



Left: Rhode Island Chapter: Academy participants and faculty following one of the programs. Lower left: Rhode Island Chapter: Scott Kilpatrick, a former Rhode Island Chapter president, addresses Academy participants. Lower right: Rhode Island Chapter: Magistrate Judge Sullivan and attorney Stephen M. Prignano, a faculty member, evaluate a participant's performance. Bottom top: Rhode Island Chapter: Brooks Magratten, a former Rhode Island Chapter president, addresses Academy participants. Bottom: Rhode Island Chapter: Chief Judge William Smith addresses the Litigation Academy participants.



## FIRST CIRCUIT

### Rhode Island Chapter *USDC Rhode Island's Litigation Academy*

The U.S. District Court for the District of Rhode Island recently completed its third successful Litigation Academy, an ongoing series of programs aimed at developing practical litigation and trial skills. Conceived by Chief Judge William Smith, the Academy prepares local practitioners of all ages with practical hands-on litigation and trial training. In an era when fewer disputes reach court, with far fewer cases tried to verdict, the Academy fills a need for attorneys to develop these practical skills.

Under Judge Smith's leadership, the court reached out to the FBA Rhode Island Chapter and the Roger Williams University School of Law. A unique partnership resulted, pairing seasoned local attorneys and judges with enrolled "student" prac-

tioners. Former Rhode Island Chapter President Brooks Magratten and professor Niki Kuckes help Judge Smith manage the Academy. Each program focuses on a phase of litigation; topics thus far have been deposition and direct and cross examination. The intensive three- to four-day programs are held at the federal courthouse and the law school. Each phase within a program is launched with a lecture, followed by skills sessions. For example, the first phase of the deposition program focused on admonitions, starting with a lecture correlating successes and failures with skillful and not-so-skillful uses of admonitions. A unique feature of the Academy is that, whenever possible, skills sessions are played out in open court. Each program has sold out, with positive reviews from participants. In fact, due to high demand, the deposition program was repeated.

Rhode Island is home to one of the country's finest regional theaters, Trinity Reper-





Top left: Knoxville Chapter: (left to right) Judge Pamela Reeves, Judge Jane Branstetter Stranch, and FBA Chapter President Joshua Wolfe.



Top middle: Knoxville Chapter: The reception, which was hosted in chambers by Chief Judge Thomas Varlan. Top right: Knoxville Chapter: The reception, which was hosted in chambers by Chief Judge Thomas Varlan.



tory Company. Members of Trinity's resident troupe performed as witnesses in the past two programs, adding more challenge (and entertainment) to the participants' experience. Tuition is kept well below market rates by the court and Roger Williams University, which hosts the program in their facilities, and by judges and lawyers who volunteer their time to act as faculty. In addition, the FBA Rhode Island Chapter offered 50 percent tuition scholarships, enabling six practitioners to attend who otherwise would not have been able to.

The USDC Rhode Island Litigation Academy serves as an example of how the federal legal community can benefit from genuine collaboration among the bench, bar, and law schools. Judge Smith is pleased to report that the fourth Litigation Academy is in the works for the spring and will focus on opening statements and closing arguments. Another sellout is expected. ☺

## SIXTH CIRCUIT

### Knoxville Chapter March Kickoff Event

The Knoxville chapter held its kickoff event at the Howard H. Baker Jr. United States Courthouse on March 24, 2016. The local bar actively supported the event with donations to the Chapter and with a strong attendance of more than 60 members. Attendees included judges and attorneys as well as faculty and students from the University of Tennessee Law School and the Lincoln Memorial Duncan School of Law. Brief remarks were offered by Chief Judge Thomas Varlan of the Eastern District of Tennessee, by District Judge Pamela Reeves, and by FBA Chapter President Joshua Wolfe. The featured speaker for the

event was Judge Jane Branstetter Stranch of the Sixth Circuit Court of Appeals. A reception followed the remarks. ☺

## NINTH CIRCUIT

### San Diego Chapter Government Relations Event: *Opening the Lines of Communication Between the Judiciary, Practitioners, and Our Congressional Representatives*

Federal judges gathered with representatives of the federal bar in San Diego for the first two installments in what is planned to be a series of government relations events hosted by the FBA's San Diego Chapter. At these events, the local federal judiciary will have the opportunity to engage regional congressional representatives on issues impacting the judiciary, including judicial vacancies, judicial funding, and criminal justice reform. Reps. Darrell Issa and Scott Peters respectively met with the judiciary and FBA leadership at the James M. Carter and Judith N. Keep Courthouse; Issa on Dec. 4, 2015, and Peters on Jan. 22, 2016. Both congressmen are members of the House Judiciary Committee, and Rep. Issa serves as the chairman of the Subcommittee on Courts, Intellectual Property, and the Internet.

