



Commission Releases Dos and Don'ts Guide for Working with Opposing Counsel (page 5)

10th District: No Invasion of Privacy with Inmate Medical Records Release (page 3)

CNO REVIEW

November 2013

Veterans in the Field

In honor of Veterans Day, the CNO Review spoke with three representative members of the U.S. Armed Forces who also happen to be lawyers and judges. (Story, page 8).

About Court News Ohio

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Content is produced and edited by the Public Information staff with video production assistance from the staff of Ohio Government Telecommunications. The views expressed in CNO content do not necessarily reflect those of the justices of the Supreme Court of Ohio, and the justices do not exercise direct editorial control over the content.

Submissions can be e-mailed to CNO@sc.ohio.gov or sent through the U.S. mail to:

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Inside

the November Issue



3 Cases

Doctor Acting Within Scope of State Employment is Immune from Liability



4 Happening Now

Portrait of First African American Ohio Supreme Court Justice Dedicated

8 Cover Story: Veterans Day

Bench, Bar & the Battlefield: Members of the Armed Forces who also Happen to Be Judges and Attorneys



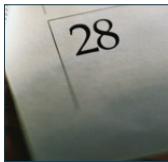
12 Legislative Digest

A compilation of bills and resolutions introduced by the Ohio General Assembly that are of interest to the judicial community



13 Rule Amendment Summary

Improvements Proposed to Ohio Court Interpreter Services

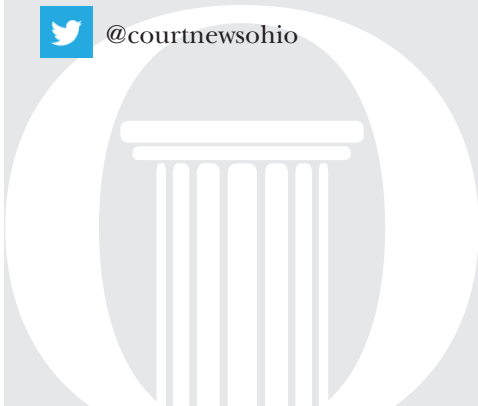


14 The Agenda

Judicial Candidates Seminar: December 4

16 On the Bench

Gov. Kasich Appoints Three Judges to Fill Vacancies



Cases

Visit courtnews.ohio.gov for the most current decisions from the Ohio Supreme Court, Court of Claims, and Court of Appeals.

Supreme Court of Ohio

Supreme Court Rules in Three Expedited Election Cases

In three separate expedited elections cases, the court ordered one candidate on the ballot, declined to omit the name of another candidate, and added to language in a ballot issue. On October 18, the court ordered the Summit County Board of Elections to include **Darrita Davis** on the November 5 ballot as an independent candidate for Akron City Council. In separate cases on October 10, the court declined to order the Mahoning County Board of Elections to omit **Demaine Kitchen** from the ballot for the office of Youngstown mayor, and ordered the **Hamilton County Board of Elections** to produce amended ballot language, including omitted sections of a proposed charter amendment to reform the city employee pension program.

State ex rel. Davis v. Summit County Board of Elections, Slip Opinion No. 2013-Ohio-4616

State ex rel. Monroe v. Mahoning County Board of Elections, Slip Opinion No. 2013-Ohio-4490

State ex rel. Cincinnati for Pension Reform v. Hamilton County Board of Elections, Slip Opinion No. 2013-Ohio-4489

Westlake Attorney Connected with Cuyahoga County Corruption Scandal Indefinitely Suspended

On October 17, the court indefinitely suspended Westlake attorney **Joseph P. O'Malley** from the practice of law for concealing a felony (misprision), improperly influencing a judge, and making a materially false statement to agents conducting a federal investigation into corruption in Cuyahoga County. In its 6-1 decision, the court adopted the findings of the Board of Commissioners on Grievances & Discipline. However, the board recommended an indefinite suspension with credit for the time

O'Malley served under a prior interim suspension imposed following his conviction on related matters. The court determined, though, that the appropriate sanction shouldn't include credit for the earlier time served.

Disciplinary Counsel v. O'Malley
Slip Opinion No. 2013-Ohio-4566

Doctor Acting Within Scope of State Employment is Immune from Liability

On October 17, the court ruled that a doctor who is a faculty member of a state medical school and employed by the school's nonprofit medical practice plan corporation is statutorily immune from personal liability for medical negligence if acting within the scope of his or her state employment while treating a patient, regardless of whether the doctor is teaching at the time. The 5-2 decision upholds a Tenth District Court of Appeals ruling and is based on the Supreme Court's 2006 holding in *Theobald v. Univ. of Cincinnati*.

