



FBAnewsletter

Spring 2010

Federal Bar Association - Eastern District of Michigan Chapter - 52 years of service to our Federal Bench and Bar

Mayor To Address Gilman Luncheon April 22 Douglas Mullkoff Named Gilman Award Recipient

Chapter members are once again in for a special treat at this year's Leonard R. Gilman Award Luncheon. The Luncheon will be held on Thursday, April 22 at 11:30 a.m. in the Woodward Ballroom at the Westin Book Cadillac Hotel. The keynote speaker will be Detroit Mayor Dave Bing. Prominent criminal defense attorney Douglas R. Mullkoff will receive the Gilman Award.

About the Speaker*

It's not often, if at all, that one can claim success in three distinct areas—professional sports, business and politics. Yet, Dave Bing did just that when he was elected the 62nd Mayor of the City of Detroit in May 2009 as part of a special election. A native of Washington, D.C., Bing is a graduate of Syracuse University where he earned his Bachelor of Arts in Economics, and was later bestowed an honorary Doctorate of Laws in 2006. He was also a standout basketball player and an All American in both high school and college.

Dave Bing came to Detroit in 1966 when he was drafted by the Detroit Pistons as their #1 pick, and the #2

overall pick in the National Association of Basketball (NBA) draft that year. Bing played nine of his twelve years in the NBA with the Pistons, and was named to the All-Star Team eight times during his career. Bing and his family made Detroit their permanent home, returning in the off-season even after he was traded to the Wash-

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President's Column

Elisa Angeli Palizzi

Opportunities for New Lawyers

The national FBA held its Mid-Year Conference in Washington, D.C., on March 25-26, 2010. Federal Bar Foundation Vice-President Dennis Clark and I represented the Chapter as its delegates. Alan Harnisch, a past president of both the Chapter and National, attended as the FBA liaison to the American Bar Association.

A continuing priority for the FBA, and one that our Chapter embraces, is to attract newer lawyers. A few years ago, a task force on the future of the FBA concluded that while younger generations show great promise for membership in professional associations, they also expect accountability and substantive benefits. More than technology ("high tech"), younger generations value interaction ("high touch"). They value human relationships, networking and opportunities to contribute and serve.

In line with these expectations, the FBA offers its membership numerous opportunities: to build relationships, to grow professionally and personally, to be involved in a community of excellent legal professionals, to network and have access to the judiciary, and to serve and improve the Federal Bar. No finer example of these opportunities exists than the Chapter's Trial Mentoring Program, which was held for the second time this year.

For two full days, calendars and courtrooms were cleared as 40 newer lawyers were divided into four courtrooms to simulate a trial and give opening and closing statements, admit evidence, examine witnesses and make objections before Federal judges in the Courthouse, while being mentored by exceptional trial lawyers from within

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

President's Column (continued)

our Chapter. Thanks to the hard work of the students and the dedication and thoughtful critiques of the judges and trial attorneys, the lawyers gained invaluable experience and showed marked improvement in only two days.

Our deepest gratitude is owed to Committee Chairs Frank Ortiz, Kelly Walters, and District Judge Robert H. Cleland also District Judges Denise Page Hood, Victoria Roberts, George Steeh, Marianne O. Battani, and Stephen J. Murphy III; Mentor/Team Leaders Tom Cranmer, Dennis Haffey, Ed Kronk, Kathy Lang, Powell Miller, Tom O'Brien, Elizabeth Stafford, and Bill Winsten; the 40 attorney participants, and; the volunteer witnesses from the U.S. Attorney's Office. The program was a success on many levels. The group that practiced before Judge Murphy already has formed a continuing relationship, thanks to Judge Murphy, who hosted a reunion dinner for the group in his chambers.

In addition to this mega event, the Chapter also offers a number of other exceptional programs and events for newer lawyers and law students. The list includes the renowned New Lawyer's Seminar, the prisoner rights and foreclosure case programs, the motion calls conducted by the Judges at the law schools, interviewing clinics, a legal writing program, a joint seminar with Wayne State University Law School on the impact of social media on litigation, and the Summer Law Clerk Program. Planning is also underway for new programs for Courthouse judicial interns this summer, including a presentation on the do's and don'ts of interning, in addition to a mentor and interview program specifically for Wolverine Bar Association interns. The Chapter will also host a career exploration panel discussion at Thomas M. Cooley Law School for aspiring college students in low-income, minority or otherwise disadvantaged categories as part of an ABA program to diversify the legal community.

Perhaps the best opportunity the Chapter offers is the opportunity to get involved. If you are a newer lawyer or a law student, you are the Chapter's future. We welcome your participation, comments and questions, and hope to provide the value that you expect.

Gilman Luncheon *(from page 1)*

ington Bullets in 1975. After retiring in 1978, his number (#21) was the first retired by the Detroit Pistons. Voted one of the top 50 basketball players of all time, Bing was inducted into the Michigan Hall of Fame in 1984, and into the Naismith Hall of Fame in 1990.

