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Legislative session, budget process underway

By Nancy Rottier, Legislative Liaison

On the day they took the oath of office, state legislators immediately faced a special session agenda called by Gov. Scott Walker. Within the first few weeks, the Legislature passed eight new bills, most of them dealing with economic development and job creation. Also included was a bill affecting several areas of civil litigation.

As has been widely reported, the special session was stalled by controversy over the Governor's proposed budget repair bill, Special Session Senate Bill 11 and Assembly Bill 11. Other legislation has temporarily been slowed down because of the legislative

Preliminary budget summary available

Director of State Courts A. John Voelker has released a preliminary summary of court-related fiscal provisions included in 2011 Senate Bill 27/Assembly Bill 40, the Governor's 2011-2013 biennial budget companion bills. The summary is available on the court system Intranet. Non-fiscal items such as changes to sentencing and a proposal related to court self-help centers are being analyzed and will be reported in upcoming bulletins. Questions about the impact of changes related to pensions and sick leave are best addressed on an individual basis. Employees are asked to contact Human Resources with questions.

standoff over the budget repair bill.

On March 1, Walker introduced his 2011-13 biennial budget bill, which proposes significant changes to sentencing provisions included as part of the 2009-11 state budget (2009 Act 28), to court funding and to the way Justice Information System Surcharge funds and victim witness surcharge funds are distributed. Additional information will be made available by the Director

of State Courts Office in upcoming Informational Bulletins.

see **Budget** on page 15

Prosser, Kloppenburg advance from primary



Justice David T. Prosser

The Feb. 15 primary election narrowed down the list of candidates remaining for one seat on the Wisconsin Supreme Court and seven circuit court seats.

Justice David T. Prosser Jr. and Assistant Attorney General JoAnne F. Kloppenburg are competing for a 10-year term on the Wisconsin Supreme Court. Candidates Marla J. Stephens, director of the State Public Defender's Appellate Division and Joel Winnig, a Madison attorney,

were eliminated in the primary.

Prosser was appointed to the Supreme Court by Gov.

Tommy G. Thompson in 1998, and elected to a 10-year term in 2001. Before joining the Supreme Court, he served on the Wisconsin Tax Appeals Commission and 18 years in the Wisconsin Legislature, including two years as Assembly Speaker.

Kloppenburg has been a litigator and prosecutor at the Wisconsin Department of Justice since 1989, serving under past Attorneys General Don Hanaway, Jim Doyle, Peg Lautenschlager and current Attorney General JB Van



Atty. JoAnne F. Kloppenburg

see **Primaries** on page 19

Former Supreme Court justice passes away

Former Justice William A. Bablitch passed away on Feb. 16 in Hawaii after a long illness. He was 69 years old – just two weeks shy of his 70th birthday.

"When I think of Bill Bablitch, I think of a Renaissance man," Justice N. Patrick Crooks told the *Wisconsin Law Journal*. "He had so many interests and was so good at so many things. We have lost a great jurist and a great human being."

Bablitch was a lifelong public servant. He began his law career in 1969, when he was elected to the post of Portage County district attorney in his beloved hometown of Stevens Point. In 1972, he ran for the Wisconsin Senate



Justice William A. Bablitch

and was elected to represent a district that encompassed much of central Wisconsin. In the Senate, he served as both president *pro tempore* and majority leader, and was particularly proud of his role in the reorganization of the courts in 1978. He also took great pride in his work to revise Wisconsin's sexual assault laws.

Bablitch was elected to the Wisconsin Supreme Court in 1983. He brought to the court a wealth of knowledge and experience as a former prosecutor, legislator and Peace Corps volunteer. His diverse interests – fishing, cooking, gardening – found their way into many of the

see **Obituaries** on page 14



Director's column: Advocating for justice

By A. John Voelker, Director of State Courts

“We can compromise on budgets, but we cannot compromise on justice”

- Hon. Thomas J. Moyer, Former Chief Justice, Ohio Supreme Court

Courts across the nation, including Wisconsin, are feeling the effects of budget cuts. For example, the chief justice in New Hampshire suspended civil jury trials for a period of time to save money. In Georgia, courts have taken to soliciting vendors for free pens and pencils. Examples like this have caught the attention of the American Bar



A. John Voelker

Association (ABA).

In response to the growing number of situations where budget cuts have significantly affected court operations, the ABA president created the Task Force on Preservation of the Justice System. The mission of the task force is to develop recommendations and strategies to address one of the most critical issues facing the legal profession, the underfunding of the justice system. This issue has jeopardized state and federal courts' ability to operate as an independent branch of government. The Task Force held a public hearing on the opening day of the 2011 ABA midyear meeting in Atlanta, and heard a number of disturbing stories on how cutbacks have affected the courts.

With a looming \$3.6 billion deficit and additional cuts proposed for state and county governments in Wisconsin, the state court system's ability to provide justice will become increasingly difficult. Recognizing this critical issue, the State Bar of Wisconsin has taken a role in

bringing together criminal justice system stakeholders. The goal of bringing together representatives of such groups as the judiciary, the clerks of circuit court, defense counsel, prosecutors, the Wisconsin Counties Association (WCA) and others is to have, to the extent possible, a unified approach and message in communicating the consequences of budget reductions.

On Jan. 31, the first stakeholders meeting took place at the Bar Center in Madison. Chief Justice Shirley S. Abrahamson gave the keynote address. The discussion focused on the systemic issues that result when any one of the stakeholders doesn't have sufficient resources. In addition, the attendees talked about a common message and strategies on how to work together in communicating the message.

One immediate result of the meeting was that Abrahamson received an invitation to be part of a roundtable discussion at the WCA Legislative Forum during February. This provided an opportunity for the Chief to discuss the importance of the partnership between the courts and the counties. As part of the discussion, she emphasized the theme "justice is the business of government." This theme originates from a conference the ABA had a couple of years ago on the critical role of fair and impartial courts, and it seems fitting to use it in communicating the fundamental need to adequately fund the courts.

It is clear that in the coming months as budgets are discussed at the state and local level, everyone in their own way will need to advocate for the needs of the justice system – sometimes individually, sometimes as an institution, and sometimes together with justice system partners. All of these approaches will be necessary if we are to maintain the system's ability to protect individual rights and ensure public safety for the people of Wisconsin. ■

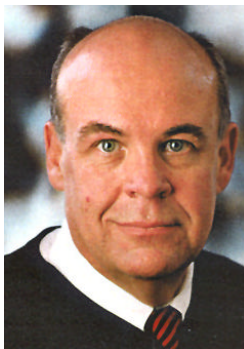
RETIREMENTS

This edition of *The Third Branch* notes the retirement of Judge Patrick M. Brady, Marathon County Circuit Court, and longtime court system employee Lynne Bruley. Look to the spring edition of *The Third Branch* for retirement stories on Judge Harold V. Froehlich, Outagamie County Circuit Court; Judge Robert A. Hawley, Winnebago County Circuit Court; and Judge William M. McMonigal, Green Lake County Circuit Court, among others.

Judge Brady to retire from Marathon County bench

After serving two terms, Marathon County Circuit Court Judge Patrick M. Brady will not seek reelection this spring.

Brady was first elected to the bench in 1999, and reelected in 2005. Prior to his election, he served as a municipal judge for the city of Wausau and the



Judge Patrick M. Brady

village of Rothschild and as a court commissioner for Marathon County. He also worked in private practice. A veteran of the U.S. Air Force, Brady received his law degree from UW Law School.

CCAP pioneer to retire

After 30 years with the court system, Lynne Bruley will retire in March. In 1981, Bruley began working as a register in probate for Jackson County Circuit Court Judges Louis Drecktrah and Robert Radcliffe. In 1991, she left the Jackson County Circuit Court to work on the implementation of new technology in the original nine counties to use CCAP.

"Back in the late 80s, people would come from the Director of State Courts Office to the Register in Probate Seminars



Lynne Bruley

see **Retirements** on page 22

Supreme Court participates in new legislator orientation

By Nancy Rottier, Legislative Liaison

On Jan. 6, the Supreme Court hosted new legislators participating in the Wisconsin Legislative Council's orientation program, which is held at the start of each new legislative session. With 38 new members elected in 2010, this is one of the largest classes of new legislators. There are eight new state senators and 30 new state representatives.

Chief Justice Shirley S. Abrahamson welcomed the legislators and discussed the interactions between the legislative and judicial branches. She also introduced court staff, including Director of State Courts John Voelker, Legislative Liaison Nancy Rottier and Public Information Officers Amanda Todd and Tom Sheehan. The session presented the opportunity to explain various court programs, such as Consolidated Court Automation Programs (CCAP) and Judicial Ride-Along.

After the formal presentation, all of the Supreme Court Justices greeted legislators in the Supreme Court hearing room. Legislators also toured the Supreme Court chambers and gathered in the conference room for a short discussion of Supreme Court procedures. ■



Supreme Court Justices greet new legislators in the Supreme Court Hearing Room. From left, Justice Annette Kingsland Ziegler, Justice Michael J. Gableman, Rep. Howard Marklein (R-Spring Green), Rep. Travis Tranel (R-Cuba City), Rep. Mike Kuglitsch (R-New Berlin), Rep. Dean Knudson (R-Hudson) and Rep. Erik Severson (R-Star Prairie)



Chief Justice Shirley S. Abrahamson explains the Court's procedures in the Supreme Court Conference Room. From left, Rep. Elizabeth Coggs (D-Milwaukee), Rep. Mike Kuglitsch (R-New Berlin), Rep. Joseph Knilians (R-Janesville), Rep. Roger Rivard (R-Rice Lake), Rep. Howard Marklein (R-Spring Green), and Rep. Travis Tranel (R-Cuba City).



Wisconsin Supreme Court Chief Justice Shirley S. Abrahamson swears in Gov. Scott Walker, pictured with his wife, Tonette, and sons, during an inauguration ceremony at the State Capitol on Jan. 3.

AWARDS

Dykman receives 'Lifetime Achievement Award'

The *Wisconsin Law Journal* presented former District IV Court of Appeals Judge Charles P. Dykman with its annual Lifetime Achievement Award on Feb. 16. Dykman, who retired last year, was recognized for the impact his career has had on the Wisconsin legal community.

