



FBA newsletter

Summer 2002

Federal Bar Association - Eastern District of Michigan Chapter - 40 years of service to our Federal Bench and Bar



Congressman
Mike Rogers

A Summary of the USA Patriot Act

By The Honorable
Mike Rogers
of Michigan
U.S. House of
Representatives*

On October 26, 2001,
with a stroke of his pen,
President George W. Bush
approved sweeping legis-

lation that bolsters the ability of federal authorities to conduct criminal and intelligence investigations, to bar and expel suspected foreign terrorists from our nation, to disrupt the global financing network for terrorists, and to punish acts of terrorism.

This legislation, commonly known as the USA Patriot Act (P.L. 107-56), was the product of swift congressional action coupled with bipartisan compromise. As a former Special Agent for the Federal Bureau of Investigation, I was fortunate to tap my expertise and field experience in helping Attorney General John Ashcroft educate many of my congressional colleagues on the practical application of the Act's key law enforcement provisions.

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Gilman Luncheon

Anthony Chambers will be honored as the recipient of this year's Leonard R. Gilman award at the annual Gilman Luncheon on April 18, 2002, at the Crowne Plaza

Pontchartrain Hotel. The Gilman award is given each year in memory of Leonard Gilman, former United States Attorney for the Eastern

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President's Column

Brian D. Figot, President

The State of the Chapter 2002, Part IV: The Importance of Participation

This is my fourth and final opportunity to utilize this column as a "bully pulpit" to address why attorneys who appear in federal court should be members of the Federal Bar Association, and why members of the FBA should be active contributors to the Association. It also is the best opportunity I will have to express my sincere appreciation to those who are already active contributors, without whom the FBA could not function as an important foundation of professionalism, service and social responsibility in the legal community and in the larger context of society.

The guiding organizational principle and *raison d'être* is succinctly expressed in the three basic tenets set forth in our Mission Statement:

1. PROFESSIONALISM. Promote professionalism, education, civility and ethics within the federal bench and bar.
2. SERVICE. Provide service to the federal bench and bar.
3. SOCIAL RESPONSIBILITY. Advance social responsibility in the administration of justice at the federal court and through our contacts with the community.

At first glance, the Mission appears to be a matter of giving: **promoting** positive goals, **providing** service, and **advancing** social responsibility. Over the course of my nearly twenty years of membership, however, I have found the exact opposite to be true. I can say without hesitation that the benefits of membership have far exceeded anything I have given, and the rewards of involvement have greatly surpassed the sum total of time and effort I have put in. I have received considerably more than I have given, learned more than I have taught, and, in the process, formed lifelong friendships with some of the finest human beings on the face of the earth.

The key to the success of this organization is the synergistic effect which results from the participation of our members. We participate to whatever extent we can and at whatever level we feel comfortable. That participation, added to the participation of others, in the end results in our receiving far more than we give, as our practice of law becomes more fulfilling, our professional lives are more satisfying, and we find ourselves living in a much better society. Like townsfolk engaged in an old fashioned barn raising, we are all volunteers, together accomplishing

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President's (continued)

something that none of us could do alone. It is unrealistic, particularly in a volunteer organization such as this one, to expect outright "dedication to the cause" from our members. We must all, however, provide *some* degree of participation, or the enterprise will fail, and we will all receive nothing.

I renew, therefore, my call for participation. With exponentially multiplying claims upon our time, and ever-increasing responsibilities to discharge in our personal and professional lives, "commitment" to an organization may be too much to ask. Involvement, however, is not.* There are many choices (feel free to take more than one): Join a committee. Help others to put on a seminar. Encourage one of your suppliers to put an ad in the newsletter, or send in a short article about your practice. Sign up for the new website's practice directory. Bring someone to an event. Reach out to a law student. Sign up a new member. Renew your local membership by adding sustaining dues or a special contribution to the check. Do what you can, but do something.

Thanks to the participation of many, this has been an exciting year to be president of this Chapter. We have a new executive director, John Mayer, making major contributions to the growth and success of the Chapter; a new communications system the cornerstone of which is a new website that is about to become even better thanks to the efforts of John Mayer and Denny Barnes, and the generosity of the Judges of the Eastern District of Michigan. We have a revamped newsletter, thanks to the efforts of co-editors Elisa Angeli, Mike Riordan, and business manager Ann Marie Uetz. Our email system is about to go on-line, thanks to the special efforts of Barbara Buchanan and Lynn Brimer.

There have been numerous beneficial, well-attended programs, with particular thanks to the efforts of Grant Gilezan, Barb Radke, Claretta Evans, David Lerner, Julia Blakeslee, Dona Tracey, Steve Budaj, Mark Goldsmith, Laurie Michelson, and Kris and Kristin Dighe. Thanks to the efforts of Julia Caroff Pidgeon and Grant Gilezan, we are well on the way to a fifth successful Bench-Bar Conference. Also, a special note of thanks to Dan LaCombe and Gary Faria for their work on a revised Federal Practice Manual. Though it wasn't published, it formed the basis for much of the judicial practices information on the Eastern District of Michigan website (<http://www.mied.uscourts.gov>). The Federal Bar Foundation is in good shape, despite difficult economic times, thanks to the wise leadership of Dennis Clark and past presidents Geneva Halliday, Ed Kronk, Robert Forrest and Charlie Rutherford.

