



THE UNITED STATES  
DISTRICT COURT FOR  
THE DISTRICT OF NEW JERSEY  
HISTORICAL SOCIETY

Fall 2016

Volume XVII, Issue 2

# NUNC PRO TUNC

## Inside this Issue:

**CHIEF JUDGE SIMANDLE  
RECEIVES THE AFBNJ'S 2016  
BRENNAN AWARD**

**Portrait Unveiling:  
The Hon. Garrett E. Brown, Jr.**

**An Exhibit:  
The Addonizio Trial**

**Trenton Courthouse  
Jury Room Dedication:  
The Hon. Anne E. Thompson**

**Remembering:  
Edgar Y. Dobbins  
The D.N.J.'s First  
Chief Probation Officer  
By Wilfredo Torres**

**Celebrating:  
The 225th Anniversary of the  
D.N.J. U.S. Attorney's Office  
By Mikie Sherrill, Esq.**

**Remembering:  
Selma, Alabama and the  
Voting Rights Act of 1965  
By Andrea Lewis-Walker**

**2015 Clarkson S. Fisher  
Award-Winning Essay:  
"Taste Tells"  
By Gregory Mortensen, Esq.**

On Behalf of The Historical Society:  
Patrick J. Murphy III, Esq.  
Editor



*Hon. Jerome B. Simandle*



*Hon. Garrett E. Brown, Jr.*



*Hon. John W. Bissell*



*Hon. Anne E. Thompson*

Recently our Court's current and three previous Chief Judges have been honored in various ways for their extraordinary service to the people of New Jersey — including, for two of them, having played critical roles as assistant federal prosecutors in a watershed conviction with national impact and historic import. Herein, the Historical Society showcases those honors.

## CHIEF JUDGE JEROME B. SIMANDLE RECEIVES THE AFBNJ'S 2016 BRENNAN AWARD

On the evening of June 16, 2016, the Association of the Federal Bar of New Jersey bestowed the William J. Brennan, Jr. Award, its highest honor, upon New Jersey's two top jurists: D.N.J. Chief Judge Jerome B. Simandle, and New Jersey Supreme Court Chief Justice Stuart Rabner. The Brennan Award is named in honor of the iconic Associate Justice of the Supreme Court of the United States who was born in Newark, attended Newark public schools, practiced law in New Jersey, and served in the state judiciary before his appointment to the nation's highest court by President Eisenhower in 1956. Each year, the AFBNJ's Executive Board selects as the Brennan Award recipients outstanding jurists, attorneys, or other individuals whose individual contributions to the law deserve special recognition.

As current AFBNJ President Mark Olinsky noted during his remarks, the 2016 recipients are unique, as the Brennan Award has never been bestowed upon New Jersey's respective federal and state court "Chiefs" in the same year. Thus, the evening's theme of "Hail to the Chiefs" was apropos.

The Hon. Kathryn S. Hayden, U.S.D.J., gave the introductory remarks for Chief Judge Simandle, and noted his many similarities with former Chief Judge John F. Gerry, including their kindness and caring as people, as well as their leadership and stewardship of our Court as Chief Judges during challenging times.

Having received the Brennan Award, Chief Judge Simandle joins an august fellowship that prominently includes former Chief Judges Garrett E. Brown, Jr., John W. Bissell, Anne E. Thompson, and John F. Gerry. Notably, Chief Judge Simandle served as a law clerk to then-Judge Gerry, and thus joins his late mentor and friend on the rolls of both D.N.J. Chief Judges and Brennan Award recipients — an achievement without precedent. *PSM*



