

18th Annual Judicial Symposium

State Courts at the Forefront:

Law at the Time of Change

July 15–16, 2022

Loews Chicago Hotel
Chicago, Illinois

Presented by



NATIONAL FOUNDATION
FOR JUDICIAL EXCELLENCE



PROMOTING EXCELLENCE AFFIRMING JUSTICE

A strong, independent, educated, responsive judiciary that adheres to the rule of law is one of the hallmarks of a democratic society. While every citizen has an interest in the maintenance of an effective judicial system, lawyers (as officers of the court) have an even keener interest.

With that in mind, NFJE was formed 18 years to provide meaningful support and education to the judiciary.



2022 Symposium State Courts at the Forefront: *Law at the Time of Change*

At this time of tremendous changes and unprecedented challenges in our nation, state courts are on the front lines of improving the administration of justice and promoting public trust in the judicial system. This symposium will examine some of the most critical topics facing state courts today. As our keynote address, the Honorable Jeffrey S. Sutton of the Sixth Circuit Court of Appeals—a leading scholar on federalism and state constitutional law—will share insights about the role of state courts as leaders of legal innovation and guardians of rights from his new book, *Who Decides? States as Laboratories of Constitutional Experimentation*.

In addition to Judge Sutton’s keynote, there also will be engaging discussions on important topics affecting state courts, including: public confidence and the judiciary; judicial ethics and media; improving racial justice and equity in state courts; and the gatekeeping role of courts. The symposium also will provide tips for sharpening judicial writing with the Honorable Robert E. Bacharach, Tenth Circuit Court of Appeals, who will share insights on legal writing from his recent book *Legal Writing: A Judge’s Perspective on the Science and Rhetoric of the Written Word*.

Finally, we encourage you take time to catch up with colleagues and to meet with law students from The Appellate Project (TAP Fellows), who also will be in attendance this weekend.



The Appellate
Project

<https://theappellateproject.org>

State Courts at the Forefront: *Law at the Time of Change*

Schedule of Events

Friday, July 15, 2022

4:00–5:00 p.m.

Registration

5:00 p.m.

Welcome and Introduction

Tom Ganucheau, NFJE President

5:00–6:30 p.m.

Public Confidence in the Judiciary and the Rule of Law

Public trust in the judiciary and respect for the rule of law are essential to the functioning of our democratic society. Although public trust always has been important to the effectiveness of courts, it is particularly critical in this age of disinformation and divisive discourse. This opening session will examine factors affecting public perceptions of courts, different ways for courts to deepen understanding and confidence in judicial decision-making, and the challenges in building public trust facing state courts today. Our esteemed panelists will share their perspectives as federal circuit court judges who all also previously served on state appellate courts.

Moderator | Tillman Breckenridge, Stris & Maher LLP, Washington, D.C.

The Honorable Allison H. Eid, U.S. Court of Appeals for the Tenth Circuit, Denver, CO

The Honorable Susan P. Graber, U.S. Court of Appeals for the Ninth Circuit, Portland, OR

The Honorable Leslie H. Southwick, U.S. Court of Appeals for the Fifth Circuit, Jackson, MS

6:30–7:45 p.m.

Evening Welcome Reception

Saturday, July 16, 2022

7:30–8:15 a.m.

Continental Breakfast

8:15–8:30 a.m.

Welcome and Introductions

Sara Kobak, 2022 Symposium Chair

8:30–10:00 a.m.

Evaluating Expert Testimony: The Gatekeeping Role of Courts

Rule 702 requires courts—acting as gatekeepers—to find by a preponderance of the evidence that a challenged expert opinion is based on “sufficient facts or data” and is “the product of reliable principles and methods” before the opinion may be admitted. Changes to clarify the federal version of Rule 702 are expected to come by the end of the next year, with changes likely to follow in state analogs. This session will provide an update on the proposed amendments and the reasons for the role of courts as gatekeepers on admissibility of expert testimony.

Professor Daniel J. Capra, Fordham University School of Law, New York, NY

The Honorable Iain D. Johnston, U.S. District Court for the Northern District of Illinois, Rockford, IL

The Honorable Thomas D. Schroeder, U.S. District Court for the Middle District of North Carolina

10:00–10:15 a.m.

