



Up close and personal with Judge Wells

by James W. Satola



Valentine's Day, Feb. 14, has special significance for U.S. Senior District Judge Lesley Wells. On three separate years, that day brought with it significant changes in her judicial career. First, on Feb. 14, 1983, she was appointed (and later elected) a judge on the Cuyahoga County Court of Common Pleas Domestic Relations Division. Exactly 11 years later, on Valentine's Day 1994, she was sworn in as a U.S. District Judge for the Northern District of Ohio by appointment from President Bill Clinton and, finally, on Valentine's Day 2006, she assumed senior judge status on that court, from which bench she is still actively engaged in deciding cases, carrying a sizable, but not so heavy, docket as before.

Judge Wells was born in 1937 in Muskegon, Mich. The daughter of a colonel in the U.S. Army, she grew up as an "army brat" at military posts and attended public and private schools in many parts of the United States and abroad, including five years in Austria. In Europe, as a teenager, she observed first-hand what war's desolation can do to people and the land they live in. As she put it,

I've always been fairly patriotic and growing up in Europe right after the Second World War I saw what it was like to have no control over your destiny; not able to take care of your family or yourself with matters so unstable and no stable institutions, you could not rely on anything, but had to live in constant need. I began to realize what we have accomplished in this country by creating a system of laws and not relying on the whims of men or women.



James W. Satola is a senior attorney with Squire, Sanders & Dempsey L.L.P., as well as a past president and current board member of the FBA Northern District of Ohio Chapter.

Judge Wells graduated from Cleveland-Marshall College of Law in 1974. While in law school, she served as a federal court intern for the Women's Law Fund. In 1975, and for the next three years, Judge Wells practiced with one other lawyer forming the Cleveland Heights firm of Brooks and Moffet. From 1979 to 1980 she was director of the Civil Rights Litigation Support Center at Cleveland-Marshall College of Law. From 1980 to 1983 she practiced at Schneider, Smeltz, Huston and Ranney and also served as an adjunct professor of law at Cleveland-Marshall College of Law and as an adjunct assistant professor at Cleveland State University's College of Urban Affairs. From 1979 to 1981 she was president of the Legal Aid Society of Cleveland and served as Legal Support Chair of the National Women's Political Caucus, a position that led to the beginning of her judicial career. In 1983, then-Governor Richard Celeste persuaded her to accept an appointment as the first woman judge in the Cuyahoga County Common Pleas Court, Domestic Relations Division. In commenting on this, she stated:

In the process of taking on something I never thought of doing, I came to love the opportunity that it gives to change one's focus from being an advocate to being a judge. I come from a family where there have been several generations of judges, so I felt right at home from the beginning. Now, after almost a quarter of a century, I am still comfortable with and challenged by the judicial process. I am very glad to do it.

Judge Wells' service as a domestic relations judge brought many challenges that she still recalls. When asked whether any particular practice stands out as a favorite she said,

There is no question that litigation around children and custody of children took the most energy, time, thought and care. In many ways it was almost a non-legal area, but when you think about justice and people needing to resolve conflicts in ways that are least harmful, it is probably the most important area. We deal with many problems as judges that involve a no-win situation, but here you've got a situation where careful resolution can make all the difference in the world to the human lives involved.

After winning re-election to the domestic relations court, Judge Wells later ran for and won a seat on the general division of the Cuyahoga County Court of Common Pleas. She held that position until she was nominated on Nov. 19, 1993, by President Clinton to an open seat on the U.S. District Court for the Northern District of Ohio. Judge Wells was sworn in as a U.S. District Judge on Feb.

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Installation of new officers

On Thursday, Nov. 2, 2006, the Northern District of Ohio Chapter of the Federal Bar Association installed its new officers for the upcoming year. The installation ceremony was at the House of Blues and was attended by more than 100 FBA members and friends, including a number of federal judges. Chief Judge James G. Carr attended and swore in the new officers. The Northern District of Ohio Chapter officers for 2007 are:



President—Arthur M. Kaufman
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McDonald Hopkins Co. LPA



Vice President—Ellen Toth



Secretary—Carter E. Strang
Tucker Ellis & West



Treasurer—Al Vondra
PriceWaterhouseCoopers



Delegate to National Council—Lori W. Laisure
U.S. Attorneys' Office

Also elected for one-year terms as members of the Board of Directors are Kip Bollin, John Gerak and Bruce H. Wilson.

Federal Bar Association Northern District of Ohio Chapter

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Convention wrap-up



Chapter Delegate Keven Eiber (right) receives the Shaw Award from Outgoing National President Robyn Spalter.

