

Upso Jure



*Don't forget
that we need
your articles and pictures
for the next
Ipsos Jure edition!
Submissions are due
February 15, 2016!*

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Leaving a Legacy: From the Editor

Robin L. Stanley, Esq.

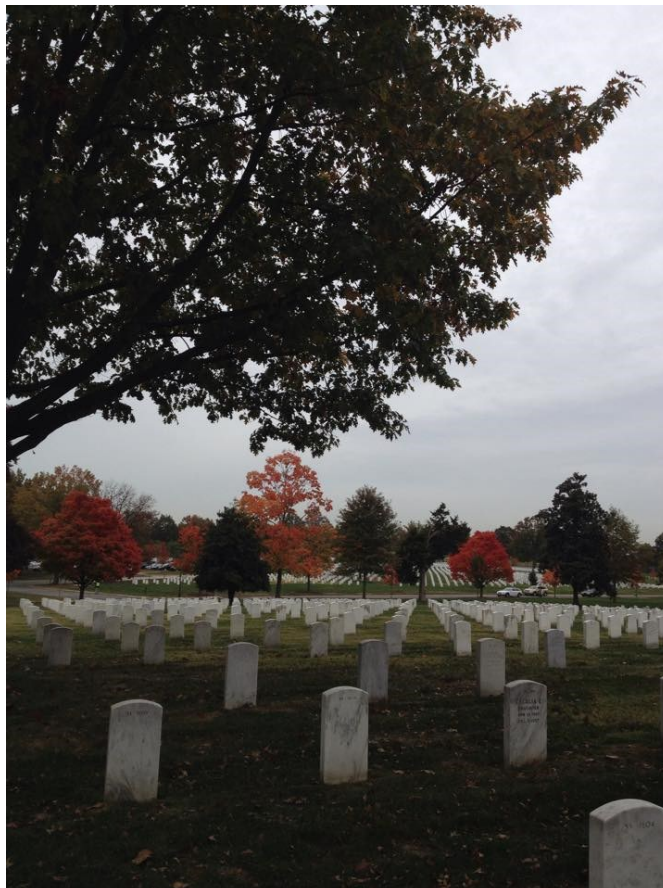
Petersen & Ibold, rstanley@peteribold.com

I hope as you leaf through the pages of this edition that you take some time to read Mary Poland's article about the Marine Corp Marathon in Washington, D.C. I enjoyed her pictures so much that I added one below that really spoke to me.

Cemeteries have always been an interest of mine. As a 4-Her in Geauga County, I spent a good portion of a few summers researching my family tree, traveling around to different cemeteries,

and learning new things about my ancestors. My dad is a Civil War fountain of knowledge. He knows almost every battlefield and practically all the troop movements. We've been to quite a few cemeteries on our travels. To see a picture of Arlington Cemetery makes you pause and just stand in awe of the lives that have been sacrificed for our country and our communities.

My history in Geauga County and the United States is long. My grandmother's ancestors came to the America on the fourth ship after the Mayflower, the good ship "Planter." Her relations helped settle Montville, Huntsburg, and Granville, Ohio. She's been living in Montville for almost 92 years, and she plans on staying on just a little longer. She was the oldest living resident at the Montville Bicentennial this summer, and she rode around with 3 of her great-granddaughters (and me, the driver).



(Continued on page 11)

Message from the President

Frank Antenucci, Esq.

Frank Antenucci, Esq., frankantenucci@gmail.com



Let me start off my first Ipsos President's Column by thanking the members of the Geauga County Bar Association for having confidence in the 2016 Bar Officers to entrust this team to lead the Bar Association in 2016. On behalf of Dennis, the Judge, Kelly, and myself, we are grateful for your faith in us and want you to know that we take seriously the responsibilities of leading this outstanding association.

