



# FBAnewsletter

Winter 2013

Federal Bar Association - Eastern District of Michigan Chapter - **55** years of service to our Federal Bench and Bar

## U.S. Rep. Keith Ellison to Keynote McCree Award Luncheon

The Chapter will hold its annual Wade Hampton McCree, Jr. Luncheon on Friday, March 1 at the Westin Book Cadillac. The reception will begin at 11:30 a.m. and the luncheon at noon.

The Wade Hampton McCree, Jr. Award for the Advancement of Social Justice will be presented. The Award honors individuals or organizations that have made significant contributions to the advancement of social justice, including in areas involving poverty, promoting economic or educational opportunity, or fighting discrimination involving race, gender, ethnicity, national origin, religion, or economic status. Nominations for the Award are due by January 21, 2012, and can be directed to the attention of Cynthia J. Haffey (haffey@butzel.com) or Miriam L. Siefer (miriam.siefer@fd.org).

(continued on page 3)

### INSIDE THIS ISSUE

Veterans Treatment Court	pg. 3
Dave Weaver	pg. 3-4
Judge Newblatt Portrait	pg. 4
New Lawyers Seminar	pg. 4-5
Judge Drain Investiture	pg. 5-6,8
Rakow and Rom	pg. 8-9
Holiday Party	pg. 9-10
Book Club	pg. 11
Complex Litigation	pg. 11-12
Judicial Reunion	pg. 12
Calendar of Events	pg. 13
Distressed Municipalities	pg. 13-14
Federal Youth Law Day	pg. 14
Luncheon Sponsors	pg. 15



## President's Column

Thomas G. McNeill

### Making a Difference

"It's easy to make a buck. It's a lot tougher to make a difference."

--Tom Brokaw

Our FBA Chapter is perhaps best known for the highest quality educational programming and our social and networking events for bench and bar. But in this season of giving, I'd like to highlight the Chapter's service mission, with this appeal: please consider making a difference through the Chapter or through any of the activities in which you already are involved.

### The New Pro Bono Council

Pro bono representations in federal court can be tremendously rewarding, both professionally and personally. Our Chapter members have a long and successful history of representing indigent clients in matters before the Court. I am experiencing the benefits of pro bono service in my present representation of an inmate in a Section 1983 action for "deliberate medical indifference." Regardless of the final outcome of this hard-fought matter, my client has opened my eyes to critical matters far beyond the objects of my commercial litigation practice.

To further advance and facilitate pro bono representations in federal court, the Court's Pro Bono Committee and our Chapter are pleased to announce the establishment of the Eastern District of Michigan Pro Bono Council. (The Court's Pro Bono Committee is led by Judge Denise Page Hood, and includes as its members Judges Arthur J. Tarnow, Paul D. Borman, Victoria A. Roberts and Magistrate Judge Mona K. Majzoub.)

The Court has experienced a significant increase in *pro se* cases in a wide range of areas – mortgage foreclosure, prisoner civil rights, federal benefits and employment are among the most prevalent. Throughout the year, the judges seek the appointment of volunteer pro bono attorneys to those cases that demonstrate potential merit (particularly where a *pro se* plaintiff's case survives a motion to dismiss).

The Pro Bono Council, presently comprised of representatives from twenty-two law firms (listed on page 3), will greatly expand the list of volunteers available to handle pro bono cases designated by the Court. The Council, the Court's Pro Bono Committee, and the Chapter's Pro Bono Committee will provide additional training in the issues that are litigated most frequently. We also anticipate that online resources (sample pleadings and briefs, notable unpublished decisions, references to publications) will be made available for pro bono attorneys.

We would like to add at least ten firms to the Pro Bono Council. The Chapter has invited the Michigan Association for Justice, the Detroit Metropolitan Bar Association, and the Washtenaw County Bar Association to join the Chapter as partners in this effort and to reach out to their respective constituent firms. In addition, we are seeking practitioners from throughout the community to join the rolls of volunteers who will accept a pro bono assignment every now and again as workloads permit. You can make a tremendous difference by accepting a case, representing a client now acting *pro se*, and pursuing that case to a just conclusion. (continued on page 2)

**WINNER  
10 YEARS**  
National FBA  
Outstanding  
Newsletter  
Award

## President's Column (continued)

The first meeting of the Pro Bono Council will take place on January 31, at 12:00 p.m., in the Courthouse. If you are a leader at your firm, please consider enrolling your firm in this effort; if you are willing to accept a pro bono assignment, please enroll in our growing list of volunteers. Please contact me at [tmcneill@dickinsonwright.com](mailto:tmcneill@dickinsonwright.com) or give me a call at 313.223.3632.

### The FBA's Diversity "Pipeline" Initiatives

In June 2009, our Chapter's Diversity Task Force issued a stunningly broad set of Recommended Initiatives and Activities for the advancement of diversity in the practice of law in Southeastern Michigan, which is available on [www.fbamich.org](http://www.fbamich.org) under "Documents" (Diversity Task Force). These recommendations represent the culmination of the work of many individuals over the course of a year, including Judge Mark A. Goldsmith (then an Oakland County Circuit Judge and the immediate Past President of our Chapter) who commissioned the effort in 2008, Judge George Caram Steeh (co-chair of the Diversity Task Force), Judge Victoria A. Roberts, Barbara L. McQuade (then President of the Chapter), Elisa Angeli Palizzi (then President-Elect of the Chapter), Elizabeth Stafford (co-chair of the Diversity Task Force) and John Nussbaumer (Associate Dean, Thomas M. Cooley Law School). Please take a few minutes to review the 2009 Recommendations; you will be astonished by how much the Chapter has implemented in three short years.

As we head into 2013, the Chapter will take its diversity initiatives to the next level. The Chapter intends to make a long-term, long-range commitment to "pipeline" initiatives with students at the middle school, high school, college and law school levels. To pursue those Chapter initiatives, we will establish an FBA Pipeline Council, patterned upon the newly established Eastern District of Michigan Pro Bono Council.

The Chapter has hosted and actively participated in "Diversity Summits" in which representatives of Metro Detroit-based affinity and other bar associations convene to share ideas, coordinate efforts and activities and celebrate successes. Building upon this experience, the Chapter plans to work with other key bar associations to form a standing Metro Detroit Pipeline Coordinating Council, to be comprised of representatives from bar associations, industry associations, and organizations from throughout the private and public sectors that are engaged in and committed to a wide range of diversity efforts.

