



THE FEDERAL BAR ASSOCIATION ATLANTA CHAPTER

NEWSLETTER - MAY 2009

<http://www.fedbar.org/atlanta.html>



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PRESIDENT'S MESSAGE

Jeffrey L. Berhold



We continue to see a growth in membership here in the Atlanta Chapter. I attribute it to years of consistently good programming by the chapter and years of consistently strong support from our courts. In addition to encouragement and assistance from various judges, we have been fortunate to have great relationships with **Jim Hatten, Clerk of Court for the District Court**, and **Jim Gerstenlauer, Circuit Executive for the Court of Appeals**. I want to thank them both for looking out for us. They exemplify the commitment of our federal courts to promoting fellowship and understanding between the bench and bar. And thank you to all of our chapter members for showing a growing interest in our mission as well.

So what's next? The Chapter hosts the annual **Luncheon Honoring the Federal Judiciary on Tuesday, June 2 at the Piedmont Driving Club with a reception at 11:30 and lunch at 12:00. Former Solicitor General Paul Clement** is our speaker for the luncheon. Please purchase your ticket early. We nearly reached capacity last year. The Chapter is also rolling out a revised version of our half-day orientation program for younger lawyers at the District Court with a panel of Magistrate Judges and a panel of District Judges on **Friday, June 19**. We will continue to keep members updated over the summer by email of upcoming events.

Let me also take the opportunity to thank everyone that made the events of the last quarter possible. First, thank you to **Executive Committee Members Meryl Roper of Chitwood Harley Harnes** and **Eric Schroeder of Bryan Cave** for chairing the annual **Vance Forum on the Bill of Rights at Emory University Law School**, along with our regular moderator **Denis O'Hayer of NPR** and our stellar panel of **former U.S. Rep. Bob Barr, State Rep. Stephanie Stuckey Benfield, Alan Gura of Gura & Possesky, and Adam Winkler from the University of California Los Angeles**. I want to single out **Judge Tjoflat** for appreciation as well for sharing his very personal reflections on **Judge Vance** to remind us all why we were there.

Thank you as well to **President-Elect Kevin Maxim** for chairing the half-day CLE seminar **"Technology in the Courtroom"** hosted by the **U.S. District Court**. Kevin had a great roster of speakers, including **Executive Committee Member Steve Moore of Kilpatrick Stockton** and **District Judge Mark Bennett** from the Northern District of Iowa. Judge Bennett made heroic efforts to stay ahead of an impending snowstorm back home. Once he arrived here, he gave a riveting presentation at each session of the seminar. We had to cut off enrollment for the morning and afternoon sessions within a week of announcing the program. We could not have done it without the commitment of the District Court to educating the bar on the technological advances in the courtroom. Thank you especially to **District Judge Batten** as well as **Jim Hatten** and **Deputy Clerk Rob Minor** in that regard.

Finally, let me thank Executive Committee member **Ben Mathis of Freeman Mathis & Gary** for chairing a luncheon with chapter member **Martin Arlook** of the **National Labor Relations Board**, **Robert Dawkins** of the **Equal Employment Opportunity Commission**, and **Stanley Keen** of the **Department of Labor** on labor and employment law at the offices of **King & Spalding** and **Chapter Secretary Robin Sangston** of **Cox Communications** for chairing a luncheon panel at the offices of **Nelson Mullins** with **Becky Powhatan Kelley** of **The Weather Channel**, **H. Eric Hilton** of **H.J. Russell & Company**, and **Paul Weisbecker** of **AT&T Mobility and Consumer Markets** on the perspectives of in-house counsel on the legal market. Both programs were timely – and the result of the foresight and hard work of Ben and Robin.

See you on June 2,

Jeff

SAVE THE DATE & PLAN TO ATTEND



The Chapter hosts the annual **Luncheon Honoring the Federal Judiciary** on **TUESDAY, JUNE 2** at the **Piedmont Driving Club** with a 30-minute members-only **reception at 11:30** and **lunch at 12:00**. **Former Solicitor General Paul Clement** is our speaker. Reservations are limited and will be on a first-come, first-served basis, but Chapter members who made reservations by

Wednesday, May 6, 2009 will be given priority over non-members. Please use the **REPLY FORM** on page 4 and make checks payable to **“Atlanta Chapter of the Federal Bar Association”** and mailing *no later than Tuesday, May 19, 2009*. Please purchase your ticket early. We nearly reached capacity last year.

