decided by the court based on the testimony.

Another weakness of clinical mental health evaluations is that mental health professionals rely on self-report by the parties being interviewed. Often, the statements are taken at face value. Collateral sources may not be available to test the impressions created in the interviews.

Abused women may be fearful, anxious, tearful, depressed, or angry during mental health evaluations. Mental health professionals often conclude women who present these feelings are hysterical or vengeful. They do not recognize these feelings are reasonable responses to prolonged abuse and degradation.

By contrast, the abusive spouses may present as calm during clinical assessments. The mental health professional may therefore conclude that abusive partners are stable and the more appropriate parents. This demeanor, however, may be a manipulative veneer or an expression of their sense of power and entitlement.³¹

The current literature on "high-conflict" divorce cases fails to differentiate money disputes from domestic violence cases. There is support for mandatory, court annexed divorce and custody mediation as the way to resolve difficult divorce cases.³²

30 Schafran, Lynne H., "Writing and Reading About Rape: A Primer," *St John's LRev* 979 (1993).

31 Bancroft, Lundy, and Silverman, Jay, *The Batterer as Parent: Addressing the Impact of Domestic Violence on Family Dynamics* (Sage, CA, 2002).

32 Schepard, A. & Bozzomo, J.W., "Efficiency, Therapeutic Justice,

This process places domestic violence victims at risk of continued harm and at a negotiating disadvantage.

Expert witnesses presenting social framework testimony and mental health professionals evaluating or treating the victim of domestic violence or rape have a duty to testify honestly in accordance the ethical guidelines which govern their professions. They may not allow their roles in the movement against violence or their alliances with their clients to interfere with accurate descriptions of the scholarly literature, their clinical observations, and the condition of their clients.

Opening and Closing Statements

Openings and summations can be used to build empathy: help the triers of fact to stand in the shoes of the sexual assault or domestic violence victim. For example, asking them to consider making life changes. Have you ever attempted to stop smoking? Exercise consistently? Lose weight? Wake up earlier? Were these goals difficult to achieve in ordinary circumstances?

Now, imagine changing your entire existence: taking your children and leaving your home and everything in it for an uncertain existence in a time of extreme crisis, with the reasonable fear that the person you are trying to escape will follow you. It is like the aftermath of an earthquake, where you await the after shocks: like the problems faced by the survivors of the tsunami. A domestic violence victim lives with a criminal everyday.

Justice Fields is retired from the New York Supreme Court. She is Special Counsel, Beldock Levine & Hoffman, LLP, New York City, and Special Counsel, International Family Law Chambers, London.

Mediation, and Evaluation," 37 *Family Law Q* 333, 345-49 (Fall 2003).

28 MacCrimmon, Fact Determination, note 2, *supra*, passim; Michelson, M., "Recent Developments, The Admissibility of Expert Testimony on Battering and Its Effects after *Kumho Tire*," 79 *Washington Univ L Quarterly* 367 (2001), discussing admissibility in federal courts.

29 Parrish, Janet, "Trend Analysis: Expert Testimony on Battering and Its Effects in Criminal Cases," 11 *Wis. Women's LJ* 102-27 (1996). The standards for admitting expert testimony, who may be qualified as an expert, how to qualify an expert, and the content of expert testimony will not be discussed because these vary by jurisdiction and are known to the participants in this workshop.



In Memoriam: Constance Baker Motley 1921 - 2005

Judge Constance Baker Motley died September 28, 2005 at the age of 84. As a prominent civil rights

attorney, Judge Motley won nine of the ten cases she argued before the U.S. Supreme Court, including the 1962 case that won James Meredith admission to the University of Mississippi.

Judge Motley earned a BA in Economics from New York University in 1943 and graduated Columbia Law School in 1946.

She was the first black woman elected to the New York State Senate (1964), the first woman president of a Manhattan borough (1965), and the first black woman federal judge (1966). She was appointed chief judge of the U.S. District Court for the Southern District of New York in 1982 and senior judge in 1986.

**Justice Betty Weinberg Ellerin Joins
Alston & Bird's New York Office:
Former NY Appellate Justice Bolsters
Litigation & Trial Capabilities**



**NEW YORK,
February 23, 2006**

— The national law firm of Alston & Bird LLP announced today that Justice Betty Weinberg Ellerin has joined the New York office as Senior Counsel.

Judge Ellerin was the first woman in New York State appointed to the Appellate Division of the Supreme Court – First Department. Subsequently, she was the Presiding Justice of the Appellate Division – First Department. Pursuant to state law, Justice Ellerin retired from the bench on December 31, 2005.

“We are fortunate and honored to welcome such a distinguished jurist whose reputation and record are second to none,” said John F. Cambria of Alston & Bird’s New York office. “Judge Ellerin is a great addition to our growing New York litigation and trial practice.”

“The arrival of Justice Ellerin enhances our state litigation capabilities tremendously, especially in appellate matters,” added Nelson A. Boxer, a partner who joined Alston & Bird’s New York office last May and is a former Assistant United States Attorney in the Southern District of New York. “We look forward to being able to draw on her wealth of knowledge and experience.”

Justice Betty Weinberg Ellerin joins a group of more than 100 attorneys in Alston & Bird’s New York office. The firm has more than 700 attorneys nationwide, of which 300 are litigators. In addition to servicing clients and sharing with her colleagues the benefit of her experience on the bench, the Judge will provide guidance and counsel to younger attorneys.

“I chose Alston & Bird for the superior quality of its attorneys and its impressive litigation practice,” Judge Ellerin said. “I look forward to collaborating with such a great team.”

“We are very pleased Justice Betty Weinberg Ellerin chose our firm to return to private practice,” said Ben Johnson, Alston & Bird’s managing partner. “The Judge blazed many new trails for women attorneys, and our firm appreciates her commitment to the evolution of the legal profession and to public service. We have, in recent years, had distinguished former judges join our firm in Atlanta and renowned former Senators join in Washington, D.C. Judge Ellerin gives us that kind of profile in New York.”

In addition to her more than 20 years as an Appellate Division jurist, Judge Ellerin was the first woman to be appointed Deputy Chief Administrative Judge of the State of New York for the New York City Courts, where she was responsible for the operation of all the trial courts within the City, overseeing hundreds of judges and thousands of non-judicial personnel. Judge Ellerin also previously held the position of Judge-in-charge of the City Part in New York County after serving as a Trial and Calendar Judge in various Supreme Court

parts.

