



Cover: Let's get this party started! It's Secretary's Day! Thank you to all of our support staffs!

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President's Page: Once In Awhile You Just Can't Believe It

Dennis Coyne, Esq.

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As many of you know, I prosecute in Chardon Municipal Court. Last year the City of Pepper Pike hired me as their city prosecutor. A few weeks ago, the Ohio Department of Agriculture (ODA) called me and indicated they needed an administrative search warrant to enter a house. They had received calls from a couple of reptile dealers located across the country about a guy in Pepper Pike, who kept purchasing ven-

omous snakes.

Two years ago the ODA executed a search warrant on the same house and confiscated 3 rattlesnakes. Ohio is one of two states that permits possession of venomous snakes. Although legal to possess, they are highly regulated by section 935 of the O.R.C.. The snakes were confiscated and no charges were filed for the venomous creatures, because they also discovered a large marijuana grow operation in the basement. Those charges put the individual in prison for a short period of time.

This time ODA discovered a different type of "grow operation." When they saw what was in the house, they forced the owner to evacuate, and they then sealed the house for several days. The amount and type of snakes caused them to call and fly-in the premier snake expert in the United States. When he saw what was in the house he was shocked. They extracted 84 highly venomous snakes, along with a venomous lizard and 4 constrictors. Four of the snakes do not have anti-venom. If you are bitten, you die. The snake expert said it was the largest venomous reptile extraction in the history of the state of Ohio and possibly the largest ever in the whole country. The list is attached (caution: by reading the list it may cause you to contract a case of the "willies").

This time the individual was charged. He was not following the statute properly, and the prior felony makes him ineligible to obtain a restricted snake permit from the ODA. Just when you thought you heard it all!

**ODA Inventory

7.17.2017—Milstein, Joshua

KEY: Sex (# of snakes) Common Name (Genus and species name)—Family Name

- 1. 0.1 (1) Black Mamba (Dendroaspis polylepis)—Elapidae
- 2. 1.1 (2) Green Mambas (*Dendraospis angusticeps*)—*Elapidae*
- 3. 1.1 (2) Jameson's Mambas (Dendroaspis jamesoni)—Elapidae
- 4. 1.1 (2) Cape Cobras (Naja nivea)—Elapidae
- 5. 1.1 (2) Moroccan Cobras (Naja antiqua)—Elapidae

(Continued on page 3)

Snakes (from page 2)

- 6. 2.2 (4) Bush Vipers (Atheris squamigera and A. ceratophora)— Viperidae
- **Empty**
- 0.1 Black **(1)** Mamba (Dendroaspis polylepis)—Elapidae 28. 1.1 (2) Death Adders (Acanthophis
- 1.1 **(2)** Pope's Vipers popeorum)— 29. 0.0.2 (Trimeresurus Viperidae
- 10. 1.1 (2) Sri Lankan Palm Vipers Viperidae
- 11. 1.1 (2) Red Spitting Cobras (Naja 31. 0.1 (1) Malaysian King Cobra pallida)—Elapidae
- 12. 0.1 (1) Equatorial Spitting Cobra 32. 1.0 (1) Malaysian King Cobra (Naja sumatrana)—Elapidae
- 13. 1.1 (2) Zebra Spitting Cobra (Naja 33. 0.1 (1) Malaysian King Cobra 57. 1.0 (1) Black Headed Python nigricincta nigricincta)—Elapidae
- 14. 0.1 (1) Gaboon Viper (Bitis ga- 34. 1.0 bonica)—Viperidae
- 15. 0.2 (2) Western Diamondback Rat- 35. 0.1 (1) East African Green Mamba tlesnakes (Crotalus atrox)— Viperidae
- (Crotalus atrox)/0.1 (1) Sidewind-—Viperidae
- *17*. 2.1 **(3)** McMahon's (Eristicophis macmahonii)— Viperidae
- 18. 1.0 (1) Western Diamond Back *Viperidae*
- Elapidae
- ae)—Viperidae
- tlesnake (Crotalus atrox)— *Viperidae*
- 22. 1.1 (2) Monocled Cobras (Naja kaouthia)—Elapidae
- 23. 1.0 (1) Mexican Horned Vipers (Ophryacus undulatus)—Viperidae 46. 0.1 (1) Black spitting cobra (Naja
- 24. 1.1 (2) Arabian Horned Vipers (Cerastes gasperettii)—Viperadae
- 25. 0.1 (1) Eyelash Viper (Bothriechis schlegelii)—Viperidae
- 26. 0.0.1 (1) Black Pit Viper (Trimeresurus spp.)/0.0.2

