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Vol. CXXII, No. 115

Friday, June 9, 2017

75 Cents

DAILY BRIEFS

Drug dealer serving life asks for parole

JACKSON, Mich. (AP) — A Detroit-area man seeking parole after nearly 30 years in prison for drug crimes committed when he was a teenager says he won't return to drug dealing.

Known on the streets as "White Boy Rick," 47-year-old Richard Wershe was sentenced to life in prison for intending to deliver cocaine. Prosecutors say he'd stashed about 15 pounds (6.8 kilograms) of the drug.

Wershe told Michigan parole board members on Thursday that he's grown up and been rehabilitated in prison, saying he now knows "drugs destroy my community."

No immediate decision was made on his parole request.

Wershe was 17 when he was caught with a load of cocaine. He says he had worked as an FBI informant and reported corrupt Detroit police officers but wasn't given leniency.

Cops: Man upset about onions in food threatens eatery owner

PITTSBURGH (AP) — A Michigan man, apparently upset because his food included onions, is jailed on charges he made drunken threats to shoot the owner of a Pittsburgh restaurant before exposing himself.

Forty-three-year-old Yuba Sharma, of Rochester, remained in the Allegheny County Jail on Thursday on charges of terroristic threats, indecent exposure, public drunkenness and resisting arrest.

Police say Sharma ate at All Indiana restaurant on Monday night and then returned Tuesday to rant and complain about the onions.

The owner tells police Sharma threatened to shoot him, so he called police. That's when Sharma — confronted by the restaurant owner and another employee — pulled down his pants and exposed himself.

Online court records don't list an attorney for Sharma.

Police say he resisted arrest and had to be lifted and carried to a police cruiser.

Snyder, GOP leaders have tentative deal on teacher pensions

LANSING, Mich. (AP) — Gov. Rick Snyder and Republican legislative leaders say that have reached a tentative framework on making changes to Michigan's teacher retirement system.

They reported the agreement after a meeting at the Capitol Thursday. The progress means Snyder will be involved in budget decisions again after GOP leaders excluded him.

Details are being hashed out. But the framework calls for newly hired school employees to default into a better 401(k) plan, but leave them the option of choosing a pension plan that would likely cost them more of their paycheck than now. Current workers hired since 2010 get a blended pension and 401(k).

There also could be a trigger to close the new pension system if it isn't adequately funded.

Snyder says the framework "provides some good things for school employees."



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Lead counsel

Attorney is heavily involved in Flint water crisis litigation

By SHEILA PURSGLOVE
Legal News

Mike Pattwell was attracted to law by the positive impact attorneys can have as counselors and advocates.

"Growing up, I had the opportunity to hang around the law office of a family friend," he says. "Although I was mostly taking up space and maybe running the occasional document, I sensed the gravity of the attorney-client relationship. The idea one could make a career out of assisting others with their most dire circumstances was inspiring."

Pattwell continues to find inspiration as a member of the Litigation, Political Law, and Environment, Energy, & Natural Resources (EENR) Groups in Clark Hill's Lansing office.

He currently is lead counsel for Dan Wyant, former director of the Michigan Department of Environmental Quality, and former MDEQ Communications Director Brad Wurfel in lawsuits stemming from the Flint water crisis.

"It's an extremely important set of cases for a wide variety of reasons—but, purely from a litigator's perspective, these proceedings present a civil procedure professor's dream," Pattwell says. "So many different cases, plaintiffs, and defendants pending before so many different state and federal courts. To say this litigation is procedurally complicated would be an understatement."

He also is co-counsel with the Pacific Legal Foundation on litigation regarding County Road 595, which he notes would be built over a series of wetlands to create a more direct and safer

route for mining trucks going from the Eagle Mine near Big Bay to the Humboldt Processing Mill in western Marquette County. The Marquette County Road Commission partnered with the Pacific Legal Foundation and Stand U.P. to challenge the EPA's decision to block construction of the road. The case, pending at the U.S. Court of Appeals for the Sixth Circuit, has the potential to go all the way up to the U.S. Supreme Court.

