

## FIRST CIRCUIT

### Massachusetts

On Sept. 18, Magistrate Judge Robert B. Collings of the U.S. District Court for the District of Massachusetts kicked off the chapter's Breakfast with the Bench speaker series with his presentation of developments in electronic discovery and production of electronically stored information (ESI). Judge Collings discussed the following:

- The differences between e-discovery and traditional paper discovery,
- The advantages of e-discovery,
- Amendments to the federal rules regarding e-discovery and ESI and best practices,
- The "quick peek doctrine" and contractual agreements between the parties related to discovery of ESI,
- The difficult privilege issues that arise during e-discovery,
- The duty of preservation of ESI, when the duty to preserve arises, and spoliation,
- The correlation of ESI and automatic disclosure requirements,
- The differences and issues related to "accessible" and "inaccessible" data, and
- The court's ability and discretion to limit discovery pursuant to Fed. R.

Civ. P. 26(b)(2)(C).

Perhaps most important to practitioners, Judge Collings reiterated that cooperation between counsel discovering ESI is absolutely necessary, particularly because of the volume and number of people and expense involved in e-discovery. Both the rules requiring conferences between counsel and the practical effect in terms of costs and expenses of discovery are requiring counsel to be cooperative and creative when conducting e-discovery.

Judge George A. O'Toole Jr. and Magistrate Judge Timothy J. Hillman of the U.S. District Court for the District of Massachusetts also attended the breakfast series, offering practical scenarios and commentary on various e-discovery issues they have experienced in their courtrooms.

On Sept. 20, Magistrate Judges Marianne B. Bowler and Charles B. Swartwood III (ret.) of the U.S. District Court for the District of Massachusetts spoke at the Massachusetts Chapter's Younger Lawyers Division's Lessons from the Bench series. In their presentation, entitled "Mediation: Practical Tips for Success," which was delivered to an overflow crowd, they spoke about what works and what does not work in a mediation setting, including the

content of a mediation memo, whether or not to share the mediation memos with opposing counsel or just with the mediator, the benefits of using a judge as a mediator, whether or not to have the client present at the mediation, the benefits of doing an oral presentation of the case before opposing counsel and the clients, and whether to be facilitative or evaluative in the approach to mediation. The magistrate judges also discussed the success of each of these approaches. The program was held at the law offices of Morrison, Mahoney & Miller in downtown Boston.

### Puerto Rico

On Sept. 27, the Puerto Rico Chapter's board held a brown-bag luncheon with its younger lawyer members in the chambers of Judge Gustavo A. Gelpi of the U.S. District Court for the District of Puerto Rico and member of the FBA Board of Directors. Other district judges in attendance included Chief Judge Jose A. Fuste, Judge Juan M. Perez Gimenez, and Judge Francisco A. Besosa—all of whom are longtime members of the FBA. Judge Gelpi and his fellow judges answered several questions about the court and federal practice.

## FIFTH CIRCUIT

### Fort Worth



Puerto Rico Chapter: At the September brown-bag luncheon with younger lawyers—(left photo, front row, l to r) Janitza Garcia; Hon. Gustavo A. Gelpi, U.S. District Court for the District of Puerto Rico; and Sarah Velez; (back row, l to r) Linette Figueroa, Luciana Rechany, Andres Colberg, Nelson Roman, Eduardo Arosemena, and Maria Del Valle; (right photo, front row, l to r) Katherine Gonzalez, chapter vice president; Hon. Gelpi; and Dora Monserrate, chapter president; (back row, l to r) Andres W. Lopez; Jose Gonzalez, chapter treasurer; Alberto Estrella; Richard Graffam; Oreste Ramos Jr.; Carlos Valdejully, chapter secretary; Ricardo Casellas, chapter president-elect; Manuel Pietrantoni Jr., national delegate; and Roberto Camara.

On Sept. 5, the Fort Worth Chapter hosted Gen. William K. Suter, clerk of the Supreme Court, at a program held in the courtroom of Judge Terry R. Means of the U.S. District Court for the Northern District of Texas. Gen. Suter gave a short presentation and swore in candidates for admission to the Supreme Court of the United States.