Break

10:15–11:30 a.m.	<p>Continuing the Conversation: Racial Justice and Equity in State Courts In recent years, state courts increasingly have been evaluating ways to improve racial equity and access to justice. Building on the conversation started at last year’s symposium, this session looks at reforms and initiatives that state courts may consider to promote equitable treatment for all, reduce disparities, and improve diversity and inclusion in the bench and bar.</p> <p>Moderator Imoh E. Akpan, Goldberg Segalla, Baltimore, MD The Honorable Darleen Ortega, Judge of the Oregon Court of Appeals, Salem, OR The Honorable Collins J. Seitz Jr., Chief Justice of the Delaware Supreme Court, Dover, DE</p>
11:30 a.m.–12:45 p.m.	<p>Lunch</p>
12:45–1:45 p.m.	<p>Keynote: Who Decides? States as Laboratories of Constitutional Experimentation Chief Judge Sutton of the United States Court of Appeals for the Sixth Circuit is a leading scholar on state constitutional law and federalism. The author of <i>51 Imperfect Solutions: States and the Making of American Constitutional Law</i>, Chief Judge Sutton recently published a second book, <i>Who Decides? States as Laboratories of Constitutional Experimentation</i>. In this keynote address, Chief Judge Sutton explores federalism and the role of state courts and state constitutions, along with federal courts and the federal constitution.</p> <p>The Honorable Jeffrey S. Sutton, Chief Judge of the U.S. Court of Appeals for the Sixth Circuit, Columbus, OH</p>
1:45–2:00 p.m.	<p>Break</p>
2:00–3:00 p.m.	<p>The Science of Legal Writing: Tips for Crafting Effective Written Opinions Producing clear and understandable judicial decisions is the goal of every appellate judge. Drawing from his recent book <i>Legal Writing: A Judge’s Perspective on the Science and Rhetoric of the Written Word</i>, Judge Bacharach shares strategies for improving clarity and enhancing legal writing.</p> <p>The Honorable Robert E. Bacharach, U.S. Court of Appeals for the Tenth Circuit, OklahomaCity, OK</p>
3:00–4:00 p.m.	<p>Judicial Ethics – Social Media and the Court Many judges and courts understandably are wary of using social media. Social media, however, also can be a powerful and important tool for civic education and for communicating with the public about the role of courts and the involvement of judges in the community. In this talk, Judge Reyes will provide guidance about the appropriate use of social media, the challenges and benefits of using social media as an education tool, and recommendations for effective use.</p> <p>The Honorable Peter M. Reyes, Jr., Judge of the Minnesota Court of Appeals, St. Paul, MN</p>
4:00–4:45 p.m.	<p>All Speaker Panel Our speakers and audience participants will engage in a lively discussion of topics generated from the symposium sessions.</p> <p>Moderator Mark Fahleson, Rembolt Ludtke, Lincoln, NE</p>
4:45–5:00 p.m.	<p>Closing Remarks Amy Miletich, Incoming NFJE President</p>
5:00–6:00 p.m.	<p>Closing Reception</p>
6:00 p.m.	<p>Dinner on own</p>

Speakers



Imoh E. Akpan is a partner at Goldberg Segalla, LLP in Baltimore, Maryland. He is an accomplished litigator with nearly 15 years of experience representing corporations and insurers in a variety of matters involving catastrophic injury, wrongful death, general negligence, negligent security, civil rights, and other types of claims. A trusted counselor to his longtime clients, he has particularly deep experience in the trucking and transportation, retail and hospitality, and construction industries in the state and federal courts in Maryland and Washington, D.C. Mr. Akpan clerked for the Honorable Althea M. Handy of the Baltimore City Circuit Court and the Honorable Inez S. Reid of the District of Columbia Court of Appeals.



The Honorable Robert E. Bacharach sits on the United States Court of Appeals for the Tenth Circuit, with his chambers in Oklahoma City, Oklahoma. Judge Bacharach graduated from Washington University School of Law in 1985, where he was named to the Order of the Coif. He served for two years as a clerk for Judge William J. Holloway, Jr. on the Tenth Circuit, and then worked for 12 years as a commercial litigator for the Oklahoma firm of Crowe & Dunlevy. In 1999, Judge Bacharach became a magistrate judge for the Western District of Oklahoma, where he presided over thousands of civil and criminal cases. He was appointed to the Tenth Circuit in 2013. Judge Bacharach recently published a new book on legal writing called *Legal Writing: A Judge's Perspective on the Science and Rhetoric of the Written Word*.



