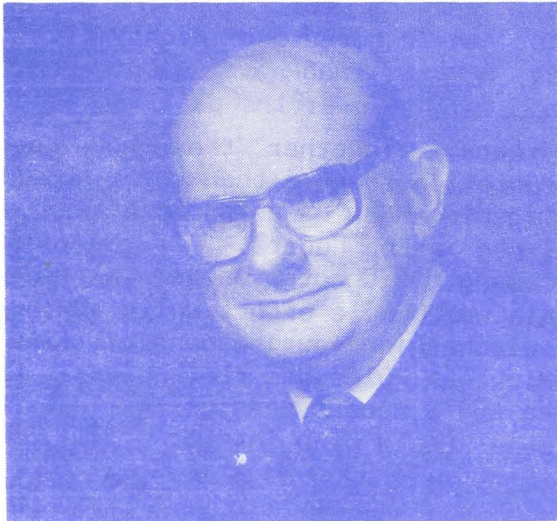




DETROIT CHAPTER FEDERAL BAR ASSOCIATION NEWSLETTER

OCTOBER, 1988

NOVEMBER LUNCHEON TO FEATURE EIGHTH CIRCUIT CHIEF JUDGE DONALD P. LAY



The Detroit Chapter will hold its second luncheon meeting of the year on Tuesday, November 1, 1988, at the Riverfront Ballroom of the Detroit Westin Hotel. The featured speaker will be Donald P. Lay, Chief Judge of the United States Court of Appeals for the Eighth Circuit, who will address the question: "DOES THE CONSTITUTION RECOGNIZE THE RIGHT OF PRIVACY?"

Chief Judge Lay was appointed United States Circuit Judge for the Eighth Circuit on July 22, 1966, and entered on duty August 26, 1966. At the time of his appointment, at age 39, he was the second youngest judge ever to be appointed to the United States Court of Appeals. He became Chief Judge on January 1, 1980.

Judge Lay attended the United States Naval Academy and graduated from the University of Iowa with a B.A. degree in 1949 and a J.D. degree in 1951. He is a member of the Order of COIF, and received honorary Doctor of Laws from William Mitchell College in 1985. He served in the United States Navy

from 1944-45; on the Judicial Conference Committee on Trial Practice and Technique, 1969-70; as a Consultant to the Federal Judicial Center's Advisory Committee on Appellate Rules, 1973-78; and on the Executive Board of the American Judicature Society 1979-82.

Judge Lay serves on the Board of Elders in the House of Hope Presbyterian Church of St. Paul Minnesota. He is a member of the American Bar Association, the Nebraska Bar Association, and the Iowa Bar Association. He is on the Board of Directors of the National Board of Trial Advocacy, and the Board of the Pretrial Resource Center; he is an honorary member of the American Trial Lawyers Association and the Iowa Academy of Trial Lawyers. He has been a member of the Judicial Conference of the United States since 1980.

Judge Lay is married to the former Miriam Elaine Gustafson and has five daughters: Catherine Sue, Cynthia Lynn, Elizabeth Ann, Deborah Jean and Susan Elaine. He was awarded a judicial achievement award as the Outstanding Federal Appellate Judge of the year in 1982 by the American Trial Lawyers. He is a Fellow of the International Academy of Trial Lawyers and a recipient of the Hancher-Finkbine Award, University of Iowa. He has authored over 50 articles in legal periodicals and journals in the area of trial and appellate advocacy and judicial administration.

Reservations for the luncheon may be made by calling Dee Osterman (548-3450) or by returning the enclosed reservation form.

DETROIT CHAPTER-PHONE NUMBER

As indicated in last month's newsletter, Dee Osterman has taken over many of the responsibilities formerly performed by retiring Executive Director Esther Munce. For information about or reservations for any of the Chapter's luncheon meetings, seminars or social activities, please call Dee at 548-3450.

