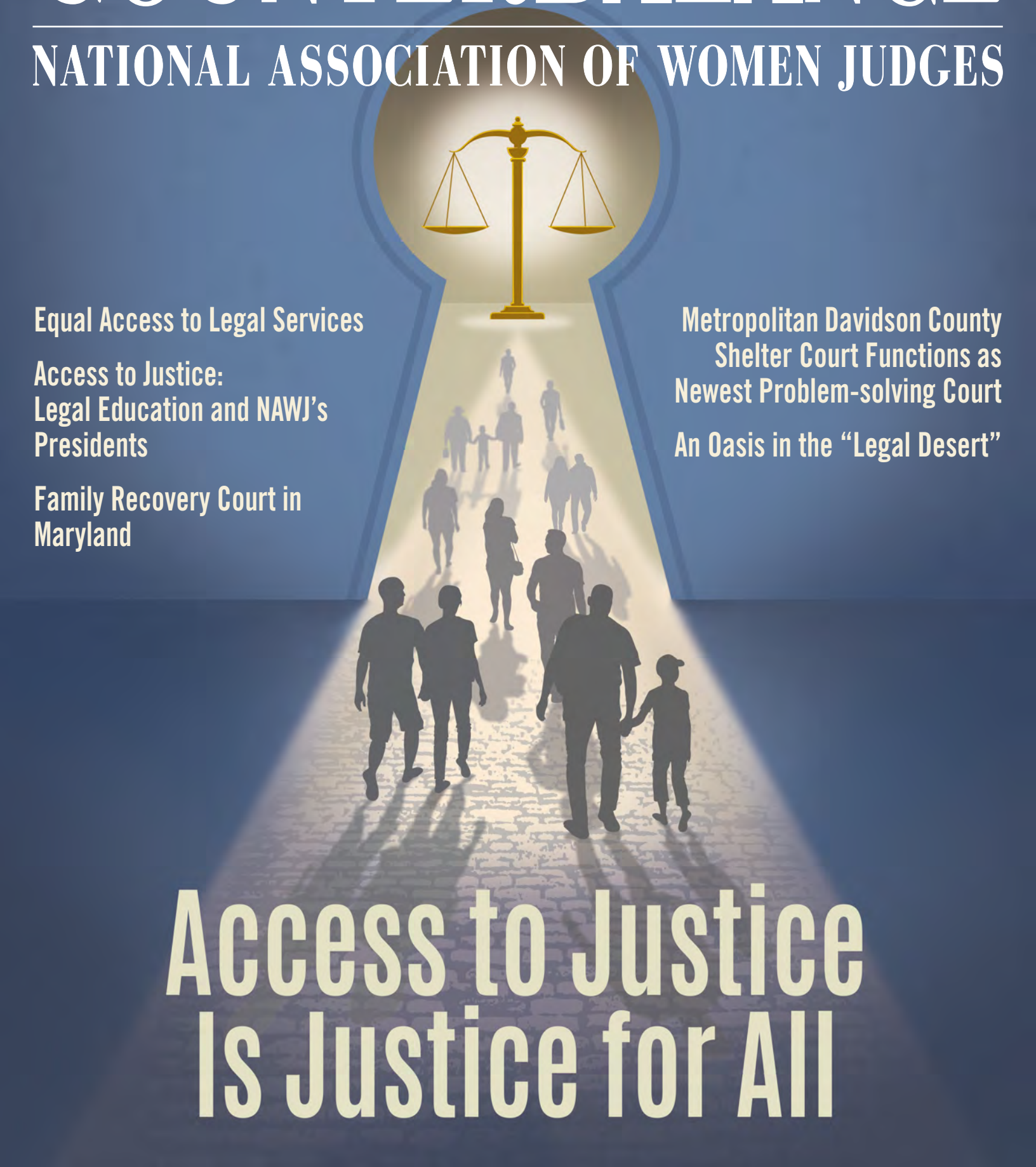
WINTER 2025, Vol. 39, Issue 1

COUNTERBALANCE

NATIONAL ASSOCIATION OF WOMEN JUDGES



Equal Access to Legal Services

Access to Justice: Legal Education and NAWJ's Presidents

Family Recovery Court in Maryland

Metropolitan Davidson County Shelter Court Functions as Newest Problem-solving Court

An Oasis in the "Legal Desert"

Access to Justice Is Justice for All

MISSION

NAWJ's mission is to promote the judicial role of protecting the rights of individuals under the rule of law through strong, committed, diverse judicial leadership; fairness and equality in the courts; and equal access to justice.

Inside

COUNTERBALANCE is published by:
National Association of Women Judges

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NATIONAL ASSOCIATION of WOMEN JUDGES

President's Message

"I have shared how important NAWJ is to me. I love everything about this organization. It is for that reason that I regularly donate to NAWJ in addition to paying dues and attending conferences.

Greetings Friends:

I write as we turn the page on 2024 and look to the new year. And many of us are contemplating whether to make a New Year's resolution. It is tradition, after all.

In December 2022, Time.com published an article about New Year's resolutions. The article is entitled "Sick of Failing at Your New Year's Resolutions? There Is a Better Way". The authors write that many of us profess lofty goals, such as eating more healthily, exercising more, and limiting our social media time, to name a few. And while we all have good intentions, the authors estimate that around 80% of New Year's resolutions made are broken in less than 2 months, in February.

So, what is the secret sauce to sticking to realistic pledges? It isn't keeping it to oneself. It isn't through avoidance (of chocolate, fatty foods, or alcohol,) or stumbling out of bed early to get in a run or yoga class. Nor is it swearing off electronics. Rather, one is more likely to experience success through norms and community - a community that shares our commitment empowers us and makes us more likely to be successful.

I have shared how important NAWJ is to me. I love everything about this organization. It is for that reason that I regularly donate to NAWJ in addition to paying dues and attending conferences. NAWJ is a charitable organization. As a 501(c)(3), we depend upon donors to keep our beloved organization going. Even nominal giving enhances NAWJ's impact. It enables us to reach those in the judicial pipeline, as well as populations who might not have previously considered public service or a judicial career. Giving enables NAWJ to inform the electorate. Giving provides hope to those who are incarcerated and/or returning citizens. NAWJ can provide these as well as all its exceptional educational programming to members because of the generosity of its donors.

Can I get an amen?!

So, if you are a regular contributor, thank you. If you aren't a donor just yet, it is ok. It is never too late to start!

So here, publicly and with my community, I declare that I will continue to give regularly to NAWJ. I invite each of you to join me. Take the plunge and make the pledge. The amount matters not. Give from the heart and what you can.

In addition, if you are or intend to become a regular donor, don't keep it to yourself. Please share your commitment with the NAWJ community. Let others in your state, district and committee know - not what you are giving, just that you are giving! Set up a comfortable payment schedule with Francie Teer. She makes it so easy.

Let's make our voluntary contributions the norm. By doing it, you are sure to feel better and to remain successful all year long!

So, take the first step. Make the pledge and then encourage others to join you. You will be amazed what good things will come, and you'll feel so good about your choice.

Happy New Year!

Best,
Michelle

Hon. Michelle Rick
Michigan Court of Appeals
NAWJ President

Vice President of Publications Message

"What a great theme as the statistics demonstrate that Americans below the federal poverty levels, simply do not have access to counsel because they cannot afford it which translates to no access to justice.

We all know many individuals who have civil lawsuits filed against them simply do not have the monies to hire counsel and participate in the America system of justice. NAWJ President Judge Michelle Rick has selected "Access to Justice is Justice for All" as the theme for her year as President. What a great theme as the statistics demonstrate that Americans below the federal poverty levels, simply do not have access to counsel because they cannot afford it which translates to no access to justice.

Judge Rick's Chair column is excellent and explains the challenges and hurdles that low income Americans face when they are required to defend a civil case in the U.S. courts. It is a must read! If you do not have specialized courts as part of the court you work in, we have two wonderful articles about Shelter Courts and Family Recovery Courts. We have a fascinating article entitled "An Oasis in a Legal Desert: Understanding the Crisis of Limited Legal Access and the Role of the Judiciary in Response" by Judge Dominique A. Callins. This article discusses the challenges that most states are faced with in that there are not sufficient attorneys in rural areas of the U.S. to address the needs of all individuals who need legal counsel. The article provides possible solutions for this challenge.

David Horrigan of Relativity and one of the NAWJ Resource Board partners wrote a wonderful article about access to justice in legal education which features three NAWJ Presidents Judge Michelle Rick, Judge Toni Clarke and Justice Tanya Kennedy.

As many of you know, the U.S. Supreme Court issued two rulings in its 2024 term which are likely to change the work of Federal Administrative Law Judges (ALJ) and shift work from the ALJs to the Federal District Court Judges. This article discusses the reason the Administrative Law Judge system was created and how the recent decisions of the U.S. Supreme Court may affect access to justice.

Finally, the NAWJ Ensuring Racial Equity Committee shares an article entitled "Mirror Monologues." It really makes you think, how can you ensure racial equity in the work you do each day. Also, do not forget to read the article about the work that has been done to assist the Afghan Judges and how you can continue to get involved.

If you could not attend the Annual NAWJ conference in San Deigo, California, you missed an amazing conference, and we have an article from Judge Pennie McLaughlin Co-Chair of the Conference about the excellent educational programs and the many social events.

I want to give a special thank you to all of our generous contributors to this Winter 2025 issue of Counterbalance, including the exceptional work of Laurie Denham, NAWJ's Executive Director, and her skilled team, who piloted this issue to the finish line. I am honored to edit this Counterbalance issue and make sure it is reflective of the NAWJ's mission and what we do each and every day to inspire our members to continue their great work.

Hope you enjoy this issue!

Heather Welch

Hon. Heather Welch
Retired Judge, Marion Superior Court
JAMS mediator and arbitrator
Vice President Publications

Executive Director Message

"Together, we are building bridges to increase access to justice, to build a pipeline to the judiciary through coming generations, and to provide a safe and collegial environment for NAWJ members to connect with each other.

Over the past year, we have reached remarkable milestones in our mission to promote the judicial role of protecting the rights of individuals under the rule of law, to build diverse judicial leadership, to promote fairness and equality in the courts, and ensure equal access to justice. Through 30 in-person and online events, we have reached over 1,500 individuals, providing education, resources, and opportunities.

This impact would not have been possible without the dedication of over 325 amazing volunteers, who gave their time, energy, and passion to NAWJ.

We launched the 2024-2029 Strategic Plan to enhance the sustainability of our organization and made inclusive changes to our Bylaws to mirror our mission.

Together, we are building bridges to increase access to justice, to build a pipeline to the judiciary through coming generations, and to provide a safe and collegial environment for NAWJ members to connect with each other.

Looking ahead, we invite you to mark your calendars for upcoming events: our Midyear Meeting, March 20-22, 2025 in Ann Arbor, MI, at the Graduate Hotel and the University of Michigan Law School, (click here to register), and our 2025 Annual Conference, October 23-25 at the Hilton Plaza Hotel in Boston, MA. Looking farther, we will have a special Midyear meeting in 2026, an Alaska cruise departing from Vancouver on May 17, 2026, and our 2026 Annual Conference on October 15 – 17, at the Roosevelt Hotel in New Orleans, LA.

I want to thank our dedicated team, Megan Collie, Brian Gorg, Janelle Mihoc, and Francie Teer. They are the ultimate solution providers who keep your best interest, our members, in the forefront,

Thank you for being part of this journey. Your support will help us achieve reach even greater heights in the year ahead!

Laurie Hein Denham, CAE
Executive Director

In keeping with my theme of access to justice is justice for all, I intend over my presidency to do a deeper dive about the justice gap here in the United States. The Legal Services Corporation is one major entity charged with funding legal services on behalf of the poor.

Equal Access to Legal Services

Congress created the Legal Services Corporation in 1974. President Nixon signed the LSC Act on July 25, 1974. LSC is a 501(c)(3) not-for-profit charitable organization, whose mission is to promote equal access to justice in the United States and to provide high-quality civil legal assistance to low-income persons. LSC is governed by a bipartisan board of directors. The President appoints the 11 members, whose appointment must be confirmed by the Senate. This year, LSC celebrated its 50th birthday.

LSC America's Partner For Equal Justice

LSC is the largest funder of civil legal aid for low-income Americans who live at or below 125% of the federal poverty guidelines. LSC is (mainly) funded annually by Congress. It also receives some private funding. According to its website, LSC provides 90% of its total funding to 131 independent not-for-profit legal aid programs throughout the United States. These legal aid offices are staffed by 12,000 lawyers and support staff. In FY 2023/24, Congress appropriated $560 million dollars to LSC through the end of September 2024. Notably, LSC had requested funding of $1.5 billion dollars to properly meet the needs of the poor.

As mentioned, to qualify for legal aid, a person must live in a household that earns no more than 125% of the Federal Poverty Guidelines. Those guidelines are published by the US Department of Health and Human Services. In 2024, 125% of the FPG for a family of 4 was $39,000, or $3,250/month. The 2022 report reflects that more than 50 million people (about twice the population of Texas) live at or below this threshold. Of that number, children account for 15 million; seniors make up approximately 8 million. For every two individuals who qualify for legal aid services, one must be turned away due to funding constraints. LSC simply lacks sufficient resources to provide legal assistance to all who qualify. Hence, the civil justice gap. And think about this: How many people might live in households that earn a nominal amount over that 125% FPG?

To get a sense of the scale of those who qualify for legal aid services, LSC has mapped it out in its 2022 Justice Gap Report. It is compelling.