I am pleased to announce that Chapter participation in these pipeline initiatives will be led by Judge Roberts, Elizabeth Stafford, and John Nussbaumer, who will be joined by several members of the Chapter Executive Board (and yours truly). We would be pleased to welcome the participation of many others in these efforts, whether as individuals or as representatives of their firms or organizations. You can make a tremendous difference by volunteering to assist the Chapter in advancing a broad range of diversity objectives.

### Community-Based Programming

In 2012, we moved forward with community-based programming. On September 5, 2012, the Chapter hosted "The Judicial Institute: A Backstage Pass to Journalists Covering the Federal Courts." The event facilitated dialogue among thirty members of the media, judicial officers, and

noted practitioners and commentators with the goal of elevating understanding of federal criminal and civil cases and the nature and accuracy of the reporting on those cases. Special thanks to the Co-Chairs of that event, Saura Sahu at Miller Canfield and Matthew Schneider, Chief of Staff and General Counsel for the Michigan Supreme Court, and to all the panelists for that event, including Judges Robert H. Cleland and David M. Lawson, and Rod Hansen, the Court's Media Information Officer. In 2013, the Chapter intends to host a follow-up event to advance the dialogue between the Court and the media.

On October 10, 2012, as the Michigan Supreme Court authorized a referendum on the emergency manager legislation, and nine major municipalities (including Detroit) faced immediate risk of insolvency, the Chapter hosted "Municipal Entities in Distress-Between a Rock and Hard Place," to facilitate a dialogue among experts, municipal leaders, and practitioners on all sides of these issues. At the event, a consensus developed that Chapter 9 of the Bankruptcy Code does not offer a clear solution, even if the Governor authorized a municipality to file a bankruptcy petition. Many thanks to the event organizers: Chief Bankruptcy Judge Phillip J. Shefferly, Bankruptcy Judge Steven W. Rhodes (who moderated the event), David Lerner (Plunkett Cooney), Michael Hammer (Dickinson Wright), Leslie Berg (Office of the U.S. Trustee) and Craig Schoenherr (O'Reilly & Rancilio). And many thanks to the panelists: Judy O'Neill (Foley & Lardner), Douglas Bernstein (Plunkett Cooney), Frederick Headen (Michigan Department of Treasury, Director of Local Government Services), Edward Plawecki (Pierce Monroe & Associates, Director of Government Services) and Charles Moore (Conway & MacKenzie).

Later this spring, in collaboration with the Detroit Institute of Arts, the Holocaust Memorial Center in Farmington Hills, community organizations, and art dealers, the Chapter plans to host a program on the repatriation of art stolen during World War II and the resulting federal court litigation concerning the provenance of art which, surprisingly, continues to this day.

We are excited to embark upon community-based programming concerning issues adjudicated in federal court, and we would like to do more of this. Please let us know if you would like to make a difference by envisioning and planning a community program that advances understanding and dialogue concerning a federal issue of general interest.

### FBA Student Chapters

This year, we also have reinstituted FBA student chapters at Thomas M. Cooley Law School (our thanks to John Nussbaumer) and at University of Detroit Mercy School of Law (our thanks to Professor Michael Bryce, Judge Michael J. Riordan, and AUSA Susan Gillooly). In Fall 2013 we hope to start an FBA Chapter at Wayne State University Law School. With these student chapters, we are focusing on events at the courthouse and on campus, to offer practice advice and counsel to round out the preparation and training for these new lawyers to be.

Among its many missions, the Chapter is committed to a broad range of service. Please consider contributing your time and talent to make a difference through any of these initiatives, or in a new initiative that you propose the FBA undertake.

**A healthy, happy and prosperous New Year to all!**

## McCree Award *(from page 1)*

The keynote speaker will be U.S. Representative Keith Ellison. Born and raised in Detroit, he represents part of the Minneapolis, Minnesota area in Congress, where he has served since 2007. Congressman Ellison is a member of the House Financial Services Committee, and is a former member of the House Judiciary Committee and Committee on Foreign Affairs. He also currently serves on the House Democratic Steering & Policy Committee, co-chairs the Congressional Progressive Caucus, and is a member of the Congressional Black Caucus.

Before being elected to Congress, Congressman Ellison served two terms in the Minnesota House of Representatives, was a noted community activist, and ran a civil rights, employment, and criminal defense law practice in Minneapolis. He moved to Minneapolis from his native Detroit to attend the University of Minnesota Law School, from which he graduated in 1990. Before law school, he graduated from Wayne State University.

For those affiliated with organizations that are sponsors of the 2012-2013 Luncheon Series, tickets likely are available through your organization. For others, the Luncheon is \$25 for FBA members and \$30 for non-members. Tickets are available online at [www.fbamich.org](http://www.fbamich.org).

*\*The biographical information for Congressman Ellison was excerpted and reprinted from <http://ellison.house.gov/>*

## Veterans Treatment Court Seminar - March 12

The Chapter's Federal Disability Benefits Committee will be presenting a seminar on Veterans Treatment Courts (VTC) on March 12, 2013.

The purpose of VTC is to provide assistance to military veterans who have honorably served in the armed forces of the United States. The VTC assists veterans who have become involved in the criminal justice system using a team

approach that attempts to get beyond the legal problems to address the underlying physical, psychological, and substance abuse issues that may have resulted in criminal conduct. Successful completion of the program may result in a reduced plea, reduction in sentence, etc.

VTC have been in existence for approximately four years, starting in Buffalo, NY. Judge Robert Russell, Jr. has been the presiding judge in that court and has become a national advocate and spokesman for VTC. He has tentatively agreed to participate in the seminar. The committee is also attempting to have Matt Stiner attend and provide the current national perspective on VTC. Mr. Stiner is the Director of Justice For Vets, an organization headquartered in Alexandria, VA whose purpose is to advocate for, and ensure the standardization of VTC throughout the United States.

The State of Michigan currently has 6 VTC, with the numbers continuing to grow. It is intended that select presiding judges from Michigan's Circuit and District Courts will provide their perspectives and sit on a panel for a question and answer period following the presentations.

Details are still being worked on, however, it is expected that the seminar will take place in Room 115 of the Courthouse starting with a lunch at 12:00 p.m., and with presentations to

follow from 1:00 - 5:00 p.m. Stay tuned.

