



THE ROCKET DOCKET NEWS

The Newsletter of the Northern Virginia Chapter of the Federal Bar Association

JUNE 2009

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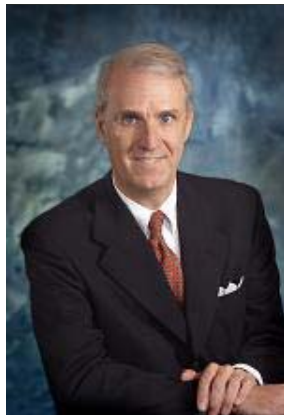
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The President's Report

by John E. Coffey, Esq.



As we head into the summer of 2009, it is my pleasure as the FBA Northern Virginia Chapter's president to reflect on our Chapter's recent successes and look forward to a great remaining year. Since the last Rocket Docket Newsletter in August (yeah, it's really been that long!), our Chapter has hosted or otherwise been involved in a number of significant events, many under the leadership of our immediate past President, U.S. Magistrate Judge John Anderson. With his leadership in 2008, Judge Anderson set the bar high for this year's officers and board of directors.

Last September was a busy month for our Chapter, kicking off with the annual Torrey Armstrong Memorial lecture and reception for this year's class of federal judicial law clerks. The lecturer was U.S. District Court Judge Gerald Bruce Lee. Judge Lee's lecture reflected on the importance of welcoming and mentoring new practitioners into our community of lawyers. With its focus on diversity and mentoring, the Armstrong lecture provided an ideal prelude to another major event in September in which our Chapter played a significant role -- the Eighth Biennial Just the Beginning Foundation Conference in Washington, D.C.

The 2008 conference of the Just the Beginning Foundation, under the leadership of Judge Lee, brought together a blue ribbon collection of lawyers, judges and other citizens for the purpose of celebrating, developing and nurturing diversity in the legal profession. The conference's first event was on Wednesday, September 24 with a golf and tennis outing at the Army Navy Country Club, hosted by our Chapter and organized by former Chapter President Michael Nachmanoff and current President-Elect Attison Barnes. The following day, the conference kicked into high gear with the "Robes in the Schools" program, under the leadership of Chapter board member Damon Wright. The "Robes" program was truly amazing, featuring over 70 federal and state court judges visiting local high schools and law schools in the Washington metropolitan area to talk about pathways for today's youth to a career in the law. All told, some 2,000 young people were touched by this magnificent program. Take a moment to read Damon's article on the "Robes in the Schools" program in this issue of the *Rocket Docket News*. The JTBF conference concluded with a full day of public programs for lawyers, judges and young people at the JW Marriott Hotel in Washington, D.C. on Saturday, September 27, followed by a gala celebration that evening.



EDITOR

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Members of the Northern Virginia Chapter are encouraged to submit articles or news information of interest to other members of the Northern Virginia Chapter for possible publication in the Rocket Docket News. Please submit any proposed articles or news information to the Editors at the telephone numbers and e-mail addresses listed above. The Editors reserve the right to decide on publication, and any articles accepted for publication are subject to editing.

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The President's Report (cont'd)

In October, U.S. Magistrate Judge Barry Poretz retired, and former First Assistant Federal Public Defender Ivan Davis was sworn in to take his place. Magistrate Judge Davis's investiture took place at the Eastern District Courthouse in Alexandria on October 24, followed by a reception in the jury assembly room hosted by our Chapter. Judge Davis's investiture also marked the first public appearance of the Alexandria Division's newest U.S. District Court Judge, Anthony J. Trenga.

Judge Trenga comes to the bench from an active civil litigation practice at D.C.'s Miller & Chevalier and, prior to that, Alexandria's Hazel & Thomas. Judge Trenga's investiture took place on January 9, 2009 and played to a packed house, necessitating the broadcast of the proceedings to an overflow of spectators in an adjacent courtroom. The Chapter sponsored a reception in the jury assembly room after Judge Trenga's the investiture as well.

