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I. PROFESSIONAL EXPERIENCE

GERHARDSTEIN & BRANCH Co. LPA

This is a private, public interest law practice which focuses on civil rights including age, race, sex, sexual orientation and disability discrimination in housing and employment, prisoner rights, police misconduct and reproductive health issues.
1978 - Present

LEGAL AID SOCIETY OF CINCINNATI
Reginald Heber Smith Fellow. 1976-1978

II. ADMISSIONS

Supreme Court of Ohio
Supreme Court of Minnesota
United States Supreme Court
United States Sixth Circuit Court of Appeals
United States District Court, Southern District of Ohio
United States District Court, Northern District of Ohio

III. EDUCATION

BELOIT COLLEGE, Beloit, Wisconsin,
B.A. Degree, 1973. Major: Government

NEW YORK UNIVERSITY SCHOOL OF LAW,
New York, New York. J.D. 1976
Root-Tilden Public Interest Law Scholarship

IV. TEACHING

*ADJUNCT PROFESSOR - CHASE LAW SCHOOL,
NORTHERN KENTUCKY UNIVERSITY*

Courses:
Civil Rights Litigation 1988 - 1992
Prisoner Rights 1989

ADJUNCT PROFESSOR - UNIVERSITY OF CINCINNATI
Social Work and the Law. 1978-1979

V. RECOGNITIONS

1994 – President’s Award, for dedication to community service, civil rights, and to the Sentinels Police Association’s Mission, Sentinel Police Association

1995 – Andrew B. Dennison Courageous Advocate Award
Potter Stewart Inns of Court

1996 – Human Rights to Prisoners Award - Justice Watch

1996 – Outstanding Service Award as Mediator in the United States District Court.
Federal Bar Association

1996 – Outstanding Service Award for Representing Indigent Parties in
Civil Cases in United States District Court, Federal Bar Association

1997 – Firm Recognized for defense of Civil Liberties, ACLU, Cincinnati Chapter

1998 – Community Service Award, Stonewall Cincinnati

1999 – “Champions of Choice” Leadership Award, Ohio NARAL

1999 – “Steward for Choice” Award, Planned Parenthood of Southwest Ohio and
Northern Kentucky

2001 – Outstanding Achievement Award, Cincinnati Women’s Political Caucus

2001 – Outstanding Service Award for Representing Indigent
Parties in Civil Cases in United States District Court, Federal Bar Association

2002 – Wright-Overstreet Award for Community Service, NAACP Cincinnati Chapter

2003 – Charles P. Taft Civic Gumption Award, Charter Party of Cincinnati

2005 – Martin Luther King Spirit Award Baptist Minister’s Conference, Health Alliance
of Cincinnati, UC Medical Center

2007 – President’s Award, for dedication to community service, civil rights, and to the
Sentinels Police Association’s Mission, Sentinel Police Association

VI. MEDIATION

Frequent mediator for Equal Employment Opportunity Commission, United States
District Court and private parties.

VII. CIVIL RIGHTS ACTIVITIES

A. Civil Rights - Publications

Gerhardstein, False Teeth? Thornburgh's Claim That Turner's Standard for Determining a Prisoner's First Amendment Rights Is Not "Toothless"
17 NK L. Rev. 527 (1990)

Contributing Author, Chapter 247, "Civil Rights," Ohio Jury Instructions (1994)

"Private Prison Litigation: The Youngstown Case and Theories of Liability"
XI Correctional Law Reporter 51 (Dec/Jan 2000)

"PLRA Can Affect Private Practitioner's Ability to Represent Inmates"
XIII Correctional Law Reporter 66 (Feb/Mar 2002)

"A Practitioner's Guide to Successful Jury Trials on Behalf of Prisoner-Plaintiffs"
24 Pace Law Rev. No. 2 Spring 2004

Various guest columns in Cincinnati Enquirer, and civil rights newsletters.

