



NATIONAL FOUNDATION
FOR JUDICIAL EXCELLENCE

Annual Report

2014



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

Marc E. Williams

Education: Our Most Important Endeavor

In 2004, I had the privilege of serving on the board of directors of DRI—The Voice of the Defense Bar when President Richard Boyette of Raleigh, North Carolina, proposed a radical new idea: forming a charitable foundation to provide educational training on civil justice issues to state appellate court judges. Outreach to the judiciary had been a goal of the organized defense bar for many years, and while advocacy on issues such as judicial independence was an important part of that outreach, the idea of providing education on civil justice issues was ambitious and exciting. While the concept of educational training for the judiciary was groundbreaking for the defense bar, it was not the first time that lawyers had taken on the task of judicial education. For many years other bar groups had ventured into the field of judicial education, but the most prominent saw the field as an opportunity for promotion, rather than education. If judges could be persuaded to attend their meetings, it would be a great opportunity to persuade them of the righteousness of their positions on issues of importance to their cases.

Richard Boyette and the other DRI leadership had another idea. Rather than just promoting the defense perspective in educational programming, why not establish a foundation that would provide cutting-edge *and balanced* programs on civil justice issues of importance to the judges? Invite the best professors, practitioners, and minds in the field to discuss the important issues of the day and make sure that both sides of these important issues were discussed for the consideration of the judges in attendance.

That formula has been followed for 10 symposia and the response from the judges and justices in attendance has been overwhelmingly positive. Our attendees rave about the lack of partisan slant of the programs, the quality of the speakers, and the intellectual tone of the discussions. And by bringing appellate judges from almost every state in the union together in Chicago each summer, we have also provided an opportunity for networking with colleagues that provides insight into judicial management and problem solving that is invaluable.

Over the years we have tackled such issues as scientific evidence, punitive damages, judicial independence, collective actions, the intersection of state and federal law, and best practices in opinion writing. In July 2015, we will again meet in Chicago for our 11th Annual Symposium, this year with a focus on statutory construction. As always, we will be welcoming some of the brightest in the area to this meeting, including Justice Goodwin Liu of the California Supreme Court, Professor Kenji Yoshino of the NYU School of Law, and Justice Jeffrey Boyd of the Texas Supreme Court. We will also start off the symposium with a presentation by Bryan Garner, the preeminent authority on legal writing, with his thoughts on reading the law.

It has been an exciting decade for the NFJE. We have learned that our audience is hungry for intellectual content and for the opportunity to network with their peers. As one judge who attended one of our symposia told me, “The NFJE is the most significant effort undertaken by the defense bar.” I like to think that he is right. That effort would not have been possible, however, without the generous contributions by thousands of defense bar members, law firms, defense organizations, and companies. We all have a stake in the advancement of justice, and the education of the judiciary is a critical component of that goal.

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.



EDUCATION, KNOWLEDGE, AND JUSTICE

Robert W. Shively, Board of Directors

At his best, man is the noblest of all animals; separated from law and justice he is the worst.

—Aristotle

Injustice does not always spring from malicious intent. It is not always deliberate, calculated, or intentional. Injustice can be suffered through mistakes, insensitivity, and the knowledge-gap of intelligent, well-meaning, and otherwise skilled people. Sometimes the law itself is inherently unjust to the individual when it seeks to provide for “the welfare of society” or the “common good” as in, for example, eminent domain cases.

Today, it seems, there are more tools and scientific resources that have been introduced into the judicial process that conceptually should assist in arriving at a more just and accurate resolution of disputes. The irony is that these very tools that are supposed to make justice more certain have increased the law’s complexity and mandated a greater skill-set for judges beyond the law and into scientific realms for which they are not trained.

The idea that justice has become very complicated, very expensive, and incredibly demanding of those who apply it, does not make an injustice any more acceptable to those caught in one. People need to know that the courts are their best hope for truth and justice. Where that understanding is not easily arrived at, the public develops a disdain for the law. And if the breakdown is perceived as extensive, society becomes dysfunctional in a riot of citizens turning away from virtue and community and toward a self-centered concept of economy, politics, ethics, and morality. And as Aristotle observed above, man separated from law and justice, is at his worst.

As long as justice is a human endeavor, it will be impossible to squeeze all injustice out of the judicial system. But there are ways that we can work conscientiously to minimize that outcome. One of the best ways is through continuous education.

The mission of the National Foundation for Judicial Excellence is 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.”