"This case will resolve whether aggrieved parties have the right to judicial review when the EPA arbitrarily vetoes a proposed state wetland permit," he explains. "It was inconceivable to me that a federal agency could overrule a sound state decision for political reasons and then never have its conduct reviewed in court."

"Luckily, the attorneys at the Pacific Legal Foundation, who are leaders in this niche field, have stepped in as appellate co-counsel for my client. They argued and won the last two cases of this ilk before the United States Supreme Court. So I sort of feel like I've got the cavalry behind me now."



Mike Pattwell

Pattwell also is lead counsel to the Association of Businesses Advocating Tariff Equity (ABATE), an organization protecting the interests of industrial customers in energy and related matters and active in a variety of forums, including the Michigan Public Service Commission, Michigan Legislature, Michigan Courts, and Federal Energy Regulatory Commission.

"It's incredibly interesting work," he says. "We appear frequently before the Michigan Public Service Commission and advocate for reasonable and prudent electric and gas transportation rates."

This year ABATE has been especially busy focusing on the implementation of Public Acts 341 and 342 that have significantly altered Michigan's Energy Policy.

"Of particular concern is a set of cases that will impose 'capacity obligations' on alternative electric suppliers and then 'capacity charges' on the customers of alternative electric suppliers who are unable to meet their capacity obligations four years out," Pattwell explains. "If decided incorrectly, these cases could spell the end of the limited 10 percent competitive energy market in Michigan, something the State Legislature was unwilling to do directly."

His political law practice focuses on the formation and administration of election day and voting integrity operations, as well as voting rights, redistricting, and campaign finance.

"In my mind the right to choose one's elected representatives is such a core component of what it means to be American. I mean, just

See **COUNSEL**, Page 5

Judges' Club



The Wayne County District Judges Association (WCDJA) conducted its annual meeting Friday, May 12, at TPC Michigan golf club in Dearborn. Among the attendees were (l-r) Wayne County 20th District Court Judge David Turfe, WCDJA past president; Wayne County 16th District Court Sean Kavanagh, WCDJA president; and Wayne County 32-A District Court Judge Daniel Palmer, WCDJA secretary. Also serving the association, but not pictured, are Grosse Pointe Woods Municipal Court Judge Theodore Metry, WCDJA vice-president; and Wayne County 33rd District Court Judge Jennifer Coleman Hesson, WCDJA treasurer.

Photo by John Meiu

Wayne Law alumnus and faculty named to U.S. Commission on Civil Rights state Advisory Committee

Two members of the faculty at Wayne State University Law School and one alumnus have been appointed to the U.S. Commission on Civil Rights Michigan Advisory Committee.

They are: Jocelyn Benson of Detroit, director of the Levin Center at Wayne Law and former dean; Professor Kingsley R. Browne of Ann Arbor; and Roland Hwang of Northville, Wayne Law class of 1980 (J.D.) and class of 1984 (LL.M.).

According to a news release issued by the U.S. Commission on Civil Rights, Advisory Committee members conduct reviews and produce reports and recommendations concerning local civil rights issues, including justice, voting, discrimination, housing, education and other important themes. Appointees serve four-year terms.

The U.S. Commission on Civil Rights is an independent, bipartisan agency charged with

advising the president and Congress on civil rights matters and issuing an annual federal civil rights enforcement report.

Benson served as dean of Wayne Law from 2012 to 2016, and is currently director of the Levin Center at Wayne Law. She is CEO of the Ross Initiative in Sports for Equality (RISE), a venture led by professional sports organizations and networks to improve race relations in America. Benson is on the board of the Southern Poverty Law Center as well as iCivics, a national nonprofit organization founded by retired U.S. Supreme Court Justice Sandra Day O'Connor to improve civics education throughout the country. She earned her J.D. from Harvard Law School, a master's of philosophy from Oxford University and her bachelor's degree from Wellesley College.

Browne, professor of law, previously was a partner in the San Francisco-based law firm of

Morrison & Foerster, where he specialized in labor and employment law. He also clerked for Justice Luis Rovira of the Supreme Court of Colorado and then for Justice Byron White of the U.S. Supreme Court. Browne earned his J.D. from the University of Denver, his master's degree from the University of Colorado and his bachelor's degree from George Washington University.

