



THE PROSECUTOR

newsletter from

Mat Heck, Jr.
Prosecuting Attorney



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Fall 2012

Leon Daidone, Criminal Division Chief to Chair National Committee



Mr. Leon J. Daidone, Chief of the Criminal Division, has been appointed Chair of the Prosecuting Attorneys Committee of the American College of Trial Lawyers (ACTL).

The American College of Trial Lawyers mission is to maintain and improve the standards of trial practice and the administration of justice and the ethics of the profession. The College has 38 standing committees as well as 61 state and province committees.

The American College of Trial Lawyers is the only professional organization in the world to count among its Fellows every member of the United States Supreme Court and every member of the Supreme Court of Canada.

Prosecutor Mat Heck, Jr., also a Fellow of ACTL, said, "I'm extremely proud that the American College of Trial Lawyers has appointed Leon to chair this national committee. His trial experience and leadership abilities make him an obvious choice."

October Was Bullying Prevention Awareness Month Anti-Bullying Presentations Given To Brookville Student Body

October is recognized internationally as Bullying Prevention Awareness Month. On Monday, October 1, 2012 Brookville Police Chief Doug Jerome and Prosecutor Mat Heck, Jr. recognized the month-long event by leading a series of anti-bullying presentations to the entire student body of the Brookville Public School System.

Age appropriate bullying prevention education through talks, video presentations and powerpoint presentations were given to all the students, from elementary through high school. The presentations were given by police officers, assistant prosecuting attorneys and victim advocates from the prosecutor's office.

Prosecutor Heck said, "Bullying prevention really is crime prevention. Studies have shown that children that are identified as a bully as young as age eight are six times more likely to have a criminal conviction than non-bullies by age 24."

Chief Jerome added, "Nationally, the incidents of bullying are underreported, often due to embarrassment or fear of retribution. We want our students to feel comfortable in reporting it if they are being victimized. We want to give them the courage to talk about it."

Prosecutor Files Class Action Lawsuit Against Fannie Mae and Freddie Mac For Unpaid Taxes

On July 25, 2012, Prosecutor Heck announced the filing of a class action lawsuit on behalf of the Montgomery County Board of County Commissioners and all other counties in Ohio to recover millions of dollars in unpaid transfer taxes from the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). The lawsuit was filed in federal court in the Southern District of Ohio.

Transfer taxes are monies owed when a new deed is recorded with the county. In Ohio, there is a statewide, mandatory transfer tax of \$1.00 for every \$1000 of value being transferred; in addition, each county has the option of enacting a transfer tax of up to \$3.00 for every \$1000 of value being transferred. These taxes are a significant source of funds for local governments in Ohio.

According to the lawsuit, Fannie Mae and Freddie Mac, despite receiving more than \$183 billion in federal bail-out funds, have wrongfully claimed various exemptions from the payment of these transfer taxes in Ohio. The lawsuit asserts that Fannie Mae and Freddie Mac should have paid transfer taxes on both deed transfers to them from banks that foreclosed on homes, as well as on deed transfers from Fannie Mae and Freddie Mac to new homeowners. Between 2002 and 2008, however, Fannie Mae and Freddie Mac wrongfully claimed to be exempt as "government instrumentalities" and for an unspecified period of time, Fannie Mae and Freddie Mac claimed other inapplicable exemptions, as well. The lawsuit points to a recent memorandum from the Ohio Department of Taxation warning county auditors that "[t]ransfers involving Fannie Mae/Freddie Mac should be closely scrutinized to assure that the exemption identified provides a valid reason for the non-payment of conveyance fees."

Montgomery County's lawsuit follows the success of Michigan counties who filed a similar lawsuit. On March 23, 2012, a Michigan federal court granted summary judgment to the Michigan counties finding that Fannie Mae and Freddie Mac owed transfer taxes under Michigan's transfer tax law concluding that the "Defendants are unambiguously liable for the Transfer Taxes." Since that ruling, counties and cities in at least nine other states have filed similar lawsuits. While Summit County, Ohio has filed an individual case, Montgomery County's lawsuit is the first case filed in Ohio seeking class action status for all other Ohio counties.

