



From the Chair



G. Christopher Meyer, Chair

Greetings and best holiday wishes to all! As the year winds down, it seems an appropriate time to reflect on some of this year's accomplishments, as well as on plans for the year to come.

The College has had another outstanding year. We will begin 2017 with a healthy financial reserve, which allows us to confidently commit future support for the pro bono efforts, educational programs and

other projects that further the College's mission. We continue to implement recommendations from the two excellent reports delivered in fulfillment of the evaluation performed by our Strategic Planning Committee. And we will start 2017 with plans for several projects intended to further improve the College.

At our Board meeting in San Francisco, we approved amendments to the College Bylaws making some changes in the Emeritus Fellow criteria. Fellows can now request emeritus status if they meet any two of the following three criteria: 75 years of age, cessation of active practice and 15 years as a Fellow. We have also initiated a nominal dues charge of \$100 per year for Emeritus Fellows.

The Board also approved a Bylaw amendment that allows the Chair of the International Nominating Committee to broaden the process for soliciting comments on international nominations beyond the International Fellows Committee. We hope this will allow us to improve the level of input on our international nominations.

Some years ago, the College established an "endowment" fund at the Foundation in the hope that it would provide a stream of continuing revenue to support our pro bono grants. Through the support of our Fellows, that fund has grown to approximately \$1.3 million. However, due to the persistence of interest rates at negligible levels, our conservative investment policy has not resulted in a stream of earnings even approaching the amounts needed to meaningfully support our pro bono grants.

In light of increasing pro bono needs and after discussion by both the Foundation Board and the College Board, a Task Force has been established to look into our handling of the Foundation's endowment fund, as well as the cash reserves held

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President's Column

Marc A. Levinson, *President*



College Luncheon Meeting in San Francisco

Almost 200 Fellows attended the October 26, 2016 luncheon meeting at the San Francisco Marriott Marquis held in connection with the NCBJ annual meeting. After lunch, there were remarks and reports from Chris Meyer, Chair of the College Board of Directors, from Mark Bloom, Chair of the Foundation Board, and from the Chairs of the Distinguished Service Award Committee and Senior Fellows Committee (Zack Clement and Bob Rosenberg, respectively). Thereafter, Tara Twomey, Project Director for the National Consumer Bankruptcy Rights Center, related anecdotes and examples of the good use by consumer bankruptcy agencies of the College's and the Foundation's grants (which exceeded \$320,000 in 2015 and will exceed \$468,000 in 2016) – hopefully encouraging Fellows to dig deep and donate prior to year-end.

While the presentations were interesting and informative, the clear highlight of the luncheon was the keynote address by Willie L. Brown, Jr., the former Speaker of the California Assembly (1980-1995) and two-term Mayor of the City of San Francisco (1996-2004). Mayor Brown currently serves as a director or trustee of several charitable and educational institutions, including the

of African American History and Culture. He writes an enlightening and entertaining column for the Sunday edition of the San Francisco Chronicle, commenting on San Francisco culture, politics and quirks, and reviewing a movie. Mayor Brown is the ultimate San Francisco insider, and is considered by many to be the heart and soul of that fascinating city. Covering a wide range of topics, Mayor Brown shared his thoughts about how he came to serve as a newspaper columnist, about Hillary Clinton, Donald Trump and the election that would be held two weeks later, and about California and national politics, generally. The talk was educational, amusing and, in a word, riveting. His witty and informative responses during the question and answer period were the icing on the cake.



Willie L. Brown, Jr.

Fostering Diversity

Like any institution, the College is only as good as the next generation of its membership. For 27 years, the various Circuit Admissions Councils and the two Nominating Committees have recommended the admission of only those bankruptcy

professionals who are the best and the brightest, and who have unquestionable integrity. The good news is that Rick Mikels and the Board of Regents have maintained those high standards in admitting an outstanding Class 28. The other good news is that the members of the new class are, generally speaking, younger than those in prior classes, meaning that they will have more years to participate in College activities, and, hopefully, in leadership, than past inductees. The bad news is that only six of the 30 admittees are women, and while the College does not and cannot track the ethnicity of the Fellows, it's clear to me from having looked around the room at the recent luncheon and at other recent College events, that we need to improve our racial makeup as well.

Chris, Rick and I, as well as other members of College leadership, are concerned about the foregoing, and are bound and determined to address it. We have spoken with a number of Fellows about the diversity issue, and have received a number of thoughtful and promising suggestions. Of course, there is no easy or quick fix, and we are exploring various alternatives. One long-term approach on which we will focus is having the members of the Circuit Admissions Councils and the Nominating Committees identify younger bankruptcy professionals prior to their having met the 15-year practice minimum mandated by the bylaws, and then to mentor them by, among other things, encouraging them to

participate in Part B activities (i.e., serving on bar association and other panels, publishing articles on bankruptcy topics, participating in community organizations, etc.). Chris, Rick and I will be talking to the Regents about the foregoing; we encourage you to contact us with your ideas about how to reach our goal of greater diversity in the College. 🏛️



From the Chair ***continued from page 1***

at the College. The Task Force has been asked to recommend policies and procedures for the manner in which those funds are invested and for the circumstances under which current needs may justify the expenditure of principal from those funds. We hope to have a report from the Endowment Task Force for consideration by both the College and Foundations Boards at their March meetings.

