



11TH CIRCUIT HISTORICAL NEWS

VOLUME XIX, NUMBER 2 | WINTER 2022

THE HISTORICAL SOCIETY OF THE U.S. COURTS IN THE ELEVENTH CIRCUIT



ELEVENTH CIRCUIT HISTORIC COURTHOUSES SERIES

The Northern District of Alabama Opens a New Courthouse in Anniston

HONORABLE COREY L. MAZE
U.S. DISTRICT JUDGE
NORTHERN DISTRICT OF ALABAMA

More than 400 people recently celebrated the grand opening of a new 63,000-square-foot federal courthouse in Anniston, Alabama – the first such project in Anniston in more than 100 years.

THE NEED FOR A NEW COURTHOUSE

The original United States Courthouse and post office opened in 1906, in the heart of downtown Anniston. The marble-faced building was beautiful but small. The courthouse lacked holding cells, so criminal trials were held in Birmingham. No active district judge was stationed in Anniston.

And the post office moved into a larger building across town. By the turn of the century, only a bankruptcy judge and a Congressional office remained in the building.

But in 2016, Congress appropriated about \$43 million to build a new courthouse in Anniston. Along with district and bankruptcy chambers and courtrooms, the new courthouse would include five holding cells, thereby allowing a district judge and deputy United States Marshal to take residence in Anniston and conduct criminal trials. The new building would also include an office for Probation and Pretrial Services, which had operated about 30 miles away in Gadsden, and Bankruptcy Administration, which had been spread across Anniston.

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The Design: Classic and Bright

The court stressed two features to prospective builders. First, the exterior needed a “classic federal” look, reminiscent of the original courthouse’s marble splendor. Second, the interior had to be bright and inviting. The more natural light, the better.

Architects from the firm Page Southerland Page took the court’s wishes to heart. They designed the new courthouse to “compliment” the old building by having the two directly face each other and giving them similar design elements so that a visitor couldn’t help but notice the relationship between the buildings.

Their design choice not only ensured architectural consistency with Anniston’s early 20th Century landscape but also, it required floor-to-ceiling windows in the district and bankruptcy courtrooms, thereby fulfilling the court’s desire for natural light.

A New Historical Landmark

The architectural design was not the only choice that gives the new courthouse a historic feel. Faced with a limited budget that precluded a stone façade, lead contractor BL Harbert International chose to clad the building in precast concrete mixed to look like the original courthouse’s white Alabama marble.

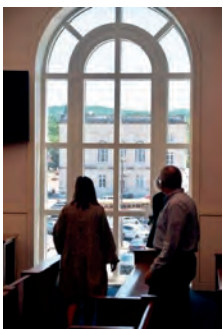
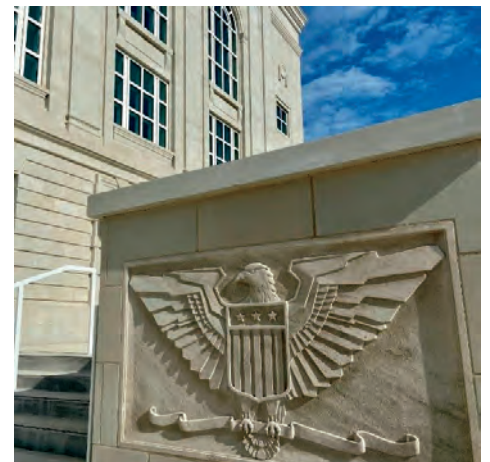
The design team also incorporated elements from the site’s previous tenant: a 1940s USO building, turned City Hall. Two elements stand out: the stone eagle set above the USO’s front door and the four lampposts that guided soldiers to and from the building.

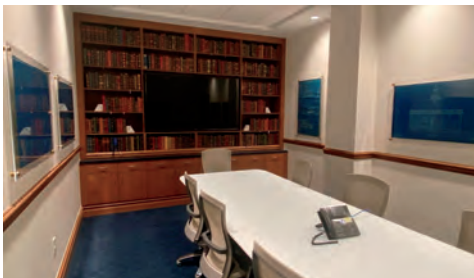
GSA’s Historic Preservation Committee also created signage that tells the story of “Block 148,” the site of the new courthouse, from Anniston’s founding in the 1880s through the bombing of the Freedom Riders’ bus during the Civil Rights Era. The signs start along the

exterior sidewalk, then progress chronologically through the public hallways on the first and third floors.

Thanks to the use of a glass barricade to guide the public into a secure screening area away from the front entrance, the public’s first sight upon entering is a grand two-story lobby like courthouses of old.

The building’s historic nature is not confined to the public spaces. The district court’s conference room is adorned with the original hand-drawn blueprints of the 1906 courthouse and its 1934 extension – the earliest dating back to 1902. At the end of that room stands a bookshelf that holds the personal library of the late Robert B. Propst, a Northern District judge who was born and practiced in the Anniston area.





From Shovel to Opening

The construction project began with the demolition of Anniston City Hall in November 2019. Once the site was prepared, BL Harbert broke ground in March 2020.

Although the pandemic canceled the groundbreaking ceremony, it did not stop construction. The court held its Grand Opening Ceremony just two years and two months after groundbreaking – May 9, 2022.

The show choir from local Oxford High School kicked off the ceremony with a medley of up-tempo songs, followed by the presentation of colors and the Pledge of Allegiance led by Anniston High School JROTC.



U.S. Senator Richard Shelby gave the keynote address, with various speakers from the government, architectural, and construction teams also touting the project. The ceremony ended with the cutting of the ribbon and public tours of the building.

The Impact on Downtown Anniston

The new federal courthouse is one-half of an agreement between the United States and the City of Anniston that will ultimately result in city, county, and federal courts and administrative buildings being in a 2 – 3 block radius in downtown Anniston. The goal is clear: inject more people into downtown Anniston, including day-to-day

employees, visitors, litigants, probationers, and attorneys.

Early signs are positive. Two restaurants (a deli and a brewpub) have opened within a block of the new courthouse, and the city plans to launch an open-air market across the street in 2023. The courthouse also recently won Main Street Alabama's "Excellence in Economic Impact" award.

The hope of everyone involved is that, just like its predecessor, the new United States Courthouse will be an anchor of downtown Anniston for the next 100 years.



Photo credits: Griffin Holmes, CoStar News; Public Library of Anniston-Calhoun County; Corey L. Maze, District Judge; Bill Wilson, Anniston Star.

United States District Court Judge Gregory A. Presnell

NATHAN W. HILL
JESSE I. UNRUH

When Judge Gregory A. Presnell “Greg” began practicing law in 1967, the Eleventh Circuit did not exist, Lyndon B. Johnson was in the waning years of his presidency, and the Civil Rights Act was only three years old. Greg is a Floridian down to the bone—he grew up sailing on Tampa Bay, playing baseball, and working in the Florida sun. He has seen this state transform from humid swampland into one of the most vibrant and diverse states in the Union. Throughout his career as a lawyer and a judge, he has played a pivotal role in many aspects of Orlando’s legal community—which is fitting given that his family has been a part of Florida since the mid-1800s (before Florida was a state).

The beginning, however, is set in Florida in the 1940s and 1950s and involved a lot of baseball and sailing. Greg was born in Tampa Florida, in 1942, three years before the end of World War II. At the time, the U.S. Coast Guard Station on Bayboro Harbor in St. Petersburg was used as a training base for World War II troops, and the greater Tampa Bay area was bustling with naval activity due to the war. Greg’s father, Boyce Presnell, was a U.S. Coast Guard officer but was deployed on a Navy destroyer due to the lack of able bodied and trained sailors. As he quipped, the Navy was building more ships than it had sailors to crew them, so they looked to wherever they could get them. Following the war, the greater Tampa area had grown markedly, and Greg’s family moved to St. Petersburg.

St. Petersburg was home for him from the late 1940s until Greg went to college in 1960. He attended public schools growing up, though some of his most vivid childhood memories occurred outdoors rather than in the classroom. Sports were a formative part of Greg’s childhood. It started with Little League, and Greg was a catcher. His team was talented and competitive, which led them all the way to the Florida state championships in Orlando. At the time, Little League in Florida was segregated, though the segregated teams competed in championships

together. At the state championships, Greg and his team were handily defeated by their opponent, a team of young black players from Pensacola who proved themselves more than a match for Greg’s team.

Eventually when he began playing on the larger fields, an injury to his arm at the age of 13 forced him to move on to other outdoor activities—principally competitive sailing on the Gulf Coast of Florida. During his teen years, before college, Greg would compete up and down the Gulf Coast from Florida to Louisiana, mainly operating out of the St. Petersburg Yacht Club. His adventures on the water put him up against many Olympic caliber sailors—and he kept pace.

Young Greg spent his summers working part-time with his father and part-time working construction in the St. Petersburg area. Following the war, Greg’s father became the credit manager for one of the largest lumber companies in Pinellas County. That position occasionally required him to attend court hearings when one of the company’s customers failed to live up to their payment obligations. One of the first memories Judge Presnell has of the legal system was accompanying his father to court and seeing a Florida Circuit judge in chambers in the 1950s. It was early moments like these that planted the seeds of lawyering in young Greg’s mind.

The oratory style that he would rely on in later years, however, first manifested itself when Greg’s dad suggested that he participate in a “speaking contest,” as he described it. It turns out this event was part of the Kiwanis Club’s oratorical competition. It also it turns out that Greg was quite a talented speaker. He went on to win the Florida division and, at fifteen years old, went to Cuba to compete in the national oratorical championship. It was the first time he left the state of Florida. And just two years later Cuba’s government would be taken over by Fidel Castro.

As Greg’s high school years came to

FOCUS FEATURE



Young Greg Presnell receiving an award in an oratory competition in Cuba.

a close, he turned his attention to college. In those days choosing a college was like booking a vacation. All he had were pamphlets and secondhand accounts from classmates and others. After looking through leaflets, he settled on the College of William and Mary in Williamsburg, Virginia. It filled all of his prerequisites: it looked nice in pictures; it was small; it was located in the South but outside of Florida; and it was co-ed.

Greg’s family did not have the financial wherewithal to fund his schooling, so, as he is often wont to do, Greg accepted that he’d have to put in a lot of work to make it through to his bachelor’s degree. Greg worked two jobs to pay for college, delivering newspapers and driving a school bus. It was an experience he’d never forget. Greg’s school bus route snaked through the farm country of Virginia from Toano and back to a segregated school in

Williamsburg. It was the first time he was confronted with segregation as an adult, and it bothered him. As a young man, he knew about segregation, but he was never forced to consider its effect on people.

In 1964, Greg graduated William and Mary with a degree in economics, an academic discipline that has helped frame his thoughts to this day. Reflecting back to those early days in Florida courts with his father, he knew law school was his destiny. As you know, Greg's a Floridian to the bone. And like any good Floridian, Greg decided he couldn't take another Virginia winter. So, the choice was simple: he was bound for home and the University of Florida Law School.¹

Greg Presnell was built for law school. A longtime friend and law school colleague, Tom Cardwell, described him as "one of the most organized people I have ever seen." Mr. Cardwell summarized it as follows: "Greg is one of those people who, if you put the pencils on his desk out of order, the first thing he will do is straighten them up." In law school, Greg kept a detailed schedule, not only of his study time, but of his free time as well. "We used to steal it from him," Cardell said, "and it would drive him nuts." Free time came at a premium, however, because on top of his studies, Greg was an executive editor of the law review and a member of the national moot court team.