LaForge was administered the oath of office by the Hon. E. Grady Jolly Jr. At this event, the Northern District of Ohio Chapter was awarded the Ilene and Michael Shaw Younger Lawyer Public Service Award, which included a \$2,500 grant for the chapter. This prestigious award was given for the chapter's work on the Books for Kids project, a project conceived by Magistrate Judge Patricia Hemann. FBA Chapter Board Member and Chair of the Younger Lawyers Committee, Kip Bollin, Thompson Hine, worked closely alongside Magistrate Hemann, resulting in thousands of new and gently used books being delivered to local students. Kip advises that the grant will be used to purchase additional books for the Books for Kids project in 2007.

The chapter also was awarded the Meritorious Newsletter Award, accepted by Steve Paffilas, U.S. Attorney's Office, on behalf of Newsletter Chair Christopher Carney, Brouse McDowell, and the Presidential Excellence Award, accepted by Jim Satola, Squire Sanders, on behalf of 2006 Chapter President Lori Laisure, U.S. Attorney's Office, and the entire chapter.

With no significant issues on the business agenda for the annual meeting, the success of the convention was due to outstanding CLE programs that featured presentations by numerous 9th Circuit Court judges, district court judges and leading practitioners, and relaxed and informal networking with federal judges and federal practitioners from around the country—all in the fabulous surroundings of the Marriott Las Vegas Resort. It was an event worth attending, and FBA members are encouraged to attend the next FBA Annual Meeting and Convention to be held in Atlanta in 2007.



Jim Satola accepts the Presidential Excellence Award from Robyn Spalter (Left to right: Eiber, Satola, Aaron Bulloff and Spalter).

The FBA National Convention, held this year in Las Vegas, saw a strong delegation from the Northern District of Ohio Chapter in attendance. We needed a big contingent, however, to carry home all the awards the chapter earned under Chapter President Lori Laisure's leadership this past year.

The highlight of the convention was the presidential installation banquet and awards, during which incoming FBA President William

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State of the Court luncheon

On Friday, Sept. 15, 2006, the Northern District of Ohio Chapter hosted its first State of the Court program and luncheon at the downtown Cleveland Marriott. More than 400 people, including most of the judges and magistrate judges in the Northern District, attended the event. Judge Solomon Oliver gave the report on the state of the Northern District of Ohio Court on behalf of Chief Judge James Carr, who was unable to attend.



Judge Solomon Oliver reports on the state of the Northern District of Ohio.

Judge Oliver addressed a broad range of topics in his speech, including judicial resources, the budget, building and technology, legislative matters, and congressional outreach and media outreach.

Resources

With regard to judicial resources, Judge Oliver noted that all but one of the 12 authorized judgeships in the Northern District was occupied, that the district had a full complement of magistrates, and that the four senior judges continue to share in the court's workload.

Judge Oliver also noted that Judge Sara Lioi of the Stark County Common Pleas Court, who was nominated to fill the vacancy created by Judge Lesley Wells when she took senior status, will hopefully be confirmed soon.

Judge Oliver reported that the district's budgetary prospects were positive, noting that Congress will provide an increase in the judiciary budget of about 6 percent in the upcoming fiscal year. Judge Oliver also indicated that there had been a decline in conventional civil filings of approximately 20 percent in the past year that had been offset, in part, by a number of multidistrict cases.

Technology

Judge Oliver also mentioned how technology was important to the court and that under the leadership of Geri Smith the court continues to add new features to its electronic filing system, including permitting

attorneys to file complaints and pay filing fees electronically. Since June 1, more cases have been filed electronically in the Northern District than in all but two districts and 84 percent of the documents that are filed are received electronically—the second highest figure of any district. Finally, with the addition of equipment in Judge Adams' courtroom in Akron and Judge Zouhary's courtroom in Toledo, each of the active district judges will have courtrooms with electronic capabilities.

Legislation

As for legislative matters, there are two pieces of pending legislation impacting the judiciary. The first is the so-called "Sunshine in the Courts" Act, which would give each district judge the discretion to allow or bar the presence of recording devices and cameras in the courtroom. The second legislative proposal is the creation of the office of inspector general for the judiciary.

Outreach

Judge Oliver pointed out that the court has engaged in various outreach initiatives involving both Congress and the media, the purpose of which is to make both our local representatives and media outlets better informed in the mission and activities of the court.

Judges recognized

After the report, Judge David A. Katz and Judge Lesley Wells, both of whom have taken senior status, were each recognized for their distinguished service to the federal bench. Judge Katz was introduced by new District Judge Jack Zouhary and Judge Wells was introduced by her husband

Charles Clarke, a partner with Squire Sanders & Dempsey. Although they are taking senior status, Judge Katz and Judge Wells both made it clear that they intend to maintain active dockets.

