

STANFILL AND ASHBY CELEBRATE SHARED CAREERS

By Donna J. Mikel

Partner, Burnette, Dobson & Pinchak

Mari Stanfill and Geneva Ashby interviewed for their jobs at the United States District Court for Eastern District on the same day. They shared their very first day of work together in 1981, and they marked the end of their federal careers together on the same day: July 29, 2011.

After serving the Eastern District of Tennessee for thirty years, Stanfill and Ashby have enduring respect and admiration for the federal judiciary and the American system of justice.

According to John Medearis, the Chief Deputy Clerk, "Geneva and Mari both represent the best of what working for the federal courts is all about: dedication. First and foremost, they were dedicated to the judges, but also to their co-workers, the litigants, the bar, jurors and the public."

Ashby, prior to venturing to Chattanooga, grew up in Madisonville, Kentucky, and studied professional modeling. After working as a model for several years, she took a job with the Atlanta Braves and was the first and only "Miss Atlanta Braves."

After three years with America's Team and then several years in banking, Ashby decided to try her hand in the Court system. She began working for the Federal Court as an intake clerk and also held the titles of financial deputy, case manager and courtroom deputy, before earning a promotion to become the first non-lawyer to serve as the Division Manager for the Clerk's Office.

Stanfill also rose through the ranks of what she describes as one of the "leanest parts of the Federal system," referring to our efficient Court. Retiring as the Jury Coordinator, Stanfill also served as front desk clerk, courtroom deputy to Magistrate Judge John Y. Powers, and courtroom activities manager.

The daughter of former United States Representative Marilyn Lloyd, Stanfill graduated from Brainerd High School and then earned a degree in Economics and Business from the University of Tennessee at Chattanooga. She was hired shortly after obtaining her degree.



Ashby's fondest memories are centered in the twelve years during which she served as District Judge R. Allan Edgar's courtroom deputy. While both Ashby and Stanfill have nothing but accolades for all of the judges for whom they worked, they both recall several interesting tales.

Ashby reminisces about a trial during which Judge Edgar's chair accidentally fell backwards off the back of the bench. "All you could see was the soles of his shoes," Ashby said.

Seeing nothing but the upside-down chair and the bottoms of Judge Edgar's shoes made it difficult to remain composed in front of the jury. Ashby recalled Judge Edgar enjoying a good laugh with the jury over the incident.

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DEBRA POPLIN APPOINTED CLERK OF U.S. DISTRICT COURT

U.S. District Judge Curtis L. Collier, Chief Judge of the Eastern District of Tennessee, has announced that Debra Poplin, Law Director for the city of Knoxville, has been selected by the Court's district judges to serve as clerk of the court, effective January 2, 2012.

When Poplin was appointed to the city post in January 2008 by then-Mayor Bill Haslam, now Governor Haslam, she became the first woman to hold that position. She had earlier served as Deputy Law Director for 10 years.

Judge Collier opined of the recent appointment, "We are pleased to have someone with Ms. Poplin's background and experience join the Court. She has excellent qualifications, and we feel fortunate to have her accept the appointment."

Poplin, who will be based in Knoxville, will have responsibility for the clerk's operations in the 41 counties that make up the Eastern District of Tennessee. Poplin has more than 21 years of diverse litigation and general counsel experience. Poplin received her undergraduate degree from the University of Tennessee and her law degree from the University of Cincinnati College of Law, both with honors. She is a member of the Board of Governors of the Knoxville Bar Association. Poplin and her husband, Rick, are the parents of two children, Kendall, age 11, and Preston, age 8.

NEW LAW CHANGES LANDSCAPE OF REMOVAL AND VENUE

On December 7, 2011, President Obama signed into law the "Federal Courts Jurisdiction & Venue Clarification Act of 2011," abbreviated as the "JVCA." The Act takes effect on January 6, 2012 and is the most sweeping change made in the past decade to the laws relating to removal procedures and venue. A copy of the House Report summarizing the changes is available at <http://www.gpo.gov/fdsys/pkg/CRPT-112hrpt10/pdf/CRPT-112hrpt10.pdf>.

The new law addresses and clarifies the following:

- The appropriate handling of "separate and independent" state law claims upon the removal of federal claims.
- The correct method to analyze whether citizenship is diverse in claims involving corporations with foreign activities.
- A codification of the "rule of unanimity" for removal of case involving multiple defendants.
- The provision of thirty days for removal for each defendant in cases involving multiple defendants.
- A "bad faith" exception to the statutory provision prohibiting removal of diversity cases more than one year after filing.
- The abolition of "local" v. "transitory" actions.
- A narrowing of the resident-alien provision at §1332(a).

