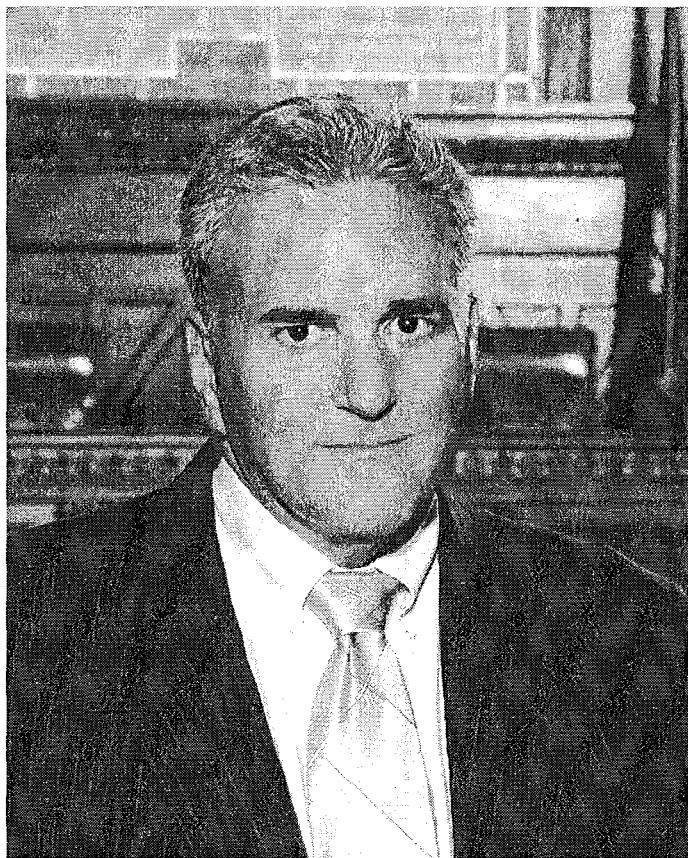


The Supreme Court of Pennsylvania

# Induction

HONORABLE  
MAX BAER

Supreme Court Courtroom  
Pittsburgh, Pennsylvania  
Friday, December 26, 2003  
11:00 a.m.



HONORABLE MAX BAER

# Proceedings

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THE COURT CRIER: Oyez, oyez, oyez. All manner of persons having business before the honorable justices of the Supreme Court of Pennsylvania, holden here this day in and for the Commonwealth, will now draw near, their attention give, and they shall be heard. God save the Commonwealth and this Honorable Court. Please be seated.

CHIEF JUSTICE CAPPY: Good morning, ladies and gentlemen. On behalf of the Supreme Court of Pennsylvania, I would like to welcome all of you to this ceremonial session of our court convened in order to elevate the Honorable Max Baer to the position of Justice of the Supreme Court of Pennsylvania.

Obviously, we welcome all of you on this day after Christmas and wish you the best of the holiday season. Maybe we could all take a moment and check our cell phones and pagers so that we're ensured they don't go off. We've implemented a policy on the Supreme Court that if a cell phone or pager goes off or a Game Boy goes off during the session, that we levy a \$100 fine and donate it to Cell Phone Anonymous. That is addressed to people who take themselves too seriously.

I will attempt, during these proceedings, to introduce the dignitaries from the judiciary who are assembled as well as others. I apologize in advance if I miss anyone due to my feeble eyes, so if I do miss anyone, please understand your attendance is as important as anybody mentioned. If you would like, just give your card to the reporter and she will make sure you are permanently etched into the record of this proceeding.

I want you all to know that our soon-to-be colleague is a prolific person that I'm to be introducing a number of people, as you can see by the program. Max was kind enough to furnish me with a five-page document and gave me the

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background of all these wonderful people, but I'm going to inform Max that I will use my editorial discretion or we're going to be here until three o'clock in the afternoon. However, the first order of business in the ceremony is for me to introduce Max's son, Andrew J. Baer.

He is more commonly known as a student of Miami University of Ohio and a member of the Air Force ROTC. In fact, he has a scholarship to the Air Force ROTC and his goal is a career in flying for our country. He wears his uniform with permission of his commanding officer and he will lead us in the Pledge of Allegiance.

(The Pledge of Allegiance was recited)

CHIEF JUSTICE CAPPY: It is now my pleasure to introduce to you Rabbi David C. Novitsky from Beth Israel Synagogue for the Invocation.

You should know he is also a practicing attorney here in Allegheny County and in Western Pennsylvania. He has also served as a District Attorney in the Philadelphia District Attorney's Office and he remains a member of the Bar. Would you please come forward.

RABBI NOVITSKY: I don't think there's a greater or honorable event that a parent could have than to see their child welcome a member of this court. If this happened according to Jewish law, one is obligated to give thanks with this thought in mind that we call upon Helen and Budd Baer and say the special blessing.

Oh Lord our God, King of the Universe, who has kept us alive and has sustained us and has permitted us to reach this most joyous milestone in our lives, Amen.

This is the day which the Lord has made and on it we will rejoice and be glad. Thank you again, Justice Baer for this great honor on this very special day. Almighty God has reflected upon the significance of today's events. We ask for blessings upon Justice Baer and all of the other Justices of the Supreme Court of Pennsylvania that You instruct them out of the law that they may administer all affairs of this Commonwealth and justice and equality, the peace and security and

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Sergeant Kevin Pierce of the State Police of Pennsylvania, however, he's just received a promotion so congratulations.

Ladies and Gentlemen, may I now introduce to you Lieutenant Kevin Pierce who will give his rendition of God Bless America.

(Lieutenant Pierce)

CHIEF JUSTICE CAPPY: I will begin to venture the path of no return by introducing my fine colleagues on the Supreme Court in order of seniority.

To my right Madame Justice Sandra Newman; to my left is Mr. Justice Michael Eakin. To my far right is Junior Justice William Lamb. The others on our court have sent their apologies and at the appropriate time I will offer them to Justice Baer.

