

FEDERAL BAR ASSOCIATION



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President's Message

By Peter B. King, Esq.



Welcome to our inaugural newsletter! With the launching of this first-ever undertaking, we have a few goals in mind. First, to more effectively communicate with members and prospective members of the Federal Bar Association, Tampa Bay Chapter. Second, to showcase the many events sponsored by the Chapter. Third, to

keep our readers informed about significant news pertaining to the practice of law in the federal courts in the Middle District of Florida.

For those not already familiar with the organization, the Federal Bar Association is the largest voluntary bar organization in the country devoted to the practice of law in the federal courts, with over 16,000 members, including over 1,200 judges. The Tampa Bay Chapter is one of approximately 85 chapters in the United States, and one of the largest in the Southeast, with 357 members as of year-end 2014. The Chapter is administered by a volunteer board of 23 voting members, several "emeritus" members, and a number of committee leaders. We meet monthly to establish goals, plan events, and conduct the business of the Chapter. Opportunities abound for anyone interested in getting more involved, so if you are interested, please let us know. You can reach me at pking@wiandlaw.com, or visit our newly designed website where you will find more information and contacts, www.federalbartampa.org. I hope to hear from you and help you get involved with the exciting things our Chapter is doing.

We have an exceptional Board this year, led by the members of the Executive Committee, Anne-Leigh Moe (president-elect), Katherine Yanes (vice president), Jacqueline Simms-Petredis (treasurer), Mike Matthews (secretary), and Nicole Newlon (immediate past-president). These folks have participated in the work of our Chapter for many years, chairing various committees and organizing many events. We are fortunate to have their talents, energy, and enthusiasm available to us.

We have been fortunate for many years to have the active participation and support of the judges in the Middle District. Now counting her involvement in decades, Judge Kovachevich has been the driving force in the growth and development of our Chapter, and we are deeply in her debt for her high level of commitment. Among countless other good deeds, Judge Kovachevich was instrumental in attracting several Justices of the United States Supreme Court to speak at our gala dinners over the years. We continue to value her guidance, wisdom, and enthusiasm for our mission. Judge Porcelli has been an active member of the board for a number of years and has likewise been generous with his good judgment and advice. All the judges of the Middle District have participated in or attended events of our Chapter over the years, and they have been the key to the development and maintenance of a culture of excellence and professionalism in our federal court community. We are deeply appreciative of their involvement with the Chapter and the FBA.

We have also introduced a new status for our esteemed past presidents, who bring decades of experience and institutional knowledge to our Chapter. These Emeritus board members allow us to retain their valuable participation, while at the same time opening up board seats to new members with fresh ideas. We hope this combination of youth and experience will be a powerful dynamic in helping us steer the Chapter into the next phase of its growth.

Speaking of growth, we set an ambitious goal this year for attracting new members, seeking to add 100 new members. Some of this growth will come from an increased focus on attracting law student

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(continued from previous page) members, primarily from Stetson Law School and Cooley Law School. For many years, we have enjoyed a mutually beneficial relationship with Stetson, and also more recently with Cooley. At risk of stating the obvious, the continued health and vitality of our Chapter depends on the engagement of younger lawyers. Equally obvious, the preservation and enhancement of the quality of federal court practice also depends on the inculcation of newer lawyers. Our Chapter is an excellent vehicle for getting lawyers, judges, and other federal court participants interacting, which is of course essential to maintaining the high quality of practice and professionalism we have enjoyed in the Tampa Bay area for many years. The goal is ambitious, but very attainable with the talent and energy of the chairs of our Membership Committee, Erin Jackson (ejackson@tsglaw.com) and Mamie Wise (mwise@zuckerman.com), who are well underway in the execution of our 2015 membership plan. If you know of anyone who would benefit from membership, please encourage them to contact Erin or Mamie.

As an added inducement to encourage new membership, we are entering all the names of new members joining between January 1 and April 30, 2015 for a drawing for an iPad Mini. The lucky winner will be announced at the end of April, our "Membership Month."

Our Chapter will present a number of substantive programs in 2015. In May, we will hold the 24th Annual Federal Sentencing Guidelines Seminar, which has long been recognized as the preeminent seminar of its kind thanks to a succession of committed chairpersons, beginning with Jim Felman who launched the inaugural event nearly a quarter century ago (apparently while he was still in middle school), followed by Kevin Napper for several years and, for the third year running, Mark Rankin.

In the Fall we will present our Civil Seminar, now in its seventh year, which always features a great turnout by our local federal judges in a roundtable format for informal discussions about topics of interest to federal practitioners. The 2014 event drew over 125 attendees, and enjoyed enthusiastic reviews thanks to the efforts of our co-chairs Erin Jackson and Erik Matheny.

Our Chapter's Mentoring Program is now in its fifth year, and provides mentoring relationships between experienced and newer lawyers and law students which have proven highly effective for passing on knowledge about practicing in the federal courts, and the practice of law generally. Our two-time Mentor-of-the-Year

Caroline Johnson-Levine chairs the Mentoring Committee along with Richard Martin.

The Brown Bag Lunch Series has proven to be a popular offering. Judges and lawyers gather on a somewhat-monthly basis to discuss best practices, professionalism, and other issues in an informal setting in the jury assembly room. These lunches draw both newer and experienced lawyers and typically foster engaging discussions among the lawyers and judges. Thanks to Carlton Gammons and Mary Mills for co-chairing this committee. Keep an eye on our website for dates, which are coming soon.

One of our newer committees, our Younger Lawyers Division, provides social and professional networking events and CLE's geared towards newer federal lawyers and law students. Co-chaired by Lauren Pilkington-Rich and Traci Koster, YLD is a great way for newer lawyers and law students to get involved in the federal court community. Check out the website for the slate of 2015 YLD events.