Our first CLE program of the new year -- "Criminal Law for the Civil Practitioner," took place on January 7, 2009 in the jury assembly room of the Eastern District Courthouse, and featured Magistrate Judge Ivan Davis and Assistant U.S. Attorney Rosie Haney together with distinguished practitioners Aaron Book and Fred Sinclair. The very well received panel discussion, moderated by Federal Public Defender Michael Nachmanoff, was geared to assisting civil practitioners in the basics of Eastern District Criminal practice.

On February 25, 2009, our Chapter sponsored a two hour litigation ethics program featuring nationally renowned ethics guru Tom Spahn. True to his reputation, Tom's presentation was both informative and entertaining, and resulted in one of the Chapter's most heavily attended programs in recent history.

April and May brought two of our popular annual events -- the "Introduction to the Courthouse" program on April 24 and the "Bench Bar Dialogue" with the Magistrate Judges from the Alexandria Division on May 13.

The "Introduction to the Courthouse" program gives new attorneys an opportunity to join the bar of the Court in a special swearing-in ceremony and to learn from the various officials how the Court, the Bankruptcy Court and various court-affiliated offices interact and function. In fact, as many veterans of the Court who attend the event know, the program also provides a great "reintroduction" and an opportunity to talk with Court officials and fellow practitioners. We had another strong showing this year, with approximately 70 attendees. The program included presentations by Chapter Board member, Magistrate Judge Davis, on the role of the U.S. Magistrate Judges and by former Chapter president Michael Nachmanoff speaking on the role of the Federal



The President's Report (cont'd)

Public Defender's Office. It concluded with another inspirational speech from Venable LLP's Bill Dolan regarding the traditions of the Court and the obligation of all members of the Bar to maintain the spirit of collegiality and respect that has long characterized practice in the Court. The Chapter is profoundly appreciative to Caitlin Lhommedieu and her colleagues from McGuire Woods LLP, Sean Murphy and Pam Dreas, for organizing the event. They all deserve our thanks for their tireless efforts over the course of the last several months in pulling the program together.

This year's "Bench Bar Dialogue" was another success, again under the leadership of Chapter board member, Craig Reilly. The materials that Craig prepared and the discussion focused on federal civil motions practice and gave the attendees the unique opportunity to hear from the Court's U.S. Magistrate Judges and experienced practitioners regarding the issues regularly coming before the Court. The Chapter extends its gratitude once again to Craig Reilly for his efforts in organizing the event and the Magistrate Judges for their enthusiastic and helpful participation.

All in all, the remainder of 2009 promises to be an exciting year for our Chapter, and we hope to see many of you at our upcoming events. Please take a moment to read about those events in the following section, and we hope to benefit from your participation.

Mark Your Calendars: Important Upcoming Chapter Events

There are three programs that will occur between now and September 2009 that the Chapter hopes you will attend.

Next Thursday, June 11, 2009, the Chapter is sponsoring a very timely CLE program entitled "*Litigating in Bankruptcy Court: A Judge's Guide for Non-Bankruptcy Attorneys*." The program will take place on June 11 from 3-5 p.m. at the United States Bankruptcy Court for the Eastern District of Virginia (Alex. Div.), Courtroom I, Second Floor. The Chapter is honored to have U.S. Bankruptcy Judge Stephen S. Mitchell leading this CLE, which will provide those who do not regularly practice in the U.S. Bankruptcy Court with a basic familiarity concerning issues and procedures important to creditors and debtors alike. Additional details are available in the attached flyer. Please register as soon as possible.

There's another reason for all Chapter members to attend the June 11 CLE. The Chapter will hold a brief business meeting immediately prior to the start of the CLE program to vote on the following nominees as officers and directors for the next year, with terms to begin on October 1, 2009:

The Federal Bar Association's
Mission Statement:

"The mission of the Association is to advance the science of jurisprudence and to promote the welfare, interests, education, and professional growth and development of the members of the Federal legal profession."

