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Northern District of Ohio Chapter

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Federal Bar Association Northern District of Ohio Chapter

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Winter 2013 Issue

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President's Podium



Virginia A. Davidson

by Virginia A. Davidson

If you are new to our Chapter, or to our award winning newsletter, welcome.

Here at the ND Ohio Chapter of the FBA, we're off to a great start in 2013. Our CLE programs are as current and relevant as ever. In addition to our Chapter's plans to introduce webinars in the coming year, we are also partnering with the national FBA organization to produce webinar programming. If you would like to put forth your name to the national organization as a potential speaker, please provide your name, contact information, and speaking topic to Board member Matt Gurbach.

Our Brown Bag Series began in February at the courthouse with an immigration primer. Look also for announcements from our Younger Lawyers Committee, which is planning a new series of fun, themed networking events.

Please check out our other committee links as well. Members are welcome to serve on board committees. If you have an interest in a particular area, contact the committee chair.

Don't miss our new mailing address, featured front and center on our home page.

And as always, if we can serve you better, please let us know.

Gina

Virginia A. Davidson

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Virginia Davidson is a partner at Calfee, Halter & Grisold LLP where she chairs the firm's white collar defense and investigations practice. Virginia is president of the Federal Bar Association's Northern District of Ohio Chapter.

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District Court Clerk's Corner

*by Geri M. Smith*

Budget:

By the time we go to press, the outcome of the sequestration discussions will be known. Will we go over the fiscal cliff, and if so, what impact will that have on the U.S. District Court for the Northern District of Ohio and the service provided by its staff? The Clerk's Office is



Geri M. Smith

currently staffed at 74.4% with 84 deputy clerks onboard at all four court locations. A hiring freeze has been in place, for all intents and purposes, for the last few years. The same holds true for the Office of Pretrial Services and Probation. A recent survey of court units regarding the impact of a significant budget cut on court operations in the event of sequestration reflected that the impacts would impede the Judiciary's constitutional imperative and overarching mission of ensuring equal justice under the law. The impact of reduced information technology expenditures and difficulty in maintaining focus on internal controls with reduced staff were common themes. Almost every court that responded expressed concern over delays in processing the work of the courts under sequestration, as well as, increases in the amount of work unable to be completed due to furloughs and staffing shortages. Examples include; delays in case processing; in case opening, judge assignment; docketing; noticing, entering orders and judgments, and quality control activities; delays in empanelling jurors or the deferral/cancellation of civil jury trials; delays in processing restitution payments to crime victims; reduced public hours of clerks' offices; reduced in-person and telephone assistance to *pro se* litigants, attorneys and the public; the reduction or elimination of attorney training in CM/ECF and the use of electronic courtrooms; delay in filling transcript requests.

Increase to Attorney Admission Fees

At the December Judges' Meeting, the Court approved an increase to the attorney admission fees. Effective January 1, 2013, the regular attorney admission fee will increase from \$216 to \$225 and the *pro hac vice* fee will increase from \$100 to \$120.

New Local Rule for Social Security Review

Rule 16.3.1 Review of Decisions by the Commissioner of Social Security

Pursuant to this Court's authority to issue scheduling orders controlling Administrative Track cases, as provided in Local Rule 16.2(a)(2)(D), and to issue orders governing the powers and duties of Magistrate Judges, as provided in Local Rule 72.1, the following rules should govern the briefing and disposition of reviews of decisions by the Commissioner of Social Security brought under 42 U.S.C. § 405(g).

- (a) **Form of Review.** A civil action brought to review a decision of the Commissioner of Social Security, pursuant to 42 U.S.C. § 405(g), shall be adjudicated as an appeal pursuant to this rule.
- (b) **Summons and Complaint.** The plaintiff shall cause the summons and complaint to be served upon the defendant in the manner specified by Fed.R.Civ.P.4(i), within twenty-one (21) days of the date of filing the complaint with the Clerk of Court. Special disclosure requirements set forth in Local Rule 9.1 must also be followed when applicable.
- (c) **Answer and Transcript.** The defendant shall serve an answer on plaintiff, and file the answer, together with a certified copy of the transcript of the administrative record, within sixty (60) days of service of the complaint.
- (d) **Plaintiff's Brief.** The plaintiff shall file a brief, and serve it upon defendant within thirty (30) days of service of defendant's answer
- (e) **Defendant's Brief.** Within thirty (30) days after plaintiff's brief is filed, defendant shall file a brief which responds specifically to each issue raised by plaintiff, and shall serve it upon the plaintiff.
- (f) **Reply Brief.** The plaintiff may file a brief in reply to the brief of defendant, and serve it upon defendant within fourteen (14) days of the filing of defendant's brief.
- (g) **Length of Briefs.** The brief for the plaintiff shall not exceed twenty-five (25) pages. The brief for the defendant shall not exceed twenty-five (25) pages. The reply brief shall not exceed ten (10) pages.
- (h) **Report and Recommendations.**
 - (1) In any case assigned to a Magistrate Judge pursuant to Local Rule 72.2(b)(1), the Magistrate Judge should issue a Report and Recommendation within two hundred and eighty-five (285) days of the filing of the answer and transcript.
 - (2) The District Judge assigned to the case should adopt, modify, or overrule the Report and Recommendation of the Magistrate Judge within one hundred and five (105) days of its issuance.
 - (3) Whenever possible, a quicker resolution is encouraged in order to provide faster relief to the parties and to avoid rendering the case reportable under the Guide to Judiciary Policy Vol. 18, Statistics, Ch. 5, § 540.50.
- (i) **Magistrate Consent Cases.**

(1) In any case where the parties have consented to have a Magistrate Judge decide the case, the Magistrate should issue an opinion deciding the case within two hundred and eighty-five (285) days of the filing of the answer and transcript.

CJA Panel Attorneys:

Reminder: I just wanted to remind you of the availability and benefits of utilizing the calculating CJA20 Voucher/Worksheet located on our webpage. Use of the worksheet results in fewer errors due to its built in calculating features. The worksheet calculates the in-court and out-of-court hours based on the dates of service entered into the spreadsheet. Mileage is calculated at the proper rate also based on the dates of service entered. The voucher's grand total is also calculated. Submitting the voucher and any documentation through our website's CJA inbox (OHNDdb_CJA@ohnd.uscourts.gov) also makes the process faster. Also available on our website is a seven minute video demonstration.

<http://www.ohnd.uscourts.gov/home/attorney-information/appointment-of-counsel-cja/cja20-voucher-and-information/>

Obtaining Criminal Justice Act Subsection (E) Services without Prior Authorization:

Criminal Justice Act attorneys should also be aware that **the total cost of services obtained without prior authorization (e.g. for investigators, interpreters, etc.) may not exceed \$800 and expenses reasonably incurred** (see also CJA Guidelines § 310.20.30). Once the \$800 limitation has been met by any one or combination of service providers, prior authorization must be obtained from the court, unless counsel meets the exigency requirements of § 3006A(e)(2)(B). The instructions to CJA Forms 21 and 31 clarify this.

18 U.S.C. § 3006A(e)(2) provides:

(2) Without prior request

(A) Counsel appointed under this section may obtain, subject to later review, investigative, expert, and other services without prior authorization if necessary for adequate representation. Except as provided in subparagraph (B) of this paragraph, the total cost of services obtained without prior authorization may not exceed \$800 and expenses reasonably incurred.

