

IN THE SUPREME COURT OF OHIO

**In Re: Judicial Campaign Complaint
Against Colleen Mary O'Toole
RESPONDENT**

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CASE NO. 2012-1653

**COMPLAINANT'S ANSWER BRIEF TO
RESPONDENT'S OBJECTIONS**

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I BRIEF CHRONOLOGY

A hearing was held on September 18, 2012, before a duly appointed Board Hearing Panel. On October 1, 2012, the Panel's Findings, Conclusions and Recommendations ("Panel's Findings") were filed with the Clerk of the Supreme Court. The Panel's Findings: with respect to Count I: Complainant failed to prove, by clear and convincing evidence, the alleged violations of Jud. Cond. Rule 4.3(A) and 4.3(F); with respect to Counts II and III, Respondent violated Jud. Cond. Rule 4.3(A) and recommended that Respondent be assessed a fine of \$1,000, pay the costs of the proceedings, and pay Complainant \$2,500 as and for attorney fees.

On October 3, 2012, the Five-Judge Commission was appointed to consider the Panel's Findings. On October 5, 2012, the Five Judge Commission entered an Interim Order that Respondent immediately cease and desist from referring to herself as Judge O'Toole.

On October 10, 2012, Respondent filed Objections to the Panel's Findings.

II ARGUMENT

Proposition of Law No. 1

Jud. Cond. Rule 4.3(A) Is Constitutional Both on Its Face and As Applied in this Case

A Prevailing Law On Constitutionality

In *In Re Judicial Campaign Grievances Against William M. O'Neill*, 132 Ohio St.3d 1472, 2012-Ohio-3223, the Thirteen-Judge Panel found that the American system of jurisprudence is based upon the integrity of the participants, therefore Jud. Cond. Rule 4.3 serves a compelling state interest because it addresses fairness and accuracy – the integrity – of judicial campaigns. Diligent enforcement of Jud. Cond. Rule 4.3 maintains the integrity and quality of the judiciary and achieves

a compelling state interest.

The same compelling state interest in preserving integrity is found in the very cases cited in Respondent's Objections. In *Butler v. Alabama Judicial Inquiry Comm.*, 111 F.Supp.2d (M.D. Ala 2000), that court found that preserving the integrity of the judiciary is a compelling state interest. The *Butler* court cited with approval to *Landmark Communications, Inc. v. Virginia*, 435 U.S. 829, 98 S.Ct.1535, 56 L.Ed. 1 (1978) which held, "[t]here could hardly be a higher governmental interest than a State's interest in the quality of its judiciary." *Landmark at 848*; and to *In Re Chmura*, 461 Mich. 517, 608 N.W.31 (2000), which held, "[t]he state ... has a compelling interest in preserving the integrity of the judiciary." *Chmura at 40*.

In *Weaver v. Bonner*, 309 F.3d 1312 (11th Cir. 2002), that court adopted the standard set forth in *Republican Party of Minnesota v. White*, 536 U.S. 765, 122 S.Ct. 2528, 153 L.Ed.2d 694 (2002) at 346, that a candidate's speech during an election campaign is core political speech subject to strict scrutiny analysis for constitutionality. The *Weaver* court went on to hold that strict scrutiny analysis requires that the restriction be narrowly tailored and serve a compelling state interest. In order to be narrowly tailored, "restrictions on candidate speech during political campaigns must be limited to false statements that are made with knowledge of falsity or with reckless disregard as to whether the statement is false – i.e., an actual malice standard." *Weaver at 1320*.

In *United States v. Alvarez*, __ U.S. ____, 132 S.Ct. 2537 (2012), the narrowness of the restriction was demonstrated when the United States Supreme Court struck down the Stolen Valor Act ("Act"), because it banned and criminalized false statements at any time, in any place, to any person, and without regard as to whether the false statements were made for the purpose of material gain. *Id at 2547*.

B. Application of Prevailing Law on Constitutionality to the Instant Case

Respondent alleges that Jud. Cond. Rule 4.3(F) is unconstitutional on its face and as applied to Respondent. However, the Panel's Findings dismissed the charged violations of Jud. Cond. Rule 4.3(F) against Respondent. Complainant is **not** objecting to the dismissal of the alleged violations of Jud. Cond. Rule 4.3(F). Therefore, any discussion of Jud. Cond. Rule 4.3(F) is rendered moot.

The real issue in the instant case is whether Jud. Cond. Rule 4.3(A) on its face and as applied to Respondent is constitutional. For the reasons that follow, Jud. Cond. Rule 4.3(A) is both constitutional on its face and as applied to Respondent.

