



# FEDERAL CLAIMS BAR ASSOCIATION

*Spring 2008 Newsletter*

## Spring News

As many of you have noticed, the court has a new look to its website! The most significant among all the new features is the ability now to search within



opinions for key words or phrases, within specified time periods, by judge, etc. I trust this search function will assist practitioners and parties, the media, and general public in more fully accessing the written product of our judges. I would like to express my appreciation in particular to **Jim Wang**, Chief Deputy Clerk for Administration and Information Technology, and

his team of IT specialists at the court for overseeing this project. Thanks also to the judges and special masters, members of the Bar Association, and others who provided very helpful observations and suggestions for improving the functionality of the court's website during the course of this project.

Nevertheless, the court welcomes continued input from practitioners and other observers so that we may continue to serve our "customers" as effectively as possible.

Elsewhere in this newsletter is the latest information about the court's annual Law Day celebration, sponsored by the CFC Bar Association, to be held on Thursday, May 1, at noon at the Willard Intercontinental Hotel. We are honored to have as our guest speaker **Judge Royce C. Lamberth** of the United States District

Court for the District of Columbia. This will be the court's fifth annual commemoration of Law Day, it will take place on the 50th anniversary of the institution of Law Day in the United States, and I fully anticipate that we will be hosting a capacity crowd. Please register early!

If you happen to find yourself at the National Courts Building, please stop by the fifth floor to see the framed photograph taken last fall of the past presidents of the CFC Bar Association. That it hangs prominently at the beginning of the corridor to the courtrooms on that floor reflects the court's sincere appreciation for the work of the Bar Association over the past 20 years. The Bar Association is an integral part of the court's "family" and we are pleased to acknowledge the Bar Association Presidents who contributed their leadership so generously.

We are all pleased that, after a hiatus of many months, the Tayloe Café has reopened. The café is newly managed by Firehook Bakery and offers a growing menu of soups, sandwiches, and salads, as well as bakery items befitting a gourmet deli. I am confident this mutually beneficial association

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will prove successful and that the café will meet your breakfast, snack, and lunchtime needs. The Tayloe Cafe's hours of operation are 7:30 a.m. to 2:30 p.m. Many thanks are due to the leadership of the Federal Circuit in pursuing this opportunity.

In mid-March, the court was honored to host the regional National Appellate Advocacy Competition sponsored by the American Bar Association Law Student Division. Over the course of three days, teams of outstanding students demonstrated their oral advocacy utilizing nearly all the courtrooms of our court and two courtrooms of the Federal Circuit. Many thanks to **Lisa Reyes**, Chief Deputy Clerk for Operations, who served as the court's liaison with the organizers of the competition. On March 29, the court also hosted the national finals of the annual Saul Lefkowitz Moot Court Competition co-sponsored by the law firm of Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., and the International Trademark Association.

Practitioners may also have noted the court's increasing utilization of electronic digital recording (EDR) to record non-evidentiary proceedings. When EDR is utilized in lieu of a court reporter, the digital audio recording of the proceeding, kept on the court's hard drive, constitutes the official record. Judges and/or parties may still order certified transcripts from EDR proceedings (see the court's website under "Forms" for further information) and a certified, "original" printed transcript will then also be filed as part of the official docket of the case. **Judge Francis M. Allegra**, chair of the court's Technology Committee and a member of the Committee on Information Technology of the United States Judicial Conference, has been overseeing the court's embrace of this new technology.

As another facet of the court's planning for the future, **Judge Emily C. Hewitt** recently led a team of three court managers at a Strategic Planning Workshop in Atlanta hosted by the Federal Judicial Center. Judges and court managers attended from throughout the country and explored the development of their court's respective missions in light of anticipated economic, legal, and cultural impacts on court constituencies.

Let me also note the preparation of the court's Office of Special Masters for the next round of hearings in the Omnibus Autism Proceeding. Over three weeks beginning May 12, 2008, **Special**

**Masters George Hastings, Patricia Campbell-Smith, and Denise Vowell** will hear three test cases regarding the second of three medical theories of causation of vaccine injury. The cases will be heard in Courtroom 203 of the Federal Circuit. For more information, contact the Office of Special Masters or see the court's website under "Vaccine Info."

Very best wishes to all for a springtime of hope and rejuvenation.