A founding member of a number of New York and national professional organizations, Justice Ellerin is currently Chair of the New York State Judicial Committee on Women in the Courts, and a member of the New York State Advisory Committee on Judicial Ethics since it was established in 1987. She has held numerous leadership positions, including President of the National Association of Women Judges (NAWJ) and is Honorary Director and a founding member of the New York State Women Judges Association, a chapter of NAWJ. She is also a founder and member of the Board of Directors of the Women’s Bar Association of the State of N.Y.

Justice Ellerin, received her B.A., *cum laude*, in 1950 from Washington Square College, New York University, under a combined college-law program where she was elected to Justinian, the Pre-Law Honor Society. She was awarded the Florence Allen Scholarship to the New York University School of Law and received her L.L.B. in 1952. She currently serves as a University Trustee Associate and has been a member of the board since 1996. She is also a past president, and currently a member of the Board of Directors and Executive Committee of the NYU Alumni Association, and an Advisory Board member of the NYU School of Law Center for Research in Crime and Justice.

Judge Ellerin is also involved with Judges and Lawyers Breast Cancer Alert, the Hebrew Immigrant Aid Society, and the American Judicature Society. She also speaks and lectures frequently for CLE and other programs.

**NAWJ Membership—It Takes More
Than A Village**

by Colonel Linda Strite Murnane, USAF, Ret.
Membership Outreach Chair

I remember it like it was yesterday. I was attending my first annual meeting of the American Bar Association, when a member approached me, and said, “Are you a member of the National Association of Women Judges?”

I had never heard of NAWJ until that very moment. It was a watershed moment for me because, at the time, I was one of only two women serving on the trial bench in the entire Air Force. It was a challenging

time, and the opportunity to have other professional trial judges, who also happened to be women, to sound out concerns and issues with was very appealing to me.

That judge who asked me if I was a member just finished serving a year as NAWJ President. Yes, it was Judge Sandra Thompson.

The point of this story is this . . . we have a terrific association, and asking others to join us helps them as much as it helps our association. Had Judge Thompson not just asked me about any interest I might have in joining the NAWJ, the rich experiences I’ve shared would have been lost.

The strength of our organization is its

diverse and extraordinary members. New membership efforts underway include reaching out to administrative law judges, tribal court judges, juvenile and probate court judges, rural court judges, military judges, and other diverse groups to enrich the organization.

To enable new members to become more quickly involved, we are also planning to put them in contact with their District Directors soon after they join.

If you know someone who might be interested in joining NAWJ, ask them. You may be just the person they’ve been waiting to hear from.

***We would like to thank the following
law firms, organizations and individuals
for their generous support of our
March 2006 Gala Reception***

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A Night to

On March 6, NAWJ hosted a Gala Reception at the National Museum of Women in the Arts in Washington DC, honoring retired Associate Supreme Court Justice Sandra Day O'Connor with its first-ever Lifetime Achievement Award. The more than 500 guests in attendance included 14 Board members who traveled from as far as Alaska and California, and 100 NAWJ members who were perfect ambassadors. NAWJ President Judge Vanessa Ruiz and Executive Director Dru Ramey spoke eloquently as they introduced NAWJ. Honored guests included Supreme Court Chief Justice John G. Roberts, Jr. and Justice Ruth Bader Ginsburg, who both shared their thoughts on Justice O'Connor's distinguished career. Judge Brenda Stith Loftin, NAWJ President-Elect, traveled from Missouri to present the first Sandra Day O'Connor Scholarship to a very happy recipient, University of the District of Columbia David A. Clarke School of Law student Candice Owens.



Remember...

Supreme Court of the United States
Washington, D.C. 20543

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR (Ret.)

March 7, 2006

The Honorable Vanessa Ruiz
District of Columbia Court of Appeals
500 Indiana Avenue, NW – 6th Floor
Washington, D.C. 20001

Dear Vanessa,

The reception you and the National Association of Women Judges hosted for me last night was truly special. I was deeply touched by the response and the remarks you made along with our Chief Justice and Justice Ginsburg. I will remember it all with humility and deep appreciation. It is wonderful that a scholarship is now established in my name. The first recipient is a splendid choice.

Please convey my thanks to your Board and all who helped put it on.

Sincerely,

Sandra Day O'Connor
Sandra Day O'Connor



Photos courtesy Washington's Best

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NAWJ's Women In Prison Project

by Hon. Brenda P. Murray
Co-Chair, Women in Prison Project

In early 2005, a friend who knows I am active in NAWJ's Women in Prison Project asked me to assist Nancy Havlik, a choreographer, who wanted to teach creative dance to incarcerated women. Because of NAWJ, I am familiar with the Maryland Correctional Institution for Women (MCIW), Maryland's only women's prison, located between Baltimore and Washington, D.C. MCIW houses some 975 residents. I made a written submission to the Warden who accepted Nancy's offer to conduct a Creative Movement Workshop inside the prison one night a week for eight weeks in March and April 2005. Nancy restricted enrollment to ten to fifteen women so that everyone could receive individual attention. Between eight and twelve women attended each session. People entered the session quietly and sometimes in obvious distress. Nancy's planned activities encouraged people to move together or to react individually to a song or to poetry through speech or action. By the end of the hour, the transformation of the participants was visible. Everyone was smiling and obviously in a better frame

of mind. At the inmates' request, Nancy conducted a second session in September-October 2005. The next session begins on March 8, 2006.

When we met in January 2005, relative to Nancy's workshop, Warden Brenda Shell asked whether NAWJ could organize an educational program for about 200 MCIW residents who are serving sentences of over twenty-five years. These women believe that they receive few programs because the prison's programming is to prepare inmates for release.

On May 31, 2005, Assistant Professor Leigh Goodmark, University of Baltimore School of Law, who volunteered to assist, Warden Shell, and I met with a large number of inmates at Jessup. We devised a program based on the subjects that women wanted information on, such as the Maryland appellate process in criminal cases and post conviction issues; how to conduct legal research; divorce, child custody, support, and visitation; recent and proposed legislation affecting incarcerated persons; and public benefits and educational opportunities for women incarcerated in Maryland.

