



FBA newsletter

Winter 2004

Federal Bar Association - Eastern District of Michigan Chapter - 47 years of service to our Federal Bench and Bar

Journalist John C. Sherwood To Discuss "One Family's Flight: The Crosswhite Case"

On November 17, 2004, the Chapter will host its annual Rakow Scholarship Awards Luncheon in conjunction with the Annual Meeting of the Historical Society for the Eastern District of Michigan at the Hotel Pontchartrain.

This year's Historical Society program is entitled: "One Family's Flight: The Crosswhite Case." The clandestine actions of the Underground Railroad rarely came under the eye of the federal courts, but a notable exception occurred in Michigan in the late 1840's. A Kentucky slave owner sued residents of the Village of Marshall in the Federal District Court in Detroit for damages for helping an entire family avoid capture by a posse. John C. Sherwood, a Marshall native now living in Pennsylvania, and a journalist with Gannett newspapers since 1974, will discuss the case.

(see page 2)

Rakow Luncheon To Be Followed By Panel Discussion On The Crosswhite Case

As a follow-up to the Rakow Scholarship Luncheon on November 17th, the Wayne State University Law School will host a panel discussion: "The Crosswhite Case: A Judge's Dilemma Over the Rule of Law" in the Spencer M. Partrich Auditorium, 471 W. Palmer. Judge Patrick J. Duggan will moderate a distinguished panel consisting of District Judge Avern Cohn, Journalist John C. Sherwood,

Constitutional Law Professor Christopher Peters and Railroad Historian Michelle Johnson.

Admission to the Panel Discussion is free, and parking will be available. For additional information, please e-mail Coco Siewert at e.siewert@wayne.edu.

INSIDE THIS ISSUE

News From National	pg.2-3
U.S. Attorney's Begin E-Filing	pg.3-4
Judge Woods Retires	pg.4
DOL Revises White Collar Exemptions	pg.4-6
Dave Weaver	pg.6
New Lawyer's Seminar December 7 & 8	pg.6-7
Chief Judge Friedman	pg.7-9
Award Named After Charlie Rutherford	pg. 9-10
Goldsmith Appointed to Oakland Bench	pg.10



President's Column

Dennis M. Barnes

The Federal Bar Association held its National Meeting and Convention in Cincinnati on October 2 - 5, 2004.

Julia Pidgeon and I represented the Chapter as its delegates, Brian Figot attended as the association's Vice President for the Sixth Circuit, and past presidents Dennis Clark and Alan Harnisch were also in attendance, showing their continued dedication to the FBA. Dennis Clark was elected to the Board of Directors of the Federal Bar Foundation.

At the convention, the National Council attended to the important business of the national association, such as setting national priorities, approving a financial report, adopting a budget and electing national officers for the coming year. Congratulations to Thomas Schuck, who will assume the duties as our national President for the coming year.

I am particularly pleased to report that the FBA recognized the distinguished achievements of the Eastern District of Michigan Chapter in a number of areas. There are over 90 FBA chapters nationwide, and our chapter has been recognized as one of the very best. Specifically, the Chapter was honored to have received three awards:

- the Presidential Excellence Award, in recognition of superior chapter activities in the areas of administration, membership, programming and member outreach;
- the Outstanding Newsletter Award; and
- a Chapter Activity Award Presidential Citation for the Bankruptcy Luncheon Program.

Congratulations to past and current officers, board members, committee chairs, editors, and members for your outstanding work.

One prime example of the benefits of being the local chapter of a national



(see page 2)

President's Column (continued)

organization with the prestige of the national Federal Bar Association was the United States Supreme Court Swearing-In Ceremony held on October 20, 2004. This was the first such ceremony to be conducted in the Eastern District of Michigan. General William K. Suter, Clerk of the Supreme Court of the United States, administered the oath to the newly admitted attorneys, and then offered his insightful and entertaining remarks on the Supreme Court today. General Suter is a member of the FBA, and he has been a steady supporter of the FBA, speaking to many chapters across the country. Immediately after the formal program, the Chapter hosted a reception for General Suter at the Detroit Club. By all accounts, the event was a success. The event co-chairs, Kathleen Nesi and Tom McNeill, did an outstanding job, and deserve our thanks.

The mission of the FBA is "to advance the science of jurisprudence and to promote the welfare, interests, education, and professional growth and development of the members of the Federal legal profession." Of course, this mission is a journey, not a destination. To continue this journey and maintain the vibrancy of our chapter, each of us must continue to build on the good work of the past while staying focused on the future. The Supreme Court Swearing-In Ceremony is a good example of how we can do just that.

Journalist John C. Sherwood (continued)

The Rakow Scholarship Awards Luncheon honors the memory of Edward H. Rakow, who served as Assistant Regional Administrator for the Securities and Exchange Commission in Detroit for 26 years, and who was instrumental in founding our Chapter of the FBA. The luncheon will feature the Rakow Award Scholarships presented each year to an outstanding students from each of the State's six law schools.

A reception will begin at 11:30 a.m., with lunch and the program following. Tickets are \$25 for FBA members and \$30 for non-members. To make reservations or for more information, please contact Program Chair Barbara McQuade at (313)226-9725 or e-mail barbara.mcquade@usdoj.gov.



