

The Absolute Priority

Farewell to Chief Judge Burns

May 15, 2015 will be the last day that our esteemed Chief Judge Gloria Burns will preside over the Court before she steps down from the Bench after 22 years of service to all of those who were fortunate enough to have had an opportunity to spend time in courtroom 4C in Camden, NJ. Despite being busy with an active docket and preparations for life after the Bench, she graciously made time for an interview with *The Absolute Priority*.

True to her 22 years on the Bench, the interview proved to be a testimony to her unwavering resolve for the beauty of the bankruptcy system. In Her Honor's own words, it gave her "the great enjoyment of being able to assist people financially reorganizing their lives." Additionally, throughout the interview with Judge Burns it became clear that her passionate dedication to public service is what has motivated her professionally; first as a teacher, then an attorney, and finally a judge.

Twice, Judge Burns has been on the forefront of professional innovation in her commitment to public service. First, after graduating from Northeastern University in Boston, MA with a degree in Education, Judge Burns went into public service in the Maryland school system as a Special Education Teacher. This was at a time when public schools were first recognizing the need for such a specialized educational path for challenged students.

Then, after 3 years of public service as a teacher, Gloria Burns enrolled in Rutgers Law School in Camden, NJ. When Judge Burns graduated from law school in 1979, she found herself facing another pioneering moment in her professional life when she joined the law firm of Teich, Groh, Robinson, Kline & Frost in 1980. Her introduction to the practice of bankruptcy law was upon the birth of the new bankruptcy era to be governed by the Bankruptcy Code that became effective in 1979, which phased-out the practice of bankruptcy law under the former Bankruptcy Act.

After thirteen years of practice during which time Judge Burns represented a variety of parties in interest in bankruptcy matters, her calling to seek a new level of public service was answered when there was an opening for a judgeship on the Bankruptcy Court in Camden. The judgeship proved to be a position for which the dedicated bankruptcy professional was perfectly suited. Since February 4, 1993 when Judge Burns was sworn-in as a U.S. Bankruptcy Judge, she has enjoyed the career that she expressed is "interesting all the time. It's a wonderful job and I couldn't think of anything else that I would rather do."

From complicated Chapter 11 reorganizations to the invaluable Chapter 7 "fresh start" for many debtors, Judge Burns emphasized the efficacy of the process and collegiality among the parties, to successfully provide a debtor with a new financial lease on life. With concern, Judge Burns stated that "it is hard to have a reorganization today in this economy." She specifically highlighted the benefits of reorganization in this difficult economy for small business debtors and Chapter 13 debtors.

While sitting on the Bench, Judge Burns has witnessed everything from the courthouse ridding itself of payphones (and the birth of personal technology that needs to be respectfully maintained in the courtroom); to the introduction of the Chapter 13 Trustees' efficient model for herding the hundreds of cases heard on confirmation day; to pending

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POINTS OF INTEREST

Members of the bar welcome new babies

The purpose of the Lawyers Advisory Committee (the "LAC")

FAREWELL TO CHIEF JUDGE BURNS CONT.

jurisdictional questions raised in *Stern v. Marshall*, which issues remain to be fully flushed-out by our Supreme Court.

The Honorable Gloria M. Burns is pleased to see such wonderfully talented new judges take the reins at the Bench. She encourages them to continue on with the commitment that the District of New Jersey Bankruptcy Judges have always maintained in their unprecedented valuable relationship with the attorneys who practice before them.

This valued relationship exists in the Bankruptcy Court's Lawyers Advisory Committee ("LAC") that was established to provide a forum for a representative group of attorneys to meet with trustees and judges throughout the year. The LAC's purpose is to encourage cooperation and resolve matters that face our practice for all who have a relationship with bankruptcy law. Judge Burns would like to remind the members of the Bar that the LAC is always available as a resource to bridge communications between the attorneys, the trustees and the judges.

Judge Burns' adoration for the practice of bankruptcy law will live on as she plans to continue attending bankruptcy bench and bar events. And with enthusiasm, she described her plans to join the International Women's Insolvency and Restructuring Confederation ("IWIRC") during her retirement. Judge Burns' inclination to join IWIRC is a clear reflection of her commitment to further women in the profession. She commented that "young women in our practice have a special place in my heart and there are certainly not enough of them."

Her Honor humorously acknowledged that there is "life beyond bankruptcy," and is looking forward to finally cracking the historical novel Team of Rivals: The Political Genius of Abraham Lincoln that has been staring at her from her library.

