



LAKE LEGAL VIEWS

Regard for the Public Welfare is the Highest Law

VOLUME 73, NO. 294

LAKE COUNTY BAR ASSOCIATION

JANUARY, 2026

PRESIDENT'S PROCLAMATION



**Lydia Gross, Esq.
LCBA President 2025 - 2026**

Happy New Year! I always love starting new things in the new year. When I finished law school, I began taking a ballet class and crocheting - two things I had never done before. It is never too late to learn something new. I also love New Year's Resolutions. It feels so fresh to start on a new goal or mission. Although I cannot make an official New Year's Resolution for the Bar Association, I have two exciting new areas to report on coming out this New Year!

The first change is that previously as a member, you had to pay to be a part of the Attorney Referral Program. We decided that as a benefit, starting in 2026, you can elect to be a part of this program, and it is inclusive with your membership dues. We want to be able to both offer the public a good variety of attorneys to refer to, as well as provide an added benefit to being a member of our Bar for attorneys. One of the goals of the Bar should be connecting the community to its attorneys and we think this is an easy way to do that.

The other new concept is that the Bar Association will be trying out a podcast program starting in January. Heikki (our wonderful executive director) has experience in this area and is trying to bring the Bar up to the 21st century. We also realize the amazing wealth of knowledge that we have in Lake County, that we want to be able to share with as many people as possible. I will be the first guinea pig guest to see how it goes. It will be posted on the Bar Association's website. Feel free to listen to learn more about me this upcoming month.



LAKE COUNTY BAR ASSOCIATION

2026

HOLIDAY

party

JOIN US TO WELCOME THE
NEW YEAR WITH COCKTAILS
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15 JANUARY 2026
5:30PM-7:30PM

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JUDGE'S CORNER



Judicial Speech After *Disciplinary Counsel v. Grendell*: What the Case Means for the First Amendment and Rule 3.2

By: Judge Eugene A. Lucci
Court of Appeals of Ohio, Eleventh District

For the first time, the Supreme Court of Ohio has struck down a judicial conduct rule as facially unconstitutional under the First Amendment. In *Disciplinary Counsel v. Grendell*, 2025-Ohio-5239, the Court not only resolved a high-profile disciplinary matter but also fundamentally reshaped the constitutional boundaries of judicial speech in Ohio—holding that Jud.Cond.R. 3.2’s restriction on voluntary legislative testimony violates the First Amendment.

Justice R. Patrick DeWine authored the 85-page majority opinion, joined by Chief Justice Kennedy and Justices Deters, Hawkins, and Shanahan. Justice Fischer, joined by Judge Edelstein (sitting for Justice Brunner), concurred in the sanction but wrote separately to argue that the Court need not have reached the constitutional question regarding Rule 3.2. This article provides a concise guide to the charges, the Court’s analysis, and the practical implications of this landmark decision.

The Three Counts Against Judge Grendell

The disciplinary complaint contained three separate counts arising from unrelated events. A fourth count (Count 2) was dismissed by the panel before the hearing.

Count	Conduct	Rules Charged	Outcome
Count 4 Legislative Testimony	Voluntary testimony before House committee supporting H.B. 624 (COVID-19 data reporting); bill sponsored by his wife, Rep. Diane Grendell	3.2 (voluntary testimony limits); 1.3 (abuse of prestige)	All charges dismissed; Rule 3.2 held unconstitutional
Count 3 Tea Party Remarks	Speech at Geauga County Tea Party civic forum about dispute with County Auditor; described June 27, 2019 incident involving court staff	1.2 (confidence in judiciary); 1.3 (abuse of prestige); 2.10(A) (public comments)	All charges dismissed on First Amendment grounds (as-applied)
Count 1 Glasier Matter	Ordered two minors detained in juvenile facility over a weekend after they refused court-ordered visitation with father in contested parental-alienation case	1.2 (confidence in judiciary); 2.2 (impartial application of law); 2.11 (recusal)	Limited misconduct found; several charges rejected as mere legal error

The pattern is striking: no misconduct was found in the two counts involving judicial speech (Counts 3 and 4). The only sustained findings arose from Count 1, the Glasier custody matter—and even there, the Court rejected several allegations as disagreements over legal rulings rather than ethical violations.

Count 1: The Glasier Matter—Distinguishing Legal Error from Misconduct

The Glasier matter arose from a difficult parental-alienation case transferred from domestic relations court. Three teenage children refused to see their father despite an agreed judgment entry requiring reunification. After therapeutic visitation efforts failed, Judge Grendell ordered the two boys to attend visitation. When they refused, he ordered them held in juvenile detention over a weekend on unruly charges.

