

# FOR THE DISTRICT OF OREGON

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## IN THIS ISSUE

Oregon Federal Defender Steven T. Wax Is Honored With The Sarah T. Hughes Civil Rights Award.....1, 3-4

The President's Column  
By Edward Tylicki.....2

Supreme Court Insider: Steven Wax Argues Before United States Supreme Court  
By Marcia Coyle.....5

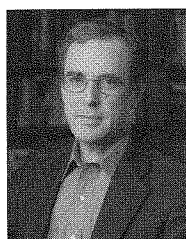
Ninth Circuit Judge Diarmuid F. O'Scannlain Addresses Oregon Chapter On Ninth Circuit's Reversal Rate At The Supreme Court  
By Timothy W. Snider .....6

Legally Mom  
By Kelly Zusman.....6-7

The Federal Bar Association Annual Dinner: An Evening To Remember  
By Gosia Fonberg .....7-8

The Ancer L. Haggerty Civil Rights Essay Contest  
By Hwa Go .....8-9

Announcements.....10



## OREGON FEDERAL DEFENDER STEVEN T. WAX IS HONORED WITH THE SARAH T. HUGHES CIVIL RIGHTS AWARD

On September 25, 2010, Steven T. Wax was awarded the prestigious Sarah T. Hughes Civil Rights Award at the Federal Bar Association's annual meeting in New Orleans. The Sarah T. Hughes award was named after the renowned federal district judge from Dallas, Texas. The award honors a person who promotes the advancement of civil and human rights amongst us, and who exemplifies Judge Hughes' spirit and legacy of devoted service and leadership in the cause of equality. Past recipients include Judge Robert L. Carter, who worked at the NAACP Legal Defense and Educational Fund on *Brown v. Board of Education*; Fred D. Gray, a prominent Alabama civil rights attorney whose clients have included Martin Luther King, Jr. and Rosa Parks; and Judge Matthew J. Perry, who tried cases that led to the desegregation of South Carolina's beaches, parks, hospitals, restaurants and public schools, forced Clemson University to admit black students and resulted in the reapportionment of the South Carolina House of Representatives.

Mr. Wax received this prestigious award in recognition of his dedication and zeal in defending the guarantees of a fair trial and due process afforded to citizens by the Bill of Rights and the Constitution's provision for the Writ of Habeas Corpus.

### *A Brief Biography of Steven Wax*

Mr. Wax was born and raised in New York state, and spends part of each summer in upstate New York. He received his undergraduate degree from Colgate University in 1970 and graduated from Harvard Law School in 1974. Following law school, Wax clerked for United States District Judge James Fitzgerald in Alaska. He then served as assistant district attorney for Kings County, New York, from 1975 to 1979, and was a member of the litigation team that prosecuted the infamous "Son of Sam." In 1979, he left prosecution work and went to the defense bar, accepting a position as a public defender in Broome County, New York.

In 1983, Mr. Wax was hired by the Ninth Circuit to head up the newly established District of Oregon Office of the Federal Defender. He has been in charge of this office ever since, becoming one of the nation's longest-tenured federal defenders. During his time as Federal Defender, the District of Oregon office has grown from a handful of employees to 26 attorneys in three offices, with over 50 dedicated investigators and support staff.



## THE PRESIDENT'S COLUMN

By Edward Tylicki,  
Federal Bar Association President

Welcome to the Oregon FBA 2010-11 year! I am honored and excited to serve as president this year. Kelly Zusman did an outstanding job as president this past year and has set the bar high for this year.

I want to take this opportunity to remind our members of all the things the FBA offers during the course of the year. Our FBA Chapter hosts monthly luncheons with the judges on the third Thursday of every month at the University Club (1225 S.W. 6th Ave.), presents reasonably priced CLE programs designed for federal practitioners, co-sponsors social events with the judges (like the terrific picnic at Judge Leavy's hop farm), produces and updates a local Federal Court Handbook and provides this award-winning newsletter that includes stories about federal events and cases, and legal updates. In addition, we have a great new website so you can keep up on the latest events being offered.

All of this work is accomplished by an amazing board of volunteer attorneys who devote their time, effort and energies to improving the practice and the collegiality of federal courts in Oregon. Board members for the 2010-11 year include: Mag. Judge John Acosta, Courtney Angeli, Amy Baggio, Jeff Bowersox, Judge Anna J. Brown, Robert Calo, Jeff Edelson (Membership), Gosia Fonberg (Monthly Luncheons), Hwa Go (Haggerty Essay Contest), Scott Hunt, Tom Johnson (Vice President), Erin Lagesen, Frank Langfitt, Johnathan Mansfield (Webmaster), Miles Monson (Debtor-Creditor Representative), Nancy Moriarty, Kris Olson, Susan Pitchford (President-Elect), Liani Reeves, Jim Rice, Peter Richter, Jolie Russo (Secretary), Kevin Sali (Young Lawyers), Laura Salemo, Jackie Tomass (Treasurer), Kelly Zusman (Immediate Past President), Todd Hanchett, Helle Rode, Steven Liday, Tim Snider (Newsletter), Robert Sbado and Nadine Gartner.