Ries v. Ohio State Univ. Med. Ctr.
Slip Opinion No. 2013-Ohio-4545

Trial Courts Have Authority to Expunge and Seal Record of a Dissolved Protection Order

On October 16, the court ruled that a trial court has the inherent authority to grant an application to expunge and seal a record of a dissolved civil protection order in an adult proceeding when unusual and exceptional circumstances exist and when the interests of the party seeking expungement outweigh the legitimate need of the government to maintain the records. The 4-3 decision reverses a Twelfth District Court of Appeals decision and returns the case to the trial court for reconsideration.

Schussheim v. Schussheim
Slip Opinion No. 2013-Ohio-4529

Hazard in Park Does Not Affect City's Recreational Use Immunity

On October 16, the court ruled that under state law, a city is immune from liability for injuries resulting from a sledding accident on a pile of topsoil, which was being stored in a city park and contained debris. The court held that the city owes no duty to recreational users to ensure that a park is safe for entry or use. The 5-2 decision affirms the judgment of the Fourth District Court of Appeals.

Pauley v. Circleville
Slip Opinion No. 2013-Ohio-4541

Court of Appeals

Tenth District: No Invasion of Privacy with Inmate Medical Records Release

Though part of their case will go back to the Ohio Court of Claims, a group of Mansfield Correctional Institution inmates who sued the state for invasion of privacy are not entitled to any money. Ten men, six who are HIV-positive and four with other chronic ailments requiring ongoing care, filed separate lawsuits against the Ohio Department of Rehabilitation and Correction in the Court of Claims. Each claimed a fellow inmate got their medical records out of the trash and passed the information to other inmates. In its review of the Court of Claims' August 2012 decision, the Tenth District Court of Appeals on October 7 upheld that the release of the medical information did not meet the standard to receive monetary damages for breach of patient confidentiality that was created by the 1999 Ohio Supreme Court case *Biddle v. Warren General Hospital*, where patient records were intentionally disclosed.

Scott v. Ohio Dept. of Rehab. & Corr.
2013-Ohio-4383

Happening Now

News and notes from courthouses across the Buckeye State.



Duncan Portrait Dedication

A portrait of the late Ohio Supreme Court Justice **Robert M. Duncan** was dedicated on October 10.

During an official session of court, Chief Justice **Maureen O'Connor** remarked on Justice Duncan's many firsts, including being the first African American to serve on the court.

Duncan was the 124th justice and served on the court from 1969 until 1971. His daughter **Tracey Duncan Turner** and other members of the Duncan family presented the life-like portrait by Toledo artist **Leslie Adams**.

"I think he would be overwhelmed with gratitude, and I think he would feel very, very humbled and very, very honored to have this portrait installed in this court," Duncan Turner commented after the ceremony.

Speakers at the ceremony reflected on Justice Duncan's legacy, including his 1977 decision while on the U.S. District Court in which he ordered Columbus City Schools desegregated.

"His legacy includes the many minds and hearts he touched – people who continue to strive for his high standards, and help others as Bob Duncan helped them," said attorney **Alex Shumate**, who served with Justice Duncan on The Ohio State University Board of Trustees.

Justice Duncan died last November at the age of 85.

▶ Video of the ceremony is available at ohiochannel.org.



O.P.E.N. Court Helps Youth with Exceptional Needs Learn about Court Proceedings

A teen with exceptional needs is the subject of a video series introduced to Ohio juvenile court judges and organizations that help youth with developmental disabilities.

O.P.E.N. Court, Orienting Young People with Exceptional Needs about Court, is designed to explain to teens and young children with needs such as autism about juvenile court through a series of three short videos that are available for public viewing. The videos are centered on Henry, a teen who is stopped by police after he stole from an electronics store.

The first video educates young people and their parents about the juvenile court system and what to do when one gets in trouble with the law. The second video shares the basics of a delinquency matter, from summons or arrest to disposition. It explains who is in the courtroom and what might happen during court proceedings. The third video seeks to instill confidence and calm by showing how Henry should act in the courtroom.

The Ohio State Bar Foundation Fellows Class of 2011 created the videos as a resource for juveniles involved in the justice system for years to come.

▶ Watch the videos on the Ohio State Bar Foundation website: www.osbf.net/OpenCourt.



Cross-Examination of Former Client on Prior Conviction Permissible

A lawyer may cross-examine a former client in a subsequent, unrelated case as long as the lawyer does not violate his or her continuing duties to the former client, according to an advisory opinion issued by the Ohio Supreme Court Board of Commissioners on Grievances & Discipline.

Opinion 2013-4 concerns whether a public defender who represented a former client in a criminal case that ended in a conviction may present evidence of the conviction to impeach the former client.

“Impeachment of the former client violates Prof.Cond.R. 1.9(c) because the public defender would be using information relating to the prior representation to attack the credibility of the former client, which would disadvantage the former client,” the opinion’s conclusion states. “However, the public defender may proceed with the current representation if the former client’s criminal conviction is generally known, the use of former-client information is permitted or required by the Rules of Professional Conduct, or the former client provides informed consent.”

The board concluded that a number of factors indicated that a criminal conviction is “generally known.”