Hwang practices immigration law, having retired from the Michigan Department of Attorney General after 27 years of service. In 1983, he cofounded American Citizens for Justice/Asian American Center for Justice, a civil rights organization. He has served as a hearing referee for the Michigan Department of Civil Rights. He earned a bachelor's degree in mechanical engineering and a master's degree in business administration from the University of Michigan.

Entrepreneur Shri Thanedar to run for Michigan governor

By DAVID EGGERT
Associated Press

LANSING, Mich. (AP) — Ann Arbor entrepreneur Shri Thanedar, an immigrant from India who has experienced a roller-coaster of business successes and failures, is running for Michigan governor in 2018, saying he is best-suited to help the state in part because of his own comeback story.

The 62-year-old Democrat announced his candidacy at a Detroit business incubator Thursday. Last year, he sold a majority stake in Avomeen Analytical Services, a chemical-testing company he founded, and made news by giving \$1.5 million in bonuses to roughly 50 employees.

"I want to give back and help others achieve their dreams," Thanedar told The Associated Press in a phone interview Wednesday.

He moved to Michigan in 2010 and started Avomeen after living more than two dozen years in Missouri, where he bought a small three-person lab and grew it to a 450-employee business only to lose the company, Chemir, to receivership and see his multimillion-dollar home foreclosed. He said that while the business did well, a bank took control after his other companies — including a pharmaceutical developer — faltered in the Great Recession when biotech customers' venture capital dried up.

"The important thing is that I bounced back," said Thanedar, who worked as a post-doctoral scientist at the University of Michigan in the early 1980s after immigrating to the U.S. to get his Ph.D. in chemistry. "After all the heavy loss, at the age of 55, I started a company again. That didn't keep me down. In the last six years, I have worked harder than ever in my life."

He said he sold majority control of Avomeen for at least \$20 million. He intends to solicit campaign donations.

"To the extent that I fall short, I will certainly put my own money into it," Thanedar said.

The political novice is the sixth Democrat to file paperwork to run. Three — former legislative leader Gretchen Whitmer, former Detroit health director Abdul El-Sayed and former Xerox executive Bill Cobbs — are actively campaigning. Prominent lawyer Mark Bernstein also may enter the race.

Republican Gov. Rick Snyder cannot seek a third term due to term limits. Physician Jim Hines and state Sen. Patrick Colbeck are actively vying for the GOP nomination, and higher-profile Republicans such as Attorney General Bill Schuette and Lt. Gov. Brian Calley are expected to launch campaigns later this year.

Thanedar said he is running because Republicans in control of state government are too focused on "corporate welfare" and not "human capital." He cited business tax cuts, right-to-work laws, Flint's water crisis and other issues.

"I want to shift the balance in Lansing," he said. "Certainly we need some participation by the Democrats in a meaningful way. ... I know I'm an underdog. I know I look different. I know I speak different. I know I can make a difference."

Corrupt public workers to lose retirement benefit under new law

LANSING, Mich. (AP) — Michigan Gov. Rick Snyder has signed legislation requiring that public employees convicted of a crime related to their work lose a portion of their pension or 401(k).

Michigan law had allowed for forfeiture of public employees' retirement benefits if they misuse funds or take bribes. The new law enacted Wednesday mandates such forfeitures and applies them to a convicted worker's 401(k) — not just a pension.

They will lose the portion of a benefit contributed by the employer, including earnings on those contributions.

Snyder says in a statement that "protecting the integrity of retirement contributions employers make is critically important."

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Leader Dogs for the Blind say 'thank you' to law firm

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Law Life

NICOLE BLACK, BRIDGETOWER MEDIA NEWSWIRES

NYSBA issues updated social media guidelines for lawyers

I've always believed that social media use by lawyers should be treated no differently than any other type of communication by lawyers. After all, online interactions are simply an extension of offline interactions, and the medium doesn't change the message. For that reason, it has pained me to see so many ethics committees issuing so many opinions over the years on the many perceived nuances of online communication by lawyers.