For more information regarding the Federal Bar Association and its activities, please contact the Federal Bar Association at its national offices:

The Federal Bar Association,
1220 North Fillmore Street
Suite 444
Arlington, VA 22201
(571) 481-9100 (phone)
(571) 481-9090 (fax)



Mark Your Calendars (cont'd)

(Attison Barnes, who is presently the President-Elect, will automatically ascend to the office of President)

Chas McAleer - President-Elect

Sean Murphy - Vice President

Scott Caulkins - Secretary

Damon Wright - Treasurer

Anne Devens - National Delegate

The Honorable Ivan Davis - Director at Large

Craig Reilly - Director at Large

Caitlin Lhommedieu - Director at Large

On July 14, 2009, the Chapter is sponsoring a CLE program entitled "E-Discovery: Identifying Issues and Sharing Practical Solutions." The program will take place from 3-5 p.m. in the Jury Assembly room at the U.S. Courthouse in Alexandria. It will include a panel presentation on important issues that arise in conducting electronic discovery. The Chapter is honored to have Patrick Oot, Esq. lead the panel presentation. Mr. Oot is Director of Electronic Discovery and Senior Litigation Counsel at Verizon Communications. A central feature of the program will be an interactive workshop in which practitioners, clients, e-discovery consultants and judges can share and discuss practical solutions to the most vexing e-discovery program. If you have encountered difficult e-discovery issues and are looking for creative, cost-effective approaches for addressing them, this program is well-designed for you. The goal is to separate practice from theory and obtain solutions. Bring your ideas with you. Further details are in the attached flyer. An informal networking happy hour at an establishment near the Courthouse will follow the program for those who are interested.

The Chapter will pick up after the August vacation season with its annual Torrey Armstrong Memorial Lecture, which will be held on September 16, 2009 at the Masonic Temple in Old Town Alexandria. Once again, the lecture will be held in conjunction with the annual Law Clerk Reception at which the judges of the U.S. District Court and the U.S. Bankruptcy Court introduce their law clerks, who have an opportunity to meet members of the bar of the Court in an informal setting.

Robes in the Schools: Judges, Lawyers, and Teachers Empower Students ***By Damon W.D. Wright, Venable LLP***

What does a judge have in common with me? This thought was probably in the minds of many young people sitting in classrooms, auditoriums and courtrooms on September 25, 2008. That day, over 60 federal and state judges fanned out across twenty locations throughout the region and met with over 2,500 young people. The judges' mission: to overcome the image of judges as intimidating authority figures, to connect with young people on a personal and powerful level, and to give young people a more positive vision of what they can achieve. Through the work of Just The Beginning Foundation, this Chapter of the Federal Bar Association, and dozens of volunteers, the mission was accomplished.



Robes in the Schools (cont'd)

JTBF is an organization founded by minority federal judges dedicated to helping young people and promoting diversity in the legal profession. JTBF's Biennial Conference was held September 25–28, 2008 in Washington, D.C. For the first time, this Conference included the “Robes In The Schools” program. On September 25, after months of planning by dozens of volunteers, the “Robes” met with young people at nine law schools, one college, eight high schools, and two courthouses spanning the Northern Virginia, Washington, D.C. and Baltimore region.

The judges told their real stories of overcoming obstacles and achieving success. The message was not “here is what I do for a living” but rather “let me tell you about the obstacles I faced when I was your age and how I managed to succeed.” The judges were candid and thoughtful. The judges shared their stories about academic struggles, having a parent incarcerated, being told they were not “college material,” raising a child as a teenage mother, growing up poor, having parents pass away, witnessing violence in their community, and trying to steer clear of friend's and family member's bad decisions. Coming to view the judges as real people, the students were wide-eyed, asked questions, and were empowered. The students were able to relate to the judges' stories and appreciate that they too could achieve success.

