

Ipsos Jure



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A PUBLICATION OF THE GEAUGA COUNTY BAR ASSOCIATION

EDITED BY PAUL A. NEWMAN, ESQ.

SUSAN PROBOSKI, ASSISTANT EDITOR/DESIGNER

CHRISTMAS PARTY

The GCBA Christmas Party will be upstairs at Bass Lake Tavern on December 14 from 4:30 to 7:00 p.m. In addition to the wonderful time everyone always has, the new officers of the bar will be installed. Please join us in welcoming **Heidi Cisan** as president, **Robert Zulant** as president-elect, **William Hofstetter** as Secretary, and **Lisa Carey** as treasurer for the GCBA.



PROCRASTINATORS SEMINAR

It is time to stop putting off those final hours of CLE requirements. The GCBA Procrastinators Seminar will be December 1 at Main Street 141. See the enclosed flyer for registration details.



ELECTION RESULTS

The Geauga County Bar Association congratulates the following members for their success in the General Election:



Honorable Forrest W. Burt, Judge, Geauga County Court of Common Pleas



Matthew J. Dolan, State Representative, 98th

District



Mary Jane Trapp, Judge, 11th District Court of Appeals

ANNUAL DINNER-SAVE THE DATE

The Annual Dinner has been rescheduled for **Friday, January 19 at 7** in the evening. More details will be available soon.



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RENEW YOUR SUBSCRIPTION

With this issue, you will find your dues notice for 2007. The GCBA appreciates your prompt payment of your dues. In addition to supporting **Ipsos Jure**, your dues help us keep you informed of events such as CLE programs, meetings, and social events. Without your participation, we could not have a successful Settlement Day, Secretaries Day, Golf Outing, or Law Day. Please consider renewing your GCBA Membership.





PRESIDENT'S COLUMN

STEPHEN G. MACEK, ESQ.

In accordance with our Constitution, **Heidi Cisan** will succeed me as President at the end of November. I wish her great success and hope she

enjoys her tenure as President as much as I have enjoyed mine. Heidi and other new officers will be sworn in at our annual Christmas party at Bass Lake Tavern on December 14. I hope to see you there.

In looking back over 2006, I would say our bar had another great year. Of course, credit for the success we encountered belongs to others. The Geauga County Bar Association was running like a well-oiled machine long before I took office. I am thankful that **Susan Proboski** and **Ann D'Amico** kept watchful eyes on me to ensure things never went too far away while I was around. Their behind-the-scenes efforts, and the quiet, often thankless support provided by our various committees, brought us through another successful and enjoyable year.

One parting comment: I mentioned to **Jim Hall**, a co-worker of mine, that I have been preparing to give a talk on professionalism (coming up at the last of our First Friday CLEs on December 1st). Jim said "Elliot Richardson. He was the best." I think Jim has something there. Richardson served as Attorney General in the Nixon Administration. During the Watergate scandal, President Nixon ordered Richardson to fire the special prosecutor, Archibold Cox. Richardson refused. Why? He had promised the Senate during his confirmation hearings that he would allow Cox to do his job and would only discharge him for "extraordinary improprieties." Richardson resigned from the highest non-judicial legal office in the country rather than break that promise. Deputy Attorney General William Ruckelhaus also resigned rather than discharge Cox.

It was the Solicitor General, Robert Bork, who ultimately fired Cox.

Standing up for what he thought was right didn't hurt Richardson's career. He would later become U. S. Ambassador to Great Britain and Secretary of Commerce in the Ford Administration. Previously, he had been both Secretary of Defense and Secretary of State. Robert Bork would become a federal judge and have the phrase "borked" named after him. Think about that the next time you have a tough decision to make.



Longtime Toastmasters Club member Ed Brice did an awesome job as MC for Tom Mullen's retirement party.



Judge Henry and Linda Cooper both enjoyed the "Roast and Toast".



Pat Schraff and Karen Lee composed a wonderful poem for Tom.



If you missed it, you should ask Mike Judy for a copy of his roast.



Tom was truly surprised by the party. Yvonne thanked everyone for keeping it secret.