Opinion 2013-4 expands on a statement from a previous opinion, which addressed the imputation of conflicts in a public defender’s office. In addition to Rule 1.9, Opinion 2013-4 also considers Rules 1.4, 1.6, and 1.7 of the Ohio Rules of Professional Conduct.



Community Corrections Work Honored

The Ohio Department of Rehabilitation and Correction

conducted its 21st annual Clifford Skeen Awards ceremony on October 10, where three adult probation departments were honored for their commitment to community corrections as a viable alternative to incarceration.

- The **Hancock County Prison Diversion Program**, which was created in 1990 as a pilot program for intensive supervision services.
- The **Clermont County Municipal Court Jail Diversion Programs**, whose offenders performed 38,000 hours of litter control and other projects for their community service requirements in Fiscal Year 2013.
- The **Lucas County Correctional Treatment Facility**, operated by the common pleas court, which provides treatment for non-violent felony offenders sentenced for up to six months.

Commission Releases ‘Dos and Don’ts’ Guide for Working with Opposing Counsel

The Supreme Court of Ohio Commission on Professionalism recently released *Professionalism Dos and Don’ts: Working with Opposing Counsel and Other Lawyers*, the third in a series of best practices on attorney conduct. This most recent publication recommends guidelines for lawyers in their day-to-day interactions with other attorneys.

The commission hopes to promote professionalism among Ohio’s lawyers with these guides but does not regulate attorney conduct or affect attorney discipline. Commission on Professionalism Secretary **Lori Keating** said the publications will help practicing attorneys, judges, and law school students.

“Attorneys pledge to offer fairness, integrity, and civility to opposing parties and their counsel under ‘A Lawyer’s Creed,’ which was issued by the Ohio Supreme Court in 1997,” Keating said. “All attorneys should practice this oath daily to elevate their professionalism, and the *Dos and Don’ts* list demonstrates ways attorneys can honor this oath in their practice.”

Keating said the series of practices will be incorporated into professionalism CLEs, distributed by judges to practitioners who come before them, and taught to law school students.

DO	DON'T
<ul style="list-style-type: none"> ✓ Avoid motions about minor issues that should be worked out informally. ✓ Consult other attorneys in advance to avoid scheduling conflicts. ✓ Identify changes made from previous drafts when exchanging document drafts. 	<ul style="list-style-type: none"> ✗ Respond in kind when confronted with unprofessional behavior by another attorney. ✗ Serve papers at a time or in a manner intended to inconvenience or take advantage of opposing counsel. ✗ Use discovery as a means of harassment.

View the complete list of *Professionalism Dos and Don’ts: Working with Opposing Counsel and Other Lawyers* at www.sc.ohio.gov/Publications/AttySvc/opposingCounsel.pdf.

FEATURED VIDEO



Ohio judges and magistrates traveled to the heart of Amish Country (Berlin, in Holmes County) in October to learn more about the community during an Ohio Supreme Court Judicial College course. Check out the video at www.courtnewsOhio.gov/bench/2013/amishCommunity_101613.asp.





Court Management Program Class of 2013

Court Professionals Complete Executive Training Program

Thirty-seven Ohio court professionals are the first to earn the prestigious, national Certified Court Executive credential by taking all their coursework in Ohio. They were recognized September 27 during a certification ceremony at the Thomas J. Moyer Ohio Judicial Center.

Offered through a partnership between the Ohio Supreme Court's Judicial College and the National Center for State Courts' Institute for Court Management since 2002, the Court Management Program addresses specific training needs of court leaders. Several states, including Ohio, bring this training program to court professionals so out-of-state travel isn't necessary to complete the coursework.

Each of the graduates already attained the Certified Court Manager credential by completing a Level I six-module, three-year program. They completed another six modules for the Level II executive certification on topics such as strategic planning, leadership, and court community communication.

Participants represent all regions of the state and include court administrators, elected and appointed clerks, chief probation officers, and other court staff in management positions. Supreme Court Justice **William M. O'Neill** offered his congratulations, and Supreme Court Administrative Director **Steven C. Hollon** presented certificates.

Freedom of the Student Press and Open Records Debated

The lasting impact of a U.S. Supreme Court decision 25 years ago that limited the freedom of student-run newspapers was debated at the Ohio State Bar Association's annual Law & Media Conference.

More than 150 lawyers, judges, journalists, professors, and students attended the day-long event that started with a panel discussion about the Supreme Court's *Hazelwood v. Kuhlmeier* decision that the First Amendment rights of student journalists are not violated when school officials prevent the publication of certain articles in the school newspaper. Panelists included **Frank LoMonte**, a lawyer with the Student Press Law Center in Arlington, Va., and an advocate for student First Amendment rights, freedom of online speech, and open government on campus.

