

**FEDERAL COURT CLERKS ASSOCIATION  
CURRENT EVENTS**

<http://www.fcca.ws/>

**November 2010**

**ADVISORY GROUPS**

- ◆ **Meeting Agenda and Materials** - The October 5-6 meeting materials of the AO's Budget & Finance, Human Resources, Information Technology, and Space & Security Advisory Councils, are available on the J-NET under *News and Events* at [http://jnet.ao.dcn/Advisory\\_Forum/index.html](http://jnet.ao.dcn/Advisory_Forum/index.html).

**ANNOUNCEMENTS**

- ◆ **Mona Sparks Selected as New Chief Deputy Clerk of E.D. Kentucky Bankruptcy** - The U.S. Bankruptcy Court for the Eastern District of Kentucky announced that it has selected Mona Sparks as its new Chief Deputy Clerk. Mona began her career at the court in 1980, as an intake worker and progressed to other positions, gaining valuable experience as financial deputy, budget analyst, financial administrator, and financial manager. She graduated from Midway College *summa cum laude* with a bachelor of arts degree. FCCA congratulates Mona in her new role as Chief Deputy Clerk! *BCAD Monthly Update - November 2010*, <http://jnet.ao.dcn/img/assets/6655/nov2010.pdf>.
- ◆ **Jeff Larioni Chief, Office of Audit to Retire** - The AO announced that Jeff Larioni plans to retire later this year after 33 years of service to the Judiciary. He started his distinguished career in 1977 in the U.S. Office of Personnel Management, Office of the Inspector General. He first served as staff auditor and then as Branch Chief and was responsible for IT audits and audit follow-up. In 1986, Jeff began working for the AO's Office of Audit and Management Review as the audit supervisor, where he assisted in improving the financial and administrative processes referred to as ICE. Best wishes to Jeff on his retirement. *Dollars & Sense, November 2010*, <http://156.128.4.233/FAS4Tworkgroup2/>.
- ◆ **Article on Bob Dennis' 25-Year Career Published in *The Oklahoman*** - Bob Dennis recently celebrated 25 years as Clerk of Court for the Western District of Oklahoma. *The Oklahoman* captured important events in his career in an article entitled: "Federal court clerk in Oklahoma City functions like a company CEO." In the article, Bob describes getting the court back in operation six days after the bombing of the Murrah Federal building. Bob also compared his role as clerk of court to that of the CEO of a company who reports to the Board of Directors, i.e., the judges. Congratulations to Bob on 25 great years of federal service.

- ◆ **Chief Deputy Clerk of N.D. Georgia Bankruptcy Court To Retire** - Gary Drake, who has served the Northern District of Georgia Bankruptcy Court for over 37 years, is retiring on January 1, 2011. Gary worked in many different jobs for the court during his long tenure. He said his initial job was typing mimeograph stencils for section 341 meetings. During his career, he worked in both bankruptcy and district court in the Northern District of Georgia, including serving as Case Administration Supervisor of the Bankruptcy Court, and as Courtroom Deputy and Chief Deputy of the District Court. Gary plans to work for Consumer Financial Education Foundation of America, Inc. upon his retirement. Fred Childers, Chief Deputy Clerk, U.S. Bankruptcy for the Middle District of Georgia, will replace him. We wish Gary a fabulous retirement. *BCAD Monthly Update, November 2010*, <http://jnet.ao.dcn/img/assets/6655/nov2010.pdf>.
- ◆ **Job Vacancies in the Judiciary** - Vacancy announcements for jobs in the Judiciary are posted on <http://156.119.80.126/vacancies/>.

## **BENEFITS**

- ◆ **Over-the-Counter Drugs and Medicines and Over-the-Counter Products** - The AO provided recent guidance about the difference between over-the-counter (OTC) Drugs and Medicines and OTC Products as relates to the Flexible Benefit Program. IRS regulations that govern the Judiciary's Flexible Benefit Program make a distinction between OTC Drugs and Medicines and OTC Products. OTC Drugs and Medicines include, but are not limited to, medicines for acid control, allergy and sinus relief, pain relief and stomach remedies. OTC Products include, but are not limited to, band aids, braces and supports, contact lens solution and supplies and reading glasses. OTC Drugs and Medications purchased on or after January 1, 2011, without a prescription, will no longer be an eligible expense that can be reimbursed by a participant's Health Care Reimbursement Account (HCRA). This is true even if the employee has unspent money remaining in his/her 2010 HCRA and purchases such medications during the grace period from January 1, 2011, through March 15, 2011. As of January 1, 2011, only drugs and medications for which a valid prescription is written by a physician and filled by a pharmacy (even if such medications are commonly found over-the-counter) may be reimbursed. OTC Products are not impacted by this change and will still be eligible for reimbursement. Claims for OTC Products must include an adequate receipt accompanied by the Federal Judiciary HCRA claim form. An adequate receipt states the name of the product, the date, and the amount paid. The participant does not need to provide a statement from a medical provider, or indicate a diagnosis in order to receive reimbursement for OTC Products.