(B) The court, or the United States magistrate judge (if the services were rendered in a case disposed of entirely before the United States magistrate judge), may, in the interest of justice, and upon the finding that timely procurement of necessary services could not await prior authorization, approve payment for such services after they have been obtained, even if the cost of such services exceeds \$800.

Pilot Project for Electronic Notice and Service of Pre-Sentence Reports in Criminal Cases:

I reported on this project in my last column. I'm pleased to advise that effective October 15, 2012 this pilot expanded to include all judges in our district. Electronic filing of pre-sentence reports in CM/ECF is now standard procedure in all criminal cases. The Pretrial/Probation Office will next explore filing other reports via ECF, including violation reports. For your easy reference and awareness, I am including my comments from my last column below.

Counsel in criminal cases should be aware that:

- They may receive electronic notice in a particular case that the pre-sentence report will be provided electronically, rather than on paper. Only the cases of a few judges are included in the pilot at this time, although the number of participating judges is being expanded as this is being written.
- Electronic access to the pre-sentence report in CM/ECF is only provided to those who would have received paper copies in the past. The Probation Department identifies the attorneys who should receive notice and access to the pre-sentence report when they enter the report into CM/ECF. If the case has more than one defendant, only the attorney for the defendant named in the report and the U.S. Attorney will receive the electronic notice. The docket entry for that filing will only be available to those attorneys. The public and other attorneys on the case will not be able to view the docket entry.
- The pre-sentence report itself (the PDF document) will be sealed. Because the report is sealed, the document will not become immediately available to the attorneys who receive electronic notice of the filing until the Clerk's Office takes the additional step of "releasing" the document, which makes it available to the attorneys previously identified by the Probation Department as needing access. This additional step may take until the next business day, but will typically be done much sooner, often within a matter of minutes. So, if you have received notice that a pre-sentence report has been entered into CM/ECF, and the system

does not provide access to it immediately, just try again later in the day. Counsel will be sent a second electronic notice when the pre-sentence report is “released” for viewing. If the report remains unavailable for a full business day, please give the Clerk’s Office a call so that we may assist you.

- Please note that because the pre-sentence report will be sealed, you must log into the CM/ECF system with your CM/ECF login and password to retrieve it. You will not be able to access the pre-sentence report by entering only your PACER login and password, as you might with other documents, because the PACER system does not track the necessary information required to establish that you are associated with the case and are eligible to view the pre-sentence report.

Access to Court Opinions via the Government Printing Office:

The Government Printing Office (GPO) consolidates opinions from all courts into one publicly accessible, text-searchable, national database. Providing access to judicial opinions through Federal Digital System allows the judiciary to broadly distribute its work to the public. The opinions from the pilot are already one of the most heavily used collections on the Federal Digital System, with over 5 million retrievals in August alone. The GPO’s system allows for easy and quick searches of written opinions, an essential element of providing meaningful access to the judiciary’s work. See

<http://www.gpo.gov/fdsys/>

Changes to the Miscellaneous Fee Schedules:

At its September 2012 session, the Judicial Conference approved several changes to the miscellaneous fee schedules. Specifically, it approved (1) a new claims transfer fee for the bankruptcy courts; (2) a new general administrative fee for the district courts; (3) two changes to the Electronic Public Access (EPA) fee schedule to adjust for inflation; and (4) increases to three bankruptcy fees to conform with recently enacted legislation.

Regarding the newly established fees, the Conference approved a \$25 fee for the transfer of a claim in a bankruptcy case, which will apply to the approximately 1.6 million claims transferred each year. This fee appears as item 20 on the bankruptcy court miscellaneous fee schedule. The new \$50 general administrative fee for civil cases in district courts will provide some fee parity with the bankruptcy courts, which have applied an administrative fee for many years. This fee appears as item 14 on the district court miscellaneous fee schedule. It does not apply to persons granted *in forma pauperis* status under 28 U.S.C. § 1915. Both new fees become effective **May 1, 2013**.

The Conference also approved two amendments to the EPA fee schedule to adjust for inflation. It agreed to amend both the records search and returned check fees (items III and V of the fee schedule) to make them consistent with similar inflationary increases in the appellate, district, and bankruptcy court schedules. These changes became effective **October 1, 2012**.

Finally, the Conference approved amendments to three fees in the bankruptcy court miscellaneous fee schedule to correspond with an increase – from \$1,000 to \$1,167 – in the Chapter 11 filing fee mandated by the Temporary Bankruptcy Judgeships Extension Act of 2012 (Pub. L. No. 112-121). The three fees are linked to the statutory Chapter 11 filing fee, and therefore needed to be increased. They include item 11, the fee for filing a motion to reopen a Chapter 11 bankruptcy case; item 15, the fee for filing a case under Chapter 15 of the Bankruptcy Code; and item 18, the fee for filing a motion by a debtor to divide a joint Chapter 11 case. The changes became effective **November 21, 2012**.

Federal Rule Amendments:

The following amendments took effect on December 1, 2012:

Bankruptcy Rules 1007, 2015, 3001, 7054 and 7056; and
Criminal Rules 5 and 15, and new Rule 37.

The new rules may be found at: <http://www.uscourts.gov/RulesAndPolicies/rules/current-rules.aspx>

Geri M. Smith was appointed the Clerk of Court for the U.S. District Court Northern District of Ohio on July 1, 1991, having joined the court in 1982. She serves as the chief administrative officer of the court as well as the administrative assistant to the Chief Judge. Smith is a member of the FBA-NDOC Board of Directors.

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The Judge's Gavel: State of the Court



Solomon Oliver Jr.,
Chief Judge

by Solomon Oliver Jr., Chief Judge

I. INTRODUCTION

I am pleased to again have an opportunity, on behalf of the Judges of our court, to address the current state of our court. Last year, in addressing you, I said, “the current state of our court is very good.” I also said to you at that time “that there [is] a relatively serious threat on the horizon—brought on by the ... political and budgetary fight that has been, and is, playing out in Washington.” So what else is new? I am pleased to be able to say again this year that the state of our court continues to be very good. But, the strain on our court caused by major

belt-tightening as a result of this year’s budget and the ominous signs on the horizon regarding

both the national budget and the court’s budget for the new fiscal year starting October 1, creates cause for serious concern. I will talk with you about this later. However, I will now bring you up to date on the state of our current judicial resources and personnel.

II. JUDICIAL RESOURCES AND PERSONNEL

Most of you know that Judge Jeffrey J. Helmick joined the court on June 18, 2012, filling the vacancy on the District Court in Toledo that was created when former Chief Judge Judge James G. Carr took senior status in June, 2010. He was nominated by President Barack Obama in May, 2011, confirmed by the Senate on June 6, 2012, and received his Commission on June 7, 2012. Jeff, I know it took a long time, but I know you feel, and your colleagues feel, it was well worth the wait. Judge Helmick received a B.A. from the University of Michigan in 1983 and a J.D. from The Ohio State University Moritz College of Law in 1988. Prior to his appointment, he was a principal in the law firm of Gamso, Helmick, and Hoolahan in Toledo. Judge Helmick held his ceremonial investiture on October 11, in Toledo.

