



# 11th Circuit *Historical News*

## Judge Wm. Terrell Hodges A wise and humble man and a life devoted to public service

By James B. Murphy, Jr.

The Honorable Wm. Terrell Hodges is now in his 45<sup>th</sup> year as a United States District Judge for the Middle District of Florida. When he was appointed to the bench in December 1971, Hodges joined only one other district judge in the Tampa Division of the Middle District, Ben Krentzman.<sup>1</sup> With Hodges on board, there were still only six district judges in the entire district, which spanned all the way from the Georgia border north of Jacksonville, south to Orlando, west to Tampa, and south again to Fort Myers.<sup>2</sup>

The population of the Middle District of Florida has almost tripled from about 3.5 million to 11.4 million in the years since 1971.<sup>3</sup> That dynamic, and the growing use of federal courts for criminal prosecutions, caused filings in



The office of Judge Wm. Terrell Hodges is filled with photographs of his former law clerks.  
(Photo by James B. Murphy, Jr.)

the Middle District to skyrocket.<sup>4</sup> While more district judges and magistrate judges have been added over the years, caseloads in the Middle District of Florida have remained among the highest of any district in the country.<sup>5</sup>

Hodges served his first 20 years as a district judge in the Tampa Division of the Middle District before he transferred to the Jacksonville Division in 1992. When Hodges took senior status in 1999, he moved to the Ocala Division, where he continues to preside. Despite being no longer an "active" judge, Hodges kept a full caseload until last year, when he stopped handling civil cases. During his tenure, Hodges handled many significant and high-profile criminal and civil cases. He also served as chief judge of the Middle

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**About the author:** James B. Murphy, Jr. is an attorney in Tampa. He was a clerk for Judge Wm. Terrell Hodges from 1979-1981, after he graduated from the University of Florida Law School. Murphy then went into private practice in Tampa until he retired in December 2014. He now serves as a certified circuit court mediator in civil cases. He is a member of the Eleventh Circuit Historical Society.

# MESSAGE FROM THE PRESIDENT

## Report on the federal judiciary

In his 2015 year-end report on the federal judiciary, U.S. Supreme Court Chief Justice John Roberts, Jr. urged federal judges and lawyers to re-double their efforts to make civil litigation more just and efficient, admonishing them to change the legal culture and narrow the scope of discovery.

The focus of the chief justice's report was on the new revisions to the Federal Rules of Civil Procedure, which took effect Dec. 1, 2015. He began his report with a reference to a different set of rules, the Rules of Dispute Resolution by Dueling that were published in 1838 by former Gov. John Lyde Wilson of South Carolina. Gov. Wilson contended that dueling was inevitable "where there is no tribunal to do justice to an oppressed and deeply wronged individual." The dueling rules suggested that disputes could be resolved through "apology and compromise" and in turn that would save lives. However, duels continued to go forward, and many notables in our history either lost their lives in senseless duels or were fortunate enough to be saved by the negotiated amicable resolution of their problems by their seconds.

Chief Justice Roberts sees the dueling code as a "forgotten relic of a happily bygone past" but also as a reminder that we have a responsibility to provide for peaceful resolution of all manners of disputes.

Federal courts are empowered by the Rules Enabling Act to prescribe rules for the conduct of court business. The Judicial Conference has the overall responsibility for formulating those rules, and Congress has directed the conference to "carry on a continuous study of the operation and effect of the general rules of practice and procedure." The way that rules are formulated by a process now more than 80 years old ensures that careful consideration is given with input from not only lawyers and judges, but also the public at large.

The rules that went into effect in 2015 are the result of five years of intense study, debate and drafting calculated to ensure the substantial improvement of the resolution of civil disputes. The chief justice's report traces the history over that period of time as to how the rules were developed, the meetings that were held, the input from numerous witnesses and the intense scrutiny those amendments received before they were approved by the court and submitted to Congress. The report states that the amendments "mark significant change, for both



LEONARD H. GILBERT

lawyers and judges, in the future conduct of civil trials."

Beginning with the amendment to Rule 1, lawyers and judges are admonished to "achieve prompt and efficient resolution of disputes." Other rules place reasonable limits on discovery, including taking into account actual need of the information sought, the parties' resources, the amount in controversy and the burden or expense of the discovery. The amended rules also place emphasis on the role of the federal judge in early and effective case management.

The new rules also take into account electronically stored information or "ESI" through Rules 16 and 26(f) and the need to preserve electronically stored information at the outset of the case.

Lastly, Rule 84 is eliminated. This heretofore referenced an appendix that had a number of civil litigation forms, many of which had become antiquated or obsolete. New forms are being developed, and the Administrative Office has already posted revised forms on the Federal Judiciary's website.

The chief justice recognizes that training and education both for judges and lawyers is necessary to implement the procedural reforms that the rules contemplate. They also "require a genuine commitment, by judges and lawyers alike, to ensure that our legal culture reflects the values we all ultimately share." The chief justice goes on to "urge that we must engineer a change in our legal culture that places a premium on the public's interest in speedy, fair, and efficient justice." I am sure that, through the efforts of the lawyers and judges in the Eleventh Circuit with the support of the state bar associations, chapters of the Federal Bar Association and the American Bar Association, our lawyers will be best prepared to carry out the intent of the amendment to the rules and for the benefit of the public will see to it that the intent is carried out.

### Historical Society Meeting

The Historical Society meeting will be held in conjunction with the 2016 Eleventh Circuit Judicial Conference in Point Clear, Ala., at the Grand Hotel Marriott. The Judicial Conference is scheduled for May 5-7, 2016. The meeting of the Historical Society has been scheduled for May 5 at 4:45 p.m. If you will be attending the conference, I encourage you to attend the Historical Society meeting.

# The Southern District of Alabama Part I: The John Archibald Campbell United States Courthouse

By G. Cameron Pfeiffer-Traylor

*"But above all, the courthouse: the center, the focus, the hub; sitting looming in the center of the county's circumference like a single cloud in its ring of horizon, laying its vast shadow to the uttermost rim of horizon; musing, brooding, symbolic and ponderable, tall as cloud, solid as rock, dominating all: protector of the weak, judicate and curb of the passions and lusts, repository and guardian of the aspirations and hopes. ..."*

William C. Faulkner,  
"The Courthouse (A Name for the City)" in "Requiem for a Nun"

What do 24 federal judges, three saints, Nicholas Cage, the *USS Indianapolis*, a U.S. Supreme Court associate justice, a World War II hero, rock stars, Mardi Gras, thousands of citizens from countries spanning the globe, and the Revival and Art Deco architectural movements have in common? The four walls of the United States Customs and Court House in Mobile, Ala., known today as the John Archibald Campbell United States Courthouse.



The John A. Campbell Courthouse has been an anchor of the Mobile, Ala., community since the 1930s. (Photo courtesy of G.C. Pfeiffer-Traylor)



The Mobile courthouse under construction in April 1935. (National Archives at Atlanta)

Federal courthouses are more than just four austere and imposing walls. They do not stand in isolation to the world around them. Rather, they are living, breathing hinges – gathering spots where the laws of the land meet the claims of the day, impacting lives and resolving disputes from the smallest of towns to the grandest of cities across the United States. Mobile's federal courthouse, and its Southern District, are no different.

Open to the public, the courthouse is where the U.S. Constitution transforms into real people, places and causes. Where decisions to honor your word, or not, peacefully translate into jury verdicts. Where criminal activity meets its punishment. Where people from all walks of life play an active role in the judicial process – whether through jury service, litigation, public service or advocacy. It is also where individuals pledge their loyalty to the United States and become

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**About the author:** G. Cameron Pfeiffer-Traylor is a career law clerk for the Hon. U.S. District Judge Kristi K. DuBose (Southern District of Alabama). She is a joint J.D./M.A. graduate of the American University's Washington College of Law and School of International Service, and received her undergraduate degree from Vanderbilt University. Cameron is a member of the Mobile Bar Association, Alabama State Bar and New York State Bar, and is in her 16th year of practice. This article features Part I of a two-part series on the Southern District of Alabama. Part I discusses the history of the Southern District courthouses and the architecture of the Mobile, Ala., courthouse. Part II will discuss the history of the Southern District. Sources used for Part I are provided. For detailed endnotes or further information, contact the author at [Cameron\\_Pfeiffer@alsd.uscourts.gov](mailto:Cameron_Pfeiffer@alsd.uscourts.gov).

naturalized citizens. The work that goes on within these walls, every day, impacts the many and plays a significant public role.

**Courthouse Origins**

From the alligator- and oyster-laden Mobile Delta to the fertile topsoil of the Black Belt, today’s Southern District of Alabama (Southern and Northern Divisions) stretches from Mobile to Selma, encompassing Baldwin, Choctaw, Clarke, Conecuh, Dallas, Escambia, Hale, Marengo, Mobile, Monroe, Perry, Washington and Wilcox counties. One of the nation’s 94 district (trial) courts and more than 200 years in the making, the Southern District and its courthouses trace their origins back to 1804 and to what was then known as the Mississippi Territory.

Apart from sporadic matters addressed at Fort Stoddert, the first “courthouse” consisted of a patch of shaded grass below the “great Jury Oak” in Baldwin County, Alabama, where the then singular federal judge held court in the early 1800s. On April 21, 1820, Congress organized Alabama as a judicial district and authorized one federal judgeship for the state. In 1824, the Southern District was officially established, covering Autauga, Baldwin, Bibb, Butler, Clarke, Conecuh, Covington, Dallas, Greene, Henry, Marengo, Mobile, Monroe, Montgomery, Perry, Pickens, Pike, Shelby, Tuscaloosa, Washington, and Wilcox counties. This led to the second “courthouse” – actually comprising of two structures, as the federal judge held court in Cahawba and Mobile four times a year.

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Thereafter, from 1867-1934, early Southern District judges held court in Mobile, on the third floor of what was then the United States Customs House and Post Office. During that period, in 1905, Selma was added as an “authorized meeting place” for the Southern District. In 1911, the Southern District was reorganized to reflect the 13 counties it now serves, and court was held both in Selma and Mobile. In 1966, the Southern District received its second judgeship, and two judges served until 1984, when a third was authorized. In sum, 24 federal judges served the Southern District (including those who hold court today), and court continued to be held both in Selma and Mobile through the first decade of the 21<sup>st</sup> century.

**Hopes for a New Courthouse**

While courthouse locations varied in the first hundred years of the Southern District, early 20<sup>th</sup> century events rendered Mobile a key contender for permanence. The 1920s “roared” through Mobile with a combination of large-scale civic projects and port expansion on the heels of a post-World War I shipbuilding boom. Such activity injected the local economy with new industries as well as a variety of factories along the waterfront. However, this commercial renaissance in the Port City abruptly paused in the fall of 1929, as the Great Depression hit, presenting challenges. Even so, despite facing hard times, more notable events were in store, and the 1930s brought The New Deal to Mobile and a new federal building.

Early 1930s Mobile reawakened from a period of reflection and self-preservation, reigniting its renaissance. Cotton exports, banana imports, downtown dock expansions, formation of the Historic Mobile Preservation Society (1935), construction of Bellingrath Gardens (1932), the maritime industry skyrocketing, and an influx of new citizens quickly revamped the city. Cotton and corn ruled, with Alabama producing 1,312,963 bales of cotton and 35,683,874 bushels of corn in 1930. Alabama’s Tallulah Brockman Bankhead was becoming a star of stage, screen and radio. The newly launched Alabama Deep Sea Fishing Rodeo was a hit. Chocolate milk cost 5 cents at Van Antwerp’s, and you could buy a Plymouth for \$445 or eat a full breakfast at Morrison’s for 13 cents. Amid these changes, there were rumblings of a new federal building in downtown Mobile. In 1932, a local bank president wrote to The Press Register:

Dear Sir: While we are very much opposed to expenditure of monies by the government for any purpose which is not absolutely essential to its conduct, we are informed that there is an appropriation of \$100,000,000.00 for Public Buildings. If it is really necessary (sic) that the Government spend this money (and we hope it is not)

*See “The Southern District of Alabama” page 38*

# Preview: 2016 Eleventh Circuit Judicial Conference

By Sandy G. Robinson

The 2016 Eleventh Circuit Judicial Conference begins May 5 at the historic Grand Hotel Marriott in Point Clear, Ala. The Grand Hotel is truly a one-of-a-kind resort, with a colorful history dating to 1847. The hotel has endured through wars, fires and hurricanes and is a favorite destination for travelers from around the globe. It has an unrivaled panoramic view of Mobile Bay, a full service spa and 36 holes of top-notch golf.

## Thursday, May 5

Judge Ed Carnes will open the conference Thursday morning following a patriotic musical prelude and the Presentation of Colors. Thursday morning's substantive program will be "Neurology and the Law," a fascinating and timely topic presented by Professors Nita A. Farahany and Henry T. "Hank" Greely, experts and frequent lecturers in this field. Donald S. Burris, an attorney in Los Angeles, will be the speaker at the luncheon for all conferees. His topic is "Tragedy to Triumph -- Reflections on Litigating Looted Art Collections," which is based on his successful pursuit of artworks and other assets stolen by the Nazi authorities before and during World War II.

On Thursday afternoon, U.S. Supreme Court Justice Clarence Thomas, the circuit justice for the Eleventh Circuit, will join the roundtable discussions for attorneys and judges. The three states making up the circuit will hold simultaneous breakout sessions, with a special session for bankruptcy attorneys and judges. Following the roundtable discussions on Thursday afternoon, the Eleventh Circuit Historical Society will meet.

While the conference is in session Thursday, spouses and guests of the conferees will have several interesting activities to choose from, including a driftwood sculpture class, a tour of Mobile's Maritime Museum (and lunch in Mobile), a walking tour of the Boardwalk south of the Grand Hotel, or a tour of Bellingrath Gardens and Home in Mobile (with lunch).

On Thursday evening, a reception for all conferees and guests, hosted by state, federal and local bar associations, will be held at the beautiful Julep Point Pavilion at the Grand Hotel, with music provided by Mobile's own historic Excelsior Band. Dinner with entertainment will follow the reception.

## Friday, May 6

Following a musical prelude, the substantive program for the morning will be "The Holocaust and The Law: Legal Lessons for Today," presented by William F. Meinecke, Jr., Ph.D. and Marcus Applebaum of the United States Holocaust Memorial Museum. Separate luncheons will be held for conferees and guests from each of the three states making up the circuit, and during lunch



The Boardwalk at the Grand Hotel Marriott in Point Clear, Ala., can offer a spectacular view of Julep Point at sunset. (Photo courtesy of the Grand Hotel)

Mobile lawyer William Watts in the role of Abraham Lincoln will present a monologue titled "Lawyer Lincoln."

After lunch, a program will be presented on "Technology and the Law: What Social Networks Track and Know About You," presented by Ovie Carroll, the current director for the Department of Justice, Cybercrime Lab at the Computer Crime and Intellectual Property Section.

The highlight of the afternoon program is "A Conversation with Supreme Court Justice Clarence Thomas," moderated by Peter B. "Bo" Rutledge, dean of the University of Georgia School of Law. Conferees will have an opportunity to submit questions for Justice Thomas in advance.

## Saturday, May 7

The young lawyers of the circuit will have an exciting opportunity Saturday morning to participate in a roundtable discussion with Justice Clarence Thomas and selected judges from the Eleventh Circuit. Following the discussion, the young conferees will have the opportunity to participate in admissions ceremonies for the Supreme Court of the United States and the U.S. Court of Appeals for the Eleventh Circuit (prior application and approval required).

Under the leadership of Committee Chair U.S. District Judge William H. Steele and Chief Judge Ed Carnes, an interesting and enjoyable program has been planned for the judges, conferees and their guests. The conference is an excellent opportunity for the bar and judiciary to interact and to promote the efficient and fair administration of justice in the wonderful courts of our Eleventh Circuit.

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# Eleventh Circuit returns to Tampa

By Peter B. King

Photos by Keith Lindquist



The Tampa Bay Chapter of the Federal Bar Association sponsored a panel discussion at Le Meridien after oral argument was heard in the ceremonial courtroom of the Sam Gibbons U.S. District Court. From left, Circuit Judges Charles Wilson, Gerald Tjoflat and Beverly Martin, and Magistrate Judge Elizabeth Jenkins.

After an absence estimated to be more than 15 years, a panel of Eleventh Circuit judges returned to Tampa on Nov. 17, 2015. Circuit Judges Gerald B. Tjoflat, Charles R. Wilson, and Beverly B. Martin heard oral argument in a death penalty case in the ceremonial courtroom of the Sam Gibbons United States District Court and then participated in a luncheon panel discussion at the Le Meridien in downtown Tampa. Magistrate Judge Elizabeth A. Jenkins moderated the panel discussion, which was sponsored by the Tampa Bay Chapter of the Federal Bar Association.

Le Meridien, as many are aware, is the former home of the Tampa Division of the United States District Court for the Middle District of Florida. It is also the courthouse in which Judge Tjoflat served during his years as a district court judge. At a dinner welcoming the judges on the eve of the event, Judge Tjoflat, the longest-tenured judge currently on the Eleventh Circuit (recently celebrating his 45<sup>th</sup> year), fondly recalled his years at the old courthouse and shared stories about some of the interesting cases over which he presided there.

The oral argument was well attended, with more than 100 spectators, necessitating the use of an overflow room. Following oral argument, Judge Jenkins moderated the panel discussion before an audience of more than 150 and elicited a lively exchange among the judges on a range of topics. Given the lengthy gap since the last oral argument in Tampa, Judge Jenkins first inquired about the process of securing a special sitting of the Eleventh Circuit (paraphrasing the questions and answers):

**Q: How does a city secure a special sitting of the Eleventh Circuit?**

**A:** Judge Wilson explained that a federal statute [28 U.S.C. § 48] provides that the court's regular sessions may be held in Atlanta, Jacksonville and Montgomery, as well as other places the court designates by rule. The court may hold special sessions anywhere within the circuit as the nature of the business requires. As a practical consideration, a panel of judges must be willing to travel. Judge Martin graciously noted that she would return to Tampa "any time," an offer that will surely be renewed to

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Magistrate Judge Jenkins moderated the discussion before an audience of more than 150 people.

her and Judge Tjoflat (and Judge Wilson, of course, who maintains his chambers in Tampa).

As a side note, Judge Wilson was the key to securing this special sitting in Tampa. The co-chairs and organizers of the panel discussion, Larry Dougherty and Lauren Pilkington-Rich (both of whom previously served as his law clerks), raised the idea of such an event with Judge Wilson months ago. At the time, Judge Wilson expressed great interest but cautioned that the process might be difficult and that they “should not hold your breath.” Within a few short weeks, however, Judge Wilson notified Dougherty and Pilkington-Rich that the Eleventh Circuit had agreed to the special sitting. As they exhaled, Dougherty and Pilkington-Rich set about making all the necessary arrangements, including a welcome dinner for the Eleventh Circuit judges on the eve of the event. The cooperation and assistance of the Eleventh Circuit staff and the Tampa Division staff was also crucial.

**Q: How does the Eleventh Circuit decide whether to grant oral argument?**

**A:** Judge Tjoflat noted that oral argument is currently granted in only 15 percent to 20 percent of appeals, due in large part to the fact that the federal law is now more settled as a result of Supreme Court decisions. He discussed the two types of appeals. One type is for the extension or development of the law in the circuit (the “cutting edge of the law”), and counsel needs to be prepared to discuss the policy considerations underlying the legal issues. The second type of appeal urges error by the trial court, and the circuit court judges consider whether the alleged errors are prejudicial. Judge Tjoflat observed that oral argument is rarely granted, for example, in Title VII cases and suits

against sheriffs (who enjoy qualified immunity) because the law is so well settled in that area.

About written advocacy, Judge Tjoflat noted the importance of effective briefs given the low percentage of cases in which argument is heard. As a general matter, Judge Tjoflat asks himself, “Do I think oral argument will help me resolve this particular case?” Judge Wilson asks himself, “Do I think I will be able to get this past Judge Tjoflat?”

**Q: What is the best way to prepare for oral argument?**

**A:** Judge Wilson recommended that counsel avoid reading the argument to the panel and that counsel come prepared to respond to the court’s questions. He observed that time for argument is limited, that “time flies,” and suggested that counsel should plan to stick to the most important issues. Counsel should recognize that there is some issue that is of concern to the judges and should try to anticipate and address that issue.