I'd also like to thank Jared Flynn for his service to the bar as president in 2015. Jared provided a steady hand and calm demeanor throughout his leadership. He spent 2015 truly serving the members of the bar. He made great strides by adding some new member-friendly features. Jared worked with the Social Committee to hold a spring Cleveland Indians game social event/Ed Brice retirement party on May 8, 2015 in the Champion Suite at Progressive field (at a significant discount to Bar Members). He

initiated a 50-year recognition ceremony to honor 50-year practitioners of the bar at the annual dinner. He worked with the CLE committee to transform the Procrastinator's Seminar into a free CLE to all members of the bar. Most importantly, Jared continued to anchor the shortstop position on the bar softball team by playing flawless defense and adding a big bat in the middle of the order!

Jared represented the Bar Association in all matters with poise and professionalism, and sought during his term to provide the membership with real value for our dues.

My goal as bar president is to continue with and build on the success of Jared's term. As a member of the bar association, I'm pleased to belong to a Bar Association that provides for its members and the local community.

In closing, I want my colleagues to know that I truly treasure the bar membership. I have learned more about the practice of law through relationships and connections with fellow attorneys than I learned in law school. The relationships that we build through the Bar have the ability to last a lifetime. And while we must always be mindful of the professional importance and necessity of our Bar Association—that we are a body of attorneys who are responsible to provide regulation, education, and cooperation for the body—we must continue to place a focus on the relationships we build within the Bar and the immense power we as a collective wield to enhance the lives of our colleagues and the community of Geauga County.



Cases of Interest

Pearce Leary

Pearce Leary, Esq., pearceleary@windstream.net



Shivak vs. Shivak, 2015-Ohio 5063

Held: spousal support obligor cannot be required to liquidate personal assets to pay spousal support.

State of Ohio vs. Adams, 2015-Ohio-5072

Trooper stops defendant for non-working taillight. Trooper smells marijuana which defendant admits he has. On second pat down, cocaine found. Motion to suppress

granted and affirmed. Taillight and marijuana were minor misdemeanors. A full custodial arrest, versus a citation, for a minor misdemeanor violates statute and the Ohio Constitution.

Barto vs. Boardman Home Inspection, 2015-Ohio-5210

Held: home inspection co. contract limiting liability to amount of fee paid for inspection not unconscionable when limitations provisions was set off in a separate paragraph; contractor took time to review and explain the contract;

and no evidence that homeowner deprived of opportunity to negotiate more favorable terms.

Fenstermaker vs. Fenstermaker, 2015-Ohio-5524

Child support order upheld for Castle adult child who graduated from high school; had average IQ; worked part time; and suffered from OCD, ADHD, Asperger's, depression and panic disorder. Held further: child's earnings should be a credit against combined child support obligation.



Recipe Corner: Buttery Potato Chip Cookies

Ann M. D'Amico

Law Offices of Michael J. Caticchio, amd@macyhouselaw.com



This is a great cookie recipe for Super Bowl Sunday or anytime! It is versatile and easy and delicious with coffee or tea. Your kids will love it when you tell them it was made with potato chips!

Total Time:

Prep: 15 min., Bake: 10 min. per batch

Ingredients:

2 cups butter, softened (4 sticks)
1 cup sugar
1 teaspoon vanilla extract
3 1/2 cups all-purpose flour
2 cups crushed potato chips
3/4 cup chopped walnuts

Directions:

1. Preheat oven to 350 degrees. In a large bowl, cream butter and sugar until light and fluffy. Beat in vanilla. Gradually add flour to creamed mixture and

mix well. Stir in potato chips and walnuts.

2. Drop by rounded tablespoons 2 inches apart onto ungreased baking sheets. Bake 10-12 minutes or until lightly browned.
3. Cool 2 minutes before removing from pan to wire racks.
4. Dust with powdered sugar.