The stated purpose of the Act is to eliminate litigation over these issues in order to ease the unnecessary burden on the Court.

The Clerk's Corner



TIPS FROM INSIDE THE CHAMBERS

If an attorney cites a law from outside the Sixth Circuit and it's not obvious why she is doing so (e.g. the brief has already noted no Sixth Circuit law on point), there should be some explanation, whether in a footnote or otherwise, of why the Court should pay attention to this other court's decision.

Rule 41 stipulations of dismissal do not need a Judge's signature.

Whenever a party is submitting a motion for moving a deadline or some other relatively straightforward matter, it is often advisable to attach a proposed order.

A lawyer should draft a brief imagining it could actually be issued by the Judge.

It is helpful to the Judge (especially the Judge's law clerk) when briefs don't assume the reader is already proficient on the relevant area of law but instead walk the reader through some basic fundamentals (of, e.g., the ERISA statute, the particular Bankruptcy chapter, the Uniformed Services Employment & Reemployment Rights Act, etc.).

Read the Local Rules, particularly the ones about motion briefing deadlines and about a stipulation to extend the time to respond to a complaint with no motion or Court order.

A well-written, balanced brief-the kind of things that sound like a judicial opinion-is often more persuasive for a Judge (and that Judge's clerk) than some kind of screed.

Under the rubric of civility, I would encourage parties to get together and try to submit joint motions whenever the issue is one of extending timelines.

The lawyer should engage seriously with the other side's best arguments.

THE LAWYER SHOULD WRITE TO AND KNOW THE AUDIENCE.

LABOR PAYNE

A baby lawyer reflects upon his first steps as a federal practitioner.

*By William H. Payne IV
Associate, Burnette, Dobson & Pinchak*

When I tell people that our law offices are conveniently located on Cherry Street between the two courts, people nod their heads as if they know just what I mean, but I see the look of the suspicion in their eyes. *Two* courts, you say? Does this guy have a law office in the parking garage between the old courthouse and the county building? Is he in one of the tents?

No, no. See here. There is a state court, replete with tents, chancellors, recall election litigation, and the oft-celebrated order of protection day, and then, there is the blanched megalith looming across from Miller Park that houses the federal government's most palpable expression of localized power. Do you not see it? Is it cloaked in a force field like a Klingon vessel or . . . the Death Star?

Perhaps, yes, our federal court operates behind a force field for it is indeed a very unusual place for a new lawyer to learn to practice the law. At some point in law school, we novices glean that law practice isn't all *Night Court* and *Law and Order*, but Civ Pro I hardly prepares the budding legal mind for the disquieting mysteries that whisper in the hushed passageways of our district court.

First of all, the fledgling federal practitioner must come to grips with the fact that the marble megalith adjudicates remotely. You write a carefully punctuated essay. You submit it online from the relative safety of your messy workstation. And then, like an amateur sleuth whose undercover contact is in too deep for face-to-face communication, you wait for the email blast that will clarify everything.

Though I am perfectly aware that there are real flesh and blood clerks and judges who issue orders and memoranda via the miracle of ECF, I cannot help but feel that I am communicating with a disembodied juridical force that haunts the Internet like a virus when I assert my clients' rights in cyberspace. After I have submitted a brief with a single click, I feel like Jem, Scout, and Dill waiting for Boo Radley to leave a stick of gum in my inbox, proving to me that I am not totally nuts for having submitted the brief in the first place.

But it gets weirder than that. Sometimes the federal court demands your attendance! When you arrive, you find that the clerks and judges - hidden behind the mottled marble walls - are as affable and familiar as local personalities from the old neighborhood. Showing up for a hearing with a judge in federal court is like excavating an Egyptian tomb only to find your neighbor watering his lawn in one of the catacombs.

When you hit the buzzer on one of the judge's cryptically engraved doorways, you are undoubtedly asking *to see behind the curtain*, but you are invariably going to be greeted by a human being. Like the bureaucrats in Kafka's *"The Castle"*, the federal judges are both the face of the hierarchy and its vulnerable instruments, just like you and I. And they will give you coffee if you ask or, perhaps, an extension.

Make no mistake, however. The kindly judges of our federal court are endowed with a power most people do not possess. For society's miscreants, those who have scoffed at our federal laws, there is little tolerance. A green-horn lawyer in federal court will take notice of the earthlings in their orange jumpsuits, dejectedly riding the antique elevators, their second chances all used up. Those will inevitably feel the heavy hand of justice on their shoulders, as they listen to the judges set forth their punishment. And a young lawyer will internally ask, "Will I become a miscreant?"