The conference attracted journalists from around the state and the nation. **John Carpenter**, former editor of *Homicide Watch Chicago* for the *Chicago Sun-Times* and currently a reporter for *Chicago Tribune*, joined a panel to talk about the Internet's effect on journalism, including competition, intellectual property, and the impact of social media on news delivery. **Andrew Alexander**, journalist and former ombudsman for *The Washington Post*, participated in the panel that explored journalism in an age of staff and production downsizing.

Public records access was the focus of two break-out sessions, including a discussion about the current state of public records law in Ohio. Another popular session, "Five Things Lawyers Hate about Journalists and Five Things Journalists Hate about Lawyers," gave lawyers and journalists a chance to share their concerns and improve interactions between the professions.

The Law & Media Conference is sponsored jointly by the OSBA, the Ohio Newspaper Association, the Ohio Association of Broadcasters, and the Central Ohio Chapter of the Society of Professional Journalists.

Two Ohioans Selected to National Board

Henry County Family Court Magistrate **Richard Altman** was elected to lead the Association of Family and Conciliation Courts Board of Directors next July, serving as president-elect until then. Supreme Court of Ohio Dispute Resolution Section Manager **Jacqueline C. Hagerott** was re-elected as a board member.



Altman



Hagerott

Chief Justice O'Connor Takes Exception to U.S. Supreme Court 'Exceptionalism'

Ohio Supreme Court Chief Justice **Maureen O'Connor** joined a panel discussion at the National Press Club in Washington on October 25 and called on the U.S. Supreme Court to finally lift the ban on cameras in its courtroom.

In making her case, Chief Justice O'Connor responded to a panelist's suggestion that the majesty and unique nature of the U.S. Supreme Court make it different from other public institutions, requiring that it be shrouded. The Chief's statement was in response to the suggestion that the doctrine of exceptionalism justifies exempting the U.S. Supreme Court members from treatment common to other members of the judiciary.

"Every judge, every court of law in this country is an exceptional experience for our citizens to be able to go into court, plead your case, and rely on the rule of law," Chief Justice O'Connor said. "Although, I understand the magnificence and the grandeur and the consequences of the decisions that are handed down by the U.S. Supreme Court, that same exceptionalism and magnificence is present and should be present in every courthouse in this country, and our ability to access the courts is what's vitally important."

Chief Justice O'Connor suggested that the definition of "access to justice" should be broader than the traditional concept of litigants having access to bring their cases and redress grievances and should also include the ability of average citizens to view proceedings, which in the Information Age should include video.

Chief Justice O'Connor was joined on the panel by former Judge **Ken Starr**, president of Baylor University and former U.S. solicitor general; **Neal Katyal**, Georgetown law professor and former acting U.S. solicitor general; **Alan Morrison**, George Washington law associate dean; and **Pete Williams**, NBC News justice correspondent. **Tony Mauro**, U.S. Supreme Court correspondent for the National Law Journal, served as moderator.

Starr supported Chief Justice O'Connor's argument. He joked that "with all due respect, (the U.S. Supreme Court justices) are not the Oracle of Delphi telling us what the gods mean."

▶ The complete video can be viewed at: <http://c-spanvideo.org/program/Cmtef>. Chief Justice O'Connor's general remarks begin at about 19:00, and her comments about exceptionalism begin at about 57:15.



Chief Justice
O'Connor

Court Administrators Celebrate 40 Years, New Officers Sworn In

Forty years after the founding of the Ohio Association for Court Administration, court professionals from around the state gathered for their annual fall conference.

Association members brushed up on their professional development by attending Ohio Supreme Court Judicial College sessions on October 17 devoted to court integrity, ethics, and customer service.

OACA hosted a session on October 18 on the relationship between the news media and the courts.

The association also elected and swore in new officers for 2014:

President

Elizabeth W. Stephenson

Court Administrator
Tuscarawas County
Common Pleas Court,
General Division

President Elect

Timothy P. Lubbe

Court Administrator
Lorain County
Common Pleas Court

Treasurer

Lori Henry

Court Administrator
Medina Municipal Court

Secretary

Michael J. Negray

Deputy Court Administrator
Cleveland Municipal Court

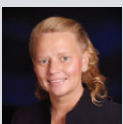
Past President

Michael E. Kochera

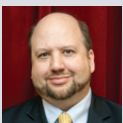
Court Administrator
Canton Municipal Court

Community Corrections Work Honored

The Ohio Justice Alliance for Community Corrections recognized several people at its achievement awards luncheon during the 27th annual conference on October 10. Among those honored were:



Melissa Litteral, director of the Greene County Adult Probation Department, who received the Dr. Simon Dinitz Award, which recognizes a community correctional practitioner for his or her contributions.



Corey Schaal, research analyst in the Ohio Supreme Court's Judicial Services Division, who received the James Wichtman Award, which recognizes a board member dedicated to OJACC's mission.

OACA's meeting occurred during the "SuperMeeting," where every three years several court personnel associations hold their fall conferences during the same week and participate in a Judicial College course.

