2015 Annual Conference
Snowbird, Utah
August 2 - 7, 2015
Lisa Collins, Host

Please mark your calendar and start dreaming about Utah! August is the peak of the summer season in Utah and especially at Snowbird’s majestic mountain conference setting. This will be a unique and memorable experience! Snowbird is located just 29 miles from the Salt Lake International Airport and a 30 minute scenic drive from downtown. All rooms have beautiful scenic views.

Snowbird’s hotel amenities include high-speed wireless internet, free valet parking, in-room coffee, USA Today, swimming pools, hot tubs, fitness rooms, an 800 number and first 15 minutes-free computer use in the business center.

The Cliff Spa includes a relaxing solarium, full-service salon, eucalyptus steam room, dry sauna, yoga room (yoga classes are free for NCACC attendees), rooftop lap pool, large hot tub plus extensive cardiovascular and training equipment. NCACC participants will receive 20% off select spa treatments.

Enjoy the Mountain Coaster, Alpine Slide, Mountain Flyer, Vertical Drop, Ropes Course, Climbing Wall, Bungee Trampoline, and Aerial Tram. NCACC will receive discounted group rates for all activities. Show your conference credential at time of purchase to receive the discounted rate. Snowbird is happy to arrange horseback tours, mountain bike and mountain scooter rentals, hiking, basketball, shuffleboard & tennis, through the Snowbird Activity Center.

There is a variety of shopping including gifts, sporting equipment, outerwear, spa products, yoga and swimwear, unique jewelry, international arts and collectibles, as well as sundries, books, and snacks. Our dining options range from fine-dining to fast-food with 7 full-service restaurants, 5 lounges and snack bars.

I’ve planned a beautiful hike and picnic for anyone not participating in the golf tournament. We will also visit Salt Lake City and Olympic Park! This is going to be a joyful experience, so don’t miss this once-in-a-lifetime experience--because I will not be hosting again (LOL)!
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THE DOCKET
News of the National Conference of Appellate Court Clerks

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Larry S. Royster (MI)
Ruth A. Willingham (AZ)

Publication Committee
Kevin Lane (CA) (619) 744-0781
Chair and Editor kevin.lane@jud.ca.gov
Sherry Williamson (TX)
Assistant Editor sherry.williamson@txcourts.gov
Paula Garcia (CA) paula.garcia@jud.ca.gov
Patricia Harrington (VA) pharrington@courts.state.va.us
Greg Pachmayr (IN) greg.pachmayr@courts.in.gov
Joseph Stanton (MA) joseph.stanton@appct.state.ma.us
Deana Williamson (TX) deana.williamson@txcourts.gov
Let me begin my first President’s message by expressing my thanks and appreciation to our membership for giving me this opportunity to serve you as President of the National Conference of Appellate Court Clerks for 2014-2015. It is my sincere desire to do the best possible job to further the mission of our organization.

Trish Harrington outdid herself as host for our conference in Richmond. She and Sirena Kestner from her office were on top of everything and the conference went off without a hitch. The hotel and its location were perfect for not only our meeting, but for seeing and experiencing the heart of Richmond. Speaking of the meeting, Blake Hawthorne and his program committee put together an excellent program covering the international scene with presentations by the equivalent of our Clerk/Administrators of the highest courts of Canada and Australia to the nuts and bolts of “What’s Bugging You?” Eydie Gaiser corralled top notch vendors for the vendor show. The Showcases were well attended and provided pertinent information on case and data management. Thank you Deena Fawcett, now our “Past President,” for your outstanding leadership. You don’t realize what it takes to be President until you step into the position.

Thank you to those who signed up for committees. This is the work of the conference and is what keeps us viable. We have many members who are unable to attend the annual conferences, but this should not deter you from participating in the committees. In this edition of The Docket and posted on our website, are the committees and current members. The Bylaws limit the number of members of some of the committees, but most are not limited. I ask that if you signed up but were not placed on a committee, you renew your offer in future years. For those of you who were not at the conference or did not sign up for a committee, I ask that you consider signing up … it is not too late to participate … just contact me. One of the charges to the committees this year is to seek out ways to involve all members. In addition to our annual conferences, we do have some excellent benefits for all of our members, the primary one being the listserv. We are also recording and posting some of the educational sessions on our website. The committees will be looking for other ways to involve and benefit all members.