The first factor to be considered when determining whether Jud. Cond. Rule 4.3(A) is constitutional is whether the state (The Court) has a compelling state interest. Preserving the integrity of the judiciary in Ohio is a compelling state interest which can be enforced by The Court. See *O'Neill, supra.*, *Butler, supra.* and *Chmura, supra.*

The second factor to be considered when determining whether Jud. Cond. Rule 4.3(A) is constitutional is whether Jud. Cond. Rule 4.3(A) is narrowly tailored to serve that compelling state interest. Since Jud. Cond. Rule 4.3(A) restricts false statements made with knowledge of the falsity or with reckless disregard as to whether the statement is false, Jud. Cond. Rule 4.3(A) withstands constitutional scrutiny under the tests set forth in *Weaver, supra.*

Respondent cites several federal cases to support her claim that Jud. Cond. Rule 4.3(A) violates the First Amendment alleging that it is not narrowly tailored to serve the compelling state interest. Respondent's reliance on these cases is misplaced.

White, supra. has no bearing on this case other than to set a strict scrutiny standard. The Minnesota canon addressed in *White* prohibited a judicial candidate from expressing his or her views

on disputed legal or political issues, whereas Ohio's Jud. Cond. Rule 4.3(A), at issue in this case, prohibits judicial candidates from knowingly or with reckless disregard posting or transmitting *false* information that purports to be fact.

In *Weaver, supra*, the Georgia court struck its judicial canon because it prohibited statements *negligently* made. The Georgia court reasoned that false statements negligently made were inevitable in a free debate; therefore, the restriction did not afford sufficient "breathing space" for protected speech. However, the Georgia court went on to state that restrictions on judicial campaign speech must be limited to statements knowingly or recklessly made. *Id at 1319*. That is exactly what the instant case is about, knowing and reckless false statements by Respondent. Accordingly, *Weaver* supports the proposition that Jud. Cond. Rule 4.3(A) is constitutional.

In *Butler, supra*, the Alabama Supreme Court narrowed its canon to provide that a judicial candidate shall not disseminate false information concerning a judicial candidate or an opponent with knowledge that it is false or with reckless disregard whether or not it is false. Once again, that is exactly what Respondent did in this case, she distributed false information about her status as a judge, knowing that it was false or with reckless disregard as to whether or not it was false.

The *Chmura* court narrowed its rule to apply only to public communications that the candidate for judicial office know were false or were used by the candidate with reckless disregard for their truth or falsity.

Respondent, Colleen Mary O'Toole is **not** a judge. As the Hearing Panel found, "Respondent's insistence that she is a judge in view of overwhelming evidence to the contrary is of great concern." *Panel's Findings, paragraph 10*. Thus, Respondent's posting, publishing, broadcasting, transmitting, circulating or distributing information that she is a judge was done with

knowledge of the falsity or with reckless disregard as to whether the statement is false.

Respondent's reliance on *O'Neill* to support her claims is equally misplaced. First, the *O'Neill* decision addressed only the constitutionality of Jud. Cond. Rule 4.3(C). Second, the Appellate Panel in the *O'Neill* decision found Jud. Cond. Rule 4.3(C) unconstitutional as applied to the facts in *O'Neill, supra*. The Appellate Panel did **not** find Jud. Cond. Rule 4.3(C) facially unconstitutional. *O'Neill* turns on the fact that O'Neill "is a judge, albeit a retired judge," who was never defeated for that position. The Appellate Panel reasoned that because O'Neill "is" a judge, his brochure is not false. O'Neill is still eligible to sit as a visiting judge, unlike Respondent. In the instant case, the overwhelming evidence shows that Respondent is **not** a judge, retired or otherwise — she was defeated in the 2010 primary election. Accordingly, Respondent's posting, publishing, broadcasting, transmitting, circulating or distributing information that she is a judge was done with knowledge of the falsity or with reckless disregard as to whether the statement is false.

Respondent also relies heavily on *Alvarez, supra* to support her unconstitutionality claims. Once again, Respondent's reliance is misplaced. It is critical to note that in *Alvarez*, the Act was found unconstitutional because it prohibited and criminalized false statements made at any time, in any place, to any person, without regard to whether the false statement was made for the purpose of material gain. The Act would make criminal "personal, whispered conversations within a home" *Id at 2547*.

In the instant case, Respondent published and distributed false statements with a purpose of material gain. As set forth in the Panel's Findings, "The panel can only conclude that Respondent's web site and badge are part of an effort to portray herself as an incumbent judge." *Panel's Findings, paragraph 9*. Respondent's false use of the title "judge" is for the purpose of material gain. By

deceiving the public into thinking that she is the incumbent judge, she gains a material advantage in the election.