*Chief Judge Simandle with Mark Olinsky and Judge Hayden.*



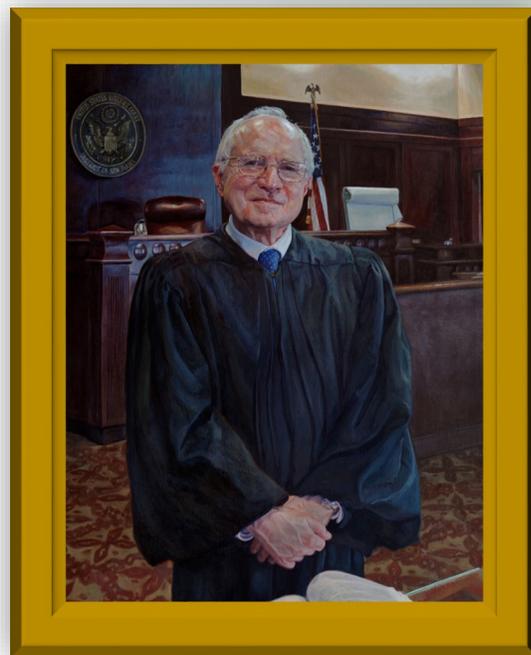
*Chief Judge Simandle with fellow 2016 Brennan Award recipient, New Jersey Supreme Court Chief Justice Stuart Rabner.*

**OUR COURT'S PORTRAIT OF  
FORMER CHIEF JUDGE GARRETT E. BROWN, JR.  
IS UNVEILED:**

On the afternoon of November 4, 2015, our Court's portrait of former Chief Judge Garrett E. Brown, Jr. was unveiled in the ceremonial courtroom of the Trenton Courthouse. The unveiling was presided-over by current Chief Judge Jerome B. Simandle, with the now-retired Judge Brown sitting beside him on the bench. The Court's longtime Clerk William T. Walsh was seated just below them. Additionally, seated throughout the courtroom were an array of Judges, generations of Court personnel, nearly all of Judge Brown's former law clerks, various distinguished guests, and Judge Brown's family.

The ceremony featured five speakers with diverse backgrounds and relationships with Judge Brown, including the Hon. Renee M. Bumb, U.S.D.J., and then-Acting Attorney General of New Jersey John J. Hoffman, Esq. Collectively, the speakers offered heartfelt reminiscences and humorous anecdotes of Judge Brown — both on and off the bench. Following those speeches and the official unveiling, Judge Brown accepted the portrait and offered his own remarks. Perhaps most poignantly, Judge Brown addressed the following to those in attendance:

*So, why am I here anyway? Well, despite all the nice things you may have said about me, and in general I do respectfully disagree, this is not all about me. It is really all about you, about our Court, and our system of justice. Our Court Family, the Bench and the Bar work together to resolve disputes. Our goal is prompt, efficient justice. Justice is not for some of the people, but for all the people. The country must remember that. We have sworn to support and defend the Constitution of the United States against all enemies foreign and domestic. We take our oath seriously in this cynical age. It may be popular to rail against government, but without effective government you have no law and you have no justice. I commend all of my colleagues on the Court for the work they do every day to provide prompt, efficient justice for all."*



*The Hon. Garrett E. Brown, Jr.  
U.S.D.J., 1986-2012; Chief Judge, 2005-2012*



*The portrait is unveiled by Patrick J. Murphy III, Esq., one of Judge Brown's many former law clerks in attendance, and Suzanne O'Gara, Judge Brown's judicial assistant from 1986 until his retirement from the Court in 2012.*

After the ceremony, the Historical Society hosted a reception in the Great Hall of the Trenton Courthouse. That reception was highlighted by remarks from Keith Miller, President of the Historical Society, and former Chief Judge Anne E. Thompson, whose Chambers were next to Judge Brown's throughout his judicial career, and served as his trusted friend and frequent sounding-board. *PSM*

## AN EXHIBIT REGARDING THE 1970 D.N.J. PROSECUTION:

For much of his early life, Hugh J. Addonizio could have been viewed as an American success story.

Born in Newark in 1914, Addonizio graduated from Fordham University in 1939. After being drafted into the U.S. Army as a private shortly before World War II, Addonizio served with distinction in North Africa, Italy and France, was awarded a Silver Star for valor, and was ultimately discharged as a captain.

He returned to Newark after the war, and in 1948, ran as a Democratic candidate for a seat in the U.S. House of Representatives from New Jersey's 11th District. He won, and Congressman Addonizio held his seat until 1962, when he resigned to challenge the incumbent Mayor of Newark, Leo P. Carlin. Addonizio ran on a reform platform, and won again.