We are also fortunate to have the following past FBA Chapter Presidents continue to serve on our board: Kelly Zusman, Courtney Angeli and Nancy Moriarty.

It is my hope that this year the Oregon FBA can develop or fund more programs that are of service to the greater community consistent with the FBA's mission. To that end there are some wonderful programs other chapters have that I think can work here in Oregon. For example, in Minnesota, like Oregon, there are no federal prisons

for women, so women sentenced for federal crimes in Minnesota serve their time in out-of-state prisons. The resulting geographic distance from Minnesota makes it difficult for those women to remain connected to their families. Recognizing the need to maintain a connection, the Minnesota FBA Chapter along with the Minnesota District Court developed a program to transport their children for visitation several times a year. I would like to shepherd a program like this and other programs that focus on issues that are federal in nature and serve the greater community. Organizations, like people, fall into old habits and routines. It is my hope this year that in addition to the wonderful programs we offer year in and year out, we also develop some new programs with a focus on social justice.

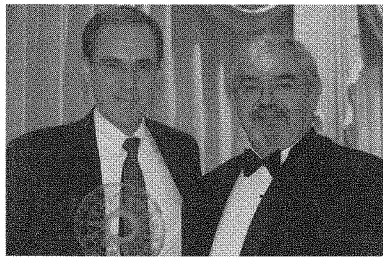
Finally, I want to hear from you, our members. If there is something the Oregon FBA can do better or you would like to get more involved, please contact me or any of the board members. I want to hear your thoughts on how we can make this an even better organization serving you and the Oregon federal bench.

Our organization is strong, active, diverse and dedicated to enhancing the practice of law in the federal courts in Oregon and providing assistance to Oregon's federal bench. I look forward to being of service and another great FBA year!

## OREGON FEDERAL DEFENDER STEVEN T. WAX IS HONORED WITH THE SARAH T. HUGHES CIVIL RIGHTS AWARD

*Continued from page 1*

Under Mr. Wax's leadership, the Oregon Federal Defender's office has developed a nationally recognized reputation for excellence. At Mr. Wax's reappointment to his seventh four-year term as Federal Defender, Ninth Circuit Chief Judge Mary M. Schroeder commented that "Steve Wax is fast



*Steve Wax with Lawrence Baca, FBA President at the Award Ceremony.*

becoming the dean of federal defenders nationally. He has been an outstanding advocate for indigent defendants in Oregon and also made significant contributions at the Ninth Circuit level."

Throughout his tenure as Federal Defender for Oregon, Mr. Wax has continued to handle a significant caseload, including both high-profile and commonplace federal prosecutions. His representation of Brandon Mayfield, a local attorney falsely accused of complicity in the 2004 Madrid terrorist train bombings, and Adel Hamad, a Guantanamo detainee freed after being cleared of terrorist involvement, placed Mr. Wax on the national stage. These experiences led to him authoring the award-winning book, *Kafka Comes to America: Fighting for Justice in the War on Terror*.

Mr. Wax has been honored numerous times for his work defending the indigent accused, including the 2010 Federal Bar Association James M. Burns Professionalism Award, the 2009 Eric Hofer Book Award for Memoir, the 2009 American Bar Association Silver Gavel Award, the 2009 American Civil Liberties Union-Oregon Liberties Award, the 2004 National Association of Criminal Defense Attorneys President's Commendation and the 1987 Oregon State Bar Public Service Merit Award.

Mr. Wax also serves on the Ninth Circuit's Capital Case Committee, which monitors and makes recommendations on management of capital cases in the federal courts. He has continued his commitment to teaching, begun at State University of New York-Binghamton, as an adjunct professor at Northwestern School of Law, Lewis & Clark

College. Mr. Wax volunteers his time as director of the Oregon Council on Crime and Delinquency, chairman of the National Federal Defender Advisory Group of the Administrative Office of the Courts and member of the Multnomah Bar Association Indigent Defense Committee and the Oregon State Bar Ethics Committee.

While an accomplished criminal defense attorney, Mr. Wax has a ready sense of humor, an important attribute in one who, in the words of the late Judge Burns, "toils in the melancholy vineyard" of the criminal justice system. Mr. Wax is married to Kathleen Haley, an attorney and the Executive Director of the Oregon Medical Board. Their son, Michael, is pursuing a career in stand-up comedy.