With Judge Helmick’s appointment, we are up to our full complement of eleven active district judges and seven magistrate judges. In addition, we are fortunate to have four senior judges, David Dowd, Lesley Wells, James Carr and David Katz, as well as one retired-recalled magistrate judge, Verne Armstrong, serving on our court.

III. COURT CASELOAD

Case Filings

For the year ending June 30, total civil filings (traditional and MDL) rose 64%, from 4,258 in 2011, to 6,968 in 2012. The increase was overwhelmingly due to a large increase in MDL case filings which more than doubled, from 1,436 in 2011, to 3,844 in 2012. Traditional civil filings also rose 11%, from 2,822 to 3,125. Currently, the court has 2,355 traditional civil cases pending and an additional 6,946 pending cases in 13 MDL actions. Nearly 6,400 of those case are in Judge Katz’ DePuy Orthopaedics action. Those 13 actions are handled by 9 Judges on our court—really 10 if you count our former colleague, Kate O’Malley, who now serves on the Federal Circuit.

Criminal case filings increased nearly 10%, from 526 to 576, but the number of new criminal defendants fell 6%, from 960 to 903, reflecting the filing of fewer large multi-defendant actions.

Pending MDL Actions	Cases
Carr (MDL 1490)--Commercial Money Center	1
Carr (MDL 1953)--Heparin Products Liability	255
Gaughan (MDL2044)--Vertue Marketing and Sales	14
Gwin (MDL 2001)--Whirlpool	11
Katz (MDL 1742)--Ortho-McNeil	42
Katz (MDL 2197)--DePuy Orthopaedics Inc.	6,396
Nugent (MDL 2220)--Kaba Simplex Locks	14
O'Malley (MDL 1401)--Sulzer	1
O'Malley (MDL 1535)--Welding Rod	2
Oliver (MDL 2003)--National City Corp.	7
Pearson (MDL 2316--Ford Motor Spark Plug and Valve	6
Polster (MDL 1909)--Gadolinium Contrast Dyes	149

Zouhary (MDL 2196)--Polyurethane Foam	47
TOTAL	6,946

IV. BUDGET

As you might expect, the loss of our temporary judgeship reduced our authorized staffing allocation. In addition, the budget crisis has deeply affected the federal judiciary's court units across the country by downsizing through attrition, early retirements and buyouts. So all court units are being called upon to do more with less. Over the past two to three years, the Clerk's Office has been reduced by 10 positions and the Pretrial and Probation Office by 15 Officer positions.

The district's new fiscal year begins on October 1. Typically, the large increase in case filings we experienced this past 12 months would encourage us to anticipate a healthy budget increase in the year ahead. Instead, the continuing national budget crisis all but ensures that our budget will be cut even further. The only question that remains is by how much. We have been informed that we will be operating under a continuing resolution until March. The Administrative Office has stated that courts should anticipate 10-15% across-the-board cuts for the full year. Things will be even worse if Congress cannot reach a deal to reduce the deficit by the end of the year, a "sequester" will trigger \$1.2 trillion in automatic national spending cuts evenly split between defense and non-defense spending that would undoubtedly detrimentally impact the judiciary's budget. In that event, the court, as well as courts all across the country, will have to consider furloughing employees.

V. BUILDING PROJECT

The new Toledo Courthouse Project continues to be on hold due to the national budget crisis.

VI. PROGRAMS

A. Pilot Project for Electronic Notice and Service of Pre-Sentence Reports in Criminal Case

The U.S. Pretrial Services and Probation Department and the Clerk's Office have been working on a pilot project to provide judges and attorneys with electronic access to pre-sentence reports in criminal cases through the CME/ECF system. Some counsel have already been served pre-sentence reports electronically. If the pilot project continues to be successful, we anticipate that electronic filing of pre-sentence reports will become standard in all criminal cases. At this time, there are only a few judges participating in the pilot, but that number is increasing as we become more experienced with the process.

B. Digital Video Recording (Cameras) Pilot Project

The Northern District of Ohio is among 14 district courts participating in the Federal Judiciary's digital video pilot, which allows a limited exception to the ban on cameras and broadcasting of district court proceedings. The three-year pilot began on July 18, 2011, and will evaluate the effect of cameras in the courtroom for civil cases. Proceedings are recorded upon the approval of the presiding judge and consent by the parties. The presiding judge can choose to stop a recording, if necessary, for example, to protect the rights of the parties and witnesses or to preserve the dignity of the court. Coverage of the prospective jury during voir doir is prohibited, as is coverage of jurors or alternate jurors.

The Northern District of Ohio currently has seven civil trials posted on the AO website, five with Judge Nugent in Cleveland and two with Judge Carr in Toledo. The first case was tried from August 2, 2011 through August 11, 2011. Northern Ohio not only has the most trials posted, but Judge Nugent's initial case has been viewed most frequently.

C. Attorney Admissions Fund Grants

The court established an Attorney Admissions Fund Grant Program in 2008, to provide local bar associations, law schools and other organizations with assistance for educational and outreach programs that benefit the bench and the bar in the administration of justice. Since then, 103 grants have been awarded to sponsor mock trials, panel discussions and other educational programs, as indicated below:

<u>Year</u>	<u>Funded Grants</u>
2008	9
2009	30
2010	24
2011	27
2012	13
Total	103

Because we may only invest in government-backed securities and not in the stock market, we have been limited to investing our funds in Certificates of Deposit bearing an interest rate in the range of one percent. As a result, we find ourselves having to reduce both the number and the average size of the grants we make.

D. Multi-District Litigation Panel Visit to the Northern District of Ohio

It was a special honor for the district to host the United States Judicial Panel on Multidistrict Litigation ("MDL Panel") here in Cleveland. Following the outstanding CLE program sponsored by the Cleveland Metropolitan Bar Association and the Federal Bar Association, on July 25, the MDL Panel heard oral arguments in our packed, standing-room only ceremonial courtroom on July 26.

E. Pretrial Services and Probation Office

I previously announced that we have reentry courts in Toledo and Cleveland. We have now begun a program in Youngstown and anticipate beginning one in Akron early next year. The Program works with our most high-risk offenders when they return from prison and are on supervision. It is a team approach involving the court, the U.S. Attorney's Office, the Federal Public Defender's Office and the Pretrial Services and Probation Office. The program not only provides successful ex-offenders the opportunity to develop skills and habits for successful transition back into society, but also provides an opportunity to reduce the amount of time they spend on supervised release.

Previously, I told you that our Pretrial Services and Probation Office was partnering with Cuyahoga Community College to offer a Adult Basic Literacy Education (ABLE) and a General Education Diploma (GED) Program to ex-offenders. Family members of ex-offenders are also allowed to participate. The Pretrial Services and Probation Office has also formed a GED partnership with Choffic Career & Technical Center's Adult Education Program.

VII. NATIONAL LEADERSHIP

Our judges continue to offer leadership and assistance to our national court system. In addition to handling various MDL's, many of our judges have sat by designation on the 6th Circuit within the last year. Some of us have sat on the 9th and 3rd Circuits and various district courts in need, including the Districts of Arizona, Connecticut, New Mexico, the Western District of Texas and the District of Columbia. Our ability to offer such assistance is, in part, based on the willingness of our senior judges to maintain substantial caseloads.