Dykman was first elected to the appellate



Judge Charles P. Dykman

see Awards on page 13

Daubert rule arrives in Wisconsin

By Judge John J. DiMotto, Milwaukee County Circuit Court

*Editor's note: This is the first of several blog entries posted by Milwaukee County Circuit Court Judge John J. DiMotto on the topic of Daubert, the reliability rule for the admission of expert testimony as provided in 2011 Wisconsin Act 2. The blog entry was posted Jan. 27; Daubert became effective on February 1, 2011. Subsequent blog entries on Daubert and other legal topics can be found on DiMotto's ongoing blog *Bench and Bar Experiences* at: <http://johndimotto.blogspot.com/>*

By the passage of Senate Bill 1 during the recent 2011 Special Legislative Session called for the purpose of addressing tort reform, Wisconsin is poised to join the



Judge John J. DiMotto

federal courts and the majority of states by adopting the Daubert "reliability" Rule for the admission of expert testimony. No longer will Wisconsin rely on the Walstad "relevancy" rule, rather Wisconsin judges will now take a more active "gatekeeper" role in the first instance. Does this mean that seismic changes are on the horizon or will the change be subtle at best? To answer this question requires a brief look at the differences

between the Walstad "relevancy" rule and the Daubert "reliability" rule.

But first, a little history.

In Frye v. U.S., 293 F.2d 1013 (D.C. CA 1923), the D.C. Court of Appeals adopted the Frye test or "general acceptance." Under this test, expert opinion based on a scientific technique is inadmissible unless the technique is generally accepted as reliable in the relevant scientific community.

In Watson v. State, 64 Wis.2d 264 (1974), the Wisconsin Supreme Court rejected an argument by defense counsel that the "general acceptance" standard of Frye governs the admissibility of expert opinion in Wisconsin. The Court cited to McCormick, Evidence, which is critical of the Frye rule, and stated that in Wisconsin, we follow the wide-open rule of cross-examination to test credibility.

In State v. Walstad, 119 Wis.2d 483 (1984), the Wisconsin Supreme Court reiterated that the Frye test is foreign to the Wisconsin Rules of Evidence section 904.02, which sets forth that all relevant evidence [evidence having a tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence] is admissible. Thus, for over 47 years, Wisconsin has opted to use a "relevancy" standard with respect to the admission of expert testimony.

In Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993), the United States Supreme Court (SCOTUS) addressed the viability of the Frye test. In Daubert, SCOTUS stated that the Frye "general acceptance" test was superseded by the adoption of the Federal Rules of Evidence and held that nothing in rule 702 establishes "general acceptance" as an absolute prerequisite to admissibility nor did it incorporate the "general acceptance"

standard. SCOTUS held that before admitting expert testimony the trial judge must decide under Rule 104(a) whether the expert is purporting to testify as to scientific knowledge that will assist the trier of fact to understand or determine a fact in issue and that this entails a preliminary assessment of whether the reasoning or methodology underlying the testimony is scientifically valid and of whether it can properly be applied to the facts in issues. SCOTUS further set forth factors to consider in making the determination. SCOTUS made it clear that this is a flexible inquiry and that this rule will not create a "free for all" and that vigorous cross examination, presentation of contrary evidence and careful instructions on burden of proof are traditional and appropriate means of attacking shaky but admissible evidence. (In Kumho Tire Co. v. Carmichael, 526 U.S. 137 (1999), SCOTUS made it clear that the Daubert "reliability" Rule applies to all expert testimony, not just scientific expert testimony.)

In State v. Peters, 192 Wis.2d 674 (Ct. App. 1995), the Wisconsin Court of Appeals considered whether the Daubert "reliability" Rule affected the Walstad "relevancy" Rule and held that it did not. The Court did state that while Wisconsin confines itself to determination of relevancy, that Wisconsin trial judges do serve a limited and indirect "gatekeeping" role, albeit, oblique. The court stated that scientific evidence can be rejected, though relevant, if it is superfluous, a waste of time, other 904.03 reasons, the jury does not need it, evidence is inherently improbable, or the area is not suitable for expert opinion [ie. public policy reasons such as polygraph tests]. The Court further stated that this list is not an exhaustive inventory of grounds to refuse to admit relevant evidence and indicated that although Wisconsin trial judges do not evaluate the reliability of scientific evidence, they may restrict it through a limited gatekeeping function.

Today, by virtue of the amendments to 907.02 and 907.03, the Walstad "relevancy" Rule has been superseded by the Daubert "reliability" Rule (as amended by changes in 2000).

As a result, Wisconsin trial judges now must be "gatekeepers" as to all expert testimony as to both relevancy and reliability. Absent a stipulation, Wisconsin trial judges should conduct a 901.04 hearing outside the presence of the jury to determine whether expert testimony will or will not be admitted. In that hearing the trial judge will be guided by Daubert factors and others from cases subsequent to Daubert.

The Committee Note on Rules - 2000 Amendment discusses the fact that Daubert sets forth a non-exclusive checklist for trial courts to use in assessing reliability of expert testimony and further discusses that other courts have added to the checklist. The checklist discussion in the Committee Notes includes:

- 1) Whether the expert's technique or theory has been tested.
- 2) Whether the technique or theory has been subjected to peer review and publication.
- 3) The known or potential rate of error.
- 4) The existence and maintenance of standards and controls.

Wisconsin court system veterans initiative grows with launch of Eau Claire program

By Amanda Todd, Court Information Officer

A program to address the unique issues facing veterans and active-duty service personnel in the criminal justice system celebrated its second anniversary in January with two important developments: the opening of the Chippewa Valley Veterans Treatment Court in Eau Claire, and Wisconsin's first veterans court graduation, which took place in Rock County.

The veterans initiative is a newer facet of the court system's Effective Justice Strategies (EJS) program, which aims to identify sentencing alternatives that will reduce recidivism, improve public safety and save tax dollars by targeting the root causes of crime. The focus on veterans began in January 2009, shortly after the State Public Defender's Office and Department of Veterans Affairs held a day-long conference to explore issues related to veterans in the criminal justice system.

Honoring Wisconsin's first veterans court grad

The first veterans court graduation took place in the Rock County Circuit Court, where Casey Johnson of Beloit, an Iraq War veteran, was honored for his successful completion of a program through the Rock County Veterans Treatment Court. Johnson successfully completed alcohol treatment and anger-management classes, and the charges against him (battery and disorderly conduct) were dismissed during a graduation ceremony.



Photo credit: The Janesville Gazette

"It was a great day," said Judge James Daley, a brigadier general in the Wisconsin Army National Guard and decorated Vietnam veteran who directs the program. "Casey worked hard, and everyone involved in the program learned a great deal that will help us as we move forward."

Rock County Circuit Court Judge James P. Daley congratulates Casey Johnson, Beloit, Wisconsin's first Veterans Treatment Court graduate.

Jefferson, Lafayette and Winnebago counties. "The need is there, and we want to do our best to meet it," he said.

The state's fourth veterans court

Across the state in Eau Claire, dozens of people gathered at the courthouse for a ceremony marking the opening of the new Chippewa Valley Veterans Treatment Court. The Chippewa Valley court, serving Eau Claire, Chippewa and Dunn counties, is the fourth of its kind in the state. The others are located in Rock, Iron and La Crosse.

Like the other three courts, Chippewa Valley is designed



Chief Judge Benjamin D. Proctor, Eau Claire County Circuit Court, explains the concept behind the new Chippewa Valley Veterans Treatment Court during a ceremony at the Eau Claire County Courthouse in January.

to provide a coordinated response to the unique needs and risks of veterans and active-duty service personnel in the criminal justice system. The program assigns a mentor to each participant and works closely with Veterans Administration (VA) service providers.

Chief Judge Benjamin D. Proctor, who will preside in the court, explained that a veterans court program can reduce recidivism and save money. In remarks quoted in the Eau Claire news media, Proctor said 278 people in the local jail last year said they were veterans.

"Which would you prefer?" he asked. "An ongoing cycle of criminals, or someone who has a chance to be a productive citizen?"

The big picture

Chief Justice Shirley S. Abrahamson outlined the statewide initiative and highlighted recent milestones in a letter to Department of Veterans Affairs Secretary Kenneth Black. She told Black that the need for veterans programs became clear during her 72-county tour of the state's courthouses in 2008 and 2009.

see **Veterans** on page 16



Supreme Court Justice Ann Walsh Bradley, right, joined Deputy Chief Judge Gregory A. Peterson, District III Court of Appeals, left, and Chief Judge Benjamin D. Proctor, Eau Claire County Circuit Court, at ceremony to mark the opening of the Chippewa Valley Veterans Treatment Court.

WISCONSIN CONNECTS

Judge Flanagan visits women judges in Bangladesh

By Judge Mel Flanagan, Milwaukee County Circuit Court

Like many of my colleagues, I love to visit courts in foreign countries. This usually requires finding the courthouse and walking in to observe. On my visit to Bangladesh in November of 2010, I wrote in advance to the Bangladesh Women Judges Association (BWJA), and I was very glad that I did so. Bangladesh is a terribly poor country and is among the most densely populated countries in the world. Simply functioning is a greater challenge there than anywhere I have been and my custom of finding the courthouse and walking in to observe was not going to work in Bangladesh.

I was in Dhaka, Bangladesh to visit my daughter who was employed there by UNICEF. Dhaka is the capital of Bangladesh, and the population is estimated to be over 12 million in the city alone. The traffic, dense population, and weather present big challenges, but most difficult was the expectation that women will be accompanied everywhere by a male relative.

While in theory the courts are open to the public, the practice is quite different. There is barely enough room inside for the attorneys and staff, so the public is rarely allowed to enter. Thankfully, the general secretary of the BWJA, Judge Sharmin Nigar, took me under her wing and provided me with a fascinating tour of the court system. To begin with she arrived at my residence with a car and male driver. We proceeded to the courthouse which was about two miles away, and the trip took about two and a half hours – at best about one mile an hour through traffic. It would be easier, although a lot hotter, to walk, but women walking is not well received. Judge Nigar spoke excellent English and translated the proceedings for me as we observed criminal, civil and family court matters. The courts were extremely



Milwaukee County Circuit Court Judge Mel Flanagan met with members of the Bangladesh Women Judges Association during November 2010 while in the country to visit her daughter in Dhaka.

hot but it was the attorneys who wore robes – not the judges.

I was struck by how similar the issues, arguments and decisions were to the cases we have in Wisconsin. There were also many differences. In a divorce proceeding, the wife appeared to be around 14, while the law does not allow marriages before 18. She was seeking a divorce due to “excessive” domestic violence, but her future did not offer her many options. It would be unusual for her family to take her in, and there are no shelters or public services for women in her situation. Judges have to apply Islamic, Hindu or Bangladesh law as determined by the parties. The women judges that I observed during my visit were strong, intelligent and very capable. It was so interesting to me that their public and private lives must be so very different.