For further information on eligible expenses, please consult the 2011 edition of the SHPS *Eligible Expense Guide*, found in the "Get Documents" section of the Judiciary Benefits Center web site (<http://judiciary.shps.com>).

- ◆ **Change in Age of Eligible Children for the Health Care Reimbursement Account -** As of January 1, 2011, the HCRA allows coverage of eligible expenses for children through the end of the calendar year in which they turn 26. "Child" is defined by reference to Section 152(f) of the Internal Revenue Code (i.e., son/daughter, step son/daughter, adopted child or eligible foster child), without regard to whether the child is otherwise married or a tax dependent.

## BUDGET AND FINANCE

- ◆ **Fiscal Year FY2011 Funding Update -** In a funding update, Director Duff stated that there are rumors and suggestions about what Congress may or may not do but there is no consensus as to what may occur. He stated that "extending the Continuing Resolution until February to give the incoming Congress an opportunity to complete the FY2011 appropriations bills appears to be the most likely first step." *Memorandum from James C. Duff, Fiscal Year 2011 Funding Update, November 12, 2010, <http://jnet.ao.dcn/img/assets/6586/dir10-116.pdf>.*
- ◆ **2011 Financial Management Forum Announced -** The Financial Managers Working Group, formerly known as the FAS4T Working Group, announced that the 2011 Financial Management Forum will be held in Salt Lake City, April 11-15, 2011, at the Grand America Hotel. The training will last 2½ days and the focus audience for the forum is those employees performing some financial management duties, such as the administrative officer, financial administrator/manager, budget analyst, contracting officer or internal controls officer, in support of the court unit executive. The AO will fund the attendance of one individual from each court unit. Court unit executives are invited to attend but must fund their own way. *Dollars & Sense, November 2010, 2011 Financial Management Forum, by Charles Glenn, <http://156.128.4.233/FAS4Tworkgroup2/>.*
- ◆ **Judiciary Revises Request for FY2011 Funding -** The Judiciary FY2011 funding request has been revised to reflect balances from FY2010. The Judiciary is now seeking a total funding level of \$7.14 billion, \$97 million below the level approved by the Senate Appropriations Committee and \$14 million above the amounts in the bill considered by the House Appropriations Subcommittee on Financial Services and General Government. Director Duff made an appeal to Congress to provide the needed funding: "Reductions below these levels may result in delays in the administration of justice," citing the 63 percent increase in bankruptcy filings since 2008, and the more than 78,000 criminal cases heard as of the 12-month period ending June 30, 2010, an all time-high. The Judiciary is operating under a continuing resolution (CR) through December 3, 2010, and the Judiciary expects the CR to be extended at least until February 2011. *The Third Branch, Vol. 42, Number 11, November 2010, at p.2-3, <http://www.uscourts.gov/news/thethirdbranch.aspx?year=2010&month=11>.*

- ◆ **Bill to Fund Federal Government Two More Weeks Passes House** - The *National Journal* reported that on Wednesday, December 1, 2010, the House passed legislation to continue funding the government at FY2010 levels through December 18. The bill now goes to the Senate, but timing of Senate action on the bill is unclear. Senator Daniel Inouye, Hawaii, is working on an omnibus bill to approve all 12 annual appropriations bills into one package, but needs some Republican votes. However, unless current tax cuts are extended before they expire on December 31, 2010, 42 Senate Republicans have said they will filibuster all legislation for government funding. House Democrats have worked on a year-long continuing resolution (CR) at the 2010 funding level in case the omnibus bill does not pass. Representative Jerry Lewis, R-Calif., ranking member of the House Appropriations Committee, reportedly supports neither the two-week extension nor the year-long extension of the CR because setting the CR at the 2010 spending level is too high. He prefers setting FY2011 appropriations at FY2008 spending levels. Representative Lewis favors an extension until the new Congress takes over. *National Journal, House Passes Bill to Fund Agencies Two More Weeks, by Humberto Sanchez, December 1, 2010.*

