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April 2022





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Carl Marlinga, Retired Circuit Court Judge

*By Francesco Briguglio,
President of Macomb Bar Association*

Where did you go to law school?

I graduated from the University of Michigan Law School in 1971.

What was your very first law job?

I first took a job with Nine and Meister, a private law firm with offices in Warren, and later in Bloomfield Hills. We served as counsel for medium sized business organizations. We also put together limited partnerships for rear estate investments. Our biggest project was forming the business organizations and limited partnerships for what is now the Grand Traverse Resort in Traverse City. We also did a lot of civil litigation in federal court.

When did your career in public service begin?

Me first public sector job was with the Macomb County Prosecutor's Office under George Parris. After being there only a few months. I discovered that there were few opportunities to go to trial. The office in those days was heavily into plea bargaining. I remember preparing for an armed robbery case only to be told a week prior to trial that the front office had agreed to a deal. That experience caused me to leave early, but I vowed that I was return some day to reform the office. I accepted

a position with Honigman, Miller, Scwhartz, and Cohn in Detroit, working as a litigator. The junior partner to whom I was assigned was Jim Robinson - who later became a renowned evidence instructor at the Wayne State University Law School. Jim later went on to become as Associate United States Attorney General in charge of the Criminal Division. My livelong love for the rules of evidence started with my association with Jim.

When did you return in public office?

When Jim Robinson left Honigman to become the United States Attorney for the Eastern District of Michigan, I followed him, getting an appointment as the Assistant United States Attorney. I later transferred to take a position as a Special Trial Attorney in the Justice Department's Organized Crime Strike Force, assigned to the Detroit Office. I loved the work, and I would have made a career of it but for

my desire to come back to be the elected prosecutor of Macomb County. I made the tough choice to leave the Justice Department and join the firm of Bushnell, Gage, Doctoroff, and Reizen. Marty Doctoroff, one of the partners, was a friend and mentor. Me deal with the firm was that I had full permission to run in 1984 for



Macomb County Prosecutor. If I won, they would wish me well with no hard feelings. If I lost I would settle down, forget politics, and become a partner.

What happened in your race for prosecutor against George Parris?

Word on the street was that although I was a “nice young man,” I had no choice to beat the incumbent prosecutor. Nevertheless, I was able to beat George Parris in the primary. I went door to door and worked hard. I was surrounded in the campaign by the best bunch of young idealists, all of whom wanted to see that office reformed. Mr. Parris tolerated too much plea-bargaining and was way too involved in playing golf on county time. For a guy who didn’t stand a chance I did okay. I won the primary with 65% of the vote. In the general election I prevailed easily in spite of the fact that Ronald Reagan won heavily as a Republican at the top of the ticket. The 1984 election was the beginning of Macomb County’s national reputation as the home of the Reagan Democrats.

How did you transform the prosecutor’s office? What were the highlights?

I was able to greatly reduce plea bargaining, and we always did the right thing for the right reasons. Anything involving political favoritism was out. I also dusted off some old statutes to get the circuit judges to convene state grand juries which we used with great success to prosecute major drug gangs. I created special units for prosecution of criminal sexual conduct and elder abuse. I testified often in Lansing, advocating for reforms such as increased penalties for domestic abuse and creation of personal protection orders. I was instrumental in founding the Care House and the Sexual Assault Nurse Examiners Program for victims of criminal sexual conduct. I was the first prosecutor to appoint black assistant prosecuting attorneys in Macomb County and greatly increased the number of women as assistant prosecutors - with women increasing from 5% to over 50% of the staff during my tenure. I also played a small part in helping the FBI investigate the Jimmy Hoffa abduction and murder. I loved being prosecutor; it was a great job with unlimited potential for good. I drummed into the assistants that the job of the prosecutor was to do justice by (a) convicting the guilty, (b) freeing the innocent, and (c) protecting everybody’s constitutional rights in the process.

What did you like about being a probate judge?