A highlight of my visit was dinner with 10 woman judges from the BWJA at a Chinese restaurant. It was a very rare experience for all. Women, as a group or alone, rarely venture out at night in public. My visit provided the perfect opportunity and everyone seemed to enjoy the event. Liquor is not allowed in public but to my amazement, we were each served a plate of betel nut leaves following our meal. The betel nut is popular in South East Asia and known to be a mild intoxicant when chewed.

I was very honored to be the guest of the BWJA and thrilled to meet at dinner a founding member, Justice Nazmun Ara Sultana. In 1975 Justice Sultana became the first woman judge appointed to a court. She was also the first woman justice in the Appellate Court, where she still serves with eight women justices at this time. Currently she is awaiting confirmation to the highest Supreme Court of Bangladesh, where again she will be the first woman on the court. She is an inspiration to her colleagues and continues to be a very strong advocate for women’s issues in Bangladesh. ■



Wisconsin Supreme Court Chief Justice Shirley S. Abrahamson traveled to Italy Dec. 13-14, 2010 to participate in a conference on the topic of judicial cooperation among state courts in Europe and the United States.

The Conference, held in San Domenico di Fiesole, was jointly organized by the Robert Schuman Center for Advanced Studies, the Dwight D. Opperman Institute of Judicial Administration of the New York University School of Law and the Network of Presidents of the Supreme Judicial Courts of the European University Institute.

WISCONSIN CONNECTS

Justice Bradley joins IJA Board of Directors

Wisconsin Supreme Court Justice Ann Walsh Bradley has been selected to serve on the board of directors of the prestigious International Judicial Academy (IJA). IJA is a non-profit educational institution with offices in Washington, D.C. and Buenos Aires, Argentina that provides education programs for judges, court administrators, ministry of justice officials, and other legal professionals from around the world.



Justice Ann Walsh
Bradley

IJA programs include seminars, conferences, study tours, symposia and exchange/intern projects.

As one of 19 board members, Bradley will help guide the direction and programs of the organization. Her involvement with IJA began in 2005, when she was among 22 state and federal judges from the United States who convened for the first annual Sir Richard May Seminar on International Law and International Courts in The Hague, Netherlands.

Since then, she has taught internationally on behalf of the academy and contributed to its newsletter, *International Judicial Monitor*.

“Being involved with the International Judicial Academy has been a very rewarding and educational experience. Serving on the board of directors will allow me to further the academy’s laudable goals of educating judges and improving the administration of justice in countries around the world,” Bradley said.

Bradley was first elected to the Wisconsin Supreme Court in 1995 after serving 10 years as a circuit court judge in Marathon County. She was appointed a Uniform Law Commissioner in 2004 and is active on the Joint Editorial Board on International Law of the Uniform Law Commission and the International Section of the American Bar Association.

Judge connects with Turkish counterparts

by Judge Todd W. Bjerke, La Crosse County Circuit Court

During October 2010, my wife and I traveled throughout Turkey. We spent several days in the city of Antalya, which has a population of over one million. We were able to visit a public library (my wife is a youth services coordinator for the La Crosse County Library) and the courthouse. It took us over five hours to find the main branch of the public library, as most everyone we asked had little knowledge as to where it was located. Once we finished with a personal tour there we took a

taxi to the courthouse.

After we entered the courthouse, we located a guard who could speak some English, to counter my wife’s ability to speak some Turkish. The guard finally understood what we wanted – to see a Turkish court in action. He took us to a courtroom and had us wait outside while he went inside to speak to the bailiff about the proceeding and whether we could come in. While we were waiting, a local attorney, who could speak very good English, asked us if we needed assistance, as he thought that we were foreigners in some sort of trouble. We assured him we were fine, and explained that I was an American judge interested in seeing the Turkish judicial system. He said he wished to speak to us further when we were finished inside. The guard came back out and tried to explain what was going on. He could not get his point across, and then asked to borrow my wife’s English-Turkish dictionary. He found the word he was troubled with and then told us that there was no “suspect” inside and asked if it mattered to us. We assured him that was not a problem for us. He then ushered us inside, and we watched the proceedings.

There was a prosecutor (to the far left) and three judges seated at the bench. The golden image of Mustafa Kemal Atatürk, the father of modern Turkey, was prominently displayed on the wall behind the bench. The male judge was questioning the various witnesses as he paged back and forth in his binder of police reports and statements.

People were emotional, and at one point several were ejected from the courtroom. After the judge questioned the various witnesses the bailiff escorted them all out of the courtroom, and my wife and I got up to leave. At that point, we were told that the courtroom was being locked and we were to have tea with the courtroom officials. We were honored. The attorney we had met earlier was brought into the courtroom and we had a conversation with the male

see *Wisconsin Connects* on page 8



La Crosse County Circuit Court Judge Todd W. Bjerke visited a courthouse and met with local court officials and lawyers while in the city of Antalya, Turkey in November 2010.

Lincoln County celebrates courthouse addition, renovation

On Feb. 26, Wisconsin Supreme Court Chief Justice Shirley S. Abrahamson joined local judges and Lincoln County officials in Merrill to celebrate a ribbon-cutting and open house ceremony for a newly renovated courthouse.

The \$1.8 million, two-story project added space and upgraded technology in one of the state's most historic county courthouses.

"This building is on the National Register of Historic Places, and at the same time, it is the most technologically advanced courthouse in the Ninth Judicial District. It was a long time coming, but well worth the wait," Abrahamson said.

The project drew rave reviews, at least from the *Wausau Daily Herald*, which opined Feb. 28: "It's a beautiful building, and residents of Merrill can be proud of it. The modern upgrades and new equipment that were part of the renovation, including a two-story addition and significant remodeling, were made carefully to preserve the building's historic feel."

Two new holding cells adjacent to the courtroom will make it possible for prisoners to take a different route into the courtroom than the general public. New technology includes cameras in all of the courtrooms, a video arraignment system, and a projection system for displaying evidence to the jury. The building had been closed since last August, and court hearings have been held in Wausau and Medford during the renovation.

Other judges at the ceremony included Chief Judge Gregory E. Grau, Marathon County Circuit Court, Deputy Chief Judge Neal A. Nielsen, Vilas County Circuit Court, Judges Jay R. Tlusty and Glenn Hartley, both of Lincoln



Supreme Court Chief Justice Shirley S. Abrahamson spoke at a ribbon-cutting ceremony for the newly renovated Lincoln County Courthouse in Merrill on Feb. 26.

County Circuit Court, and Reserve Judge Michael J. Nolan.

The *Daily Herald* noted that the project had come in with a small surplus. "The \$164,000 left over will go toward things like new light fixtures and landscaping. The renovations certainly weren't cheap, but coming in under-budget is always better than running over." ■



Posing alongside county and local court officials, including Chief Judge Gregory E. Grau, Chief Justice Shirley S. Abrahamson makes the ceremonial cut to mark the opening of a new addition to the Lincoln County Courthouse, which is on the National Register of Historic Places.

WISCONSIN CONNECTS *continued from page 7*

judge. He asked questions of me and I asked questions about the proceedings, which, I found, involved a homicide.

The suspect was not in the courtroom, as often happens when it is inconvenient for the authorities to get the person there. The suspect's attorney was present, but had no visible role on the day I observed the proceedings. The defense bar is concerned that the prosecutor is elevated to a position of dignity equal to the judges by allowing him to sit with them

at the bench. The visit ended when the male judge asked his last, and "most important" question, "how much money do I make as a judge in America."

After we left the courthouse, we accompanied the attorney, Ozan Yilmaz, to his office where we met his colleagues and discussed Turkish justice further. ■

1836-2011: The State Law Library Celebrates 175 Years of Service

By Jane Colwin, State Law Librarian, and Connie Von Der Heide, Director of Reference & Outreach Services

The legislation that established the territorial government of Wisconsin contained a short but significant provision that appropriated \$5,000 to be spent on the purchase of a library for the accommodation of the legislative assembly and the Wisconsin Supreme Court. The territorial act was approved on April 20, 1836 – giving the State Law Library not only the basis for its existence, but also reason to celebrate its 175th anniversary in 2011.

According to a 1936 *New York Times* story published in honor of the library's 100th anniversary, Congress agreed to fund this library because "it was thought the Legislature of this distant state would need the assistance of books, particularly law books." It's interesting to note that this was the first instance of Congress appropriating funds for a territorial library – and it served as a precedent for later acts establishing other new territories. Just two years later, Congress appropriated funds for a library for the territory of Iowa.

That first \$5,000 would roughly be equal to \$100,000 today, and so the committee that was appointed to purchase the books had a relative fortune to spend. Peter Hill Engle, speaker of the first territorial House of Representatives, traveled to Washington, D.C. and Philadelphia and purchased approximately 1,500 volumes, two-thirds of which were law or law-related, thus setting the focus of the library as clearly legal. In 1866, this focus was codified by

Ch. 119, Laws of 1866, which stated, "no books shall hereafter be purchased for the state library, except law books of reference, and works on political science and statistics." Although the collection was to remain solely legal, the library continued to be called the State Library until 1977, when the name was changed to the State Law Library. In fact, the glass transoms



above what used to be the front doors of the Library in the Capitol still bear the "State Library" stencil.

The Library's first home was in Burlington – now located in Iowa, but at the time part of the Wisconsin Territory. Burlington served as the location of the meeting of the second territorial Legislature. When the seat of state government moved to Madison, the library moved with it and was located in the State Capitol. The library was first administered by the Legislative branch, and the state librarian was appointed by the Legislature. From 1836 to 1875, no fewer than 12 different men were appointed to the position of state librarian. In 1875, control of the State



CELEBRATING 175
YEARS OF SERVICE
WISCONSIN STATE LAW LIBRARY

Library was transferred to a board of trustees composed of the Supreme Court justices and the Attorney General. That same year also saw the founding of the Wisconsin Historical Society, to which most of the general works in the State Library's collection were transferred, further solidifying its legal focus. But not until 1977 was legislation enacted to abolish the board of trustees; give the Supreme Court full authority over the Library; and officially change the name Wisconsin State Library to Wisconsin State Law Library – finally reflecting that it had been a legal collection for over 100 years. (Laws of Wisconsin 1977, Chapter 29, Section 1393, which also changed State Librarian to State Law Librarian.)

Interestingly, since 1876 only seven people have served as State Librarian, or State Law Librarian: John R. Berryman (1876-1906); Gilson R. Glasier (1906-1956); Edwin C. Jensen (1957-1969); William Knudson (1969-1974), Marcia J. Koslov (1974-2000); Jane Colwin & Julie Tessmer (acting Co-State Law Librarians 2000-2003); and Jane Colwin (2003 – present).



