September/October 2021

BARBEAT

Genesee County Bar Association

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Table of Contents

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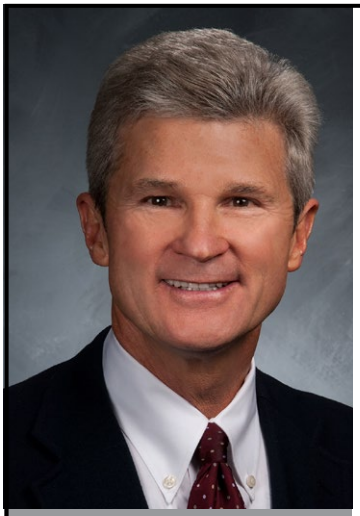

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The Law Has It Right

By William J. Brickley, President

William J. Brickley

I was recently part of an email exchange which started with a halfhearted attempt to make humor over a political issue. As you might expect, the exchange quickly degraded into insults, and unfounded accusations both as to the politics and the persons espousing those views. Dan Aykroyd's famous line, "Jane, you ignorant [redacted]," was no match for the nauseating words being tossed about. Thoughts became facts, a question became the answer, and truth and civility became a victim. This was simply one example of the discourse that we all encounter every day, whether it be an email or text exchange, the comments left following a news article, Facebook posts, or those in the political arena, both by elected and nonelected persons.

After hitting the delete button I realized the law has it right. We as lawyers are not immune from involving ourselves in degrading, uncivil and baseless claims. We do, however, as a profession and in our rules, place civility and support for our positions as a cornerstone of what we do. Our legal system recognizes our roles as advocates for our clients and yet can balance that obligation with our duty to steer clear of frivolous positions and unbecoming conduct toward one another all with the goal of seeking the truth.

We affirm our dedication to these principles throughout our professional rules. MRPC 3.1 prohibits us from taking unfounded positions or claims. MRPC 3.3 directs us to not make false statements of fact or law and to disclose not only authority which supports our positions but also authority which contradicts our positions. MRPC 3.4 is titled *Fairness to Opposing Party and Counsel* and then lists our obligations to our opponents to be fair and evenhanded. MRPC 4.4 prohibits us from seeking to embarrass or burden a third person. We are even directed to "treat with courtesy and respect all persons involved in the legal process." MRPC 6.5.

Even the court rules we adhere to give us guidance. MCR 2.116 provides detailed rules for supporting our positions both factually and legally when motions are brought. We are required to support with factual and legal authority all allegations made.

The rules of evidence are particularly stringent regarding the basis for making claims. Not only are we required to present only relevant evidence (MRE 401, 402), but we limit the type of derogatory evidence that may be used to insult and degrade a witness or party in MRE 404, 405, 608 and 609. We make sacred a person's religious beliefs and opinions in MRE 610. We require witnesses to have personal knowledge of a matter before they can speak to it (MRE 602). In MRE 701, 702 and 703 we limit when and who can give any opinion they wish. Of course, saying what someone else told them has it limits in the law as well in MRE 801, 802, 803, 804 and 805.

We not only ask attorneys to follow these principles, but we ask our jurors to do the same. We recognize that people come to court with biases, prejudices, and sympathies but we ask them to put those aside when judging their fellow citizens (MI Civ JI 3.02).

At times I imagine a day when Uncle Bob starts spouting his opinions, which he has turned into facts, at Thanksgiving dinner, when I can simple state, "Objection, lack of foundation!". Once it is determined he has no basis for his statements we can then move the conversation to how luscious Aunt Millie's pecan pie turned out.

The reality is I know that day will never come. The First Amendment we all consider so precious will allow Uncle Bob or whomever to ramble on with insults and farfetched theories. I also know who will be there to fight for Uncle Bob and his right to say these things, Lawyers! Oh, the irony.

Constitutionally, for What Question *is Michigan's "One-Man Grand Jury" the* Answer?

By Glenn M. Simmington

Glenn M. Simmington

First Lawyer: "A one-man grand jury issued criminal charges against the guy."

Second Lawyer: "A what?"

First Lawyer: "A one-man grand jury."

Second Lawyer: "What on earth – "

First Lawyer: "You know, a single person is presented with information that *someone* else – maybe just *one* someone else – has claimed that *another someone else* should be arrested and charged with a crime."

Second Lawyer: "Not only doesn't that sound very "grand," but that can't possibly meet the definition of a 'jury!'"