With a slightly teary-eyed but fond farewell, Magistrate Lee started the toasts.



PRESIDENT'S COLUMN

BY HEIDI M. CISAN, ESQ.

Thank you for giving me the opportunity to serve as

president of the bar association in the coming year.

First, I have to thank **Steve Macek** for his leadership over the past year. Our bar association has been active, and attendance at the monthly meetings has been good. With Steve at the helm, the bar association, with the help of some strong committees, has seen the growth of the First Friday CLE programs, completed a comprehensive overhaul of the local court rules, hosted another enjoyable golf outing, and come up with two new activities that could become annual traditions: the first-ever bar association bocce ball tournament and the first annual chili cook-off. Steve has also taken on an issue that has needed to be addressed for some time, specifically, clarifying the tax status of the bar association.



Ed Brice and Joe Svete have some laughs at the Retirement Party

The bar association faces another issue that is of immediate concern: law library funding. New

legislation was recently passed that could greatly, and negatively, impact our law library. A task force is currently working on recommendations for clarifying how that legislation should be implemented, and whether portions of the legislation should be repealed. **Susan**



Tom looking happy about retirement on his last day at work

Proboski's article in this edition of **Qps** outlines the likely impact of the legislation on our law library. She and the

members of the law library board welcome your questions, as well as your suggestions as to how we might influence the recommendations of the task force to prevent significant cuts in law library services.



Fred Green at the Courthouse party for Tom Mullen's retirement

Finally, I'd like to see the bar association get involved in some activities that will boost its public profile, reflect positively on members of the profession, and provide a benefit to the public. As lawyers, we have the skills, whether as mentors, legal advisers, tutors, board members, or fund raisers, to have a powerful impact in our communities. My suggestion is that we focus our efforts this year on activities that tie in with the 2007 Law Day theme, which is "Liberty Under Law: Empowering Youth, Assuring Democracy." I have

been contacting other local organizations, including the bar foundation, the Geauga County Public Library, the juvenile court, and the schools, to see how we might work with these organizations to help local children

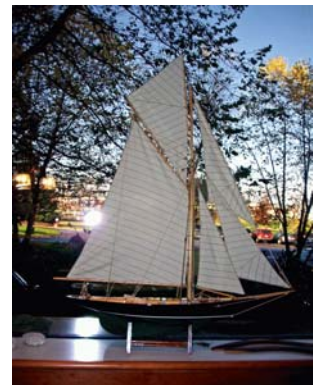
develop the skills they need to become involved and informed citizens. If you have any thoughts on this, let me know.

Thanks again, and I look forward to working with you all.



IJ CONTEST

Can you figure out in which bar member's office this picture was taken? If you think you know, e-mail your answer to pan126@aol.com with **IJ** Contest as the subject. Winners will be chosen at random.





11TH DISTRICT COURT OF APPEALS

SUMMARIES BY LINDA IRELAND,
COURT PARALEGAL

On March 31, 2006, in *State v. Bayus*, 11th Dist. No.

2005-G-2634, 2006-Ohio-1684, the court of appeals affirmed the judgment of the trial court finding appellant guilty of speeding and ordering him to pay a fine of \$75, plus costs. The appellate court determined that the evidence was sufficient to convict appellant, and the conviction was not against the manifest weight of the evidence. Further, the appellate court determined that the trial court did not abuse its discretion when it denied appellant's motion to supplement the record, filed after the trial was completed.

On March 31, 2006, in *Hunt v. Trumbull Community Action Program*, 11th Dist. No. 2005-T-0036, 2006-Ohio-1698, the court of appeals affirmed the judgment of the trial court granting summary judgment to appellee. The appellate court concluded that appellants failed to establish a prima facie case of reverse race discrimination under the *McDonnell Douglas/Burdine* framework. Further, even if they had established a prima facie case, summary judgment would have been appropriate since appellants did not present an evidentiary rejoinder to show that appellee's nondiscriminatory reason for their discharge was a mere pretext for discrimination. Thus, the appellate court determined that no material issues of fact remained to be litigated, and summary judgment was appropriate.