Jane Colwin

In 1999, the State Law Library moved out of the Capitol when the Capitol restoration project, ongoing since 1987, finally reached its quarters in the East Wing. It occupied temporary space in the 1 E. Main Street office building (now home to the Legislative Reference Bureau) while the Risser Justice Center was built, and in January 2002, the library moved into that facility, located just off the Capitol Square at 120 Martin Luther King, Jr. Blvd.

Although the library's name and location have changed over the years, what hasn't changed is its commitment to serve the officers of the court, government employees, attorneys, and the public. Along the way it has embraced new tools – ballpoint pens, typewriters, microfilm and microfiche, photocopiers, fax machines and computers, to name just a few – and provided access to new products developed to make legal research easier, such as key number digests, loose-leaf services, CD-ROMs, DVDs, LexisNexis and Westlaw, the Internet, GPO Access, HeinOnline and LegalTrac. And yes, through it all, the library has still bought books – and will continue to do so, since it is not yet possible to preserve our legal history and provide access to a wide variety of legal information by solely depending on the Internet or fee-based online resources.

PEOPLE

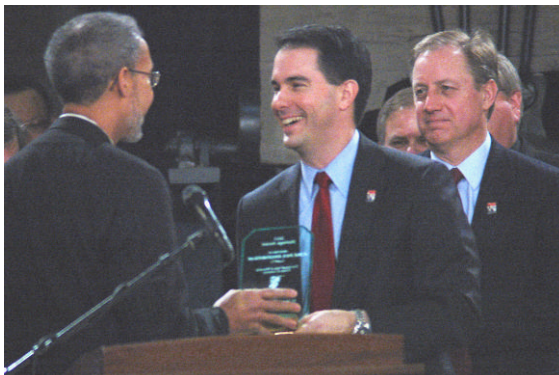
Supreme Court Justice **Patience Drake Roggensack** visited Racine County's Alcohol and Drug Treatment Court on Jan. 19 to observe the specialty court process. Roggensack told the *Racine Journal Times* that she visits different courts around the country because she has not had first-hand experience as a trial judge. Prior to serving on the Supreme Court, she served as a Court of Appeals judge.

"Alternatives to Incarceration" was the cover story for the January issue of *Wisconsin Counties Magazine*. The issue featured an article on county jail alternatives by Rock County Sheriff **Robert D. Spoden**, a progress report on the Treatment Alternatives and Diversion Grant Program by **Ray Luick** and **Adam Blust** of the Wisconsin Office of Justice Assistance, and a piece on Rock County's Veterans Court by Rock County Circuit Court Judge **James P. Daley**.

Also included was an article on the Effective Justice Strategies Subcommittee of the Planning and Policy Advisory Committee, submitted by Supreme Court Chief Justice **Shirley S. Abrahamson**, Executive Assistant to the Chief Justice **Theresa Owens**, and Policy Analyst **Michelle Cyruklik**. The article discusses the subcommittee's goals of identifying and exploring programs that will improve public safety and reduce incarceration.

Several of the subcommittee's efforts include the Criminal Justice Council, which allows members of the criminal justice system to collaboratively problem solve; the Assess, Inform and Measure (AIM) pilot project, which provides judges with information on offenders' risks and recidivism rates; the "Enhanced Public Safety: Effective Justice Strategies" Research Project, which will measure the effects of judicial strategies across the state; and the Chief Justice's Criminal Justice Mental Health Leadership Initiative, which examines and assesses the needs of people with mental health issues in the criminal justice system.

On Jan. 17, District IV Court of Appeals Judge **Paul B. Higginbotham** was presented with the Governor's 2011



Gov. Scott Walker presents District IV Court of Appeals Judge Paul B. Higginbotham with the Governor's 2011 Martin Luther King, Jr. Heritage Award



Wisconsin Supreme Court Justice Patience Drake Roggensack observed Racine County's Alcohol and Drug Treatment Court on Jan. 19. Before the hearing, Roggensack met with the court team, which reviews case files in advance.

Photo credit: Mark Hertzberg/The Journal Times

Martin Luther King, Jr. Heritage Award at the state Capitol.

Higginbotham's career has been filled with "firsts."

"Dane County Executive Rick Phelps appointed me the first Dane County Minority Affairs Coordinator, which allowed me to get my hands deeply into social justice issues," he told *The Capitol City Hues* newspaper.

He went on to become the first municipal judge in

Madison before being elected to the Dane County Circuit Court in 1994.

"It was really meaningful for a lot of folks who came to court," he told *The Capitol City Hues*. He was the first African American on the Dane County bench. Higginbotham said it's a shame there currently isn't more diversity on the bench.

In 2003, then-Gov. Jim Doyle appointed Higginbotham to the District IV Court of Appeals, making him the first (and still the only) African American appellate judge in Wisconsin.

The success of the Winnebago County Safe Streets program was the focus of two separate articles in the *Oshkosh Northwestern*. The program, which targets offenders whose crimes are motivated by addiction, offers treatment and monitoring in place of jail time. The positive effect the program had led former Gov. **Jim Doyle** to sign a bill that would expand the program to other counties across the state, according to one of the articles.

"It's amazing looking at these people when they first come in to when they finally graduate," Winnebago County Circuit Court Judge **Scott C. Woldt** told the paper about the drug court participants. "It's a tremendous change they've done."

According to the *Northwestern*, the program, which began in 2006, has had a 9.6 percent recidivism rate and has saved the county over \$1 million by having fewer offenders serve jail time. Woldt, along with fellow Winnebago County Circuit Court Judge **Barbara Hart Key**, has been providing information to other counties.



Judge Paul B. Higginbotham



Judge Scott C. Woldt

PEOPLE *continued from page 10*

Judge Barbara Hart Key

Dodge County was one of the counties to follow the Safe Streets model with its alcohol court. The Dodge County court focuses on reducing drunk driving by offering offenders treatment for their alcohol abuse.

"The common thinking historically was to throw the book at them," Dodge County Circuit Court Judge **Brian A. Pfitzinger** told the *Northwestern*. "When I was campaigning, I used to say that if you think 30 days in the county jail is going to cure an alcoholic, you're thinking completely wrong."

"Drug courts are a smart way to address the problem of non-violent offenders who commit crimes driven by drug addiction," Dane County Drug Treatment Court presiding judge and Circuit Court Judge **John W. Markson** told the State Bar of Wisconsin's *Inside Track*. Dane County's was the first adult drug court established in Wisconsin.

According to *Inside Track*, Rock County has found a way to assist veterans facing criminal charges through their veteran's court, without having to rely on the county for funding (see separate *Veterans Courts* story on page 5).

"The beauty of veteran's court is that treatment for those eligible is paid for by the Department of Veterans Affairs. Funding does not come from the county," Rock County Circuit Court Judge



Judge Brian A. Pfitzinger



Judge John W. Markson

James P. Daley told the State Bar.

In Eau Claire County, single mothers can find assistance through the Alternatives to Incarcerated Mothers court, the state's first specialty court program for single mothers, *Inside Track* reports. The county board recently approved funding for the court to hire a full-time coordinator.

"The community sees less crime and fewer victims as a result of this court, and the financial benefits associated with less foster care and reduced incarceration," Eau Claire County Circuit Court Judge **Michael A. Schumacher** told the State Bar's newsletter.

Law students in Dane County are providing help for those



Judge James P. Daley

facing foreclosures, the *Wisconsin State Journal* reported. The Foreclosure Answer Clinic brings citizens facing foreclosure together with UW Law School students to provide them with information about the foreclosure process and make them aware of resources available to them.

The clinic is offered twice a month at the Madison City-County Building and is made possible by the Dane County Foreclosure Prevention Taskforce, the Dane County Bar Association, and the UW Law School. Clinical Assistant Professor **Sarah Orr** supervises the clinics at which her students and lawyers from the community volunteer.

"It's a lot of emotion and can be difficult," Orr told the *State Journal*. "I always fall back on the idea that we are providing a service to people."

Walworth County has also found a way to face its mounting foreclosure crisis, according to the *Janesville Gazette*. Walworth County Circuit Court Judge **John R. Race** told the *Gazette* he had a four-foot high pile of foreclosure lawsuits in his chambers. The answer was the Walworth County Foreclosure Mediation Program. Thanks to the work of Atty. **John Maier** and other area attorneys, the volunteer program was created to help homeowners navigate the complex foreclosure process through mediation.

"In many cases, mediation leads to people keeping their home under new financial terms, although it sometimes means finding a graceful exit for the homeowner," Maier told the *Gazette*.

Wisconsin Eye's Legally Speaking discussed the issue of court interpreters in Wisconsin in an episode aired Dec. 20. District II Court of Appeals Chief Judge **Richard S. Brown**, Milwaukee County Circuit Court Judge **Paul R. Van Grunsven**, Court Interpreter Program Manager **Carmel Capati**, and Assistant State Public Defender **Catherine Dorl** addressed the Committee to Improve Interpretation and



Judge Michael A. Schumacher



Judge John R. Race



Chief Judge Richard S. Brown



Judge Paul R. Van Grunsven

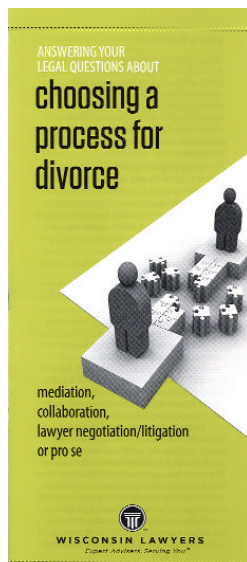
see **People** on page 16

New State Bar brochure for divorce litigants

By Ann M. Zimmerman, Statewide Pro Se Coordinator

The State Bar of Wisconsin Family Law Section is offering the Wisconsin court system free copies of the new brochure, “*Choosing a Process for Divorce*,” which is designed to be shared with all divorcing parties. According to Atty. Susan A. Hansen, past chair of the Family Law Section, “The brochure describes the divorce options available to divorcing parties and the involvement of family lawyers in each process. It explains the value of legal advice, describes the dispute resolution processes of mediation and collaborative practice, and introduces limited scope representation.”

The Bar is also making available a link to the brochure for the Wisconsin court system’s Web site and other county Web sites that request it. To order free copies of the brochure or to request the link, please contact Salud Garcia, State Bar of Wisconsin, at (800) 728-7788



extension 6190, or at sgarcia@wisbar.org.

A number of Wisconsin judges and court commissioners played a role in the development of the brochure, including Judges Michael J. Dwyer and Mary Triggiano in Milwaukee County. “The courts and Bar have a mutual interest in assuring informed decision-making and enhancing the efficient administration of the court system while continuing to improve access to justice. This informational pamphlet is designed to help Wisconsin citizens understand the availability of options for *resolving* their divorce issues and the valuable role family lawyers can play in the process,” Dwyer noted.

