



11th Circuit Historical News

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THE HISTORICAL SOCIETY OF THE U.S. COURTS IN THE ELEVENTH CIRCUIT



PHOTO COURTESY OF THE MIDDLE DISTRICT OF FLORIDA ARCHIVES

The Birth and Evolution of the Sam M. Gibbons United States Courthouse, Tampa, Florida

JERRY M. GEWIRTZ

Tampa, Florida, has been home to two federal courthouses. The first federal courthouse in Tampa, a building known to many judges and practitioners as the “Classic Courthouse,” was completed in 1905.¹ The Classic Courthouse is included on the list of U.S. National Register of Historic Places² and is described in architectural terms as follows:

Although designed in eclectic Renaissance Revival style, the relative simplicity and rectangularity of massing and details indicates strong Greek Revival influence ... The ground floor is expressed as a stylobate of lightly rusticated gray granite containing small square windows. The first floor is the main floor and is reached by the mon-

umental stair terminating in a shallow portico containing four Corinthian columns ... The height of the first floor is strongly expressed in a continuous horizontal band of horizontally rusticated marble one story high, topped by a strong rectangular string course. The third and fourth floor heights are combined in exterior expression, with rectangular windows appearing as vertical elements separated by two-story high buff brick panels terminating at the entablature. The entablature supports a pronounced projecting cornice bearing dentils and surmounted by a continuous balustrade.³

The Classic Courthouse was originally designed for the U.S. Post Office.⁴ The building also served as a federal courthouse, first for the Southern District of Florida, next for the Middle District of Florida;⁵ and as a custom house.⁶ From 1984 to 1998, the Classic Courthouse was used exclusively to house the Tampa Division of the U.S. District Court for the Middle District of Florida.⁷

See "Gibbons Federal Courthouse," p. 22

IN THIS ISSUE

- 1 The Birth and Evolution of the Sam M. Gibbons United States Courthouse, Tampa, Florida
- 2 Chief Judge William H. Pryor Jr.: A New Honorary Chair for the Eleventh Circuit Historical Society
- 3 Meet the Trustees: Robert C. Martin Jr.
- 5 Meet the Trustees: M. Jerome Elmore
- 7 Judge Robert J. Luck: Learned at an Early Age the Value of Hard Work
- 9 Judge Barbara Lagoa: An Only In America Story
- 12 Senior District Judge William T. Moore Jr. Presented Bar Professionalism Award
- 14 Judge J. P. Boulee's Investiture
- 17 Judge Rodney Smith's Investiture
- 21 The 2020 Eleventh Circuit Issue Highlights Arbitration in the Eleventh Circuit

CHIEF JUDGE WILLIAM H. PRYOR JR.

A New Honorary Chair for the Eleventh Circuit Historical Society

WILLIAM G. "WILL" PARKER JR.

Earlier this year, a rare thing happened: The Historical Society (Society) got a new honorary chair when Judge William H. "Bill" Pryor Jr. became Chief Judge William H. "Bill" Pryor Jr., taking over from fellow Alabamian and immediate past Chief Judge Ed Carnes. Under the Society's bylaws, the chief judge of the Eleventh Circuit serves as honorary chair of the Society unless he or she is "unable or unwilling" to serve, in which case the chief judge appoints another circuit judge to serve as honorary chair.

In this case, Chief Judge Pryor eagerly accepted his new role. "The Historical Society plays a vital role in building a culture of collegiality among the bench and the bar and also in fostering appreciation of the work of our federal courts in Alabama, Florida and Georgia. I am happy to serve as the Society's honorary chair, and look forward to assisting in any way that I can."

A 2004 appointee of President George W. Bush, Chief Judge Pryor assumes his new role with a broad array of experience in the public and private sector, as well as in academia. After graduating from Tulane Law School, he clerked for Judge John Minor Wisdom of the Fifth Circuit. He then practiced at two private law firms in Birmingham, Alabama, before entering public service in Alabama state government, where he would ultimately serve seven years as attorney general of Alabama. As a judge on the Eleventh Circuit, Pryor has taught classes in federal courts and textualism at the Univer-

sity of Alabama School of Law and Cumberland School of law. He also served five years on the U.S. Sentencing Commission.

Historical Society President Halsey Knapp welcomed new Chief Judge Pryor and thanked former Chief Judge Carnes for his service. "As chief judge, the honorary chair is uniquely positioned to help the Historical Society fulfill its mission of documenting the history of, and fostering an appreciation for, the federal courts in this circuit," Knapp said. "During his tenure as chief judge, Judge Carnes gave generously of his time to that end, and we thank him for that. In that same spirit, we are grateful to Chief Judge Pryor for his willingness to serve as honorary chair, and we look forward to working with him in his new role." ●



William G. "Will" Parker Jr. is chief deputy general counsel to Alabama Gov. Kay Ivey. Parker currently serves on the Eleventh Circuit Historical Society's Board of Trustees.

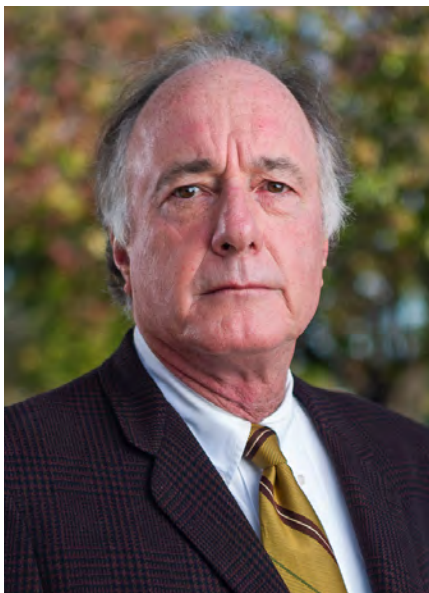


PHOTO COURTESY OF THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

"I am happy to serve as the Society's honorary chair, and look forward to assisting in any way that I can."

CHIEF JUDGE PRYOR

MEET THE TRUSTEES



Editor's note: This is the third installment of our series "Meet the Trustees." It is our pleasure to introduce to you one of our newest Georgia trustees, Robert C. Martin Jr., and our treasurer, M. Jerome Elmore (see p. 5).

Eleventh Circuit Historical Society Trustee

ROBERT C. MARTIN JR.

Q: *The Society's mission includes a focus not just on the Eleventh Circuit Court of Appeals but also on all of the federal courts in Alabama, Florida and Georgia. Please tell us a little bit about your background, with a special focus on your connection to the federal courts in those states.*

A: I graduated from the University of Georgia School of Law in 1980, and began practice at the law firm of Hatcher, Stubbs, Land, Hollis & Rothchild in Columbus, Georgia, my home. I practiced with Hatcher Stubbs for more than 35 years until the bulk of its attorneys joined Hall Booth Smith, P.C., an Atlanta-based law firm, to form with its existing lawyers in Columbus, the Columbus office of Hall Booth Smith, P.C.

When I began the practice of law in 1980, like many attorneys of my generation, I had a varied practice doing a little of everything. The great thing about practice in those early days was the number of cases that we were able to bring to trial. There is no counting the number of road wreck cases, including jury trials for property damage cases in Municipal Court, which we tried in those days. It gave me a world of courtroom experience at a young age.

For the bulk of my practice, I have handled medical malpractice cases, defending mostly physicians, and then doctors, nurses and hospitals in my practice in recent years. Typically, medical malpractices are brought in the state court system, but I have tried several malpractice cases in federal court in Georgia, both in the Middle District as well as the Northern District.

Early in my career when I had a more varied practice, I had different types of cases in federal court. Again almost all were in Georgia, with a smattering of cases in Ope-

lika, Alabama, but unfortunately, no experience with the Florida court system.

I have always enjoyed practicing in federal court because my experience has been that those courtrooms were well run by the presiding judges. It is an environment in which the attorneys can make more of a difference in presenting cases than in some of the courts in the state court system, where litigants often run amok without proper supervision and administration of the laws and rules of the court. And in the federal court system, I have experienced presiding judges who were able to run their courtroom with little interference or fanfare and with few words because of the respect commanded by the attorneys who appear in front of them. Those judges, almost without exception, have also enforced their rulings with good-natured humor where appropriate.

In fact, our current local judge, U.S. District Judge Clay D. Land, once ruled against me on an objection based upon the little-known "Goose and Gander Rule." When my witness attempted to testify about a certain realm of the case, the plaintiff's objection was sustained based upon my having previously objected to the plaintiff's witness' effort to enter into that same domain. (As an aside, as I have mentioned to Judge Land, I think I may be the only lawyer who has tried a case with Judge Land as my law partner and co-counsel, with Judge Land as one of the opposing attorneys and also with Judge Land as the presiding judge in the U.S. District Court of the Middle District of Georgia.)

This publication often covers "milestone" events—the investiture of a new judge, the dedication of a new courthouse and so on. There is also value in preserving the social history of our circuit, that is, the day-to-

SHARE YOUR NEWS

Submit items for publication in the 11th Circuit Historical News to Wanda Lamar, executive director of the Society (wanda_lamar@ca11.uscourts.gov). Historical articles on the federal courts and judges within the Eleventh Circuit will be considered, as well as investitures, courthouse dedications, portrait presentations, memorial ceremonies and oral history programs.

day business of our courts. Do you have any memorable stories from your own background, or perhaps those of a colleague or two, that highlight what life is like as a federal practitioner in our circuit?

I somewhat touched upon my answer to this question above, but I would relate a war story of the very first federal trial in a malpractice case in which I participated. The judge was Judge G. Ernest Tidwell of the Northern District of Georgia who was presiding in the Newnan Division. I had the good fortune of trying the case with my longtime friends, Jerry Willis out of LaGrange and David Tisinger out of Carrollton.

Early on in the trial, Judge Tidwell became irritated with all of the attorneys, and rightfully so, because the plaintiffs presented a lengthy video deposition of one of their experts during which we three defense counsel were equally culpable by engaging in a far too lengthy cross-examination of the witness. At the conclusion of that deposition, Judge Tidwell announced in open court that the evidentiary rule offering him the opportunity to prevent the admission of “cumulative” evidence would be strictly enforced and that attorneys need not object; he planned to be on the lookout for what he deemed cumulative and rule it out without objection. Needless to say, the trial was streamlined from that point forward.

At the time of the discussion about closing arguments, Judge Tidwell announced that each side would have one hour. Given that there were three defendants, we inquired as to how much time each defendant would have, and Judge Tidwell reit-

erated that each side would have an hour and, therefore, we had an hour to divvy up. After consultation, the defense attorneys announced that Mr. Willis would take 10 minutes, Mr. Tisinger would take 20 minutes, and I would conclude with 30 minutes of argument.

As a point of further clarification, I asked Judge Tidwell since we now had divided

Society as a whole, fostered by the advances in technology, has caused a diminishment, if not a sundering, of many personal relationships.

that hour as announced, and that since I was last, would I be allowed my full 30 minutes if Mr. Tisinger and/or Mr. Willis went over their allotted time. Judge Tidwell reiterated we had an hour between us however we handled it, and at the conclusion of that hour, no matter where I was in my argument, we would be through. I hesitatingly asked Judge Tidwell if he would help enforce those time limits since I was last, and there was very little I could do other than tackle Mr. Willis and/or Mr. Tisinger to get them to stop talking. Whereupon, for the

only time in my career, I was granted from the bench license to tackle my co-counsel if need be during closing argument. I have always remembered that event and story and very much appreciated the experience of being in front of Judge Tidwell.

Very briefly, what do you see as the value of the Society and its mission? Why is it important for lawyers throughout our circuit to support the Society and its work?

In preparing this for Wanda Lamar, I read through some of the other submissions for the “Meet the Trustees” series. One of those was from Susan Smith Erdelyi, and I don’t think I could improve on her comments that in the age in which we currently practice, technology, and most recently, the coronavirus, have almost eliminated face-to-face communication. When I began practicing law, there were no computers, no emails, not even any faxes. The only communication was face-to-face, over the telephone or by correspondence. While disputes certainly arose, in general, people were more thoughtful, respectful and collegial. Society as a whole, fostered by the advances in technology, has caused a diminishment, if not a sundering, of many personal relationships. What Susan said, and I wholeheartedly agree with and support, is that, “An independent judiciary and an unbiased media is critical to the rule of law and the discovery of truth. The Society provides knowledge and professionalism. This is a mission we should all support.” ●



Eleventh Circuit Historical Society Treasurer

M. JEROME ELMORE

Q: The Society’s mission includes a focus not just on the Eleventh Circuit Court of Appeals but also on all of the federal courts in Alabama, Florida and Georgia. Please tell us a little bit about your background, with a special focus on your connection to the federal courts in those states.

A: I have practiced with Bondurant Mixson & Elmore in Atlanta for more than 43 years. The majority of my time has been spent handling complex business litigation in courts around the country, with perhaps a majority of my cases in federal court, particularly courts of the Eleventh Circuit.

