

A VIEW FROM THE BENCH: DOS AND DON'TS OF MOTION PRACTICE

JOANNA I. TABIT, JUDGE
13th Judicial Circuit ~ Kanawha County

DOs

1. Know the court rules and be courteous to the judge's staff. Sure, social media is changing the way most people communicate, but it's still all about relating to people. Nothing can replace the significance of picking up the phone or stopping by to talk with the judge's staff about courtroom rules before your court appearance. Although court staff can't provide legal advice, if you're nice, they can give you helpful tips about rules that can help you avoid traps. Check with your judge regarding procedures and personal preferences. I like courtesy copies of motions. We don't have e-filing yet. When you file a motion late, it won't get scanned in and might not get to the file. If you want to be sure I get it and read it, get me a courtesy copy.

2. Check your citations—and then check them again. There is nothing that drives a law clerk—or a judge—crazier than an incorrect citation. It's difficult to take an argument, and the lawyer giving the argument, seriously when we can't find your case.

3. Be organized. Be on time to Court and make sure you meet all the filing deadlines. If you're late to a hearing or miss a filing deadline, you hurt your client and your own credibility as a practitioner.

4. Be prepared. Make sure you know the case inside and out. Make sure you've got it all together before you walk into court. If you don't know the answer, own it!

Know the relevancy of the cases you rely on. It's very convenient when you can use prior case law or arguments in new litigation. But it sure is embarrassing when you don't know that the case you're relying on has been overturned modified, vacated, or remanded, or another case with an identical fact pattern exists that better supports your position, and you missed your opportunity to use it. Always confirm whether the case you're citing is good law before citing it. Anticipate and address cases that weaken your argument by highlighting factual differences and relevancy.

5. Be professional and civil. Lawyers always should be zealous and passionate advocates for their clients, but to be effective, the zeal and passion have to be properly channeled. Too often in the heat of battle, lawyers devolve from arguing about issues to arguing about personalities- attacking an opposing party or opposing lawyer's character, sometimes rudely. Don't do it! Address your arguments professionally AND to the court, **NOT EACH OTHER!**

Snide comments and snarky remarks may seem clever when you write them, but they rarely look good in print, and they never impress a court. In fact, more often such tactics backfire against the attacker, hurting that lawyer's most precious asset – credibility. As the old saying goes, “you catch more flies with honey than with vinegar.”

6. Be selective. Think strategically. Motion practice, like any other pretrial procedure, is a tactic and should be thought of as a means to an end—the successful resolution of the case for your client. For any tactic to be successful, you must always focus on the bigger picture: will a "win" in the short-term help or hurt your chances for ultimate success?

Just because you can file a motion does not mean that you should. Carefully choosing when and when not to engage in motion practice can be the difference between moving a case forward quickly toward a successful end and an expensive and wholly ineffective boondoggle. Again, such choices often directly affect the lawyer’s most-prized asset – credibility.

7. Be focused. If you choose to file a motion, focus on the most important bases for relief. As a general rule, you should focus on no more than two to three themes for any motion (irrespective how many grounds for relief you may have). Too many themes dilute the power of your best themes and often distract and confuse the audience - the judge. Lawyers too often feel the need to raise every single argument no matter how tangential or likely to contribute to ultimate success. Often this is borne of fear that omitting or minimizing any point, no matter how trivial, could leave them open to later criticism if the motion is not successful. But, let's face it, if the fifth or sixth most important point is the one that ultimately carries the day (assuming the court actually reads and meaningfully considers it), your prioritization was probably off from the start.

8. Be concise. They call it a “brief” for a reason! Judges are busy and have a lot to read. One way to show judges that you respect their time and the difficulty of their job is by taking great care to write motions and related briefs in a clear and concise manner. In this context, know your audience. And know that your audience has several other cases with substantive motions set the day and may not take kindly to your motion to exceed the page limit for your “brief” (note quotation marks). Show your judge that you understand and appreciate the difficulty of the job by spending the extra time to express your points succinctly and effectively.

To grab the reader's attention, lead with strength. State why you should be entitled to the relief you seek (or why your opponent should not) right up front, on the first page and preferably in the first paragraph. Throw out the canned goods – we all know the summary judgment standard!

We know that you have a lot to say, but despite our best efforts we may not have time to get to it all. We understand that you need a full legal memo of law on an issue but condense your memo into a 2-3 page motion with the highlights and primary authorities. That way when we’re pressed for time, we can pick up that motion and get a meaningful understanding of the issues.