You can see the enormous support that Max has within his own court and his colleagues around the state. I will venture to try to identify everyone, although I can't see everybody from this position. However, I would like to first mention that both Chief Justice John P. Flaherty and Chief Justice Emeritus Stephen A. Zappala were in the conference room, I don't see them here, but that's no reflection on the fine contribution they have made to the Supreme Court of Pennsylvania. They both have conflicts and they were kind enough to send their best wishes.

We also have in attendance the President Judge of the Superior Court of Pennsylvania, I think he's seated back here to the right along with his colleagues, I will try to identify as the President Judge, Joseph A. Del Sole on Superior Court. Also on the left is President Judge James Colins of the Commonwealth Court of Pennsylvania.

I think I'm going to take a breather and do introductions as we move along.

It is my distinct pleasure to introduce to you, a distinguished member of the Bar Association of Pennsylvania and particularly of Allegheny County. A partner at the Reed Smith law firm and the President of the Allegheny County Bar Association, Mr. Arthur Stroyd.

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MR. STROYD: May it please the Court. It is my pleasure to welcome the Justices of the Supreme Court to Pittsburgh and to welcome many other distinguished jurists, our Governor, the leaders of our State Legislature and many honorable guests who are with us today to this magnificent courtroom where the esteemed court began, that being one of the oldest appellate courts in the United States which was founded in 1722, 67 years before the U.S. Supreme Court began.

This esteemed court today welcomes its newest member and Allegheny County favorite son, Max Baer.

I'm proud to serve as the Allegheny County Bar Association President. It is a great day for Allegheny County and a great day for the Allegheny County Bar Association where Max Baer has been a member in good standing, an active participant and a great contributor to our mission.

It is a personal honor for me to welcome you all today to this historic occasion. A moment when we can pause and reflect on Max Baer's distinguished career in law and recognize that his great accomplishments in the County of Allegheny are an omen of great things to come to the Commonwealth of Pennsylvania.

It's particularly appropriate that we convene here today for this exciting event, this revered courtroom, to commemorate a significant step in Max Baer's legal career because it was only about 30 years ago that one floor above our heads in this same building, a young law student named Max Baer started his first job in law as an assistant to the Executive Director of the Allegheny County Bar Association. And it was in that role as an assistant to the Executive Director of the Allegheny County Bar Association that Max was introduced to the professionalism, the voluntarism and a sense of nobleness.

As a lawyer, as a judge, as a public servant, Mr. Chief Justice, I think about his many contributions that he has made to your legal courts, to your bar association and your community, and I can only think that your gain is our loss. Sadly, we are losing one of our best and brightest judges of Allegheny County who has been a stalwart of the courts since 1989. We're losing a judge who was responsible for so many of the

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key reforms that changed the face of your family division that attracted national attention. We're losing a community leader who has made a difference in the lives of so many Allegheny County families.

Your Honor, while we in Allegheny County may be somewhat saddened by this wonderful occasion of the Supreme Court, on the other hand, may you be elated to gaining a justice who has the highest endorsement by the Pennsylvania Bar Association and the Allegheny County Bar Association. Whose track record in writing opinions that are intellectual, they are meaty, they are informative and will serve this Court well. Whose legal analysis and scholarship as demonstrated in his treatises and contributions to legal periodicals are well known and will compliment prestige that this court already commands and whose personality and abilities in problem solving, an innovator and student of public policy will mean that he will work with the members of this important court in building consensus on difficult issues that face the court.

Gaining Max Baer as a member of the Supreme Court will mean good things for the Commonwealth as a whole for years to come and we know that saying good-bye to Max Baer does not mean that we will be losing a friend, it only means we will have to get use to sharing him with rest of the state.

Thank you, Mr. Justice Baer for all you have done for Allegheny County and the Allegheny County Bar Association and good luck in your new role with the rest of the state. Thank you, Mr. Chief Justice.

(Applause)

CHIEF JUSTICE CAPPY: Please let me introduce the members of the Superior Court. Again, I apologize if I miss someone.

I introduced the President Judge, the Honorable Joseph Del Sole, the Honorable John Musmanno, the Honorable John Bender, the Honorable Mary Jane Bowes, the Honorable Maureen Lally Green, the Honorable Debra Todd and soon to be Superior Court Judge, the Honorable Jack Panella, along with Senior Judge Pat Tamilia and soon-to-be Superior Court

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Judge, who is Judge of the Municipal Court of Philadelphia, the Honorable Seamus McCaffery to wish you well.

Moving to my left, identifying those members of Commonwealth Court I introduced to you previously, President Judge James Colins, Senior Judge, the Honorable James Flaherty. For those of you in Allegheny County, you may remember Jim was our former commissioner and here he is the Honorable James Flaherty. Also, the Honorable Senior Judge James Kelley of Westmoreland County.

Seated with the judges of the Commonwealth Court is our very good friend from the federal judiciary, Terrence McVerdy. We have had the pleasure when he served Common Pleas before his elevation to the federal system.

I have also been informed of the newest judge of the Federal District for the Western District Court of Pennsylvania who is with us somewhere in the audience. Soon to take her oath of office as Magistrate Judge, Lisa P. Lenihan, who serves as the Chairperson of the Board of Law Examiners for the Supreme Court of Pennsylvania. We welcome you all and thank you for attending this morning.

Next, it is my pleasure to introduce a person who needs no introduction. I would like to take a moment to personally thank him for his leadership in the Commonwealth of Pennsylvania and also it's important I think, for those of you who serve in the judiciary of Pennsylvania, for the respect and courtesy that he has offered in one year in office as our leader in Pennsylvania.

The Governor is a lawyer, as you all know, but he has a distinction and a committed purpose in making sure that we all abide by the rules of law. The courtesy and respect he has for the judiciary has been demonstrated time and time again. We look forward to working with him for as long as he chooses to be Governor of Pennsylvania. It is with distinction that I introduce Edward G. Rendell, the Governor of Pennsylvania.

(Applause)

GOVERNOR RENDELL: Good morning everyone. If it please the Court, it is a pleasure to be here. Chief Justice

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Cappy, on Monday, Tuesday, and Wednesday of next week, my most tangible evidence that I am a lawyer will take place as I will my take my CLE courses next week. It's the only thing that reminds me that I'm still an attorney.

