Amicus

A newsletter for employees of the Supreme Court of Appeals of West Virginia
November 1, 2012

Business Court Division opens

Supreme Court Justices Robin Jean Davis and Brent D. Benjamin, along with Business Court Division Chairman Christopher Wilkes and Berkeley County Council President Dr. William Stublefield, unveiled the new division's headquarters in a ceremony on October 10 in the Berkeley County Judicial Center. About 100 people attended the event, which was emceed by Supreme Court Administrative Director Steve Canterbury.

"This is an important day for the judicial system in West Virginia, for the business community in West Virginia, and for the Eastern Panhandle," Justice Davis said in the keynote speech.

"In the business world, time is money. The Business Court Division is designed to expedite litigation between businesses," Justice Davis said.

Justice Davis thanked the other judges who will serve with Twenty-Third Judicial Circuit (Berkeley, Jefferson and Morgan Counties) Judge Wilkes on the Business Court Division: Judge James Rowe of the Eleventh Judicial Circuit (Greenbrier and Pocahontas Counties); Judge Donald Cookman of Twenty-Second Judicial Circuit (Hampshire, Hardy, and Pendleton Counties); and Judge James Young, Jr., of the Twenty-Fourth Judicial Circuit (Wayne County). All their terms – except that of Judge Young – began on October 10. Judge Young's term will begin on January 1. The new division can have up to seven judges. Others will be added as needed. The circuit judges have added this task to their duties, with no additional pay.

West Virginia's Business Court is located in the remodeled former regional law library. Former law librarian, Heather McClung, will be the staff employee of the Business Court Division as well as splitting her time to assist the Juvenile Justice Monitor Cindy Largent-Hill. Judge Wilkes' administrative assistant, Carol Miller, who is also a paralegal, will take on additional Business Court duties but will receive no extra pay for her extra work.

For more information about the Business Court, see: www.courtswv.gov/lower-courts/business-court-division/index.html. For photos from the event visit the court Flickr page at www.flickr.com/photos/courtswv/.

Supreme Court hears Argument Dockets at Marshall, Wesleyan

The Supreme Court traveled to two campuses this fall to hear Argument Dockets as part of the Court's effort to make the judicial system more accessible and transparent to the public.

The Court heard arguments in three cases at Marshall University on September 18 as part of the school's celebration of Constitution Week. The Joan C. Edwards Performing Arts Center was packed – at times there was standing room only – for the Court's fifth visit to Marshall in the last eight years. High school students from Cabell and Wayne Counties, Marshall students, and members of the Cabell County community attended.

Chief Justice Menis Ketchum was a member of the Marshall University Board of Governors from 2002 until his campaign for the Supreme Court, and he served as Chairman or Vice-Chairman of the Board from 2003 to 2008.

On October 23, the Supreme Court heard arguments in four cases at the Virginia Thomas Law Center for the Performing Arts on the campus of West Virginia Wesleyan College. The Justices also enjoyed a lunch with invited guests after the Argument Docket.

Also at Wesleyan, Justice Robin Jean Davis, a 1978 graduate of the college, and Justice Margaret Workman spoke at the opening of the college's Center for Women's Leadership. The purpose of the Center is to share knowledge and experience on issues related to women's leadership and to develop leadership potential in women students, faculty, staff, and alumnae. For photos from the event visit the court Flickr page: www.flickr.com/photos/courtswv/.

Kanawha County begins Domestic Violence pilot program

Supreme Court Justice Robin Jean Davis and Kanawha County officials on August 31 announced the creation of a domestic violence pilot program, the first in West Virginia.

"Domestic violence is not just a family problem, it is the entire community's problem," Justice Davis told the crowd gathered in the courtroom of Chief Circuit Judge Louis H. "Duke" Bloom.

Justice Davis and Judge Bloom were joined by Kanawha County Circuit Judge Tod Kaufman, Kanawha County Family Court Judge Mike Kelly, Kanawha County Magistrate Julie Yeager, Supreme Court Family Courts Director Lisa Tackett, Kanawha County Managing Deputy Public Defender Diana Panucci, and Kanawha County Prosecutor Mark Plantz.