Finally, the newest district judge in the Northern District, Judge Jack Zouhary, was introduced and presented an honorary membership in the Northern District Chapter. President Bush appointed Judge Zouhary on March 28, 2006. Prior to his appointment, Judge Zouhary was a common pleas judge in Lucas County. Judge Zouhary also was general counsel



Left to right: Judge David A. Katz, Chapter President Lori Laisure, and Judge Jack Zouhary.

for S.E. Johnson Companies, Inc., and prior to that in private practice. Judge Zouhary received his undergraduate degree from Dartmouth College and his J.D. from University of Toledo College of Law in 1976.

By all accounts, the State of the Court program and luncheon was a huge success, and the chapter hopes to hold the event annually.

Brown bag reception

On July 27, 2006, Judge Christopher Boyko held a well-attended brown bag luncheon in his courtroom for practitioners of the Federal Bar.



Judge Boyko

Included among the attendees were not only experienced trial lawyers, but also law students participating in summer internships at local firms. The make-up of the audience provided a great backdrop for Judge Boyko to provide his insights on the difference between being a

judge at the state and federal level, how he became a judge in the first place, his thoughts on the separation of powers among the branches of government, and practice pointers for those appearing in front of him. Participants learned the following:

- Judge Boyko loves his job and is having fun being a judge.
- Resources and time permit him to carefully address case issues, a luxury not always available at the state level.
- Judge Boyko is very amenable to working with attorneys on all issues and accommodating their needs so as long as it does not prejudice one of the other parties. In return, he asks attorneys to cooperate with each other, and to admit to him if they make a mistake.
- Judge Boyko prefers to save court and client resources by resolving disputes informally versus the parties spending significant time drafting numerous motions. As a result, if you are practicing in front of him and are experiencing a problem (or have a dispute with the opposing party or counsel), he suggests you give him a call so that he can have a discussion among all those involved in an attempt to bring a quick and cost-effective resolution to the issue. He may require a letter in advance outlining the issue and positions.
- Judge Boyko's staff has been with him a long time and is well acquainted with the cases and the way he handles particular matters. He has no problem

with an attorney calling his law clerk to raise an issue or check on the status of a pending motion or matter.

- Judge Boyko is a firm believer that the legislative branch should just legislate and the executive branch should focus on its own issues versus both of them seeking to direct or otherwise interfere with the operation of the judiciary.
- It is much quieter (and a little lonelier) at the federal courthouse than it was at common pleas court.
- Judge Boyko is amenable to requests for continuances (so long as there is a reasonable basis for the request).
- Judge Boyko follows a more liberal practice for *voir dire*. He uses a similar format he used in state court. Judge Boyko asks some preliminary questions based on the jury questionnaire, but provides trial counsel with leeway during *voir dire*.
- Judge Boyko believes juries get the decision right in almost all instances.
- With prior notice, Judge Boyko will allow trial counsel to move around in the courtroom, but prefers that they do not approach the jury box.
- Judge Boyko enjoys the mental challenges associated with the legal questions he has faced during his tenure on the federal bench.
- Judge Boyko enjoys the use of his courtroom's technology, and is a firm believer that it improves a jury's and his comprehension of the issues and facts.
- At trial, counsel should give the jury (and him) the big picture. Describe the history and relationship of the parties, and emphasize the effect the dispute has on the community. Tell a story.

The preceding reveals that the luncheon was both informative and interesting. For those in attendance, it was a great way to get a glimpse of the man behind the robe.



Clerk's Corner

by Geri M. Smith

U. S. District Court Northern District of Ohio

The Northern District of Ohio has been quite busy working to rollout additional services to litigants, members of the bar and the community the court serves.

Civil pro bono legal services program

Stay tuned to the court's formal announcement of its plan to implement in 2007 a pro bono program in conjunction with local bar associations to provide legal assistance to indigent litigants in civil litigation. Attorneys admitted to practice in the Northern District will be hearing more from the court requesting your support of the program by volunteering to serve on these cases. The program, as contemplated, will permit judicial officers, if they deem it appropriate, to refer a case to the local bar association for assignment of counsel from a panel of experienced volunteer lawyers. Pro bono attorneys will be reimbursed for expenses up to \$1,500 per case. Please be on the lookout for correspondence from the judges seeking your voluntary participation in the program. Additional information will be posted on the court's Web site outlining the procedures. Attorneys interested in participating will be asked to complete a form and return it to the designated bar association.

Project Penalty Awareness Program

The Pretrial Services and Probation Office is conducting Project Penalty Awareness to educate the public about federal drug trafficking offenses and penalties. Posters and pamphlets have been designed, and oral presentations will be given to local groups in the Cleveland area. The goal is to deter individuals from engaging in criminal drug trafficking activities by informing them of the severe federal penalties for those offenses. Teams of volunteers will be trained to present this program with the use of a PowerPoint presentation, printed information, and posters. For more information about the program, please contact the Pretrial Services and Probation Office.