## CIVIL LITIGATION

- ◆ **Report on Civil Litigation: Education, Training Keys to Improvement** - Educating lawyers, clients, and judges should be a part of the federal judiciary's efforts toward cutting costs and delays in federal civil litigation, according to the Report on the 2010 Conference on Civil Litigation, which can be found on the U.S. Courts web site. The Report said there is a consensus "that making changes to the Federal Rules of Civil Procedure is not sufficient to make meaningful improvements. . . , and that "Rule changes will be ineffective if they are not accompanied by judicial education, legal education, and support provided by the development of materials to facilitate implementing more efficient and effective procedures." More information is posted at [http://www.uscourts.gov/News/NewsView/10-11-23/Report\\_on\\_Civil\\_Litigation\\_Education\\_Training\\_Keys\\_to\\_Improvement.aspx](http://www.uscourts.gov/News/NewsView/10-11-23/Report_on_Civil_Litigation_Education_Training_Keys_to_Improvement.aspx).

## COST CONTAINMENT

- ◆ **Budget Caps for Non-Rent Spending** - Caps on the rent paid by the Judiciary for space and facilities has been a part of the cost containment effort since it began. In January 2006, the Budget Committee for the Judicial Conference endorsed the use of budget caps for other spending areas such as personnel and information technology. The following budget caps were approved by the Judicial Conference in September 2007 and remain in effect through FY2017: (1) Annual cap on defender services requirements (excluding panel rate increases above inflation) at an average annual growth rate of 7.5 percent to bring the annual defender services requirements from approximately \$780 million in fiscal year 2007 to \$1.6 billion in fiscal year 2017; and (2) an annual cap on court security requirements at an average annual growth rate of 6.6 percent for fiscal years 2010 through 2017. Growth has been in accordance with the caps. *Establishing Budget Caps for*

*Spending Areas Other Than Space and Facilities*, [http://jnet.ao.dcn/Cost\\_Containment/Establishing\\_Budget\\_Caps.html](http://jnet.ao.dcn/Cost_Containment/Establishing_Budget_Caps.html).

## FEDERAL COURT CLERKS ASSOCIATION

- ◆ **Mid-Year Meeting** - The FCCA Board will meet in Mobile, Alabama, on January 15, 2011, to discuss the business of FCCA and to meet with Team Mobile about the Annual Conference.
- ◆ **2011 FCCA Calendars** - The 2011 calendar is scheduled to be mailed on **December 15, 2010**, and we need your assistance to ensure that we have your correct mailing address. Please take a quick moment to visit your profile in MemberClicks to verify that your mailing address is accurate. If your mailing address is inaccurate or it has recently changed, please contact Rob Walker at [Robert.Walker@vaed.uscourts.gov](mailto:Robert.Walker@vaed.uscourts.gov) no later than December 15. The accuracy of your mailing address will help to reduce the amount of undeliverable mail and unnecessary postal costs. If you do not receive your calendar by December 31, 2010 or, if it arrives damaged, please also notify Rob Walker at [rob\\_walker@vaed.uscourts.gov](mailto:rob_walker@vaed.uscourts.gov). If you need assistance with MemberClicks, please contact Cheryl Sweat at [cheryl\\_sweat@tned.uscourts.gov](mailto:cheryl_sweat@tned.uscourts.gov).

## FORMS

- ◆ **Guidance on Form Modifications** - If you are interested in creation or modification of forms for the Judiciary, read the article in the DCAD Monthly Update for November 2010. The Forms Working Group, chaired by the Hon. Harvey Schlesinger, Middle District of Florida, advises Director Duff on proposed changes to district court forms that arise from legislative enactments or comments from individuals in the courts, the community, and the AO. If you need guidance on Judiciary forms, consult Volume 22 (Forms) of the *Guide to Judiciary Policy*, which is available on the J-Net at the following address: <http://jnet.ao.dcn/Guide/index.html>. Chapters 1 through 4 of Volume 22 set forth policies and procedures addressing the creation of nationwide forms, while Chapter 5 addresses the creation of local forms for district courts.

Note that local courts are free to modify any nationwide form issued under the authority of the AO Director, but judges should be made aware of local modifications to forms and be aware that litigants might make unauthorized modifications to local or national forms.

For information on how to modify a national form for local use, consult the article on form modifications in the DCAD Monthly Update for November 2010. *DCAD Monthly Update, November 2010, at p.9*, <http://jnet.ao.dcn/img/assets/6655/nov2010.pdf>.

