

**Federal Judges Association
Annual Board Meeting Minutes
Fairmont Dallas Hotel
Dallas, Texas
April 16, 2019**

In attendance:

Officers: Marilyn L. Huff (president), Cynthia M. Rufe (president-elect), Richard R. Clifton (secretary), Dan A. Polster (treasurer)

Executive Committee members: J. Michelle Childs, Leo M. Gordon, Patti B. Saris, Karen E. Schreier, Charles R. Simpson, III.

Past Presidents: E. Grady Jolly, Lawrence L. Piersol, W. Royal Furgeson, Jr.

At Large Directors: Joseph N. Laplante (1st Circuit); P. Kevin Castel, Peter W. Hall, Frederick J. Scullin, Jr. (2nd Circuit); Cathy Bissoon, Jose L. Linares, Patty Shwartz (3rd Circuit); Albert Diaz, John A. Gibney, Jr. (4th Circuit); Nannette Jolivette Brown, James E. Graves, Jr., Marina Garcia Marmolejo (5th Circuit); David M. Lawson, Karen Nelson Moore (6th Circuit); Sara Darrow, James D. Peterson (7th Circuit); Linda R. Reade (8th Circuit); Richard F. Boulware, Mary H. Murguia, (9th Circuit); William Paul Johnson (10th Circuit); Leslie Abrams Gardner, Robin S. Rosenbaum, Mary S. Scriven, W. Keith Watkins (11th Circuit); Mark A. Barnett (Court of International Trade)

Also attending:

Ramon E. Reyes, Jr. (President, Federal Magistrate Judges Association)
Michael Romero (Past President, National Conference of Bankruptcy Judges)
Malachy Mannion and Leigh M. May (incoming Executive Committee members)
Kevin Forde, FJA counsel & representative of the Spencer Williams Foundation for Judicial Independence
Megan Cruz and Grace Jan (MSP, formerly Management Solutions Plus)

Judge Huff called the meeting to order at 8:30 a.m. A security briefing was provided by the U.S. Marshal Service.

Judge Huff recognized Kevin Forde for his decades of service to the FJA as legal counsel and to the Spencer Williams Foundation for Judicial Independence.

Minutes

The minutes of the May 5, 2018 Executive Committee meeting were approved as submitted.

Elections of Officers and Executive Committee members

Judge Simpson presented the report of the Nominating Committee. The written report, circulated in advance of the meeting, is contained in the Board Book starting on page 13.

Judge Rufe, as the current President Elect, will become President at the end of this Board meeting. Judge Huff will become the Immediate Past President.

The following persons were elected as officers for the 2019-21 term:

President Elect:	Richard R. Clifton
Secretary:	Karen E. Schreier
Treasurer:	Jerome B. Simandle

The following persons were elected to serve on the Executive Committee for 2019-21:

J. Michelle Childs
Dan A. Polster
Patti B. Saris
Leo M. Gordon
Malachy E. Mannion

(Four positions on the Executive Committee are filled by appointment of the President. Judge Rufe has announced the appointment of the following persons:

Nannette Jolivette Brown
Leigh M. May
Lawrence L. Piersol
Charles R. Simpson, III)

President's Opening Remarks

Judge Huff made brief remarks. The judiciary came within three days of running out of money during the recent federal government shutdown. That presents a serious challenge to judicial independence. The FJA and the judiciary need to address the challenge from both short-term and long-term perspectives.

Judicial Integrity and Independence Committee report

Judge Saris presented the report. A written report is contained in the Board Book on page 17.

The committee has taken a proactive stance in addressing workplace conduct issues. At the committee's recommendation, the FJA sent a strong letter in support of the protective actions taken by the branch. The committee's written report includes a detailed summary of steps taken

by federal courts to provide an appropriate workplace for all employees, including a chart detailing the changes made by individual circuits and district courts based on a survey taken by the committee. The summary provides more detailed information than anything issued to date by the AO.

The committee is considering the appropriate course to take when judges are attacked for decisions. Because judges are not in a position to defend themselves, we need to encourage supporters to speak out. A straw vote indicated very strong support for doing more to respond to public attacks on judges.

