

Bar & Bench

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Interview With Former Bankruptcy Judge David E. Nims, Jr.—Part I

Patrick Mears conducted this interview on October 14, 1999, in the Federal Building in Grand Rapids. This is the first portion of that interview.

INTERVIEWER: How long has it been since you retired from the bench?

JUDGE NIMS: I retired on October 1, 1992. Before that, I was granted special status after Judge Stevenson was appointed to take over my position as Bankruptcy Judge here in the Western District of Michigan. I had applied to be reappointed but was almost 70 years old. Circuit Judge Engel asked me if I would withdraw my application since the Sixth Circuit Court did not want to have a bankruptcy judge whose term would end after age 70.

INTERVIEWER: Could you tell us about your childhood?

JUDGE NIMS: I was born on July 15, 1912 in Grand Rapids. At that time, we lived in an apartment on Richard Terrace in Eastown. My father, whose name was also David E. Nims, was an electrical engineer. His father (my grandfather) was a lawyer who practiced law in Michigan with the firm of Smith, Nims, Hought & Erwin. My mother's name was Elizabeth Henrietta Dietrich. Her father had been a mail carrier and an amateur artist.

As a child, we moved around the United States quite a bit, because my father specialized in helping to transform

plants using direct current to alternating current. From Grand Rapids, we moved to Kansas City, Missouri, then to Danbury, Connecticut, and then to Poughkeepsie, New York.

My family name, Nims, is of French derivation. My ancestor, Godfrey de Nimes, or "Godfrey of the City of Nimes" in Provence, settled in Deerfield, Massachusetts in the 17th Century. Another ancestor, John Frederick Nims, was a well-known poet who taught at the University of Notre Dame and the University of Chicago. My great grandfather, Dwight Nims, was born in Massachusetts and practiced medicine there and in New York. Later, he moved to Michigan, first settling in Homer and then in Jackson.

INTERVIEWER: When did you move back to Michigan?

JUDGE NIMS: Before returning to Michigan, we first moved from Poughkeepsie to Oklahoma. My father secured a job in the oil business in the town of Ardmore. I attended kindergarten and first grade in Oklahoma City. In second grade, we moved to Eureka Springs, Arkansas. From fourth to seventh grade, we lived in Jennings, Louisiana, which is near New Iberia in Cajun

country. We then returned to Muskegon where I graduated from high school in 1929.

INTERVIEWER: Where and when did you attend college and law school?

JUDGE NIMS: After graduating from high school, I attended Muskegon Junior College for two years and then transferred to Wayne State University, then known as "Wayne University", where I received my bachelors degree. In 1933, I was admitted to The University of Michigan Law School, and during my three years there, I lived in The Lawyers Club. While there, I met my wife, Sybil Spencer, who lived just across the street in the Martha Cook Residence. Sybil was the daughter of a

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*See page 3 for the
Success of the
Shanty Creek IV
Bench/Bar Conference*

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high school principal in Jackson. She received her bachelors degree from the School of Education at The University of Michigan and then was awarded her Master's Degree in Child Psychology from there also.

INTERVIEWER: What did you do after receiving your law degree in 1936?

JUDGE NIMS: I practiced law with a firm from 1936 to 1941, doing primarily trial work. Most of this work involved representing AAA in auto negligence cases. On April 25, 1941, I was called into active service in the Army and, in October of that year, I was stationed in Iceland, which we occupied before the Japanese attack on Pearl Harbor. I tried lawsuits in Iceland for the Army and was quartered in the capital, Reykjavik.

On July 1, 1943, I returned stateside and married Sybil later that year while stationed at Fort Leonard Wood in Missouri. After attending infantry school in Fort Benning, Georgia, I was shipped overseas in 1944 to Porthcall, Wales, which is a coastal resort town close to Cardiff. After D-Day, I was

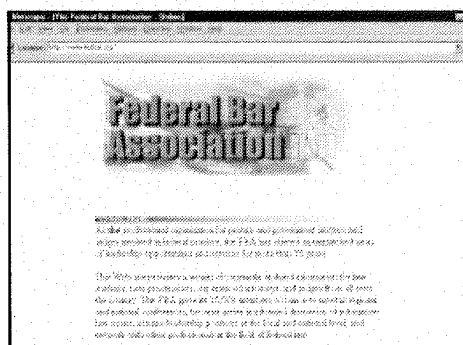
shipped to France, landing in Le Havre. I was in the infantry as we advanced through Belgium and the Netherlands and was involved in the Battle of the Bulge. It was on Christmas Eve and Christmas Day in 1944 that my regiment was involved in heavy fighting with a German Panzer group in Belgium. We lost quite a few men in that engagement.

I received a Purple Heart after we crossed the Rhine and advanced into Germany. In a town named Recklenhausen, we entered a home that had a large library. I took my helmet off while looking through the books

there and, suddenly, an 88 millimeter shell from a German Tiger tank came through the window and exploded in the room. All I could feel was the tremendous pressure when the shell burst. I didn't hear any noise. Much later, my doctor told me that this explosion had damaged my hearing. I was wounded when shrapnel from the exploding shell hit me in the head.