Being a probate judge was meaningful and rewarding experience. I loved the ability to assist families in their most difficult times. Taking care of children and recovering money for elderly person who had been ripped off by unscrupulous predators were the best parts of the job. I also thoroughly enjoyed the complex litigation arising in trust cases.

What are your feelings about the mandatory retirement age for age?

The mandatory retirement age keeps many qualified jurists from serving on the bench. Older judges with decades of experience can handle cases much more efficiently because they have seen it all before.

Why did you decide to run for Congress?

When I was a kid I heard President John Kennedy say that one man can make a difference, and every man should try. I never forgot that.

What are the major points of your congressional run?

First, I want to be new, calmer, more reasonable voice in Washington. Politics nowadays is just too shrill. Nobody listens to what the opposing party has to say. Everything is simply attack, attack, attack. This is no way for a free people to debate public issues. We all seek good things for our fellow Americans. We simply have honest differences on how to get there. We need to respect one another. With regard to specific issues, I have always been a capitalist and an environmentalist, and I know how to combine both for a new booming economy. I want to take the power of sun, wind, tides and heat from the earth to create new, good-paying American jobs. Some nation is going to lead with way in manufacturing the electric cars, the batteries, the charging stations, the heat pumps, the windmills, and the tidal turbines that will be the source of cheap, renewable energy in the coming decades. It might as well be us. And in the process we will clean our air and water; and, as a bonus in foreign policy, we still gut the ability of rogue nations like Russia and Iran in intimidate their neighbors simply because they sit on top of a lot of oil. As Alfred Lord Tennyson said, “Come my friends, it is not late to seek a newer world.”

Circuit Court Corner

By Macomb County Circuit Court Administration

Farewell, Judge Marlinga

Judge Carl Marlinga has announced his retirement from the Bench, effective February 25, 2022. Judge Carl J. Marlinga served on the Macomb County Probate Court beginning on January 1, 2013, and was elected to the 16th Judicial Circuit Court for a six year term beginning on January 1, 2017. Judge Marlinga previously served as the prosecuting attorney for Macomb County, having been elected to that position in 1984, 1988, 1992, 1996, and 2000. Judge Marlinga also served as the Circuit Court's Mental Health Treatment Court Judge since the inception of this treatment court in 2013.

Chief Judge Biernat stated, "Many of the Judges at the 16th Judicial Circuit Court, and throughout Macomb County, began their legal careers working for Carl in the Prosecutor's Office. He has been a long-standing fixture in the Macomb County Legal Community, and we all wish him well in his future endeavors."

Judge Harrison Taking the Helm of Mental Health Court

In light of Judge Carl Marlinga's retirement, his former role as Mental Health Court Judge is being assumed by Probate Judge Sandra Harrison. We are so excited to welcome Judge Harrison to this new role. Her wide-ranging experience in probate court matters makes her

uniquely qualified to address the needs of the target population of the Mental Health Treatment Court. We wish Judge Harrison all the best!

Welcome, New District Court Directors Darra Slanec and Karen Grasel

Following the retirements of Lisa Ellis (42-1) and Marlisa Beauchemin (42-2), Darra Slanec (42-1) and Karen Grasel (42-2) will be taking over as Court Directors at our two county-funded district courts.

Darra is returning to the Courts following a distinguished career in the Macomb County Prosecutor's Office. Darra graduated from the Detroit College of Law and began her legal career as a staff attorney for the Children's Law Center of Wayne County Neighborhood Legal Services. Following several years as a sole practitioner and instructor at Davenport University, Darra became a Juvenile Court Referee at the 16th Judicial Circuit Court. She then moved over to the Prosecutor's Office, where she served as Chief of the Domestic Violence Unit and as First Chair Prosecutor for Judge Kathy Viviano and Judge Ed Servitto. We are happy to welcome Darra back to the court administration.