Finally, I also want to express my particular gratitude to your next president, Christine Dowhan-Bailey, as well as all the other hard working, supportive Officers, your immediate past president Tom Porter and your not-so-immediate past presidents Geneva Halliday and Mike Leibson, for their unstinting assistance, encouragement and sagacious advice.

I look forward to watching this Chapter continue to grow from the vantage point of immediate past president and (hopefully) as one of your national Sixth Circuit Vice Presidents (ballots are being mailed on or about June 17, he said shamelessly). Thank you to all for your particular level of participation, and to both of you who read my columns.

** An unknown author, quoted by former FBA president Adrienne Berry, wrote: "The difference between 'involvement' and 'commitment' is like an eggs-and-ham breakfast. The chicken was 'involved'; the pig was 'committed'."*

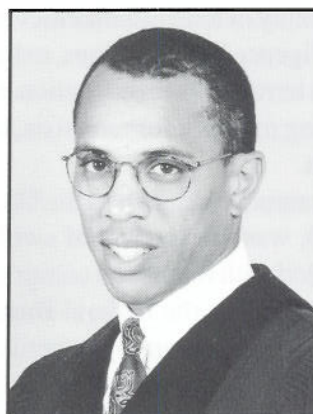
Gilman (continued)

District of Michigan, to a person who emulates Len's commitment to excellence, professionalism and public service in the criminal justice system. Past winners of the Gilman award include Joel Shere, David DuMouchel, Paul Borman, Robert Morgan, Maura Corrigan, Neil Fink, Timothy Kenny, Alan Gershel, Blondell Morey, Miriam Siefer, Thomas Cranmer, Michael Leibson, Ross Parker, Harold Gurewitz, Nancy Diehl, and the Federal Defender's Office.



Anthony T. Chambers

Mr. Chambers served as a Deputy Defender



Jeffrey G. Collins

in the Federal Defender's Office from 1986 to 1991. Following that, he entered private practice as a criminal defense attorney, establishing Anthony T. Chambers, P.C. He serves as the panel attorney representative for the Criminal Justice Attorneys for the

Eastern District of Michigan. Mr. Chambers received his undergraduate degree from the University of Michigan in 1982, and his law degree from the University of Cincinnati Law School in 1985.

United States Attorney Jeffrey G. Collins will be the keynote speaker at the luncheon. Mr. Collins was appointed the United States Attorney for the Eastern District of Michigan by President George W. Bush, and is only the second African-American to serve in the position. He has served on the Michigan Court of Appeals and the old Detroit Records Court. Prior to that, he practiced law with Bell & Hudson, P.C.

The luncheon begins with a reception at 11:30, with lunch following at noon. For tickets, contact Grant Gilezan at (313) 568-6789 or ggilezan@dykema.com.

Patriot Act (continued)

As is the case with most major legislation, the courts, law enforcement, attorneys, and academicians are already attempting to interpret and provide their own context to the Act's statutory language. As an active participant during the congressional debate, what follows is a brief, but straightforward, description of four major areas addressed within the context of the USA Patriot Act: wiretapping, monitoring inmate-attorney conversations, immigration law, and money laundering. This is followed by a short explanation of other miscellaneous, but important, provisions. I would also like to thank and acknowledge the work of the Congressional Research Service for their assistance in preparing the following information on the USA Patriot Act.

Wiretapping

The Supreme Court is clear that the Fourth Amendment's safeguards against government searches and seizures apply only where a justifiable expectation of privacy exists. In the area of communications privacy, Congress has approved numerous laws that implement and supplement Fourth Amendment protection. Unfortunately, the laws on the books before October 26, 2001, were written in the 1970's, well before the Internet, e-mail, or even telephone voicemail. The USA Patriot Act seeks to bring law enforcement's intelligence and crime fighting tools in line with 21st century technology.

In the context of criminal investigations, during my service in the FBI, I operated under the three-tiered system established by Congress decades ago. Under such a system, private conversations are afforded the highest degree of protection, 18 U.S.C. 2510-2522 ("Title III"). Here investigators can secretly intercept communications only when operating under a tightly confined order. The second tier involves telephone records and computer communications such as e-mail, 18 U.S.C. 2701-2709; and, the final level covers the identification of parties to a private con-

versation, 18 U.S.C. 3121-3127 ("pen registers" and "trap and trace devices").

The USA Patriot Act makes a number of alterations to the three-tiered system under which we all operated prior to October 26, 2001. It must be noted that due to the legislation's sunset provision, these alterations will only apply to criminal investigations of misconduct occurring before January 1, 2006.

The USA Patriot Act permits the use of the pen register/trap and trace procedure to determine the sender and addresses of computer communications, with a reporting requirement to ensure that the contents of an e-mail are not captured as part of the pen register/trap and trace. The standard for accessing voicemail is also relaxed as the legislation allows investigators the use of the communications/telephone records procedure to secretly gain access to voice mail. Prior law required the use of Title III's more restrictive procedures.

