



FBAnewsletter

Spring 2009

Federal Bar Association - Eastern District of Michigan Chapter - 51 years of service to our Federal Bench and Bar

Lynn Helland Receives Gilman Award

On April 15th, the Chapter hosted its annual Gilman Award Luncheon at the Atheneum in Greektown. The Gilman Award is given annually to an outstanding practitioner of criminal law who exemplifies the excellence, professionalism, and commitment to public service of Len Gilman, who was U.S. Attorney at the time of his death in 1985.



Barbara McQuade gives opening remarks at Gilman Award Luncheon.

Barbara M. McQuade, Chapter President, gave the opening remarks and introduced this year's Gilman Award Recipient, Assistant U. S. Attorney Lynn A. Helland. Mr. Helland's comments reflected the honor of receiving such a prestigious award:

"As Barb so delicately mentioned, I've been doing this work for a long time - almost 27 years. Because of all that the Gilman Award stands for, receiving it today is the highlight of those 27 years.

"I'd like to introduce some family: my wife, Cheryl Huckins; Cheryl's parents, Jack and Nancy; and my own parents, Al and Esther.

"A lot of people have guided me during my career. I'm going to mention only two, and therefore slight the rest - apologies to all those I slight. But I'd like to pay special tribute to Judge Cornelia Kennedy, who hired me into the legal profession way

back in 1980. I've been enjoying the reflected glory of having worked for Judge Kennedy ever since. I'd also like to pay tribute to Alan Gershel, who was the former criminal chief in our office, and my boss, for about two decades.

"The reason I mention Alan and Judge Kennedy is that they were both living, breathing, daily examples for me of the things that Lenny Gilman stood for: decency, fairness, respect

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President's Column

Barbara L. McQuade

Key Contributors

This column focuses on key contributors to our Chapter. One group of key contributors is our Diversity Task Force. Improving the diversity of our Chapter is one of our main goals for the year, along with enhancing pro bono service opportunities and retaining members.

Under the direction of Chapter President-Elect Elisa Angeli Palizzi, the Diversity Task Force is



Elisa Angeli Palizzi

chaired by U.S. District Judge George Caram Steeh and Assistant U.S. Attorney Elizabeth Stafford. The Diversity Task Force was created by Immediate Past President Mark Goldsmith last year. This year, the Task Force was asked to provide concrete recommendations by June. The



Judge George Caram Steeh

Task Force gave an update on its work at a recent meeting of the Executive Board. The Diversity Task Force has developed both immediate action items as well as a long-term strategy.

Members of the Task Force are Michelle Crockett, Elias Escobedo, Judge Harold Hood, Michael Lee, Saima Mohsin, Phyllis Golden Morey, John Nussbaumer and Amanda Shelton.



Elizabeth Stafford

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

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President's Column (continued)

The Diversity Task Force has defined its vision of diversity broadly to include race, ethnicity, religion, gender, sexual orientation, age, physical ability and type of law practice, and to seek to include any other groups that are under-represented in our Chapter. The Task Force has been working for the past two years on ways to improve the diversity of our Chapter by studying other chapters and other bar associations, talking with leaders of special purpose bar associations in Michigan, and meeting with leaders who have studied diversity in the law, including former Detroit Mayor Dennis Archer, Judge Victoria Roberts, and former General Motors General Counsel Chris Johnson, now the Director of Corporate Law and Finance at Cooley Law School.

The Task Force has identified a number of ideas for immediate action. These ideas include: (1) establishing a permanent diversity committee and a Chapter diversity statement; (2) recruiting new FBA members from law schools and from Federal judicial clerkships; (3) creating clinics and job shadowing opportunities to give law students exposure to Federal Court practice; (4) increasing communication and partnerships with special purpose bar associations; (5) seeking opportunities for FBA members to speak at meetings of special purpose bar associations; (6) hosting regular lunches with special purpose bar association leadership; (7) organizing an event devoted to diversity; and (8) establishing mentoring and Federal Court educational programs. In its final report in June, the Task Force will narrow this list and develop a plan for putting these ideas into action.

In addition to these action items, the Diversity Task Force has also been discussing a larger long-term global strategy to coordinate our Chapter's efforts with similar efforts by the State Bar of Michigan, the Oakland County Bar Association and other organizations.

Our Chapter recognizes and values the contributions of the Diversity Task Force, whose efforts will make our Chapter more robust as we and our profession evolve and progress.

Gilman Luncheon *(from page 1)*



*Gilman Award Luncheon
speaker John A. Rizzo*

for others, excellence, and always trying to do the right thing. Like Lenny, Judge Kennedy and Alan were examples of always fighting for what's true, and always being true to the fight - even when that's very hard - and to be candid, it sometimes has been. So when I'm standing here, getting this Award, I'm really standing on their

shoulders.