Mayor Addonizio held office until 1970, when he lost his reelection bid. By that time, his success story was being re-written as a cautionary tale. Indeed, following the race-riots that erupted in Newark during the summer of 1967, state and federal corruption investigations of Mayor Addonizio's Newark proliferated.

In 1969, Addonizio and others were indicted in the D.N.J. on myriad corruption-related counts, including extortion and conspiracy.

The team of federal prosecutors Addonizio confronted has become legendary. At the time Addonizio was prosecuted, the D.N.J. U.S. Attorney was future Judge Frederick B. Lacey. The lead Assistant U.S. Attorney was future D.N.J. U.S. Attorney and Judge Herbert J. Stern. His trial-team included future Chief Judges John W. Bissell and Garrett E. Brown, Jr., and future D.N.J. U.S. Attorney Jonathan L. Goldstein, among other notables.

Addonizio was tried and convicted on 63 counts of extortion and one count of conspiracy. He served more than 5 years in federal prison, and died of a heart attack at the age of 67 in 1982.

On June 3, 2015, the Historical Society opened an exhibit regarding the U.S. v. Addonizio prosecution in the Great Hall of the Trenton Courthouse. That exhibit prominently featured courtroom sketches from the trial, which prosecution team-member and former Chief Judge John W. Bissell was instrumental in procuring. Various members of the prosecution team attended the event and gave remarks, including Judge Stern and former Chief Judges Bissell and Brown. *PGM*



*Hon. Herbert J. Stern, U.S.D.J. (Ret.)*

**THE UNITED STATES OF AMERICA**

v.



**HUGH J. ADDONIZIO**

## DEDICATION OF THE TRENTON COURTHOUSE'S JURY ROOM IN HONOR OF FORMER CHIEF JUDGE ANNE E. THOMPSON



*Hon. Anne E. Thompson with many of her former law clerks.*

On the afternoon of May 7, 2015, our Court dedicated the Jury Room in the Trenton Courthouse to former Chief Judge Anne E. Thompson, now a Senior Judge. Current Chief Judge Jerome B. Simandle presided over the ceremony, and shared the bench with Judge Thompson. The courtroom was filled beyond standing-room capacity, and Courthouse personnel provided a video-feed of the ceremony to an adjacent space that accommodated scores of additional attendees. The ceremony featured insightful remarks by two of Judge Thompson's many former law clerks: Philip Sellinger, Esq., and J. Stephen Ferketic. Those remarks highlighted the appropriateness of dedicating the Trenton Jury Room to Judge Thompson, who during her nearly 40 years as a U.S. District Judge, has earned a national reputation as a prolific and innovative trier of cases.

The centerpiece of the ceremony were the remarks offered by Judge Thompson, and particularly her discussion of the "honor of having a piece of the judicial rock with my name on it." Among her many poignant observations, Judge Thompson shared the following:

*I must confess, my heart pounds in my chest when I go into the courtroom to receive the jurors' verdict. No matter if it's a three-day trial, or a three-week trial. The jurors have all of the power. You can hear a pin drop. It's electric.*

*And no matter what the verdict is, no matter who wins or who loses, there's a certain magic in the rendering of that group decision. I've seen those exhausted jurors' faces. The jurors have worked. They've tried their best to apply the law to the facts as they have discerned them. They have tried to rationalize, analyze, and understand the trial evidence. They want to do the right thing. They don't want to make a mistake. They know they have the life of a fellow citizen in their hands, and they want to treat it fairly.*

*And so, I have come to respect our jury system. It's not perfect. It is a human creation and, of necessity, is subject to imperfection. But it is an extraordinary achievement worthy of our admiration and our honor.*

*I respect the jurors greatly for the faithful demonstrations of citizenship that they have shown. Because of them, I am deeply moved to have their assembly room in this courthouse bear my name.*

Notably, after the reception that followed the ceremony, Judge Thompson and her family dined privately with her many former law clerks in attendance — whom Judge Thompson had provided with custom-made neckties and silk scarves in remembrance of the event. *PSM*

**REMEMBERING EDGAR Y. DOBBINS  
THE FIRST CHIEF U.S. PROBATION OFFICER  
IN THE DISTRICT OF NEW JERSEY**

**BY: WILFREDO TORRES, D.N.J. CHIEF U.S. PROBATION OFFICER**

Edgar Y. Dobbins, the first federal probation officer in New Jersey, was born in Camden on February 22, 1883. He married Laura C. Dobbins and had two children, Curtis Wesley (born in 1909) and Margaret (born in 1912).

