



NEWSLETTER OF THE  
**WESTERN DISTRICT OF WISCONSIN  
BAR ASSOCIATION**

Volume 18, Number 1

April 2009

**Paul D. Clement to Deliver Keynote at May 29 Luncheon;  
Honorable John Shabaz to Receive Distinguished Service Award**

**By Sarah A. Zylstra**

Former Solicitor General Paul D. Clement will be the keynote speaker at the Western District of Wisconsin Bar Association's annual luncheon, to be held May 29, 2009 at The Concourse Hotel in Madison. The luncheon will also include a presentation of the Association's Distinguished Service Award to the Honorable John C. Shabaz.

After the luncheon, beginning at 2:00 p.m., the Bar Association will conduct its annual Continuing Legal Education program at the U.S. Courthouse. The CLE program will include discussions related to the impact of the economy on the local bankruptcy court and proposed changes to the bankruptcy code, current trends in civil and criminal cases from the U.S. Supreme Court, the Clerk of Court's report, and the current practice expectations in the Western District.

A reception at the Courthouse will follow at 4:30 p.m. Registration forms and a detailed agenda for the annual meeting are included in this newsletter.

Mr. Clement, this year's keynote speaker, served as the 43rd Solicitor General of the United States from June 2005 until June 2008. Prior to his confirmation as Solicitor General, Mr. Clement served as the Acting Solicitor General and as the Principal Deputy Solicitor General. His service in the Office of Solicitor General is the longest period of continuous service in the office by a Solicitor General since the Nineteenth Century. He has argued more than 49 cases to the United States Supreme Court.

Mr. Clement is a native of Cedarburg, Wisconsin and graduated from the Cedarburg public schools. He received

his Bachelors degree summa cum laude from Georgetown University School of Foreign Service and a Masters degree in economics from Cambridge University. He graduated magna cum laude from Harvard Law School.

Following graduation, Mr. Clement clerked for Judge Laurence H. Silber-

man of the U.S. Court of Appeals for the D.C. Circuit, and for Associate Justice Antonin Scalia of the U.S. Supreme Court. After his clerkships, Mr. Clement served as the Chief Counsel of the U.S. Senate Subcommittee on the Constitution, Federalism and Property Rights.

Mr. Clement has also served as an adjunct professor at the Georgetown University Law Center and as a Senior Fellow of the Law Center's Supreme Court Institute. In November of 2008, he rejoined the Washington, D.C. office of King & Spalding, where he heads up the firm's appellate practice. He is admitted to practice in Virginia, Washington, D.C., and Wisconsin.



