



DETROIT CHAPTER FEDERAL BAR ASSOCIATION NEWSLETTER

FEBRUARY, 1990

RAKOW AWARDS LUNCHEON SET

The Detroit Chapter will hold its annual Edward H. Rakow Awards Luncheon at 12:00 noon on Thursday, March 15, 1990, 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, Larry Campbell at 223-3703 on or before Monday, March 12, 1990.

As in each of the last twenty-one years, the luncheon will be the occasion of the presentation of the Edward H. Rakow Scholarship Awards to an outstanding law student from each of Michigan's five law schools.

Kevin J. Arquit, Director of the Bureau of Competition, Federal Trade Commission, will be the principal speaker at this year's luncheon. Mr. Arquit will present an overview of the current and enforcement pragmatism at the Commission. Following Mr. Arquit's presentation relating to anti-trust enforcement during the 1990's, there will be ample opportunity for questions from those in the audience. A candid and informative presentation is expected.

MEMBERSHIP GROWS

Membership in the Detroit Chapter continues to grow. As of January 31, 1990 the Detroit Chapter had 529 total members who have either renewed their existing membership or recently joined the Chapter. Membership applications and renewal forms can be obtained from the Chapter's Executive Director, Dee Osterman at 548-3450 or from Mike LaVoie, Chairperson, Membership Committee, at 225-7060.

FBA/MI.STATE BAR LABOR RELATIONS LAW SECTIONS SCHEDULE SEMINAR

The Labor Relations Law Sections of the Detroit Chapter of the Federal Bar Association and the State Bar of Michigan will be hosting a panel on "Significant Labor and Employment Law Decisions of the Sixth Circuit During 1988-1989". The Seminar will take place on Friday, March 2, 1990 from 2:00 to 5:00 p.m., at Room 115 of the United States Courthouse, Detroit, Michigan.

The distinguished panel will include: Honorable Avern L. Cohn, United States District Judge, John F. Brady, Brady & Hathaway, P.C., Chairperson of the Labor Law Section of the Detroit Bar Association and Eileen Nowikowski, Sachs, Nunn, Kates, Kadushin, O'Hare, Helveston & Waldman, P.C., Vice-Chairperson of the Labor Relations Law Section of the State Bar of Michigan.

The registration fee is \$15.00. For more information, please contact Andrew A. Nickelhoff (965-3464) or J. Kent Cooper (223-7843).

LEONARD R. GILMAN AWARD LUNCHEON

The Leonard R. Gilman Award Luncheon is scheduled for April 12, 1990, at the Westin Hotel, in the Riverfront Ballroom.

The Honorable Stanley Marcus, U. S. District Judge for the Southern District of Florida has agreed to be the featured speaker. Before becoming a District Judge, he was the U. S. Attorney for the Southern District of Florida and was Chief of the Organized Strike Crime Force here in Detroit.

Judge Marcus was a long time friend of Lenny Gilman. His remarks promise to be entertaining and provocative.

LEONARD R. GILMAN AWARD NOMINATIONS

The Detroit Chapter solicits nominations for the recipient of the 1990 Leonard R. Gilman Award, to be presented at the forthcoming Leonard R. Gilman Award Luncheon to be scheduled this Spring. The Leonard R. Gilman Award is given each year to an outstanding practitioner in criminal law in the state or federal system who best exemplifies the qualities of the late Leonard R. Gilman, United States Attorney for the Eastern District of Michigan. Last year's winner was Maura Corrigan, formerly Principal Assistant United States Attorney for the Eastern District of Michigan, and now associated with Plunkett & Cooney, P.C. Former winners include Robert Morgan, Paul Borman, David Dumouchel and Joel Shere.

The Nominating Committee earnestly solicits the names of all individuals who are skilled practitioners of criminal law and who possess the qualities of compassion, dedication, and humanity that Lenny Gilman exemplified in his own life. Nominations can be made by writing the committee, c/o Robert E. Forrest, 2000 Town Center, Suite 2400, Southfield, Mi. 48075, before March 20, 1990.

