THE DISTRICT OF COLUMBIA COURTS

ENSURING FAIRNESS AND ACCESS

TO THE COURTS IN A CHANGING WORLD

A Ten Year Retrospective and Prospective Examination

Conference Report

Standing Committee on Fairness and Access to the D.C. Courts
The District of Columbia Courts

D.C. Court of Appeals
Annice M. Wagner
Chief Judge

Superior Court of D.C.
Rufus G. King, III
Chief Judge

Anne B. Wicks
Executive Officer

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INTRODUCTION

On October 4, 2002, the Standing Committee on Fairness and Access to the D.C. Courts and the Retrospective and Review Advisory Committee held the conference, *Ensuring Fairness and Access to the Courts in a Changing World: A Ten Year Retrospective and Prospective Examination* (*Conference*) at the Ronald Reagan Building and International Trade Center. The conference was one of many efforts on the part of the District of Columbia Courts to improve access to the courts and to eliminate bias from the administration of justice. The *Conference* was held in the year marking the tenth year after the release of the *Final Report of the Task Force on Racial and Ethnic Bias and the Task Force on Gender Bias in the Courts.* October 2002 was also six years after the creation of the Standing Committee on Fairness and Access to the D.C. Courts (Standing Committee).

The number one issue affecting public trust and confidence in the justice system is the perception of, as well as actual, unequal treatment. This view of the American justice system was identified as a pressing concern in a national poll and by the delegates to the National Conference on Public Trust and Confidence in the Courts, co-sponsored by the American Bar Association, the Conference of Chief Justices, the Conference of State Court Administrators, and the League of Women Voters.

The *Conference* convened, not only to address issues of public trust and confidence, but also as a means of aiding the achievement of a high standard of fairness and accessibility through frank discourse on existing barriers to a fair and accessible court system. It was felt that this discourse would lead to further progress through awareness. The conference was an occasion to reflect on what had been accomplished in the dozen years since the task forces were first established, and was part of the courts' on-going program of training and educating the Bar, the judiciary, court administrators, and court staff.

The Organization of This Report

The Conference Agenda can be found at the beginning of this report, immediately following the Executive Summary, for easy reference, since this report tracks the sessions and events that took place at the Conference. This report then turns to the edited presentations of the *Conference*'s two panels. At the *Conference*, these panels followed the remarks of D.C. Court of Appeals Chief Judge Annice M. Wagner and those of Superior Court Chief Judge Rufus G. King, III. As Chair of the Joint Committee, Chief Judge Wagner was the convenor of the Retrospective and Review Advisory Committee.

First the remarks of the panelists are presented, followed by the interchange between the panelists and the Conference participants during the question and answer segment. The first panel—"Progress in the Last Decade: A Panel Discussion"-moderated by the Honorable Ricardo Urbina of the U.S. District Court for the District of Columbia, focused on progress in the areas of fairness and access over the past ten years. The panel emphasized the link

between the work of the two task forces during the early 1990s and the present efforts of the Courts to ensure fairness in and access to the District of Columbia Courts.

The second panel, “Our Vision of a Fair and Accessible Future: A Town Hall Discussion,” focused on the Courts’ vision for a fair and accessible future. Issues that were considered were: Where do we go from here? What are the priorities which must be addressed over the next several years? This panel was moderated by Professor Kim Taylor-Thompson, a former Director of the D.C. Public Defender Service.

Following the section on the two panels is the edited verbatim transcript of the Conference Keynote Address by Justice Robert Benham of the Georgia Supreme Court, who shared his wisdom based upon his rich background in fairness and access issues.

The Retrospective Review Advisory Committee and the *Standing Committee* used the occasion of the Conference to recognize two of the many individuals who have worked to ensure fairness and access to the D.C. Courts Superior Court Senior Judge Margaret Haywood and Marc Fiedler, Esq. This recognition ceremony is recorded in the section of this report that is immediately after Justice Benham’s Keynote Address. The Conclusion of the Standing Committee follows the Conference’s recognition activities.

Appendices include the biographical statements for the conference presenters and a status report from each of the three Standing Committee subcommittees.

CONFERENCE AGENDA

Registration	
Call to Order and Conference Overview	
	Judge Inez Smith Reid
Opening Remarks	Chief Judge Annice M. Wagner Chief Judge Rufus G. King III
Introductions	*Judge Stephanie Duncan-Peters*
Progress in the Last Decade	Judge Ricardo M. Urbina U.S District Court for D. C. (Moderator) Judge Melvin R. Wright Judge Inez Smith Reid Marc Fiedler, Esq. Maria E. Holleran Rivera, Esq. Professor Ann C. Shalleck
Introductions	Judge Eric T. Washington
Our Vision of a Fair and Accessible Future	Professor Kim A. Taylor-Thompson New York University School of Law (Moderator) Jonathan L. Lippman Chief Administrative Judge, New York Unified Court System Marisa J. Demeo, Esq. John A. Payton, Jr., Esq. Marna S. Tucker, Esq.
Lunch	
Introduction of Keynote Speaker	Chief Judge Annice M. Wagner
Keynote Address	Justice Robert Benham (formerly Chief Justice) Supreme Court of Georgia
The Trailblazer Award	Judge Kaye K. Christian
Marc Fiedler, Esq.	Judge Rafael Diaz
Senior Judge Margaret A. Haywood	Elizabeth S. Gere, Esq.
Conference Adjournment	Chief Judge Annice M. Wagner

PROGRESS IN THE LAST DECADE

A Panel Discussion

The Honorable Ricardo M. Urbina, U.S. District Court for D.C., Moderator
Marc Fiedler, Esq.
The Honorable Inez Smith Reid, Chair, Standing Committee on Fairness and Access
Maria E. Holleran Rivera, Esq.
Professor Ann C. Shalleck
The Honorable Melvin R. Wright, Judge, Superior Court of D.C.

Judge Inez Smith Reid highlighted some of the accomplishments of the Standing Committee on Fairness and Access and explained how the Standing Committee has been sensitive to the concerns that flow from the work of the original task forces. Between January 1998 and December 2001, the Standing Committee met with 11 groups in a series of meetings called the Outreach Initiative Forums. These meetings not only brought attention to issues that the committee needed to address, but also gave some indication of where the Courts were making progress. Judge Reid highlighted the Standing Committee's work in four areas: 1) the treatment of court users by judicial officers, including gender based bias; 2) national origin; 3) race; and 4) language access.

Judge Reid stated that, while gender bias has not been entirely eliminated, substantial strides have been made. Progress has not been as substantial with respect to national origin and race. An affirmative action program was established, and bilingual positions were designated, as part of the effort to improve the recruitment of Latinos. The forums revealed, however, very subtle discriminatory attitudes and actions in regard to sensitivity, disrespect, or even hostile actions were being reflected in the attitudes of some judicial officers and staff. Judge Reid stated that the Courts still are not satisfied with the number of Latinos and Asians in the workforce.

In terms of language access, the Courts' efforts include the translation to Spanish of practically all court documents that are used by the public. Also, more positions have been designed as bilingual. More staff with bilingual skills, and persons of Latino and Asian Pacific origin are needed in the Courts' workforce. The Courts are also working to improve communication in the Landlord Tenant Branch. Judge Reid also mentioned that the Courts have worked to accommodate persons with disabilities.

