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Federal Bar Association
Eastern District of Michigan Chapter

# FBAnewsletter

Summer 2012

Federal Bar Association - Eastern District of Michigan Chapter - **54** years of service to our Federal Bench and Bar

## Annual Dinner – June 21

This year's Annual Dinner honoring the federal judges of the Eastern District of Michigan was held at the Westin Book Cadillac. The event was a huge success by all accounts. It was the largest attendance at the event in recent years. It was also the 20th year anniversary of our very talented A (Habeas) Chorus Line.

The evening started with a cocktail hour featuring hot hors d'oeuvres and a chance to mingle with the judiciary, members, and guests.

This year's Julian Abele Cook, Jr. - Bernard A. Friedman FBA Civility Award went to William A. Sankbeil of Kerr Russell & Weber. In his remarks accepting the Award, Mr. Sankbeil reminded all present of the importance of being civil and professional in all of our dealings, whether with the Court or opposing counsel.

*Our very own A (Habeas) Chorus Line from the Annual Dinner. Brian Figot, Judy Zorn, Joe LaBella, Michael Leibson, Jim Robb, Sarah Fischer and Mark Lezotte (Not pictured: Justin Klimko and Angela Williams)*

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

A wonderful performance by A (Habeas) Chorus Line celebrating their 20th anniversary followed and was enjoyed by all.

The evening ended with a new feature – the afterglow. This was a final chance to mingle and enjoy the company.

We look forward to seeing everyone at next year's Annual Dinner.

*(see back cover for additional photo)*

**INSIDE THIS ISSUE**



## President's Column

*Michael J. Riordan*

### GRATITUDE

The *Random House* dictionary defines gratitude as the quality of, or feeling of, being grateful or thankful.

As I reflect on the conclusion of my tenure as the fifty-second president of our Chapter, gratitude is the word that quickly comes to mind. It is a gratitude for the wonderful work of my fifty-one predecessor Chapter presidents. Gratitude for the fantastic work of our officers. Gratitude for the tireless work of our Board and committee chairs. Gratitude for the enthusiasm and innovation of our Executive Director Brian Figot. And, most especially, gratitude for the unparalleled support the Bench gives our Chapter. We are the envy of each and every FBA chapter across our country. For all of this, I am very grateful and thankful.

In the 2011-2012 Chapter year, we hosted forty-one events. Beginning with the 6th Circuit Mediation Conference held on June 28, 2011, and ending with the 33rd Annual Dinner Honoring the Federal Judges of the Eastern District of Michigan on June 21, 2012. In between, countless hours of preparation, presentation, and perspiration were spent on events such as, to name only a few, the Mock Interview Program for Summer Interns, the *Stern v. Marshall* Bankruptcy Panel Discussion, motion calls at the local law school campuses, the Pro Bono Training Seminar, Book Club luncheons, Federal Youth Law Day, the Diversity Summit & Celebration of Diversity Reception, the Chardavoyne Court History Event, the joint Chapter and State Bar of Michigan Disability Benefits Committee Seminar, the Bench Bar Golf and Social Outing at Plum Hollow, and the Master Lawyers' Luncheon. This small sampling of the past year's programming is

*(continued on page 2)*

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## President's Column (continued)

just a glimpse of the offerings and services provided by you to your fellow federal practitioners and in service to the Eastern District of Michigan.

Each and every one of those programs was successful because of you. They were successful because of members stepping up to the plate to plan and implement them. They were successful because of judges willing to make time in their busy schedules to offer advice to the planners, to participate on the panels, to be part of the programming, and to assist in securing prominent speakers to raise the consciousness of our membership.

Tom McNeill, our new president, has 2012-2013 off to a resounding start. He has enhanced and expanded our committee structure. He is continuing the effort to diversify our leadership to include members of our many backgrounds and practice areas, members from the academy and members from the Bench. Most importantly, he is continuing the great traditions created and passed down over the years by our past-presidents from our first, the Honorable Fred Kaess, in 1957-1960; to Wally Riley, in 1963-1964; Charlie Rutherford, in 1966-1967; Joe Dillon, in 1980-1981; Judge Paul Borman; 1984-1985; Maura Corrigan; 1990-1991; Tom Cranmer, 1995-1996; Chris Dowhan-Bailey, 2002-2003; Dennis Clark, 2003-2004; Denny Barnes, 2004-2005; Julia Caroff, 2005-2006; Judge Mark Goldsmith, 2007-2008; Barb McQuade, 2008-2009; Elisa Angeli Palizzi, 2009-2010; and Magistrate Judge Laurie Michelson, 2010-2011.

This list is just a small cross-section of our leadership over the past fifty-two years and is by no means meant to be exclusive or exhaustive. But it is an illustration of whether from a large firm, small firm, the defense bar, or the government, like all of our past-presidents, each and every one of you contributes to the betterment of federal practice in the Eastern District of Michigan.

So, it is onward and upward for our Chapter. Thank you for letting me be at the center of the action in 2011-2012. As is often said when raising a pint on the Emerald Isle, *sláinte* ("to your health").

## Rutter Group Seminar Held

On June 21, The Rutter Group hosted its annual seminar on recent changes to the rules governing practice in federal court. The seminar, led by Chief Judge Gerald E. Rosen, Judge David M. Lawson, and Thomas W. Cranmer of Miller Canfield PLC, used a mobster-themed fact pattern to present attendees with a wealth of information regarding significant changes to the Federal Rules of Civil Procedure, as well as recent developments in the law governing jurisdiction and venue in federal court.

Of particular importance at this year's seminar were changes brought about by the Federal Courts Jurisdiction and Venue Clarification Act of 2011, H. R. 394, P.L 112-63 (the "Act"), which implements some of the biggest non-class action changes to the law governing removal and jurisdiction in a decade. The Act, which proceeded through the legislative process without garnering much attention among practitioners, included a particularly significant change that effectively resolved a circuit split by codifying Sixth Circuit precedent.

*Thomas W. Cranmer, Chief Judge Gerald E. Rosen, and Judge David M. Lawson.*

The change concerns how long later-served defendants have to file removal petitions in state court. The applicable statute, 28 U.S.C. § 1446(b), previously stated that defendants had thirty days from service of process to file a removal petition. Unanswered, however, was whether later-served defendants in multi-defendant cases had a further thirty days from service to affect removal. A split developed among the circuits, with the Sixth Circuit determining that later-served defendants indeed had a separate thirty-day period for filing a removal petition. *Brierly v. Alusuisse Flexible Packaging, Inc.*, 184 F.3d 527, 533 (6th Cir. 1999).

The statutory revisions now explicitly codify the Sixth Circuit's position: "Each defendant shall have 30 days after receipt by or service on that defendant of the initial pleading or summons described in paragraph (1) to file the notice of removal." 28 U.S.C. § 1446(b)(2)(B). The Act also changes how the amount in controversy is alleged and shown in removal cases, as well as resolving a further circuit split on how residency is determined for purposes of venue.

Additionally, the seminar covered the rules governing electronically stored information and expert witnesses. Judge

Lawson went into great detail regarding how to best manage vast amounts of electronically stored information, praising the Sedona Principles, a set of guidelines developed to help parties manage discovery of electronic information. Likewise, Judge Rosen and Mr. Cranmer discussed how changes to Rule 26 affect how attorneys retain and manage their testifying expert witnesses.