The objective of the program was to provide resources to the participants in specific areas to enable them to understand

situations or issues confronting them as a result of their incarceration. Hopefully, the classroom times will stimulate individual effort and improve communication and writing skills. The seminar will meet for an hour and a half, once a week for eight weeks in a classroom at MCIW Jessup, Maryland.

This project was possible because of NAWJ's cachet and the speakers' good will and generosity. NAWJ members Judge M. Brooke Murdock and Judge Irma Raker were terrific. The rest of the speakers agreed to participate based on cold calls from me as a volunteer for NAWJ's Women in Prison Project. Law librarians Joan Bellistri and Janet Camillo designed a Power Point presentation and located several law books that they donated to the MCIW library. Only one person who was invited to participate said no.

We will have evaluations from the 30 to 60 women who have attended the sessions, but the feedback with three more sessions to go is positive. Each jurisdiction has different needs; however, it might be that a similar program could be organized elsewhere. I would be glad to assist anyone who wanted to try to do so.

Tell A Friend about NAWJ Today!

<http://www.nawj.org>

Students Join the NAWJ Ranks

by Cristina Silva
Membership and Outreach Committee Student Representative

NAWJ recently added a new membership category: *student*. To date, there are 17 student members, representing law schools including Mississippi College School of Law, Wayne State University, Arizona State University, George Mason University, Georgetown University, American University, West Virginia University, University of Tennessee,

University of Utah, and the University of Louisville.

The new category aims to serve two purposes: mentoring future women leaders in the legal profession and, more importantly, to encourage women to pursue a career on the bench. While women have made great strides in diversifying the bench, it is clear we all know the work is yet to be completed. We hope the new student members will help organize NAWJ judicial education programs in their area, as well as organize networking events for young women to meet and learn from local

judges. The Board of Directors recently discussed the new membership category at the 2006 Mid-Year Meeting in Puerto Rico. The results of that discussion will be available soon.

I am actively working to expand this new and exciting group of members. If you are connected with a Women's Law Association in your area or at your alum institution, or if you would like more information about student membership, please feel free to contact me at cristina.silva@american.edu.

CALENDAR

Check out www.nawj.org for the most up-to-date calendar. If you would like to post events on the NAWJ calendar, please send an e-mail with "NAWJ Calendar Submission" in the subject line to sbrown@nawj.org and include the following information event date, time, title, brief description, contact information, location. Information omitted will delay posting.

April 24

Virginia Chapter Meeting

Williamsburg Marriott, Williamsburg, Virginia.

520 King Street, 2nd Floor, Alexandria, Virginia 22314-3131, vawj20052006@yahoo.com. University of Virginia, Charlottesville, Virginia.

Joan Churchill, at churchil@erols.com. Cosmos Club, 2121 Massachusetts Ave., NW, Washington, District of Columbia.

April 30

District 3 Luncheon

12:00PM

Diamond's Riverside Restaurant, 1140 River Road (Route 29), West Trenton, New Jersey, 609-882-0303. For directions visit www.diamondsriverside.us.

June 13, 2006

District 4 Banquet

6:00PM

District 4 is holding a banquet to honor new and recently elevated women judges and to present the Edna G. Parker Award to Kathleen O'Ferrall Friedman, Associate Judge, Retired, Circuit Court for Baltimore City. The program will include the following panel of judges who will briefly describe early impressions of their respective new roles: Hon. Patricia Wald, retired, International Criminal Tribunal for the former Yugoslavia and former Chief Judge of the U.S. Court of Appeals for the District of Columbia; Hon. Noel A. Kramer, DC Court of Appeals; Hon. Mary Schoelen, U.S. Court of Appeals for Veterans Claims; Hon. Denise Vowell, U.S. Court of Federal Claims and Chief Trial Judge, U.S. Army (ret.); and Hon. Beverly Nash, District of Columbia Office of Admin. Hearings. For more information, please contact District 4 Director, Judge

August 15

Virginia Chapter Meeting

Virginia Beach, Virginia

September 6 - 8

The 32nd NAALJ Annual Meeting and Educational Conference: Building Bridges for Better Administrative Adjudication

8:30AM - 5:00PM (with optional evening activities, including Friday night banquet)

NAWJ is co-sponsoring this conference, which will present speakers and educational topics designed to address the full spectrum of issues facing Administrative Law Judges adjudicating cases in both federal and state jurisdictions. Red Lion Hotel, Seattle, WA. For more information, please contact: Judge J.E.Sullivan, 206-464-6550, sullivan@biia.wa.gov. See story on page 16.

May 2006

Virginia Chapter Meeting

Exact time and date have not been set. Cavalier Hotel, Virginia Beach, Virginia.

May 3-7

IAWJ 8th Biennial Meeting

Sydney, Australia. See story on page 16.

May 11, 12 or 13 (TB)

District 4 Meeting

In conjunction with the U.S. Army new judges graduation. For more information, please contact: Judge Becky Moore, President, Virginia Association of Women Judges, Alexandria General District Court,

October 4 - 8

28th Annual Conference: Remaining Relevant

Las Vegas, Nevada. See story on page 16.

Call for Submissions—July 10, 2006

Please send submissions for *Counterbalance* via e-mail attachment to: Stephanie M. Brown, Program and Publication Assistant, sbrown@nawj.org. Please include "Counterbalance" in the subject line. Before submitting, please review the following guidelines:

1. You may attach either a Word or WordPerfect document, or include the text in the body of your e-mail. You may attach photos along with the document. Larger file sizes may require more than one e-mail. See guidance on photos below.
2. Please submit complete articles. If you have information from some other source (article, newsletter, Web site, etc.) that you want included, please place that information in your article rather than attaching it to your e-mail and making references to it.
3. If you have photos you would like to accompany your submission, please attach the photo file (.JPG, .GIF, .BMP, etc.) and include a brief caption alongside the filename (e.g., image1.jpg – Jack with pail of water).
4. Copyright restrictions do apply even though we are a non-profit organization. We cannot reproduce articles from newspapers or Web sites unless you own the rights or have been granted reprint permission. If you just want to include a summary from the source, please write and submit it as you would an article you had written yourself.