Bing turned his winning strategies from the basketball court to the boardroom as the founder of an automotive supply corporation, The Bing Group in 1980, where he served as President and Chairman until April 2009. Bing realized yet another level of success in this role, as The Bing Group has been recognized around the country as a premier supplier of quality and uncompromised products and service. Within a decade, The Bing Group was recognized as one of the nation's top Minority-Owned Companies by Black Enterprise. In the summer of 1999, he partnered with Ford Motor Co. to build the Detroit Manufacturing Training Center, a nonprofit facility to help prepare unemployed and under-employed workers to obtain jobs in the auto supply industry.

... Poised to make the tough decisions, he has already begun to lay the groundwork for solid city government by instituting the toughest ethics ordinance in the city's history. He and his team of professionals are also carefully analyzing ways to restructure operations to improve efficiency, and to tackle the city's systemic issues.

Dave Bing is married to Yvette Bing, with whom he has shared more than 23 years. He is also the proud father of three, and grandfather of four. He still enjoys tennis and golf, as much as his now demanding schedule will allow.

**From the City of Detroit's website at <http://www.detroitmi.gov/DepartmentsandAgencies/MayorsOffice/AbouttheMayor/tabid/1237/Default.aspx>*

About the Award Recipient

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.

Douglas R. Mullkoff's distinguished career as one of Michigan's prominent criminal defense attorneys spans over twenty-five years. He has been repeatedly honored as one of the top criminal defense attorneys in white collar and general crime in Southeastern Michigan, was named "Super Lawyer" in the category of criminal defense by his peers and was given the highest available AV rating by the national Martindale-Hubbell Law Directory.

In 1989, he has argued successfully on behalf of a client before the U. S. Supreme Court. He has appeared before the 6th Circuit Court of Appeals over 80 times and argued cases before the Michigan Court of Appeals on over 150 occasions.

Having handled well over one hundred jury trials in State and Federal courts, Mullkoff has won acquittals in numerous cases including homicide, assault with intent to murder, mail fraud, racketeering, conspiracy, and computer crimes.

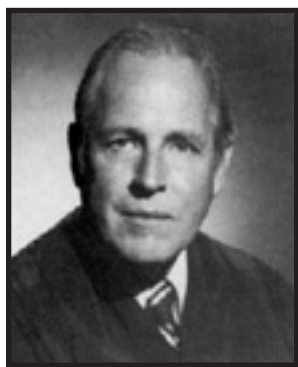
Over the years, Mullkoff has gained extensive experience in white collar defense, handling cases involving health care fraud, money laundering, embezzlement, investment banking fraud, mortgage fraud and intellectual property crimes.

Mullkoff was elected president of the Criminal Defense Attorneys of Michigan and served in that capacity from 1998 through 2000. In 2003, the Governor appointed him to the Michigan Commission on Law Enforcement Standards, and he served in that capacity through 2006.

Tickets are \$25 for FBA Members and \$30 for non-members.

For more information, or to register for the luncheon, visit the Chapter's website or contact Program Chair Michael K. Lee at 248-350-5900.

Remembering Judge Horace W. Gilmore: From South to North in Less than 250 Miles



Judge Horace Gilmore
c. 1980

When Horace Gilmore was a little boy in Circleville, Ohio (just south of Columbus), in the years following WWI, there was a sign at the city limits that said: "BLACK MAN DON'T LET SUNDOWN FIND YOU IN THIS TOWN." Little wonder then that the man who would be known for his liberalism and his empathy for all who appeared before him would

come north to the University of Michigan and become a protégé and close friend of G. Mennen Williams.

After he graduated from U of M Law School in 1942, Horace served in the Navy and commanded a landing craft in the D-Day invasion of Normandy. It must have seemed a tame existence to return to Detroit to clerk for U. S. Circuit Judge Charles C. Simons. He was in

private practice from 1947-1951 and from 1953-54. He served as special Assistant U. S. Attorney in 1952, and as Deputy Michigan Attorney General from 1955-56. He served as a Wayne County Circuit Judge (more about his appointment later) from 1956-1980 and as a U. S. District Judge from 1980 until his retirement in 1999.

Judge Gilmore taught as an Adjunct Professor of Law at Wayne State University Law School, a visiting lecturer at the University of Michigan Law School, a faculty member of the National College of the State Judiciary, and in numerous programs for the Institute for Continuing Legal Education. His *Michigan Civil Procedure Before Trial* has been a standard work for decades. He served as Chairman of the Revision of the Criminal Code and authored numerous scholarly articles for legal journals. He served as a member of the Michigan Judicial Tenure Commission from 1969-1976. He was a founding member of the Board of Trustees of the Institute for Court Management beginning in 1970.