Prior to working for the Court, he attended Peirce Business College and was President of W.H. Dobbins & Company located in Philadelphia, superintendent of Centenary Tabernacle M.E. Church, and an active member of the Camden Rotary Club.

Mr. Dobbins was recommended for a deputy clerk's job in Camden by William T. Boyle, former judge and President of the Camden Bar Association, U.S. Congressman Charles A. Wolverton, and David Baird, Jr., an influential businessman and political figure in Camden. He was officially appointed Deputy Clerk on December 8, 1928. While serving as Deputy Clerk, U.S. District Court Judges William N. Runyon, Guy L. Fake, William T. Clark, and John Boyd Davis asked him to organize a probation department.

On April 14, 1931, Mr. Dobbins was appointed as the first federal probation officer in the D.N.J. He became the first Chief U.S. Probation Officer on November 1, 1934. At the time, he and his family had relocated to Haddonfield, New Jersey after their home at 3<sup>rd</sup> and Pearl Streets in Camden was demolished to make room for the Benjamin Franklin Bridge.

Sadly, about two years after becoming Chief, Mr. Dobbins experienced a tragic event that involved his son Curtis. On August 11, 1936, Curtis was home. After answering the door, he was shot by an unidentified individual and died on August 17, 1936. Police subsequently arrested a federal parolee who had been under Chief Dobbins' supervision. Chief Dobbins had helped the parolee earn money by doing odd jobs, including at his home. The parolee was convicted and executed two years later.

In all of Mr. Dobbins' reports and papers, there is almost no mention of the tragedy that took his son's life. He refused to meet with his son's murderer, who continued to maintain his innocence until his execution in 1938.

Instead, Chief Dobbins dedicated the remainder of his career to helping parolees and probationers reintegrate into their communities. He helped them find work and establish close ties to their families and displayed a keen sense of how poverty, joblessness, and social rejection could lead to a criminal life.



*Judge William N. Runyon, U.S.D.J., one of the D.N.J. Judges that asked Dobbins to organize a probation department for the Court.*



*Wilfredo Torres*  
D.N.J. Chief Probation Officer



*Chris Dozier*  
D.N.J. Chief Pretrial Services Officer



*Nancy Dobbins K. Myer with the derby hat her grandfather often wore; she presented that hat to Chief Torres.*

Chief Dobbins retired on December 31, 1953. He had begun his work in a small office in Camden and oversaw the expansion of the probation office to Trenton and Newark. Notwithstanding his personal tragedy, he led his office and staff through the challenges of Prohibition, the Great Depression, and World War II. He was recognized and often credited in newspapers and national proclamations for the success of probationers and parolees under his office's charge.

Chief Dobbins died at Cooper Hospital in Camden, on February 27, 1955 at age 72, while still living in Haddonfield. He is buried at the historical Harleigh Cemetery in Camden County together with his son and daughter. His daughter Margaret lived in Haddonfield for 67 years, and passed away in Marlton in 1994. Chief Dobbins is survived by his granddaughter Nancy Dobbins Kille Myer, seven great-grandchildren, and 12 great-great-grandchildren.

On April 14, 2016, the U.S. District Court for the District Of New Jersey, the Historical Society, and the U.S. Probation Office jointly celebrated the 85<sup>th</sup> Anniversary of the appointment of Edgar Y. Dobbins as the first federal probation officer in New Jersey at an event held in the Camden Courthouse.

