

Leading the Court of the Future



**CCJSCA**  
NORTH CAROLINA 2016

*Nothing could be finer than to be in Carolina*

## COUNCIL OF CHIEF JUDGES OF THE STATE COURTS OF APPEAL

**ANNUAL CONFERENCE**  
November 12-16, 2016  
Cary, North Carolina

### **EDUCATION PROGRAM AGENDA**

## **LEADING THE COURT OF THE FUTURE**

**SATURDAY, NOVEMBER 12<sup>TH</sup>**

**Noon to 7:00 PM**

**Registration**

*Event Foyer*

**Community Outreach** - Hope Charter Elementary School has been identified as the proposed recipient of the 2016 book drive. The school was founded in 1998 to serve a surrounding federal housing project. In 2001, the housing project was demolished and the school was converted to a charter school serving high poverty children in the southeast and downtown Raleigh neighborhood. The school currently has 122 students from kindergarten through 5th grade. The makeup of students is 88% African-American, 7% Hispanic, 4% Bi-racial, and 1% Caucasian. One hundred percent of the students meet free breakfast and lunch criteria. Approximately 20% of the students are exceptional students, meaning they need extensive additional services. The school has six highly qualified classroom teachers, three instructional assistants, two Exceptional Student teachers for children with special needs, two elective teachers, as well as a Principal and two other administrators who coordinate curriculum, testing, development and leadership. The school's library is virtually non-existent, offering few books to choose from, and the same is true of the classroom libraries. Books from any reading level from Pre-K through 6th grade would be gratefully accepted.

**6:30 PM to 8:00 PM**

***Welcome Reception***

Participants and guests

The Umstead Hotel

*Salon*

*Introduction of new members and special guests:*

Hon. William D. Palmer, District Judge, Florida Fifth District Court of Appeal; President, Council of Chief Judges of the State Courts of Appeal

**SUNDAY, NOVEMBER 13<sup>TH</sup>**

**7:00 AM to 5:00 PM**

***Registration (continued)***

*Event Foyer*

**7:00 AM to 8:30 AM**

***Breakfast***

Participants, spouses and guests

*Salon*

**7:30 AM to 8:30 AM**

***Administration of Justice Committee Meeting***

Administration of Justice Committee Members

*Boardroom*

**7:30 AM to 8:30 AM**

***Education Committee Meeting***

Education Committee Members

*Sycamore 1*

**7:30 AM to 8:30 AM**

***Membership Committee Meeting***

Membership Committee Members

*Sycamore 2*

**8:30 AM to 8:55 AM**

***Opening Ceremonies***

Participants, spouses and guests

*Ballroom*

**Presentation of the Colors conducted by the Wake County Sheriff's Department Honor Guard**

**National Anthem performed by St. Augustine's University Choir**

***Presiding, Welcoming Remarks and Introduction of Guest Speaker***

Hon. William D. Palmer, District Judge, Florida Fifth District Court of Appeal; President, Council of Chief Judges of the State Courts of Appeal

***Guest Speaker:***

Hon. Mark D. Martin, Chief Justice, Supreme Court of North Carolina

**8:55 AM to 9:00 AM**

***Stretch Break***

**9:00 AM to 10:15 AM (1.25 hours CLE)**

**Education Session: *The Millennial Generation: A Field Guide, Emphasizing the Law***

Participants and guests

*Ballroom*

***Introduction and Moderator:***

Hon. Susan Peikes Gantman, President Judge, Superior Court of Pennsylvania

***Speakers:***

Ellen M. Gregg, Esq., Partner, Womble Carlyle Sandridge & Rice, LLP, Winston-Salem, North Carolina

Rogan Kersh, Provost, Wake Forest University, Winston-Salem, North Carolina

***Description:***

Generations matter to Americans. (The Greatest Generation, Baby Boomers, Generation X, Millennials.) This presentation will introduce millennials' distinctive features, compared to recent generations: their strengths and (poignant) limitations; ways they are reshaping legal and other workplaces; the effects of technological change, including on communication practices; and much more. What is this remarkable generation's likely impact on our legal system, from hiring (including law clerks) and workplace styles to their propensity for criminal behavior?