When I was Mayor of Philadelphia, I always wanted to argue a case before the Supreme Court but the city solicitor always talked me out of it.

It is a pleasure to be here. You know, I feel like a little bit of an interloper as I haven't known Justice Baer for very long. I met Judge Baer first, I guess it was in early January in Philadelphia, we had a meeting of many of the elements that make up the support base of the Democratic party. We interviewed a number of candidates for the Supreme Court position. Each candidate had their strengths and they all made a solid presentation, then Judge Baer came into the room and I remember a little piece of paper before me I would write things to remind me later about the candidate. Max and I spent a half hour with each other and the first thing I wrote down is "brilliant". The second thing I wrote down is "charismatic, would make a great campaigner" and the third thing I wrote, "has a lot of guts and courage" and the fourth thing, "he's completely insane". Completely insane.

Max won the primary, then was your candidate in this past election and he did a great job. He proved throughout the course of the campaign that he was brilliant, had tremendous courage and guts, that he was a charismatic and effective campaigner and he was completely nuts. Who else running for the Supreme Court would have a bear surrounding a lifesaver with boxing gloves as his campaign logo?

The thing that has impressed me the most is it will be a delight getting to know him. All of you know Max and his personality, but the thing that impressed me most about Max Baer during the campaign was his courage. He said what he believed, he didn't pull any punches. He told you what his positions were. The first judge campaigning for state-wide office who had taken advantage of the United States Supreme Court rules. That's not easy to do in the entire judicial field. Max was probably alone in speaking out forthright about

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where he stood on the issues. I'm sure that his campaign adviser counselled him not to do it. As time went on, what appeared to be a political liability became one of his greatest strengths.

Judge Baer got endorsement after endorsement after endorsement, almost every major newspaper in this Commonwealth, the thing was decided most was his courage.

I always believed of all the qualities that make up a fine judge, courage is most important because we ask our judges to do difficult things. We ask them to make decisions which are often right under every law, but they can manifest unpopular.

You also know Max has had that experience doing that. Judges can't fight back. They are often the target of criticism from the media and they simply can't fight back. That tends to dampen judges who want to be bold and brave. Not Judge Baer, or I predict, not Justice Baer.

My wife is a judge of the Court of Appeals in the Third Circuit and I'm very proud of her. She served as district court judge for several years before becoming a circuit judge. When they have a new district court judge, the lawyers in the eastern district do a confidential rating evaluation of the judges in federal court. When the ratings came out, my wife had superior ratings all along for judicial temperament, fairness and experience. In the summary, the administrative arm of federal court did the one thing that I found most appealing and most rewarding. I told her the one thing she should be most proud of is she has the courage to do things that takes most judges 15 or 20 years to do. That's what it's all about—public service, be it a senator, a governor, a judge in the court, or be it a justice in the Supreme Court. It is all about having the courage to do what you believe in, to do the right thing, regardless of what the potential consequences must be and I think that Max Baer will be served well.

Max, of course, has abundant energy and this court is under the leadership of Chief Justice Cappy that has been effective and energetic. It has broken ground because of the speed and effectiveness with which it has confronted administrative issues involving rules of court.

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In fact, Justice Cappy sent me a fax of an editorial in which—this was in late November, he put out—not to rub it in the editorial, but criticized the Legislature for stalemating the court because it had been moving so quickly.

I think Judge Max Baer, soon to be Justice Max Baer, will be right in step with the changes that you want to do with this court and with the energy and vision that the other six members of this court have shown. You are getting a brilliant legal scholar with extraordinary courage and you're getting someone with energy that will keep you headed in the right direction.

Congratulations to the Court, congratulations to Max and congratulations to his wonderful family and congratulations to all of us who helped make this day possible.

(Applause)

CHIEF JUSTICE CAPPY: Thank you, Mr. Governor for taking time from a very busy weekend to be with us.

Governor Rendell's commitment to the judiciary starts at home. As he mentioned, with his lovely first lady of Pennsylvania serving on the Third Circuit Court of Appeals, I had the pleasure of speaking at the induction ceremony of Attorney General Mike Fisher as did the Governor of Pennsylvania, when Mike was sworn to the Third Circuit and the Governor showed his commitment to the judiciary by saying, "May it please this Honorable Court, you too, Honey". So using the old slogan, "you have a friend in Pennsylvania", let me endeavor to introduce the Common Pleas Court judges who have been kind enough to come this morning.

First, I would like to introduce the President Judge of the Court of Common Pleas, seated to my lower right, Honorable Joseph James. On his right, President Judge of the Philadelphia Common Pleas Court, the Honorable Frederica Massiah-Jackson. I have been given a list, so I will do the best I can.

Beginning with the Honorable Judges of the Philadelphia Court of Common Pleas, we have with us the Honorable Mark Bernstein; the Honorable Jean Cohen; the Honorable William

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Manfredi. I thank you all for coming across the state to be here in Allegheny County today.

We are pleased with the attendance of the Honorable Frank J. Lucchino, Administrative Judge of the Orphans' Division; the Honorable R. Stanton Wettick, Administrative Judge of the Civil Division. I do not see the Honorable Donna Jo McDaniel as she was unable to attend but she is the A. J. of the Criminal Division.

I do see the Honorable Eugene Scanlon, the Administrative Judge of the Family Division.

Along with those fine judges, we have the Honorable W. Terrence O'Brien; the Honorable Paul J. Luty; and the Honorable Robert C. Gallo.

May I also introduce the Honorable David R. Cashman; the Honorable John A. Zottola; the Honorable Kathleen Mulligan; the Honorable Lawrence J. O'Toole; the Honorable Robert E. Colville; and the Honorable Robert J. Colville, father and son, of the Court of Common Pleas of Allegheny County.

The Honorable Kevin G. Sasinoski; the Honorable Kim D. Eaton; the Honorable Michael A. Della Vecchia; and the Honorable Randal P. Todd.

The Honorable newly-elected Christine A. Ward; also, the Honorable S. Louis Farino and the Honorable Senior Judge Warren T. Watson. If I missed anybody someplace, please slip me a note.

Now it is with distinct pleasure that I introduce to you a long-time leader of the Senate of Pennsylvania. A man who has always demonstrated his support for the judiciary of Pennsylvania.

