



# United States District Court Eastern District of Washington

Annual report to the Ninth Circuit

2017

San Francisco, CA

## I. New faces at the Judicial Conference

### A. Alison Guernsey



Alison K. Guernsey is a supervising attorney in the Yakima office of the Federal Defenders of Eastern Washington and Idaho. She has been an attorney in that office since 2010. In that capacity, Ms. Guernsey represents indigent defendants accused of federal crimes in the U.S. District Court for the Eastern District of Washington. Prior to her employment at the Federal Defenders, Ms. Guernsey was a term law clerk for the Honorable Michael J. Melloy, U.S. Court of Appeals for the Eighth Circuit, and the Honorable Karen Nelson Moore, U.S. Court of Appeals for the Sixth Circuit. She is a graduate of the University of Iowa College of Law and the University of Michigan. Although Ms. Guernsey began her three-year term in October 2016, she will be leaving the lawyer-representative position in October 2017 to assume a teaching position at the University of Iowa College of Law, where she will start a new federal-criminal-defense clinic.

## II. New Roles in the Eastern District

There have been no significant changes in the judges or staff for the Eastern District of Washington for the past year.

## III. News, Training, Seminars, and Conferences

### A. The Eastern District's Annual Conference & CLE

On September 30, 2016, the Eastern District of Washington held a conference which was well attended by members from the district and included the following speakers and topics:

1. State of the District Report
  - Hon. Thomas O. Rice, Chief U.S. District Judge, E.D. of Washington
2. Bankruptcy Court Jurisdiction: Core and “Related to” Proceedings
  - Hon. Frederick P. Corbit, Chief U.S. Bankruptcy Judge, E.D. of Washington
3. 9th Circuit Representative Report
  - Jay McEntire, Federal Defenders of Eastern Washington
4. The Science of Implicit Bias and Its Impact on the Legal Profession
  - Hon. Mark W. Bennett, U.S. District Judge, N. D. of Iowa
  - Hon. Mary Yu, Justice, Washington Supreme Court
  - Hon. Stanley A. Bastian, U.S. District Judge, E.D. of Washington
  - Alison K. Guernsey, Federal Defenders of Eastern Washington
  - Thomas J. Hanlon, U.S. Attorney’s office
  - Jessica Harmon, Jury Administrator for U.S. District Court, E.D.
5. Retrocession on the Yakama Indian Reservation: What it Means for Criminal and Civil Practitioners in Indian Country
  - Joseph Harrington, U.S. Attorney’s office, E.D. of Washington
  - Joseph A. Brusic, Yakima Co. Prosecuting Attorney
  - Patrice Kent, Director and Lead Attorney, Yakama Nation Office of Legal Counsel
  - Thomas A. Zeilman, Law Offices of Thomas Zeilman
6. Succession Planning
  - Stephen Crossland, Crossland Law Offices
7. Appellate Practices
  - Hon. Richard C. Tallman, Judge, U.S. Court of Appeals, 9th Circuit
  - Matthew A. Campbell, Federal Defenders of Eastern Washington
  - Lori J. Isley, Columbia Legal Services

B. 11th Annual Federal Civil Practice seminar

The Eleventh Annual Federal Civil Trial Practice Seminar was held on May 12, 2017. The Federal Civil Practice Seminar is sponsored annually by the Benton-Franklin County Bar Association, and has become a key source for practice tools for federal court practitioners. The Richland courthouse is located in the geographic center of the Eastern District and regularly draws practitioners from the entire district. The seminar regularly features rule updates, technology demonstrations, and presentations on procedural and substantive issues by experienced federal court practitioners and judges.

The 2017 Seminar included an employment law panel with attorneys Sarah Wixson, Brian Davis and Sandra Kent, moderated by Magistrate Judge Mary Dimke; a Voir Dire presentation by attorneys John Nelson and Kristina McKennon; and a bankruptcy panel with attorneys Gary Dyer and George Jacobs. There was also a Ninth Circuit case law and rules update presentation by Senior U.S. District Judge Edward Shea and his staff attorneys John Schroeder and Gillian Schroff Raleigh, as well as Miguel Gradilla and Jeremy Lieb, staff attorneys for U.S. District Judge Salvador Mendoza. Attorneys Shea Meehan and Brendan Monahan spoke during the lunch about the Ninth Circuit and Federal Bar.