PRESIDENT'S MESSAGE

On October 1, 1988, the new "Michigan Rules of Professional Conduct" became effective. Rule 6.1 provides that "(a) lawyer should render public interest legal service." The rule further provides that "(a) lawyer may discharge this responsibility by providing professional services at no fee or a reduced fee to persons of limited means, or to public service or charitable groups or organizations."

At its Annual meeting in Toronto in August, the ABA's House of Delegates also took action with respect to the subject of pro bono. Without opposition, the delegates adopted a resolution providing that lawyers should devote at least fifty hours per year to pro bono and other public service activities that serve those in need, improve the law, the legal system, or the legal profession. The resolution also proved that law firms and corporate employers should encourage pro bono work by counting that time toward billable hour requirements or giving other work credit.

The Detroit Chapter's pro bono program provides an excellent vehicle for discharging these responsibilities. Started in 1984, the program was created in response to the growing number of prisoner and employee civil rights complaints filed in propria persona with the United States District Court for the Eastern District of Michigan each year. The program pairs volunteer attorneys, many of whom are younger lawyers (like me) and all of whom serve without compensation, with pro se civil rights complainants, usually prisoners or employees who have been fired from a job, and all of whom have been unable to find or to retain an attorney. The growing stature and success of the Chapter's pro bono program are reflected in the recent recognition it has received. As announced last month, the program was the first and sole recipient of the Ilene and Michael Shaw Federal Bar Foundation Younger Lawyer Public Service Grant in the amount of \$2,500. At the FBA's annual meeting and banquet held in Washington, D.C. last month, FBI Director William Sessions presented the Chapter with the Federal Bar Association's Public Service Award in the amount of \$5,000 also in recognition of its pro bono program. These funds will be used to conduct a seminar for participating attorneys (soon to be announced), to hold a recognition luncheon honoring them (in connection with the fifth anniversary of the program next spring) and to help defray the costs of administering the program.

There are many persons whose contributions have been instrumental in the success of the Chapter's pro bono program. Former Chief Judge John Feikens, whose open letter to the bar served as the impetus for the program deserves substantial credit, as does Chief Judge Philip Pratt, whose support for the program has been unfailing. The Court's Attorneys for Indigents Committee composed of Judges Julian Cook, James Churchill, Patrick Duggan, and George LaPlata, has also been instrumental, as have United States Bankruptcy Judge Steven Rhodes and Court Executive John P. Mayer. Attorneys John McSorley and Lynn Shecter have also played a substantial role.

Finally, perhaps most deserving of credit, are the one hundred and eighty-five (185) Chapter members who have volunteered their time and talents over the past four and one-half years. Together they have provided representation to more than three hundred pro se litigants whose cases would otherwise have languished in the Courts. If you would like to be among the Chapter members participating in this worthwhile effort, while at the same time discharging your responsibilities under the Michigan Rules of Professional Conduct and the ABA's recent Resolution, please call pro bono Chair Lynn Shecter (540-7660) Court Executive John Mayer (226-2120).

John R. Runyan, Jr.

HOLIDAY PARTY RESCHEDULED

Continuing a tradition begun six years ago, the Detroit Chapter will host its annual holiday celebration at the Detroit Club from 5:00 - 7:00 p.m., on Thursday, December 15, 1988, the event's chair, Gillian Steinhauer, recently announced. This represents a change from the date announced last month, which was made to avoid conflicting with the United States District Court's own holiday party. Fortunately, the change in date permits a return to the cozy confines of the Detroit Club's family dining room, located on the second floor. Tickets at \$12.00 per person will be available from any Executive Board Member or by calling Gillian Steinhauer (496-7562), beginning November 10, 1988.

EASTERN DISTRICT-NEW LOCAL RULE ADOPTED

At their meeting on September 6, 1988, the Judges of the United States District Court for the Eastern District of Michigan approved proposed Local Rule 40, providing for a uniform pre-trial order in all civil cases filed in the Eastern District. The Rule becomes effective on January 1, 1989, as to all pending cases in which there is no outstanding requirement for a final joint pre-trial order.