Mr. Marc Fiedler presented his assessment on the Courts' progress with respect to making their facilities accessible for persons with disabilities. He prefaced his remarks by observing that the difficulty of accommodating people with disabilities is due in part to the wide variety of disabilities. He observed that the access issues that the Courts have addressed are in some ways the easy,

but expensive, ones. By way of illustration of the Courts accomplishments, he listed several of the changes that he had observed:

- For wheelchair users, nine courtrooms have been made wheelchair accessible, with witness stands that roll away, and juror boxes that have a first tier that is level with the floor. This allows a wheelchair user to fit in with the rest of the jury. The courtrooms have accessible seating for spectators. The jury deliberation room is accessible and served by an accessible restroom and water fountain.
- For persons who use wheelchairs, the button panels in the elevators have been lowered. For the blind and persons with low vision, the buttons have tactile and Braille designations next to them; also, the elevators have audible signals that indicate the floors.
- Water fountains have been made more accessible.
- Public telephones have been equipped with volume controls for people who are hard of hearing. A few have been provided with telecommunications devices for deaf people. The phones have been lowered for wheelchair users.
- For the deaf, sign language interpreters are available for those who can read sign language and oral interpreters are available for those who read lips and do not use sign language. Sophisticated realtime captioning services also are available.
- For hard of hearing court participants, portable assistive listening systems are available.

Mr. Fiedler stated that the Courts need to do a better job informing the public about what it has done to improve accessibility for persons with disabilities. He stated that more outreach to the community is needed for the purpose of getting feedback, as well as letting the community know what has been accomplished.

In terms of areas where improvement is needed, he noted that he cannot open the front door to the Moultrie Courthouse. From the perspective of a person with disabilities, not having an automatic door opener at the main entrance is not only a practical problem, but a symbolic one as well. Other areas where he thinks that the Courts could improve access for persons with disabilities include installing signage that directs people to accessible features and equipment and making printed materials more widely available in alternative formats, such as large print and Braille for the blind and those with low vision.

Judge Melvin R. Wright stated that he offers the perspective of a person whose first association with the Courts was as an employee of the Superior Court in 1972. He stated that when he started his employment with the Courts, most women and African Americans were clerks and secretaries. All of the supervisors, except for one, were white males. Judge Wright then presented statistics, which are provided at the end of this section in Tables 1, 2, 3, and 4.

Judge Wright stated his opinion that, overall, the Courts are doing a very poor job of servicing individuals with access challenges, especially English proficiency, due to inadequate resources. He expressed frustration over the limited number of Spanish interpreters available to him as a judge, particularly as a judge in the Drug Court. Because of this limited resource, he is forced to find community-based drug treatment programs for persons who are limited English speakers, rather than have them participate in the Drug Court. He explained that one of the sanctions for a Drug Court participant who tests positive is to have him or her spend two days in the court as an observer. For persons with limited English proficiency, it would not make sense for them to spend two days as observers because it would be of no benefit to them since they would not fully understand the proceedings.

Judge Wright concluded by stating that as a society, we need to decide whether to allocate more resources so that the needs of persons with challenges and barriers can be met.

Ms. Maria Holleran Rivera stated that she did not think that the Courts' budget is the issue, but rather it is an issue of subtle bias that is pervasive even when people are trying to do the right thing. She feels that the Courts have made a good faith effort to remedy some of the issues. Since the task force reports were issued ten years ago there has been ongoing progress, but it has been exceedingly slow. As a member of the Standing Committee's Hiring and Promotions Advisory Committee, she perceives a court culture of barriers and hesitancy that demands justification and re-justification for every attempt to remedy a problem. She believes that persons responsible for implementation have gotten the message that the Courts need to be more inclusive and have to diversify.

Ms. Holleran Rivera believes that the Courts are now grappling with an invisible, corrosive, systemic bias which is difficult to eradicate. To effectively address this requires a coordinated, strategic, and systematic approach. Internally, clear goals and objectives and an action plan with a timetable are necessary, together with improved communication of policy. Externally, public outreach and regular communication is required.

Professor Ann C. Shalleck cited the Courts' abuse and neglect caseload as an example of how subtle bias influences court operations. The D.C. Courts' Gender Bias Task Force was the only gender bias task force in the nation at the time that it studied its child abuse and neglect caseload. One of the findings was a significant disparity in the perceptions of parents based on gender. Another finding was that attorneys practicing in that area perceived that mothers were held to higher standards than fathers, while fathers were often seen as irrelevant rather than as critical to the operation of that system. Professor Shalleck argued that we can now see the intersection of race and gender because of society's increased sophistication about bias.

Northwestern University Professor Dorothy Roberts calls the child welfare system the most segregated system in American society. The people who come

into the system are overwhelmingly poor, African American women. With this disproportionate representation, the court system reflects the operation of society.

Professor Shalleck described how the society and the child welfare system view poor, African-American women as the causes of, rather than the victims of, social problems. This worldview affects attempts to reunify the family and drives the impulse to remove children from their families. The professor stated that one half of the children in the foster care system are African American, although they comprise one-fifth of the children in this country. African American children are in foster care longer than any other group in society and are moved from foster home to foster home more frequently. They also receive fewer services.

In closing, Professor Shalleck stated that there is a need to focus on the big picture in terms of this phenomenon and that this can be done systemically. She urged a continuation of the study that the Courts began ten years ago, but this time to focus on subtle bias.

Responding to Judge Urbina's concluding question for the panel – Do task forces work? -- Ms. Holleran Rivera reflected on the value of having task forces conduct institutional reviews of the court system, the results that flow from such work, and improvements that she envisioned as appropriate. She stated that she believes that they work because the first step to resolving a problem is acknowledging that it exists, which the Courts have done, and the Courts have also begun remediation, which is important as well. In the future, she would like the task forces to examine subtle bias, including correlations between race and ethnicity, ethnicity and gender, as well as race and gender. She would also like to see empirical studies, including a study of judicial law clerks, and an examination of opportunities to diversify the court system in its entirety. In concluding, Ms. Holleran Rivera stated that the D.C. Courts should open itself to criticism. This is done to achieve excellence in the way that the Courts manage their operations and business and to achieve excellence in the administration of justice.

Judge Inez Smith Reid concluded the first part of the panel presentation by stating that it is her opinion that task forces are valuable. But only valuable if people take their reports off the shelf and read and re-read them. It is a constant process. She thinks that is what the Chief Judges of the D.C. Courts have recognized. After the Task Forces issued their Reports on Race, Gender and Ethnicity, it was not enough to sit back and say we have accomplished our work. Some mechanism had to be put into place to follow up on that work, to continue saying to people: These are the problems, what progress have we made?

During the question and answer segment of the panel, Superior Court Chief Judge Rufus G. King III stated that he felt compelled to clarify that the strategic planning effort has been inclusive of the Bar and community at large. He added that it has been critically important to Chief Judge Wagner, himself, and all of the senior court leadership.

He continued by stating that strategic planning is an exercise in surveying the community. The Court was well aware of that, and the Strategic Planning Leadership Council was aware of that. Between April and September 2002, the Court distributed survey forms by the Bar, through an email to the entire D.C. Bar and the offices of the U.S. Attorney, Corporation Counsel, and the Public Defender Service. All of the survey forms had an invitation to participate in focus groups, so that anyone who felt inspired could come and spend almost unlimited time in explaining what they felt, and making their views known.

Chief Judge King added that surveys were made of all persons who visited the courthouse for almost three weeks. The survey forms were placed on tables in the atrium. The tables were placed so that people had to walk around a table that had the sign on it that said: "Please get your survey forms in; we need your input; we need your information." The surveys and focus group discussions which came out of them continued until the week before the conference. He stated that the strategic planning staff had received almost 1500 completed survey instruments.

In conclusion, Chief Judge King stated that he wanted the record to reflect that the Courts had made an effort to make the community aware of the strategic planning exercise, and to convey the message that its views are not only valued, but also will be considered.

Mr. Willie E. Cook, Executive Director of the Neighborhood Legal Services Program, stated that he felt compelled to express his frustration with the Landlord Tenant Branch. He said that the Landlord Tenant Branch typifies the need to examine the intersection of economic status with race, gender, and other variables. He went on to say that economic status is a problem in the court system as it relates to poor people and that it has remained so for the 30 years that he has practiced law. He reminded the Conference that five years ago, a D.C. Bar task force issued a report that made detailed findings and set out several recommendations for improvement.