The Seminar featured a keynote address entitled “Legal Ethics in a 21st Century Litigation Practice” which was presented by Brooks Holland, the Curran Chair in Legal Ethics and Professionalism and Director of the Gonzaga Law in Florence Program for the Gonzaga University School of Law. And, there was an “Ask the Judges” session with U.S. District Judge Rosanna Malouf Peterson, U.S. District Judge Stanley Bastian, and U.S. Magistrate Judge John Rodgers, moderated by Erika Hartliep.

C. The Annual Justin L. Quackenbush Lecture

The annual Justin L. Quackenbush Lecture, which is named in honor of senior U.S. District Judge Justin L. Quackenbush, was held at Gonzaga University School of Law. This year’s guest lecturer was Boston College Law School Dean Vincent D. Rougeau, who spoke about *Diversity’s Challenge to Democracy*.

#### IV. Government and Public Defense updates

##### A. U.S. Attorney's Office Update

The United States Attorney's Office continues to prosecute federal crimes in the Eastern District of Washington and represent the interests of the United States in affirmative and defensive civil litigation.

In 2016 and so far in 2017, the Criminal Division has prosecuted a wide array of criminal cases, including drug, gun, gang, and terrorism related cases, as well as crimes against children, serious fraud, violent crime, and Indian Country cases. During this time the Criminal Division successfully tried a number of cases through to guilty verdicts before juries in Spokane, Yakima, and Richland, including murder-for-hire cases, a child sex trafficking case, a child enticement case, a theft of government funds in Indian Country case, a witness tampering case, and multiple gun and drug cases, among others. Many other significant criminal cases have also resolved by plea agreement. In addition, the Criminal Division has continued its longstanding efforts to implement the Department of Justice's directives to focus prosecution resources on terrorism, violent and repeat offenders as well as those offenders who prey on children and other vulnerable victims.

The Civil Division continued to represent the interests of the United States in both defensive and affirmative civil enforcement matters. During the past year, the Civil Division defended complex medical malpractice actions with catastrophic injuries, complicated and varied employment discrimination cases, as well as general tort claims against multiple federal agencies in the EDWA. The Civil Division also has a substantial caseload involving various types of claims reviewable under the Administrative Procedures Act (APA). With respect to affirmative litigation, the Civil Division participated in the prosecution of multiple cases filed under the False Claims Act (FCA), including the investigation and review of qui tams filed against federal contractors, drug diversion investigations, and affirmative tort litigation, primarily involving negligently started fires occurring on or spreading to federal land. The Civil Division also continues its active collection of restitution owed to victims of crimes and the recovery of other debts owed to the United States. During the past year, the Civil Division recovered approximately \$150 million dollars in affirmative civil fraud

enforcement actions and collected approximately \$5.1 million dollars in other criminal and civil enforcement activities, with the latter amount representing restitution, penalties and fines owed to crime victims and the U.S. taxpayers.

Finally, in 2016 and 2017, three new Assistant United States Attorneys joined the Office following retirements, as well as several new support staff. Former United States Attorney Michael Ormsby resigned in the Spring of 2017. Joseph Harrington is currently the Acting United States Attorney.

## B. Federal Defenders' Update

The Federal Defenders for the Eastern District of Washington & Idaho continued its zealous representation of indigent defendants facing federal criminal charges during the past year. The office obtained acquittals in cases proceeding to trial; won dispositive suppression motions; secured the release of scores of habeas corpus petitioners in light of the United States Supreme Court decision in *Johnson*; and succeeded in several appeals before the Ninth Circuit. The office also represented an individual whose sentence was commuted by President Obama from life to 240 months' imprisonment.

In addition to its in-house work, the Federal Defenders also continued its dedication to training the members of the CJA panel and the local criminal-defense bar. Most notably, in conjunction with the U.S. District Court for the Eastern District of Washington, the office has started a CJA Panel mentoring program. As part of that program, young attorneys and attorneys inexperienced in federal criminal practice will be paired with an attorney at the Federal Defenders (or an experienced CJA Panel member) to work through criminal cases. The ultimate goal is to ready these practitioners for admission to the CJA Panel, thus ensuring the continuation of robust representation throughout the District in the years to come.

Additionally, on May 19, the office hosted its 21st annual Thrills and Skills seminar, which included presentations on the following: (1) Navigating the BOP for Better Sentencing Outcomes (Jack Donson, Prisonology, LLC); (2) Protecting the Record for Appeal (Jeff Finer, Esq. & Matthew Campbell, Federal Defenders of E.D. Wash.); (3) Collateral Consequences of Immigration Cases (Selena Solis, Federal Defenders of W.D. of Texas); (4) Upping Your Game at Sentencing (Callie Steele and Mario Longsworth, Federal Defenders of C.D. California); (5) Supreme

Court Highlights (Ben Flick, Daniel Rubin, Jeff Dahlberg, Federal Defenders of E.D. Wash.); and (6) Social Media and Ethics (Dumaka Shabazz, Federal Defenders M.D. Tenn.). The office also continues to host its hour-long monthly "Third Thursday" CLE presentations for CJA Panel members.