Karen began her career as a deputy court clerk at the 41B District Court. She briefly left the Court system for an opportunity working for the Mount Clemens City Clerk's Office, but soon returned to the Courts as a Deputy Court Clerk at the 41A District Court.

Karen eventually worked her way up to Deputy Court Administrator at 41A. She ultimately left the 41A for the Administrator position at the 38th District Court (Eastpoine). Karen has experience as a Certified Electronic Operation, and as the LEIN Terminal Agency Coordinator. She has significant experience with Judicial Information Systems (JIS), which should come in handy as the district courts transition to this new case management system.



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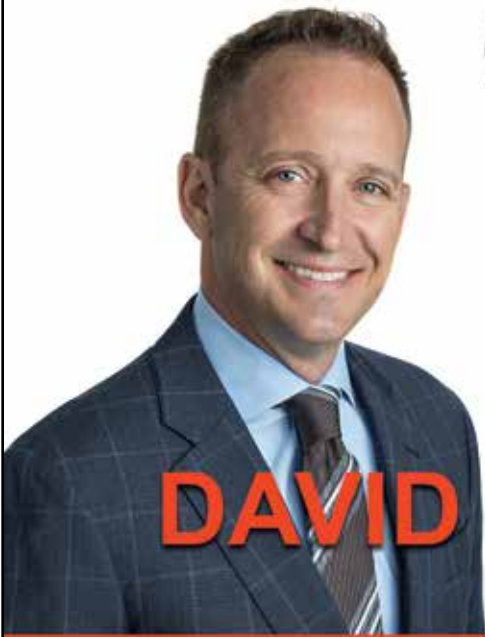
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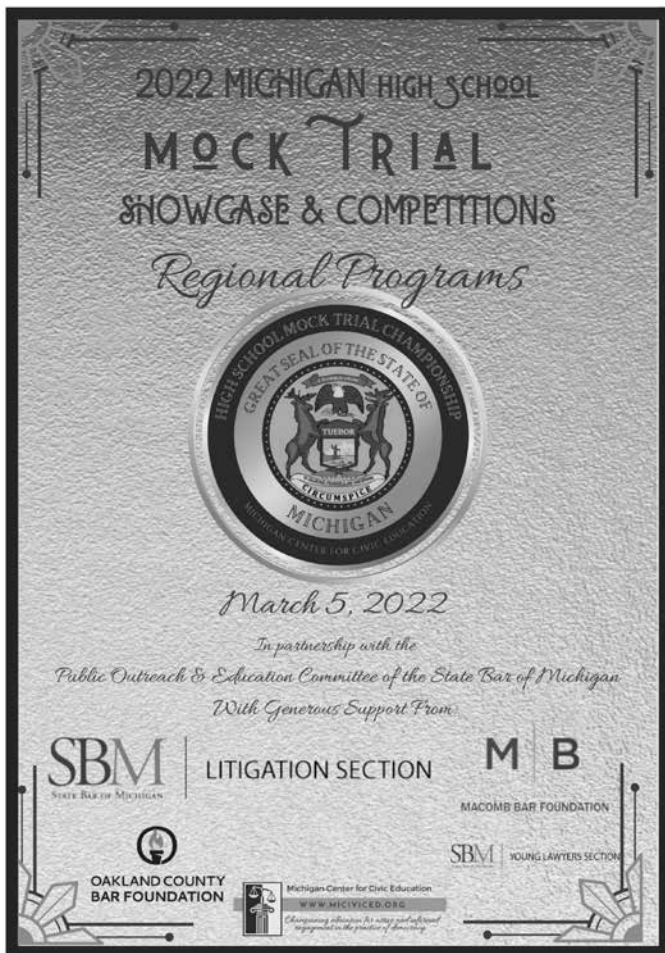
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2022 Regional High School Mock Trial

*By Sean Blume,
President of Macomb Bar Foundation*

I spent Saturday, March 5, being a judge for the Macomb Bar Foundation’s High School Regional Mock Trial Competition. I volunteered for this competition in the past, when it was in person at the 16th Circuit Court. Our Foundation started



hosting this event to benefit area High Schools in 2014 under the exceptional leadership of Renee Tegel. Renee’s dedication helped foster and grow the Macomb Regional Tournament into a model for the rest of Michigan. The 2021 tournament went virtual and the Foundation took a pause on the program. As 2022 approached, the Foundation

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board was enthusiastic to jump in and rejuvenate the tournament, even if it was virtual. The Michigan Center for Civic Education made the difficult decision to hold all of its tournaments virtually and the experience was unlike any other even I have been a part of.