Greg Presnell graduated from law school in 1966, second in his class, and in the midst of the Vietnam War. He was not opposed to joining the military, but he had a low draft number and was not excited at the prospect of being sent to Vietnam. Most of his classmates got married to avoid the draft, but Presnell was unwilling to go that far. His success in law school garnered him numerous offers from law firms throughout the state, but one small firm based in Orlando gave him an offer he couldn't refuse: \$600 per month (which was a lot of money to him) and a spot in an Army Reserve unit in Orlando. That law firm was Akerman, Senterfitt, and Eidson.

Orlando was a much different place in 1966. Only about 90,000 people lived in the city at the time; cows outnumbered

people in most of the surrounding counties; and the most popular tourist attraction in Central Florida was Cypress Gardens – Disney World wouldn't be completed for another five years. Orange groves still dominated the landscape, and Florida Technological University (now the University of Central Florida) was only two years old.

Akerman was a small firm of only seven or eight lawyers—which was large for Orlando. The firm wanted to grow and decided to hire the best student in the 1966 University of Florida graduating class. When the valedictorian turned them down, Akerman sent offers to the second and third students in the class, Greg Presnell and Tom Cardwell, hoping one would accept. Both of them accepted and started working at Akerman on December 26, 1966.

In April 1967 Greg Presnell's career was paused while he attended boot camp in the U.S. Army. He looks back at his time in the Army fondly, but boot camp was "not a lot of fun" as he recalled, "particularly for someone who had done nothing more than walk a block or two for three years during law school." He left boot camp in the best shape of his life and returned to Akerman.

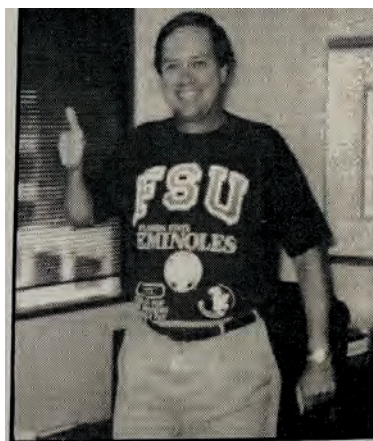
Greg Presnell's early career was primarily focused on insurance defense. "Back in those days, young lawyers could get trials," he recalled. And Presnell got a lot of them. He joined the ACLU legal panel and handled a variety of constitutional litigation. One of his clients was a conscientious objector who deserted the Army during boot camp. Army police

caught him, and Greg Presnell was tasked with mobilizing his defense. The defense was difficult, Presnell recalls, because every time he would file a habeas petition to get his client released, the Army would move him to a different base and the process would start all over again. Presnell also represented a man charged with "use of profanity" for cursing at a police officer; and in another case, he got the Orlando vagrancy order declared unconstitutional.

Greg Presnell's career took a significant turn when a lawyer from Tampa joined the firm with a substantial transportation practice. The transportation industry was highly regulated in Florida in the 1960s and 70s. Much like railroads, trucking



Judge Presnell as a young attorney.



Wonders Never Cease

GO GARNET AND GOLD ... at least for a day. Greg Presnell (Orlando) proudly displays a t-shirt bearing the logo of a well-known nemesis ... FSU. Greg is a proud University of Florida graduate and vocal FSU opponent. It seems he "vocalized" his doubts of FSU beating his Gators and following the 'Noles' victory over Florida, Greg was required to wear the shirt. No word on whether or not he broke out in a rash.

Judge Presnell is an avid Gator football fan. The authors of this piece however (who are two of only three FSU Law School graduates to clerk for Judge Presnell) are not. They could not resist including this photo.

company rates and service were regulated by the state. Presnell started helping this new lawyer, and when he left under contentious circumstances (meaning he took none of his clients with him), Presnell salvaged the practice.

Still in his 30s, Greg Presnell built the preeminent transportation practice in Florida. He represented bus companies, freight carriers, and others and traveled throughout the state defending them in the various administrative hearings that cropped up. By the late 1970s, however, it became clear that Florida would deregulate the transportation industry—which it did in July of 1980. Attorney Presnell slowly began transitioning back into commercial litigation.

Another career-defining moment came a few years later during the construction of the Orlando International Airport. Part of the funding and operations budget of the airport was negotiated between the Greater Orlando Aviation Authority ("GOAA") and the airlines. The airlines agreed to pay landing fees to support the construction and operations of the airport, but only in an amount above what the airport could generate in concession revenue. As a result, the airlines had to ensure that the concession contracts were competitively bid. GOAA did not share those concerns and granted the entire concession contract to one of Orlando's restaurateurs, Champ Williams.

The steering committee for the airlines contacted Greg Presnell and so began three years of intense litigation against GOAA, the City of Orlando, and others. Presnell recalls that he did little else for those three years – he also looks back fondly on his associate in that case, Senior District Court Judge Patricia Fawsett, and upon the times he appeared in front of Orlando's first federal judge, Judge George C. Young (the federal courthouse in Orlando now bears his name). Because of this litigation, longtime Orlando public figure Linda Chapin credited Presnell with making the Orlando International Airport what it is today.

As that litigation was winding down, Akerman managing partner Don Senterfitt left the firm to become



Judge Gregory A. Presnell (left), when he was managing partner at Akerman. On his right is George Eidson, then chairman of Akerman.

general counsel of SunTrust Bank, and Greg Presnell became the managing partner. Under his leadership, Akerman expanded statewide and beyond. In his seven years as managing partner, Akerman grew from a small-town Orlando firm to a sophisticated statewide firm.

Managing partner was a full-time job for Greg Presnell. When he resigned, he was left with nothing to do. So, he set about reinventing himself again. This time he took summer courses at Harvard in antitrust and securities law. He used that knowledge to build a new successful practice representing clients in both fields. In the remaining years of his private career, he became one of the most highly respected and well-known commercial litigators in Orlando. He tried securities cases, antitrust cases, and became a national expert representing independent power producers in litigation over long term power purchase agreements.²

In the midst of his success, Greg Presnell maintained a strong devotion to public service. He was a member of the Florida Bar Board of Governors, president of Florida Legal Services, Inc., on the Board of Directors for Florida Bar Foundation, and was chair of the 9th Circuit judicial nominating commission – not to mention the countless other legal and non-legal honors he received over the years.

In 1975, he became the youngest president of the Orange County Bar

Association. He was instrumental in creating the Orange County Bar Association's legal aid program and led the effort to create a federally funded legal aid program, which became the Greater Orlando Area Legal Services. He took on many pro bono cases himself. In one such case, he fought the city of Melbourne when it attempted to shut down a homeless shelter. In 1993, Presnell told the Orlando Sentinel "the thing I like about being a lawyer is that you are able to intervene to protect the individual from government power that is being abused. This is what makes our country different. It's what makes it all worthwhile."

His success was hard earned; but after more than 30 years as a commercial trial lawyer, Greg Presnell was tired of travel and the intensity of litigation – so he decided to apply to become a federal judge. Judge Presnell was nominated by President Bill Clinton on June 8, 2000, and he was confirmed by the Senate on July 21, 2000. He recalls the transition from trial lawyer to judge as an out-of-body experience. He was not accustomed to being called "your honor." There was no time to get bored, however, because despite having five new judges in the district, it was still extremely understaffed. He inherited 300 pending motions and got to work in his temporary chambers, otherwise known as Judge Patricia Fawsett's library.

His knowledge of civil litigation served him well, and he quickly gained the reputation of being one of the most efficient judges in the district. His greatest challenge at the beginning was the criminal side. Judge Presnell had not practiced criminal law in more than 30 years—since his time with the ACLU.



Greg Presnell in his office February 1993.

It was his first experience with federal mandatory sentencing guidelines, and they struck him as inherently unjust. Judge Presnell, and a handful of other judges around the country, were the first to criticize the mandatory sentencing regime. He questioned the wisdom and propriety of mandatory guidelines in some of his early opinions and was ultimately vindicated in *U.S. v. Booker* in 2005.

In his 12 years as an active district judge and going on 11 years as a senior district judge, Judge Presnell is consistently praised by lawyers who appear in front of him. As a longtime trial lawyer, his goal was always to be a lawyer-friendly judge because he had many experiences with judges who were not. He never missed practicing law but still enjoys watching good lawyers work.

Consistent with his character, Judge Presnell entered his seventies with his mind set on new pursuits. Rather than take up golf, Judge Presnell went to motorcycle school, founded a successful racecar team, drove said racecar, and completed the Great American Loop on his boat the "Ci Ci." His first foray into retirement was on a motorcycle, but his interest in motorsports grew rapidly. Level One Racing began with a chance encounter at the Orlando Federal Courthouse between Judge Presnell and a potential juror, Marc Dana. During venire, Judge Presnell asked Marc about

his hobbies, as he does with all potential jurors. Marc mentioned that he was a Sports Car Club of America (SCCA) racecar driver.

This led to another conversation between Greg and Marc about building a race car to compete in the "ChumpCar Endurance Series" (now called ChampCar). After several chats, Greg found himself buying a 1994 Mazda Miata from a small, rundown used car lot on Colonial Avenue in Orlando—the car had no third gear and had to be nursed home to begin the work. Greg and team member Rick Dickson (another lawyer and longtime friend of Judge Presnell) put in six to seven months of nights and weekends pulling the car apart and putting it back together, turning the old, used black Miata into Number 412.

Greg, Rick, and Mark's efforts first saw the track in 2013 at Daytona. When they showed up, there were 120 other cars at the starting line. Level One Racing finished in the top 30. Marc would go on to introduce Greg to Paul Soriano who would become pit boss and Paul's son, Nick Soriano, who would become one of the team's fastest drivers.

Greg, Marc, Rick, Paul, and a host of others would go on to build Level One Racing from an idea formed in the Orlando courthouse to one of the most competitive ChampCar race teams in the nation, competing in the national

championships and taking several podiums.

After Level One Racing, Greg returned to the sea. From roughly 2015 to 2017, Greg was the proud owner of the "Ci Ci," a vessel he made ready and captained around the Great American Loop. After several months of chasing electrical problems and getting the vessel ready for his planned adventure, Greg had made all the needed preparations to set sail.

The Loop took him from Florida up the eastern coast of the United States, through rivers and Canadian canals to the Great Lakes, then down the Mississippi River back to the Gulf of Mexico, and the waters he had sailed as a teen. Greg's adventures on the "Ci Ci" were joined by many people. Among them were his wife, Cecilia Bonifay (and the namesake of the "Ci Ci"), and much of the Orlando federal bench, including District Judge John Antoon II, District Judge Roy Dalton, District Judge James Whittemore and Magistrate Judge Gregory Kelly.

Much more could be said about Judge Gregory A. Presnell. He is a devoted father, grandfather, husband, and friend to many lawyers and clerks whose lives he has touched along the way. In the end, Judge Presnell says it best himself: being a successful lawyer requires three things, he has been known to tell his clerks: "intellect, talent, and effort." Judge Presnell would say that his edge was "always in effort, because that was the one thing you could control." His career as a successful trial lawyer and as a judge personifies this work ethic. Even today, after more than 22 years on the bench, he still comes into work virtually every day and eats lunch in chambers surrounded by his law clerks discussing cases and dispensing wisdom.

About the authors: Nathan W. Hill is a Shareholder at Gunster, who clerked for Judge Gregory Presnell from 2011 to 2013. Jesse I. Unruh is the founder of Spire Law and clerked for Judge Presnell from 2013 to 2015. Both graduated from FSU Law together and are proud, as well as grateful, to be among the few Noles who clerked for Judge Presnell.