Finally, one of our defining events is our newest event, *Staying in the Game: Women, Leadership, and the Law*. Conceived and co-chaired by Katherine Yanes and Erin Jackson (yes, she's everywhere!), this inaugural event in January featured panel discussions by distinguished lawyers and judges, and will be followed by a year-long sustained dialogue series exploring the unique challenges women face in their advancement and leadership in the profession and potential solutions for retaining their talent.

There are too many fine volunteers to thank in this space, so if I missed you by name please know you are appreciated. I'd like to close by thanking the co-editors of our newsletter, Jordan Maglich and Bryan Hull. They have worked very hard to pull together the content and design. Please join me in congratulating them on a very excellent result!

As I write this I sit on my back porch, the windows and doors to the house flung wide open, inviting in the sumptuous weather with which we have been blessed in early February while so much of the rest of the country is digging out and bundling up. Here in the Middle District, we have the added blessing of a nearly ideal culture of excellence, professionalism, and cordiality in our legal community. This is the enduring legacy of each of us, to preserve and protect and pass on to the next generation. I can't think of a better way to secure the future of our federal bar than active engagement in the Tampa Bay Chapter of the FBA.

Please join us!

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Annual State of the District Luncheon

On December 17, 2014, the Chapter hosted its annual State of the District Luncheon at the Tampa Club. The Luncheon marked the transition of the Chapter leadership and featured remarks from newly-confirmed U.S. Attorney Lee Bentley, Federal Public Defender Donna Elm, and U.S. District Judge Anne Conway. The 2014 George C. Carr Award was presented to Donna Elm.



Remarks From Chief Judge Anne C. Conway



The Honorable Anne C. Conway is Chief Judge of the Middle District of Florida. Following her graduation with honors from the University of Florida College of Law, she served as a law clerk to the Honorable John A. Reed, Jr. After several years of private practice, she was appointed United States District Judge for the Middle District of Florida in 1991 by President George H. W. Bush.

Good afternoon to you all. It's a real pleasure to be with you today. Actually, this is a bittersweet occasion for me. That's because this is the last State of the District address I will deliver in Tampa as your Chief Judge. As many of you know, I started my judicial career in Tampa and have a special fondness for the lawyers and judges in Tampa. I learned so much from Judges Hodges, Castagna, and Kovachevich. So, I'd like to do something a little different today. I'll start by talking a bit about the State of the District, as usual, but then I'll spend some time giving you a sense of what it has been like to serve as Chief Judge of this very large and very busy district.

I'm glad to report that the district is in pretty good shape, certainly as compared to last year. A year ago the outlook was very grim due to what I called a perfect storm of heavy workload, unfilled judicial vacancies, and, worst of all, the prospect of devastating budget cuts. Fortunately, the picture is much rosier this year.

One thing that hasn't changed, and will probably never change, is how busy we are as a district. I won't bore you with all the metrics

that prove that, but just consider these few: For the twelve-month period ending June 30, 2014, our district ranked first in the Eleventh Circuit in total cases filed, first in civil cases filed, first in the average number of pending cases per active judgeship, and first in cases pending. Additionally, our district ranked second in the Eleventh Circuit in weighted case filings. As a measure of how hard we are working to try to keep pace with our heavy docket, we placed second in the Eleventh Circuit in case terminations. Simple arithmetic tells us that the workload is more manageable when it's divided among a greater number of judges. And that is something that has changed for the better.

With the addition of our two newest district judges in Orlando, Paul Byron and Carlos Mendoza, for the first time in a long time we have no unfilled district judge vacancies. But the fact that we have no current vacancies doesn't mean we're at full judicial strength; in fact, we're not. The latest biennial judgeship survey conducted out of Washington continues to show that our district's workload justifies six new judgeships. So, by that measure, we're actually down six judges. However, as I've said before, in the current fiscal and political climate, the chance that we'll receive any of those new judgeships is slim. We've obtained some workload relief through the generous efforts of visiting judges from throughout the country, but that assistance only goes so far and our per-judge caseload remains heavy.

Keep in mind that the fact that we have no current judicial vacancies is a purely temporary situation. There will always be vacancies on the horizon as active judges continue to take senior status. The next two vacancies will occur this summer when District Judge Steele of Fort Myers and I take senior status. As

I've said before, in a district as busy as ours, it's critical that a vacancy created by a judge taking senior status be filled quickly by an active district judge. Through the hard work of Senators Nelson and Rubio and their Federal Judicial Nominating Commission, Judge Byron and Judge Mendoza were confirmed very quickly. That was a welcome change, and we're very grateful for it. I'm hoping that's a roadmap for the future.

But the biggest improvement since last year has been in the area of funding for the judiciary. We're no longer in a fiscal crisis. Last year, some employees were laid off and some were furloughed, Criminal Justice Act panel attorneys were not being paid, we had to curtail some court operations and were even considering suspending civil jury trials, and the budget cuts Probation and Pretrial Services were facing presented very real public safety threats.

All that has changed. Something powerful happened. Judges spoke up. The FBA and its leadership raised their voices. The media chimed in. And Congress listened. Congress heard the message that the federal judiciary was truly imperiled. And Congress acted. As a result, I'm happy to say that the budget outlook appears good for the federal courts, at least for the immediate future. So that's the State of the District, in a nutshell.

