

Q&A with Charlotte Attorney John R. Wester (September 26, 2005)

Charlotte attorney John Wester recently served a two-year term as chairman of the North Carolina Bar Association's Appellate Rules Committee. Lawyers Weekly caught up with Wester to discuss rules changes made during his tenure, his views on the state of the profession - and his dream of becoming a symphony conductor.

Q: What were the most important rules revisions effected while you served as chairman?

A: This is one lawyer's opinion, but my candidates would be: 1) permitting litigants to cite unpublished opinions in their briefs, a measure that brought our appellate rules in line with the practice in the vast majority of other state courts' systems, as well as the rules of practice in every federal circuit. 2) Eliminating, for all practical purposes, the judiciary's role in settling the record on appeal. This process was awkward, time-consuming for judges and litigants, and thus expensive all-around.

We were pleased that our Supreme Court was attentive and responsive to these issues, among others.

Q: How do needed rule changes come to your attention?

A: We are fortunate to have energetic, resourceful lawyers on the Appellate Rules Committee. By tradition (or perhaps it is more formal than that), we have a Supreme Court justice, two Court of Appeals judges, and the chief clerks of the Supreme Court and the Court of Appeals. (*Editor's note: Those officials are: Supreme Court Justice Robert Edmunds; Judges Martha Geer and Robin Hudson from the Court of Appeals; Supreme Court Clerk Christie Cameron and Court of Appeals Clerk John Connell.*) The remainder of the committee comes from the ranks of active trial and appellate practitioners who point out recurring practical difficulties they run into when "living with" our rules. We also receive welcomed suggestions for rule changes from those members of the bar who understand that we are open for business.

Q: Do you believe other rule changes need to be made?

A: For many years, I have doubted that assignments of error actually contribute to the appellate process. On the other hand, our committee is not on any "reform mission" to recommend revisions to the Supreme Court. One recommendation per year, if it will improve the prospects for a fairer, more efficient appellate process, is reason alone to convene our committee.

Q: What is the most significant challenge to the legal profession today?

A: Restoring confidence and trust in our profession. I have no doubt that the image of our profession, in the eyes of the general public, has declined dramatically over the past 25 years. I applaud the continuing, thoughtful efforts of our local and state bars to grapple with this problem. The overwhelming majority of lawyers are idealistic, including about our profession and our country. We can resolve to live this idealism. We can find daily opportunities to do so, and our commitment to that end will go a long way toward achieving the restoration of confidence and trust in us.

Q: At what point in time did you decide to become a lawyer?

A: I claim no epiphany. My immediate family, none of whom included lawyers, enjoyed spirited discussions on politics, current affairs, and religion - a start on the complete list of what folks are to avoid at the dinner table. I should confess that, on occasion, we argued. How we did so and how much I wanted to feel I had held my own became important to me. With some encouragement from teachers and coaches, I began to warm to the idea of a legal career.

Q: What has been your most challenging case?

A: The case that has felt like the most extraordinary to me is the class action our firm and Legal Services brought, in October 1983, on behalf of disabled citizens of North Carolina. The Department of Health and Human Services had cut off our clients' disability benefits or denied those benefits out of the blocks. The case has had a long run through the federal trial and appellate courts, and I have been fortunate to run with the team for the whole route of the case. Serving with Legal Services' attorneys provided an enhanced view of the challenges they face with every single client they represent - all of whom lacked the resources to secure counsel for themselves.

Editor's note: See Hyatt v. Heckler, 579 F.Supp. 985 (W.D.N.C. 1984); Hyatt v. Heckler, 61 8 F.Supp. 227 (W.D.N.C. 1985); Hyatt V. Sullivan, 757 F.Supp. 685 (W.D.N.C. 1991); Hyatt v. Shalala (4th Cir. Jan. 24, 1994); Hyatt v. Bowen, 476 U.S. 11 67, 106 S. Ct. 2886 (1 986); Hyatt v. Bowen, 118 F.R.D. 572 (W.D.N.C. 1987); Hyatt v. Heckler, 757 F.2d 1455 (4th Cir. 1985) (Hyatt I); Hyatt v. Heckler, 807 F.2d 376 (4th Cir. 1986) (Hyatt II); Hyatt v. Sullivan, 899 F.2d 329 (4th Cir. 1990) (Hyatt III); and Hyatt v. Shalala, 6 F.3d 250 (4th Cir. 1993) (Hyatt IV); Hyatt v. Apfel, 195 F.3d 188 (4th Cir. 1999) (Hyatt V).

Q: What is your biggest pet peeve about the practice of law?

A: My answer is a companion to the answer I gave to our profession's greatest challenge. Although we bring some heartache on ourselves, much that is beyond our control exacerbates our negative image. Three statistics: From 1960 to 2000, violent crime has increased 560 percent, illegitimate births, 400 percent, and the average high school SAT score has dropped 75 percent. These are trends of seismic proportions, and they intersect time and again with the legal system. Because we are front and center in that system, we catch much of the flak for the misery pouring out of these and other severe problems in our society.

Personal Info

Q: What kind of chair do you use in your office?

A: Straight-back leather chair, *circa* 1980.

Q: Favorite legal movie? Favorite legal book?

A: Same answer: *To Kill a Mockingbird*, but one reason for its enduring acclaim is that more than the law is central to the story.

Aside: In warm weather, I wear a now-aging, stone-colored cotton suit. My assistant says that she knows I'm wishing for a casting call for Atticus Finch.

Q: If you weren't practicing law, what would you do?

A: If talent were no impediment, I would conduct a symphony orchestra.

Q: What is the best place to socialize with other lawyers?

A: My favorite place is local bar events, especially happy times like swearing-in ceremonies for our judges, bar dinners, and Inns of Court meetings.

Biographical Information

Law Firm - Partner Robinson, Bradshaw & Hinson, Charlotte

Practice Areas - Corporate, partnership and shareholder rights litigation; securities litigation; class action litigation.

Education

Duke University, J.D., with high honors, 1972. Order of the Coif; Note and Comment Editor, Duke Law Journal

University of North Carolina, A.B. John Motley Morehead Scholar; Attorney General, Men's Honor Council.

Professional Activities

Fellow, American Bar Foundation

North Carolina Chairman, American College of Trial Lawyers, 2004-present

Fellow, American College of Trial Lawyers, 1994

Chairman, Appellate Process Committee, Chief Justice's Commission on the North Carolina

Business Court, 2004-present

Chairman, Appellate Rules Committee, North Carolina Bar Association, 2002-04

Board of Governors, North Carolina Bar Association, 1985-88

Civic and Community Activities

Chairman, Arts & Science Council of Charlotte-Mecklenburg, 1988-89

Chairman, ArtsTeach, Inc., 2000-02

Board of Directors, Legal Services of Southern Piedmont, 1999-present

Board of Visitors, Duke University School of Law, 2002-present

Board of Visitors, University of North Carolina, 2004-present

© 2005 Lawyers Weekly Inc., All Rights Reserved.