9. Prepare sound Orders. When directed by the court, prepare orders reflective of the judge’s findings and conclusions. They should read like an Order, not like a brief. In *Taylor v. Dept. of Health and Human Res.*, 237 W., Va. 549, 788 S.E.2d 295, 303-04 (2016), the State Supreme Court had harsh words for the trial court for signing an order submitted by counsel which was, let’s say, “inartfully drafted.” I won’t sign an Order like that so don’t submit it, and you sure don’t want to be the lawyer that did. Pertinent language from that opinion follows:

We pause before we begin our analysis of the foregoing to address the circuit court's June 13, 2014, omnibus order, which primarily forms the basis of this appeal and the difficulties which the order presents. Recognizing of course that this order was prepared by respondents' counsel and merely executed and entered by the circuit court, we would be remiss if we failed to caution the lower courts regarding the risks attendant to adopting and entering—wholesale—orders prepared by counsel. We recognize the common practice of requesting attorneys to prepare proposed orders for consideration by the court while a matter is under advisement and, in general, find nothing untoward about this

process. We caution circuit courts, however, that the burden of issuing an order which meets this Court's requirements, which requirements are designed to permit meaningful appellate review, ultimately remains on the circuit court. It is incumbent on the trial court to determine if the submitted order accurately reflects the court ruling given that it is well-established that "[a] court of record speaks only through its orders [.]" *State ex rel. Erlewine v. Thompson*, 156 W.Va. 714, 718, 207 S.E.2d 105, 107 (1973). With respect to summary judgment, this Court has stated that "the circuit court's order must provide clear notice to all parties and the reviewing court as to the rationale applied in granting or denying summary judgment." *Fayette Cty. Nat'l Bank v. Lilly*, 199 W.Va. 349, 354, 484 S.E.2d 232, 237 (1997), overruled on other grounds by *Sostaric v. Marshall*, 234 W.Va. 449, 766 S.E.2d 396 (2014).

Having reminded our lower courts of their obligations relative to entry of an order granting or denying summary judgment, we find it necessary to admonish counsel regarding preparing and tendering over-reaching orders which fail to succinctly identify and address the critical factual and legal issues. The order prepared by respondents contains seventy pages and 105 separately delineated paragraphs which contain, in large part, nothing more than a thicket of argumentative rhetoric. Respondents' tendered order consists entirely of their version of the disputed facts and advocated inferences, upon which what little legal analysis it contains teeters precariously. Sections entitled "conclusions of law" are little more than one-sided rhetorical diatribes.

The order is similarly scattershot on the legal issues presented and concomitant legal analysis. Imbedded throughout the order are multiple legal determinations, any one of which may be dispositive of a particular claim, notwithstanding the fact that the order summarily concludes that summary judgment was granted simply due to the absence of a genuine issue of material fact and the presence of qualified immunity. Parties do themselves little favor by tendering such heavily partisan orders to the circuit court which fail so demonstrably to articulate a cogent outline of the claims subject to disposition,

the undisputed facts pertinent to the analysis, and the legal basis therefor. This Court strongly disfavors such “kitchen sink” orders inasmuch as they present a substantial impediment to comprehensive appellate review.

The order tendered by respondents is so confounding that the effect is to leave this Court struggling to comprehensively discern upon which specific bases the summary disposition was awarded such as to guide our discussion. Accordingly, in addressing petitioners' assignments of error, we find it expedient to approach each cause of action separately and place the myriad issues before the Court into their proper context relative to the causes of action asserted.

(footnote omitted)

10. PROOFREAD! Sure, we all make mistakes, and typos and misspellings inevitably happen. But don't rely on spell-check or your dictation software to clean up errors. If you proofread, you won't submit a “kitchen sink” order that is a “thicket of argumentative rhetoric.” *See #9, supra.*

11. EMBRACE TECHNOLOGY. These are powerful tools. God knows that we wouldn't have made it through the pandemic without it. Also, **GET OUTSIDE YOUR COMFORT ZONE** and get comfortable with virtual formats that are now essential to the practice of law. If you're not familiar with a judge's practice in the COVID and post-COVID world regarding a preference for in-person or virtual hearings, call the judge's office.

DON'Ts

1. Don't be late. I repeat this to highlight its importance. The judge may (and in all likelihood will be, present company excluded, of course 😊) be late. You cannot be. It sets a bad precedent if you can't make a court proceeding on time. Even better—be 10 minutes early. On time is late and early is on time.

2. Don't procrastinate. Be mindful of your scheduling order and any briefing schedule as well as rules regarding the timing of filing responses and replies and follow them. Don't be a lawyer who faxes or emails responses the night before or even worse, the morning of the hearing.