The recent government shutdowns have posed serious challenges to the independence of the courts and to judiciary employees. The judicial branch used fee income and other funds to maintain most operations but came within three days of running out of those funds. The FJA prepared a public statement to be issued if that point had been reached, but it was not. It was agreed that we should plan for the possibility of further government shutdowns in the future.

Individual court units are putting more emphasis on wellness programs. The committee may be able to serve as a clearinghouse for ideas.

The judiciary's relationship with Congress needs attention. The POWER Act ("Pro Bono Work to Empower and Represent Act of 2018") was enacted into law last summer. It requires the chief judge of each federal district court to conduct public events in conjunction with state, local, and tribal groups each year to promote pro bono legal services as a method to assist victims of domestic violence and sexual assault. The bill initially assigned the responsibility to U.S. Attorneys, but an amendment in the House on the day the bill was enacted shifted it to the courts. The bill also created additional reporting requirements on both the courts and the AO, with no additional funding. Despite a protest from AO Director Jim Duff, the Senate passed the bill shortly thereafter and it was signed into law.

Last September the House Judiciary Committee held a mark-up session and moved to the floor several bills that would have seriously impacted the courts, including the ROOM Act ("Judiciary Reforms, Organization and Operational Modernization Act of 2018"). None of the bills were ultimately enacted into law. There were parts of the bill that would have benefitted the courts, including the creation of some new judgeships, but other provisions were more disturbing, including requirements for regular medical examinations of judges with results passed on to others, and the imposition by the Judicial Conference of a code of conduct on Supreme Court justices. Some of the bills were introduced just a few days before the mark-up hearing, and most had no public hearing. No opportunity was given to the judicial branch to review the bills, and the House committee chair refused Director Duff's request to delay the mark-up to provide an opportunity to the branch to develop positions on the bills. (More information about the bills and the branch's reaction can be found in memos sent by Director Duff to all federal judges, dated September 19, 2019, and November 20, 2018.) Relationships with members of Congress need to be improved.

The Judicial Integrity and Independence Committee welcomes new members to assist its efforts. Contact Judge Rufe or Judge Saris if interested.

Legislative Liaison Committee

Judge Simpson presented the report. A written report is contained in the Board Book on page 37.

The judiciary's relationship with Congress needs attention. (The discussion of this subject began during the report of the Integrity and Independence Committee and continued into the Legislative Liaison report.)

The POWER Act ("Pro Bono Work to Empower and Represent Act of 2018") was enacted into law last summer. It requires the chief judge of each federal district court to conduct public events in conjunction with state, local, and tribal groups each year to promote pro bono legal services as a method to assist victims of domestic violence and sexual assault. The bill initially assigned the responsibility to U.S. Attorneys, but an amendment in the House on the day the bill was enacted shifted it to the courts. The bill also created additional reporting requirements on both the courts and the AO, with no additional funding. Despite a protest from AO Director Jim Duff, the Senate passed the bill shortly thereafter and it was signed into law. Some members suggested that active resistance or legal challenge to the statute be considered.

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Judge Simpson reported that the ROOM Act and the other related bills appeared to have little actual chance of passing the Senate and may have reflected some personal feeling or desire for payback toward the courts by a few key members. The then-chairs of the House committee and courts subcommittee have retired from Congress, and it is not expected that any similar legislation will have traction in the current Congress. Nonetheless, it would help the courts if relationships with Congress were improved. It is useful for individual judges to form personal connections with members, even those who are not on relevant committees. Judges would also benefit from a better understanding of how Congress works. The Legislative Liaison Committee will provide guidance, including in being mindful of ethical limitations.

A reception at the Capitol for members of Congress and staff was held on March 26, 2019. The event was co-sponsored by (and expenses shared among) the FJA, the Federal Magistrate Judges Association, and the National Conference of Bankruptcy Judges. A separate written report on the reception was prepared and circulated. The reception was viewed as successful. Attendance by members and staff was disappointing at the reception held in September 2017, so this one was held in the spring. Attendance was better. Majority Leader

McConnell was among the senators who attended. Several House members and many staff members also attended. Judges Rufe, Mannion, Proctor, and Simpson attended on behalf of the FJA. Director Duff, Deputy Director Lee Ann Bennett, and new Legislative Affairs Officer David Best were there from the AO.