Jim Lucas at a seminar in Cleveland

On March 31, 2006, in *Vitantonio v. Baxter*, 11th Dist. No. 2005-L-004, 2006-Ohio-1685, the court of appeals reversed the judgment of the trial court granting appellee's motion to dismiss. The court extended the reasoning set forth by the Supreme Court of Ohio in *Allen v. McBride*, 105 Ohio St.3d 21, 2004-Ohio-7112, which held that the savings statute, R.C. 2305.19, applies to save will contest actions. The court determined that R.C. 2305.19 should also save claims against the estate if the other requirements of the savings statute are met.



RIVER-HORSE (ACROSS AMERICA BY BOAT) BY WILLIAM LEAST HEAT- MOON

A BOOK REVIEW BY THOMAS I. PEROTTI, ESQ.

As I lament the passing of boating season, I had hoped for one final adventure with a historic, albeit slow (the speed limit is 10 MPH), cruise on the Erie Canal which begins where Lake Erie meets the Niagara River at Buffalo, New York. The canal is open until November 15, weather permitting. This year, weather is not permitting. Last week, Buffalo, New York, was buried with almost two feet of snow. The canal will have to wait until next year. Instead, I have begun reading *River-Horse, Across America by Boat* by William Least Heat-Moon.

Upon putting the boat in the water, in the New York harbor, the author concedes that he has no boating experience. (I could relate to his sense of adventure for until a client paid an outstanding bill with a 19' Sea Ray speed boat, I had no boating experience, but this did not prevent me from cruising the Lake Erie shoreline, in the wee hours of the morning, as the Lake produced six (6) foot waves). With the Hudson river, the Erie Canal, the Ohio River, the Mississippi, the Missouri, and



Tom Perotti at the Courthouse on Magistrate Mullen's last day

several other waterways as his interstate, the author and a friend he calls "Pilotus" set out to



Jim Reardon and Dennis Ibold at the Courthouse on Tom Mullen's last day

navigate across the United States in a twenty two (22) foot boat called "Nikawa" (Osage Indian for "River Horse") From learning to navigate the locks of the Erie Canal, and describing the historical

significance of each segment of their adventure, to stopping in every pub that had a dock and drinking beer with the colorful locals, this is a journal of a "road trip" with historical narration. During a treacherous portion of the Lake Erie voyage, the author writes:

The navigation table almost immediately got jerked out of its locking mechanism and pitched to the deck, and charts, dividers, and pencils became missiles until Pilotus stumblingly Caught and stowed them. My friend could only try and grip a small coaming above the entry to the cuddy, a poor purchase indeed that forced Pilotus into a Simian squat to cushion the shock of the crashes. I had the wheel to grasp, but that did nothing to keeping my skull from banging the overhead, and there was no end to hand-cranking spray off the forward window.

This is a very enjoyable travel book whether you are a "Pilotus" or a landlubber.



AN INTERVIEW WITH DALE H. MARKOWITZ

BY PAUL A. NEWMAN, ESQ. NEWMAN & BRICE

Dale H. Markowitz was matriculated to the Ohio Bar in 1975 after Law School at Cleveland Marshall College of Law and Ohio State University undergraduate. He has been married to Barbara for thirty-two years with two children, ages 30 and 28. Dale was President of the Geauga Bar in 1988-89.

Individual Practice of Law Questions

What is the most attractive aspect of the law practice to you? Helping People, and Solving Problems

What is the least attractive aspect of the law practice to you?

Incompetent Judges and Attorneys

What has been your area of practice for most of your career? Real Estate and Zoning

What is your definition of a complete lawyer, and who, presently living, in the Geauga Bar do you consider to be a complete lawyer?

Someone who remembers we are providing a service to clients in a prompt and courteous manner who stays informed on the law and technology, and is collegial to fellow members of the bar. Fortunately our bar has many complete attorneys, too numerous to mention, but proud to be among them.

How has the practice of law changed you? Taught me how to prepare for challenges.

Has religion had an influence on your practice of law? Yes, from the sense of recognizing the diversity of beliefs, and the need to keep religion out of government

How many jury trials have you tried? Maybe 25.