3. Don't ask the law clerk for legal advice or an opinion. A question for a law clerk should never start, "Should I..." In all likelihood not only will the law clerk be unable to give you an answer, he or she could be annoyed that you have even asked the question. Do your homework before you make the call. Law clerks do not want to hear from you until you have exhausted all other possible avenues. Still, they want to be helpful and if you're professional and courteous, they will be.

4. Don't interrupt the judge, opposing counsel, or witnesses. This too may seem self-evident, but it's something that I consistently see. Constant interruption not only delays the proceeding but agitates the judge and prevents him or her from doing the job—whether it is fact-finding, deciding a motion or making any type of judicial determination. Lawyers are passionate about their clients and the legal issues of the case by nature, but you need to learn to curb that passion when someone else, whether the judge, your adversary, or a witness, is speaking. Mutual respect can take you a long way in a court of law.

5. Don't push it. Don't ask for more than what has been ruled by the court. Resist the urge to include simple words like "with prejudice," "without prejudice," or voluntarily award yourself attorneys' fees and court costs in a judgment order. If you didn't specifically address the issue with the Judge, don't assume that it's ok to ask for extra relief just because you think it's important. The court record serves numerous purposes, including protecting litigants from selfish or last-minute requests. Make a list of all relief sought from the court and make sure it is put on the record in open court. This will protect your client, the judge, and your reputation.

6. Don't cite web addresses in lieu of providing copies of documents. There is no guarantee that we can access the site or that the site won't disappear/change before the Court has a chance to review it.

7. Don't submit Orders directly to the court unless directed to by the Court or all efforts have been exhausted. On any given day, there's a lot of mail coming through a judge's chambers. The last thing the judge's office needs to do is calendar when the 5-day deadline for

objections under *W.Va. Trial Court Rule 24.01(c)* has passed, and the order you submitted can be entered. Many attorneys do this as a matter of course. It's fine to do so when directed by the court. Understandably, despite counsel's best efforts, language in an order can't always be agreed upon, and the order must be submitted under the rule. The latter situation should be the exception, not the norm.

Judge Maryclaire Akers

Judge Akers is a Kanawha County native 1995 bachelor's degree in Journalism from West Virginia University. She graduated from the West Virginia University College of Law in 1999.

Judge Akers practiced law in Kanawha County for over twenty years, most of that time in the Kanawha County Prosecuting Attorney's Office where she served as Chief of Staff, Special Assistant United States Attorney and a Senior Assistant Prosecutor. Judge Akers also worked as an associate with Charleston firm Pullen, Fowler, Flanagan, Brown & Poe, has served as General Counsel to the West Virginia Ethics Commission, and as a West Virginia Assistant Attorney General.

Judge Akers work as a prosecutor has been profiled on Sirens Media for ID Channel; Nightmare Next Door, Season 2, Episode 216 "Writing on the Wall"; Sirens Media for ID Channel; Evil Kin, Episode 102 "The Mallo Family"; The Killing Season; Season 1, Episode 6 "A Killer on the Road"; Talos Films; Heart of Darkness; and Season 1, Episode 1, "Lust for Murder". She has also appeared on CNN, Tonight with Don Lemon, July 27, 2015; "The Shocking Story Of A Woman Who Fought Back Against Suspected Serial Killer – And Lived To Tell About It".

Judge Akers has served on the community boards of Daymark, Charleston Area Medical Center and Harmony Health. She has served on boards of the West Virginia Prosecuting Attorneys Association, the West Virginians Against Violence Committee and the West Virginia Center for Children's Justice. Judge Akers also served as a Commissioner for the West Virginia State Elections Commission, 2020-2021. She has also been a presenter and trainer for West Virginia Handle With Care, law enforcement agencies and other Assistant Prosecuting Attorneys.

Judge Akers was named a West Virginia Rising Star by Virginia & West Virginia Superlawyers Magazine, 2009. She was awarded a United States Attorney Award for Distinguished Service, United States Attorney, SDWV, 2011 and was named as one of West Virginia's Lawyers & Leaders by West Virginia Executive Magazine and West Virginia University College of Law in 2020.

Judge Joshua D. Butcher
Seventh Judicial Circuit ([Logan County](#))

Judge Butcher was born and raised in Logan County and is a 1998 graduate of Beth Haven Christian School. He earned his bachelor's degree in accounting from Marshall University in 2003 and his law degree from the West Virginia University College of Law in 2006.

Judge Butcher worked a short stint in private practice and served as a Logan County Assistant Prosecuting Attorney. Most notably, he served eight years as Law Clerk to Judge Roger Perry in Division One of the Seventh Judicial Circuit (Logan County) – the seat Judge Butcher now holds after his election to the bench in 2016. He is a former president of the Logan County Bar Association and current member of the West Virginia Judicial Association.

