

# Inside the Future

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**Cover:** Todd and Susan Petersen celebrate the opening of their new office.

**(This Page) Bottom:** New bar association president, Judge Terri Stupica, thanks outgoing president, Dennis Coyne, for his leadership over the last year!

# President's Page

## Judge Terri Stupica

### *Chardon Municipal Court,*

440-286-2670

## Inside this issue:

Cover Photo Petersen & Petersen	1
President's Page Judge Terri Stupica	2
A Not-so-silent Night Lisa Carey, Pictures by Paul Newman	3
Christmas Party Pictures Paul Newman	4
G.C.B.A. Swearing-in Pictures Paul Newman	5
From the Coroner's Office John Urbancic, M.D.	6
Cases of Interest Pearce Leary	6
Dicta: Do Judges Know It When They See It, or Only When They Want to See It? Judge Timothy J. Grendell	8
We're In! Finally, We're In! Todd Petersen	11
Juvenile Detention Alternatives Andrew Misiak	13
Law Day Flyer	14
2018 Veterans Outreach Campaign Kurt Law Office, LLC	15
The Geauga County Bar Foundation Todd Petersen	16
Important Updates	18
GCBFA Announcements	19



I am so looking forward to leading this wonderful group in the upcoming year as President of the Geauga County Bar Association. We have so many wonderful and talented members, as well as very experienced and knowledgeable members. As I have said previously, I know I have big shoes to fill, as my two predecessors, Dennis Coyne and Frank Antenucci, have really accomplished some innovative programs and benchmarks for our Bar Association. I want to personally thank them for their great leadership. I would like to invite everyone to feel free to email, call, or stop by, to express an opinion or idea, good or bad, with me. I have an open door policy at the Chardon Municipal Court, and plan on doing so with our Bar Association members.

Looking ahead, I would love to increase the number of members in our Bar, as well as expanding our presence even more in the community. I am trying to have a guest speaker for the majority of the general meetings, as I hope that knowing more about community programs and networking with others outside our Bar opens up opportunities that may not otherwise be known or available. I was honored to be a speaker at this year's Ohio Women's Bar Foundation Leadership Institute in March in Columbus. In meeting with Leslie Wargo, a Cleveland attorney and one of the organizers and Foundation Board members, she relayed that she would love for interaction between our Bar and their organization in the very near future. By working in cooperation with a statewide organization, I feel this could really expand some of the opportunities for our Bar.

I know each and every one of you are busy, whether with your business, family, committee involvement, etc., but know that your work and efforts in this Bar and community do not go unnoticed. I might ask to extend yourselves a bit more this year, in addition to what you do now, but I hope it will be worthwhile. Thank you for all you do, and I look forward to a great year and seeing you at meetings and events. 🌸



# A Not-So-Silent Night

**Lisa Carey, Esq.**

*Carrabine and Reardon, [carey@jcjrlaw.com](mailto:carey@jcjrlaw.com)*

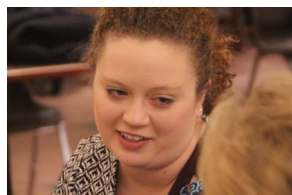
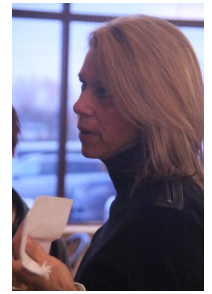
The Bar Association's Annual Christmas Party, held this year on December 14, 2017, is the last Bar opportunity of the year to gather with friends and co-workers to celebrate the holidays. For the last several years, the party has been held at Heinen's in Chardon, which provides not only a nice large private room with plenty of room to sit and talk, but also extremely delicious selections of ap-

petizers and desserts - no one eats dinner after this party!

With food selections by Ann D'Amico, we were treated to stuffed mushrooms, parmesan chicken tenders, Guinness sliders, buffalo deviled eggs, shrimp, rumaki, bacon covered apricots, hummus dip, cheese and crackers, ambrosia, mini steak sandwiches, and other delicious entrees and desserts.

The important part of the evening, though, is the swearing in of our new Bar Association officers for 2018. Retired Judge Fred Inderlied was on-hand to swear in Judge Terri Stupica as President, Kelly Slattery as President Elect, and Susan Wieland as Treasurer. Mike Judy is renewing his role as Secretary but could not attend and will be sworn in at a later date.