Wireless access

Wireless Internet access is being provided to attorneys admitted to practice in the district at all court locations. The first implementation began on Oct. 23, 2006, in Cleveland in the Carl B. Stokes U.S. Courthouse and has since been expanded to the Akron and Youngstown courthouses. The court is now working toward making wireless access available in the How-

ard M. Metzenbaum U.S. Courthouse in Cleveland, the Bankruptcy Court in Canton and in the U.S. Courthouse in Toledo. Wireless access is currently available on all court floors in Cleveland, Akron and Youngstown as well as on the 7th floor of the Carl B. Stokes U.S. Courthouse, which includes the cafeteria and attorney lounge, as well as the Circuit Satellite Library located on the 20th floor. Registration forms to obtain a required user ID and password for wireless access are available at the intake counters of the Clerk's Office. Instructions for access and troubleshooting tips are posted at www.ohnd.uscourts.gov.

Clerk's office accepts complaints/filing fees online

Although the clerk's office has accepted credit card payments for filing fees at the intake counter and by phone for the past several years, it was only a few months ago that we began accepting credit card payments over the Internet. Attorneys may now pay fees for notices of appeal, pro hac vice admissions and new case filings online. We strongly encourage attorneys to take advantage of this time-saving convenience. Benefits include:

- ability to pay filing fees without the need to travel to the court.
- ability to review Internet credit card payment history at any time.

Step-by-step instructions and additional information regarding credit card payments over the Internet can be found at www.ohnd.uscourts.gov/Electronic_Filing/Internet_credit_card_payment_instructions.pdf.

Filing of complaints over the Internet

Effective June 1, 2006, we also began accepting the new civil complaints over the Internet and associated case filing fees may be paid online as noted above. Upon the filing of the complaint, supporting documents and payment of fees by credit card, the Clerk's Office will assign a judicial officer with instant notification to the attorney. If the case is filed after 4:45 p.m. Monday through Friday or on a weekend or holiday the judicial officer will be assigned the next business day.

Attorneys have been quick to take advantage of this new convenience. More than 700 new civil cases have already been filed online. On Veterans Day, when the court was otherwise closed for business, 12 new civil cases were filed online and over that three-day weekend a total of 17 cases were filed over the Internet,

which was more than the total number of cases that were filed electronically Monday thru Thursday of that week during normal working hours! The 700 new civil cases filed by attorneys online since June 1 once again place the Northern Ohio bar among the leaders of those taking advantage of the benefits of electronic filing.

Step-by-step instructions and additional information on the procedure for filing complaints may be found on the court's Web site under Electronic Filing. A training database is available for attorneys and law firm staff at: <https://ecf-train.ohnd.uscourts.gov/cgi-bin/login.pl>. To receive a login and password please call (216) 357-7009. The Clerk's Office also offers weekly classes in using CM/ECF and filing new cases online. Classes last about two hours and include:

- Hands-on exercises and individual assistance;
- How to create documents for filing in CM/ECF
- emphasis on filing an initial complaint, exhibits, with accompanying civil cover sheet, summons and corporate disclosure sheet;
- How to retrieve documents filed electronically;
- How to pay court filing fees electronically; and
- Time for questions and answers.

Classes are conducted at no charge. Attorneys and law firm staff are encouraged to take advantage of these training opportunities. To schedule a class, please contact one of the following numbers:

Cleveland..... (216) 357-7007
Akron (330) 252-6015
Toledo..... (419) 213-5500
Youngstown..... (330) 884-7419

Please note that the Clerk's Office should be notified immediately by phone if an emergency filing, such as a TRO, accompanies a complaint. For after hours filings please refer to Local Rule 77.1.

Local rule updates effective Nov. 1, 2006

Please be sure to check the latest revisions to our local rules, including revisions to the *Electronic Filing Policies and Procedures Manual* posted at: www.ohnd.uscourts.gov/Clerk_s_Office/Local_Rules/local_rules.html

Also of note is the reduction of the pro hac vice fee to \$100 from \$190 as set forth in L. Civil Rule 83.5(h) and L. Crim. Rule 57.59h) Permission to Participate in a Particular Case.

Electronic filing system upgrade

The court will upgrade its electronic filing system to CM/ECF Version 3.0 the weekend of Jan. 13. Among the changes that may be of interest to attorneys are:

1. Several PACER-related changes will become available to help users save money and track their account usage. The ECF/PACER login screen was modified to include more detailed instructions for the user, including instructions on when to enter a CM/ECF ID and password versus a PACER ID and password. PACER users will be able to access PDF documents in a case without first running a Docket Report, thus avoiding the Docket Report fee. In addition, the Related Transactions Query now bills only for the data that is displayed to the user to help avoid overcharges. Users can now set Client Code formatting and designate whether entering a Client Code is mandatory when logging-in at the PACER Service Center Web site (<http://pacer.psc.uscourts.gov>) under Account Information. The CM/ECF billing software will also capture the source IP address for each billable transaction, and adds this information to the billing transaction file.