Nancy Dobbins K. Myer attended the ceremony and presented Chief Torres with a derby that Chief Dobbins often wore. She also provided him with a family photograph of Curtis Dobbins, at age 25, three years before he lost his life. She expressed that the event and the Court's efforts to keep her grandfather's memory alive had been a remarkable experience for her family.

Remarks were offered by Chief Judge Jerome B. Simandle, Historical Society President Keith J. Miller, former Chief Judge John W. Bissell, and Chief Pretrial Officer Chris Dozier. Chief U.S. Probation Officer Wilfredo Torres delivered a moving biography of the life and career of Mr. Dobbins who also became the district's first Chief U.S. Probation Officer. Over 150 staff attended the event held at the Mitchell H. Cohen Building and U.S. Courthouse. A reception followed at the Judge William Lipkin Gallery.

**CELEBRATING THE 225<sup>TH</sup> ANNIVERSARY  
OF THE UNITED STATES ATTORNEY'S OFFICE  
FOR THE DISTRICT OF NEW JERSEY**

**BY: MIKIE SHERILL, ESQ., ASSISTANT UNITED STATES ATTORNEY**

On October 14, 2015, the U.S. Attorney's Office for the D.N.J. celebrated its 225<sup>th</sup> Anniversary. Over its history the Office has produced an Associate Justice of the Supreme Court of the United States, 9 Third Circuit Judges, at least 24 District Judges, and 9 Magistrate Judges. There has also been a member of the President's Cabinet, 4 New Jersey Governors, at least 11 Attorneys General of the State of New Jersey, 5 Senators, numerous members of the U.S. House of Representatives, U.S. Attorneys in other Districts, and leaders of the Bar.

The event was focused on the men and women who have worked tirelessly to promote justice on the federal level in New Jersey. The keynote speeches were given by alumni of the Office: Samuel Alito, Associate Justice of the Supreme Court of the United States, and Third Circuit Judge Maryann Trump Barry.

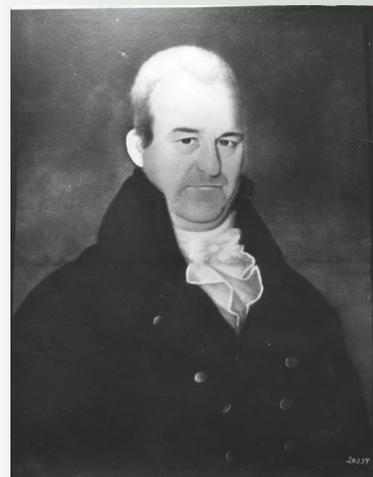
Paul J. Fishman, the 58<sup>th</sup> and current U.S. Attorney for the D.N.J., introduced the keynote speakers and asked members of the audience to stand when he recited the names of the U.S. Attorney who had hired each of them. As U.S. Attorney Fishman spoke about the accomplishments of the Office, the ties that bind the D.N.J. into a Federal Family were palpable.

In her remarks, Judge Trump Barry provided inspiration for many in the audience. She spoke of her trepidation when dealing with peers who seemed to be at the height of their careers, and she spoke candidly of mistakes she had made.

In his remarks, as the 52<sup>nd</sup> U.S. Attorney for the D.N.J., Justice Alito spoke of his time in the Office, and recounted aspects of its colorful history. Notably, Justice Alito told the story of Abraham Ogden, the second Attorney for the D.N.J., whose son gave George Washington the only injury he was believed to have suffered in the Revolutionary war – a wound from a friendly fencing match.

Among the stars of the evening was Assistant United States Attorney and Historical Society Board Member Marion Percell, who exhibited true historical scholarship in scouring libraries and museums in New Jersey, the National Archives in both New York and Washington, D.C., and chronicling the memories of current and former AUSAs to produce a video that encapsulated the highs and lows of the office over more than two centuries.

The celebration provided an opportunity to consider how central the D.N.J. was to the founding of our nation, and the impact it continues to have on our the federal justice system.