Congratulations to all! 🌸





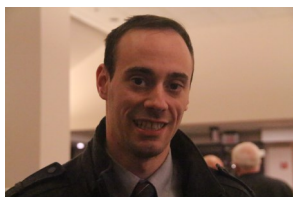


# Christmas

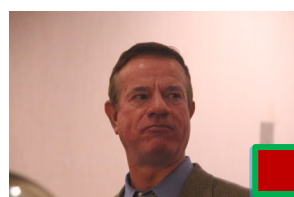
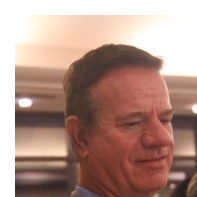
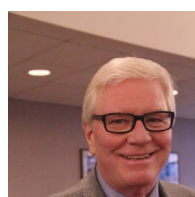
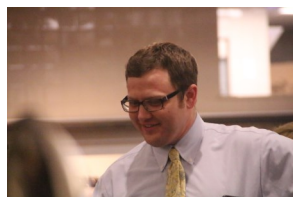
Pictures  
by  
Paul Newman



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# Party

7



# Judge Inderlied swears in the G.C.B.A. Officers for 2018



**Above Left and Right:**  
All kinds of food from the  
Christmas Party!



**At Left:** Outgoing president  
Dennis Coyne smiles after  
a year well done!

## From the Coroner's Office

**John Urbancic, M.D.**

*Geauga County Coroner, [geaugacoroner@co.geauga.oh.us](mailto:geaugacoroner@co.geauga.oh.us)*



Hi folks!  
My name is John Urbancic, M.D. and I am your Geauga County Coroner. I took office January, 2017, and am serving a four year term. I've been asked to write about my office.

A coroner's case is defined

in RC 313.12 "any person (who) dies as a result of criminal or other violent means, by casualty, by suicide, or in any suspicious or unusual manner, when any person, including a child under two years of age, dies suddenly when in apparent good health, or when any person with a developmental disability dies regardless of the cir-

cumstances..."

Deaths are reported to us by physicians, nurses, EMS, police, nursing homes, assisted livings, and the hospital.

Deaths that occur in the manner described above are under the jurisdiction of the coroner and RC 313.11 states "no one...shall

*(Continued on page 7)*

## Cases of Interest

**Pearce Leary**

*Pearce Leary, Esq., [pearceleary@windstream.net](mailto:pearceleary@windstream.net)*



In the matter of: B.J.M., delinquent child, 2017-Ohio-8202

Juvenile creates disturbance in public park. Police officer orders him not to return or he will be cited for trespass. Juvenile returns twelve days later and is part of a disturbance on the basket ball court. Conviction for trespass reversed. No statutory, rule or policy criteria for officer's order. Thus, juvenile was denied due process.

Adams vs. Adams, 2017-Ohio-9264

Ex-wife ordered to pay ex-husband sums of money from her retirement plan. She defaults. He files a motion to show cause. She

claims her obligation was discharged in bankruptcy. Trial court denies relief finding that he should pursue this in bankruptcy court. Held: reversed and remanded. State courts have concurrent jurisdiction to determine if this debt was not dischargeable under 11 USC 523 (a)(15).

State of Ohio vs. Ferrell, 2017-Ohio-9341

Defendant was a back seat passenger in a car stopped for a traffic violation. Officer asks to search defendant's pockets; he consents; nothing was found. Officer then searches the socks and finds heroin. Officer cuffs defendant and asks defendant if he has a needle and syringe which defendant admits. Held: motion to suppress should have been granted.

Search of socks exceeded consent. Once cuffed defendant should have received Miranda warnings and needle and syringe are also inadmissible.

Fowler vs. Fimiani, 2017-Ohio-9333

Home seller had basement flood in 2008; basement dampness in 2009; and basement flood in 2013. Seller disclosed first two events but not the 2013 flood. Held: summary judgment for seller affirmed. "As is" clause precludes fraudulent nondisclosure claim. Professional inspection contingency precludes claim of justifiable reliance on Property Disclosure form defeating fraudulent misrepresentation and concealment claims. ❁

## Coroner (from page 6)

purposely remove or disturb the body of any person who has died in the manner described in section [313.12](#) of the Revised Code."

I have five part-time employees to help me fulfill the obligations of this office. Since we are first responders to scenes, the four coroner's assistants help with scene investigations, paperwork and issuing orders concerning decedents remains. All of the assistants are medical professionals who have completed further training in forensic pathology and death scene investigation. We also have a part-time secretary, who assists in the maintenance of the coroner's records, as well as the myriad requests for information from family members, law enforcement, attorneys, and governmental agencies involved in public health and safety for example the Ohio Violent Death Reporting System.

Autopsies are done for various reasons such as identification of the deceased, determination of cause of death when the investigation fails to point to a reasonable cause, in cases involving children, and cases involving motor vehicle accidents. In determining when to order an autopsy, we use our best judgment in trying to balance the issues of justice and public safety with the issues of personal and religious objections and of budgetary and system restraints. Autopsies are currently done by board certified forensic pathologists at the Cuyahoga County Medical Examiner's Office. The results are communicated back to me, and a death certificate is issued indicat-

ing the cause and manner of death. Some cases are taking up to six months to get all the reports back due to the back log of cases the toxicology labs are facing. This wait is a hardship for families looking for resolution.

