



# FBAnewsletter

Fall 2015

Federal Bar Association - Eastern District of Michigan Chapter - **57** years of service to our Federal Bench and Bar

## Chief Judge Rosen Makes His Last State of the Court Address

The Chapter began its luncheon programming for the year with the annual State of the Court Luncheon on September 24, at the Westin Book Cadillac. Chapter President Kimberly G. Altman welcomed attendees and then introduced Judge Denise Page Hood, chairperson of the Court's pro bono committee. Judge Hood and her committee recognized the numerous law firms, organizations, lawyers, Court staff, and law students who participated in Court's pro bono program this past year. The entire list can be viewed on the Chapter website at [www.fbamich.org/documents/](http://www.fbamich.org/documents/) (continued on page 3)

## 200th Anniversary of the U.S. Attorney's Office

In 1815, before Michigan was a state, before there was a Department of Justice, and before federal law was codified and widely published, there was Solomon Sibley – the first U.S. Attorney for the territory of Michigan.

On September 30, the U.S. Attorney's Office for the Eastern District celebrated its 200th anniversary during a reception held by current U.S. Attorney Barbara McQuade. The reception was held in Room 115 of the Levin Courthouse, and among the guests were numerous judges, former AUSAs,

(continued on page 2)

## President's Column

*Kimberly G. Altman*



In writing my first President's Column, I was searching for a quote or phrase to capture my hope and vision for the Chapter this year. After much Googling, I settled upon the following:

"Study the past, if you would divine the future."  
-Confucius

To me, this means following the path that we embarked upon 57 years ago to lead us into the future. Our Chapter has served the federal bench and bar extraordinarily well over these many years. We have consistently offered outstanding programs, services, and leadership opportunities to our members as well as the larger community. As we usher in our 58th year, you should expect to see the same high quality of service that our membership has enjoyed. Of course, this year will also bring new ideas and programs to help illuminate the path.

So in the spirit of moving forward while looking back, I am deeply honored and humbled to serve as Chapter President. I have had the privilege of serving as an officer, board member, and co-chair under many of our esteemed Past Presidents. In particular, I want to thank Tom Schehr for his guidance and support. I am also grateful to be working with a fantastic group of Officers including Susan Gillooly, Jeff Appel, Saura Sahu, and Matthew Lund. I must also mention Brian Figot, our Executive Director and glue of the Chapter, without whom we simply cannot function.

As evidence that our past can portend our future, our Chapter once again enjoyed the limelight at the National level at this year's Annual Meeting and Convention in Salt Lake City. I want to acknowledge our Newsletter editors, Christina Farinola and Andrew Lievense, along with the Newsletter Committee, for helping us earn the Outstanding

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

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## President's Column (continued)

Newsletter Award. Also, thanks to all of our Committee Co-Chairs for delivering outstanding programs for which we received the Presidential Excellence Award. Our many National awards will soon be on display in the hallway of the second floor of the Courthouse. Finally, and by no means least, Judge Avern Cohn received the Hon. Sara T. Hughes Civil Rights Award. The Hughes Award is National FBA's highest individual honor, recognizing extraordinary contributions to the advancement of civil rights. Judge Cohn is a more than worthy recipient. On a personal note, accepting the award on Judge Cohn's behalf was the highlight of my time in Salt Lake.

While on the topic of FBA National, I was recently appointed to serve on the Chapter Activity Fund Committee. The Chapter Activity Fund oversees the distribution of funds to Chapters to develop FBA programs nationally and locally. Our Chapter has been fortunate to receive grants from this fund over the years, including for our Judicial Family Reunions. I hope that my role will facilitate additional grants to our Chapter.

So, what's in store for this year? We will continue doing what we do best: being a steward to our members and the community. To that end, our luncheon program has already started with the State of the Court lunch in September. In November, we will hold the Rakow lunch and meet again later for the McCree and Gilman lunches. You can also expect to see interesting and engaging programming from our Committees. This year we added an ADR and Antitrust Committee to further serve federal practitioners. With the assistance of our Law Clerk Committee, we will be launching a law clerk database on our website, the first of its kind in the FBA, which will list former law clerks and the judge(s) for whom they clerked. The Chapter's Pro Bono Committee will be working with the Court to honor pro bono attorneys in October. The Civic Outreach Committee will be present at the Michigan Joint Social Studies Conference to educate teachers on selected legal topics. The New Lawyers Committee is hard at work planning another outstanding seminar this December, after which the RISE Committee will be hosting a reception at the Courthouse. The Law Student Initiative Committee is planning motion days at the area law schools. There will be many more events on the horizon, so keep checking the Chapter's website for news and information.

I want to say a little about membership. Retaining and growing our membership is critical to the vitality of our Chapter. To our sustaining members, thank you for your generosity. To our long standing members, thank you for your continued support. To our newer members, including the new law clerks and law students, welcome! To all of our members, please take a moment to renew your membership once due. Our Membership Committee will be working hard this year to make sure we retain our valued members and enhance our Chapter with new members.

I hope you all are invigorated by our Chapter's achievements and consider how you can benefit by becoming more involved in our Chapter.

Overall, I will strive to build upon our Chapter's accomplishments at the hands of my predecessors and leave the Chapter on the continued path to success.

## 200th Anniversary

*(from page 1)*

law enforcement representatives, defense attorneys, and many current employees of the court and U.S. Attorney's Office.

McQuade provided some opening remarks and gave a nod to former U.S. Attorneys in attendance: Michigan Supreme Court Justice Stephen Markman, Saul Green, Jeffrey Collins, Judge Stephen Murphy and Judge Terrence Berg. McQuade proclaimed the U.S. Attorney's Office the best law firm in Michigan.

Chief Judge Gerald E. Rosen also addressed the crowd and expressed his appreciation for the civility demonstrated by the U.S. Attorney's Office, which he felt was underscored by the presence of members of law enforcement and the defense bar at the celebration. Judge Rosen noted that the level of cooperation was a measure of the sound leadership of the office. Judge Murphy echoed Judge Rosen's remarks and stated that the level of advocacy and civility he learned during his time as both an AUSA and later as the U.S. Attorney greatly influenced his career.