In addition, we have also been discussing the possibility of an alternative location for the 2019 Annual Meeting and Induction. In 2019, the NCBJ

meeting will be in Washington DC. Rather than holding both our 2019 meetings in the same city, it seems that 2019 would provide us the opportunity to explore holding our induction in a location other than Washington. And given our traditional east coast venue, we thought it would be appropriate to focus on cities in the Midwest or the West. Among the possible locations are Seattle, Austin, Texas and Phoenix. We have begun working with groups of Fellows from each of those cities to identify available conference hotels, as well as sites for related meetings and the Induction. Based on the reports received, the College will determine whether to move the 2019 Induction and to select the city that provides the best resource alternatives. We welcome input and suggestions from all Fellows as to the desirability of an alternative location in 2019.

Finally, as we finish 2016, I want to wish a joyous and blessed holiday season to each of you, your families and friends. To those of you who actively participate in supporting the efforts of the College, thank you for your contributions toward making the College the wonderful organization that it is. And to those who are not yet actively involved, please consider pursuing an opportunity to join one of the College's committees or to participate in Circuit events or activities. I can assure you that you will find it a fulfilling experience. 🏛️

We Don't Just Want Your Money, We Want Your Ideas!

Mark D. Bloom, Chair,
ACB Foundation



I always write my year-end column with the greatest anticipation, checking several times a week for latest updates about

the progress of our Annual Circuit Campaigns toward reaching our goal of **\$275,500**. I am happy to report that our wonderful Treasurer Marti Kopacz assures me that once again this year we are well-positioned to meet and exceed that target.

I also know that many of you get Campaign updates of a somewhat different nature – emails and phone calls from your Circuit Campaign Chairs and their deputies, asking/reminding/begging you to remember the Foundation in your charitable giving again for 2016. So to all of you who have given once, twice or not just yet, my sincere and heartfelt thanks for supporting the mission of the Foundation to provide financial assistance to pro bono consumer bankruptcy organizations all across the country – 28 states this year!

The generous response of our Fellows to these requests for donations is matched in intensity by the response of those organizations to the solicitation for grant requests

issued each year by our Pro Bono Committee so devotedly chaired by Jim Baillie. As many of you heard in San Francisco this Fall, the Committee received a record number of grant requests in 2016 – so many of them so deserving that in an extraordinary display of dedication to the pro bono effort the Boards of both the Foundation and College voted to reach into our reserves to fund a record **\$468,000** in grants – just shy of **\$150,000** more than the previous record set in 2015. Motivated by this experience, the College has appointed a Task Force to explore the growth and deployment of those reserves in future years, and we look forward to the report from that Task Force at our Spring Meeting in 2017.

So to get to the point of this column (okay to admit you were wondering when I would get around to that!), we need not just your money to address the ever-growing needs of the pro bono legal services organizations that we are privileged to support, but we also need your ideas. So many of you have experience as leaders in other civic and charitable organizations (we know this to be true; we've read the "Part B" section of the nominating forms that got you inducted!), and we ask now that you share that experience with the Foundation. Our Development Committee chaired by Richard Carmody continues to propose innovative ideas to increase our revenues – most recently the tax-neutral direction of

mandatory 401(k) plan withdrawals for those Fellows having reached age 70 1/2. Our Best Practices Committee chaired by Marti Kopacz continues to share productive ideas among the Circuit Campaign teams -- the One Billable Hour ask to all Fellows; the Four Figure Club for those of a mind to contribute \$1000 or more; and endless variations of matches, raffles, wine donations, on-line auctions and the like. Hey, even my own seemingly feeble Dutch Auction at the All Fellows Luncheon in San Francisco brought us a healthy four-figure return – and a great time for those lucky Fellows who made the wine country trip with me to Sonoma!

So please, volunteer to serve on one of those Committees – we'd love to include you in the telephonic meetings and uplifting email exchanges. Or if service on a Committee sounds like too much of a commitment right now but you've got a great – or even just a good -- idea to share, or even a Contacts file laden with executives from Corporate America whose companies might want to support our efforts -- do let us know. Send to me at bloomm@gtlaw.com, and I'll see that whatever you have to offer gets to the right place!

And with our thanks for your support of the Foundation, wishing you all a great holiday season and a healthy and prosperous New Year. 🏛️

Promoting Fellowship in the First Circuit

Denise Neary, Chair, Meetings and Events Committee



Circuits wishing to create more opportunities for Fellows to interact socially would be wise to

borrow ideas from the First Circuit Fellows who are themselves masters of great social and professional interaction.

Each year, the First Circuit produces a stellar educational event, with a speaker's dinner the night preceding the program, and a reception for all participants following the program.

They get together for lunch and dinner during the March College meeting.

Each May, they meet in Boston to review and vote on the Circuit Admissions Council's recommendation for new Fellows.

They maintain an active subset of smaller Fellow gatherings-----including visits to local law schools, and for the Duberstein Moot Court practices.