B. Civil Rights – Presentations & Seminars

Visiting Practitioner, New York University
School of Law, annual lecture on civil rights practice,
(1986 - 1999)

CLE faculty, Ohio State Bar Association:

- Annual Midwest Labor and Employment Law Seminar
 - 2005 – Plenary presentation on Rights of Whistleblowers
 - 2004 – Break Out session on §1983 claims in Employment
 - 1999 – Break out session on Evidentiary Issues in Employment Cases
 - 1998 – Break Out session on privacy in workplace
- §1983 Civil Rights Litigation (1999, 2000) (Course Planner)
- Legal Rights of Pregnant Minors (1997)
(Also in Cleveland) (Course Planner)
- Prisoner Rights (1998) (Course Planner)
- Employment Law for the General Practitioner (1993 - 1999)
(also in Cleveland and Cincinnati)
- EEO Basics, 1999 (Columbus)

Kentucky Academy of Trial Lawyers
2004 – Intro §1983 litigation

Professional Education Systems Institute
2004 Police Liability seminar, Columbus and Cleveland

Lorman Education Services

2004 Use of Force in Ohio

Hamilton County Democratic Forum, Panel , Justice for All, Forum on Parole and Probation, 2/2002

Symposium on the History of the Federal Court in the Southern District of Ohio, 2/9/04, Dayton Ohio, Panel Discussion of police reform litigation

National League of Cities, 2003 – Presentation on “Cincinnati: A Collaborative Approach to Community Policing”

ABA Section on Alternative Dispute Resolution, Insight for Inspired Practice, Collaborative on Police-Community Relations, San Antonio Texas, March, 2003

Faculty, National Workshop on Privatization, U.S. Department of Justice, Office of Justice Programs, Corrections Programs Office, Philadelphia, PA. June 1999.

Topics:

Prison Privatization:

Responsibility and Accountability:

Ensuring and Implementing Legal Safeguards

The Future of Privatization as Seen by the Litigators

Faculty, Prison Privatization Workshop, University of Minnesota Law School, March, 1999:

Topics:

Prison Privatization and Correctional Policy Process

Managing Prison Privatization

Legal and Legislative Issues

Municipal Liability Under §1983, Police Misconduct Seminar, Professional Education Systems (1999, 2002, 2002) (Columbus and Cleveland)

Conference Speaker, Probation Officers Association of Ontario, Canada: “Private Prisons, Private Justice, Public Service.” (Niagara Falls, Ontario 1999)

Speaker, Private Prisons, forums sponsored by the Ontario Public Service Employees Union, Toronto, Canada (1999).

Recent Developments in Gay Rights Issues, Civil Rights Litigation in 1999, Cincinnati Bar Association

Presenter, Private Prisons, Center On Crime, Communities and Culture Briefing, New York City, 1998

Speaker, “Members of the Jury,” ACLU of Youngstown, Ohio (1998)

Prison Litigation Reform Act, Civil Rights Seminar, Cincinnati Bar Association, 1998

Jury Selection, 1997 Federal Bench/Bar Conference,
Columbus, Ohio

Abortion Litigation Update, 1995 Planned Parenthood Federation of America,
Midwest Regional Conference, St. Louis, Mo.

Visiting faculty, Cincinnati Police Academy, affirmative action, (1992 - 1997)

Opera Rap, Debate on Death Penalty (2002) (Cincinnati Opera) (In connection with
Dead Man Walking)

Regular presenter at Civil Rights Committee Seminars, Cincinnati Bar Association

Frequent speaker at churches, banquets and meetings of professional and
general audiences on civil rights topics, including appearances on
CBS, NBC, and NPR news programs.

C. Civil Rights - Professional

1. Memberships:

Editorial Board, Correctional Law Reporter, 1999 - present

The Potter Stewart American Inn of Court

Master of the Bench, (1984 - present); Emeritus (1988 - present)

National Lawyers Guild (through 2000)

American Civil Liberties Union

National Employment Lawyers Association

Cincinnati Bar Association

Ohio State Bar Association

2. Activities:

Founder and President, Ohio Justice and Policy Center (formerly Prison Reform
Advocacy Center), 1997 – present

(non-profit organization advocating for reforms in prison health care, reentry,
offering assistance on prison litigation, and promoting restorative justice)

Ohio Association for Justice Board Member 2007 - present

Cincinnati Civilian Police Review Panel. Principal author of ordinance establishing
civilian review board following service as counsel to NAACP, Urban League, Baptist
Minister's Conference and other community groups in mediation with City of Cincinnati
conducted by the United States Department of Justice. (1998).

Circuit Secretary, Sixth Judicial Circuit, NYU School of Law Root Tilden Kern Program
1997-2000

Selection Committee, Soros Justice Fellowship Program, Center on Crime,

Communities and Culture (New York City)(1997 – 1999)

Glenmore Justice Institute, 1999, Invited Participant.