An American flag is shown waving on a silver flagpole against a clear blue sky. The flag is positioned in the upper right quadrant of the image, with its stars and stripes clearly visible. The flagpole extends from the top right towards the bottom right of the frame.

Bench, Bar & the Battlefield

In its most recent statistical analysis, the U.S. Department of Veteran Affairs estimated Ohio's veteran population to be about 900,000 — the sixth-largest in the nation. With more than 60,000 registered attorneys in Ohio, according to records maintained by the Ohio Supreme Court's Office of Attorney Services, there are thousands of active, inactive, corporate, and retired attorneys with a military background. On this Veterans Day, we celebrate all veterans for their willingness to serve and sacrifice. Thank you to those who have served and continue to serve to protect the freedoms many have died to defend.



PICTURED LEFT: Aukland, receives a promotion to Colonel during a 2012 ceremony as Mrs. Aukland pins on the Eagles insignia.



Col. Duncan D. Aukland

As he closes in on a quarter century as chief legal counsel for the Ohio Adjutant General’s Department, Col. Duncan D. Aukland also recalls life lessons learned in the military.



He began his military career after receiving some sound advice from his father.

“I first entered the military because my draft number was 6; and my father, who worked for the Air Force in the Pentagon throughout the Vietnam War, told me ‘I don’t think you want to be an infantryman in Vietnam, son.’ I frankly gave that much more consideration than most things my father said to me in those days, and so I decided I’d go to the Coast Guard Academy,” Aukland said.

He found his math skills lacking at a tough engineering school, however, and flunked out. He completed his degree at another military school, Virginia Tech, but was not in the Corps of Cadets there.

He said his most memorable moments in the military were going to sea on the Coast Guard Bark Eagle as a Cadet, and “calling in fire as an unskilled artillery observer at Camp Grayling, Mich. During that annual training period, I also got to watch an

A-10 destroy a tank hull, and I fired a howitzer round. I also got to be a U.S. troop in Germany right after the Berlin Wall fell.”

Aukland’s military service also made two off-duty moments memorable: “to walk the ground at Gettysburg over which Pickett’s Charge was made, and to be allowed to fold the flag after it had been lowered for the day at the American Cemetery in Normandy where so many heroes are buried. Without the privilege of serving, those moments would not have meant so much to me.”

The engineering “experience” influenced his career choice too.

“I became a lawyer because I’d failed at being an engineer,” Aukland said. “I stopped trying to go where the jobs were and instead tried to do something I hoped I’d be good at. I’m sure I made the right decision in becoming a lawyer, but I learned a long time ago that being a lawyer isn’t a recipe for being beloved. I also wanted no part of being a scientist,

having been raised by a biologist mother and a geologist father.”

Aukland started out as a legal intern at Ohio EPA and graduated to a staff attorney after passing the bar.

“I worked for the wastewater treatment, drinking water protection, and solid waste disposal programs. I recommended enforcement actions, drafted correspondence, and administrative orders.”

He was laid off and opened his own practice in 1983 as a general practitioner. After he joined the Army Reserve, Aukland juggled running his practice with his military duties. For example, he once had to hold a settlement conference at 5:30 a.m. because his trial started Monday and Reserve duty loomed that weekend.

Aukland said he rejoined the military because he was frustrated with how slowly retirement benefits were building in private practice. He closed his practice and joined the Ohio Adjutant General’s Department in 1990.

“I am still very much a general practitioner,” he said. “I review contracts, leases, personnel actions, etc. I give labor and employment law advice. I review administrative hearings. I draft legislation and testify about it.”

As general counsel, he said that perhaps his signature achievement was convincing the National Guard Bureau that it was subject to the Federal Grants and Cooperative Agreements Act and implementing regulations he had argued were necessary.

“I had written both a thesis for my Officer Advanced Course and a Staff Study while attending a class at the Command and General Staff College on the topic,” Aukland said. “I’m also very proud that the Ohio National Guard was able to acquire the use of the former Ravenna Army Ammunition Plant as a training site without acquiring the environmental liabilities under the Resource Conservation and Recovery Act and the Comprehensive Environmental Recovery, Cleanup and Liability Act.”

Coming full circle to his upbringing, Auckland said being in the military “has not so much taught, but reinforced so many things my parents taught me. Be on time. Be dressed correctly. Cut your hair. Be polite. Plan your work, then work your plan.”

He also said by serving in the military he joined the “family business.”

“My father served in the Army for 6 years, then after 10 years as a college instructor, was an Air Force Technical Information Specialist for over 20 years,” Auckland said. “My brother was a submarine officer for over 20 years. My sister was married to an Army officer for 10 years and now works for the Department of Energy. Two uncles served in the Navy during WWII, then went on to civilian government careers later. My eldest uncle worked for the CIA for over 30 years.”



Hon. William M. O’Neill

Another father influencing the start of a military career was that of Ohio Supreme Court Justice William M. O’Neill.



LARGE PICTURE: Justice O’Neill serves in Vietnam.