2. The Notice of Electronic Filing (NEF) will have a new look and includes some new language. Most importantly, perhaps, is the language used to indicate who the system is and is not able to serve electronically and more clearly state when the filer will need to take additional action to effect service. The language: "Notice will be electronically mailed:" was changed to "Notice has been electronically mailed to" and "Notice will be delivered by other means to:" was changed to: "Notice has not been delivered electronically to those listed below and must be provided by other means:" to better let the filer know when they need to take additional action.

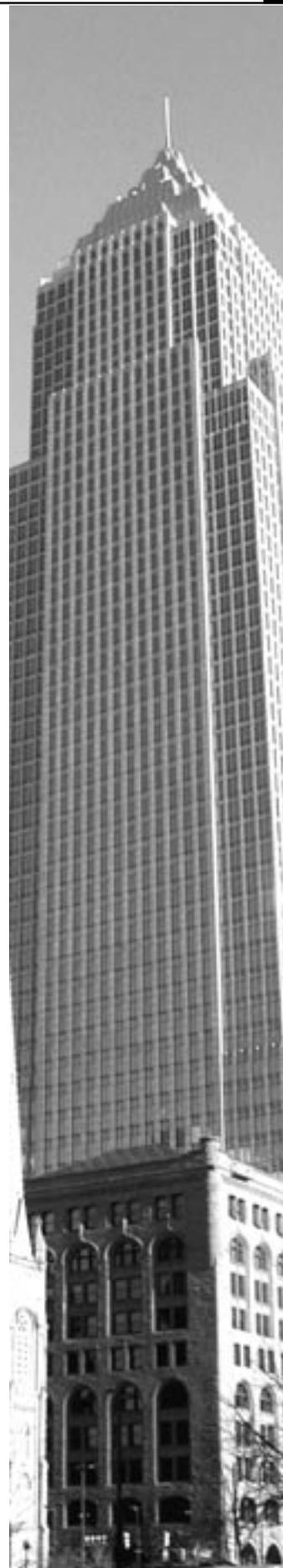
3. The Civil Cases Report will permit users to sort case lists by Nature of Suit or Cause of Action. The following warning message will also appear at the top of the selection criteria screen for the Civil Cases Report:

Warning: This report is not subject to the 30 page billing cap. You will be billed for the total number of pages. If you want to run a report for a single case, you can use the Query menu or the Docket Report.

Visit the Electronic Filing page on the court's Web site www.ohnd.uscourts.gov to learn about other CM/ECF Version 3.0 changes.



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





(Up close, continued from page 1)

14, 1994, to a role that still brings her new challenges. As she said to this writer,

although we may spend our entire lives in the context of the law, we have to continuously stand back and take a fresh look, not just at the facts, but at the law. We generally only see slices of things, almost like being emergency room doctors, but it is challenging and rewarding and because I like it so much, I am staying active as a senior judge.

Judge Wells is a firm believer in the Constitution of the United States, saying that it “ought to be looked upon as the fundamental anchor in our conduct and our work.”

The maintenance of judicial independence is also important to her. When asked to comment on current efforts in the executive and legislative branches of government to “reign in” the federal judiciary through such efforts as the proposed Judicial Transparency and Ethics Enhancement Act of 2006, which would legislatively establish an “inspector general” within the judicial branch to monitor spending and complaints of judicial misconduct, she commented that

at its core this is an issue of judicial independence. Constitutionally we have judicial independence and we should maintain it. It is good for Americans to look at judicial independence and refresh themselves on the reasons we have it and it is important for Americans to understand that we judges take the long view, that our marching orders come from the U.S. Constitution and that the people can rely on us, whatever the political weather is, to be independent of the other two branches. It is a significant issue but it is being played out in very odd ways.

In addition to a judge who is fair, just, and even-handed, Judge Wells said that she would also “like to be known as someone who is rigorous as well, not only because it is part of our professional obligation, but I was brought up as an army kid to be conscious of the honor and duty of serving in my government. There is something special about being asked to serve and then doing it to the very best of one’s ability.”

As to words of advice on appearing before her, Judge Wells offers two recommendations concerning the written material she sees: first, is that each lawyer should know that each case he/she cites actually supports the proposition for which it is offered. “Remember that we read every case and we will read through the night if we need to to make sure that what the lawyer says is supported by what the case states.” Her other recommendation is not to use string citations and not to hesitate to admit well-established authority on the other side. She feels that lawyers frequently

overwrite and occasionally cite cases for something they don’t stand for. She also strongly advises that lawyers should focus on the objectives of the case as a goal often well served by the page limitations set by the local court rules.

People should be pithy and write what they mean. Some lawyers seem to shoot broadside at a big barn door, hoping that something will hit to get the judge’s attention. It is much more important that you hit what you need to hit for the resolution of the case for your client than just throw a whole bunch of stuff hoping something will get the judge’s attention.