Judge Butcher is married to Jamie Dempsey Butcher and they have two daughters. He met his wife doing community theatre in Logan County in 1999 and you can still find his family and him on the local stage from time to time. Judge Butcher is currently the youngest circuit judge in West Virginia.



Judge H. Charles Carl, III
Twenty-Second Judicial Circuit ([Hampshire](#), [Hardy](#), and [Pendleton](#) Counties)



Judge Carl is a native of Springfield in Hampshire County. He is a 1980 graduate of Hampshire High School, attended the University of Pittsburgh at Johnstown, earning his bachelor's degree in 1984, and earned a juris doctorate degree from Capital University Law School in 1987.

Judge Carl was appointed to the Twenty-Second Judicial Circuit (Hampshire, Hardy, and Pendleton Counties) by Governor Tomblin in 2013, was elected in 2014, and re-elected for a full term in 2016. Carl was appointed by the Supreme Court of Appeals as Judge in the Business Court Division in 2015. He also sits as Drug Court Judge of the South Branch Valley Drug Court, and has served by temporary assignments as a Justice on the Supreme Court of Appeals. He is the current President of the WV Judicial Association.

He began the practice of law in 1987 when he joined his grandfather, Wm. H. Ansel, Jr., in the Romney law firm Ansel and Carl, which eventually grew into Carl, Keaton, Frazer & Milleson, PLLC. While engaged in the general practice of law, Carl was also general counsel for the Bank of Romney, where he served as a director for over twenty years. He was president of the South Branch Valley Bar Association from 2006 till his appointment to the bench.

A member of the Hampshire County Athletic Hall of Fame, he resides in Romney with his wife, Lisa. They have three children and one grandchild.

Judge David R. Janes

Sixteenth Judicial Circuit ([Marion County](#))

Judge Janes was born in Chicago, Illinois, and grew up in Fairmont, West Virginia. He has a 1973 bachelor's degree from West Virginia University and earned a law degree from Vanderbilt University in 1977.

He practiced law in Fairmont for twenty-three years as a partner in the firm of Tharp, Liotta, Janes and Yokum. He was elected to the bench in the Sixteenth Judicial Circuit (Marion County) in 2000 and re-elected in 2008 and 2016.

During his years in private practice, he tried numerous civil and criminal cases and served as a member of the Board of Governors of the West Virginia State Bar, as special counsel to the West Virginia Judicial Investigation Commission, and as president of the Marion County Bar Association.

He is a member of the West Virginia Judicial Association and serves on its Education Committee. He is an adjunct lecturer at the West Virginia University College of Law, where he teaches a class in pretrial litigation to second- and third-year students.

Judge Janes is married and has three grown children.

Judge Lora Dyer

Fifth Judicial Circuit ([Calhoun](#), [Jackson](#), [Mason](#), and [Roane](#) Counties)



A southern West Virginia native, Judge Dyer earned her bachelor's degree in sociology (with an emphasis in anthropology and minors in chemistry and biology) from Marshall University in 2000. She spent a summer studying environmental engineering abroad at the University of Newcastle Upon Tyne in England. She earned her law degree from West Virginia University College of law in 2003.

She began her legal career in 2003 as an intern to the late Supreme Court Justice Joseph P. Albright. Following her West Virginia Supreme Court of Appeals experience, she served as a law clerk to Thirteenth Judicial Circuit (Kanawha County) Judge James C. Stucky. Thereafter, she served as an Assistant Prosecuting Attorney in Kanawha County until she joined the law firm of Hendrickson & Long PLLC. In private practice she gained experience in a wide range of civil and criminal matters. She also served as law clerk to Thirteenth Judicial Circuit Judge Carrie L. Webster.

Judge Dyer was elected in May 2016 to a seat in the Fifth Judicial Circuit (Calhoun, Jackson, Mason, and Roane Counties). Her term began January 1, 2017. At the time of her election, she was General Counsel to West Virginia State Auditor Lisa A. Hopkins and Senior Deputy Commissioner of the West Virginia Securities Commission.

Judge Dyer is a member of the West Virginia Judicial Association and the West Virginia Bar Association. She is a member of Phi Alpha Delta Law Fraternity, International, and The Judge John A. Field Jr. American Inns of Court. Additionally, she is a member of Pilot International and volunteers with her local chapter on various community service projects. She lives with her family in Jackson County.