News From National By Sixth Circuit Representative Brian Figot*

Federally Employed Attorneys: Why National?

Whether your connection to federal law is through private practice or as an employee of the federal government, you will benefit by maintaining membership in the National organization of the Federal Bar Association, as well as the E.D. Mich. Chapter. Moreover, U.S. government employees will benefit from dual membership whether they practice in federal court or in and/or before an agency of the federal government. This has been true historically and it remains true today.

When the Federal Bar Association was formed in 1920, it had a membership requirement which excluded all but those who were employees of the federal government. More particularly, it was established by and for attorneys whose place of employment was Washington, D.C. Its meetings were all held in Washington, D.C.; one had to be stationed in D.C. in order to hold office; and its sole purpose was to represent the interests of government attorneys in D.C. In short, the FBA was a small, very specialized guild.

However, the 1920s provided a watershed in our national development, as the federal government began an exponential growth which would take its expenditures from 2.5 percent of gross national product to 22.5 percent of



General William K. Suter, Clerk of the Supreme Court of the United States, with Chapter Past President Dennis J. Clark, Event Co-Chair Thomas G. McNeill, Chapter President Dennis M. Barnes, Sixth Circuit Representative Brian Figot, and Event Co-Chair Kathleen Nesi.

GNP in just over seventy years. The number of federal attorneys also grew and their offices increasingly came to be located in the hinterlands. For example, in 1942, the Department of Labor had one attorney in Detroit; by 1971, the NLRB by itself had 23 locally employed attorneys. The U.S. Attorney's Office nearly doubled during the same period, as there were 7 AUSAs in 1942 (including Thomas P. Thornton) and 13 in 1971 (while the number of U.S. District Judges increased from 5 to 9 – including Thomas P. Thornton).

As a result, the FBA came to include federal attorneys wherever located. At the midpoint of the growth period, in 1957, the Detroit Chapter of the FBA was formed.

Federal practice has continued to grow, and the FBA has grown with it. Membership is now open to “any person admitted to the practice of law in a Federal court or court of record in any of the several states, commonwealths, territories or possessions of the United States or in the District of Columbia . . .” The only requirement is (a) current or previous government employment “as a legislator, judge, lawyer, or member of a quasi-judicial board or commission”; or (b) a “substantial interest” or participation “in the area of Federal law.”

In recent years, however, membership has come to be composed more of attorneys in federal practice than of federal attorneys. Approximately 10% of FBA members nationally are government employees – and in this District the percentage is even lower. Membership numbers are way up; federal employee membership is down.

The reasons for the decrease have been debated among national and local leadership for several years. Whatever the cause, however, I am convinced that it is NOT a matter of diminished benefits to government employee members. More than ever, the FBA is the first and foremost organization for federally-employed attorneys. The FBA

- Does more for federal employees, as it lobbies Congress on behalf of issues of interest not just to the judiciary, but to federal attorneys generally including:
 - Enhancements to compensation packages, including pay and retirement benefits, to assist in recruitment and retention;
 - Expansion, consistent with applicable conflict of interest laws, of policies encouraging full participation in professional organizations, including approval for use of administrative time;
 - Enhanced federal funding for participation in continuing legal education and training programs, including paid tuition and administrative time; and
 - Establishment of programs for student loan deferral and repayment assistance for all federal attorneys, including federal law clerks, federal defenders and judge advocates of the Armed Forces, in support of recruitment and retention efforts.

See <http://www.fedbar.org/legis.html>

- Provides opportunities to socialize, network and learn with and from your peers, attorneys that you work with and against, and other attorneys who have similar interests, concerns and goals – whether in the public or private sector, and nationally as well as locally;
 - Costs less than organizations that do less. For example, membership in the ABA is more than three times more, per year, than FBA membership;
 - Provides discounted membership rates for public sector employees under the revised FBA dues structure;
 - Has 25 national divisions and sections related to areas of federal practice.

Federal attorneys: It is not a question of WHY; it is a question of WHY NOT. It is time to re-join the Federal Bar Association, or provide yourself a legitimate reason why not.

**Brian Figot is an attorney with Stephen M. Landau, PC.*



U.S. Attorney's Office Begins E-Filing By **L. Michael Wicks***

As a participant in the U.S. District Court's electronic filing pilot program, I was one of the first lawyers to electronically file a brief with the Court. The actual filing, which entailed logging onto the Court's e-filing website and following the numerous prompts provided by the Court's electronic filing software, only took about fifteen minutes. Most filings will take less time, but in this case, each of the eight exhibits attached to the brief had to be individually described and filed as separate attachments. There were three other people in my office providing guidance, including the Systems Manager, since we were treat-

(see page 4)



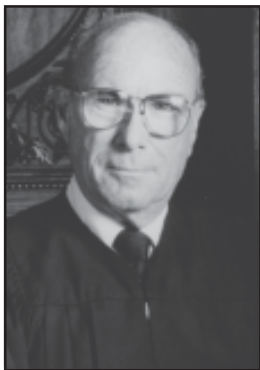
E-Filing (continued)

ing this e-filing event as roughly analogous to Marconi's first wireless radio transmission.

