



The Federal Magistrate Judges Association created a Committee on Diversity to develop practical and innovative ways to promote the appointment of diverse Magistrate Judges of the highest quality and ethics and to promote diversity among judicial clerks and interns within the court system as a whole.

BY HON. MARIAN PAYSON

Diversity in the Magistrate Judge System

The Federal Magistrate Judges Association (FMJA), with more than 600 active, retired, and recalled U.S. Magistrate Judges, is dedicated to promoting the efficient administration of justice; to protecting the integrity, dignity, and independence of the federal judiciary; and to educating the public about the important role that Magistrate Judges play in criminal and civil cases that come into our federal court system. To further its mission, the FMJA established the Committee on Diversity in recognition of the important role the FMJA must play in promoting and increasing diversity in the federal judiciary in general and in the Magistrate Judge system in particular. The committee comprises approximately a dozen Magistrate Judges who serve on different courts throughout the country and represent diverse backgrounds and experiences.¹ It meets telephonically on a monthly basis and in person at the FMJA's annual meeting to discuss and adopt concrete measures to further its mission of increasing diversity in the Magistrate Judge system.

For fiscal year 2012, 577 Magistrate Judges served in active and recalled positions. Of those, 471 (82 percent) were Caucasian; 39 (7 percent) were African-American; 27 (5 percent) were Hispanic; 13 (2 percent) were Asian; 1 was Native American; and 1 was a Pacific Islander. 401 Magistrate Judges (69 percent) were male, and 176 (31 percent) were women.

The FMJA's Commitment to Diversity and the Diversity Committee's Charge

The FMJA is committed to the goal of encouraging and facilitating the appointment of Magistrate Judges who reflect the diverse populations represented throughout the nation's communities. In the FMJA's view, diverse appointments are essential to the success of, and respect accorded, the Magistrate Judge system. Such appointments reflect the understanding that the judiciary should represent, as much as possible, the people who appear before them. The perception of inclusion requires not only that judges have diverse areas of practice or legal expertise, but also that they have varied personal backgrounds and experiences in making the difficult and sensitive decisions required of them.

The FMJA has charged the diversity committee with identifying and implementing practical measures designed to promote, recruit, and develop Magistrate Judges from all walks of life. Those measures, some of which are described below, focus on educating law students, members of the legal profession, and the community at large about the work of Magistrate Judges and the process of appointment; identifying and publicizing Magistrate Judge vacancies; and working, often in cooperation with bar associations and outside organizations, to identify and promote law students and young attorneys from diverse backgrounds to work as judicial interns, law clerks, and staff attorneys.

The Diversity Committee's Work to Identify and Publicize Magistrate Judge Openings

Recognizing the importance of making the Magistrate Judge appointment process as transparent and public as possible, the committee works to identify and publicize vacancies and openings. At its monthly meetings, a list of identified vacancies is circulated to allow committee members and other Magistrate Judges the opportunity to ensure that members of the relevant legal community learn about the vacancy in sufficient time to apply. The committee believes that better publicity about openings will attract a broader group of qualified applicants, which, in turn, will enhance the strength, experience, and wisdom of the bench.

One method of doing so is to publicize the openings on the FMJA's website. That compilation is easily accessed by visiting the homepage of the website and clicking the link for "Magistrate Judge Vacancies." Any member of the public may visit the website at www.fmja.org and access the listings.

Another means of promoting awareness of particular Magistrate Judge openings is to publicize them to all appropriate bar associations, including diversity-based associations, in the communities where the openings exist. The committee has worked to identify such associations and to develop relationships with them through the committee or through individual Magistrate Judges. Assisting to ensure that those associations know of vacancies so that their members may be notified in adequate time to submit an application is part of the committee's work to promote diversity.

The Committee's Diversity Presentations

For the past several years, the committee has planned and presented diversity programs twice a year, which have been held in and for the communities in which the judges' semi-annual educational seminars have been conducted. The programs have consisted of panel presentations—the focus of which has been the Magistrate Judge system, the work performed by Magistrate Judges, and the importance of diversity in the judiciary—followed by social receptions. To date, diversity programs have been held in Atlanta, Miami, Denver, New Orleans, and San Diego, and programs are planned for San Antonio and Philadelphia in 2014. The committee is dedicated to continuing this important work.