When was the last jury trial? Been a long time, most of my trials are administrative appeals or declaratory judgments.



What was the high point in your career? Haven't hit it yet, but removing Bainbridge Trustee from office, defending Sheriff Henderson, successfully in federal court, and getting a money judgment against the Russell Zoning Inspector for the



Joe Weiss braved the rain to honor Magistrate Mullen on his last day.

Windwood Kennels are certainly highlights.

Geauga Bar Questions

What effect has the Geauga Bar Association had on the practice of law in Geauga County? Helpful with seminars, networking and collegiality.

Who do you consider, from the Geauga Bar only, to be the best all around general practitioner, and why? (no more than three). Hard to answer since most of my cases are with out of county attorneys, and I don't



While happy about retiring, Tom will miss seeing Cheryl 5 days a week

consider there to be many generalists anymore. The most versatile may be someone in my firm, so I won't promote that cause.

Who do you consider, from the Geauga Bar, to be the three best qualified attorneys (not sitting judges) to be judicial candidates? Ed Brice, Pearce Leary and David Lowe.

Who do you consider, from the Geauga Bar, to have the best sense of humor? (no more than three). David Ondrey.

General Practice of Law Questions

What impact do you think political correctness has had on our freedom of speech? Politicians and judges are afraid to tell the people what they need to hear.

Do you think candidates for judgeships should be allowed to comment on their opponents record in office, if so, why, if not, why not? Absolutely. Who better to critique them then other attorneys.

Do you think our profession is over regulated, why, why not? NO, not enough CLE required.

What do you consider the greatest ethical dilemma facing attorneys with greater than twenty-five years of practice? Ability to follow rule changes, and multi-jurisdictional practice.

What do you consider the greatest ethical dilemma facing new attorneys? Professional Responsibility and conflicts of interest.

What is your opinion, if any, on the new disciplinary rules? Overall, an improvement.

Do you think attorneys should contribute to judicial campaigns, why, why not? Yes, treat them the same as others, and I believe the First amendment would not allow any restriction.

How would you control contributions to judicial candidates? I would not.

What Ohio statute have you determined to be the most absurd? Anything passed in response to Kelo.

The Ohio Supreme Court is soon to mandate mandatory reporting of voluntary pro bono services of no less than 50 hours or payment of \$500. What is your opinion of this concept? If they include clients who you know will not likely pay, we all meet this already.

Individual Questions

What book are you presently reading, and what type of books do you read? Mystery, reading, Sleeping Beauty by Phillip Margolin. Favor, Daniel Silva.

If you could have dinner with any two people in history, who would they be and who would you invite as your dinner date (excluding spouse)?

Jesus Christ and Mohammed, and find out what can be done to make Islam more tolerable of other beliefs. I would invite Margaret Thatcher.

What hobbies, if any, do you have, and how accomplished are you at them? Golf-8 handicap, ski out west yearly, just average.

If you could eat only one thing for the rest of your life, what would it be. Grapes.

Where have you traveled in the world? Most of Europe, Canada and Mexico.



Joanne Monaco and Judge Burt

What female/male celebrity would you want to be photographed with? Tiger Woods on the 18th green at Augusta.

What is your opinion of the Iraq War? Never should have gone in, never saw the strategic advantage, nor was it an appropriate extension of the war on terror.

What do you do to maintain physical and/or mental fitness? Stair Master and recumbent bike every day, weights every day except in golf season.

Good of the Order

What advice would you give to a new attorney beginning his/her practice? Return calls, learn how to service the client, and network with other professional disciplines.



COUNTY LAW LIBRARY IN JEOPARDY

BY SUSAN PROBOSKI, LIBRARIAN WITH ANN, M. D'AMICO, ESQ., C. LYNNE DAY, ESQ. AND J. JAREDD FLYNN, ESQ.

