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STATE OF OHIO

# Executive Department

OFFICE OF THE GOVERNOR

*Columbus*

I, Mike DeWine, Governor of the State of Ohio, do hereby appoint Richard S. Walinski, J.D., from Ottawa Hills, Lucas County, Ohio, as a Member of the University of Toledo Board of Trustees for a term beginning September 17, 2019 and ending at the close of business July 1, 2028, replacing Sharon Speyer, whose term expired.

2019 SEP 24 PM 12:03



IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 17th day of September in the year of our Lord, Two Thousand and Nineteen.

*Mike DeWine*

Mike DeWine  
Governor

## RICHARD S. WALINSKI

(Personal Information in addition to professional résumé):

**Born:** May 1, 1943 to

- Hon. Thaddeus N. Walinski (a learned and book-loving lawyer, politician, and judge who was fondly remembered as cultured, wise, warm, humble, and kind)
- and Genevieve E. (Stempnik) Walinski (charming, intelligent, generous, light-spirited but devout, earnest but with natural composure and grace)
- Brother: Thomas N. Walinski, MD, Scottsdale AZ (orthopedic surgeon, now retired)

**Married:** Shelley Meader Walinski

**Walinski Family:**

- Engaged in the private practice of law in Toledo continuously from 1908 and inducted as a family in the Northwest Ohio Polish Cultural Center Hall of Fame, October 17, 2018.
  - Grandfather: Nicholas J. Walinski (1908–1948)
  - Father: former three-term Vice Mayor of the City of Toledo; two-term judge of the Toledo Municipal Court (1939–43; 1946–75)
  - Uncle: Judge Nicholas J. Walinski, Jr.: Judge, United States District Court for the Northern District of Ohio (1951–58)
  - Richard (1969–present)

**Highlights:**

- Founding partner of Cooper & Walinski with Cary Rodman Cooper in 1969
  - litigation firm which grew to become Toledo's third largest firm with more than 40 lawyers
  - clients included: Dana Corporation, Owens-Illinois, Cooper Tire, ProMedica, Block Communications, Libbey Glass, Waste Management, Eaton Corporation, Columbia Gas of Ohio, Ohio Department of Corrections, New Waste Concepts, Knight Industries, Territory of the Virgin Islands.
  - RSW:
    - Represented Dana Corporation nationally for 32 years in:
      - contract litigation (see résumé, e.g., *The Rose Company v. Dana Corporation v. Neenah Foundry*),
      - insurance coverage litigation (see résumé, e.g., *Fireman's Fund Ins. Co. v. Hartford Acc. & Indemn. Co. v. Dana Corporation*),
      - merger-related litigation (see résumé, e.g., *Dana Corporation v. Celotex Asbestos Settlement Trust, et al.* and *Hartford Accident and Indemnity Company v. LTV Corporation and Dana Corporation*, including the organization and coordination of the company's defense against asbestos-related claims),
      - labor litigation (see résumé, e.g., *United Auto Workers v. Dana Corporation*)
    - While a member of the law firm, RSW twice took sabbaticals from the firm to serve as Chief Counsel to two Ohio Attorneys General, William J. Brown (1976–79) and Betty D. Montgomery (1995). He is the only person in Ohio to be appointed as the Chief Counsel to Attorneys General from each major political party
    - Additional appointments:
      - Public member, Ohio Constitutional Modernization Commission (2012–13)
    - Expertise in contract law and the law governing trial evidence;
    - Was an active from 1977–1980 in opposing the Ohio Supreme Court's adopting a version of the Federal Rules of Evidence to govern the admissibility of evidence in Ohio civil and criminal trials. He eventually had a significant impact on the content of the revised version of the Ohio Rules of Evidence that eventually was adopted.

