

## ***Max Baer, The Fighting Bear***

When Max Baer showed up for his first fundraiser at the Genetti Hotel, Lycoming County, Williamsport, Pennsylvania, he wore a pin with a “Fighting Bear.” It was how the candidate wanted to be received by his audience, the women of Williamsport Hadassah. My wife, Kimberly, was President of Hadassah that year. I have no idea how she knew about Max Baer or his background, but for some reason, she decided to invite him to the meeting, and he delighted his audience.

Max Baer went on to become Chief Justice of the Pennsylvania Supreme Court. He died at age 74, leaving a wife, two children, and five grandchildren.

Max Baer was first elected to the Supreme Court of Pennsylvania in 2003. He was sworn in as Chief Justice in 2021. He was to retire at the end of 2022, when he reached the mandatory retirement age of 75. That would have been on December 24, 2022.

Justice Baer hailed from Dormont, Pennsylvania. He graduated from Duquesne’s night Law School Program in 1975. Graduating night law school and achieving the status of Chief Justice of the Pennsylvania Supreme Court is no small feat.

Initially, Justice Baer was not known as or thought of as a great intellectual heavyweight, but he soon showed his detractors that they were wrong. The original Fighting Bear was Max Baer, the father of Maximilian Adalbert Baer, Jr. Buddy Baer, a relative of Maximilian Baer, was a boxer and actor. It was from that unrelated heritage, that the Justice called himself The Fighting Bear when he was running for election.

Justice David Wecht, who served with Max Baer, related that the passing of his colleague was sad, tragic, and unexpected. In my appearances before Justice Baer, I found him to be respectful, prepared, and thoughtful. The Chief Justice was the quintessential western Pennsylvania fighter, whose humble academic roots in no way defined the heights that he was able to reach or the deep thought process which characterized his writing.

The Justice had a particular interest in the plight of children and families. The incoming Chief Justice, Debra A. Todd, had it correctly when she articulated that Chief Justice Baer was a “tireless champion for children, devoted to protecting and providing for our youngest and most vulnerable citizens.”

Whether the vacancy will be filled prior to an election has everything to do with whether the legislature and the Governor are able to reach an accord. The results of the upcoming election will also have something to do with the potential appointment dynamic.

Both Democrats and Republicans lauded Baer’s service on the Court. Baer was known as an “honorable man” who was “honest and carried himself with dignity and integrity.” Pennsylvania House Speaker Bryan Cuttler, Republican of Lancaster, spoke those truthful words.

What is the Pennsylvania Supreme Court and what do they do? When I teach the law, I am always amused by how shocked people are when I tell them that in the United States we have fifty different legal systems, eleven circuit court legal systems, and anywhere between one to three federal district court legal systems in each state. In other words, we live in a nation with a Balkanized legal structure which is often conflicting, confusing, and inconsistent. Place on top of that matrix state and federal regulations and administrative bureaucracy. It is no wonder that we need so many lawyers in this country to navigate our citizens through the spaghetti-like structure of the legal system.

The Pennsylvania Supreme Court interprets and rules upon the Pennsylvania Constitution, one of the oldest in the nation. The Pennsylvania Constitution, for example, has an environmental amendment, which resembles nothing that can be found in the federal Constitution. The Pennsylvania Supreme Court addresses virtually every component of daily life, whether it is domestic and criminal disputes or matters involving corporate misconduct, negligence, medical malpractice, and contractual disputes. The list of issues that state courts handle is too numerous for a brief op-ed article.

Many times the state courts are required to interpret federal regulations, statutes, and cases. There are circumstances in which the federal courts are **required** to follow state law, including decisions of the states' highest courts. Federal courts have essentially three kinds of cases that they hear: (1) disputes between states; (2) matters arising under federal laws (which sometimes can even be heard by state courts); and (3) "diversity" jurisdiction. This last component has been somewhat controversial over the years. Where the dispute is between citizens of different states (including corporations) and the amount in controversy exceeds \$75,000 exclusive of interest and costs, it is likely that the case will wind up in federal court. However, under a 1938 United States Supreme Court ruling, the federal courts must apply state law in those federal court cases. If there are citizens of different states, what state's law is applied? This is called "conflicts of law – choice of law" and constitutes one of the most difficult courses in law school. Those of us who practice regularly in federal court have lots of war stories about the confusion as to what state's law should apply. Sometimes in a federal court case, several state laws will be applied.

Enter state supreme courts, including the Pennsylvania Supreme Court. If the federal courts are required to apply state law, then the decisions of the state's highest court become crucial. It is for this reason that our Supreme Court and the Supreme Court of every state is much more important, crucial, and determinative than we may realize. In other words, the decisions of our highest state courts will be applied not only in state court but many times in federal court as well. Further, the decisions of an important and esteemed court like that of Pennsylvania, will be influential on other state and federal courts.

We are blessed in Pennsylvania with a superb Supreme Court. Our Court, in many cases, in one of limited jurisdiction. In other words, state supreme court has a prerogative to select those cases that it will hear. While that is not always the case, it is the way things work in the majority of the time.

So, next time you think about our state courts, do not denigrate them or think that they are unimportant as compared to federal courts. They are crucial. The work of Justices like Max Baer affect us in our daily activities. Having someone on the bench like the Fighting Bear was an important ingredient in the success of our Commonwealth.

To Max Baer's family: May you be comforted among other mourners and may you take solace in the fine example set by Max Baer. May his memory and example serve as an ongoing tribute and template for all those who practice law in Pennsylvania or serve in our courts.

*Clifford A. Rieders, Esquire  
Rieders, Travis, Dohrmann, Mowrey  
Humphrey & Waters  
161 West Third Street  
Williamsport, PA 17701  
(570) 323-8711 (telephone)  
(570) 323-4192 (facsimile)*

*Cliff Rieders is a Board-Certified Trial Advocate in Williamsport, is Past President of the Pennsylvania Trial Lawyers Association and a past member of the Pennsylvania Patient Safety Authority. None of the opinions expressed necessarily represent the views of these organizations.*