Before recent amendments, vast amounts of testifying expert information was discoverable, including communications between the expert and attorney. This led to attorneys retaining two sets of experts: one for consultation (thereby protected from discovery) and another for testifying in court. Under the amended Rule 26, testifying experts are no longer required to disclose all "data or other information considered" as part of discovery. It was expressed that this change should simplify the litigation process, in addition to saving parties considerable expense.

In all, the seminar provided an excellent opportunity for practitioners to refresh their familiarity with routine rules, in addition to learning about more recent developments. The three presenters provided extensive information, and did so with a familiarity and rapport that made the seminar an engaging experience.

*Butzel Long attorneys volunteering for the "Ask the Lawyer" pro bono program included (l-r) Danielle Hessell, Angela Boufford, Fran Stacey, James Sheridan, Rebecca Davies, Jonathan Jorissen, Debra Geroux, and Ziyad Hermiz.*

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

## Law Day 2012 No Courts, No Justice, No Freedom

On Tuesday, May 1, the Court, the Chapter, and the United States Attorney's Office co-hosted an open house at the Courthouse to celebrate Law Day. The theme of this year's event was "No Courts, No Justice, No Freedom." Law Day exhibits and displays celebrated the Court's essential role in maintaining a free society, and emphasized that open and accessible courts are necessary to protect everyone's legal rights.

Guests of the event, including many local students, were given Courthouse tours and treated to a special bomb-sniffing dog presentation by the Wayne County Sheriff's Office in Judge Bernard A. Friedman's courtroom. They also enjoyed an all-American lunch of hot dogs, chips and cookies as part of the festivities.

Chapter members AUSA Susan Gillooly and VA Staff Attorney Dona Tracey co-chaired the event. Participants, including members of the federal judiciary, federal and state law enforcement agencies, and other federal agencies, set up displays in Room 115 describing their respective entities. Guests visiting the displays came away with more knowledge about the federal system, as well as goodies and trinkets provided at each display.

Once again, the "Ask the Lawyer" pro bono program provided consultations to self-represented litigants. The program included 30 volunteer lawyers, nine Court staff, six Cooley Law School students, and two Cooley administrators. All together, they served 22 self-represented litigants who each received a minimum 30-minute consultation. Judge Denise Page Hood, Judge Paul D. Borman, Judge Arthur J. Tarnow, and Judge Victoria A. Roberts, and their staffs also were major contributors to this program.

The Chapter and the Wolverine Bar Association Pro Bono Committees coordinated the "Ask the Lawyer" event. The Chapter would like to thank the following volunteer lawyers: Patrice Arend, Angela Boufford, John Brewster, Thomas Cranmer, Rebecca Davies, Ethan Dunn, Debra Gerpux, Alana Glass, Gerry Gleeson, Joe Golden, Ziyad Hermiz, Danielle Hessell, Mark Heusel, Jonathan Jorissen, Karen Kienbaum, Kymberly Kinchen, Matthew Leitman, David McDaniel, Tom McNeill, Robert Murkowski, Jennifer Newby, John Nussbaumer, Jim Parks, Toni Raheem, Wendy Readous, Larry Rochkind, Khalilah Spencer, Fran Stacey, Sherry D.O. Taylor, and Brent Warner.

# Recognizing Barb Radke

**By Virginia M. Morgan***

Some members of the federal bar are often described as "a lawyer's lawyer." This shorthand for someone who knows the law, knows how to get results, and is respected by other lawyers and judges for their decency, integrity, and professionalism, is a high compliment given to only a few. In the same way, this sense of commitment, dedication, and excellence sum up the essence of Barb Radke, a "judicial assistant's judicial assistant."

Barb is, in my opinion, the heart and soul of the Court. She contributes her talents, enthusiasm, and skills to making the Court a great place to work. Part social worker, part lawyer, part taskmaster, part mom, and complete friend, Barb's goal is always to make sure the job gets done and gets done right.

*Barb Radke*

I was fortunate to work with Barb from the time I entered the U.S. Attorney's Office in 1979, until my move to Ann Arbor as a U.S. Magistrate Judge in 2009. Barb entered federal service in 1978 as a young, vivacious, purple-haired secretary. She was support staff for the drug unit and quickly learned the skills needed for her job from outstanding lawyers like Chris Andreoff, David Griem, Tom Cranmer, and Victoria Toensing.

Barb's abilities were rapidly recognized and Len Gilman chose her as his personal secretary when he became the U.S. Attorney. A few months after his untimely passing in 1985, Barb began working with me in the Court. For over twenty-five years, until we moved to Ann Arbor, and before Barb became the judicial assistant for Magistrate Judge Mark Randon, Barb kept our chambers on the right track.

Barb can balance 1,000 tasks at the same time (so why can't the rest of us?). She is a master organizer and unyielding perfectionist (in the best sense). Barb made sure that our motions were heard, decisions were written, and matters were completed on time. She takes on a myriad of extra duties to support the Court, including: Courthouse tours for over 1,500 students every year for over twenty years; FBA conferences, meetings and luncheons; judicial secretaries' meetings; and other Court functions. She truly puts the "service" in public service. Barb knows more about litigation than most lawyers and more about criminal investigation than many agents.

Yet the essence of who she is comes from her sense of integrity; Barb is someone who chooses to make a difference. Her strong work ethic underlies all she does. The child of Polish Catholic holocaust survivors, Barb grew up in Hamtramck where her parents still live, and with whom she communicates in Polish. Her father still works as the organist at Our Lady Queen of Apostles. Barb raised her two boys, sent them to Catholic schools, and gave them love and strong positive values. She actively served their school and supported their activities. She encouraged them always to do their best. Both received many academic awards, including full scholarships to the University of Michigan as Evans Scholars. Michael graduated and Stefan is in his second year. Barb is justly proud of their accomplishments, and I know that those would not have come without her guidance and support.

But Barb's sons' achievements are not surprising because Barb is also a life-long learner. She is always learning new computer skills, developing new insights, and studying new ideas. Her intellectual curiosity about everything from legal cases to medical issues, literature, music, religion, politics, and spirituality made for many thoughtful and lively exchanges at the "salon" lunch hour.

She is a reader of books, articles, magazines, and pretty much anything she can get her hands on. From her, I learned about every unusual disease in a social security case, concerns of *pro se* litigants, and new appellate decisions virtually the minute they were published.

Barb's sharp mind means that she loves to debate issues. This works out well most of the time, though occasionally various conspiracy theories, urban legends, or similar positions are the subjects of her strongly held beliefs. She and our law clerk Dave had a memorable, animated discussion on the difference between limbo and purgatory. No government policy escapes evaluation, and she could write *New York Times* articles on just about any of them.

Such spirited debates on topics, directly and indirectly related to our work, were an important part of chambers life. Interns and clerks became better lawyers as they were awakened to concepts of energetic discussion, respectful disagreement, and good humor, as well as seeing Barb's work ethic in action.

Perhaps most importantly, Barb is the most excellent friend one could have. A caring confidant, she is wise and strong, positive and knowledgeable, kind, compassionate, and fun—who could ask for more? I am proud and grateful to have worked with her over the years and thank her for all she has done for me, for the judiciary, and for the Court.