He called the Landlord Tenant Branch an abomination that "ought not to exist." The anteroom, he added, outside of the Landlord Tenant Courtroom should be eliminated. For example, he stated that poor tenants are forced to line up before court-provided tables where the landlords' attorneys are seated. When they confer with counsel they are coerced into uninformed confessed judgement settlement agreements. These informal conferences take place before they are given instructions by the courtroom clerk at the 9:00 a.m. roll call. There is a delay in the judge taking the bench so that the landlord attorneys have time to hammer out additional settlements with the tenants. In concluding, Mr. Cook stated that economic status as a problem in the court system must be part of the discussion on fairness.

Judge Reid responded that she understood Mr. Cook's frustration. After the *Outreach Initiative Forum* with the Neighborhood Legal Services Program, the Standing Committee met with the Presiding Officer and the Deputy Presiding Officer of the Civil Division and the Landlord Tenant Branch. She described the

Standing Committee's effort to get a bilingual videotape produced that would address the issue of language access as well as the issue of informing court users about the procedures in the Landlord Tenant Courtroom.

In terms of economic status, Judge Reid said that one of the things that she thought was needed is to have attorneys for the tenants. She asked if the Bar would be willing to provide *pro bono* assistance.

Court of Appeals Judge Vanessa Ruíz added that another set of issues that were neither raised at the Conference nor studied by the 1990 task forces, were the intersections of ethnicity, gender, and economic status. These issues affect immigrants who either are or believe that they are in an uncertain immigration status. This group not only has language problems, but also occupies the bottom of the economic ladder in job positions that are vulnerable to exploitation.

Diane M. Brenneman, Esq. identified herself as a member of the Task Force and Implementation Committees of the D.C. Bar's Pro Bono Program. She is co-chair of the Family Law Representation Committee that focuses on the Domestic Relations side of the Family Court. She stated that it is important to have task forces identify the issues and to serve as a prod to both the general community and the Courts. She added, however, that there is often a disconnect between the task force recommendations and implementation.

For example, about three years prior to the Conference, full sets of *pro se* forms for the Family Division (now the Family Court), in Spanish and English were prepared by the Bar committee and approved by the Superior Court Board of Judges. The Spanish version of the forms were never printed. She added that the committee also had a kiosk with interactive bilingual tapes explaining the *pro se* divorce, as well as child support processes, but the kiosk is no longer there due to technology maintenance issues.

Ms. Brenneman concluded by observing that the Courts have done a lot, but that there is still a lot that must be done on the implementation side due to a disconnect in the middle. Both the Bar and Court need to be aware of this disconnect.

Judge Stephanie Duncan-Peters, Chair of the Standing Committee's Subcommittee on Hiring and Promotions stated that she was interested in getting any suggestions that the Conference participants may have. She added that she had heard about a dozen issues that the Courts could address. She added that the conference participants could address some of the issues. For example, to address judicial diversity, specifically the bench not having anyone of Asian or Pacific Islander background, the bar associations could encourage such persons to apply and assist in getting them vetted for a judgeship. In regard to clerkships, Judge Duncan-Peters stated that the voluntary bar associations could assist the judges by identifying volunteer interns. An internship is an excellent way for a person to gain experience, show their value to that judge or to others, and perhaps get a leg up on a clerkship.

Judge Duncan-Peters concluded by stating that she would like mediators provided by the Multi-Door Dispute Division to assist with mediating cases daily in the Landlord Tenant Courtroom. It was her opinion that this could be accomplished very quickly, and since she likes concrete results, she was putting this on her agenda.

Table 1: SUPERIOR COURT JUDGES 1972 (N=46)		
	Number	Percentage
Male	42	91.3%
Female	4	8.9
African-American	12	26
Hispanic	0	0
Asian-Pacific	0	0
Disabled	1	2.2

Table 2: SUPERIOR COURT JUDGES 1982 (N=46)*		
	Number	Percentage
Male	40	86.9%
Female	6	13
African-American	14	30.4
Hispanic	1	2.2
Asian-Pacific	0	0
Disabled	1	2.2

Table 3: SUPERIOR COURT JUDGES 1992 (N=58)		
	Number	Percentage
Male	38	65.5%
Female	20	33.9
African-American	22	37.9
Hispanic	1	1.7
Asian-Pacific	0	0
Disabled	0	0

Table 4: SUPERIOR COURT JUDGES 2002 (N=59)		
	Number	Percentage
Male	33	55.9%
Female	26	44.1
African-American	26	44.1
Hispanic	3	5.1
Asian-Pacific	0	0
Disabled	1	1

OUR VISION OF A FAIR AND ACCESSIBLE FUTURE

A Town Hall Conversation

Professor Kim Taylor-Thompson, Moderator
Marisa J. Demeo, Esq.
The Honorable Jonathan L. Lippman
Chief Administrative Judge, New York Unified Courts
John A. Payton, Jr., Esq.
Marna S. Tucker, Esq.

Professor Taylor-Thompson opened the panel by stating the panel's focus, which was to reflect on where the Courts are going to be in the next decade. She explained that she would pose hypothetical scenarios to the panelists that would elicit their comments on enhancing fairness and access to the D.C. Courts. As Moderator, she took the persona of an official who is anxious to ensure that District institutions serve as models for fairness and access. She has assembled the panelists as her advisors. The Moderator wants the panelists, her advisors, to help her develop a plan of action. That is, to identify steps the Courts can take to implement their plans. She asked Judge Lippman if it would be a good goal for the D.C. Courts to set the standard for fairness and access for the rest of the nation.

Judge Lippman said that it would be a wonderful goal since a court is uniquely suited to be a leader because it is looked to as the arbiter of fairness. This puts a court in a unique position to exemplify what fairness is all about. While the D.C. Courts have accomplished much, there is much more to be done that goes beyond the reports of the 1990 task forces. There are things to follow up on the reports that address areas like access to justice and strategies for getting there.

The Moderator stated that Judge Lippman has advocated the position that judges and courts should take a more active role in rooting out bias in the justice system. She asked him to explain his position. Judge Lippman stated that courts should take a leading role in the justice system. He stated that he favors courts including all of the justice system entities in dialogues on fairness issues. He added that he would like courts to expand their view of their own roles. Judge Lippman said that therapeutic, community, and problem-solving courts have come into being only within the last few years.

The Moderator asked Marisa Demeo to recommend some things that the courts could do to be in line with Judge Lippman's vision. Ms. Demeo categorized her recommendations as internal and external. Internally, a major recommendation is to increase the representation of Spanish bilinguals and Latinos throughout the courts. This would both eliminate the language barrier for Spanish-speakers who are not proficient in English and it would send a message

to the community. Her external recommendation is that the Courts should hire someone as a liaison of community affairs; someone with whom people in the Latino community could feel comfortable. This would enhance the perception of fairness that Latinos have about the Courts.

John Payton agreed that expectations of fairness will change with changes in the workforce. He added that a community group that does not include anyone who works within the justice system will have a very different perspective than a group of judges or lawyers. Mr. Payton stated that people form some of their views, some of which are incorrect, from others and from the media. The fact that some of these views are incorrect is a problem and thus, a major problem. It will take a lot of outreach on the part of judges, lawyers, and the other players in the justice system, in order for the larger community to understand and appreciate the system. He referred to a statement Mr. Fiedler made during the previous panel that there have been many positive access changes in the Courts, but they were not generally known, as an example of the need to improve community outreach.