Hon. Michelle Rick
Michigan Court of Appeals
NAWJ President

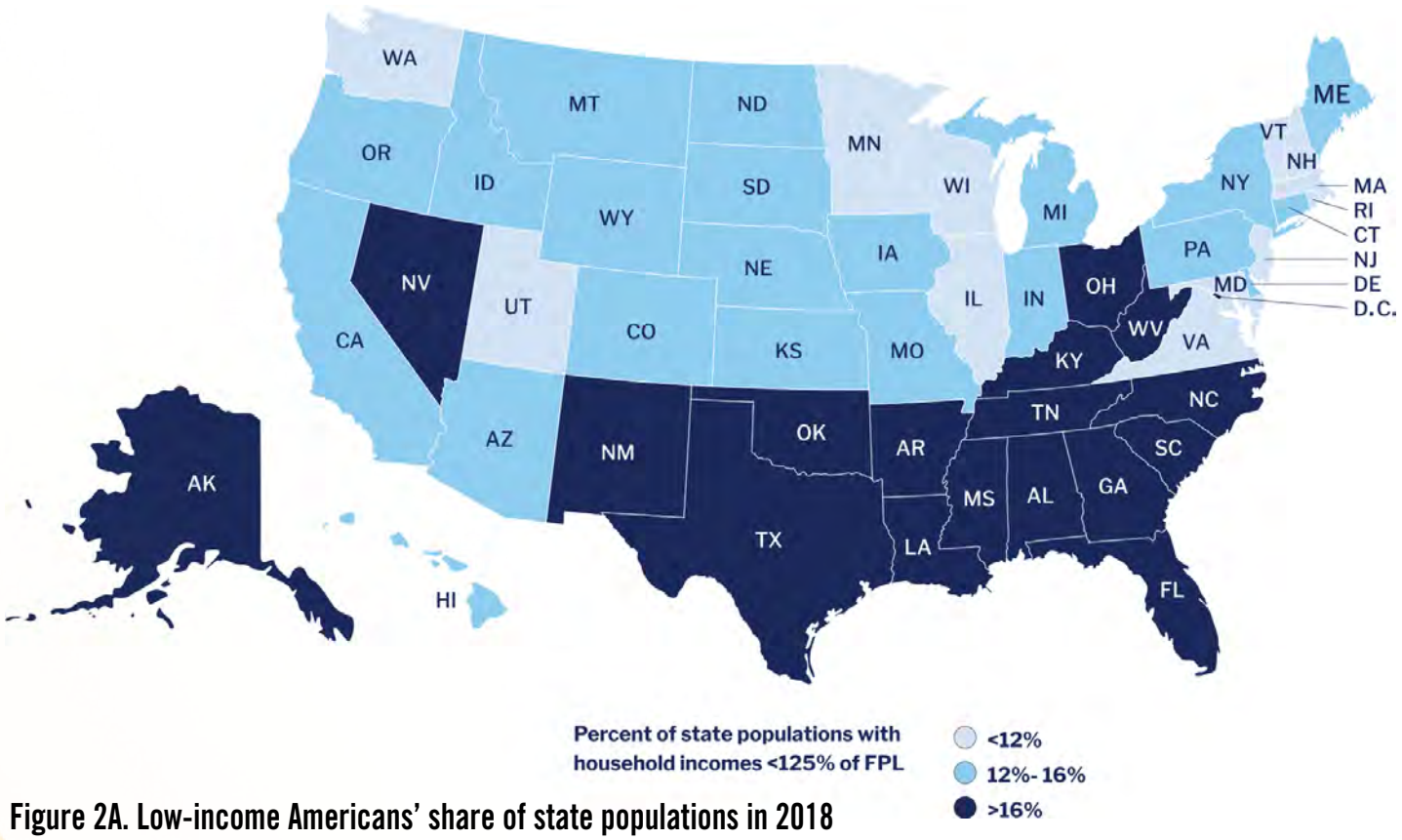


Figure 2A. Low-income Americans' share of state populations in 2018

In 2022, household incomes below 125% of poverty correspond to annual incomes below $34,500 for a family of four or $17,500 for an individual. Fifteen percent of Americans live in households with annual incomes below these levels. This translates to approximately 50 million low-income Americans, including approximately 15.2 million children (<18 years old).

As Figure 2A above depicts, low-income Americans make up larger shares of some states' populations than others. The states with the highest proportions of low-income residents include Mississippi (24%), New Mexico (23%), Louisiana (21%), and Oklahoma (20%). If we look at population counts (instead of proportions), the states with the largest populations naturally stand out as having the highest numbers of low-income residents. For example, California alone has about 5.9 million low-income residents, Texas has about 5.4 million, Florida has about 3.9 million, and New York has about 3 million.

According to LSC's 2023 By the Numbers Report[1], its grantees served approximately 1.9 million clients in 2023 on a wide range of matters. Common types of cases include consumer issues, family law matters, natural disasters, housing cases, health care, education concerns, and domestic violence and sexual assault protection. LSC clients included women, seniors, veterans, and many who live in rural populations. The report chronicled that in 2023, LSC grantees closed over 771,000 cases, including more than 304,000 housing cases and almost 199,000 family cases. Additionally, LSC grantees provided legal education or information to approximately 1.2 million individuals at presentations, events, court help desks and other locations.

Yet, while LSC and its grantees have helped many, there are far many more whose legal matters go unattended. LSC reports that as many as 92% of low-income Americans receive little to no assistance with their substantial civil legal problems. One out of two low-income Americans report they did not obtain legal assistance because the cost of hiring a lawyer was a barrier.

Of course, this begs the question of what can be done to remedy the situation? Have I piqued your curiosity about the justice gap? What does it look like in your community? Have you undertaken action to change that situation? What does it look like? Do you have any ideas about how we can better serve the least among us? Please share your ideas! As we continue this year together, I hope to continue this critical conversation with you. Afterall, access to justice is justice for all!

[1] https://lsc-live.app.box.com/s/zsplht4zazdna3bo6muoohrvta8itlsx

ACCESS TO JUSTICE

Legal Education and NAWJ's Presidents

In the United States each year, less money is spent on civil legal aid than is spent on Halloween costumes . . . for our pets.

It's not that NAWJ President Michelle Rick doesn't like pets. She does. However, the Halloween pet costume observations of James Sandman, President Emeritus of the Legal Services Corporation, highlight a reason Judge Rick has made "Access to Justice is justice for all" the theme of her NAWJ presidency.

Judge Rick's presidency is not the NAWJ's first foray into access to justice. In fact, NAWJ presidents over the years have worked to ensure the association helps lead the way in improving American justice. Whether it's supporting the women judges of Afghanistan or advocating in Washington for the proposed federal JUDGES Act, the NAWJ and its presidents have been leaders in ensuring justice for the many.

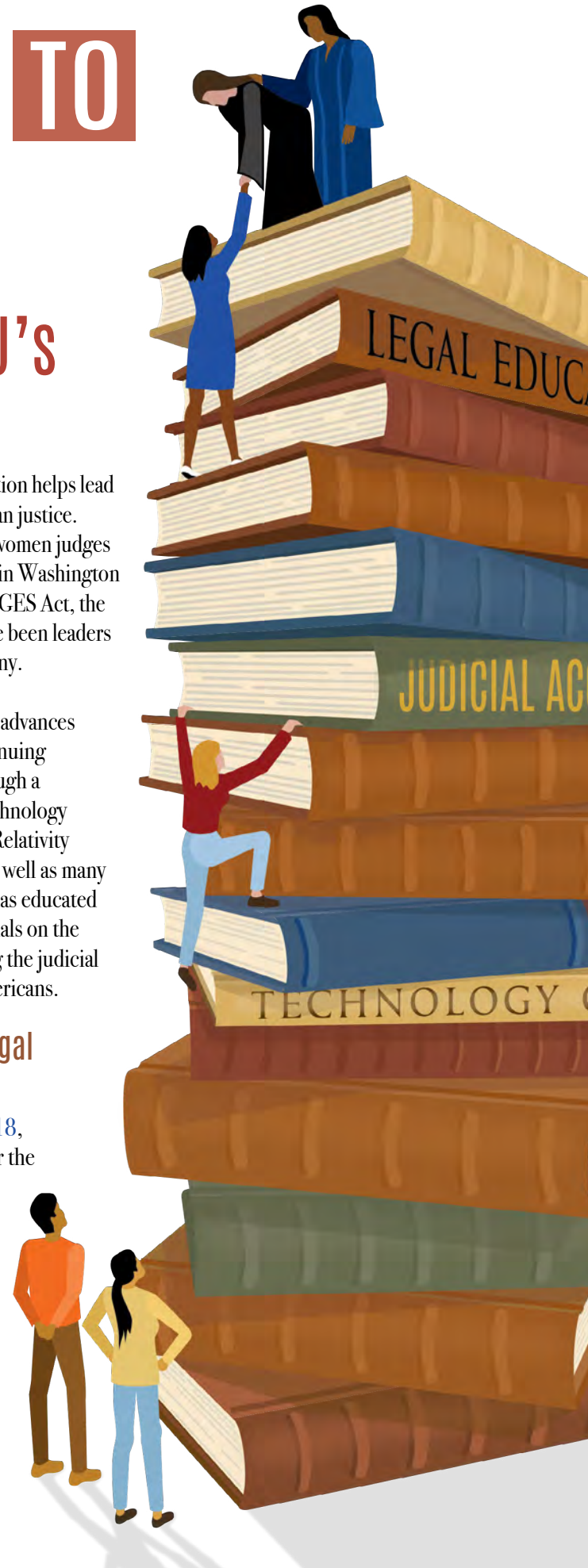
By David Horrigan
NAWJ Resource Board Liaison to the NAWJ Executive Committee, Discovery Counsel and Legal Education Director at Relativity

An important way the NAWJ advances access to justice is with continuing legal education (CLE). Through a partnership with the legal technology company, Relativity, and its Relativity Legal Education program, as well as many other initiatives, the NAWJ has educated thousands of legal professionals on the critical importance of making the judicial system available to more Americans.

Live Tweeting and Legal Education

At the NAWJ Midyear in 2018, this author sought a seat near the front of the keynote session so he could take photos for his "live-tweets" of the conference speakers.

A very kind and courteous person welcomed him to her table at the very front. She greeted him warmly, asked him what brought him to the Midyear, and told him



about the NAWJ's mission. That kind and courteous person was Justice Tanya R. Kennedy.

After learning that the goal was learning about the NAWJ and its members in an effort to enhance the inclusion and diversity of CLE speakers in Relativity Legal Education programs, Justice Kennedy's first introduction that morning was Judge Rick, and an educational partnership began.

Over the years, Justice Kennedy, Judge Rick, and former NAWJ President Toni E. Clarke have been featured speakers in Relativity Legal Education CLEs, and access to justice has been a theme for many of them.

In addition, NAWJ member judges across the nation—partnering with women judges around the world—have worked to improve judicial access through legal education, and Judge Rick practices what she preaches on legal education and access to justice by teaching it at the University of Detroit Mercy School of Law.

More Than Money

Access to Justice is about more than money.

Certainly, funding for legal aid programs is important. As the Legal Services Corporation has noted in its continuing research report, *The Justice Gap: The Unmet Civil Legal Needs of Low-Income Americans*, "Low-income Americans do not get any or enough legal help for 92% of their substantial civil legal problems."

The significance of that statistic hits home when one considers the report has found 74% of low-income households have had one or more civil legal problems in the past year. In addition, 55% of those low-income Americans with a legal problem reported those problems had a substantial impact on their lives with "consequences affecting their finances, mental health, physical health and safety, and relationships."

However, beyond the funding crisis, complex legal issues impact access to justice—and some of those issues involve matters of life and death.

Afghan Judges

It's difficult to have access to justice if judges are killed and forced into hiding, and that's exactly what's happened in Afghanistan. Through a partnership with the International Association of Women Judges (IAWJ), the NAWJ has increased awareness of the plight of the women judges of Afghanistan.

After the Taliban took control of Afghanistan in August 2021, women judges were under assault. With the fall of Kabul came threats against women judges across the nation. Afghan women judges were killed, and according to the BBC, more than 220 Afghan women judges went into hiding.

One of the judges who escaped Afghanistan was Judge Lida Kharooti, who was a judge of the Anticorruption Court in Afghanistan. Working with the IAWJ, the NAWJ highlighted Judge Kharooti's harrowing experience and the plight of Afghan's woman judges in the educational webinar, *Escape from Kabul – and Those Left Behind: The Harrowing 'Life-of-Death' Saga of Afghan Women Judges and What the Future Holds*.

The NAWJ program included Judge Kharooti; Judge Vanessa Ruiz of the District of Columbia Court of Appeals, who has served as president of the IAWJ; and Judge Lisa Walsh of Florida's 11th Judicial Circuit Court, who has served both as president of the NAWJ and director of the IAWJ.

Bringing Judge Kharooti's saga to an in-person audience, Judge Clarke joined Judge Kharooti, Judge Victoria McCloud of the King's Bench in the United Kingdom, and moderator David Horrigan for the Relativity Fest CLE program, *The Law, The Taliban, and the Women Judges of Afghanistan*.

"There is no manual for this situation," Judge Clarke told the Relativity Fest CLE attendees, bringing her usual common sense approach to legal issues.

Not only do CLEs help educate lawyers and help them meet professional licensing requirements, the programs help bring awareness of important issues facing the legal profession and society as a whole.

For instance, many attendees to the *Women Judges of Afghanistan* CLE said they didn't know about the Taliban's persecution of Afghanistan's women, with many adding that they had no idea there were hundreds of women judges in hiding to avoid persecution by the Taliban.

In some cases, the Taliban freed convicted murderers sentenced by the judges, and the former prisoners vowed vengeance. Other Taliban members believed women simply should not be judges, and sought to ensure through terror that they didn't remain judges.

In addition to bringing awareness to this access to justice tragedy for the people of Afghanistan, these programs have helped bring financial relief for the judges by bringing donations to organizations, such as the NAWJ and the IAWJ, helping the women judges of Afghanistan adjust to their new lives and rebuild some semblance of the careers they once had.

""This is not a charity situation," Judge Clarke told the audience as reported by *The Relativity Blog*. "These are highly trained individuals who could be a great help to our legal system, and we just need to get them in the right jobs."

The good news is that over 200 women Afghan judges have escaped Afghanistan, and they are now in over 30 nations around the world, including two dozen in the United States.

Educating New Advocates for Access

As noted above, Judge Rick teaches access to justice at the University of Detroit Mercy School of Law. For those who know the Honorable Michelle Rick of the Michigan Court of Appeals, her teaching access to justice to the next generation of attorneys and making access to justice the theme of her NAWJ presidency came as absolutely zero surprise.

"I chose access to justice as the theme for my presidency because I believe courts play a key role in ensuring all litigants have meaningful access to addressing their legal problems," Judge Rick said, noting the importance of access to justice in Michigan's state courts.

"In my own state of Michigan, our Supreme Court Chief Justice Beth Clement, and her predecessor Chief Justice Bridget McCormack, have promoted access to justice and encouraged judges of all levels to become involved. They are responsible for creating and promoting the Michigan Justice for All Commission," she said.

"Its charge is to provide Michiganders with 100% access to the civil justice system. It's a lofty, but achievable, goal, Judge Rick added. "This aligns directly with NAWJ's mission statement, which promotes the judicial role in ensuring equal access to justice."

In her access to justice CLE at Relativity Fest, Judge Rick joined judges from the United Sates and the United Kingdom in discussing the impact of legal costs on access to justice.

In addition to the in-person and online Relativity Fest audiences of legal professionals, the law students in Judge Rick's Detroit Mercy access to justice class attended the Relativity Fest access to justice session.

Technology and Access to Justice

Justice Kennedy has been a member of the Relativity Fest Judicial since 2018, and she has made the relationship between technology and access to justice a focal point of her legal education efforts.

"As we navigate an increasingly complex legal landscape, it is essential that we equip individuals, especially those in underserved communities, with the knowledge and tools necessary to understand and protect their rights," Justice Kennedy said.

"The traditional barriers to accessing legal resources—geographical distance, limited financial means, or a lack of awareness—can be lessened by integrating technology into legal education," Justice Kennedy noted, addressing the dilemma faced over technology and access to justice.