"Besides acknowledging the people whose coattails I've ridden, I'd like to talk about one other thing that's been on my mind, especially recently. You might have noticed that the Department of Justice has been in the news quite a bit in the past couple of years, often for reasons that are less than flattering. And that publicity frequently touches on the work I do, which is investigating corruption. Most recently, for example, a famous corruption case - the Senator Stevens case - was dismissed, in part, at least, because prosecutors made some significant mistakes.

"There have been the stories during the last couple of years that some U. S. Attorneys, and some Department of Justice lawyers in Washington, were hired or fired for improper political reasons. Those stories created a concern that any decisions coming from the Department, in cases involving politicians, might themselves be politically motivated. There have been a few other stories, about other prominent cases that ran into problems, in other U. S. Attorney's Offices - I won't take up your time with the details, but you get the gist.

"Each new allegation like this feels a bit like a kick to the gut. In my imagination, at least, when the public hears stories like these, they're thinking, "Dang, there must be something wrong at the Department." I've recently seen it written more than once that prosecutors are running amok; we've become ethically challenged, and lost our way when it comes to pursuing justice.

"As you can probably tell, I'm sensitive to any perception that we're not meeting our obligations as prosecutors. I worry that the repeated suggestions of misconduct within the Department of Justice will erode the credibility that our efforts deserve to have, and need to have, in order for us to serve the citizens of this district, especially when it comes to investigating claims of corruption.

"So, while I have the chance here, I want to respond to this idea that the Department of Justice is on the wrong track. I'm getting this Award today for taking to heart the principles that Lenny Gilman stood for, and that Judge Kennedy and Alan Gershel exemplified for me. I want you to know that I'm not alone - any number of my colleagues in the U. S. Attorney's Office deserve to be standing here today instead of me, to be recognized for their own adherence to Lenny's principles. Frankly, I think our office does that pretty well.

"By saying that Lenny's principles are still alive and well in our office, I'm not meaning to suggest that we're special here. As troubling as each individual negative story always is, at least based on the facts that are publicized, I think what those stories show is that, among the many thousands of cases that are handled properly, in a small number of hotly contested cases things go wrong; and very, very, rarely, there are rogue prosecutors with a bad motivation. But that small number of cases doesn't mean that there is any systemic or widespread problem. Based on my contact with people at the Department of Justice, and at other U. S. Attorney's Offices, I think the great majority of us across the country really do try to do our work according to Lenny's principles, and we nearly always succeed in the effort.

"I don't know about the rest of the country, though. I do know our office. And there is no doubt in my mind that we will continue to apply Lenny's principles to all the work we do, including our investigations of corruption. We are well aware of the public interest in clean politics, and of our important place in securing that public interest. We are also well aware of our obligation to investigate promptly, yet also carefully, thoroughly, and impartially, and to do the right thing in every case according to the law. So, when, after application of Lenny's principles, we conclude that it is the right thing to do not to bring charges,

we will not, despite any public pressure to the contrary. On the other hand, when we conclude that the right thing to do is to bring charges, we will do that, and will then do our best to see those charges through. We will do that like we have ever since Lenny hired me into the office a long time ago - that is, without partiality or favor, and regardless of whether the case is easy or hard, low-profile or high-profile.

"I'm confident that that's the way Lenny expects us to act.

"Thank you, Federal Bar Association, for the honor of this Award."

Following Mr. Helland's comments and lunch, Chief Judge Gerald E. Rosen introduced the keynote speaker, John A. Rizzo, Acting General Counsel of the Central Intelligence Agency. Although the nature of Mr. Rizzo's work prevented him from disclosing the details of his job, he addressed luncheon attendees by explaining the progression of his long career with the CIA and by speaking about the general roles that lawyers play in the Agency's work.



Luncheon speaker John A. Rizzo, Chief Judge Gerald E. Rosen, Lynn Helland, Chapter Executive Director Brian Figot and Chapter President Barbara McQuade.



Jill Hart and Judge George Caram Steeh hearing motions at the University of Michigan Law School.

Judges Conduct Motion Days

The Chapter has coordinated several District Court motion days at area law schools.

On March 30, 2009, Judge George Caram Steeh held a motion day at the University of Michigan Law School. He is a 1973 cum laude graduate of the Law School. He heard three dispositive motions involving intellectual property infringement, securities, and class action claims before an audience of over 100 students and faculty. This is Judge Steeh's second year in a row conducting motion day at the Law School, and, fittingly, motion day this year was held on the 150th anniversary of the founding of the Law School. At a pizza lunch afterwards, the Judge talked with students about judicial internships and clerkships.

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Motion Day *(from page 3)*

Judge Patrick J. Duggan held a motion day on February 6, 2009, at the University of Detroit Mercy School of Law. He is a 1958 cum laude UDM alumnus. Judge Duggan has previously participated in motion day at the law school. Judge Duggan heard motions involving illegal search and seizures, and intra-governmental disputes. Over 75 students and faculty attended. UDM School of Law Professor and Assistant Dean Gary Maveal was instrumental in helping to coordinate this event. Judge Duggan received the Alumnus of the Year Award for 2008 for his participation in UDM programs and his service to the legal profession.