First Lawyer: "Doesn't matter. It's perfectly legal."

So, which of these counselors is correct? Can a single person *strictly* be defined as a "jury," ("grand" or otherwise)?

The answer is no. (You can look this up.) So, "second lawyer" is correct. But, at least in Michigan, it is also true that the "one-man grand jury" being discussed *is* perfectly legal. So, "first lawyer" is also correct.

When any profession, but especially the legal profession, finds it necessary to torture the language in order to get something done, the something that gets done should be regarded with suspicion. A "one-man grand jury" is *not, literally*, a jury. And a jury, by definition, cannot consist of "one man." (Again, you can look this up.)

Constitutionally "Unwise?"

Roughly 2500 years ago, Chinese philosopher Confucius remarked that "the beginning of wisdom is to call things by their proper name." Some 65 years ago, (perhaps with Confucius' maxim in mind, but probably not), it was reported in the University of Michigan Law Review that

> Michigan's popularly-termed one-man grand jury is not a grand jury in the common law sense. [One principal difference] between it and the common law grand jury [is that] the investigation is performed by one judge instead of sixteen to twenty-three grand jurors …

Stephen C. Bransdorfer S.Ed., *Constitutional Law - Due Process - Power of Michigan One-Man Grand Jury to Punish Contempt*, 54 Mich L Rev 414 (1956). (Footnotes omitted.).

Continued on next page

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"One-Man Grand Jury"
Continued from page 5

This distinction, between the statutory "one-man grand jury system," (M.S.A. §§ 28.943-945 [1954]), and the common-law grand jury system, is an important one when assessing the "wisdom" of the former. (*Consider*: the statutory system might be thought of as the "misnomer" grand jury system, whereas the common-law one may be termed the "literal," or "actual" grand jury system.)

A *literal* grand jury, because comprised of a group, (rather than by a single judge, like the *misnomer* grand jury), will almost never include anyone whose life experience includes having been a prosecutor. Consequently, a *literal* grand jury will not, as a group, be inclined to possess the "prosecutorial mindset" of a one-man grand jury. (Statistically, judges who are former prosecutors vastly outnumber judges who principally practiced as defense lawyers.) In turn, the *literal*, group grand jury should be seen as inherently more "neutral" than the *misnomer*, one-man grand jury.

(Think about it: such neutrality will naturally stem from the fact that "group grand juries" are made up of individuals that are not merely diverse members of society, but also persons who can "check and balance," each other's prosecution and defense tendencies.)

In short, when a grand jury consists of a *single individual* (irrespective of whether he or she may be a former prosecution or defense lawyer), its *decisions* are far more likely to be the product of arbitrary fiat - unchecked, and lacking balance - than grand jury decisions made by a body of individuals who are selected from the community. Such a *body of individuals* can be expected to not only *participate* in the process, but to also *deliberate, among themselves,* on that process.

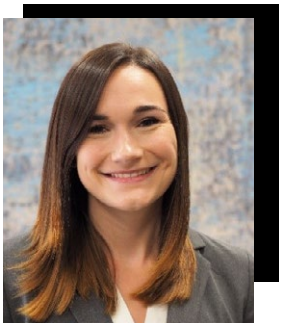
Conclusion

We have all heard the phrase "a grand jury would indict a Ham Sandwich." Such derision of the grand jury process reflects its shortcomings, from an individual constitutional rights perspective. By law, grand jury proceedings are conducted in secrecy, with "target" subjects receiving no notice of what's being investigated, (much less what is their alleged involvement in the matter being investigated). Secrecy, it is said, allows prosecutors to "have their way" with the decision-maker(s), unencumbered by contrary input "from the other side."

Such criticism regarding the "unfairness" of the grand jury process has been debated within constitutional legal circles virtually from our Constitution's birth. The criticism, and the debate, will not end soon. The grand jury, as a method of initiating criminal charges, is here to stay. But the "one-man grand jury," unique to Michigan, nonsensically named, and rife with the potential to produce arbitrary, unbalanced, and unfair charging decisions, should be abolished.

Expungement Clinic Update and Preview

By Jenna Gardner (Affiliate member)


Jenna Gardner

Legal Services of Eastern Michigan (LSEM) hosted its first Expungement Clinic on July 30, 2021, under the new "Clean Slate" law. The clinic was a huge success! LSEM summer law clerks, under the supervision of attorneys, analyzed the cases and determined each client's eligibility before the in-person event. On the day of the clinic, each client received individualized advice, as well as the paperwork to set aside the conviction(s). More than twenty individuals walked away from the clinic with their completed paperwork, a checklist to proceed with the expungement process, and the opportunity to receive free fingerprints.