Our Executive Committee will be meeting later this month in Denver, the site of our 2016 conference. Polly Brock, our host, has been working on the hotel and the contract committee is reviewing and making recommendations for changes. Next year’s conference is in Snowbird, UT and our host, Lisa Collins, is gearing up for us. More to come on this.

Last, but not least, is a heart-felt thanks to Les Steen, Editor, and Brenda Stephens, Assistant Editor, for their years of service in publishing The Docket. We are fortunate to have Kevin Lane, assisted by Sherry Williamson, step up to take on this task. Kevin and his committee have some big shoes to fill, but I am confident they are up to the challenge.

Thank you again for this opportunity to serve as your President. As the saying goes:

“KEEP CALM AND CLERK ON!”
STEVE LANCASTER RECEIVES THE J.O. SENTELL AWARD

Each year the National Conference of Appellate Court Clerks (NCACC) recognizes a member of the organization who has exhibited extraordinary leadership, service and devotion to the organization while furthering the Conference's professional objectives in support of advancement of the judicial system and dedication to public service. This year the NCACC honored Steven F. Lancaster, Administrator of the Court of Appeals of Indiana, with its highest award at its annual meeting held in Richmond, Virginia, during the week of July 13, 2014. Established in 1979, the award is named for the Conference's first President and one of its founding members, J.O. Sentell, Clerk of the Supreme Court of Alabama. A faithful and dedicated member since 1995, Steve has distinguished himself and his court in exemplary service to his profession, his country and the principles of the Conference. His distinguished service includes membership on the Executive Committee, the Strategic Planning Committee, and the Program Committee, serving as the Program Chair for the 2004 Annual Conference, as Vice President 2005-2006, as President-Elect 2006-2007, and as the President 2007-2008, as well as serving as the Chair or a member of almost ALL of the Conference's committees. The Conference is better for Steve’s many contributions.
MORGAN THOMAS
AWARD
PRESENTED TO
BRENDA WILLIAMS

By: Deena Fawcett (CA)

Marilyn May and I were chatting at the NCACC conference and heard that Brenda Williams, our Morgan Thomas Award recipient, could not attend our conference because she was knee-deep in preparations for the chief justices' conference. We had planned to present Brenda with the Morgan Thomas Award at the NCACC conference. Marilyn came up with the idea of going to the National Center for State Courts (NCSC) and personally presenting Brenda with the Morgan Thomas Award. What a great idea! Richmond was so close to the NCSC that we could not pass up the opportunity! We contacted the NCSC and they literally threw together a surprise party for the next day to honor Brenda when she received her award. There was one small glitch … the Morgan Thomas engraved bowl had not yet arrived at the NCACC conference. Marilyn and I decided that we still had to do something to honor Brenda. So, I sat down at someone's laptop and created a Morgan Thomas Award Certificate. I pieced together comments submitted by various individuals when they voted for Brenda. I did not have the NCACC seal for the certificate, so I mailed it to Brenda after I returned home. The surprise party was attended by many NCSC employees. These individuals showed how much Brenda is respected, highly thought of, and loved. Marilyn and I felt honored to present Brenda with such a well-deserved award.
The Morgan Thomas Award recognizes an individual who is not a member of the National Conference of Appellate Court Clerks (NCACC) and who has made distinguished contributions to enhancing professionalism and supporting the goals of the NCACC as a body and of its members individually.

In 2014 Brenda Williams was nominated and selected as the recipient of the Morgan Thomas Award. Brenda is an association manager at the National Center for State Courts and was our liaison with that organization. She worked with the NCACC for many years, always with the utmost professionalism and care. She responded promptly to every request and knew how to gently cajole a response from us when we were a bit tardy in providing information to her. Most of our members have never met Brenda, but those of us who have met her know that she is as warm and friendly in person as she is over the cyberwaves.

Brenda knows us and our business very well. She was always willing and able to help us in any way. The officers would have had a difficult time doing their jobs without the prompt attention and service Brenda provided. She is one of the unsung heroes who helped keep us going day to day. For her many and ongoing contributions to the NCACC, Brenda Williams is truly deserving of this important award.