Prosecutor Heck added, "Montgomery County and its homeowners have faced innumerable economic difficulties during the housing crisis. Depriving the County of funds necessary to support essential services by illegally claiming tax exemptions that clearly do not apply, Fannie Mae and Freddie Mac have added to our citizens' troubles. This is an example of Fannie Mae and Freddie Mac piling as much economic hardship as possible on the backs of the hard working people of the State of Ohio."

ArriveSafe To Be Offered Over The Holidays

Prosecutor Heck announced that the free cab program for those who celebrate holidays with alcohol will be offered again this year over the Thanksgiving, Christmas and New Years holidays. First offered over the Christmas holiday in 2007, the program has given over 2,040 free cab rides. The program pays up to \$50 of the fare to safely get Montgomery County residents home by calling 449-9999. The program is paid for with money seized from convicted drug dealers and donations from AAA Miami Valley and Heidleberg Distributing - not a single penny of taxpayer money is used!

Watch for upcoming announcements of the specific dates and times the program will be offered. As Mat says, "The life you save may be your own!"

Prosecuting Attorney Mat Heck, Jr. Elected American Bar Association Criminal Justice Section Chair-Elect

At the 2012 American Bar Association's annual meeting in Chicago, Prosecuting Attorney Mathias H. Heck, Jr. was elected chair-elect of the ABA's Criminal Justice Section (CJS).

The mission of the criminal justice section is to be "the unified voice of criminal justice." To that end, the nearly 20,000 members include representatives from every aspect of the criminal justice system including prosecutors, public defenders, criminal defense lawyers, attorney generals, law students and professors of law.

Ensuring that the criminal justice system operates efficiently and takes advantage of cutting edge technology, such as e-filing and e-discovery is a critical objective of the CJS. The United States has 25 percent of the world's prison population. Making sure the criminal justice system treats everyone fairly, both defendants and victims, is also a top priority.

The CJS also collaborates with defense lawyers and prosecutors in other countries to address issues such as globalization and cross-border crime.

Prosecutor Heck, who has been the elected prosecutor for Montgomery County since 1992, has been a member of the Criminal Justice Section Council of the American Bar Association for many years. Prior to being elected as the chair-elect, he served as an executive director of the White Collar Crime Division.

Prosecutor Heck said, "I am extremely proud and humbled to be elected and serve as chair-elect of this section, which includes attorneys representing the interests of all those with a stake in the criminal justice process."

Prosecutor's Office to Provide Discovery to Defense Electronically

Prosecuting Attorney Mat Heck, Jr. announced that his office will provide discovery to defense counsel on adult felony cases electronically. In criminal cases, the prosecutor must disclose the existence of certain evidence, such as police reports, witness statements and lab reports, called "discovery" to the defendant's attorney.

Beginning in March of 2009, in juvenile cases, these discovery materials were scanned and e-mailed to defense counsel. The process has saved tax dollars by reducing paper usage and copier costs, as well as reducing the storage space paper documents require. The process has also resulted in faster response times to discovery requests, and has saved defense counsel the cost of going to the prosecutor's office to pick up discovery packets.

These advantages are now being expanded to adult cases, but with significant improvements. Police departments will electronically transmit reports to the prosecutor's office to be stored on the county's electronic document storage system. This new process will also reduce paper costs for law enforcement agencies.

After a charge or indictment has been filed and a defense attorney identified, the system will automatically send the defense attorney an email notifying the attorney that discovery is available. If the defense attorney makes an electronic request for the discovery, he will be able to log in to the system through a secure internet connection that will allow the attorney to view, save, and print only the discovery on cases assigned to that attorney.

Due to the large number of law enforcement agencies and computer systems involved, the process will be gradually implemented. Cases coming from Kettering and Miamisburg went on-line September 4, 2012. It is expected to take several months to add all the police departments in the county. Once the process is underway, the plan is that juvenile cases will be processed under the new system as well.

OFFICE STAFF UPDATES

New office staff members since the last issue of *The Prosecutor*:

DATE	NAME	POSITION AND ASSIGNMENT
8/13/2012	Sean Patrick	Assistant Prosecutor, Juvenile Division
8/27/2012	Candice Beach	Legal Secretary, Case Management
9/17/2012	Kiersten Farmer	Legal Secretary, Juvenile Division
9/24/2012	Justin Sheridan	Assistant Prosecutor, Child Protection Unit
11/19/2012	Tinisha Jones	Legal Secretary, Case Management

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