The keynote speaker was former AUSA and office historian Ross Parker. He provided an overview of the history of the Office, beginning with Solomon Sibley, who as the first U.S. Attorney made \$5.00 a day. It would be 50 years before the first AUSAs were hired. In 1869, the Department of Justice was created, of which the USAO is now a part.

Today, McQuade makes better than \$5 a day and oversees an office of over 100 AUSAs. Parker commented on the importance of celebrating the history of the Office as a reminder of how far we have come as a society and nation, and how far we have yet to go. He closed his presentation by quoting one of the inscriptions on the Robert F. Kennedy Department of Justice Building: "no free government can survive that is not based on the



supremacy of the law, where law ends tyranny begins, law alone can give us freedom.”

After the formal remarks, guests enjoyed socializing with their current and former colleagues, and also celebrated the occasion with some birthday cake.

## State of the Court

(from page 1)

After the recognition of the pro bono honorees, President Altman introduced Chief Judge Gerald E. Rosen for the annual State of the Court address, which was his last as Chief Judge. Chief Judge Rosen highlighted some details from his more comprehensive report that can be viewed on the Court’s website at <http://www.mied.uscourts.gov/PDFFiles/stateofcourt2015.pdf>

But, before getting to his formal remarks, Chief Judge Rosen recalled the passing of Judge Paul V. Gadola on December 26, 2014, and Judge Lawrence P. Zatkoff on January 22, 2015. Judge Gadola, whose federal judicial career spanned 20 years, from 1988 to 2008, was the resident judge in Flint for much of that time. Judge Zatkoff served 29 years, from 1986 until his death. He was Chief Judge of the Eastern District from January 1, 1999 until June 16, 2004, when he took senior status.

Chief Judge Rosen noted that Bankruptcy Judge Philip J. Shefferly continues to serve as Chief Judge of the Bankruptcy Court and Bankruptcy Judge Walter Shapero continues to serve the Bankruptcy Court in recall status.

Judge Rosen welcomed the two newest members of the Court: Magistrate Judges Elizabeth A. Stafford and Anthony P. Patti. Magistrate Judge Stafford joined the bench on November 17, 2014, filling the vacancy created by the elevation of Judge Mark A. Randon to Bankruptcy Judge. Magistrate Judge Patti was appointed on January 6, 2015, filling the vacancy created by the elevation of Judge Laurie J. Michelson to District Judge.

Judge Rosen also commented on the retirement of Magistrate Judge Paul J. Komives, who served the Court since 1971, and left the Court on January 6, 2015, after nearly 44 years. He was the longest serving magistrate judge in the history of the United States.

Judge Rosen also acknowledged the Court’s nine senior judges who continue to contribute substantially to the work of the Court: Judges Cohn, Duggan, Friedman, Cleland, Edmunds, O’Meara, Tarnow, Steeh, and Battani.

Chief Judge Rosen then went on to reminisce at some length in a very personal way about his seven years as chief judge, seven years being the statutory maximum any judge may serve as chief judge. A video of his full comments is available at <https://fbamich.org/videos/>

Many thanks to Chief Judge Rosen for his years of support to the Chapter. As a token of the Chapter’s appreciation, Chief Judge Rosen was presented with a baseball signed by the Chapter officers and a Detroit Tigers jersey signed by the judges of the Court.



*Current and former U.S. Attorneys who attended the 200th Anniversary: Saul Green, District Judge Stephen A. Murphy, Barbara McQuade, Jeffrey Collins, Supreme Court Justice Stephen Markman, and District Judge Terrence Berg.*

*Photo by Alicia Collier of the U.S. Attorney’s office.*



*Chapter President Kimberly G. Altman, Chief Judge Gerald E. Rosen, and Chapter Program Chair Matthew Lund at the State of the Court Luncheon.*

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

## Focus on an FBA Member: The Hon. Patrick J. Duggan -- Senior U.S. District Judge By Michael J. Riordan\*

"He is a great Irish-American," said a veteran federal practitioner about the recently fully-retired Senior U. S. District Judge Patrick J. Duggan. "He once threatened to order my adversary and me to the nearest pub, with instructions to stay there until we settled our case. He said he didn't care how many pints it took us to reach an agreement. Just get it done."

That is the practical nature of Judge Duggan, who President Ronald Reagan appointed to the federal bench in 1986. The Judge replaced the late John Feikens who took senior status that year. After twenty-nine years on the bench, Judge Duggan said he decided to call it a judicial career once he realized that he would "never be able to outlast Avern Cohn in seniority or age." The Judge is giving up his active docket on

October 31, and his future plans include nothing other than to spend more time with his wife of fifty-eight years, Joan Colosimo Duggan, their sons and thirteen grandchildren. Judge Duggan assumed senior status in 2000.

The son of an Irish immigrant father, Judge Duggan, an eastside Detroit native, graduated from De La Salle Collegiate High School in 1951, when the school was located on Conner Avenue across the street from Detroit City Airport. He received his B.A. from Xavier University in Cincinnati in 1955, and his J.D., cum laude, from the University of Detroit School of Law in 1958. After graduation from law school, the Judge and Mrs. Duggan moved to Livonia where he began his legal career with the law firm of Brashear, Brashear, Mies and Duggan, and where he raised his family of five sons – Mike (now Mayor of Detroit), Dan, Jim, the late Robert, and Tim. The Judge

and Mrs. Duggan still reside in the Livonia area, although they spend most of the winter months in Florida.

While in private practice, Judge Duggan practiced in an assortment of areas, from collections work, to personal injury cases, to real estate matters, and everything in between. After practicing nineteen years in Livonia, Governor William G. Milliken appointed Judge Duggan to the Wayne County Circuit Court in 1977. He remained on the Wayne County bench until President Reagan telephoned him in 1986, just after the Judge and his son Dan had

returned home from a trip to Ireland, and inquired whether Judge Duggan would accept an appointment to the federal bench.