**10:15 AM to 10:30 AM**

***Break***

**10:30 AM to Noon** (1.50 hours CLE)

**Education Session:** *The Scales of Justice: Balancing the Need for Speedy Dispositions with the Need to Satisfy the Perception and Reality of Thorough Review*

Participants and guests

Ballroom

**Introduction and Moderator:** Hon. Edwin H. Stern, Presiding Judge for Administration (ret.), New Jersey Superior Court, Appellate Division

**Speaker:** Martin H. Brinkley, Dean and Professor of Law, UNC School of Law, Chapel-Hill, North Carolina

**Panel:**

Hon. Roger W. Boren, Administrative Presiding Justice, California Court of Appeal, Second Appellate District

Hon. Erika L. Hadlock, Chief Judge, Oregon Court of Appeals

Hon. Jack M. Sabatino, P.J.A.D., Deputy Presiding Judge for Administration, New Jersey Superior Court, Appellate District

Nicole Waters, Principal Court Research Consultant, National Center for State Courts

**Description:**

Some complain that it takes too long to decide appeals, while others complain that shorter or summary opinions do not show that full attention has been given to the matter. How do courts handle the need to decide cases expeditiously to bring closure while simultaneously showing to the parties, their counsel, and the public that the judges have carefully studied the record and given the matter thoughtful consideration? The panel will address how courts do and should perform this balance and whether there are ways for courts to satisfy the need for speed as well as address the perception and hopefully the reality of thorough review and consideration.

**Noon to 1:30 PM**

**Luncheon**

Participants and guests

Salon

**Topic:** *Lawyers, Liars and the Art of Storytelling – The Use and Abuse of Law Narrative in 21<sup>st</sup> Century America*

**Introduction:**

Hon. Judith McConnell, Presiding Justice, California Court of Appeal, Fourth Appellate District, Division One

**Speaker:**

Jonathan Shapiro, Executive Producer and Novelist, West Hollywood, California

*Book Signing: Jonathan Shapiro has agreed to sign copies of his books. Attendees are encouraged to bring their personal copy of “Lawyers, Liars and the Art of Storytelling: Using Stories to Advocate, Influence and Persuade” and “Deadly Force: A Lizzie Scott Novel.”*

**1:30 PM to 1:45 PM**

**Break**

**1:45 PM to 2:45 PM (1.0 hours CLE)**

**Education Session: *Roundtable Discussions***

Participants and guests

*Ballroom*

***Introduction and Moderator:*** Hon. William Murphy, Judge, Michigan Court of Appeals

***Description:***

This roundtable session provides an opportunity to learn from fellow chief judges. A table moderator will first lead a discussion about appellate case management as a follow-up to the morning program; thereafter, each table will choose a second topic for discussion. Suggested secondary topics are: personnel issues, use of technology in courts, promoting a collegial bench, use of appellate settlement conferences/mediation, use of oral arguments and the criteria for deciding whether to grant oral arguments, and use of full opinions versus no opinions.

**2:45 PM to 3:00 PM**

**Break**

**3:00 PM to 4:30 PM (1.50 hours CLE)**

**Education Session: *The Supreme Court of the United States – Looking Forward***

Participants and guests

*Ballroom*

***Introduction:***

Hon. Judith McConnell, Presiding Justice, California Court of Appeal, Fourth Appellate District, Division One

***Moderator:***

Neil S. Siegel, David W. Ichel Professor of Law and Co-Director of the Program in Public Law, Duke University School of Law, Durham, North Carolina

***Panelists:***

Dahlia Lithwick, Senior Editor, Slate Magazine, Washington, D.C.

William P. Marshall, William Rand Kenan, Jr. Distinguished Professor of Law, UNC School of Law, Chapel Hill, North Carolina

E. Gregory Wallace, Associate Professor of Law, Norman Adrian Wiggins School of Law,  
Campbell University, Raleigh, North Carolina

**Description:**

This session will provide a fast-paced point/counterpoint discussion including “conservative-liberal” outlooks of constitutional law scholars and a nationally-recognized journalist who covers the US Supreme Court. The focus will be on freedom of speech, stop and frisk, cases the Court might consider during its fall term, and forecasting Court change under the new presidential administration.

**6:00 PM to 8:00 PM**

***Reception at the North Carolina State Bar***

Participants, spouses, guests, law school deans and students  
*Buses depart at 5:30 PM*

**MONDAY, NOVEMBER 14<sup>TH</sup>**

**7:00 AM to 8:30 AM**

***Breakfast***

Participants, spouses and guests  
*Salon*

**7:30 AM to 8:30 AM**

***New Members Breakfast***

New Members, Executive Committee Members, Membership Committee Members and “Buddy Judges”  
*Sycamore*

**7:30 AM to 8:30 AM**

***Long Range Planning Committee Meeting***

Long Range Planning Committee Members  
*Boardroom*

**7:30 AM to 8:30 AM**

***Website Committee Meeting***

Website Committee Members  
*Cedar*

**8:30 AM to 8:45 AM**

***Thomson Reuters: The Future of Legal Research and Drafting***

Participants and guests  
*Ballroom*

**Introduction:**

Hon. William D. Palmer, District Judge, Florida Fifth District Court of Appeal

**Speaker:**

Mike Dahn, Global Head of Westlaw Product Management, Thomson Reuters, Legal

**Description:** Mike Dahn will talk about cutting-edge technologies, including IBM Watson, that Thomson Reuters is using to bring next-generation capabilities to market for legal research and drafting

