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| In This Issue: |
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| [**Who We Are**](http://r20.rs6.net/tn.jsp?f=001_Dz1xBEYKhFMB2TkEY9ZpESHAF1zqqS_ghp5RF5DXzTO5i4BK355n-mNN-GeUWQUQfZpFlB-gLyCewOd-3ArcNqDsGHbt_aWc7YCuSKYSqTpYVCsqAhX4e0UYkNWKkiGO-fz0uVbVshWF5pWL0GLXZeAg5faVwVD8IVJt3d60nKuadgieefo52TDVaA1NszA_rMGI7LZADn_TOApiwdk4A==&c=CvWlj93TvVLxPaUc58faxwSdzdGEJo3ulbuL8nVg2B6lpphOpHzHiw==&ch=gxK60CF2zyMxMupux9-piUmXcNgtQRBIjhds0dBnHA0X1rQXREIO6g==) |
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| **[Mission of the Faculty of Federal Advocates](http://r20.rs6.net/tn.jsp?f=001_Dz1xBEYKhFMB2TkEY9ZpESHAF1zqqS_ghp5RF5DXzTO5i4BK355n-mNN-GeUWQU4Nt9BX18h07kBhvcW1zkZvL68Uk5frpxEZ2A9O0FHH3l20bpUmramOoxzBXQLkzzMMgPSl90iXHAdGZVjnLe2zwc5_wj8X8ieDmn-HzfT9Vtrikr2MT1GUvGTpvHDtKA4-yyHkDnjjw=&c=CvWlj93TvVLxPaUc58faxwSdzdGEJo3ulbuL8nVg2B6lpphOpHzHiw==&ch=gxK60CF2zyMxMupux9-piUmXcNgtQRBIjhds0dBnHA0X1rQXREIO6g==" \t "_blank)****The Faculty of Federal Advocates (FFA)** is an organization of attorneys dedicated to improving the quality of legal practice in the federal courts in Colorado by enhancing advocacy skills, professionalism, and the integrity of practice.The FFA provides continuing legal education classes, mentoring and pro bono opportunities, and other support services to foster and demonstrate commitment to the highest standards of advocacy and professional and ethical conduct.  The FFA promotes support, mentorship, education, and camaraderie for federal court practitioners.Become a member or learn more at our website:[facultyfederaladvocates.org](http://r20.rs6.net/tn.jsp?f=001_Dz1xBEYKhFMB2TkEY9ZpESHAF1zqqS_ghp5RF5DXzTO5i4BK355n4UiV_M7mtrn8O2XocKdV6z5uVugByITyjDXFw1elOBwgJudHb3xAnospVWQv0uMfvsiBOuloxhKbFjDHcSE0WLO5odBpKqk-DsoSSG_aOCRe2rCvWGmdEFPYe4-0vawZjAp6vwXS5dVr_CZZ8OQ5RX5rrTZP70RBA==&c=CvWlj93TvVLxPaUc58faxwSdzdGEJo3ulbuL8nVg2B6lpphOpHzHiw==&ch=gxK60CF2zyMxMupux9-piUmXcNgtQRBIjhds0dBnHA0X1rQXREIO6g==)  |
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| **Welcome to the Faculty of Federal Advocates****Winter 2019 Electronic Newsletter**[www.facultyfederaladvocates.org](http://r20.rs6.net/tn.jsp?f=001_Dz1xBEYKhFMB2TkEY9ZpESHAF1zqqS_ghp5RF5DXzTO5i4BK355n-mNN-GeUWQUCr4Ee4eGDar2X7tNB1YetPnER7zLWl2EV-snWPwuJYpK8BtdfPcA_QUNzDo7P4vXnDpm9YSQYqks8R2qHgWNObb1Xx4LHQh1u8lQCRq38xMw0RhP8jHVkPlieaR-nNaC&c=CvWlj93TvVLxPaUc58faxwSdzdGEJo3ulbuL8nVg2B6lpphOpHzHiw==&ch=gxK60CF2zyMxMupux9-piUmXcNgtQRBIjhds0dBnHA0X1rQXREIO6g==)The Newsletter brings you news about FFA events and CLE programs along with useful information for federal practitioners, including links to relevant websites.The FFA welcomes contributions to our Newsletter from our membership. Newer attorneys, experienced attorneys, and law students are all encouraged to submit articles. If you are interested in submitting an article to be considered for publication, please contact the FFA by emailing dana@facultyfederaladvocates.org.  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |

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| W1**The FFA Remembers Magistrate Judge Craig B. Shaffer****By Jeff Colwell, Clerk of Court, U.S District Court for the District of Colorado** On December 1, 2018 we lost an ardent supporter of the FFA, a fabulous jurist, a pioneer in the world of e-discovery, and a loving friend, father, and husband.  In October 2017, Magistrate Judge Craig B. Shaffer was diagnosed with glioblastoma, an aggressive and fatal form of brain cancer.  He fought his cancer with the same tenacity, even-keeled temperament, and sense of humor he exuded from the bench; he was always more concerned for the welfare of others than of himself. Magistrate Judge Shaffer was born in Key West, Florida in 1954 and spent most of his time growing up near Navy bases up and down the East Coast.  His father was a submarine commander who ultimately retired from the Navy as a two-star admiral.  Magistrate Judge Shaffer attended the College of William and Mary in Williamsburg, Virginia, graduating in 1976.  Thereafter, he attended Tulane University Law School in New Orleans, Louisiana, graduating magna cum laudein 1979. While in law school, Magistrate Judge Shaffer made the decision to follow in his father's footsteps and take a commission as an officer in the United States Navy, not as a submariner, but as a judge advocate or, "JAG," as military lawyers are often referenced. Upon his commissioning into the Navy, then-Ensign Shaffer set off to Naples, Italy where he served both as a military prosecutor and defense counsel handling courts-martial cases across the European theater.  He finished his time on active duty in Washington D.C. as the chief law clerk for the Court of Military Appeals. After his time in the Navy, Magistrate Judge Shaffer continued his public service with the U.S.  Department of Justice, serving for five years in the Civil Rights Division and three years in the Environment and Natural Resources Division.  His portfolio within the Department of Justice included prosecuting civil rights cases against the Ku Klux Klan and representing the Army, Air Force, and Department of Energy in Superfund litigation. Unquestionably, the most significant event in Magistrate Judge Shaffer's time at the Department of Justice was being introduced to a new attorney named Kathleen Nalty, who would become his wife. In 1991, Magistrate Judge Shaffer and Kathleen moved to the Denver area where he went into private practice concentrating in the areas of environmental, criminal, and complex commercial law.  He started with the Denver law firm of Dufford & Brown and later served as a partner at the firm now known as Moye White LLP.   Magistrate Judge Shaffer was first appointed as a U.S. Magistrate Judge in the District of Colorado on January 18, 2001.  He was thereafter unanimously reappointed by the Court to successive terms in 2009 and 2017.  He was recognized as a national expert on the topic of e-discovery and is credited with authoring several key decisions in this arena including Cache La Poudre Feed, LLC v. Land O'Lakes, Inc., 244 F.R.D. 614 (D. Colo. 2007); Witt v. GC Services Limited Partnership, 307 F.R.D. 554 (D. Colo. 2014); and Western Convenience Stores, Inc. v. Suncor Energy Inc., 2014 WL 1257762 (D. Colo. Mar. 27, 2014).  He was an active judicial participant with The Sedona Conference and was a member of Sedona's Working Group 1, focusing on the areas of electronic document retention and production.   He also was appointed to serve on the U.S. Judicial Conference's Advisory Committee on Rules of Civil Procedure in 2014.  Anyone who practiced in front of Magistrate Judge Shaffer knew that he had a true love of the law.  That passion shone through in everything he did, whether he was compassionately addressing a criminal defendant at an initial appearance, patiently trying to shepherd a pro se prisoner through a scheduling conference, or methodically educating counsel for both sides on the intricacies of the six-month list.  He was also a mentor to many law students, both through hiring many of them as interns and through serving as an adjunct professor at the University of Denver Sturm College of Law for fourteen years.  Finally, he was a tremendous supporter of the FFA's mission to improve the quality of legal practice in the federal courts in Colorado, and was a frequently requested speaker and participant at FFA events.     In his time away from the bench and his judicial responsibilities, Magistrate Judge Shaffer enjoyed sailing and hiking with his real true loves:  his wife Kathleen and his boys Ryan and Nick.  The FFA wishes Magistrate Judge Shaffer and his family fair winds and following seas.**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |

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| W2 **New U.S. Magistrate Judges Join the District****By Marilyn Chappell and Dana Collier Smith** The United States District Court for the District of Colorado recently selected three individuals to fill vacancies created by the retirements of U.S. Magistrate Judges Michael J. Watanabe, Craig B. Shaffer, and David L. West.  (A tribute to Magistrate Judge Shaffer, recently deceased, also appears in this Newsletter.)  The following is a brief biography of each. **Magistrate Judge S. Kato Crews** Magistrate Judge S. Kato Crews was appointed to the bench in August 2018.  He received his undergraduate degree from the University of Northern Colorado and his law degree from the University of Arizona James E. Rogers College of Law, where he was a member of the Arizona Law Review. Magistrate Judge Crews practiced as an attorney for over 17 years.  He started his career in public service, as an attorney with the National Labor Relations Board (NLRB) in Denver.  He was then hired as an associate with the firm now known as Lewis Roca Rothgerber Christie LLP, and was appointed partner in 2008, becoming one of the youngest partners in the firm's history.  In 2011, he helped found a small law firm in the Denver Tech Center that later became Hoffman Crews Nies Waggener & Foster LLP.   His litigation practice focused on employment law and general civil litigation.  His trial experience spanned jury and bench trials in state, federal, probate, immigration, and administrative courts, and included numerous union-grievance and AAA arbitrations.  Based on his skills and experience as a trial advocate, he was named to the faculty of the National Institute for Trial Advocacy (NITA) and its Miranda Trial Advocacy Institute.  He was also a frequently-requested speaker on employment law topics. As a native Coloradan, Magistrate Judge Crews has been integrally involved in the community.  He was appointed to serve a term on the Board of Trustees for the University of Northern Colorado (UNC) in 2014 by then-Governor John Hickenlooper.  He also served on the Board of Directors of the CHOICE Education Foundation, as President of the Colorado Bar Association Leadership Training (COBALT) Board of Directors, and as a mentor with the Colorado Attorney Mentoring Program.  He was a member of the 2007 inaugural class of the COBALT program.  He remained extensively involved with COBALT as a member of the Executive Committee from 2008 - 2014.   He served as COBALT's Gathering Facilitator from 2009 - 2014, circling with each year's 20-attorney-member class at the end of the program to explore and reflect on the program's content.  In this role, he earned the moniker "Gathering Whisperer," the title ascribed to the role to this day.   Magistrate Judge Crews has received numerous recognitions for his professional accomplishments, including being named to the Colorado Super Lawyers list each year (first as a Rising Star) from 2009-2018; receiving the 2010 UNC Distinguished Young Alumni Award; and being honored as a 2008 Colorado Springs Business Journal Rising Star.  While a student at UNC, Magistrate Judge Crews was presented with the Future Black Leader and Achiever Awardby UNC's African-American faculty.  Throughout his career, Magistrate Judge Crews has sought out meaningful ways to impact the community.  He has served on the board of directors of numerous local non-profit organizations, and currently volunteers as a mentor with the "Law School ...Yes We Can" program.  He also serves on the CBA/CLE Board of Directors.  Outside of these roles, he regularly makes himself an available resource to young people for mentoring and guidance. **Magistrate Judge N. Reid Neureiter** Magistrate Judge Neureiter is an honors graduate of Swarthmore College.  He spent two years immediately after college working as a junior economist for the U.S. House Committee on the Budget in the U.S. House of Representatives. He received a Barbara Jordan Scholarship to attend the University of Texas at Austin's joint program in law and public affairs.  He received a Masters' degree from the Lyndon B. Johnson School of Public Affairs, and his law degree with High Honors from the School of Law.  He was an editor of the Texas Law Review and a member of the Chancellors honors society.   After law school, Magistrate Judge Neureiter accepted a judicial clerkship with District Judge Stanley Sporkin of the U.S. District Court for the District of Columbia.  After his clerkship, he spent two years at the Washington D.C. law firm Williams & Connolly LLP, working on complex civil litigation matters including class actions and libel defense.   In 1996, his law professor from the University of Texas, Michael Tigar, was appointed to represent accused Oklahoma City bombing co-conspirator Terry Nichols in his death penalty case.  Professor Tigar asked Magistrate Judge Neureiter to join the defense team.  He did so, quitting his position in Washington to move to Denver with his family.  He was an integral part of Mr. Nichols' defense in the case, which was tried in Denver before now-Senior District Judge Richard P. Matsch.  He ended up examining or cross-examining more than 25 witnesses during the trial, which was his first jury trial.   After the Nichols case, Magistrate Judge Neureiter and his family decided to make Denver their home.  He joined the boutique law firm Jacobs Chase Frick Kleinkopf & Kelley, LLC, practicing almost exclusively complex commercial litigation.  He was named partner at the Jacobs Chase firm, where he spent more than thirteen years.  For the last six years before his appointment as Magistrate Judge, he was Of Counsel at the Denver litigation firm Wheeler Trigg O'Donnell LLP, working on everything from class actions, medical malpractice cases, and bad faith insurance disputes to representing Aretha Franklin in an effort to stop the Telluride Film Festival from publicly showing one of her concert films without her permission.   Magistrate Judge Neureiter also spent six years as an appointed member of the District's Committee on Conduct, including two years as its chair.  He was an FFA Board Member for five years and served a term as FFA President.  He has also served as a coordinating attorney for the American Civil Liberties Union of Colorado, taking a number of ACLU cases on a pro bono basis.   Magistrate Judge Neureiter officially began his work as a Magistrate Judge in August 2018.  **Magistrate Judge James M. Candelaria** Magistrate Judge James Candelaria is a native Coloradan from Durango, located in the southwestern part of the state.  He graduated from Durango High School and earned an undergraduate degree from Metropolitan State College in business administration.  After college, he held a variety of positions in sales, hospitality, construction, and finance.  In 1995, he enrolled at the University of Denver College of Law and earned his law degree in 1997.  While in law school, he clerked for the United States Attorney's Office and interned for U.S. District Judge Daniel B. Sparr.  After graduation, he accepted a position as a law clerk for Justice Gregory Scott of the Colorado Supreme Court.  Upon completion of his clerkship, Magistrate Judge Candelaria transitioned into the private sector, working as a junior associate for a medium-sized Denver law firm, practicing in commercial litigation.  After two years in the private sector, he accepted a position as a civil Assistant U.S. Attorney in Denver.    After he spent about a year in the Civil Division, a position opened up in the Durango Office for a criminal Assistant U.S Attorney.  Seizing on the chance to go "home," he transferred down from Denver. For the next 17 years, he worked out of the Durango U.S. Attorney's Office, prosecuting federal crimes with a focus on Indian Country (land within Indian reservations under the jurisdiction of the U.S government).  In 2008, Magistrate Judge Candelaria was selected for an overseas detail to serve as the Resident Legal Advisor to the Republic of Zambia, Africa.  While in Africa, he was the highest-ranking official of the Zambian Department of Justice and was responsible for training Zambian prosecutors and judges in the prosecution of crimes against women.   He also worked with Zambian lawmakers to revise the Zambian Criminal Code to add the Anti Gender-Based Violence Bill, including a provision criminalizing marital rape.  In 2010, shortly after Magistrate Judge Candelaria returned to work in the Durango U.S. Attorney's Office, the Zambian Parliament passed the bill.    In 2015, Magistrate Judge Candelaria accepted another overseas detail serving as a Resident Legal Advisor, this time in Kingston, Jamaica.  He was responsible for training Jamaican prosecutors and judges on anti-corruption and money-laundering prosecutions.  While in Jamaica, he drafted memoranda of understanding between the United States Marshals Service and the Jamaican Courts regarding the seizing and collection of assets located in Jamaica and subject to U.S. federal court orders and judgments.  After a little over a year in Kingston, Magistrate Judge Candelaria returned to the U.S. Attorney's Office in Durango. He served as the Branch Chief there until accepting a position effective on January 1, 2019 as Magistrate Judge with the U.S. District Court for the District of Colorado, in Durango.   |  |