Judge Gregory L. Howard
Sixth Judicial Circuit ([Cabell County](#))

Judge Howard was elected in May 2016 to a seat in the Sixth Judicial Circuit (Cabell County). He took office on January 1, 2017.

He has a 1995 bachelors of business administration degree from Marshall University and a 1998 law degree from the West Virginia University College of Law.

Judge Howard was the first law clerk to the four circuit judges in Cabell County. After one year as a clerk, he became an Assistant Cabell County Prosecutor. As an assistant prosecutor, he helped establish the Cabell County Juvenile Drug Court in 1999.

From 2004 until he took the bench, he was a partner at the law firm of Bailey & Howard, handling civil and criminal matters. He also served as a member of the West Virginia House of Delegates from 2002 to 2006 and was chief counsel to West Virginia Secretary of State Betty Ireland.



Justice John A. Hutchison was appointed to the Supreme Court in December 2018 by Governor Jim Justice and elected on June 9, 2020, to a term ending December 31, 2024.

He previously was appointed to the bench in the Tenth Judicial Circuit (Raleigh County) by then-Governor Gaston Caperton in 1995, and he was elected to that seat in 1996 and re-elected in 2000, 2008 and 2016.

As a circuit judge, Justice Hutchison was a member of the Supreme Court's Mass Litigation Panel and was a judicial representative on the Commission to Study Residential Placement of Children. He was appointed several times to sit on the Supreme Court when a Justice has been recused. He also served as treasurer, secretary, vice president, and president of the West Virginia Judicial Association and was chairman and vice-chairman of the association's legislative and pensions committees.

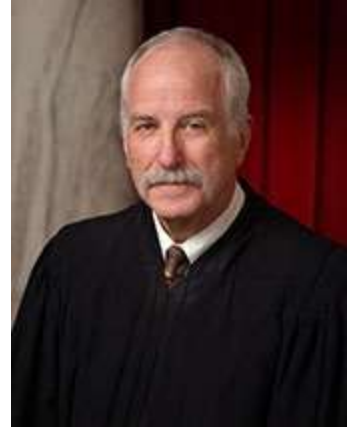
He was born and raised in Beckley, West Virginia. He has a 1972 bachelor's degree in history and political science from Davis and Elkins College and a 1980 law degree from West Virginia University College of Law.

He was assistant basketball coach at Davis and Elkins College (1972 to 1974) and was dorm director and assistant basketball coach at Concord University (1975 to 1977). After law school, he practiced law in Raleigh County for ten years with Gorman, Sheatsley and Hutchison. In 1991 he opened the Nationwide Insurance West Virginia Trial Division Office and served as its managing trial attorney for four years. From 1974 to 1975 he also taught and coached in Raleigh County Schools. During holiday and summer breaks from school he worked as a construction laborer, a carpenter's helper, and a framing carpenter, and one summer he worked as a steelworker on the bridge construction over the New River in Hinton, West Virginia.

Justice Hutchison was a registered official with the Secondary School Activities Commission in soccer and baseball for approximately fifteen years and also has served on the board of directors at the Beckley-Raleigh County YMCA.

He is a West Virginia Bar Foundation Fellow and the recipient of the 2019 Liberty Bell Award and the 2019 Champion of Children Award.

He is married to Victoria Lagowski Hutchison and they have two children and two grandchildren.



Judge H.L. Kirkpatrick, III
Tenth Judicial Circuit ([Raleigh County](#))



Judge H.L. Kirkpatrick III is a native of Beckley and grew up in the coalfields of Fayette and Raleigh Counties. He is a graduate of Woodrow Wilson High School, a 1973 graduate of the University of Kentucky, and 1976 graduate of West Virginia University College of Law.

He practiced law in Wyoming and Raleigh Counties for more than twenty years until he was appointed to the bench in the Tenth Judicial Circuit (Raleigh County) in 1995 by then-Governor Gaston Caperton. Judge Kirkpatrick was elected in 1996 and re-elected in 2000, 2008, and 2016. During his time in private practice, he was with the law firm of Bailey, Worrell and Viars in Pineville, beginning in 1976; in a solo practice in Pineville from 1979 to 1985; and at Ashworth & Kirkpatrick from 1985 to 1995.

Judge Kirkpatrick is a two-term member of the Judicial Investigation Commission and has served as vice-chairman of the Judicial Realignment Committee of the West Virginia Judicial Association. He currently is vice-chairman of the Judicial Education Committee of the Judicial Association and chairman of the Region Three Fatality Review Team. He helped organize in Beckley the first LAWS (Legal Advancement for West Virginia Students) program, in which the Supreme Court hears an argument docket in front of local high school students at a county courthouse. He also hosted a Media and the Courts conference in Beckley.