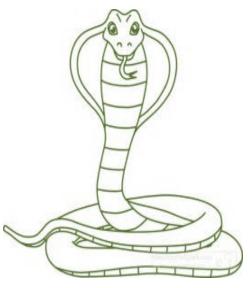
orum)—Viperidae

- Mangashans **(2)** (Protobothrops mangshanensis)— Viperidae
- spp.)—Elapidae
- **(2)** Waglers (Tropidolaemus wagleri)— *Viperidae*
- (Trimeresurus trigonocephalus)— 30. 0.0.5 (5) Pit Vipers Trimeresurus kanburiensis)—Viperidae
 - (Ophiophagus Hannah)—Elapidae 56. 0.1 (1) Black Headed Python
 - (Ophiophagus Hannah)—Elapidae
 - (Ophiophagus Hannah)—Elapidae
 - Black **(1)** Mamba
 - (Dendraospis angusticeps)— Elapidae
- 16. 2.2 (4) Western Diamondbacks 36. 1.0 (1) Egyptian Cobra (Naja haje legionellis)—Elapidae
 - er Rattlesnake (Crotalus cerastes) 37. 1.0 (1) Egyptian Cobra (Naja haje legionellis)—Elapidae
 - Vipers 38. 1.0 (1) Egyptian Cobra (Naja haje legionellis)—Elapidae
 - 39. 1.1 (2) Saw Scale Viper (Echis *carinatus*)—*Viperidae*
 - Rattlesnake (Crotalus atrox)— 40. 0.1 (1) Caspian Cobra (Naja oxiana)—Elapidae
- 19. 0.1 (1) Indian Cobra (Naja naja)— 41. 1.0.1 (2) Shield Nose Cobras (Aspidelaps scutatus)—Elapidae
- 20. 1.0 (1) Fea's Viper (Azemiops fe- 42. 0.1 (1) King Cobra (Ophiophagus Hannah)—Elapidae
- 21. 1.0 (1) Western Diamondback Rat- 43. 0.1 (1) King Cobra (Ophiophagus Hannah)—Elapidae
 - 44. 0.1 (1) Inland Taipan (Oxyuranus microlepidotus)—Elapidae
 - 45. 0.1 (1) Inland Taipan (Oxyuranus microlepidotus)—Elapidae
 - nigricincta woodi)—Elapidae
 - 47. 0.2 (2) Speckled Rattlesnakes (Crotalus mitchellii)—Viperidae
 - 48. 1.0 (1) Caspian Cobra (Naja oxiana)—Elapidae
 - (2) 49. 1.0 (1) King Cobra (Ophiophagus Hannah)—Elapidae

- Pope's Vipers (Trimeresurus pope- 50. 1.0 (1) King Cobra (Ophiophagus Hannah)—Elapidae
 - Vipers 51. 1.0 (1) Inland Taipan (Oxyuranus microlepidotus)—Elapidae
 - 52. Deceased, in freezer, one Black spitting cobra (Naja nigricincta woodi)—Elapidae
 - Vipers 53. 1.0 (1) Black spitting cobra (Naja nigricincta woodi)—Elapidae
 - 54. 0.0.1 (1) Fer-de-Lance (Bothrops asper)—Viperidae
 - 55. 1.1 (2) Green Boa (Corallus caninus)—Pepper Pike Police Auth.
 - melanocephalus— (Aspidites Pepper Pike Police Auth.
 - (Aspidites melanocephalus— Pepper Pike Police Auth.
- (Dendroaspis polylepis)—Elapidae 58. 0.0.1 (1) Bearded Dragon Lizard— Pepper Pike Police Auth.
 - 84 Total Live Venomous Snakes Seized by ODA Auth.
 - **4 Total Live Constrictor Snakes** Seized by PPPD Auth.
 - 1 Live Venomous Bearded Lizard Seized by PPPD Auth.

Total Family: Viperidae Seized: 43

Total Family: Elapidae Seized:41



Cuban Adventure (Or Misadventure)? Joseph Svete, Esq.

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My wife and I were fortunate enough to receive a visa to travel to Cuba, prior to President Trump's ban on individual travel to Cuba. You might ask why in heaven a fairly intelligent, conservative person would want to travel to Castro's Cuba. The enticement was the adventure of visiting a nation transformed from Capitalism to Socialism. We wanted to have an opportunity to see, firsthand, how Socialism improves or derogates the life of its citizens, the social fabric, and its heritage. We were fortunate that a friend's significant other is a former Cuban native and now a U.S. citizen. She was able to speak fluent Spanish to enable us to navigate through the labyrinth of language, culture and behavior challenges.

We arrived in Havana, Cuba, on Tuesday, June 8, at approximately 1:30 p.m. The airport terminal looked like an old warehouse, without air conditioning, and very dimly lighted. Since most of the work is done manually, it took approximately two hours for our luggage to be delivered to the conveyor belt where we nicked it up and proceeded to

picked it up and proceeded to leave the terminal. Leaving the terminal was a non-event, the officer merely asked us if we had anything to declare and, upon saying no, they allowed us to proceed to the rental car location. There are no American rental car companies in Havana. We went to the "Cuba Car Rental," I need to digress for a second,

the rental agent was very amicable

and spoke limited English and asked me what group we were traveling with. I indicated that we were not traveling with a group; that we were on our own excursion. At this point, he seemed shocked and started to laugh; stating that we were the first Americans to have traveled alone to whom he had rented a car. He jokingly stated, "We will need to have a cake for you celebrating this event!" We gathered that we were either nuts or adventurous. car that was given us was an old, foreign-made, stick-shift vehicle that looked like it had been in a demolition derby. Having previously driven stick-shift vehicles, I had no difficulty in operating the Cubans drive on the same car. side of the road as we do. We did see many pre-1959, vintage American cars. Most of them were not in too good shape, they looked as if some of the body parts were wired or taped together, but some looked very good.

Navigating without GPS



(Continued on page 5)

Cuba (from page 4)

was a challenge, street signs are little, concrete pyramids located at the corner of intersections. At first, I thought they just didn't have any signs. Finally, somebody told me to look on the ground and look at the pyramids; that's where one could determine the name of the street. This was somewhat difficult in some of the areas where they did not cut the weeds covering the signs.

The physical appearance of houses and other buildings were generally in a state of disrepair, run down, lacking basic maintenance, and non-existent paint. I have included a couple of pictures that are on the next page that show a typical neighborhood with crumbling, majestic buildings. We were particularly sad to see that these architecturally beautiful buildings have been allowed to decay and deteriorate for want of maintenance and care. Apparently, there is no incentive to maintain homes and buildings (unless you are a government official). The government will allow a family to own only one home and another piece of property outside the city, in the country. The income of the average person is so low that I suppose

they do not have money to paint or maintain their premises. Most people live in conditions which are unimaginable to us. They live two or three generations in one small unit that I would guess, on the average, is about 600 square feet, without air conditioning, little or no furniture, and dark with one or two bulbs for lighting. A majority of homes have no hot water for showers or bathing. Most homes have water storage tanks on the roof to provide them with some water pressure and water in peak times. Water is not potable, at least for nonnatives, we drank bottled water.