Using the Internet to file electronic documents is a substantial change for someone who is accustomed to manual paper filing. Any anxiety associated with the new filing procedures was allayed by the Court's provision of a "help desk" to assist novice e-filers. And for those of you concerned about losing pleadings in cyberspace, the Court provides an immediate confirmation of each e-filing. I was relieved when I received the Court confirmation in this case.

Litigants should eventually see considerable time savings compared to manual filing. There was no photocopying, envelopes, labels, or trip to the Clerk's Office normally required by paper filing. The Court's staff assigned to electronic filing is dedicated, knowledgeable and quite committed to making the transition to a paperless clerk's office. Although this initial electronic filing was a unique experience, it also seemed to be a logical extension of what lawyers and their staff have been doing for years. We already are used to creating and managing our own pleadings electronically through the use of computer word processing programs. Electronic filing simply continues a legal document's electronic existence with the Court and expands our electronic access to all of the documents filed in a case.

**L. Michael Wicks is Chief of the Civil Division, U.S. Attorney's Office.*



*Judge
George E. Woods*

Judge Woods Retires By Susan J. Evans*

This August marked the end of a distinguished fifty-five year legal career for Judge George E. Woods when he officially retired from the bench. His witty banter and impressive work ethic will be missed by both the bench and the bar.

Judge Woods was appointed as a United States District Judge for the Eastern District of Michigan by President Ronald Reagan on November 16, 1983. Judge Woods took senior status in 1993. Prior to joining the bench as a district judge, he was appointed as a bankruptcy judge for the Eastern District of Michigan. He served from 1981 until his appointment to the district court bench. Judge Woods agreed to accept the appointment to the bankruptcy bench to assist in restoring credibility and structure to the Court after a scandal in the clerk's office impacted the Court's public image.

Judge Woods was called to public service early in his legal career. He served as an Assistant Prosecutor for Oakland County and honed his litigation skills. His experience at the state level led to a successful career as an Assistant United States Attorney for the Eastern District of Michigan.

He began his federal service in 1953 when he was selected as the Chief Assistant United States Attorney. He ultimately was appointed United States Attorney in 1960. In 1961 he stepped down due to a change in the presidency.

Judge Woods then created a successful private practice as a criminal trial attorney. He handled many high profile cases. His expertise as a litigator earned him membership in two prestigious organizations: The International Academy of Trial Lawyers and the American College of Trial Lawyers. He is also a charter member of our FBA Chapter.

Judge Woods' devotion to the pursuit of justice was widely heralded by practitioners in the Eastern District, as well as the other courts for which he sat by designation. In fact, he earned the moniker "White Tornado" when he helped clear the docket in New York a number of years ago. Locally, he was often referred to as the week-end judge due to his penchant for holding trials on Saturdays.

Judge Woods' presence will be missed. Retirement has allowed him to spend more time with his wife and family. It has also provided him with an opportunity to pursue his hobbies more fully. One can only imagine what Judge Woods might accomplish in retirement if he approaches his hobbies with the same zeal that he applied to cases on his docket.

**Susan J. Evans is a former law clerk to the Honorable George E. Woods.*



*Michael A.
Alaimo*

DOL Revises The White Collar Exemptions By Michael A. Alaimo*

On April 23, 2004, the U.S. Department of Labor issued final regulations "Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees." These regulations substantially revised and reorganized the rules governing what are commonly known as the white collar exemptions to the overtime and minimum wage requirements under the Fair Labor Standards Act ("FLSA") found at 29 CFR Part 541. These revised white collar regulations took effect on August 23, 2004. The issuance of these final rules received considerable attention because, among other things, they determine which employees an employer

need not pay overtime to and because the newly published regulations represent the most significant change to the white collar exemption rules in over 50 years.

The white collar exemptions are found under §§13(a)(1) (executive, administrative, professional and outside sales) and 13(a)(17) (computer employees) of the FLSA. However, in enacting §13(a)(1) as part of the FLSA in 1938, Congress did not define such terms as “executive,” “administrative,” “professional,” or “outside sales.” Instead, it specifically authorized the Secretary of Labor to “define[] and delimit[] [such terms] from time to time by regulations ...” Pursuant to this statutory authorization, the Department originally issued implementing regulations in October, 1938. The last substantive changes to the regulations were made in 1954. On March 31, 2003 the Department issued a notice of proposed rule making with regard to Part 541. Over 75,000 comments were received by the Department. After considering these, it issued the final rules in April, 2004. The more significant requirements of the revised white collar rules are set forth below.

Overview. There are still two tests that an employee must meet in order to qualify as exempt: (1) salary test and (2) duties test.

Salary. The minimum salary requirement has been increased to \$455 per week. There is also a highly compensated test for employees who are guaranteed \$100,000 annually and who receive the required \$455 per week. An employee who is paid at least \$455 weekly but less than \$100,000 annually must also meet all of the duties for at least one of the exemptions set forth below. On the other hand, the highly compensated employee, in order to be exempt, need only meet one of the duties for the executive, administrative or professional exemptions.

Executives. Such an employee must have as his/her primary duty, the management of a definable unit within the company (e.g. a department or division); must give work direction to at least two full-time employees (or, four half-time employees); and have the authority to hire/fire or make recommendations concerning hiring/firing or other changes in employee status. Their recommendations must be given particular weight by their superiors.

