

October 3, 2017

Cincinnati, Ohio

# 2017 Sixth Circuit Appellate Practice Institute

The Cincinnati-Northern Kentucky and Dayton Chapters of the Federal Bar Association and the Litigation Section of the Federal Bar Association, in cooperation with the United States Court of Appeals for the Sixth Circuit, will sponsor the 2017 Sixth Circuit Appellate Practice Institute on October 3, 2017 at the Renaissance Hotel in downtown Cincinnati. The seminar will provide an opportunity for practitioners to hear directly from several of the Sixth Circuit Judges, court staff, and leading appellate attorneys about how to practice effectively before the Sixth Circuit. The Practice Institute topics include the following:

**How to Win a Case From a Judge's Perspective** - A panel of Sixth Circuit and trial judges, along with the chair of the Federal Judicial Center Foundation Board, will lead this practical presentation that will be of interest to a broad range of litigators.

**Preserving Issues for Appeal** - A panel of experienced trial and circuit judges will discuss how to protect your record to preserve issues for appeal.

**Recent Developments in Class Action and Other Aggregate Litigation** - A national class action expert provides an update in this evolving practice area which includes both class action and multi-district litigation.

**A Look Inside the Court** - How court processes work. The Sixth Circuit Clerk of Court will provide a rare behind-the-scenes glimpse of how the clerk's office works and how to avoid common mistakes.

**Effective Brief Writing** - A panel of circuit judges will discuss practical tips for effective written advocacy in the Sixth Circuit.

**Effective Oral Advocacy** - Another panel of circuit judges will give an inside look into how judges prepare for and evaluate oral arguments and how counsel should approach their argument.

**Get Admitted!** - For those not yet admitted at the Sixth Circuit, a unique opportunity will be provided to be sworn in by the Chief Judge.

Approval requested for 7.0 hours of CLE by Ohio, Kentucky and Tennessee.

## INSTITUTE TOPICS:

- > Judge's Perspective on How to Win a Case
- > Effective Writing
- > Preserving Issues
- > Effective Oral Argument
- > Class Action Practice
- > A Look Inside the Court and Technological Changes
- > Other Hot Topics

Renaissance Hotel  
36 East 4th Street  
Cincinnati, OH 45202



## Keynote Speaker:

The featured luncheon speaker will be Chad A. Reader, United States Department of Justice Acting Assistant Attorney General for the Civil Division. Mr. Reader oversees the largest litigation division in the Department of Justice, including 1,100 lawyers with responsibility for representing the United States in a wide array of civil litigation, including challenges to Presidential Executive Orders, Congressional statutes, and federal agency actions.

October 3, 2017  
**SIXTH CIRCUIT PRACTICE INSTITUTE**  
Renaissance Hotel  
36 East 4th Street  
Cincinnati, Ohio 45202