That day, U.S. District Judge Gerald Bruce Lee, who spoke at Anacostia High School, offered: “Judge Johanna Fitzpatrick, Judge Victoria Roberts and I were a tag team of story telling, life coaching, and laughs. The students were engaged and attentive. We shared our real life stories of overcoming obstacles. We were very impressed with the teachers' commitment to the school. We met teachers who are passionate about education and determined that their students secure a competitive education. It was a great day.”

Likewise, U.S. Magistrate Judge John F. Anderson, who spoke at Herndon High School, described: “Thursday was the culmination of MANY hours of work in planning and coordinating the Robes in the Schools program. In my opinion this event was the highlight of the entire conference. There were 60 judges and 20 moderators involved in this enormous undertaking, and from Maryland, DC and Virginia the reports were spectacular.”

Federal Public Defender Michael Nachmanoff, who served as moderator at Mt. Vernon High School, also emphasized: “This is to report that the Robes in the School Program at Mt. Vernon High School this morning was a spectacular success. Judges Kemler, Klein and Wellington did a superb job, and we had more than 150 students participate in the program. They asked insightful and thoughtful questions. It was truly inspiring. It is extraordinary to imagine that the same experience was taking place with 57 other judges in 19 other locations with hundreds of students. It was an honor and a privilege to play a small role in this wonderful event. Well done!”



Robes in the Schools (cont'd)

U.S. Magistrate Judge Ivan D. Davis, who spoke at TC Williams High School, summed up the feelings of the judges. "It was a wonderful experience. In fact, I believe I had a better time than the students."

Judge Lee, co-chair of JTBF's Biennial Conference, had this vision and oversaw its execution. No doubt, however, this was a group effort. Among the other sixty "Robes" judges were U.S. District Judges Leonie M. Brinkema, Liam O'Grady and Raymond Jackson; U.S. Magistrate Judges Barry R. Poretz (Ret.) and Theresa C. Buchanan; Virginia Court of Appeals Judge Johanna Fitzpatrick (Ret.); Circuit Court Judges Lisa Kemler, Nolan Dawkins, Stanley Klein, William Newman, Dennis Smith and Rossie Alston; Juvenile & Domestic Relations Court Judges Esther Wiggins Lyles and Janice Wellington; and Board of Civil Contract Appeals Judge Jeri Somers. Damon Wright served as chairperson of the "Robes" committee. Among the many other volunteers were Rebecca Geller, Jack Coffey, Suyong Min, Edna Vincent, Manny Capsalis, Lasagne Wilhite, Erroll Moore, Rick Holzheimer, Virginia Hoptman and Sandra Rohrstaff.

Because of these and many other volunteers, including educators throughout the region, some 2,500 students went home the afternoon of September 25 with a broader and more positive vision of what their future could hold. The "Robes In The Schools" program was a resounding success and is now a permanent feature of JTBF's community outreach efforts. A few years from now, we are certain to see a number of new lawyers, and one day maybe even a few judges, who were in a "Robes" audience on September 25. For everyone involved, thanks for your dedication and a job well done.

Draft Local Rules for EDVA Patent Litigation Under Consideration

The Chapter recently circulated to the membership at the request of Chapter member Chip Molster, a draft of a proposed Local Patent Rule for the Eastern District of Virginia, which, if adopted by the Court, would be purely discretionary for the Judges. The draft was been prepared by several practitioners from around the Eastern District, who represent both plaintiffs and defendants in patent infringement cases. One of the goals of the proposed local rule is an early claim construction hearing, which the drafters believe would benefit plaintiffs, defendants and the Court. A copy of the draft Local Patent Rule is attached.



Member Spotlight: Daniel D. Mauler, Esq.