LSEM plans to host another Expungement Clinic on **October 28, 2021 from 11:00 a.m. to 5:00 p.m**. We will need volunteer attorneys to advise clients on the day of the clinic, either virtually or in person.

Alternatively, if you are unable to attend on October 28th, we also need volunteer attorneys to pre-review cases and determine eligibility for expungement prior to the event. LSEM has created training materials to help attorneys navigate the new law. LSEM further plans to host a training webinar for volunteer attorneys in September/October of 2021.

If you would like to volunteer at the October 28th clinic, please contact: Jenna Gardner, jgardner@lsem-mi.org or 800-322-4512 ext. 132 or fill out the contact form at: http://lsem-mi-volunteer.org.

2021-2022 Supreme Court Preview: Reproductive Rights

By Shelley R. Spivack

Shelley R. Spivack

"In an unbroken line dating to Roe *v* Wade*, the Supreme Court's abortion cases have established and affirmed, and re-affirmed) a woman's right to choose an abortion before viability. States may regulate abortion procedures prior to viability so long as they do no impose an undue burden on the woman's right, but they may not ban abortion*."[1]

In writing these lines, Judge Patrick Higginbotham of the 5th Circuit Court of Appeals affirmed a 2018 district court decision striking down Mississippi's ban on abortions performed after 15 weeks. One of a series of laws enacted during the last several years directly banning abortions performed prior to viability (Mississippi subsequently passed a law banning abortions at 6 weeks), the law poses a direct challenge to the Supreme Court's 1973 ruling in *Roe v Wade*.[2]

The constitutionality of the ban will be decided by the US Supreme Court in what looks to be the most widely anticipated case of the 2021-2022 term. Granting certiorari on 5/17/21, the Court delayed its decision for almost a year. After the death of the late Hon. Ruth Bader Ginsburg and the appointment of Amy Coney Barrett to the high court bench, Mississippi prevailed in its request for Supreme Court review.

The Court review will be limited to one central issue: "Whether all pre-viability prohibitions on elective abortions are unconstitutional."

In its brief filed on 7/22/21, Mississippi repeatedly urges the Court to overrule *Roe* and *Casey*[3]*;* arguing that the decisions in both cases were "egregiously wrong" and that the U.S. Constitution does not protect a women's decision to terminate her pregnancy. The Center for Reproductive Rights, which represents Mississippi's sole remaining clinic, argues that for five decades the Court has consistently upheld *Roe's* central premise: that before viability the Constitution guarantees an individual's liberty to weigh all possible interests and ultimately to decide for themself whether to continue a pregnancy. The Center also points out that Mississippi, which has one of the highest infant and maternal mortality rates in the country, ignores the needs of the one in four women in this country who will have an abortion at some point in their lives.

Last year, in a 5-4 decision, the Court rejected Louisiana's attempt to curtail the number of doctors who could perform abortions in the state.[4] Chief Justice Roberts, who in the past has upheld most abortion restrictions, cast the deciding vote. In a concurring opinion, he relied heavily on the role of precedence. This year however, with the death of Justice Ginsburg, Chief Justice Roberts will no longer be the swing vote and the fate of *Roe* may lie in the hands of the Court's two newest justices.

While no one can predict the outcome in the case, what is clear is that if the Court overturns *Roe,* women in approximately one half of the states, including Michigan, may no longer have the ability to choose whether to terminate their pregnancies.

The case is scheduled for the fall term; however, a date for oral arguments has not yet been set.

AUTHOR'S NOTE: Shortly after the writing of this article the US Supreme Court issued a 5-4 unsigned Order denying Injunctive Relief in the case of *Whole Woman's Health et al.* v *Austin Reeve Jackson, Judge et al*, 594 US ____(2021). Plaintiffs sought an immediate injunction against S.B. 8, a law passed by the Texas legislature making it unlawful for physicians to perform abortions if they detect cardiac activity in an embryo. The effect of the law would be a virtual ban on abortions beginning 6 weeks after a woman's last menstrual period. S.B 8 prevents public officials from enforcing the Act, and instead authorizes any private citizen to sue anyone who either provides an abortion or "aids or abets" such an abortion. Plaintiffs sought Supreme Court review as a Fifth Circuit panel had abruptly stayed all proceedings (including a preliminary injunction hearing) and the law was set to go into effect 9/1/21. Dissenting from the Court's order were Chief Justice Roberts, and Justices Sototmayor, Kagen, and Breyer -- each of whom wrote a dissenting opinion. As stated by Justice Sotomayor: ". . . the Act is a breathtaking act of defiance -- of the Constitution, of this Court's precedents, and of the rights of women seeking abortions throughout Texas."