The Legislature early this year passed a law which allowed the Supreme Court to establish one pilot program in any jurisdiction. The Court chose Kanawha County and Judge Kelly, who will work with Magistrate Yeager. The two together will handle all domestic violence cases in the county. Intervening early and on a more regular basis should help save lives, they said.

"This project is community-based. Everybody recognized we needed to step up our efforts and do this project," Judge Kelly said.

In the past, victims might have felt at a disadvantage, Magistrate Yeager said.

"When [offenders] are arrested, released or they post bond, it's several weeks, sometimes months before the hearing is set," Magistrate Yeager said. "I think that sometimes the victims are just thrown out there scared of what's going to happen."

The pilot program establishes more accountability.

"There will be a thirty-day period, a sixty-day period, it will be somewhat like a probationary period where [the offender] will have to report in so we know where they're living, we'll make sure they're not back with the victim in the victim's residence," Yeager said. "It will just be a lot safer for the victims."

The pilot project will last four years, at the end of which a report will be given to the Speaker of the House and the Senate President.

The text of Enrolled House Bill 4648 can be found at http://www.legis.state.wv.us.

For photos from the event visit the court Flickr page: www.flickr.com/photos/courtswv/.

From the Chief articles are now available on our website at
www.courtswv.gov/public-resources/press/cj-column/index.html

Judge Gina Groh moves from state to federal bench

Judge Gina Groh officially made the move from state judge to federal judge on October 19 at her investiture ceremony in the Frank Arts Center at Shepherd University, from which she graduated in 1986.

Judge Groh's husband, Stephen, and their two sons, Stephen, 13, and Michael, 7, stood at her side on stage in the W.H. Shipley Recital Hall as she took the oath of office.

Judge Groh became the fourth female federal judge in West Virginia. She was a circuit judge in the Twenty-Third Judicial Circuit (Berkeley, Jefferson and Morgan Counties) when she was nominated to the federal court in the Northern District of West Virginia by President Obama in May 2011. Her nomination was confirmed by the Senate on March 15. President Obama signed her commission March 20.

"I have a rewarding job, which I look forward to going to each and every day," said Judge Groh, who was publicly sworn in by Northern District Chief Judge John Preston Bailey. She fills a seat left vacant by the 2006 death of Judge Craig Broadwater, who also was a former state circuit court judge.

Judge Bailey had been filling in in the Eastern Panhandle while the position was vacant, commuting from Wheeling.

Judge Groh thanked President Obama for "honoring me with this distinguished lifetime opportunity" that she said was both humbling and exhilarating, according to *The* [Hagerstown] *Herald-Mail*.

Supreme Court Administrative Director Steve Canterbury said the state court system is sorry to lose Judge Groh. He congratulated President Obama for making an "absolute inspired choice."

AWARDS

Judge Sanders named Judge of the Year

Twenty-Third Judicial Circuit (Berkeley, Jefferson, and Morgan Counties) Chief Judge David H. Sanders has been named Judge of the Year by the West Virginia Association for Justice.

Judge Sanders received the award during a ceremony September 14 in his courtroom in the Jefferson County Courthouse in Charles Town. About fifty people attended, according to a story in *The* [Hagerstown] *Herald -Mail*.

Martinsburg Attorney D. Michael Burke presented the judge a plaque which read in part: "In recognition of his exemplary service to West Virginia's court system and the rule of law."

"For the life of me, I can't think of what remarkable thing I may have done to merit this kind of attention," Judge Sanders said. "I've always believed in modesty, and I believe, as my father often pointed out, that I have much to be modest about. The Supreme Court of West Virginia has, through its opinions over the years, helped sustain me of that self-assurance. So I stand before you today feeling that I am a most unlikely candidate for this award."