Under the new rule, a Joint Final Pretrial order must be furnished in every civil case at or before the time set for the final pre trial conference. As is the present practice of most of the Judges in the Eastern District, the plaintiff's counsel bears responsibility for convening a conference of the parties to formulate the order, for compiling the same and for submitting it to the court for approval and adoption, once it has been approved and signed by counsel for all parties. However, the rule also provides for an array of sanctions in the event that counsel fails to cooperate in the preparation of the Joint Final Pretrial order, or to submit the same or to strictly comply with its terms, once adopted by the Court.

The new rule standardizes both the form and content of Joint Final Pretrial Orders in the Eastern District by spelling out in great detail each of the thirteen items which must be included, under separately numbered and captioned headings. The rule also allows for additional requirements to be imposed and for the suspension of the rule in appropriate cases. Finally, the rule calls for each final Pretrial Order to provide for the filing on the first day of trial, of trial

briefs, proposed findings of fact and conclusions of law or requests for jury instructions, as appropriate.

Copies of the new rule may be obtained from the Clerk's office.

FEDERAL JUDGES AWAIT SUPREME COURT DECISION

The Judges of the United States District Court for the Eastern District of Michigan have unanimously agreed to defer

consideration of challenges to the constitutionality of the new sentencing guideline law which went into effect November 1, 1987 until an appeal pending before the United States Supreme Court has been decided by that Court.

The Judges agreed that they "will deny without prejudice any challenge to Guideline Sentencing raising the issues to be decided in *United States v. Mistretta* [682 F. Supp. 1033 (W.D. Mo. 1988), cert.granted, June 13, 1988 (Nos.87-1904 and 87-7028)] pending decision by the Supreme Court of the United States."

The practical effect of this decision is that defendants convicted of crimes committed after November 1, 1987 will be sentenced under the new law.

For further information, contact Court Executive John P. Mayer - (313)226-2120.

GENDER AND RACIAL/ETHNIC TASK FORCE HEARINGS

As a result of recommendations made by the Michigan Supreme Court Citizens' Commission to Improve Michigan Courts, the Michigan Supreme Court has created Task Forces on Racial/Ethnic Issues in the Courts and on Gender Issues in the Courts. The mission of the task forces is to determine whether citizens believe that racial/ethnic/gender bias exists in the courts, to determine whether and where courts actually operate in a biased manner, and to recommend ways to reform the court system to eliminate and prevent actual or perceived bias.

The Task Forces have scheduled a series of public hearings throughout the state for the purpose of allowing citizens the opportunity to speak directly to them with respect to their concerns on these issues. The Detroit hearings will take place in the 13th Floor Auditorium of the City-County Building from 9:00 a.m. to 12:00 noon and from 1:00 p.m. to 5:00 p.m. on Monday, November 14, and Tuesday, November 15, 1988 (Racial/Ethnic Issues) and on Thursday, November 17 and Friday, November 18, 1988 (Gender Issues).

The Task Forces are scheduled to issue reports to the Supreme Court in October, 1989, containing their findings and recommendations with respect to these issues.

SCHEDULE OF SEMINARS

CRIMINAL LAW

The Criminal Law Section will present its fall seminar on Tuesday, November 15, 1988 in Room 115 of the Federal Building and U.S. Courthouse. Topics will include a review of all federal litigation regarding the new sentencing guidelines; plea and sentencing policies in the U. S. Attorney's Office in the Eastern District of Michigan; and sentencing from the judicial perspective. Further information will follow in the next Newsletter. The seminar will run from 9 a.m. to 1 p.m.

Those persons who are interested in attending can indicate so by filling out the form below and returning it to Richard E. Zuckerman and Honigman, Miller, Schwartz and Cohn, 2290 First National Building, Detroit, Mi. 48226.

I'm interested in the November 15, 1988 Criminal Law Section Seminar.