Judge Wilson and Judge Tjoflat often see the most effective advocates in court the day before their oral arguments, observing the panel’s interaction with the lawyers and getting a feel for the judges’ approach. Judge Martin recognizes that it is easier “to be on our side of the bench.” She posited that “a question from the bench is a gift,” providing counsel insight into the judge’s thought process. She recommended responding to questions with specificity. Oral argument, in Judge Martin’s view, should be a “conversation,” and through this conversation counsel should, in essence, help the court write its decision. She also explained that the court needs to write a rule that applies to the specific matter at hand, as well as other cases.



In discussing the best way to prepare for oral argument, Judge Tjoflat reiterated Judge Martin’s comments that argument should be a conversation. In Judge Martin’s view, counsel should, in essence, help the court write its decision through this conversation.

## Eleventh Circuit returns to Tampa, continued

Judge Tjoflat counseled to know the case of the opposing party, its strengths and weaknesses. If you can't argue the other side's case when asked to do so, "you are in trouble." He observed that great lawyers are always at ease and welcome questions from the court, and reiterated Judge Martin's comments that argument should be a conversation. It is not helpful, however, when counsel does not know the answer. Counsel should know the record and the applicable law. As Judge Wilson noted, oral argument is your last shot at changing the court's mind.

As for the judge's preparation for oral argument, an interesting point made by Judge Tjoflat was that the panel does not typically confer about the case before oral argument but rather waits until the conference after oral argument before deliberating as a group.

### **Q: What are considerations as to drafting opinions?**

**A:** Judge Tjoflat explained that a significant factor in drafting the majority opinion is knowing the other judges on the panel and having a sense for their concerns and how they might approach the resolution of the appeal. This is perhaps one of the reasons he believes circuit judges can be more effective when there are fewer judges in a circuit, as further discussed below, in that they serve together on panels more frequently and have more familiarity with each other.

Judge Wilson noted that the panel judges will exchange drafts of opinions and that they frequently conference up until the point the opinion is final. Judge Martin enjoys the collaborative process and hearing her colleagues' thoughts, and all the judges agreed that they remain open to the views of the other judges all the way through the opinion being finalized.

### **Q: What about dissenting opinions?**

**A:** The judges concluded (without dissent) that consensus is important and that they prefer to have a consensus opinion. Even where there is disagreement, the judges will strive to find a consensus in order to promote uniformity. Judge Tjoflat will not dissent merely because he doesn't like the result. Judge Wilson believes dissenting opinions are issued only when the dissenting judge holds strong views about the issues. For Judge Martin, it comes down to whether she can put her name on an opinion or if it says something she thinks is just wrong. She stated that the conferences following oral argument can change a judge's view of the case "more often than you think." Judge Martin told of a time she drafted a majority opinion and then, after reading the dissenting opinion, was persuaded by the argument and changed her mind. She recalled, with a bit of good humor, informing the judge who had originally sided with her that he was no longer in the majority.



Judge Wilson observed that time for oral argument is limited, that "time flies," and suggested that counsel should try to anticipate and address the issues that are of concern to the judges.

Other reasons to write a dissent include influencing the Supreme Court in the event a party files a petition for certiorari, influencing other circuit courts, or facilitating en banc consideration. En banc review, however, has declined as the law has become more settled, from an estimated eight or nine cases a year down to three or four.

### **Q: Should the Eleventh Circuit add more judges?**

**A:** Judge Tjoflat is of the opinion that more judges are not needed. He recalled his time on the former Fifth Circuit, when it grew from 15 to 26 judges in the late 1970s. He believes that a fewer number of judges promotes stability in the law. Too many panels make it more difficult for the judges to reason together, especially en banc, and impair the ability of the circuit to establish a cohesive body of law. Judge Wilson's view has evolved over the years. He now prefers to stay efficient with fewer judges and to fill specific needs with senior judges or visiting judges. He estimated that death penalty appeals take up 20 percent to 25 percent of his time. He noted that a couple of Supreme Court justices recently called the death penalty into question and that, if the death penalty were abolished, it would have a dramatic impact on the court's docket.

Judge Martin emphasized that the Eleventh Circuit is a very hard-working court, citing statistics on appeals terminated on the merits and procedurally. In 1981, when the population of the Eleventh Circuit was 19 million, there were 12 circuit judges. Today, the population of the circuit is around 34 million to 35 million and there are only 11 circuit judges (with one vacancy). Describing hers as the "minority view," Judge Martin noted some advantages in increasing the number of judges, specifically that with more judges the court could devote more attention to

each case and render more thoughtful opinions with less dependence on their law clerks. She thoughtfully observed that many of the cases before the Eleventh Circuit are the most important thing going on in somebody's life, and she has pondered whether a two- or three-page opinion that affirms a life sentence is enough.

**Q: Should the Eleventh Circuit use video conferencing for oral argument?**

**A:** As Judge Tjoflat succinctly observed, "you can't beat face-to-face argument." Judge Wilson noted that video conferencing has been used in a few unusual circumstances but did not believe the court would adopt it as routine practice. "We like to hear from the lawyers here in the courtroom," he said.

**Q: Talk about professional conduct.**

**A:** Judge Tjoflat expressed admiration for the example set by the English barristers. "There is a reverence for justice, and for the court. There is a reverence for your adversaries,

too." Reverence for the court, and for the process, is manifested in the lawyer's knowledge of the record. "When you don't know what's in the record, you're being irreverent in a sense." He noted that former Chief Justice Warren Burger's encouragement for the establishment of the American Inns of Court was a response to what he viewed as excessively zealous advocacy in the 1970s, a time when lawyers had, in Judge Tjoflat's view, "lost their balance."

**Special thanks:** The Tampa Bay Chapter of the Federal Bar Association is grateful to Judges Tjoflat, Wilson and Martin for agreeing to the special sitting in Tampa and for participating in the panel discussion. The chapter very much appreciates Judge Jenkins' outstanding effort in moderating the discussion. And the chapter gives special thanks to Judge Wilson for facilitating the panel's special sitting and to event co-chairs Larry Dougherty and Lauren Pilkington-Rich for their substantial time commitment and exacting attention to detail. This was most definitely a signature event for our chapter in 2015.



## 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.

# Ansley Park: Home to historic judicial residences

By Harold T. Daniel, Jr. and Laurie Webb Daniel

Historic Ansley Park in midtown Atlanta has been and still is the home of a number of federal judges. This article tells of the residences owned and loved by two such judges: Elbert Parr Tuttle, who served first on the Fifth and then on the Eleventh Circuit from 1954 to 1996, and Newell Edenfield, who served on the Northern District of Georgia from 1967 to 1981.

The area was developed more than a hundred years ago as one of Atlanta's first suburban neighborhoods. Its design is characteristic of the work of Frederick Law Olmsted (designer of Central Park among other venues). Olmsted came to Atlanta in the late 19th century as a consultant to the Cotton States Exposition, which took place on adjacent property. As with many of Olmsted's designs, the Ansley Park neighborhood features wide curving streets and a series of small green parks interspersed throughout.

Ansley Park sits between Peachtree Street and Piedmont Avenue, facing the Woodruff Arts Center on one side and the Atlanta Botanical Gardens on the other. From the beginning, its population has included prominent lawyers and judges – as well as Georgia's governor until the governor's mansion was relocated in 1968.

## Judge Elbert Parr Tuttle

Judge Elbert Tuttle lived in Ansley Park for almost 50 years. Upon returning from service in World War II, he and his wife, Sara, first rented a house in the area. Every



In the 1990s, the Tuttle House was moved from its original location at Inman Circle and Peachtree Circle.

morning he would walk to a bus stop, and on the way he would pass a vacant lot. Then, in 1949, he obtained a loan, bought the lot and built a house there. The house was located at Inman Circle and Peachtree Circle, a block from Peachtree Street. It was an unpretentious frame house painted canary yellow.

Anne Emanuel, a former law clerk of Judge Tuttle (who later became a law professor at Georgia State University), described the Tuttle house in her book, "Elbert Parr Tuttle: Chief Jurist of the Civil Rights Revolution" (University of Georgia Press, 2011). Emanuel's book – which is an authorized biography – mentions that the master bedroom was on the first floor and that there were two bedrooms connected by a full bathroom upstairs. Emanuel also noted that, although a newspaper article called the residence a "dream house," at least one person complained that the house did not meet the standards of the neighborhood.

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**ABOUT THE AUTHORS:** Harold "Hal" T. Daniel, Jr. is a partner in Holland & Knight's Atlanta office and practices in the firm's Litigation Section. He is a past president of the State Bar of Georgia. Laurie Webb Daniel is the leader of Holland & Knight's Atlanta Litigation Practice Group and chair of the firm's national Appellate Team. Both are members of the Eleventh Circuit Historical Society.

## Ansley Park, continued

When the Fifth Circuit sat in Atlanta, Sara Tuttle had a custom of inviting spouses who traveled with the judges to come to the house in the afternoon. Then the judges would join them at the house in the evening. According to Emanuel, these social gatherings included cheese biscuits and peanut butter straws as well as bourbon, Scotch or sherry.

Emanuel reports that at least one significant ruling was made by Judge Tuttle at his home. At 11 p.m. on a spring night in 1979, three attorneys, including former U.S. Attorney General Ramsey Clark, knocked on the door. Sara answered and led them to the living room, where they met with the judge. The lawyers had a petition for writ of habeas corpus that raised for the first time the issue of ineffective assistance of counsel for a prisoner named John Spenklink. This was a serious case receiving national attention, as Spenklink was scheduled for execution in Florida. If Spenklink was put to death, it would end a 12-year moratorium on executions. Although Tuttle told Clark that he did not categorically oppose the death penalty, he granted a stay to permit consideration of the habeas corpus petition. Later, a panel of the Fifth Circuit vacated Tuttle's stay, and Spenklink was executed, which marked a new era for the death penalty in Florida and elsewhere.

After Judge Tuttle's death in 1996, a young couple purchased the Tuttle home and planned to demolish it so they could build a larger house on the site. Dorothy McClatchey, a longtime resident of Ansley Park, learned of their plans and felt that the house must be saved. Dorothy was the widow of Devereaux McClatchey, a prominent lawyer and partner of Smith, Cody, Kilpatrick, Rogers, McClatchey & Regenstein (now Kilpatrick Townsend). Because she so admired Judge Tuttle, she bought his house from the couple. She also purchased – then tore down – a second house in the neighborhood and moved the Tuttle house about three blocks to its new location.

Another longtime lawyer-resident of Ansley Park, Holland & Knight partner Thomas L. Branch, III, is a member of First Presbyterian Church, which is located at Peachtree and 16<sup>th</sup> streets just across from the western border of the neighborhood. Tom Branch and some others negotiated to buy the Tuttle home for use as the manse of First Presbyterian. So today the Tuttle house is the home of the senior pastor of that church. Though now owned by First Presbyterian, it is still painted yellow and bears a plaque identifying it as the "Tuttle House."

### Judge Newell Edenfield

Newell Edenfield, a district court judge with a commanding personality, lived in Ansley Park at 119 The Prado for about 30 years. The Edenfield house had been built in 1910 by a well-respected lawyer named James



Newell Edenfield house

A. Branch (no relation to Tom Branch), who lived in the house for about 40 years. Before selling his house, Branch reportedly made inquiries about the young lawyer who was interested in purchasing his house.

Judge Edenfield and his wife raised a daughter and five sons in that house. One of the sons, Atlanta attorney Bruce Edenfield, recalled that his sister was given her own bedroom, but he and his brothers slept in the same room in bunk beds. The Edenfields also had dog named "Georgia." Georgia, however, preferred to sleep in the middle of the street in front of the house. Fortunately, the Edenfield house sits on the widest part of The Prado, near 17<sup>th</sup> Street.

Two lawyers remembered an occasion on which they went to the Edenfield house over the weekend for an emergency motion. Howard O. Hunter, former dean of the Emory School of Law, and Susan Hoy, former attorney with the Federal Reserve, both recalled that a large delegation of lawyers from their respective law firms then known as

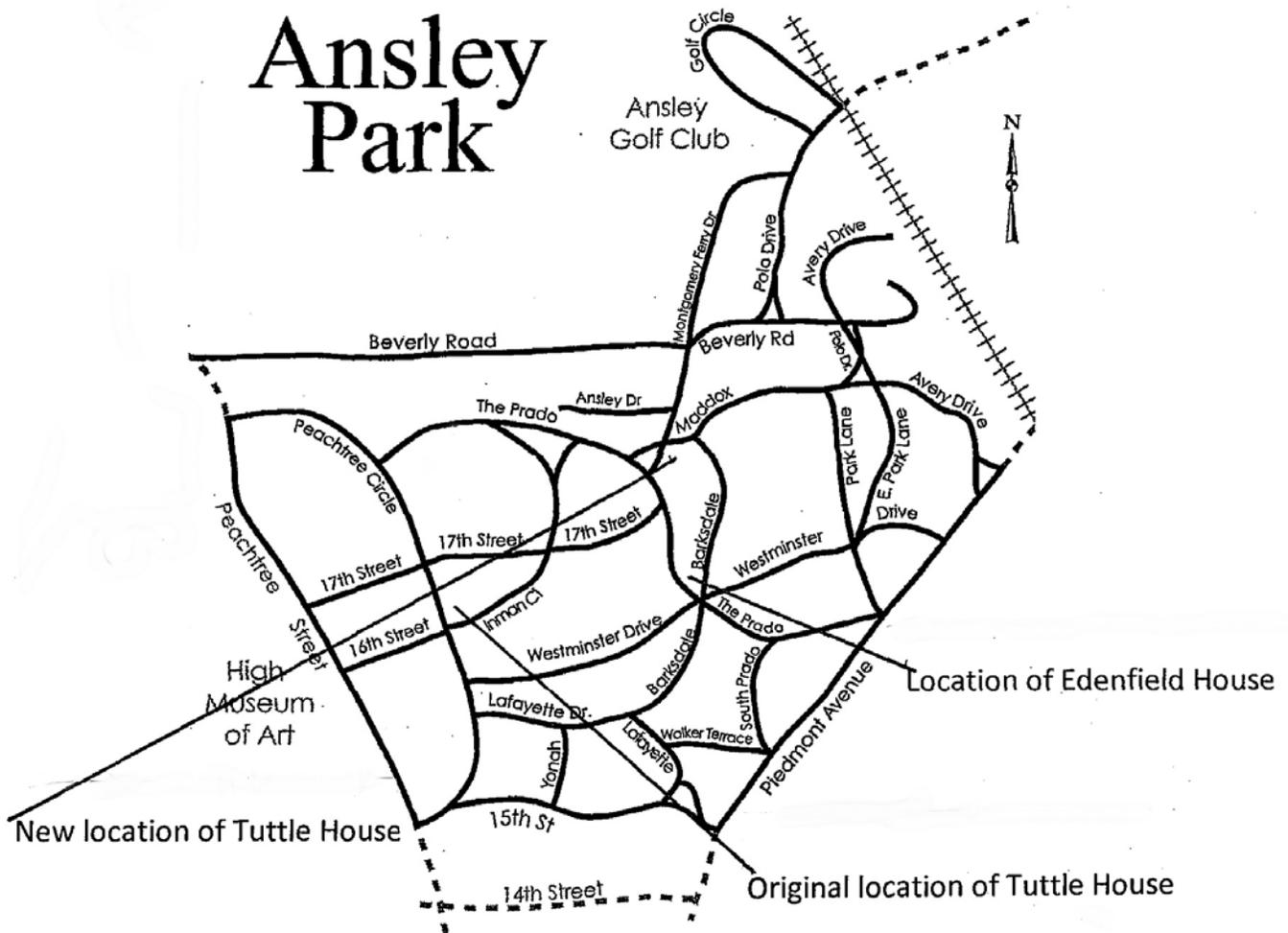
## Ansley Park, continued

Hansell Post Brandon & Dorsey (which later merged with Jones Day) and Alston Miller & Gaines (now Alston & Bird) descended on the house on a Saturday for a temporary restraining order hearing. After greeting the lawyers and learning about their mission, Judge Edenfield divided them into two groups. He put one side in the dining room and the other side in the living room. Then he retired to the kitchen. After reading the motion papers, he granted the TRO and signed an order on his kitchen table. Hunter recalled that the lawyers then went to the job site involved and read the order to the workers from their automobile.

Judge Edenfield was known to enjoy a cocktail at the end of the day, and many lawyers remember having a drink with him after work. One of those lawyers was his younger cousin – the late Avant Edenfield – who also became a district court judge. Avant, who admitted looking up to Newell with awe and respect, told a

wonderful story about such an occasion. Newell invited Avant to have a drink, and Avant accepted. Newell pulled out two glasses and poured some brown whiskey into each. Avant then noticed that there was a fly in his drink and had to decide whether to drink the whiskey with the fly in it or ask Newell for another glass. When asked about his decision, Avant said, "I drank it."

The Edenfield house is unusual in another respect. It has been owned only by lawyers. James Branch sold it to Newell Edenfield when Edenfield served as Atlanta's city attorney before going on the bench. After Judge Edenfield died, his widow sold the home to a family friend, Robert E. "Bob" Hicks, the senior partner at Hicks Maloof & Campbell (which later merged with Long Aldridge & Norman, eventually becoming McKenna Long & Aldridge and then Dentons). In 1996, Bob Hicks sold it to friends at Holland & Knight – the authors – who have lived there ever since.



# UGA Jurist in Residence program honors late Judge B. Avant Edenfield



*The following news announcement was released on Nov. 19, 2015, and is republished with permission from the University of Georgia School of Law.*

ATHENS, Ga. — The University of Georgia School of Law has created the B. Avant Edenfield Jurist in Residence, which will give law students an opportunity to learn from federal judges in a series of mini-courses.

Made possible by a contribution from 2003 Georgia Law alumnus Allen W. Yee, a former clerk of the late Edenfield, the Jurist in Residence program will enable one or more Article III judges to spend a period in residence at Georgia Law each year. Edenfield was a longtime federal judge on the U.S. District Court for the Southern District of Georgia who earned both his bachelor's and Juris Doctor degrees from UGA.

"I am grateful to Allen Yee for this gift honoring a great judge, a great man and a great friend to the law school," said Georgia Law Dean Peter B. "Bo" Rutledge. "Georgia Law enjoys a strong legacy of relationships between federal judges and its graduates who go on to work for them. During his many years of service, Judge Edenfield hired several Georgia Law graduates. This gift honors that legacy and exposes students to a federal judge — and likewise exposes federal judges to the great students whom we have here at the law school."

"Judge Edenfield's astute legal mind and passion for justice made him a hard-working judge who demanded much of those in his courtroom. To those who clerked for him, he was a true friend and mentor," said Yee, who is a senior attorney with the Coca-Cola Co. "I am so grateful for the opportunity to create through my charitable giving to Georgia Law the B. Avant Edenfield Jurist in Residence fund. It honors my friend and mentor, Judge Edenfield, and continues, in a small way, his legacy



Judge Edenfield receives the University of Georgia School of Law's Distinguished Service Scroll Award in 2008. (Photo provided by UGA School of Law)

of teaching and guidance to the next generation of lawyers."

The inaugural Edenfield Jurist in Residence will be 1990 Georgia Law alumna Lisa Godbey Wood, who currently serves as chief judge of the U.S. District Court for the Southern District of Georgia. Her course will focus on sentencing.

"There was never any question about Judge Edenfield's loyalty to Georgia Law, nor was there any doubt that he loved to mentor students. The Edenfield Jurist in Residence program combines both of his passions. I was proud to have been his friend and colleague, and I am so honored to support his legacy by serving as the first Edenfield Jurist in Residence," Wood said.

David Sentelle, former chief judge of the U.S. Court of Appeals for the District of Columbia Circuit, will be the second Edenfield Jurist in Residence.

"The Jurist in Residence advances the law school's commitment to producing graduates committed to service on behalf of state and nation, just like Judge Edenfield," Rutledge said.

## UGA School of Law

Consistently regarded as one of the nation's top public law schools, Georgia Law was established in 1859. Its accomplished faculty includes authors of some of the country's leading legal scholarship. The school offers three degrees — the Juris Doctor, the Master of Laws and the

Master in the Study of Law — and is home to the Dean Rusk International Law Center. Georgia Law is proud of its long tradition of providing first-rate legal training for future leaders who will serve state and nation in both the public and private sectors. For more information, go to [www.law.uga.edu](http://www.law.uga.edu).