### ***Mr. Wax's Career Achievements in Protecting the Rights of the Accused***

Mr. Wax has spent the last 31 years defending the Constitution of the United States one client at a time. From his first public defender position in Broome County, New York, through over 25 years as Federal Defender in Oregon, Mr. Wax has spent his career defending the accused, enforcing the right to a fair trial and pursuing relief for those convicted or held in violation of the Constitution in federal habeas litigation.

Although Mr. Wax has had his share of high-profile cases, the day-to-day work of a federal defender includes a caseload of drug charges, bank robbery, immigration offenses, fraud, firearms offenses and other federal crimes. Mr. Wax approaches each case with zeal and has instilled in the Federal Defender's office the ethic that no case is too small to receive careful scrutiny and no client deserves less than zealous representation. He exemplifies this by taking his share of "garden variety" federal cases. As Judge Anna Brown observed in her letter of recommendation nominating Mr. Wax for the Sarah T. Hughes Award:

It has always been important to Steve that defendants, regardless of station or crime, be treated with respect as human beings. Steve has fiercely and unfailing represented those who would not expect to have one of the best lawyers in Oregon to speak on their behalf and to fight for their rights.

Apart from his own case load and administrative duties, Mr. Wax mentors each year's "crop" of new law clerks drawn to the Federal Defender's office. He can be seen meeting with them for hours at the beginning of their service, educating them about the law and the strategy of criminal defense. Many clerks stay in the field of criminal defense after their tenure in the office, hooked on fighting for the underdog. Nowhere has that fight been better exemplified than in Mr. Wax's decision to involve the Oregon Federal Defender's office in the Guantanamo detainee litigation.

### **Mr. Wax's Efforts in Guantanamo Detainee Litigation**

After the Supreme Court's decision in *Rasul v. Bush*, 542 U.S. 466 (2004), holding that federal courts had jurisdiction to hear Guantanamo detainees' habeas petitions challenging the legality of their confinement, there was a critical need for detainee representation. The Center for Constitutional Rights coordinated more than 500 lawyers to represent detainees. Prior to volunteering to take on some of these cases, Mr. Wax led a discussion within the Oregon Federal Defender's office on the importance of these cases. Although already swamped with work, the office accepted seven cases.

The struggle to represent detainees is epitomized in the case of Adel Hamad, a Sudanese national with a master's degree arrested in Pakistan on July 18, 2002 after working 17 years for a Saudi-based charity. During his time as a charity worker, Mr. Hamad served as a teacher, food distributor and hospital administrator helping refugee victims of the Afghan-Soviet and Afghan civil wars. The evidence presented to justify his indefinite detention included that some members of the charities Mr. Hamad worked with may have supported Al Qaeda in some unspecified ways, and that Mr. Hamad had contact with individuals who later held leadership positions with Al Qaeda. Mr. Wax and his team traveled to Afghanistan, Pakistan and Sudan to compile Mr. Hamad's defense and bombarded the courts with pleadings seeking Mr. Hamad's release. As a result of these extraordinary efforts, Mr. Hamad was freed in December 2007 and returned to his home and family in Sudan.

Not only did Mr. Wax coordinate representation of detainees in the Oregon Federal Defender's office, he became a leader of the national litigation, often looked to by other attorneys from corporate law firms and other federal defender offices from around the country. As one of these attorneys explained:

When Steve Wax comes up with a new strategy or legal argument to challenge the government's indefinite detention or some related abuse of executive power such as torture, the lawyers from the large Wall Street law firms reach for their legal pads and taken [sic] notes—and then they follow Steve's lead in their legal briefing and arguments to the federal courts.

It is hard to overstate the stakes in the fight over detaining individuals in Guantanamo without providing them due process. It is also difficult to find a clientele provoking less public sympathy. Yet Mr. Wax and the legal teams in the Oregon Federal Defender's office succeeded in freeing all seven of his clients detained in Guantanamo, and the effects of this representation has had a ripple effect on other detainee cases. Equally important, this representation affirmed that all individuals, even those accused of terrorist acts in the

United States, have a right to due process.

### **The Brandon Mayfield Case**

Closer to home, Mr. Wax took on representation of Brandon Mayfield, a local attorney arrested as a material witness after the government concluded that his fingerprint matched one found near the scene of the 2004 Madrid train bombings. The affidavit supporting Mr. Mayfield's arrest focused on his ties to the Muslim community, including his representation of an individual convicted of terrorist activity, and other connections. Mr. Mayfield, a practicing Muslim, was in custody, facing possible accusations of mass murder. The fingerprint evidence appeared damning, and the government pressed forward, even after learning that Spanish authorities concluded the fingerprints belonged to another individual.

Mr. Wax spent two weeks relentlessly advocating for Mr. Mayfield's release, and 18 days after his arrest, the government moved to dismiss the proceedings against Mr. Mayfield, conceding that their reliance on the fingerprint evidence was misplaced. In speaking about the case, Mr. Wax observed, "If they can get away with it with Brandon, they can do it to you and me. That is the issue."

