



NATIONAL FOUNDATION
FOR JUDICIAL EXCELLENCE

Annual Report

2009

OUR MISSION

To address important legal policy issues affecting the law and civil justice system by providing meaningful support and education to the judiciary, by publishing scholarly works and by engaging in other efforts to continually enhance and ensure judicial excellence and fairness for all engaged in the judicial process.



MESSAGE FROM THE PRESIDENT

Richard T. Boyette

Dear Friends,

On behalf of the Board of Directors of the National Foundation for Judicial Excellence (NFJE), I am pleased to report the results of the NFJE's 2009 operations. In short, 2009 was another successful year for the NFJE, a year in which the NFJE exceeded its fundraising expectations in difficult economic times and continued to enhance its recognition as a leader in the legal and judicial communities.

2009 Highlights:

- As 2009 began, we were faced with a turbulent economy and uncertainty about our ability to meet our budget for fundraising. However, due to the concentrated efforts of our Development Committee, under the leadership of Lloyd H. Milliken, Jr., we were able to exceed budget and realize a slight surplus for the year.
- Our Judicial Symposium was another huge success. We hosted judges from thirty-five (35) states. Participants raved about the quality of the program and enjoyed keynote speaker, Justice Alan C. Page of the Minnesota Supreme Court.
- We held our first — and very successful — regional reception for law firms in Indianapolis, Indiana. The reception was sponsored by Frost Brown Todd LLC, Lewis Wagner LLP, Barnes and Thornburg LLP, and the Defense Trial Counsel of Indiana. Fifty-two (52) attorneys representing twenty-two (22) law firms attended to learn more about NFJE.
- We successfully grew and diversified our donor base of supporters — including individuals, corporations, professional organizations, law firms, state and local defense organizations and foundations.
- We upgraded our website to accept online donations and enhanced the frequency and quality of our e-communications to efficiently provide our donors with current information, updates and giving opportunities.

We are deeply grateful for your generous support. Together we continue to build upon our successes and expand the important work of the NFJE.

Best regards,

A handwritten signature in black ink that reads "Richard T. Boyette". The signature is fluid and cursive, with a long horizontal stroke at the end.

Richard T. Boyette
President

HISTORY OF THE ORGANIZATION

Established in 2004, the NFJE is a 501(c)(3) charitable organization based in Chicago, dedicated to supporting an independent, well-informed judiciary in order to preserve excellence and fairness in the civil justice system. For each of the past five years, the NFJE has successfully produced a first-rate annual symposium attracting 10% of state appellate judges. The symposia have featured an array of nationally distinguished legal experts and scholars discussing contemporary and complex legal issues relevant today in courtrooms across the country. The end result is the top-quality, tuition-free series of educational programs provided by the NFJE, which assist our nation's appellate judges to perform at their highest levels.

- NFJE provides tuition-free judicial education programs.
- NFJE focuses specifically on education for the state appellate judiciary.
- NFJE is a recognized leader in the legal and judicial communities as a reliable source for providing balanced information in its programs.

NFJE is the only organization of its kind led by the Defense Bar.



IS JUSTICE IN JEOPARDY?

Sheryl J. Willert, Past President

Is our system at a crossroads such that all who use the judiciary for the resolution of disputes should be concerned? In short, the answer to the question is “yes.” There has been a large amount written in the last decade about the loss of confidence in the judiciary with little done to focus on the reasons that, in a society that has previously held its judiciary in high esteem, there is a loss of regard. Moreover, there has been an increase in complaints about the judiciary coming from the plaintiffs’ bar, the defense bar and even corporate America. Almost everywhere you go in the business world, questions are being raised about the costs and the uncertainty associated with securing justice. The questions that face our clients range from whether they will be able to continue in business when they are required to comply with complex electronic discovery requests, to whether it is appropriate to be subject to expanding theories of liability in contravention of well established law, to whether they should be concerned about losing protections afforded by the attorney-client privilege and the work product doctrine.