IAWJ's 8th Biennial Conference
"An Independent Judiciary: Culture, Religion, Gender and Politics"
May 3-7, 2006
Sydney, Australia

The independence of the judiciary, which is the overall theme of this Conference, is a highly topical one. Judicial independence is fundamental to all free and democratic societies. Yet it is under increasing threat over recent years, and not only in developing countries. This Conference will explore how those threats can be met and will discuss many other aspects of judicial independence, with particular emphasis on gender and cultural issues

As always, women from all over the world will be attending, and the Conference promises to be yet another exciting, stimulating and informative IAWJ event. We hope the conference will provide an opportunity for members of the IAWJ to meet each other, to build friendships, and to contribute to an enlightened Judiciary.

To get more information on the Sydney



Conference, please visit the IAWJ website, www.iawj.org.

We look forward to seeing you in Sydney!

NEW! - 2006 NAWJ and NAALJ Co-Sponsored Educational Conference!

This year, for the first time, NAWJ is co-sponsoring the 2006 National Educational Conference for the National Assn of Administrative Law Judges (NAALJ). "Building Bridges for Better Administrative Adjudication" is the theme of this conference, which is designed to address the full spectrum of issues facing Administrative Law Judges adjudicating cases in both federal and state jurisdictions. Educational panels will include NAWJ Administrative Law Judges (federal and state), NAWJ State Court Judges, Law Professors, and other distinguished faculty. NAWJ is also sponsoring a reception and providing a \$1000 scholarship to a local law student.

This NAALJ/NAWJ co-sponsored conference will be held in scenic downtown Seattle, WA from Wed. 9/6/06 through Fri. 9/8/06. The program will include topics on gender and justice, genetic discrimination, new technology in the courtroom, judicial safety issues, the effective use of interpreters, administrative career building,

ADR, mediation, special education adjudication, administrative agency management and mentoring, internet legal research, unemployment insurance, and more. A detailed program for the three-day conference will be available in late March 2006, and will be posted on both the NAWJ and NAALJ web sites. For immediate information, please visit the NAALJ's Washington state chapter website at www.walja.org.

The total cost for the three-day educational conference (including dinner banquet) will be between \$400 - \$450, with special discounts for early registration and/or NAWJ membership. In addition, the conference will be held at the Red Lion Hotel, which is located in the heart of downtown Seattle. The Red Lion is a first-class hotel, with plenty of amenities and services, a beautiful outdoor terrace and lounge, and within walking distance of tourist destinations (e.g., Pike Place Market, Pioneer Square, the Seattle Art Museum, etc.). The conference room rate for the Red Lion Hotel is \$119.00 per night (a great deal!). CLE credits will be available.

NAWJ Contact: Judge J.E.Sullivan, 206-464-6550, sullivan@biia.wa.gov.

NAALJ Contact: Judge Brian Watkins, 360-753-3566, e-mail: bwatk@oah.wa.gov.

Viva Las Vegas!

by Hon. Miriam Shearing

Don't miss the 28th Annual NAWJ Conference on October 4 - 8, 2006. This year's conference will take place at the Rio All-Suites Hotel in Las Vegas, Nevada. The hotel has great rooms and facilities and has a convenient shuttle to the Las Vegas Strip. Be sure to make your reservations as soon as possible as we expect a large turnout. We may have to see if we can negotiate for more rooms at the current conference rate.

Our theme is "Justice Perceived and Achieved." We will look at how the judiciary can remain relevant in the face of increasing caseloads, private judging and increased expectations from the public. We will also examine how individual judges can remain relevant in the face of job stress

and increased demands.

We have an exciting program planned with superstar speakers and panels, as well as entertaining programs. We will have a dramatic presentation on the internment of the Japanese during World War II followed by a discussion regarding freedom versus security. We'll have judges who were in war zones telling of their experiences, including one former military judge who is now representing a Guantanamo detainee. We will have the United States Supreme Court expert Erwin Chemerinsky reviewing opinions and prognosticating on the future.

We will have mental health experts to talk about how to stay healthy in a stressful job. We will also learn from the experts the effect of drugs on the brain, and have how-to programs on mediation, on dealing with the media, and on judicial writing and

opportunities for judges after retirement. We'll have a panel on Title IX with panelists involved in its enforcement. We'll learn about workplace bullying and what we as judges communicate on and off the bench to the attorneys, the litigants and the public, sometimes intentionally, sometimes not. That's just the start. We'll let you know when we get other confirmations.

Those are some of the program highlights, but we also want to make sure you have a good time. We're working on getting tickets to various shows, a tour of an artist's studio, a trip to beautiful Red Rock Canyon, and golfing opportunities for members and their guests. And we're planning a big gala for Saturday night.

You really don't want to miss this one. We're looking forward to welcoming you!

NAWJ 28th Annual Conference
“JUSTICE PERCEIVED AND ACHIEVED”
RIO ALL-SUITES HOTEL - LAS VEGAS, NEVADA
October 4 - 8, 2006

Registration Form

LODGING: Rooms at the Rio All Suite Hotel & Casino have been guaranteed at the rate of \$175.00 plus tax, single or double occupancy. This rate is available from October 1 through October 10. For reservations, call 1-888-746-6955. State that you are with the National Association of Women Judges conference (#S10NAW6). Reservations must be made on or before September 19, 2006, to guarantee the conference rate (subject to availability).

TO REGISTER, please provide the following information:

Name _____

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

Title _____

Address _____

City _____ State _____ Zip Code _____ Country _____

E-mail: _____ Telephone: _____ FAX _____

Name of Guest (if applicable): _____

Do you require vegetarian meals? Self: _____ Guest: _____

Do you require specific aids or services? Audio: _____ Visual: _____ Mobile: _____

Please specify any requests: _____

Please enter any additional information here: _____

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.

REGISTRATION DEADLINE AND LATE REGISTRATION: Registration forms postmarked or submitted electronically after the registration deadline of September 3, 2006, must include a \$50 late registration fee.

CANCELLATION POLICY: If notice of cancellation is received after September 15, 2006, the registration fee, less a \$75 processing fee, is refundable. Cancellations received within 5 days of the conference are non refundable.