An avid reader of everything from her cherished historical war-time novels to trade journals, business magazines, and the Washington Post, Her Honor hopes in her upcoming free time to take a course on literature. But, the course will have to wait until her return from touring several European cities that she has dreamed of visiting her whole life when she travels overseas in the fall, the first of many well deserved travel adventures to come.

In conclusion, we bid farewell to our Chief Judge Gloria M. Burns. It has been an honor to have benefitted from your tireless service to all who have appeared before you, worked along with you, and were blessed to have had you touch their lives with your many wonderful gifts. Thank you Judge Burns.

MEET THE CLERK'S OFFICE

From time to time we hope to provide an inside look at the individuals who work in the Clerk's Office. Sometimes we never get to meet these people. Our first inside look is with Mary Shashaty, Deputy-in-Charge of the Camden Office .



Where were you born?

Camden, NJ

Where did you go to school?

All Public Schools: Elementary - Cassidy Cooper

Junior High School - Pyne Point

High School - Woodrow Wilson

Rutgers University for only one year in Elementary Education, but I realized that teaching younger children wasn't what I wanted to do,.

What was your first job?

I worked for the Camden Board of Education - Head Start Program. Then, Standard Tank and Seat Company located in Camden, owned by A. Weir Stedman. I was a billing clerk. Mr. Stedman in later years sold the property to Rutgers University. My first Court related job was working for Camden County Surrogate's Office. The Surrogate was Joseph DeLuca. I was the Court Clerk. Some of my functions were probating wills, administration papers, guardianships, trusts, adoptions, managing minors' funds. Every four months, the Assignment Judge would assign a Judge to hear the above matters. I would sit with the Judge during Court hearings. On the County side, I worked with many judges. Most of them are now deceased.

Congratulations Brian Nicholas and Joao Magalhaes on your New Beautiful Baby Boys!



Congratulations to Joao Magalhaes (Trenk DiPasquale Della Fera Sodono) on the birth of his son Luca R.S. Magalhaes. Luca was born on March 30, 2015 at the Morristown Memorial Hospital. (Pictured on the left)



Congratulations to Brian Nicholas (Zucker, Goldberg & Ackerman) on the birth of his son Jacob Nathaniel Nicholas. Jacob was born on March 9, 2015 and was 6 lbs and 3 ozs. (Pictured on the right)

CHANGING FACES, CONTINUED TRADITION IN “NJBANKRUPTCYLAND”

The launch of *The Absolute Priority* comes at an historic time for the United States Bankruptcy Court for the District of New Jersey. By later this year, two-thirds of the federal bankruptcy judgeships will have seen turnover during a relatively brief two-year period. Following the passing of the late Judge Morris “Mickey” Stern, and the retirements of Judges Raymond T. Lyons and Judith H. Wizmur, the New Jersey bankruptcy community saw the appointment of Judges Christine M. Gravelle, Andrew B. Altenburg, and Vincent F. Papalia. Next, with Judge Donald H. Steckroth having retired, and Chief Judge Gloria M. Burns and Judge Novalyn L. Winfield set to follow shortly thereafter, the community will welcome the appointments of John K. Sherwood, Esq., and Jerrold N. Poslusny, Jr., Esq., along with the appointment of Judge Kathryn C. Ferguson as Chief Judge. Soon, only Judges Rosemary Gambardella, Ferguson and Michael B. Kaplan will remain on the bench as it existed. Thus, the Court is well in the midst of what many consider a generational changing of the guard.

As explained by Judge Gambardella, however, this is not uncharted territory. Now the most senior member of the bench, Judge Gambardella, herself a former Chief Judge, likened the current turnover to that which transpired during her appointment in 1985. At that time, Judge Gambardella was joined by Judges William H. Gindin, Wizmur, William F. Tuohey, Stephen A. Stripp, and Daniel J. Moore, who were all appointed to the bench within a two-year period. Accordingly, Judge Gambardella notes that these changes are simply “part of the ongoing life of the Court.” Judge Gambardella further opined that, despite the changing faces on the bench, the Court remains constant. Quoting the late John F. Gerry, former Chief Judge of the United States District Court for the District of New Jersey, Judge Gambardella observed that “we are but temporary custodians of the Court’s traditions and authority.”

