



Federal Bar Association - Eastern District of Michigan Chapter - **58** years of service to our Federal Bench and Bar

Edward H. Rakow Awards, Barbara J. Rom Award, Court Historical Society Meeting

On Tuesday, November 15, the Chapter and Court Historical Society will host their annual luncheon event at the Westin Book Cadillac. A reception will begin at 11:30 a.m., followed by the luncheon at noon.

The annual Rakow Scholarship Awards will be presented by the Federal Bar Foundation to outstanding students from each of the Michigan law schools. The scholarship awards are named for Edward H. Rakow, who helped originate the Eastern District of Michigan Chapter of the Federal Bar Association.

The program will also feature the presentation of the fifth annual Barbara J. Rom Bankruptcy Award to a bankruptcy practitioner who demonstrates 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 nomination forms, please visit the Chapter website. Nominations are open until October 20, 2016.

The speaker for the event will be attorney, professor, and author Kevin M. Ball, who was a bankruptcy attorney before teaching at his alma mater, Wayne State University. Ball is currently the Program Director of the Business and Paralegal Programs for Baker College. He holds a J.D. from the University of Detroit Mercy Law School and a Ph.D. from Wayne State University.

Ball will be discussing his recently-released book, *Adversity and Justice: A History of the United States*

Bankruptcy Court for the Eastern District of Michigan. In his book Ball explores the beginnings of the Court in the late nineteenth century through the 2013 City of Detroit bankruptcy. He relies on personal accounts,

(continued on
page 2)

INSIDE THIS ISSUE

Dave Weaver pg. 2-3

Judge Edmunds' Portrait pg. 3-6

Supreme Court Review pg. 6-7

State of the Court pg. 7, 9

Special Focus on a Federal Agency
pg. 9, 11-12

New Law Clerks pg. 12

Antitrust Event Photos pg. 13

Officers and Directors pg. 14-15

Calendar of Events pg. 15

President's Column

Susan E. Fairchild



"Continuing the
Model of Success"

In the midst of the United States presidential campaign, I can't resist opening my remarks with a political quote:

"Always bear in mind that your own resolution to succeed is more important than any other."

- Abraham Lincoln.

And so, with this resolve, I assume the Chapter presidency for the 2016-2017 term.

This year marks the 58th year of our Chapter and its service to the federal bench and bar in the Eastern District. Over the years, this organization has been recognized with numerous awards including the National FBA Outstanding Newsletter Award and National FBA President's Award for Chapter Excellence. Our Chapter is highly respected for its quality educational programs, active membership, and the participation we receive from our district judges and magistrate judges. We have chosen to excel.

This year will be no different. We will continue the model of success we have become. We have a talented and ambitious Officer group including President-Elect Jeff Appel, Vice President Saura Sahu, Secretary/Treasurer Matthew Lund, and our newest member, Program Chair Fred Herrmann. Guiding us with her wisdom and experience will be Kim Altman, Immediate Past President. I thank them all for their continued involvement and support going forward.

We also have returning and established Committee Chairs who have committed to offering relevant educational programming to our membership. Without their assistance and

(continued on page 2)

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

President's Column (continued)

innovative ideas for programming and events, our Chapter would not succeed.

To add to our success and efficiency, over the summer break, with the assistance of our friends and colleagues at Computing Source, our Chapter website has undergone major revisions. We have added more member-accessible events and programs, updated Committee membership lists, and included additional relevant links and resources. Please visit our website to check it out. We also will continue our periodic "E-Blasts" to inform members of upcoming events and news.

Already our new year has started off with an outstanding event which bid farewell to Bankruptcy Judge Walter Shapero and welcomed Bankruptcy Judge Maria Oxholm to the Bankruptcy Court. Our first Chapter luncheon program, the State of the Court luncheon featuring our new Chief Judge, the Honorable Denise Page Hood, was a success with over 270 attendees.

From there we have scheduled a Pro Bono Seminar in late October and a Judicial Internship and Clerkship Panel jointly sponsored by the Damon J. Keith Center for Civil Rights at Wayne Law, the Chapter Law Clerk Committee, and the Wolverine Bar Association Judicial Externship Program. The Rakow/Bankruptcy/Historical Society Luncheon follows in November, and the Chapter Holiday Party, the New Lawyer Seminar, the McCree Luncheon, the Gilman Luncheon, and the Golf Outing round out the year. Scheduled in between will be other Committee sponsored and hosted events, which will comprise an exciting and busy calendar year.

My focus this year, in addition to mirroring the excellent leadership by former presidents, will be to grow our Chapter membership. Our goal for 2016/2017 is to increase our membership to record levels. By expanding our membership and participation among federal practitioners and the judiciary, we create our legacy and future success. Please find a way to recruit a new member this year and help toward our goal. Perhaps invite a law student or newer lawyer in your firm or agency to one of our luncheons.

As always, this is your FBA Chapter. Any suggestions for speakers, programs, or membership recruitment ideas are always welcome. Photo submissions or articles for the newsletter are also appreciated. If you have any questions about how to become involved, or how you can help continue our model for success, please feel free to drop me an email at susan.fairchild@usdoj.gov, or call me at (313) 226-9577.