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| **Tenth Circuit Holds Oral Arguments at Colorado Mesa University, Grand Junction, CO****By Elisabeth (Lisi) L. Owen** On October 24, 2018, the United States Court of Appeals for the Tenth Circuit held a special session in which oral arguments in three civil cases and two criminal cases were presented at the Love Recital Hall on the campus of Colorado Mesa University in Grand Junction.  The Tenth Circuit's Grand Junction session was particularly significant because it was the first time in the Court's history that oral arguments were held in western Colorado.  The event also provided a unique opportunity for undergraduate students to learn about the legal system and about pursuing a career in the law by watching court proceedings to which they likely otherwise would not have had access.  As arguing counsel in one of the cases, I was honored to participate in this historic event.  Chief Judge Timothy M. Tymkovich presided over the proceedings and Judge Carlos F. Lucero and Senior Judge David M. Ebel also sat on the panel.  Lawyers from around the state presented argument about issues including whether a prisoner convicted of stabbing another prisoner in an altercation arising from a prison gambling dispute was entitled to sentence mitigation, whether the First Amendment to the U.S. Constitution protects false speech, and whether a Gunnison County jail inmate's constitutional rights were violated when he died of a drug overdose while in jail.  Obviously-excited students lined up for seats in the hall before the lawyers arguing the cases were even required to arrive.  While the silence before a Tenth Circuit courthouse argument session is typically deafening, in this case the buzz of hundreds of students anticipating this unfamiliar event filled the space.  When the Judges finally took the "bench"-tables elevated on the recital hall's stage-audience members seemed eager to be able to witness what had clearly been impressed upon them as important proceedings.  Magistrate Judge Gordon P. Gallagher, who sits at the U.S. District for the District of Colorado's Grand Junction courthouse, gave inspiring opening remarks.  Magistrate Judge Gallagher reminded all in attendance of the important pillars of the American legal system, which include fairness and justice.  Chief District Judge J. Steven Patrick of Colorado's Seventh Judicial District, comprised of several counties on Colorado's Western Slope, also offered his thoughts on the legal system.  The session consisted of five arguments covering an array of issues, including complicated criminal sentencing laws, employment law nuances, trial procedure, and governmental immunity.  It was admittedly a long morning, and many students came and went during its course.  The recital hall stage proved a motivating venue for oral argument, and lawyers presented vigorous and passionate arguments on behalf of their clients.  Judges Tymkovich, Lucero, and Ebel tactfully asked questions designed both to elicit additional information from arguing counsel and to help non-lawyer audience members understand the purpose of oral argument and the issues involved in each case.  After the arguments, Judges Tymkovich, Lucero, and Ebel were honored at a luncheon attended by a substantial number of judicial officers and government officials from around the state.  Judge Lucero gave the keynote address and discussed the importance of the rule of law.  A small number of students and lawyers were also in attendance.  Students were thrilled to be able to speak with some of the arguing counsel and have their photos taken with the panel of Judges who had presided over the day's session.  Many students indicated that they were part of Colorado Mesa University's criminal justice or pre-law programs and that hearing the arguments further motivated them to pursue careers in law.  Students were able to learn even more about the Tenth Circuit, the legal system, and the day's events in a question-and-answer session with the Judges that took place after the luncheon.  I am grateful that I had the opportunity to take part in this unique event in the history of the Tenth Circuit.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

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| W4**The FFA Looks Back at 2018****By Kate Craigmile** *Kate Craigmile is Immediate Past President of the FFA Board and was FFA Board President in 2018.* It's hard to believe it's 2019, but here we are.  2018 was an incredible year for the FFA, full of programming, special events, and accomplishments.   A few highlights from our past year: * The FFA had 16 active committees, ranging from our ADR Mediator Project Committee to a Special Events Committee.  Committee memberships allowed Board and non-Board members meaningful ways to contribute to FFA's successes throughout the year.
* With tremendous support from judicial officers, court staff and an amazing CLE Committee, the FFA sponsored 11 "brown bag" CLE presentations.   These included a panel presentation by United States Tenth Circuit Judges Robert E. Bacharach, Gregory A. Phillips, Carolyn B. McHugh, and Nancy L. Moritz in January, and additional panel presentations in March and November on Litigation Holds and Government Investigations, respectively. In February, Chief Judge Marcia S. Krieger delivered the annual State of the Court address; in July, Magistrate Judge Michael E. Hegarty gave his yearly presentation on court and case statistics, "The District Court by the Numbers."  Particularly memorable brown bag events included "The Law of Star Trek," an interactive presentation from Professor Mark Lemley of Stanford Law School, and "What Modern Lawyers Can Learn from Lincoln," in which Magistrate Judge (ret.) Boyd N. Boland examined ethical dilemmas facing both current practitioners and our Sixteenth President in the more than 20 years he practiced law before taking office.  Our 2018 brown bag programs had more than 850 registrants in total.
* In 2018, we sponsored both the Federal District Court Bench-Bar Roundtable (in April at the Magnolia Ballroom) and the Bankruptcy Bench-Bar Roundtable (in November at the Westin).   Both events were sold out and enabled members and attending attorneys to participate in substantive small-group discussions with our District and Bankruptcy Judges.
* Throughout 2018, we continued to support pro se programs of the District and Bankruptcy Courts, including through the ongoing management of the Civil Pro Bono Panel Reimbursement Fund.  In February and March, we sponsored our unique Trial Advocacy Program, in which newer litigators are able to develop trial skills in a workshop and mock trial format in exchange for agreeing to take on either Bankruptcy Court or District Court pro bono representation assignments.  In June, we hosted an Annual Pro Bono Celebration Ceremony recognizing law firms and individual attorneys for their participation in the Pro Bono Panel.