The list of federal crimes that will support a Title III order have also been expanded under the USA Patriot Act. The crimes of computer abuse, materially supporting terrorists and terrorist organizations, using weapons of mass destruction, and committing terrorism against Americans overseas are added to the list of crimes for the investigation of which a Title III order may be available.

Law enforcement officials also will have greater flexibility in obtaining orders as the legislation permits federal judges in districts where the crime under investigation occurred to issue pen register/trap and trace orders regardless of where the telephone or e-mail servers are located. Prior law ordinarily required issuance where the information was located. Similarly, federal judges in the district where the crime under investigation occurred have the ability to issue warrants for the content of stored e-mail and voicemail regardless of where the storage facilities are located.

Additional USA Patriot Act provisions relative to wiretapping include: permitting interception of a hacker's communications with the invaded computer system; expanding the information available under the computer communications/telephone records procedure to include credit card numbers and network addresses; and, creating a claim against the federal government for violations of these sections, including the possibility of administrative discipline for offending officers.

Monitoring Inmate-Attorney Conversations

Neither the Fourth Amendment nor Title III bar pre-announced monitoring of inmate telephone calls other than

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Patriot Act (continued)

those to their attorneys. The authority to monitor attorney-client conversations is less clear. Pretrial detainees have a Sixth Amendment right to the assistance of counsel in their defense. They and convicted inmates enjoy a Fifth Amendment due process right to meaningful access to the courts. Although neither right protects conspiratorial communications, it is a close question whether they permit the government to bar attorney-client communications in the absence of even a confidential government participant.

Within a week after President Bush signed the Patriot Act into law, the Department of Justice's Bureau of Prisons instituted an interim rule authorizing the monitoring of attorney-client communications when the Attorney General determines that reasonable suspicion exists to believe that such communications might facilitate acts of violence or terrorism. The interim rule adds a new provision to 28 CFR §501.3 authorizing the monitoring or review of communications between an inmate and his or her attorneys in "any case where the Attorney General orders, based on information from the head of a federal law enforcement or intelligence agency that reasonable suspicion exists to believe that a particular inmate may use communications with attorneys or their agents to further or facilitate acts of terrorism."

The interim rule establishes that absent prior court authorization, the Director of the Bureau of Prisons is required to provide written notice to the inmate and attorneys involved prior to the initiation of any monitoring or review. Also, the interim rule provides that the BOP Director, with approval of the Assistant Attorney General for the Criminal Division, "shall employ procedures to ensure that all attorney-client communications are reviewed for privilege claims" and that any privileged material not be retained during the course of monitoring.

To protect the attorney-client privilege and ensure the investigation is not compromised by exposure to privileged material relating to the investigation or defense strategy, the interim rule provides for the designation of a "privilege team" comprised of individuals not involved in the underlying investigation to monitor communications. Lastly, the interim rule provides that the privilege team may not disclose any information obtained during monitoring "unless and until" the disclosure has been approved by a federal judge, except in instances where the head of the team determines that the information obtained indicates that an act of violence or terrorism is imminent.

Immigration

Terrorism was already grounds for exclusion or removal of a foreign national from the United States; but, the recently enacted USA Patriot Act somewhat broadened those grounds while adding express statutory authority relative to detaining aliens who are certified by the Attorney General as security threats.

The primary immigration statute, the Immigration and Nationality Act of 1952 (INA), as amended, had already barred the admission of any alien who has engaged in or incited terrorist activity, is reasonably believed to be carrying out a terrorist activity, or is a representative or member of a designated foreign terrorist organization. The USA Patriot Act added representatives of groups that endorse terrorism, prominent individuals who endorse terrorism, and spouses and children of aliens who are deportable on terrorism grounds. Separately, the INA contains grounds for inadmissibility based on criminal activities or foreign policy concerns.

The terrorist grounds for deporting an alien already in the United States have not included, and still do not include, representation or membership, but, rather, are limited to participation in terrorist activity. However, the definition of "engaging in terrorist activity" is broad, including support for an individual or organization through information gathering, fund raising, or harboring individuals or weapons. As is the case with exclusion, there are criminal and foreign policy grounds for deportation.

The most significant change made by the USA Patriot Act with regard to aliens already in the United States concerns detention. Now, an alien must be detained on certification that the alien is engaged in activities described in the terrorism-related grounds for exclusion or deportation or in other activities that threaten national security. Mandatory detention under this rule applies to aliens who are removable on any ground. Review is more circumspect than is detention under other authority in the INA. The primary

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limits are a seven-day deadline on bringing criminal or immigration charges and, in keeping with the Supreme Court decision in *Zadvydas v. Davis*, 533 U.S. 678 (2001), a prohibition on indefinitely detaining a deportable alien whom no country will accept, unless the alien still threatens national security.

Money Laundering

As a member of the House Financial Services Committee, I was pleased that we successfully included in the USA Patriot Act legislation aimed at disrupting the vast financial networks of terrorist organizations. Unlike other criminal enterprises, terrorist activities are ordinarily not conducted to raise money. Nonetheless, to track down terrorists, national and international authorities rely on the anti-money laundering laws that have been successful in breaking up international drug cartels and identifying funds siphoned from state treasuries by corrupt foreign dictators.