Rakow (from page 1)

newspaper articles, and interviews to provide a comprehensive account of the Court's history. As noted on Amazon.com, anyone with an interest in bankruptcy, legal history, or the city of Detroit's bankruptcy case will be attracted to this thorough case study of the Bankruptcy Court.

Tickets are \$35 for members and \$45 for non-members. Tickets are available online at www.fbamich.org.



Dave Weaver, Clerk of Court/ Court Administrator

I am extremely pleased to report that David Ashenfelter has been selected to succeed Rod Hansen as the Court's Public Information Officer, following Mr. Hansen's untimely passing several months ago. Ashenfelter won Pulitzer Prizes while at *The Detroit News* and *The Detroit Free Press* during his career.

Ours is one of only two or three Federal district courts that has a dedicated Public Information Officer on staff. Ashenfelter will handle media inquiries and news releases and will assist with other media matters, including working with the Office of Public Affairs at the Administrative Office of the U.S. Courts in Washington, D.C. on various projects.

The Federal State of Emergency regarding the Flint water system officially ended on August 14. As I mentioned in an earlier article, the General Services Administration (GSA) has concluded the process of installing water filters at all water sources in the Flint courthouse. Ongoing water testing provided by GSA indicates the filters are working properly, however, the Court has just completed independent water testing and is awaiting those results in an effort to confirm and support the GSA results.

The renovation of the Theodore Levin U. S. Courthouse is underway. The entire 4th floor is currently being built out as temporary office space to be used first by the Probation Department. Most visitors to the Court are not aware, but the Courthouse has a three-lane indoor gun range in the basement. The range has not been used in over twenty years and is currently undergoing a lead abatement project. The space will be reclaimed for use by building support contractors at the conclusion of the overall renovation project.

On a final note, Fiscal Year 2017 has begun and the Eastern District of Michigan and the Federal Judiciary overall anticipate a good budget year. Though the final

numbers will not be firmed up until January 2017 or later, we appear to be in pretty good fiscal shape.

Remember, if you have any comments, questions or suggestions, do not hesitate to contact me at: david_weaver@mied.uscourts.gov.

Judge Edmunds' Portrait Presentation

by Ruth Tyszk*

"Along the way over 25 years, you have all taught me what it means to be a judge. You have helped me build bridges between the black letter of the law and the needs and hopes of individual litigants. You have taught me that judging is based upon a special covenant between our civilized society, the foundation reflected by the law, and the rights of our individual citizens."

The Honorable
Nancy G. Edmunds

On a day that was supposed to be about her, Judge Nancy G. Edmunds easily and often showed her gratitude to those in her personal and professional life. On Monday, June 20, the Court convened a special session for the presentation of Judge Edmunds' portrait. The ceremony occurred amid a sea of individuals who represent the chronology of Judge Edmunds' life, going back as far as grade school, and evidenced a life focused on relationships and the value and potential of individuals, be they family, friend, colleague, attorney, defendant, or litigant.

Chief Judge Denise Page Hood presided and called on "a close relative" of hers, Reverend Nicholas Hood III, to give the invocation. In foreshadowing what would become one of the recurrent themes of the ceremony, Reverend Hood asked that the "portrait serve as a reminder for generations to come of the legacy [Judge Edmunds] has

established as a judge who has followed the rule of law with compassion, fairness and justice for all."

Chief Judge Hood then introduced the extensive list of members of the bench who were present to honor Judge Edmunds including judges from the District Court, Bankruptcy Court, and Circuit Court, as well as Court personnel and the legal community at large.

The individuals who spoke at the ceremony illuminated Judge Edmunds' life in law and her character as judge, lawyer, mother, friend, and mentor. Eugene Driker of Barris, Sott, Denn and Driker spoke first, his words drawing a picture of Nancy "fresh from her first year at Wayne State Law School" and coming to clerk at his law firm. He illustrated her progress from bright law student to thoughtful judge, highlighting her service as a law clerk to Judge Ralph M. Freeman.

Driker noted that the lawyers' and litigants' respect for Judge Edmunds stems "from the way she carries out her duties with firmness, fairness, a sense of humor and a genuine appreciation for the stress people are under when they come to court." He noted that her rulings reflect her understanding of the practical consequences of her decisions as well as the understanding that those rulings are tomorrow's precedents.

He pointed out that over the past few years, she has had tough cases ranging from the RICO prosecution of a motorcycle gang to the Underwear Bomber, and, most recently, the six-month trial of former Detroit Mayor Kwame Kilpatrick, as well as

landmark constitutional issues for which precedents did not yet exist.

Driker gave a nod to the various organizations to which Judge Edmunds has lent her talent, including the Board of Visitors of Wayne State Law School, the Stratford Festival, and participation in Jewish community affairs.

With what would be the first, but not only, reference to Judge Edmunds' passion – baseball and the Detroit Tigers – Driker closed with a quote from Tommy Lasorda: "There are three types of baseball players: those who make



Judge Edmunds with her husband, Bill, and their two sons at her portrait presentation.