Administrative Employees. In order to qualify for this exemption, an employee must have as his/her primary duty, office or nonmanual work directly related to the management or general business operations of the employer or the employer’s customers; and must exercise discretion and independent judgment concerning matters of significance. Among the functional areas where such employees are likely to be found are tax, finance, auditing, quality control, personnel management, labor relations, etc.

Professionals. Such an employee must have as his/her primary duty work requiring knowledge of an advanced type in a field of science or learning customarily gained by a prolonged course of specialized intellectual instruction. This means that work performed by such an employee requires

the use of knowledge that is usually acquired in obtaining a college degree. In addition, the work must be predominantly intellectual in nature and must include the exercise of independent judgment and discretion. This exemption also covers the creative professional whose work requires invention, imagination, originality or talent in a recognized field of artistic or creative endeavor (e.g. artists, musicians, actors).

Computer Employees. In order to qualify for this exemption, an employee must have as his/her primary duty the application of systems analysis techniques and procedures to determine hardware, software or system functional specifications; the design, development, analysis, creation, testing or modification of computer systems or programs; or the design, documentation, testing, creation or modification of computer programs related to machine operating systems. (Note: as an alternative to the \$455 weekly salary, this employee may be paid \$27.63 per hour).

Outside Sales. This employee has as his/her primary duty making sales or obtaining orders or contracts for services or the use of facilities while customarily and regularly away from his employer’s place of business. (Note: there is no salary requirement.)

Disciplinary Deductions. Prior to the effective date of the new white collar regulations, employers were permitted to suspend exempt employees for a full week only. The revised rules permit employers to suspend exempt employees in full-day increments. This revision recognizes the numerous additional statutory obligations that have been imposed on employers - e.g., eliminating unlawful discrimination and harassment in the work place - which necessarily require the employer to monitor its workforce and discipline those supervisors who act unlawfully. Thus, for example, employers are now permitted to suspend offending supervisors in full-day increments where the following requirements are met: (1) the suspension is for serious misconduct, not performance, (2) pursuant to a written policy, and (3) pursuant to a work place rule which is generally applicable to all employees.

(see page 6)

Call For McCree Award Nominees

The Wade H. McCree, Jr. Award Luncheon will be held in February 2005. The Chapter Social Justice Committee is soliciting names of potential recipients of the Wade H. McCree, Jr. Award for the Advancement of Social Justice. Please submit all names to Karen Gibbs (313) 226-9705 or Miriam Siefer (313) 961-4150, no later than **January 1, 2005**.

Exemptions (continued)

Safe Harbor. To encourage employers to identify and correct improper deductions, the revised regulations include a safe harbor provision under which improper deductions will not result in the loss of the exemption for any employees subject to the improper deductions where the employer (1) has a clearly communicated policy that prohibits improper pay deductions, (2) has a complaint mechanism by which employees can notify the employer of the failure to receive their salary, (3) reimburses employees for any improper deductions, and (4) makes a good faith commitment to comply in the future.

The Department of Labor has promised to vigorously enforce the new regulations. The 30% increase in back wages collected by the Department over the last three years over the preceding year strongly suggests that the Department is serious about ensuring compliance. Moreover, these increased back wage recoveries have been obtained while doing fewer investigations. The clear import is that Wage & Hour investigators have been doing "wall-to-wall" audits of an employer's workforce regardless of the reason for their visit and are likely to continue to do so in the future. Thus, there is even greater reason for employers to review the duties being performed by exempt employees as well as pay practices and policies to ensure that they are in compliance with the newly revised white collar regulations.

**Michael A. Alaimo is an attorney with Miller, Canfield, Paddock & Stone, PLC.*



From Court Administrator Dave Weaver

2006 Sixth Circuit Judicial Conference

In giving his first "State of the Court" speech at the September 23, 2004 FBA Luncheon, one of the many topics Chief Judge Friedman discussed was the possibility that Detroit would be chosen as the site for the 2006 Sixth Circuit Judicial Conference. I am pleased to announce that the choice has now been made by Sixth Circuit Chief Judge Danny Boggs, and Detroit will be the site for the Conference.

The Conference will take place May 17-20, 2006 at the Detroit Marriott. One important reason Detroit was selected is the strong relationship between the Court, the Federal Bar Association and the Bar in general. Chief Judge Friedman will be calling on the Bar to participate in planning and conducting the conference.

If you and/or your firm are interested in taking a direct role in preparing for this important conference, please contact me at mie_fba@mied.uscourts.gov.

Historical Display

Chief Judge Friedman recently met with the representatives of the Court Historical Society regarding a new exhibit being planned for the Society's museum on the 1st floor of the Theodore Levin United States Courthouse.

Chief Judge Friedman has proposed that a Court Artifacts Exhibit be prepared that will display unique items from our Court's long history. The Court is actively identifying and collecting items for the display.

Several of you have practiced for many years in the Eastern District and have established long-standing professional relationships with members of the Bench. If you have something that you think might be of interest for this new display and would be interested in donating or loaning it to the Court, please send me an e-mail at mie_fba@mied.uscourts.gov with a description and approximate size of the item or items. Appropriate recognition will be given to anyone who donates or loans an item for display in the exhibit.