I don't know what the unemployment rate is in Cuba; however, it appears that many people are unemployed or underemployed. The ones that do work receive very low compensation, where cab drivers and waiters make more money than doctors For example, a and teachers. doctor makes 100 Cucs (one Cuc is equivalent to one dollar) per month. A mechanic makes 30 Cucs per month. A professor at the university makes 25 Cucs per month, so it's easy to see that the great majority of Cubans live in poverty. Notwithstanding the deplorable living standards, they are very friendly, they like Americans, and would give their right arm to immigrate to America. Unlike in our country, they have no incentive or opportunity to improve their lot. (The government provides free education and, after high school, boys must serve two years in the military service. Thereafter, they take state-administered tests to determine for what line of work they will be able to apply.)

After two days in Havana, we traveled approximately 150 miles west of Havana to the countryside region of Vedado. This was basically farm country, although due to the mountainous terrain, there were not many open fields like you would see here in the United States. The primary crops are tobacco, corn, beans and potatoes. In 1964, Fidel Castro appropriated all of the large farms and distributed four hectares (approximately 10 acres) to any of the farm workers that wished to farm. The grant was subject to certain conditions, one of which was that from the tobacco production, 90% goes to the government and 10% is retained by the farmer. The farmer is able

to retain 100% of all the other crops. The farmer cannot sell this property. He can, however, gift it or devise it to his children. If he attempts to sell it, the govern-





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Cuba (from page 5)

ment would appropriate the property.

While we were in Vedado, we stayed in a private residence that the owners prepared for visitors. It was neat and clean, but very sparse and clinical and without screens. Flies were our constant companions. It had two bedrooms, living room/dining room combination, kitchen and bathroom. The owners, in addition to the house where we stayed, had a little shack in the back to which they moved into when they had guests such as us. When there were no guests, they would move back into their house. We stayed there for three days, at which time it gave us an opportunity to go horseback riding in the countryside, mingle with the locals, and do some sightseeing. Again, the Cuban people were very, very friendly and accommodative. Unfortunately, none of them spoke

English because Castro, who had issues with the United States, prohibited the teaching of English in the schools. As a consequence, none of the Cubans speak English, other than those few who were fortunate enough to travel overseas.

We returned back to Havana and spent our last two days in Havana where we passed Fidel Castro's estate consisting of approximately two hundred acres in Havana with a self-contained hospital, dairy farm, food warehouse, and other amenities as a self-contained complex. No pictures were allowed to be taken of the complex.

The food was not too bad, they are limited as to type of food that is available. Their staples were rice, chicken, and pork. Vegetables were very limited in selection. Readily available fruits were mangos, papaya, bananas and plantains. Apples, pears, plums,

peaches, cherries were nonexistent. Beef was not readily available and only available at the more expensive restaurants, in limited selection.

On the first night we were there, we ate at the Cuban Nationale Hotel with prices comparable to prices here in our country. Without drinks, the tab was approximately \$50 for two. Quality of food was marginal. I bring this up because, thereafter, we ate at local restaurants, and dinner for two one night was \$10.00 (10 Cucs) and the food was actually good. The Cuban Nationale Hotel is operated by the government and they are practicing Capitalism by charging visitors three to four times more for food than is charged by the native restaurants.

My overall impression was that the poor people of Cuba live in a state of despair, lacking opportunity to grow, and live in a

failed system. One could see that, at one time, Havana was a beautiful city with beautiful, architectural buildings that have been allowed to deteriorate and fall into a state of disrepair.

Would I ever return to Cuba? Probably not. I saw enough to conclude that converting a social economic system from Capitalism to Socialism is a disaster. I would invite anyone who is pro-Socialism to visit Cuba for only one week and see for themselves the debilitating effects of Socialism. (This is neither a paid or endorsed Democratic or Republican Party Political Statement).

Hasta La Vista!



Will You Be the "U" in cUre? Timothy H. Snyder, Esq.

Timothy H. Snyder, Esq., SnyderAtLaw@Netscape.net

Over the years I have volunteered hundreds of hours to various organizations, and I attribute that spirit to my father, who I watched volunteer hundreds of hours. However, only recently have I begun to solve a mystery that "plagued" me for years. The story as I tell it, is that I have donated blood #113 times and my father died of leukemia 34 years ago, but no one had ever asked me to register as a bone marrow donor until recently. If someone had asked. I would have done so immediately many years ago.

Last May our daughter, Heather, graduated from medical school, and during her first year the entire class registered as bone marrow donors. After Heather registered, she asked me to register, and I immediately did so, but I am baffled why it took more than 30 years for anyone to ask. I will plead ignorance, and hearing no objections, I realize that I could have actively sought out a bone marrow registry, but I have to say that I did not know that one existed. I had no clue as to where bone marrow donors were to be found. Less than a year after Heather and I registered, she was identified as a match for a 60-year-old lady suffering from a blood cancer. In reality, only a single-digit percentage of people registered are ever called to donate because matching is difficult.

At this point, the registration became more 'real' to us. Heather called me because even though you are registered, you still can opt out, and my daughter wanted to know what to do. Being the protective father, I researched registering organization, the DKMS/DeleteBloodCancer.org. Everything I found was reputable, and I shared with Heather that I was comfortable with her proceeding if she chose to do so, and that I would accompany her every step of the way. Heather was obviously busy with medical school, but realized that bone marrow donation is considered a curative treatment and she agreed to give an unknown and dying cancer patient another chance at life. Carolyn and I have been blessed with three wonderful and professionally successful children, but I cannot even describe the feeling when Heather stated she was willing to help save the life of a cancer patient she did not even know. As I write this, it still brings tears to my eyes.

The donation process requires two trips to the donation site. The first trip is for preliminary testing to make certain that it was safe for Heather to donate and to confirm the bone marrow match. We were provided with the option between two or three different sites which were somehow determined by the registering organization and the cancer patient's physician. The first trip is an allexpenses paid trip for the donor, but again being the protective and supportive father/family, Carolyn and I, along with Heather's then fiancé, accompanied Heather to Georgetown University/Medstar Hospital in Washington, D.C.

