

Lawyer Representatives Coordinating Committee
Conference Call: September 12, 2017
Minutes

Participants: Darrel J. Gardner, LRCC Chair (AK), Mary B. Pinkel (AK), Jody Corrales and Christina Covault, (AZ), Misty Perry Isaacson (CAC), Peter Fear and Tom Phinney (CAE), Erick Howard (CAN), Nadia Bermudez and Linda Lopez (CAS), Rodney Jacob (GU), Gail Cosgrove (HI), Nicole Hancock (ID), Katie de Soto (MT), Russ Marsh and Brenda Wexler (NV), Samantha Molloy (OR), Thomas S. Linde (WAW) Jimmy Azadian, Chair, Appellate Lawyer Representatives (CAC) and Liaison to the LRCC

Unable to Participate: John B. "Jay" McEntire, LRCC Chair Elect (WAE), Doreen Spears Hartwell, LRCC Vice Chair (NV), Vincent Seman (CNMI), Shea C. Meehan and Blanca Rodriguez (WAE)

Special Guests: Hon. Edward J. Davila, District Judge (CAN), Chair, 2018 Ninth Circuit Judicial Conference and Autumn D. Spaeth (CAC), Program Chair, 2018 Ninth Circuit Judicial Conference

Staff: Renée S. Lorda, Asst. Circuit Executive and Reyanna Untalan, Conference & Education Asst.

I. Roll Call and Introductory Remarks Darrel J. Gardner (AK), Chair, LRCC

After the roll call, Mr. Gardner thanked all participants who had sent topic suggestions to the lrcc9 google group that he had created. He said that there were a number of interesting ideas and explained that the purpose of this phone call was to continue the brainstorming process in preparation for the joint LRCC and Conference Executive Committee meeting in San Francisco, scheduled for Friday, October 13. He explained that Judge Davila and Autumn Spaeth were participating in this call to discuss the plans for October 13 and what outcomes will be expected of the joint meeting. Mr. Gardner also reminded the LRCC that there will be a separate LRCC meeting from 8:00 a.m. to 9:30 a.m. on the same morning prior to the Conference Executive Committee meeting that will begin at 10:00 a.m. in the Cathy A. Catterson Conference Center (formerly Courtroom Five). More information will be sent in late September about both these meetings and the dinner the night before (Thursday, October 12) at Ideale.

II. Remarks by Hon. Edward J. Davila, District Judge (CAN)

After his introduction by Mr. Gardner, Judge Davila welcomed everyone on the call and described the recent site visit that he, Ms. Spaeth and OCE staff made to the Anaheim Marriott, the site of the 2018 Ninth Circuit Judicial Conference. He explained that everyone was very impressed with the facility and he thinks that Conference attendees also will enjoy the property. He praised the LRCC's commitment to the Conference and thanked participants for their interest

in contributing to the success of the Conference. Judge Davila went on to praise Autumn Spaeth's skills at conference development and planning that have been demonstrated during her time as a lawyer representative and former officer of the LRCC.

Judge Davila explained that today's discussions would add to the genesis of conference ideas, and he asked participants to be creative and think about topics, ideas for panels and breakout sessions. He encouraged participants to do as he always says: "think big, when thinking of topics, ideas and speakers."

III. Remarks by Autumn Spaeth, CAC, Program Chair

Ms. Spaeth stated that there will be big shoes to fill to come up with exciting and interesting programs for next year's Conference. She described her background as a lawyer representative for 6 years and being part of various program development teams. She asked the LRCC to think hard about contacts, great program ideas and what they can offer up in terms of contacts. It is important not to be intimidated by nationally renowned speaker and if they have an interesting person they can contact, a program can be built around them.

She described the brainstorming session and explained that it can be daunting. It is important for participants to provide topic ideas. Prior to the San Francisco meeting, ideas that have been collected to date will be circulated ahead of time. It can be daunting but she encouraged everyone to throw out topic ideas. If there is a topic of interest in the materials you receive, try to develop the topic and see which speakers would be the best. Not all programs have to be panels and talking heads. She explained that the Ninth Circuit gives lawyers the opportunity to influence the Conference by contributing ideas and developing programs. This year, it is the first time in 9 years that a lawyer has been made program chair of the circuit conference. Ms. Spaeth explained that several years ago, one of the lawyers started her term as the program chair but a few months later was appointed to the Court of Appeals for the State of Washington. Since there has not been a lawyer in this role, Ms. Spaeth considers this year as a unique opportunity for members of the bar to make some of their views known through programming that can result in thought provoking discussions between judges and lawyers.

Ms. Spaeth said that like Judge Davila, she also is looking for great ideas and suggestions on potential speakers. Try to formulate the topics with speakers in mind. Also, she asked participants to think about what judges need to hear? Is there a particular issue that could bubble up? If so, it is her job to make it fit within the format of the program.