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## ***President's Message***

Greetings, and thank you for spending some time with this first quarter Newsletter for 2008. One of



the many privileges that I have as President of the Bar Association is the opportunity to add a few thoughts for our quarterly publication.

As the cherry blossoms bloom and the streets and metro fill with tourists, it seems appropriate to reflect for a moment on the annual pilgrimages that fill the capital city. While the cherry blossoms are certainly wonderful, what really brings the citizens, school groups, and families to Washington are the many institutions that call the area home. And, so—while I am not sure that the Court is quite yet a central destination for the open air busses—I wanted to pause briefly to consider the nature of an "*institution*." More particularly, I thought it might be useful to reflect for just a bit upon how the Court embodies the best attributes of worthy institutions, and how the Bar Association strives to complement those attributes.

Worthy institutions have a history. The basics of the Court's history are known to many practitioners, and the judicial function and the dictates of stare decisis naturally foster a regard for history. Even among federal courts, however, the Court of Federal Claims possesses a fascinating and unique past that is worth getting to know better. While the Bar Association's history is of a lesser duration, one of the things that I am proud to have been a part of

during my involvement over the past few years has been the celebration of the organization's own history. A very tangible sense of that was apparent during the celebration of the 20th Anniversary of the Bar Association last fall, and can be seen in the portrait of the past presidents of the Association that now hangs in the 5th Floor hallway at the Court.

Worthy institutions have traditions. Again, the traditions of the Court are almost inherent in its very function. The Bar Association has also, I think, made great strides to foster its own traditions. These include this Newsletter, the regularly published Executive Summary, "brown bag" seminars on substantive topics of interest, the permanent web site, and the Association's annual support of the Court's Law Day and Judicial Conference. Each year, with these events and traditions, I believe the Bar Association is maturing into more of a worthy institution in its own right, and contributing more to the Court community.

Worthy institutions have purposes and duties. Among the Court's many laudable duties, perhaps the most oft-recited is the inscription carved into the lobby of the very building itself, namely carrying out the duty of the government "to render prompt justice against itself, in favor of its citizens." The Bar Association's duties are less often recited and, I think, more intuitively understood, but can be captured (as it says on our website) as improving the practice for all members of the Court community, and promoting and celebrating the important institutional interests embodied by the Court and its functions.

Finally, worthy institutions are flexible, living organizations. Change is a constant, and if there is a negative connotation to "*institution*" it involves rigidity and resistance to constructive change. The ways in which the Court remains vibrant and flexible are too numerous to recount, but include use of cutting edge technology, constant attention to practice and procedure, and, I like to think, a healthy, close, and constructive relationship with the Bar Association.

As you walk around this spring and see the tourists snapping pictures of some of the better known institutions in our city, I would urge you to stop for a moment and reflect upon what has made the organizations housed in those iconic buildings what

they are. I would suggest that the key attributes can be found right here in the Court of Federal Claims, and those attributes are a major part of what makes practice before the Court such a satisfying experience. Even if such a reflection might not lessen the inevitable seasonal irritations of crowded metro cars and clogged highways, it may help us to appreciate our interactions with the Court, and hopefully with the Bar Association as well.

Thank you, as always, for the support.

**Brad Fagg, President**

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***Judge Royce C. Lamberth  
To Speak At Fifth Annual  
Law Day Celebration***



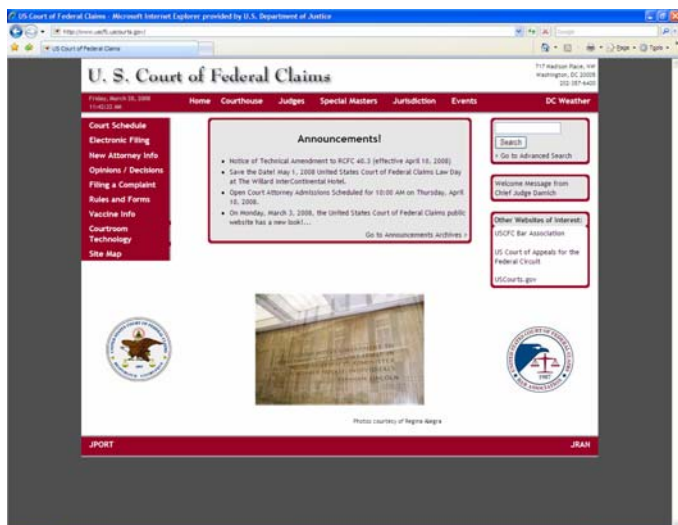
This year the Court of Federal Claims observes its Fifth Annual Law Day Celebration. It is the 50th Anniversary of Law Day as established by the American Bar Association in 1958. In keeping with **Chief Judge Damich's** desire to reach beyond the court's family on this special occasion of celebrating the Rule of Law, it is anticipated that this year's event will draw attendees from other courts and academia, as well as new admittees to the practice of law.