And, each year, Fellows and their significant others are invited to what sounds like a perfect Friday evening in January, filled with fun and camaraderie.

On January 20, 2017, the First Circuit Fellows will host their

17th annual Wine Tasting Reception and Dinner. A 17-year tradition is something to cherish!

What are their secrets to success? Some things those who have attended the dinner think are key to the success of the evening:

- Fellows donate exceptional wine for the event!
- Honoring a distinguished Fellow
- Incoming Fellows are invited to participate as guests of the College.
- Scheduling in January, which tends to be conference/ conflict free.
- Scheduling on a Friday evening, free of work, but still leaving a clear weekend
- Providing a "state of the circuit" to keep Fellows up to speed on College activities
- TRADITION!

Who gets the credit?

Many names are mentioned as key to the success of this event---but no one name more frequently than former Regent Phil Hendel, who is credited not just for having this wonderful idea, but for seeing it through with such an exacting eye for detail.

Fellow Rick Mikels followed Phil as Regent.

Rick says, "Phil not only thought this all up but he had it down cold and provided me with a list of items to make sure about. Phil was very detailed. That made me very nervous because I wanted to do a good job for Phil and the Fellows. The list Phil provided directed how many people could sit at a table; the number and size of

glasses to be set at each plate for every different wine offering; described who to tip and how much and many other particulars. The best one was letting me know that I had to request that the window treatments be vacuumed because Phil thought they had been dusty in the past. I did not see any way that I could do anywhere near the job that Phil had, but I did my best. Phil never complained, so I hope that means that my efforts pleased him. At one point I suggested to the Fellows some alternative ideas for an event. I figured, that way, I could leave my mark on the event. I had absolutely no support. Everybody thought that the dinner was wonderful and that even its date in mid-winter in New England broke up the season. We have never been snowed out, and so far, we have not veered too far from Phil's pioneering ideas."

A unifying goal of those now in charge of the event is NOT to mess up the good thing started by Fellow Phil Hendel---so like a good family tradition, what has been done in the past is worth repeating! If you make a change, make sure it is a really good change for a really good reason!

Where is the event?

The event venue has moved around a little, but is now held in the Harvard Club of Boston's Back Bay Clubhouse.

A block of rooms is reserved at the boutique Hotel Eliot next door to the Club, for those who wish to stay over in Boston.

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Promoting Fellowship *continued from page 5*

Who attends?

Each year, from 70 – 80 Fellows and their guests attend—including Fellows from other Circuits. (The group works to keep dinner costs at about \$175, half price for academics and judges, and no charge to new Fellows.)

What happens that evening?

First, and most important, there is a serious wine-tasting.

Fellows are welcomed into a lovely room, given programs describing their various wine options, and then sample to their heart's content from wines donated by Fellows.

The printed wine programs themselves are spectacular!

Fellow Michael Pappone currently serves as sommelier, and is responsible for assembling the high quality of wine offered.

A recent and much loved addition to the wine-tasting--- Judge Hannah Blumenstiel of the Northern District of California has taken over champagne guidance.

Once better educated in the world of oenophilia, the group moves on to the elegant marble and white Massachusetts Room for dinner.

Second, the dinner itself, from all descriptions, is magical.

The Regent takes the opportunity during dinner to:

- Introduce and welcome new Fellows
- Thank Fellows for their work
- Provide a state of the circuit report

- Introduce an honoree.

Each year, the group honors a First Circuit fellow, chosen by the Regent, for exceptional achievement. The list of past recipients is stellar.

Honorees are asked for suggestions for a few people who might provide those assembled some key background.

The recognition speeches hit just the right tone—warm presentations lauding the accomplishments of those honored.

Even the honorees get some happy surprises--Fellow Judge Joan Feeney was delighted that her great friend Fellow Judge Nancy Dreher attended the dinner and spoke about her, telling the crowd that the First Circuit was very lucky to have Joan Feeney as a judge.

Nothing quite like having one of your heroes describe you that way.

The Fellows always learn something new about their colleagues at these dinners---- that Fellow Sheila Smith was raised in a dirt-floor log cabin in Alaska, for example!

What does this tradition mean for a new Fellow?

Consider the impact of being invited to such an evening prior to the March formal induction. A new Fellow arrives knowing he or she is being welcomed into a group that prizes service and professional excellence-- and a group of people who enjoy spending time with each other.

This is how First Circuit Regent Mark Berman first encountered the dinner that

has become an important part of his own College experience.

By the time March and the formal induction and meeting come along, the new Fellow knows more about the College, and more about the incredible people who make up the College.

Talk about creating a memorable first impression, and leading by example.

Why should other Circuits consider this?

Consider the fact that there are Fellows outside the 1st who are regulars at this event!

Those attending from outside the First Circuit observe that ANY chance for Fellows to get together reinforces the fact that the College has remarkable members.

One commented that the feeling of the evening is extraordinarily warm and welcoming---that this evening works so well because people genuinely like each other, and genuinely root for one another.

And, it can't be said enough, the wine tasting is SPECTACULAR.

Happy 17th to the First Circuit Fellows!

