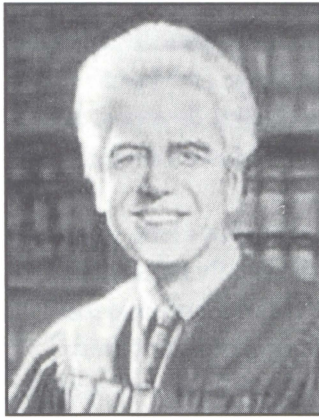




Federal Bar Association - Eastern District of Michigan Chapter - 40 years of service to our Federal Bench and Bar



Portrait of Honorable  
Robert E. DeMascio

## Judge DeMascio Portrait Dedication Ceremony

The United States District Court for the Eastern District of Michigan held a special session of Court for the presentation and dedication of the portrait of the late Judge Robert E. DeMascio on September 4, 2001. Judges of the Eastern District of Michigan, the

Sixth Circuit Court of Appeals, former law clerks, family, and friends of Judge DeMascio were in attendance.

Chief Judge Lawrence P. Zatkoff opened the special session. Portrait committee members Edward C. Cutlip, Jr., a former law clerk to Judge DeMascio, and Betty Traher, Judge DeMascio's secretary of over twenty years, presented the portrait to the Court. (cont'd on page 2)

## A Former Law Clerk Recalls Working with Judge Churchill

Editor's Note: On June 1, 2001, the portrait of Senior Judge James P. Churchill was presented in a ceremony at the U. S. District Court in Detroit. The portrait will hang permanently in the courtroom in Bay City where Judge Churchill served immediately before his retirement. A traditional part of such ceremonies is reminiscence by a former law clerk concerning his or her years with the Judge. Christopher P. Yates, Chief Federal Defender in the Western District of Michigan, spoke about his time with Judge Churchill.

MR. YATES: Distinguished members of the Court, Mrs. Churchill, all of the family and friends of Judge Churchill, and all of you who have come from so many places to take part in this celebration, thank you for being here. My fourteen years in the law have been punctuated with so many highlights, but two honors stand out above

(cont'd on page 2)

## President's Column

Brian D. Figot, President

### The State of the Chapter, Part II: *The Vigilant Protection of Justice*

This column was originally intended to highlight the Chapter's "communication initiative," which includes an expanded newsletter, a new website ([www.fbamich.org](http://www.fbamich.org)), and an e-mail system. That intent changed with the events of September 11.

The general consensus has been that "everything" changed on September 11. I disagree. Yes, much has changed. We all have been deeply affected emotionally by the enormity of the evil of those who perpetrated the terrorist acts, the suffering which was inflicted upon innocent victims, and the bravery and sacrifice which followed in its wake. Nothing in our national memory has had such an effect. It is important that we remind ourselves, however — and that we constantly remind ourselves in the months and years ahead — that we are a nation of laws, and that our destiny is to remain a beacon sending forth the light of freedom to the world.

In his State of the Court Address on September 12, Chief Judge Zatkoff departed from his previously intended remarks (which have been summarized elsewhere in this issue) to remind us of the pivotal role we will occupy, as lawyers, in the process of bringing terrorists to justice. Attorneys will be the prosecutors; they will provide representation to the accused; and they will be the arbiters of fairness deciding and/or guiding juries to determinations of guilt or innocence.

The public will look to us to serve and protect its interests. We must be faithful to that task. For, as noted by Roberts P. Hudson, the First President of the State Bar of Michigan, whose wisdom still rings true:

*"No organization of lawyers can long survive which has not for its primary object the protection of the public."*

Going forward with the State of the Court Luncheon on the "Day After" was

(cont'd on page 2)

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## President's (cont'd)

our first demonstration that we will continue to serve the public interest by maintaining a system of justice which is not cowed by fear. Proceeding in the face of a yet-undefined threat, however, was merely a transitory act of bravery. The greatest demonstration of our fealty to justice and devotion to the protection of the public will be seen in the longer term, and may be measured by the way we react and respond to any endangerment of the delicate balance between liberty and security, between freedom and defense, and between safety and paranoia.

We must be prepared to be voices of reason, no matter what the personal or professional cost, if the "popular" will turns to injustice or repression as a means while we pursue the legitimate goal of national security.

We know, from the lessons of our history, that the public is not protected when the legal system turns a deaf ear to the cries of a minority which society regards a threat solely due to their heritage or national origin. The internment of Japanese-Americans during World War II still blemishes our national profile, even though it was at the time viewed as a necessary weapon against domestic sabotage when we were engaged in a worldwide struggle for our national survival, as we were in the war against fascism.

In the last century, we likewise learned that the greater good is disserved when dissent is left unprotected and deemed to be disloyalty. The Constitution which we are all sworn to uphold protects each citizen's right to disagree over policy without being labeled seditious, and safeguards our right to express differences over the means utilized to achieve legitimate governmental ends without being branded as traitorous. The epidemic of cowardice in the face of McCarthyism remains, in particular, a stain on the reputation of the legal profession.