Now, for what it's been like to be the Chief Judge of the Middle District for the past six-plus years. No one can really be prepared for stepping into the role of Chief Judge of this District. My transition to Chief Judge was much harder than my transition from lawyer to judge. It's orders of magnitude harder. You think you've prepared yourself and you understand the challenges you're going to face as Chief. But once you're it, you realize it must be a little like combat; no one can know what's it's like without actually experiencing it. Initially, the on-the-job learning curve, the things that get thrown at you out of the blue, and the pace of decision-making, are daunting. But you realize that others have done it, that you've never shrunk from a challenge, and that you can do it, too. So you work hard. You learn. You adapt. You find your bearings. After a while, you're not doing everything for the first time, you establish some continuity, and you develop relationships with the folks you work with regularly at the district level, in Atlanta, and in Washington.

The challenges remain - they never go away as long as you're the Chief in a district as big and busy as ours - but they become manageable. For the most part. You quickly discover that the

district never sleeps and what being "connected" electronically truly means. You also realize that trying to micromanage a district this vast and complex is a dubious proposition, at best, so you trust your court unit executives and court committees to do their jobs and you try to weigh in only on the really important issues. You trust your management team to keep you informed on the important stuff, but you let them know your cardinal rule, "No surprises."

You experience some wonderful moments as Chief. For instance, presiding over investitures is great. Seeing the excitement on the faces of the new judges and their families is priceless. But you experience sad moments, too, like the passing of a senior judge or the departure of a beloved court employee. And there are times when your heart catches in your throat, like when a marshal calls to say someone has just tried to assassinate one of your judges.

Some of the greatest satisfaction comes from knowing you work with some of the best court unit executives in the country. Folks like District Court Clerk Sheryl Loesch, Bankruptcy Court Clerk Lee Ann Bennett, Chief Pretrial Services Officer Shelia Jacoby, Chief Probation Officer Joe Collins, and Federal Public Defender Donna Elm. And it's such a pleasure working with talented, dedicated law enforcement professionals like U.S. Attorney Lee Bentley and U.S. Marshal Bill Berger. Collectively, these are the people that makes our federal judicial system the envy of the world. You marvel at how cooperatively they work together, when it would be so very easy for them to fall back on agency self-interest. In so many ways, they make your job as Chief Judge easier.

Another nice part of the job is having the opportunity to work so closely with the FBA and the Tampa Chapter Presidents who have served during my tenure as Chief. I cannot say enough about how important your organization is and all of you are to our court. As I said, you proved that just last year when you added a powerful voice in the fight to secure adequate funding for the judiciary.

So, that's what it's like being Chief Judge of the Middle District of Florida. If I had to sum up the experience in four words, they would be: "Never a dull moment." I thank the Tampa Chapter of the FBA, and all of you, for all the things you've done, great and small, to support me during my tenure as Chief. Organizations like yours, and lawyers like yourselves, have made me proud to serve as your Chief Judge. I look forward to being your Chief for the next 225 days!

Welcome New Members!

Nicole Duga - Hill Ward Henderson

Suzette M. Marteny - Shumaker Loop & Kendrick, LLP

Mary A. Mills - Assistant Federal Public Defender

Alejandro J. Fernandez - Feldman Gale, PA

Brigid A. Merenda - Trenam Kemker

Blake A. Taelman - Foley & Lardner, LLP

Committee Updates

Brown Bag Lunch Series

The "Brown Bag Luncheon" series has become one of the most well-received continuing programs of the Tampa Bay Chapter of the Florida Bar Association. The Brown Bag Luncheons provide a unique opportunity for members to meet, have lunch with, and ask questions of local practitioners in an informal setting. Last year, the Brown Bag Luncheon series featured discussions with the U.S. Attorney for the Middle District of Florida, A. Lee Bentley, III, as well as the Federal Public Defender for the Middle District of Florida, Donna Elm. In addition, the series featured presentations by United States Bankruptcy Court Judge Catherine Peek McEwen and Associate Dean Michael P. Allen from the Stetson University College of Law. Please join us this spring for the kickoff of the 2015 Brown Bag Luncheon series.

Mentoring Program

We invite you to begin the new year by participating in the Mentoring Program as a mentor or mentee! One of the most significant factors contributing to an attorney's professional success is the presence of an effective mentor. The FBA Mentoring Program provides participants with an opportunity to form mutually beneficial relationships that foster professional growth and career development. FBA members can participate as mentors if the member has been in practice for six or more years and has experience handling federal litigation. FBA members can participate as mentees if the member has been admitted to the Florida Bar for five years or less or has practiced in federal court for less than two years.

We have some great plans for the Mentoring Program this year and we hope all of you can participate! If you would like to take part in the mentoring program or have any questions regarding the program, please email Caroline Johnson Levine at levine.levinelaw@gmail.com or the mentoring co-chair Richard Martin at richard.martin@akerman.com. Richard and I would love to assist you in making

this year very exciting and productive for mentors and mentees!

Federal Sentencing Guidelines Seminar

The 24th Annual National Seminar on the Federal Sentencing Guidelines will be held on May 27 – 29, 2015, at the Renaissance Vinoy Resort in beautiful Saint Petersburg, Florida. The program, which provides a comprehensive and objective educational opportunity, is co-sponsored by the Tampa Bay Chapter of the Federal Bar Association, the National Association of Criminal Defense Lawyers, and the American Bar Association. This year's seminar promises to be the best ever, with speakers that include United States District Judges John Gleeson, Mark Bennett, Kimberly Mueller, Frederic Block, and Clark Waddoups. Judges, Assistant Federal Public Defenders, Assistant United States Attorneys, private defense counsel, and probation officers will speak on topics such as firearms, narcotics, plea bargaining, fraud, restitution, criminal history, and more. United States Sentencing Commission training staff will provide Guidelines basics training on May 27. Don't miss this exciting program! Register today to take advantage of early-bird and government discounts by visiting <http://www.federalbartampa.org/events/24th-annual-national-seminar-on-the-federal-sentencing-guidelines/>. If you have questions, please contact Linda Walter at lwalter@shutts.com.