# Federal judges and pro bono: One of our own is honored

By Judge Laurel Myerson Isicoff  
U.S. Bankruptcy Court, Southern District of Florida

On Jan. 27, 2016, Catherine Peek McEwen, U.S. Bankruptcy Judge for the Middle District of Florida, became the first recipient of the Chief Justice's Distinguished Federal Judicial Service Award. As explained by The Florida Bar, "(t)he purpose of this new award, to be presented by the chief justice, is to recognize an active or retired federal judge for outstanding and sustained service to the public, whether through legal or civic service or a combination of them, especially as it relates to the support of pro bono legal services."<sup>1</sup>

Those of you who know Judge McEwen understand that she was the obvious choice to inaugurate this award. Both before and after ascending the bench, Judge McEwen has been a passionate advocate for pro bono.

Because the award recognizes Judge McEwen's contributions since she became a judge, and in the interest of space limitations, I will just highlight some of her judicial activities.

Soon after becoming a judge, Judge McEwen was

concerned about how a lack of information was negatively impacting pro se consumer debtors. So Judge McEwen worked with other judges and the local bankruptcy bar and produced a bankruptcy basics video. The video is 35 minutes long and can be accessed on the bankruptcy court website ([www.flmb.uscourts.gov](http://www.flmb.uscourts.gov)). This video, which Judge McEwen envisioned, helped write and put together, is a primary resource for all pro se debtors in the state of Florida and is now available on the websites in all bankruptcy courts in Florida in English, Spanish and Haitian Creole. In fact, the video was modified to remove Florida-specific references and is now available to debtors all over the United States. See [www.uscourts.gov/services-forms/bankruptcy/bankruptcy-basics](http://www.uscourts.gov/services-forms/bankruptcy/bankruptcy-basics).

Judge McEwen, a former sports writer, regularly writes op-ed pieces on pro bono issues for newspapers and Florida Bar publications. A piece that Judge McEwen wrote for Pro Bono Week 2015 was published in the Tampa Tribune. This piece outlined why pro bono is important



Judge Catherine Peek McEwen speaks at the Florida Supreme Court after receiving the first Chief Justice's Distinguished Federal Judicial Service Award.

for lawyers, business people, the public and judges. To summarize the legal interests, the Middle District of Florida and the Southern District of Florida are among a handful of bankruptcy courts that have the highest ratio of pro se matters per judge in the country. For those of you who have dealt with pro se litigants, you know that any time a party is pro se (or self-represented, as we now say) there is a delay in court matters and longer court hearings. While some of these litigants can afford legal representation, most cannot. Thus, it benefits judges and lawyers to have counsel volunteering to take these cases and help make the process more efficient as well as more fair.

In support of the Florida access-to-justice crisis, Judge McEwen wrote an op-ed piece that was published in several newspapers, including the Tampa Tribune. Judge McEwen then sent copies of that article to business leaders around the entire state explaining why access to justice is important for business in Florida.

Judge McEwen recently served as chair of the Pro Bono Committee for the Thirteenth Judicial Circuit. Among the many things Judge McEwen accomplished as chair, for Pro Bono Week 2013 Judge McEwen helped coordinate a Pro Bono Judicial Summit, which was repeated during Pro Bono Week 2015. In connection with the summit, Judge McEwen wrote an article that was distributed to all state and federal judges in the Middle District of Florida explaining why it is important for the judiciary to support pro bono.

As chair, Judge McEwen also publicized her philosophy that pro bono is like Baskin-Robbins ice cream, with different flavors to suit every taste; this has been a successful recruiting tool for volunteer lawyers.

Judge McEwen also looks for opportunities to continue to do personal service. So, in addition to her charitable and community efforts (Judge McEwen teaches Sunday school and coaches a girls' softball team), Judge McEwen has volunteered at clinics to notarize documents for the homeless and the poor.

However, the federal judiciary's commitment to pro bono doesn't stop with Judge McEwen. While there are numerous stories and projects, and I would ask other members of the federal judiciary to share them, I will focus on three recent projects in the Southern District of Florida. The first project began with the Southern District of Florida Pro Bono Week 2015 Celebration. Under the leadership of the Federal Bar Association and Judge Patricia Seitz, and the support and tutelage of Judge Marcia Cooke and Judge Kathleen Williams, during Pro Bono Week several federal court practitioners and judges put on two seminars on representing prisoners in Section 1983 and habeas actions.<sup>2</sup> The event was so successful that the FBA and the court intend to repeat the seminars

throughout the year and throughout the Southern District.

The second project was initiated at the suggestion of Magistrate Judge Chris McAliley, Federal Public Defender Michael Caruso, U.S. Attorney Wilfredo Ferrer and Chief U.S. Probation Officer Reginald Michael. They proposed a re-entry idea to the Probation Committee of the Southern District of Florida. Judge Seitz volunteered to head up a working group to look further into the possibility of such a program. Patterned after programs in the Northern District of Florida and the Eastern District of Pennsylvania, the CARE (Court Assisted Re-Entry Program) initiative will start off by providing assistance to up to 15 moderate to high-risk supervisees helping them reintegrate into life. The court will be working with FIU law students, mentors trained by the court and a University of Miami research professor who will evaluate the initiative for the court. The pilot initiative is scheduled to last 18 months.

The third project involves improving already significant bankruptcy pro bono and pro se programs and resources in the Southern District of Florida. The Southern District of Florida Bankruptcy Court has the second-highest pro se-to-judge ratio of all bankruptcy courts in the country. Thus, the more volunteers and the more resources, the better we as a court are able to service the public. We started by holding a districtwide Pro Bono Bankruptcy Summit. The summit was attended by more than 50 volunteers from around the district. We formed eight task forces to deal with, among other things, re-doing our court website content relating to pro bono and pro se information for debtors, creditors and lawyers interested in volunteering. We also have a task force looking at how to extend programming to all 10 counties in the Southern District of Florida. Our aim is that by Pro Bono Week 2016, bankruptcy pro bono and pro se support in the Southern District of Florida will have become even better than it is now.

Courts and judges all over the country have always been committed to addressing access and rehabilitation for those in need. Our circuit has many judges and projects that reflect that commitment. We can all be inspired by judges such as Judge McEwen and do our part. There is an opportunity for all of us to do something for those who are in need of free or low-cost legal assistance. Just find, as Judge McEwen says, the right flavor for you.

### Endnotes:

- 1 There has always been a Distinguished Judicial Service Award included in the chief justice's annual pro bono award recognitions, but only members of the state judiciary qualify.
- 2 During Pro Bono Week, the Bankruptcy Bar Association of the Southern District of Florida conducted several of the pro se clinics that are usually offered districtwide several times a month.

# Bar center named for Harkness

By Jan Pudlow  
Senior Editor, The Florida Bar News

The following article appeared in *The Florida Bar News* on Feb. 15, 2016, and is republished with permission from The Florida Bar.



The Tallahassee campus of The Florida Bar was named after longtime Executive Director John F. Harkness, Jr., center, in January. Also attending the dedication ceremony were Bar President Ramón Abadin, left, and President-elect Bill Schifino.

Once a well-kept secret, there was a public celebration on Jan. 28, when The Florida Bar headquarters was renamed the "John F. Harkness, Jr. Complex," to honor the Bar's executive director now in his 36th year of service.

"By renaming this beautiful complex the John F. Harkness, Jr. Bar Complex – from here on known as 'The Jack' – we do not just recognize a great man and a great leader, we honor our beloved profession," said Florida Supreme Court Chief Justice Jorge Labarga.

Past Bar presidents and members of the Board of Governors, justices, judges, lawyers, family and friends gathered to watch the unveiling of the new brick sign facing southwest at 651 E. Jefferson St. in Tallahassee.

Immediate Past President Greg Coleman, the first at the microphone, was winding up his remarks when suddenly the power went off. A one-car crash into a utility pole about a half a mile away shut down several blocks of power in downtown Tallahassee.

"Jack got ahold of the switch!" someone shouted to laughter, continuing the joke that the low-key, humble Harkness really didn't want such grand recognition.

"Electrifying speech!" exclaimed Justice Ricky Polston to laughter.

As fire trucks and police cars zoomed by with sirens blaring, Bar President-elect Bill Schifino announced: "All for you, Jack."

Everyone gathered closer to try to hear the ceremony, which went on without amplification.

Bar President Ramón Abadin described how, in 1980, Harkness assumed the helm of The Florida Bar when it had 27,713 members, supported by a staff of 122 and a budget of \$7.1 million. Today, Harkness oversees a staff of 356 and a budget of \$44.2 million, and serves a Florida Bar made up of 101,279 members.

"Jack has done it with grace and wisdom. He has hired talented people to help him help us help our clients. Jack has held the faith and confidence of every one of the 36 of your Bar presidents," Abadin said.

"It is a comfort to me and every member of the Board of Governors, and it should be a comfort to each of you, that Jack Harkness is our executive director and has guided the hand of every president, particularly now at a time of

upheaval and dramatic change in our profession. I look to Jack for wisdom and guidance. There's a saying that goes along with every Bar president when you get to this position: 'Listen to Jack,' is what we are told. Every Bar president says it. 'If you have a question, listen to Jack. Ask Jack. Be guided by Jack. Do what you want, but listen to Jack.'

"So today, we dedicate a brick sign to a man whose integrity, whose wisdom, and whose faith and confidence in our profession, in our system of justice and each one of us is recognized."

Harkness joked that he planned it just right by muting the speechifying in his honor.

"You know, really, you don't do anything alone. You do it with your family. You do it with friends. You do it with people you work with. And over the years, I've worked with about 380 different members of the Board of Governors. Of those people, probably 172 have different personalities.

"I've worked with 36 presidents. They all have different personalities," Harkness said to laughter.

"I think, in the end, everybody wants to do what's right. I think the Bar has been a leader in that. If it wasn't for my employees, the 300-some people throughout the state of Florida, I would not be standing here today, particularly after 36 years.

"It seems like I have outlasted most of the other executive directors. And a lot of that is because of the Board of Governors. They let me do my job. They don't try to run everything. Frankly, in other states, the board of governors runs everything. ... I have never had any interference with them, and I appreciate that. They set the policy, and we carry it out," Harkness said.



Eleventh Circuit Historical Society President Leonard Gilbert, left, was on hand to congratulate Jack Harkness at the dedication.

"Also, we have had great relations with our Supreme Court. I get to travel to other bars and supreme courts. It's a unique relationship, believe me. There are states where the bar and the supreme court and the lawyers are at odds every single day."

Harkness said he really appreciates the honor, but grinned when he confessed: "The most irritating thing is I didn't find out about it. At that point in time, I said to myself, 'You know, Jack, you may be there too long. The system is not quite working, or I would have known about it.' But I didn't.

"For the 52 members of the Board of Governors to keep their mouths shut about one thing is truly amazing!"

Note: Jack Harkness is a past president of the Eleventh Circuit Historical Society (May 2001- May 2005).





## Truman McGill Hobbs was a true legend

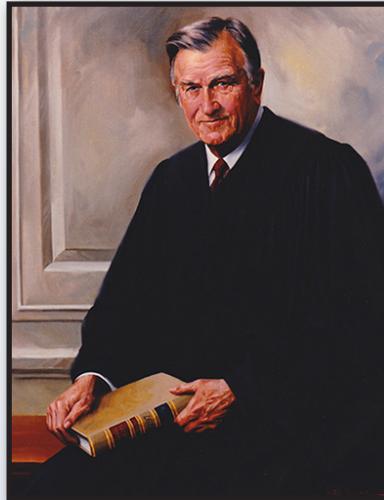
By Kenneth J. Mendelsohn

The Hon. Truman McGill Hobbs passed away on Nov. 4, 2015, at the age of 94. Most people think of Atticus Finch as the ideal lawyer, but those of us who were fortunate to have known Judge Hobbs will attest that Atticus could not have held a candle to Judge Hobbs.

Compassion, fairness, excellence, philanthropy and public service were second nature to Judge Hobbs from his childhood until he died. He was born in 1921 in Selma, Ala., and grew up in a family dedicated to public service. His father, Samuel Francis Hobbs, was a lawyer, state circuit court judge and United States congressman. Most notably, Congressman Hobbs successfully introduced The Hobbs Act, which criminalized robbery, extortion by force, fear or threat, and extortion under color of law, which law is still frequently used today in federal prosecutions.

Judge Hobbs attended the University of North Carolina, where he made Phi Beta Kappa; made All-American as a swimmer; won the award for the student-athlete with the highest grade-point average; and served as president of the student body. He was "a Tar Heel born and a Tar Heel bred" as the UNC motto goes and remained loyal to his alma mater. During his senior year at UNC, Pearl Harbor was bombed. Judge Hobbs changed his plans of representing the United States in the Olympics as a swimmer to serving our country in the U.S. Navy. He volunteered to be a hazardous duty deep-sea diver and earned the Bronze Star and the Navy-Marine Corps Medal for his heroism. Judge Hobbs rose through the naval ranks to lieutenant commander.

After the war, Judge Hobbs attended law school at Yale University, where he graduated at the top of



The Honorable Truman McGill Hobbs  
(Michael Del Priore, Portrait artist)

his class in 1948. He then accepted a clerkship with Justice Hugo Black on the U.S. Supreme Court. In the summer of 1949, Judge married Joyce Cummings, a Vassar student whom he met and fell in love with while he was at Yale. Enormous employment opportunities at the best law firms awaited the Judge. However, like his father, Judge Hobbs wanted to serve the people of Alabama. Therefore, he and his young bride moved to Montgomery.

Judge Hobbs entered the private practice of law with Richard Rives and John Godbold. Judge Rives later served as chief judge of the Fifth Circuit Court of Appeals before the

creation of the Eleventh Circuit. Judge Godbold also served as chief judge of the Fifth Circuit and in 1981 transitioned to the chief judge of the newly created Eleventh Circuit.

Under Judge Hobbs' leadership, his law firm continued to grow under the name Hobbs, Copeland, Franco, Screws and Gill. He treated every client equally regardless of financial or social status. Judge Hobbs performed pro bono work long before pro bono was cool and was known to spend countless hours helping those in need without concern of their ability to pay. Today, under the name Copeland, Franco, the firm is recognized as one of the outstanding law firms in Alabama. Among his many contributions to the bar, Judge Hobbs served as president of the Montgomery County Bar Association, the Alabama State Bar Association and the Alabama Trial Lawyers Association (which he co-founded).

In January of 1980, President Jimmy Carter nominated Judge Hobbs to a newly created judgeship in the Middle District of Alabama. Judge Hobbs was confirmed by

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**ABOUT THE AUTHOR:** *Kenneth J. Mendelsohn is with the Montgomery firm of Jemison & Mendelsohn. He served as one of Judge Truman McGill Hobbs' first clerks from August 1980 to September 1981.*

the U.S. Senate on April 3, 1980, and received his commission on the same day. He served as chief judge of the court from 1984 to 1991, when he assumed senior status.

Judge and Joyce, whom he affectionately called "The General," a nickname adopted by family and friends, raised four children – Emilie, Frances, Dexter and Truman, Jr. Judge Hobbs dearly loved spending time with his children, grandchildren and great-grandchildren. His children have followed in the Hobbs tradition of public service and philanthropy. Truman Jr., like his father and grandfather, has dedicated his career to public service as a circuit court judge for Montgomery County, Alabama.

The Hobbsses' enormous financial contributions largely went unnoticed because they gave from the heart and never cared for recognition. His longtime partner and friend Richard Gill stated that Judge Hobbs donated millions of dollars but never spoke of it and never wanted it publicized. Lee Copeland served as a law clerk to Judge Hobbs and recalled the time Judge Hobbs gave the Montgomery County School Board funds to buy a library bus to take books to children in various locations in the city. He intended for the contribution to be anonymous and was furious when his name became associated with it. Lee tried to lighten things up by asking Judge Hobbs why he was driving a beat-up Buick, while the library books were being driven across town in a new, shiny, state-of-the-art bus. Hobbs just laughed but remained upset that his name was disclosed.

Despite Judge Hobbs' desire for anonymity, the community nevertheless recognized his and Joyce's generosity. Among many other things, in 2012, the local United Way presented the Hobbsses with the Tocqueville Society Award for "their dedication, compassion and lifetime philanthropy to our community." Recently, Huntingdon College, a liberal arts school founded in Montgomery more than 160 years ago, established the Joyce and Truman Hobbs Honors Program. Its stated purpose is to "encourage students to embrace the social nature of knowledge through enriched classroom experiences and

challenging civic service. Asked to commit to the high ideals of faith, wisdom and service, honors students will better understand their responsibility to humankind in Montgomery and around the world."

Judge Hobbs was a very modest and unassuming person. He had a knack for making people comfortable. Judge Hobbs never spoke of his accomplishments and preferred learning about others rather than talking about himself. Judge Hobbs also loved lawyers. Lee Copeland commented that the Judge's fondest days were when he held pretrials in his chambers. He would handle the legal matters and then enjoy just catching up with the lawyers about their professional and personal lives. Lawyers also loved Judge Hobbs. Bobby Segall, another partner and friend of Judge Hobbs, stated that, "I have never known anyone as popular as Truman was with other lawyers. Not only did I never hear a negative word about Truman from another lawyer, every lawyer I knew spoke affirmatively and effusively in his praise. And, they spoke glowingly as much about his kindness and his humor and his personality as they did about his legal abilities."

Judge Hobbs had the unique ability to put everyone at ease whether in the courtroom or in public. He also loved practical jokes and would give or take a joke as well as anyone. When he was the butt of a joke, he never got mad or sought to get even. He would just smile.

I clerked for Judge Hobbs in 1980 during his first year on the bench. He spent so much time teaching me how to be a lawyer, often reviewing pleadings and trial techniques of the lawyers in his court to show me the right and wrong ways to do things. So many times during the past 35 years, when responding to a question from a colleague, I have found myself saying, without planning, "Judge Hobbs used to tell me ...". Countless other lawyers also will be passing on to future generations of lawyers Judge Hobbs' wisdom.

Judge Hobbs' contribution to the law, the state of Alabama and our country cannot be measured. Some people have referred to Judge Hobbs as Atticus Finch. However, Judge Hobbs was much larger in person than Atticus Finch was on paper.



## Shelby Highsmith: Gentleman judge

By Alicia M. Otazo-Reyes  
U.S. Magistrate Judge, Southern District of Florida

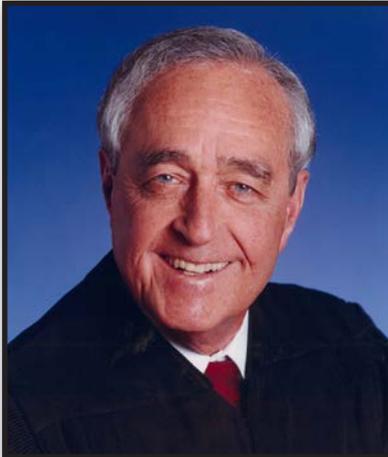
I first met Shelby Highsmith in the summer of 1991 at his law office in Coconut Grove, Fla. At that time, I was a newly graduated law student looking to become a federal law clerk, and he was a newly nominated, not yet confirmed, federal district judge. After an insightful interview during which he told me that he valued loyalty above all else in his staff, he concluded with these words: "If I have a job, you have a job." He got the job, I got the job, and so began my 11-year clerkship with Judge Shelby Highsmith.

Judge Highsmith passed away at his home in Fort Belvoir, Va., on Dec. 2, 2015, at the age of 86, having served our country in both military and civilian capacities. Born on Jan. 31, 1929, in Jacksonville, Fla., he spent his early

years in that city and with the extensive Highsmith clan in South Georgia. He obtained a partial scholarship to attend Georgia Military College (GMC), where he worked in the mess hall to help pay for his room and board. He became the cadet commander of his class and graduated as cadet lieutenant colonel with an Associate of Arts degree in 1949. GMC honored him as an outstanding graduate in 2002.

In July 1949, Judge Highsmith joined the United States Army at Fort Belvoir, Virginia (his final place of residence, as it turned out). He was commissioned as a second lieutenant and attended Engineering School for Mine Warfare. He served with the First Cavalry Division in the Korean War from July 18, 1950, until Jan. 18, 1952, attaining the rank of captain. Afterward, he was deployed to Europe, where he was tasked with defusing explosive ordnance from World War II, serving in France as part of the 76th Engineer Construction Battalion. For his military service, he was awarded the Bronze Star Medal, the Korean Service Medal, the United Nations Service Medal, the Korean Presidential Unit Citation, and the National Defense Service Medal (three overseas service bars).