I have been on this Court for 13 and a half years and he has never failed to support reasonable and legitimate requests of the judiciary. He is the senator from the First District in the Philadelphia area, the Honorable Vincent J. Fumo.

(Applause)

SENATOR FUMO: Chief Justice Cappy, Justices of the Supreme Court, the entire judiciary of Pennsylvania, Governor



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Rendell, Justice Baer, family and friends. It's a great day for Pennsylvania, and I'm very proud and humbled to be here today.

I am very happy to have heard the Governor refer to the new chief justice as insane because recently on PCN, I referred to the Governor as schizophrenic, now he can never give me any grief for that.

It was 21 years ago today that I first set foot in this room, and I was here with then I believe, District Attorney Edward Rendell for the swearing in of Chief Justice Zappala. And Ed was in the audience with someone I came out with. They couldn't find me and wondered where I was. When the doors opened, I was sitting up there (indicating) so we're here again today and he is now the Governor.

I first met Max at the home of a mutual friend, a little over a year ago when my schedule was jammed. And I said to that person, "I can't meet with him except for tomorrow at 10:00 a.m." He said, "he's in Pittsburgh." I said, "I guess we can do that—he will be here." And that was the first time I ever sat across the table from him. I was instantly impressed by the fire in his belly, in his job, and by his personality and his charisma. Just sitting there, I too thought he was crazy. He was about to embark on an endeavor that for those of you who have never run state-wide, it is a very challenging task indeed, but he wanted to do it. I think he left right from there to go to the state committee meeting that day and the rest is history. During the campaign—and the Governor stole half my speech—he was very honest and open. He did speak his mind on issues. He was the first judicial candidate to be allowed to do that and he seized upon that opportunity rather than away from it. He was very forthright and it worked out greatly to his advantage.

What he now brings to the bench is a refreshing point of view and an open candor and honesty within. He is also not a prosecutor. And I remember we discussed on end with the leaders of the party, "Could a non-prosecutor win an election for the Supreme Court in Pennsylvania during these times?" He did that, so he will now bring to this bench a person who is

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sensitive to the needs, a person who cares about families coming from family court. It will be totally refreshing and I'm predicting he will have every lawyer coming to us and say we no longer need to discuss they weren't a prosecutor. But I think you will find him to be loyal, honest, and a wonderful human being. I am indeed humbled and proud to be able to call him my friend. Thank you.

(Applause)

CHIEF JUSTICE CAPPY: Thank you very much, Senator Fumo. I will now endeavor to enter that murky world of introducing from the audience, again my eyes are not what they used to be, but there are certain dignitaries that should be recognized for all of you.

First and foremost, of course, is one of Allegheny County's own remarkable Lieutenant Governor of Pennsylvania, Catherine Baker Knoll.

(Applause)

CHIEF JUSTICE CAPPY: I'm also pleased to recognize the leader of the City of Pittsburgh, the Honorable Tom Murphy.

(Applause)

CHIEF JUSTICE CAPPY: Standing in the rear, I believe is the Honorable Tom Flaherty Controller of the City of Pittsburgh.

I also think I see City Council President Alan Hertzberg.

I would be remiss if I did not introduce for a welcome from all of you who hails from this end of the state, the Grand Dame of the Democratic Party in Pittsburgh and in Allegheny County. One person who we all love and all agree was one of the best mayors that we ever had, the Honorable Sophie Masloff.

(Applause)

CHIEF JUSTICE CAPPY: I should recognize for the record, and as an indicator of their continuing support for candidate soon-to-be Justice of the Supreme Court, leaders from labor. Again, I'm sure there are more here that I can't

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see, but I should like to recognize Bill George and Jack Shea, leaders of the labor movement in Pennsylvania and in Allegheny County, welcome.

It is now my distinct pleasure to introduce Max's first cousin, Patti J. Scheimer who is a practicing lawyer in Harrisburg and probably knows Max Baer as well as any of us in this room and probably better.

(Applause)

MS. PATTI BEDNARIK: Governor Rendell, Chief Justice Cappy, Honorable Senator Fumo, Friends, Family and guests.

My name is Patti Scheimer Bednarik. I'm one of Max's first cousins and I'm also one of his greatest fans. He has asked me to speak on behalf his family today, so let me say on behalf of all of us, Max, we love you and we're proud of you and we're thrilled to be sharing this day with you. Although this is a day to celebrate Max's public accomplishments, I'd like to talk about the private Max, so for the next ten minutes you're going to know the man behind the bear logo.

Photo 1: Max was born on December 24, 1947 and grew up in Dormont.

Photo 2: Max is not named after a famous fighter, he was named after our grandfather, Max Scheimer, who died shortly before his birth. Not only did Max inherit his name from Grandpa Max he also inherited Grandpa Max's love of his kids. Grandpa Max had two children: Buzzy, who was my Dad pictured with Grandpa Max and Helen, who was Max's Mom.

Photo 3: This is a photo of Max's Mom and Dad, Helen and Budd Baer, on their wedding day, which was 57 years and 12 days ago. From Helen, Max got his confidence, his determination and his willingness to say whatever he thinks. From his Dad, he got an even temper and his distinct love of cars.

Photo 4: Like bears in all great stories, Helen and Budd Baer had three little bears; Max, the oldest, Mark in the middle and little Lisa. Max and Mark, as kids and adults, have always worked as a team, whether it's cooking Chinese on New Years or campaigning. Mark was invaluable in helping

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Max to achieve his election successes. Lisa is one in the family that everybody turns to when a family member is in need.

Photo 5: This is a picture of Max's father, Budd Baer, who is best known for his love of cars, especially antique cars. This is a photo of Max's Dad, Budd, with Max's kids, Ben and Andy.

Photo 6: Max has always loved sports cars and even races them. This is Max with his sons, Ben and Andy in his Porsche.

Photo 7: Family has always been important to Max and the Baers and the Scheimers have always been really, really close as you can tell by this photo of Max and his siblings and my brothers and me Thanksgiving in 1960.