Tillman Breckenridge is a partner at the firm of Stris & Maher LLP in Washington, D.C. Mr. Breckenridge is an experienced appellate lawyer whose practice includes a diverse array of appellate litigation matters at all levels. He has represented companies, organizations, individuals, and foreign, state, and local governments before the United States Supreme Court, every federal court of appeals, and different state courts. Mr. Breckenridge also has been an adjunct professor of law at William and Mary Law School, where he founded the Appellate & Supreme Court Clinic. He has been named to Savoy Magazine's Most Influential Black Lawyers in America, an honorary member of the Order of the Barristers, a Washington, D.C. SuperLawyer, and a member of Virginia's Legal Elite. He also became the youngest fellow ever—and first under 40—in the American Academy of Appellate Lawyers. In addition to his appellate practice, Mr. Breckenridge speaks on appellate and related topics to various audiences.



Bryan Browning is Assistant General Counsel, Head of Global Disputes, at Whirlpool, a Fortune 200 company, where he manages a team of attorneys, claim professionals, and staff. Prior to joining Whirlpool, Mr. Browning was counsel for Lenovo and shareholder at Bassford Remele, P.A. in Minneapolis, Minnesota. Mr. Browning also is General Counsel for the Hispanic National Bar Association. Mr. Browning is deeply involved in diversity and inclusion initiatives and organizations dedicated to expanding the diversity pipeline in the legal profession. In recognition of his efforts, Mr. Browning previously was a recipient of the Minnesota Lawyer Diversity and Inclusion Award.



Professor Daniel J. Capra is Reed Professor of Law at Fordham University School of Law, New York, New York. Professor Capra graduated first in class at University of California, Berkeley, Boalt Hall School of Law. A prolific writer and legal scholar, Professor Capra has authored numerous journal articles on the evidentiary issues and criminal and civil trial procedure issues, including recently *Evidentiary Irony and the Rule of Completeness: A Proposal to Amend Federal Rule of Evidence 106* (2020), and *Poetry in Motion: The Federal Rules of Evidence and Forward Progress as an Imperative* (2019). Professor Capra currently serves as a reporter on the Judicial Conference Advisory Committee on the Federal Rules of Evidence.



The Honorable Allison H. Eid is a judge on the United States Court of Appeals for the Tenth Circuit, with her chambers in Denver, Colorado. Judge Eid graduated from the University of Chicago Law School, and then served as a judicial clerk for the Honorable Jerry E. Smith of U.S. Court of Appeals of the Fifth Circuit, and the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States. Judge Eid previously served as the Solicitor General for the State of Colorado. She also served as an associate justice on the Colorado Supreme Court for more than a decade before her appointment to the Tenth Circuit. Judge Eid also has served as a law professor, teaching on constitutional law and writing on the topic of constitutional federalism.



The Honorable Judge Joan N. Ericksen is a judge on the United States District Court for the District of Minnesota, in Minneapolis. Judge Ericksen graduated from University of Minnesota Law School, then worked for ten years as an assistant U.S. attorney before moving into private practice. Before being appointed to the federal bench, Judge Ericksen served as a judge in the Minnesota state courts. She initially served as a trial court judge for Hennepin County, the main judicial district for the City of Minneapolis. Judge Ericksen then served as an associate justice of the Minnesota Supreme Court. As a federal district court judge, she has presided over thousands of civil and criminal cases. Judge Ericksen has served two terms each as a member of the United States Judicial Conference Advisory Committee on the Rules of Evidence and the Advisory Committee on the Rules of Civil Procedure.



Mark Fahleson is a partner with the firm Rembolt Ludtke in Lincoln, Nebraska. Mr. Fahleson serves as an attorney and advisor to businesses, organizations, insurers, governmental bodies, officials, and individuals. When litigation becomes unavoidable, his representation has resulted in numerous successful verdicts from federal and state court judges and juries. Whether it involves employment law, agriculture or government relations, Mark's expertise and skill has earned him recognition, including being named as the Employment Law (Management-Side) Attorney 2021 "Lawyer of the Year" for Lincoln, Nebraska by The Best Lawyers in America®.



Tom Ganucheau is the NFJE President and a partner with the firm Beck Redden LLP in Houston, Texas. Mr. Ganucheau served as a law clerk for the Honorable Edith H. Jones of the United States Court of Appeals for the Fifth Circuit. After clerking, Mr. Ganucheau joined Beck Redden LLP, where he has remained for almost 30 years. Mr. Ganucheau previously has been recognized in Thomson Reuters *Texas Super Lawyers* and as one of the *Best Lawyers in America* for Commercial Litigation and Labor and Employment Litigation. Mr. Ganucheau has also served of the Board of Directors of NFJE for many years, and he currently serves as its President.