Upon his separation from the Army on June 22, 1955, Judge Highsmith resumed his studies on the G.I. Bill. In



Judge Shelby Highsmith, who died in December, had an ability to connect with people. (Photo provided by Clerk of Court, Southern District of Florida)

1958, he simultaneously obtained a B.A. from the University of Kansas and an L.L.B. from the University of Missouri-Kansas City School of Law (UMKC). He was recognized as an outstanding UMKC alumnus in 1998.

After a year of private practice in Kansas City, Mo., Judge Highsmith met attorney Murray Sams, who offered him a position at his firm in Miami. He engaged in private practice in Miami for close to a decade, first in Sams' firm and later with James O. Nelson at Highsmith & Nelson. But in 1967 he answered the call of service to his country once again, when then-Florida Gov. Claude Kirk appointed him as special counsel of his War on Crime Program. He also served as special counsel for the Florida Racing

Commission and was a member of the Florida Inter-Agency Law Enforcement Planning Council, which created the first statewide law enforcement agency, now known as the Florida Department of Law Enforcement. He then served as a circuit judge for the Eleventh Judicial Circuit of Florida from 1970 to 1975, at which time he returned to private practice and formed the law firm of Highsmith Strauss & Nelson, later Highsmith, Strauss, Glazer & Deutsch.

From 1975 to 1991, Judge Highsmith had a very successful career as a trial lawyer. He was also able to enjoy his hobbies: a succession of sleek red Jaguars XJS's; boating with his family in the Florida Keys; and golf, both in Miami and at the Highlands, N.C., golf community where he had a vacation home. But heeding the call of public service again, he applied for a seat in the United States District Court for the Southern District of Florida. President George H.W. Bush nominated him as a federal district judge on June 27, 1991, and he received his commission on Sept. 16, 1991. He served as an active judge until March 15, 2002, when he took senior status. He served in that capacity until 2008, when he moved to Highlands and, later, Fort Belvoir.

Judge Highsmith brought to the bench a wealth of experience from his days as a trial lawyer and state court

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## ***IN MEMORIAM (Shelby Highsmith), continued***

judge. He was a master of the courtroom. He was equally comfortable handling criminal and civil cases and did so with aplomb. He imbued juries with the importance of their role in the judicial system in a way that was palpable. I remember time and again observing the members of a jury panel arrive on Monday morning, dragging their feet, shoulders sagging, wanting to be anywhere but in our courtroom. I remember time and again observing those same panel members straighten up, pay close attention and walk with pride after hearing Judge Highsmith's eloquent remarks about the significance of the jury system.

This interaction with juries was emblematic of Judge Highsmith's ability to connect with people, no matter their rank or station in life. He treated courthouse staff with the same courtesy and respect that he afforded his peers. And he was, above all, a Southern gentleman. When going to lunch with chambers staff on special occasions – to his favorite place, the old Burdines, now Macy's, restaurant in downtown Miami – he never failed to open doors and step to the back of the elevator so the ladies could go first. And he always walked on the street side of the sidewalk with the ladies on the inside. His clear blue eyes twinkled as he smiled and paid a compliment, which was not uncommon. And many in the courthouse will remember the bright green sport coat that he never failed to wear on St. Patrick's Day.

Judge Highsmith was very perceptive when it came to getting to the nub of the legal disputes presented to him both in written pleadings and at court hearings. When reviewing motions, he easily separated the wheat from the chaff and provided clear direction on his rulings for the preparation of draft orders. In court, he asked probing questions of the lawyers who appeared before him but did not suffer gratuitous argument. He prided himself on his intellectual honesty, which he exhibited by telling lawyers that once he had reached a decision it would be deceitful to continue hearing arguments from either side. Early in my clerkship, I bumped into this decisive quality head on. We were working on a very abstruse admiralty matter and he formulated his decision. I started to prepare a draft and, upon closer reading of the rule at issue, realized that the rule did not allow for what he had decided to do. Naively, I told him, "Judge, you can't do this," to which he replied booming, "What do you mean I can't do this? I'm a federal judge." He then stormed back to his office. But a few minutes later, while I pondered what to do next, he returned and calmly asked me to explain to him why he couldn't do what he wanted to do. That day I learned to be more diplomatic when presenting legal options to him and to trust that, notwithstanding any initial bluster, he would keep an open mind.

In addition to his judicial duties, Judge Highsmith took

an active role in court governance. He served as the court's liaison to the Marshal's Service, the Probation Office and the panel of attorneys appointed to represent indigent defendants pursuant to the Criminal Justice Act. His military background led him to take a particular interest in the welfare of the deputy marshals and the court security officers, and to a Christmas tradition. Each November, his judicial assistant would pick up at his bank the silver dollars that the bank tellers had been saving for him all year. Over the next few weeks, he would spend part of his lunch hour cleaning the coins with silver polish to make them bright and sparkly and inserting them in small plastic pouches that he had bought from a downtown jewelry store. As the Christmas holidays approached, the packaged silver dollars would be delivered to the Marshal's Office and every deputy marshal and court security officer would receive one as a Christmas gift. If he had some left over, he would keep them handy to give out, especially to young people. My own kids have souvenir silver dollars from Judge Highsmith!

Judge Highsmith's military background also had an influence in chambers. Because of his work defusing World War II explosive ordnance in Europe, he was very observant of details and noticed even small changes in the position of furniture in his office and elsewhere in chambers. One example was the two chairs in front of his desk. I learned early on that those chairs had to be returned to their positions after anyone sat on them to talk to him. So, it became my custom to straighten them out after I or others stepped away from them. And to make sure they stayed in place, Judge Highsmith would, every once in a while, measure their separation with a yardstick that he kept handy just for that purpose. I confess that I have inherited the habit of straightening out the chairs in front of my desk after visitors leave, although I do not measure their positions with a yardstick.

Which brings me to Judge Highsmith's role as a mentor for me and for countless others who had the good fortune of being touched by him. Many young prosecutors were assigned to his courtroom as a learning ground. He graciously discussed their performance with them after trials when asked to do so. He extended the same courtesy to civil lawyers. And I had the privilege of being apprenticed to him for 11 years and of learning how to be a judge under his tutelage.

Judge Highsmith is survived by his wife Mary Jane "MJ"; his daughter, Holly Abrams; his son, daughter-in-law and grandson, Shelby, Jr. "Chip", Jessica and Samuel Edward; and his court family. He will be laid to rest at Arlington National Cemetery. His hard work, integrity and gentility are well remembered in the Southern District of Florida. Farewell, Shelby Highsmith.

# 2015 Special contributors to the Eleventh Circuit Historical Society

The Eleventh Circuit Historical Society recognizes the following law firms and individuals for their generous support of the society from January 2015 through December 2015. Contributions were made under the Keystone Firm, Contributing, Sustaining or Patron membership categories.

In addition, the society gratefully acknowledges and deeply appreciates the receipt of a donation from the Federal Bar Association-Atlanta Chapter, a grant from the Fort Trustee Fund, Community Foundation of the Chattahoochee Valley (a donor-advised fund), at the request of Alan F. Rothschild, Jr., a gift in memory of the Hon. Charles A. Moye, Jr. (Northern District of Georgia), and a gift in memory of Douglas J. Mincher (clerk of the Eleventh Circuit Court of Appeals).

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# Eleventh Circuit Historical Society standing committee reports to the president - 2015

## Membership Committee

Sidney A. Stubbs, Jr., Chair  
William N. Withrow, Jr.  
John N. Bolus

The Membership Committee met by telephone conference call in August 2015, for the purpose of discussing status of membership and methods to increase the membership of the Historical Society. We discussed the current levels of membership in Alabama, Georgia and Florida. We reviewed lists of members in each of the states and noted that there appeared to be a number of firms that would be likely members if encouraged. Lists of membership in each state were made available to each member of the committee with the idea that each would develop appropriate methods in their respective states for expanding active membership. Executive Director Wanda Lamar provided the committee with detailed information on these topics.

The committee members discussed the various benefits from membership in the society and the fact that the structure of the contributions to the society enables member firms to designate a certain number of lawyers as members, depending upon the level of contribution.

Each member of the committee agreed to explore expanding membership in their state, with the understanding that we would again meet to discuss progress and share ideas with regard to encouraging lawyers to take advantage of this organization.

## Publications Committee

David A. Bagwell, Chair  
Sarah B. Akins  
Katherine E. Giddings

Calendar Year 2015 through February 2016:

Wanda Lamar has, as usual, worked hard for us all to help run the mechanics of the society, and she also has helped the Publications Committee by soliciting articles herself and getting our newsletter published, but also our Publications Committee has tried to help Wanda.

Katherine Giddings in Tallahassee has:

- Along with Judge Joe Hatchett, written an article on the history of the federal courthouse in Tallahassee.
- Solicited an excellent article by Magistrate Judge Alicia Otazo-Reyes on Judge Shelby Highsmith, published in this newsletter issue.

Sally Akins in Savannah is working with John Tatum to come up with an author for an article on the Savannah courthouse.

Chairman David Bagwell has:

- Written an article published in the Winter 2015 issue titled "On the Front Lines of the Federal Judiciary: In a Peruvian Prison" on how, when he was a young U.S. magistrate sent to Peru 32 years ago in 1983 to conduct prisoner transfer hearings under a treaty with Peru, there was a prison takeover while he was in prison with the team, and it was a miracle he was not taken hostage and killed.
- Written a short notice published in the Summer 2015 issue on the death of the wives of former Southern District of Alabama Judges Dan Thomas and Virgil Pittman.

Chairman Bagwell also solicited a few articles, though not nearly as many as Wanda Lamar did, including:

- An article by Mobile's top architectural historian and Selma native (and son of a Selma lawyer) on the 1909 federal courthouse of the Southern District of Alabama in Selma, published in the Spring 2015 issue.
- A terrific article by Pat Sims of Mobile, former Frank Johnson law clerk and himself former U.S. magistrate, on "Fishing with Judge Frank Johnson," published in the Winter 2015 issue.
- An article on the history of the John Archibald Campbell U.S. Courthouse in Mobile, Ala., submitted by Cameron Pfeiffer-Traylor, law clerk to Hon. Kristi DuBose of the Southern District of Alabama, to be published in two parts.

## Gifts and Acquisitions Committee

Joel D. Eaton, Chair  
Reginald T. Hamner  
Kirk McAlpin, Jr.

The Gifts and Acquisitions Committee is anticipating a substantial and significant donation in the near future. Until the details are worked out and finalized, however, the donor wishes that the proposed gift not be publicized. Stay tuned.

## Budget and Finance Committee

John M. Tatum, Chair  
Julian D. Butler  
James C. Rinaman, Jr.  
Halsey G. Knapp, Jr.

## Standing Committee reports to the President, continued

The Budget and Finance Committee meeting was convened at 2:30 p.m. on Dec. 16, 2015. Attending by telephone were: John M. Tatum, chair, Julian Butler and James C. Rinaman. Wanda Lamar, executive director, was also present.

The committee reviewed the accountant's compilation report for the years 2013 and 2014, the monthly statement of society bank accounts as of Nov. 30, 2015, and the statement of receipts and expenses as of Nov. 30, 2015.

It was noted that as of Nov. 30, 2015, the society had a cash balance of \$36,992.29, which includes \$16,750.00 in restricted funds for Judge Birch's portrait, plus a balance of \$36,015.23 in the court history projects account.

In discussing a proposed budget for 2015, it was agreed that only unrestricted funds would be considered. Based on revenues and expenses for the years 2013 and 2014 and

year-to-date 2015, the committee adopted the following budget.

Receipts from membership dues and contributions: **\$43,000**

Expenses:

- Printing: \$78.00
- Office Supplies: \$230.00
- Postage: \$310.00
- Accountants: \$2,400.00
- Personnel: \$29,100.00\*
- Payroll Taxes: \$8,400.00
- Miscellaneous: \$177.00

**Total: \$40,695.00**

\* Subject to adjustment.

There being no further business, the meeting was adjourned.



**Visit the 11th Circuit Historical Society Website:**  
**<http://sites.google.com/site/circuit11history>**

The 11th Circuit Historical News is published periodically by the Eleventh Circuit Historical Society.  
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### BOARD OF OFFICERS

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- John M. Tatum - Treasurer

*This newsletter produced courtesy of The Florida Bar*



Downtown Lake Wales was a picturesque small town in the 1930s, when Judge Hodges was born.  
(Photo from collection of Lake Wales Public Library)

District from 1982 to 1989, was appointed in 1994 by Chief Justice William Rehnquist to serve on the Executive Committee of the Judicial Conference of the United States, the chief policy-making body of the U.S. court system, which he went on to chair, and held many other leadership positions within the federal judicial system.

As a trial judge, Hodges is known for being "... unfailingly courteous, tireless, prepared and astonishingly knowledgeable about virtually everything."<sup>6</sup> His mastery of the rules of procedure and evidence is legendary. During his career, Eleventh Circuit Court of Appeals Judge Charles R. Wilson appeared before or worked with Hodges in many capacities, in private practice, as a U.S. magistrate judge, a U.S. attorney and as an appellate judge. After trying a case before Hodges, Wilson was convinced that Hodges "could recite the Federal Rules of Evidence from beginning to end."<sup>7</sup> Wilson says, "If there was a Hall of Fame for United States judges, Terry Hodges would be voted in on the first ballot."<sup>8</sup> The present Chief Judge of the Middle District of Florida, Steven D. Merryday, counts Hodges as one of his role models as a judge. When Merryday began practicing at the Holland & Knight law firm in the mid-1970s, he was told by some of his partners that Hodges was "among the finest federal district judges in the country and the best trial judge (anywhere)." Merryday experienced Hodges' skills firsthand during a six-week trial in 1981.<sup>9</sup> Hearing of Hodges' amazing facility with the rules of evidence, Merryday says that he and his co-counsel "juiced up" before the trial. The opposing counsel, who had not prepared so diligently, was often baffled when Merryday's team would make an objection by standing and simply reciting a rule number. Merryday

remembers thinking when the trial was over, "This is how this should work."<sup>10</sup> Later, when asked his assessment about Hodges by a lawyer in another part of the country, Merryday recalls simply telling him, "If you have a weak case and need an aberrant result, then this assignment is a disaster for you. If you have a strong case, you are in the best place you could be."<sup>11</sup>

Many other of Hodges' colleagues have expressed

such thoughts. In 2003, Merryday nominated Hodges for the Edward J. Devitt Distinguished Service to Justice Award, which he was presented at a ceremony at the U.S. Supreme Court in October of that year. In support of Hodges' nomination, Chief Judge Emeritus Gerald Bard Tjoflat of the Eleventh Circuit wrote, "The record on appeal in a Terry Hodges case displays a master at work, a judge who leaves no stone unturned and treats the lowliest of lawyers and litigants with utmost dignity and respect." U.S. District Judge Ralph G. Thompson of the Western District of Oklahoma said, "I do not know of another federal judge in the nation who is better known or more respected. I have often heard it said that if one of us had to submit a matter of compelling importance to a United States district judge, the choice would be, without question, the Hon. William Terrell Hodges, the quintessential federal judge." Judge Michael M. Mihm, U.S. district judge, Central District of Illinois, added, "We have all known a small number of persons in our lives who make an immediate and indelible impact on us. When such a person enters a crowded room, others present immediately sense that someone special is in their midst. Terry Hodges is such a person."<sup>12</sup>

Hodges also has had an indelible impact as a teacher and role model for each of the 39 young lawyers who served as his law clerks. Working in Hodges' chambers, with him, his wonderful longtime Judicial Assistant Barbara Wood and a fellow law clerk<sup>13</sup>, was like joining a family. All of Hodges' law clerks have looked upon their clerkships with the Judge as among the strongest positive influences on their lives and their careers. Several law clerks have gone on to themselves become judges;

## Judge Wm. Terrell Hodges, continued

one has become a well-known NFL general manager and executive, another a best-selling author, at least three have joined the ministry, and many have pursued successful careers as practicing attorneys.<sup>14</sup>

### Formative Years

Hodges was born April 28, 1934, in Lake Wales, Fla.<sup>15</sup> Lake Wales was a picturesque town with a population at that time of only about 5,000 situated in rural Polk County in the geographic center of the state.<sup>16</sup> "It was very much the American small-town environment. Everyone knew everyone else," Hodges recalls.<sup>17</sup>

Hodges' father, Haywood Hodges, was born in 1890 on a farm in Lowndes County, Georgia, about half way between Valdosta and Hahira. He had the equivalent of only an eighth-grade education.<sup>18</sup> When the United States entered World War I, Haywood was 26 or 27 years old, yet he still enlisted in the Army. After basic training, he was sent to fight in the trenches of France. Although his father never mentioned it, Hodges believes that he was subjected to poison gas attacks at least twice.<sup>19</sup> After the Armistice, Haywood was shipped home and took the pay he saved from the Army to enroll in a barber

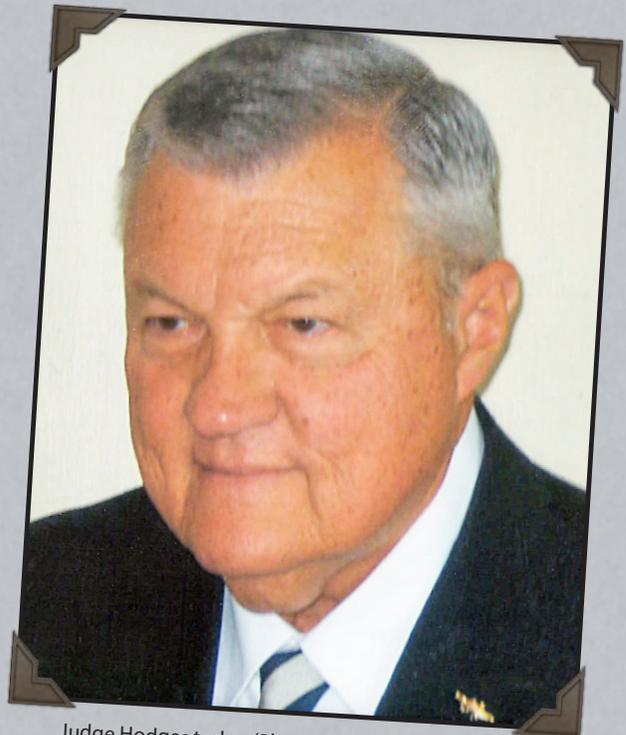
school in Atlanta.<sup>20</sup> Attracted by the 1920s land boom, Haywood then moved to Florida. By 1925, he had opened a storefront barber shop on Park Avenue in downtown Lake Wales. Meanwhile, he continued to save. Soon he was able to purchase two five-acre plots, which he cleared and planted with orange trees.<sup>21</sup>

Hodges' mother, the former Clara Murphy, was born in Mississippi in 1902. She spent her formative years in Lawrenceville, Ga., but moved to Lake Wales in the 1920s. Haywood and Clara were married in 1930. Throughout the Great Depression, and for the rest of their working lives, Hodges' parents worked at their jobs, six days a week.<sup>22</sup> Although he was too old to enlist for military service during World War II, Haywood served as a city police officer on nights and weekends after closing time at the barber shop (the regular officers then being in the military).<sup>23</sup> For 50 years, Clara worked as a retail clerk at a general mercantile store on Park Avenue in Lake Wales, a couple of blocks from Haywood's barber shop. The owner, Harry Friedlander, treated Clara like a daughter, and Hodges came to view him as a grandfather.<sup>24</sup>

Hodges undoubtedly acquired his strong work ethic and core values, including respect for other individuals,



Hodges as a senior at Lake Wales High School. (Photo from The Crown Jewel 1951, Lake Wales High School Yearbook)



Judge Hodges today. (Photo from Private Collection)

humility, self-reliance, integrity and dedication to service, from his parents and from growing up in Lake Wales. As a boy, Hodges spent many afternoons and weekends working in the family's small citrus groves. Hodges describes pulling a scuffle hoe, a tool to remove weeds and roots from the feeding area of an orange tree (or other crop), which he referred to as "a monstrous weapon designed to break the will of anyone who ever handled it," along the rows in the groves.<sup>25</sup> "If you have a 5-acre grove ... by the time you finish, it's time to start again," he says.<sup>26</sup> Hodges also worked for two or three years as a newspaper boy for the local newspaper, *The Daily Highlander*.<sup>27</sup>