- “. . . almost certainly our city[Toledo]’s finest legal mind . . . .” Keith Burris, Commentary, *Toledo Blade*, Nov. 16, 2018

**Schools attended:**

- Ladyfield School 1948–57 (K through 8) (Sisters of Notre Dame)
  - Gold Cross for highest scholastic achievement
- St. Francis de Sales High School (1957–61) (Oblates of St. Francis de Sales)
  - *Collegium Honorum* (Honor Society)
  - President of Freshman Class
  - Outstanding Junior
  - President of Senior Class
  - Defensive back on SFHS’s state-ranked football teams, including in first St. Francis–Central Catholic football game(1959)
    - Senior year: co-captain
- The University of Toledo, B.A. *Magna Cum Laude*; (5 semesters:1961–62; 1964–65) Xavier University (3 semesters: 1962–64)
  - Scholarship award for highest GPA in College of Arts and Sciences after freshman year
  - Major: Philosophy
  - Minors: Classical Languages (Latin and Greek); Religion
  - Phi Kappa Phi National Honor Society
- Duquesne University (Graduate School) (1965–66)
  - Area of Study: Philosophy, concentration in 20th Century Continental Philosophy (Existentialism)
  - Graduate Assistantship: student editorship, Duquesne University Press
- The University of Toledo College of Law, J.D. *Cum Laude* (1966–69)
  - Founding Editor-in-Chief, The University of Toledo Law Review, 1968–69
  - Justice, Student Honor Court
  - Order of the Coif (National law honorary recognizing high distinction in legal scholarship)
  - Man of the Year, 1969

**Honors:**

- Eagle Scout (1957);
- Northwest Ohio Polish Cultural Center Hall of Fame
- See also professional résumé

**Memberships (current and past):**

The Toledo Club Rockwell Springs Trout Club Inverness Club (Board of Governors) North Cape Yacht Club Toledo Tennis Club, Toledo Museum of Art (President’s Circle) Toledo Symphony	American Conifer Association Toledo Botanical Gardens Substance Abuse Services, Inc. (first Chairman of the Board) National Eagle Scout Association  (See also professional résumé)
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## RICHARD S. WALINSKI

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300 Madison Avenue  
Toledo, OH 43604  
419-931-6936  
rwalinski@brouse.com

31 Exmoor  
Ottawa Hills, OH  
43615

### PROFESSIONAL EMPLOYMENT:

2018: Of Counsel to **Brouse McDowell**

2012 to 2018; Senior Counsel to **Thacker Robinson Zinz LPA**

2011: Of Counsel to **Cooper & Walinski**

1969 to 1976, 1979 to 2010: Founding partner, **Cooper & Walinski LPA**

1995: Chief Counsel and Acting First Assistant, **Attorney General of Ohio Betty D. Montgomery (Republican)\***

Responsibilities included: (1) directed the newly elected Attorney General's assumption of responsibility for the legal affairs of the State of Ohio, (2) provided legal counsel personally to the Attorney General and other state officers, (3) supervised staff attorneys and outside counsel in major litigation in which the State of Ohio or any of its officers was a party, and (4) approved formal opinions of the Attorney General.

1976 to 1979: Chief Counsel, **Attorney General of Ohio William J. Brown (Democrat)\***

Responsibilities: (1) provided legal counsel personally to the Attorney General and other state officers, (2) supervised staff attorneys and outside counsel in major litigation in which the State of Ohio or any of its officers was a party, and (3) approved formal opinions of the Attorney General.

### ADMITTED TO PRACTICE:

Supreme Court of Ohio  
Supreme Court of the United States  
United States Court of Appeals for the Sixth Circuit  
United States District Court for the Northern District of Ohio  
United States District Court for the Southern District of Ohio  
And various other federal circuit and district courts

### MEMBERSHIPS:

American Bar Association  
Ohio State Bar Association  
Toledo Bar Association  
Litigation Counsel of America  
The Trial Law Institute  
American Institute of Appellate Practice  
The American Society of Writers on Legal Subjects

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\* Only person in Ohio to have appointed as Chief Counsel by Attorneys General from each major political party.