The Bar suggests distributing the brochure as a handout with all newly filed cases, providing it to local self-help programs and using it in any other way that can help inform the public. ■

Columbia County students engage with court

By Susan K. Raimer, Columbia County Clerk of Court

The Columbia County Circuit Court has always been active in youth leadership and government activities, and in the recent months, we have hosted three events.

On Nov. 17, a group of 14 students participated in the FLAG (Future Leaders Active in Government) program sponsored by Columbia County and organized by UW-Extension. This one-day program focused on job shadowing and interviews with court staff, observation of court activities, discussion regarding government careers, and a meeting with county board supervisors for a review of citizenship responsibilities.

In January, the Youth Leadership Group sponsored by the Portage Area Chamber of Commerce participated in a one-half day mock trial with Columbia County Circuit Court Judge James O. Miller, Clerk of Circuit Court Susan Raimer, District Atty. Jane Kohlwey, Atty. Mark Lawton, Officer Scott Oelke, and



Participants listen to the court give instructions for the Portage Area Chamber of Commerce mock trial

Court Reporter Margie Kurtz. The 24 students were role players, along with the court staff, as the defendant, counsel, witnesses, jurors, and bailiffs, and re-enacted a trial from jury selection through the deliberations/final verdicts. It was a tremendous learning experience for all of us.

Finally, a 12-team Mock Trial Invitational was held in January in the courthouse, with students preparing for and presenting both sides of the same case. They were critiqued by Judge Daniel S. George, Judge Alan J. White, Attys. Paul Johnson and Tim Henney, and school staff.

We look forward to our annual American Legion Youth Government Day in April, the various tours and observations of the county circuit court system conducted by Columbia County schools, and Juror Appreciation Month in September, where activities may include our youth as well. ■



Students are sworn in for the Portage Area Chamber of Commerce mock trial.

AWARDS *continued from page 3*

court in 1978. He continues to serve as a reserve judge, as well as on the Board of Bar Examiners, where he writes questions for and grades the Bar Exam. He is also a faculty member of the UW Law School.

"I did not want to give up the law when I retired from the bench," Dykman told the *Law Journal*.

Dykman is a former chair of the Judicial Commission, and a former member of the Fairchild Commission on Judicial Elections and Ethics, and the Executive Committee and Planning Committee of the Judicial Conference.

Past recipients of the Lifetime Achievement Award include Reserve Judge Thomas H. Barland and Reserve Judge Michael N. Nowakowski.

Milwaukee judge is 'Leader in Law'

Milwaukee Circuit Court Judge Mary M. Kuhnmuensch was named a 2011 Leader in Law by the Wisconsin Law Journal at an awards dinner on Feb. 16.

Kuhnmuensch, who was first elected to the bench in 1998, serves as the secretary of the Executive Committee of the Judicial Conference as well as on the Executive Committee for the Milwaukee County Circuit Court. She is currently the presiding judge of the Milwaukee County Circuit Court Domestic Violence Division.

She has previously been honored with a citation from the Task Force on Family Violence, a special commendation

from the U.S. Department of Justice Office on Violence Against Women, a Milwaukee County Community Justice Resource Center Gavel Award, and the Mentor of the Year Award from the Association for Women Lawyers.

In supporting the nomination of Kuhnmuensch, fellow Milwaukee County Circuit Court Judge Mary E. Triggiano told the *Law Journal*: "She is extremely hardworking, compassionate, dedicated to her work, family and friends, and goes the extra yard to help people without hesitation."

This is the ninth year the *Law Journal* has recognized judges and attorneys around the state who have had a significant impact on Wisconsin law. Past recipients have included Milwaukee County Circuit Court Judge Joseph M. Donald, Jefferson County Circuit Court Judge Randy R. Koschnick, Milwaukee County Circuit Court Judge Richard J. Sankovitz, and former District II Court of Appeals Judge Neal P. Nettesheim. ■



Judge Mary M.
Kuhnmuensch

PPAC launches newsletter, welcomes new Planning Subcommittee members

By Shelly Cern, PPAC Policy Analyst

At its January meeting, the Supreme Court's Planning and Policy Advisory Committee (PPAC) discussed recent outreach efforts to increase communication to court system stakeholders, such as the newly developed *From the Front Lines* electronic newsletter. The newsletter is distributed following each quarterly PPAC meeting and highlights an activity or initiative related to one of PPAC's four critical issues.

The first newsletter featured Judge John P. Anderson, Bayfield County Circuit Court, and his experience being a judge in an AIM (Assess, Inform, and Measure) pilot county. Our most recent newsletter focused on court funding and featured perspectives from Chief Judge Jeffrey A. Kremers, Milwaukee County Circuit Court, and Chief Judge Darryl W. Deets, Manitowoc County Circuit Court.

PPAC has begun planning for a plenary session at this year's Judicial Conference and created a Judicial Conference Planning Workgroup to work specifically on this effort. Members of the Judicial Conference Planning Workgroup include PPAC members Judge Edward E. Leineweber, Richland County Circuit Court; Judge Alan R. Bates, Rock County Circuit Court; Atty. Kelli Thompson, Wisconsin Office of the Public Defender; and Planning Subcommittee Chair Judge Michael J. Rosborough, Vernon County Circuit Court.

Planning Subcommittee welcomes new members

The Planning Subcommittee welcomed two new members

in January. Judge Patrick J. Madden, Iron County Circuit Court, and Judge Kathryn W. Foster, Waukesha County Circuit Court, were appointed by Supreme Court Chief Justice Shirley S. Abrahamson.

Members of the subcommittee are working on two large scale projects. The first is the completion of the work on the *Critical Issues 2010 – 2012* report. The Planning Subcommittee will be meeting with PPAC at the end of March to identify and prioritize objectives for future work for each of the four critical issues: self-represented litigants, court system funding, sentencing reforms and alternatives, and alcohol- and drug-related offenses. Results from this joint meeting will be submitted to the director of state courts.

At the same time, the subcommittee is embarking on a long-range planning process to develop the court system's broad strategic goals. The subcommittee is working on developing a focus group format that would enable it to gather detailed information from focus group participants about court system processes, state and local programming, and unmet needs and resource gaps.

Additional information about PPAC, its subcommittees and initiatives can be found at:

<http://wicourts.gov/about/committees/ppac.htm> ■

Questions about PPAC and its subcommittees may be addressed to Shelly Cern in the Office of Court Operations, (608) 266-8861 or michelle.cern@wicourts.gov

Justice stakeholders gather for 'pretrial justice' conference

By Beth Bishop Perrigo, Deputy District Court Administrator

On Friday, Dec. 17, 2010, nearly 200 judges, court commissioners, assistant district attorneys, public defenders, private bar defense attorneys and pretrial service staff gathered at Marquette University Law School's Eckstein Hall for *Pretrial Justice: Legal Foundations and Evidence-Based Decision-Making*. The conference was presented through technical assistance from the Bureau of Justice Assistance and the Pretrial Justice Institute (PJI), Washington, DC.

"This was a terrific opportunity for all of the stakeholders to learn about the best practices and look at how we're doing in Milwaukee County," said Chief Judge Jeffrey A. Kremers. "My thanks go to Holly Szablewski and Beth Bishop Perrigo for coordinating the program and to Dean Joseph Kearney, Assistant Dean Dan Idzikowski and the representatives from PJI for making this possible."

The program was structured to provide maximum time for collaboration and interaction among the participants with three break-out sessions: one for judges and judicial court commissioners, one for prosecutors and one for defenders. All were facilitated to allow participants to talk through the day's discussion about the law, standards, screening and risk assessment, and voice any concerns about policy or practice.

Lindsey Carlson, general counsel, PJI, provided an overview of the current state of policy and practice in Wisconsin, and specifically Milwaukee County, including Wisconsin bail laws, Milwaukee County jail issues, current pretrial practices in Milwaukee County and Milwaukee County's current pretrial risk-assessment and evidence-based tools.

Senior Judge Truman Morrison, III, D.C. Superior Court, and Steven Jansen, chief operating officer of the Association of Prosecuting Attorneys, presided over a session designed to provide attendees with an opportunity to walk through a set of scenarios and examine decision points, their own choices, and their reactions with the group at large.

Other presentations included an overview of extant pretrial research, evidence-based practices, performance measurement for pretrial screening and risk assessment and matching non-financial conditions of supervision to risk and reducing failures to appear. Attendees also examined case studies where these tools are incorporated. There was also a discussion of Milwaukee's participation in the Evidence-Based Decision-Making for Local Criminal Justice Systems project and a brief review of national standards on pretrial release, as published by the American Bar Association and the National Association of Pretrial Services Agencies.

The group then discussed next steps and national resources. During this session, each group described the changes they are committed to implementing, based upon the day's events and discussions. The two most significant changes involve: 1) the use of a validated risk assessment tool and the training to be able to set bail or conditions of bail that are reasonably related to the risk posed by the defendant, either to not appear for court or to re-offend; and 2) a revised and reasonable preventative detention statute that would be used for those defendants who pose too high a risk and should not be out on bail. National resources and training available to assist in implementing these steps will be discussed by PJI. ■

Judge puts out fires in and out of courtroom

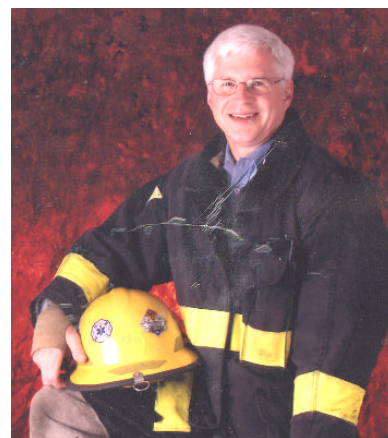
As an attorney, Judge Edward F. Vlack had a law office across the street from a fire department. In August 2000, Vlack decided to join as a volunteer, thinking it was a great way to serve his community. The following year, he was elected to the St. Croix County Circuit Court bench.

Today, Vlack continues to serve as a volunteer for the River Falls Fire Department, as an assistant chief and training officer. In his role as training officer, he's responsible for selecting topics, overseeing and putting into place the weekly trainings for all department members.

"What I really enjoy about it," Vlack said, "is as a volunteer, once that pager goes off and you walk through that door, it doesn't matter who you are, what you do, or who you know."

Despite having to carry a pager with him everywhere, Vlack said the duties of both positions have never come into conflict. He has never had to leave the courtroom to fight a fire, nor has he ever had his judicial responsibilities interfere with his role as a firefighter.

"It's the best second job in the world," Vlack said. "It's so different from what I do during the day." ■



Judge Edward F. Vlack

OBITUARIES *continued from front page*

opinions he authored.