Yield: 4 1/2 dozen



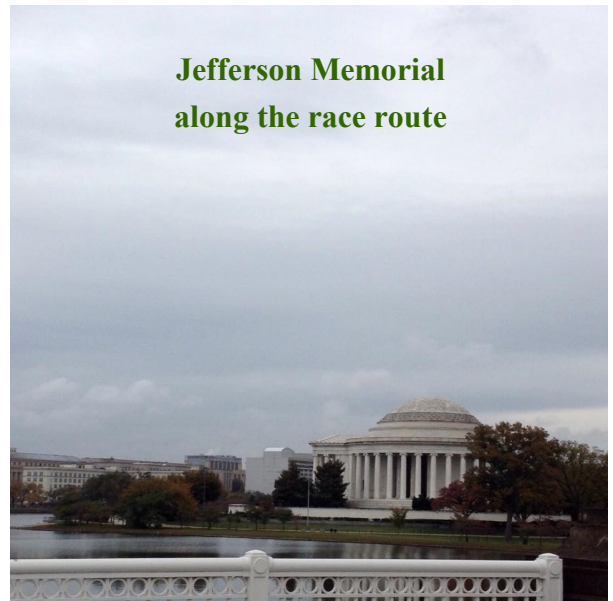
We Beat the Bridge, We Took the Hill, and We Finished!

Mary S. Poland, Esq.

Executive Secretary of G.C.B.A., secretary@geaugabar.org



Starting line!



Jefferson Memorial
along the race route



U.S. Capitol Building

On October 25, 2015, my husband, Doug, and I (along with 23,000 of our closest friends from 58 countries) ran in and completed the 40th Annual Marine Corp Marathon in Washington, D.C.

Doug raised money for wounded warriors, in honor of his dad, via Azalea Charities (by the way, great, all-volunteer organization, as 100% of donations goes towards aiding others). Thank you very much to those of you who so generously donated (he's a little behind on the formal thank you cards—we haven't even done our Christmas cards yet!). Because of your generosity, he met and ex-

ceeded his goal and became a Top 10 fundraiser for this event.

The Marine Corp Marathon is nicknamed "The People's Marathon," because it's the largest marathon in world that does not offer a prize for winning (not that we were in ANY danger of even coming close).

It's also been called the "Marathon of the Monuments," since the course takes runners past:

Arlington National Cemetery, the Pentagon, the Jefferson and Lincoln Memorials, MLK Jr. Memori-

(Continued on page 6)

Marathon (from page 5)

al, Korean War Memorial, the World War II Memorial (FYI... brehtaking when viewed at night), the Washington Monuments, U.S. Capitol, Smithsonian museum and dozens of other sights. Seriously, in D.C., you can't throw a rock without hitting some sort of memorial or monument or seeing terrific architecture (of course, if you're there throwing rocks, you may run into other problems).

The race started on Memorial Avenue, near the entrance of Arlington National Cemetery. As we made our way through the crowds of runners and spectators, we were treated with a skydiving event – a group of former Marines and soldiers delivered a 7,800 square foot American flag through the air to the start; this flag was visible from a distance of 20 miles! Still making our way to the start line, first we heard, then saw, two huge Marine Osprey MV-22B aircraft (I confess, I had to look that up, to me they were just giant plane-things) fly right over us.

Osprey fly-over at start



Minutes to go now before the start, and the Presentation of Colors, accompanied by a 21-gun salute was performed by the Marine Corp Ceremonial Platoon, based out of Quantico, and then... **BOOM!** The loudest caboom I think I've ever heard started the race – a 105mm Howitzer M2A1 (yes, I looked that up too) – and we were off!

We ran alongside such a varied array of folks – first timers, fundraisers, the “groundpounders,” two guys who've run in every single MCM, and military. There were runners missing an arm or leg participating (and quite frankly, kicking our arses), runners carrying American flags – not the dinky ones from parades, but the ones you'd hang from your porches – with the names of their fallen comrades.

Mile 12 presented probably the most emotional, humbling scene, IMHO: It's called the Blue Mile (it really lasted a mile, and no, I didn't have to look that up). Each side of the race course is lined with portraits, framed in blue, of

service men and women who've sacrificed their lives for our country. Beyond the portraits, again lining both sides of the road, were the family and friends of those service men and women, all waving American flags and cheering us on – actually thanking us for running. It was unbelievably humbling.