Judge Kirkpatrick was named Outstanding Young Man of West Virginia, President of the Pineville Lions Club, President of the Central Wyoming County Chamber of Commerce, and received the Distinguished Service Award from Wyoming County Jaycees, all in 1983. He was a member of the Common Council, Town of Pineville, from 1982 to 1985. He was President of the Beckley Lions Club in 1988. He was an instructor at Beckley College's Paralegal Department from 1988-1991, a member of the Board of Trustees of Beckley College from 1988 to 1990, and Chairman of the Board of Trustees of Beckley College and the College of West Virginia from 1990 to 1995. He was a member of the Board of Directors of the Bank of Raleigh in 1995.

He and his wife, the former Rebecca Nicewonder, have twin sons.

Judge Michael D. Lorensen

Twenty-Third Judicial Circuit ([Berkeley](#), [Jefferson](#), and [Morgan](#) Counties)

Judge Lorensen is a native of Morgantown. He has a 1981 bachelor's degree in journalism from West Virginia University and a 1984 law degree from West Virginia University College of law.

He worked three years as a law clerk for U.S. District Judge Charles Haden in the Southern District of West Virginia before practicing law for twenty-five years in Martinsburg at the firm Bowles Rice. His practice focused on civil litigation, although he also did criminal law and for seven years was a member of the panel of court-appointed attorneys in federal courts.



Governor Earl Ray Tomblin appointed him to the Twenty-Third Judicial Circuit (Berkeley, Jefferson, and Morgan Counties) in 2012 and he was elected in 2014 and re-elected in 2016. He was a member of Governor Tomblin's 2014 West Virginia Intergovernmental Task Force on Juvenile Justice. He was a member of the Judicial Hearing Board, a member of the local rules committee for the U.S. District Court for the Northern District of West Virginia, and a former member of the board of the West Virginia Board of Law Examiners. He formerly served thirteen years on the Shenandoah Community Health Control Board of Directors, including two years as President of the Board. Judge Lorensen and his wife, Maria, have two children.

Judge James A. Matish
Fifteenth Judicial Circuit ([Harrison County](#))



Judge Matish is a native of Owings, Harrison County, and graduated from Shinnston High School. He has a 1975 bachelor's degree in business administration (magna cum laude) from West Virginia University and a 1978 law degree from West Virginia University College of Law.

He had a general law practice in Clarksburg from 1978 to 2000, concentrating in criminal defense work, civic litigation, family law, real estate, and bankruptcy.

He was elected to the Fifteenth Judicial Circuit (Harrison County) in 2000 and re-elected in 2008 and 2016. He has been appointed several times to sit on the Supreme Court when a Justice has been recused from a case.

He is a member of the West Virginia Judicial Association, West Virginia State Bar, and the Harrison County Bar Association. He is past president and vice president of the Harrison County Bar Association, and a founder and past president of the West Virginia Society for Criminal Justice. He has taught at Salem International University and numerous continuing legal education classes at West Virginia University College of Law and at other locations in the state for lawyers, law enforcement personnel, and magistrates. He has served as a judge for the WVU College of Law Moot Court Board.

He and his wife, Peggy, have one daughter.

JAMES P. MAZZONE - BIO

EDUCATION:

- West Virginia University,
College of Law, J.D. Law – 1988 (with honors)
- West Virginia University,
Bachelor of Science, Accounting – 1985 (with honors)
- Weirton Madonna High School – 1981

LEGAL/JUDICIAL CAREER:

Legal

- United States Magistrate Judge, Northern District WV,
Wheeling Point of Holding, 2018- Present
- Circuit Judge, WV First Judicial Circuit, 2001-2018
- Partner, Schrader, Byrd & Companion, Wheeling WV, 1988-2001
- President WVU College of Law, Student Council 1987-1988
- Member WVU College of Law, Moot Court Board
- Member WVU College of Law, Order of the Barristers Honorary

Judicial

- United States Magistrate Judge, Northern District WV,
Appointed May 2018, Sworn in September 2018
- Circuit Court Judge, WV First Judicial Circuit, 2001-2018
(Elected – 2000, Re-elected – 2008 & 2016)
- Chief Judge, WV First Judicial Circuit
2005-2007 and 2012-2014
- Temporary Justice, WV Supreme Court of Appeals (multiple occasions)
- Appointed by Chief Justice as temporary member of WV Mass Litigation
Panel, 2003
- Appointed by Chief Justice as a full time member of WV Mass Litigation
Panel, 2007-2018
- Appointed by Chief Justice to the Special Assignments Panel, WV
Wiretapping and Electronic Surveillance Act, 2006-2012
- Member of the WV Judicial Association, 2000-2018
- Treasurer – WV Judicial Association, 2018
- Judicial Association, Committee Assignments:
Legislative Committee – Chairman (2007-2016)
Nominations Committee