The money laundering provisions of the USA Patriot Act adjust America's anti-money laundering laws to increase their effectiveness as a tool to trace and eliminate funding for foreign terrorists and terrorist organizations and to pressure cooperation by other nations and their financial institutions. A major provision in the Act authorizes the Secretary of the Treasury to impose special record-keeping measures upon American financial institutions that conduct business with foreign jurisdictions determined to be prime money laundering havens. The legislation also requires due diligence from U.S. financial institutions with respect to private bank and correspondent accounts held for foreign nationals.

Federal forfeiture authority is also increased under the money laundering section of the USA Patriot Act. Key forfeiture related provisions include: subjecting terrorists' assets to confiscation; permitting the substitution of funds in interbank accounts held in the U.S. on behalf of foreign banks that are holding forfeitable assets on deposits overseas; expanding confiscation authority to include the proceeds from misconduct abroad in violation of foreign law; establishing a procedure to enforce foreign forfeiture decisions; and, barring the right of a corporate entity to contest confiscation if its major shareholder or representative in the contest is a fugitive.

* Congressman Rogers represents Michigan's 8th Congressional District and serves on the House Financial Services and Transportation Committees. Previously, he was a member of the Michigan Senate where he served as Majority Leader. Mr. Rogers is a former Special Agent with the Federal Bureau of Investigation where he investigated public corruption. He also served as an Officer and Company Commander in the United States Army. He is co-founder of E.B.I. Builders in Brighton, Michigan. Mr. Rogers is a graduate of Adrian College and served in the University of Michigan's R.O.T.C.

Miscellaneous Provisions

Lastly, the USA Patriot Act creates new federal crimes, raises the penalties for existing crimes, and eases

the government's procedural burdens with an eye toward discouraging and punishing terrorism.

In terms of new federal crimes, the Act makes it a violation of federal law to harbor a terrorist, or commit an act of violence against public transportation, and outlaws possession of biological agents by fugitives, convicted felons and the like. Additionally, terrorist crimes are added to the federal racketeering predicate offenses (RICO) list, which prohibits conducting the affairs of an enterprise whose activities affect interstate commerce through the patterned commission of various underlying offenses.

Adjustments are also made to punishment and procedure. The USA Patriot Act increases the penalties for counterfeiting offenses and for conspiracies to commit a number of terrorist crimes, as well as boosts the penalties for some computer abuse crimes. The legislation eliminates the statute of limitations for any terrorist offense that involves the foreseeable risk of serious injury, and lengthens the period for several others. Finally, additional authority is conveyed on the Attorney General and Secretary of State to offer and pay rewards in cases of terrorism.



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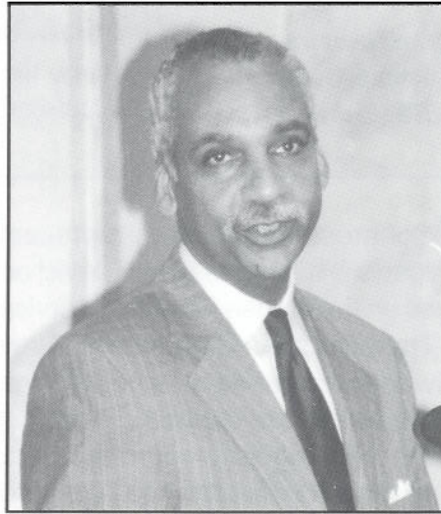
Saul Green Receives McCree Award

On February 20, 2002, the Federal Bar Association hosted the annual McCree Luncheon at the Crowne Plaza Pontchartrain Hotel. The Wade Hampton McCree, Jr., Award for the Advancement of Social Justice honors the memory of the former U.S. Circuit Judge, Solicitor General of the United States, and University of Michigan Lewis M. Simes Professor of Law.

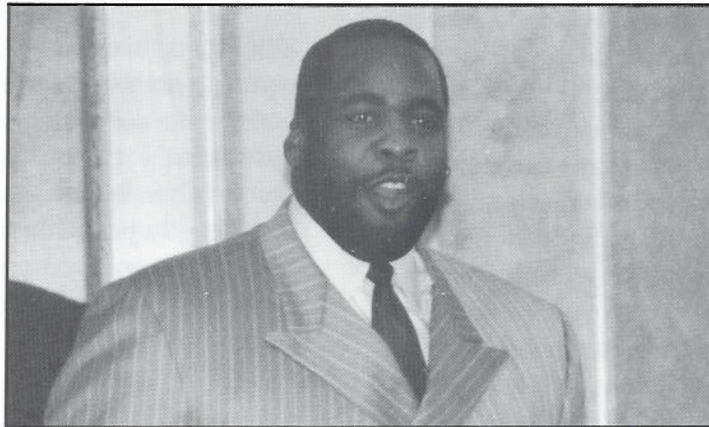
The luncheon presentations began with comments by the Honorable Geraldine Bledsoe Ford, retired Detroit Records Court judge. Judge Ford shared with luncheon attendees some sentiments regarding Judge McCree's effect on her career.

