

Federal Judges Association
Interim Board of Directors Meeting
Teleconference—Due to COVID-19
April 19, 2020

In attendance:

Officers: Cynthia M. Rufe (president); Richard R. Clifton (president-elect), Karen E. Schreier (secretary), J. Michelle Childs (treasurer), Marilyn L. Huff (immediate past President)

Executive Committee Members: Nannette Jolivette Brown, Leo M. Gordon, Malachy Mannion, Leigh M. May, Lawrence L. Piersol, Dan A. Polster, Patti B. Saris, Patty Shwartz, Charles R. Simpson, III

Past Presidents: Allyson K. Duncan, M. Margaret McKeown, Irene M. Keeley

At-Large Directors: Jon David Levy, John J. McConnell, Jr. (1st Circuit); P. Kevin Castel, Peter W. Hall, Frederick J. Scullin, Jr. (2nd Circuit); Cathy Bissoon, Esther Salas, Mark A. Kearney (3rd Circuit); Albert Diaz, John A. Gibney, Jr., Gina Marie Groh (4th Circuit); Shelly Dick, James E. Graves, Jr., Marina Garcia-Marmolejo (5th Circuit); David Jason Hale, Sean F. Cox, James G. Carr, Aleta Trauger (6th Circuit); Sara Darrow, Tanya Walton Pratt, Sara Ellis, James D. Peterson (7th Circuit); Susan Richard Nelson, John M. Gerrard, Jane L. Kelly, Stephen Bough (8th Circuit); Michael McShane, Richard F. Boulware, Mary H. Murguia, Janis L. Sammartino (9th Circuit); James O. Browning, Joel Carson III, Joe Heaton, Julie A. Robinson (10th Circuit); Leslie Abrams Gardner, Robin S. Rosenbaum, W. Keith Watkins (11th Circuit); Kara F. Stoll (Federal Circuit); Cornelia Pillard (DC Circuit); Mark A. Barnett (Court of Int'l Trade)

Also attending:

David Carter (Chair International Rule of Law Committee)
Robert Lasnik (Co-chair of 2022 Quadrennial) Megan Cruz, Grace Jan and Julianne Clark (MSP)

Absent:

Allison Dale Burroughs (1st Circuit), Stefan R. Underhill (2nd Circuit); Robert D. Mariani, (3rd Circuit); Bruce H. Hendricks (4th Circuit); Debra Brown (5th Circuit); Mary S. Scriven (11th Circuit)

Invited but not attending liaisons:

Barry Ashe (FBA Liaison) and Rodney Sippel (Judicial Branch Liaison)

President's Report:

Judge Rufe call the meeting to order at 12:02 p.m. (EDT). In her opening remarks, she informed the Board that five executive committee meetings have been held since the last meeting of the Board of Directors. Actions taken include replacing Judge Jerome B. Simandle, who had been elected and served as Treasurer until his untimely death, with Judge Childs. This action created an Executive Committee vacancy that has been filled by Judge Patty Shwartz.

FJA priorities addressed in the Executive Committee meetings and various committee meetings have focused on website development, pay and benefits, civics education programming, continued association with national bar associations (ABA and FBA) and direct communication with the Administrative Office through Jim Duff. The FJA enjoys a collaborative relationship with the Judicial Branch through President Rufe's ex-officio position on the Judicial Branch Committee (please refer to liaison Judge Sipple's report in the Board Book materials) along with the Magistrate Judges and Bankruptcy Judges Associations leadership.

Judge Rufe recognized the past-presidents in attendance: Judges Piersol, Keeley, McKeown, Duncan and Huff. She then introduced the MSP team: Megan Cruz, Grace Jan, and Julianne Clark. She thanked them for their patient, kind and instructive service, in particular, by arranging this virtual meeting in place of our in person annual meeting in Denver due to the serious health concerns of COVID-19. That meeting has been rescheduled to November 14-15, 2020.