## PROFESSIONAL HONORS:

AV® rated by Martindale-Hubbell  
Listed, *The Best Lawyers in America*: Business Litigation (annually since 1993)  
Listed among Cincinnati Magazine's Ohio's Super Lawyers (annually since 2004)  
Listed among *Top 100 in Ohio* in the 2004 listing  
Distinguished Career in Law (2002), awarded by the Toledo Bar Association and The University of Toledo Law Alumni Association  
Order of the Coif (National law honorary recognizing high distinction in legal scholarship)  
Listed, *Who's Who in American Law*  
Distinguished Service Award, Ohio Academy of Trial Lawyers  
Fellow Emeritus, Litigation Counsel of America  
Fellow, Ohio State Bar Foundation

## PUBLICATIONS:

*Choice of law in Ohio: Two Steps Routinely Missed*, 51 AKRON LAW REVIEW 387 (2018)

*Ohio's Modern Courts Amendment Must Be Amended: Why and How*, 66 CLEVELAND STATE LAW REVIEW 69 (2017)

*Other-Acts Evidence: The Door is Now Open*, 25 OHIO TRIAL 20 (Winter 2015) ;  
<https://s3.amazonaws.com/membercentralcdn/sitedocuments/oh/oh/0545/719545.pdf?AWSAccessKeyId=AKIAIHKD6NT2OL2HNPMQ&Expires=1554400261&Signature=sF%2Fs9%2FKkf39c900mnV8%2FYC4W8X4%3D&response-content-disposition=inline%3B%20filename%3D%22Winter%5F2015%5Fweb%2Epdf%22%3B%20filename%2A%3DUTF%2D8%27%27Winter%255F2015%255Fweb%252Epdf>

*CLE for Judges: A Troublesome Practice*, 6 LITIGATION COMMENTARY & REV. 64 (November 2014)

*Allocation in All-sums Jurisdictions: Can Insurers Collect from Policyholders?*, COVERAGE (July/August 2007), relied upon in *Liberty Mut. Fire Ins. Co. v. J.T. Walker Indus.*, 2011 S.C.Unpub. LEXIS 32 (Supreme Court of South Carolina 2011)

*Choice of Law in Ohio: The Entire Restatement 2d of Conflicts*, 22 OHIO LAWYER (November/December 2008)

*The ABA's New Vision of the Jury's Function: An Opposing View*, 32 LITIGATION 5 (Spring 2006)

*Questioning by Jurors: A Flawed Idea*, 19 OHIO LAWYER 32 (January/February 2005)

*Rethinking CLE for Judges*, 18 OHIO LAWYER 6 (July/August 2004)

OHIO EVIDENCE (1989) (co-author)

*Expectations of Privacy: Fourth Amendment Legitimacy Through State Law*, 16 HARVARD CIVIL RIGHTS-CIVIL LIBERTIES LAW REVIEW 1 (1981)

*The Proposed Ohio Rules of Evidence: The Case Against*, 28 CASE WESTERN RESERVE LAW REVIEW 344 (1978)

*The Ohio Rules of Evidence*, 51 OHIO BAR 48 (1978)

## ACKNOWLEDGMENTS:

**GARNER'S MODERN AMERICAN USAGE** ix (4th ed. Oxford 2016)  
DONALD F. MELHORN, JR., **THE RIGHTS OF WOMEN IN A DEMOCRATIC REPUBLIC: A MODERN EDITION** Preface (Archway 2016)  
**BLACK'S LAW DICTIONARY** ix (10th ed. 2014)  
BRYAN A. GARNER, **A DICTIONARY OF MODERN LEGAL USAGE** xiv (3rd ed. Oxford 2011)  
**GARNER'S MODERN AMERICAN USAGE** xxiii (3rd ed. Oxford 2009)

**BLACK'S LAW DICTIONARY** viii (9th ed. 2009)  
SUPREME COURT JUSTICE ANTONIN SCALIA AND BRYAN A. GARNER, **MAKING YOU CASE: THE ART OF PERSUADING JUDGES** ix (Thomson/West 2008)  
**GARNER'S MODERN AMERICAN USAGE** xviii (1st ed. Oxford 1998)  
BRYAN A. GARNER, **A DICTIONARY OF MODERN LEGAL USAGE** xi (2nd ed. Oxford 1995).