### **The Sarah T. Hughes Civil Rights Award**



*Steve Wax with Kent Hofmeister, Past FBA President and Creator of the Award.*

The Sarah T. Hughes Civil Rights Award is given to individuals upholding the principles exemplified by Judge Hughes' legacy.

Mr. Wax's career demonstrates "a body of sustained and dedicated work in the area of civil rights, due process, and equal protection," and we are proud that one of our own has been recognized with this prestigious award. Please join the Oregon Chapter of the Federal Bar Association in congratulating Mr. Wax on this outstanding achievement.



## SUPREME COURT INSIDER: STEVEN WAX ARGUES BEFORE UNITED STATES SUPREME COURT

By Marcia Coyle

Oregon Federal Public Defender Steven Wax faced a tough bench on Tuesday, October 12 in his Supreme Court argument. But tough benches and tough cases are regular fare for this Brooklyn-born defense attorney.

Wax was making his second high court argument in *Premo v. Moore*. He was defending the grant of habeas relief to his client, Randy Moore, by the U.S. Court of Appeals for the Ninth Circuit (yes, the circuit court that the Supreme Court loves to reverse). The appellate court found that Moore's trial counsel was ineffective for failing to file a motion to suppress Moore's confession to accidentally killing a friend. Moore pleaded no contest to felony murder.

Justice Sonia Sotomayor questioned whether, based on the facts, Moore would have had much of a defense even if his confession had been suppressed, and perhaps the plea deal was the best choice. And Justice Samuel Alito Jr. suggested that allowing a prisoner to challenge a plea based on a failure to make a motion could lead to endless litigation—"after the Defendant has spent some time in jail, he's not happy with the deal anymore, he can now come back and say, 'Well, the Federal Public Defender's office was ineffective because they could have moved to suppress my confession and the illegal search, etc., etc. etc.' That is all open for relitigation years later?"

Wax and his team in the Portland office garnered national attention three years ago when they posted a video on YouTube on the life and legal case of Guantanamo Bay detainee Adel Hamad, whom Wax had been assigned to represent. Wax sent two teams of investigators, armed with cameras, to Pakistan and Afghanistan to check the veracity of Hamad's claims that he had nothing to do with Al Qaeda. The investigators returned convinced of his innocence, and Wax decided to post a video of Hamad's story.

"It is possible that if enough people in positions to make decisions see the information about Mr. Hamad and they hear from other people in the country or around the world questions or expressions of concern, one of them may look again at his situation," Wax told *The National Law Journal* in 2007. Eleven months later, Hamad was repatriated to Sudan.

In addition to their usual workload, Wax and the lawyers in his office have represented a total of six Guantanamo Bay detainees — four are now back with their families

and two have been sent to other countries.

"It is a long road, and for those who are doing it out of pocket, it's one hell of an expensive road," said Wax. "Some of the little guys in it since 2002 or 2003, I'm sure they had no idea when they started, they'd be in it this long."

After graduating from Harvard Law in 1974, Wax headed north to Alaska where he clerked for a state Supreme Court justice and a federal district judge.

"And then I went on to the Brooklyn district attorney's office, back to the borough of my birth," he chuckled. He worked four years there, one of which was spent on the team prosecuting "Son of Sam" murderer David Berkowitz. He then went upstate to Binghamton to become county public defender.

"I was frustrated with the politics in the D.A. office, with the fact that decisions were sometimes made to either bring or not to bring cases for reasons that seemed to me to have little to do with the justness of the case," he recalled. "I had been in a defender clinic while in law school and was comfortable in the role of defense attorney and so I went back to it."

He has been on the defense side now for 31 years, 27 of which have been spent as the federal defender in Portland. He represented Portland lawyer Brandon Mayfield, who was wrongfully accused of playing a role in the 2004 Madrid, Spain, train bombings, due to a misidentified fingerprint. And in 2008, he had a book published, *Kafka Comes to America: Fighting for Justice in the War on Terror*, documenting his experiences defending Mayfield and Hamad.

Over the course of his career, he said, it has been difficult at times to see shifts in the law take place. The criminal justice system, explained Wax, has become harsher and more difficult to deal with. The practice today is less fun than when he started, he added, because the sentencing laws are harsher and the amount of discretion judges have to act fairly in sentencing has been curtailed.

And yet, "In many respects, it's the greatest job in the world," said Wax. "You can help people. You get to work on some of the most fundamental issues of the day. You are involved in the development of the law as it relates to and defines the relationship between the government and the citizen. As the head of the office, I get to work with a lot of younger lawyers. I can teach; I can mentor."

And, as a quasi-public official, he has the occasional opportunity to speak out on issues important to the public.