She also suggests a word of advice on the careful use of the technology available in today’s electronic courtrooms, saying,

What the lawyers need to pay attention to in the electronic courtrooms is what jury should be paying attention to. Electronic courtrooms have a wonderful ability in high paper cases to put documents in front of juries, but if lawyers would watch what the jury is watching—which is hard to do when the lawyer is examining the witness—is not just the screen in front of the juror, but what the witness is saying. People who watch TV are accustomed to controlling their own information by just pushing a button and having things appear on a screen, but sometimes that is not what the witness or the lawyer is really saying or doing. I don’t know if jurors are tuned out when they watch a diagram, but they are not attentive to the person from whom the testimony is being elicited. While I like different styles of advocacy and admire technology when used properly, if a lawyer tells me that she/he would just as soon not use any technology, is fine with both me and with the jurors.

So far day-to-day life on the U.S. District Court has not changed much since she assumed senior judge status on Feb. 14, 2006. She kept her current docket and continues a full draw assignment of multi-defendant criminal cases, although her draw on single defendant criminal matters and civil cases has been reduced by 50 percent.

A significant change, however, is her return to her former judicial chambers in the Metzbaum Court House where she occupies one of the renovated, historic third floor courtrooms. Hers is the East Courtroom, completed in 1911, and was the site of the 1918 trial of Eugene V. Debs, a prominent union leader and presidential candidate of the socialist party. The Debs trial ultimately became one of a trilogy of cases that lead to the historic First Amendment decisions

issued by the Supreme Court of the United States in 1919 known as the Espionage Cases (*Schenck v. United States*, 249 U.S. 47; *Frohwerk v. United States*, 249 U.S. 204; and *Debs v. United States*, 249 U.S. 211). Each of the Supreme Court Espionage Act cases was authored by Justice Oliver Wendell Holmes, upholding the constitutionality of Deb's and others' convictions under the Espionage Act of 1917. It is from these cases that what came to be known as the "clear and present danger" test arose. See, *Schenck*, 249 U.S. at 52. ("The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent.") It was Justice Holmes' re-examination of his "clear and present danger" test just six months later, in *Abrams v. United States*, 250 U.S. 616 (1919), that led to what now may be his most famous dissent, advocating for a higher standard of protection of speech, in words now familiar to all law students and followers of Justice Holmes:

But when men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas – that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out. That, at any rate, is the theory of our Constitution. It is an experiment, as all life is an experiment. Every year, if not every day, we have to wager our salvation upon some prophecy based upon imperfect knowledge. While that experiment is part of our system, I think that we should be eternally vigilant against attempts to check the expression of opinions that we loathe and believe to be fraught with death, unless they so imminently threaten immediate interference with the lawful and pressing purposes of the law that an immediate check is required to save the country.

Abrams, 250 U.S. at 630.

The next time you have an opportunity to visit Judge Wells in the East Courtroom, you can say not only that you recognize it as the courtroom copied essentially board-for-board in the 1990 movie adaptation of Scott Turow's novel "Presumed Innocent," but also that you are standing in the courtroom where a significant part of First Amendment history began (as well as the home of thousands of other cases in our Northern District of Ohio history). Judge Wells clearly enjoys being back in these magnificent surroundings. In her words, "it has so much history. You can feel it when you're here."

Judge Wells' favorite aspect of her job is perhaps its most human one – the opportunity to hear and consider individual statements made by defendants as part of criminal sentencing hearings.

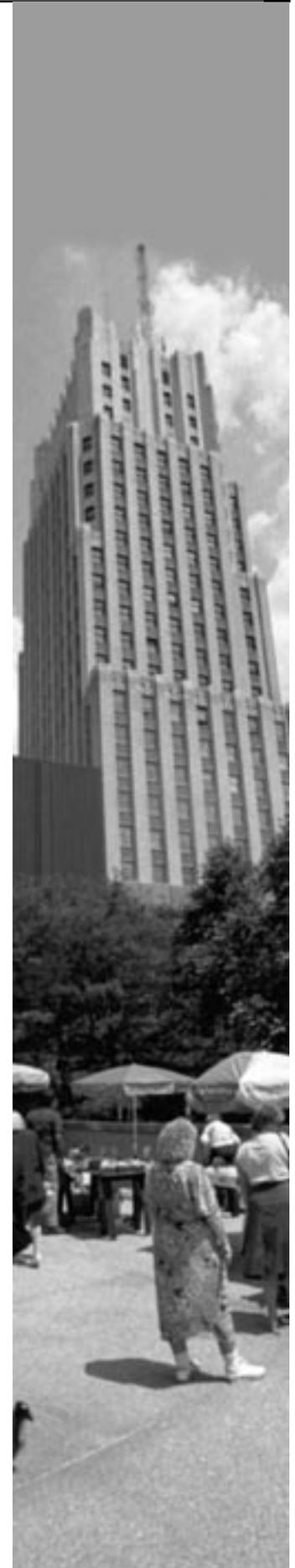
A part of my role as a U.S. District Judge is listening to people in a sentencing, who will give their own statements. Those are the moments that they individualize justice: it does more than put a face on it. It's remarkable how people are able to make very powerful statements under the stressful circumstances of a sentencing hearing that is going to change how they are living for quite a period of time.