Does the cost of technology widen the justice gap—or does technology narrow the justice gap by technology making it easier for legal aid organizations and underfunded litigants to compete with the armies of litigators major corporations can afford to retain.

Justice Kennedy recognizes the role technology can play in narrowing the playing field.

"By meeting people where they are, whether in remote rural areas or busy urban neighborhoods, digital resources can ensure that information is available when and where it is most needed," she said.

How You Can Help

Whether it's helping the women judges of Afghanistan, joining law school access to justice initiatives, or embracing the effort to make technology a tool for judicial access, there are ways you can help.

The NAWJ has organized support efforts for the women judges of Afghanistan, and the IAWJ established a fund, Emergency Rescue of Women Judges in Afghanistan.

At the same time, the Legal Service Corporation's Technology Incentive Grant Program awards funding to LSC grantees for creative and innovative use of technology. The goal of the grant program is to improve legal services delivery to the low-income population and increase access to high-quality legal services, the judicial system, and legal information.

Similarly, on the commercial side, Relativity's Justice for Change program also helps by providing technology for organizations addressing social justice, and the pro bono programs of law firms across the nation help level the legal playing field by providing some of the best legal teams in the nation.

Advocating for access to justice can even involve increasing the number of judges on the bench, and the NAWJ has taken an active role in supporting the bipartisan proposed federal "Judicial Understanding Delays Getting Emergencies Solved Act" (JUDGES) Act of 2024. The bill would create 66 new federal judgeships, an effort to increase judicial access by providing support to overworked federal jurists.

Whether it's educating, volunteering, or contributing to access to justice efforts, the presidents and members of the NAWJ have made a challenging situation a little less challenging.

My Friend has Friends on Facebook, the Courts, to Infinity and Beyond

By J. Vivian L. Medinilla (Ret.)
Superior Court of Delaware

Whether you can remember the one-time journeys of *Thelma and Louise* [1] or *Butch Cassidy and the Sundance Kid*, or your genre is partial to *Toy Story* [2], *Stand by Me* [3], or *Forrest Gump* [4], let's face it—there's nothing like experiencing true moments of friendship.

As we ring in 2025, the New Year holiday is also a time for that reflection. Speaking of great friendships, remember in *When Harry Met Sally* [5], there's a classic scene (no, not the one in the diner) that features the following exchange when Harry is confused about the meaning of the traditional New Year's Eve song, *Auld Lang Syne*, and says:

"My whole life, I don't know what this song means. I mean, 'Should old acquaintance be forgot.' Does that mean that we should forget old acquaintances? Or does it mean that if we happened to forget them, we should remember them, which is not possible because we already forgot 'em?"

Sally replies,

"Well, maybe it just means that ... we should remember that we forgot them, or something. Anyway, it's about old friends."

As Vice President of the District Directors, I often see reports from all over the country about the wonderful contributions from our NAWJ members both on and off the bench. And when our NAWJ President, the Hon. Michelle Rick requested stories of incredible women who make a difference and focus on Access to Justice issues, I had to share the story of one of my best friends, Yvonne Takvorian Saville, Esquire. A director with the law firm of Weiss, Saville & Houser, P.A., for 30 years, Yvonne's practice has focused on civil litigation and alternative dispute resolution (ADR). As an ADR professional, she is the *best friend* our legal system has.

But before we get to the purpose of the article, let me just say that ours is a true friendship because she is a Dallas Cowboys' fan (ugh) and I'm a Philly Eagles fan (Go Birds!) Talk about conflict resolution! Also, she has thousands of "friends" on FB because she has a life. And I may have 8 by now; she's one of them. Back to the ADR story.

But before we get to the purpose of the article, let me just say that ours is a true friendship because she is a Dallas Cowboys' fan (ugh) and I'm a Philly Eagles fan (Go Birds!) Talk about conflict resolution! Also, she has thousands of "friends" on FB because she has a life. And I may have 8 by now; she's one of them. Back to the ADR story.

As attorneys and judges, when we think of access to justice, we put on our "work hats" and think of our roles and designations: the trial attorney, the advocate, the prosecutor, defense counsel, and, of course, the judicial officer. But imagine if the people in our civil or criminal justice systems had only one way of ending their stories? A legal universe where conflict could only be resolved in court? Not only would that journey take an inordinate amount of time, but the likelihood of a good outcome would be bleak. Without alternatives to resolution, imagine the pummeling of chronic quarreling our justice system would dish out, with endings perhaps more akin to Thelma and Louise or Butch Cassidy and the Sundance Kid. In the movies that works. In real life, no bueno.

We all hate conflict. We love resolution. And for those of us who've been in on any side of the "v," often it boils down (pun intended if you recall the egg scene) to the captain's line in *Cool Hand Luke*, that is "what we've got here is failure to communicate." Can you tell I love Paul Neuman? And this is why the courts also love Yvonne because, thankfully, we don't live in a legal world without options. And she always knows what to do with communication failures.

With thirty years under her belt (she's actually obtained a Karate belt-let's call it black), Yvonne kicks a**. She has excelled in her role as an advocate and is now considered Delaware's premier "friend" of the Court–the quintessential alternative dispute resolution (ADR) professional–**having resolved approximately 17,000 cases in her legal career!** In recognition of her ADR contributions to the Superior Court Yvonne was named a "Friend of the Court" by the Superior Court's President Judge Jan Jurden. And for eight years, also resolved conflicts as a Special Master for complex civil cases in the U.S. District Court for the District Court of Delaware.

But wait, there's more. Students love her. She has taught ADR courses at the Delaware Law School for over a decade. And with over 90 lectures on the topics of ADR and civil litigation, Yvonne has provided the behind-the-scenes access to justice that allowed litigants to resolve their cases without the stress and expenses associated with litigation. Specializing in ADR, Yvonne was also accepted as a Fellow with the American College of Civil Trial Mediators and as a member of the National Academy of Distinguished Neutrals.

Yvonne's innate ability to bring closure to conflict is a gift. Just as good friends listen, she appropriately leans in when needed, and–with her extensive legal knowledge–addresses all conflicts with a measured tone that allows the parties to make informed decisions and own their solutions.

One would think this was enough. And her work went well beyond her civil litigation practice. Yvonne is a Past

President of the Delaware State Bar Association. For over a decade, she has continued to serve as co-chair of the Women and Law Section's annual conference, mentoring young attorneys. Appointed to the Judicial Nominating Commission by Governor John Carney, she is also a friend of the executive branch, where she assists in selecting judicial officers in the nomination processes. And the legislature is not left behind. For 26+ years, Yvonne served on the Board of Governors for the Delaware Trial Lawyers Association (DTLA), and as its President twice, she served on its legislative committees contributing to policymaking in our First State. As a previous co-chair of the Delaware Supreme Court's Access to Justice Commission, Yvonne embodies all that is good. Her accolades are too numerous for this article.

What makes Yvonne effective in ADR is her style: personable, analytical and methodical. But she also carries with her experiences and lessons learned from the professional ADR associations that the American Bar Association (ABA) and our local resources have provided through our DSBA, as well as the Superior Court's certification program. Regardless of the type of case she is asked to resolve, she approaches her work as a good friend: honest, direct, and with compassion. It just so happens that this is her approach in her personal life as well. Yvonne's guys (Y's Guys) include her loving husband, Erik, her two sons, Jason and Alex, and her pup, Archie. Thank goodness for Y's Guys!

I'm proud to say that when my term ends next month, I'll be joining Yvonne as a partner with the soon-to-be Weiss, Saville, Medinilla & Houser, P.A. My plan is simple. In the last 12 years, in addition to the regular work I've been called upon to do as a judge, I've been given many opportunities to also serve as a mediator and arbitrator. And thanks to my colleagues and members of the Bar that entrusted me with those responsibilities, I've quite enjoyed the role of being an interactive part of resolving conflicts. So, it is in this capacity that I begin the next chapter of my career with my buddy, Yvonne. As successfully as we've complimented each other in friendship, we hope to do the same professionally.

I end with this story about another story of friendship. I recently learned that the 1990's hit show *Friends* may release a movie in 2025. As a fan, it was bittersweet to learn that the movie is expected to reunite the cast to reflect on the passing of their colleague and friend, Matthew Perry, and revisit the sets and memories of their work. It is rumored the title will be *Friends* Reunited: "The One with Chandler's Funeral." Instead of focusing on the real-life tragedy of Mr. Perry, like a true fan, I instead recalled the famous lyrics:

So, no one told you life was gonna be this way
Your job's a joke, you're broke, your love life's DOA
It's like you're always stuck in second gear
When it hasn't been your day, your week, your month, or even your year,
But I'll be there for you

If I made a movie about Yvonne, it would be titled "The One Who Has Lots of Friends on Facebook, the Courts, to Infinity and Beyond." Why the last part? Because of *Toy Story's* last verse when friends Woody and Buzz commit:

And as the years go by
Our friendship will never die
You're gonna see, it's our destiny
You've got a friend in me
You've got a friend in me
Yeah, you've got a friend in me

I hope your legal community has mediators, arbitrators, professional neutrals, etc. that see your conflicts through to the end like my friend has done for over 30 years. Access to justice is possible because of professional friends like Yvonne who relieve our burdened systems with their skills to allow the administration of justice to go further. If you are so lucky, then the story ends well.

Harry's Sally was right. Auld Lang Syne is about old friends and good times. I raise a metaphoric "cup o' kindness" to mine and offer a toast to our lasting bond from our past and the promise of days to come—to infinity and beyond! Love you lots, my friend. Go Birds!

P.S. As I turn the page, I am also grateful that resources such as the ABA's Dispute Resolution Section and the American Court Appointed Neutrals (ACAN) are available to assist many of us in our new chapters. For anyone who is interested in learning more, hope to see you at ACAN's Annual Meeting 2025 from March 5-8 in Washington, DC.

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[1] Pathe Entertainment ; produced by Ridley Scott and Mimi Polk ; directed by Ridley Scott. Thelma & Louise. [Culver City, CA]: MGM/UA Home Video, 1992.

[2] Lasseter, John. 1995. Toy Story. United States: Buena Vista Pictures.

[3] Reiner, Rob. 1986. Stand by Me. United States: Columbia Pictures.

[4] Zemeckis, Robert. 1994. Forrest Gump. United States: Paramount Pictures.

[5] Rob, Reiner et al., When Harry Met Sally. Santa Monica, CA, MGM Home Entertainment, Inc, 2001.

The moment is full circle, and the apology is just a beginning.

Biden Apology is a Meaningful First Step

On October 16, 2024, I received an invitation from the White House to attend an official event with President Joe Biden and Secretary of the Interior Deb Haaland at the Gila River Indian Community in Arizona. I knew it would be a historic day because it was Biden's first visit to Indian Country as President. However, I didn't expect a sitting US president would not only acknowledge the federal government's policy of removing Indian children and placing them in boarding schools to assimilate them, but he would also apologize for it.

By Judge Allie Greenleaf Maldonado
Michigan Court of Appeals
Little Traverse Bay Bands of Odawa Indians Tribal Citizen

On October 25, 2024, I sat in the second row of an audience from across Indian Country. I recognized friends I've met over the years whose work in Indian Country sought a way to undo the legacy of the Boarding School Era. Several of us wondered about the purpose of the event. National Indian Child Welfare Association Board member Rochele Ettawageshik thought we might be there because the U.S. Department of the Interior recently released its investigative reports on the Federal Indian Boarding School Initiative.

I remember the listening tours connected to those reports. Secretary Haaland and Assistant Secretary Bryan Newland went across Indian Country to hear firsthand accounts from survivors of the Indian boarding schools. Of course, they came to Emmet County because the Holy Childhood School was in Harbor Springs, Michigan, and it was the first federally run boarding school in Michigan. Holy Childhood opened in the 1880s and closed in 1983. Many of my elders told their stories of how they were abused in the boarding school to Secretary Haaland. I can't imagine how hard it must have been to speak of such painful experiences, but the discussions were recorded and are now a part of US History that will be held in the National Archives. Furthermore, the listening tour led to the reports that brought me to the Gila River reservation on that hot

October day.

From my seat at the Gila River event, I could see huge mountaintops meeting the blue desert skyline. Traditional drummers and singers welcomed the President to his podium. When President Biden began speaking about Indian Boarding schools, I could tell he had read the reports and knew our stories. He acknowledged how children were taken from their families and communities through force or coercion. He understood that the purpose of the schools was to strip Native people of our languages, our cultures, and our identities as Native people. He knew that when children arrived their hair was cut without regard to the religious significance. He knew how our grandmothers were beaten if they spoke their languages or practiced their religions. He knew how our grandfathers and aunties were given new white names and taught to be ashamed of being Native American. He knew that by 1926, nearly 83% of Indian school-age children were attending boarding schools. He knew that half of all the children that attended these schools died. He called what was done to our grandmothers, grandfathers, aunties, uncles and elders, "a blot on American history," and "a sin on our souls." And then he apologized.

As he spoke, hot tears streamed down my face. As an Anishnabeque (Indian woman) I know all about the boarding schools. My great uncle, Leo "the Turtle" Mishige told me about the nine years he spent in boarding schools, first at Holy Childhood and then later at the Mount Pleasant school. He told me how it fractured our family. He told me he was a fluent Odawa language speaker until the boarding schools took that away from him. He told me how my grandmother tried to run away three times, but she was always caught and dragged back. He told me how it broke her spirit. He told me how he wasn't allowed to go home for nine summers and instead was loaned out as free labor to local farmers under the auspice of "job training."

My family's story isn't unique. There isn't a person in my community who wasn't hurt by the boarding school era. I often speak about the boarding school era to people who are shocked because so few non-Natives know about this shameful part of American history. Even people here in Emmet County are often surprised to learn about the Indian boarding schools, despite living in the same county as Holy Childhood. But to hear a sitting president acknowledge it and apologize, felt like a turning point to me. It felt like a possibility for a new beginning. It felt like an opportunity to heal.

Most of my ancestors didn't survivor the genocide of Native people. We went from 100% of the population to approximately 3% of the population. The way my surviving ancestors suffered is heartbreaking. When my son was three years old, and I rocked him to sleep in my arms, I thought of the mothers and children whom the federal government tore apart. I couldn't imagine how they survived. The hole in my great-grandmother's heart must have been a chasm. For the daughter who ran away three times to try and reach her mother's embrace once more, I can only thank her for surviving a difficult life so that I could be here today. Without her perseverance, I wouldn't have been alive to sit a few feet from the president of the United States when he apologized. In a time when people are trying to forget the history of what the US government did to Native Americans, President Biden's acknowledgement and apology pushes back. The point of remembering all of US history, including the shameful parts, is that those of us who suffered dearly in exchange for US prosperity are traumatized anew when we are invisible, forgotten and the price we paid is ignored. In fact, intergenerational trauma thrives in the denial of history. Everyone knows that it is easier to forgive and heal after a heart-felt apology. This is the beginning that President Biden gave Indian Country on October 25, 2024.