"When Justice Bablitch retired from the court in 2003, he hoped to dedicate a great deal more time to three priorities: his family, fly fishing and golf," Chief Justice Shirley S. Abrahamson said. "Although his retirement was tragically

brief, I am happy to say that he was able to follow these passions in his beautiful adopted home state of Hawaii."

He is survived by his wife, Ann Milne, a daughter, Bulleh, and grandchildren. ■

2011 Summit on Children and Families registration opens

By Michelle Jensen-Goodwin, Court Operations

Registration is open for the 2011 Wisconsin Summit on Children and Families. The 2011 Summit will be held on May 11 - 12, 2011, at the Wilderness Resort, Glacier Conference Center in Wisconsin Dells. This educational program is a follow-up to the first Summit held in 2008 and will be replacing the 2011 Juvenile Law Seminar.

Additional details and online registration for the 2011 Summit can be found at:

<http://guest.event.com/d/hdqbw7/1Q>

The 2011 Summit is intended to foster collaboration among courts, tribes, and social service agencies by bringing together child welfare professionals to focus on strategies to improve outcomes for Wisconsin children and families. The conference content will emphasize effective engagement of children and families to achieve timely permanence.

Topics that will be addressed at the 2011 Summit include the Wisconsin Indian Child Welfare Act, evidence-based practices related to engaging families where mental health or drug disorders are present, motivational interviewing, educational outcomes for children in foster care, and engaging fathers in child protection cases. Two optional evening activities available to attendees include a screening of the documentary *Aging Out* and a Talking Circle facilitated by two Tribal Judges.

Providing the closing presentation at the 2011 Summit is Andrew Bridge, author of *Hope's Boy – A Memoir*. Andrew Bridge spent 11 years in the Los Angeles County foster care system and went on to earn a scholarship to Wesleyan, become a Fulbright Scholar, and graduate from Harvard



2011 Wisconsin Summit on Children and Families

Law School. Bridge's memoir is the true account of his life with his mother, a young mentally ill woman, of her efforts to keep and care for him, and of his life in foster care without her from age seven to 18. He has spent the majority of his legal career representing impoverished children across the country.

The 2011 Summit is made possible with federal grant funding awarded to the court system as part of the Children's Court Improvement Program and is co-sponsored with the Wisconsin Department of Children and Families. ■

For additional information, please contact Michelle Jensen Goodwin, Children's Court Improvement Program Director, at michelle.jensen-goodwin@wicourts.gov.

Budget *continued from front page*

The new act affecting civil litigation is 2011 Wisconsin Act 2, which took effect on Feb. 1. It makes various changes relating to civil actions, expert testimony, health care provider records, and applicability of certain criminal penalties to health care providers. The act's provisions address:

- Wisconsin law regarding the opinion of lay and expert witnesses to Federal Rules of Evidence 702, essentially adopting the Daubert standard. (See Judge John J. DiMotto's article on the Daubert standard on page 4).
- State product liability law, including creating specific requirements for bringing product liability actions under the theory of strict liability against manufacturers and against sellers and distributors and specifying how damages are apportioned based upon the injured party's level of contributory negligence.
- Limits on noneconomic damages in lawsuits against various providers of long-term care such as nursing homes, hospice centers and assisted living facilities.
- Caps on punitive damages at \$200,000 or two times compensatory damages, whichever is greater (except for drunk driving).

- Requirements to the use of the risk-contribution theory.
- Provisions that permit the court to hold a party or a party's attorney liable for costs for frivolous claims at the trial and appellate level.
- The confidentiality of health care quality improvement reviews, including provisions to make incident or occurrence reports confidential and to prohibit their use in any civil or criminal action against any health care providers.
- A three-year statute of limitations on actions against long-term care providers.
- Exemptions for health-care providers from criminal prosecution for death or bodily harm to a patient that resulted from the provider's negligent conduct.

The main focus of the Legislature during the next few months is expected to be enactment of the 2011-13 state budget. The Legislature's Joint Finance Committee will spend the next three months studying and making revisions to the 1,345-page bill. The companion budget bill numbers are Senate Bill 27 and Assembly Bill 40. ■

Veterans *continued from page 5*

"In county after county, I learned that we needed to do a better job of identifying combat veterans in court and connecting them with available services," Abrahamson wrote. "In some counties, there was a sense that veterans might be best served through specialized court programs tailored to meet their unique needs. I brought these concerns and ideas back to Madison, and the work began."

Abrahamson emphasized that the veterans initiative would not be possible without strong partners across the criminal justice system and in the VA.

"Much work remains," she told Black, "but I am confident that we shall continue to find new and more effective strategies for responding to the unique needs of combat veterans, for we owe them – and their communities – no less."

Veterans Justice Outreach Specialists

The Veterans Administration in 2009 authorized each VA medical center to hire a Veterans Justice Outreach Specialist (VJOS). These individuals are able to connect veterans with needed services, serve as members of treatment court teams and provide brief reports to the court.

The purpose of the initiative, according to VA materials, is "To avoid unnecessary criminalization of mental illness and extended incarceration among veterans by ensuring that

eligible veterans in contact with the criminal justice system have access to Veterans Health Administration (VHA) mental health and substance services."

While the Wisconsin VA is continuing to fill these positions, several VJOS have been named. The VJOS currently available to work with veterans involved in the criminal justice system in Wisconsin are:

Madison: Ed Zapala, Edward.Zapala@Va.gov or (608) 320-2095

Milwaukee: Linda Tiso, Linda.Tiso@va.gov

Tomah: Garry Hebel, Garrett.Hebel@va.gov or (608) 372-7706

Minneapolis: Faith Weiss, Faiht.Weiss@va.gov

Iron Mountain, Michigan: Michael Matwyuk, Michael.Matwyuk@va.gov or (906) 774-3300 (ext. 32552 or 32541)

Vets program info available

A new handout that provides an overview of Wisconsin's veterans court initiative is available in hard copy and on the web.

The handout describes the various county-based programs and provides contact information for each. It's available on the Web at

www.wicourts.gov/about/organization/programs/docs/altveterans.pdf or by calling (608) 266-1298. ■

PEOPLE *continued from page 11*

Translation in the Courts; the Court Interpreter Program; the importance of equal access; the need to locate interpreters for rare languages; and how the certification program for court interpreters has greatly improved the quality of services for limited English speaking individuals. The program can be viewed at:

www.wiseye.org/Programming/VideoArchive/EventDetail.aspx?evhdid=3470

U.S. Supreme Court Justice **Antonin Scalia** had the chance to experience Wisconsin duck hunting, thanks to Chief Judge **Donald R. Zuidmulder** and Judge **William M. Atkinson**, both of Brown County Circuit Court. Scalia was in Green Bay to give the inaugural address for the Green Bay chapter of the St. Thomas More Society on Oct. 20,



Chief Judge Donald R. Zuidmulder

2010. The society is made up of lawyers and non-lawyers who share the common goal of fostering justice in the community.

After Scalia asked the bishop about duck hunting, Atkinson set up the hunt on the west shore of Green Bay. Scalia and Atkinson set out on ATVs at daybreak, to be joined later by Zuidmulder.

Zuidmulder said they had a tremendous west/southwest wind that day that made things a bit tough at times, but it was a

wonderful hunt. The group shot between 10 and 12 ducks, including some species Scalia said he had never hunted before.

"It was a great time," Zuidmulder said. "We talked about



Judge William M. Atkinson

hunting. There was not much discussion about search and seizures."

The old saying goes "a way to a man's heart is through his stomach." Dodge County Circuit Court Judge **Brian A. Pfitzinger** believes that holds true for jurors, too.

"Being a juror is a tough job," Pfitzinger told the *Milwaukee Journal Sentinel*. "We bring them in whenever it's convenient for us to talk in front of them.

Then we drag them back out and we lock them in a room."

As a way of showing his appreciation for the time and dedication, he asks his jurors one important question at the start of every trial: chocolate or carrot. Cake, that is.

"This stuff was homemade," former juror **Sue Sukopp** told the *Journal Sentinel* of the judge's baking. "It was more than just really good. It was exceptional."

"It's a dual purpose – to thank the jury, and for me it's a stress relief. I can run the beater until the eggs won't have it," Pfitzinger told the paper.

A water main break outside the Waukesha County Courthouse didn't stop justice from being served, but it required a longer walk to the restrooms, the *Milwaukee Journal Sentinel* reported. The Feb. 9 break caused the Waukesha Water Utility to shut off the water to the building, but workers and visitors to the courthouse were able to use the facilities at the neighboring Administration Building, according to the *Journal Sentinel*. ■

LEADERSHIP

Mentoring allows judges to share experience

The mentoring program for new Wisconsin circuit court judges is intended to shorten the learning curve of new judges and to facilitate a smooth transition onto the bench. The Wisconsin Committee of Chief Judges adopted a mentoring program in 1988.

In 2007, the program was updated by a subcommittee of the Committee of Chief Judges, including member Judges Benjamin D. Proctor, Eau Claire County Circuit Court; Gary L. Carlson, now a reserve judge; and J. Mac Davis, Waukesha County Circuit Court. District Court Administrator Patrick Brummond and former District Court Administrator Gregg Moore also served on the subcommittee. A mentoring guide now available on the court system's Intranet, CourtNet, was published in 2008.

The mentoring program timeline is flexible to allow for individual circumstances, but identifies specific actions to be taken during the time period between election or announcement of appointment (or even earlier), during the first two weeks and during subsequent months in office.

Under the program, the Chief Judge appoints a mentor and directs the new judge to participate. The district court administrator meets with the new judge and, in cooperation with the chief judge, completes specific district orientation tasks and responsibilities.

The Third Branch asked recent participants in the program to share their perspective.

In this example of "cross-district" mentoring, Judge James Duvall, Buffalo and Pepin County Circuit Courts, served as primary mentor for Pierce County Circuit Court Judge Joseph D. Boles, who was elected in 2010. St. Croix County Circuit Court judges Edward F. Vlack III and Scott R. Needham, assisted as mentors, and other judges continue to serve as resources when called.

On being a judge and mentor

by Judge James J. Duvall, Circuit Courts of Buffalo and Pepin counties

Newly elected judges are smart, hard-working, capable people with vast knowledge and experience in the law. In other words, they don't have a clue about what it is like to be a judge. Working with the mentoring program was a good reminder of where we all started.

Just as there is the "practice of law," there is a "practice" of being a judge. Mentoring a new judge is not primarily about the law, it is about introducing the mindset of being a judge. A fair starting point may be a comment I once received from an experienced trial attorney as we waited for a verdict. He said he looks for three things in a judge: First, a judge must treat everyone in Court with respect; second, a judge must control the courtroom; and third, a judge must make a decision.