Many of these opinions are simply unnecessary and constitute knee jerk reactions to a new way of interacting. And many are based on faulty reasoning grounded in the assumption that online communications are somehow different than those occurring offline and thus warrant the application of new, more stringent standards. Others, however, necessarily address issues that are unique to online communications. One good example is opinions that address the issue of whether the passive notifications received by LinkedIn users (who also happen to be jurors) which indicate that a lawyer has viewed their profile constitute impermissible juror contact.

Regardless of whether I agree with the sheer volume of opinions or their merit, the end result is that lawyers are left to their own devices when it comes to reviewing the many opinions and deciphering which types of online interactions are ethical. Navigating the maze of ethics opinions can be a difficult and overwhelming task and for that reason, some attorneys simply choose to forego using social media altogether.

That's where the recently updated "Social Media Ethics Guidelines," issued by the Commercial and Federal Litigation Section of the New York State Bar Association, come in.

These guidelines were first released in 2014 with the intent to provide lawyers with guidance in navigating the many ethical issues encountered when using social media in a professional context. The guidelines were revised in 2015 and, then, just two weeks ago, a newly updated version of the guide-

lines was released (online: <http://www.nysba.org/SocialMediaGuidelines17/>).

Some of the more notable revisions include:

- Attorney Competence (§ 1.A) reflects that 27 states have adopted some duty of technical competence.

- Maintaining Client Confidences (§ 5.E) offers information on how an attorney can respond to online reviews as well as services that offer to import contacts.

- Positional Conflicts (§2.E) is new and discusses DC Bar Ethics Opinion 370 regarding whether social media posts adverse to a client's interest may present a conflict of interest.

The revised appendix describes social media terminology and some of the more popular social media platforms.

The newly added social media definitions are particularly useful, and I have to admit that although I've always considered myself to be more social media-savvy than most lawyers (having written a book on lawyers using social media), even I learned a few things after reading through the definitions.

So, if you haven't yet read the updated guidelines, make sure to set aside some time in order to do so. They provide a very useful, extensive roundup of how ethics committees across the country have approached lawyers using social media. The guidelines are a great resource that will serve as a handy reference guide for your professional online social media activities.

Nicole Black is a director at MyCase.com, a cloud-based law practice management platform. She is also of counsel to Fian-dach & Fian-dach in Rochester and is a GigaOM Pro analyst. She is the author of the ABA book "Cloud Computing for Lawyers," coauthors the ABA book "Social Media for Lawyers: the Next Frontier," and co-authors "Criminal Law in New York," a West-Thomson treatise. She speaks regularly at conferences regarding the intersection of law and technology. She publishes three legal blogs and can be reached at niki@mycase.com.



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In the Courts

VIRGINIA

Family clash over father's financial legacy moves to high court

Arbitration ruling largely cuts out one of two daughters from family fortune

By PETER VIETH
Bridgetower Media Newsiwires

RICHMOND, VA — A battle over a father's financial legacy based on accusations of attorney misconduct has moved from an arbitration panel to circuit court and now to the Supreme Court of Virginia.

Jackie Bogle Meuse — one of two daughters of the late Alexandria businessman Jack Bogle — is hoping the Supreme Court will agree to hear her arguments for undoing an arbitration ruling that largely cuts her out of the family fortune.

In an unusual step, the high court justices last month refused to consider a friend-of-the-court brief filed by three law professors in support of Meuse's petition for appeal.

At the center of the controversy is a financial structure assembled by Alexandria attorney Bruce Henry for Bogle's money.

Meuse contends Henry fashioned a contract with Bogle that "blatantly" violates the ethics rule against self-serving business arrangements with a client. In response, Henry argues the arbitrators correctly ruled that he took "professionally responsible steps" to ensure the transaction was "fair and reasonable."

A three-member arbitration panel found in favor of Henry on all issues.

Amicus brief rejected
Undoubtedly aware of her uphill battle in asking an appellate court to overturn an arbitration ruling, Meuse enlisted reinforcements for her cause. Three current and former ethics professors at Virginia law schools offered an amicus brief, saying they were interested because of the case's "potential ramifications upon the practice of law in Virginia."