**Virginia M. Morgan retired in 2011 after serving the Court for 26 years as a U.S. Magistrate Judge.*

# Foreclosure Seminar

**By Aeran N. Baskin***

On June 14, the Court's Pro Bono Committee and the Chapter's Pro Bono Committee hosted the "Update on Foreclosure Issues in Federal Court." The afternoon-long program was held at the Courthouse and included five presentations and lunch.

Program participants were greeted by Judges Arthur J. Tarnow and Denise Page Hood of the Court's Pro Bono Committee. The first presentation was made by University of Detroit Mercy School of Law Clinical Professor Joon H. Sung. He discussed the parties that have standing to foreclose, specifically when there has been an assignment of the note or mortgage. Professor Sung highlighted several important Michigan cases, including *Residential Funding Co. v. Saurman*. He also discussed federal court treatment of an assignment on standing to foreclose. He highlighted possible challenges to MERS assignments, securitizations, and broken assignment chains.

*Lorray Brown, Kenneth Slusser, Joon H. Sung, and Karen Tjapkes, all of whom spoke at the Foreclosure Seminar.*

University of Michigan Law School Professor John Pottow discussed possible challenges to a foreclosure by advertisement in the post-redemption period and state and federal court jurisdiction. He covered a broad range of other issues: calculation of the amount in controversy for diversity jurisdiction, the success of various challenges under the Home Affordable Modification Program ("HAMP"), abstention, and standing to foreclose post-redemption period.

Lorray Brown of the Michigan Foreclosure Prevention Project made two presentations. She first discussed the Michigan Pre-Foreclosure Process. She highlighted several changes to the 90-day law, which was extended to December 31, 2012. Among the highlighted changes were amendments to written notices to borrowers, whether newspaper publication is required, and the timeline before a lender may foreclose. Ms. Brown then discussed the Attorney General Settlement, which requires several servicers to develop a plan for principal reduction, refinancing, and other forms of relief.

Karen Tjapkes of Legal Aid of Western Michigan and Kenneth A. Slusser of Potestivo & Associates P.C. lead a discussion on HAMP litigation. They discussed the different types of HAMPs and provided practical tips for attorneys handling these matters. The presenters also gave a brief overview of the success of various types of HAMP challenges nationally.

Program participants engaged in question-and-answer sessions after each presentation and were able to share some of their successes and frustrations with foreclosure-related litigation. The program was well attended. Several participants signed up for pro bono referrals. If you are interested in handling a pro bono case in any area, contact Charlene Gill at (313) 234-5165 or charlene_gill@mied.uscourts.gov

After the presentations, Thomas M. Cooley Law School Associate Professor Florise R. Neville-Ewell provided an engaging overview of the Ten Commandments of Real Estate Law Society (10CORE), a pro bono student

*(continued on page 6)*

## Foreclosure *(from page 5)*

organization at the law school that is working to expand nationally.

The Court's Pro Bono Committee, Judges Denise Page Hood, Paul D. Borman, Arthur J. Tarnow, Victoria A. Roberts, and the Chapter's Pro Bono Committee, chaired by Dean John Nussbaumer and Sherry O'Neal Taylor, thanked Robert Gillett, Legal Services of Southeastern Michigan, and Lorray Brown, for planning and executing this informative program. Thanks also to Charlene Gill, Stephanie Miszkowski, Julie Winchel, Danielle Moran, Gabriel Orzame, Harold White, Clarence Prather and Josh Matta for their invaluable assistance.

** Aeran N. Baskin is a law clerk to Judge Denise Page Hood.*

## Magistrate Judge David R. Grand Joins the Bench

On November 1, 2011, David R. Grand, a long-time active member of this Chapter, was sworn in as a U.S. Magistrate Judge. His investiture was held on January 30th, in the Special Proceedings Courtroom, with Chief Judge Gerald E. Rosen presiding. The Courtroom had a unique appearance, thanks to the floral arrangements prepared by Magistrate Judge Grand's case manager, Felicia Moses.

*The Grand Family.*

Magistrate Judge Grand's daughter Madeline opened the ceremony leading the audience in the Pledge of Allegiance and offering a few words of her own. Chief Judge Rosen then introduced the many judges in attendance, and later offered his own kind words on behalf of the entire Court family.

Judge Bernard A. Friedman administered the oath of office to Magistrate Judge Grand whose entire family: wife, Julie; children, Madeline and Sam; parents, Myrna and Joe; brother, Jonathan; and grandmothers Etta Schiller and Freda Grand, presented him with his judicial robe.

Judge Friedman, for whom Magistrate Judge Grand clerked after he graduated from the University of Michigan Law School, was the first to offer comments. He stated that Magistrate Judge Grand "is about all the right things. He is about family. He is a husband, a father, a son, a brother. He is about kindness. He is about fairness. He is about caring. He is about being smart. He is about common sense." Judge Friedman also presented Magistrate Judge Grand with numerous fun "tchotchkes" to adorn his new chambers.

"Motion call" then began, with four attorneys, as well as Julie Berson Grand, offering their remarks. Two former colleagues, Tom O'Brien and Greg Curtner, spoke of their many years working together at Miller Canfield in Ann Arbor. O'Brien described Magistrate Judge Grand as a "first-class intellect," a "gifted writer," and "a model of ethical behavior." Curtner said he was "confident that David will turn out to be a fine Judge and a credit to this Bench and to this community." Curtner also provided a lead-in to one of the ceremony's more memorable moments when describing Magistrate Judge Grand's "one weakness…The University of Michigan [football team]":

Gregory Curtner: …when it comes to Michigan State, green is not so good…It's not terrible, but not so good. And then there is that school down south in Ohio, Ohio State.

Madeline Grand: Boo!

Father-in-law attorney Mark Berson spoke next, describing Magistrate Judge Grand's affliction with Spontaneous Pervasive Obsessive Reactive Traumatic Syndrome ("SPORTS"), a "very serious condition" involving the "A2 chromosome," the only cure for which is an annual retreat for relaxation on Cape Cod where the Bersons have a home.

Julie Berson Grand spoke next, and noted the date's special significance – exactly 15 years before she and Magistrate Judge Grand had their first date. Regarding her husband becoming a magistrate judge, Julie said: "No matter how well they know him, every time I have told someone of Dave's new job, the reaction is exactly the same. There is the same big smile and it's followed by, 'I'm so happy for Dave and I'm so happy for you and your family.'" Julie noted their collective gratitude "that Dave gets to continue to work in Ann Arbor and remain so closely connected to the community that we have come to love."

