



# FEDERAL CLAIMS BAR ASSOCIATION

Winter 2009 Newsletter

## Continuity and Change



“Change” is the watchword of this season and the Court of Federal Claims has its usual share of news to report. All the while, however, the work of the court continues as cases are filed, hearings are held, and decisions rendered.

Undoubtedly, the court will be affected as **President Obama**, the Congress, and the Federal Reserve, et al.,

grapple with the challenges of the economic recession. The court is well situated to address any legal disputes that may arise in the course of the complex legislative and executive branch initiatives to ameliorate the downturn in the economy.

Among the events and activities at the court since the last newsletter of the Bar Association was a very well-attended “brown-bag” seminar, held December 16, co-sponsored by the Bar Association and the Young Lawyers Committee of the ABA Section of Public Contract Law. I made some brief opening remarks and turned over the program to Judges **Mary Ellen Williams**, **Nancy Firestone**, and **Thomas Wheeler** for an avid discussion of the mission and jurisdiction of the court. Many thanks to **Richard Arnholt** and **Dan Chudd**, Young

Lawyers Committee Co-Chairs, for organizing the event.

Let me also take this occasion to express thanks to outgoing Bar Association President **Brad Fagg** of Morgan Lewis for an outstanding year of service and accomplishment. The fall Judicial Conference, co-sponsored by the Bar Association, was a great success and was made particularly notable as the occasion for the distribution of the long-awaited and highly valuable revised edition of its *Deskbook for Practitioners*. The editors and contributors to the revision did an excellent job. As 2008 turned to a close, Brad turned over the gavel of leadership to the new Bar Association President **Melonie McCall** of the Department of Justice. The court extends its congratulations and a warm welcome to her in this capacity.

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I am pleased to note another new face at the court, **Chris Warner**, our new Director of Information Technology. Chris comes to us from the United States District Court for the District of Columbia, where he was Assistant Director of IT. Chris has superb credentials and received a Director's Award from the Administrative Office of the U.S. Courts for his valuable work in the development of the federal court's online system for law clerk applications, OSCAR ("Online System for Clerkship Application and Review"). As technology is an ever critical element of court operations, Chris is a welcome addition to the court's staff management team (which includes Acting Clerk of Court **John Buckley**; Chief Deputy Clerk for Operations, **Lisa Reyes**; and Acting Chief Deputy Clerk for Administration and IT, **Carole Bailey**).

In early February, the judges of the court approved the reappointment of Special Master **George Hastings** for an additional four-year term. George's work is exemplary and he is to be commended for his prodigious work in presiding over the Autism Omnibus Proceedings. On that subject, I should note that by the time of this newsletter the Office of Special Masters will have released three highly significant decisions on certain claims within the Autism Omnibus Proceedings. These decisions are posted on the court's website, [www.uscfc.uscourts.gov](http://www.uscfc.uscourts.gov).

As a final matter, I urge your attendance at the court's next annual Law Day luncheon and celebration in early May. The theme is "A Legacy of Liberty: Celebrating Lincoln's Bicentennial." Please watch for details on the court's website.

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## ***President's message***



What a busy January! With the change in administrations and all of the excitement of the Inauguration, comes a keen sense of renewal and increased enthusiasm for all things Washington. As I begin my term as president of the U.S. Court of Federal Claims Bar Association, I first want to express what a distinct honor and privilege it is

to serve such an esteemed organization. I also want to try to capitalize on the ebullience that pervades Washington.

The Bar Association is well poised for another great year. We have just completed a very successful year under the leadership of immediate past-president **Brad Fagg**. I'd like to congratulate Brad again on a job well done. The organization is financially healthy and is more than five hundred members strong. With the help of **Jim Jette**, the Law and Practice Education committee chair, Brad oversaw the Bar Association as it put on five Brown Bag lunch continuing legal education programs, including the hugely successful program on electronic discovery in June. Brad also shepherded us through the publication of the much anticipated and very popular fifth edition of the *Deskbook for Practitioners*. The *Deskbook*, which provides an overview and general summary of the history and law of the U.S. Court of Federal Claims, is so popular that one section at the Department of Justice has ordered more than 100 copies. Because of the popularity of the *Deskbook*, one of its principal editors, **Bryant Snee**, has agreed to chair a subcommittee dedicated solely to its sale and further distribution.

Just as the new Administration is busy filling posts, so too is the Bar Association. Although we bid a fond farewell to Board members **Mary Abate** and **Scott McCaleb** who both completed three-year terms in December 2008, we welcome two new members to the Board of Governors, **Jennifer Spriggs** of the Justice Department's Tax Division, and **Richard Rector** of DLA Piper. We also welcome new substantive committee co-chairs **Betsy Nicholas** of the Justice Department's Environment and Natural Resources Division, who will co-chair the Fifth Amendment Takings committee, and **Alan Lo Re** of the Justice Department's National Courts Section, who will co-chair the Government Contracts committee. Jennifer Spriggs will be the new co-chair of the Tax committee, replacing **Rob Stewart** who has been elected Secretary.