*Richard Stockton  
1st D.N.J. U.S. Attorney*



*Associate Justice Samuel Alito  
As 52nd D.N.J. U.S. Attorney*

## REMEMBERING SELMA, ALABAMA AND THE PASSAGE OF THE VOTING RIGHTS ACT OF 1965



**BY: ANDREA LEWIS-WALKER, DEPUTY-IN-CHARGE, D.N.J. NEWARK VICINAGE**

The 2014 release of the movie “Selma” and the national attention given to the 50<sup>th</sup> Anniversary of the civil-rights march over the Edmund Pettus Bridge in Selma, Alabama, provided a background for celebrating the passing of the Voting Rights Act of 1965. In recognition thereof, the United States District Court for the District of New Jersey and this Society sponsored a panel discussion that addressed the Montgomery to Selma, Alabama marches that took place in 1965. That discussion took place in March, 2015, at the Martin Luther King, Jr. Federal Building & United States Courthouse in Newark. The location was particularly appropriate given Dr. King’s integral involvement with the events discussed.

Society President Keith J. Miller moderated the panel, which was introduced by the Hon. Patty Shwartz, U.S.C.J. The panelists were: Joseph A. Hayden, Jr., Esq., of Walder, Hayden, PA, (husband of the Hon. Katharine S. Hayden, U.S.D.J.); his sister, the Hon. Margaret Hayden, J.S.C.; Peter Harvey, Esq., a former Attorney General of New Jersey, and currently a partner at the law firm Patterson, Belknap, Webb and Tyler, LLP; and Theodore V. Wells, Jr., a partner at the law firm Paul Weiss.

The Panelists shared their eyewitness accounts of the marches, and the events that lead up to them. A civil rights timeline that tied numerous monumental events together was discussed. Those events included: the 1956 Montgomery Bus Boycott; sit-ins; freedom rides; Turnaround Tuesday; Bloody Sunday; Dr. Martin Luther King, Jr.; the March on Washington with the famous “I Have a Dream” speech; and the sharing of conversations the panelists’ families had at the time those events occurred. The effects of current civil rights events were also discussed.



*Hon. Patty Shwartz,  
U.S. Circuit Judge*

The first panelist, Joseph A. Hayden, Jr., Esq., began the discussion by setting the tone of the period. As he gazed at the attentive faces in the audience, it was clear his mind was drifting back to the 1960s to that moment in time when he decided he had to act to help make a difference. Joseph Hayden was a junior at Boston College at the time. Along with eight college friends, he piled in a station wagon and started the journey from Boston to Selma, Alabama — but not before contacting his parents for permission and informing them of his travel plans.

Hayden was filled with a sense of purpose and determination to make a difference. In his view, “It was more than a privilege to go down there, it was an honor.” They drove nonstop and did not request directions. Hayden recalled that, “We were afraid to ask the police and were afraid to ask the white people”. He met with a local representative from the Southern Leadership Conference in Atlanta and was informed about Rev. Martin Luther King Jr’s commitment to non-violence. Hayden and his companions were warned to be prepared to be arrested and to have access to bail money. Furthermore, they were also instructed on how to curl their bodies in the “ball” position as a means of protection.

Similarly, Judge Margaret Hayden also prepared to travel to Selma. The Southern Christian Leadership Conference asked for help and she attended a meeting to encourage people to go to Selma. Judge Margaret Hayden also reached out to her parents for permission to travel to Selma and was informed that her brother Joseph had been arrested. Prepared with the comeback “it’s the Christian thing to do”, her parents had to support her decision.

Reminiscing of her long train-ride to Selma, Judge Margaret Hayden vividly recalled people singing spirituals. This continued throughout the course of her journey and even as she stood on the other side of the Edmond Pettus Bridge. Nearby were Alabama State Troopers, with their gas masks and dogs. “There was not a lot of faith in the authorities”, she recalled.

The third panelist, Peter C. Harvey, Esq., discussed his father’s relationship and interactions with Dr. Martin Luther King, Jr. Harvey’s father was chaplain of Tuskegee and his mother was a nurse. Harvey’s father saw Dr. Martin Luther King, Jr. on a regular basis. Dr. King often called on the clergy for support. Harvey recalled one of Dr. Martin Luther King’s visits to his family home, where Dr. King stood in his father’s study. Harvey stated that “King was not this crusader”. Instead, Harvey recalled that he was a minister who wanted to preach the gospel and support his congregation.