The Court’s analysis here is instructive for all Ohio judges. The majority repeatedly emphasized that legal error—however serious—does not constitute misconduct unless committed willfully. As the opinion states, the ordinary remedy for a judge’s legal error is an appeal, not discipline. The Board of Professional Conduct had premised many of its findings on disagreement with Judge Grendell’s interpretation of the law and his discretionary decisions. The Court rejected that approach.

What *did* survive scrutiny were those aspects where the Court found a willful failure to follow required legal standards. The Court concluded that Judge Grendell used the threat of detention—and when that failed, actual detention—to coerce the boys to attend visitation. He used his constable to orchestrate the filing of charges and ordered the boys detained with little basis. The opinion states that he “willfully turned a blind eye to legal safeguards designed to protect the best interests of children and avoid unnecessary detentions.” There was no legal basis for the unruly charges or for taking the boys into custody, as they were not in “immediate danger” as required by Juv.R. 7. The Court was particularly troubled by Judge Grendell’s order prohibiting the boys from contacting their mother during detention—a direct violation of the juvenile court rule requiring detained children to be allowed to call their parents.

The sanction: an 18-month suspension with 12 months stayed on conditions, resulting in an active 6-month suspension from judicial office without pay.

The Constitutional Analysis: Striking Down Rule 3.2

The most far-reaching portion of the opinion concerns the First Amendment. The Court used Count 4 to strike down Jud.Cond.R. 3.2 as facially unconstitutional.

Rule 3.2 as a Content-Based Restriction

Jud.Cond.R. 3.2 prohibited judges from voluntarily testifying before legislative or executive bodies unless the testimony related to “the law, the legal system, or the administration of justice” or matters about which the judge acquired knowledge in the course of judicial duties. The Court held this is a categorical, subject-matter-based restriction on speech that applies “because of the topic discussed or the idea or message expressed,” citing *Reed v. Town of Gilbert*, 576 U.S. 155 (2015). As a content-based restriction, it must survive strict scrutiny—and it did not.

Why the Rule Failed Strict Scrutiny

Disciplinary counsel asserted three compelling state interests: (1) maintaining an independent, fair, and impartial judiciary; (2) public confidence in the judiciary; and (3) protecting separation of powers. The Court systematically rejected each.

On judicial impartiality, the Court followed *Republican Party of Minnesota v. White*, 536 U.S. 765 (2002), which held that a state’s compelling interest in impartiality means protecting against bias for or against *parties*—not against judicial preconceptions on legal issues. Rule 3.2 was vastly overinclusive, sweeping in speech with no connection to party bias. The Court noted that as a probate and juvenile judge, there was “virtually no possibility” that legislation concerning COVID-19 data reporting would ever come before Judge Grendell. The rule was also underinclusive: it allowed testimony about the law, legal system, and administration of justice—the very topics most likely to arise in a judge’s courtroom—while prohibiting testimony on unrelated matters.

The Court also found the rule unconstitutionally vague. Judges regularly talk to legislators. When do such conversations cross the line into prohibited “consult[ing]”? To avoid discipline, judges would likely avoid meaningful conversations with their elected representatives altogether—precisely the kind of chilling effect the First Amendment prohibits.

On separation of powers, the Court was blunt: the United States Supreme Court has never recognized separation of powers as a compelling state interest justifying speech restrictions. Speech is not an exercise of governmental power. A judge testifying before a legislative committee “is asserting no more control over the General Assembly than the attorney general asserts over this court when he files an amicus brief.”

The Court also rejected Rule 1.3’s application to the legislative testimony, finding that the Board’s conclusion—that there was “no other plausible reason” for Judge Grendell to testify except to advance personal interests—was simply wrong. A judge might testify because he is a concerned citizen who thinks the legislation would benefit the state and judiciary. The fact that his wife sponsored the bill did not transform public-interest testimony into self-dealing.

Count 3: The Tea Party Remarks—An As-Applied First Amendment Victory

While the Court struck down Rule 3.2 on its face, it used a different approach for Count 3, involving Judge Grendell’s speech at a Geauga County Tea Party meeting. There, the Court held that while Rules 1.2, 1.3, and 2.10(A) remain valid, applying them to punish Judge Grendell’s remarks would be unconstitutional *as applied* to the facts of this case.

