

Save the Date

February 11, 2014

Trial Academy Luncheon
Kansas City; 4th Floor; Noon

March 7, 2014

FPD/CJA CLE Luncheon
Springfield Courthouse; Noon

March 11, 2014

Trial Academy Luncheon
Kansas City; 4th Floor; Noon

March 26, 2014

FCAS Bench Bar Dialogue
Kansas City, 2nd Floor; Noon

April 8, 2014

Trial Academy Luncheon
Kansas City; 4th Floor; Noon

May 15, 2014

WDMO/KCBBA Spring Social
Kansas City; TBD; 5:30pm

May 16, 2014

Koger Symposium
Kansas City; Jury Room; 9:00am

June 26, 2014

Federal Practitioner's Summer Social
KCMBBA Headquarters; 5:30pm

June 27, 2014

D. Brook Bartlett Lectures
Kansas City; Jury Room

October 15, 2014

FCAS Bench Bar Dialogue
Kansas City, 2nd Floor; Noon

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Courthouse Connection

Newsletter for the United States Courts
for the Western District of Missouri

Volume 5, Issue 2

February 2014

Passing of the Chief Judge Gavel



Judge Gaitan passes the gavel to Judge Kays.

On January 3, 2014, District Judge Fernando J. Gaitan, Jr. officially passed the chief judge gavel to Judge Greg Kays. While he enjoyed his tenure as chief, Judge Gaitan is glad to return to just one full-time job.

"The responsibilities of being chief have **been both challenging and rewarding,**" he said. "It was nearly a seven-year odyssey that provided highs and lows as

[Continued on Page 2](#)

Hays Becomes Chief Magistrate Judge

Judge Sarah W. Hays, the first woman to be appointed as a magistrate judge in the Western District, is now the first woman to serve as chief magistrate. Judge Hays assumed her new role January 1, after Judge Robert E. Larsen completed his four-year term.

Although she is well known to the Kansas City bar, attorneys may not realize that Judge Hays is the daughter of a judge from Salina, Kansas, and she was also a college debater. Judge Hays attended law school at LSU, where she was a member of the Law Review and Order of the Coif. Her introduction to the district began when she served as a law clerk to Judge Russell G. Clark. Good luck to Judge Hays!



Chief Magistrate Sarah Hays

Passing of the Chief Judge Gavel (contd.)

we, the Judiciary, navigated the seas of the Executive and Legislative branches of government. It provided a perspective of the operation of our federal courts both locally and nationally that I did not have as a trial judge. I am grateful to have been given this opportunity."

Judge Gaitan was presented with a plaque commemorating his leadership and commitment. The inscription highlighted his dedication to technology and to the completion and opening of the Bell Room Historical Gallery. He thanked his family and his chambers team for their help during his tenure.

Each of the 94 federal district courts has a chief judge who, in addition to hearing cases, has administrative responsibility for the operation and governance of the court. The chief judge is normally the most tenured judge under age 65 and may serve for a maximum of

seven years but not beyond age 70. The chief presides over court en banc meetings and works with the court executive and other court managers to monitor budgetary planning and caseloads, and to **set the district's strategic vision.**

The chief judge also serves as spokesperson for the district and acts as the liaison to the 8th Circuit and the Judicial Conference of the United States, as well as to local bar and civic organizations and law schools.

Kays is the youngest district judge ever to become chief. He is committed to maintaining the Western **District's high level of service to litigants and lawyers**, and to wisely managing the public resources entrusted to the court.

Prior to taking the federal bench, Judge Kays served as the **presiding judge for Missouri's 26th Judicial Circuit**, so he is not new to court administration. Judge Kays noted that he has a lot to learn, but he looks forward to the challenge and is glad that Judge Gaitan is just a few chambers away to field questions and give advice.



Above: Jo Powers, Judge Gaitan and Patricia Rosa

Below: J.L. Lehr, Regina McBride, Judge Kays, Tracy Strotzman and Brett Walker



Judge Gaitan's plaque features his original picture from the Bell Room.

The Federal Practice Committee



Lisa Nouri, immediate past chair of the Federal Practice Committee

The court formed its Federal Practice Committee more than thirty years ago to serve as a liaison between the bench and the bar. The FPC is composed of civil and criminal lawyers from each division in the Western District (Central, Western/ St. Joseph and Southwestern/Southern). Thirteen committee members are appointed by the court en banc, and they serve three-year, staggered terms.

The FPC offers assistance and advice and works with the court on matters relating to the improvement of the administration of justice. More specifically, the committee provides the perspective of the bar in relation to court operations, procedures and local rules. The chief judge may also request that the committee undertake special projects or community outreach efforts.