The Honorable Susan P. Graber is a judge on the United States Court of Appeals for the Ninth Circuit, with her chambers in Portland, Oregon. After earning her law degree from Yale Law School, Judge Graber worked in both public and private practice in Santa Fe, New Mexico, before working in private practice in Cincinnati and Portland. Judge Graber began her judicial career on the Oregon Court of Appeals before being elevated to the Oregon Supreme Court. She arrived at the Ninth Circuit in 1998; although nominated in 1997, she was not confirmed and did not take the oath until 1998. Judge Graber has been recognized repeatedly for her contributions to the Oregon legal community, including being named as Legal Citizen of the Year by the Classroom Law Project. Most recently, in 2022, she received the highest honor award from Oregon Women Lawyers for her efforts in promoting diversity and inclusion in the legal profession. Graber took senior status on December 15, 2021, but is continuing to hear cases full-time.

Speakers



The Honorable Iain D. Johnston is a judge on the United States District Court for the North District of Illinois, based in Rockford. Judge Johnston previously also served as a magistrate judge for the same court. After graduating from the John Marshall Law School in 1990, Judge Johnston clerked for the Illinois Second District Appellate Court and the U.S. District Court for the Northern District of Illinois. He worked for the Illinois Attorney General's office and in private practice before his appointment to the court.



Sara Kobak is a partner with Pacific Northwest firm of Schwabe, Williamson & Wyatt, P.C., with her office in Portland, Oregon. Ms. Kobak focuses her practice on appellate litigation in diverse subject areas, including commercial disputes, insurance issues, tort claims, administrative appeals, and constitutional law issues. In addition to her appellate practice, Ms. Kobak helps to develop legal arguments and strategy in state and federal trial and administrative proceedings. She served as a judicial clerk for three years for the former Chief Justice of the Oregon Supreme Court. She also is the former chair of the Oregon State Bar Appellate Section, and she previously has been listed in Oregon Super Lawyers for appellate litigation. Ms. Kobak maintains an active pro bono practice, and she is involved in diversity and inclusion initiatives at her firm and in the broader legal community. Ms. Kobak is the current NFJE program chair.



Amy Miletich is the incoming NFJE President and a founding member of the firm Miletich PC in Denver, Colorado. Her practice is focused on employment law matters, civil litigation, and insurance law. Ms. Miletich has extensive experience with employment law matters and has represented domestic and international private employers and public employers in the defense of claims alleging violations of federal and state employment laws. In addition to her involvement with NFJE, she also is a Board of Director of the Federation of Defense and Corporate Counsel. Ms. Miletich's work has led to several honors, including being listed in Best Lawyers in America and being named one of the Top 50 Women Colorado Super Lawyers.



The Honorable Darleen Ortega is a judge on the Oregon Court of Appeals. Appointed to the court in 2003, Judge Ortega currently is the longest sitting judge on the Oregon Court of Appeals. She is also the first woman of color and the only Latina to serve as an appellate judge in Oregon. Before becoming a judge, Judge Ortega practiced law for 14 years, focusing her practice on all types of civil litigation at the trial and appellate levels. Judge Ortega is a thought leader who writes and teaches frequently on topics related to equity, privilege, combatting structural and internalized racism and oppression, and learning to engage and value the perspectives of people at the margins. She teaches a ground-breaking Access to Justice course at all three Oregon law schools and serves as a resource to many organizations that are undertaking the work of addressing structural bias.



The Honorable Peter M. Reyes, Jr. has served as a judge on the Minnesota Court of Appeals since 2014. He is a past national president of the Hispanic National Bar Association, as well as a past president of the Minnesota Hispanic Bar Association. He is highly active in the legal community. Among other honors, Judge Reyes previously has been named in *Poder Magazine's* list of "The 100 Most Influential Hispanics in America." Judge Reyes has been named by *Minnesota Lawyer* as a "Top Ten Minnesota Attorneys of the Year" in 2001 and has since been recognized as an attorney and judge by *Minnesota Lawyer* in 2012, 2016, twice in 2017, and finally in 2020 for outstanding service to the profession. He received the Ohtli Award in 2016, the highest award given out by the Mexican government to a non-Mexican citizen. And in 2019, Judge Reyes received the ABA "Spirit of Excellence Award."