PLANNING NEW LAWYERS SEMINAR

Over 140 new lawyers attended the two day New Lawyers Seminar sponsored by the Detroit Chapter and the Young Lawyers Section of the State Bar in the United States Courthouse in early December, 1989. The two day federal and state law program was a nuts and bolts approach to practice in federal and state courts.

The first day of the seminar addressing federal topics was followed by the separate admissions ceremony to the United States District Court for the Eastern District of Michigan, and a reception for new admittees in the Jury Assembly Room. The second day of the seminar focused on state court topics. The success of the seminar is attributable to the energy and enthusiasm of co-chairs Brian Figot and

Catherine F. Wenger, ably assisted by Chris Dowhan and other volunteer moderators.

Planning for the New Lawyers Seminar for the Spring has begun. Those interested in assisting should contact Brian Figot at 356-4900 or Catherine F. Wenger at 963-6420.

ANNUAL DINNER DANCE HONORING FEDERAL DISTRICT JUDGES

The Annual Dinner Dance honoring the Judges of the Eastern District Bench and their spouses will be held Friday, May 11, 1990, at the Detroit Yacht Club on Belle Isle. Cocktails will begin at 5:30 p.m., dinner will follow at 6:30 p.m. Entertainment will be provided by the Johnny Trudell Orchestra.

Last year over 140 members, judges and spouses enjoyed the excellent accommodations provided by the Yacht Club and honored Senior Judge Ralph Freeman. In addition, the chapter presented Mr. Phillip Pratt with a plaque containing the memorial remarks of the Sixth Circuit regarding her late husband the Honorable Phillip Pratt.

Tickets are \$50.00 per person. We hope that all will attend. Reservations for the Annual Dinner Dance may be made by returning the enclosed reservation form, or calling Mimi Gendreau, Chairperson, Annual Dinner Dance, at 226-4643.

1990 GOLF OUTING

Reserve Wednesday, June 6, 1990, for the Federal Bar Association - Detroit Chapter 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. Please contact Jack Kalmink at 259-1144 for more details.

EXCERPTS FROM JUDGE CHURCHILL'S REMARKS TO DETROIT CHAPTER

On October 25, 1989, the Honorable James P. Churchill, then Chief Judge, delivered remarks to a luncheon audience of his fellow judges and lawyers. Over 180 individuals attended the luncheon. The following are excerpts from those fine remarks:

I just can't tell you how excited I am to be here, and not surprised, but so happy to see so many friends, former law clerks, colleagues and practitioners.

It's been my personal philosophy, and this is real, that judges should be seen and heard on the bench and not elsewhere. I don't say that's right; it's my personal view of the world. For this reason, I find it a little bit difficult to address you today on where I think we've been and where I think we're going. This may be my last chance to get in a few licks on some issues, and I'm going to do it and let the chips fall where they may. I will do so in only the most general terms and then will talk about such mundane but important things as court organization, court facilities and dockets. . . .

I've been a practicing lawyer and a judge for 40 years -- in another year it will be 41 years -- and in my view with respect to individual rights and liberties in general, and with respect to the rights of minorities and women in particular, it has been the best of times, the age of wisdom, the epoch of belief, the season of light and the spring of hope. We have had everything before us, and the federal courts have been at the forefront of the age of wisdom.

This is purely a personal, subjective view, but I do not believe this can be said of the federal courts today. Section 1981 has been destroyed as an effective remedy against most private discrimination. Section 1983 is still

effective if a constitutional violation exists. It's the constitutional rights themselves that are at risk.

Whether we are headed into a period of consolidation and confirmation or a period of regression and repression, only time can tell. But there is reason for hope rather than despair. With the passage of time, many more state courts are taking the lead in the recognition of constitutional guarantees.

In any event, once real freedom from government oppression of individual rights and expectations has been experienced, the freedom has a life of its own.

I am not sure where we are going or how we will get there, but the road we will follow will be the rule of law, and wherever we are going, the United States District Court in the Eastern District of Michigan will have a positive role to play. . . .

We may anticipate that Judge Julian Cook will be our chief for several years to come, and I am confident that he will be an effective leader. We are a strong-willed bunch of individuals, Julian, and I am not sure I envy you your task.