What a lovely tradition. Will other circuits follow? Want to see what you are missing? Consider joining in this coming January 20, 2017. 



Bankruptcy Now and Future 2016

Jesse Moore, Dykema Cox Smith, Austin, Texas

Fun was had by all at the "Bankruptcy Now and Future" seminar presented by the Fifth Circuit Fellows of American College of Bankruptcy in Austin, Texas on April 1 and 2, 2016. The discussions were lively, the food was good, and the jokes all garnered laughter, funny or not.

The April Fool's Day kick-off for the seminar occurred at a well-attended reception at the Austin offices of Norton Rose Fulbright. Fellows Norton Rose Fulbright partner Toby Gerber, Standing Chapter 13 Trustee Deborah Langehennig, Becky Roof of AlixPartners and William Snyder of Deloitte, and Norton Rose Fulbright marketing event coordinator Crystal Wallingford worked hard in putting together and raising funds for the entire seminar, including the reception, which had Austin's famous urban bat colony venturing out to supper from the Congress Avenue bridge below as a finale.

Panel 1: A Debate on ABI Commission Recommendations

The business portion of the seminar commenced the next morning at the new J.W. Marriott hotel in downtown Austin. Opening remarks were provided by the Hon. Chief Judge Barbara J. Houser (N.D.

Texas), chair of the seminar.

A series of short and friendly debates and regarding three recommendations from the American Bankruptcy Institute's Commission to Study the Reform of Chapter 11 followed. The Hon. Marvin Isgur (S.D. Texas) moderated this panel of Fellows, which included Commission members Bettina Whyte (Bettina Whyte Consultants) and Deborah Williamson (Dykema Cox Smith) plus Craig Goldblatt (Wilmer Hale), Edwin Smith (Morgan Lewis & Bockius) and Professor Jay Westbrook (University of Texas School of Law).

As part of this panel, Judge Isgur electronically polled audience members on each issue both before and after each debate topic to see how their views changed. The exact results of this poll have either been lost by one of the authors of this article or destroyed to protect the innocent. The tempo was up-beat, thanks to the moderator's strict yet cordial enforcement of time limits.

The first topic addressed

whether "executory contract" should be defined and, if so, how. The Commission has endorsed the "Countryman" definition of an executory contract, which has been adopted in some form or fashion by the majority of courts. This received some well-reasoned and thoughtful critiques from Professor Westbrook, who has extensively researched the subject. He discussed the inconsistencies arising from the Countryman approach and advocated a functional approach, which looks at the burdens and benefits to the estate from a contract in determining whether it is executory. While Professor Westbrook's pitch was well-received, concerns about increased uncertainty from implementing a new standard seemed to win support for Commission's support of the status quo.

Plan voting and inter-creditor agreements were the next debate topic. The Commission takes the position that limits should be placed on the

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Bankruptcy Now & Future *continued from page 7*

enforceability of inter-creditor agreements that restrict chapter 11 plan voting. The audience initially favored this reform by a slight margin. Mr. Goldblatt, who has made significant contributions to a lengthy response to the Commissions' report published by the Loan Syndication and Trading Association, seemed to win the debate by swinging the audience to undecided (or confused).

The final debate topic considered the Commission's proposals to reduce or redefine a secured creditor's right to adequate protection. Generally speaking, the Commission proposes changing the standard for determining whether a lienholder's interest is adequately protected to consider (and then protect) the value that the lienholder would achieve through foreclosure. Building on the prior topic, this debate expanded into a rather fascinating policy discussion about the overall purposes and effects of secured credit and the bankruptcy system. The audience, which may have been getting hungry, ended up voting by a small plurality to retain the current understanding of adequate protection.

The overall polling results may indicate an "if ain't broke, don't fix it" mentality among practitioners. Perhaps the Texan-heavy audience would have expressed more enthusiasm for other reforms,

such as venue selection.

Panel 2: *Energytec* and its Progeny

After a delicious lunch, the second panel of the day commenced. The Hon. Harlin Hale (N.D. Texas) moderated a panel on *Energytec* and its progeny, featuring Fellows Charles Beckham (Haynes & Boone), Becky Roof (AlixPartners), Robin Russell (Andrews Kurth), and Bill Wallander (Vinson & Elkins).

The panel began by providing some overall economic context: in short, oilfield services are becoming more expensive and less integrated due to the changing nature of American mineral production. As a result of this, standalone midstream companies with lots of debt and no producing assets have become more common. In a typical (and simplified) arrangement, the midstream companies build the pipeline on the producer's land and in exchange receive profitable long-term gathering and processing agreements (GPAs) obligating the producers to use (and pay for) the pipeline, thereby enabling the midstream companies to recover their investments.

It appears some of those enviably happy-go-lucky transactional attorneys had decided that these GPAs would be viewed as covenants running with the land, and therefore relatively immune in a producer's bankruptcy, instead of executory contracts that could be rejected or stripped from the underlying

producing assets through a § 363 sale or plan confirmation, leaving the midstream company with a measly unsecured claim. After all, if GPA says it is a "covenant running with the land," or a "dedication," then what else is there to decide?