Led by immediate past Chair Lisa Nouri, the FPC had a busy 2013. Members assisted Director Jill Morris with a review of the Early Assessment Program (now the Mediation Assessment Program/ MAP) and participated in numerous “Courtroom to Community” programs to help educate civic groups

about federal court. Along with the Federal Court Advocates, the committee co-sponsored a Bench Bar Dialogue Luncheon on current ethical trends. Attendees received the coveted ethics CLE hours while participating in small group discussions with the judges and bar leaders.

In recent years, the FPC has also hosted a CLE program designed for criminal practitioners, where judges discuss sentencing practice and other key criminal topics. For 2013, the committee took this program on the road to Springfield. District Judges Beth Phillips and Brian Wimes spoke along with Magistrate Judges Matt Whitworth and David Rush. A panel of seasoned criminal lawyers also offered practice tips. Springfield bar members enjoyed the opportunity to interact with the newer judges and to ask questions about procedure and preference.

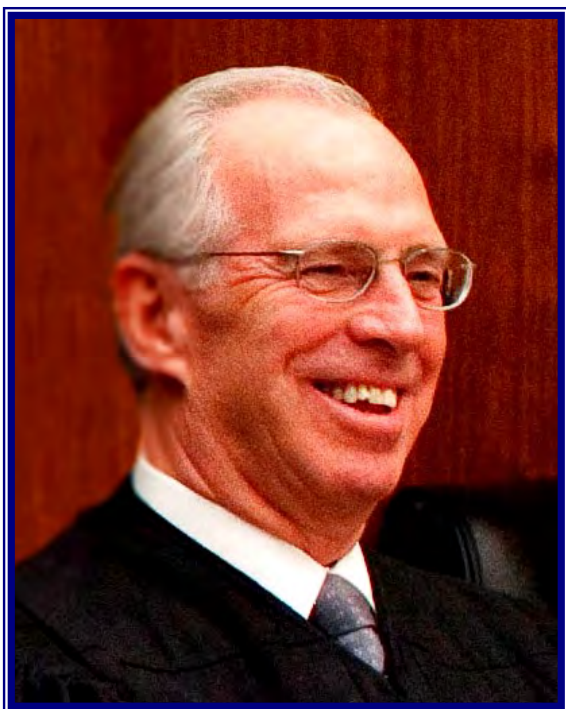
To fulfill its mission, the FPC needs to hear from the bar. If you have comments or concerns about **practicing in the Western District, please don’t** hesitate to contact a member of the FPC.

Information about the committee and its membership can be found on the court’s website by [clicking here.](#)

2014 Committee Members

*Travis Poindexter (Chair)
Christine Blegen (Vice-Chair)
Willie J. Epps, Jr.
Lisa Nouri
J. Andrew Hirth
Larry E. Miller
Joe B. Whisler
Dave Ketchmark
Julia Kitsmiller
Jeff Simon
Doug Harpool
Erica Mynarich
Mike Oliver*

Dorr Memorial Scholarship Deadline



U.S. District Judge Richard E. Dorr
August 26, 1943 – April 24, 2013

The Dorr Memorial Scholarship application is now available on the [Community Foundation of the Ozarks](#) website. This annual scholarship will be awarded to a graduate of a Jefferson City or Springfield high school who will be entering his or her second or third year of law school next year.

For the 2014-15 academic year, \$3,000 will be awarded. Members of the bar are urged to notify worthy 1L and 2L law students about this opportunity.

The deadline to apply is March 7, 2014.

Scholarship questions may be directed to [Judith Billings](#) at 417-864-6199.



FCAS President Scott Gyllenborg

Sworn in on December 6, 2013, Scott C. Gyllenborg has taken the helm as the president of the **Federal Courts Advocates Section of KCMBA**. Gyllenborg's criminal defense practice is located in Olathe, so his election reminds lawyers that FCAS is a truly metrowide organization composed of federal practitioners from both Missouri and Kansas.

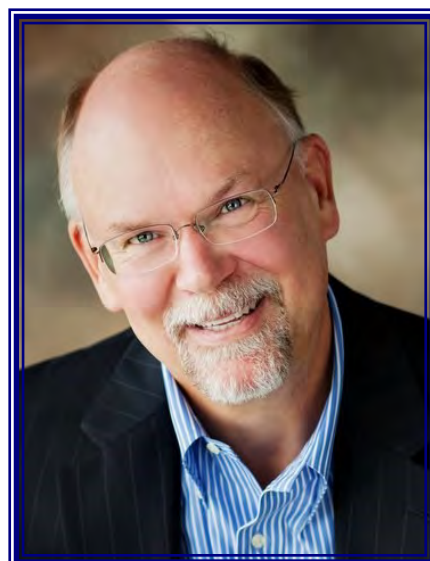
The brainchild of former Chief Judge Fernando J. Gaitan, Jr. of Missouri and Chief Judge Kathryn Vratil of Kansas, the FCAS has both a social and a substantive purpose. The two chief judges were interested in an organization that would promote interaction between the bench and the bar generally but also on topical legal issues.