Electronic Filing

The Court's official CM/ECF Web site can be accessed at www.mied.uscourts.gov. The site allows attorneys to register for electronic filing and access an on-line CM/ECF tutorial. ECF Policies and Procedures, a full User's Manual and frequently asked questions are also posted. The site contains information on how to contact the CM/ECF help desk as well.

Almost 1,000 attorneys are now registered users in CM/ECF. However, only about half of those registered users are actively filing electronically. If you are registered please don't wait! We want and need you to e-file! If you have questions or need training information please visit the Court's web site noted above for additional resources.

Remember, if you have any questions or comments, please send them to me at mie_fba@mied.uscourts.gov.

FBA To Sponsor New Lawyer's Seminar December 7 and 8

The nationally acclaimed (and copied) annual New Lawyer's Seminar will be held on Tuesday and Wednesday, December 7 and 8, 2004, at the Hotel Pontchartrain in downtown Detroit.

The Seminar, now in its 28th year, utilizes a "nuts and bolts" how-to-do-it approach which is designed to assist recent graduates in understanding certain areas of substantive practice and the fundamental procedures followed in the United States District Court for the Eastern District of Michigan and in the State courts in Wayne, Oakland and Macomb counties, featuring a faculty that is made of judges, court personnel and practicing attorneys who are well qualified to present their respective subjects.

The first day of the Seminar, December 7, is "Federal Day," with intensive focus upon the practicalities of federal practice, followed by a swearing-in ceremony which will be coordinated by the Clerk's Office of the Eastern District of Michigan. (Separate registration with, and payment to, the Clerk's Office is required for the swearing-in. For information regarding the swearing-in ceremony click on:

http://www.mied.uscourts.gov/_whatsnew/2004_mass_swearingin_notice.pdf

The second day, December 8, is "State Day" and leads the uninitiated through the vagaries of the tri-county court systems, with a luncheon at the Hotel Pontchartrain, usually addressed by the Chief Judge of the Wayne County Circuit Court.

Additionally, for each subject covered, there is an accompanying outline and/or substantive article, conveniently formatted for word searching on a CD-Rom.

Over the years, this Seminar has been copied, first nationally by other FBA Chapters and more recently by local bar associations and law firms. However, it remains unparalleled both in content and in pricing. The two-day Seminar, reception, luncheon and Seminar materials are all provided for only \$65.00 to FBA members; \$95.00 to non-members. A special price of \$140.00 includes the seminar plus one year of membership in both the Federal Bar Association and the E.D. Mich. Chapter.

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

Reservation checks should be made payable to the Federal Bar Association, and mailed to New Lawyers' Seminar, Box 310610, Detroit MI 48231-0610.

On-line registration with secure payment by credit card is available at www.fbamich.org.

If you have any questions, email the FBA at fbamich@fbamich.org or call Brian Figot at (248) 593-5928.



*Chief Judge
Bernard A. Friedman*

Chief Judge Bernard A. Friedman

**By Jennifer Lossia
McManus***

If you don't know Chief Judge Bernard Friedman from visits to his courtroom, you may have seen him running on his weekly downtown run, conducting an immigration ceremony at a local school, or picking up a sandwich during lunch. Chief Judge Friedman serves the community in many ways. Although he did not like school as a child and young adult, today he enjoys his role as a teacher and mentor to many.

While a student at Mumford High School in Detroit, Judge Friedman and his friend started a bagel route. He went to Eastern Market, lined up a supplier of wholesale

lox and smoked fish, made similar arrangements with a Detroit bagel factory, and negotiated a discount on dairy products from a local grocer. He and his friend sold bagels to residents in Palmer Woods, Sherwood Forest, and Green Acres. Most of their customers had standing orders, and once a week Judge Friedman and his friend would drop off bagels, and pick up the following week's order forms. Business lasted until graduation, when Judge Friedman

was forced to go to college.

At first he did not want to go to school at all. However, his father insisted that he not only get a college degree, but that he also pursue an advanced degree. He grudgingly went to Highland Park Junior College, and then to the Detroit Institute of Technology while working full time at a hospital. Judge Friedman studied business administration, but when asked about his classes, jokingly admits that he "only took the easy ones."

While at the Detroit Institute of Technology, one afternoon he wandered into the Detroit College of Law on a whim. He saw that the application to the law school consisted of only a 5x7 note card, and asked the receptionist if he could apply. He explained that he had not finished col-



Accepting one of several awards bestowed upon the Chapter at the FBA's national conference are Chapter President Dennis M. Barnes, Immediate Past President Dennis Clark, Past President and Sixth Circuit Representative Brian Figot and President-Elect Julia Caroff Pidgeon.

Judge Friedman (continued)

lege, and had not taken the LSAT. The receptionist told him that he could still apply, so long as he took the LSAT in the near future, and did well on it. He applied to law school, and was accepted.

Judge Friedman loved law school. He stopped working at the hospital so that he could devote all of his energy to studying. He never finished college, never took the LSAT, but graduated near the top of his class, and was awarded the Detroit College of Law Alumni Scholarship for excellence in the study of law. He explains that law school was the first time in his life he was ever really interested in school. Today he encourages young students to work hard, and enjoys teaching them about the law. He regularly has elementary students in his court room, allowing them to hold mock trials, sit in the jury box, the witness stand, and even his bench.