Endnotes

1 *Dobbs v Jackson Women's Health*, 945 F 3d 265 (5th Cir. 2019)

2 *Roe v Wade*, 410 US 113 (1973)

3 *Planned Parenthood of Southeastern Pennsylvania v Casey,* 505 US 833 (1992)

4 *June Medical Services LLC v Russo,* 140 S Ct 2103, 2136 (2020)

Judges Should Call More Fouls

By John A. Streby

John A. Streby

This may offend some, but perhaps our judges could do more to protect our courts from being hijacked by the unscrupulous members of the bar. This shortcoming is frequently found in domestic relations courts, where emotions run hot and heavy. But that is all the more reason to demand calm, dispassionate advocacy, rather than a caricature of it.

I was once accused on the record of slander of title, a serious matter. The judge admonished me that "if" the accusation were true (which it was not), then shame on me. On the other hand, the judge didn't warn the accuser that if his allegation proved false, it would reflect poorly on him. Perhaps I should have indignantly demanded that the court order the accuser to either retract his claim or prove it then and there. But I let the matter ride, to my later regret.

Much of the domestic relations clientele fails to appreciate the need for civility in court, and litigants often expect grandiose theatrics by their lawyers, complete with turgid rhetoric and distorted claims against the opponent---and in many cases, his or her attorney. Still, a gratuitous accusation of unethical behavior calls for stern judicial admonishments that such charges may trigger serious consequences if they are false. Judges wouldn't tolerate wrongful accusations against themselves, yet all too often, they allow their courtrooms to serve as a public forum for the shenanigans of a small but irresponsible segment of the domestic relations bar to do so.

Additionally, unprofessionalism in the courtroom needs to be recognized for what it is: a form of unfair competition, affording an unearned advantage to those who practice it.

The main areas of abuse are:

- INTERRUPTING the judge or opposing counsel.
- DISPARAGING the integrity of the opponent or their attorney. The immunity from suit given to lawyers, witnesses and litigants for statements in court pleadings, testimony and oral arguments shouldn't be abused or taken for granted.
- LACK OF PUNCTUALITY, a form of passive-aggressive behavior that rewards the wrongdoer and penalizes the victim. Lawyers who chronically overbook themselves so that their adversaries are left waiting need to be called out by judges, because complaints from fellow lawyers rarely register. Anyone whose caseload causes perpetual scheduling conflicts should associate with one or more attorneys, or seek adjournments when needed.
- EVASIVE PLEADINGS in which the word "denied" is used indiscriminately. At one extreme are answers so sparse in detail that they say nothing; the other extreme is boilerplate affirmative defenses. The standards of MCR 2.111(A) are there for a reason. During a pretrial conference, former Bankruptcy Judge Arthur Spector asked an attorney for an offer of proof on each affirmative defense, and his lame response led to one after another being stricken, a no-nonsense approach that commands respect.
- EVASIVE DISCOVERY responses, particularly with respect to Requests for Admissions, which have proven to be a fertile field for obfuscation, evasion, and feigned ignorance. Judges who tolerate this form of litigation abuse encourage more of the same. Discovery responses are no place for artful dodging. But discovery abuse can come from either side. An example is boilerplate interrogatories addressing child support issues in a DO case.

Most lawyers find abusive litigation tactics to be needlessly stressful, time-consuming, and costly for us and our clients. Enforcing standards of punctuality, civility, and judicial economy is as much the Courts' function as that of the bar.

Let me be clear: I do not suggest that constant threats of sanctions should be deployed so as to sand the edges off diligent advocacy. Sanctions should be a last resort against chronic offenders among us whose tactics are far over the top.

These attorneys have made the deliberate choice to compound problems rather than resolve them. They do so to get more clients, bigger fees, and misguided ego gratification. The majority of us behave professionally and should not be subsidizing those who don't.