The judges on our court continue to be actively involved in the various committees of the Judicial Conference of the United States. Judge Katz recently completed his term as Chair of the Committee on Audits and Administration Office Accountability, Judge Gaughan serves on the Committee of Federal-State Jurisdiction, Judge Harris serves on the Advisory Committee on Bankruptcy Rules, and I serve on the Advisory Committee on Civil Rules. All of our judges have been involved in local and national educational programs with the bench and bar.

Before I conclude, I wish to thank the Federal Bar Association for sponsoring the State of the Court luncheon and for its ongoing support of the federal judiciary. Finally, thank all of you for coming and for the many things you do to support our wonderful profession, a profession that provides so many opportunities to offer leadership and to do good. I would encourage each of you to continue to be mindful of the fact that, in addition to the obligations that you have to your clients and to the court, you have an obligation--we have an obligation--to help assure access to the legal system, a system in which all in our society is so dependent. Indeed, the preamble to the Ohio Rules of Professional Conduct states, "[a] lawyer should be mindful of deficiencies in the administration of justice and the fact that the poor, and sometimes persons who are not so poor, cannot afford adequate assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to assure equal access to our system of justice...". So, in this period of drastic budget cuts for Legal Aid and the other agencies who regularly represent those who cannot afford legal services, we must all redouble our pro bono and other efforts to fill in the gaps. Many of you already have, and I know others of you will.

Judge Oliver was appointed by President William J. Clinton to the U.S. District Court for the Northern District of Ohio in May 1994.

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Law School Corner

Are You Interested in Becoming a Law Student Representative?

If you are currently a law student at one of the universities in the Northern District of Ohio and are interested in becoming a law student representative for the 2012-2013 academic year, please contact one of the following School of Law Board Representatives:

The University of Akron School of Law: Associate Dean William S. Jordan, III
Jordan@akron.edu 330-972-6751

Case Western Reserve University School of Law: Professor Jonathon Entin
jle@case.edu 216-368-3321

Cleveland-Marshall College of Law: Professor Kenneth Kowalski
Kenneth.kowalski@law.csuohio.edu 216-687-3947

The University of Toledo College of Law: Assistant Dean for Law Career Services Heather Karns
Heather.karns@utoledo.com 419-530-2851

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Members in the News



Kip T. Bollin

Kip T. Bollin, former FBA-NDOC President, was elected to serve on the Federal Bar Association's (FBA) National Board of Directors. Kip also serves on the FBA's national budget and finance committee, the membership committee, and as chair of the FBA's task force for review of membership growth and benefits. He previously served on the FBA's nominations and elections committee. Kip is a litigation partner at Thomson Hine LLC in Cleveland, Ohio.



Ellen Toth

Ellen Toth, FBA-NDOC past-president, has been elected to the position of shareholder with Ogeltree, Deakins, Nash, Smoak & Stewart, P.C. Ellen focuses her practice on defending employment discrimination lawsuits for clients in the private and public sector, as well as charges brought before the EEOC, the Ohio Civil Rights Commission, and other state and federal agencies. She also provides counseling and training to employers and frontline supervisors on a variety of employment law issues. Ellen also chairs the FBA-NDOC Diversity Committee.

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The FBA NDOC is always looking for announcements to include in its "Members In the News" section of our Newsletter. If you have news of a significant achievement, please forward that information to the Newsletter Chair, [Catherine Garcia-Feehan@ohnd.uscourts.gov](mailto:Catherine.Garcia-Feehan@ohnd.uscourts.gov).

Judicial Profile: Hon. David A. Katz



by Renisa Dorner and Cathy Garcia-Feehan

For decades, U. S. District Judge David Katz has carried in his wallet a quote authored by Henry David Thoreau: "If one advances confidently in the direction of his dreams, and endeavors to file the life which he has imagined, he will meet with the success unexpected in common hours."



Judge David A. Katz

Judge Katz further elucidates, “I never had time or the inclination to plan my life, and I might add I could never have envisioned that which I have been most fortunate to experience.” His life not only reflects his Jewish heritage, but also the values, principles, ideals and priorities that he understood from a very early age.

“I wanted to be a lawyer ever since I was a child,” explained Katz. “My uncle and my second cousin were lawyers and I idolized both of them.” In order to pursue his dream, Katz needed a college education which meant he needed money, something he lacked. His father was always able to provide for the family’s needs, but that did not include college tuition. So, after graduating from Findlay High School, a public school in a small Ohio town, Katz accepted that he would have to join the military in the middle of the Korean War. However, before he was able to enlist, a co-worker who attended The Ohio State University told him to take Monday off and insisted that Katz join him on a trip to OSU for early registration. Their journey included a stop at the Sigma Alpha Mu (known as “Sammy”) fraternity house. Katz entered the Sammy fraternity house destined for the military, and exited a college freshman. He agreed to work in the kitchen of the fraternity house to pay for his board. As for the \$30 per quarter tuition at OSU, Katz used the \$100 he won from a contest sponsored by *The Toledo Blade*, the area’s largest newspaper.

Katz, the student, studied hard and worked even harder. During his college years, he spent his summers back in Findlay, working for the same brewery as his father, Old Dutch Brewery. He volunteered for the second shift because it paid a nickel more (\$1.30!) And, more importantly, offered the opportunity for significant overtime. In 1955, the brewery became automated and his hours were significantly reduced. Not a stranger to hard work, he took an additional job digging ditches. He worked 7:30 a.m. - 4:30 p.m. digging ditches, went home to clean up and then worked from 6:00-11:00 p.m. at the brewery.

In 1955, Katz received his undergraduate degree from OSU - which he completed in three years - with his final year of undergraduate studies also being his first year of law school. Then, in 1957, Katz graduated from OSU’s College of Law summa cum laude and was awarded the Order of the Coif. Judge Katz does not hesitate to point out that his greatest accomplishment at OSU occurred in 1952, when he met Joan, the sister of a fellow fraternity brother. Three years later, Joan agreed to be his life companion and they have been happily married for the past 57 years. They are the proud parents of two daughters, Linda and Debbie, and a son, Michael, also a lawyer. Their children have blessed them with 12 grand children, who they intensely spoil as every grandparent should. Judge Katz is quick to acknowledge that his family is his greatest asset.

Upon graduation from OSU, Katz desired to return to Northwest Ohio, but job opportunities for a Jewish lawyer were scarce. He remains grateful that Spengler, Nathanson, Heyman, McCarthy & Durfee - now know as Spengler Nathanson - made him his only job offer. In August 1957, his first order of business as a new associate at Spengler Nathanson came from partner Joe Nathanson, who asked “Do you know anything about consolidation agreements?” Katz, confidently following his dream, answered that he did. In his final year of law school, he obtained a sample of a consolidation agreement from forms provided by an OSU professor. Katz engulfed himself in the factual background concerning the client involved, and less than 48 hours later, handed Nathanson a fully developed consolidation agreement. The confident and dedicated manner in which he approached his first legal assignment exemplifies his career as a business lawyer.

Can you, or any lawyer, recall the first time they acted as a notary public, not just the situation, but the actual day? For Katz, it was Sept. 25, 1957, and five men, including Wally Iott, were creating Seaway Food Town Inc., a large grocery establishment. The young Katz was tasked with notarizing the various documents as part of this transaction. Five years later, attorney Katz assisted in taking the company public, and six years thereafter helped take the same company through a second offering. Katz established himself as a business lawyer who was uniquely talented in the negotiation of sales and purchases of businesses. As one of his former partners Tim Greenwood recognized, “his legal acumen was always superlative. He could analyze a problem in a minute, but, more importantly, find the solution which always benefitted his client, but also acceptable and fair to his adversary.”

