



DETROIT CHAPTER FEDERAL BAR ASSOCIATION NEWSLETTER

FEBRUARY - 1989

RAKOW AWARDS LUNCHEON SET

The Detroit Chapter will hold its annual Edward H. Rakow Awards Luncheon at 12:00 noon on Thursday, February 23, 1989, in the Riverfront Ballroom of the Detroit Westin Hotel. As usual, the luncheon will be preceded by a reception beginning at 11:30 a.m. Reservations for the luncheon may be made by returning the enclosed reservation form or calling Program Chair Ed Kronk (225-7017) on or before Monday, February 20, 1989.

As in each of the last twenty years, the luncheon will be the occasion for the presentation of the Edward H. Rakow Scholarship Awards to an outstanding Student from each of Michigan's five law schools. The principal speaker at this year's luncheon will be Dean of the University of Michigan Law School, Lee C. Bollinger. A recognized First Amendment scholar, Dean Bollinger has entitled his remarks "Free Speech and the University: An Unresolved First Amendment Issue."

YOUNGER LAWYER ACTIVITIES

In order to give the younger members of the Detroit Chapter of the Federal Bar Association an opportunity to meet the federal judiciary, the newly-formed Younger Lawyer's Section of the Detroit Chapter will be hosting its first reception. All FBA members under the age of 35 are invited to attend.

The reception is planned for April 11, 1989, from 5:00 to 7:00 p.m., at the Savoyard Club. More information will be published in the March Newsletter or contact Thea Sankiewicz at 223-3455.

Also, the Younger Lawyers Division of the National FBA will be sponsoring its annual U.S. Supreme Court Admission Ceremony on May 30, 1989, at 10:00 a.m., at the U.S. Supreme Court Building. Applications can be obtained by contacting Alicia Quinn, YLD Staff Liaison, at (202) 638-0252, or by writing to the Federal Bar Association headquarters at 1815 H Street, N.W. Washington, D.C. 20006-3697. The deadline for receipt of applications is April 14, 1989. Along with the application, the admittee must

provide a certificate of good standing from the clerk of the highest court in the state to which he/she is admitted. The certificate must evidence the fact that the admittee has been admitted to practice for at least 3 years prior to the date of the ceremony. Associate Justice Scalia will sponsor a Continental Breakfast for admittees and their guests immediately after the admissions ceremony.

LEONARD R. GILMAN AWARD NOMINATIONS

Nominations are currently being accepted for this year's LEONARD R. GILMAN AWARD. Created in 1985 upon the untimely death of the then United States Attorney "Lenny" Gilman, the Gilman Award has been presented each of the past four years to an "Outstanding Practitioner of Criminal Law." Prior Recipients include JOEL M. SHERE (1985); DAVID F. DUMOUCHEL (1986), PAUL D. BORMAN (1987); and ROBERT M. MORGAN (1988).

Nominations should be submitted on or before March 31, 1989 to Richard E. Zuckerman, Honigman, Miller, Schwartz & Cohn, 2190 First National Bldg., Detroit, Michigan 48226 or Blondell Morey, Assistant US Attorney, 817 US Courthouse, Detroit, Michigan 48226, Co-Chairs of the Chapter's Criminal Practice Section.

PRESIDENT'S MESSAGE



Each of us has our own special memories of Chief Judge Philip Pratt. Mine surround his friendship with the late United States District Judge Stephen J. Roth, a judge for whom I was privileged to clerk and who, like Judge Pratt, graced this earth for too short a period.

At the unveiling of Judge Roth's portrait in Flint, Judge Pratt was asked to deliver a eulogy. An intensely private man, it was clear that he did not relish the opportunity. Nonetheless, Judge Pratt's carefully chosen words on that occasion not only testify to his eloquence, but could well have been spoken about himself:

It is given to some of us, some time in our lives, the opportunity to cross the path of a rare man, and depending on the degree of our good fortune to walk along that path together for a time. So it was that seven years ago I crossed the path of Stephen Roth and for too short a time, walked with him. That path was not always in the sunlight; it wasn't always smooth, nor did it always incline downward favorably. But, because it was travelled with him, it was never dark,

never rocky and never precipitous. It is a path that once walked alone, but for a distance is walked with a friend and because of that, is never again walked alone.