Judge Wells notes how fortunate she is to serve in the Northern District of Ohio.

It is a privilege to work in an area that has a mature and seasoned bar. The lawyers are exceptional. There may be some exceptions to that, but our profession has a lot of people who understand the professional side of what we do as lawyers. We have many people who take cases because they are asked to because no one else would do it. We have people who do things with Legal Aid and other groups that make a difference. Lawyers have been the brunt of jokes, but those of us who know lawyers can be proud of them. I am grateful to serve here. The Northern District of Ohio brings lawyers before me who are top notch in terms of their ability as well as their sense of responsibility to their clients and their communities."

Professionalism, ethics and substance abuse seminar

On Friday, Dec. 15, 2006, the Northern District of Ohio Chapter held its annual seminar on professionalism, ethics and substance abuse. Professor Lloyd B. Snyder, Cleveland-Marshall School of Law, lead off the program with a presentation on the new Ohio Rules of Professional Conduct (Ohio will change from a "Model Code"-based ethics plan to a "Model Rules" jurisdiction in February 2007). Michael Drain, a 35-year private practitioner in the Cleveland area and now a law clerk to Judge William O'Neill, Ohio 11th District Court of Appeals, followed with a presentation on substance abuse identification and treatment as well as the services available with the Ohio Lawyers Assistance Program. The program concluded with a presentation by Jack Rekestis, senior counsel at Squire, Sanders & Dempsey L.L.P., and its ethics and loss prevention counsel, who gave a presentation on professionalism in the law.



Attorneys' lounge: Furnished and wireless



It has been a long time in the works, but the attorneys' lounge in the Carl B. Stokes U.S. Courthouse in Cleveland is finally furnished and fully equipped for your use. The attorneys' lounge is equipped with a computer

terminal, printer, copier and scanner. For laptop users, the entire seventh floor and the trial courtroom areas have wireless Internet access available for attorneys' use. Stop by the intake office in person on the first floor of the courthouse to obtain your password to access the wireless system. In addition, wireless Internet access will be coming soon to the other federal courthouses in the Northern District of Ohio.

While the lounge is completely furnished, the walls are still in need of decoration. If anyone, particularly any of the local law firms, have art work that they are no longer using and do not know what to do with, contact Geri Smith, the clerk of courts, or Tony LaCerva at McDonald Hopkins and, if suitable for the attorneys' lounge, they will arrange to give the art work a new home.

Advanced Federal Practice Seminar is a success

By Carter E. Strang, Chapter CLE Coordinator

On Nov. 17, 2006, 60 attorneys attended the Advanced Federal Practice Seminar (3.25 CLE credits) held at the Carl B. Stokes U.S. Courthouse in Cleveland, Ohio.

Chapter board member Ken Bravo (Ulmer & Berne, LLP) began the program with a PowerPoint presentation regarding e-discovery and the new federal rules applicable to it. He then moderated a panel discussion that included Tom Simmons, Tucker Ellis & West, LLP, and Hon. Nancy Vecchiarelli, magistrate, U.S. Northern District Court, also a chapter board member. The panel provided valuable insights into the expected impact of the new rules and how e-discovery disputes may be avoided during discovery and how they can be handled if not avoided.

Dean Emeritus/Professor of Law Steve Steinglass, Cleveland-Marshall College of Law (prior speaker at the chapter's Federalism CLE in 2003), presented an excellent overview of recent federal court opinions relating to federal jurisdictional issues, a topic on which Steinglass has written and lectured extensively. The discussion of one of the cases proved particularly interesting because Judge David Katz, who was present for the MDL presentation discussed below, was the trial

court judge, and he offered his insights into the case.

The program concluded with a presentation titled "15 Things That You Should Know About MDLs" and an MDL panel discussion. Chapter board member David Cohen, David R. Cohen Co. and special master to Judge Kathleen O'Malley, presented the PowerPoint, which included an overview of how and why MDLs came into existence, how matters become part of an MDL, how MDL assignments are made (who gets what MDL), and MDLs in the Northern District (by type, number and disposition). Cohen then served as moderator of a fascinating MDL panel discussion that included Hon. David Katz, judge, U.S. Northern District Court, and Peter Brodhead, Spangenberg, Shibley and Liber, LLP. The panel's focus was on the practical aspects of handling MDL matters.