After V-E Day, I helped to resupply GI's for their transfer to the Pacific Theater. Once Japan surrendered, I was relieved from active duty and shipped back home to the states. ■

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Upcoming Seminars of Interest

The following seminars, sponsored by ALI-ABA, may be of interest to attorneys practicing before the federal courts:

- * Chapter 11 Business Reorganizations, Feb. 24-26, at Walt Disney World (Orlando).
- * Partnerships, LLCs and LLPs: Uniform Acts, Taxation, Drafting, Securities, and Bankruptcy, March 23-25 in Scottsdale (Phoenix).
- * Civil Practice and Litigation Techniques in Federal and State Courts on Dec. 9-11 in Philadelphia.
- * Advanced Employment Law and Litigation on Dec. 2-4, in Washington, DC
- * Employment Discrimination and Civil Rights Actions in Federal and State Courts on Feb. 3-5, in Phoenix.
- * Environmental and toxic Tort Matters, Advanced Civil Litigation on Jan. 27-29 in New Orleans.
- * Litigating Trademark, Trade Dress, and Unfair Competition Cases on Nov. 18-19 in Washington, D.C.
- * Broker-Dealer Regulation on Jan. 13-14 in Washington, D.C.
- * Investment Adviser Regulation on Jan. 27-28 in Washington, D.C.
- * Regulation D Offerings and Private Placements on Mar. 16-18 in Phoenix.
- * Securities Law for Nonsecurities Lawyers on June 1-2 in San Francisco.
- * How to Handle a Tax Controversy at the IRS and in Court on Feb. 10-11 in Phoenix.

Shanty Creek IV Bench/Bar Conference Registers as a Success

The Fourth Shanty Creek Bench/Bar Conference was held at the Shanty Creek Resort in Bellaire, Michigan, from October 29-31, 1999. This Conference was organized by the Federal Bar Associations of the Eastern and Western Districts of Michigan, and the U.S. Courts Committee of the Michigan State Bar. More than 140 members of the judiciary and the bar registered and participated in this event. The Conference began on Friday evening with a social hour. Saturday morning began with a presentation entitled "Ask The Judges," where a panel of the federal judges in attendance responded to questions posed by members of the audience. Numerous workshops were conducted by discussion leaders also on Saturday. Workshop topics included Complex Litigation, Alternative Dispute Resolution and Settlement, The High-Profile Trial, Civility and Professionalism, Juries and Bankruptcy. On Saturday evening, after-dinner entertainment was provided by the comedy troupe, "A (Habeas) Chorus Line," many of whose members are lawyers in the Detroit Metro area. The Conference ended Sunday morning with a breakfast and a wrap-up session. Chip Chamberlain, one of the co-chairs of this program, commented on the Conference's success:

"Everyone participated actively in the workshops, many of which had some very lively discussions. Getting people together to talk about issues of common interest is always beneficial, and we were fortunate to have such strong support from the bench. It was a pleasure to work with the other co-chairs, Len Niehoff of Butzel Long and Mike Leibson of the U.S. Attorney's office in Detroit, both of whom worked long and hard to organize the event. Those with ideas for the next conference, which is likely to be in 2002, should pass them along while they are fresh in their minds."

Multidisciplinary Practices ("MDPs")— Will We All Become Accountants Soon?

Just recently, two partners of the Atlanta-based firm of King & Spaulding entered into an association with the Big Six accounting firm of Ernst & Young, setting up shop in Washington, D.C. In Europe, the spectre of lawyers practicing with accounting firms is a common one, but in our fifty states, these associations are prohibited by our profession's ethical rules. However, the time may come very soon when these rules will be changed and the era of Multidisciplinary Practices will be ushered in on this side of the Atlantic Ocean.

The ABA on August 10, 1999, declined to change professional ethics rules to allow lawyers to provide legal services in multidisciplinary practices until further study demonstrates that such practices would further the public interest without sacrificing lawyer independence and loyalty. A proposal to drop an ethical rule prohibiting fee-sharing was presented to the ABA House of Delegates, but was rejected pending further study.

The House of Delegates, the ABA's policy-making body, received a recommendation from the ABA Commission on Multidisciplinary Practice that would have allowed lawyers to form practices owned jointly with professionals from other disciplines, such as accountants, financial planners, social workers, counselors and health care providers. The Commission, which has held hearings and studied the issue since September 1998, said its proposal was carefully drawn to protect core professional values relating to client confidentiality, client loyalty and lawyer independence, and would have allowed lawyers to offer comprehensive services to meet client needs.

Sherwin Simmons, the commission chair, said he and other members would conduct additional hearings and visit professional organizations around the country, with the hope of presenting a new report to the ABA House of Delegates next July at the Annual Meeting to be held in New York City.

Opponents of the MDP's argued that nonlawyer ownership of practices offering legal services would jeopardize the ability of lawyers to protect client confidences, lower client protections against conflicts of interest, and subject lawyers to interference with their professional judgment in representing clients.

The commission's report and recommendations, sample language for amending the model rules, reporter's notes, and more information about the commission, its witnesses and the status of multidisciplinary practice in Europe are available at the commission's website: (www.abanet.org/cpr/multicom.html).

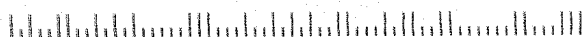
In addition, the October 1999 issue of the ABA Journal carried an article on the MDP debate entitled "MDP Debate Still Alive: Need for new rules, accord by state bars on lingering issues." ■

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