The Moderator asked Marna Tucker what is needed to improve community relations and what the Courts need to do to get their messages out to the various communities that need to access the justice system? Marna Tucker spoke of the Domestic Violence Coordinating Unit and the Supervised Visitation Unit that were established, in great part, pursuant to the 1992 recommendations of the Gender Bias Task Force. These two units, which are national models, within the last ten years have tripled their caseload without advertising. Publicity about the units has been disseminated through neighborhood groups and police officers. This has led her to conclude that there is a greater need. She suggested effective community outreach for domestic violence would mean that the Courts have contact with community centers and hospitals. In addition, they would maintain branch offices because a lot of people that need court services would never come to the justice system in the traditional way.

Picking up on the issue of resources that was first raised by Mr. Payton, Ms. Tucker said that it is critical for the Courts to have a constituency given the political and legal environment -- specifically, Congressional control, the lack of Home Rule, and limited budgetary resources. The only constituency that the Courts have is the Bar. If the community lacks understanding, the Courts are always going to be last in terms of getting resources because no one understands their roles and importance. It is, therefore, necessary for the Courts to make alliances with community organizations and to educate them about the justice system.

Ms. Demeo stated that it would not require additional resources for the Courts to address two issues --- increasing the number of Hispanics on the workforce and improving language access. This could be accomplished by hiring bilingual persons to fill vacancies for current appropriated positions that have become vacant due to normal attrition and retirement. She suggested that the job vacancy announcements need to state that Spanish bilingual individuals will

be given priority since their skills are needed to address the language spoken by most court users with a language barrier.

Judge Lippman stated that resources is a very important issue and that in addition to prioritizing resources, courts should meet their obligations. He stated that the traditionally low-priority specialized dockets like landlord tenant, small claims, and juvenile/children should be made a priority. For example, in New York State, until recently, the court system prioritized those specialized courts. This made the statement that the court was putting resources where they were most needed. In addition to prioritizing resources, access also means *pro bono* representation by attorneys, court-provided for self-represented litigants, diversity on the panels of attorneys that serve as appointed counsel, community outreach and education, and satellite information centers.

Mr. Payton started a discussion of the economic status of persons needing judicial services. He stated that there is a trend away from a unified justice system to having one system exclusively for those who can afford it. In his opinion this trend is unhealthy. Therefore, it is important to strengthen the court system so that everyone feels he or she has access to justice. One way to strengthen the justice system would be to expose the media to the court system, for example, by having it participate at conferences like this. The media would be exposed to a new knowledge base and this would likely affect their reporting on the Courts. He added that most people are not aware that an increasing number of civil cases are being filed in the Superior Court rather than the U.S. District Court. He attributes this to a recognition of the high quality of the D.C. Court of Appeals and Superior Court judges.

Ms. Tucker said that she agreed that having judicial decisions made outside of the courts, whether by private judges or by alternative dispute resolution (ADR) can undermine fairness and access for several reasons. ADR is inappropriate if there is a disproportionate balance of power between parties. Also, the decisions are not made public as are court decisions. Public decisions inform people that societal values have changed. Finally, private decisions do not necessarily follow or contribute to the body of law.

Judge Lippman agreed that ADR would be inappropriate when there is a great discrepancy of power between the parties and he added that is would be equally inappropriate if violence between the parties is involved. He added that he favors court based ADR over processes that are either not court based or court controlled.

Noting that the creation of problem-solving court calendars is a new trend, the Moderator asked the panelists to discuss: Whether the trend is in a positive direction? Are there certain things that the Courts should be doing and should be cognizant of while proceeding along this path? In response, Judge Lippman said that this new approach places the focus on solving the problems that are the underlying reason for why the person is in the system, so that they can lead useful lives. This is different from the more traditional approach of focusing on processing the case. He suggested that solving the person's problem and

setting him or her on a useful course in life is a more meaningful measure than some of the traditional case management measures.

The Moderator stated that establishing problem-solving courts has judicial education implications because judges have to be able to think about the problems in different ways. She added that judges and others in the system take on different kinds of roles.

Ms. Tucker predicted that there would be an increasing number of specialized courts. She suggested that the courts should be alert to demographic changes in the District of Columbia over the next ten years. Her forecast is for an aging society with fewer younger residents, fewer and later marriages, and fewer children. She also predicts that the Family Court will serve as a model for a court specializing in the issues of the elderly, including elder rights, health issues, and managed care disputes.

Mr. Payton suggested that the larger community would not know anything about any new specialized dockets developed by the Courts, unless it was somehow involved in the process. He sees the creation of new dockets as an opportunity to interact with the general community. He would get community input in the design of the courts, as well as establishing the measures by which the performance of the courts are to be measured. Judge Lippman agreed. He said this approach gives the community a proprietary interest in the endeavor. He added that the people who are parties in proceedings in these courts know the value of the courts. Finally, we must remember that we are courts, with coercive power, and not social service entities.

Ms. Tucker said that she did have a concern about the creation of specialized dockets and courts. She recalled the time when the old Family Court was separate from the court of general jurisdiction. It was a step-child of the court system and the judges were not held in as high regard as the judges of the court of general jurisdiction. Unification was needed in order to get public confidence in the Family Court. Ms. Tucker cautioned that vigilance is necessary in maintaining public confidence in the specialty courts and their judges.

Ms. Demeo responded to the Moderator's question about what courts can do to address current subtle bias and to ensure that they are not replicated in new specialty courts. She stated that she is in favor of alternative sentencing and judicial education because of the impact of immigration law on persons in immigrant communities. Judges need to be educated about the provisions of the 1996 law that makes a person subject to mandatory deportation if sentenced to one year or more, even if the sentence is structured so that they serve no jail time.

Mr. Payton made the last remarks in the first segment of the panel. He said the Courts have made significant progress. There is, however, a danger of taking false comfort in their accomplishments. Given the dramatic diversification of the District over the last two decades it is quite a challenge for all of us to interact in a manner that brings about some sense of confidence in the justice

system. He hears concern that if we go out we will have to deal with the issues, but if we do not go out, we will not even know they exist.

As the first conference participant to ask a question during the question and answer segment of the panel, Superior Court Judge Natalia Combs Greene expressed concern about the risk of making the court the arbiter of social policy issues and the deliverer of social needs. She asked where the division between the court and social policy issues exists. She also wanted to know how, as a judge, she is supposed to perform both the role of judge and social worker. Another of her concerns is that the court could raise the expectations of the public about what it can successfully accomplish.

Judge Lippman replied that it is a fine line and that it is necessary to remain sensitive to the fact that the institution is still a court of justice. He then went on to explain that a drug court, for example, balances reward and punishment. He sees the punishment end of the spectrum as being more coercive and traditionally judge-like, while viewing the reward side as more non-conventional. For example, a judge embracing a successful drug court participant upon graduation. The Moderator responded to Judge Greene's comment about expectations by stating that the issue is one that the Courts need to think about. The Courts must not promise more than they can deliver.

Judge Greene also commented on the condition of court facilities. She asked why the court looks like a place that does not care about people. She stated that there needs to be some discussion about the facilities in the context of economic disparities.

Dorothy Mosby, Esq. who has practiced in the Probate Division of the Superior Court for many years, made several suggestions that would enhance the care provided to incapacitated adults. She suggested a program that would train volunteers to provide information on a structured basis to nursing homes and community care facilities. Ms. Mosby said that this outreach is needed because facilities do not understand conservatorships, guardianships, and the Court's role in protecting the incapacitated that are in their care. She also suggested enhancement of the Courts' monitoring system to ensure that the clients are getting proper care and that the facilities are held to a higher degree of accountability since they are expending client as well as public funds. Finally, she suggested an ombudsman system tied to the Medicaid and Medicare programs.

A conference participant stated for many, the court system represents fear. The speaker suggested that if the Courts are thinking in terms of access, one of the first things that they need to do is change public perception. That is to say, change its image to let people in the community know that the Courts are there, as part of a democratic system, working for them. The speaker suggested that the Courts' efforts would be enhanced if they would include organizations that have been working in the community for years. Working with these organizations would help make the Courts efforts more inclusive. The speaker concluded by stating that the members of these organizations could "walk into

any court and would point out to you in less than one day the barriers, the challenges, and the lack of accessibility, physical and otherwise."