The luncheon also featured the presentation of the McCree Award, which honors Judge McCree's memory by recognizing individuals or groups committed to social justice, to Saul A. Green. In his distinguished career, Mr. Green has been an Assistant United States Attorney (1973-1976); Chief Counsel, United States Department of Housing and Urban Development, Detroit Field Office (1976-1989); Wayne County Corporation Counsel (1989-1993); and United States Attorney for the Eastern District of Michigan (1993-2001). He is currently Director of the Minority Business Development Group of Miller, Canfield, Paddock and Stone, P.L.C. Alan M. Gershel, First Assistant U.S. Attorney, reflected on Mr. Green's tenure as a United States Attorney and presented to him the 2002 McCree Award.

The keynote speech was delivered by Kwame M. Kilpatrick who became Detroit's 60th Mayor on January 1, 2002. Prior to becoming the youngest mayor in Detroit's history, Mayor Kilpatrick was a teacher in the Detroit Public Schools and a State Representative. His speech encouraged those in attendance to make their communities proud through individual responsibility and action, and through community involvement.



Saul Green accepting the McCree Award



Mayor Kwame M. Kilpatrick delivering keynote address at McCree Luncheon.

Federal Bar Association to Hold 23rd Annual Dinner On May 2nd

Each May, eastern Michigan's legal community gathers to honor the people who hold the key to our justice system — our federal judges. This year, the Chapter plans to hold its 23rd annual dinner honoring these judges on Thursday, May 2, 2002, at the Detroit Athletic Club. The festivities will begin with a cocktail reception at 5:30 p.m., followed by dinner at 7 p.m.

A (Habeas) Chorus Line, a perennial crowd favorite, will once again provide the entertainment, performing hilarious satire lampooning a wide variety of targets both legal and non-legal, political, personal and professional. Comprised entirely of lawyers and law-related personnel, A (Habeas) Chorus Line has been providing Detroit with musical parody for ten years.

Tickets for the event are \$70 each, or \$700 for a table which seats eight members and guests plus a judicial honoree and guest. Proceeds raised go to the Federal Bar Foundation scholarship fund. Invitations will be mailed shortly. For more information, contact Laurie Michelson at 313-983-7463 or Kristin Dighe at 313-532-4925.

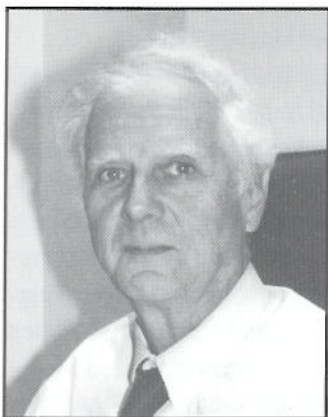
Historical Society Museum Grand Opening

The Historical Society for The United States District Court for The Eastern District of Michigan is pleased to announce that a ceremony will be held on May 1, 2002, at 1:00 p.m., at the Theodore Levin U.S. Courthouse to commemorate the grand opening of the Historical Society's

new museum space: "The Court And Its History." Chief Judge Lawrence P. Zatkoff will preside at the event.

The Historical Society's museum chronicles the history of the Court, describes its growth, includes profiles of the Court's most famous cases and provides biographical information on every judge who has served here. The exhibit is located on the first floor of the Courthouse in the area where the lobby of the clerk's office was formerly located.

The Historical Society constructed the exhibit with the cooperation and support of the Court. No other U.S. District Court in the country has a museum space quite like this one. All members of the bar, and the public, are invited to the grand opening. Refreshments will be served.



*Magistrate Judge
Paul J. Komives*

A Gentleman and a Jurist – Magistrate Judge Paul J. Komives

"Quiet dignity" and "truly a class act" are phrases often used to describe United States Magistrate Judge Paul J. Komives. While completely accurate, these phrases only

begin to tell the story of an admirable gentleman, father, husband, and grandfather who has served his community honorably for over thirty years.

Judge Komives is the son of Hungarian immigrants who settled in Detroit. He received his high school diploma from the University of Detroit High School and earned his bachelor's degree at the University of Detroit. After a semester of graduate school, which he found less than interesting, he decided to attend law school. He found the law much more to his liking, graduating from the University of Michigan School of Law in 1958. Upon graduation, he joined the Honors Program in the Criminal Division of the United States Department of Justice.

During his first two years at the Department, Judge Komives wrote Supreme Court briefs under the tutelage

of Appellate Division Deputy Chief Beatrice Rosenberg. Ms. Rosenberg, a Department icon, is remembered fondly for her "foot-long" scissors which she used to literally "cut and paste" her subordinates' appellate briefs.

As part of this training, Judge Komives was encouraged to watch oral arguments before the United States Supreme Court. He recalls watching, among others, Justices William O. Douglas, Felix Frankfurter, and Hugo Black. He enjoyed listening to Frankfurter and Black challenge each other's positions through questions to the attorneys.

Ironically, he recalled one incident where Justice Potter Stewart, who was a newer Justice at the time, demonstrated compassion for an attorney who was in over his head. The attorney was "withering on the vine" as the justices pummeled him with questions. Justice Stewart spoke up, asking the attorney, "Isn't it your position that . . .," proceeding to summarize the attorney's entire position succinctly and accurately in a matter of seconds. The irony in this story is that Judge Komives admired a quality in Justice Stewart for which the Judge has been likewise admired during his career.