Over the course of his professional life, Judge Duggan has been active in many volunteer leadership positions. He served on the Madonna University Board of Trustees, where he also was an adjunct professor in the legal assistant program; he was the president of the Livonia Bar Association, the Michigan Jaycees, and the Livonia Chamber of Commerce. He also served on the board of the Northwestern



*Founders of the Incorporated Society of Irish-American Lawyers in 1978. Seated (L to R): Judge Vincent J. Brennan, Peter E. O'Rourke, Judge Thomas P. Thornton (President), Jerome P. Cavanagh, Alvin A. Rutledge. Standing (L to R): Edmund M. Brady, Jr., Judge John H. Gillis, Judge Patrick J. Duggan, Judge Joseph B. Sullivan.*

Wayne County Guidance Clinic. In addition, the Judge has been active with the University of Detroit Mercy's Inns of Court program for many years and served in the role of Inn President for five years. Among the numerous recognitions and awards he received are the American-Arab Anti-Discrimination Committee's Guardian of Justice Award and the Incorporated Society of Irish American Lawyers' Thomas P. "Tiger" Thornton Award in recognition for his contributions as a lawyer and a judge. Thomas Thornton, who along with Judge Duggan was a founder of the Incorporated Society of Irish American Lawyers, was a judge of the Eastern District from 1949 until his passing in 1985.

During his time on the federal bench, Judge Duggan has ruled in many noteworthy cases including the University of Michigan undergraduate diversity admissions case, the constitutionality of Michigan office-holder term limits,



the Denny McClain criminal matters, the Bob Probert immigration case, and the case involving a high school student who wore a t-shirt to school proclaiming that the then-President of the United States was a “terrorist.” Reminiscing about his days on the federal bench and in the Wayne County Circuit Court, Judge Duggan said that he enjoyed his time as a judge very much and that he never had a dull moment.

Judge Duggan credits the efficient running of his chambers to his long-time deputy clerk Marilyn Orem. She began working with him the day he joined the federal bench, and she also will retire later this year. A “no-nonsense” deputy clerk, the Judge credits her for making his life, the lives of his law clerks, and the lives of attorneys much easier over the past twenty-nine years. “Ironically,” said Judge Duggan, “Marilyn was Judge Thornton’s clerk, and she joined my staff when I was appointed.

She has spent much of her 40 year career in courtroom 861 working for Judge Thornton and me. It might be appropriate,” the judge quipped, “that a portrait of Marilyn be hung between Judge Thornton’s and mine in that courtroom.”

“Judge Duggan was an extremely gracious, generous and fun person to work for and with,” said former law clerk Sheila Hackett Gaskell. “I still consider him a dear friend and mentor,” she said. “There’s no question,” Gaskell

continued, “that Marilyn Orem was the driving force in the chambers. She knew how to run a docket, keep the Judge on time, keep the lawyers in line, and keep us law clerks productive.”

When looking back at his years on the bench, Judge Duggan said that the most important quality an attorney can have is the ability to communicate. “Many litigation problems lawyers encounter are due in large part to a lack of communication. Lawyers must be able to communicate with each other, and with court staff and judges. Just the simple ability to communicate civilly would make the system much more efficient.” As a parting tribute to Judge Duggan, plenty of great communication took place on September 25th in Room 115 of the U.S. Courthouse where members of the court staff, former law clerks, practitioners, and friends

joined in honoring Judge Duggan and his family as he embarked on his retirement. Among those present, the clearest sentiments communicated were respect and admiration for a man who contributed mightily to the Eastern District, the State of Michigan, and the United States of America during his many years of service. Well done, Judge Duggan.

Sláinte!

*\*Judge of the Michigan Court of Appeals, former Assistant United States Attorney, and past-Chapter President.*



*Judge Patrick J. Duggan with his son, Detroit Mayor Mike Duggan, and Sixth Circuit Judge Damon J. Keith.*

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



*Judge Duggan with family members at the September 25th event.*

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



## **Dave Weaver** **Court** **Administrator/** **Clerk of Court**

As I mentioned in my last article, the Eastern District has begun implementation of eVoucher, an electronic processing system for Criminal Justice Act (CJA) vouchers. Along with the rest of the Sixth Circuit, we are part of Implementation Wave 6. We had hoped to go live with the new system by mid-November 2015, but that will have to be pushed back until early 2016. eVoucher was originally developed by the District of Nevada and adapting it for national use has hit a few bumps.

On the Theodore Levin U.S. Courthouse renovation front, the Christman Company has been selected as the main construction management firm for this \$131 million renovation project. Christman has experience with large historical renovation projects similar to the Levin project. Shelby Street, immediately adjacent to the courthouse, will be reduced to one lane in the near future after which you will see construction trailers and equipment. Work over the winter/spring will include the replacement of elevators and HVAC systems as well as electrical upgrades.

Along with several members of our IT Department, I recently attended IT seminars sponsored by the Administrative Office of the U.S. Courts. One of the main topics at each conference was security and what steps have and will be taken to avoid security breaches such as the one experienced by OPM and several major corporations. The Administrative Office has a talented team of security experts monitoring the Court's networks 24 hours a day. What keeps them up at night? Well, in the first six months of 2015 there were 10,095,576 blocked attacks on judiciary networks.

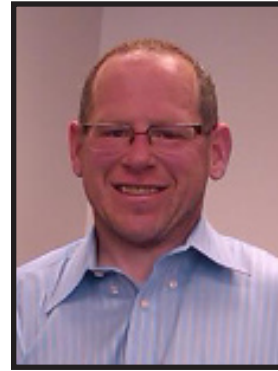
In the category of "Joining the Current Century", the Federal Judiciary has finally selected a new national email system to replace Lotus Notes (yes, I said Lotus Notes) which has been in use since 2000. Microsoft was the big winner, and a full suite of Microsoft applications will be rolled out to all courts beginning in 2016.