* In 2018, we said goodbye to Executive Director Amanda (Mandi) Hoffman and welcomed new Executive Director Dana Collier Smith.  Mandi helped move the FFA forward in many positive directions in the two years she was with us, and we were sad to see her leave.  However, we could not have been luckier in finding Dana, who joined us with tremendous experience from her longtime role as Assistant Executive Director of the Colorado Bar Association and also several years in leadership roles with the National Association of Bar Executives.
* The FFA sponsored several special events in 2018.  We hosted retirement receptions honoring Magistrate Judges Craig B. Shaffer, Michael J. Watanabe, and David L. West, and a reception open to all attendees of the Tenth Circuit Bench and Bar Conference at the Broadmoor in October. In December, we honored outgoing Board members at our Annual Meeting and reception at Lannie's Clocktower Cabaret downtown.

The FFA ended 2018 with 625 members.  We are always looking for ways to increase our membership and to enable current members to take full advantage of their memberships by becoming active in our committees and events and helping focus and expand our programming.  Please reach out to Dana Collier Smith or any Board member for additional information about the FFA or about becoming more involved as a member.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |

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| W5**FFA Welcomes New Board Members****By Marilyn Chappell and Dana Collier Smith** The FFA is pleased to welcome four new members to the FFA Board in 2019. Brief biographies and interesting facts on each of the four are as follows.  **Hetal J. Doshi** Hetal is an Assistant United States Attorney at the U.S. Attorney's Office for the District of Colorado.  She has practiced before the U.S. District Courts for the Northern District of Georgia, Southern and Eastern Districts of New York, and District of Colorado. She received her undergraduate degree from Emory University and her law degree in 2006 from the University of Virginia School of Law.  Prior to her joining the U.S. Attorney's Office, she was a litigation associate in private practice, where most of her federal court practice involved complex commercial disputes, often within the context of Fed. R. Civ. P. 23. As a federal prosecutor, she routinely handles white collar prosecutions and has successfully handled an appeal in the Tenth Circuit.  When Hetal moved to Colorado in 2012, she found the FFA to be the most helpful organization she joined.  In applying to join the FFA Board, Hetal stated:  "I value the FFA's role in maintaining a collegial and productive community of federal practitioners and want to play a role in continuing that tradition."  She also noted that she is a first generation American.  "As someone who grew up in the Deep South, and has now lived and worked in multiple jurisdictions, including Kenya, I believe I could offer a unique perspective that may be of value in the development of programming and also mentoring of young lawyers."  Before joining FFA's Board, Hetal served as a board member of the Georgia Law Center for the Homeless in Atlanta and organized an event raising more than $50,000 for the Center.   Fun facts Hetal provided include that she is "obsessed with the British monarchy" and loves The Crown.  Her favorite books include Their Eyes Were Watching God by Zora Neale Hurston.  She greatly admired Judge Patricia Wald of the D.C. Circuit Court of Appeals (recently deceased). Her favorite quotes include:  "In recognizing the humanity of our fellow beings, we pay ourselves the highest tribute." Thurgood Marshall, Furman v. Georgia.   **Danielle C. Jefferis** Danielle is a Clinical Teaching Fellow at the Civil Rights Clinic of the University of Denver Sturm College of Law.  She obtained her undergraduate degree from New York University, and her law degree, in 2012, from Georgetown University Law Center.  After clerking for Judge Gale Miller of the Colorado Court of Appeals, Danielle worked in private practice where she represented clients in a variety of civil rights cases in the District of Colorado and Tenth Circuit. She then completed a year-long fellowship with the American Civil Liberties Union in New York, practicing exclusively in federal court.  At DU's Civil Rights Clinic, Danielle supervises students appearing under the District's Student Practice rule, D.C.COLO.LAttyR 14, in civil cases brought by prisoners challenging conditions of their confinement.  Danielle and her students have been recognized as participants in the District's Civil Pro Bono Panel.  Her mission as a professor is to ensure that students acquire, develop, and hone the skills they need to practice effectively at a high level in federal court.   By serving on the FFA Board, Danielle wants to strengthen the link between practicing advocates and law students who hope to do civil rights work when they graduate.  She believes in the importance and necessity of "client-centered lawyering."   "Fun facts" about Danielle include that while growing up, she wanted to become a doctor, not a lawyer.  Her favorite book or movie is The Naturalby Bernard Malamud ("the book, not the movie").  She would love to have lunch with U.S. Supreme Court Associate Justice Sonia Sotomayor, "to discuss New York City, baseball, and the law." Her favorite legal quote is, as she has modified it:  "Each time a [wo]man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, [s]he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current which can sweep down the mightiest walls of oppression and resistance."  Robert F. Kennedy.   **Karl L. Schock** Karl is an Assistant United States Attorney at the U.S. Attorney's Office for the District of Colorado.  Karl is in the Appellate Division, and his practice consists primarily of representing the United States in appeals before the Tenth Circuit (civil and criminal).  He received his undergraduate degree from Northern Arizona University, and obtained his law degree from the University of Colorado School of Law in 2006.  Before joining the U.S. Attorney's Office, he was a shareholder in private practice, appearing regularly in federal court.   In applying to join the FFA Board, Karl said the FFA's work in educating and supporting federal practitioners is "invaluable because better advocacy increases the likelihood that, in any given case, justice is done."  Karl has served on the boards of Growing Home, Food Bank of the Rockies, and the Colorado African Organization.  Little-known facts about Karl include that he has run seven marathons and is "in the midst of a 400-day running streak."  His favorite television series is The Americans.   He would enjoy meeting Justice Sotomayor "because her unique and inspiring personal story, combined with her humble and down-to-earth demeanor, would be sure to make for interesting and enjoyable conversation."  His favorite legal quote is from Louis D. Brandeis:  "If we desire respect for the law, we must first make the law respectable." **Wendy J. Shea** Wendy is an Assistant City Attorney for the City and County of Denver.  She was admitted to practice in 1997, having earned her law degree from Gonzaga University School of Law and her undergraduate degree from the University of Colorado.  A large portion of her law practice has been devoted to representing the interests of public entities and their employees.  She appears before the District Court and Tenth Circuit on a regular basis.  As Assistant Director of the Civil Litigation Section of the City Attorney's Office, she acts as lead counsel in high-profile civil rights cases.  In applying to join FFA's board, she noted she is interested in increasing the involvement of government attorneys in the FFA.  She also commented:  "I greatly enjoy teaching and mentoring attorneys and find it one of the best parts of practicing as an attorney." Wendy's "fun facts" include that she played the saxophone and contemplated majoring in music at Cornell University.  She would enjoy having lunch with "The Notorious RBG": "the life and career coaching she could provide would be priceless, not to mention her fitness tips." Her favorite movie is The Nightmare Before Christmas.  Her favorite legal quote:  "The life of the law has not been logic:  it has been experience."  Oliver Wendell Holmes, Jr. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |

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| W6**A Perspective from the Bench - Things Judges Wish Lawyers Knew****By Kirstin M. Jahn and Kate Craigmile** What do the Judges of the United States District Court for the District of Colorado wish lawyers appearing before them knew? The following list was compiled through interviews of District Judges Philip A. Brimmer, William J. Martinez, and R. Brooke Jackson, and Magistrate Judge Michael E. Hegarty.  Although the list may not reflect the views of all of the District's Judges, it provides helpful guidance for practitioners.   **1.         Review the District's Statistics.** The District has had the same number of Article III Judges since 1984, yet Colorado's population has almost doubled since then.  Be mindful of the Judges' busy dockets.  When you tailor your practice, including your motions practice, accordingly, you gain the Judges' appreciation and they can better serve you and your clients.   **2.         Take Care in Drafting Pleadings.** Prepare a well-thought-out complaint.  Know your case's facts.  Delete extraneous and repetitive claims.  Answers should contain only affirmative defenses that have merit.   **3.         Draft Discovery Requests and Responses Thoughtfully.**  In drafting discovery requests, rather than including pages of definitions and instructions, "just ask the question." For responses, avoid lengthy general objections followed by "subject to the above objections" as part of your response. "Either answer the question or object." If you have a valid objection, you should not answer subject to the objection.  Otherwise, the completeness of your response, and potential need for further discussion before a full response can be made, may be unclear.       **4.         Be Judicious in Motions and Briefing Practice.**  The Judges commented that motions practice can be the least enjoyable part of their work.  You should only file motions if you have very good support for them. Judges see far too many dispositive motions, which often seem to be filed as a matter of course and unnecessarily clog dockets.  Many are filed too early and are unsupported by the facts.  Take the time to consider your motion carefully before you file it.  Motions for reconsideration are viewed with disfavor unless you have new law or facts.  Rules 59 and 60, and the standard for reconsideration, are clear.  Read the rules and make certain you meet the standard. If you do not, you are telling the Judge to "think it over" or "read it again."  The Judges work very hard and do not want to waste judicial resources on motions that are perfunctory and lack merit.   In briefing on motions, timelines are very helpful to the Judge.  They can later be used in opening argument to help jurors follow your case.  To help refresh the Judge's memory on the facts and procedural posture of your case, include a brief summary.   Also, to help the Judge and the Judge's clerks locate relevant filings, cite ECF document numbers (e.g., "ECF 50" instead of "the declaration of Ms. Smith attached to the first motion to dismiss"). **5.         Do Not Underestimate District Judges' Respect for Magistrate Judges.**   It would be a mistake to think or imply to Magistrate Judges that their rulings do not matter because you intend to take their decisions up to District Judges for review.  The District Judges value Magistrate Judges' work and impose a high burden to sustain objections to Magistrate Judges' recommendations.  **6.         When Addressing the Court, Stand Up.** When appearing in court, if you are talking, you should be standing.  Period. **7.         Simplify the Issues for Trial.** Eliminate all but the necessary claims to win your case. Jurors appreciate being able to focus on the most important claims.  It is better to win one claim than to obfuscate the issues by requiring jurors to decide weak claims.   **8.         Carefully Draft Jury Instructions.**   Drafting jury instructions should be taken very seriously.  Their value to your case is highly underestimated.  Most are given little thought until trial.  Relevant jury instructions should be reviewed at the outset of your case and should be well thought out ahead of trial.  **9.         Carefully Consider Trial Exhibits and Their Presentation, and Objections.** Many attorneys come to pretrial conferences with massive exhibit lists that should have been reduced by that time to include only the most relevant documents.  This reduction-down process should start at the discovery stage, with a focus on the most relevant information and documents.  The goal should be to have as few documents as possible at trial - only those that are necessary to prove or defend your case.  If trials have too many exhibits, jurors get confused and may not be able to focus on the crucial ones that help your case.  Make the jurors' job as easy as possible.   To the extent your professional duty allows, stipulate to authentication and foundation ahead of time to avoid jurors' having to endure this laborious, boring task.  You should do your best to maintain the jurors' attention.  If you lose their attention on authentication/foundation issues, they may not pay attention when you are trying to make a salient point.   Demonstrative evidence is evidence.  You should treat it as such for objection purposes. **10.       Practice Using the ELMO Before Trial.** If you are trying a case, go to the courthouse and practice using the ELMO before trial. Do not assign this task to a paralegal or an attorney not trying the case.  While trial attorneys who do not use technology well might initially garner pity from jurors, after a while jurors will become irritated at what appears to be disorganization.   Pay attention to how exhibits look on the screen: sometimes the font is so small that jurors have to strain to try to see it.   **11.       Be Mindful of What Goes into the Record at Trial.** During trial, be mindful of what should go into the record.  For example, if you need to discuss an evidentiary issue with opposing counsel (e.g.,did we stipulate to this exhibit?), ask to go off the record.  The court reporter is taking every spoken word down and is often unclear on what to do when this sort of banter occurs.          **12.       Respect the Jurors and their Perceptions of the Case.** According to the Judges, jurors are far better at deciding cases than are judges.  They see everything and collectively work very hard to follow the instructions and use their common sense to come to a decision.  They are not swayed by emotion as much as attorneys seem to think.              Jurors do not like repetition.  Do not talk down to them.  They understand a statement the first time you make it.  Jurors' most common question to the Judges following trials is whether the lawyers thought they were stupid because they kept repeating themselves.  One Judge mentioned a picture drawn by a juror after a trial, of a horse with a lawyer beating on it. Jurors do not like drama.  They prefer efficiency - and they like when attorneys are brief and to the point.            Jurors like to see the whole exhibit.  Be careful showing or highlighting only part of an exhibit too quickly by pulling up a section before they understand what it is. Otherwise, jurors might think you are trying to "pull a fast one."    Damages can be the most difficult aspect of cases, and jurors may need more information to decide damages than attorneys realize. Attorneys should be cognizant of this potential and provide more help for jurors to determine this aspect of cases.  **13.       Be (Respectfully) Creative.** Finally, in a polite and respectful manner, ask the Judge for permission to be "creative" by requesting such items as the following.  If requested in this manner, the worst that can happen is a response of "no."   * Oral argument on your motion.  Attorneys do not get into court very often, so take the opportunity to hone your or your colleagues' skills especially if you or they do not have extensive courtroom experience.
* More time for voir dire, if you have a good reason to ask for more time.
* If you have a complex case, multiple opening segments as transitions. For example:  "We just heard from the Plaintiff.  Now we are moving to a new point and Ms. Jones will talk about . . . ."  These can assist in moving your case along and helping the jury to follow the issues.
* During closing, using photos taken of trial witnesses at trial, including the witnesses' names underneath the photos, to help the jurors recall the witnesses.
* A critique from the Judge after a hearing or trial.  What better way to learn what skills need work?