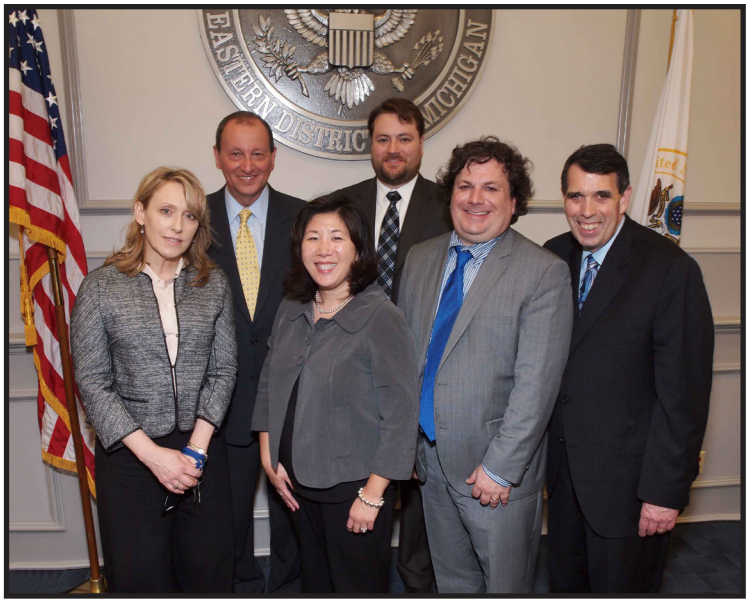
Attorney Joseph Grand, Magistrate Judge Grand's father, gave the penultimate speech. He remarked how his son "is really very fortunate in … the things that he has done and where he has been and the people who have helped him along the way," and expressed his family's hope "that he will take that good fortune and share it with the community and will be a credit to the Bench…"

Magistrate Judge Grand spoke last and had many thank-you's for those who helped him achieve his dream of becoming a judge. He described Julie as his "superwife," who has unendingly supported him, both personally and professionally. He also asked the crowd to congratulate Julie on recently completing her Ph.D. from

the University of Michigan School of Public Health. His supportive family in attendance spanned four generations, from his grandmothers, with their 194 collective years of wisdom and inspiration, to his "encouraging, involved and selfless" parents, his brother, who taught him to have empathy for people, and his children, who give him great purpose.

He thanked his many other family, friends and colleagues, new and old, for all of their support, as well. He concluded with a special thank-you to Judge Friedman, saying that he "sets the standard in my book," and concluded that trying to live up to Judge Friedman's example is the greatest way to express his appreciation for his friend, mentor, and new colleague.

After the investiture, a reception was hosted by Miller Canfield, the Chapter, and Magistrate Judge Grand's parents.



*Amy Humphreys, Magistrate Judge R. Steven Whalen, Jessie Wang-Grimm, Brad Darling, Marc Boxerman, and Jeffrey Appel at the Social Security Disability Event.*

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

## Social Security Disability Event Held

On May 3, the Federal Disability Benefits Committee, in conjunction with the State Bar of Michigan Social Security Section, hosted a seminar on Social Security Disability law and practice. The seminar featured four very engaging speakers. First, Regional Chief Administrative Law Judge (Region 5) Sherry Thompson from Chicago, spoke on legal and policy initiatives, and provided advice for practitioners on presenting disability claims at the administrative level.

Next, Executive Magistrate Judge R. Steven Whalen spoke on Social Security appellate issues, including how to effectively brief social security appeals in U. S. District Court. Finally, Jesse Wang-Grimm and Marc Boxerman, from the Social Security Administration Office of General Counsel in Chicago, spoke about Social Security Appeals from their perspective representing the Administration.

Over seventy-five people attended the seminar from a broad range of constituencies, including plaintiffs' attorneys, attorneys and staff from the U.S. Attorney's Office, magistrate judges, judicial law clerks, and administrative law judges. The speakers provided helpful insights into the social security disability hearing and appeals process. Perhaps most importantly, the seminar helped increase communication between the bench and the bar and should serve to raise the level of advocacy in this sometimes neglected–but very important–practice area. The seminar was organized by Committee Co-Chairs Brad Darling and Jeff Appel. The Committee is planning future seminars on Social Security Disability law, as well as on Veteran's Benefits and Jones Act/ maritime law.

## Court Administrator Dave Weaver

In a previous column, I noted that in March 2010, the Court created the Ad Hoc Jury Committee. The primary goal of the Committee was and is to seek and implement solutions that will increase minority representation in the Court's jury pools. Jury Consultant Paula Hannaford-Agor of the National Center for State Courts was hired to assist the Committee in reaching its goal. The executive summaries of the jury consultant's final report and the Committee's report to the Bench are now available for download on the Court's website at www.mied.uscourts.gov. To obtain copies of the complete reports, you can contact my office at 313-234-5051 and the complete report will be delivered in electronic format.

On June 7, the Bench adopted several final Local Rules changes that affect practice in the Eastern District pursuant to Local Rule 83.20 Attorney Admission. The changes are effective July 1, 2012. There are new requirements regarding admission sponsorship in that attorneys seeking admission that have had legal or attorney disciplinary issues will require a sponsor. Also, out-of-state attorneys may take the oath of admission via telephone or videoconference, but to do so requires a sponsor. Further, limited pre-admission

*(continued on page 8)*

## Dave Weaver *(from page 7)*

practice has been eliminated. All applicants seeking admission to this Court must be sworn in by a judicial officer *before* practicing in this Court.

There is also a new requirement for maintaining eligibility for admission when (1) an attorney's license to practice becomes inactive for any reason other than an order of discipline, (2) the attorney's inactive status leaves the attorney unlicensed to practice in all other states and the District of Columbia and (3) the attorney has a pending case or seeks to appear in a case in this Court. In such instances, the attorney must seek an independent determination from the Chief Judge as to whether he or she can continue to practice in the Court.

The Court's local counsel requirement has been maintained and modified. The changes define the authority and responsibility of local counsel, when such counsel is required to appear, and how the requirement for local counsel and appearance requirements may be dispensed with.

Finally, new LR 83.25 requires an attorney to enter an appearance by filing a pleading or other paper, or a notice. An attorney's appearance continues until a final order or judgment is issued, or upon entry of an order for withdrawal or substitution.

The complete text of these changes and several others are available on the Court's website for review.

The Clerk's Office, Probation and Pretrial Services offices in the Bay City Courthouse are nearing completion of comprehensive renovations, the first in approximately 40 years. The Court will be hosting an open house on Tuesday, September 4, 2012, at 1:00 p.m. to showcase the improvements. More information will be available from the Court over the Summer.

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

## Model Case Management Orders In Patent Infringement Cases

**By Christopher G. Darrow***

Patent infringement cases are different from ordinary commercial cases. They have unique procedures and issues, involve legal rights that are awarded after a lengthy and specialized administrative process, and often involve technology that is unfamiliar to most people.

Without effective management of the litigation process, patent infringement cases can get out of control, resulting in delays, wasted money, needless motions, uncertainty for parties, and headaches for judges. Many of these problems can arise from using a generic civil scheduling order for a patent infringement case. Generic civil scheduling orders fail to provide guidance to less experienced attorneys on the best practices in litigating patent infringement cases, and they open the door for parties to play games or bicker over standard provisions.

Patent cases are effectively and efficiently managed by having a specialized procedure that anticipates many of the events, problems, and issues in a patent case.

The benefits of having a specialized procedure for patent cases have been recognized by appellate and district judges around the country. Recently, Chief Judge Randall Rader, of the Federal Circuit (the court to which all appeals of patent infringement cases go), recommended that district courts or individual judges develop case management procedures specialized for patent infringement cases.

Recognizing that patent cases require specialized procedures, in 2009, Judge Robert H. Cleland asked me to assist him in more fully developing his procedures for managing patent infringement cases. First, we researched what the other district courts around the country were doing to manage patent infringement cases. Many districts and judges have local rules or case management orders specific to patent infringement cases. Judge Cleland set out to benchmark the best practices of the various district courts.