The existence and well-being of the Geauga County Law Library is in jeopardy. In the past, the county commissioners paid for the salary of the librarian and one assistant and all costs for space and utilities. The Law Library purchases were funded mostly by traffic fines. New legislation has changed the funding and distribution of law libraries throughout



The Library will have a hard time paying for new titles and replacing missing copies of popular books.

the state. Many questions still remain, although the following illustrates the new legislation's potential change to our Law Library and the effect it will have on us all:

In 2007:

- The Library will be responsible for 20% of the salary and benefits of the library staff -- approximately \$11,000;
- Ohio Supreme Court redistribution fund may take up to \$12,000 of the library's funding. (5% of the statutory funding at 2005 levels);
- Specialized titles, for example, The Employment Coordinator, BNA Tax portfolios, or Modern Estate Planning, will be cut.

In 2008:

- The Library will be responsible for 40% of the salary and benefits of the library staff -- approximately \$22,000, assuming no raise or increase in benefits cost;
- Ohio Supreme Court redistribution fund may take up to another \$12,000 to promote regionalization of law libraries;
- There will be a rent charge of 20% from the Commissioners for the Library space;
- The Library will attempt to reduce space to pay less rent;
- The Library will no longer be able to subscribe to duplicate titles in print and online.



Without adequate funding, the library will not be able to keep up with changes in technology.

In 2009:

- The Library will be responsible for 60% of the salary and benefits of the library staff -- approximately \$33,000, assuming no raise or increase in benefits cost;
- Ohio Supreme Court redistribution fund may take up to another \$12,000;
- The rent charge will increase by 20%;
- The legislature may still take some or all of the statutory funding;
- The Library will not be able to keep up with technology;
- Computers and printers will be outdated;
- Another round of cuts will occur, for example, Eminent Domain, Discovery Forms, Business Organizations, Criminal Defense Techniques, and Estate Planning books.

In 2010:

- The Library will be responsible for 80% of the salary and benefits of the library staff -- approximately \$44,000, assuming no raise or increase in benefits cost;
- Ohio Supreme Court redistribution fund may take up to an additional \$12,000;
- The rent charge will again increase by 20%;
- Patrons will have to pay for copies, research, and online database costs.

In 2011:

- The Library will be responsible for 100% of the salary and benefits of the library staff -- approximately \$55,000, assuming no raise or increase in benefits cost from 2007;
- Ohio Supreme Court redistribution fund may take up to another \$12,000;
- The rent charge to the Commissioners will increase by another 20%;
- You will have adequate research materials or you will have a librarian. Not both.

In 2012:

- The Library will be responsible for 100% of the salary and benefits of the library staff - approximately \$55,000, assuming no raise or increase in benefits cost since 2007;
- The Library will be responsible for 100% of the rent charge placed on the space for the Law Library;
- The Library can only duplicate what you already have in your office;
- The Library will likely lose the services of a full-time librarian;
- The Library will be in existence only to serve the most basic needs of the general public.

The Library Staff reduces the amount of time spent researching legal materials by organizing, updating and ordering legal materials, providing reference services, and keeping the equipment maintained. In addition, the Library and the Librarian provide a great deal of services to the Bar Association, the Prosecutor, the Public Defender, the Municipal Court and

to the public. Most cannot afford to own all the legal research materials necessary for a productive legal practice. Some do not know where to turn when they have a legal research question. The Library compliments your in house collection. Not all books at the Library are consistently used, although they are available if you need them. The cost of legal research materials increases 5-10% annually. Can you increase your legal research

budget? Where will you turn when you can no longer pay the price to have everything in your office?

The County Law Library will not be here for you in 5 years. There will be a shell of a library offering inadequate materials for the Geauga County Practitioner.

What you can do to help:

The chair of the Task Force is the Honorable Charles M. Schneider, (614) 462-3664. The current president of the Law Library Board of Trustees is Pearce Leary, (440) 285-5041. Bill Weisenberg is representing the Bar in the task force discussions,



(614) 487-4414. Please call them and let them know you support the continued existence of your County Law Library staffed by a full-time librarian. You can get a copy of the Task Force report from the Law Library by calling me at 440.279.2087 or e-mailing gcll@nls.net.

EDWIN T. HOFSTETTER: GEAUGA COUNTY LAWYER AND JUDGE

BY: BILL HOFSTETTER, ESQ.