Supreme Court Clerk elected president of National Conference of Appellate Court Clerks

West Virginia Supreme Court Clerk Rory Perry II was installed as President of the National Conference of Appellate Court Clerks at the organization's Thirty-Ninth Annual Conference in Charleston, S.C.

As President, Clerk Perry will be responsible for a wide range of executive duties and will preside over the group's fortieth annual conference, to be held next August in Seattle.

Clerk Perry is the fourteenth person to serve as Clerk of Court since West Virginia was founded in 1863. He was named Clerk in July 2000, and he has been a member of the NCACC since 2003. The NCACC is made up of clerks in state and federal appellate courts across the country, including the Supreme Court of the United States.

In 2009, United States Supreme Court Clerk William K. Suter told an audience gathered at a conference in Charleston that Clerk Perry is "a star, a friend, and a standout."

"He should be president of the national association," said West Virginia Supreme Court Chief Justice Menis E. Ketchum. "He is the best clerk in the United States."

Clerk Perry was hired as Deputy Clerk late in 1998. He also is involved in both the West Virginia Youth in Government Program and the West Virginia Civics Literacy Council. During his time as Clerk, he has spoken to hundreds of Capitol visitors about the history of the Court and the architecture of the Court chamber. He is also a frequent speaker at continuing legal education seminars throughout the state.

Supreme Court Administrative Director named to Board of COSCA

Supreme Court Administrative Director Steve Canterbury in July began a term on the Board of Directors of the Conference of State Court Administrators (COSCA). He is co-chairman of the COSCA Committee on Access, Fairness, Public Trust, and Confidence and is the COSCA liaison to the Consortium on Racial and Ethnic Fairness in the Courts.

Director Canterbury is in his third term on the Board of Directors of the Council of State Governments' Justice Center. He is one of two people who represent the nation's courts. The other is the Chief Judge of the Criminal Court of Appeals of Texas.

He also is the only state court administrator on the National Center for State Courts Justice Center Board and on the Public Welfare Foundation's Special Committee on Access to the Courts.

Terri Cheslock named Court Reporter of the Year

Sixteenth Judicial Circuit (Marion County) court reporter Terri R. Cheslock was named the Court Reporter of the Year by the West Virginia Official Court Reporters Association at its fall conference in Morgantown.

Ms. Cheslock is the court reporter for Judge Michael Aloi and previously worked for Senior Status Judge Fred Fox II. She has been a court reporter since 1982. Judge Fox talked her into entering the field when she was doing temporary summer work for him while his secretary took summers off to be with her children, she told *The Times West-Virginian* of Fairmont.

She is a verbatim reporter, softly repeating all the questions, answers, com-ments and testimony in any given trial or hearing into a steno mask.

"If there's something I can't hear, I can stop the proceedings and have them repeat it. If someone is just operating a recording device, they're not going to know if something was missed, like if a siren goes by. It would be totally missed in the record and would be inaudible in the transcript."

She can also use a steno type machine, which uses a sort of shorthand method of combining any of the only 24 keys to form words, numbers and types of punctuation. The keys represent sounds rather than actual words.

She is very conscientious about her work.

"I do have a role in having justice being served," she said. "So I have to be very conscious about my transcripts and make sure everything is correct. I certainly don't want anything going to the state Supreme Court incorrect. You have to be on your toes," she said.

She attended Fairmont State College from 1979 to 1980 and Hagerstown Business College from 1980 to 1982.

She is a member of the National Verbatim Reporters Association (NVRA); West Virginia Court Reporters Association; West Virginia Official Court Reporters Association (WVOCRA); secretary of WVOCRA, 2008-11; WVOCRA vice president, 2011-12; and is WVOCRA president this year.

She has been a member of the Court Reporters Certification Testing Committee for the State of West Virginia through the West Virginia Supreme Court of Appeals since and she is a Certified Court Reporter (CCR) for the State of West Virginia and Certified Verbatim Reporter-Master (CVR-M), NVRA.