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

(continued on page 4)

Judge Edmunds *(from page 3)*

it happen, those who watch it happen, and those who wonder what happens.” Driker said there is no doubt that Judge Edmunds “is and has always been one who makes it happen, and for those of us who have been privileged to be part of her universe, we express our appreciation, our admiration, and our deepest affection.”

Criminal defense attorney Steven Fishman spoke next and pointed out that Judge Edmunds and her husband Bill share the unique distinction of being a married couple who had graduated first and second in their law school class; he then left it to the couple to decide whether they would tell the audience who was first and who was second.

In addition to echoing the sentiment that lawyers get a “fair shot” in front of Judge Edmunds, Fishman focused on her professional and personal courage. He identified her as a judge who is willing to take on difficult issues and make the right decision. He called her professional courage “obvious” before moving on to talk about her personal courage in the face of a physical challenge.

Fishman concluded by calling her a friend and the “definition” of a mensch. In keeping with the jovial atmosphere of the program, Judge Edmunds interjected at the end that her husband had asked Fishman to be sure to say nice things.

Terri Serra, Judge Edmunds’ former career law clerk for over twenty years spoke next. Serra’s remarks represented the experiences of many of Judge Edmunds’ former law clerks, all but three of whom were in attendance. Her remarks focused on the lessons the law clerks had learned from Judge Edmunds, including being passionate about what you love, making a timely yet well-informed decision and then moving on, and making time for family and friends.



Judge Edmunds showing her father, Joseph Garlock, the newly unveiled portrait at the presentation ceremony.

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

In true Judge Edmunds’ style, Serra turned the focus of the ceremony to the importance of those in attendance, remarking that “[i]t is evident from the large presence of her former clerks here today that she taught us well the importance of lasting relationships.” Serra described the camaraderie in chambers, where the staff makes an effort to eat lunch together every day. She concluded by thanking the judge for the privilege of being part of her chambers.

Judge Laurie Michelson spoke next, alluding to a “prop” that she had brought with her – the reference to which made some of her colleagues nervous, at least

those who are familiar with her humor. Judge Michelson told of her relationship as Judge Edmunds’ mentee, and how Judge Edmunds initially suggested that the best place for mentoring advice was “undoubtedly Comerica Park,” home of her beloved Tigers.

Thus started a mentor/mentee relationship of mutual respect. Judge Michelson wove quotes together with the comments of those who know Judge Edmunds, to highlight those characteristics which suggest that Judge Edmunds represents

“the very best the judiciary has to offer;” fairness, thoughtful reasoning, strength, courage, empathy, dedication to the rule of law, respect for the integrity of the judicial process, and a dedication to giving the litigants their day in court, as well as her willingness to ask the lawyers for help and to share the glory.

Not the first speaker of the day to reference the high-profile cases that Judge Edmunds has handled throughout the years, Judge Michelson asked, “[W]ho among us is not thrilled and proud that much of the nation’s understanding of how this court manages cases, handles litigants and lawyers, and dispenses justice has come largely from Judge Edmunds?”

Near the end of her remarks Judge Michelson announced that due to the official portrait remaining at the courthouse, she wanted Judge Edmunds to have her

own portrait to remind her of this day. The audience held their breath as she unveiled her prop: a mock-up of Judge Edmunds in a Detroit Tiger's uniform, winding up for a pitch next to the caption "Who's Your Tiger?"

Judge Michelson's gift to Judge Edmunds was not the only Tigers-related presentation of the afternoon. Later in the program, Judge Rosen announced that the law clerks had arranged a personalized baseball bat signed by Tiger Ian Kinsler to commemorate the ceremony.

Judge Edmunds' sons, Nathan and Ben, spoke in succession and both described how their understanding and appreciation of their mother's work has changed and grown over the years. Nathan spoke of his appreciation for growing up with a mother who cares deeply about her work and loves her job.

He also spoke of her as a teacher and mentor to those around them, including his peers. When his mother taught a constitutional law elective at his high school, Nathan heard his friends give their impressions of her as their teacher and he realized his mother was having a powerful impact on the people with whom she worked. Nathan spoke about his mother's investment in other people's careers, noting that her role as a mentor is "about having an advocate in your corner, having someone who genuinely cares about you as a person, who sees you at your best and who cares about your growth professionally and personally." As he thinks about becoming a parent himself, he is reminded how meaningful it was to grow up with parents "who love their jobs and who work tirelessly to make a meaningful impact on the people around them."

Ben, the elder of the Edmunds' sons, illustrated to the guests the mind of a ten-year-old whose mother had just been appointed to the bench, and for whom his only knowledge of her new job came from television. He had wondered: Would she get to wear a black robe? How hard would she bang her gavel when she shouted "Order in the Court!"? Would he himself get to go to her chambers and bang that same gavel?

Ben admitted that the lessons of the law began to sink in through the years, as his mother talked about her work. He is proud of her for having been an arbiter for laws that protect the rights of minorities and the underprivileged, honor the First Amendment, and properly balance other branches of government. He credited his parents with imbuing both

sons with a never-ending intellectual curiosity and a drive to be exposed to new ideas that has allowed each son to pursue a career that he is passionate about.