I want to thank our Foundation committee who worked tirelessly to learn the Zoom protocols and solicit volunteer so that the program could go forward. The committee of Jenna Bommarito, Lori Smith, Laura Polizzi and Angela Medley were outstanding in everything they did to make the tournament happen. Thank you to all of our Macomb volunteers.

The students were stellar. I judged a total of six teams during three mock trials. Three of the teams I judged were among the four winners of the day who went to the State finals on March 19, 2022. Needless to say, the talent was incredible. I heard over and over again from my co-judges that they

wish these students were practicing law right now. They were prepared, polite, well-spoken, and able to think on their feet. I hope that I am lucky enough to be able to participate as a judge in the national finals, which is being hosted for the first time in Michigan this year, in Kalamazoo. It was said that they will be looking for sitting judges as well as attorneys to come judge the competition, with Judges being offered overnight accommodations. I hope to see you all there.

The Macomb County legal community, Foundation Trustees, and Association members can be proud of the efforts put forth by all of the volunteers to give our teenagers the opportunity to experience practicing law in an incredibly professional environment.

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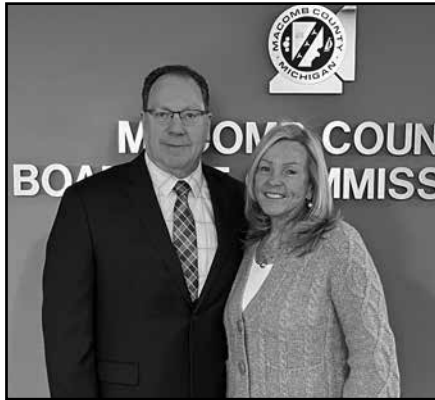
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REDIRECT

By the Macomb County Prosecutor's Office

The Macomb County Board of Commissioners Records and Public Safety Committee unanimously voted for initial approval of a \$1.2 million Prosecutor's Office budget amendment to accept grant funds to participate in Families Against Narcotics' drug diversion programs.



Macomb County Prosecutor Peter J. Lucido and Families Against Narcotics ("FAN") Executive Director Linda Davis announced a first-of-its-kind drug diversion partnership. Linda Davis is a former teacher, Macomb County assistant prosecuting attorney, and 41B District Court Judge. The goal is to reduce drug-related crimes and overdose deaths by offering people who may have committed a minor, nonviolent, drug-related, or drug-induced offense a referral to treatment and a continuum of care instead of arrest and prosecution of criminal charges. The Prosecutor's Office will work with FAN to create a new Substance Use Disorder Pre-Arrest Diversion Program "REDIRECT." FAN is a grassroots organization known and respected by law enforcement throughout the county.

"If we hope to change the cycle of drugs and crime, then we in law enforcement cannot continue to do the same thing in every case," said Lucido. "Prevention and diversion are important tools in the law enforcement toolbox for appropriate nonviolent cases by saving costs to society."