D. Civil Rights - Litigation

Federal and state court litigation in the areas of employment discrimination, disability law, affirmative action, police brutality, prisoner rights, abortion rights, first amendment rights and other civil rights, including:

PRISON/POLICE

Watkins v. Collins, 111 Ohio St.3d 425 (2006), habeas corpus denied to twelve inmates who claimed that they had been improperly placed on post release control.

Kammeyer v. City of Sharonville, 311 F.Supp.2d 653 (S.D. Ohio 2003), action by adult children of murder victims against police who covered up evidence that would have resulted in prompt prosecution of murderer. (pending)

Leisure v. City of Cincinnati, 267 F.Supp.2d 848 (S.D. Ohio 2003), action by family of unarmed citizen shot and killed by Cincinnati Police. With attorneys Scott Greenwood and Kenneth Lawson

Green v. City of Cleveland, et al., USDC, NDOH 1:03-CV-906 Civil rights case by man exonerated with DNA evidence after serving 13 years in prison on the wrongful conviction. With attorney Barry Scheck, NYC. Settlement of wrongful incarceration and civil claims for millions in damages and a forensic audit of the Cleveland forensic lab.

Butler v. City of Middleport, USDC, SD OH No. 2:04-cv-00834. Suicide of two young men in jail. Settled \$525,000. memorial. 2006. With Attorney Richard Lewis, Jackson, Ohio

Nutter v. Kelly, USDC, SD OH No. C3-01-214. Suicide in Clark County Jail. Settled \$270,000 and memorial. 2004.

Thomas v. Woolum, 337 F.3d 720 (6th Cir. 2003) Inmate beaten by officer. Held, PLRA exhaustion satisfied even if procedure of grievance system not followed; must use grievance to give notice to potential defendants.

In re Cincinnati Policing, 209 F.R.D.395 (S.D. OH. 2002), class action settlement of racial profiling lawsuit establishing reforms on use of force, fairness in policing, citizen review of police misconduct, and community problem oriented policing.

Davis v. Mendel, Case No. 01CV001 (SD OH 2001) March/April 2002 *Correctional Law Reporter* 84, injunction required inmate with end stage liver disease to be evaluated for liver transplant.

Morrison v. Davis, 88 F.Supp.2d (S.D. OH 2000) Constitutional challenge to fee cap in Prison Litigation Reform Act.

McClindon v. Russell, 108 F.Supp.2d 842 (S.D. OH 1999). Constitutional challenge to fee cap in Prison Litigation Reform Act.

Culberson v. Doan, 5 F.Supp.2d 701 (S.D. OH 1999); 72 F.Supp.2d 865 (S.D. OH 1999); 125 F.Supp.2d. 252 (S.D. OH 2000). Civil rights claim against police chief and village for violating parent's property rights by failing to secure the scene where their daughter's body was hidden. Jury verdict for \$3.75 million February 1, 2001.

In re Southern Ohio Correctional Facility, 173 F.R.D. 205 (S.D. Ohio, 1997) Appointed in 1994 by federal court as plaintiffs' class counsel on claims based on 1993 prison riot. Settled for 4.1 million and extensive terms reforming conditions at prison.

In Re: Northeast Ohio Correctional Center, USDC, ND OH, Case No. 4:97-CV-1995, class action on behalf of Washington D.C. inmates housed in a private for-profit prison in Youngstown, Ohio on Eighth Amendment medical, use of force, and failure to protect claims. Case settled in 1999 for \$1.75 million to be distributed to all 2,000 inmates and a three year agreement to monitor prison conditions. See December January 2000 *Correctional Law Reporter* 51.

Dunn v. Voinovich, U.S.D.C., S.D. Ohio, Case No. C-1-93-0166, serving with Robert Newman as class counsel in stated-wide class action challenging inadequate mental health treatment in Ohio prisons. Consent decree Case

Grimm v. Lane, 895 F.Supp. 907 (S.D. OH. 1995)(prison beating and cover-up, \$450,000 jury verdict for plaintiffs).

White v. Morris, 832 F.Supp. 1129 (S.D. Ohio 1993)(With Robert Laufman). Class action challenge to segregated celling at SOCF.

Weeks v. Chaboudy, 984 F.2d 185 (6th Cir1993)(Affirm \$50,000 damage award against SOCF physician).