The purpose of the programs is to further educate members of the legal profession, individually and as bar associations, and the community at large, about the work that Magistrate Judges do, the process by which Magistrate Judges are appointed, and the diverse backgrounds and experiences represented by our Magistrate Judge colleagues. The committee believes that greater diversity becomes a more realistic and achievable goal when the community understands and appreciates what Magistrate Judges do, the paths that lawyers from diverse backgrounds have traveled to become judges, and how the federal judiciary is enhanced by a diverse population of judges.

The committee works closely with local bar associations, particularly diversity-based associations, to plan and present the programs. Some are sponsored by local bar associations, and some program moderators are bar association presidents or representatives. With the help of local bar associations, the committee works hard to publicize the programs and encourage attendance by a broad and diverse group of attorneys and law students. All of the programs conclude with a reception that allows continued dialogue between panel presenters and attendees.

The panels generally consist of three to five Magistrate Judges from different courts who represent different backgrounds and experiences, as well as a member of a merit selection committee and, as scheduling permits, the chief of the Fair Employment Practices Office of the Administrative Office of the U.S. Courts. Typically, each judge speaks about his or her background and path to the bench and reflects on the experiences and influences that each believes were significant to his or her career and appointment. The merit selection committee representative shares information about the appointment process and perspectives on the qualities and characteristics important in recommending Magistrate Judge candidates to the Chief Judge of the district where the vacancy exists. The fair employment practices chief provides demographic information about federal judges, and Magistrate Judges in particular, and explains and promotes the partnership with the Just the Beginning Foundation (discussed in the next section). Following the panelists' presentations, the audience is invited to ask questions, generally prompting a lively and wide-ranging discussion.

Judicial panelists have included distinguished Magistrate Judges from across the country, including one who has served in both the Eastern District of Michigan and the Middle District of Alabama. Many have been trailblazers; for example, program attendees have heard from the first female African-American federal judge in Pennsylvania, the first Indian-American federal judge in California, the first African-American judge in the Northern District of New York, and a recipient of the National Hispanic Bar Association's Medal of Merit. Some have served for decades, including as Chief Magistrate Judge for their district, while others were recently appointed. Their professional backgrounds are as varied as the location of their courthouses—including former capital defenders, labor and employment litigators, assistant attorney generals, and corporate counsel.

Programs to Promote Diversity Among Judicial Interns and Clerks

The FMJA and its diversity committee believe that increasing diversity among judicial interns and clerks serves two important goals. First, it promotes the goal of ensuring that all facets of the judiciary, not just judges, are representative of the community the court serves. Second, increasing diversity among law students interested in the work of the judiciary is likely to increase the pool of interested and qualified candidates for the federal bench.

One national program that promotes those goals is the partnership between the Just the Beginning Foundation (JTBF) and the Judicial Resources Committee of the Judicial Conference of the United States. JTBF was founded in 1992 as a not-for-profit organization of judges, lawyers, and other citizens dedicated to developing educational programs to inspire and foster careers in the law among students of color and from other underrepresented groups, from middle school through law school. Several members of the federal judiciary serve on the JTBF's judicial advisory committee.

JTBF works with members of the federal judiciary, including Magistrate Judges, to identify qualified minority, underrepresented, or economically disadvantaged law students and to match them with judges interested in hiring them as interns. The program, now in its fourth year, has been very successful and continues to grow. In 2011, JTBF assisted in placing 42 law students in internships with the federal judiciary. In 2012, 62 students worked as federal judicial

interns; 24 of them worked with 20 Magistrate Judges. JTBF also collaborates with a panel of federal judges to select qualified law students to participate in a round of interviewing for full-time clerkship positions.

