



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

Volume 22, Number 2

May 2013

## **Annual Meeting to Feature Patrick Fitzgerald**

*The Annual Meeting and Luncheon, set for Thursday, June 13, 2013, looks to be a great event again*

This year's luncheon will be at the Inn on the Park. The keynote speaker is Patrick Fitzgerald, former U.S. Attorney for the Northern District of Illinois, now a partner in the Chicago office of Skadden, Arps, Slate, Meagher & Flom. During his tenure as U.S. Attorney, Mr. Fitzgerald headed many high-profile prosecutions, including those resulting in convictions of Illinois Governors Rod Blagojevich and George Ryan, several aides to Chicago Mayor Richard Daley in the Hired Truck Program, and Chicago detective Jon Burge, who was alleged to have coerced the confessions of hundreds of criminal suspects. Mr. Fitzgerald was also appointed special prosecutor in the Valerie Plame affair, which led to the perjury conviction of Lewis "Scooter" Libby

Mr. Fitzgerald's talk, "Miranda Rights in the Age of Terror," will also draw from his experience as an assistant U.S. Attorney in New York, where he prosecuted the 1993 World Trade Center bombing, investigated Osama Bin Laden, and prosecuted the 1998 embassy bombings. Mr. Fitzgerald's talk will be particularly timely and compelling in light of the investigation of the recent Boston Marathon bombing.

Our CLE program will include the usual update of civil and criminal cases from the Supreme Court. It's been an interesting year in the Seventh Circuit, so we will also update circuit cases of importance. We also have a new segment this year: members of the Court staff will present the nuts-and-bolts issues of practice in the Western District of Wisconsin, with plenty of time to answer your questions.

The CLE program will conclude with the always-popular judges panel, to be followed the equally popular reception in the lobby outside the second-floor courtrooms. This is a great time to catch up with friends and colleagues, and we hope to see you there.



## **Public Defenders, and the Public, Paying the Price of Gridlock**

*From the Western District Bar Association Editorial Board*

As a result of the now-notorious governmental sequester dispute, the Federal Public Defender's office has suffered drastic cuts to its budget and staff. Statewide, six full-time positions were lost. Three were in the Western District. Our Public Defender's office had to eliminate an Assistant Public Defender, an investigator, and a staff position; nearly half of the employees in the office. Now the office consists of two defenders, a research and writing attorney, and an administrative assistant. On top of the loss of positions, the remaining employees now have less time to do their jobs. The assistant is required to take one furlough day each week. This means the remaining attorneys on staff have no receptionist and must answer their phones, staple documents, and run their own office while attempting to service their personal caseloads. The attorneys themselves are also required to take three furlough days each month.

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## Western District of Wisconsin Bar Association 2012-2013

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## Public Defender Gridlock

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Not surprisingly, the Public Defender's office will be able to take less cases, and serve fewer clients, as a result of these losses. To their credit, it appears that the overall decline in caseload for the entire office will be closer to one-third than the one-half one would expect, because the individual Assistant Public Defenders will do their best to maintain their individual caseloads at the same level.

Nonetheless, this loss will result in obvious consequences in the courts—and for citizens. It is clear and statistically shown that public defenders are among the most experienced, most efficient, and most effective advocates for their clients, handling more cases and achieving better results.

Not being able to receive the services of a professional public defender can be a detriment for criminal defendant. More importantly, it is a plain loss for the public as a whole, because when staff attorneys cannot take a case, the matter is referred to private attorneys who are paid at the rate of \$125 an hour, which is, ironically, more expensive for taxpayers than the public defenders.

What can we, as a bar, do about this? We are fortunate in having the ability to interact with elected officials and government representatives. Let them know that you are concerned about the ruinous effect the sequester has had on this valuable public office, and the people and purposes it serves. Inform your friends and make your concerns about this situation known.

Hopefully, common sense and fiscal prudence will ultimately prevail—just as, we are pleased to note, it has in the case of the long-standing judicial vacancy in the Western District. We are grateful to our elected representatives who have reached agreement on a practical methodology to select a judge to fill the long-standing vacancy here. Until we have a reasonable resolution to this issue as well, our sympathies, and our appreciation, go out to the members of the Federal Public Defenders' office.

