

The Review



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APPEALS COURT CONDUCTS OFF-SITE SITTINGS



Chief Justice Green (center) and Justices Singh (left) and Grant (right), sitting at UMASS-Dartmouth School of Law.



Justices Meade (center), Sullivan (left), and Walsh (right), sitting at UMASS-Amherst.

As part of a continuing effort to broaden public awareness, understanding, and accessibility of the Massachusetts court system, the Appeals Court

conducted a number of off-site sittings during the fall of 2021. The sittings took place at the following locations:

October 7, at UMASS-Dartmouth School of Law (Chief Justice Green, and Justices Singh and Grant).

October 13, at Western New England University School of Law (Justices Milkey, Henry, and Walsh).

November 4, at Massachusetts School of Law (Justices Neyman, Singh, and Grant).

November 9, at Essex Superior Court (Justices Blake, Massing, and Ditkoff).

November 15, at UMASS-Amherst (Justices Meade, Sullivan, and Walsh).

Two Appeals Court court officers and a representative from the Clerk's Office also attended and assisted at each of the off-site sittings. At the law schools and the university, students and faculty were in attendance, while members of the bar and the public attended the Superior Court sitting. Numerous safety protocols were followed, including disinfecting between arguments, social distancing, and mask-wearing for those in close proximity. The remaining Appeals Court Justices continued to hear oral arguments in cases on appeal at the John Adams Courthouse during those months.

The Appeals Court resumed in-person arguments for its September sittings and continues to employ recommended safety protocols.

APPEALS COURT'S NEWEST ASSOCIATE JUSTICE, RACHEL HERSHFANG

"I wanted to be challenged all the time with new subject matter, and that is definitely happening here," is how the newest Associate Justice explains why she wanted to be on the Appeals Court. Justice Rachel Hershfang joined the court in August, 2021, and was inducted at her first sitting in September. She indicated that although her first set of oral arguments required a lot of preparation, the session then quickly was "over. Like a wedding!" Wobbly chair notwithstanding, Justice Hershfang was pleased that her experience that morning was just as she imagined it would be from the other side of the bench. In the months since



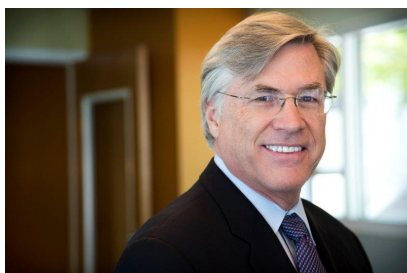
that initial sitting, she has found unexpected pleasure in discovering that everyone at the Appeals Court, from staff to Justices, has been so warm and friendly.

Justice Hershfang received her bachelor's degree from Northwestern University in 1989 and her master's degree in English from the University of Chicago in 1992. She received her juris doctor from Yale Law School in 1995. After law school, Justice Hershfang worked for four years at the law firm of Ropes & Gray, then worked for eight years prosecuting both State and Federal crimes in the Middlesex District Attorney's office and the office of the United States Attorney, the latter as both an Assistant United States Attorney and as the Deputy Chief of the Organized Crime Drug Enforcement Task Force. She then worked for thirteen years at the Securities and Exchange Commission where she continued her work in remedying wrongs, work she says was "gratifying."

Justice Hershfang enjoys traveling the world with her family (her husband and she have two children, ages 8 and 11 years) -- travel she would have pursued over the last two years (#butCOVID) -- and hopes to resume excursions soon. "I like to go to new places and eat lots of things." As to where she might be headed, Justice Hershfang says that although she loved Cambodia, Botswana, Thailand, and many other of her past stays abroad, she wants to venture to fresh locations like northern Europe, other parts of Africa, and the countries in South America where she has not yet been.

For now though, welcome to the world of the Appeals Court, Justice Hershfang!

EMORY LAW PROFESSOR LECTURES TO APPELLATE COURTS



The Supreme Judicial Court and the Appeals Court were excited to welcome back Professor Timothy P. Terrell of Emory University School of Law, for a virtual, two-part workshop on writing and editing. Kindly reminding us that no one except maybe a parent wants to read the work of the courts, Terrell encouraged each participant to think more like a "writer" than a "lawyer" and to move "beyond logic to coherence and strength."

This was the second time that Terrell has given his opinion writing lecture to the appellate courts justices and staff -- he presented his lectures live in the fall of 2016. Rather than delivering mere isolated writing tidbits that attendees could use in the future, Terrell advised on the broader

fundamental concepts of what constitutes "good legal writing." For example, he encouraged ignorance of writing "rules" such as not splitting infinitives, in favor of the "meta": putting focus before details and providing a roadmap for the analysis. Terrell suggested avoiding default organizations, making the point and structure of the decision explicit, putting old information before new, using the structure of a sentence to clarify its content, and practicing restraint in editing. Terrell emphasized that judges and lawyers alike must be patient and disciplined in identifying the weaknesses in their writing style. To avoid making readers "hate" the author, Terrell advised authors to put themselves in the place of the reader and to be willing to take constructive critiques with humility.

Terrell conveyed these concepts using a multitude of examples and exercises, as well as humor and personal anecdotes. He also provided participants with copies of his written materials and slide show. Those who were unable to attend were able to access the recordings -- and attendees advise anyone looking to improve their writing to view those recordings so they too can benefit from Terrell's insightful and meaningful lectures. *Authored by Pete Conte & Cristen Nagle.*

MASSACHUSETTS HOSTS COUNCIL OF INTERMEDIATE APPELLATE COURT CHIEF JUSTICES



The Chief Justices and retired Chief Justices.



Chief Justice Green (left) and United States Supreme Court Justice Stephen Breyer (right).

In the last week of October, through wind-swept rains, the Council of Chief Judges of the State Courts of Appeal met in Boston for its annual conference, resuming the in-person conference after 2020 was held virtually due to the pandemic. The theme of the 2021 conference, held at the Marriott Courtyard Downtown, was "Declare Your Judicial Independence." Chief Justice Green served this past year on the executive committee of the CCJSCA, and chaired both the annual conference

planning committee and the host committee for the conference. Court Administrator Gina L. DeRossi joined him on the host committee, handling all of the logistical arrangements required by the conference city. The conference offered a variety of educational and social programs for the approximately one hundred Chiefs and retired Chiefs, and the participants also discussed their respective court's experiences during the pandemic, i.e., what was learned, and how those lessons will affect justice going forward.

Some of the topics covered in the educational programs included Judicial Independence: The Cornerstone of Democracy; Reimagining Lawyering in a World on Fire: What Judges Need to Know about the Future of the Legal Profession Post-COVID-19; and Active Liberty: Preserving Constitutionalism, Democracy, and the Rule of Law, the latter a discussion facilitated by Chief Justice Green and featuring SCOTUS Justice Stephen Breyer. The social agenda consisted of an evening reception at Fenway Park, a Boston Duck Tour, and a farewell dinner at the Fairmont Copley Plaza. Results from the evaluations were uniform: terrific topics and outstanding speakers.

The CCJSCA, according to its mission statement, is a collaborative and educational council for intermediate appellate court justices who are responsible for the management and operation of their court in addition to being a justice on the court. Council members' responsibilities include managing the justices and the employees at the courts, budgeting, and maintaining the physical facilities. The organization promotes the improvement of the administration of justice, the rules and methods of procedure, and the organization and operation of intermediate appellate courts by offering a group for consultation and education.



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Editor-in-Chief
Attorney Lynn S. Muster



**MASSACHUSETTS
APPEALS COURT**

John Adams Courthouse



One Pemberton Square
Boston, MA 02108
appealscourt@jud.state.ma.us

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