

I Know What You Did Last Summer

This column talks at length about what “we” do. We do darn near everything, i.e. read books, listen to music, travel, ride horses, watch movies, surf, ride motorcycles, fly planes, and all of the other things that have been discussed in these columns. But what about our judicial colleagues who sit on Courts of Appeal and Supreme Courts. Do they ever get to do anything besides read our briefs, listen to our arguments, then rule against us? (Okay, okay, many times they do in fact rule in our favor.)

I’ll tell you what many of them do. Every July more than 10% of all sitting judges on all of the State Courts of Appeal and Supreme Courts from across the country travel to Chicago to attend a symposium put together by the *National Foundation For Judicial Excellence*. The program consists of discussions over a day and a half of major issues likely to come before our appellate courts. This year the discussions involved many of the issues surrounding class actions, including the role of Attorneys General in bringing class actions, due process limitations on class actions under State procedural law, balancing fairness and efficiency under the due process clause, and a number of other equally important issues. On each topic speakers from differing aspects of the legal spectrum presented opposing ideas. The symposium presents positions most defense attorneys would agree with, and also presents the opposite side of those positions. To borrow a phrase from Fox News, the NFJE Symposium is fair and balanced, except in the case of the Symposium, it truly is fair and balanced.

It is occasionally compared to a program put on each summer by The Roscoe Pound Institute, but there truly is no comparison.

The Pound Forum was founded by a group of plaintiff’s counsel. It is pretty one-sided in the sense that almost all the speakers are pro-plaintiff on issues that are divisive between plaintiff and defendant. I know because for two years I was the token defense attorney speaker at the Pound Forum.

The National Foundation for Judicial Excellence arose from the brain of Richard Boyette, a past president of DRI, and a personal friend of mine. There have now been eight Symposia with different topics of conversation each year. The NFJE approach of providing arguments and thoughts on both or all sides of every issue discussed was evident during the event. For example, at the Class Action Symposium in July not only did defense counsel speak but also law school professors from around the country, a state Attorney General (in favor of Attorneys General entering into contingency fee deals with plaintiff’s counsel), and plaintiff’s attorneys including a partner at the California firm of Robinson Calcagnie Robinson Shapiro & Davis. NFJE has always prided itself on not being one-sided, and on providing a balanced discussion of important legal issues for the appellate judges from all over the country.

The only attendees at NFJE Symposia are the judges, the speakers, and NFJE’s board of directors who organize the programs. I’ve been present because I sit on NFJE’s board. Every sitting judge on every State Court of Appeal and Supreme Court in the country is invited, and the current limit for participants is 150. It is first come, first served. California has been well-represented every year since the program began, with justices from our Courts of Appeal and Supreme Court in attendance.



Patrick A. Long

I’m absolutely certain that our justices here in California also read books, fly airplanes, ride horses, listen to music, surf, travel, watch movies and do all the other things that we practicing attorneys do, but by gosh they also take time from their demanding schedules to become better justices, to be more informed, and to render opinions that carry out the intent and purpose of our system of law.

Thanks to all our justices on our Courts of Appeal and Supreme Court. You serve us well. ☺

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A handwritten signature in black ink that reads "Patrick A. Long". The signature is written in a cursive, flowing style.