But our low-key objections are no match for the histrionics, bombast and *ad hominem* attacks that are the stock-in-trade of litigation abusers. Peer pressure has likewise proved ineffective as a deterrent to what I describe. Abusive litigation works to the detriment of everyone, whether we wear business suits or black robes. We must help each other counter this blemish on our honored profession.

[**EDITOR'S NOTE**: We invite a response from the judiciary so we will understand all of the ramifications of the issues presented.]

*COVID, Schools, and "*Lombardo*" Hearings*

By Cara Willing

Cara Willing

In Flint, there have been numerous protests regarding the mask mandate for K-12th grade and threats have been made to public health officials by those who oppose the mandate. During the 2020-2021 school year, there were many families arguing in county courts about whether to send their children to in-person or virtual school. Some parents were concerned about their children contracting COVID-19, while others struggled to keep their children focused and self-motivated. There were also parents who were concerned that the online format did not provide accommodations for students who have have Individualized Educational (IEP) or 504 Plans.

So how do these arguments play out in court? If the parents cannot agree, but they share legal custody, one of them must petition the court to decide using the "Best Interest Factors" in a *Lombardo* Hearing. Pursuant to *Lombardo v Lombardo*, 202 Mich App 151, 507 NW2d 788 (1993), a trial court cannot direct one parent over the other to decide regarding important decisions that fall under the umbrella of joint legal custody decisions. The relevant "Best Interest Factors" listed in MCL 722.23 guide the court's decision.

In May 2021, the *Michigan Family Law Journal* published an article that explored change of school district cases.[1] The article focused on when parties should file such cases (late spring to early summer), what evidence to gather, and what points the parties should focus on (the child's needs). However, the article does not detail the impact of COVID-19. With COVID-19 cases rising, there is no doubt that parents will be searching for attorneys to assist them to change school districts for their child(ren). What kind of evidence would be relevant to such cases, and what types of arguments make sense for these *Lombardo* evidentiary hearings?

As O'Neill's article advises, focus on the child.[2] Does the child have any impairments that make learning online difficult such as visual, hearing, cognitive, etc.? Does the child have anxiety (diagnosed), and does the threat of COVID-19 affect their ability to concentrate in-person? Was there a noticeable slump in grades when the child went from in-person to online? Does the child have a compromised immune system?

Next, focus on the school and what the school has done to address these problems. What has this school offered to help boost the child's grades? What has this school system implemented to prevent the spread of COVID-19? What has the child's academic advisor done to involve the parents? Did the school offer summer school or extra tutoring to catch the child up?

Lastly, focus on the parents. What has your client done to assist with schooling? If they prefer virtual schooling, is the child doing well? If the parent wants to have the child attend in-person but their school no longer offers that option, will a change of school or district solve any problems the child has with learning virtually?

When gathering information from the client, it is also important to clarify a few details regarding schools. Many of the arguments blaming one parent or the other for not getting school assignments submitted are difficult to prove, especially with online learning. The best person to interview is the *child* if they are age-appropriate and honest about who makes them get their work done. Clients often provide attorneys and guardians ad litem with school records that provide the number of days missed or a list of assignments not turned in, but these lists are often useless because it is hard to determine which parent is to blame. The most important evidence is communication between teacher and parent. Has the teacher been proactive? Responsive? Has the parent set up meetings or phone calls? Are IEP meetings still occurring, or has the district postponed them until COVID numbers are down?

School district changes are difficult cases to prove, especially in a time of uncertainty and "pivoting." Is the child really failing because of online learning, or were they failing previously? Is the school district the one to blame, or is the child being impacted by the parents' fighting so they can no longer focus? COVID-19 has made it difficult for people to co-parent, but it should not be used as an excuse to uproot children from districts they have been involved with for years.

Endnotes

1 O'Neil, Ryan M. "School Is Now in Session." *Michigan Family Law Journal* 51, no. 5 (May 2021): 3–4

2 *Ibid*

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* Many thanks to Amir Abu-Aita for compiling this list for us. If we missed anyone, please send your information to barbeat@gcbalaw.org so we can honor you in the next issue.

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Some Thoughts on Judge Dan Opperman

By John A. Streby

John A. Streby

Now that he has been reassigned to sit full time in the Bay City Bankruptcy Court, the time is opportune to reflect on Judge Daniel S. Opperman, who presided over Flint's Court from 2006 to 2018. I offer no profound insights, just some simple observations of a man I like and respect.

