



NATIONAL FOUNDATION
FOR JUDICIAL EXCELLENCE

Annual Report

2013





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

John H. Martin

A DECADE OF EXCELLENCE

“Great opening speaker, very appropriate for time of day; excellent diverse subjects; all faculty well-versed & good speakers.”

“The symposium faculties were outstanding this year – lots of thought-provoking topics and discussion.”

“Great faculty, knowledgeable and entertaining. Best program I have attended in the last two years. Great topics & speakers.”

“Overall, the topics and presenters were the best of all of the past NFJE programs. KUDOS!”

As we look forward to the NFJE’s Tenth Anniversary celebration in July, these words of praise from judges following the 2013 Annual Judicial Symposium reflect the unquestioned superb quality of judicial education that NFJE provides to state court appellate judges. These comments are typical of evaluations of every one of NFJE’s past nine Annual Symposia. Not surprisingly, judges are very eager to evaluate the programs’ quality and many of them return year after year. NFJE is now established as the preeminent organization that provides excellent education for state court appellate judges.

NFJE remains entirely dependent on annual financial contributions to sustain its excellence. Some may ask why are we doing this? And why should we spend our hard-earned dollars to educate judges? From the very founding of our republic, the judicial branch of government at both the state and federal levels has had to fight to retain its proper place as a co-equal branch of government. Unfortunately, that remains true today. The judiciary is often the target of unwarranted attacks by some politicians, the media, and unhappy litigants. Judicial salaries are embarrassingly low, legislatures are reducing court funding, and some courthouses are no longer fully available for the resolution of disputes. It is up to lawyers and those we represent to support our system of civil justice and our judiciary. If we don’t, then who will? By supporting NFJE and providing excellent educational opportunities for our judges, we can also remind them why their role in our democracy is critical and reassure them that many of us still care deeply about their role in our civil justice system.

Brooks Magratten and the NFJE Planning Committee have created an outstanding Tenth Anniversary program beginning with an update from the National Center for State Courts, followed by a dinner to celebrate our ten years of excellence. Seventh Circuit Chief Judge Diane Wood will be our dinner speaker. The title of the 2014 Symposium is “The Art of Judging” and will cover some intriguing topics:

- The Role of The Judiciary
- Court Funding: The New Normal
- Financial Influences on the Judiciary
- How Judges Decide Cases
- The Art of Crafting Opinions
- The Judiciary and the Tension Between Freedom from Influence and Freedom to Speak

NFJE’s Board of Directors is passionate about our role in supporting and enhancing an independent judiciary. We believe that our programming is an excellent way to demonstrate our firm commitment to America’s civil justice system.

I encourage lawyers who have read this far to open your wallets and support NFJE as a way of showing your support for the judiciary. If you are a state court appellate judge, thank you for attending our Symposia and plan to attend every year!

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 nine years, the NFJE has successfully produced a first-rate annual symposium attracting hundreds of state appellate judges. The symposia have featured an array of nationally distinguished legal experts and scholars discussing the 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.



THAT WE ALL MAY BE FREE

Peter J. Hersha, Board of Directors

“The magistrates are the ministers for the laws, the judges their interpreters, the rest of us are servants of the law, that we all may be free.” This quotation is from Marcus Tullius Cicero. We don’t hear much about Cicero these days, but the wisdom of the sage Roman philosopher and statesman has carried on through the ages.

Being empowered as an interpreter of the law is a significant assignment. Easy answers are rare and the consequences on lives, fortunes and even history are significant. To quote another great philosopher, Francis Bacon: “Judges must beware of hard constructions and strained inferences, for there is no worse torture than the torture of laws.”

This marks the 10th year of service of the National Foundation for Judicial Excellence (NFJE), which was formed in 2004 through the vision of defense bar leader and Raleigh, NC lawyer Richard Boyette. The timeless remarks of Cicero and Bacon crystalize why the NFJE exists and are perfectly captured in one of our 2014 Annual Judicial Symposium themes, “The Art of Judging.” Judging is truly an art, and to be done well and effectively it requires an informed judiciary. The purpose of NFJE “is to support a strong, independent, responsive judiciary by providing appellate judges with educational programs and other tools that enable them to perform at their highest level.” To do this, our state court appellate judges must be informed on all aspects of issues of civil litigation, especially cutting edge issues, to effectively discharge their role in this great system of ours.

To do its work, NFJE relies entirely upon donations and has done so since its inception. Fortunately, our purpose resonates with our diverse base of contributors. Corporations support NFJE because they recognize that their customers and business are affected by state court judicial decisions every day. Therefore, investing in an organization that helps ensure that their cases on appeal in the state courts are heard by judges who are well-educated, current on legal trends, and positioned to make appropriate rulings makes complete sense. Judicial decisions can affect the bottom line on not just an individual case, but also on an issue that involves many cases. Similarly, lawyers, law firms, and bar associations recognize that the work done by NFJE enhances the performance of the judiciary which is critical to their individual practices, clients, and the missions of their associations.