Two examples of Respondent's material advantage are attached. The last paragraph of the article published in *The Star Beacon* reads, "[c]andidates for the 11th District Court of Appeals, incumbent judge Colleen Mary O'Toole and challenger Mary Jane Trapp, both discussed their judicial experience and said they would ashew [sic] political and personal agendas in rendering decisions." *Exhibit A, attached hereto and incorporated herein, The Star Beacon, October 4, 2012.* By falsely portraying herself as a judge, Respondent has gained a material advantage by having herself referred to as the "incumbent judge." In elections, there is a distinct advantage to being known as the incumbent. Respondent's false portrayal of herself as a judge has given her a material advantage in the election.

In a letter to the editor published in the Chagrin Solon *Sun Newspapers* on October 11, 2012 (*Exhibit B, attached hereto and incorporated herein*), the writer of the letter refers to Respondent as "Judge O'Toole." The newspaper headline over the letter reads, "O'Toole experienced judge who will work for the people of Geauga". Both the headline and the letter are yet another example of the material advantage gained by Respondent through her false use of the title judge.

Since Jud. Cond. Rule 4.3(A), prohibits the posting, publishing, broadcasting, transmitting, circulating or distributing either knowing the information is false or with reckless disregard as to whether the information is false, this rule meets the constitutionality standards set forth in the above cases. Jud. Cond. Rule 4.3(A) is constitutional both on its face and as applied to Respondent.

Proposition of Law No. 2
Complainant Proved by Clear and Convincing Evidence
that Respondent's Statements Were False, Deceptive and Misleading

The Hearing Panel found the statement on Respondent's Web site that she was elected to the Eleventh District Court of Appeals in 2004, without giving the date her term ended, ". . . gives the impression that she is still on the court. The second sentence is worded in such a manner as to reinforce the impression that she is still a sitting judge." *Panel's Findings* ¶ 6. This false, deceptive and misleading impression is further reinforced when Respondent refers to herself as "Judge O'Toole" in that same biographical sketch. *Panel's Findings* ¶ 6. Even the Ashtabula County Republican Party Chairman, a non-lawyer, agreed that Respondent's present tense description that she "serves as an intermediate court judge", "could be misleading." *Trans. p. 160, line 23.*

Respondent admitted writing the copy for her Web site. *Trans. p. 95, line 5* and *Panel's Findings* ¶ 8. Respondent also admitted that she failed to disclose in the text of her Web site that her term on the court had ended. *Trans. page 95, line 13.* Based upon Respondent's own admissions, she knowingly and recklessly made statements that were false, deceptive and misleading.

The Hearing Panel also found that the gold and black name badge reading "Colleen Mary O'Toole Judge 11th District Court of Appeals" (Exhibit 17), and made for Respondent when she was actually serving as a sitting judge, "would deceive or mislead a reasonable person into believing the Respondent is currently serving on the court of appeals." *Panel's Findings* ¶ 7.

Respondent testified that she wears a paper badge that reads "O'Toole for judge 11th District Court of Appeals" with the gold and black name badge (Exhibit 17) to "make sure there's no ambiguity." *Trans. page 236, line 6.* If the gold and black name badge was not deceptive or misleading, it would be unnecessary to wear a paper badge.

The Hearing Panel found Respondent's explanation about the gold and black name badge "somewhat confusing and not at all persuasive." In her testimony, Respondent attempted to portray

the gold and black name badge as a device to communicate that she was *running* for judge as opposed to communicating that she is a sitting judge (*Trans. p. 234, line 3*); despite the fact that the gold and black name badge was made for Respondent while she was a sitting judge on the Eleventh District Court of Appeals, and was not made during the current campaign. *Trans. p. 247, line 10*.

Evidence was adduced at the Hearing that Respondent appeared at the Portage County TEA Party event wearing only the gold and black name badge and **no** paper badge. *Trans. p. 207, line 24*. Additional evidence was adduced at the Hearing that the TEA Party Event Agenda (page 25 of Exhibit 9) listed Respondent as "Judge O'Tool" [sic]. Further evidence was adduced at the Hearing that Ms. O'Toole failed to indicate in her remarks that she was **not** a sitting Eleventh District Court of Appeals Judge. *Trans. p. 208, line 18*.