Number of people attending conference:

NAWJ Members	\$450	_____
First Time Attendee (members only)	\$400	_____
Spouse/Guest	\$400	_____
Non-Members	\$475	_____

Registration Fee Total: \$ _____

Credit Card: ___ American Express ___ VISA ___ Mastercard

Cardholder Name _____

Card Number _____

Expiration Date _____

Security Code* _____

* 3 or 4 numbers on the front of AMEX cards and on the back of MC/VISA

Please make checks payable to NAWJ – Las Vegas and mail your check and printed form to:

National Association of Women Judges
Las Vegas Conference
10300 W. Charleston, Ste. 13-370
Las Vegas, NV 89135

Albany Getaway, Color of Justice, and More...

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DISTRICT 2

Albany Getaway: Regional Conference in New York

by Hon. Terry Jane Ruderman

The New York State Association of Women Judges held its first regional conference in Albany on September 15-16, 2005. **Judge Terry Ruderman**, President of the Association, and **Judges La Tia Martin, Renee Forgensi Minarik, Judith Hard, Linda Jamieson, E. Jeanette Ogden and Leslie E. Stein** were on the Host Committee. The assembled judges attended a program entitled "Exploring the Legal Implications for Vulnerable Populations of New Genetic Advances."

Professors Glen McGee (Albany Medical College), Jennifer Rosato (Brooklyn Law School) and Mark Rothstein (University of Louisville School of Medicine) addressed the evolving legal doctrine in a number of areas including family, tort, and discrimination law. The presentations integrated developing genetic advances and relevant bioethical perspectives. After the program, the judges attended a reception at the Court of Appeals.

Chief Judge Judith S. Kaye addressed the group and provided tours of the newly renovated courthouse along with **Judges Carmen B. Ciparick, Victoria A. Graffeo, and Susan Phillips Read**. The second day of the conference was held at the Court of Claims in Albany. Included in the program was a historical perspective of the New York State Association of Women Judges. Additional conferences are planned for the future.

DISTRICT 3

Judge Isabel Stark is the **Program Chair for District 3**. She is busy planning a luncheon meeting of all District 3 judges and women attorneys. **New Jersey Chief**

Justice Deborah Poritz has confirmed attendance and will be our keynote speaker; her mandatory retirement is in 2006. We will also honor **Philadelphia Justice Newman** who was recently re-elected and hope she can attend. If you know of any Justices in Delaware or the Virgin Islands whom we should honor, please inform Judge Stark by phone at 201-527-2685 or email at Isabel.stark@judiciary.state.nj.us. This forum is also a recruitment for new members.

NJ will host a Holiday Party at the NJ Historical Society in Newark on December 22 from 5 – 7 pm. DE's party will be on December 27 at Judge Peggy Ableman's home from 6-8 pm.

At the District 3 meeting held in Houston, we voted to support a Workplace Bullying program at next year's annual convention and will be making a formal proposal to the program committee. In preparation for that, we are planning to hold a **District 3 Program on Workplace Bullying scheduled for Tuesday, April 4, 2006 at the NJ State Bar Association Law Center in New Brunswick, NJ**. The reception begins at 5:30 pm and the panel discussion will be from 6:00 to 8:00 pm. This program will be opened to all attorneys and the public. Applications for a \$7,500 grant from the NJ State Bar Foundation and a \$1,000 grant from NAWJ are being made. NJSBF has been at the forefront implementing programs on teasing and bullying in the schools. NJSBF has videos and literature available for schools and other groups, even before the recent law mandating all schools in NJ implement anti-bullying policies.

Nationally recognized authorities and local authorities will be discussing the emerging awareness of the phenomenon of psychological violence in the workplace, the existing laws that protect some of the workers and proposals to ensure a healthy workplace for all. Workplace bullying has

been defined as the repeated mistreatment of one employee targeted by one or more employees with a malicious mix of humiliation, intimidation and sabotage of performance. It is a more general type of harassment that crosses gender, race and age boundaries and affects one in six workers directly. It affects the health of the targeted individuals resulting in debilitating anxiety, depression, and post-traumatic stress disorder in addition to career setbacks. It affects the employers' bottom line due to turnover, loss of the best and brightest, sabotage and resentment of the victim, higher workers compensation costs and vicarious legal liability.

U.S. anti-bullying movement pioneers **Ruth Namie, Ph.D.** and **Gary Namie, Ph.D.**, co-founders of the Workplace Bullying and Trauma Institute, Bellingham, Washington, will address the profiles of bullies and targets and the employers' response. See www.bullyinginstitute.org. David Yamada, Esq., Professor of Law, Suffolk Law School, Boston, the author of "Healthy Workplace Bill" and the 2004 Symposium Editor of "Workplace Bullying" will speak on the legal and legislative response. See www.law.suffolk.edu. Frank Vespa-Papaleo, Esq., Director of the NJ Division on Civil Rights will discuss the bullying cases filed with the Division on Civil Rights. Judge Sue Pai Yang, Judge will discuss bullying claims filed in the workers' compensation courts. Leisa-Anne Smith, Esq., Director of Conflict Resolution and the Teasing and Bullying Program will discuss her pioneering work through the NJ State Bar Foundation, in implementing anti-bullying programs in the schools. See www.NJSBF.org.

Seton Hall Law School in Newark will host the program for law students and the public on Wednesday, April 5, 2006 from 4-6 pm. Rutgers Law School in Newark will host the program with ICLE credits on April 5, 2006 from 6:30 to 8:30 pm for law students and attorneys. Gary Namie, Ph.D. and Ruth Namie, Ph.D., co-founders of the Bullying and Trauma Institute of Washington State are also available to speak on Thursday, April 6, 2006 in your area if you know of a group interested in this topic.

DISTRICT 4

Fairfax County and Maryland Host "Color of Justice" Programs

On June 18, 2004, at the Virginia State Bar Annual Meeting. The Fairfax County Color of Justice Program was recognized by an Award of Merit from the Conference of Local Bar Associations of the Virginia State Bar. The Award of Merit is "designed to recognize outstanding projects and programs of local bar associations; share successful programming ideas and resources with all bar associations; encourage greater service to the bench, bar and public; and inform the public about some of the excellent work of local bars and the legal profession in general."¹ The Color of Justice Program curriculum was created by the National Association of Women Judges. The presentation of the Program in Fairfax County was a collaborative effort of the Young Lawyers Section of the Fairfax Bar Association, the VAWJ, the Asian American Bar Association, the Northern Virginia Black Attorneys Association, the Northern Virginia Chapter of the Virginia Women Attorneys Association and the Fairfax County Public Schools' College Partnership Program.