Finally, during the past year the Federal Defenders office saw significant personnel changes. Long-time trial attorney Bob Fischer retired, and the office welcomed four new attorneys: Jill Gannon-Nagle, Ben Flick, Daniel Rubin, and Jeff Dahlberg. Mr. Flick and Mr. Rubin were hired for limited terms as Fellowship Attorneys in the Spokane office; Ms. Gannon-Nagle was hired in the Spokane office, and Mr. Dahlberg was hired in the Yakima office.

### Federal Court Community

|   |                                      |
|---|--------------------------------------|
| <b>Active Judges</b>  |                                      |
| Chief Judge Thomas O. Rice  | Judge Rosanna M. Peterson            |
| Judge Stanley A. Bastian  | Judge Salvador Mendoza, Jr.          |
| <b>Senior Judges</b>  |                                      |
| Judge Justin L. Quackenbush   | Judge Robert H. Whaley               |
| Judge Wm. Fremming Nielsen  | Judge Edward F. Shea                 |
| Judge Fred L. Van Sickle  | Judge Lonny R. Suko                  |
| <b>U.S. Magistrate Judges</b>   |                                      |
| Judge John T. Rodgers (Spokane)   | Judge Mary K. Dimke (Yakima)         |
| <b>U.S. Bankruptcy Judges</b>   |                                      |
| Chief Judge Frederick P. Corbit   | Judge Frank L. Kurtz                 |
| Judge John Rossmeissl   |                                      |
| <b>Court Clerks</b>   |                                      |
| Sean F. McAvoy,<br>District Court Executive   | Bev Benka,<br>Bankruptcy Court Clerk |
| <b>United States Probation</b>  |                                      |
| Matt Thompson, Chief Probation Officer  |                                      |
| <b>U.S. Attorney's Office</b>   |                                      |
| Joseph Harrington, acting U.S. Attorney for the Eastern District of Washington                |                                      |
| <b>Federal Defenders</b>  |                                      |
| Andrea George,<br>Executive Director of the Federal Defenders of Eastern Washington and Idaho |                                      |





| Federal Bar Association Officers and Trustees |  |              |                               |
|---|--|--------------|-------------------------------|
| Name/Office                                   | Address  | Phone/Fax    | E-mail                        |
| <b>President</b><br>Matthew A. Campbell       | Federal Defenders of<br>E. Washington &<br>Idaho<br>10 N. Post St.<br>Suite 700<br>Spokane, WA 99201 | 509.624.7606 | matt_campbell@fd.org          |
| <b>Past President</b><br>Brendan V. Monahan   | Stokes Lawrence<br>120 N. Naches Ave<br>Yakima, WA<br>98901  | 509.853.3000 | brendan.monahan@stokeslaw.com |
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| Lawyer Representatives   |                    |                   |
|--|--------------------|-------------------|
| Name   | Date Service Began | Date Service Ends |
| <b>Geana Van Dessel (Chair)</b><br>Lee & Hayes, PLLC<br>601 West Riverside Ave., Suite 1400<br>Spokane, WA 99201<br>509.324.9256<br>GeanaV@leehayes.com                    | 2014               | 2017              |
| <b>Shea Meehan (Co-Chair)</b><br>Walker Heye Meehan & Eisinger, PLLC<br>1333 Columbia Park Trail, Suite 220<br>Richland, WA 99352<br>509.735.4444<br>smeehan@walkerhey.com | 2016               | 2018              |
| <b>James A. Goeke</b><br>U.S. Attorney's Office<br>P.O. Box 1494<br>Spokane, WA 99210<br>509.353.2767<br>James.goeke@usdoj.gov   | 2015               | 2018              |
| <b>Blanca Rodriguez</b><br>Northwest Justice Project<br>311 N. 4th Street, Suite 201<br>Yakima, WA 98901<br>509.574.4234<br>blancar@nwjustice.org                          | 2015               | 2018              |
| <b>Alison Guernsey</b><br>Federal Defenders of E. Washington & Idaho<br>10 N. Post St.<br>Suite 700<br>Spokane, WA 99201<br>509.624.7606<br>alison_guernsey@fd.org         | 2017               | 2020              |

Respectfully submitted,

Geana Van Dessel

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Lawyer Representatives for the Eastern District of Washington