### Eastern District of Michigan Pro Bono Council *(as of January 1, 2013)*

Barris Sott Denn & Driker  
Bodman  
Brooks Kushman  
Brooks Wilkins Sharkey & Turco  
Butzel Long  
Clark Hill  
Dickinson Wright  
Dykema Gossett  
Foley & Lardner  
Garan Lucow Miller  
Honigman Miller Schwartz and Cohn  
Howard & Howard  
Jaffe Raitt Heuer & Weiss  
Kerr Russell & Weber  
Kitch Drutchas Wagner Valitutti & Sherbrook  
Maddin Hauser Wartell Roth & Heller  
Miller Canfield  
The Miller Law Firm  
Pepper Hamilton  
Plunkett Cooney  
Sommers Schwartz  
Warner Norcross & Judd



## Court Administrator Dave Weaver

In 2010, the Court created an Ad Hoc Jury Committee, Co-Chaired by Judge Denise Page Hood and Judge Victoria A. Roberts. The primary goal of the Committee was to seek and implement solutions that will increase minority representation in the Court's jury pools and to make

*(continued on page 4)*



recommendations to improve the overall jury experience. Most recently, the Committee recommended, and the Bench approved, several changes to the Court's Juror Selection Plan. The most significant change is moving from a two-step juror qualification and summoning system to a one-step system. This change will streamline the process and eliminate duplicative efforts by jury staff, reduce mailing costs and reduce the number of ineligible jurors.

The revised Juror Selection Plan also includes a supplemental draw procedure. When a juror qualification and summons form is returned to the Court as undeliverable, the Clerk's Office will randomly draw the name of another person residing in that same zip code and issue a new qualification and summons to that person. This will help the Court in reaching potential jurors from similar geographic and/or demographic areas. This new process will be utilized for a two-year period and then reevaluated.

The remaining two changes include raising the jury service exemption age from 70 to 73 and supplementing our juror source lists to include state income tax filer records (just names and addresses!), if available. The other source lists include Michigan driver's license holders, Michigan state ID card holders, and voter registration records. Adding state tax filer records was one of the original recommendations made by the Court's jury consultant Paula Hannaford-Agor from the National Center of State Courts, as a source of very accurate and current names and addresses.

Now that the Bench has approved the revised Juror Selection Plan, it has been forwarded to the Sixth Circuit Judicial Council for final approval. Barring any problems, the new Juror Selection Plan should be implemented around the beginning of March 2013.

If you have any questions or comments, please do not hesitate to contact me via email at: david\_weaver@mied.uscourts.gov

## SRO for SAN

That might have been the headline if *VARIETY* had covered the portrait presentation ceremony for Judge Stewart A. Newblatt on November 20, 2012. It was standing-room only in the Flint courtroom where he had presided for so

many years. Many well-wishers who could not get in the courtroom because of the crowd stayed after Court was adjourned to give him a hand-shake or a hug.

Chief Judge Gerald E. Rosen welcomed everyone and expressed his and his colleagues' respect and affection for Judge Newblatt.

The Judge's three sons—Genesee County Circuit Judge David Newblatt, Robert Newblatt, and Joshua Newblatt—all shared affectionate recollections of their father. Wife and mother, Flora Newblatt,

sat in a place of honor while her menfolk amused themselves. Pulitzer prize-winning photographer Dan White who created the portrait was also present.

Former law clerk Susan Mashour spoke on behalf of all the Judge's law clerks, calling him "a great person, a great mentor and a great human being, with the highest ethical standards."

Former law partner Howard Grossman observed that despite the Judge's legal and judicial accomplishments, he would consider "his marriage, wife, children and grandchildren as his greatest."

As is customary at such events, the Judge had the last words. They were characteristically brief and modest. "It was great to end up as a federal judge," he said of his career progression. "It's a great profession."

[Ed. Note: Thanks to the Flint-Genesee County Legal News for its contributions to this article.]

## New Lawyers Seminar 2012

The Chapter conducted another successful New Lawyers Seminar at the Courthouse December 4-5. This was the Seminar's 36th year, with some of the best state and federal legal talent in Metropolitan Detroit presenting the "nuts and bolts" of practice to seventy newer lawyers who were in attendance this year. The Seminar was co-



*Judge Stewart A. Newblatt with his portrait  
in the Flint courtroom.*

*Photo by Paul Janczewski, courtesy of Detroit Legal News Publishing LLC..*

sponsored by the Chapter and the Young Lawyers Section of the State Bar of Michigan.

The first day of the Seminar focused on practice in federal court and began with Chief Judge Gerald E. Rosen's welcome. Moderated by Assistant United States Attorney Sarah Resnick Cohen, presenters covered varied topics introducing participants to the Courthouse and the nuances of successfully litigating civil and criminal cases before the District and Magistrate Judges. Areas covered included "getting in the door and on the docket," electronic filing, pre-filing pitfalls and initial disclosures and discovery, civil motion practice, pretrial and final pretrial proceedings, and civil and criminal trials.

Among the faculty were Judge Patrick J. Duggan, Magistrate Judges R. Steven Whalen and Mona K. Majzoub, Deputy Court Administrator Maureen Flavin, Deputy U.S. Marshal Vincent Ventimiglia, and notable federal practitioners such as Thomas McNeill, Mark Aiello, Stanley Bershad, and David DuMouchel.

Attorney Daniel Manville and Federal Defender Richard Helfrick spoke on the valuable subject of providing effective assistance of counsel to the indigent. A round-table discussion led by Federal Defender Jill Price provided an overview of criminal trial practice from pretrial proceedings through parole. Federal judicial law clerks shared their insight on practicing in the Courthouse in a "Do's and Don't's" segment. The day concluded with the attendees' admission to practice before the Eastern District of Michigan.

During the second day of the Seminar, attendees were led through practice in the tri-county court systems by outstanding state court practitioners. Chairperson of the Young Lawyers Section Council Felicia Johnson started the day with a brief welcome. Attorney Christopher Miller moderated the morning session, which covered basic Michigan civil practice, handling criminal cases in State court, case evaluation in Circuit Court, and several practice areas.

The afternoon session, moderated by Seminar Committee Co-Chair Cathrine Wenger, introduced attendees

to practice in the Michigan probate and family courts, grievance proceedings, workers' compensation cases, and the handling of domestic relations matters. Between

the two sessions, the Seminar luncheon provided additional learning opportunities as the Honorable Lita Masini Popke, Chief Judge Pro Tem of the Third Circuit Court (Wayne County), discussed procedures in Circuit Court.

Distinguished faculty during the second day included attorneys Richard Hewlett, Michael Rataj, Brian Koncius, Joseph Conrad Smith, Robert Berg, Timothy Wittlinger, Lawrence Pepper, Robert Agacinski, Donald Hannon, and Margaret Tobin.