I felt comfort in having Heather treated at Georgetown University/Medstar Hospital. Georgetown is the oldest Catholic/ Jesuit affiliated university and was founded by John Carroll. And of course, the Jesuits have a long history of influencing legal scholars such as Bill Clinton, Antonin Scalia, Tim Grendell, Joe Weiss, and Tim Snyder, just to name a few. (Sorry, the Ignatian in me could not resist)

An additional purpose of the first trip to Georgetown/ Medstar was education about the donation process so that everyone was comfortable, or at least more comfortable, and it served that purpose for us. There are two manners in which bone marrow can be donated: the first is a surgical procedure where the marrow is extracted directly from the hip bone, and the second is through apheresis which is the same process as donating blood platelets. The manner of donation is chosen by the cancer patient's treating physician. Heather was advised that she would be donating through apheresis meaning that she would lay in a bed, have needles placed into each arm, the blood would come out of one arm. a machine would extract the stem cells, and the blood would then be returned through the other arm. Back at home for the five days be-

(Continued on page 8)

cUre (from page 7)





fore the donation, Heather would be given injections of filgrastim to promote the stem cells in her blood to be ready for removal.

Sidebar: In a recent episode of *Chicago Fire*, the writers did a grave disservice to society by describing all bone marrow donation as being very painful and only done through surgical extraction from the hip. In a more recent episode on The View, an actual bone marrow donor met his recipient and described donation by surgical extraction from the hip as being more uncomfortable than painful. *See* ABC.com/TheView, Episode: 6/9/2017, "Bone Marrow Donor

Meets Recipient on The View."

The second trip Georgetown/Medstar Hospital is an all-expenses paid trip for Heather and a guest. Heather's then fiancé/now husband is a 6-07/310 former offensive lineman for the University of Virginia turned Kentucky State Trooper, so I did not fight him for the privilege to accompany her, so we both went. The expenses even included such things as puppy-sitting for our granddog Trooper. As with any in-hospital medical procedure, we experienced trepidation and concern but all went well. Undoubtedly, the spirit of being able participate in a life-saving treatment motivated our resolve. We were able to be with Heather throughout her donation period which lasted about five hours. Afterwards, Heather felt a little tired, but nothing worse. She wanted to go sight-seeing, so we took a bus tour of Washington, D.C. that evening.

I wish I could say that Heather's bone marrow donation saved a cancer patient's life, but unfortunately, the evil that is cancer prevailed in this instance. Heather and I shared tears when we learned that her bone marrow

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cUre (from page 9)

recipient had passed, but we took great solace knowing that Heather gave of herself and in doing so gave that patient and her family a little extra time and a little more hope. We also know that the next time WE WILL WIN!

I write this as a prologue, not an epilogue. Our children are now married adult professionals, so I have aged-out of many past volunteering opportunities and have assumed the mantle of a one-man, bone marrow donation promoting machine. I find it unacceptable to have had to wait over 30 years for someone to ask me to register to be a bone marrow donor.

The organization with which Heather and I are registered is DKMS/DeleteBloodCancer.org. Having been through the above experience, I feel comfortable and confident promoting DKMS/DeleteBloodCancer.org. There are a few other registering organizations, but there is only one nation-



Heather's post-donation snack.

al bone marrow registry so everyone is added to the same list regardless.

Here is where YOU can put the "U" in cUre. If you are in good general health and between the ages of 18 and 55 you can register to be a bone marrow donor. If you do not meet that criteria, please find someone you know who satisfies the criteria and ask her/him to register. Registering is painless: you complete a form and swab the inside of each of your mouth cheeks for thirty seconds, and I take care of the rest. In five to ten minutes, you will have registered to be a lifesaver.

#HelpTimSnyderDeleteBloodCancer Team recently did bone marrow registrations at an Akron Rubber Ducks game when they played the Richmond Flying Squirrels (You

Richmond Flying Squirrels. (You just have to love minor league team names.) Two of my least favorite responses from people were: (1) not right now, and (2) no

thanks, I am ok. If not "right now," how many people will die before a match is placed on the registry? I have asked many people if they have ever been asked to register to be a bone marrow donor. The two most popular answers are: "no," and I am working to change that, and "many years ago someone was dying so we did a registration drive," and I am working to do registrations now, before anyone else I know is dying of a blood cancer.

I realize that registering to be a bone marrow donor is not for everyone, and I will begrudgingly accept that, so I have a second challenge for you to put the "U" in cUre. If you do not wish to sign up, please secure a venue where I can conduct a registration drive. You do not have to do any of the work, just get me in the door, and I will give you all the credit for it. Sadly, I have been turned down or ignored by more places than those that have accepted the challenge, but I will not acquiesce. If anyone in the bar has any juice with a major Cleveland sports team, that would be helpful. I am trying to backdoor my way in, but walking through the front door would be preferable. And by the way, last year at about this time ESPN ran a short snippet on a Chicago Cub who was a bone marrow donor, and we know what happened to the Cubbies last year. Perhaps the Indians could #HelpTimSnyderDeleteBloodCancer and bring some good karma, I am just saying.

I focus on the registrations and not on the fund raising. If anyone would like to donate money, the cost is \$65 to process/analyze one donor for placement on the bone marrow registry. Monetary donations are always welcome and can be made at a registry drive or at DeleteBloodCancer.org.

If you have any questions, please call me at 440/834-5000, email SnyderAtLaw@Netscape.net, or see one of the #HelpTimSnyderDeleterBloodCancer Team members, and please 'Like' us on Facebook at Help Tim Snyder Delete Blood Cancer. So how will YOU be the "U" in cUre?

Know Before You Vote: Marsy's Law for Ohio

Taylor Iacobacci and Abigail Bell

Summer Interns with the Geauga County Prosecutor's Office

When Ohioans go to the polls this November, we will decide whether to amend the State Constitution to give crime victims more rights throughout the adjudication of the case. Generally, the proposed amendment seeks to give victims the rights to be notified before court proceedings, to be heard in court and to be entitled to restitution.