After graduating from the University of Virginia, I served several years in the U.S. Navy and was deployed twice to Vietnam. I returned to Atlanta to attend law school at Emory. In my practice, I have handled cases involving about every imaginable activity, such as the extrusion of polypropylene plastics in Texas, cloth manufacturing in Maine, securities and financing in New York, alligator farming in Florida, a vessel sinking in Israel and voting rights in Georgia. Rarely a dull moment. Sometimes when interviewing a potential recruit, I will hear them say they want to work on difficult complex cases, and I think to myself it might be nice to actually have a simple matter I have seen before.

In my later years, I focused more heavily on class actions, much of which was in the Eleventh Circuit. While still practicing, I have shifted a lot of my time to pro bono work, especially for veterans, and was instrumental in helping establish the State Bar of Georgia’s Military Legal Assistance Program, which has provided legal services to more than 2,000 veterans to date.

This publication often covers “milestone” events—the investiture of a new judge, the dedication of a new courthouse and so on. There is also value in preserving the social history of our circuit, that is, the day-to-day business of our courts. Do you have any memorable stories from your own background, or perhaps those of a colleague or two, that highlight what life is like as a federal practitioner in our circuit?

My firm had the privilege of representing the Northern District in a matter involving a gentleman who decided to take up permanent residence at the courthouse door. After he was removed, he sued the judges of the Northern District and my firm for making him leave, but he did so in the name of God “by his next friend.” When asked has the firm ever been sued, I say just once, by God, but we won! However, this did create a perplexing ethical quandary a little later when we were asked to represent the Pope—The Holy See, The Vicar of Christ. Could we do this while being sued by God? We concluded we could, some citing what the large firms refer to as the big client exception to conflicts.

The best argument I ever had in the Eleventh Circuit was as counsel for the appellee where after I had concluded, the appellant’s lawyer rose to finish his time. Judge Gerald Bard Tjoflat stopped him telling the lawyer, “Next time have better facts and law before you waste this court’s time.” Then stood up and said, “We are going to lunch.” And left. Ever cautious, I turned to my client behind me and whispered, “I don’t know for sure, but I think we may have won this one!”

CONTACT US

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The 11th Circuit Historical News is published periodically by the Eleventh Circuit Historical Society. For information about the Society, please contact:

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My first experience with a federal court was as a newly-minted associate with the firm of Fleming, O'Bryan and Fleming in Fort Lauderdale, after having passed the Florida Bar and being sworn into the Southern District the week before. A partner came into my office shortly before lunch with a file and said there was a bench trial at 2 p.m., but opposing counsel had agreed to a consent judgment, which the partner had prepared and gave to me to have Judge Norman Roettger sign that afternoon. He said he had to attend to some pressing family matter at home.

Since I had a little time, I perused the file, briefly, out of curiosity. When the matter was called, I announced that the parties had agreed to a consent judgment and proceeded to present the draft order to the judge. Seeing that the partner was not there, the opposing counsel decided to take advantage of the situation by announcing he had only agreed as to liability not damages. I asked for a continuance, but Judge Roettger was not happy that the partner was not there and sternly directed me to proceed. In my eyes, his iconic long handlebar mustache only added to his severe unhappy demeanor! Thankfully, having reviewed the file, I was able to cobble together enough evidence in the form of opposing party depositions and other documents to make out a damages case, at which time opposing counsel conceded and sheepishly added he just wanted to see if I could establish my case. Judge Roettger saw through this ruse and laid into opposing counsel for backing out of an agreement. The lawyer would have been wise never to file anything in Judge Roettger's court again.

Very briefly, what do you see as the value of the Society and its mission? Why is it important for lawyers throughout our circuit to support the Society and its work?

The Eleventh Circuit (including the former Fifth) has addressed and resolved some of the most important cases in our nation's history, particularly in the civil rights arena. The Society, through its work, adds depth and color to what might otherwise be a featureless tapestry of decisions. Who were the judges who rendered these important decisions? What were they like as individuals? The personal stories of the judges as related by people who worked with or knew them aids the newer lawyers and historians in understanding how the judges of this circuit were able and willing to take on and decide important but sometimes unpopular cases.

From a personal standpoint and as a history buff, I enjoy hearing how things were done in the past. My own practice has gone from a world with no word processors, photocopiers, Dictaphones, faxes or voicemail to our incredibly complex electronic world. More importantly, it has gone from a world where there were no metal detectors at the courthouse door—and where often you could simply walk into a judge's office after knocking on the door—to a world where it seems court personnel are now sequestered behind gated and guarded walls. The Society allows us the opportunity to examine these changes and to consider how they have impacted our judicial system, our personal relations with each other and justice in general. But more importantly, the Society helps us to get to know and understand each other better. ●

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JUDGE ROBERT J. LUCK

Learned at an Early Age the Value of Hard Work

SUZANNE E. GILBERT

Judge Robert Luck may have had a meteoric rise to his position on the Eleventh Circuit, but he has his feet firmly planted on the ground. His sharp intellect, coupled with his humility and his commitment to excellence, will make him an invaluable member of the court for years to come.

Judge Luck was raised in North Miami Beach, Florida. The son of a truck salesman and an elementary school teacher, Judge Luck learned at an early age the value of hard work. A graduate with highest honors of the University of Florida, Judge Luck worked in Washington, D.C., for a year before returning to the University of Florida to attend law school. In law school, Judge Luck found a home. He was tapped into and active in Florida Blue Key, a prestigious honor society at the University of Florida. He was also a member of the *Florida Law Review* and elected as its Editor in Chief. Judge Luck graduated *magna cum laude* in 2004.

Following his graduation from law school, Judge Luck and his wife Jennifer moved to Montgomery, Alabama, where he clerked for Hon. Ed Carnes of the Eleventh Circuit. Judge Luck was not sure what Judge Carnes saw in him, but was very fortunate to have the opportunity. Judge Carnes likely saw in Judge Luck a little bit of himself: someone who was brilliant, extremely hard-working and fair. Judge Luck was also not sure whether he would fit in in Montgomery. In fact, Judge Luck and his wife loved living in Montgomery, and he thoroughly enjoyed his time working for Judge Carnes—so much so that he returned a year later (after a year working in the appellate



practice group at Greenberg Traurig), this time for a two-year clerkship.

While living in Montgomery, Judge Luck taught business law to students at Alabama State University, a historically Black university. When his two years with Judge Carnes concluded, he returned to Miami, this time as an assistant U.S. attorney (AUSA) for the Southern District of Florida. During his five years with the office, he worked for three different U.S. attorneys. At the age of 33, he was appointed deputy chief of the Major Crimes Section, which oversees the prosecution of reactive federal crimes that occur in Dade and Monroe counties, as well as conducting short-term investigations.

Over the five years he served as an AUSA, Judge Luck tried 19 cases to verdict, half as chief counsel and half as associate counsel. He also had the occasion to argue three times before the Eleventh Circuit Court of Appeals. Judge Luck thoroughly enjoyed his time at the U.S. Attorney's office and has said that, if he had not had the judicial opportunities open up to him when they did, he would still be an assistant U.S. attorney.

However, those judicial opportunities did present themselves. He was approached about applying for an open seat in the 11th Judicial Circuit (the trial court which covers Miami-Dade County). He was intrigued by the idea of becoming a judge. Specifically, he was motivated by the idea of public service. His parents and other mentors had always instilled in him the importance of serving one's community and giving back. In September 2013, he was appointed to the bench by then-Gov. Rick Scott. He had never appeared in a State Court proceeding but began to shadow another judge two weeks before he took the bench. And, eventually, he settled into the hectic pace, crushing caseload and relative informality of the State Court practice.

On the bench, he was originally assigned to the criminal division but ultimately moved to the civil division. He presided over approximately 300 trials that went to verdict or judgment, 80% were civil and 20% criminal, with 75% non-jury and 25% jury. He enjoyed the trial court and would have been content to stay there, but in March 2017, he received another call from the governor. He was appointed by

then-Gov. Scott to the Third District Court of Appeal, Florida's intermediate appellate court that covers Miami-Dade and Monroe Counties. However, his time on the Third District Court of Appeal was short, because in January 2019, he was appointed by Gov. Ron DeSantis to the Florida Supreme Court. Not long after he took his seat on the Florida Supreme Court, the president announced his intention to nominate then-Justice Luck to the U.S. Court of Appeals for the Eleventh Circuit. In fact, his formal investiture to the Florida Supreme Court occurred two weeks after he was nominated to the Eleventh Circuit.

Over the years, Judge Luck has received numerous awards and recognition. One recent award was the Jay and Marilyn Weinberg Civility Award given to him by Project Nuremberg, a joint project of Lynn University and Temple Beth-El of Boca Raton at the 10th Annual Project Nuremberg Lawyers Luncheon in 2019. In 1998, a complete set of the Nuremberg Trial transcripts (a 42-volume record) was discovered and donated to Lynn University. They sat, untouched for years in the school's library. In 2010, the school, in conjunction with Temple Beth-El, began Project Nuremberg: The Legacy of the Nuremberg Trials in the 21st Century, which included lectures, discussions, an attorneys' luncheon and seminar, and other events around the topic. In accepting the award, Judge Luck spoke about the importance of protecting the rule of law, quoting the late Florida Supreme Court Justice Harold Sebring, who took a leave of absence from the court to serve as a judge during the Nuremberg Trials.

Judge Luck's pride and joy is his family—his wife, Jennifer, and their children, Julia and Jacob. Judge Luck would say that being a parent has made him a better person and a better judge because it has taught him to be more patient, and to be a better listener and communicator. Being a parent has also height-



On Nov. 19, 2019, at the Frank M. Johnson, Jr. U.S. Courthouse and Federal Building in Montgomery, Alabama, Judge Robert Luck (center) signs the oath of office after then-Chief Judge Ed Carnes (left) swears him in, with Blanche Baker, Judge Carnes' longtime judicial administrator, as the witness.

ened his desire to serve and play his part in protecting the rule of law. In his spare time, he enjoys reading historical biographies and watching his beloved Florida Gators.

Numerous adjectives have been used to describe Judge Luck: brilliant, sincere, humble, hard-working, prepared, respectful. His golden rule for being a judge is twofold: treat everyone with respect and be prepared. He strives to be the kind of judge he would have wanted to appear before when he was a practicing attorney. Lawyers appearing in the Eleventh Circuit will find Judge Luck to be a wonderful addition to the court. ●



Suzanne E. Gilbert is a partner with the Orlando office of Holland & Knight and currently serves as the Eleventh Circuit Historical Society's vice president for Florida.

JUDGE BARBARA LAGOA

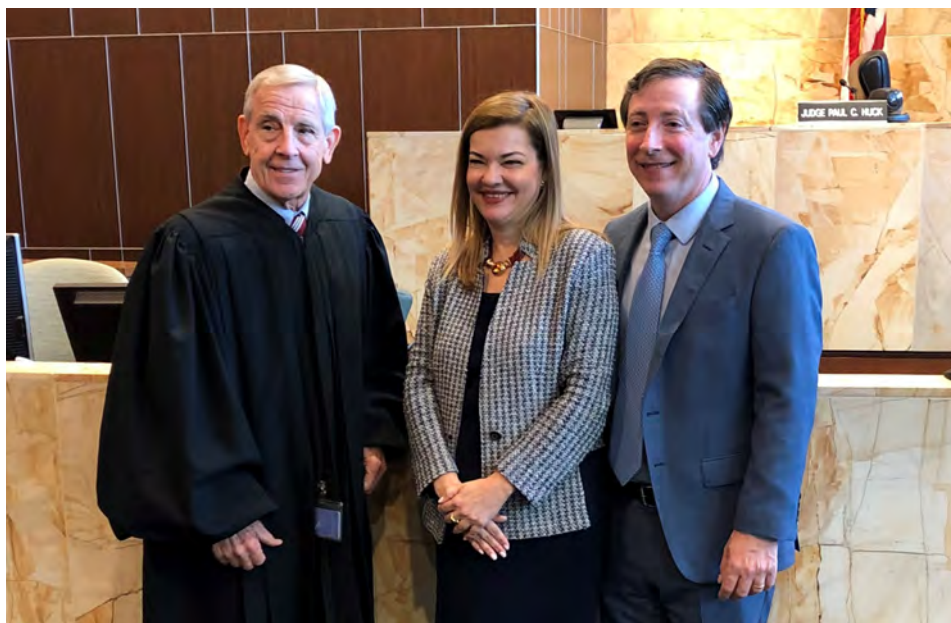
An Only in America Story

SENIOR U.S. DISTRICT JUDGE PAUL C. HUCK

Hon. Barbara Lagoa has been a highly regarded appellate judge for almost 15 years and has achieved many firsts in her career. But to me, she is the equally highly regarded mother of three of my granddaughters. Yes, in full disclosure, Judge Lagoa is my daughter-in-law, which, in part, explains the obvious bias of this article.

