

Seventh Circuit Day: A Great Idea, Carried Out Well

BY ALAN J. BORSUK

As Mariana Calvo Argus, a second-year law student, put it, “It felt like this *event*.” Argus was describing “Seventh Circuit Day,” as it came to be known—a daylong set of events on September 25, 2025, at Marquette Law School’s Eckstein Hall, when judges of the U.S. Court of Appeals for the Seventh Circuit held oral arguments and took part in several programs for students and the public.

A key goal of the day was to give law students opportunities to observe the appellate court in action and to hear from the judges. The engagement of the Marquette Law School community was extensive. In particular, the six cases argued before three judges in the Law School’s Lubar Center were divided into three hourlong sessions, of two arguments each, such that about 300 students were able to attend and observe one of the sessions.

In the estimation of many students and faculty members, the day was both educational and motivating. Afterward, Kaya Dreger, a first-year student, said that the court’s visit furthered her interest in career paths involving advocacy in court. Observing arguments before three federal judges underscored for Dreger how cases involve “real, tangible people” and how provisions of the U.S. Constitution come alive in real cases.

The cases that were heard

The Seventh Circuit panel hearing arguments consisted of Chief Judge Diane S. Sykes, Judge Frank H. Easterbrook, and Judge Michael B. Brennan. Judge Michael Y. Scudder joined the panel for the afternoon programs.

The six cases argued to the court touched on substantial issues. Some examples: In *Public Interest Legal Foundation, Inc. v. Wolfe*, No. 24-3258, the central issue—whether the district court was correct in refusing to compel the State of Wisconsin to provide voter lists to an interested nonprofit

entity—presented both statutory and constitutional questions under federal law. *Ruderman v. Kenosha County*, No. 24-2939, concerned whether the federal Trafficking Victims Protection Act applied to civilly detained immigrants, awaiting removal (deportation) or a removal hearing, who were required to perform cleaning duties at the detention facility. And in *United States v. Watson*, No. 24-2432, appellant’s arguments included that the government’s collection of the defendant’s DNA violated the Fourth Amendment and that a federal criminal statute violated his Second Amendment rights.

Calvo Argus, the second-year student, said, “Just getting to see it live” was valuable. She described it as “a unique experience—and a very beneficial one.” Dreger, the first-year student, said that some of her classmates were taken aback by how assertive some of the judges were in questioning lawyers during the oral arguments. Frequently, the judges interjected into the lawyers’ arguments with questions or criticisms, as is common in appellate courts. But Dreger thought this added to the sense of importance of the proceedings, as well as her feeling of being motivated by the experience.

Chad Oldfather, professor of law, said, “My impression was that the students found it to be a valuable experience, and it was certainly one that they were discussing well after the arguments were over. And the lessons they learned that morning, as well as ones they’ve learned in the months and years leading up to it, were reinforced by the judges’ afternoon Q&A session with the students. There’s always value in having judges underscore the lessons that we try to impart in the classroom.”

Advice on effective appellate advocacy

The afternoon Q&A session was a panel discussion, moderated by Professor Anne Berleman Kearney and attended primarily by upper-level law students taking Appellate Writing and Advocacy.



Seventh Circuit Judge Frank Easterbrook (second from right) makes a point at a continuing legal education session in Eckstein Hall on September 25, 2025; other participants included Professor Chad Oldfather (standing) and Judges Michael Brennan, Diane Sykes, and Michael Scudder.

Judge Sykes started the discussion by emphasizing the centrality of briefs in the appellate process; she characterized the written word as forming 95 percent of persuasive advocacy on appeal. Oral argument then amplifies, tests, and probes the strengths and weaknesses of the parties' arguments. Her advice included: Tell the facts in story form. Make the factual narrative efficient, readable, and quickly understandable—like a good magazine article. Keep in mind that judges are generalists who need to ramp up quickly on the facts and procedural history.

Judge Easterbrook said that in organizing a brief, lawyers should think about the best set of arguments supporting why a client should win on appeal. That might be different from the arguments in the trial court. Explain why a client has a good legal theory. The judges generally agreed that many briefs are too wordy and too lengthy. Make your point directly, Easterbrook said, and don't fall into acting on how easy writing on computers makes it to add more words. As for oral argument, he emphasized how much an advocate can learn by *listening* to the questions the judges ask and then engaging with the judges' evident interests.