For photos from the event visit the court Flickr page: www.flickr.com/photos/courtswv/.

Clarksburg woman named Probation Officer of the Year

Harrison County Probation Officer Rose S. "Beth" Gain has been named the Probation Officer of the Year by the West Virginia Association of Probation Officers.

"There isn't anyone who cares for the young people who she works for more than she. But she has high expectations for the youth and holds them accountable," Judge Thomas A. Bedell told *The* [Clarksburg] *Exponent-Telegram*.

Chief Probation Officer Charles "Chic" Scott cited Gain's "dedication to her job, her commitment to juveniles, the number of years of service, her education – just the overall quality of work she performs."

Ms. Gain, 69, of Clarksburg, has more than forty-four years of service to the state, including almost nineteen as a juvenile probation officer. She held multiple posts with the Department of Health and Human Resources prior to taking her probation job in 1993.

She said she was "shocked and very appreciative" of receiving the award.

Weather Closures

New this fall! The West Virginia Judiciary website has a court closures webpage http://www.courtswv.gov/public-resources/press/court-closures.html that will appear when weather causes court closures. It is on the News & Publications Page, and is accessible from a box on the main page. The Public Information Office relies on Chief Circuit Judges and their assistants to provide updated information. The page will appear only when weather causes court closures and will be taken down when all courts are open.

The same page also can be activated in the case of any other type of court emergency.

Truancy Tidbits

Justice Davis, Judge Moats give update to Legislature

Half of West Virginia's circuit judges have changed the way they handle truancy cases in the last year, according to a survey released to the Legislature by Justice Robin Jean Davis on September 10. At the legislative interim committee meeting, she and Nineteenth Judicial Circuit (Barbour and Taylor Counties) Judge Alan Moats also spoke about judicial truancy efforts.

In August, the Supreme Court's Division of Children's Services surveyed circuit judges as part of an ongoing effort to assess court anti-truancy efforts. According to the report, 54.8 percent had a truancy program before Justice Davis and Judge Moats and began holding regional community meetings on truancy in October 2011. Fifty percent said they have changed the way they handle truancy cases since then. Also, 45.2 percent said a judge now monitors or reviews local statistics on truancy.

About 26 percent of the judges said their circuits have school-based probation officers. Several judges said involving probation officers in truancy works.

Judges who changed how they handle truancy cases reported there is now more local collaboration, children now typically miss fewer days before a court action is filed, and the number of truancy actions has increased.

The judges reported many student success stories.

When asked about challenges, the most frequent theme in the judges' responses was that there is a lack of resources and a need for more services for status offenders. Students, especially in rural areas, need transportation to court and to counseling. And judges would like youth services workers to have higher salaries to reduce turnover.

Judge Moats said educators and judicial officers can track and monitor children, but the community and Department of Health and Human Resources have to do their part.

"We need the services in the home," he said. "We don't have enough resources."

For photos from the event visit the court Flickr page: www.flickr.com/photos/courtswv/.

Judges visit Mercer County schools to talk truancy

In September, Ninth Judicial Circuit (Mercer County) Judges Omar Aboulhosn and William J. Sadler visited every school in Mercer County to educate students about the new truancy policy and talk about the importance of attending school every day.

Truancy has decreased by 20 percent in Mercer County since a new judicial truancy policy was implemented there last year, according to *The* [Bluefield] *Daily Telegraph*. Parents of students in elementary school are called to a pre-trial hearing and could face abuse and neglect charges for excessive absences. Older students go to court themselves and can be placed on probation.

Judge Aboulhosn said the point of the program is to find out if there are any issues in the home that might need to be addressed. But in rare cases, parents have simply given up. Aboulhosn says truancy has reduced by 80 percent for the kids in the program and in in most cases the parents simply need help.

Kimberly Cox missed more than fifteen days of school without an excuse last year and was put on probation. "The rules are, like, really tough and just for arguing with my parents I got in trouble for that, and I got in trouble for the domestic. I spent one night in that detention center and I cried the whole entire time," she said.