- 8:00 YLD Breakfast with Chief Judge R. Guy Cole, Jr.**  
*Scott McIntyre, Esq.*  
*Baker Hostetler LLP*
- 8:30 Registration and Continental Breakfast**  
*Moderator: James M. Wagstaffe, Esq.*  
*Kerr & Wagstaffe LLP*
- 9:00 Welcome, United States Magistrate Judge Michael J. Newman**
- 9:10 Recent Developments in Class Action and Other Aggregate Litigation**  
*Professor Arthur R. Miller, New York University School of Law*  
*Introduction: K. Scott Hamilton, Esq.*  
*Dickinson Wright PLLC*
- 10:10 Criminal Appellate Practice Update**  
*Mary Beth Young*  
*Appellate Chief, U.S. Attorneys' Office Southern District of Ohio*  
*Claire Cahoon Curtis*  
*Attorney, Federal Public Defender's Office for the Northern District of Ohio*  
*Kevin Ritz*  
*Assistant U.S. Attorney, Memphis Tennessee*  
*Moderator: Kevin Schad, Appellate Director, Federal Public Defender's Office for the Southern District of Ohio.*
- 11:10 Morning Break**
- 11:25 Behind the Scenes at the Clerk's Office and How to Avoid Common Mistakes**  
*Deborah S. Hunt*  
*Clerk, United States Court of Appeals for the Sixth Circuit*  
*Introduction: Timothy G. Pepper, Esq.*  
*Taft Stettinius & Hollister LLP*
- 12:15 Lunch with Chad Readler, Acting U.S. Assistant Attorney General for the Civil Division**  
*Introduction: John G. McCarthy, Esq.*  
*Smith Gambrell & Russel, LLP*
- 1:15 How to Win a Case From a Judge's Perspective**  
*Honorable Julia S. Gibbons*  
*Judge, United States Court of Appeals for the Sixth Circuit*  
*Honorable John K. Bush*  
*Judge, United States Court of Appeals for the Sixth Circuit*  
*Honorable Michael R. Barrett*  
*Judge, United States District Court Southern District of Ohio*
- 2:15 Preserving Issues for Appeal**  
*Honorable Deborah Cook*  
*Judge, United States Court of Appeals for the Sixth Circuit*  
*Honorable Michael R. Barrett*  
*District Judge, United States District Court Southern District of Ohio*  
*Honorable Thomas M. Rose*  
*Senior Judge, United States District Court Southern District of Ohio*  
*Moderator: Honorable Michael J. Newman*  
*Magistrate Judge, United States District Court Southern District of Ohio*  
*Introduction: Michael W. Hawkins, Esq.*  
*Dinsmore & Shohl LLP*
- 3:15 Afternoon Break**
- 3:30 Effective Brief Writing**  
*Honorable Karen Nelson Moore*  
*Judge, United States Court of Appeals for the Sixth Circuit*  
*Honorable Jeffrey Sutton*  
*Judge, United States Court of Appeals for the Sixth Circuit*  
*Honorable Bernice B. Donald*  
*Judge, United States Court of Appeals, Sixth Circuit*  
*Moderator: Pierre H. Bergeron, Esq.*  
*Squire Patton Boggs (US) LLP*
- 4:30 Effective Oral Argument**  
*Honorable R. Guy Cole*  
*Chief Judge, United States Court of Appeals, Sixth Circuit*  
*Honorable John M. Rogers*  
*Judge, United States Court of Appeals for the Sixth Circuit*  
*Honorable Jeffrey S. Sutton*  
*Judge, United States Court of Appeals for the Sixth Circuit*  
*Moderator: David B. Rivkin Jr., Esq.*  
*Baker Hostetler LLP*
- 5:30 Swearing in and Cocktail Reception**  
*Sponsored by Litigation Section of Federal Bar Association*

## Speakers and Panel Members

**Honorable Michael R. Barrett.** Michael R. Barrett was appointed judge of the United States District Court for the Southern District of Ohio in 2006. Judge Barrett was in private practice from 1984 before joining the federal bench. He also served several years in the Hamilton County Prosecutor's Office. Judge Barrett received both his undergraduate and law degrees from the University of Cincinnati, where he chaired the Board of Trustees before taking the bench.

**Pierre H. Bergeron.** Pierre H. Bergeron is a partner at Squire Patton Boggs (US) LLP in Cincinnati, where he serves as the chair of the Appellate and Supreme Court Practice group. He previously clerked for the Honorable David A. Nelson of the Sixth Circuit, and received his JD from the University of Virginia and his BA from Centre College. Mr. Bergeron has recently argued before the U.S. Supreme Court, and he has argued before state and federal appellate courts across the country. Mr. Bergeron is a member of the planning committee for the Sixth Circuit Practice Institute and has previously served on the Sixth Circuit Rules Committee.

**Honorable John K. Bush.** John K. Bush was appointed to the Sixth Circuit in 2017. Before appointment to the Sixth Circuit, Judge Bush was in private practice with the law firms of Bingham Greenebaum Doll in Louisville, and Gibson, Dunn & Crutcher in Washington D.C. Judge Bush also clerked for J. Smith Henley, Senior Circuit Judge, U.S. Court of Appeals, Eighth Circuit, and was one of former President Reagan's attorneys during the Iran-contra investigation. Judge Bush received his undergraduate degree from Vanderbilt University and law degree from Harvard.