One of the original goals was also to keep membership cost low to encourage FCAS participation by all federal practitioners. Although the organization is part of KCMBA, members are not required to join KCMBA and may be part of FCAS for only a \$25 annual fee. Those who are KCMBA

members may join FCAS for \$15.

Mr. Gyllenborg commented on the importance of FCAS membership, **"We have grown in just a few years into an important means of advancing communication and cooperation between the federal bench and bar on issues affecting both. The modest section fee is a worthwhile investment if you practice in federal court."**

[Click here](#) for more information on FCAS activities and membership.



Courtroom to Community



Judge Gary Fenner speaks to a civic group

Looking for a speaker for your neighborhood association or rotary club? “**Courtroom to Community**” is a program sponsored by the Western District to educate adults and students about federal court. Each presentation features a judge and a lawyer from either the Federal Practice Committee or the Federal Court Advocates.

The programs may include an overview of the federal justice system, or they may focus on topics such as jury service or why a case is filed in federal versus state court. “**War stories**” shared by the judges and lawyers are often the highlight of the sessions. Presentations typically run for 30 to 60 minutes, and time is allowed for questions.

In recent years, the court has targeted civic groups for this outreach effort, but the program is also available to student groups or classrooms. If you would like to **schedule a “Courtroom to Community” program, contact: [Diana Diaz](#) (816-512-5030).**

CLE Offerings from the Public Defender’s Office

Under the leadership of Laine Cardarella, the Federal Public Defender’s Office will be hosting a series of CLE luncheons for public defenders and CJA panel attorneys throughout 2014.

The next luncheon is scheduled for **noon on March 7, 2014**. The program will originate live from the Springfield courthouse, with a video feed to Kansas City and Jefferson City. The presentation will alert defense lawyers to common pitfalls in calculating the Advisory Guidelines Sentence. While the material is intended for less experienced practitioners, more seasoned CJA attorneys are welcome to attend for a refresher course.

Specifically, the program will focus on Chapter

3 and 4 enhancements, including the victim-related role in the offense and obstruction of justice enhancements from Chapter 3, and the career offender and armed career offender enhancements from Chapter 4. The hour-long presentation will provide a brief survey of these enhancements with discussion on the sometimes arduous process of determining whether a prior conviction qualifies as a crime of violence or controlled substance offense.

The luncheons will be free, and the live presentations will rotate among each of the three Western District courthouses. Attendees at the host courthouse will be treated to lunch courtesy of the court, and attendees at the other locations are encouraged to bring a brown bag lunch to eat while watching the video conference.

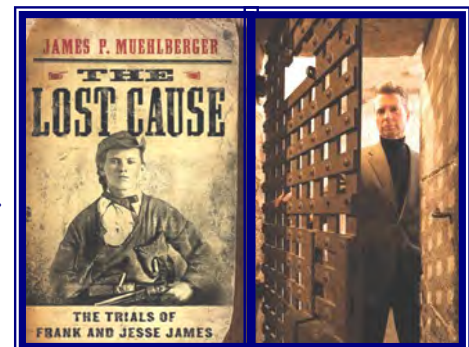
Historical Society News

In November, the WDMO Historical Society concluded its 2013 lecture series with a presentation by author and Shook, Hardy and Bacon partner Jim Muehlberger. Mr. Muehlberger shared his fascinating research on frontier attorney Henry McDougal, who sued outlaw Jesse James—and won.

Historical Society representative Larry Rouse enjoyed hearing about the civil suit against Jesse James for stealing a horse as part of a bank robbery getaway. “Beginning with nothing more than the **vague recollection of a colleague,**” Rouse noted, “**Jim** was able to uncover and document an inspiring tale

of attorney McDougal’s courage and cunning that should make all of us proud.”

The results of **Jim’s hard work** can be found in his recently published book, “*The Lost Cause: The Trials of Frank and Jesse James.*”



Video Conferencing for Attorneys with Clients at CCA

While it is critical to meet face-to-face with clients, criminal defense attorneys now have an additional option for communicating with clients **at CCA's Leavenworth Detention Center**. Instead of driving to CCA, attorneys can connect from the privacy of their own office using a desktop computer and camera and inexpensive software.