When confronted with Exhibit 16, her campaign committee's fund-raiser invitation, Respondent testified that she did not know what part of it she would change, and that she was "stick[ing] by the fact that it's not misleading, that it's not - I don't think it describes me as a judge" (*Trans. p. 245, lines 16-20*), despite the language of the flyer, "You Are Cordially Invited to Attend A Fundraising Event for Colleen M. O'Toole Judge 11th District Court of Appeals" (*Exhibit 16*).

Respondent admitted in her testimony, "[i]n the common person's mind, they think I'm still a judge; and return, reelect, running, most of them-most of them don't know the difference one way or another." *Trans. p. 266, line 21*. Thus, Respondent knows the public is already misinformed about or misunderstands her status, and Respondent's continuing misuse of the title "judge" actively and intentionally misleads voters into believing that Respondent is the incumbent judge as evidenced by the Star Beacon and Chagrin Solon Sun articles (Exhibits A and B attached hereto).

Despite Respondent's assertions to the contrary in her Objections, there is clear and

convincing evidence in the record that Respondent's statements were false, deceptive and misleading.

Proposition of Law No. 3
Hearing Panel's Recommended Award of Attorney
Fees Supported by the Record and Precedent

Respondent suggests that Complainant Davis did not request attorney fees. Complainant Davis **did** request that Respondent "be ordered to pay Complainant's attorney fees and costs of these proceedings." *Complainant's Hearing Brief, Conclusion page 6.*

Complainant Davis also reiterated the request for an "award [of] attorney fees" during closing argument. *Trans. p. 310, line 5.* It is disingenuous for Respondent to suggest that Complainant Davis did not request attorney fees.

Mr. Davis also testified that he "signed the retainer letter. I'm involved. I'm responsible" and that he hoped he would be reimbursed for attorney fees." *Trans. p 191, line 17.*

As set forth in Exhibit C, Affidavit of Attorney Cibella, as of October 11, 2012, Cibella's fees for prosecuting the Formal Complaint on behalf of Complainant Davis total \$13,472.50. *Exhibit C ¶ 12.* In addition to fees, expenses have been incurred in prosecuting this case in excess of \$600. *Exhibit C ¶ 13.* In addition to Cibella's fees, Attorney Axelrod, former counsel for Complainant Davis, also has earned fees. *Exhibit C ¶ 15.* It is Cibella's opinion based upon over 27 years experience in Ohio's attorney discipline system (10 prosecuting cases and over 17 years defending disciplinary cases), that the time expended in representation of Complainant Davis is reasonable, necessary and comparable to other disciplinary cases Cibella has handled during her 17 years of private practice concentrating in professional responsibility. *Exhibit C ¶ 16.*

Although the Trapp campaign may ultimately be liable to pay attorney fees, the current

recommended award of \$2,500 -- 18% of Cibella fees to date -- is in no way a "windfall" for Complainant James Davis or for the Trapp campaign.

Respondent's failure to acknowledge her own wrongdoing upon being charged with Rule violations, her unwillingness to enter into any stipulations to expedite the hearing, her continuing stance that she has done nothing wrong, and her motion practice, has necessitated the substantial research, writing and trial practice on behalf of Complainant Davis, with the concomitant substantial fees. Based upon these factors, an additional award of fees and costs should be ordered to be paid by Respondent to Complainant James Davis.

III CONCLUSION

For the reasons set forth above, Complainant James Davis respectfully requests that Jud. Cond. Rule 4.3(A) be found to be constitutional both on its face and as applied to Respondent; that the Panel's Findings be adopted by this Honorable Five-Judge Commission, with the exception that the award of attorneys fees to be paid by Respondent be increased from the \$2,500 recommended and Respondent also be required to pay the costs expended on behalf of Complainant, due to the actions of Respondent

RESPECTFULLY SUBMITTED,

Mary L. Cibella / per written permission
Mary L. Cibella, #0019011
Counsel for Complainant, James Davis *SL*

PROOF OF SERVICE

I Mary L. Cibella, Counsel for Complainant, James Davis, do hereby certify that on October 15, 2012, a copy of Respondent's Answer Brief to Respondent's Objections was served as follows:

Original and 7 Copies Via Hand Delivery to:

Kristina D. Frost, Esq., Clerk
Supreme Court of Ohio
65 South Front Street 8th Floor
Columbus, Ohio 43215

Copy via Hand Delivery to:

Steven C. Hollon, Esq., Administrative Director
Secretary to Five-Judge Commission
Supreme Court of Ohio
65 South Front Street, 7th Floor
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Counsel for Respondent

Mary L. Cibella / per written permission of

Mary L. Cibella, Esq. #0019011

Counsel for Complainant, James Davis

STATE OF OHIO)
)
COUNT OF CUYAHOGA) SS:

AFFIDAVIT

Affiant, Mary L. Cibella, Esq., after being duly sworn, swears to and can testify to the following:

1. I am over the age of eighteen (18) and am under no disability;
2. I have personal knowledge of the facts contained herein;
3. I was first admitted to the practice of law in the State of Ohio in 1994 with the Supreme Court Registration Number of 0019011;
5. I am registered active and in good standing with the Supreme Court of Ohio;
6. I make this Affidavit for use in *In Re Judicial Campaign Complaint Against Colleen Mary O'Toole*, Board Case No. 12-066 and Supreme Court Case No. 2012-1653;
7. From November 15, 1994 to the present I have concentrated my private law practice in the area of professional responsibility, including defending lawyers in the attorney disciplinary system (from initial inquiry to disposition by the Supreme Court), providing ethics advisory opinions, representation of persons in pre-licensure matters (the Bar Admissions process), representation of non-lawyers who are alleged to have engaged in the unauthorized practice of law, legal malpractice defense, and other professional responsibility matters. Prior thereto, for a period of ten years, I was Counsel to the then Cleveland Bar Association;
8. In my ten years as Counsel to the then Cleveland Bar Association I investigated thousands of allegations of misconduct against lawyers and participated in the

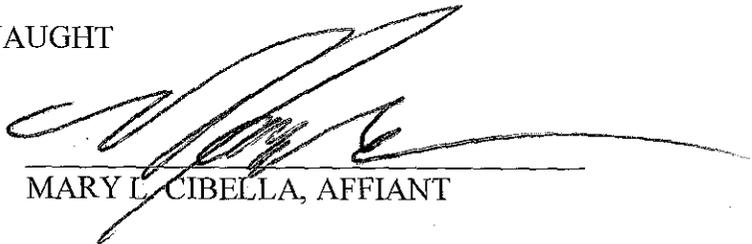


prosecution of lawyers in the attorney disciplinary system; provided ethics advisory opinions, investigated and prosecuted unauthorized practice of law cases; and counseled the Bar Admissions Committee in addition to my other duties and responsibilities in that position;

9. I have over twenty-seven (27) years experience in the area of professional responsibility;
10. I have expended time and effort in my representation of Complainant James Davis in the case of *In Re: Judicial Campaign Complaint Against Colleen Mary O'Toole*; Bd. Case No. 12-066 and Supreme Court Case No. 2012-1653;
11. In this case, I have expended at least 32.8 hours of out-of-court time from the beginning of my representation through October 11, 2012. I have expended 7.5 hours of in-court time for the Pre-Trial Conference and the September 18, 2012 Hearing;
12. My current out-of-court hourly rate is \$325 per hour. My current in-court hourly rate is \$375 per hour. 32.5 hours times my out-of-court rate equals \$10,660. 7.5 hours times my in-court rate of \$375 per hour equals \$2,812.50. From the inception of my representation of Complainant James Davis through October 11, 2012, my fees total: \$13,472.50;
13. Expenses have also been incurred in my representation of Complainant James Davis. Those expenses (through October 11, 2012) include: Service of Subpoena costs for Rennillo Deposition and Discovery (\$540.80); courier costs (\$17.50), and hotel, parking and travel expenses for the September 18 Hearing;
14. Additional time, effort and expense will be incurred in responding to

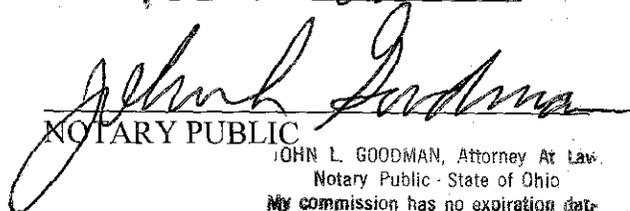
- Respondent's Objections and for any next steps in the processing of this matter;
15. Although I do not have the exact numbers for the amount of time expended by my former co-counsel David Axelrod, Esq., for his representation of Complainant James Davis, I am aware that the time Attorney Axelrod spent in-court would be comparable to mine and a fairly large portion of my out-of-court time was spent working with Attorney Axelrod on this matter. Therefore, the time-expended by Attorney Axelrod would be comparable to my time expended.
16. Based upon my 27 years of experience in professional responsibility matters in Ohio (10 years prosecuting disciplinary cases and 17 years defending disciplinary cases), the time expended to prosecute the Formal Complaint in this matter and the proceedings thereafter are reasonable and necessary in order to provide competent and diligent representation to Complainant James Davis. The time expended and expenses incurred in the instant case are comparable to other disciplinary cases that I have handled in my over 17 years in private practice concentrating in professional responsibility.