In 2006, I was relieved to learn that the new Bankruptcy Judge hailed from the firm of Braun Kendrick Finkbeiner, as their style is cordial and compassionate. That was confirmed when I stopped at departing Judge Walter Shapero's office to chat with his law clerk, Melanie Beyers. A man stepped into the room, and not knowing who he was, my greeting was along the lines of 'Who might you be?' It wasn't exactly flippant, but insufficiently deferential, given that he was the incoming Judge Opperman, which Melanie politely pointed out. I stuttered a bit over my *faux pas*, but the Judge handled it with class, showing the gift of sincere humility.

Judge Opperman quickly established a personal style both on and off the bench that is congenial, open, relaxed, and friendly. It reveals a man comfortable in his own skin, without the insecurities that plague lesser men. He is a firm believer in the right of every litigant to fully develop the record, whether by briefing, evidence or testimony -- and shows the patience to make that a reality. His self-deprecating modesty is illustrated by his reference to Melanie Beyers as his "long suffering" law clerk, a characterization to which she cordially disclaims.

One day I was summoned to the courthouse for a hearing that had not been put on my calendar. Reporting to chambers, I ruefully informed Judge Opperman that because I hadn't anticipated a court appearance, I had no sport jacket to wear. He could have chastised me, or simply waived that requirement, but instead went one even better, loaning me his *own* jacket. It was two sizes too big, but that didn't matter; the effect of this *beau geste* was to firmly establish Opperman's *bona fides* as a stand-up guy.

This is not to say that Judge Opperman is a feelgood judge who can't make the tough calls. He is markedly no shill for debtors, creditors, or the Bankruptcy bar. His allegiance is to the Bankruptcy Code, rules and case law, as well as an unfailing sense of what is not only legal but equitable.

Judge Opperman also has a disarming sense of humor. Once, I inquired why the marshals, not the judges, were able to dictate the closing time of the courthouse. He acknowledged that my question was fair, but explained that his authority was trumped by the fact that "They're the ones with the guns."

The Judge was raised on a farm near the small town of Millington. For reasons difficult to explain without sounding corny, I believe that such a grass roots upbringing is antithetical to the arrogance and aloofness that often plague those who work in more rarefied surroundings.

One day I was introduced to a college student named Ethan Sperl who was in the courthouse to observe. I asked Judge Opperman's assistant if we might meet with him for a chat. The Judge took time from his schedule to speak with us, which doubtless was as much the highlight of Ethan's day as it was mine. Opperman's commentary was sincere, down-to-earth, and without any of the subtle patronization that can creep into a conversation between a neophyte and an accomplished veteran.

Nevertheless, his judicial opinions are detailed, analytical, and replete with references to the record as well as case precedents and statutory provisions. One of his former partners at Braun Kendrick recalled that the Judge enjoyed the client interaction of law practice, a skill which has served him well during his judicial tenure.

Casting is essential in creating a great film, just as it is in creating a highly effective and responsive court tasked with helping people in financial distress. The patrons of Judge Opperman's court are grateful for his sensitivity, patience and compassion. He is a frequent speaker for the American Bankruptcy Institute and ICLE. These gigs certainly don't pay what former presidents command, but he delivers to his audiences the qualities of humor, grace and style that are appropriate for a man equal in character to the best of them.

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A Change of Seasons at Pictured Rocks

By Shelley R. Spivack

Shelley R. Spivack

"We go along the coast, most delightful and wonderful. Nature has made it pleasant to the eye, the spirit and the belly."

So wrote the fur trader Pierre Esprit Radisson of his 1658 journey to what is now known as "Pictured Rocks" in Michigan's Upper Peninsula. Stretching for 42 miles along the southern shore of Lake Superior, the multicolored sandstone cliffs extend from Grand Marais in the east to Munising in the west. Three centuries after Radisson's journey, Pictured Rocks made history when in 1966 Lyndon Johnson signed into law a bill that established it as the first National Lakeshore in the country.

My journeys to Pictured Rocks during the past year were a bit easier than those encountered by folks in the 17th century. The building of the Mackinac Bridge and I-75 have allowed us "trolls" to travel to Lake Superior's southern shore in a matter of hours. While the trip may be easier, the sights, in both summer and winter, are no less spectacular.