Minutes:

The minutes of the April 16, 2019 Annual Board meeting were approved as submitted. Please refer to the Board Book for the prior minutes.

Treasurer's Report:

Judge Childs reported that as of March 31, 2020, the balance sheet reflects that the current total checking and savings assets are \$881,723.83. The net income for the time period of April 2019 through March 2020 was \$111,315.58. The total amount received in membership dues during that time period was \$219,060.27. She reported that we did not have any expenses for a Congressional reception during this last year and board travel expenses were lower. The full Treasurer's report can be found in the Board Book.

The following actions approved by the Executive Committee were put before the Board:

Judge Childs moved for approval of the \$5000 donation to the American Bar Association Task Force on the 19th Amendment to be used for its traveling exhibit and civics education purposes. Judge Gordon seconded the motion. The motion carried.

Judge Polster moved that the FJA establish a fund to set aside money for future Quadrennial expenses, to be paid in increments of \$25,000 per year for a total of \$100,000. Judge Gibney seconded the motion. The motion passed.

Judge Duncan moved that the FJA pay up to 1,767 Euro for the 2021 dues to the International Association of Judges. Judge Simpson seconded. The motion passed. Judge Duncan explained that dues paid for 2020 will be partially credited against this future payment because of the recent cancellation of the International Association of Judges annual meeting in Costa Rica due to COVID-19.

The Executive Committee action to approve a \$5000 donation to the ANAO division of the IAJ to support the expenses for a planned meeting in Arlington was not submitted for Board approval because that meeting has also been cancelled and this disbursement has not been made.

Future Meetings:

Judge Clifton and Grace Jan reported that the annual Board of Director's meeting that was postponed due to COVID-19 has been rescheduled to November 14-15, 2020, in Denver, Colorado. Next year's meeting is scheduled for April 6-7, 2021 in Philadelphia, Pennsylvania. The 2022 Board of Director's meeting will be held April 30-May 1 in Washington, D.C., followed by the Quadrennial on May 1-3. The meeting will be held at the Omni Shoreham. The FJC has agreed to schedule the district judges conference immediately before our meeting in DC, which will then lead into our planned Quadrennial celebration.

Judge Clifton announced the Judge Robert Lasnik has agreed to co-chair the Quadrennial planning committee. Judge Rufe has appointed additional members to the committee. FJA members interested in serving are welcome to volunteer. Please contact her. Our recent experience with the global pandemic has prompted the FJA officers and administrators to review all contracts with vendors, in particular contracts with hotels and sites for planned events. Per Grace Jan, the contract for the Omni has been examined and can be terminated based on travel advisories or pandemics. We are also considering how to conduct our future board meetings, whether in person, virtually, or a combination thereof.

Moment of Silence:

Judge Rufe called for a moment of silence in memory of Judge Jerry Simandle, former treasurer and longtime executive committee member, and Wiley Daniel, past president. She also noted the passing of former FJA past board members, including Deborah Batts, Gregory Wright Carman, and Thomas Wiseman, Jr. Website memorials were created for Jerry and Wiley. Please contact President Rufe to post additional memorials for those officers, directors and members who have passed in 2019 and 2020.

Bylaws Report:

Judge Schreier reported that the Bylaws were amended in the fall of 2018 to lengthen the terms of at-large directors from two years to three years. All directors have now been elected to a three-year term. No Bylaws changes are pending. A more detailed report is included in the Board Book.

In addition, Judge Schreier reported that a new Directors orientation was conducted by videoconference to welcome the 13 new Directors, to provide them with a brief history of the FJA, and to describe their duties as Directors. Judge Rufe thanked Judges Schreier and Clifton for running the orientation.

Civics and Service:

Judge Jolivette Brown reported that the FJA Community Outreach Resource Manual is now posted on the website.