Our Administrative Office is also rolling out new tools to allow for easier, cross-platform video conferencing and a national advanced audio conferencing bridge. The audio system will allow for multiple participants and have "sidebar" capabilities. Additional information will become available as these tools are implemented.

Last, as we move into the fall and winter months, please remember to check the Court's operating status on our website at [www.mied.uscourts.gov](http://www.mied.uscourts.gov). The site will be updated by 6:00 a.m. if there are any weather related

closures or reduction in services at any of our locations within the District.

Remember, if you have any comments, questions or suggestions, do not hesitate to contact me at: [david\\_weaver@mied.uscourts.gov](mailto:david_weaver@mied.uscourts.gov).



## **Supreme Court** **Preview** **By M Bryan Schneider**

The Supreme Court opened its October 2015 term on October 5, having granted certiorari in 46 cases thus far. Although the public's attention throughout the Term will be focused on hot-button issues such as affirmative action (*Fisher v. University of Texas*) and voting rights (*Evenwel v. Abbott* and *Harris v. Arizona Indep. Comm'n*), the bulk of the Court's caseload will once again focus on issues of importance to federal practitioners.

On the civil side of its docket, the Court will consider a number of interesting jurisdictional and civil procedure cases. In *Americold Logistics v. Conagra Foods*, the Court will decide whether a trust's citizenship for purposes of diversity jurisdiction should be determined by the citizenship of the controlling trustees or the trust's beneficiaries. In *Campbell-Ewald Co. v. Gomez*, the Court will determine whether a case becomes moot when the plaintiff receives an offer of complete relief on his claim, and whether the answer to this question differs if the plaintiff has asserted a claim for class relief. In an important case testing the power of Congress to affect the jurisdiction of federal courts, the Court will decide whether Congress can confer standing by authorizing a private right of action for a violation of a federal statute even where the plaintiff has suffered no actual harm (*Spokeo v. Robins*).

Addressing other jurisdictional matters, the Court will consider the scope of Indian tribal court jurisdiction over civil tort claims against nonmembers of the tribe (*Dollar General Corp. v. Mississippi Band of Choctaw*), and the authority of a single district judge to dismiss a complaint covered by the Three Judge Court Act for failure to state a claim (*Shapiro v. McManus*). Again visiting class actions this Term, the Court will decide whether a class may be certified on the grounds that liability and damages will be determined with statistical techniques, even where there are differences among class members and some members suffered no injury (*Tyson Foods v. Bouaphakeo*). And in two important immunity issues, the Court will decide whether a state may refuse to extend to sister states hauled

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## Supreme Court (from page 7)

into its courts the same immunities that the host state enjoys in its courts (*California Franchise Tax Board v. Hyatt*), and will consider the scope of the commercial activity exception to immunity under the Foreign Sovereign Immunities Act (*OBB Personenverkehr v. Sachs*).

In substantive civil matters, the Court will decide two cases under the Federal Arbitration Act. In *DirecTV, Inc. v. Imburgia*, the Court will decide whether reference to state law in an arbitration agreement covered by the FAA permits application of state law, and in *MNH Gov't Servs. v. Zaborowski* the Court will decide whether a state law severability rule that applies only to arbitration agreements is preempted by the FAA. The Court will also consider two ERISA issues: whether a lawsuit by an ERISA fiduciary to recover an overpayment constitutes a suit seeking "equitable relief" under § 502(a)(3) of ERISA (*Montanile v. Bd. of Trustees of NEIHBP*), and whether ERISA preempts a state law that requires a third-party administrator to provide claims data to the state (*Gobeille v. Liberty Mut. Ins.*).

In other civil matters, the Court will decide whether the statute of limitations for a constructive discharge claim under federal discrimination statutes begins to run when the plaintiff resigns, or at the time of the employer's act giving rise to the resignation (*Green v. Brennan*); whether spousal guarantors are "applicants" for credit under the Equal Credit Opportunity Act (*Hawkins v. Cmty. Bank of Raymore*); and whether § 27 of the Securities Exchange Act provides federal jurisdiction over state law claims seeking to establish liability based on violations of the Act (*Merrill Lynch v. Manning*).

On the criminal side of its docket, the bulk of the cases granted thus far will focus on sentencing issues, but the Court will also consider a number of important issues of criminal law and procedure. In *Musacchio v. United States*, the Court will decide the applicability of the law of the case doctrine in assessing a sufficiency of the evidence challenge, as well as whether a statute of limitations defense not raised at trial may be reviewed on appeal. In *Molina-Martinez v. United States*, the Court will consider whether an appellate court should presume that the application of the wrong sentencing guideline to a defendant affected the defendant's substantial rights for purposes of plain error review. In several cases addressing the scope of federal criminal statutes, the Court will decide whether a conviction for conspiracy to commit extortion under the Hobbs Act requires proof that the conspirators agreed to obtain property from someone outside the conspiracy (*Ocasio v. United States*); whether proof of the inherent economic nature of a Hobbs Act robbery relieves the government of the burden of proving the interstate commerce element of the offense (*Taylor v. United States*); and whether the Racketeer Influenced and

Corrupt Organizations Act applies extraterritorially (*RJR Nabisco v. European Cmty.*)

In the sole Fourth Amendment case granted so far, the Court will decide whether evidence seized incident to a lawful arrest based on an outstanding warrant is admissible where the warrant was discovered during an unlawful investigatory stop (*Utah v. Strieff*). In a significant case on the right to counsel, the Court will decide whether a pretrial restraint of a criminal defendant's untainted assets needed to retain counsel of choice violates the Fifth and Sixth Amendment rights to counsel (*Luis v. United States*). In other matters of constitutional criminal procedure, the Court will consider a fact-intensive *Batson* claim (*Foster v. Chatman*); whether a state criminal defendant was denied a fair trial by a trial judge's findings regarding motive in a bench trial where motive was not an element of the offense (*Duncan v. Owens*); and whether the governments of Puerto Rico and the United States constitute separate sovereigns for purposes of the Double Jeopardy Clause (*Puerto Rico v. Valle*).