I began to prepare for this talk by putting a lot of statistics together, but I am going to spare you most of them. It is enough to say that our pending civil caseload has dropped from 7,300 to 4,700 cases in the past four years. Why is this true? Why is our civil caseload down? I think there are three major reasons.

One of the major reasons is a drop in the Social Security load. In the last four years, our Social Security caseload has dropped in total from 1,600 to 500 cases. On the way over here I mentioned this to John Mayer, and he said that a few years before that it was 2,700. I think the Social Security caseload is somewhat proportional to the economic times. This may go back up again, but that has been a cause, perhaps, of a drop of a thousand or so of that number.

The drop of the rest of the caseload, and I'm talking about pending cases, not the number of new cases that are started, I think is attributable to two things. One is, our court has become very efficient in bringing cases to an early termination. Now I am not saying that's good or that's bad. That depends on the individual case, but I'm telling you, some cases don't last very long.

The second reason we have a lower caseload is that some of the plaintiffs' lawyers have learned the hard way about the first reason. I don't say it's true, but I think some of the plaintiffs' lawyers are of the opinion that the federal court is not too friendly a place to be at times, and have learned to bring cases in state court. They have gotten pretty good at picking issues and picking parties to avoid removal. I don't mean that to be critical. If a case doesn't belong on the docket it doesn't belong on the docket for two years if it could be disposed of on summary judgment in six months. If the case can be settled in a year, that's good. . .

While I'm talking about the criminal caseload for a minute, I want to mention something. It's a little out of order in my speech, but I want to talk a bit about the grand jury system. I have never been comfortable with it. .

After 15 years, I have come to the conclusion that the grand jury is a rubber stamp of the prosecution. This does not mean that there are many people indicted who ought not to be indicted. The system works fairly well, because of the high integrity of the United States Attorneys and the Assistants. It is just that the conscience of a prosecutor is a rather slender thread upon which our liberties should hang. I am not suggesting that we necessarily have defense attorneys in every grand jury. I think there are a couple of things that we could do, however, that would be healthy.

One of them would be to at least have a Devil's advocate in the grand jury. There could be a court-appointed officer to go in there and represent other side and make sure that at least the grand jury learns that there is another view.

Another way would be, perhaps, in certain selected types of cases to permit a preliminary examination. It would be quite a burden on the system, but it is a terrible thing to be indicted and it is a terrible thing to be indicted wrongfully.

I haven't seen a lot of people indicted wrongfully and I am not taking a shot at the U.S. Attorneys here. We have had good people and good Assistants. I am talking about the system.

When I was a state judge and state practicing attorney, I became very familiar with a technique -- that of the vertical overcharge. At least, that's what I called it. Real easy. If you have somebody that has been a drunk driver and he has been involved in an automobile accident, charge with manslaughter and he will plead guilty to a negligent homicide every time. The whole state system is that way: First Degree Murder, Second Degree Murder, Manslaughter. Assault With Intent to Commit Murder, Assault With Intent To Do Great Bodily Harm, Simple Assault, and so on, down the line.

We don't have that in the federal system. We have what I would call the horizontal overcharge -- the multiple count indictments. To a degree it may be justified, but I am a little bit troubled with it, and I don't know the answers. I am just suggesting that while we have a system that works, it works not because of the inherent safeguards, but because of the integrity of the people that make it work.

Now may I talk about drug prosecution for a minute. I don't quarrel with the necessity of drug prosecutions and putting people in prison. I do it and I will continue to do it as long as I

am having criminal cases and it is appropriate, but I do suggest that very little will be solved. The system will recruit more drug dealers, big and small, as fast as they can be captured and put away. I wish this was not true, but I think it is true.

It's easy to stand up here and take a shot at problems without having a solution, but that's my privilege, because I am going to make a speech and then leave town. But nevertheless, I feel rather strongly about this.

A couple of solutions - - I do not advocate decriminalization of drugs - - but I do believe we should not be afraid to talk about it. It's so politically unpopular one doesn't even dare talk about it because some headline would say, "Churchill advocates decriminalization of drugs." I don't know that it's the answer, but the way we're going about it right now is not the answer and I think that we have got to examine a number of different things.

