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How Judge's Son Found Orphan's Court Plum

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By ANTHONY LAME

On Christmas Eve 1964, 25-year-old Richard B. Klein was admitted to the practice of law in a ceremony in the chambers of his father, Charles Klein, administrative Judge of Philadelphia's Orphans' Court.

At the conclusion of the ceremony, Richard Klein received—by his own admission—his first fee appointment in Orphans' Court. From that day until Richard Klein himself became a judge early this year, he received at least 12 appointments from Orphans Court. These cases brought him $35,850—for an average of more than $5,000 a year.

A TWO-MONTH INQUIRER investigation into Orphans Court appointments reveals that Richard Klein's fees were the highest of any court appointment between 1965 and 1970. The Inquirer has also learned that the nephew of Orphans' Court Judge Harold D. Saylor—H. Durston Saylor II—has received at least $18,000 in fees from Orphans Court in the past six years.

Other practices uncovered in the investigation are:

- USE OF Orphans' Court appointments as a form of political patronage.
- APPOINTMENTS made on the basis of personal friendships and favoritism.

A RECORD-KEEPING system in the Orphans' Court clerk's office that makes it extremely difficult to find out who gets appointments even though they are a part of the court's public record.

The court appointments in question are legal terms for appointees who are assigned to look after the interests of minors and unborn heirs in regards to trusts and estates.

The fees for the appointments are deducted from the trust or estate and are based on a percentage of the market value of the estate.

The American Bar Association's Canons of Ethics, which have been adopted by the Pennsylvania Supreme Court and apply to all courts in the state, spell out in detail the guidelines for all court appointments.

CANON 12 STATES, in part, that judicial appointees:

"...should have had the strictest probity and impartiality and should be selected with a view solely to their character and fitness. The power of making such appointments should not be exercised by him (a judge) for personal or partisan advantage... He should also avoid nepotism and undue favoritism in his appointments."

GUIDELINES for ad litem appointments in Orphans Court were laid down by the state Supreme Court in a case decided in 1943. In that decision, the court continued...
Clerk’s Record System Obscures Total of Fees Handed to Lawyers

Court records reveal that lawyer Saylor’s appointments caused this way.

ASKED ABOUT the appearance of his son’s high dollar amount of fees from the court, Klein responded, “You answer that—I have nothing to say.”

In a long statement he read from notes, Judges Charles Klein defended his actions in the 36 years he has been a judge in Orphans Court.

We had a serious problem before I became the president judge in Orphans Court.

"We had a serious problem before I became the president judge here because lawyers were charging fees that were too high. However, I was the one who instituted the schedule we now have that specifies what the fees are to be.

THE INQUIRER did find that the schedule to which Klein referred was strictly adhered to by the court. It was the same fees that were based on a percentage of the market value of the estate in which the ad litem guardians were employed.

Judge Klein also contended that he had been instrumental in reducing the number of ad litem appointments in this court.

When asked if he had any further figures to support that contention, he said he did not, but added “I know it’s true.”

SAYLOR was appointed because of his expertise, he added.

When asked if he knew Durston Saylor, Klein said: “He’s in the same position I was—an expert in the field from a small firm.”

ASKED IF HE THOUGHT he would have gotten the appointment if his father was not the court’s administrative judge, young Klein replied: “If my father had dropped dead in 1964 I still would have gotten it.”

When asked if he believed his appointments were in violation of the canons of ethics, young Klein at first asserted that there was no case barring appointments to judge’s relatives.

After reading the canons he stated:

“You can make anything in the world look improper if you’re really straining here.”

“Look, I’m a friend of the court—most of these judges have known me since I was 11 years old—and that’s why I got the appointments, but that’s the way the world works.”

“We’re not fair to say I get these appointments strictly because of my father,” he added.

Only three years after graduating from law school, when asked why he had received the appointment, he replied:

“There are only about 20 lawyers in Philadelphia who understand the point of law involved in the case and I am one of them. Most of the experts are with large firms who usually have a conflict of interest because they might represent the trust company involved in the estate.”

The judges try to find an expert lawyer from a small firm with no conflicts,” he said.

“I was appointed because of my expertise,” he added.

When asked if he knew Durston Saylor, Klein said: “He’s in the same position I was—an expert in the field from a small firm.”

In THE CASE OF Saylor, nephew of Judge Saylor, some $5,250 of his $29,900 in fees came from appointments from Judge Charles Klein.

COURT records also reveal that Judge Charles Klein appointed an attorney named Donald S. Cohon as guardian in one estate that netted over $20,000 in fees in the six years 1965 to 1970. Cohon was Richard Klein’s predecessor in law school and took the younger Klein into his law firm for several years following Klein’s graduation from Harvard Law School.

ABOUT RECORDS of ad litem appointments and the fees received can be only found by conducting a detailed search of the court’s records.

Nonetheless, the Inquirer determined that young Klein got all these appointments:

1966—Five appointments, one from Judge Harold Saylor, Kendall Shoyer and Robert Bolger for a total of $3,200.

1967—Five appointments, one from Judge Bolger for a $300 fee and another from Judge Durston Saylor that netted the $17,000 fee.

1968—Two appointments, one from Judge Bolger for a $300 fee and another from Judge Durston Saylor that netted the $17,000 fee.

1969—Two appointments, one from Judge Bolger for a $300 fee and another from Judge Durston Saylor that netted the $17,000 fee.

GOVERNOR’s son got $5,250 from Child estate

Judge Klein’s son got $5,250 from Child estate.

SAYLOR has come this way:

SAYLOR is a very bright boy. I prepared him to become an expert in decedent’s estates and he is one of the acknowledged experts in the law of appointment.

Richard Klein grew up with the court and the other judges all helped him out just like I helped out Durston Saylor, Klein said.

DESPITE THE APPEARANCE of a “home and home” arrangement in which Judge Klein appointed Judge Saylor’s nephew and Judge Saylor reciprocated by appointing Klein’s son, Judge Klein denied he had any such agreement with his fellow jurist.

"Both of them have done credible work in all the appointments they have received,” he said.

When The Inquirer interviewed Richard Klein, he volunteered to make his records available.

Those records show that in addition to the $3,250 in fees he received from Orphans Court, he got an additional $6,130 in fees from appointments in Family Court, Federal Court and the Trial Division of Common Pleas Court.

FROM 1962 TO 1971 he also held a patrocon job as a special assistant state attorney general which paid slightly more than $8,000 a year.

Richard Klein received a $17,000 fee for serving as the ad litem in the Sidney S. Tyler estate, a case that went all the way to the State Supreme Court and involved a four-year legal process.

Young Klein said he is currently considering asking for an additional fee in that case.

ALL ORPHANS COURT judges interviewed by The Inquirer stated that in complex cases involving large sums of money such as the Tyler estate, they endeavor to appoint only the most highly qualified specialists in the field.

Richard Klein received the appointment in the Tyler estate case.