In 1980, Judge Gilmore issued an order desegregating the Ferndale schools, and he invalidated the 1980 U. S. Census on the grounds that it undercounted blacks and Hispanics. He was later reversed by the Sixth Circuit Court of Appeals in the Census case. In 1984, he ordered Detroit to rehire 800 black police officers laid off during a budget crisis and ordered the police union to integrate its leadership within one year:

In commemorating the dedication of Judge Gilmore's portrait hanging in the Courthouse, this newsletter reported in its Spring 2003 issue the following reminiscence of Judge Patrick J. Duggan, the closest friend of Judge Gilmore in his later years.

"In 1956, there was a vacancy in the Wayne County Circuit Court. Horace went to Governor Williams, his very close friend, and indicated an interest in that job. Governor Williams said, Horace, Thomas [M.] Kavanagh is going to be on the Supreme Court and we're going to have a vacancy in the Attorney General's Office and I think you'd make a good Attorney General. So he went home and mentioned this to [his first wife] Mary . . . and she said no way. We've got two kids to raise. I want a secure job for you. . . So he went back to Mennen Williams and told him thanks, but no thanks, I'll take the Circuit Court job."

Also reported in the Spring 2003 issue of the newsletter is this brief letter from retired Judge James P. Churchill, one of Judge Gilmore's closest friends on the bench:

"Dear Horace: Judges, even federal judges, come and go, but their influence and reputations

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Gilmore *(from page 3)*

live on. When people see your portrait on the courtroom wall, some will remember to tell others that Horace Gilmore was among the best and perhaps the most conscientious of all. It's been my pleasure to be your friend and my privilege to be your colleague as a state and federal judge for almost 40 years. I believe I have been a better judge because I often sought and even more often received your counsel."

Although it has been more than 10 years since Judge Gilmore last held court on the eighth floor of the Courthouse, the presence of Judge Duggan in his former chambers and courtroom and the portrait on the wall in the courtroom remind us and those to come of the service of a great judge. Judge Gilmore passed away on January 25, 2010. He will be missed.



*U.S. Attorney for the Eastern District of Michigan
Barbara L. McQuade at her public swearing in.
Photo by Bob Ponder.*

Barbara L. McQuade Sworn In as U.S. Attorney

On November 30, 2009, President Barak Obama nominated Barbara L. McQuade as U. S. Attorney for the Eastern District. She was confirmed by the Senate on December 24, 2009, and sworn in on January 4, 2010. On February 17, 2010, a public swearing-in was held in the Ceremonial Courtroom of the Courthouse, with Chief Judge Gerald E. Rosen presiding.

U. S. Attorney General Eric H. Holder, Jr., attended the swearing-in and delivered remarks that expressed his confidence in McQuade's leadership and vision for the office. He told those in attendance that she is the first woman to hold the position in the Eastern District, and that she will therefore be a role model to others who seek to break down barriers to the accomplishments of women and other minorities. Mr. Holder's remarks were echoed by a similar message and vote of confidence from U. S. Senator Carl Levin.

Saul A. Green, former U. S. Attorney and current Deputy Mayor of Detroit, congratulated McQuade on her appointment and indicated that the job ahead may

not be easy, but he had confidence that she is ready to tackle the threats posed to our community by violent crime, international terrorism, and more.

Barbara McQuade is no stranger to the U. S. Attorney's Office in Detroit. Indeed, before assuming the position of U.S. Attorney, she worked in the office as an Assistant U.S. Attorney for twelve years. She last held the position of Deputy Chief of the National Security Unit.

McQuade is not only an accomplished trial lawyer,

but also a very active member of the Detroit-area legal community. She is a long-time member of the FBA, where she most recently served as our Chapter President in 2008-2009. She was a charter member of the American Constitution Society in 2005. She is also an active volunteer in our community, including work with the United Way and Volunteer Impact. Her past professional work included five years at Butzel Long and teaching as an Adjunct Professor of Law at the University of Detroit

Mercy School of Law.

Those in attendance at McQuade's swearing in heard inspiring remarks from the new U.S. Attorney. She quoted President Obama: "For all the cruelty and hardship of our world, we are not mere prisoners of fate. Our actions matter, and can bend history in the direction of justice." She made it abundantly clear that she shares this view of the world with the President, and that she intends to use her time in office to improve the quality of life for all of us in the Eastern District.

The Chapter wishes McQuade the very best in her new position. She will always be one of us.

Call for Civility Award Nominations

The Chapter is requesting nominations for the 2010 Cook-Friedman FBA Civility Award, which will be presented at the Annual Dinner on June 24th. The deadline for nominations is May 21st.

In selecting an attorney to receive the Award, the following criteria shall be utilized:

1. The attorney has been significantly engaged in the practice of civil law;
2. The attorney demonstrates the highest levels of legal competency and professionalism;
3. The attorney's conduct is in accordance with the highest standards of professional integrity and personal courtesy as set forth in the Civility Principles of the U. S. District Court for the Eastern District of Michigan;
4. The attorney has demonstrated, while fulfilling the fundamental duty to represent clients vigorously, a mindfulness of the equally important obligation to the administration of justice, which is a truth-seeking process designed to resolve human and societal problems in a rational, peaceful and efficient manner; and
5. The attorney is guided by a fundamental sense of dignity, decency, candor and fair play.