The Court characterized the Tea Party speech as core political speech entitled to the strongest First Amendment protection. The context was political: civic-minded voters had invited Judge Grendell and the County Auditor to explain a public dispute reported in a local newspaper. The content was political: Judge Grendell discussed “the manner in which government is operated,” including his court’s relationship with the auditor’s office. The Court quoted *Meyer v. Grant*, 486 U.S. 414, 425 (1988): this was speech “in an area in which the importance of First Amendment protections is ‘at its zenith.’”

The Board had found Judge Grendell’s remarks “baseless,” “reckless,” and “filled with inaccuracies.” But the Court held that even erroneous or misleading speech is protected unless the speaker knowingly lied or

acted with reckless disregard for truth—and disciplinary counsel pointed to no evidence of that. The First Amendment protects speech that turns out to be mistaken; the remedy is counter-speech, not discipline.

The Court also rejected the alleged violations for conduct before and after the Tea Party meeting. Judge Grendell’s explanations of his intended administrative order and potential § 1983 liability were not “threats”—accurately describing legal consequences is protected speech. Asking law enforcement whether a special prosecutor had been appointed, receiving an answer, and disengaging did not constitute abuse of judicial prestige.

Key Takeaways for Ohio Judges

1. Rule 3.2 Is Unenforceable

Because the Court held Rule 3.2 unconstitutional on its face, it cannot support discipline in future cases unless rewritten in a constitutionally permissible form. Ohio judges may now voluntarily testify before legislative committees on any subject. Previously, a judge wishing to testify about education policy, mental health funding, or infrastructure—topics unrelated to the legal system—risked discipline. That restriction is gone. Any replacement rule must be narrowly tailored and consistent with First Amendment standards.

2. Political and Civic Speech Remains Fully Protected

Judges do not surrender First Amendment rights by taking office. Speech about the operations of government, criticisms of other officials, and commentary on local disputes qualifies as core political speech unless it concerns a pending matter, commits the judge to a future outcome, or misrepresents judicial authority. The Constitution—not public perception—sets the limits. Speculative concerns about “appearance of impropriety” cannot justify punishing otherwise protected speech.

3. Accurate Legal Statements Are Not Threats

Describing legal consequences accurately is constitutionally protected. Informing someone that violating a court order would constitute contempt, or that certain conduct could give rise to § 1983 liability, is not misconduct—it is explaining how the law works.

4. Legal Error Is Not Misconduct Unless Willful

The Court reaffirmed that the remedy for legal error is appeal, not discipline. For a judge’s ruling to constitute misconduct, there must be a showing of willful failure to follow the law. The Board’s disagreement with legal conclusions or discretionary decisions is insufficient. This standard protects judicial independence while still permitting discipline where a judge consciously disregards legal safeguards.

Conclusion

Disciplinary Counsel v. Grendell establishes several durable principles. Political and civic speech by judges is entitled to full First Amendment protection absent a direct, case-related commitment or conflict.

Ethics rules cannot be used to discipline speech based on content or viewpoint. And Jud.Cond.R. 3.2, as written, is unconstitutional and unenforceable.

At the same time, the Glasier matter findings remind us that judicial independence has limits. A judge who willfully disregards procedural requirements or statutory protections—particularly those designed to protect vulnerable populations like children—will face discipline. As the Court observed, Judge Grendell may have taken on the case with the best of intentions, but “over the course of the case, he lost his objectivity to such an extent that he could no longer be impartial.”

The majority closed its Rule 3.2 analysis with a note of caution that merits repeating: striking down the rule “does not mean that we endorse testimony by judges at public hearings on matters not connected with their judicial roles. There are good reasons why judges should tread with caution before embroiling themselves in the day-to-day workings of the state legislature. But whether we may discipline someone for engaging in constitutionally protected conduct is a far different question than whether such conduct is a good idea.”

Ohio judges now have clearer constitutional protections for public engagement—and clearer boundaries on the exercise of judicial power.

**Lake Legal Views is a publication of the Lake County Bar Association.
Opinions expressed in an article in the Lake Legal Views are those of the author and do not necessarily reflect the views of the staff of the Lake Legal Views or the Officers & Members of the Lake County Bar Association.**

The meeting was called to order at 12:12 p.m.

Present: Lydia Gross (President); Christopher Tucci (Vice President); Josephine Begin (Treasurer); Beckie Castell (Secretary); Jan Bell (Past President); Susan Seacrist (Trustee); Kevin Goodman (Trustee); Jessica Wright (Trustee); Heikki Talikka (Executive Director); Ann Bergen (Bar Counsel, Grievance Committee)

Approval of the Minutes from the November 14, 2025 meeting: Tucci moved to approve minutes with amendment; Bell seconded motion; Motion passed, Goodman and Wright abstained.