"The pay is good enough to live comfortably," he added. "If I had gone into private practice, I'm sure I would have made a lot more money, but I don't know that I'd be any richer as a person. There are tradeoffs in any career choice. What I get in terms of satisfaction from this job is in many ways immeasurable."



**NINTH CIRCUIT JUDGE  
DIARMUID F. O'SCANNLAIN  
ADDRESSES OREGON  
CHAPTER ON NINTH  
CIRCUIT'S REVERSAL RATE  
AT THE SUPREME COURT**

By Timothy W. Snider, Stoel Rives LLP

On May 20, 2010, Circuit Judge Diarmuid O'Scannlain addressed the Oregon Chapter of the Federal Bar Association at its monthly luncheon series. The topic: the Ninth Circuit's poor track record of affirmance at the Supreme Court. Judge O'Scannlain explained that since 2000, the Supreme Court has reversed and vacated decisions of the Ninth Circuit in 137 of 167 cases, with 67 of those decisions unanimous reversals. This 82 percent reversal rate exceeded the approximately 70 percent combined reversal rate among the other 12 circuits. The Ninth Circuit's performance since 2000 before the Supreme Court is reflected in the chart below.

Supreme Court Term	Cases from 9th Cir. Decided in Full Opinion on Merits	Cases from 9th Cir. Reversed or Vacated	Cases from 9th Cir. Unanimously Reversed or Vacated	Cases from 9th Cir. Summarily Reversed or Vacated
2000	17	13	6	2
2001	18	14	7	1
2002	23	18	8	4
2003	25	19	12	2
2004	19	16	10	2
2005	18	15	12	4
2006	21	19	8	2
2007	10	8	1	0
2008	16	15	3	0
2009 (as of 5/28/10)	6	5	4	1
<b>Total</b>	173	142	71	18

Judge O'Scannlain offered examples of a common issue on which the Ninth Circuit is reversed—the appropriate standard or review. The Ninth Circuit is routinely reversed on the proper standard of review for habeas proceedings under the Antiterrorism and Effective Death Penalty Act because it does not accord high deference to state court judgments. Similarly, the Ninth Circuit has been reversed multiple times on the standard for ineffective assistance of counsel. Judge O'Scannlain's full remarks on these topics will be published in an upcoming issue of the Northwestern College of Law at Lewis & Clark College's Law Review publication.

**LEGALLY MOM**

By Kelly Zusman, Appellate Chief for the United States Attorney for the District of Oregon

If pressed for an answer, it would be difficult for me to decide what experience has best prepared me for my legal career: law school or parenthood. Law school certainly opened my eyes to new concepts and taught me to look at the world in a different way. But being a parent fundamentally changed many of my personality traits in a way that I think has made me both a better lawyer and a better person.



Gracie Zusman

There are a number of different courses, seminars and books on the subject of balancing family and career. They all address how to do it (get organized), or whether to do it if you are fortunate enough to have that financial option. Thinking of work and raising children as a balancing act was never helpful for me, because both sides were so heavily weighted that the scale simply collapsed. When I returned to work after giving birth to my daughter, I frequently felt like I was constantly running in circles. I'd stand for court, and smooth down my skirt only to discover rice crispies stuck to it. Very classy. And it was a challenge not to check my blackberry during the "music and me" sessions that were a little less than stimulating for anyone under the age of two. Two for Gracie, one for work, three for Gracie, five for work. Dividing up my day to achieve some sort of balance for my expectations of myself as a mother and lawyer simply didn't work for me.

What has worked for me is a recognition that I am both a lawyer and a mom and that I really love each of those avocations. I also find that each job helps me perform the other in a better, more efficient manner than I could accomplish without having both elements in my life. When my daughter was younger, I learned a skill that had eluded me for years: patience. "Gracie - put on your shoes. Gracie - put on your shoes. Gracie - put on your shoes." That chorus (familiar in some form to most parents of young children), when practised at length to achieve the perfect pitch of both firmness and calm,

came in very handy when dealing with a particularly difficult client who did not like having to produce documents in response to perfectly legitimate discovery requests. “Greg - send me the documents. Greg - send me the documents. Greg - send me the documents.” It was exactly the same drill, albeit in a different setting. Fortunately for me, Gracie did eventually put on her shoes and Greg did eventually produce the documents (saving me from contempt sanctions). Firm and calm. And they both still speak to me.

As my daughter turns 13 this year, I am finding that my skills as a lawyer are being put to greater and greater use. From negotiations over bed times and allowances, to being asked to edit a writing assignment (“Now Gracie, please remember that Mom does this for a living”), I find that I am constantly on my toes with her. She is bright, engaging, funny, strong-willed and articulate. And dealing with her is good training for arguments in the Ninth Circuit – keep it simple, be direct, be accurate, or I will be called to task on it. I will admit that Gracie is far easier to win over than most judges - if I can’t convince her of something, I can certainly deflect her with Ben & Jerry’s. I know her weaknesses.