The Chapter was pleased that this year's

attendance matched last year's Seminar given the very low pass rate on the July Bar exam and continued employment struggles recent graduates face. New Lawyers' Seminar Committee Co-Chairs (Christine Dowhan-Bailey, Brian D. Figot, Grant P. Gilezan, Geneva S. Halliday, Theresa M. Serra, and Cathrine Wenger) thank the practitioners and members of the judiciary who took time away from their busy schedules to assist these new members of our legal community.



*Just a few of the people present at the 36th New Lawyers Seminar. L to R: Brian Figot, Cathrine Wenger, Judge Arthur J. Tarnow, Christine Dowhan-Bailey, Judge Patrick J. Duggan, Pamela Kroll, Maria D'Agostini, and Third Circuit Chief Judge Pro Tem Lita Masini Popke.*

*Photo by John Meiu, courtesy of Detroit Legal News Publishing LLC.*

## **Judge Gershwin A. Drain Investiture Ceremony**

**by Kelly Rimmer\***

On September 28, 2012, Gershwin A. Drain, formerly a Wayne County Circuit Judge, was sworn in as a U.S. District Judge. His Investiture Ceremony was held in the Special Proceedings Courtroom, with Chief Judge Gerald E. Rosen presiding. It was a family affair, with his wife, Meredith, daughters Shannon Salinas and Shelley Strange, mother Vera Drain, sisters Cassandra Rutledge and Vernia Drain, M.D., and many other family members

*(continued on page 6)*



## Judge Drain *(from page 5)*

in attendance as Judge Drain was formally welcomed to the federal bench.

The Reverend Haman Cross, Jr., of the Rosedale Park Baptist Church, gave the invocation. Chief Judge Rosen then introduced the federal judges in attendance, and Chief Judge Virgil C. Smith of the Wayne County Circuit Court introduced the many State judicial officers in attendance. Portia L. Roberson, an attorney with the U.S. Department of Justice, read the Commission of Appointment. Judge Drain's wife held the Bible as Judge Damon J. Keith administered the oath of office to Judge Drain. Meredith thanked all in attendance for joining the family in the celebration and honoring Judge Drain. Judge Drain's daughters presented him with his robe, expressing their admiration not only for his professional accomplishments, but also as their beloved father.

The distinguished speakers' remarks centered on a single theme: that Judge Drain's outstanding legal career is attributable to his commitment, hard work, integrity, and professionalism. Senators Carl Levin and Debbie Stabenow both commented on the strong recommendation they received from the ABA Standing Committee on the Federal Judiciary. The recommendation was based on Judge Drain's impressive record of serving the public, not only as a judicial officer, but as an outstanding member of the community with his unwavering commitment to Detroit and the State of Michigan. Senator Stabenow noted Judge Drain's reputation as a fair and thoughtful jurist, and Senator Levin expressed his confidence that Judge Drain will carry on the rich traditions of the Court he joins.

Congressman John Conyers, Jr., and former Detroit Mayor Dennis Archer, a fellow Western Michigan University alumnus, discussed Judge Drain's impressive legal career. Judge Drain received his law degree from

the University of Michigan Law School in 1972. He then secured a position as a clerk for the Wayne County Circuit Court and worked for the Detroit Department of Transportation, followed by a position with the Federal Defender Office where he worked for twelve years.

In 1986, then Governor James J. Blanchard appointed Judge Drain to the 36th District Court for the City of Detroit. A year later, Governor Blanchard appointed Judge Drain to the Recorder's Court where he served from 1987 to 1997 and earned his reputation for being a dedicated and impartial judge. In 1997, Judge Drain began his service on the Wayne County Circuit Court when the Recorder's Court merged with the Wayne County Circuit Court. He served as a Wayne County Circuit Court Judge from 1997 to 2012, where he solely handled civil cases for twelve

out of the fifteen years he was on the bench.

Reginald M. Turner, Jr., and W. Anthony Jenkins, prominent Michigan attorneys and past Presidents of the State Bar of Michigan, highlighted that Judge Drain's tenure at the Federal Defender Office and as a judge exemplify the traits that make a successful lawyer and judge: professionalism, diligence, service, and honor. Jenkins spoke on behalf of the ABA Committee, commenting on the Committee's conclusion that Judge Drain's qualifications and temperament make him well suited for the federal bench and the Committee's confidence that he will have a long and distinguished career in his new role as a federal judge.

Lastly, former Governor Blanchard noted that he had the privilege of appointing Judge Drain to the 36th District Court and the Recorder's Court, and concluded his remarks with the overall theme of the day: Judge Drain is "exactly the type of person that needs to be in our independent and important third branch of government . . . [w]e need judges in courts that people trust and respect. We have that with  
*(continued on page 8)*



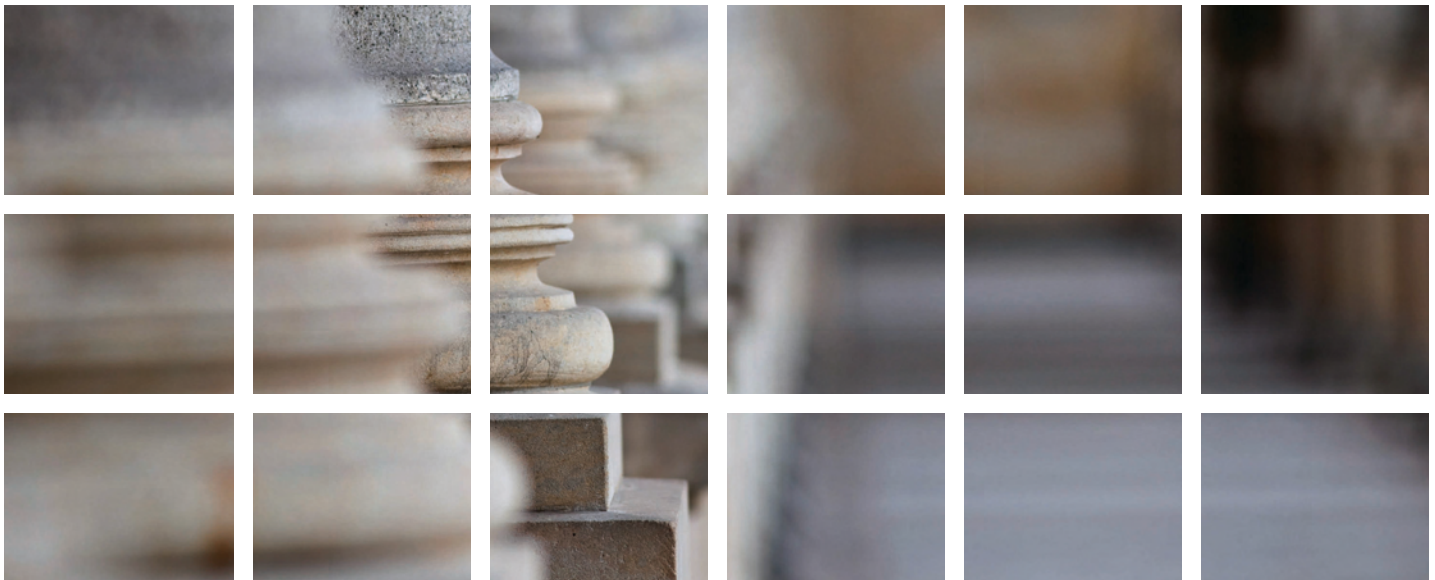
*Judge Gershwin A. Drain and family:  
his wife, Meredith, Norberto and Shannon Salinas,  
and Keith and Shelley Strange.*