The judges emphasized to the law students the value of limiting the number of issues presented on appeal, in order to be able to develop the arguments adequately and to concentrate the court's attention. The "fifth issue" has pretty well never won an appeal, Judge Brennan observed. He also advised lawyers to prepare for oral arguments through a moot court process. It will force a lawyer to focus

on challenging questions in advance of possibly hearing them in open court.

Dialogue in an appellate courtroom and beyond

Following the Q&A session with students and turning to practicing lawyers, Professor Oldfather moderated a program in the Law School's Lubar Center for some 200 practicing lawyers. It was an opportunity for relatively informal dialogue with the appellate judges—and *dialogue* was a central term that the judges used in describing their work. Judge Brennan said that *dialogue* describes not only the oral argument process but the duties of the judges more broadly. The judges are involved in dialogue with other judges, dialogue with courts across the country and at different levels of the judicial system, dialogue with legislative branches and other parts of the government, dialogue with the legal academy, and dialogue with thought leaders outside the court system. In considering a specific case, appellate judges are aware of the ways others are listening to and communicating with them and vice versa.

Judge Easterbrook, with extensive experience as a law professor, said a lot of people think that what judges do is similar to the work of legal scholars. "That's not what judges do," he said. "Judges solve a party's problem. They don't provide abstract principles and discussion." He said, "Legal issues grow out of the real world, not from legal debates." And when as a judge you have a problem in front of you, he said, "you bring your own jurisprudence to it," but you don't just decide what seems right.

Judge Scudder, whose visit to the Law School earlier in the year to deliver the Hallows Lecture had helped inspire Professor Oldfather's approach to the session, said he wants to know the background and context of a case that is before him. That sometimes includes looking into the legislative history of a statute ("it's not a sin" to do that, he said) and reading news coverage from the time a law was passed to try to gain more understanding of what legislators were thinking.

Judge Brennan said that a phrase that judges should keep in mind is "self-abnegation"—setting aside personal interests and beliefs. Judges should stick to their judicial role, he said, and when they go beyond it, "that's where problems occur." He said that, in considering cases, judges should ask if this is something they should be deciding or need to decide.

Seeing the law in action

Looking back on the day, Professor Rebecca Blemlberg said, "Students very much appreciated the opportunity to witness oral argument before the

Seventh Circuit judges. They were both impressed by the level of preparation put in by the judges and lawyers and heartened that the arguments unfolded more as conversations than canned remarks or sound bites." She added, "The students had the sense that they witnessed professionals making real efforts to understand positions and reasoning, a type of 'argument' often lacking in public and political discourse."

For Joe Yamat, a second-year law student, both the formal session of the court and the informal occasions to talk with some of the judges were valuable. He noted that it was particularly relevant to his Appellate Writing and Advocacy course that semester. He was impressed to see the quality of the work of the attorneys who presented oral arguments to the court and to realize how much the judges were concerned about the long-term impact of their work.

And he said he was impressed that leaders of the appeals court and the Law School agreed to bring the court to Eckstein Hall and by how well the events of the day were carried out. ■

"Behind the Scenes" of Organizing a Visit by an Appellate Court

BY ANNA FODOR

The following ran on the Marquette Law School Faculty Blog on November 13, 2025. It was one in a series of six posts capturing aspects of the Law School's Seventh Circuit Day, held earlier in the semester. Anna Fodor is assistant dean of students and adjunct professor of law.

What we hope you saw: An exciting early-semester announcement that oral arguments before the Seventh Circuit would take place in Eckstein Hall on September 25, 2025; a smooth registration process; and on the "day of," insightful lines of questioning during argument and various post-argument programs designed for students and attorneys to learn directly from the judges whose decisions fill our casebooks and support our federal filings.

But, in the nearly four months preceding, here is what was happening: emails, meetings, more meetings, drafts upon drafts, games of phone tag, some mistakes, more emails, brisk walks, smiles, notes, and, at the end of the day, a sigh of happiness and, yes, relief.