INSET: Justice O’Neill today.

My father was a World War II veteran, and he was a liberal. “He let me choose which branch of the army I was going into,” he joked.

After graduating from Ohio University with a journalism degree, Justice O’Neill joined the U.S. Army in 1967 and served in Vietnam from 1970-1971.

“I had a profoundly unique job in Vietnam. I was the escort officer for the networks covering the war, which meant if they wanted to get right to where the fighting was I had to take them there and bring them home safely,” Justice O’Neill said. “My success in Vietnam was there were 10 of us and we all came home alive.”

Justice O’Neill served in the Ohio National Guard until he retired in 2007 as a Judge Advocate General Lieutenant

Colonel. During that time, he held an array of jobs. He worked as a news reporter for the *Sandusky Register* and WCMH-TV in Columbus right after the war. Justice O’Neill also served as a union organizer, a private practice attorney, and a nurse at the Cleveland Clinic while raising four children as a single parent after his wife died in a car accident.

“At one point I was a judge, a nursing student, an Army officer, and a single parent, so I do know how to multitask. I think I’ve got that mastered,” Justice O’Neill said.

Justice O’Neill said he often switched careers because he always wanted to make a difference in society and be a part of the action. He said his military values helped mold him as a judge when he was elected to the Eleventh District

Court of Appeals in 1996.

“I think the military gives you always a heightened sense of right and wrong. The military is only brought in when something has gone terribly wrong, and we put our lives on the line and try to straighten it out, and I think that is also true of lawyers and judges,” Justice O’Neill said. “Nobody wants us around otherwise. Nobody wants to be in court. Nobody wants to pay a lawyer, but when you are in trouble, boy, that’s where you turn.”

Justice O’Neill said there are now three generations of O’Neills in the military. His son Shawn served in the Air Force during the Iraq War.

▶ Watch Justice O’Neill’s complete interview at www.ohiochannel.org/MediaLibrary/Media.aspx?fileId=141080.



CNO Legislative Digest

Each month, Court News Ohio Review tracks bills and resolutions pending in the Ohio General Assembly that are of interest to the judicial community.

Photo courtesy of the Ohio Statehouse Photo Archive

HB 238, Rep. Jim Butler Jr. (R-Oakwood)

To provide transparency in contracts between the state and private attorneys.

STATUS: Introduced in the House on July 31, 2013 and referred to the House Judiciary Committee on September 19, 2013. The second committee hearing was on October 16, 2013.

HB 261, Rep. Jim Butler Jr. (R-Oakwood), Rep. Michael Stinziano (D-Columbus) Companion Bill SB 219, Sen. Larry Obhof (R-Medina)

As suggested by the Supreme Court, this legislation seeks to abolish the office of the Court of Claims commissioner, to transfer the powers of a judge of the Court of Claims to the court; to specify certain powers of a Court of Claims magistrate, to modify the Attorney General's annual report on the crime victims compensation program, to conform existing law to the existing filing period for filing a claim for reparations by an adult, to eliminate the procedure for filing an affidavit of disqualification for a judge of a municipal or county court and instead include the disqualification of a judge of a municipal or county court and a judge of the court of claims within the procedure for filing an affidavit of disqualification for a probate judge, a judge of a court of appeals, and a judge of the court of common pleas, and to change the basis of the per diem compensation of a retired judge who serves on the Court of Claims from the annual compensation of a judge of a court of appeals to the annual compensation of a judge of a court of common pleas.

STATUS: Introduced in the House on September 10, 2013 and referred to the House Judiciary Committee on October 16, 2013.

COMPANION BILL STATUS: Introduced in the Senate October 29, 2013. Referred to Senate Civil Justice Committee on October 30, 2013.

HB 285, Rep. John Becker (R-Union Twp.), Rep. Matt Lynch (R-Chagrin Falls)

To provide that an individual retiring on or after the effective date of this act from one of the state's public retirement systems who is re-employed as a public employee will not receive the pension portion of the retirement allowance for the period of employment.

STATUS: Introduced in the House on October 2, 2013.

SB 121, Sen. Jim Hughes (R-Columbus)

To double the mandatory prison term for an offender who is convicted of a firearm specification and previously has been convicted of a

firearm specification; to similarly double the period of authorized or mandatory commitment to the Department of Youth Services of a delinquent child who is guilty of a firearm specification and previously has been adjudicated a delinquent child for committing an act that would constitute a violation of a firearm specification if committed by an adult; to prohibit violent career criminals from knowingly acquiring, having, carrying, or using any firearm or dangerous ordnance; and to require a mandatory prison term for a violent career criminal convicted of committing a violent felony offense while armed with a firearm.

STATUS: Introduced in the Senate on May 7, 2013 and referred to the Senate Criminal Justice Committee on May 8, 2013. The second committee hearing was on October 22, 2013.