## EDUCATION:

### Professional:

The University of Toledo College of Law, J.D. 1969  
Editor-in-Chief, The University of Toledo Law Review, 1968-69  
Order of the Coif

### Graduate:

Duquesne University, 1965-66  
Area of Study: Philosophy, concentration in 20th Century Continental Philosophy  
Graduate Assistantship: Duquesne University Press

### Undergraduate:

The University of Toledo, B.A. 1965  
Major: Philosophy  
Minors: Latin and Greek  
Phi Kappa Phi National Honor Society

**OTHER PROFESSIONAL PRESENTATIONS:**

- Member, Ohio Constitutional Modernization Commission
- Presenter, Masters Series: Evidence and Hearsay Columbus Bar Association
- Panelist, ABA National Symposium on the American Jury System, Southern Methodist School of Law, Dallas TX
- Chairman, Rules Advisory Committee of the Supreme Court of Ohio (one of five private practitioners appointed by the Supreme Court to the state-wide committee that advises the Court regarding the codified rules of civil, criminal, and appellate procedure and the codified rules of evidence)
- Member, Merit Selection Panel, United States District Court for the Northern District of Ohio
- Lead Speaker, Evidence & Hearsay, Columbus Bar Association CLE Masters Series
- Presenter, Evidence Reform, National Association of Attorneys General
- Lecturer, Monthly Seminars (over three years) on Ohio and Federal Rules of Evidence, Toledo Bar Association
- Lecturer, Ohio Legal Center Institute (evidence Rules regarding expert witnesses)
- Lecturer, Ohio Association of Civil Trial Attorneys (evidence Rules regarding expert witnesses)
- Lecturer, New Ohio Rules of Evidence (four seminars)
- Lecturer, Ohio Evidence (seminar comparing Ohio and federal law of evidence)
- Lecturer, Federal Rules of Evidence: Pointers and Pitfalls (seminar)
- Commentator, Evidence Seminar for Federal Court Practitioners
- Consultant, Ohio General Assembly Select Committee on Evidence (assisted in adapting the Federal Rules of Evidence for promulgation as Ohio Rules of Evidence)
- Special Counsel, Attorney General of Ohio
- Member, Ohio State Bar Association's Select Committee on Evidence Reform
- Lecturer, Common Pleas Judges' Summer Seminar (statutory construction)
- Lecturer, Ohio Legal Center Institute (statutory construction)
- Lecturer, The University of Toledo College of Law (Jurisdiction and Federal Rules of Civil Procedure)

**RECENT SPEECHES:**

- Originalism: One Lawyer's Perspective* June 6, 2019
- Why Have the Senate's Judicial Confirmation Hearings Become So Political and So Ugly?* February 26, 2019