The amici were University of Virginia law Prof. George M. Cohen, Charlottesville lawyer Thatcher A. Stone and Washington & Lee University associate law professor Victoria S. Sahani.

The issue, they said, was "whether Virginia courts will uphold arbitration orders when the arbitrators clearly ignore or disregard egregious violations of the [Virginia Rules of Professional Conduct] in reaching their decision, and the message this sends to the profession."

Lawyers for Meuse's sister and other defendants urged the Supreme Court to disregard the amicus brief.

"The purported 'amici' are not friends of the Court — they are Petitioner Meuse's own lawyers," wrote defense attorneys.

The amicus motion was "improper in almost every conceivable way," the opponents said. The brief was "brazenly partisan," "ethically dubious" and "substantively deficient," the opponents wrote.

The opponents said none of the three amici was a member of the Virginia bar.

"They offer no new or differing expertise. Rather, they are essentially additional expert witnesses (and unlicensed ones at that) hired to testify in support of Meuse's legal theory," wrote lawyers for Henry and his co-defendants.

On May 24, in a two paragraph order, the court denied the motion of Cohen, Stone and Sahani to appear as amici in the case.

A family fight

Rejection of the amicus brief still leaves the court with a decision on whether to take up the Meuse appeal. Briefs have been filed and a three-justice writ panel hearing may be scheduled in August.

Meuse contended throughout the proceedings that Henry flouted conflict-of-interest rules to take control of the Bogle family fortune and unfairly insulate himself from any possible challenge. Meuse claimed the arbitrators' ruling in favor of Henry ignored ethical rules that prohibit lawyers from joining forces with their clients.

Acknowledging the public policy that favors arbitration and courts' deference to arbitration rulings, Meuse nonetheless said that favoritism has limits.

"These limits are applicable here, where the policy favoring

arbitration must yield to another, more important public policy, one that holds members of the Bar to a higher standard than the morals of the marketplace," wrote Meuse's lawyers.

Henry and his co-defendants said Meuse was not in a position to argue policy. Meuse was procedurally barred from any challenge to the arbitrators' ruling, they said.

According to the defendants, the panel "denied all of Meuse's legal claims and exonerated all Respondents from Meuse's hyperbolic claims of criminal financial misconduct, embezzlement, theft, conspiracy, breach of fiduciary duty, and fraud."

Efforts to subject the panel's decision to "judicial second-guessing are plainly out of bounds," the defendants' lawyers said.

One of the issues involved subpoenaed by Meuse to get documents from Henry and his co-defendants. Meuse said the arbitrators mistakenly believed that subpoenas to parties were not permissible under arbitration rules.

Henry and his allies contended the arbitrators properly exercised their discretion to reject the subpoena requests on substantive grounds.

High-powered counsel

A number of highly placed

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lawyers have been involved in the proceedings, and legal bills are substantial. The arbitration panel ordered Meuse to pay her sister \$909,200 in attorneys' fees and costs in connection with the arbitration.

The arbitration panel consisted of Virginia Supreme Court Senior Justice LeRoy F. Millette Jr., retired Arlington Circuit Judge Paul F. Sheridan and former University of Richmond law school Dean John G. Douglass.

Meuse is represented by William H. Hurd and Stephen C. Piepgrass of Troutman Sanders' Richmond office along with John and Michele Craddock of Richmond. Henry, his firm, an associate and the other Bogle sister are represented by lawyers from Winston & Strawn in Washington, Sities & Harrison in Alexandria, Christian and Barton in Richmond, DiMuroGinsberg in Alexandria, Blankingship & Keith in Fairfax, Jordan Coyne in Fairfax and Michael P. DeGrandis in Vienna.

Lead counsel did not immediately respond to requests for comment.

Expert witnesses included Washington & Lee University law Prof. Lyman P.Q. Johnson, W&L law Prof. Robert T. Danforth, Fredericksburg attorney William Glover and Richmond attorneys Wyatt B. Durrette Jr. and Leslie A.T. Haley.