Nevertheless, the outgoing wealth of judicial experience will undoubtedly be missed. Soon-to-be Chief Judge Ferguson commented that “[w]e in New Jersey have taken for granted the enormous benefits that have come from having such an experienced bankruptcy bench. I’m sure we are all grateful to have practiced with a steady and relatively predictable group of such able and seasoned jurists for so long.” On the other hand, Judge Ferguson noted that it is “an exciting time here in NJBankruptcyland,” and highlighted the fact that with the changes to the bench come “fresh perspectives.” In the view of Judge Ferguson, the recently appointed and nominated Judges are “much closer to the trenches of the practice,” and thus, bring to the bench “more updated ideas about the practice of bankruptcy law in the current environment.” Also, Judge Ferguson believes that the passage of new Local Rules will help to maintain the “predictability and consistency” associated with the outgoing Judges, while “the ‘new blood’ will invigorate our practice.”

As expected, managing the transition within the Court has been a central focus of the Office of the Clerk. The authors had an opportunity to speak with Jeanne Naughton, Chief Deputy Clerk, who generously provided perspective from the Clerk’s office.

Q: As Chief Deputy Clerk, you have undoubtedly been involved in many aspects of the preparation for the major changes to the bench over the past two years. What has been the role of the Clerk’s office in enabling and preparing for these changes?

A: Succession planning for the Court is something which our Clerk, Jim Waldron, has felt very strongly about. Planning for the future, which is now coming to pass, has been a major focus of our agenda and energy over the last five years. This is a future into which we are not just drifting, a conscious decision has been made to recognize the rhythm of change, to train and be prepared for this moment.

The role of the Clerk’s office, essentially, is to be a constant in providing a high quality of service, responsiveness and support amidst the transitions in judges as well as to be a guiding and proactive force for implementing procedural

JIM WALDRON, CHIEF CLERK, COMMENTS ON THE GENERATIONAL CHANGE

The Bankruptcy Court has been going through its most significant change in 30 years. In the course of 3 years, 6 of the 9 judges will have been replaced. In addition, 3 of the Court's most senior managers will also retire. Hopefully, this will not affect the Court's operation.

The Court has been taking steps to minimize the effect on overall operations and interactions with the bar. The Clerk's Office has engaged in succession planning for the last several years and the Court has planned a "Generational Change Workshop" in the coming weeks. By analyzing results from a recent survey of the bar and a planned brainstorming session with several members of the bar, the Court hopes to review past successes and failures and draw on the institutional knowledge of senior judges as well as the fresh ideas that will come from new members of the bench who have recently been in private practice.

This, in conjunction with further enhancements and improvements in the court's computer systems will hopefully position the Court for continued success and responsiveness for years to come.

CHANGING FACES, CONTINUED TRADITION IN "NJBANKRUPTCYLAND" CONT.

change and anticipating issues that may arise. Our Deputies in Charge of each office, Edward Gordon in Newark, Nancy Figueroa in Trenton, and Mary Shashaty in Camden, as well as their respective staff, have become proficient with respect to, for example, the reassignment of cases and adversary proceedings, the setting of hearings and assisting the judges, bench and public with the general coverage of calendars during this time.

Q: What would you describe as the most challenging aspect of this process?

A: The challenges are both personal and professional. Like the bankruptcy community in general, we will miss the mentors, colleagues and friends many of us "grew up" with at the Court, while at the same time we find happiness in their entering new chapters of their lives. From an office standpoint, one of our primary challenges and goals is to emphasize procedural consistency among the current and incoming judges, Clerk's office, judicial staff, bankruptcy bar, and the public, as an absolutely critical component of successful operations; especially in this time of significantly reduced resources and staffing.

Q: It appears that the process is ongoing. On February 20, John Sherwood, Esq. of Lowenstein Sandler was tentatively selected to replace Judge Winfield, who is scheduled to retire in June. Besides changes to the judiciary, are any other new developments in the works?

A: One of the most interesting aspects of our work is that no two days are ever the same in terms of keeping current with the constantly evolving environment. Our IT staff, under the leadership of our "resident genius," Chief Deputy, Mo Wong, works closely with Jim, the judges, Court analysts, Clerk's office and judicial staff to implement cutting edge processes within the courts. Among many national projects with which we have been involved, most recently, our Court was selected by the Administrative Office of Courts (AOC) to be a MLO Court (monitoring live operations) for the next generation of CM/ECF, NextGen, which we anticipate may go live prior to December 1, 2015. Advance notice to the bar of the many new features of this system, including central sign-on, will be provided.