Dan Mauler, who is assisting with our Chapter's July 14, 2009 CLE program entitled "E-Discovery: Identifying Issues and Sharing Practical Solutions," is an Associate in the commercial litigation practice group of Redmon, Peyton & Braswell, LLP, located in Alexandria, Virginia. Dan specializes in litigation issues related to information technology.

Dan represents businesses and individuals in a wide variety of commercial litigation matters. With experience in white collar defense matters and corporate internal investigations, Dan regularly handles cases in both Federal and Virginia state courts involving contractual disputes, business torts, and electronic discovery matters.

Dan also specializes in business organization and formation with a focus upon small- and medium-size business in the information technology field.

Dan earned his undergraduate degree in Management of Information Systems from the University of Nebraska – Lincoln in 2003 and his J.D. from the Georgetown University Law Center in 2006. While at Georgetown Law, he served as an Articles Editor on the Georgetown Law Journal and a section editor on the Annual Review of Criminal Procedure (2005). After law school, Dan joined Hunton & Williams in Washington, DC as an Associate before moving to Redmon, Peyton & Braswell.

Dan is active in a number of bar associations such as the Alexandria Bar Association, the Virginia State Bar Young Lawyers Conference, the Virginia Bar Association Young Lawyers Division, and the Georgetown Law Young Alumni Advisory Council. Dan also serves as an officer in the William B. Bryant American Inn of Court, an organization dedicated to developing advanced trial skills. A life-long Cornhusker fan, Dan is also active in the Nebraska Society, a Washington, D.C.-area alumni group.

[DRAFT] LOCAL RULE ____

SCHEDULING AND PROCEDURES IN PATENT INFRINGEMENT CASES

(A) Preliminary Disclosures

In cases raising issues of patent infringement, the parties shall make the following disclosures:

(1) Preliminary Infringement Disclosures

No later than 21 days after a defendant has filed its Answer, the plaintiff shall serve on that defendant (but not file) the following:

- (a) A claim chart identifying specifically:
 - (i) where each limitation of each asserted claim is found within each of the accused product(s) or device(s), including for each limitation that plaintiff contends is governed by 35 U.S.C. § 112(6) (means-plus-function); and
 - (ii) the identity of the structure(s), act(s), element(s), step(s), or material(s) in the accused product(s) or device(s) that corresponds to the structure identified in the patent specification that performs the claimed function.
- (b) The plaintiff must also disclose whether each limitation of each asserted claim is claimed to be literally present or present under the doctrine of equivalents in the accused product(s) or device(s).
- (c) In addition to the above disclosures, plaintiff must produce, or make available for inspection and copying, the following (together with any English translations of such documents completed prior to the date of such disclosures):
 - (i) a copy of the file history for each patent;
 - (ii) all licenses for each patent (current or expired) which do not have any confidentiality provision or which plaintiff has been able to obtain permission to produce without an order of the Court (this does not limit defendant's right to seek all licenses through discovery);
 - (iii) all rulings in any other cases in which the patents have been asserted regarding claim construction, validity, infringement, license defense, enforceability, and any other defenses.

(2) Preliminary Invalidity and Non-Infringement Disclosures

No later than 30 days after service of the plaintiff's Preliminary Infringement Disclosure, the defendant to which plaintiff's disclosures are directed shall serve (but not file) its Preliminary Invalidity and Non-Infringement Disclosures, including the following:

- (a) To the extent these items are in the defendant's possession, custody, or control, one sample of each accused product(s) or device(s). If a sample is not available or would be unduly burdensome to produce, defendant will make available for plaintiff's inspection the accused product(s) or device(s) (this does not limit plaintiff's right to seek other samples and drawings through discovery).
- (b) Documents reflecting the quantity of each of the accused infringing product(s) or device(s) that it made, sold, and/or imported in the United States during the six years prior to the filing of the complaint.
- (c) Each item or combination of prior art that defendant contends anticipates each specified claim.
- (d) Each item or combination of prior art that defendant contends renders each specified claim obvious and documents evidencing the motivation to combine such items.
- (e) A chart identifying specifically in each alleged item of prior art where each limitation of each asserted claim is found, including for each limitation that defendant contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), element(s), step(s), or material(s) in each item of prior art that corresponds to the structure identified in the patent that performs the claimed function.
- (f) Any grounds of invalidity for any of the asserted claims based on indefiniteness under 35 U.S.C. § 112(2), or enablement or written description under 35 U.S.C. § 112(1).
- (g) A copy of each item of prior art identified by the defendant that does not appear in the file history of the patent(s) at issue (together with any English translations of such documents completed prior to the date of such disclosures).