Hodges attended Lake Wales High School. He enjoyed high school. He was a good student and was involved in many school activities, including Key Club, baseball and serving as manager of the football and basketball teams.<sup>28</sup> He made many friends. Although Hodges was too modest to say so during our interview, he was voted "Most Popular" boy in his senior class.<sup>29</sup> After school and during summers, Hodges also played American Legion baseball and semi-pro ball for the Lake Wales team in the old Orange Belt League, which included teams from several other Central Florida towns. Herb Score was one of the pitchers Hodges faced while playing American Legion ball.<sup>30</sup> Score was a southpaw from South Florida who threw close to 100 mile per hour fastballs, unheard of during those days. Not long after he faced down Hodges, Score was pitching in the major leagues for the Cleveland Indians and the Chicago White Sox. Mickey Mantle later said, "Herb Score is the toughest pitcher I faced. I just can't hit him."<sup>31</sup> Neither could Hodges. Hodges says, about striking out on three consecutive Score pitches, "I don't think I ever saw the ball. I was standing there waiting to get called out so I could get my gear and go back on the field."<sup>32</sup>

### University of Florida Years

To continue his education (and perhaps to avoid more torture sessions with the scuffle hoe), Hodges enrolled at the University of Florida in Gainesville after his graduation from high school in 1951. He was the first from his family to attend college. His favorite subjects had been chemistry, physics and math, so when he enrolled at UF, he planned to study engineering. In the later part of his sophomore year, however, Hodges ran into calculus, "which just completely baffled me," so he changed his major to business administration.<sup>33</sup> He also joined Sigma Nu fraternity, which became a large part of his college social life. Future Florida governor and U.S. senator Bob Graham, future UF President Marshall Criser, and quite a few other young men who later became public figures were in the Sigma Nu house at the time, Hodges recalls.<sup>34</sup>

For recreation, Hodges played handball. He also admits that, "I dropped in occasionally" at a pool hall across the street from the campus.<sup>35</sup> Hodges had learned to play the game in high school at a pool hall a couple of doors down from his dad's barber shop. "I wasn't supposed to be there at all, (but) I got fairly good at it," Hodges says.<sup>36</sup> Hodges had great success on the pool tables in Gainesville until he was matched against a diminutive kid from the Florida Panhandle, who went by the name of "Cool Breeze." Hodges explains, "Let's just say he was better, a lot better."<sup>37</sup> That marked the end of Hodges' career as a professional billiards player. Nonetheless, he allows that the experience taught him a valuable lesson: "I don't care who you are and what you are doing, there's always going to be someone out there who is a little better than you are, smarter than you are, faster than you are, or whatever."<sup>38</sup>

Hodges had no thought of attending law school or becoming a lawyer until his last semester or two of undergraduate school. One of his friends and fraternity brothers, Larry Stagg, who later became a successful and well-known lawyer in Tampa, had decided to go to law school, so they applied together. "(I)t was just something that I thought that I would try and see if I was able to do it and if it was attractive to me," Hodges explained.<sup>39</sup>

In those days, law school was very different from what it is today. "Anyone with a degree in any discipline could get into law school," Hodges explains.<sup>40</sup> Yet, out of his entering class of 35 students, only nine graduated.<sup>41</sup> In law school, Hodges shined.<sup>42</sup> He loved every class. "It absolutely enthralled me," he recalls.<sup>43</sup> Hodges became executive editor of the *Law Review*, where he was in charge of putting together a program published in 1957 on the Uniform Commercial Code.<sup>44</sup>

In law school, Hodges also met his future wife, Peggy Jean Woods, who was employed at the *Law Review* office. They have now been married 57 years.<sup>45</sup> She has been a pillar of support for Hodges throughout his career. They have three children, Judson, Daniel and Clay, and one grandchild, Benjamin.<sup>46</sup>

### Law Practice

After graduating from law school in August 1958, Hodges was hired by a prominent Tampa law firm then known as Macfarlane, Ferguson, Allison & Kelly.<sup>47</sup> He came by that job, as he describes it, by "serendipitous circumstances."<sup>48</sup> Hodges explains that his graduation from law school was delayed until August because he had not started law school until the winter of 1955, having taken an extra semester in undergraduate school because he had switched majors. The bar examination

had just been offered in July, and the next examination would not be given until March 1959. So, Hodges could not practice as an attorney for at least nine months. Although he interviewed with several firms, whenever he brought up this circumstance, "it got a little bit chilly," he says.<sup>49</sup> Thinking he had few if any prospects, and he and Peggy having married the month before, Hodges began to sweat about his finances. Fortunately, he received a telephone call from George Erickson of Macfarlane Ferguson, who expressed interest, and, after interviewing with Erickson and Chester Ferguson, the firm's principal partner, Hodges was hired at the grand salary of \$317.25 a month.<sup>50</sup>

At Macfarlane Ferguson, Hodges was a "jack of all trades."<sup>51</sup> He handled tax and business transactions as well as civil litigation and appeals. He argued his first appeal before the Florida Supreme Court at the age of 25.<sup>52</sup> By the time Hodges was appointed to the bench, he had argued many other cases before that court and the U.S. Fifth Circuit Court of Appeals.<sup>53</sup> Hodges' largest client was R.R. "Bob" Walden, the tax assessor of Hillsborough County, for whom he handled many cases relating to land value and tax assessments. He also handled cases dealing with labor relations and employment law, business and commercial law, and administrative law for many other clients.<sup>54</sup> In his spare time, Hodges taught business law at the University of South Florida from 1961 to 1966.<sup>55</sup> He also served on a bar grievance committee from 1967 to 1970 and from 1970 to 1971 chaired the Uniform Commercial Code Committee of The Florida Bar.<sup>56</sup>

Hodges speaks wistfully of the practice of law during those years. His first argument before the Fifth Circuit Court of Appeals was in a case in which William A. Gillen, Sr. was opposing counsel. Gillen was then a senior partner in the Fowler White law firm, one of Tampa's other major law firms. At that time, there was a tradition among the bar of the Fifth Circuit that all of the lawyers representing both the appellants and appellees who had oral arguments before the court that day would gather for breakfast together at Brennan's Restaurant before going to the courthouse, then located across the street. One of the counsel would take the lead sending letters to the other counsel informing them of the details and arrangements for the breakfast. After Hodges arrived at his hotel in New Orleans the afternoon before the argument, he received a telephone call from Gillen, who asked if he had received the letter. Hodges responded that he had but did not know what to do. Gillen said, "Don't worry, just be in the lobby at 7 a.m. as it says. I'll meet you there and introduce you."<sup>57</sup> When Hodges arrived in the lobby, Gillen introduced him to the other lawyers, and they all went to Brennan's to have breakfast.

Later that morning, when their case was called by the court, Gillen, who represented the appellant, stood first and announced to the panel, "Your Honors, I would like to take two minutes of my time if you please to introduce you to my colleague who is here for the first time. I know it is his first time here, but we expect him to be a great lawyer. Now if I may be heard about my case."<sup>58</sup>

## **Appointment**

In the late 1960s, Judge Joseph P. Lieb was one of two district judges in the Tampa Division of the Middle District of Florida. Lieb was approaching 70 years of age, and it was widely assumed that he was going to retire, which would open a vacancy on the court. One of Hodges' law partners, Edward J. Kohrs, had served as a co-campaign manager for Ed Gurney's successful 1968 campaign for the U.S. Senate. Sometime in 1969 or 1970, Kohrs came into Hodges' office and asked, "Have you ever thought of becoming a United States district judge? Judge Lieb is going to retire, and I may have something to say about who gets his appointment."<sup>59</sup> Surprised, Hodges responded that he had not thought about it. He asked for a day or two to think it over, spoke with his wife, Peggy, and made some inquiries about the salary of a district judge. Although he learned it was a bit less than he was then making practicing law, Hodges thought if he ever wanted to be a judge, it would be "now or never."<sup>60</sup> After informing Kohrs that he would accept a nomination, if one were offered, Hodges then heard nothing more about the matter for more than a year, until on Nov. 2, 1971, he opened his morning paper to see that Judge Lieb had unexpectedly died the day before. Less than two weeks later, after Hodges had completed an interview, Sen. Gurney told him that he was going to recommend him for appointment to the vacancy on the district court.<sup>61</sup>

Following the announcement, Sen. Gurney and Attorney General John Mitchell received many letters of support for Hodges' nomination. Two of the letters Hodges most treasures were from Morris White, another senior partner at the Fowler White law firm, and from Judge John Hodges (no relation to the proposed nominee), a state circuit court judge in Tampa. Both letters were unsolicited and in response to newspaper reports of Gurney's recommendation.<sup>62</sup> White was then 78 years old. He had not been practicing in the courts for several years; nonetheless, he sent a letter informing Gurney, "I heard him (Hodges) argue a case in court some years ago, and I was so impressed with his careful preparation, the logic of his arguments, and the lucidity of expression that, upon returning to my office, I dropped him a note, congratulating him. He bears a splendid reputation in this community and at this Bar ..." Judge John Hodges offered

## Judge Wm. Terrell Hodges, continued



U.S. Chief Justice William Rehnquist presents Judge Hodges with a plaque at the completion of Hodges' term as chair of the Executive Committee of the Judicial Conference. (Photo courtesy of the Administrative Office of the U.S. Courts)

another perspective: "My appraisal is that he has come to embody in himself so much of what is thoughtfully considered the very best in judicial fitness that it is difficult to avoid the appearance of hyperbole in an accurate catalog of his qualifications. This is true because only rarely does a nominee to the federal bench possess in such abundance those qualities of intellect, moral and professional integrity and impeccable traits of character which are so firmly infixed in him."<sup>63</sup>

In that day, judicial appointments for district judges were generally noncontroversial, and there was no known opposition to Hodges' appointment. Nevertheless, to hear Hodges tell it, his confirmation process was not without drama. When Gurney had informed Hodges he would recommend him to President Richard Nixon, he had cautioned that, since it was already mid-November and Congress was expected to adjourn for the year at Thanksgiving, there was a question of whether Hodges could get a confirmation hearing before the recess. If not, the nomination might run into difficulties, given that 1972 was an election year.<sup>64</sup>

As it turned out, the congressional session was extended beyond Thanksgiving because of the nomination of William Rehnquist as an associate justice on the U.S. Supreme Court.<sup>65</sup> Hodges' confirmation hearing before the Senate Judiciary Committee, along with those of four other district court nominees, was held on Dec. 10, 1971. Before the questioning started, a bell rang signaling a quorum call, and all the committee members departed,

leaving Hodges and the other nominees to cool their heels. About a half hour later, Sen. Roman L. Hruska from Nebraska returned to announce that the other members were detained to deal with a parliamentary issue and that, in the meantime, he had been appointed to proceed with the hearing "as a committee of one."<sup>66</sup>

As Hodges recounts the story, the first nominee called to testify was Jon O. Newman from Connecticut, who later became chief judge of the Second Circuit Court of Appeals.<sup>67</sup> With the debacle involving Nixon's recent nomination of Fourth Circuit Chief Judge Clement Haynsworth to the Supreme Court apparently on his mind<sup>68</sup>, Hruska's first question to Newman was whether he had made a full and complete disclosure of his financial interests to the Justice Department. Hearing this, Hodges' first thought was "that's the end of us," since, even though each of them had been required to complete a detailed questionnaire prepared by the American Bar Association, it did not contain a single question about the nominee's financial interests.<sup>69</sup> Without batting an eye and with no forewarning about the question, Newman responded, "Senator, I have spent the last three weeks of my life answering the most exhaustive questionnaire that one can imagine delving into both my personal as well as my professional life, and I have answered every question truthfully, candidly, and fully."<sup>70</sup> Sen. Hruska replied, "Splendid!" and moved to another topic.

Next, Hodges was called to testify. Meanwhile, Sen. Gurney and Sen. Lawton Chiles, the other Florida senator,

had joined the audience, and Sen. Hruska asked Hodges the same question about his financial interests. Hodges quickly gave the identical response, word for word, that Newman had given. Hruska's reply again was "Splendid!" Hodges recalls with a chuckle that, after he had finished his testimony, Lee Gagliardi from New York, the next nominee who was scheduled to testify, approached Hodges and whispered, "What was that answer again, what was that answer?"<sup>71</sup> The Judiciary Committee, sitting through its "committee of one," recommended approval of all four nominees, and Hodges' nomination and those of the others were confirmed by the Senate the next morning. Thinking back on it, Hodges laughs, "If that lack of responsiveness and 'deception' was fraud, I am sitting here as a result of fraud."<sup>72</sup>

Hodges' confirmation ceremony took place in Tampa on Dec. 28, 1971. He was just 37 years old. Sens. Gurney and Chiles and a host of other dignitaries were present. Hodges' wife, Peggy, and his law partners, Ed Kohrs and David C.G. Kerr, presented him with his robes. Sens. Gurney and Chiles and Chester Ferguson, among others, offered remarks. In his brief acceptance speech, Hodges acknowledged his "humble acceptance of the grave responsibility. My singular objective will be to hold this position with dedication and objectivity," he promised.<sup>73</sup>

### **Life as a U.S. District Judge**

Hodges' first years on the bench were extraordinarily busy. Because of the congested docket and the requirements of the Speedy Trial Act<sup>74</sup>, he was constantly in trials of criminal cases.<sup>75</sup> On March 15, 1977, Hodges suffered a massive heart attack at the age of 42. As he describes it, "I had been on the bench every single workday and many weekends for the past three years on criminal cases. That's what just about killed me."<sup>76</sup> Hodges was in the midst of yet another criminal trial at the time he was stricken. The trial had recessed for the day, and Scott Whitaker, one of the judge's law clerks, and Hodges were alone in his chambers. In addition to the criminal docket and constant trials, "(h)e was still handling the civil motion calendar and conducting weekly docket review. The case load was enormous," Whitaker says.<sup>77</sup> Hodges started sweating profusely and complaining about chest pains, which he initially attributed to indigestion. Soon, however, he asked Whitaker to drive him to the nearest hospital.<sup>78</sup>

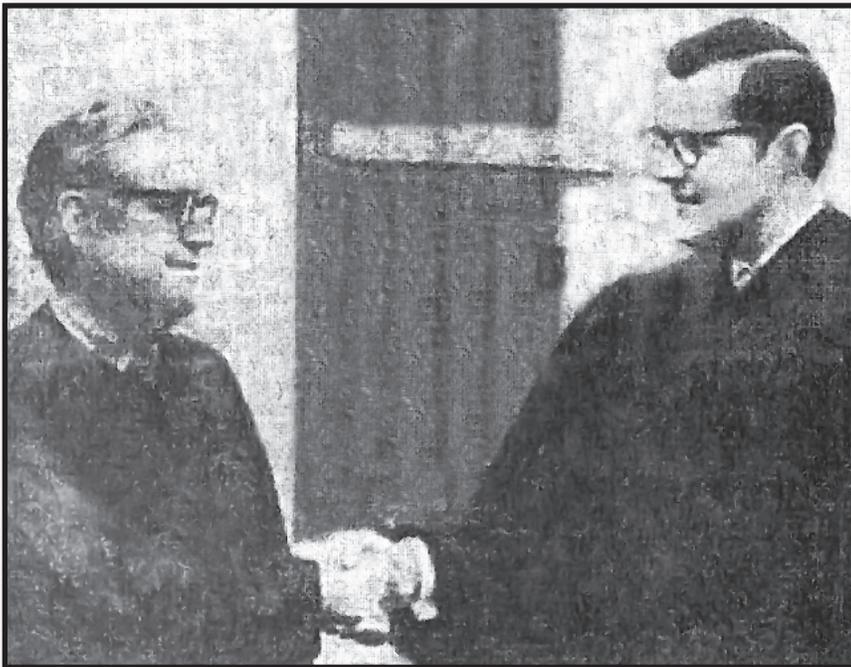
After his release from the hospital, Hodges went home for two months to recuperate. Whitaker brought the Judge files to review and visited him often to talk about cases.<sup>79</sup> After he recovered, Hodges moderated his work habits. Although he still arrived early to the office, he usually left around 5 o'clock. He also stopped smoking, switched to

decaffeinated coffee and began exercising regularly. His main form of exercise was racquetball, which he played three times a week for many years.<sup>80</sup> His law clerks were his primary opponents. As with anything Hodges did, he got "fairly good at it." I had played some tennis while growing up and, at the time I began work for Hodges in 1979 as a 25-year-old law clerk, I fancied myself to be a decent athlete. During the two years of my clerkship, I estimate that I played close to 500 games of racquetball with the Judge. As best I can recall, I beat him once.

The "Arson Trial" was one of the many notable criminal trials over which Hodges presided. The trial lasted more than three months in 1977. It involved 20 reputed members of an organized crime, arson and insurance fraud ring, which included several prominent Tampa businessmen, three city firefighters and a former fire marshal, and several underworld figures. At the time, the case was reportedly the largest federal RICO prosecution ever brought.<sup>81</sup> One of the principal witnesses at the trial was Willie "The Torch" Noriega, the "man who struck most of the matches."<sup>82</sup> Scott Whitaker sat through the entire trial as Hodges' law clerk. He recalls that the security in the courtroom was intense. Not only were metal detectors placed outside the courtroom, but bulletproof glass was specially installed to protect the judge and the witnesses (although *not* around the law clerk's table, Whitaker notes).<sup>83</sup> After deliberating for three-and-a-half weeks, the jury convicted 16 of the defendants.<sup>84</sup> On appeal, the Eleventh Circuit affirmed the convictions of all of the defendants except two. *United States v. Martino*, 648 F.2d 367 (5<sup>th</sup> Cir. 1981). In rejecting the claims of the defendants that they had each been prejudiced by the joinder of their trials with the other defendants, the court stated:

In the case *sub judice* Judge Hodges faced a formidable task. He conducted the trial with great skill and with a judicial professionalism much to be admired. He minimized the potential transference of guilt with every tool at his command. He gave careful, detailed instructions about the elements of a RICO conspiracy and RICO substantive charges, doing so, as appropriate, as they related to each defendant. Proper uses of evidence were explained. Judge Hodges met the burden of avoiding the "pernicious effect of cumulation." *Id.* at 386.

The "BCCI Trial" was the longest of the Hodges' highly publicized criminal trials, lasting from January to July 1990.<sup>85</sup> It was the first major money-laundering criminal trial in the country.<sup>86</sup> The lead defendant, Amjad Awan, was the former head of marketing for the Latin American and Caribbean division of the Bank of Credit and Commerce International (BCCI) and the banker for Manuel Noriega.<sup>87</sup> Nine other BCCI officers from all over the world were also defendants.<sup>88</sup> The key witness in



Judge Hodges and Judge Ben Krentzman at Hodges' investiture.  
(Photo courtesy of the Tampa Bay Times)

the case was a Customs officer named Robert Mazur, who spent five years undercover infiltrating the corrupt bankers and Columbian drug cartels. Mazur lured the defendants to the Middle District on the pretext that he was getting married at a resort near Tampa to a woman who was in fact another undercover Customs agent.<sup>89</sup> All the defendants except one were found guilty of at least one offense.<sup>90</sup> On appeal, the Eleventh Circuit upheld the constitutionality of the federal money laundering act<sup>91</sup> and affirmed the convictions of all of the defendants except one. *United States v. Awan*, 966 F.2d 1415 (11<sup>th</sup> Cir. 1992). According to historian James M. Denham, as a result of the BCCI investigation and trial, many other nations shut down BCCI's operations in their countries.<sup>92</sup>

Hodges also presided over many notable civil proceedings and trials. Over time, he was called upon to address important issues in several of the longstanding school desegregation cases pending in the Middle District of Florida. In 1971, shortly before he passed away, Judge Lieb had entered an initial desegregation decree, largely on the basis of a stipulation, in *Mills v. Polk Co. Bd. of Public Instr.*, but the decree had not dealt with desegregation of a few of the elementary schools.<sup>93</sup> After school board officials had repeatedly failed to present a satisfactory desegregation plan, in 1977, Hodges ordered that, by the opening of the school year, students from nine predominately white schools must be bused to ensure racial integration in the three all-black schools, concluding that "the right of black

students in the county outweighed any disadvantages the school board may face setting up the clustering proposal."<sup>94</sup> While Hodges had given the school board ample opportunity to develop its own plan,<sup>95</sup> he says that undertaking to act in place of the school board through his order nonetheless caused him some disquietude. "I was thinking about my high school principal Mr. McLaughlin, and if he thought Terry Hodges would be running his district in (that short a time), he would have come out of his grave," Hodges remembers.<sup>96</sup> While some may have characterized his ruling as "activist," in Hodges' view, he was merely applying the law as mandated by the U.S. Supreme Court.<sup>97</sup> Twenty-two years later, Hodges made another important ruling in the school desegregation cases. After a three-week hearing followed by extensive oral arguments, he issued a 140-page opinion finding that the Duval County School Board had achieved a "unitary

system,"<sup>98</sup> in that it had complied in good faith with the desegregation decree (a 1990 stipulation between the plaintiffs and the school board) and eliminated vestiges of prior *de jure* segregation to the extent practicable. Hodges then dismissed the 39-year-old case.<sup>99</sup> The Eleventh Circuit affirmed Hodges' order. *NAACP v. Duval Co. School Board*, 273 F.3d 960 (11<sup>th</sup> Cir. 2001). At the end of its opinion, the court stated:

An affirmance implies that the appellants have lost. In a meaningful way, however, that implication is not justified here. The judgment means that appellants have accomplished what they, decades ago, set out to do. They challenged a rigidly maintained *de jure* system of school segregation and sued to bring it into compliance with the constitutional requirement of equal protection under the law. We say today that they have succeeded. If this judgment is counted as a loss for appellants, it is so because they have won. *Id.* at 976.