The sponsoring organizations agreed that the reception should be held again in the future and that spring is a better time than fall for the reception. Discussions are continuing about the scheduling of the next reception. One of the co-sponsors appears interested in holding the next one in the spring of next year, but the FJA committee currently favors waiting for spring 2021, beyond the 2020 election year.

Membership Committee report

Judge Schreier presented the report. A written report is contained in the Board Book starting on page 39. A list of members by circuit as of March 21, 2019 is contained in the Board Book starting on page 124. Board members are asked to check the listings and to report errors and updates to Judge Schreier.

As of March 2019, the FJA had 1,075 members, down 21 from a year ago. She noted that a larger proportion of the judges recently confirmed are on the circuit courts of appeals. Historically, the percentage of circuit judges who are members has been smaller than the percentage of district judges. Board members are asked to follow up with efforts to enlist non-members from their circuits.

Everyone needs to help with membership. Personal contacts are critical. Take advantage of in person contacts at circuit conferences. Emphasize the FJA's successful pay restoration effort – each year's cost of living increase is worth substantially more than the annual \$200 dues.

Judge Schreier described the process to reach out to newly confirmed judges, including a letter from the FJA president and follow up by the committee circuit membership representative.

Judge May will be the new chair of the Membership Committee. New circuit representatives are needed for some of the circuits, including the First, Fifth, Sixth, Tenth, Eleventh, and D.C. Circuits.

Regular communications with members are important. It was suggested that the FJA try to send an e-mail blast to all members every two or three months. The recent message about the cost of living increase was a good illustration.

Judge Huff noted that senior and retired judges can remain FJA members and should be encouraged to do so.

Benefits Committee report

Judge Gordon presented the report. A written report is contained in the Board Book on page 47. He extended thanks to Judge David Carter, who served as committee co-chair last two years, and to members of the committee.

The written report summarized projects worked on by the committee the past year. Much of its work focused on providing information on insurance, including long-term care, health benefits, and life insurance. The insurance consultant conducted meet and greet sessions with many groups.

The effort to persuade USAA to include judges was not successful. The company is not looking to add new cohorts. The committee is considering other possibilities and will confer with MJA and NCBJ potentially to increase the numbers to make the group more attractive to insurers.

Judges 65 and older who are participating in both the government health care plan and in Medicare Plan B are paying for first-dollar coverage twice. The committee is trying to find a way to persuade the Office of Personnel Management to provide wraparound coverage as an alternative to the regular government health care plan.

The committee is working to identify benefits provided to employees in other branches and agencies or to commissioned officers in the military. For example, it was reported that some government units offer plans to assist repayment of student loans to long-term employees.

The committee will also be working, together with the Security Committee and the International Judicial Relations Committee, to obtain benefits aimed at addressing the risks of international travel, for both official travel and personal trips. That could include medical, transport, and extraction benefits, and wider cell phone coverage abroad.

A question was asked about long-term care insurance coverage. The plan that was previously offered with coverage through INA stopped taking new enrollees and premiums have been increased. Only alternative currently offered through OPM is not nearly to comparable. The committee is working to identify additional options.

The name and charge of the committee will be expanded to include Pay in addition to Benefits. Judge Polster is becoming the new co-chair together with Judge Gordon. Compensation adjustment requires a long-term effort. The governmental climate may not be good at this moment, but we should prepare for the future. We should review the history and gather records of prior efforts and will need to work with the AO and other allies.

Members are asked to volunteer for the Pay & Benefits Committee.

Bylaws Committee report

Judge Clifton presented the report. A written report is contained in the Board Book starting on page 49. A copy of the Bylaws is contained in the Board Book starting on page 163.

The amendment to the Bylaws lengthening the term of at large directors from two years to three years was approved last fall. It went into effect for terms starting January 1, 2019.

No amendments to the Bylaws have been proposed for adoption at this year's meeting.