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| W7**Checking the Compass:  How Courts Handle Forensic Science, from DNA to****Firearms to Pathology, and the Potential Impact of Forensic Science Reform****By Scott A. Moss** Forensic science, while potentially powerful, is too often misused and lacks consistent standards for courts to apply, Professor Christopher McKee explained on October 5, 2018, in his FFA-sponsored talk on the above topic.   Mr. McKee is the Director of the Schaden Experiential Learning and Public Service Programs at the University of Colorado Law School.  He came to that job with extensive experience in criminal law, and in forensic evidence in particular.  After serving as a staff attorney at the DeKalb County Public Defender's Office in Decatur, Georgia, Mr. McKee was a trial and appellate attorney at the Public Defender Service for the District of Columbia ("PDS").  He became Special Counsel to the Director at the PDS, where he served as a senior advisor to the Director and all divisions of PDS on forensic evidence issues, and also served as lead counsel or special counsel in cases involving important forensic issues including DNA typing, firearm toolmark impressions, friction ridge prints, alleged arson evidence, and pathology. In his presentation, Mr. McKee discussed troubling examples of numerous convictions that proved to be based upon questionable science, or at least upon excessive assertions of scientific certainty that forensic evidence shows guilt.  One especially notorious example of misuse of not-even-cutting-edge forensic evidence - fingerprints - is the case of Brandon Mayfield, an Oregon lawyer.  In examining a fingerprint found at the crime scene of 2004 train bombings in Madrid, Spain, the United States Federal Bureau of Investigation found what it called a "100% verified" match with a fingerprint of Mr. Mayfield's that was on file from his military service.  Mr. Mayfield was wiretapped, arrested, and detained for two weeks, only to be later exonerated.  Mr. Mayfield's on-file fingerprint was of low quality, and the fingerprint-matching analysis featured far more uncertainty than the FBI had claimed. What the FBI actually found were 16 "points of similarity" between Mr. Mayfield's fingerprint and the Madrid one - yielding conflict with Spanish authorities whose forensic standards required a greater number of points of similarity for a match.  The "100% verified" match claim thus was unfounded. Both the FBI and the U.S. Department of Justice Inspector General concluded that Mr. Mayfield's being a Muslim may have contributed to the FBI's incorrect assertion of his guilt.  Fingerprint evidence, at least, can be useful when handled properly and when those conducting analyses have appropriate humility about their level of certainty - unlike other types of forensic evidence that have generated many wrongful convictions before being debunked, as Mr. McKee noted.  Numerous criminal convictions, for example, have been based on "bite mark" evidence - medical expert testimony that a mark on an assault victim is a "match" for a particular defendant's teeth that proves guilt.  Yet despite being presented as evidence of a "match" leaving no uncertainty, bite mark evidence has largely been debunked as incapable of proving guilt.  Studies have not validated its reliability; many red marks or breaks in a victim's skin can be misinterpreted as a human bite; and the flexibility of skin means that even an actual human bite may leave a mark not matching the mouth size or shape of the perpetrator. In part based on such examples, the National Academy of Sciences and others have issued reports urging various reforms: clearer "best practices" in various forensic endeavors; rules against unwarrantedly declaring "certainty" that forensic evidence shows a defendant's guilt; and rejection of certain forms of forensic evidence that have proven far more dubious than some of their proponents claimed.  Rulemaking bodies have not yet enacted substantial reform, Mr. McKee observed, but committees continue working on the problem.   Mr. McKee concluded that lawyers and judges should educate themselves on proper uses and limitations of forensic evidence that may arise in their cases.  In a quote Mr. McKee displayed, by Judge Harry T. Edwards of the U.S. Court of Appeals for the D.C. Circuit, who is also Co-Chair of a National Academy of Sciences committee addressing forensic evidence issues:   If courts blindly follow precedent that rests on unfounded scientific premises, this will lead to unjust results.  When scientific methodologies once considered sacrosanct are modified or discredited, the judicial system must accommodate the changed scientific landscape.Click [**HERE**](http://r20.rs6.net/tn.jsp?f=001_Dz1xBEYKhFMB2TkEY9ZpESHAF1zqqS_ghp5RF5DXzTO5i4BK355n7JRWQtyI9xhj1kBkBF46ZJ2T4MWpleDNmTQSQDFs3Qg--ren4abCzS1wP2cq06teHhnbUi2LaKc8KlXgI_u2bKGbamqpMGiAFDUeiRV3mnDRy-fP4WN9qnyogL1OlcE39lfivP5cOUBOPzJep5Oc3DsCQV6D8BeuSZcyv3xxrm9MISpJUC555tq4VsoXGcZxTOMlv2O8Souyqx7xY-lc-flv8jEEpF3Ok7rdj08uXObB2i2S64GRJeStSEk7_GfxcA4ghrurqg8AEwtx2mvIlYMSlwZp1Bk7XvUjHIgqj5V&c=CvWlj93TvVLxPaUc58faxwSdzdGEJo3ulbuL8nVg2B6lpphOpHzHiw==&ch=gxK60CF2zyMxMupux9-piUmXcNgtQRBIjhds0dBnHA0X1rQXREIO6g==) and [**HERE**](http://r20.rs6.net/tn.jsp?f=001_Dz1xBEYKhFMB2TkEY9ZpESHAF1zqqS_ghp5RF5DXzTO5i4BK355n7JRWQtyI9xhCRg-jSsKCPci0kP9N2tIlRGc09xjhXBiMyZScN2yYl_Xaor4_QSuluqN0EwbbNx1CzwCSZ_Y4FqCBEpN6xBjNj_r-2DbQ8j3y6dyik4jQUfM5JvRJXbrxfuBULfdd8IBk5BtuQNoTQZoIqxK7vwyB8_FOe7jIo4CKvy1JGJWRH5UDwoLau57KA0zpY8ZSVoL&c=CvWlj93TvVLxPaUc58faxwSdzdGEJo3ulbuL8nVg2B6lpphOpHzHiw==&ch=gxK60CF2zyMxMupux9-piUmXcNgtQRBIjhds0dBnHA0X1rQXREIO6g==) for materials from this program.**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | \_ |

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| W8**Government Investigations:  Ethical and Practical Challenges****By Jennifer Allen** On November 2, 2018, the Faculty of Federal Advocates hosted a presentation on the ethical and practical challenges involved in government investigations.  The panelists were Nic Heinke, trial counsel, United States Securities and Exchange Commission; Kevin Traskos, Chief of the Civil Division, U.S. Attorney's Office for the District of Colorado; and private practice attorneys Richard Cunningham, John Partridge, and Kristin R.B. White.  The panel was moderated by FFA Board Member Ryan T. Bergsieker.   The presentation followed the life cycle of an investigation, beginning with the government's drafting of and clients' responding to document requests.  The panel discussed the difficulties in balancing the need to seek complete information with the desire to eliminate unnecessary requests.  They agreed that in responding to requests, it is important to begin by trying to understand what the government is interested in finding out, and making sure the responding party is focusing on that area.     The next step in responding to an investigation is structuring a litigation hold and determining to whom it should be sent. The panelists discussed how Colorado Rule of Professional Conduct 3.4 plays into this determination and how courts have interpreted that Rule to require reasonable diligence in locating and preserving evidence.  Again, this should largely be guided by an understanding of what the government is interested in.  All of the necessary people should then be contacted and the different types of communications preserved, including text messages and other electronic messages on various apps.   The panel then detailed the importance of working with the government to negotiate the scope and timing of any response.  They emphasized that it is best to engage in these discussions early, and to be responsive and cooperative.  