Thus, our courage will not be in acts which merely reflect public opinion and conform to the will of the majority. It will be in our dedication to what Alexander Hamilton, in Federalist No. 78, called the "inflexible and uniform adherence to the rights of the Constitution, and of individuals, which we perceive to be indispensable in the courts of justice . . . ."

These courts of justice (in which we, as attorneys, stand as officers), Hamilton continued, are not just the "the bulwarks of a limited Constitution against legislative encroachments." In a larger sense, he warned, we also must "guard the Constitution and the rights of individuals from the effects of those ill humors which the arts of designing men, or the influence of particular conjunctures . . . sometimes disseminate among the people themselves, and which . . . have a tendency to . . . occasion dangerous innovations in the government, and serious oppressions to the minor party in the community."

It takes "particular fortitude," Hamilton concluded, to faithfully guard the Constitution where invasions of it are instigated by the major voice of the community. It is in that context, if it should come, that our mettle will be tested.

## Judge DeMascio (cont'd)

Judge George E. Woods, a longtime friend and colleague of Judge DeMascio, accepted the portrait on behalf of the Court. Judge Woods spoke of Judge DeMascio's days as an Assistant United States Attorney in the criminal division, as well as Judge DeMascio's love of golf. Judge Woods described Judge DeMascio as a person of character, faith, family, fidelity, devotion, and determination, adding that Judge DeMascio always made it clear where he stood on an issue.

Michael Riordan, another former law clerk, gave remarks on behalf of the FBA. He fondly recalled his days as a law clerk to Judge DeMascio, and said the Judge continued to stay close to his clerks after their clerkships ended, never forgetting a birthday and always eager to act as a sounding board.

The ceremony concluded with a closing prayer by Father Joachim Culotta. A reception immediately followed.

Judge DeMascio's portrait was painted by local artist Robert Maniscalco. The portrait was made possible by donations from former law clerks, family, and friends of Judge DeMascio.

## Judge Churchill (cont'd)

all others. In 1998, I was asked to speak at the portrait presentation for United States Circuit Judge Ralph B. Guy, Jr., and today I appear before you to speak about the other revered mentor in my legal career, the Honorable James P. Churchill.

I first met Judge Churchill in the summer of 1986 when he interviewed me for a judicial clerkship. We spoke at a table in his chambers while he ate soup during a late lunch break in the court proceedings. I can't really recall whether he offered me any of the hearty beef vegetable concoction he was working on, but knowing how generous Judge Churchill is, I'm sure he offered at least a few crackers.

Now, you may wonder what a young law student from Champaign, Illinois was doing in Bay City, Michigan looking for a clerkship. Actually, that's simple. The Almanac of the Federal Judiciary, that opinion leader for aspiring law clerks, described Judge Churchill as something of a living saint. He was portrayed as a judge imbued with the wisdom of Solomon and the temperament of the Dalai Lama. Beyond that, he was identified as a man without an ideological ax to grind, a pure legal



analyst, and, dare I say it, a formalist.

You see, Judge Churchill was appointed to the federal bench during a golden era of judicial selection. In the wake of the Watergate scandal, President Gerald Ford sought out nominees who were above reproach. And Judge Churchill, as we all know, was utterly without guile or moral shortcomings. Of course, the FBI never found out about how he shook every single voters' hand in Lapeer and Tuscola counties just to get himself elected to the State bench, or how he arranged to be Robert Griffin's roommate at Michigan Law School, knowing full well that Mr. Griffin would become a United States Senator twenty years down the road and from that lofty post would engineer Judge Churchill's appointment to the Federal bench.

Finally, I am certain that the judicial screening committee never found out about the steak incident that occurred while the Judge was presiding over a high profile case in the State court system. Here is his side of the story. Late one night the Judge received a phone call at home. A voice on the other end of the line said, "Is this Judge Churchill? I have a dozen sirloin steaks to deliver for you." The Judge, sensing interference with the judicial process, tersely responded, "You can take those steaks and shove them." The next morning, an indignant Judge Churchill summoned the attorneys to the bench and related what had happened. One attorney had this explanation to offer: "Judge, I don't know anything about those steaks, but I can promise you it won't happen again."

In spite of these questionable incidents in his background, Judge Churchill made it through the confirmation process. And when he was sworn in as a Federal judge he took an oath to support and defend the Constitution of the United States. No one has remained more faithful to that oath than Judge Churchill.

His mastery of the law is only surpassed by his love of the law. I recall how enthused he would become when a complex evidentiary issue gave rise to an objection. The Judge would sit bolt upright in his chair behind the bench and render a ruling that sounded something like this: "You can't just -- he's not trying to -- if you want to ask him --



*Honorable James P. Churchill  
and FBA President Brian D. Figot*

sustained." You see, his brain was moving much too quickly for his mouth to keep up. Then, he would gather himself and offer a cogent, measured explanation of precisely why he had sustained the objection.