Young Lawyers Division

Looking to get more involved with the FBA? The Young Lawyers Division ("YLD") is looking for additional volunteers to serve on the YLD Committee. Committee members will help plan and assist with future YLD events such as CLEs, networking, membership, and pro bono opportunities.

The YLD invites you to attend a one-hour CLE "What You Need to Know About Practicing in the Middle District of Florida." The CLE will be held on Thursday, March 5, 2015 at the Sam M. Gibbons U.S. Courthouse in the Jury Assembly Room (3rd Floor) at 10:30a.m.

(immediately following the attorney admissions ceremony). This CLE is FREE to FBA members, and is also a great opportunity for newly-admitted attorneys and young lawyers to become familiar with the Middle District of Florida. The presentation will include a discussion of the Middle District local rules and practice pointers from a sitting judge.

The YLD will host its annual "Holidays All Year Long" event in conjunction with the Salvation Army Hospitality House on Wednesday, April 1, 2015 from 6:00 p.m. to 8:00 p.m. Hospitality House is a 50-bed transitional housing program for up to 29 homeless women and 21 children. The Salvation Army helps these families make the transition from homelessness to independent living by meeting their basic needs and offering them access to the skills and services they need to regain their independence and self-sufficiency. The YLD received a \$500 grant from the Florida Bar Young Lawyers Division to host this event for at-risk children, which will be a Spring-Themed Party. With the grant funding, the YLD will provide dinner and arts and craft supplies, and the YLD members will spend time crafting with the children. The YLD is seeking volunteers to plan and attend the event.

The YLD attended its first Florida Bar YLD Affiliate Outreach Conference on January 17, 2015, where the YLD presented a grant application for funding to host a Federal Practice Seminar with the goal of providing substantive education to young lawyers regarding topics unique to federal court practice and to promote pro bono activity within the federal court. Additional information regarding this Seminar is forthcoming.

For additional information, to R.S.V.P. or volunteer for an event, or to serve on the YLD Committee, please contact Lauren Pilkington-Rich at Lauren.PilkingtonRich@RaymondJames.com or Traci Koster at TKoster@BushRoss.com.

Membership Committee

The FBATBC is thankful for its diverse membership, which includes attorneys from

small to large firms, corporations and (continued from previous page) federal agencies. The strength of our numbers allows us to further the FBA's mission to serve as the catalyst for communication between the bar and the bench, as well as the private and public sectors. Recognizing the benefits that our Chapter offers to its members, it is our goal to increase the

Chapter's outreach by encouraging attorneys who practice federal law to join our Chapter and to participate in our programs. This year, we have dedicated the month of April to **Membership Month**. We intend to host several educational and networking events for attorneys and law students who are interested in becoming a part of our organization. We hope that you

will encourage your colleagues who are not members to join and to become a part of the FBA to connect with attorneys and judges, to grow in their practice of federal law, and to advocate for the federal judiciary. We are looking forward to an exciting year with each of you!

FBA Attends Cooley Law School Spring Student Fair

Cooley Law School held its spring student fair organization at its campus in Riverview, FL on January 14, 2015. The Federal Bar Association was pleased to attend as an exhibitor, represented by Angela Tormey and Cindy Christie, Cooley Law School students who are serving as liaisons for the Federal Bar Association - Tampa Bay Chapter. FBATBC board members Jason Stearns and Peter King attended as well. We met many engaging students and faculty during our visit. The FBATBC donated a Kindle Fire HD as a door prize for the event.

As part of its membership initiative for 2015, FBATBC is encouraging law students to become members of the FBA. The Federal Bar Association has structured its dues for law students to be exceptionally reasonable, averaging below \$20 annually. Many thanks to Carly Self and Victoria Cruz-Garcia of Cooley Law School for their help organizing FBATBC's participation, and to Angela and Cindy for their ongoing assistance.



Cooley Law student Uraina Steward, with FBATBC board members Jason Stearns and Peter King.

Mark Your Calendars

March 5 – Swearing-in ceremony at Sam. M. Gibbons United States Courthouse, followed by YLD CLE – “What You Need to Know About Practicing in the Middle District” – 10:30 a.m., Jury Selection Room, Sam. M. Gibbons United States Courthouse

Brown Bag Lunch Series and Mentoring Kick-Off – Coming Soon! For more information, please visit www.federalbartampa.org.

April 2015 – FBATBC Membership Month. Learn more about the FBA Tampa Bay Chapter and the benefits of membership. Look for more information soon.

May 27-29 – 24th Annual Federal Sentencing Guidelines Seminar, held at The Vinoy Renaissance Resort & Golf Club, St. Petersburg, FL.

July 22 – Swearing in ceremony for new admittees to the federal court. Location: Sam. M. Gibbons United States Courthouse.

September/October – Annual Civil Seminar, featuring roundtables with the judges of the Middle District of Florida, Tampa Division.

December – Annual Luncheon, featuring the State of the District presentation by the chief judge, reports from the Bankruptcy Court, United States Attorney, and Public Defender, and the presentation of George C. Carr Award recognizing outstanding contributions to the federal bar.



Mary Mills, Assistant Federal Defender



Martin Luther King Jr. told us that “life’s most persistent and urgent question is, ‘what are you doing for others?’” You now have is an amazing opportunity to make difference in someone else’s life, and in the lives of their families. **Clemency Project 2014 needs you now!**

In January of 2014, Deputy Attorney General James M. Cole asked the legal profession to collaborate to help the government locate federal prisoners and encourage them to apply for clemency. Cole announced a set of factors by which he stated the Justice Department and the White House would prioritize clemency applications:

- The person is currently serving a federal sentence in prison, and, by operation of law, likely would have received a substantially lower sentence if convicted of the same offense(s) today;
- The person is a non-violent, low-level offender without significant ties to large scale criminal organizations, gangs or cartels;
- The person has served at least ten years of their prison sentence;
- The person has no significant criminal history;
- There is a record of good conduct in prison; and
- There is no history of violence prior to or during their current term of imprisonment.