Judge Lagoa's professional career has been well chronicled, so I will only briefly recap it here. In 1992, Judge Lagoa graduated from Columbia Law School, where she served as an associate editor of the *Columbia Law Review*. Returning to her hometown of Miami, Judge Lagoa embarked on a career in private practice as a civil trial lawyer with two of Miami's most prestigious law firms. After 11 years in private practice, Judge Lagoa was drawn to public service, joining the U.S. Attorney's office in Miami where she prosecuted criminal cases for three years. During that time, she represented the United States in many appeals and trials and was widely regarded as a well-prepared, tenacious yet always fair prosecutor. That experience was, according to her, one of the most meaningful and important in her legal development.

In 2006, after 14 years as a successful and experienced trial lawyer, Judge Lagoa turned to her goal of becoming a judge. She applied for a vacant seat on Florida's Third District Court of Appeal and was appointed to that position by then-Gov. Jeb Bush. At her first investiture, I had the honor and pleasure of proudly administering her oath of office. Some even say I may have choked up a bit. Judge Lagoa, the first Hispanic



Senior U.S. District Judge Paul Huck (left) proudly administered the oath of office for the third time to his daughter-in-law, Judge Lagoa (center), at an informal gathering of family and friends in his Miami courtroom, joined by Paul Huck Jr. (right).

woman to serve as a judge and, later as chief judge, of that court, heard more than 11,000 appeals and authored about 500 written opinions. During her tenure, she earned universal accolades from both colleagues and appellate lawyers for her preparation on the bench at oral argument (she was known for bringing heavily tabbed copies of the record onto the bench with her) and her thoughtful, well-reasoned opinions.

In January 2019, Gov. Ron DeSantis chose Judge Lagoa as his first appointment to the Florida Supreme Court, making her

the first Hispanic woman to serve as a justice on that court. Once again, I was honored to administer her oath of office, and this time I managed to keep my emotions in check. As an aside, I must add that I learned more about my daughter-in-law from the personal, often humorous, comments by her investiture speakers than in the prior 25 years that I have known her—she does not like to tout herself, not even to her family.

Within nine months, President Donald Trump came calling—nominating Judge Lagoa for the Eleventh Circuit Court of

Appeals. To her great credit, and not surprising given her impeccable credentials, she was confirmed with an 80 to 15 vote on the Senate floor, becoming the first Hispanic woman to serve on the Eleventh Circuit. For a third time, at an informal gathering of family and friends in my courtroom, I proudly administered the oath of office. I suppose I have gotten pretty good at that. And, for the first time, because Judge Lagoa was now an Eleventh Circuit judge and I a mere District judge, I could no longer tell my daughter-in-law, “You’re not the boss of me!” And a word to practitioners—although the Eleventh Circuit is conducting its oral arguments via Zoom these days, it’s my understanding that Judge Lagoa still has that tabbed record with her, even if you can’t see it on the screen.

Yet there is a lot more to Judge Lagoa’s life story, a story which begins in the predominantly Cuban-American community of Hialeah, Florida. For those of you not from Miami, Hialeah is a mainly working- and middle-class city in Miami-Dade County. And like many other Cuban immigrants, her parents, Antonio and Celine, settled there after coming to America from Cuba to escape the oppression of Fidel Castro’s regime. As reflected throughout her legal career, her parents’ experiences have left Judge Lagoa with an unalterable commitment to the rule of law.

But I digress. Judge Lagoa’s road from a rather humble beginning in Hialeah is truly an “only in America” story. Judge Lagoa was an only child, unabashedly “la niña de mis ojos” for her parents and grandmother. From the outset, the Lagoas encouraged a sense of responsibility because of the opportunities their adopted country offered them. Judge Lagoa remembers fondly her childhood. Riding her bike up and down in front of her modest home under the ever-watchful eyes of her abuela, while her parents worked long hours to provide for the family. Judge Lagoa readily shares her and her parents’ story as a reminder of how fortunate her family and so many other Cuban-American families are. As she put

“The beauty of my Cuban-American story is that it is not unique in Miami.”

JUDGE BARBARA LAGOA

it during an interview shortly after her appointment to the Florida Supreme Court, “The beauty of my Cuban-American story is that it is not unique in Miami. My parents, like many others, arrived here in 1966 with nothing but the clothes on their backs and their education. Castro took their personal possessions, their property, but he couldn’t take their education. Because of that, they sacrificed to provide me with a Catholic school education and instilled in me the importance of education and hard work.” (I should note that the remainder of Judge Lagoa’s quotes in this article are from that interview.) Her deep admiration for her parents and their perseverance motivated her to work hard, to succeed and, most importantly, to pass it forward.

Judge Lagoa’s interest in the law came early and naturally. Her father, as a young man in Cuba, abandoned his dream of becoming a lawyer because he refused to swear allegiance to the Castro regime. Clearly, her father’s principled stand against tyranny, at great personal sacrifice, has been a lesson well-learned and a source of Judge Lagoa’s well-known independence. During her high school summers, Judge Lagoa’s interest in the law blossomed when she worked in the circuit court clerk’s office in downtown Miami. As she recalls, “I would bring the paper files to the judges’ chambers for motion calendar and got to know several of the judges. Judge Mario Goderich, who

was on the trial court at the time and later became a judge on the Third District Court of Appeal, used to buy cafecitos and talk to me about the law.” The chats over Cuban espresso shots during the summer experience in the courthouse instilled in Judge Lagoa a passion for the law.

After high school, it was off to college. Well, not too far off. The Lagoas, as with many other traditional Cuban-American parents, wanted their only daughter to stay close to home, so college was destined to be nearby Florida International University. Her path to a legal career was fostered through encouragement and mentorship from her professors. One professor in particular, John Stack, encouraged her to “expand [her] geographic and academic horizons to include the top law schools in the nation.” Following that advice, Judge Lagoa applied to and was accepted by Columbia University School of Law where she excelled, including serving as an associate editor for the *Columbia Law Review*.

Judge Lagoa appreciates the mentorship so graciously extended by Professor Stack and others, and she acknowledged that she “cannot overstate how important mentors have been in shaping [her] professional life.” Those mentors not only educated Judge Lagoa as a young attorney in the practical business side of the law and client services, they also built her confidence in practicing law by giving her the early opportunity to



In January 2019, Gov. Ron DeSantis chose Judge Lagoa as his first appointment to the Florida Supreme Court, making her the first Hispanic woman to serve as a justice on that court.

do, not just watch. She appreciated that, “If I prepared the motion for summary judgment, I argued that motion. If I prepped the witness, I handled that witness at trial. My mentors were generous with their time and their willingness to give me the in-court opportunities a young lawyer needs to cut his or her teeth.”

And it was while she was in private practice that Judge Lagoa exhibited graceful tenacity while under a national spotlight. In 1999, trial lawyer Barbara Lagoa was one of the lead lawyers representing, on a pro bono basis, the Miami relatives of Elian Gonzalez, the five-year-old Cuban boy who was rescued on Thanksgiving by a local fisherman just off the Florida coast. Elian’s mother had drowned at sea in her attempt to reach freedom for Elian and herself. It was during this case that Judge Lagoa earned the sobriquet “The Hammer” for her tenacity in hammering home legal points during argument before the District court.

While her years in private practice and as a federal prosecutor honed her skills as a trial lawyer, Judge Lagoa’s judicial aspirations began much earlier in her career when she handled a case in front of Cecilia Altonaga, who at the time was a county court judge in Hialeah but now serves as one of my colleagues on the U.S. District Court for the Southern District of Florida. Judge Lagoa remembers, “Seeing her—someone who looked like me—made me realize that

I could do something like that as well. I didn’t know how you became a judge, but I then knew that if I wanted to pursue that avenue, it was open to me.” And, as they say, the rest is history.

While it is undisputed Judge Lagoa is a highly accomplished professional, she also does a great job at balancing work and family life while raising three daughters. When asked, “How do you do it all?” she acknowledges that there is no universal roadmap, but credits her mother as her personal role model for work-life balance. Judge Lagoa shared that her mom “made things seem effortless, but now I know she was waking up at 5 a.m. to get things done. Balancing a career and motherhood is a juggling act and a constant challenge that requires you to be flexible. ...” Judge Lagoa shared some simple advice to help the work-family juggling act go a bit more smoothly: “Get a network of mothers for support, say yes to help and keep a sense of humor.” Only half kidding, she added that her favorite app is Instacart, which maximizes her grocery shopping efficiency. And, of course, it doesn’t hurt to have a supportive spouse. Despite their extremely busy and demanding professional schedules, Judge Lagoa and her husband are a modern-day working husband-wife team, dedicated to their profession, yet never losing sight of the fact that their first priority is raising my granddaughters to be independent, thoughtful and courageous young women.

Judge Lagoa is an example of how hard work and support from mentors can help you make a mark on history. Her advice for rising female lawyers on how to make their positive mark, big or small, is: “First, hone your skills and learn your craft as a lawyer. It may seem obvious, but before anything else you have to learn to be an effective lawyer. Second, find mentors—women and men who will encourage your professional development, train you to become a better lawyer and serve as your sounding boards for years to come. Finally, don’t be afraid to take chances or risks because you think you might fail or because the timing isn’t perfect. The timing is never perfect, and life has no guarantees. Find the courage to do something you think you are not ready to do.” The sci-fi fan Judge Lagoa also counsels, “Do or do not. There is no try.” Yes, it’s a Yoda thing.

Following her own advice, Judge Lagoa continues to make her mark. As I hope you can tell from this article, I am very proud of my granddaughters’ mother. ●

Hon. Paul C. Huck is a Senior U.S. District Judge of the U.S. District Court for the Southern District of Florida.

SENIOR DISTRICT JUDGE WILLIAM T. MOORE JR.

Presented Bar Professionalism Award

CHIEF U.S. DISTRICT JUDGE J. RANDAL HALL, U.S. DISTRICT JUDGE R. STAN BAKER,
ASSISTANT U.S. ATTORNEY JOHN P. HARPER III AND ACTING CLERK OF COURT JOHN E. TRIPLET

PHOTO COURTESY OF THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF GEORGIA



Senior U.S. District Judge William T. Moore Jr. was honored with the Savannah Bar Association's Frank S. Cheatham Jr. Award for Professionalism.

The Savannah Bar Association presented Senior District Judge William T. Moore Jr. with the Frank S. Cheatham Jr. Award for Professionalism in June 2019. The annual award, named for the late Chatham County Superior Court judge and civic leader, recognizes a Savannah lawyer or judge who exemplifies the professional character of Cheatham.

Judge Moore's family, friends, colleagues and members of the Savannah bar gathered for the presentation and spoke warmly regarding Moore's service as an attorney and judge. Members of the bar remarked on the importance Judge Moore places on professionalism and civility amongst opposing counsel. U.S. District Judge R. Stan Baker served as a law clerk for Judge Moore and noted that Judge Moore "is a man of amazing integrity, wit and good humor, and my time with him obviously made an indelible mark on my career. It made me a better lawyer, but also made me a better father, a better husband and a better man."

Assistant U.S. Attorney John Harper, also a former law clerk to Judge Moore, presented the award and noted that the many letters supporting Judge Moore's nomination demonstrated that at all stages during his long and distinguished career, Judge Moore took the time to counsel younger attorneys about their role and responsibilities as members of the legal profession. As a young lawyer, Judge Moore volunteered his

efforts to various Bar activities, including serving on the executive board for the State Bar of Georgia's Younger Lawyers Section. As the U.S. attorney for the Southern District of Georgia, Judge Moore stressed the importance of handling cases the proper way and counseled against any cheap shot or unethical shortcuts in the name of justice. Upon returning to private practice, Judge Moore stressed to younger lawyers the professional importance of preparation, civility and courage.

Judge Moore continued to stress these ideals after taking the bench. Lawyers appearing before him know that they will be treated fairly, respectfully and courteously. Judge Moore is quick to correct anyone that engaged in behavior unbecoming of a member of the profession, whether that was in appearance, in conduct or in argument. And he will not fail to let his opinion known that attorneys have a higher responsibility when it comes to representing both their clients and the profession. However, once the point is made, it is never belabored. Grudges are not held for disagreement, nor are future opinions tainted based on past behavior. He has constantly exhibited the highest ideals and aspiration of our profession.

There is little better measure of his influence than to look at those fortunate enough to learn from him in a professional setting and how those lessons impacted their ca-

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reers. Counted among those are numerous practitioners well respected in their respective specialties, whether that is federal criminal defense, municipal bonds or complex litigation to name a few; career federal prosecutors; current federal prosecutors; a federal public defender; a president of the State Bar of Georgia; a Georgia magistrate judge; and even his own replacement on the federal bench. There is no doubt that they believe they owe their success in at least some small part to the respect he instilled in them for their professional obligations.