**8:45 AM to 8:50 AM**

**Stretch Break**

**8:50 AM to 10:05 AM (1.25 hours CLE)**

**Education Session: *The Ethical Limitations and Implications of Independent Research by Appellate Judges***

Participants and guests

*Ballroom*

**Introduction:**

Hon. Margret G. Robb, Judge, Court of Appeals of Indiana

**Speaker:**

Charles G. Geyh, John F. Kimberling Professor of Law, Maurer School of Law, Indiana University, Bloomington, Indiana

**Description:**

This session will explore the ethical limits on a judge's internet research in relation to pending and impending cases. It will review traditional limits on ex parte communications and independent investigations of underlying facts. It will then explore new ethical dilemmas created by internet research, such as: Where does proper legal research end and improper factual investigation begin? To what extent is information obtained on line subject to judicial notice? Can notice to the parties and an opportunity to be heard cure ill-advised or unintended internet searches?

**10:05 AM to 10:20 AM**

**Break**

**10:20 AM to Noon (1 hr. 40 mins CLE)**

**Education Session: *Watergate: A Historical Perspective and Lessons Learned***

Participants and guests

*Ballroom*

**Introduction:**

Hon. Linda M. McGee, Chief Judge, North Carolina Court of Appeals

**Moderator:**

Karl E. Campbell, Ph.D., Associate Professor of History, Appalachian State University,  
Boone, North Carolina

**Panelists:**

Hon. Sam J. Ervin IV, Associate Justice, Supreme Court of North Carolina  
Rufus L. Edmisten, former North Carolina Attorney General and Secretary of State

**Description:**

The author of *Senator Sam Ervin, Last of the Founding Fathers* will moderate a discussion of the Watergate Hearings and surrounding events with Senator Ervin's grandson, Justice Sam J. Ervin IV of the North Carolina Supreme Court, and Rufus L. Edmisten, Deputy Chief Counsel for the Senate Watergate Committee, who served the subpoena on President Richard Nixon's White House for the Watergate tapes.

*Book Signing: Professor Campbell has agreed to sign copies of his book "Senator Sam Ervin, Last of the Founding Fathers." A limited supply of this book will be available for purchase from the author; alternately, attendees are encouraged to bring their personal copy.*

**Noon to 12:45 PM**

**Lunch**

Participants, spouses and guests  
*Salon*

**1:00 PM to 2:30 PM**

**SAS Institute Presentation: *It's All in the Data: Better Decisions Based on Better Information***

Participants, spouses, and guests  
*Buses depart at 12:50 p.m.*

SAS Institute, Inc., in collaboration with various State agencies and the North Carolina Department of Information Technology, has developed CJLEADS (Criminal Justice Law Enforcement Automated Data Services), a web-accessible database of comprehensive information about criminals. CJLEADS brings together information and provides analytics to enable judges to make better decisions. NC judges have at their fingertips accurate information about an individual, his history, background, prior criminal record and the outcome of prior efforts to reform the individual. Participants will see and learn how CJLEADS is operational in North Carolina.

**FREE AFTERNOON** or optional hotel tour

**6:00 PM to 9:00 PM**

*Reception at the North Carolina Museum of Art*

Participants, spouses and guests

*Buses depart at 5:40 PM*

## TUESDAY, NOVEMBER 15<sup>TH</sup>

**7:00 AM to 8:30 AM**

*Breakfast*

Participants, spouses and guests

*Salon*

**7:30 AM to 8:30 AM**

*Annual Conference Committee Meeting*

2016 and 2017 Annual Conference Committee Members

*Boardroom*

**7:30 AM to 8:30 AM**

*Finance Committee Meeting*

Finance Committee Members

*Cedar*

**7:30 AM to 8:30 AM**

*Newsletter Committee Meeting*

Newsletter Committee Members

*Sycamore*

**8:30 AM to 9:45 AM (1.25 hours CLE)**

**Education Session: *Digital Reading and Writing: The Sun Sets on the Paper Trail***

Participants and guests

*Ballroom*

***Introduction:***

Hon. Margret G. Robb, Judge, Court of Appeals of Indiana

***Moderator:***

Hon. Cory J. Ciklin, Chief Judge, Florida Fourth District Court of Appeal

***Panelists:***

Brad Mehlenbacher, Ph.D., Associate Professor of Distance Learning, North Carolina State University, Raleigh, North Carolina

Jason P. Steed, Associate, Bell Nunnally & Martin LLP, Dallas, Texas

**Description:**

The future is here. The paper trail is gone. E-filing; e-reading; e-writing; e-gads!!!! Digital reading presents a multitude of problems: comprehension, retention understanding, analyzing, and evaluating. We will explore the reasons for this and suggestions for compensating. Digital writing, likewise, has a multitude of issues not present when prepared for paper readers. Suggestions on how to write for this new age reader will be discussed taking into consideration the new challenges this medium presents.