*Photo by Judge Drain's Brother-in-Law.*



*Former Detroit Mayor Dennis Archer, Judge  
Gershwin A. Drain and U.S. Sen. Carl Levin*

*Photo by John Meiu, courtesy of Detroit Legal News Publishing LLC.*



## Assisting clients from the onset of a matter through formal resolution

Our professionals work closely with counsel and clients on various types of matters, including:

- Antitrust disputes
- Bankruptcy & restructuring disputes
- Complex commercial disputes
- E-Discovery/computer forensics
- Family law disputes
- Fraud & forensic services
- Intellectual property litigation & licensing
- International disputes
- Labor & economic disputes
- Securities actions
- Shareholder disputes
- Transaction disputes

For more information on how the experts at SRR can assist you, visit [www.SRR.com](http://www.SRR.com).



INVESTMENT BANKING

VALUATION & FINANCIAL OPINIONS

DISPUTE ADVISORY & FORENSIC SERVICES

SRR is a trade name for Stout Risius Ross, Inc. and Stout Risius Ross Advisors, LLC, a FINRA registered broker-dealer and SIPC member firm.



## Judge Drain *(from page 6)*



*Judge Gershwin A. Drain  
pictured with his mother,  
Vera Drain.*

*Photo by John Meiu, courtesy of Detroit Legal*

Gershwin Drain.”

Judge Drain then spoke. He first quoted Psalm 75:6, which states, “Promotion comes not from the east nor the west but from the Lord.” He thanked those whose support enabled him to reach his dream of becoming a federal judge: Governor Blanchard, Mayor Archer, Congressman

Conyers, Senator Levin, Senator Stabenow, and Eugene Driker.

He also thanked his best friend and perfect partner, Meredith, for her efforts, commenting that he would not be where he is today without her help, love, and support. Of the many decisions he has made throughout his life, “meeting and marrying Meredith was one of the best decisions of my life.”

He acknowledged the many other family members, colleagues, and friends that were in attendance, thanking them for all their support in the past, and reminding them that their days of working the polls on election day, passing out literature, and putting up yard signs are things of the past. Never one to boast, he described how humbled and honored he was to have so many people take the time to be there for him on such a monumental occasion. He also noted what a special privilege it was for him, as an African-American, to be appointed by this country’s first African-American President.

After the ceremony, a reception was held, hosted by the Chapter and the Drain family, where all enjoyed his daughter Shannon’s cake, which was specially made in the shape of stacked Federal Supplement volumes.

Judge Drain will

eventually preside in Flint, commuting from his home in Rosedale Park. Judge Drain’s longtime dream of becoming a federal judge has finally become a reality, and he cannot express enough how thankful he is to have the support of his family, friends and colleagues. Judge Drain is also eager to spend as much time as possible with the newest member of his family, his grandson, Matthew, who was born in December.

*\* Kelly Rimmer is a law clerk to the Honorable Gershwin A. Drain.*

## Rakow and Rom

Only a few Chapter members are still with us who remember Ed Rakow after whom the Rakow Scholarship Awards are named. But many of us have known, respected, and admired the work of Barbara Rom for whom the new Barbara J. Rom Award for Bankruptcy Excellence is named. It seems entirely fitting that the Rakow and Rom Awards were presented at the same Chapter luncheon on November 16, 2012.

Since 1969, the Rakow Scholarships have been awarded to deserving students of Michigan law schools who demonstrate outstanding scholarly achievement in securities, corporation, or business law. Past Chapter President and Federal Bar Foundation Trustee Edward



*Rakow Scholarship winners and law school representatives, L to R: Stephen Brooks, Thomas M. Cooley Law School; Connell Alsop, Michigan State University College of Law, Associate Dean for Student Engagement & Registrar; Zach Brown, Michigan State University College of Law; Michael Zumberg, University of Detroit Mercy School of Law; Ilana Ben-Ze'ev, Wayne State University Law School, Assistant Dean of Students; Alyssa Christensen, University of Michigan Law School; Michael Serra, Wayne State University Law School; and Christine Gregory, University of Michigan Law School, Assistant Dean for Student Affairs.*

*Photo by John Meiu, courtesy of Detroit Legal News Publishing LLC.*





*Rom Award Winner Judy O'Neill, Judge Nancy G. Edmunds, Michael Hammer, Barbara Rom and Judge Phillip J. Shefferly at the Rakow/Rom event.*

*Photo by John Meiu, courtesy of Detroit Legal News Publishing LLC.*

Kronk presented the Rakow Scholarship Awards to:

- Zachary E. W. Brown, Michigan State University College of Law
- Stephen Brooks, Jr., Thomas M. Cooley Law School
- Michael A. Zumberg, University of Detroit Mercy School of Law
- Alyssa Christensen, University of Michigan Law School
- Michael J. Serra, Wayne State University Law School

The newly created Rom Award honors individuals who have exhibited the highest level of overall excellence in the practice of bankruptcy law. Among the criteria considered in making the Award are excellence, civility, sophistication of practice, community involvement, Bar association and Court activity involvement, and pro bono participation.

Judge Nancy G. Edmunds introduced Barbara Rom who made brief remarks of appreciation to the Chapter for creation of the Award in her name, and enthusiastically endorsed the Committee's selection of the first recipient. Selection Committee Chair Michael C. Hammer presented the Award to Judy A. O'Neill, Partner, Foley & Lardner LLP. O'Neill received the Award for her accomplishments during her more than three-decades of practicing law.