Photo 8: We're all celebrating. The grown up Scheimers and Baers and their spouses celebrating Thanksgiving in 1990.

Photo 9: And the new generation of Baer and Scheimer kids celebrating Thanksgiving and major holidays together since before I was born and that continues to this day.

Photo 10: Max's love of kids was evident even when he was a teenager. He was an unbelievably popular camp counselor and eventually a unit director and here he is pictured with his campers.

Photo 11: Max attended Linsley Military Institute for high school. He credits Linsley with teaching him discipline, great study habits and leadership qualities.

Photo 12: Meanwhile unbeknownst to Max, his true love to be, Elizabeth Love Hartman, was growing up in Cleveland, Ohio.

Photo 13: A life changing event happened when Max went to work for the Allegheny County Bar Association. He met his wife to be, Liz Beth Love, as he called her, who also worked for the Bar Association.

Photo 14: They are dating here, even though Max was still in law school at Duquesne.

Photo 15: Max told Beth some day he would be a judge.

Photo 16: Beth believed in him then and she believes in him now. No one could ask for a more supportive wife. Here is

Photo 28: Well, looking at this photo, now you know the rest of the story. Max was the only award recipient who was permitted to bring his family to the White House. That hand on Ben's arm is Beth, who is trying to make sure that both boys got into the photograph.

Photo 29: Max's life in the last couple of years has been a whirlwind of networking and campaigning and meetings. This is a photograph on the night of the primary of some of the people who worked so hard to get Max elected to the Supreme Court. I wish I could show a photograph of everyone who helped him reach this day of joy and celebration but the number is in the thousands.

Photo 30: Two of the proudest of his supporters are his parents, Mom and Pop Baer as they are known to their eight grandchildren. Here is a photo of them finding out that Max had won his first election.

Photo 31: As Max becomes a Supreme Court Justice today, the fighting bear will, at last, be retired.

Photo 32: Or will it?

I hope that all of you have a happy, healthy New Year and may the Force of Goodness be with you. Thank you for your attention.

(Applause)

CHIEF JUSTICE CAPPY: Thank you very much.

I have been informed that the Honorable Jack Wagner, State Senator of Pennsylvania from Allegheny County is present in the rear of the room.

We will now have the Presentation of the Commission by Benjamin J. Baer, Max's son. You have seen his picture as a child with the ex-president. The older son is a 2003 graduate of the University of Michigan and currently applying to law school, including Pitt and Temple. We'll have your father talk to you about the University of Pittsburgh very soon.

Along with Ben, a motion to the Court will be made by Attorney Fred Frank, an attorney here in Allegheny County and a good friend of Judge Baer. Please come forward.

MR. FRED FRANK: It is my high honor and great responsibility to present to this Court, the Commission of Election to the Honorable Max Baer. Having received the Commission from the Honorable Ed Rendell, Governor of the Commonwealth of Pennsylvania, by his presence here today, we are greatly honored. I would ask leave of this Court to allow Ben Baer to read the Commission upon which I will appropriately motion to the Court.

MR. BENJAMIN BAER: "Whereas, It appears by the certificates and returns made according to law, of the election held on the fourth day of November, Anno Domini, two thousand and three, that you have been duly elected Justice of the Supreme Court in the Commonwealth of Pennsylvania.

"Therefore, Know Ye, That in conformity to the provisions of the Constitution and Laws of the said Commonwealth, in such case made and provided, I do by these presents commission to be a Justice of the Supreme Court of the Commonwealth of Pennsylvania.

"To Have and To Hold the said office, together with all the rights, powers and emoluments thereunto belonging or by law in anywise appertaining for the term of ten years to be computed from the first Monday of January, two thousand and four, if you shall so long behave yourself well.

"Given under my hand and the Great Seal of the State, at the City of Harrisburg, this twenty-fourth day of December in the year of our Lord, two thousand and three and of the Commonwealth, the two hundred and twenty eighth. Edward G. Rendell, Governor."

MR. FRED FRANK: Having heard the Commission, I move that it be made part of the record of these proceedings.

I further move this Honorable Court now to administer the oath of office to the Honorable Max Baer as Justice of the Supreme Court of Pennsylvania.

I make this motion Your Honor, with a certain knowledge that a man who truly follows the Biblical injunction to justice, love, mercy and walks humbly with your God, now joins this great and historic court.

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CHIEF JUSTICE CAPPY: Thank you, Mr. Frank, your motion is granted.

I will now administer the Oath of Office. Would you please stand.

Would you place your right hand on the Bible and repeat after me.

I, Max Baer, do solemnly swear, that I will support, obey and defend the Constitution of the United States and the Constitution of Pennsylvania, and that I will discharge the duties of my office, with fidelity, so help me God.

Congratulations.

(Applause)

CHIEF JUSTICE CAPPY: Justice Baer will be robed by his brother, Mark, his sister Lisa Baer Cron is also here and should be acknowledged. Mark, would you proceed, please.

(Justice Baer is being robed)

(Applause)

CHIEF JUSTICE CAPPY: Thank you very much. We will now have the presentation of the Ceremonial Collar and Accompaniment to the Bench by Max's lovely wife of 27 years, Beth Baer.

(Applause)

CHIEF JUSTICE CAPPY: Max, the microphone is yours.

JUSTICE BAER: I don't want to embarrass him but Tom Flaherty was instrumental in my victory. Would you take my seat?

I cannot believe that I sit here today as a Justice of the Supreme Court of Pennsylvania.

Let me go back in time and tell you the truth as to how this began.

It was September of 1969 and I was an undergraduate at the University of Pittsburgh, being my beloved Pitt, and there was a trial going on in Chicago, the Chicago Seven. It was presided by Julius Hoffman presiding. And Judge Hoffman

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lost himself, he was bias against the defendants. They were misguided, they were sincere zealots. They were obnoxious as kids, involved in anti-war protests and at that time his rulings were wrong and his civility was gone and I was outraged by it. I became captivated with that trial, not because of the defendants and not because of the prosecution, but because I thought it was an unfair judiciary that offended my sense of justice and somehow I remember it so distinctly while sitting in a McDonald's. McDonald's is no longer there as it was one of the first in Pittsburgh out in Oakland. And I said, "I should be a judge", which I'm sure was the silliest thing I could say as they were convinced I was going to be thrown out of school on a variety of reasons. But there it was, the idea was born and there were slips along the way.