Judge Moore attended Chatham County public schools and graduated from Savannah High School in 1958. He earned a degree from Georgia Military College, with distinction; a J.D. from the University Georgia School of Law; and a Masters of Law degree from the University of Virginia School of Law. Having attended Georgia Military College on a football scholarship and lettering in both football and baseball, Judge Moore then attended the University of Georgia on a baseball scholarship where he was a two-year letterman.

From 1964 until his appointment to the federal bench in 1994, Judge Moore practiced law in Savannah, with the exception of serving as the U.S. attorney for the Southern District of Georgia from 1977-81. Judge Moore served for six years on the Judicial Conference of the U.S. Committee on Criminal Law, was

Lawyers appearing before him know that they will be treated fairly, respectfully and courteously.

the past president of the Eleventh Circuit District Judges Association and served as a member on the Eleventh Circuit Judicial Council.

Judge Moore was appointed to the federal bench by President William J. "Bill" Clinton and was sworn in as a district judge on Oct. 31, 1994. He served as the chief district judge from March 2004 to May 2010, and in February 2017, Judge Moore took senior judge status with the Southern District of Georgia. Having served nearly 26 years on the bench, Judge Moore continues to carry a heavy caseload for the district.

Judge Moore married Jane Hodges in 1964. They have three children and never fail to dote on their six grandchildren. ●

JUDGE J. P. BOULEE'S INVESTITURE

TATIANA E. POSADA

Friday, Aug. 23, 2019, marked Judge J. P. Boulee's formal transition to his lifetime appointment as an Article III U.S. District judge. Family, friends, judges, lawyers and members of the public assembled in the ceremonial courtroom of the federal courthouse in Atlanta to watch Judge Boulee assume his position on the bench of the U.S. District Court for the Northern District of Georgia.

Chief Judge Thomas W. Thrash opened the investiture with a theme that would permeate the event, "[T]oday's ceremony provides our court and the community an opportunity to recognize a man who has distinguished himself as an outstanding citizen and member of both the bench and the bar." In his initial remarks, Chief Judge Thrash reflected on Judge Boulee's career, which included a federal clerkship, four years of honorable military service as a captain in the U.S. Army Judge Advocate General's Corps, 14 years in private practice at Jones Day law firm and four years as a DeKalb County Superior Court judge.

Former U.S. Magistrate Judge Richard H. Deane gave an inspiring invocation highlighting the investiture as a moment when "all those assembled . . . pledge fidelity to apply the rule of law without fear or favor." In closing, he tasked Judge Boulee to serve in this new role "with great honor and distinction," "with the courage of his convictions," "with reverence for the rule of law" and always, "with humility."

After the invocation, Chief Judge Thrash



PHOTO BY THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA

Former White House Counsel Donald F. McGahn (left) noted that Judge Boulee (right) has demonstrated a commitment to the law throughout his career.

took time to acknowledge Judge Boulee's family, friends, and current and former colleagues in the audience. Judge Boulee's immediate family included his wife, Julie; son, Forest; daughter, Pilar; mother, Stanley; and sister, Renee Boulee Burgess. His extended family included his aunts, uncles, nephew and in-laws.

The courtroom was filled with judges from the U.S. Court of Appeals for the Eleventh Circuit; the U.S. District Court for the Northern District of Georgia; the

U.S. Bankruptcy Court for the Northern District of Georgia; the Supreme Court of Georgia; the Court of Appeals of Georgia; the Superior Court of DeKalb County; the Superior Court of Oconee County; the Superior Court of Cobb County; the Superior Court of Douglas County; the Superior Court of Floyd County; the Superior Court of Fulton County; and the State Court of DeKalb County. The audience also included Sen. Johnny Isakson's Chief of Staff Joan Kirchner Carr; former Georgia Attorney



The Honorable J. P. Boulee addressed the court after Senior District Judge Orinda Evans administered the oath of office. He became only the 45th district judge in the 171-year history of the U.S. District Court for the Northern District of Georgia.



Michael A. Caplan shared stories of Boulee as a soldier, prosecutor, defense lawyer, judge, husband, father, neighbor and friend.

General Sam Olens; BJay Pak, U.S. Attorney for the Northern District of Georgia; Executive Director Stephanie Kearns, Federal Defender Program, Northern District of Georgia; DeKalb County District Attorney Sherry Boston; and University of Georgia School of Law Dean Bo Rutledge.

After these acknowledgments, Chief Judge Thrash introduced the first speaker, Michael A. Caplan, founding partner of Caplan Cobb in Atlanta and former law clerk for U.S. District Judge Rick Story. Caplan knows Judge Boulee as a colleague, mentor and friend. He reminisced on the day the two met and how Judge Boulee “spoke enthusiastically about his work while showing a reverence for the law as an institution and a sense of modesty about his role within it.” He depicted Judge Boulee’s “insatiable sense of duty and service to others” by sharing stories of Judge Boulee as a soldier, prosecutor, defense lawyer, judge, husband, father, neighbor and friend.

Just to name a few, Caplan quoted Col. David Robertson recalling Judge Boulee’s reputation for “kindness,” “a calm demeanor,” “a sharp intellect” and “a strong work ethic.” He emphasized Judge Boulee’s participation in civic events, religious services and legal organizations throughout DeKalb County by quoting DeKalb County CEO Michael Thurmond reflecting on Judge

Boulee’s community interactions. Caplan also proudly talked about how Judge Boulee founded the DeKalb County Veterans Treatment Court to provide “drug and mental health treatment, food, housing, education, medical attention and job training to veterans in the criminal justice system.”

He concluded by sharing that in his experience, “[b]esides honesty and integrity,

“The duty that lies the nearest for me right now, in addition to family, is figuring this new job out . . .”

JUDGE J. P. BOULEE

a good judge has a calm and cautious demeanor, an independence of mind, a sense of modesty in the role, and a strong fidelity to the rule of law,” and, importantly, that Judge Boulee “embodies each of these qualities and he does so with an almost infectious optimism and good spirit.”

Next, former White House Counsel Donald F. McGahn gave remarks. He began

by summarizing the “very taxing . . . intrusive . . . [and] time consuming process” involved with becoming a federal judge, and thanking both Judge Boulee and his family for their willingness to go through the difficult process. He underscored that in the search for federal trial judges, the Executive Branch “looked for . . . people who took seriously the law but also took seriously the obligation of public service and, most importantly, showed a sort of work ethic and judgment and humility that makes them stand out among their colleagues.” And, that in their search, they found what each speaker noted—Judge Boulee “has demonstrated that commitment to the law throughout his career. . . . His prose is clear. His fairness is obvious. His judgment is there.”

Before reading Judge Boulee’s Presidential Commission, Chief Judge Thrash emphasized the significance of Judge Boulee’s achievement by noting, “Since its creation, the Northern District of Georgia has had only 44 district judges [, and] [w]hen Judge Boulee takes his oath today, he will become only the 45th district judge in the 171-year history of our court.”

After reading the Commission, Chief Judge Thrash introduced the next segment of the ceremony—the administration of the oath for federal judges. He articulated the importance of a judge taking his oath publicly, “A judge’s oath is, after all, the judge’s



Judge J. P. Boulee's family proudly joined him in the ceremonial courtroom of the federal courthouse in Atlanta for his investiture.

sacred promise to each American that he will uphold the rule of law and the most cherished ideals of our democracy." Chief Judge Thrash then invited Judge Boulee, along with his wife and children, forward for the oath.

Hon. Orinda Dale Evans, senior judge, U.S. District Court for the Northern District of Georgia, administered the oath. The selection of Evans to give the oath was no insignificant detail. Judge Boulee began his legal career as a law clerk for Evans, and this touching moment symbolized the notable completion of a cycle beginning and ending with the federal court. After the oath, Julie Boulee assisted Judge Boulee with the donning of the robe of his office, and it is with this robe that Judge Boulee approached the podium to give his remarks.

Judge Boulee began by thanking all the speakers for being a part of the ceremony and the clerk of court for planning the event. He then thanked President Donald Trump, Senators Johnny Isakson and David Perdue, their colleagues on both sides of the aisle in the U.S. Senate, and their senior advisors and staff for all of the work involved in nominating and confirming him.

After these notes, he reflected on those who have helped him get to this point and those who have been important in his life, from his mother and father to his now fellow judges and all those in between. The list included: his wife and children; Gov. Na-

than Deal; his fellow Superior Court judges and all those in DeKalb County; his former colleagues at Jones Day; the men and women he served with in the 101st Airborne Division (Air Assault); Judge Evans; his professors at the University of Georgia School of Law, and Washington and Lee; and his teachers at DeKalb County Public Schools.

He then turned to outlining his aspiration to "secure the just, speedy and inexpensive determination of every action." He explained how moving cases quickly and competently is a high priority because ultimately, "[j]ustice delayed is justice denied." He also defined the judiciary's role by quoting U.S. Supreme Court Chief Justice John Marshall and Supreme Court of Georgia Justice David Nahmias, "It's our province and duty to say what the law is, not what it will be."

Lastly, Judge Boulee shared with the audience how much he misses being a part of the Veterans Treatment Court. Describing his Army service and how it intertwined with his creation of the Veterans Treatment Court, he stated:

"I was never even remotely in harm's way. My timing was good. I completed my service in the summer of 2001. And maybe it's because of that timing, I don't know, but I . . . feel a deep debt to those who have served in wartime and put their lives at risk so that the rest of us can live free. . . . So, it was really wonderful to be a part of Veter-

ans Court and perhaps in at least a small way repay some of that debt. . . . The duty that lies the nearest for me right now, in addition to family, is figuring this new job out, hopefully getting it right and eventually starting to track. Once I do and I feel that there's time for something else on my plate, I will hope to find another way to continue to repay that debt."

As the room quieted from applause, Chief Judge Thrash's voice arose, "Judge Boulee, we would be honored to have you join us here on the bench."

And with that, Judge J. P. Boulee walked away from the podium and assumed his position on the bench of the U.S. District Court for the Northern District of Georgia. ●

Tatiana E. Posada is a term law clerk for Hon. J. P. Boulee. She is a graduate of the Georgia Institute of Technology and Georgia State University College of Law.

JUDGE RODNEY SMITH'S INVESTITURE

DANIEL CRISPINO, LATOYA BROWN AND CYNTHIA BULAN

"I come from very humble beginnings and know that the American dream is alive and it's for anyone who dares to dream. It does not matter if you were raised by a single mother on public assistance in a poverty-stricken and drug-infested and violent community that was plagued with three major riots. You could become the first Eagle Scout of your troop, the first high school graduate, the first college graduate, the first law school graduate, the first lawyer, and the first state and federal judge of your family or anything else that your heart desires." These were the inspirational words of Hon. Rodney Smith at his investiture as a federal judge of the U.S. District Court for the Southern District of Florida.

On Nov. 1, 2019, Chief Judge K. Michael Moore welcomed hundreds in attendance in the Ceremonial Courtroom (as well as three overflow courtrooms) at the Wilkie D. Ferguson Jr. U.S. Courthouse to the formal investiture of Judge Smith. Numerous legal luminaries, politicians and distinguished guests were in attendance, including U.S. Congresswoman Frederica Wilson; U.S. Eleventh Circuit Judges Adalberto Jordan and Barbara Lagoa (then-Florida Supreme Court Justice); retired Florida Supreme Court Justice Peggy Quince; former Florida Lt. Gov. Carlos Lopez-Cantera; U.S. Attorney for the Southern District of Florida Ariana Fajardo Orshan; as well as a litany of District, Magistrate and Florida State Court judges and justices.

The investiture commenced with the Pledge of Allegiance led by Judge Smith's two children, Morgan and Bryce Smith, followed by an invocation by Bishop Victor T. Curry and Rev. Robert T. Tyler of the New Birth Baptist Church Cathedral of Faith International. Chief Judge Moore then thanked everyone for their attendance at this "special occasion" for both Judge Smith and the court, as Judge Smith's investiture completed the "trilogy" of investitures alongside newly confirmed District Judges Roy Altman and Rudolfo Ruiz.

Chief Judge Moore gave the floor to Dori

Foster-Morales, president (then-president elect) of The Florida Bar, who presented Judge Smith with an honorary Bible. She spoke briefly about Judge Smith's inspirational background; among other things, he was the first college graduate in his family, and he rose through the ranks at the Miami-Dade County State Attorney's Office and the Miami Beach City Attorney's Office, eventually to the Florida State Court bench. "Judge Smith is just one of those inspirational folks who make you proud to be a Miamian. The term 'home grown' is what it's all about with him," said Foster-Mo-



U.S. District Judge Rodney Smith is welcomed by his colleagues to the bench after receiving the oath of office in the presence of family and friends.



U.S. District Judge Donald L. Graham administers the oath of office to Judge Rodney Smith, who is joined by his wife Dr. Tangelia Smith, daughter Morgan and son Bryce.