Jonathan Smith, Esq., the Executive Director of the Legal Aid Society stated that an issue that has come up repeatedly by implication, but was not included in the formal agenda, is access to counsel. He noted that the United States is alone in the industrial world in not providing access to lawyers on a routine basis to litigants in civil cases. Mr. Smith stated that there simply is not enough legal service programs to meet the need. He added that the issue of how to pay is really one of our society's priorities. In contrast, access to a lawyer is guaranteed in Europe, South Africa, England, and Canada.

In response, Ms. Tucker noted that recent case law in New York State found a right to counsel for parents who were having their parental rights terminated. Mr. Payton stated that self representation "is almost a dirty little secret of which only those of us in this room are aware." He suggested that public education would be part of the solution. Ms. Demeo agreed with the idea of having more legal representation in civil cases, but wanted the record to be clear that the Latino community does not feel that there is adequate representation and access to criminal defense and prosecution lawyers. She noted that recent assessments have shown under-representation of Latinos and bilinguals among the Criminal Justice Act lawyers and on the legal and investigative staffs in the offices of the Public Defender Service, U.S. Attorney, and Corporation Counsel.

David Michael, Esq., Director of the Multi-Door Dispute Resolution Division of the Superior Court, stated that he wondered if the discussion indicates that we are beginning to redefine the perspective the Courts have of conflict. That is, instead of simply being the dispenser of justice, the Courts are looking at what people need, instead of to what the law may entitle them. This would indicate that the Courts are moving from a rights-based model to more of an interest-based model. He stated that this comes through in the Courts' ADR programs, community courts, drug courts, and therapeutic courts, where what is being examined are underlying interests. Mr. Michael concluded that if that is the case, then the Courts should be talking about: How can the Courts coordinate the interest-based services that they are providing? Where should the Courts be providing ADR? Where should the Courts be providing therapeutic and other interest-based services to litigants? Should the Courts not be complementing one another instead of simply looking at other resources? Or whether the Courts should or should not use them?

THE KEYNOTE ADDRESS Of JUSTICE ROBERT BENHAM

Justice Robert Benham
Georgia Supreme Court

To Chief Judge King, Judges of the Federal and D.C. Courts, to the lawyers, litigators, and Congressional staff, to the past president of the NBA, to my many friends, and some of my new acquaintances; and to one of my old friends, Court of Appeals Senior Judge Frank Nebeker. He and I have known each other for at least two decades.

Now, protocol having been established, recognition having been made, and acknowledgements having been accorded, let me dispense with formalities and tell you what a rare pleasure and a real privilege it is to be here, and to share this occasion with you, and to share this occasion with my long-time friend, Chief Judge Wagner. I must say that I wanted to come early, and stay late, but unfortunately, I have to make another speech in Atlanta at around 6:30 p.m. this evening. So I will have to get back to Atlanta, because those are my constituents, and those are the people who vote for me every six years. So, I have a vested interest in speaking to them in Atlanta tonight. I want to thank you for inviting a Justice of the Georgia Supreme Court to come and share with you. It's important that we hear different perspectives, and understand how much we have in common, and how little there is that separates us.

Today, you are dealing with a topic that is near and dear to me, and it's a topic I have had some exposure to over a number of years. There have been good times, and there have been bad times; and there have been old friends, and there have been new enemies. At times, old friends have become new enemies on this particular issue.

As I thought about the many conferences I had attended, and the many discussions I've heard, as I sat there on the plane I said, “Surely, there isn't much to be talked about. We have talked about this issue for quite some time.” Then I happened to listen to a conversation taking place behind me, on the plane. I didn't think I would hear this type of conversation in the 21st Century. But the passenger sitting behind me turned to his seatmate and said, "‘You know, I am sick and tired of this stuff about affirmative action and about racial polarization.’" He said, "‘Anybody can be anything they want to in this country. If minorities are not what they should be, it's because they themselves are racists, and have intentionally segregated themselves.’"

Although I was surprised to hear this statement made, I was more surprised when he identified himself as an Atlanta police officer. That's why I say sometimes old friends have become new enemies on this issue of inclusiveness.

So, let me go ahead and set the stage for my brief remarks this afternoon. But I do want to applaud you. As I looked at your program and saw the many wonderful things that you are doing, and as I read over the material, and looked at how far you are here, compared to where some other areas of the country are, the fact that you do have training, and that you have training for judges in the area of sensitivity -- of course, we cannot call it “sensitivity,” because that sort of “gets the hackles up” on some people. We call it “valuing differences,” rather than “sensitivity.” But what you're doing in your willingness in addressing the issues concerning the disabled, your efforts in hiring and promoting and moving into the arena of retention, and your development of recruitment strategies, you are ahead of the curve, compared to many other states. But you're nowhere near where you ought to be.

Now, I come from a different walk in life. I have a 16-year-old son, and I have a 30-year-old son. I am in two generations, and appreciated in neither. But my 16-year-old son calls my generation a "bygone generation." He prefaces it with the statement: "‘Thankfully, it's a bygone generation.’" It's from that generation; however, which I call the “romantic generation,” that we see a lot of the good in life. If someone tries to hold us down, we interpret that as extending a helping hand. If someone tries to stab us in the back, we interpret that as a pat on the back. But it's from that generation that emanates hope, because we have a historical perspective. We know how things used to be. It's from that generation I want to share just a bit of a poem called "A House by the Side of the Road," as a perspective. It goes something like this:

> There are hermit souls that live withdrawn
> In the peace of their self-content;
> There are souls like stars, that dwell apart,
> in a fellowless firmament;
> There are pioneer souls that blaze the paths
> Where highways never ran-
> But let me live by the side of the road
> And be a friend to man.
>
> I see from my house by the side of the road
> by the side of the highway of life,
> those who press with the ardor of hope,
> those who whither from the strife-
>
> I share their joy.
> I feel their pain.
> They're all part of a master plan.
> Let me live in a house by the side of the road,

And be a friend to man.[1]

So on this issue of access, I want to talk about that house by the side of the road. In case you didn't know it, that house is where we all live. It's called “The Courthouse.” It's designed to solve problems in our society. But I didn't always live in it, in the courthouse. But quite the contrary: I came from the piney woods, the red clay, the foothills of the mountains, alongside the railroad tracks, what then was known as the wrong side of the tracks. But little did I know that my mother, who was a maid, would end up owning a department store, and several other stores downtown; that my father, who was a janitor, would end up as a vice-mayor of the town; that my brothers—and this embarrasses my son—my brothers who shined shoes in Bob Kager's barbershop would end up as field-grade officers in the military. That I, who shined shoes in that same barber shop, would end up shining in the halls of justice. That's the American dream. It can become a reality for all of our citizens. But that reality is made possible because lawyers are willing to represent some unpopular clients, and take on some unpopular causes.

I came to the Bar because a neighbor of mine, whose great-great-granddaddy represented the Cherokee Nation upon the removal of Native Americans, arranged a scholarship for me at the University of Georgia Law School. This was at a time when the law school had absolutely no African Americans, whatsoever. He didn't take the time to ask me if I wanted to go. I never even knew he had arranged for the scholarship until later when he and I were locked in a battle, as lawyers. He was on one side of the case, and I was on the other.

I loved litigation. I liked to look you in the eye and see if you would look away. I liked to grab your hand and squeeze it, and see if you would flinch. I loved to assess the cadence of your voice to see if you were ready to do battle.

After he and I had a very contentious type of litigation, his secretary said, "‘You know, Lawyer Benham, you are about one of the most ungrateful folks I've ever met.’" I had to make an inquiry. She responded, "‘Did you know that lawyer so-and-so was the one who arranged for you to go to law school?’" “Well,” I said, “I didn't know that.” It came as a surprise to me. I said, "Well, you know, his money was well spent."