Judge Davila added that there are a lot of programs on judicial pet peeves but he encouraged everyone to take a look through a lawyer's eyes of what would interest judges such as the issues involved in communicating with millennials. Maybe it would be effective to hear more from a combination panel of judges and lawyers. Mr. Gardner thought that was a good idea and

described a program that was developed by LRCC Chair Elect Jay McEntire. He explained that Jay created a questionnaire for the circuit's attorneys and presented the results in an interesting program at the 2017 Conference of Chief District Judges on February 21. The program was taped and a DVD of that program was distributed to the chief judges so it could be taken back to the districts. Ms. Spaeth responded by saying that it is important to keep in mind that judicial officers will include all different levels of judges: appellate, district, bankruptcy and magistrate judges. There will be a wide group of attendees including court unit executives and other members of the Administrative Office of the Courts.

She thinks it is important to come up with a structure. On the topic of civility, it is a two way street. It does not only involve how judges communicate with lawyers but also how lawyers communicate with each other and what effect that may have on juries and litigants. She explained that she likes the idea of having a jury consultant participate in such a discussion. The consultant could play a trial scene and participants could get different perspectives so that everyone would learn from such a program. At the brainstorming session, try to identify an issue that is helpful to the lawyers.

Rodney Jacob, from Guam, asked if Judge Davila could share what would be most helpful for judges to hear. He asked if Judge Davila had heard comments from judges about what is not working. Judge Davila explained civility is important and that they also do not want unnecessary rancor between the litigants. As a former state court judge, he thinks that civility in federal court is so much better than in state courts but still, there are some trials or hearings where the lawyers may look at the adversarial system and create problems in the courtroom. He thinks it is damaging when the judge has to manage the conduct of the parties in front of the jury. His colleagues enjoy trials but it is these types of interruptions that result in a poor trial. Same behavior by judges also turns off the practitioners. Most members of the bench really care about justice and how they are perceived. Samantha Molloy (OR) asked if Judge Davila had any insight about program content that judges respond well to, any consistent theme or feedback. Linda Lopez (CAS) wondered if some types of technology programs have been overdone. She described some judges' hesitation about having to hear more technology programs. However, the emphasis this year on what's coming in the future was very well received. Ms. Lopez said that she heard many excellent reviews about the 2017 Conference.

After Judge Davila finished his remarks and left the meeting, Autumn Spaeth commented that it is very important to share districts' reviews and to discuss what may be constraining both operations and procedures. During the Brainstorm session, if highly intellectual topics are suggested, it is important to also bring the discussion, whenever possible, to how it affects the work of the court and the administration of justice. She urged participants not to be constrained about topics.

Darrel Gardner described the importance of going after speakers, some of which may seem unattainable. He described the experience of trying to get Bryan Stevenson to speak in Alaska. He charges \$50,000 for public presentations, yet he spoke to the Ninth Circuit for only expense reimbursement and lodging. If you think of speakers, suggest them!

Tom Phinney (CAE) asked if lawyers were not being used because of the concern about promoting law firms. Autumn Spaeth replied that this was not the case.

IV. Suggestions from Participants

Brenda Weksler: Dean Erwin Chemerinsky, Supreme Court Update

Jim Azadian: John Eastman, friend of the circuit and Chapman Law School Dean, may be another person to work with Dean Chemerinsky.

Jody Corrales (AZ): Transgender issues, not off the table. This is a topical and interesting issue that could lead to a program. Darrel Gardner encouraged presentation to the group.

Katie DeSoto (MT): Her chief judge is interested in hearing about the demise of the jury trial. How do judges manage their caseloads? What obligations do judges have to manage their Caseloads?

Tom Phinney (CAE): liked the idea about using federal funds in relation to sanctuary cities. The other one involved having Paul Smith from the Campaign Legal Center as a speaker.

Mary Pinkel (AK): She knows Paul Smith through a series of connections and stated that he is not only an incredible person but a brave person who recently left big law and went to the campaign legal center where he is doing voting rights cases. She thinks he would be a "role model" lawyer.

Gail Cosgrove (HI): She commented that this will be the 150th anniversary of the 14th Amendment. Ms. Spaeth recalled a program she attended where they showed the movie, on the *Loving* case.

Linda Lopez (CAS): Another prospect for the Supreme Court Review is Jeff Fisher from Stanford Law School who was formerly a law clerk to Justice John Paul Stevens and a partner with Davis Tremaine.

Jimmy Azadian: Suggested a program about the recent decision in California (and other states considering it) to lower the bar passage scores. A few other states in Ninth Circuit are contemplating lowering their bar scores. Maybe should people should keep tabs on this issue.

Gail Cosgrove (HI): loved the attorneys from Alabama who have been invited to speak in Hawaii. She added that it is a challenge to think about different formats but that their program was very moving, almost life changing. Hawaii Supreme Court Justice Sabrina McKenna might be a good panel speaker if there was a 14th Amendment panel as she is the first openly gay woman on the bench in Hawaii. She also mentioned that Jeff Fisher from Stanford would be an excellent speaker as a potential SCOTUS panel member.

V. Adjournment & Next Meeting

Mr. Gardner thanked Autumn Spaeth for participating on the call. He told participants the next meeting would be on October 3 at 4:00 p.m. PDT. Renée Lorda will email the information about the next meeting in addition sending materials for the October 13 brainstorming session.

The meeting was adjourned at 5:05 p.m.