During my two years as Judge Churchill's law clerk he became the Chief Judge, and we became road warriors. We drove to Detroit together on a regular basis, and we spent weeks and weeks driving to Flint every day where Judge Churchill presided over a patent case that he had inherited from the late Chief Judge Philip Pratt.

As time went by, the Judge and I spoke of many things --- of World War Two, and M Go Blue, tectonic plates and springs. I watched Judge Churchill craft the opinion resolving a patent case while he mixed in questions for me about tennis and law review and mathematics and grammar and cats and *Ex Parte: Young*, and every other subject under the sun. He made me feel important. He made me feel like an equal part of the team. And he made me absolutely certain that I had chosen the perfect profession.

In his inimitable, unpretentious way, this wonderful man taught me all of the most important lessons of life in the law. Twelve years have passed since I finished my clerkship with Judge Churchill, but I still sense his voice in my ear and his gentle hand guiding me through my practice. Indeed, he will always be with me as long as I practice law. In his commitment to his oath of office one finds a shining testament to the majesty of the law.

The Apostle Paul observed at the end of his ministry that "I have fought the good fight, I have finished the course, I have kept the faith."

You, too, have done that, my dear friend and mentor. Congratulations.

## State Of The Court Luncheon

In delivering his State of the Court Address one day after the tragic events of September 11, 2001, Chief Judge Lawrence P. Zatkoff felt compelled to depart from his text. An outline of his previously prepared remarks is reprinted here.

*(cont'd on page 4)*



## State Of The Court Luncheon (con't)

### I. Judicial Officers

During this past year, two district judges took senior status, thereby creating two vacancies on the district court bench: Judge Patrick J. Duggan on September 29, 2000 and Judge Paul V. Gadola on January 31, 2001. The Court has determined that when these vacancies are filled, the new judges will be assigned to Flint and Ann Arbor.

In March 2001, the Court reappointed Judge Arthur J. Spector as Chief Judge of the Bankruptcy Court for a two-year term. In April 2001, the Court approved the reappointment of Magistrate Judge Virginia M. Morgan to a third eight-year term beginning June 5, 2001 and ending June 4, 2009. Retired Magistrate Judge Paul J. Komives continues to serve the Court on a recalled status.

In June 2001, the Court appointed a Merit Selection Panel to consider the reappointment of Magistrate Judge Donald A. Scheer, whose current term expires in February 2002. The Panel is currently receiving comments in response to publication of a notice and is expected to submit its recommendation to the Court in November 2001.

In July 2001, Executive Magistrate Judge Marc L. Goldman resigned from this Court to accept a Magistrate Judge position in the Central District of California. The vacancy created by his resignation was posted, and the application period closed on Wednesday, October 31, 2001. A Merit Selection Panel will be appointed in the near future to review and evaluate each candidate's application, interview those individuals that appear to be outstanding, and make recommendations to the Court.

The seven senior judges consistently contribute to the work of the Court. Senior Judges Cohn, Duggan and Gadola continue to receive cases at the same rate as district judges in active service. Senior Judges Feikens, Cook, Taylor and Woods are assigned between 50% and 75% of the number of cases assigned to a district judge in active service.

### II. Statistical Information

Beginning with the Clerk's Office, in 2000, there were 5,739 civil cases filed, compared to 6,542 cases in 1999, resulting in a reduction in civil filings of 12.3%. Within the 6<sup>th</sup> Circuit, civil filings were down 4.4%. Nationally, civil filings were down 1.5%.

Regarding criminal cases and defendants:

	<u>2000</u>	<u>1999</u>	
<b>Criminal Cases</b>	526	631	
	<u>District</u>	<u>Sixth Circuit</u>	<u>Nationally</u>
	16.6 %	3.7%	6.1%
	decrease	increase	increase
	<u>2000</u>	<u>1999</u>	
<b>Criminal Defendants</b>	928	1,048	
	<u>District</u>	<u>Sixth Circuit</u>	<u>Nationally</u>
	11.5 %	7.1%	5.1%
	decrease	increase	increase

The Bankruptcy Court for the Eastern District of Michigan is currently experiencing a spike in case filing. In 1999, there were 25,015 bankruptcy filings. Filings to date in 2001 are 32% higher than at this time last year. If the trend continues, the Bankruptcy Court is projecting close to 33,000 filings by the end of 2001. Overall, bankruptcy filings are up 25% in Detroit, 38% in Bay City, and 46% in Flint.

### III. Probation Department

Chief Judge Zatkoff recently had the privilege of swearing in six new probation officers who had completed one year of service as Probation Officer Assistants. The Probation Department continues a practice of hiring probation officer assistants for one year while their FBI background investigations are being completed. This also allows the Court to determine if the assistants are qualified to become full probation officers. Currently, there are seven probation officer assistants.