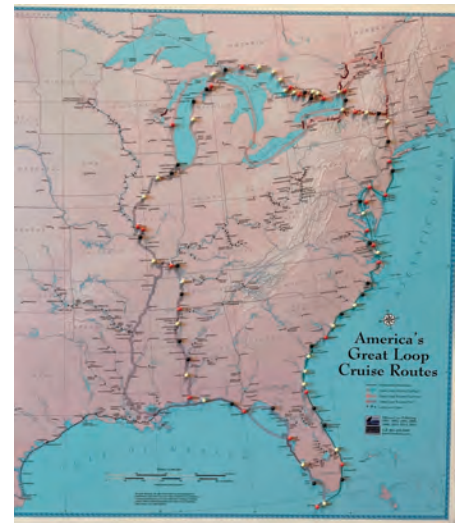
From left to right, Paul Soriano, Marc Dana, Judge Presnell, Nick Soriano, John Wilding and Jesse Unruh.

[1] At the time, the U.F. Law School had not yet incorporated Levin into its title, and was housed in Bryan Hall, rather than the current location of Holland Hall.

[2] An explanation of this litigation would itself take up an entire article. In short, power companies across the country were required to enter into long term purchase agreements with independent power producers to supply additional power in certain circumstances—under the concept of economic dispatch. The economics of these agreements had changed, and power companies throughout the United States were looking to get out of these contracts. After successfully representing one independent power producer, Greg Presnell started getting calls from others across the country – likely because he was the only lawyer in the country that understood what they were talking about.



Photo Credit to Steve Branyon.



A map of the Loop located in Judge Presnell's chambers. Each pin represents a stop where he spent at least one night.

SHARE YOUR NEWS

Submit items for publication in the 11th Circuit Historical News to Wanda Lamar, executive director of the Society (wanda_lamar@call.uscourts.gov). Historical articles on the federal courts and judges within the Eleventh Circuit will be considered, as well as investitures, courthouse dedications, portrait presentations, memorial ceremonies and oral history programs.

The Alabama Dove-Baiting Council Of About 1980

DAVID A. BAGWELL

We will have to go by memory here, since there apparently are no records. This was at least 40 years ago. And I am 77 years old, and if cross-examined on the details of it, I would probably break down in tears. Or give you the much-dreaded “deer in the headlights look” suggesting incipient dementia. But history demands that these things be recorded. Failure to do that is the regret of world history.

When was it? Well, let’s date it the way old people date everything unrelated to hurricanes. I was a U.S. Magistrate [before the word “Judge” was added by Congress], about 35 years old. The only one in the Southern District of Alabama, before my former law partner and fellow Frank Johnson’s law clerk, Pat Sims, was appointed to a second slot shortly after that, I think. And it was after Judge Frank Johnson went on the old Fifth Circuit in 1979, and before Judge Joel Dubina was appointed as a magistrate in 1983. Judge Frank Johnson had been chief judge of the Middle District of Alabama ever since he was appointed as the only judge in 1954 or so. He remained as chief judge until he went on the old Fifth Circuit in 1979. This was all before the so-called “Federal Court Improvement Act” which provided, consistent with its title [unlike, say, some other bills] that a chief judge could only remain in that position for seven years or something, and not in perpetuity. That was evidently the “improvement.” The chief judge of the Middle District of Alabama was Judge Robert Varner. So, I think about 1980, dating stuff the way old people do.

Judge Varner grew up in Tuskegee, Alabama, in Macon County. Macon County was a great dove hunting county. Remember that county for other reasons? It wasn’t Judge Varner’s fault, but just to remind you, it was the location of (1) *Gomillion v. Lightfoot*, 364 U.S. 339 (1960), which was a landmark decision of the Supreme Court of the United States that found an electoral district with boundaries created to disenfranchise African Americans violated the Fifteenth Amendment, and (2) the Tuskegee syphilis study, litigation over which Judge Johnson

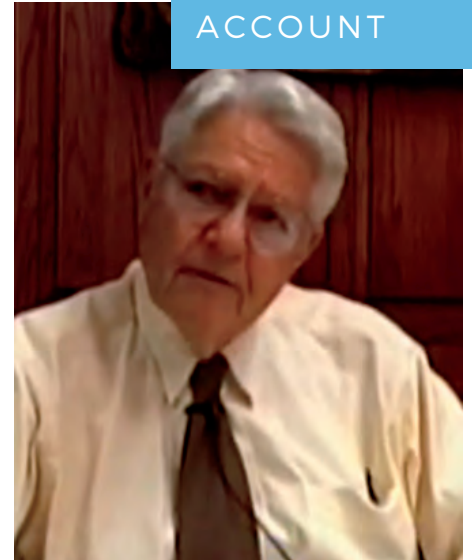
presided when I was his clerk. But mainly it was a great dove hunting place, and Judge Varner was a great dove hunter and so were his friends. That was a big deal for men in the South back then.

Chief Justice C. C. “Bo” Torbert was Chief Justice of Alabama from 1977-89. He grew up in Opelika, Alabama, in Lee County, the county just east of Macon County. Both Lee and Macon counties were Creek [Muskogee] Indian country until about 1825 or so, or just after LaFayette came through Alabama. Torbert was personable and successful, in practice and on the bench. He was fun to be with. He shot doves with a .410, which means that he was an exceptional bird hunter.

Now game bird nomenclature was a big deal back then. Both Judge Varner and Chief Justice Torbert were the perfect mold of gentleman Southern bird hunters, and certainly lifelong BIG dove hunters. They both called the doves “buh-eeds,” for “birds.” In the South, the word “birds,” “buh-eeds,” normally meant quail, which were also called “pottidges” for “partridges,” which quail are not, but heck. But in the early fall, “buh-eeds” meant doves. You just had to know the context. Like “trout” could mean “green trout” or largemouth bass, or it could mean speckled trout; context was everything. “We caught a nice mess of trout” could mean either one, so you always asked “where?” to find out, and they always lied.

So back to the Council. Judge Varner decided that the FEDERAL game wardens, and the STATE game wardens, who were supposed to be applying the same rules of law—the Migratory Bird Treaty and the statutes and regulations implementing it [see *Missouri v. Holland*—were in practice applying them differently. Basically, this involved the dove BAITING rules. Now, the rules were supposed to be the same. I never knew exactly why Judge Varner thought that they differed in enforcement. He had a lot of bird hunting friends, and about then, they must have told him that there was a difference in

A FIRSTHAND HISTORICAL ACCOUNT



U.S. District Judge Robert E. Varner
Middle District of Alabama

enforcement. He was convinced of it. That probably meant that some tough federal game warden had caught Judge Varner’s friends for baiting.

Judge Varner, as Chief Judge of the Middle District of Alabama, got in touch with the Chief Judges of the Northern [I think it was Sam Pointer then] and Southern Districts [clearly W. Brevard Hand then] of Alabama and suggested that there be convened a council of some kind over Alabama, of state and federal officials, to decide whether there was a difference in enforcement of dove baiting rules, and if so what it was, and if so what to do about it. So, a council was convened.

For the Southern District, it was clear to Chief Judge Hand that although he knew a lot about dove hunting [more about turkey hunting], the U.S. magistrate handled all the dove baiting cases, not the district judges. So, he assigned me to deal with it. Plus, he didn’t want to do it, and my job was to do what he did not want to do. Now I had grown up in Montgomery and knew Judge Varner, and had gone to church with him, and knew him from my having clerked for Judge Frank Johnson after Judge Varner was appointed to a second slot there, and I knew I could get along with him. And I had been around Chief Justice Torbert enough to like him.

To my best recollection the Northern District decided they had better things to do than deal with this stuff, and I don't think they came, but if they did, they didn't say much. I don't think any U.S. attorney came; they must have sent the game wardens.

The top state and federal game wardens in Alabama came. I knew several of them from having tried dove baiting cases, even one in which the bait was "Uncle Ben's Converted Rice," clearly not a normal agricultural product in Alabama. I also knew them from duck baiting cases where the rules differ, and from having presided over two jury trials of the same event under the Bald Eagle Act. The game wardens mostly kept their mouths shut and seemed amazed that something like this was happening.

So was I amazed, too, but heck, I had never heard of a bunch of state and federal judges and enforcement people convening to agree on enforcement of anything. And nobody invited any "dove hunting defense lawyers" [are there any?].

I knew what the federal regulations said, and I knew that federal enforcement of them in the Southern District of Alabama was in accordance with law, albeit complex. I knew that state regulations were supposed to follow federal law, but I had no idea about state enforcement, other than that state game wardens always called the federal game wardens when the targets were politically important, as they often seemed to be, from my experience. I could imagine a lot of problems here. For example, the state was entitled to make and enforce stricter rules; were they doing that? And there is a lot of talk nowadays about the federal government's dragooning the state into enforcing federal laws; was that an issue? And how could the chief judges and the state appellate courts outside the normal appellate process tell the trial judge—here a magistrate, me—what the criminal laws said? This deal could easily go off the tracks. Maybe it already had.

So, I we went to Montgomery for our meeting. As I recall, we met at a counsel table in the wonderful courtroom of the chief judge, then Judge Varner, but where I had often sat as Judge Frank



Clement Clay "Bo" Torbert, Jr.
Twenty-fifth Chief Justice of the Alabama Supreme Court

Johnson's clerk some years before. There were stars in the ceiling, but nobody ever had the nerve to use the term "Star Chamber" in my hearing.

The meeting began as Judge Varner, in his wonderful Southern drawl, explained what he saw as the problem. Chief Justice Torbert—who called Judge Varner "Bawb" as in "Bob"—said "well, Bawb," and suggested asking the game wardens what THEY thought. Obviously, only they knew anything important on this subject.

The top federal and state game wardens promptly agreed that they were enforcing the baiting rules the same way. Which mostly ended the meeting right there.

Somebody asked me what I thought. Fortunately, I didn't say what I thought, but instead, that in the Southern District of Alabama we tried hard to follow the law, and that I had no idea what the state was doing, other than bringing

important defendants to federal game wardens.

It was all very nice, and very pleasant, and very southern. We all shook hands and left. Nothing got done, and no minutes appear to have been kept.

But somebody needs to note its having happened.

I am not sure there is any deeper meaning, except don't do this. Plus know that in Central Alabama, the word "birds" is always said "buh-eeds" by old white Southrons.



The investiture of Judge Emmet R. "Rip" Cox to the Southern District of Alabama in 1981. Left to right: Judge Virgil Pittman [died 2012 at 95]; U.S. Magistrate David Bagwell; Judge Dan Thomas [died 2000 at 93]; Judge Brevard Hand [died 2008 at 84]; U.S. Magistrate Pat Sims; Judge Rip Cox [died 2021 at 86]. Clay Meyers, photographer.

About the author: David A. Bagwell practiced in Mobile and later Fairhope, Alabama, and from 1979-1985 was a full-time U.S. magistrate for the Southern District of Alabama.

A Law Clerk Reunion to Celebrate the 100th Birthday of our Judge, the late U.S. Circuit Judge Paul H. Roney

MICHAEL V. ELSBERRY (1974–1975)
HON. JOHN L. BADALAMENTI (2003–2006)

After a week's oral argument sitting, we would return to chambers in St. Petersburg late in the evening. One thing separated us from our cars and a short commute home—a 20-foot crosswalk to the parking lot. The Judge's bright white and billowy hair stood out against the dark night, as he stood on the curb at the threshold of that crosswalk. "Why isn't the Judge walking across the street toward his car?" We all asked ourselves that question. Well, although we couldn't see a moving car or even another person for blocks, the Judge always heeded the red "Don't Walk" sign and patiently waited until white "Walk" sign flickered before he stepped off the curb into that crosswalk.