I’m sure that there are certain downsides to populating a law firm with working parents. We are often absent to take care of sick children excluded from daycare or school, we’re frequently exhausted, and we come to work with breakfast cereal on our backsides. But on the flip side, most working parents that I know more than make up for such absences by working odd hours. When I receive an email at 11:00 p.m. or 4:00 a.m., it’s usually from a working parent who is catching a break while his or her children are sleeping. And I know this because I too am often up at those weird hours. I may not be in my office at 1:00 p.m. because I’m volunteering for my daughter’s art class, but I am answering questions from lawyers on the east coast at 5:00 a.m.

And in no way, shape or form am I arguing or suggesting that anyone needs to have a child to be a great lawyer or a good person. There are lots of people who were and are terrific and childless - I just don’t think that I was one of them. Or at least I am convinced that I am a much better person for having had the amazing and humbling experience of becoming a parent. Parenthood rounded out my corners, while becoming a lawyer made it possible for me to channel a lot of energy and ideas. There may be no balance in my life, but the ride up and down is both challenging and fun.

## THE FEDERAL BAR ASSOCIATION ANNUAL DINNER: AN EVENING TO REMEMBER

By Gosia Fonberg, Staff Attorney for Magistrate Judge Thomas Coffin

The Oregon Chapter of the Federal Bar Association held its annual dinner on May 27, 2010 at the Mark O. Hatfield United States Courthouse. This year’s dinner focused on the importance of mentoring junior lawyers and fostering a sustainable community of practitioners. To set the tone for the evening, Chief Judge Ann Aiken, Judge Robert Jones, Judge John Acosta, Paula Barran of Barran Liebman, Bill Barton of Barton & Strever, Steve Hedberg of Perkins Coie and David Markowitz of Markowitz, Herbold, Glade, and Mehlfeh were highlighted in a display set up beside the registration table as having made special efforts to make mentorship a meaningful part of their professional lives.



Chief Judge Ann Aiken with FBA President Ed Tylicki

Members of the Northwest Community Gospel Chorus provided music, and guests were able to enjoy a pre-dinner reception on the ninth floor’s lobby and outdoor terrace. Guests returned to the courthouse lobby for dinner.

Chapter president Kelly Zusman and Chief Judge Ann Aiken opened the dinner with welcoming remarks. Chapter director Hwa Go presented awards to the Haggerty Essay Awards contest winners – Chiso Ahanotu, Ednah Louie and Shamir Cervantes – and Judge Haggerty said a few words about each recipient. Judge Leavy presented the Judge James M. Burns Federal Practice award for a private practice lawyer to Peter Richter of Miller Nash, and Chapter director Amy Baggio presented the Judge James M. Burns Federal Practice award for a government



*Dinner in Hatfield Courthouse*

lawyer to Steve Wax, Federal Defender for the District of Oregon. After the Burns Awards presentation, Chapter president Kelly Zusman gave two surprise President's awards: one to her daughter in appreciation for the cookies that she bakes to give to those who volunteer for FBA events and one to Chapter director Jolie Russo recognizing her volunteer efforts.

Speaker Randy Harrington wrapped up the evening with a keynote speech about the importance of community,



*Karen Peters Van Essen with Magistrate Judge John Acosta*

mentorship and taking action to make ideas happen.

The Board thanks Chief Judge Ann Aiken and the other Oregon Federal Judges for opening "their house" for the annual dinner. Special thanks also go to Chapter director Jolie Russo of the U.S. District Court and Chapter director Tom Johnson of Perkins Coie who co-chaired the dinner.

## THE ANCER L. HAGGERTY CIVIL RIGHTS ESSAY CONTEST

By Hwa Go, Harrang, Long, Gary & Rudnick, P.C.

The Oregon Chapter of the FBA created the Ancer L. Haggerty Civil Rights Essay Contest to not only honor Judge Haggerty's many accomplishments, but in keeping with his wishes, to also help support his work of promoting civic education programs in Oregon schools. Judge Haggerty is the first and only African American to serve as a federal judge in Oregon, and to serve as Chief Judge of the District Court of Oregon. When the FBA approached Judge Haggerty with the idea of creating an award or contest in his honor, he expressed his desire that the essay contest give high school students in Oregon an opportunity to further explore and write about civil rights.

This year, we asked the students to answer the question of whether the election of Barack Obama, the first African American to serve as President of the United States, has affected their views of race, racial equality and civil rights in America, and to explain their reasoning. We received many thoughtful and personal essays, which were a pleasure to read.

Our First Place Winner was Chiso Ahanotu of Westview High School in Beaverton. Our Second Place Winner was Ednah Louie of Grant High School in Portland. Our Third Place Winner was Shamir Cervantes of McNary High School in Keizer. As has become tradition, we invited the winning students, and their parents, to attend the annual FBA awards dinner this past May. At the dinner, the students were called to the stage to receive their certificates and cash awards, and they had the opportunity to spend some time talking with Judge Haggerty, as well.