Mr. Gary Zilli was selected as the new Deputy Chief United States Probation Officer after the retirement of Ernest Harris in December 2000. Mr. Zilli brings a wealth of experience to his new position, having over 24 years of service with the Probation Department. The Probation Department's statistics are as follows:

	<u>2000</u>	<u>1999</u>	<u>%</u>
Individuals Supervised	1,962	1,988	2%
			decrease
Presentence Reports	790	759	5%
			increase



#### IV. Pretrial Services Agency

The District's profile indicates that 34.3% of the agency's cases are based on drug charges. Cocaine and marijuana use remain at high levels with marijuana predominating. Heroin use is also becoming widespread again. The Pretrial Services Agency's statistics are as follows:

	<u>2000</u>	<u>1999</u>	<u>%</u>
Pretrial Initial Appearance Cases	1349	1,469	8%
			decrease
Pre-Bail Reports	1,195	1,272	6%
			decrease

#### V. Budget

For Fiscal Year 2001, which ended on September 30, 2001, the Court's budget was \$25.6 million. For the first time in many years, the Administrative Office implemented a new staffing formula that was funded at 100%. The District Court, the Probation Office, and Pretrial Services Agency all benefitted from the new formula which enabled them to hire additional staff. The final budget picture for fiscal year 2002 is not yet known.

#### VI. Space and Facilities Projects

Over the past year, the Court has initiated a number of new space and facilities projects. Specifically, the arraignment courtroom will be undergoing a renovation and ultimately will be tied directly into the U.S. Marshal's new first floor detention facility.

The Court is planning to use the large multi-use space adjacent to the arraignment courtroom as a special proceedings courtroom. When completed, the courtroom will be used for naturalization ceremonies, special sessions of court and high-risk trials.

A project started years ago to create senior judge chambers on the 10<sup>th</sup> floor of the Courthouse has finally begun and should be completed within six months. There will be one courtroom and one hearing room associated with the new chambers which can accommodate four senior judges.

The Chief Judge's courtroom is also undergoing historical renovation at this time. The project will result in enhanced lighting and other general restoration work.

#### VII. District Wide Random Case Assignment Program to Govern the Assignment of Social Security Cases and Special Civil Cases [Defined as 28 USC 2241 and 2254 and 42 USC 1983 and 1985 in which the plaintiff is an inmate, or as habeas cases and prisoner civil rights cases.]

In May 2001, the Court approved a district-wide random case assignment program to govern the assignment of social security cases and special civil cases for a period not to exceed one year. This program was adopted by the Court in response to a study that showed the Northern Division was receiving an unusually high number of social security and special civil case filings. Under the program, social security and special civil cases are being assigned much more evenly throughout the district.

#### VIII. Automation

The Court has been working on several important automation projects, including the implementation of the new Jury Management System (JMS). The new system is used to manage the Court's master jury wheels and to automate the random selection of jurors. The implementation has been successful, and the system has been in use since late last year.

The Court received additional funding this year to design and implement a "high tech" courtroom in the Detroit Courthouse. The high tech courtroom will include LCD (flat panel display) monitors for jurors, counsel, court staff and judges and the latest in evidence presentation equipment. The high tech courtroom will be available to all judges within the next four months. The Court will be developing orientation and training programs for the bar on the use of the evidence presentation equipment

*(cont'd on page 6)*

## **Detroit Legal News.**

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## State of the Court (cont'd)

which should be available early in 2002.

The Court's Internet site was recently redesigned and expanded to provide comprehensive information about the Court, including individual judges' practice information, opinions and other Court information.

The Federal judiciary continues to expand implementation of its new Case Management and Electronic Filing System (CM/EFS). Currently, there are approximately 25 district courts (Western Michigan and Northern Ohio in the 6<sup>th</sup> Circuit, in addition to Northern California and Nebraska, to name a few) and 50 bankruptcy courts which have implemented, or are in the process of implementing the new system. In the Eastern District of Michigan, the Bankruptcy Court will begin using the system in 2002. While the District Court has not yet been scheduled for implementation, the groundwork is being laid. Electronic filing is no longer a question of "if," but rather "when."

### IX. Revised "Duty Call" Process

In late fall, the Court will implement an improved arraignment, or "duty call" process in Detroit. Under the improved system, two courtroom deputies will be designated as full time duty call specialists. Working with the magistrate judges, these specialists will coordinate all duty call-related activities and act as liaisons between Federal law enforcement officers and the Court to provide a consistent, well-organized arraignment process.

### X. Court Historical Society

Earlier this year, the Court approved the use of space on the first floor of the Courthouse as permanent exhibit space for the Court Historical Society. The space will include some permanent and some rotating exhibits as well as a computer kiosk to provide interactive information about the Court. The exhibit space is located in the main corridor near the Lafayette Street entrance.

### XI. Pro Bono Program

The Court currently has three programs in place for making *pro bono* assignments in prisoner and non-prisoner civil cases. Non-prisoner cases are being referred to attorneys through the Michigan Trial Lawyers Association. Several prisoner cases are being referred through a Wayne State University Law School class each year under the supervision of Professor Erica M.

Eisinger. Prisoner cases are also being referred to volunteer attorneys under a program initiated by Judge Borman and coordinated by the *Pro Bono* Committee chaired by Judge Hood.

Attorneys that have accepted *pro bono* referrals were recognized at the luncheon.