I did manage to get my act together well enough that I applied to take the SATs and as fate would have it, on the Saturday morning of the exams, Pitt was playing Notre Dame at home. I was living in a fraternity house and the smells were coming from the kitchen. The champagne was pouring and everybody was singing "Hail to Pitt". I called the Princeton Review and asked, "What happens if I'm sick?" They said, "You could take the test in December or January." I said, "I'm sick". Well, Pitt lost 36/6. They may be bums, but they're my bums.

I took the test in January and I did relatively well. Four months go by and I'm sitting in the office of Dean John Sciullo, who said, "Mr. Baer, our class is full". My stomach just fell to the ground. "Why did your LSATs get here so late?" I couldn't tell him. Well, we talked for a long time. We talked about the Chicago Seven trial and interestingly, he was offended by the conduct of the judiciary as I was, so after that long wonderful discussion, I found he was wonderful man. He said to me, "Why don't you apply to our evening division, there will be a few seats available?" I did and two weeks later I was accepted. Thank you, Dean Scuillo, wherever you are.

From the first day of law school, I loved it. I would root for one side or the other and I remember I wanted to be a judge. I would get verbiage and would be fascinated by the opinions of Judge John Musmanno of this court. I got lucky. I

immediately got a job upon graduation with the Pennsylvania Department of Justice and that put me right there. Because the Commonwealth Court was the court of original jurisdiction, the Supreme Court heard all the appeals back then.

We have had cases on the Supreme Court right here. We had the Lou Manderino case where Mr. Justice Lamb is sitting, then Justice Nix, they were like a rapid machine. Justice Nix wasn't going to be outdone so I had it from both sides. Well, they've slowed down and it's 30 years later but I remember it like it was yesterday. To think that now as I sit in Justice Manderino's seat beside the rest of this court, it is unimaginable. I wasn't sure I was going to survive the podium to get back to my seat after argument.

It is just wonderful to be here. I left my job there after five years and went into private practice for ten years and I thought to myself, I'm ready but I would not run for a judiciary position until I was confident enough.

I walked into the Allegheny County Bar Association and walked out with a good reputation, recommendation and self respect which was as important as anything. I studied the election process and I saw you had to win the Democratic Party's endorsement to have a chance of success in Allegheny County. I saw you needed political support. I didn't know anybody in politics, and I looked around and everybody kept telling me about Bob Colville's father and told me about Chief Butzler. You didn't know him, but you had to get him on your side, so I called him. I said, "Chief, I know who you are but you don't know who I am. I'm Max Baer and I'm not just some kid." I called him two weeks straight every day and he finally he got sick of me. He said, "I'm at Northway all. If you want to see me, show up." So I did, and he was talking with people—he spent 30 seconds. I showed up the next day and the next day and he looked at me and asked me, "Do you really want to be a judge?" I said, "Chief, I need you, I can't win without you." The Chief said, "Come to my committee meeting tomorrow night in Ross Township at the Recreational Center." I walked in and stood in the back at the start of the meeting and I heard him state, "this is my dear friend of 50 years". Now, I'm only 38—and that my Dad and he were

friends. He never met my Dad. The Chief was loose with the facts but he took me under his wing and he made deals. He made deals with other people.

Eleanor Solomon, I see you smiling. Eleanor was the Vice Chairperson that night and with the Chief's help, I became a judge of the Court of Common Pleas. It was not enough I was going to be a judge, I wanted to be a great judge and I wanted to help everybody so of course, I was assigned immediately to the dreaded Family Court, which is greatest thing that ever happened to me.

First of all, Wettick was A.J. and there was Gene Strassburger, Larry Kaplan and Cynthia Baldwin, and they were a great court. As I learned to be a lawyer, I learned to be a judge and I'm forever grateful for that. I worked hard until Midnight. After six months I just kept working harder. Now four years pass and I had this plan. I was going to Civil Division to show those lawyers I could work and maybe in another four or five years run for Superior Court. By then a phone call came from Justice Cappy, probably about 11 years ago and he said, "Max, I need to see you." My heart stopped, "I'm being impeached." "Somebody found out the election results were wrong—I lost". So I ran from my building to Justice Cappy's office in the Oxford Centre with no coat on to see what happened. He says, "Max, we need you to do us a favor." "Well, at least I'm not being impeached." I said, "Anything you need, Chief." He said, "We need you to be Administrative Judge of Family Court." "Well, I really appreciate that, it's a great honor, but my books are packed because I'm going upstairs to be on civil court." He said that would be a great court. I said, "I really appreciate that, but I'm going to the Civil Division." There was a long pause. He sits back and says "Max, I'm not really asking."

CHIEF JUSTICE CAPPY: I did better than Bill Clinton.

JUSTICE BAER: I said, "it would be my pleasure". So I started trying to do things and my first idea was night court. I called the Administrator and suggested that we open at night. That way no one would lose a day's work. He said, "you can't". I said, "why not"? He said, because we back the computer up

wagen and said to them, "Drop it off when you're done—enjoy yourself."

A family friend of ours lost his job but he didn't realize he lost the family car and now all of a sudden they are driving a beautiful new car. It wasn't until years later my Dad gave them the car. He said, "give it back when you can." I can tell you 20 more stories. Dad, I love you and thank you.

Anybody who knows my Mom knows the determination of Helen Baer is legendary. I think I have the best of both my Dad's graciousness and my Mom's determination and I continue to live by that. And Mom—I can't tell you her age but it's close to my Dad's. They campaigned in every one of these elections and she took it personally if somebody wasn't voting for me. It looked as if she wouldn't let them go. She put 20 signs at spas in the South Hills. She put it up every morning and took it down every afternoon and then back the next day and put it back up. Love you, Mom.

My sister Lisa. Again, the greatest. I'd call her in the middle of the day and middle of the night and said "do this" and she said, "all right, you have it", "don't come, I'll handle it".

