

Judges Albright, Lynn, and Tigar Encourage Argument by Junior Lawyers

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On June 12, 2020, the [Federal Circuit Bar Association](#), [Berkeley Center for Law & Technology](#), [Berkeley Judicial Institute](#), [ChIPs](#), and [CLJ](#) presented a [panel discussion](#) on the evolving judicial landscape and the opportunities it presents for junior lawyers and associates.

Federal District Court judges Alan D Albright (WDTX), Barbara Lynn (NDTX), and Jon S. Tigar (NDCA) proffered insights about their initiatives to provide speaking opportunities for young attorneys, their career paths and the evolution of their practices over time, and their points of view on some changes that have taken place over the last several months as a result of COVID-19.

The panel was moderated by [DaWanna McCray](#), former clerk for Judge Tanya Walton Pratt (SDIND).

Prefatory and closing comments were provided by [Elena Dimuzio](#), Director of Litigation and Regulatory at Dropbox.

Motivating Litigants to Provide Junior Attorneys with Stand-Up Opportunities

During the panel, the judges noted their concerns regarding not only the vanishing jury trial but also vanishing opportunities for junior attorneys to gain stand-up courtroom experience.

The judges all expressed how much they relish seeing junior lawyers argue in front of them and discussed the different ways in which they encourage litigants to provide substantive speaking opportunities to junior attorneys.

For example, Judges Lynn and Tigar noted that they have orders encouraging litigants to be mindful of providing such opportunities. These orders and other judicial orders promoting next-generation opportunities for junior attorneys can be found on the Next Generation Lawyers website.

The judges also discussed other ways in which they promote such opportunities including: (1) speaking on this topic at panels such as this; (2) encouraging litigants during hearings to permit the junior attorneys to speak; and (3) providing hearing opportunities for litigants where they might otherwise decide motions on the papers, if the

litigants send junior attorneys to argue the motions. Judge Albright indicated that he would be considering whether he can provide more opportunities for argument based on this last category.

How Junior Attorneys Can Improve Their Odds of Obtaining Courtroom Experience

The judges discussed three important ways in which junior attorneys can create more opportunities to obtain stand-up experience.

First, Judges Albright and Tigar discussed the important role of taking on pro bono matters to gain such experience. Judge Albright discussed how he recently had two 42 U.S. Code, Section 1983 cases tried by junior attorneys. He noted that if he is aware that firms are willing to take on such cases, the Court would reach out to such firms when those cases come in. Judge Lynn noted that the Northern District of Texas has a formal program for such pro bono cases and when she receives volunteers for such cases, she will go out of her way to debrief the litigants and provide them with feedback.

Judge Tigar discussed how he became chair of his firm's pro bono committee when he used to practice and how taking on such cases provides invaluable experience for arguing in court as well as client counseling and negotiating with opposing counsel.

Judge Lynn expressed the importance of a "put me in coach" attitude. As she did when she was an associate, she advised that associates should seek every opportunity to obtain stand-up experience in front of a judge or fact finder, irrespective of how large or "attractive" the case may be. She noted that it is important for an associate seeking opportunities to make it known that they want to be part of a trial or hearing.

Second, the judges noted that it is important for associates to go out of their way to develop skills or competencies that render them invaluable to clients and other lawyers. For example, Judge Tigar left private practice to become a public defender, where he gained substantial experience trying cases. When he returned to private practice, members of his firm and clients gave him greater opportunities in recognition of his comfort and skill in arguing at hearings.

Third, the judges discussed the importance of developing mentors. Those who have achieved success received meaningful assistance throughout the course of their careers, and more mentors translates into more opportunities for informal learning and building stronger ties with the institution of which the associate is a part.

Hearings and Trials in a Post-COVID 19 Environment

As an initial matter, the judges noted that they have made the best of the present environment of hearings by telephone or video conference. They then noted some of the disadvantages and advantages of the present form that hearings have taken.

Judge Lynn noted that video hearings make it difficult to see everyone who is participating in the hearing. She also pointed out that features such as gestures and body language are no longer communicated effectively in this medium. Judge Tigar agreed, explaining that aspects such as body language, expressions, inflections in voices, and a real-time understanding of what is happening in the courtroom are notably missing in this format. On the other hand, Judge Lynn noted that currently, in-person hearings would require everyone in the courtroom to wear masks, and video hearings obviate the need for this.

Judge Albright echoed these sentiments and expressed his preference for in-person hearings. He noted his concern that litigants in teleconference hearings seem to be reading their arguments, leading to longer monologue arguments and fewer opportunities for the judge to interject. Judge Albright discussed the possibility of having more video hearings in the future to avoid this. He added that limiting the need for travel through these remote hearings has been a positive thing.

Judge Tigar explained that litigants should recognize that video hearings are a very different format, and that they should develop persuasion skills that are most effective in this format.

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