The proposed amendment, Ohio Crime Victims Bill of Rights, also known as "Marsy's Law" is backed by Marsy's Law for Ohio LLC, which is headed by Dr. Nicholas who named the movement after his sister, Marsalee ("Marsy") Nicholas. Marsy was a student at University of California Santa Barbara when she was stalked and murdered by her ex-boyfriend. One week after she was killed, Marsy's family was confronted by Marsy's accused murderer while at a grocery store. Unbeknownst to her family, he was released on bond.

Since then, Dr. Nicholas has used his sister's murder as a catalyst for change. The supporters of the proposed amendment have successfully added Marsy's Law to the State Constitutions in California and Illinois, and are on the path to do the same in Montana, the Dakotas and now in Ohio. In January, the amendment supporters submitted a petition to initiate a Constitutional Amendment to Amend Article I, Section

10a of the Ohio Constitution to Attorney General Mike DeWine. Pursuant to Ohio Revised Code 3519.01. Mike DeWine certified that the summary he was presented with was a "fair and truthful statement of the proposed law," which allowed the amendment to move on to being considered by the Ohio Ballot Board. The campaign was then required to garner support from registered Ohio voters by obtaining 305,591 signatures throughout every county. The next step will be for the Ohio Ballot Board to finalize the specific wording of the amendment. Then, Ohio voters will be deciding the fate of this proposed amendment on the November 7 General Election.

There are some crucial points in the proposed amendment you should know before going to the polls in November. The amendment seeks to protect crime victims' rights in the criminal and juvenile justice system "in a manner no less vigorous than the rights afforded to the accused." The term "victim" is defined slightly more generally than it is defined in the victims' rights section under R.C. 2930.01(H). The amendment states a "victim" means "a person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act." Further, the amendment spells out 10 rights that must be afforded to victims, including:

- To be treated with fairness and respect for the victim's safety, dignity, and privacy;
- upon request, to reasonable and timely notice of all public proceedings involving the criminal offense or delinquent act against the victim, and to be present at all proceedings;
- to be heard in any public proceeding involving the release, plea, sentencing, disposition, or parole, or in and public proceeding in which the victim's rights are implicated;
- to reasonable protection from the accused or person acting on behalf of the accused;
- upon request, to reasonable notice of any release or escape of the accused;
- to refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused³;
- to full and timely restitution from the criminal or juvenile offender;
- to proceedings free from un-

(Continued on page 12)

Shifting Judicial Sands: Mandatory Juvenile Bindovers First Invalidated, Now Upheld by Ohio Supreme Court Judge Timothy J. Grendell and Thomas L. Siu¹

Geauga County Court of Common Pleas Probate/Juvenile Division

Yogi Berra famously said, "It ain't over till it's over,"2 and his most famous Yogi-ism aptly the Ohio Supreme describes Court's jurisprudence concerning the mandatory bindover of some juvenile offenders from a juvenile court to the common pleas court for trial as an adult for certain serious criminal offenses. First, on December 22, 2016, the Ohio Supreme Court ruled 4-3 in Aalim I^3 that Ohio's mandatory juvenile bindover statute violated the right to due process. Then, on February 22, 2017, the Court granted a stay of its decision over the dissents of Chief Justice O'Connor and Justice O'Neill.4 Finally, on May 25, 2017, by a 5-2 decision, the Court reversed Aalim I, holding that the mandatory juvenile bindover process did not violate the Due Process Clause.

In the May 25th decision in Aalim II, Justice Kennedy wrote the majority opinion and concluded that Aalim I infringed on the Ohio Legislature's authority to expand the jurisdiction of the general division of the court of common pleas to include certain 16 or 17-year-old juveniles. The Court then turned to the two constitutional claims Aalim made – that the mandatory bindover system facially violates the Due Process Clause and that it violates the Equal Pro-

tection Clause.

In Aalim II, the Court rejected Aalim's substantive due process claim by relying primarily on historical analysis. The majority noted that the Fourteenth Amendment (and Ohio's parallel protection, the Due Course of Law Clause) were adopted prior to the existence of juvenile courts anywhere in the nation, so the right to an individualized assessment at an amenability hearing could not have been created as a substantive right before the creation of juvenile courts. Further, the majority of the Court reasoned that because substantive due process does not ordinarily extend beyond private conduct, it was foreclosed from creating rights in the criminal procedure context.5

The procedural due process issue (the fundamental fairness doctrine claim Aalim raised) centered around the question of whether the requirement from *United States v. Kent*⁶ for a hearing prior to bindover necessitates an individualized assessment of the juvenile's entire history rather than a statutory system of mandatory and discretionary bindovers. The majority of the Court concluded in Aalim II that Kent was not creating a broadly applicable requirement of a full investigation, but was instead addressing the unique provi-

sions of the statute at issue there. The amenability hearing allowed the juvenile court to establish Aalim's age and evaluate whether probable cause existed, and he was both represented by counsel and accompanied by a parent. That, combined with the fact that the juvenile court issued an opinion setting forth the reasoning behind the application of the mandatory bindover statute, resulted in the determination majority's Aalim's procedural due process rights were not violated.

While Aalim argued that he was a member of a suspect class because of his age, and thus that strict scrutiny should attach to the bindover statute, the Court disposed of that claim quickly, because neither age nor juvenile status are suspect classes. However, Aalim also argued that the statute failed rational basis review because classifications based on age were unrelated to goal of the juvenile justice system. The Court rejected this claim, ruling that the mandatory bindover system was part of an attempt to implement harsher procedures to combat juvenile violent crime that was within the legislature's power to implement.

Justice DeWine's concurrence criticized *Aalim I* for alleg-

(Continued on page 12)

Marsy's Law (from page 10)

reasonable delay and a prompt conclusion of the case; and

 to be informed, in writing, of all rights enumerated in this section.

If Marsy's Law passes, the victim is given the opportunity to assert these rights in any proceeding in which the victim's rights are implicated. If the relief is denied, the victim may appeal. However, the amendment does not establish a cause of action for damages or compensation against the state, its political subdivisions, or any officer of the court. It also does not give the victim standing to appeal or modify any decision in the underlying criminal or juvenile proceeding. The text of the proposed amendment would repeal the existing language of Article I, Section 10a of the Ohio Constitution.