(3) Disclosures in Declaratory Judgment Actions

In declaratory judgment actions initially filed by potential infringers (i.e., as opposed to being stated by way of answer, counterclaim, or other response to a first-filed complaint for patent infringement), the disclosure requirements of subsections (A) (1) and (2) above apply as if the action had been initiated by the patent holder, except that: (a) the Preliminary Infringement Disclosure of the declaratory judgment defendant/patent holder shall be due 30 days after service of the plaintiff/potential infringer's Preliminary Invalidity and Non-Infringement Disclosures; and (b) if the declaratory judgment defendant/patent holder does not state a claim for

infringement, then only the declaratory judgment plaintiff/potential infringer's disclosure requirements shall apply.

(4) Supplementation of Preliminary Disclosures

The parties shall supplement their disclosures under subsections (A)(1) and (2) above in a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing. In the event that a party amends or supplements its preliminary disclosures later than 30 days before the close of fact discovery, the opposing party, without limiting their other remedies, may seek leave of Court for supplemental discovery limited to issues raised by such amended or supplemental disclosures.

(B) Scheduling Order

The initial pretrial scheduling conference in cases raising issues of patent infringement should result in a specially tailored Scheduling Order. A template for such a Scheduling Order as well as a Model Scheduling Time Table are set forth in the Appendix.

(C) Additional Items for Consideration by the Court and the Parties

In addition to the parties' obligations under Fed. R. Civ. P. 26(f), the parties in cases raising issues of patent infringement shall consider and address in their initial conference pursuant to Fed. R. Civ. P. 26(f) any modifications to the Sample Scheduling Order disclosed in the Appendix, including the following issues:

- (1) Whether claim construction is necessary, and, if so, the process for identifying disputed claim terms, exchanging proposed claim constructions, and claim construction briefing.
- (2) The timing of and procedure for the claim construction hearing, including:
 - (a) whether the Court should decide claim construction through live testimony at a hearing, or based solely on the papers and attorney argument; and
 - (b) the timing of any claim construction hearing relative to summary judgment, expert discovery, and the close of fact discovery.
- (3) The need for tutorials on the relevant technology, including:
 - (a) the form and scope of any such tutorials; and
 - (b) the timing for such tutorials.
- (4) The identification of dispositive issues that may lead to an early resolution of the litigation.
- (5) Whether a claim construction order before the close of expert discovery and prior to the filing of dispositive motions would encourage resolution of the litigation.

**APPENDIX
MODEL SCHEDULING TIME TABLE
FOR PATENT INFRINGEMENT CASES**

| <u>EVENT</u> | <u>APPROXIMATE DAYS FROM RULE 16 CONFERENCE</u> |
|--|---|
| 1. Simultaneous Exchange of Claim Terms to be Construed and Proposed Constructions | (14-21) |
| 2. Parties' Opening Claim Construction Briefs | (28-35) |
| 3. Parties' Reply Claim Construction Briefs | (42-49) |
| 4. Joint Claim Construction Statement | (56-63) |
| 5. Exchange of Technology Tutorial Information | (66-69) |
| 6. Claim Construction Hearing (no more than 1 day – up to 3.5 hours each) | (70-80) |
| 7. Fact Discovery Cut Off | (120-130) |
| 8. First Expert Report | (127-137) |
| 9. Rebuttal Expert Report | (148-158) |

| | |
|--------------------------------|-----------|
| 10. Close of Expert Discovery | (165-170) |
| 11. Dispositive Motion Cut-off | (175-180) |
| 12. Final Pretrial Conference | (205-215) |
| 13. Trial | (230-245) |