The Board extends its sincere thanks to Judge Paul Papak for once again generously giving his time to help us evaluate the essays. The FBA Board members who ably served on this year's essay contest committee were: Bob Calo, Gosia Fonberg, Hwa Go, Todd Hanchett, Suzanne Miles, Liani Reeves, Jolie Russo and Laura Salerno. The Board also extends a special thank you to Judge Haggerty for his continuing support of the essay contest and the students.

The following is the winning essay written by



Chiso Ahanotu of Westview High School.

On Tuesday, January 20 2009, Barack Hussein Obama was inaugurated into the presidency. On that day one thing became very clear to me: I would no longer be allowed to make up reasons to excuse myself from greatness. For years, African-American parents have been telling their kids, "One day you'll be president," even mine. Up until January 20 2009, those were just empty words, something to encourage us to strive for greatness. It is only now that those words take on an entirely new meaning: Anything is possible, it doesn't matter whether you're going to be the first or hundredth person to do something; it is still possible.

Not too many years ago, the idea of a black man or any person of color taking office seemed unbelievable, absurd even and somewhat laughable. That was because the vast majority of the white people who vote were opposed to the very idea; even if he was going to be a great president. They wouldn't vote for a person of color because, to whites, it meant giving up the power that they had. Years passed and slowly, through much hard work on our part, equilibrium is beginning to take place so that no one person has all the power, instead it is shared amongst everyone and is put in the most capable hands.

When President Obama was inaugurated, I remember exactly where I was. I was in my social studies class with twenty-one other kids just happy to have a free period. As the words, "this I do solemnly swear, so help me God," left President Obama's mouth, my teacher burst into tears. She followed the ceremony with a speech saying after all our hard work, it had finally paid off. She concluded by saying "This is the moment we've been waiting for, we are finally here." We applauded, some cheered. I thought briefly of how many times she probably rehearsed this speech before now, and then I thought, she couldn't possibly believe what she was saying. Now it was all over because for four years a black man was going to be president? I understood the significance of the event. It was a day to be celebrated of course, but it's hardly worthy of being called "The Dream" Martin Luther King Jr. spoke of, or the "Promised Land" so many marched towards. Before someone says that the election really changed things for everyone they should think, what has really changed?

Before the election, America's prisons held close to 900,000 black men and now, as the population grows, that number is nearing 1 million. Police officers still profile us. We make up half of the jails' population, though we remain

twelve percent of the nation's population. Mostly under the age of twenty-five, it seems as though an entire generation of black males are being imprisoned. Directly related to this is poverty. In 2007, a survey showed that forty percent of all blacks in America lived in poverty. More than any other race, we have somehow found ourselves at the lower end of the economic spectrum. Normally someone born in poverty lives and dies in it, but of course there are exceptions. It is generally not something that is attained; it's passed down from generation to generation like a bad gene. We can trace our poverty back and back to when our ancestors first came here with nothing. We started fighting for equality since the moment we arrived here and will continue to fight until we get it. I don't believe that any of our Civil Rights leaders would be content with what is going on now. With their people filling up the jail cells and impoverished at such a high rate. And I refuse to think we are done fighting for racial equality. Because we are not "there" yet, we have a long way to go.

When President Obama was elected it didn't raise us all from poverty or free us from the shackles that bind our wrists and minds, but it did give us something. Something we were in dire need of. Hope. Because desperate as we are, some people were starting to give in. Many have forgotten the honorable responsibility we have to all the individuals that have fought for civil rights in this country -- our responsibility to try our absolute hardest for the success those before us made possible.

Did the election of Barack Obama change how I see race and racial equality? Yes, a little bit. He is just one man who took his responsibility seriously. And in that way, he is not the first, nor is he the hundredth or thousandth for that matter. Nevertheless his actions have shown clear progress, progress that nobody can deny is the sum of hard work from many of our people. He has taken a great step, one that cannot be ignored or belittled. Because of him, I know we have not stopped moving, and we are getting somewhere. The next part is up to me -- to use to the fullest extent all the doors so many have opened for me, and to open even more doors for others. And through all those doors, we may just find a way out of this mess. And I truly can see a better day coming, even if it is just a dream.

## ANNOUNCEMENTS

### Upcoming FBA Luncheons

The FBA monthly lunches take place on the third Thursday of each month at the University Club, 1225 SW Sixth Avenue, Portland, Oregon. We are pleased to host three members of our Federal bench at upcoming lunches:

November 18, 2010 Judge Garr (Mike) King

January 20, 2011 Judge Dennis Hubel

February 17, 2011 Chief Judge Ann L. Aiken

Cost is \$18 for FBA members and \$20 for non-members. Please make reservations for either a vegetarian or meat lunch entrée by emailing [afallihee@barran.com](mailto:afallihee@barran.com). The RSVP deadline is the Tuesday before each lunch.