Board Elections in 2019

Judge Clifton reported on the at large director positions scheduled to expire as of December 31, 2019, the end of this year. Based on the recent Bylaws amendment, those terms will be for three years, or from January 1, 2020 through December 31, 2022. It is the responsibility of current at large directors to conduct elections for their circuits. Emails have been sent to the current directors in each circuit detailing the status of the positions in that circuit. Some elections have already been held to fill positions that expire at the end of this year. Judge Clifton expressed thanks to directors for their efforts to accomplish the needed elections.

Executive Director

Judge Huff introduced Megan Cruz and Grace Jan from MSP (formerly Management Solutions Plus) and thanked them for their efforts on our behalf. Julianne Clarke (not present) is the Membership Services Coordinator for FJA.

Communications Committee report

Judge Mannion, who is becoming chair of the committee, presented a report and led a discussion of how to improve FJA communications.

He observed that the FJA website is not used by members very much. It is worth maintaining to present our face to the public and to serve as a repository for materials we may want to reference (private membership information, archives, civics education resource materials), but it does not succeed in communicating with members because most members do not look at it very often or at all. Maintaining private information is difficult because a "members only" section requires use of passwords, and most have trouble keeping track of passwords.

There are other issues with the website. Judge Huff noted that the system for registering for the Quadrennial did not work well. The system used by e-Gov, who maintains the website for FJA at low cost, did not interface well with the systems used by MSP. Past President Furgeson noted that maintaining the website has been a problem for a long time. FJA might have relied too much on volunteers. Judge Polster observed that FJA has funds and should consider spending if necessary, to accomplish our communications goals.

Judge Mannion proposed that the FJA move more to e-mail blasts for communications with members. He also suggested that we look into the possible development and use of an application (for a tablet or smartphone) instead of a website, as that appears to be the trend of the

future. It might be possible to incorporate security devices other than passwords, such as fingerprints or facial recognition.

He encouraged members with interest and expertise to volunteer for the Communications Committee.

International Association of Judges/International Rule of Law report

A written report is contained in the Board Book starting on page 51. Judge Kendall was unable to attend the meeting because of a long trial, so Judge Huff gave the report.

The written report focuses on the International Association of Judges (IAJ) 61st annual meeting in October 2018 in Marrakech, Morocco and includes copies of reports from IAJ study commissions. The 2019 meeting of the IAJ will take place in Kazakhstan. (Payment of IAJ dues and partial reimbursement of the travel expenses of FJA delegates was approved during the Treasurer's Report, below.)

2018 Quadrennial Report

Judges Huff and Childs reported on last year's Quadrennial membership conference and were applauded for their efforts in organizing the Quadrennial. A written report is contained in the Board Book on page 87.

Judge Childs expressed her appreciation for the honor of the "highest position to which I have been voluntold." Highlights included the reception at the African American Museum, the interview of Justice Ginsburg, and the White House reception. Although the White House initially declined our entreaties, Judge Huff was persistent and secured the invitation. New events included a book fair, Sunday night dine-arounds, and a swearing-in ceremony at the Supreme Court. (The Supreme Court was not willing to host a reception as at previous gatherings because our size has grown too large.) The evaluations from attendees were excellent.

Judge Huff reported generally on Quadrennial finances. (More details were included in the Treasurer's Report.) The deficit from the conference was substantially less than anticipated, so that the subsidy required from the FJA treasury was less than expected. That result was accomplished even though the contribution from the Federal Bar Association was unexpectedly reduced just before the gathering. Judge Huff commended all who worked on the conference for their efforts.

She also expressed the FJA's thanks to the Spencer Williams Foundation for Judicial Independence for its support. It awarded two grants to the FJA in connection with the Quadrennial, one in support of speakers and audio-visual equipment, and the other to provide prizes to winners of the essay and video contests for students. A certificate was presented to Kevin Forde for his long service to the FJA and the Foundation.

It was noted that contributions can be made to the Foundation and that applications for grants for court-related program can be submitted to the Foundation.

The 2022 Quadrennial membership meeting will be held on May 1-3, 2022, in Washington, DC at the Omni Shoreham, immediately following the 2022 Board meeting. The Federal Judicial Center has agreed to sponsor a workshop for district judges at the same location on adjacent dates, so judges attending that workshop can have their air fare covered. Suggestions for topics and activities are invited.