Bill Edmunds, the Judge's husband, and Joseph Garlock, her father, then unveiled the portrait, and Mr. Edmunds made the formal request to the Court to accept it.

The portrait is the work of South Carolina artist Michael Del Priore, who was in attendance at the ceremony. He has painted hundreds of portraits in his career, including President Ronald Reagan, U.S. Senators, Congressmen, Governors, Sixth Circuit Court of Appeals Judge Ralph B. Guy, Jr., and several judges from this District, including Judge Ralph M. Freeman. The portrait depicts Judge Edmunds wearing her robe, with an old English D pinned over her heart, a simple strand of pearls and her wedding ring; she holds a bound volume of Shakespeare.

Judge Edmunds was called upon for remarks and took a moment to catch her breath before thanking everyone for their kind, generous, and loving remarks. She next thanked Del Priore for both the beautiful portrait and his patience with her while it was created before expressing gratitude to the individuals present: her staff past and present, colleagues, and her family, whom she introduced to the audience. She called her father "an incredible example" and her "biggest cheerleader," mentioned her mother, who could not be in attendance, and thanked her husband Bill for his support, love and unending dedication.

It was only after expressing such gratitude that she made her own remarks about her time at the court. Yet even in conclusion, Judge Edmunds again cast her focus on those around her and turned the attention and gratitude to each of them. She spoke about how in struggling with some stressful issues and cases she has come to understand that

[E]ach of us is unique, and that we are neither better nor less than anybody else, but, rather, the best or least of ourselves. I'm still working on finding the best of me. It is an exciting, ongoing journey. Thank you all for being my traveling companions along a large and important part of my way. I'm forever grateful for your stimulating company and for the enormous collection of shared experiences. Forever grateful to have all of you in my life.

(continued on page 6)



Judge Michelson presenting her gift to Judge Edmunds.

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

Judge Edmunds *(from page 5)*

Today Judge Edmunds' portrait hangs in Judge Avern Cohn's courtroom. The portrait is a reminder of the jurisprudential tradition that relies on individuals to "follow the rule of law with compassion, fairness and justice for all," and further to inspire the next generation of judges to do the same, as space will someday be made on these walls for their portraits.

**Ruth Tyszka is Judge Edmunds' law clerk. She earned her undergraduate degree from Oakland University and her law degree from the Wayne State University Law School.*



Supreme Court Preview

M Bryan Schneider*

The Supreme Court opened its October 2016 term on October 3, having granted certiorari in 40 cases thus far. Mindful of the still-open seat created by the death of Justice Scalia, the Court appears to

be staying away from cases on hot-button social issues, leaving a caseload heavily focused on issues of importance to federal practitioners.

On the civil side of its docket, the Court will consider several interesting procedural and jurisdictional cases.

- In *Microsoft Corp. v. Baker*, the court will decide whether appellate jurisdiction remains to review an order denying class certification after the named plaintiffs have voluntarily dismissed their claims.
- In two consolidated cases (*Musnuff v. Haeger* and *Goodyear Tire v. Haeger*), the Court will consider the proper procedures for and scope of a district court's imposition of sanctions under its inherent powers.
- Addressing immunity issues, the Court will decide whether tribal sovereign immunity bars damages actions against tribal employees for torts committed within the scope of their employment (*Lewis v. Clarke*), and whether a plaintiff alleging an exception to sovereign immunity under the Foreign Sovereign Immunities Act must meet a heightened pleading requirement (*Venezuela v. Helmerich & Payne International*).

In substantive civil matters, the Court has granted certiorari in a number of cases involving federal civil rights statutes.

- Construing the Americans with Disabilities Act, the Court will decide whether a suit brought under the ADA pursuant to the Handicapped Children's Protection Act is subject to an exhaustion requirement (*Fry v. Napoleon Community School*), and whether an express contractual relationship between a state and a private party is required for accommodation to be mandated by Title II of the ADA (*Ivy v. Morath*).
- In *Endrew v. Douglas County School District*, the Court will address the level of educational benefit school districts must provide to disabled students under the Individuals with Disabilities Education Act. In *McLane Co. v. EEOC*, the Court will determine what standard of review a court of appeals should apply in reviewing a district court's decision to enforce or quash an EEOC subpoena.
- Two consolidated cases (*Bank of America Corp. v. Miami* and *Wells Fargo & Co. v. Miami*) will require the court to address what level of injury is necessary for a party to be "aggrieved" and thus a proper plaintiff under the Fair Housing Act.

In several constitutional civil rights cases, the Court will consider whether:

- merchants' freedom of speech is violated by state laws requiring merchants to label a price difference between credit card and cash transactions as a cash discount rather than a credit card surcharge (*Expressions Hair Design v. Schneiderman*);
- the scope of the "parcel as a whole" doctrine in commercial takings cases under the Fifth Amendment (*Murr v. Wisconsin*);
- whether a malicious prosecution claim is cognizable under the Fourth Amendment (*Manuel v. Joliet*); and
- whether the exclusion of charges from a government aid program violates the religion clauses of the First Amendment (*Trinity Lutheran Church v. Pauley*).

The Court has also accepted for review a number of important business-related cases.