Plenty, according to the panel and the recent court cases they discussed. In *Newco Energy v. Energytec Inc. (In re Energytec Inc.)*, 739 F.3d 215 (5th Cir. 2013), the Fifth Circuit did agree that a GPA-like agreement was a covenant running with the land under applicable state law, but nevertheless remanded to the trial court for a determination about whether the pipeline could be sold free and clear of the agreement under § 363(f) (5). In *In re Sabine Oil & Gas Corp.*, No. 15-11835, 2016 WL 890299, __ B.R. __ (Bankr. S.D.N.Y. Mar. 8, 2016), the court indicated that the executory contract portions of a GPA could be rejected, and made a preliminary finding that the GPA does not run with the land under Texas law, but also noted that this question was not procedurally ripe for a final determination. The panel also discussed an ongoing dispute in *In re Quicksilver*, No. 15-10585 (Bankr. D. Del.) about attempts to sell a pipeline free and clear of a GPA.

The panel concluded by presciently predicting that most of these disputes would be consensually settled. The costs of delays, the risks of shut-in termination of leases, the need for future gathering and processing services, and

the uncertainties regarding what rights a mid-stream company may retain post-rejection all weigh in favor of compromise. The Quicksilver dispute settled the next week; it is unfortunate that this panel did not provide lottery picks to the audience.



Panel 3: Bad News from the Oil Patch


The final panel for the seminar discussed broader issues relating to oil and gas bankruptcy cases. The panelists were Fellows Jan Hayden (Baker, Donelson, Bearman, Caldwell & Berkowitz), Louis Phillips (Kelly, Hart, & Pitre), and Lou Strubeck (Norton Rose Fulbright). Bill Greendyke of Norton Rose Fulbright moderated.

The panel continued the

discussion about how technological and operational changes in the oil and gas industry have resulted in financial changes and new restructuring challenges. Equipment has become more expensive and becomes obsolete faster. This necessitates increased debt loads, which has been facilitated by alluring mezzanine financing and reserve-based lending. The general consensus was that increased filings are coming: commodity price hedging and some “extend and pretend” banking practices have helped keep creditors at bay, but this borrowed time may be running out.

In light of this forecast, the panel highlighted a number of new and old issues that need to be considered in such cases. Intellectual property issues, and attendant questions about assignment and assumption, have become more common thanks to increasingly sophisticated exploration techniques, such as seismic

data. Regulatory issues were discussed—the usual concerns about plugging and abandonment liabilities were reviewed, and newer problems with off-shore regulation, especially post-Deepwater Horizon bonding requirements, were also examined. The panel concluded by discussing the pros and cons of asset sales and the best practices for approaching a sale process. The general consensus seems to be that oil and gas restructuring cases are more challenging than ever.

All in all, the seminar was a hit. Bankruptcy lawyers and their fellow travelers thankfully both enjoy socializing with each other and enjoy the sort of thoughtful, intellectually stimulating discussions that this seminar exemplified. Sincere appreciation is due to the moderators, panelists, and numerous other people whose time and hard work made the seminar such a success. 





2017 Induction Education Sessions


We hope to see you in March at the upcoming Class 28 Induction Ceremony & Related Events. The educational portion of the Induction programming begins on Friday, March 10th, at 2:15 p.m. with *Supreme Court Update and Outlook*, a discussion of the Supreme Court's recently decided and pending bankruptcy cases, including the implications of the vacancy created by the death of Justice Scalia and of the appointment of his successor.

On Saturday, March 11th, sessions kick off at 9:00 a.m. with a brief introduction of our 2017 Distinguished Law Students from the First, Second, Third, Fourth, Ninth, and Eleventh Circuits. The first panel, *Interest-ing Issues*, follows at 9:15 a.m. and presents a discussion of several significant developments regarding interest and interest rate issues, including cramdown interest rates, the enforceability of make-whole premiums in bankruptcy, and whether a cure payment must include default interest in order to "unimpaired" and reinstate the original terms of a defaulted loan.

At 10:15 a.m., Fellows can learn about *The Latest on Chapter 15 and Other Cross-Border Cases*, a discussion of current topics regarding Chapter 15 cases and a preview of the implications of the new EU Insolvency Regulation that takes effect in June 2017. After a short break, the educational portion of the programming concludes with a *Judges' Roundtable* from 11:30 a.m.-12:30 p.m., a discussion by sitting judges on a potpourri of current caselaw controversies, developments, and trends.

We anticipate the programming will be approved

for four (4) general CLE credit hours. Many thanks to our Scholar-in-Residence, Prof. Ralph Brubaker, for coordinating what promises to be exciting and informative sessions.

For more information about these and other Induction events, [click here](#) or visit www.amercol.org and search for Class 28 Induction Ceremony & Related Events under Upcoming Events. 