In 1961, with his writing skills finely honed, Judge Komives joined the Organized Crime and Labor Racketeering section. This became an exciting place with the Kennedy Administration's focus on prosecuting organized crime. During this time, Judge Komives attended regular meetings with Attorney General Robert F. Kennedy. He fondly recalls the Attorney General's quick wit and rolled-up shirt sleeves.

One of his first assignments in the Organized Crime section was to handle an appeal which was argued before the D.C. Circuit Court of Appeals. One of the trial attorneys was Plato Cacheris. Then Judge, later Chief Justice, Warren Burger was on the panel. Judge Komives prevailed.

After serving three years in Washington, D.C., Judge Komives expressed his interest in returning to Detroit to join the United States Attorney's Office. This dovetailed nicely with Robert Kennedy's goal of setting up organized crime sections in districts around the country. The Kennedy Administration wanted "their people" in the field. The only glitch was that at the time, appointment as an assistant United States Attorney was considered a political appointment. When a new United States Attorney was appointed,

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If you are interested in publishing an article on any topic of interest to the Federal Bench and Bar or have an item for the "News & Moves" section, please call Elisa Angeli, at 313/496-7635, or Mike Riordan, at 313-226-9602. New writers are always welcome.

Magistrate Judge Paul J. Komives (continued)

he would bring in an entirely new staff of lawyers. Since the office at the time was small, 12-14 lawyers, this was not necessarily as impractical as it might be today.

Not long after Judge Komives submitted his application to the Eastern District of Michigan, Robert Kennedy inquired at a staff meeting regarding the status of the application. The Chief of DOJ's Organized Crime Section at the time, William Hundley, informed Attorney General Kennedy that the Detroit politicians were being difficult. Kennedy, loosened his tie, tugged at his shirt sleeves, turned to his Deputy Attorney General and said simply, "Take care of it, Byron." That Deputy Attorney General was Byron "Whizzer" White, a future Supreme Court Justice. And so the securing of an appointment for Paul Komives as an Assistant United States Attorney in the Eastern District of Michigan was "taken care of."

In the summer of 1961, Judge Komives received a call from John Riley telling him that he would be joining the United States Attorney's Office in Detroit. Riley said to Komives, referring to the Administration having traded tractors with Cuba for Bay of Pigs prisoners, "Don't ask how many tractors we had to trade for you, but you are going to Detroit."

Judge Komives joined the staff of assistants headed by United States Attorney Lawrence Gubow. The distinguished group included Paul D. Borman, William Merrill (later a Watergate prosecutor), Geraldine Bledsoe Ford, Anna Diggs Taylor, Robert DeMascio (a holdover assistant), Jim Finn, Bob Grace, and Patricia Pernick (Boyle). For the era, this was quite a diverse staff of assistants. The group also included Sandy Rosenthal, the Judge's dear friend for life.

As an assistant United States Attorney, he carried a regular caseload along with the Organized Crime cases.

One of his cases is discussed at page 67 of Ronald Goldfarb's book, *Perfect Villains, Imperfect Heroes* (1995). Goldfarb, an Organized Crime Section attorney at the time, discusses a Teamsters case in which the union allegedly engaged in "labor peace payoffs." Indictments in the case were issued in Detroit, Chicago, and Toledo.

Judge Komives' contacts with the Kennedy period clearly did not end with his return to Detroit. In addition to the organized crime and labor racketeering cases, he was tasked with conducting an interview related to the Warren Commission investigation. The Commission requested that he interview Jack Ruby's brother, Earl Ruby, a Detroit businessman. Judge Komives conducted the interview and concluded that Earl Ruby had no knowledge about his brother's reasons for killing Lee Harvey Oswald.

In 1965, Judge Komives became Chief of the Criminal Division in Detroit, and in 1966 he served as Special Prosecutor for Wayne Circuit Judge George E. Bowles. Judge Bowles was conducting a one-man grand jury investigation into allegations of public corruption in Wayne County.

From 1967 to 1971, Judge Komives was in private practice before he was selected as the first United States Magistrate in Detroit. Congress created the United States Magistrate positions to replace the former United States Commissioners. At the time of the creation of the positions, the commissioners' appearance of neutrality was questioned. Hearings were conducted. Among the issues examined was the method of compensating commissioners. Apparently, they were paid on a fee-based system. This meant that they were paid for search warrants authorized and not for those which were denied. Congress wisely recognized that this system at the very least created the appearance of impropriety.

Judge Komives also began his teaching career around the same time. His "first teaching gig," as he jokingly referred to it, was at Wayne State University School of Law. Judge Paul D. Borman, who was associate dean, invited him to teach a criminal procedure class. Soon thereafter, he joined the adjunct faculty at Detroit College of Law. He taught criminal procedure there until the school moved to Lansing in the late 1990's.

Judge Komives also has been active in the National Council of United States Magistrates which later became the Federal Magistrate Judges Association. He served as President of the Council in the mid-1970's. In 1980, Chief Justice Warren Burger appointed him as the first United States Magistrate to serve on a Judicial Conference committee. He recalled his seven years of service on this committee with a measure of pride indicating that "he really enjoyed the work."