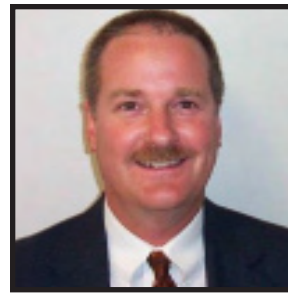
If you believe an individual is worthy of consideration, please submit the name of the nominee and a brief statement in support of the nomination by May 21, 2010, by email, to fbamich@fbamich.org or by regular mail to:

Brian D. Figot
Executive Director
30100 Telegraph Rd, Ste 428
Bingham Farms, MI 48025

Magistrate Judge News

The current term of office of Magistrate Judge R. Steven Whalen is due to expire on September 10, 2010. A Merit Selection Panel is considering his reappointment to a new eight-year term. A public comment period ended on March 19, 2010.

In other magistrate judge news, on February 9, 2009, the Court reappointed Magistrate Judge Virginia M. Morgan for a fourth term from June 5, 2009 until June 4, 2017. On July 2, 2009, the Court appointed Mark A. Randon as a Magistrate Judge to a term beginning July 6, 2009 and ending July 5, 2017. On October 6, 2009, the Court reappointed Magistrate Judge Donald A. Scheer for a third term from March 1, 2010 to February 28, 2018. Finally, on December 17, 2009, the Judicial Council of the Sixth Circuit recalled Magistrate Judge Paul J. Komives for service as a Magistrate Judge, effective July 26, 2010 through July 26, 2011.




From Court Administrator David J. Weaver

There are several new items of interest to report to Chapter members:


New Deputy Court Administrator

First, I am pleased to announce that Maureen R. Flavin has been selected as the new Deputy Court Administrator for the Eastern District. She has been working as the Deputy Court Administrator for the Cleveland Municipal Court in Cleveland, Ohio. Maureen holds a J.D. from Duquesne University School of Law and a B.A. from Seton Hill University. Maureen is also a Certified Court Executive and Fellow of the Institute for Court Management of the National Center for State Courts. Maureen brings a wealth of experience and enthusiasm that I am confident will benefit our Court for many years to come. She will begin her new position in May 2010. Maureen's predecessor, Libby Smith, is now the Clerk of the combined U.S. District and Bankruptcy Courts for the District of Idaho.

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SAVE THE DATE -- JOIN US --- CELEBRATE



**EASTERN DISTRICT OF MICHIGAN CHAPTER
FEDERAL BAR ASSOCIATION**

THIRTY-FIRST ANNUAL DINNER

**HONORING THE FEDERAL JUDICIAL OFFICERS
OF THE EASTERN DISTRICT OF MICHIGAN**

Thursday, June 24, 2010

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

Amendments to Local Rules

The Bench recently adopted amendments to the following Local Rules, effective March 1, 2010:

- LR 5.1, Filing of Papers
- LR 5.2, Service of Non-Dispositive and Dispositive Orders; Stipulations and Orders
- LR 7.1, Motion Practice
- LR 58.1, Procedure for Entry of Judgments and Orders
- LR 72.1, United States Magistrate Judges
- LR 73.1, Special Designation to Exercise Civil Consent Authority
- LR 77.2, Presiding Judge
- LR 83.20, Attorney Admission
- LR 83.22, Attorney Discipline
- LR E.1, Actions in Rem and Quasi in Rem

A complete copy of the Local Rules may be found at <http://www.mied.uscourts.gov/Rules/LocalRules/prINTER/localrulespackage.pdf>.

Clerk's Office Public Hours

The public hours of the U.S. District Court Clerk's Office at all locations are being changed. Effective June 2, 2010, public hours will be reduced by one-half hour. We will continue to open at 8:30 a.m., but will close at 4:30 p.m. instead of 5:00 p.m. This change only affects the public hours for the Clerk's Office and will provide staff the ability to focus on important end-of-the-day case processing and financial reconciliations.

Please remember that the Court has a procedure for non-business hours emergency filings. Information regarding this procedure can be found on the Court's website at <http://www.mied.uscourts.gov/visiting/hours.cfm>

Law Day Celebrations

Finally, as noted elsewhere in the Newsletter, the Court and the Chapter are again jointly hosting a Law Day open house in Detroit on Monday, May 3, 2010 from 11:00 a.m. until 2:00 p.m. at the Courthouse. The official unveiling of the new Presidents Wall display will take place at 11:30 a.m. in the first floor corridor near the historical display area.

The Flint divisional office will also be hosting a Law Day event on Friday, April 30, 2010. The Court will be hosting two classes from an area high school for a day of presentations, question-and-answer sessions with the judges, and a luncheon. Flint staff expects approximately 100 students to participate in their event.