We are currently in an opioid death epidemic. Unfortunately, Geauga County has not been spared from the ravages of this plague, and we have seen our numbers of overdoses steadily climb over the last several years from about one death a month to about 25 this last year. Our numbers do not include decedents pronounced in Lake or Cuyahoga Counties. I think the actual number of deaths this last year was probably 60-75 for Geauga County residents, if you take into account those who died out of county. The drugs involved have increased exponentially in potency, in part accounting for the increase in deaths and started with heroin and prescription drugs like Oxycodone, and then making a transition over the last 2-3 years to the much more potent Fentanyl, and now Carfentanil, the "elephant tranquilizer" that is so powerful that an amount equal to a grain of salt is lethal to humans. The age of these decedents is from 20-75 years of age. It is not just an issue affecting young

people.

The coroner's work is heart-wrenching, especially when dealing with otherwise young and healthy people who are dead due to drugs, suicide, and accidents. I tell people we don't get called when grandma dies with the family standing around holding hands and praying. We get called for deaths that are unexpected and often violent. The families are always in shock, and it can be very dramatic on scene and afterwards as we counsel them. I'm sure you lawyers know how these families suffer as they seek to put their lives back in order and seek answers concerning their loved ones.

The Coroner's Office does maintain records on deaths reported to us. If we can be of any assistance to you, please do not hesitate to contact us. 🌸





# Dicta: Do Judges Know It When They See It, or Only When They Want to See It?

**Judge Timothy J. Grendell<sup>1</sup>**

*Geauga County Probate Court, [Grendell@geaugacourts.org](mailto:Grendell@geaugacourts.org)*



“Obiter dictum,” or as it is more frequently (and simply) called, “dicta,” has a definitional problem. It seems to be rather like pornography, in that judges can often apply the Potter Stewart rule of, “I know it when I see it.”<sup>2</sup> In some cases, “dicta” can become simply an excuse for not following higher court decisions. The failure to use a consistent, articulable definition also means that too often, attempts to rely on the holding/dicta distinction are inconsistent at best and unprincipled at worst. Without a settled understanding of how to determine what is dicta and what is holding, judges may simply manipulate the use of dicta rather than rely on any serious judicial analysis, short-circuiting the reasoning of higher courts solely to justify lower court rulings.

## The Problem of Dicta

Like any common-law system, the American legal system requires consistency so future cases can be decided based on similar principles as those in the past. Without this consistency, the order inherent in our system of justice disintegrates, leaving parties uncertain as to the governing law and unable to undertake effective case

strategies and the public uncertain about how they can comply with governmental actions. When elements of a judicial opinion and reasoning are cast aside as mere dicta, uncertainty skyrockets, and public confidence in the justice system is negatively impacted as increasingly cynical citizens question why lower courts have elected not to follow the plain language of state supreme court or appellate court decisions. Fortunately, research has shown that relatively few reported cases involve discarding some portion of a higher court’s decision as dicta: two scholars show that this happens in only 1 out of about 3,000 reported cases.<sup>3</sup> However, my experience makes me suspect that unreported cases may not be consistent with these statistics.<sup>4</sup>

## Definitional Theories

Likely the best-known understanding of dicta considers whether analysis is necessary to the court’s overall holding. As *Black’s Law Dictionary* defines it, dicta is “[a] judicial comment made while delivering a judicial opinion, but one that is unnecessary to the decision in the case and therefore not precedential.”<sup>5</sup> While this seems simple at first, this conception of dicta is actually

problematic on several levels. First, it can actually be more difficult than it might seem to determine whether a statement is necessary to the court’s final holding, particularly when considering multi-factor tests (like strict scrutiny). In such an instance, if a court finds a statute serves a compelling governmental interest but is not narrowly tailored, what weight should be accorded to the compelling interest analysis? Legislators aiming to create statutory regimes that will survive judicial review would certainly look to this analysis as instructive, but it is not, strictly speaking, necessary to the final holding of the court. Without a more concrete definition of dicta, decision makers face unpredictable outcomes, because lower courts may choose to depart from the reasoning of the original decision whenever that reasoning gets in the lower court’s way. Whether designing a plan for corporate compliance or drafting a bill that will survive litigation, the necessity approach risks transforming instructive legal reasoning into nothing more than shifting sands that can be ignored at will by lower court judges to obtain that judge’s desired outcome.

The necessity approach also poses a problem in addressing

*(Continued on page 9)*



## Dicta (from page 8)

alternative holdings, as neither holding could truly be said to be necessary to the court's final decision, sparking criticism of this approach from some federal judges.<sup>6</sup> The Supreme Court has suggested that this approach should be disfavored because of this problem, as it concluded in *Richmond Screw Anchor Co. v. United States* that "It does not make a reason given for a conclusion in a case *obiter dictum* because it is only one of two reasons for the same conclusion."<sup>7</sup> Despite the Court's explicit rejection of the logical conclusion of the necessity approach, many judges still follow this approach.