Deena C. Fawcett, President
Marilyn May, Past President
Laura Thielmeier Roy, Awards Committee Chairperson

Notice – Proposals for Bylaw Amendments

Members who wish to submit proposals for amendments to the NCACC Bylaws for consideration by the membership at the 2015 annual business meeting are requested to e-mail them to James E. Pelzer, Chairperson of the Bylaws Committee, at james.pelzer@outlook.com on or before March 1, 2015. Proposals will be considered by the Bylaws Committee and transmitted to the Executive Committee together with the committee’s report thereon pursuant to Article XI, §1. The text of the Bylaws, except for the amendments adopted at the 2014 annual meeting in Richmond, is printed at pages 325-345 of the 2014 Membership Directory. The text of the amendments adopted in Richmond may be found at pages 5-6 of the April 2014 issue of The Docket.
Building on a premise that today’s courts exist to resolve problems for everyone, and not just for those who can afford representation, Justice Laurie Zelon, an Associate Justice with the California Second District Court of Appeal, emphasized that working with self-represented litigants is increasingly important to ensuring overall access to justice in America.

Prior to the new millennium, self-representation used to be an unusual thing and - no surprise - studies in the 1990's suggested that only 20 percent of the population was getting their legal needs met ... most just gave up. Since 2000, particularly since the economic downturn and reduced budget flows to Legal Services Corporation, people are increasingly trying to navigate court systems on their own.

Understanding that there are an increasing number of pro se litigants attempting to pursue justice at all levels of the judicial system, it is increasingly important to enhance our understanding of the ethical issues and concerns associated with assisting pro se litigants at the appellate level. Important to ethical efforts is appreciating the distinction between providing legal advice and offering assistance in understanding applicable rules or processes. Said another way, this is a distinction between sharing legal information and providing legal advice.

Unfortunately, in an effort to avoid crossing a line into providing legal advice, court staff frequently are trained to avoid answering questions or offering explanations. As a result, self-represented litigants are lost. According to Justice Zelon, in most jurisdictions, staff could explain and answer questions about how the court works, and can discuss procedure. Also, litigants can be provided information from their case files, and can be given court forms and instructions. Litigants can also receive scheduling data, and can also be referred to in-court and external self-help services, where available. Of course, litigants can’t be told whether to bring a case and what result they might achieve, and courts also generally prohibit referrals to specific counsel.

In addition to discussing ethics issues, the NCACC pro se program panel in Richmond examined several pro se assistance programs. Although most pro se assistance programs are focused on the trial level, there are programs that seek to help self-represented litigants at the appellate level. Examples of appellate pro se assistance programs, described through the presentations of Lisa Jaskol from Los Angeles and Michael Truesdale from Houston, provide potential models for similar programs clerks of court might seek to introduce in their respective jurisdictions.

In Los Angeles, Lisa Jaskol, herself an attorney, leads a program that offers pro se assistance to self-represented litigants that attempts to educate and orient litigants without providing legal advice. While providing legal information to self-represented litigants, Lisa also screens for meritorious cases that might be appropriate for pro bono representation. Using a network of volunteer attorneys in the local area, Lisa helps place these cases with practicing attorneys at no expense to the litigant.

In Houston, attorney Michael Truesdale assists self-represented litigants obtain assistance with their petitions for appellate review by the Texas Supreme Court. Specifically, he attempts to match meritorious appeals with
This light-hearted, but substantive presentation, focused on basic technology concepts that appellate clerks encounter in their work. The presentation began with a film about the evolution of computer technology, taking us from Charles Babbage’s Difference Engine to Steve Jobs’s iPhone. The presenters discussed the basics of computer technology, including workstations, servers, networks, and the internet. They explained the basic hardware components of a workstation—including memory, processors, hard drives, and other components. And they also delved into the hardware that makes up computer servers and the differences between rack mounted, stand alone, single blade, blade centers, and storage area networks. Turning to computer networks, an entertaining and informative film explained how desktop computers and servers connect to the internet through switches and routers. Finally, they turned to the impact computer software is having on how we administer the courts by providing up-to-the-minute information about filings, case processing times, and other information that was once difficult and time consuming to compile. The question for all of us to ponder is how we can use this information to make our courts more efficient and improve upon our current processes.
We had an active and inter-active discussion with Russell Carparelli on communicating with the vexatious litigants that cross our paths every day in clerks’ offices. Attorneys and self-represented litigants appearing before an appellate court are often stressed and angry. And the Clerk’s Office is on the front line to deal with these individuals. The hardest step may be the first—to not have an immediate anger or emotional response back. Rather, as the recipient of the angry tirade, it is important to recognize your emotional response, which hits your brain first, and then move to a rational response. By even taking a few seconds for your thoughts to catch up to your emotion, you can work to defuse a tense situation.