Next, Judge Cleland asked me to interview in-house patent attorneys for companies that regularly litigate patent infringement cases in this district and in other districts around the country to get their opinions on procedures for managing patent cases. The in-house attorneys were thrilled that a federal judge would consider their opinions. I presented the results of the interviews to the Eastern District judges and staff in a seminar hosted by the Chapter.

After considering the different approaches and best practices in managing patent cases, Judge Cleland instructed me to draft a scheduling order and other case management orders to implement best practices and his preferences. Along with his career law clerk, Christy Dral, Judge Cleland assembled an informal committee of distinguished patent attorneys to provide feedback on the best practices and procedures. Judge David M. Lawson also volunteered to assist on the committee and provided invaluable insights. Judge Cleland incorporated this feedback into the model case management orders.

Judge Sean F. Cox has adopted the case management documents, incorporating his own preferences and making slight modifications of the procedures, which have helped him efficiently and effectively manage his patent infringement cases.

*Highlights of the model patent case management orders.* The key to successfully managing any case is to customize the standard procedures and timelines to the facts of the case. The billion dollar case will normally be

treated differently than a case where the amount at issue is $5,000.

The same is true for patent cases. Some patent cases are more complex in that they may involve more than one patent or numerous defenses, discovery of possible additional infringing products, discovery from third parties, discovery from foreign countries, or extensive electronic discovery. Accordingly, there is not a "one-size-fits-all" perfect timeline for every patent infringement case.

In order to allow for flexibility, Judge Cleland's and Judge Cox's model case management orders provide a suggested timeline for the standard patent infringement case. As part of their Rule 26(f) report, the parties are to negotiate a timeline and procedures that fit the circumstances of the case using a model scheduling order as a guide.

The model case management orders have the following features:

- A trial in approximately 24 months;
- Early automatic disclosures of infringement, non-infringement, and invalidity contentions;
- A default protective order to allow discovery to timely begin;
- Procedures and parameters for construing disputed claim terms at issue, including:
  - Whether a hearing with live testimony will be permitted and any presumptive limitations,
  - Page limitations for *Markman* briefs,
  - Mandated conferences between the parties to narrow the claim construction issues,
  - An informal technology tutorial for the judge before the *Markman* hearing,
  - Whether the parties should provide the court with a technical advisor/special master to assist with numerous motions or complex technology; and,
- Separate expert discovery period after the claim construction hearing.

Anyone interested in learning more about the Judges' case management documents can visit the Judges' Practice Guidelines on the Court's website. Also feel free to call me should you have any questions or suggestions.

**Christopher G. Darrow is a registered patent attorney who frequently serves a special master/technical advisor in patent infringements cases. He is a former law clerk to Judge Paul D. Borman.*

## Walter Shapero Bankruptcy Symposium

The Annual Walter Shapero Bankruptcy Symposium welcomed distinguished Professor Kenneth Klee from UCLA School of Law on May 24 at the Westin Hotel in Southfield.

*Leslie Berg, Michael Hammer, Bankruptcy Judge Walter Shapero, Prof. Kenneth Klee, Wallace Handler, and Craig Schoenherr at the Bankruptcy Symposium.*

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

After a sumptuous meal, over 90 attendees were engaged by Professor Klee's insightful discourse on the recent Supreme Court case of *Stern v. Marshall*. The case, involving the late Anna Nicole Smith (a/k/a/ Vicki Lynn Marshall) and the estate of her considerably older husband, J. Howard Marshall II, held that 28 U.S.C. § 157(b)(2)(C) is unconstitutional because it gives non-Article III judges the power to render final judgments on common law compulsory counterclaims that are not necessarily resolved in the process of allowing or disallowing the defendant's proof of claim.

This case is the first time in 30 years that the high court has addressed Article III limitations on the powers of the bankruptcy courts, and perhaps other courts. *Stern v. Marshall* is the subject of much debate in the bankruptcy community and portends potentially significant repercussions over the adjudicative authority of the bankruptcy courts.

Professor Klee, a principal drafter of the Bankruptcy Reform Act of 1978, and known as one of the fathers of modern-day bankruptcy law, is a prolific writer and speaker. He attended Stanford University and Harvard Law

*(continued on page 10)*

## Bankruptcy *(from page 9)*

School. The Annual Walter Shapero Symposium event was co-chaired by Wallace Handler, Michael Baum and the Chapter's Bankruptcy Committee.

## Author and Book Club in Rare Q&A

On May 2, federal judges and attorneys gathered over lunch to discuss *Defending Jacob*, a novel by William Landay. Joining the book club by video conference from a Boston courthouse, Landay noted that, from his vantage point, the well-appointed judge's conference room was quite a sophisticated book club setting.

Rather than a traditional discussion of ideas and impressions of the book, the meeting provided a rare opportunity for an intimate Q-and-A with the best-selling author. Warm and friendly, Landay described his transition from assistant district attorney to novelist, and he highlighted the differences between legal writing and fiction writing. Then, focusing on the book at hand, the author revealed his inspiration for the characters as well as alternate conclusions he had drafted.

Landay recounted the publisher's enthusiastic support for the book, which still holds a place on *The New York Times* best-seller list. With the film rights to the movie already sold, keep an eye out for this fascinating legal thriller and family drama to unfold on the big screen.


*William Landay (via video conference), Erica Fitzgerald and Andrew Doctoroff.*

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

## E-Discovery Panel Discussion

On May 10, the Criminal Practice Committee held a panel discussion on criminal e-discovery practices. The civil bar has enjoyed the benefits of—and wrestled with the challenges posed by—e-discovery for a number of years. The criminal bar has been largely insulated from these issues, but the seizure, production, review, and presentation of electronically stored information (ESI) is becoming prevalent in criminal cases. Unlike the Federal Rules of Civil Procedure, however, there are no criminal rules expressly addressing ESI.

Moderated by Joseph E. Richotte of Butzel Long, the Panel included Judge David M. Lawson, Judge Robert H. Cleland, AUSA Daniel L. Lemisch, Chief of the Criminal Division, defense attorney Michael C. Naughton, and FBI Associate Division Counsel Andrew R. Sluss. They identified the current practices that have developed in the Eastern District and discussed how to improve them in light of the recently announced recommendations and protocols developed by the Joint Electronic Technology Working Group. The Working Group was formed in 1998 by the Administrative Office of the U.S. Courts and the Justice Department and tasked court officials, prosecutors, federal defenders, and CJA panel attorneys with developing strategies to maximize the benefits of e-discovery.

Central to the Working Group's recommendations, and strongly supported by the panelists, is a "meet and confer" where prosecutors and defense attorneys should identify and plan for the nature, volume, and logistics of ESI production.


*Front Row: Andrew Sluss, Matthew Leitman, Joe Richotte, and Daniel Lemisch. Back row: Judges David M. Lawson and Robert H. Cleland, and Michael Naughton.*

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

For such a process to be meaningful, those with sufficient technical knowledge should be involved. In appropriate cases, the courts can appoint a Coordinating Discovery Attorney, an attorney contracted by the Administrative Office of the U.S. Courts who has technical knowledge and experience, resources, and staff to help manage complex ESI in multiple-defendant cases.