Some scholars adopt an even more extreme approach called fact-and-outcome or reconciliation. As the name might suggest, these scholars believe that only the facts of a case and its ultimate outcome are controlling—all other analysis is dicta.<sup>8</sup> Stare decisis therefore is reduced to reconciling decisions in various cases with each other rather than attempting to consistently apply similar reasoning processes throughout cases. However, it seems quite clear that on a normative level, this view is not held by a significant number of practitioners or judges. The attention that is paid to the reasoning of appellate courts, rather than to merely the facts and outcomes, shows that most in actual legal practice adhere to a broader view of what constitutes a court's holding than this approach.

Other scholars advance broader views on what constitutes

a court's holding (or judicial reasoning). Abramowicz and Stearns define holding as "propositions along the chosen decisional path or paths of reasoning that (1) are actually decided, (2) are based upon the facts of the case, and (3) lead to the judgment."<sup>9</sup> This definition recognizes that even statements that are not necessarily required to produce the eventual outcome can nonetheless be a vital part of the court's reasoning, and it permits this analysis to be properly considered part of the court's holding rather than discarded as completely irrelevant. It considers more of court opinions to be holding and less to be dicta than other narrower approaches, but it does so as part of an attempt to restore a proper level of respect for the reasoning of prior higher courts that considered those similar cases. Of course, that prior reasoning may be flawed, but the remedy there is to depart from the precedent of sister circuits or to overrule the decisions of lower courts, not to simply attempt to shoehorn the reasoning into so-called consistency by relying on cries of "dicta" as an attempt to salvage broader principles from seemingly contradictory cases.

Broader approaches to understanding the holdings of a court and a reduced willingness to dismiss analysis as dicta are more faithful to the foundations of stare decisis than extremely narrow interpretations that fail to give full authority to the reasoning process used by courts. While it is right to be careful to not give undue weight to dicta, it is also danger-

ous to narrow court rulings to the point of impotence. Doing so increases the risk of judicial uncertainty for lower court judges and litigants and makes it more difficult for them to plan compliance actions in advance. Overall attempts to build a cohesive litigation strategy (particularly in the context of public interest or civil rights litigation) are also likely to suffer from uncertainty posed by the inconsistencies inherent in narrow understandings of what constitutes holding.

Consider a brief illustration. Suppose a relator files an action seeking a writ of mandamus to compel a government official to take some specific action. If the Ohio Supreme Court denies the writ of mandamus, reasoning simply that (for whatever reason) the relator has failed to prove he is entitled to it, there is no question—even from the most extreme thinkers—that the Supreme Court's reasoning is binding. But suppose instead that the Supreme Court denies the writ by observing that not only has the hypothetical relator failed to prove he is entitled to the writ, but that *no relator* would ever be entitled to a writ of mandamus to compel an official to take that or a similar action. Even though this holding would be beyond the scope of the facts before the court, it seems clear that the principle cannot be dicta if it is the reasoning that leads to the answer in one particular case.

### How to Avoid the Pitfalls

For judges, it can be convenient and tempting to label por-

(Continued on page 10)

## Dicta (from page 9)

tions of opinions as dicta, whether to resolve seemingly contradictory cases, to obtain a clearer answer on close constitutional or statutory questions, or to reach a desired result in a case. But doing so undermines the respect for precedent that underlies the entirety of the American legal system by stripping the intellectual integrity from the reading of cases—the challenge becomes merely resolving the available caselaw with the desired outcome instead of impartially applying those principles to the case at hand. Judges should therefore hesitate to dismiss portions of a state supreme court's or appellate court's opinion as dicta, and as professional readers of cases we should always assume that all lines of judicial reasoning included in an opinion by a higher court were included deliberately to convey some meaning to future courts.

The approach championed by Abramowicz & Stearns provides a more balanced way to evaluate cases when it appears that a portion of the opinion may genuinely be dicta. Ask whether a statement was reasoned through as part of the decisional pathway of the court to more easily determine whether it is a substantive part of a case's reasoning. If litigants dispute whether a key portion of a case is holding or dicta, serious analysis is needed from the court, not merely a self-serving or conclusory statement that the passage is dicta. Of course, to provide this meaningful analysis, courts also require a concrete definition of dicta themselves—which is where the three-part framework Abramowicz & Stearns propose

shows itself far superior to other approaches that seem to boil down to the feelings of judges on any given day.

When writing opinions, judges should also be aware of the possibility that future readers may have a difficult time distinguishing dicta and holding. The best solution is to write opinions that clearly indicate when dicta is present. Discussions of hypotheticals in dicta should include words indicating uncertainty: “perhaps,” “could,” or “might,” for instance. If dicta comes in the form of a short observation, a footnote could also be an appropriate way to communicate that it is dicta. Better still, dicta could be purged entirely from an opinion (which would likely make the opinion more readable as well). Judges should write with precision to avoid misunderstandings of their intentions in opinions.