Judge Friedman met his wife, Rozie, while he was in law school. Rozie is the cousin of one of Judge Friedman's former study group partners. Rozie, originally from West Virginia, and Judge Friedman were both at her cousin's wedding in New York when they met. Rozie was still in high school, and was just getting ready to go to college. They dated off and on for a couple of years, until getting married in 1970. They have two children and three grandchildren. Pictures of Rozie, their children and grandchildren cover the walls of Judge Friedman's chambers.

Judge Friedman was a member of the army reserves while he was in law school. In 1968, just weeks before he was scheduled to take his finals, he received papers to go into active duty. The Detroit College of Law allowed him to take his finals early, and then took him immediately from his exam room to a bus that transported him directly to where he was to report for active duty. He took the bar exam after returning from his tour.

Judge Friedman's legal career began as an assistant prosecuting attorney for the Wayne County Prosecutor's Office. He worked there for three-and-a-half years, and was in the homicide division before starting his own practice. Judge Friedman met former Judge Dalton Roberson and Bob Harrison at the prosecutor's office, and the three

of them started a general practice firm. Their firm eventually merged with another Detroit area firm.

In 1982, Governor Milliken appointed Judge Friedman to the 48th District Court. He ran for re-election and won. In 1988 President Reagan appointed Judge Friedman to the U.S. District Court. Judge Friedman did not bring his parents or children to his confirmation hearing, because he thought that the Senate was going to discuss a controversial case from his private practice. However, with Rozie by his side, Judge Friedman had a great experience at his confirmation hearing, and no problems arose.

Senator Levin gave a glowing statement to the Senate on behalf of Judge Friedman, stating "one of the things that he specializes in is making the law come alive for people." Senator Levin noted Judge Friedman's numerous contributions to the community as a state court judge. While in the 48th District Court for seven years Judge Friedman wrote a weekly column in the Oakland Press entitled "It's Your Court." The column answered letters from readers regarding a variety of legal issues. He also filled in on a radio program on WXYT entitled "You be the Judge," in which people called in to give sentencing suggestions for various issues.

Judge Friedman was also the first judge in the state to take actual court cases to local schools. Drunk driving cases were among the many jury trials he would conduct in local high schools. He continues that practice today, and often holds his motion call at local law schools. He also held hands-on seminars on small claims court at local libraries to help familiarize people with a simpler legal system that does not require attorneys, appeals, or a jury. Judge Friedman created a videotape on search and seizure for students to help stimulate discussion of the Fourth Amendment of the Constitution.

Today, Judge Friedman continues to enjoy his role as a teacher. As a federal judge he began a program to take immigration ceremonies to local schools. He has conducted immigration ceremonies at countless schools, often followed with a small reception for the new citizens and their families.

Judge Friedman also joined a coalition between Michigan's different ethnic communities, including the Arab, Asian, Chaldean and Jewish communities, to promote immigration, and has conducted immigration ceremonies at their respective cultural centers. He coordinates annual trips to Milan Correctional Facility for community leaders and court staff and interns, and regularly has a library full of interns from local law schools and colleges.

Judge Friedman became Chief Judge of the court earlier this year. One of his primary initiatives is to develop a civility ombudsman office for the federal court. He hopes that the creation of this position will help to elevate the professional courtesy exchanged between lawyers, judges, and the public. He has received a lot of input from other judges and the federal bar, and plans to have an ombuds-

The TALENTTEAM

Not just people, driven individuals who are talented, experienced and knowledgeable.

Our Talent Team includes over 33,000 legal professionals.

We provide Lawyers, Legal Assistants and Legal Secretaries to fill Contract, Contract-to-Direct Hire and Direct Hire positions.

Contact Contract Counsel and let The Talent Team go to work for you.



Contract Counsel
**CONTRACT
COUNSEL**

877.K.COUNSEL

www.contractcounsel.com

The Resource for Legal Human Capital

man appointed soon. Judge Friedman will also have a conference with state court judges in the near future to coordinate a similar program with the state courts.

In his free time, Judge Friedman goes on regular runs, works in his wood shop, goes “antiquing” and babysits his grandchildren whenever he’s asked.

**Jennifer Lossia McManus is a former law clerk to Judge Friedman and is an attorney with Miller, Canfield, Paddock & Stone, PLC.*



*Charles R.
Rutherford*

New State Bar Award Named After Charlie Rutherford

By Adam B. Strauss*

The Senior Law Section of the State Bar of Michigan has awarded the first “Senior Lawyers Award” to Charles R. Rutherford, a past president of our Chapter. The award has also been named the “Charles R. Rutherford Senior Lawyers Leadership Award” and will be conferred periodically on a worthy recipient. The intent is to provide this award to those Section members who have demonstrated qualities of leadership within the legal profession, highlighted by an extensive devotion of time, service and tireless effort in leadership positions within the State Bar of Michigan or other elements of the organized Bar.