On January 27, 2009, Judge Friedman held his motion call at the Wayne State University Law School. Over 200 students attended and heard argument on a wide variety of matters ranging from straightforward procedural issues to substantive matters in both criminal and civil cases. The motion day provided the law students a unique view into “real world” court proceedings. Judge Friedman oriented the students with the issues, and entertained questions by the students after each motion was heard. The motion day was coordinated by the Chapter’s Law Student Initiative.

Pro Bono Committee Targets Foreclosure Cases

The Chapter, in partnership with the Judges Pro Bono Committee, the State Bar of Michigan, the Michigan Poverty Law Program, and the Thomas M. Cooley Law School Alumni Association, has created a roster of trained pro bono lawyers and students to help the Eastern District deal with an increase in foreclosure cases being filed by in pro se litigants in Federal Court.

District Judge Victoria A. Roberts proposed the idea of making these foreclosure cases a priority for the Chapter Pro Bono Committee this year after seeing an increase in these filings in her court. When the Judges Pro Bono

Committee met with the Chapter Pro Bono Committee last fall, the decision was made to make this the focus of the Chapter pro bono efforts for the year.

Subsequently, the FBA group learned of the Michigan Foreclosure Prevention Project (“MFPP”), a Statewide collaboration of legal services lawyers, local mortgage counselors, and pro bono lawyers committed to providing free assistance to families facing foreclosure.

Since then, District Judge Denise Page Hood, who chairs the Judges Pro Bono Committee, along with MFPP Director Lorry Brown, Chapter Pro Bono Committee Co-Chair and Cooley-

Auburn Hills Associate Dean John Nussbaumer, and State Bar Pro Bono Initiative Chair Bob Gillett, have worked together to recruit and train the lawyers and students who are now ready to begin taking assignments. The lawyers

will be assigned to cases based on the complexity of the case and their level of experience, and they will be offered the assistance of a pro bono student law clerk to help them with the case.

A two-day training program was held February 11-12, 2009, funded by grants from the Chapter, the Michigan State Bar Foundation, the Michigan State Housing Development Authority and other organizations. Approximately 300 legal services and private pro bono volunteer lawyers signed up for the 200 available spots for the program, and students from Cooley

Law School provided volunteer logistical assistance. Honigman partner and State Bar Real Property Law Section Pro Bono Chair Mitchell R. Meisner recruited his partners Gregory J. DeMars and Ryan J. Thomas to be among the faculty members who taught at the program.



Law Student Initiative Co-Chair Matt Lund and Judge Bernard A. Friedman at the Wayne State University Law School. Photo by John Meiu, courtesy of Detroit Legal News Publishing LLC.



Marilyn Orem, Judge Patrick J. Duggan, Leslie Robinson, Lauren Mandel and Jodi Matthews at the University of Detroit Mercy School of Law.

Clients who need assistance with a foreclosure problem can obtain free assistance by calling the Statewide “save the dream” number (1-866-946-7432); by following the “new client” links on the MFPP website www.miforeclosure/implp.org; or by calling their local legal services program. “We have been seeing a number of clients recently who have been caught up in foreclosure prevention or foreclosure rescue scams,” said Lorry Brown of the MFPP. “It is important that people realize that there are free prevention services out there—and that counselors, legal aid programs and pro bono lawyers are working together to provide these services.”

The Chapter is considering a video replay of the program for lawyers who were not able to attend the February training or who may now wish to volunteer. Interested individuals should contact Administrative Assistant Julie Tiffany at Cooley Law School’s Auburn Hills campus. She may be reached at 248.751-7800, ext. 7784, or at tiffanyj@cooley.edu.

students at Michigan’s law schools. In the wake of that planning came the incorporation of the Foundation, its qualification as a 501c(3) entity, so that individual contributions could be encouraged as a tax-deductible charitable act, the first Rakow Scholarship Luncheon and the dedication

of proceeds from the Chapter’s Annual Dinner Honoring the Federal Judicial Officers of the Eastern District.

In the intervening years, more than \$150,000 in scholarships have been awarded. The Foundation’s ongoing need for individual contributions has remained. Twenty years ago (and twenty years after the first scholarships), it was noted in the FBA Newsletter of March/April 1989, that the scholarship fund required an infusion of contributions from the Chapter’s membership or it

would be exhausted in a not-too-distant future. The membership responded with characteristic generosity. Now, twenty years and \$100,000 of scholarships later, the fund is once again in need of replenishment with your tax-deductible donations, so that another generation of students may benefit.