Judge Katz remembers negotiating a deal on behalf of a client to purchase a bankrupt business for \$41 million. A few years later, he negotiated a deal that allowed this client to sell the same business for over twice the original purchase price. As a counselor, Katz viewed his clients as friends first and foremost, and reveled when they were successful in their business ventures. He often states “not all of my friends are clients, but all of my clients are friends.” His personal connection to others was the real secret to his successful law practice.

Mentoring is an ambition for many, but it is a skill that Judge Katz mastered. In 1992, then attorney Katz was acknowledged for his willingness to mentor young attorneys. His ability to mentor not only those within his firm, but also within the legal community at large, was recognized by the Toledo Junior Bar Association when it

conferred upon him their highly coveted honor, the Order of the Heel. Of various honors bestowed upon this man, this honor ranks among the highest and he proudly displays it in his chambers.

As a practitioner, he was generally the first one in the office, and, as expected, typically billed more hours than anyone in the office. Early in his career, he recalled that the receptionist tracked the attorneys' hours on a legal pad. Being the consummate competitor, he would sneak a peek to make sure that no one was going to beat him in the number of hours worked for any given month. If he woke up in the middle of the night and couldn't get back to sleep, he went to the office, worked a few hours and then returned home to have breakfast with the family. As a jurist, arriving at 6:30 a.m. to prepare for his day is not unusual but he admits that it is usually closer to 8 a.m. now that he has senior status.

So how does an established business mergers-and-acquisitions lawyer obtain a lifetime appointment to the U. S. District Court for the Northern District of Ohio? Quite honestly, as he will tell you, by the chips falling where they did. In November 1992, while attending a social event just days after President Clinton's election, Katz learned that the Toledo legal community was buzzing about whether he would accept a federal judge appointment. For Katz, it wasn't an issue of whether he wanted to be a judge, but rather a question of his loyalty to the firm that had given him his opportunity to practice law. It was this feeling of loyalty to the firm he loved, and where he sat as the managing partner, that made this decision difficult. He recalls, quite candidly, sending letters to Senators Metzenbaum and Glenn indicating that he was "throwing his name in the hat." But he also remembers taking a vacation soon thereafter with his wife, Joan, where he spent many hours walking up and down the beach, wondering if this was indeed what he should be doing. He had a lucrative business practice, he was the managing partner of a firm that he had helped grow from seven lawyers to 35 lawyers, and his accomplishments were extensive. But after 37 years of practicing law, he was ready for a new challenge, even if such challenge meant a significant reduction in pay. Having made the excruciating decision to leave his firm, Katz believed going forward would be easy. What happened next was something that no one could envision.

A committee of the American Bar Association deemed Katz "unqualified" for the job because he lacked significant trial experience. The committee's report, while mentioning that the "has integrity, possesses judicial temperament, has earned a solid reputation as fine man and one who has contributed generously to civic and public service activities," focused on him being a business lawyer and not a litigator. This determination shocked the conscience of the Toledo legal community. Every living past president of the Toledo Bar Association - all 28 - signed a letter rejecting the ABA's determination and asked the Senate to immediately confirm Katz. The letter enthusiastically support Katz and commented that he is the type of person "who is able to find solutions to problems regardless of the obstacles placed before him" and is "eminently qualified." This letter and many other sent to then Sen. Joseph Biden, as chairman of the Judiciary Committee, touted Katz's integrity, intellect, skills, and abilities. Unfortunately, the ABA committee lack the knowledge that every lawyer and every client already knew: David Katz would master any challenge put before him and exceed any expectation.

In the months following his decision and before his confirmation, Katz could be seen with the Federal Criminal Procedure and Civil Procedure books in tow. He recognized those areas he lacked immediate knowledge and gained the requisite knowledge before a single ABA interview occurred. Judge Katz remembers the time as devastating and has suggested that the question of professional competence involves "legal ability in its broadest sense." Despite the ABA's finding, David Katz was confirmed unanimously by the Senate on October 7, 1994, and sworn in on October 24, 1994. When sworn in, Judge Katz defined success as earning the respect of his profession, his peers, and those he serves in public service.

His "court family" extols his virtues of thoughtfulness and generosity. He unexpectedly shows up at hospitals to check on ill family members of his staff. On one particular occasion, Judge Katz and a law clerk traveled to Cleveland for a hearing, which ended up lasting far longer than expected. During the hearing, Judge Katz noticed that the law clerk was anxious about a family member who was hospitalized the day before. So, the judge suggested that the clerk drive the judge's car home and told the clerk he would either rent a car or take the bus to return to Toledo once the hearing was completed. There are numerous stories like this that demonstrate the generous heart and sincere concern that Judge Katz expressed to those who know him. When the issue of his portrait was initially discussed, Judge Katz commented, a black and white photo will do nicely." Instead, the beautifully painted portrait reflects the welcoming expression one might get if they met him at his chambers or even back at his law office.

During his nearly 18 years on the bench, Judge Katz has presided over almost every type of civil and criminal matter that comes before a federal court. In every case before him, Judge Katz prepares by reading each filing and thoroughly digests the legal arguments so that he can address those matters in the initial case management conference, a routine status conference, during oral argument, or at trial. He prides himself on being prompt for conferences and not treating any conference or proceeding as *passe*, because he sees it as a positive reflection on the judiciary when lawyers and the public see the court prepared and considerate of their time. He views his role

as managing the case as well as offering alternatives to the parties, either litigating the matter or finding a resolution short of the courtroom. Judge Katz enjoys, and is successful at, mediating, so much so that his fellow judicial officers often refer cases to him for settlement conference – often with success. His ability to listen and relate personally to the clients and lawyers, coupled with his background in business, has proven extremely valuable in commercial litigation cases as the parties often realize that he understands both sides of a business dispute.

As much as he enjoys dispute resolution, Judge Katz also loves to try cases, be it civil or criminal. A judge's judicial temperament is often tested during trials, especially when both adversaries are engaged in the heat of battle. However, Judge Katz is often the calming influence, injecting both humor and self-deprecation to lighten the mood when the atmosphere becomes too intense. He is able to manage multiple tasks and display consideration for all persons in his courtroom; the following example serves to highlight this: Judge Katz presided over a drug racketeering case involving the president of the Outlaw Motorcycle Club as well as its various officers and members. Thirty-eight defendants were charged. The first set of 14 defendants were tried together over a three month period with 18 defense lawyers. After multiple convictions were obtained, Judge Katz traveled to a hospital in Ann Arbor, Michigan, to sentence one of the last defendants whose health was too poor to allow him to travel to Toledo from the federal penitentiary in Milan, Michigan.

Despite his taking senior status in 2005, the Judicial Panel on Multi district Litigation chose Judge Katz to oversee a mass tort docket involving the Orth Eira birth control patch. Judge Katz successfully managed approximately 2,000 cases from all over the country and the lion's share were resolved short of trial. A good deed does not go unnoticed, so it was no surprise when in 2010, the panel again called on Judge Katz to take another MDL docket involving the DePuy ASR Hip Replacement. At last count there were over 7,300 cases filed, and Judge Katz manages not only these cases but works cooperatively with state court judges all over the country handling these cases on their dockets. At a time when senior status would allow him to slow down, Judge Katz is invigorated at the challenges posed by this complex multidistrict litigation.