- In *Salman v. United States*, the Court will address the scope of the personal benefit necessary to establish insider trading under the Securities Exchange Act.
- In two important antitrust cases, the Court will decide whether members' agreement to adhere to the rules of a business association, by itself, is

sufficient to establish an antitrust conspiracy under the Sherman Act (*Visa Inc. v. Osborn* and *Visa Inc. v. Stoumbos*).

- In *Czyzewski v. Jevic Holding Corp.*, the Court will address whether, as part of a structured dismissal, a bankruptcy court can authorize distribution of estate assets contrary to the Bankruptcy Code's priority scheme.

As has been its wont in recent years, the Court has also granted certiorari in several intellectual property cases.

- In patent cases, the Court will consider: the scope and extent of patent liability for suppliers of components to a multi-component invention (*Life Technologies Corp. v. Promega Corp.* and *Samsung Electronics Co. v. Apple Inc.*), as well as the availability of the laches defense in a patent infringement action (*SCA Hygiene Products v. First Quality Baby Products*).
- Addressing a copyright issue that has created a 10-way circuit split, the Court will decide in *Star Athletica v. Varsity Brands* the appropriate test for determining when a particular feature of an otherwise non-copyrightable useful article may be protected under the Copyright Act.
- And in an important trademark case, *Lee v. Tam*, the Court will consider whether the Lanham Act provision prohibiting registration of a disparaging remark violates the First Amendment.

Rounding out the Court's civil docket to date are three immigration cases.

- In *Lynch v. Dimaya*, the Court will decide whether the definition of "crime of violence" incorporated into the Immigration and Nationality Act is unconstitutionally vague.
- In *Jennings v. Rodriguez*, the Court will consider the permissibility of holding indefinitely certain inadmissible aliens without affording them bond hearings.
- And in *Lynch v. Morales-Santana*, the Court will decide whether an immigration statute treating foreign-born children of unwed citizen mothers more favorably than foreign-born children of other citizen parents violates the Equal Protection Clause.

As of the start of the Term, the Court has granted certiorari in far fewer criminal cases, but some important criminal law issues should be resolved by the Court.

In *Beckles v. United States*, the Court will decide whether its decision in *Johnson v. United States*, which found the residual clause of the Armed Career Criminal Act unconstitutionally vague, applies to cases on collateral

review as well as whether that decision likewise invalidates the identical residual clause in the sentencing guidelines.

Addressing a long-established rule of evidence, in *Pena-Rodriguez v. Colorado* the Court will decide whether the rule prohibiting introduction of juror statements during deliberations to impeach a verdict constitutionally can be applied to prohibit introduction of evidence of racial bias on the part of the jury. In *Shaw v. United States*, the Court will decide whether the federal bank fraud statute requires a specific intent to defraud a bank, or whether the elements of the statute can be satisfied even where the scheme is directed at a non-bank party.

In an important double jeopardy case, the Court will decide whether preclusive effect must be given to acquittals tied to vacated convictions (*Bravo-Fernandez v. United States*). The Court will once again consider a death penalty case, deciding whether a state statute requiring the use of medical standards of intellectual disability extant at the time of conviction to determine whether a defendant should have been eligible for the death penalty is consistent with the Eighth Amendment (*Moore v. Texas*). In *Nelson v. Colorado*, the Court will decide the constitutionality of a state statute which requires a defendant to prove his innocence by clear and convincing evidence to obtain a refund of monetary penalties imposed as a result of a conviction that is reversed on appeal. Finally, in *Manrique v. United States*, the Court will decide on the jurisdictional prerequisites for appealing a deferred restitution award imposed while a timely filed criminal appeal is pending.

With only 40 cases granted to date, a not-insignificant decline from recent years, the Court is sure to add important civil and criminal cases to its docket.

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

2016 State of the Court

A new chief judge and a new Chapter president launched a new Chapter program year on October 6 at the Westin Book Cadillac.

New Chapter President Susan E. Fairchild presided expeditiously over Chapter business and introduced Rev. Dr. Nicholas Hood, III, for the invocation. After a surprisingly good meal—when was the last time you heard several people praise the chicken breast at a group lunch?—President Fairchild introduced Chief Judge Denise Page Hood.

After 22 years on the Court, Judge Hood assumed the chief judgeship on January 1. Her remarkable career to date was reported in the luncheon program and may be found

(continued on page 9)

The Ultimate Roadmap

The Eastern District of Michigan Chapter of the Federal Bar Association presents the

Seminar for New Lawyers

- Navigating Your Way
- in State & Federal
- Court



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Registration Fee: \$100 per person includes two-day seminar, presentation materials, luncheon, cocktail reception hosted by RISE, and one-year local Chapter membership

Interested in additional state law seminars? The Oakland County Bar Association is offering FBA members reduced rates to its U Seminars. Visit www.ocba.org

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Eastern District of
Michigan Chapter



State of the Court *(from page 7)*

online www.fbamich.com under Member Resources and Docs/Remarks.

In her remarks, Chief Judge Hood acknowledged former Chief Judge Gerald E. Rosen's seven years' service in that role, and announced that he would be taking senior status on October 26 creating a vacancy on the Court.