The Panel also discussed other challenges that can be posed in criminal cases. For example, Judges Lawson and Cleland shared their experiences with granting permission to take electronic devices into detention centers. AUSA Lemisch said the Bureau of Prisons is considering improvements in detainee access to ESI, computers, and online research, while Special Agent Sluss discussed the limitations imposed on e-discovery when ESI constitutes contraband. Attorney Naughton shared his experience with several ESI platforms and other tools available to help defense counsel minimize the cost associated with hosting and reviewing massive amounts of data.

The Panel consensus was that collaboration is the key to resolving e-discovery challenges. The positive working relationship enjoyed by prosecutors and defense attorneys in the District will serve the criminal bar well as it moves forward into the e-discovery age. The Criminal Practice Committee hopes that the panel discussion will serve as the first among many conversations between the bench and the bar in addressing the challenges posed by e-discovery.

For a copy of the Working Group's recommendations and protocols, please contact Joseph E. Richotte at (313) 225-7045 or richotte@butzel.com

## Meet the Magistrate Judges Panel

Continuing its popular Lunchbox Program series, the Chapter's Labor and Employment Law Committee hosted a "Meet the Magistrate Judges Panel" on Friday, May 11, in Room 115 of the Courthouse.

The Panel was moderated by Magistrate Judge Mona K. Majzoub and included the Court's two most recent Magistrate Judge appointees, Magistrate Judge Laurie J. Michelson, who took the bench in February of 2011, and Magistrate Judge David R. Grand, who was sworn in this past January. They discussed a number of issues including: their thoughts on motion practice, civility in written and oral presentations, dealing with discovery disputes, conducting settlement negotiations, pet peeves, their respective voir dire and jury selection practices, among other things.

The Seminar presented a unique opportunity to collect practice tips first-hand from the decision-makers in many pretrial settings. The program, which ran from 11:30 a.m. to 12:45 p.m., kicked off with a delicious box lunch that was included in the registration fee. The program was well-attended and received high marks from all who participated.

The Committee extends its appreciation to Executive Director Brian Figot, who helped with logistical and marketing support, and the participating Magistrate Judges, who kept the program informative and entertaining while providing a wealth of practical information on practicing in their respective courtrooms.

## Judge Murphy Motion Call at UDM

On April 3, Judge Stephen J. Murphy, III, held motion hearings on two pending matters at the University of Detroit Mercy School of Law. The first case involved issues of governmental immunity and the second case addressed wrongful termination claims. The hearings were held in front of about 125 law students in the remodeled Mock Courtroom and an introduction was given by Dean Lloyd A. Semple. The motion hearings included thoughtful questions and lively discussion between Judge Murphy and counsel. Judge Murphy is also an Adjunct Professor at UDM and provided a significant educational experience to the students in attendance.

## Supreme Court Review

**M Bryan Schneider***

The October 2011 Term of the Supreme Court ended with a whimper, with the Court deciding some healthcare something-or-other (more on that later), but the Court's term provided a number of important developments of interest to federal practitioners.

For criminal practitioners, the Court did not consider any federal criminal statutes, but did issue a number of decisions involving constitutional criminal procedure and sentencing. In one of the more significant Fourth Amendment decisions issued by the Court recently, the Court held that government agents' attachment of a GPS device to a car and use of that device to monitor the car's movement constituted a "search" subject to the Fourth Amendment (*United States v. Jones*). In two important right to counsel cases, the Court held that the plea bargaining process is a critical stage at which the Sixth Amendment right to counsel applies, and thus ineffective assistance in this process violates that Amendment (*Missouri v. Frye*). In particular counsel has a duty to communicate formal

*(continued on page 12)*

## Supreme Court *(from page 11)*

plea offers from the prosecution to the client. In *Frye* and *Lafler v. Cooper*, the Court held that to establish prejudice from counsel's plea bargaining performance, the defendant must show that he would have accepted the plea, that court would have entered it, and that the conviction or sentence would have been less severe than that after conviction following trial. In other constitutional criminal procedure cases, the Court held that: suppression of impeachment evidence was material where the eyewitness provided the only evidence of the crime and the suppressed statement to police contradicted the witness's testimony at trial (*Smith v. Cain*); due process does not require a preliminary judicial inquiry into the reliability of a confession where no unduly suggestive procedures arranged by police were involved, and suggestive circumstances arise independently of police involvement (*Perry v. New Hampshire*); removal of a prisoner from the general population to question him about events in the outside world does not *per se* constitute a custodial interrogation (*Howes v. Fields*); and an expert witness's testimony based on a laboratory report prepared by another did not implicate the Confrontation Clause, where the report was not admitted into evidence and its use was to explain the basis of the expert's opinion, not for the truth of the matters asserted in the report (*Williams v. Illinois*).

The Court also considered several important sentencing decisions. Most significantly, in *Dorsey v. United States,* the Court held that the Fair Sentencing Act, lowering the mandatory minimum sentences applicable to crack cocaine offenders, applies to defendants sentenced after enactment of the Act for conduct predating enactment. The Court also importantly held that its *Apprendi* rule, prohibiting judicial factfinding that increases a term of imprisonment, applies to the imposition of criminal fines (*Southern Union Co. v. United States*). The Court also held a district court has discretion to order a federal sentence to run consecutive to an anticipated but not yet imposed state sentence (*Setser v. United States*), and that the Eighth Amendment prohibits a state sentencing scheme that mandates life without parole for juvenile homicide offenders (*Miller v. Alabama*).

On the civil side of its docket, the Court decided nine cases strengthening protections for defendants in civil rights cases. Specifically, the Court held that: there is no implied right of action under the *Bivens* doctrine against employees of a privately managed prison where state tort law authorizes an adequate alternative damages action (*Minneci v. Pollard*); a witness in a grand jury proceeding is entitled to absolute immunity from suit for claims based on his testimony (*Rehburg v. Paulk*); a private individual retained by the government to perform government work on a part-time basis is entitled to claim qualified immunity (*Filarsky v. Delia*); secret service agents were entitled to qualified immunity for the arrest of a protester who claimed arrest was in retaliation for his speech, because the agents had probable cause for the arrest and it was not clearly established that an arrest supported by probable cause could give rise to a First Amendment claim (*Reichle v. Howards*); police officers are entitled to qualified immunity with respect to execution of a defective search warrant unless the defect is one that "just a simple glance" at the affidavit and warrant would have revealed (*Messerschmidt v. Miller*); states are immune from suit for actions to enforce the self-care leave provisions of the FMLA (*Coleman v. Court of Appeals of Md*.); the provision of the Privacy Act authorizing a damages action against government for violations of the Act to recover "actual damages" did not unequivocally authorize actions to recover for mental or emotional distress, and thus did not waive sovereign immunity with respect to such claims (*FAA v. Cooper*); a jail policy of strip searching all incoming detainees was reasonable under Fourth Amendment, even as applied to persons arrested for minor offenses (*Florence v. Board of Chosen Freeholders of County of Burlington*); and the ministerial exception to civil rights statutes required by the Free Exercise and Establishment Clauses prohibits a suit by a minister against the church under the employment discrimination laws, and the exception is not limited to the head of religious congregation (*Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*).