My father, **Edwin T. Hofstetter**, a retired Judge of the Eleventh District Court of Appeals, died in March, 2006. Soon thereafter our esteemed

editor, **Paul Newman**, asked me if I would write an article about my Dad for **Ipsos Jure**. This task



Library Services will fade along with a full-time Librarian due to changes being considered by the Task Force.



proved to be more difficult than I expected because each thought conjured up so many memories it was difficult for me to determine what may be of interest to others. As this is our Bar's publication, and space is limited, I have tried to briefly summarize Dad's career as lawyer and judge, with a focus on the people with whom he worked and the physical locations where he worked, to record same for anyone who may be interested. I have not attempted to write about the things that he taught me, the family experiences and memories which I cherish, or the many other facets of his life which would fill volumes.

My father was born on August 12, 1918. His parents were immigrants--his father from Switzerland and his mother from Germany. He lived and worked on the family farm in Huntsburg, the ninth of eleven loving and caring siblings in the pre "New Deal" United States.

Dad was educated in the Huntsburg schools, where he was greatly influenced by **Warren Bechtold**, a remarkable man who first came to Huntsburg to be a minister at the Huntsburg Congregational Church. Due to a teacher shortage, Rev. Bechtold accepted some



Judge Hofstetter with Chief Justice C. William O'Neill of the Ohio Supreme Court circa 1969

teaching responsibilities at Huntsburg High School, and within a short time he became the principal of the Huntsburg Schools, where he was also a teacher and coach in the high school in addition to his ministerial responsibilities at the Church. Rev. Bechtold inspired my Dad, several of his siblings, and many other children from Huntsburg to go to college.

When my Dad graduated from high school in 1936, my grandfather wanted Dad to stay at home to work on the family farm. Dad did this to help his father, but after a year Dad realized that he truly wanted more education. In the fall of 1937 he left Huntsburg for Ohio State, where he lived in the OSU stadium scholarship dormitory which was for agriculture students of modest means. Dad met my mother at OSU the following year. He graduated with a degree in agriculture in the spring of 1941 and married Mom soon thereafter.



Gene Henry, Edwin T. Hofstetter, and James Dinsmore

Dad tried hard for several years to establish himself as a dairy farmer, but he was

undercapitalized and gave it up. My parents "hard luck" stories from this period included their draft horse dying in the yoke while hooked up to the plow and a rat biting Dad on his ear as he slept. Over the next several years he worked at several different jobs, including life insurance sales, as a laborer in the salt mines beneath Lake Erie, and as an extension agent. In the late 1940's, while he was working as a teller at the Central National Bank in Chardon, a local lawyer (Mark Sperry?) conducted classes in practical law and commercial paper for the benefit of the bank's employees. Dad found these classes so interesting that he decided to enroll in law school at Cleveland Marshall, which was then strictly a night program. In addition to his family responsibilities, he commuted from Chardon to downtown Cleveland four nights a week for four years while maintaining a full-time job in the cost accounting department of the Chardon Rubber Company.

Dad graduated from Cleveland Marshall in 1952. Main Street merchants and our old neighbors from our Water Street home later described the scene at the corner of Main and Water Streets, where my mother, my sisters and I waited with my father for him to catch a bus bound for the bar exam in Columbus. All of us cried and waved good-bye as he left. Fortunately, he passed the bar exam on his first attempt.

Dad was appointed to be a Justice of the Peace for Geauga County in the mid-1950's while he continued to work at the Rubber Company. For several years, in addition to his other JP duties, he would perform weddings in the front room of our home at 114 Water Street. In 1956 he was elected to be a Geauga County Commissioner. In the spring of 1959, at age 40, Dad left the Rubber Company, determined to try to support his family as a practicing lawyer. He opened an office in the rear offices at 213 Main Street together with **Gene Henry**. Gene was several years younger than Dad but had gained significant trial experience as an assistant Ohio Attorney General doing appropriations cases across Ohio in connection with the acquisition of the right-of-way for I-71.

When Dad was elected to be County Prosecutor in 1960, Gene became his assistant. Both positions were only part-time and the Prosecutor's office was operated out of the Henry & Hofstetter Law Offices at the 213 Main Street address.