FURTHER AFFIANT SAYETH NAUGHT



MARY L. CIBELLA, AFFIANT

Sworn to and subscribed in my presence this 12 day of October, 2012.



NOTARY PUBLIC
JOHN L. GOODMAN, Attorney At Law
Notary Public - State of Ohio
My commission has no expiration date
Section 147.03 R. C.

LETTERS TO CHAGRIN SOLON SUN

Romney provides better message on key campaign platforms

We all need to stop listening to these negative campaign ads and research the key platforms that are most important to us.

If healthcare is a key point for whom you will vote for, then I recommend at the next doctor visit, ask them what they think of Obamacare. I guarantee their response will help you in your choice for President.

The two opposing views are as follows: Obama will put a group of 15 unelected government officials to decide changes to Medicare as well as using this panel to decide what types of procedures and treatments will and will not be paid for. Obama's success

rate on choosing unelected officials (czars) does not have a great track record: Daschle/Guthner to name a few. The effects of Obamacare will show cuts to medical research and development and decrease the production of certain drugs since these medical device and pharmaceutical companies will be paying large governmental fees.

Mitt Romney, if elected, wants a law with a provision for covering Americans with pre-existing health conditions. This I believe is one of the most important factors that need be addressed. Romney's plan is also to allow each state the power to create a health-care reform plan that is best

for its own citizens. The competition between the providers as well as the insurance companies will help the costs remain economical. Shouldn't we decide what medical issues we want taken care of instead of the government telling us what we are allowed to have taken care of?

Another big issue: Social Security. Senior Citizens be advised — Mitt Romney will not take away your Social Security. All of his proposals to improve this program will not affect you or people near retirement. His two main ideas are increasing the age of retirement as well as lowering the growth rate of benefits for those with higher incomes.

Lastly, I want to touch on

the military. For the past 60 years the United States military has been large enough to have the ability to fight in two wars simultaneously. This strength helps bring peace to our country. People in other countries feared our military; hence did what they needed to be an ally not an enemy. Obama is proposing to cut the military to a size that could fight one war. This gives a terrible message to the world and it also hurts many industries in the U.S. that are tied to the military sector.

This election is not about being a Democrat or a Republican. It's about being an American.

Kate Snyder
Highland Heights

Chagrin Documentary Film Festival reaches new heights

The 2012 Chagrin Documentary Film Festival is now history; visiting filmmakers have left our beautiful village, and the flags and banners are coming down. We are proud to say that this film festival was a resounding success on so many levels.

We have once again set an attendance record, including a sold out festival opening, luncheon and standing room-only seating at Sunday's films at Chagrin Falls Township Hall. The real impact of the festival will stay with us long after the banners have come down.

Over and over again, we heard about the palpable spirit of the festival, from Tyler Davidson's inspiring opening remarks, to John Stealey's brilliant awards show with Dewey Forward and Ivan Schwarz to the Gala conga line led by filmmakers and village leaders. The festival was a celebration of our village, the filmmakers and their stories and perhaps best of all, the power of the human spirit.

There are so many people to thank for joining with us in bringing this festival to a new level of success. The festival is truly a community effort and would not be possible without our wonderful volunteers, sponsors and the especially the tireless devotion of our Executive Committee. The festival has been brought to a new level by the commitment and vision of so many.

Scott Hamilton Kennedy, the winner of the Best of the Festival Ponce Award said, "It's difficult to express what this kind of recognition means to a director. 'Fame High' was three years in the making and to receive this award from a field of more than 300 films is the encouragement I needed to keep making documentary films. Thank you to the Chagrin Documentary Film Festival, the Village of Chagrin Falls and to all who helped make this remarkable festival happen."

Mary Ann Ponce
Chagrin Falls

Ponce is director of the Chagrin Documentary Film Festival.

Jemison has proven his genuine willingness to serve Geauga

From his early years as a public servant when he served on Middlefield council through to his role today as county commissioner, Tracy Jemison has proven his genuine willingness to serve Geauga County in many varied capacities including not only in political office but also in many service organizations and charities.

These include such wide-ranging organizations such as

Gauga United Way, Middlefield Rotary, Century Village, Youth League baseball and others. Most recently, he has been capably serving as county commissioner, and prior to that he was our county auditor where for more than 10 years his office received statewide recognition for its accurate and concise annual reports concerning the county's finances.

