



Judge Jeri K. Somers

Vice Chair, Civilian Board of Contract Appeals

It's a long road from daughter of immigrant to federal judge, distinguished veteran, professor of law, long distance runner, and lacrosse official, but Judge Jeri K. Somers, vice chair of the Civilian Board of Contract Appeals, has run that road, showing along the way a great energy and enthusiasm for her family, her friends, her colleagues, and the law.

Clear the Skies

The morning of Sept. 11, 2001, began much the same as any other in the offices of the law firm overlooking the White House where the future Judge Somers was serving as trial counsel representing clients before federal and state courts and the International Trade Commission. She was by then also a successful military officer, serving in the U.S. Air Force Reserves as a lieutenant colonel. For Lt. Col. Somers, the day promised to be filled with the usual motions, legal opinions, and other everyday stuff of law practice. But that morning, instead of the ordinary, she played a pivotal role in extraordinary events and, even in though her part was publicly unnoticed, it was critical to the history that was made that day.

As the horrific events of Sept. 11 began to unfold, Lt. Col. Somers rushed from her law firm's offices to her position as headquarters judge advocate for the District of Columbia National Guard. On the way, she picked up her cell phone and called in to report to her boss, Maj. Gen. David Wherley Jr., the commanding general of the 113th Fighter Wing at Andrews Air Force Base outside Washington. The Federal Aviation Administration had issued a desperate and historically unprecedented order grounding all aircraft in U.S. airspace nationwide, and



Gen. Wherley had also received an order, one as chilling as all the other happenings that morning: shoot down any civilian aircraft still flying in the D.C. area that did not immediately obey the FAA order.

But we are a nation of laws, and even in that moment of crisis the general wanted to consult with his lawyer, and that morning his lawyer was the future Judge Somers. Lt. Col. Somers provided the critical legal advice on rules of engagement that the warplanes in the air were to follow in the unthinkable instance that they would carry out the shoot-down order. In the end, no

military aircraft had to fire on a civilian airplane in the skies above Washington, D.C., that day, but if they had, it would have been done in compliance with the rules laid down by Lt. Col.—and future Judge—Jeri Somers. General Wherley relived that day, and the impact of the legal advice provided, when he spoke at Lt. Col. Somers' retirement ceremony in May 2007.

Service from the Start

Judge Jeri K. Somers came to public service, and gained her ability to handle any diverse challenge, by following the examples from her own family. Her father, Christopher Somers, emigrated from Kingston, Jamaica, to the United States as a teenager. He enlisted in the Air Force, first serving as an airman assigned to McConnell Air Force Base in Wichita, Kansas, where he met Judge Somers' mother, Jacqueline. Later he earned a commission as a second lieutenant and went on to serve 34 years, retiring in 1991 as a full colonel. Judge Somers' mother pursued a career in nursing, earning a degree from George

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Mason University and serving in various positions as the family pursued the peripatetic life of an Air Force career.

The first of her father's several assignments at the Pentagon brought the family to the Washington, D.C., area while Judge Somers was still in high school. She graduated from Chantilly Secondary School in 1979 and received a bachelor's degree in biology from George

Mason University. Judge Somers continued her studies, earning a juris doctorate from The American University, Washington College of Law.

Although she was the first lawyer in her family, she is not the last. After retiring from the Air Force, her father—knowing a good example when he saw it—followed his daughter and enrolled in law school. During his time at law school, he served as a law clerk for the chief judge of the Ohio Supreme Court. At 74,

Col. Somers still practices in Springfield, Va.

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—Judge Somers

The United States Civilian Board of Contract Appeals—A Unique Forum

These days Judge Somers serves as the second most senior judge, the vice chair, of the Civilian Board of Contract Appeals (CBCA). In 2006, Congress created the CBCA to hear and decide cases under the Contract Disputes Act, consolidating what had been eight separate boards of contract appeals. The board also hears a wide variety of cases not related to contract appeals, including resolution of public assistance disputes from damages suffered during Hurricanes Katrina and Rita; Indian Self-Determination Act cases; claims by federal employees for reimbursement of travel and relocation expenses; and applications under the Equal Access to Justice Act.

As the vice chair of CBCA, in addition to hearing and deciding cases, Judge Somers manages and oversees the personnel, budget and other day-to-day tasks of running what is essentially a micro-sized independent federal agency. One current project that falls within her management responsibilities is the implementation of a new electronic case tracking system for the board. Once complete, the new system will make virtually all case records completely electronic and full text searchable—a far cry from the pallets full of boxed paper records that the board routinely sends to a federal records center. The project is giving the judge, who normally resolves disputes between contractors and government managers, a decidedly different viewpoint. “The opportunity to experience firsthand the process of managing a project with a contractor has given me excellent insight, as well as enhanced empathy, for all sides in the disputes I hear,” remarked Judge Somers about her role in the case tracking project.

Judge Somers is one of 15 judges on the CBCA.

These judges come from diverse backgrounds and have an amazing variety of expertise, gained in private and government practice and at the predecessor boards of contract appeals. The CBCA judges don't just preside over cases—they work hard on every facet of them, researching and writing virtually all of their own opinions. This is because the board has not traditionally employed law clerks to perform legal research and assist with drafting opinions. One of Judge Somers' initiatives has been to expand the legal intern program at the board to address this gap. Working with other judges and the chief counsel of the board, a new year-round program of volunteer legal interns is providing expanded research and writing assistance to the CBCA judges and, at the same time, providing great new opportunities for law students to gain hands-on experience in the practice of government contracts law.

The Craft of Judging (and Teaching, and Mentoring, and ...)