On May 5, 2005, **Judge Marielsa A. Bernard** hosted a luncheon for 20 middle school girls from Redland Middle School, located in Gaithersburg, Maryland. All of the girls were students in the English as a Second Language Program. Most of the girls were from Central and South America and a few were from Africa and Haiti. An abbreviated version of "The Color of Justice" was played and Judge Bernard answered the many questions of the girls. The girls wanted information on law and related fields. Prior to the luncheon, the girls observed some matters in the District



Court as well as participated in a question and answer session with Administrative Judge Cornelius Vaughney. They also observed juvenile proceedings in the Circuit Court before Judge Bernard. The girls sent thank-you letters outlining how much they enjoyed the program, which will be repeated this year.

DISTRICT 9

In September 2005, three of Wisconsin NAWJ members, **Wisconsin Supreme Court Justice Ann Walsh Bradley and Judges Mel Flanagan and Maxine A. White of the Milwaukee County Circuit Court**, joined a group of 20 U.S. judges chosen to attend the first Sir Richard May Seminar on International Law & International Courts in The Hague, Netherlands.

The seminar was sponsored by the International Judicial Academy, the Open Society Justice Initiative, and the American Society of International Law. The program featured lectures by international jurists, including prominent members of the International Court of Justice, the International Criminal Court, and the International Criminal Tribunal for the former Yugoslavia. Among the highlights of the program, which were many, was the opportunity to observe the Court in session and to meet with prosecutors, administrators and embassy officials.

DISTRICT 14

District 14 honored former NAWJ president Hon. Sandra Thompson with a \$600 gift to NAWJ at the 2005 Annual Conference in Houston. District members thanked Judge Thompson for being "a shining light – a warm and dynamic leader who has embraced our membership, furthered our goals, and guided us forward toward greater achievement." They were "particularly proud of [her] magnificent outreach efforts, which have resulted in new and enthusiastic members, and have established a new high standard for NAWJ leadership."

The Color of Success

Kentucky Holds Its First "Color of Justice" Program

By COLONEL LINDA STRITE MURNANE, USAF, RET.

The University of Louisville Brandeis Law School served as the site of the first "Color of Justice" program presented in the Commonwealth of Kentucky. Approximately 50 students and 24 faculty members participated in the half day program held on October 29, 2005.

The program was presented by NAWJ member, Colonel Linda Strite Murnane, with the cooperation of the Kentucky Commission on Human Rights. Panel members included three of Kentucky's nine judges of color.

The Chair of the Kentucky Commission on Human Rights, Priscilla Johnson, opened the program, outlining the stark realities in Kentucky regarding the numbers of minorities in the field of law and on the bench. Only two per cent of the State's bar membership is African American. Chair Johnson is also the Manager of the Minority Affairs Office for the Administrative Office of the Courts in Kentucky.

The panel members included minority law students from both the University of Louisville Brandeis Law School and the University of Kentucky. The participants told compelling stories of the challenges they had overcome to reach the law school path.

During the program, Andrewnetta Boyd, a student at the University of Louisville Brandeis Law School, was awarded an Equal Access to Justice Scholarship by NAWJ. Ms Boyd, a third year student at the University of Louisville Brandeis Law

School, had served in the military before returning to school. She received the award based upon the work she has done as a law student to improve access to justice for all.

Students from Central High School, an urban Louisville public school, were joined by members of DuValle Education Center, the Young Black Achievers, the Lincoln Foundation, and the Mayor's Youth Development Council, reaching nearly 50 students. In addition to Judges Toni Stringer and Denise Clayton, and Judge William McNulty, Jr., the panel included State Senator Gerald Neal and Metro-Louisville National Bar Association President Kenneth Brown.

Other panel members included Kentucky Commission on Human Rights Commissioner Denise Payne Wade, whose daughter, Melissa, also served as a law student panel member. Commissioner Deborah Kent and Commissioner Henry Curtis, also with the Kentucky Commission on Human Rights, also participated as panelists, as did the agency's Managing Attorney, Morgan Ransdell and Staff Attorney, Emily Riggs Hartlage.

The professional panel members represented a wide variety of legal practices, including: city and state government, human and civil rights, private and corporate practice, public interest law, and legal education.

Participants received mementos from the event provided by the National Association of Women Judges and by the Kentucky



Colonel Murnane, Senator Gerald Neal, NAWJ Equal Justice Scholarship recipient Andrewnetta Boyd, Dean Ensign of the University of Louisville Brandeis Law School and former U of L Law School Dean Laura Rothstein.

Commission on Human Rights. Lunches were provided to the participants through an NAWJ grant. Kentucky Commission on Human Rights Executive Staff Advisor, Cynthia Fox, coordinated the event, assembled the panel members and worked liaison with the law school. Former Dean of the University of Louisville Brandeis Law School, Laura Rothstein, was instrumental in making the day a resounding success.

A second "Color of Justice" program is being planned for the University of Kentucky Law School in Lexington. District 8 has agreed to provide funding for this event. An unexpected result of the success of the program, held October 29th in Louisville, was that someone sent a news clipping from the Louisville paper, which gave extensive coverage to the event, to a law student at the University of Charleston Law School. They now have scheduled a "Color of Justice" program, to be sponsored by District 5, on 1 April. Linda Murnane is planning to be at the Charleston Law School event to assist Balsa law student Chisa Putnam, who has been the driving force behind bringing the program together. The South Carolina Human Relations Commission has also indicated they will assist with this program.



Senator Gerald Neal and Mr. Guttman, the Government and Civics teacher pictured here with students from Central High School who attended the Color of Justice Program at the University of Louisville Brandeis Law School.

If you would like to host a "Color of Justice" program in your district, you can download the program manual from our Web site.

Just go to <http://www.nawj.org> and click on "Education."

AWARDS & RECOGNITION

Judge Friedman Wins Edna G. Parker Award

The 2005 Edna G. Parker Award Committee unanimously selected the Honorable Kathleen O'Ferrall Friedman, Associate Judge, Retired, Circuit Court for Baltimore County to receive the Edna G. Parker Award.