Thank you to all the speakers and panelists for their participation. It certainly was one of the best CLE programs the chapter has ever offered. Thank you also to chapter board member Geri Smith, Clerk of Courts, U.S. Northern District Court, for her help in securing the use of the auditorium and in assisting with publicity within the federal courts and offices.

Local rules amended

Local Criminal Rule

Rule 57.5 Admission of Attorneys to Practice in the Northern District of Ohio

...

(h) Permission to Participate in Particular Case. The Court's strong preference is that attorneys seek permanent admission to the Bar of this Court, however, any member in good standing of the Bar of any court of the United States or of the highest court of any state may, upon written or oral motion and payment of the pro hac vice admission fee (which is ~~\$100.00 equal to the regular attorney admission fee~~), be permitted to appear and participate in a particular case, or in a group of related cases. An attorney must pay the pro hac vice admission fee each time he or she seeks pro hac vice status. A certificate of good standing from the aforementioned court(s) or an affidavit swearing to applicant's current good standing must accompany the motion for admission pro hac vice along with a check for the attorney admission fee payable to: Clerk, U.S. District Court. In addition to showing proof of current good standing, any attorney moving for admission pro hac vice must contemporaneously provide his or her typewritten name, address, telephone number, facsimile number, e-mail address, and bar registration number.

Local Civil Rule

Rule 83.5 Admission of Attorneys to Practice in the Northern District of Ohio

...

(h) Permission to Participate in Particular Case. The Court's strong preference is that attorneys seek permanent admission to the Bar of this Court, however, any member in good standing of the Bar of any court of the United States or of the highest court of any state may, upon written or oral motion and payment of the pro hac vice admission fee (which is ~~\$100.00 equal to the regular attorney admission fee~~), be permitted to appear and participate in a particular case, or in a group of related cases. An attorney must pay the pro hac vice admission fee each time he or she seeks pro hac vice status. A certificate of good standing from the aforementioned court(s) or an affidavit swearing to applicant's current good standing must accompany the motion for admission pro hac vice along with a check for the attorney admission fee payable to: Clerk, U.S. District Court. In addition to showing proof of current good standing, any attorney moving for admission pro hac vice must contemporaneously provide his or her typewritten name, address, telephone number, facsimile number, e-mail address, and bar registration number.

United States District Court Northern District of Ohio

Revised Local Civil Rule 3.14
Effective October 10, 2006

Rule 3.14 Procedure as to Initial Papers - Technical Amendment

All initial papers in civil cases shall be first filed **either electronically (which is the Court's preference) or** in the Office of the Clerk, who shall stamp on the complaint, petition, or other initial paper of every case to be filed the number of the case and the name of the District Judge to whom it is assigned. **Upon receipt of the filing, the Office of the Clerk will assign a case number and District Judge.** The numbering and assignment of each case shall be completed before processing of the next case is commenced.



CLEVELAND
TOWER CITY

Job Shadowing Day

As part of our community outreach effort, on July 21, 2006, members of our chapter participated in the Job Shadowing Day for the Cuyahoga Community College Upward Bound Program. Students were able to choose one of nine work sites to visit. They toured the sites and spoke with and observed professionals in action. FBA-sponsored sites included the U.S. Bankruptcy Court, the U.S. District Court, and the Pretrial Services and Probation Department of the U.S. District Court. Several law firms had also volunteered to participate and they will be sponsoring students next year.

When speaking about the day, Chief Bankruptcy Judge Randolph Baxter stated,

The Job Shadowing Day program continues to be an invaluable experience for all involved. Eight students visited my court and observed proceedings before meeting with me in chambers. They were introduced to my staff and were given a tour of my chamber space. Each student was

quite inquisitive (a good thing) and was not reluctant to share his or her career plan with me. Meeting with the judge and observing the “behind the scene” inner workings of the court were of particular interest to the students. Upon departing, they were invited to visit the court again, at their convenience, with friends and family. Many thanks, again, for the opportunity to participate.

In addition to the FBA sites, students also could choose to visit *The Plain Dealer*, Cuyahoga Community College Radiography Program, St. Vincent Charity Hospital, National City Bank Operations Center, Case Western Reserve University School of Engineering or the Cuyahoga Community College Veterinary Technology Program.

If you or your firm would like to volunteer for next year’s program, please contact Diana Thimmig, (216) 696-7078, or dthimmig@ralaw.com.

Seven Cleveland State law students receive FBA Award

On Oct. 26, 2006, The Cleveland-Marshall College of Law held its Academic Awards Ceremony for the 2005-2006 academic year. Congratulations go to the recipients of the Federal Bar Association’s Award for Excellence in Constitution law:

Luis Carrion

Bradley Hull

Gregory Jolivette

Christopher Reynolds

Reem Shalodi

Margaret Troia

Erika Warner

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