My brother, Mark, always there for me. Mark was involved in every aspect. He yelled at me, he was angry with me, and he was right, and I was lucky to have you. He kept my head screwed on straight in the middle of difficult stress. He shut his car dealership down for a time. He put signs up. He had his people calling and dealing. He went to the Pennsylvania Automobile Dealers Association and demanded their help. He was always there.

Two weeks before the election his dealership burned down. It was front page news. He was in Atlantic City and I was on my way to Philadelphia and somehow he managed to keep that business running, to begin the process of rebuilding that initially would take years, and at the same time never to miss a step with the campaign. Mark, thank you. I would never be here without you, thank you.

(Applause)

To my sons, Ben and Andy, it's your fault I ran. Thanks, guys. You have never disappointed me. You have been constant sources of pride. You have always been the greatest and your mother and I have been so proud of both of you. You are our joy and you are why we do what we do. You are our reason for survival, our reason for everything.

They both worked the campaign. Ben told me notwithstanding, there are no vacations that we could take if he couldn't get in here today. And he did get permission to wear his uniform and wears it proudly. He will fly for the Air Force.

Anybody that knows Andy, knows there's no doubt of that success. You two are the greatest. You are my guys and I love you forever.

Beth, 27 years and the last one has been a tough one. She's the one that said "you have to run". She knew then when I said, "I don't think I like this" three months into the campaign.

Beth was a stay-at-home parent until the kids were grown. When they went off to Jefferson Elementary, she became mother to 280 kids. That job tied her down and she would not miss that job no matter what, so we were out campaigning and working and she was going to work, and it was a tough year. She's always been there. The trouble with changing the world is it takes a lot of evenings, so there were lots of nights I wasn't home and a lot of weekends I wasn't home as A.J. of Family Court running for that court and doing everything I always do. Thank you. You are the love of my life. I would never be here and never be anything without you.

I'm sorry that I took so long, but this is my only opportunity I had to say thank you to all of those people. It is my great privilege to join this court.

I do want to conclude so we can get on with the festivities. I'm so honored but so humbled by the thought of taking a seat with these great jurists. I have read their opinions and I have studied them and I have been in awe of them. Most of you don't have that opportunity, but this is a great court and to be part of it is really special.

## INDUCTION

Let me finish with one final quick story then what I hope to do.

Governor, I didn't forget to thank you and Senator Fumo, I saved you. Anybody that knows me knows I have never been on time in my life.

At that meeting with the Governor, Beth, Ben, Andy and Michele said "you have to show up on time". The first time in my life I was 20 minutes early. I get in the elevator with the Governor and he introduces himself. "Max, I don't like guys that are early, they don't have enough to do". I said, "Governor, you're going to love me". And the Governor said, "I'm with you" and he has been with me the whole time. Thank you, Governor. I could not have won without you.

The Senator was speaking about me being insane. I can't believe you're calling anybody insane. He met me and I gave him a teddy bear and he gave me a pep talk and from then on he's been guns ablazing for me in the world of Philadelphia politics and all over Pennsylvania. In the Senate and in the House the phone would ring at two in the morning and he'd say, "Max, what are you doing?" I said, "I'm sleeping". He said, "do this, do this, do this—BANG". Then the phone would ring again three days later I mentioned, "Chief, you can't win in this state if you don't have Ed Rendell and Vince Fumo." I can't thank the two of you enough.

(Applause)

Let me tell you what I want to do on this court in two minutes. I want to contribute to the law of Pennsylvania through the decisions that are to be made and the opinions to be written. I want to show justice and compassion to all people, I want to use the very special knowledge in the ten years I gained in Family Court to make our judicial system kind, gentle and protective for children and to make it more sensitive to the families caught in it and most importantly, together with my colleagues, I want to ensure that the people of Pennsylvania maintain their faith in a strong and independent judiciary that's always there, exercising courage.

The Governor talked about to protect all of us from injustice and from oppression, and I want to do that together

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with all of you. It's my great privilege and great, great honor to be here and finally, I got permission to do this—"Sandy, (Newman) we won."

(Applause)

CHIEF JUSTICE CAPPY: Thank you. What was planned as a lunch quickly is turning into a dinner. We will expedite this and so now you know what it's like to sit on the bench for more than an hour.

We have a tradition on this court and I will begin with a person who has been with us for one year. You also know as Justice William Lamb. He has done a fabulous job and he has made a significant contribution to the history of this court and to the judiciary, the Honorable William Lamb.

JUSTICE LAMB: Thank you very much for your kind words, I will miss all of you.

Justice Baer, I welcome you. And Max, you have no idea what's about to happen to you. You will set up your chambers and you will get everything up and running. You will have your law clerks in place and you will begin to review the reports as you get ready for your first session which will be right here, and there will be another chair next to you because that's where junior sits. And I will forever be known as "junior" because I was only here one year and Mike Eakin was so grateful that I showed up so he didn't have to occupy that chair anymore.

Let me tell you why you have to ring the bell in the morning and there's a certain art to ringing the bell. You vote first and you're just on the Court and you have no idea what you're doing. The Chief turns to you and asks, "How do you vote?"

When he became Chief Justice it required me to hold his chair for him, put on his robe for him, shine his shoes. When he asked me to get his coffee, that was it, so you're in for quite an experience.

In our first argument session, the great difference is I will always be known as "junior" but you're the youngest so you will be able to move up.

## INDUCTION

On a more serious note, Max, we have been friends since 1993 and how we came to be friends, I was running for the Commonwealth Court and Max might not admit this to you but a friend, who is the republican PR firm, a dear friend of his family who is no longer around, and I was using the same PR firm and they said, "you have to meet somebody in Pittsburgh". I see Tom Flaherty here today and I have had some wonderful democratic friends including Tom. But anyhow, I was given this teddy bear by Bob Goodman and he said, "I want you to look up Max Baer—we want a Common Pleas judgeship for him." Well, I met Max and I found him to be a special and intelligent person. At the time of our introduction, then I worked as liaison justice with the Domestic Relations Rules Committee and Max was Chairman of the Committee and Max and I became very close friends. We worked together and I watched Max literally build a new family court here which is where we are having lunch today which was a Herculean task. Frederica Massiah-Jackson would like to emulate you in the Philadelphia area. She is at the helm there and we are trying to copy it. We don't have an old prison so we'll make one.