We are the fortunate ones who learned a wide variety of valuable lessons at the elbow of the late U.S. Circuit Judge Paul H. Roney during his more than 35 years as a circuit judge. We routinely come together to celebrate Judge Roney and his self-proclaimed "co-pilot" in life, Sally Eustis Roney. They welcomed us and our varied personal and professional backgrounds to sunny St. Petersburg into both chambers and their home. During our periodic law clerk reunions—which continue to this day—we share our clerkship experiences, the lessons Judge Roney taught us, our fond memories of the Judge, and we express our gratitude to Judge Roney, and Sally—who passed away only weeks apart in 2006—and the Roney family for the opportunities they provided us.

Such was the occasion on September 17, 2022, when Judge Roney's family and law clerks descended on St. Petersburg from every corner of the country to celebrate the Judge and Sally's 100th birthdays—belatedly so because of the pandemic. The common themes remain Judge's love of his family, deep respect for the rule of law, utmost professionalism, and great humility. The stories we shared did not stop at the crosswalk. That's where they began. All of us learned from his wisdom and the edits made to draft opinions with his red



Judge Paul Roney and Sally Roney at the Eleventh Circuit Judicial Conference in Asheville, North Carolina, in May 1990. (Courtesy of the Roney family private collection)

pen. Each of us were assigned a different color pen because everyone in chambers reviewed every word of every decision he designed. He called each of his judicial decisions a "democratic one," with his then-current three law clerks each having one vote. He always reminded us, however, that he had 1,000 votes in his non-representative, democratic chambers.

His humor and sharp wit were second to none. He'd laughingly remark that he thought of being a standup comic when he earned his membership to the octogenarian club but that he would have to be a "sit-down comic" for longevity purposes.

He made every one of us feel important, even when pages of what we considered our best efforts came back to us, covered in his red ink edits. He hired us with diverse backgrounds, did not hire very far in advance, and each of his hiring decisions was calculated to provide deserving lawyers opportunities both immediate and long-term.

He played tennis every week, had lunch with Sally, his wife of six decades, on

Wednesdays, and always made time to mentor the "young kids"—judges in their 50s and 60s—who would call seeking advice. He ended every phone call he received with "thank you for calling." He knew the name of every person in the St. Petersburg Veterans Affairs building—and, in his senior judge years, One Progress Plaza—who cleaned chambers, worked in the nearby shops, and at his favorite lunch-in-a-pinch spot—the hot dog stand just outside the building's main lobby. He never wanted special treatment. He viewed himself as a public servant who served the public, not the converse.

Who are his former law clerks? We are now United States district and magistrate judges, law professors, U.S. ambassadors, federal prosecutors, federal public defenders, private firm partners and founders, civic leaders, and too many others to list. We credit Judge Roney for the opportunities he provided us and the lessons we learned in his presence and mentoring he provided us throughout our lives.

A REMEMBRANCE



Former clerks Rebecca Wiggs and Luther Munford were the official emcees of the 2022 reunion held at the St. Petersburg Yacht Club, where Judge Roney had been Commodore years ago. Wiggs and Munford were moderating a session of former clerks' recollections about their time with Judge and Sally Roney. (Courtesy of Mavis Wallace)



Michael Elsberry and other former clerks shared their experiences and memories of their clerkship years. Speeches were made throughout the evening, which made for a most unforgettable gathering. The "Red Pencil" hat on the podium belonged to Judge Roney. Tim Roney brought it to the reunion. (Courtesy of Mavis Wallace)



(from left) Michael Elsberry, Judge John Badalamenti, and Sally Blackmun shared catch up time at the 2022 reunion dinner. It is interesting to note that Judge Roney officiated at Michael and Sally's wedding. They were married in U.S. Supreme Court Justice Harry Blackmun's chambers in Washington, D.C. (Courtesy of Dina Badalamenti)



(from left) Richard Robbins, former clerk; Tim Roney, son of Judge Roney and his wife, Sally; and Melissa Sparks, daughter of the Judge's longtime senior secretary, Estelle Sparks, were among the many who gathered in St. Petersburg to celebrate the Judge and Sally's 100th birthdays. The quilt in the background was created and presented to the Roneys on their 50th anniversary. It has been proudly displayed at previous law clerk reunions. (Courtesy of Mavis Wallace)



John and Dina Badalamenti, Joe and Connie Fluet, Michael and Mavis Wallace, and Judge Paul and Sally Roney celebrate a staff Christmas luncheon at Bern's Steakhouse in Tampa in 2003. (Photo provided by Mavis Wallace)



Judge Roney's law clerks met for a reunion in London in 1998. The clerks are in the ambassador's residence, Winfield House, in Regent's Park, London. Former clerk Philip Lader was U.S. Ambassador to the United Kingdom at the time. (Photo provided by Mavis Wallace)

The Judge's backstory

Judge Paul Hitch Roney was born in September of 1921 in Olney, Illinois. His family relocated to St. Petersburg in 1925. He attended St. Petersburg High School and St. Petersburg Junior College before earning his bachelor's degree in Economics from the University of Pennsylvania in 1942.

Being war time, Judge Roney, a true patriot, enlisted in the Army and was sent to serve his post in China, maintaining an early warning radar system in a 100-mile range surrounding his home airfield. From there, he applied to Harvard Law School by hand-writing his application on rice paper. He graduated Harvard with his law degree in 1948. Judge Roney married his lovely wife, Sally, that same year.

Following his military career and law studies, Judge Roney served a two-year stint with a law firm in New York, before returning to St. Petersburg, passing the bar exam (results were sent by telegram back then), and beginning his law practice in Florida in 1950. He and Sally were then blessed with their three children—Susan, Hitch, and Timothy.

He established his own firm in 1957. The firm grew over the ensuing years; and, at one point, he proudly reported that some of those he had hired or partnered with later became judges themselves, such as Judges Robert Beach, William Patterson, and R. Gene Ulmer.

Despite his growing and hectic law practice, Judge Roney served as president of the St. Petersburg Bar Association and found time to manage the successful U.S. Senate campaign for Ed Gurney.

In 1970, he was nominated, confirmed, and sworn in as a U.S. Court of Appeals judge. His judicial career began in the former Fifth Circuit and, when that court divided in 1981, Judge Roney sat as one of the original 12 judges on the Eleventh Circuit Court of Appeals. In 1986, he assumed the office of chief judge of the Eleventh Circuit, and he served in that capacity until taking senior status in 1989. He chose to graciously step down three days prior to the late U.S. Circuit Judge Joseph Hatchett's 65th birthday so that Judge Hatchett, a fellow Floridian, would be statutorily eligible to serve as chief judge.

During his time on the federal bench, Judge Roney served on the Judicial Conference Committee to Review Conduct and Disability Orders, the ad hoc committee on Federal Habeas Corpus Review of Capital Sentences, and the subcommittee on Judicial Improvements to name just a few. He was chairman of the ABA's Legal Advisory Committee on Fair Trial and Free Press. He also directed the American Judicature Society.

As a judge, he actively mentored those in his sphere of influence as well as continuing his own learning. He achieved his LL.M. degree through the University of Virginia School of Law and was awarded an LL.D. degree from Stetson University School of Law in 1977.

Taking senior status did not diminish Judge Roney's passion for the federal judiciary nor his reputation for hard work. For more than two decades' service as a senior judge, Judge Roney served the Eleventh Circuit for both oral argument and non-argument cases. During his time as a senior judge, Judge Roney (except for the D.C. Circuit) sat as a visiting judge on every U.S. Court of Appeals—including an oral argument panel for the Ninth Circuit in Alaska.

His true love of the law and steadfast allegiance to the Constitution served as

great examples for all those who were fortunate to have the opportunity to know Judge Roney. He was a "judge's judge," with an outstanding ability to ferret out the specific issues upon which a case would turn. These attributes earned him great respect and appreciation among his fellow judges as well as among the attorneys who appeared before him.

Judge Roney's judicial opinions remain models of clarity for generations of judicial officers. His opinions laid out the necessary facts and procedural history, the rule of law, and razor-sharp reasoning. He decided what needed to be decided, no more and no less.

If the measure of a man is the impact he had on others during his lifetime, Judge Roney's service to the community was just one more example of his impact on so many. He published several law articles, lectured at law schools around the country, served as trustee for the St. Petersburg Museum of Fine Arts, president of the Junior Chamber of Commerce, and vice president of the

South Pinellas Chapter of the American Red Cross. He was also a member of Suncoasters, American Cancer Society, Child Guidance Clinic, Science Center of St. Petersburg, Community Welfare Counsel, and the Family and Children's Service Bureau. He was an elder at First Presbyterian Church.

In his memory

But it's us law clerks who served under Judge Roney at various points throughout his judicial career that meet periodically—in a "law clerk family reunion" style—and continue to celebrate his influence on our lives. We thank the Roney family for selflessly sharing the Judge and Sally with us. We consider ourselves blessed to have been a small part of his story and to have experienced his impact on our own stories. Until we, the proud law clerks to the Honorable Paul. H. Roney, meet again



Judge and Sally Roney celebrated their 50th wedding anniversary on June 21, 1998, with family and friends at the Skyline Lodge in Highlands, North Carolina. (Courtesy of the Roney family private collection)

U.S. District Judge Virginia Hernandez Covington Honored at Her Portrait Unveiling

THE HON. ANNE-LEIGH GAYLORD MOE

In a ceremony befitting a daughter of Tampa, the Hon. Virginia Hernandez Covington, United States District Judge, was honored by countless family, friends, colleagues, former law clerks, and members of the Tampa community at her July 21, 2022, portrait unveiling at the historic Tampa Theater. Judge Covington “represents the heart and soul of the community,” remarked her friend of over 50 years, the Hon. Charles R. Wilson, United States Circuit Judge in and for the Eleventh Circuit.

PORTRAIT PRESENTATION



Painted by nationally recognized portrait artist Jonathan Linton, the portrait references the significant influence of the judge's parents and her belief in the greatness of the American legal system. Wearing jewelry from her mother and family, her arm rests on a bookcase holding books that her father Dr. James W. Covington wrote as a history professor at her alma mater, the University of Tampa. And in the background, a framed map represents the countries to which Judge Covington has traveled to teach lawyers and other judges about the American system of justice.

The Hon. Timothy J. Corrigan, Chief Judge of the United States District Court in and for the Middle District of Florida, celebrated the historic nature of Judge Covington's service on the bench. Following a career in the U.S. Attorney's

Office, when Governor Jeb Bush appointed her to Florida's Second District Court of Appeal, Judge Covington became the first Cuban American woman to ever be appointed to any appellate court in the state. Years later, on President George W. Bush's appointment, she became the first Hispanic person appointed to serve as a United States District Judge in the Middle District of Florida.

Hailed by a former law clerk as “eminently fair” and “one of the most powerful, hard-working, and committed women in the state” with a “strong moral compass and unwavering intention to do the right thing,” the impact of Judge Covington's life and service to the Tampa community was a constant refrain. She was recognized for her efforts to assist in the settlement of Cuban refugees through the Catholic Diocese of St. Petersburg; migrant workers through development of the Catholic Charities' San Jose Mission; and countless children throughout the community by speaking to civic and school groups about the importance of education.

In a lighthearted moment, Chief Judge Corrigan noted that while Judge Covington is an inductee of the Florida Women's Hall of Fame, a recent recipient of the Florida Bar's Distinguished Federal Judicial Service Award and has been recognized as an outstanding alumnus of her high school, college, sorority, graduate school, and the Georgetown University Law Center, “there is one honor that has evaded Judge Covington—at least until now.” He then presented her with a personalized bobblehead as a token of fondness and appreciation traditionally bestowed on senior judges in the Middle District to recognize their extraordinary service.