Last summer as I was on my way to the western UP, I stopped at Pictured Rocks to hike from the famed Miners Castle down to the beach. This short hike made me hungry for more. Seeing a row of kayaks lined up on the beach inspired me to navigate the shoreline from the crystal-clear blue waters of Lake Superior. Seeing photos and reading accounts of winter hikes along the frozen shoreline motivated me to equip myself with ice cleats and explore

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both Pictured Rocks and the nearby Eben Ice Caves during the dead of winter. So, in 2021, I did both.

Several friends and I made the trip to Munising the first weekend in March while it was still a winter wonderland. Sunset on Sand Point Beach was our first destination. With trepidation we ventured out onto a frozen Lake Superior heading into the fading winter sun. Exploring the Eben Ice Caves, the "Ice Curtains" at Pictured Rocks, frozen area waterfalls and a 10-mile hike along the Lake Superior shoreline, gave our legs and ice cleats plenty of uphill exercise over the next few days.

Located 20 miles south of Munising in the Rock River Canyon Wilderness, the Eben ice "caves" are not actually caves, but a stretch of rock face where water seeping from the rock above freezes into sheets of ice, forming a "cave" between them and the cliff. A short hike took us to this sur-

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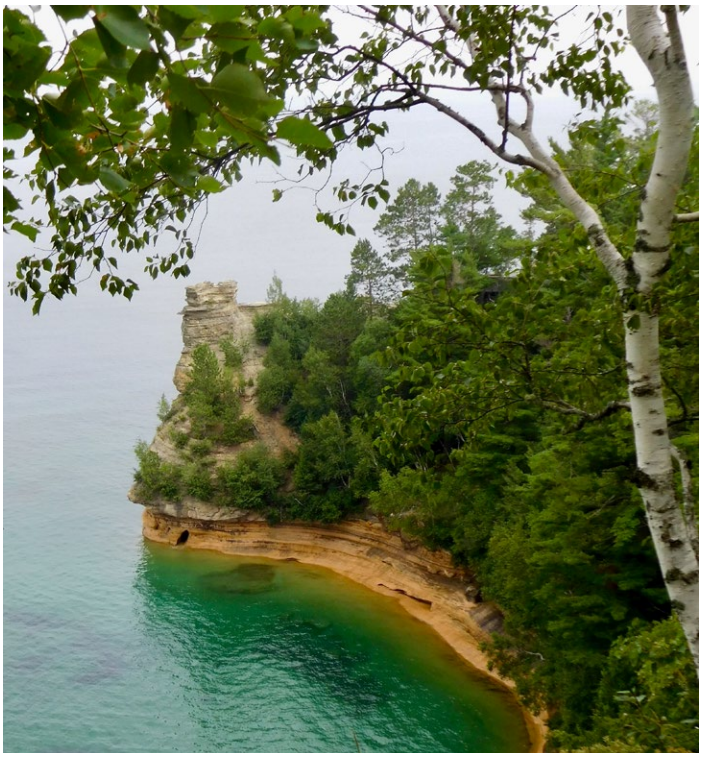

real landscape "frozen" in time. At Pictured Rocks climbing up to the frozen Ice Curtains gave us a second chance to experience the magnificent effects of the dramatic interplay between ice and stone. A 10-mile round trip hike along the North Country National Scenic Trail led us to Miners Castle on cliffs reaching 200 feet above Lake Superior. Here the lake had a dappled effect as the blue water had begun to peer through the frozen white circles of ice–reminding me of the waterlilies in the Impressionist paintings by Claude Monet.

In July I returned to Pictured Rocks to navigate the shoreline from a tandem kayak on a six-hour, 10-mile round trip guided tour. As we sank into our seats, I began to question my sanity–this was not the Flint River–six hours on a lake that is really an inland sea started to make me feel a bit queasy. But, as soon as we started paddling, I had no choice but to concentrate on keeping upright and heading north! As we hugged the shoreline, the intense colors of the sandstone cliffs truly amazed me. They were like huge abstract expressionist paintings–with the hues and the tones gently blending and then separating. The highlight of the trip was kayaking through the "Lovers Leap Arch," one of the most photographed spots on the Lakeshore. As we paddled underneath and alongside the imposing arch of multi-colored rock, my partner and I each were in total awe of nature's power and beauty.

Now that I have done winter and summer at Pictured Rocks, I am eager to experience spring's awakening and the changing colors of the fall. Additional photos can be found at: https://www.flickr.com/photos/shoshannarobin/albums/with/72157716931112991.

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