Co-chair Judge Sammartino reported that the manual will continue to evolve. It lists programs by district and includes a contact person for each program. Approximately 33%-40% of the districts responded to the request for information. The committee plans to make a solicitation for additional responses. Currently the database is not searchable. Our database is broader than the database that is maintained by the Administrative Office.

Judge Jolivette Brown noted that this is a difficult time for schools. Many schools have turned to online tools to assist with teaching. This is an ideal time to let schools know about our programs. She encouraged districts to consider trying virtual court camps. The committee is also considering sponsoring a poster contest on the 15th and 19th Amendments' Right to Vote topic. President Rufe appointed Judge Jolivette Brown as the liaison to the ABA 19th Amendment Task Force. The ABA has a traveling exhibit that is available for courts to use. She encouraged the use of video meetings and presentations to replace the in-person programming that was going to occur to celebrate the 100th Anniversary of the passage of the 19th Amendment. Judge McKeown, Chair of the Task Force, noted that many programs are available on YouTube regarding the 19th Amendment.

Please also refer to the Board Book written reports and materials.

Communications Publications:

Judge Mannion observed that many FJA members have experienced problems with using our website. It is outdated and has been fixed with band-aids over the years. We are now at the point where we must completely start over. The committee has met and discussed what must be added for the future FJA website to be an effective communication system for our association, which should include a mobile app, event manager, community platform, and a membership directory.

The committee's goal is to identify what needs to be included. Prospective vendors will present their proposals via video presentation, including costs. One such demonstration has already occurred and included President Rufe. The committee will thereafter make a recommendation to the Executive Committee and the final proposal will be submitted to the full Board of Directors in November. Initial start-up costs are anticipated to be at least \$50,000.

The committee has also been asked to update the history of the Federal Judges Association. The last history was done in 2000. The committee hopes to show short video clips of interviews of several past Presidents during the 2022 Quadrennial. Judge Rufe encouraged all the members of the Board of Directors to read the FJA in the Twentieth Century article that was included in the Board Book for this meeting.

Judge Mannion moved to authorize paying up to \$50,000 for initial development and implementation of a new website platform, pending presentation and approval of the Board in November. Judge Hall seconded the motion. The motion carried.

Please also refer to the Board Book written reports and materials.

International Rule of Law:

Judge Carter reported that the 2020 International Association of Judges (IAJ) meeting in Costa Rica was cancelled due to COVID-19. The meeting will not be rescheduled in 2020. The IAJ may return to Costa Rica next year or maintain its scheduled site in Tel Aviv for the 2021 conference. Nevertheless, we have been advised to continue to respond to the questionnaires in the four study groups that address civil and criminal laws and procedures, as well as ethical concerns of judges around the world. The questionnaire responses are written by the FJA members who will attend the annual IAJ conference, and this year the responses will be redirected, in part, to address the additional concerns affected by a world-wide pandemic.

Those members who were to attend the now cancelled conference as FJA delegates are President Rufe, President-Elect Clifton, Secretary Schreier, Immediate Past President Huff, Past President McKeown, and Committee Chair Carter. Past President Duncan now sits on the IAJ Presidents Council and heads the ANAO division, the geographical group of associations that includes the United States. Judge Duncan has planned an ANAO conference in Arlington in May, but that meeting has also been postponed due to COVID-19.

FJA Questionnaire responses for the 2019 IAJ meeting in Kazakhstan have been posted on our website. Each of the four Study Commissions created the topics. This year, in addition to the four Study Commissions, two Working Groups will address additional concerns: security and threats to judicial independence and impacts on court functions. President Rufe will respond to and participate in these working groups.

The FJA is the only American judicial organization that is a member of the IAJ. They welcome our presence. It was suggested that either the FJA have a representative on the Committee on International Judicial Relations of the Judicial Conference or that a member of the conference committee serve as a liaison to the FJA Board of Directors. The suggestion will be considered by the Executive Committee.

