

CERTIFICATE OF SERVICE

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Farewell and Hello . . .

Messages from the outgoing and incoming chapter presidents

It has been my privilege to serve as your chapter president during the 2013-14 term. Thank you for placing your confidence in me and for supporting the many events held over the last year. I also extend my sincerest thanks to the outstanding members of the leadership team, who worked so hard to organize

those events and make each one a success.

In the last year, we held two social events in Raleigh and one in New Bern. We also heard from Professor Stephen Sachs of Duke University Law School on

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CALL FOR VOLUNTEERS

Your chapter needs you! There are many opportunities to serve—many of which require less of a time commitment than you may think. Consider doing one (or more!) of the following:

- Help organize one of our many CLE or social programs that are planned for the year.
- Write an article for the chapter newsletter.

- Join the membership committee in helping to recruit new members and encourage existing members to renew.

- Or tell us your thoughts for an entirely different project you’d like to undertake with the chapter—we welcome new and creative ideas!

Contact Kat Shea via Kat_Shea@fd.org to sign up.

FOURTH CIRCUIT REVERSES SENTENCE, REAFFIRMING IMPORTANCE OF CONFRONTATION RIGHTS EVEN IN SUPERVISED RELEASE HEARINGS

In *United States v. Ferguson*, 752 F.3d 613 (2014), the Fourth Circuit reversed and remanded a 42-month active sentence imposed for a supervised release violation. The court held that it was error to admit evidence of a laboratory report in lieu of live testimony from a forensic analyst. The analyst had written a report concluding that the substance found in the defendant's car was marijuana.

The court explained that Fed. R. Crim. P. 32.1(b)(2)(C) effectively codifies the constitutional rights of due process and confrontation, *i.e.* the right to confront live government witnesses, who must take the stand—even in the bench trial setting of a supervised release revocation hearing—absent the government providing good cause for the witness's unavailability.

The government argued that any error was harmless. The court of appeals, however, assailed this argument, reasoning that the harmless error doctrine is a poor fit for denial of confrontation rights

because the accused will never know the full extent of the harm from the government's evidence when denied cross-examination that would reveal weaknesses in that evidence. In short, the government cannot take advantage of the fact that the accused cannot point out concrete harm when the government effectively prevented the accused from having the tool needed to discover it. As the court said, "[D]efendants who have been stripped of their confrontation rights will be hard-pressed to point to concrete symptoms of the constitutional harm that afflicts them. We refuse to let the government take advantage of this . . . by using harmlessness as a substitute for proper procedure."

The opinion was authored by Judge Roger Gregory and was joined by Senior Judge Andre Davis, who also wrote a concurring opinion. Judge Barbara Milano Keenan dissented.

Raymond C. Tarlton

Tarlton Law PLLC, Raleigh, NC

Committee Highlight : **Intellectual Property Committee**

In past year, the Intellectual Property Committee of the EDNC Chapter of the Federal Bar Association has focused its efforts on the following goals: expanding IP matters in the EDNC; compiling statistics and information on IP cases; identifying resources for the judges in the EDNC; and coordinating IP matters and topics among private practitioners, business, and academia.

Of note, the Chair and representatives of the Committee met with Chief Judge Dever to discuss the EDNC docket and IP workload in the district and ways to expedite and improve the handling of cases.

In addition, the Committee is working to organize and host a panel seminar with Judge Randall Rader, former Chief Judge of the U.S. Court of Appeals for the Federal Circuit, and other members of the Federal Circuit judiciary. Separately, a subcommittee of the group is looking at ways to expand the opportunities for IP interns from local law schools.

Robert Van Arnam

Williams Mullen, Raleigh, NC

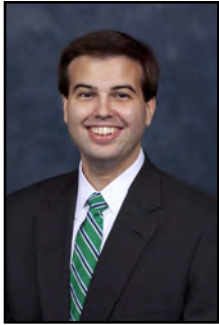
EDNC Intellectual Property Committee Chair

SUBMISSIONS WANTED



Do you have an article you want to write? Have an item of news you want to share? Why not send it to the EDNC's chapter newsletter? To make a submission or obtain further information, please contact Tyler Brooks via tbrooks@mgsattorneys.com.

FAREWELL AND HELLO . . . (CONTINUED FROM PAGE 1)



Left: B. Tyler Brooks, President (13-14)
Right: Kat Shea, President (14-15)

the topic of forum selection following the Supreme Court’s decision in Atlantic Marine Construction Co. v. U.S. District Court for the Western District of Texas, 134 S. Ct. 568 (2013).

Additionally, we were recently honored to host a CLE presented by

United States District Judge Terrence W. Boyle. In the event, which was organized by the chapter’s Younger Lawyers Division, Judge Boyle addressed the historical context surrounding ratification of the U.S. Constitution.

I look forward to participating in the numerous upcoming activities that are now being planned. Please continue to be a part of our work and join me in supporting our great new president, Kat Shea.

B. Tyler Brooks
 Chapter President (2013-14)

My name is Kat Shea, and I am honored to serve as the current President of the Eastern District of North Carolina Chapter of the Federal Bar Association.

Founded in 2011, our growing chapter is fortunate to have a wonderful executive team in place this year. We have expanded the number of committee chairs and are excited about what we can accomplish. We are planning CLE events covering a variety of topics, including appellate law, intellectual property law, and health law. For the first time, we are also planning chapter service projects. We are grateful for your interest in federal practice in our district, and if you are not already a member of our chapter, we hope you will join! Not only will you have access to our quality programs, but you will also have access to all that the national Federal Bar Association has to offer—from monthly publications to various programs and CLEs.

Please do not hesitate to contact me with any questions about or suggestions for our chapter. I look forward to hearing from you and seeing you at our future events.

Kat Shea
 Chapter President (2014-15)

Join the FBA in Salt Lake City . . .

2015 Federal Bar Association Annual Meeting and Convention
 on
 September 10-12, 2015
 Little America Hotel • Salt Lake City, Utah