Judge Covington thanked all those who gathered, including her beloved children Laura Bagge, Stephen Bagge, and the Hon. Michael Bagge-Hernandez, Hillsborough County Judge. She expressed gratitude to Judge Wilson and Chief Judge Corrigan and her colleagues throughout the Middle District of Florida,

the Tampa Bay Chapter of the Federal Bar Association, the Middle District of Florida Bench Bar Fund, and former colleagues and friends from the U.S. Attorney's Office including Judge Wilson and Donna Bucella and many others. She thanked her current and former law clerks, including her current and former career law clerks Dana Diehr and Kelly Keller Landkammer. She recognized the central role her late parents, Dr. and Mrs. James Covington, had played in preparing her for her career, imbuing her with what Judge Wilson recognized as “a strong appreciation for what law and our legal system can do to improve the lives of others.”

Evidenced by those who traveled from far and wide to attend, as one speaker remarked, “Judge Covington's ambition for good has shaped and improved more than just the lives and careers of her law clerks. She has, in a very real way, shaped and improved not just Tampa but the world.” An evening to remember, the ceremony proved to be a beautiful opportunity to celebrate a living icon in the Tampa legal community and beyond.

Judge Covington's portrait now hangs in the Sam M. Gibbons United States Courthouse in Tampa.

About the author: The Hon. Anne-Leigh Gaylord Moe is a Circuit Judge on the Thirteenth Judicial Circuit Court in and for Hillsborough County, Florida. Judge Moe clerked for Judge Covington from 2005 to 2007.



Judge Virginia Hernandez Covington's family joined her at the portrait unveiling ceremony held at the historic Tampa Theater.

U.S. Magistrate Judge Dave Lee Brannon: A Mentor, Leader, and Friend

DR. PAMELA T. BRANNON
JESSICA RODRIGUEZ, ESQ., CAREER LAW
CLERK TO JUDGE BRANNON 2012-2021
ASHLEY DRUMM, ESQ., LAW CLERK TO JUDGE
BRANNON 2012-2014

IN MEMORIAM

Dave Lee Brannon, United States Magistrate Judge for the Southern District of Florida, passed away at home in West Palm Beach, Florida, on May 18, 2021, after an extended illness. His beloved wife, Pamela, was at his side. When he was diagnosed, his doctor was realistic in his prognosis, advising the Judge to think about what he wanted to do with the time he had left. What he wanted was to keep doing what he loved, working as a judge, for as long as he could. And he did so with excellence, determination and grace, despite a difficult and exhausting illness, until his last day. He was appointed as a magistrate judge on February 24, 2012, and was reappointed for a second term on February 4, 2020.

Judge Brannon was devoted to his family, his country, and the rule of law.

He was born in Danville, IL, spent several childhood years with his Air Force family in Japan, and graduated from Rantoul, IL, High School. He was then appointed to the United States Coast Guard Academy in New London, CT, and arrived on campus in the fall of 1971.

It was there as a cadet, at age 18, that he swore his first oath to support and defend the Constitution. He swore that oath four more times: as a commissioned Coast Guard officer, as an Assistant Federal Public Defender (AFPD), and twice as a magistrate judge.

He graduated from the USCGA in 1975. As a Coast Guard officer, he sailed throughout the world. His favorite assignment was aboard the USCGC Glacier (WAGB-4), an icebreaker which took him to both the North and South Poles. Prior to attending law school, he was a legal assistant in the Long Beach, CA, legal office. He graduated from the University of Miami School of Law in 1980.



His last Coast Guard assignment was with the Seventh District Legal Office and Intelligence Branch (D7), in Miami, FL. He spent six years in D7 – four years in Legal and two years in Intelligence/Law Enforcement. He returned to D7 in March 2020, accompanied by his career law clerk Jessica Rodriguez, where he was warmly greeted by the Coast Guard JAGS working there at that time.



Judge Brannon's Coast Guard medals: Outstanding Service, Outstanding Achievement, National Defense Service, and Arctic Service.



Cadet Dave Lee Brannon, aboard the USCGC Eagle, 1974.



Judge Brannon with D7 Miami Coast Guard JAGS, March 2020.

During a brown bag lunch, he proudly shared his experiences as a Coast Guard lawyer, as an AFPD, and as a judge.

Vice Admiral (retired) Harvey Johnson, Dave's roommate at the Academy, shared this: "From our first day together at the Coast Guard Academy, Dave's heart turned Coast Guard blue – even though we were in khakis our first three years. He was a proud 75er, and cherished his Coast Guard service. From memorabilia in his chambers, to his frequent use of nautical terms, and a penchant for sea stories, all knew the Judge was a Coastie."

Judge Brannon's service and leadership in the Coast Guard earned him five medals: for Arctic and Antarctic Service, for National Defense Service, for Outstanding Achievement, and for Outstanding Service. The last one was for planning and overseeing the implementation of "Operation Wagon Wheel" in the Caribbean. This operation was described in his award as "the greatest multi-agency drug interdiction operation in the history of the United States."

While in Miami, in January 1985, Judge Brannon met his wife, Pamela Tarquinio Brannon, through an "introductions" service. Since this was before the Internet and dating apps, each applicant was sent a written profile of the other. It was Dave's good fortune to call Pamela, and they were married less than a year later, February 21, 1986. They celebrated their 35th wedding anniversary in February 2021.

They shared a love of learning, books, history, travel, and rescue cats. They had seven cats during their marriage: Moonshine, Tybalt, Princess Leia, Captain Pete, Leah, Shadow, and Felix Felicis. Felix was rescued from a neighbor's yard during a rainstorm, hence his name, which Judge Brannon chose – it means "lucky." Felix became the Judge's constant companion during his illness, and now resides with Dr. Brannon in Tallahassee, FL.

Once they were married, Judge Brannon fully supported his wife's return to higher education to pursue her Ph.D. She started her 25-year teaching career as a graduate teaching assistant at Florida Atlantic University in Boca Raton. She graduated from FAU in 1993, with a degree in Public Administration. She taught at various colleges throughout the state, and Judge Brannon drove her to many of those locations. He was also her most frequent guest speaker, both as an AFPD and then as a Judge.



Judge and Pamela Brannon, Coast Guard Ball, Miami, 2015.

His own adjunct teaching career complimented hers. In 2001, they collaborated on an article "Smoke on the Water: Fighting Fires at Sea," which was published in the *Handbook of Crisis and Emergency Management* (Marcel Dekker, Inc.). It was based on the Judge's experience on the icebreaker, and presented a model of four types of crises that can befall a ship when it has a fire. Those types can also be applied to nonmaritime organizational settings.

Their graduate teaching assistants also became part of their family. In April 2013, Judge Brannon served as a wedding officiant for two of them in a lovely ceremony in Boca Raton. Dr. Brannon also participated in the ceremony.

Dr. Brannon, known to the court family as Dr. B., retired from FAU in 2012, as Judge Brannon began his new judgeship. She always said she had the best of both worlds – she was retired and she had a husband who loved his job. She was able to pursue her love of horses, which Judge Brannon enthusiastically supported.

As an AFPD, Judge Brannon resolutely pursued the constitutional promise of equal justice for his clients. He started in that position in 1986 and served as an AFPD for 25 years. He served as supervisor of the West Palm Beach office prior to being appointed to the bench. He was committed to representing the poor and marginalized and found it uniquely American that the "least" among us were represented by some of the best, most experienced criminal

defense attorneys – the Federal Public Defenders. A staunch advocate, he was well respected by opposing counsel, the defense bar, and judges, and, despite their difficult and often desperate circumstances, beloved by his clients.

Peter Birch, the current supervisor of the West Palm Beach office of Federal Public Defenders, and Caroline McCrae, an AFPD also in West Palm Beach, researched how many cases Judge Brannon managed during his time as an AFPD. Their best estimate, based on PACER records, administrative office statistics, and historical files, is over 1,100. One of the Judge's AFPD colleagues, Panayotta Augustin-Birch, has recently also been appointed as a U. S. Magistrate Judge for the Southern District of Florida, Fort Lauderdale Division. She credits much of her success to Judge Brannon's mentoring, leadership, and friendship as her supervisor when she was an AFPD. That friendship and mentorship continued through the rest of his life.

Judge Brannon was sworn in as a U.S. Magistrate Judge on Friday, February 24, 2012, and started presiding over regularly scheduled criminal Duty Court the following Monday, February 27, 2012. Those who witnessed his first day on the bench said he was a natural. He was the first AFPD to be appointed as a U.S. Magistrate Judge for the Southern District of Florida in many years.

He saw the value of ceremony in public affairs, and this is the opening he asked his courtroom deputies (CRD), Sandra Acevedo and Stephanie Payne, to read for each court session:

HEAR YE, HEAR YE, HEAR YE, the United States District Court in and for the Southern District of Florida, is now in session. All persons having business before this court, draw near, give your attention, and you shall be heard. God save the United States and this Honorable Court.

At his Investiture, on April 20, 2012, one of his guest speakers was Vice Admiral Johnson. The Vice Admiral shared these observations:



Vice Admiral Harvey Johnson with Judge Brannon at the Judge's Investiture, April 20, 2012, West Palm Beach.

“ It was an impressive event. I, and a few other Coasties, knew and appreciated Dave as a classmate, from his service aboard the *Glacier* and his D7 experience in Miami. We were less familiar with all that he had accomplished during his 25 years as an assistant federal public defender, where he earned a sterling reputation that helped elevate him to the bench.

On the other side, people from the legal and law enforcement communities only knew Dave from his defender and judicial service in South Florida. Although they knew he had been in the Coast Guard, they were not as familiar with the details of his military service.

It was as if both of these dimensions came together to the enlightenment of all, with both groups recognizing the threads of his personal honor, character, professionalism, sense of humor, and devotion to duty.

”

The Judge had a mathematical mind, and he shared with attorneys the importance of being skilled in math to be an effective advocate. He really liked keeping track of statistics. He would regularly share his own personally tracked monthly case statistics with his law clerks. For a Federal Bar Association reception honoring him this past October, Chief U.S. District Judge Cecilia Altonaga shared the following statistics for Judge Brannon: he spent more than 2,300 hours in court, held 7,700 hearings,

handled 7,500 referred motions, issued 330 Reports and Recommendations, was the paired magistrate judge on more than 5,000 cases, and handled over 350 civil cases on full consent of the parties. Those cases covered a vast array of legal practice areas, including: employment law, Social Security disability appeals, personal injury, insurance, contract, civil rights, trademark, and copyright. He would have loved hearing those statistics.

Judge Brannon received many service awards and accolades over the course of his distinguished career. He served a term as president of the Palm Beach County Chapter of American Inns of Court. He also served as president of the Palm Beach County Chapter of the Federal Bar Association. He held the high honor of being a two-time Federal Bar Association Ryskamp Award recipient, once in his capacity as supervisor of the West Palm Beach Federal Public Defender's Office (2007) and again in his individual capacity as a U.S. Magistrate Judge (2016).

U.S. District Judge Kathleen Williams, the former Federal Public Defender for the Southern District, and Judge Brannon's former boss, presented the award to him in 2016. The special guest at the ceremony was U.S. District Judge Kenneth Ryskamp, for whom the award is named.