Many individual federal courts throughout the country also have their own programs designed to increase awareness of the work of the federal judiciary among students in their community. For example, the Eastern District of Wisconsin offers two programs in cooperation with the Eastern District of Wisconsin Bar Association. The first—Kids, Courts, and Citizenship—is a program designed to expose Milwaukee school children to federal court and careers in law. Students spend a day touring the courthouse, observing hear-

committee work, and leadership. Many committees are chaired by judges of diverse backgrounds, and the association itself has had two presidents who are distinguished African-American judges: U.S. Magistrate Judges Charles B. Day and Karen Wells Roby.

Former Past President Charles B. Day

Judge Charles B. Day, a U.S. Magistrate Judge for the District of Maryland since 1997, served as president of the FMJA from 2007 to 2008. He is the first African-American Magistrate Judge for the District of Maryland and the second person of color to serve in this position in the Fourth Circuit Court of Appeals.

In addition to serving as a president of the FMJA, Judge Day

The FMJA and its diversity committee believe that increasing diversity among judicial interns and clerks will ensure that all facets of the judiciary, not just judges, are representative of the community the court serves as well as increase the pool of interested and qualified candidates for the federal bench.

ings, attending and participating in naturalization ceremonies, acting as mock jurors, and meeting judges and attorneys. The second—the Law Day Civics Bowl—is a competition for high school students held in the ceremonial courtroom on Law Day. Students compete to answer questions from the civics test that is administered by U.S. Citizenship and Immigration Services.

As another example, in the Northern District of Georgia, Magistrate Judges participate in several programs designed to promote knowledge of and interest in the judiciary among students. One judge participates in a program sponsored by the Atlanta Bar Association that pairs high school students with judges and other law professionals for a six-week summer internship program. As part of the Journey to Judge program, federal and state judges travel to local high schools to share with students their journey to the bench, including the struggles they may have encountered, in the hopes of inspiring those students to consider careers in the law. Federal judges in the Northern District of Georgia are also involved in a third-grade reading program that pairs judges, lawyers, and law students with inner-city elementary students for reading tutoring. Recognizing the correlation between illiteracy and incarceration, the program's participants strive not only to improve reading skills, but to foster a love for reading and a passion for learning.

The Eastern District of California, Yosemite Division, offers several outreach programs targeted to students living in rural areas served by the court. The court, in cooperation with the Federal Bar Association, sponsors an annual Law Day Yosemite, during which approximately 150 students from rural areas come to Yosemite Valley to celebrate the importance of the rule of law and equal rights in our country. The court also sponsors mock trial demonstrations and programs specifically designed for students.

The diversity committee is currently in the process of compiling a list of these types of programs to be circulated to other judges and courts interested in implementing similar programs.

Diversity in the FMJA

The FMJA is, of course, committed to full and active participation by as many Magistrate Judges as possible in its own activities,

has held many positions of leadership. He is chair-elect of the National Conference of Federal Trial Judges for the American Bar Association (ABA). He is a former co-chair of the ABA's Race and Racism in the Criminal Justice System Committee and has served on the ABA Criminal Justice Section Council. He has chaired the Maryland State Bar Association's Leadership Academy and the Alan J. Goldstein Inns of Court and was vice chair of the Maryland State Court's Commission on Racial and Ethnic Fairness in the Judicial Process.

Judge Day is an active member of many professional organizations and has served on the board of directors of various civic, charitable, and religious organizations, including Habitat for Humanity, Montgomery County Chapter. Judge Day has been on several missionary trips to Romania to build churches, to Mexico and West Virginia to help build several homes for the needy, to Kenya to build walls around a facility for refugee women, and he travels yearly to the Dominican Republic as part of a medical/construction faith-based mission effort.

Immediate Past President Karen Wells Roby

The FMJA's Immediate Past President Judge Karen Wells Roby has served as a U.S. Magistrate Judge for the Eastern District of Louisiana for the past 15 years. In addition to her work with the FMJA, she is heavily involved with the ABA. She currently serves as co-chair of its Litigation Section's Diversity and Inclusion Committee and formerly served as co-chair of the section's Alternative Dispute Resolution Committee.