Those opposed to the passing of this proposal may argue that the existing state law under R.C. 2930 already protects victims or that further protection does not need to be accomplished through a Constitutional amendment. Currently, courts have discretion to determine that the ex-

clusion of the victim from hearings is necessary to protect the defendant or juvenile's right to a fair trial.⁴ The amendment allows victims to be present at all court proceedings and further allows them to be heard in any public proceeding of the case.

As far as discovery, the amendment grants victims the limited rights to refuse an interview, deposition, or similar discovery request made by the accused. Those in opposition may believe that this weakens the defendant's subpoena power. Further, it has been argued that trial judges need the ability to weigh both the defendant's and the victim's rights such as in making the decision to delay trial or to not order restitution.

Cindi Haycox Wellman, the Victim Assistance Advocate at the Geauga County Prosecutor's Office, offered her thoughts on the proposed amendment, "I like that it gives the victims more rights." She explained that it is always hard to explain to the victims that they have less rights than the perpetrators. While she supports the overall purpose of the proposed amendment, Wellman voiced concern that this

amendment would mandate more services that Victim Advocates would have to supply while not providing more funds to the Advocates.

The 1994 amendment to the Ohio Constitution, which gave victims a "meaningful role in the criminal justice system" was well taken by Ohio voters. Now, Marsy's law aims at enforcing victims' rights more equally throughout the state and allows victims to heal and move on quickly. In November, it will be up to us as Ohio voters to decide whether to enumerate these rights into our State Constitution.

Endnotes:

- 1. See Ohio Crime Victims Bill of Rights, Full Text of Proposed Amendment. Available at: https://www.documentcloud.org/documents/3409669-OHMarsysLaw-SummaryPetition-FINAL-1.html.
- Ohio Crime Victims Bill of Rights § 10a(D).
- 3. Except as authorized by Article I, Section 10 of the Ohio Constitution.
- 4. R.C. § 2930.09.
- 5. This is stated in the current version of the Ohio Constitution, Article I, Section 10a.

Shifting (from page 11)

edly muddling the concepts of substantive and procedural due process. He notes that fundamental fairness was originally a procedural standard, but became a standard for substantive due process instead. He concludes by cautioning against courts using substantive due process analysis to "substitute their policy preferences for those of the legislature."⁷

Chief Justice O'Connor⁸ vigorously dissented from *Aalim II*, arguing that the mandatory bindover hearing process is not constitutionally sufficient under

Kent, and that only a minimal increased burden would be created by the complete investigation requirement. Interestingly, the Chief Justice asserts that the Aalim II majority's decision "brings us one

(Continued on page 14)

Practice Tips: Attorney's Quick Checklist Sarah Heffter

Magistrate, Geauga County Common Pleas Court

Barbara Powell

Magistrate and Staff Attorney, Geauga County Common Pleas Court,

bpowell@geaugacourts.org

Today's practice tip: Be competent. *See* R.Prof. Cond. 1.1.

Understand the law, your client, and your forum. Be prepared. Be pleasant.

Pleadings, motions, and oral argument.

A complaint must include factual allegations. *See* Civ.R. 8 (A).

Generally, motions are ruled on after a review of the written briefs and without an oral hearing. *See* Civ.R. 7(B)(1); Crim.R. 12(F); G.C.R. 7.B.

The party filing a motion usually has the burden of showing entitlement to the relief requested:

- Use an outline and headings.
- Be factual.
- Do not insult your opponent or anyone else.
- Research the law and cite your authority. A free Writing Manual is found online at https://dx.doi.org/10.1007/html
 - www.supremecourt.ohio.gov/ROD/manual.pdf.
- Use law from the state and jurisdiction in which you are practicing.
- Follow the court's local rules.
- Do not misquote, misrepresent,

or lie

- If your motion requires consideration of evidence, include evidence. See e.g. Civ.R. 56.
- If your motion precludes consideration of evidence, do not include evidence. *See* e.g. Civ.R. 12(B)(6).

Every motion must be accompanied by a proposed judgment entry or order. *See* G.C.R. 7 (B)(1).

Ex parte motions must be accompanied by an affidavit or a testifying witness.

Pretrial.

See Civ.R. 16; Crim.R. 12 (C); G.C.R. 9.

Exchange expert reports and discovery as required. *See* Civ.R. 26-37; Crim.R. 16.

The timeframe for filing pretrial and trial statements is usually stated in the scheduling orders.

Plaintiff's exhibits are numbered; Defendants are lettered. This applies even if you are the movant.

Prepare master exhibit lists. Exchange exhibits before coming to court for a hearing. Provide a bench copy of all exhibits.

Present a witness list to the

Court and opposing counsel.

Child support.

See R.C. Chapters 3109 and 3119.

Any separation agreement involving minor children and all shared parenting plans must include child support calculations.

Attach full child support guideline worksheets, not a one page summary.

If you are requesting any deviation in child support, you must attach full child support guideline worksheets and state the reasons for the deviation.

Trials and motion hearings.

Review the Court's Trial Guidelines found on the Court's website at http://www.co.geauga.oh.us/commonpleas/General-Division.

Be on time and ready to proceed.

Avoid last minute filings.

Settlement.

If a case set for trial or hearing is settled, call or email the court before the scheduled hearing.

(Continued on page 14)

Practice Tips (from page 13)

Provide the court with your agreed entry within 10 days from hearing date.

Do not provide multiple copies of judgments/orders.

Test your knowledge.