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

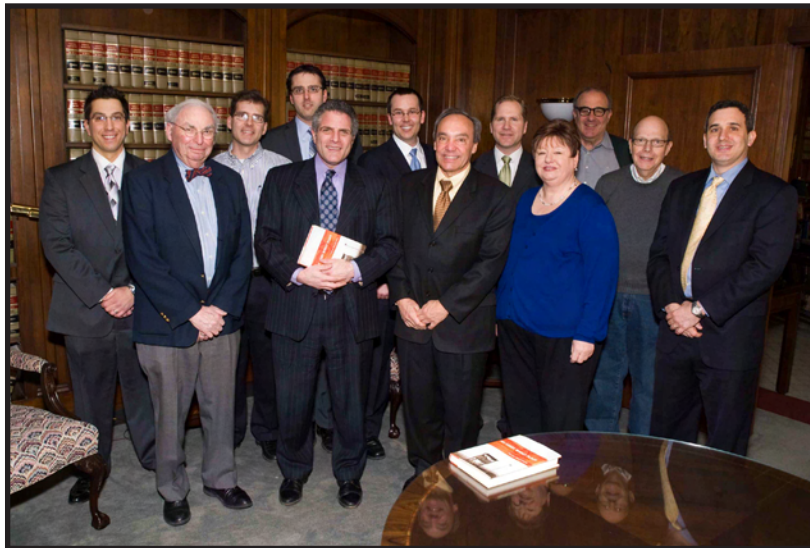
Book Club Meets

On March 18, 2010, the Chapter's Book Club met to discuss the book *The Least Worst Place: Guantanamo's First 100 Days*, by Karen Greenberg. Greenberg is the

Executive Director of the Center for Law and Security. This book chronicles the first 100 days of the detention center in Cuba, focusing on conflicts among officials concerning transparency, military protocol, and detainee treatment.

The book generated an engaging discussion. The group talked about the role of lawyers during the early days of the Guantanamo detention center and the potential conflicts present when lawyers represent clients within government agencies with competing interests. The group also discussed the independence and potential biases of the

author and whether the author treated people in the book fairly given their role in the development of what became the Guantanamo detention center. The group further



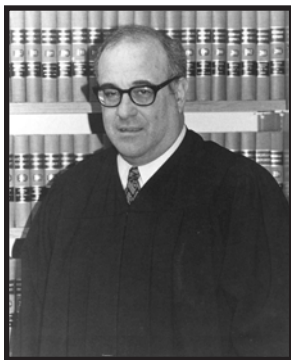
Among those taking part in the discussion were (left right) U.S. Bankruptcy Court Judge Walter Shapero, Eastern District of Michigan; Tim Devine; Andrew Lievense; Andrew Doctoroff; Dan Linna; U.S. District Court Judge George Caram Steeh, Eastern District of Michigan; Matthew Schneider; U.S. District Court Judges Marianne Battani, Arthur Tarnow, and Bernard Friedman; and Doug Salzenstein
Photo by John Meiu, courtesy of Detroit Legal News Publishing LLC.

considered the value in analyzing the first one hundred days at the Guantanamo detention facility. Most participants enjoyed the book and agreed it was not a book they otherwise would have read. In short, the selection proved to be a worthy exercise.

The Book Club has not selected the next book or scheduled its next meeting. This information will be announced as soon as it is known.

Spotlight On Judge Arthur J. Tarnow

By Thomas D. Esordi*



Judge Tarnow

A native Detroit and 1965 graduate of Wayne State University Law School with Honors, Judge Arthur J. Tarnow also received a B.A. from Wayne State University in 1963. He began his legal career as a tutor in Contracts and Torts at the University of Melbourne Law School in Melbourne, Australia. After serving as a Law Clerk to Michigan Court of Appeals Judges John Fitzgerald, Louis McGregor and Timothy Quinn, Judge Tarnow returned to the southwest Pacific region as a Lecturer in Law on Contracts and Sales at the University of Papua, New Guinea Law School from 1967 to 1968.

Judge Tarnow later served as the Chief Deputy Defender, Appeals, for the Legal Aid and Defenders Association of Detroit from 1969-1970 and the Foundation Appellate Defender, State of Michigan from 1970-1972. In 1973 he was a partner at Cilluffo and Tarnow and later a sole practitioner from 1974 to 1998. Many Detroit attorneys came to know him as a Professor of Criminal Procedure and Constitutional Law at the University of Detroit Mercy School of Law in 1970 and from 1980 until the present. Judge Tarnow was confirmed by the Senate on May 22, 1998 after being nominated by President Clinton on September 24, 1997.

A quick look around Judge Tarnow's chambers identifies his outside interests of New Guinea and baseball. While seemingly an odd combination, Judge Tarnow enjoys speaking about both and how each relate to his legal career. He found teaching in New Guinea not as difficult as it may seem. Teaching "Sales" shortly after the adoption of the UCC in a common law jurisdiction was far from problematic.