Clemency Project 2014 is a collaboration of experienced criminal defense attorneys and non-profit lawyers, the American Civil Liberties Union, Families Against Mandatory Minimums, the American Bar Association, and The National Association of Criminal Defense Lawyers, along with other attorneys within these organizations who have come together to screen the cases of the federal prisoners who have applied for counsel, to determine whether they meet the criteria set forth by the Deputy Attorney General, and to find them counsel to write their petition if they meet this criteria at no cost.

Clemency Project 2014 has created and implemented an electronic database to efficiently organize more than 26,000 prisoner requests for assistance; recruited volunteer attorneys, including volunteers from more than 50 large law firms, and obtained critical funding; assigned approximately 5,310 cases to volunteer lawyers from prisoners who have asked for assistance; and is offering ongoing, individual legal support and resource materials to more than 1500 volunteer attorneys.

But there is much more work to be done, and now is the time to act. In the words of Project Manager Cynthia W. Roseberry:

“Our undertaking is profoundly important, and we hope the Administration will give careful consideration to all clemency petitions, including those from individuals who secured free counsel through this incredible volunteer mobilization.”

Clemency 2014 needs you. There is still time to volunteer, but please do it now. Be a part of this historic event. We’ve been given the opportunity make a difference in the lives of hundreds of people and their families. Take the opportunity to truly be their champion and volunteer for Clemency Project 2014 by e-mailing Clemencyproject@nacdli.org. You will be glad you did.

Staying In The Game – Women, Leadership, and the Law

By Katherine Yanes, Esq.



The numbers are powerful: Florida Bar statistics show that, following 30 years in which 40-50% of law school graduates have been women, female Florida Bar membership is about 10% less than would be predicted based on the number of graduates coming out of law: 63% male versus 37% female. The higher into the leadership ranks of the legal profession one looks, the less well-represented women lawyers are: while 45% of associates are women, only 19.9% of law firm partners, 16% of equity partners at large law firms, and 4% of managing partners at the 200 largest law firms in the United States are female. Women are 27.5% of state judges and 24.1% of federal judges.

Believing that this issue deserves our attention, the Tampa Bay Chapter of the Federal Bar Association, along with co-sponsoring organizations Stetson University College of Law, the Florida Association for Women Lawyers, the Hillsborough County Bar Association, the Hillsborough Association for Women Lawyers, the George Edgecomb Bar Association, and the Pinellas Chapter of the Florida Association for Women Lawyers, are offering an innovative leadership program in 2015: *Staying in the Game – Women, Leadership, and the Law*.

Staying in the Game is intended to foster dialogue to address the gender disparity in the legal profession by identifying specific steps that law firms, organizations, law schools, and lawyers can take to encourage female lawyers not to take themselves out of the game but instead to continue on the path toward leadership positions.

The Kickoff CLE for the program was held on January 29, 2015, at the University Club in Tampa. The program included welcoming remarks by Anne-Leigh Moe, President-Elect of the Tampa Bay Chapter of the Federal Bar Association, a presentation from Susan Healy, Chair of the Florida Bar's Committee on Diversity and Inclusion, and two panel discussions moderated by Dean Christopher Pietruszkiewicz of Stetson University College of Law. The Lawyer Leaders panel included Lee Bentley, Amanda Buffinton, Susan Healy, Kevin Johnson, Mary Mills, Anne-Leigh Moe, Kristin Norse, and Hala Sandridge, and the Federal Judicial Panel included the Honorable Virginia Hernandez Covington, the Honorable Charlene E. Honeywell, the Honorable Elizabeth Jenkins, the Honorable Elizabeth A. Kovachevich, the Honorable Anthony Porcelli, and the Honorable Mary S. Scriven. Each panel discussion was followed by a Roundtable at which participants in the program had the opportunity for small group discussion.

The *Staying in the Game* program will continue throughout 2015 with a Sustained Dialogue series of smaller discussion groups, with the first Sustained Dialogue discussion group meetings in April. The program will conclude at the end of 2015 with a wrap-up CLE and written report to summarize and share strategies for what law firms, organizations, law schools, and lawyers can do to encourage more women lawyers to "stay in the game."

There is still time to get involved in *Staying in the Game*! If you are interested in signing up for the Sustained Dialogue series, or in sponsoring *Staying the Game* please email Erin Jackson at ejackson@tsghlaw.com or Katherine Yanes at kyanes@kmf-law.com.

Thanks To The Sponsors Of The Kick-off CLE!

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In Pictures: Staying In The Game



A Discussion With U.S. Attorney A. Lee Bentley, III

Recently, Jordan Maglich sat down with A. Lee Bentley, III to discuss his recent confirmation on December 16, 2014, as the United States Attorney for the Middle District of Florida. Mr. Bentley was previously the First Assistant to U.S. Attorney Robert O'Neill, and has served as an Assistant U.S. Attorney in the Middle District of Florida since 2000. In addition to serving as a Special Assistant U.S. Attorney in the Southern District of Florida, Mr. Bentley also worked at the law firm of Hogan & Hartson (now Hogan Lovells). Mr. Bentley clerked for Judge Clement Haynsworth on the Fourth Circuit Court of Appeals and former Supreme Court Justice Lewis F. Powell, Jr. following graduation from the University of Virginia Law School.