LCBA Foundation: Follow up on \$5,000 check from Bar Foundation to assist with LCBA expenses and \$1,500 reimbursement for in memoriam gifts incurred by LCBA

Approval of Financial Statement: Begin moved to approve November statements. Wright seconded motion; Motion passed.

OLD BUSINESS

Common Pleas Cafeteria: Lion's Club has not responded. There is a meeting December 18 with BVSI to do a site assessment with Judge O'Donnell, Tucci & Seacrist to attend.

Family Law Seminar: April 10, 2026

2026 Spring Family Event: Penitentiary Glen. Considering May for the event, possibly on a weeknight.

LCBA/Referral program: Updates needed for 2025/2026 Lawyer Referral Service Agreement to reflect cost removal. Members select up to 3 categories for listing.

NEW BUSINESS

2026 LCBA Holiday Social: Event scheduled for January 15, 2026 at Westel's. Looking for 3 sponsors (\$250/each).

Correction to September & October Meeting Minutes: Castell moved to correct the Minutes to reflect approval of the correct Financial Statements; Tucci seconded motion; Motion passed.

Settlement Week: Fewer cases than prior years. 19 cases total, with 75% settled. 11 attorneys volunteered as mediators. Will explore food options for volunteers for 2026.

Grievance Committee: Update from Ann Bergen, bar counsel. Provided information on responsibilities, positions within the committee and executive director's role and responsibilities.

DIRECTOR'S REPORT

LCBA Podcast: Lydia Gross as first guest. Seeking volunteers and suggestions of interesting guests for future episodes.

Email Lists: List of bar members may be provided for \$50 fee.

Tucci moved to end meeting, Bell seconded, Motion passed.

Meeting adjourned at 1:30 pm.

Court of Appeals of Ohio

Eleventh Appellate District

Matt Lynch
Judge

Eugene A. Lucci
Administrative Judge

Scott Lynch
Judge

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Telephone: (330) 675-2650
Facsimile: (330) 675-2655
Ashtabula Geauga Lake Portage Trumbull

John J. Eklund
Judge

Robert J. Patton
Presiding Judge

Shibani Sheth-Massacci
Court Administrator/Magistrate/
Administrative Counsel

December 31, 2025

R E L E A S E

ASHTABULA

2025-A-0016

STATE OF OHIO, Plaintiff-Appellee v. SANTO VERA SANTIAGO, Defendant-Appellant.

Judgment affirmed. See Opinion and Judgment Entry [PATTON] (EKLUND) (S. LYNCH)

CRIMINAL LAW – R.C. 2929.11; R.C. 2929.12; purposes of felony sentencing; seriousness and recidivism factors; R.C. 2953.08(G)(2); trial court’s sentence was within the statutorily permitted range and not contrary to law.

GEAUGA

2025-G-0034

STATE OF OHIO, ex rel. WALTER CLAYPOOL, Relator v. COUNTY OF GEAUGA, OHIO, et al., Respondents.

Petition dismissed. See Per Curiam Opinion and Judgment Entry. (EKLUND) (LUCCI) (DICKEY, Seventh Appellate District, sitting by assignment)

EXTRAORDINARY WRITS - mandamus; public records request; summary judgment; R.C. 149.43(C)(1); prefiling requirements; Civ.R. 4; three business days to cure alleged failure; R.C. 149.43(C)(2); written affirmation stating relator properly transmitted preliminary complaint to the public office or person responsible for public records; failure to file written affirmation requires dismissal of mandamus action.

LAKE

2025-L-119

THE AGENCY COLLECTIVE, L.L.C., et al., Plaintiffs-Appellants v. GARY HINES, et al., Defendants-Appellees.

Appeal dismissed. See Memorandum Opinion and Judgment Entry. [PATTON] (M. LYNCH) (EKLUND)

APPELLATE REVIEW - trial court judgment can only be reviewed on appeal if it constitutes a final order pursuant to R.C. 2505.02 and

Civ.R. 54(B); if multiple claims and parties remain pending there is no final order absent Civ.R. 54(B) language; interlocutory order; granting a preliminary injunction is generally not a final appealable order; no mandatory language that there is no just reason for delay; lack of a final and appealable order.

2025-L-131 STATE OF OHIO, CITY OF WILLOUGHBY, Plaintiff-Appellee v. KEVIN ALLEN YECKEL, Defendant-Appellant.

Appeal dismissed. See Judgment Entry. [LUCCI] (PATTON) (EKLUND)

PORTAGE

2025-P-0032 MIJO DEJANOVIC, Petitioner-Appellee v. DONNA KASHAT, Respondent-Appellant.