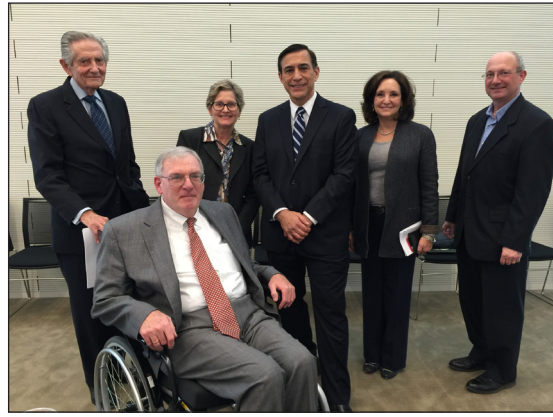
Congressman Issa, who represents the 49th Congressional District, including Camp Pendleton and the northern portions of San Diego County, has a long history with Southern District of California Chief Judge Barry Ted Moskowitz. As Chief Judge Moskowitz recounted in his charming introduction at the December 2015 government relations event, he first encountered Rep. Issa when Issa was a patent litigant in Judge Moskowitz's courtroom.

Chief Judge Moskowitz fondly recalled Issa's contribution to judicial economy, specifically, his ability to forge a quick and mutually agreeable solution that would settle a case in a matter of minutes.

Noting that the December luncheon was the inaugural event of its kind and that it would set the bar for future meetings, Rep. Issa made only brief introductory remarks in order to allow as many questions as possible and to engage most directly with the nearly 25 judges and attorneys present, including Ninth Circuit Judge Clifford Wallace. He noted there were 66 federal court vacancies, but observed that President Barack Obama has provided only 27 candidates and explained that it would be impossible for Congress to confirm nominees to fill all those seats before President Obama's term ends, even if President Obama made the nominations this month. He also pointed out that although the greatest vacancy rate is in the Eastern District of Texas, the high demand for judges in that district stems from the fact that 25 percent of patent infringement cases are filed there.

A holder of over 30 patents himself, Rep. Issa was not shy about sharing his strong opinions regarding patent litigation, stating his belief that if the cases in the Eastern District of Texas were more efficiently transferred—or disposed by *inter partes* review—the demand would be lessened, as would the need to fill judicial vacancies. Issa obtained many of his patents before running for Congress, having previously served as the CEO of Directed Electronics, a company Issa founded and built in the mid-1990s to manufacture vehicle anti-theft devices.

Rep. Issa said he supports revising the criminal code, but acknowledged the chorus



Top left: San Diego Chapter: Rep. Darrell Issa speaks to judges and FBA San Diego Chapter leaders at the James M. Carter and Judith N. Keep United States Courthouse. Top right: San Diego Chapter: (left to right) Ninth Circuit Judge Clifford Wallace, Chief District Court Judge Barry Ted Moskowitz, Chief Bankruptcy Judge Laura Taylor, Rep. Darrell Issa, Magistrate Judge Karen Crawford, and San Diego Intellectual Property Law Association President Leslie Overman.

of opposition from prosecutors who insist that the risk of substantial punishment is critical to securing cooperation and achieving judicious dispositions.

Issa also addressed concerns about the creation of an Office of the Inspector General (OIG) for the judiciary, noting that an executive branch OIG could threaten judicial independence and separation of powers. He challenged judges to better police themselves and their own branch of government in order to avoid the necessity of an OIG to investigate improper or illegal conduct by judges.

In response to a question of whether there would be reduced funding to legal services for the poor should the White House turn Republican, Rep. Issa pointed out that there was no such reduction in 2001 when Republicans gained control of both houses and the Oval Office. He challenged the

characterization of Republicans as being mean-spirited and uncaring for the plight of the poor and stated that his party's actual concern was ensuring that federal money is used as intended. Issa recalled a time when he was criticized for opposing funds for Nigerian aid. His objection, however, stemmed from the fact that the equivalent of four times the annual U.S. aid was pocketed by corrupt Nigerian officials from the oil and gas revenues of the country.

Rep. Issa elaborated on his opinion of why the trade organization BIO opposed patent reform. He recognizes that biotech lives and dies on venture capital and, consequently, on its patents. He stated that BIO believes an issued patent is sacrosanct and wants an exception to intellectual property rights (IPR) for biotech patents. Rep. Issa believes that to make the system

as robust as possible, every patent should be challengeable. That said, he agrees that the ability to challenge a patent to hedge funds might be an abuse of that system but thinks there are alternatives to regulating such suspect behavior without further adjustment to the IPR process.