Finally, the Court will decide a number of important sentencing cases during this Term. In non-capital sentencing matters, the Court will decide whether the mandatory minimum sentence provision for possession of child pornography under 18 U.S.C. § 2252(b) is triggered by a state law relating to sexual abuse even if the conviction did not involve a minor (*Lockhart v. United States*), and whether the Court's decision in *Miller v. Alabama*—holding unconstitutional mandatory life sentences without parole as applied to juveniles—applies retroactively to convictions which became final before *Miller* was decided (*Montgomery v. Louisiana*). The Court's prior Term ended with the Justices expressing strong opinions on the constitutionality of capital sentencing (*Glossip v. Gross*). That disagreement is sure to rise again in several capital sentencing cases to be argued this Term. In an important case raising issues of bias in capital sentencing, the Court will consider whether due process is violated by a state supreme court justice's failure to recuse himself from reviewing a capital case that he participated in as a prosecutor (*Williams v. Pennsylvania*). In *Kansas v. Gleason*, *Kansas v. Reginald Carr*, and *Kansas v. Jonathan Carr*, the Court will decide whether the Eighth Amendment requires a capital sentencing jury to be affirmatively instructed that mitigating circumstances need not be proven beyond a reasonable doubt. In the two *Carr* cases, the Court will also consider whether the Eighth Amendment requires severance of the sentencing phases of co-defendants' trials. And, finally, in *Hurst v. Florida* the Court will decide whether Florida's capital sentencing scheme violates the Sixth and Eighth Amendment as interpreted by the Court in *Ring v. Arizona*.

Notably absent from the cases on the Court's docket thus far are cases relating to intellectual property and bankruptcy, two areas in which the Court has been



particularly active in recent years. With only 46 cases granted to date, the Court is sure to add important civil and criminal cases to its docket, whether in these areas or others.

## **Rakow Scholarship Awards, Rom Award, and Court Historical Society Annual Meeting**

On Tuesday, November 10, the Westin Book Cadillac will once again be the venue as the Chapter and the Court Historical Society host their annual joint luncheon event. A reception will begin at 11:30 a.m. and the luncheon at noon.

As usual, the program will feature the annual Rakow Scholarship awards. The awards will be presented by the Federal Bar Foundation and given to an outstanding student from each of the Michigan law schools.

The program also will feature the presentation of the fourth annual Barbara J. Rom Bankruptcy Award. The Chapter is currently seeking nominations for this award. The Rom Award will once again be presented to a bankruptcy practitioner who has demonstrated the same level of excellence and dedication in the practice of bankruptcy law as the Award's namesake. For a full description of the Award and nominations forms, please visit the Chapter website.

Thereafter follows the Annual Meeting of the Court Historical Society. This year's speaker will be Kevyn Orr, the former Emergency Manager for the City of Detroit. Orr was the scheduled speaker at the February 2015 McCree Award luncheon, but at the last minute was unable to attend. The Chapter is pleased that he is able to return to Detroit to address the Chapter.

Orr has had a long career in both private practice and public service. Before becoming the Emergency Manager, Orr was a partner at Jones Day where he specialized in the areas of bankruptcy and business restructuring. He previously worked in the United States Trustee's Office, where he served first as the deputy director of the Executive

Office for United States Trustees and later as the director of the United States Trustees Program. Orr also worked at the Federal Deposit Insurance Corporation and was the assistant general counsel for complex litigation and bankruptcy at the Resolution Trust Corporation. He started his career at a Miami law firm.

Orr earned his undergraduate and law degrees from the University of Michigan.

For those affiliated with organizations that are sponsors of the 2015-16 Luncheon Series, tickets likely are available through your organization. For others, the luncheon is \$25 for members and \$30 for non-members. Tickets are available online at [www.fbamich.org](http://www.fbamich.org).



*Chapter President Kimberly Altman, retired Bankruptcy Judge Steven W. Rhodes, Bankruptcy Judge Walter Shapero, and Chapter Executive Director Brian Figot.*

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

## **Bankruptcy Event**

On July 15, at the offices of Jaffe Raitt Heuer & Weiss, the Bankruptcy Committee held a joint program with the Debtor/Creditor Committee of the Business Law Section of the State Bar of Michigan. The program was extremely well attended with over 75 participants. The program was a "double header." Retired Bankruptcy Judge Steven W. Rhodes and former City of Detroit Emergency Manager Kevyn Orr spoke candidly "off the record" on their different perspectives of the outcome

of the City of the Detroit bankruptcy case. The discussion revealed their different perspectives as the case unfolded, the prospects for Detroit's future, and challenges posed by the restructuring of the City's debt.

The second part of the "double header" was a discussion led by Professor John Pottow of the University of Michigan Law School discussing the five recent United States Supreme Court bankruptcy cases on bankruptcy court jurisdiction, confirmation issues, attorney fee awards, strip off of mortgages in Chapter 7, and the disposition of funds in a case when it converts from a Chapter 13 to a Chapter 7 proceeding.

The discussion was lively and most informative. The United States Supreme Court decisions will guide the local and national bankruptcy practice for years to come. The Bankruptcy Committee would like to thank Judy Calton

*(continued on page 10)*

## Bankruptcy Event *(from page 9)*

and Judy Miller for organizing the program as well as Judge Rhodes, Kevyn Orr, and Professor Pottow for their time and insights.

## Law Clerk Committee Summer Lunch-and-Learn Event

On July 17, the Chapter Law Clerk Committee hosted a Lunch-and-Learn event in Room 115 of the Courthouse. Despite being held on a midsummer Friday, about two dozen law clerks, summer associates and interns, and newer lawyers were in attendance.

Attendees heard from a panel of current and former law clerks representing a wide range of rewarding careers. The panelists explained their backgrounds and discussed how their clerkships helped them on their career paths. Afterwards, they took questions from the attendees.