### XII. Ralph M. Freeman Scholarship Awards Ceremony

On May 7, 2001, a special session of court was held to honor the 2001 Ralph M. Freeman Scholarship Awards recipients. Four \$1,500 awards were presented to students of full-time Court employees. Five \$1,500 awards were given to students from each of the five law schools in Michigan. Next year, a sixth law student scholarship will be presented to a student from the Ave Maria Law School.

### XIII. Special Sessions of Court

The Court held several special sessions of court this year. Judge Keith's Portrait Dedication Ceremony was held on December 11, 2000. Judge Keith's portrait will hang in the Chief Judge's courtroom. Judge Churchill's Portrait Dedication Ceremony was held on June 1, 2001. Judge Churchill's portrait is hanging in the Bay City courtroom. Judge DeMascio's Portrait Dedication Ceremony was held on September 4, 2001.

### XIV. Former United States Attorney Saul Green

Chief Judge Zatkoff acknowledges the valuable service of former United States Attorney Saul Green. Chief Judge Zatkoff and his colleagues on the Bench wish Mr. Green well in his future endeavors.

While the Court awaited the appointment of a new United States Attorney, Alan Gershel was appointed by the Court to serve as interim United States Attorney.

### XV. Lunch with FBA

On May 23, 2001, the district judges hosted a luncheon with members of the Federal Bar Association for the Eastern District of Michigan. Many issues were discussed, including making individual judges' practice information available via the Internet and ways to increase membership in the local FBA chapter. Chief Judge Zatkoff appointed a special committee made up of Judge Cohn and Judge Hood to help the FBA coordinate and plan the Bench-Bar Conference to be held in the Fall of 2002.



## REMINDER: Sixth Circuit Seeks Comments on Rule Changes

Comments on the proposed changes to Sixth Circuit Rules 28, 30 and 31, the effect of which would be to eliminate the "proof brief" requirement, are due no later than November 15, 2001. The full text of the proposed changes is available at <http://pacer.ca6.uscourts.gov/rules/proposedrulechanges.htm>. Comments must be made in writing and submitted to:

Clerk of the Court,  
United States Court of Appeals for the Sixth Circuit,  
532 Potter Stewart U. S. Courthouse,  
100 E. Fifth Street,  
Cincinnati, OH 45202-3988,  
or by e-mail to: [leonard.green@ca6.uscourts.gov](mailto:leonard.green@ca6.uscourts.gov)

## Annual Rakow Awards Luncheon

The FBA will host its annual Rakow Scholarship Awards Luncheon on Thursday, November 15, 2001, in the Main Ballroom of the Crowne Plaza Pontchartrain Hotel in Detroit. The luncheon honors the memory of Edward H. Rakow, who served as the Assistant Regional Administrator for the Securities and Exchange Commission in Detroit for 26 years, and who was instrumental in founding the Eastern District of Michigan Chapter of the FBA. The luncheon will feature the annual presentation of the Rakow Award scholarships, awarded each year to one outstanding student at each of Michigan's five law schools.

The Rakow Luncheon also is the occasion for the annual meeting of the Historical Society for the U.S. District Court for the Eastern District of Michigan, and will feature a panel discussion on the United States v. Narciso case, which involved the 1970's prosecution of nurses for the murder of their patients. The panel discussing this case which captured the nation's attention will include Daniel M. Share, Judge Pratt's law clerk at the time; Richard Delonis, the prosecutor on the case; defense counsel Thomas O'Brien; then U.S. Attorney

James K. Robinson; and Detroit News Reporter Kirk Cheyfitz, who covered the case.

The reception starts at 11:30 a.m., and the program begins at noon. Cost for the luncheon is \$25.00 for members and \$30.00 for nonmembers. For ticket information, contact Grant Gilezan at (313) 569-6789 or [ggilezan@dykema.com](mailto:ggilezan@dykema.com).

## FBA To Sponsor New Lawyers' Seminar December 4<sup>th</sup> and 5<sup>th</sup>

The nationally acclaimed (and copied) semi-annual New Lawyers' Seminar will be held on Tuesday and Wednesday, December 4th and 5th, 2001, in Room 115 of the Theodore Levin U.S. Courthouse.

This Seminar employs a how-to-do-it approach, which relies upon presentations by Judges, court personnel and leading practitioners. It is designed to assist recent law graduates in understanding the fundamental procedures followed in Federal and State courts. The seminar begins at 8:15 a.m. on Tuesday, December 4th with presentations on practice in Federal court. It concludes on Wednesday, December 5th with presentations on practice in State court.

Co-chairs for the seminar are attorneys Christine Dowhan-Bailey, Brian Figot, Grant Gilezan, Geneva Halliday and Cathrine Wenger.

The Seminar is a bargain at only \$65 for FBA members and \$90 for non-members. Admission includes a reception for the new attorneys at the Courthouse on Tuesday, December 4th, and a luncheon at the Pontchartrain Hotel on Wednesday, December 5th. Admission also includes course materials, conveniently formatted on a CD-ROM, with form pleadings and memoranda expanding on the topics covered by the speakers. A special price of \$115 includes both the Seminar and FBA membership.

