

'A really fantastic experience' for Icove

South Euclid lawyer, councilman aids in civil case that reaches U.S. Supreme Court

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For an attorney, having a case tried before the U.S. Supreme Court is akin to a ballplayer making it to the major leagues, and making that debut in Yankee Stadium.

South Euclid lawyer Ed Icove recently took a case to the highest court in the land and called it "a really fantastic experience." Part of the fantastic feeling, no doubt, stems from the fact that he was on the winning side. A lawyer since 1977, and the longest serving South Euclid councilman at 20 years, Icove acted as second chair when the case was argued in Washington, D.C. on Jan. 13. A Washington lawyer, Kevin Russell, who has much prior experience before the Supreme Court, actually did the arguing.

The second chair aids the lawyer arguing the case, providing information when needed as quickly as possible. In this case, that information was needed very quickly as Icove's side had only 20 minutes to present. Speaking of Russell carrying the ball in the courtroom, Icove said, "We put together a team of players and, you put your ego aside and put the best player in the best position." In this case, it was Russell, Icove said, due to his experience.

Icove, who is partner in the firm Icove Legal Group, Ltd. with attorney Carole Heyward, got news of the verdict in his client's favor June 29. That client, Karen L. Jerman, of Ashtabula County, came to him with the case in 2006.

Jerman had paid off a loan to Countrywide Mortgage, but the firm still proceeded to foreclose on the property. Simply put, the firm's rules would have had Jerman dispute her alleged debt in writing. She did so by phone, orally, which the law says is legal.

Icove represented Jerman, while the law firm Carlisle, McNellie, Rini, Kramer & Ulrich represented the mortgage company.

The U.S. District Court of Northern Ohio and the Sixth Circuit Court of Appeals in Cincinnati



Ed Icove, and wife, Mary, on the steps of the U.S. Supreme Court in January. The South Euclid councilman successfully tried a case before the nation's highest court.

both sided with Countrywide, but the Supreme Court stepped in, Icove said, because appeals courts around the country had not decided the matter in a consistent manner with each other.

"They want it to be consistent," Icove said of the Supreme Court.

Although he had attempted to get cases before the Supreme Court two times before, Icove was successful on his third attempt.

"They had 8,000 requests before them (from lawyers who wanted cases of all kinds tried), and only selected 80 of them," Icove said.

The legal question presented before the Supreme Court was this: Whether a debt collector's legal error qualifies for the bona fide error defense under the Fair Debt Collection Practices Act.

The newest Supreme Court justice, Sonia Sotomayor, delivered the 30-page opinion that reversed the Sixth Circuit Court. The Supreme Court's opinion was that, whether the error made was bona fide, ignorance of the law is not an excuse.

Icove said that while the case is being heard, all nine justices can ask questions but some, such as Justice Clarence Thomas, did not.

In the end, the vote was 7-2 in favor of reversing the appeals court, with Justices Anthony Kennedy and Samuel Alito opposing.

Speaking about the case, Icove said, "It was an educational experience."

It was such because of the fact that legal students from Stanford and Harvard universities participated as part of Icove's team. The team also included Stephen R. Felson, a Cincinnati lawyer.

Icove said he met Russell through this case.

"When you get to the Supreme Court, you have several lawyers calling you, wanting to help, wanting to see the right thing get done," he said.

Thanks to the Supreme Court ruling, the matter will head back to the district court, which will proceed with the case in accordance with the top court's ruling.

For Jerman, and anybody else dealing with what she has, the Supreme Court's stance means she can pursue collection of statutory and actual damage costs, as well as attorney fees.

"The really sexy part of the case is the part that says ignorance of the law is no excuse," Icove said. "We've all heard that since high school, and it applies to the law, too."

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