Senior Judges Committee report

Judge Piersol presented the report. A written report is contained in the Board Book on page 91.

Judges are encouraged to consider “inactive” senior judgeship as alternative to full “retirement.” By not fully retiring, a judge has the capability of returning to “active” senior status. Some senior status judges are giving up their staffs but remaining active to some level by obtaining support from other chambers or general court staff.

The committee is considering a survey of senior judges to identify more alternatives for others to consider.

Other Committee reports

Written reports from the Meetings Committee, Civics and Service Committee, Security Committee, Federal Bar Association Liaison, and Judicial Conference Liaison are contained in the Board Book.

Treasurer’s Report

Judge Polster presented the report. Written reports are contained in the Board Book starting at page 107.

Judge Huff thanked Judge Polster for his service as Treasurer for the past four years. Though he is term-limited as Treasurer, he will continue to serve the FJA as a member of the Executive Committee as well as co-chair of the Pay & Benefits Committee for 2019-21.

Judge Polster gave thanks to Megan Cruz for her substantial assistance.

The financial reports in the Board Book include preliminary financial statements through March 31, 2019. The independent account’s review of those statements could not be completed prior to this Board meeting, due to the date of the meeting. The reports do include a letter from the independent accountant, dated November 27, 2018, reporting on the review of the prior financial statements (page 113).

Judge Polster reported that more FJA funds have been placed in certificates of deposit and saving accounts out of checking accounts in order to draw a higher interest rate.

Congressional Reception expenses: The expenses for the Joint Congressional Reception, cosponsored by the Magistrate Judges Association and the National Conference of Bankruptcy Judges, held March 29, 2019 were previously approved. (See the report of the Legislative Liaison Committee.) Because the next reception will probably not be held until spring 2021, no recommendation will be made for such an expense in the current budget.

Quadrennial expenses: A review of Quadrennial expenses was conducted by the auditor for the FJA following the end of that conference. That report is contained within the Treasurer's Report in the Board Book starting at page 112. The deficit from the conference was substantially less than anticipated. The actual deficit was \$52,091.58, compared with the projected deficit of \$88,007.86. The subsidy in the past has been up to \$100,000. The 2014 Quadrennial (with a much larger attendance) closed with a deficit of \$61,930.43.

International Association of Judges (IAJ) dues and delegate expenses: The annual membership fee for FJA to be a member of the IAJ is approximately \$2,000. The Board gave approval to payment of the dues for 2020. (Current year dues were approved last year.) The 2019 meeting of the IAJ will take place in Kazakhstan. The Board approved the expenditure of up to \$18,000 to defray the travel expenses for a delegation of up to six judges. That is the same amount authorized for the 2018 conference. The subsidy does not cover the full costs and participating judges bear the balance of the travel costs personally. Judge Rufe will appoint delegates. (Judges Huff and Rufe abstained from the vote on travel expenses, as they might be recipients of the subsidy.)

Staff assistant stipends: The Board approved the payment of stipends up to \$1,500 per judge to staff assistants in the offices of President Huff and Treasurer Polster. (Those judges abstained.)

MSP suggested that the association add a cybersecurity rider to our current insurance coverage at an additional cost of approximately \$200 annually. The Board approved the current expenditure and authorized the Executive Committee to address future coverage. Judge Rufe will work with Judge Gordon, who has some experience in the field.

The Board approved an increase in MSP's fees of approximately 3 percent, effective April 1.

Board Member Responsibilities

Judge Huff reminded the Board that directors have fiduciary responsibilities. Under the Bylaws they are expected to attend meetings, communicate with members within their circuits, recruit new members, participate in leadership development and succession planning, serve on at least one board committee or task force, and work to advance the objectives of the FJA. In recruiting new directors, make an effort to identify those who will actively participate.

Past President Furgeson emphasized that membership is the lifeblood of the organization.

Election to fill 3d Circuit vacancy

Judge Linares advised the Board that he plan to retire from the bench next month and to resign from his position as an at-large direction for the Third Circuit at the same time. His current term would otherwise extend to the end of this year (December 31, 2019).