Our half-day orientation program for younger lawyers at the **District Court** with a panel of Magistrate Judges and a panel of District Judges will be held on **FRIDAY, JUNE 19**.

2009 ROBERT S. VANCE FORUM ON THE BILL OF RIGHTS

Meryl W. Roper

On Monday, February 23, 2009, the Atlanta Chapter of the Federal Bar Association presented the annual Robert S. Vance Forum on the Bill of Rights. The 2009 Vance Forum concerned the interpretation of the Second Amendment and the implications on gun control laws in light of the Supreme Court’s decision in *District of Columbia v. Heller*. Our panelists consisted of nationally recognized experts on gun control laws and leading Georgia advocates for and against their implementation. The panelists included **Rep. Bob Barr**, former United States congressman and presidential candidate, **Rep. Stephanie Stuckey Benfield**, Georgia House of Representatives, **Alan Gura**, Gura & Possesky, PLLC

(who argued on behalf of Heller at the Supreme Court) and **Prof. Adam Winkler**, Professor at the University of California, Los Angeles (who wrote an *amicus curiae* brief on behalf of the District of Columbia). The panel discussion was moderated by Denis O’Hayer of WABE-FM, 90.1 (National Public Radio), and was both lively and insightful.

The Atlanta Chapter thanks the **Honorable Gerald Bard Tjoflat**, Judge on the Eleventh Circuit Court of Appeals, for providing the opening tribute to Judge Vance. We also thank **Anne Rector** and Emory School of Law for hosting the event.

TECHNOLOGY IN THE NORTHERN DISTRICT COURTROOM AGAIN DRAWS SELL-OUT CROWD

Kevin P. Weimer, Immediate Past Chapter President



Pictured from left: Steve Moore, David Bain, Judge Richard W. Story, Kevin Maxim, Henry Quillian, Jeff Berhold, Judge Timothy C. Batten, Sr., Judge Mark W. Bennett, Chief Judge Julie E. Carnes, Kevin Weimer, Judge William S. Duffey, Jr., Judge Jack T. Camp

The U.S. District Court for the Northern District of Georgia and the FBA’s Atlanta Chapter hosted the second annual **Technology in the Northern District Courtroom** CLE seminar on Friday, February 27, 2009. All told, we had 160 attorneys from the Northern District’s bar attend the two sessions. Our special guest speaker was **The Honorable Mark W. Bennett**, U.S. District Judge for the Northern District of Iowa. Judge Bennett oversees a “paperless” courtroom, and shared with us his comprehensive experience during his presentation **Dragons and Other Pitfalls: A Federal Judge Reveals Shocking Truths about the Use of Technology in Federal Trials**. Judge Bennett’s presentation was every bit as exciting as its title suggested. We then heard from Mark Allen, the Courtroom Technology Specialist here in our Northern District of Georgia court, during his presentation **Hands-On Demonstration of Technology Available in the Northern District**. Mr. Allen spoke about the technology available in the Northern District today, how it functions, and

how it connects to technology brought into the Court by today's practitioner. **Steven D. Moore**, an intellectual property litigator with Kilpatrick Stockton, LLP, then presented *Technology Dos and Don'ts: A Practitioner's Perspective*. Mr. Moore shared with us observations and pointers from his time in the technology trial trenches.

The Atlanta Chapter thanks **Judge Timothy C. Batten, Sr.** and Clerk of Court **Jim Hatten** for their service on the Production Committee for this event. We also thank Chief Deputy Clerk **Rob Minor**, and the Clerk's Office staff, for their assistance in making the event a great success again this year. Our thanks also to Huseby, Inc. and Georgia Legal Video, Inc. for their efforts in capturing the seminar on video.

The Atlanta Chapter has already begun planning for the next *Technology in the Northern District Courtroom* seminar scheduled for February 2010.

CHAPTER HOLDS LUNCHEON WITH FEDERAL LABOR LAW OFFICIALS

Benton J. Mathis, Jr.

An audience of more than fifty gathered on March 4 to hear the heads of the three major federal agencies in Atlanta with regulatory and enforcement authority over employment law issues. Hosted at the offices of King & Spalding, the Chapter's members heard **Robert Dawkins**, EEOC Regional Counsel, **Stanley Keen**, DOL Regional Attorney and **Marty Arlook**, NLRB Regional Director gave updates on recent developments at their respective offices.