The social and economic impact of these lower-in-the-pyramid crimes is huge, but a status quo approach to them too often makes things worse, not better, and at a big financial and societal cost. In 2019, drug-related deaths in Macomb County increased by 27.8%, heroin-related deaths increased by 9.7%, and deaths involving fentanyl increased 204% compared to the prior year. The Marshall Project, a nonpartisan, nonprofit news organization that seeks to create and sustain a sense of national urgency about the U.S. criminal justice system deemed Macomb County "at-risk" in the national opioid epidemic, citing low medications for opioid use disorder provider rates and high opioid-overdose

death rates. Macomb County Prosecutor Lucido will partner with FAN to carry out REDIRECT. FAN will provide a range of supportive services. REDIRECT will give participants treatment rather than a criminal prosecution. FAN's Peer Recovery Coaches will work closely with REDIRECT participants, as well as their family members, to assist participants in accessing sober living and preparing for and finding employment. The grant has enabled the Prosecutor's Office to assign one part-time Special Prosecutor, retired former Chief of the Macomb County Prosecutor's Office Drug Unit David J. Portuesi, to the REDIRECT program. "As a founding member of the Macomb County Drug Treatment Court, I see this as the next step to successfully rehabbing members of our community with substance abuse disorders while minimizing the cloud of criminality and reducing the criminal caseload," says Portuesi.

Once criteria for qualification is finalized, police officers who encounter potential participants will make recommendations to the Prosecutor's Office. The Prosecutor will have the final decision on whether a person can be diverted to REDIRECT. If a person has been accepted and successfully completes the REDIRECT program, then criminal charges will not be filed against them.

Combating drugs is a bipartisan effort. The county commission committee vote was unanimous. Vice President Kamala Harris noted there is strong evidence that many nonviolent offenders can be successfully redirected, in her book *Smart on Crime*, which she authored as a career prosecutor.

Police departments realize they cannot arrest their way out of addiction. FAN is approaching the police departments of Clinton Township, Fraser, Roseville, Sterling Heights, and the Macomb County Sheriff's Office regarding the REDIRECT program. It is hoped the program will be available countywide next year.

Families Against Narcotics received a \$1.2 million federal Comprehensive Opioid, Stimulant, and Substance Abuse Program grant from the U.S. Department of Justice Bureau of Justice Assistance. The program is expected to continue through September 2024. At a full board meeting on February 24, 2022, the Board of Commissioners unanimously approved the acceptance of the \$1.2 million federal grant.



Macomb Bar Association & Macomb Bar Foundation

*By Rick R. Troy, Executive Director,
Macomb Bar Association*

Dear Members and Trustees,

Spring is here and the golf clubs have been coming out. On March 3, 2022, we had a sold out crowd at our second annual TopGolf Competition. Great people, wonderful laughs, yummy food and some good golf too. Thank



MACOMB BAR ASSOCIATION

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you to all of our sponsors especially Freedom Boat Club for putting up a “Lake St. Clair Cruise” for our winning team of Vince Sarti, Austin Miller, Shaun Mothersell and Joseph Kuziak. And thank you Fraser Souwedaine PC for sponsoring the competition bay and Nationwide Interlock for providing the awesome gift cards for the winners of the closet to the pin competition in the competition bay.

On Monday, June 20 (the day after Father’s Day), we will once again host our annual golf outing at Greystone Golf Club. Register your group today and get in on the early birdie specials. The Macomb Bar golf outing has been held on this day for close to twenty years, and I hope that you will join in the fun!

The ZOOM Room in the bar office has been getting some use lately. As a member you are welcome to ZOOM from here, use the conference room, the computer station, or copy station and grab some goodies from the snack bar and a cup of coffee or pop. It’s all here for you as a member of the Macomb Bar!

MacombCLE@MacombBar.org

Criminal defense attorneys assigned for indigent defense, please note that we have set up this new email address for you to submit completed CLE forms. December 31, 2022 seems like a long way off, but it is never too early to complete your required 12 hours. We host all of the upcoming CDAM seminars and a menu of video replay seminars at MacombBar.org. This is also where you can retrieve the Macomb Registration Codes. Be sure to register as “Macomb, Lapeer, St. Clair.”