Rules Committee
Special Needs Committee
Pension Committee
Committee on Responding to Unwarranted Attacks on Judiciary

Guest Lecturer

- Wheeling Jesuit University, Wheeling WV
- WV Northern Community College, Weirton WV & Wheeling WV
- Weirton Madonna High School, Weirton WV
- Brooke High School, Wellsburg WV

Admissions

- | | |
|---|------------------|
| - United States Supreme Court, Washington DC | October 12, 2004 |
| - United States District Court, Northern District of WV | May, 1988 |
| - United States District Court, Southern District of WV | May, 1988 |
| - West Virginia Supreme Court of Appeals | May 17, 1988 |
| - West Virginia State Bar Association | |
| - American Bar Association | |
| - Ohio County Bar Association | |

Judge Randal A. Minor

Twentieth Family Court Circuit ([Monongalia](#) and [Preston](#) Counties)



Family Court Judge Randal Minor was born in Morgantown. He has a 1974 bachelor's degree in accounting and a 1981 law degree from West Virginia University, where he was a member of the Law Review and played on the University rugby team.

Judge Minor was elected to the bench in 2008 in the Twentieth Family Court Circuit (Monongalia and Preston Counties) and re-elected in 2016. He previously served as a Magistrate in Monongalia County in 1984.

Immediately before becoming a Family Court Judge, Judge Minor was the director of the Appalachian Center for Law and Public Service at West Virginia University College of Law. For fifteen years he coordinated public service opportunities for law students while providing free legal services to needy individuals throughout a five-county area.

Before coming back to West Virginia in 1994, Judge Minor worked for ten years in Washington, D.C., where he was a law school clinician at Antioch School of Law, a managing attorney of a neighborhood Legal Aid office, and most recently was the director of pro bono programs for the District of Columbia Bar Association. At the beginning of his career, Judge Minor worked in private practice with attorneys Allan Karlin and Regina Charon in Morgantown.

Judge Minor and his wife, Janine Breyel, have four sons who have been very active in sports, music, and theatre. Judge Minor and his wife have coached teams, and have driven many miles in support of their children's activities. The family loves to travel, and together or individually they have travelled throughout the United States and visited a number of other countries on four continents.

Judge Cindy Scott
Seventeenth Judicial Circuit (Monongalia County)

Judge Cindy Scott was elected on June 9, 2020, to the bench in the Seventeenth Judicial Circuit (Monongalia County, Division 2), to fill the unexpired term of Judge Russell M. Clawges, Jr., who retired. Upon taking the oath of office on June 29, 2020, Judge Scott assumed the role of Chief Judge for the Seventeenth Judicial Circuit and will continue serving in that capacity until December 31, 2021.

Judge Scott is a native of Morgantown, West Virginia and graduated from Morgantown High School in 1982. She received a bachelor's degree in Business Administration-Marketing from West Virginia University in 1986, and after a brief career in banking, she returned to school and received a law degree from West Virginia University College of Law in 1994.

Judge Scott began her legal career by engaging in the general practice of law for 12 years, focusing on the representation of defendants in misdemeanor and felony criminal cases and respondents in child abuse and neglect cases, while also serving as a Guardian Ad Litem in child abuse and neglect cases, practicing in Family Court and engaging in Civil Litigation.

From 2006 to 2016, Judge Scott served as an Assistant Prosecuting Attorney with the Monongalia County Prosecuting Attorney's Office, and in 2016, she joined WVU's Division of Diversity, Equity and Inclusion, Office of Equity Assurance, where she addressed discrimination, harassment, and intimate partner violence involving WVU's faculty, staff and students while leading the Prevention and Education Team and reviewing Title IX Case Investigations.

Judge Scott serves as the Judge for the Monongalia County Adult Drug Court, and previously served on the Monongalia County Sexual Assault Response Team (SART), the Monongalia/Preston Counties Violence Against Women Act - STOP Team, the Human Rights Committee for the Monongalia County Youth Services Center, and she worked directly with the Court Appointed Special Advocate Program (CASA).

She and her husband, Todd, live in Morgantown and have two adult children. They regularly attend Kingdom: A Community Church.

Judge Joanna Tabit

A Charleston native, Judge Tabit earned her bachelor's degree in Business Administration from Marshall University in 1983 and her law degree from West Virginia University College of Law in 1986.