Kremlin Excess

A Senior Fellow Committee Book Review by Michael L. Cook



"It was hard to be a tsar," says Simon Sebag Montefiore in his magisterial [The Romanovs, 1613-1918](#) (Alfred A. Knopf 2016) (654 pps). Montefiore, a British historian of Russia has written, among other books, [Catherine the Great and Potemkin](#); [Young Stalin](#); and [Stalin: The Court of the Red Tsar](#). He knows his Russian history and culture well, stressing that this book is "a portrait of absolutism in Russia...[,] its

culture, its soul...a singular nature which one family [the Romanovs] aspired to personify" over a period of 304 years. Because of its many characters, Montefiore includes convenient charts of royalty, courtiers, ministers and mistresses plus their portraits and, from the mid-nineteenth century, telling photographs.

The book details how Tsarist monarchy worked in Russian society. The Romanovs (20 monarchs and many regents), Montefiore tells us, "continue to define Russia and the world as we know it....[T]he rise and fall of the Romanovs remains as fascinating as it is relevant, as human as it is strategic, a chronicle of fathers and sons, megalomaniacs, monsters and saints." According to Montefiore, he has not written "a full history of Russia nor an economic, diplomatic or military survey." Instead, he intends the book to be "the first Romanov history to blend together the personal and political into a single narrative, using archives and published works."

The book is packed with juicy details of horror and excess. We learn, for example, that Peter, the nominal husband of Catherine the Great, was either "impotent, infertile or just inept," with Catherine admitting "that their marriage was consummated [only] after five years....She could have loved him, she claimed, if only he had loved her...." By 1752, "Catherine was pregnant, yet her marriage was miserable. Peter captured a rat which he sentenced to death in a military

tribunal and hanged in her bedroom. After she miscarried, she later became pregnant again and gave birth in 1754 to a son named Paul. But, according to Montefiore, Paul was probably not the son of Peter but of Catherine's lover, Saltykov, her handsome twenty-six-year-old chamberlain. "Catherine, radiating unforgiveable malice towards Paul, insisted in her private writings that he was her lover's son - - which would make the entire dynasty down to 1917 Saltykov, not Romanov." Although Catherine's son Paul "did not look anything like...Saltykov,... he did look and behave like Peter," and was "hideous" in Catherine's opinion.

When Peter the Great learned of his son Alexei's possible rebellion, he interrogated him and obtained his admission that "if they called me, even in your lifetime, I would have joined the rebels." Anyone who has seen Nikolai Gay's famous 1872 painting of Peter interrogating Alexei, now hanging in St. Petersburg's Russian Museum, would have no idea of Alexei's later fate. Not only did Peter throw his son into prison, but he also had him tried for treason. Although the Russian bishops recommended mercy, "the senators, their minds concentrated by the knowledge that many had been implicated by Alexei, agreed to any 'necessary examination': torture." After enduring days of ghastly torture,¹ Alexei admitted that he had "wished for my father's death." Peter's companions, then "sitting as a

tribunal, sentenced Alexei to death for 'horrid double parricide'...." The next day Peter's pals visited Alexei "for a session in the torture chamber," but he had died by the end of the day, apparently dying of "shock, blood loss or infection after knouting, which would have flayed and shredded his back to the bone...." Peter may have "wept at the funeral," but later arranged to have his son's "confessor and servants... beheaded while others had their tongues cut out and nostrils clipped."

Montefiore shows us in this survey of monarchs a long parade of conniving courtiers who are constantly being favored, executed or pardoned. He draws his characters vividly. Alexander II (1818-81), known for his reforms and his emancipation of the serfs in 1861, was obsessed with his mistresses. Even Bismarck, says Montefiore, noticed that Alexander was "constantly in love" with pretty women despite remaining "good friends" with his wife who had given birth to seven children. Alexander met daily with his favorite mistress, Katya, his "naughty minx," in a rented townhouse they called "our nest." Alexander's diaries and letters to Katya were "judged too shocking to publish" during the later reign of Nicholas II. They were only "recently... placed in the Russian archives."

"The Romanovs inhabit[ed] a world of family rivalry, imperial ambition, lurid glamour, sexual excess and depraved sadism," Montefiore shows. But the sense of impending doom

hanging over the last of the Romanovs, Nicholas II (1868-1918), is gripping. The book's photographs of Nicholas, Alexandra, their children, and of Rasputin, their murdered spiritual charlatan with a bullet hole "point blank in the middle of the forehead," are powerful.

Is this vast, wonderful book relevant to 21st century readers? The answer is yes, for Russia is now ruled by Vladimir Putin, an "ex-KGB colonel turned politician." He has "blended Romanov authoritarianism, Orthodox sanctity, Russian nationalism, crony capitalism, Soviet bureaucracy and the fixtures of democracy, elections and parliaments." His system is "stunted and distorted by its own personal caprice, old-fashioned lawlessness, economic sclerosis and Brobdingnagian corruption...." Putin's minions call him "the tsar,".... and the "Romanovs [may be] gone but the predicament of Russian autocracy lives on." 



¹Montefiore says Alexei received 74 "blows of the knout" over a five-day period, noting that "forty lashes could kill a strong man" and that "an expert executioner could kill a man with a few lashes by breaking the backbone."

Fellow News

A section for newsworthy awards and moves by Fellows. If you have news about yourself or a colleague, please send announcements to Shari Bedker at sbedker@amercol.org for inclusion in the next issue of the College Columns, published in June and December each year. Fellow News can also be found on the ACB website on the [homepage](#) and under the [News & Events](#) tab.