Charlie was born in Toledo, Ohio. In 1946, he graduated from Toledo Waite High School (named after former U.S. Supreme Court Chief Justice Morrison R. Waite). During high school, he played baseball, basketball and ran cross-country. He was also a bat boy for the Toledo Mud Hens. After high school, he enlisted in the United States Army and was stationed with the 63rd Inf. Reg. in Kunsan, Korea where he served with an infantry unit after World War II. Following an honorable discharge in January, 1948, he enrolled in The Bill McGowan School for Baseball Umpires in Florida. He umpired professional baseball in the Ohio-Indiana League for two seasons in 1949 and 1950.

In September 1948, he enrolled in the University of Detroit, College of Engineering. When the Korean War started in 1950, he joined the U.S. Air Force R.O.T.C. program. In 1953 he graduated from the engineering school with a B.C.E. degree, was commissioned as a Second Lieutenant in the United States Air Force, and began a career as an engineer with Houdaille Hershey Corporation in Highland Park. That same year, he was also interested in furthering his education, so he enrolled in law school at the University of Detroit, and received his J.D. Degree in 1957. Not satisfied with simply taking the Michigan bar exam in 1957, he also successfully passed his professional engineering exam, and the patent bar exam that same year.

Following law school, Charlie was employed as a patent attorney at Vickers, Inc. until 1959. From there, he entered private practice with the patent law firm of Whitmore, Hulbert, & Belknap until 1975. He then joined the intellectual property firm of Cullen, Sloman & Cantor, which eventually became Cullen, Sloman, Cantor, Grauer, Scott & Rutherford. In 1988, that firm merged with Dykema Gossett. He is currently a member of Dykema Gossett’s Intellectual Property Practice Group.

In addition to his career in private practice, he also continued with his military service in the United States Air Force Reserve. After he passed the bar, he transferred to the Judge Advocate General Department Reserve, where he was a JAG officer. He retired in 1984 with the rank of colonel. His last duty assignment was with the 379th Combat support Group, Wright Patterson Air Force Base, Dayton, Ohio.

He has also been active in many bar associations. He was introduced to the FBA in the early 1960s, when Ed Rakow and Wally Riley asked him to join. Back then, the Chapter had monthly luncheon meetings and programs at the Sheridan Cadillac Hotel, and had a membership of approximately 100 members. He served as Chapter president from 1970-1971.

Charlie is also a past president of the Federal Bar Foundation of Detroit, and currently serves on the Foundation’s Board of Trustees and is Secretary of the Board. He is also past president of the Detroit Metropolitan Bar Association and the Detroit Bar Foundation. He has also served in the House of Delegates of the American Bar Association and on the Board of Commissioners of the State Bar of Michigan. He served for many years on the Board of Trustees, Michigan State Bar Foundation where he served as President for six years. He is currently serving as Secretary of

(see page 10)

Calendar of Events

**Go to Chapter website
[www.fbamich.org/Events & Activities](http://www.fbamich.org/Events%20&%20Activities)**

November 17

Rakow Scholarship Awards Luncheon & Historical Society Annual Meeting

Speaker: John C. Sherwood

“One Family’s Flight: The Crosswhite Case”

Hotel Pontchartrain

11:30 a.m.

Contact: Barbara McQuade, at 313-226-9725
or register on-line at www.fbamich.org

December 7-8

New Lawyers Seminar

Hotel Pontchartrain

8:15 a.m.

Contact: Brian Figot, at 248-593-5928
or register on-line at www.fbamich.org

Charlie Rutherford (continued)

the Fellows of the Michigan State Bar Foundation.

He holds or has held positions as an officer or board member of the Legal Aid and Defenders Association, Metropolitan Youth Symphony, Michigan Supreme Court Historical Society, Detroit Rotary Club, Detroit Rotary Foundation, the Grosse Pointe Symphony Association, The Incorporated Society of Irish/American Lawyers and Loyola High School. He is also a life member of the NAACP and a Paul Harris Fellow of Rotary International.

He has received several awards, including the Alumnus of the Year Award from the University of Detroit Mercy School of Law, the Monsignor Charles J. Malloy Award of the Catholic Lawyers Society and the Tower Award from the University of Detroit Mercy Alumni Association. He is an honorary member of the Frank Murphy Honor Society, University of Detroit Mercy School of Law and was inducted into the Distinguished Waite Alumni Organization by the Toledo Waite High School Alumni Association.

Charlie Rutherford is a resident of Grosse Pointe Park. He and his wife Pat have been married for almost forty years, and have two sons – Charles, an attorney, and John, a professional musician.

I have had the pleasure of working with and learning from Charlie Rutherford since joining Dykema Gossett four years ago. Initially, I was surprised by the number of times that judges and attorneys would ask me to send Charlie their regards. After I got to know him, however, I easily understood why. In days when law firms seem at times to be too corporate, he reminds us all that we are in a profession – not just a business.

Charlie Rutherford's distinguished service to our Chapter, as well as his leadership and involvement in numerous other legal and professional associations, not only make him an obvious choice to be the Senior Lawyers Award's first recipient, but also set a high standard for future recipients to meet.

**Adam B. Strauss is an attorney with Dykema Gossett, PLLC.*



Judge Mark A. Goldsmith

Chapter Officer Mark Goldsmith Appointed To Oakland Circuit Bench

On March 19th, Chapter Officer Mark A. Goldsmith was sworn in as a Judge of the Oakland County Circuit Court. Governor Jennifer Granholm appointed Judge Goldsmith to fill the seat formerly held by Judge

Patrick J. Brennan, who died on February 9th.