After polling the judges and lawyers regarding how many attended a University of California school, Rep. Issa pointed out that universities and research institutions could also be considered patent trolls (i.e., non-practicing entities). Although the University of California and similar institutions wish to be exempt from "loser pays" provisions, Issa does not believe that institutions, which allow their patents to be used to harass businesses, should be exempt.

Rep. Issa asked the final question himself, challenging the judges to think critically about



Left: San Diego Chapter: Rep. Issa discusses issues of judicial administration with judges (left to right) Wallace, Moskowitz, Taylor, and Crawford. Right: San Diego Chapter: Rep. Scott Peters addresses judges, lawyer representatives, and FBA San Diego Chapter leaders over lunch in the jury lounge of the James M. Carter and Judith N. Keep United States Courthouse.



Top left: San Diego Chapter: Chief Judge Barry Ted Moskowitz (seated) greets Rep. Scott Peters in his chambers at the James M. Carter and Judith N. Keep United States Courthouse prior to the government relations luncheon. Top right: San Diego Chapter: Rep. Scott Peters addresses judges, lawyer representatives, and FBA San Diego Chapter leaders over lunch in the jury lounge of the James M. Carter and Judith N. Keep United States Courthouse.

the use of Administrative Law Judges (ALJs). He asked if any of the judges thought about the judicial economy of ALJs and whether they were satisfied, challenging them to think about ways in which ALJs could be used more efficiently and effectively.

Rep. Peters joined the judiciary and members of the bar for the second government relations event in January hosted by the San Diego FBA Chapter. Rep. Peters opened his remarks by recognizing several members of the federal bench, including District Court Judges Dana M. Sabraw and Cynthia A. Bashant and Magistrate Judge Jill L. Burkhardt, all of whom were his colleagues or mentors in private practice before he embarked on his career in government. Rep. Peters serves California's 52nd Congressional District, which includes the cities of Coronado, Poway, and most of northern San Diego. First elected in 2012, he currently serves on the House Armed Services Committee and the House Judiciary Committee and formerly served on the House Committee on Science, Space, and Technology.

During the event, Rep. Peters had few formal comments and spent the majority of his presentation taking questions from the approximately 19 attendees, including nine judges. He echoed Rep. Issa's statements that patent reform is a significant focus for the judiciary committee. Rep. Peters explained that the committee hoped to implement a balanced reform to patent practice by requiring more specific pleadings while still allowing patent holders access to the courts. Peters was "concerned about tilting the scales" and recognized that reforms impact both legitimate patent holders and patent trolls alike.

Rep. Peters explained that there would likely be little movement on judicial vacancies in the coming year. (Although this event took place prior to the unanticipated passing of Justice Antonin Scalia, Rep. Peters' remarks were prescient of the current stalemate over the nomination and approval of Justice Scalia's replacement, D.C. Circuit Court Judge Merrick B. Garland.)

Rep. Peters also explained there was bipartisan support for criminal justice reform. This is a hot button issue for many, and Rep. Peters took questions from various attendees, including judges, an assistant United States attorney, and an attorney with the Federal Defenders of San Diego Inc. Proponents of reform seek sentencing reductions for nonviolent drug offenders, revisions to discovery practices, and a reduction in the sentencing guidelines for various offenses. Opponents argue that increased sentences and minimum mandatory sentences are necessary to incentivize the expeditious resolution of cases, promote judicial economy, and are fair given the harm to society that drug offenses inflict. Rep. Peters believes that bipartisan support for reform exists and the two areas of likely reform will be the reduction or elimination of minimum mandatory sentences for nonviolent drug sentences and increased judicial discretion.

A core issue for many judges and members of the court community is judicial funding. The good news is that the judiciary is well funded for this fiscal year and that the Southern District of California is even receiving funds for a daycare center. This has been a long-standing request and Rep. Peters spoke approvingly of the center's creation.

Rep. Peters further addressed the need for increased immigration court staffing. As most immigration practitioners can attest, the backlog of cases is too long and the attendant delay in resolving cases needs attention. The current backlog is over 500,000 cases and the immigration courts need more staff to efficiently adjudicate pending cases. Rep. Peters believes that bipartisan support exists for the necessary staffing increase and hopes that it will be addressed this year.

In his concluding remarks, Rep. Peters encouraged members of the judiciary and practitioners to engage him in suggested areas of reform, noting that suggestions for reform regarding matters within the purview of the House Judiciary Committee are best addressed early in the year. Rep. Peters sought greater involvement from the attending judges and attorneys.

Both events with Reps. Issa and Peters were a success, and the FBA San Diego Chapter hopes that future presentations will be a catalyst for increased communication and involvement between the judiciary, practitioners, and our congressional representatives. ☺

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