In further developments affecting judicial officers, Chief Judge Hood reported the Court's appointment of Magistrate Judge Stephanie Dawkins Davis to the Flint divisional office effective January 4. Magistrate Judge Davis succeeded Magistrate Judge Michael J. Hluchaniuk, who retired December 23, 2015, after serving as the resident magistrate judge in Flint for eight years.

Eight senior judges continue to contribute substantially to the work of the Court: Judges Avern Cohn, Bernard A. Friedman, Robert H. Cleland, Nancy G. Edmunds, John Corbett O'Meara, Arthur J. Tarnow, George Caram Steeh, and Marianne O. Battani, who all receive case assignments at the same rate as judges in active service.

As to the Bankruptcy Court, Chief Judge Hood recognized Chief Bankruptcy Judge Phillip J. Shefferly, who is serving the third year of his current term which will end on April 24, 2017. Bankruptcy Judge Maria Oxholm is sitting in Detroit pursuant to an agreement between the Sixth and Eighth circuits. Judge Walter Shapero, who had continued to serve the Bankruptcy Court in recall status, retired on September 30.

The statistical information accompanying Chief Judge Hood's report may be found online at www.mied.uscourts.gov under News & Notices, 2016 Annual Report.

Focus on a Federal Agency: Lawyers for the U.S. Army Corps of Engineers, World's Largest Engineering Organization

by Micheal J. Riordan*

The Federal Bar Association was founded nationally in 1920 by a group of federal government lawyers. Since then, the FBA has expanded to include private attorneys, government lawyers, and judges involved in federal practice. In recognition of the organization's beginnings, and to supplement the normal "Focus on a FBA Member" feature, the Chapter Newsletter expects to run a series of articles about federal government lawyers practicing in the Eastern District. This is the first such article.



Chapter President Susan Fairchild, Chief Judge Hood, and her husband, Rev. Dr. Nicholas Hood, III, at the State of the Court Luncheon.

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

The United States Army Corps of Engineers (USACE) is the world's premier public engineering organization. Since the first Chief Engineer was appointed in 1775, USACE has established a long tradition of serving the public by meeting the nation's most complex engineering needs.

In the early years of our nation, USACE built fortifications for national defense, and established its role in developing the nation's waterways for navigation. It also

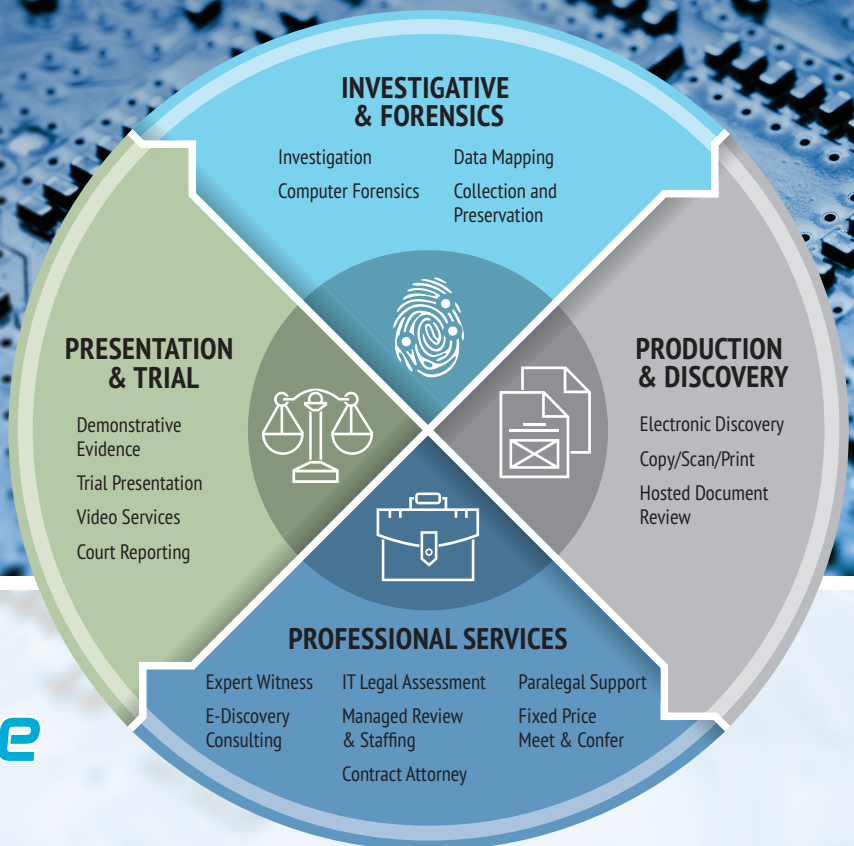
helped explore and open the west by mapping interior lands and improving the Mississippi and Ohio rivers. USACE has built critical infrastructure and world famous monuments such as the Washington Monument, the Panama Canal, the Pentagon, and the Soo Locks facility at Sault Ste. Marie, Michigan. USACE has always played an important role in disaster relief, responding to floods and earthquakes to bring assistance to those affected and to begin the process of recovery.