We continued on for several more miles, Marine One flew directly over us twice, which was very cool. Then, at Mile 18, Doug's knees decided they'd had enough fun and wanted to quit. He had a fleeting moment of panic – he'd come this far, raised money, trained, was doing this for his Pop – he will swear, that at that moment, his dad whispered to him, “*Drink the Red Bull,*” which he'd been carrying this entire time. While it didn't give him wings (false advertising by Red Bull, I'd say), it gave him enough of a kick to keep going.

We HAD to reach Mile 20 to “Beat the Bridge.” If a runner couldn't make it past the bridge in time, race rules were such that the runner wouldn't be able to finish

the race in time. By this point, Doug just couldn't physically run (saving it up for the finish line), so we walked as fast as we possibly could, and we beat the bridge with about 15 minutes to spare!

The final stretch before the finish at the Iwo Jima Memorial was uphill. (Seriously? Uphill? You're killing me, Smalls!) We took the

(Continued on page 7)

The Blue Mile





Finish Line



Doug salutes

Always earned, never given.



Marathon (from page 6)

hill—thanks to some “encouragement” from a Marine — “Get off my hill! Run you mag-gots!” We ran across the finish line together!

A young (they’re all so young!) active duty Marine placed a finisher’s medal (caption: “Always earned, never given”) around each of our necks and saluted each of us. Doug was prepared for the salute; I was not and got all teary (again).

Before heading back home, we wound things down with visits to the U.S. Supreme Court (so many stairs the day after the race, what were we thinking?) and the Library of Congress, where we proceeded

to get our library cards—honestly, I’ve never been so excited to get a library card! All we wanted to do was visit the famed Reading Room (actually, what we *really* wanted to do was to act out scenes from the movie, “National Treasure,” but we couldn’t move that fast the day after the race). We managed to have dinner at Old Ebbitt Grill (thank you, Bob U. for that suggestion; don’t know if we saw any secret service there, because, well, they’re secret, but we looked and speculated).

Our final stop (and the end of this article, if you’re still awake) was back to Arlington National Cemetery for a proper walk-through. We slowly (as much out of respect as necessity) made our way around, winding up at the Tomb of the Unknown Soldier. We happened to time things just right, arriving minutes before the changing of the guard and changing of the wreath ceremonies. Incredible. What a fitting end to our trip.



Iwo Jima Memorial
at the finish



Arlington Cemetery



Tomb of the Unknown Soldier

Settlement Day Success

Lisa Carey

Carrabine and Reardon Co., L.P.A., Carey@jcjrlaw.com



I can't quite remember exactly how long I have been doing Settlement Day for the Geauga County Bar Association now, but I think it has been close to twenty (20) years! It would be interesting to go back over the years to see how many cases have been settled as a result of **YOU**—the volunteer mediators who give so generously of their time to sit down with parties and attorneys to discuss their cases.

I'm sure that the snacks and eventually lunch food and drinks that we have added over time have helped somewhat, too. We've had all different kinds, from Magistrate Paschke's Texas caviar; Ann D'Amico's baking; a group of courthouse employees' tasty treats; and, of course, my sweet and savory meatballs, which are so easy to make, it is not even funny. I don't know about you, but I think it is helpful to keep people fed—especially when they don't have to think about leaving the courthouse to get lunch in not-so-good weather.

This year was no different. The Judges and attorneys alike submitted their cases, and by the time the actual date rolled around (November 20th), twenty-two (22) cases actually proceeded to mediation on that date. I would

estimate that we started with around thirty-five (35) cases and approximately five (5) of those settled prior to Settlement Day—the rest were cancelled for conflicts, etc. Of the twenty-two (22) cases that went forward, **50%**—eleven (11)—settled that very day, which is a great statistic. I heard from a few mediators that others were close to settling or that progress was made, which is great, too! Ironically enough, the morning was going relatively slowly until the 1:00 hour when all five scheduled cases settled! Maybe there is something to the food theory....