---

---

## Western District of Wisconsin Bar Association 2008-09

---

### Executive Committee

**Robert E. Shumaker**, President

(608) 283-5602 res@dewittross.com

**Sarah Zylstra**, Vice President/ President-Elect  
(608) 283-1741 szylstra@boardmanlawfirm.com

**Andrew Clarkowski**, Secretary  
(608) 283-6705 aclarkowski@axley.com

**Lynn Stathas**, Treasurer  
(608) 229-2200 lastathas@reinhardt.com

**Gregory T. Everts**, Past-President  
(608) 283-2460 gte@quarles.com

### Committee Chairs

**James R. Troupis**, Alternative Dispute Resolution  
(608) 257-3501 jrtroupis@michaelbest.com

**Gregory T. Everts**, Co-Chair, Communications  
(608) 283-2460 gte@quarles.com

**Jennifer Sloan Lattis**, Co-Chair, Communications  
(608) 267-3519 lattisjs@doj.state.wi.us

**David Harth**, Pro Bono / Pro Se  
(608) 663-7470 dharth@perkinscoie.com

**Theresa Andre**, Membership  
(608) 258-4235 tandre@foley.com

**Richard Moriarty**, Courthouse Facilities  
(608) 267-2796 moriartyrb@doj.state.wi.us

**Kenneth B. Axe**, Rules, Practice & Procedure  
(608) 286-7207 kaxe@lathropclark.com

**Andrew Clarkowski**, Website  
(608) 283-6705 aclarkowski@axley.com

### Board of Governors

**Russ Golla**

**Kevin Palmersheim**

**Kenneth B. Axe**

**Tim Edwards**

**Peter Reinhart**

**Michael W. Lieberman**

**Richard Moriarty**

**Michael Stoker**

**James D. Peterson**

**Peter Oppeneer**

### Past Presidents on Board of Governors

**Todd Smith** (Ex Officio) 2004-09

**James R. Troupis** (Ex Officio) 2005-10

**Michael Modl** (Ex Officio) 2006-11

**Jennifer Sloan Latis** (Ex Officio) 2007-12

**Gregory T. Everts** (Ex Officio) 2008-13

## The Honorable John C. Shabaz to Receive Distinguished Service Award

The Honorable John C. Shabaz has been named as a recipient of the Western District of Wisconsin Bar Association's Distinguished Service Award. A tribute to him will be included in the program for the WDBA's annual luncheon to be held at The Concourse Hotel at noon on Friday, May 29, 2009.



Judge Shabaz was nominated to the bench by President Ronald Reagan on November 4, 1981, to a seat vacated by James E. Doyle, Sr. Judge Shabaz has served on the court for 28 years. Prior to his appointment to the bench, Judge Shabaz served in the legislature, representing the Waukesha and New Berlin areas as the representative for Assembly District 83, and was the minority leader from 1973 to 1979.

Previous recipients of the WDBA's Distinguished Service Award are: Judge Thomas Fairchild, Judge James Doyle (presented posthumously), Congressman Robert Kastenmeier, the Western District of Wisconsin Clerk of Court/Magistrate Judge Joseph Skupniewitz, Percy Julian (presented posthumously), and Dan Hildebrand (presented posthumously).

## Western District of Wisconsin Pro Bono Fund, Inc. Created

We have a new sister organization. The Western District of Wisconsin Pro Bono Fund, Inc.—a tax exempt public charity under section 501(c)(3) of the Internal Revenue Code—has been created.

From time to time, the judges of the Western District have found it appropriate to request that attorneys represent litigants in civil cases who would otherwise appear pro se. The WDBA's Pro Bono Committee (currently chaired by David Harth) has often assisted the Court in finding attorneys who will take such cases on a pro bono basis.

When attorneys who agreed to take on such cases were from large firms, their firms have often covered the costs associated with doing so. The lack of funding to cover out-of-pocket costs, however, has made it difficult for solo practitioners or attorneys from small firms to accept appointments to take such cases. Thus, the WDBA decided several years ago to create a fund that could be used to reimburse attorneys who agreed to accept pro bono appointments by the Court

---

---

to handle such cases for at least a portion of their out-of-pocket costs. Guidelines for reimbursement from the fund are being developed.

We currently have about \$3,000 that was transferred to the Association from a fund previously held by the Court. The WDBA has also committed to match the first \$10,000 in contributions to the new Western District of Wisconsin Pro Bono Fund, Inc. Thus, we are seeking contributions from law firms, individual members, and others.

A separate letter requesting contributions will be sent to law firms, members, and others in the near future. Please consider, however, including a contribution when you register for the WDBA Annual meeting and/or renew your WDBA membership using the registration form included in this issue of the newsletter.

Contributions are tax deductible under section 170 of the Internal Revenue Code.

The Board of Directors of the Western District of Wisconsin Pro Bono Fund, Inc. will consist of the members of the Board of Governors of the Western District of Wisconsin Bar Association and the Chair of the WDBA's Pro Bono Committee.

Thank you to Hamang Patel, of Michael Best & Friedrich, who prepared the corporate documents and IRS forms necessary to form the new organization and obtain its tax exempt status. In appreciation of his service—on a pro bono basis—Hamang will be presented with the WDBA's Pro Bono Award at the Annual Meeting Luncheon.

## **A Message from the President**

### **Our court is special**

There is no doubt that under the leadership of Judge Crabb and Judge Shabaz, the United States District Court for the Western District of Wisconsin has a well-deserved reputation for handling cases in a speedy and efficient manner consistent with the fair administration of justice.

The Clerk of Court's office is helpful; the procedures are straightforward and consistently applied; and cases promptly go to trial or are otherwise resolved without delay. As a result, the Western District has become an attractive venue in which to litigate cases. Indeed, many patent cases which could be brought elsewhere are filed in this District because of the efficiency of the Court. This is good for the parties, for attorneys, and even for our local economy.