Among the many developments covered, Robert Dawkins discussed the enforcement impact of the significant increase in EEOC charges filed nationally and at the Atlanta office as a result of the declining economy. Marty Arlook gave an entertaining account of highlights of his 50 years with the NLRB and also outlined the potential implications of the pending Employee Free Choice Act (EFCA). Stan Keen covered significant cases litigated by the DOL's district office, as well as major regulatory developments such as the recent implementation of new FMLA rules for employers.

Interestingly, the luncheon was the first time anyone could recall that the leaders of these three major federal labor agencies in Atlanta had gathered together. The combination of the three made for a very comprehensive update of the workings of the federal labor agencies the Chapter's members most often practice before and against. The event was very well-received, and Chapter hopes to make it an annual event.

Many thanks to **Bill Clineburg** and King & Spalding for hosting the luncheon.

FBA ATLANTA IN-HOUSE COUNSEL PANEL

Robin Sangston, Chapter Secretary

On April 22, 2009, at the offices of Nelson, Mullins, FBA Atlanta Chapter Board Secretary Robin Sangston, Vice President, Legal Affairs for Cox Communications, Inc. moderated a distinguished panel of in-house counsel discussing the timely topic of *"In-House Counsel Management of the Outside Counsel Relationship in Turbulent Economic Times."* Nearly fifty FBA members and guests were in attendance and members of the Antitrust Committee of the ABA listened in by teleconference in a collaborative effort between the two bar associations. The three panelists were: **Becky Powhatan Kelley**, Executive Vice President, Distribution and Business Affairs/General Counsel, The Weather Channel Companies; **H. Eric Hilton**, Vice President, General Counsel & Corporate Secretary, H.J. Russell & Company; and **Paul Weisbecker**, General Attorney, AT&T Mobility and Consumer Markets. The diverse group of panelists and the moderator presented a variety of unique perspectives as they represented the public/private company perspective, the large/midsize/ and small law department perspective, and the transactional legal work v. litigation management perspective.

Ms. Sangston led the panel through a series of questions including how the economy is affecting their company and department, the role of budgeting in the law department and how that has changed of late, their prediction on the future of the billable hour as the primary method of compensating outside lawyers, use of technology in their departments, the perceived value of marketing efforts made by outside lawyers to their in-house clients and their personal likes and dislikes about their working relationship with outside counsel. The panel was unanimous in their view that the problems with the economy have had a profound impact on the manner in which in-house counsel manages their budgets and their relationship with outside counsel. It was also unanimous that the economy to a certain degree has shifted the amount of leverage in-house counsel have in terms of demanding better pricing from outside counsel for legal work. While no one predicted the short term demise of the billable hour, some cited examples where they have moved away from the traditional billable hour for certain types of work and others discussed having the ability to negotiate more favorable business terms and conditions with their outside law firms even if the work is still primarily being done under the billable hour model. Questions from the audience included whether in-house counsel are concerned that the laudatory goal of increasing diversity in outside law firm attorney ranks is being negatively impacted by the economy and whether companies continue to place a premium on that with their outside firms. The answer is that diversity still matters. Lastly, the panelists provided some practical tips for outside lawyers to remain on in-house counsel's top "go to" outside counsel list – (1) be responsive; (2) don't nickel and dime in-house counsel over petty expenses and small amounts of time; (3) invest in targeted marketing that strengthens the relationship as opposed to broad-based marketing; (4) learn your client's business before you pitch to them and at any pitch sessions, ask more questions of the business people in attendance, rather than just talking about your firm's qualifications.



REPLY FORM

Federal Bar Association
Atlanta Chapter Hosts the

2009 Annual Luncheon Honoring The Federal Judiciary

Tuesday, June 2, 2009

Name of Attendee: _____
Firm/Company: _____
Mailing Address: _____

Telephone: _____
E-mail: _____

Contact (if different from above):
Name: _____
Telephone: _____
E-mail: _____

Send registration and checks to:

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King & Spalding
1180 Peachtree Street, N.E.
Atlanta, Georgia 30309
P: 404-572-3022 F: 404-572-5138
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Checks payable to: Atlanta Chapter Federal Bar Association

FBA Members:	\$50.00
Non-FBA Members:	\$60.00
Round Table of 10:	\$500.00