Under Section II.B. of the FJA Bylaws, a vacancy on the Board can be filled by a majority vote of the Executive Committee until the next election from the circuit from which the vacancy arose. A director elected to fill a vacancy remains eligible for election to two full consecutive terms.

During the Board meeting, the Executive Committee acted under that provision to elect Judge Esther Salas (D.N.J.) to fill the vacancy.

Meeting Planning Report

Judge Rufe presented the report. A written report is contained in the Board Book starting on page 93.

The 2020 annual meeting will be held in Denver, Colorado, at the Brown Palace Hotel, on Saturday-Sunday, April 18-19, 2020. Those details were approved by the Executive Committee earlier this year in time to sign the hotel contract.

As noted above, the 2022 annual Board meeting will be held in Washington, DC at the Omni Shoreham, 2500 Calvert St., NW, on Saturday and Sunday, April 30 and May 1, 2022. The Tenth Quadrennial membership meeting will be held immediately following, on May 1-3, 2022, also at the Omni Shoreham. The FJC will again hold a workshop for district judges on adjacent dates.

It was suggested that the 2021 annual meeting be held in Philadelphia, Pennsylvania.

Members are encouraged to offer their thoughts about future meetings, including preferred days of the week, time of the year, other calendar issues, and preferred geographical locations. Straw polls were taken on some subjects. There was no objection expressed to meeting over weekends. Views were split on holding meeting in Washington, DC, or in different venues.

It was suggested that we consider asking the FJC to schedule a workshop at the same location and on dates adjacent to the FJA Board meeting, as has been done for the Quadrennial, in order to help save on air fares.

Thanks to Outgoing Officers and Executive Committee Members

At dinner the evening before Judge Huff expressed thanks and presented certificates to officers and directors who will complete their terms before the next annual meeting.

On behalf of the Board, Judge Rufe expressed appreciate and presented a gift to Judge Huff in recognition of her service. Judge Rufe observed that “everything she has touched has been perfection.” She particularly cited her admiration for Judge Huff’s kindness and understanding of human nature. The Board added its appreciation with a standing ovation.

Welcome to the New Officers, Executive Committee members, and Committee Chairs; Goals and Plans

Judge Rufe welcomed the new officers and members of the Executive Committee. She announced the following committee chair assignments.

Bylaws: Karen Schreier
Civics & Service: Nannette Jolivette Brown and Janis Sammartino
Communications/Publications: Malachy Mannion
FBA Liaison: TBD
International Rule of Law: David Carter
Judicial Conference Liaison: TBD
Judicial Independence & Integrity: Patti Saris and Michelle Childs
Legislative Liaison: Charles Simpson
Long Range Planning: TBD
Meetings: TBD
Membership Development: Leigh May
Pay & Benefits: Leo Gordon and Dan Polster
Quadrennial Planning: TBD
Security: Henry Hudson
Senior Judges: Lawrence Piersol

Directors are expected to volunteer for committees and projects.

Directors are also expected to be in touch with the members from their circuits. Within the next week or two, a draft summary of the high points from this meeting will be circulated to the directors from each circuit, which should be used to communicate with all of the members. By communicating through circuit directors, we aim to let members know of the positions and functions of the circuit directors, to encourage them to communicate their thoughts and suggestions through them. Judge Rufe emphasized the need for communications with our membership.

Judge Rufe also emphasized the need to establish priorities. Under her leadership, the FJA’s top priority will focus on Pay and Benefits. Improvement in compensation will not be easily or quickly obtained. It is a project that is likely to take years, but we need to start now to prepare for future efforts.

Improvement in compensation will require action by Congress. Improving our connections with members of Congress will be another priority. It may also serve to improve the treatment by Congress of the judicial branch generally.

Our Quadrennial membership conferences are viewed by many members as an important benefit of FJA membership, and they help to draw our members together. The 2022 Quadrennial is less than three years away. Planning must begin very soon, and that will be another FJA priority.

Judge Rufe is honored by the opportunity to serve as FJA president and looks forward to working with all members of the Board.

Other business

No other business was raised.

The meeting was adjourned at 11:30 a.m.

Respectfully submitted,

Richard Clifton
Secretary