I must acknowledge that this never would have happened if President Biden hadn't appointed Secretary Haaland. Deb Haaland is the first citizen of a federally-recognized Indian tribe to serve in a President's cabinet. It is no coincidence that it took a tribal citizen to bring us to this moment. It is also noteworthy that it was Deb Haaland's non-Indian predecessors that created, built, funded, and operated the Indian boarding schools. The moment is full circle, and the apology is just a beginning.

We still need all of the records related to the boarding schools opened to Indian Country. We still need all of the bodies of our ancestors in the boarding school cemeteries and burial sites returned home. We still need history books to reflect this shameful part of American history with an understanding of the impact that it had on my people so that future generations can learn from the past. However, it is a beginning, and from it something new, better and brighter can arise.

Hon. Allie G. Maldonado is the first citizen of a federally recognized tribe to serve on the Michigan Court of Appeals

Family Recovery Court in Maryland

By Hon. Monise A. Stephenson
Associate Judge for the Circuit Court
for Charles County, Maryland
and
Sara Carruth
Drug Court Coordinator

In 2010, the Circuit Court for Charles County, Maryland was proud to establish one of the county's first treatment courts, Family Recovery Court (FRC). Since then, FRC has provided and continues to provide, an array of services to parents who cannot provide consistent appropriate care for their children due to a substance use disorder (SUD). The team works and trains to address the connection between substance use, mental health, and child abuse and/or neglect. Parents participating in the FRC have a Child In Need of Assistance (CINA) case or a domestic relations case in the Charles County Circuit Court.

What makes the program so successful is the wraparound services approach that we use with our program participants. All FRC participants receive access to treatment for substance use disorders. These services include: assessment and placement in treatment; assistance with residential treatment, if recommended; assistance with Medication Assisted Treatment (MAT), if recommended; and scheduled and/or unscheduled urinalysis screenings. Participants also engage in parenting skills classes, life skills and other training opportunities, family friendly pro-social activities, and sober support groups. Other services available to FRC participants depend on individual needs and include: individual counseling; domestic abuse counseling; family counseling; anger management; transportation services; education and vocational training; GED preparation; employment assistance; medical and dental referrals; family planning and birth control; AIDS and STI counseling; evaluation for, and access to, smoking cessation programs; housing and homelessness assistance; legal assistance; financial planning and budget assistance; and child care assistance. The wraparound services approach addresses the most critical needs of the individual with the goal of removing any barriers to maintaining sobriety. With treatment, many of the participates have been reunified with their children, received orders for parenting time, and in some cases granted legal and residential custody of their children. Each case plan is specialized for the needs of the participants. The Case Manager and

Assistant Case Manger provide referrals to the participants based on their needs.

The program initially evolved from very limited means and a much smaller budget. Today, FRC receives funding from a state grant awarded by Maryland's Office of Problem-Solving Courts, and a federal grant awarded by the Substance Abuse and Mental Health Services Administration (SAMHSA). In 2023, the FRC was awarded a five-year grant from SAMHSA, in the amount of $400,000 per year for a total of $2,000,000 over five years. The purpose of the project is to expand the FRC's capacity to serve more participants and enhance services in which our participants can participate. Some of the exciting enhancements that we are looking forward to including: assisting a greater number of parents diagnosed with a SUD as well as the FRC participant's children; ensuring participants have access to evidence-based programs; determining whether racial or ethnic disparities exist in the program and taking corrective measures to eliminate any identified disparities; and expediting the process in which the FRC staff and team members provide participants with rapid access to trauma-informed care. Trauma informed care has proven to improve participant outcomes. Positive outcomes promote families safely staying together, increase financial stability for the families and breaking the cycle of abuse or neglect.

The FRC utilizes evidenced-based practices in its work. The team has attended trainings and then meets to determine how to integrate what we learn with how we run our program and dockets. Some of the evidence-based practices include, trauma-informed services; active parenting, and Strengthening Families Parenting Programs. We also offer family yoga; peer recovery support; and on-going staff and partner trainings in Family Treatment Court Best Practice Standards, Case Management, Trauma-Informed Services, Equity and Inclusion, Stages of Change, Motivational Interviewing, and Medication Assisted Treatment.

The FRC refers all participants with children under the age of seven entering Phase III of the program to the Active Parenting Program administered by a local program, the Pinnacle Center. Participants with children between the ages of 7-17, participate in the Strengthening Families Program (SFP), which is facilitated in-house by FRC staff. In FY24, five (5) participants were referred to parenting programs, three (3) parents successfully completed, and two (2) are pending completion.

The FRC served a total of sixteen (16) participants and 33 children in FY24. In October 2023, the FRC implemented a "participant of the month" award to increase client engagement and retention by recognizing participants for their progress. Additionally, the Drug Court Coordinator collects participant satisfaction surveys quarterly, which includes the participant's experiences with the FRC Judge, FRC staff, and treatment providers. We love feedback! If our clients are not engaged and excited about treatment, court, and the program, it simply will not work. This means at times our dockets are harder; we do the "deep dive" and discuss a lot of personal issues involving our participants. Sometimes there are tears, but that brings the team and the participants closer to reaching their goals and maintaining clarity. To that end, FRC offers family yoga classes to participants and alumni. Balancing mind, body and spirit is an ongoing theme in the recovery journey. Having a chance to gather prior to FRC hearings and do meditative work in the form of yoga, increases participation among participants and their children.

One of the anchors of our program is our dedicated full time Peer Recovery Coach. The PRC maintains regular contact with the participants through text, phone, and face-to-face meetings; provides transportation to self-help meetings; distributes recovery materials and assists with phase assignments; helps to establish a recovery support network; and facilitates

aftercare support for FRC graduates. The PRC attends all bi-weekly staffing sessions and submits reports on participant progress to the team. The FRC referred six (6) new participants to the PRC in FY24. There is no voice stronger and more supportive of the participants than our PRC. She has been there and consistently providing invaluable input to the team based on her observations of the participants.

During the last year FRC began utilizing the Adverse Child Experience questionnaire on all newly admitted participants, and the Drug Court Coordinator collected data that we share with the independent evaluator on a quarterly basis. The evaluator provides feedback to the FRC after meeting with all team members and some of the participants. They generate a report and then the team meets to determine if there are any changes that the team should implement based on recommendations reflected in the evaluation.

As a team and individual team members attend ongoing training. One example is the Drug Court Coordinator participated in the All Rise: How Being Trauma-Informed Improves Criminal Justice System Responses 2023 Train-the-Trainer Event.

In November 2023, the FRC team attended a case manager training which was conducted by the Office of Problem-Solving Courts (OPSC). The training included an introduction to case management and practical counseling skills; trauma informed care; time management and organization: tricks of the trade; and case management roles in incentives, sanctions, and creative responses. In February 2024, the FRC Case Manager and Peer Recovery Coach attended Mental Health First Aid Training offered by Mosaic Community Services, under a grant awarded from SAMHSA. The training focused on how to identify, understand, and respond to signs of mental illness and substance use disorders. In April 2024, FRC team members attended the Family Ties: Supporting Family and Child-Parent Connections When a Parent is Incarcerated webinar, and in May 2024, the FRC Judge and Drug Court Coordinator attended the All Rise conference. Training included: Enhancing Equivalent Access and Retention in Treatment; Effective Communication with Participants; and Addressing the Needs of LGBTQIA+ Participants. In April and June 2024, the FRC Case Manager and Drug Court Coordinator completed annual Motivational Interviewing training. The FRC Case Manager utilizes motivational interviewing techniques with participants to increase intrinsic motivation and resolve ambivalence.

One major shift after attending the All Rise Conference was that FRC implemented gender specific dockets, which creates an emotionally safe environment based on dignity and respect. Gender specific dockets allow participants to feel empowered in their recovery, promotes

a sense of community, and encourages participants to share information they may not otherwise feel comfortable sharing in the presence of the opposite gender. Immediately, we observed a difference. Each participant spent more time talking and sharing and providing support and encouragement to each other. We shared with the participants the reason for the change in procedure and they were excited to know that we attend trainings about our program and how we can continue to best serve them.

FRC also provides training opportunities to the participants that are directed at saving lives such as CPR and Narcan education. These services are offered to participants, staff and court personnel. The partnership that we have developed with the Charles County Department of Health allows for the trainings to be offered on a bi-annual basis.

Another important advancement after the conference training was the re-implementation of quarterly Steering Committee meetings. The Steering Committee provides advisory services regarding the operation and improvement of our FRC program. To make engagement easier, we meet remotely with the team. Our past agenda items include program goals, funding and sustainability, community partners, and outreach activities and events. The Steering Committee has been instrumental in identifying additional community resources and brainstorming ways to increase referrals.

To round out our busy year, FRC celebrated the graduation of two participants in August 2024. Both FRC graduates made exceptional progress in the program, achieved sobriety, completed vocational training, participated in pro-social activities, established strong social support, and completed parenting programs. One graduate completed Peer Recovery Specialist training while in the FRC program, obtained employment as an Outreach Coordinator for a treatment agency, and established a personal residence. She currently shares custody with her children's father. The other graduate has residential custody of her three children after going to court for a modification, maintained employment and became certified in an area of cosmetology: microblading and shading, which the program was able to pay for on her behalf. Both participants continue to engage with FRC and attend pro-social activities and events.

As the dedicated FRC judge, I take pride in what our program has achieved. Each court session is like a family reunion. The participants have called me a mentor, a friend, and the disciplinarian that they wish they had when they growing up. Every day is not easy, nor is everyday a win for the program. We have lost some participants when they stop coming to court, or they relapse, and we could not re-engage them despite our greatest efforts. There are some days when I find myself looking at the local obituaries to see if anyone of our former participants have lost their lives due to substance use disorder; those are the bad days. The good days have and continue to be so numerous that I look forward to our alternate Friday afternoons in court. It's an amazing way to go into the weekend, with the hope that each time our team members and participants come to Court they leave with more support, more hope and more energy to battle their addictions and maintain their sobriety.

NAWJ 46TH ANNUAL

Bridging the Past, Present and

From the moment the NAWJ 2024 Annual Conference opened in beautiful San Diego, a collective positive energy graced every aspect from the opening reception to the "last, last dance" of the Gala. Women judges and several attorneys gathered from all corners of the world to celebrate, reconnect, establish friendships and learn from one another. Past presidents, retired judges, experienced and newer judges, and attorneys all came together to share experiences, tales from the bench, and sheer joy.

By Hon. Pennie McLaughlin
Superior Court of California, San Diego County

The Chief Justice of California, Patricia Guerrero, graced us with an address that inspired every person present. A large group of our sister judges from Mexico attended and shared harrowing stories that differed greatly from what most of us experience in any given day. This conference was no exception to a place where we learn from one another; we respect one another; and strive to grow the reach and mission of the NAWJ, to even further regions of the world. Judges from the

Chief Justice Patricia Guerrero

Philippines, Benin, Ukraine, Mongolia and Ethiopia and from many other countries across the globe, were on hand. Their spirit was palpable, and their smiles lit up the room. We invite you to see a cross-section of our attendees and where they hailed from at this *link*.

Some conference highlights included phenomenal plenary sessions about the latest developments in artificial intelligence and the justice system. The speakers came from different backgrounds and from across the country to end up on a stage together as experts in this field. Their presentations were pointed and extraordinary in revealing how far we have already come. This session made each of us acutely aware of the daunting task ahead to distinguish between what is real and what is fake in proffered evidence.

The second plenary on the threat to an independent judiciary was led by California's own retired Judge Ladoris Cordell. With great skill, she interacted with a lively panel which included the former Chief Justice of the North Carolina Supreme Court, Justice Beasley, a current sitting member of the Washington

California wine-tasting event with local sommelier, Brian Donegan.

CONFERENCE Future of Justice

Second plenary on the threat to an independent judiciary was led by California's own retired Judge Ladoris Cordell.

Supreme Court, Justice Stephens, and California's Secretary of State, Dr. Shirley Weber. The discussion was engaging as it touched on aspects of judicial elections and the current introduction of large partisan funding sources that seek to affect the decisions of the elected judicial officer.

Throughout the two days, the attendees were absorbed in the quality of the educational sessions, from judicial security to dealing with secondary trauma. The speakers came from a place of deep knowledge and significant experience in the subject matters, with many adding thoughtful and insightful comments. The conference also included several authors with their signed editions for purchase by the attendees, and conversation about the books themselves.

San Diego Judge Sherry Thompson-Taylor's 8-member band lit up the opening night with music that caused us to rise up around our tables and dance. It was foreshadowing to the Gala ahead!

Another unique feature of the conference was a California wine-tasting event elegantly staged for this special occasion in an upper outdoor courtyard. The local sommelier, Brian Donegan, regaled us with tales of each wine, from its grapes to the vineyard to the winemaker. The overflowing charcuterie platters were a perfect accompaniment to the different wines generously poured for all in attendance. It was a joyous night, complete with the beautiful sounds of song from the acoustic guitarist.

The final part of this special conference was the dancing at the Gala. The awards were bestowed upon well-deserving recipients, the new and outgoing president addressed us with sincerity and gratitude and reminded us about the special sisterhood in which we all played a part. Soon after, with much thanks given to the dozens of committee members in the room, Co-chairs Pennie McLaughlin and Terrie

The final part of this special conference was the dancing at the Gala. The awards were bestowed upon well-deserving recipients, the new and outgoing president addressed us with sincerity and gratitude and reminded us about the special sisterhood in which we all played a part.

Roberts gave the signal to the DJ and the sounds of "I Am Every Women" filled the ballroom. The chairs began emptying and, within seconds, the dance floor was filled from corner to corner. The DJ played one great song after another, and the dancing never stopped. The crowd urged one last song, and the DJ kindly complied. The collective movement of our bodies in dance became our universal language as we united across states, countries, customs and ethnicities. The smiles stayed plastered across our faces until the last moment. It was a beautiful and extraordinary night to bring the conference to a close.

Chairs McLaughlin and Roberts extend a final note of gratitude to all of our committee chairs, and to our San Diego legal community for coming together in support of this important gathering. We could not have done it without them and a special thanks is extended to Signature Resolution for coming on board at the very beginning of this tremendous adventure. Signature Resolution Mediator and retired judicial officer Patti Ratekin and attorney Patricia Taitano-Valdovinos raised the bar on what a hospitality spread should look like.

Finally, the NAWJ Executive team did an outstanding job at meeting the needs of the conference, preparing for each aspect of its presentation and supporting us along the way. We are eternally grateful to each of them.