A mentor can help a new judge develop his judicial

personality, his instinct for the correct outcome, and his judgment. The bench has a different point of view, much more passive than an attorney. After years of being the player on the field, you become the referee in the review booth. A Judge watches the action, instead of creating it. During my first jury trial as a judge, I made an objection from the bench – luckily at the same time as an attorney. With some embarrassment, I promptly sustained the objection.

The act of mentoring involves helping a new judge deal with the mundane. When I started, I thought the issue I would have to guard myself against was ego, but I have found my biggest challenge is patience. The verbose attorney, the hoary excuses for bad behavior, the unskilled *pro se* litigant are all more of a daily challenge than the fine scholarly legal point. A large portion of our job is saying the magic combination of words, processing cases, and dealing with the routine. Mentoring is about helping the new judge see our important role in the ordinary case, challenging the new judge to give everyone their say, and to never forget, to the persons involved, their case is the most important case in the world.

Our Wisconsin Judicial College is a wonderful resource, providing the best training in the nation. But a person may be on the bench for months before having a chance to attend. A new judge from his first day on the bench needs to know how to take a plea, how to decide a placement dispute, and how to do all the things experienced judges routinely do every day. Perhaps some of the information from the Judicial College could be collected in a handbook for new judges so they may immediately benefit from this valuable resource. Until then, the mentor must fill the new judge's toolbox with checklists, bench outlines, and other resources to help them find the right result from the first day, guiding them on which tool to select and how much force to apply.

I recently had the privilege of mentoring Judge Joe Boles and traveled to his bench in Pierce County for a week. Together we reviewed the scheduled cases, spotted issues and discussed procedures, but Judge Boles did his own calendar from the first day. I found that mentoring experience so much more beneficial than having him shadow my bench. The types of cases, the people involved and the procedures used were all those Judge Boles would be encountering in his own court. It also changed the dynamic, so that he was doing his job in his own court with my help, rather than him trying to be me in mine.

The mentoring program creates an ongoing relationship from which both participants benefit. If you want to learn something, teach it. I thank Judge Boles for the opportunity he gave to me. Mentoring creates a relationship of trust and sharing. Whether in a single-branch county, or one with many, we tend to not be open and involved enough with each other. We each are better when we share with other.

A new judge must adjust to many lifestyle changes, which may be shared with a mentor. A judge's schedule is rigid and locked in months in advance. Suddenly you are an employee, answering to a County Board, dealing with staff



Judge James J. Duvall

LEADERSHIP *continued from page 17*

over which you do not have the same control as in private practice. Your relationship with your former office staff and your former clients virtually disappears, creating a very real sense of loss. People don't even call you by your name any more. Attorneys may find your jokes funnier now, but you are not the same as the others. There is a "separateness."

But once in a while a judge can make a difference in a way no one else can. A mentor and a new judge remind each other of the important work we do in people's lives and in preserving the fabric of our society. Mentoring reminds us how lucky judges are, what a wonderful job we have and how much we can do if we just try.

On being mentored as a new judge

by Judge Joseph D. Boles, Pierce County Circuit Court

After six months in office as the Pierce County Circuit Judge, I have reflected on the mentor program and how important it was to my start as a trial judge. This program was instrumental in getting my judicial career off on the best possible footing. It helped me feel comfortable on the bench right away. The psychological aspect of the transition from attorney to judge was one I hadn't considered. Being an advocate is quite different from being a decision maker. My mentors helped me transition from lawyer to judge with some degree of ease.

I was quite fortunate to have Judge James Duvall, Circuit Judge for Buffalo and Pepin Counties, as my first mentor. Judge Duvall was available to assist me in my own county during that frightening first week. He was available to discuss all matters of which I was unsure. He was able to observe me



Judge Joseph D. Boles

working in my own courtroom and offer good-natured suggestions for improvement. He gave me a complete set of written procedures he had prepared to aid him in handling all types of cases. He also suggested I rely on the Bench Books. His procedure manual and the Bench Books gave me a reliable and easy-to-understand method of dealing with many of the cases which came before me.

More important than the written materials was Judge Duvall's positive attitude and willingness to make me feel comfortable. He put me at ease and was always available to counsel me when I ran into a difficult situation or a difficult person. He is still, even after six months, continuing to mentor me by being available to answer questions and help me through difficult situations.

Most important, Judge Duvall has become a friend.

District Court Administrator Patrick Brummond set up my mentor schedule. He did a masterful job of ensuring that I witnessed many different types of cases and calendars, as well as different judges with different styles and personalities. Pat has been wonderful to work with and is always available. He is happy to answer all my questions and direct me to the proper resource.

Pat also scheduled me for two days in St. Croix County,

where I spent one day each with Judges Edward F. Vlack and Scott R. Needham, who are both talented judges. They have different styles and different personalities; both are very effective. Both Judge Needham and Judge Vlack sat with me on their respective benches. I observed them, and they allowed me to handle certain routine matters on their calendars. This experience was extremely valuable. I think that the most important thing I learned from the judges in St. Croix County was that I would develop my own style on the bench that would reflect my personality.

Other judges were available to help me by taking my calls and answering my e-mails. I was amazed at the friendly willingness of judges in my area to be available to help me whenever I needed it. Judges Eric J. Lundell and Howard W. Cameron, St. Croix Circuit Court; Judge Timothy M. Doyle, Barron County Circuit Court; Judges Robert H. Rasmussen and Molly E. Gale Wyrick, Polk County Circuit Court; Judges William C. Stewart Jr. and Rod W. Smeltzer, Dunn County Circuit Court; and Judge Lisa K. Stark, Eau Claire County Circuit Court were all enthusiastic about being available to answer questions and give advice.

My experience in the Mentor Program was wonderful. I can't think of one negative experience I had in the program. It was a great learning experience and, at the end of the program, I felt prepared to hear the cases on my calendar.

On developing the mentoring plan

by Patrick Brummond, Seventh Judicial District Court Administrator

One of the pleasurable challenges of a chief judge and district court administrator is developing a meaningful mentoring plan for a new judge.

Before any planning or assigning of a mentoring judge or judges, the chief judge and district court administrator gather as much pertinent information as possible about the new judge's personality, interests and needs. This is typically done quickly through telephone conversations, orientation meetings and the new judge's self assessment. With that information in hand, the chief judge and district court



Judge Scott R. Needham



Judge Edward F. Vlack



Patrick Brummond

LEADERSHIP *continued from page 18*

administrator select a mentor judge or judges who best match the needs of the new judge. In the Seventh Judicial District, we prefer to designate a number of mentor judges with one of them serving as the primary mentor.

Once the mentor judges are designated, the calendars of all of the participating judges, including the new judge, are reviewed to identify court hearings, calendars and trials that may be helpful to the the new judge. The goal for the two weeks of mentoring is to provide the new judge the greatest opportunity to observe and hear a wide range of matters under the tutelage of the mentor judges. We always attempt to include some intake calendars, a juvenile calendar and a jury trial.

A mentoring schedule is developed to allow the new judge to observe or hear a proceeding alongside a mentor judge. Because court calendars often change, alternative calendars also are identified to accommodate schedule changes. This provides the new judge and mentors the flexibility to adjust the plan on the fly to maximize the mentoring experience. Finally, the mentoring schedule identifies reserve judge coverage that will be needed for the new judge or mentor's calendar.

The mentoring schedule for Judge Boles was tailored to

enhance his individual mentoring experience. For example, on days that Judge Boles' court calendar provided a good sample of experiences that met his needs as a new judge, his primary mentor judge, Judge James Duvall, Buffalo and Pepin County Circuit Courts, traveled to Pierce County. This provided Judge Boles the opportunity to get comfortable in his own courtroom with his legal community, staff and litigants.

Judge Boles' mentoring experience also was rather unique in that it involved mentoring across district lines in St. Croix County. Pierce County is in the northern reaches of the Seventh Judicial District, and it has much in common with St. Croix County, where Boles spent a day each alongside Judges Vlack and Needham.

They share bar associations, state public defenders and many litigants. Mentoring across district lines not only required the enthusiastic cooperation of the St. Croix County judges, but also of the District Ten Chief Judge Ben Proctor and District Court Administrator Scott Johnson. With their assistance and a general assignment from Director of State Courts John Voelker to grant Judge Boles the authority to hear cases in St. Croix County, the cross-district mentoring experiment was a success. ■

Primaries *continued from front page*

Hollen. She has taught at the UW Law School.

The spring general election is scheduled for April 5.

Circuit court races are as follows:

Columbia County (Judge James O. Miller, retiring):

Timothy C. Henney

W. Andrew Voight

Green Lake County (Judge William M. McMonigal, retiring):

Mark T. Slate

Jon R. Wilsnack

Marathon County, Branch 5 (Judge Patrick M. Brady, retiring)

Sandra J. Marcus

Michael K. Moran

Milwaukee County, Branch 18

Judge Pedro Colon (incumbent)

Christopher R. Lipscomb

Polk County, Branch 2 (Judge Robert H. Rassmussen, retired)

Jeffrey L. Anderson

Daniel P. Steffen

Sheboygan County, Branch 3

Catherine Q. Delahunt

Judge Angela W. Sutkiewicz (incumbent)

Winnebago County, Branch 6 (Judge Robert A. Hawley, retiring)

Daniel J. Bissett

Edmund J. Jelinski ■

WSLL *continued from page 9*

The staff of the State Law Library is very proud and excited to celebrate this special milestone, and will be offering a variety of special activities throughout the year. Significant historical moments will be highlighted in the library's monthly newsletter, *WSLL @ Your Service*. Birthday cake will be served at the Library on April 20, and a special after-hours celebration will take place later in the year. Since librarians are pack rats by nature, some fun and interesting things that have been collected over the past 175 years will be placed on display in the library throughout the year.

Library staff, with the help of volunteer Carol Hermann, is also digging through boxes of library files and catalogs in order to compile a more complete history, and to create an interactive timeline of library "firsts" and other significant

events that will be placed on the library's Web site. As part of that effort, the staff is collecting people's favorite memories of using the library to post on the library's Web site and compile in a special 175th anniversary publication. *The Third Branch* readers are heartily encouraged to submit comments and anecdotes through the library's Web site, <http://wilawlibrary.gov/about/celebrate.html>. ■

Sources:

5 Stats. 10, sec. 17, April 20, 1836

Wisconsin's Pioneer Library, New York Times, February 9, 1936

5 Stats. 235, sec. 18, June 12, 1838

1977 Laws of Wisconsin Act 29, section 1393.

CCAP innovates with new 'thin client'

By Jean Bousquet, Chief Information Officer

Over the past five years technology in the Wisconsin courts has been changing rapidly. The main focus has been on creating efficiencies for the courts, justice partners, attorneys, and the public through new services like electronic filing, document imaging, electronic data-sharing and on-line services for the public and attorneys. But behind the scanners, Web sites, and custom software are the oft-overlooked but essential hardware systems. This hardware infrastructure includes the file servers, databases, web application servers, and almost 3,000 desktop computers used by court staff throughout the state.