NAME _____

ADDRESS _____

TELEPHONE NO. _____

GOVERNMENT PRACTICE SECTION

The recently organized Government Practice Section has announced plans for its initial seminar. Chair Christine M. Dowhan, District Counsel of the U.S. Army Corps of Engineers, indicated that the seminar will be held at the Detroit Press Club, at 11:45 a.m., on Friday, November 4, 1988. Tickets, which include lunch, are available from Ms. Dowhan (226-6822) at \$10.00 per person.

The topic of the seminar will be "The Care and Feeding of a Government Law Practice." The principal speaker will be Carol K. Scott, Assistant General Counsel with the Securities and Exchange Commission in Washington, D.C. Ms. Scott is responsible for overall administration and management of the SEC's office of the General Counsel, including recruitment, budget and personnel actions, in addition to her legal responsibilities in the government contracting and administrative law area. Previously, she managed recruitment for the Office of Chief Counsel, Internal Revenue Service, and as senior trial counsel, handled litigation before the United States Tax Court. She is a 1971 graduate of NYU School of Law, where she worked, while in law school, in its Placement Office. She chairs the Interagency Attorney Personnel Group, with members from about 30 different agencies, which discusses legal and management issues of concern to federal sector attorneys.

NEW AND SUSTAINING MEMBERS

The Detroit Chapter is pleased to welcome to its ranks the following new members:

Bernard J. Cantor
John M. Chase, Jr.
Robert J. Gullo
William E. Hosler, III
Elizabeth Larin
Ronald S. Longhofer
Peter J. Lucido
Leonard Niehoff
Barry R. Powers
Michael J. Schroer
Peter Vestevich

The Chapter also extends its appreciation to the following sustaining members:

Thomas Cranmer
David F. DeMouchel
Robert A. Fineman
Robert E. Forrest
Norman Hyman
Deborah L. Miela
Robert F. Riley
Wallace D. Riley
James K. Robinson
Charles R. Rutherford
Richard E. Zuckerman

LUNCHEON

RESERVATION

RIVERFRONT BALLROOM
DETROIT WESTIN HOTEL
NOVEMBER 1, 1988

RESERVATIONS FOR:

at \$20 for FBA Member.

at \$22 for Non-Member.

AMOUNT ENCLOSED:

NAME:

FIRM NAME:

ADDRESS:

TELEPHONE:

Please make checks payable to: Detroit Chapter - FBA

Forward to: Detroit Chapter - FBA
P.O.Box 71740
Madison Heights, Mi. 48071

ADDRESS CHANGE

Please change your records to reflect my correct name, address and telephone number as they appear below:

NAME _____

State Bar No. _____ Year Admitted to Bar _____

Business Address _____

City _____ Zip _____ Phone _____

Home Address _____

City _____ Zip _____ Phone _____

Preferred location for mailings and phone contacts:

Business _____

Home _____

Return to: Detroit Chapter - FBA
P.O.Box 71740
Madison Heights, Mi. 48071

DETROIT CHAPTER



Post Office Box 71740
Madison Heights, Michigan 48071

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Immediate Past-President

Michele Coleman Mayes

CHAPTER CALENDAR

MONDAY, OCTOBER 17, 1988

District Counsel Luncheon
Savoyard Club

TUESDAY, NOVEMBER 1, 1988

Membership Luncheon
Riverfront Ballroom
Detroit Westin Hotel
SPEAKER: Donald P. Lay
Chief Judge
U.S.Court of Appeals
Eighth Circuit:

FRIDAY, NOVEMBER 4, 1988

Government Practice Section
Seminar
Detroit Press Club

TUESDAY, NOVEMBER 15, 1988

Criminal Law Section Seminar
115 U.S.Courthouse

TUESDAY/WEDNESDAY, DECEMBER 6-7, 1988

New Lawyers Seminar
115 U.S.Courthouse

THURSDAY, DECEMBER 15, 1988

(please note change in date)

Annual Holiday Party
Detroit Club

PRESORTED
First Class Mail
U.S. Postage PAID
Royal Oak, MI
PERMIT #134