Co-Chair Judge Roberts, Immediate Past President Judge Karen Sage, Chief Justice Patricia Guerrero, and Co-Chair Judge McLaughlin

Conference Commiittee

COMMITTEE SPOTLIGHT

The Ensuring Racial Equity Committee of the National Association of Women Judges Presents –

Mirror Monologues

The Scavenger Hunt ~

You are entering what should be the most exciting and fulfilling time of your life as you become a member of the Judiciary. Years of learning and leading in the legal profession, and your community, have become a launch pad for you to continue serving as an Administrator of Justice. You are eager to meet and greet your colleagues to learn the ropes as well as offer your skill and expertise as a part of your court's family. You build your library of resources and cheat sheets to maximize efficiency and effectiveness. Now, you feel ready...

You arrange to meet with your Judicial Administrative head for guidance and your excitement is quickly overshadowed by a shocking reality. When you ask if there are practical guides that identify preferred processes and practices, your question is met with the following, *If you are asking if we have a SOP, no we don't and we won't... if you are ever in this role, you can do that. As for how we do things, you'll figure it out, like the rest of us did.*

You find yourself questioning if what you said was offensive, or if you said it in a way that was offensive to garner such a response. So, you go out of your way to be assuring that no offense is intended in your interactions and to make it clear that questions & requests for information are not attacks.

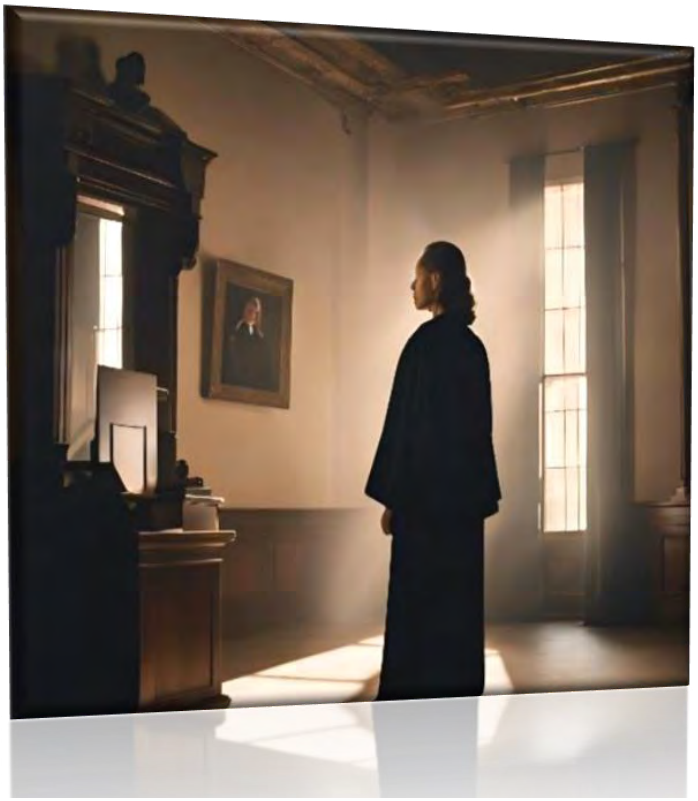
You begin to wonder if it is a coincidence that resources and information are shared at times when your colleagues get together when you are on the bench. When you ask if there was a meeting you missed, the common response is No, we just were talking about an interesting case that came up today. It was no big deal.

In an effort to show that you are a committed team player, you volunteer for staff activities only to receive information about the event/activity too late to be a prepared participant. You again find yourself wondering what is it that you did or need to do to be included.

Appealing to everyone's commitment to justice and fair play, you suggest that everyone identify things they wished they knew

"If you are asking if we have a SOP, no we don't and we won't... if you are ever in this role, you can do that. As for how we do things, you'll figure it out, like the rest of us did."

when they came on the bench to prepare a mini guide for any new Judge so we all find the treasures needed to be members of the Judiciary worthy of public trust. It worked.



Race in Style and Appearance 1~

I wear my naturally textured hair often, but also change it with processes, extensions, or color. On a day I wore my hair straightened at court, a male colleague (winking) tells me he likes my "white girl hair."

So many layers, so many thoughts, so many feels... What can I do in the moment? Later? I like(d) this colleague and we are (were) friendly, so would my reaction be different depending on which colleague said this? Would it be different if anyone overheard it? Gasp – why am I blaming myself? Did I somehow solicit this attention?

I can rule out physical violence immediately. I can assume he meant the sexist, racist, classist remark as a compliment and walk away. I can redirect with a gentle correction, or a verbally scandalous phrase. I can initiate an intentional discussion with this colleague later. I can stay silent and stew, or ignore, or rationalize ("That's just him."). I can make a formal complaint. I can avoid future conflict and never wear my hair that way again.

I do want this to be a learning experience for everyone. But firstly, whatever choice I make - be it reactive, emotional, avoidant, or introspective - it is most important to remain true to myself, trust my judgment, own my feelings, and believe that I deserve better treatment.

Allyship in Action ~

I was drafting an opinion in my office when a colleague stopped by to chat. As we were talking, she commented that our new colleague, a Black man I'll call Darren, did not work very hard. Puzzled, I asked, "You know that Darren is on medical leave recovering from surgery, right?" She did not know.

A few days later, repeat with a different colleague.
Sigh. How many of my white colleagues were thinking this pernicious trope that Black people are lazy? I did not have time to go to numerous colleagues (not to mention staff) and cleverly determine whether they were falling prey to this stereotype. What could I do to short circuit this?

I do want this to be a learning experience for everyone. But firstly, whatever choice I make - be it reactive, emotional, avoidant, or introspective - it is most important to remain true to myself, trust my judgment, own my feelings, and believe that I deserve better treatment.

My answer: I threw Darren a spectacular welcome back party. Darren was celebrated for his recovery, curbing any thought that he had been anything other than a diligent worker.

Race in Style and Appearance 2 ~

You've overheard colleagues discussing the attire of one of the courtroom staff. They are debating the terms of "professional" dress and commiserating over whether to eject a staff person from the courtroom. The staff person in question is Latina. She

sometimes wears short sleeves and slim-fitting pants and dresses. You've also noticed that a different staff person – not of color – also wears short sleeves, and skirts at least eight inches up from her knees with no hosiery. Your colleagues never mention this person. There is no dress code for the court departments.

You struggle about whether to interject your opinion. You notice that one undercurrent of the conversation is based on body type ("curvy" v. "slim"), and how it should be attired. Is it appropriate to have a discussion about a person's body or clothing? Do you

mention the other staff person's clothes? Does it matter if a male colleague is part of the conversation? Eventually, you join in with a comment that there is a relation between race, culture, body image, and phenotype. You are met with stunned silence, followed by palpable discomfort. What now?

Tripped Up by IT ~

Names are important. They reflect heritage and identity. I want to make sure every law student extern I have feels welcome. Accordingly, I share a welcome memo and ask every new extern to send me an email telling me the following (this is written so you could cut and paste it if you want to use it):

- how to pronounce your first and last names (e.g., Aimee (A before B, May before June) Tayabji (pronounced Tie-ab-g);
- your pronouns;
- your personal email (so I can stay in contact after their externship);

Do you mention the other staff person's clothes? Does it matter if a male colleague is part of the conversation? Eventually, you join in with a comment that there is a relation between race, culture, body image, and phenotype. You are met with stunned silence, followed by palpable discomfort. What now?

- the areas of law you are interested in (to try to match you to that work); and
- a personal fun fact.

One day, a law student with a hyphenated last name that reflected her Puerto Rican heritage joined my chambers. When I received her email, I noticed that IT had created an email account for her using only the second of her last names. I asked her about the username IT assigned to her. A look of relief immediately washed over her face - she said that if IT could only use one of her last names it should have used her first last name but both would be best. I intervened and IT created an accurate email with both hyphenated names. Now I know to manage this before an extern starts.

Justice for All ~

We as women, and often as women of color or women from minority backgrounds, continue to face barriers in our profession no matter how long we may have been in practice and no matter what title we may hold. We experience these barriers in our interactions and exchanges sometimes with colleagues, sometimes with clients, and sovmetimes with those who may not know us at all.

I'm talking about the times that you're told to wait your turn. Though you know that it's your time.

I'm talking about the times that you're expected to ask for permission. But you know that you need no one's permission to succeed.

I'm talking about the times that you weren't heard. Though you're certain that you were speaking.

I'm talking about the times that you weren't seen. Though you were present.

I'm talking about the times that you were doubted. But you were right.

I'm talking about the times that you're met with a hate-filled look. But you smile back.

I'm talking about the times that an unexpected compliment comes your way. And you know that you've surpassed mediocre expectations.

I'm talking about the times that you're made to feel unworthy. Though you've earned your place.

I'm talking about the times that you're told you're not qualified. Though your credentials demonstrate that you're overqualified.

I'm talking about the times that someone implies you're undeserving. Though you've worked twice as hard.

I'm talking about the times that your mere presence makes those around you uncomfortable. But you keep showing up.

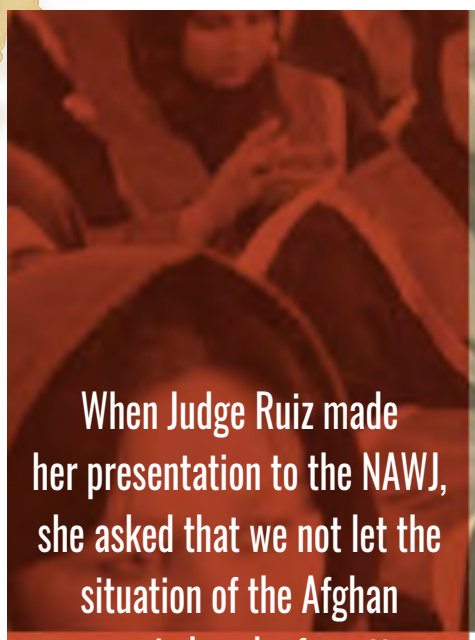
I'm talking about the times that you're asked to change to ease others' discomfort. But you remain your authentic self.

And I know, even without knowing your story, that many of these instances and probably many more have happened to you. These are just some of the barriers that we as women face in the legal field. Sometimes macro and sometimes microaggressions. And even if they're not intended to, they slowly chip away at your confidence, at your mission, and at your willingness to remain steadfast.

But we're resilient. We know our worth. We know that we add value in spaces that have not yet come to value us. We know that our work speaks for us. We continue to knock on closed doors, forge our own paths, and bring our own seats to the table. And so, we keep showing up. We persist. And we roll up our sleeves and do the hard work of changing a profession and a culture that didn't develop with us in mind.

Don't Let Them be

By Judge Colonel Linda Murnane



When Judge Ruiz made her presentation to the NAWJ, she asked that we not let the situation of the Afghan women judges be forgotten. She asked us to keep their cause on the front pages of our publications, and foremost in our minds.

When the United States withdrew from Afghanistan in August 2021, more than 250 Afghan women judges who had worked with the U.S. Department of Justice and U.S. State Department to become proficient in the adjudication of cases were left behind. Also left behind were Afghans who had worked side-by-side with U.S. Forces, as interpreters and lawyers.

Many of our NAWJ members will remember the poignant and moving presentation made by former NAWJ and IAWJ President Vanessa Ruiz, and IAWJ member Judge Patricia Whalen, describing the herculean undertaking of the IAWJ, and in turn, NAWJ members, to arrange for the evacuation and relocation of the Afghan women judges to safe havens.

When Judge Ruiz made her presentation to the NAWJ, she asked that we not let the situation of the Afghan women judges be forgotten. She asked us to keep their cause on the front pages of our publications, and foremost in our minds.

It has been two-and-one-half years since this effort began. It has not ended. These relocated families are, in many cases, just now landing in a permanent home. The Special Visa program has been slow to implement. Many of the families relocated spent a year or more in detention camps or in temporary lily pad locations waiting for their visa status to be resolved.

It's hard to imagine how difficult this transition has been for these families. Many of our members have ring-side seats to the challenges these families have faced. The system within the U.S. that is intended to support these families is not intuitive, even for those of us who are residents of the United States. When you add the challenge of trying to navigate the system with limited English language skills, and being totally unfamiliar with the U.S. bureaucracy, it can easily become overwhelming.

NAWJ Past-President Lisa Walsh has been organizing the work of NAWJ members, along with handfuls of very dedicated NAWJ members who are working to support these families through mentoring and information support. Judge Ruiz and Judge Whalen continue to try to help identify safe-passage exits for the handful of Afghan women judges who remain in Afghanistan or in lily pad countries.

As has been reported in the news, since the Taliban retook control in Afghanistan, girls have been removed from school after sixth grade. Women are not allowed to speak in public. The plight of our sisters who remain in Afghanistan is quite dire, and for those who have been working to restore their lives

Forgotten

in a new country, the challenges are many. NAWJ has been at the forefront of helping Afghan women judges, and we can't forget them now. Respond to Judge Ruiz's call to keep this issue in front of decision-makers, policymakers and communities. It's the right thing to do.

Here are a list of things that you can do today to help answer the plea not to let the cause of our sister from Afghanistan and their families be forgotten:

- *Volunteer to be a mentor or to organize a mentor team for an Afghan woman judge who has relocated to the U.S. This does not entail paying for their expenses, but it does require that you help your Afghan mentee family to locate resources in their community for everything from housing and healthcare to foodbanks, sources for furniture and clothing, and in particular, English language courses.*
- *Let someone know if you are aware of a job opportunity that might be suitable for one of the judges or for a member of their family. Several of the women judges have been placed in courts in various administrative positions, particularly in New York where the New York women judges undertook to make a difference by inviting Afghan women judges to apply for vacant positions. If you can imagine going from the pinnacle of the legal profession as a judge to being a refugee in a strange land, worried about where the next rent payment will come from, you can, perhaps, appreciate the anxiety and concern of these families. For most, their refugee assistance has been exhausted, and they are finding work wherever they can, doing whatever they can consistent with their existing skills. At present, we have been asked to assist families with finding jobs in more than 20 locations around the US. If you know of a job opportunity regardless of your location which may be consistent with the job skills of these individuals, you can inform Judge Walsh or Linda Murnane at kmurnane98@aol.com and they will forward the opportunity to mentors throughout the U.S.*
- *You can assist with a donation to the Afghan Women Judges' Aid Committee at IAWJ, 2000Suite 750C, Washington, DC 20036*
- *Volunteer to serve as a Mentor to an Afghan Legal Professional enrolled in the American Bar Association's Afghan Legal Professionals Scholarship and Mentoring Program. NAWJ member Linda Strite Murnane serves as the Mentor Coordinator for this program and can be reached at kmurnane98@aol.com*

- *There is high demand for information about English language resources to assist our Afghan women judges and their families to improve their English language skills. If you are aware of English language resources that are available online, classes online, and funding that might support attendance in classes for English language, please let Judge Walsh or Linda Murnane know. We currently have requests for support for English language classes in New York and Vermont.*
- *Send a letter to your Senator and your Congressional Representative to ask them urgently to pass the Afghan Adjustment Act (S. 2327/ H.R. 4627). https://www.congress.gov/bill/118th-congress/senate-bill/2327*

HOUSING JUSTICE

Metropolitan Davidson County Shelter Court functions as newest problem-solving court

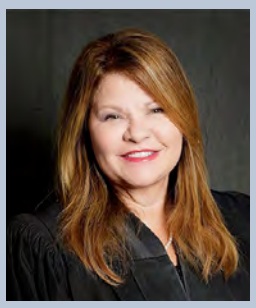
Judge Lynda Jones was approached by Baker Donelson member and ABA representative Jonathon Cole in 2019 to discuss court solutions for homeless Nashville citizens in May of 2019.