Gene did most of the criminal and trial work, while Dad handled most of the civil, township and school board responsibilities. They were both fortunate to obtain the services of **Pauline "Polly"**

Richter as their secretary, and within several years Polly was joined by the very able **Virginia Urban**. Dad won his second term as Prosecutor in 1964 and Gene continued as Assistant Prosecutor.

A highlight for me during this period, when I was 13 or 14 years old, was the night that Dad had to meet with a witness/informant in a highly charged criminal case. Dad was anticipating that one person would meet him at the 213 Main Street address but was concerned that he was being "set up," so he parked our car heading west on Short Court Street (with a view of the front of his office) with me as his "lookout" with instructions to me that if more than one person showed up, I was to run to

the Chardon Police Station on the south end of the square to get help. Only one person showed.

Dad was elected to the Ohio House of Representatives in 1966, but continued to maintain his practice with Gene as Henry & Hofstetter while Gene became Prosecutor and Jerry Petersen came on as an assistant to Gene. Dad would frequently car pool to Columbus with his fellow northeast Ohio House members, **Joe Tully** and **George Voinovich**, for their companionship and to save money.

In 1968, Dad was elected with **"Bo" Jones** and **Robert Cook** to the then newly formed Eleventh District Court of Appeals for Lake, Geauga, Ashtabula, Trumbull and Portage Counties. The initial vacancies were for terms of two, four and six years so that, thereafter, only one judge would be elected every two years to a six-year term, and Dad was designated as the presiding judge because his initial election was for the two-year term. The County provided the Court of Appeals with an office in the southeast quadrant of the third floor of



Judge Robert Cook, Judge Edwin Hofstetter, Mr. Ritter, and Judge "Bo" Jones of the original 11th District Court of Appeals

the Courthouse. Polly Richter followed Dad as his secretary in the Court of Appeals and she was also, for a time, the Law Librarian. Dad's election to the Court of Appeals was a fairly heady experience for a boy from Huntsburg. During the first few years, before the caseload for the new Eleventh District grew,

Dad, together with Judges Cook and Jones would sit on Fridays as an extra panel for the Eighth District in Cleveland, where the Court of Appeals judges were treated like royalty. This was also the era of television comedian Flip Wilson's "here comes da judge" expression, which became a common greeting to Dad.

Dad ran and won a six-year term in 1970, and was re-elected for a third term on the Court of Appeals in 1976, at which time Geauga County also got a second Common Pleas Court Judge, **Hans R. Veit**. Before this time, Judge **Robert B. Ford** had been the sole general division Common Pleas Judge, using the second floor courtroom presently used by **Judge Burt**, and the Auditor's, Treasurer's, and

Recorder's offices were on the first floor of the Courthouse. When these offices moved to the Main Street Annex in 1976, the first floor of the Courthouse was remodeled, creating the second courtroom presently used by **Judge Fuhry**, and the Court of Appeals office (Dad and Polly Richter) was moved to the southeast corner of the first floor in the offices used by **Tom Mullen** and now **Bruce Smalheer** as magistrates.

When Dad retired from elected office in 1982, Polly assumed a position with the Court of Appeals in Warren. Dad continued to sit as a retired judge by assignment throughout the state on a regular basis, so he rented the upstairs rear office on the south side of the building at 114 East Park Street from which to operate and write his opinions. After several years, he remodeled a portion of the "Town Hall" building behind his residence on Aquilla Road for this purpose. He continued to hear



Judge Hofstetter in 2002

cases by assignment at a less demanding pace until he attained the mandatory retirement age of 80.

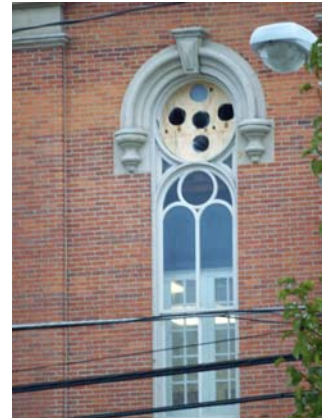
Dad remained a farmer at heart. He had an innate understanding of the cycles of nature and life, when to plant,

when to harvest, when to work hard and when to have fun. He was blessed that for most of his professional life he truly enjoyed his work. Upon his retirement from elected office he began making maple syrup again after a 40-year hiatus. When he would sit by assignment, he would give his maple syrup to fellow judges and members of the Courts' staffs.