In bankruptcy matters, the Court held that under Chapter 12 (the analog to Chapter 13 for farm debtors), the tax liability incurred as a result of the petitioner's post-petition sale of the farm is not a liability "incurred by the estate," and thus is neither collectible nor dischargable in the bankruptcy proceeding (*Hall v. United States*), and that debtors may not obtain confirmation of a Chapter 11 "cramdown" plan that provides for sale of collateral

*(continued on page 14)*

# Ask the Counselor of Civility

Dear Counselor:

I am an associate at a small litigation firm beginning work on my most interesting case yet here in the Eastern District.

Plaintiff recently filed a diversity action which claims she suffered near-total loss of her sight in both eyes from the use of our client's Eye-Pod product. The Eye-Pod is a personal digital assistant (PDA) device and music player with control functions that are almost magically activated by the consumer's visual contact with electronic sensors. The Complaint's many counts essentially claim the product was unreasonably dangerous and that the many warnings in its accompanying brochure were inconspicuous, incomprehensible, and inadequate. Plaintiff seeks damages in excess of $75,000, of course, but also claims an entitlement to punitive or exemplary damages for my client's "willful and wanton disregard of the safety of Eye-Pod consumers in general, and the Plaintiff in particular."

Upon receipt of the Complaint, our client's investigation confirmed that it had documentation that Plaintiff's injuries were related to the use of the Eye-Pod. However, it also had reason to suspect Plaintiff may have contributed in some way to the mishap. Accordingly, we filed our answer alleging that the Plaintiff's near-blindness was caused by her misuse of the Eye-Pod or her failure to follow its operating instructions. We also pled that Plaintiff assumed the risk of injury from the Eye-Pod. Separately, we have filed a motion to strike references in the Complaint to a report by a human factors engineer on the merits of the Plaintiff's claim that the product is unreasonably dangerous.

The Court has set a scheduling conference for later this month and has directed counsel to meet and confer on discovery in advance of that date. In light of the tone and tenor of the Plaintiff's Complaint, my inclination is to write a letter summarizing our defenses, covering our initial disclosures, and demanding the Plaintiff's in return, and also broaching the subject of electronically stored data. My mentor here likes the idea of having things in writing to avoid disputes before the judge over what was and wasn't produced by counsel.

Does this sort of letter-writing comply with the meet-and-confer requirement?

Signed,
Letter-Writer

Dear Letter-Writer,

I hate to rain on your letter-writing parade, but what you're proposing violates the letter and spirit of the meet-and-confer requirement and isn't likely to benefit your client.

The 2006 Amendments to Fed.R.Civ.P. 26 were designed primarily to encourage counsel to identify and facilitate the production of electronically stored information. Mandating conferences between counsel was seen as a way to ensure that ESI would be flagged and safeguarded in timely fashion. Ideally, such a meeting promotes a productive working relationship between counsel, something that may not otherwise develop naturally in the course of discovery.

Unfortunately, it seems that there are still attorneys who don't assume responsibility to do the "deep dive" that nearly every case requires in order to understand both parties' information systems, applications and users. If early and accurate sharing of information on ESI is the goal, it is hard to imagine how foregoing a face-to-face meeting to open the subject is sound strategy.

The psychologist lurking within the Civility Counselor senses that your preference for corresponding by letter stems in part from a visceral reaction to the Complaint and a desire to continue the exchange of position papers after the pleadings.

Your aggressive denial of the allegations and countering that Plaintiff is at fault for her injuries is consistent with the rules of procedure. However, there is a danger that the strong language used in formal legal elements in pleadings will drive the parties to hardened positions against each other. *See* Felstiner*, et al*, *The Transformation of a Legal Dispute: Naming, Blaming,Claiming…*, 15 Law & Society Review 631 (1980-81). These legalistic, conclusion-laden exchanges cast parties' views of "past events in absolute terms [and propose] solutions based solely on entitlement." *See* Moffitt*, Pleadings in an Age of Settlement*, 80 Ind.L.J. 727, 737 (2005). It is no wonder then that pleadings are particularly unhelpful in promoting settlement discussions or even basic cooperation in exchanging discovery.

As a general rule, you should resist the temptation to follow the thrust-and-parry of the pleadings with further volleys of emails and letters fortifying your positions. Avoiding an early face-to-face meeting with counsel passes up an opportunity to inject a personal element into the litigation. Doing so prevents you from first learning whether the two of you attorneys have anything in common other than this lawsuit. That seems a small thing, but getting along in life and in litigation is usually made easier by connecting one-on-one with your adversary.

Do you really want to have your first meeting with Plaintiff's counsel across the table from the assigned judge?

If you want to write a letter, send one to counsel suggesting an agenda for your meeting. Include what you know about your client's ESI, commit to following up to learn more, and urge him or her to cooperate in doing the same.

Civil regards,
Counselor of Civility

## Supreme Court *(from page 12)*

free and clear of a creditor's lien but does not allow the creditor to credit-bid at the sale (*RadLAX Gateway Hotel v. Amalgamated Bank*). In three intellectual property cases, the Court held that § 514 of the Uruguay Round Agreements Act, which "restored" copyright protection to foreign works protected in other countries but in the public domain in the U.S., did not exceed Congress's power under the Copyright Clause or violate the First Amendment (*Golan v. Holder*), and that in a district court action challenging the PTO's denial of a patent application the applicant may present new evidence (*Kappos v. Hyatt*), and further clarified the standards governing non-patentable processes of nature (*Mayo Collaborative Services v. Prometheus Laboratories*). And in immigration cases the Court held that a conviction for willfully making or willfully assisting preparation of false tax return in which government's loss exceeded $10,000 constitute aggravated felonies for which an immigrant can be deported (*Kawashima v. Holder*) and that in deciding whether a child alien is entitled to cancellation of removal based on years of continuous residence, the BIA need not impute a parents' years of residence to immigrant child (*Holder v. Martinez Gutierrez*). And in an important labor case, the Court held that the First Amendment prohibits a union from imposing a special assessment against nonmembers for expenses not disclosed in the regular assessment without first providing notice and obtaining affirmative consent for the increased assessment from nonmembers (*Knox v. Service Employees International Union*). Finally, in other civil cases the Court held that courts have jurisdiction under the Administrative Procedures Act to consider suits brought by property owners challenging EPA compliance orders (*Sackett v. EPA*); that posthumously conceived children of a deceased wage earner are entitled to survivor benefits only if they are entitled to inherit from the deceased under state intestacy law (*Astrue v. Capato*); and that §1920(6), authorizing "compensation of interpreters" to be awarded as costs to a prevailing party, does not cover costs of document interpretation (*Taniguchi v. Kan Pacific Saipan*).

In cases of general interest, the Court upheld the individual mandate of the Affordable Care Act (*National Federation of Independent Business v. Sebelius*), concluding that the mandate was a proper exercise of Congress's taxing power. Although the most immediate impact is obviously the upholding of the ACA, a more lasting impact for future cases may be that a five Justice majority found that the mandate could not be upheld under Congress's commerce power, and that a seven Justice majority found that the Medicaid expansion unconstitutionally coerced the states to the extent it allowed the government to penalize states that do not participate in the expansion by forfeiting all of their Medicaid funds. In *Arizona v. United States*, the Court struck down the bulk of Arizona's attempt to curb illegal immigration. The Court found that the law's provisions establishing state misdemeanors for an alien's failure to comply with federal registration requirements and for an unauthorized alien to seek employment in the state, as well as the provision authorizing arrest without a warrant if a state law enforcement officer has probable cause to believe that a person has committed a removable offense, are preempted by federal law. And in *United States v. Alvarez*, the Court struck down on First Amendment grounds the Stolen Valor Act, which makes it a crime to falsely claim to have received military decorations or medals.