**San Antonio**

Michael Kellogg, an attorney for AT&T, addressed 65 attendees during a

chapter luncheon on Aug. 8. He spoke about the *Twombly* case, in which the Supreme Court revolutionized pleading rules, introducing twin requirements of fact-based pleadings and plausibility, as it overturned the decades-old *Conley v. Gibson* decision.

Professor Michael A. Olivas was the featured speaker at the chapter's monthly luncheon meeting in September. He spoke about his recent book about *Hernandez v. Texas*, the 1954

jury selection case that was the first case argued by Mexican-American lawyers in the Supreme Court of the United States.

**SIXTH CIRCUIT**

**Chattanooga**

**EXCHANGE** continued on page 9



San Antonio Chapter: At the August chapter meeting—(left photo, l to r) Todd Hedgepeth, chapter president, and Michael Kellogg, featured speaker; at the September chapter meeting—(right photo, l to r) Hon. W. Royal Ferguson Jr., U.S. District Court for the Western District of Texas; Professor Michael A. Olivas, University of Houston School of Law, and Hon. Edward C. Prado, U.S. Court of Appeals for the Fifth Circuit.



Chicago Chapter: At the chapter's annual luncheon meeting on Sept. 25, where Patrick J. Fitzgerald, U.S. attorney for the Northern District of Illinois, was the featured speaker—(left photo, l to r) James D. Wascher, chapter treasurer; Charles L. Nesbit, chapter president, Scott Mendeloff, chapter second vice president; Maria Z. Vathis, chapter secretary; and Paul E. Freehling, chapter first vice president and FBA vice president for the Seventh Circuit; (right photo, l to r) Joel R. Skinner, FBA vice president for the Seventh Circuit and outgoing chapter president, and Patrick J. Fitzgerald.

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## EXCHANGE *continued from page 7*

The Chattanooga Chapter assisted the U.S. District Court for the Eastern District of Tennessee in hosting the first annual Constitution Day event for local high school students on Sept. 17. Students from David Brainerd Christian School, Hixson High School, and Red Bank High School participated in the event. The program included an interactive speech by Chief Judge Curtis L. Collier focusing on the importance and perseverance of the Constitution and a lesson on the Bill of Rights by Magistrate Judge William B. Carter, as well as a student-oriented question-and-answer session structured much like a game show and hosted by Magistrate Judge Susan K. Lee. The event concluded with refreshments, giving students an opportunity to mingle with several judges as well as court personnel.

### TENTH CIRCUIT

#### Utah

The Utah Chapter hosted the third annual Tri-State Bar Convention at the Park City Marriott in Park City, Utah, on Sept. 13–15. This event combined members of the bar and the bench from the Districts of Utah, Idaho, and Wyoming and enjoyed both record attendance and beautiful fall mountain weather. The chief judges from all three districts proposed the idea of an annual tri-state convention that would rotate between the mountain resort towns of Jackson Hole, Sun Valley, and Park City; the first convention was held in Jackson Hole, Wyo., in 2005.

The panelists featured at this year's convention included the clerks of the court of each district, who spoke on

changes and trends in federal practice and a panel of chief judges featuring Hon. Tena Campbell of the District of Utah, Hon. Lynn Winmill of the District of Idaho, and Hon. William F. Downes of the District of Wyoming. Attendees enjoyed an enlightening and entertaining presentation by Judge Jay Bybee of the U.S. Court of Appeals for the Ninth Circuit as well as multiple presentations by distinguished jurists and practitioners on preliminary injunctions in federal court; assignment of civil cases to U.S. magistrate judges, a discussion that featured U.S. Magistrate Judges Larry Boyle of the District of Idaho, Stephen Cole of the District of Wyoming, and Brooke Wells of the District of Utah;

as well as a panel on discovery in the electronic age, among many others.

The 2008 Tri-State Bar Convention will be held next fall in Jackson Hole, Wyo. **TFL**



Tallahassee Chapter: At a Sept. 26 event co-sponsored by the Stafford Inn of Court, where U.S. Attorney General Janet Reno addressed a group of 200 about “Doing the Right Thing in Your Practice and Beyond”—(l to r) Michael Spellman, Stafford Inn of Court president; former U.S. Attorney General Janet Reno; Hon. Terry Lewis of the U.S. Court of Appeals for the Eleventh Circuit; Hon. William Stafford of the U.S. District Court for the Northern District of Florida; and Elizabeth Ricci, chapter president.

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