Unfortunately, even though the Consolidated Court Automation Programs (CCAP)-provided hardware and software systems have continued to steadily grow, CCAP's revenues to provide and support these systems have not. CCAP, like other information technology departments, is continually looking for new ways to squeeze unnecessary costs out of the budget. One cost-saving approach that CCAP is pursuing is to no longer purchase desktop computers. CCAP is embarking on a new strategy for desktop workstations which will help achieve long-term savings and minimize the staff costs required to support such a large computing base.

In 2010, CCAP's senior technical architects designed and tested a new and improved method for delivering software applications to each user's desktop. This new approach replaces desktop computers with "thin clients." The thin client environment essentially moves the computing from the users' desktop computers to the servers. This approach differs significantly from CCAP's traditional technical architecture where all of the workstations are "fat clients." A fat client is a fully functional workstation where the Windows operating system and all computer applications, such as CCAP Case Management, Microsoft Office, and GroupWise are loaded and run directly on the desktop computer.

In a "fat client" environment with twenty users, there are twenty individual desktop computers running software applications. By contrast, the thin client environment runs all software applications for all the users on a single high-powered server located on the network. The thin client, coupled with a monitor, keyboard and mouse, connects to a server that has all of the software and processing capabilities that used to be provided by each user's desktop computer.

What makes this a better environment? There are many advantages, including:

Location flexibility

Many CCAP users switch work locations throughout the

day; clerks switch from their desks to help customers at the counter, judges move from chambers to the courtroom, and clerks switch from their desks to courtroom workstations.

In the new environment, users can quickly log in and access their running applications from any thin client device on the network. In traffic court, for example, the clerk could log into the thin client in the courtroom and she would have access to her desktop with exactly the same applications running and files opened as she had on the thin client at her desk.



In the new environment, users can log in and access their running applications from any thin client device on the network.

Fewer computer failures

Each desktop computer will eventually be replaced by a much simpler and smaller thin client device. The thin clients, which are about the size of a cigar box,

contain less hardware and are less likely to fail. The number of problems experienced by users related to bad hard drives, faulty CPU's, or bad memory will be significantly reduced, as most of these hardware components will be server-based with built-in fault tolerance. If hardware fails on a server, users will fail over to the back-up server which will keep system downtime to a minimum.

Fewer configuration problems

A fat client environment requires that each PC be independently configured with the correct version of the Windows operating system and a number of other software applications. It also requires that each desktop computer be independently kept up to date with necessary Windows and application patches and upgrades. With close to 3,000 supported desktop computers, CCAP needs to allocate a considerable amount of staff time and effort into maintaining standard, up-to-date desktop configurations. And, the process is prone to error. Computer configuration errors, such as corrupt profiles, are one of the most common types of calls received by the CCAP call center. These calls require additional time to resolve and cause frustration for CCAP users that experience these problems. In the new thin client environment, the total number of supported computers is reduced by about 90 percent, which will result in far fewer problems related to configuration and setup.

Ease of updating applications

CCAP receives many requests for updated software versions throughout the year. In the current environment, most version upgrades for software like Internet Explorer, GroupWise and Microsoft Office suite require a change to the base image of the desktop computers, which generally occurs only once per year. These changes often require

Law Day volunteers sought to work with students

The Young Lawyers Division (YLD) of the State Bar of Wisconsin is seeking volunteers, including judges and lawyers, to speak in K-12 classrooms statewide as part of Law Day celebration from April 25 to May 6. The theme of Law Day 2011 is "The Legacy of John Adams: From Boston to Guantanamo." The program provides an opportunity to assess and celebrate the legacy of President Adams, including an exploration of the historical and contemporary role of lawyers in defending the rights of the accused and appreciation for the fundamental principle of the rule of law.

"Law Day benefits students, volunteers, and the community," said YLD President Jill Kastner. "Not only are students educated about our legal system, but they get the opportunity to have a positive experience with an attorney.

Classroom volunteers

The YLD will provide age-appropriate curriculum to educate students about our great legal system and about the legal profession. Volunteers will be assigned to K-12 classrooms statewide. For more information on classroom volunteering or the Law Day YouTube video contest, please email LawDayWI@gmail.com.

Law Day video contest

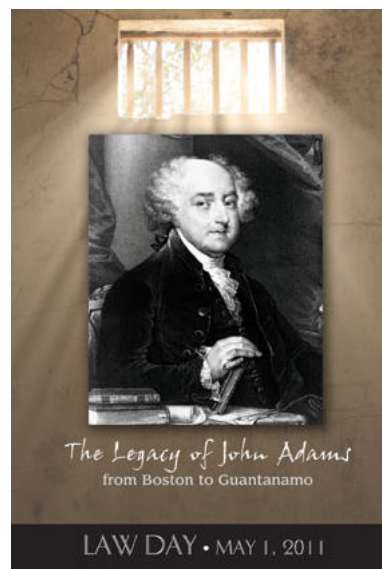
In addition to the traditional Law Day celebrations, the YLD is sponsoring a Law Day YouTube Video Contest for students in grades K-12. The contest will ask students to submit videos on this year's Law Day theme. Participants

will post their videos to YouTube and submit the link and other application forms to the State Bar of Wisconsin. Winners will be announced on April 27, and awards will be presented as part of the YLD Law Day celebration.

More information about the Wisconsin program can be found at the YLD Web site at:

www.wisbar.org/AM/Template.cfm?Section=Young_Lawyers&Template=/CM/ContentDisplay.cfm&contentid=58852

Additional information and materials about this year's theme can be found at the American Bar Association's Web site: www.lawday.org.



New pro se statistical reports now available; Second annual data collection to begin

By Ann Zimmerman, Statewide Pro Se Coordinator

Two new statistical reports on self-represented litigation are currently available in the *CCAP Reports* application. The reports summarize data that was collected with a relatively new *pro se* appearance processing feature in the CCAP Case Management System. The feature was first activated throughout the state in 2010 for a 12-week period. Both reports summarize *pro se* party information by case type. The Case Summary Report provides a breakdown of *pro se* information by pre-judgment and post-judgment activity. The Party Summary Report provides a breakdown by party type. These reports will be accessed through the CCAP Reports application for those authorized to view reports at the county level. CCAP will also provide these reports with district and statewide information.

The second round of *pro se* data collection will also begin this spring. As was the case last year, all Wisconsin circuit courts that participate in CCAP will use a *pro se* appearance processing feature in the CCAP Case Management system. This feature will be enabled and disabled throughout the state by CCAP. Detailed information and instructions regarding this collection period will be communicated prior

to activation via email to all Clerks of Circuit Court, Juvenile Clerks and Registers in Probate.

The 2010 appearance processing feature improves upon the previous methodology for collecting *pro se* data and allows the court system to better meet the administrative challenges posed by self-represented litigation and serve self-represented litigants in a number of ways. First, statistical information assists the court system in developing a more accurate understanding of the extent of self representation throughout the state and the consequences of self representation for litigants and court administration. Second, better data collection allows for specific resource targeting and the establishment of baselines for assessing programmatic successes and failures. Finally, reliable data may be used to support funding requests, or justify overtime or staffing levels.

The new feature and reports were developed upon recommendations from reports of the Supreme Court Planning and Policy Advising Committee (2006) and the Wisconsin *Pro Se* Working Group (2000). ■

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RETIREMENTS *continued from page 2*

and tell us they are going to put computers on our desks and give us a case management system," Bruley said. "It was hard to believe, but when I got my CCAP computer in 1990, I started to believe. In 1991 they were recruiting for CCAP analysts and I applied. My friends thought I was crazy to give up my RIP position for something that was going to sunset in 1993."

Bruley briefly left CCAP in 1992 to become the first Madison municipal court administrator and help create a new municipal court. She returned to CCAP in 1996 as a senior business

process analyst, a position she has held for the past 15 years.

"I believed in the statewide court system vision and here I am after working for CCAP for almost 16 years," Bruley said. "It has been great! I am proud to be one of the early employees that worked in this national model for statewide court management systems. I am proud of the work I did here."

In her retirement, Bruley said she plans to garden, play bridge, read, travel, and help take care of her two grandsons. ■

Daubert *conitnued from page 4*

5) Whether the technique or theory has been generally accepted in the scientific community.

6) Whether experts are proposing to testify about matters flowing naturally and directly out of research they have conducted independent of the litigation, or whether they have developed it for purposes of testifying.

7) Whether the expert has unjustifiably extrapolated from an accepted premise to an unfounded conclusion.

8) Whether the expert has adequately accounted for obvious alternative explanations.

9) Whether the expert is being as careful as he would be in his regular professional work outside his paid litigation consulting.

10) Whether the field of expertise claimed by the expert is known to reach reliable results for the type of

opinion the expert would give.

Under 907.02, before expert testimony will be admitted, the trial court must be satisfied that:

1) The testimony is based upon sufficient facts or data.

2) The testimony is the product of reliable principles and methods.

3) The witness has applied the principles and methods reliably to the facts of the case.

The "\$64,000 Question" that I posed in my first paragraph and that remains to be answered is still: Is this a seismic change or a subtle change?

I am not sure we will have an answer in the near future, but in the meantime and in the final analysis, what it will boil down to is for every trial judge to properly exercise his or her discretion in terms of both relevancy and reliability via a flexible inquiry conducted under 901.04. ■

CCAP *conitnued from page 20*

computer re-boots and can be time intensive to complete statewide. Migrating to a thin client environment simplifies the process of upgrading software. Rather than updating each individual computer, the software residing on a bank of servers is updated, reducing the number of software installations that need to be updated by ten-fold. This will eventually help improve timely customer service delivery for software updates, as CCAP staff can remotely install software updates in a few hours rather than spending months updating the thousands of desktop computers.

In conclusion, the ease and efficiency of administering a thin

client environment will allow CCAP to allocate technical support staff to other important technical initiatives. To date CCAP has already implemented six counties with thin clients, and plans to accelerate the pace of implementations through 2011. When the migration is complete, the total number of desktop computers in the court system enterprise will be reduced from approximately three thousand to a few hundred. At the same time enhanced security, reduced on-site technical support and increased system performance will be realized throughout the state. The savings and benefits to this technical migration are too great to ignore. ■