Wolfel v. Morris, 832 F.2d 712 (6th Cir. 1992) (Affirm judgment in favor of inmates challenging punishment for petitioning activity within the SOCF).

Dotson v. Seiter, U.S.D.C., S.D. Ohio, Case No. C-1-84-1312. (Class action challenge to practice of using excessive force against mentally ill inmates. Settled.)

Johnson v. Seiter, U.S.D.C., S.D. Ohio, Case No. C-1-84-1008. \$25,000.00 damage award against prison medical official for failure to treat a keloid for four years. Judgment entered 6/11/87.

Gumpl v. Seiter, 689 F.Supp. 754 (S.D. Oh. 1988); Challenge to lack of recreational opportunities for protective custody prison inmates. Settled with creation of new housing unit and expanded recreation, 6/2/88.

Ar-Raheem v. Phillips, U.S.D.C., S.D. Oh., Case No. C-1-83-556 (Challenge of punishment of Muslim inmate for refusing to handle pork. Settled.)

Hendrix v. Dallman, U.S.D.C., S.D. Ohio, Case No. C-1-82-123 and C-1-83-1805. Race discrimination in prison. Rule 68 offer of judgment accepted and entered 1/17/86.

Matje v. Leis, et al., 571 F.Supp. 918 (S.D. Oh. 1983). Misconduct by undercover drug agent resulted in consent decree regulating agent behavior and instituting citizen complaint system. Settlement on jail suicide claim. Consent decree and case summary in Police Misconduct and Civil Rights Law Report, No. 9, p.103-104 (Winter, 1985)

REPRODUCTIVE RIGHTS

Women's Medical Professional Corp. v. Baird, No. 03-00162 (6th Cir. Decision Feb 17, 2006) affirming in part 277 F.Supp.2d 862 (S.D. Ohio 2003). Enjoin effort to close abortion clinic as violating due process.

Planned Parenthood Cincinnati Region v. Bob Taft, No. 04-4371 (6th Cir. Decision February 24, 2006) (With Planned Parenthood Federation Counsel). Enjoin statute regulating medical abortions.

Women's Medical Professional Corp v. Taft, 114 F.Supp.2d (S.D. Ohio 2000). Lead counsel in challenge to Ohio ban on "partial birth feticide". Revers'd 353 F.3d 436 (6th Cir. 2003).

Jane Doe v. River City Correctional Center, 92 F.Supp.2d 694 (SDOH 1999).
(prisoner access to abortion)

Doe v. Barron, 92 F.Supp.2d 694 (S.D. Ohio 1999). Injunction granted permitting access by prisoner to abortion services.

Cinti Women's Services v. Taft, U.S.D.C., S.D. Ohio C-98-289. Lead counsel in challenge to HB 421, which requires in-person meeting with physician 24 hours before abortion and replaces parental notice with parental consent for abortion (pending on appeal).

Women's Medical Professional Corp v. Voinovich, 130 F.3d 187 (6th Cir. 1997), 911 F.Supp. 1051 (S.D. Ohio 1995) *cert. denied* 523 U.S. 1036 (1998). Challenge to 1995 Ohio abortion statute (co counsel with Planned Parenthood Federation of America).

Cleveland Surgi Center, Inc. v. Jones, 2 F.3d 686 (6th Cir. 1993)(unsuccessful challenge to parental notice law as applied. (With Planned Parenthood Federation of America).

Planned Parenthood Ass'n. v. City of Cincinnati, 632 F.Supp. 994 (S.D. Oh., 1986), *affirmed*, 822 F. 2d 1390 (6th Cir. 1987). Cincinnati fetus disposal ordinance enjoined as unconstitutional interference with a woman's right to secure abortion services.

Planned Parenthood Ass'n. of Cinti., Inc. v. Project Jericho, 52 Ohio St.3d 56 (1990). Affirm contempt convictions of anti-choice picketers and affirm the certification of a defendant class.

In Re Jane Doe I, 57 Ohio St. 3d (1991). First appeal in Ohio under new parental notification of abortion statute.

GAY/LESBIAN RIGHTS

Barnes v. City of Cincinnati, 401 F.3d 729 (6th Cir. 2005) affirmed \$320,000 verdict for transsexual police officer discriminated against in demotion from sergeant. Attorney fees and multiplier award upheld on appeal.