Judge Roby is passionate about educating law students and young people about civic education, careers in the law, and the judiciary. She is the coordinating judge for JTBF's Louisiana State Bar Association's High School Intern Program, a three-week intensive simulation law school program held each summer in New Orleans for high school students interested in the law. Judge Roby has served as coordinating judge for her district's Open Doors to Federal Court Program, a day-long civics education program held in the dis-

Occasionally, Judge Carter is called upon to investigate allegations of sanctionable conduct such as spoliation of evidence. Fortunately, such issues arise infrequently.

Some civil matters handled by the Magistrate Judge require significant judicial resources. Currently, Judge Carter is assigned to a large multidistrict litigation (MDL) matter involving antitrust claims against several pharmaceutical companies. The number of motions and the complexity of some of the discovery issues means a disproportionate amount of time must be poured into the case. It is not unusual that a small percentage of cases will consume the largest percentage of judicial resources.

Given their heavy criminal and civil dockets, the District Judges also refer certain civil dispositive matters to the Magistrate Judges in Chattanooga for a report and recommendation. These matters include Social Security disability appeals, ERISA disability appeals, and motions for default judgment.

Judge Carter also has his own docket of consent cases, cases

over which he presides to entry of judgment with consent of all the parties. Consent cases cover the full spectrum from simple personal injury cases to more complicated actions brought under federal statutes.

As you can see, Judge Carter performs many varied tasks. His duties are largely determined by the needs of the District Judges. Working as a team, the District Judges and Magistrate Judges timely and efficiently administer justice in the Chattanooga division. ☺



Katharine McCallie Gardner graduated summa cum laude from Indiana University School of Law at Indianapolis in 1991. She clerked for Hon. H. Ted Milburn on the Sixth Circuit for two years upon graduation and has been Judge Carter's career law clerk since his appointment to the bench in 1999. She is a past president of the Chattanooga FBA Chapter.

DIVERSITY continued from page 57

trict court, and has served as the former president of the Louisiana Center for Civic Education's board of directors. In April 2013, Judge Roby served on a panel of national leaders, including retired U.S. Supreme Court Justice Sandra Day O'Connor, on the topic of civil education. She teaches a semester-long trial advocacy skills class at Tulane University Law School.

In August 2012, as a faculty member of Lawyers/Judges Without Borders, Judge Roby traveled to Nairobi, Kenya, with a group of federal judges and attorneys to bring U.S. best practices in the areas of case management and trial procedures to Kenyan magistrates, police prosecutors, and criminal defense counsel.

Conclusion

The work of the FMJA's Committee on Diversity provides an important means of promoting the long-term success of and confidence in the federal judiciary and, particularly, the Magistrate Judge system. The FMJA is committed to continuing to develop practical and innovative ways to promote the appointment of diverse Magistrate Judges of the highest quality and ethics and the full and equal participation of persons of diverse backgrounds in the court system as a whole. ☺



Marian W. Payson has served as a U.S. Magistrate Judge for the Western District of New York since April 14, 2003. She co-chairs the Federal Magistrate Judges Association's Diversity Committee with Linda T. Walker, U.S. Magistrate Judge for the Northern District of Georgia. Judge Payson is active in various bar associations, having served as a past president of

the Greater Rochester Association for Women Attorneys and a Trustee of the Monroe County Bar Association.

Endnote

¹The FMJA diversity committee members are: Hon. Linda T. Walker (co-chair) (N.D. Ga.); Hon. Marian W. Payson (co-chair) (W.D.N.Y.); Hon. Linda Anderson (S.D. Miss.); Hon. Sonja F. Bivins (S.D. Ala.); Hon. Leo I. Brisbois (D. Minn.); Hon. Nancy Joseph (E.D. Wis.); Hon. Michael J. Newman (S.D. Ohio); Hon. Michael J. Seng (E.D. Cal.); Hon. Craig B. Shaffer (D. Colo.); Hon. Edwin G. Torres (S.D. Fla.); and Hon. Carol Sandra Moore Wells (E.D. Pa.).

Friend Us. Follow Us. Join Us.



www.fedbar.org