Q: The Clerk's office has always done an excellent job of seeking out, and valuing, the feedback of New Jersey bankruptcy practitioners. How would you describe any recent feedback from local bankruptcy attorneys?

A: We have been fortunate in this District insofar as we have enjoyed a high degree of respect and collegiality among the members of the bar, judges, Clerk's office and judicial staff. In part, I believe this is attributable to the Court's understanding of, and mission to, provide public service. This has included an earnest desire to receive comments from the bar as to the experience of practitioners, both positive and negative, in an effort to discern what we are doing right, what we are doing wrong, and where we could improve our service to them and their clients. Just this month, in preparation for a special meeting of the Board of Judges which will be convened to discuss such feedback, our Clerk surveyed a wide range of the Court's most "frequent filers" to obtain an honest assessment of the current status of the Court from their perspectives.

Q: From a practitioner standpoint, it seems that value is increasingly placed on a court's perceived user-friendliness, whether in terms of standardized forms, availability of hearing dates, or other factors. With the composition of the bench changing so rapidly, is there an eagerness to maintain, or even improve upon, the user-friendliness of New Jersey bankruptcy courts? Or, is this a concern that is not factored in the process?

A: To the extent that your question concerning "user friendliness" contemplates standardized forms and practice under mandatory and recommended local forms and recently revised Local Rules which will become effective on August 1, 2015, the Court has and will continue to place a high degree of significance on "issue spotting" in terms of potential resolution by local forms, rules and procedures. The Court has benefited, as has the bar and public, from the increased efficiencies that result from the utilization of these forms and compliance with these rules. We have seen this true across the board in terms of practice under Chapters 7, 11 and 13. The Lawyers Advisory Committee (LAC) has also played a significant, active, and ongoing role in the process of crafting rules and local forms.

CHANGING FACES, CONTINUED TRADITION IN “NJBANKRUPTCYLAND” CONT.

Q: Similarly, given the significant changing of the guard within a very short period of time, has the Clerk’s office viewed this period as an opportunity to make institutional changes? In other words, with the addition of several new judges who may not yet have adopted particular practices and procedures, has the Clerk’s office implemented any new practices and procedures as a result?

A: The future will be a collaborative time. The 2015 Local Rules provide a particularly good starting point as we continue to sift what works from what may be outdated in an effort to simplify and underscore the best current processes. One of the major advantages of the 2015 Local Rules revisions project under now Chief Judge Ferguson’s leadership is that over a course of three years, a diligent committee comprised of practitioners, judges, members of the Clerk’s office and Office of the United States Trustee reviewed every rule, corresponding local form, and process. This is work that had not been done for almost 20 years, and over time, understandings had a tendency to “morph,” leading to inconsistencies. We are very much aware that this is an opportune time to provide a new and improved procedural roadmap for the Court’s future. This is an ongoing process that will continue to benefit greatly from the interest and input of the attorneys who practice before the Court, and without whose involvement real progress in the face of such dramatic institutional change would not be possible.

Thank you, Chief Deputy Clerk Naughton.

The transitional period in which the Bankruptcy Court for the District of New Jersey finds itself has engendered a wide range of thoughts and reactions: appreciation for those who faithfully served the bench; anticipation for those that will do so for the foreseeable future; and the desire to advance and evolve the Court while still adhering to its traditions. In the words of Judge Gambardella, this is a time in the history of the Court where “we look back with gratitude and thanks for the tremendous service of the judges who have served the Court – and look forward with excitement to the service of our newest judges who will bring their talent and commitment to the work of the Court.”

Local Rules Update

The 2015 Local Rules have been approved by our Board of Judges at the March 19, 2015 judges meeting after the 30 day public comment period. The proposed rules as published under the February 3, 2015 notice to the bar and public are available on the Court's website.

They will be reviewed by the Board of Judges for the District Court at its June 3rd meeting and will be made publicly available in final form after that date. Once approved by the District Court, they will be effective August 1, 2015.

MEET THE CLERK'S OFFICE CONT.

From the Camden County Surrogate's Office, I began working at the Bankruptcy Court on August 30, 1976. I worked with the Honorable William Lipkin. During my thirty nine years, I have also worked with the Honorable Rosemary Gambardella, Honorable Judith H. Wizmur and Chief Judge Gloria M. Burns.

What was it like when you first started at the Bankruptcy Court?