Asking me to speak on this occasion is not a kindly thing. It requires that I share a part of the friendship and I don't know that I am willing or yet prepared to share it, if ever. And yet is so contrary to his own image that I feel a little less for my selfishness in that regard. Even with that admission, you will forgive me if I do not relate some legal analysis, some philosophical dialogue, some intellectual exercise that we may have engaged in in the time that we were together and the uniqueness of which I might explain in some fashion to you, for if I did so, it would necessitate my revealing to you what I said I would much rather hold that close and unseen.

With your indulgence, I would like to describe rather than explain, to define, rather than expound and to be restrictive even that.

I discerned that Stephen Roth was a rare man. But, I don't intend to imply by that that he was perfect or, as a matter of fact, that he had any pretensions in that regard. On the contrary, he was heir to human frailties as we all are. His rarity was that he readily understood that inheritance and never ceased to search out these frailties so that he could identify them and control them.

He was, and I think this may surprise many and differ from the impressions of many, a very introspective man, who sought constantly to know, to understand and to comprehend himself. But how can we pass judgement on others without first realizing our own character? His introspection led him to apply, and on a much less stringent basis, the same analysis and reasoning in dealing with his fellow man. His concern was not ever with appearance, but with the cause, the motivation, with the underlining that moved men to act. His pragmatism was achieved through a wealth of experience; his intelligence was honed by curiosity and training; his integrity was enhanced by his adherence to moral and ethical concepts and his courage contributed to making him a good judge.

His realization of self and his understanding of, and the compassion for, his fellow man-made him a great judge.

Yet, all in all, he was a man; he was unique, but we are all unique, none like any other. But, beyond that, he was a rare man and blessed am I because he was my friend.

John R. Runyan, Jr.

1989 GOLF OUTING

Please reserve Wednesday, June 7, 1989, for the Federal Bar Golf Outing to be held this year at Fox Hills Country Club in Plymouth, Michigan. Plan to enjoy a round of golf with tee off between 11:30 a.m. and 12:30 p.m., followed by food, drink and prizes (or come for just the food, drink and prizes). Look for additional details in upcoming Newsletters.

CLERKS OFFICE TOP TEN

In response to our request, the Clerk's office of the United States District Court for the Eastern District of Michigan prepared the summary below of the ten "errors" most frequently encountered in dealing with attorneys. Our thanks to Judy Christie, Operations Manager of the Clerk's office, for preparing the summary.

1. Not Buying and Consulting the Local Rules

The Supreme Court and each of the courts of appeals and federal district courts has its own set of local rules which embody those things about which the bench of that court is most concerned. It only makes sense, therefore, for an attorney who is going to represent clients in a district to consult the rules of that district. Our Local Rules are available for \$5.00 at the Clerk's Office. It is \$5.00 well spent!

2. Asking Legal Questions of Deputy Clerks

This usually occurs with new or inexperienced attorneys and admittedly the line is a fuzzy one. Deputy clerks will err on the side of caution, however, and refer to the assigned judge's law clerk any question which seems to be a matter of legal interpretation.

3. Problems with Depositions

Many attorneys argue about the necessity for a notice of deposition and proof of service. According to Rule 45, F.R.Civ. P., a deputy clerk may not issue a deposition subpoena unless a copy of the notice and proof of its service have been filed with the district court. If the deposition is to take place outside of the district, the party must file the original notice and proof of service in the district in which the case is filed, obtain time-stamped copies of the notice and proof and present them and the completed subpoenas at the district court nearest the place where the individual is to be deposed, and that district court will issue the subpoenas. If the subpoenas should then be challenged, the judge in that district will hear the objections and make a ruling.