In another important ruling in the area of civil rights, following a four-year legal battle by the NAACP, Hodges ruled in 1983 that the city of Fort Myers' at-large voting process for the election of city commissioners unconstitutionally discriminated against blacks by diluting the strength of their votes, and he ordered city officials to come up with a new plan.<sup>100</sup> Historian Denham concluded that Hodges' order had a major impact on other lawsuits challenging at-large election systems adopted by other Florida cities and counties.<sup>101</sup>

In several related decisions in the 1990s, Hodges

addressed the contentious issue of prayer in public schools. In 1993, a group of graduating seniors and a parent brought an action to enjoin the Duval County Public School District from performing religious invocations and benedictions at upcoming public high school graduation ceremonies. The school board had adopted a policy allowing students to vote to give brief opening or closing messages at graduation ceremonies, which could not be reviewed by school officials. Hodges denied motions by the plaintiffs for preliminary injunctive relief, and the graduation ceremonies were conducted at high schools pursuant to the school board's policy. At 10 of the 17 high schools, the students opted for messages containing some form of prayer. Subsequently, Hodges granted a motion by the school board for summary judgment, concluding that, since the school board had no power to direct or control that a message be delivered at graduation or the content of any message that was delivered, the school board's policy did not violate the Establishment Clause. *Adler v. Duval Co. School Bd.*, 851 F. Supp. 446 (M.D. Fla. 1994). The plaintiffs appealed Hodges' order to the Eleventh Circuit, which held that the claims for injunctive and declaratory relief were moot because the student plaintiffs had graduated and the plaintiffs had waived their claims for damages.<sup>102</sup> In 1998, a separate group of plaintiffs filed a similar lawsuit challenging the policy.<sup>103</sup> With the consent of the parties, Hodges consolidated their motion for summary judgment with a decision on the merits, denied the motion and entered judgment in favor of the school board. After a

tortuous series of appeals, the Eleventh Circuit in an *en banc* decision affirmed Hodges' ruling. *Adler v. Duval Co. School Bd.*, 250 F.3d 1330 (11<sup>th</sup> Cir. 2001).<sup>104</sup>

**Activities, Honors and Awards**

Hodges' work as a trial judge, though extraordinary enough, merely constitutes a part of his contributions to the judicial system.

In 1977, Hodges got a call from Fifth Circuit Chief Judge John Brown, who needed to form a committee to study the instructions on conspiracy being used by district judges in the circuit. Hodges recalls that the instructions were "absolutely incomprehensible."<sup>105</sup> At the time, there were no standard or pattern jury instructions anywhere, except some found in a few commercial publications, which were not very useful. Hodges was appointed to chair the committee. The committee members met, exchanged drafts, and sent Brown a draft conspiracy instruction.<sup>106</sup> The members liked what they had done and "had such fun," Hodges remembers, that they asked Brown to extend the work of the committee, which he did.<sup>107</sup> The ultimate result: 600 pages of instructions, which have served as a model for pattern jury instructions adopted by all the other federal circuits and courts across the country.<sup>108</sup> Hodges went on to serve as chair of the Committee on Pattern Jury Instructions in the Fifth Circuit, and later the Eleventh Circuit, for 28 years.<sup>109</sup>

From 1982 to 1989, when Hodges served as chief judge

*continued, next page*

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of the Middle District, the biggest problem that the court faced continued to be congested dockets. Although the authorization of new judges was up to Congress, Hodges instituted several measures to help the court manage its caseload, including increased use of visiting judges, use of accelerated trial calendars, temporary reassignments of district judges to cover hot spots, and enhanced use of magistrate judges.<sup>110</sup> Indulging his love for the rules, Hodges also wrote (and all the district judges adopted) a new set of local rules for the district, which included, among other innovations, mandatory court-annexed arbitration of many civil cases, which was a part of some new experimental procedures called alternate dispute resolution or "ADR."<sup>111</sup>

In 1981, Hodges was elected by his fellow district judges in Florida to serve as their first representative on the Circuit Council of the newly created Eleventh Circuit.<sup>112</sup> The Circuit Council in each circuit oversees the administration of courts in that circuit and has broad authority to issue orders to promote accountability and "the effective and expeditious administration of justice within its circuit."<sup>113</sup>

Not long after Hodges joined the Circuit Council, he was faced with a difficult decision requiring great courage. William Borders, a Washington, D.C., lawyer, had been indicted in the Southern District of Florida on a charge of conspiracy to accept a bribe for influencing the outcome of a case pending before his close friend, U.S. District Judge Alcee Hastings. An appointee of President Jimmy Carter, Hastings was the first black federal district judge in Florida history.<sup>114</sup> Hastings was also indicted, but his case was severed from Borders', which was transferred to the Northern District of Georgia for trial. The jury found Borders guilty, and he was sentenced to five years in prison. The Eleventh Circuit, with Judge Frank M. Johnson, Jr. writing the opinion, affirmed Borders' conviction. *United States v. Borders*, 693 F.2d 1318 (11<sup>th</sup> Cir. 1982). In its opinion, the court stated, "Because only Hastings and Borders were named as conspirators in the indictment, the government had to prove Hastings' involvement in order to convict Borders for conspiracy," and it described the evidence of Borders' guilt as "overwhelming." *Id.* at 1324; 1328, n. 25.

On Feb. 4, 1983, a few weeks after the Eleventh Circuit issued its opinion, however, a jury in Hastings' separate trial found him not guilty.<sup>115</sup> After hearing a report of these developments at a regular administrative meeting of the Circuit Council, and having read the Eleventh Circuit opinion, Hodges announced that he would file a complaint against Hastings.<sup>116</sup> Hodges later said, "I felt it was my duty. ... It was one of the most difficult decisions I have ever made in my life."<sup>117</sup> Chief Judge Anthony

Alaimo of the Southern District of Georgia joined Hodges in filing the complaint. Hodges and Alaimo then "recused" themselves from involvement in the investigation.<sup>118</sup> Chief Judge John Godbold appointed a five-judge committee, chaired by Judge Gerald Tjoflat and including Judge Johnson, which, after a three-year investigation, recommended that Judge Hastings be impeached. Seven months later, the Judicial Conference of the United States recommended that the House of Representatives consider impeachment.<sup>119</sup> After lengthy hearings<sup>120</sup>, the House impeached Hastings 413-3.<sup>121</sup> Hastings was then tried by the U.S. Senate, which, on Oct. 20, 1989, convicted him and removed him from office.<sup>122</sup>

Hodges also chaired the Judicial Panel on Multi-District Litigation from 2000-2007.<sup>123</sup> The JPML is a seven-judge panel created by Congress to determine whether civil actions pending in different federal districts involve one or more common questions of fact such that the actions should be transferred to one federal district for "coordinated or consolidated" pretrial proceedings and, if so, to select the judge or judges and court assigned to conduct those proceedings.<sup>124</sup> A broad range of cases from different districts were referred to the panel while Hodges was chair, including patent infringement actions, securities and ERISA cases, and pharmaceutical, asbestos and other mass tort claims. In addition to the judicial members, the panel employed five attorneys and about 20 other employees. Its work was substantial and time-consuming.<sup>125</sup>

Hodges performed many other duties for other committees and organizations within the federal judicial system. Between 1981 and 1996, he served on the faculty of at least 52 Federal Judicial Center programs. In the words of the Devitt Award Committee, "He has been an educator, mentor and a role model to a generation of federal judges."<sup>126</sup> Hodges is most grateful, however, for the opportunity that he had to serve on the Judicial Conference and to work with other judges from throughout the country.<sup>127</sup> "When all is said and done, the contribution I think I will leave behind frankly will be the committee work I have done for the Judicial Conference," Hodges says.<sup>128</sup> Chief Justice Warren Burger first appointed Hodges to the Judicial Conference Committee on the Operation of the Jury System in 1982. In 1987, Chief Justice Rehnquist appointed Hodges to serve as a member of the Conference's Advisory Committee on Criminal Rules, which he went on to chair from 1990 to 1993. Rehnquist again chose Hodges in 1994 to serve on the Executive Committee of the Judicial Conference, and in 1996 appointed him as chair of the Executive Committee, a position he held until 1999.<sup>129</sup> Hodges was only the second district judge to serve in that capacity.<sup>130</sup> At the end of Hodges' term as chair, Rehnquist presented him with a resolution at a reception in his honor. The

resolution recognized “his exceptional intellect, keen analytical ability, and statesman-like demeanor.” A man of “impeccable integrity,” the resolution read, “Judge Hodges has been a superb Executive Committee Chair and an outstanding leader, who never wavered from the high-quality professionalism that is his standard.”<sup>131</sup> Today, Hodges continues to serve on the Judicial Conference as chair of the Court Administration and Case Management Committee.<sup>132</sup>

In addition to being a teacher, mentor and role model to his law clerks and to other judges, Hodges also has striven to enhance the skills and professionalism generally of lawyers and law students. Hodges was an early supporter of the Inns of Court movement. He organized and served as the initial president of the C.H. Ferguson-M.E. White Inn of Court, the first Inn of Court chapter in the Tampa area, and he became president of the Chester Bedell Inn of Court after relocating to Jacksonville.<sup>133</sup> In 2011, Hodges served as the Peter T. Fay Jurist-in-Residence at the University of Florida Law School, where he gave lectures in classes on federal courts and statutory interpretation and spoke with students and faculty about judicial clerkships, trial advocacy, and legal careers.<sup>134</sup> He has also given many speeches and presentations at seminars for bar associations and organizations.

Hodges has received an impressive list of awards and honors in addition to the Devitt Award mentioned above. In 1999, as Hodges was finishing his term as chair of the Executive Committee of the Judicial Conference, his beloved University of Florida awarded him an honorary doctorate. Among the many letters of support he received was one from Chief Justice Rehnquist, who wrote: “I have the highest respect for Judge Hodges’ abilities, judgment and commitment to public service. He is prompt, thorough and performs countless tasks for the judiciary without fanfare. . . . Judge Hodges has brought honor and recognition to the University of Florida. It certainly would be most fitting, in my view, for the university to honor him.”<sup>135</sup> In 2003, the same year he received the Devitt Award, The Florida Bar awarded him its prestigious William H. Hoever Judicial Award as a judge “who best exemplifies strength of character, service and competence as a jurist, lawyer and public servant.”<sup>136</sup> In 2007, the American Inns of Court awarded Hodges its Professionalism Award for the Eleventh Circuit, given to a lawyer or judge “whose life and practice display sterling character, unquestioned integrity, and dedication to the highest standards of the legal profession and rule of law.”<sup>137</sup>

Through it all, despite all of the important positions he held and the many honors and accolades he received, Hodges has retained his humility and fundamental

humanity. His law clerk Scott Whitaker, in a 2012 speech at a reception in honor of Hodges, said: “I watched him struggle every time he had to pass sentence. His humility in all things is beyond anything I’ve ever seen. He always used to say, ‘Every time you use a little power, you lose a little power.’ I’ve never seen him abuse it once.”<sup>138</sup> Perhaps the Tampa Tribune captured it best, however, in a 1999 editorial: “For more than a quarter-century, this wise and humble man from Polk County has devoted his life to public service.”<sup>139</sup> Today, nearly 20 years after those words were written, Hodges is still working at that job. For his extraordinary service and contributions to the judicial system and to the bar, we should all feel humbled -- and immensely grateful.

#### Endnotes:

- 1 Krentzman had been appointed in 1967 by President Lyndon Johnson. JAMES M. DENHAM, *FIFTY YEARS OF JUSTICE, A HISTORY OF THE U.S. DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA* 45, 97 (2015) (hereafter “*Fifty Years*, at \_\_\_).
- 2 *Id.*, at 7, 45, 97.
- 3 Compiled from Florida Census: 1970, [hppt://fcit.usf.edu/florida/docs/c/census/1970.htm](http://fcit.usf.edu/florida/docs/c/census/1970.htm) and Florida County Population Estimates: April 1, 2015, University of Florida, Bureau of Economic and Business Research, 10/16/15. Since 1971, Congress has changed the boundaries of the Middle District a bit by removing Madison County from the Middle District and adding it to the Northern District of Florida and later by transferring Collier, Glades, and Hendry Counties from the Southern District to the Middle District. *Fifty Years*, at 142.
- 4 See Roger J. Miner, *Federal Courts, Federal Crimes and Federalism*, 10 HARV. J. LAW & PUB. POLICY 117 (1987). In this article, Judge Miner of the Second Circuit Court of Appeals attributed the increase to several factors in addition to the statutory expansion of federal crimes, including (i) expansive interpretation of federal criminal statutes by the courts, (ii) demands by state and local governments for federal assistance in criminal law enforcement, and (iii) the vigor of some federal prosecutors to fill gaps perceived to exist in state prosecutions. *Id.*, at 117-118.
- 5 *Fifty Years*, at 126-27, 147, 150-152, 223, 227-28, 234, 237-38, 248, 311-317.
- 6 Materials for Presentation of the Edward J. Devitt Distinguished Service to Justice Award (Oct. 8, 2003) (on file with author) (hereafter “Devitt Award Presentation”).
- 7 Interview with Hon. Charles R. Wilson, Judge, United States Court of Appeals for the Eleventh Circuit, in Tampa, Fla. (Jan. 12, 2016).
- 8 *Id.*
- 9 Interview with Hon. Steven D. Merryday, Chief Judge, Middle District of Florida, in Tampa, Fla. (Jan. 12, 2016).
- 10 *Id.*
- 11 *Id.*
- 12 Devitt Award Presentation.
- 13 Until recent years, Hodges always carried two term law clerks. His current law clerk, Leslie Hoffman, previously served him as a term law clerk before he hired her as a career clerk in 2005.

## Judge Wm. Terrell Hodges, continued

14 Hodges characterizes his relationship with his law clerks as one of the most interesting and rewarding aspects of being a judge. "If I didn't have a relationship with law clerks, what else would I do? I can't talk with anyone else. And obviously, they need help having just come out of law school. It's fun to see young people develop in a short period of time," Hodges says. Interview with Hon. Wm. Terrell Hodges, Senior U.S. District Judge, in Gainesville, Fla. (Jan. 16, 2016) (hereafter "Hodges Intw.>").

15 Interview by Julian Pleasants, Samuel Proctor Oral History Program, University of Florida, with Wm. Terrell Hodges, in Gainesville, Florida (July 10, 2006), at 1 (hereafter "Hodges Oral History, at \_\_\_\_").

16 *Id.*, at 2. Lake Wales' downtown commercial district still contains many beautiful and historic buildings. In 1990, it was designated as a National Historic District. Just north of town is the idyllic Bok Gardens, a famous park and bird sanctuary designed by architect Frederick Law Olmstead. BRUCE HUNT, VISITING SMALL-TOWN FLORIDA 110-112 (2011).

17 Hodges Oral History, at 2.

18 Hodges Intw.

19 *Id.*

20 *Id.*

21 *Id.*

22 *Id.*

23 Hodges tells a story about being "arrested" at the age of 9 or 10 by his father "for the offense of riding my bicycle on the sidewalk downtown" and spending four hours one afternoon locked up alone (there were no other inmates) in the city jail. "I know from first-hand experience that there is such a thing as specific deterrence," Hodges says. *Id.*

24 *Id.*

25 *Id.*

26 *Id.*

27 *Id.*

28 *Id.* Hodges served as President of the Key Club his senior year. The school yearbook states that the club completed an astonishing number of 125 school and community service projects that year. *The Crown Jewel 1951*, Lake Wales High School Yearbook.

29 Hodges Intw.

30 *Id.*

31 Dave George, *Lake Worth's Lost Legend, Herb Score*, Palm Beach Post (May 10, 2015), <http://www.palmbeachpost.com/news/lifestyles/lake-worths-lost-legend-herb-score/npghH/>.

32 Hodges Intw.

33 Hodges Oral History, at 4; Hodges Intw.

34 Hodges Oral History, at 6.

35 Hodges Intw.

36 *Id.*

37 *Id.*

38 *Id.*

39 Hodges Oral History, at 6-7.

40 Hodges Intw.

41 *Id.*

42 Hodges describes himself as "never a dedicated student" until the first day of law school when he "knew he had found a home." Hodges Intw.; Hodges Oral History, at 7.

43 *Id.*

44 *Id.*; Hodges Intw. The Uniform Commercial Code was jointly published in 1952 by the National Conference on Uniform State Laws and the American Law Institute, but at the time of the seminar that Hodges organized only one or two northeastern states had adopted it. See Robert Braucher, *The Legislative History of the Uniform Commercial Code*, 2 AM. BUS. L. J. 137 (May 1964). The Florida legislature adopted most of the UCC in 1965. THOMPSON REUTERS, UNIFORM LAW ANNO., 2015 Cum. Ann. Pocket Part, at 1-8 (2010). It has now been enacted in one or another of its revisions in all 50 states as well as in the District of Columbia and the U.S. Virgin Islands. *Id.*

45 Hodges Intw.; Hodges Oral History, at 9-10.

46 *Id.*, at 14-15; Devitt Award Presentation.

47 Hodges Oral History, at 12-13.

48 Hodges Intw.

49 Hodges Oral History, at 12.

50 Hodges Intw.

51 Hodges Oral History, at 13.

52 Hodges Intw.

53 *Id.* The Fifth Circuit had jurisdiction over appeals from Florida district courts until 1981, when the circuit was split to create the Eleventh Circuit Court of Appeals.

54 *Id.*

55 Devitt Award Presentation.

56 *Id.*

57 Hodges Intw.

58 *Id.* Hodges attributes the decline in professionalism to several sources, including the development of specialization and increased emphasis on the business aspects of law. Ultimately, however, he believes, "The practice of law has lost some of the aspects of its professionalism in large part because lawyers don't know each other" and are not constrained in their dealings by "the fact that you're going to have to deal with this person again." Hodges Oral History, at 45-46.

59 Hodges Intw.

60 *Id.*

61 *Id.*

62 *Id.*

63 Letter from Morris E. White, Attorney, to Hon. Edward J. Gurney, U.S. Senator (Nov. 12, 1971); letter from John G. Hodges, Circuit Judge, Thirteenth Judicial Circuit of Florida, to Hon. John N. Mitchell, U.S. Attorney General (Nov. 16, 1971). Both letters were provided by Hodges to the author.

64 Hodges Intw.

65 *Id.* Rehnquist's nomination had been opposed by a group of liberal Democrats, led by Senator Birch Bayh of Indiana, and a few Republicans who contended that Rehnquist had not demonstrated a commitment to civil rights and civil liberties. John Chadwick, *Debate Cut-Off Planned on Rehnquist Nomination*, ASSOCIATED PRESS, NASHUA TELEGRAPH, Dec. 9, 1971, at 3; *Rehnquist Confirmation Win for President Nixon*, ASSOCIATED PRESS, SUMTER DAILY ITEM, December 11, 1971, at 1A.