Any system that supports standards-based H.323 video should work to connect to the CCA video conferencing facility. The video conferencing system must be properly configured to place IP-based H.323 video calls via the Internet. Common manufacturers of video conferencing equipment include Polycom, Cisco, Vidyo and Sony.

Polycom also has software-based solutions that have been tested by the court. The Polycom RealPresence Desktop software can be installed on a Windows-based computer and used with a webcam to provide video conferencing capability to CCA. (Please consult with your IT professional before purchasing any hardware or software solutions.)

As with any new offering, there are some limitations. Probation Officers needing to use the video conferencing system will have scheduling preference over defense attorneys. To date, however, usage has not created any discernible scheduling conflicts.

The United States Marshals and CCA personnel also warn that the video link system cannot be used to circumvent the facility's family visiting rules. Attorneys may not allow additional family visits via the video conference system, and counsel visits should be scheduled during normal visiting hours or during normal business hours to avoid counting periods.

To schedule a video conference, attorneys may email [Connie Phelps](mailto:Connie.Phelps@cca.com) at Corrections Corporation

of America (CCA). Emails should be sent on weekdays between 8 a.m. and 4 p.m. and must include the following information:

- **Inmate's name.**
- **Attorney's name and contact information.**
- **Date preferred (optimally, the video conference should be scheduled 24 hours in advance).**
- **Time preferred (video conferences will be scheduled between 8 a.m. and 1 p.m., and between 3 p.m. and 4 p.m., as facility count is scheduled at 2 p.m. daily).**
- **If an attorney or interpreter will be with the inmate at CCA during the video conference, please provide his or her name and contact information. It is the attorney's responsibility to secure an interpreter for the video conference.**

Travis Poindexter, assistant federal defender, had an opportunity to test the new system and found that it worked great: "Both the audio and video quality were good, and I'll definitely be using it more!"

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Travis Poindexter video conferencing with CCA.

Video Conferencing for Attorneys with Clients at CCA (Contd.)

Attorneys with privacy concerns should note that the video conferencing equipment was installed by and is owned by the court. CCA Warden Isaac Johnston has **confirmed in a written memo that “CCA does not monitor either the audio or video signal of these conferences. In addition, CCA does not record or copy either the audio or video signal for later playback or review.”**

While the court cannot provide IT advice for law offices, general technical questions may be directed to [Connie Phelps](#) at CCA .

[Click here](#) to download a free trial of the RealPresence Software.

[Click here](#) for an FAQ for this software.

Mobile Search Feature on ECF

Many attorneys are familiar with the search feature **found on ECF’s home page. What you may not know** is that the same feature can be used on your mobile device. ECF now contains a mobile query feature that streamlines the basic CM/ECF search when using portable devices. The new tool provides easier viewing and accessibility on smaller screens.

Mobile Query is compatible with smart phones such as the iPhone and the Android, as well as with BlackBerrys and other PDAs that can access web applications. Mobile Query also features a more attractive and effective interface for touch screen tablet computers such as the iPad. Mobile Query is designed to work on any browser that can support basic HTML.

Query

Search Clues

Case Number

Last / Business Name (Examples: Desoto, Des't)

First Name Middle Name

SSN / ITIN Tax ID / EIN

Type

Open cases Closed cases

Filed Date to

Last Entry Date to

Nature of Suit (AP and MP cases only)

01 (Determination of removed claim or cause)
 02 (Other (e.g. other actions that would have been brought in state court if unrelated to b
 11 (Recovery of money/property - 542 turnover of property)
 12 (Recovery of money/property - 547 preference)



Mobile Query

Mobile Query is not a separate program, but rather it is an abbreviated search feature that can be accessed directly from the CM/ECF application or PACER (standard PACER fees apply). Users may search by case number or by name. Try it today!

CM/ECF Mobile - MOWB

13-41370

13-41370-drd7
Eric Justin Stevens and Kelly Sue Stevens

Attorneys

Parties

Deadlines / Hearings

Docket Entries 10

CM/ECF Mobile - TS2B

Case Number or Last, First

Search for a case by entering either a case number or the name of a party or attorney in the search box above. Spaces can be used in case numbers instead of dashes or other punctuation.

When searching by name, you must enter at least two letters of the last name. If you enter only one letter the search will only find people whose last names are exactly that letter.