### Conclusion

Judicial reasoning and holding must be distinguished from dicta to give appropriate weight to each portion of a court opinion. Judges should see dicta when it really exists, but not simply to justify a ruling that contravenes the reasoning of a higher court. While it is possible that dicta could permit the judiciary to act beyond its proper scope, what is more likely is that adopting too narrow a view of what constitutes holding and judicial reasoning will undermine stare decisis and create uncertainty for litigants. Narrower definitional theories, such as the necessity approach, reject broad reasoning and general principles,

but the reasoning these theories reject is critical to understanding the workings of the legal system. The emphasis on written opinions that explain a court's decisional process shows that most judges seek to remain faithful to the principles applied by prior courts. Unless courts are black boxes where only the outcome is knowable, broader approaches are needed for the real world. Finally, judges should refrain from casually dismissing relevant higher court reasoning as dicta solely to justify nonconformity with that higher court's reasoning and ultimate rulings. By adopting a clear definition of dicta, we can give proper weight to the reasoning used by prior courts while providing an environment of certainty for litigants. The administration of justice and public confidence in the courts require that Ohio judges know dicta when they see it, and do not use it as an excuse to avoid the reasoning included in decisions by the Ohio Supreme Court and appellate districts.

### Endnotes:

1. Timothy J. Grendell is the presiding judge at the Geauga County Court of Common Pleas Probate/Juvenile Division, a position he has held since 2011. Prior to his service on the bench, he served in the Ohio House of Representatives from 2000 until 2004 and the Ohio Senate from 2005 until 2011. He also served in the JAG Corps of the United States Army. Judge Grendell received his JD from Case Western Reserve University School of Law, and his LLM from the University of Virginia School of Law. He wishes to thank Thomas L. Siu for assistance with this article.

*(Continued on page 12)*



# We're In! Finally, We're In!

**Todd Petersen**

*Petersen & Petersen, Inc., [tp@petersenlegal.com](mailto:tp@petersenlegal.com)*



10680 Mayfield Road is now the new home of Petersen & Petersen.

As of February, we are operational—new computers, new case management system, new shareholder, and a renewed energy. Furniture deliveries have finally tailed off, contractor visits have all but wrapped up and—aside from paralysis of analysis on

desk orders for Susan and I—attorneys and staff are fully situated.

I'd like to tell you the "North Royalton" designation on our caller I.D. is because we have a satellite office, but the truth of the matter is that we just haven't figured out how to squash that bug. The first time we call someone we are greeted with "Why does it say North Royalton?" Fortunately, it seems that nobody in our Bar actually knows anyone from North Royalton, so, by the second call, they all know it is us.

We are thrilled that we could help improve the Fowlers Mill section of Munson Township. My family has lived in Munson nearly my entire life, and back when Susan first laid eyes on the corner of Mayfield and Fowlers Mill, the restaurant was still operational and the Brown Barn was still several incarnations shy of going out of business. In the interim, the property was lost to fore-

closure. A bank in Indiana tried marketing the property with no luck, and the property sat empty and unmaintained.

Mike and Eric Payne had a front row seat to the deterioration, but had no luck persuading the bank to be reasonable...until 2016. The bank finally gave up, and Mike fielded a phone call that must have sounded like Lee surrendering at Gettysburg. He and Eric struck a deal and took over the whole corner, broken windows, leaking roofs, tall weeds, and all. They knew Petersen & Petersen had considered expanding, so they reached out, and here we are.

Had the Inn held some more historic significance, we likely would have opted to remodel. In reality, though, it was less "historic" than it was just "old." The inside was worse than the outside, and its 10,000 or so square feet didn't lend itself to any sort of sensible division. We opted to



(Continued on page 12)

## We're In! (from page 11)



ceilings. Two of the three conference rooms and two of the main offices enjoy a spectacular view of Alpine Valley. We have space to house our four attorneys and two assistants, along with plenty of space to expand. We built a “war room” to help us centralize trial preparation. We even included a dorm room for the kids, so they can knock out their homework while we finish a solid day’s work.

build new.

To get a sense of just how ready Munson was to see the corner rejuvenated, consider our experience before the Munson BZA. Zoning meetings, which are often like neighbor disputes—everyone that shows up wants to fight, perspective is thrown out the window,

and the costs are almost always absurd.

Not so this time. We needed seventeen variances. We showed up to an unusually full room. Nerves set in because you never know what will be said. Then, for the first time in my twenty-two year career I experienced something I never did before—every single one of the comments was supportive and encouraging. Forty-five minutes and one unanimous vote later, we had all seventeen variances!

I suppose I’d use the words “refreshing and reinvigorating” to describe our new offices. The entire place is flooded by natural light and accented by open spaces with high

Ultimately, we understand the real significance of this building is that it helps us continue our work providing “Dedicated Service That Gets Results,” building on past successes and strategizing for growth in the future. We love what we do, helping people each and every day, now we just love where we do it that much more.

To all those who supported us and encouraged us during this building process and, for that matter, throughout our careers, we say “Thank you!”