4. Motions Lacking a Brief or Brief Exceeding Twenty-Page Limit

A brief cannot be assumed by a deputy clerk to be present unless it is specifically mentioned in the title of the document and preferably set forth separately from the motion. Briefs also have a limit of twenty pages and the deputy clerks will only refer attorneys who wish to discuss this to the assigned judge.

5. No Duplicate Copy for the Judge

The duplicate copy for the judge must be delivered along with the original to the Clerk's Office. This rule is for an attorney's protection. Copies are delivered twice a day to the judges' chambers and the Clerk's Office takes the blame (rather than the attorney) if a copy is missing. If it is vital that a copy be hand-delivered immediately, the attorney should bring along a third courtesy copy.

6. Sending Documents to the Wrong Office

Documents subsequent to complaints (which may be filed with any office) should be sent directly to the place of holding court to which the case has been assigned. This prevents delays and losses which may occur when documents are missent and have to be sorted and remailed to the proper office.

7. Mediation Summaries Sent to District Court

Once a case has been referred to mediation, all documents relating to the mediation process should be sent directly to the Mediation Tribunal. No copies of mediation summaries are required by the court.

8. Bills of Cost Questions

There are too many questions of cost to be addressed here. The Clerk's Office staff have written a handbook on bills of cost and it is available free in the Clerk's Office. Please ask for it before completing a bill of cost. All costs must be supported by documentation, not office ledger entries, but copies of real bills, receipts, etc.

9. Garnishment and Writs of Execution

Federal garnishment follows state law in this field. Out-of-state judgments must be registered in the district court before a federal writ of execution can be issued. Call the Clerk's Office with questions.

10. Belief that the Clerk's Office Represents a Barrier to Justice

An attorney always has the right to know why something is being done the way it is. If a deputy clerk cannot respond, ask for either the Administrative Manager or the Operations Manager. We are all public servants and take as much pride in our profession as attorneys do in theirs. Courtesy and respect on both sides of the counter go a long way towards making the administration of justice a smooth and equitable process.

SCHEDULE OF SEMINARS

CIVIL RIGHTS SEMINAR

As indicated in last month's newsletter, the Detroit Chapter's Pro Bono Committee is holding a civil rights seminar commencing at 8:00 a.m. on Monday, February 20, 1989 (a Court holiday) in Room 115 US Courthouse. The seminar is primarily intended for and is free-of-charge to all participants in the Chapter's pro bono program -- those attorneys who have agreed to accept assignment of employee and prisoner civil rights claims filed pro se in the United States District Court for the Eastern District of Michigan. Other interested persons may attend for a nominal charge (\$5.00 FBA Members; \$10.00 Non-members).

The outline for the seminar appears below. Extensive and up-to-date written materials will be distributed to all in attendance. Please register by returning the enclosed registration form with the appropriate registration fee (if any) on or before February 15, 1989. Because February 20, 1989 is a Court holiday and the Courthouse will otherwise be closed, please use the Lafayette Street entrance.

CIVIL RIGHTS SEMINAR

Federal Building, Room 115
Detroit, Michigan
February 20, 1989

MORNING SESSION

8:00 - 8:10 WELCOME AND INTRODUCTION
Lynn H. Shecter
Roy, Shecter & Vocht, P.C.
Chair, Pro Bono Committee

8:10 - 8:20 SOME FACTS ABOUT PRO BOND REPRESENTATION (including insurance and reimbursement of costs)

SPEAKER: John Runyan
Sachs, Nunn, Kates,
Kadushin, O'Hare,
Helveston & Waldman, P.C.
President-Detroit Chapter

8:20 - 8:50 LEGISLATIVE FRAMEWORK FOR EMPLOYMENT CASES IN FEDERAL COURT

SPEAKER: Dianne Rubin
Department of Attorney
General

8:50 - 9:20 DISCOVERY IN A FEDERAL COURT
EMPLOYMENT CASE

SPEAKER: Michelle Vocht
Roy, Shecter & Vocht,
P.C.