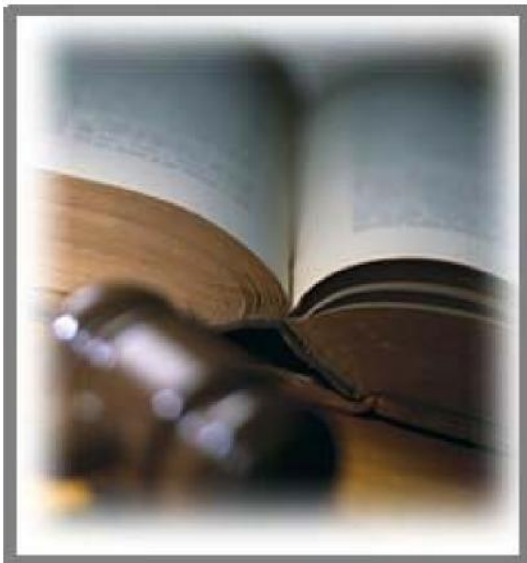
**Honorable R. Guy Cole, Jr.** R. Guy Cole was appointed to the Sixth Circuit in 1995 and assumed the role of Chief Judge in August of 2014. He earned his undergraduate degree from Tufts University and his law degree from Yale Law School. Before appointment to the Sixth Circuit, Judge Cole was in private practice with the law firm Vorys, Sater, Seymour and Pease, served as a trial attorney with the Department of Justice's Civil Division, and was a U.S. Bankruptcy Judge for the Southern District of Ohio.

**Honorable Deborah L. Cook.** Deborah L. Cook was appointed to the Sixth Circuit in 2003. Following graduation from law school until her election to the Ohio Ninth District Court of Appeals, Judge Cook was a member of Akron's oldest law firm, Roderick, Myers & Linton, as well as the firm's first female partner. She then served four years as a state appellate judge on the Ohio District Court of Appeals covering Summit, Wayne, Medina, and Lorain counties. Judge Cook was elected to the Ohio Supreme Court in 1994 for a six-year term beginning in 1995. She was re-elected in November 2000 and served until her appointment to the Sixth Circuit in 2003. Judge

Cook received both her undergraduate and law degrees from the University of Akron.

**Clair C. Curtis.** Claire Cahoon Curtis is an Attorney with the Federal Public Defender for the Northern District of Ohio, where she represents criminal defendants at the trial level and on appeal. She is one of less than thirty attorneys in the State of Ohio certified as an appellate law specialist.

**Honorable Bernice B. Donald.** Bernice B. Donald was appointed to the Sixth Circuit in 2011. Judge Donald earned her undergraduate degree and J.D. from the University of Memphis. Prior to joining the Court of Appeals, Judge Donald served on the U.S. District Court for the Western District of Tennessee, served as Judge of U.S. Bankruptcy Court for the Western District of Tennessee from June 1988 to January 1996, where she was the first African American woman to serve as a federal bankruptcy judge. When she was elected to the General Sessions Criminal Court in 1982, she became the first African American woman to serve as a judge in the history of the State of Tennessee.



**Honorable Julia S. Gibbons.** Julia S. Gibbons was appointed to the Sixth Circuit in 2002. Prior to her appointment to the Sixth Circuit, Judge Gibbons served as United States District Judge for the Western District of Tennessee from 1983 - 2002. She was Chief Judge of the district court from 1994-2000. Prior to becoming a federal district judge, Judge Gibbons served as judge of the Tennessee Circuit Court for the 15th Judicial Circuit and was Legal Advisor to Tennessee Governor Lamar Alexander. She was also in private practice at the Memphis firm of Farris, Hancock, Gilman, Branan & Lanier and served as law clerk to the late Hon. William E. Miller, Circuit Judge,

United States Court of Appeals for the Sixth Circuit. Judge Gibbons received her undergraduate degree from Vanderbilt University and law degree from the University of Virginia School of Law.

**K. Scott Hamilton.** K. Scott Hamilton is an attorney and member of the law firm Dickinson Wright PLLC in Detroit, Michigan where he specializes in Appellate and Commercial litigation. After graduating from Central Michigan University and earning a J.D. from Wayne State University Law School, he clerked for the Hon. Cornelia G. Kennedy of the Sixth Circuit. He has been a life member of the Sixth Circuit Judicial Conference since 2008 and is a member of the Sixth Circuit Practice Institute Planning Committee.