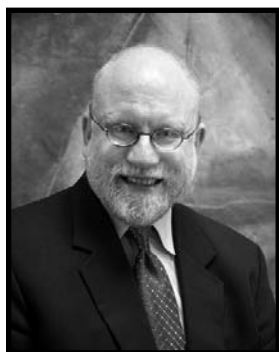
Thirty years ago, the FBA News, then the National FBA’s newsletter, reported the Detroit Chapter’s participation with other bar associations in the Detroit area “to select 50 to 60 experienced trial attorneys to represent indigents” in the Eastern District of Michigan. Ten years after, Chapter President John R. Runyan (now the president-elect of the Detroit Metropolitan Bar Association) dedicated his President’s Column to the pro bono program’s reliance upon volunteerism in the wake of the U.S. Supreme Court’s 5-4 decision against mandatory pro bono appointments in *Mallard v. United States District Court*. Mr. Runyan wrote of his hope that the *Mallard* decision “inspires an increase of volunteerism by attorneys cognizant that voluntary programs like the Detroit Chapter’s are now the only means of assuring that those who cannot afford counsel will not go unrepresented and unwilling to allow the burden of providing such representation to fall entirely upon others.”

In this issue of the FBA Newsletter, twenty years later, you can read of the Chapter’s participation in a partnership with the Judges Pro Bono Committee, the State Bar of Michigan, the Michigan Poverty Law Program, and the Thomas M. Cooley Law School Alumni Association, to create a roster of trained pro bono lawyers and students to help the Eastern District deal with an increase in foreclosure cases being filed by pro se litigants in Federal Court.

Thirty years ago, the FBA News recapped a successful Annual Dinner and also contained an article out of the Western District of Michigan regarding a very well-



Attorney Marie Branda, Cooley student Renae Moore and Cooley student Norina Anton.



Tidbits and Trivia **By Brian Figot**

Recurring Themes, Ongoing Needs, Traditions and Change

“The charm of history and its enigmatic lesson consist in the fact that, from age to age, nothing changes and yet everything is completely different.”
-Aldous Huxley

In any organization that has existed for more than a generation, the striking similarities that exist alongside conspicuous contrasts over an extended period of time can be revealing. This admixture of consistency and change is aptly demonstrated in the recorded history of this Chapter of the FBA, now finishing its 51st year.

Forty years ago, the Federal Bar Foundation of Detroit and the Edward H. Rakow Scholarships were still in the planning stages. Mr. Rakow, a Chapter founder, had died the previous year. Ed’s sister and several of his closest friends had then determined that the most appropriate way to honor his memory was through a fund which could be utilized to award scholarships to promising securities law

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Tidbits and Trivia *(from page 5)*

received luncheon addressed by the Honorable Wade H. McCree, Jr., then the Solicitor General of the United States. Twenty years ago, the FBA Newsletter, like the FBA News twenty years before that, mourned the passing of legal giants and the need for appropriate commemorations. The deaths of Judges Philip Pratt and Wade McCree gave rise to the Eastern District of Michigan Portrait Foundation, a second 501c(3) organization supported by the generosity of our membership. The Chapter also established the Wade H. McCree, Jr. Award for the Advancement of Social Justice, the receipt of which remains a nationally recognized honor. This year, the Award was accorded upon the Neal Legal Team, a group of pro bono attorneys that represented hundreds of plaintiffs for more than ten years in a class action that charged sexual harassment and abuse by male corrections officers against women inmates in many State institutions.

Twenty years ago, the Newsletter contained an article about diversity (“Reminder: Diversity Jurisdiction Amount Increased in Federal Courts”). This focus on diversity continues, but in an entirely different context which relates more to social justice than to questions of civil procedure. Thus, the President’s Column in this issue begins, “This column focuses on key contributors to our Chapter. One group of key contributors is our Diversity Task Force. Improving the diversity of our Chapter is one of our main goals for the year, along with enhancing pro bono service opportunities and retaining members.” Ten years ago, a related theme was addressed in the newsletter column of then-president Michael Leibson who observed the “common theme running through most of this Chapter’s major activities . . . the theme of social justice and equality has predominated.” Mr. Leibson eloquently wrote:

“This emphasis represents far more than a general effort to ‘do good.’ It is a reminder of the awful human consequences of past and present efforts to categorize human value in terms of arbitrary categories based on race, gender or religion.”

That entire column, online at www.fbamich.org under Newsletters, Spring 1999, bears re-reading ten years later, as the themes and emphasis remain unchanged, yet with the awesome recognition of the many changes and differences between our society and the ones ten, twenty, thirty, and forty years ago.



From Court Administrator Dave Weaver

Courthouse Update

The Court continues to pursue several different avenues to obtain approval for a new courthouse and/or a complete overhaul of the Theodore Levin U.S. Courthouse. In the meantime, we have been advised by the General Services Administration (GSA) that the Court will benefit from the American Recovery and Reinvestment Act of 2008. A portion of these stimulus funds have been designated for the Levin Courthouse (\$1.16 million) and the Ann Arbor Courthouse (\$2.39 million). \$30 million has also been designated for the McNamara Federal Building. The designated funds for the courthouses fall into a category described as “High-Performance Green Building Limited Scope Projects”. We are not quite sure what this means, but it appears the funds may be used for improved HVAC systems and/or green roofing systems.