SB 143, Sen. Bill Seitz (R-Cincinnati)

To permit the Attorney General to authorize the release of information relating to certain arrests and delinquent child adjudications pursuant to a request for a criminal records check; to regulate the confidentiality of personal information related to community service block grants; to clarify the authority of boards of county commissioners to establish a community alternative sentencing center; to modify the procedure for sentencing and admitting an eligible offender to a community alternative sentencing center; to clarify that an eligible offender must successfully complete any term in a center as a condition of a community residential sanction; to include the best interests of the person as a reason for which an alleged or adjudicated delinquent child who is at least 18 but younger than 21 may be held in an adult detention facility; to eliminate the six-month waiting period for making a motion or application for the sealing of a juvenile court record; to specify that the fact of admission and confinement in an adult detention facility of a person under 21 generally is confidential; to authorize a court to order restitution if a person convicted of driving under suspension or driving under financial-responsibility-law suspension or cancellation fails to provide proof of financial responsibility; to authorize a person charged with multiple offenses in connection with the same act to apply for the sealing of records pertaining to an acquitted charge; to modify the requirements regarding testing for HIV of persons charged with specified sex offense; to increase the sentence of imprisonment that disqualifies an inmate from participating in the prison nursery program; and to amend the version of section 109.57 of the Revised Code that is scheduled to take effect January 1, 2014, to continue the provisions of this act on and after that effective date.

STATUS: Introduced in the Senate on September 3, 2013.



Rule Amendment Summary

A summary of select significant rule amendments proposed or enacted by the Ohio Supreme Court.

Telephonic Interpretation

On September 30, the Ohio Supreme Court opened a public comment period for a proposed rule change to add standards for using a foreign language interpreter over the phone. The addition of Rule 89 is part of a far-reaching program to allow Ohioans who need interpreters better access to the judicial system. Rule 89 would identify when telephonic interpretation services are appropriate, including a maximum time limit that makes telephonic interpretation most effective; set standards for the equipment used during telephonic interpretation; require the interpreter to take an oath; and create awareness of coordinating and monitoring the service.

M-Z JUDGES & ATTORNEYS

CLE Changes are Effective

01.01.14



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CNO TV

9 a.m., Mondays

THE OHIO CHANNEL



Conferences & Meetings

November 21

Ohio Specialized Dockets Practitioner Network Annual Conference
Columbus

sc.ohio.gov/JCS/specDockets

December 3

Ohio Association of Domestic Relations Judges Winter Conference
Member Judges
Columbus

December 4 – 6

Ohio Common Pleas Judges Association Winter Conference
Member Judges
Columbus

December 5

Ohio Prosecuting Attorneys Association Annual Meeting
Columbus
ohiopa.org

December 5 & 6

Ohio Association of Juvenile Court Judges Winter Conference
Member Judges
Columbus

The Agenda

Upcoming events, training opportunities, and conferences for judges and court staff. For more information, contact the event sponsor at the website provided.

Judicial College Courses

judicialedcademy.ohio.gov

November 6

Guardian ad Litem Continuing Education Course: Psychiatric Disorders

Guardians ad Litem, Columbus
1 p.m. to 4:30 p.m.

November 7

Guardian ad Litem Continuing Education Course: Psychiatric Disorders

Guardians ad Litem, Columbus
8:30 a.m. to Noon

November 8

Street Smart on Drugs
Probation Officers, Columbus

November 13 – 15

Court Management CMP 2014B Gray Class, Module IV: Managing Court Financial Resources
2014B Gray, CMP 2014 Class
Columbus

November 14

Acting Judge Essentials: Small Claims in Municipal & County Courts (3 of 3)

Judges, Magistrates & Acting Judges, Cleveland

November 15

Paternity, Custody & Child Support Video Teleconference
Judges & Magistrates
1 p.m. to 3:45 p.m.

Traffic Law (2 of 2)

Judges, Magistrates & Acting Judges
Columbus

November 19

Guardian ad Litem Continuing Education Course: Report Writing
Guardians ad Litem, Dayton
1 p.m. to 4:30 p.m.

November 20

Guardian ad Litem Continuing Education Course: Report Writing
Guardians ad Litem, Dayton
8:30 a.m. to Noon

Probate Course Video Teleconference

Judges & Magistrates
1 p.m. to 3:45 p.m.

November 21

Basic Defensive Tactics (2 of 2)
Probation Officers, Columbus

Remote Interpretation

Judges, Magistrates & Court Personnel, Columbus

November 22
Advanced Defensive Tactics (2 of 2)
 Probation Officers, Columbus

Evidence-Based Pretrial Services and Ohio Law
 Judges, Magistrates,
 & Court Personnel, Columbus

December 4
Judicial Candidates Seminar
 Judicial Candidates, Columbus
 3:45 p.m. to 5:45 p.m.

December 5
Critical Issues for Juvenile Clerks
 Juvenile Court Clerks, Columbus

December 6
Magistrate Ethics, Professionalism and Substance Abuse Video Teleconference
 Magistrates
 1 p.m. to 3:45 p.m.