## Speakers and Panel Members

**Michael W. Hawkins.** Mike Hawkins is a partner in the Labor & Employment and Appellate Practice Groups at Dinsmore & Shohl LLP. Mr. Hawkins has argued two cases in the U.S. Supreme Court and many in-state and Federal Courts of Appeals. He is a graduate of the University of Kentucky College of Law and also received his undergraduate degree from the University of Kentucky. Mr. Hawkins is an arbitrator and mediator on the AAA panel.

**Deborah S. Hunt.** Deborah S. Hunt is the Clerk of Court for the Sixth Circuit. Previously, Ms. Hunt served as the Clerk of Court for the U.S. Bankruptcy Court in Connecticut. She has worked with the judiciary for 26 years. Prior to her work with the judiciary, Ms. Hunt worked in private practice, as a public defender, and as an attorney for the Navajo Nation with the Department of Justice. Ms. Hunt received her Bachelor's Degree and J.D. from the University of Kentucky.

**John G. McCarthy.** John G. McCarthy is a partner and leader of the New York office litigation practice for Smith, Gambrell & Russell LLP. He has tried more than 30 cases across the country. He is a graduate of Fordham University Law School and also received his undergraduate degree from Fordham. He is a former Federal Bar Association Circuit Vice President and past president of the FBA's Southern District of New York Chapter. Mr. McCarthy Chairs the FBA's National Litigation Section.

**M. Scott McIntyre.** Scott McIntyre is a partner at Baker Hostetler LLP and leads the firm's employment and labor practice in the Cincinnati office. He has served as lead counsel for numerous appeals in the Sixth Circuit and in several other Federal Courts of Appeal. He served as a law clerk to the Honorable Daniel A. Manion of the U.S. Seventh Circuit Court of Appeals and as law clerk to the Honorable Karl S. Forester, then Chief Judge of the U.S. District Court for the Eastern District of Kentucky. Mr. McIntyre serves as president of the Cincinnati and Northern Kentucky Peck Chapter of the Federal Bar Association. He is appointed by the Ohio Supreme Court to its Commission on the Rules of Practice and Procedure for the State of Ohio, where he is a member of the appellate law committee. Mr. McIntyre is a member of the planning committee for the Sixth Circuit Practice Institute.

**Arthur R. Miller.** Arthur M. Miller is one of the nation's most distinguished legal scholars in the areas of civil litigation, copyright, unfair competition, and privacy. Mr. Miller joined NYU School of Law from Harvard Law School, where he not only earned his law degree but also taught for 36 years. He won an Emmy for his work on PBS's *The Constitution: That Delicate Balance* and served for two decades as the legal editor for ABC's *Good Morning America*. Mr. Miller has argued cases in all of the US Circuit Courts of Appeals as well as several before the US Supreme Court. Mr. Miller has served as a member and reporter of the Advisory Committee of Civil Rules of the Judicial Conference of the United States by appointment of two chief justices of the United States, as reporter and adviser to the American Law Institute, and as a member of a special advisory group to the chief justice of the US Supreme Court. Mr. Miller is also coauthor with Charles

Alan Wright of Federal Practice and Procedure, the legendary treatise in the field.

**Honorable Karen Nelson Moore.** Karen Nelson Moore was appointed to the Sixth Circuit in 1995. She earned her undergraduate degree from Radcliffe College and her law degree from Harvard Law School. Judge Moore was a law clerk to Hon. Malcolm Wilkey, United States Court of Appeals for the District of Columbia Circuit, then to Hon. Harry

Blackmun, Supreme Court of the United States. Immediately prior to joining the federal bench, Judge Moore was a Professor at the Case Western Reserve University School of Law from 1977 to 1995.

**Honorable Michael J. Newman.** Michael J. Newman is a U.S. Magistrate Judge for the Southern District of Ohio with chambers in Dayton. Prior to being appointed to the federal bench, Judge Newman was a partner in the Cincinnati office of Dinsmore & Shohl LLP, where he served as Chair of the Labor & Employment Appellate Practice Group and was in charge of the firm's Sixth Circuit pro bono program. He clerked for Sixth Circuit Judge Nathaniel R. Jones from 1998-1999. Judge Newman has served as President of both the Cincinnati and Northern Kentucky Peck and Dayton Chapters of the Federal Bar Association, and on the FBA's national Board of Directors. He is the current President of the National FBA. Judge Newman is a member of the planning committee for the Sixth Circuit Practice Institute.