APPENDIX

SAMPLE SPECIAL SCHEDULING ORDER FOR PATENT INFRINGEMENT CASES

This appendix sets forth a Sample Scheduling Order for claim construction and related procedures in cases raising issues of patent infringement [with suggested timing in brackets]. The parties may propose modifications to the Sample Scheduling Order and the Court may modify the Sample Scheduling Order at its discretion.

(A) Claim Construction (a.k.a. “Markman Hearing”) Proceedings

(1) No later than 5:00 p.m. _____ [14-21 days after the Rule 16 Conference], the parties shall exchange (but not file) a list of claim terms to be construed and proposed constructions. The proposed constructions are not binding on either party and cannot be cited by either party.

(2) Within 5 days of the exchange of claims to be construed and proposed constructions, the parties shall meet and confer to agree on the claim terms to be construed.

(3) No later than 5:00 p.m. _____ [14 days after exchanging the list of claims], the parties shall file opening claim construction briefs. Each brief shall contain a list of terms construed, the party’s proposed construction of each term, and evidence and argument supporting each construction.

(4) No later than 5:00 p.m. _____ [14 days following the filing of opening claim construction briefs], the parties shall file reply claim construction briefs.

(5) No later than 5:00 p.m. _____ [14 days following the filing of reply claim construction briefs], the parties shall finalize the list of disputed terms for the Court to

construe. The parties shall prepare and file a joint claim construction and prehearing statement (hereafter the “joint statement”) that identifies both agreed and disputed terms.

(a) The joint statement shall note the anticipated length of time necessary for the claim construction hearing and whether any party proposes to call witnesses, including a statement that such extrinsic evidence does not conflict with intrinsic evidence. Without leave of Court, the claim construction hearing shall be limited to no more than one day with each party receiving up to three hours and thirty minutes (3.5 hours) to present their case.

(b) The joint statement shall also indicate whether the parties wish to present tutorials on the relevant technology and the form of such tutorials. If the parties wish to present a technology tutorial, then the parties shall make that recommendation at the Rule 16 Conference. If the Court grants permission, then the parties should provide tutorials in the form of briefs, declarations, computer animations, slide presentations, or other media, the parties shall exchange such materials on _____ [approximately 1-4 days before the claim construction hearing]. Alternatively, the parties may present tutorials through presentations by the attorneys or experts at the claim construction hearing.

(c) The joint statement shall include a proposed order addressing how the parties propose to present their arguments at the claim construction hearing, which may be term-by-term or party-by-party, depending on the issues in the case.

(d) The joint statement shall identify no more than ten (10) claim terms to be construed and shall prioritize the disputed terms in order of importance. A party may request by motion that the Court construe more than ten claim terms, but the party must provide a detailed statement of reasons and prioritize the terms based on order of importance.

(e) The joint statement shall include a joint claim construction chart, noting each party’s proposed construction of each term, and supporting evidence. The parties must identify the following in the joint statement:

- (i) the construction of agreed claims and terms;
- (ii) each side’s construction of disputed claims and terms, if any;
- (iii) each side’s rebuttal to the proposed construction submitted by the opposing party, if any; and
- (iv) if disputed claims and terms exist, each proposed witness at the claim-construction hearing together with a brief description of the witness’s testimony.

(B) The Claim Construction Hearing (a.k.a. “Markman Hearing”)

The Markman Hearing will be held on _____ [70-80 days after the Rule 16 Conference].