Judge Somers has a clear and simple judicial philosophy—be fair. She strives in every case not to prejudge even when she's heard the arguments before. “At the board we get many cases that appear very similar at first look, and it can be tempting to think, ‘Oh, I've heard all this before.’ but I've found that every case has something unique—and sometimes that makes a difference in how I rule. I strive always to keep an open mind and to listen carefully to all the arguments and read all the evidence,” says Judge Somers about her approach to the many diverse cases she hears.

As a judge, she also challenges the attorneys who appear before her to think outside the traditional boxes. It is not uncommon for her to ask the parties if they have framed the issues too narrowly and to try to get the litigants to reexamine the case in new ways. Judge Somers encourages a civil and cooperative attitude in her courtroom, pushing the parties to resolve disputes as much as possible, especially regarding discovery issues. “The CBCA was created, in part, to provide a fast, and less expensive alternative to traditional litigation of government contract disputes,” she says. Judge Somers, along with all of the judges on the board, prides herself in being part of a forum in which cases are resolved promptly but fairly and in a notably collegial atmosphere.

“As a judge, perspective is critical, and you gain perspective by being mindful of where you started, how you got where you are, and, importantly, who helped you along the way,” remarks Judge Somers when discussing her life outside of the CBCA. “No one gains success in life all by herself. Someone always helps, be they parents and teachers or bosses and co-workers,” she notes in recalling the help others have given her in her career. “Everyone in our profession, no matter who, should have a mentor and should serve as a mentor to others,” she says. Putting her philosophy to work, Judge Somers always tries to find the time to help a fellow attorney or a student seeking guidance. In this vein, she has served as an educator throughout her career, teaching subjects as diverse as aviation

insurance law and paralegal studies. Since 2007, Judge Somers has been an adjunct professor at George Washington University College of Law. She has also mentored students, providing guidance to students writing notes in the Scholarly Writing Program, for the *Federal Circuit Bar Journal*, and for *Public Contract Law Journal*.

Judge Somers also serves the bar and gives back to the legal community by volunteering to serve in leadership positions in various bar associations, including the George Mason American Inn of Court, the Virginia State Bar Association, the American Bar Association, the Northern Virginia Black Attorney's Association, and the Asian American Pacific Bar Association.

The Long Run

Judge Somers' journey to her current position has run through a broad sampling of career paths the legal profession has to offer. After graduating from law school in 1986, she joined the U.S. Air Force on active duty as a judge advocate. She began her career as a criminal prosecutor, referred to at courts-martial as trial counsel. Then First Lt. Somers gained instant trial experience, trying three cases immediately after reporting to her first assignment at Charleston Air Force Base in South Carolina. Those were the first of many cases she would try in many different courts and forums during her career.

Judge Somers spent five years on active duty, including an assignment as assistant staff judge advocate at Royal Air Force Station Upper Heyford in Oxfordshire, England. During her time on active duty, she prosecuted and defended military members facing courts-martial and advised commanders on a wide variety of issues, including international law, contract law, labor law, and environmental law. Her final active-duty assignment was as a trial attorney, defending the Air Force in proceedings brought by contractors at the Armed Services Board of Contract Appeals—beginning her practice of government contract law. In 1991, Judge Somers transferred to the Air Force Reserve and continued to serve in various legal positions, including that of military judge from 2004 to 2007. As a military judge, Judge Somers presided over both misdemeanor and felony courts-martial, including complex drug cases, cases involving criminal uses of the internet, sexual assault cases, and numerous cases involving other crimes.

In 1991, upon her transfer from active duty to reserve duty with the Air Force, Judge Somers became a trial attorney at the U.S. Department of Justice, Civil Division, Commercial Litigation Branch. As lead attorney representing the United States, she appeared before the U.S. Court of Federal Claims and the U.S. Court of Appeals for the Federal Circuit. Her caseload featured government contract claims, including the so-called *Winstar* cases, which arose during the savings and loan crisis, as financial institutions which took over failing savings and loans in return for tax incentives sued the United States when those incentives were later changed.

In 1994, Judge Somers became an assistant U.S. attorney in the Eastern District of Virginia, Alexandria Division (known as the “rocket docket”), representing the United States before the U.S. District Court for the Eastern District of Virginia and the U.S. Court of Appeals for the Fourth Circuit. Her cases involved a wide variety of issues, including government contracts, claims under other federal statutes, regulatory matters, and immigration issues.



Judge Somers with her daughter at a lacrosse event.

In April 2003, Judge Somers was appointed as a board judge at the U.S. Department of Transportation Board of Contract Appeals (DOTBCA), serving there until 2007, when the DOTBCA was consolidated with other civilian-agency boards to form the Civilian Board of Contract Appeals. In 2009, after only two years with the CBCA, Judge Somers was appointed vice chair of the board by the administrator of general services.

All along the way to her current success, Judge Somers has tried to balance her career with other important parts of her life, including her teaching, mentoring and volunteer activities. Another role has been critical as well—that of mother to her now 16-year-old daughter. Her daughter's enthusiasm for lacrosse—and her “considerable success,” according to a proud, self-styled “lacrosse mom”—has provided countless hours of enjoyment and opportunities beyond the law. As with so many other activities in her life, Judge Somers has excelled at the “lacrosse mom” role, serving as team manager for numerous teams and even becoming a certified umpire by the U.S. Lacrosse Association. Judge Somers takes the long view of her success and future possibilities but she also takes the long run literally, having completed her first half marathon last year. She continues to race and pursue her personal best wherever she can, be it in the courtroom or on the other trails of life. ☺