

THE JOURNAL OF APPELLATE PRACTICE AND PROCESS

FOREWORD

THE DESK. THE JOB. THE FAR HORIZON.

Like the other twenty-five issues that we have published since I joined *The Journal*, this one began on the fourth floor of the law school, in this office, and at this desk. That's a lot of history for a battered old piece of state-issued furniture to bear.¹ Looking back at the five issues published before I arrived, I see authors who have retired, early supporters who have died, and legal questions whose moments in the spotlight have come and gone. The same would be true of the first five issues published after I joined *The Journal*, and perhaps of the next five after that.

But despite those changes, some aspects of *The Journal* remain as they have always been: Unsolicited articles and essays still come to us from across the appellate community. Prospective authors continue to inquire whether we might be interested in their addressing the next wave of concerns, changes, or improvements likely to affect the work of the appellate courts. And we are still learning with every issue—which is to say with every essay, article, and practice note we read—how broad that work is, how difficult it can be, and how important its results are to those who rely on the appellate courts to interpret and apply the law.

In one respect, however, my relationship with *The Journal* changes even as it remains the same. The milepost marking the point at which I will have spent as long editing *The Journal* as I spent practicing law, once so distant as to be invisible even when

1. There must be far more to its history than I know, because nothing like this desk—squat and dark, its drawers supported by unfinished steel braces that can't ever have looked like a good idea—has been in stock at any office-supply store since 1966. And the feature strip of black plastic that runs around the bottom edge of the work surface seems to place the desk's manufacture somewhere between the end of the Eisenhower Era and the dawning of the Age of Aquarius.

I squinted hard at the horizon, now approaches. It seems, in fact, almost to be racing toward me, each day bringing me closer to the moment at which that marker will begin to recede toward the opposite horizon. But I doubt that I will pause to mark the shift when it occurs, knowing as I do that my work with *The Journal* will continue to pull me toward the future of appellate law.

IN THIS ISSUE

The weight of this issue is concentrated in Professor Johnstone's comprehensive article about the effect of *Citizens United* on a Supreme Court election in Montana. The history of Copper-King corruption against which the new era in Montana campaign financing has begun to play out gives the article an edge that makes it well worth the read. We also have sage advice from Justice Côté to those who have recently become (or those interested in becoming) appellate judges; Ms. Hyman's description of the way in which digging deeper can be the key to winning on appeal; Mr. Galbraith's assessment of the necessity for remand when the trial court neglected to undertake a *Daubert* analysis; and a thoughtful essay by Judge Lipez, who considers the interaction between the history of religious freedom in this country and a recent decision by the United States Supreme Court. I invite you to find the one among these offerings that speaks most directly to you.

NBM

Little Rock

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