Baker Donelson had championed a monthly pro bono legal clinic at the Room in the Inn shelter for well over a decade. Baker and Jones drew together stakeholders from the region including the mayor's office, criminal court clerk, district attorney, public defender, sheriff and several nonprofit service providers such as Room in the Inn, the Contributor, Salvation Army and Rescue Mission to collaborate on solutions.

Baker Donelson had successfully supported the courts and launched a homeless court in New Orleans. The stakeholders met for 18 months to brainstorm and discuss needs of homeless individuals in the area. The Covid-19 pandemic business closures and skyrocketing costs of housing brought a new people to the streets.

The Metropolitan Nashville-Davidson County General Sessions Courts launched the Nashville Shelter Court program in September 2020 to assist our homeless/unhoused population.

The court team with unprecedented cooperation assisted 37 individuals over an 18-month window until a few downtown business owners asked the local district attorney to cease its operation. They had concerns about drug use among some individuals. There was a concerted effort to rein in the overdose crisis. Concerns about business safety were also addressed. Overdoses are down in the Nashville area and service providers are seeing a spectrum of reasons creating homelessness apart from drug use. Many people are alienated from families, have no family or families of limited means. Many citizens are unaware of safety nets available to vulnerable populations.



The court has renewed its services effective in November of 2024. The new location will be at the Strobel House, 110 Jo Johnston Ave, Nashville, TN 37201. Strobel House

By Judge Lynda Jones, Metropolitan Davidson County Shelter Court

is Nashville's new permanent supportive housing development and will offer wrap-around services, laundry accessibility on each floor of the facility, mailboxes, bike racks on-site, as well as a state-of-the-art computer lab.

Shelter Court is a diversionary court that routes individuals who struggle with homelessness out of the traditional legal outcomes of convictions, incarceration, and probation and toward connection with service providers that can further assist with removing barriers to employment and housing. The vision is provider driven and based upon successful work done in both New Orleans and San Diego courts. Both the San Diego and New Orleans judges were very helpful as Jones studied both systems.

The New Orleans court has the loan of a social worker from the New Orleans Mayor's office to interview defendants in their dockets. Many defendants do not have executive function skills in order to set daily goals and achieve objectives without assistance from a social worker. It is quite common that defendants have had a driver's license expire, lost their birth certificate or suffer from medical issues limiting their ability to work. One on one guidance from a social worker can make a huge difference in someone life.

The Metropolitan Nashville Council will vote on approval of a resolution to commemorate the use of a University of Tennessee masters level student for use by the courts on December 17, 2024. Tennessee's court will be provider driven. The court has established a steering committee of providers and elected officials dedicated to the mission of assisting the unhoused. San Diego's homeless court is also provider driven but has a steering captain in the public defender's office.

San Diego's public defender will come to your jurisdiction and give detailed explanation of how to set up a Homeless court in your area. The ABA provides grant money for their travel to your area.

The charges eligible to go to the new Homeless Court were decided upon by the Nashville public defender and district attorney. They include:

Criminal Trespass *(T.C.A. §39-14-405) Trespass - Motor Vehicles (T.C.A. §39-14-407)*

Obstruction of a Passageway *(T.C.A. §39-17-307)*

Disorderly Conduct *(T.C.A. §39-17-305)*

Public Intoxication *(T.C.A. §39-17-310)*
Open Container Violation *(T.C.A. §55-10-416)*

Criminal Littering *(T.C.A. §39-14-504)*

Possession of a Legend Drug without a Prescription *(T.C.A. §53-10- 105)*

Panhandling *(first and second offenses) (T.C.A. §39-17- 313)*

Soliciting rides or employment, loitering or conducting commercial activity near a state highway median *(T.C.A. §55-8-139)*

Nashville Business owners who feel caught between a rock and hard place can contact the Metro Nashville Police Department to refer homeless individuals for services. Some defendants are NOT eligible for shelter court service due to substance abuse or a violent history. There may be other services available to those in need of recovery.

It's important to catch defendants who are new to homelessness in order to deter a descent into a habitually criminal life. For example, women who are victims of domestic violence and are struggling to survive may not have many options. Friends and family run out of patience in dealing with the cycle of violence and forgiveness. Employers do not want any drama in the workplace. So, victims are often discharged from work which they desperately need. Theft may become routine to eat or obtain clothing. Women who have been abused may make choices to keep a male companion for protection on the street. Problem solving courts like these can make a difference and save lives.

Stats and Research Sources

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- ii Charlene K. Baker, Cook, Sarah L., Norris, Fran H., "Domestic Violence and Housing Problems: A Contextual Analysis of Women's Help-seeking, Received Informal Support, and Formal System Response," Violence Against Women 9, no. 7 (2003): 754-783.
- iii A. Browne & S. Bassuk, Intimate Violence in the Lives of Homeless and Poor Housed Women, American Journal Orthopsychiatry, 67 (2) 261-278 (April 1997).
- Source: Breiding, M. J., Chen, J., & Black, M. C. (2014). Intimate partner violence in the United States — 2010 (PDF). Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.

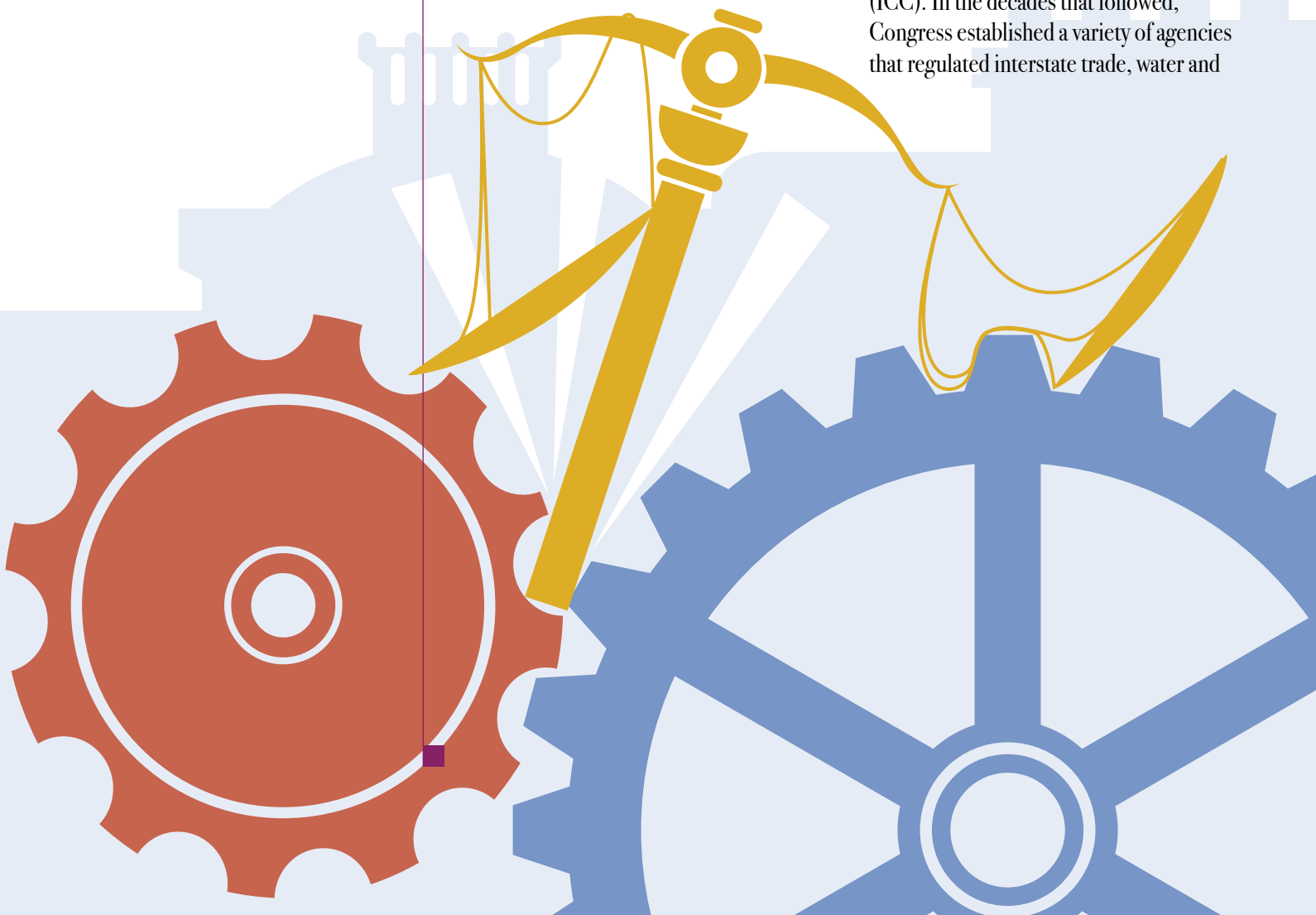
Judge Lynda Jones, Shelter Court Presiding Judge, also serves as the District 7 Board of Governors for the American Judges Association and a former Board member of NAWJ. She served as the Tennessee General Sessions Judges Conference President for 2020 – 2021.

CHANGES IN THE ADMIN
– Implications for the federal and

Introduction

At its beginning, the administrative state grew out of a need to respond to social and economic changes. In the agency framework, legislatures identify a general field of regulatory concern and created an agency to develop regulations. Specifically, the Court and the legislature were increasingly viewed as unable to rapidly identify and address societal problems, and lacking the requisite expertise to come up with the correct solutions. The ideal administrative agency exists outside politics so they can operate in ways that legislatures cannot.

The modern administrative state is marked by many as beginning in 1887 when Congress created the first modern regulatory agency: The Interstate Commerce Commission (ICC). In the decades that followed, Congress established a variety of agencies that regulated interstate trade, water and



ISTRATIVE STATE
administrative judiciary

power, communications, and commodity exchanges.

The administrative state further expanded during the New Deal era when Congress created numerous new agencies, including the National Labor Relations Board (NLRB) and the Securities and Exchange Commission (SEC). Additionally, Congress gave agencies that already existed broader jurisdiction over policies.

In 1948, Congress enacted the Administrative Procedure Act (APA), 5 U.S.C. §§ 551–559, exemplifying the compromise between bureaucratic expertise and legislative accountability, and providing more stability in administrative law. The APA established procedures an agency must follow to promulgate binding rules and regulations within the area delegated to it by statute.

In the 2024 term, the Supreme Court released three decisions that fundamentally shifted administrative law. This article will discuss the three major decisions: *Loper Bright Enterprises v. Raimondo*, 603 U.S. ___, 144 S.Ct. 2244 (2024), SEC v. Jarkesy, 603 U.S. ___ (2024) and *Corner Post v. Board of Governors of the Federal Reserve System*, 603 U.S. ___ (2024).

Loper Bright Enter. v. Raimondo, 144 S. Ct. 2244 (2024).

In *Loper Bright Enterprises v. Raimondo*, the Supreme Court overruled *Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), holding that "courts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority, as the [Administrative Procedure Act] requires." In 1984, the Supreme Court held in *Chevron* that an Environmental Protection Agency (EPA) regulation defining the term "stationary source" was a permissible construction of the Clean Air Act. The Court created a deferential framework to determine whether an agency's interpretation of a statutory term is permissible, which came to be known as the *Chevron* doctrine or the *Chevron* two-step analysis. In determining whether an agency's interpretation of a statue is permissible, the court must first determine "whether Congress has directly spoken to the precise question at issue." If the court determines that Congress's intent was clear there is no need to continue to step two. If the court determines that "the statute is silent or ambiguous with respect to the specific issue" the court then must determine whether "the agency's answer is based on a permissible construction of the statute." For forty years after the decision,

courts applied the *Chevron* doctrine thousands of times.

In both *Loper Bright Enterprises v. Raimondo* and *Relentless v. Department of Commerce* petitioners sought to challenge the *Chevron* framework. In *Loper*, businesses that operated Atlantic herring fisheries challenged a rule promulgated by the National Marine Fisheries Service (NMFS) authorized by the Magnuson-Stevenson Fishery Conservation and Management Act (MSA). The rule mandated that the companies pay for one or more observers to be carried on a vessel for the purpose of collecting necessary data for conservation and management. Petitioners argued that the MSA did not authorize NMFS to mandate companies pay for observers. In *Relentless*, two vessels challenged the NMFS rule for the same reason. In *Loper*, the District Court granted summary judgment to the Government, utilizing the *Chevron* framework, finding that the statute was unambiguous and the MSA authorized the rule. The D.C. Circuit Court affirmed, finding that the statute was not "wholly unambiguous", but the agency's interpretation was a permissible construction. In *Relentless*, the District Court deferred to the NMFS's interpretation of the statute upholding the rule and the First Circuit affirmed. The Supreme Court consolidated the *Loper* and *Relentless* and granted certiorari to determine the limited question of whether *Chevron* should be overruled or clarified.

Ultimately, the Supreme Court in a 6–3 decision overruled *Chevron* holding that the doctrine violates the plain meaning of Section 706 of the Administrative Procedure Act (APA). The Court sets the foundation for its argument by addressing the role of the judiciary pre-*Chevron*. It invokes Article III of the Constitution and *Marbury v. Madison*, 5 U.S. 137 (1803), to emphasize that the role of the judiciary is "to say what the law is" and interpret the meaning of statutes in justiciable controversies. The Court notes that analysis of the meaning of a statute can be informed by executive branch interpretations, but historically was not bound to the interpretation. The Executive branch was owed "respect", but "respect" was just that. In outlining the way courts could look to agency interpretations and opinions of a statute to provide guidance to the judiciary, the Court points to the test provided in *Skidmore v. Swift & Co.*, 323 U.S. 134 (1944). In determining how much weight to assign to an agency interpretation in a particular case the Court "depend[ed] upon the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it the power to persuade if lacking the power to control." The Court conceded that during the New Deal era there were instances where the Court deferred to an agency interpretation of a specific term, but there is nothing from this era that "resembled the deference" espoused in *Chevron*.