But I give you this example for you to understand that we are living in some very unusual times. For the first time in my life, and for the first time in Frank Nebeker's life, the law has become the standard of conduct. Some people think that's good. I am shocked that the law has become the standard of conduct because it's the lowest level of acceptable conduct in a civilized society. It is a standard, in many instances, for bottom feeders. I always kind of hold onto my pocketbook when somebody says, "It's the law, and I ought to be able to do it." I know then that person will be engaging in the lowest level of acceptable conduct.

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[1] Based upon "A House by the Side of the Road," Samual Walter Foss (1899).

In this era of inclusiveness we have adopted the law as the standard of conduct. Had that been the standard my neighbor went by, I never would have gone to law school. Had that been the standard the neighbors in my community went by, my mother never would have owned a department store. Had that been the standard the military went by, my brothers never would have been field-grade officers. I raise a note of caution: That we seem to embrace the law as the best standard, and many instances the only standard.

If you think it's an appropriate standard, think about this: This morning, when I woke my 16-year-old son up for breakfast -- and you have to understand, I do not live in a democratic home. It is an absolute dictatorship, with tinges of benevolence. When my wife decides to be benevolent to me, then I am benevolent to my son. That's the pecking order. But we have a ritual: Breakfast is not elective, it's mandatory. There is a routine we go through. One thing I always ask my son is, "What are you going to do for your neighbors today?" He knows the routine. Now, but clothed in the Constitution, clothed in the Bill of Rights, clothed in the statutes and ordinances, he could look at me with all of the confidence in the world and say, "Dad, it's none of your business." But my 16-year-old son is no fool. He wants to live throughout the day, and he responds accordingly.

I raise that issue as we deal with a perspective from our "house," this courthouse beside the road. That the law is not the only tool that we can use to solve problems. We must realize that the law and lawyers are one of the three original professions: They were the clergy, medicine, and the law. People readily see that the clergy can heal your soul. They see that medicine can heal your body. All too frequently, they do not see that the law can heal the community. That's a theme I heard this morning, of the role of the courthouse, and the role of the law. In its final analysis, it should be a problem-solving institution. We must change the image of the law.

Somebody asked earlier what would people say if you asked them about what happened in the courthouse. I dare say that the majority of the people would say bad things happen to you at the courthouse: “That's where you pay your taxes.” That's where, as I heard a teenager when I posed the question to a high school class, “What happens at the courthouse?” He said, "That's where you go to get sent off. That's a place where divorces occur." That's the image that people have of the courthouse. They forget that it's the place where adoptions occur, and where families begin. It's a place where marriage ceremonies are performed. It's a place where the truth is valued, where accountability is had, where responsibility is treasured. That is more in keeping with the role of the courthouse. It is not just a place where you go to get sent off.

So we have to take care of our own house. Our house must show to the community what it was designed to do, and that is to solve the problems of our community. It is not easy to do. Had it been easy, someone would have done it a long time ago. That's what my daddy told me when I was growing up. When I told him it was hard to do the work he had imposed upon us, he said, "If it was

easy, I would have done it myself." So you have an awesome undertaking. But the reputation of your community and your quality of life depend upon it.

One of our judges -- and I can rightfully call him, because he said that's what he was, was a "good-ol'-boy." He had sat on the bench for a quarter of a century, giving out the time and giving out the fine, and seeing the same people time and time again, and seeing the children of the same people time and time again. He said, since he wasn't running for re-election, and he didn't really care what people thought about it, he would start a drug court. He said for the first time he saw himself as healing his own community. He saw himself in the quintessential role as lawyer, and that as a healer in the community, a solver of community problems. And what we are talking about, these notions of inclusiveness, these notions of access shouldn't be something new. It's simply a return to tradition, a return to the original purpose of lawyers as problem solvers; a return to traditions of the courthouse being a place where disputes are resolved and communities are made whole. I have no doubt that you are far along the way, and that you will make a difference in your community through your efforts of awareness.

Now we must visit what I call a basic issue, a fight we thought we had won, and that is the ethics of what we do in this whole movement of inclusiveness. We have to ask the question: Is this the right thing to do? The reason we are not making the progress we should be making is that a lot of people do not believe this is the right thing to do. So we have to go back to the basics, and deal with awareness and ethics. But our tool is one of consequences. What will happen if we do not address them? What will happen to respect for, and trust in our legal system?

The latest report from the Conference of Chief Justices confirmed what we always suspected. That is, people believe: the system costs too much, it lasts too long, the rich are treated better than the poor, and people of color are treated worst of all.

We debated this issue at the Conference of Chief Justices a while back, and after debating for an hour or two, the Chief Justice from Arizona made a very telling remark. As we argued among judges how that was not true, and how we didn't know how people could come to that conclusion, the Chief Justice from Arizona said, "It does not make any difference whether it's true or not; if people believe it, we had better deal with it." That's why we, through inclusiveness and access can shore up confidence in and respect for our legal system.

Since I started with a story, I'll end with a story. Only Frank and I could probably remember this. I might be fudging on it myself. The year was 1932. The place was the Midwest. The actor was Gary Cooper. The movie was "Mr. Deeds Goes to Town." Gary Cooper was a dirt farmer. He eked out a living coaching vegetables from the ground, just barely getting by. On a certain day an uncle passed, and left him $20 million. Now, can you imagine what a dirt farmer would do with $20 million. Well, he bought a tuxedo and a top hat. He went to the country club, and bought a nice shiny limousine. But somehow, the top hat

kept falling off. The tuxedo was just a little too tight. People would whisper when he walked by at the country club. So he decided to give it up, and share it all with his neighbor dirt farmers. I need not tell you, but for the sake of the story I'll tell you what happened. He was sued by all of his relatives. They claimed he had to be crazy to give $20 million to dirt farmers. When he was hauled into court, and people talked about how he dressed, and the old car he drove, and the funny way he talked, in his own defense he said, "I am just a dirt farmer. I live in a house by the side of the road, at the bottom of a hill. My neighbors come and go. Some of them have new cars, and they go up that hill lickety-split. Some of them have old cars, and they have to down-shift to get up that hill. Then there are some like my family, who have ragged cars. They cannot go up lickety-split. They cannot down-shift to get up that hill. Their cars will sputter smoke, and then stop. When that happens we all pile off the porch and we give them a push up that hill, because they're all our neighbors, and they deserve a chance to go up the hill of life."

Thank you very much.

THE TRAILBLAZER AWARD CEREMONY

Following the Keynote Address, the Honorable Kaye K. Christian, Co-Chair of the Event Planning Subcommittee of the Retrospective and Review Advisory Committee and Presiding Officer of the Trailblazer Award Ceremony, explained the Trailblazer Award. The award was presented by the Standing Committee on Fairness and Access to the D.C. Courts through its Retrospective Review Advisory Committee to honor individuals who have made significant contributions to fairness and access in the District of Columbia Courts. In recognizing individuals whose courage, professional achievements and community contributions embody the spirit of the award, the following criteria are considered:

- A demonstrated lifetime commitment to ensuring access to our Courts for everyone.
- Distinguished contributions to fostering fairness in the District of Columbia Courts.
- Significant contributions to the District of Columbia and its court system.
- Extraordinary contributions to the profession and the community.

Statement of Elizabeth Sarah Gere, Esq. Upon Presenting the Trailblazer Award

The Honorable Margaret A. Haywood, Senior Associate Judge of the Superior Court of the District of Columbia, has led us for over half a century on the path of access to the Courts and to justice for all in the District of Columbia. Today she continues to lead us in the work that remains for the generation that she has taught and inspired. Judge Haywood is, indeed, a fitting recipient for this *Conference's* first Trailblazer Award.

