

## The Honorable S. Arthur Spiegel

By  
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**A**t 77 years old, S. Arthur Spiegel enjoys tennis, running, horseback riding, flying, painting, exotic travel, and his wife, four sons, and five grandchildren. He also serves as a U.S. District Court judge, as he has for the last 18 years, leaving his mark on both the law and the community in the process. In many ways, his life and adventures have touched upon many of the key events of 20th century America — triumph over the Axis powers in World War II, the civil rights struggle, and the quest for justice under our legal system. Judge Spiegel is an uncommon jurist.

### Background

Arthur Spiegel grew up in the community in which he continues to live — Cincinnati, Ohio. Growing up, he was a bit of a mischief-maker. He sheepishly remembers stuffing soap powder into his grandmother's Thanksgiving turkey one year. To this day, when the phone rings at dinner, he sometimes suffers a Proustian flashback that it is the principal from his school calling his mother to report that day's misdeeds.

He graduated from the University of Cincinnati in 1942, majoring in international relations during a time of great international tumult. While at college, he received good training for litigation — he was the campus boxing champ. His last year of college was also his first year of law school. His hopes of becoming a lawyer, however, were cut short by Hitler, Mussolini, and Tojo. Just before college graduation, Arthur Spiegel enlisted in the U.S. Marine Corps. After basic training in Quantico, Va., he was sent to the Pacific, where he participated in some of the bloodiest battles of World War II, helping to liberate island after island from Japanese control.

His experiences in the Pacific shaped Judge Spiegel's outlook on life, causing him to approach life with gusto, and to take advantage of each day to its fullest. The experiences in World War II also shaped his belief in the importance of national service. Judge Spiegel espouses two years of national service by young people as a great benefit to the country, and to young people themselves by encouraging them to interact with others from different backgrounds, and by forcing them to give something back to their country.

After World War II, Judge Spiegel attended Harvard Law School under the G.I. bill. Judge Spiegel observed about law school:

It was amazing. Ninety-nine percent of the students at the law school were veterans, many of whom had seen action during the war. A number of those who had withstood all kinds of pressure and stress during the war couldn't handle the tension at law school. By the end of the first semester, after the criminal law exam, at least 20 percent of the class dropped out so that by the time we began our second year of law school in the fall of 1946, our class had dwindled in size to less than half of those who started. The pressure for us in those first two terms was almost overwhelming.

Just before law school, Judge Spiegel married Louise Wachman, who also grew up in Cincinnati. They met for the first time as youngsters on the tennis court; since their wedding in 1945, they have been partners in everything. Louise Spiegel is deeply involved in the community, particularly in issues involving schools and education of minorities. She is committed to making the city in which she grew up an even better place for her grandchildren.

Upon graduation from law school, Arthur Spiegel returned to Cincinnati and, following the bar exam, hung out his own shingle. Judge Spiegel had a generalist's practice for 31 years both by himself, and with several firms. He litigated commercial cases, bankruptcy cases, and personal injury cases. This experience gave him the perspective of and sympathy for trial lawyers.

Like his wife, Judge Spiegel has been extremely active in the Cincinnati community. One of his primary contributions was to chair the Cincinnati Human Relations Commission during the tumultuous changes of the 1960s. The Human Relations Commission's goal was to bring about greater understanding and compassion among people in the community with different ethnic and racial backgrounds. Judge Robert Black, a retired member of the Ohio bench, succeeded Judge Spiegel as chair of the Cincinnati Human Relations Commission. Of Judge Spiegel, Judge Black says: "Judge Spiegel has always been sensitive to the underdog and has always been concerned with the tyranny of the majority. He seeks to ensure fairness and justice for all people and is not afraid to challenge the establishment to reach this goal."

In addition to his belief in intercommunity relations among races, Judge Spiegel directly involved himself in integrating his local swim club in 1968, and the Cincinnati Athletic Club in 1979.