**Timothy G. Pepper.** Timothy G. Pepper is a partner at Taft Stettinius & Hollister LLP and leads its litigation practice in the Dayton office. Mr. Pepper represents clients in all phases of civil litigation, frequently in federal court. Mr. Pepper is a U.S. Navy veteran. He is a graduate of The Ohio State University College of Law where he also received his undergraduate degree. He serves on the Executive Committee of the Dayton Chapter of the Federal Bar Association. Mr. Pepper is a member of the planning committee for the Sixth Circuit Practice Institute.

**Chad A. Readler.** Chad A. Readler was appointed Acting Assistant Attorney General for the Civil Division on January 30, 2017. Mr. Readler oversees the largest litigating division in the Department of Justice. Each year, the Civil Division's 1,100 lawyers represent some 200 client agencies in approximately 50,000 different matters. The Civil Division represents the United States in a wide array of civil litigation including challenges to Presidential Executive Orders, Congressional statutes, and federal agency actions as well as federal benefit programs. Before joining the Department of Justice, Mr. Readler handled complex civil and criminal litigation matters, with an emphasis on appellate litigation, as a Partner with Jones Day. At Jones Day, Mr. Readler successfully argued before the United States Supreme Court, the Ohio Supreme Court, and lower appellate courts. Mr. Readler also served as a law clerk to Judge Alan Norris of the U.S. Court of Appeals for the Sixth Circuit. He earned his undergraduate degree and law degree from the University of Michigan.



## Speakers and Panel Members

**David B. Rivkin Jr.** David B Rivkin Jr. is a partner at Baker Hostetler where he is co-leader of the firm's national appellate practice. Mr. Rivkin has extensive experience in constitutional, administrative and international law litigation and has been involved in numerous high-profile cases. He has served as lead counsel for states challenging the constitutionality of legislation before the U.S. Supreme Court and has argued in multiple Courts of Appeal. Mr. Rivkin has developed and implemented legislative, regulatory and litigation initiatives for two presidential administrations. He is a former Associate General Counsel at the U.S. Department of Energy and Associate White House Counsel. He is a frequent commentator and guest on TV and radio shows including ABC, CBS, NBC, CNN, Fox News, NPR and PBS. Mr. Rivkin is a graduate of Columbia University School of Law and holds a M.A. and B.S.F.S. from Georgetown University.

**Kevin Ritz.** Kevin Ritz is Criminal Appellate Chief and Special Counsel to the U.S. Attorney in the Western District of Tennessee, where he manages the office's appellate and collateral review litigation. He has written over 120 appellate briefs and argued 28 cases in the federal courts of appeals. He serves on the Sixth Circuit Criminal Pattern Jury Instruction Committee, and has served as the Sixth Circuit representative on the Department of Justice's Appellate Chiefs Working Group. Kevin has a B.A. and J.D. from the University of Virginia and an M.S. in Foreign Service from Georgetown University. He clerked for Sixth Circuit Judge Julia Gibbons.

**Honorable John M. Rogers.** John M. Rogers was appointed to the Sixth Circuit in 2001. He received his B.A. degree from Stanford University and his J.D. from the University of Michigan. Prior to his appointment, Judge Rogers was a professor of law at the University of Kentucky beginning in 1978. From 1974 until 1978, he was an attorney in the Appellate Division of the Department of Justice where his work involved preparation of briefs and presentation of oral argument in the U.S. Courts of Appeals, and drafting of Supreme Court briefs, on behalf of numerous federal agencies.