The Honorable Collins J. Seitz, Jr. is the Chief Justice of the Supreme Court of Delaware. Prior to his appointment to the Delaware Supreme Court in 2015, Chief Justice Seitz was a founding partner of Seitz Ross Aronstam & Moritz LLP. Before founding that firm, Chief Justice Seitz was a partner of Connolly Bove Lodge & Hutz LLP in Wilmington, Delaware. A member of the Delaware Bar since 1983, Chief Justice Seitz served as a board member and chair of the Board of Bar Examiners, and a board member of the Board on Professional Responsibility. Both federal and state courts often appointed Chief Justice Seitz as a Master and Trustee to oversee complex corporate, commercial, and intellectual property cases. He is a Fellow of the American College of Trial Lawyers. Chief Justice Seitz received his undergraduate degree from the University of Delaware and his law degree from the Villanova University School of Law.



Ed Sledge is a partner at Bradley LLP, where his national practice focuses on complex business and commercial litigation in courts across the country. He also routinely represents businesses in bet-the-company litigation, including high-exposure personal injury and wrongful death matters. Mr. Sledge has tried cases in multiple state and federal courts and in arbitration. He is a frequent lecturer and author on civil litigation and trial issues. Mr. Sledge is a Fellow of the American Bar Foundation and has been listed by The Best Lawyers in America, Mid-South Super Lawyers, and Alabama Super Lawyers (Top 50), among others.



The Honorable Leslie H. Southwick is a judge for United States Court of Appeals for the Fifth Circuit, with his chambers in Jackson, Mississippi. Before his appointment to the federal bench in 2007, Judge Southwick was a judge on the Mississippi Court of Appeals from 1995 to 2006. Judge Southwick also has taught law at the Mississippi College School of Law. Judge Southwick graduated from University of Texas Law School, and he also attended the Judge Advocate General (JAG) School at the University of Virginia before serving in the U.S. Army JAG Corps. Judge Southwick is a frequent speaker on federal courts and constitutional law issues.



The Honorable Jeffrey S. Sutton is the Chief Judge of the United States Court of Appeals for the Sixth Circuit. He has served as Chair of the Federal Judicial Conference Committee on Rules of Practice and Procedure and as Chair of the Advisory Committee on Appellate Rules. He currently serves on the Executive Committee of the Judicial Conference of the United States, and as the Commissioner of the Supreme Court Fellows Program. Since 1993, Chief Judge Sutton has been an adjunct professor at The Ohio State University College of Law, where he teaches seminars on State Constitutional Law, the United States Supreme Court, and Appellate Advocacy. He also teaches a class on State Constitutional Law at Harvard Law School. Among other publications, he is the author of *Who Decides? States as Laboratories of Constitutional Experimentation* and *51 Imperfect Solutions: States and the Making of American Constitutional Law*. He is the co-author of a casebook, *State Constitutional Law: The Modern Experience*, as well as *The Law of Judicial Precedent*. He is also the co-editor of *The Essential Scalia: On the Constitution, the Courts, and the Rule of Law*.



The Honorable Thomas D. Schroeder is the Chief Judge of the United States District Court for the Middle District of North Carolina, in Raleigh. After graduating from Notre Dame Law School, Judge Schroeder served as a law clerk for the honorable George E. MacKinnon of the U.S. Court of Appeals for the District of Columbia Circuit. Prior to taking the bench in 2008, Judge Schroeder was in private practice for more than 22 years. Judge Schroeder also currently serves as a member of the Judicial Conference Advisory Committee on the Federal Rules of Evidence, and is Chair of the Subcommittee on Rule 702. Judge Schroeder is further published on the topic of the day, *Toward a More Apparent Approach to Considering the Admission of Expert Testimony*, 95 Notre Dame Law Review 2039 (2020).

Welcome back to Chicago!

We are once again at the wonderful Loews Chicago Hotel - close to dining, shopping, Navy Pier, Millennium park and more. We hope you take advantage of a Windy City summer during your stay.



Registration

To register:

Phone: 312.698.6202

Email: tparks@nfje.net

Hotel and Travel

Registration for the 18th Annual Judicial Symposium is first come first served. Once you register on www.NFJE.net, you are welcome to make reservations at the Loews Hotel under the NFJE room block. In order for your (up to) two night stay to be covered, you must be registered for the program. We will reimburse you for up to \$500 for flight and other transportation costs, including ground transportation, with proper receipts following attendance at the program.

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Cancellations are accepted up to three weeks in advance, please email your request in writing to tschorle@NFJE.net

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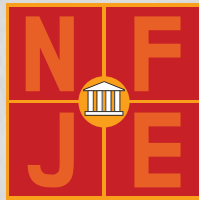
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