COUNSEL:

Pattwell worked with firm's public pension team during Detroit bankruptcy

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think of how many Americans made the ultimate sacrifice to guarantee our right to vote," he says.

"But it's crazy to me how little attention the general public today pays to the nuts and bolts of our democratic process. The elections themselves get lots of press no doubt, but the actual process of casting, collecting, and counting votes garners little scrutiny and is undeniably a work in progress. It's heavily reliant upon often-lacking local resources and, over the years, I've seen firsthand how disorganized voting precincts coupled with misguided election officials can cast doubt on the legitimacy of the process.

"There are, of course, several shining examples of well-run election precincts," he adds. "But, moving forward, I think we all can do more to ensure that accurate, non-discriminatory, and transparent voting processes are implemented statewide."

One of his most rewarding career experiences was behind-the-scenes work with Clark Hill's public pension team, on behalf of the Detroit Retirement Systems during the City of Detroit's Chapter 9 bankruptcy proceedings.

"Imagine dedicating your entire career to public service, basing your retirement on the assumption you would receive a fair pension, and then late in life being told your sole source of income could be discharged in a municipal bankruptcy," he says. "People were scared. And, it really hit home for me, especially considering my grandfather, who spent most of his career as a Detroit Police Officer, was a pensioner."

One of his best memories from the case was the deposition of Quicken Loans founder and chairman Dan Gilbert.

"His generosity, along with many others, helped make the Grand Bargain a reality," Pattwell says. "His deposition fell on the

week of our annual firm retreat, so I filled in for one of the senior partners. It was sort of a surreal experience. I think LeBron James had just resigned with the Cavaliers so there was lots of levity injected into the deposition. But Gilbert was very sincere and, as a lawyer himself, had complete control.

"The high point for me was when Gilbert explained to bond counsel — in a very matter-of-fact fashion — why pensioners working primarily blue collar jobs should be given a higher creditor priority than the sophisticated Wall Street investors who, unlike the pensioners, knew the risks of investing in a city like Detroit. I just remember thinking, 'Wow, here's a guy who hasn't lost touch.'"

Pattwell started his career path with an undergraduate degree in Social Relations & Policy from Michigan State University's James Madison College, with a specialization in environmental policy. A few years later he externed for an environmental policy NGO in London, England, where the issue of the day was the Kyoto Protocol; the NGO was intimately involved in the political process that led to its ratification.

"The complexity of the entire treaty process from both a technical and political standpoint was incredibly fascinating," he says. "After the NGO sent me back to New York to attend the United Nations' Commission on Sustainable Development, I was hooked—and when I got to Washington and Lee University School of Law a year later, I loaded up on environmental, energy, and land use classes."

He describes a law student internship with U.S. District Judge Gerald Rosen as "hypnotic."

"I still remember the interview—we talked mostly about baseball, the importance of confidentiality, and the work ethic of good lawyers," he recalls. "I was shocked when he offered me the internship."



Photo courtesy of Mike Pattwell
Clark Hill attorney Mike Pattwell with his wife, Samantha, on the occasion of their son Jack's first birthday.

Pattwell's internship experiences included sitting in on a high profile murder trial and traveling to the Sixth Circuit where Judge Rosen sat by designation.

"The most enjoyable aspect was the friendships formed with the other interns and with the Judge's permanent clerks," he says. "The clerks, in particular, were really gracious to the interns. They invested a lot of

time making introductions, explaining the judicial process, and helping us with interesting research assignments."

The Royal Oak native now makes his home in DeWitt, north of Lansing, with his wife, Dickenson Wright attorney Samantha Pattwell, and baby Jack.

"My commute to work rocks—almost no traffic," he says. "And, coming home on Friday afternoons—we live on a

small lake north of town—has that driving up north feel to it."

In his leisure time, Pattwell enjoys running, golfing, hunting and fishing; and he and his wife serve as occasional "foster parents" through New Hope Pet Rescue, an organization that saves stranded dogs and facilitates their permanent adoption.

"It's also rumored I'm known to host the occasional poker game," he says with a smile.

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