Reservation checks should be made payable to the FBA Eastern District of Michigan Chapter, and mailed to New Lawyers' Seminar, P.O. Box 71740, Madison Heights, MI 48071. If you have any questions, call Dee Osterman at (248) 548-3450.

**If you are interested in publishing an article on any topic of interest to the Federal Bench and Bar or have an item for the "News & Moves" section, please call Elisa Angeli, at 313/496-7635, or Michael Riordan, at 313-226-9602. New writers are always welcome.**



## **FBA Members Join Focus:HOPE Walk**

On the afternoon of Sunday, October 14, 2001, FBA members joined Focus:HOPE for its 31<sup>st</sup> annual fund-raising walk. This historic walk in celebration of the diversity of metropolitan Detroit, our strengths, our accomplishments, and our future, passed buildings and neighborhoods of historic and nostalgic significance, as well as Focus:HOPE's complex of buildings on Oakman Boulevard.

Focus:HOPE has been in operation for 33 years and serves the community through a variety of innovative programs. The organization has initiated practical solutions to the problems of hunger, economic disparity, inadequate education, and racial divisiveness. Included in its programs are technology training, educational and corporate partnerships, and the food program. The FBA is proud to have participated with Focus:HOPE in this annual event.

## **From Court Administrator Dave Weaver**

The district judges and all court staff of the U.S. District Court for the Eastern District of Michigan are deeply saddened by the recent terrorist attacks in New York and Washington, D.C., as well as the shooting at the McNamara Federal Building in Detroit which resulted in the death of Federal Protective Services Officer Ronald Sheffield.

These events have resulted in a number of increased security measures at all Federal court facilities throughout the District. Anyone visiting a courthouse recently has seen increased perimeter security personnel. As you enter a courthouse, you will be required to show a photo ID and to allow all packages, brief cases, etc. to be x-rayed. The safety of all court staff, the bar and the public is of the highest priority, and your cooperation and patience with court security staff is greatly appreciated.

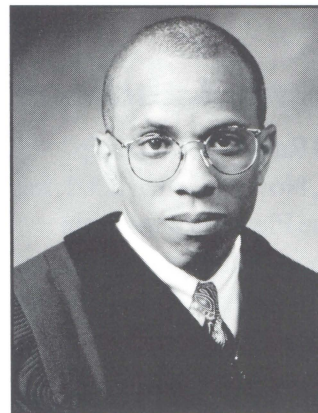
In technology news, the Judicial Conference of the United States recently approved new policies regarding the electronic availability of case files. You may be aware that the Federal judiciary has begun implementing the Case Management/Electronic Case Files (CM/ECF) system in many Federal courts. The new system allows court documents to be filed and viewed via the Internet. The Judicial Conference decided that, except for social

security cases, all civil cases should be made available electronically to the same extent they are available at a courthouse.

The Judicial Conference decided that public remote access to criminal cases should not be made available at this time. The decision regarding criminal cases will be re-examined within two years. More information on this can be obtained at [www.uscourts.gov](http://www.uscourts.gov).

Finally, I am pleased to announce that the district judges have designated Monday, November 5, 2001, as Employee Appreciation Day in honor of all court staff. A ceremony will be held on that day to recognize court employees and to distribute service awards.

Remember, you can submit questions or suggestions for future articles to [mie\\_fba@mied.uscourts.gov](mailto:mie_fba@mied.uscourts.gov).



*Jeffrey G. Collins*

## **Jeffrey G. Collins U. S. Attorney For The Eastern District Of Michigan**

President George W. Bush has selected Michigan Court of Appeals Judge Jeffrey G. Collins as the thirty-seventh United States Attorney for the Eastern

District of Michigan. He is only the second African-American to serve in the position.

Jeffrey Collins, a lifelong Detroit resident, is a 1981 graduate of Northwestern University and a 1984 honors graduate of the Howard University School of Law. In 1994, Governor John Engler appointed Collins to the old Detroit Recorder's Court which later became part of the Wayne County Circuit Court. In 2000, the Governor tapped him to be on the Court of Appeals.

Prior to his appointment to the Bench, U. S. Attorney Collins practiced law, primarily as a criminal defense attorney with Bell & Hudson, P.C., and appeared as a legal analyst for local and national news networks. He is a Past-President of the Association of Black Judges of Michigan and serves on the Board of Directors of the Detroit Metropolitan Bar Association. He also was on the faculty of the Wayne State Univer-



sity School of Law from 1995 through 2001 as an Adjunct Professor of Trial Advocacy, Pre-Trial Advocacy and Criminal Procedure.