George Cauthen

George B. Cauthen received this year's J. Bratton Davis award as a result of his integrity, devotion to legal scholarship, civility to all, professionalism, and contributions to the legal profession. Per tradition, the award is presented at the South Carolina Bankruptcy Law Association Annual Meeting, which was hosted at the Sonesta Resort in Hilton Head Island, SC, April 29 - May 1.

In July 2016, Dorsey & Whitney LLP announced that **Peggy Hunt**, a partner in the Firm's Salt Lake City office, has been named President of the Utah Women's Forum. The Utah Women's Forum is a nonpartisan, nonprofit organization that elects into membership women of outstanding accomplishment in diverse fields.

The Board of Trustees of Woods Resources, the non-profit parent company of five human service organizations including Woods Services, is pleased to announce the appointment of **Simon Kimmelman** as Senior Vice President and General Counsel for Woods Resources. Woods Resources and its affiliates, Allies, Archway Programs, Brian's House, Tabor Services and Woods Services, are passionate about making positive changes in the lives of the individuals they serve. Woods mission is to support children and adults with disabilities or challenges to achieve their highest potential and independence through innovative and individualized approaches that promote learning and personal fulfillment.



Simon Kimmelman

On October 25, 2016, the Alumni Association Board of Directors presented **Hon. Robert Martin (Ret.)** with the Cornell Distinguished Achievement Award.

Richard E. Mikels has joined the New York offices of Pachulski Stang Ziehl & Jones LLP. His move, effective October 2016, ended a 28-year tenure as chair of the bankruptcy practice at Mintz, Levin, Cohn, Ferris, Glovsky & Popeo PC.

Michael H. Reed, special counsel in the Philadelphia office of Pepper Hamilton, was elected to the Board of Trustees of Temple University on Tuesday, July 12, 2016.

Prof. Steven L. Schwarcz was recognized in University of Chicago Prof. BRIAN LEITER'S LAW SCHOOL REPORTS as the second most-cited of the "Ten Most-Cited Faculty in Commercial Law (including contracts and bankruptcy), 2010-2014 (inclusive).

R. Patrick Vance was awarded the New Orleans Bar Association's Presidents' Award on September 14, 2016.

A Bankruptcy Partner Paddles to Freedom

Rebecca Blair, staff writer for
The American Lawyer

It's almost 11 a.m. on a Monday, and Jesse Austin is standing on the banks of the Nantahala River in North Carolina, wearing a bathing suit and a life jacket, about to start work. Five months ago, on a morning like this one, Austin would have already been in his old office at King & Spalding in Atlanta, where he was a partner in the firm's corporate reorganization and bankruptcy practice. Instead, he will spend the day guiding a raft full of clients through a series of whitewater rapids.

After almost 36 years in Big Law—19 as a Paul Hastings partner and three at King &

Spalding—Austin retired in February. Except he still works a full-time job, reaping the same minimum-wage salary as his college-age colleagues. As a rafting guide for the Nantahala Outdoor Center, Austin leads two expeditions a day through Class II and III whitewater.

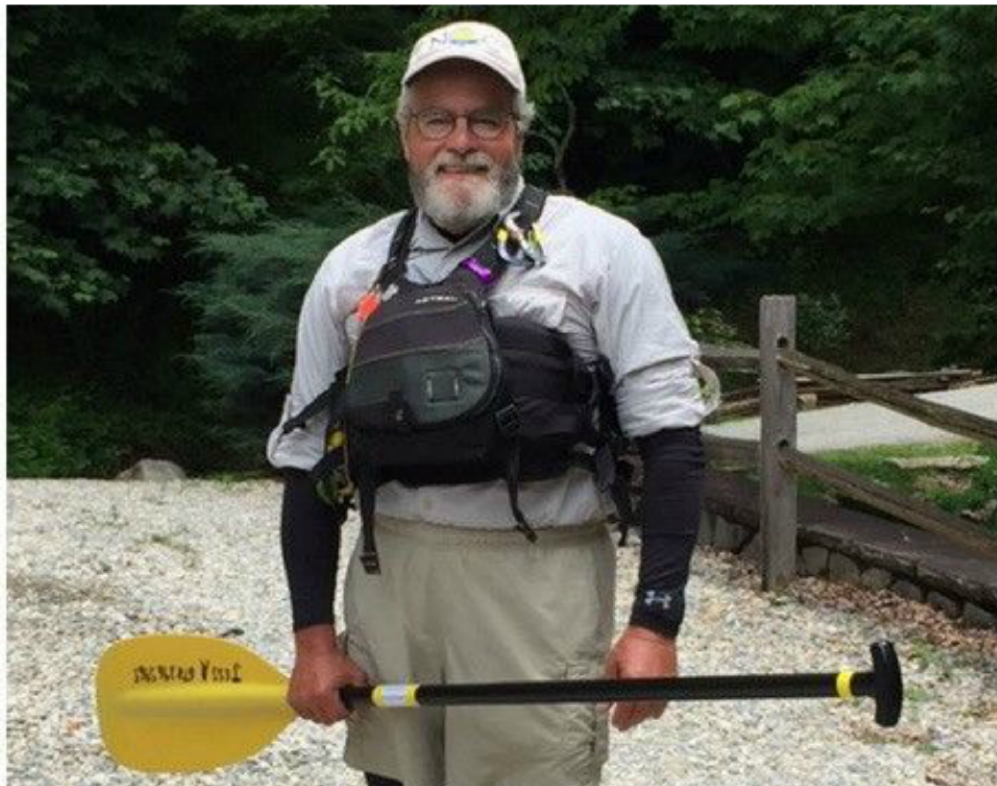
Austin says he'd been involved in outdoor activities for much of his life, making time during his legal career for rafting or kayaking excursions. "I always wanted to be a lawyer, but I didn't want to let the law define me," he says. Although he enjoyed legal work, Austin says, after so many years coping with the "pressure to continuously develop a practice," he decided to step away at 62.