It goes without saying that putting together a day like September 25 takes work. This is true for all of our big events at the Law School, from orientation to the National Sports Law Institute's annual conference to PILSgiving to our annual lectures to the Jenkins Moot Court Competition to graduation. Staff and faculty work together to provide a seamless experience for students and guests. In some cases, it starts with a spreadsheet or a checklist from the previous year. The September

Seventh Circuit visit, without recent precedent, started with an email.

For the Seventh Circuit opportunity, the exchange began on April 30, 2025, when the court approached, via email of course, Marquette Law School to propose a sitting at Eckstein Hall for the first time in 13 years. The thread quickly proceeded to involve various parties, including a key court administrator, Associate Dean Christine Wilczynski-Vogel, Dean Joseph D. Kearney, and, certainly not least, then-Chief Judge Diane Sykes, L'84. A late September date was set, the school's calendar was cleared, and we were off to the races.

At the heart of the planning—and really, of all of our work at the Law School—was our students: their interests, availability, and capacity. I don't think it a stretch to say that the most energy was expended on constructing a day that would allow all first-year students and all interested upper-level students to take part (through observation) in the oral arguments. It was, after all, the *raison d'être* for the day in Eckstein Hall. In fact, while the dean and I sometimes have occasion to hop on a phone call to discuss a pressing matter, rarely does that call take place after 9:30 p.m. Proposing an oral argument structure to the court that would allow as many students to attend as possible, however, occasioned just this type of call on Thursday, June 26. It took place after my kid was tucked away in bed, the dishes done, and the dogs taken out for their final walk of the night. Some things are just more important than that night's rewatch of a given episode of *The West Wing*.

Our faculty were involved throughout, especially our legal writing faculty. Other key members included Professor Chad Oldfather (who recently authored the book *Judges, Judging, and Judgment* and who would lead a continuing legal education session featuring the judges), Professor and Director of Clinical Education Anne Berleman Kearney (who would lead a Q&A session with the judges designed specifically for our upper-level students), and our impressive corps of Appellate Writing and Advocacy faculty.

Faculty added sessions to their syllabus, integrated student attendance into their courses, even drafted synopses of the to-be-argued cases. They shifted class times to accommodate student attendance at the oral arguments, encouraged upper-level students to take part in whatever way made sense to them, and attended themselves, all the while aware of what a big impact one such day

could have on a law student. Most lawyers (at least litigators) remember the first time they attended federal appellate arguments. To have it happen in your own law school, while you are a law student? It's special. And faculty understand that.

There were also, of course, the heretofore-untold technical and logistical elements that went into the planning. Associate Dean Wilczynski-Vogel, Assistant Director of Student Affairs Sarah DiStefano, Event Planner Chad Wheeler, Director of Media and Technology Ryan Rau, and Manager of Building Operations Ben Manske, among others, expertly handled these elements.* People contributed in ways that fall outside the corners of their job descriptions or departments, as is so often the case at Marquette Law School, where the mission is less to put square pegs in square holes (if you'll allow the adjustment to the phrase) and more to serve our students and develop the institution, as a whole, in the ways that suggest or present themselves.

For one small and perhaps extreme example, several individuals were involved in the creation of the registration form, which took on a life of its own. Anyone who has had the distinct pleasure of working with a form program such as Qualtrics, Wufoo, or Microsoft or Google Forms knows that there are different ways to build a form, including the creation of "logic" through rules that the creator identifies. But few people—I think—have had the experience of sorting through such possibilities with Dean Kearney. Suffice it to say that, with multiple constituencies, events, and concerns, we went through several drafts of the form before the final version took hold. Guess how many drafts, then add five, and you're a bit closer to the actual number.

So, what's left? Name tags or no? Promote in *Law News* or not? Handheld microphone or lavalier or gooseneck? Sure, these probably seem like trivial matters from an outsider's perspective (and even, at times, from an insider's perspective . . .). But when the goal is perfection, details matter. Was perfection achieved? Maybe not. And yet, on September 25, we hope you saw none of these details, none of the behind-the-scenes minutiae. If that's the case, then I hazard to say, we came as close to achieving perfection as possible. ■

* And I haven't even shared the various decisions and arrangements made by the involved judges, court staff, and security. Their work is tireless and impressive, though maybe not so appropriate for a blog post from the Law School to detail.