Stress and anger are powerful emotions that can overwhelm the rational response part of the brain. When confronting a stressed or overwhelmed individual, it is important to recognize and empathize with the individual. The first step is often the most difficult—and that is to actively listen so that you can understand and communicate back that you have heard the emotion and stress of the individual.

If you actively listen, you can follow up with an empathetic statement that reflects back the individual’s message. Hearing that the listener has understood the issue can defuse anger to allow for a fuller discussion. Rather than saying simply, “I understand how you feel,” a statement that reflects back the actual message of the customer can open up to a calmer discussion, such as, “So you feel that the clerk ignored you when she answered the phone while she was taking in your paperwork.” Using an empathic statement does not require you to agree with the individual, but it does recognize the frustration of the individual.

When you hear an empathic statement, your fight/flight response is reduced, because the listener has indicated understanding. If necessary, apologize for anything that was handled improperly, or give further clarification—“We wish that we did not have to leave the front counter when the phone rings, but we do not have another staff member that can answer the phones at this time, and we want to help everyone. I’m sorry if it was done in a rude manner.”

Sometimes there are individuals so angry or frustrated, that there is little a clerk’s office staff member can do to defuse the situation. In those cases, it may be necessary to handle it professionally but firmly, such as “I understand that you are angry, but I have not said anything disrespectful, and if you cannot speak calmly, I will have to hang up.” And it is, of course, important to have a safety plan for your staff for individuals that are escalating, such as making sure front-counter staff has call numbers for security.
New members Roger Bilodeau and Andrew Phelan spoke to us about their respective courts, the Supreme Court of Canada and the High Court of Australia. Mr. Bilodeau gave us a brief overview of the history of the Canadian legal system, explaining that the Supreme Court of Canada was created in 1875. The Supreme Court was not originally the court of last resort in the Canadian justice system; rather, from 1875 to 1949, its decisions were subject to review by the Privy Council of England. But this right of appeal to the Privy Council was abolished in criminal cases in 1933 and in other cases in 1949.

There are nine justices on the Supreme Court of Canada. To qualify to hold their office, they must have been superior court judges or lawyers for ten years. There is a mandatory retirement age of seventy-five. By law, three of the justices must be from Quebec. And by tradition, three justices are from Ontario, two from the western provinces (British Columbia or the prairie provinces), and one from Nova Scotia or New Brunswick.

Opinions of the Supreme Court of Canada are issued in both English and French. The Court has professional translators that work with the Court to ensure that the translations are accurate. And considerable thought is given during the drafting process to ensure that the translations accurately capture the author’s intent. Courtroom proceedings are also bilingual. Attorneys speak in their native tongue, and there is simultaneous English-French translation.

The Supreme Court of Canada sits in Halifax in a beautiful building on a high bluff above the Ottawa River, just west of the Parliament Buildings. Mr. Bilodeau welcomed fellow NCACC members to visit him and learn more about his court.
Andrew Phelan also took us on a virtual tour of his court—the High Court of Australia. The High Court of Australia is located in Canberra in a building designed in the 1970s following a national competition. The building is arranged in eleven levels and rises forty-one meters (one hundred thirty-five feet). It houses three courtrooms, justices’ chambers and support facilities. A massive glass wall provides beautiful views of Canberra and Lake Burley Griffin. And the building houses a national art collection. An impressive example of courthouse architect, the opening of the building was celebrated with a visit from Queen Elizabeth.

Although the High Court of Australia Act provides that “the seat of the High Court shall be the seat of the Government in the Australian Capital Territory” and the building is located in Canberra, the Court continues to sit elsewhere (e.g. Melbourne, Victoria, and Sydney) and none of the justices resides at the seat of the Court.

There are seven justices on the High Court of Australia. Under the High Court of Australia Act, justices must have been a judge of a federal, state or territory court, or they must have been enrolled as an attorney for at least five years with either the High Court or a state or territory Supreme Court. Appointments to the High Court are made by the Governor-General in Council. In practice, appointees are nominated by the Prime Minister, on advice from the Cabinet—especially the Attorney-General of Australia. The process is not as open and highly public as the process for nominating justices of the Supreme Court of the United States.