Judge Rodney Smith addresses the crowd with humor and gratitude.

rales. “And anyone who knows Judge Smith knows two things about him. He is both very humble and full of gratitude. He exemplifies the quote by Oprah Winfrey that goes, ‘be thankful for what you already have.’ You’ll end up having more. If you concentrate on what you don’t have, you will never ever have enough.”

Benjamin Brodsky, on behalf of the South Florida Chapter of the Federal Bar Association, spoke next. Though Brodsky intended to give Judge Smith a gavel, as is tradition, due to transportation issues he was humorously only able to present a foam gavel more akin to a “children’s toy.” (Judge Smith was not offended.) Brodsky remarked: “I’ve had the good fortune to appear before Judge Smith a number of times while he was on the State Court bench, and I was always incredibly impressed by his patience, his judgment, his willingness to listen and his decisiveness when action was necessary. We are very lucky to have you, Judge Smith, on our bench, and we thank you for your public service.”

With that, District Judge Donald Graham administered the oath to Judge Smith, but not before recognizing the many individuals from the National Bar Association and the National Bar Judicial Council who had traveled from all over the country to be there. Judge Smith then took the oath and joined his colleagues on the bench to a roaring, standing ovation.

Before turning to the scheduled speakers, Chief Judge Moore read aloud a letter from Sen. Marco Rubio, who was not in attendance, stating: “[P]lease allow me to congratulate you on your investiture to the United States District Court for the Southern District of Florida. Throughout your legal career you have served with honor and upheld the principles preserved within our Constitution using wisdom, mercy and respect for our laws. I am confident that you will continue to help shape Florida and the nation for the better. I send my best wishes to you and I look forward to hearing of your good work in the years ahead.” At the request of Sen. Rubio, a flag was flown over the U.S. Capitol in recognition of Judge Smith’s investiture.

The first speaker was Miles McGrane, Judge Smith’s former supervising law partner at McGrane Nosich & Ganz, P.A. McGrane started things off by introducing the audience to Judge Smith’s sense of humor, as McGrane had previously reminded Judge Smith that this was his third investiture that he had attended and spoken at, to which Judge Smith replied: “You’re going to keep doing it until you get it right.”

McGrane then spoke about the time he first met and interviewed Judge Smith in 2003, after his resume stood out to him from the pack. McGrane explained that they had similar backgrounds of coming up on their own. McGrane described “a bright-

eyed, energetic, very enthusiastic individual” in the interview. He hired Judge Smith on the spot.

McGrane then recounted the story of Judge Smith’s very first trial in federal court. McGrane asked Judge Smith to check who the judge was on the case and see if that judge had published any decisions or orders. Only one problem: the judge—District Judge James Cohn—had only recently been confirmed to the federal bench, and it was his first federal trial, too. Still, McGrane recalled, “Rodney Smith was better prepared than anyone else in that courtroom. Rodney Smith brought in proposed jury instructions that were adopted entirely by the judge. He had a proposed verdict form that the judge adopted without changing a word. He was prepared for every possible argument. And it was clear to anyone there that Rodney Smith had done the job.”

McGrane explained that he tells this story because “the Rodney Smith in 2003 is really no different than the Judge Smith we see today. . . . He is always an individual who’s prepared. He’s going to be a great addition to what is already an unmatched panel of judges throughout the United States. If you go to his courtroom, you will always see the most prepared individual. That’s the Rodney Smith that’s here today. That’s the Rodney Smith that has always been.”

Hans Ottinot Sr., chief legal strategist for RK Centers, then took the podium. Ottinot



The pledge of allegiance was led by Judge Rodney Smith's children, Morgan and Bryce.

and Judge Smith grew up only a few blocks apart in Liberty City. "Today is a great day for Liberty City," Ottinot exclaimed. "It is also a great day for America." Ottinot remarked that, as an American who came from Haiti, it was only in America where someone like Judge Smith could rise out of poverty and despair and become a federal judge in his hometown. He gave credit to the late Judge Wilkie D. Ferguson Jr., also a native son of Liberty City, whose name adorns the Miami federal courthouse and who inspired Judge Smith to dream that he too could become a federal judge.

Judge Smith loves Liberty City, Ottinot explained, so much so that he called himself "The Skinny Kid from Liberty City." But Ottinot disagreed with that nickname and said that Judge Smith should instead be known as the "The Smart Kid from Liberty City," eliciting uproarious applause from those in attendance. Ottinot explained that everyone was skinny growing up in Liberty City, himself included, and that "Rodney was skinny because he would lose five pounds for a day because he did not have the luxury of having air-conditioning in his house, like all of us."

But Judge Smith, though too humble to describe himself as smart, was the smart and strong kid who graduated from Miami Northwestern, insisted Ottinot. "Rodney had to be strong and smart at an early age because he experienced, just like all of us

who grew up in Liberty City, three violent riots which could have made him very cynical about the notion of justice. Instead, he found a path to provide justice, to dispel a notion which existed daily in Liberty City that the meaning of the word 'justice' in the criminal context means 'just us.' He could have easily allowed peer pressure to lead him to a life of criminality, which unfortunately exists in some parts of Liberty City and other poverty-stricken areas. Instead, he found the Boy Scouts which gave him an opportunity to experience a different life. Today he is an Eagle Scout for his troop in Liberty City." Ottinot told the audience how Judge Smith was the first one in his family to attend college at Florida A&M University and law school at Michigan State, and how he became a state prosecutor while still living in Liberty City and riding the bus to and from work.

"Today," Ottinot proclaimed, "is the last day we will use the phrase 'Skinny Kid from Liberty City' to describe Judge Smith. He is the smart kid from Liberty City. How often do we see the words 'Smart Kid in Liberty City' being used in the same sentence? . . . Judge Smith is changing the false narrative that young people from Liberty City are not smart because he has demonstrated that you have to be smart if you want to travel the road that he has traveled to be a federal judge." "Today," he exclaimed again in conclusion, "is a great day for Liberty City and a greater day for America."

"Never doubt your faith, don't abandon your dreams and don't compromise your integrity because you too can become one day a judge instead of being judged by a judge."

JUDGE RODNEY SMITH

With that, Judge Smith approached the podium and addressed the court. There are many variations on the investiture speech, but Judge Smith's can be summed up in two words: thank you. Showcasing his humility and gratitude, Judge Smith proceeded to thank the numerous people in his life who helped him along his journey in becoming a federal judge. He thanked the president for his nomination and the U.S. Senate for his confirmation, as well as the Department of Justice, White House Counsel staff and members of the Judicial Nominating Committee. He thanked Congresswoman Wilson for her support over the years, as well as Judge Graham. "Not enough words can describe this man here," Judge Smith said about Judge Graham. "Mentor comes to mind, friend, hard worker and trailblazer are just a few words to describe who you are, sir, who believed in me many years ago and took me under your wings so that I can call you my federal colleague. But just don't talk about the Ohio State and Michigan State game until March Madness comes."

Judge Smith told the story of his Senate confirmation hearing, where Sen. John Kennedy asked his son, Bryce, about a speech that he had written and which "no one pre-approved." As Judge Smith sat there with bated breath, Bryce gave a speech about God and concluded by saying "Vote for my daddy." "And that is when I regained consciousness," Judge Smith explained to much laughter.

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He gave special thanks to his wife, Dr. Tangelia Smith, of “16 years, four months, four days, five-and-a-half hours and counting.” “Tan, you’re not only a great wife but a best friend and soulmate, but also extremely smart. You worked hard while we had children to earn your doctorate degree. . . . As a public servant, you’re an outstanding and highly effective educator who serves as a speech language pathologist for the Miami-Dade Public Schools educating many children, besides being a member of Delta Sigma Theta Sorority, Incorporated. You’re a wonderful mother to our amazing children that God has blessed us with. Morgan and Bryce, I love you both. And you’re very smart, talented, funny and good looking like your parents.”

Smith continued to thank all of the people in his life: his family members; lifelong friends, supervisors and work colleagues; members of the Wilkie D. Ferguson Bar Association, of the 100 Black Men of South Florida and of the 5,000 Role Models of Excellence Project; his fraternity brothers of Kappa Alpha Psi Fraternity; his Boy Scout Troop; his teachers from high school, college and law school; his colleagues on the state and federal bench; and his law clerks and chambers staff. Judge Smith had to warn his audience that although he would

try to acknowledge as many of the individuals and groups as he could, time would not permit him to name every single person. “So unless some brave soul would like to volunteer to read over 600 names, keeping in mind you do so at your own peril, please raise your hand. . . . No hands raised for the record.” This article, too, merely summarizes the many, many people Judge Smith acknowledged, without attempting to list them all.

Judge Smith gave special thanks to his scouting family, putting it simply: “scouting saves lives.” “Sometimes I’m asked, when they introduce us, that I’m a judge, why would a judge want to take away time and go camping with kids and these boys?” His answer: “[S]entencing is one of the most difficult tasks or duties that a judge can do and perform, and I would say I would rather see these boys camping in the woods in a six-by-nine tent than in a six-by-nine cell.”

Judge Smith responded to Hans Ottinot’s new nickname for him: “I know Hans tried to change my name to “Smart Kid,” but I’m going to stick with what I normally say. Those are the words of a skinny kid from Liberty City with a big dream. And since I’ve been married, my wife is an excellent cook. I used to be a skinny kid from Liberty City with a big dream.”

In the end, the overarching theme of Judge Smith’s speech and investiture was one of humility, perseverance and hope. The Skinny, Smart Kid from Liberty City implored his audience to “never doubt your faith, don’t abandon your dreams and don’t compromise your integrity because you too can become one day a judge instead of being judged by a judge.” ●

Daniel Crispino, Latoya Brown and Cynthia Bulan served as law clerks for Judge Rodney Smith during his first year on the U.S. District Court for the Southern District of Florida.

The 2020 Eleventh Circuit Issue of the *University of Miami Law Review* HighlightsARBITRATION IN
THE ELEVENTH CIRCUIT

MELANIE KALMANSON

This summer, the *University of Miami Law Review* published the 2020 Eleventh Circuit Issue (Volume 74, Issue 4).

This issue includes six articles and one student note. In the first article, I analyzed the demographics of Florida's death row, specifically in relation to the U.S. Supreme Court's 2016 decision in *Hurst v. Florida*¹—holding that Florida's way of sentencing defendants to death violated the Sixth Amendment to the U.S. Constitution—and the Florida Supreme Court's decisions following *Hurst v. Florida*.²

In the second article, University of Miami School of Law Professor Christina M. Frohock and practitioner Marcos Daniel Jiménez review the U.S. Circuit Court of Appeals for the Eleventh Circuit's recent opinions regarding federal criminal fraud prosecutions. The article “tracks the development of the court's view” on this topic and advocates for an interpretation of the court's 2016 decision in *United States v. Takhlov*³ “that links harm to the specific intent necessary for a federal criminal fraud charge.”⁴

Next, practitioner John H. Rooney, Jr., and University of Miami School of Law Professor Sandra Friedrich introduce the next three articles, which were “co-authored by a Miami attorney who practices in the area of international arbitration and a recent graduate of the White & Case International Arbitration LL.M. Program at the University of Miami School of Law.”⁵ These

articles all highlight a recent Eleventh Circuit decision regarding *Arbitration in the Eleventh Circuit*.⁶ The series of articles was part of a seminar on international commercial arbitration at the University of Miami School of Law.⁷

Finally, the issue ends with a student note by Ben Longnecker discussing states' implementation of supervised injection sites as an effort to address the opioid epidemic.⁸ Longnecker argues that federal challenges to supervised injection sites should fail.⁹ The note also seeks to show that “these sites . . . practically combat the harms of the opioid crisis.”¹⁰ ●



Melanie Kalmanson joined the Appellate Practice Group at Akerman LLP in Tallahassee, Florida, in January 2019. She is a member of the Eleventh Circuit Historical Society.

ENDNOTES

- 136 S. Ct. 616 (2016).
- Melanie Kalmanson, *The Difference of One Vote or One Day: Reviewing the Demographics of Florida's Death Row After Hurst v. Florida*, 74 U. Miami L. Rev. 990 (2020).
- United States v. Takhlov*, 827 F.3d 1307 (11th Cir. 2016), as modified on reh'g by *United States v. Takhlov*, 838 F.3d 1168 (11th Cir. 2016).