He was blessed in his association with Gene, Polly and Virginia. He once told me that in all the years that he and Gene were associated, ". . . we never had a harsh word with one another - there were some times when we didn't say much, but we never said a harsh word." He also said that he and Gene never disagreed about money and that the financial matters "just always seemed to work out."

As a judge, Dad was also fortunate to have had a number of talented clerks and "runners," including **Fred Green, Scott Brown, Mike McDaniel, Maureen Kelleher, Vince Slusarz, Robert Henry, Steve Macek, Bob Strauss,** and **Marie Umholtz.**

Dad loved being part of the legal "action" and his association with his fellow judges and members of the Bar. When he was younger, he enjoyed the Bar golf outings and dinner dances. He continued to enjoy the Christmas gatherings and Bar Association meetings as he was able.



You may have noticed that the renovations to the 3rd floor of the Common Pleas Courthouse have commenced. It will be about a year before the construction is complete.

Dad had significant insight and perspective regarding the relationship between local and state government and the citizenry. He had respect for governmental authority properly exercised, but also recognized that it was subject to abuse. In criminal cases, notwithstanding his experience as a Prosecutor, Dad understood the rights of the accused and would make the tough call in favor of a defendant as necessary. Dad would never shrink from an honest and vigorous debate or improperly yield to those with oversized egos. Dad took his oath, to protect and to defend the Constitutions of the United States and the State of Ohio, very seriously.



Bill Hofstetter joined Tom's farewell party

His extremely modest upbringing, eclectic work experience, friendly way, and his willingness to work hard served him well in his career as a lawyer and judge. My mother, **Anna May Hofstetter**, an exceptional campaigner, Dad's greatest supporter, and wife of sixty-three years died in July, 2004. Dad died peacefully with my sisters and me at his bedside on March 8, 2006.



A NOTE FROM THE EDITOR

BY PAUL A. NEWMAN, ESQ. NEWMAN & BRICE

Thankfully, the election season is over. The television advertisements--no not advertisement--television attacks were funny, disgusting, stupid, inane, archaic, and troubling. Politics, as we know, is a quid pro quo business. You wash my back, I'll wash your something else. It can and does get ugly.

What was especially troubling were the several attacks against **Marc Dann, Esq.**, candidate, and now attorney general elect. The attacks identified attorney Dann as an attorney who represented sex offenders. Further, it directly implied that attorney Dann gave his approbation to the conduct of the defendant he represented and showed the actor on TV comradely patting the defendant's back in approval. I did not like the attack. I did not like the method. I did not like the import of sleaze on our profession by a member of our profession.

Canon 1 of the Disciplinary Code states: A Lawyer Should Assist in Maintaining the

Integrity and Competence of the Legal Profession.

That really is all that needs to be said. The attack ads were sleazy, cheap, and impugned the entire profession. The message was that if an attorney represents a defendant, he/she therefore sides with them and agrees with the offenses. I believe they were a violation of Canon 1. I am **Paul A. Newman** and I approve this message.

HEALTH CARE DECISIONS DAY 2006

BY HEIDI M. CISAN, ESQ. THRASHER,
DINSMORE & DOLAN



Judge Inderlied and David Joyce at Tom Mullen's Roast and Toast

Thank you to the following bar association members who volunteered their time last month, on a Saturday no less, to educate the public on advanced health care directives: **Bill Hofstetter, Mary Jane Trapp, Lisa Carey, Caterina Cocca-Fulton, Jim Dickinson, Bruce Murphy, Tim Snyder, Todd Hicks, Fred May, Jamie Ginsberg and Pearce Leary.** Attendance was light this year, but we hope to increase participation by getting an earlier start on publicizing this event next year.

Ipso Jure

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