As a young girl, Judge Haywood often sat at her accountant father's feet listening to him talk to his clients, some of whom were lawyers. Judge Haywood loved to hear them discuss ideas about the law and change. It was at this time that Judge Haywood decided that she wanted to be a lawyer. Supported by loving parents who believed in her and inspired her to believe in herself, Judge Haywood persevered and graduated from the Robert H. Terrell Law School in 1942, when there was but one law school in the District of Columbia that accepted African Americans as night law students.

After admission to the D.C. Bar, Judge Haywood began practicing with the renowned Houston, Houston and Hastie Law Firm; and later launched a successful solo practice that she continued for over twenty-five years. As a private practitioner, Judge Haywood played a key role in the historic case -- *John R. Thompson Company vs. the District of Columbia*, in which the Supreme Court of the United States, in 1953, ultimately upheld District of Columbia laws making public accommodations available to all persons in the District of Columbia. In

fact, Judge Haywood marshaled facts for her brief right outside the doors of this Conference, at downtown restaurants, that had refused to serve African Americans.

Judge Haywood continued to lead in the pursuit of access to the Courts, and to government for all in, the District of Columbia by serving, in 1967, on the District of Columbia's first City Council. And in 1972, Judge Haywood began her service on the Superior Court, where she was instrumental in guiding the Courts through tumultuous changes in the District's probate law. Judge Haywood continues to sit today on the Superior Court as a Senior Judge, actively overseeing probate matters.

Judge Haywood's commitment to access to the Courts and to the political bodies of justice in the District of Columbia has opened the doors for many. Her grit, her wisdom, her grace and her humility have inspired a new generation that will carry on the work that she has begun. Judge Haywood has, indeed, blazed a trail for access for all to the Courts; and she will continue to light the path for us to follow, to carry on her work. Today, Judge Haywood, we recognize your lifetime of achievement, and we confer a Trailblazer Award on you, and thank you very much.

Senior Judge Margaret Haywood
Superior Court of the District of Columbia

Statement of Senior Judge Margaret Haywood
Upon Receiving the Trailblazer Award

It is hard to know how to say thank you to such wonderful accolades. And I do not know that I am nearly as desirable for this award as you think I am, but I am certainly not going to argue with that. I do want to tell you, in a very brief moment, that there were two stars in the law who were my role models, the late Charles Hamilton Houston and the late Thurgood Marshall. I cannot tell you how many nights that we sat up all night working on drafts of their briefs to go to the

appellate level, to argue for the admission of students into education in the law throughout the entire nation.

I do not have much more than that to offer. My parents taught me that one does not expect to be rewarded for doing what is right, and that virtue is its own reward. So I think it is really icing on the cake to receive a reward for doing what I think from time to time is the right thing for me to do. Thank you so much.

Statement of Judge Rafael Diaz Upon Presenting the Trailblazer Award

Good afternoon, everyone. I will try to say a lot of things about Mr. Fiedler in a short amount of time; so if I am speeding through this, please bear with me.

In September of 1996, when I was asked to chair the Subcommittee on Improving Court Access, I immediately formed an advisory group that I thought would lend the subcommittee expertise and experience on the subject. I was fortunate to have committee members who were dedicated, dependable, and actively seeking to improve access to the D.C. Courts. Marc Fiedler was one of those dedicated members. Because the work of a committee is as good as its members, I was happy to learn that Mr. Fiedler has, for more than 25 years, been a vigorous and effective advocate for the civil rights of persons with disabilities. For example, while at Harvard, Mr. Fiedler worked collaboratively with the school's administrators to develop and implement an award-winning program designed to accommodate the needs of students with disabilities. Under this comprehensive program, Harvard began to provide readers for blind students, interpreters for deaf students, a shuttle bus system for mobility impaired students, and in general, began to enhance accessibility.

After he received his bachelor's degree from Harvard, he worked for the Commonwealth of Massachusetts' Executive Office of Human Services, where he helped establish a new state agency known as the Office of Handicapped Affairs. As the Assistant Director of that agency, he helped draft and lobby for the enactment of statutes that would bar discrimination against persons with disabilities in housing, employment and public accommodations. When enrolled at Harvard Law School, he did not miss the opportunity to teach a disability rights seminar. He also served as Vice-President of a state-wide developmental disabilities law center, and on his own behalf, successfully prosecuted administrative claims challenging architectural barriers in numerous facilities.

In 1996, when he volunteered to work with us he brought this rich history of advocacy for the rights of the disabled to our Standing Committee on Fairness and Access. His contributions of time, energy and expertise to advance the Committee's main objective—that is, improving access and fairness in our Courts—have been invaluable. Throughout our many sessions, Mr. Fiedler's input kept our committee focused on the real issues of accessibility and compliance with the Americans With Disabilities Act (ADA) requirements. Under the ADA, the Courts were mandated to conduct an assessment of access to its facilities for persons with mobility and dexterity impairment. Mr. Fiedler assisted the Courts with that assessment, and his observations and recommendations

were incorporated into the newly built ADA-compliant courtrooms and into the renovation of the old courtrooms.

Mr. Fielder served as a faculty member, along with others, in training sessions conducted for our Courts' ADA coordinators on the requirements and the standards of the ADA. He helped to present a judicial training program at the Superior Court entitled, "Courtroom and Judicial Accessibility: The Implications of Title II of the ADA on State and Local Government Courtroom Management." In March 2000, he participated in a focus group that reviewed the Courts' efforts to enhance fairness and access since the Standing Committee convened in September of 1996.

Mr. Fiedler, today we honor you and your tireless commitment to our Courts. And it is with great pride that I provide you, on behalf of our Courts, this Standing Committee on Fairness and Access, and the Retrospective Review Advisory Committee with a Trailblazer Award.

Marc Fiedler, Esq.

Statement of Marc Fiedler, Esq.

Thank you very much. I am deeply honored and delighted to have been selected as one of the first two recipients of the Trailblazer Award. That the award is being presented to me by Judge Diaz, who has so ably chaired the Subcommittee on Improving Court Access, magnifies the honor.

For the past six years, I have had the privilege of working with Judge Diaz as a member of the Advisory Committee on Improving Court Access making our courts more responsive to the needs of all people who use the Courts, including people with disabilities. The Census Bureau reports that there are now 116,000 residents in the District of Columbia with a disability—that is 22 percent of the population— and for them, inaccessible justice is justice denied.

As we heard this morning, the Courts have made significant progress in providing services that are more convenient, more understandable and more accommodating. I am gratified to have played a part in that process, but I

recognize that much more remains to be done. And so, I view this award as a motivation and a mandate to continue working to meet the goal of ensuring justice for all. Thank you.

APPENDIX 1

September 16, 2002

MEMORANDUM

TO: Judge Inez Smith-Reid

FROM: Judge Rafael Diaz

RE: Accomplishments of the Improving Court Access Subcommittee

The Subcommittee on Improving Court Access focused on improving access for persons with physical disabilities. The members of its advisory committee served as faculty for a day-long training workshop conducted for judges and the Courts' managers and staff on the provisions of the Americans with Disabilities Act (ADA) pertaining to renovations to court facilities, attitudes, recruitment, and making reasonable accommodations for court staff and court users.

The Subcommittee on Improving Court Access recommended to and the Executive Officer appointed a court-wide ADA Coordinator. The ADA Coordinator worked with disability resource groups and the Center for Education Training and Development to develop two courses which focused on sensitizing front counter and "first contact" staff to court users with physical disabilities and providing court staff with practical information to assist them in providing quality customer service to all court users. This included information about the names, phone numbers and location of court personnel with access skills such as the sign language interpreters and readers, and the location and operation of equipment, such as wheelchairs, wheelchair lifts, and assisted-listening devices. TDD/TTY devices were also put into each division of the Courts, and the staff was properly trained to use them.