Herein lies the most unsettling aspect of a federal court practice. From the safety of your own workstation, it's easy to believe that your clever argument about a deficient discovery response is of universal import. But, when you are in federal court and you sit in a chair still warm from the backside of a person who has just been sentenced to two decades of hard time for buying Sudafed, you start to ask questions. *What if the judge doesn't like what I had to say? Was I a little too strident in tone? Will the judge remember that this is a civil matter and realize that I am not wearing an orange jumpsuit? Will I be doing hard time for failing to cite adverse authorities? How close am I to the handcuffs and shackles, really? How close?*

"Now, now," says the veteran practitioner, "that's a bit melodramatic. The district court is a lovely place to practice with hard deadlines and a spirit of intellectual inquiry. It's altogether a fine and unbiased forum for you and your client."

All true. But I ask just one favor of the veteran practitioner who submits her thoughts over ECF without a care in the world. When you see an innocent bystander at the corner of MLK and Georgia Avenue, puzzling over the four-story headstone that isn't all post office, point at it and intone the words of Obi-Wan as the Death Star comes into view. "That's no moon. It's a space station."

UPCOMING EVENTS

CHATTANOOGA CHAPTER FBA ANNUAL MEETING

-JANUARY 26, 2012

-12:00 P.M. @ THE CHATTANOOGA TRADE & CONVENTION CENTER

-CELEBRATE OUR MEMBERS AND ACTIVITIES AND EARN 1 HOUR OF CLE WHILE ENJOYING THE CAPTIVATING REMARKS OF RICHARD D. KAHLENBERG, SENIOR FELLOW AT THE CENTURY CENTER, AUTHOR OF NUMEROUS BOOKS AND PUBLICATIONS RELATING TO PUBIC EDUCATION AND *CUM LAUDE* GRADUATE OF HARVARD LAW SCHOOL.

-TO REGISTER OR FOR MORE INFORMATION EMAIL CHATTANOOGAFBA@GMAIL.COM

SIXTH CIRCUIT JUDICIAL CONFERENCE (OPEN)

-APRIL 24-27, 2012

-LEXINGTON, KENTUCKY

-[HTTP://WWW.CA6.USCOURTS.GOV/INTERNET/JUDICIAL_CONFERENCE/2012/INDEX.HTML](http://WWW.CA6.USCOURTS.GOV/INTERNET/JUDICIAL_CONFERENCE/2012/INDEX.HTML)

COURT APPRECIATION RECEPTION

November 17, 2011
Stone Fort Inn



Left-Right: Annette Hendricks, Stefanie Capetz, Mari Stanfill, Courtney Camp



Left-Right: U.S Magistrate Judge Susan K. Lee, Donna Mikel, Tonya Kennedy Cammon, Marcia Eason

The Chattanooga Chapter of the FBA honored staff and professionals from the Chattanooga division of the U.S District Court for the Eastern District of Tennessee for their dedicated service and commitment.



Left-Right: Krista Starnes, Geneva Ashby

STANFILL AND ASHBY SHARED CAREERS

Continued from page 1

Ashby and Stanfill both have high regard for the integrity of the federal jury system. When Stanfill first began working as a jury clerk, the old system was still in use, and she drew numbered plastic chips from a large wooden box in the hall of the Federal Building.

"We used to have to go out into the counties and do it manually," Stanfill said. "Now, it's all done electronically by our jury management software."

The current software, Jury Management System, is an automated "wheel" system that randomly selects names of qualified jurors to be called in as the venire.

Stanfill applauds the progress, as she does with regard to most of the technological developments utilized at the Court. "Electronic Case Filing has really been such a great thing for the whole legal community," Stanfill said. "No more lost files!"

Although Stanfill was in charge of coordinating the juries and accommodating juror needs, Ashby was often the one to whom people went to get a prediction about how juries would rule on cases.

"I looked at it from the jurors' standpoint, and nine out of ten times I was right," Ashby said.

The same instinct is something that, according to both ladies, new lawyers could hone in interviewing and selecting jurors.

According to Stanfill, "less is more," and lawyers should shorten their *voir dire* to be more effective. Or, as Ashby puts it: "You lose the jurors with too much talk."

Jurors, according to Stanfill, are understandably concerned about the amount of time they have to commit to fulfill their duties. In fact, Chattanooga's geographical location heightens that concern for jurors traveling from afar.