New Magistrate Judge

The Court recently selected Judge Mark A. Randon of the 36th District Court to be our next magistrate judge. Judge Randon was one of, if not the youngest judge ever appointed to the 36th District Court. He has also worked as corporation counsel for the Detroit Public Schools and had been an associate at Miller Canfield and Honigman Miller. The FBI is currently conducting Judge Randon’s required background check, after which he will be sworn in with the Court. Please join me in welcoming Judge Randon. Look for the feature article on Judge Randon in this edition.

Law Day

The Court, in conjunction with the FBA, will again be sponsoring a Law Day celebration on Friday, May 1, 2009 with free hot dogs, chips and cookies! Approximately 30 different federal agencies will be represented. The “Ask the Lawyer” portion of the program will be bigger than ever, including a special focus on foreclosure cases. Nationally, the theme for this year’s Law Day is to celebrate the bicentennial of the birth of President Abraham Lincoln. We will have a very special guest on hand in honor of Honest Abe.

New Display

The Court will also be dedicating a new President’s Wall display that is being developed for the lobby of the Levin Courthouse. The display will highlight a portrait of President Barack Obama and include portraits of all former presidents. The display will then be updated whenever a

new president is elected. This project was the inspiration of Judge Damon Keith who has been working closely with Chief Judge Rosen to make sure it happens. We hope to have another very special guest on hand to assist with the dedication.

As always, if you have questions or comments, please email me at david_weaver@mied.uscourts.gov.



Focus on an FBA Member

**Mark A. Randon
U.S. Magistrate Judge
Eastern District of
Michigan – Detroit**

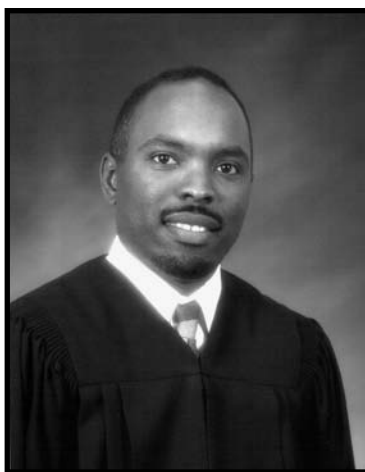
**By Michael J.
Riordan***

A feature of the Newsletter is the periodic profiling of an FBA member. This is the sixth of such profiles.

In early March, the Judges of the Eastern District selected 36th District Court Judge Mark A. Randon as the Court's newest Magistrate Judge. Calling it "one of the greatest honors of my life," Judge Randon will have his chambers in Detroit. In his new position, he will be a magistrate judge assigned by blind draw to criminal and civil actions arising in the Eastern District.

Born in England, and naturalized as a United States citizen in 1995, Judge Randon was raised by his mother, a registered nurse, on the west side of Detroit. He is a 1985 Cass Tech graduate, and he graduated from Michigan State University with a B.A. in Political Science and Pre-Law in 1989. Judge Randon then traveled to Ann Arbor where he graduated from the University of Michigan Law School in 1992. While at U-M, he was President of the Black Law Students' Alliance 1990-1991.

After law school, Judge Randon was an associate in the Labor and Employment Group at Honigman, Miller, Schwartz & Cohn before joining the same group at Miller, Canfield, Paddock & Stone. In 1996, he moved to UT Automotive, later purchased by the Lear Corporation, where he was the Manager of Industrial Relations and Counsel for eight states and Mexico. In that position, he was the company's chief representative in collective bargaining negotiations, grievances, arbitrations and administrative hearings before the NLRB, the EEOC, and the Department of Labor. He also was the Assistant Corporation Counsel, Legal Affairs and Labor Relations, for the Detroit Public Schools, 1995-1996, and 1999-2001.



*Magistrate Judge-Designate
Mark A. Randon*

In 2001, Governor John Engler appointed Judge Randon to the 36th District Court. Appointed at age thirty-two, it is believed that Judge Randon is one of the youngest persons ever to receive a gubernatorial appointment to the Bench. As a District Judge, he has presided over felony preliminary examinations, misdemeanor cases, general civil cases, landlord-tenant cases, traffic matters, and small claims appeals. He also has conducted criminal and civil jury and bench trials, and he has been a visiting judge in Wayne County Circuit Court. In addition, Judge Randon has served as an Adjunct Professor in Wayne State University's Criminal Justice Department.