Judge Goldsmith began his legal career with Paul, Weiss, Rifkind, Wharton & Garrison in New York City. A few years later, he moved to Michigan where he built a solo practice, specializing in civil litigation and handling some criminal work. In 1997, he joined Honigman, Miller, Schwartz & Cohn LLP in Detroit, where he specialized in commercial litigation.

The Chapter has been privileged to benefit from Judge Goldsmith's service and dedication. His significant contributions include having served as Program Chair and Pro Bono Chair, and his current service as Secretary.

In addition to his involvement with the Chapter, Judge Goldsmith has also served as a Hearing Panelist for the Attorney Discipline Board, and as special counsel to the State Bar Committee on the Unauthorized Practice of Law. He is a former president of Congregation Beth Shalom and the regional advisory board member for the Anti-Defamation League.

He is a Detroit native who was a member of the first graduating class at Hillel Day School of Metropolitan Detroit. He continued his education at Cass Technical High School and the University of Michigan, where he graduated with honors in Economics. He graduated *cum laude* from Harvard University Law School in 1977.

Judge Goldsmith's investiture ceremony included many current and retired judges from the state and federal courts, as well as attorneys, co-workers, family members and friends. Our congratulations to Judge Goldsmith on his continued success!

State Of The Court Luncheon

This year's State of the Court luncheon was held on September 23, 2004, at the Hotel Ponchartrain. The program began with opening remarks and announcements from Chapter President Dennis Barnes. On behalf of the Court, Judges Victoria A. Roberts and Arthur J. Tarnow then honored the following attorneys

*For 20 Years Experience & Personal Service
Contact/Request Kelley Whitaker, CSR-0977*

HANSON RENAISSANCE *Court Reporters & Video*

400 Renaissance Center, Suite 2160
Detroit, MI 48243-1608

Phone: (313) 567-8100
Toll-Free: 1-888-800-0876
Fax: (313) 567-4362

email: info@hansonreporting.com or kelley@l-is.com

who have provided *pro bono* service to the court over the past year:

Ronald G. Acho
Carolyn A. Almassian
Marybeth Targett Collon
Margaret A. Costello
Thomas W. Cranmer
Jennifer G. Damico
Michael L. Donaldson
Erica M. Eisinger
Mary J. Fair-Matthews
George S. Fish
Erica L. Fitzgerald
Gordon S. Gold
William H. Horton
Matthew M. Jakubowski
Matthew T. Jane
Christopher L. Kerr
Sheldon H. Klein
Susan M. Kornfield
Kenneth F. Laritz
Seth M. Lloyd
Zachary B. Mack
Daniel E. Manville
Matthew R. Millikin
Jennifer L. Neumann
Robert M. Raitt
Paul E. Scheidemantel
Mark A. Schreier
William C. Silvis
Abraham Singer
Patricia A. Streeter
Matthew F. Taylor
Sheldon S. Toll
Linda Turek
Carl H. Von Ende
Thomas R. Warnicke
Stephen F. Wasinger
Serah E. Wiedenhofer
Alan S. Wittenberg

Following recognition of the *pro bono* honorees, Judge Robert H. Cleland reported on the progress of the court's CM/ECF initiative. He encouraged the bar to actively participate in CM/ECF by registering, receiving training, and using the system.

Chief Judge Bernard Friedman delivered the state of the court address, focusing on his plans for the future of the court. A primary initiative for his tenure is a civility ombudsman office for the court. Chief Judge Friedman expressed his hope that the office will raise the level of civility among members of the bar. The complete text of the state of the court message is available online at the Chapter's website, www.fbamich.org.

In addition to all of the information and inspiration described above, the luncheon attendees were treated to a good dose of humor from the bench.



Judge Victoria A. Roberts congratulates a pro bono award recipient



Chief Judge Bernard A. Friedman



Judge Arthur J. Tarnow

Newsletter Committee:

Elisa M. Angeli, Co-Editor in Chief
Miller, Canfield, Paddock and Stone PLC
(313) 496-7635

Michael J. Riordan, Co-Editor in Chief
Assistant United States Attorney
(313) 226-9602

Christine M. Dowhan-Bailey
U.S. Army Corps of Engineers
(313) 226-6822

Kimberly G. Altman
Law Clerk to U.S. District Judge Avern Cohn
(313) 234-5160

Dennis J. Clark
Plunkett & Cooney PC
(313) 983-4768

Christine Farinola
Law Clerk to U.S. Magistrate Judge
Paul J. Komives
(313) 234-5200

Thomas M. Schehr
Dykema Gossett PLLC
(313) 568-6659

Leo Gibson
Foley & Lardner LLP
(313) 963-6200

John Mayer
Pepper Hamilton LLP
(313) 393-7475

Executive Director:

Brian D. Figot
Stephen M. Landau PC
(248) 358-0870
fbamich@fbamich.org



Federal Bar Association
Eastern District of Michigan Chapter
P.O. Box 310610
Detroit, MI 48231-0610

RETURN SERVICE REQUESTED

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