Fee Increase Approval

The Judicial Conference of the United States approved the following federal court fee increases **effective December 1, 2013**:

Records Retrieval Fee - An \$11 increase in the records retrieval fee and a new fee for each additional box. This will increase the records retrieval fee from \$53 to \$64 for the first box requested and \$39 for each additional box requested.

Appeal to Circuit Court - A \$50 increase in the appellate filing fee (docketing fee). This will increase the total appellate filing fee from \$455 to \$505.

Returned payment fees - The \$53 fee for a check returned for lack of funds will apply to any payment (check, credit card or ACH) returned or denied for insufficient funds.

[*Click here to access the fee schedule on our website.*](#)

WDMO attorney annual dues of \$20 are due by March 31, 2014.

This fee is payable through the online district CM/ECF filing site. Active District Court and Bankruptcy Court attorneys are required to pay this fee in order to maintain active status with the Western District of Missouri.

Pro hac vice attorneys and United States government attorneys do not owe this fee.

2014 Annual Dues Deadline

Attorneys are urged to login to the ECF system prior to the March 31 deadline to ensure access and prompt dues payment. Those with problems logging on or with forgotten login credentials should [email the court](#).

Questions regarding attorney admissions should be directed to Jeri Russell, attorney admissions clerk, at 573-636-4015.



Roberta Kostrow



Roberta Kostrow, bankruptcy operations **manager for the Clerk's Office**, will retire on February 28, 2014. Throughout her 24 years of service, Roberta has become an admired colleague for her dedication to the court and her team, and for her expansive knowledge of

bankruptcy law and procedures.

Bankruptcy Judge Arthur Federman reflected on Roberta's career:

"Roberta has led the bankruptcy team through an extraordinary period of development, from paper files to CM/ECF and so many changes beyond. Throughout, she has provided strong leadership, friendship and competence. She's also defused many tense situations with her dry wit, or with a kind remark. I wish her only the best; she will be missed by all of us."

Roberta has already begun a "to-do" list for her upcoming retirement. Her plans include catching up on her reading list, continuing with her weekly tap dancing classes, and taking her family vacations, including two weeks in Paris. Roberta also plans on helping her husband with their antique store, Stuffology, located in the West Bottoms.

Please join us in wishing this exceptional public servant all the best as she taps her way into a new and exciting future.

"...she has provided strong leadership, friendship and competence."

Fran Smith



Fran began her career with the court 13 years ago after 23 years at the Carson & Coil law firm in Jefferson City. It all started with a move to Kansas City to be a judicial assistant for District Judge Nanette K.

Laughrey. When the judge moved her chambers to Jefferson City, Fran was able to move back home.

Fran has many great memories and loves all the people with whom she has had an opportunity to work—from court colleagues to the attorneys to the many talented law clerks that have become her friends. When asked what has changed the most since Fran started with the court, she laughed and **said: "That's easy. I moved from a wonderfully huge, nice office at the KC courthouse to the old JC courthouse, where my office was no larger than a closet, but I loved it! Then I moved to the new JC courthouse, where I was fortunate to have a beautifully decorated, spacious office once again."**

Fran plans to see her grandchildren and siblings more often and travel with her husband, Randy. Judge Nanette Laughrey shared her mixed emotions on Fran's new adventure: "We have officially named Fran Smith the nicest person in the world. We are sad to lose her but happy that she is going to have a wonderful and well deserved retirement. Bon voyage, Fran."

"We have officially named Fran Smith the nicest person in the world."

[Continued on Page 10](#)

Kay Bode

Kay began her legal career as secretary for David Brydon and later became the office manager for Hawkins, Brydon & Swearingen, P.C., serving the firm for 20 years.

In 1986, she accepted the position as judicial assistant for Magistrate Judge William Knox and then for **Magistrate Judge Matt Whitworth**. Kay said: "I can honestly say I have always looked forward to coming to work for the court and Judge Knox and Judge Whitworth every single day. When asked where I worked, I was proud to say I worked for the federal court. I will definitely miss my court family."

"She has been an outstanding judicial assistant and has served the court honorably for 28 years."

Kay will be greatly missed by her friends and co-workers in the Central Division. She will enjoy her retirement with some traveling and spending more time with family. Judge Whitworth shared his thoughts on her departure:



From left: Kay Bode, Heather Richenberger, Judge Whitworth and Jackie Price

"I am going to miss my friend and judicial assistant Kay Bode very much. She has been great to work with these past four years. I was very fortunate that she agreed to stay on board with me when Judge Knox retired. I have learned so much from her and I wish her the very best in retirement. She has been an outstanding judicial assistant and has **served the court honorably for 28 years.**"



Kay Bode and Fran Smith celebrate their retirement.