Your background includes a previous clerkship with Justice Powell as well as time at a large international law firm. What drew you to the U.S. Attorney's Office and public service?

LB: You know, I really enjoyed Hogan and Hartson. It was a tremendous law firm with bright lawyers doing interesting things, but the cases that I handled there, they never provided me with the same level of fulfillment as working in the U.S. Attorney's Office where we're representing the United States. You feel like you're wearing the white hat in every case, and I also really love criminal law. I like the statutory and constitutional issues as well as human drama that's inherent in criminal trials.

Many may not realize just how big the Middle District of Florida is, and that it consistently ranks among the top nationally in criminal trials brought as well as civil cases brought and defended. Can you discuss this for those who might not be as familiar?

LB: We are a huge district Jordan. As you pointed out, in terms of population we're the second largest district in the country, second only to the central district of California which includes Los Angeles. We cover approximately 11 million people, have 35 of Florida's 67 counties as well as the lion's share of the state both in terms of population and geography. Because of that we have a huge volume of work. We consistently rank right at the top in the number of criminal indictments filed nationwide. If you exclude the districts that border on Mexico, we're usually number two in the country. We're usually number two in the country in the terms of criminal trials as well, and we are right at the top or near the top in prosecuting crimes against children, white collar cases, organized drug cases, and violent crime, and our civil calendar is just as large. Our district typically is number one in the country in the terms of civil cases handled by the U.S. Attorney's Office, and we are right at the top in both civil and criminal appeals as well.

You inherited a very busy office after you were tapped as the acting U.S. Attorney in 2013 after Bobby O'Neill's departure, and officially upon your recent confirmation. What are your priorities and vision for this office going forward?

LB: The top priority as far as management is to get as many good lawyers as we can into this office. We have done everything we can within the Department of Justice framework to beg, borrow, and steal AUSA positions, and in the last year I've been able to hire 17 new AUSA's which is a remarkable number given the budgetary times that we are in. But it's still not enough because we continue to lose lawyers through attrition, and with these 17 new lawyers we

are really getting back to where we were just a couple of years ago. But we hope to keep hiring. For budgetary reasons we are pretty much restricted to hiring younger lawyers as we just can't afford to hire more senior lawyers. But we've been very fortunate to find a lot of good young lawyers, and we're going to continue to do that.

As far as our priorities on the criminal side, the top priority for me has been prosecuting white collar cases. Our office has always done pretty well in that area. Last year we indicted more white collar cases than we ever did in the past, and I'd like that to continue. That is one place where the federal government brings the most value added. A lot of what we do is done by state prosecutors and they do a fine job with a lot of the violent crime and a lot of the drug cases, which in certain areas we can do a better job than the state particularly with respect to international drug rings. But the area where I think we are most needed is white collar crime because those cases tend to be so big and complex.

The state attorney's office, which really has almost no control over the volume of its caseloads, is so overwhelmed they can't take on matters that require that much time commitment and which are now often multi-jurisdictional. So we really tried to focus on beefing up white collar and of course we devote whatever resources are needed to fight terrorism. We've had success in that area, and we just prosecuted a case up in Jacksonville against an individual named Shelton Bale who had traveled to Jordan in an effort to get into Syria and join the fight there. He was expelled and returned to the United States, we prosecuted him, and he was sentenced to 20 years last month. We've also got several cases pending that involve terrorism or cyber-attacks. So those are probably the most important cases we have, but we just don't have enough of them to take up a huge part

"THE TOP PRIORITY FOR ME HAS BEEN PROSECUTING WHITE COLLAR CASES. OUR OFFICE HAS ALWAYS DONE PRETTY WELL IN THAT AREA. LAST YEAR WE INDICTED MORE WHITE COLLAR CASES THAN WE EVER DID IN THE PAST, AND I'D LIKE THAT TO CONTINUE."

of our resources so I would say white collar and terrorism is a big focus.

The Middle District has prosecuted a steadily growing amount of white collar cases over the last ten years. With a growing economy the last two or three years, is it realistic to expect that those prosecutions might wane? What is the data showing?

LB: What the data shows is that you always have white collar crime. However, the economy may affect the type of white collar crime that you see. Several years back, we had a huge number of mortgage fraud cases. With the declining economy and property prices falling, mortgages were in default all over the country but the Middle District of Florida was one of the hardest hit districts in the country. We were one of the top districts in the country in prosecuting mortgage fraud, but now that the economy is rebounding we're not really bringing many mortgage fraud cases. To the extent there's mortgage fraud, a lot of it probably isn't even discovered or the offenders find a way to somehow make sure it doesn't even come to the attention of law enforcement. But we're still seeing a huge amount despite the improved economy.

We're seeing a huge amount of healthcare fraud that probably is one of the biggest problems we have here in the district. Probably the best example of a case to point to on the criminal side is the case that

"LAST YEAR WE RECOVERED ABOUT \$150 MILLION DOLLARS IN QUI TAM LITIGATION, AND I'M ANTICIPATING A MUCH BIGGER YEAR THIS YEAR."

AUSA Jay Tresvant brought against five executives from WellCare. Four of those WellCare executives, including the CEO, CFO, and a couple other officers, went to trial in 2013. All four were convicted of at least some charges, and they've been sentenced and their appeals are pending. The fifth defendant was severed from the first trial for health reasons and we hope to try him after the Eleventh Circuit rules on the first four's appeal. In that case, in addition to recovering about \$80 million from the company on the criminal side, we recovered \$127 million on the civil side. So it been a great result for the people and one of the things we're doing in the healthcare area as well is continuing to bring civil suits even when there isn't enough evidence to bring criminal charges. Usually those come in the form of *qui tam* actions. We're one of the top districts in the country for *qui tam* litigation, and one of the things that we've done over the last few years is put more and more attorneys in our civil division to handle these *qui tam* cases and we've had some success and the success kind of builds on itself. As a result, more *qui tam* actions are brought here and we're recovering more and more. Last year we recovered about \$150 million dollars in *qui tam* litigation, and I'm anticipating a much bigger year this year.