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After all of these experiences, when asked to recall the most memorable event of his professional life, without hesitation, Judge Komives turned to the days following September 11, 2001. He was on duty September 14, 2001, when a defendant allegedly connected to the destruction of the World Trade Center was arraigned. Judge Komives detained the man after a hearing.

When court had been concluded, he was escorted to his chambers by a court security officer. They were on the elevator when the court security officer received information that a shooting had taken place at the McNamara Building. In addition, a call had been received in the Court Clerk's office, contemporaneous with the shooting. The caller's intent was not entirely clear, but no one was taking any chances. When the Chief Judge and the United States Marshal recommended twenty-four hour security for a few days, Judge Komives decided to "accept their kind offer." Fortunately, there were no incidents.

In addition to his professional accomplishments, Judge Komives and his wife Martha have raised four wonderful children. Then, a few years ago, they became the very proud grandparents of a little girl. If you want to see his face light up, you can ask him about two subjects: (1) a recent United States Supreme Court decision on criminal law (which he will recall verbatim), or (2) his granddaughter.

And so, the man who began his service to this country shortly before the Kennedy Administration, continues to have a positive impact in our community. His many friends, colleagues, and those for whom he has been a mentor are truly grateful that he has been a part of their lives. They would argue that no matter how many tractors it cost the Kennedy Administration, the trade was definitely worth it.

This article was written by Margaret Davis, Assistant United States Attorney and Law Clerk to Magistrate Judge Komives, 1987-89, & Christina Farinola, Present Law Clerk to Magistrate Judge Komives.

Save The Date!

Please Join Us For the Festivities!

*Eastern District of Michigan Chapter
Federal Bar Association*



**Twenty-Third
Annual Dinner**

*Honoring the Federal Judicial Officers
of the
Eastern District of Michigan*

May 2, 2002
Detroit Athletic Club

*Cocktail Reception - 5:30 p.m. (Cash Bar)
Dinner - 7:00 p.m.*

Entertainment by:



FBA Sponsoring Law Day Event With Other Law Associations

The Chapter will observe Law Day on May 1, 2002 with an event co-sponsored by the Detroit Metropolitan Bar Association and the Young Lawyers Section of the State Bar of Michigan.

The event will be held from 4-6:00 p.m. at the Holistic Development Center of Detroit at 17425 Second Avenue in Detroit, and

will target high school students who are interested in the law. The host organization, the Metropolitan Future Lawyers Club, meets regularly at the Holistic Development Center. Also invited are Legal Explorers posts, area debate teams, mock trial teams, and any high school student interested in practicing law.

The program will include a debate on a timely legal topic. Based upon a hypothetical situation, the teams will address the wisdom and ramifications of the so-called "sneak-and-peak" search warrant provisions of the USA Patriot Act. A hypothetical will be distributed to attendees before the debate. U.S. District Judges Victoria A. Roberts and George Caram Steeh will sit on a panel of judges who will pose questions to the students. The panel also will be available to discuss issues with students after the argument.

(see page 10)

Law Day (continued)

The experience for the students will be enhanced through the participation of attorneys in the audience. The attorneys will interact with the students, and discuss the moot court topic as well as the practice of law. After the moot court, there will be a brief reception with cookies and soft drinks.

The program is intended to give the students a good impression of lawyers and judges, and the issues we have to deal with in our work, and to generate interest and excitement about at least one current legal issue. For more information, contact Kristin Dighe at (313) 226-9713.

Court News

By Court Administrator Dave Weaver

The chief judge's historical courtroom on the 7th floor of the Theodore Levin United States Courthouse has been undergoing a number of historical renovations over the last several months. Most of the woodwork has been refinished, the artwork on the ceiling has been repaired and all of the marble has been cleaned. We learned during the renovation that there are seventeen different types of marble in the courtroom. Work on the courtroom is now nearing completion and once the historical light fixtures are completed and installed, Chief Judge Zatkoff intends to hold an open house.

At a special judges meeting on March 15, 2002, the Court selected R. Steven Whalen for appointment as United States Magistrate Judge in Detroit. Upon the successful completion of required background investigations by the Federal Bureau of Investigation and the Internal Revenue