**9:45 AM to 10:00 AM**

**Break**

**10:00 AM to 11:00 AM (1.0 hours CLE)**

**Education Session: *Competing Universes Collide: Arbitration vs. The Courts***

Participants and guests

*Ballroom*

**Introduction:**

Hon. Glenn Acree, Chief Judge, Kentucky Court of Appeals

**Speakers:**

Catharine Biggs Arrowood, Partner, Parker Poe Adams & Bernstein LLP, Raleigh, North Carolina

Hon. Mary C. Noble, Deputy Chief Justice, Supreme Court of Kentucky, 5<sup>th</sup> District

**Description:**

More frequently than ever, disputes are being resolved by arbitration and not litigation and appeal. How is this affecting the judiciary and jurisprudence? This presentation will cover the policy and trends (past and future) of arbitration and its relation to our courts, including the increasing use of arbitration in consumer and employment disputes and even online arbitration. The panel, representing views of advocate, arbitrator, and jurist, provides perspective on the due process issues of arbitration, the competing values of expediency and precedent, and the continued dependence on courts for enforcement. We will cover the recent flurry of SCOTUS decisions favoring arbitration, concluding with a discussion of the impact these developments are having on the jurisprudence of state courts and predictions about where arbitration law might take us.

**11:00 AM to 11:05 AM**

**Stretch break**

**11:05 AM to 12:20 PM (1.25 hours CLE)**

**Education Session: *Attracting, Developing and Retaining Millennials in the Age of “One and Done”***

Participants and guests

## Ballroom

### **Introduction and Moderator:**

Hon. Susan Peikes Gantman, President Judge, Superior Court of Pennsylvania

### **Speaker:**

Nancy L. Abell, Esq., Partner, Paul Hastings LLP, Los Angeles, California

### **Description:**

Is it true that new entrants to the professional work force apply for jobs on their phones; text, tweet and/or snap more than 100 times a day; expect constant feedback and increasing responsibility; are not destined to last two years in a job; and believe that life comes before work? This session will guide us through lawful screening of Millennial candidates to maximize the court's investment; limitations on employer exploration of social media in the hiring process; restrictions on criminal screening by "Ban the Box" legislation; effective means of orienting, working with and coaching Millennials; permissible restrictions on use of mobile devices and social media to protect security; and family-friendly policies. Ms. Abell will also provide a brief employment law update on new transgender regulations; required 2016 postings; pregnancy, disability and religious accommodation enhancements; and other significant developments.

## **12:20 PM to 2:30 PM**

### **Luncheon and Business Meeting**

Participants and guests

*Salon*

## **2:30 PM to 3:00 PM**

### **Group Photograph**

Council Members

*Location: TBD*

## **3:00 PM to 4:30 PM (1.50 hours CLE)**

### **Education Session: *Winds of Change Buffeting the Judiciary or Just a Lot of Hot Air: A Discussion with Supreme Court Advocate Kannon Shanmugam***

Participants and guests

*Ballroom*

**Introduction:** Hon. Margret G. Robb, Judge, Court of Appeals of Indiana

**Moderator:** Hon. Morris Silberman, Judge, Florida Second District Court of Appeal

**Speaker:** Kannon K. Shanmugam, Partner, Williams & Connolly LLP, Washington, D.C.

**Description:**

Kannon Shanmugam is a highly regarded Supreme Court advocate to whom many labels can be affixed, including summa and magna cum laude graduate; Marshall Scholar; former law clerk to Justice Scalia; law partner; and legal scholar. In this session he will discuss his views as to what the future holds for the courts, the tensions between the judicial branch and other branches of government, and the legacy of Justice Scalia.

**6:00 PM to 9:30 PM**

***Dinner at the Pavilion at The Angus Barn***

Participants, spouses and guests

*Buses depart at 5:45 PM*

---

***Total education hours in this model: 13 hours, 10 mins***

***Adjournment –***

**WEDNESDAY, NOVEMBER 16<sup>TH</sup>**

**8:30 AM to 10:00 AM**

***Executive Committee Meeting***

Executive Committee Members

*Sycamore*