



Bar Briefs

Published by the Dayton Bar Association • October 2008

Weathering the Storm Changing Strategies for Changing Times

16th Annual Bench/Bar Conference
Friday, November 14, 2008 | 9:00am - 4:30pm

Featuring
Special Breakout Sessions
Focusing on Key Corporate and
In-House Counsel Issues

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Barrister of the Month

Donald F. Harker, III

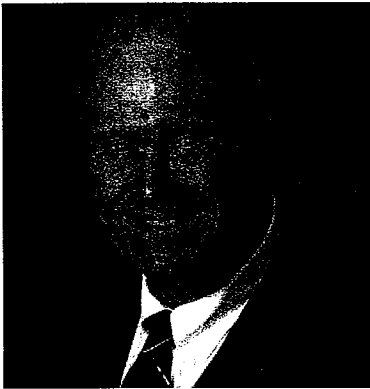
Election 2008

Judicial Candidacy Preference Poll Results

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Forfeiture by Wrongdoing in Light of *Giles v. California*

Roger Makley— A Man to Be Remembered



Roger J. Makley
May 29, 1935 – September 12, 2008

This past month the death knells tolled for Roger J. Makley, a man whose life and career made big footprints in Dayton, in Ohio, and across the nation. He died on September 12, 2008, after a short fight with cancer.

Roger spent the majority of his career as the head of litigation at the Coolidge Wall law firm. He is perhaps best known for his defense of Pete Rose against Bart Giammatti, the Commissioner of Baseball over betting on baseball and against the Internal Revenue Service over taxes. Almost twenty years later, Pete Rose still remembers Roger fondly, as “a good friend and a great guy.”

Besides Pete Rose, Roger was involved in a number of high profile cases of local, regional and national importance. He defended David Schiebel, the President of Home State Savings in the Marvin Warner era of the collapse of a major savings & loan institution. He was appointed by the Ohio Elections Commission to investigate allegations of money laundering in Governor George Voinovich’s 1994 campaign for governor.

When I heard that Roger died, I thought of the tribute given to Tim Russert on his death: He walked the walk with some of the most important political figures of our time, yet he talked the talk of his roots, the working class in Buffalo, New York. The same tribute can be given to Roger. Despite his superb education and his noted legal career, he was always rooted in his East Dayton beginnings as part of

the Focke Meatpacking plant family.

Roger received three degrees from Georgetown University. Many people know that as an undergraduate student Roger was a classmate and in the Drama Club with Justice Antonin Scalia who presently sits on the United States Supreme Court. Few people know that Roger won the Drama Club award for his performance in the role of Sgt. J.J. Sefton in *Stalag 17* -- the same role William Holden played in the famous movie from the 1950s. Roger held a key student recruiting position with Georgetown University, and there are many people locally who thank Roger for his help in getting their children admitted to Georgetown.

He started his legal career as a lawyer in Washington, D.C., working for the Securities & Exchange Commission, before returning to Dayton where he became an Assistant United States Attorney. In 1969, he was named the United States Attorney for the Southern District of Ohio, and later served as the United States Magistrate from 1971 to 1978. More recently, U. S. District Court Judge Susan Dlott appointed Roger as a Life Member of the Sixth Circuit Judicial Conference, an honor rarely bestowed.

Roger served as President of the Dayton Bar Association, President of Federal Bar Association, and President of Legal Aid Society. He was a major advocate for the University of Dayton Law School, serving as Chair of the Advisory Council and as an adjunct professor. Roger was a key supporter of Dean Fran Conte in raising funds for Keller Hall and the Zimmerman Law Library, and later a key supporter of Dean Lisa Kloppenberg. For his efforts, the Law School named one of its classrooms after him and in 1998 the University of Dayton conferred an honorary Doctor of Laws degree upon him.

Roger was a great storyteller. He believed that storytelling was the essence of being a great trial lawyer -- the ability to tell a story that the jury could understand and identify with. Over the years, storytelling became one of Roger’s most revered traits, as he held court first at the Embassy Grill, then at the Pewter Mug and later at Limbos, always entertaining friends with

his irreverent stories about the present and past, stories that got funnier over the years as he retold them with greater effect.

No one who met Roger Makley escaped his self-deprecating stories about being the only child in a family, about bringing his .22 rifle to Georgetown University because he thought that he would be able to shoot rats like he could when he was patrolling the family slaughterhouse, and about how proud his father was when becoming a lawyer meant you were a notary public. I have seen Roger introduce himself with those stories and then sit down, leaving the next person absolutely dumbstruck as he fumbled and floundered to match wits.

His love of telling stories revealed a lot about him. He told me once -- in fact, he told me often -- that he liked being in the Drama Club, liked being on stage, and liked being in the courtroom because they all gave him opportunities to mask his inner-self behind a public performance. Those public performances overshadowed a very private person -- a person whose private thoughts often belied his public persona.

Roger and I shared more than thirty-five years practicing law at the Coolidge Wall law firm. During those years, Roger defended the rich and powerful, and often the notorious. Throughout his career, he had a strong commitment to bring about justice in all forums. Perhaps because of his working class roots, he also identified with the underdogs and sympathized (almost to a fault) with all those who were looking for compassion and support.

So, when we hear the church bells toll for Roger Makley, we will not hear the hearse horse snicker. We will hear the muted applause as we recognize a man who made the Dayton legal community a better place, a man to be remembered. ●

*By Merle F. Wilberding
Coolidge Wall Co., LPA*