Notably, Harvey was born in New York but raised in Alabama, and spoke of being stopped often by the Alabama State Police and of his mother’s strict instructions on how to interact with the officers.

The last panelist, Theodore V. Wells, Esq., discussed his personal experiences during this period of time and some of the current events of today. He spoke of the effects of the Brown vs. Board of Education decision and how the NAACP litigated related cases under the leadership of Thurgood Marshall. As a result, colleges began opening their doors to African Americans. After Wells completed his education, he recognized the need to assist with the civil rights movement. Wells stressed that “this is a continuing battle.” He later became the General Counsel of the NAACP.

Finally, the Courts a capella group, “Plead the 5<sup>th</sup>”, concluded the program with spirituals that were sung during the March on Selma. They also serenaded with a medley of Motown hits that were popular during that period. This was a phenomenal addition to the event which added to the spirit of the 1960s.

In sum, this memorable event was much more than a traditional panel discussion. Rather, the conversation was rich in historical facts and the stories of the panelists’ personal experiences provided the attendees with a unique perspective of the march to Selma. The panel honored the sacrifices and the collaborative efforts from people of all races that enabled the passing of the Voting Rights Act of 1965.



*Keith Miller, Esq.*



*Peter Harvey, Esq.*



*Joseph Hayden, Esq.*



*Hon. Margaret Hayden*



*Theodore V. Wells, Esq.*

**2015 CLARKSON S. FISHER AWARD-WINNING ESSAY****“TASTE TELLS”: BREWER TRADEMARK ENFORCEMENT IN THE DISTRICT OF NEW JERSEY  
SCHULTZ BREWING V. G. KRUEGER BREWING (1937)****BY: GREGORY MORENSON, ESQ.**

In the 1937 case Schultz Brewing Co. Inc. v. G. Krueger Brewing Company, United States District Court Judge William Clark decreed that Krueger was the lawful holder of the trademark “Taste Tells.” Even though an opinion from Judge Clark in the matter was not necessary, (Schultz ultimately abandoned its claim), the case is significant to the history of the District of New Jersey because it presents a snapshot of an important local industry in flux, and is another early example of the District of New Jersey’s commitment to upholding intellectual property rights.

Beer is the most popular alcoholic beverage worldwide, and the third most popular drink overall, after water and tea. It is a colossal business, with global revenues of nearly \$500 billion in 2014, projected to increase to \$604 billion by 2019. The earliest known chemical evidence of barley beer dates to circa 3500 BC, with speculation that it dates back to 9500 BC. Some even argue that it was beer that gave rise to civilization itself!

Although just about every part of the globe has a history intertwined with beer, the history of beer and Newark, New Jersey is unique. As a result of the industrial revolution and an influx of German and English immigrant populations, Newark became one of the key players in the modern brewing industry, which took shape in the nineteenth and early twentieth centuries. Krueger began brewing in Newark in 1858. Thus, when national Prohibition began in 1920, it had a significant effect on New Jersey. Between 1920 and 1933, efforts to enforce Prohibition nearly overwhelmed the judges in the district, with more than 5,900 cases brought in the district court, largely arising from bootleggers trying to take advantage of the state’s extensive and unguarded coastlines.

When national Prohibition ended in 1933 with the repeal of the Eighteenth Amendment, the industry was primed for another shakeup. Krueger delivered in 1935, when it became the first company in the world to put beer in cans. By this time, Krueger owned a plant in Newark that consisted of a brewery and bottling plant located on 2½ acres and that contained over 219,000 square feet of floor space. The capacity of this plant in 1933 was 350,000 barrels per year, and the company employed 233. It is within this context that Schultz v. Krueger must be viewed. This was not just an average business dispute; it was two competitors angling for an advantage in a reawakened and highly profitable industry with significant local roots. On August 28, 1937, Schultz filed a Complaint in the Chancery Division of New Jersey state court, seeking a preliminary injunction to prevent Krueger from using the trademark “Taste Tells.” Schultz alleged that it owned the trademark, which it had been using it since February 1936. Schultz was in the process of obtaining trademark registration for “Taste Tells,” and alleged that Krueger’s use of the same phrase was infringement. Schultz acknowledged that another brewery, United States Brewing Co., had obtained a very similar trademark for one of its subsidiaries in 1922 (“Trefz Taste Tells”), but contended that no valid assignment of those rights had been made to Krueger, that the trademark was for “Trefz Taste Tells” only, and that Krueger had abandoned any claim to the mark.