Additionally, from 1990–2007, and again in 2009, Judge Brannon was an Adjunct Professor at Florida Atlantic University where he taught law related courses in Criminal Justice, Political Science, and

Public Administration. In 2002, he received the Exceptional Faculty Award from the FAU College of Arts and Letters on the J.D. MacArthur Campus in Jupiter, FL. He took great pride in his chambers' library where he housed all his beloved books, including the textbooks he used to teach at FAU. He regularly plucked titles off the shelves to impart useful information on a variety of topics as the circumstances dictated.

Judge Brannon loved having judicial law clerks and interns. When he swore them in, he had them sign the Bible he had received as a Coast Guard cadet. He and Dr. Brannon considered them to be family and enjoyed working with them and celebrating their milestones. He shared with them his vast knowledge of law, life, and movies. One of his favorite pastimes was reading, and he encouraged others to dive into literature to learn about life.

One of the important books that he always recommended to others was Victor Frankel's *Man's Search for Meaning*. The Judge urged everyone to think about what they wanted their life to be about.

He also was a big fan of Donald Duck, who, he would point out, is a sailor. And Donald almost always does the right thing; not always willingly or cheerfully like Mickey, and sometimes even grudgingly, but because ultimately Donald knows that it is the right thing to do, and we each have a duty to do the right thing.



Judge Brannon with District Judge Kathleen Williams. Judge Williams presented the Federal Bar Association's Ryskamp Award to Judge Brannon in March 2016.



The Judge and Dr. B. in chambers, 2014.



(L -R) Career Law Clerk Jessica Rodriguez, Courtroom Deputy Sandra Acevedo, Judge Brannon, Law Clerks Ashley Drumm and Katherine Miller at the Ryskamp Award Ceremony. The photograph is of the U.S. Coast Guard Cutter Duane, one of the ships on which the Judge served.



Judge Brannon and District Judge Kenneth L. Ryskamp. The special guest at the ceremony was Judge Ryskamp, for whom the award is named.

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The Winter 2022 issue is produced courtesy of the Alabama State Bar.

The following thoughts are from the Judge's law clerks: Jessica Rodriguez (career), Ashley Drumm, Jennifer Soberal, Katherine Miller, David Behar, and Jessica Biedron Conteguero. According to them, their collective comments offer insight into what it was like to work in the chambers of the great U.S. Magistrate Judge Dave Lee Brannon:

"Judge Brannon was kind, he had a great laugh, and he loved the law."

"He adored his wife, Dr. Pamela Brannon. She was and is an important part of our chambers' family."

"He liked lawyers and truly thought of them as his brothers and sisters in the law."

"He treated his law clerks, current and alum, like they were family. Not only did he maintain contact with all of us, but he also kept former and current clerks connected as well. Sometimes this looked like a New York Times article in a group chat to inspire discussion, and other times it was getting everyone together for brunch to welcome an incoming law clerk. He made everyone feel welcome and included. When one of his law clerks moved to West Palm Beach and was without cookware, he and Dr. B gifted her some of their cookware together with an American flag vase 'because everyone needs something with an American flag in their home.' He gifted another law clerk a bookshelf when she moved to West Palm Beach."

"He enjoyed sweets and prosecco (which he referred to as Italian Kool-Aid), and we all enjoyed them together for special occasions and sometimes, just because."

"He was a great storyteller. He shared many stories about his time in the U.S. Coast Guard as a cadet and in the legal office. He shared photos of his time spent aboard icebreakers and had the most incredible stories about what it was like to be out at sea. He also shared stories about what it was like to work in the Coast Guard legal office during historic events such as the Mariel Boatlift in 1980. Being in the Coast Guard was a formative experience in his life. He would tell us it is where he gained a love of the sea. It is also where he learned the Coast Guard belief that we do the task, even if we don't have all the people or material or money needed to do it."

"He also shared stories from his time in the FPD's office. He had binders with meticulous notes summing up each and every case he worked on, and he would sometimes refer back to those notes when certain legal issues would come up."

"He loved to discuss life, books, current events, etc. in chambers. He was a big fan of literature and encouraged people to read it to learn about life. He kept a running list of his favorite movies and books saved in a "Culture" folder on our chambers' drive. He would print it for new clerks and interns. It included titles such as (1) Fifty-Eight Lonely Men – J. W. Peltason (the southern Federal judges who implemented Brown v. Board of Education); (2) Journey into the Whirlwind – Evgenia Ginzburg (Communist prisoner in the Soviet system); (3) Lies My Teacher Told Me – James Loewen; (4) The Cruel Sea – Nicholas Montserrat; (5) The Americans (TV series about KGB illegals, the Cold War, and family); and (6) The Charm School – Nelson DeMille."

"We would have monthly "G3 Chambers Meetings" in our chambers' library which would be a time for us to sit and discuss pending matters together. We would talk about developments in the law and brainstorm/collaborate on the best path forward in the more challenging cases."

The Judge was a true history buff and loved to travel overseas. That started with his time in Japan as a child, and continued with the Coast Guard and throughout his life. He encouraged his staff to travel, and they kept a large world map in chambers to commemorate their trips. Everyone used a different color pin. The Judge had the most pins on the map.

In 2011, the Judge, with his brother-in-law Christopher Tarquinio, planned a three-week family vacation in Italy. They started in Rome and ended in Venice, with stops in Tarquinia, Siena, and Florence. They traveled by plane, car, train, bus, vaporetto, and speedboat out of Venice to the airport. They even received parking tickets in Tarquinia. In 2014, the Judge and Dr. Brannon returned to Rome and added visits to Pompeii and Arpino. Arpino is the birthplace of one of the Judge's most admired historical figures, Marcus Tullius Cicero.

The Brannons joined a magistrates' group organized by U.S. Magistrate Judge James Hopkins in 2015 and traveled to Germany. They were given a special tour of the Nuremberg courtroom and museum and had dinner in the Reichstag in Berlin. The fun part of that trip was that Queen Elizabeth and Prince Philip arrived for a state visit and stayed in the same hotel as the Hopkins' group. The Judge and Dr. Brannon saw the Queen many times as she made her way in and out of the lobby on her way with her security entourage and the Prince to her many events.

Their next trip was in 2018, a Baltic Sea cruise that included ports in Stockholm, Copenhagen, Riga, Latvia; Gdansk, Poland; and St. Petersburg, Russia. The State Department travel advisory stated "not recommended" for travel to Russia, but that did not stop them. They made arrangements for what the Judge called their "Bolshevik" tour.



In June 2018, the Brannons took a Baltic Sea cruise in which one of the ports of call was St. Petersburg, Russia.

They were able to see many of the sights the Judge had only read about: Finland Station, Yusupov Palace, the Hermitage, and the Smolny Institute. While visiting the Museum of Political History, both the tour guide and the docent were so impressed with the Judge's knowledge, they invited him and Dr. Brannon into Lenin's office, which is preserved in that building. The Judge was in his element.

Judge Brannon also genuinely liked attorneys and enjoyed working with them and discussing all aspects of the law. He agreed that law was humankind's greatest invention: other

inventions gave us control of the physical world, law gave us control over ourselves.

In a Law 360 post on May 27, 2021, his colleagues shared the following thoughts:

Chief U.S. Magistrate Judge John O'Sullivan: "He drew admiration for treating all parties in his proceedings with respect. I think that what stood out most about him was what a gentleman he was and how well respected he was. He will be sorely missed by the court."

U.S. Magistrate Judge William Matthewman: "Dave loved serving as a judge." Judge Matthewman recalled that during a seminar several years ago that they both attended, someone asked Dave how he felt about his job. Dave smiled and said it was like eating ice cream. "He was the nicest man in the world, even if he was denying someone's motion or sending them into detention or jail. He truly loved his job."

U.S. Magistrate Judge Bruce Rinehart: "Dave's fundamental underlying principle was treating everyone with respect. Treating their ideas with respect, thinking through issues carefully, scrupulously applying the rule of law, and letting the outcome be whatever the outcome needed to be. He was deeply, deeply devoted to the integrity of the system."

Judge Brannon was intelligent, kind, and gracious. He was never shy about his love of serving the federal court and of his pride of having served in the U.S. Coast Guard and as an AFPD. His extraordinary achievements and altruistic contributions made this world a better place. His time as a Coast Guard officer taught him the value of being a good shipmate, of working together, of tolerating each other's foibles, and of making this ship we all serve in kinder and better as we sail through this life together.

He said he wanted to be a good shipmate; one who played his part in keeping the ship afloat and underway and on its mission, clean and neat and happy, with one hand for the ship and one hand for himself, as he worked his appointed task and assumed

responsibility for his own actions and duties.

A memorial service and reception were held Friday, June 25, 2021, at 3:00 p.m., at Quattlebaum Funeral, Cremation, and Event Center in West Palm Beach. It was also live-streamed. Judge Brannon selected the venue himself. It was important to him that it be set with tables and chairs because he wanted everyone to feel connected and comfortable.

A display table at the front of the room included a picture of him in St. Petersburg, his Coast Guard sword, one of the many signature Panama hats he wore, and a single red rose from his wife. The world map that used to hang in his chambers was set beside it. In addition to wearing hats, the Judge loved colorful ties, and, according to his wishes, those were displayed on a side table and everyone was encouraged to take one or two. That brought a smile to everyone's face. A color guard, arranged by the local police chief with both an American flag and a Coast Guard flag was also at the front. Red, white, and blue flower arrangements were on the tables, including one from the courtroom security officers who always thought so highly of Judge Brannon.



Chief District Judge Cecelia Altonaga speaks at the reception honoring Judge Brannon at the Kravis Center in West Palm Beach on October 6, 2022.

The service consisted of a series of scripts, born of the Judge's own thoughts about what he wanted to be shared, and additions supplied by his wife. Former and current law clerks, his current courtroom deputy, his brother-in-law, and the son of his career law clerk conducted the service. Stephanie Payne, CRD, called the attendees to order by reading, for the last time, the Judge's script for the opening of his courtroom sessions. Alex Rodriguez led the Pledge of Allegiance. The Judge chose readings from the Book of Common Prayer and two hymns: "Lead On, Oh King Eternal" performed by Tennessee Ernie Ford and the San Quentin Prison Choir; and "The Battle Hymn of the Republic," of which the Judge thought the third and final verse was the most important.

In May 2022, Dr. Brannon was invited to attend the 11th Circuit Judicial Conference in Atlanta to receive a Memorial Resolution from the "Judicial Council of the Eleventh Judicial Circuit Honoring Dave Lee Brannon, United States Magistrate Judge." The framed resolution was on display throughout the conference. U.S. District Judge



District Judge Donald Middlebrooks paid tribute to his colleague, Judge Brannon, at the October reception.



Judge Brannon's Law Clerks: David Behar, Jessica Rodriguez (Career), Jessica Biedron Conteaguero, Katherine Miller.

Donald Middlebrooks, with whom Judge Brannon was paired, took the lead in preparing the resolution. He said he was honored to be able to do that for such a wonderful colleague.

On Thursday, October 6, 2022, at the Kravis Center in West Palm Beach, the Palm Beach County Chapter of the Federal Bar Association held a judicial reception honoring Judge Brannon. There were remarks from Chief U.S. District Judge Cecilia Altonaga, U.S. District Judge Donald Middlebrooks, Judge Brannon's career law clerk, Jessica Rodriguez, and Dr. Pamela Brannon. The Judge's official portrait, which will be installed in the West Palm Beach Federal Courthouse, was displayed, as was the Memorial Resolution from the Eleventh Circuit.

The following summary was written by Michael Caruso, the current Federal Public Defender for the Southern District, and posted on Friday, October 7, 2022, on the Southern District of Florida blog, created by David Oscar Markus.