Children, Families & the Court Training
drsummit.ohio.gov/events

November 5
Domestic Relations Pre-Summit Regional Meeting
 Cincinnati

November 6
Domestic Relations Pre-Summit Regional Meeting
 Columbus

November 8
Domestic Relations Pre-Summit Regional Meeting
 Akron

November 12
Domestic Relations Pre-Summit Regional Meeting
 Toledo

Language Services Training
sc.ohio.gov/JCS/interpreterSvcs

November 9
Introduction to Court Interpreting
 Columbus

December 6 & 7
Orientation for Certification Written Exam
 Columbus

Dispute Resolution Training
sc.ohio.gov/JCS/disputeResolution

November 13
Roundtable for Court-Connected Mediators
 Registration Required
 Columbus

November 14 & 15
Domestic Abuse Issues: Training for Mediators & Other Professionals
 Akron

November 18 & 19
Domestic Abuse Issues: Training for Mediators & Other Professionals
 Columbus

December 2
Ethics, Professionalism & Substance Abuse: Special Issues in Mediation
 Columbus

December 5, 6, 9 & 10
Child Protection in Mediation
 Napoleon

Supreme Court of Ohio
www.sc.ohio.gov

November 5
Forum on the Law: From Burma to Myanmar
 Thomas J. Moyer Ohio
 Judicial Center, Columbus

November 5 & 6
Oral Arguments

November 15
Deadline for application to register as a candidate for admission to the practice of law
 For applicants in the second year of law school

November 19 & 20
Oral Arguments

December 10 & 11
Oral Arguments

Ohio Center for Law Related Education
www.ocle.org

November 5 & 6
Government in Action
 Ohio Statehouse & Thomas J. Moyer
 Ohio Judicial Center, Columbus

November 13
Middle School Mock Trial Professional Development
 Columbus

Miscellaneous

November 6
Ohio Community Corrections Association
Understanding Opioid Addiction and Treatment Options in Correctional Settings
 Columbus, occaonline.org

ON THE BENCH



Judicial Appointments

Gov. John Kasich recently appointed the following judges to fill vacancies:

Christopher M. Berhalter

The Belmont County prosecutor will take the Belmont County Court, Northern Division bench on November 18. He replaces Judge **Frank A. Fregiato**, who was appointed to the Belmont County Common Pleas Court. Berhalter will need to run in 2014 to retain the seat for the unexpired term, which ends January 1, 2019.

Eamon P. Costello

The Madison County assistant prosecutor took the Madison County Common Pleas Court bench November 1. He replaced retiring Judge **Robert D. Nichols**. Costello will need to run in 2014 to retain the seat for the unexpired term, which ends December 31, 2016.

Jennifer Muench-McElfresh

The chief assistant prosecutor of the child assault division in the Butler County Prosecutor's Office took the Butler County Common Pleas Court bench on October 21, replacing retired Judge **Andrew Nastoff**. She will have to run in 2014 to retain the seat for a full six-year term commencing January 1, 2015.

Honors & Awards

OAM Conference Awards

Magistrates from across the Buckeye state united on October 2-4 for the 24th anniversary of the Ohio Association of Magistrates (OAM) Fall Conference where two judges and two magistrates received awards for their outstanding service.

Judges **Jim James** and **Dan Bratka** received Judicial Awards for their continual support of magistrates across Ohio and with the association. Both judges previously served as magistrates and were members of OAM. Judge James is at Stark County Family Court and chairs the Judicial Conference. Judge Bratka was a magistrate from 2005-2012 before he was appointed to the Logan County Family Court.

Magistrate **Kenneth Roll** received the OAM President's Award, which is given periodically to a member who provides service above the call of duty. Roll serves on the Lake County Common Pleas Court and has been the OAM secretary since 1994.

Magistrate **Richard Altman** received the Education Award, which is awarded to a member of OAM or a judge who supports magistrate education. Altman works at Henry County Family Court and is considered a mediation expert. He does education work for OAM through the Ohio Judicial College.

Rep. C.J. McLin Award

Perry County Probate/Juvenile Court **Judge Luann Cooperrider** received the Rep. C.J. McLin Award, which recognizes an elected official who has worked toward the improvement of community corrections in Ohio. The award was presented during the Ohio Justice Alliance for Community Corrections 27th Annual conference on October 10.

Ohio Civil Rights Hall of Fame

Former Eighth District Court of Appeals **Judge Sara J. Harper** was inducted into the Ohio Civil Rights Hall of Fame in October. Judge Harper was the first African American woman to graduate from Case Western Reserve University Law School, the first woman to serve on the judiciary of the U.S. Marine Corps Reserve, the first of two women to win seats on an Ohio court of appeals, the first African American woman to run for chief justice of the Ohio Supreme Court, and the first African American woman to sit by assignment on the Ohio Supreme Court.