The ADA Coordinator reviewed the construction plans for new courtrooms facilities in the H. Carl Moultrie Courthouse, and working with the Administrative Officer and the D. C. Department of Public Works, took steps to ensure that the plans provided full accessibility, not only for witnesses and jurors, but also for judicial officers, court staff, attorneys, and other court users with a physical challenge. For example, the new courtrooms are wheelchair accessible for all courtroom participants, staff, lawyers, parties, spectators, and prisoners. With respect to prisoners, eliminating a step in the corridor to the courtroom holding cells

for wheelchair using attorneys (and wheelchair using persons in custody) facilitated access to and from the courtrooms. Two of the courtrooms have wheelchair lifts for the judge's bench. The spectator area includes spaces for wheelchairs, as well as seats with movable arms to which a wheelchair user can transfer. Acoustical wall panels improve the quality of the acoustics in the courtroom, which is critical for hearing-impaired court users. The jury deliberation rooms attached to these renovated facilities have an ADA compliant restroom.

The 16 center core public restrooms in the Moultrie Courthouse were renovated and made ADA accessible, including the stalls, putting items within reach (*e.g.*, lowering the soap and hand towel dispensers), automatic door opener, automatic faucets, and toilet flusher.

Nine new courtrooms were equipped with new improved benches, a removable witness box with jury boxes on the floor level, fire alarm system with strobe horn. The jury room restrooms, enlarged were and made ADA compliant with such things as door levers instead of door knobs, five pound pull on the doors.

About 50 courtrooms were given a “puff and powder” (*i.e*. cosmetic) makeover. For example, while complete renovations were not done, new carpeting was laid, and because jury boxes could not be lowered, the box walls were cut to enhance wheelchair access to jury deliberation room; light sources were made brighter and air duct systems were improved.

Low counter cuts were installed in the counters for the Court of Appeals, Executive Office, Multi-Door waiting room in Building A, and the Multi-Door reception counter on the John Marshall Level.

Courtrooms on the John Marshall level of the Moultrie Courthouse were renovated and made wheelchair accessible for all courtroom participants, including judges, staff, lawyers, parties, spectators, and prisoners.

The Court of Appeals’ Public Office was completely renovated and brought into compliance with ADA standards. The accessibility changes include a counter cut, installing a wide door for the private reading areas so that wheelchair users can use them, and installing ADA hardware. Now, both the male and female restroom doors in the private corridor of the DCCA have automatic openers as do the two public restrooms.

The height of telephones at the entrances to the secured judicial corridors and elevators was lowered to a height that is in compliance with the ADA.

The Subcommittee on Improvement of Court Access successfully engaged in projects to install fire alarms with strobe lights for the deaf and hearing impaired; to replace all door knobs in court facilities with ADA compliant levers; and, to

replace door-closing mechanisms in court facilities with ADA compliance closures that require five pounds or less of force to open the door.

The Subcommittee on Improving Court Access held a series of exploratory meetings with professionals who have an expertise in the legal, court-related, and social needs of the elderly. A common complaint was the low lighting level in the courtrooms, corridors, and elevators. Working with court administrators and the D.C. Department of Public Works this subcommittee is working to improve visual signage in and around the courthouse. We are also working in compliance with ADA standards, to increase handicapped parking spaces, ensure they are clearly marked and repositioned closer to the main entrance. At least one parking space has been reserved for the use of mentally disabled court participants and users who must appear almost daily for court review hearings.

Recommended that a third self-evaluation under the ADA be conducted to assess the Courts' physical plant, programs, and employment for accessibility.

The Subcommittee on Improvement of Court Access has embarked on a project to provide "readers or describers" to visually impaired or blind court users such as jurors. For example, a reader or describer will assist jurors by reading or describing exhibits during trials and during jury deliberation. This project is presently developing potential sources for a permanent pool of readers and developing standards for their services.

APPENDIX 2

September 16, 2002

MEMORANDUM

TO: Judge Inez Smith-Reid

FROM: Judge Stephanie Duncan-Peters

RE: Primary Accomplishments of the Subcommittee on Hiring and Promotions

The Subcommittee created and supervised the operation of a successful Employee-Mediation pilot project by utilizing funds that were obtained through a grant. After the grant funds were exhausted, we obtained approval from the Joint Committee on Judicial Administration to create the Workplace Resolution Program. This Program is now administered by the Multi-Door Dispute Resolution Division and is available to all employees. Both employees and supervisors have participated in the program. A sample brochure is attached.

The Subcommittee monitored the preparation of the Equal Employment Plan (formerly known as the Affirmative Action Plan) that was subsequently approved by the Joint Committee. We continue to monitor the Plan to ensure that the information contained therein is up-to-date and in compliance with all federal and local requirements. In conjunction with this work, the Subcommittee obtained suggestions from various Bar organizations and public interest groups and recommended the addition of over 100 organizations to the recruitment list utilized by the Human Resources Division. This increased the ability of the Courts to reach candidates of various ethnic backgrounds and persons with disabilities.

The Subcommittee initiated the revamping of the EEO system, creating an Equal Employment Program that hears and resolves complaints of discrimination. Mr. Herbert Jackson, an independent contractor, administers that Program and provides regular reports to the Subcommittee.

The Subcommittee encouraged the Court to prepare a formal written policy regarding Sexual Harassment in the workforce. The policy was approved by the Joint Committee on Judicial Administration and is currently in force in the court system.

The Subcommittee assisted the Human Resources Division in obtaining a grant to update their information system. The information system permits the Court to maintain accurate records of the gender, race and ethnic background of all court employees.

The Subcommittee motivated the Human Resources Division to maintain and analyze a workforce-profile that permits the Court to maintain accurate easily accessible statistics of our workforce. For example, this permits us to quickly ascertain how many individuals of each race, gender and ethnic background are employed in any given position at the court. We have encouraged the Human Resources Division to start tracking our applicant flow by maintaining similar statistics.

The Subcommittee monitors records maintained by the Human Resources Division of the number of women of color in Grades 13 and above. This permits us to ensure that we have corrected one of the major concerns cited by the Task Force on Gender Bias.

The Subcommittee, in conjunction with the Human Resources Division, recommended a three-step premium pay program for Spanish-speaking employees in certain designated bilingual positions. We also worked together to increase the number of bilingual positions in the court workforce. Both of these recommendations were implemented by the Executive Officer.

The Subcommittee worked with the Human Resources Division to designate an employee to increase the recruitment of Latino applicants.

The Subcommittee recommended that Human Resources Division recruiters take advantage of the Internet and other available technologies. Accordingly, the Court now utilizes what is known as the “FAX BACK” system. This system permits any potential job applicant to key-in a fax number and immediately obtain by fax a copy of a notice of vacancy. The Court also utilizes a job application hotline that permits any interested applicant to call a designated telephone number and listen to a recording that describes all available positions. This telephone hotline can be accessed 24 hours a day, seven days a week.

The Subcommittee presented a Judicial training education program entitled "Employees and Applicants with Disabilities."

Stephanie Duncan-Peters
Associate Judge
Chair, Subcommittee on Hiring and Promotions

APPENDIX 3

September 16, 2002

MEMORANDUM

TO: Judge Inez Smith-Reid

FROM: Judge Geoffrey M. Alprin

RE: Accomplishments of the Subcommittee on Improving the Treatment of Participants

As part of its mission to monitor the DC Courts' continuing implementation of recommendations made by the Task Force on Racial and Ethnic Bias and the Task Force on Gender Bias, the Subcommittee on Improving the Treatment of Participants has held almost several informal outreach sessions with various court users. These forums began in January 1998.

The first round of sessions were documented in *Report of Outreach Forums with D.C. Courts Users and Others,* which was published in early 2002. The report has served as a resource for not only the conference speakers but for the Courts' strategic planning efforts as well. The report was also made available to the conference participants. The second round of outreach forums will be reported on in 2004.