Today, USACE continues to provide the most effective engineering solutions to complex national issues affecting

(continued on page 11)

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Engineers *(from page 9)*

national security, disaster relief, and the environment. USACE is comprised of approximately 32,000 civilian employees and 650 military men and women. The USACE mission is to provide vital engineering services and capabilities as a public service across a full spectrum of operations in support of national interests.

The Detroit District is part of the Great Lakes and Ohio River Division and operates in concert with six other districts spanning 17 states providing engineering products and technical services that serve the Great Lakes and Ohio River watersheds. The Detroit District, established in 1841, covers 82,000 square miles of land inhabited by about 14 million people and includes the state of Michigan and portions of the states of Indiana, Wisconsin and Minnesota with 3,200 miles of Great Lakes shoreline.

The District is headquartered in downtown Detroit with area offices in Detroit; Duluth, Minnesota; Sault Ste. Marie, Michigan; and Grand Haven, Michigan. Its essential mission is to support the economy and environment of the Great Lakes region.

The District's civil works missions provide navigation, flood-risk management, regulatory program, international and interagency support, environmental restoration, hydropower, emergency management and recreation services. Maintenance of navigation locks, channels, and harbors provides significant transportation benefits to the regional and national economy. Navigation structures facilitate efficient movement of cargo, provide protection to municipal infrastructure, and contribute to recreational economic development. Along with the Buffalo and Chicago Districts, Detroit maintains the Great Lakes Navigation System (GLNS), a vital component of the American transportation system. The GLNS contains 22 of the nation's top 100 harbors by tonnage. Dredging of harbors and connecting channels is vital to the functionality of the GLNS.

The District also operates and maintains the Soo Locks along with 91 harbors and connecting channels on Lakes Superior, Michigan, Huron, St. Clair and the portion of Lake Erie that borders the State of Michigan. The Soo Locks facility is the District's largest project and is located on the St. Marys River at Sault Ste. Marie, on the international border with Canada. Almost 80 million tons of commercial commodities pass through the Soo Locks annually. Just north of the Soo Locks, USACE operates and maintains a hydropower plant which generates more than 150 million kilowatt hours of electrical power each year. Power not used at the locks is sold to the local power company and distributed to homes and businesses in Sault Ste. Marie and surrounding communities.

Restoration of the Great Lakes ecosystem, through collaboration with many stakeholders, contributes to the overall environmental sustainability of the region. The District works in partnership with federal, state, city, tribal, and nongovernmental stakeholders on diverse Great Lakes environmental and ecosystem issues. Projects include contaminated sediment response, ecosystem restoration, and the implementation of the Great Lakes Water Quality Agreement. The District also coordinates with federal, state, provincial, tribal, and academic stakeholders on fishery habitat issues.

Legal services within USACE are provided by an enterprise-wide organization with offices in approximately 50 cities around the globe. These offices employ over 500 attorneys and support staff. Corps of Engineers attorneys serve as counselors to the decision-makers, and play a critical role in the planning and development of USACE projects to facilitate smooth and effective execution.

The Detroit District Office of Counsel formerly was led for many years by past Chapter President Christine Dowhan-Bailey. It is currently led by District Counsel Joseph L. Falvey, Jr., is staffed with seven attorneys, and is responsible for furnishing expert legal advice to the District staff concerning all legal aspects of District activities. "Our goal is to practice preventive law -- to get out in front in the planning and design phases of USACE projects to facilitate smooth and effective execution," said Falvey.

Not surprisingly, the legal work arising from USACE's complex mission is varied and demanding, and USACE attorneys typically have a diverse caseload. District counsel represent the agency in various courts and administrative forums including the Government Accountability Office, Armed Services Board of Contract Appeals, Merit Systems Protection Board, Federal Labor Relations Authority, and Equal Employment Opportunity Commission.

District counsel also prepare litigation reports and assist Department of Justice attorneys concerning other litigation involving the District. And district counsel represent USACE in diverse practice areas such as contract law, procurement fraud, administrative and regulatory law, environmental law, fiscal law, litigation, tort claims, real estate law, legislation, labor and employment law, international law, admiralty, intellectual property law, negligence, water rights, Freedom of Information Act (FOIA), and ethics.

"Our far-ranging and worldwide mission responsibilities offer our attorneys a unique opportunity to serve the public interest and hone their legal skills on cutting edge issues of national importance" said Falvey. "District-level attorneys are the front-line advisors and advocates for USACE interests."

Although the Detroit District Counsel's office faces many unique opportunities and challenges as a steward

(continued on page 12)

Engineers *(from page 11)*

of the nation's Great Lakes navigation, infrastructure, and environmental resources, "the Detroit District Office of Counsel is well able to meet those challenges," said Falvey. "We are ready for the complexities that the future may offer whether they arise from engineering, construction, or personnel matters, or from the myriad of other types legal issues that the Corps deals with on a daily basis."

Vigilantly, quietly, and without fanfare, the Detroit Office of Counsel to the U.S. Army Corps of Engineers has fulfilled its mission to our Country and its citizens for generations. This little known group of lawyers, toiling tirelessly in Detroit's McNamara Federal Building, is a vital cog in the future of America's economic growth and national security. As District Counsel Falvey is fond of saying about the ability of the Detroit District legal staff, "semper paratus (always prepared) for over 200 years."