## INTERPRETERS

- ◆ **Updating the National Court Interpreter Database** - New procedures to ensure the National Court Interpreter Database (NCID) is as accurate and reliable as possible, which will reduce the time staff dedicates to updating the records, go into effect on January 1, 2011. The NCID provides courts the capability to conduct nationwide searches for over 3,500 interpreters in approximately 135 languages for court proceedings. *Memorandum from Robert Lowney, Updating the National Court Interpreter Database, November 23, 2010, <https://infoweb.ao.dcn/bcastpdf/OCPD256.pdf>.*

## JURISDICTION AND VENUE CLARIFICATION ACT

- ◆ The “Federal Courts Jurisdiction and Venue Clarification Act of 2010,” H.R. 4113 contains amendments to title 28, U.S.C., related to diversity jurisdiction, removal and remand, and the venue and transfer statutes. It is intended to solve common jurisdictional problems encountered by litigants to facilitate the consideration of federal claims. Details are posted at [http://jnet.ao.dcn/Legislation/Jurisdiction Venue and Clarification Act.html](http://jnet.ao.dcn/Legislation/Jurisdiction_Venue_and_Clarification_Act.html). There does not appear to be similar legislation pending in the Senate.

## JURY

- ◆ **eJuror System Gives Prospective Jurors an Option** - eJuror was released in 2009 and now 42 courts are using the system every day. About 40 other courts have installed the software and are pursuing implementation. The eJuror system gives prospective jurors the option of responding to their jury questionnaire or summons on-line, instead of mailing them to the court. They also may update personal information, and, if selected for jury service, they can check when they need to report, submit a request for an excuse or deferral, and select an alternative time to serve. To learn more about eJuror, watch the video on <http://uscourts.gov/> at <http://www.uscourts.gov/FederalCourts/JuryService/eJuror.aspx>. *DCAD Monthly Update, November 2010, at p.6, <http://jnet.ao.dcn/img/assets/6655/nov2010.pdf>.*

## MONTHLY UPDATES

- ◆ **Bankruptcy Court Administration Division Monthly Update for November** - The monthly update is posted at <http://jnet.ao.dcn/img/assets/6590/ocpb11004.pdf>.
- ◆ **District Court Administration Division Monthly Update for November** - The monthly update is posted at <http://jnet.ao.dcn/img/assets/6655/nov2010.pdf>.

## PAY

- ◆ **Pay Freeze on the Table** - President Obama has proposed a pay freeze for federal employees for 2011 and 2012. Director Duff recently provided information about the impact on Judiciary employees. If Congress approves a pay freeze for Executive Branch employees, then pay (cost of living adjustment) for Judiciary employees also will be frozen. Director Duff states that: “It does **not** appear at this time that the proposed freeze covers step increases, bonuses or awards.” *Memorandum from James C. Duff, Pay Freeze Proposal - Impact on Judiciary Employees, December 1, 2010.* [Note that while the Judiciary does not have a program for bonuses like the Executive Branch, awards may be given under a written Employee Recognition Program.] President Obama has frozen locality pay for Executive Branch employees in 2011, which does not require Congressional approval. Therefore, locality pay will be frozen for judiciary employees in 2011. *Id.*

## RECORDS

- ◆ **New Records Disposition Schedule** - The National Archives and Records Administration (NARA) has concurred with the Judicial Conference’s approved revision to the record disposition schedule for civil case files. Under the revised civil case records schedule, the majority of non-trial cases will be disposed after 15 years. Using the revised schedule will save the Judiciary \$7.7 million in reduced storage fees over the next 10 years. The new schedule reduces the amount of time case files are stored at Federal Record Centers, and identifies additional groups of non-trial case files by nature of suit code for permanent retention by NARA. In 2011, the NARA plans to apply the new schedule to paper civil case files dating back to 1970. *Memorandum from Michel Ishakian and Robert Lowney, New Records Disposition Schedule for Civil Case Files, November 19, 2010, <https://infoweb.ao.dcn/bcastpdf/OCPE100.pdf>.*
- ◆ **Records Management Training** - Two new electronic training modules are available on records management for use by all Judiciary employees. These modules are: (1) *Basic Records Management*, which provides a general overview of records management and identifies AO and court employees’ records management responsibilities, and (2) *Using Records Disposition Schedules*, which instructs Judiciary employees on how to identify and use the appropriate records dispositions schedule(s) for Judiciary records. The first module is 10 minutes long, the second module is 12 minutes and both provide helpful information for Judiciary employees with records management responsibilities. The training modules may be accessed at [http://jnet.ao.dcn/Records\\_Management/Training.html](http://jnet.ao.dcn/Records_Management/Training.html). *DCAD Monthly Update, November 2010, <http://jnet.ao.dcn/img/assets/6655/nov2010.pdf>.*