### An Afternoon Social to Honor Federal Defender Steven T. Wax

Please join the FBA on December 2, 2010 to celebrate Steven Wax's receipt of the Sarah T. Hughes Civil Rights Award. The event will take place at the Hatfield Courthouse from 4:00 to 5:00 p.m. We look forward to a large turnout.

### Federal Practice Handbook Now Available Online

The Oregon Chapter of the Federal Bar Association is pleased to announce the publication of an online edition of its *Federal Practice Handbook* on its website, [www.oregonfba.org](http://www.oregonfba.org).

The online edition of the *Handbook* is the culmination of years of work by the Young Lawyers Division of the Federal Bar Association, Oregon Chapter and the Board of the Chapter. The *Handbook* features answers by each federal judge in the District of Oregon to questions about their preferences and practices. The questions were gathered from experienced practitioners. The *Handbook* consists of an Index to Questions, which lists each question by number; responses from each Article III and Magistrate Judge currently working in the District; a quick reference compilation of some of the answers to the questions that we have been asked most frequently in the course of compiling this *Handbook*; and a Technology supplement that lays out the current state of evidence presentation technology available in the various courtrooms. This online version of the *Handbook* includes the 2005 Edition of the *Handbook*, the 2009 Supplement and 2010 revisions to selected chapters. The online edition will be continually updated if a judge chooses to change any information, or if a new judge joins the bench. The online edition will permit a lawyer working anywhere, anytime to instantly

access important information on practicing in Oregon's federal courts.

The online edition of the *Handbook* must be purchased through the [website](#). The cost is \$115 for Chapter members, \$150 for non-members and \$75 for non-profit or public sector attorneys. Purchase of a license entitles the user to all future updates. A firm or company may purchase one license to use throughout the organization.

Questions can be directed to the *Handbook's* new editor, [Todd Hanchett](#) of Barran Liebman LLP, who is taking over from [Seth H. Row](#) of Parsons Farnell & Grein LLP, with the completion of the online edition. Todd can be reached at [thanchett@barran.com](mailto:thanchett@barran.com).

### Give Something Back! Be a Mentor!

The FBA is looking to match experienced federal court practitioners with new attorneys. If you have five to 10 years' federal court experience, consider being a mentor. To sign up, contact Kelly Zusman at [kelly.zusman@usdoj.gov](mailto:kelly.zusman@usdoj.gov).

### Oregon Chapter Website Is Up and Running

The new FBA website is up and running at [www.oregonfba.org](http://www.oregonfba.org). It is a work-in-progress but will include the following features in the near future: a calendar of events and links to sign up and pay for monthly luncheons, CLEs and the like; a payment system for purchasing FBA publications, handbooks and other materials; helpful links to websites of interest to federal practitioners; and other information about the organization. We are open to suggestions for additional website content. Please contact Johnathan Mansfield ([jmansfield@schwabe.com](mailto:jmansfield@schwabe.com)) with comments or suggestions.

## New FBA Members Welcome

*Membership Eligibility.* FBA membership is open to any person admitted to the practice of law before a federal court or a court of record in any of the states, commonwealths, territories, or possessions of the United States or in the District of Columbia, provided you are or have been an officer or employee of the United States or the District of Columbia, or you have a substantial interest or participate in the area of federal law. Foreign Associate Status is open to any person admitted to practice law before a court or administrative tribunal of a country other than the United States. Law Student Associate Status is open to any law student enrolled at an accredited law school. If you wish to join, please visit [www.fedbar.org](http://www.fedbar.org) and click on the "Join Now" link.

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## Missing Electronic Notices and Change of Address?

We have been sending the electronic notices via our listserv. Although we have made every effort to obtain our members' email addresses, we need your help to keep our list accurate and current. For those members without email, we are providing the electronic notices by fax. If you have an email address or fax number and have *not* been receiving electronic notices, or if your email address changes, please contact our listmaster: **Chelsea Grimmus**, [chelseagrimmus@yahoo.com](mailto:chelseagrimmus@yahoo.com). For a change in physical address, please notify **Tim Snider**, [twsnider@stoel.com](mailto:twsnider@stoel.com), to ensure you continue to receive mailings from the Oregon Chapter of the Federal Bar

## Call for Submissions/Publication Schedule

*For the District of Oregon* welcomes submissions from everyone as well as our regular contributors. The deadlines are December 15, 2010, March 15, 2011, June 15, 2011 and September 15, 2011. We ask only that you inform us in advance if you are preparing a submission. Please direct inquiries to Timothy Snider at 503-294-9557 or [twsnider@stoel.com](mailto:twsnider@stoel.com).

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