Throughout his legal career, Judge Randon has received numerous professional awards and honors. In February 2008, the American Confluence named him the "Best District Court Judge in Wayne County." In 2003, he was selected as one of Crain's Detroit Business' "Forty Under Forty." He received a 2001 Detroit City Council "Spirit of Detroit Award," and in 1999, the Children's Center for Justice honored Judge Randon with its "Community Service Award." He also serves on the State Bar's Custodial Interrogation Recording Task Force, Wayne County Community College's Paralegal Advisory Board, and is Co-chair of the Detroit Metropolitan Bar Association's 36th District Court Committee. In addition, he served as a Gubernatorial appointee to the Michigan Committee on Juvenile Justice, 1997-2003, and he was a Mayoral appointee to Athletes for a Better Detroit 2002-2003.

A prolific writer and public speaker, Judge Randon has been published in numerous professional journals, including the Michigan Bar Journal, the Michigan Criminal Law Journal and the Employee Relations Journal. He also has published editorials and articles in the Detroit Free Press and the Michigan Chronicle. In addition, he is the author and co-editor of *A Guide to Getting Accepted Into Law School* (Karoma Publishing Co., Ann Arbor 1991). Judge Randon also has been the featured speaker at numerous professional seminars, judicial institute programs and continuing legal education seminars.

An avid golfer, Judge Randon resides with his wife, Dr. Lisa Randon, M.D., the Director of School Based Health Programs for the Detroit Board of Education, and their three children within walking distance of the Courthouse. The Judge says he is "not only looking forward to walking to work every day but to the challenges, rewards and satisfaction that being a United States Magistrate Judge will bring." He anticipates that he will be joining the Bench in early summer.

**Michael J. Riordan is an Assistant United States Attorney and the Chapter Treasurer.*

Book Group Considers *Arc of Justice*

On January 28, 2009, about 30 FBA members met in the Feikens Conference Center in the Courthouse to discuss *Arc of Justice: A Saga of Race, Civil Rights and Murder in the Jazz Age*. As in past meetings of the Book Group, C. J. Peters, Associate Dean and Associate Professor of Law at Wayne State University Law School presided. He skillfully balanced the competing interests of lawyers and judges in attendance who wanted to make their views known.

Kevin Boyle's 2004 National Book Award-winning study of the Ossian Sweet case and the rise of institutionalized residential segregation in Detroit continues to resonate today. Some may recall that Boyle addressed a packed house at a luncheon meeting of the Chapter on February 1, 2007.

The Court Historical Society continues the examination of Detroit's unique racial situation in its four-part series on *Bradley v. Milliken*, the Detroit school desegregation case. The third part of the series by Sam Damren covering the Judge DeMascio years is just out in the February 2009 issue of *The Court Legacy*. The fourth part of the series by Judge Avern Cohn and John Mayer, covering the three-judge panel and final wrap-up of the case by Judge Cohn, is due out in *The Court Legacy* in May.

Flash of Genius Engages Book Club

About 70 lawyers met on April 21, 2009, to hear Judge Avern Cohn give his impressions of the movie, *Flash of Genius*. The film tells a story of Dr. Robert Kearns, the inventor of the intermittent window wiper.

Dr. Kearns filed numerous patent infringement lawsuits against several automobile manufacturers. The lawsuits lasted approximately 20 years and gained national media

attention. In the early 1990s, Judge Cohn presided over the trials in two of the Kearns lawsuits.

Judy Cassady, Judge Cohn's former court clerk, and Jeff Sadowski, a Chapter Executive Board member who is intimately familiar with the Kearns litigation, also spoke, giving their recollections of the events depicted in the movie and how accurately it captured events as they truly unfolded. Those attending also watched five snippets of one of the trials. One of clips showed Dr. Kearns, who was not represented by an attorney, examining himself. The session was moderated by Andrew Doctoroff, the chairperson of the Chapter Book Club.



Andrew Doctoroff, Judy Cassady, Judge Avern Cohn and Jeff Sadowski at the Book Group discussion of *Flash of Genius*.

Neal Legal Team and Marc Morial at McCree Luncheon

On February 19, 2009, the Chapter held the annual Wade Hampton McCree, Jr. Luncheon. The Neal Legal Team was this year's recipient of the Wade H. McCree, Jr. Award for the Advancement of Social Justice. Marc Morial, President and CEO of the National Urban League, was the keynote speaker.

The Neal Legal Team represented hundreds of plaintiffs in a class action, *Tracy Neal, et al., v. Michigan Department of Corrections*. The suit charged sexual harassment and abuse by male corrections officers against women inmates in many state institutions. After litigation lasting more than ten years, plaintiffs won a jury verdict of more than

\$15 million which was affirmed by the Court of Appeals. Members of the team are Deborah LaBelle, Richard Soble, Patricia Streeter, Shannon Dunn, Molly Reno, Michael Pitt, Peggy Goldberg Pitt, Cary McGhee, Ronald Reosti and Ralph Serlin. Michael Pitt accepted the Award on behalf of the team, making moving remarks which conveyed the pain and stress endured by the plaintiffs over many years of harassment and abuse.



The Chapter Book Club meets to discuss *Arc of Justice* in the Feikens Conference Center. Photo by John Meiu, courtesy of Detroit Legal News Publishing LLC.