Please, come visit. We’d love to show you around. 🌸

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## Dicta (from page 10)

- Jacobellis v. Ohio*, 378 U.S. 184, 197 (1964) (Stewart, J., concurring).
- David Klein & Neal Devins, *Dicta, Schmicta: Theory Versus Practice in Lower Court Decision Making*, 54 WM. & MARY L. REV. 2021, 2026 (2013).
- Though, admittedly, there is no realistic way to verify these statistics as applied to unreported cases.
- BLACK’S LAW DICTIONARY 1102 (Bryan A. Garner ed., 8th ed. 2004).
- See, e.g. United States v. Johnson*, 256 F.3d 895, 915 (9th Cir. 2001) (Kozinski, J., partial majority, partial dissent).
- See Richmond Screw Anchor Co. v. United States*, 275 U.S. 331, 340 (1928).
- Shawn J. Bayern, *Case Interpretation*, 36 FLORIDA ST. U. L. REV. 125, 131 (2009).
- Michael B. Abramowicz & Maxwell L. Stearns, *Defining Dicta*, 57 STAN. L. REV. 953, 1065 (2005). 🌸



# Juvenile Detention Alternatives Initiative in Ashtabula County

**Andrew Misiak**

*Ashtabula County Juvenile Court Administrator, [ajmisiak@ashtabulacounty.us](mailto:ajmisiak@ashtabulacounty.us)*

Currently, there are not many juveniles incarcerated in the Ashtabula County Youth Detention Center, and county officials are not planning for any more to be held in county. Juvenile Court Administrator Andrew Misiak said that the center will stop holding the county's juvenile delinquents on April 30, when grant funding will aid officials to make a recently formed juvenile intervention and diversion program full-time.

In March 2017, Juvenile Court joined the nationwide Juvenile Detention Alternatives Initiative, and unveiled plans to divert non-violent, low-risk juveniles away from the criminal justice system, as well as start a new resource center in the Ashtabula Municipal Building, where the court's specialists can start same-day interventions. The Resource Center will be the entry point for all youth in Ashtabula County.

"We envision a system where the best personnel are assigned to our youth, whether it be at school or through our systems," Misiak said. "We have scaled our community response from early intervention and diversion to a possible youth prison commitment. There are a wide range of interventions on the spectrum and our goal is to intervene earlier to get to the root of the problem—to provide better outcomes for our kids and families."

Misiak stressed that the plan would not jeopardize public safety. Juveniles deemed "high risk" offenders will still be incarcerated—just not in the county. The court is currently seeking agreements with juvenile detention centers in Lake, Portage/Geauga, Mahoning, and Trumbull counties to house Ashtabula County juveniles, who would be transported out of county by some of the court's staff. That would also reduce the time county officers spend on juvenile arrests.

Ashtabula County Children Services Board Executive Director Tania Burnett said, "Detention is setting them up to learn worse behaviors. It continues into adulthood."

She added that some parents might feel that incarceration is the only option for their child.

"With JDAI, the idea is to teach the parents better coping skills and parenting skills so that parents aren't getting to that point."

County Commissioners President Kathryn Wittington said, "The state is going towards diversion in many aspects across the board—to reduce the trauma. It's going to be much more positive outcomes for the children and families. We're going to be able to have assessments done that day, if needed—that's huge."

Since the court's interven-

tion program began, more than 180 cases—ranging from simple status to felony-level offenders—have been diverted from the official court process. And less than 20% have re-offended—a big success!

Misiak said, "The Department of Youth Services is really excited about what we are doing, it is working."

Ashtabula County used to be the fifth (5th) highest among Ohio counties in juveniles committed to state juvenile corrections centers, according to Tony Panzino, Ohio DYS Bureau Chief. Once a juvenile enters detention they're statistically more likely to re-offend and end up in the adult prison system later in life, Misiak said.

Under the new program, the court seeks to treat the family unit or a child's social or cognitive conditions.

"What first drew me to the juvenile system was a recognition that the changes that were going on and with the science that had emerged concerning how to best address issues, we were going to be able to develop programming to deal with the population." Judge Campese stated, "The whole juvenile justice system is changing right now. I want Ashtabula County to be on board, on the front end."





The U.S. Constitution sets out a system of government with distinct and independent branches—Congress, the Presidency, and a Supreme Court. It also defines legislative, executive, and judicial powers and outlines how they interact. These three separate branches share power, and each branch serves as a check on the power of the others. “Ambition must be made to counteract ambition,” James Madison explained in Federalist 51. Why? Madison believed that the Constitution’s principles of separation of powers and checks and balances preserve political liberty. They provide a framework for freedom. Yet, this framework is not self-executing. We the people must continually act to ensure that our constitutional democracy endures, preserving our liberties and advancing our rights. The Law Day 2018 theme enables us to reflect on the separation of powers as fundamental to our constitutional purpose and to consider how our governmental system is working for ourselves and our posterity.