### Experience as a Judge

In 1979, Arthur Spiegel received a notice that he was not expecting. President Carter nominated him for a U.S. District Court judgeship. Until a friend urged him to fill out the requisite questionnaire, he had not even intended to express an interest in the position. To his great sur-



prise, Judge Spiegel received the nomination over others far more politically connected or with greater judicial experience. In 1980, the U.S. Senate confirmed Judge Spiegel to the position as U.S. District Court judge for the Southern District of Ohio.

Since his confirmation in 1980, Judge Spiegel has presided over thousands of cases and, in 1996, at the age of 74, opted for senior status. Nominated by President Clinton, and confirmed by the Senate as Judge Spiegel's successor, was Judge Susan Dlott. Of Judge Spiegel, Judge Dlott says: "Judge Spiegel is an incredibly tough act to follow — his intellectual ability, his humanity, his decisions, and the esteem in which he is held by the local and national bars and the Sixth Circuit make him not only a wonderful mentor, but also a model to emulate."

Even with senior status, Judge Spiegel continues to maintain an active docket, with over 800 pending cases, far more than any other judge in the district. This is partially explained by his assignment by the multi-district panel of hundreds of cases involving an allegedly defective pacemaker. Judge Spiegel recently held a summary jury trial in these pacemaker cases.

In a summary jury trial, both sides describe to an advisory jury what they believe the evidence will show. The jury then deliberates and arrives at a verdict. If it is a defense verdict, the jury is required to determine how much

the jury would have given the plaintiffs if there were a finding of liability. Based upon the jury's finding, Judge Spiegel works with counsel to arrive at a settlement. He opines: "If both parties are genuinely unhappy, I know that I am getting close to a fair deal."

Judge Spiegel has heard many high profile cases, including: criminal proceedings against former baseball player Pete Rose, litigation involving claims of improper conduct against Archbishop Bernadin, and, more recently, challenges to the constitutionality of a city ordinance concerning gay rights. Judge Spiegel also has presided over many complex litigations, including a class action by residents who lived near Fernald, a former nuclear weapons facility, who desired medical monitoring. He has also presided over a worldwide class action of people with allegedly defective heart valves, and a class action by inmates following a prison riot.

He is most proud, however, of his work in some smaller, less high-profile cases. Judge Spiegel is

particularly proud of his work in *Hudson v. Cincinnati Metropolitan Housing Authority*. A class of teenage women with babies brought suit in 1992 against the local public housing authority, challenging its rule that no underage women with babies could be tenants in public housing facilities. Judge Spiegel alerted legal aid attorneys, who represented the underage women, to a program that existed in the Pacific Northwest to offer help to young mothers in raising their children. As part of the settlement in the Cincinnati case, a number of apartments were designated for underage mothers, and combined with their required participation in a program of prenatal and post-natal care. Judge Spiegel actively assisted the lawyers in reaching this resolution and is justifiably proud that money and resources were directed toward a positive solution.

That solution illustrates the role that Judge Spiegel believes a trial judge should play. He believes that a trial judge is primarily a dispute-resolver. Judge Spiegel speaks of settlement issues early and often during the course of litigation, and frequently uses various techniques to encourage settlement. In addition to summary jury trials, Judge Spiegel employs the "Lloyd's of London" settlement technique pioneered by Judge Hubert Will of the Northern District of Illinois. In this technique, counsel from

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both sides are required to estimate reasonably their respective chances of winning. Both parties are then required to estimate high and low verdicts, with Judge Spiegel breathing down their necks if estimates are awry. He then averages the plaintiff's chances of winning with the defendant's, and averages the plaintiff's estimated low verdict with the defendant's estimated high verdict. The Lloyd's of London settlement number is the averaged percentage of the averaged verdicts. Many times, cases end up settling for a number at or around the Lloyd's settlement number.

