On January 10, 2019, the Giles S. Rich American Inn of Court opened the year with a program on agency deference. The program, ***SAS, Chevron Deference, and Auer Deference***, focused on agency deference, emphasizing recent concurrences and dissents as to the application of *Chevron* and *Auer* to rules and proceedings of the USPTO and other agencies.



(Inn President Judge Raymond Chen)

**The Honorable Raymond Chen** of the U.S. Court of Appeals for the Federal Circuit opened the evening’s program with brief remarks introducing the audience to the topic and moderated the discussion. Following his remarks, the **Honorable Katherine O’Malley** joined fellow panelists **Senior Judge Paul Friedman (D.D.C.); Beth Brinkmann (Covington & Burling LLP);** and **Prof. Christopher Walker (Moritz College of Law, The Ohio State University)** (pictured below).



(From left to right, as listed in bold above.)

The panel discussion covered the recent changes to the composition of the Supreme Court and how those changes will impact the application of future agency deference principles. The discussion also covered the recent Federal Circuit veterans appeal, *Kisor v. Wilkie*, which the Supreme Court recently granted certiorari on as to whether they should overrule *Auer* and *Seminole Rock* and replace the doctrine of *Auer* deference with something else.

The discussion was wide-ranging, covering topics such as *In re Aqua Products*, *Auer, Chevron*, and *Skidmore* deference, the addition of Justice Kavanaugh to the court, and the *Kisor* appeal. Professor Walker provided a brief academic rundown of the history and state of administrative deference; Mrs. Brinkmann discussed practice and the sense of the practitioner bar on the topic; and Judge Friedman went into detail on cases and appeals to his court based on deference. Judges O’Malley and Friedman had a healthy dialogue concerning how courts approach issues of deference generally, and the panelists offered prediction on how the Court might react to future rulings on Auer and Chevron deference, and questioned the doctrines’ continued vitality in this court.

A joint meeting between the **Giles S. Rich American Inn of Court** and the **Edward Coke Appellate Inn of Court**, the initial reception and cocktail hour involved lively discussions and cross-pollination of ideas between the Inns, and saw Supreme Court advocates such as Willy Jay of Goodwin Procter (who receently argued the *Helsinn* case before the Supreme Court) rubbing elbows with the judges and clerks of the Federal Circuit in the foyer of the historic Dolly Madison House.



(Cocktail hour brought a packed house.)

If there are any questions or concerns, please feel free to reach out to Kiley White at [whitek@cafc.uscourts.gov](mailto:whitek@cafc.uscourts.gov).