This year's guest speaker is the **incoming Chief Judge of the United States District Court for the District of Columbia, the Honorable Royce C. Lamberth**. Judge Lamberth will be assuming his new duties as Chief Judge on Law Day! The celebration is being held at the Willard Intercontinental on Pennsylvania Avenue at noon on May 1, 2008.

To learn more about Law Day and to register online please go to <http://www.cfcbar.org/>.

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## Court Unveils New Website



On Monday, March 3, 2008, the Court of Federal Claims received authorization from the Administrative Office of the U.S. Courts (AO) to go “live” with its new website.

The Court’s Information Technology (IT) department started the new website project three years ago. The project proceeded in four phases: information collection, design, development and implementation, and final implementation.

In Phase I, the IT department spent many months soliciting comments and suggestions for the new site. The most frequently requested feature – from both Court staff and the CFC Bar Association members – was the ability to search within the PDF files of the opinions and decisions. As more than 5,000 opinions and decisions were individually moved from the prior website to the new website, this search capability is especially useful. Other requests included: (1) renaming various menu items for clarity; (2) adding photos of the courthouse; and (3) making the site cleaner (e.g., easier navigation, less clutter, etc.).

In Phase II, the IT department spent nine months on design, including a design competition to encourage the submission of creative ideas on organization and appearance.

In Phase III, the IT department started the actual coding of the new site – the most tedious aspect of the project. Basically, this involved turning the winning design into a functional website, moving existing content into the new site, drafting new content, and building an internal workflow to streamline updating content. The IT department lost some progress time in Phase III when the primary staff project developer left the court. However, in late August 2007, the IT department hired a new programmer, **George Jordan**, and the timetable for the launch was set for early 2008.

In Phase IV, the IT department worked with Court staff and Bar Association members on finalizing the new website. The IT department worked to verify the new navigation menus, sub-menus, and links, and to double-check content (including spelling, grammar, and punctuation). Also, in Phase IV, the IT department worked closely with the AO to ensure that the new website would pass the strict certification requirements that the AO has imposed to reduce the threats to judiciary websites from hackers.

The IT department has plans to enhance the site with additional features and improved content. It is currently researching an application that will allow users to obtain real-time updates of court proceeding schedules. It is also looking at providing daily and weekly, or monthly, schedules.

## Tax Law Brown Bag Will Be Held On April 21

The Court of Federal Claims Bar Association will host a free “brown bag” program on Tax law, entitled “How Long is Too Long.” This one-hour program will take place at noon on Monday, April 21, 2008, at the offices of Morgan, Lewis & Bockius, 1111 Pennsylvania Avenue, N.W., Washington, D.C. Practitioners from government and private practice will lead the discussion, which will discuss the recent rift in the courts over how long the IRS has to assess and collect taxes. While everyone agrees that the normal rule is three



years, there is a long dispute over the applicability of an exception to this rule that extends the period to six years. Although Congress and the Supreme Court have both spoken to this issue, the courts have found some conflict in that guidance and have disagreed over which path to follow. The Tax Court and the Court of Federal Claims (Judge Allegra) recently have held for taxpayers by narrowly reading the exception, while a district court and the Court of Federal Claims (Judge O.C. Miller) took the opposite view. The Federal Circuit has accepted an interlocutory appeal and likely will be the first circuit court to decide how long is too long.

The Bar Association's Brown Bag programs are informal roundtable sessions that enable attendees to network and exchange ideas in a collegial, relaxed environment. For more information regarding this program, please contact James Gette ([james.gette@usdoj.gov](mailto:james.gette@usdoj.gov)).

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***To Join the Court of Federal  
Claims Bar Association, Click  
on "Membership Services" at  
[www.cfcbar.org](http://www.cfcbar.org)***



## ***The Judges of the U.S. Court of Federal Claims as of December 2007***



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