Cox's father died last fall, which was an excused absence. However, she also said she does not like going to the doctor when she is sick and did not turn in excuses for her absences.

Cox said now she is making good grades and doesn't want to go back to the detention center or be put back on probation. "When you're on probation you have all of these other rules and you don't get to do the stuff that other people got to do," she said.

Justice Reinvestment Initiative work ongoing

West Virginia needs to improve the way it matches offenders to supervision and services when placing them on probation, parole and/or into a community-based corrections program. That's one of the initial findings of the Justice Reinvestment Initiative, which made a report to circuit judges at their annual fall conference in Morgantown in October.

Sorting offenders plays a role in the growth of West Virginia's prison population when supervised release is revoked, said Carl Reynolds, the Senior Legal and Policy Advisor for the Council of State Governments' Justice Center. Reynolds is a former Director of the Texas Office of Court Administration.

The Justice Reinvestment Initiative is researching West Virginia's corrections system with the goal of making recommendations for change prior to the 2013 legislative session.

While West Virginia ranks 32nd among states for its rate of putting adults behind bars, it leads in prison population growth. Reynolds said the state also is seeing a rise in violent crime and arrests for such offenses. The study showed that the number of inmates sent back to prison because their release was revoked increased 47 percent between 2005 and last year. The nearly 5,500 revocation cases tracked by the study cost the state $168 million. Reynolds said this route to prison is starting to outpace regular commitments.

Reynolds also cited the lack of supervision for offenders who "max out" their sentences. Of the 896 such offenders released last year, only about one-fourth had earlier been out on parole that was later revoked. Of the remaining 657 released offenders who were never paroled, nearly two-thirds served terms for property, drug or nonviolent offenses. Without the programs or services that can accompany parole, these people leave prison more likely to commit new crimes, Reynolds said.

West Virginia has the nation's second-highest rate for drug overdose deaths. Reynolds also suggested a greater use of substance abuse screening and services for inmates.

Judicial officers participate in play focusing on state's role during Civil War period

The history of West Virginia was live on stage at the Frank Arts Center Theater at Shepherd University on October 20 and 21. Actors and local "celebrities" told an important part of the history of our state.

The "celebrities" included Twenty-Third Judicial Circuit (Berkeley, Jefferson, and Morgan Counties) Judge David Sanders, Jefferson County Magistrates Bill Senseney and Gail Boober, former Delegate and Minority Leader Charles S. Trump, state Sen. John Unger, and County Commissioner Dale Manuel.

"A New Home for Liberty: Human Rights, Slavery, and the Creation of West Virginia" told the story of West Virginia in the middle of the Civil War. Former Supreme Court Clerk Tom Rodd, the creator of the play, said that by using the records of the Wheeling Convention he was able to know what the dialogue was during that time.

"This is a great way to talk about the war and civil rights, and a great way to tell it is through the lives of two very different men - Granville Hall and J.R. Clifford," Rodd told *The* [Martinsburg] *Journal*, adding that Hall served as West Virginia's second secretary of state, and Clifford was the state's first African-American attorney.

Clifford fought in the war and took advantage of the new state. He was an example of the advantages the new state provided for African-Americans. Hall took down all the notes in Wheeling in short hand and kept them in a tin box under his bed, Rodd said.

With the rich history of the Eastern Panhandle, Rodd and director Joseph Yates decided to bring the play to Jefferson County and use local public figures to portray the members of the Wheeling Convention.

New State Treatment Court Coordinator is also composer

Last year when Jeff Ellis was hired as the Supreme Court's State Treatment Court Coordinator, few of his coworkers knew he was also a veteran singer and songwriter. Best known for several very well received indie records, Mr. Ellis hasn't had much time for music lately – until he signed up to take part in his first theater production.

Mr. Ellis was the composer for the Charleston Stage Company's production of George Orwell's "Animal Farm," performed at the Capitol Theater from October 25-27.