Q. Where would I find the Geauga County Local Rules of Court for the Court of Common Pleas?

http://www.co.geauga.oh.us/ Portals/3/resources/forms/ FORMS%20-%20GENERAL/ GD%20Local%20Rules%207-24-17.pdf. Q. Where would I find a sample forms suitable for use in the Domestic Relations Division of the Geauga County Court of Common Pleas?

http://www.co.geauga.oh.us/comm onpleas/General-Division/Domestic-Relations

Shifting (from page 12)

step closer to [] anarchy." She argues that the current amenability hearing does not allow juvenile courts any room for discretion, which violates the intent of the fundamental fairness doctrine. The Chief Justice also included in her dissent several calls for the United States Supreme Court to take up the case.

While Chief Justice O'Connor and Justice O'Neill from the Aalim I majority (joined by Justice Fischer) objected to the reconsideration of Aalim I, the new majority voted to grant the state's motion for reconsideration and revisit the mandatory bindover issue. Justice DeWine stated in his concurrence that the current Ohio Supreme Court had a duty to correct the Aalim I Court's errors in legal analysis. 10 Justice Fischer voted against reconsideration, but then joined Justices Kennedy, DeWine, O'Donnell, and French in the decision to reverse Aalim I's invalidation of mandatory bindover and recognize its constitutional validity.

For now, juvenile courts will proceed as they did before *Aalim I*. Mandatory bindover remains the prevailing law in Ohio. But is it over?

Perhaps not. Aalim could seek certiorari from the United States Supreme Court. Additionally, legislation has been introduced to eliminate the mandatory bindover statute. 11 It may be over in the Ohio Supreme Court, but, for the long-term status of mandatory juvenile bindovers, it is not over yet.

Endnotes:

 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. Contact: grendell@geaugacourts.org. Thomas L. Siu works at the Geauga County Court of Common Pleas Probate/ Juvenile Division, and has written on a variety of legal subjects, including juvenile law, appellate procedure, constitutional law, and international law. His most recent article on juvenile law was published last year in the Juvenile and Family Court Journal. Contact: tls490@gmail.com.
- 2. This baseball reference is dedicated to the Geauga County Bar Association's dean of baseball, Ed Brice, who has now retired to California.
- 3. 2016-Ohio-8278.
- 4. Announced at 2017-Ohio-573.
- 5. Justice Patrick DeWine's concurring opinion contains an excellent discussion of the difference between substantive and procedural due process.
- 6. 383 U.S. 541 (1966).
- 7. Aalim II, at ¶49, (DeWine, J., concurring).
- 8. One of the four justices in the majority in the December 22nd decision in *Aalim I*.
- 9. *Aalim II*, at ¶54 (O'Connor, C.J., dissenting).
- 10. Aalim II, at ¶39 (DeWine, J., concurring).
- S.B. 64 132nd Gen. Assemb., Reg. Sess. (Ohio 2017).

An Afternoon Tea Lisa Carey, Esq.

Carrabine and Reardon, carey@jcjrlaw.com

More than ninety (90) Bar members and their staff attended "An Afternoon Tea"--the theme to this year's annual Secretary's Day Event—held on June 28, 2017. Held once again at Munson Township Hall on Auburn Road, the event included a delicious lunch of quiche, chicken croissant sandwiches. salad wraps, salad, and desserts fit for any tea party. After a year off, D.S. Cakes & Sweet Café from Newbury returned as the event caterer and received rave reviews.

In addition to various door prizes, there was a new contest this year—a prize for the best item worn that began with the letter "T". The honor went to Laura Carrabine, wife of bar member Jim Carrabine, who sported a tank top, turquoise pants, and tattoos! There were also several tiaras in the crowd, one with a "T" on a T-shirt, one with a handmade tissue necklace, and countless other creative ideas. Social Chair Judge Stupica and Bar President Dennis Coyne

served as emcees of a rather difficult ten (10)-question quiz to see who knew the most about Geauga County. "Secretary" David Ondrey was the winner with four (4) correct answers out of ten (10).

"It was a lovely event," said Judge Stupica. "I hope everyone enjoyed it—it is always nice for everyone to get together and put a face with a name or voice!"







Night at the Captains Game



Food, Fun, and Baseball

Though we didn't have a big crowd, we did have fun watching Judge Stupica throw out the "first" pitch. We laughed a lot as we watched her son and his good friend take part in the between inning games. The food was plentiful...And, the Captains almost rallied for the win!

~~Robin Stanley

Hats Off!



Northeast Ohio Lawyer Susan E. Petersen Elected into International Society of Barristers

August 14, 2017, Chardon—Petersen & Petersen, a leading litigation firm in Northeast Oho, today announced Shareholder Susan E. Petersen was elected as a member of the International Society of Barristers. Out of the 38,000+ practicing lawyers in Ohio, only 34 hold membership in this prestigious society. Petersen is on the seventh female in Ohio to be elected.

The International Society of Barristers, established in 1966 and with a membership of approximately 700 trial lawyers nationally and internationally, is dedicated to excellence in advocacy, the preservation of the adversary system, defending the right to trail by jury, and encouraging young lawyers to enter the field of trial practice. Membership is by invitation only. Candidates who are nominated by Fellows go through a rigorous selection and approval process. It is indeed a high honor to be made a Fellow. Petersen will

be formally inducted into the Society at its annual meeting in London, England next spring.

In addition to the International Society, Ms. Petersen has served as a trustee for the Ohio Association of Justice since 2010, and as a board member for the Cleveland Academy of Trial Attorneys since 2005. She is a Past-President of the Ohio Women's Bar Association, and a longtime member of the Million Dollar Advocates Forum. She has been selected as one of "Ohio's Top 100 Trial Lawyers" by the "National Association of Trial Lawyers" since 2011 and an Ohio "Super Lawyer" for the past give years. She earned a position as an elected member of the American Board of Trial Advocates in 2013.

Ms. Petersen graduated *Magna Cum Laude* from Youngstown State University with a B.A. in 1993, and Cleveland-Marshall College of Law in 1997. She is admitted to practice in Ohio, the U.S. District Courts of Ohio, and The United States Supreme Court. She is a former on-air television news reporter and anchor, holding positions at WEWS-TV5 in Cleveland, WKBN-TV27 in Youngstown, and WTOV-News 9 in Steubenville, Ohio/Wheeling, West Virginia.