"Yesterday, the Palm Beach-Federal Bar Association hosted a judicial reception that honored and presented the portrait of the late Magistrate Judge Dave Lee Brannon. As most of David's readers know, Judge Brannon had a remarkable career. As a very young man, he served in the United States Coast Guard after graduating from the Academy. During his years in the Coast Guard, his favorite assignment was aboard the USCGC

Glacier, an icebreaker that took him to both the North and South Poles. While in the Coast Guard, he attended law school at the University of Miami. His last Coast Guard assignment was with the Seventh Coast Guard District Legal Office and Intelligence Branch in Miami, Florida. He then joined the Southern District of Florida Federal Public Defender's Office in 1986 and served as Supervisor of the West Palm Beach office before being appointed to the bench.

At the Federal Public Defender's office, Judge Brannon had a well-earned reputation for his intelligence, kindness, and graciousness—as a colleague and a judge. Those qualities, among others, were celebrated yesterday by his family, friends, and former colleagues.

First, Chief Judge Altonaga offered introductory remarks that focused on Judge Brannon's service to his country in his different capacities. Judge Middlebrooks then spoke and revealed to the audience his warm affection for Judge Brannon in addition to reading the moving tribute to the judge that the Eleventh Circuit adopted after his passing.

Judge Brannon's career law clerk, Jessica Rodriguez, then delivered a heartfelt tribute that focused on his mentorship of her and his other clerks—both in law and life. During her remarks, to demonstrate Judge Brannon's generosity and kindness, she played an audio clip of the Judge helping her young son learn Japanese.

Finally, Judge Brannon's wife, Dr. Pamela Brannon, spoke. She shared with us several stories about how they met, a date at the Dade County Fair, an awkward dinner with friends, and a meeting with Justice O'Connor. These stories demonstrated their strong and loving bond as well as Judge Brannon's humanity.

Dr. Brannon ended her remarks by sharing a quote she found in Judge Brannon's highlighted copy of *The Count of Monte Cristo*. Of course. After all, the novel revolves around a sailor who was falsely accused, arrested, and imprisoned without trial.

The quote is worth reproducing here: 'the friends that we have lost do not repose in the bosom of the earth, but are buried deep in our hearts, and it has been thus ordained that we may always be accompanied by them.'

Truth. Rest in Peace, Dave."

And from all those who loved him dearly, we wish him a fond farewell, fair winds, and following seas.

Judge Brannon is survived by his beloved wife, Dr. Pamela Tarquinio Brannon; his brother-in-law, Christopher Tarquinio; his sister-in-law, Susan Tarquinio; his niece, Gianna Rose Tarquinio; his sister, Catherine Tannahill; and his nephew and nieces, David, Jennifer, and Barbara Tress, and their children. Judge Brannon will be interred at the U. S. Coast Guard Academy in New London, CT.



Jessica Biedron Conteaguero and Dr. Pamela Brannon. Judge Brannon's official portrait, which will be installed in the West Palm Beach Federal Courthouse, was displayed at the reception.

All photos courtesy of Dr. Pamela T. Brannon.

ISSUE HIGHLIGHTS

The 2022 Eleventh Circuit Issue: Addressing How COVID-19 Impacted Courts

MELANIE KALMANSON

The University of Miami Law Review published its most recent Eleventh Circuit Issue in July 2022. The issue includes a Foreword by Judge Roy K. Altman of the U.S. District Court for the Southern District of Florida, two articles, and a student note. Each of the pieces in this issue address issues related to the fallout from the COVID-19 pandemic on litigation and court operations.[1]

In the *Foreword*, Judge Altman addresses how the role of the judiciary is altered in times of crisis and the aftermath of the COVID-19 pandemic.[2] He explains that, while the courts are often looked to as reactive arbiters in normal circumstances, “the judiciary isn’t a two-dimensional organization—a collection of law-breathing automatons whose work product exists only on paper. It, to the contrary, functions very much in the real world—and its decisions are often a product of real-world exigencies.”[3] Drawing on history, Judge Altman illustrates this with several examples.[4] Then, Judge Altman explains how the COVID-19 pandemic presented a new kind of emergency, as it required courts to close “[f]or the first time in 230 years.”[5] The court closures caused by COVID-19, Judge Altman says, “have raised a host of other, unique legal issues that . . . raise questions about the extent to which the courts’ *physical* operations affect litigative outcomes.”[6] Of course, the pandemic also created “other practical questions” related to court operations.[7]

The first article is written by Nicole D. Mariani (Assistant U.S. Attorney in the Appellate Division of the U.S. Attorney’s Office for the Southern District of Florida), who argued on behalf of the United States in *United States v. B.G.G.* at the U.S. Circuit Court of Appeals for the Eleventh Circuit in January 2022.[8] In her article, “Hiding in Plain Language: A Solution to the Pandemic Riddle of a Suspended Grand Jury, an Expiring Statute of Limitations, and a Fifth

Amendment,” Ms. Mariani addresses how COVID-19 affected criminal defendants’ rights under 18 U.S.C. § 3282(a) and the Fifth Amendment to the U.S. Constitution.[9] In pertinent part, 18 U.S.C. § 3282(a) creates a five-year statute of limitations for prosecutors to obtain an indictment, and the Fifth Amendment entitles defendants to be prosecuted by indictment.[10] “[T]he Fifth Amendment provides that ‘[n]o person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury.’”[11] Of course, the suspension of grand juries due to the pandemic made it impossible for prosecutors to comply with the statutory timeframe or for defendants to “exercise their constitutional right to be prosecuted by indictment.”[12]

Examining the text of the relevant provisions and procedural rules, Mariani suggests that there are ways for prosecutors to proceed with prosecution while upholding defendants’ constitutional right under the Fifth Amendment and “statutory privilege” under 18 U.S.C. § 3282(a).[13] In fact, Mariani “concludes that there already is a mechanism in the federal statute of limitations applicable to most federal crimes that allows prosecutors to constitutionally preserve criminal charges when a national emergency prevents grand juries from finding indictments.” [14]

In the second article, Professor Robert M. Jarvis (Nova Southeastern University Shepard Broad College of Law) “provides a comprehensive description of both the Florida Code of Judicial Conduct and the Code of Conduct for United States Judges.”[15] Before Jarvis’ article, there was no “handy single source that compare[d] the [] provisions” of both codes and “summarize[d] their workings.”[16]

Finally, in “Maritime Magic: How Cruise Lines Can Avoid State Law Compliance Through Passenger Contracts,” Cameron

Chuback (University of Miami School of Law class of 2022; incoming associate at Fox Rothschild LLP in Miami, Florida) discusses the ability of cruise lines to require passengers to provide documentary proof of COVID-19 vaccination despite section 381.00316, Florida Statutes, prohibiting businesses from doing so.[17] This issue was addressed in the Southern District’s decision in *Norwegian Cruise Line Holdings, Ltd. v. Rivkees*, in which the Southern District entered a preliminary injunction against Norwegian Cruise Line Holdings’ (NCLH) policy requiring passengers to provide proof of vaccination on the grounds that “section 381.00316 violated NCLH First Amendment rights and the dormant Commerce Clause of the U.S. Constitution.”[18]

However, Chuback argues that NCLH could have taken another route to avoiding application of section 381.00316 to its operations. [19] Specifically, Chuback argues that NCLH raising “[a] claim of admiralty jurisdiction would have likely led the court to determine that NCLH’s passenger ticket contract,” which requires “passengers to provide documentary proof of COVID-19 vaccination before boarding NCLH’s ships, is a maritime contract that is subject only to federal maritime law and not Florida state law.”[20]

At the time of publication, NCLH’s appeal of the Southern District’s was pending at the Eleventh Circuit.[21] Since then, the Eleventh Circuit has vacated the preliminary injunction issued by the Southern District.[22] In doing so, the Eleventh Circuit held that NCLH was unlikely to succeed on the merits because section 381.00316 “is a regulation of economic conduct that only incidentally burdens speech, which does not implicate the First Amendment. And its burdens on interstate commerce do not exceed the benefits of furthering Florida’s substantial interests in protecting its residents from discrimination and

invasions of privacy.”[23] Judge Robin S. Rosenbaum dissented.[24] Chuback’s note suggests that perhaps NCLH’s policy could have been saved by “maritime magic.”[25]



About the author:
Melanie Kalmanson is a commercial litigation associate at Quarles & Brady LLP in Tampa, Florida. She is a member of the Eleventh Circuit Historical Society.

Endnotes

- [1] See Roy K. Altman, Foreword, 76 U. Mia. L. Rev. 929, 937 (2022).
 [2] See generally id.
 [3] Id. at 930.
 [4] Id. at 930-33.
 [5] Id. at 934.
 [6] Id. at 935.

- [7] Id.
 [8] The issue presented in United States v. B.G.G. is related to the topic of Mariani’s article; the Eleventh Circuit has not yet issued a decision in that case. The oral argument recording can be found on the Eleventh Circuit’s website here: https://www.ca11.uscourts.gov/oral-argument-recordings?title=&field_oral_case_name_value=b.g.g.&field_oral_argument_date_value%5Bvalue%5D%5Byear%5D=&field_oral_argument_date_value%5Bvalue%5D%5Bmonth%5D=.
 [9] See generally Nicole D. Mariani, Hiding in Plain Language: A Solution to the Pandemic Riddle of a Suspended Grand Jury, an Expiring Statute of Limitations, and a Fifth Amendment, 76 U. Mia. L. Rev. 929 (2022).
 [10] Id. at 938.
 [11] United States v. Palacio, No. 21-20301-CR-GAYLES/TORRES, 2021 WL 3518143, at *4 (S.D. Fla. July 12, 2021).
 [12] Mariani, supra note 9, at 942; accord id. at 941-47.
 [13] Id. at 939.
 [14] Id.

- [15] Robert M. Jarvis, Florida’s Judicial Ethics Rules: History, Text, and Use, 76 U. Mia. L. Rev. 982, 982 (2022).
 [16] Id. at 985.
 [17] See generally Cameron Chuback, Maritime Magic: How Cruise Lines Can Avoid State Law Compliance Through Passenger Contracts, 76 U. Mia. L. Rev. 1036 (2022).
 [18] Chuback, supra note 17, at 1036 (discussing Norwegian Cruise Line Holdings, Ltd. v. Rivkees, 553 F. Supp. 3d 1143 (S.D. Fla. 2021), vacated, No. 21-12729, 2022 WL 5240425 (11th Cir. 2022)); accord Norwegian Cruise Line Holdings, 2022 WL 5240425, at *1.
 [19] See generally Chuback, supra note 17.
 [20] Id. at 1037.
 [21] Id.
 [22] Norwegian Cruise Line Holdings, 2022 WL 524042, at *1.
 [23] Id.
 [24] Id. at *20-46.
 [25] See generally Chuback, supra note 17.

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SPECIAL APPOINTMENTS

The Eleventh Circuit Court of Appeals Welcomes New Circuit Executive and Circuit Librarian



Ashlyn D. Beck
Circuit Executive

The Eleventh Circuit Judicial Council selected Ashlyn D. Beck to serve as the court's next circuit executive, beginning on July 1, 2022.

Beck has a broad background of service to the federal judiciary, having served as a law clerk in the U.S. District Court for the Western District of North Carolina; a staff attorney for the U.S. Court of Appeals for the Second Circuit; and, for the last 10 years, as the deputy circuit executive for the U.S. Court of Appeals for the Eleventh Circuit.