## SAMPLING OF LEGAL MATTERS HANDLED:

- United States of America v. Territory of the Virgin Islands, et al.*, 884 F. Supp. 2d 399 (D.V.I. 2012). Lead counsel 2011–12 for the defendants in decades long prison-conditions suit filed by the United States Department of Justice Civil Rights Division; obtained order vacating all remedial decrees entered against the defendants in previous 26 years regarding conditions at Golden Grove Correctional Facility, ruling that the orders failed to comply with the requirements of the Prison Litigation Reform Act, 18 U.S.C. § 3626. See also 280 F.R.D. 232 (D.V.I. 2012) (discovery order holding that plaintiff's experts may not interview prison staff or employees while conducting onsite visit under Fed. Civ. R. P. 34).
- United States of America v. James A. Telb*, No.20 09-0182 United States District Court for the Northern District of Ohio. Co-counsel for a defendant in criminal prosecution by the United States Department of Justice Civil Rights Division against Lucas County Sheriff and three deputies alleging civil-rights violations in the death of a pretrial detainee allegedly caused by application of a sleeper hold for restraint. Lead counsel at trial for all defendants on medical issues regarding cause of death. *Verdict*: Not Guilty on all counts involving causation of inmate's death.
- Salkil v. Village of Mount Sterling*, 458 F. 3d 520 (6th Cir. 2006). Lead counsel for appellant Equal Justice Foundation; reversed sanctions awarded under Rule 11 and 28 U.S.C. § 1927.
- Dana Corporation v. Celotex Asbestos Settlement Trust, et al.*, 251 F.3d 1107 (6th Cir. 2002). Lead counsel for Dana in 18-year litigation arising out of Dana's divestiture of corporate subsidiary; affirmed trial court's summary judgment for appellee Dana.
- Taaron Schaffer et al. v. A.O. Smith Corporation, et al.*, 74 F.3d 722 (6th Cir. 1996). Lead counsel in trial court and on appeal for primary defendant in double-fatality product liability case; affirmed trial court's entry of summary judgment for defendants, holding expert testimony inadmissible to establish the existence of a manufacturer's duties.
- Faurecia Automotive Seating, Inc. v. Toledo Tool and Die Company*, 579 F. Supp. 2d 967; 2008 U.S. Dist. LEXIS 76098 (N.D. Ohio 2008). Co-counsel in charge of briefing motion for judgment on the pleadings on the ground that the complaint alleged an unenforceable, illusory contract. Motion granted.
- Pangle v. Roundy's Lake Sales*, 76 Ohio St. 3d 389 (1996). Lead counsel on appeal for defendant-appellants; affirmed appellate court's reversal of order granting new trial after defense verdict.
- State of Ohio v. McDermott; John Lawrence, Esq., Contemnor*, 72 Ohio St. 3d 570 (1995). Lead counsel on appeal for attorney held in contempt and jailed for refusing to divulge communications with client; affirmed appellate court's reversal of contempt order, holding that Ohio recognizes no waiver of the attorney-client privilege except those set forth in Ohio Revised Code §2317.02(A). *State v. Post*, 32 Ohio St. 3d 380 (1989), overruled in part.
- TRINOVA Corporation v. Pilkington Brothers, P.L.C., Libbey-Owens-Ford Company*, 70 Ohio St. 3d 271 (1994). Co-counsel for plaintiff-appellee in action to recover \$14,000,000 indemnification under contract for corporate divestiture, holding the principle of contract integration is a corollary to the parole evidence rule.
- Dana Corporation v. Fireman's Fund, et al.*, 865 F.2d 257, 1988 U.S. App. LEXIS 16994 (6th Cir. 1988). Lead counsel in trial court and on appeal for plaintiff-appellee; affirmed injunction against defendant Celotex Corporation from filing new actions or further prosecuting current cases against the Dana in other jurisdictions.

*State v. Geraldo*, 68 Ohio St. 120 (1981); 13 Ohio App. 27(1983). Lead counsel for defendant-appellee; affirmed order suppressing evidence obtained from single-party-consent wiretap.

*Childs v. Hon. Sumner Walters, et al.*, (unpublished) Supreme Court of Ohio. Lead counsel for primary lead respondent in original action for extraordinary writs; *held*: writs denied. *Id.* Lead counsel in United States Court of Appeals for the Sixth Circuit; affirmed order granting summary judgment that gave *res judicata* effect to supreme court decision.

*Hartford Accident and Indemnity Company v. LTV Corporation and Dana Corporation*, 774 F.2d 677 (5th Cir. 1985). Lead counsel for defendant-appellant at trial and on appeal of declaratory judgment action for indemnification arising out of divestiture of corporate subsidiary.

*United Auto Workers v. Dana Corporation*, 679 F.2d 634 (6th Cir. 1981), *vacated and dismissed as moot*, 697 F.2d 718 (6th Cir. 1983) (*en banc*). Co-counsel for defendant-appellant at trial and on appeal; lead counsel for rehearing *en banc* in which appellate panel's decision that affirmed trial court's injunction ordering employer to remain neutral during union's effort to organize employees was vacated and action dismissed.

*Markowitz and Company v. Lucas County Metropolitan Housing Authority*, 608 F.2d 699 (6th Cir. 1979). Lead counsel for plaintiff-appellee at trial and on appeal of contract action against local housing authority; affirmed damage award for breach of contract.

*Lamb Enterprises, Inc. v. Hon. George N. Kiroff, et al.*, 549 F.2d 1052 (6th Cir. 1977). Lead counsel for appellant; reversed district court's injunction against state-court action retrying previously vacated federal court verdict. This is the seminal Sixth Circuit case on the applicability of *Younger v. Harris* to federal-court injunctions against civil proceedings in state court.

*Afro-American Patrolmen's Association v. Duck, et al.*, 503 F.2d 294 (6th Cir. 1974). Co-counsel for intervening individual police officers in civil rights class action whose promotions to sergeant were enjoined by the district court.