**M Bryan Schneider is a career law clerk to U.S. Magistrate Judge Paul J. Komives.*

## Calendar of Events

**July 25** **Tenth Annual Summer Associate/ Intern Event**
Summer associates and interns are provided with practical advice and suggestions that will serve them well as future lawyers and are afforded the opportunity to network with each other and meet members of the local legal community and federal judiciary.
11:30 A.M. Registration, Networking and Lunch
12:15 P.M. to 1:15 P.M. Substantive Programming

**Sept. 14** **State of the Court Luncheon**
Speaker: Hon. Gerald E. Rosen
RESERVE YOUR SPONSORSHIP NOW
To inquire about a Sponsor's Season Table Ticket, contact Program Chair Susan E. Gillooly at (313) 226-9577 or by email at susan.gillooly@usdoj.gov

**Nov. 16** **Rakow Scholarship Awards/ Historical Society Luncheon**
HOLD THE DATE
Location and speaker TBA
11:30 A.M. Reception
12:00 P.M. Lunch

**Dec. 4-5** **New Lawyers Seminar**
Theodore Levin U.S. Courthouse
8:00 A.M. Registration

**Updates and further developments at www.fbamich.org**
**See "Hot News" and "Events & Activities"**
**Online registration available for most events.**

# Gilman Award Luncheon Honors Margaret Sind Raben

*From the Gilman Award Luncheon: Daniel Raben, Kathy Deja, Harold Gurewitz, Margaret Raben, Clarence Dass, and Catherine Boles.*

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

It has been generally known for a long time that Gurewitz & Raben is the best two-lawyer criminal defense firm around. As if it required any further proof, Margaret (Peggy) Raben joined her partner Harold Gurewitz as a Gilman Award recipient on May 9 at the luncheon bearing Leonard Gilman's name.

The Gilman Award is given annually by the Chapter to an outstanding practitioner of criminal law who exemplifies the excellence, professionalism, and commitment to public service of Len Gilman, who was the U.S. Attorney for the Eastern District of Michigan at the time of his death in 1985. The selection is made by prior recipients of the Award, many of whom served with and knew Len.

Raben received the award based on her lifelong commitment to justice, starting from her earliest days as a teacher in the Detroit Public Schools, her demonstrated love and respect for the law, and her devotion to society's less fortunate, which aptly personify the principles espoused by Lenny Gilman. In acknowledging receipt of the Award, Peggy gave special credit to her partner as a mentor and friend.

Judge Paul D. Borman, himself a Gilman Award winner, acknowledged the CJA Panel members present by name. CJA Attorneys take court-appointed criminal cases from the Court. They are listed in the next column.

Chief Judge Rosen introduced the Keynote Speaker Judge Michael B. Mukasey, a former U.S. District Judge and the 81st Attorney General of the United States. Judge Mukasey provided his views on the issue of whether terrorist suspects should be tried by military tribunals rather than in federal courts.

*Gilman Luncheon attendees Judge George Caram Steeh, Matthew Schneider, Judge Michael B. Mukasey, Judge Michael J. Riordan, Chief Judge Gerald E. Rosen, Dennis Barnes, Susan Gillooly, and John N. O'Brien, II*

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

## CJA Panel Members

Christopher Andreoff
Linda Ashford
Wendy Barnwell
Penny Beardslee
Martin Beres
Seymour Berger
Robert Betts
Brandon Bolling
Rhonda Brazile
John Brusstar
Lawrence Bunting
James Burdick
David Burgess
Laurence Burgess
George Bush
Jeffrey Butler
Anthony Chambers
Rita Chastang
Samuel Churikian
Dennis Clark
Patrick Cleary
Jeffery Cojocar
Martin Crandall
David Cripps
Ronnie Cromer
Craig Daly
Jeffrey Day
Ellen Dennis
Andrew Densemo
Michael Dezsi
Loren Dickstein
George Donnini
Robert Dunn
Lisa Dwyer
S. Allen Early
Michelene Eberhard
Jeffrey Edison
Doraid Elder
Jonathan Epstein
Elias Escobedo
Marlon Evans
Haytham Faraj
Don Ferris
Neil Fink
Frederick Finn
Michael Friedman
Mark Gatesman
James Gerometta
Amy Grace Gierhart
Richard Ginsberg
Gerald Gleeson
Marshall Goldberg
Ben Gonek
Judith Gracey
Charles Grossman
Harold Gurewitz
Robert Harrison
Richard Helfrick Austin Hirschhorn
Melvin Houston
James Howarth
Elizabeth Jacobs
Steven Jacobs
Thomas Jakuc
Regina Jemison
Stephon Johnson
Robert Kalec
Ronald Kaplovitz
Scott Keillor
Peter Kelley
Robert Kinney
Barbara Klimaszewski
Richard Korn
Sidney Kraizman
Andrea June LaBean
Robert Lech
David Lee
Brian Legghio
John Lewis
Kimberly Lewis
Thomas Loeb
Richard Lustig
James Maceroni
Patricia Maceroni
Mark Magidson
Maria Mannarino
Juan Mateo
Michael McCarthy
Carol McGuire
Nancy McGunn
John McManus
John Minock
Joan Morgan
Richard Morgan
Robert Morgan
Paul Muller
Douglas Mullkoff
David Nacht
Mitchell Nelson
Joseph Niskar
Corbett Edge O'Meara
Richard O'Neill
Sharon Payne
Russell Perry
James Piazza
Sanford Plotkin
Walter Pookrum
M. Jon Posner
Jill Price
Eric Proschek

*(see back cover)*

## CJA Panel Members

*(from page 15)*

Stephen Rabaut
Margaret Sind Raben
Karen Roberts
Randall Roberts
Jeffrey Rupp
Jerome Sabbata
Lisa Satawa
Mark Satawa
Henry Scharg
Steven Scharg
Sanford Schulman
Christopher Seikaly
Todd Shanker
John Shea
Lawrence Shulman
Miriam Siefer
Gabi Silver
Glenn Simmington
Leroy Soles
Paul Stablein
Carole Stanyar
David Steingold
Kimberly Stout
William Street
Patricia Streeter
Stacey Studnicki
Philip Sturtz
William Swor
Pamella Szydlak
David Tholen
James Thomas
Nicholas Vendittelli
Francisco Villarruel
Rafael Villarruel
Fred Walker
Thomas Warshaw
James Waske
Natasha Webster
Arthur Weiss
William Winters
Andrew Wise
Edward Wishnow
Barry Wolf

## Annual Dinner Photo *(from page 1)*

*From the Annual Dinner: Lawrence Campbell, Edward Kronk, Judges Julian Abele Cook and Bernard A. Friedman; and William Sankbeil. Campbell, Kronk, and Sankbeil are all Cook-Friedman Award winners.*

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