Macomb Bar Foundation

WOW! The March 5, 2022, Macomb County Regional high School Mock Trial Tournament was incredible. We had twelve teams competing in this daylong event representing Anchor Bay, Capac, Grosse Pointe South, International Academy Central, Pinconning, South Lyon, University of Detroit Jesuit, Warren Woods Tower, and Novi high schools. It was said again and again by the volunteer attorneys that the students exhibited



MACOMB BAR FOUNDATION

professional behavior, understood the law of the case, and articulated their argument as good as, if not better than many attorneys. As a member of the profession, you can be proud of the efforts put forth by these awesome students. And, in a world that sometimes seems as if it has lost all sense of humanity, the volunteer teachers and coaches that put in countless hours to prepare the students for competition are shining stars in our education community. Yet none of this happens without

the gargantuan efforts of the Michigan Center for Civic Education. Ellen Zwarenstejn, Executive Director and James Liggins, sleep and bleed for this program so that it becomes a life moment for all involved. And that includes the many, many attorney volunteers that fill the roles of presiding judge, scoring judge and court officer. Thank you to everyone for making this happen!

And now comes the Foundation program for elementary students. We are looking forward to hosting Law Day on April 29, 2022. This year's theme is, "Toward a More Perfect Union: The Constitution in Times of Change." It might not be too late to have your 1st through 8th grade daughter, son, nephew or niece submit an essay or poster. Check out the details on Macombbar.org

These two Foundation programs alone reach hundreds of students with lessons of civic and legal education. Foundation Trustees are the philanthropists among us that insure that these programs continue. Become a trustee by contributing \$150.00 to the bar Foundation. Send a check or visit MacombBar.org and click on the Trustee button.

Legally Speaking is the Foundation's television program that is still available on some public/ government/

education channels (PEG) television channels. Mostly though, the show is now viewed online. We recently came across the Macomb Bar's Centennial Ceremony. The event was spectacular. Check it out and relive, or see for the first time, the Medal of Achievement and Courage bestowed upon the legendary Honorable Kenneth Sanborn by his old friend and client, Milo Radulovich. It's at the bottom of the home page of MacombBar.org.

The Annual Meeting

Leadership of the Association and Foundation have come together and have planned a joint Annual meeting on Thursday, June 23 at the Italian American Cultural Center in Clinton Township. Details are being worked out at the time of publishing, but mark your calendar and visit MacombBar.org for details and how to register. It's time to get together, because together we are more!

Best regards,

Rick R. Troy
Executive Director

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Double Deception

By Mark E. Sullivan, Law Offices of Mark E. Sullivan

O, what a tangled web we weave when first we practice to deceive.

—Sir Walter Scott

Jamie Snellings may have thought she could get away with it. She was caught with her hand in the cookie jar... and an invisible cookie jar, at that.

Jamie's Deception

After the 2014 filing for divorce in Hawaii, she and her husband, Jason Snellings, filed their mandatory disclosure forms with information on their assets and accounts. Then Jason found out that Jamie had moved \$65,000 to a new account that she had not disclosed - an invisible account - so he filed for a financial restraining order. Jamie later said, "I wanted the court case to be done and... was scared over the threat of sanctions," and so she told her lawyer to settle the matter quickly with a consent order.

The attorneys quickly arrived at a stipulated divorce decree and the parties signed the typed order. It covered divorce and custody, with Jason getting primary custody of the children. The judge orally approved the typed settlement and granted the divorce.

Jason's Deception

The attorneys started preparing the full and final order but then Jamie's attorney wrote to the court with objections. The letter said that Jason had not disclosed to Jamie his impending deployment until the day after the June 3, 2015, hearing on the stipulated divorce decree, "when he also informed Jamie that their two children would live with his parents in Virginia as part of a family care plan he had submitted to his military command. Jamie requested a hearing before the family court." *Snellings v Snellings*, NO. CAAP-16-0000704, 2020 Haw App LEXIS 77 (Haw Ct App, Feb. 28, 2020) at 3-4.