Many do not realize that the U.S. Attorney's Office also has a robust civil practice. Can you talk a little about that role?

LB: Yes, our civil division is tremendous. Every time I sit down and meet with the lawyers there or go see them in court, I'm impressed with what a great job they do and their professionalism. First off, they defend the United States in all actions brought against it. That's something a lot of people don't think much about but the United States is sued quite a bit, with everything from slip and fall to automobile accident cases involving federal facilities or federal employees, to employment discrimination, to very complex medical malpractice actions because of the alleged medical malpractice committed at the VA hospitals. Those guys and gals save the United States a tremendous amount of money. They may have an even bigger impact on the bottom line than the attorneys bringing the affirmative cases and the money they save the government. I'm always impressed when they request settlement authority at "x" dollars, it is approved, and they report back to me that they got a settlement for half that amount. They fight hard, they treat that money as if it were their own, and I'm really proud of that. Now, we've made tremendous strides on the affirmative side. It wasn't that long ago that we would bring in affirmative civil recoveries of about \$8 million to \$10 million a year and that was considered a good year. As we were just saying, last year the total was \$150 million and this year it's going to be significantly higher.

Does that have a direct effect on the offices budget as well?

LB: Well it doesn't have a direct effect on the budget. I wish that it did, because we would have a very well-funded office. But often we do like to point out that the money we bring in is significantly higher than what our annual operating budget is. Our budget, both direct and indirect, is about \$22 million a year – \$23 million a year, and last year the civil affirmative asset forfeiture cases and criminal fines brought in approximately \$368 million. So we bring in so much more money than is used in our budget, so we hope that Congress keeps that in mind when deciding how to fund the U.S. Attorney's Offices.

Speaking of budget, while we've talked about how well the office is doing in bringing in money, the last few years have not been the easiest to deal with in terms of decreasing budgets – in fact, budgets were stretched very thin for several years. How has the office dealt with the current budgetary climate?

LB: I'm very proud of the way our employees have dealt with that. Really, the worst was at the end of fiscal year 2013. At that point

"OUR BUDGET, BOTH DIRECT AND INDIRECT, IS ABOUT \$22 MILLION A YEAR - \$23 MILLION A YEAR, AND LAST YEAR THE CIVIL AFFIRMATIVE ASSET FORFEITURE CASES AND CRIMINAL FINES BROUGHT IN APPROXIMATELY \$368 MILLION."

in time, we were operating under sequester, and there was a time at the beginning of last fiscal year when we furloughed over half our employees for a couple weeks, and at the time we furloughed them,

we were anticipating that they might not ever be paid for the weeks they were furloughed. So, over half our employees were going to be missing at least two weeks of pay, and of course when they were furloughed, they didn't know how long it would last, so that was pretty difficult for morale, and people came back from that. Nobody complained about it. It was amazing to see how people took it in stride. A number of our employees had to go to banks and take out second, third mortgages on their homes or get lines of credit or a loan just to make the payments or for some to pay their rent, and people dealt with it really well. Employees here have gotten little or no raises for about four or five years and that's been very difficult particularly for some of the younger lawyers who are expecting to get raises each year, and people for the most part have dealt with that very well. They've understood that they can't let any frustration they have about the budget affect their work, the quality of their work and the hours they put in. I've been very impressed with the way everybody has dealt with the budget woes.

Let's switch gears a bit. What would you say are some of the notable prosecutions this office had in 2014?

LB: In 2014, I would say one I've already mentioned which is the prosecution up in Jacksonville of Shelton Bale, who traveled to the Middle East [to receive terrorism training]. Of course there are the

"WE'RE WORKING ON A MAJOR CYBERTERRORISM CASE NOW THAT I ANTICIPATE WILL BE CHARGED SOMETIME THIS CALENDAR YEAR, BUT WE'VE GOT A LOT OF IRONS IN THE FIRE."

WellCare defendants I mentioned, who were actually tried in 2013 but were sentenced in 2014 so there's a little bit of a bleed-over there. Another case I'm really proud of is our prosecution of the individual who attempted to murder Judge Corrigan up in Jacksonville. A former defendant attempted to assassinate Judge Corrigan while he was in his home. The bullet missed Judge Corrigan by just a few inches, and with the help of law enforcement, the Marshal's service, the Jacksonville Sheriff's Office, ATF and numerous other agencies we were able to conduct a round-the-clock investigation and identify the culprit in a matter of roughly 48 hours. Charges are pending up in Jacksonville, and right now he's still being evaluated for mental issues, but we anticipate that he'll be actually tried sometime this year. We also prosecuted Osmakac, who is a domestic terrorist who made plans to blow up a building here in Tampa. The target moved as the operation went on, but his ultimate plan was to blow up MacDinton's Pub in South Tampa and then move on to wreak havoc elsewhere. We prosecuted him successfully and I think he got a very significant sentence [*editor's note: Osmakac received a 40-year sentence in November 2014*]. I'm also very particularly proud of one of our civil cases in 2014. That is a case that Ralph Hopkins in our Orlando office brought as a *qui tam* case but

Hopkins was representing us in it. The case was against Halifax hospitals and it was alleged that Halifax had been paying bonuses to physicians who referred patients to the Halifax hospitals in violation of the Stark Act. We recovered \$85 million from Halifax, and that was a lump sum payment that they wired to us a day or two before trial started. We were all the way up to getting ready for jury selection when the case settled for \$85 million, which at the time was the largest recovery ever under the Stark Act.

