



# Court Historical Society NEWSLETTER

*Eastern District of Tennessee*



SEPTEMBER 2016

## Recognition For Our Secretary



*Roy L. Aaron*

He has served as the Secretary of the Court Historical Society since its inception 23 years ago. He handled the organizational aspects then, and he continues to play a stabilizing role in the Society's operation today.

We are recognizing Knoxville attorney **Roy L. Aaron** in this issue

for all that he contributes to the Society. When documents arrive in the mail at the Society's office from the federal or state government, we immediately forward them to Aaron, and he takes care of them. This has been the story for all these years, whether it is the annual report to the Tennessee Secretary of State for us to maintain our corporate standing or the annual electronic "postcard" (Form 990-N) for the Internal Revenue Service. Also, he is often called on as one of the co-signers of Society checks and at other times as the need arises.

Aaron is the senior partner/member of the Knoxville law firm Hodges, Doughty & Carson, having marked 40 years with the firm the first day of this month.

Aaron said that in late 1992, then-**Chief Judge James Jarvis**, "in his usual persuasive manner, convinced my partner, **Jack Wheeler**, to head up the organization as its first president. Jack asked me to serve as Secretary, and I obtained a corporate charter from the Tennessee Secretary of State in January 1993. I filed an application on behalf of the Historical Society with the IRS for recognition as a qualified IRC Section 501(c)(3) charitable organization, and we have enjoyed tax-exempt status throughout the Society's existence. At Jack's request, I also drafted the Society's first set of bylaws," Aaron said.

"Jack retired as a partner with Hodges, Doughty & Carson about 12 years ago and took 'Of Counsel' status, and at that time, he stepped down as the Society's President, but I have continued to serve as Secretary. It has been a distinct honor and pleasure to serve all these years," Aaron said.

## Snail Darter Exhibit

The Court Historical Society's collection of memorabilia from the snail darter lawsuit 40 years ago continues to grow. Several recent donations of items related to the case have been added to the display in the Don K. Ferguson History Center in the Howard H. Baker Jr. U.S. Courthouse in Knoxville.

The snail darter case was tried by the late **U.S. District Judge Robert L. Taylor** in Knoxville in 1976. The case "is still studied today as being a prime example of how the U.S. Supreme Court evaluates and adjudicates issues related to checks and balances between the executive and legislative branches," according to **Brad Morgan**, Associate Director of the University of Tennessee Law College's Institute for Professional Development.

Morgan made the comment to two law students from Australia while they were viewing the exhibit during a tour of the federal courthouse in July.

In the snail darter case, groups and individuals opposing the completion of the Tellico Dam on the Little Tennessee River sought an injunction to prohibit the Tennessee Valley Authority from proceeding with the dam, claiming the agency had violated the Endangered Species Act, because the river had been found to be the sole habitat of the endangered snail darter.

The opponents won their court battle, which went all the way to the U.S. Supreme Court, but ultimately, Congress exempted TVA from the requirements of the Endangered Species Act, and the dam was completed.

Recent donations of snail darter memorabilia to the Society have come from two longtime members, **U.S. District Judge Pam Reeves** and Madisonville attorney **Peter Alliman**, who, as UT students in 1976--she as an undergraduate student and he as a law student--were members of the Tennessee Endangered Species Committee, whose focus was saving the small fish. Alliman donated four boxes of trial exhibits and other items from the case that have been in his custody since the trial. Included are two copies of the complete transcript and record of the case.

Among the items donated by each are two "SAVE THE SNAIL DARTER" T-shirts offered by the group back then to help

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**Snail Darter . . .**

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raise funds for the legal battle and prints of a painting (see photograph) done by Townsend artist **Dolores Roberson**, who had no involvement in the case other than being a member of the public who sympathized with the cause and offered the painting in support, according to Alliman. A print of the painting was an exhibit in the trial.

**Zygmunt J.B. Plater**, who, as a UT law professor in the 1970s, was a leading figure in the cause and has written a book about it, has an amusing reference to the Roberson painting in his book, *The Snail Darter and the Dam*, published in 2013 by Yale University Press. Today, Plater is professor of law and director of the Land & Environmental Law Program at Boston College Law School.

On Pages 248 and 249, Plater recounts a portion of his argument before the high court. He tells the justices:

The snail darter holds over very shallow shoals. It's a highly specialized fish, as I was indicating, an indicator of water quality. Instead of a dead one, I've left with the clerk several prints, which were Exhibit No.12 at trial, which show the species in its natural habitat along the bottom of the river; and this would be eliminated.

Plater then writes about what happened during his argument:

Hot damn! As I am talking here, the Clerk of the Supreme Court stands up and edges along behind the bench, handing each justice a copy of the Exhibit 12 lithograph that I'd left with him. It's a lovely print, showing the crystal clear beauty of the river shoals. Perhaps the justices will look into the beautiful brown eyes of the two little darters in the picture and feel some empathy. Far more meaningful than a dead fish in a vial!

That dead fish in a vial--a trial exhibit itself--is part of the History Center's snail darter exhibit, thanks to the late Monroe County Clerk and Master, **Robert J. Pennington**, who donated it to the Society in 2006. At the time of the trial, Pennington was in private practice and represented Monroe County, the towns of Tellico Plains, Madisonville, Vonore, Sweetwater, and the Little Tennessee Port Authority, the Monroe County Chamber of Commerce, and the Tellico Area Services System, filing an *amici curiae* brief in the U.S. Supreme Court on behalf of TVA in support of the dam.



*MEMORABILIA--Attorney **Peter Alliman** stands at the snail darter display in the History Center at Knoxville's federal courthouse with two of the items donated recently to the Court Historical Society from the noted environmental case tried in our court in 1976. The small fish itself is in the glass enclosure at the bottom left.*

*THE HISTORICAL SOCIETY  
OF THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE, INC.*

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