Social Justice Committee Co-Chair Michael Lee, Chapter President Barbara McQuade and McCree Luncheon speaker Marc Morial.
Photo by John Meiu, courtesy of Detroit Legal News Publishing LLC.

Marc Morial, former Mayor of New Orleans and current President and CEO of the National Urban League cautioned against assuming that the struggle for civil rights is over now that the Nation has an African American President. Although flagrant institutional discrimination may be a thing of the past, he warned that government at all levels must be ready to resist the effects of lingering prejudice which works to deny members of a broad spectrum of minority groups their rights.

Bankruptcy Committee Hosts Two Events

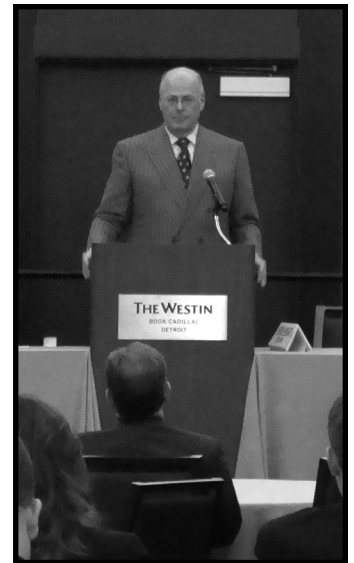
The Bankruptcy Committee held "The Second Big Three" of its Judges' Roundtable Luncheons on February 12, 2009. The Judges discussed the anticipated impact of mortgage lien stripping legislation on the volume of bankruptcy filings (should the legislation become law), the need for pro bono representation of debtors in general bankruptcy cases as well as in adversary proceedings, and practice pointers, including the benefits of keeping briefs and argument short.

On March 25, 2009, the Bankruptcy Committee co-hosted, with the Detroit Chapter of the Turnaround Management Association, the 2009 Automotive Conference. The Conference, which has been a successful event in the past, was particularly timely in light of the economic crisis facing Detroit's auto industry.



*Bankruptcy Judge
 Marci B. McIvor*

There was an impressive line-up of speakers, including Steve Miller, CEO of Delphi; Ted Chu, Chief Economist at GM; Mayor Virg Bernero of Lansing; Csaba Cere, former Editor-in-Chief of Car and Driver; Bankruptcy Judges Steven W. Rhodes, Marci B. McIvor, Daniel S. Opperman and Phillip J. Shefferly; practitioners Judy O'Neill; Steve Howell and many others. More than 250 were in attendance at the Westin Book Cadillac Hotel for this highly informative and thought-provoking day of speakers. The Bankruptcy Committee extends a special note of appreciation to Barbara Rom for her assistance in bringing Steve Miller to this program as keynote speaker.



Steve Miller

THE LAW CLERK COMMITTEE OF THE FEDERAL BAR ASSOCIATION PRESENTS...

A True Federal Courthouse Story



Get some helpful hints and DOs and DON'Ts of practicing in federal court as told by the experts, the insiders, the FEDERAL LAW CLERKS

Tuesday, May 19th, 2009 at Noon

Federal Courthouse, Room 115
 (bring your own lunch)

admission is free





Ask the Counselor of Civility

A new feature of the Newsletter will be a column addressing concerns of attorneys regarding civility in federal practice. This is the first of such columns. If you have a question for the Counselor of Civility, please e-mail it to fbamich@fbamich.org.

Dear Counselor of Civility:

I am a newcomer to the U.S. District Court. Recently, during a hearing on a motion, my cell phone began to ring. I have the phone programmed to play the Michigan State fight song and I was mortified when I heard "Go right through for MSU" in the middle of my argument on a motion.

Like the rest of the fairly crowded courtroom, I was silent as the song played. The phone was in my briefcase several feet away from me and I could tell that the Judge, who I think is a Michigan grad, was very angry as he looked around the courtroom for the source of "On the Banks of the Red Cedar." I do not think the Judge suspected the phone was mine because he asked my opposing counsel whether it was her phone that was ringing.

Opposing counsel responded, "No, I am a Notre Dame graduate and I know the rules about cell phone usage in U.S. District Court." By this time the phone stopped ringing, and I concluded my argument.

I won on the motion but I am quite shaken by this incident. First, what are the rules about cell phone usage in court? And, should I have volunteered to the Court that the phone belonged to me?

Signed,

Green with Embarrassment

Dear Colleague,

You have my sympathies for your plight, if not my approval of your response, occasioned by the errant ringing of your cell phone. Only the members of our profession are excepted from Local Rule 83.31(f)'s ban on cellular phones and "any other device with wireless communication capabilities," in federal court facilities. We are permitted to bring our phones, PDAs, Blackberries and iPhones, subject to the following conditions:

A. Turn your phone off when you enter the Courthouse and keep it off.

B. Do not yield to the urge to be productive, while waiting in court, by turning on your phone to read and respond to email or search the Internet. The Local Rule states that, "The phone cannot be turned on, viewed, answered, or otherwise manipulated in the courtroom." This means no texting, reading or responding to emails, or surfing the Internet. No matter how discreet you try to be, the posture of a person engrossed in a Blackberry is unmistakable. You will be found out, and your colleagues who know the rule will think that you come to court infrequently or are a sneaky rule breaker.