- Christina M. Frohock & Marcos Daniel Jiménez, *Exactly What They Asked For: Linking Harm and Intent in Wire Fraud Prosecutions*, 74 U. Miami L. Rev. 1037, 1037 (2020).
- John H. Rooney, Jr. & Sandra Friedrich, *Preface: International Commercial Arbitration in the United States Court of Appeals for the Eleventh Circuit*, 74 U. Miami L. Rev. 1070, 1070 (2020).
- Id.* See generally Brian A. Briz & César Mejía-Dueñas, *Which Law Is Supreme? The Interplay Between the New York Convention and the McCarran-Ferguson Act*, 74 U. Miami L. Rev. 1124 (2020); Juan C. Garcia & Ivan Bracho Gonzalez, *Interpretation of Article V of the New York Convention in the Eleventh Circuit: Industrial Risk Insurers*, 74 U. Miami L. Rev. 1080 (2020); Harout J. Samra & Ramya Ramachandran, *A Cure for Every Ill? Remedies for “Pathological” Arbitration Clauses*, 74 U. Miami L. Rev. 1110 (2020).
- Rooney & Friedrich, 74 U. Miami L. Rev. at 1071.
- Ben Longnecker, *Federal Ignorance and the Battle for Supervised Injection Sites*, 74 U. Miami L. Rev. 1145 (2020).
- Id.* at 1145.
- Id.*

The Need for a New Federal Courthouse in Tampa

As the Classic Courthouse aged, it required increasing care and attention. Significant renovations were made in various quarters of the building.⁸ However, issues surrounding mold and mildew were not satisfactorily resolved in some areas of the building.⁹

At the same time that the Classic Courthouse was manifesting increasing signs of deterioration, the Tampa Division of the Middle District of Florida—which serves Hardee, Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk and Sarasota Counties—was experiencing substantial growth in its population. Additionally, the Middle District of Florida was experiencing a significant increase in the number of civil and criminal cases filed, and civil and criminal trials conducted.¹⁰

With the backdrop of an aging and debilitating courthouse, and with the need for more spacious quarters to house the increasing needs of the Tampa Division, court officials began exploring the possibility of building a new federal courthouse. Ultimately, those efforts came to fruition when funding for the construction of a new federal courthouse in Tampa was initially approved in 1992.¹¹ And, in 1993, an additional sum was appropriated for the construction of the new federal building.¹²

The Groundbreaking Ceremony for the Gibbons Federal Courthouse

On Feb. 17, 1995, a groundbreaking ceremony for the new federal courthouse was held at the corner of Polk Street and Florida Avenue, Tampa, two blocks north of the old federal courthouse.¹³ Commemorative remarks were offered by Hon. Sandra Freedman, Mayor of the City of Tampa;¹⁴ Hon. John H. Moore II, Chief U.S. District Judge for the Middle District of Florida;¹⁵ and Hon. Sam M. Gibbons, Congressional Representative for the 11th District of Florida.¹⁶ The event was concluded by Mayor Freedman, Chief Judge Moore, Congressman Gibbons and Regional Administrator of the General Services Administration (GSA) Carole Dortch participating in the ceremo-

nial shoveling of the first shovelful of dirt for the construction of the new building.¹⁷

The construction of the building began approximately one month later, in or about March 1995. As the property was being cleared and prepared for construction of the new federal courthouse, a treasure trove of artifacts from more than a century earlier were discovered.¹⁸ The relics were

Gibbons, a native of Tampa and a Tampa lawyer, served in Congress for 34 years. Prior to that, he served in the Florida Legislature for 10 years. He was also a hero of World War II who saw action on D-Day.

collected by archeologists for research purposes.¹⁹ Experts hired by the federal government were to use the artifacts to study the lifestyle of the persons residing on the property more than 100 years ago.²⁰ More than a century earlier, in the 1880s, at the location where the new federal courthouse is situated, the Palmetto Hotel was being constructed adjacent to a home.²¹

The Naming and Dedication of the Gibbons Federal Courthouse

On Oct. 2, 1996, while the new federal courthouse was being built, Congress designated the new facility as the “Sam M. Gibbons United States Courthouse” (Gibbons Federal Courthouse).²² The official dedication of the Gibbons Federal Courthouse occurred the following year, on Dec. 12, 1997, before the completion of the building.²³ The dedication ceremony was held inside the towering glass-capped lobby of the

new federal courthouse.²⁴ At the dedication ceremony, Congressman Gibbons stated: “I am so proud that my name be attached to this building. . . . We build these wonderful buildings and name them after people, but that is insignificant compared to what goes on within this building.”²⁵ He then lavished praise on the outstanding judges and other persons who work inside the federal court-

house. Gibbons described the judges as the “bedrock of our civilization.”²⁶ He also remarked that “in America, we’re proud of our judicial system” and its judges who are not influenced by “whim, politics, threats or coercion.”²⁷

Numerous dignitaries attended the event and applauded Congressman Gibbons for his patriotism and public service. Hon. Elizabeth A. Kovachevich, Chief U.S. District Judge of the Middle District of Florida, stated that the new federal courthouse was a testimonial to Congressman Gibbons’ lifetime of public service.²⁸ Chief Judge Kovachevich further praised Congressman Gibbons for providing “inspiration and leadership when it wasn’t popular to do so in regard to civil rights legislation.”²⁹ Hon. Bob Graham, U.S. Senator from Florida, remarked that “America is a better place” because of Congressman Gibbons’ leadership and dedication.³⁰

Prior to concluding the dedication ceremony, Gibbons, and his wife Martha, cut the ribbon to the new courthouse.³¹ The public was then invited for a special tour of the vast ceremonial courtroom on the seventeenth floor of the Gibbons Federal Courthouse.³²

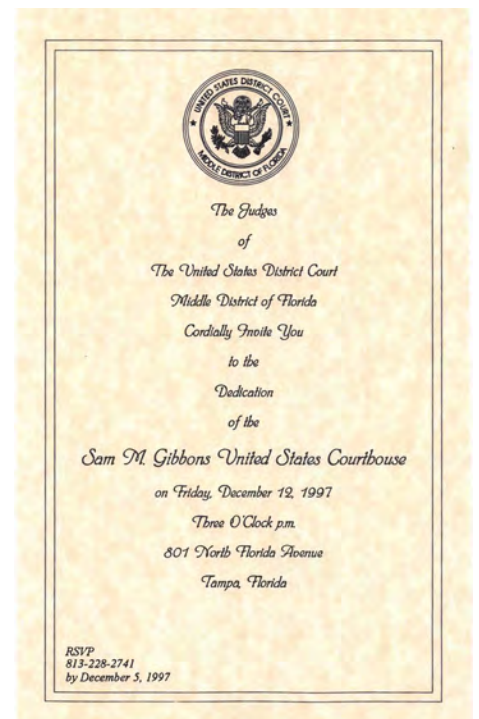
Later the same day, at the annual dinner meeting of the Tampa Bay Chapter of the Federal Bar Association, Hon. Clarence Thomas, associate justice of the U.S. Supreme Court, also paid tribute to Congressman Gibbons. Justice Thomas, who served as the keynote speaker at the event, remarked how heartening it was to see and hear from Gibbons, a person who believed genuinely and fervently in what he said and achieved.³³

Gibbons, a native of Tampa and a Tampa lawyer, served in Congress for 34 years. Prior to that, he served in the Florida Legislature for 10 years. He was also a hero of World War II who saw action on D-Day. At

PHOTO COURTESY OF THE MIDDLE DISTRICT OF FLORIDA WEBSITE



PHOTO COURTESY OF JERRY GEWIRTZ



(Top left) The “Classic Courthouse” in Tampa was completed in 1905 and is included on the list of the United States National Register of Historic Places. (Top right) The groundbreaking ceremony for the new federal courthouse in Tampa was held on Feb. 17, 1995. (Bottom left) The portrait of Samuel M. Gibbons hangs in the first floor of the federal courthouse. (Bottom right) The official dedication of the Gibbons Federal Courthouse occurred on Dec. 12, 1997, before the building was completed.

age 24, Gibbons served as a captain in the 501st Parachute Infantry, a part of the 101st Airborne Division “Screaming Eagles” which, together with the 82nd Airborne Division, landed a total of 12,000 parachutists and helped spearhead the invasion of Europe.³⁴ Gibbons was awarded the Bronze Star and the French Medal of Valor.³⁵

Congressman Gibbons also played a major role in the creation of the University of South Florida; helped make possible the construction of Tampa International Airport; obtained a construction grant for Hillsborough Community College; fought to keep MacDill Air Force Base in Tampa; successfully advocated for funding for the James A. Haley Veterans Administration Hospital; assisted in the establishment of the University of South Florida medical school; championed efforts to bring more public scrutiny to government; and authored legislation that established the Hillsborough County City-County Planning Commission.³⁶ He was also instrumental in the approval of funding for the new federal courthouse.³⁷ Congressman Gibbons passed away on Oct. 10, 2012, at age 92.

The Relocation of the Judges Into the Gibbons Federal Courthouse

In 1998, the Gibbons Federal Courthouse was completed and ready for occupancy. Many of the federal judges assigned to the Tampa Division began moving into the new facility, located at 801 North Florida Avenue, Tampa, in or about October 1998.³⁸ Some of the U.S. Bankruptcy judges began conducting judicial proceedings in the Gibbons Federal Courthouse earlier in the year, in or about April 1998.³⁹

The Gibbons Federal Courthouse, which offers panoramic views of downtown Tampa and Tampa Bay, stands 17 floors above the ground and is approximately 409,294 square feet in capacity.⁴⁰ By comparison, the Classic Courthouse reportedly contains 105,030 square feet.⁴¹ One of the attributes of the Gibbons Federal Courthouse is its state-of-the-art technology. It includes video and audio equipment that facilitates witnesses’ ability to testify and to offer documentary evidence from a remote location.⁴² The security at the new federal courthouse is also state-of-the-art.⁴³



PHOTO COURTESY OF THE MIDDLE DISTRICT OF FLORIDA

Turkey vultures seized the Gibbons Federal Courthouse. The accumulation of the residue of bird droppings on the courthouse windows was visually repulsive and caustic, but they were ultimately removed.

The Gibbons Federal Courthouse is home to the U.S. District Court judges, U.S. Magistrate judges and U.S. Bankruptcy judges. In addition, the building houses the chambers of Judge Charles R. Wilson of the U.S. Court of Appeals for the Eleventh Circuit.⁴⁴ Prior to the opening of the Gibbons Federal Courthouse, the Bankruptcy Court operated in rental space near Tampa International Airport.⁴⁵

Challenges That Have Plagued the Gibbons Federal Courthouse

The Gibbons Federal Courthouse, although substantially larger and much more modern than its predecessor, has unfortunately been beset by a series of challenges. These problems include turkey vultures descending on the building, leaking windows, water pipe leaks, indoor air quality issues, judges’ benches needing to be raised and malfunctioning elevators.

Invasion of the Turkey Vultures

Soon after the construction of the Gibbons Federal Courthouse, a blizzard of turkey vultures began descending on the wide ledges of the building. The turkey vultures migrate to Tampa from the central United States every year, around mid-October, and perch in

the upper reaches of some of Tampa’s tallest buildings until approximately mid-March.⁴⁶

The seizure of the Gibbons Federal Courthouse by the turkey vultures created a variety of issues. The vultures defecated on windows, ledges and the street below; pecked at caulking; and unleashed bird droppings on unsuspecting pedestrians.⁴⁷ The accumulation of the residue of bird droppings on the windows was visually repulsive and caustic. Several approaches were tried in an effort to resolve the problem. One course of action was installing a device known as the Super Bird Expeller on top of the courthouse.⁴⁸ The device had two small boxes wired to speakers pointing down the sides of the 17-story building.⁴⁹ The boxes emitted a screeching sound every 45 seconds.⁵⁰ Another approach was placing electric wires along the upper ledges of the building to repel the vultures.⁵¹ A third course of action was the installation of a series of seven-inch spikes on the ledges of the upper floors of the courthouse. Unfortunately, the latter approach left a wide and protected area inside the spikes for the vultures to roost. Accordingly, a second row of spikes was strategically placed along the ledges to abate the problem.

Leaking Windows

Leaking windows have also plagued the

Gibbons Federal Courthouse. The issues surrounding the leaking windows at the courthouse have been the subject of at least a few articles.⁵² The resolution of the leaking windows was ultimately achieved albeit at a significant expense.⁵³

Water Pipe Leaks

The Gibbons Federal Courthouse has been the subject of floods caused by water pipe leaks. One of these spills purportedly drenched carpets and ceiling tiles with about a residential swimming pool's volume of water.⁵⁴ On another occasion, a pipe ruptured on the 16th floor of the Gibbons Federal Courthouse that caused flooding damage on six floors, from the 16th to the 11th floors.⁵⁵

Indoor Air Quality Issues

The indoor air quality at the Gibbons Federal Courthouse has been the subject of some complaints and investigations. In written materials, that are distributed to new employees at the Gibbons Federal Courthouse, disclosure is made of the indoor air quality issues that have been the subject of investigation. The cover sheet to the written materials states:

IMPORTANT

Building Quality Information

Two courthouses within the Middle District of Florida (Fort Myers & Tampa) have been the subject of complaints by the employees that occupy them. These complaints have led to extensive environmental and health investigations that were largely completed in 2001. An epidemiological study of the Middle District of Florida employees has concluded that respiratory symptoms (cough, wheezing, dyspnea, chest-tightness, and mucous production) are more common among the Middle District of Florida employees than expected. The epidemiological study, together with environmental data gathered from each of the courthouses, suggests that mold exposure in some of these buildings may have caused allergic respiratory disease in some courthouse occupants.