The office consisted of six clerks and one Judge. We had no computers. Typewriters, carbon paper, mimeograph noticing. We had no photocopier. The Judge conducted 341 hearings as well as all confirmations. The Judge did have his own Court Reporter. At the time I started Robert Tate was his Court Reporter. There was no United States Trustee . There was no noticing center. The Clerks office did all the noticing and mailing. All entries in a case were typed on a paper docket. Yes, much has changed over the years of my career. Comparing what it was like back then with today, the Bankruptcy Bar was much smaller. There was a select few attorneys that actually practiced Bankruptcy. We had large cases but nothing like what we have now (mega cases). The age of computers has changed everything. Electronic filing has eliminated the need for paper, file rooms and even staffing.

What is your favorite court memory?

Having Arthur Abramowitz call me as a witness and cross examine me in the Roberts Foods case in 1978. The question that he asked me was regarding the filing of a proof of claim. He asked me if I ever lost a claim? My response to that question was that "no, I have never lost or made a mistake in a filing a proof of claim." The Courtroom went silent and the opposing counsel had no further questions. He should have asked me if I ever misfiled a claim. That I could not have lied because many times things were misfiled. The Roberts Foods case was a terrific case wherein there were many twist and turns. The most memorable case from my perspective was the Mission Marine case. Judge Lipkin wrote that opinion without any help from a law clerk. The Judge's opinion was appealed and the Honorable John F. Gerry overruled Judge Lipkin. Back in those days, not many of the District Court Judges ever overruled Judge Lipkin. I can remember distinctly how Judge Lipkin felt about that reversal. However, Bob Wasserman and Steve Fluharty appealed Judge Gerry's decision and went to the Third Circuit. The Third Circuit reversed Judge Gerry and upheld Judge Lipkin's decision. Judge Lipkin was not a man of emotion. However, when Bob Wasserman presented the Third Circuit's decision .. Judge Lipkin very quietly thanked Bob Wasserman .. shut the door and shouted Yipee!!!!.

The Absolute Priority

- "Farewell to Chief Judge Burns" by, **Carrie Boyle** (McDowell Posternock Apell & Detrick)
- "Meet the Clerk's Office" by, **James Waldron** and **Mary Shashaty** (Clerk's Office for the District of New Jersey Bankruptcy Court)
- "Changing Faces, Continued Tradition in "NJ Bankruptcyland"" by, **Joao Magalhaes** and **John Stoelker** (Trenk DiPasquale Della Fera Sodono)
- "Jim Waldron, Chief Clerk, Comments on the Generational Change" by, **James Waldron** (Clerk's Office for the District of New Jersey Bankruptcy Court).
- Update on the 2015 Local Rule courtesy of **Jeanne Naughton** (Clerk's Office for the District of New Jersey Bankruptcy Court).
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The Lawyers Advisory Committee to the District of New Jersey Bankruptcy Court:
Chief Judge Gloria Burns and Judge Kathryn Ferguson

Officers: Mark Hall (LAC Chairman); William Mackin (LAC Vice-Chair); and Jeanne Naughton (Secretary)

LAC Members and Liaisons: David Beslow, Carrie Boyle**, Ramanjit Chawla, Andrew Finberg, Ginny Fortunato, Martha Hildebrant, Anthony LaBruna, Stacey Meisel, Lou Modugno, Brian Nicholas*, Jerry Poslusny, Albert Russo, Shoshana Schiff*, Robert Schneider, Michael Viscount, and Catherine Youngman.

Ex-officio Members: Hon. Rosemary Gambardella, Hon. Novalyn Winfield, Hon. Michael Kaplan, Hon. Christine Gravelle, Hon. Andrew Altenburg, Hon. Vincent Papalia, James Waldron, and Mohung Wong,

This is the first edition of *The Absolute Priority* published by the Lawyers Advisory Committee for the District of New Jersey Bankruptcy Court (the "LAC"). The LAC plans to publish quarterly newsletters in electronic format and will distribute the quarterly publication to all cm/ecf users registered with the District of New Jersey Bankruptcy Court's electronic filing system.

The LAC encourages all members of the bar to submit articles, news, congratulatory messages, event updates, and any other topics of interest for consideration for publication in *The Absolute Priority*. Please direct all questions and submission to The Absolute Priority to cboyle@mpadlaw.com.

* *The Absolute Priority* LAC Subcommittee Member

** *The Absolute Priority* LAC Subcommittee Chairwoman