So, what if anything can and is being done to address not only these concerns but other legitimate concerns that are raised by those who most often find themselves in the role of defendants in tort litigation or as parties in commercial litigation? One thing that can and is being done is the provision of fair and balanced education to members of the appellate courts that ultimately establish the standards by which all trials across the country are conducted. Who is providing the education? That education is being provided by the National Foundation for Judicial Excellence (NFJE).

Since 2004, NFJE has provided unbiased educational opportunities to more than 400 appellate judges from around the country, with presentations being given by journalists, university professors, practicing attorneys and individuals who are knowledgeable of the impact of technology on the administration of justice. In each of the years that this 501(c)(3) organization has held a symposium, there has been one common thread that has been the guiding principle, to remain true to its noble, right and good mission. Although it can be said that the NFJE is about persuasion, it is not about persuasion to a cause or a belief unless that cause and/or belief is about balance, fairness and a level playing field for all participants in the judicial system.

You might now be asking yourself, why should you care? The answer is simple. You should care because in the end, without a level playing field and without judges who not only understand all sides of an issue but who are also willing to fairly evaluate all aspects of an issue, both members of the public, as well as our clients, will become more and more disenchanted with the judicial system and will seek alternative means of dispute resolution. And while alternative means of dispute resolution may be of some benefit in some circumstances, our judicial system is at the very core of what America stands for.

PROGRAM OVERVIEW: SYMPOSIUM

5th Annual Judicial Symposium July 10-11, 2009 The Drake Hotel, Chicago

Mapping the Legal Frontier: The Uncertain Boundary Between Federal and State Law

Preemption is a paramount constitutional principle that implicates our beliefs about democracy and affects individual citizens, businesses and learned intermediaries, as well as legislators and political actors. The 2009 symposium explored the following critical areas in the doctrinal debate about federal preemption.

- How courts should reconcile the idea that states deserve a sphere of autonomy and respect with the idea, and clear constitutional principle, that federal law is supreme.
- How the Federal Arbitration Act applies in state court when it preempts state laws and unsettling issues.
- The discretion of states in authorizing and limiting punitive damage awards and the extent to which courts have determined that due process limits this discretion.

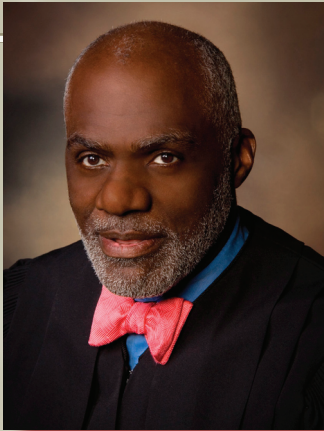
Number of judges in attendance: 118

Number of states represented: 35

Keynote Speaker: The Honorable Alan C. Page, *Minnesota Supreme Court*

Program Highlights

- ***Court Funding: From Crisis to Stability*** presented by Robert N. Baldwin, Executive Vice President and General Counsel, National Center for State Courts;
- ***Developments in Federal Preemption Law in the Federal and State Courts*** presented by David A. Dana, Professor of Law and Associate Dean for Research, Northwestern University School of Law;
- ***The Role of State and Federal Courts in Federal Preemption Cases—A Spirited Discussion Between Adversaries at the Bar.*** Plaintiffs' perspective offered by Brian Wolfman, attorney and co-director of Georgetown University Law Center's Institute for Public Representation in Washington, D.C. Defense perspective offered by Lawrence S. Ebner, attorney and partner with McKenna Long & Aldridge LLP in Washington D.C.;
- ***Judicial Independence and an Impartial Judiciary*** presented by keynote speaker, The Honorable Alan C. Page, Minnesota Supreme Court;
- ***The Federal Arbitration Act and Its Impact on State Arbitration Law*** presented by Christopher R. Drahozal, the John M. Rounds Professor of Law, University of Kansas;
- ***The Historical Rationale for Punitive Damages, Its Evolution and Current Application*** presented by Christy D. Jones, partner with Butler Snow O'Mara Stevens & Cannada PLLC in Jackson, Mississippi.