9:20 - 10:05 THE PLAINTIFF'S DEPOSITION

SPEAKER: Jan Leventer
Lopatin, Miller, Freedman,
Bluestone, Erlich, Rosen
& Barnick

10:05 - 10:15 Break

10:15 - 10:45 THE TOUSSAINT CASE

SPEAKER: Kathy Bogas
Sachs, Nunn, Kates,
Kadushin, O'Hare,
Helveston & Waldman, P.C.

10:45 - 11:00 THE DEFENDANT PERSPECTIVE

SPEAKER: Don Van Sullichem
Simpson & Moran

11:00 - 11:45 HOW TO TRY THE PLAINTIFF'S
EMPLOYMENT CASE IN FEDERAL COURT

SPEAKER: Dennis Brescoll
Brescoll & Assoc., P.C.

11:45 - Noon QUESTION PERIOD

Noon - 1:00 LUNCH (on your own)

AFTERNOON SESSION

INTRODUCTION:

1:00 - 1:10 SPEAKER: Hon. Steven D. Pepe
United States Magistrate

1:10 - 2:00 INTRODUCTION TO THE PLAINTIFF'S 1983
CASE FOR PRISON INMATES - APPELLATE
CASE ANALYSIS:

SPEAKER: Daniel E. Manville,
Formerly with the National
Prison Project of the
American Civil Liberties
Union

2:00 - 2:45 THE DEFENSE PERSPECTIVE IN 1983
CASES-- THEORETICAL AND PRACTICAL
PROBLEMS - WHEN SHOULD STATE COURTS
BE USED?

SPEAKER: Brian D. Devlin
Assistant Attorney
General

2:45 - 3:15 "BIVENS" CIVIL RIGHTS ACTIONS
AGAINST FEDERAL ACTORS - AND OTHER
CIVIL RIGHTS DEVELOPMENTS

SPEAKER: Paul Reingold, Clinical
Asst.Prof. of Law,
Michigan Law School

3:15 - 3:30 BREAK

3:30 - 4:45 PRACTICAL PROBLEMS AND HOW TO
AVOID THEM, AND ALTERNATE REMEDIES
TO LITIGATION

SPEAKERS: Larry W. Bennet

Butzel, Keidan, Simon,
Myers & Graham

Marjorie M. Van Ochten
Hearings Administrator
Department of Corrections

Sandra L. Girard, Director
Prison Legal Services of
Michigan

4:45 - 5:30 PANEL DISCUSSION AND QUESTION PERIOD
Hon. Steven D. Pepe, Moderator

CRIMINAL PRACTICE SECTION

The Criminal Practice Section has announced plans for a seminar to be held from 1:00 p.m. to 5:00 on Wednesday, February 22, 1989, in Room 115 US Courthouse. The seminar will include a discussion of the Supreme Court's January 18, 1989 decision in *Mistretta v. United States*, Nos. 87-1904 and 87-7028, upholding the 1984 Sentencing Reform Act, which established US Sentencing Commission and gave it authority to promulgate binding guidelines for use in sentencing federal

defendants; plea & sentencing policies in the US Attorney's and US Probation department offices; sentencing from the Judicial perspective; and an update on the recent Supreme Court and Sixth Circuit decisions in the Criminal practice area.

Those interested in attending the seminar should return the enclosed registration form on or before February 17, 1989.