This recitation of the role of the judiciary and the historic weight given to agency interpretations underpins the Court's holding; the *Chevron* doctrine is inconsistent with Section 706 of the APA. Section 706 of the APA outlines the procedures for judicial review of agency action and in relevant part reads, "[t]o the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of agency action." Additionally, Section 706 requires courts to "hold unlawful and set aside agency actions, findings, and conclusions found to be ... not in accordance with the law." In looking to the plain text of the statute, Chief Justice Roberts concludes that "[t]he text of the APA means what it says." The APA codifies the understanding of the role of the judiciary pre-*Chevron* requiring courts to decide legal questions by applying their own judgment and proscribing no deferential standard. *Chevron* goes beyond the "respect" the executive branch was historically owed in interpreting statutes and defies the APA mandating "binding deference" to agency interpretations.

The Court then addresses arguments made by the Government and the dissent that statutory ambiguities are implicit delegations of power to an agency because agencies have subject matter expertise; because this delegation promotes uniformity in federal law; and because interpreting statutes can involve policymaking. The Court finds this "implicit delegation" argument unsound, noting that "congress expects courts to handle technical statutory questions." Specifically, the Court notes, "agencies have no special competence in resolving statutory ambiguities. Courts do."

Finally, the Court addresses whether stare decisis "saves" *Chevron*. The Court finds that it does not by analyzing the quality of the precedent's reasoning, the workability of the rule established, and reliance on the decision. First, the Court notes that *Chevron* was fundamentally flawed from the start and for its entire existence has been "a rule in search of a justification." Second, the Court finds that *Chevron* is unworkable, mainly due to the difficult task of identifying a statutory "ambiguity". *Chevron*'s unworkability resulted in the Court needing to clarify the doctrine "again and again ... transforming the original two-step into a dizzying breakdance." Third, the Court notes that *Chevron* has fostered no "meaningful reliance" due to the constant clarification and inconsistent application by lower courts. Despite overruling *Chevron*, the Court notes that previous cases that relied on the *Chevron* framework are still good law and protected by statutory stare decisis.

In setting a path forward for how courts should address whether an agency acted within their statutory authority, the Court concluded that the judiciary must exercise their independent judgment. Courts may find that an agency has been delegated authority but must ensure the agency acts within it. Additionally, courts may consider an agency's interpretation of a statute in their analysis, as espoused in *Skidmore*, but deference to agency interpretation is no longer required.

Justice Thomas and Justice Gorsuch both wrote concurring opinions. Justice Thomas wrote separately to emphasize that *Chevron* also violates the Constitution's separation of powers because it delegates legislative-making authority to the executive branch. Justice Gorsuch wrote separately to expand how the stare decisis factors weigh in favor of overruling *Chevron*.

Justice Kagan, joined by Justice Sotomayor and Justice Jackson (as applied to the second case), wrote a scathing dissent characterizing the majority's overruling of *Chevron* as "disdaining restraint and grasping for power." In defense of *Chevron*, Justice Kagan argues that there is an implicit delegation of decision-making authority by Congress to agencies that are charged with administering a statute when there is a gap or ambiguity. *Chevron* exemplifies this implicit delegation and has long been recognized as "rooted in legislative intent" and the ideal that agencies have expertise in the relevant subject matter and therefore are best suited to interpret ambiguities and fill gaps. While the majority claims that *Chevron* cannot be squared with the APA, Justice Kagan refutes this by noting that Section 706 of the APA proscribes no standard of review, so the deferential standard espoused in *Chevron* is consistent with the APA. Finally, Justice Kagan writes that *Chevron* is entitled to "supercharged" stare decisis "because Congress could always overrule that decision and because so many governmental and private actors have relied on the decision for so long."

As stated in the dissent, the overturning of *Chevron* pulls power away from agencies and gives it to the judiciary. The result of *Loper* is that there may be an increase in litigation to determine the contours and limits of agency ability to interpret ambiguity and fill gaps in statutes. Courts now must on a case-by-case basis determine how much weight to give agency interpretations by looking to the *Skidmore* factors. This case-by-case determination could lead to a lack of uniformity in the meaning of statutes and agency rules. This lack of uniformity may also be impacted if forum shopping increases. Litigants may attempt to bring a case in a specific jurisdiction to get a favorable outcome, which may result in statutes and agency rules with different meanings in different jurisdictions. In an increasingly interconnected world this lack of uniformity could make it more difficult for private actors to adhere to and rely on government standards.

SEC v. Jarkesy, 603 U.S. (2024)

The Supreme Court's decision in *SEC v. Jarkesy* marks another significant moment in the ongoing debate about the capabilities and constitutional limits of administrative agencies. In June 2024, the Supreme Court ruled 6–3 in SEC v. Jarkesy that when the Securities and Exchange Commission (SEC) seeks civil penalties for securities fraud, the Seventh Amendment entitles the defendant to the option of a jury trial. Historically, the SEC has handled securities fraud cases through its own internal tribunals, overseen by federal Administrative Law Judges (ALJs).

In 2013, the SEC brought an enforcement action against hedge fund manager George Jarkesy for allegedly defrauding investors in two hedge funds, in violation of antifraud provisions of the federal securities laws. In an administrative proceeding, an SEC ALJ found Jarkesy liable and imposed a civil monetary penalty of $300,000. Jarkesy subsequently challenged the constitutionality of this administrative process.

The U.S. Court of Appeals for the Fifth Circuit vacated the SEC's decision, finding that the SEC had violated Jarkesy's right to a jury trial under the Seventh Amendment by requiring the matter to be adjudicated in an in-house proceeding. Additionally, the Fifth Circuit found the SEC's in-house tribunals unconstitutional on two other grounds. First, it held that allowing the SEC to choose between administrative and judicial proceedings violated the Nondelegation Doctrine by granting the agency too much discretion without clear guidance from Congress. Second, the court found that the two layers of for-cause removal protections enjoyed by ALJs excessively insulted them from presidential oversight. The Fifth Circuit denied rehearing en banc and the SEC petitioned for certiorari, which the Supreme Court granted.

The Supreme Court affirmed the Fifth Circuit ruling on the Seventh Amendment, holding that the right to a jury trial applies not only to suits at common law, but to any claim that is "legal in nature," excluding those in equity or admiralty. The Court examined whether "the cause of action and the remedy it provides" resemble common law claims, finding that the civil money penalties issued by the SEC were designed to punish or deter unlawful action, not to restore the status quo, making them legal in nature, rather than equitable. The close relationship between the structure of federal securities fraud and common law fraud, supported the "legal in nature" conclusion.

The Court noted that the Seventh Amendment right to a jury trial is subject to "public rights exception," which allows Congress to assign certain "legal in nature" claims to agencies for adjudication. The Court rejected applying the exception here, asserting that the claim brought by the SEC against Jarkesy targeted "the same basic conduct as common law fraud," and constituted a "private rather than public right."

However, the decision creates further ambiguity regarding the scope of the public rights exception moving forward. While the majority emphasized that the decision distinguished but did not overrule the longstanding precedent in *Atlas Roofing*, 430 U.S. 442 (1977)--which permitted agency adjudication of workplace safety claims "unknown to the common law" under the Occupational Safety and Health Act--they declined to clearly define the boundaries of the public rights exception.

By striking down the SEC's ability to adjudicate securities fraud cases in-house, the Court imposes additional demands on the federal judiciary, compelling complex securities fraud cases to be litigated in federal courts already overwhelmed with pressing criminal, civil, and constitutional matters. As a result, the decision risks further delay in the resolution of such cases and could allow wrongdoers, particularly wealthy individuals with the resources to engage in protracted litigation, to evade accountability. Moreover, the implications of *Jarkesy* extend far beyond the SEC. It may embolden further challenges to administrative adjudication in areas like environmental protection, labor, and public health, where agencies like the EPA, NLRB or FDA rely on internal adjudication to manage high volumes of complex cases. Shifting these cases to federal courts could slow enforcement actions, reduce regulatory oversight, and impede timely protection of public interests across multiple sectors.

Following *Jarkesy*, defendants in administrative proceedings across various agencies have raised constitutional challenges to the use of in-house adjudication, invoking the Supreme Court's ruling to argue that their Seventh Amendment right to a jury trial has been infringed. In the environmental realm, some defendants facing EPA enforcement actions have questioned the constitutionality of in-house adjudication of civil penalties for violations of environmental regulations. The Court's decision in *Jarkesy* largely based its Seventh Amendment analysis on *Tull v. U.S.*, 481 U.S. 412, a 1987 case in which the Court determined that a jury was necessary to decide certain actions for civil penalties under the Clean Water Act. As environmental law experts have noted, relevant statutes mirror the provisions and structure of the Clean Water Act and might well face the same treatment if litigated, particularly considering the Court's recent decision in Jarkesy.

In the Fifth Circuit, a court in the Northern District of Texas issued a ruling against the NLRB that extended the *Jarkesy* decision beyond even the Supreme Court's own holding. The district court upheld the Fifth Circuit's earlier stance, declaring that the roles of ALJs themselves were unconstitutional, citing both the Nondelegation Doctrine and protections that shield ALJs from removal. In doing so, the district court enjoined the NLRB from adjudicating unfair labor practices. This decision had unintended consequences, particularly when it blocked the employer's later attempt to decertify the union. Under the NLRB's internal procedures, unfair labor practices must be fully processed before a decertification request can succeed. This case highlights the broader, unintended ripple effects of *Jarkesy*, even for agencies like the NLRB, which do not issue civil penalties but rely on in-house adjudication for resolving critical regulatory matters; the decision forces agencies to navigate new legal challenges that could impede their ability to perform their functions effectively and efficiently.

For federal judges tasked with navigating the aftermath of *Jarkesy*, this ruling presents new challenges. They must now consider whether to expand jury trial rights in administrative contexts and balance defendants' rights with the need for efficient regulatory enforcement. The uncertainty surrounding the scope of the public rights exception leaves open questions about the future of administrative adjudication. Ultimately, as agencies and courts adjust to this new landscape, it remains to be seen whether the *Jarkesy* decision will lead to a fairer, more constitutionally sound process or a shift in power that disproportionately benefits resourceful defendants, potentially at the expense of the broader public interest.

Corner Post v. Board of Governors of the Federal Reserve System, 603 U.S. ___ (2024)

In *Corner Post, Inc. v. Board of Governors of the Federal Reserve System*, 603 U.S. ___ (2024), the Supreme Court addressed a pivotal issue concerning the statute of limitations for judicial review of federal agency actions under the Administrative Procedure Act (APA). The central question was whether the six-year limitation period for challenging the validity of a rule begins upon the rule's issuance or, instead, when the rule first injures the specific plaintiff bringing the challenge. In a 6–3 decision, the Court ruled that the limitation period does not start until a plaintiff is harmed by the agency action, fundamentally shifting how regulated entities can engage in APA litigation.

For years, most courts of appeals tasked with deciding the issue had ruled that pre-enforcement review under the APA must be initiated within six years from a rule's promulgation. This interpretation limited opportunities for judicial review. *Corner Post*, however, marks a clear break from this approach, holding that a claim accrues only when the plaintiff suffers a concrete injury because of the agency's final action.

The facts of *Corner Post* involved interchange fees, regulated by the Federal Reserve Board under the Durbin Amendment to the Dodd-Frank Act. This amendment directed the Board to set standards for "reasonable" interchange fees on debit card transactions, which it did in 2011 with Regulation II. Trade associations and retailers immediately challenged the rule, and the D.C. Circuit rejected the claim, holding that the regulation was based on a reasonable construction of the statute.

Fast-forward to 2021, when *Corner Post*, a convenience store and truck stop not in existence at the time of the 2011 litigation, brought its own APA suit against the Federal Reserve, challenging Regulation II as injurious to its business. Under the APA, suits against the United States must be filed within "six years after the right of action first accrues." 28 U.S.C. § 2401(a). Relying on this statute, the District Court dismissed *Corner Post*'s suit as untimely, and the Eighth Circuit affirmed.

The Supreme Court, however, disagreed. It held that an APA claim does not accrue for the purposes of § 2401(a) until the plaintiff is actually injured by final agency action. Thus, the six-year limitation period only began when *Corner Post* was harmed by the regulation, creating a "complete and present cause of action." The Court explained that the phrase "right of action first accrues" in 28 U.S.C. § 2401(a) aligns with traditional definitions, which require both a final agency action (as specified in 5 U.S.C. § 704) and an injury to the plaintiff (as required by 5 U.S.C. § 702) for a claim to be actionable. Rejecting the Federal Reserve's argument for a more rigid application, the Court distinguished § 2401(a) from "statutes of repose"—which impose a fixed deadline based on the defendant's conduct, regardless of harm to the plaintiff. Instead, it classified § 2401(a) as a statute of limitations, focused on when the plaintiff sustains harm. Through textual analysis, the Court noted Congress's choice to use the term "accrues" in § 2401(a), unlike other statutes that start the limitations period at final agency action. Accordingly, the Court confirmed that § 2401(a) functions as a statute of limitations, not a statute of repose, because it depends on when the plaintiff has a complete and actionable claim.

Justice Kavanaugh's concurrence added a further layer by addressing vacatur—a remedy where a rule is voided entirely rather than just as applied to the plaintiff. Kavanaugh supported vacatur under the APA, distinguishing it from universal injunctions and emphasizing its necessity for allowing downstream effects of agency actions to be challenged by affected, yet unregulated, parties. This position underscores *Corner Post*'s broader implications: it empowers businesses, including those formed after a rule's issuance, to challenge regulations that affect them, potentially vacating rules nationwide if found unlawful.

Justice Jackson's dissent criticized the Court's acceptance of a simplified definition of accrual, arguing that the Supreme Court had previously recognized that accrual is context specific. She cautioned that the *Corner Post* decision could trigger a "tsunami of lawsuits" challenging longstanding agency rules and voiced concern that, combined with the recent narrowing of *Chevron* deference in *Loper Bright Enterprises v. Raimondo*, the decision might overwhelm agencies with challenges to previously settled regulations. Her dissent highlighted the risk that new entities might bring delayed facial challenges to older regulations, effectively undermining agency stability and predictability, and "profoundly destabilizing for both Government and businesses."

Since *Corner Post*, several lower courts have grappled with its impact. In *Intra-National Home Care v. United States Department of Labor*, No. 22-2628 (3d Cir. Sep. 6, 2024), the Third Circuit considered whether home care agencies could challenge a 2013 Department of Labor (DOL) rule that removed wage and hour exemptions for home care workers. The agencies sought to bring an APA claim after the DOL began enforcement actions against them, arguing that *Corner Post* allowed their claim to accrue at the point of enforcement, not the rule's issuance date in 2013. The Third Circuit agreed, and found the agencies' challenge timely because the enforcement action itself created a new accrual date, allowing the plaintiffs to move forward with their challenge.