In the spring he enrolled in Nantahala Outdoor Center's "guide school," a weeklong training course for aspiring raft guides, and got certified in CPR

and Wilderness Outdoor First Aid. He's now in the midst of his first season on the water, and plans to return next year. He still finds it special that after every trip, clients will smile and thank him. "You don't necessarily get a thank-you from your clients in Big Law if you do a good job," Austin jokes.

Over the past few months, Austin has invited several former colleagues from the firm to spend a day on his raft. There is often a moment of surprise when they see him in rafting gear without his business suit, now sporting a sizable beard. For Austin, though, the transition feels perfectly natural. "My perspective is that you have to retire to something instead of just from something," he says. 🏡

Originally published in *The American Lawyer*, August 1, 2016.



Senior Fellows Committee

Robert J. Rosenberg, Senior Fellows Committee Chair



I am very pleased to report that the College has established a Senior Fellows Committee to focus on retaining the active participation of Fellows who are reaching the age of retirement from their primary professional vocations. Approximately 70% of Fellows are age 60 or over; accordingly, keeping those Fellows active and excited must be a top priority.

The Committee was formed after the March 2016 meeting and consists of the fellows listed below. It is focused on a number of projects, some of which have already come to fruition:

- A program on second acts at

the March 2017 College meeting.

- A new dropdown on the College website entitled "Senior Moments" where articles and publications of interest to Senior Fellows can be found.

- An ongoing project to create on the website a directory of Fellows interested in serving as mediators.

- A coordination of available pro bono activities for easy access and information.


- Coordination with the Archives Committee to assure collection of interesting and relevant materials from Senior Fellows.

- A program of interviews with Senior Fellows about their professional highlights.

- Publication in College Columns of book reviews, thoughts on second careers and other subjects of interest.

- A mentoring program.

The Committee would be most happy to receive any thoughts on direction or projects from all Fellows. The

Committee presently consists of Bob Rosenberg (Chair), Richard Carmody, Dan Cohn, Mike Cook, Jim Feltman, Judge Robert Gerber, David Heiman, Bill Katchen, Bob Scheibe, Paul Singer and Richard Toder. 



ACB Senior Panel Discussion Second Careers- What Do We Do Next?

Join other senior Fellows for a special session at the Class 28 Induction Ceremony & Related Events, held March 10, 2017 from 3:15-4:00 p.m. at the Renaissance DC Downtown Hotel in Meeting Room 3. Recognizing the on-going, rapid changes in the legal profession (including early mandatory retirement policies adopted by many law firms), three senior College Fellows (Richard Carmody, William Katchen and Richard Toder) will lead a panel discussing numerous opportunities, including full retirement, that are available to facilitate a fruitful transition from one's current career.

More information and registration for the Induction events can be found [here](#).

2016 Foundation Donations

As of December 15, 2016, 362 Fellows have donated nearly \$216,000 to the American College of Bankruptcy Foundation. The current list of contributors can be found below. As we always hope for 100% participation by our Fellows, please consider helping us to surpass our 2016 goal of \$275,500. You may make a Foundation donation at any time—simply visit www.amercol.org to access the online donation form. Thank you for your support!

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In Memoriam

G. Richard Holmes
May 26, 2016

Hon. William J. Lasarow
November 19, 2016

Prof. Alan N. Resnick
July 28, 2016

James A. Wagner
September 2, 2016



Please join us in Washington, D.C. on March 9-11, 2017 for the Class 28 Induction Ceremony & Related Events.

Accommodations are available at the Renaissance DC Downtown Hotel. For reservations, you may contact the hotel at 202-898-9000 and ask for the ACB block of rooms or [click here](#) to reserve a room online.

[Click here](#) to register for the event and for more information. We hope to see you in D.C.!

Upcoming Circuit Events

January 20, 2017

First Circuit Fellows' 17th Annual Wine Tasting Reception and Dinner

The Harvard Club, Boston, MA

March 10, 2017

Joint Dinner of the 7th and 8th Circuit Fellows

Joe's Seafood, Prime Steak and Stone Crab, Washington, DC

For details and registration information about these and other regional events, please [click here](#). If you know of an upcoming event that is not listed, please contact Shari Bedker at 434-939-6004 or sbedker@amercol.org.



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