A big "Thank You" to everyone who helped with Settlement Day, from all who provided the food for the day, to the court staff who help coordinate people and files, to the Judges who thoughtfully submit their cases, to the deputies at the front door who screen everyone coming in and direct traffic around the building, to Mary Poland, our Bar Secretary, who helped with much of the coordination and food as well, and, of course, to our volunteer mediators. We could not have such success on this day without everyone's participation! 🌸

Below Left: Mediator, Justin Madden, moves between parties. **Below Middle:** The food spread. **Below Right:** Barbara Moser heads through the courthouse on the way to mediation.



Pictures by Paul Newman

Geauga 2015

Photo by Lisa Carey



*Through the
Lens of
Paul
Newman*



Why Do I Have to Give Retirement Information to My Bankruptcy Attorney?

Robin L. Stanley, Esq.

Petersen & Ibold, rstanley@peteribold.com



One of the documents that all bankruptcy attorneys need is a copy of any and all retirement/pension plans that a debtor may be involved in.

BAPCPA and the Ohio Revised Code exempt almost all retirement plans. O.R.C. 2329.66 (10) exempts from execution, garnishment, or sale to satisfy a judgment or order retirement funds including PERS, SERS, STRS, 401K, 403B, ERISA qualified pensions. BAPCPA exempts plans held under Sec. 401 tax qualified retirement plans, a section 403(B) annuity plan, a section 457(B) eligible deferred compensation plan, or an IRA (including traditional IRAs, Roth IRAs, simplified employee pensions (SEPs), and simple retirement accounts (SIMPLE IRAs) under Sec. 408 or 408A. A retirement plan is generally deemed to be qualified under BAPCPA if it has received a favorable determination letter from the IRS. Therefore, BACPA increases the importance of obtaining an individual IRS determination letter for a qualified plan.

The amount exempted is unlimited except for traditional and Roth IRAs. There the exemp-

tion is limited to \$1,245,475 for each plan. 11 USC 522 (n). In addition, a rollover contribution from one exempt fund to another exempt fund is also protected under 11 USC 522 (b)(4), as long as those funds roll directly from one exempt fund to another fund. If debtors place the funds into their bank accounts, they lose their exemptions.

However, contributions to any individual retirement account, individual retirement annuities, Roth IRAs and Section 529 and 529A plans that were done for the purposes of evading payment of any debt are property of the bankruptcy estate. O.R.C. 2329.66(10) (c). Therefore, for example, if a Debtor becomes insolvent and continues to make contributions to an I.R.A., the Bankruptcy Trustee has the right to re-coop the funds in an IRA to the extent that those funds should have and could have been used to pay debt.

Because BAPCPA exempts assets in retirement plans that satisfy the applicable requirements for general tax qualifications in the Code, it has become imperative that the employers continue to follow all of the requirements for continued qualification in the Code. All of the exemptions can be lost if the owner of the plan en-

gages in a prohibited transaction. E.g. if the owner of an IRA engages in a transaction prohibited under section 4975, the IRA ceases to be an IRA. This means the IRA is no longer treated as an IRA and is no longer exempt.

Additionally, if a debtor needs to file a Chapter 13, he or she cannot continue payroll deductions for a voluntary retirement plan.

Furthermore, any money taken out of an IRA before filing bankruptcy is not protected under federal law. It becomes cash on hand and can only be protected to the extent that O.R.C. 2329.66 allows: cash \$450.00 (A)(3) and Wildcard personal property \$1225.00 (A)(18).

Whole life insurance policies and straight profit-sharing plans are not exempt. Employers should make note that by offering a profit-sharing plan, an employee's interest can be attached by the bankruptcy court or lost to a creditor. These types of plans are treated like bank accounts and are only entitled to smaller exemptions.

Therefore, even though under BACPA and O.R.C. 2329.66, most retirement plans are exempt, the plan still needs to be

(Continued on page 11)

Bankruptcy (from page 10)

reviewed to ensure that the retirement account is entitled to its full exemption. Otherwise, there is a big difference between nearly unlimited protection and O.R.C.

2329.66 protections of cash and wildcard personal property which only totaling \$1675.00. If a client has a retirement account that is not exempt for \$30,000.00, the entire

amount could have to be used to pay creditors, instead of being used for retirement at a time in the future. ❁

Legacy (from page 2)



What an opportunity for those girls to know their great-grandmother and what a legacy they will receive from her! I, too, am thankful for the long legacy that she has left for me.