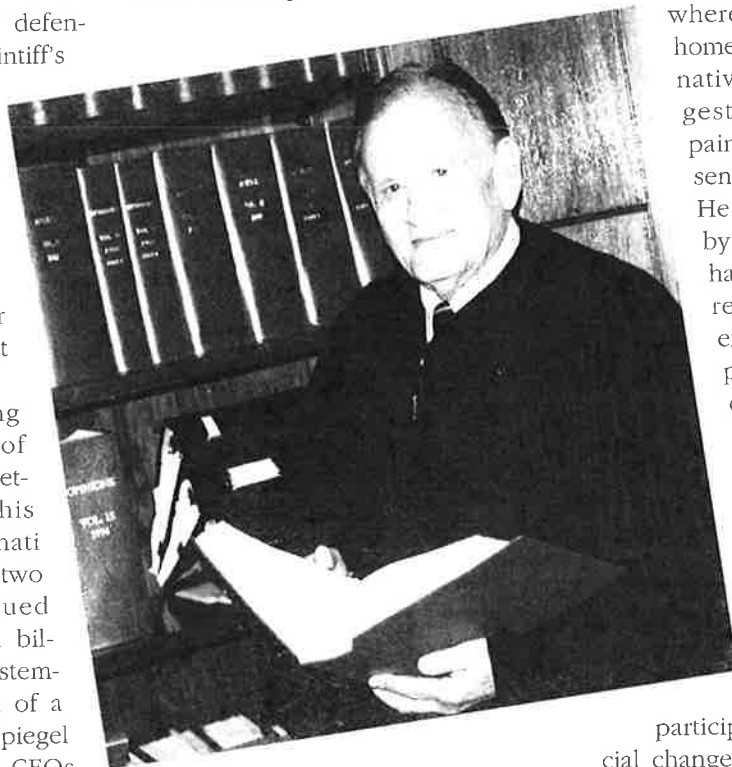
Judge Spiegel is a strong proponent that a person of high authority be present at settlement negotiations in his court. In one case, Cincinnati Gas & Electric Company and two other utility companies sued General Electric for over \$1 billion for damages allegedly stemming from the construction of a nuclear power plant. Judge Spiegel credits the presence of the CEOs from General Electric, and the other utility companies at the summary jury trial and settlement conferences that followed as a primary reason for that case settling. He believes that businesses are better off competing in the marketplace than in the courtroom.

Perhaps because of his experiences in World War II, Judge Spiegel is not afraid of the controversial case or the difficult decision. He explains that when, "you're looking over your shoulder, you become timid. I try to do the right thing based upon the law." Besides, the judge explains, his wife Louise is far more blunt than the Sixth Circuit in informing him of his mistakes.

Judge Spiegel's colleague and close friend of almost 20 years, Judge Nathaniel R. Jones, senior judge on the Sixth Circuit Court of Appeals, states: "Judge Spiegel blends a remarkable degree of practicality and real world common sense with a fun-

damental respect for guiding legal principles as he conducts the business of the court."

Judge Spiegel clearly enjoys his position as a trial judge. He likes interacting with lawyers and learning about new disputes and new areas of



the law. When asked of one thing he would like to change, Judge Spiegel stated: "I wish I were younger and just started on the bench. It's fun."

### *Outside the Court Room*

At the age of 77, and with a full trial docket, Judge Spiegel continues to have a very active life outside the courtroom. He enjoys tennis, and it is on the tennis court where he extracts his revenge. He also enjoys flying on the weekends in his own antique airplane — a Piper tail dragger. Ralph Day of Blue Ash Aircraft Service has serviced Judge Spiegel's plane for 35 years. Ralph Day says Judge Spiegel lands his plane anywhere — from a barnyard to a commercial airport — and is out flying in it once or twice weekly.

His new love is acrylic painting. Several years ago, Judge Spiegel be-

gan attending classes at the Cincinnati Art Academy to learn about painting. He enjoyed both the comradery with the young art students, and polishing his painting skills. He explains that many of his friends have reached an age where they are leaving their homes of many years for alternative living facilities. As a gesture of friendship, he paints their homes and presents the paintings to them. He has been overwhelmed by the positive response he has received. Judge Spiegel recently had an informal exhibition of some of his paintings, and in his chambers, keeps an album of his paintings.

### *Conclusion*

Judge Spiegel and his wife remain committed to the community in which they grew up. They have lived through and actively participated in many of the social changes affecting our country in this dynamic and interesting and frightening century. And, they have made positive contributions to the community and to the rule of law. The community and the country are fortunate to have them. ■

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