GOVERNMENT PRACTICE SECTION

The Detroit Chapter's recently established Government Practice section will be meeting from 8:00 a.m. to 9:30 a.m. on Tuesday, February 21, 1989, in the Corps of Engineers Conference Room, 6th Floor, Patrick V. McNamara Federal Building, Chair Christine M. Dowhan recently announced. The featured speaker will be attorney Emily Bacon of the U.S. Army Tank Automotive Command, who specializes in Personnel matters. Ms. Bacon will be discussing recent Merit System Protection Board decisions.

Coffee and donuts will be served. A nominal fee of \$1.50 per person will be charged. Those interested in attending the seminar are asked to return the enclosed registration form on or before Friday, February 17, 1989.

EEOC SEEKS TRIAL ATTORNEY

The Detroit District Office of the United States Equal Employment Opportunity Commission is seeking applicants for the position of Trial Attorney (Civil Rights) GS-905-11/12. Applicants must be a member of the bar and have at least one year of professional legal experience or equivalent professional non-legal experience. Applications should be submitted on or before February 24, 1989 to EEOC, Detroit District Office, ATTN: Personnel, Patrick V. McNamara Bldg., Room 1540, 477 Michigan Avenue, Detroit, MI 48226.

CHAPTER CALENDAR

Monday, February 20, 1989
Civil Rights Seminar
115 US Courthouse

Tuesday, February 21, 1989
Government Practice Section Seminar
6th Floor Conference Room
Patrick V. McNamara Federal Building

Wednesday, February 22, 1989
Criminal Practice Section Seminar
115 US Courthouse

Thursday, February 23, 1989
Edward Rakow Awards Luncheon
Riverfront Ballroom
Detroit Westin Hotel
SPEAKER: Dean Lee C. Bollinger
University of Michigan
School of Law

Monday, March 9, 1989
Executive Board Meeting
Savoyard Club

Tuesday, March 14, 1989
Recognition Luncheon for Pro Bono Attorneys - Pontchartrain Hotel

Thursday, Friday, March 16/17, 1989
Trial Advocacy Workshop
US Courthouse

Tuesday, April 11, 1989
Young Lawyers Section Reception
Savoyard Club 5:00 - 7:00 p.m.

Friday, May 5, 1989
Annual Dinner Dance
Detroit Yacht Club

Tuesday, Wednesday, June 6/7, 1989
New Lawyers Seminar
115 US Courthouse

Wednesday, June 7, 1989
Annual Golf Outing
Fox Hills Country Club

CIVIL RIGHTS SEMINAR
Room 115, U.S. Courthouse
Monday, February 20, 1989
8:00 a.m. to 12:00 noon (Employee)
1:00 p.m. to 5:30 p.m. (Prisoner)

Free for Pro Bono panel attorneys

_____ \$5 for other FBA Members

_____ \$10 for Non-Members

Amount enclosed _____

Name: _____

Address: _____

Telephone: _____

Please make checks payable to: Detroit Chapter, FBA

Please forward to: Detroit Chapter, FBA
P.O. Box 71740
Madison Heights, MI 48071

EDWARD H. RAKOW
SCHOLARSHIP AWARDS

LUNCHEON RESERVATION FORM

Thursday, February 23, 1989 - Riverfront Ballroom
Speaker: Lee C. Bollinger Detroit Westin Hotel

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

REGISTRATION

CRIMINAL PRACTICE SECTION SEMINAR
Room 115 U.S. Courthouse
Wednesday, February 22, 1989
1:00 p.m. to 5:00 p.m.

Name: _____

Address: _____

Telephone: _____

Please forward to: Detroit Chapter - FBA
P.O. Box 71740
Madison Heights, MI 48071

GOVERNMENT PRACTICE SECTION SEMINAR
Corps of Engineers Conference Room
6th Floor, Patrick V. McNamara Federal Building
Tuesday, February 21, 1989
8:00 a.m. to 9:30 a.m.

_____ \$1.50 per person
(covers cost of coffee and donuts)

Amount enclosed: _____

Name: _____

Address: _____

Telephone: _____

Please make checks payable to: Detroit Chapter - FBA

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