## Judge Wm. Terrell Hodges, continued

66 Hodges Intw.

67 *Id.*

68 The prior year, President Nixon had nominated Haynsworth to succeed liberal justice Abe Fortas, who had resigned over conflict of interest charges. A coalition of Democrats and liberal Republicans defeated Haynsworth's nomination. During the confirmation process, his opponents raised questions about his business and financial interests. Senator Hruska had been a leading supporter of Haynsworth's nomination. See John Anthony Maltese, *The Selling of Clement Haynsworth*, 72 JUDICATURE 338, 341-42, 345 (1988-89).

69 Hodges Intw.

70 *Id.*

71 *Id.* Gagliardi famously presided over the 1974 trial of two former Nixon Cabinet members, John Mitchell and Maurice Stans, on Watergate-related conspiracy charges. As a Senior U.S. District Judge, Gagliardi later came to sit as a visiting judge for many trials in the Ft. Myers Division of the Middle District of Florida. He died in 1998. *Id.*; Eric Page, *Lee P. Gagliardi, 80, Nixon Aides' Judge*, N. Y. TIMES (Nov. 5, 1998), <http://www.nytimes.com/1998/11/05/us/lee-p-gagliardi-80-nixon-aides-judge.html>; Hodges Intw.

72 Hodges Intw.

73 *Fifty Years*, at 99-100; Hodges Intw.; Times Bureau, *Judge Vows Dedication, Objectivity*, ST. PETERSBURG TIMES, December 29, 1971, at B1; Terry Rogers, *Hodges Ascends U.S. Bench*, TAMPA TRIBUNE, December 29, 1971, at A1.

74 *Fifty Years*, at 121;

75 Hodges Intw.

76 Hodges Intw. Hodges recalls that he was in trial in a criminal case even on an Easter Sunday in 1974. When the trial had taken much longer than expected, Hodges asked the jury whether they wanted to work over the Easter weekend or come back the following Monday, the fifth week of a supposed three-week trial. The jury elected to work through the weekend. *Id.*

77 Interview with Scott L. Whitaker, Law Clerk to Hon. Wm. Terrell Hodges 1976-1978 in Gainesville, Fla. (Jan. 16, 2016) (hereafter "Whitaker Intw.")

78 *Id.* Whitaker recounts that, since he was new to Tampa, and lived on the other side of town, he did not know the way to Tampa General Hospital, which was near downtown. With Whitaker behind the wheel of Hodges' car, "the Judge had to direct me [to the hospital] while having his heart attack." *Id.*

79 *Id.*

80 Hodges Intw.

81 William Nottingham, *Arson, Insurance Fraud Trial Begins*, ST. PETERSBURG TIMES, Nov. 7, 1977, at B6.

82 *Id.*

83 Whitaker Intw. The security for the Arson Trial was particularly remarkable for that time before the assassinations of several federal judges, including Eleventh Circuit Judge Robert Smith Vance, and the events of September 11, 2001, resulted in many enhancements to security in federal courthouses and other federal facilities.

84 *Tampa Arsonists Doused*, ASSOCIATED PRESS, LAKELAND LEDGER, Apr. 22, 1978, at A4.

85 Hodges, Oral History, at 52-53. The Middle District of Florida Bench Bar Fund Committee's History, Education and Public Outreach Committee hosted a luncheon event in September

2015 when Hodges, lead defense counsel Bennie Lazzara, and Robert Mazur, the U. S. Customs agent who was the government's star witness, spoke about their recollections of the trial. A recent article in this publication reported on this event. Larry Dougherty, *Discussing the BCCI Trial: Middle District of Florida's Fifty Years of Justice Book Celebration*, 11<sup>TH</sup> CIRCUIT HISTORICAL NEWS (Historical Society of the United States Courts in the Eleventh Circuit, Atlanta, GA), Winter 2015, at 28.

86 *50 Years*, at 178.

87 *Id.*, at 180.

88 Hodges Oral History, at 53.

89 *Id.*, at 54.

90 *Id.*, at 55.

91 18 U.S.C. § 1956 (1986).

92 *50 Years*, at 180.

93 *50 Years*, at 216; Hodges Oral History, at 57.

94 *50 Years*, at 216-217.

95 During the hearing before Hodges, the Assistant Superintendent of the School Board testified that he did not believe the school board would move to integrate the three schools without a court order. "It is my personal opinion that the school board would be out of office long ago if it had ordered desegregation [of these schools] without a court order." Nancy Stohs, *Judge Orders August 29 Busing*, LAKELAND LEDGER, August 9, 1977, at A1.

96 Hodges Intw.

97 Hodges describes his judicial philosophy as "conservative, maybe even an original constructionist." But he believes fervently in the common law system. "Judges should not make law. That's not our business. Judges should do their best to discern the law and apply it to the case before them. No two cases are exactly alike. So, to the extent that I apply a rule of law from one case to this new one it makes new law to that extent that there's a difference in facts between the two," he explains.

98 See *Freeman v. Pitts*, 503 U.S. 467, 494 (1992).

99 *50 Years*, at 287-288.

100 *Id.*, at 219; *Electoral System Discriminatory*, U.S. Judge Rules, ASSOCIATED PRESS, MIAMI HERALD, Feb. 25, 1983, at C2, ACCESS WORLD NEWS, Record 8301170093; Christopher Boyd, *How Blacks Beat the Election System in Ft. Myers*, MIAMI HERALD, May 1, 1983, at B1, ACCESS WORLD NEWS, Record 8302040673.

101 *50 Years*, at 219; see also Michael Ollove, *At-Large Voting Takes It on the Chin in Court*, Miami Herald, June 17, 1984, at C10, ACCESS WORLD NEWS, Record 8402140187.

102 *Adler v. Duval Co. School Bd.*, 112 F.3d 1475 (11<sup>th</sup> Cir. 1997).

103 The lead plaintiff in the 1998 action was Emily Adler whereas the lead plaintiff in the 1994 action had been Karen Adler; hence the similarity of the names of the reported decisions in both cases.

104 In the initial appeal, a panel of the Eleventh Circuit held that the policy violated the Establishment Clause and reversed the judgment. *Adler v. Duval Co. School Bd.*, 174 F.3d 1236 (1999). The court vacated this decision, granted rehearing *en banc*, and the full court then held that the policy was constitutional and affirmed the judgment entered by Hodges. The plaintiffs thereafter petitioned the Supreme Court for *certiorari*, which vacated and remanded the case to the Eleventh Circuit for further consideration in light of

## Judge Wm. Terrell Hodges, continued

the Supreme Court's intervening decision in *Santa Fe Independent School District v. Doe*, 530 U.S. 290 (2000). In the opinion cited in the text, the Eleventh Circuit concluded that *Santa Fe* did not alter the outcome of the case and again affirmed the judgment.

105 Hodges Intw.

106 *Id.*

107 *Id.*

108 *Id.*

109 Devitt Award Presentation.

110 *50 Years*, at 152; Wm. Terrell Hodges, David L. Edwards, and Susan H. Walsh, *the Middle District of Florida*, 63 Fla. B. J. 19 (Dec. 1989).

111 *Id.*; Hodges Intw. Ch. 8, Local Rules, M.D. Fla. Later, the Middle District adopted rules providing for mediation of civil cases. Ch. 9, Local Rules, M.D. Fla.

112 Devitt Award Presentation. Pursuant to the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980, P.L. 96-458, 94 Stat. 2035, Congress provided for the first time that district judges would serve as representatives on the judicial councils of the circuits. *Id.*, at 2035-2036.

113 See *Governance and the Judicial Conference, United States Courts*, <http://www.uscourts.gov/about-federal-courts/governance-judicial-conference>.

114 *50 Years*, at 148.

115 Herald Staff, *A Hastings Chronology: 1979-1988*, MIAMI HERALD, July 8, 1988, at A14, ACCESS WORLD NEWS, Record 8802170727.

116 The Judicial Councils Reform and Judicial Conduct and Disability Act of 1980 also established a mechanism for the federal judiciary to police itself. It provided for the filing of a complaint by "any person alleging that a circuit, district, or bankruptcy judge, or a magistrate, has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts" and set forth a procedure for investigation and disposition of such complaints. 94 Stat. 2035, at 2036-2040.

117 *50 years*, at 148; R. A. Zaldivar and Stephen P. Hedges, *Panel Criticizes FBI Tactics in Hastings Bribery Case*, MIAMI HERALD, May 36, 1988, at A8, ACCESS WORLD NEWS, Record 8802070256.

118 Hodges Intw.

119 *A Hastings Chronology, supra*, note 115.

120 During the proceedings before the House, Hodges and Alaimo were called to testify before the House Judiciary Subcommittee on Criminal Justice. Their testimony can be viewed on C-SPAN, <http://www.c-span.org/video/?2772-1/impeachment-inquiry-judge-alcee-hastings>.

121 *Id.*

122 Herald Staff, *Alcee Hastings*, MIAMI HERALD, Oct. 21, 1989, at A30, ACCESS WORLD NEWS, Record 8903140739. Ironically, three years later, Hastings was elected as a member of the U.S. House of Representatives, the same body that voted to impeach him as a federal judge. Hastings remains a congressman to this day. *50 Years*, at 149.

123 Devitt Award Presentation.

124 28 U.S.C. §1407.

125 *Chair of Judicial Panel Sees Role as Gatekeeper*, THE THIRD BRANCH (Admin. Office of U.S. Courts Office of Public Affairs, Washington, D.C.), Nov. 2005.

126 Devitt Award Presentation.

127 Hodges Intw.; see also *Opportunity and Challenge: An Interview with Judge Wm. Terrell Hodges*, THE THIRD BRANCH (Admin. Office of U.S. Courts Office of Public Affairs, Washington, D.C.), July 1999.

128 *Id.*

129 Devitt Award Presentation.

130 *Conference Honors Judge Wm. Terrell Hodges*, THE THIRD BRANCH (Admin. Office of U.S. Courts Office of Public Affairs, Washington, D.C.), Oct. 1999.

131 *Id.*

132 Hodges Intw.

133 *Hodges Honored for "Fairness, Decency, and Knowledge,"* FLA. B. NEWS, Nov. 15, 2003.

134 *Federal Judge Shares Experience, Offers Advice as Jurist in Residence*, FlaLawOnLine, Univ. of Fl. Levin School of Law, Gainesville, Fla. (Nov. 28, 2011), <http://www.ufl.edu/flalaw/2011/11/federal-judge-shares-experience-offers-advice-as-jurist-in-residence/>.

135 Editorial, *A Rare and Deserving U.S. Judge*, TAMPA TRIBUNE, April 30, 1999, at A20, ACCESS WORLD NEWS, Record 043099052.

136 Awards, THE HENRY LATIMER CENTER FOR PROFESSIONALISM, THE FLORIDA BAR, [www.floridabar.org/tfb/TFBProfess.nsf/93534de21ec6a7285257002004837a3/6f19b/](http://www.floridabar.org/tfb/TFBProfess.nsf/93534de21ec6a7285257002004837a3/6f19b/) (last visited February 8, 2016).

137 *The Honorable William Terrell Hodges*, <http://www.innsforcourt.org/Content.Default.aspx?ID=340>; American Inns of Court Professionalism Awards, AMERICAN INNS OF COURT, [HTTP://HOME.INNSOFCOURT.ORG/AIC/AWARDS\\_AND-SCHOLARSHIPS/PROFESSIONALISM\\_AWARDS/AIC/](http://home.innsforcourt.org/AIC/AWARDS_AND-SCHOLARSHIPS/PROFESSIONALISM_AWARDS/AIC/) (last visited Feb. 7, 2016).

138 *Judge Hodges Honored at Reception*, FlaLawOnLine, Univ. of Fl. Levin School of Law, Gainesville, Fla. (Nov. 13, 2012), <http://www.ufl.edu/flalaw/2012/11/judge-hodges-honored-at-reception/>.

139 Editorial, *A Rare and Deserving U.S. Judge, supra*, note 135.

## SHARE YOUR NEWS!

Submit items for publication in the 11th Circuit Historical News to Wanda Lamar, executive director of the Society. (email: [wanda\\_lamar@ca11.uscourts.gov](mailto:wanda_lamar@ca11.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.

we naturally hope that a portion of it will be spent for a Federal Building in Mobile, for if any city in the United States needs a Federal Building (which we doubt) it is Mobile.

Just two years later, in 1934, the Southern District underwent a pivotal change, as its stately new home at 113 Saint Joseph St. began to take shape.

### **Courthouse Comes to Mobile: 1934-1935**

The Southern District courthouse was initially erected as a public federal building named the United States Court House and Custom House (which remains inscribed on the façade today). Placed in the National Park Service's prestigious and protected National Register of Historic Places on Oct. 8, 2008, "this building stands as a symbol of the Federal presence in Mobile while serving as a ... fine example of Federal architecture of the 1930s. The building is significant in American history and architecture and possesses integrity of design, materials and workmanship ... and serves as a good example of the Modern Classic style of architecture using a combination of Neo-Classical Revival, Renaissance Revival and Art Deco inspired detailing." So, how did such a striking structure arrive in Mobile?

A number of downtown sites were considered. The contract for the new federal building was awarded on Sept. 1, 1934, and construction began 24 days later. The building was completed on Dec. 9, 1935, and was hailed as a success and a welcome sight in downtown Mobile as "(f)ederal agencies acquired additional respect as employers, since they could always meet their payrolls." The Mobile Register reported then-Congressman John McDuffie's efforts behind bringing the building to Mobile with a laudatory description of the building:

McDuffie has been a leader in the fight for the building. Quick action by treasury officials, after finding funds were sufficient for the construction, was due to Mr. McDuffie's insistence ... (t)he building – long a dream of civic leaders ... likely will become a realization within 12 months ... (c)ontrasted will be the scene, by that time, at St. Joseph and St. Louis Streets. Where now a row of unsightly buildings presents a shabby appearance on the outskirts of Mobile's business area, by the end of a year will stand the magnificent structure, memorial to the efforts of Mobile's citizenry and the untiring work of those, such as Congressman McDuffie, in obtaining the building. ... (T)he new government structure will stand five stores high, a magnificent edifice of modified Greek architecture ... the building will be one of the most beautiful of its type in the country. ... On the first floor will be located the naturalization bureau, immigration department, recruiting offices for the marine corps, army and navy, customs storage room, collector of

internal revenue office, bureau of plant industry, bureau of narcotics, offices of the organized reserves, and two small laboratories. ... Two handsome elevators and stairs will lead up from the lobby to the second floor, which is occupied entirely by the department of justice. The federal courtroom, the architects' crowning piece of artistry, will take up the entire front half of the building on that floor, with its ceiling extending through the third floor. Plans provide for special acoustical treatment ... and a ventilation system which will permit the design of windows to shut out noise from the streets. Even sounds from the courtroom lobby will not be heard in the courtroom. The judge's private office will open off the courtroom and will be adjoined by his library. ... The office of the clerk ... and his assistants ... will occupy the second floor, with a witness room, the marshal's public and private offices, the office of the field deputies and a small cell room for prisoners on trial. The third floor ... will be devoted to the department of justice, with rooms for the grand jury and witnesses; the district attorney's suite ... probation officer's private and public offices, the United States commissioner's office and public hearing room, and the deputy prohibition administrator's offices ... the fourth floor will be devoted chiefly to the collector of customs and the coast guard. The army engineer's corps and the weather bureau will be located on the fifth floor. Provision has been made for weather bureau apparatus on the roof ... the building will be heated from the boiler room and ... will be ventilated by a duct system. A light court in the rear ... will provide light for the entire structure.

As for the specifics, with an original contract price of \$363,100 – and under the talented eyes of local architectural firm Carey and Dowling and Louis A. Simon (supervising architect, U.S. Department of Treasury) – construction began in 1934 on 1.8 acres of packed sand strategically selected for its location at 113 Saint Joseph St. Interestingly, the architect decided, "after rather lengthy consideration," to construct the building out of Alabama limestone "taken from quarries in the northern section of the state" for which McDuffie was "gratified" as "I have been anxious that the project benefit industry of our own state."

The sandy plot was available after the United States Custom House and Post Office (1856), a three-story Neo-Renaissance structure designed by architect Ammi B. Young, was razed. Only a handful of feet above sea level and a few blocks shy of the Mobile River and the state's only saltwater port, the federal building was situated at the corner of three saints – Saint Joseph, Saint Michael and Saint Louis streets – in one of the oldest sections of Mobile. Its purpose was two-fold: to house the United States Custom Service and the United States Courts.

The architectural mood of Alabama in the early 1930s is reflected in the building's style: "(G)rowing out of a

## The Southern District of Alabama, continued



In a photo from 1934, construction continues on the West Ceremonial Courtroom of the courthouse in Mobile. (National Archives at Atlanta)



The West Ceremonial Courtroom on the second floor, as it appears today. (Photo courtesy of G.C. Pfeiffer-Traylor)

conscious attempt to cast off entirely or to highly stylize any allusions to the architectural past, the Art Deco, Art Moderne ... styles all made their appearance. ... All three trends share in common an emphasis upon a streamlined appearance and sleek functionalism ... (yet) in Art Deco, an emphasis upon zigzags and other geometrical decorations about doors, windows and rooflines." As a whole, the building presents an exacting blend of the Neo-Classical Revival, Renaissance Revival and Art Deco architectural styles, while being rooted in the Modern Classic federal architecture of the 1930s.

The 1934 construction process temporarily transformed a little brick paved street in Mobile into a cultural crossroads, employing construction workers and artists from across the nation. Nashville brick/stone masons; Mobile painters, roofers, electricians and glaziers; New Orleans plumbers; Atlanta plasterers; Detroit ornamental metal workers; Ohio elevator installers; Montgomery marble/terrazzo installers; Dallas pipe layers; New York cork floor installers; and Virginia linoleum installers worked side by side for over a year to bring the plans to life. A foundation of Alabama limestone, supported by Stone Mountain granite, fortified the building to withstand the tests of time in this sub-tropical and hurricane-prone climate. Insulated with only "hair felt," the building was illuminated by brass light fixtures, and, though situated in one of the highest rainfall cities in the nation, it lacked waterproofing or drains, having only galvanized wrought iron downspouts. Despite the sweltering nature of Mobile summers, the building lacked air conditioning; the only ventilation was "for the courtrooms" and consisted of a

"fan," *apparently in the singular*. Over the approximately 14 months of construction, the contract price increased only \$3,133.52, for a total cost of \$366,233.52.

Commanding in scale and massive, with monumental and rectilinear form, modestly detailed wall surfaces and carved ornamentation, the building is an eye-catcher. In short, it's all in the details. A casual stroll around the exterior reveals a subtle symphony of refined materials and conscientiously placed architectural gems. Like any well-heeled "80 something" Alabama "Grande Dame" bedecked in her finest, the takeaway is a simultaneously stalwart and elegant presence. So, let's pause to properly greet this great lady and take a closer look at the four walls that architecturally exalt the Southern District.

### Architectural Tour

The primary façade represents the most stunning architectural jewel of this building and is simply a standout. Facing east to greet the morning sun and rooted in a granite base, five stories of glowing, smooth, white Alabama limestone ashlar (spanning some 146,000 square feet) rise up from Saint Joseph Street, adorned with dazzling Michigan cast bronze ornamentation, to define the building and graciously welcome the public at the main entrance.

The building was erected with a U-shaped footprint (to provide illumination and ventilation for interior spaces). The front façade sits at the bottom of the U with (originally) an expansive open light court at its center. The first floor is set off by a continuous molded projecting stringcourse running horizontally between

## *The Southern District of Alabama, continued*

the first and second floors. A monument featuring the Bill of Rights stands adjacent to wide granite steps with minimally fashioned broad stone cheek walls that join the building to the city sidewalk. The cheek walls were once adorned with massive mounted single cylindrical pillar and star-shaped iron lanterns, accentuating the main entry functionally and ornamentally. While the lanterns no longer are present, the original placement mounts remain.

Looking up toward the second and third floors, you see large windows grouped into three prominent bays in an unfenestrated stone field. The center bay contains five openings separated by four fluted pilasters. Each window rests on a limestone spandrel panel at the second-floor level, and centered stone fields, bookending the center bay, are adorned with two mounted flagpoles and symmetrically placed carved recessed symbols of the agencies that originally occupied the building (medallions) within a glyphed octagon (the United States Department of Justice seal, and a Latin inscription with the scales of justice seal). The center bay also presents five more carvings: two scales of justice, with laurel wreath and bundled axe motifs; two lamps of knowledge; and the American eagle surrounded by a laurel wreath and bundled ax motif. The end bays feature three grouped windows with taller openings and ornate ornamental bronze spandrels with vine motifs between the second- and third-floor windows, separated by fluted pilasters. Decorative borders and chevron designs also separate the second- and third-floor windows. Fluted Ionic pilasters accent the walls between the second and third floors, rising to an unembellished entablature that wraps around the building. A continuous denticulated molding separates the architrave and the frieze. Within the frieze, centered on the façade, are incised the words "United States Court House and Custom House," accented by a panel of relief-work displaying foliage and carved rosettes.