In particular, it can be helpful to offer to produce documents in stages or to organize and curate document productions around topics that are known to be of interest to the investigators.  One particular area where the parties can work together is in negotiating electronic database search terms.   There are several ethical issues that may arise during this phase of the investigation.  For example, counsel should be careful in trying to negotiate the search terms so as to avoid documents that they know are unfavorable to their clients, within the ethical boundaries imposed by RPC 3.4. Similarly, finding a document that is responsive to the requests but does not fall within the search protocol can present difficult ethical issues.  The panelists noted that the default should be to turn over anything that is responsive to the request, regardless whether encompassed by the specific protocol, but additional database searches may be required depending on the specific situation. The panel then discussed the issues that can arise during witness interviews and depositions.  In particular, they noted the importance of providing an adequate Upjohnwarning (counsel represents the entity rather than the individual, seeUpjohn Co. v. U.S., 449 U.S. 383 (1981)) when conducting an interview of a corporate client's employee.  Such warnings are based on RPC 1.13 and should be tailored to the specific situation.  For example, if there is a possibility of criminal liability, that should be included in the Upjohn warning.  The panelists emphasized that this is an issue of particular concern given the government's recent focus on ensuring that it is using all available tools, including civil and criminal enforcement options, to handle each situation.   Panelists also provided tips on how to most effectively make presentations to the government.  They agreed that the best presentations focus on the issues the government is interested in, and the law or the policy issues at stake, rather than trying to argue about the facts.  However, some discussion of the facts may be useful, particularly to provide context or to emphasize certain facts over others.   The panel concluded with a discussion about resolving an investigation, particularly through settlement.  The consensus was that it is helpful for counsel to be up front early on about what their clients are willing to do in a settlement and to try to be creative in thinking of different options.  Panelists noted that cooperation may be an important consideration in the settlement process.  They also acknowledged, however, that cooperation may be difficult to quantify and that it may be hard for the government to balance a desire to reward cooperation with the need to convey messages about other policy considerations.   The FFA would like to thank all those who contributed to and participated in this event, including the panelists and attendees.Click [**HERE**](http://r20.rs6.net/tn.jsp?f=001_Dz1xBEYKhFMB2TkEY9ZpESHAF1zqqS_ghp5RF5DXzTO5i4BK355n7JRWQtyI9xhX5u8VcZlqbR5MqxS6pmRW8aPictgm25dwOXdlAi-lGAVo5NW3olhEyWqA4EwaZMTJ9bBp3cXo0CTOSL3hc8lvMF08yj4xAjD7OxTItZyHfEsgh3RvBHem7J4NfdDf3OWGJCWdbMD69Y=&c=CvWlj93TvVLxPaUc58faxwSdzdGEJo3ulbuL8nVg2B6lpphOpHzHiw==&ch=gxK60CF2zyMxMupux9-piUmXcNgtQRBIjhds0dBnHA0X1rQXREIO6g==) for the materials for this program.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |

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| **Plan Confirmation, Electronic Evidence, U.S. Supreme Court Decisions, and Procedures to Convert Cases:  A Breakdown of the Bankruptcy Bench-Bar RoundtableBy Ethan J. Birnberg**On November 16, 2018, the Faculty of Federal Advocates hosted the 2018 Bankruptcy Bench-Bar Roundtable.  The FFA sincerely appreciates the participation of all six United States Bankruptcy Judges in Colorado and Wyoming: Chief Judge Michael E. Romero and Judges Elizabeth E. Brown, Thomas B. McNamara, Joseph G. Rosania, Jr., and Kimberley H. Tyson from the U.S. Bankruptcy Court for the District of Colorado, and Chief Judge Cathleen D. Parker of the U.S. Bankruptcy Court for the District of Wyoming.  The Bankruptcy Bench-Bar Retreat is a unique continuing legal education program that allows attendees to converse with members of their local bankruptcy community, including practitioners,judges, law clerks, court clerks, and representatives of the United States Trustee's office including chapter 7 and 13 trustees.  The program facilitates conversations related to commercial and consumer bankruptcy topics, recent cases of interest, and newly-enacted local rules, among other issues at the forefront of bankruptcy jurisprudence. Participants discussed best practices and examples of effectively using electronic evidence in bankruptcy court, and amendments to the Federal Rule of Evidence to include electronic data as a type of self-authenticating evidence.  Judges encouraged the use of demonstrative evidence to clarify and summarize already-admitted evidence, particularly when charts or graphs can educate the court and clearly identify the operative dates of transfers subject to the proceeding. Chapter 13 Trustees Adam M. Goodman and Douglas B. Kiel discussed their "gatekeeper" status during the plan confirmation process. They addressed the need for and extent of postpetition disclosures that a debtor should make during the life of the plan and encouraged practitioners to consider different ways bankruptcy judges handle the chapter 13 plan process.  Equally important, they stressed, is attention to recent case law authority, which concerned issues such as deductions, mortgage modification, tax returns, and other circumstances that may change a debtor's disposable income. At the chapter 11 business tables, moderators and judges examined prebankruptcy planning and preparing for first day motions, including for paying employees, critical vendors, and utilities, and other strategies to keep a corporate debtor operational and jumpstart its chapter 11 reorganization in the right direction.  The cost of the process, with stringent notice requirements to all creditors and parties-in-interest, led attendees to a detailed discussion regarding cost-effective notice procedures, including successful examples in larger cases, and on how to balance the costs borne by the estate with providing sufficient due process to the parties. U.S. Supreme Court cases frequently change the landscape of bankruptcy law, and 2018 was no different.  On February 27, 2018, the Court issued a unanimous opinion in Merit Management Group, LP v. FTI Consulting, Inc., 138 S. Ct. 883.  The Court construed the safe harbor provision in 11 U.S.C. § 546(e) as limited to protecting only financial institutions (and certain other enumerated entities) from liability for an avoidable transfer, and declined to apply the provision to shelter other participants in a transaction.  The decision reversed the previous majority view interpreting the safe harbor provision as protecting certain types of transactions involving financial institutions, and not just the institutions themselves.  The Merit decision therefore creates potential exposure for participants other than financial institutions in numerous transactions previously thought to be protected, including the leveraged buy-out transaction at issue in Merit.  Attendees considered the implications of that decision, along with those of Lamar, Archer & Cofrin, LLP v. Appling, 138 S. Ct. 1752 (2018), in which the Court affirmed the Eleventh Circuit's decision that a statement regarding a single asset - in this case, the debtor's tax refund - could be a statement "respecting the debtor's financial condition." However, since the allegedly false statement made by the debtor was not in writing, the debt owed to the creditor was not excepted from discharge under 11 U.S.C. § 523(a)(2)(A). Finally, participants and judges reflected on amendments to the Federal Rules of Bankruptcy Procedure that were roughly a year old.  