In April, this spring, my family and I will be leading a women's weekend called Lantern Fellowship for the Ohio Conference of the United Church of Christ. We will be examining the theme "Leaving a Legacy." The process of the preparation has been great as my grandma and her grandchildren have gotten to spend some special times together sharing stories and looking back at things that have been passed down through our families. It makes you think: What is it really that we want our legacy to be?

As someone who does a lot of estate work, every day, I deal with the legacies that people plan to leave behind as well as the legacy that people actually leave be-

hind. Unfortunately, often the plan doesn't always match what actually happens. As attorneys in this area, most of the work we do involves stuff: Who gets what?, When will I get what?, And how come he gets more stuff than I got?, etc., etc., etc..

The dictionary defines legacy as: (1) a gift of property, especially personal property, as money, by will; a bequest.; (2) anything handed down from the past, as from an ancestor or predecessor. (Dictionary.com). As we work through our preparations for our event, I am constantly reminded that legacy isn't just about stuff. It is about something more. How do we want to be remembered and what are the qualities that we want to pass down to those around us?

This being a new year, I think it is the right time to begin to think about the legacies we leave behind. Now, I am not saying do it as a new year's resolution, because I think those are meant to be broken. I am saying that as attorneys our legacies should not be about stuff. It should not be about how much money we make or who we beat in the last case. It should be about something more. It should be about taking responsibility for our actions and setting an example in our communities, our

workplaces, and maybe, most importantly, in our families.

We should remember that while we are professionals, sometimes it is only a job. We need to take time to step away and focus on ourselves once in a while.

So this year, the only resolution that I want to make is the one that you can make each and every day. I just want to be better than last year.

I wish that I will remember to say "I am sorry" when I should, and say "yes" and "no" when I need to. I want my word to always be my bond, and I want to take time to actually listen before I open my big mouth and speak. I want to get a little less upset when I am stressed out, and I want to enjoy all of the little moments in life. If I have something that I really need to work on or really need to change in the legacy that I am building, I hope that I can take the right action to make a difference. If there is a time to move and a time to be still, I hope that this year, I can know the difference. Above all, let me be better than I was last year, so that everyone may see it, my family, my clients, my co-workers, and the people that I meet everywhere, so that I may build a better legacy than I would have left behind yesterday.

❁



GEAUGA COUNTY BOARD OF COMMISSIONERS

Walter M. Claypool Blake A. Rear Ralph Spidalieri

DEPARTMENT OF JOB AND FAMILY SERVICES
12480 Ravenwood Drive, P.O. Box 309, Chardon, Ohio 44024

Craig A. Swenson,
Executive Director

January 19, 2016

Geauga County Bar Association
C/O Mary Jane Trapp
1400 W. 6th St., Suite 400
Cleveland, OH 44113

Dear Members,

On behalf of Geauga County Job and Family Services, a heartfelt thank you for your participation in the 2015 Sponsor a Family Program. As you know, the Sponsor a Family program provides food and gifts for families in need throughout Geauga County during the holiday season. I'm pleased to report the program assisted 484 households in Geauga County this past holiday season. This translates to 1,591 people served and includes 917 children and foster children who received toys and gifts! In addition, approximately 14,500 pounds of food was donated and distributed.

The Sponsor a Family Program is an enormous undertaking. Work actually begins in October and continues until Christmas. Each year, I match churches, schools, civic groups, businesses, organizations, and individuals with a family to "sponsor". Others may choose to collect needed items to donate to Job and Family Services. Monetary donations to Sponsor a Family are used to purchase food, meat, and gifts for those families not matched with a community sponsor. The food and gifts are sorted, packed, and delivered by volunteers. This program year, we had 167 sponsors who either sponsored a family or collected food or toys to be distributed.

The Sponsor a Family program is supported **solely** through donations and volunteerism from residents and professionals living in Geauga County and beyond its borders. Whether you sponsored a family, made a donation, or volunteered your time, your contribution to this program is what makes it successful year after year. Thank you again for your kindness and your help in making this holiday enjoyable for those in Geauga County who are less fortunate.