C. You can use your phone in designated areas of the Courthouse. In the Levin Courthouse, the designated areas are Rooms 117, 218, 705 and 864. If you are appearing in one of the federal courthouses in Flint, Bay City and Ann Arbor, ask the court security officers for the locations of the designated areas. Cellphones are not permitted in the Port Huron Federal Courthouse.

D. Never, ever, ever use the camera or recording function on your cell phone while in the Courthouse. Although you may rightly guess that a segment of the public will share your amusement at the seeming prevarications of a witness or a colleague's strained argument, the court will not be amused to find its proceedings on YouTube.

Although I am loath to scare a colleague, I would be remiss in my advice if I did not warn you that the consequences of violating the rules on phone use range from the mild - confiscation of the offending device - to the dreadful, as in disbarment or criminal contempt. At a minimum, the offending phone is subject to immediate confiscation and will not be returned unless and until the affronted judicial officer grants a written application for its return and the attorney making the application tenders an "appropriate monetary payment" as a condition of its return. LR 83.31(f)(5) and (6).

Know before you go: by bringing the phone into the courthouse, you have consented to these rules.

And yes, you should have immediately admitted to the Court that it was your cell phone that celebrated the hopes of Spartan victory in his courtroom. The applicable principle is the duty of candor to the tribunal. As with any lapse of care that causes annoyance to others, the best course is to promptly apologize. An apology is certainly owed to opposing counsel, on whom you allowed suspicion to fall by staying silent while "On the Banks of the Red Cedar" pinged from your cell phone. No doubt she knows that it was your phone.

Civil regards,

The Counselor of Civility



Calendar of Events

May 13	Motion Day at Cooley Law School Auburn Hills Campus Judge Bernard A. Friedman will be holding his Motion Day “on the road” at Cooley Law School, 2:00 p.m. until 4:00 p.m., to provide the students and any other interested spectators with a feel for real world litigation.	June 18	The 30th Annual Dinner Westin Book Cadillac, 5:30 p.m. cocktails, Dinner following, featuring The Second Annual Julian Abele Cook, Jr. - Bernard A. Friedman FBA Civility Award to be presented in recognition of a civil practitioner who is an outstanding example of professional excellence and civility; and A (Habeas) Chorus Line: Detroit’s Own Parody Troupe
May 14	Labor & Employment Law Committee Seminar: Two Important Topics and a Box Lunch: “A Bankruptcy Primer for Employment Lawyers - The Nuts and Bolts”; and “Talking to the Jury: From Voir Dire to Closing Arguments” Venue: Levin Courthouse, Room 115 12:30 p.m. to 4:15 p.m.	Sept 15	State of the Court Luncheon Speaker: Chief Judge Gerald E. Rosen Venue: TBA 12:00 noon Reception 12:30 p.m. Lunch
May 19	The FBA Law Clerk Committee Presents: A True Courthouse Story: The Do’s and Don’ts and Other Facts of Levin Courthouse Life Venue: Levin Courthouse, Room 115 12:00 noon (Bring Your Brown Bag Lunch)	Nov 19	Rakow Scholarship Awards/Historical Society Luncheon Topic: <i>Plessey v. Ferguson</i> and Its Author: Justice Henry Billings Brown of Michigan Venue: TBA 11:30 a.m. Reception 12:00 p.m. Lunch
June 5	Environmental Law Committee: Legal Implications of Siting Wind Turbines: The Answers Are Blowin’ in the Wind Venue: Levin Courthouse 11:30 a.m. to 2:00 p.m. Lunch will be provided	Dec 1-2	New Lawyers Seminar Levin Courthouse 8:00 a.m. Registration
		TBA	Chapter Gala Holiday Reception Westin Book Cadillac 4:30 p.m.
Updates and further developments at www.fbamich.org. See “Hot News” and “Events & Activities.” Online registration available for most events.			

Updates to the Chapter Website

There have been two major improvements to the Chapter’s website www.fbamich.org. The first improvement is the addition of a “Law Clerk” category for event registrations. Effective immediately, judicial law clerks can register online and obtain the special pricing that previously required mailing a check or obtaining a refund. The second improvement is purely cosmetic, providing a wider page for easier reading and greener printing.

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HONORING THE FEDERAL JUDICIAL OFFICERS
OF THE EASTERN DISTRICT OF MICHIGAN

June 18, 2009

THE WESTIN BOOK CADILLAC HOTEL
Cocktail Reception beginning at 5:30 p.m. (cash bar)
Dinner at 6:30 p.m.

Entertainment by A (Habeas) Chorus Line

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