U. S. Attorney Collins, the father of two children, ages eight and eleven, is married to Lois Collins, an attorney in private practice in the Detroit area. U. S. Attorney Collins is active in several civic and community organizations. He has been a manager in the Rosedale/Grandmont Baseball Little League for many years and is a mentor in the Paul Robeson Academy “Man to Man” program. He is also the founder of the Wayne County Chapter of Michigan Association for Leadership Development which has attracted over 500 persons to serve as mentors to Detroit area youth. U. S. Attorney Collins, a former walk-on tennis player and four-year Varsity Letter winner at Northwestern, is an avid tennis and softball player. He also volunteers as a youth tennis and basketball coach. He has been a member of the Plymouth United Church of Christ since childhood.

Former Michigan Court of Appeals colleague Brian Zahra describes U. S. Attorney Collins as “a tireless worker who will be a credit to the Department of Justice.” Criminal defense attorney Neil Fink, who once served as co-counsel with the new U. S. Attorney in a criminal trial, said that Jeffrey Collins is “an outstanding lawyer who has a good sense of humor, is self-effacing, possesses sound judgment and is open-minded.”

### Those Who Have Served As U.S. Attorney For The Eastern District

Aaron B. Maynard	1869
Sullivan M. Cutcheon	1877-1885
Cyrenius P. Black	1885-1890
Theodore F. Sheppard	1890-1894
Jared W. Finney	1894
Alfred P. Lyon	1894-1898
Jared W. Finney	1898
William D. Gordon	1898-1906
Frank H. Watson	1906-1911
Arthur J. Tuttle	1911-1912
Clyde I. Webster	1912-1916
John E. Kinnane	1916-1921
Earl J. Davis	1921-1924
Delos G. Smith	1924-1927
Ora L. Smith	1927-1928
John R. Watkins	1928-1931
Gregory H. Frederick	1931-1936
John C. Lehr	1936-1947
Thomas P. Thornton	1947-1949

Joseph C. Murphy	1949
Edward T. Kane	1949-1952
Philip A. Hart	1952-1953
Frederick W. Kaess	1953-1960
George E. Woods, Jr.	1960-1961
Lawrence Gubow	1961-1968
Robert J. Grace	1968-1969
James H. Brickley	1969-1970
Ralph B. Guy, Jr.	1970-1976
Frederick S. Van Tiem	1976
Philip M. Van Dam	1976-1977
James K. Robinson	1977-1980
Richard A. Rossman	1980-1981
Leonard R. Gilman	1981-1985
Joel R. Shere	1985
Roy C. Hayes	1985-1989
Stephen J. Markman	1989-1992
Saul A. Green	1994-2001
Jeffrey G. Collins	2001-

## Historical Prospective

By John H. Dise, Jr.

While arguing a motion before Chief Judge Zatkoff, if you ever looked up toward the ceiling of the courtroom, you probably noticed the beams and all the carved symbols. Naturally, then, you wondered what exactly is a symbol and why are they there?

If you are well-grounded in etymology you know the word has the Latin origin “symbolum,” which means a token of identity. The Latin word, in turn, combines two Greek roots that mean “together” and “throw,” so a symbol is something that unites. It is a link, a thing that stands for something else.

The use of architectural symbolism in public buildings in this country originated with Thomas Jefferson and his design of the Virginia State Capitol in Richmond in the 1780’s. As a model for his design, he chose a Roman temple in Nimes, France. He said it had the “approbation of the ancients.” However, he changed the Corinthian columns which represent beauty, to Ionic columns which represent wisdom.

This choice for symbols of wisdom continues in the columns on each side of the bench in our Chief Judge’s courtroom. But, looking back at the beams you realize the symbols are associated with law and justice as well. On the beam behind the bench is a plumb-bob which symbolizes rectitude (you know, moral integrity and

(cont’d on page 10)



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## Historic Prospective (cont'd)

soundness of judgment). Next you look to the right and see a judgment seat, a symbol taken from the Bible. On the opposite side is a wheel which is the symbol of equality under the law. The scroll on spindles you see symbolizes the recording of court decisions for use as precedent. You quickly glance by the figure of a woman holding a scroll and scale which you recognize as the symbol for justice. Continuing your gaze around, you see the sword and unction pot which symbolize justice tempered with mercy.

You look down just as your opponent is finishing his argument. Recognizing that you are not fully engaged in what is taking place in the courtroom, opposing counsel interjects a few gratuitous remarks about your client's motives. You decide not to respond as it is not worth belaboring the issue. However, while wondering what happened to civility in the courtroom, you hope that Chief Judge Zatkoff uses a lot of the sword toward your opponent's argument and forgets the unction pot.

In departing, you notice a lot more symbolism around the room in the wood carvings and the variously colored marble, and wonder "what it all means?" Relieved in knowing that you will be able to find answers to this question in the November issue of the Historical Society Newsletter, you continue your walk toward the back of the courtroom.

While walking out the door, you look back at the bench one more time and remember that it is the same bench you saw in the last issue of the FBA newsletter in the picture of Judge Picard imposing a sentence. Although not specifically identified in the article, because of your knowledge about criminal law you know the case was known as "The Little Smith Act" trial and the trial of the "Michigan Six." Fred W. Kaess (later Judge and Chief Judge of the Court) was the U.S. Attorney and Earnest Goodman, the defense attorney. The Smith Act essentially prohibited advocating the overthrow or destruction of the government of the United States, or the government of any state. It was part of the Alien Registration Act of 1940, signed into law by President Franklin D. Roosevelt, and used to prosecute more than 140 purportedly Communist leaders throughout the United States.