On September 10, 1937, Krueger removed the action to federal court on two grounds. First, Krueger satisfied diversity jurisdiction requirements because the amount in controversy was more than \$3,000, Schultz was a New Jersey corporation, while Krueger was a Delaware corporation. Second, the case arose under federal trademark law. In its Answer, filed on October 8, 1937, Krueger alleged that Schultz’s claim was void due to a valid assignment of pre-existing rights in the trademark. Krueger stated that a predecessor (Trefz) had been utilizing “Taste Tells” since 1909. Further, on May 7, 1921, Trefz’s parent company, United States Brewing Co. (“USBC”), applied for a trademark for “Taste Tells” (application number 159,561) with the United States Patent Office. The application was granted on September 26, 1922 to USBC and its successors

or assigns, to remain in effect for twenty years. On April 7, 1922, USBC “voluntarily dissolved” and Krueger stated that on July 10, 1922, Krueger purchased all of USBC’s assets, including the “Taste Tells” trademark. Krueger also vigorously denied abandonment of the mark.

According to the Answer, on July 26, 1937, Krueger sent a cease and desist to Schultz, demanding that Schultz stop using “Taste Tells.” Krueger alleged that Schultz’s petition for registration of the “Taste Tells” trademark was only filed in response to Krueger’s cease and desist demand.

The attorneys for the brewers communicated further, and on August 25, 1937, Krueger reiterated its demand that Schultz cease and desist using “Taste Tells.” On August 28, 1937, Schultz initiated the action in state court, and informed Krueger on August 30. On November 3, 1937, Schultz filed an answer to Krueger’s counterclaims, and argued that Krueger had abandoned the trademark by non-use. On November 9, 1937, Mr. William G. Krueger filed an affidavit in support of Krueger’s application for a preliminary injunction, detailing Krueger’s continued use of the mark. Also on November 9, Judge Clark entered an order to show cause why a preliminary injunction should not enter against Schultz, enjoining them from utilizing “Taste Tells.”

In the face of overwhelming evidence, Schultz abandoned its claim. On December 20, 1937, Judge Clark entered a final decree: Krueger was the rightful owner of the “Taste Tells” trademark and had not abandoned its rights in the mark. Schultz was thereafter enjoined from using “Taste Tells.”

At first glance, Schultz v. Krueger is an unremarkable trademark dispute between two corporations. However, when viewed in its proper historical context, it is a significant case that sheds light on two competitors from a bygone local industry, and reaffirms the District of New Jersey’s resolve in upholding intellectual property rights.

The author of this essay offers special thanks to Mark Edward Lender for the inspiration and to Nicole Peaks at the Third Circuit Libraries and Kevin Reilly at the National Archives at New York City for their invaluable research assistance.

*Editor’s Note: In its original form, the foregoing essay contained graphics and citations that were omitted from this publication due to space constraints. PSM*

**THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY HISTORICAL SOCIETY**

DONALD A. ROBINSON, ESQ., CHAIRMAN

KEITH J. MILLER, ESQ., PRESIDENT

HON. DOUGLAS E. ARPERT, U.S.M.J. & HON. LEDA DUNN WETTRE, U.S.M.J., IMMEDIATE PAST PRESIDENTS

SUSAN TRAVIS, EXECUTIVE DIRECTOR

ROBERT E. BARTKUS, ESQ. & RAJIV PARIKH, ESQ., VICE PRESIDENTS

JOSEPH TRIPODI, ESQ., VICE PRESIDENT & SECRETARY

MICHAEL S. WEINSTEIN, ESQ., TREASURER