Undoubtedly, he and his

fellow commissioners must have found it to be difficult to responsibly balance the county budget during the worst recession this country has seen in more than 70 years. Yet, even in this unfavorable economic climate, in 2010 Moody's recognized our commissioners' ability to continue to deliver necessary services while still carefully managing the county budget, and this bond rating agency raised Geauga County's bond rating from Aa2 to Aa1. Tracy played a large role in this achievement.

But even with all the responsibilities of the commissioner's office, Tracy still finds time to share his expertise and information with individuals and with start-up grass roots organizations. One example was his valuable mentoring of the Berkshire Community Planning Association during its formative years. This group, made up of elected officials from Burton, Troy, Claridon and Berkshire school officials, had as its goal

to cooperatively develop a land use and economic plan which would benefit the Berkshire school district. His auditor's office provided valuable information to the development of this plan.

Also, the recently formed Geauga Growth Partnership — a spin-off of the BCPA and made up of senior officers in Geauga's leading companies, has as its mission to work together to improve Geauga County's business climate. It is uncertain if either the BCPA or the GGP would exist today without Tracy's help during these groups' early years, and this speaks to his willingness to go above and beyond what is expected without any recognition or fanfare for his involvement.

Clearly, Tracy's dedication and skill to serve Geauga County is exceptional, and urge you to join me in casting your ballot for him so he can continue to serve our county in the position of commissioner.

Michael A. Fath
Burton

Russell roads still need plenty of work

As head of the Russell Township Road Department, I would like to request the continued support of our 1.8-mill road levy renewal from Russell residents.

Although many roads are in better condition than they have been in years, there is still much work to be done, and proper maintenance of these newly-paved roads will be vital in the years to come.

I am very appreciative of

the support that residents have shown to the road department over the years, and believe good roads positively impact property values.

Please vote yes for our road levy renewal so that we can continue down the road that we are on.

Gene Layne
Russell

Layne is superintendent of the Russell Township Road Department.

O'Toole experienced judge who will work for people of Geauga

I am writing to urge you to vote for Colleen Mary O'Toole. She is running for Judge in the 11th District Court of Appeals.

Colleen O'Toole is an experienced judge who will work for the people of Geauga County. She served six years as a Court of Appeals judge and also served as a visiting judge on the Ohio Supreme Court.

As an attorney, Colleen has the experience to do the job right. She is a small business owner and entrepreneur. Her

experience spans from corporate law to defending the rights of children and senior citizens. O'Toole will not compromise her principles when it comes to the law and our Constitution.

Judge O'Toole will work for the people, not government officials or the "Good Ole Boys Club." For an honest, hardworking judge, Vote Colleen Mary O'Toole to the 11th District Court of Appeals.

Gary Broska
Newbury



The Star Beacon; Ashtabula, Ohio

October 4, 2012

Candidates mix it up at Conneaut's forum

By MARK TODD - mtodd@starbeacon.com
Star Beacon

CONNEAUT — County and state candidates for office this fall shook hands and came out fighting at a forum held Tuesday night in Conneaut.

The event, presented by Positively Conneaut and the Conneaut Human Resources Center, featured 23 candidates who will appear on local ballots on Nov. 6. The first batch of hopefuls were introduced shortly after 6 p.m., and the last one — County Treasurer Dawn Cragon — left the stage a few moments before 10 p.m.

“Breakfast will be served in 15 minutes,” Cragon joked.

The crowd thinned noticeably at the 3 1/2-hour mark — just before county recorder candidates took the stage. “Thanks for still being here,” Corrie Leehan told the dwindling audience.

Opponent Barbara Schaab echoed the sentiment. “Thanks for staying and listening,” she said.

The night featured a tightly-structured opportunity to learn a few things about candidates for Congress, state senator, Ohio House and a number of county offices. Some exchanges were civil, others were a little fiery.

A lot of the heat was generated by candidates for county commissioner. Incumbents Daniel Claypool and Peggy Carlo are seeking additional terms.

Claypool, a Democrat, faces a challenge from Republican Steve Graham, who ripped into the incumbent over the commissioners’ fiscal and spending policies. Claypool is “not an effective steward of our tax dollars,” he said.

Commissioners worked hard to pass a sales tax Graham said was unnecessary. “We are not broke,” he said.

Graham also referenced law suits filed by some elected officials to secure operating funds. “They shouldn’t have to beg or sue for money,” he said.

Claypool countered by saying Graham is looking at a different bunch of figures, adding his opponent “doesn’t understand what (commissioners) can do and can’t do” and said the county has struggled with reduced revenue.