After lunch, the Annual Meeting of the Court Historical Society was convened by President Michael J. Lavoie. He introduced



*Judge Terrence G. Berg, Chief Judge Gerald E. Rosen, Thomas Cranmer, Elisa Angeli Palizzi and Jeffrey Sadowski at the Holiday Party.*

*Photo by John Meiu, courtesy of Detroit Legal News Publishing LLC.*

speaker David G. Chardavoyne, author of *The United States District Court for the Eastern District of Michigan – People, Law and Politics*. Mr. Chardavoyne skillfully displayed many pictures from the book interwoven with the briefest of commentaries.

## **Cohn Legal History Award Announced at Holiday Party**

The Chapter threw its sixth annual Holiday Party on December 6, 2012, at the Westin Book Cadillac Hotel. More than 100 guests enjoyed hors d'oeuvres, spirits, and camaraderie while being treated to the music of Magistrate Judge R. Steven Whalen's jazz quartet, *The Cat's Pajamas*.

*(continued on page 11)*



*Dean Watson, Judy Christie, Michael Lavoie, Brian Figot and Jeffrey Sadowski.*

*Photo by John Meiu, courtesy of Detroit Legal News Publishing LLC.*

**WHEN IT COMES TO  
ELECTRONIC EVIDENCE  
WE KNOW HOW  
TO GET ANSWERS.**

WHEN IT COMES TO DIGITAL EVIDENCE, YOU HAVE TO KNOW WHERE TO LOOK AND WHAT TO LOOK FOR. COMPUTER INFORMATION CHANGES QUICKLY, SO THE LONGER YOU WAIT, THE GREATER THE RISK OF LOSING VALUABLE FACTS. WHETHER YOU NEED DATA ANALYZED NOW OR PRESERVED FOR LATER, COMPUTING SOURCE IS READY. OUR TEAM OF EXPERTS SPECIALIZES IN COMPUTER FORENSICS SO YOU GET ALL THE INFORMATION YOU NEED – FAST. CALL AND FIND OUT JUST HOW MUCH LIGHT WE CAN SHED ON YOUR CASE.

[computingsource.com](http://computingsource.com)



**COMPUTING**  
*Source*

the power to win

Detroit 248.213.1500  
Chicago 312.554.1500



## Holiday Party

(from page 9)

In addition to the traditional merriment, this year's attendees enjoyed a special presentation by the Court Historical Society, as it unveiled the newly commissioned plaque for the "Avern Cohn Award For Excellence in the Collection, Preservation, and Interpretation of Michigan Legal History." The inscription on the plaque explains:

This award is named in honor of United States District Judge Avern Cohn, in recognition of his immeasurable contributions to the cause of legal scholarship and the study of legal history. As an active, prolific, and thoughtful writer, Judge Cohn has led by example throughout his distinguished legal career spanning more than 60 years. As a notable collector of historic legal documents and artifacts, Judge Cohn has served to inspire others through his generous support and guidance of worthwhile organizations that promote the study of Michigan's rich legal history, bestowing upon future generations the legacies of curiosity, scholarship and wisdom.

The brief ceremony included remarks from Chief Judge Gerald E. Rosen, Court Historical Society President Mike Lavoie, and Judge Cohn, who was visibly moved by the honor. The Historical Society contemplates giving the "Cohn Award" as warranted rather than on an annual basis.

Special thanks to all for another fantastic party.

## Chapter Book Club: Shakespeare and Justice

The Chapter Book Club met on Friday, December 7, to discuss *A Thousand Times More Fair: What Shakespeare's Plays Teach Us About Justice* by Kenji Yoshino. The venue was filled to capacity with both Shakespeare devotees and



*Book Club attendees.*

*Photo by John Meiu, courtesy of Detroit Legal News Publishing LLC.*

novices. Professor Ken Jackson, a Wayne State University Associate Professor of English specializing in Renaissance drama, moderated the discussion, which focused on *The Merchant of Venice* and *Measure For Measure*.

After offering high praise for the book, Professor Jackson enlightened the group on the role of law in society at Shakespeare's time. Following a brief lecture, the discussion compared mercy and strict enforcement, as represented by Shakespeare's plays, in everything from federal prosecutorial discretion and sentencing guidelines to Oakland County's Drug Court and the Restore Foundation. The discussion offered fresh insights into our work as lawyers and judges and piqued the interest of burgeoning Shakespeare fans. Stay tuned for the next Book Club selection.



*L to R: Mark Aiello; Michael Palizzi; Magistrate Judge David R. Grand; Executive Magistrate Judge R. Steven Whalen; Magistrate Judge Laurie J. Michelson; and Jeffrey Sadowski attend the Complex Litigation Seminar.*

*Photo by John Meiu, courtesy of Detroit Legal News Publishing LLC.*

## Complex Litigation Seminar

The Chapter Complex Litigation Committee hosted the latest in its series of seminars designed to give federal practitioners substantive and practical thoughts and advice from the judges who preside over complex cases. The seminar, held at the Courthouse on November 14, featured a double-header panel discussion

of district and magistrate judges.

The first panel featured Judges David M. Lawson, Victoria A. Roberts, and Mark A. Goldsmith. The panel  
(continued on page 12)



## Complex Litigation

(from page 11)

discussed a wide array of issues relating to the presentation and trial of a complex case, including the use (and overuse) of motions in limine, *Daubert* motions, and ideas for effective expert presentation in jury and bench trials. The second panel – Magistrate Judges R. Steven Whalen, Laurie J. Michelson, and David R. Grand – focused on best practices for pretrial proceeding in a complex case. The panel discussed a wide array of topics relating to pretrial motion briefing, oral argument, and settlement conferences.

The panels offered practical advice from the bench, and gave practitioners a rare glimpse into how district and magistrate judges approach various issues. The judges discussed specific practices they find helpful and not-so-helpful, and gave suggestions for dealing with a host of thorny issues lawyers routinely face. The discussion was moderated by Michael Palizzi, Jeffrey Sadowski, and Mark Aiello, and then opened for questions.

The seminar was very well-attended and all found the discussion extremely practical and valuable. The Complex Commercial Litigation Committee is in the planning stages for its next seminar. Keep watching the Chapter's eBlasts for the latest updates.