Judge Katz is equally considerate of lawyers' time and their role. He inquires as to the lawyers' schedules since he understands that they have multiple clients and other commitments. It is his consideration of others, lawyer or laborer, that explains why he is beloved by not only those who have the privilege of working with him but also the legal community and most importantly, his colleagues. At his portrait presentation in 2007, Hon. David D. Dowd Jr., characterized Judge Katz as follows.

Judge Katz came to the bench as an accomplished attorney who handled many complicated business matters for his clients. He was, in a word, a seasoned and experienced lawyer and absolutely knowledgeable and prepared to take on the unique and challenging issues and problems that come before a Federal District Court Judge. He soon became a counselor and dear friend to all of his colleagues, not just in Toledo, but also in Cleveland, Youngstown, and Akron. Additionally, he has responded to requests from the Sixth Circuit to sit on that court. Judge Katz enjoys the admiration of the bar, not just the Toledo Bar, but the admiration of lawyers and judges throughout the country.

It is Judge Katz's intellectual curiosity coupled with his understanding of the human condition which has earned him the title by many in the legal community as a "judges' judge." While not leery of making a legal adjudication, he engages the parties by encouraging them to participate in reaching a resolution short of the courtroom. His example of treating everyone with courtesy and consideration is a powerful role model for other lawyers and jurists.

Judge Katz's words, spoken at his portrait presentation, truly sum up his philosophy on life: "It's been said that the only thing of value man leaves behind, his greatest gift to future generations, is a good name. Again, only time will determine that legacy." All who have the privilege of knowing Judge Katz understand that his example is the gold standard for all lawyers to follow. His legacy will certainly endure as the hundreds of lawyers he has mentored will emulate him by aspiring to uphold the ideals of professionalism.

From humble beginnings, David Katz followed a dream of being a lawyer. While this dream may not have initially included being a federal judge, success as a business lawyer translated into success as a judge. Judge Katz, grateful for the life he has been granted, recognizes that it exceeds anything that he could have dreamed.

This article appeared in the September 2012 issue of The Federal Lawyer. It is reprinted with the permission of the authors. Renisa Dörner is with Cooper & Kowalski LPA where she is chair of the employment and labor practice group. Catherine Garcia-Feenan was a career law clerk to the Hon. David A. Katz for over seventeen years and currently clerks for the Hon. Jeffrey J. Helmick. She also serves on the board of the FBA-NDOC.

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A National Perspective



Kip T. Bollin

by Kip T. Bollin

If you're like me, you first became involved with the FBA through our Northern Ohio chapter's special events, CLEs or volunteer opportunities. I've found the FBA's members and programs to be a significant source of professional and personal satisfaction over the past decade. But after I got involved, I also realized the breadth and scope of what is available on the national level of the FBA. The FBA provides a great nationwide network of over 16,000 lawyers **and** judges who practice in federal court. The people I've met through the national FBA are experienced federal lawyers who know their local federal

courts and are ready sources of local knowledge. A week doesn't go by where I don't talk or email with one or more of them.

So I wanted to introduce you to the national FBA, by providing a short report of what is happening on the national level, and to give you a path to get involved – by writing an article, giving a presentation, or perhaps attending the next Annual Meeting in San Juan, Puerto Rico.

<http://www.fedbar.org/Education/Calendar-CLE-events/2013-Annual-Meeting-and-Convention.aspx>. I'll be there and I hope to see you there, too.

- The FBA is seeking individuals who are interested in presenting at CLEs at its September 2013 Convention in San Juan, PR. Presenters must be available to travel to San Juan for sessions beginning on the morning of Sept. 26, 2013, and available to speak at any time during the Convention. If you have an interest in presenting, more information can be found at <http://www.fedbar.org/Image-Library/Events/2013-Annual-Meeting/CallforPresentations2013.pdf>.

- The FBA's Mid-Year Meeting is Saturday April 6, 2012 from 8:00 a.m. – 5:00 p.m., in Washington, DC. This meeting is more of a "convention-light" as compared to the September convention, and includes important Bar governance-related meetings throughout the day. Also, on Friday, April 5, the top two teams of law school students will face off in the FBA's national Moot Court competition finals at the United States Court of Appeals for the Armed Forces. Saturday night will feature "dine-arounds" where members can network with their colleagues \fs24softlinefrom around the country. This event takes place when many of our children are on spring break, and I know many members are blending this conference in with a family trip to our nation's capital. Further details are at: <http://www.fedbar.org/Education/Calendar-CLE-events/2013-Midyear-Meeting.aspx>.

- The national FBA also offers opportunities to be published nationally. Authors can reach all 16,000+ members of the FBA by writing an article for the monthly publication, The Federal Lawyer. <http://fedbar.org/Publications/The-Federal-Lawyer.aspx>. Similarly, the Litigation Section's newsletter, *SideBAR* reaches an audience of thousands of federal judges and litigators on a quarterly basis. <http://fedbar.org/Sections/Federal-Litigation-Section/Newsletters.aspx>. Any questions about *SideBAR* article submissions or topic ideas should be emailed directly to the editor, Rob Kohn, at rkohn@kohnlawgroup.com.

- The FBA has conducted a national advocacy campaign for our federal courts, recently focusing on the effects of **the sequestration** that was threatened by the fiscal cliff, and that still remains a concern even after the fiscal cliff was averted. The third branch of government's annual appropriation of almost \$7 billion represents only 0.2 percent of the United States' total budget of \$3.7 trillion.

- The **Federal** Judiciary's Digital Video Pilot Project began in July 2011. Video equipment has been installed in fourteen districts throughout the country, including our own Northern District of Ohio. The pilot **courts** have implemented procedures for notifying parties of the opportunity to record courtroom proceedings, and have adopted local rules or general orders authorizing video recordings and posted them on their courts' websites. Video trial proceedings conducted by both Judge Nugent and Judge Carr are available at <http://www.uscourts.gov/multimedia/cameras/player.aspx>.

- William K. Suter, the Clerk of the U.S. Supreme Court, will retire at the end of August after 22 years of service. General Suter has been a good friend of the FBA's and has traveled to our District on many occasions to swear-in new lawyers to the Bar of the Supreme Court. He will be missed.

· Personally, I have been charged by our national president, Bob DeSousa, with chairing a Task Force aimed at increasing member benefits for every member of the FBA. We're looking at big things like the form and substance of our national convention, as well as simple things like making the website more user-friendly. Simply put, we want to bring greater value to your FBA membership. I'd value any suggestions or ideas you may have.

Kip T. Bollin is an elected member of the FBA's national Board of Directors and a former President of the Northern Ohio Chapter. He is a litigation partner at Thompson Hine LLP in Cleveland, Ohio, focusing on the defense of product liability and business claims, including putative class actions. He can be reached at kip.bollin@thompsonhine.com.

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Ohio Law Provides Roadmap For Job Seekers To Overcome Conviction Records That May Present Barriers To Employment



By Kelly L.
Hamilton

by Kelly L. Hamilton

Effective September 28, 2012, Ohio law provides individuals with conviction records the opportunity to apply for a Certificate of Qualification for Employment (CQE). A CQE is intended to lift "collateral sanctions," defined as penalties, disadvantages, or bars that prevent individuals from being considered for employment or occupational licensing in particular fields.