The great jurist Felix Frankfurter remarked in 1956, “It is important not to give the appearance of a predisposed mind. And it is more important not to let the mind become predisposed.” NFJE provides state court appellate judges with information and perspectives on challenging and emerging issues of civil litigation. We empower them to engage in the art of judging at the highest level. This is why we exist, and this is why I am passionate about doing what I can to support the many hardworking men and women of the American judiciary.

Thank you for your past support of the National Foundation for Judicial Excellence. Please join me in supporting NFJE again this year.

PROGRAM OVERVIEW: SYMPOSIUM

9th Annual Judicial Symposium July 19-20, 2013 Swissôtel, Chicago

From Jurisdiction to Jurisprudence: Emerging Issues in State and Federal Constitutional Law

U.S. Constitution disputes continually arise in the public and in state courts. Scores of constitutional issues either remain undecided or continue to evolve despite the years since they were drafted and ratified. The 2013 symposium focused on these issues to help judges sift through the complexity of constitutional jurisprudence. Issues that were addressed included the nuances of federal preemption law, free speech concerns, privacy concerns and the most basic question of all: What techniques, methods and rules should judges employ to construe the language of the Constitution?

Number of judges in attendance: 76

Number of states represented: 28

Program Highlights

- **The Evolving Meaning of Free Speech for Sitting Judges and Practicing Lawyers** presented by Rodney A. Smolla, *President, Furman University*
- **Making Sense of Federal Preemption** presented by Catherine M. Sharkey, *New York University School of Law*, Timothy A. Thelen, *GlaxoSmithKline* and Allison M. Zieve, *Public Citizen Litigation Group*
- **Emerging Technology and Privacy Questions** presented by Mary Ellen Callahan, *Jenner & Block* and Jane E. Kirtley, *University of Minnesota Law School*
- **Funding and Judicial Independence** presented by Hon. Jean Hoefler Toal, *Chief Justice, South Carolina Supreme Court*
- **Judicial Takings: After *Stop the Beach Renourishment, Inc. v. Florida Department of Environmental Protection* (2010)** presented by Richard A. Epstein, *New York University of Law*
- **How to Read America's Constitutions – State and Federal** presented by Akhil Reed Amar, *Yale Law School*





The Symposium faculty were outstanding this year – lots of thought-provoking topics and discussion

Great opening speaker, very appropriate for time of day



Overall, the topics and presenters were the best of all of the past NFJE programs. KUDOS!



The symposium was extremely well-planned and presented

Great faculty, knowledgeable and entertaining

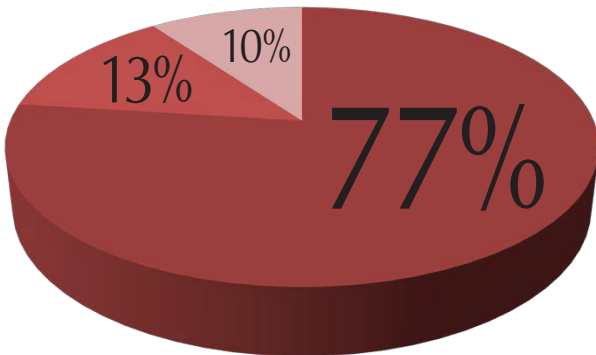


FINANCIAL OVERVIEW

In 2013 the NFJE raised over \$460,000 with the generous support of individual attorneys, law firms, corporations, State and Local Defense Organizations, professional organizations, DRI dues renewal check off 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 2013 accurately reflect the NFJE mission—education of the judiciary. The annual symposium remains the largest expense for the NFJE at seventy-seven (77%) percent. Management and General Expenses reflect the operating costs. Fundraising expenses reflect the printing of materials, professional fees and travel costs related to fundraising.

2013 Expenses

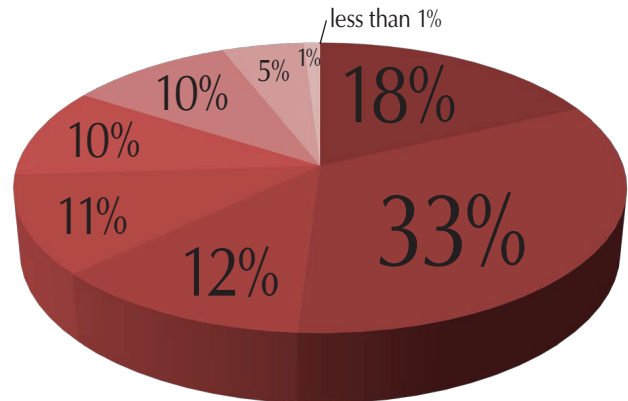


Program Services: 77%

Management & General: 13%

Fundraising: 10%

2013 Revenue



DRI Dues Renewal Checkoff: 18%

Individuals: 33%

Law Firms: 12%

Corporations: 11%

Auction and Raffle: 10%

State and Local Defense Organizations: 10%

Professional Organizations: 5%

Annual Judicial Symposium Hotel Commission: 1%

John R. Kouris Endowment Fund: less than 1%

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