**Honorable Thomas M. Rose.** Thomas M. Rose was appointed to the United States District Court for Southern District of Ohio in 2002. He received his undergraduate degree from Ohio University and his law degree from the University of Cincinnati College of Law. He served in the United States Army Reserve, was in private practice in Ohio, and served in the Greene County Prosecutor's Office. Before appointment to the federal bench in 2002, Judge Rose was a judge on the Greene County Common Pleas Court for over a decade

**Kevin Schad.** Kevin Schad is the Appellate Director for the Federal Public Defender's office for the Southern District of Ohio. Mr. Schad handles all appeals from the Southern District Defender's office, as well as all non-capital habeas cases, petitions for certiorari to the United States Supreme Court, and select other appeals from within the Sixth Circuit. Mr. Schad is a graduate of the Ohio State University, and completed his law degree at the University of Cincinnati College of Law. Mr. Schad has handled in excess of 450 appellate cases throughout the country. Mr. Schad is a member of the Sixth Circuit Jury Instruction Committee. Mr. Schad is a member of the planning committee for the Sixth Circuit Practice Institute.

**Honorable Jeffrey S. Sutton.** Jeffrey S. Sutton was appointed to the Sixth Circuit in 2003. Judge Sutton earned his B.A. from Williams College and his LL.B. from the Ohio State University College of Law. Following graduation from law school, Judge Sutton served as a law clerk to the Honorable Thomas Meskill, of the Second Circuit, and as a law clerk to Justices Lewis Powell and Antonin Scalia of the Supreme Court. In addition to engaging in the private practice of law in Columbus, Ohio, where he specialized in appellate litigation, Judge Sutton also served as the Solicitor for the State of Ohio from 1995 to 1998.

**Mary Beth Young.** Mary Beth Young is Appellate Chief for the U.S. Attorneys' Office for the Southern District of Ohio. Ms. Young supervise criminal and civil filings in the Court of Appeals and coordinates District's appellate practice with other divisions of the Department of Justice. Young became an Assistant United States Attorney in 2012 in Columbus after serving two years as a Special AUSA. Prior to joining the District, Young was in private practice in Columbus and served as a Visiting Assistant Professor at the Moritz College of Law. Young received her B.S. from the University of Kentucky, her M.S. from Georgia Tech, and her J.D. from the University of Chicago. Following law school, Young served as law clerk to Judge David Sentelle of the United States Court of Appeals for the D.C. Circuit, then to Justice Antonin Scalia of the United States Supreme Court.

**James M. Wagstaffe.** James M. Wagstaffe is partner and co-founder of Kerr & Wagstaffe LLP and handles a diverse range of litigation matters and also leads the firm's successful Federal Practice Group. His practice focuses on complex litigation, professional and governmental representation, will and trust disputes, legal ethics, and First Amendment matters. Mr. Wagstaffe is the author of the *The Wagstaffe Group Practice Guide: Federal Civil Procedure Before Trial* (Lexis Nexis, 2017) and currently serves as a member Chair of the Federal Judicial Center Foundation Board, appointed by the Chief Justice of the United States Supreme Court. For more than 30 years, Mr. Wagstaffe has been responsible for development and delivery of various annual forums, seminars, webinars and workshop sessions directed at educating Federal Judges and their respective clerk staffs on Federal law.

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## Registration for the Seminar

Please register and pay to attend this seminar with the link below. We expect this event to sell out, so you will want to register early. Registration includes breakfast, lunch and reception.

**[REGISTER HERE](#)**

or copy this link into your browser – <https://www.eventbrite.com/e/fba-6th-circuit-practice-institute-tickets-36659871663>

## Application information for the Sixth Circuit

If you are not already admitted to the Sixth Circuit and you would like to be admitted, there is a unique opportunity to be sworn in at the end of the Practice Institute by the Court.

The application and instructions for admission can be found on the Sixth Circuit's website at:

<http://www.ca6.uscourts.gov/court-forms/Attorney%20Admissions>

The application fee is \$231. Please make checks payable to "Clerk, U.S. Court of Appeals, Sixth Circuit."

Applicants who want to be sworn in by the Court at the Institute need to have their application completed by Friday, September 15th, two weeks prior to the event.

*Please note that the \$231 payment is not included in the Sixth Circuit Practice Institute registration and should be sent directly to the Sixth Circuit with the application. When mailing the application and fee, please indicate on the application or in a cover letter that you want to be sworn in at the Sixth Circuit Practice Institute on October 3, 2017.*