I have received many thank you cards and letters from families. While they are addressed to me, I would like to share some with you since it was your kindness that brought enjoyment to so many families this holiday season.

Sincerely,

A handwritten signature in blue ink that reads "Sara Shining".

Sara Shining
Community Support/Volunteer Coordinator
Gauga Co. Job and Family Services

Announcements From the Courts

COURT OF COMMON PLEAS

COLLEEN A. FALKOWSKI, JUDGE
DIVISION OF DOMESTIC RELATIONS
LAKE COUNTY, OHIO

440-350-2708
440-298-3334 X. 2708
440-918-2500 X. 2708

COURT HOUSE
47 N. PARK PLACE
PAINESVILLE, OH 44077

Dear Colleagues,

Our next Legal Aid *Pro Se* Plus Brief Advice Clinic will be held January 27, 2016, from 9:00 a.m. to noon. You are invited to enjoy coffee and bagels in my courtroom prior to the 9:00 a.m. start.

As you may be aware, the Clinics have been staffed by volunteer family law attorneys. Legal aid staff takes care of the case screening and scheduling. Some of the Clinic's volunteer attorneys have accepted Legal Aid's extended service cases. These are cases which require an attorney's assistance beyond one meeting.

Of the folks helped at the Clinics, each has filed his/her divorce in either Lake, Geauga, or Ashtabula county.

Keep in mind attorneys receive one hour of CLE credit for every six hours of *pro bono* service, up to a maximum of 6 credit hours for service performed during a biennial compliance period. The *pro bono* service must be verified by a bar association or other organization recognized by the Supreme Court as providing *pro bono* programs and must occur on or after January 1, 2014. This required verification is part of the Clinic.

The Clinic is a win-win. The camaraderie of the family law bar is wonderful. In addition, the gratitude of the folks assisted during the Clinic is sincere and heartwarming. Whether you are able to volunteer one hour or more, you'll be part of a great legal experience.

Best Regards,


Colleen A. Falkowski, Judge

Probate Court

Supreme Court of Ohio Judicial College
Web Cast Broadcast of Guardianship Training
Gauga County 6.0 Hours
May 19, 2016 for Non-professionals
May 20, 2016 for professionals (CEU or CLE credit)
More information coming soon!



LUNCH WITH THE JUDGE

Current Local Issues
Involving Guardianships and Estates

Friday, March 18, 2016, at Noon

Join Judge Tim Grendell for a casual lunch at the Probate Court

Judge Grendell will provide the pizza, chips and soda!



Judge Timothy J. Grendell

Geauga County Probate Court
231 Main Street, 2nd Floor
Chardon, Ohio 44024

RSVP to Cheryl Koncler 440-279-1840

Geauga Bar Association

Announcements

Website:

Check out the Geauga County Bar Association Website for updated meeting dates, deadlines and other important information:

www.geaugabar.org

Upcoming

Executive Committee Meetings

February 10, March 9
Second Wednesday of each month at 12:00 noon.

R.S.V.P. to Mary Poland

Upcoming

General Meetings

January 27, February 24, March 23

Fourth Wednesday of each month at 12:00 noon
R.S.V.P. to Mary Poland

Welcome 2016 G.C.B.A. Officers



Photo by Lisa Carey

Judge H.F. Inderlied, Jr. (Ret.) swears in the 2016 Geauga County Bar Association Officers, Frank Antenucci (President), Kelly Slattery (Treasurer), Honorable Terri Stupica (Secretary), and Dennis Coyne (President-Elect), at the G.C.B.A. Christmas Party.

Geauga County Bar Association

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Ipsa Jure Deadlines:

*Mark your calendars
and turn in an article!*

February 15, 2016

April 15, 2016

June 15, 2016

Quick Reminders

Next Executive Committee Meeting:

February 10, 2016 at 12:00 noon

Next General Meeting:

January 27, 2016 at 12:00 noon

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