In the area of programs, under the continued leadership of Jim Jette, we plan to continue to offer quality, high caliber, Brown Bag lunch sessions in 2009. As we have for the past few years, we are planning a Brown Bag lunch session on each of the major substantive areas that make up the court's jurisdiction, as well as a few others. In an effort to

bring our members the best programs available, and to increase our audience, we will continue to partner with other bar associations when practicable. We will also, of course, co-sponsor the Court's annual Law Day Celebration in the Spring and the Court's Judicial Conference, which will be in New Orleans this Fall.

This year, we also plan to expand our public service/public education efforts. In November 2007, we restated our articles of incorporation and amended our bylaws. Included among the specific purposes of the Bar Association are to sponsor and encourage research, publications, and forums for the benefit of the public for the furtherance of justice under the law, and to acquire, establish, retain, and maintain funds to be used exclusively for charitable and educational purposes. With these stated purposes in mind, President-Elect **Steve Hollman**, Board members **Alexis Babcock** and **Luke Levassaur**, and I are working closely with the Court to find ways to include budding lawyers in Court and Bar Association events and activities such as Law Day.

I look forward to working with the Board of Governors, officers, and members as we endeavor to make 2009 another successful Bar Association year. I hope that every person reading this message will find a way to get involved, as we are all fortunate to practice before a court that has such a rich history of strong public service.

Thank your for your continued support,

**Melonie J. McCall**  
**President, Court of Federal Claims Bar Association**

**Chief Justice (ret.) Frank J. Williams Will Speak At Law Day Observance On May 8th**

This year's Law Day Observance will take place at noon on May 8, 2009, at the Willard Intercontinental Hotel. The theme of this year's Law Day, as established by the American Bar Association, is A

Legacy of Liberty - Celebrating Lincoln's Bicentennial. It is fitting that this year's special guest speaker is **Chief Justice (ret.) Frank J. Williams** of the Rhode Island Supreme Court, a well known expert on Abraham Lincoln.

Chief Justice Williams is the founding chairman of the Lincoln Forum and is a Commissioner on the Lincoln Bicentennial Commission. He has been a leader in the Lincoln community for 30 years. Chief Justice Williams is a Lincoln author, lecturer, and essayist. His books include *Abraham Lincoln: Sources and Styles of Leadership* (1994), *Abraham Lincoln Contemporary* (1995), and *Judging Lincoln (a collection of his lectures and essays)* (2002).

Hold the date and please visit our website, [www.cfcbar.org](http://www.cfcbar.org), for Law Day registration information.

**Court Urges Redaction Of Personal Information From Filings**

It has come to the attention of the court that some court filings inadvertently contain personal identifiers, such as, in particular, social security numbers, which should be redacted. More often than not, when this personal information is found, it has been in the attachments to case filings.

While the onus for redacting such information is on the parties, see, e.g., RCFC 5.2, the court is nonetheless sensitive to the public's concern about the protection of personal privacy.

In some instances, the documents may appear superficially to have been redacted, e.g., a word-processing "black box" programmed over a social security number. However, often this kind of overlay does not remove the "meta-data" (available, for instance, via a "reveal codes" inspection), allowing the sensitive information to be retrieved. The better course of action is to redact the information in the first instance or to file a scanned document that does not convey the meta-data.

The court is adding a banner on the its CM/ECF home page to advise parties of their primary responsibility in this regard and would like to take this opportunity to remind bar members of this obligation.

**John Buckley**  
Acting Clerk of Court

**Lisa Reyes**  
Chief Deputy Clerk for Operations

***Court's Tax Conference To Be Held At Tulane Law School In October***

The court announced that it will be partnering this year with Tulane Law School in presenting its Tax Conference in October. The Planning Committee, under the chairmanship of **Judge Nancy Firestone**, will be meeting soon to select topics and panels. This will be the second Judicial Conference completely outside of the Washington, DC area, and the prospect of being in New Orleans is very appealing. Tulane's Tax Conference is scheduled for Oct 28, 29, & 30. The court's participation is tentatively scheduled for Thursday, October 29. Please watch for updates and announcements on this website.

***Editor-In-Chief Sought For Bar Association's Executive Summary***

The Bar Association is looking for an editor-in-chief for *Executive Summary*, our publication that addresses recent decisions of the Court and other developments of interest to Bar Association members. The editor-in-chief is responsible for coordinating submissions from the contributing editors for the different types of cases decided by the Court, including government contracts, civilian and military pay, takings, tax, and vaccine. Please contact **Melonie McCall** if you are interested.

***Court of Federal Claims' 21<sup>st</sup> Judicial Conference***





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