The Geauga County Bar Association presents:

Guest Speaker:

Judge Sean C. Gallagher, Ohio Court of Appeals

**Friday, May 4, 2018**

**12:00 – 1:45 p.m.**

**Guido’s**

**12809 Chillicothe Road, Chesterland, Ohio**

A request for one (1) hour of CLE has been approved.

The GCBA will also present the award for Law Enforcement Officer of the Year, and honor three (3) area high school students for their essays about the Law Day theme, “Separation of Powers: Framework for Freedom.”

Menu:

Guido’s will serve lunch, which includes: Beverages, Salad, Rolls, entrée of Lemon Chicken with Cavatelli, Green Beans and Cake for dessert.

**Cost: \$25.00/person**

Name: \_\_\_\_\_

Phone or email: \_\_\_\_\_

Send your payment by **Friday, April 20<sup>th</sup>** to:

The Geauga County Bar Association  
P.O. Box 750, Chardon, Ohio 44024

Please call Krystal Thompson @ (440) 286-7160 or email: [secretary@geaugabar.org](mailto:secretary@geaugabar.org) with any questions





## KURT LAW OFFICE, LLC

### 2018 Veterans Outreach Campaign

#### Do you know a Veteran who needs legal help?

Whether it is in relation to a VA Benefits issue, a Power of Attorney, a Last Will and Testament or something else, Kurt Law Office is committed to ensuring that the professional services our local Veterans need are available to them in 2018.

For its part, KLO has scheduled a series of **FREE** events at which Veterans will be provided information on legal issues pertinent to Veterans. Complimentary refreshments will be provided and certain *pro bono*, reduced rate, and limited-scope legal services (including “unbundled” *pro se* assistance) will be made available based upon demonstrated financial need.

Please see and share the program dates at right. Presentation content may be duplicative. **All events are to take place at 11:00 A.M. in Kurt Law’s Lake County office.**

Attendees may (but are not required to) RSVP, and may also email advance questions to [support@KurtLawOffice.com](mailto:support@KurtLawOffice.com). Most information will be *general* in nature, but free initial consultations (up to 30 minutes) may be held privately on-site. Depending upon attorney availability, such consultations may or may not be able to be conducted the same day.



## KURT LAW OFFICE, LLC

**Fairness • Justice • Solutions**

ADVERTISING MATERIAL; Kurt Law Office, LLC is responsible for the content of this Advertisement.

### Schedule of events:



**Saturday, May 26**



**Saturday, June 30**



**Saturday, November 10**

Lake County  
30432 Euclid Ave., #101  
Wickliffe, Ohio 44092  
(440) 516-1010

Geauga County  
401 South St., #2B-5  
Chardon, Ohio 44024  
(440) 285-7750

Ashtabula County  
26 S. Chestnut St.  
Jefferson, Ohio 44047  
(440) 536-4149

[WWW.KURLAWOFFICE.COM](http://WWW.KURLAWOFFICE.COM)

On Social Media @KURLAWOFFICE

## The Geauga County Bar Foundation

c/o Todd Petersen, President  
Petersen & Petersen  
10680 Mayfield Road  
Chardon, Ohio 44024  
(440) 279-4480  
tp@petersenlegal.com

### NOTICE OF ANNUAL MEETING AND ANNUAL CONTRIBUTION

Dear Trustees, Fellows, and potential Fellows of the Geauga County Bar Foundation:

Please be advised the next meeting of the Geauga County Bar Foundation of Trustees will be held at the new offices of Petersen & Petersen. The date and time is to be determined. Petersen & Petersen is relocating to the site of the former Fowlers Mill Restaurant, just downhill from the Brown Barn and just east of Alpine Valley Ski Resort in beautiful Munson Township, Ohio. If you are plugging it into your GPS, use 10700 Mayfield Road, Chardon, Ohio 44024 and it will get you close enough to find our new red and grey building (the new address is still up in the air).

The meeting will be the Annual Meeting and we will use it to catch attendees up on the business of the Bar Foundation and, hopefully, find some new blood for the Board of Trustees. Your attendance at this meeting is invited, encouraged, requested, sought after, needed and wanted. The Bar Foundation needs new participants (encourage a fellow attorney to join), new leaders (be one) and new ideas (bring many).

Attached please find a Membership Application/Renewal form. Membership is easy: You must be in good standing, you must be a member of the Geauga County Bar Association and you must pay an annual contribution of \$25.00 per year. There is an exception for Life Fellows, as their initial contribution is considered payment in full for their ongoing contributions.

We have not sought annual contributions in quite some time. Despite that, we have been able to fund a variety of projects, programs and scholarships. Now the time has come to seek a new commitment from the Fellows such that we can continue this charitable arm of the Bar Association. Please consider renewing your fellowship and getting involved. We'd love to have you.

We hope to see you at the meeting. Date and time will soon follow.