If you would like to obtain more information on the environmental and health investigations in your courthouse, please contact Human Resources at 407-835-4238.⁵⁶

At the request of the GSA, the U.S. Department of Health and Human Services, Federal Occupational Health (FOH), conducted an indoor environmental quality survey at the Gibbons Federal Courthouse. On Oct. 12, 2011, the FOH issued a lengthy Indoor Environmental Quality Report, totaling 749 pages including appendices. The conclusions of the Indoor Environmental Quality Report are summarized as follows:

The overall conclusion is that the air quality parameters evaluated in the



PHOTO COURTESY OF THE MIDDLE DISTRICT OF FLORIDA ARCHIVES



PHOTO COURTESY OF JERRY GEWIRTZ

(Top) The new federal courthouse was named for Congressman Sam M. Gibbons, who was applauded by the numerous dignitaries who attended the dedication ceremony for his patriotism and public service. (Bottom) Panoramic view from the 17th floor of the Gibbons Federal Courthouse.

Gibbons Courthouse during this survey predominantly meets the established evaluation criteria. In general, indoor airborne fungal levels in the Gibbons Courthouse were lower than those of outdoors and fungi detected indoors were similar to those of outdoors. Elevated fungal levels were detected from some dirt-laden ventilation grills and low levels of water-damage indicator fungi were recovered from some carpet dust samples.⁵⁷

The Indoor Environmental Quality Report also makes numerous general and specific recommendations to attempt to improve and maximize air quality in the Gibbons Federal Courthouse.⁵⁸

Judges' Benches

When the Gibbons Federal Courthouse was initially opened, some of the judges' benches were too low for the presiding judges to adequately view everyone in their respective courtrooms.⁵⁹ Accordingly, it was necessary that the judges' benches be raised to the appropriate height.⁶⁰

The elevation level of a judge's bench is important and plays a dual role. It enables the presiding jurist to see all the people in the courtroom. In addition, "the height and location of the judge's bench expresses the role of the judge and facilitates control of the court."⁶¹

Malfunctioning Elevators

During the infancy of the building, approximately one dozen members of the Tampa Bay Bankruptcy Bar Association were unable to extricate themselves from an elevator for approximately 15 minutes.⁶² When the group was unable to obtain help through the telephone in the elevator, the lawyers pried open the door with their fingers.⁶³ Additionally, in the embryonic stages of the building, there was a problem with the prisoner elevator not working properly.⁶⁴ Intermittent malfunctioning elevators continue to plague the Gibbons Federal Courthouse.

Orders entered, and safety measures taken, during the COVID-19 pandemic

The COVID-19 pandemic has created enormous—and unprecedented—challenges for all federal and state courts throughout the



PHOTO COURTESY OF JERRY GEWIRTZ

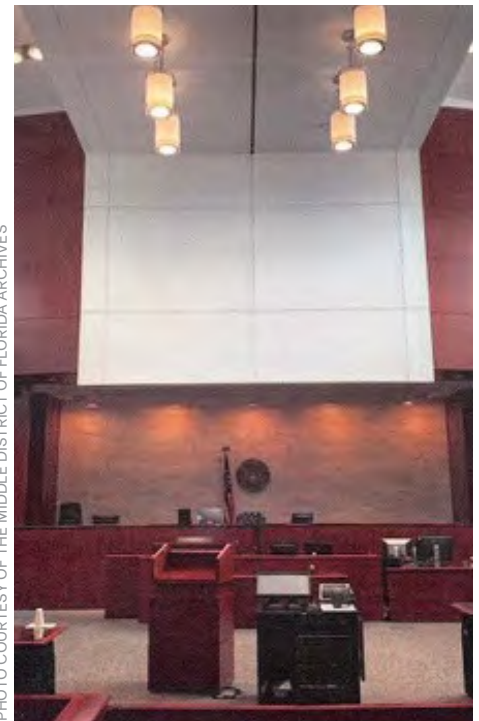


PHOTO COURTESY OF THE MIDDLE DISTRICT OF FLORIDA ARCHIVES

(Left) Gibbons Federal Courthouse atrium. (Right) The vast ceremonial courtroom sits on the 17th floor of the Gibbons Federal Courthouse and is equipped with state-of-the-art technology.

United States. The Middle District of Florida, along with other courts throughout the country, has entered a series of orders to address these issues. One order that was entered on July 9, 2020, that specifically pertains to the Gibbons Federal Courthouse, is historically significant for its breadth and depth in protecting health and safety in the courthouse during the pandemic.⁶⁵ The July 9 order, titled "IN RE: COURTHOUSE HEALTH AND SAFETY," Case No. 8:20-mc-20-T-23 (Doc. 2), addresses the following gamut of subjects: (1) face covering for each person entering the courthouse; (2) hand sanitizer and antibacterial wipes in the courthouse; (3) limitation on the number of persons permitted on public elevators in the courthouse; (4) spacing requirements in the courthouse in accord with guidelines from the Centers for Disease Control Prevention (CDC); (5) cleaning protocol of courtrooms, jury assembly room and any other place in the courthouse where jurors deliberate or otherwise assemble; (6) accommodation for a vulnerable person to eliminate or reduce the need for a vulnerable person to appear at the courthouse; (7) the suspension of a public gathering in the courthouse except

for a court proceeding or mediation authorized by the presiding judge to occur in the courthouse; and (8) first-floor cleaning of the courthouse.⁶⁶

On September 14, 2020, the July 9, 2020 order was superseded by a virtually identical order, titled "IN RE: COURTHOUSE HEALTH AND SAFETY," Case No. 8:20-mc-20-T-23 (Doc. 4), which continues the imposition of each of the above described prophylactic measures at the Gibbons Federal Courthouse; and, in addition, provides that "the Marshal must test by no-contact means the temperature of each person entering the courthouse and must refuse entry into the courthouse by anyone whose temperature exceeds 100.4° F."⁶⁷

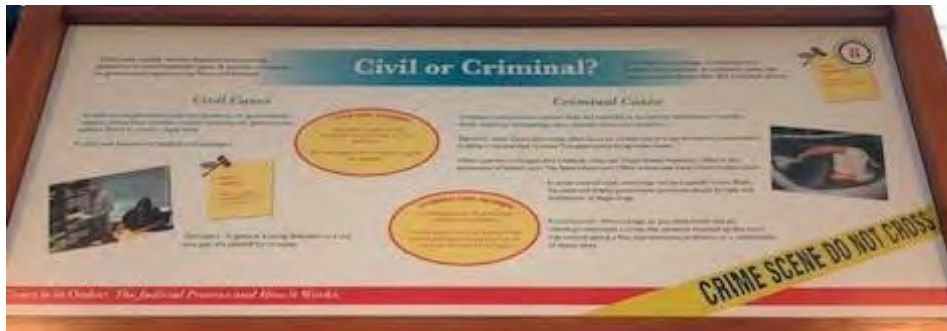
Finally, on December 22, 2020, an order was issued titled, "Restrictions on Courthouse Access due to COVID-19," Case No. 3:20-mc-23-J-32 (Doc. 1), which imposes coronavirus protocols for access to a United States courthouse within the Middle District of Florida. The order was issued in accordance with the CDC guidance concerning the ongoing COVID-19 pandemic and requires that each person seeking entry to a United States courthouse in the Middle

District of Florida answer a survey, submit to appropriate screening and adhere to the requirements of the order.

Conclusion

As the 21st century approached, the Tampa Division of the Middle District of Florida faced an aging and debilitating federal courthouse, and the need for substantial additional space to accommodate the increasing number of civil and criminal cases filed and the burgeoning civil and criminal trials tried. The prospect of a new and much larger federal courthouse appeared to be the solution. The dedication of the Gibbons Federal Courthouse aroused much optimism and high expectations. Although the new federal courthouse has provided much needed relief in the form of substantial additional space and state-of-the-art technology, the building has also generated a series of unexpected and frustrating challenges.

The Gibbons Federal Courthouse is still relatively young, and many chapters of the history of the building remain to be written. Despite the problems that have beleaguered the building since its completion,



PHOTOS COURTESY OF U.S. BANKRUPTCY JUDGE CATHERINE PEEK MCEWEN

These civic displays are a sampling of those that sit in the third floor lobby outside the jury assembly room.

and the additional challenges that may lie ahead as the Tampa Division continues to grow, this author is confident that the outstanding judiciary in the Middle District of Florida will continue to hurdle these obstacles successfully. Just as the Middle District of Florida has risen to the occasion to address the challenges of the COVID-19 pandemic, the judiciary in this district will utilize its ingenuity, wisdom and fortitude to combat any other problems that might arise at the Gibbons Federal Courthouse in the future. We owe the U.S. District judges, the U.S. Magistrate judges and the U.S. Bankruptcy judges in the Middle District of Florida a deep debt of gratitude for their leadership, dedication, vigilance, perseverance, patience and commitment to justice. As Sam M. Gibbons astutely observed at the dedication of the new federal courthouse in Tampa, which bears his name, it is the outstanding work of the people inside the building that really counts. ●



Jerry M. Gewirtz served as a law clerk to Hon. Steven D. Merryday, U.S. District Judge of the Middle District of Florida, from Oct. 2019 through Oct. 2020. Gewirtz received his bachelor's degree, *Phi Beta Kappa* and *Summa Cum Laude*, from Temple University and his J.D. from Temple University School of Law, where he served as an editor of the *Law Review* and a member of the Moot Court Board. Prior to his clerkship, Gewirtz concentrated his practice in complex civil litigation at the trial and appellate levels. Gewirtz is an emeritus member and a former chair of the Florida Board of Bar Examiners; a member and a former chair of the Federal Court Practice Committee of The Florida Bar; a member of the Florida Supreme Court Committee on Standard Jury Instructions in Contract and Business Cases; and a member of the Board of Trustees of the Florida Supreme Court Historical Society. The author wishes to express his appreciation for the support of Judge Merryday and the court personnel in the Middle District of Florida in the writing of this article.

ENDNOTES

1. <https://www.flmd.uscourts.gov/history-tampa-courthouse>.
2. *Id.*
3. United States Department of the Interior National Park Service, *National Register of Historic Places Inventory – Nomination Form for Federal Properties*, December 1973, nominating the Classic Courthouse to be included in the National Register of Historic Places. On or about June 7, 1974, the nomination was approved, and the Classic Courthouse was included in the National Register of Historic Places. *Id.*
4. <https://www.flmd.uscourts.gov/history-tampa-courthouse>.
5. The Classic Courthouse, located at 601 North Florida Avenue, Tampa, Florida, served as a courthouse for the Southern District of Florida until 1962 when the United States District Court for the Middle District of Florida was created. Beginning in 1962, the Classic Courthouse then served as a courthouse for the Middle District of Florida. See *United States Courthouse Building and Downtown Postal Station (Tampa, Florida)*, Wikipedia (2020).
6. <https://www.flmd.uscourts.gov/history-tampa-courthouse>.
7. *Id.*
8. Senior United States District Judge William J. Castagna, *Masters of their craft – then and now!*, 11th Circuit Historical News, Volume XI,