Like the Supreme Court of Canada, the High Court of Australia has not always been the court of last resort in the Australian legal system because some appeals were allowed to the Privy Council. After disputes over whether English common law should be used to overrule decisions of the High Court, the Australian Parliament began limiting appeals to the Privy Council. And in 1975 Parliament passed the Privy Council (Appeals from the High Court) Act which effectively closed all routes of appeal to the Privy Council.

But, Mr. Phelan pointed out that despite the strong ties between the Australian and English legal systems, there is perhaps a more remarkable and fundamental tie between the Australian legal system and the American legal system. In drafting the Australian Constitution, the authors looked to US constitutional theory and practice. According to Mr. Phelan, the principles enunciated by Chief Justice John Marshall in Marbury v. Madison regarding the power of the judiciary to review the constitutionality of acts of Congress were incorporated in the Australian constitution and form a fundamental part of the Australian legal system. The fact that we were all sitting just a few blocks away from John Marshall’s home in Richmond, Virginia made Mr. Phelan’s comments all the more remarkable, leaving a lasting impression about the enormous influence of Richmond residents John Marshall and Thomas Jefferson on world history.
Facts, Fiction, and Foolishness

We knew going into this that we could never replicate Les Steen’s unique sense of humor and ability to entertain us with the Facts, Fiction and Foolishness articles. While the publications committee determines the future of this article, we thought a look back at some of his funniest quotes would be fitting. Enjoy!

Sometimes when I look at my children, I say to myself, "Lillian, you should have remained a virgin." Lillian Carter

I was married by a judge. I should have asked for a jury. Groucho Marx

We have a frequent visitor in our office who is a notorious talker. Recently, he was expressing his views on his own funeral. He said, "When I die, I hope people don't come up and look in my coffin and say how natural I look. I hope someone comes up and says, 'You know, I think this is the first time I've ever seen him with his mouth closed.'"

Nothing sucks more than that moment during an argument when you realize you are wrong.

I think part of a best friend's job should be to immediately clear your computer history if you should die.

How many times is it appropriate to say "What?" before you just nod your head and smile because you still didn't hear a word that was said?

Bad decisions make good stories.

Dear Abby: My forty-year-old son has been paying a psychiatrist $50 an hour, every week, for two and a half years. He must be crazy.

A young grandson called to wish his grandfather a happy birthday and asked him how old he was, and the grandfather told him, "62." After a long silence the little boy asked, "Did you start at 1?"

A nursery school teacher was delivering a station wagon full of kids home one day when a fire truck zoomed past. Sitting in the front seat of the truck was a Dalmatian dog. The children started discussing the dog's duties. "They use him to keep crowds back," said one child. "No," another one said, "He is just for good luck." A third child brought the argument to a close. "They use the dogs to find the fire hydrants."

Law of Probability - The probability of being watched is directly proportional to the stupidity of your act.

Law of Random Numbers - If you dial the wrong number, you never get a busy signal and someone always answers.

Law of the Result - When you try to prove to someone a machine won't work, it will.

Law of Logical Argument - Anything is possible if you don't know what you are talking about.

A doctor and a lawyer were talking at a party. Their conversation was constantly interrupted by people describing ailments and asking the doctor for free medical advice. After an hour of this, the exasperated doctor asked the lawyer, "What do you do to stop people from asking you legal advice when you are out of the office?" "I give it to them and then send them a bill," the lawyer replied. The doctor was shocked and agreed to give it a try. The next day, still feeling slightly guilty, the doctor prepared his bills. When he went to place them in the mailbox, he found a bill from the lawyer.

Depression is merely anger without enthusiasm.

Why do psychics have to ask you your name?

Inside every older person is a younger person wondering, "What the hell happened?"
Judge Flores presented an interesting two-part workshop addressing substance abuse, both as a challenge to the courts and as an individual problem. The presentation introduced court clerks to the concept of collaborative jurisprudence and taught how to identify clues that friends, family and coworkers may be grappling with substance abuse.