Anyhow, my additional impression is great. Max, you are all things I thought you were. I saw Max at the helm and Max and I shared this at the helm of the most important court (family) and Judge Scanlon. To me, family is what it is all about. You were there from '93 to '99 which is a long time, I watched him be a driving force, Max proved himself to be a leader. Someone who understood the needs of family showing his inner soul as well as his intelligent side that Max really has it.

We will be well saved by his scholarly work and the most important single ingredient in the formula of success is knowing how to get along with people, this Max knows.

God Bless You, Max, along with Beth and Ben and Andy who I know your Dad was very upset about you being sick. Congratulations to the other family members that are your parents and your devoted friends and thank you for your friendship over the years.

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Max, the message I leave you with is Pennsylvania, and the justices of your court are truly blessed to have you sit on this Pennsylvania Supreme court.

JUSTICE BAER: Thank you, Sandra.

(Applause)

CHIEF JUSTICE CAPPY: Justice Baer, Justice Saylor is with his family in Washington D.C. and couldn't be here but he sent a letter asking me to read an excerpt from it. He apologizes for his absence and states, "You are preceded to the court by your distinguished service as a trial and administrative jurist and thus come well prepared to contribute to the important work of crafting legal policy for this Commonwealth and its judicial system. I truly look forward to working with you in the years to come."

Likewise, Mr. Justice Nigro was also unable to be here and sends his sincere apologies. He is also with his family in another state. He then asked me to read an excerpt.

He states, "Eight years ago, almost to the day, I had the great honor and privilege of becoming a new member of the Pennsylvania Supreme Court. I know full well the commitment and joy that you and your family are feeling. I also know that you are eagerly looking forward to serving the people of this Commonwealth at the same high level of competency and dedication that you exhibited during your tenure on the Court of Common Pleas of Allegheny County. I look forward to serving with you and wish you the best of luck. I wish you and all who are in attendance a happy and healthy new year."

Junior Justice Ronald Castille called me at 9 o'clock this morning. He was on his way to the airport. His brother-in-law is in intensive care in the hospital so he sends his apologies for not being here. He asked me to assure you of his welcoming you on the court and personal assurance that he will do everything possible to make your transition to the court seamless.

Ladies and gentlemen, we are going to hear from Lieutenant Pierce again then we will conclude these proceedings.



## INDUCTION

CHIEF JUSTICE CAPPY: Thank you, Lieutenant Pierce, always an inspiration.

Before I introduce Ms. Gladys Russell and Reverend Brenda Gregg for the benediction, Max has asked that I make closing remarks as well.

I, too, welcome Max to the Supreme Court of Pennsylvania. I have had the advantage of watching you much closer than my colleagues on the bench. Even though I have known you for 20 years, I already assured them we are receiving a colleague with enormous talent and commitment to the rules of law and with the best interest all of citizens of Pennsylvania at heart.

For all of you who are political supporters of Max Baer, understand that this is the last time that he will appear as a professional politician in our presence. He knows that, we know that. The rules and Code of Ethics say we are bound by them but the judiciary require that they step back. It's not that he steps back and forgets but it simply states that our rules of the game require that he steps back and assumes a more judicial manner than he has already acquired.

Understand that Max moves out of politics now and onto the oldest Supreme Court in the nation. Your help is much needed and your support is, of course, always welcome and much appreciated by the Baer family.

With that, I remind you that dinner is being served at the Family Courts Building. You go down to the first floor of this building and go out the back of the building, walk catercorner across the street and Justice Baer will welcome you with his family.

I would now like to introduce these two people for the benediction which will conclude the ceremony. We know her as Gladys Russell and Reverend Brenda Gregg who has been an institution in Allegheny County and in Pittsburgh, Pennsylvania for more years than I can remember. Please go to the microphone.

MS. GLADYS RUSSELL: I am blessed and honored to participate in this ceremony of the installation for Justice

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Baer. I'm just excited to be with the Governor and a lot of members of your judiciary who I know are friends and I have been given an opportunity that I would not have had.

I am not a member of the clergy so I will not be doing the benediction but I just really wanted to, for a few minutes, talk about Justice Baer.

The Greater African Methodist Episcopal Church on the Northside sponsored a "Meet the Candidates" lunch with many, many, many children and I was just impressed with the way Justice Baer interacts with children and they're comfortable with him as well. We talked about life's experiences and we shared that when I campaigned for Justice Baer. His goal was to assure that he will do everything in his power that your children, our children and my children can live a life without pain, without poverty, without worry and without trouble and as a remembrance of that great day I brought with me just a bunch of autographs from some of the children that we had framed.

Again, my gratitude and my congratulations. And as you travel the rest of your journey, I pray that God gives you love for your heart, joy for your spirit and peace for your soul.

(Applause)

CHIEF JUSTICE CAPPY: Thank you.

REVEREND BRENDA GREGG: With that in mind let us pray. "O Lord, how excellent is Your Name in all the earth, we praise You and we magnify Your Holy Name. We give You thanks for Your greatness. We give You thanks and praise for we know Your hand is at work. We give You thanks for blessings of this day. We give You thanks for the joy of this hour. We Thank You, Lord, for this our nation and the Commonwealth of Pennsylvania. And we are reminded of this in God We Trust. We ask now God's blessings upon Your new justice of the Supreme Court, Max Baer. Please help him and bless his family, we pray. May every decision that he makes be directed by You. Use him for Your service, use him for Your glory, use him to be a blessing to this nation. God bless America.

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“Lord, make his face to shine upon Thee and be gracious onto the Lord, Amen.”

Thank you.

CHIEF JUSTICE CAPPY: Ladies and gentlemen, that concludes the ceremonial session of the Supreme Court of Pennsylvania. It is customary when there be no more business, we would ask you all to rise but at this time, with the number of judges in the upper level and in the audience, I'll ask to you remain until the judiciary leaves. Thank you very much, we are now adjourned.

THE COURT CRIER: This Court is now adjourned.

(Whereupon, the ceremony was concluded at 2:15 p.m.)