Practitioners were reminded that conversion of a bankruptcy case from one chapter to another requires 21 days' notice because Local Bankruptcy Rule 1017-1 was eliminated by the amendments.  Before the amendment, the clerk's office would automatically convert cases under U.S.C. §706(a), which allows reconsideration of conversion by the court at the request of a moving party. The Judges also provided their views on stay relief motions and recent issues regarding proposed orders.  Even if a matter is uncontested or stipulated, practitioners should ensure their proposed orders conform to the evidence provided to courts to support the relief requested.  The Judge must determine whether requested relief is appropriate based on the merits and the particular circumstances of each case, without regard to whether the parties agreed to such relief beforehand.  Thus, practitioners should take extra care to ensure that judges will not find proposed orders' language objectionable. The opportunity for the Judges to advise practitioners of these issues in an informal setting is one of the many benefits from the FFA's Bankruptcy Bench-Bar Roundtable. The FFA is very thankful to the moderators and the Judges as they identified issues and topics for the program as well as attending the program.  Bankruptcy practitioners may also be interested in related FFA offerings including the Bankruptcy Pro Bono Program and Trial Advocacy Skills Workshop.  The Pro Bono Program provides opportunities for practitioners to assist unrepresented debtors in nondischargeability actions under Sections 523 and 727 of the U.S. Bankruptcy Code.  More information is available at the FFA's website, [**www.facultyfederaladvocates.org**](http://r20.rs6.net/tn.jsp?f=001_Dz1xBEYKhFMB2TkEY9ZpESHAF1zqqS_ghp5RF5DXzTO5i4BK355n-mNN-GeUWQUCr4Ee4eGDar2X7tNB1YetPnER7zLWl2EV-snWPwuJYpK8BtdfPcA_QUNzDo7P4vXnDpm9YSQYqks8R2qHgWNObb1Xx4LHQh1u8lQCRq38xMw0RhP8jHVkPlieaR-nNaC&c=CvWlj93TvVLxPaUc58faxwSdzdGEJo3ulbuL8nVg2B6lpphOpHzHiw==&ch=gxK60CF2zyMxMupux9-piUmXcNgtQRBIjhds0dBnHA0X1rQXREIO6g==).   |

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| W10**FACULTY OF FEDERAL ADVOCATES****UPCOMING PROGRAMS** Sign-up on our website at **[www.facultyfederaladvocates.org.](http://r20.rs6.net/tn.jsp?f=001_Dz1xBEYKhFMB2TkEY9ZpESHAF1zqqS_ghp5RF5DXzTO5i4BK355n-mNN-GeUWQUCr4Ee4eGDar2X7tNB1YetPnER7zLWl2EV-snWPwuJYpK8BtdfPcA_QUNzDo7P4vXnDpm9YSQYqks8R2qHgWNObb1Xx4LHQh1u8lQCRq38xMw0RhP8jHVkPlieaR-nNaC&c=CvWlj93TvVLxPaUc58faxwSdzdGEJo3ulbuL8nVg2B6lpphOpHzHiw==&ch=gxK60CF2zyMxMupux9-piUmXcNgtQRBIjhds0dBnHA0X1rQXREIO6g==" \t "_blank)**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**Friday March 8, 2019****"Becoming a Magistrate Judge, and What NOT to do in my Courtroom"****Magistrate Judge N. Reid Neureiter**In this CLE, Magistrate Judge Reid Neureiter will discuss becoming a federal judge, and will provide information for attorneys appearing in his courtroom. His remarks will be of interest to civil and criminal practitioners alike. 12 noon - 1:15 p.m.Alfred A. Arraj Federal Courthouse, Jury Assembly Room901 19th Street, Denver2 general CLE credits approvedClick [**HERE**](http://r20.rs6.net/tn.jsp?f=001_Dz1xBEYKhFMB2TkEY9ZpESHAF1zqqS_ghp5RF5DXzTO5i4BK355n09ShaI15y21gEXWvIScyfye5gaEzzDC_tsZeh7uj7HVwf_rWJ2LNroygk26nyn-oomyrtRHl1rYePcYbXQpo9GYqYgN3qnYrBNZjOnZTG3lRwn02xVYcgxBLqD0G5kCp8irLzfjzqDiFiqA_AteDqOxMK-lTOVk3B8Q63F9tJPQWtMDIUqsJws=&c=CvWlj93TvVLxPaUc58faxwSdzdGEJo3ulbuL8nVg2B6lpphOpHzHiw==&ch=gxK60CF2zyMxMupux9-piUmXcNgtQRBIjhds0dBnHA0X1rQXREIO6g==) to register for the March 8, 2019 program.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Thursday, March 21, 2019****"My Path to the Federal Bench & What I've Learned So Far as a Magistrate Judge"****Magistrate Judge S. Kato Crews**In this CLE, Magistrate Judge Crews will outline the process he went through to become a federal magistrate judge, and will discuss insights he's had since taking the bench. 12 noon - 1:15 p.m.Alfred A. Arraj Federal Courthouse, Jury Assembly Room901 19th Street, Denver2 general CLE credits approvedClick [**HERE**](http://r20.rs6.net/tn.jsp?f=001_Dz1xBEYKhFMB2TkEY9ZpESHAF1zqqS_ghp5RF5DXzTO5i4BK355n09ShaI15y21cxe_4WH775wScktZ49GbJl043N1tnGVjV7L1Qs_GUOliqMXY2o-dsJQcE8zKTEhT3zS2cb44U8drmdHwdbwjU8lXj0DLJ1wnmAWhWBCtc1-s6OlDg8mciSnjCZGCvtntuS14PAYts9a1pVqYYdrlzqI2Wgg19IOToVsJMX1dU-U=&c=CvWlj93TvVLxPaUc58faxwSdzdGEJo3ulbuL8nVg2B6lpphOpHzHiw==&ch=gxK60CF2zyMxMupux9-piUmXcNgtQRBIjhds0dBnHA0X1rQXREIO6g==) to register for the March 21, 2019 program. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Tuesday, April 23, 2019****"Preparing and Presenting a Winning Oral Argument"****Gail K. Johnson, Johnson & Klein, PLLC****Andrew M. Low, Davis Graham & Stubbs, LLP****Marcy G. Glenn, Holland & Hart, LLP****Marissa R. Miller, U.S. Attorney's Office, District of Colorado** 12 noon - 1:15 p.m.Alfred A. Arraj Federal Courthouse, Jury Assembly Room901 19th Street, DenverThis program will feature insights and perspectives from four expert appellate advocates with extensive experience presenting oral arguments in the Tenth Circuit. During a roundtable discussion, the panelists will offer tips on every stage of preparing for and presenting oral argument, from the day that an argument is scheduled through presenting rebuttal argument. Topics to be covered include selecting the issues to be argued, developing answers to expected questions, participating in moots, dealing with a "hot" or skeptical bench, and reserving time for rebuttal. The panel comprises appellate advocates from diverse perspectives -- with experience representing civil plaintiffs, civil defendants, criminal defendants, and the prosecution.2 general CLE credits requestedClick [**HERE**](http://r20.rs6.net/tn.jsp?f=001_Dz1xBEYKhFMB2TkEY9ZpESHAF1zqqS_ghp5RF5DXzTO5i4BK355n7JRWQtyI9xhsG8TtoTu4qwatjHFEFnDwsxRZ-qRGNKFc8kd46yc-ChBBaewaaBYOC_JwJag89gjQ_1GAcXcGMysJZCIqYd-4MwnD1s98WDsBRyZyfgOyt_8lF2LHa6fzOEY_8HRAIeC-j0tmR7ZlTYXVDjgw-IBCnb6cgM8DwBYh-TKb_KaNHo=&c=CvWlj93TvVLxPaUc58faxwSdzdGEJo3ulbuL8nVg2B6lpphOpHzHiw==&ch=gxK60CF2zyMxMupux9-piUmXcNgtQRBIjhds0dBnHA0X1rQXREIO6g==) to register for the April 23, 2019 CLE.  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Friday, May 3, 2019****The FORUM****"Multiculturalism and the Dynamics of Power - Not Your Typical Diversity Program"**1 - 4:30 P.M.Westin Denver Downtown, 1672 Lawrence Street, DenverPlease join us for the FFA's signature non-traditional CLE. The Forum has been crafted to foster dialogue among practitioners and the judiciary and explore the challenges of life in the legal field.Attendees will enjoy a unique speaker in Dr. Nita Mosby Tyler, and will participate in a lively, rotating roundtable conversation with at least one judicial officer at each table. In the true tradition of The Roman Forum, topics will be diverse, ever-changing and dictated by the "crowd" at the table. This program is open to all attorneys; a limited number of free registrations for law clerks and law students will be available.  Watch the FFA website and your Inbox for program and registration information.**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |  |

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| W11**FFA Contact Information****Faculty of Federal Advocates****3700 Quebec Street #100-389****Denver, CO 80207-1639****720-667-6049** |

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