“Really enjoyed Justice Page; his topic is very timely and relevant.”

The Honorable Alan C. Page



“I liked the balanced approach—hearing from different backgrounds and perspectives.”

“The presenters were well-versed in their areas. They were engaging, interesting and informative. I particularly like the discussion.”



“I commend the board and program committee for putting together this year’s program. It was excellent and balanced. Thank you!”



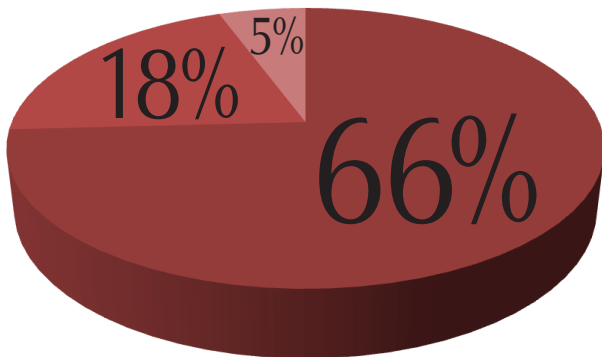
“The faculty was superb—and very balanced in presenting both sides of each issue. The major themes...were and are of continuing importance to state appellate judges.”

FINANCIAL OVERVIEW

In 2009, the NFJE raised over \$367,000 with the generous support of individual attorneys, law firms, corporations, State and Local Defense Organizations, professional organizations, DRI dues renewal checkoff and foundations. The John R. Kouris Endowment Fund was created in the spring of 2008. This fund directly supports keynote speaker honorarium for each annual symposium.

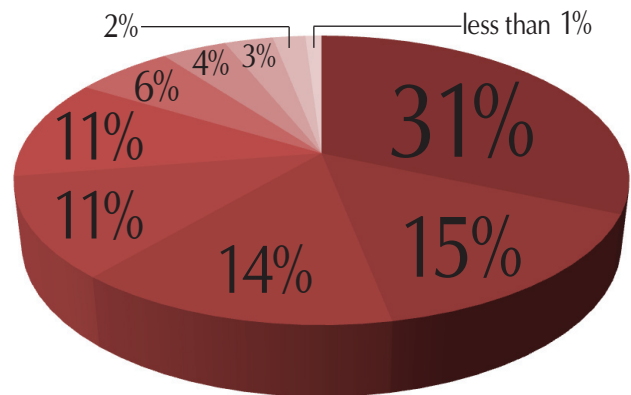
Expenses for 2009 accurately reflect the NFJE mission – education of the judiciary. The annual symposium remains the largest expense for the NFJE at sixty-six (66%) percent. Management and General expenses reflect the operating costs. Fundraising expenses reflect the printing of materials and travel costs related to fundraising.

2009 Expenses



Program Services (Annual Judicial Symposium): 66%
 Management & General: 18%
 Fundraising: 5%

2009 Revenue



DRI Dues Renewal Checkoff: 31%
 Individuals: 15%
 Corporations: 14%
 Law Firms: 11%
 State and Local Defense Organizations: 11%
 Professional Organizations: 6%
 Annual Judicial Symposium Hotel Commission: 4%
 Foundations: 3%
 John R. Kouris Endowment Fund: 2%
 Annual Judicial Symposium Sponsorship: less than 1%

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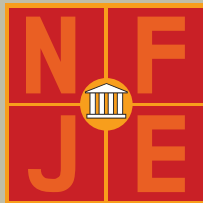
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The NFJE would also like to thank the 4,520 individuals who contributed \$25 through the DRI dues renewal checkoff. When compared to 2008, the number of individuals who donated through the DRI dues renewal checkoff in 2009 increased by 657.



National Foundation for Judicial Excellence

55 West Monroe Street, Suite 2000

Chicago, Illinois 60603

Phone: 312.698.6280

Fax: 312.795.0748

Email: nfje@nfje.net

Website: www.nfje.net