A reporter from *The Gazz* interviewed Mr. Ellis about his participation in the production.

"The skinny of it is, Rebecca Kimmons and I were at that "Words and Music" show back in 2009. That's the only interaction with any kind of theater I've ever had. Then I guess Frieda [director Frieda Forsely] was looking for someone to do some music, and Rebecca threw my name in the hat," Mr. Ellis told *The Gazz* reporter. "Frieda gave me a call. I'm a fan of 'Animal Farm' so I was interested immediately. We met, and she told me she wanted me to come up with a couple of tunes and some music for 15-20 second segments."

Mr. Ellis said the hardest part was coming in with no theater experience, aside from writing with a set script; the hardest part was teaching people the songs.

He said doing "Animal Farm" was really good timing. "Over the past two years I got married, had a kid, bought a house and started a career. I haven't done a whole lot musically, maybe five or six shows this year, but I've been recording and booking some shows toward the end of the year and there should be an album next year," Mr. Ellis said.

UPCOMING MEETINGS

⇒ The West Virginia Court Improvement Program sponsors the annual **W.Va. CASA Conference November 28, 2012,** at the Bridgeport Conference Center.

⇒ Next year's **CIP Oversight Board meetings** will be **January 18, April 26, July 26, and October 25, 2013**. The January meeting will be at Embassy Suites in Charleston, and the other three will be at the Coalition Against Domestic Violence in Elkview. All board meetings are from 10:30 a.m. to 2:30 p.m.

⇒ The West Virginia University College of Law is hosting a **Child Protection Symposium on Thursday, November 8, 2012,** from 9 a.m. to 12:30 p.m., at the WVU College of Law, Morgantown. Judge Gary Johnson is a speaker. The symposium is open to the public.

⇒ Registration is also open for the annual **Children's Justice Task Force Conference**, which will be **November 15-16, 2012**, at the Charleston Civic Center.

⇒ The **CIP MDT Committee meeting will be November 13, 2012,** from 1 p.m. to 3 p.m., at the Diamond building, 350 Capitol St., Charleston, Room CR-B16. BCF Deputy Commissioner Sue Hage is chairwoman of this committee.

⇒ **The CIP Data, Statutes, and Rules Committee meeting will be Friday, January 4, 2012,** from 10 a.m. to 12:30 p.m., location to be determined. Judge Derek Swope is chairman of this committee. To participate by phone, call 1-877-278-8686, PIN 401646.

⇒ **The CIP Child Protection Across Court Systems or C-PACS (formerly Overlap) Committee meeting will be Friday, January 4, 2013,** from 1 p.m. to 3 p.m., location to be determined. Judge Mary Ellen Griffith is chairwoman of this committee. To participate by phone, all 1-877-278-8686, PIN 401646

⇒ **The CIP Youth Services Committee meeting will be Tuesday, January 8, 2013,** from 10 a.m. to 1 p.m., at the Coalition Against Domestic Violence office in Elkview. Attorney Jane Moran is chairwoman of this committee. To participate by phone, call 1-877-278-8686, PIN 401646.

⇒ **The CIP Training Committee meeting—Friday, January 11, 2013,** from 10 a.m. to 2 p.m., at the Braxton County DHHR office, Flatwoods. Judges Robert Stone and Gary Johnson are co-chairmen of this committee. They will try to have phone participation, but they cannot promise that it will work; the number is 1-877-278-8686, PIN 401646.

⇒ **The CIP Behavioral Health Committee meeting will be Tuesday, January 15, 2013,** from 12:30 p.m. to 3 p.m., at the Coalition Against Domestic Violence office in Elkview. Judge Duke Bloom is chairman of this committee.

⇒ **The Federal Review (formerly PIP) Committee meeting will be Friday, January 25, 2013,** from 10 a.m. to noon, location to be determined. Judge Derek Swope is chairman of this committee.

Training opportunities are updated regularly under "About Us" and then "Upcoming Events" on www.wvcip.com.