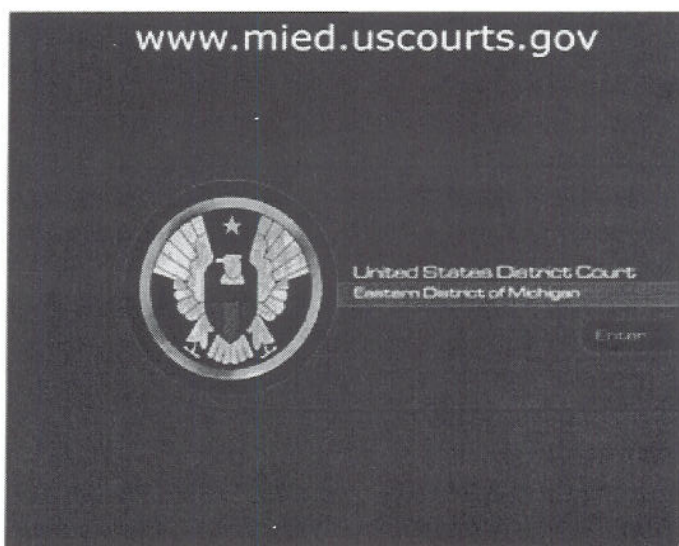
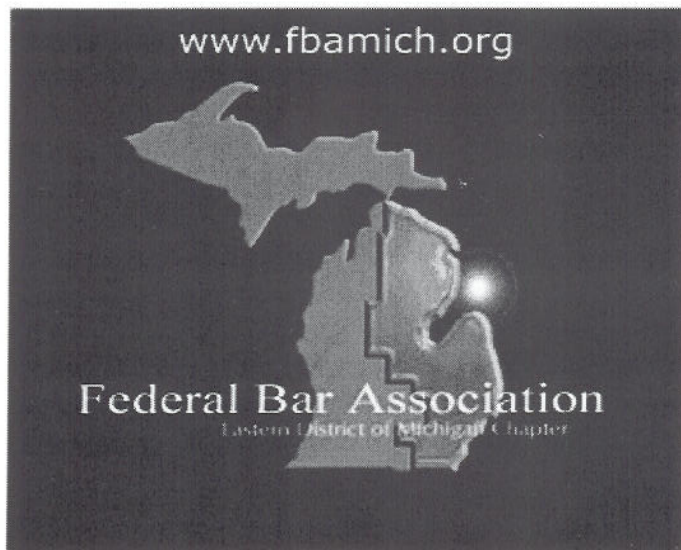
Service Mr. Whalen will be sworn in. Mr. Whalen is a resident of Southfield, Michigan and received his undergraduate degree from the University of Illinois and law degree from Wayne State University Law School. Upon his selection, Mr. Whalen was a sole practitioner specializing in criminal defense in both state and federal court.

As you know, the Court entered an administrative order in June 2001, authorizing the district-wide assignment of social security cases and special civil cases for a period of one year. This was done in an effort to ensure an even distribution of these types of cases among all district judges and to reduce the number of overall assignments to the Northern Division. A review of assignments after six months shows that the cases are in fact being distributed evenly. Accordingly, a recommendation was made to Chief Judge Zatkoff to make the district-wide draw for social security and special civil cases permanent. At its regular meeting on March 4, 2002, the Court unanimously approved the recommendation.

The current administrative order authorizing the district-wide draw will be extended until such time that the local rules can be modified.

Finally, I close with my continuing reminder that security measures remain heightened at all federal court facilities throughout the district. As I have mentioned in the past, when you enter a courthouse you will be required to show a photo ID and have all packages, brief cases, etc. x-rayed. The safety of all court staff, the bar and the public continues to be of the highest priority and your continuing cooperation and patience with all court security staff is greatly appreciated.

Remember, you can submit questions or suggestions for future articles to mie_fba@mied.uscourts.gov





**Federal Bar Association
Eastern District of Michigan**

Post Office Box 310610
Detroit, Michigan 48231-0610

Membership Application

Name _____

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Type of Practice: _____ Government
_____ Private (Firm Size) _____
_____ Corporate

Referred by _____

Renewal _____ New Member _____

Preferred location for mailings/phone contacts:

Business _____ Home _____

Dues Information

The Chapter Dues are supplemental to annual dues paid to the National Federal Bar Association.

Local dues are for the period from August 1 through July 31.

Regular member \$15.00 _____

Admitted to Bar Less Than 5 Years \$10.00 _____

Sustaining member \$50.00 _____

Historical Society \$10.00 _____

(Make check payable to: Federal Bar Association)

Committee Preference

I would like to participate in the following Committees:

_____ Bankruptcy
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_____ Annual Dinner
_____ Golf Outing
_____ Membership
_____ New Lawyer Seminar
_____ Communication/Newsletter
_____ Pro Bono
_____ Luncheon Program
_____ Social Justice

Return this statement with your dues payment to :

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SAVE THESE DATES!

OCTOBER 4-5, 2002

BENCH/BAR CONFERENCE FOR EASTERN AND WESTERN MICHIGAN

**NEW LOCATION:
EAGLE CREST RESORT IN YPSILANTI**

**Watch your e-mail or
visit the Chapter website at
www.fbamich.org
for more information in the near future.**

Questions?

**Contact Julia Pidgeon at
julia.pidgeon@usdoj.gov or
Grant Gilezan at ggilezan@dykema.com**

Upcoming Events

Annual Gilman Luncheon

April 18, 2002

11:30 Reception, 12:00 Luncheon

Location: Crowne Plaza Ponchartrain Hotel, Detroit

Contact: Grant Gilezan (313) 568-6789 or

ggilezan@dykema.com

Ticket Price: \$25 members/\$30 nonmembers

Award Recipient: Anthony T. Chambers

Historical Society Museum

Grand Opening

May 1, 2002

1:00 pm

Location: Theodore Levin U.S. Courthouse

All members of the bar and public welcome

Chief Judge Lawrence P. Zatkoff will preside

23rd Annual Dinner

May 2, 2002

5:30 Reception, 7:00 Dinner

Location: Detroit Athletic Club

Contact: Laurie Michelson (313) 983-7463 or

Kristin Dighe (313) 532-4925

Ticket Price: \$70 each/\$700 table

Featured Entertainment: A (Habeas) Chorus Line
of Detroit

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

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