(C) After the Claim Construction Hearing

In the event that a ruling on claim construction has not issued 30 days prior to the close of expert discovery, and upon motion or stipulation of the parties, the Court may grant additional time for supplemental expert discovery not to exceed thirty (30) days after the ruling on claim construction. Such additional expert discovery, including expert reports and depositions, shall be limited to issues of infringement, invalidity, damages, or unenforceability specifically dependent on the claim construction.

(D) Expert Discovery

Expert discovery, including expert reports and depositions, shall be scheduled to close by 5:00 p.m. on _____ [165-170 days after the Rule 16 Conference].

**The Federal Bar Association
Northern Virginia Chapter**



Presents:

*Litigating in Bankruptcy Court:
A Judge's Guide for Non-Bankruptcy Attorneys*

**By:
Stephen S. Mitchell
United States Bankruptcy Judge
of the
UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

Thursday, June 11, 2009, from 3:00 p.m. to 5:00 p.m.

**United States Bankruptcy Court House
200 South Washington Street
Alexandria, Virginia
Courtroom I, Second Floor**

APPROVED FOR TWO HOURS OF VA CLE CREDIT

\$70 FOR MEMBERS

\$90 FOR NON-MEMBERS

-- Registration Form attached --

**Make check payable to "Federal Bar Association, Northern Virginia Chapter,"
and mail with your registration form to:**

Sean F. Murphy
MCGUIREWOODS, LLP
1750 Tysons Boulevard, Suite 1800
McLean, Virginia 22102
Tel: 703.712.5487
Fax: 703.712.5243
sfmurphy@mcguirewoods.com

**Last minute registrants may e-mail or fax your registration form in advance, and
bring your check to the seminar.**

| | |
|---|--------------------------------|
| REGISTRATION FORM “Litigating in Bankruptcy Court: A Judge’s Guide for Non-Bankruptcy Attorneys” Thursday, June 11, 2009 United States Bankruptcy Court House for the Eastern District of Virginia Courtroom I, Second Floor | |
| Name: _____ | |
| Business Address: _____ _____ _____ | |
| Phone (_____) _____ | Fax: (_____) _____ |
| E-mail _____ | |
| Member (\$70) _____ | Non-member (\$90) _____ |

**The Federal Bar Association
Northern Virginia Chapter**



Presents:

***E-Discovery:
Identifying Issues And Sharing Practical Solutions***

A CLE Presentation and Interactive Workshop Featuring:

Hon. John F. Anderson
U.S. Magistrate Judge

Patrick Oot
Director of Electronic Discovery and
Senior Litigation Counsel, Verizon Communications

Anne M. Devens
Reed Smith LLP

CHARLES F. B. McALEER, JR.
MILLER & CHEVALIER CHARTERED

Tuesday, July 14, 2009, from 3:00 p.m. to 5:00 p.m.

**Albert V. Bryan Courthouse
401 Courthouse Square
Alexandria, Virginia
Jury Assembly Room, Third Floor**

TWO HOURS OF CLE CREDIT PENDING

\$70 FOR MEMBERS

\$90 FOR NON-MEMBERS

-- Registration Form attached --

**Make check payable to "Federal Bar Association, Northern Virginia Chapter,"
and mail with your registration form to:**

Charles F. B. McAleer, Jr.
Miller & Chevalier Chartered
Tel: 202.626-5963
Fax: 202.626.5801
cmcaleer@milchev.com

**Last minute registrants may e-mail or fax your registration form in advance, and
bring your check to the seminar.**

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|---|--------------------------------|
| REGISTRATION FORM "E-Discovery: Identifying Issues And Sharing Practical Solutions" Tuesday, July 14, 2009 Albert V. Bryan Courthouse, 401 Courthouse Square Alexandria, Virginia (Jury Assembly Room) | |
| Name: | _____ |
| Business Address: | _____ _____ _____ |
| Phone (_____) _____ | Fax: (_____) _____ |
| E-mail | _____ |
| Member (\$70) _____ | Non-member (\$90) _____ |