



THE BULLETIN

PRESIDENT JOAN A. LUKEY
and all LIVING PAST PRESIDENTS
at 60TH ANNUAL MEETING



*A reader's guide
is on the overleaf.*

TEXAS JUDGE RECEIVES O'CONNOR JURIST AWARD

United States Senior District Judge Sam Sparks, JFACTL, Western District of Texas, Austin, Texas, was honored at the 60th annual meeting of the American College of Trial Lawyers as the second recipient of the Sandra Day O'Connor Jurist Award. Created in 2007, the award is given to a jurist who has been obligated to perform his or her judicial duties under unusually difficult or dangerous circumstances.



Judge Sam Sparks

A native of Austin, Judge Sparks received both his undergraduate and law degrees from the University of Texas. Licensed to practice law in 1963 at age twenty-four, he clerked for Federal District Judge Homer Thornberry, then entered private practice. He was inducted as Fellow of the College in 1983. Nominated by President George H. W. Bush, he was confirmed to the federal bench in 1991.

A colorful judge with a robust sense of humor, he once chastised bickering lawyers in his court by observing in an order, “When the undersigned accepted the appointment from the President of the United States . . . he was ready to face the daily practice of law in federal courts with presumably competent lawyers. No one warned the undersigned that in many instances his responsibility would be the same as a person who supervised kindergarten.”

In his career he has tried many high-profile cases, culminating in the case which brought him one of the College’s most prestigious awards.

In presenting the award, O’Connor Award Committee chair and Regent-elect **Trudie Ross Hamilton FACTL**, Waterbury, Connecticut described as follows the circum-

stances that gave rise to the College's selection of Judge Sparks to receive the award.

THE TRIAL OF "THE SYNDICATE"

"Over the past twenty years," Hamilton began, "the United States has struggled to deal with the growing menace of Mexican drug cartels. Our border states face a rising tide of drug trafficking, extortion and murder carried out by prison gangs operating, with apparent impunity, in our cities.

"The Texas Syndicate was Texas's first prison gang. Syndicate membership spread through Texas prisons and on to Texas city streets. The Syndicate is known as the most brutal of the Mexican drug cartels. Membership is for life and violation of the Syndicate strict code is punishable by death.

"In May 2003, twenty key members of the Syndicate, including its leader, were indicted in Austin, Texas on drug trafficking and racketeering and conspiracy charges. These included multiple brutal murders. It was clear from the outset that the trial of this case would present an unprecedented degree of difficulty and danger.

"As the senior judge in the jurisdiction, Judge Samuel Sparks could have assigned this case to another judge, but it was not in Judge Sparks' character to shrink from a task, however daunting. Judge Sparks had a reputation of trying the most dangerous cases himself. He had received death threats before in other drug-trafficking trials. He took on this case with full knowledge of the substantial risk

to himself and his family. The word on the street was that there would be retribution against cooperating defendants, against witnesses and against the trial judge.

"The level of security taken reflected the degree of the danger. Defendants and witnesses were transported to court by armed convoy. An armed helicopter flew overhead. Streets adjacent to the courthouse were blocked off, and US Marshal snipers were positioned on the rooftops. Death threats against the witnesses and Judge Sparks began shortly after the arrests and increased as some defendants entered pleas and agreed to testify against the remaining defendants. Tension and fear pervaded the courtroom. The threat of witness intimidation was ever present.

"Under Syndicate rules, a glare from the accused was a signal to other gang members in the courtroom to kill a family member of a testifying witness. Throughout the trial, US Marshals lined the walls of the courtroom, watching for such code signals.

"The toll on the personal life of Judge Sparks and his family was enormous. . . . Death threats continued for over a year through the trial, convictions and sentencing hearings. Judge Sparks and Melinda [his wife] were offered 24-hour-a-day protection and—this is Texas—were issued revolvers that they carried with them throughout the trial and its aftermath. Even today, Judge Sparks' schedule is known only to a few court personnel.

"The immediate impact of the trial and convictions was that it took

some of the Syndicate's most brutal operators out of commission. But the greatest and most lasting achievement of the Texas Syndicate case is that it demonstrated that, despite the degree of terror and intimidation that the Syndicate exerts, these cases can be tried in open court under the Federal Rules of Evidence to a jury verdict."

A VICTORY FOR THE RULE OF LAW

"It was a victory for the rule of law," Hamilton continued, "a victory that was owed in large part to the courage and commitment of one man, Judge Samuel Sparks.

"We here today to honor you, Judge Sparks, a Judicial Fellow of this College, with one of the most important awards of the College. In recognition, Judge Sparks, of your courage and of your lifetime commitment to the rule of law and the right of trial by jury, the Regents and Fellows of the American College of Trial Lawyers here in Washington, on this our 60th anniversary, proudly confer upon you, Judge Samuel Sparks, the Sandra Day O'Connor Jurist Award."

JUDGE SPARKS' RESPONSE

"My first purpose," Judge Sparks began, "is to simply remind each of us of the privilege that we share and why we are here. My family has a long line of public service. My great-grandfather was a rather famous sheriff. My grandfather was a sheriff and elected Treasurer of the State of Texas. My father was a trial lawyer who was still trying cases when he was seventy-eight



years old. He retired from private practice and then went back to work for the Attorney General to help assist minority lawyers learn to try cases. So it was very easy for me to decide at an early age what I wanted to do with my life.