Unembellished entablature and denticulated molding delineate the third and fourth floors, adding definition to the building's mid-section. The third-floor windows are accented with a glyphed band of ornamentation and centered carved starburst design. A repetition of pilasters separates the window openings, mimicking those at the lower levels yet smaller in scale to give "the illusion of greater height to the building." The fourth floor is stepped back from the lower floors. Each bay is separated by a simple limestone pilaster and a simple molded cornice along the base of the parapet wall, accented at intervals with raised five-point stars aligned in a repeating pattern. The four floors are 13 bays wide along this elevation. The fifth floor lacks ornamentation and is further stepped back from the fourth floor, and is 11 bays wide, merging seamlessly with the roof parapet. The penthouse and attic, brick with limestone parapets, rise above.

Facing the courthouse steps, let's turn right to the north elevation, detailed similarly but lacking the additional ornamentation of the east center bay. This elevation divides the original building from a later addition and features a monumental bronze gate with Art Deco delights. Slightly arched and depicting stylized Art Deco scrollwork and fretwork designs in shapes favoring that of a building and a wave, the gate marks the line between the addition and the original building and once provided access to the central light court. Originally comprising 10 bays on the first through fourth floors and eight on the fifth, the addition increased this to 18 bays on the first through fourth floors and 17 bays on the fifth floor. Just past the gate, a secondary courthouse entrance features reeded granite cheek walls flanking granite stairs set off against limestone walls that rise to a recessed aluminum paneled entry vestibule with a decorative transom motif. The opening to the vestibule is surrounded by a limestone jamb detailed in a reeded design. Massive original lanterns flank paired bronze doors.

Traveling on, we find the west elevation, now partially hidden by an employee parking garage. Ornamentation includes bronze spandrel panels between the second- and third-floor lower windows and moldings and cornices of the adjacent elevations that wrap around this side of the building. The broad middle section is surfaced in brick masonry showing the 1940 addition. Smooth limestone belt courses mimic the moldings and cornices on the other elevations above the first, third and fourth floors. The attic rises from this central section, giving the appearance of a sixth floor, and it houses mechanical equipment, including the original air handlers that serviced the second floor's ceremonial courtroom – reportedly the first air-conditioned courtroom in the United States.

Around the corner, the south elevation presents, continuing the general massing and rhythm of the building yet today virtually invisible because of the close proximity of the nine-story Federal Corps of Engineers building. The only ornamentation is the repeating pattern of bronze spandrel panels between the second- and third-floor lower windows.

Returning to the front façade, notice the courthouse doors before stepping inside. Lacking ornamentation, the three main doors are set back into three central bays. Simple rectangular portals, aligned vertically with the windows above, provide passage through a deeply recessed threshold to the main entry doors. This threshold serves as an exterior vestibule and features granite flooring, limestone walls, a plaster ceiling, original suspended white globe lights and three sets of paired bronze and glass doors.

## The Southern District of Alabama, continued

Upon entering the main vestibule and lobby, dotted with Art Deco light fixtures and fixed glazed panels in doors/transoms, guests are greeted by a portrait of U.S. Supreme Court Associate Justice John A. Campbell, the building's namesake. Prominently situated above Campbell's antique Victorian mahogany chair, a bronze plaque in his name is affixed to the lobby wall. Outside, a stone wall reflects the building's name in his honor.

The main lobby serves as a hub of activity, and the ground floor remains the locus for public services as it did back on Dec. 8, 1941, when World War II hero, physician and author Dr. Sidney C. Phillips, Jr. (1924-2015) voluntarily enlisted in the courthouse lobby. Some 72 years later, he returned to the building as the honored guest speaker for the December 2013 naturalization ceremony, reflecting upon his lobby "visit."

The lobby also has been a gathering spot of sorts since the 1930s for thousands of foreign individuals (and their friends and families), while they awaited their turn at

the elevators to travel to the second-floor ceremonial courtroom to be sworn in as newly naturalized citizens. Like the vestibule, the lobby retains much of its original character – Art Deco stylings of corbeled travertine clad walls, corbeled pilasters, walnut doors, terrazzo tile floors and the like. Other original features include the brass Office Directory placard mounted on the lobby wall, and the cast iron grilles in the vestibule set within travertine panels.

While the first floor has undergone interior renovations over the years, it remains the main public access point (for court employees, jurors, attorneys, litigants, newly naturalized citizens, visitors, etc.) and location of the intake unit for court's dockets. Today, one courtroom (a later addition), the jury assembly room, IT offices and the clerk's office are included on this floor. Portraits of the Southern District clerks of court since 1935 are also on display.

Upstairs, the second floor is anchored by two primary courtrooms resplendent with mahogany and a small

*continued, next page*

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The interior stairwell, here seen looking up from the first floor, is a show-stopper. (Photo courtesy of G.C. Pfeiffer-Traylor)

lobby featuring portraits of the judges who have served and currently serve the Southern District. These special spaces retain the integrity of the building's original character-defining features, which are introduced with grand flair and include gorgeous Cardiff green marble wainscoting, terrazzo floors, plaster walls/ceilings, walnut details, wood moldings, decorative bronze grilles and 1930s furniture.

The west courtroom, now the ceremonial courtroom, serves the chief judge. The courtroom doors are oversized wood pocket doors that open to paired leather-covered fly doors surrounded by corbeled wood moldings. Inside, eight slightly recessed wood panels, plaster walls and highly skilled millwork adds to the room's beauty. Along the walls, full-height wood paneling and wainscot five feet in height capped with four-inch glyphed dado rails rest on 11-inch Cardiff green marble bases, while impressive doorways feature rounded and corbeled surrounds and an architrave detailed with triglyphs. Wood veneer panels in alternating diagonal patterns cover the remaining

walls. Decorative bronze grilles with fluted borders and a plaster ceiling with a decorative cornice of acanthus leaves carry the building's artistry skyward.

Much of the furniture is original – the judge's bench, jury box, clerk's desk and courtroom gallery benches – and showcase a fluted border with black wood inlay. The original cork tile floor in the courtroom and judge's chambers – a checkered pattern of medium and light browns – remains underfoot hidden by contemporary carpeting. The grandeur of the 1930s is on display, and the sense of import of any hearing held in the room is undeniable, as litigants present their cases under portraits of past chief judges of the Southern District. The connecting chief judge's chambers features diamond-shaped wood panels, walnut veneer covering the full wall height, semicircular fan wood designs, original copper finished lights, panel wood wainscot, wood shelving and crown molding.

The east courtroom features an abundance of wood detailing and was the original ceremonial courtroom

## The Southern District of Alabama, continued

when constructed. After the addition, the west courtroom was added and the east courtroom was converted to an open floor plan for use by the Customs Service. In the 1960s, the space was returned to its original intended use and still functions as a courtroom today – presenting a modern and streamlined feel with minimally stylized floor-to-ceiling wall paneling and little ornamentation or carving.

Walking toward the interior stairwell we find another show-stopper. Elaborately finished between the first and second floors, the stairwell's curved walls are covered with white marble wainscot accented with a Cardiff green dado rail, Cardiff green marble stair stringers and treads with white marble risers, an iron balustrade with a polished brass railing, and a polished brass handrail mounted to the marble wainscot. Above the second floor, the stair materials change to green terrazzo with



A portrait of John A. Campbell along with Campbell's Victorian mahogany chair are on display in the first-floor lobby. (Photo courtesy of G.C. Pfeiffer-Traylor)

risers/stringers of painted iron and a balustrade with wood versus brass railing. The repetitive spiraling pattern of the stairwell beautifully captures the 1930s architectural aesthetic.

The third through fifth floors house the U.S. Marshals, satellite offices for U.S. Sen. Richard Shelby and the U.S. Attorney, IT training, an Eleventh Circuit chambers, the grand jury room, and four additional courtrooms with judges' chambers. Throughout these floors, many original finishes remain – hallways with terrazzo and marble borders/wainscot, plaster walls, mahogany doors, unique wood millwork, and the original brass mail chutes on each floor's hallway. The fifth floor also contains a conference room featuring paintings by local artists, which provides a spot for court employees to gather under the Latin phrases "*Audi Alteram Partem*" (listen to the other side) and "*Justitia Omnibus*" (justice for all) – tangible reminders of the purposes of the four walls within which the Southern District sits.

### The Addition: 1939-1940

In 1939, the Southern District underwent another metamorphosis as the receiver of funding from President Franklin Roosevelt's New Deal "alphabet soup program" (e.g., the Works Progress Administration or WPA), which contributed an addition to the building. This led to expanding the building's size westward with renovations of what was the open light court – matching the expansion of the surrounding city. In July 1939, the Public Buildings Administration with the Federal Work Agency began the bidding process for an "extension and remodeling" of the courthouse. Bid invitations included specific instructions – "the patching or hiding of defects (in the stone and marble work) shall not be permitted(,)" for the existing structure "stones to be removed shall be carefully handled so as not to be chipped or broken" – and included detailed schematics to match the existing building. A \$280,000 addition was proposed in July 1938, with Mobilian John W. McClure, U.S. Treasury Department construction engineer, rendering sketches for submission to the government architect.

In September 1938, plans for the addition, "the annex," were progressing rapidly, with notes that it "would include a new federal courtroom a facility which is considered sorely needed due to the small size of the present room. It has also been pointed out that the acoustics of the present courtroom are poor." The addition, completed in 1940 and designed by federal architect Simon, enclosed the open (west) end of the light court and connected interior hallways at the west end of the building. The construction was intended to be sympathetic and join seamlessly with the original building, and while brickwork

(versus limestone) was used, it was painted to match. With the addition, a new air-conditioned courtroom was constructed opposite the second-floor ceremonial courtroom – making this the first air-conditioned courthouse in the United States. A few years later, in 1958, bids were taken to air condition the entire building and reconstruct the pre-existing air-conditioning systems in one courtroom and judge's chambers.

### Courthouse Namesake

In 1979, an Act of Congress introduced by Mobile U.S. Congressman Jack Edwards (upon the suggestion of Mobile attorney and local historian David A. Bagwell) named the federal courthouse in Mobile in Campbell's honor. In 1981, the building was officially named the John Archibald Campbell United States Courthouse in honor of U.S. Supreme Court Associate Justice John Archibald Campbell (1853-1861).

Born in Georgia on June 24, 1811, Campbell graduated from college at 14, was admitted to the Georgia Bar at 18 and the Alabama Bar at 19, was elected to the legislature from Montgomery in 1836, and was Mobile's only U.S. Supreme Court Justice. In 1837, he moved to Mobile, where he practiced until 1852. When a vacancy appeared on the U.S. Supreme Court in 1852, the sitting justices were so impressed with Campbell that they called upon President Franklin Pierce for his appointment. President Pierce selected Campbell for appointment, and he was confirmed in four days in 1853. He served until 1861, when he resigned with Alabama's secession, believing he was no longer a U.S. citizen and thus no longer eligible to serve. He "was one of us; his signature is on the sheepskin list of the bar of the Southern District of Alabama ... the oldest bar association in the state." "Campbell had an extensive U.S. Supreme Court practice, arguing six cases there in the 1851-52 term alone. He argued cases, among others, relating to land titles in downtown Mobile, where the Spanish and French background and post-Constitutional statehood made the issue complex; he thought up, argued and convinced the Supreme Court to adopt what is known as 'the original footing doctrine' of the Union, that later states came in upon the same basis as the original states." Campbell also wrote a concurring opinion in the Dred Scott case.

Campbell is described as a minor bureaucratic functionary in the Confederate government during the Civil War, but he was one of the Commissioners of the Confederacy at the Hampton Roads Conference, where he met personally with President Abraham Lincoln on a steamboat in Virginia to try to end the war. Additionally, "(f)ollowing Lincoln's April 14, 1865, assassination,

Campbell was arrested on May 30, 1865, and sent to Fort Pulaski in Georgia; he claimed to not know why, writing, 'I should be glad to know why I am arrested and detained.' Only later would he learn that it was on suspicion of conspiracy in President Lincoln's assassination. Campbell was released in October 1865." Former fellow Supreme Court Justice Benjamin Curtis wrote President Andrew Johnson that "Judge Campbell, as you ... know, was not only clear of all connection with the conspiracy to destroy the government, but incurred great odium in the South especially in his own state, by his opposition to it." Johnson released Campbell from prison.

Following his release, Campbell moved to New Orleans and resumed practice, with six Supreme Court cases in a year. He argued (and lost) the famous Slaughterhouse cases, but in a particular case, many of the U.S. Supreme Court justices said his argument was the best they had heard in their careers (the legendary Myra Gaines cases, to quiet title to all of downtown New Orleans in one woman). He later moved to Baltimore, where he continued to practice. In 1889, the Supreme Court invited him to the Centennial Celebration of the U.S. Judiciary. He declined due to poor health, responding: "Tell the Court that I join daily in the prayer, 'God Save the United States and bless this Honorable Court.'"

As for the man Campbell was, it is said that his:

... apparent character was like the firefly's lamp: light, without heat. A master of reasoning, profound in logic and inspired by a commanding sense of justice, he was ... 'a man all head and no heart.' He lived to himself and in the things that seemed to him important. He was possibly the most distinguished nationally of any of the persons who have in the past lived in Mobile. He was a great lawyer, a man of profound learning and a justice of the United States Supreme Court whose decisions are ranked among the ablest ever delivered in that tribunal. It is said of him that he was absolutely incapable of prejudice or of obstinacy of opinion. The truth, and the truth only, was the object of his incessant study, and he was not satisfied until he found it. Painsstaking to the last degree, he may almost be said to have burdened his judgments with citations; but he had the satisfaction of knowing that his work was thoroughly done and would stand up under the severest fire of criticism. ... The motto obeyed by Judge Campbell, therefore, was Thoroughness. Whatever he set himself to do, he did with all his might. He did not leave his work half-finished. He was in this respect the model upon which all men seeking success in business or profession should form themselves.

Justice Campbell died in 1889 and was buried in Baltimore. The Mobile Register eulogy reads:

Among them all (the chiefs who had part in the war) there is none whose record is full of more valuable instruction than that of John A. Campbell. In him was



An artist's rendering of a new courthouse, to be built close to the historic building. (Photo courtesy of U.S. District Court, S.D. Ala.)

***In April 2015, a novel adventure for the Southern District was announced when an \$89 million contract was awarded to construct both a new federal courthouse a stone's throw from the historic building and to revamp the existing building to house the offices of the District's U.S. Bankruptcy Court, Bankruptcy Administration, U.S. Probation Office, U.S. Marshals Service, U.S. Pretrial Services, Veterans Affairs, Federal Defenders and General Services Administration.***

embodied a personal, moral and an intellectual force of the very highest order. He moved among great men. He argued great cases, he adjudicated great causes. A leader in war and in peace he proved himself faithful to every trust and equal to every occasion. His life was a continuous and systematic effort to do good things and to achieve great things, and in both he was eminently successful.

Judge Richard B. Owen, "sometime mayor of Mobile" and one of Campbell's students, also wrote a tribute in The

Mobile Register at the time of his death:

It is to his virtues as a private citizen, his kindness and generosity as a friend and patron and his devotion and tenderness in the domestic circle that I fain would do appropriate homage ... his character was probably thoroughly understood by but few of his fellow citizen of Mobile; but, in very truth, it can be said by those to whom the inner sanctuary of his life was opened his name will be forever honored and the memory of his friendship a joy forever. Dignified and somewhat stern in demeanor, it was not easy to apprehend him. He was the friend ... of young men who aspired to something loftier than the mere accumulation of money and who studied law for its training in statesmanship and as a means for the elevation of the country's citizenship and the advancement of the country's greatness.

### **The 21<sup>st</sup> Century**

In 2008, state-of-the-art interior renovations were completed to the first floor's main clerks' office, jury room, and intake area. In the spring of that year, Campbell descendants donated his antique Victorian chair to the Southern District, now prominently displayed in the lobby. That October, the building obtained its protected (and

## The Southern District of Alabama, continued

prestigious) listing in the National Register of Historic Places.

Since the courthouse's first days as a working court in 1935, its four walls have dealt with virtually every type of civil and criminal case imaginable – e.g., conspiracies to distribute drugs, BP oil spill fraud cases, turtle smuggling, Clean Water Act, public corruption, constitutional claims, billboard bans, same sex marriage, employment discrimination, Civil Rights Act cases, prisoner litigation, maritime disputes, Social Security appeals, terrorism, intellectual property disputes, etc. For example, from June 2014-2015, the Southern District handled 1,131 civil and criminal cases, entailing 18 trials, and including: (1) on the civil side – 102 Social Security appeals, 18 product liability suits, 149 prisoner petitions, 20 real property disputes, 28 labor suits, 100 contracts disputes, 65 tort cases and 97 civil rights actions; and (2) on the criminal side – 71 nonmarijuana drug cases, 21 immigration cases, 115 firearms/explosive cases, 61 fraud cases, 27 sex offense cases and 12 cases for larceny. While the official business of the court will continue, the four walls within which the Southern District sits are on the brink of even more permutations.

In April 2015, a novel adventure for the Southern District was announced when an \$89 million contract was awarded to construct both a new federal courthouse a stone's throw from the historic building and to revamp the existing building to house the offices of the District's U.S. Bankruptcy Court, Bankruptcy Administration, U.S. Probation Office, U.S. Marshals Service, U.S. Pretrial Services, Veterans Affairs, Federal Defenders and General Services Administration. Just as the original federal building had economic impact in 1935, the new courthouse is projected as an economic boost to the local economy: "1,957 to 1,829 jobs, with Mobile County payrolls ranging from \$20.16 million and \$38.4 million."

The historic building also has recently become a movie star. In the summer of 2015, the cast and crew of the WWII movie "USS Indianapolis: Men of Courage" descended on the courthouse, filming the pivotal court-martial scene with actor Nicholas Cage (in his role as Capt. Charles Butler McVay) in the second-floor ceremonial courtroom, selected for its historic integrity and early 20<sup>th</sup> century atmosphere.

Across the street, exploration of the land on which the new federal courthouse will rise is already complete. Archaeological excavations of what was formerly a grouping of 1830s family homes owned by doctors, business owners and lawyers were finished in October 2015, uncovering dishes, glass, potshards and other 19<sup>th</sup> century household items. Moreover, as of mid-November 2015, some renovations have been completed in the

historic building, as Bankruptcy and Veterans Affairs offices relocated to the former fifth-floor law library.

Once the new courthouse is constructed, the Southern District will move "next door," but the 1935 building and its four walls will remain – undergoing additional metamorphoses to serve the needs of the 21<sup>st</sup> century world upon which its 19<sup>th</sup> century foundations were laid. Indeed, the "four walls" of the Southern District – whether a great oak tree or grand limestone edifice – have adapted to accommodate the needs of the public they serve, and will continue to do so.

And we cannot forget that the public has been not only inside, but also alongside its four walls since the 1800s when Mardi Gras parade routes traveled down Saint Joseph and today still pass near the courthouse. Colorful beads tossed by those on floats to those who shouted "Throw me something, Mister" often decorate the 1930s granite steps and trees on the right of way, catching the light as a reminder of the revelry just outside the "earnest goings-on" inside. And starting in the 1990s, Mobile's BayFest citywide rock concert was held, literally surrounding the structure and entertaining court employees for days with sound checks by the likes of Keith Urban, Duran Duran and B.B. King.

While revelry will always abound outside its four walls, the Southern District will continue to take seriously its mission of justice for all, as well as its role in the historic and architectural fabric of the United States judiciary. As noted in the National Registry nomination: The United States Court House and Custom House is "a civic icon." Here's hoping that this landmark structure will continue to be one for the next 80 years.

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## **NOTICE OF MEETING**

**The Eleventh Circuit Historical Society Meeting  
will be held during the**

**Eleventh Circuit Judicial Conference**

**Thursday, May 5, at 4:45 p.m.**

**Grand Hotel Marriott**

**Card Room**

**Point Clear, Ala.**

**All Historical Society members and conference attendees are invited.**

**Conference information on Page 5.**