The trial judge was clearly upset, stating at the initial

hearing:

The reason we're here today is . . . [Jason], you are currently . . . on deployment with the military pursuant to your service and that allegedly you knew about that well in advance of the proceedings in June, but for reasons that I think are manifestly obvious you decided to not reveal that to [Jamie]. [Jamie]'s claim is that that was a material misrepresentation... and it would have affected the negotiations between the parties and maybe come up with a different --a different result. And that's what's before me.

Id. at 5. It turned out that Jason had taken the children from Hawaii to Virginia to live with his parents.

What Happened Next

The court ultimately signed the tendered settlement, since it recited accurately the terms upon which the parties had agreed previously. While stating that the conduct didn't appear to require the filing of a report to the Office of Disciplinary County of the bar, the court decided to impose \$5,000 in sanctions - attorney's fees and costs - on Jason, and it demanded a detailed affidavit from Jamie's attorney.

Jamie then filed a motion to vacate or modify portions of the settlement, sought modification of the custody terms, and asked the court to enforce a prior order requiring Jason to transfer a vehicle to her. The response from Jason was a motion to dismiss and a request for a stay of proceedings under the Servicemembers Civil Relief Act, 50 U.S.C. § 3932. The court denied the stay request and ordered the children to be returned to Hawaii, to be placed in Jamie's sole custody until Jason returned from deployment. Ultimately

the court set aside major portions of the stipulated divorce decree on the basis of fraud. It awarded an additional \$12,000 to Jamie in attorney's fees and costs.

The Court's Concerns

Much would be lost in the exploration of this case if the court's statements in open court were omitted. A clear sense of why the court was disturbed by Jason's conduct and where the court was headed can be gleaned from the following remarks to Jason's attorney:

[F]rankly, the Court has very little trust in terms of your client's actions in this case thus far.... What the Court is concerned about are the allegations that a fraud was perpetrated on the Court.... That's what the Court is concerned about, that information pertinent to settlement negotiations and relevant to settlement negotiations was intentionally withheld. [M]y understanding of the case, having reviewed the motion, is that the essence of the fraud claim is that [Jason's] deployment was not disclosed [to Jamie] prior to the time the agreement [for the stipulated divorce decree] was reached... The intention was to withhold information to get the agreement he wanted is what it's -- it sounds like you're telling me.

[JASON'S COUNSEL]: No, I don't believe that's the case.

THE COURT: It may have been because he wanted to ensure his children were safe and protected and all of that stuff, but at the heart of it, it sounds like he withheld information because he felt that would benefit his position. *Id.* at 9-11.

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Pulling Back the Curtain

The facts about deployment and the settlement were revealed out in the Court of Appeals decision. The Court noted that:

- Jason received TAD (Temporary Additional Duty) orders to Cuba three months before the settlement was signed. The tour of duty was for nine months.
- Despite the pendency of timesharing and custody issues between the parties, Jason didn't disclose the assignment orders to Jamie when he received them or within a reasonable time thereof.
- When the parties signed the settlement on custody and timesharing, Jason still had not revealed to Jamie his TAD orders, which required him to report just three days after the typewritten settlement in court.
- The day after the court settlement, Jason told Jamie that he had TAD orders, he was leaving Hawaii in two days, "and told her that he was sending the children to live with his parents in Virginia for the duration of his TAD." *Id.* at 17.
- "Thereafter, [Jamie] discovered that on June 2, 2015, [Jason] had notified the children's schools that the children's last day of school would be June 3, 2015 and that they were to be permanently released as they were moving to Virginia.... [Jason] had not disclosed this notification to [Jamie] prior to the parties' June 3, 2015 agreement at Court.... [Jamie] also discovered that on May 26, 2015 [Jason] had arranged for a 16 foot storage pod to be delivered to his address on May 30, 2015.... On June 6, 2015, [Jason] left Hawaii with both children and dropped them off at his parent's house in Virginia." *Id.* at 17-18.

