



**Judges' Night/ October 21, 2014**  
**Participating Judges**

Judge Michael R. Barrett, *U.S. District Court, S.D. of Ohio*  
Judge Timothy S. Black, *U.S. District Court, S.D. of Ohio*  
Judge Stephanie K. Bowman, *U.S. District Court, S.D. of Ohio*  
Judge Ethna M. Cooper, *Hamilton County Common Pleas Court*  
Judge Patrick T. Dinkelacker, *Ohio First District Court of Appeals*  
Judge Susan J. Dlott, *U.S. District Court, S.D. of Ohio*  
Judge Patrick F. Fischer, *Ohio First District Court of Appeals*  
Judge James L. Flannery, *Warren County Common Pleas Court*  
Judge Dennis S. Helmick, *Retired, Hamilton County Common Pleas Court*  
Judge Thomas R. Herman, *Clermont County Common Pleas Court*  
Judge Timothy S. Hogan, *Retired, U.S. District Court, S.D. of Ohio*  
Judge Karen L. Litkovitz, *U.S. District Court, S.D. of Ohio*  
Judge Steven E. Martin, *Hamilton County Common Pleas Court*  
Judge Russell J. Mock, II, *Hamilton County Municipal Court*  
Judge Beth A. Myers, *Hamilton County Common Pleas Court*  
Judge Richard A. Niehaus, *Retired, Hamilton County Common Pleas Court*  
Judge Fanon A. Rucker, *Hamilton County Municipal Court*  
Judge Michael J. Sage, *Butler County Common Pleas Court*  
Magistrate Ann K. Schooley, *Butler County Common Pleas Court*  
Judge J. Howard Sundermann, Jr., *Ohio First District Court of Appeals*  
Judge William Walker, *Retired, Clermont County Common Pleas*  
Judge Herman J. Weber, *U.S. District Court, S.D. of Ohio*  
Judge John M. Williams, *Hamilton County Juvenile Court*  
Judge Ralph E. Winkler, *Hamilton County Court of Common Pleas*  
Judge Tyrone K. Yates, *Hamilton County Municipal Court*



**October 21, 2014**  
**Judges' Night Session Questions**

**Round 1**

1. What factors do you consider in deciding whether to grant oral argument? What can counsel do to make argument more helpful?
2. What percent of the time does oral argument change your initial position on a motion? Why? How?
3. What are the critical mistakes that advocates make during opening and closing arguments?

**Round 2**

4. What are the critical mistakes that advocates making during direct and cross examination?
5. Do advocates overuse technology in the courtroom during trial? Can counsel put on an effective case without using trial technology?
6. What types of technology have assisted you and juries in understanding the facts?

**Round 3**

7. How persuasive are decisions from courts outside of the Sixth Circuit (for federal court judges) or appellate courts outside of your district (for state court judges)?
8. How often do juries decide a case the same way you would have?
9. How do you control the juror's use of smart phones and the internet during a trial (e.g., research topics, comments about the trial, mindless texting and surfing)?

#### **Round 4**

10. How often are you involved in discovery disputes? How do you prefer to resolve them: conference call or motion? How much “meet and confer” must take place before a party files a motion to compel? Under what circumstances would you order attorney’s fees when you grant a motion to compel?
11. Do you believe parties go overboard with electronic discovery? Have you ruled, in a particular case, that the burden of expense of proposed e-discovery outweighs its likely benefit? How often has that happened? What was the “tipping point”?
12. Are you more likely to limit e-discovery in certain types of cases? Which ones? Any suggestions on how parties can reduce discovery expenses? Has the expanded use of e-discovery resulted in more motions to compel?

#### **Round 5**

13. What effect do state or federal case disposition guidelines have on your position on motions for continuances, length of briefs, etc.?
14. What factors do you consider when presented with a motion for continuance or modification of the case schedule?
15. Without naming names, what are the most impressive and most embarrassing actions you have seen by attorneys in your courtroom?

#### **Round 6**

16. What is your preference concerning the length of briefs/motions? What if the plaintiff has 7 plus different claims?
17. Any advice on the submission, and response to, dispositive motions? What makes a brief most persuasive? What are common mistakes and/or oversights in submissions that detract from their persuasiveness?
18. What are some of the most common evidentiary mistakes attorneys make during motion practice?

### **Round 7**

19. What are your jury trial procedures? How do you handle voir dire (e.g., let attorneys ask questions, set time limits, etc.)? How handle objections (e.g., side bar, open court, etc.)?
20. What are the biggest mistakes you have seen attorneys make in voir dire? What would you consider to be some of the best practices?
21. Encourage attorneys in civil cases to file their own proposed jury instructions? If so, what common mistakes do you see? Do you think drafting proposed jury instructions helps the attorney better prepare for trial?

### **Round 8**

22. What role, if any, do you play in encouraging settlement or participating in settlement conferences? What advice should attorneys share with clients to prepare them for settlement?
23. When do you prefer to have the parties engage in mediation (e.g., early on, after discovery, after summary judgment denied)?
24. How do you prefer to handle TROs/injunctions? Pet peeves?

### **Round 9**

25. What do you consider to be the necessary elements of attorney professionalism? What steps do you believe attorneys should take to improve their professionalism?
26. Do you believe civility in the local bar has improved, deteriorated or stayed the same over the past ten years?
27. Do you notice any patterns of conflicts between opposing counsel who are of different genders, ages or races? Does the degree of civility change when out-of-town counsel are involved?

### **Round 10**

28. What was the hardest adjustment you had to make when you became a judge?
29. How long did it take you to be comfortable with civil cases (if you practiced criminal law) or criminal cases (if you practiced civil law)?
30. What specific courses, other than the required ones, would you advise law students to take to better prepare for their career?
31. What areas of study do you wish the attorneys who appear in your courtroom had studied more thoroughly?