In making its decision, the Committee recognized the enormous contributions Judge Friedman has made to NAWJ and District 4. Her outstanding achievements and accomplishments reflect the ideals embodied in the spirit and legacy of Edna G. Parker and the Committee takes great pride in selecting her to receive this award. As one who knew Judge Parker and who remembers her loyalty and commitment to NAWJ and District 4, I believe that she would celebrate and applaud the selection of Judge Friedman to receive this award named in her honor.

Herein, we merely highlight Judge Friedman's lengthy history of commitment and service to NAWJ, District 4 and her community. Judge Friedman joined NAWJ in 1987, following her appointment to the Bench in 1985. Judge Friedman is a lifetime member of NAWJ and since 1987 she has attended 14 National Conferences. Over the years she has been a force, actively recruiting members for NAWJ and District 4, Maryland Chapter. When I was District 4 Director, Judge Friedman, as president of the Maryland Chapter, conceived of and chaired the first District 4 Spring Conference in Annapolis, MD. In 2003, Judge Friedman volunteered to be chair of the education committee for the NAWJ 25th Anniversary Conference and her efforts resulted in outstanding educational programs.

Her interest in the plight of women offenders is legendary. She has served as a member of the Women Offenders Task Force. She is a former member of the Advisory Council for Girl Scouts Beyond Bars and now serves on an advisory council

for Bridges Beyond Bars which provides scouting for daughters of incarcerated women in pre-release.

Nationally, Judge Friedman has served as vice-chair and subsequently as chair of the Resolutions Committee and as a member of the Project Development Committee. In 2004, NAWJ President Carolyn Temin appointed Judge Friedman to chair the Regional Conference Exploration Committee.

The Committee recommended a two-year pilot project to test the viability of regional conferences. The first regional conference was held this year in Chicago.

Judge Schneider Wins Torchbearer Award

Judge Diane K. Schneider was awarded the Indiana Commission for Women Torchbearer Award for Advocacy on Friday, January 20, 2006. This award recognizes her outstanding contributions in the areas of law and volunteerism. Judge Schneider serves as the Presiding Judge for the Lake Superior Court in Hammond, Indiana.

NAWJ Member Recently Elevated To Chief Judge and To Receive Mentor Award

NAWJ member and Chief Judge of the 47-member Milwaukee Circuit Court, Kitty Brennan, is being honored on February 23, 2006 by Tempo Milwaukee with its 2006 Mentor Award. Judge Brennan is the first woman to serve as the Chief Judge of the Milwaukee Court system.

TEMPO-Milwaukee is an organization of professional women. It serves both its diverse membership and the community through educational programs, networking opportunities, relationship building and mentoring, while promoting the goal of empowering women to achieve and sustain leadership roles within the political, educational and corporate arenas. For over 15 years Tempo has presented this award



to recognize outstanding men and women in the community and to raise money for scholarships for women.

Judge Brennan was selected because of her long-standing record of supporting the careers of attorneys, fellow judges, and court staff. She is also being recognized because of her successful leadership of the court system through a very difficult budget process and her unwavering commitment to public service and the community.

Other Awards

Judge Julia B. Weatherly (Circuit Court for Prince George's County, MD) was selected as the 2005 recipient of the Beverly Groner Family Law Award by the Maryland State Bar Association Family Law Section Council.

Judge Deboarah Sweet Eyler, (Court of Special Appeals), Judge Karen Murphy Jensen, (Circuit Court for Caroline County), and Judge Cathy Hollenberg Serrette (Circuit Court for Prince George's County) were honored by Maryland's Pro Bono Resource Center for extraordinary pro bono service and dedication to ensuring equal access to justice.

Judge Jeannie J. Hong (District Court of Maryland in Baltimore) received the Trailblazer Award from the National Asian Pacific American Bar Association for outstanding achievement, commitment and leadership.

Judge Nancy Davis-Loomis (Circuit Court for Anne Arundel County) received the Fanny Lou Hamer Award from the Anne Arundel County's Dr. Martin Luther King, Jr. Awards Dinner Committee.

Judge Kathleen O'Ferrall Friedman (retired Circuit Court) was elected to chair the College of Notre Dame's Board of Trustees.

NAWJ Member Featured in Airline Magazine

NAWJ member Milwaukee County

Circuit Court judge Maxine Aldridge White is among six women featured in the Business Section of the February 2006 edition of the in-flight magazine GO, which is published on behalf of AirTran Airways by Ink Publishing in New York. The excerpts about these six women were chosen from their stories which were in the 2005 book by Joanne Gordon titled "Be Happy at Work: 100 Women Who Love Their Work and Why" which included their stories. The GO article and photo display describes them as "Six successful women [who] reveal the key to lasting happiness at work. (Clue: It's not about power, money or fame...)." Judge White is highlighted as one who has found success in serving the public.

AirTran Airways is one of America's largest low-fare airlines with over 500 flights day to more than 40 destinations. GO reaches about 1.5 million passengers per month – half of whom are business travelers. The magazine contents includes special features on a variety of subjects, product information, vacation ideas and an extensive business section.

PROMOTIONS

Michelle McGovern, administrative law

judge for the State of Iowa, was recently elected treasurer of the Dallas County, Iowa, Bar Association.

Mary Pat Gunderson and Heather Dickinson of Des Moines were recently appointed magistrates for the Fifth Judicial District of Iowa. Gunderson is a former Assistant Polk County Attorney and Secretary of the Iowa State Senate. Dickinson also served as an Assistant Polk County Attorney, and has had a private practice focusing on juvenile law.

RETIREMENTS

Chief Justice Kathleen A. Blatz recently retired after nine years of distinguished service on Minnesota's highest court, including eight years as chief. Blatz is noted for her idealism and leadership skills in guiding Minnesota courts through state funding and transformation of its governing structure. Blatz has been a strong advocate and champion for children's rights and in effectuating equal access to the courts. The Minnesota Supreme Court will continue to have two women justices in office –



Associate Justice Helen Meyer, appointed in 2003 and newly appointed Associate Justice Lorie Gildea, a former judge on the district court bench. Gov. Tim Pawlenty, observed "we picked the best people, but it was a consideration that we have a court that doesn't go backwards [in diversity]". Former Associate Justice Russell A. Anderson was named as successor Chief. Other appointments to the Minnesota bench include: Renee Worke, Court of Appeals; District Court Judges: Diane Alshouse, Lisa Borgen, Susan Burke, Barbara Hanson, Michelle Larkin, Kathleen Mottl, Jeannice Reding, and Shari Schluchter.