*L to R: Cheryl Bell, Mary Beth Collery, William Altman, Kimberly Altman, Magistrate Judge Laurie J. Michelson, Theresa Serra, Michael Simoni, Judge Mark A. Goldsmith, Judge Patrick J. Duggan, Catherine Thompson Dobrowitsky, Magistrate Judge Michael J. Hluchaniuk, Elisa Angeli Palizzi, Brian Figot, and Jennifer McManus at the Judicial Family Reunion.*

*Photo by John Meiu, courtesy of Detroit Legal News Publishing LLC.*

## Second Judicial Family Reunion

The Second Judicial Family Reunion was a resounding success. Miller Canfield graciously hosted federal judges, as well as current and former law clerks and staff attorneys for the event held on October 18, 2012. Overlooking the Detroit River, attendees dined on delicious fare and caught up on old times.

The event was well attended by the bench, including Judges Paul D. Borman, Patrick J. Duggan, Mark A. Goldsmith, Denise Page Hood, Lawrence P. Zatkoff, Bankruptcy Judge Walter Shapero, and Magistrate Judges Michael J. Hluchaniuk, Laurie J. Michelson and Mark A. Randon. The Chairs of the Law Clerk Committee, Matthew Allen, Theresa Serra, and Sara Woodward, would like to thank the sponsor firms that made the event so memorable: Bodman, Butzel Long, Dickinson Wright, Dykema Gossett, Foley & Lardner, Honigman Miller, and Miller Canfield. Special thanks also go to the National Federal Bar Association, which also sponsored this Chapter event. Make sure to look out for the next Law Clerk Committee event.



*Participants at the Bankruptcy Committee's roundtable discussion on Municipal Entities in Distress, L to R: Frederick Headen; Edward Plawewski; Bankruptcy Judge Steven W. Rhodes; Douglas Bernstein; Judy O'Neill; and Charles Moore.*

*Photo by John Meiu, courtesy of Detroit Legal News Publishing LLC.*



## Distressed Municipalities Event

On October 10, 2012, the Chapter Bankruptcy Committee hosted a timely roundtable discussion on “Municipal Entities in Distress – Between a Rock and a Hard Place” at the Westin Hotel in Southfield. Bankruptcy Judge Steven W. Rhodes moderated the event, which began with short presentations by the panelists.

Frederick Headen, Director of the Bureau of Local Government Services in the Michigan Department of Treasury, discussed the various Michigan statutes relating to emergency managers. Edward J. Plawecki, Jr., General Counsel/Director of Government Relations at Pierce Monroe & Associates, discussed how the Michigan emergency manager statutes work in practice. Charles M. Moore, Principal at Conway MacKenzie, discussed the practical realities of emergency managers, ways municipalities can avoid emergency managers and otherwise deal with financial distress issues. Judy A. O'Neill, Partner at

*(continued on page 14)*

Your life is always in  
**MOTION**



**Make  
MOTION  
Your Legal  
Lifestyle Magazine.  
Subscribe Today  
and Don't Miss  
An Issue!  
Call 248-577-6100**

## Calendar of Events

- Jan. 17** **The Role of Social Media in Federal Litigation**  
Speakers: Hon. Laurie J. Michelson, Kevin Carlson, and Don Wochna  
Members: Free | Non-Members: \$5  
Cooley Law School, Auburn Hills Campus,  
2630 Featherstone Road, Auburn Hills  
8:00 to 9:30a.m.
- Feb. 6** **Pleadings in the New “Era of Plausibility”**  
Panelists: Hon. Avern Cohn and Hon. Robert H. Cleland  
Moderator: Dan Sharkey  
Members: \$10 | Non-Members: \$20  
Levin Courthouse, Room 115  
1:00 to 2:00p.m.
- Mar. 1** **Wade H. McCree Award Luncheon**  
Keynote Speaker: U.S. Rep. Keith Ellison (D. Minn.)  
Award Recipient:  
*NOMINATIONS ACCEPTED UNTIL JAN. 21*  
Members: \$25 | Non-Members: \$35  
Westin Book Cadillac Hotel  
11:30a.m. Reception  
12:00p.m. Luncheon
- Mar. 7** **Fourth Annual Celebration of Diversity Reception**  
Fishbone's Rhythm Kitchen Café  
400 Monroe St. (International Center Building)  
5:00 to 7:00p.m.
- Mar. 12** **Veteran Treatment Courts Seminar**  
Levin Courthouse, Room 115  
12:00 to 5:00p.m.  
Hold the Date: Further Details to Follow
- May 1** **Law Day at The Courthouse:  
A Downtown Tradition**  
Welcoming your staff, clients, and downtown neighbors to visit the courthouse between 11:00 a.m. and 2:00 p.m.  
Live demonstrations, such as bomb-sniffing dogs and tours of the Levin Courthouse. It's becoming a tradition! Don't miss it this year.  
Levin Courthouse  
11:00a.m. to 2:00p.m.
- June 4** **Bench-Bar Social and Golf Outing**  
In addition to an 18-hole scramble, the Bench Bar Social will have tennis courts & a variety of other activities.  
Plum Hollow Golf Club, Southfield, Michigan  
Dinner following  
Further Details to Follow

**Updates and further developments at  
[www.fbamich.org](http://www.fbamich.org)**

**See “Hot News” and “Events & Activities”  
Online registration available for most events.**

## Municipalities *(from page 13)*

Foley & Lardner, discussed Chapter 9 bankruptcy issues, including constitutional concerns, contract, and plan confirmation issues. Douglas C. Bernstein, Shareholder at Plunkett Cooney, spoke on Chapter 9 eligibility and filing challenges.

The panelists, led by Judge Rhodes, then engaged in a lively discussion and took numerous questions from the audience. The event was a great source of information about this timely topic. The event concluded with a cocktail/networking event.

## 2nd Annual Federal Youth Law Day

On October 25, 2012, the Thomas M. Cooley Law School, the Chapter and the Gerald R. Ford Presidential Library once again teamed up to host a Federal Youth Law Day at the Library in Ann Arbor. The first Youth Law Day, held last year, was such a success that the Ypsilanti school district specifically requested it be repeated, if possible. All partners agreed, including the Library which generously donates its space for the event.

The day-long program provides high school students the opportunity to learn about various federal careers in the field of law. This year, approximately 40 Ypsilanti High School and Ypsilanti New Tech students interested in law attended the program.

After a welcome from Cooley Law School's Dean Joan Vestrand (co-chair of the Chapter's Law School Initiatives Committee) and the Library, U.S. Attorney Barbara McQuade gave a rousing return

performance as keynote speaker, inspiring the students to "Stand Up" and make a positive difference. Ms. McQuade was followed by former AUSA Terrance Thompson who himself grew up in Ypsilanti.