An individual convicted of a felony must wait a year before filing for a CQE, and an individual convicted of a misdemeanor must wait at least six months.

Certain collateral sanctions are not affected, such as restrictions on employment as a prosecutor or law enforcement officer, restrictions on driver's licenses, registration and other requirements for sex offenders, and loss of licenses due to failure to pay child support. The court also cannot issue a certificate that grants relief for the revocation of licenses for a health care professional convicted of certain crimes, such as felonious or sexual assault and improper distribution of a controlled substance, among others. The court will grant the CQE on a case-by-case basis if the individual demonstrates to the court that: 1) it is required to help the individual obtain employment or an occupational license; 2) it is needed in order for the individual to live a law-abiding life; and 3) granting the CQE will not pose an unreasonable threat to public or individual safety.

The CQE is presumptively revoked if the individual subsequently is convicted of a felony.

Ohio law does not prohibit consideration of convictions directly related to the position. In addition, employers retain discretion to deny employment to someone with a CQE. Employers who hire an individual with a CQE, however, receive immunity from negligent hiring claims if the employer is aware of the certificate at hiring. If the employer fails to take action when dangerous or criminal behavior is exhibited after hiring, the employer can be liable for negligent retention.

This new law also expands the list of offenders who can seal their conviction records. Under the previous law, only first time offenders could seal their conviction records. Now individuals with no more than one felony conviction, no more than two misdemeanor convictions (if not the same offense), or no more than one felony and one misdemeanor conviction, may petition to have criminal records sealed. Finally, the new law removes sexual battery and gross sexual imposition from the list of offenses for which juvenile records may not be sealed.

This law does not impact an employer's ability to conduct background checks and the ability of an individual who served prison time to apply for a certificate of achievement and employability. Now that more offenders can seal their criminal records, it is important for employers to conduct other forms of due diligence before hiring an applicant.

Kelly Hamilton is an associate with Ogletree Deakins where she focuses her practice in employment litigation.

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“Reach Out” Collaboration Successfully Reaches NonProfits and Lawyers in Our Community



Jennifer Fleming



John Moran

by Jennifer Fleming and John Moran

The District of Ohio Chapter of the Federal Bar Association (“FBA”) collaborated last year with the Cleveland Metropolitan Bar Association (“CMBA”), and the Northeast Ohio Chapter of the Association of Corporate Counsel – America (“NEOCCA”) to develop and bring the “Reach Out: Legal Assistance for Nonprofit Organizations” program to nonprofits whose missions focus on community service.

The idea behind the unique collaboration was that nonprofits face many of the same complex legal issues as commercial businesses, but often lack the resources to hire legal counsel. By combining the resources of the three bar associations, “Reach Out” was able to provide – free of charge – legal programming on issues facing nonprofits. The programs were immediately followed by the opportunity for nonprofit leaders to meet with volunteer lawyers with specific questions through the face-to-face brief advice clinics. Volunteer lawyers also received 1.5 hours of free CLE. Reach Out gives nonprofit leaders the chance to become better educated about legal formalities and best practices, to access confidential consultation on current issues to resolve or direct any unresolved issues to the right place, and to develop relationships for potential ongoing legal support. Reach Out offers volunteer lawyers a structured, “no-assembly-required” program for pro bono work, focused CLE-eligible training and materials, meaningful intake screening and back room support during the clinics, and a way to expand their legal and personal experiences.

Jennifer Lesny Fleming, co-developer of Reach Out and a partner at Kaufman & Company, LLC commented on the program: “As a lawyer and a board member of several nonprofits, I have seen a real need for nonprofits to get access to sound legal advice. Reach Out is a unique program that fills a real need in our community that was otherwise not being served.”

Reach Out brings together a diversity of resources from a talented pool of northeast Ohio’s lawyers, including law firms, in-house counsel representing the public and private sector entities, sole practitioners, as well as other professionals. Reach Out is a networking opportunity for valued nonprofit entities to get to know other nonprofits and forge a closer relationship with northeast Ohio’s legal community.

John Moran, NEO ACCA Pro-Bono Co-Chair and General Counsel of Graftech International added: “Reach Out allows our members to become familiar with community service programs, use their legal skills, network with other lawyers, receive CLE, and provide opportunities for further volunteer work with some of the organizations.”

This last year, Reach Out held four programs on topics ranging from corporate governance issues to contract basics, real estate law, employment law and intellectual property concerns risk management and insurance, and privacy and data protection. Speakers included lawyers from many law firms in the Cleveland area as well as in-house counsel from local corporations. Seventeen different nonprofits in our community attended the various Reach Out events.

The March 29 seminar featured attorneys John C. Goheen and Jennifer L. Adams, both of Ulmer & Berne LLP, who presented an overview of Fundamentals of Nonprofit Governance. On April 19 Linda A. Striefsky and Jacinto A. Nunez of Thompson Hine LLP and Cynthia A. Binns and John D. Moran of GrafTech International covered Contract Basics and Real Estate Challenges. The July 19 program was devoted to Employment Law and Intellectual Property Law Tips and featured Steven E. Seasley and James D. Schweikert of Hahn Loeser & Parks LLP, Kevin M. Dunn of The Lincoln Electric Company and Melissa M. Dials of GrafTech International.

Our final 2012 Reach Out program was held October 25. Thomas Zych of Thompson Hine and attorney Timothy Smanik as well as Andrew B. Gunn and Betsy A. Harting of Oswald Companies presented on Privacy and Data Protection and Risk Management and Insurance.

Reach Out is grateful for the advice and support we received from other organizations including participating law firms, Hennes Paynter Communications, the Legal Aid Society of Cleveland, Cleveland-Marshall College of Law, Case School of Law, the Cleveland Foundation and for program funding by the Cleveland Metropolitan Bar foundation and the Federal Bar Association.

Given the success of the inaugural year of the new Reach Out program, each of the bar associations, through its Reach Out leaders John Moran and Cynthia Binns of NEOCCA, Jennifer Lesny Fleming of the FBA, and Jessica Paine of the CMBA, will be working to develop a new and expanded program for 2013. If you have any interest in volunteering or otherwise receiving additional information about the Reach Out program, please email Jennifer.Fleming@Kaufman-Company.com. You can participate even if you lack nonprofit law or experience!

*Submitted by: Jennifer A. Lesny Fleming, Kaufman & Company, LLC
John Moran, Graftech International*

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Helmick Investiture Held at Historic Valentine Theater



Chief Judge Oliver welcomes the assembly to the investiture.

On October 11, 2012, Judge Jeffrey J. Helmick was formally installed as the Northern District of Ohio's newest district judge. His investiture was held at the historic Valentine Theater in downtown Toledo. Clerk of Court Geri M. Smith opened the court session and introduced the judicial officers in attendance. Chief Judge Solomon Oliver, Jr. welcomed those in attendance to the festivities which included musical selections by the Maumee Valley Country Day School String Ensemble and the Presentation of Colors by the University of Toledo Army ROTC Color Guard. Remarks were offered by Senator Sherrod Brown, Stephen M. White, General Counsel to Senator Rob Portman, W. Anthony Jenkins, Sixth Circuit

Representative for the ABA Standing Committee on the Federal Judiciary and attorney Jon D. Richardson. Among the many presentations by local bar associations, the FBA-NDOC was represented by President-elect Jason Hill, who presented Judge Helmick with an honorary membership to the FBA.