“We’re not exempt from revenue cuts made by the state and we’ve cut spending,” he said. “We only spend revenue that we took in — just like you.”

Carlo faces opposition from Ryan Bailey, a Republican, and Willis Clay, a Morgan Township trustee and



independent. Bailey quickly went on the attack, accusing commissioners of pouring money into the lodge at Geneva State Park and "intimidating" people to pass a sales tax hike.

"Everything they told us turned out to be completely untrue," he said.

Carlo quickly responded.

"Wow!" she said. "I'm really taken aback. I have never knowingly lied about anything."

Carlo said she felt the commissioners have done a good job with limited revenue, combining departments and cross-training staff to save money.

"We've been very transparent," she said. "You can't say we haven't looked outside the box."

Clay said he is running as an independent because he is "disgusted with Democrats and Republicans." With Ohio's big push toward gas-well drilling, environmental issues should be a priority, he said.

Strong words also flew during the session featuring County Prosecutor Thomas Sartini and opponent David Schroeder, Conneaut's law director. Sartini said his office is "setting records" for felony prosecutions and has provided solid legal service to county offices, township trustees and fiscal officers.

Schroeder said he has operated his municipal office under budget, launched an anti-methamphetamine program in Conneaut that is seeing results and chided Sartini for excessive time away from his office even as crime rates climb.

"Where was Tom?" Schroeder said.

Sartini said he won't apologize for "taking a vacation once in awhile," saying he has faith in his staff of professionals. "Leadership occurs even when I'm not there," he said.

Other encounters were more genteel, including the one between County Sheriff William Johnson and his opponent, Andover Police Chief G. Randy Gentry. Johnson said his department has continued to provide law enforcement innovations despite budget cuts and a series of self-funded programs. "Promises made, promises kept," he said.

Gentry said he would strive to make the sheriff's department "non-political" and "return the office back to the people." Johnson invited Gentry to an Oct. 9 debate he has arranged at Kent State University's Ashtabula campus. Gentry replied he will stick to the series of debates scheduled weeks ago.

County Clerk of Courts hopefuls Mickey Mihalick (Republican) and Tami Pentek (Democrat) each said they bring experience to the job, which was vacated by Carol Mead. Mihalick has been clerk of the Western County Court for many years, while Pentek is deputy county clerk of courts.

"My own judge encouraged me (to run), and the support I have from the legal community is overwhelming," Mihalick said.

"I'm the candidate who works in the office every day," Pentek said.

Leehan, who formerly operated a sports consulting business, and Schaab, Austinburg Township fiscal officer, are vying for the office vacated by Judith Barta. Leehan said she will work to keep the recorder's office, even offering some evening hours. Donations from the oil and gas industry could be secured to upgrade office technology, she said.

Schaab said the office Barta left behind is a "well-oiled machine." Documents handled by the recorder's office are among the "most important" in the county.

Craton, a Democrat, is seeking another term as treasurer. The office has generated "higher collections with less staff" and has created ways people can do business despite reduced office hours, she said. Her opponent, Kathy Magda (Republican), did not attend.

State Rep. Casey Kozlowski, R-Pierpont, is seeking a second term in the 99th House District. He is opposed by retired Jefferson teacher John Patterson. Education and school funding was a focus of their brief time on the stage.

Kozlowski said he is gathering information on the issue and wants to see a new "funding model on the table" by July. Patterson said school funding would benefit from "tamping down on underperforming charter schools." He would also create a sales tax on Internet purchases and direct proceeds to schools.

State Sen. Capri Cafaro, D-Hubbard, faces a challenge from Nancy McArthur (Republican) of Chardon in the 32nd Ohio Senate. Cafaro said she has worked to improve infrastructure, oil/gas revisions, water rights and to make Ohio "more business-friendly." She also labored to keep Conneaut police from serving as the investigatory agency for the privately-owned Lake Erie Correctional Institution.

McArthur said it's important that Ashtabula County have a voice in Columbus. "It's important to send people to Columbus who represent you," she said.

Three of the six candidates for the 14th Congressional District — Dale Blanchard (Democrat) of Solon, David Macko (Libertarian) and Elaine Mastromatteo (Green) — attended the forum. Blanchard said tax incentives for consumers and businesses will help stimulate the economy. Mastromatteo endorsed universal health care and a troop withdraw. Macko said America is a "police state" and would never vote for war unless to support the Bill of Rights or "people's homes."

Candidates for the 11th District Court of Appeals, incumbent judge Colleen Mary O'Toole and challenger Mary Jane Trapp, both discussed their judicial experience and said they would shew political and personal agendas in rendering decisions.