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## President's Corner

By Richard Briles Moriarty

How do you spell “relief”? Over four years after the judgeship held by Judge Shabaz was declared vacant (and well over five years after he ceased active service), the logjam was finally broken in April through an Senatorial agreement on a Commission process that, as structured, promises concrete results in the near future.

Applications will be accepted until **noon on May 29, 2013**: <http://tinyurl.com/wdfednom>.

Dare we hope for a Fall investiture?

The WDBA and the Dane County Bar jointly sponsored an all-day *South-Central Wisconsin Electronic Discovery Summit* on May 10. Attendance was high and response overwhelmingly positive. (Among the presenters was Rock County Circuit Court Judge Michael Fitzpatrick, a former WDBA President.) We greatly appreciated the contribution made by all presenters to this excellent program and anticipate joining DCBA next year for a Second Annual Summit.

Please enjoy an engaging luncheon presentation by former US Attorney **Patrick Fitzgerald**, our Keynote Speaker at WDBA's Annual Meeting on **Thursday, June 13** as he analyzes Miranda Rights in the Age of Terror. As in past years, the Annual Meeting will be graced by valuable CLE programs (including a presentation from Judge Conley and criminal law practitioners on current practices in supervised release and monitoring), updates by the Clerk on court activities, tips from court staff on practicing in the Western District, the Judge's Panel, and a reception at which you can interact informally with court members and colleagues. Sign-up information will be available on the website and through e-mail blasts.

Speaking of the website, our current one is woefully outdated and will soon be replaced with a 21st century and user-friendly website designed to serve our members more effectively. Expect to see it up and running by the Annual Meeting.

Applauding those who have taken on *pro bono* appointments this year, we hope that the WDBA pro bono fund has encouraged practitioners to take on civil cases where the court deems representation appropriate. WDBA and the court are working to improve the *pro bono* appointment process to better tap into the incredible wealth of talent within our District.

Though the end of my term as President approaches, I recognize – from observing my hard-working and dedicated predecessors as they moved to Past President status– that continued active service is the norm. WDBA is the most rewarding organization in which I have engaged in my professional career, chock full of people eager to further WDBA's mission in a wide variety of ways.

Honored to serve as President this past year, I look forward to being engaged in WDBA activities in the future – particularly as the judicial line-up on the Western District returns to a full bench.

## Filing Documents Under Seal

By Peter Oppeneer, Clerk of Court

This is the second in a series of articles about court procedures aimed at answering frequently asked questions and discussing the policies behind our procedures. This issue's topic is filing documents under seal. These filings are governed by our recently revised administrative order on sealing, issued on May 17, 2013, and available at:

[http://www.wiwd.uscourts.gov/sites/default/files/Admin\\_Order\\_311.pdf](http://www.wiwd.uscourts.gov/sites/default/files/Admin_Order_311.pdf)

When the court established its procedures for sealing documents, it began with the premise that federal court proceedings and documents should be publicly available to the fullest extent possible. This principle sometimes conflicts with a legitimate need to protect security interests and property rights. The court's administrative order on sealing documents, developed with Western District Bar input, strikes a balance between these conflicting interests.

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## From the Clerk of Court

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The central rule embodied in the first paragraph of the administrative order is that documents may be filed under seal only if the court expressly approves either by granting a motion to seal a particular document or by entering a general protective order that applies prospectively to documents that meet the parameters of the protective order. Even if a document is judicially approved for filing under seal, the filer must also file a public version that redacts only the truly confidential portions.

There are several exceptions to the rule set out in the administrative order. The order lists several specific document types in criminal and law enforcement actions that, by their nature, justify sealing without further court approval. Of most interest to civil practitioners, the order also makes an exception to the redaction requirement for full deposition transcripts filed pursuant to a court order. The latter exception recognizes that complete deposition transcripts are generally filed for the convenience of the court and that redaction could be an onerous burden.

There are a few additional matters to keep in mind on the mechanics of filing under seal. The electronic court filing system gives the option to file any document under seal. Although the system expressly cautions the filer about the court approval and redaction requirements, it does not preclude filing under seal without compliance. Ultimately, attorneys must be mindful of their obligations under the administrative order. We understand that circumstances may sometimes make it difficult to file redacted versions simultaneously with original sealed documents. If you will be unable to file the redacted versions within a day of the originals, please advise the clerk's office.

As always, we are happy to hear your ideas or answer questions about this topic or other procedures in the clerk's office.