*Palmer v. Columbia Gas of Ohio, Inc.*, 479 F.2d 153 (6th Cir. 1973). Co-counsel for defendant-appellant at trial and on appeal of action under 42 U.S.C. §1983; affirmed injunction against public utility from terminating gas service on grounds that utility's action constituted state action and violated due process.

*Taylor, et al. v. Perini*, 477 F. Supp. 1289 (N.D. Ohio 1979). Lead counsel representing the Ohio Department of Rehabilitation and Correction during proceedings to enforce injunction obtained by inmate class regarding conditions of confinement.

*Fireman's Fund Ins. Co. v. Hartford Acc. & Indemn. Co. v. Dana Corporation*, (N.D. Ohio). Lead counsel for policyholder in action among insurers over contribution for sums paid on insured's behalf under policies of insurance that were retrospectively rated.

*Ruiz v. Estelle*, United States District Court for the Southern District of Texas. Counsel retained by the Administrative Office of the U.S. Courts to represent court-appointed monitor in month-long hearing on State of Texas' motion to discharge the monitor.

*Guthrie v. Evans*, United States District Court for the Southern District of Georgia. Retained by the Administrative Office of the U.S. Courts as lead counsel for special master/court-appointed expert witness in prison conditions suit in Georgia.

*Parrish Power Products, Inc. v. Dana Corporation*, United States District Court for the Northern District of Ohio. Co-counsel for defendant in antitrust action; settled after three years of litigation for no monetary relief.

***The Rose Company v. Dana Corporation v. Neenah Foundry***, United States District Court for the Eastern District of Wisconsin; ***Stuller Engineering and Marketing Services, Inc. v. Dana Corporation v. Neenah Foundry***, United States District Court for the Northern District of Texas. Lead counsel for defendant in parallel actions alleging breach of contract for the sale of goods.

***Seilon, Inc. v. Edward O. Lamb, et al.***, United States District Court for the Northern District of Ohio. Co-counsel at trial for publicly traded plaintiff in injunction action against minority shareholders to compel 13D disclosure of the formation of a group to gain control of plaintiff corporation.

***Blackburn, Guardian, etc., et al. v. Creasey, etc.***, United States District Court for the Northern District of Ohio. Lead counsel for plaintiffs, profoundly retarded residents of Northwest Ohio Developmental Center; injunction issued to prevent termination of Center as licensed Medicaid provider. *O'Bannon v. Town Court Nursing Center*, 447 U.S. 773 (1980), distinguished.

***Hirsch, et al. v. Payne County Drilling Partners, et al.***, Common Pleas Court of Lucas County, Ohio. Lead counsel for group of corporate executives in action under Blue Sky law to recover sums invested in tax shelters.

***Jemo Associates, Inc. v. City of Van Wert, et al.***, United States District Court for the Northern District of Ohio. Lead counsel for defendants in action under 42 U.S.C. §§1981 and 1983 against city and its officials for preventing construction of federally subsidized housing construction.

***Defiance Associates v. City of Defiance, et al.***, United States District Court for the Northern District of Ohio. Co-counsel for plaintiff building contractor in civil rights action against city and its officials for preventing construction of federally subsidized housing.

***Mower, et al. v. Denton, et al.***, United States District Court for the Northern District of Ohio. Lead counsel for the Ohio Department of Rehabilitation and Correction in class action challenging conditions of confinement.

***Hunt v. Michigan State University***, United States District Court for the Western Division of Michigan. Co-counsel in action in which varsity football player who was suspended by order of N.C.A.A. sought injunction against further suspension.

***Gordon v. Blue Cross of Northwest Ohio***, United States District Court for the Northern District of Ohio. Lead counsel for prevailing plaintiff in Title VII action in which defendant consented to affirmative measures to improve working conditions and advancement opportunities for women employees.

***Toledo Board of Education Title VI Compliance Review***. Lead counsel for city school district in school segregation investigation by United States Department of Health, Education and Welfare and in other threatened school desegregation matters (1973 – 1976).

***General Motors Engine Switch Litigation***, United States District Court for the Northern District of Illinois. One of the three attorneys who negotiated the nationwide settlement of various public agencies' lawsuits against General Motors arising out of its installation of Chevrolet engines in Oldsmobile automobiles.