Very truly yours,

Gauga County Bar Foundation

Todd Petersen, President



# GEAUGA COUNTY BAR FOUNDATION

## FELLOWSHIP RENEWAL/APPLICATION

### APPLICANT INFORMATION

Name:		
Firm/Employer:		
Business address:		
City/State/Zip Code:		
Business Telephone:		Business Fax:
E-mail:		
County:		District Number:
Home Address:		Apt./Suite:
City/State/Zip Code:		
Home Telephone:		
Law School:		Graduation Year:
Degrees:		State Licensed in/Date:

**REVIEW/COMPLETE ENTIRE FORM AND RETURN WITH PAYMENT TO:  
GEAUGA COUNTY BAR FOUNDATION, 428 SOUTH STREET, CHARDON, OH 44024**

If you have any questions, please contact Todd Petersen

Phone: 440-279-4480 Fax: 440-279-4486 Email: [tp@petersenlegal.com](mailto:tp@petersenlegal.com)

## Important Updates

### Good Deeds Program Schedule for 2018

Deeds can be picked up at the Geauga County Recorder's Office  
between 6:00 and 6:30 p.m.

All Meetings will be held at the Geauga Probate Court

May 2018

**Monday, May 21, 2018 at 6:30 p.m.**

October 2018

**Tuesday, October 9, 2018 at 6:30 p.m.**

**Wednesday, October 17, 2018 at 6:30 p.m.**

### Job Posting from the Juvenile Court

The Geauga County Juvenile Court is seeking to contract with an attorney to assist the Court in presenting evidence in support of allegations of Complaints in non-bindover and non-SYO delinquency and unruly cases, pursuant to Juv. R. 29(E) (1). Compensation is negotiable. If interested, please send a letter to Kim Laurie, Geauga County Juvenile Court, 231 Main St, 2<sup>nd</sup> Floor, Chardon, OH 44024.

### Please note that there is one correction from the last edition:

Erratum noted to Judge Fuhry's recent Ipso Jure article "Other-Acts" Evidence to Prove Character: When is Probative Value Trumped by Unfair Prejudice? At the top of page eight, middle column, Evid. R. 404(B) is inaccurately reproduced: "Evidence of other crimes, wrongs or acts is not inadmissible to prove the character." It should read "Evidence of other crimes, wrongs or acts is not admissible to prove character." Bet you already caught it on your own.



# *Geauga County Bar Association*

## Announcements

### **Website:**

Check out the Geauga County Bar Association Website for updated meeting dates, deadlines, and other important information at [www.geaugabar.org](http://www.geaugabar.org)

### **Upcoming Executive Committee Meetings**

Second Wednesday of each month at 12:00 noon  
Next Meetings:  
April 11, 2018  
May 9, 2018  
R.S.V.P. to the G.C.B.A. Secretary

### **Upcoming General Meetings**

Fourth Wednesday of each month at 12:00 noon  
Next Meetings:  
April 25, 2018  
May 23, 2018  
R.S.V.P. to the G.C.B.A. Secretary

### **In Memoriam:**

Our condolences go out to the family of Vince Kelleher, former bar member, who passed away on January 25, 2018.

Sympathy to Happy DiCenso and her family on the passing of her father, Charles Wern, Jr., on February 13, 2018.

### **Law Day:**

May 4, 2018 at 12:00 noon  
(See Page 14 for details)

### **New Members:**

Kristen Rine—Gauga County Prosecutor's Office (Civil)  
Kelly Wallenfelsz—Gauga County Prosecutor's Office (JFS)  
Janice Zupon—Kaman & Cusimano, LLC  
Zachary Fela—Turk Apelis

### **Chagrin Falls Legal Clinic**

The next Legal Clinic at Chagrin Falls Park is May 19, 2018

## **Geauga County Bar Association**

### **Executive Secretary:**

Krystal Thompson  
(440)286-7160  
[Secretary@geaugabar.org](mailto:Secretary@geaugabar.org)

### **Ipsa Jure Editor:**

Robin L. Stanley  
(440)285-3511  
[rstanley@peteribold.com](mailto:rstanley@peteribold.com)

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### **President**

Judge Terri Stupica  
(440) 286-2670

### **President-Elect**

Kelly Slattery  
(440) 285.2242  
[KSlattery@tddlax.com](mailto:KSlattery@tddlax.com)

### **Secretary**

Michael Judy  
(440) 729-7278  
[mike@mikejudylaw.com](mailto:mike@mikejudylaw.com)

### **Treasurer**

Susan Wieland  
(440) 279-2100  
[Susan.wieland@gcpao.com](mailto:Susan.wieland@gcpao.com)

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## **Ipsa Jure**

### **Deadlines:**

*Mark your calendars  
and turn in an article!*

**April 30, 2018**

**June 15, 2018**

## **Quick Reminders**

### **Next Executive Committee Meeting:**

*April 11 at 12:00 noon*

### **Next General Meetings:**

*April 25 at 12:00 noon*

*Law Day: May 4, 2018 at 12:00 noon  
at Guido's in Chesterland*

*We hope to see you at the Bar  
Association's next event!*