

# Near Record Number of State Appellate Judges Attend 11th NFJE Judicial Symposium



NFJE President Marc Williams welcomed attendees to the 2015 symposium.



**The Interplay of Text and Purpose:** Moderated by Suzanne Richards (right), a panel that included (from left) Notre Dame Law School Associate Professor Jeffrey Pojanowski, former Washington Supreme Court Justice Philip Talmadge, and California Supreme Court Associate Justice Goodwin Liu discussed the issues and problems that arise when statutory text is subject to varying interpretations. The session offered a robust debate regarding the relative strengths and weaknesses of interpretive methodologies from the perspectives of the bench, bar, and legal academy.

By Tim Kolly

**O**n a warm July Chicago evening, Marc E. Williams, president of the National Foundation for Judicial Excellence, welcomed 132 state appellate judges to NFJE's 11th Judicial Symposium. Incorporated in 2004, NFJE is a 501(c)(3) charitable organization based in Chicago and dedicated to providing continuing education for state appellate judges to preserve fairness and maintain a highly skilled bench in the civil justice system. NFJE's flagship activity is a free, annual, one-day symposium focused on a selected issue of special interest to the courts. Not only was this year's program fully subscribed shortly after it was announced, but NFJE had to expand the ceiling to accommodate demand.

The theme for this year's symposium was "The Vexation of Legislation: Judicial Analysis of Unclear, Incomplete, or Obsolete Statutes." The task of applying statutes in judicial decisions raises a host of questions that judges must address to—in Justice Marshall's immortal words—"say what the law is." These questions go to the core of the relationship between the judicial and

legislative branches: Should judges resort to legislative history when a statute is ambiguous? What qualifies as legislative history? Does it differ from statutory history? What is the role of legislative "purpose" in determining how to resolve real-world disputes? How can judges even identify legislative purpose if they deem it appropriate to do so? What can judges do when the legislature remained silent on the meaning of a statutory provision that affects the litigants before the court?

The value of these symposia is that the presentations are always balanced and draw upon some of the most distinguished minds in the field: prominent judges, attorneys from the private, public, and non-profit sectors, and well-known university scholars of various disciplines. The NFJE symposium is free to attending judges. NFJE covers the cost of tuition, transportation, meals, and lodging.

## Need

The law is not static. One of its outstanding characteristics is that it constantly evolves



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## Comments from Attendees

"Outstanding presenters across the board. As relevant a judicial education program as I have ever attended."

"Outstanding! So good that we blew through breaks. Obviously, the audience was well-served."

"Excellent, articulate group. Thank you for having such a high caliber of speakers on these important topics. Most were true experts in their fields who provided thought-provoking ideas to an eager audience."



**Thoughts on “Reading Law”:** Key-note and introductory speaker Bryan A. Garner kicked off the symposium with highlights from his recent book (co-authored with Justice Antonin Scalia), entitled *Reading Law: The Interpretation of Legal Texts*.



**Legislative Silence and the Dance Between the Legislature and the Judiciary:** (From left) Texas Supreme Court Justice Jeffrey S. Boyd, Michigan Court of Appeals Judge Michael F. Gadola, and Rutgers Law School Professor Carlos Gonzalez discussed how silences, gaps, and ambiguities create an interesting interaction between the legislative process and judicial decision making.



**Update on United States Supreme Court Decisions:** New York University School of Law Professor Kenji Yoshino provided an overview and gave his insights into the U.S. Supreme Court decisions from the 2014–15 term.



**Speaker Panel:** To close the symposium, all of this year’s speakers engaged in a lively discussion of topics generated from the audience and from among themselves.

and therefore remains relevant and responsive to the changes in society. In addition, dramatic changes have been brought to bear upon the law by the increasing importance of science and technology in litigation. Forensics, electronic data and communications, and globalization are just a few areas that were either non-existent or primitive only a few decades ago. Now, fortunes and lives hinge upon our understanding and application of them.

Because the needs of and perspectives from the bench are different, ordinary CLE

seminars and symposia for attorneys are not effective for judges. Customized programs for judges are few; even fewer are those that are free of charge. In this difficult fiscal climate when state judiciaries have absorbed dramatic and debilitating funding cuts, the chance to improve the knowledge and skill levels of judges without debiting their already threadbare budgets is critical.

Over the decade of its existence, NFJE has established the credibility and usefulness of its program. Judges know that the

material will be balanced and objective and that there is no agenda other than the improvement of the courts and the impartial administration of justice.

There is no denying that recent changes to the law and society, driven by technology and globalization, have necessitated the regular upgrading of judicial skills at the very time the public resources that might have supported such upgrades have been swept away. The NFJE is an educational lifejacket for judges in this challenging environment.