The high school students next had the opportunity to attend small group break-out sessions on different federal careers. Students met with local FBI agent Sean Nicol (a second year returner) and a Federal Air Marshal for exciting presentations on both of these fields. In addition, students received the benefit of a mock class on Criminal Law by former AUSA and now Cooley professor Alan Gershel. They also enjoyed a presentation on Homeland Security by Cooley professor and Brigadier General Michael McDaniel, who used to work in the Pentagon as the nation's Secretary for Homeland Security. During lunch, students received a primer on Gerald R. Ford, the lawyer,

presented by one of the Library's curators. After lunch and to conclude the day, Cooley professor and former AUSA Pat Corbett presented a program on cyber crimes and cyber safety.

Members of the Cooley Ann Arbor Student Chapter assisted with the event, providing additional financial support and spending the day with the attendees, including talking with them about college and graduate school over lunch.

Feedback from this year's program was very positive and illustrates the value students placed on the event. Ypsilanti High School reported how excited students were about the speakers, the Library, and the lunch with law students. The event not only provided information about various careers to these students but also furthered their

interest in the study of law. One of the attendees reported that "I learned a lot about careers I never knew existed." Another said "[she] was so impressed by the event... that [she] would be pursuing law as a career."



*U.S. Attorney Barbara McQuade as the keynote speaker for the 2nd Annual Federal Youth Law Day.*



*Attendees at the 2nd Annual Federal Youth Law Day.*



## 2012-2013 Luncheon Sponsors

The Chapter gratefully acknowledges the following sponsors of the 2012-2013 Luncheon Program:

U.S. District Court for the Eastern District of Michigan  
Barris Sott Denn & Driker PLLC  
Bienenstock Court Reporting and Video  
Bodman PLC  
Brooks Kushman  
Brooks Wilkins Sharkey & Turco PLLC  
Butzel Long  
Clark Hill PLC  
ConwayMacKenzie  
Computing Source  
Crawford & Winiarski  
Dickinson Wright PLLC  
Dykema Gossett PLLC  
Esquire Solutions  
Foley & Lardner  
Garan Lucow Miller PC  
Gifford Krass Sprinkle Anderson & Citkowski PC  
Hanson Renaissance Court Reporters & Video  
Honigman Miller Schwartz and Cohn LLP  
Howard & Howard Attorneys PLLC  
Jaffe Raitt Heuer & Weiss PC  
Kerr Russell and Weber PLC  
Kienbaum Oppenwall Hardy & Pelton PLC  
Kitch Drutchas Wagner Valitutti & Sherbrook  
Law Offices of Lee & Correll  
Lumen Legal  
Maddin Hauser Wartell Roth & Heller PC  
Miller Canfield PLC  
The Miller Law Firm PC  
Pepper Hamilton LLP  
Pitt McGehee Palmer Rivers & Golden PC  
Plunkett Cooney  
Rader Fishman & Grauer PLLC  
Sommers Schwartz PC  
Spectrum Computer Forensics and Risk Management  
Stout Risius Ross  
Trott & Trott  
Vercruysse Murray & Calzone, PC  
Warner Norcross & Judd LLP  
Xact Data Discovery

## Calling All Former Federal Law Clerks!

The Chapter Law Clerk Committee is creating a directory of former federal judicial law clerks, and we need your contact information. The goal is to create an electronic and interactive directory to facilitate communication between former clerks and the Court.

We are looking for the following contact information for all former law clerks to all past and present Magistrate, District, and Circuit Judges in the Sixth Circuit:

- Full name
- Current Address (work or residence)
- Current Employer
- Telephone Number
- Personal Email Address
- Work Email Address

Please send your contact information (preferably via email) to Matt Allen, Law Clerk Committee Co-Chair, at Miller, Canfield, Paddock & Stone, P.L.C., 840 W. Long Lake Road, Suite 200, Troy, Michigan 48098, 248-267-3290, [allen@millercanfield.com](mailto:allen@millercanfield.com). Please contact him with any questions.

## Do you need to brush up on any of these topics?

- Electronic Discovery
- Social Media Discovery
- Technology Assisted Review
- Computer Forensics & Collections
- Predictive Coding
- Litigation Preparation Best Practices

Call today to schedule a  
**COMPLIMENTARY LUNCH  
& LEARN AT YOUR FIRM**  
on the topic of your choice



Troy Richard, Managing Director  
[trichard@d4discovery.com](mailto:trichard@d4discovery.com)  
313.962.4020  
[www.d4discovery.com](http://www.d4discovery.com)

---

## Newsletter Committee:

Christina L. Farinola,  
Co-Editor in Chief  
Career Law Clerk to  
Hon. Paul J. Komives  
(313) 234-5200

Andrew J. Lievense,  
Co-Editor in Chief  
Assistant United States Attorney  
(313) 226-9665

Judge Michael J. Riordan  
Michigan Court of Appeals  
(313) 972-5662

John P. Mayer  
Management Consultant  
(734) 558-5593

Thomas D. Esordi  
O'Reilly Rancilio PC  
(586) 726-1000

Lauren N. Mandel  
Career Law Clerk to  
Hon. Patrick J. Duggan  
(313) 234-5148

Jennifer L. Newby  
Dickinson Wright  
(313) 226-3081

Susan E. Asam  
Barris Sott Denn Driker PLLC  
(313) 596-9333

## Save The Date

**February 6**

**Rules and Civil Practice Seminar:  
Pleadings in the New Era of "Plausibility"**

Over the past few years, the Supreme Court displaced the old "no set of facts" pleading standard with a "plausibility" test. In a session moderated by Daniel N. Sharkey, District Judges Avern Cohn and Robert H. Cleland will discuss their views on how this heightened standard affects their analysis of pleadings, and the corresponding "dos" and don'ts" for civil practitioners.

Levin Courthouse, Room 115 (Multipurpose / Seminar Room)

Noon to 1:00 p.m.

Lunch will be served. Cost: Member \$10; Non-member \$20

---

**Federal Bar Association  
E. D. Michigan Chapter**  
PO Box 20759  
Ferndale MI 48220

**RETURN SERVICE REQUESTED**

PRESORTED  
STANDARD  
U.S. Postage  
PAID  
Wyandotte, MI  
PERMIT #153

## Executive Director:

Brian D. Figot  
(248) 594-5950  
fbamich@fbamich.org

**WINNER  
10 YEARS**  
National FBA  
Outstanding  
Newsletter  
Award