Judge Carr administers the oath of office with Judge Helmick's family at his side.

The oath was administered by Judge James G. Carr, with Judge Helmick's wife, Karen, holding a family bible and their son Joel standing alongside them. In his remarks, Judge Helmick recounted experiences and lessons which help to shape his opinions and perspective on his journey to the bench. He recounted the challenges of being a criminal defense attorney but the importance of this role which often requires representing the forgotten and reviled of our society. He noted it is a tribute to our legal system and that defense counsel are often on the losing side because a win for the defense means something went very wrong with our system. Additionally, it is this same system which selects lawyers from diverse practice backgrounds to the federal bench.

Characterizing his selection as improbable, Judge Helmick expressed thanks to all who helped him from the nomination through the confirmation process. He gave special thanks to his family, his fellow lawyers, friends, and the local judges who have served as examples for him to follow.



The newest member of the NDOH federal bench addresses

Following adjournment of the court session, a reception was held in the Theater's Grand and Historic Lobby, sponsored by the FBA-NDOH.

friends, family, and his judicial colleagues.



FBA President-elect Jason Hill offers congratulations to Judge Helmick on behalf of the FBA-NDOC.

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Calendar of Events

Wednesday, February 27, 2013, 12:00 p.m. – 1:30 p.m.

Brown Bag Luncheon at Carl B. Stokes U.S. Courthouse, Courtroom 9A

Speakers: Judge Alison Brown, Victoria Christian ICE Deputy Chief Counsel, Detroit Office of Chief Counsel, Farhad Sethna and Scott Bratton

Topic: Immigration Practice—Surely Not in this Courthouse

Member registration-\$15.00, includes lunch/ Non-member-\$20.00

For more information contact admin@fba-ndohio.org

Saturday, March 9, 2013, 9:00 a.m. – 12:00 p.m.

Brief Advice and Referral Clinic-at the Hough Branch of the Cleveland Public Library, Cleveland, Ohio.

For more information contact Bozana Lazic Lundberg at blunderberg@walterhav.com or Amanda Knapp at AKnapp@ralaw.com.

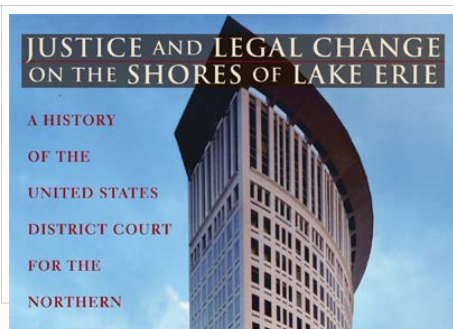
Monday, April 8, 2013, 6:00 p.m. – 8:00 p.m.

Cleveland Foodbank Volunteer Night, Cleveland Foodbank, 15500 South Waterloo Road, Cleveland, Ohio 44110.

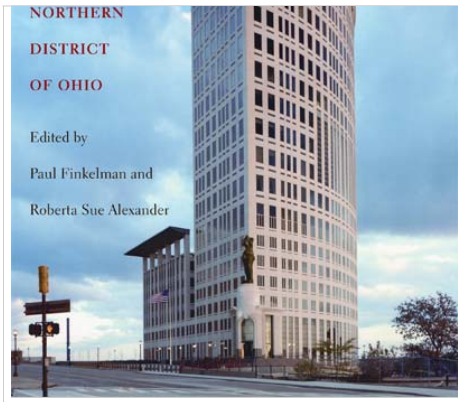
For more information, please contact Bozana Lazic Lundberg at blunder@walterhave.com or Amanda Knapp at AKnapp@ralaw.com.

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Justice and Legal Change on the Shores of Lake Erie: A History of the U.S. District Court for the Northern District of Ohio



The federal district courts play a prominent role in our nation's legal system by serving as the national trial courts. While numerous histories regarding the U.S. Supreme Court have been written, only a handful of books have attempted to chronicle the histories of any of the 94 federal district courts where most of the country's significant cases first arose. The publication of [Justice and Legal Change on the Shores of Lake Erie: A History of the U.S. District Court for the Northern District of Ohio](#) covers the origins, politically charged cases, and tough



decisions of the district court in northern Ohio.

The federal courts have had a presence in Ohio since its statehood in 1803. However, the Northern District was not established until 1855 when the Lake Erie maritime interests triumphantly lobbied that the then Ohio District Court be divided into Northern and Southern districts. The individual selected to become the first judge of the newly established district was Hiram V. Willson, one of Cleveland's leading attorneys, but perhaps more importantly, the individual who was sent to Washington to get the bill to establish the Court passed. The Court has grown considerably since then. In 1855, one judge was able to carry out the workload of the Court. Now 11 active district judges, four senior district

judges, seven magistrate judges, and one retired-recalled magistrate judge are on board. Over the years the Court's jurisdiction over legal matters has expanded dramatically.

Justice and Legal Change on the Shores of Lake Erie focuses on the key political, economic and social debates that have come before the Northern District of Ohio. Individual chapters recall the background and recount the legal issues in a diverse set of cases including the Oberlin Fugitive Slave Rescue case, the World War I trial of Social Democratic party founder and presidential candidate Eugene Debs, the Cleveland and Parma school desegregation litigation, the Kent State shooting case, the trials of John Demjanjuk, the fight for gender equality, labor law cases, the origins of zoning and environmental law, capital death penalty litigation, religion in the public sector and the never ending battle to preserve the public trust by derailing public corruption.

The book is more than a mere history or legal recitation. It addresses the personal issues, triumphs and tribulations of many individuals involved in these matters. The hard decisions and isolation, perhaps somewhat self-imposed, of Chief Judge Frank Battisti, who presided over the Cleveland school desegregation case are dealt with in detail. The tactical decisions made by Eugene Debs to uphold his beliefs ended up sending him to prison. The perseverance of a young attorney, Jane Picker, who argued her first case before the U.S. Supreme Court, is both inspirational and sadly amusing for what it said about the views on gender and the practice of law at that time. The plight of a conscientious objector whose beliefs made him unwilling to register for the draft, but who would have willingly served his country in another capacity, and the prosecuting attorney who would have rather dropped the case, reveal some of the harsher edges of the implementation and practice of law.

The history of the Northern District of Ohio is written in a manner that can be enjoyed by casual readers, students, historians and legal scholars alike.

The book is published by the Ohio University Press and was edited by Paul Finkelman and Roberta Sue Alexander with a foreword by Chief Judge Solomon Oliver, Jr. Contributing authors include: Roberta Sue Alexander, Martin H. Belsky, Melvyn Dubofsky, Paul Finkelman, Alison K. Guernsey, Thomas R. Hensley, Keith H. Hirokawa, Nancy E. Marion, Judge Dan Aaron Polster, Renee C. Redman, Elizabeth Reilly, Richard B. Sapphire, Tracy A. Thomas and Melvin I. Urofsky. Funding for the project was provided through the Northern District of Ohio Attorney Admissions Fund.

Justice and Legal Change on the Shores of Lake Erie is available in hardbound and electronic versions from online book sellers and at book stores.

<http://www.amazon.com/Justice-Legal-Change-Shores-Lake/dp/0821420003>

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