Collaborative courts include drug courts, DUI courts, mental health court and veteran’s courts. The courts have also been expanding to address the needs of juvenile offenders. Collaborative courts, also known as “problem solving courts,” provide integration of treatment services with supervision and ongoing judicial interaction. The concept of collaborative courts began in Dade County, Florida, 25 years ago with the creation of drug courts as a response to the “revolving door” phenomenon of incarceration of drug abusers. There are now more than 2500 similar courts in the United States.

As to recognizing substance abuse among those around us, Judge Flores noted that attorneys suffer from much higher rates of depression, suicide, and alcohol or chemical dependence than other parts of the general population. Some alcoholics are very high-functioning and those around them might not notice problems with professional performance or attendance. Clues that an individual might be a high-functioning alcoholic are: (1) consistently drinking more than others in social situations; (2) physical symptoms, including morning shakes, insomnia, and stomach problems; (3) changes in behavior; and (4) planning one’s day around drinking, e.g., two-martini lunch and going to the bar after work. There are many resources available for help, including Alcoholics Anonymous, Narcotics Anonymous, and the American Bar Association’s Commission on Lawyer Assistance Programs.
Judge William Moorman on Inspiring Excellence through Leadership - "Leadership for Appellate Court Clerks"

By: Gregory Block

It's easy to get excited about inspiring excellence at our respective courts when talking about leadership with Judge William Moorman of the United States Court of Appeals for Veterans Claims. In a fast-paced, entertaining presentation, Judge Moorman expanded on his many years of leadership and management experience, both as a career military officer who served as the Judge Advocate General of the Air Force, and as a senior leader in the Department of Veterans Affairs.

Central to Judge Moorman's presentation is the position that leadership and management are both important, and certainly much more important than differentiating the two. In fact, Judge Moorman suggested that we ignore the distinction and call it "manageship" and "leaderment." And being the boss is definitely not enough; court staff are going to look to the clerk of the court for knowledge, foresight, communication and optimism.

Knowledge does not mean in depth knowledge of every area of the Court's work. In fact, genuine interest in what people do can often be a substitute for depth of knowledge, and there is no substitute for knowledge of indicators of success or failure. Foresight, also known as situational awareness or vision, is essential to moving an organization forward. Good communication, which includes active listening, addresses where we are headed, what are priorities, how we are performing, and why things are important. And optimism, or believing that something can be done, is frequently the biggest step towards doing anything.

As much as anything, trust is critical to successful leaderment/manageship, and it doesn't happen if you don't conduct yourself with integrity. Judge Moorman couples integrity with five building blocks to achieve trusting and successful organization. One, task staff to achieve goals and objectives AFTER making it clear where the organization needs to go. Two, tell people what is expected of them both individually and collectively. Third, train and teach the tools necessary for your team to succeed. Fourth, track progress using metrics. And finally, work to synergize efforts using teamwork.

Overall, Judge Moorman challenged each court clerk to continue to self-assess, and to never stop caring - great guidance we can all take to heart from a man who clearly knows more than a thing or two about achieving success!
**HOST WANTED FOR 2018!**

The Site Selection Committee is looking for members to host our Conference in 2018. This is a wonderful opportunity to showcase your jurisdiction. This invitation to host is open to all members who want to host including past hosts.

As a former host, I can tell you that being a host is an incredibly enjoyable and rewarding experience. While being a host does involve a significant investment of time and energy, it is not as daunting a task as many assume, and there are many former hosts and others who are willing to provide advice and assistance. Whether you are a longtime member or just a recent addition to the NCACC family, I would encourage you to submit a bid.

If you have any questions about being a host or submitting a bid to be a host, please feel free to contact me. I hope that we can visit your jurisdiction in 2018!

Dan Shearouse (SC)
Chair, Site Selection Committee
dshearouse@sccourts.org
803-734-1080

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**THANKS TO EACH OF YOU WHO DONATED AND/OR BOUGHT ITEMS AT THE 2014 AUCTION! A TOTAL OF $2,700 WAS RAISED FOR THE EDUCATIONAL FUND! THIS SET A NEW RECORD!!! I ALSO WANT TO ESPECIALLY THANK BRANDON METHENY, THE “UNIVERSITY OF RICHMOND SCHOOL OF LAW” AUCTIONEER WHO HELPED US OUT!**

Sherry Williamson
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2014-2015 NCACC Committees

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