She also has served as an attorney and deputy division chief in the federal habeas corpus section of the New York State Office of the Attorney General, where she practiced in federal district and appellate courts.

Beck is a graduate of Davidson College and Washington and Lee University School of Law. She lives in Smyrna with her husband James and their three children.

Originally a California native, Michael G. Shubeck joined the U.S. Court of Appeals for the Eleventh Circuit in 2016. He has served as Circuit Librarian since July 1, 2022, following his previous role as Assistant Circuit Executive for Information Technology. In that position, he managed all IT-related operations for the Eleventh Circuit. Prior to joining the courts, Shubeck served as the Manager of IT Operations for a specialized counter-terrorism group within the Federal Bureau of Investigation out of San Francisco, CA.

He also proudly served in the United States Air Force for several years.

Shubeck received his undergraduate degree from Bellevue University and a Master's in Information Management from Syracuse University.

Shubeck and his wife have two young children, and the family enjoys traveling to new locations. He also enjoys web design, astronomy, and running outdoors.



Michael G. Shubeck
Circuit Librarian



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TRIVIA

The Middle District of Florida Turns 60

The Middle District of Florida celebrated its 60th anniversary with the creation of portable historic banners now displayed in each of the five courthouses in Fort Myers, Jacksonville, Ocala, Orlando, and Tampa. The court also celebrated at a lunch in Fort Myers on September 8, 2022, featuring displays of photographs taken over the decades and a trivia contest.

How well do you know the Middle District of Florida? You can test your knowledge here.

1. When the Middle District was created, which judge from the Southern District was transferred to the Middle District and assigned to the Tampa Division? Bonus: Who was his bankruptcy assistant?

2. When Judge Joseph Lieb was faced with loud and unruly lawyers in his courtroom, what would he do to calm them down?

A. Require them to handwrite the oath for admission to The Florida Bar and then read it aloud

B. Require them to write the courtroom deputy an apology letter on the spot

C. Invite them to his chambers for a cup of coffee

D. Direct a law clerk to discretely hand them a copy of a miniature "KEEP CALM AND CARRY ON" sign.

3. Which Middle District judge had a habit of whittling in the courtroom?

A. Judge Bryan Simpson

B. Judge John Reed

C. Judge Ben Krentzman

D. Judge George Young

4. How many current Middle District district judges, senior district judges, and magistrate judges received their J.D. from the University of Florida?

A. 12

B. 13

C. 15

D. 19

5. Charles Scott was appointed by Lyndon Johnson in 1967. When he originally came to Jacksonville in 1923, what was his job?

A. Writing a newspaper column about haberdashery

B. Delivering milk door-to-door

C. Captaining a river ferry

D. Selling railroad tickets

6. After serving 15 years on the bench, Judge Ben Krentzman took senior status. When asked what he planned to do with his time, he said he would work three days a week. What did he plan to do on the other two weekdays?

A. Fish

B. Golf

C. Sit in a beach chair and read mystery novels

D. Sleep

7. These two current active district judges in the Middle District fill seats that Congress created and therefore succeed no one.

8. Which past or present district judge in the Middle District has the most cases published in the Federal Supplement?

9. When Congress created the Middle District, how many judgeships (seats) did Congress create with it?

10. Which President or Presidents have nominated the most current active district judges in the Middle District?

11. Since President Reagan, which President or Presidents have nominated no current active district judge in the Middle District?

12. How many former magistrate judges and district judges from the Middle District serve or have served as circuit judges on the Eleventh Circuit Court of Appeals?

13. Match the letter with the number

A. Current Active District Judges

B. Current Active Senior District Judges

C. Current Magistrate Judges

D. Current Recall Magistrate Judges

1- 3 are former AUSAs

2- 15 are former law clerks

3- 8 are former state judges

4- 1 served in the Navy and 1 in the Army

14. 28 U.S.C. §89 divides Florida into three districts and specifies where court will be held in each district. The statute provides "Court for the Middle District shall be held" in eight cities. Five of the cities are Fort Myers, Jacksonville, Ocala, Orlando, and Tampa. What are the other three?

15. Despite its odd shape, the Middle District does indeed contain the geographic center of Florida. List the division courthouses in order, from closest to farthest from the geographic center of Florida.

16. List the divisions in order, from least to greatest number of counties.

17. The courthouse in Ocala is named the Golden-Collum Memorial Federal Building and United States Courthouse. Who were Messrs. Golden and Collum?

18. This Bill of Rights plaque was lost for a decade. Now, it is one of the first things a visitor to the courthouse in Jacksonville sees. On what occasion in the 1970s did the court receive the plaque as a gift?



19. Name the object related to the court.



20. Name the object related to the court.



21. Name the object related to the court.



22. Name the object related to the court.



A. An exhibit from the trial of Carlos Lehder

B. The briefcase Judge Roy Dalton still uses daily

C. The box Judge George Young used to store his robe

D. A container the court once used to store sealed documents

23. Name the object related to the court.

I am bald.

"Cleansing breeze"

I do not kill for food, but I am not a vegetarian.

I enjoy sunbathing in the early morning hours.

I can travel up to 200 miles a day without a car.

My sense of smell is extraordinary.

Cathartes Aura

I weigh about three pounds.

24. Name the judges who presided over cases related to these blockbuster (or not-so-blockbuster) hits.

A. *The Legend of Cocaine Island*

B. *McMillions*

C. *Donnie Brasco*

D. *The Infiltrator*

E. *Blow*

F. *Tiger King*

25. Name the Florida governor who Judge Bryan Simpson ordered into his courtroom in 1963 to show cause why he should not be held in contempt?

26. Name the Florida governor held in contempt of court in 1970 after he failed to appear in court to answer an order to show cause.

27. Julian Blake was the first Clerk of Court for the Middle District. When Mr. Blake announced his plan to retire in December 1965, Judge Bryan Simpson collected money for a retirement gift. Name the gift.

A. An autograph of Pope Paul VI from his Mass at Yankee Stadium

B. A framed photograph of Mariner 4 flying by Mars

C. Tickets to *The Sound of Music*

D. A portable color television set

28. In 1971, federal agents rounded up 50 suspects in a multimillion-dollar sports bookmaking and gambling ring based in Central Florida. Name the head of the operation.

A. Joe Gallo, a.k.a. "Crazy Joe"

B. Frank Costello, a.k.a. "The Prime Minister"

C. Harlan Blackburn, a.k.a. "The Colonel" & "Fat Man"

D. James Bulger, a.k.a. "Whitey"

29. In 1991, a dramatic spy trial occurred in the Middle District. Name the man who pleaded guilty to stealing sensitive Western military secrets and selling them to Eastern Bloc nations?

A. Roderick James Ramsey

B. Aldrich Ames

C. James Nicholson

D. James Hall, III

30. In 2007, Judge Steven Merryday presided over the trial of a bank robber known as the "Band-Aid Bandit." Why did he wear a band-aid?

A. Besides robbing banks, he worked as a part-time nurse.

B. In some of his robberies, he wore a band-aid to cover up a distinctive mole on his cheek.

C. During one of the robberies, a teller stabbed his hand with a pen.

D. He created his own nickname and wore a band-aid to emphasize it.

31. Which county in the Middle District had the longest standing desegregation order?

32. In what year did the act that created the Middle District take effect?

33. Put the following events in order, from earliest to latest.

CM/ECF goes "live" in the Middle District.

The Middle District publishes its first public website.

Judge William Terrell Hodges ends his term as Chief Judge.

The Middle District starts its first mediation program.

The Middle District adopts its first Local Rules.

ANSWERS

1. Joseph Lieb (and his bankruptcy assistant, Alexander Paskay)

2. C

3. A

4. D

5. D

6. A

7. Chief Judge Timothy Corrigan and Judge Steven Merryday

8. Judge Elizabeth Kovachevich

9. Zero

10. President Obama (5) and President Trump (5)

11. President Clinton (0) and President Biden (0)

12. Five (Judges Charles Wilson, Gerald Tjoflat, Susan Black, Joseph Hatchett, and Bryan Simpson)

13. A/4, B/3, C/2, D/1

14. Fernandina, Live Oak, and St. Petersburg

15. Ocala (43 miles), Tampa (47 miles), Orlando (65 miles), Jacksonville (127 miles), Ft. Myers (142 miles)

16. Ocala (4), Orlando (5), Fort Myers (6), Tampa (8), Jacksonville (12)

17. The first and last Marion County casualties of the Vietnam War. Private First-Class Harold Golden died on November 8, 1965. Captain William Edward Collum died on April 23, 1971.

18. The United States' Bicentennial on July 4, 1976

19. Gray Autograph machine

20. The hardhat Judge Elizabeth Kovachevich wore during the construction of the Tampa courthouse

21. C

22. An old docket book

23. Turkey buzzard (Turkey buzzards made the courthouse in Tampa their new home to the dismay of the rent-paying tenants)

24. A/Judge Timothy Corrigan, B/Judge Henry Adams, C/Judge William Castagna, D/Judge William Terrell Hodges, E/Judge Howell Melton, F/Judge Mary Scriven

25. Governor Farris Bryant (relating to Governor Bryant's executive order banning night marches in St. Augustine during Civil Rights demonstrations)

26. Governor Claude R. Kirk, Jr. (In 1970, Judge Ben Krentzman held Governor Kirk in contempt and ordered him to obey a desegregation order or pay a daily fine of \$10,000.)

27. D

28. C

29. A

30. B

31. Orange County (On August 2, 2010, Judge Anne Conway ended a case that had begun in 1962, declaring the Orange County System unitary)

32. 1962

33. 1984: The Middle District adopts its first Local Rules.

1989: Judge William Terrell Hodges ends his term as Chief Judge.

1992: The Middle District starts its first mediation program.

1999: The Middle District publishes its first public website.

2004: CM/ECF goes "live" in the Middle District.

Editor's note: The Eleventh Circuit Historical Society especially thanks U.S. Magistrate Judge Patricia D. Barksdale for providing the information for this article. Credit goes to University of Florida law students Eliot Kersgaard, Kendall Jensen, and Autumn Finke for helping create the trivia contest and the historic banners displayed in the courthouses in Fort Myers, Jacksonville, Ocala, Orlando, and Tampa.

THE ELEVENTH CIRCUIT HISTORICAL SOCIETY

The Eleventh Circuit Historical Society is a private, nonprofit organization incorporated in Georgia on Jan. 17, 1983. Although the Society has no legal connection with the U.S. Court of Appeals for the Eleventh Circuit or the federal government, its primary purpose is to keep a history of the courts of the Eleventh Circuit as institutions and of the judges who have served these courts. In this regard, the judges in the old Fifth Circuit from the states of Alabama, Florida, and Georgia are included in the Society's area of interest.

In addition, the Society has a broader mission to foster public appreciation of the federal court system in the states encompassed by the Eleventh Circuit.

The formation of the Society came shortly after the creation of the Circuit in 1981. This timing has allowed the writing of history as current history, not as research history. The Society is devoted to preserving our courts' heritage through the collection of portraits, photographs, oral histories, documents, news articles, books, artifacts and personal memorabilia.

The Society's permanent office is in the Elbert Parr Tuttle U.S. Court of Appeals Building in Atlanta. Its Board of Trustees is composed of lawyers and legal scholars representing the historical interests of Alabama, Florida, and Georgia.

While the Society's archival activities are partially funded by grants and other special gifts, it primarily depends on members for financial support. Take pride in knowing that, through your membership, you are helping to recapture memories of past events and thus supplementing historical knowledge that will enlighten and enrich present and future generations. In essence, the Society's accomplishments belong to you.

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