The practice at Petersen & Petersen is limited to the representation of every day people whose rights have been violated, covering a wide range of personal injury and consumer protection cases. To learn more about the firm and Ms. Petersen, visit www.petersenlegal.com.

WELCOME TO OUR NEW G.C.B.A. MEMBERS:

SCOTT KUBOFF OF PETERSEN & IBOLD CHRISTOPHER CARNEY OF KLEIN & CARNEY CO., L.P.A.

GEAUGA COUNTY BAR ASSOCIATION SETTLEMENT DAY: NOMINATION FORM

Friday, November 17, 2017

I would like to nominate the following case(s) to be considered for Settlement Day mediation. I am submitting this case as it is my belief that the case would benefit greatly from mediation and is at a stage in discovery where mediation would be appropriate. I understand that the nomination of this case does not mean that it will be automatically included for Settlement Day mediation. Pertinent information about the case(s) is as follows:

Case No.	Case Name:
Judge	Type of Case:
	(P.I., Contract, D.R., etc.)
Name:	Opposing Counsel:
(Please Print)	(Please print)
Firm:	Firm:
Address:	Address:
Telephone No	Telephone No.
NOTE: Please list ALL counsel associated with the c	rase
Case No.	Case Name:
Judge	Type of Case:
	(P.I., Contract, D.R., etc.)
Name:	Opposing Counsel:
(Please Print)	(Please print)
Firm:	Firm:
Address:	Address:
Telephone No	Telephone No.

NOTE: Please list ALL counsel associated with the case.

IF YOU HAVE ANY ADDITIONAL CASES TO SUBMIT, PLEASE COPY THIS FORM OR GIVE THE INFORMATION ON A SEPARATE SHEET.

RETURN A.S.A.P. TO:

LISA J. CAREY
SETTLEMENT DAY COMMITTEE
7445 Center Street
Mentor, OH 44060
TEL: (440) 974-9911
FAX: (440) 974-9919

carey@jcjrlaw.com

GEAUGA COUNTY BAR ASSOCIATION SETTLEMENT DAY: VOLUNTEER MEDIATOR SIGN UP

Friday, November 17, 2017

(8:00 a.m. - 5:00 p.m.)

I can and will serve as a volunteer mediator for the Geauga County Bar Association's Settlement Day, on Friday, November 17, 2017, from 8:00 a.m. - 5:00 p.m. I understand I will be contacted with further information concerning case assignment(s) and individual times. The particular types of cases I would feel comfortable mediating are (mark your first preference "1", second preference "2", etc.):

Personal Injury	Construction
Product Liability	Professional Negligence
Real Estate	Contracts
Business	Other (specify)
Domestic Relations	
Time(s) available:a.m Name:	
Address:	
Telephone No./Fax No. E-mail:	
[] Please check box	a if you are interested in receiving information and/or attending a mediation training seminar.
DETUDNIAS AD TO.	

RETURN A.S.A.P. TO:

LISA J. CAREY, ESQ. SETTLEMENT DAY COMMITTEE

> 7445 Center Street **Mentor, OH 44060** Tel: (440) 974-9911

Fax: (440) 974-9919 carey@jcjrlaw.com

Who will make your health care decisions if you are not able? Do you have Advance Directives in place?

Join us for an informative free program to consider and make your plan

Presented by the Geauga County Bar Association & Hospice of the Western Reserve

Tuesday Sept. 12 at the Chardon Senior Center 12:30 – 1:30 p.m.

• Signing on Sept. 19 from 12:30 – 1:30 p.m.

OR

Tuesday Oct. 17 at the West Geauga Senior Center 12:30 – 1:30 p.m.

• Signing on Oct. 24 from 12:30 – 1:30 p.m.

The Geauga County Bar Association Advance Directives Committee and Hospice of the Western Reserve will present information and answer questions regarding health care powers of attorney and living wills at the first scheduled meeting. They will distribute the standard forms and return the following week with attorneys from the Geauga Bar, who will help you complete the forms and notarize them. This will allow you time to think about what you personally want and who you would want speaking on your behalf if you can't.



Geauga County
Bar Association
www.geaugabar.org

Contact Jennifer Peck, Committee Chair, at jpeck@ssandplaw.com



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

Settlement Day: November 17, 2017

Upcoming Executive Committee Meetings

Second Wednesday of each month at 12:00 noon
Next Meetings:
October 11 at Square Bistro
R.S.V.P. to the
G.C.B.A. Secretary

Upcoming General Meetings

Fourth Wednesday of each month at 12:00 noon At Bass Lake Tavern September 27 R.S.V.P. to the G.C.B.A. Secretary

The Nominations Committee

The Nominations Committee is looking for people interested in serving as an officer of the Bar Association. The open position is Secretary. Usually, officers serve a year at each position (Secretary, Treasurer, President-Elect, and President). If you are interested, please email Krystal at secretary@geaugabar.org, and she will forward your name to the committee. Thanks!

CLE Announcements

Dec. 7, 2017:
Retirement Planning for Attorneys

Professional Conduct Credits

More information & Seminars to come!

Geauga County Bar Association

Executive Secretary:

Krystal Thompson (440)286-7160 Secretary@geaugabar.org

Ipso Jure Editor:

Robin L. Stanley (440)285-3511 rstanley@peteribold.com

President

Dennis Coyne (216) 781-9162 dmclpa@sbcglobal.net

President-Elect

Judge Terri Stupica (440) 286-2670

Secretary

Michael Judy (440) 729-7278 mike@mikejudylaw.com

Treasurer

Kelly Slattery (440) 285.2242 KSlattery@tddlaw.com

<u>Ipso Jure</u> <u>Deadlines:</u>

Mark your calendars and turn in an article!

October 15, 2017 December 15, 2017

Settlement Day: November 17, 2017

Quick Reminders

Next Executive

Committee Meeting:

October 11 at 12:00 noon

at Square Bistro

Next General Meetings:

September 27 at 12:00 Bass Lake Tavern

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