A CAREER IN THE LAW

“At nineteen, I was in law school and following graduation was appointed a law clerk to the Honorable Homer Thornberry, . . . [and to] show you how times have changed, in 1963 he had dockets at El Paso, Waco, Del Rio and Austin. We now have thirteen judges handling those divisions. I never left the courtroom—twenty-seven years of trying lawsuits, and this will be my nineteenth year as a judge.

“Like you, I believe in our judicial system, and I believe in trial by jury. On reflection, when I was thinking about the words I was going to say, I realized how privileged I was to try lawsuits at the best of times against extraordinarily talented and competitive and skilled lawyers. In the 1960s in the Texas state courts, trying lawsuits was very different from the way it is today. For example, a defense lawyer’s fee for answering, preparing and trying a case in District Court with general jurisdiction was less than one hour’s of your charging today, \$400. You could defend the railroad for \$250, but you got a pass that would allow you a discounted fee. I never met a lawyer who used it.

“The work product objection meant that you had to guess who the witnesses would be, and you could not depose any retained expert without a court order. Therefore, there was little discovery. The rules required

the trial lawyer to think quickly and to prepare thoroughly for trial and yet be flexible and imaginative in an effort to persuade the jurors.

“You went to trial with two or maybe three depositions, your preparatory notes, the motions that you had prepared and filed during trial and your requested instructions. You cross-examined witnesses who you never heard of before their name was called, and the information you had was their direct testimony. As a result, trials were short, two or three days, and your file was usually less than three inches thick.

“You learned quickly how to ask your questions, or, more important, how not to ask them, when and when not to object, when to stop your cross-examination and what to say to the jurors at the end of the evidence. You tried as many cases as opportunity provided, simply to cover your salary, your expenses and hopefully give a profit to your firm.

“But thinking back, I realized we tried as many cases as possible because we wanted to try the cases. We wanted to be in the courthouse performing in front of the judges, the juries and the lawyers and the lawyers who would come to watch you and the attending public. Even though Texas is a big state, there were not many courthouses in Texas in small or large cities that they did not have an opponent who was experienced, competitive and ready to go to trial. A few lawyers in Texas had national or state reputations, but most of the lawyers that you saw across the state were competitive as well. I really believe that most of these trial lawyers would have tried these cases even if they

were not paid, and of course sometimes they weren’t. . . .

“Trial lawyers in those days had great respect for the judges. I don’t know about the rest of you, but in Texas the district judges had to be at least 100 years old, mean and would pounce on any lawyer, young or old, experienced or not, when they made a mistake. They considered themselves the teachers of the trial law and in many ways they truly were.

“Trial lawyers were professional and respectful for each other. Anybody that was at the courthouse saw how much they believed in the system. And the golden rule was you were only as good as your last case, so you stood thoroughly prepared for each trial. If you were fortunate, like I was, and had a role model who assisted you in learning how to try lawsuits who was a Fellow of this College, it was easier. But if not, your classroom was the courtroom, and you observed lawyers and you learn the hard way.

“So in preparing these remarks . . . the first point I wanted to make [was] how privileged I was to watch and compete over the years with these trial lawyers. I know I selected the best of all professions and have been privileged to be a trial lawyer, and my point to you is that you should feel privileged, too.”

THE LIFE OF A FEDERAL JUDGE

“When you become a federal judge,” Sparks continued, “your expectations are that you’re going to sit in a beautiful courtroom, a lovely chambers and you’re going to have important cases, and Fellows of the College will be on either side,

and they will entertain you with their competence and wit. Nobody tells you about the cases involving *pro se* litigants, tax protesters, the mentally ill, the state and federal prisoner lawsuits. Nor do they tell you about the dangerous criminal defendants you may be sentencing, or the threats that you and your family members will get.

“And they don’t tell you how rich people think you are because of all the lands people file against you in the county and state land department. And I think most are like myself. We’re not prepared when you open a letter one day and it’s written in the blood of someone that you’ve sentenced who tells you how he’s going to kill your children and your grandchildren with the address and telephone number of everyone in that letter. And when the marshal and FBI come in and say that there may be a contract out

on your life and that a deputy marshal should stay with you twenty-four hours a day, you think, Well, you know, I don’t know that they pay you enough for this job.

A TRIBUTE TO HIS WIFE

“It certainly doesn’t take long to learn how to live a little bit more carefully. And yet, to be honest, I would have never continued with these responsibilities had it not been for my incredible partner. She manages our security. She protects my backside and she has stood with me through all of the trouble. I had a serious accident right after we married. She pushed me in a wheelchair for eighteen months to try lawsuits all over the state, and she has no fear. Without her strength and commitment, I would have returned to trying cases a long time ago as a lawyer. So thanks.

“In 1983, I was honored . . . to be a member of this College, and now you present me with this special award, and I am and will be forever grateful. But I do wish all of you to know and realize that you’ve given me this award simply for doing my job. In my part of the country, every federal judge and state judge has the same duties with the same risks and problems that I’ve faced and continue to face. So in part, I accept this award for all of those judges who go to work every day and to do their jobs, notwithstanding the risk and perils that they never imagined or dreamed they would have when they became a judge, to protect the Constitution and our way of life, including trial by juries.

“Thank you very much.”



COLLEGE ELECTS NEW OFFICERS AT 60TH ANNUAL MEETING IN WASHINGTON

Gregory P. Joseph of New York, New York was installed as the College’s new President, succeeding **Joan A. Lukey** of Boston, Massachusetts.

Thomas H. Tongue of Portland, Oregon was chosen as President-Elect.

Chilton Davis Varner of Atlanta, Georgia will serve as Treasurer.

J. Donald Cowan, Jr. of Raleigh, North Carolina will serve as Secretary.