The trial in Detroit involved six defendants and lasted more than four months. At the end, after just six hours of deliberation, the jury came back with a guilty verdict against all six defendants.

A few days later all six were sentenced. Judge Picard's remarks at the sentencing probably received as much coverage as the trial itself and were reprinted in full in *US News and World Report*. Judge Picard said:

It is not my desire to prolong the embarrassment this morning or abuse you as some people might desire. There is no satisfaction and seldom anything accomplished by kicking a man when he's down, and you people are down. You have been convicted of one of the gravest offenses of which a citizen may be guilty - a plot - conspiracy - to overthrow your government by force and violence - a plot that has been in existence for a number of years...

The Judge then went on to describe the history of communist infiltration in Poland and Czechoslovakia, the rise of Germany, the fight against Franco in Spain and the resulting tensions after World War II.

Judge Picard continued:

Your admiration for Russia is so great that there isn't any doubt in my mind, and there wasn't any doubt in the jury's mind, that there is nothing you wouldn't do - lie, cheat, or even worse - in order to attain your objectives. That you know you are a part of an international conspiracy to rule the world by communism.

He then made an offer to the defendants: "Now, I'll tell you this. I have the power to change my sentence, any sentence I give today, within sixty days, and if any of you would like to go to Russia to live and I can arrange it, I'll be inclined to change your sentence to make that possible." This caused the people in the courtroom to applaud.

All of the defendants were sentenced to between four and five years in jail, and fined the maximum allowed by statute. The case was appealed all the way to the United States Supreme Court, and eventually remanded for retrial. However, based on a Supreme Court ruling in another like case, at the time for retrial the Government moved for dismissal because "the evidence which is now available is insufficient to warrant a retrial of the matter." The trial, and the circumstances surrounding the trial, are very interesting and instructive. More information about this trial can be found in the article on Judge Picard in the November issue of the Historical Society Newsletter, and in an upcoming documentary film which is being sponsored in part by the Historical Society.





## Eastern District of Michigan

Post Office Box 71740  
Madison Heights, Michigan 48071

### Membership Application

Name\_\_\_\_\_

State Bar No.\_\_\_\_\_Year Admitted to Bar\_\_\_\_\_

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Referred by\_\_\_\_\_

Renewal\_\_\_\_\_New Member\_\_\_\_\_

Preferred location for mailings/phone contacts:

Business\_\_\_\_\_Home\_\_\_\_\_

### Dues Information

The Chapter Dues are supplemental to annual dues paid to the National Federal Bar Association.

Local dues are for the period from August 1 through July 31.

Regular member \$15.00\_\_\_\_\_

Admitted to Bar Less Than 5 Years \$10.00\_\_\_\_\_

Sustaining member \$50.00\_\_\_\_\_

Historical Society \$10.00\_\_\_\_\_

*(Make check payable to: Eastern District of Michigan Chapter, Federal Bar Association)*

### Committee Preference

I would like to participate in the following Committees:

\_\_\_\_\_ Bankruptcy

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\_\_\_\_\_ Criminal Practice

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*Return this statement with your dues payment to :*

*Eastern District of Michigan Chapter, F.B.A. • P.O.Box 71740 • Madison Heights, MI 48071*



## FBA Eastern District is Now On-line

The Chapter is now on-line! You can visit our new website at <http://www.FBAmich.org>. The website has all kinds of information about the FBA, our Chapter, its leadership, and current information about upcoming Chapter events. In the future, new and archive copies of the FBA Newsletter will even be available online.

Your comments and suggestions are welcome, and should be directed to Dennis M. Barnes at Barris, Sott, Denn & Driker, PLLC, 211 W. Fort St., 15th Floor, Detroit, MI 48323 or [dbarnes@bsdd.com](mailto:dbarnes@bsdd.com). Special thanks to Dennis, Brian Figot, Kris Dighe and the website committee for their hard work on this important project.

## Calendar of Events

### Officers Meeting

November 6, 2001

9:00 a.m.

Location: TBD

### Executive Board/Committee Chairs Meeting

November 8, 2001

12:00 noon

Location: Second Floor Conference Room,

Theodore Levin U.S. Courthouse

Contact: Dennis Barnes, Chapter Secretary

(313) 965-9725

### Rakow/Historical Society Luncheon

November 15, 2001

11:30 a.m.

Location: Crowne Plaza Pontchartrain Hotel

Contact: Grant P. Gilezan, Chapter Program Chair

(313) 568-6789

### New Lawyers Seminar

December 4-5, 2001

8:15 a.m.

Location: Theodore Levin, U.S. Courthouse

Room 115

Contact: Dee Osterman (248) 548-3450

Eastern District of Michigan Chapter, F.B.A.  
P.O. Box 71740  
Madison Heights, MI 48071

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