Stanfill recalled many instances in which rurally-based jurors cited worries about having the opportunity to milk their cows or to tend to their farms and still make it to court across the Central Time Zone.

"One time, I had a lady who had an elderly dog, and she would have to leave and give her dog its medication," Stanfill recalled.

In terms of their own time, Stanfill and Ashby are now enjoying their newfound trove of it. While they miss their days with their judicial colleagues, both are more than endowed with a generous helping of treasured family.

Ashby is in the process of moving back to Atlanta to spend more time with her two children and four grandchildren. Stanfill has one daughter and two grandchildren in New Orleans but will stay in Chattanooga for the time being.

The Chattanooga Chapter of the Federal Bar Association appreciates the years of professional service and commitment of Stanfill and Ashby and wishes them a retirement brimming with adventure, fulfillment and good fortune.

A MESSAGE FROM THE CHAPTER PRESIDENT

by Tonya Kennedy Cammon



When I was asked, several years ago, to become more active in the Chattanooga Chapter of the Federal Bar Association, I did so with little understanding of what that involvement would come to mean for me. While I was familiar with our judges from having appeared before most of them in court, I knew few of them on more than a formal basis. I had met a couple of employees in the clerk's office, but really did not know any of them well.

After meeting and talking with other Chapter representatives at national FBA meetings, I now understand just how fortunate we are to have active and involved judicial members and court professionals in Chattanooga. But, I wonder, do our Chapter members really know what our judges and court professionals do to help us?

Did you know:

- that all our local judges participate in CLE for newly-admitted federal practitioners?
- that the clerk's office and our judges actively encourage and facilitate tours of the court building for school groups, exchange students, and civic groups?
- that the judges authorize funds to pay for transportation to and from the courthouse for school groups who otherwise could not afford it?
- that the federal court sponsors an award-winning Constitution Day celebration every year, including a segment complete with costumes and a script for students to perform?
- that our judges regularly provide input for and participate in CLE programs which will enable attorneys to do a better job for their clients?
- that the judges and other federal court employees plan and execute solemn and moving twice-yearly ceremonies to honor America's new citizens?
- that our federal judges take an active role in promoting preservation of the history of our Court?

Through my involvement with the Chattanooga Chapter of the FBA, I have been fortunate to have been a part of many of these activities and to have developed strong working relationships with our judges, other federal employees and certain members of the public. I invite each of you to become more involved in our Chapter's programs and outreach activities during 2012. I can promise you that your work with the Chapter, the employees of the federal court system and our judges will be rewarding and – believe it or not – fun!

2012 MENTORING OPPORTUNITY

Our chapter is teaming up with Howard High School to promote its Talented Tenth Leadership Program designed to empower high school youth to positively influence their peers, their government, and their economy as agents of social change. We are looking for 6 to 12 FBA members to meet with one or two students at Howard three times this semester to help them prepare presentations which they will be giving to the U.S. Department of Justice in Washington D.C. in May. The students will also receive one hour of college credit from UTC. Contact Katharine Gardner at 752-5365 or email chattanoogaofba@gmail.com for more information.



We are excited to announce that Brian T. Fitzpatrick, Associate Professor, Vanderbilt University Law School, will be contributing an article in our Second Quarter Edition on the United States Supreme Court's decision in *AT&T Mobility v. Concepcion* holding that the Federal Arbitration Act preempts state laws that prohibit class-action waivers in arbitration agreements. During law school, Professor Fitzpatrick served as Editor of the Harvard Law Review and earned the Fay Diploma in 2000 for finishing first in his Harvard Law School class. Please look for your copy in April of 2012!

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RENEW YOUR MEMBERSHIP,
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SIGN UP TODAY TO ATTEND THE ANNUAL MEETING OF THE CHATTANOOGA CHAPTER OF THE FEDERAL BAR ASSOCIATION WITH GUEST SPEAKER RICHARD D. KAHLENBERG, SENIOR FELLOW AT THE CENTURY CENTER, REKNOWNED AUTHOR AND EXPERT ON PUBLIC SCHOOL ISSUES AND ECONOMIC INTEGRATION, AND *CUM LAUDE* GRADUATE OF HARVARD LAW SCHOOL.

JANUARY 26, 2012 12:00 P.M. \$30

CHATTANOOGA TRADE & CONVENTION CENTER

ELIGIBLE FOR 1 CLE CREDIT

SEE DETAILS ON PAGE 3 OR EMAIL CHATTANOOGAFBA@GMAIL.COM