With the announcements that Judge Shabaz and Judge Crabb will be assuming senior status, many of us hope that the unique culture of the Court has become sufficiently "institutionalized" so that the positive attributes of the Court will be maintained long into the future. Certainly, the new

judges who President Obama appoints to the Court will play an important role in preserving what is best about the Court and in making it even better.

At the suggestion of a member, the officers and ten elected members of the Board of Governors of the WDBA wrote the following letter to Wisconsin's Federal Nominating Commission, chaired by UW Law School Dean Ken Davis, and commissioned by Senators Kohl and Feingold to recommend candidates to fill the vacant positions:

*Dear Dean Davis and Members of the Federal Nominating Commission:*

*We are officers and elected members of the Board of Governors of the Western District of Wisconsin Bar Association ("WDBA").*

*The members of the WDBA are attorneys who regularly appear in the United States District Court for the Western District of Wisconsin ("the Court"). While the WDBA takes no position on the candidacy of any applicant for appointment to the position of District Judge upon Judge Shabaz taking particular senior status, we are vitally interested in maintaining the current unique culture of the Court.*

*Under the leadership of Judge Shabaz and Judge Crabb, the Court has developed a national reputation for handling cases in a speedy and efficient manner consistent with the fair administration of justice. The Court has historically been among the fastest courts in the nation from filing to disposition and has become an attractive venue in which to litigate cases, which benefits the parties, attorneys, and the District as a whole. As practitioners, we place great value on the attributes of the Court and desire to see them carried forward in the future. We have a special court here in the Western District of Wisconsin and we want to assure that continues to be the case. Therefore, we respectfully urge you to consider whether the applicants for the position understand and intend to continue to maintain the unique culture of the Court.*

*Thank you for considering our position.*

The credit for making our court special, of course, should also be shared not only with Magistrate Judge Crocker, Bankruptcy Judges Martin and Utschig, the Clerk of Court's office, and the entire court staff, but also with the attorneys who practice here. Through the WDBA, and otherwise, we have all helped to make practice in the Western District special.

- Robert E. Shumaker



Western District Bar Association  
Post Office Box 44578  
Madison, WI 53744-4578

Address Service Requested

## Chief Judge Crabb Announces Intent to Take Senior Status

Chief Judge Barbara B. Crabb of the United States District Court for the Western District of Wisconsin announced her intention to take senior status. In a statement released March 19, 2009, Judge Crabb stated:

*Over the past several years, this court's ever-expanding and increasingly complex caseload has required extraordinary efforts from all of the judges and court staff in order to provide the prompt resolution of cases that all litigants have a right to expect. All indicators suggest that this trend will continue unabated. One solution would be to ask Congress to authorize a third judgeship for this court, but this would be a time-consuming and expensive proposition. A more cost-effective and immediate solution would be for me to take senior status. This would allow me to continue my work for the court at a less frenetic pace while opening a full-time position for another federal judge. Given the nation's current economic straits and the immediate needs of this court, I have decided after considerable reflection that this is the best course for all concerned. Therefore, I have written President Obama to report my intention to take senior status as soon as my successor can be appointed.*

Judge Crabb was appointed by President Jimmy Carter in 1979. She was elevated to chief judge in 1980 and served in that capacity until 1996 and again from 2001 to present. During her tenure, the court has maintained one of the most current dockets in the federal judiciary, notwithstanding a caseload among the top 20 percent of all federal district courts.

Judge Crabb's announcement will create a second opening on the court. Judge Crabb and Judge John C. Shabaz, who assumed senior status on January 20, 2009, have presided together as the two district judges for the Western District for more than 25 years. Their successors will be appointed by President Obama upon the recommendation of U.S. Senators Herb Kohl and Russ Feingold, who are advised by an 11-member nominating commission.

**Part-Time Magistrate Position Approved** - The Judicial Conference of the United States has authorized the appointment of the clerk of court, Peter A. Oppeneer, to act as a part-time United States magistrate judge for the Western District of Wisconsin.

Chief Judge Barbara B. Crabb has named a panel of citizens to consider this appointment. Comments on whether Mr. Oppeneer should be recommended for appointment by Chief Judge Crabb as a part-time magistrate should be directed to: Chief Judge Barbara B. Crabb, P.O. Box 591, Madison, WI 53701-0591.

---

---