She began her legal career in 1986 as a personal law clerk to former Supreme Court Justice Thomas E. McHugh. Following her clerkship, she served as an Assistant and then as Deputy Attorney General of the Appellate Division in the Office of the Attorney General from 1989 to 1992 under the administrations of Attorneys General Roger Tompkins and Mario Palumbo. In 1992, Judge Tabit joined the law firm of Steptoe & Johnson PLLC, where she was a member attorney until October, 2014, when she was appointed to the Kanawha County bench by Governor Earl Ray Tomblin.

Judge Tabit also worked as an Adjunct Lecturer teaching Summer Appellate Advocacy for the West Virginia University College of Law. She is active in professional and civic organizations. Among other things, she has served as Co-Chairman of the Campaign for Legal Aid of West Virginia; served on the Board of Directors for the YWCA of Charleston; chaired the Access to Justice Foundation; served as a member of Board of Governors of the West Virginia State Bar; and served as a Commissioner on the City of Charleston Human Rights Commission. Judge Tabit currently is a member of the Juvenile Justice Commission, serves on the Mass Litigation Panel, and previously served on the Business Court. She also presides over Kanawha County's Juvenile Drug Court.

Judge Tabit is rated AV by Martindale Hubbell and while in private practice, was recognized by Chambers USA as a Leader in the Field with a specialty in commercial litigation. Additionally, she was recognized by The Best Lawyers in America and Super Lawyers in various practice areas. She is a Fellow of the American Bar Foundation and the West Virginia Bar Foundation. Judge Tabit has been recognized as a YWCA Women of Achievement, a "Wonder Woman" by WV Living magazine and was a member of the inaugural class of "Lawyers and Leaders" named by West Virginia Executive and the West Virginia University College of Law.

Judge Susan Tucker

Seventeenth Judicial Circuit ([Monongalia County](#))



Judge Tucker was born in Charleston, W.Va., raised in Parkersburg, W.Va., and came to live in Morgantown, W.Va., in 1966. She received her undergraduate degree in secondary education in 1969, her master's degree in curriculum and instruction in 1972, and her law degree in 1977, all from West Virginia University. She has, since that time, worked in private practice and served in public office in numerous and varied capacities.

In her years of public service, Judge Tucker was elected and served as Prosecuting Attorney of Monongalia County from 1985 to 1995. She also served as Director of the Fraud Investigations Unit of the Workers' Compensation Division of the West Virginia Bureau of Employment Programs from 1995 to 1997. She was elected to Division One of the Seventeenth Judicial Circuit (Monongalia County) in 2008 and re-elected in 2016.

As an attorney in private practice, Judge Tucker represented clients in cases involving personal injury, family law, real estate, probate, bankruptcy, corporate and business law, workers' compensation, and criminal defense. She also has worked both as a solo practitioner and for law firms, representing both plaintiffs and defendants.

Judge Tucker is licensed to practice law in West Virginia and has been admitted to practice before the Supreme Court of Appeals of West Virginia, the United States District Court for the Northern District of West Virginia, the United States District Court for the Southern District of West Virginia, and the United States Bankruptcy Court for the Northern District of West Virginia.

She is a former or current member of the American Bar Association, the West Virginia State Bar Association, the Minnesota State Bar Association, the Kanawha County Bar Association, the Monongalia County Bar Association, the National College of District Attorneys, the National Organization for Victim Assistance, Phi Alpha Delta Legal Fraternity, Student Trial Lawyers' Association, the West Virginia Prosecuting Attorneys' Association, the West Virginia Trial Lawyers' Association, the Association of Trial Lawyers of America, Advisory Council for Visiting Homemakers of Monongalia County, Advisory Council for the Retired Senior Volunteers Program of Monongalia County, Charleston Women's Forum, the Democratic Women's Club, the Professional Women's Council of Morgantown, and Soroptimist International. She is a former member of the Governor's Judicial Advisory Committee and was on the Board of Directors for the North Central West Virginia Legal Aid Society. She has served as a volunteer with the March of Dimes, the Read Aloud Program, Special Olympics, and the United Fund of Monongalia County. She is a recipient of the Outstanding Woman of the Year Award from the Morgantown Jaycees and received the Rape and Domestic Violence Information Center Recognition Award.

Judge Tucker was instrumental in establishing West Virginia's first Victim/Witness Assistance Program. She also was instrumental in the formation of the Monongalia County Bar Association's Committee for Civility and Professionalism, which is dedicated to promoting reforms in attorney conduct both among members of the Bar and between attorneys and the public.