- Number 2, Summer 2014, at 22.
9. Senior United States District Judge William J. Castagna, *Masters of their craft – then and now!*, 11th Circuit Historical News, Volume XI, Number 2, Summer 2014, at 22. The Classic Courthouse was ultimately conveyed by the United States General Services Administration (GSA), the government landlord, to the City of Tampa in September 2003. After substantial remediation of the building by a developer, the facility was transformed into a boutique hotel, now known as Le Meridien Tampa. The outside of the building has been preserved, and still looks like the Classic Courthouse. The inside of the hotel, although completely renovated, retains original oak doors from when the building was erected. As the Honorable William J. Castagna, Senior United States District Judge, eloquently states: “Then came Le Meridien – what a transformation! It still looks like the Courthouse outside, but the inside has been magically transformed. . . . ‘Spectacular’ is an understatement. The entire building has been transformed into 120 private luxury rooms. A convenient ground floor entry welcomes the guests and the main floor provides a full restaurant and bar. A fully equipped workout center is available as is an attractive outdoor swimming pool. Nothing has been left to chance. Beautiful!” Senior United States District Judge William J. Castagna, *Masters of their craft – then and now!*, 11th Circuit Historical News, Volume XI, Number 2, Summer 2014, at 23.
 10. Between June 30, 1980, and June 30, 1990, the number of cases filed in the Middle District of Florida increased as follows: civil lawsuits grew by 17.41%, criminal cases rose by 104.50%, and the number of criminal defendants increased by 156.49%. During the same time period, the total number of civil and criminal trials conducted in the Middle District of Florida rose by 21.12%.
 11. On October 6, 1992, Congress approved funding for the construction of a new United States Courthouse in Tampa, Florida, in the amount of \$8,948,000. H.R. 5488, 102nd Cong. (1992).
 12. On October 28, 1993, Congress approved additional funding for the construction of a new United States Courthouse in Tampa, Florida, in the sum of \$66,696,840. H.R. 2403, 103rd Cong. (1993). On July 22, 1995, Congress rescinded the sum of \$5,994,000 from the funding previously made available for the construction of the new United States Courthouse in Tampa, Florida. H.R. 1944, 104th Cong. (1994).
 13. An announcement of the groundbreaking ceremony for the new United States Courthouse, at the corner of Polk Street and Florida Avenue, Tampa, Florida, on February 17, 1995, is included as an exhibit to this article.
 14. At the dedication ceremony, Mayor Freedman expressed her hope that the new federal courthouse would prompt new business to open along the north end of the Franklin Street Mall. David Sommer, *Ground broken for courthouse*, The Tampa Tribune, February 18, 1995.
 15. At the dedication ceremony, Chief Judge Moore observed that court officials had been seeking a larger facility since 1989. David Sommer, *Ground broken for courthouse*, The Tampa Tribune, February 18, 1995.
 16. Congressman Gibbons observed at the dedication ceremony that the immediate area surrounding the new federal courthouse is rich in Tampa history. Historic places surrounding the new federal courthouse include the Floridan Hotel, the S. H. Kress & Co. building, and the Woolworth building. David Sommer, *Ground broken for courthouse*, The Tampa Tribune, February 18, 1995.
 17. David Sommer, *Ground broken for courthouse*, The Tampa Tribune, February 18, 1995.
 18. David Sommer, *Diggers find inhabitants lived in style*, The Tampa Tribune, March 16, 1995.
 19. David Sommer, *Diggers find inhabitants lived in style*, The Tampa Tribune, March 16, 1995. It is reported that the archaeologists were so interested in what they found that they kept digging at the site about a half-week longer than the 10 days originally allotted. Id.
 20. David Sommer, *Diggers find inhabitants lived in style*, The Tampa Tribune, March 16, 1995.
 21. David Sommer, *Diggers find inhabitants lived in style*, The Tampa Tribune, March 16, 1995. It is reported that the property owner of the adjacent home bought the Palmetto Hotel from its builder, Judge Nathan G. Buff from Terre Haute, Indiana. By 1889, however, the property owner and his wife defaulted on their mortgage and bankers took control of the Palmetto Hotel. Id. A pen sketch of the Palmetto Hotel in Tampa, Florida, reflecting a date of 1884, can be found at www.floridamemory.com.
 22. The Act to designate the building as the Sam M. Gibbons United States Courthouse was approved by Congress on October 2, 1996; and the Act became effective on Jan. 3, 1997. H.R. 3710, 104th Cong. (1996). Although the Act states in section 1 that “[t]he United States courthouse under construction [is] at 611 North Florida Avenue in Tampa, Florida,” the address of the Gibbons Federal Courthouse is in fact located at 801 North Florida Avenue, Tampa, Florida.
 23. The written invitation of the Judges of the United States District Court for the Middle District of Florida to the Dedication Ceremony of the Gibbons Federal Courthouse, on December 12, 1997, at 801 North Florida Avenue, Tampa, Florida, is attached as an exhibit to this article.
 24. Jacqueline Soteropoulos, *The city dedicates the Sam M. Gibbons courthouse downtown, and officials swear in a new federal judge*, The Tampa Tribune, December 13, 1997.
 25. *Id.*
 26. *Id.*
 27. *Id.*
 28. *Id.*
 29. *Id.*
 30. *Id.*
 31. *Id.*
 32. *Id.*
 33. Robert C. Mueller, *Remembering Our Oaths*, Federal Lawyer, Volume 45 (February 1998).
 34. Sam M. Gibbons, *D-Day Story: Sam M. Gibbons*, Military.com.
 35. https://en.wikipedia.org/wiki/Sam_Gibbons.
 36. Editorial, *Honoring estimable Sam Gibbons*, The Tampa Tribune, December 12, 1997.
 37. David Sommer, *Ground broken for courthouse*, The Tampa Tribune, February 18, 1995.
 38. Larry Dougherty, *The Stage Is Set For Justice/The Sam M. Gibbons U.S. District Courthouse*, St. Petersburg Times, October 5, 1998; Sarah Huntley, *Saluting the past with the new courthouse*, The Tampa Tribune, October 27, 1998.
 39. Larry Dougherty, *The Stage Is Set For Justice/The Sam M. Gibbons U.S. District Courthouse*, St. Petersburg Times, October 5, 1998.
 40. United States Department of Health and Human Services, *Federal Occupational Health, Indoor Environmental Quality Report conducted for GSA Building Number FL0012ZZ Sam Gibbons Federal Courthouse*, October 12, 2011, at 3.
 41. David Karp, *Faded Grandeur Holds New Promise*, St. Petersburg Times, September 25, 2003.
 42. Larry Dougherty, *The Stage Is Set For Justice/The Sam M. Gibbons U.S. District Courthouse*, St.

- Petersburg Times, October 5, 1998. Chief Judge Elizabeth Kovachevich was quoted as saying: “What we have now is presently the state of the art in the United States” and “We’re going to be doing business differently now because of all this technology.” *Id.*
43. Jacqueline Soteropoulos, *The city dedicates the Sam M. Gibbons courthouse downtown, and officials swear in a new federal judge*, The Tampa Tribune, December 13, 1997. It is reported that “[a]n additional \$962,000 was spent to upgrade security features after the Oklahoma City bombing.” *Id.* See also “Saluting the past with the new courthouse,” The Tampa Tribune, October 27, 1998.
 44. <https://www.flmd.uscourts.gov/history-tampa-courthouse>.
 45. David Sommer, *Ground broken for courthouse*, The Tampa Tribune, February 18, 1995.
 46. David Pedreira, *A Shock For The Flock/Courthouse tries buzzard buzzer*, St. Petersburg Times, July 6, 2006. It is reported that the turkey vultures return to Hinckley, Ohio, every March where the locals celebrate the occasion with a pancake breakfast and a big festival. *Feds attack defenseless Tampa birds*, The Tampa Tribune, January 24, 1999; *Buzzard Bob looking for road kill*, The Tampa Tribune, November 1, 1999. It is also reported that tourists visit Hinckley, Ohio in the spring to see the vultures. *Id.*
 47. David Pedreira, *A Shock For The Flock/Courthouse tries buzzard buzzer*, St. Petersburg Times, July 6, 2006.
 48. *Feds attack defenseless Tampa birds*, The Tampa Tribune, January 24, 1999; *Buzzard Bob looking for road kill*, The Tampa Tribune, November 1, 1999.
 49. *Feds attack defenseless Tampa birds*, The Tampa Tribune, January 24, 1999; *Buzzard Bob looking for road kill*, The Tampa Tribune, November 1, 1999. Each of the boxes cost one thousand dollars. *Id.*
 50. *Feds attack defenseless Tampa birds*, The Tampa Tribune, January 24, 1999; *Buzzard Bob looking for road kill*, The Tampa Tribune, November 1, 1999. The screeching noise emitted from the boxes did not have much of an effect on the vultures. *Id.*
 51. David Pedreira, *A Shock For The Flock/Courthouse tries buzzard buzzer*, St. Petersburg Times, July 6, 2006; *Buzzard Bob looking for road kill*, The Tampa Tribune, November 1, 1999. The purpose behind laying electric wires on the upper ledges of the Gibbons Federal Courthouse was that when the vultures landed on the courthouse that they would receive a mild electric shock and, hopefully, become trained to stay away from the building. *Id.* The cost for laying the electric wires along the upper ledges of the Gibbons Federal Courthouse was approximately eighty thousand dollars. David Pedreira, *A Shock For The Flock/Courthouse tries buzzard buzzer*, St. Petersburg Times, July 6, 2006.
 52. William R. Levesque, *Court needs costly fixes*, St. Petersburg Times, January 24, 2011; Business Observer Staff, *‘New’ federal courthouse might not outlast neighbors*, Business Observer, February 4, 2011; Shannon Colavecchio-Van Sickler, *Courthouse maintains costly ways*, St. Petersburg Times, April 4, 2006.
 53. William R. Levesque, *Court needs costly fixes*, St. Petersburg Times, January 24, 2011; Business Observer Staff, *‘New’ federal courthouse might not outlast neighbors*, Business Observer, February 4, 2011.
 54. Paul Abercrombie, *Bad vibes?*, Tampa Bay Business Journal, June 8, 1998; Jacqueline Soteropoulos, *Waterlogged courthouse drying out*, The Tampa Tribune, August 28, 1997; Jacqueline Soteropoulos, *Federal courthouse springs another leak*, The Tampa Tribune, April 24, 1998.
 55. This information is reflected in a document titled “Gibbons Water Damage Meeting,” dated May 9, 2011, and in a document titled “Gibbons Water Damage Follow-Up Meeting,” dated May 9, 2011.
 56. (Bold in original.) The referenced cover sheet is accompanied by approximately nine pages of back-up information which addresses the following items: architectural building description, the building condition, issues and complaints, review of complaints, samples and findings, summary of interviews with building occupants and photographs of mold in a courtroom and in chambers at the Gibbons Federal Courthouse.
 57. United States Department of Health and Human Services, Federal Occupational Health, *Indoor Environmental Quality Report conducted for GSA Building Number FL0012ZZ Sam Gibbons Federal Courthouse*, October 12, 2011, at 48.
 58. United States Department of Health and Human Services, Federal Occupational Health, *Indoor Environmental Quality Report conducted for GSA Building Number FL0012ZZ Sam Gibbons Federal Courthouse*, October 12, 2011, at 51-52.
 59. Larry Dougherty, *The Stage is set for Justice/The Sam M. Gibbons U.S. District Courthouse*, St. Petersburg Times, October 5, 1998.
 60. It is reported that the judges’ benches were adjusted by raising them approximately six inches. Larry Dougherty, *The Stage is set for Justice/The Sam M. Gibbons U.S. District Courthouse*, St. Petersburg Times, October 5, 1998.
 61. Judicial Conference of the United States, *U.S. Courts Design Guide*, at 4-4 (5th ed. 2007). In the preface to the *U.S. Courts Design Guide*, the Honorable John G. Roberts, Jr., Chief Justice of the United States Supreme Court, states: “the *U.S. Courts Design Guide* is intended for use by judges, architects, engineers, GSA personnel, and court administrators who will be involved in federal court construction projects ... The *Design Guide* translates the requirements of the federal judiciary into criteria for the design and construction of court facilities.” *Id.* at preface, iii.
 62. Paul Abercrombie, *Floods, fires and other ills still plague courthouse*, Tampa Bay Business Journal, November 9, 1998.
 63. *Id.*
 64. Larry Dougherty, *The Stage is set for Justice/The Sam M. Gibbons U.S. District Courthouse*, St. Petersburg Times, October 5, 1998; Paul Abercrombie, *Bad vibes?*, Tampa Bay Business Journal, June 8, 1998.
 65. Case No. 8:20-mc-20-T-23 (Doc. 2, p. 1).
 66. Case No. 8:20-mc-20-T-23 (Doc. 2, p. 1-5).
 67. Case No. 8:20-mc-20-T-23 (Doc. 4, p. 3). The order further provides that it “remains in effect for ninety days unless terminated earlier or extended.” *Id.* at p. 6.

THE ELEVENTH CIRCUIT HISTORICAL SOCIETY

The Eleventh Circuit Historical Society is a private, nonprofit organization incorporated in Georgia on Jan. 17, 1983. Although the Society has no legal connection with the U.S. Court of Appeals for the Eleventh Circuit or the federal government, its primary purpose is to keep a history of the courts of the Eleventh Circuit as institutions and of the judges who have served these courts. In this regard, the judges in the old Fifth Circuit from the states of Alabama, Florida and Georgia are included in the Society's area of interest.

In addition, the Society has a broader mission to foster public appreciation of the federal court system in the states encompassed by the Eleventh Circuit.

The formation of the Society came shortly after the creation of the Circuit in 1981. This timing has allowed the writing of history as current history, not as research history. The Society is devoted to preserving our courts' heritage through the collection of portraits, photographs, oral histories, documents, news articles, books, artifacts and personal memorabilia.

The Society's permanent office is in the Elbert Parr Tuttle U.S. Court of Appeals Building in Atlanta. Its Board of Trustees is composed of lawyers and legal scholars representing the historical interests of Alabama, Florida and Georgia.

While the Society's archival activities are partially funded by grants and other special gifts, it primarily depends on members for financial support. Take pride in knowing that, through your membership, you are helping to recapture memories of past events and thus supplementing historical knowledge that will enlighten and enrich present and future generations. In essence, the Society's accomplishments belong to you.

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