

Association of Corporate Counsel Webinar

May It Please the Court: Litigation Lessons Learned as Former Federal Law Clerks

Thursday, September 12 from 12 pm to 1pm

Speakers

Tricia W. Magee, Shumaker; Partner in Litigation and Disputes Service Line

Former Career Law Clerk to Honorable Frank D. Whitney, U.S. District Court for the Western District of North Carolina

David Fitzgerald, SafeGraph; General Counsel

Former Law Clerk to Honorable Frank D. Whitney, U.S. District Court for the Western District of North Carolina and to Honorable Patricia Millett, U.S. Court of Appeals for the District of Columbia Circuit

Jason Idilbi, ClearCompany; General Counsel

Former Law Clerk to Honorable Albert Diaz, U.S. Court of Appeals for the Fourth Circuit

Emily Treaster, Western Union; Managing Associate General Counsel, Litigation

Former Law Clerk to Honorable Albert Diaz, U.S. Court of Appeals for the Fourth Circuit

From Drafting “For” the Court to Writing “For” The Corporation

- Writing for an in-house audience
 - Be concise
 - Give a clear recommendation
 - Know the importance of storytelling
- Drafting transactional documents
 - Anticipate the issues in advance
 - Clarity and accuracy/use of defined terms/avoid surplusage

Writing “To” The Court

- Working with outside counsel for pleadings and submission of documents to the court
 - Consider the judge’s point of view in seeing the case with fresh eyes
 - Consider the law clerk as an audience for the preliminary review
 - Credibility is key for the company and for outside counsel; don’t lose it

Appearing “In” Court

- Strategies for in-house counsel appearance for court proceedings and/or oral arguments
 - Audience presence for proceedings
 - Value in moot hearings involving both in-house and outside counsel
- Alleviating the “unknown” for employees making appearances on behalf of Company or as a witness
 - Preparation and familiarization

Court procedures or rules for corporate attorneys that might seem inconsequential on the front end but can prove to be consequential in litigation on the back end

- Privilege and Unprivileged Communications
- Review contractual provisions (even across contracts) for conflicting provisions
- Know the Court (Local Rules)
- Know the Judge (Standing Orders; Format for Opinions and Orders)

Lasting lessons from a clerkship for colleagues, including attorneys and non-attorneys

- Words Matter
- Show why you are right, not just why the other side is wrong
- Power of collaboration