Judge Tarnow points to the joys of teaching many in the law school who quickly moved into national leader-

ship positions. To suggest he built strong relationships with prominent New Guinea officials is an understatement. His son, Thomas, is named after Papua New Guinea Prime Minister Sir Michael Thomas Somare. The origin of the Prime Minister's son's name, the Honourable Arthur Tarnow Somare, needs no further explanation. He will not end a conversation on this topic without also talking about his two sons. Tom works in Legal Aid in Newark and Andrew works on hybrid locomotives in Erie, Pennsylvania.

As for Baseball/Softball, Judge Tarnow has many fond stories from lawyers league softball games. He remembers a picture in the paper of him batting left-handed not as a representation of his ambidextrous athletic skills but a mishap in the film developing process. He laughs while discussing a game played against inmates at Jackson Prison and "quick pitching" an inmate arguing a previous call. The umpire was not as bold as Judge Tarnow in making the call on his pitch. His most prized softball-related compliment is being called a "ringer" at age 48.

Judge Tarnow believes that the greatest attribute of an attorney is the ability to listen. He enjoys the quality of representation in the Eastern District on both criminal and civil matters.

He emphasizes the importance for lawyers to know and understand history in order to understand current political and financial conditions. His seminar, "The Role of the Court in Modern Society," focuses on this very topic.

**Thomas D. Esordi is a principal at Kitch Drutchas Wager Valitutti and Sherbrook and a member of the Chapter's Newsletter Committee.*

Kathleen Straus Accepts McCree Award

On February 17, 2010, the Chapter held the Annual Wade Hampton McCree, Jr. Memorial Luncheon at the Atheneum Suite Hotel. Members congregated to honor the 2010 recipient of the McCree Award for the Advancement of Social Justice, Kathleen Straus, and to hear from U. S. Attorney General Eric H. Holder, Jr.

Straus was honored for her contributions to the advancement of social justice. She is an elected member and the President of the State Board of Education, where she has served since 1992. She has committed the majority of her life to the furthering of public education and community services in Michigan. She has a strong interest in curriculum, assessment, and raising the

(continued on page 8)

McCree *(from page 7)*

standards for all students across the State. She often spends time with parents, educators and others in schools and classrooms to discuss educational policy and reform efforts to keep in touch with what's going on in the field.

Before joining the State Board of Education, Straus was president of the Center for Creative Studies, a nationally recognized arts education institution in Detroit. Before that she served as director of government relations for the Michigan Association of School Boards, and as staff director of the Education Committee of the Michigan Senate. She was the executive director of PRO Detroit (People and Responsible Organizations for Detroit), a community-wide coalition of business, labor, civic groups, and schools established to assure that court-ordered desegregation would be implemented smoothly and peacefully. She previously worked in the administration of Detroit Mayor Jerome P. Cavanagh, and for the Southeast Michigan Council of Governments. She began her career as an Economist for the U. S. Treasury Department in Washington, D.C., and with the Federal Reserve Bank in New York.

An active community leader, Straus serves on several boards. She is a long-time member of the Board of Trustees of the Detroit Science Center. She is also on the Board of Directors of ArtServe Michigan, and on the Board of Communities in Schools-Detroit, is a member of the Executive Board of the Michigan Roundtable for Diversity and Inclusion (formerly NCCJ); and she is a past President of the Jewish Community Council of Metropolitan Detroit.

Straus earned her B.A. degree in economics from Hunter College, New York; and was a member of Alpha Chi Alpha, Social Science Honor Society. She has pursued graduate studies at several universities.



Miriam Siefer, chief Federal Defender, Legal Aid & Defender Association, Federal Defender Office, award recipient Kathleen N. Straus and Cynthia Haffey of Butzel Long PC. Photo by John Meiu, courtesy of Detroit Legal News Publishing LLC.



Judge Wade Harper McCree, Doris McCree, Aaron McCree Lewis and Attorney General Eric H. Holder, Jr. Photo by John Meiu, courtesy of Detroit Legal News Publishing LLC.

After Straus received the McCree Award, Attorney General Holder addressed the Chapter and talked about what it was like serving as a young African American trial lawyer in the Justice Department in the late 1970s during Judge Wade McCree's tenure as the second African American Solicitor General of the United States. His remarks were personal and inspirational. The full text of the Attorney General's remarks is available at the Chapter's website.

Motion Days at Law Schools

The Chapter's Law Student Initiative Committee once again provided law school students the opportunity to see court proceedings by sponsoring Motion Days at local law schools. The year began at Wayne State University with Judge Bernard A. Friedman holding court on January 20, 2010. On March 16, Magistrate Judge Virginia M. Morgan was at Cooley Law School. Judge Denise Page Hood held court at the University of Detroit Mercy Law School on March 22, 2010. Finally, Judge George Caram Steeh was at the University of Michigan Law School on March 31, 2010.