The Law Clerk Committee would like to thank the panelists for providing the attendees with valuable information and advice on clerkships and the opportunities that come from clerking. Our gratitude goes to:

- Jonathan Grey, Assistant U.S. Attorney;
- Bradley R. Hall, Administrator for Michigan Appellate Assigned Counsel System;
- Susan McNeill McKeever, Senior Associate at Bush Seyferth & Paige PLLC;
- Hon. Laurie J. Michelson, U.S. District Judge;
- Saura Sahu, Principal at Miller Canfield Paddock & Stone PLC;
- Brooke Tucker, Attorney at American Civil Liberties Union of Michigan; and
- Adam Wiener, In-House Counsel at Robert Bosch LLC.

The event proved to be a success, and the Law Clerk Committee plans to hold a similar event next summer (but not on a Friday).

## RISE Committee Hosts Annual Summer Event

On July 21, the RISE Committee hosted the Chapter's 13th Annual Summer Associate Program & Mixer. For the second year, the event was held at the Fountain Bistro in the beautiful Campus Martius Park in downtown Detroit and was attended by nearly 100 guests, including law-firm summer associates, law clerks, judges, and attorneys. The participants enjoyed appetizers, cocktails, and great networking with other attendees.

Guest speakers included Chief Judge Gerald E. Rosen, Judge Denise Page Hood, and Chapter President Kimberly Altman. Judge Rosen and Judge Hood shared valuable

practical advice for newer lawyers and highlighted the importance of high ethical standards in the practice of law. Chapter President Kim Altman and RISE co-chair Erin Behler provided the summer associates and law clerks with information about the benefits of FBA membership and becoming involved in the Chapter. The event was well received by all who attended, especially the summer associates and clerks who had the opportunity to converse with federal judges and Chapter officials in a fun and relaxed environment.

Thanks to the Chapter's RISE Committee Co-Chairs: Susan Asam (General Motors), Erin Behler (Nemeth Law, P.C.), Nathan Dupes (Bodman Law), and Christian Ohanian (Dickinson Wright). Special thanks to the Chapter Executive Director, Brian Figot, and all of the speakers for making this event a success.



*Erin Behler, Kimberly Altman, Christian Ohanian, Susan Asam, and Nathan Dupes at the RISE Committee summer event.*

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

## Court Historical Society Hears Judge Rhodes

About 75 members and friends of the Court Historical Society gathered for lunch in a very fine banquet room at the DoubleTree Downtown - Fort Shelby on September 16. They came to hear retired Bankruptcy Judge Steven W. Rhodes reflect on his 30-plus years in the federal judiciary,



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beginning as a magistrate judge and later serving as a bankruptcy judge and Chief Judge of the U.S. Bankruptcy Court for the Eastern District of Michigan.

He described a number of aspects of his experience as the assigned judge in the City of Detroit Chapter 9 bankruptcy case, praising the mediators and attorneys for the parties who demonstrated the utmost civility and cooperation with the Court, bringing about a settlement many experts said “couldn’t be done.”

Judge Rhodes reflected on his years of service on the Sixth Circuit Bankruptcy Appellate Panel (BAP). He said that, second to only the City of Detroit case, his service on the BAP had been the most rewarding experience of his career as a bankruptcy judge. He expressed his fervent hope that the District Court will soon authorize appeals to the BAP from this district.

## **The National FBA Annual Meeting and Convention**

**By Dennis Clark**

The national Federal Bar Association convened its Annual Meeting and Convention in Salt Lake City, Utah, from September 10-12, 2015. The Chapter was represented by current President Kimberly Altman and former Chapter President Dennis Clark among the more than 330 attorneys and judges in attendance.

The Eastern District of Michigan Chapter was again featured in the annual awards program. The Chapter received two awards: the Presidential Excellence Award, given to “chapters that have done a superior job” in programming (the highest award conferred by the FBA); and, for the 13th consecutive year, the Outstanding Newsletter Recognition Award, given to honor “meritorious and outstanding chapter newsletters.” Congratulations to the entire Chapter and especially the Newsletter Committee.

This event also included presentation of the Sarah T. Hughes Civil Rights Award to our own Judge Avern Cohn for his entire career of dedication to civil rights and public service.

At the National Council Meeting, it was reported that both the national organization as well as the affiliated Federal Bar Corporation (which owns the FBA office headquarters) are sound financially. Membership stands at over 17,300, an all-time high, with Chapters in 46 states. FBA members are encouraged to avail themselves of the organization’s social media (Facebook, Twitter and LinkedIn), the twice monthly e-newsletter and the

many educational webinars being presented. In addition, several annual conferences continue to grow and attract attorneys throughout the country, including: Securities Law Conference, Federal Litigation Conference, Indian Law Conference, Fashion Law Conference, Tax Law Conference, Insurance Tax Conference, Women in the Law Conference and Immigration Law Conference. Information and details concerning these events can be obtained from the national FBA’s website.

A Qui Tam Section has been formed, and FBA members are invited to join.

The FBA’s Government Relations Committee announced the following advocacy priorities: adequate funding for the federal courts; prompt action on judicial vacancies and establishing additional judgeships; curbing abusive patent litigation; opposition to the Lawsuit Abuse Reduction Act of 2015; and support for the creation of an Article I Immigration Court. FBA Capitol Hill Day is scheduled for Thursday, May 19, 2016.

The CLE program at the Convention offered enlightening substantive and ethics sessions covering a wide range of topics, including: immigration executive actions, marriage equality, employment law issues, federal Indian law, the False Claims Act, legal marijuana use in the workplace, pro bono prisoner cases, representation in mediation, internet law, bankruptcy, antitrust enforcement and avoiding legal malpractice claims.

Another activity was the Chapter Education Program, which consisted of officers from the different Chapters meeting and sharing ideas on how to promote membership and improve programming. It is clear that the Eastern District of Michigan Chapter continues to be among the leaders in both the quantity and quality of its programs as well as its relationship with the Bench.