### Questions or Comments?

Contact us at:

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

608.848.9008

[info@wdbar.org](mailto:info@wdbar.org)

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## Western District of Wisconsin Bar Association

### ANNUAL MEETING AGENDA THURSDAY, JUNE 13, 2013

#### Annual Business Meetings

Room 250, U.S. District Courthouse, Madison, Wisconsin

**11:00 a.m.** Annual Business Meeting of the WDBA followed by Annual Business Meeting of WDBA Pro Bono Fund

#### Luncheon and Keynote Address

Top of the Park at Inn on the Park, 22 S. Carroll Street, Madison, Wisconsin

**11:30 to 12:00** Registration

**12:00 noon** **Twenty-first Annual WDBA Luncheon**

Keynote Address: Patrick Fitzgerald, Former U. S. Attorney, N.D. Illinois  
*"Miranda Rights in the Age of Terror"*

#### CLE Program and Judges' Panel

Room 250, U.S. District Courthouse, Madison, Wisconsin

**1:45-2:35 p.m.** **State of the Court Report**

Peter Oppeneer, Clerk of Court

**How to Survive and Prosper in the WDWI**

Western District of Wisconsin Court Staff

**2:35-2:45 p.m.** Break

**2:45-3:05 p.m.** **Supervised Release and Intensive Monitoring Program**

William M. Conley, Chief United States District Judge, Western District of Wisconsin

Timothy M. O'Shea, United States Attorney's Office

Michael Lieberman, Federal Defender Services of Wisconsin, Inc.

**3:10-3:30 p.m.** **U. S. Supreme Court Criminal Law Update**

Timothy M. O'Shea, United States Attorney's Office

Michael Lieberman, Federal Defender Services of Wisconsin, Inc.

**3:35-3:55 p.m.** **U. S. Supreme Court and Seventh Circuit Civil Law Update**

Richard Briles Moriarty, Wisconsin Department of Justice

Kendall Harrison, Godfrey & Kahn, S.C.

**4:00-4:30 p.m.** **Judges' Panel and Discussion**

#### Reception

Second Floor Lobby, U.S. District Courthouse, Madison, Wisconsin

**4:30 p.m. -** Beverages and hors d'oeuvres

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**WESTERN DISTRICT OF WISCONSIN BAR ASSOCIATION**

ANNUAL MEETING REGISTRATION FORM

Thursday, June 13, 2013

Name: \_\_\_\_\_

Firm/Agency: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

I will be attending:     11:00 a.m. Business Meeting     1:45 p.m. CLE Program  
                                   12:00 p.m. Luncheon                             4:30 p.m. Reception

Luncheon Menu Selection (\$20, includes tax & gratuity)

Steak & Bleu Cheese Salad

Mixed lettuce greens, red onions, tomato wedges and cucumber slices, topped with sliced New York strip, croutons and bleu cheese, served with choice of dressing

Smoked Salmon Salad

Mixed lettuce greens with honey Dijon vinaigrette, topped with capers, red onions, mandarin oranges and a smoked salmon fillet

Mediterranean Salad

Arugula, spinach, mozzarella, tomatoes, onion, Kalamata olives and pearl couscous with roasted garlic vinaigrette

Please enclose a check payable to the Western District Bar Association to cover the following expenses:

Lunch (\$20) \_\_\_\_\_

Membership dues for 2013-2014 (\$35; free for new lawyers) \_\_\_\_\_

Cost of CLE Program (\$50 for non-members; free for members) \_\_\_\_\_

**Please return this form with your payment by May 31, 2013 to:**

Western District Bar Association  
P.O. Box 44578  
Madison, WI 53744-4578

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**I am willing to work on the following areas for the WDBA:**

- Please add me to the list to take *pro bono* assignments
- Articles for the Newsletter
- Court Rules, Practice and Procedure
- Courthouse Equipment and Facilities
- Criminal Law and Procedure
- Membership
- Mentoring
- Pro Se/Pro Bono
- Website

We are eager to fulfill our mission of promoting the just, speedy, respectful and efficient determination of every action filed in the District Court by acting as an effective liaison among the District Court, federal practitioners, litigants and the public; by encouraging, fostering and supporting educational opportunities that improve the practice of law in this District; and by serving the needs of the District Court, federal practitioners, litigants, and the public.

We welcome any suggestions you might have about how we can better achieve this mission:

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