Each year since its inception in 2004, the Foundation has held the Annual Judicial Symposium to which it has invited state appellate judges to attend at no expense to them. Each symposium has taken a different theme to emphasize different areas of law. Attendees have had the benefit of hearing from the best minds of the bench, bar, and academia to sharpen, refresh, and embellish their legal skills. In recent years, state courts have been buffeted by draconian slashes in their budgets forcing closures, reductions in operating hours and personnel, and the deferment of many cases for months and sometimes years. So, with very little budget latitude, the NFJE symposia are probably more critical to state appellate judges now than when they first began in 2004.

The NFJE is proud of the role it plays in judicial education and hopes that all of the gracious corporations, foundations, law firms, and individuals who support the symposia realize that they are doing more than educating judges. They are, in a sense, giving the judicial process its best chance for a just outcome.

PROGRAM OVERVIEW: SYMPOSIUM

Tenth Annual Judicial Symposium
July 18-19, 2014
Westin Chicago River North, Chicago

The Art of Judging

Modern judges face a broad spectrum of tasks as judicial officers and public servants. Yet the judiciary remains a place where skill, diligence, and knowledge combine to produce logic and reason. The 2014 Symposium explored how jurists engage in the “Art of Judging.” Leading judges from state and federal appellate courts and scholars in areas as diverse as constitutional law, public finance, political science, and the psychology of decision making were featured.

Number of judges in attendance: 143

Number of states represented: 37

Program Highlights

- **The Role of the Judiciary** presented by Professor Barry E. Friedman, *New York University School of Law*
- **Court Funding: The New Normal** presented by Robert Baldwin, *National Center for State Courts*
- **Financial Influences on the Judiciary** presented by Honorable Wallace B. Jefferson, *Alexander Dubose Jefferson Townsend LLP* and Steven M. Puiszis, *Hinshaw & Culbertson LLP*
- **How Judges Decide Cases** presented by Dr. Carol Tavris, *Los Angeles, California* and Corey Rayburn Yung, *University of Kansas School of Law*
- **The Art of Crafting Opinions** presented by Honorable Richard A. Posner, *U.S. Court of Appeals for the Seventh Circuit* and Associate Justice Goodwin Liu, *California Supreme Court*
- **The Tension Between Freedom from Influence and Freedom to Speak** presented by Dean Erwin Chemerinsky, *University of California, Irvine School of Law*





■ *This was the best one so far!*



■ *Outstanding experience – I look forward to next year!*

■ *Congratulations on a valuable, helpful, educational experience.*



■ *These topics are relevant to all judges whatever court they serve on.*

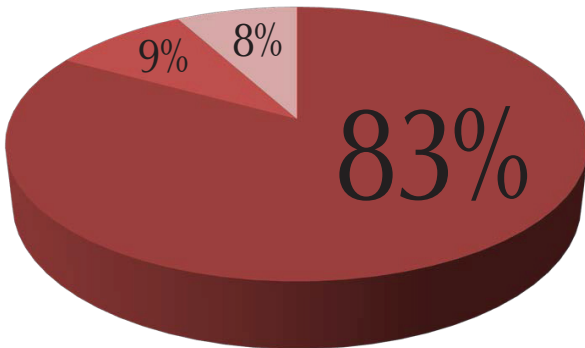


FINANCIAL OVERVIEW

In 2014, the NFJE raised over \$387,000 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.

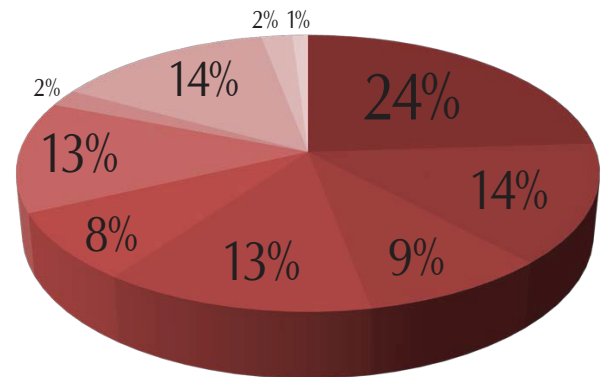
Expenses for 2014 accurately reflect the NFJE mission—education of the judiciary. The annual symposium remains the largest expense for the NFJE at sixty-eight (68%) percent. Management and General Expenses reflect the operating costs. Fundraising expenses reflect the printing of materials, professional fees and travel costs related to fundraising.

2014 Expenses



Program Services: 83%
 Management & General: 9%
 Fundraising: 8%

2014 Revenue



DRI Dues Renewal Checkoff: 24%
 Individuals: 14%
 Law Firms: 9%
 Corporations: 13%
 Auction and Raffle: 8%
 State and Local Defense Organizations: 13%
 Professional Organizations: 2%
 Anniversary Dinner: 14%
 Annual Judicial Symposium Hotel Commission: 2%
 John R. Kouris Endowment Fund: less than 1%

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