**Judge of the Michigan Court of Appeals and past Chapter President, Michael Riordan continues to contribute to the Newsletter.*

Chapter Welcomes New Law Clerks for Sixth Circuit and Eastern District

Judge Keith

Earl Kirkland - Cornell Law School
Brandi Howard - University of Texas School of Law
Matthew Robb - Wayne State University Law School

Judge Kethledge

Jennifer Fischell - University of Michigan Law School
Kristin McCall - Northwestern University School of Law
Benjamin Wallace - Yale Law School
Alexander Kazam - Yale Law School

Judge White

Joel Bryant - University of Michigan Law School
Jacob Wolf - Columbia Law School
Andrew Jennings - Duke University Law School

Chief Judge Hood

Lisandra del Carmen Fernandez-Silber - New York University School of Law

Judge Cohn

Benjamin Able - University of Michigan Law School

Judge Friedman

Frankie Dame - Michigan State University College of Law

Judge Cleland

Todd Hennen - University of Michigan Law School
Branden Stein - Northwestern University School of Law

Judge Edmunds

Timothy H. Smith - University of Michigan Law School

Judge Tarnow

Caitlin J. Miller - Rutgers School of Law

Judge Steeh

Sarah Youngblood - University of Michigan Law School

Judge Roberts

Dale Willett - Northeastern School of Law
Lynnyetta Keller - University of Washington School of Law

Judge Battani

Steven Sabel - UCLA School of Law

Judge Ludington

Drew F. Waldbeser - Indiana University Maurer School of Law

Judge Murphy

Samuel Fitzpatrick - University of Michigan Law School
Gordon Kangas - University of Michigan Law School

Judge Goldsmith

Joshua Zeman - Wayne State University Law School

Judge Drain

Zachary H. Ray - University of Virginia School of Law

Judge Berg

Rex Manning - University of Michigan Law School
Brandon Ruben - Fordham University School of Law

Judge Levy

Nina Hart - Columbia Law School

Judge Leitman

Amish Shah - Harvard Law School

Magistrate Judge Majzoub

Ryan Hampstead - University of Tennessee College of Law

Magistrate Judge Grand

Eva Foti - University of Michigan Law School

Magistrate Judge Morris

Maxwell Mensinger - University of Minnesota Law School

Magistrate Judge Stafford

Brittany Grierson - Rutgers School of Law

Antitrust Committee Event



On June 28, 2016, the Chapter's Antitrust Committee held an event at the Levin Courthouse. Wayne State University Law School Professor Stephen Calkins, who is pictured above, spoke to the assembled crowd of attorneys, law clerks, interns, and summer associates. Professor Calkins presented a primer on antitrust law and pleading standards under Bell Atlantic Corp. v. Twombly. Among the attendees, pictured below from left to right, were E. Powell Miller, Immediate Past President Kimberly Altman, Professor Stephen Calkins, President Susan Fairchild, and Kimberly Scott. Many thanks to Kim Scott for primarily organizing the event.



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

Officers and Directors 2016-2017

These officers and directors started their terms
at the Annual Meeting in June 2016.

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Calendar of Events

Oct. 20 Deadline for Nominations for Third Annual Barbara J. Rom Award for Excellence in Bankruptcy Practice
Details online www.fbamich.org

Oct. 26 A Prisoner's Rights Pro Bono Seminar
Presenters include: District Judge Arthur J. Tarnow, Magistrate Judge Elizabeth Stafford, Court Administrator David Weaver, former MDOC Official Richard Stapleton, and State Appellate Defense Attorneys Valerie Newman and Peter Martel
Theodore Levin U.S. Courthouse, Room 115
8:30 AM – 3:30 PM
Continental breakfast and lunch provided

Oct. 26 Judicial Internship and Clerkship Panel Wayne State University Law School
Spencer M. Partrich Auditorium
5:30 PM
Judges and former law clerks will discuss the qualification the qualifications needed, how to apply, the value of an internship or clerkship, the importance of diversity in the judiciary, and MORE

Nov. 15 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 Fifth Annual Barbara J. Rom Award for Excellence in Bankruptcy Practice, coupled with the Annual Meeting of the Court Historical Society.
11:30 AM – 1:00 PM
Westin Book Cadillac Hotel
Tickets: \$35/members; \$45/nonmembers. Tickets available through organizations who sponsor the luncheon series.
Special Keynote Speaker: Kevin M. Ball, author of *Adversity and Justice: A History of the United States Bankruptcy Court for the Eastern District of Michigan*.

Dec. 6-7 New Lawyers Seminar
Theodore Levin U.S. Courthouse
8:30 AM Registration
9:00 AM – 4:00 PM
ATTENTION PRIOR BAR PASSERS
Space Limited . . . REGISTER NOW

Dec. 7 Holiday Party
HOLD THE DATE
Crowne Plaza – Ponchartrain Hotel

Dec. 8 Book Club
Theodore Levin U.S. Courthouse, Room 722
Noon – 1:00 PM
The New Jim Crow: Mass Incarceration in the Age of Colorblindness by Michelle Alexander
For more information visit www.fbamich.org

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