During a meeting of the Board of Directors of the Foundation of the Federal Bar Association, Dennis Clark ended his two-year term as national Chair of the Fellows of the Foundation. The national Foundation encourages Chapters to apply for a Community Outreach Grant, which provides funding to support community service projects and pro bono activities that involve FBA chapter participation.

At the Presidential Installation Banquet, the FBA installed Mark K. Vincent, an Assistant U.S. Attorney for the District of Utah, as its new national President.

The FBA will hold its 2016 Annual Meeting and Convention in Cleveland, Ohio on September 15-17.

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## **The Chapter Welcomes the Following New Law Clerks for the Sixth Circuit and Eastern District**

### **Judge Keith**

Syed Ahmad Huda,  
*University of Pennsylvania Law School*

### **Judge Keith**

Ammee Smith,  
*North Carolina Central University  
School of Law*  
Robert E. Gray,  
*Howard University School of Law*  
Ericka S. Aiken,  
*Georgetown University Law Center*

### **Judge Guy**

Maxwell Czerniawski,  
*University of Michigan Law School*

### **Judge Kethledge**

Matthew Downer,  
*Vanderbilt University Law School*  
Philip Williamson,  
*University of Virginia School of Law*  
Charles Dameron,  
*Yale Law School*  
Rachel Kincaid,  
*University of Virginia School of Law*

### **Judge Suhrheinrich**

Emily R. Bodtke,  
*University of Minnesota Law School*

### **Judge White**

Jessica Weiner,  
*Harvard Law School*  
Andrew Elgin,  
*University of California, Berkeley School of Law*  
Daniel Halainen,  
*University of Michigan Law School*

### **Judge Cohn**

Brittney D. Kohn,  
*Wayne State University Law School*

### **Judge Cleland**

James A. Heilpern,  
*J. Reuben Clark Law School  
at Brigham Young University*  
Sean Quinn,  
*Georgetown University Law Center*

### **Judge Edmunds**

Alyssa Cantor,  
*University of Michigan Law School*

### **Judge Hood**

Sasha N. Griffin,  
*University of Detroit Mercy School of Law*

### **Judge Tarnow**

Breta W. Olsen,  
*New York University School of Law*

### **Judge Roberts**

Garry D. Hartlieb,  
*University of Michigan Law School*

### **Judge Lawson**

Erik H. Johnson,  
*University of California, Irvine School of Law*

### **Judge Ludington**

Mary C. Erler,  
*University of Minnesota Law School*

### **Judge Cox**

Zainab Hazimi,  
*Wayne State University Law School*

### **Judge Murphy**

William C. O'Hara,  
*Northwestern Law*  
Grant A. Newman,  
*Wayne State Law School*

### **Judge Goldsmith**

Daniel J. Ping,  
*University of Michigan Law School*

### **Judge Drain**

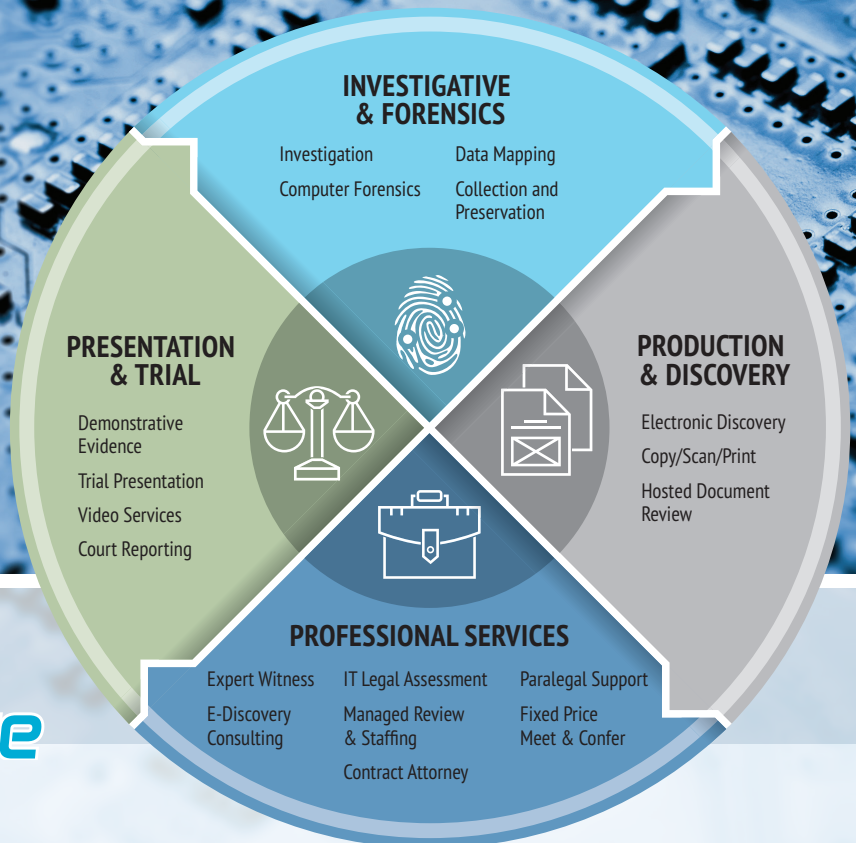
Christopher A. Knight,  
*University of Virginia School of Law*  
Jessica Wall,  
*University of Michigan Law School*

(continued on page 14)



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## New Law Clerks for the Sixth Circuit and Eastern District

(from page 13)

### Judge Michelson

Ryan K. Elsey,  
*University of California, Berkeley School of Law*

### Judge Levy

Robin Wagner,  
*DePaul University College of Law*  
Daniel Woofert,  
*Georgetown University Law Center*

### Judge Leitman

Jacob J. Perkowski,  
*University of Michigan Law School*

### Magistrate Judge Morris

Chelsea Plushanski,  
*Hofstra Law School*  
Eric Hendricks,  
*University of Michigan Law School*

### Magistrate Judge Patti

Ashlie D. Depinet,  
*Capital University Law School*

## Officers and Directors 2013-2014

These officers and directors started their terms at the Annual Meeting on June 19, 2014.