ACCOLADES

Judge Janice Law, Houston, is the author of *Sex Appealed: Was the U.S. Supreme Court Fooled?* a non-fiction narrative of sex, jealousy, betrayal, politics ambition and murder, a behind-the-scenes look at the landmark *Lawrence v. Texas* case. *Sex Appealed* was chosen by the National Press Club for its annual Book & Author Night in November in Washington, D.C. Judge Law is invited as a Guest Author for the April 7-8 Southern Kentucky Festival of Books, customarily attended by 10,000. Preview on www.judgejanicelaw.com.

Welcome New NAWJ Members! June 2005 - February 2006

Hon. Jody Adams	Hon. Teresa J. Davenport	Ms. Cesely Marie Hopper	Hon. Margaret Murphy	Mr. William Skyrn
Hon. John Adams	Ms. Joline Davis	Ms. Echo Hunt	Hon. Gladys M. Oakley	Hon. Ruby Kless Sondock
Hon. Krystal Alves	Hon. Robin Jean Davis	Hon. Pamela Lee Iles	Hon. Beverly Reid O'Connell	Hon. Christine Sproat
Ms. Sharon Kay Barker	Hon. Mira Dean-Armorer	Ms. Karen G. Johnson-McKewan	Hon. Eileen A. Olds	Ms. Bonnie Steingart
Hon. Patricia Martin Bishop	Hon. Rebecca L. Dickinson	Hon. Judith Jones	Hon. Susan Lynn Orth	Ms. Martha Tanner
Hon. Penny Blackwell	Hon. Ellar Duff	Ms. Christine Nicolaides Kearns	Hon. Adoralida Padilla	Hon. Arabella Wattles Teal
Ms. Andrewnetta M. Boyd	Hon. Sarah B. Duncan	Hon. Joan F. Kessler	Ms. Charlotte Ann Peller	Hon. Amrika Tiwary-Reddy
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Hon. Joan Cassimir	Hon. Carol Gobin	Hon. Virginia L. Linder	Hon. Norene Redmond	Hon. Paula Weekes
Hon. Celia Foy Castillo	Hon. Cheryl J. Gonzales	Hon. Terrie Livingston	Hon. Penny Roberts	Ms. Diana L. Weiss
Hon. Cheryl D. Cesario	Hon. Pamela L. Grizzle	Hon. Mary Margaret Lloyd	Hon. Jesse I. Rodriguez	Hon. Judith G. Wells
Ms. Carrie Ann Chelton	Ms. Linda L. Harris	Hon. Rebecca Macbeth	Hon. Gwen Rooks	Ms. Alyssa Williams
Ms. Miranda Chirsty	Hon. Carol Hattrup	Ms. Linda M. Marino	Ms. Lori Schechter	Hon. Maxanne Witkin
Hon. Lisa Chung	Hon. Margaret Hayden	Ms. Juli Wilson Marshall	Hon. Susan D. Sheppard	Hon. Carol Wood
Hon. Kay B. Cobb	Hon. Elizabeth Hendrickson	Hon. Carolyn B. McHugh	Hon. Barbara Ellen Shestko	Hon. Alice York-Soo Hon
Ms. Leslie Cohen	Hon. Christina L. Hill	Hon. Barbara Jean Mobley	Hon. Karen G. Shields	Hon. D. Zeke Zeidler
Hon. Susan S. Danoff	Hon. Marcia P. Hirsch	Hon. Carol Moore	Ms. Stephanie Powers Skaff	

Off to the New Frontier - Houston 2005
by Hon. Bea Ann Smith

In October 2005, NAWJ headed to the "New Frontier" in Houston for our 27th annual conference. And it really is true: things are bigger and better in Texas! Chair Wanda Fowler put together an exciting and well-run conference, while Justice Kem Frost assembled one of our richest and most challenging educational programs ever. On the first day, the Alley Theater players' dramatic presentation of the play, "The Exonerated," was followed by a stirring discussion of the death penalty. On the second day, a "Hail to the Chiefs" luncheon paid tribute to NAWJ members who have served as chiefs of their various courts, and the Hon. Deanell Reece Tacha, Chief Judge of the U. S. Court of Appeals for the 10th Cir. gave inspirational remarks. The Friday night reception took place in the studio of sculptor David Addicks, amidst large sculpted busts of U.S. Presidents, with good jazz, good food, and a tribute

to retiring Justice Betty Weinberg Ellerin from New York.

At the Gala Awards Banquet, our Honoree of the Year was Carolyn King, Chief Judge of the U. S. Court of Appeals for the 5th Circuit. Hon. Judy Chirlin was the recipient of the Mattie Belle Davis Award, Hon. Brenda Stith Lofton received a special award from President Sandra Thompson, and Michael Goodman of J.G.Wentworth received the Florence K. Murray Award for his long service on our Resource Board.

Some judges loved the chance to visit a rodeo, while others threatened to protest on behalf of the little goat who got roped again and again. But all enjoyed the Waltz Across Texas Buffet at the historic George Ranch, and some came away with NAWJ brands to prove they had been to a ranch. And what great western costumes showed up for the evening—Jeff Groton wooed all of us with his black hat and leather chaps.

On Sunday morning, out-going President Sandra Thompson passed the

gavel to incoming President Vanessa Ruiz, who began her term of office with challenging remarks, and a new board meeting.

In between all this gaiety, members attended excellent educational presentations in the best tradition of NAWJ conferences: sessions on economic and demographic changes and their effects on our legal system, religious liberty, images of women judges as portrayed on the silver screen, media coverage of celebrity trials, and rulings on evidence in a high-tech world. This year we added special sessions for administrative law judges and military judges and welcomed new attendees in both areas. Special excursions took our judges to the Johnson Space Center, to a production of Chicago, to a new high-tech court building supervised by Judge Elizabeth Ray in Houston, and of course shopping.

If you could not join us in Houston, don't miss out on the fun at the 28th annual conference in Las Vegas, October 2006!





Counterbalance

National Association of Women Judges
1112 16th St, NW Suite 520
Washington DC 20036

NAWJ Membership Application and Update Form

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