As a special treat, the Chapter's Diversity Committee sponsored a "meet and greet" with Judge Hood before the motion call began and with Judge Steeh after the motion call ended, giving the students an opportunity to interact with the Judges over pizza and pop.

The Chapter thanks the Judges for their participation.



Ask the Counselor of Civility

Dear Counselor of Civility:

For several years I have been representing four ice fishermen, Tooh, Menny, Behrs and Schotz, who sued the Coast Guard for damages they sustained when their ice shanties sank to the bottom of Saginaw Bay after the Coast Guard ordered them off the ice with only enough time to grab their favorite lures. The federal government countersued, claiming the sunken shanties were blocking the shipping channel and demanding that my clients compensate the Army Corps of Engineers for the costs of removing the shanties. Resolving the case has proved difficult, as the government attorney appears to have a personal agenda. Ignorant of the peaceful joys of ice fishing, having grown up in Southern California, he seems intent on proving that ice fishing is a reckless activity that endangers the participants, wastes government resources, and oppresses the fish.

I've tried to remain cordial and professional, despite opposing counsel's disdainful view of the sport. However, when Mr. Behrs broke down during his deposition as he recounted the loss of his favorite arm chair, cooler, and ice auger in the sunk shanty, I got a bit testy when opposing counsel balked at my request for a break so Mr. Behrs could regain his composure. In fact, I alluded to a shark. Opposing counsel responded by accusing me of using personal insults to scuttle his questioning. At that point, my client fled the deposition, sobbing something about being chopped into chum. Opposing counsel, who had flown in to Bay City from Washington, D.C., for the deposition, was unable to finish the deposition and left.

Now, counsel has filed a motion to compel Mr. Behrs' deposition and is seeking costs. In support of his motion, he attached a transcript of our exchange. Although he requested my concurrence, he did so by email before a long weekend, while I was away at a bass fishing tournament. Before I could agree to a second deposition for Mr. Behrs, he filed his motion. Will my unfortunate reference to a salt water predator lead to costs?

Signed,

I. M. Fileted

Dear Fileted,

Like the Coast Guard that saved your clients, the Local Rules of the Eastern District of Michigan will give you a chance to get off the thin ice of this discovery motion, but you may have to leave some pride behind. To encourage settlement of discovery disputes, the Local Rules mandate conferences: One, before the motion is filed, E.D. Mich. LR 7.1(a)(1), and the second in advance of the hearing on the motion to compel E.D. Mich. LR 37.1. As movant's counsel, your opposing counsel was obliged to seek your concurrence. If concurrence cannot be had, then the motion must state either that counsel for the parties conferred unsuccessfully, or, that, "despite reasonable efforts specified in the motion or request, the movant was unable to conduct a conference." E.D. Mich. LR 7.1(a)(2). A respondent who unreasonably withholds consent may be taxed with costs for the motion. E.D. Mich. LR 7.1(a)(3).

After you file your response to his motion to compel Mr. Behrs' deposition and the court sets a hearing date, opposing counsel must arrange for you both to confer sufficiently in advance of the hearing "so as to enable the parties to narrow the areas of disagreement to the greatest possible extent." E.D. Mich. LR 37.1. What the Local Rule requires of both counsel is "a good faith effort to narrow the areas of disagreement." As you are willing to agree to a second deposition of Mr. Behrs, the only issue is costs. And, you may be able to resolve his demand for costs by apologizing for your finny slur and offering to continue the deposition at a time convenient to him.

Nothing in the Local Rules prevents you from calling opposing counsel and seeking to resolve this motion before you file a response. To your credit, you are not opposing his request for a second deposition of Mr. Behrs. Lapses in personal courtesy - both his and your own - brought about this embarrassing squabble. In denying your request for a short break to allow teary Mr. Behrs to regain his composure, opposing counsel lacked the courtesy and fair consideration of opponents expected of practitioners in the Eastern District. His effort to seek your concurrence with his motion fell short of reasonable. Although lawyers are usually inured to allusions to sharks by the time they take the bar exam, your reference was a disparaging personal remark that violated several Civility Principles, causing you embarrassment and possible exposure to costs. Without reminding him of his lapses in courtesy, give him a call, apologize for your comment, and offer to reschedule the deposition. Your personal courtesy and professional integrity may well be met by the same - even if he never knows the joy of a walleye pulled through the ice.

Civil regards,

The Counselor of Civility



Trial Practice And Mentoring Program: An Unqualified Success

In early February, the Chapter conducted a Trial Advocacy and Mentoring Program for “newer” lawyers (i.e. those who have been practicing five years or less). Program participants gained hands-on experience in fundamental trial skills working in tandem with district judges and seasoned attorneys. One such newer lawyer praised the program as “the most valuable educational experience that I have had since law school.”



Attorney Thomas W. Cranmer at Mentoring Program. Photo by John Meiu, courtesy of Detroit Legal News Publishing LLC.