Appeal dismissed. See Memorandum Opinion and Judgment Entry. [M. LYNCH] (PATTON) (LUCCI)

DOMESTIC RELATIONS - civil protection order; R.C. 3113.31; Civ.R. 65.1(G); failure to file objections to magistrate's decision; party may not appeal judgment without first filing objections; jurisdictional; motion to dismiss; appeal dismissed.

TRUMBULL

2025-T-0070 RICHARD J. ROCKWELL, Plaintiff-Appellant v. RASHIDI A. BELL, Defendant-Appellee.

Upon consideration and upon recommendation of the Administrative Counsel, the motion to dismiss is granted, and this appeal is hereby settled and dismissed. See Judgment Entry. [LUCCI] (PATTON) (EKLUND)



2026 DUES ARE DUE

THE DEADLINE TO PAY YOUR 2026 LCBA MEMBERSHIP DUES IS **THURSDAY, JAN. 1**. PLEASE HELP THE LCBA BY MAKING YOUR DUES PAYMENT TODAY!

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DUE DATE - JAN 1, 2026

All payments can be made at www.lakecountyohio.com or a check mailed to:

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Painesville, OH 44077
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Phone: (440) 350-5800

\$0

Dues for the year in which applicant passed the Ohio Bar Exam and the first year after admission.

\$75

Beginning the second, third, and fourth year after admission.

\$150

For those beginning the fifth, sixth, and seventh year after admission.

\$200

For those beginning their eighth year and over after admission.

\$50

For retired attorneys aged 65 and over, but who have not practiced for more than 50 years.

\$0

For those members practicing for 50 years or more.

\$50

Paralegal Associate Membership (contact LCBA Office for requirements)

\$50

LAKE COUNTY BAR FOUNDATION DONATION (Optional)

*****Membership includes ONE (1) FREE Lunch Forum CLE*****



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PLEASE SEE 2026 DUES SCHEUDLE AND RETURN THE UPPER PORTION WITH PAYMENT

<u>CHARGES</u>		<u>AMOUNT</u>
LAKE COUNTY BAR ASSOCIATION	\$	
2026 Membership Dues		
LAKE COUNTY BAR FOUNDATION	\$	50.00
(optional)		_____
TOTAL	\$	

THANK YOU FOR SUPPORTING THE LAKE COUNTY BAR ASSOCIATION.

Please make check payable to **LAKE COUNTY BAR ASSOCIATION** and mail in the enclosed envelope or charge your dues to your credit card on our website at www.lakecountyoхиobar.com

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LCBA EVENTS



- | | | | |
|-----------|--|-----------|-----------------------------|
| 1 | New Years Day - Office Closed | 4 | Notary Renewal Class |
| 2 | New Notary Class | 6 | New Notary Class |
| 7 | Notary Renewal Class | 16 | Presidents' Day |
| 15 | LCBA Holiday Party | 18 | Notary Renewal Class |
| 19 | MLK, Jr. Day - Office Closed Notary | 25 | CLE - TBD |
| 21 | Renewal Class | | |
| 28 | CLE - Interstate Custody Cases w/ Brian Bly | | |



Ann	Bergen	1
Mirela Turc	Rudary	1
Robert	Jeffries	8
Benjamin	Aveni	10
Paulette	Balin	10
Erik	Walter	13
Lauren	Tuttle	14
Joseph	Weiss	17
Celina	Colombo	19
Mario	Cicconetti	21
Daniel	Rudary	22
Gary	Rosenthal	25
Joseph	Szeman	25
Jeffrey	Black	27
Charles	Deeb	28
Justin	Abbarno	29
Richard	Perez	29
Gerald	Walker	31

Misdemeanor Attorney Job Posting

The Lake County Public Defender's Office, located in Painesville, Ohio, has an immediate opening for a full-time attorney to represent clients in its misdemeanor division. Yearly salary starts at \$75,000, commensurate with experience.

Please submit cover letters and resumes to Lake County Public Defender Vanessa Clapp via email at vanessa.clapp@lakecountyohio.gov or call the office at 440-350-3200 for more information.

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2026 Lake Legal Views Podcast

Have you ever been on a podcast?

We are in the planning process of producing a Lake Legal Views Podcast to debut in January 2026. The show will be audio only with one episode per month hosted by the Executive Director, Heikki Talikka along with a current LCBA Member as guest.

If you are interested, email Heikki Talikka for additional details: heikki.talikka@lakecountyohio.gov



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