I do suggest, without any qualification whatsoever, that the time has long since passed when society should effectively regulate the possession and sale of handguns and automatic weapons. Our failure to do so is just stupid. We kill people by the thousands in this country, and there is no good reason. . .

I suggest, and hope, that in the next decade in the Eastern District, we will plan and begin to build a new and modern courthouse in Detroit. This is

not as impossible as it seems. New and imaginative ways of financing have been developed.

One other suggestion I just want to lay on the table - - I haven't given it a lot of thought, but I am in as good a position to analyze it as anybody - - 18 of the present 19 active and senior judges on this Court are primarily associated with the Southern Division. There is only one in the Northern Division. I suggest in the years ahead some serious consideration should be given to reorganizing the Districts of Michigan, and some thought should be given to transferring the Northern Division to the Western District. From an administrative point of view and the type of problems we have had, it would have a lot more in common with the Western Division. It's just a suggestion and maybe you have reasons against it. It's just food for thought.

Many of you have asked what I plan to do. You know I am taking senior status. Fair question. I do plan to keep working as a judge and my highest priority is to bring about a smooth transition to another judge in the Northern Division, a judge who wants to come up there and stay there and be there. We are going to have to work out some problems in the meantime, but I also have other worlds that I want to explore.

Thank you very kindly.

THE FEDERAL BAR FOUNDATION NEEDS YOUR CONTRIBUTION! YOUR TAX DEDUCTIBLE DONATION TO THE FEDERAL BAR FOUNDATION OF DETROIT WILL ASSURE THE CONTINUATION OF THE EDWARD H. RAKOW SCHOLARSHIP AWARDS. PLEASE SEND YOUR CONTRIBUTION TO: FEDERAL BAR FOUNDATION, P.O. BOX 71740, MADISON HGTS., MI. 48071.

EDWARD H. RAKOW

SCHOLARSHIP AWARDS

LUNCHEON RESERVATION FORM

WHEN: THURSDAY, MARCH 15, 1990

WHERE: RIVERFRONT BALLROOM

SPEAKER: KEVIN J. ARQUIT

RESERVATIONS FOR: _____ AT \$20 FOR FBA MEMBER

_____ AT \$22 FOR NON-MEMBER

AMOUNT ENCLOSED: _____

NAME: _____

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PLEASE MAKE CHECKS PAYABLE TO: DETROIT CHAPTER - FBA

FORWARD TO: LAWRENCE G. CAMPBELL
DICKINSON, WRIGHT, MOON, VAN DUSEN & FREEMAN
800 FIRST NATIONAL BLDG.
DETROIT, MI. 48226-3555

REGISTRATION

LABOR RELATIONS LAW SECTIONS SEMINAR

WHEN: MARCH 2, 1990 from 2:00 p.m. - 5:00 p.m.

WHERE: U.S. COURTHOUSE
ROOM 115
DETROIT, MI.

COST: \$15.00

NAME: _____

ADDRESS _____

ENCLOSED IS MY CHECK FOR _____ NO. OF PERSONS _____

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Andrew A. Nickelhoff, Esquire
Sachs, Nunn, Kates, Kadushin,
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1000 Farmer
Detroit, Mi. 48226

OR J. Kent Cooper, Esquire
Mi. Bell Telephone Co.
444 Michigan Avenue
Room 1670
Detroit, Mi. 48226

ANNUAL DINNER DANCE

WHEN: FRIDAY, MAY 11, 1990

WHERE: DETROIT YACHT CLUB

_____ RESERVATIONS AT \$50.00 PER PERSON

_____ AMOUNT ENCLOSED

NAME: _____

ADDRESS _____

PHONE: _____

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

CALENDAR

March 2, 1990	Labor Relations Section Seminar
March 15, 1990	Rakow Scholarship Awards Luncheon Kevin J. Arquit - Speaker
March 20, 1990	Nominations for Leonard Gilman Award Due
April 5 & 6, 1990	Trial Advocacy Training Program
April 12, 1990	Leonard R. Gilman Awards Luncheon
May 11, 1990	Annual Dinner Dance Honoring Judges of the Eastern District of Michigan
June 6, 1990	Annual Golf Outing

DETROIT CHAPTER



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