The Appellate Decision

In affirming the trial court's rulings on attorney's fees and costs, the Court of Appeals noted the following specific findings in the trial court's order regarding Jason's conduct:

[Jason's] TAD orders and imminent departure from Hawaii were material facts that should have been disclosed to [Jamie] and her counsel prior to June 3, 2015. [Jason] did not disclose his TAD orders to [Jamie] until June 4, 2015. [Jason] knowingly and intentionally failed to disclose his TAD orders and his

plans to send the children to Virginia to [Jamie] until June 4, 2015 to induce her to agree to the settlement terms that he wanted.

Id. at 25. The Court upheld the trial court's other orders in all respects.

Lessons to be Learned

The Snellings case contains several lessons for the family law practitioner and the client. The pointers are not confined simply to cases involving custody and a military family.

"Cleanliness is next to godliness" is the motto to memorize. Be "clean" with the opposing party and the court. Be candid when there are issues of substance which are being overlooked and which could lead to a different result, whether in the courtroom (in a contested case) or in the conference room. Even when the case is being settled "on the courthouse steps," remember that a lawyer's duty, as an officer of the court, includes candor to the tribunal. This is not a game of "hide the ball." A family law matter in court is something that will affect the lives of the parties and the children, perhaps for a long time.

The next lesson involves an unappealed issue, the denial of Jason's motion for a stay of proceedings under the SCRA, the Servicemembers Civil Relief Act, 50 U.S.C. § 3932. Ordinarily such a motion is granted automatically when the movant sets out the four essential elements of a request: a) a statement as to how his military duties affect his ability to appear, b) a statement as to when he will be available, c) a statement from his commanding officer that the servicemember's military duties prevent his appearance, and d) the commander's statement that military leave is not authorized. While the matter did not reach the Court of Appeals, an educated guess is that the denial was based on Jason's conduct.



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When a party applying for a stay of proceedings has acted inequitably, most courts will refuse to consider the stay request based on the doctrine of “the sword and the shield.” This doctrine states that the SCRA is intended to be used as a shield to protect the rights of the servicemember, not as a sword to defeat the rights of others. “Fair play” is the key to successful use of the SCRA in slowing down civil proceedings. Bad actors may get bad treatment in court.

A third lesson is: “Good lawyers know the law, but great lawyers know the judge.” Listen to the judge. If there are comments from the bench that affect your case, pay heed and try to follow where the court is leading. In this case the court on numerous occasions pointed out its concerns about the issues of truth, credibility, fraud and the concealment of material facts in order to gain a tactical advantage. These statements are like red flags before a hurricane - heed them and act accordingly. One who doesn’t will often “reap the whirlwind.”

Finally, a lesson which Jason should have been given early in the case is “When you’re in a hole, stop digging.” Disregarding the substantial claims as to his misconduct, Jason kept on filing motions and resisting the court’s clear concerns about his deceptions. Counsel

has a duty to warn the intransigent client of the likely consequences of his actions. In the appropriate case, counsel should withdraw when his or her client refuses to bring his conduct into compliance with the court’s rulings and concerns. It was clear from the start how the judge was leaning, and the court’s remarks left little doubt that Jason had “gamed the system” in gaining a settlement without revealing his position. In effect, Jason declared “I won” in a card game and collected all the poker chips on the table without showing his hand. The displeasure of the trial judge and the Court of Appeals regarding such self-dealing is obvious.

About the Author

Mr. Sullivan is a retired Army Reserve JAG colonel. He practices family law in Raleigh, North Carolina, and is the author of The Military Divorce Handbook (Am. Bar Assn., 3rd Ed. 2019) and many internet resources on military family law issues. A Fellow of the American Academy of Matrimonial Lawyers, Mr. Sullivan has been a board-certified specialist in family law for over 30 years. He works with attorneys nationwide as a consultant on military divorce issues in drafting military pension division orders. He can be reached at 919-832-8507 and at mark.sullivan@ncfamilylaw.com.

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