Forty newer lawyers signed up for the intensive trial experience, which began with an introductory session the evening of February 4th, followed by a two-day mock trial on February 8th and 9th. To provide the maximum educational benefit, the trial teams were limited to five participants for each of the eight team leaders. The program was an exceptional bargain and quickly sold out. The cost was only \$145 for members of the National FBA and \$185 for non-members, which included all course materials and lunches.

The introductory session included presentations on opening statements, examination of witnesses and closing arguments by the distinguished group of team leaders, private practitioners Thomas



LAW DAY 2010

LAW IN THE 21st CENTURY: ENDURING TRADITIONS, EMERGING CHALLENGES

A special invitation...

When: Monday, May 3, 2010
Open House: 11 am – 2 pm

Where: United States District Court
Theodore Levin U.S. Courthouse
231 W. Lafayette Boulevard
Detroit, Michigan

What: Free Hot Dogs, Chips and Cookies
Courthouse Tour
“Ask the Lawyer” Pro Bono Program



**Dedication of Presidents Wall
11:30 am**

Participating Agencies

- | | | | |
|-----------------------------|-----------------------------|-------------------------------------|--------------------------------|
| • A.T.F. | • D.E.A. | • N.L.R.B., Region 7 | • U.S. District Court |
| • Coast Guard | • F.B.I. | • Ralph M. Freeman Memorial Library | • U.S. Marshals Service |
| • Consumer Bankruptcy Assn. | • Federal Defender's Office | • Secret Service | • U.S. Pretrial Services |
| • Courthouse Museum | • I.C.E. | • U.S. Attorney's Office | • U.S. Probation |
| • Customs, Border Patrol | • I.R.S. | • U.S. Bankruptcy Court | • Wayne County Sheriff's Dept. |

Please bring photo ID
Cellular phones not permitted in Courthouse

Sponsored jointly by the United States District Court and the Federal Bar Association, Eastern District of Michigan Chapter



Cranmer, Dennis Haffey, Ed Kronk, Kathleen Lang, Powell Miller, Thomas O'Brien, and Bill Winsten, along with AUSA Elizabeth Stafford.

At issue in the mock trials was a dispute over whether the gunshot death of an insured suffering financial problems was suicide or an accident. District Judges Marianne O. Battani, Denise Page Hood, Stephen J. Murphy, III and Victoria A. Roberts presided over the trials, and also offered valuable feedback to the trial attorneys. In noting the program's success, team leader Kathy Lang observed that "the improvement in the participants' skills during the two day intensive program was remarkable. The ability to perform, observe others, and be critiqued resulted in the participants becoming stand-up trial lawyers."

Special thanks to the Court for providing the real-life venue for this exceptional educational program.

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Calendar of Events

April 19 Creative and Efficient Presentation of the Jury Trial in Complex Litigation

Panelists: Chief Judge Gerald E. Rosen,
Judge Avern Cohn, Judge Robert H.
Cleland, Magistrate Judge Michael J.
Hluchaniuk and attorney Jerome A. Galante
2:00 p.m. Theodore Levin U.S.
Courthouse, Room 115
Reception following at the Westin Book
Cadillac Hotel

April 22 Leonard R. Gilman Award Luncheon

Speaker: Mayor Dave Bing
Award Recipient: Douglas R. Mullkoff
Westin Book Cadillac Hotel
11:30 a.m. Reception
12:00 p.m. Luncheon

May 3 Law Day at the Courthouse: A Downtown Tradition

Welcoming your staff, clients and down-
town neighbors to visit the Courthouse and
the Judges, between 11:00 a.m. and
2:00 p.m. Live demonstrations, such as
bomb-sniffing dogs, and tours of the
Courthouse. It's becoming a tradition!
Don't miss it this year.

May 12 Walter Shapero Symposium

Speaker: Peter S. Goodman
National Economic Writer, *The New York
Times*
Author: *Past Due: The End of Easy Money
and the Renewal of the American Economy*
(Times Books, 2009)
The Westin Southfield Detroit,
1500 Town Center, Southfield MI
5:30 p.m. Cocktails, Dinner Program,
Q&A with Speaker

June 24 The 31st Annual Dinner

Westin Book Cadillac Hotel,
Woodward Ballroom
5:30 p.m. cocktails, dinner following,
featuring The Third 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

**Updates and further developments at
www.fbamich.org**

See "Hot News" and "Events & Activities"



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The E-Blast is here!

The E-Blast is designed to consolidate our communications with you while continuing to provide members with timely information on upcoming events. The E-Blast will be sent out bi-monthly, usually on the 1st and 15th of each month.

Submitting events to the E-Blast:

Email event information to Linda Hylenski at linda_hylenski@mied.uscourts.gov. Please also email your event information to our Executive Director, at fbamich@fbamich.org, so he can include your event on the website.

Event information should be sent to Linda and the Executive Director at least one week before the issue date.

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