### Officers

#### President:

Kimberly G. Altman,  
*Career Law Clerk to Hon. Avern Cohn*

#### President-Elect:

Susan E. Gillooly, *Assistant U.S. Attorney*

#### Vice President:

Jeffrey S. Appel, *Law Office of Jeffrey S. Appel*

#### Secretary/Treasurer:

Saura J. Sahu, *Miller Canfield PLC*

#### Program Chair:

Matthew J. Lund, *Pepper Hamilton LLP*

#### Past President:

Thomas M. Schehr, *Dykema Gossett, PLLC*

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#### Term Ending June 2016

Hon. Victoria A. Roberts, *U.S. District Judge*  
Hon. Mona K. Majzoub, *U.S. Magistrate Judge*  
Richard M. Helfrick, *Federal Defender Office*  
Andrew J. Lieveense, *Assistant U.S. Attorney*  
Erica L. Fitzgerald, *Barris Sott Denn & Driker, PLLC*  
Francis R. Ortiz, *Dickinson Wright PLLC*  
Susan E. Asam, *General Motors*

#### Term Ending June 2017

Hon. Matthew F. Leitman, *U.S. District Judge*  
Hon. Thomas J. Tucker, *U.S. Bankruptcy Judge*  
Matthew P. Allen, *Miller Canfield PLC*  
Christina L. Farinola,  
*Career Law Clerk to Hon. Paul J. Komives*  
Linda Hylenski ,  
*Career Law Clerk to Hon. Gerald E. Rosen*  
Fred K. Herrmann, *Kerr Russell & Weber PLC*  
Vanessa Miree Mays, *Assistant U.S. Attorney*

### Executive Board

#### Term Ending June 2018

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Hon. David R. Grand, *U.S. Magistrate Judge*  
Hala Y. Jarbou, *Assistant U.S. Attorney*  
Gregory V. Murray, *Vercruysse, Murray PC*  
Sara D. Woodward, *Assistant U.S. Attorney*  
Erin Behler, *Nemeth Law PC*  
Nathan Dupes, *Bodman PLC*

### Ex Officio Members

David J. Weaver, *Court Administrator*  
*Clerk of the Court, U.S. District Court*  
Katherine B. Gullo, *Clerk of the Court*  
*U.S. Bankruptcy Court*  
Hon. Fred M. Mester, *District Court Ombudsman*

### Executive Director

Brian D. Figot  
PO Box 20759, Ferndale MI 48220-0759  
Phone: 248-594-5950  
fbamich@fbamich.org



## Sustaining Members

We gratefully acknowledge the additional support provided to our Chapter by the following individuals, who opted during the fiscal year ended July 31, 2015, and in the first part of fiscal year 2015-2016, to renew their membership at the Sustaining Member level of \$100. We thank each of you for contributing to our ability to fund essential programming.

Frederick A. Acomb  
Christopher A. Andreoff  
Nicholas S. Andrews  
Frank A. Angileri  
Susan Artinian  
Alexander A. Ayar  
Kimberly A. Bedigian  
John E. Benko  
Hon. Terrence G. Berg  
Kathleen L. Bogas  
Charles D. Bullock  
Lawrence G. Campbell  
Julia A. Caroff  
Dennis J. Clark  
Jeffrey R. Clark  
Michael A. Cox  
Thomas W. Cranmer  
Frederick R. Damm  
Joseph F. Dillon  
Catherine T. Dobrowsky  
Christine M. Dowhan-Bailey  
Lawrence M. Dudek  
Ernest J. Essad  
David H. Fink  
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Rodney M. Glusac  
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Dean M. Googasian  
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Deborah L. Gordon  
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Ernest M. Hassan  
Matthew W. Heron  
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Jules B. Olsman  
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Edward H. Pappas  
Melissa M. Pearce  
Arvin J. Pearlman  
Melissa Perkins  
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Hon. Steven Rhodes  
Timothy Rimer  
James D. Robb  
Jorin G. Rubin  
Charles R. Rutherford  
Derek J. Sarafa  
Arthur H. Siegal  
Michelle Stephenson  
Raymond Sterling  
Mark A. Stern  
Michael A. Stevenson  
Deborah J. Swedlow  
James C. Thomas  
Marc E. Thomas  
Matthew L. Turner  
I. W. Winsten  
Andrew N. Wise

## Calendar of Events

**Oct. 27**      **Bankruptcy Committee's  
Rapid Fire Round Table Event**  
Westin Hotel, Southfield  
1500 Town Center  
4:00-7:00 P.M.  
\$40-includes refreshments and  
light hors d'oeuvres  
Moderator: Chuck Bullock  
Panelists: Bankruptcy Judge  
Marci B. McIvor, Bankruptcy  
Judge Daniel S. Opperman,  
Mark Shapiro, Paul Randel,  
Susan Cook, and David Ruskins

**Nov. 10**      **Rakow Scholarship Awards/  
Historical Society/Rom Award  
Luncheon**  
Chapter's Presentation of  
Rakow Scholarships to students  
from each of Michigan's law  
schools and the Fourth Annual  
Barbara J. Rom Award for  
Excellence in Bankruptcy  
Practice, coupled with the  
Annual Meeting of the Court  
Historical Society. Special  
Keynote Speaker: Former  
Emergency Manager, City of  
Detroit, Kevyn Orr

**Dec. 8-9**      **New Lawyers Seminar**  
Theodore Levin U.S.  
Courthouse  
8:30 A.M.      Registration  
FEBRUARY 2013 and PRIOR  
BAR PASSERS:  
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**Dec. 10**      **Holiday Party  
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Westin Book Cadillac Hotel  
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most events at [www.fbamich.org](http://www.fbamich.org) under  
"Events and Activities."**

**See updates and further developments at  
[www.fbamich.org](http://www.fbamich.org) under  
"Hot News" and "Events & Activities."**

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