



Judicial Advisory Committee

2001 Annual Report

By Kenneth C. Mennemeier, Chair

The Judicial Advisory Committee (“JAC”) was established in 1997 as an outgrowth of the “Biden Committee,” which had been established pursuant to the Civil Justice Reform Act. The CJRA expired in 1997. The Court had found the Biden Committee’s contributions to the Court had been valuable, so the Court created the JAC as a forum that brings together representatives of the various entities and organizations that have an interest in the federal courts’ work. These are the highlights from the JAC and some of its constituent entities during the past year:

1. Historical Society of the United States District Court for the Eastern District of California

In September 2000, Chief Judge William B. Shubb invited various people to join him to discuss the possibility of creating a Historical Society for the Eastern District of California. In extending that invitation, Judge Shubb perceived the need for an organization that would preserve the Court’s history. As things stood nothing was being done. Opportunities to take the oral histories of Judges MacBride, Price, and Wilkins had been lost, and important Court papers and artifacts, such as thirty years of Judge MacBride’s handwritten trial notes, had been only loosely preserved and collected.

Present at that first meeting were Chief Judge William B. Shubb, Courtney Linn, Dick Nichols, Mead Kibbey, Cliff Tedmon, Mike Vitiello, Donna Korotie and Ann Schwing. Meetings followed and others joined the discussions: Jack Wagner, the Clerk of the Court, Sharon Sandeen, Andrea Miller and Pat Sandlin, the Deputy Clerk of the Court. Those meetings led, in February 2001, to the creation of the Historical Society as a nonprofit public benefit corporation.

The Historical Society exists for two purposes: (1) to preserve the history of the District Court, through the taking of oral histories, and preservation of documents, etc; and (2) to publish articles, newsletters, books and other materials on topics of historical significance to the District Court. Shortly after its formation, the Board of Directors authorized the Historical Society to recruit charter members. Thus far, the Historical Society has eighty-six charter members.

To learn more about the Historical Society and how you can become involved, visit the Society's website at www.courthistory.com.

2. Federal Bar Association - Sacramento Chapter

The Sacramento Chapter had a number of outstanding programs over the last year. At the annual dinner in November 2000, Professor Erwin Chemerinsky spoke about the legal proceedings before the Supreme Court in *Bush v. Gore*. In January 2001, Judge David F. Levi and Professors Richard L. Marcus (Hastings College of the Law), Sharon Sandeen (McGeorge School of Law), and Thomas O. Main (McGeorge School of Law) spoke about the changes to the Federal Rules of Civil Procedure that became effective December 1, 2000. In February, the Chapter hosted a reception for outgoing U.S. Attorney Paul Seave. In May, three prominent intellectual property experts (Darryl M. Woo, Michael Farrace, and Madhavi Sunder) spoke about the implications of the Ninth Circuit's *Napster* decision. In July, Professors Alan Brownstein (UC-Davis Law School) and Clark Kelso (McGeorge School of Law) gave their annual review of the recent Supreme Court term. In September, there was a fascinating discussion of the relationships among the media, the federal bench, and the Bar, with abundant references to the *Microsoft* antitrust case. Charity Kenyon moderated the discussion among Denny Walsh (Sacramento Bee), Ed Goldman, David Puglia (APCO Worldwide), and Anthony Capozzi.

3. Federal Bar Association - San Joaquin Valley Chapter

The San Joaquin Valley Chapter hosted its annual, and popular, Law Clerks' Reception in January. It co-sponsored a practice tips seminar with the Central California Bankruptcy Association in June. It is also actively involved in a juror outreach program (which is described below).

4. The ADR Subcommittee

In September 2000, the District Court amended Local Rule 16-271, dealing with alternative dispute resolution. The amended rule continues the Court's voluntary ENE program, but incorporates a number of changes suggested by the Ninth Circuit in a proposed model rule disseminated in December 1999. On May 19, 2001, the ADR Subcommittee put on an ADR/ENE training session for neutrals. Magistrate Judge Hollows, Barbara Christiansen, Joyce Del Pero, Ken Mennemeier, and Ken Newman made the presentation. The session was videotaped. Those interested in serving as neutrals in the Court's Voluntary Dispute Resolution Program (referred to colloquially as "VDRP") should review the tape in order to become more familiar with the program. The training session and the videotape help the Court satisfy the statutory directive that each District Court provide training for its neutrals. The tape is available through Joyce Del Pero in the Clerk's office (916-930-4042).

5. The Website Subcommittee

The Subcommittee started by studying the results from the questionnaires completed at last year's District Conference. From that information, the Subcommittee developed a list of priorities for inclusion in the District's website. The list of priorities was delivered to the Court's MIS personnel. Some of the suggestions have been implemented.

The Court is having the District's website redesigned, and has out-sourced the design work. The Subcommittee has assisted in that process by commenting on the Request for Proposal, and is now consulting with MIS personnel while they work with the website design firm.

6. Jury Selection

The JAC continued its consideration of jury selection in the Eastern District. A subcommittee, chaired by Judge Oliver W. Wanger and assisted by Judicial Advisory Committee member Robert Wilkinson, has been working on a juror outreach program for the Fresno Division. Currently, members of the bench and bar, and community representatives within the San Joaquin Valley, have proposed a juror outreach program for early 2002. The goal of the program would be to increase the participation of under-represented communities in the federal court jury pool for the Fresno Division.

The proposed program includes the distribution of press releases, public service announcements and posters targeted at under-served communities. It also includes a speaking program that will promote the value and importance of jury service. The short-term goal is to increase the response from individuals who belong to under-represented communities to the annual federal court juror questionnaire. The subcommittee's hope is that the increased response will translate into an increased representation of those groups in the qualified wheel, from which juries for federal trials in the Fresno Division are selected.

There has also been extensive discussion about whether the District should continue to draw jurors from the rolls of registered voters (as currently provided for by General Order No. 378), or whether the District should expand its pool by drawing jurors from the Department of Motor Vehicles' lists of licensed drivers living in the District. The argument in favor of using the Department of Motor Vehicles' list focuses on expanding the jury pool to get a "more representative" sampling of the District's population. The argument in favor of continued use of lists of registered voters focuses on the belief that registered voters will bring the requisite commitment to their service as jurors. The discussions on this issue are continuing.

7. Eastern District Conference Planning Committee

Kim Mueller and Greg Durbin have chaired this year's Conference Planning Committee. Please thank them for putting together an outstanding conference. Next year's conference will be October 25-27, 2002, at the Squaw Creek Resort.

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