Judicial Independence and Integrity:

Judges Saris and Childs gave the report. The committee meets three to four times a year. Last year they focused on workplace conduct. Additionally, they were prepared to gather examples of the impact the shutdown had on federal court operations in the event another shutdown was threatened. They also discussed the exposure draft of Advisory Opinion No. 117 that was recently issued by the Judicial Conference's Code of Conduct Committee.

Please also refer to Board Book written report and materials.

Legislative:

Judge Simpson reported that there are currently no hot button issues that are pending before Congress. Because it is an election year, he does not expect much movement on most issues that impact the judiciary. Judge Simpson recommended that we do not co-sponsor a legislative reception this year. In the past, we have cosponsored a reception with the Magistrate and Bankruptcy Judges. Instead, he recommended saving the money that would have been spent and using the money to meet with specific members of Congress if needed to discuss a particular issue that might arise. Judge Simpson asked any members of FJA who have a connection with a member of Congress to email him and let him know of that connection.

Membership Development:

Judge May reported that the current membership of FJA is 1079. Last year the membership was 1075. She encouraged all members of the Board of Directors to help recruit new members immediately after a new judge takes their oath of office. The membership brochure, membership application, and dues allotment form are included in the board packet. Personal outreach from a Board member is important in the recruitment process. Judge Rufe sends the new judge a welcome letter and someone from the membership committee contacts the new judge. But another contact by a member of the Board is helpful.

Judge May noted that four members cancelled their membership after the press issue in January. We are reaching out to each of them.

Please refer to Board Book written report and materials.

Pay and Benefits:

Judges Polster and Gordon welcomed two new members to their committee. The committee will focus on judicial pay. They are gathering information regarding the pay received by judges in state courts and other historical information regarding judicial pay. They also talked to Judge Piersol, Chair of Senior Judges Committee, who recommended seeking an increase on the reimbursement limit under the flexible benefits plan. The committee will examine this request.

Please refer to Board Book written report.

Security, Senior Judges, and Judicial Conference Liaison:

Please refer to Board Book written reports and materials. These reports were filed as submitted.

New Business:

Please refer to Board Book written reports and additional materials.

Judges Saris and Childs led the discussion on Advisory Opinion No. 117 published as an Exposure Draft from the Code of Conduct Committee. Under this opinion, it would be unethical for a federal judge to be member of either the American Constitution Society or the Federalist Society. The deadline for commentary is May 20, 2020. The question considered was whether our organization should take a position or positions on behalf of its members, and if so, what would that position be. After serious discussion and consideration, the assembly voted 34/6 not to respond to the exposure draft but to encourage all of our members and colleagues to do so. It should be noted that all directors who are also appointed members of the Code of Conduct Committee, did not participate in either the discussion or the vote. There were 10 abstentions. It must also be acknowledged that not responding to the Exposure Draft is not a ratification of its content by the FJA.

President Rufe will promptly advise the entire FJA membership that the organization will not take a position but encourages individual members to respond to the Code of Conduct Committee directly with their concerns.

Judge Huff moved to increase the fee charged by MSP by 3% per year. Judge Childs seconded the motion. The motion passed.

President's Closing Remarks:

Judge Rufe thanked the participants for their interest and contributions. She urged the Directors to assume the role of conduit between the FJA leadership and its members, making the lines of communication and participation a two-way street. As we move forward to accomplish our several missions, hopefully with improved

communications capabilities in our new website design and active engagement with and between our members, we also note our thanks and appreciation to the outgoing Directors for their service: Judges Joseph LaPlante, Jose Linares, Daniel Jordan, III, David Lawson, Karen Nelson Moore, Jon De Guillo, Audrey Fleissig, Linda Reade, Anthony Battaglia, William Paul Johnson, and Marcia Krieger.

Judge Piersol moved to adjourn. Judge Mannion seconded the motion. The motion passed.

The meeting adjourned at 2:46 p.m. (EDT).