Equality Foundation v. City of Cincinnati, 54 F. 3d 261 (6th Cir. 1995) (constitutional challenge to anti-gay City Charter amendment) cert. granted, vacated and remanded, 116 S.Ct. 2519 (1996); 128 F. 3d 289 (6th Cir. 1997) (on remand from the U.S. Supreme Court), cert. denied 525 U.S. 943 (1997).

Greenwood v. Taft, Stettinius & Hollister, 1995 WL 540221 (Ohio App. 1 Dist. 1995) (challenge to discharge and disclosure of private information about gay attorney).

Glover v. Williamsburg School District, 20 F.Supp.2d 1160 (S.D. Oh. 1998), damage verdict and reinstatement ordered for gay teacher discharged from school

EMPLOYMENT DISCRIMINATION

Vogel v. City of Cincinnati, 959 F.2d 594 (6th Cir. 1992) Successfully defended police consent decree against reverse discrimination challenge.

Jansen v. City of Cincinnati, 977 F.2d 238 (6th Cir. 1992) Secured reversal of order terminating fire consent decree. (With Legal Aid Society). See also *Youngblood v. Dalzell*, 925 F. 2d 954 (6th Cir. 1991).

Wheeler v. Southland Corporation, 875 F.2d 86 (6th Cir. 1989) Title VII action, sex harassment, constructive discharge, plaintiff verdict affirmed.

U.S.A. v. City of Cincinnati, 771 F.2d 161 (6th Cir. 1985). Black and female police officers appointed on same day as white males were entitled to challenge layoffs having a discriminatory impact. Matter was settled after remand. See also district court decisions at 38 F.E.P. Cases 671 (1984)

Hubbard v. City of Middletown, 728 F.Supp. 1573 (S.D. OH 1990)(sex harassment)

Bryant v. CCHB, U.S.D.C., S.D. Oh., C-1-83-798. Age discrimination. Plaintiff verdict following jury trial (1985).

Martin v. Norbar, 537 F.Supp. 1260 (S.D. Oh. 1982). Sex harassment.

HOUSING

Skidmore v. Butler Metropolitan Housing Authority, U.S.D.C., S.D. Ohio, C-1-80-346. Race discrimination class action. Consent decree instituted strong affirmative action program in two cities that over four-year period desegregated the public housing units.

CONSUMER

Pearson v. Easy Living Furniture, 534 F.Supp. 884 (S.D. Oh. 1981) (Truth in Lending).

OTHER CIVIL RIGHTS

Spencer v. Taft, lawsuit brought on eve of 2004 election to hold unconstitutional Jim Crow election law that permitted republican challengers in the black precincts.

Chesher v. Neyer, USDC, SD Ohio, No. 1:01-cv-00566 \$8 million settlement in class action challenge to county officials who permitted photographer to access, manipulate and photograph bodies with props in the Hamilton County, Ohio Morgue.

Jennings v. University Ear, Nose & Throat Specialists, Inc., 101 Ohio St. 3d 326 (2004) Held, Court of Claims has exclusive jurisdiction to determine if a state employee is immune from suit.

In re estate of Carpenter, 127 Ohio Misc.2d 22 (C.P. Hamilton Co. 2004) allowed settlement for minor in police misconduct case to be confidential

Jorg v. Cincinnati Black United Front, 153 Ohio App.3d 258 (1st Dist. 2003), affirm dismissal of slander action against civil rights organization for statements critical of police action in death of Roger Owensby.

Gable v. Lewis, 201 F.3d 769 (6th Cir. 2000), affirm jury verdict for plaintiff in sex discrimination and retaliation case

Americans for Civil Participation v. Hamilton County Welfare Dept., U.S.D.C., S.D. OH, C-1-84-1318. Injunction granted 9/21/84 permitted voter registration in food stamp stores.

Shields v. Campbell Co. Board of Education, U.S.D.C., E.D. KY., No. 84-242. Preliminary injunction reinstated female to ninth grade football team; consent decree guaranteed her right to compete on same basis as boys.

In re Cincinnati Radiation Litigation, U.S.D.C., S.D. Oh. Case No. C-1-94-126, serving as a defense attorney for physician charged with civil rights violations in mass tort action.

In re: Fernald Litigation, U.S.D.C., S.D. Oh., No. C-1-85-0149, appointment in 1993 by the federal court as a litigating amicus in this mass tort action to advise the court on due process issues raised by the imposition of deadlines for monetary claims by members of the class.