In *Stenson Tamaddon v. United States Internal Revenue Service*, No. CV-24-01123-PHX-SPL (D. Ariz. July 30, 2024), the United States District Court in Arizona examined the implications of *Corner Post* in a dispute over the IRS's moratorium on processing Employee Retention Tax Credit (ERC) claims. A tax advisory firm sought a preliminary injunction, arguing that the moratorium was unlawful under the APA. The court, analyzing the standards for injunctive relief, looked to *Corner Post* as relevant precedent, especially Justice Kavanaugh's concurrence, which clarified that unregulated third parties could bring APA challenges if indirectly harmed by agency actions. This precedent supported the advisory firm's standing to sue the

IRS. Although the court found that the plaintiff raised "serious questions" about the moratorium's legality, it ultimately denied the preliminary injunction, citing national fraud concerns and the broader public interest. This case demonstrates the upcoming challenges that agencies may face in defending long-standing regulations or emergency actions under heightened judicial scrutiny.

Finally, *Kane County, Utah v. United States*, No. 2:10-cv-1073 (D. Utah Aug. 9, 2024), illustrates *Corner Post*'s reach beyond typical APA claims, influencing Quiet Title Act (QTA) cases as well. This case involved Kane County's challenge to federal control over roads and public lands within its boundaries. The court applied *Corner Post* to QTA claims, reinforcing the rule that limitations only begin when a plaintiff has a concrete right to sue. This interpretation supported Kane County's position, allowing the QTA claim to proceed despite the age of the underlying regulation.

As demonstrated, the implications of the *Corner Post* decision are vast, reshaping the landscape for APA challenges and allowing new avenues for contesting longstanding regulations. Previously, litigants could challenge a regulation "as applied" to them in a defensive posture, for example, if facing an enforcement action by an agency. This approach permitted claims beyond the six-year limitations period set by the APA. However, *Corner Post* expands this right, enabling parties to bring "facial" challenges against a rule—arguing its invalidity on its face—within six years of that party's injury, even if the rule itself was issued years prior. As the case demonstrates, this change opens the door for challenges to old rules when brought by newly formed entities or entities that can demonstrate harm within the last six years of agency action.

This shift has significant implications for the durability of federal regulations. By allowing plaintiffs to challenge rules based on procedural or substantive defects, even years after issuance, *Corner Post* raises questions about the finality of federal regulations. Rules that would previously be insulated from litigation by the APA's six-year statute of limitations of federal regulations. Rules that would previously be insulated from litigation by the APA's six-year statute of limitations can now be scrutinized afresh under APA standards. As retired judge David Tatel[1] has observed, this could mean new businesses might be created specifically to challenge regulations that would otherwise be protected by the statute of limitations, threatening regulatory stability and predictability.

Conclusions

The implications on both federal administrative law judges and the federal court system are yet to be determined. In looking to the goals that led to the formation of the administrative state, each of these decisions may make it more difficult for agencies to fulfill these goals and function effectively. The administrative state was designed to provide an avenue for the government to promote the public good through expertise. Specifically, leading thinkers of the time looked to the failures of courts and legislatures and saw the administrative state as way for government to address problems in a flexible, expedient, independent, and stable manner. These three decisions underscore a significant shift in the balance of power between administrative agencies and the judiciary, as well as between regulators and defendants. While Jarkesy outwardly intended to reinforce constitutional protections, particularly the right to a jury trial, the decision's broader effects may lead to unintended burdens on the federal court system and disrupt enforcement efforts across various agencies. These agencies play an essential role in specialized and efficient enforcement, protecting public interests in areas such as securities, environmental law, labor, and public health.

Corner Post and *Loper Bright Enterprises v. Raimondo* also intersect meaningfully. Though *Loper Bright* did not overturn earlier rulings relying on *Chevron* deference, the decision to narrow it opens the possibility of more challenges to established administrative rules. With *Corner Post* expanding the window for APA challenges, a wider range of longstanding rules may now be subject to judicial review without agencies receiving *Chevron* deference. A new plaintiff could potentially bring an APA claim against an old rule without being bound by prior rulings and could seek a favorable venue in another circuit, further complicating administrative consistency.

Congress intended agencies to work for the public good. Taking these decisions together, the Supreme Court may have weakened agency stability, diminished agency functioning, and threatened the stability of our government, making it more difficult for the administrative state to live up to its founding ideals.

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[1] Terry Gross, a retired federal judge reflects on going blind and losing faith in the Supreme Court, NPR (July 3, 2024, 11:20 AM), https://www.npr.org/2024/07/03/g-s1-8041/a-retired-federal-judge-reflects-on-going-blind-and-losing-faith-in-the-supreme-court

AN OASIS IN THE "LEGAL DESERT"

Understanding the Crisis of Limited Legal Access and the Role of the Judiciary in Response

In many regions within the United States, the concept of "legal deserts" has emerged as a critical issue.[2] The term "legal desert" refers to areas where legal services are scarce or entirely absent, leaving individuals without adequate access to legal representation and advice. These deserts typically affect rural and low-income communities, where residents struggle to find affordable, accessible and competent professional legal assistance. The growing crisis of the legal desert disproportionately affects marginalized populations, leading to significant disparities in the administration of justice. Acknowledgement, then understanding of the problem is crucial for understanding how legal inequality persists. While various stakeholders—including bar associations, legal aid organizations, and private law firms—have roles to play in addressing the problem, the judiciary itself can take meaningful action to alleviate the impact of legal deserts.

THE LANDSCAPE: THE ORIGINS AND SPREAD OF LEGAL DESERTS

The problem of legal deserts has gained increasing attention over the past few decades. It is primarily a consequence of systemic inequities in legal service distribution: urban areas draw a higher concentration of legal professionals, while rural or economically disadvantaged communities face severe shortages. Legal professionals tend to gravitate toward larger cities where the demand for services is high, and the resulting fees can support their practice. Meanwhile, rural and economically disadvantaged areas experience a "brain drain" of skilled attorneys.

Legal deserts can manifest in different ways. In some places, there may be no lawyers at all for certain legal specialties, such as family law, criminal defense, or civil litigation. In others, there might be just a handful of attorneys who are overwhelmed by the volume of cases, leading to long delays or minimal legal support. These deserts leave residents in vulnerable situations, as they cannot access timely legal advice or representation, especially when dealing with critical issues like housing disputes, child custody, or criminal charges.

Hon. Dominique A. Callins[1],
Court of Appeals of Virginia

Several factors contribute to the existence and growth of legal deserts. These include:

1. Economic Disincentives[3]: Practicing law in rural or underfunded urban areas is often less profitable. Lawyers tend to establish their practices in larger cities, where there are more clients and the lawyers have the ability to charge higher rates. As a result, lower-income areas suffer from a dearth of attorneys willing to serve the population.

2. Rural Population Decline[4]: Many rural areas have been facing population decline, making them less attractive to new lawyers looking to build a practice. Younger generations move to urban areas in search of better job opportunities, and thus, the legal workforce in rural regions continues to shrink.[5]

3. High Cost of Legal Education and Practice[6]: The rapidly rising costs of legal education (and higher education in general) and of expenses associated with maintaining a law practice (such as office space, technology, marketing and malpractice insurance) can deter attorneys from moving to or remaining in underserved regions. Even when lawyers are willing, they may struggle to afford to practice in such areas, especially if there's insufficient demand to cover the costs.

4. Lack of Legal Aid[7]: Publicly-funded legal aid programs—essential for ensuring access to justice for low-income individuals—are often underfunded and overburdened. In many cases, legal aid organizations are overwhelmed with cases and cannot provide services to everyone who needs them. And where the pro bono services of private attorneys could fill in the gap, debt-strapped practitioners are hardly motivated to answer the call.

AN ARID CLIMATE: THE IMPACT OF LEGAL DESERTS ON COMMUNITIES

The effects of legal deserts are far-reaching, and they disproportionately affect marginalized communities (low-income, racial minorities, immigrants, rural residents, etc.). Without legal services, individuals may be forced to navigate complex legal systems on their own, and without the knowledge or resources to do so effectively. This can lead to:

1. Unmet Legal Needs[8]: Many individuals in legal deserts cannot access legal help for basic issues, such as divorce, landlord-tenant disputes, or family law matters. As a result, people may give up on their legal rights or face more severe consequences down the line.

2. Increased Inequality[9]: The lack of legal professionals in rural or low-income areas exacerbates existing inequalities. Wealthier individuals in urban centers have greater access to legal services, while those in legal deserts may not even know where to turn for help.

3. Overburdened Legal Systems[10]: In areas where there are lawyers, they are often overworked. They may be forced to take on more cases than they can handle, reducing the quality of legal representation and leaving clients with insufficient attention to their cases.

4. Criminal Justice Challenges[11]: Legal deserts can have especially dire consequences in the area of criminal justice. Where defense attorneys are scarce, indigent defendants may not receive the robust legal defense guaranteed by the Constitution. In some cases, they may even face the possibility of wrongful convictions due to a lack of competent legal counsel.

NOT A MIRAGE: HOW THE JUDICIARY CAN RESPOND TO THE PROBLEM OF LEGAL DESERTS

We, the judiciary, are in a unique position of authority and responsibility in the legal system. We are keenly aware of our influence on the application, interpretation and enforcement of the law. Yet the court can also help ensure access to justice in underserved areas by implementing policies and practices that make legal assistance more available and accessible. Below are a few ways that the judiciary can respond to the problem of legal deserts.

1. Expanding Access to Legal Aid

One of the most effective ways the judiciary can address legal deserts is by advocating for and supporting the expansion of legal aid services. Legal aid programs provide free or low-cost legal assistance to individuals who cannot afford private attorneys, and they play a critical role in ensuring that everyone, regardless of income, has access to justice. Judges can serve as advocates for increased funding for legal aid organizations. By raising awareness of the issue in public forums and through continuing legal education, judges can help bring attention to the need for more resources to support legal aid in underserved areas. Courts can also establish or collaborate with legal aid programs to provide on-site clinics or other manner of legal assistance to individuals appearing before them.12 This would help individuals who are not represented by counsel and ensure that they receive the legal guidance they need.

2. Promoting Virtual and Remote Legal Services

Technological innovations have provided new ways to bridge the geographic and logistical challenges that contribute to legal deserts. Judges can help drive these innovations by endorsing and integrating virtual and remote legal services into the court system. During and after the COVID-19 pandemic, many courts adopted virtual hearings, allowing parties and witnesses to participate remotely. The judiciary can continue to promote the use of videoconferencing and other digital platforms to facilitate access to legal representation for people in legal deserts. This approach helps overcome transportation barriers, especially in rural areas, and allows individuals to engage with their cases from home or other facilities from which they can

access the internet.

3. Encouraging Pro Bono Legal Work

Pro bono work can help fill the gap in legal deserts. While some law firms already encourage their lawyers to take on pro bono cases, judges can play a role in fostering a culture of pro bono service. Judges can encourage attorneys in their jurisdictions to participate in pro bono work by issuing public statements and making formal requests for lawyers to provide assistance to individuals in need. Courts could also partner with local bar associations to create pro bono programs targeted specifically at legal desert areas. Judges can also work with local and state bar associations to develop incentive programs that reward attorneys for taking on pro bono work, such as offering continuing legal education (CLE) credits, recognition in the legal community, or other professional rewards.

4. Facilitating Public-Private Partnerships

The judiciary can facilitate collaboration between the public sector and private legal professionals to increase the availability of legal services in underserved areas. Public-private partnerships (PPPs) can help provide more resources to expand legal services in legal deserts, creating new opportunities for individuals to get the help they need. Where ethically permissible, judges can help create or support pro bono networks that match private attorneys with individuals in legal deserts. These networks could be administered by local bar associations or nonprofit organizations, and judges can help refer individuals to these services when appropriate. Many legal tech startups are working to create affordable online legal solutions for underserved populations. The judiciary can explore collaborations with these companies to pilot new approaches that offer low-cost legal advice or self-help tools, especially in rural areas.

6. Judicial Leadership in Legal Education and Training

The judiciary plays a key role in legal education and professional development. By advocating for training that equips lawyers and legal professionals to work in underserved areas, the judiciary can help ensure that legal deserts have a future pipeline of qualified attorneys. Judges can encourage law schools to offer specialized training for students interested in practicing in underserved or rural areas. Law school-created fellowships or residency programs may likely encourage recent graduates to serve in legal deserts for a certain period in exchange for loan forgiveness or financial incentives. Judges can encourage mentorship programs where experienced attorneys guide younger lawyers interested in practicing in rural or underserved areas. Such mentorship programs can help prepare lawyers to handle the specific challenges of practicing in a legal desert.

7. Reforming Court Rules to Increase Access

Finally, the judiciary can make court procedures more flexible and accessible to people in legal deserts by reforming rules that may disproportionately disadvantage those in underserved areas. Courts can support efforts to simplify legal processes, such as making forms more accessible, reducing unnecessary procedural requirements, and offering more self-help resources for individuals representing themselves. A more accessible process can empower people in legal deserts to navigate the justice system more effectively, even without legal representation. Courts are also in a unique position to promote the use of ADR methods, such as mediation or arbitration, to resolve disputes more efficiently and at a lower cost. ADR can be especially valuable in legal deserts, where access to lawyers and court time is limited.

CONCLUSION

The judiciary has a critical role to play in addressing the problem of legal deserts. Through advocacy, innovative use of technology, supporting pro bono work, fostering public-private partnerships, and reforming court rules, judges can significantly improve access to legal services in underserved areas. By taking these steps, the judiciary can do its part to create an "oasis" in the "desert" –ensuring that justice is not a privilege reserved for some but a fundamental right available to all, regardless of geographic location or income.

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1 Dominique A. Callins is a judge of the Court of Appeals of Virginia. Prior to joining the bench in 2021, she practiced family law in Virginia for 14 years. Judge Callins received her B.A., *summa cum laude*, from Florida A&M University, and her J.D. from the College of William and Mary, Marshall-Wythe School of Law. Judge Callins served as a judicial law clerk for the Henrico County Circuit Court, and later for the Honorable James W. Benton, Jr., of the Court of Appeals of Virginia. Prior to attending law school, Judge Callins was a middle school teacher.

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Dear Members and Friends,

Noted author and advocate Bryan Stevenson, in a message to a joint session of the Conference of Chief Justices and the Conference of State Court Administrators, said [those present] are the caretakers and custodians of the justice system. He later emphasized that healthy courts are essential to a healthy society. The contrast between a justice system that requires nurturing, and the robustness needed to sustain a healthy society was striking. His message resonated with me, and I was reminded of it when Judge Michelle Rick announced the theme for her presidency of NAWJ.

I am grateful to David Horrigan, who wrote Access to Justice: Legal Education and NAWJ's Presidents for this issue, for highlighting the efforts of Judges Clarke, Kennedy, and Rick to promote access to justice both inside and outside of their courts. From my perspective, his article is a great example of the importance of relationships. When we work together—with fellow NAWJ members, with the Resource Board, or by introducing others within our networks to the work and mission of NAWJ—the impact is powerful.

I look forward to all we will do together in 2025,
Francie

Francie Teer, CFRE
Director of Development

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