Cyberterrorism has also been a domestic and foreign priority. Can you talk about how this office has dealt with cyber terrorism?

LB: That's something that is obviously a hot issue now. I think the attack on Sony certainly brought it to everyone's attention, and anybody who hadn't been following it before is now. We're working on several of these cases right now, and they're very difficult because you can imagine the cyberterrorists are extremely good at covering their tracks and most of them are not in the United States. There are all types of issues even if you're able to charge them, such as whether you'll be able to extradite them. Our biggest problem right now is China, and many of the cyberterrorists are actually employed by the Chinese military and very few of them ever leave the Peoples Republic of China, so we're doing what we can. We're working on a major cyberterrorism case now that I anticipate will be charged sometime this calendar year, but we've got a lot of irons in the fire. A lot of what we do in the cyberterrorism area doesn't result in prosecutions because, in light of the fact that the offenders are people who can't be extradited, we decide it's better not to expose to the other side what we're doing. We do a lot of work in helping investigate or assisting in remediation, and it is something that takes a lot of our resources and that we're very interested in it. The FBI has done a tremendous job in that area, and the new FBI director has made that one of his top priorities. It really shows.

The Justice Department recently announced its clemency initiative, which will focus on examining clemency applications based on several new criteria, including if the prisoner would receive a substantially lower sentence if they were re-sentenced today. You also have the recent "Drugs Minus Two" initiative. Can you talk about the effect those issues have on this office?

LB: "Drugs Minus Two" has not had a huge effect on our office because we've become quite adept at dealing with these sentencing guidelines made retroactive. Just in the last six or seven years, there have been two major amendments that have been made retroactive. The first two applied only to defendants who were convicted of a crack cocaine offense. The first of those was a little bit more of a drain on our Office until we figured out exactly how we were going to respond. But working with the judges, who were tremendous and worked really well with us, the probation office, and the public defenders' office, we came up with a mechanism by which these cases could be handled very efficiently and with a minimal amount of litigation and rarely required a court hearing. And ultimately that first crack cocaine reduction worked pretty well given the fact that we had more of those cases than anybody in the country other than the Eastern District of Virginia who had thousands of them. ... We have just a couple of lawyers in our appellate division who are going to be handling almost all of the thousands of motions for reduction of sentence that are going to be filed, so I really don't

anticipate that being a big problem for our office. I do sometimes wish that a lot of these retroactive adjustments could be made at once so we wouldn't be going back and dealing with the resentencing of defendants for the third time now, and I understand there are other potential retroactive amendments on the horizon, but it really doesn't present a resource problem for our office.

As to the clemency initiative, we've seen a huge number of clemency petitions already. All the clemency petitions are funneled through the main Department of Justice, the DAG's office, or the Office of Pardon Attorney, and then they're sent down to us for our comments and frankly, I think that the DAG's office and Office of Pardon Attorney are overwhelmed right now with petitions so they haven't been able to do quite as much screening as I would've hoped before sending them down to us for comments. Everyone that comes down to us, and they're have already been scores of them, we have to dig out the file and not only determine what sentence the individual likely would've received today, but look at a number of other factors, including their personal characteristics and their prison record, and then make a recommendation which then goes back to the pardon attorney. The pardon attorney will make the final decision on what recommendation it will make to the president, who will decide whether to grant clemency. I anticipate that the burden of the office is going to continue to grow, and I think we are going to start seeing more and more of these cases. Right now there's a consortium that has gotten together to form what is called a Clemency Project, and it includes representatives from the ACLU, the Federal Defender's Offices, and a number of other groups. They're in the process of screening these themselves, and they're going to start preparing write ups on those individuals

they believe deserve a commendation. Then they'll be sending their package on to the pardon attorney. But my sense is that all those individuals who don't get a positive recommendation from the clemency project will then be filing the petition on their own, and ultimately many of them will find their way down here. Right now it's not much of a drain on the office and I'm hoping that it won't become too much of one. I don't think the idea is a bad one; it's a good idea to look at some of the individuals who've been incarcerated for 30 or 40 years or life for minor drug offenses to see if some of their sentences can be commuted, but right now I don't think the mechanism for making a decision is working as well as it could. I mentioned it was working like a well-oiled machine in other areas, we're not quite at that point yet with the commutations.

I know my time is coming to a close, and I'll end it by asking you to comment on your relationship with the defense bar here.

LB: I have a great relationship with the defense bar here. I feel very lucky not just personally – I think our whole office is fortunate that we have such a good defense bar. As you know, it's much easier to litigate against somebody who knows what they're doing than against someone who doesn't, and we have a very good criminal defense bar. They're very talented, easy to work with, they fight hard but they fight fair, and I think it just makes it a pleasure to prosecute cases here in the Middle District of Florida.

Thank you again for speaking with me and congratulations again on your confirmation.

Thank you, Jordan. I appreciate it.

Newsletter Editors

Bryan D. Hull

Jordan D. Maglich

Questions? Comments? Ideas? If you would like to submit an article or have a suggestion for future newsletter content, please contact Bryan at bhull@bushross.com or Jordan at jmaglich@wiandlaw.com.

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By signing this application, I hereby apply for membership in the Federal Bar Association and agree to conform to its Constitution and Bylaws and to the rules and regulations prescribed by its Board of Directors. I declare that the information contained herein is true and complete. I understand that any false statements made on this application will lead to rejection of my application or the immediate termination of my membership. I also understand that by providing my fax number and e-mail address, I hereby consent to receive faxes and e-mail messages sent by or on behalf of the Federal Bar Association, the Foundation of the Federal Bar Association, and the Federal Bar Building Corporation.

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